

Tender Instructions

Applicable to the European Public Tender for: a single-photon detector

Contracting authority:

The Netherlands Organisation for Applied Scientific Research / TNO

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Definitions

In this document, certain capitalized words have a specific restricted meaning, as given below. In the case of nouns, the specific meaning applies to both singular and plural forms. Terms which do not appear in this list but which are defined by legislation, notably the *Aanbestedingswet* (Procurement Act 2012, amended 2016) take the meaning intended by that legislation.

| | |
|---|--|
| Aanbestedingswet (Dutch Procurement Act) | : the <i>Aanbestedingswet 2012</i> , effective 1 November 2012, as published in the Government Gazette 2012 no. 542; amended 1 July by Act of 22 June 2016 to amend Netherlands Procurement Act 2012 in connection with the implementation of European Directives 2014/23/EC, 2014/24/EC and 2014/25/EC; commonly referred to in English as the Procurement Act. May be abbreviated to 'AW'. |
| Appendices | : Appendices to these Tender Instructions, viz. <ul style="list-style-type: none">• A01 to A07 – prescribed templates to be used when preparing and submitting the Tender (bid)• B01 to B05 – prescribed templates to be used for the provision of information by one or more Third Parties e.g. evidential documents to support the Self-Declaration• C01 to C03 - documents and supplementary information which form part of the Tender Instructions but are not intended for submission to any external party. |
| Award Criteria (singular: criterion) | : the criteria used by TNO to determine which Tenderer has filed the most economically advantageous tender or the tender with the lowest bid. Further information on the award criteria can be found in chapter 6. |
| Award Decision | : the decision taken by TNO whereby the winning Tenderer is to be invited to enter into a Contract; alternatively, the decision not to award the Contract to any party. |
| Call for Tender | : the announcement of a European (Public) Tender, usually on www.tenderned.nl . |
| Certificate of Conduct | : The Certificate of Conduct (CoC; Dutch: Gedragsverklaring Aanbesteden) is a statement from the Minister of Security and Justice. The CoC indicates that an investigation into the natural or legal person concerned has not resulted in any objections in connection with the application and tendering for public contracts, special sector contracts, concession agreements for public works and/or services or competitions. |
| Contracting authority | : The Netherlands Organisation for Applied Scientific Research (TNO). |
| Combination | : an alliance of companies or legal entities who submit a joint tender as if acting as a single entity. Each member of the alliance is jointly and severally responsible and liable in law for the effective performance of the Contract, if awarded. |
| Contractor | : the successful Tenderer to whom the Contract is awarded. |
| Contract / Purchase Order | : the legally binding agreement between TNO and the Contractor, effected further to the outcome of the Tender procedure. |
| Eligibility Requirements | : the requirements imposed by TNO on all tendering parties not automatically excluded (under the Grounds for Exclusion), establishing minimum standards which must be met in order to be considered for the Contract. |
| Grounds for Exclusion | : reasons whereby a party is automatically deemed ineligible to take part in the Tender procedure. Depending on the contents of the tender documents and description, such reasons may relate to the (personal) circumstances of the Tenderer, an officer of that company and/or a Third Party with a material involvement in the Tender and the proposed Contract. The Grounds Exclusion are explained in chapter 5. |
| Minimum Requirements | : the minimum requirements imposed by TNO with regard to the provision of supplies, services or works, i.e. the manner in which the Contractor is to perform the activities specified by the Contract. |

| | |
|---------------------------|--|
| Memorandum of Information | : a document providing further information about the Tender procedure and/or the tender documents, compiled by TNO in response to queries it has received from Tenderers. (The queries are anonymized in the interests of confidentiality.) |
| Self-declaration | : the statement in the meaning intended by Art 2.84 para. 1 of the <i>Aanbestedingswet</i> , produced in accordance with the format of the European Single Procurement Document as given in Appendices A01 , A02 and B01 . |
| Tender | : the bid submitted by the Tenderer. |
| Tenderer | : an individual or legal entity submitting a Tender (bid) further to the Tender Procedure; also termed Tendering Party. |
| Tender Instructions | : the current document in which the Tender procedure is described. |
| Tender Procedure | : the European tendering procedure through which a Contract is to be awarded. |
| Third Party | : any natural person or legal entity upon whom a market party (the Tenderer) can call to meet the requirements of financial and economic capacity and/or technical and professional competence, regardless of the nature of the relationship between the market party and the Third Party. |

1 Contracting Authority and Contract

1.1 TNO

The Netherlands Organisation for Applied Scientific Research, hereafter referred to as 'TNO', is a modern, theme-led Research & Knowledge organization. It was established in 1932 by Act of Parliament with the intention of maximizing the practical relevance of scientific research to the public sector, industry and society at large.

TNO is a national institution acting in the general interest and, for the purposes of European policy and legislation, is therefore a 'body governed by public law.' Although it operates under the formal responsibility of the Minister for Economic Affairs, TNO enjoys complete independence and autonomy in its day-to-day activities.

The organization has approximately 4,800 staff who work to develop and apply innovative knowledge. TNO conducts contract research on behalf of clients in all sectors, provides specialist advice and consultancy, and licenses the use of its many patents and the specialist software it has developed. The organization has spawned numerous commercial spin-offs to bring its innovations to market.

One of TNO's key strengths is that it brings various scientific disciplines together under one roof. Those disciplines combine and interact to create groundbreaking and sustainable new solutions. Increasingly, TNO seeks collaboration with partners in government and industry, working alongside knowledge institutions and societal organizations at home and abroad. Through its varied activities, TNO stimulates economic growth and social renewal. The organization's mission statement (as phrased in its 2022-2025 Strategic Plan) reads, "TNO connects people and knowledge to create innovations that boost the competitive strength of industry and the well-being of society in a sustainable way." Its objectives are encapsulated in the motto, "TNO, Innovation for Life".

For further information, see: www.TNO.nl.

1.2 Organizational structure

TNO's high level of ambition demands an appropriate organizational structure and corporate culture. Staff must be given every support as they pursue innovation and productive cooperation. The current organizational unit structure is shown below:



All units are concerned with issues which are high on the national and European innovation agenda. The themes form the focus of the organization's nine units, each of which is responsible for acquiring and performing contract research relevant to its specific theme and innovation areas.

1.2.1 Procurement

TNO's Procurement Department oversees all purchasing, procurement and tendering procedures on behalf of TNO, doing so in close cooperation for this tender with TNO Nano Instrumentation department.

As part of the Finance, Procurement & Legal (FPL) division, the Procurement Department is responsible for organizing and implementing all procurement processes in keeping with the corporate objectives of the organization.

1.2.2 NanoLabNL

NanoLabNL is the Dutch national facility for nanotechnology research. Its mission is to provide a full-service and Open-Access infrastructure for R&D in nanotechnology. It has an open character and it hosts many public-private partnerships. NanoLabNL is coordinated as one infrastructure while its facilities are distributed over five cities or 'hubs': Groningen, Enschede, Amsterdam, Delft and Eindhoven. NanoLabNL is part of the national programme on quantum technology. In that capacity NanoLabNL is dedicated to

keeping its basic infrastructure ‘state-of-the-art’ to enable breakthrough-developments in the fabrication of quantum devices. In addition more specific focus is placed on high TRL infrastructure to serve the quantum agenda.

As such NanoLabNL supports scientists in their research and supports companies in improving or renewing their products/production process and/or developing new products. Finally, it aims to contribute to strengthening the Netherlands as a knowledge economy.



The hubs cooperate and share information on all possible activities, such as procurement. As a result a procurement working group has been established, within this working group, documentation, best practices, and investments plans are discussed and shared.

This Tender procedure, on behalf of TNO, contributes to the achievement of this ambitious mission.

1.2.3 Quantum Technology department

Ultra-fast and microscopically small quantum systems, such as computers and sensors – these are what we’re focusing on in the relatively new research area of quantum technology. Our aim is to use the unique properties of quantum mechanics for practical applications. That’s why we’re supporting this emerging industry with the design, development and manufacture of quantum sensors, quantum devices and complete systems.

1.3 Contract description

The purpose of this Tender Procedure is to select one (1) Contractor to supply a single-photon detector. The supplies/services and the manner in which they are supplied/provided must comply with the specifications and criteria given in the Tender documents, and notably the Programme of Requirements (see Chapter 8). There may be a combination of ‘hard’ and ‘soft’ requirements. The former are mandatory and must be met. If one or more of the ‘hard’ requirements are not met, the Tender will be excluded, provided the exclusion is not disproportionate. The ‘soft’ requirements are in the nature of ‘preferences’ which should be taken into consideration to the greatest extent possible.

1.3.1 Scope and content of the Contract

The Contract, to supply a single-photon detector, relates to the provision of supplies and services as specified in the Programme of Requirements (chapter 8) as applicable.

1.3.2 Maintenance/services Contract

System downtime can lead to loss of opportunities and possibly revenue. Therefore, in relation with this Tender procedure, TNO might intend to enter into a contract for maintenance/services for periods of one year, up to and including 2028. In this light, TNO expects to receive a proposal or proposals that minimise such system interruptions.

The intention to enter into a maintenance contract depends on the price and whether it falls within the total available budget. For this reason, and to allow a fair price comparison, TNO will only include the price for a one-year basic maintenance contract multiplied by five (5) years in the price assessment (para. 6.1). It should be clear to TNO what is covered by the maintenance contract, but also what is not covered by the contract, and thus will result in an additional cost to TNO. Therefore, the Tenderer is requested to provide insight into at least the following elements:

- All activities covered by the contract;
- All activities which are not part of the contract;
- Giving insight into response times (both inside and outside business hours), where we distinguish the following service levels;
 - Service level 1: A complete loss of service in which the single-photon detector is down. A major issue prevent access to the system or the use of significant portions of the system;

- Service level 2: Users are unable to perform a non-mission critical function, such as change a portion of the system's configuration;
- Service level 3: The single-photon detector issue is cosmetic in nature and/or displays minor flaws which are easily circumvented with little or no impact on the customer's normal business operations.
- Service-desk reachability (both inside and outside business hours), either by telephone or via an online portal;
- Number of planned maintenance visits;
- Replacement parts prices or discounted prices on Tenderer enlisted selling price.

If you usually offer different types in maintenance contracts, you may present these variations alongside the basic maintenance contract, but know that only the basic maintenance contract and its price will be evaluated. The price for all possible variations in maintenance/services, for a period of one year, up to and including 2028, can be submitted by the Tenderer in Appendix A04.

1.3.3 Optional second single-photon detector

TNO might have the intention to buy a second single-photon detector with the same similar requirements/preferences (chapter 8), and this within a period of maximum three years after final award decision and the signing of the Contract. Such a purchase will take place under the same tender conditions. For this reason, Tenderer is asked to fill-in the related line numbers in appendix A04.

1.3.4 Purpose of functional use of the single-photon detector

The single-photon detector and the electronics module that accompanies it will be used for quantum internet experiments and demonstrators. In more technical depth, we foresee: correlation measurements between photons emitted from different quantum systems such as sources of entangled photons; two-photon quantum interference measurements between independent photons; fluorescence measurements of colour-centers in diamond substrates.

1.3.5 Lots

The Contract for the supply of a single-photon detector is solely divided into one lot.

1.4 Socially responsible procurement

Sustainability is an important aspect of TNO's core business. TNO's motto is for reason 'Innovation for life': we connect people and knowledge to create innovations that sustainably boost companies' competitiveness and increase wellbeing across society. As an independent public organisation, we want to do this in a responsible and sustainable way. TNO has adopted a clear policy on Corporate Social Responsibility (CSR) to put its ambitions in this area into practice in its operations. The CSR policy is closely linked to TNO's strategic goals.

TNO's CSR policy focuses on the five key points listed below:

- TNO aims to have made its operations climate-neutral by 2040.
- TNO is committed to the international framework of the UN Global Compact and endorses the ten principles for sustainable operations.
- TNO recognises its supply-chain responsibility with respect to both suppliers and customers.
- In the transition to sustainable business operations, TNO is focusing on the following priorities: integrity, energy and sustainability, diversity and inclusion, and working conditions.
- TNO intends to include the CSR priorities in the annual plans of the relevant departments.

Where relevant and possible, the sustainability aspects will be translated into sustainability requirements and/or preferences which will be included in the Tender Instructions document.

2 The Tender Procedure

The Tender Procedure is conducted in full compliance with the conditions of the Dutch *Aanbestedingswet* (Procurement Act), which in turn is based on relevant European legislation.

TNO has opted for the 'public' tendering procedure. This means that the Call for Tenders will be published on the TenderNed website at www.tenderned.nl.

TNO has opted to apply the European public procurement procedure. This is because, based on the limited competition in the field to which the Contract pertains, a restricted number of Tenders are expected whereupon the public procedure is likely to be more (cost-) efficient.

2.1 Schedule

The proposed schedule for the Tender Procedure is as follows:

| No. | Action | Deadline |
|-----|--|------------------------|
| 1. | Publication of Call for Tenders (on www.tenderned.nl) | 03-07-2023 |
| 2. | Final opportunity for interested parties to submit questions | 01-08-2023, 23:59 |
| 3. | Publication of (final) Memorandum of Information | 18-07-2023 |
| 4. | Final date (and time) for submission of Tenders | 31-08-2023, 11:00 |
| 5. | Announcement of Intention to Award | 14-09-2023 |
| 6. | Final date for submission of evidential documents by intended Contractor | 21-09-2023 |
| 7. | Final date for lodging an objection | 05-10-2023 |
| 8. | Confirmation of Contract Award | Close after 05-10-2023 |

Dates are indicative. TNO reserves the right to amend the schedule but will of course observe all legislative requirements. Tenderers will be informed about any amendment to the schedule via TenderNed.

2.2 Tender conditions

2.2.1 Acceptance

The submission of a tender is confirmation that the Tenderer accepts all applicable conditions in the Tender Documents.

2.2.2 Formats

The Tenderer must use the prescribed templates and formats provided in the Appendices to the Tender Instructions. It is expressly forbidden to make any alteration to these templates without the prior consent of TNO.

2.2.3 Self-declaration

The Tenderer must complete and submit a Self-declaration (Appendix **A01** and, if applicable, Appendix **A02** and/or **B01**) according to the following instructions.

The Tenderer must use Adobe Reader to open and complete Appendix **A01**, **A02** and **B01** (the European Single Procurement Document; ESPD). Opening Appendix **A01**, **A02** and **B01** in any other program may result in the loss of information that has been pre-entered by TNO. The submission of a Self-declaration in any form other than that included with the original tender will exclude the entire tender from further consideration. The Tenderer bears sole responsibility for opening Appendix **A01**, **A02** and **B01** and for submitting the Self-declaration in the prescribed manner.

2.2.4 Order of precedence

Where any discrepancies between the contents of the various tender documents exists, the following order of precedence applies (in descending order of importance).

- Memoranda of Information, most recent first
- Tender Instructions and Appendices
- Call for Tenders.

2.2.5 Contact person and communication

All communication with respect to the Tender Procedure will only take place through Tendered and in a manner other than prescribed in this Tender Instructions.

If legal contact with TNO is required / necessary, communication only takes place at TNO's contact point below, which communication must always be done in writing via the e-mail address mentioned below.

Name : Mr. Arjan Verhoeven
Position : Senior buyer
Department : Procurement
Correspondence : P.O. Box 96800, 2509 JE, The Hague
Email : **via TenderNed's message ('berichten') module of the related Tender**

Tenderers can not derive rights from verbal statements, promises and suggestions from TNO employees or agents, made in connection with the Tender Procedure and / or tender documents. Tenderers can only rely on written information provided by or on behalf of TNO.

Failure to comply with the above conditions, or any attempt to influence the judgement or decisions of any person involved in the Tender procedure, will result in immediate disqualification.

2.2.6 Language

Tenders must be submitted in the English language. Tenders submitted in other languages than the English language will be excluded from further participation in this Tender procedure. Evidential documents which cannot be submitted in the English language, can be submitted in the original language but the Tenderer should be able to provide a (sworn) translation on request.

2.2.7 Multiple tenders

The submission of multiple Tenders is not permitted. Each interested party may submit only one tender regardless of the capacity in which it does so (independent Tenderer, lead contractor, subcontractor or member of a combination). A group of companies, as defined by Article 2:24b of the Dutch Civil Code, may submit only one tender unless it is possible to show that there is no dependent relationship between the companies, i.e. no company is able to influence the decisions or operations of another. It is only permissible for two or more companies within the same group to submit competing tenders if they can demonstrate their independence and confidentiality of information (the 'Chinese wall' principle) to the satisfaction of TNO by any means they consider appropriate. Companies forming part of the same group can submit a single tender which specifies their respective roles (lead contractor and subcontractor or acting as a Combination).

2.2.8 Combination

A Combination is defined as an alliance of companies which submits a tender as a single party. A Combination must comply with the following criteria:

Coordinator

Where a Tender is submitted by a Combination, a Self-declaration (Appendix **A01**) must be completed by its coordinator, who must provide the following required information *with regard to the Combination itself*, in addition to the standard information required by the Self-declaration.

- (i) In Part IIA, under the heading 'Manner of Participation', tick the 'Yes' box to indicate that the Tender is being submitted on behalf of a Combination.
- (ii) In Part IIA, under the heading 'Manner of Participation' at 'If so', subsection a), the coordinator should state which of the eligibility requirements he fulfils (if applicable) and the specific tasks for which he is responsible.
- (iii) In Part IIA, under the heading 'Manner of Participation' at 'If so', subsection b), enter the official name(s) and legal structure of all other members of the Combination.
- (iv) If the Combination has been formalized and has a registered trading name, this should be entered in Part IIA under 'Manner of Participation' at 'If so', subsection c).

Other members

Each of the other Combination members must complete and submit a separate ESPD (Appendix **A01**) to include the following information regarding the Combination itself (in addition to all other required information):

- i) In Part IIA under 'Manner of Participation', tick the 'Yes' box to indicate that the Combination member is taking part in the Tender Procedure alongside other partners.
- ii) In Part IIA, under the heading Manner of Participation, subsection a), the Combination member should state which of the eligibility requirements he fulfils (if applicable) and the specific tasks for which he is responsible.
- iii) In Part IIA, under the heading Manner of Participation, subsection b), enter the official name(s) and legal structure of all other members of the Combination.
- iv) If the Combination has been formalized and has an official trading name, this should be entered in Part IIA under Manner of Participation, subsection c).

By submitting the Tender, all members of the Combination accept joint and individual responsibility and liability for the fulfilment of all obligations and responsibilities of the Contract should this be awarded to the Combination.

All Self-declarations must be duly signed by an authorized company officer.

2.2.9 Subcontractor

A partnership comprising a lead contractor and a subcontractor can submit a single Tender. The lead contractor is at all times responsible and liable in law for the proper performance of the Contract activities, including those delegated to the subcontractor.

A lead contractor can submit a Tender with a subcontractor in one of the following two manners. The signatory's authority must be established by enclosing a certified extract from the Chamber of Commerce Trade Register with the subcontractor's Self-declaration form (Appendix B01).

- Use of subcontractor's credentials to fulfil Eligibility Requirements

If the Tenderer is reliant on the financial, economic, technical and/or professional capacity of a Subcontractor to fulfil the Eligibility Requirements, that subcontractor is also regarded as a Third Party. In such instances, the Tenderer must follow the instructions given in Para. 2.2.10 concerning reliance on the resources of one or more Third Parties.

- Subcontractor's contribution to fulfilment of Contract

Where the Tenderer meets all Eligibility Requirements unaided but nevertheless wishes to deploy a subcontractor for the fulfilment of the Contract or parts of the Contract, the Tenderer must list all subcontractors to be involved in the fulfilment of the Contract in part IID of the Self-Declaration.

- Requirements prior to Contract Award (during Tender Procedure)

The Tenderer must list any subcontractors to be involved in the Contract activities.

Instructions for the Tenderer when completing the Self-declaration (Appendix A01)

The Tenderer should state whether he does or does not intend to involve one or more subcontractors in the performance of the Contract by completing Part II D of the Self-declaration (Appendix A01).

- If there is no intention to involve a subcontractor:

The Tenderer should tick the box marked 'No' in Part II D of the Self-declaration (Appendix A01).

- If the Tenderer does intend to involve one or more subcontractors:

The Tenderer should tick the box marked 'Yes' in Part II D of the Self-declaration (Appendix A01), and enter the names of those subcontractors in the space provided beneath 'If so'.

Instructions for submission of evidential documents

At the request of TNO and within the period specified in Para. 7.1., the Tenderer who is identified as the lead Contractor (subject to confirmation by TNO) is required to submit the corresponding information that he submitted about himself (in Parts II A, II B and III of the Self-declaration) for all subcontractors listed in Part II D of the Self-declaration (Appendix A01). The Tenderer must provide this information by submitting a Self-declaration form (Appendix B01) in which the relevant sections have been completed by each subcontractor.

The subcontractor's Self-declaration (Appendix B01) must be duly signed by an authorized company officer. The Tenderer must establish the signatory's authority by enclosing a certified extract from the Chamber of Commerce Trade Register with the subcontractor's Self-declaration form (Appendix B01).

Instructions for the Tenderer when completing the Self-declaration (Appendix A01)

The Tenderer should not complete Part II D of the Self-declaration.

➤ Required action between notification of Award and commencement of Contract

Where the successful Tenderer intends to involve one or more subcontractors in the performance of the Contract, TNO must be informed, in writing, of the name or names of the subcontractors who are to perform the contract, of the name of the duly appointed legal representative of each subcontractor, as well as the name, telephone number and email address of a contract person for each subcontractor. This information is to be provided no later than seven days prior to the date of commencement of the Contract that was agreed by TNO and the Contractor or subcontractor.

➤ Required action during performance of Contract

Any subcontractors engaged by the Contractor during the performance of the Contract must be approved by TNO. Such approval must be confirmed in writing before the subcontractor is permitted to begin work on the contract (or part thereof) assigned to him by the Tenderer. This provision applies where the Contractor was not required to name specific subcontractors during the Tender Procedure and where new subcontractors are recruited after the Contract work has commenced. If there are any changes to the information relating to a subcontractor, the Contractor or subcontractor must inform TNO immediately and in writing.

In order to approve a subcontractor, TNO must ascertain that none of the Grounds for Exclusion listed in the original Tender Procedure apply. TNO may require the Contractor or subcontractor to submit evidential documents to establish that this is the case. The documents to be requested by TNO are limited to those listed in Section 5. 1 of the Tender Instructions.

If TNO determines that one or more Grounds for Exclusion does indeed apply to the subcontractor, approval will not be granted. TNO will allow the Contractor to propose another subcontractor, whereby the same approval procedure will be followed. TNO will hold the Contractor and subcontractor(s) responsible for the correct and timely execution of the Contract, regardless of any delay due to a subcontractor having been excluded from participation.

2.2.10 (no) Reliance on Third Party resources

The Tenderer may call upon the financial, economic, technical and/or professional capacity of one or more Third Parties. Where the Third Party is to provide financial resources, both the Tenderer and that Third Party are jointly responsible and liable in law for the proper execution of the Contract (if awarded).

Where the Tenderer calls upon the technical or professional capabilities of one of more Third Parties, those Third Parties must take an active part in the performance of the Contract activities (assuming that the Contract is indeed awarded to the Tenderer).

No reliance on Third Party resources

A Tenderer who does *not* intend to make any use of the financial, technical or professional capabilities of any Third Party should tick the box marked 'No' in Part II C of the Self-declaration (Appendix A01).

Reliance on Third Party capacityA) Instructions for completion of Tender

If the Tenderer *does* intend to call upon the financial, economic, technical or professional capabilities of one or more Third parties, he should fill in Part II C of the Self-declaration (Appendix A01) as follows:

1. tick 'Yes' in the appropriate section
2. indicate *which* of the Eligibility Requirements will be met further to the involvement of the Third Party
3. state *how* the Third Party's involvement will fulfil the relevant Eligibility Requirement(s).

The Tenderer who intends to call upon the financial, economic, technical and/or professional capacity of one or more Third Parties should also provide:

4. a separate Self-declaration form (Appendix A02) for each such Third Party, in which parts II A, II B and III have been completed. The forms must be signed by the duly authorized legal representative of the Third Party concerned, and this person's authority to sign must be confirmed by means of a certified extract from the Chamber of Commerce Trade Register. Note that the extract does not have to be submitted at the same time as the Tender itself; TNO will request further information in accordance with the following provisions.

Addition requirement where Tender relies on the technical or professional capabilities of one or more Third Parties

5. Where the Tenderer intends to call upon the technical or professional capabilities of one of more Third Parties, a list of reference projects must be provided for each Third Party (in addition to that relating to the Tenderer). The list of Third Party reference projects should be compiled using the prescribed template provided as Appendix **A03**.

B) Instructions for Provisional Contractors who intend to call up the resources of one or more Third Parties

If the Tenderer selected by TNO and thus identified as the Provisional Contractor (subject to confirmation) intends to call upon the financial, economic, technical or professional capacity of one or more Third Parties, that Tenderer must submit the following documents on request, within the period stipulated in Para. 7.1 of the Tender Instructions:

1. A declaration produced and duly signed by each Third Party confirming that the Tenderer will have access to the resources stated. Where the Tenderer intends to call upon the financial and economic capacity of the Third Party, the declaration must be made using the template provided as Appendix **B02**. In the case of technical and/or professional capacity, the statement should be made using the template provided as Appendix **B03**.
2. A certified extract from the Chamber of Commerce Trade Register pertaining to each Third Party for whom a Self-declaration (Appendix **A02**) is submitted. The extract should confirm that the legal validity of the signature on the Self-declaration (i.e. the signatory is an authorized officer of the company concerned).
3. All evidential documents listed in Para. 5.1 for each of the Third Parties named in the Tender, confirming that none of the Grounds for Exclusion apply.

Supplementary provision for a proposed Contractor intending to call upon the financial and economic capacity of one or more Third Parties

4. If the Tenderer selected by TNO and thus identified as the Provisional Contractor intends to call upon the financial and economic capacity of one or more Third Parties, that Tenderer must, at the request of TNO and within the period stipulated in Para. 7.1 of the Tender Instructions, submit all documents listed in Para B (concerning '*Instructions for provisional contractors*') together with the evidential documents which establish that each of the Third Parties meets the Eligibility Requirements in respect of financial and economic status. (This replaces the requirement for the Tenderer to submit evidence of its own financial and economic status.)

2.2.11 Alternative Tenders

The submission of alternative Tenders is not permitted. Alternative Tenders will be disregarded.

2.2.12 '...or equivalent'

Where the Tender documents, including Appendices, refer to any specific brand name, patent, type, model, manufacturing process, etc., the words '*... or equivalent*' should be understood to follow.

2.2.13 Reserved rights

1. TNO may, at its own discretion and without having to state reasons, decide not to award the Contract to any of the parties from whom Tenders have been received. TNO reserves the right to suspend or cancel the Tender Procedure entirely or partially. Tenderers are not entitled to compensation for any form of loss or damage directly or indirectly incurred as a result.
2. TNO reserves the right to subject all information provided by Tenderers to further scrutiny for the purposes of verification. Referees may be contacted without prior notice to the Tenderer or Third Party.

Providing false or incomplete information will result in exclusion from the Tender Procedure. Any agreements made prior to the discovery of the false or incomplete information will be revoked and contracts will be annulled. No compensation will be paid. TNO expressly disclaims liability for loss or damage howsoever caused.

2.2.14 Confidentiality

The Tenderer undertakes to treat all information which may affect the commercial interests or scientific integrity of TNO in the strictest confidence. Information is provided on a 'need to know' basis and must not be disclosed to any employee or agent of the Tenderer's organization or those of a Third Party (including consultants and subcontractors) unless such disclosure is essential to the effective preparation of the Tender or, where applicable, the proper performance of the Contract. TNO acknowledges the confidentiality of all information provided in support of the Tender and undertakes not to disclose such information to unauthorized parties. However, Tenderers are advised that TNO is under a legal obligation to explain and justify the Award Decision, which may entail the disclosure of information pertaining to the Tenders received, both successful and unsuccessful.

2.2.15 Distortion of competition

Attempts to distort fair competition, such as collusion or cartel-forming, are grounds for disqualification. Where TNO has plausible indicators of any such attempt, the Tenderer will first be given an opportunity to prove otherwise. If, in the sole opinion of TNO, the Tenderer is not able to provide a satisfactory defence, he will be excluded from the remainder of the Tender Procedure.

2.2.16 Withdrawal of Tender

Withdrawn submitted tenders cannot be withdrawn after the final date to submit a Tender (see paragraph 2.1). The Tender will be remain in place throughout its period of validity.

2.2.17 Period of validity

The Tender represents a formal offer which must remain valid for at least sixty (60) calendar days from final date to submit a Tender (see paragraph 2.1). This period of validity is automatically extended until the point at which the final Contract is signed.

If an objection to the Award Decision is placed before the judicial authorities in accordance with paragraph 6.2.1, the period of validity will (if necessary) be further extended by a period of thirty calendar days following the day on which the court returns its judgment.

2.2.18 Terms and Conditions of Contract

The award of the contract shall be made final by TNO's Purchase Order, with reference to:

- This Tender, and all appendices;
- TNO's Purchasing Conditions for Goods, February 2022, as included as Appendix **C03**, except where the Tender Documents include alternative provisions, in which case the Tender Documents take precedence.

As provided by Para. 2.3 of the Tender Instructions, the Tenderer may propose amendments to the current formulation of TNO's Purchasing Conditions for Goods – February 2022. TNO will confirm the amendments to be made, which will be listed in the (final) Memorandum of Information. Acceptance of the final version of the amended Purchasing Conditions for Goods is to be regarded as a Minimum Requirement. Failure to meet this requirement in full will result in exclusion from the remainder of the Tender Procedure.

The submission of a Tender indicates the Tenderer's full acceptance of all terms and conditions applicable at the time of submission.

2.2.19 Suppliers' Terms and Conditions; Provisional Tenders

The Tenderer's general terms and conditions, under any name and/ or any form whatsoever, do not apply. Imposing its own general terms and conditions in and/ or on the Tender, shall render the Tender invalid and leads to exclusion of the Tenderer.

Only TNO's Purchasing Conditions for Goods apply to the Contract (Appendix C03).

2.2.20 Legally valid signature

The Tender and all documents included must be duly signed in ink by an authorized representative of the Tenderer organization. The hard copy of each document is then be scanned and uploaded to the TenderNed site. The signatory's authorization to sign must be established by means of a certified extract from the Chamber of Commerce Trade Register. If the signatory is not listed as a authorized representative of the Tenderer organization in the Trade Register, a mandate signed by a registered company officer must be provided. The extract and mandate must be submitted at the first request of TNO in accordance with the instructions and deadline stated in Para. 7.1 of the Tender Instructions.

The signature under the Tender also applies as a signature under the Self-declaration, Article 2.2.3, the form "ESPD".

If a Tender and/ or one or more documents are legally and duly signed, the Tender is invalid and the Tenderer will be excluded, except when this is disproportionate and not contrary to the fundamental principles of procurement law.

2.2.21 Reimbursement of Tender costs

All costs incurred further to the production and submission of the Tender are to be borne by the Tenderer. TNO shall not provide any form of reimbursement.

2.2.22 Statement of prices and costs

Prices and costs must be stated in euros (EUR), excluding Value Added Tax (VAT). The prices and costs are to remain applicable throughout the Contract term except where the Contract terms make alternative provisions. TNO wishes to make clear that price negotiations do not form part of the Tender Procedure.

2.2.23 Publicity

The Tenderer and any partners and/or subcontractors of the Tenderer must not make any public statement or comment about the Tender Procedure, except with the prior written permission of TNO.

2.2.24 Intellectual property rights

Except where expressly permitted under Copyright Law or where necessary for the successful preparation of a Tender, no part of the tender documents may be reproduced in any form, by print, photocopy, DVD, CD-ROM, microfilm or other means, without the prior written permission of TNO. Tenders and all accompanying documents submitted further to the Tender Procedure become the property of TNO upon receipt.

2.2.25 Use of TNO logo

It is not permitted to copy, modify or otherwise use the TNO logo on any documents submitted by the Tenderer further to the Tender Procedure.

2.2.26 Defects in the Tender and explanations by the Tenderer

In case a Tender has a defect which makes the Tender invalid, the Tenderer will be excluded, except when this is disproportionate and repair of the defect is in compliance with the fundamental principles of procurement law. TNO has the right, but no legal obligation, to offer a Tenderer the opportunity to repair the defect. For instance by submitting a missing document. Repairing a defect in the Tender is only possible and can only be allowed when this is in accordance with the fundamental principles of procurement law, in particular the principle of equal treatment. Any repair must be made within 48 hours after a written request by TNO. In case a defect is not sufficiently and/ or timely repaired, the Tender will be declared invalid and the Tenderer will be excluded.

Tenderers must draft their Tender as clear and concrete as possible to avoid unclarity. TNO has the right to ask Tenderers for a clarification of their Tender. Tenderers must be aware that if a clarification is asked by TNO, the clarification must be provided within 48 hours after the written request. A clarification may not change the (contents of the) Tender.

2.3 Further information (questions)

The Tender documents, including the Tender Instructions and Appendices, have been drafted with the greatest possible care. Interested parties are entitled to submit questions, remarks and requests for clarification at any time before the deadlines given in the schedule in Para. 2.1. The questions may relate to the contents of the tender documents or to the Tender Procedure itself. Clarification may be sought where there are any apparent ambiguities or discrepancies between documents. Further information should be requested within the stated period and in the manner described in this paragraph. A Tenderer who fails to request information on time and in the prescribed manner will forfeit his right to object to any identified defects at a later date, for instance after the Award Decision has been provided.

During the period between the Call for Tenders and the information deadline, Tenderers may also submit grounded questions, suggestions for amendments to the text of the Tender documents, including the draft Contract included as Appendix C02 and TNO's Purchasing Conditions for Goods (Appendix C03). Suggestions should be restricted to textual improvements, editorial corrections and clarifications; they may not affect the essence of the Contract or the applicable Terms and Conditions. TNO reserves the right to act upon or reject such suggestions at its sole discretion.

The questions, remarks or requests are to be submitted in English only to the TNO's contact person (see par. 2.2.5) solely by means of the "Standard Template Questioning Tenderer" Appendix C01 ("editable" MS-Excel) prepared by TNO. Using the 'pull-down' included in this Excel, Tenderer should indicate to which section of the Tender Guidelines the question relates. Once prepared, this Appendix C01 should then be submitted using TenderNed's message module..

IMPORTANT: Queries will only be accepted via the TenderNed's message (berichten) module.

The TNO contact person will anonymously compile the questions, remarks and questions into one or more Memoranda of Information, which provide the answers to the questions submitted. The deadline for submitting questions is set out in the schedule (paragraph 2.1). The Memorandum of Information will be published at www.tenderned.nl and in accordance with the schedule (paragraph 2.1). All questions and the answers provided are to be regarded as an integral component of the Tender Instructions. In principle, the Tender Instructions document becomes definitive with the publication of the final Memorandum of Information.

TNO advises interested parties to delay submitting a Tender until the final Memorandum of Information has been published since it may include information which affects the content of the Tender.

Responsibility for reading and acting upon the Memoranda of Information in a timely manner rests with the Tenderer. If the production of the final Tender is jeopardized by technical problems affecting the TenderNed site, the Tenderer should contact the TNO contact person named in Para. 2.2.5, and TenderNed, without delay. If the TenderNed site is indeed 'down', TNO will implement an alternative course of action (subject to the provisions of the Procurement Act.)

TNO advises Tenderers to delay submitting a Tender until the final Memorandum of Information has been published. This may include information and details of changes to the Tender Instructions that affect the process of drawing up a Tender.

TNO has decided that a separate information meeting will not] be held as part of this Tender Procedure.

2.4 Disputes and applicable jurisdiction

All aspects of the Tender Procedure are subject to Dutch law. Any dispute concerning the Tender Procedure requiring legal adjudication must in the first instance be placed before the Court in Interlocutory Proceedings in the District of The Hague, Prins Clauslaan 60.

Tenderers who object to (any part of) the Tender Procedure, (any part of) the information provided, or any other aspect directly or indirectly relating to the Tender Procedure and likely to affect its outcome, must bring their objections to the attention of the TNO contact person named in Para. 2.2.5 at the earliest possible opportunity. Before bringing proceeding to the District Court, the concerning Tenderer is required to request the TNO contact for an enumeration of TNO's prevented days from attending.

The period in which a formal objection can be lodged against the Award Decision and/or the Tender Procedure is twenty calendar days from the date on which the Award Decision is issued. The objection must be made in writing and the writ must be served at the registered statutory address of TNO within the twenty-day period. Where formal proceedings have not been instigated within the designated period, lapse Tenderers forfeit their right to do so later ('rechtsverwerking').

Any Tenderer wishing to lodge an objection or appeal is requested to notify TNO prior to commencing proceedings.

Where a court order challenging the Award Decision and/or the Tender Procedure is sought, in a timely and legally valid manner, the Tenderer to whom the Contract has been provisionally awarded is expected to intervene in the Proceedings. If the Tenderer fails to do so, they will forfeit their right to a judicial procedure or to third-party proceedings if the judgment in the first instance requires TNO to amend or withdraw the Award Decision. It is in the interests of all parties to create clarity at the earliest possible opportunity and this requires all arguments to be presented openly and without delay.

2.5 Submission of the Tender

2.5.1 Digital submission

The Tender comprises all forms in Appendices **A01 to A07** which must be completed in full and duly signed by a legally authorized representative of the tendering organization. The formats given in the Appendices must be used.

For the signature requirements, see Para. 2.2.20.

For the current tender procedure, TNO has opted to use the online TenderNed system. The completed Tender documents must be uploaded to the TenderNed secure document safe no later than **11:00 (AM) on 31-08-2023**.

Tenders which are submitted beyond the published deadline or which are not uploaded to TenderNed's secure document safe in accordance with the instructions given in this document will be excluded from the remainder of the Tender Procedure. Responsibility for the timely and correct submission of documents rests with the Tenderer at all times.

Tenderers are urged to read the instructions on the TenderNed site, particularly those relating to the uploading of documents to the secure document safe. Note that the upload must be confirmed using the 'registration wizard' which has two-factor authentication requiring users to enter a code which has been sent to them as a text (SMS) message.

Tenderers are advised to allow ample time for the uploading of documents. If a technical problem occurs which places the timely submission of the Tender at risk, the Tenderer should immediately report this situation to TenderNed AND to the TNO contact person named in Para. 2.2.5. If TenderNed does experience a technical problem that makes it impossible for tenders to be submitted shortly before the deadline and TNO is unaware of any Tenders that, despite the technical problem, have been successfully uploaded to TenderNed's secure document safe, then TNO will extend the deadline for submission of Tenders, subject to the restrictions imposed by Article 2.109 of the Procurement Act.

TNO advises Tenderers to take note of the contents of Article 2.109a, further to which they should be prepared to submit an encrypted code identifying their Tender should there be any technical problem preventing the full Tender being uploaded to TenderNed.

2.5.2 Structure and presentation

The following instructions apply to the structure and presentation of the Tender submission. The Tender must consist of the following documents:

Part A comprises the following documents (files):

Appendix A01 Self-declaration by Tenderer (European Single Procurement Document; ESPD)

Appendix A02 Self-declaration by Third Parties on whose resources or abilities the Tenderer Relies (European Single Procurement Document;)

Appendix A04 Schedule of prices

Appendix A05 Conformity list Programme of Requirements

Appendix A07 Optional maintenance/services contract

All forms must be completed in full and then printed out. The paper hard copy is to be signed in ink by a legally authorized representative of the Tenderer organization and then scanned to create a digital (PDF) version.

The various PDF files (Appendices **A01** to **A07**) are to be placed in a single folder which must then be compressed ('zipped'). This folder should be named xxxx_**part A**, where xxxx is replaced by (part of) the name of the Tenderer organization. Upload this compressed folder to TenderNed's secure document safe.

If a Tender is incomplete, the Tender is invalid and the Tenderer will be excluded, except when this is disproportionate and not contrary to the fundamental principles of procurement law.

3 Evaluation of Tenders and Tenderers

3.1 Evaluation team

A multidisciplinary team will be assembled to undertake the qualitative evaluation of the Tenders. Its members will include experts in the subject matter and processes involved. The team members evaluate the Tenders on the basis of quality alone; they are not informed of the financial aspects.

Each member of the evaluation team assesses the Tender against the qualitative (sub sub) award criteria, doing so independently and without reference to the other members of the team. A meeting is then held at which the individual evaluations are compared and discussed. The overall score given for each of the (sub sub) award criteria is the average of the individual scores.

3.2 Evaluation procedure

The evaluation procedure consists of the phases, as described in Chapters 4 to 8.

- Chapter 4** : Evaluation with regard to timely submission, form, presentation and completeness
- Chapter 5** : Evaluation against Eligibility Requirements and Grounds for Exclusion. These are mandatory provisions, whereby non-compliance will result in immediate and irrevocable exclusion from the remainder of the Tender Procedure.
- Chapter 6** : Evaluation against the Award Criteria. This is based on a numerical score for each material aspect.
- Chapter 7** : Evaluation of evidential documents which the Provisional Contractor is requested to submit to TNO.
- Chapter 8** : TNO's evaluation against the Minimum Requirements (with regard to Contract performance) and the Programme of Requirements (PoR).

Based on the overall evaluation, TNO will rank the Tenders in order. The Tender in first place is the Tender with the lowest price.

At any time during the evaluation procedure, TNO may contact a Tenderer to request clarification where necessary. Tenderers are expected to provide a response within 48 hours (see paragraph 2.2.26).

3.3 Provisional award decision

Once the tenders have been assessed and TNO has upheld the Contract Award recommendation, the intention to award notice shall be issued to notify both the successful and the rejected tenderers of this decision. The award shall be specifically subject to:

- the results of the verification of the supporting documents for Grounds for Exclusion and suitability requirements.
- approval by the Executive Board of TNO.

If, for some reason the need arises, TNO reserves the right to decide against awarding the contract (provisionally or otherwise, Paragraph 2.13). The issue of the intention to award notice by the contracting authority shall not constitute the acceptance of the tenderer's bid, as defined in article 6:217, Section 1 of the Netherlands Civil Code.

4 Evaluation of timely submission, form, presentation and completeness

4.1 Timely submission

The Tender must be submitted before final date (and time) for submission of Tenders (paragraph 2.1). Any Tender that is received by TNO after this deadline will be deemed invalid and excluded from further consideration.

4.2 Form, presentation and completeness

Tenders will be assessed in terms of completeness and compliance with the published instructions. The omission of required information will result in disqualification.

Tenders which are incomplete and/or fail to comply with the presentation instructions will be declared invalid and excluded from further consideration.

5 Evaluation against Grounds for Exclusion and Eligibility Requirements

5.1 Grounds for Exclusion

The Tenderer will be evaluated against the Grounds for Exclusion. The Self-Declaration (European Single Procurement Document; Appendix A01, A02 and B03) includes a section which requires the Tenderer to confirm that none of the Grounds for Exclusion applies. If one or more of the Grounds for Exclusion does apply, the Tenderer will be excluded from the Tender Procedure. The Tenderer on who one or more of Ground of Exclusion applies, has the right to describe in the Self-Declaration if it has taken any self-cleaning measures which prove the Tenderer's reliability and/ or if exclusion is disproportionate (article 2.87a and 2.88 Dutch Procurement Act).

Where any of the Grounds for Exclusion applies to any one member of a Combination, the entire Combination is excluded from the Tender Procedure. The Combination, or one or more of its members, on who one or more of Ground of Exclusion applies, has the right to describe in the Self-Declaration if it has taken any self-cleaning measures which prove the Combination's reliability and/ or if exclusion is disproportionate (article 2.87a and 2.88 Dutch Procurement Act).

Where the Tenderer calls upon the resources or abilities of one or more Third Parties, as described in Para. 2.2.10, and one or more Grounds for Exclusion applies to any of those Third Parties, TNO will disallow the involvement of that Third Party. The Tenderer will then be given an opportunity to find another Third Party able to provide the necessary resources. The Tenderer must do so within seven (7) calendar days after TNO's message. If the Tenderer is unable to do so within the allotted period, or if the replacement Third Party is also subject to any other Grounds for Exclusion, the Tenderer will be excluded from the remainder of the Tender Procedure. Tenderers must be aware that the replacing Third Party must comply to the same Eligibility Requirements as the original Third Party.

In the first instance, a duly completed and signed Self-declaration form (Appendix **A01**) is enough to establish that none of the Grounds for Exclusion applies to the Tenderer. In the case of a Third Party, the Self-declaration form in Appendix **A02** is required. If the Tenderer is identified as the Provisional Contractor, it must provide evidence concerning the Self-Declaration. At the request of TNO, that Tenderer must provide the following evidential documents within the period stated Para. 7.1. In the case of a Combination, each individual member of that combination must submit these documents within the period stated Para. 7.1. Where the Tenderer calls upon the resources or abilities of one or more Third Parties, the Tenderer must submit these documents for each Third Party within the period stated Para. 7.1.

The evidential documents in question are:

- A certified extract from the Chamber of Commerce Trade Register pertaining to the Tenderer, or in the case of a Combination, to each member individually. The extract(s) must be dated no more than six months prior to the date of submission.
- A certified extract from the Chamber of Commerce Trade Register pertaining to each Third Party on whose resources the Tenderer intends to rely. The extract(s) must be dated no more than six months prior to the date of submission.
- A Certificate of Conduct (GVA) by the Tenderer or - in the case of a Combination - of any combinant and/or - if the Tenderer appeals to one or more Third Parties - every Third Party to which the Tenderer appeals. The Certificate of Conduct (GVA) is dated no more than two years prior to the date of submission of the Tender. To apply for a procurement statement, the Tenderer, combinant and/or Third Party must consult the Justis website (www.justis.nl) and follow the instructions contained therein regarding the application for a Certificate of Good Conduct;
- A declaration issued by the Tax Administration of the Tenderer or – in the case of a combination – of any combinant and/or – if the Tenderer appeals to one or more Third Parties – every Third Party to which the Tenderer appeals. The declaration must at the time of submission of the Subscription not exceed six months to prove that the Tenderer, combinant and/or Third Party has fulfilled his obligations under applicable legal provisions applicable to him relating to the payment of national insurance premiums or taxes.

Tenderers are reminded that it can take several weeks to obtain some types of evidential document. Especially a Certificate of Conduct (CoC), for which a maximum term of sixteen (16) weeks applies. It is therefore advisable to apply for them at the earliest possible moment. It will then be possible to produce the documents when required. It should also be noted that Tenderers are responsible for the timely submission of evidential documents, including documents pertaining to any Third Parties on whose resources they intend to rely. TNO therefore advises Tenderers to approach those Third Parties as soon as possible to make the necessary arrangements. Third Parties should be made aware of the time needed to obtain some documents.

Foreign companies without a Dutch subsidiary cannot apply for a CoC. If a tenderer has its corporate seat in a country that does not issue a CoC or an equivalent form, the tenderer must provide a statement in which the tenderer solemnly declares under oath that

the grounds for exclusion do not apply to the business. The statement must be made before a competent judicial or administrative authority, a civil-law notary or a competent professional body of that country and must be addressed to the contracting authority.

A Tenderer who fails to submit and/or fails to timely submit and/or fails to fully submit the requested evidential documents (pertaining to himself or to any Third Parties) on time will be excluded from the Tender Procedure except when exclusion is disproportionate.

5.2 Evaluation of Eligibility Requirements

A Tenderer must be able to demonstrate the level of expertise and skill required to perform the Contract activities. These are termed the 'Eligibility Requirements'.

The Tenderer is evaluated against the Eligibility Requirements as formulated for the Tender. If the Tenderer intends to call upon the professional expertise of one or more Third Parties, as described in Para. 2.2.10, TNO will assess whether each of those Third Parties fulfils the Eligibility Requirements.

The Eligibility Requirements apply to several aspects: financial and economic capacity, technical and professional ability, and professional qualifications. The Tenderer must meet all Eligibility Requirements in order to be considered for the Contract, either independently or by relying on the capacity of one or more Third Parties.

5.2.1 Financial and economic capacity

5.2.1.1 Insurance

The Tenderer must hold full liability insurance with a cover of at least € 1,250,000 per claim, with a minimum annual payment of 200% of this amount (see Appendix C03, para. 20.1), or must be willing to meet this requirement if identified as the Provisional Contractor. The insurance cover must be in place for the entire term of the Contract.

In the first instance, a duly completed and signed Self-declaration form (Appendix **A01**) is sufficient to establish that this requirement has or will be met. If, for the purposes of the present Eligibility Requirement, the Tenderer intends to rely on the financial and economic capacity of a Third Party, a separate Self-declaration must be submitted using the template provided as Appendix **A02**.

At the request of TNO, the Tenderer identified as the Provisional Contractor must submit evidence, within the period specified, of adequate insurance cover in the form of the policy document or a certificate of insurance issued by a recognized insurance company, showing that the Tenderer is insured as required in the Tender documents. Where the policy document is in the name of a holding company, group or concern, the Tenderer must present a copy together with evidence that cover extends to the Tenderer organization.

Where the Tenderer is not (yet) in the possession of the insurance policy or a certificate of insurance issued by an insurance company, within the period specified, he must complete, sign and return a Declaration of Intent to do so (Appendix **B04**). This is a statement to the effect that the Tenderer will obtain the required insurance cover and present the necessary evidential documents no later than **seven calendar days** before the signing of the Contract. It should be noted that this is a suspensory condition; failure to (timely) provide a copy of the policy or a certificate of insurance issued by the insurance company will result in the Contract offer being withdrawn and the Tender being deemed invalid. TNO will not issue confirmation of the Contract until the deadline for legal objections has passed or, if an objection is indeed lodged, it is overruled by the court. The Contract itself cannot be signed until TNO is in possession of evidence that the Tenderer holds the required insurance cover. In the absence of such evidence, TNO reserves the right to withdraw the Contract offer, whereupon the runner-up in the Tender evaluation process will assume first place and will be identified as the Provisional Contractor.

The prescribed document format for the insurance policy or certificate of insurance is enclosed as Appendix **B04**.

5.2.2 Professional authority

By completing the Self-declaration (Appendix **A01**) the Tenderer declares that he is registered in the relevant professional register or trade register, in compliance with all requirements of the member state in which he is based.

At the request of TNO, the Tenderer must provide the following evidential documents within the period stated in Para. 7.1:

- For companies registered in the Netherlands: an original certified extract from the Chamber of Commerce Trade Register should be submitted. This must be no more than six months old at the time of submission. Companies registered in another country should provide a comparable document in accordance with national legislation and practice.
- If the Tenderer is a legal partnership, extracts should be submitted for all parties who are included on the Trade Register, together with a declaration signed by all partners establishing the right of representation with regard to the Tender.
- If the Tenderer is a Combination, an extract should be submitted for each member.

- If the Tenderer intends to call upon the resources of one or more Third Parties or subcontractors, extracts should be submitted in respect of each Third Party or subcontractor.

5.2.3 Legal fitness to carry out the task

Following Regulation (EU) No. 833/2014 as last amended by EU Council Regulation (EU) 2022/576 of 8 April 2022, extensive sanctions have been imposed against the Russian Federation. These sanctions also include a prohibition, taking effect from 11 October 2022, on the execution of public contracts awarded to contractors to which Article 5k of the Sanctions Regulation applies.

In order to prove that no such prohibition on the execution of a contract is applicable, TNO requires Tenderer to complete and submit the declaration (**Appendix B05**). This statement should be legally signed by a representative of the company/ tenderer.

6 Evaluation against Award Criteria

TNO will evaluate and rank the Tenders based on the Award Criteria ‘lowest price’.

TNO, department Quantum Technology, has only included minimum requirements and does not foresee any possibility for (potential) bidders to differentiate themselves with qualitative criteria that add value to the product that TNO wants to buy.

6.1 Lowest Price

To allow a fair evaluation of the Tender by total price, the Tenderer should complete the schedule of prices and costs in Appendix **A04**. If this schedule is found to include omissions or inaccuracies, the entire Tender will be declared invalid and excluded from further consideration.

The price is assessed according to the following elements:

- Single-photon detector;
- Two year warranty;
- Site Acceptance Test (SAT);
- Installation on site;
- Operator & (basic) maintenance training;
- Delivery according Incoterms Delivered Duty Paid (DDP), 2020 (location TNO Delft, the Netherlands).
- a one-year basic maintenance contract multiplied by five (5) years.

The way the Price (TP) is assessed is shown in the table below:

| Criterion |
|--|
| <p>Price TP 1 – Single-photon detector</p> <p>This includes:</p> <ul style="list-style-type: none"> • Two year warranty; • Site Acceptance Test (SAT); • Installation on site; • Operator & (basic) maintenance training; • Delivery according Incoterms Delivered Duty Paid (DDP), 2020 (location TNO Delft, the Netherlands) |
| <p>Price TP 2 – A one-year basic maintenance contract multiplied by five (5) years. Providing insight into at least the following elements:</p> <ul style="list-style-type: none"> • All activities covered by the contract; • All activities which are not part of the contract; • Giving insight into response times (both inside and outside business hours), where we distinguish the following service levels; <ul style="list-style-type: none"> ○ Service level 1: A complete loss of service in which the single-photon detector is down. A major issue prevent access to the system or the use of significant portions of the system; ○ Service level 2: Users are unable to perform a non-mission critical function, such as change a portion of the system’s configuration; ○ Service level 3: The single-photon detector issue is cosmetic in nature and/or displays minor flaws which are easily circumvented with little or no impact on the customer’s normal business operations. • Service-desk reachability (both inside and outside business hours), either by telephone or via an online portal; • Number of planned maintenance visits; • Replacement parts prices or discounted prices on Tenderer enlisted selling price. |
| Lowest Price = TP1 + TP2 |

On completion, the schedule must be printed out, signed by an authorized representative of the Tenderer organization. It should then be added to the Tender. The Tenderer must adhere to the prescribed format. All sections must be completed. Tenders containing an incomplete form or a form of which the prescribed format is changed, are deemed invalid.

When evaluating the Tender against the sub-award criterium of price, TNO will check that the schedule of costs and prices (Appendix **A04**) has been completed in full. A price quotation on the basis of the schedule must meet the following minimum requirements:

- 1) Prices and costs must be stated in euros, excluding VAT, and accurate to two decimal places.
- 2) Only the unit prices and rates which appear on the price schedule will be included in the evaluation. They will remain valid throughout the duration of the Contract. Prices which deviate from those stated in the Tender Documents confer no rights or obligations on either party during the actual execution of the definitive Contract.
- 3) Hourly rates are deemed to be 'all-in' amounts which include all costs associated with the service provision, including but not limited to travel and accommodation expenses, office costs and overheads. By submitting a bid, the Tenderer confirms that there will be no additional costs further to the performance of the Contract. Costs, rates and/ or prices not included in the price sheet (Appendix A04) will not be paid by TNO during the fulfilment of the Contract.
- 4) The schedule of prices must be completed in full. The Tenderer must use the MS Excel spreadsheet provided by TNO without any amendments or alterations.
- 5) The Tenderer is responsible for ensuring the accuracy of all figures and calculations.
- 6) All prices quoted by the Tenderer must be based on the contents of the Tender Documents and form a binding offer.
- 7) Specific minimum requirements and additional instructions for the completion of the Schedule of Prices can be found under the tab marked 'Additional Instructions'. Submission of the Tender indicates that the Tenderer accepts these conditions in full.

The lowest Total Price (TP) is assessed using the cumulative costs as defined by TNO and appearing on the schedule.

6.2 Award of Contract

6.2.1 Announcement of Award Decision

All Tenderers will be notified of the results of the evaluation and the Award Decision. Every effort will be made to ensure that this notification is given on the date stated in the Schedule in Para. 2.1.

The notification of the Award Decision will state which Tenderer has been selected as the Provisional Contractor and will give general reasons for the rejection of other Tenders. Because the tender price contains confidential business information, TNO will not provide any information relating to the Tender price offered by the unsuccessful Tenderers, unless required to do so by law.

6.2.2 Objections

A Tenderer who does not agree with the Award Decision may lodge an objection. He must do so within twenty (20) calendar days of the date of the Award Decision and in the manner described in Para 2.4.

If interlocutory proceedings are filed, the Court's preliminary decision will be the basis for the continuation of the Tender Procedure.

6.2.3 Confirmation of Award

Once the period permitted for objections has elapsed and no interlocutory proceedings are filed, TNO will contact the winning Tenderer, as soon as possible, with a view to sending a formal Purchase Order, *unless* an appeal has been lodged with the judicial authorities. The Award is confirmed and is deemed to be final when TNO and the Tenderer enter into a formal Contract. Until the agreement is signed, TNO has no obligation, legal or otherwise, towards the Tenderer or any other party.

7 Evaluation of evidential documents and other documents

7.1 Submission of evidential documents and other documents

The Tenderer identified as the Provisional Contractor must submit all necessary documents and information in support of the statements made in the Self-declaration, as well as any other documents and/or information necessary to determine whether the Tender meets all requirements and can be realised, no later than seven (7) calendar days of being requested to do so by TNO. (These documents in question are those supporting Appendices **B01** to **B04** and any others stipulated in the Tender Instructions and/or request for information (see paragraph 5.1).)

TNO will request the Provisional Contractor to submit the required evidential documents which will then be evaluated against the following criteria:

- Timely submission (within allotted period)
- Whether all requested documents have been provided and are complete. The absence of (part of) any document and/or other information may result in the disqualification of the Tender.
- Whether the documents support the Tenderer's eligibility, as claimed by means of the self-Declaration.

It is stressed that any Tenders which prove to include material errors or make claims which cannot be substantiated will be excluded from the Tender Procedure. Tenderers must therefore compile their Tenders with the utmost care and truthfulness.

TNO can request the Provisional Contractor to provide other documents or evidence concerning the contents of the Tender.

7.2 Suspensory conditions

Where the Tenderer is unable to submit a copy of the required insurance policy or a certificate of insurance issued by a recognized insurance company within the period stated in the foregoing paragraph, but has nevertheless signed the Declaration of Intent in Appendix **B04**, and provided that the period permitted for objections has elapsed without any party notifying the intention to instigate legal action (or such action has been adjudicated in TNO's favour), TNO will notify the Tenderer of its intention to enter in a contract 'under suspensory conditions'. In practice, this means that the Contract may only be deemed final and valid if the Tenderer is able to submit a copy of the required insurance policy or a certificate of insurance issued by a recognized insurance company, showing that the Tenderer is insured as required in the Tender documents, no later than seven (7) calendar days before the signing of the Contract. The Contract will be finalized upon receipt of one or other of these documents.

If the Tenderer fails to submit either a copy of the insurance policy or a certificate of insurance issued by a recognized insurance company, the Contract will be deemed null and void. TNO reserves the right to approach the party whose Tender was ranked second in the Tender Procedure with a view to entering into a Contract.

7.3 Contract signing

If the conditions in paragraph 7.1 and 7.2 are met and no interlocutory proceedings are filed within twenty (20) days after Award decision, or, if proceedings are filed, the claims are denied, TNO and the Provisional Contractor can proceed with the signing of the Contract. TNO points out that the Contract has not been definitively awarded until the Contract has been signed by both TNO and the Contractor.

8 Minimum requirements with regard to Contract performance (Programme of Requirements)

TNO will assess all Tenders against the Minimum Requirements which relate to the manner in which the Contract itself is to be performed. The Minimum Requirements imposed by TNO itself are listed in Chapter 8, the **Programme of Requirements (PoR)**. By submitting a Tender, the Tenderer indicates his unconditional acceptance of all Minimum Requirements, including the terms and conditions stated in the Draft Contract (Appendix **C02**).

Tenders which do not comply unconditionally with all minimum requirements are deemed invalid and will be excluded from further consideration.

As stated in Para. 6.1.2 of these Tender Instructions, this PoR contains, in addition to the minimum requirements, a number of requests, which are asked by question, regarding the quality of the requested service/delivery. The Tenderer demonstrates the ability to meet the requirements and preferences by means of his answers to the various questions, which must be structured in accordance with the instructions given in Chapter 8. The Tenderer must use the template provided in Appendix **A05**.

Activities further to the Contract must be performed in full accordance with the Tender Documents and the Tender submitted by the Tenderer. TNO wishes to stress that the requirements listed in the PoR form binding Contract conditions. Any amendments to the PoR made during the term of the Contract are to be implemented within the framework provided by the Contract. TNO will ensure that there is no material alteration to the Contract or the obligations it imposes on either party.

Chapter 1 of this document sets out the purpose and scope of the Contract and hence the purpose and scope of the PoR.

8.1 Aspect 'requirements single-photon detector':

| Aspect 'requirements single-photon detector' | |
|--|---|
| Requirement 8.1.1 | The single-photon detector consists of a 19-inch rack that houses three main systems: the cryostat system; the electronics system; and the computer. |
| Requirement 8.1.2 | The cryostat system consists of a closed-cycle cryogenic system including the coldhead, compressor, water chiller, and temperature controller |
| Requirement 8.1.3 | The coldhead contains the single-photon detector devices and is capable of interfacing those with the optical fiber and electronic cables (for driving and detection signals) |
| Requirement 8.1.4 | The electronics system consists of driving electronics that bias the detectors and time-tagging electronics that interpret the detection signals. |
| Requirement 8.1.5 | The computer shall carry all the softwares required to communicate with the individual systems and extract current system status: temperature of coldhead; pressure of the cold head; status of SNSPD (latched/unlatched); photon counts. |
| Requirement 8.1.6 | The cryostat shall be capable of supporting 16 single-photon detectors as well as the fibers and electrical cables required to interface with them |
| Requirement 8.1.7 | 8 of the detectors shall be optimized for 1550nm with a detection efficiency higher than 90% |
| Requirement 8.1.8 | The maximum acceptable dark count rate for the 1550nm detectors shall be 100 counts per second at a condition of 90% efficiency |
| Requirement 8.1.9 | The maximum acceptable jitter for the 1550nm detectors shall be 50 ps at a condition of 90% efficiency |
| Requirement 8.1.10 | The maximum recovery time for the 1550nm detectors shall be 80ns |
| Requirement 8.1.11 | The optical fibers connected to the 1550nm detectors shall be SMF-28 |
| Requirement 8.1.12 | 8 of the detectors shall be optimized to a wavelength region between 600 and 850nm with an averaged detection efficiency higher than 70% over this bandwidth |
| Requirement 8.1.13 | The maximum acceptable dark count rate for the 600-850nm detectors shall be 10 counts per second at a condition of 70% efficiency |
| Requirement 8.1.14 | The maximum acceptable jitter for the 600-850nm detectors shall be 50 ps at a condition of 70% efficiency |

| Aspect 'requirements single-photon detector' | |
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| Requirement 8.1.15 | The maximum recovery time for the 600-850nm detectors shall be 60ns |
| Requirement 8.1.16 | The optical fibers connected to the 600-859nm detectors shall have a core diameter of 4.5um |
| Requirement 8.1.17 | The efficiency and dark count curves as a function of bias current for each detector shall be provided together with the single-photon detector. |
| Requirement 8.1.18 | The single-photon detector (including the compressor and cryogenic cables) shall fit in a 19" rack |
| Requirement 8.1.19 | The single-photon detector shall include driving electronics that directly interface with all the 16 detectors and allow characterizing and operating each detector individually |
| Requirement 8.1.20 | The single-photon detector shall include time-tagging electronics capable of processing the detection signals from all 16 detectors |
| Requirement 8.1.21 | The software that interfaces with the driving electronics shall include a user interface and pre-defined characterization measurements, such as an I/V curve for each detector |
| Requirement 8.1.22 | The software that interfaces with the driving electronics shall include a user interface and basic measurement functions, such as correlations between any combination of detector channels |
| Requirement 8.1.23 | The single-photon detector shall include a single computer that connects to both driving and time-tagging electronics and provides an interface between the user and the system |
| Requirement 8.1.24 | All interfaces between computer and hardware of the single-photon detector shall include a python API |
| Requirement 8.1.25 | The single-photon detector shall be installed by the manufacturer at the TNO site designated for it |
| Requirement 8.1.26 | The compressor shall be water cooled |
| Requirement 8.1.27 | A closed-cycle water chiller shall be part of the single-photon detector and shall be connected to the water-cooled compressor |
| Requirement 8.1.28 | The rack structure that supports the single-photon detector shall provide compressor sound noise damping |
| Requirement 8.1.29 | The rack shall include wheels with breaks in case the single-photon detector needs to be moved |
| Requirement 8.1.30 | The single-photon detector shall have a reachable patch panel to allow the user to freely connect the fibers and electrical cables to their setup |
| Requirement 8.1.31 | The 19-inch rack shall have a maximum height of 2.2 meters |

8.2 Aspect 'General requirements and/or questions':

| General requirements and/or questions | |
|---------------------------------------|---|
| Requirement 8.2.1 | <p>Terms and conditions of payment</p> <ul style="list-style-type: none"> • 20% at order, after receipt of a bank guarantee covering 80% of the total amount; • 20% after Critical Design Review (CDR); • 40% after delivery and visual inspection at location TNO Delft. • 20% after installation and commissioning On-site and Site Acceptance Test (SAT) including test periods, approved by TNO, Management Quantum Technology and Procurement. At this moment TNO will return the bank guarantee. <p>The Tenderer to whom the Contract will be awarded must provide a bank guarantee to TNO, covering 80% of the total price. The Bank guarantee and the bank who issues the Bank guarantee have to be approved by TNO (minimal A rating). TNO must have the right to draw the bank guarantee in any and all cases where Tenderer falls short in fulfilling its obligations under the Contract. The validity of the bank guarantee may not expire until approval of the SAT by TNO Management and Procurement.</p> <p>Remark: please note, that approving the CDR this does not mean that TNO will take final responsibility if during SAT it is found that the system does not meet the minimum requirements. TNO will at all times hold</p> |

| General requirements and/or questions | |
|---------------------------------------|--|
| | Tenderer ultimately responsible for delivering an single-photon detector in accordance with the requirements as stated in this Tender. |
| Requirement 8.2.2 | Delivery shall be made in accordance with the Incoterms 2020, Delivered Duty Paid (DDP). |
| Requirement 8.2.3 | A minimum of 3 TNO employees will be trained to operate the system safely and properly, as well as on basic preventive and corrective maintenance. Rationale: to solve small issues independently, with supplier approval, and minimise downtime. |
| Requirement 8.2.4 | The single-photon detector shall be CE certified. |
| Requirement 8.2.5 | The offered single-photon detector assembly and associated (necessary) accessories comply at all times with the applicable Dutch and European legal requirements, such as (but not limited to): NEN, EN and CE standards and their use including the working conditions - legislation. (93/42 / EEC); |
| Requirement 8.2.6 | Documentation: <ul style="list-style-type: none"> • Instruction manual; • Maintenance manual including all required technical documentation for Preventive maintenance and Corrective Maintenance; • Quick- start guide (if available); • List of spare parts/consumables, including price for TNO; • Long lead times; • CE certification; • Safety measures and their implementation using the setup. <p>All documentation must be available in English.</p> |
| Requirement 8.2.7 | Indicate if the instrument/ system is export controlled, and if so, please indicate if applicable the parts that are export controlled. |
| Question 8.2.8 | Are there any additional parts that are or might become export controlled which we need to take into account for future maintenance and repair? |
| Requirement 8.2.9 | Certificate of Origin shall be provided with the shipment. |
| Requirement 8.2.10 | Site Acceptance Test (SAT) - The SAT contains at least the following checkpoints: <ul style="list-style-type: none"> • The single-photon detector will be visually inspected for damages; • The proper functioning of the equipment will be checked: <ul style="list-style-type: none"> ○ Mechanical functions, ○ Electrical safety- and switching functions, ○ User interface(s), including any software. • All requirements (such as straightness etc.) and possible additional requirements will be checked; • The presence and quality of the documentation will be checked <p>The details of the site acceptance test shall be agreed between TNO and the Tenderer to whom the Contract will be awarded, but Tenderer must submit a draft test protocol for the site acceptance test with its Tender.</p> <p>Remark: In the event that the deliverables fail to meet the user Acceptance Criteria for the SAT, the Supplier must set out such failures in a written statement, to be signed by both parties. The supplier must then provide TNO with a corrective action plan for such failures within twenty (20) calendar days, or such other period if mutually agreed upon by the parties, from the date of signing of such statement. The supplier shall remedy such failures at no additional charge within the timeframe laid down in the corrective action plan.</p> |
| Requirement 8.2.11 | Warranty, as per Art. 6 of TNO's Purchasing Conditions for Goods, and starts after a successful SAT |
| Requirement 8.2.12 | Basic maintenance contract proposal for periods of one year, up to and including 2028 (see also para. 1.3.2) Remark: Tenderer is hereby requested to provide insight into at least the following elements: <ul style="list-style-type: none"> • All activities covered by the contract; • All activities which are not part of the contract; • Giving insight into response times; • Service-desk reachability (outside/inside regular business hours), either by telephone or via an online portal; • Number of planned maintenance visits; |

| General requirements and/or questions | |
|---------------------------------------|---|
| | <ul style="list-style-type: none"> Replacement parts prices or discounted prices on Tenderer enlisted selling price. |

8.3 Aspect ‘corporate Social Responsibility (CSR) - Questions’:

| Corporate Social Responsibility (CSR) - Questions’ | |
|--|--|
| Question 8.3.1 | <p>Corporate Social Responsibility is becoming increasingly important in our own organization and in the future TNO will also ask more from our suppliers to play a part in this.</p> <p>What possibilities have you already initiated and where do you see opportunities for yourself and for TNO?</p> |
| Question 8.3.2 | <p>As you're aware, ISO 20400 is an international standard that provides guidelines on sustainable procurement. The standard can be used by any organization that intends to improve their social, economic, and environmental sustainability. Considering the growing awareness with regard to sustainable business practices, nationally and internationally, whether required by laws and regulations, promoted by the UN Sustainable Development Goals, or even by the changing societal expectations – there are a myriad of reasons in today's world that drive organizations to be more sustainable, including TNO.</p> <p>Do you embrace the ISO 20400 guideline, and if so, how do you implement it in your own organisation?</p> |
| Question 8.3.3 | <p>Laboratory instruments, like the single-photon detector, that TNO uses for its scientific research often consume a lot of energy and also often consist of very high-quality raw materials.</p> <p>For the purpose of corporate social responsibility (CSR), do you, or will you in the future, make technological investments to reduce power consumption during instrument use, without negatively affecting the technical application of the instrument?</p> |
| Question 8.3.4 | <p>The design of products with recycling in mind should be an important place to start for all of us. The inclusion of recycled or reused materials is a good way to increase demand for recycled and reused materials as it can significantly reduce the greenhouse gas emissions impact of the materials used in such laboratory instruments.</p> <p>Can you give TNO some insight on how and in which way you are using recycled or reuse materials now, or are working on solutions to use more recycled or reuse materials in the future, but still safeguard the basic use of such laboratory instruments?</p> |
| Question 8.3.5 | <p>TNO focuses within its organization on reducing energy, water use and emissions.</p> <p>What greening initiatives have you taken or can you take in your product portfolio to reduce energy and water consumption and emissions?</p> |
| Question 8.3.6 | <p>In the case of transport packaging, one important opportunity is that of substituting reusable packaging for single trip packaging.</p> <p>Can you give TNO some insight on how and in which way you are using recycled or reuse materials now, or are working on solutions to use more recycled or reuse materials in the future?</p> |
| Question 8.3.7 | <p>In the case of shipping, from the sold products to the customer, we all have an important possibility to reduce emissions.</p> <p>Can you give TNO some insight into how you are trying to reduce the greenhouse gas impact in this perspective?</p> |

9 Appendices

All Appendices to the Tender Documents are published to accompany the Tender Instructions on www.tenderned.nl.

The Appendices fall into three categories:

A) To be submitted with Tender

- Appendix A01** Self-declaration by the Tenderer: European Single Tender Document (ESTD)
- *If the Tender is to be submitted by a Combination, a copy of Appendix A01 must be submitted by each member of the Combination.*
- Appendix A02** Self-declaration by all Third Parties on whose resources the Tenderer intends to rely: European Single Tender Document (ESTD)
- *Where necessary, a copy of this form should be provided for each Third Party on whose resources the Tenderer intends to rely.*
- Appendix A04** Schedule of Prices and Costs
- Appendix A05** Conformity list Programme of Requirements
- Appendix A07** Maintenance/services proposal

B) To be submitted on request (evidential documents)

- Appendix B01** Self-declaration with regard to subcontractor(s) to be deployed during performance of Contract
- *Where necessary, a copy of this form should be provided for each subcontractor*
- Appendix B02** Declaration re. use of Third Party financial and economic capacity
- Appendix B03** Declaration re. use of Third Party technical and professional competence
- Appendix B04** Declaration re. insurance policy/certificate of insurance
- Appendix B05** Declaration European Sanctions

C) Additional information:

- Appendix C01** Standard template for questions submitted by Tenderer
- Appendix C02** Draft Contract
- Appendix C03** TNO Purchasing Conditions for Goods, February 2022

Remarks

Some of the forms and templates listed above are made available as 'editable' MS Excel or MS Word files. This is to facilitate both their completion by the Tenderer and the subsequent evaluation by TNO, in accordance with Chapter 5. Some (sections of the) documents are secured in order to prevent unintentional or undesirable changes.

It is not permitted to make any alteration to the format or pre-completed content of any document. The format and text of all documents as included in the Tender Instructions and published on www.tenderned.nl will take precedence at all times.