

**OPEN CONTEST**

**“Provision of the transmission system balancing service”**

**REGULATIONS**

ID No. PRO-2020/202

**ATKLĀTA KONKURSA**

**“Balansēšanas pakalpojumu nodrošināšana”**

**NOLIKUMS**

Iepirkuma identifikācijas numurs PRO-2020/202

Riga 2020

# GENERAL TERMS

# Purpose

* + 1. The purpose of this Open contest (hereinafter – the Contest) is to openly and publicly select a suppliers (hereinafter – the Tenderer/-s) which will in accordance with the Technical Specification (Annex No. 1), the tender (hereinafter – the Tender) submitted by the Tenderer, terms of the framework agreement (hereinafter – the Contract) and the laws and regulations of the Republic of Latvia, provide the balancing service for JSC “Conexus Baltic Grid” (hereinafter – the Contracting Authority) to meet short term fluctuations in gas demand or supply, by ensuring the supply of necessary natural gas amounts to the virtual trading point and off-take of the necessary natural gas amounts from the virtual trading point in the amounts requested by the Contracting Authority (hereinafter – Services), at the same time safeguarding free competition, transparency and effective use of the Contracting Authority 's resources.
    2. The Contest is intended to enter into the framework agreement (hereinafter – Agreement) with each Tenderer that fulfils all the criteria laid down in the Contest documents (hereinafter – Contest Regulations) and is qualified for the Contract.

# Organizer of the Contest

* + 1. The Contracting Authority:

Joint Stock Company "Conexus Baltic Grid"

Unified Registration No. 40203041605,

Address: Stigu street 14, Riga, LV-1021, Latvia

* + 1. The authorized representative of the Contracting Authority who will provide information:
       1. with regard to the procedure of the Contest and the Contest Regulations - Leading Procurement Specialist of the Procurement Division of the Legal Department Aleksandrs Tereševs, Tel. +371 67087924, Mob.tel. +371 26310214, e-mail: [aleksandrs.teresevs@conexus.lv](mailto:aleksandrs.teresevs@conexus.lv);
       2. with regard to the technical requirements of the Contest (Technical specification): Head of Common Market Area Division – Mārcis Vārpa, Tel. +371 67087984; e-mail: [marcis.varpa@conexus.lv](mailto:marcis.varpa@conexus.lv).

# Type of the Contest

* + 1. The Contest is organized as an open procurement procedure in accordance with the requirements of the Law on the Procurement of Public Service Providers.
    2. Participation in the Contest is open to any person or a group of persons (registered in any country) who meets the required qualifying and other criteria.
    3. Participation in the Contest is a demonstration of free volition of Tenderers, based on equal terms and conditions for all Tenderers.

# Instructions for Tenderers

* + 1. Each Tenderer may submit only one Tender. It is not allowed for the Tenderer to submit several variants of the Tender.
    2. The Tenderer may submit Tender in compliance with requirements specified in the Contest Regulations and Technical Specification (Annex No.1).
    3. The Tenderer shall carefully examine the Contest Regulations, comply with all requirements referred to in the Contest Regulations and annexes thereto and shall assume full responsibility for the Tender’s compliance with the requirements of the Contest Regulations and its annexes.
    4. Submission of the Tender implies clear and outright intention to participate in the Contest and acceptance of terms and conditions of the Contest Regulations, certifying understanding about the requirements included in the Contest Regulations. The Tender is legally binding on the Tenderer who submitted it.
    5. Faults in Tender or misstatements in the Regulations that are discovered later shall not be cause for the Tenderer to increase the sprice or extend the service provision period. Any condition in the Contest contrary to the terms set by Contest Regulations may result in the rejection of the Tender.
    6. Submission of the Tender is a manifestation of the Tenderer's free will, therefore, regardless of the outcome of the Contest, the Contracting Authority shall not be held liable for the costs incurred by the Tenderer in the course of preparation and submission of its Tender.
    7. In the event of engagement of subcontractors the whole contractual liability remains with the Tenderer, and:
       1. The subcontractors, staff members shall be engaged by the Tenderer in the performance of the Agreement in accordance with the distribution of the parts of the Agreement or roles specified in the Tender.
       2. The Tenderer who is awarded the Agreement shall not be entitled without the consent of the Contracting Authority to replace the specified staff or subcontractors or engage additional subcontractors for the performance of the Agreement. The Contracting Authority may request the staff’s and subcontractors' views on the reasons for their replacement.
       3. Engagement and replacement of the Tenderer's subcontractors shall be carried out in accordance with the procedure set out in Clause 67 of the Law on the Procurement of Public Service Providers.
       4. The successful Tenderer is responsible that the conditions for the replacement of staff or subcontractors or engagement of new subcontractors in the performance of the Agreement are also complied with by its subcontractors.
       5. If the Contracting Authority in the course of performance of the Agreement finds that the successful Tenderer (its subcontractor) has violated the conditions of the Contest Regulations and/or Agreement regarding replacement of the engaged staff or subcontractors or engagement of new subcontractors in the performance of the Agreement, the Contracting Authority is entitled to apply a contractual penalty for each such case in accordance with the procedure set out in the Agreement (if such penalties and procedure is specified).
    8. The Contracting Authority shall exclude the Tenderer from further participation in the Contest or reject the Tenderer / Tender if at least one of the following circumstances exists:
       1. The Tenderer does not comply with any of the selection requirements referred to in Clause 3.1. of the Contest Regulations or the Tenderer has not submitted all the documents referred to in Clause 3.2. of the Contest Regulations;
       2. The Contest Committee has established the conditions laid down in Clause 7.2 and 7.3;
       3. The Tenderer has not provided explanations in accordance with Clause 10.1.1. of the Contest Regulations or has not provided other information requested by the Contracting Authority.
    9. The Contest Regulations are prepared in English.

# Information on the subject of the contest

# Subject of the Contest

# The Subject of the Contest and the subsequent Agreement is in accordance with the Technical Specification (Annex No. 1), the Tender submitted by the Tenderer, terms of the Agreement and the laws and regulations of the Republic of Latvia, provision of the balancing service for the Contracting Authority, to meet short term fluctuations in gas demand or supply, by ensuring the supply of necessary natural gas amounts to the virtual trading point and off-take of the necessary natural gas amounts from the virtual trading point in the amounts requested by the Contracting Authority.

# Procurement nomenclature CPV code: 76000000-3 (Services related to the oil and gas industry).

# All communication shall be in English, Russian or Latvian languages. All documentation must be prepared in Latvian or English.

# Agreement Place and Time of Completion

# The place of the Agreement performance: Republic of Latvia.

# The estimated Agreement duration: 12 (twelve) months from the entry into force of the Agreement or until the moment when the total amount of the Agreement is reached, whichever comes first.

# TENDERER SELECTION REQUIREMENTS, DOCUMENTS TO BE SUBMITTED

* 1. **Requirements for the Tenderer:**
     1. The terms of exclusion and the documents to be submitted for their eligibility verification, the qualification requirements and the documents to be submitted to certify their fulfilment:

|  |  |  |  |
| --- | --- | --- | --- |
| **Non-eligibility of Exclusion Conditions** | | | |
|  | **Exclusion condition, according to which the Tenderer shall be excluded from the participation in the Contest** | **Documents proving non-eligibility of the exclusion conditions of a person registered or permanently residing in the Republic of Latvia** | **Documents proving non-eligibility of the exclusion conditions of a person registered or permanently residing in a foreign country** |
| 3.1.1.1. | The Tenderer or a person who is the Tenderer's board or council member, a person having representation rights or procurator, or a person authorised to represent the Tenderer in activities related to a branch, with such prosecutor's injunction or a court judgement that has come into effect and has become indisputable and unappealable has been found guilty or has been applied coercive means for any of the following offences:  a) creation, management of a criminal organisation, participation in it or in an organised group within it or in any other criminal formation or participation in criminal offences committed by such organisations;  b) accepting a bribe, bribery, misappropriation of a bribe, mediation in bribery, unauthorised participation in property transactions, accepting of unauthorised benefits, commercial bribery, requesting, acquirement and giving of unlawful benefits, trading in influence;  c) fraud, misappropriation or money laundering;  d) terrorism, financing of terrorism, incitement to terrorism, threat of terrorism or recruitment and training of persons to carry out terrorist acts;  e) human trafficking;  f) evasion from payment of taxes and similar payments.  The Tenderer will not be excluded from participation in the Tender, if three years have elapsed between the day when the court judgement, prosecutor's injunction or decision of another competent authority with regard to the violations referred to in this Clause has become indisputable and unappealable and the day of submission of the Tender. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion criterion, requesting information from the Information Centre of the Ministry of the Interior (Register of Punishments) and the Register of Enterprises. | Is entitled to add an explanation or statement issued by the respective foreign competent authority. |
| 3.1.1.2. | It is found that on the last day for the submission of the Tender or on the day when the decision is made on possible awarding of the Contract, the Tenderer in Latvia or in the country of its registration or permanent residence has a tax debt (including obligatory social security payment liabilities), in total exceeding EUR 150 (one hundred and fifty euros) in any of the countries. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion condition in the State Revenue Service Public Tax Debtors Database and in the Real Estate Tax Administration System on the date of the last data update. | Is entitled to add an explanation or statement issued by the respective foreign competent authority. |
| 3.1.1.3. | The Tenderer is declared insolvent, its economic activities are suspended, or the Tenderer is in the process of liquidation. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion condition in the Register of Enterprises. | Is entitled to add an explanation or statement issued by the respective foreign competent authority. |
| 3.1.1.4. | The person who has drawn up the Tender documents (Contracting Authority's official or employee), a member of the Contest Committee or an expert is related to the Tenderer in the meaning of Section 30, Paragraph one or two of the Law on the Procurement of Public Service Providers (LPPSP) or has interest in the selection of any Tenderer, and the Contracting Authority has no possibilities to remedy the situation with measures that are less restrictive to the Tenderer. | If the Tenderer has information that it is related to the person who has drawn up the Tender documents (Contracting Authority's official or employee),a member of the Contest Committee or an expert in the meaning of Section 30, Paragraph one or two of the LPPSP, it shall be specified in the application. | If the Tenderer has information that it is related to the person who has drawn up the Tender documents (Contracting Authority's official or employee), member of the Contest Committee or an expert in the meaning of Section 30, Paragraph one or two of the LPPSP, it shall be specified in the application. |
| 3.1.1.5. | The Tenderer has anti-competitive advantage in the Contest, because it has been involved in or a legal person associated with it has been involved in the preparation of the Contest Regulations in accordance with Section 22, Paragraph three of the LPPSP, and it cannot be eliminated with less restrictive measures, and the Tenderer cannot prove that its participation or participation of the legal person associated with it in the preparation of the Contest Regulations does not restrict competition. | In its Tender the Tenderer shall specify if it or a legal person associated with it has been involved in the preparation of the Contest Regulations in accordance with Section 22, Paragraph three of the LPPSP and provide evidence that there are no circumstances that would give advantage to this Tenderer in the Contest, thereby restricting competition. | In its Tender the Tenderer shall specify if it or a legal person associated with it has been involved in the preparation of the Contest Regulations in accordance with Section 22, Paragraph three of the LPPSP and provide evidence that there are no circumstances that would give advantage to this Tenderer in the Contest, thereby restricting competition. |
| 3.1.1.6. | The Tenderer has been found guilty by a decision of a competent institution or a court judgement that has come into effect and become indisputable, has been found guilty of a breach of the competition law in the form of a horizontal cartel agreement, except the case when the appropriate institution has discovered the breach of the competition law and within the framework of the leniency programme released the Tenderer from fine or has reduced the fine.  The Tenderer will not be excluded from participation in the Contest, if 12 months have elapsed between the day when the court judgement or the decision of another competent authority with regard to the violations referred to in this Clause has become indisputable and unappealable and the day of submission of the Tender. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion criterion, requesting information from the Information Centre of the Ministry of the Interior (Register of Punishments) | Is entitled to add an explanation or statement issued by the respective foreign competent authority. |
| 3.1.1.7. | The Tenderer has been found guilty and punished by a decision of a competent institution, prosecutor's injunction or a court judgement that has come into effect and become indisputable, in a violation that takes one of the following forms:  a) employment of one or several persons, if they do not have the necessary work permits, or they are not entitled to reside in a European Union Member State;  b) employment of a person without a written employment contract, failing to submit a declaration on employees that shall be submitted on persons who start employment, within the time limit specified in laws and regulations.  The Tenderer will not be excluded from the participation in the Contest, if from the day when the court judgement, prosecutor's injunction or decision of another competent authority with regard to the violations referred to this Clause:   * Sub-clause "a"- by the day of submission of the Tender three years have elapsed; * Sub-clause "b"- by the day of submission of the Tender 12 months have elapsed. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion criterion, requesting information from the Information Centre of the Ministry of the Interior (Register of Punishments) | Is entitled to add an explanation or statement issued by the respective foreign competent authority. |
| 3.1.1.8. | The Tenderer has provided false information in order to demonstrate compliance with the exclusion conditions or qualification requirements referred to in this Clause, or has not provided the requested information. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion condition in the course of evaluation of the Tender. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion condition in the course of evaluation of the Tender. |
| 3.1.1.9. | The Tenderer is subject to the restrictions set forth in Section 111, Paragraph one of the Law on International Sanctions and National Sanctions of the Republic of Latvia. | Documents do not need to be submitted.  The Contracting Authority will check non-eligibility of this exclusion condition in the Register of Enterprises and on the websites:  1) <https://sankcijas.fid.gov.lv/>  2) <https://www.sanctionsmap.eu/#/main>  3) https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/consolidated.aspx | The Contracting Authority will check non-eligibility of this exclusion condition on the websites:  1) <https://sankcijas.fid.gov.lv/>  2) <https://www.sanctionsmap.eu/#/main>  3) https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/consolidated.aspx |
| 3.1.1.10. | The conditions referred to in Clause 3.1.1.1. – 3.1.1.9 herein apply to a member of the association of suppliers (if the Tenderer is an association of suppliers) or a member of the partnership (if the Tenderer is a partnership). | See Clause 3.1.1.1. – 3.1.1.9 herein. | See Clause 3.1.1.1. – 3.1.1.9 herein. |
| 3.1.1.11. | The conditions referred to in Clause 3.1.1.1. – 3.1.1.8 herein apply to Tenderer's sub-contractor, if the value of the works to be performed or services provided by this sub-contractor is at least 10 percent of the total value of the Contract. | See Clause 3.1.1.1. – 3.1.1.8 herein. | See Clause 3.1.1.1. – 3.1.1.8 herein. |
| **qualification requirements** | | | |
|  | **Qualification requirement** | **Documents to be submitted by a person registered or permanently residing in the Republic of Latvia** | **Documents to be submitted by a person registered or permanently residing in a foreign country** |
| 3.1.1.12. | The Tenderer, a member of a partnership (if the Tenderer is a partnership), a member of the association of suppliers (if the Tenderer is an association of suppliers) and/or a person (subcontractor) specified by the Tenderer has been registered in the procedure provided for in laws and regulations. | Documents do not need to be submitted.  The Contracting Authority will check this condition in public database of the Register of Enterprises. | A statement issued by the respective state institution or extract / printout from the respective state institution database confirming that the Tenderer, a member of a partnership (if the Tenderer is a partnership), a member of the association of suppliers (if the Tenderer is an association of suppliers) and/or a person (subcontractor) specified by the Tenderer has been registered in the procedure provided for in laws and regulations.  If the regulatory framework of the country of registration does not provide for the issuance of the registration certificate, the application shall contain the registration number, the registration time as well as the name of the competent authority of the country of registration, which, if necessary, can confirm the fact of registration. |
| 3.1.1.13. | The Tenderer’s official who has signed the Tender documents has signatory (representation) rights. | The Contracting Authority will check this condition in public database of the Register of Enterprises.  A power of attorney issued to another person to sign the Tender and the Contract, if other person has been appointed to sign the documents. | A statement issued by the respective state institution of the country of registration or extract / printout from the respective state institution database containing information on the Tenderer’s officials with representation rights, if that country’s legislation provides for a public register of such data on the Tenderer’s signatories (with representation rights).  A power of attorney issued to another person to sign the Tender and the Contract, if other person has been appointed to sign the documents. |
| 3.1.1.14. | The Tenderer has concluded a natural gas storage service contract, natural gas transmission service contract and balancing contract with a natural gas transmission system operator operating in the common balancing zone consisting of Estonia and Latvia, and it has received the balancing portfolio identifier granted by the natural gas transmission system operator and the Tenderer can ensure the balancing services provided by the natural gas transmission system operator for a period not shorter than 12 (twelve) months from the date of entry into force of the Contract. | Documents do not need to be submitted.  The Contracting Authority will check this condition in System Operator databases. | |

* + 1. In case the Tenderer is a merchant registered abroad, then the Tender must additionally indicate whether:
       1. the Tenderer *is* */ isn’t considered* as a related company with the Contracting Authority according of the Corporate Income Tax Law;
       2. The Tenderer *is / isn’t* registered in the country with which the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion (hereinafter - the Tax Convention) has been concluded for the Republic of Latvia.
    2. During the evaluation of the Tenderer's compliance with the exclusion conditions, the Contracting Authority will act according to Paragraphs 6 – 13 and 15 – 16 of Clause 48 of the Law on the Procurement of Public Service Providers.
    3. The Contracting Authority will request, with regard to Tenderer registered abroad (giving a deadline that is not shorter than 10 working days from the date of issue or dispatch of the request) to submit a statement from the relevant foreign competent authority containing the information on the Tenderer’s board and council members, beneficial owner (-s), person (-s) having the right of representation or proctor (-s), or a person (-s) who is authorised to represent the Tenderer in activities related to a branch or information that the beneficial owner cannot be identified. If such statement is not issued, these documents may be replaced by an oath or, if oath is not provided by the laws and regulations of the respective state, by a statement drawn up by the Tenderer itself or the subcontractor to a competent executive or judicial authority, a sworn notary or a competent authority of the respective sector in the country of registration of the Tenderer. The Contracting Authority may also individually obtain the information necessary for the verification of the Tenderer or subcontractor registered abroad provided for Section 11¹ Paragraph one of the Law on International Sanctions and National Sanctions of the Republic of Latvia.
    4. Statements and other documents for the verification of the exclusion conditions, which in the cases provided for in the Contest Regulations are issued by the competent institutions of the Republic of Latvia, will be accepted and recognised by the Contracting Authority on the condition that they are issued not earlier than one month before the date of submission; statements and other documents issued by foreign competent authorities will be accepted and recognised by the Contracting Authority on the condition that they are issued not earlier than six months before the date of submission, where the authority issuing the statement or document has not specified a shorter period of its validity.
    5. The Tenderer will accept the European Single Procurement Document as the initial evidence of compliance with the selection requirements set out in the Contest Regulations. The Tenderer shall submit a separate European Single Procurement Document on each person on whose abilities they are based, in order to certify that their qualification complies with the requirements set forth by the Contest Regulations, each subcontractor, if the value of the services or works to be performed by this subcontractor is at least 10 percent of the total value of the Contract. An association of suppliers shall submit a separate European Single Procurement Document on its each of its member.

The Tenderer may submit to The Contracting Authority the European Single Procurement Document that has been submitted in another procurement procedure if the Tenderer certifies that the information contained in the document is accurate.

The Contracting Authority at any stage of the Tender has the right to request that the Tenderer provides all or part of the documents confirming compliance with the selection requirements set out in the Contest Regulations. The Contracting Authority will not request such documents or information that is in its possession or is available in the public databases.

The European Single Procurement Document is available on the following website: <http://espd.eis.gov.lv/>. The Tenderer shall print out the completed European Single Procurement Document and add it to the qualification documents, indicating the link to it.

* 1. **Documents to be submitted:**

When submitting the Tender, the Tenderer must attach the following documents confirming its right to participate in the Contest, as well as provide general information about the Tenderer:

* + 1. Letter of application for participation in the Contest, completed and executed in accordance with the model attached in Annex 2 to the Regulations and signed in accordance with Clause 3.1.1.13. of the Contest Regulations;
    2. Tenderer's selection documents, in accordance with the provisions of Clause 3 of the Contest Regulations, and:
       1. Contract or an agreement, a protocol regarding cooperation - if the Tender is submitted by a supplier association or a partnership;
       2. In the case of sub-contracting:
          1. In the event of engagement of subcontractors, the Tenderer shall indicate all such subcontractors and the parts of the Contract, types of work entrusted to them in percent.
          2. In addition to the Tender documents, the Tenderer shall also attach statements signed by the engaged subcontractors containing their agreement and commitment to fulfil their share of the Agreement.
    3. Technical Tender - shall be prepared in accordance with the provisions of the Technical Specification (Annex 1 to the Contest Regulations). The Tenderer must prepare and submit the tender in such a way that it contains all the information necessary for the evaluation process in accordance with the provisions of the Contest Regulations. The Tenderer can indicate / submit any other information that the Tenderer deems necessary to indicate.

# ADDITIONAL INFORMATION REGARDING THE CONTEST

* 1. The Contracting Authority will publish the Contest Regulations, any amendments thereof, answers to the questions of suppliers on the Contracting Authority’s website (<http://www.conexus.lv>) and the Electronic Procurement System (hereinafter – EIS) ([www.eis.gov.lv](http://www.eis.gov.lv)) e-tenders subsystem under the section of this Contest. The Contracting Authority shall not be held liable for the Tenders inadequately drawn up by the Tenderers, should the Tenderer fail to take into account the amendments, answers and updates regarding the requirements provided for in the Contest Regulations published on the websites mentioned above.
  2. Notice on the Contest Regulations and any amendments are also published on the website of the Procurement Monitoring Bureau and in the Official Journal of the European Union.
  3. To submit the Tender, the Tenderer shall register in the EIS e-tenders system. All information about registration in the EIS e-tenders system is available in Regulation No. 108 of 28 February 2017 “Regulation on Public Electronic Procurements” of the Cabinet of Ministers, as well as on the EIS website <https://www.eis.gov.lv/EKEIS/Publication/View/785?subsystemCode=KON> .
  4. The interested supplier may register in the EIS e-tenders subsystem under the section of this Contest as the recipient of the Contest Regulations, if it is registered in the EIS as a supplier.
  5. Information on how the interested supplier can register as the recipient of the Contest Regulations is available at: <https://www.eis.gov.lv/EIS/Publications/PublicationView.aspx?PublicationId=883>. Registration forms and more information can be found on the EIS website: <https://www.eis.gov.lv/EIS/Publications/PublicationView.aspx?PublicationId=4&systemCode=CORE>.
  6. The exchange of information between the Contracting Authority and the Tenderer shall take place electronically by means of a secure electronic signature or by the addition of a scanned document to an electronic mail. Oral information is not binding within the framework of the Contest.
  7. If the supplier has timely requested additional information on the requirements provided for in the Contest Regulations, the Contracting Authority will within 5 (five) working days, but not later than 6 (six) calendar days prior to the submission deadline of Tenders provide answers to the questions. The answers will be published on the Contracting Authority’s website (<http://www.conexus.lv>) and EIS e-tenders subsystem under the section of this Contest. The additional information will also be sent to the enquirer electronically by means of EIS tools, electronic signature or by the addition of a scanned document to an electronic mail.
  8. The Contracting Authority will publish the Contest Regulations, any amendments thereof, answers to the questions of Tenderers on the Contracting Authority’s website: https://www.conexus.lv. The Contracting Authority shall not be held liable for the Tenders inadequately drawn up by the Tenderers, should the Tenderer fail to take into account the amendments, answers and updates regarding the requirements provided for in the Contest Regulations published on the Contracting Authority’s website: https://www.conexus.lv.

# PREPARATION AND EXECUTION OF THE TENDER, PRICE OF THE TENDER

# Preparation and execution of the Tender

* + 1. The Tender shall be submitted electronically in the EIS (www.eis.gov.lv) e-tenders subsystem, subject to the following choices offered to the Tenderer:
       1. Using the tools provided in the EIS e-tenders subsystem by completing the forms in the section of this Contest available on the e-tenders subsystem;
       2. All documents shall be submitted by the Tenderer in electronic form, either by signing the entire Tender with the electronic signature offered by the EIS, or by signing each of the submitted documents with a secure electronic signature and time stamp. If the Tenderer is an association of suppliers and the company's agreement does not provide for representation rights, the application shall be signed by each person included in the association of suppliers, representative with representation rights;
       3. By encrypting electronically (in PDF form) drawn up documents outside the e-tenders subsystem, with data protection tools offered by a third party and protecting it with an electronic key and password (in such case, the Tenderer is responsible for the compliance of the forms to be filled in with the documentation requirements and sample forms, as well as for the options for opening and reading the document).
    2. The Tender shall be submitted in English or Latvian. Documents submitted in other languages shall be supplied with their Latvian or English translation, certified in accordance with Regulation No. 291 of 22 August 2000 “Procedures for the Certification of Document Translations in the Official Language” of the Cabinet of Ministers.
    3. When preparing the Tender, the Tenderer shall observe the following:
       1. The letter of application, form and the Technical Tender shall be completed electronically, in a separate electronic document that is readable with Microsoft Office 2010 (or a later version).
       2. Upon submission of the Tender, the Tenderer, with a secure electronic signature and time stamp, or signature offered in the EIS, shall sign the Tenderer's letter of application (Annex 2 to the Contest Regulations). The letter of application shall be signed by the representative of the Tenderer with representation rights or its authorised person. If the application is signed by an authorized person, it shall be accompanied by a power of attorney with the right of representation, clearly indicating in the mandate the scope of rights and obligations assigned to the authorized person (scanned original document in PDF format). If the Tenderer is an association of suppliers and the company's agreement does not provide for representation rights, the application shall be signed by each person included in the association of suppliers, representative with representation rights;
       3. Other documents may be submitted by the Tenderer (at its own discretion) in electronic form, either by signing them with the signature offered in the EIS, or by signing them with a secure electronic signature.
       4. If the application is not signed by a person with representation rights, then the Tender may be rejected.
    4. If the Tenderer has submitted a copy of a document, it shall be certified in accordance with the requirements of Regulation No. 558 of 4 September 2018 “The Procedure for Elaboration and Execution of Documents” of the Cabinet of Ministers. If the copy of the document is not certified in accordance with the requirements of the laws and regulations referred to in this Clause, the Contracting Authority, if in doubt about the authenticity of the copy of the submitted document, may request that the Tenderer presents the original document or submits a certified copy of the document.
    5. The Tender shall be drawn up in such a way that the operation of the EIS e-tenders subsystem is not jeopardized and there are no restrictions as to the access to the information contained in the Tender, the Tender shall not contain any computer viruses or other malicious software or its generators; or if the Tender is encrypted, the Tenderer shall submit a valid electronic key and password for opening the encrypted document within the set time limit (not later than within 15 minutes after starting the opening of the tenders).
    6. If the Tender contains any of the risks listed in Clause 5.1.5 herein, it will not be considered.
    7. For avoidance of any doubt or misunderstanding, all words and figures in the Tender must be clearly legible, without any insertions or erasures. In case of mismatches between words and numbers, the words shall prevail.
    8. If, in the opinion of the Tenderer, any information included or any of the components of the Tender is considered to be a commercial secret, the Tenderer shall indicate it in the Tender. Information which is generally available in accordance with regulatory enactments, including information included in the Contest Regulations, may not be recognized as a commercial secret.

# SUBMISSION AND OPENING OF TENDERS

* 1. **Place and time for submission of Tenders**
     1. The Tender shall be submitted by 24 August 2020; 11.00, in the EIS e-tenders subsystem. Tenders submitted outside the EIS e-tenders subsystem will be deemed as non-compliant with the requirements of the Contest Regulations, they will not be opened and will be returned to the submitter unopened.
     2. The Tender has to be submitted to the Contracting Authority within the term set by the Contest Regulations.

# Tender Validity

* + 1. Tender shall remain valid for 90 days after the deadline for the submission of Tender specified in Clause 6.1.1. The Tender shall remain binding upon the Tenderer during the entire validity period of the Tender.
    2. In exceptional circumstances the Contracting Authority may request the Tenderers to extend the period of the Tender validity for a specified period of time. The Tenderer vested by the extension will not be permitted to modify his Tender, Tender prices or content.

# Amendment and Withdrawal of Tender

* + 1. The Tenderer may modify or withdraw his Tender prior to the deadline for the submission of Tenders. Any amendments to the Tender or notices of withdrawal received after the deadline for the submission of Tenders or any extension thereof will not be taken into account.
    2. The Tender modification or withdrawal notice shall be prepared and submitted in the same way as the Tender**.**

# Opening of Tenders

* + 1. The Tenders will be opened in the EIS e-tenders subsystem right after the end of the term for the submission of tenders specified in the Contest Regulations.
    2. Opening of Tenders before the due time is not permitted.
    3. The Contest Committee will open the Tenders in an open meeting. The process for opening of the Tenders can be followed on-line in the EIS e-tenders subsystem.
    4. During the Tender opening procedure the names of the Tenderers shall be stated in the record of the Contest Committee.
    5. At the Tenderer’s request, the Contest Committee within 3 (three) working days from the date of receipt of the request will send the Tenderer a copy of the minutes of the meeting for opening of the Tenders, if such an extract is not freely available in the EIS e-tenders subsystem.
    6. Tenderers’ representatives do not participate in further process of the Contest. The Contest Committee evaluates tenders in closed meetings.

# TENDER SELECTION CRITERIA AND PROCEDURE

# Procedure for the Selection of Tenders

* + 1. The content of Tenders is a commercial secret and Tenders’ evaluation process respects the principle of confidentiality. Only members of the Contest Committee, as well as experts invited, are permitted to take part in the Tenders’ evaluation.
    2. The Contest Committee shall carry out the evaluation of the Tenders in the following procedure:
  1. examination of conformity of the Tender and the Tenderers’ selection requirements in accordance with Clause 7.2;
  2. evaluation of the Technical Tenders in accordance with Clause 7.3;
  3. final evaluation of the Tenders in accordance with Clause 8.

# Examination of conformity of the Tender and the Tenderers’ selection requirements

* + 1. The Contest Committee shall assess Tenderers’ qualification and Tenderers’ compliance by examining the documents submitted in accordance with Clause 3. The Contest Committee shall reject any Tenderer without further evaluation of its Tender if the Tenderer is acknowledged noncompliant or not sufficiently qualified for the performance of the Contract.
    2. In the event of drawbacks found in the Tender, the Contest Committee will assess their materiality and decide on further consideration of the Tender. The Contest Committee is entitled not to consider the Tender, if it finds that:
       1. The Tender is not signed;
       2. The Tender has such arrangement non-compliances that have a significant effect on the assessment of the Tender;
       3. The validity term of the Tender does not correspond to the one specified in Clause 6.2. herein;
       4. The Tenderer has submitted several versions of the Tender in breach of Clause 1.4.1. herein.
    3. The Contest Committee will assess the compliance of the Tenderer with Clause 3.1 herein.
    4. The Tenderer will be excluded from the participation in the Contest, if it complies with any of the exclusion conditions referred to in Clause 3.1 herein. The Contest Committee will perform the examination of the exclusion conditions only for the Tenderer who, in accordance with the Contest Regulations, should be awarded the Contract.
    5. The Tender will be rejected if the Tenderer/Tender does not comply with any of the qualification requirements provided for in Clause 3.1 herein.
    6. The Contest Committee will evaluate each Tender, except of those excluded or rejected under Clause 7.2.

# Evaluation of the Technical Tenders

* + 1. The Contest Committee will assess the compliance of the Tender with the requirements set out in Clause 3.2.3. of the Contest Regulations and the Technical Specification.
    2. The Tender will be rejected if the Contest Committee finds that the documents of the Technical Tender have not been submitted or such documents or their content do not comply with the requirements of the Contest Regulations and/or the Technical Specification.

# EVALUATION OF TENDERS AND DETERMINATION OF THE WINNER

# The Contracting Authority shall enter into the Agreement (a framework agreement) with all Tenderers who meet all the criteria specified in the Contest Regulations and are qualified to perform the Agreement.

* 1. The Contracting Authorityreserves the right to cancel the contesting process at any time prior to the deadline for submission of Tenders or terminate the Contest without awarding the Agreement prior to the signing of the foreseen Agreement with the successful Tenderers, without thereby incurring any liability to the Tenderers, if it has objective grounds.
  2. The Contest Committee will pass the decision to suspend the Contest, if only one Tenderer has submitted a Tender and the Contest Committee finds that the qualification requirements are not objective and proportionate; or there is other objective justification.
  3. If none of the Tenderers / Tenders submitted complies with the requirements of the Contest Regulations, the Contracting Authority will take a decision to terminate the Contest.

# SELECTION OF A TENDERERS AND SIGNING OF THE CONTRACT

* 1. The Tender submitted by the Tenderer is the ground for conclusion of the Contract.
  2. The Contracting Authority will invite the successful Tenderers to sign the Agreement. The Agreement will be concluded in accordance with the draft Agreement (Annex No. 3), and the Tender submitted by the Tenderer.
  3. The Committee will inform the Tenderers of the results of the Contest within 5 (five) working days following the date when the Contracting Authority has endorsed the Contest results. The decision may also be sent by the Contracting Authority to the Tenderer electronically to its e-mail address (attaching a scanned document to the e-mail message) or by postal service.
  4. The Tenderer who has been awarded the Agreement shall sign the Agreement within 10 (ten) working days counting from the date of dispatch of the invitation (electronically to the e-mail of the Tenderer's contact person specified in the application or to the Tenderer's legal or declared place of residence by postal service). If the successful Tenderer does not sign the Agreement within the specified term, it shall be considered as a refusal to conclude the Agreement.
  5. If all the successful Tenderers refuses to conclude the Agreement with the Contracting Authority, the Contracting Authority will pass a decision to terminate the Contest without selecting any Tender.
  6. If the Tender is submitted by only one Tenderer, who has also been recognized as the winner of the Contest and is a recognized low-tax or tax-free countries or territories registered merchant or foreign operators, which is a related company with the Contracting Authority according of the “Corporate Income Tax” Law, before the Agreement is concluded successful Tenderer shall be obliged to submit information on the transfer price basis and a justification of the transaction (price) correlation to the market price (value).
  7. If a Tenderer (a merchant or foreign operator) has been recognized as the winner of the Contest, developing a permanent representation office for the purpose of Tax Convention or the Law "On taxes and duties", the successful Tenderer shall be obliged to submit all the necessary supporting acknowledgements requested by the Contracting Authority associated with the permanent representation.
  8. If a Tenderer (a merchant or foreign operator) recognized as the winner of the Contest is not European Union Member State Resident, and it is prescribed to involve into fulfilment of the Tender the European Union Member State Resident (including Resident of the Republic of Latvia) as a subcontractor, the Agreement will include a Clause, that the subcontractor draws up the invoice for the subcontractor dispatched works/services to the Contracting Authority.
  9. If the Tender is submitted by an association of suppliers that is not registered at the Commercial Register or an equivalent foreign register, in case it is awarded the Agreement it shall before signing the Agreement at its own choice either register a partnership at the Commercial Register of the Register of Enterprises or an equivalent foreign register or to conclude a partnership agreement agreeing on the scope of responsibility of the members of the association of suppliers, as well as on the fact that the members of the association of suppliers are jointly and severally liable towards the Contracting Authority (hereinafter - the partnership agreement).
  10. If the association of suppliers that has submitted the Tender and has been awarded the Agreement chooses to establish a general partnership, it shall within 20 (twenty) calendar days following the day of the adoption of the decision on awarding the Agreement submit to the Contracting Authority references issued by the Commercial Register of the Register of Enterprises or a certified copy issued by the respective foreign institution or another document certifying the Tenderer’s legal capacity and capability, as well as a document certifying the VAT payer’s status of the Tenderer.
  11. If the association of suppliers that has submitted the Tender and has been awarded the Agreement chooses to enter into a partnership agreement, it shall within 20 (twenty) calendar days following the day of the adoption of the decision on awarding the Agreement agree on the distribution of responsibility of the members of the association of suppliers, in line with the distribution of responsibility specified in the Tender, as well as on joint and several liability towards the Contracting Authority, and submit to the Contracting Authority a certified copy of the partnership agreement, and if necessary, the power of attorney of the representative of the partnership.
  12. If the documents referred to in Clause 9.10. or 9.11. herein are not submitted to the Contracting Authority by the deadline specified therein, it will be considered that the Tenderer (the association of suppliers) has refused to sign the Contract.

# RIGHTS AND OBLIGATIONS OF THE CONTEST COMMITTEE

* 1. Rights of the Contest Committee:
     1. To make a written request to the Tenderer to provide a written clarification of its Tender, specify the submitted information and to provide detailed explanations;
     2. To verify the truthfulness of all the data submitted by the Tenderer;
     3. To invite experts to work in the Contest Committee in advisory capacity;
     4. To carry out qualification requirement verification only for the Tenderer, who should be awarded the Contract;
     5. To accept or decline any Tender, to discontinue the Contest and to decline all the Tenders at any time prior to awarding of the Agreement if it has a valid reason for that and it does not contradict laws and regulations of the Republic of Latvia, without reimbursing any costs related to the preparation of the Tender and participation in the Contest incurred by the Tenderers;
     6. To carry out other activities in accordance with the laws and regulations and the Contest Regulations.
  2. Obligations of the Contest Committee:
     1. To consider Tenders submitted by the deadline for the submission of Tenders provided for herein;
     2. To pass a decision on the Contest or results.

# RIGHTS AND OBLIGATIONS OF TENDERERS

* 1. Rights of Tenderers:
     1. To make a timely written request to the Contest Committee for additional information regarding the Contest Regulations.
  2. Obligations of the Tenderer:
     1. By the deadline as specified by the Contest Committee to provide in writing answers and explanations regarding the Tender to the questions asked by the Contest Committee;
     2. To observe all the provisions of the Contest Regulations as the basis for fulfilment of the procurement.

# CONFIDENTIALITY

* 1. No communication between the Tenderers on the one hand and the Contracting Authority or the Contest Committee on the other hand shall take place during the Tenders assessment period, except in cases provided for in the Contest Regulations.
  2. During the time period from submission of the Tenders until the moment of opening thereof the Contracting Authority will not provide information on the existence of other Tenders. During the period of assessment of the Tenders until the announcement of the results, the Contracting Authority will not provide information on the assessment procedure.
  3. The Contracting Authority shall not be responsible if the person submitting the Tender has not informed the data subjects of the processing of their data, has not received their consent or has not met any other data protection requirements concerning the data of the data subjects included in the Tender.

**11. ANNEXES**

There are 3 (three) Annexes attached to the Contest Regulations:

Annex 1 – Technical specification / Technical Tender (Form) on 2 pages;

Annex 2 – Letter of Application (Form) on 3 pages;

Annex 3 – Draft Framework Agreement on 5 pages.

Chairman of the Contest Committee A. Tereševs

\_\_\_ of \_\_\_\_\_, 2020.

**Annex No.1**

to the Contest Regulations of the Open Contest

“Provision of the transmission system balancing service”, ID No. PRO-2020/202

“Provision of the transmission system balancing service”

ID No. PRO-2020/202

**TECHNICAL SPECIFICATION / TECHNICAL TENDER (FORM)**

|  |  |
| --- | --- |
| **ESSENTIAL REQUIREMENTS** | **TENDERER’S PROPOSAL** |
| 1.  The Balancing Service Provider shall ensure the purchase and sale of natural gas (in the amount of not less than 2 (two) GWh per day for each of the directions) at the virtual trading point, providing injection or withdrawal of natural gas at the natural gas transmission system entry / exit points specified by the System Operator where the Balancing Service Provider has undertaken to provide the Service. Transfer of natural gas to the System Operator or receipt from the System Operator takes place at the virtual trading point. |  |
| 2.  The Balancing Service Provider is obliged to provide a response to the System Operator's e-mail no later than within 1 (one) hour on business days from 8.00 to 17.00. |  |
| 3. The Balancing Service Provider must be available by phone 24 (twenty four) hours a day and 7 (seven) days a week. |  |
| 4. The Balancing Service Provider shall ensure the execution of the balancing activities requested by the System Operator at the following timeframes:  4.1. for within day product not later than in 3 (three) hours;  4.2. for day-ahead product not  later than 24 (twenty four)  hours. |  |
| 5. Upon the request of the System Operator, the injection or withdrawal of natural gas shall be ensured at the following points of the natural gas transmission system:  5.1. Virtual trading point (entry / exit);  5.2. Baltic Connector (entry / exit);  5.3. Varska (entry);  5.4. Luhamaa (Izborsk – Korneti) (entry / exit);  5.5. Kiemenai (entry / exit);  5.6. Inčukalns UGS (entry / exit). | ***The Tenderer shall mark the relevant service offered!***  Natural gas entry points through which natural gas will be injected in the natural gas transmission system:   |  |  |  | | --- | --- | --- | | **No.** | **Entry point** | **The service is offered**  **(YES / NO)** | | **1.** | Virtual trading point |  | | **2.** | Baltic Connector |  | | **3.** | Varska |  | | **4.** | Luhamaa (Izborsk – Korneti) |  | | **5.** | Kiemenai |  | | **6.** | Inčukalns UGS |  |   Natural gas exit points through which natural gas from the natural gas transmission system will be withdrawn:   |  |  |  | | --- | --- | --- | | **No.** | **Exit point** | **The service is offered**  **(YES / NO)** | | **1.** | Virtual trading point |  | | **2.** | Baltic Connector |  | | **3.** | Luhamaa (Izborsk – Korneti) |  | | **4.** | Kiemenai |  | | **5.** | Inčukalns UGS |  | |
| 6.  During the term of the Agreement, each gas day D in the period from the beginning of gas day D to 14:00 of gas day D, at least one Offer (offer to buy and sell natural gas) for the next consecutive gas day (D + 1) shall be submitted in accordance with Clause 1 of this Annex.  The submitted Offer is irrevocable. |  |

**Annex No. 2**

to the Contest Regulations of the Open Contest

“Provision of the transmission system balancing service”, ID No. PRO-2020/202

# LETTER OF APPLICATION FORM

# for the participation in the Open Contest

# “Provision of the transmission system balancing service”

**ID No. PRO-2020/202**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2020

To: Joint Stock Company “Conexus Baltic Grid”

14 Stigu Street, Riga, LV-1021, Latvia

*-------------------------------------------------------------------------------------------------------------------*

In accordance with the Contest Regulations, we, the undersigned, hereby confirm our agreement to the provisions of the Contest Regulations and we undertake to participate in the provision of the technical balancing service for natural gas transmission system pipelines in accordance with Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks. We offer to provide \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in accordance with the requirements of the Technical Specification and the Contest Regulations.

1. Information on the Tenderer:
   1. Tenderer’s name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   2. Registered with No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   3. Tax payer’s registration No.:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   4. Legal address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   5. Office address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   6. Contact person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(given name, surname, position)

* 1. Telephone No.:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
  2. E-mail address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. If the Tenderer is an association of suppliers or a partnership of suppliers:
   1. The person representing the association of suppliers or the partnership of suppliers in the Contest:

\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* 1. The scope of responsibility of each member of the association of suppliers or partnership of suppliers:

.

1. We hereby certify that the documents attached hereto represent this Tender.
2. Information and documents included in our Tender are complete and true.
3. We have examined all documents of the Contest Regulations, their clarifications, amendments and modifications and we fully understand the requirements and conditions of the Contest and agree to them.
4. We hereby confirm that our Tender is valid for a period of 90 days after the date for the submission of tenders and can be accepted at any time prior to the expiry of its validity.
5. We hereby certify that we are not interested in any other proposal submitted under this Contest.
6. We confirm that this Tender was drawn up and submitted independently of competitors\* and without any consultations, contracts or agreements or any other communication with competitors\*.
7. We confirm that <Tenderer’s name> had no communication with competitors\* as to the prices, price calculation methods, factors (circumstances) or formulas, as well as competitors’\* intention or decision to participate or not to participate in the Contest or submission of tender proposals, which do not meet the requirements of the Contest or as to the quality, volume, specification, performance, delivery or other terms to be handled independently of competitors\*, the products or services relating to this Contest.
8. We confirm that < Tenderer’s name> has not disclosed and will not disclose intentionally, directly or indirectly conditions of the Tender to any competitor\* before the official Tender opening date and time, or before awarding the right to enter into the contract.
9. We shall not perform any fraudulent and corrupt activities in the procurement process, we shall observe the requirements of the laws and regulations governing competition, we shall not participate in transactions restricting competition, nor allow the situations of conflict of interest in mutual cooperation.
10. We certify that the data of the data subjects included in our Tender comply with the requirements of the laws and regulations regulating personal data protection.
11. We certify that we have informed the data subjects included in our Tender about the data processing in accordance with Article 13 of the General Data Protection Regulation.
12. We certify that we have received the consent to data processing of the data subjects included in our Tender / we have processed the data on another legally valid basis.
13. We certify that, at the request of the Contracting Authority, we can demonstrate compliance with the data protection requirements concerning the processing of data of the data subjects included in our Tender.
14. We point out that page \_\_\_\_\_\_\_ of the Tender contains information that is to be considered as confidential/commercial secret in accordance with Section 19 of the Commercial Law.
15. We confirm that no international or national sanctions or major sanctions (including sanctions for proliferation financing) by a member state of the European Union or NATO affecting the interests of the financial and capital market that have an impact on the performance of the Agreement under this Contest have been imposed against us as the Tenderer, or member of our board or council, beneficial owner, a person having the right of representation or proctor, or a person who is authorised to represent the Tenderer in activities related to a branch, or member of a partnership, or member of the board or council, its beneficial owner, a person having the right of representation or proctor, if the tenderer is a partnership.
16. The Tenderer meets the following entrepreneur status (**mark as appropriate**):

* Small enterprise (an enterprise which employs fewer than 50 persons and which have an annual turnover and/or annual balance in total not exceeding EUR 10 million);
* Medium enterprise (an enterprise which is not a small business, and which employs fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or annual balance in total not exceeding EUR 43 million);
* Large enterprise.

I hereby assume full liability for the content of the documentation submitted for the Contest, information contained herein, arrangement of documents and compliance with the Contest Regulations and Technical Specification of the Contest. The data and information submitted are true and fair.

The proposal document package consists of \_\_\_\_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_\_\_\_\_) pages.

Signature:

Given name, surname: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position:

The tender proposal has been drawn up and signed on \_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_ 202\_.

*\* Competitor - any natural or legal person who is not the Tenderer, and who submits a tender proposal for this procurement or who, taking into account his or her qualifications, abilities or experience, as well as goods or services offered, may submit a tender proposal.*

**Annex No. 3**

to the Contest Regulations of the Open Contest

“Provision of the transmission system balancing service”, ID No. PRO-2020/202

# “Provision of the transmission system balancing service”

**ID No. PRO-2020/202**

|  |
| --- |
| **FRAMEWORK AGREEMENT NO.**\_\_\_\_\_\_\_\_\_ **ON THE PROVISION OF THE BALANCING SERVICE OF THE NATURAL GAS TRANSMISSION SYSTEM** |

Riga , \_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2020

**Joint Stock Company “Conexus Baltic Grid”**(unified registration No. 40203041605), represented in accordance with the Company's Articles of Association by the Chair of the Management Board \_\_\_\_\_\_\_\_ and Member of the Management Board \_\_\_\_\_\_\_\_ (hereinafter - the System Operator), on the one hand, and

\_\_\_\_\_\_\_\_\_ (Unified Registration No. \_\_\_\_\_\_), represented by \_\_\_\_\_\_\_ (hereinafter - the Balancing Service Provider) in accordance with \_\_\_\_\_, on the other hand,

hereafter jointly referred to as the "Parties", and individually as "the Party",

on the basis of the open procurement procedure "Provision of transmission system balancing service" organized by the System Operator (ID No. "Conexus Baltic Grid" 2020/202) (hereinafter - Procurement) and the balancing service provision tender submitted by the Balancing Service Provider, enter into the following framework agreement (hereafter referred to as "the Agreement"):

1. **TERMS USED IN THE AGREEMENT**

In this Agreement and the accompanying documentation, the Law on the Procurement of Public Service Providers, the Energy Law, Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks Repealing Regulation (EU) No 1775/2005, Regulation (EU ) No 312/2014 of the European Parliament and of the Council of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks and common balancing rules for the natural gas transmission entry-exit system are used.

1. **SUBJECT MATTER OF THE AGREEMENT**

2.1. The Agreement stipulates the procedure by which the System Operator orders and the Balancing Service Provider in accordance with the Agreement, the Procurement Technical Specification ( Annex 1 ), the Service Provider's binding offer (Annex 2 ) (hereinafter - the Offer) and the System Operator's notification on partial or complete approval (hereinafter - the Notification) provides natural gas transmission system balancing services, for balancing short-term fluctuations of natural gas demand or supply, ensuring the supply of the required amount of natural gas to the System Operator during the entire validity period of the Agreement (hereinafter - the Service).

2.2. The Balancing Service Provider undertakes to transfer and receive natural gas in the amount specified in the Notification, at the virtual trading point and by the deadline specified in the Notification, and ensures the entry or exit of natural gas from the transmission system at the entry / exit point specified in the Notification.

2.3. The System Operator undertakes to pay for the transfer of natural gas performed by the Balancing Service Provider in accordance with the Notification, if the natural gas is injected into the transmission system. The Balancing Service Provider undertakes to pay for the transfer of natural gas performed by the System Operator in accordance with the Notification, if the natural gas is withdrawn from the transmission system.

2.4. The technical specification of the Procurement, each Offer and each Notification constitute an integral part of the Agreement.

1. **CONDITIONS FOR PERFORMANCE OF OBLIGATIONS**

3.1. Upon conclusion of the Agreement, the Balancing Service Provider is responsible for booking of the capacity product required for the performance of the Agreement at the relevant entry and exit points and the purchase of natural gas.

3.2. The Balancing Service Provider shall book capacity at the relevant entry and exit points in accordance with the procedures and within the time limits specified in the common regulations for the use of natural gas transmission system.

3.3. The Offer shall be deemed fulfilled if the Balancing Service Provider ensures the transfer or acceptance of the quantity of natural gas in accordance with the provisions of the Notification.

3.4. The Balancing Service Provider shall submit the prepared Offer by sending it to the e-mail address of the System Operator. The System Operator shall send the prepared Notification to the e-mail address of the Balancing Service Provider.

3.5. The Balancing Service Provider is responsible for the compliance of the natural gas required for the provision of the Service with the natural gas quality characteristics specified in regulatory enactments. The System Operator is entitled to refuse the balancing service if the natural gas does not comply with the specified natural gas quality characteristics.

1. **SERVICE FEE AND PAYMENT PROCEDURE**

4.1. The fee for the Service is determined in accordance with the Notification by multiplying the unit price EUR / kWh (excluding VAT) indicated in the Offer by the amount of natural gas indicated in the Notification. The price of one unit of the balancing service (kilowatt hours (kWh)) (separately for natural gas injection and natural gas withdrawal) shall be indicated in the Offer.

4.2. Taxes for the Service fee are applied in accordance with the laws and regulations in force in the Republic of Latvia.

4.3. If the Balancing Service Provider has transferred natural gas to the System Operator within the Service, the Balancing Service Provider shall send an invoice to the System Operator once a month for the Service provided in the previous month within five business days from the beginning of the month. If the System Operator has transferred natural gas to the Balancing Service Provider within the Service, the System Operator shall send an invoice to the Balancing Service Provider once a month for the Service provided in the previous month within five business days from the beginning of the month.

4.4. The party that has received the invoice in accordance with Article 4.3 of the Agreement shall pay it within 30 (thirty) days from the date of receipt of the invoice.

4.5. Upon receipt of the invoice for the Service fee, the System Operator verifies the fulfillment of obligations with the technical means available to the System Operator.

4.6. The Service fee shall cover all costs related to its provision. The prices indicated in the Offer are fixed and cannot be increased.

4.7. If the Balancing Service Provider does not ensure the amount of the Service obligations confirmed by the Notification, the System Operator is not obliged to pay the invoice for the Service.

4.8. If the last day of the invoice payment term is a holiday or a public holiday in the Republic of Latvia, then the next working day is accepted as the last day of the invoice payment term.

4.9. The Party shall send the invoice to the e-mail address of the other Party specified in the Agreement. The invoice is prepared electronically and is valid without a signature. The day of receipt of the invoice is considered to be the day of its sending.

1. **LIABILITY OF THE PARTIES**

5.1. The Parties shall compensate the direct losses incurred by the other Party if the guilty Party does not comply or improperly complies with the provisions of the Agreement.

5.2. If the Balancing Service Provider does not ensure the fulfillment of obligations in accordance with the Notification, the Balancing Service Provider shall pay to the System Operator a contractual penalty for each unfulfilled Notification which shall be equal to the full payment that the Party would receive if the Notification were duly fulfilled.

5.3. If the Balancing Service Provider does not ensure the fulfillment of obligations under Article 5.2 of the Agreement, the System Operator shall send an invoice for the contractual penalty calculated to the Balancing Service Provider within 15 (fifteen) days after the end of the month for which the respective Offer has been submitted and approved by the Notification. The Balancing Service Provider is obliged to pay the contractual penalty invoice within 10 (ten) working days from the receipt of the contractual penalty invoice.

5.4. If the Balancing Service Provider or the System Operator fails to pay the invoice in accordance with the invoice payment term specified in the Agreement, the Balancing Service Provider or the System Operator shall pay default interest in the amount of 0.05% (zero point zero five percent) of the overdue invoice amount for each day of delay, but not more than 10% (ten percent) of the total amount of the unpaid invoice, to the other Party. Default interest shall not be applicable to the System Operator in the case referred to in Clause 4.7.

5.5. Payment of default interest specified in Article 5.4 of the Agreement does not release from the obligation to fully perform the Service and the Agreement.

5.6. The System Operator has the right to deduct the contractual penalty calculated for the Balancing Service Provider from the payments for the performance of the Service.

5.7. A Party which has duly fulfilled its obligations under this Agreement shall have the right to require the other Party to fulfill its obligations in full.

5.8. The Parties shall be released from liability for non-performance or improper performance of the Agreement if it has arisen as a result of force majeure circumstances specified in the Agreement.

**6. TERM OF THE AGREEMENT AND AMENDMENT**

6.1. The Agreement shall enter into force on the date of its mutual signature and shall remain in force until \_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_ 2021.

6.2. During the term of the Agreement, the Parties may amend the Agreement in compliance with the cases specified in Section 66 of the Public Service Providers Procurement Law. All amendments and additions to the Agreement may be made only in writing and shall enter into force upon signature by the Parties and shall become an integral part of the Agreement.

**7. FORCE MAJEURE**

7.1. The Parties shall not be liable for full or partial non-performance of the obligations of the Agreement, if such non-performance is due to force majeure. Force majeure within the meaning of this paragraph is an obstacle arising outside the control of the affected Party, which prevents it from fulfilling its obligations under the Agreement and which the Party cannot eliminate. Such circumstances shall include, in particular, disasters, fire, earthquakes and other natural phenomena, acts of war, as well as economic sanctions, embargoes, orders of judicial, administrative, public authorities or any other circumstances which could not have been foreseen by the Parties at the time of the Agreement.

7.2. Force majeure shall not be deemed to be an individual obstacle to the fulfillment of the obligations under the Agreement, if it arose at the time when the defaulting Party delayed the fulfillment of its obligations under the Agreement.

7.3. If the circumstances of force majeure continue for more than 30 (thirty) calendar days, the Parties shall enter into negotiations on an acceptable solution for the fulfillment of the obligations of the Agreement. In such a case, termination of the Agreement is possible only by mutual written agreement of the Parties.

7.4. The Parties shall immediately (without undue delay) notify each other of the circumstances of force majeure as soon as the Party has become aware of the circumstances of force majeure. If the Parties do not notify of the circumstances of force majeure, the Parties may not use them to excuse non-performance of this Agreement.

7.5. Upon termination of force majeure conditions, the Parties shall immediately continue to perform the obligations of the Agreement, unless the Parties have agreed otherwise.

**8. APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

8.1. The Agreement has been prepared, as well as the legal relations arising from the Agreement are regulated, executed and interpreted in accordance with the laws and regulations in force in the Republic of Latvia.

8.2. All disputes and disagreements (hereinafter referred to as the Dispute) between the Parties shall be settled through negotiations. In the event of a Dispute, the Party alleging the existence of the Dispute shall provide the other Party with a written statement setting out the description of the Dispute, the proposed settlement of the Dispute, and the persons authorized to negotiate the Dispute on behalf of the Party.

8.3. If the Dispute cannot be resolved through negotiations within 30 (thirty) days (unless the authorized representatives of the Parties have agreed on another term for resolving the Dispute) from the day of its occurrence, it shall be resolved in accordance with the laws and regulations in force in the Republic of Latvia.

**9. FINAL PROVISIONS**

9.1. The Parties shall not be entitled to transfer or delegate any of their obligations under this Agreement to a third party without the prior written consent of the other Party.

9.2. If certain clauses of the Agreement become invalid, this shall not be a reason for cancellation of other clauses of the Agreement.

9.3. The Parties shall, within three working days from the conclusion of the Agreement, notify each other of the authorized persons for the performance of the obligations specified in this Agreement and their contact information, as well as immediately inform about any changes in this information during the validity period of the Agreement.

9.4. The Agreement with the Annexes is prepared on \_\_ (\_\_\_) pages in \_\_ (\_\_\_\_) copies, one copy for each Party. All copies have equal legal force.

9.5. The following annexes are attached to the agreement:

Annex 1. - Procurement technical specification.

Annex 2. - Binding balancing service offer form.

**10. DETAILS AND SIGNATURES OF THE PARTIES**

|  |  |
| --- | --- |
| **System operator:** | **Balancing Service Provider :** |
| Joint Stock Company “Conexus Baltic Grid” | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Single registration number: 40203041605 | Single reg. No .: |
| VAT payer No: LV 40203041605 | VAT number: |
| Legal address: Stigu Street 14, Riga, LV-1021, Latvia | Legal address: |
| Phone number: +371 67087900 | Phone number: |
| E-mail: info@conexus.lv | E-mail: |
| Swedbank \_\_\_\_ |  |
| Account No.: \_\_\_\_ | Account No.: |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  / \_\_\_\_\_\_\_\_ / | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_ / |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  / \_\_\_\_\_\_\_\_ / |  |

*\_\_.\_\_. 2020. Framework Agreement No.*

*Annex 2*

**Binding balancing service offer on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_**

*(month)*

|  |  |  |
| --- | --- | --- |
| Balancing service provider: | |  |
|  | EIC code: | |
|  | Legal address: |  |
|  | Phone number: |  |
|  | E-mail address: |  |
|  | Bank details: |  |
|  | VAT number: |  |

**Delivery of natural gas at the virtual trading point (injection of natural gas into the transmission system):**

|  |  |  |  |
| --- | --- | --- | --- |
| No. | Entry point | Amount of natural gas, kWh / day | Offer price, EUR / kWh |
| 1. | Virtual trading point |  |  |
| 2. | Baltic Connector |  |  |
| 3. | Varska |  |  |
| 4. | Luhamaa (Izborsk – Korneti) |  |  |
| 5. | Kiemenai |  |  |
| 6. | Inčukalns UGS |  |  |

**Natural gas withdrawal from the virtual trading point (withdrawal of natural gas from the transmission system):**

|  |  |  |  |
| --- | --- | --- | --- |
| No. | Exit point | Amount of natural gas, kWh / day | Offer price, EUR / kWh |
| 1. | Virtual trading point |  |  |
| 2. | Baltic Connector |  |  |
| 3. | Luhamaa (Izborsk – Korneti) |  |  |
| 4. | Kiemenai |  |  |
| 5. | Inčukalns UGS |  |  |

*Note: If the Balancing Service Provider has chosen to submit several different quantities of natural gas at different Offer Prices, the Balancing Service Provider has the right to fill in several offer tables.*

\_\_\_\_\_\_\_\_\_\_ 20\_\_ \_\_.\_\_\_\_\_\_\_\_\_\_\_

*place*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Signature Position, name and surname of the representative of the balancing service provider*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Signature Position, name and surname of the authorized representative of the system operator*

20\_\_ \_\_.\_\_\_\_\_\_\_\_\_\_\_\_\_