

WORK CONTRACT FOR A GAS TURBINE FIRED POWER PLANT

**REQUEST FOR
CANDIDACIES (RFC)**

NEGOTIATED PROCEDURE WITH PRIOR CALL FOR COMPETITION

REF.: LUMINUS-CRM2020

**LUMINUS SA
Boulevard Roi Albert II 7,
1210 Brussels,
Belgium**

May 15, 2020

TABLE OF CONTENTS

Introduction.....	4
PART 1: SCOPE OF THE CONTRACT	4
1 Award procedure.....	4
2 Division into lots	5
3 Duration of the Contract.....	5
PART 2: THE SELECTION PHASE	5
1 Definitions.....	5
2 Applicable rules	7
3 European Single Procurement Document (“ESPD”).....	7
4 Terms and Conditions for participation: identity of the Candidate, grounds for exclusion and selection criteria	8
1) Associations	8
2) Direct contractual relation with the LTSA provider.....	8
3) Ability to rely on the capacity of other entities.....	9
4) Subcontracting	10
5) Changes to the identity of the Candidate during the award procedure.....	10
6) Grounds for exclusion.....	11
7) Self-cleaning mechanism	12
8) Registration	12
9) Selection Criteria.....	13
9.1 Minimum requirements for financial and economic standing	13
9.2 Minimum requirements regarding technical and professional ability	14
10) Short-listing	15
5 Further course of the selection procedure	19
1) Q & A.....	19
2) Exclusion from participation (Completeness and formal regularity of the Requests to Participate - Application of the grounds for exclusion and the qualitative selection).....	19
3) Opportunity to verify the statements in the ESPD and to ask for additional information.....	19
4) Discontinuation or suspension of the award procedure.....	20
5) Additions, clarifications and changes to the RFC.....	20
6) Consent by the Candidates.....	20

7) Liability of the Contracting Entity and its members	21
8) Costs.....	21
9) Confidentiality and property	21
6 CONTACT WITH the Contracting Entity AND SUBMISSION OF THE REQUEST TO PARTICIPATE	21
1) Point of contact and communication regarding the Contract	22
2) Submission Request to Participate	22
3) Contact person.....	23
PART 3: REQUEST TO PARTICIPATE	25
Appendix 1. European Single Procurement Document	27
Appendix 2. SUPPORTING DOCUMENTS REGARDING THE FINANCIAL AND ECONOMIC STANDING (see Part 2, Section 9.1).....	27
Appendix 3. SUPPORTING DOCUMENTS REGARDING THE TECHNICAL ABILITY (see Part 2, Section 9.2).....	27
Appendix 4. SUPPORTING DOCUMENTS REGARDING THE SHORTLIST CRITERIA (see Part 2, section 9)	28
Appendix 5. SUPPORTING DOCUMENTS REGARDING THE COMPOSITION OF THE CONTRACTOR (see Part 2, section 9)	28
PART 4: MODEL FORM COMMITMENT THIRD PARTY ENTITY	29
PART 5: ARTICLES 67 – 69 OF THE (BELGIAN) ACT OF 17 JUNE 2016 ON PUBLIC PROCUREMENT	30
PART 6: MODEL FOR PROJECT REFERENCES.....	33
PART 7: LUMINUS SUPPLIER CODE OF CONDUCT	33
PART 8: ISRS PROCESS 11 DOCUMENT	33

Introduction

Interested parties can submit a Request to Participate based on the instructions in this RFC. The Contracting Entity will subsequently select the Candidates to submit Offers during the award phase. This RFC does not govern the award phase. The Contracting Entity will distribute a Request for Proposals to the selected Candidates, which will describe the award phase.

The RFC is made up of the following components:

- (i) the criteria on the basis of which the selection takes place;
- (ii) the further course of the selection procedure and;
- (iii) other conditions with respect to the selection procedure and the Request to Participate.

You can find the mandatory Request to Participate to be completed in **PART 3**.

PART 1: SCOPE OF THE CONTRACT

The Contract shall take the form of a public work contract within the meaning of Article 2, 18° of the (Belgian) Public Procurement Law of 17 June 2016 (Classification CPV: Thermal power plant construction work 45251140-4).

The object of the Contract is the construction (Engineering, Procurement, Construction, hereafter “**EPC**”) and the service (Long term service agreement, hereafter “**LTSA**”) of a gas turbine fired power plant in the context of the Belgian Capacity Remuneration Mechanism (CRM). More information on the CRM can be obtained on the website of the Belgian Ministry of Economy at <https://economie.fgov.be/fr/themes/energie/securite-dapprovisionnement/mecanisme-de-remuneration-de>.

1 Award procedure

For the tendering of the Contract, the Contracting Entity will apply the negotiated procedure with prior call for competition, as mentioned in Article 120 of the (Belgian) Public Procurement Law of 17 June 2016.

Although the choice of this award procedure does not have to be justified, the Contracting Entity underlines that a power plant is not an ‘off the shelf’ product. It is a highly complex solution that requires an intense design phase. In view of the system’s complexity, it is impossible to precisely establish all technical specifications. Feedback from the Tenderers during the award phase will allow to further develop the technical specifications (within the limits set out by public procurement law). Adding to its complexity is the relation between this project and the evolving CRM.

The Contract also requires a complex legal set-up, that needs to clarify, a.o., the parties’ roles and responsibilities during the different phases of the Contract (design phase, EPC, LTSA phase...).

The procedure consists of a 'selection phase' and an 'award phase':

- a) In the first phase (the selection phase), the Contracting Entity will select suitable Candidates for the performance of the Contract, by means of (i) grounds for exclusion, and (ii) selection criteria. the Contracting Entity can limit the number of Candidates meeting the selection criteria that they will invite to the award phase, in accordance with Article 10) of paragraph 4 of **PART 2**.
- b) In the second phase (the award phase), the Contracting Entity shall invite the selected Candidates, based on a Request for Proposal, to submit one or more Offers and to negotiations about the Offers. the Contracting Entity shall award the Contract by comparing Offers based on the award criteria. The Contract must be awarded to the most advantageous tender.

2 Division into lots

The Contract is not divided into lots, taking into account factors such as the complexity of the subject matter of the Contract. the Contracting Entity wishes to avoid a situation of constant negotiation between its Contractors. The selection of only one Candidate shall benefit the efficiency and effectiveness of the works.

3 Duration of the Contract

The duration of the contract corresponds to the time necessary for the building of the gas turbine fired power plant (EPC contract) and for one or two complete cycles of maintenance (LTSA contract). Further information will be given in the Request for Proposals.

PART 2: THE SELECTION PHASE

1 Definitions

Annex	Every annex to this RFC (which is an integral part thereof).
Association	The Association of different natural persons or legal entities who unite (whether or not in the form of a temporary trade company without legal personality) to submit a joint Request to Participate and subsequently, after selection, submit an Offer, and whereby each member shall assume joint and several liability for the performance of the Contract.
Candidate	The company or, if it concerns an Association, the companies which (in accordance with the requirements of this RFC) wish to present themselves as Candidate for the Contract, or which prior to the deadline for the submission of a Request to Participate presents (present) itself (themselves) as Candidate.

Contract	The agreement, of which the scope is defined under PART 1 of the RFC.
Contract notice	The announcement of the Contract as sent to the Official Journal of the European Union and to the “Bulletin Der Aanbestedingen/Public Tender Bulletin” on 15 May 2020.
Contracting Entity	LUMINUS SA Boulevard Roi Albert II 7, 1210 Brussels, Belgium Luminus reserves the right to establish a legal entity that will act as the client of the Contractor.
Correcting Message (TWB)	The clarifications, additions, comments and/or explanations to the RFC which the Contracting Entity may publish in the course of this selection phase.
European Single Procurement Document (“ESPD”)	The standardised and updated self-declaration document, which the Candidate must complete and submit in the selection phase.
Identified Subcontractor	A legal entity or a natural person who is identified as subcontractor by name in the European Single Procurement Document and whose economic and financial capacity and/or technical competence the Candidate relies on.
Offer	The bid a Tenderer submits for the Contract, during the course of the award phase (after having been invited to do so).
Request for Candidacies or RFC	This document, which relates to the selection phase of the award procedure for the current Contract (including all associated Annexes).
Request for Proposal	The document, including all annexes which will be provided to the selected Candidates after the selection phase and based upon which the selected Candidates may submit an Offer for the Contract.
Request to Participate	The request to participate in the tender procedure for this Contract, which a Candidate submits based on this RFC.
Tenderer	The Candidate (selected on the basis of this RFC) who in the award phase wishes to submit an Offer, or who, prior to the deadline for the submission of the Offers, submits an Offer.

The Contractor	The party who is identified by the Contracting Entity for the performance of the Contract, on the basis of its Offer, and with whom the Contract is concluded.
----------------	--

2 Applicable rules

The Contract is subject to the general rules concerning public work contracts, specific legislation regarding the subject of the Contract and all other laws which apply to the Contract. The Candidate, the Tenderer and later the Contractor must comply with these provisions, also to the extent these provisions would be changed and/or supplemented during the award procedure or the performance of the Contract.

The applicable rules concern the following (non-exhaustive list):

- The Belgian Public Procurement Law of 17 June 2016 (published in the Belgian Official Gazette of 14 July 2016), as amended;
- The Belgian Act of 17 June 2013 concerning the motivation, the information and the legal remedies regarding public procurement, certain contracts for work, supplies and services and concessions (published in the Belgian Official Gazette of 21 June 2013), as amended;
- The Belgian Royal Decree of 18 June 2017 on the award of public procurement in the special sectors (published in the Belgian Official Gazette of 23 June 2017), as amended.

The Candidate must have all required permissions, licenses and approvals that are necessary for the performance of the Contract and the resources it uses for such purpose. It is also responsible for the compliance with these terms by its subcontractors.

Every Candidate is deemed to be familiar with the applicable regulatory provisions, and to accept and comply with such.

Candidates are reminded of the fact that, while these aforementioned rules apply to the Contract and the tender procedure, this RFC does not exhaustively describe their content. The rules are applicable regardless of them being explicitly mentioned in this RFC or not.

3 European Single Procurement Document (“ESPD”)

The European Single Procurement Document (“ESPD”) is a self-declaration which serves as provisional evidence that (i) the Candidate does not find itself in a ground of exclusion, and (ii) the Candidate meets the selection criteria established by the Contracting Entity.

For a valid Request to Participate, Candidates must add the European Single

Procurement Document to their Request to Participate. To complete the ESPD, you can use the web tool <https://uea.publicprocurement.be/>

This completed ESPD must be added to the Request to Participate.

Companies who want to present themselves as Candidate together with another person, must submit multiple, separate ESPDs. This is applicable in the following situations:

- Candidacies by means of an Association: an ESPD for every member of the Association;
- A Candidate that relies on the capacity of other entities (an Identified Subcontractor or another entity) to meet the selection criteria: an ESPD for the Candidate and for the other entity.

4 Terms and Conditions for participation: identity of the Candidate, grounds for exclusion and selection criteria

1) Associations

This section is only relevant if you plan to submit a Request to Participate for this Contract together with another person.

The Requests to Participate are submitted either by one single natural person or legal entity or by an Association.

If an Association submits a Request to Participate:

- **all members of the Association must submit a separate European Single Procurement Document (“ESPD”);**
- none of the members may find themselves in a ground for exclusion (see Article 6) of paragraph 4 of **PART 2**).
- (unless mentioned otherwise) all obligations of a single enterprise which acts as Candidate, also apply to all individual members of the Association which acts as Candidate;
- The Request to Participate identifies the member of the Association that acts as contact point of the Contracting Entity. The Contracting Entity sends notifications only to the contact person of the Candidate in the context of this award procedure;
- each member of the Association is jointly and severally bound towards the Contracting Entity;
- the Request to Participate must be signed by all members of the Association.

2) Direct contractual relation with the LTSA provider

The attention of the Candidates is drawn to the fact that the Contracting Entity wants a direct contractual relation with the LTSA provider during the entire service, maintenance and

availability phase, without prejudice to the Contractor's liability in this respect.

To fulfil this requirement, the Candidate can choose between the following structure:

- The LTSA provider is one of the economic operators that are part of the Candidate (in which case both operators will be held jointly and severally liable and an interface agreement will be signed between the contracting entity and both operators);
- The LTSA is a subcontractor who will take over and be bound by the Contract with regard to the performance of the LTSA services.
- The Candidate can offer an alternative but equivalent contractual structure provided that it fulfils the requirement that the Contracting Entity wants to have as of that date a direct contractual relation with the LTSA provider during the entire service, maintenance and availability phase and without prejudice to the Contractor's liability in this respect.

Pursuant to Article 62 Royal Decree of 18 June 2017, the Contracting Entity allows not-selected entities to be part the group of economic operators that will file the Offer.

The Candidate must indicate in its Request to Participate the structure that it will want to choose or to discuss at a later stage with the contracting entity.

3) Ability to rely on the capacity of other entities

This section is only relevant if you wish to rely on the capacity of another entity (for example, its references of prior projects). If you have sufficient capacity on your own, you are of course not required to rely on the capacity of another person.

The Candidates may, to support their economic and financial standing and/or their technical ability, rely on the economic and financial standing or the technical ability of other entities, regardless of the legal nature of their relationship with those entities (e.g. subcontractors, companies that are member of the group of the Candidate). This may be necessary when the Candidate itself does not meet the selection criteria defined under Article 9) of paragraph 4 of **PART 2**. The capacity of other entities relied on will be taking into account in case of shortlisting described under Article 10) of paragraph 4 of **PART 2**.

In that case:

- the Candidate must answer the question in Section C (*Information about reliance on the capacities of other entities*) of Part II (*Information concerning the economic operator*) of the European Single Procurement Document.
- the third entities must meet the selection criteria concerned, and they may not find themselves in a ground for exclusion.
- the Candidate must demonstrate to the Contracting Entity that it will be able to rely on the necessary resources of this entity for the performance of the Contract, by providing the commitment of this entity to provide the Candidate with the necessary resources. A template of such commitment is included in **PART 4** of this RFC. The third-party entity must sign this commitment (electronically or on paper in which case a scanned version of the commitment is attached to the Request for Proposal) and the Candidate must add it to its Request to Participate. The Candidate annexes the documents which prove the power of the signatory to sign the document for the entity to that document.

- **the other entit(y)(ies) whose capacity the Candidate relies on, must submit a separate European Single Procurement Document (“ESPD”), and thereby complete the following sections:**
 - o Part II section A (“Information about the economic operator”)
 - o Part II section B (“Information about the representatives of the economic operator”)
 - o Part III (“Exclusion grounds”)
 - o Part IV (“Selection Criteria”), insofar relevant for the specific capacities the Candidate is relying on the entity.

Where a Candidate relies on the capacities of other entities with regard to criteria relating to economic and financial standing, the Candidate and those entities will be jointly liable for the execution of the Contract (in case the Contracting Entity awards the Contract to Candidate). This joint responsibility must be accepted in written by these entities.

Where a Candidate relies on the capacities of other entities with regard to academic or professional qualifications, or relevant professional experience, those entities must perform the services/works for which these capacities are required (in case the Contracting Entity awards the Contract to Candidate).

The Contractor must ensure that the other entities it relies on are aware of all the elements which are important for the performance of the Contract, even if these elements are not expressly provided for in the RFC, the Request to Participate and, later, the Request for Proposals, the Offer or the Contract. It must ensure a good coordination of the performance of the Contract.

4) Subcontracting

This section is only relevant if you wish to use a subcontractor for the performance of the Contract. Of course, you are not required to do so.

A Contractor may have part of the Contract executed by subcontractors who have the required specific experience and the qualified personnel, as required to perform the work, services and/or deliveries that are entrusted to them.

The Contractor is solely and exclusively responsible towards the Contracting Entity for the entirety of the Contract, including the part it may give to any subcontractors (including any Identified Subcontractors). The Contractor may not impose obligations on the Contracting Entity in respect of third parties unless otherwise provided under Belgian law.

The Contractor must ensure that the subcontractors on which it relies are aware of all the elements that are important for the performance of the Contract, even if these elements are not expressly provided for in the RFC, the Request to Participate and, later, the Request for Proposals, the Offer or the Agreement. It must ensure a good coordination of the performance of the Contract.

5) Changes to the identity of the Candidate during the award procedure

Without prejudice to the right of Candidate to submit an offer with not-selected economic operators (see, above Paragraph 4, Article 2), following the selection decision, selected

Candidates are in principle not allowed to change their composition or identity. The same applies to the entity whose capacities the Candidate relies on.

The Contracting Entity has the right (but is not obliged) to allow such changes, if the following cumulative conditions are met:

- a) the change is necessary in view of reasons made plausible by the Candidate;
- b) subsequent to the change, the selection criteria are still met, and none of the exclusion grounds is applicable;
- c) if entities are jointly liable based on the provisions of this RFC, then the new members of the Association, and/or the new entities whose capacities the Candidate relies on, must declare themselves jointly liable to the Contracting Entity for performance of the Candidate's obligations;
- d) the Contracting Entity gives its prior written consent to the change.

The Candidate does not have a right to the aforementioned changes, if the conditions a), b), c) and d) are fulfilled. If the Contracting Entity refuses the change, it can exclude the Candidate that carries out the change in spite of the refusal of the Contracting Entity.

Every change request must be substantiated with the necessary documents. These documents must allow the Contracting Entity to assess the impact of the change in an informed way.

6) Grounds for exclusion

The Contracting Entity can or is obliged (as the case may be) to exclude the Candidate from the award procedure for the Contract, in any stage of the procedure, if the Candidate finds itself in one of the grounds for exclusion as described in Article 67 to 69 of the Public Procurement Law of 17 June 2016. These articles are made applicable to the present procedure. The text of these articles is included in **PART 5**.

It is stated expressly that, for the purpose of this procedure, these grounds for exclusion do not apply to persons who are members of the administrative, management or supervisory board of the persons referred to in the first paragraph or exercising power of representation, decision making or control within these companies.

In this context, the Candidates must add the **European Single Procurement Document or ESPD** to their Request to Participate, and include all relevant information. This document is a self-declaration of the Candidate that none of the grounds for exclusion are applicable.

In addition to the ESPD(s), the Candidate must submit up-to-date certificates that prove that none of grounds for exclusion are applicable. The Candidates need to submit the following certificates to the Contracting Entity:

- For all companies: an extract from the criminal register or an equivalent document issued by a court or government authority of the country of origin stating that the Candidate is not in one of the exclusion situations, such as referred to in Article 67, §1 of the Public Procurement Law of 17 June 2016 (6 months old maximum).

- For companies located outside of Belgium:
 - Certificate tax liabilities (6 months old maximum);
 - Certificate social security debt related to the last calendar quarter preceding the deadline for receipt of requests to participate.
 - Certificate non-bankruptcy or similar situations (6 months old maximum).

For companies based in Belgium, the Contracting Entity has access to the digital application Telemarc and shall check the certificates that are available through this portal itself.

However, Belgian economic operators employing staff subject to the social security legislation of another Member State of the European Union must file a recent attestation issued by the competent foreign authority stating that it has fulfilled its obligations relating to the payment of social security contributions in accordance with the legal provisions of the country concerned.

The Contracting Entity is obliged by law to request the aforementioned ESPD, and review the certificates (or equivalent documents) with respect to the exclusion grounds. Provision of the ESPD and correct certificates (or equivalent documents) that are not accessible via Telemarc is mandatory. Please do not hesitate to ask questions with respect to these obligations before you submit your Request to Participate (see § 5.1).

7) Self-cleaning mechanism

If the Candidate finds himself in a ground for exclusion as described in Article 67 or 69 of the Public Procurement Law of 17 June 2016, he may provide evidence of measures taken by him, that are sufficient to demonstrate his reliability. If the Contracting Entity considers such evidence to be sufficient, the Contracting Entity can decide not to exclude the Candidate from the procurement procedure. The Candidate cannot derive any rights from this.

For this purpose, the Candidate shall prove that it has paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct, clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities and taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

8) Registration

The Candidate or its Identified Subcontractors shall be registered as a Belgian contractor in class 8, category P2 or prove that the conditions laid down in the Belgian Act of 20 March 1991 on the registration of works contractors to be registered in class 8, category P2, are fulfilled.

The criteria that must be fulfilled to qualify as a work contractor in class 8, category P2, are mentioned in the (Belgian) Royal Decree of 26 September 1991 on application measures of the Act of 20 March 1991.

Proof:

- a. either a certificate proving registration as a Belgian contractor in class 8, category P2;
- b. either a certificate proving registration on the list of registered contractors in the Member State of the European Union where it is established, accompanied by the documents establishing the equivalence of this registration with the registration as a Belgian contractor in class 8, category P2;
- c. or, the documents demonstrating that the criteria for class 8, category P2, are fulfilled, as provided by art. 3, § 1, 2° of the Act of 20 March 1991.

9) Selection Criteria¹

Candidates that do not meet the minimum requirements specified below, will not be selected and shall be excluded from further participation in the award procedure.

The Selection Criteria consist of minimum requirements (i) for financial and economic standing, and (ii) regarding technical and professional ability.

In part IV (Selection Criteria) of the ESPD, the Candidate confirms that it meets the required selection criteria. With the declaration that it meets the required selection criteria, Candidates in sub-section α must check the box “yes”.

9.1 Minimum requirements for financial and economic standing

The Candidate must meet the following minimum requirement for its **financial and economic standing**:

- (i) The Candidate obtains either :
 - a. a BBB credit rating of S&P, Moody's or Fitch; or
 - b. ,if the above credit ratings are not available, an equivalent credit rating to the above according the S&P methodology (proxy rating assessed by the Credit department of the Contracting Entity).

Proof: published financial statements for the last 3 years: balance sheet, p&l accounts, cash flow statements, audited by external auditor. In addition, external agency credit ratings (S&P, Moody's, Fitch) can be provided if available.

- (ii) The Candidate's turnover always exceeded 500.000.000 EUR over the past 3 financial years.

Proof: extract of the approved annual financial accounts for the past 3 financial years

The Candidates must present the supporting documentation regarding financial and economic standing simultaneously with their Request to Participate. If the Candidate is unable to provide the financial information requested by the Contracting Entity for valid reasons, he must request the Contracting Entity, no later than the deadline for submitting questions and comments about

¹ This section deviates from Articles 65 to 69 and 72 of the Royal Decree of 18 April 2017.

this Selection Document, to be allowed to demonstrate its economic and financial capacity with other documents, that the Contracting Entity deems suitable.

9.2 Minimum requirements regarding technical and professional ability

The Candidate must meet the following minimum requirements for its **technical and professional ability**:

- (i) The Candidate provides at least (2) two references which proves that he built (EPC execution) gas turbine fired power plants of min 400 MW in the last ten years prior to the Contract notice for the Contract².

Proof: self-declaration by the Candidate, in accordance with the template in **PART 6**.

- (ii) The Candidate provides at least (1) one reference which proves that he built (EPC execution) a gas turbine fired power plant CCGT (combined cycle gas turbine) of at least 400MW of the last 5 years including 250 MW GT (Gas turbine) or more (class H/F or equivalent)

Proof: self-declaration by the Candidate, in accordance with the template in **PART 6**.

- (iii) The Candidate provides at least (1) one reference which proves that he built (EPC execution) a gas turbine fired power plant according to EU or US standards

EU standards are :

- EU Directive 2006/42/EC (machinery directive).
- EU Directive 2014/68/UE (pressure equipment).
- EU Directive 2004/108/EC (the electromagnetic compatibility).
- EU Directive 2006/95/EC (low voltage).
- Directive 2014/34/UE (equipment and protective systems intended for use in potentially explosive atmospheres)

To prove that those standards were applied, the Candidate will submit Certificates (from Candidate and Notified Body) confirming that the plant concerned was built according to standards listed in these directives.

Regarding US equivalency, the Candidate shall demonstrate (in case no EU compliance proof available) execution of power plants according to equivalent US standards (eg. NFPA/UL/ASME) for each of the listed EU directive sustained by compliance certificates issued by Candidate and Notified Bodies for such certificates

² Art. 68, § 4, 1° a), of the Belgian Royal Decree of 18 April 2017 on the award of public procurement in the classical sectors is made non applicable to this contract (as allowed by Article 70 of the Belgian Royal Decree of 18 June 2017 on the award of public procurement in the special sectors). Moreover, a period of 10 years is justified, in view of the importance and the technical specificity of the Contract. Similar contracts are rarely tendered. Only accepting references from a period of, e.g. 3 years (i.e. the default rule for minimal selection criteria, governed by Article 68, § 4, 1°, b)) would disproportionately restrict access to the procedure and would possibly lead to limited competition.

Proof: self-declaration by the Candidate, in accordance with the template in **PART 6**.

- (iv) The Candidate holds a VCA, BeSaCC or ISO 45001 certificate, or any other equivalent-level safety certification in the field concerned;

Proof: certificate and ISRS 11

- (v) The Candidate must complete and sign the Luminus Supplier Code of Conduct according to template in PART 7;
- (vi) The Candidate must sign the ISRS 11 according to template in PART 8. Candidates will be disqualified in case:
 1. the document has not been submitted; or
 2. the frequency and/or the severity rate of accident numbers is higher than the NACE reported average; or
 3. the Candidate receives less than half of the points for the evaluation concerning for the criterion for shortlisting 'Quality of the Health, Safety and Environment (HSE) Performance of the Candidate'.

The Contracting Entity reserves the right to check the references mentioned above. In case the submitted reference appears not to be in line with the above requirements, the Candidate can be excluded from further participation in the current procurement procedure, based on the exclusion ground of misrepresentation of information, in accordance with Article 69,8° of the Belgian Public Procurement Law of 17 June 2016.

In case of a project was executed by an association or in case of a main contractor / subcontractor, only the party that executes the part of the project to which each reference described above applies, may provide the reference.

The Candidates must present the supporting documentation regarding technical and professional capacity simultaneously with their Request to Participate.

10) Short-listing

If more than 3 Candidates meet the selection criteria described under Article 9) above, the Contracting Entity reserves the right to limit the number of Candidates to a minimum of 3 Candidates and a maximum of 7 Candidates. To do so, the Contracting Entity will make a ranking of Candidates.

If the Contracting Entity considers that the differences between the 3 highest ranked Candidates and other Candidates are small, it reserves the right to select more than 3 Candidates and up to 7 Candidates to participate in the award phase. A Candidate that is not amongst the 3 highest ranked Candidates, cannot derive a right to be included on the shortlist.

Where the number of Candidates meeting the selection criteria is below the minimum number of

3, the Contracting Entity reserves the right to continue the procedure by inviting the Candidate(s) with the required capabilities.

The aforementioned ranking shall be determined on the basis of a number of short-listing criteria (see the table below). With the exception of the references that are subject to a separate evaluation method, for each criterion, the Candidates receive a score from 0 to 10, to which a weighting will be applied. A score of 10 means that the communicated information for the relevant criterion offers a multitude of elements that are considered as an important added value by the Contracting Entity for the performance of the project. A score of 0 means that the communicated information for the relevant criterion are inadequate and does not guarantee the good performance of the project.

Each criterion includes a number of evaluation elements (eg. HSE Performance will be evaluate in the light of the possession of an ISO-9001 certificate or any other equivalent-level certification in the field; the possession of an EMAS or ISO-14001 certificate or any other equivalent-level certification in the field concerned; etc.) The contracting entity will evaluate these elements as a whole. A very poor or very good performance for one or more of the evaluation elements may significantly influence the overall assessment.

The Candidate may rely on the capabilities of a third party (e.g. subcontractor) for these short-listing criteria, in accordance with Article 3) of paragraph 4 of **PART 2**.

The Contracting Entity reserves the right to check the documents and references. In case the submitted document or reference appears not to be in line with the above requirements, the Candidate can be excluded from further participation in the current procurement procedure, based on the exclusion ground of misrepresentation of information, in accordance with Article 69,8° of the Belgian Public Procurement Law of 17 June 2016.

The short-listing criteria are:

(i)	<p>Credit rating for 3 year outlook based on S&P methodology scaled between 1-10 where BBB =1 and AAA = 10</p> <p>Proof: see above Article 9)</p>
(ii)	<p>Experience in EPC execution of gas turbine fired power plant</p> <p>Supporting elements:</p> <ul style="list-style-type: none"> - complete & detailed list references of all gas turbine fired power plants of the last 10 years built (EPC execution) by the Candidate including type of turbine, type of plant, to which standard it applies and indicate if it EU or US standard, according to template in PART 6 - list of all H-classes (or equivalent) gas turbine fired power plants currently installed in the last 10 years by the Candidate according to template in PART 6 - list of all H-classes (or equivalent) gas turbine fired power plants in project execution phase or sold and 100% sure to be installed by the Candidate according to template in PART 6 - list of projects in the last 10 years where H/F class type gas turbine fired power plants according to EU or US standards were installed according to template in PART 6 - EU standards will be rewarded - all references of brown field projects which demonstrate knowledge and

	<p>experience in re-powering or complex adjustments of existing power plants executed in the last 5 years according to template in PART 6</p>
(iii)	<p>Experience in performing long term service agreement (LTSA) for gas turbine fired power plants.</p> <p>The project regards the performance of works by an EPC provider as well as performance of services by an LTSA provider. The Contracting Entity wishes to receive guarantees concerning the technical capacity of the LTSA provider but does not want to automatically exclude Candidates that have not yet chosen their LTSA partner. Candidates are free to choose between three alternative solutions:</p> <ul style="list-style-type: none"> - Scenario nr. 1: the LTSA provider is one of the economic operators that are part of the Candidate. The Candidate receives a score between 0 and 10 points, in function of the technical capacity of the LTSA provider that will be evaluated at the hand of references provided according to template. The LTSA provider must at least have 5 references of LTSA contracts in the last 10 years for gas turbine fired power plants. - Scenario nr. 2: the LTSA provider is an Identified Subcontractor and signs a binding declaration within the meaning of Article 150 of the Public Procurement Law of 17 June 2016 on public procurement, according to which the Candidate will have at its disposal the resources of the LTSA provider during the performance of the contract. The LTSA Partner fills out the commitment included in PART 4 of this RFC. The Candidate receives a score between 0 and 10 points, in function of the technical capacity of the LTSA provider that will be evaluated at the hand of references provided according to template in PART 6. The LTSA provider must at least have 5 references of LTSA contracts in the last 10 years for gas turbine fired power plants. - Scenario nr. 3: the Candidate produces at least one and up to three letters of intention from LTSA providers in which they declare to be willing to submit a bid with the Candidate, subject to an agreement on the financial, technical, legal and commercial aspects of their collaboration. The letter of intention clearly identifies the LTSA Provider (name, legal form, registration nr., address, etc.). Only LTSA providers that have at least 5 references of LTSA contracts in the last 10 years for gas turbine fired power plants will be taken into account for this purpose. The Candidate receives a score between 0 and 10 points, in function of the technical capacity of the LTSA provider that will be evaluated at the hand of references provided according to template in PART 6. In case more than one statement of intention is produced, the contracting entity will take the average score of the three LTSA providers. <p>Proof: self-declaration where the Candidate mention the chosen scenario and provide the references according to Template in PART 6; if applicable commitment included in PART 4 of this RFC (scenario 2); if applicable letter(s) of intention (scenario 3).</p>
(iv)	<p>Quality of the organisation of the Candidate, in view of an efficient performance of the project.</p> <p>Supporting elements:</p>

	<ul style="list-style-type: none"> - An organisation chart showing main functional responsibilities; - Transparent overview of proposed subcontracting structure if awarded the contract. To be specified which part of the scope in terms of components and services are likely to be outsourced and which is to be kept in-house. if already known upfront to who parts will be outsourced than this is to be included. Mention previous EPC subcontracting structures for H/F class of equivalent gas turbine fired power plant, as this will allow the Contracting Entity to assess the adequacy and strengths of the subcontracting structure for the present project. - Description of the qualifications of the Candidate and, more in particular, of the qualifications of the staff and technicians responsible (at hand of cv's) for the execution of the on-site installation whether employees of external consultants. Describe in house engineering, project management capabilities and workforce; - Ability of the contact person and the person in charge of the on-site installation to communicate orally and in writing in English and French - A statement of the Candidate average annual manpower and the number of managerial staff for the last three years
(v)	<p>Quality of the Health, Safety and Environment (HSE) Performance of the Candidate</p> <p>Supporting elements:</p> <ul style="list-style-type: none"> - An ISO-9001 certificate or any other equivalent-level certification in the field concerned; - An EMAS or ISO-14001 certificate or any other equivalent-level certification in the field concerned; - Proof of good figures concerning the degree of seriousness and frequency of accidents at work of the Candidate during the past 5 years; please also include the safety figures of the references you have provided under technical capability even if the references were performed by another entity on which the Candidate relies on to fulfil the selection criteria with regard to past experience (proof: ISRS 11) - Additional certificates concerning quality, environment and safety, if any (eg. ISO-50001); - A completed and duly signed version of the document ISRS 11 according to template in PART 8.
(vi)	<p>Candidate's efforts toward sustainability</p> <p>Supporting elements:</p> <ul style="list-style-type: none"> - Certifications on social responsibility and wellbeing at work (OHSAS or ISO 26000 or SA 8000 or equivalent) One certification of such type is fully satisfactory; - Explanative note on the Candidate's ability to reduce CO2 emissions during construction to the minimum. Please elaborate on CO2 reduction strategy; - Explanative note on experience in sustainable building practices in recent projects.

Remark: It is extremely important that the Candidate provides sufficiently precise information, allowing the Contracting Entity to evaluate the short-listing criteria properly. The Contracting Entity reserves the right to award a score of zero points for a given criterion when it is not possible to evaluate it, because of a lack of information.

The scores will be added up to a total score.

5 Further course of the selection procedure

1) Q & A

The Candidates may ask questions about this RFC and must communicate their points of contact to the Point of Contact of the Contracting Entity. These communications must be submitted by email, no later than 26 May 2020 at 18:00 Central European Time (“**CET**”), to the contact person of the Contracting Entity. The Candidate must be able to prove that the questions were submitted on time. The interested parties may also provide their point of contact if they wish to be informed on the Q&A related to the RFC.

The Contracting Entity shall reply to the questions (which can be answered) no later than 10 calendar days prior to the deadline for the submission of the Requests to Participate, by way of a Correcting Message, or by email to the entities which have expressed their interest for this Contract to the Contracting Entity.

The Contracting Entity will only reply to questions of a general nature and which could lead to further clarification of the content of this RFC. Questions or comments that do not aim for mere clarification of the RFC, or for additional information, and which would imply a certain discussion or negotiation regarding certain parts of the RFC, as well as questions submitted after the deadline, shall not, in principle, be answered. The questions and/or comments must be submitted in one batch per Candidate and will only be answered in writing if relevant for the Contract.

After submitting the answers to the questions, the RFC shall be final. Consequently, Candidates are advised to use this opportunity to request information. If the Candidate does not pose questions, then everything is deemed to be clear to this Candidate.

2) Exclusion from participation (Completeness and formal regularity of the Requests to Participate - Application of the grounds for exclusion and the qualitative selection)

The Contracting Entity reserves the right to reject the following Requests to Participate:

- any incorrect or incomplete Request to Participate;
- any Request to Participate from a Candidate to which a ground for exclusion is applicable;
- any Request to Participate of a Candidate that does not meet the qualitative selection criteria.

3) Opportunity to verify the statements in the ESPD and to ask for additional information

The Contracting Entity may verify the submitted European Single Procurement Document (“ESPD”) as well as any other submitted statement or information at any time and by any means necessary. By participating in the award procedure and the submission of a Request to Participate, the Candidates agree that the Contracting Entity or its designated third party can verify the statements and information for accuracy.

The Contracting Entity reserves the right, in each stage of the award procedure, to ask for additional information and to check whether a Candidate still meets the selection criteria or does not find itself in a ground for exclusion. If it should become apparent that a Candidate no longer complies, the Candidate may still be excluded.

The Candidates will provide all information upon first request of the Contracting Entity. If the Candidate does not respond, it can be excluded from the award procedure.

4) Discontinuation or suspension of the award procedure

The Contracting Entity reserves the right to terminate the award procedure for this Contract, since organisation of the award procedure by no means constitutes an obligation to award or conclude the Contract (in accordance with Article 153 *juncto* 85 of the Public Procurement Law of 17 June 2016).

The Contracting Entity reserves the right to suspend the award procedure.

Such whole or partial termination of the procedure does not give the Candidates any right to any compensation or other claim.

5) Additions, clarifications and changes to the RFC

The Contracting Entity can make additions, clarifications or changes to the RFC during the selection phase, by way of Correcting Messages.

These additions, clarifications or changes will be considered part of the RFC. Candidates are deemed to be informed about their content, and they are bound to take them into account when drafting their Request to Participate.

6) Consent by the Candidates

By submitting the Request to Participate, the Candidate unconditionally accepts the content of the RFC, including the implementation of the award procedure as described in the RFC.

In case the Candidate has an objection against the content of the RFC, the Candidate is required to notify such objection in writing to the Contracting Entity, at the latest on 26 May 2020 at 18:00 CET, by way of an e-mail with notice of receipt to the e-mail address mentioned under 6.1.1 of the RFC. The e-mail explains the reasons for the objection.

The Candidate is required to notify the Contracting Entity in the same way with respect to errors and/or omissions in this RFC and even if these errors and/or omissions would not prevent (i) the Candidate from submitting a Request to Participate, or (ii) the Contracting Entity to evaluate the Requests to Participate in accordance with the principle of non-discrimination and transparency.

The Candidate bears the risk of the aforementioned obligation. If the Candidate does not notify the Contracting Entity of its objections, or the errors and/or omissions the Candidate identified, before the aforementioned deadline, the Candidate cannot rely on them at a later point in time.

7) Liability of the Contracting Entity and its members

The Contracting Entity does not offer any guarantee, neither implicit nor express, with regard to the accuracy, completeness or accuracy of the information in this RFC or any other information which would be provided by the Contracting Entity at a later time, which shall remain fully for the risk of the selected Candidate. Consequently, it rejects any liability, of any kind whatsoever, for any damage or loss the Candidate may suffer as a result of (i) the use of this document, the amendments thereof or the information contained in it, (ii) the fact that the Candidate would have relied on this information or (iii) the absence, irrelevance or the interpretation of certain information in this document. The same rejection of liability applies for the members of the Contracting Entity vis-à-vis the Candidate.

8) Costs

The Candidate shall bear all costs it incurs in the context of the award procedure and is not entitled to reimbursement of expenses incurred for the participation in the award procedure.

9) Confidentiality and property

All information, verbal or written, which is or shall be provided by or on behalf of the Contracting Entity in the context of this award procedure, must be treated as confidential and should not be disclosed to third parties without prior consent of the Contracting Entity. Before receiving the Request for Proposal, the selected Candidates shall to sign a Non-Disclosure Agreement.

The following shall not be considered as third parties in the context of this award procedure: the staff or any subcontractors of the Candidate who require the abovementioned documents for the preparation and submission of the Request to Participate. For the avoidance of doubt, the Contracting Entity is allowed to verify the references submitted by the Candidate in his Request to Participate, as provided for in Article 9) of paragraph 4 of **PART 2** of the RFC, with the client for the reference project, or another involved party.

All documents which the Contracting Entity provides or makes available in any form to the Candidates, as well as any copy or reproduction thereof, are and shall remain the property of the Contracting Entity and must be returned by the Candidate, either at the end of the award procedure or at the simple request of the Contracting Entity.

The records and documents submitted by the Candidates to the Contracting Entity will be provided free of charge for the Contracting Entity, without the Contracting Entity being obliged to return such. the Contracting Entity shall have free access to this, in the context of the award procedure.

1) Point of contact and communication regarding the Contract

1) *Point of contact*

All correspondence (verbally, in writing, digital, ...) and questions related to the RFC, and during the award phase, the Request for Proposals, must be addressed to the contact person of the Contracting Entity listed below:

Luminus SA (the Contracting Entity)
Boulevard Roi Albert II 7, 1210 Brussels
To the attention of Koen Schailleé
Telephone: +32499968443
Email: Koen.Schailleé@luminus.be
And to the attention of Gianni Di Puma
Telephone: +32499968423
Email: Gianni.Dipuma@luminus.be

2) *Language*

The written and verbal contacts with the Contracting Entity take place in English. The Requests to Participate is also in English.

2) Submission Request to Participate

1) *Manner of submission*

The Requests to Participate must be submitted electronically no later than on 15 June 2020 at 23:59 CET via the email address of the above mentioned Point of Contact. The Request to Participate must include a link for the Contracting Entity to download the Request to Participate (in order not to overload the server of the Contracting Entity) with an access date starting from 16 June 2020 at 00:00.

It is not permitted to:

- submit a Request to Participate on paper in addition to the electronic submission;
- submit more than one (1) electronic Request to Participate.

The Request to Participate must be prepared in a common file format (i.e. PDF, MS Office, Open Office or equivalent).

2) *Form*

The Request to Participate should contain the order of information and documents, such as provided for in **PART 3** of this RFC, supplemented (if applicable) with the commitments regarding the capacity of third parties (for a model, see **PART 4**) and other documents which are mandatory pursuant to this RFC. The Request to Participate must be complete.

3) *Signing*

The Candidate has two options:

- i) Either the Candidate submits its Request to Participate and its ESPD - or, in case

the Candidate is an Association, the ESPD of each of the participants to the Association –, without signing these documents.

In this case, the Candidate, should it be admitted to the second phase of the award procedure (the award phase), must resubmit its ESPD – or, in case the Candidate is an Association, the ESPD for each of the participants in this Association – along with its Offer. In that case, the Candidate will have to sign the ESPD – *or* the ESPDs – and the Offer globally on the submission report which will be generated in the award phase.

ii) Or the Candidate chooses to sign the Request to Participate and its ESPD – or, in case the Candidate is an Association, the ESPDs of each of the participants to the Association.

Signing the Request to Participate and the ESPD at the moment of submitting the Request to Participate has the advantage that the Candidate, should it be submitted to the award phase of the procedure, does not have to add and sign its ESPD – *or* the ESPDs – again with its Offer.

If the Candidate chooses option ii), the documents must be signed as follows:

- the Request to Participate and the ESPD have to be signed by the persons qualified or authorised to represent the Candidate. If the signing takes place by an authorised agent, it shall clearly list its capacity as well as the identity of its principal(s). If a Candidate is an Association, the Request to Participate must be signed by the person(s) that are qualified or authorised to represent each member of the Association.
- the necessary documents must be attached to the Request to Participate which show the authority of the aforementioned person(s) (extracts of the Articles of Association, appointment decisions, power of attorney, ...).
- Only a valid electronic signature will be accepted. A electronic signature may be placed by means of a Belgian eID, or an equivalent electronic signature which guarantees the authenticity and the integrity of the signing.

The entities on whose capacities the Candidate relies to fulfil the selection criteria must sign their ESPD electronically or on paper. If the ESPD submitted with the Request to Participate is not signed, a signed version can still be attached to the Offer. The necessary documents must be attached to the Request to Participate or the Offer which show the authority of the person(s) signing this ESPD (extracts of the Articles of Association, appointment decisions, power of attorney, ...).

3) Contact person

In order to make the communication as efficient as possible, the Contracting Entity wishes to have the communication with the Candidates take place through a contact person. The name, the address, the phone number and email address of this contact person of the Candidate must be listed in the Request to Participate (participation form).

*

PART 3: REQUEST TO PARTICIPATE

<p style="text-align: center;">REQUEST TO PARTICIPATE POWER PLANT CRM</p> <p style="text-align: center;">NEGOTIATED PROCEDURE WITH PRIOR CALL FOR COMPETITION</p> <p style="text-align: center;">Participation form</p> <p style="text-align: center;">Mandatory for the submission of a Request to Participate</p>
--

The undersigned hereby declares:

- to be a Candidate in the "Luminus – Gas turbine power plant" procurement procedure, in accordance with the provisions of the Request for Candidacies;
- not to have concluded any agreement and not to have taken part in any agreement or meeting in violation of Article 5, § 1, second paragraph of the Act of 17 June 2016 on Public Procurement;
- have familiarised itself with the Request for Candidacies for this procedure and unconditionally accept the procedure and the terms and conditions set out therein;
- be aware that failure to comply with the procedure laid down in the Request for Candidacies or subsequent indications given by the Contracting Entity on the basis of the Request for Candidacies may result in the rejection of the request to participate;
- be jointly and severally liable to the Contracting Authority for compliance with all the obligations resulting from the Request for Candidacies and any subsequent indications given by the Contracting Authority on the basis of the Request for Candidacies; and
- in good faith, that any information which is and will be communicated to the Contracting Entity under this procedure is and will be correct.

IDENTITY OF THE CANDIDATE

CANDIDATE NAME:	
Legal form:	
Nationality:	
Address:	
Represented by (name, function, authority)	
Company n°	

If the Candidate is a group of economic operators, the table above must be filled out for each member of the Candidate.

CONTACT DETAILS OF THE CANDIDATE

NAME CONTACT PERSON	
Phone:	
Email address	
Profession:	

Appendix 1. European Single Procurement Document

Please add the entire ESPD to the Request to Participate. See Part 2, Paragraph 3 of the Request for Candidacies.

Appendix 2. SUPPORTING DOCUMENTS REGARDING THE FINANCIAL AND ECONOMIC STANDING (see Part 2, Section 9.1)

	Supporting document	Appendix No.
1.	Financial statements for the last 3 years: balance sheet, p&l accounts, cash flow statements, audited by external auditor. External agency credit ratings (S&P, Moody's, Fitch) can be provided if available.	2a
2.	Applicable insurance policy and/or certificate	2b

- > *These supporting documents must be presented with respect to the Candidate and to any Identified Subcontractors/third party entities if the Candidate relies on their financial and economic standing.*

Appendix 3. SUPPORTING DOCUMENTS REGARDING THE TECHNICAL ABILITY (see Part 2, Section 9.2)

	Supporting document	Appendix No.
1.	Project reference(s), in accordance with the template in PART 6.	3a
2.	VCA or BeSaCC certificate, ISO 45001 or any other equivalent-level safety certification in the field concerned	3b
3.	Luminus Supplier Code of Conduct	3c
4.	Signed and completed ISRS 11	3d

→ *These supporting documents must be presented with respect to the Candidate and to any Identified Subcontractors/third party entities if the Candidate relies on their technical ability.*

Appendix 4. SUPPORTING DOCUMENTS REGARDING THE SHORTLIST CRITERIA (see Part 2, section 9)

	Supporting document	Appendix No.
1.	Project reference(s), in accordance with the template in PART 6	4a
2.	Project reference(s) of LTSA Partner(s); if applicable commitment included in PART 4 of this RFC; if applicable letter(s) of intention.	4b
3.	Requested information on the organisation of the Candidate	4c
4.	Requested information on the organisation of the Candidate on the HSE Performance	4d
5.	Requested information on Candidate's efforts toward sustainability	4e

- > These supporting documents must be presented with respect to the Candidate and to any Identified Subcontractors/third party entities if the Candidate relies on their capacity to fulfil the shortlist criteria.

Appendix 5. SUPPORTING DOCUMENTS REGARDING THE COMPOSITION OF THE CONTRACTOR (see Part 2, section 9)

	Supporting document	Appendix No.
1.	Requested information on the contractual structure between the Contractor and the LTSA provider	5a

* * *

PART 4: MODEL FORM COMMITMENT THIRD PARTY ENTITY

WORK PUBLIC CONTRACT FOR A GAS TURBINE FIRED POWER PLANT

Reference: LUMINUS-CRM2020

The [name subcontractor or other entity], with company number [*] and office address at [place], represented by [insert name and capacity representative]³, having regard to Article 72, first paragraph of the Royal Decree of 18 June 2017 concerning the award of public procurement in the special sectors, commits to provide the resources necessary for the performance of this Contract as mentioned in the title above (and with reference [...]), for the full term of that Contract, to [Candidate name]:

[describe which resources the subcontractor or other entity exactly commits for the performance of the Contract]

[In case the Candidate relies on the capacities of this entity with regard to criteria relating to economic and financial standing]: The [name subcontractor or other entity] acknowledges that pursuant to Article 150 of the Public Procurement Law of 17 June 2016, it will be jointly liable with the Contractor for the performance of the contract.

[In case the Candidate relies on the capacities of this entity with regard to criteria relating to technical and professional standing]: The [name subcontractor or other entity] acknowledges that pursuant to Article 150 of the Public Procurement Law of 17 June 2016, it must perform the services/works for which its capacities are required.

Prepared in [city] on [date]

[Signature]

[Name representative]

[Title/capacity representative]

* * *

³ Add proof of powers of representation.

Article 67: Mandatory grounds for exclusion

Art. 67. § 1. Except in the case where the Candidate or tenderer, in accordance with Article 70, shows to have taken sufficient measures to demonstrate its reliability, the Contracting Entity excludes a Candidate or tenderer from participation in the placement procedure, in any stage of the procedure, when it has determined or is otherwise aware that this Candidate or tenderer is convicted by judgement with force res judicata of the following crimes:

1° participation in a criminal organisation;

2° corruption;

3° fraud;

4° terrorist offences or offences linked to terrorist activities, or the instigation of, the aiding and abetting in or the attempt to commit such crime or offence;

5° money laundering and terrorist financing;

6° child labour and other forms of trafficking in human beings;

7° the employment of illegal residents from third countries who reside here illegally.

The King may further specify the crimes referred to in the first paragraph.

In deviation of the first paragraph, the Contracting Entity even in the absence of force res judicata, excludes the Candidate or tenderer who as employer has employed illegal residents from third countries, as soon as this violation is determined by an administrative or judicial decision, including a written notice prepared pursuant to Article 49/2 of the Social Penal Code. This deviation shall not affect the possibility referred to in Article 70 for the Candidate or tenderer to take corrective action if necessary.

In deviation of the first paragraph, the Contracting Entity may indicate, by means of exception, that a deviation from the mandatory exclusion may be allowed for compelling reasons of general interest.

The obligation to exclude the Candidate or tenderer applies even after the person convicted by irrevocable judgement is a member of the governing, executive or supervisory body of this Candidate or tenderer or has representation, decision-making or control authority therein. In the event of a violation referred to in the third paragraph and in the absence of the aforementioned irrevocable judgement, then the same obligation to exclude applies if the person involved is indicated in an administrative or judicial decision as the person with whom a violation was determined in the area of the employment of illegal residents from third countries and is member of the governing, executive or supervisory body of this Candidate or tenderer or has representation, decision-making or control authority therein.

For the contracts of which the estimated amount is less than the thresholds for the European disclosure, the contracting authorities, in deviation of the fifth paragraph, are not required to check the absence of the grounds for exclusion referred to in this article regarding the persons mentioned in the aforementioned paragraph.

§ 2. The exclusions of participation in public procurement contracts as referred to in the paragraph 1, first section, 1° to 6°, apply only for a period of five years from the date of the judgement.

The exclusion of participation in public procurement contracts as referred to in the paragraph 1, first section, 7°, apply only for a period of five years from the date of the judgement.

When they are in a situation of mandatory exclusion on the day following the expiration date for the submission of the requests for participation or the submission of bids, then the entrepreneurs may not participate in the procurement contract, except when they prove in accordance with Article 70 that they have taken adequate corrective actions to demonstrate their reliability despite

the applicable ground for exclusion and except for the case mentioned in paragraph 1, fourth section.

Article 68: Ground for exclusion related to tax and social debt

Art. 68. § 1. Except for compelling reasons of general interest and subject to the case mentioned in paragraph 3, the Contracting Entity shall exclude a Candidate or tenderer from participation in the placement procedure, in any stage of the procedure, if the Candidate or tenderer does not appear to meet its payment obligations concerning on the one hand taxes, and on the other hand social security premiums, unless:

1° if the unpaid amount does not exceed the amount to be determined by the King; or

2° if the Candidate or tenderer can demonstrate that it has one or more claims against a Contracting Entity of government institution, which are certain, payable and free of any commitment towards third parties. These claims must be at least equal to the overdue payment of the tax or social debts minus the threshold amount determined by the King in the application of the provision mentioned under 1°.

If the Contracting Entity determine that the tax or social debts exceed the amount mentioned in the first paragraph, under 1°, it shall ask the Candidate or tenderer if it is in a situation as referred to in the first paragraph, under 2°.

However, the Contracting Entity will give every entrepreneur the opportunity to become compliant during the course of the placement with regard to the social and tax obligations after it has determined a first time that the Candidate or tenderer did not satisfy the requirements in this regard. It shall inform the entrepreneur thereof. From this notification, the Contracting Entity will give the entrepreneur a period of five working days to provide evidence of its regularisation. This regularisation may be used only once. This deadline starts on the day following the notification. For the calculation of deadlines, regulation no. 1182/71 of the Council of 3 June 1971 containing the establishment of the rules that apply to deadlines, dates and start and end times, shall not apply.

§ 2. The King determines the tax or social debts to be considered, as well as the relevant further rules.

§ 3. This article no longer applies if the Candidate or tenderer has fulfilled its obligations by paying the past-due taxes or social security contributions, including ongoing interest or fines, if applicable, or to conclude a binding settlement for the payment thereof, insofar as this payment or the conclusion of the binding settlement has taken place before the submission of a request for participation, or, in public procedures, the deadline for the submission of tenders.

Article 69: Optional grounds for exclusion

Art. 69. Unless in the case where the Candidate or tenderer, in accordance with Article 70, shows to have taken adequate measures to demonstrate its reliability, the Contracting Entity, in any stage of the procedure, exclude a Candidate or tenderer of taking part in this procedure, in the following cases:

1° if the Contracting Entity with any appropriate means shows that the Candidate or tenderer has violated the applicable obligations in the area of environmental, social and labour laws as referred to in Article 7;

2° if the Candidate or tenderer is in a situation of bankruptcy or liquidation, has ceased its operations, is undergoing a legal reorganisation, or has reported its bankruptcy, it is the object

of a pending procedure of liquidation or legal reorganisation, of it is in a similar situation as a result of a similar procedure which exists in other national regulations;

3° if the Contracting Entity can demonstrate, with any appropriate means, that the Candidate or tenderer has made a serious error in the exercise of its profession as a result of which renders its integrity questionable;

4° if the Contracting Entity has sufficiently plausible evidence to decide that the Candidate or tenderer performed actions, concluded agreements or make arrangements which are aimed at falsification of the competition within the meaning of Article 5, paragraph 2;

5° if a conflict of interests within the meaning of Article 6 cannot be resolved effectively with other less radical measures;

6° if due to the previous involvement of the Candidate or tenderer in the preparation of the placement procedure a falsification of the competition has taken place as referred to in Article 52, which cannot be resolved with less radical measures;

7° if the Candidate or tenderer has demonstrated significant or ongoing shortcomings in the implementation of an essential requirement during a previous public procurement contract, a previous assignment with a procurer or a previous concession agreement, and this has led to ex officio measures, damage compensations or other similar sanctions;

8° if the Candidate or tenderer is guilty of serious false statements in the provision of information that is necessary for the review of the absence of grounds for exclusion or the compliance with the selection criteria, or if it has held back information, or was not able to present the supporting documents required under Article 73 or Article 74; or

9° if the Candidate or tenderer has tried to unlawfully influence the decision-making process of the Contracting Entity, to obtain confidential information which could provide it with an unfair advantage in the placement procedure, or to attributably provide misleading information which could significantly influence decisions concerning exclusion, selection and award.

The exclusions from participation in public procurement contracts as referred to in the first paragraph apply only for a period of three years from the date of the relevant event or, if it concerns a continuous violation, from the end of the violation.

Subject to any contrary provision in the contract documents, the Contracting Entity is not obligated to review the optional grounds for exclusion for persons who are a member of the governing, executive or supervisory body of the Candidate or tenderer or has representation, decision-making or control authority therein.

PART 6: MODEL FOR PROJECT REFERENCES

Candidates must fill out the Excel sheet "PART 6 Template reference list" to provide the Contracting Entity with the following information

1. Project name
2. Project location
3. Start and end date
4. Commercial operation date
5. Operation hours
6. Type of gas fired power plant
7. Turbine class
8. Turbine brand
9. Power per turbine
10. Total power of plant
11. Greenfield/Brownfield
12. Standards applied (EU or US)
13. Executed alone or in consortium
14. Specify consortium + Role played in consortium

15. Contracting Entity or private client for which the project was executed
16. Contact person at the owner (name, e-mail, telephone)

PLEASE ADD FOR EACH PROJECT A CERTIFICATE FROM THE OWNER CONFIRMING GOOD DELIVERY(NOT MANDATORY)

PART 7: LUMINUS SUPPLIER CODE OF CONDUCT

PART 8: ISRS PROCESS 11 DOCUMENT

