

SECTION I

INSTRUCTIONS TO BIDDERS

INQUIRY No: 638/16/DDP

ΤΕΥΧΟΣ ΣΕ ΔΗΜΟΣΙΑ ΔΙΑΒΟΥΛΕΥΣΗ

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1. BACKGROUND

Hellenic Gas Transmission System Operator (DESFA S.A.), was established in March 31, 2007 after the completion of the legal unbundling of the transmission and trading activities of the Public Gas Corporation (DEPA) S.A., in accordance with Law 3428/2005 for the liberalization of the Greek natural gas market.

The establishment of a National Natural Gas System (NNGS) constitutes one of the most important infrastructure projects in contemporary Greece. It is an energy project that is comparable in magnitude only to that of the electrification of the country.

The NNGS includes the main high pressure gas transmission pipeline from the Greek-Bulgarian borders to Attica, with a total length of 512 km, high pressure branches linking the various regions of the country with a total length of 947km, the liquefied natural gas Terminal on the island of Revythoussa, as well as additional facilities and infrastructure that service the entire Gas Transmission System.

DESFA:

- Operates, maintains, manages and develops the NNGS and its interconnection points
- Studies and implements, following the approval of the statutory body (RAE i.e. Regulatory Authority for Energy) , the pricing policy and the process of transmitting natural gas on behalf of the system's shippers, who in turn make it available to the consumers, and
- Provides no discriminatory access to the NNGS, for every Shipper, wishing to develop commercial activities or direct procurement of natural gas for its own use, ensuring complete transparency, reliability and respect for the rules of competition.

The mission of DESFA is to establish a comprehensive, technically superior and cost-effective NNGS so that it:

- Meets the needs of natural gas users safely, adequately and reliably.
- Upgrades the participation of natural gas in the energy balance of Greece, and
- Allows the optimization of the competitive advantages of natural gas in public infrastructure, business activities and everyday life.

DESFA should provide natural gas transmission and LNG services to interested parties on an equal and non-discriminatory basis, according to the provisions of the Network Code (Ministerial Decree Δ1/A/5346/01.04.2010 – Gazette 379, RAE Decision 1096/2011– Gazette 2227/04.10.2011, RAE Decision 526/2013- Gazette 3131/09.12.2013), concluding respective contracts with persons or legal entities (Shippers) that meet the respective prerequisites. Invoicing is carried out according to RAE Decisions 594/2012 (Gazette 2093/05.07.2012), and 722/2012 (Gazette 2385/27.08.2012).

These contracts are based on the standard Transmission or/and LNG Contract prepared by DESFA and approved by the Greek Regulatory Authority for Energy - RAE (Decision 635/2013- Gazette B/3325/27.12.2013). In these documents all the procedures, contents, terms and conditions for exercising the right to access the NNGS are determined.

Additionally, DESFA bears full responsibility for the balancing of the Hellenic Natural Gas Transmission System (NGTS) i.e. the balance between the Natural Gas

Quantities delivered to and off-taken from the NGTS. In order to fulfil its above-mentioned obligation, DESFA S.A., as a reasonable and prudent Operator, takes every action deemed necessary for the NGTS balance, within the framework of the Law 4001/2011 and the Network Code, so as to assure its (NGTS) reliable, secure and efficient operation.

2. INTRODUCTION

HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A., hereinafter referred to as BUYER, invites eligible Bidders to submit their Application for the selection process for the development of a list of Suppliers for the «**Supply of LNG Quantity for the Balancing of the Hellenic Natural Gas Transmission System during the Year 2017**» hereinafter referred to as the SUPPLY, as analytically described below.

The successful Bidder (-s) will be registered as Suppliers “SUPPLIER (-s)” in the developed list and enter into a Framework Agreement with the BUYER for the period of SUPPLY **starts the Day 01.01.2017 and ends the Day 31.12.2017** (hereinafter “Supply Period”). During the Supply Period, the BUYER shall address Requests to the SUPPLIER (-s) of the developed list to submit Offer (-s) for a specific LNG quantity for a specific period of time. The SUPPLIER who submits the Offer with the lowest price, with the reservation of the provisions of article 5.5 hereof- in case of equal offers, will be the successful SUPPLIER (SELLER) every time

Bidders shall be Suppliers or Traders of Natural Gas or Joint Ventures (J/V)/ Consortia of Suppliers and/or Traders of Natural Gas (legal entities), who shall prove that, according to the regulations of the country where they are registered, they are capable to execute SUPPLY and that they are allowed to take part to the selection process.

Bidders or, in case of J/V, at least the Leader having a minimum interest of 50% in the J/V, shall prove his (their) financial status by showing an annual turnover for the last three fiscal years (2013 – 2015) of at least 100 million€.

The legal formation of a Joint Venture is not a prerequisite for participating in the present selection process. Bidders participating in a Joint Venture/Consortium are not allowed to submit an Application solely or as a member of other Joint Venture /Consortium or rely on the capacity of other entities of other Joint Venture /Consortium also participating in the same selection process.

Alternative Applications will not be accepted.

For publishing expenses of this Inquiry, an amount equal to **€xxx,xx**, shall be born (equally) by the Successful Bidder (-s).

All direct and indirect costs of any kind for the preparation of the Application by the Bidders shall be at Bidders’ own cost.

3. APPLICABLE LEGISLATION

3.1 This Inquiry is governed by the Laws of Greece and applicable EU Legislation, as per Presidential Decree 59/2007 and European Directive 2004/17/EC which shall be in general applicable to all relations between BUYER and the Bidders regardless of their nationality. Any dispute shall be subject to the exclusive jurisdiction of the Law Courts of Athens. Procedure for settlement of disputes during Tender is governed by

Law 3886/2010.

Application evaluation shall be in accordance with present Instructions to Bidders.

3.2 The clauses regarding the registration of shares of S.A. businesses.

- P.D. 82/1996 “Registration of Greek Societies Anonyms” shares participating in the procedures for undertaking projects or commissions of the State or of Legal entities of wider public sector (HGG 66 a’/11.04.1996),
- L. 3310/2005 (HGG 30 A’/14.02.2005) “Steps for ensuring transparency and avoiding violations during the signing of public contracts”, as amended and valid after L.3414/2005 (HGG 279 A’/10.11.2005),
- Joint Ministerial Decision 20977/23.08.2007 (HGG 1673B’/23.08.2007) “Supporting documents for keeping the registries provided for by the law 3310/2005, as amended by Law 3414/2005”.

The companies that are registered in the Stock Market of the country where their seat is registered are exempted from the above clauses. These companies must submit a solemn statement signed by their legal representative, stating that they are registered in the Stock Market of the country where their seat is registered.

3.3 Article 8 of L.2741/1999 (Hellenic Govern Gazette 199A’/28.09.1999) “Unified body for the Examination of Food, other regulations regarding jurisdiction issues for the Ministry for Development and other clauses”, as amended by L. 3060/2002 (Hellenic Govern Gazette 242 A’/24.12.2002) “Establishment of an Inspection and Audit Body for Detention Branches and other clauses” , L. 3310/2005 (Hellenic Govern Gazette 30 A’/14.02.2005) “Steps for ensuring transparency and avoiding violations during the signing of public contracts”, as amended by L. 3414/2005 (Hellenic Govern Gazette 279 A’/10.11.2005)”, THE Ministerial Decision 1108437/2565/DOS (Hellenic Govern Gazette 1590 B’/16.11.2005) regarding the countries where off-shore companies operate, Joint Ministerial Decision 24014/2005 (Hellenic Govern Gazette 1637 B’/25.11.2005), L.3614/2007 (Hellenic Govern Gazette 267 A’/03.12.2007) “Management , control and application of development interventions for the programme period 2007-2013”, article 25 “Acceleration of the materialization of co-financed acts”.

3.4 Law N.4013/2011 in conjunction with Ministerial Decision no. 5143/2014 (Government Gazette 3335 B’/11.12.2014) regarding the mandatory contribution of 0,10% of the contract price to the Hellenic Single Public Procurement Authority

3.5 Any other supplementary clauses, regulations, interpretive circulars or other in connection or authorised by the above mentioned, even if not stated herewith.

4. SCOPE OF SUPPLY

According to Article 68 paragraph 2γ of the Law 4001/2011 for the operation of the electricity and natural gas energy markets, for hydrocarbons’ exploration, production and transmission networks and other adjustments, the BUYER bears full responsibility for the balancing of the National Natural Gas Transmission System (NNGTS), according to the provisions of the Network Code. Towards the fulfillment of this obligation, the BUYER, following a transparent tendering procedure, which is in accordance with the market rules, enters into contracts with Natural Gas Traders, for the Supply of the Natural Gas Quantities required for balancing purposes. These contracts are signed upon the approval, of the relevant Annual Gas Balancing Planning, by the Hellenic Regulatory Authority for Energy.

Following the provisions of Article 46 of the Network Code, the BUYER submitted to the Hellenic Regulatory Authority for Energy the Annual Gas Balancing Planning for the Year 2017, on 27.04.2016, and an estimation regarding LNG Quantities to be used for balancing purposes, on a Monthly basis during the Year 2017. The said LNG Quantities are as follows:

Month	LNG Quantity for NNGTS Balancing (MWh)
January 2017	142.568
February 2017	121.967
March 2017	127.016
April 2017	84.703
May 2017	89.785
June 2017	79.769
July 2017	175.837
August 2017	72.463
September 2017	52.562
October 2017	150.452
November 2017	128.156
December 2017	321.966
Total	1.547.244

Note: The above table is indicative and the LNG Quantities that will be actually used for balancing the demand / supply in the Hellenic NGTS may significantly differ from the ones listed above.

Additionally, the BUYER, within the framework of Article 75, of the Network Code, has proceeded with the booking of a storage space in Revythoussa LNG terminal tanks, equal to 16.759,86m³ (approx. 113.800MWh). This storage space will be used by the BUYER in order to store LNG Quantities necessary for balancing the NNGTS, during the Year 2017.

5. FRAMEWORK AGREEMENT & SUPPLY PROCEDURE

5.1 SUPPLIER (-s) shall enter into a FRAMEWORK AGREEMENT with the BUYER, according to Annex III of present inquiry “Draft FRAMEWORK AGREEMENT”. The rights and obligations of the contracting parties shall be clearly defined in the FRAMEWORK AGREEMENT.

5.2 During the Supply Period, SUPPLIER(s) shall be requested to submit an Offer to the BUYER for the Supply of Balancing Gas Quantity ranging, indicatively, between 10.000MWh and 140.000MWh every time, upon BUYER’s Request for Supply. Each Request for Supply shall be issued not later than five (5) Days prior to the Requested Delivery Day. However, in case BUYER issues a Request for Supply later than five (5) Days prior to the Requested Delivery Day, as specified in the Request for Supply, the SUPPLIER(s) shall exercise his (their) best efforts in order to make the relevant Balancing Gas Quantity available to the BUYER in the Delivery Day requested.

5.3 Not later than the time and in the way specified in the Request for Supply, the SUPPLIER(s), shall either fill – in appropriately (according to the restrictions set therein), by defining as minimum, the value of coefficient K, the LNG Quantity and the Delivery Day, and submit to the BUYER the said Request for Supply, or declare that he (they) is (are) not going to submit an Offer. In case a SUPPLIER submits an

offer after expiration of the deadline set to that purpose in the Request for Supply, said Offer shall not be evaluated.

5.4 The Offer Price shall be calculated according to the following formula:

$$OP = BGUP \times Q$$

The Offer Price (OP) reflects an estimation on SUPPLIER’s reimbursement for the purchase and delivery of the requested Balancing Gas Quantity, within the framework of the FRAMEWORK AGREEMENT and the respective Request for Supply, and is calculated as the product of the Balancing Gas Unit Price (BGUP) expressed in €/MWh, by the Balancing Gas Quantity (Q), expressed in MWh to be delivered to the BUYER by the SELLER, after the issuing of the above Request for Supply.

The Balancing Gas Unit Price (expressed in €/MWh) shall be calculated according to the following formula:

$$BGUP = RP + K$$

where RP (Reference Price) for the Month M, is the Natural Gas Reference Price for TTF at the last day of the Month M-1 (expressed in €/MWh) as stated in the web site of the European Energy Exchange (EEX) (www.eex.com), in the following path EEX Homepage > Market Data > Natural Gas > Spot Market > Daily Reference Price (www.eex.com/en/market-data/natural-gas/spot-market/daily-reference-price).

Note 1: the BGUP shall be calculated with an accuracy of five decimal digits.

5.5 The evaluation of SUPPLIER(-s) Offer(-s) shall be completed by the BUYER within two (2) Days following the Offers’ submission deadline, mentioned above.

The value of coefficient K must not exceed the value of K_{max} as defined in SUPPLIER’s relevant Application Letter (see Annex 1). In case of non-compliance the BUYER has the right to reject SUPPLIER’s Offer.

The Supply of Balancing Gas will be awarded each time to the successful SUPPLIER, whose offer is the lowest price, i.e. has offered the lowest coefficient K (€/MWh).

In case two or more SUPPLIERS have offered the lowest coefficient K, then the Supply of Balancing Gas will be awarded to the successful SUPPLIER, who has offered the closest Delivery Day, i.e. has offered the closest to the Requested Delivery Day, Delivery Day.

In case two or more SUPPLIERS have offered the lowest coefficient K and the same Delivery Day then the Supply of Balancing Gas will be awarded to the successful SUPPLIER who has offered the closest LNG Quantity (m^3), i.e. the closest to the Requested LNG Quantity (m^3), LNG Quantity (m^3).

In case of more than one successful SUPPLIERS, the Supply of Balancing Gas will be proportionally awarded to each one of them.

5.6 The delivery/acceptance of the Balancing Gas Quantity shall follow the procedures specified in the Network Code, the Regulation of Measurements and the Regulation for the Certification of LNG Vessels, in force.

Upon the conclusion of the FRAMEWORK AGREEMENT between the SUPPLIERS and the BUYER, the latter will submit a copy to the Hellenic Regulatory Authority for Energy (RAE).

6. APPLICATION CONTENTS & COMMUNICATION

6.1 The Application must be submitted in an outer sealed envelope bearing only the following information:

1) BUYER's name and address

"HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A."
357-359 Messogion Ave.,
GR-15231 - HALANDRI
GREECE"

2) The Inquiry Title and Number

3) Bidder's full legal name & business address

4) The indication: "Application, to be opened by authorised person only".

5) The Application due Date

The Application and its contents shall be signed by the person(s) authorised to bind the Bidder.

6.2 This outer sealed envelope must contain one (1) original and one (1) copy of all documents as specified in Art. 13

6.3 In case of any deviations or contradictions between the originals and any copy (-ies), the original shall prevail.

6.4 Each Bidder shall prepare its Application in strict accordance with the provisions of these "INSTRUCTIONS TO BIDDERS", its attachments, and the rest Inquiry Documents, whereas non-compliance to the aforementioned documents may result to non-consideration of the submitted Application.

6.5 All Applications and related communication shall be in the Greek or English language. Documents in any other language shall have to be accompanied by an official translation into Greek or English.

The Bidders may contact the BUYER for applications matters, in writing, (by letter or telefax) at the following address:

HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A.

357-359 Messogion Ave.,
GR-15231 - HALANDRI
GREECE

FAX NO.: (+30) 210- 6749504

PHONE NO.: (+30) 210- 6501815

ATTENTION:

6.6 Bidders can purchase the Tender Documents at BUYER'S above mentioned address. The Tender Documents can be purchased until, the latest, by a duly authorised Bidder's representative.

7. APPLICATION SUBMISSION

7.1 The submission of the Application shall be effected by an Authorised Representative of the Bidder, or by recorded delivery mail, or by courier, provided that the sealed envelope reach BUYER not later than **12.00 hrs of the date**, which is the final deadline for the receipt of Applications (by BUYER), at the following address:

HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A.
357-359 Messogion Ave.
15231 – HALANDRI
GREECE

Phone No.: (+30) 210- 6501200
Fax No.: (+30) 210- 6749504

For the attention of the DESFA General Document Center, where it will be registered upon receipt.

7.2 Applications received later than the stated time and date shall not be taken into consideration. All Applications shall be stamped upon submission, indicating the precise time and date of receipt by BUYER. The Bidders will receive written confirmation of such receipt.

8. VALIDITY OF APPLICATIONS

The Applications shall be valid (and therefore binding on the Bidders) for six (6) months as from the Application due Date.

Applications with validity period less than specified in the Inquiry Documents shall be rejected.

Said period of validity might be extended following a written request by BUYER (prior to the expiration date). In case a Bidder fails to comply with such a request, then said Bidder shall be considered as having waived all its rights in relation to the Inquiry and its Application, as well as in relation to the relevant expenses incurred by said Bidder, etc.

9. GUARANTEES

- 9.1 In order to participate in this Tender, each Bidder must deposit, at the time of Application submission, to be included in the sealed envelope, a **Letter of Guarantee equal to one million three hundred sixty two thousand (€1.362.000,00) EURO, valid for at least two (2) months beyond than the minimum validity period of the Application specified in Article 8 here above.**
- 9.2 The Participation Guarantee Letter shall be addressed to the HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A. and shall be in full accordance with the attached Annex II Form. Any deviation or omission might lead to the rejection of the Application.
- 9.3 The Participation Guarantee Letter of the Bidder (-s) will be returned after the receipt of a Performance Guarantee Letter upon signing of the FRAMEWORK AGREEMENT.
- 9.4 Prior to the signing of the Framework Agreement, the SUPPLIER(-s) must submit **the Framework Agreement's Performance Guarantee**

Letter (Annex II, Form of Framework Agreement Performance Bond) for the amount of **three hundred and forty thousand and five hundred euro (€340.500,00) EURO, representing (0,5%) of the maximum estimated value (net of VAT) of the SUPPLY** for the obligations assumed by SUPPLIER pursuant to the FRAMEWORK AGREEMENT **valid for the entire duration of the Framework Agreement and until two months after the final day of the SUPPLY PERIOD, namely 1.3.2018.**

- 9.5 In case the aforementioned (Para. 9.3) Bidder does not present themselves to sign the FRAMEWORK AGREEMENT and/or fails to sign it without reservation, as stated in Article 15 here below, and/or fails to submit the required Performance Guarantee Letter, then the relevant Participation Guarantee shall be completely forfeited in favour of the BUYER as a penalty expressly stipulated hereby, irrespectively of whether the BUYER has sustained or not any damages or loss; the same shall apply for any Bidder, in case any such Bidder withdraws and/or modifies (by its own initiative) its Application, after the Application due Date and prior to the expiration of the period of validity (see Article 9 hereinabove) of said Application.
- 9.6 In case BUYER requests in writing the extension of the validity of Applications as per Article 8 here above, the Bidders must also extend the validity of the Participation Guarantee Letter. If a Bidder refuses or fails to comply with such request, then said Bidder shall be considered as having waived all its rights in connection with the Inquiry.
- 9.7 All Letters of Guarantee (Paragraphs 9.1 and 9.4 above) must be issued by a first class Bank, legally operating in Greece or in any other Member-State of the E.U. or the European Economic Area (E.E.A) or Countries having a relevant Association Agreement with the E.U, allowing the participation in Public Sector's Tenders. The Letters of Guarantee will be issued in Greek or in English language. Alternatively, Letters of Guarantee issued in a language other than the Greek or English language, shall be accompanied by an official translation in Greek or English language, issued by a competent authority in the Country where the Bidder is established, or in Greek by the Greek Ministry of Foreign Affairs, or by the Greek Consulate of the Country the above Letter of Guarantee has been issued.

10. INQUIRY DOCUMENTS AND ORDER OF PRECEDENCE

The following documents, hereinafter collectively referred to as Inquiry Documents, shall form an integral part of the Inquiry. In the event of any conflict (as far as this Inquiry is concerned) identified in the conditions set forth in the Inquiry Documents, the following order of precedence shall prevail, from the higher to the lower:

INSTRUCTIONS TO BIDDERS

ANNEX I: FORM OF APPLICATION LETTER

ANNEX II: FORM OF PARTICIPATION GUARANTEE & FORM OF PERFORMANCE BOND

ANNEX III: DRAFT OF FRAMEWORK AGREEMENT

11. JOINT VENTURES

Wherever in the Inquiry Documents the words 'Joint Venture-J/V' appear, they shall mean either a Joint Venture or a Consortium.

The Application submitted by a J/V shall comply with the following requirements:

- 11.1 The Application shall be signed either a) by all members of the J/V, or b) by the Leader of the J/V or alternatively by the J/V's common Legal Representative with a Declaration of the other members, so as to be legally binding on each member. The name of the signatory shall be printed underneath each signature.
- 11.2 A copy of the J/V Declaration that has been or which is intended to be entered into by the members of a J/V, shall accompany the Application. The following Declaration and information shall be given in a statement signed by all the J/V partners which shall be included in the Application, specifying and stating the following:
 - That the members of the J/V shall be jointly, indivisibly and severally liable for execution of the FRAMEWORK AGREEMENT and that, in the event that any one of the members ceases to be a member of the J/V and goes into liquidation, then the surviving member(s) shall have full obligation to execute the FRAMEWORK AGREEMENT and shall be empowered to use all resources furnished by any party in the J/V.
 - The interest of each of the members of the J/V and the description of each member's undertaking.
 - The name of the J/V partner, who is nominated to act as Leader of the J/V and who, in such capacity, is authorised to incur liabilities and enter into a Contractual relationship with Third Parties, to receive instructions and act on instructions from BUYER and to effect and receive payments on behalf of the J/V after Request of Supply award and for representation issues.
 - The J/V common Legal Representative and the corresponding proxy.

12. APPLICATION OPENING PROCEDURE

- 12.1 Following the Application submission (Application due Date), an Inquiry Committee appointed by the BUYER will open the sealed Envelopes on the Application due Date at **12:30 hrs**.

Duly authorised Representatives of Bidders participating in the Application are invited to be present, if they so wish.

- 12.2 The Inquiry Committee shall open the sealed Envelopes and shall countersign the contents.

With the exception of the Participation Guarantee, the non-submittal of which shall entail the rejection of the relevant Application, the Inquiry Committee reserves the right to request the complement of other documents from envelope, to be submitted within two (2) working days from such request.

If any Bidder fails to comply with such request, the corresponding Application will be considered incomplete and may be rejected for this reason by the Inquiry Committee.

The content of the sealed Envelopes will then be evaluated by the Inquiry Committee regarding their compliance with the Inquiry Documents.

- 12.3 Following the opening and evaluation of the sealed Envelopes, the Inquiry Committee records its findings, signed by all members of the Committee. The Inquiry Committee concludes its work by recording its evaluation (selection process).
- 12.4 After the deadline set in the second subparagraph of paragraph 12.2 the Inquiry Committee notifies:
- to the successful Bidder(-s) appropriate body its' proposal,
 - to the unsuccessful Bidder(-s) appropriate body the reasons for the rejection of their Application.

13. CONTENTS OF SEALED ENVELOPE

Sealed Envelope shall contain the following duly authenticated plus one copy of documents, numbered and in sequential order as follows.

A. LEGALIZATION DOCUMENTS

13.1.1 Participation Guarantee Letter

A duly completed Participation Guarantee Letter according to Article 9 and as per form of Annex II attached herein.

13.1.2 Declaration

The Bidder, or in case of a J/V each of its members shall submit a written statement declaring that:

- The Bidder has studied all the terms of the Inquiry and that he accepts all terms contained in the Inquiry Documents with no reservations whatsoever.
- All submitted data and information contained in their Application are true.

13.1.3 Contacting information

The Bidder's representative Name and Fax Number.

13.2.1 Company Statutes and Company's decision taking body/person.

The Bidder, or in case of a J/V all members of the J/V, shall submit:

- (i) The Company Statutes valid according to the legislation of the country the Bidder is registered as well as the documents listed here below:

Notes:

a. For companies operating under Greek Law, Company Statutes should be accompanied by the corresponding publications in the Greek Government Gazette (ΦΕΚ) or certificates by the competent Authority i.e. Articles of Association, Composition of the Board of Directors, Registration of the Company to the registry of Department of Commerce (GEMI).

b. For foreign companies Company Statutes should be accompanied by documents for the person(s) having powers of representation and decision in respect of the company.

(ii) A certified copy of the Minutes of Meeting of the Board of Directors, or other competent decision-taking body or duly authorised person of the Bidder:

A. Regarding their decision to participate in the Bid according to the terms of this Inquiry.

B. Appointing a Legal Representative authorised to represent the Bidder until the signing date of FRAMEWORK AGREEMENT.

C. Declaring the acceptance of the Company's percent participation in the J/V and naming the Leader of the J/V that shall be formed in the case of CONTRACT AGREEMENT award. (if applicable)

D. Appointing the Common Legal Representative of the J/V (if applicable)

13.2.2 A Declaration signed by the aforementioned Legal Representative of the Bidder, accepting fully said appointment, shall be also submitted.

13.2.3 Joint Ventures (J/V):

In the case the Bidder is a J/V, submission of additional documents, as per provisions of Article 11 here above.

13.3 Documents proving that the Bidder, or in case of a J/V each of its members, is registered in a commercial/professional register in compliance with the Law of the country where it is established and exercises the activity of supply of natural gas in accordance with the legislation of the country where it is established. Especially for E.U. countries, professional registers are stated in Article 46 & Appendix IX of the European Directive 2004/18, 31.03.04.

Note: Where the country concerned does not issue such documents or certificates as required above, these may be replaced by a declaration on oath made by the person concerned, before a judicial or administrative authority, a notary, or a competent professional or trade body, in the country where the Bidder is established.

13.4 Before the signing of the FRAMEWORK AGREEMENT, the successful Bidders, through their Legal Representative, must submit to DESFA a solemn declaration pursuant to article 8 of the Greek Law 1599/1986, currently in force, that no conviction decision, by the meaning of article

3 of the Greek Law 3310/05, as it was replaced by the article 3 of the Greek Law 3414/2005, has been issued against the Bidder.

If, before the signing of the FRAMEWORK AGREEMENT, the Court has entered a final conviction decision against the Bidder, acquiring the authority of res judicata, according to article 3, paragraph 4 of the Greek Law 3310/2005, as it was replaced by article 3 of the Greek Law 3414/2005, the Bidder abstains from the signature of the FRAMEWORK AGREEMENT and without any liable delay must submit to the BUYER and to the Transparency Control Department of the National Radio & Television Council (ΕΣΡ) a validated copy of the conviction decision, as well as a validated copy of the criminal record of the Legal Representative(s), in which the above conviction is referred. Thereafter, the Bidder requests to the above Department the issue of a certificate regarding the concurrence of incompatibility and/ or exclusion criteria, according to article 5, paragraph 2 of the Greek Law 3310/2005, as it was renumbered and modified by the paragraphs 3, 4 and 5 of article 5 of the Greek Law 3414/2005,

In the case of the previous paragraph, the BUYER communicates the specific conviction decision to the National Radio & Television (NRT) Council (ΕΣΡ) with its decision for exclusion of said Bidder, in order to check, at the latest prior to the signing of the FRAMEWORK AGREEMENT, the exclusion of said Bidder according to article 5, paragraph 2 of the Greek Law 3310/2005, as it was renumbered and modified by the paragraphs 3, 4 and 5 of article 5 of the Greek Law 3414/2005.

If this final conviction decision for the execution of the misdeed of active corruption is issued after the FRAMEWORK AGREEMENT signing, the Bidder submits to the BUYER and to the Transparency Control Department, without any liable delay, a solemn declaration with a copy of this decision. In this case, the BUYER must submit to the Transparency Control Department the decision regarding the forfeiture of the BUYER due to the aforementioned reason, in order to check it according to paragraph 5, article 5 of the Greek Law 3310/2005, as it was renumbered and modified by the paragraphs 3 and 8 respectively, of the article 5 of the Greek Law 3414/2005.

Therefore:

13.4.1 Bidder companies, Greek and foreign, must submit a declaration on oath that they are not offshore companies according to the provisions of case a. par.4 of article 4 of the Greek Law 3310/2005.

13.4.2. As per Presidential Decree 82/1996 and the Law 3310/2005 as amended by Law 3414/2005 stipulations, Greek Incorporated/Public Limited companies participating in the Application shall have to submit the following:

- A Certificate issued by the competent Authority stating that the company's shares are personal.
- A detailed list of the company's shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company's Shares Book. This list should be no more than thirty (30) days old before the date of

Application submission. In the case that among Bidder’s shareholders, which hold at least one percent (1%) of the total number of company shares, are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders (individuals, Limited or Personal companies), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.

13.4.3. Foreign companies participating in the Inquiry severally or as members of a Consortium/Joint Venture, in case provision is made by the Law of the country of registration, shall have to submit the following:

- A Certificate issued the competent authority pursuant to the laws of the country of registration, from which it can be established that the company shares issued according to the company’s statutes in effect are personal; In case the company’s shares were unregistered according to the company’s statutes, the relevant procedure for the amendment to company’s statutes provisioning all company shares to be rendered personal, must have been completed and approved by the Supervising competent authority, by the time of Application and no later than the Application due Date.
- A detailed list of the company’s shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company’s Shares Book pursuant to the laws of the country of registration office. This list should be no more than thirty (30) days old before the date of Application submission. In the case that among Bidder’s shareholders, which hold at least one percent (1%) of the total number of company shares, are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders, (individuals, Limited or Personal companies), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.
- Any other pertinent documentation, no more than thirty (30) days old before the date of Application submission, from which the list of the company’s registered shareholders can derive.

In case there is no obligation deriving from the legislation of the country of registration for the participating in the Inquiry foreign companies, to render their shares personal, then they have to submit the following documents:

- A certificate issued by the competent authority of the country of registration, establishing that no such legal obligation exists; otherwise to submit a statement under oath of such context.

- A valid and updated list of its registered shareholders, holding at least one percent (1%) either of the total number of company shares or of the company’s voting rights.
- In case of no such updated list of registered shareholders, the foreign company must submit a list of its shareholders holding at least one percent (1%) either of the total number of company shares or of the company’s voting rights, produced according to the most recent General Assembly, on condition that these shareholders are known to the company. Otherwise, the company has to provide justification for the reasons why these shareholders are not known, subject to the approval and assessment of the BUYER.

13.4.4. Greek or foreign companies participating in the Inquiry severally or as members of a Consortium/Joint Venture, which are entered in the Stock market of a European Union (E.U.), or of Economic Collaboration and Growth Institution country, in order to be excluded from the obligation of definition of the shareholders down to the level of individuals, limited or personal companies, shall have to submit the following documents:

- A certification of the Stock Market Authority, certifying that the Company is entered in the Stock Market.
- An informative bulletin of the Company’s shareholders.

All the above documents must be duly certified by the competent authority of the country of registration, and shall be accompanied by official translation in the Greek language.

13.5 Published or certified copies of Bidder’s, or in case of a J/V of each of its members, Statements of Accounts for the last three (3) years, showing Annual Turnover.

Subject to rejection of the Application, the annual turnover of the Bidder or, in case of J/V at least the Leader of the J/V having a minimum interest of 50% in the J/V, for the last three (3) fiscal years (2013-2015) must be greater than 100 million €.

13.6 Bank certificates attesting Bidder’s creditworthiness for financing of at least ten million Euro (€10.000.000,00) to the following context:

«Upon request of..... (Bidder’s corporate name), we hereby confirm that (Bidder’s corporate name) is a customer of this bank of good standing and to this date has sufficient credit for the consistent performance of their contractual and financial obligations.

Our Bank has approved, under the terms and conditions concluded and notified to the Company, line of credit (excluding letters of guarantee) amounting to €.....

Regarding DESFA’s Tender no., our Bank is willing to consider any request by the Company for funding, if eligible according to the bank’s criteria, the applicable monetary and credit rules, the financial standing and prospects of the Company at the time of the submission of the Bid».

13.7 Certificates issued by competent Authorities in the Country of registration, proving that the Bidder:

- a. Has fulfilled its obligations, concerning the payments of Social Security contributions according to the Legislation of the Country where it is established, or according to Greek Legislation;
- b. Has fulfilled its obligations related to payment of taxes, according to the Legislation of the Country where it is established or according to Greek Legislation, in the event that it has previously developed activities in Greece.

13.8 Declaration signed by the aforementioned Legal Representative of the Bidder, accepting fully said appointment, shall be also submitted. Telephone, fax number and e-mail address of Bidder's Representative must be included.

13.9.1 The Bidder's, or in case of a J/V each of its members', chief executive officer or any person having powers of representation and decision in respect of the company, shall submit an extract from the judicial record or, failing that, of an equivalent document issued by a competent judicial or administrative authority in the country of origin or the country where that person comes showing that the aforementioned persons have not been the subject of a conviction by final judgment for one or more of the reasons listed below:

- A. Participation in a criminal organisation, as defined in Article 2(1) of Council Joint Action 98/733/JHA;
- B. Corruption, as defined in Article 3 of the Council Act of 26 May 1997 and Article 3(1) of Council Joint Action 98/742/JHA respectively;
- C. Fraud within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities;
- D. Money laundering, as defined in Article 1 of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering;
- E. Embezzlement, Fraud, Extortion, Forgery, Perjury, Bribery, Fraudulent Bankruptcy; the above requirements under subparagraph (E) are subject to the rejection of the Bid only if related to the profession of the aforementioned persons.

13.9.2 The Bidder, or in case of a J/V each of its members, shall submit extracts from Judicial records, or failing this, equivalent documents issued by competent judicial or administrative authorities in the country of origin and/or the country where the Bidder (or in case of a J/V each of its members) is registered, proving that:

- A. The Bidder is not bankrupt, under liquidation, bankruptcy, obligatory management, compromise, or any other similar situation resulting from a similar procedure, as provided by National Legislation;
- B. No procedure has been instigated against the Bidder for declaration in bankruptcy, obligatory management, compromise or any other

similar situation or resulting from any other similar procedure as provided by National Legislation.

C. The Bidder has not been convicted for anything related to its professional integrity and behaviour.

D. The Bidder has not committed a serious professional misdeed, which can be verified by any means by BUYER

Note to 13.9.1 and 13.9.2: Where the country concerned does not issue such documents or certificates as required above, these may be replaced by a declaration on oath, by the Bidder, in front of Judicial or Administrative authority, notary or the appropriate professional organisation of the country where the Bidder is established.

13.10 NOT APPLICABLE

B. EXPERIENCE DOCUMENTATION

13.11 Bidder's Profile:

Documents indicating the profile, structure, organization and infrastructure of the Bidder, or in the case of a J/V of each of its members, with regard to proposed scope of supply.

13.12 Bidder's Experience:

Subject to rejection of the Application the Bidder shall submit:

13.12.1 References in the field of the proposed scope of supply for each one of the last eight (8) years, i.e.:

a. List of Bidder's, or in the case of a J/V of each of its members, LNG Supply Contracts that are under execution or have been executed successfully in the last eight (8) years, stating analytically:

- Project title
- Owner/Client with a contact name
- Type of Contract, Contract number, Contract award date
- Technical data
- Brief description of Contract's scope
- Initial and final Contract Price
- Planned and actual delivery date

In case of Contracts under execution, the unexecuted part for each Contract (in terms of volume/cost) at the Application submission date has to be stated as well.

In case the Application was a sub-Contractor, a written declaration from both Client and main Contractor of the Project, with all above information, is required.

b. Any other data substantiating Bidder's experience/activity in the natural gas market according to Article 2 (i.e. official data from the public domain, such as company's annual reports, data from independent analysts, etc.) for each one of the last eight (8) years.

And/or

13.12.2 License for Supply of Natural Gas issued by the Hellenic Regulatory Authority for Energy before the Application Due Date

C. ADDITIONAL DOCUMENTATION IN CASE THAT THE BIDDER RELIES ON PARTICULAR RESOURCES OF OTHER ENTITIES

13.13 In case Bidder relies on and uses the economic and financial or/and technical or/and professional capacity of Other Entities, as per Directive 2004/17/EC, article 54, these Entities must comply with requirements stated in article 2 hereinabove and the documents mentioned below should be included in the sealed Envelope for each Other Entity :

13.13.1 The duly signed Declaration as per article 13 of present inquiry and the duly certified documents, where the term "Bidder" is substituted by the term "Other Entity".

Any case of a Joint Venture or Consortium of Other Entities is not valid.

In case that above mentioned documents are not submitted, the application of use of particular resources of Other Entities shall not be taken into consideration.

13.13.2 A certified copy of the Minutes of Meeting of the Board of Directors, or other competent decision-taking body or duly authorized person of the Other Entity, regarding the approval of the availability to the Bidder, for the whole duration of the execution of the FRAMEWORK AGREEMENT, of the particular economic and financial or/and technical or/and professional capacity. The relevant decision should be detailed and should specify the particular resources to be available for the SUPPLY, in a manner that the BUYER can proceed with evaluation and judge the importance of those resources during the application phase and can control the realization of said commitment during the execution of the FRAMEWORK AGREEMENT.

13.13.3 Original copy of binding agreement between the Bidder and such Other Entity proving the relationship between them and the commitment for provision of resources.

In case that the requirements listed above are not fulfilled, such application of the Other Entity shall not be taken into consideration by the BUYER.

Above mentioned relationship shall be valid for the whole duration of the FRAMEWORK AGREEMENT. In case that during the FRAMEWORK AGREEMENT's performance the relationship between the Bidder and the Other Entity is not valid, BUYER has the right to apply the contractual provision for Contractor's forfeiture.

The declarations and the documentation both of the Bidder and of the Other Entity related to the use of particular resources shall be part of the FRAMEWORK AGREEMENT Documents.

Any individual Other Entity can make its capacity and services available, in accordance with the provisions mentioned above, to only one Bidder.

D. APPLICATION LETTER

The Bidder shall clearly define the factor K_{max} , declaring that this is not subject to any escalation and will remain unchanged during the entire Supply Period.

14. EVALUATION PROCEDURE

14.1 Only Bidders which have submitted a sealed Envelope according to Article 13 will be accepted for evaluation.

14.2 Application shall be rejected if:

- It appears from the Envelope that the Bidder does not have the financial capacity and/or the experience to execute the FRAMEWORK AGREEMENT
- The Bidder has committed any serious professional misdeed which can be verified by any means by the BUYER.
- The Bidder has provided, at any stage of the Inquiry, false information.

15. AWARD – FRAMEWORK AGREEMENT SIGNING

15.1 The successful Bidders will receive a Letter of Intent (by letter or fax).

All successful Bidders, upon receipt of the Letter of Intent, but not later than two (2) working days as from its receipt, shall notify BUYER (by letter or fax) of its acceptance without any reservation.

Following this, a Letter of Award will be issued by BUYER. The FRAMEWORK AGREEMENT will be signed as soon as the successful Bidder submits to the BUYER the following documents and in any case not later than ten (10) days from the day of receipt of the Letter of Award by the successful Bidder:

- A. Minutes of the successful Bidder's (or in case of a J/V from each of its members) Board of Directors, or other competent decision taking body, duly signed, and stating:
 - (i) Their decision to accept the FRAMEWORK AGREEMENT award.
 - (ii) The appointment, by a Power of Attorney, of the Legal Representative (-s) who must be authorised to sign the FRAMEWORK AGREEMENT and to act on SUPPLIER's/SELLER's behalf during the execution of the FRAMEWORK AGREEMENT
- B. Declaration signed by said Legal Representative(-s) accepting the aforementioned Power of Attorney without any conditions or reservations.
- C. Performance Guarantee Letter as per provisions of Article 9 (GUARANTEES)
- D. In case of a Joint Venture, legal documents proving that the Joint Venture has been formed according to Article 11 stipulations and according to the Law.
- E. The Statement as per Article 13.4
- F. As per Presidential Decree 82/1996 stipulations, Greek Incorporated/Public Limited companies shall have to submit the following:
 - A Certificate issued by the competent Authority stating that the company's shares are personal.
 - A detailed list of the company's shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company's Shares Book. This list

should be no more than thirty (30) working days old from the date of Application submission. In the case that among Bidder's shareholders, which hold at least one percent (1%) of the total number of company shares, are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders (individuals, Limited or Personal companies), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.

➤ Foreign companies, several or members of a Joint Venture, in case provision is made by the Law of the country of registration, shall have to submit the following :

- A Certificate issued by the competent authority pursuant to the laws of the country of registration, from which it can be established that the company shares issued according to the company's statutes in effect are personal; In case the company's shares were unregistered according to the company's statutes, the relevant procedure for the amendment to the company's statutes provisioning all company shares to be rendered personal, must have been completed and approved by the Supervising competent authority, by the time of Application and no later than the Application due date.

- A detailed list of the company's shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company's Shares Book pursuant to the laws of the country of registration office. This list should be no more than thirty (30) working days old from the date of submission to the BUYER. In the case that among Bidder's shareholders are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders (individuals, Limited or Personal company), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.

Any other pertinent documentation, no more than thirty (30) working days old from the date of submission to the BUYER, from which the list of the company's registered shareholders can derive.

➤ In case there is no obligation deriving from the legislation of the country of registration for the foreign companies, to render their shares personal, then they have to submit the following documents:

- A certificate issued by the competent authority of the country of registration, establishing that no such legal obligation exists; otherwise to submit a statement under oath of such context.

- A valid and updated list of its registered shareholders, holding at least one percent (1%) either of the total number of company shares or of the company's voting rights.

In case of no such updated list of registered shareholders, the foreign company must submit a list of its shareholders holding at least one percent (1%) either of the total number of company shares or of the company's voting rights, produced according to the most recent General Assembly, on condition that these shareholders are known to the company. Otherwise, the company has to provide justification for the reasons why these shareholders are not known, subject to the approval and assessment of the BUYER.

➤ In case the companies are entered in the Stock market of a European Union (E.U), or of Economic Collaboration and Growth Institution country, the

required documents are as per Article 13.4.4 above

All the above documents must be duly certified by the competent authority of the country of registration, and shall be accompanied by official translation in the Greek language.

15.2 In case the successful Bidder (-s) fail(-s) to notify BUYER the acceptance of BUYER's Letter of Intent within the aforementioned two (2) working days' time limit or fails to submit the aforementioned documents of paragraph 15.1 above after BUYER's Letter of Award, BUYER shall have the right to cancel the award of the FRAMEWORK AGREEMENT to said Bidder and to claim for compensation of damages related to the delays due to such failure of said Bidder and provisions of article 9.5 hereinabove shall apply.

15.3 In case the successful Bidder a J/V, the award will be in the name of all members of J/V. Each member of the J/V will be fully, jointly, indivisibly and severally liable to BUYER and will be represented by a common Representative throughout the validity period of the FRAMEWORK AGREEMENT.

16. CONFIDENTIALITY

Any technical information and data furnished by BUYER with the Inquiry Documents shall remain the property of BUYER and shall be treated confidentially and they shall not be used, disclosed or released to any Third Party for any other purposes, other than for preparing the Applications.

17. RESERVATIONS AND RIGHTS OF THE BUYER

17.1 Participation to the selection process constitutes an acceptance by the Bidder that he has complete knowledge of the terms and conditions of the Inquiry Documents and accepts their contents without reservation.

Any omission to submit the Application according to the Inquiry Documents as well as the omission of a signature on any document does not entitle the Bidder to invoke this fact in his (Bidder's) favour in any way.

The Bidder shall be responsible for and be bound by his Application as submitted.

17.2 The BUYER will have no responsibility or obligation whatsoever to indemnify and/or to compensate Bidder for any expense or loss incurred for the preparation and submission of the Application, in particular, in case the terms and conditions of the Inquiry Documents are changed by BUYER or the Application is not accepted, or the Inquiry is adjourned or annulled or cancelled at any stage and time and for any reason whatsoever. Therefore, participants to the Inquiry which submit an Application, regardless of whether this is finally accepted or not, have no right against the BUYER deriving from the Inquiry or from participating in the Application procedure.

17.3 The Application is considered to be a proposal to the BUYER and not an acceptance of it by the latter. Therefore the FRAMEWORK AGREEMENT sample and other issues and documents imply that Bidders submit their Applications in accordance with the terms and provisions of those issues and documents that constitute an integral part of their Application.

17.4 The terms, conditions and limitations concerning the submission of Applications are to the benefit of the BUYER, who is entitled to proceed with any relevant change without any right on behalf of the Bidder or other third parties arising from this fact.

18. LOCAL LAWS AND REGULATIONS

Bidder must be fully aware of local Laws, Regulations, Decrees, practices and other conditions in Greece, which might affect its Application and the performance of its obligations.

Failure of Bidder to become familiar with such matters shall not release it from its obligations.

19. APPLICABLE LANGUAGE

The Application including all related documentation and all communication shall be submitted in the Greek or English language.

Documents submitted or originally issued in a language other than Greek or English must be officially translated into the Greek or English language.

20. CLARIFICATIONS

If requested by BUYER, Bidders have to clarify any queries of the BUYER probably at BUYER's premises. Such meetings shall take place at any reasonable time between Application submission and FRAMEWORK AGREEMENT award. Bidders shall make their own arrangements for attending said meetings and bear the associated costs.

21. CANDIDATE'S CLARIFICATION REQUESTS

Bidders may request in writing clarifications of the Inquiry Documents at any time up to fifteen (15) days prior to the Application due date.

BUYER will endeavour to reply to the requested clarifications not later than ten (10) days before the Application due date.

22. BUYER'S AMENDMENTS TO THE INQUIRY

BUYER may issue amendments in the form of an Application Addendum at any stage during the Application period but not later than six (6) days before the initial Application due date and extend the time for submission of Applications equal to the initial FRAMEWORK AGREEMENT Notice following the provisions of Directive 2004/17/EC, article 45.

The Bidders shall confirm in writing the inclusion in their Application of all clarifications/amendments issued prior to receipt of the Application by the BUYER

For clarifications/ amendments issued by BUYER subsequent to receipt of the Application, but in any way prior to the Application due Date, the Bidder shall be responsible for thoroughly examining the Application documents and incorporating the clarifications/amendments in his Application. Any failure by the Bidder to comply with the aforesaid clarifications or amendments issued by the BUYER, may be a reason for the rejection of his Application.

23. ATTACHED DOCUMENTS

The following Annexes are attached herein and constitute integral part of present Instructions to Bidders:

ANNEX I: FORM OF APPLICATION LETTER

ANNEX II: FORM OF PARTICIPATION GUARANTEE & FORM OF PERFORMANCE BOND

ANNEX III: DRAFT OF FRAMEWORK AGREEMENT

ANNEX IV: GOVERNMENT GAZETTE 3131/09.12.2013 ALTERATION OF CODE FOR THE ADMINISTRATION OF THE NNGS (NETWORK CODE)

ANNEX V: GOVERNMENT GAZETTE 584/06.05.2010 & REGULATION OF MEASUREMENTS

ANNEX VI: REGULATION FOR THE CERTIFICATION OF LNG VESSELS

ANNEX VII: PROCUREMENT OUTSOURCING & PERFORMANCE REGULATIONS

Ir. Angelopoulou
Administrative Procurement Manager

ΤΕΥΧΟΣ ΣΕ ΔΗΜΟΣΙΑ ΔΙΑΒΟΥΛΕΥΣΗ