



राष्ट्रीय पवन ऊर्जा संस्थान

(नवीन और नवीकरणीय ऊर्जा मंत्रालय के अधीन स्वायत्त अनुसंधान एवं विकास संस्था, भारत सरकार)

NATIONAL INSTITUTE OF WIND ENERGY

(An Autonomous R&D Institution under Ministry of New and Renewable Energy, Government of India)

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Velachery – Tambaram High Road, Pallikaranai, Chennai - 600 100, Tamil Nadu, INDIA

NIT NO: NIWE/PUR/17/149/22

Date: 21.12.2022

“Global Tender for Supply, Installation and Commissioning of Integrated Floating buoy for mounting Offshore Lidar together with meteorological and oceanographic sensors (Wave, Current etc.,) at three locations (Zone C1, Zone B1 & Zone E2) at Gulf of Mannar off, Tamil Nadu Coast in India including Operation and Maintenance.”

CORRIGENDUM-05

Following amendments are issued to the NIT NO. NIWE/PUR/17/149/22 dated 18.11.2022:

Existing Clause	Amended As
<p><u>59. Limitation of Liability</u> - Newly added clause vide <u>NIWE's Corrigendum-03 Dt.30.11.2022</u></p> <p>1. The supplier/contractor shall be liable for all claims, loss or damages, expenses, loss of use, loss of production, or loss of profits or interest costs resulting from any acts and/or omissions of the Supplier and/or its Staff, relating to their activities in pursuance of the obligations detailed under this tender. The Supplier/contractor shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage except those arising out of deficiency in quality or efficiency of the product or the obligations arising from this tender. Provided that the exclusions mentioned in this clause shall not apply to any obligation of the Supplier/Contractor arising from Clause 41 of the tender i.e. to pay liquidated damages to the Employer. Clause 41 shall only be applicable in the event of supplier/contractor's failure to complete the work under the stipulated time period. If any additional claims/losses/damages arise on account of such delay shall be administered as per this clause.</p> <p>2. The liability of the Supplier to the Employer, whether under the Contract, in tort or otherwise, shall be proportional to the loss incurred by the Employer. Provided that, no limitation mentioned in the above clauses shall apply to any obligation of the Contractor in respect to Intellectual Property infringement as stated under clause 38.</p>	<p>Except in cases of criminal negligence or willful misconduct,</p> <p>(1) The supplier/contractor shall be liable for all claims, loss or damages, expenses, loss of use, loss of production, or loss of profits or interest costs resulting from any acts and/or omissions of the Supplier and/or its Staff, relating to their activities in pursuance of the obligations detailed under this tender.</p> <p>The Supplier/contractor shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage except those arising out of deficiency in quality or efficiency of the product or the obligations arising from this tender.</p> <p>Provided that the exclusions mentioned in this clause shall not apply to any obligation of the Supplier/Contractor arising from Clause 41 of the tender i.e. to pay liquidated damages to the Employer. Clause 41 shall only be applicable in the event of supplier/contractor's failure to complete the work under the stipulated time period. If any additional claims/losses/damages arise on account of such delay shall be administered as per this clause</p> <p>(2) The liability of the Supplier to the Employer, whether under the Contract, in tort or otherwise, shall be proportional to the loss incurred by the Employer and shall not exceed the total contract price.</p> <p>Provided that, no limitation mentioned in the above clauses shall apply to any obligation of the Contractor in respect to Intellectual Property infringement as stated under clause 38</p>

II. General Conditions of Contract (GCC)
(Existing Clause in NIT)

38. INDEMNIFICATION

The Supplier shall, at its own expense, defend and indemnify the owner against all third party claims of infringement of Intellectual Property Rights, including patent, trade mark, copyright, trade secret or industrial design rules arising from use of the products or any part thereof.

The Supplier shall expeditiously extinguish any such claims and shall have full rights to defend itself there from. The Owner shall not pay any compensation to a third party resulting from such infringement and the Supplier shall be fully responsible for the same, including all expenses at the court and legal fees.

The Owner will give notice to the Supplier of any such claim without delay, shall provide reasonable assistance to the Contractor in disposing of the claim, and shall at no time admit any liability for or express any intent to settle the claim. Final payment to the Supplier by the Owner will not be made while any such suit or claim remains unsettled.

38. INDEMNIFICATION

- (1) For the purpose of this clause the Supplier/Contractor shall mean and include the successful bidder, its agents, successors, nominees, and sub-contractors and the term Owner/Buyer/Employer shall mean and include NIWE, its employees, agents, nominees, assignees, successors.
- (2) The Supplier/Contractor shall be liable for any loss, damages, failures, performance issues, breakdowns, etc. caused to the Lidar, Buoy, Data, Documentation, or any other Equipment corresponding with this project arising due to any act/omission of the Supplier/Contractor and shall indemnify the Owner for any such loss / damage.
- (3) The Supplier/Contractor while performing its obligations shall protect, defend, indemnify and hold harmless the Owner against any illness, injuries, death, or any consequential losses that the owner may suffer.
- (4) The Supplier/Contractor shall, at its own expense, defend and indemnify the Owner against all third party claims of infringement of Intellectual Property Rights, including patent, trade mark, copyright, trade secret or industrial design rules arising from use of the products or any part thereof. The Supplier shall expeditiously extinguish any such claims and shall have full rights to defend itself there from.
- (5) The Owner shall not be liable to pay any compensation to a third party and the Supplier/Contractor shall be fully responsible for the same, including all expenses at the court and legal fees. The Owner will give notice to the Supplier of any such claim without delay, shall provide reasonable assistance to the Supplier/Contractor in disposing of the claim, and shall at no time admit any liability for or express any intent to settle the claim. Final payment to the Supplier/Contractor by the Owner will not be made while any such suit or claim remains unsettled.

15A Joint Venture/Consortium - Newly added clause vide NIWE's Corrigendum-03 Dt.30.11.2022

Clause 5 – Format of Consortium agreement (Annexure B)

5. Subject to the terms of this Agreement, the share of each Member of the Consortium in the issued equity share capital of the Project Company is/shall be in the following proportion:

Name	Percentage
Member 1	...
Member 2	...
Member n	...
Total	100%

Stands Deleted

<p>SCC 3.5 – Transportation, Mobilization and Deployment:</p> <p>Mobilization, Demobilization, and Transportation of all the components is in the scope of the contractor/vendor, including the transportation needed for LiDAR upgradation/validation/Risk based approach</p>	<p>Mobilization, Demobilization, and Transportation of all the components is in the scope of the contractor/vendor, including the transportation needed for LiDAR upgradation/validation/Risk based approach. For this purpose, the bidder should provide a letter of undertaking from the owner of the Vessel/Boat/Barge etc for providing the vehicle for transportation of equipment from the shore as and when required by the bidder. Undertaking shall be submitted by the bidder during technical evaluation.</p>
<p>SCC</p>	<p>The phrase “Upgradation/Refurbishment” and “Refurbishment/Upgradation” wherever existing in the NIT including BoQ may be read as “Upgradation”</p>
<p>SCC 3.1 - Buoy and Mooring Specification: (last para)</p> <p>In case of option a) and b) the supplier has to integrate the NIWE-owned LiDAR (ZEPHIR 300M) with the floating buoy and ensure accurate wind profile measurement. NIWE has already procured offshore LiDARs (ZEPHIR 300M model) from Zephir and the same needs to be deployed on the floating buoy. The needed conversion before deploying the same on the floating buoy, is the scope of the bidder. Once the upgradation/ refurbishment (hardware and software) of LiDAR is done by the Zephir/ZX LiDAR, a 3 years extended warranty for the LiDARs owned by NIWE from M/s Zephir/ZX LiDAR has to be obtained by the bidder post upgradation. Thereafter in case of any erroneous data/ LiDAR fails to work, the bidder's responsibility is to take up with Zephir to ensure the continuous measurement campaign.</p>	<p>In case of option a) and b) the supplier has to integrate the NIWE-owned LiDAR (ZEPHIR 300M) with the floating buoy and ensure accurate wind profile measurement. NIWE has already procured offshore LiDARs (ZEPHIR 300M model) from Zephir and the same needs to be deployed on the floating buoy. The needed conversion before deploying the same on the floating buoy, is the scope of the bidder. Once the upgradation (hardware and software) of LiDAR is done by the Zephir/ZX LiDAR, a 2 years warranty on the upgraded parts/components and comprehensive O&M for the remaining parts/components (during the measurement campaign) for the 4 Nos. of NIWE's owned LiDAR has to be obtained by the bidder. Thereafter in case of any erroneous data/ LiDAR fails to work, the bidder's responsibility is to take up with Zephir to ensure the continuous measurement campaign.</p>

This issues with the approval of Competent authority.

Administrative & Accounts officer