



Centro Tecnológico de Eficiencia
y Sostenibilidad Energética

**Administrative Specifications to govern the contract of
the "Engineering and assembly service of a dark
fermentation reactor for the production of biohydrogen"
to be awarded by simplified open procedure within the
framework of the UNIDADE MIXTA DE GAS RENOVABLE
project**



La Unidad Mixta de Gas Renovable está cofinanciada por la Axencia Galega de Innovación – Vicepresidencia Segunda y Consellería de Economía, Empresa e Innovación de la Xunta de Galicia, y el Fondo Europeo de Desarrollo Regional (FEDER) en el marco del programa operativo Feder Galicia 2014-2020. Potenciar la investigación, el desarrollo tecnológico y la innovación
Una manera de hacer Europa



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1 Description of the Contracting Entity

The **Technology Centre EnergyLab** (hereinafter, “EnergyLab”) was established on

Companies



INDITEX



PHILIPS



//ABANCA



Public administration



Universities

Universidade de Vigo



September 12th, 2008, in Vigo, under the legal form of a private non-profit foundation. The current board of trustees is made up of the following entities:

EnergyLab's mission is to improve the competitiveness of companies through market-oriented R&D activities in the field of sustainability and resource efficiency, energy networks and renewable energies.

EnergyLab is located in the CITE XVI Technology Building (Cidade Tecnológica de Vigo), within the Science and Technology Park located on the University Campus of Vigo.

2 Details of the Contracting Entity

ENERGYLAB, whose identification details are as follows is the convener of this procedure

Address: R/Fonte das Abelleiras, s/n- Edificio Citexvi 36310 Vigo (Pontevedra)

CIF: G-27719913

Phone number: 986120450

Website: <https://energylab.es>

E-Mail (regarding the tendering process): energylab@energylab.es

CONTRACTOR'S PROFILE: Accessible from the following internet address <https://energylab.es>

TENDER REFERENCE: **REF. ENERGYLAB_CUMGR**

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3 Contracting Entity and Contracting Authority

The Contracting Entity is ENERGYLAB (hereinafter referred to as the ContractingEntity). The Contracting Authority is the GENERAL MANAGER of the contracting entity. In accordance with the provisions of Article 62.1 of Law 9/2017, of 8 November, on Public Sector Contracts, which transposes into Spanish law the European Parliament and Council Directives 2014/23/EU and 2014/24/EU, of 26 February 2014, (hereinafter LCSP), the Contracting Authority is responsible for supervising its execution, adopting the decisions and issuing the necessary instructions to ensure the correct performance of the agreed service, within the scope of the competences attributed to it by the contracting entity.

4 Purpose of the contract

The purpose of this document (hereinafter, the “Contract”) is to define the administrative clauses that are to govern the **design, construction, supply and commissioning of a dark fermentation reactor for the production of biohydrogen** at ENERGYLAB facilities, as well as the training of the ENERGYLAB staff in its operation.

The description and technical conditions of the goods and the way in which the successful bidder will carry out the service will be those stipulated in the Technical Specifications.

ENERGYLAB is a beneficiary of the Project “**Unidade mixta de gas renovable**” granted by the GAIN- Agencia Gallega de Innovación through the call “Apoio a consolidación de unidades mixtas de investigación” aligned with the challenges and strategic priorities identified in the RIS3 a Galicia, co-financed by the European Regional Development Fund in the framework of the operational programme Feder Galicia 2014-2020 , for the year 2020.

“**Unidade mixta de gas renovable**” focuses on increasing knowledge not only of biogas and biomethane but also of other renewable gases such as green hydrogen, biohydrogen and syngas, as well as assessing their impact on current infrastructures and end consumers.

5 Award procedure

The contract shall be awarded, by open procedure, to the bidder submitting the proposal representing the best value for money, in accordance with the award criteria set out in this document (hereinafter, best offer).

The information relating to this Contract shall be published and may be consulted in the contractor's profile on the EnergyLab website: <http://www.energylab.es>

The successful bidder shall be obliged to provide the Contracting Entity, at the latter´s request, with all the information necessary for the latter´s compliance with the obligations established in the national regulations on transparency in force at any given time, as well as with all the publicity obligations deriving from the co-financing of the Project (especially the publicity obligations regarding to the co-financing of the project).

6 Funding

The Project as a whole and therefore the tender for an "Engineering and assembly service of a dark fermentation reactor for the production of biohydrogen" is co-funded by GAIN through the call "Consolidación de Unidades Mixtas 2020", co-financed by The European Regional Development Fund (ERDF), in accordance with the provisions of the call mentioned in clause

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4 of this document.

7 Legal regime of the contract and awarding procedure

This contracting procedure is inspired by and adapted to the provisions of the current Law 9/2017, of 8 November, on Public Sector Contracts, in all matters relating to the process of preparation, advertising, selection, award and formalization of the contract (and therefore respecting the principles of advertising, competition, transparency, confidentiality, equality and non-discrimination that inform the aforementioned community regulations).

The contract, due to its value, is not subject to harmonized regulation. Based on this, the rights and obligations of the parties arising from the execution of the Contract, will be governed, as regards its application and interpretation, by the provisions of these Specifications and the Technical Clauses, by the clauses of the contract that is formalized after the award and, only in matters not expressly provided for, shall be governed by the provisions of Law 9/2017, of 8 November, on Public Sector Contracts, and other provisions of equal or lower rank that are applicable, insofar as they do not oppose the after mentioned law.

Therefore, the submission of bids in this procedure is equivalent to the bidder's express declaration of full acceptance of the contents of these specifications, as well as those contained in the Technical Specifications. These specifications and other documents attached shall be of a contractual nature. In the event of any discrepancy between these specifications and any of the other contractual documents, these specifications shall prevail. The contract will be awarded by means of an ordinary simplified open procedure, in accordance with the provisions of article 159 of the LCSP.

8 Milestones and execution deadlines

In accordance with the scope defined in the Technical Clause Specifications, the maximum period for **delivery, installation and commissioning** of the goods, starting from the day following the formalisation of the contract, shall be:

- ✓ Milestone 1: reception and validation of engineering drawings. 4 weeks
- ✓ Milestone 2: reception and commissioning of the BioH2 production equipment. 16 weeks (4 months) from milestone 1.

Completion of the execution of the object of the contract will be understood to have been completed within the established timeframe when the final acceptance is signed by the contracting entity.

Compliance with the milestones for the execution of the works that are the object of this contract within the deadlines established in this Clause is considered an essential contractual obligation of the successful bidder, who must devote all ordinary and extraordinary means and make its best efforts to comply with the milestones and deadlines established in this clause.

Exceptionally, training activities may be delayed, in whole or in part. This may occur in the event that, once the equipment is fully installed, the contracting authority considers this delay to be more operative. In any case, EnergyLab will designate this new deadline. The successful bidder will be liable for any damages that the lack of diligence in its performance (delays, errors, etc.) may cause to EnergyLab, especially those that may result in financial losses due to failures, delays or defects in the audit phase.

Acceptance of the fulfillment of each milestone must be requested by email by the bidder once

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the work associated with it has been completed.

Once this request has been received, EnergyLab will conduct an assessment of the work carried out and whether it complies with all the requirements of these Administrative Specifications, the Technical Specifications and the contract signed by both parties. The representative appointed by EnergyLab shall draw up a record of this compliance.

If EnergyLab considers that the works do not comply with the requirements, the representative appointed by EnergyLab shall point out the defects observed and shall detail the necessary instructions, setting a deadline for rectifying them and for drawing up the corresponding report. . If the tenderer has not made the corrections by that deadline, , EnergyLab shall be entitled to grant a new non-renewable deadline, to declare the contract terminated or to make the necessary repairs at the expense of the contract price, deducting the amount from the invoices to be paid or from the guarantees. This shall be without prejudice to EnergyLab’s claim for damages.

9 Essential contractual obligations

The following shall be considered essential contractual obligations:

- ✓ Compliance with the main obligation of the contract in strict compliance with the provisions of its clauses and of this Document and the Technical Specifications.
- ✓ The supply of manuals and all necessary documentation for the correct operation and maintenance during the lifetime of the dark fermentation reactor (installation manuals, operation and maintenance manuals, manufacturer's information / contact details, waste management, warranty, etc.).
- ✓ Compliance with the delivery deadlines specified in clause 8, if applicable, the best quoted deadline.
- ✓ Compliance with the legal, regulatory and conventional provisions in force and those applicable to employment, social security and occupational health and safety.
- ✓ Compliance with the warranty period (after-sales service, maintenance and guarantee of the correct operation of the plant) for at least 1 year.
- ✓ Compensation for all damages caused to third parties as a consequence of the operations necessary for the execution of the contract.
- ✓ Compliance with the improvements offered by the bidder that are included in the object of the contract, unless the addition or execution of them is expressly rejected by EnergyLab.
- ✓ All those tasks or needs of storage, provisioning, maintenance, assembly, packaging, loading, transport, unloading, and possibly customs, taxes, etc. of all the equipment included in this contract. They shall also include all those means of use necessary for such purposes such as machinery, means of transport, lifts, etc., until the final and complete installation of the asset placed in full working order, with all the technical requirements demanded for the same. In this document and in the Technical Specifications, including those tests that are pertinent or necessary for this purpose, including the corrections or repairs that must be carried out within the guarantee period offered. The goods covered by the tender shall only be considered duly delivered once these requirements and obligations have been met.
- ✓ All costs arising from commissioning and validation. This includes the performance of

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all preliminary and final tests required by the regulations or in the specifications. In the event of repeated tests, the tenderer must carry them out without additional compensation.

- ✓ The tenderer shall always have the necessary, duly qualified and sufficient personnel, as well as sufficient and appropriate material, technical, organisational and human resources for the fulfilment of the object of the contract.
- ✓ All personnel employed to handle the equipment shall have the necessary permits, licences and administrative authorisations. They must also have the appropriate legal, professional and technical training to carry out these tasks.
- ✓ All expenses for labour, transport, food, accommodation, etc. of the qualified personnel necessary to facilitate the correct execution of the contract.
- ✓ The tenderer shall designate a person responsible for the contract within the organisation, who shall be exclusively responsible for communication with EnergyLab.
- ✓ The tenderer shall provide its workers, where legally necessary, with the tools, clothing, protection and other elements suitable for the performance of their tasks.
- ✓ The tenderer shall organise the work in its own working conditions, such as: working hours, holidays, leave, salaries, disciplinary regime, selection, training, as well as the control of its personnel, without prejudice to the coordination established with EnergyLab and the recommendations that the latter may make.
- ✓ The entire workforce will depend exclusively on the contractor, who will have the rights and duties inherent to its status as an employer, without being able to claim from the contractor company for such labour relations or other obligations.
- ✓ All those tasks necessary for the removal of all surplus material and the cleaning of the occupied areas, the cost of transporting the waste to the landfill and compliance with the applicable Hazardous and Non-Hazardous Waste Regulations, minimising environmental impacts.
- ✓ The Contractor shall comply with the obligations imposed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter GDPR) and with any other data protection provisions applicable to it during the term of the contract as a result of the processing of personal data that it carries out as part of its activities and on its own account and decision, as Data Controller.

The obligations established in this Clause and in Clause 18 will be considered essential contractual obligations for the purposes of Article 211. f) of the LCSP and, therefore, failure to comply with them will be considered cause for termination of the contract, at the discretion of the contracting entity.

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10 Base Tender Budget and Contract Price.

The base and maximum tender budget is **35.537,19 euro** (excluding VAT), calculated in the manner and for the purposes set out in Article 101 of Law 9/2017, of 8 November, on Public Sector Contracts, transposing into Spanish law the Directives of the European Parliament and of the Council 2014/23/EU and 2014/24/EU, of 26 February 2014, (hereinafter LCSP).

In order to determine the aforementioned base tender budget, ALL direct and indirect costs and other possible expenses have been taken into account. The amount of applicable taxes (e.g. VAT) will be in accordance with the provisions of Spanish legislation in force at any given time. Bidders shall include in their economic proposal the price proposed for the execution of the contract (excluding VAT) which in no case shall exceed the aforementioned maximum tender budget.

The price of the contract will include taxes, fees and charges of any kind that may be applicable, as well as all expenses incurred by the successful bidder as a result of the fulfilment of the obligations contemplated in these Specifications. In any case, the price will include all the expenses arising from or necessary for the transport and installation of the goods until they are fully operational with all the technical requirements demanded for this purpose in these specifications and in the Technical Specifications. Therefore, the amount that will appear in the economic offers submitted by the participants will be the only amount that they will be entitled to receive (plus the applicable taxes in accordance with current legislation) for the supply of the goods (including all the improvements offered and approved by EnergyLab), as well as all the operations and work necessary for the execution of the object of the contract, especially the supply, transport, storage and movement of all the materials necessary for the correct execution of the work, industrial profit, means of transport and lifting, tools, tools and materials necessary for the correct execution of the contract, as well as the work, transfers, allowances, night and holiday work and any other concepts, such as taxes and fees derived from permits and necessary procedures that must be requested for the execution of the work, which shall be for the account of the successful bidder.

In accordance with article 99.3 of the LCSP, the Contracting Entity may not split the contract. It is understood that a contract is split when the same supplier issues several invoices charged to the same project, even if they all refer to different activities.

Likewise, under no circumstances will the Contracting Entity contract the partial execution of the subsidized activities with those entities in which the circumstances established in article 29.7 of Law 38/2003, General Subsidies, of 17 November and article 68.2 of Royal Decree 887/2006, which approves the Regulations of said Law.

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11 Abnormally low bids

In principle, any bid whose price differs by 25% or more from the arithmetic mean of the other bids may be considered unreasonable or abnormal, and its inclusion would require a prior request for information from the bidders involved to analyse its feasibility.

When a proposal that may be considered unreasonable or abnormal is identified, the bidder(s) submitting the proposal should be interviewed to evaluate the evaluation of the bid and clarify its terms and conditions.

Bids will be rejected by the contracting entity if it finds that they are abnormally low because they violate subcontracting regulations or fail to comply with applicable national or international environmental, social or labor obligations, including non-compliance with existing collective bargaining agreements in the sector.

12 Form of payment

ENERGYLAB shall pay:

- ✓ 20% of the contract price, upon presentation of the corresponding invoice, within 30 calendar days of the fulfilment of milestone 1, according to Clause 8.
- ✓ The remaining 80% of the contract price, upon presentation of the corresponding invoice, within 30 calendar days of the fulfilment of milestone 2, according to Clause 8.

As requirement prior to payment, the bidder must accredit that it is up to date with its tax and Social Security obligations.

If no different payment conditions for late payment are agreed, payment shall be made within 30 days from the date of the invoice, and the interest for late payment shall be established in article 7 of Law 3/2004, of December, establishing measures to combat late payment in commercial transactions.

The bidder may not assign, by any means, the collection rights that, in its favor, derive from this contract, except in those cases in which EnergyLab expressly authorizes it in writing.

No payment shall be made for any goods or supplies that have been delivered outside the scope of the contract provided for herein or that, as the case may be, have not been previously requested and expressly accepted by the contracting company.

The bidder submitting the bid offering with the best quality-price ratio shall be obliged to provide a definitive **guarantee for an amount equivalent to 5% of the final price offered**, excluding VAT. In the case of a guarantee, this shall conform to the format included in this Document as Annex I or shall be constituted in any of the forms provided in article 108 of the LCSP. This final guarantee shall satisfy the requirements set out in Article 110 of the LCSP.

The bidder that has submitted the best offer must accredit the constitution of the aforementioned definitive guarantee within 10 working days from the day following receipt of the request made by the Contracting Body for this purpose. Proof of the constitution of the guarantee may be provided by electronic means.

In the event that the penalties or indemnities payable by the contractor are charged to the definitive guarantee, the contractor must replace or increase the guarantee, in the corresponding amount, within fifteen calendar days from the date of its execution, under penalty of termination of the contract.

When, as a consequence of a modification of the contract, the price of the same varies, the

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contractor must adjust the definitive guarantee so that it is proportional to the new price. The deadline for the contractor to modify the guarantee shall be fifteen calendar days from the date of notification of the modification agreement. The guarantee will be returned, in accordance with the provisions of Article 111 of the LCSP, once the guarantee period has expired and the contractor has fulfilled all its contractual obligations.

The guarantee will be returned following a favourable report from the contracting entity.

For any matters not covered by this Clause, the provisions of Articles 106 onwards of the LCSP shall apply.

13 Submission of Proposals and Documentation

Natural and legal persons, Spanish or foreign, who meet the requirements established in Chapter II of Title II as well as in article 159 of the LCSP and, in any case, the following requirements may submit proposals:

- a) That the purpose or activity of the company or entity, has a direct relationship with is the object of this contract, as is apparent from its statutes or functional rules and it is duly accredited that it is an organization with sufficient personnel and material elements for the performance of the services that constitute the object of the contract.
- b) That they have full capacity to act and accredit their economic, financial, technical or professional solvency.
- c) That they also have the business or professional authorization that, where applicable, is required for the performance of the activity or service that constitutes the object of the contract.
- d) That they are not subject to the prohibitions on contracting of the 71 of the LCSP.

The natural persons invited to participate in the procedure may form, together with third parties, temporary alliances constituted for this purpose, without the need to formalize them in a public deed until the contract is awarded in their favor.

Where several contractors form a temporary joint venture, they shall be jointly and severally bound and must appoint a representative with sufficient powers to exercise the rights and fulfill the obligations arising from the contract until its termination.

For the purposes of the tender, the companies that wish to participate in a temporary consortium must indicate the names and circumstances of those who constitute them and the participation of each one of them, as well as expressly indicate that they assume the commitment to formally constitute a temporary consortium in the event that they are awarded the Contract.

In all cases in which several companies are grouped in a temporary union, they must accredit their capacity and solvency in accordance with the provisions of these specifications and in the LCSP, accumulating for the purposes of determining the solvency of the temporary union the characteristics accredited for each one of the participating members.

Deadline for submission:

Proposals may be submitted until **27th January 2022 at 15:00 hours.**

Form of presentation:

In accordance with the provisions of the fifteenth additional provision of the LCSP, communications and notifications derived from this tender will be made exclusively by

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electronic means.

The Bids will be sent to the Contracting Entity via the following e-mail address: energylab@energylab.es

Means of communication and notification:

Queries related to the tender procedure may be made on Tlf. 986120450 or via: energylab@energylab.es

Content of electronic files:

Bidders must submit the documentation in a single electronic file, in accordance with the administrative and technical requirements established in the Technical Specifications, with the reference: **“REF. ENERGYLAB_CUMGR”**.

Each electronic file will be made up of the documents indicated below and will include a numbered list of the documents included therein:

- ADMINISTRATIVE DOCUMENTS

Documents accrediting the nature and capacity to act of the tenderer and, where applicable, of their representatives:

- ✓ The capacity to act of the entrepreneurs who are legal persons will be accredited by means of the deed or document of creation, the Articles of Association or founding document, in which the rules governing their activity are stated, duly registered, where applicable, in the corresponding Public Registry, in accordance with the type of legal person in question.
- ✓ The capacity to act of non-Spanish entrepreneurs who are nationals of Member States of the European Union shall be accredited by their registration in the Register in accordance with the legislation of the State in which they have their headquarters, or by the presentation of a sworn declaration or certificate, in accordance with the applicable Community provisions.
- ✓ The capacity to act of other foreign entrepreneurs shall be accredited by means of a report from the Permanent Diplomatic Mission of Spain in the State in question or from the Consular Office where the registered office is located. This report must accredit that the State of origin of the foreign company allows Spanish companies to participate in contracts with the Administration and with public sector organisations, bodies or agencies similar to those listed in Article 3 of the LCSP, in a fundamentally similar way.
The reciprocity report will not apply to companies from States that have signed the World Trade Organisation Agreement on Government Procurement.
- ✓ The capacity to act of the entrepreneurs who are natural persons will be accredited by means of the National Identity Document, or equivalent of their respective State.
- ✓ Those appearing or signing bids on behalf of another, shall present a copy of their National Identity Document, as well as a power of attorney to that effect. If the case of a legal entity, the power of attorney must be registered in the Mercantile Register, when this is required in accordance with Article 94 of the Mercantile Register or, where appropriate, in the Public Register corresponding to the type of legal entity in question.
- ✓ In all cases:
 - a) **Responsible declaration signed by the legal representative**, certifying that he/she is not included in any of the circumstances of incapacity or prohibition to contract Responsible declaration in accordance with the model included in this Document as

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Annex II, that the bidder is not included in any of the prohibitions to contract, in accordance with the provisions of article 71 of the LCSP.

- b) Contact Details: a document signed by the legal representative of the company must be presented, containing the contact telephone number, address and email address.
- c) Proofs of being up to date with tax and Social Security obligations.
- d) Document accrediting registration with the Economic Activities Tax, by presenting the registration, referring to the current year, or the latest IAE receipt completed with a declaration that the company has not been deregistered from the register of the aforementioned tax. Without prejudice to accrediting registration with the tax, in the event of being in any of the exemptions provided for in article 82 of Royal Legislative Decree 2/2004, of 5 March, which approves the revised text of the law regulating local finances, this must be accredited by means of an express resolution of the Exemption issued by the State Tax Administration Agency or a declaration of having a turnover of less than one million euros for the taxpayers listed in article 82.1 c) of the aforementioned law.
- e) Updated copy of the contract with the external prevention service or document accrediting the existence of another type of organization of preventive activity in the company.
- f) Declaration on confidentiality, industrial property, intellectual property and the Organic Law on Data Protection: Responsible declaration in which the bidder undertakes, in the event of being awarded the contract, to safeguard the confidentiality of the information handled and to strictly respect the regulations on intellectual property and on personal data protection, contained in the latter Organic Law 1511999, on Personal Data Protection and its development regulations, all under the same conditions provided for that purpose in article 124 LCSP. Likewise, it undertakes to respect the provisions of article 12 of these specifications.

1) SOLVENCY:

- **Economic and financial solvency**

- g) **Annual accounts** approved and deposited in the Mercantile Register for the last year, if the entrepreneur is registered in the Mercantile Register and, if not, by those deposited in the official register in which he should be registered. Individual entrepreneurs who are not registered in the Commercial Register shall prove their annual turnover by means of their accounting books and annual accounts certified by the Commercial Register.
- h) **Annual turnover**, in the area to which the contract refers, based on the best of the last three financial years available (in which the obligation to approve the annual accounts has expired), according to the dates of incorporation or commencement of the bidder's activities and the date of submission of the bids. Or Declaration of responsibility signed by the bidder stating the bidder's turnover. Proof of the existence of professional risk indemnity insurance, or, failing this, an appropriate statement from the financial institution.
- i) Any other means considered appropriate and sufficient, without prejudice to the Contracting Committee considering such sufficiency and, where appropriate, requesting other supplementary documentation.

- **Technical and professional solvency**

- a) The required solvency shall be accredited by means of a **list of the supplies made**

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in the course of the last three years, indicating the amount, date and recipient, public or private. These supplies shall be certified by certificates issued or countersigned by the corresponding body, when the recipient is a public sector entity. When the recipient is a private organisation, this will be authenticated by a certificate issued by the latter or, failing this, by a declaration by the tenderer, accompanied by the documents in their possession that accredit performance of the service.

- b) Statement indicating the **technical resources or technical units, whether or not they are integrated in the company, available to the company for the execution of the works**, especially those responsible for quality control, accompanied by the corresponding supporting documents.
- c) Identification by name of the **total team assigned to the execution** of the contract, together with the curriculum background that accredits compliance with the requirements: **official academic qualifications and experience** in the corresponding field.
- d) Where applicable, **indication of the environmental management measures** that the contractor may apply in the performance of the contract.
- e) **Statement of the company's average annual workforce**, accompanied by the corresponding supporting documentation.
- f) Statement indicating the **machinery, material and technical equipment** that will be available for the execution of the works.
- g) **Certificates issued by the official institutes or services** responsible for quality control that guarantee the bidder's solvency.

- TECHNICAL DOCUMENTS:

As described in the Technical Specifications, at least the following documentation must be included in each tender:

- A. Technical report describing the system.**
- B. Assembly drawings including measurements.**
- C. Detailed technical specifications of the equipment.**

Likewise, the IMPROVEMENT PROPOSALS shall be included in a separate document for the purposes of their consideration for scoring (it being understood that if they are not accompanied, only what is indicated in this respect as minimum conditions indicated in the Technical Specifications, without improvement, shall be offered).

Likewise, if necessary, a sheet called NON-COMPLIANCE DOCUMENT will be included where describing those aspects required that cannot be fulfilled and explaining the reason for this. This document shall be taken into account by the Contracting Committee, which shall assess it before proposing the rejection of the tender.

- FINANCIAL OFFER:

The financial bid shall be submitted in accordance with the following:

- ✓ The total amount will appear in Euros, without VAT, for the performance of all the work contained in the scope and object for these Specifications and the Technical Specifications.
- ✓ The final price will be broken down as a minimum into the concepts described in the object of the Technical Specifications.

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- ✓ Economic proposals whose price exceeds the "maximum tender budget" will not be accepted.

14 Non-compliance with requirements

Bidders who consider that there is a requirement for the presentation of the tender that cannot be met, must explain it in the technical proposal in a separate document entitled NON-COMPLIANCE DOCUMENT. This document will be assessed by the Contracting Committee before proposing the exclusion of the tender for non-compliance with the requirement.

15 Committee for the evaluation and opening of bids

ENERGYLAB will be assisted by an evaluation Committee, composed of the following members:

- ✓ Technical director
- ✓ Head of the Project Office
- ✓ Head of the bioenergy area

The Secretary will be the Head of the Project Office and decisions will be taken by simple majority.

This evaluation committee may be assisted by a Committee of Experts composed by:

- ✓ Head of the Project 1 researcher from the technical department

The opening of the bids is a public event and shall be held as soon as possible after the deadline for submission of bids. It will be published at least two days in advance on the EnergyLab website.

The evaluation committee shall pre-qualify the documentation contained in the envelope submitted in due time and form. If the committee observes rectifiable defects in the documentation submitted, the contracting entity shall give the bidder 3 calendar days to correct them. In the event that this happens, a new date will be set for the evaluation.

Once this has been carried out, the documentation contained in envelopes will be opened in order for study and evaluation.

The Evaluation Committee shall reject the proposals in which any of the circumstances envisaged in article 84 of RD 1098/2001 apply and shall pass the list of bids submitted to the Contracting Authority, classified in descending order, in accordance with the award criteria established in Clause 17, who shall identify the best bid.

In the event that it is agreed to exclude a particular tenderer, the contracting company shall expressly notify the excluded tenderer of this exclusion.

Before formulating the proposal, any technical reports considered relevant may be requested.

In the event that the bid from the tenderer with the best score is considered abnormally low according to the parameters specified, where appropriate, in point 11 of this document, the Evaluation Committee shall follow the procedure established in article 149 of the LCSP, so that the bidder can provide the necessary justification.

The proposal for awarding the contract does not create any right in favour of the proposed bidder against the contracting company. However, when the Contracting Authority does not award the contract in accordance with the proposal submitted, it must give reasons for its

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decision.

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16 Award criteria

The award criteria, with their corresponding weighting, are as follows:

CRITERIA	WEIGHT	SCORE
Economic proposal	A 30%	It will be valued up to a maximum of 30 points as follows: <ul style="list-style-type: none"> Reduction of the base tender budget: <ul style="list-style-type: none"> Up to 5% (incl.): 5 points between 5% and 10% (incl.): 10 points between 10% and 15% (incl.) 15 points between 15 and 25% (incl.): 30 points
Improvements to the technical condition of the equipment supplied (referred to as "Extra and other items " in the table under point 8 of the Technical Specifications)	B 50%	A maximum of 50 points will be awarded according to the criteria defined in section 8 of the Technical Specifications.
Overall evaluation of the proposal and other criteria	C 20%	It will be valued up to a maximum of 20 points. In this section, criteria of the overall proposal will be valued, such as its clarity, presentation, detailed description of the equipment, etc.

17 Formalisation of the contract

The bidder who has submitted the best offer must provide the necessary documentation for awarding the contract within a maximum period of 7 working days, in accordance with these Specifications and the LCSP. In any case, the bidder must submit:

Proof of the constitution of the aforementioned definitive guarantee (in accordance with Clause 12) within 10 working days from the day following receipt of the request made by the Contracting Body to this effect.

Given the public origin of the financing, although the guarantee or deposit referred to in this point is intended to partially guarantee all the obligations arising from the contract, failure to comply with it could deprive EnergyLab of the financing obtained and generate greater damages due to the impact that non-compliance could have on the other partners participating with the Technology Center in the project within the framework of the contract awarded, therefore, in such cases, the defaulting successful bidder shall be directly liable with all its assets for this circumstance and shall indemnify EnergyLab for all damages that may arise

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from said default -especially the failure to complete the work and fulfil the contractual obligations within the established period-, and in any case at least in an amount equivalent to one hundred percent of the amount established as BTB in this tender, with the sole condition that EnergyLab makes the goods it has supplied available to it.

Several guarantees may be submitted which, cumulatively and not mutually exclusive, reach the amount to be guaranteed.

These guarantees shall cover the successful bidder’s compliance with all the obligations arising from this contract and, in particular, compliance with the milestones and deadlines established in clause 8 of these specifications. Therefore, these guarantees may be executed both to compensate for damages and to enforce the penalties and other indemnities provided for in these specifications.

If all the aforementioned documentation is not duly completed within the aforementioned period, it will be understood that the bidder has withdrawn its bid, in which case the same documentation will be requested from the next bidder, in the order in which the bids have been classified.

The Contracting Authority must award the Contract within 5 working days of receiving the documentation indicated in this clause.

The award of the Contract must be justified, notified to the bidders and published in the contractor's profile.

18 Compliance with milestones and guarantee period

The contract shall be understood to have been fulfilled by the contractor when it has executed, in accordance with the terms of the contract and to the satisfaction of the contracting entity, the totality of the supply.

Nevertheless, when the goods are delivered, installed and put into operation, the act of reception of the goods will take place, and the corresponding Certificate will be issued. At that moment, the contracting entity shall determine whether or not the goods are in a condition to be received and whether or not they conform to the specified requirements and, where appropriate, clear instructions will be given to the contractor to remedy or to supply them again, in accordance with what has been agreed.

If the work carried out does not conform to the contracted service, due to vices or defects attributable to the contractor, the contracting entity may reject it, being exempt from the obligation to pay or having the right, as the case may be, to recover the price paid.

The warranty period is established as ONE year from the date of reception or acceptance of the supply.

If, during the above-mentioned warranty period, it is found that the goods supplied are defective or faulty, the Contracting Authority is entitled to demand that the contractor replace the inadequate goods or repair them if it considers this to be sufficient.

If, during the warranty period, the Contracting Authority considers that the goods supplied are not suitable for the intended purpose as a result of the defects or flaws observed in them, attributable to the contractor, and it is presumed that their replacement or repair would not be sufficient to achieve that purpose, it may, before the expiry of that period, reject the goods, releasing them at the contractor's expense and exempting him from the obligation to pay or being entitled, where appropriate, to reimbursement of the price paid.

Once the warranty period has expired, without the contracting entity having raised any of the

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objections or claims referred to in this Clause, the contractor shall be exempt from any responsibility for the services rendered.

19 Breach of contract and termination

In the event that the tenderer fails to comply totally or partially with any of the obligations derived from these specifications and / or the Technical Specifications, EnergyLab may demand compliance or declare the unilateral and automatic termination of the contract. In both cases, the contracting entity may claim from the bidder the payment of damages resulting from the non-fulfilment. The bidder's obligation to compensate EnergyLab for damages resulting from its non-compliance shall be independent of the obligation to pay any penalties that may be imposed in accordance with the provisions of clause 8 of these specifications.

20 Confidentiality and Data Protection Regulation Compliance

Protection of personal data

The performance of the contract to which this tender relates will, in view of its content, require the contractor to process personal data on behalf of the contracting entity.

In this regard, the contractor shall be subject to the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter GDPR) and to Organic Law 3/2018 of 5 December on the Protection of Personal Data and the Guarantee of Digital Rights (hereinafter LOPD-GDD).

Thus, the contractor, in its capacity as Data Controller, undertakes to sign the corresponding contract, together with the contracting entity, containing the content and scope determined by article 28 of the GDPR.

This contract must be signed at the same time as the service contract is signed between the contracting entity and the contractor.

However, regardless of what is established to this effect in the aforementioned contract, the contractor undertakes to observe the following provisions in relation to the contract to which this tender refers:

- It shall comply with the provisions of the GDPR, the LOPD-GDD and the rest of the applicable data protection regulations for the entire duration of the contract for the provision of services between the contracting entity and the contractor.

It will only process personal data in accordance with the documented instructions of the contracting entity.

- It shall ensure that the people authorised to process personal data are subject to an appropriate confidentiality obligation.

- The contractor shall implement appropriate technical and organisational measures to ensure a level of security that is appropriate to the risk, taking into account the state of technology, implementation costs and the nature, scope, context and purposes of the processing, as well as the risks of varying likelihood and severity to the rights and freedoms of natural persons. The following measures shall be assessed, inter alia, for guidance purposes only:

a) Pseudonymisation and encryption of personal data.

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b) Measures to ensure the continued confidentiality, integrity, availability and resilience of the processing systems and services.

c) Measures for the prompt recovery and access to personal data in the event of a physical or technical incident.

d) Procedures for periodic verification, evaluation and assessment of the effectiveness of technical and organisational measures to ensure the security of the processing.

- Provide, when required by the contracting entity and as evidence of compliance with its data protection obligations (i) a copy of the register of all categories of processing activities carried out on behalf of the contracting entity; and (ii) any other document that the contracting entity deems appropriate, provided that this relates to the processing of personal data carried out by the contractor on behalf of the contracting entity.

- Allow and contribute to audits, including inspections, by the procuring entity or another auditor authorised by the procuring entity.

- Inform the contracting entity of the person (s) directly responsible for the implementation and inspection of security measures.

- Train and inform personnel on the obligations arising from the relevant data protection legislation.

Intellectual and /or industrial property

The contractor must guarantee to the contracting entity the peaceful use of all goods, equipment or other assets that it supplies and/or installs for the entity in the framework of this contract, being obliged for these purposes to provide or obtain from authorised sources, at its own expense and for the benefit of the contracting entity, at no additional cost, any licences and rights of use and/or exploitation of such elements and/or their components (including hardware and software, if applicable). All of this, under the terms and conditions necessary for the contracting entity to be able to use and exploit said equipment and its components in the terms established in this Document and in the Technical Specifications that govern this contract.

Furthermore, the contractor will be responsible for claims relating to Intellectual and/or Industrial Property that may be brought by third parties outside the contract in relation to the equipment that is object of this contract and to each of its components and must indemnify the contracting entity for all damages that may arise from claims relating to these matters.

Confidentiality and duty of secrecy

Without prejudice to the provisions of the current legislation on access to public information and the provisions contained in the LCSP relating to the publication of the award and the information that must be given to candidates and bidders, the contracting entity may not reveal any information provided by the bidders which they have declared as confidential at the time of submitting their bid. This confidentiality includes, inter alia, technical and business secrets, confidential aspects of tenders and any other information the content of which may be used to distort competition, whether in this or subsequent tenders.

The contractor must respect the confidential nature of any information to which it has access in relation to the execution of the contract and which has been designated as such in the tender documents or in the contract or which, by its very nature, must be treated as such.

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21 Annex I. Guarantee /Surety template

Mr./Ms [...], with address at [...] and ID/DNI number [...], acting on their own behalf or in representation of [...], with address at [...] and Tax No/CIF [...], in full possession of their legal capacity and ability to act, having been informed of the invitation to tender, by the open tender procedure for the "Engineering and assembly service of a dark fermentation reactor for the production of biohydrogen", hereby

DECLARE

First.- That, at the date of submission of this bid, they are not subject to any of the prohibitions against entering into contracts established in Article 71 of Law 9/2017, of 8 November, on Public Sector Contracts, transposing into Spanish law the Directives of the European Parliament and of the Council 2014/23/EU and 2014/24/EU, of 26 February 2014.

Second.- That they expressly accept that the contracting company gives institutional transparency to all the data derived from the tendering, awarding and execution process (in the event of being awarded a contract) until its completion.

In [...], on [...] [...] [...].

[Signature]

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22 Annex II. Declaration of responsibility template

The financial institution [...] (name of the credit institution or mutual guarantee society), Tax No/C.I.F. [...], with address at [...] (for the purposes of notifications and requests) and, on its behalf, [...] (name and surnames of the representatives), with sufficient powers to bind the parties in this act, as evidenced by the sufficient powers outlined at the bottom of this document, ACT AS GUARANTOR for: [...] (name and surname or company name of the party guaranteed), Tax No/CIF [...], before [...], in the amount of [...] Euros, to meet the obligations arising from the contract for the "Engineering and assembly service of a dark fermentation reactor for the production of biohydrogen".

The guaranteeing entity declares under its responsibility that it complies with the requirements set out in Article 56.2 of Royal Decree 1098/2001, of 12 October, which approves the General Regulations of the Public Administration Contracts Act.

This guarantee is granted jointly and severally with respect to the principal, with express waiver of the right to exclusion and division and with a commitment to pay upon the first demand of ENERGYLAB

This guarantee will remain in effect until [...] authorises its cancellation or refund.

In [...], on [...] [...] [...].

[Signature]

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