



**CENER**

CENTRO NACIONAL DE  
ENERGÍAS RENOVABLES

**TENDER SPECIFICATIONS**

**for a**

**CONTRACT FOR THE SUPPLY OF  
AN EXCITATION SYSTEM FOR TESTING FATIGUE  
OF WIND TURBINE BLADES**

**(CPV nº 31131100-4.- Actuators)**

## 1. LEGAL STATUS

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The contract for the design, supply, installation and start-up of an excitation system for testing fatigue of wind turbine blades shall be governed by (i) the present Tender Specifications for Contracting and its Exhibits and Annexes and, further, by the contract to be entered into with the successful tenderer; (ii) the Public Procurement Law of Navarre (*Ley Foral 2/2018*, of April 13, 2018) (hereinafter, the “**LFCP**”) and Spanish civil and commercial law, and (iii) any other relevant provisions as may be applicable from time to time.

The submission of a tender implies full acceptance of the present Tender Specifications for Contracting including all Exhibits and Annexes thereto that shall be binding for the tenderer. Any participant in the present contracting process agrees expressly to the institutional transparency policy regarding any data involved in the process’ tendering, awarding and execution phases until its final completion. The Spanish version of the tender specifications prevails over the English version.

## 2. CONTRACTING ENTITY

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The Contracting Entity is **Fundación CENER**, incorporated and registered with registration code number 115 with the Register of Foundations of the Department of the Presidency, Public Administration and Services, Interior and Justice (*Registro de Fundaciones del Departamento de Presidencia, Función Pública, Interior y Justicia*) (hereinafter, **CENER** or **National Centre for Renewable Energies**, in Spanish *Centro Nacional de Energías Renovables*.)

CENER is a research and technological national organization specialising in research and translational research, development and fostering of renewable energies in Spain. CENER adapts to the private businesses and public entities requirements and advances, promotes the technological development of renewable energies and combines research, development and technology transfer with the provision of technical support services.

CENER’s legal address and registered business place is located at Avenida Ciudad de la Innovación nr. 7 in 31621 Sarriguren (Navarre, Spain). If CENER, at its discretion, modifies this address, the new registered address shall be notified to any party that may be affected.

## 3. SUBJECT MATTER OF THE CONTRACT

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**3.1** The purpose of this document is to set forth the specifications and procedure for CENER to award a contract for the design, manufacturing, supply, and start-up of an excitation system for fatigue testing of wind turbine blades (hereinafter, the “**Equipment**”) that will be placed at CENER's facilities located at CENER Wind Turbine Test Laboratory - LEA (*Laboratorio de Ensayos de Aerogeneradores - LEA*), Polígono Rocaforte, Parcelas G2-H1, in Sangüesa (Navarre, Spain.)

**3.2.** The awarded tenderer shall provide any and all services and supply any and all materials, components, parts, instruments or elements, including those not expressly mentioned in the Technical Specifications (Exhibit nr. 1), that are necessary for the adequate compliance with the mentioned Technical Specifications and for the correct implementation of the contract. The Technical Specifications set forth in Exhibit nr. 1, are indicative of the expected works and quality and, therefore, may not be absolutely complete or accurate. In any event, the successful tenderer shall bear exclusive liability for implementing all activities necessary for the correct supply and operation of the Equipment. Compliance with the regulations and recommendations provided for in the technical specifications (Exhibit nr. 1), shall not exempt the awarded tenderer from his / her responsibilities and warranties, nor from the application of any other rule or regulation not expressly specified and which is enforceable by the legislation in force or the applicable common practice.

**3.3.** CENER will be the owner of all the elements and components that are part of the Equipment which is the subject of the present bidding.

#### **4. TYPE OF CONTRACT. CPV CODE**

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CENER and the successful tenderer shall enter into a supply contract. According to Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV), amended by Commission Regulation (EC) No 213/2008, the contract's CPV code is "CPV 31131100-4.- Actuators."

#### **5. CONTRACT ESTIMATED VALUE**

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**5.1.** The estimated value of the contract is **SIX HUNDRED THOUSAND EUROS (600.000-€)** (VAT not included), excluding optional items or elements. Tenderers shall either adjust the offers to the mentioned amount or reduce their offers' original price accordingly. **Any offer exceeding the indicated amount shall be inadmissible.**

**5.2.** The above mentioned amount shall include all costs and expenses incurred by the awarded tenderer and for the fulfilment of all its obligations under the contract, including without limitation, design, manufacturing, transport, start-up, warranty, staff training, and, furthermore, any applicable taxes, duties or customs tariffs that may be applicable, with the only exception of the Value Added Tax, VAT (in Spain, *IVA, Impuesto Sobre el Valor Añadido*) that shall be paid by CENER, as applicable.

**5.3. Tenders qualifying as "abnormally low" pursuant to section 18 herein below shall not be admitted.**

## 6. CONTRACT TERM

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6.1 The supply and start-up of the Equipment as set forth in the Tender Specifications and in the Technical Specifications shall be completed within a **maximum period of fifteen (15) months starting as of the effective date of the contract to be entered into between CENER and the awarded tenderer**, except in the event the successful tenderer had offered a shorter implementation period, which shall then be applicable. **In addition, the successful bidder shall supply and install the Equipment at CENER's premises within twelve (12) months from the date of signature of the contract**, unless the successful bidder has offered a shorter period, in which case the latter shall apply.

**6.2 THE CONTRACT'S IMPLEMENTATION LEAD TIMES AND DEADLINES SHALL BE CONSIDERED AS ESSENTIAL ELEMENTS OF THE CONTRACT.**

## 7. CONTRACT AWARD PROCEDURE

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The supply agreement shall be awarded by means of an **OPEN CALL PROCEDURE FOR AN ESTIMATED VALUE ABOVE THE EUROPEAN THRESHOLD**, pursuant to articles 72, 89 and 91 of LFCP, Public Procurement Law of Navarre.

## 8. CONTRACTING COMMITTEE

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In compliance with article 50 of LFCP, Public Procurement Law of Navarre, the present tender procedure shall be dealt with and informed of by the Contracting Committee, and CENER's Board of Directors shall be responsible for making the final decision. The Contracting Committee shall have the following members:

- One member from CENER's Finance Department
- One member, holding an advanced university degree in law from CENER's Legal Department
- One member from amongst CENER's technical staff

## 9. LEGAL STATUS AND CAPACITY TO CONTRACT

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9.1 Participation in this procurement procedure is open to all natural and legal persons, whether Spanish nationals or not, with full legal capacity and having sufficient economic and financial, and technical and professional capacity to implement the contract, and not being affected by any prohibition to contract by the end of the tender submission period.

Tenderers may participate in a joint offer, as set forth in article 13 of LFCP, Public Procurement Law of Navarre, provided they shall assume joint and several liability for the performance of the contract. Joint participation shall be evidenced by means of a document stating the participants' will to tender jointly, their respective quota shares (as a percentage), and designating a single leading representative appointed and authorised by the other partners via powers of attorney and duly empowered to exercise their rights and meet their obligations under the awarded contract until its termination, without prejudice to the joint powers for collections and payments the partners may also have.

**9.2** A tenderer must submit one tender only for the design, manufacture, and start-up of the Equipment. In the event a tender is submitted individually, such tenderer shall not be part of a successive joint tender and *vice versa*. Likewise, in the event an individual is part of a submitted joint tender, such individual shall not be part of a submitted joint tender with other third parties. For clarity, an economic operator can only participate once as a tenderer, whether as sole tenderer, as leader in a joint tender or as partner in a joint tender. **Infringement of the foregoing shall cause automatic rejection of all offers submitted where the same tenderer participates whether individually or jointly.**

## **10. ECONOMIC AND FINANCIAL CAPACITY**

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It is an essential **prerequisite** that the entity selected as the **successful bidder** of this tender provides evidence of being financially sound and able to implement the contract, in compliance with the terms and conditions set forth below.

Economic and financial solvency will be supported by means of a statement reporting the firm's overall turnover referred to any financial year amongst the last three available - depending either on the date on which the business was founded or its activities begun - to the extent the relevant overall turnover references are accessible, as set forth in article 16 of LFCP, Public Procurement Law of Navarre. The minimum level of economic and financial capacity that must be evidenced for at least one of the above mentioned relevant fiscal years is SEVEN HUNDRED AND FIFTY THOUSAND EUROS (750.000-€) (VAT not included).

For tenders submitted either by temporary joint ventures set up for this purpose or by tenderers acting jointly, the amounts indicated by each singular individual / entity shall be cumulative and their total aggregated amount must at least reach the required minimum amount indicated above.

In the event a tenderer relies on third parties to provide evidence of the economic and financial capacity of the awarded tenderer, they shall be deemed to act jointly and, if successfully awarded the contract, the tenderer and the referred third parties shall execute the contract jointly, being thus, jointly and severally liable for the contract's performance.

**Failure by the successful bidder to provide any of the documents described in this section within the period indicated and / or inadequate or insufficient evidence of the required economic and financial capacity conditions, will result in the exclusion of the bidder proposed in the first place, and the contract will not be awarded to him / her.** In this case, CENER will then award the contract to the bidder obtaining the second highest score, and so on, in a ranking order based on the score obtained by the bidders.

## **11. PROFESSIONAL AND / OR TECHNICAL CAPACITY**

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It is an essential **prerequisite** that the bidders participating in this tender provide evidence of being technically, operationally and / or professionally capable to implement the contract, in compliance with the terms and conditions set forth below.

The professional and / or technical capacity shall be shown, in accordance with article 17 of LFCP, Public Procurement Law of Navarre, by supporting evidence of having supplied and started-up, a total of at least, **THREE (3) ELECTRIC EXCITATION SYSTEMS FOR STRUCTURAL TESTING OF WIND TURBINE BLADES SIMILAR TO THE ONE DESCRIBED IN THE TECHNICAL SPECIFICATIONS (EXHIBIT Nr. 1)**, that must have been completed within the last three (3) years. The above mentioned electric Actuation Systems must function successfully and have been used for the certification process of a minimum of two (2) blades each; furthermore, the value of each Equipment must be an amount equal to or greater than SIX HUNDRED THOUSAND EUROS (600.000-€) (not including VAT).

For this purpose, tenderers must submit a report document listing the main contracts they carried out during the last three years, where the tenderer as a minimum designed, supplied and started-up three (3) Actuation Systems that must be similar or equivalent to the one described in the Technical Specifications (Exhibit nr. 1), and for an amount equal to or greater than SIX HUNDRED THOUSAND EUROS (600.000-€) (including VAT) each. The said amount must have been drawn up within the mentioned three (3) year period, without prejudice of the contract having a longer term. The listing report must include the amounts used, dates, and the public or private beneficiaries. For the purposes of validation, CENER may require the bidder to provide certificates issued or endorsed by the competent body when the recipient of the contracts is a public entity or agent; when the recipient is a private company, those details will be evidenced by means of a certificate issued by the latter or, in the absence of this certificate, by means of a statement by the company's officers accompanied by the relevant documents constituting proof of the implementation of the services rendered. This document shall be made in accordance with the sample model of Exhibit nr. 3.

For tenders submitted either by temporary joint ventures set up for this purpose or by jointly acting tenderers, the cases reported by each singular individual/entity shall be cumulative and must be considered as an aggregated whole for the purposes of meeting the above requirements.

**Failure to provide any of the documents described in this section within the period indicated and / or inadequate or insufficient evidence of the required technical, operational and / or professional capacity conditions, will result in the exclusion of the bidder concerned from this tender procedure.**

## **12. ADDITIONAL INFORMATION**

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Any party interested in the tender may request additional information on the Tender Specifications, Technical Specifications and / or any additional or supplementary documents in writing to the following email addresses:

- For legal matters: [amartinez@cener.com](mailto:amartinez@cener.com)
- For technical matters: [aoiz@cener.com](mailto:aoiz@cener.com)

Requests for additional information may be sent up to five (5) days before the deadline for the submission of tenders.

## **13. SUBMISSION OF OFFERS**

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The tender solicitation documents supporting the offer must be submitted exclusively through PLENA, Navarre Electronic Tendering Platform (in Spanish, *Plataforma de Licitación Electrónica de Navarra, PLENA*), featured on the call for tenders' section of Procurement Portal of Navarre (in Spanish, *Portal de Contratación de Navarra*) ([www.contrataciones.navarra.es](http://www.contrataciones.navarra.es)), in accordance with the following paragraphs.

Likewise, any communications, filings, actions and procedural requirements with any person involved in the present tender shall be made through PLENA.

The tender call notice shall set the deadline for the submission of tenders, which shall not be less than fifteen (15) days from the day following publication of the call notice for the tender at Navarre Procurement Portal (*Portal de Contratación de Navarra*.)

At the time of closing the offer submission by the tenderer, the system will generate a digital fingerprint - *cryptographic key code* - of the offer's content as its evidence filed and recorded. In the event of any problems\* while entering the offer at PLENA, if the digital fingerprint - *cryptographic key code* - is sent within the period for the submission of tenders to the contracting entity via electronic mail to the contact address indicated at Navarre Procurement Portal (*Portal de Contratación de Navarra*), an additional twenty four (24) hour period shall be granted for receiving the offer in full through PLENA platform and thus consider the submission as completed. Any offer application received beyond the deadline set in the tender call notice must comply with this section's requirements to be admitted.

*(\* In this respect, please bear in mind that the bigger the offer size (measured in megabytes, MB), the longer time it may take for the filing process to be completed. Other circumstances may also affect the offer electronic submission, such as failing upstream speed due to poor Internet connection, among others.)*

The time lag between date and time of the computer submitting the offer and the server of Government of Navarre (*Gobierno de Navarra*) must not exceed five (5) minutes.

The time reference used by the servers of the Government of Navarre (*Gobierno de Navarra*) is the computer Coordinated Universal Time (UTC), a time scale with an accuracy adjustment of plus minus one second (+- 1 sec.), used by official agencies and laboratories worldwide. In this tender procedure, UTC shall be the official time for electronic communications networks and services, where UTC providers are:

- Prime Time Provider: hora.roa.es (*Real Instituto y Observatorio de la Armada*: two servers based in San Fernando, Cádiz, Spain and a third one in Madrid, Spain)
  
- Secondary Time Providers:
  - o canon.inria.fr , INRIA, Paris, France
  - o i2t15.i2t.ehu.es , UPV-EHU

If at the time of opening the envelopes, a late submission is detected for which a digital fingerprint has been received, the offer submitted shall be admitted and considered effective and valid if the digital fingerprint is matching and the offer's reception date falls within the above mentioned extended twenty four (24) hour period granted.

If, on the contrary, the digital fingerprint does not match or the offer's reception date falls beyond the extended twenty four (24) hour period granted, the offer shall be rejected, and the relevant envelope shall not be opened.

In the event of an offer submitted after the deadline where the tenderer alleges late filings due to technical issues, a check shall be carried out to verify the occurrence of incidences and / or technical problems in the Platform at the time of submission. The concerned offer filed shall be admitted in the event of incidences or disruptions in the Platform normal service operation, only. The tenderer's lack of knowledge or occurrence of technical issues outside the Platform shall not excuse late offers submissions and shall imply no admission of any such offers.

## 14. OFFER PRESENTATION FORM

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From the tender call notice of the Procurement Portal of Navarre (*Portal de Contratación de Navarra*) any person interested in the tender can access the PLENA, Navarre Electronic Tendering Platform (*Portal de Licitación Electrónica de Navarra [PLENA]*) where they can download a desktop software application to prepare and file in their tender offer by means of an “electronic envelope”. This application shall be downloaded once only and shall be valid for any successive tender called by any entity subject to PLENA to be made therethrough.

Offers shall be encoded on the desktop of the tenderer through standard encryption mechanisms and tools and once filed in, will be stored at a secure report repository.

Offers must be signed electronically using a qualified electronic signature, officially issued by a Certification Service Provider, that must guarantee the sender’s identity and the integrity of the offer and of any related document, in compliance with Spanish Law 59/2003 of December 19, 2003, on electronic signature and public procurement by electronic means (in Spanish, *Ley 59/2003, de 19 de diciembre, de firma electrónica y demás disposiciones de contratación pública electrónica.*)

PLENA platform does not set any limit to the number of files that may be attached to an offer. The maximum size allowed for any individual file attached to the electronic offer is 50 megabytes, MB. The maximum total size allowed for the electronic offer, comprising all files attached thereto, is 100 megabytes, MB.

The formats PLENA platform accepts for the files attached to the offer submission are the major standard file formats (doc, docx, xls, xlsx, ppt, pptx, rtf, sxw, abw, pdf, jpg, bmp, tiff, tif, odt, ods, odp, odi, dwg, zip.), and, as an alternative option, other file formats may be packaged together in a compressed ZIP file.

In the event of discrepancies between the values entered in the fill-in forms displayed on the platform and the supporting documents attached as files to evidence fulfilment of the tender criteria, the documents and files attached electronically by the tenderer or by its duly appointed representative shall prevail. The offers’ submissions must be presented in a form in accordance with the model and structure set forth for this offer at PLENA platform.

The tenderers’ offers shall be presented following the model and structure laid down for this tender at PLENA, Navarre Electronic Tendering Platform, that will contain three (3) envelopes identified as:

- Envelope nr. 1: Administrative Documents
- Envelope nr. 2: Technical Offer
- Envelope nr. 3: Economic and Financial Offer

#### 14.1 **Envelope nr. 1 “Administrative Documents”**

Envelope nr. 1 shall contain the following documents:

1. **A tenderer Declaration on Honour, duly signed by a legal representative, in accordance with Exhibit nr. 2,** stating that it complies with the requirements to contract set forth in article 55 of Navarre Regional Law 2/2018 (*Ley Foral 2/2018.*) For joint tenders, all the parties involved must submit a Declaration on Honour each.
2. **A report document listing the main contracts for the supply of Equipment that must be equal or similar to the one described in the Technical Specifications (Exhibit nr. 1),** carried out during the last three years, where the tenderer, as a minimum, designed, manufactured, supplied and started-up a total of three (3) electric actuation systems for structural testing of wind turbine blades. The above three (3) Equipment must each function properly and have been used in the certification processes of at least two (2) blades each, and, moreover, must be for an amount equal to or greater than SIX HUNDRED THOUSAND EUROS (600.000-€) (not including VAT) each.
3. **In the event of Joint Arrangements or Temporary Consortiums (in Spanish, *Uniones Temporales de Empresas* or UTEs) or where two or more legal or natural persons participate jointly, a document stating their will to participate jointly,** their respective quota shares (expressed as a percentage) and the single representative designated and authorised by the other partners via powers of attorney and duly empowered to exercise their rights and meet their obligations under the contract until contract’s termination. The referred document must be signed by each of the joint participants and the designated representative.
4. In the event of the awarded contract being subcontracted, a **document describing the portion of the contract intended to be subcontracted and identifying the intended subcontractor(s).**

The conditions and / or circumstances referred to in the previous sections must be fulfilled on the final date for the submission of tenders and must still occur at the time of execution of the contract.

#### 14.2 **Envelope nr. 2 “Technical Offer”**

The Technical Offer shall include at least the following sections:

- A Technical Report including a thorough description of the technical specifications of the Equipment offered, that shall comply with the specifications set forth in the Technical Specifications (Exhibit nr. 1). The Technical Report shall be drawn up in accordance with the provisions set out in section 1.4.1 of Exhibit nr. 1.

- Planning of manufacturing, supply, installation, and start-up activities; including a schedule for the contract's performance and completion, with timelines and deadlines.
- Description of the warranty offered, that must specify the hours of operation of the Equipment covered and a description of the after-sales service, including delivery times for spare parts.

With respect to **improvements**, only the improvements specified in section 17.1 below shall be taken into consideration.

The Technical Report must fulfil all the Technical Specifications of this tender as set forth in Exhibit nr. 1 thereof. The bidder represents that he / she is aware that the mentioned Technical Specifications may not be absolutely complete or accurate, as they are only indicative of the expected works and quality for carrying out and completing the purpose of the contract. In any event, the successful tenderer shall bear exclusive liability for carrying out all activities and works adequate and necessary for the correct supply and start-up of the Equipment.

**CENER may reject any offer not meeting all the technical specifications laid down in Exhibit nr. 1 (Technical Specifications), (but excluding Improvements), which are considered the essential minimum requirements to be fulfilled by the Equipment. No economic information of any kind may be included in Envelope nr. 2**

### **14.3 Envelope nr. 3 “Economic and Financial Offer”**

Envelope nr. 3 shall contain the following documents:

- 1. Economic and Financial Offer:** The tenderer shall include in this envelope the tenderer's financial offer, drawn up in accordance with the following terms:
  - The tenderer shall include in this envelope its financial offer, on a **form conforming with the offer sample model attached hereinunder as Exhibit nr. 4.**
  - The financial offer **shall not exceed the amount indicated in section 5** of this Tender Specifications.
  - The amount indicated in the economic & financial offer shall be considered as not inclusive of the Value Added Tax, VAT.
  - In case of discrepancy regarding the amounts indicated in the economic and financial offer expressed both in words and figures, the amounts expressed in words shall prevail.

**Abnormally low tenders shall be regulated pursuant to section 18 of this Tender Specifications.**

2. **Ethical Standards and Social Responsibility Criteria:** The following measures shall be positively evaluated:

- **Plan for Reconciliation of the Personal, Family and Professional Life:** For the design and adoption of measures promoting a better balance between personal, professional, and family life, applicable to the staff of the tenderer who will engage in the performance of the contract.

For this purpose, the plan projected will be submitted providing a description of the specific measures: improvement or extension of the leaves of absences, work breaks for family duties and / or any equivalent figures established by current legal regulations; flexibility and / or adjustment of working hours, or working schedules, or teleworking systems; reconciliation support services, or others.

- **Environmental Management and Protection Criteria:** For the design, adoption and application of measures relating to the protection of the environment during the performance of the works subject to this bid.

For this purpose, the plan projected will be submitted providing a description of the specific measures: energy recovery measures for processes; use of more energy efficient processes; energy savings in equipment; energy savings in installations; energy savings in lighting or others; and / or any other documents, certificates and / or credentials that can demonstrate justified compliance with the matters indicated in this paragraph.

**Any offer that includes any information concerning quantifiable criteria in Envelope nr. 1 or in Envelope nr. 2 which, in accordance with the present regulating Tender Specifications should have been included in Envelope nr. 3, shall be rejected.**

## **15. PERIOD OF VALIDITY OF THE TENDERS**

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The offers entered by the tenderers shall have a period of validity of six (6) months from the closing date for submission of tenders.

In the event CENER had not awarded the contract after the above mentioned period of validity of the offers, tenderers shall be free to withdraw their tenders with no penalty.

## **16. OPENING OF TENDERS AND AWARD PROPOSAL**

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### **16.1. Opening of Envelope nr. 1 “Administrative Documents” and Admission of Tenderers**

After the closing date for the submission of tenders, the administrative documents submitted by tenderers in the Envelope nr. 1 (“Administrative Documents”) shall be evaluated in an internal act.

In the event the documents provided are incomplete, inaccurate, unclear or, in general, raise any doubt, the tenderer concerned shall be required to complete or remedy the shortcomings observed in the documents, within a minimum period of five (5) calendar days - which deadline shall be indicated in the notice - from the date of the remedy requirement notice. Such requirement notice shall be addressed electronically and sent via PLENA’s platform notices system.

### **16.2. Opening of Envelope nr. 2 “Technical Offer” and Evaluation**

After having evaluated the “Administrative Documents”, the Contracting Committee, acting internally, shall open the Envelope nr. 2, “Technical Offer”, of the already admitted tenders and proceed to their evaluation in accordance with the duly weighted award criteria laid down herein.

At its discretion, CENER may request all explanations, clarifications or items (i.e., documents, reports) of supplementary information relating to the contract’s subject matter it may deem necessary before making the final award decision. **However, these explanations, clarifications or items of supplementary information submitted by tenderers upon CENER’s request shall neither change nor alter the essential or key elements of the offer submitted nor broaden, improve nor expand it.**

**CENER may reject any tender technically inadequate or not ensuring satisfactory performance of the contract (i.e., in the event of a tender that does not meet the quality specifications and / or the minimum requirements set forth in the Technical Specifications under Exhibit nr. 1.) (excluding Improvements)**

### **16.3. Opening of Envelope nr. 3 “Economic and Financial Offer”**

At the date and time indicated on the tender call notice, which must not be less than three (3) days from its publication at the Procurement Portal of Navarre (*Portal de Contratación de Navarra*), the Contracting Committee shall open the Economic and Financial Offer. The result of the evaluation of the documents submitted by the tenderers shall be published on the Platform afterwards. The mentioned result notice shall detail the tendering entities or persons admitted; those not admitted and the reasons for such non admissions; and the Contracting Committee’s evaluation of the technical offers and the economic and financial offers.

## 17. AWARDING CRITERIA

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The contract awarding criteria applicable are as follows:

### 17.1. Assessment of Envelope nr. 2 “Technical Offer”: up to 40 points

CENER may reject any tender technically inadequate or not ensuring satisfactory performance of the contract (i.e., in the event of a tender that does not meet the quality specifications and / or the minimum requirements set forth in the Technical Specifications under Exhibit nr. 1.) (excluding improvements).

Allocation of points shall be done in accordance with the following terms:

<b>1.- TECHNICAL SPECIFICATIONS</b>	<b>40 points</b>
1.1.- Assessment of the Technical Report, which must include the technical characteristics set forth in the Technical Specifications ( <u>Exhibit nr. 1</u> ), which wording must be aligned with section 1.4 therein.	Up to 25 points
1.2.- Planning of design, manufacturing, supply, installation and start-up activities; with indication of the execution terms, lead times and chronogram.	Up to 7 points
1.2.- Guarantee, technical assistance, and terms and conditions of after-sales services support.	Up to 4 points
<b>2.- IMPROVEMENTS</b>	
Reduction of the delivery period set forth in clause 6.1 hereinabove	Up to 4 points

### 17.2. Assessment of Envelope nr. 3 “Economic and Financial Offer”: Up to 60 points, according to the following criteria

#### 1. Economic and Financial Offer: Up to 50 points

**Under no circumstances will the Economic and Financial Offer’s amount exceed the amount indicated in section 5 “CONTRACT ESTIMATED VALUE”.** Allocation of points shall be done in accordance with the following formula:

$$\text{Points} = \frac{\text{Maximum Price} - [(\text{Financial Offer} - \text{Lowest Financial Offer}) * 2]}{\text{Maximum Price}} \times 50$$

2. **Ethical and Social Responsibility criteria: Up to 10 points.** Allocation of the 10 points shall be implemented according to the breakdown below:

<ul style="list-style-type: none"> <li>• <b><u>Plan for Reconciliation of the Personal, Family and Professional Life:</u></b></li> </ul> <p><u>For the design and adoption of measures promoting a better balance between personal, professional, and family life, applicable to the staff of the tenderer who will engage in the performance of the contract.</u></p> <p>For this purpose, the implemented plan will be submitted providing a description of the specific measures: improvement or extension of the leaves of absences, work breaks for family duties and / or any equivalent figures established by current legal regulations; flexibility and / or adjustment of working hours, or working schedules, or teleworking systems; reconciliation support services, or others.</p>	<p>Up to 5 points</p>
<ul style="list-style-type: none"> <li>• <b><u>Environmental Management and Protection Criteria:</u></b></li> </ul> <p><u>For the design, adoption and application of measures relating to the protection of the environment during the performance of the works subject to this bid: Energy saving and efficiency measures.</u></p> <p>For this purpose, the implemented plan will be submitted providing a description of the specific measures: energy recovery measures for processes; use of more energy efficient processes; energy savings in equipment; energy savings in installations; energy savings in lighting or others; and / or any other documents, certificates and / or credentials that can demonstrate justified compliance with the above matters.</p>	<p>Up to 5 points</p>

**The evaluations made for each criterium shall be rounded off to two (2) decimal places. The offers exceeding the maximum price indicated in section 5, “ESTIMATED VALUE”, and those qualifying as ‘abnormally low’ pursuant to section 18 below, “ABNORMALLY LOW OFFER”, shall be rejected.**

The contract for the supply and start-up of the Equipment shall be awarded to the offer scoring the highest number of points, provided that it meets the financial and professional qualification criteria required in these bidding documents.

## 18. ABNORMALLY LOW OFFER

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In any case, **an offer shall be deemed as abnormally low when the offer's price / amount is lower than twenty (20) percentage points below the contract's estimated value** indicated in section 5 above.

Abnormally low bids will be regulated pursuant to Article 98 of the LFCP, which provides that if an abnormally low bid is submitted that supports the presumption that it may not be satisfactorily fulfilled, the tenderer concerned shall be notified of this circumstance, before rejecting his / her application, so that he / she may present the justification he / she deems appropriate to defend the feasibility of the submitted bid, within a period of five (5) days.

The Contracting Committee shall evaluate the information provided by the tenderer and may only reject the bid if the documents provided do not satisfactorily support the price and / or costs proposed.

The evaluation referred to in the previous paragraph shall include the technical advice from qualified individuals whose knowledge and / or expertise is deemed adequate to assess the rationale set forth in the concerned bidder's justification before rejecting his / her application,

Bids shall be rejected in any case if they are found to be abnormally low because: they breach the subcontracting regulations or do not comply with applicable environmental, social, or labour, national or international obligations, including non compliance with applicable sectoral collective bargaining agreements, pursuant to the provisions of the LFCP.

## 19. AWARD OF THE CONTRACT

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After opening the economic and financial offers, and within a maximum period of one (1) month, CENER shall award the contract for the supply of the Equipment to the tenderer having scored the highest number of points.

In case of a tie between two or more tenders, it shall be resolved according to the procedure described in article 99 of LFCP (Public Procurement Law of Navarre).

**Without prejudice to the above, CENER is allowed to decide that no award shall be made under the tendering procedure, if it deems that the procedure has been unsuccessful, namely where no suitable tender has been received and / or in any other cases as provided by applicable laws. Furthermore, CENER may desist from awarding the contract and / or abandon the tender procedure pursuant to the terms of art. 103 of LFCP (Public Procurement Law of Navarre).**

Following the adoption of the awarding decision, CENER shall inform tenderers in writing of its decision.

## 20. SUBMISSION OF SUPPORTING DOCUMENTS

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Within a maximum period of seven (7) days from the date in which CENER notifies its awarding decision to the successful tenderer, the intended to-be awarded tenderer shall submit the following documents, or their equivalent for foreign legal persons, through PLENA's platform site:

(i) **Documents evidencing the successful tenderer's legal and regulatory capacity**, in accordance with the terms set forth as follows:

- If the tenderer is a natural person, by providing a copy of the tenderer's identity card (*DNI* in Spain) or an equivalent legal instrument, certified by a notary or by a governmental bureau.
- If the tenderer is a legal person, a copy certified by a notary or by a governmental bureau of the tenderer's certificate of incorporation (and, where applicable, of any other documents modifying its bylaws, the administration board structure, or any members of the latter) duly registered with the public Register of Businesses (*Registro Mercantil*, in Spain) where such registration is mandatory by law. In the event registration is not mandatory, tenderer shall provide the certificate of incorporation, memorandum of association or a similar incorporation instrument, the company by-laws or articles of association or documents that lay down the entity's governing rules and any instrument incorporating changes or modifications thereof, and, as the case may be, proof of registration at the appropriate register.
- If the tenderer is a non Spanish legal person of a Member State of the European Union or European Economic Area where registration with a trade or business register is mandatory by its applicable national law, the evidence of registration, *affidavit* or similar official deposition or a certificate as provided for in Annexes IX A, IX B or IX C of the DIRECTIVE 2004/18/EC of the European Parliament and of the Council of 31 March 2004 *on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts*, under the specific requirements of the law of the Member State in which they are established.
- If the tenderer is a legal person of a non Member State of the European Union or European Economic Area, besides proving it has full legal capacity and sufficient economic and financial, and technical and professional capacity under the law of its Member State of origin, it must also provide evidence by means of a statement of the Spanish diplomatic mission in its country, attached together with the submitted documents, that the tenderer's country of origin allows Spanish businesses to take part in tendering procedures on the conditions laid down in this agreement and / or in a substantially similar manner. This reciprocity report will not be necessary for entities

from countries signatories of the Agreement on Government Procurement of the World Trade Organization (the *WTO GPA*). Legal entities registered with the Voluntary Register of Tenderers of Navarre (*Registro Voluntario de Licitadores de la Comunidad Foral de Navarra*) shall be exempted from submitting the above mentioned documents if they provide a registration certification form from the mentioned Voluntary Register of Tenderers of Navarre together with the entity's legal representative declaration on honour representing the certificate effectiveness at the time of submission.

- A copy, certified by a notary public office or by a governmental bureau, of the **notarised power of attorney** (registered at the Business Register if such registration is mandatory for the legal entity) **of the offer's signatory**, or equivalent legal document granting him / her sufficient powers as a duly authorized proxy.
- In case of a joint tender, the documents described above shall be submitted by each joint participant.

(ii) **Documents evidencing the tenderer's economic and financial competence, in accordance with section 10 of these Tender Specifications:**

- Statement reporting the firm's overall turnover referred to any financial year amongst the last three available (depending either on the date on which the business was founded or its activities begun). The minimum level of economic and financial capacity that must be evidenced for at least one of the above mentioned relevant fiscal years is SEVEN HUNDRED AND FIFTY THOUSAND EUROS (750.000-€) (VAT not included).

(iii) In the event the economic and financial competence of the tenderer proposed to be awarded is based on the economic and financial competence of third parties, the tenderer must then provide **supporting evidence of a binding agreement by means of which both the tenderer and the mentioned third parties undertake to execute the contract jointly, and, likewise, accept to be both jointly and severally liable for the contract's performance**. Furthermore, the economic and financial competence of such third party must also be justified, by providing **the Documents evidencing its professional and / or technical competence, in accordance with section 11 of these Tender Specifications and the Documents evidencing its economic and financial competence, in accordance with section 10 of these Tender Specifications.**

(iv) **Documents evidencing the tenderer's compliance with regulatory and taxation obligations**, in accordance with the following terms:

- Last receipt of B&O tax (*Impuesto sobre Actividades Económicas*, in Spain) or its equivalent in the relevant country; declaration on honour of being registered as a standing economic operator; and declaration on honour of exemption of payment pursuant to Spanish Law 51/2002, of December 27, 2002, on modification of Local Tax Offices, where applicable.
  - Certificates issued by the competent Tax Offices where tenderer is taxable, evidencing that the tenderer has fulfilled all taxes and contributions for which is liable regarding Personal Income Tax, or Corporate Tax, as the case may be, and Value Added Tax, VAT, or any Declaration on Honour of being exempted of the tax payment that may be applicable, if any.
- (v) **Official statement issued by the competent Social Security agency** (Certificación de la *Tesorería General de la Seguridad Social*, in Spain) **representing the tenderer’s compliance with social security contributions.**
- (vi) **Certificate issued by a reputable insurance carrier** representing that (i) the tenderer has taken out liability insurance that (ii) covers indemnities for the minimum amount referred to in section 10 hereinabove and that (iii) is in force and effective; and, in addition, a bank receipt or proof of payment supporting evidence of payment of the insurance policy. The documentation provided must expressly indicate the type of coverage and the amount insured.
- (vii) For subcontracting, a legally binding document entered into between tenderer and subcontractor evidencing the subcontractor’s undertaking to perform the subcontracted works and tasks under the contract’s terms and conditions, if the tenderer is successfully awarded the contract.
- (viii) For foreign natural or legal persons, **a statement of submission to the exclusive jurisdiction of the Courts and Tribunals of the city of Pamplona, Navarre, Spain for the resolution of any litigious matter** arising of or deriving from the contract or related directly or indirectly thereto (for the avoidance of doubt, litigious matter includes but is not limited to, any conflict, discrepancy, controversy or claim of any nature, concerning the formation, validity, construction and performance of the obligations of the contract or the bilateral nature of the contract’s services and delivery, or regarding the contract’s breach, ineffectiveness, defects in the contract and their consequences, nullity, cancellation, termination, withdrawal or other) and expressly waiving any other jurisdiction that may be available to the parties in the contract.
- (ix) If the successful tenderer is a Joint Arrangement or Temporary Consortium (in Spanish *Unión Temporal de Empresa* or “*UTES*”), the certificate of incorporation or memorandum of association of the Joint Arrangement or Temporary Consortium.

- (x) In the event the tenderer relies on third parties to support the tenderer's economic and financial capacity, tenderer must provide a binding document evidencing the existence of a formal binding agreement with the mentioned third parties, where the later undertake to enter into the contract for the supply of the Equipment jointly with the tenderer.

In case of a joint tender, the documentary evidence referred to in the above sections (i) to (vii) inclusive shall be required for each participating person.

Failure by the successful bidder to provide any of the documents described in this section within the period indicated and / or inadequate or insufficient evidence of the required economic and financial capacity conditions, will result in the exclusion of the bidder proposed in the first place, and the contract will not be awarded to him / her. Where appropriate, CENER will award the contract for the design, manufacture, delivery and start-up of the Equipment to the bidder obtaining the second highest score, and so on, in a ranking order based on the score obtained by the bidders.

## **21. CONTRACT EXECUTION**

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In accordance with article 101 of the LFCP (Public Procurement Law of Navarre), after the award is notified to the successful tenderer, the award decision shall not effective until the end of a standstill period of ten (10) calendar days from the award notice dispatch date. In the event that only one bid has been submitted, the ten (10) calendar days suspension period provided for in this section shall not apply, and the procedure may continue.

The contract shall be executed within five (5) calendar days following termination of the ten (10) calendar day period mentioned in the previous paragraph.

Should any of the parties to the contract for the supply of Equipment request the contract's formalization by means of a notary public officer, the other party shall cooperate to fulfil such request, and the requesting party shall bear all expenses and costs related to the notarization.

## **22. ACCEPTANCE OF THE EQUIPMENT**

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During the weeks following the execution of the Contract, CENER shall submit for approval by the successful bidder, an acceptance protocol including the validation plan, i.e., the set of tests, verifications and checks to be carried out to assess the suitability of the supply to the required technical specifications. The successful bidder shall introduce the necessary modifications to the acceptance protocol. In any case, the acceptance protocol must be agreed and accepted by both parties.

Once the Equipment has been started up at CENER's facilities, the tests, verifications, checks, and inspections, laid down in the acceptance protocol shall be carried out to supervise and confirm the proper and satisfactory operation of the Equipment, upon which confirmation, a Bill of Reception will be issued that must bear the signature of both parties.

### **23. WARRANTY PERIOD**

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Without prejudice to other liabilities and / or guarantees that may be applicable under the contract to be entered into and / or the mandatory regulations and laws, the warranty period shall start as of the date of acceptance contemplated in section 22 above and shall extend to this effect, for a period of twenty four (24) months, or up to four thousand three hundred and ninety two (4,392) operating hours of the Equipment, whichever occurs first, except in the event the awarded tenderer's offer had provided for a longer warranty period, which shall then be applicable. The warranty shall cover replacement of, repair or updating on any part or component delivered, at CENER's facilities.

During the warranty period, the awarded party shall repair, replace or remedy any deficiencies, failures, faults, malfunctioning or equivalent found during the mentioned warranty period, except for those deficiencies and failures caused by incorrect use. Likewise, the free supply and installation of spare parts shall also be guaranteed for the warranty periods indicated above, unless the successful bidder has offered a longer period, in which case the latter shall apply.

If during the warranty period CENER deems that as a result of the deficiencies, failures, faults or malfunctioning found, the Equipment, as a whole or in part, is not fit for its intended purpose, CENER may then reject the relevant good or goods before expiration of the warranty period and shall not be obliged to pay the Equipment's price that will be replaced for a fit and suitable one.

### **24. CONTRACT MODIFICATIONS AND ALTERATIONS**

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CENER shall have the right to modify or alter the contract after its execution under the circumstances provided for in articles 114 et seq. of the LFCP (Public Procurement Law of Navarre).

### **25. BILLING AND PAYMENT TERMS AND CONDITIONS**

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The awarded tenderer will invoice CENER for the supply of the Equipment according to the following terms and conditions:

- Thirty per cent (30%) of the price will be invoiced on the date of the contract's execution, and upon delivery of a bank guarantee payable on first demand for a thirty per cent (30%) of the contract's price (including VAT), with maturity on the expiry date of the Bill of Reception set forth in section 22 above. This bank guarantee shall be issued by a first rate banking institution and expressly waive order, division and *excussio* or discussion. The referred bank guarantee is to

be drawn up in accordance with the model set out in Exhibit nr. 5 of the present Tender Specifications. CENER will pay this invoice upon reception of the above mentioned bank guarantee.

- Thirty per cent (30%) of the price will be invoiced upon reception of the Equipment at CENER's facilities. CENER will pay this invoice within a period of sixty (60) days from the invoice reception.
- The remaining forty per cent (40%) of the price will be invoiced on the execution date of the Equipment Reception Bill described in section 22 above, and upon issuance of a bank guarantee payable on first demand for a ten per cent (10%) of the contract's price (including VAT), with maturity one (1) month after the expiry date of the warranty period. This bank guarantee shall be issued by a first rate banking institution and expressly waive order, division and *excussio* or discussion and will be drawn up in accordance with the model set out in Exhibit nr. 5 of the present Tender Specifications. Upon signature of the Bill of Reception, the first bank guarantee of thirty per cent (30%) will be returned to the successful bidder, who will be released therefrom. CENER will pay the invoice contemplated in this paragraph within a period of sixty (60) days from the invoice reception.

The bank guarantee shall ensure compliance with all the obligations of the successful bidder, arising or deriving from this bidding, and will also be applied for compensation for damages and payment of penalties, where applicable.

## **26. RISK AND RESPONSIBILITY**

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The contract supply shall be carried out by the awarded tenderer at its own expense and risk. Under no circumstances the awarded tenderer may request an increase to the contract's price, revision thereof or any modification to the contract terms, even in case of errors or omissions.

In particular, and by way of example only, the awarded tenderer shall:

- (i) Carry out all the works and activities necessary to fulfil the contract.
- (ii) Obtain all licences, authorizations and permits required to meet the terms and conditions set out in the contract.
- (iii) Bear all costs, charges and expenses arising from the contract and the performance of any action related thereto.
- (iv) Implement any and all actions required to ensure and achieve the proper design, manufacture and start-up of the Equipment subject matter of this tender, even including actions that have not been expressly provided for in the present Tender Specifications.

Furthermore, the awarded tenderer shall indemnify any third party for the damages and or losses it may suffer as a consequence of the awarded tenderer's actions and shall indemnify and hold CENER harmless from any and all liabilities resulting from any third party claims in connection thereto.

## **27. SUBCONTRACTING**

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Successive subcontracting of all or part of the subject matter of the contract is not permitted, except with the prior written consent of CENER. In this case, the awarded tenderer shall describe in the related offer the part of the contract and tasks intended to be subcontracted to third parties and the identity of the proposed subcontractor(s).

Subcontracting of any tasks and activities according to the terms specified in the tenderer's submitted offer to the subcontractor(s) identified therein shall be permitted. Apart from those cases, other subcontracts may be accepted should circumstances so warrant, provided such subcontracting is duly justified and has obtained CENER's prior authorization. In any case, the awarded tenderer shall remain fully liable *vis a vis* CENER for any acts or omissions of the tenderer's subcontractor(s).

## **28. PRICE REVISION**

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No price revision is allowed for the works and activities under the contract and the successful bidder shall carry these out in accordance with the price shown in its economic offer.

## **29. PERSONNEL. HUMAN RESOURCES**

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The awarded tenderer shall provide appropriate and enough staff able to carry out the contract that shall be fully responsible for the successful delivery of the contract for CENER.

Any personnel implementing the services and activities under the contract shall be fully administered by and accountable to tenderer, meaning that no employment, commercial, agency or any kind of labour relationship exists between the staff of the awarded party and CENER.

In the event of the awarded tenderer's personnel being sent to CENER's facilities, such visiting personnel shall comply at all times with any and all safety requirements and regulatory standards applicable in the premises.

If the awarded tenderer is a legal person, it shall designate a contract manager who shall be responsible for ensuring the satisfactory fulfilment of the awarded contract and that shall act as a contact person and liaise with CENER.

### **30. INTELLECTUAL PROPERTY AND PROPRIETARY RIGHTS**

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Any invention, intellectual creation, software, know-how, document, design, plans or any other type of information or documentation of an intellectual, technical or technological nature, whether or not protectable under the intellectual property and proprietary regulations, deriving from or arising as a consequence of the execution of the contract subject matter of this tender, shall be and remain the sole and exclusive property of CENER, with neither time restrictions or territorial limitations, from the time of its conception, reduction to practice or creation, and no further action will be required for the recognition of CENER's ownership and proprietary rights.

The awarded party must obtain the necessary licenses, authorizations and permits from the owners of any intellectual property and any other proprietary rights for the use of the materials, supplies, procedures, software, and equipment covered by this tender, and shall bear all costs and expenses related thereto.

The awarded tenderer shall not infringe any intellectual property rights of any third party and / or any other proprietary rights when providing the services and / or supplies subject to the tender contract and shall be fully liable for any such infringement.

To this end, the awarded tenderer undertakes to defend, save, and hold CENER harmless from and against any third party's claims and liabilities, whether in or out of court, which arise out of or are related to the awarded party's infringement of any intellectual property rights and / or any other proprietary rights when providing the services and / or supplies subject to the tender contract.

Therefore, the awarded tenderer shall defend, indemnify, and hold CENER harmless from and against any and all actions, costs, claims, losses, expenses and / or damages, related to the awarded company's alleged infringement of any intellectual property rights and / or any other proprietary rights when providing the services and / or supplies subject to the tender contract. Furthermore, in this event the awarded tenderer undertakes to cooperate and provide CENER with full assistance and support and shall bear all costs and expenses incurred by CENER related to CENER's defence against any such third party claims.

In the event of adoption of interim measures (equivalent to "medidas cautelares" in Spain) by way of interlocutory procedures, against the alleged infringement of a third party's intellectual property rights and / or any other proprietary rights, that imply preventing CENER from the use of goods, equipment, materials or other supplies that are the subject matter of the contract, the awarded tenderer shall procure CENER suitable replacement of the components or elements that are the object of the dispute and shall assume the full cost and expenses derived from said replacement.

### **31. ENVIRONMENTAL AND GENDER EQUALITY REQUIREMENTS FOR THE PERFORMANCE OF THE CONTRACT**

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During the performance of the contract, the awarded tenderer must comply with all obligations applicable under the law, regulations and agreements on taxes, labour duties and social security contributions, environmental protection, employment protection, gender equality and equal opportunities measures, measures against discrimination based on sex and sexual harassment, labour conditions, occupational health and safety obligations and other provisions with regards to measures for labour integration of the disabled people or obligations to recruit a certain percentage of people with disabilities, all of the above in accordance with the applicable law and, specifically, with the latest applicable collective bargaining agreement (equivalent to “*Convenio Colectivo*” in Spain) – and with the most reduced scope of application - within the industry field.

During the performance of the contract, the awarded tenderer must strictly comply with its liabilities as an employer and with all obligations under applicable labour and employment laws and regulations, including obligations on occupational safety and health and on workers protection; and, with social security and tax contributions, holding CENER harmless from and against any liabilities that may result from the tenderer’s non compliance of such obligations.

The awarded tenderer must strictly comply, as a minimum, with the worker’s wages and salary terms and conditions in accordance with the applicable sectoral collective bargaining agreement (in Spanish, “*Convenio Colectivo*”), shall have the minimum workforce and guaranteed working days as may be applicable, and grant any absence/leave entitlements that may apply.

The awarded tenderer’s financial offer shall be adequate for the tenderer to bear the costs resulting from applying, as a minimum, the relevant collective bargaining agreement for the industry field. Furthermore, under no circumstances the contemplated wages may be less than the price per hour, plus the *bonus* per hour pursuant to the applicable industry collective bargaining agreement (equivalent to “*mejoras por Convenio*” in Spain) where applicable, plus the Social Security charges.

During the performance of the contract, the awarded tenderer shall implement at its own costs and to the maximum extent practicable all necessary actions for the recovery and re-use of wrapping and packaging, products and waste collection and recycling and, also for the supply of products of a greater energy efficiency.

The following specific performance conditions shall be applicable:

- 1.- The awarded tenderer must have an occupational risk prevention service (own, joint, or external) and a health and safety plan in force and operation, all in accordance with current regulations, evidenced by means of a certificate issued by the person in charge of the mentioned service.

2.- The awarded tenderer must use gender-inclusive, non-sexist, non-racist language in all documents and materials generated as a result of the performance of the contract, and support values promoting equality between men and women, non-stereotyped gender roles and shared responsibility of men and women as care providers.

During the term of the contract, the awarded tenderer shall be able to provide evidence of compliance of the above indicated specific performance conditions, by means of the appropriated certificates, statements, and representations, as appropriate.

### **32. DELAYS IN EXECUTION**

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In the event that, for reasons attributable to the successful bidder or his / her subcontractors, he / she does not comply with the maximum delivery and start-up deadline indicated in his / her offer, the bidder then shall pay to CENER a penalty of ONE THOUSAND EUROS (1.000.-€) per each week of delay.

The penalty provided for in the previous paragraph will be applicable, without prejudice to CENER's right to terminate the contract due to failure to comply by the bidder and / or to request appropriate compensation for all the damages and losses that the above mentioned delay may have caused, all of which shall be accumulative to the penalty referred to in the previous paragraph.

The amount of the penalty indicated in the first paragraph of this section will be deducted from the relevant invoices, and the bidder's warranty will, where necessary, be applied to ensure the payment of the penalty, eventually.

### **33. TERMINATION**

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The contract may be terminated in the cases provided for in the LFCP, Public Procurement Law of Navarre, on the causes set forth in the present Tender Specifications, on those causes agreed upon by the parties and on any other causes for termination legally admitted by law. In particular, the contract may be terminated:

- (i) By mutual agreement between CENER and the awarded party.
- (ii) By breach by the awarded party of its obligations under the contract.
- (iii) By the awarded party's filing for bankruptcy or by being subject to insolvency proceedings.
- (iv) By the awarded party's failure to comply with the delivery dates and deadlines indicated in the Tender Specifications.
- (v) By the awarded party's being under an exclusion event provided for in the LFCP, Public Procurement Law of Navarre (*Ley Foral 2/2018*, of April 13, 2018) during the term of the contract.

Under any circumstance, in any event of breach or failure to comply by the awarded tenderer, it shall be obliged to pay to CENER: (i) the corresponding compensation for all damages and losses incurred in as a result of such breach, and (ii) the penalties that may have been provided for such breaches or failure to comply events.

#### **34. SUBMISSION TO JURISDICTION**

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Submission of an offer to the present tender procedure implies tenderer's submission to the jurisdiction of the courts and tribunals of the city of Pamplona (Navarre, Spain) for any claims or actions that may arise in connection whether with the tender procedure or with the awarded contract.

#### **35. DATA PROTECTION**

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In compliance with current legislation on Personal Data Protection, CENER informs that the personal data that the participant tenderers may provide CENER as a consequence of the offer submission requirements or provided at a later date in connection with the award and subsequent performance of the contract, will be used exclusively for the purposes of managing the tender procedure and the contract that may be awarded as a result thereof, where appropriate. Such data processing is based on the existence of a legitimate interest derived from the relationship between the bidders and CENER and their need to contact and interact with each other, thus guaranteeing their ability to act within the framework of the present bidding procedure. No data will be provided, nor will be communicated to third parties unless with respect to the data that are necessary for the fulfilment of legal obligations. The owners of the personal data provided within the present tender procedure, may exercise the rights of access, rectification, cancellation, deletion, opposition, limitation of data management and processing and data portability and are also entitled not to be the subject of automated and / or individual decisions; the data owners may exercise these rights by means of a written notice addressed to [protecciondatos@cener.com](mailto:protecciondatos@cener.com), accompanied by a copy of their personal identification card (in Spanish, *DNI*) or foreign equivalent. In addition, they can file a complaint with the Spanish Data Protection Agency (in Spanish, *Agencia Española de Protección de Datos – AEPD*) if they consider that the processing and treatment of personal data does not comply with the law. The personal data will be kept during the bidding process, and during the term of the contract, where applicable, and in order to address any liabilities that might arise therefrom.

#### **36. CONFIDENTIALITY**

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The successful tenderer together with any and all tenderers participating in this tender procedure shall be strictly subject to confidentiality obligations, that are qualified as of essential in this procedure. Tenderers shall keep confidential any information and data that they may have access to as a result of the execution or performance of the contract and undertake to be bound by the obligations of this section regarding confidentiality and professional secrecy, being subject to keep strictly confidential and undisclosed all data, information or report of a financial, technical or technological nature, the “know-how”, R&D researches, business relationships, customers' portfolios, commercial and / or manufacturing

strategies and policies, and / or any other knowledge, data or information that may come to their knowledge directly or indirectly, as a consequence of this tender procedure interactions. Confidentiality and no disclosure obligations shall continue after expiration and / or termination of the contract and shall extend to any and all entities or individuals that have access to confidential information, even in the event they had not submitted an offer.

## **EXHIBIT Nr. 1. TECHNICAL SPECIFICATIONS**

The Technical Specifications are an integral part of the present Tender Specifications and are laid down in the file named "*Pliego Técnico.pdf*", under the title "*Design and Supply of an Excitation System for Fatigue Testing of Wind Turbine Blades*" which is a 25-page document.

## EXHIBIT NR. 2

### **DECLARATION ON HONOUR ON EXCLUSION CRITERIA AND SELECTION CRITERIA [SAMPLE MODEL]**

The undersigned [*insert name of the signatory of this form*], representing (*only for natural persons*) himself or herself / (*only for legal persons*) the following legal person:

ID or passport number:

Full official name:

Official legal form:

Statutory registration number:

Full official address:

VAT registration number:

(For the purposes of the present Declaration, “the person”)

being informed about the tender procedure for the award of a **CONTRACT FOR THE SUPPLY OF AN EXCITATION SYSTEM FOR FATIGUE TESTING OF WIND TURBINE BLADES** and for the purposes or participating therein,

#### **REPRESENTS**

- (i) That the person is not within any of the exclusions to enter into agreements provided for in article 22 of the LFCP, Public Procurement Law of Navarre (*Ley Foral 2/2018*, of April 13, 2018).
- (ii) That the person complies with the selection criteria concerning having full legal capacity and, furthermore, where applicable, the signatory has adequate powers of representation with regard to the above-mentioned legal person, as the case may be.
- (iii) That the person fulfils the applicable economic and financial criteria and technical and professional criteria required.
- (iv) That the person complies with any other legal requirements necessary for the performance of the contract and furthermore, with any other requirements as set forth in the Tender Specifications documents.
- (v) That the person submits one offer only, either in its own name or through any related undertakings, in accordance with the definition set forth in article 20 of the LFCP, Public Procurement Law of Navarre (*Ley Foral 2/2018*, of April 13, 2018).
- (vi) That the person knows the terms and conditions and Tender Specifications governing this tender procedure, accepts them in their entirety and, furthermore, undertakes to perform the contract under strict observance thereof.
- (vii) That the person is in compliance with: regulatory and taxation obligations; Social Security charges and contributions; all mandatory obligations and requirements regarding health and safety and prevention of occupational risks in accordance with the applicable law and regulations; all obligations and requirements set forth by social legislation, and; that the person fulfils the legal

requirements necessary to carry out the contract's purpose and any other requirements as set forth under the Tender Specifications.

- (viii) That the person is able to provide adequate human and financial resources for the satisfactory performance of the contract; that the person's purpose or activity is directly related to the purpose of the contract and, therefore, that the person fulfils the applicable economic and financial criteria and technical and professional criteria required.
- (ix) That the person has secured a firm, binding written undertaking, given by the relevant entities to place the necessary resources and means at the disposal of the undersigning, where applicable.
- (x) In the event of an intended incorporation of a Joint Arrangement or Temporary Consortium (in Spanish, *Unión Temporal de Empresa* or "UTEs") if the contract is awarded, that the person has secured a firm, binding written undertaking, given by the relevant entities for this purpose.
- (xi) That the person submits to the exclusive jurisdiction of the courts and tribunals of the city of Pamplona (Navarre, Spain) for the resolution of any conflict, discrepancy or dispute; and expressly renounces to any other venue or forum that the person may have available.
- (xii) That the person complies with the Tender Specifications and the selection criteria and that, if successfully awarded the contract, the person is able to provide the necessary supporting documents and evidence listed in the applicable sections of the Tender Specifications, upon request of the contract awarding entity, CENER, within a maximum period of seven (7) days from the contract award notification date.
- (xiii) That the person designates the following **e-mail address** for the purposes of sending and receiving any notices related to the tender procedure, at any stage of the said procedure: \_\_\_\_\_ *insert electronic address* \_\_\_\_\_.
- (xiv) That the person tendering is a SME, (Small and Medium Enterprise) (in Spanish, *PYME pequeña y mediana empresa*). YES  – NO  (tick as appropriate)

**And as evidence thereof and for all useful purposes, I hereby issue this declaration in *insert place*, on *insert month*, *insert day* of *insert year*.**

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**Signature**

**EXHIBIT NR. 3**

**PROFESSIONAL AND / OR TECHNICAL CAPACITY**

**REPORT DOCUMENT LISTING THE MAIN SUPPLY CONTRACTS OR AGREEMENTS  
SIMILAR TO THE PRESENT TENDER'S**

**[SAMPLE MODEL]**

<b>Description of the supply carried out</b>	<b>Client</b>	<b>Date</b>	<b>Amount</b>
<b>Total (excluding VAT, Value Added Tax):</b>			

*\* The awarded tenderer may be required to provide supporting evidence of the successful implementation of the supplies carried out, by means of statements issued by the clients confirming the satisfactory fulfilment of the provision of supplies or invoices issued for such supplies; such supporting documents must include the required data to fill in the above table (i.e. description, client, date, amount).*

**EXHIBIT NR. 4**

**ECONOMIC AND FINANCIAL OFFER**

**[SAMPLE MODEL]**

The undersigned [*insert name of the signatory of this form*], representing (*only for natural persons*) himself or herself / (*only for legal persons*) the following legal person:

ID or passport number:  
Full official name:  
Official legal form:  
Statutory registration number:  
Full official address:  
VAT registration number:

having knowledge of the call notice for the tender procedure for the award of a **CONTRACT FOR THE SUPPLY OF AN EXCITATION SYSTEM FOR FATIGUE TESTING OF WIND TURBINE BLADES**, by means of an open call procedure for an estimated value above to the European threshold,

I declare hereby my interest to participate in the mentioned tender procedure, undertaking to implement the above referred contract for a **total price of EUROS .....***in words*..... (*.....in figures..... -€*), (**not inclusive of Value Added Tax, VAT**), in strict compliance with the Tender Specifications and the Contract Terms and Conditions that I also declare to know and accept in their entirety.

**In insert place, on insert month, insert day of insert year.**

\_\_\_\_\_  
**Signature**

**EXHIBIT NR. 5**

**BANK GUARANTEE**

**[SAMPLE MODEL]**

We, the undersigned [*insert full name and address of the financial institution or bank*] (hereinafter referred to as the “Guarantor”), with fiscal number [*insert fiscal/tax number*] and represented herein by [*insert full name of the legal representative, ID or passport number, position, legal title of representation with full details (e.g., acting hereby by means of a power of attorney issued by.... in ... place, on ... date)*], hereby confirm that we give the FUNDACIÓN CENER (hereinafter referred to as "CENER") an

**UNCONDITIONAL, IRREVOCABLE AND INDEPENDENT FIRST-DEMAND GUARANTEE**

by means of which, the Guarantor shall undertake to immediately pay up to FUNDACIÓN CENER with tax identification number (in Spanish, *CIF*) G31679889, and registered address at Avenida Ciudad de la Innovación nr. 7, in 31621 Sarriguren (Navarre, Spain), upon simple demand for the good performance of the contract concluded between CENER and [*insert full name and address of awarded tenderer*], (hereinafter referred to as “*XXX*”), as given in the contract [*Insert Contract’s exact title and date*] (hereinafter referred to as the “Contract”), a maximum sum equivalent to the amount of: EUROS -----  
-[*in words: ...*]------ [*in figures: ...-€* ], without exception or objection, upon receipt of the first written request from CENER signed by a duly empowered representative, without the need for the later to justify the breach or failure to fulfil by [*•*].

The Guarantor expressly waives order, division and *excussio* or discussion and any other right to require exhaustion of remedies against [*•*].

The present guarantee shall expire on [*•*].

This guarantee has been registered on the date indicated hereinbelow with number [*insert number or code of registration of the guarantee*] at the Special Registry of Guarantees (*Registro Especial de Auales*, in Spain.)

**Done at [*insert place*], on [*insert month*] on [*insert day*] of on [*insert year*]**

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**BANKING INSTITUTION [*insert full name of BANKING INSTITUTION*]**

**NAME of REPRESENTATIVE, CAPACITY [*insert full name of Institution’s legal representative, and position*]**