

TERMS & CONDITIONS

1. ACCEPTANCE

By expressing their interest to participate, Applicants unconditionally accept these general terms and conditions, as well as all other conditions, terms, guidelines and instructions concerning the bid procedure (including the prequalification procedure and tender procedure) as published on the website (www.biostoomberingen.be) and as communicated by the Employer from time to time.

2. CONSORTIA

As of the Application, the members of a consortium whose economic and financial capacity or technical capacity were relied on, may not be replaced without the prior written consent of the Employer. The Employer may allow such change at its sole discretion provided that the change does not distort competition amongst the Applicants. Until the submission of a Best and Final Offer, changes in the consortium may be proposed, but in principle only insofar new members are added to the consortium. All changes to a consortium, including but not limited to changes that weaken the consortium, have to be approved by the Employer in writing, who is not obligated to provide its approval.

3. SUBCONTRACTORS

An Applicant may rely on the capacities of other entities, where appropriate. It must in that case prove to the Employer it will have at its disposal the resources necessary for the execution of the contract by producing an undertaking by those entities to place the necessary resources at the disposal of the Applicant. The entities whose capacity is relied on, may not be replaced without the prior written consent of the Employer. The Employer may allow such change at its sole discretion.

4. RESERVATION OF RIGHTS

The Employer reserves the right, without qualification and at its sole discretion, to modify, supplement or withdraw the prequalification procedure and/or tender procedure in its entirety or in part at any time and to reject any or all Applications and offers or portions thereof or to waive irregularities or omissions. Those who submit prequalification information or offers to the Employer do so without recourse against the Employer for rejections by the Employer.

The Employer may, at its sole discretion, amend any document at any time before contract award. Any such amendments will be effected by way of an addendum.

The Employer reserves the right to request further information, as necessary, to complete its evaluation of the Applications or offers received.

No part of the prequalification and/or tender procedures and no part of any communications with the Employer, its employees, or officers shall be taken as providing legal, financial, or other advice, nor as establishing a commitment, promise or contractual obligation with a Candidate, an Applicant or a Tenderer.

Any negotiated contract shall be subject to the approval by the Employer's board of directors and other conditions precedent that will be determined in due time.

5. COST OF APPLICATION AND/OR TENDER PROCEDURE

The Employer will not be responsible, under any circumstances, for any costs or expenses incurred by any Candidate, Applicant or Tenderer in connection with the prequalification and/or tender procedure, and/or expenses in connection with the establishment of a contract regardless of whether the Candidate, Applicant or Tenderer is successful or unsuccessful. The Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the prequalification and/or tender procedure.

Neither the Employer, nor its shareholders and/or affiliates, can be held liable whatsoever, and consequently the Candidate, Applicant or Tenderer will have no claim for any redress, in case of award, for any reasons whatsoever, of the contract to a Tenderer other than the Tenderer offering the lowest price, in case the Employer cancels the prequalification or tender procedure prematurely, or decides not to award the Project and or any part thereof to the Tenderer or to any of the Tenderers.

6. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

All information received by the Applicants from or on behalf of the Employer will be treated in the strictest confidence and shall not be disclosed without the prior written consent of the Employer.

The Employer shall retain the copyright and other intellectual property rights in all documents made by or on behalf of the Employer.

Each Applicant, including all members of any proposed consortium, shall sign the confidentiality agreement enclosed in the relevant Prequalification Form that will be supplied.

7. COMMUNICATION

To allow smooth communication, the Employer requests that all Candidates and Applicants appoint one contact person. This contact person has to be authorized to act on behalf of the Candidate or the Applicant; evidence (power of attorney) shall be available upon request. The name, address, telephone number and email address of this contact person must be mentioned in the Registration Form as well as in the relevant Prequalification Form that will be supplied.

Those wishing to submit comments or questions concerning the Project or this bid procedure or to obtain additional information may contact epc-em@biostoomberingen.be.

All emails should be drafted using the format required by the Employer.

The following **email format** is to be used for Lot EPC-EM :

Subject: "EPC-EM" – "Sublot" – "Items/topic" :

Possible Sublots are:

- Bid procedure clarification
- Combustion, boiler and steam circuit
- Deashing system
- Flue-gas cleaning system
- Online flue-gas measurement systems
- Power generating system
- Electrical systems
- Process control systems
- Water treatment
- Offgas processing BOREALIS
- instrumentation
- Auxiliaries
- Steel structure
- Relevant Permits

Possible examples are:

- "EPC-EM – Bid clarification - Request for clarification prequalification procedure Lot EPC Electromechanics"
- "EPC-EM – Combustion, boiler and steam circuit – information grate system"

8. SEVERABILITY

If any part of any provision, term or condition is found by an arbitrator or court or other competent authority to be void or unenforceable, such part of the provision shall be deemed to be deleted and the remainder of such provision and the remaining provisions shall continue in full force and effect.

The void or unenforceable provision shall be substituted with a valid and enforceable provision covering the same subject matter and/or most closely akin to the Employer's intent.

9. GOVERNING LAW – DISPUTE RESOLUTION

The prequalification procedure and tender procedure are governed by Belgian law.

Any dispute concerning the prequalification procedure and tender procedure shall be submitted to the exclusive jurisdiction of the Antwerp courts (Antwerp, department Tongeren).