

# Procurement Guide

for the European Public Tender for: Software Engineering Services in C#

**Contracting authority:**

The Netherlands Organisation for Applied Scientific Research / TNO

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## Definitions

In this Procurement Guide, words written with an initial capital, both singular and plural, shall have the following meanings. Terms not mentioned in this list but defined in the Dutch Public Procurement Act [*Aanbestedingswet*] have the meaning assigned to them in the Procurement Act.

Contracting Authority	: TNO, Netherlands Organisation for applied scientific research
Procurement Guide	: the present document describing the Procurement Procedure.
Procurement Procedure	: the present European public Procurement Procedure by which the conclusion of the Contract is tendered.
Dutch Public Procurement Act	: Dutch Public Procurement Act 2012 (hereinafter: "Procurement Act" or "Aw") concerning the implementation of procurement directives 2014/23/EU, 2014/24/EU and 2014/25/EU
Procurement Documents	: all documents prepared by or on behalf of TNO for the purpose of the Procurement Procedure.
Announcement	: the Notice of Procurement Procedure at <a href="http://www.TenderNed.nl">www.TenderNed.nl</a> .
Appendix(es)	: The Appendices to the Procurement Guide, namely: <ul style="list-style-type: none"> <li>• <b>A01</b> to A.[...] - i.e. the formats to be used by the Tenderer in preparing and submitting its Tender,</li> <li>• <b>B01</b> to B.[...] - i.e. the formats to be used by the intended beneficiary for the purpose of submitting supporting documents relating to the ESPD at the request of TNO,</li> <li>• <b>C01</b> to C.[...] - i.e. documents and (additional) information, which form part of the Procurement Guide and are not intended for submission by the Tenderer or the intended beneficiary.</li> </ul>
Combination	: an alliance of enterprises tendering jointly as a single Tenderer, each of the Combination members being jointly and severally liable for the performance of the Contract.
Third Party	: natural persons on whom, or legal entities on which, a Tenderer may rely in order to meet the Suitability Requirements of financial and economic standing and/or technical and professional competence, irrespective of the legal nature of its links with said Third Party.
Suitability Requirements	: the requirements imposed by TNO on Tenderers not excluded on the basis of the Grounds for Exclusion, which Tenderers must meet as a minimum in order to be eligible for the award of the Contract, on penalty of invalidation, as described in Section 5.
Award criterion	: the criterion used by TNO in the assessment and ranking of Tenders for the purpose of awarding the Contract, as referred to in Section 6.
Award decision	: the written communication of TNO's choice of the Tenderer with which it intends to conclude the Contract or its choice not to conclude a Contract.
Tenderer	: an entrepreneur submitting a Tender.
Tender	: an offer/quotation made by a Tenderer.
Minimum Requirements	: the requirements set by TNO regarding the manner in which the Contractor must perform the Contract.
Template for Tenderer Questions (Information Notice)	: the document containing further information about the Procurement Procedure and/or the Procurement Documents and in which TNO presents and answers the Tenderers' questions in anonymised form.
Contractor	: the Tenderer with which the Contract is concluded.

- Contract : the Contract concluded with the Contractor pursuant to the outcome of the Procurement Procedure. The Contract is concluded after it has been signed by TNO and the Contractor.
- Grounds for Exclusion : grounds for exclusion from participation in the Procurement Procedure, which – depending on the provisions of the Procurement Documents – relate to circumstances concerning the (person of the) Tenderer, the (person of the) Third Party and/or the (person of the) Subcontractor.
- European Single Procurement Document : the declaration as referred to in Article 2.84(1) of the Procurement Act, which TNO has attached to the Procurement Guide as Appendix **A01** (hereinafter: ESPD).

## 1 Contracting Authority and Contract

### 1.1 TNO

TNO, Netherlands Organisation for applied scientific research, hereinafter referred to as "TNO", is a modern unit-driven Research & Knowledge organisation, established by law in 1932 to make scientific research applicable to enterprises, government bodies and civil-society organisations and thereby strengthen innovative capacity.

TNO is a public-law legal entity and operates under the ministerial responsibility of the Dutch Minister of Economic Affairs but, as an organisation, performs its tasks independently.

Every day, TNO's employees are working on the development and application of innovative research. TNO provides contract research and specialist consultancy and licenses patents and specialist software. TNO starts up new enterprises to bring innovations to market.

TNO's strength lies in its ability to combine diverse fields of science to create ground-breaking, sustainable solutions. Increasingly, TNO does so by collaborating with government bodies, industry, other knowledge institutions and civil-society organisations, both nationally and internationally. Through its work, TNO stimulates economic growth and social innovation.

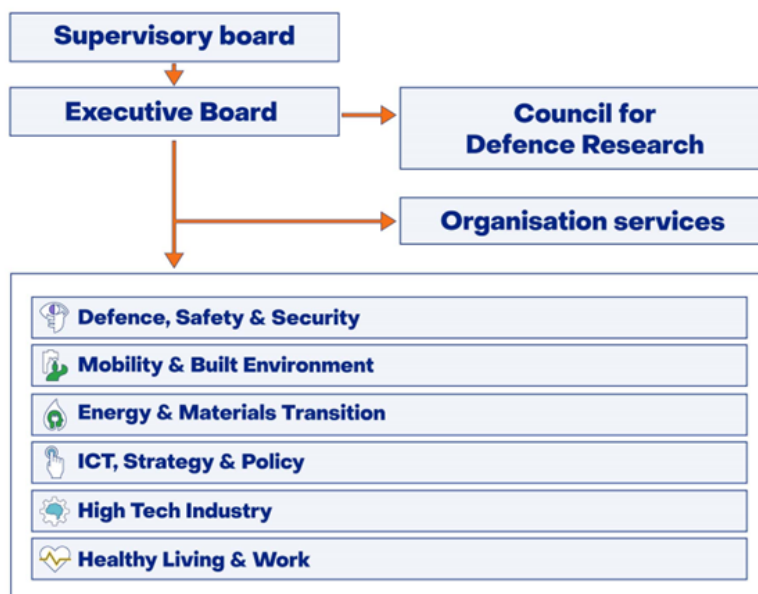
TNO's mission is creating impactful innovations for the sustainable wellbeing and prosperity of society. How TNO fulfills this mission is described in its strategic plan for 2022-2025 and focuses on four societal challenges: a safe and secure society, a sustainable society, a healthy society and the digitalisation of society and industry.

TNO's goal is to connect, change and accelerate: Innovation for Life

For more information, see: [www.TNO.nl](http://www.TNO.nl).

### 1.2 The TNO Organisation

With TNO's highly ambitious approach comes an organisational form that effectively facilitates this ambition and a culture that challenges employees to innovate and collaborate. The TNO organisation has a unit structure as shown below:



The six organisational units (Units) are market-oriented and recognisable to TNO's customers and partners.

The Units are based across the Netherlands with a total of 21 locations/research facilities.

The head office is located in The Hague and accommodates the central staff bodies (Shared Services Organisation) and from where the entire TNO organisation is supported and managed.

*Procurement department*

The Procurement department is effecting the procurement on behalf of TNO in close cooperation with the Wind Energy department.

Procurement, as part of the Finance, Procurement & Legal (FPL) department, is responsible for organising and executing procurement processes and ensuring that these processes are in line with the TNO objectives.

**1.3 Purpose of the Tender**

The purpose of the current Tender Procedure is to select one (1) Contractor to provide Software Engineering Services. The services and the manner in which they are provided must comply with the specifications and criteria given in the Tender documents, 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. The latter are in the nature of 'preferences' which should be taken into consideration to the greatest extent possible.

*Request for Further Proposal /Further Contract:*

Throughout the duration of the Contract, TNO is entitled to place additional orders requiring the provision of Software Engineering Services. The Contractor is obliged to accept orders for services which are expressly included in the Contract. Supplies or Services which are not stipulated in the Contract are subject to a Further Contract.

A Further Contract is produced on the basis of a Request for Further Proposal. This proposal must meet all conditions and criteria stated in the Contract. Further Contracts are therefore entered into under the terms and conditions established by the Contract, subject to initial approval of the Further Proposal by the Contracting Authority.

Further Contracts can be extremely diverse in form, scope and complexity. They may be issued on an incidental/ad hoc basis or more regularly throughout the lifetime of the Contract.

Except where otherwise stated, the Contract itself does not commit the contracting authority to the procurement of any goods or services. It confers no rights or guarantees.

**1.3.1 Term of the Contract**

The Contract is entered into for a period of four (4) years. The proposed date of commencement is May 1st 2025. The Contract will therefore expire on April 30th 2029. No period of notice is required on either side.

*Option period:*

TNO is entitled – but not obliged – to extend the duration of the Contract under the same terms and conditions by two (2) periods of one (1) year each, commencing May 1st 2029 and thereafter May 1st 2030. Not later than three (3) months before the expiry of the Contract, including any period by which it has been extended, TNO will inform the Contractor whether TNO wishes to extend the Contract. If TNO does not extend the term, the term shall expire by operation of law. The maximum Term of the Contract will therefore not exceed six (6) years and will expire by operation of law not later than April 30th 2031.

The degree to which the Contractor complies with the terms of the Contract and meets the expectations stated in one or more Service Level Agreements will affect the likelihood of the Contract being extended or, conversely, terminated before the planned expiry date.

**1.3.2 Current situation, vision of future requirements**

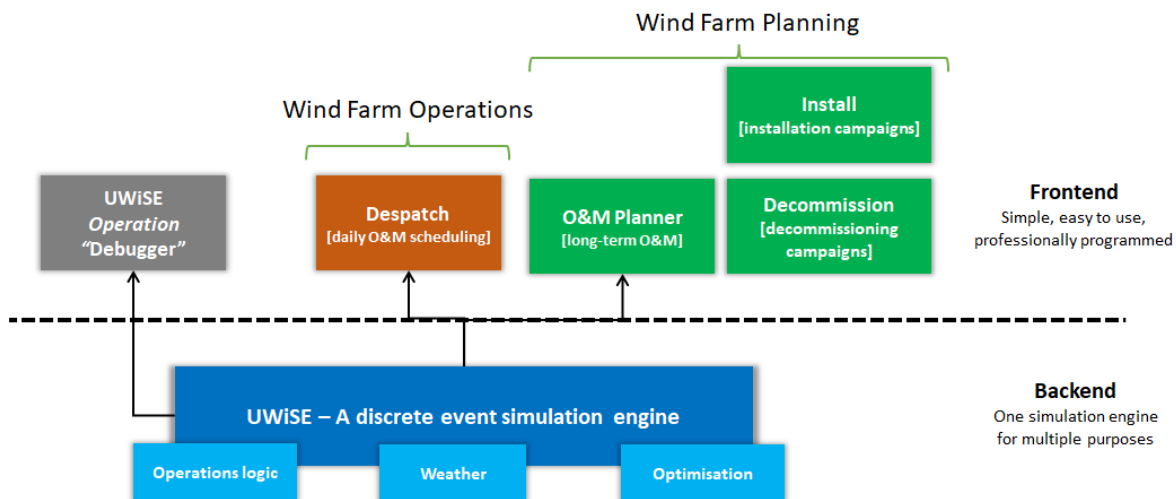
Since the early 2000's, the Wind Energy expertise group in the TNO unit Energy & Materials Transition, which belonged to the Energy Research Center of the Netherlands (ECN) before the merger with TNO in 2018, has developed its own software for wind energy systems modeling.

The software modules that simulate the Installation and Operations & Maintenance of offshore wind farms provide a fitting example. While successful for research and commercial purposes up to 2016, due to the continuous expansion of its internally developed offshore logistics modules, ECN (now TNO) decided to initiate the development of a new software platform that would incorporate the main functionalities of the different ECN models, unifying the software logic, improving the user experience, and streamlining future development activities. To maximize the new platform's quality and simplify software management, development activities were outsourced to a professional software engineering company. This led to the creation of UWISE (<https://uwise.tno.nl/>), a professional discrete-event simulation platform built in C# .NET and specifically designed for the simulation of logistics and operational activities of offshore wind farms.

The UWise platform combines a discrete-event simulation engine backend with an interactive graphical frontend whose main functionalities are listed below.

- **UWise back end:**
  - discrete-event simulation logic based on next-event time progression;
  - advanced work order scheduling logic accounting for offshore activity dependencies, weather, and resource constraints (e.g. weather windows, operational limits, resource availability, shift patterns, permit periods, etc.);
  - power production logic including models for wind turbine generators and solar photovoltaic (PV) plants;
  - stochastic event generation logic based on a bootstrapping method to account for subsystem failure modes and non-deterministic task durations;
  - metocean data import routines;
  - output log file generation and processing into an Excel output summary file and interactive simulation Gantt charts.
- **UWise front end:**
  - map-based desktop graphical user interface allowing visual review of the detailed input information;
  - process editor whiteboard to create convenient block diagram descriptions of offshore method statements, including task and resource dependencies, non-deterministic durations, operational limits, weather windows, iterations, learning curves, etc.;
  - simulation setup tab to specify the run settings like simulation duration, random seeds, weather years, multi-core parallel execution, etc.;
  - Detailed, zoomable, and color-coded interactive Gantt chart visualization of any simulation.

Currently, there are four active application modules within the UWise platform:



- **UWise Install** for high-fidelity modelling of offshore power plant installation campaigns. It can be used to evaluate the cost-benefit profile of alternative installation methods.
- **UWise Decommission** for high-fidelity modelling of offshore power plant decommissioning campaigns. It can be used to evaluate the cost-benefit profile of alternative decommissioning methods.

- **UWiSE O&M Planner** for high-fidelity modelling of the long-term operation and maintenance activities on offshore power plants. It allows, among other things, to evaluate and compare the operational expenditures (OPEX) associated with different O&M strategies.
- **UWiSE Despatch** for the optimal daily scheduling of maintenance activities on offshore wind farms.

UWiSE and its modules are used both internally by TNO researchers evaluating innovative logistic scenarios and externally by clients or partners who may be granted access to the compiled application through license agreements with TNO. The software is continuously developed based on the outcomes of joint research projects and feedback from industrial clients and/or partners.

In the past 6 years, TNO has been developing and maintaining modeling software tools (incl. UWiSE) with a single software engineering supplier who was awarded a similar Contract as the object of this Call for Tender. The single supplier arrangement proved to be effective for TNO, hence we are seeking the establishment of another long-term professional relationship with a single software engineering supplier to replace the previous agreement which is now expiring and ensure business continuity.

### **1.3.3 Objective, scope and content of the proposed Contract**

The Contract Software Engineering Services relates to the provision of services as specified in the Programme of Requirements (Chapter 8).

The key elements of this Contract are:

- Ongoing development and maintenance of simulation engine back-end code in C#.
- Ongoing development and maintenance of simulation management back-end code in C#.
- Ongoing development and maintenance of desktop-based or web-based user interfaces according to TNO requirements.
- Support TNO staff in implementing and debugging complex simulation scenarios.
- Work according to an Agile process, to deliver regular updates of tools based on a mutually agreed and time-estimated backlog.

The exact nature, scope and frequency of the intended activities cannot be determined in advance. The basis of the tender will be a purchase volume of approximately 2000 hours/year. Although these figures provide an estimate of the 2025 workload, they are not more than a general indication. No rights may be claimed or inferred.

Over the duration of the Contract specific developments will be performed within the relevant projects from TNO, through sub-contracting in both R&D and commercial projects, with the medium-term goal of expanding the software capabilities to enable the modeling of integrated power systems (e.g. incl. multiple wind farms, solar PV farms, hydrogen/e-fuel production units, energy storage units, etc.) and the evaluation of innovative logistic solutions (e.g. autonomous inspections/repairs, data-driven decision-making, unmanned vessels, etc.). This may require the development of new application modules and interfaces or the upgrading of existing ones depending on specific project needs.

### **1.3.4 Purpose of the service**

The Wind Energy expertise group, within the unit Energy & Materials Transition of TNO, has the following objectives for this Contract with respect to the service provision:

- To maintain a professional relationship with an expert software engineering consultancy, who are able to provide high-quality code and user interfaces (measured by standard factors such as test coverage and latency) which use the latest stable tools and methods for a competitive price.
- To be able to rely on external expertise in transforming mathematical and engineering concepts, ideas and algorithms into efficient code.
- To be able to share reliable software with research and commercial partners.
- To expand the current modelling capabilities, enhance the model flexibility, and improve the user experience of TNO's software.

### 1.3.5 Concept Agreement

A Concept Agreement (Appendix **C02**) is an integral part of this Tender document.

## 2 Procurement Procedure

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

TNO has opted for the ‘public’ tendering procedure. Therefore this tender has been published on and will proceed through TenderNed, [www.TenderNed.nl](http://www.TenderNed.nl).

### 2.1 Schedule

The proposed schedule for the Tender Procedure is as follows:

No.	Action	Deadline
1.	Publication of Announcement of Contract (at <a href="http://www.TenderNed.nl">www.TenderNed.nl</a> )	September 30 <sup>th</sup> 2024
2.	Closing date for submission of questions by Tenderers	November 15 <sup>th</sup> 2024, 13:30 CET
3.	Issue of (final) Template for Tenderer Questions (Information Notice)	December 2 <sup>nd</sup> 2024
4.	Closing date and time for submission of Tenders	January 17 <sup>th</sup> 2024, 13:30 CET
5.	Notification of Award Decision	February 28 <sup>th</sup> 2025
6.	Closing date for submission of supporting documents by intended beneficiary	[date in accordance with conditions stated in Section 7.1]
7.	Closing date for submission of challenges	March 20 <sup>th</sup> 2025, 11:59 CET
8.	Final award	March 21 <sup>th</sup> 2025

The dates mentioned in the schedule are indicative. TNO reserves the right to change the dates, subject of course to the minimum periods as laid down in the Dutch Public Procurement Act [*Aanbestedingswet*]. Affected enterprises will be notified of any change in the schedule via TenderNed.

### 2.2 Tender conditions

As part of the Procurement Procedure, TNO applies the following conditions.

#### 2.2.1 Agreement

Submission of the Tender implies that the Tenderer agrees to the terms and conditions of the Tender Procedure and agrees to the contents of the Tender Documents, including any (unwelcome) answers in the Template for Tenderer Questions (Information Notice).

#### 2.2.2 Formats

The Tenderer should use the formats as included in the Appendices to this Procurement Guide. It is expressly not permitted to make changes to these formats, unless TNO has expressly stated otherwise.

#### 2.2.3 European Single Procurement Document (ESPD)

The Tenderer must submit an ESPD as specified in the instructions given below. The Tenderer must use the ESPD as appended in Appendix **A01**.

To access and complete the ESPD electronically, the Tenderer must only use the Adobe Reader software program, preferably the latest version. Opening the ESPD in a program other than Adobe Reader may result in the ESPD appearing different from the version pre-filled by TNO and/or showing errors. Submission of an ESPD that differs from the version as provided by TNO with the Procurement Documents will render the Tender invalid, unless TNO considers this disproportionate in a specific case.

The responsibility for opening the ESPD in the prescribed manner and submitting the correct version thereof rests with the Tenderer.

For legally valid signature of the ESPD, see Section 2.2.20 of this Procurement Guide.

#### **2.2.4 Precedence of Procurement Documents**

In the event of discrepancies between the contents of the various Procurement Documents, the following order of precedence applies during the Procurement Procedure, in descending order of prevalence:

- Template for Tenderer Questions (Information Notice): from most recent to least recent;
- Procurement Guide with Appendices:
  - o Programme of Requirements and Preferences, including any relevant Appendices;
  - o The Price Sheet (Appendix A03);
  - o Publication of Announcement of Contract
- Announcement.

#### **2.2.5 Contact person and communication**

All communication relating to the Procurement Procedure, with the exception of Section 2.3 "Further Information (questions)", will take place via TenderNed only and in the manner specified in this Procurement Guide.

If direct contact with TNO is specified/necessary, communication will take place exclusively with the TNO contact person stated below, in writing at all times, via the TenderNed messaging module.

Name : F.H.B. Wisker  
Position : Procurement Advisor  
Department : Procurement  
Postal address : PO Box 96800, NL-2509 JE The Hague

Tenderers cannot derive any rights from verbal statements, undertakings and suggestions made by TNO employees and/or consultants in relation to the Procurement Procedure and/or the Procurement Documents. Tenderers may only rely on information provided in writing by or on behalf of TNO.

On penalty of exclusion, enterprises may not contact persons other than the contact person with regard to the Tender, unless TNO considers this disproportionate in a specific case. Nor is it permitted, on penalty of exclusion, to communicate with the contact person in any way other than via TenderNed, unless TNO considers this disproportionate in a specific case.

Instructions regarding digital procurement via TenderNed can be found by selected bidders in TenderNed's support environment (<https://www.TenderNed.nl/cms/help>). If you have any questions or are unclear about the operation of TenderNed (for example, if you are unable to log in or submit documents) or if TenderNed malfunctions, the TenderNed service desk can be contacted from 8.30 a.m. to 4.30 p.m. on working days on 0800 - 836 33 76 or via [servicedesk@Tenderned.nl](mailto:servicedesk@Tenderned.nl)

#### **2.2.6 Language**

Tenders must be written in the English language. Tenders in languages other than English will be excluded from participation. Official documents that cannot be submitted in the English language may be written in the language of the document's country of origin. Upon request, the Tenderer shall arrange a translation by a sworn interpreter-translator. The costs incurred shall be borne by the Tenderer.

#### **2.2.7 Single Tender**

An enterprise may only be involved in one (1) Tender: either as an independent Tenderer, a member of a Combination, or a subcontractor or Third Party. With regard to enterprises belonging to the same group as referred to in Sections 2:24b and 2:24c of the Dutch Civil Code, more than one company from the group may submit a Tender, provided that the enterprises demonstrate, at TNO's request, that the Tenders have been drawn up independently and autonomously.

Where this cannot be demonstrated by all the Tenderers concerned, all the Tenders emanating from enterprises belonging to the same group will be excluded.

### 2.2.8 Combination

A Combination of enterprises may submit a Tender jointly as a single Tenderer.

To do so, the following conditions must be met.

- All members of the Combination shall submit their own completed and validly signed ESPD. This states that registration takes place in Combination and, if selected, registered.
- The ESPD specifies which member of the Combination will fulfil the role of coordinator. The coordinator is the only member with which TNO corresponds regarding the Procurement Procedure and, where applicable, the Contract. The coordinator must have the power to legally bind all members of the Combination in respect of the Procurement Procedure and, where applicable, (the award of) the Contract.
- All members of the Combination must individually declare in their own ESPD whether they are subject to Grounds for Exclusion (see Section 5.1). The members of the Combination will each be assessed individually against the Grounds for Exclusion. If one or more Exclusion Grounds apply to one or more members, the entire Combination will be excluded.
- The Combination as a whole will be assessed against the Suitability Requirements, subject to any exceptions referred to in Section 5.2. In the ESPD, the Combination members declare how the Combination meets the Suitability Requirements. If the Combination as a whole does not meet all Suitability Requirements, the submission of the Combination will be laid aside.

By submitting the Tender, the Combination members declare that all the participants in the Combination are jointly and severally liable for the fulfillment of the obligations arising from the Procurement Procedure, as well as from any performance of the Contract. By submitting the Tender, the Combination members declare that the coordinator is authorised to validly represent the Combination and the individual Combination members in all matters relating to the Tender and, in the event of the award of the Contract, the Contract.

### 2.2.9 Subcontracting

A Tenderer may use one or more subcontractors to carry out the work. A cooperative venture in the form of a main contractor and subcontractors may tender as a single Tenderer. The main contractor shall remain at all times responsible and liable for all work, including any work performed by a subcontractor.

TNO recognises the following subcontractors:

#### Reliance on subcontractor to meet Suitability Requirements

Where the Tenderer relies on the financial and economic standing and/or technical and professional competence of a subcontractor to meet the Suitability Requirements, said subcontractor shall also be deemed a Third Party. In this case, the Tenderer must follow the instructions as described in Section 2.2.10 concerning reliance on the resources of a Third Party or Parties. All Third Parties must be listed in Section IIC of the ESPD (Appendix **A01**).

#### Deployment of subcontractor to perform the Contract

Where a Tenderer meets the specified Suitability Requirements independently but wishes to use one or more subcontractors to carry out the work, the Tenderer need not disclose the identity of the subcontractor(s) in the Tender. While the Tenderer must tick the box in its ESPD, Part IID, to indicate that it intends to use subcontractors, their names need not be disclosed at this time. However, the Tenderer must do so not later than seven (7) calendar days after the provisional award, as TNO has to pre-approve the subcontractors to be used. If the Contractor wishes to replace a subcontractor during performance of the Contract, this will only be possible subject to TNO's prior consent in writing.

If a Tenderer wishes to use a subcontractor, a completed ESPD (Appendix **A01**; parts IIA, IIB and III) must be submitted not later than seven (7) calendar days after the provisional approval of said subcontractor, as well as the supporting documents relating to the Grounds for Exclusion (Section 5). Where a subcontractor is subject to one or more Grounds for Exclusion and said subcontractor has not given convincing reasons in the ESPD why it should nevertheless not be excluded (see Section 5), the subcontractor will not be approved. Otherwise, approval of a subcontractor will not be unreasonably withheld.

If a Tenderer intends to use multiple subcontractors, a completed and duly signed ESPD (Appendix A01) must be submitted from each subcontractor. The subcontractor has only to complete parts IIA, IIB and III of the ESPD. These ESPDs will be appended to the Tender.

The subcontractor's ESPD (Appendix **A01**) must be duly signed. For signing authority, please refer to Section 2.2.20.

If the Tenderer does not intend to use subcontractors

The Tenderer should indicate its intention not to use subcontractor(s) by ticking only the "no" box in Part II D of the ESPD (Appendix **A01**).

**2.2.10 Reliance on Third Party resources?**

The Tenderer may rely on the financial and economic standing and/or technical and professional competence of a Third Party or Parties.

If the Tenderer relies on the financial and economic capacity of a Third Party or Parties, both the Tenderer and the Third Party or Parties on whose financial and economic capacity the Tenderer relies will be jointly and severally liable for the obligations arising from the Procurement Procedure and for the obligations arising from the performance of the Contract, if awarded to the relevant Tenderer.

If the Tenderer relies on the technical and professional competence of a Third Party or Parties, said Third Party or Parties should also be involved in the performance of the Contract, if awarded to the relevant Tenderer.

No reliance on Third Party resources

If the Tenderer does not rely on the financial and economic standing and/or technical and professional competence of a Third Party or Parties, it should complete Part II C of the ESPD (Appendix **A01**) to indicate that it does not rely on the financial and economic standing and/or technical and professional competence of a Third Party or Parties, by ticking the "no" box.

Reliance on Third Party resources

A) Requirements for submitting a Tender

If the Tenderer does rely on the financial and economic standing and/or technical and professional competence of a Third Party or Parties, the Tenderer should complete Part II C of the ESPD (Appendix **A01**) to indicate:

1. that it is relying on the financial and economic standing and/or technical and professional competence of a Third Party or Parties, by ticking the "yes" box
2. the Suitability Requirements for which it relies on the Third Party or Parties and,
3. for each stated Suitability Requirement for which it relies on a Third Party or Parties, and the Third Party or Parties it relies on for that purpose. In addition, if the Tenderer relies on the financial and economic standing and/or technical and professional competence of a Third Party or Parties, it shall submit the following:
4. a separately completed and duly signed ESPD (Appendix **A01**) from each Third Party on whose financial and economic standing and/or technical and professional competence it relies, in which the Third Party completes Parts II A, II B and III in respect of the Third Party itself. The ESPDs of the Third Party or Parties must be duly signed as referred to in Section 2.2.20.

Additional requirement for submitting a Tender in the event of reliance on technical and professional competence of a Third Party or Parties

5. If and insofar as the Tenderer relies on the technical and professional competence of a Third Party or Parties, the Tenderer must submit a list of reference projects completed by the Third Party or Parties on whose technical and professional competence the Tenderer relies, in addition to any list of its own reference projects to be submitted by itself with its Tender. If and insofar as the Tenderer submits reference projects of a Third Party or Parties, it must also use the format for reference projects (Appendix **A02**) for this purpose.

B) Requirements for intended beneficiary relying on a Third Party or Parties

The Tenderer to which TNO intends to award the Contract on the basis of the Award Decision and which relies on the financial and economic standing and/or technical and professional competence of a Third Party or Parties must submit at TNO's request within the period specified in Section 7.1 of the Procurement Guide:

1. a declaration by said Third Party or Parties stating that the Tenderer can actually access the resources of the Third Party or Parties relied upon. If the Tenderer relies on the financial and economic standing of a Third Party, it shall

submit a declaration in the format provided in Appendix **B01**. If the Tenderer relies on the technical and professional competence of a Third Party, it shall submit a declaration in the format provided in Appendix **B02**;

2. any evidence as referred to in Section 5.1, which allows the Third Party or Parties whose suitability the Tenderer relies on to demonstrate that the Grounds for Exclusion do not apply to the Third Party.

Additional requirement for intended beneficiary in the event of reliance on financial and economic standing of a Third Party or Parties

3. The Tenderer to which TNO intends to award the Contract on the basis of the Award Decision and which relies on the financial and economic standing of a Third Party or Parties must, at TNO's request, submit within the period specified in Section 7.1 of the Procurement Guide, in addition to the documents referred to above under B) (regarding "*Requirements for the Intended Beneficiary*"): the documents that will be substituted for those that the Tenderer must submit to prove that it meets the Suitability Requirements regarding financial and economic standing.

### **2.2.11 Variants**

Offering variants and/or alternative Tenders is not permitted and they will therefore be disregarded.

### **2.2.12 "Or equivalent"**

The technical specifications are formulated as much as possible on the basis of EU and other standards, performance requirements and functional requirements. Where the Procurement Documents, including the Appendices, nevertheless refer to brand names, patents, types, manufacturing processes, etc., the Tenderer should read "or equivalent" after the relevant phrase.

Tenderers are free to provide an equivalent product, service or type of work. If they do so, the Tenderers must justify in or with their Tender why they are offering an equivalent product, service or type of work. It is up to TNO to assess whether the latter are actually equivalent. TNO reserves the right to have their equivalence assessed by a third party if necessary.

### **2.2.13 Rights reserved by TNO**

1. TNO reserves the right to stop the entire Procurement Procedure temporarily or permanently. If TNO decides to discontinue the Procurement Procedure, legal protection is guaranteed in accordance with paragraph 2.4 of the Procurement Guide.
2. TNO reserves the right at all times to subject the data and statements provided by Tenderers to further investigation and verify their accuracy (or have them verified), as well as to approach any references provided, without prior notification thereof to Tenderer. The results thereof will be considered in the assessment of the Tender.

The Tenderer is aware that if at a later stage it is found that incorrect and/or incomplete information has been provided and/or that requirements set out in the Procurement Documents are not or no longer being met, the Tenderer will be excluded from further participation in the Procurement Procedure or agreements already made may be cancelled and Contracts dissolved. In such cases, TNO cannot be held liable for the consequences thereof for the relevant Tenderer and TNO will not be obliged to reimburse any costs and/or any loss or damage of any kind.

### **2.2.14 Confidentiality**

The Tenderer will observe strict confidentiality in respect of all information that is or becomes known to it through TNO. It will not make the information available to Third Parties and will only disclose it to its staff, including consultants, subcontractors and Third Parties, insofar as this is necessary for the submission of the Tender or – if and insofar as applicable – the performance of the Contract.

TNO acknowledges the confidentiality of the Tenderer's Tender and will not disclose to Third Parties any information known to it from this source. It will be necessary to disclose information from the Tender, where appropriate, in the context of justifying the Award Decision. The Tenderer recognises this and agrees accordingly.

### 2.2.15 Distortion of competition

Distortion of competition will result in exclusion. If TNO suspects that distortion of competition has occurred, it will give the relevant Tenderer(s) the opportunity to demonstrate that it has not been guilty of distorting competition. If TNO deems that the Tenderer has failed to do so, the Tenderer will be excluded from further participation in the Procurement Procedure.

### 2.2.16 Withdrawal by Tenderer

Any Tenderer who has submitted a Tender may withdraw it until the closing date for tenders. After that moment, the period of validity starts. The Tender is irrevocable during the period of validity.

### 2.2.17 Period of validity

The Tenderer upholds its ninety (90) calendar days from the closing date for submission of the Tender (Section 2.1). The period of validity is automatically extended until the final conclusion of the Contract with the first-ranked Tenderer.

If summary proceedings are instituted against the Award Decision, the period of validity will be automatically extended by a period of thirty (30) calendar days from the date of the decision of the preliminary relief judge.

TNO may request Tenderers to extend the period of validity. Tenderers cannot derive from this any right to be awarded the Contract.

### 2.2.18 Contract terms

The Contract will be awarded in accordance with:

- The Contract entitled *Software Engineering Services in C#*, the draft version of which is included in Appendix **C02**;
- General Purchasing Conditions of TNO, February 2022, as included in Appendix **C03**, except insofar as they are explicitly separate from the Procurement Documents.

In accordance with Section 2.3 of this Procurement Guide, Tenderers may submit text and amendment proposals for this Contract and the General Purchasing Conditions of TNO. The final Template for Tenderer Questions (Information Notice) will respond to these proposals or add the final Contract and General Purchasing Conditions of TNO.

The general terms and conditions (including terms of supply) or terms and conditions of Third Parties (including subcontractors and auxiliary persons) used by the Tenderers, both during this Procurement Procedure and also, in the event of award, during the performance of the final Contract and any Contracts to be concluded under its terms, are expressly rejected by TNO. If they declare their own terms and conditions applicable, this will render their Tender invalid.

In the final Template for Tenderer Questions (Information Notice), TNO will indicate where final changes have been made. Acceptance of these amendments to the Contract/Acceptance of the Final Contract and General Purchasing Conditions of TNO is a minimum requirement. Failure to comply with these conditions will result in the Tenderer's exclusion from further participation in the procedure.

### 2.2.19 Conditional Tender

TNO will exclude conditional Tenders from further participation in the Procurement Procedure.

### 2.2.20 Legally valid signature

The Tender must be validly signed. "Validly signed" means that the ESPD has been signed by the duly authorised representative(s) of the Tenderer as stated in TenderNed. A validly signed ESPD means that the Tender as a whole has been validly signed, unless a separate valid signature is required for one or more documents. TNO would point out that the trade register may state that two or more persons are joint authorised representatives, or that a representative is authorised only up to a certain monetary value. This has implications for the authority to sign and Tenderers should anticipate this.

The authority to sign should be evidenced by an extract from the trade register. It is also possible for the Tender to be signed by a proxy. In this case, a power of attorney must be issued by a legally authorised representative of the Tenderer, as evidenced by the trade register, or the power of attorney must be recorded in the trade register.

The extract or the power of attorney need only be issued to TNO if a request to that effect has been made by TNO, as specified in the requirements set out in Section 7.1 of the Procurement Guide.

A Tender not validly signed shall be deemed not to have been made and shall be invalid.

This provision also applies to the ESPD submitted by members of a Combination and/or for the Third Party or Parties on whose standing/experience/resources the Tenderer relies. In their case too, only the ESPD need to be validly signed and this signature will also serve as a valid signature for other documents completed and submitted by them.

#### *Electronic signature*

Signature in the form of an electronic signature is also permitted. The following requirements apply in this regard: an E-recognition tool ("eHerkenning" in Dutch) with at least security level 4 (EH4) must be used.

#### **2.2.21 Reimbursement of expenses incurred in submitting the Tender**

Any expenses incurred by Tenderers in preparing and submitting the Tender will not be reimbursed.

#### **2.2.22 Statement of prices and expenses**

Prices and costs must be stated in euros excluding VAT and will be fixed for the term of the Contract unless otherwise specified. TNO hereby explicitly states that no price negotiations will be entered into as part of this Procurement Procedure.

#### **2.2.23 Publicity**

No publicity will be given to the Procurement Procedure by the Tenderer or by partners and/or subcontractors to be engaged by the Tenderer except with TNO's consent in writing. All information on the Tender will be treated confidentially by Tenderer and the parties to be engaged by them.

#### **2.2.24 Intellectual property**

Subject to exceptions as specified in the Dutch Copyright Act [*Auteurswet*], no part of the Procurement Documents may be reproduced (other than for the purpose of submitting a Tender) in any manner whatsoever without TNO's consent in writing. Tenders and all Appendices submitted by Tenderers as part of the Procurement Procedure will become TNO's property upon receipt.

#### **2.2.25 TNO logo**

The TNO logo may not be copied, altered or otherwise used on documents submitted by the Tenderer as part of the Procurement Procedure.

### **2.3 Further information (questions)**

The Procurement Documents shall be prepared with the utmost care. Tenderers may request further information on the Procurement Procedure and/or the Procurement Guide up to the closing date and time "closing date for submission of questions" as stated in the schedule in Section 2.1. Said further information may, for example, address any lack of clarity, ambiguities, or discrepancies. Further information should be requested within the time limit and in the manner described in this section. Questions and comments not submitted on time and/or correctly will in principle not be dealt with in the Template for Tenderer Questions (Information Notice), except in cases where this is deemed necessary and/or desirable at TNO's sole discretion.

Moreover, at the time of the above deadline, Tenderers will have the opportunity to ask reasoned questions on, or propose text or amendments to, the draft Contract, as included in Appendix **C02** and in the General Purchasing Conditions of TNO, Appendix **C03**. Text proposals will serve only to improve the Contract and must not affect its essence. TNO would point out that it reserves the right at all times to accept or not to accept these text or amendment proposals.

If the Tenderer fails to raise questions about and/or challenge to (lack of clarity, ambiguities or discrepancies in) the Procurement Procedure and/or the Procurement Guide and/or in the manner described in this section, or does not do so in a timely manner, it will forfeit its right to challenge any deficiencies identified at a later stage, e.g. in interlocutory proceedings.

Questions and/or comments should be communicated **exclusively** to the TNO contact person (see Section 2.2.5) using the "Template for Tenderer Questions (Information Notice)" in Appendix **C01** ("editable" MS Excel file) prepared by TNO. Using the "pull-down" menu in this Excel file, the Tenderer should indicate which section of the Procurement Guide the question relates to.

Once completed, Appendix **C01** should be submitted via Email to the contact person.

TNO is therefore **not using the question module in TenderNed**. Questions submitted in this question module will **not** be considered.

The TNO contact person will include the questions and/or comments and their answers in anonymised form in one or more Information Notices. The final date for asking questions is included in the schedule in Section 2.1.

The Information Notices will be published at [www.TenderNed.nl](http://www.TenderNed.nl) as per the schedule in the table in Section 2.1.

All the questions and their answers should be considered an integral part of this Procurement Guide. The basic premise is that the Procurement Guide will be deemed final after publication of the last Information Notice.

TNO may decide to hold one or more additional briefing rounds. Parties will be informed of this in the Template for Tenderer Questions (Information Notice). Questions and comments submitted as part of an additional briefing round may relate solely to the contents of the immediately preceding Template for Tenderer Questions (Information Notice). Questions and comments that do not relate to the immediately preceding Template for Tenderer Questions (Information Notice) may be disregarded by TNO – without notice.

The responsibility for submitting questions and/or comments in a timely and correct manner rests with the Tenderer. Questions raised after the expiry of the deadline will in principle not be answered in the Template for Tenderer Questions (Information Notice) unless answering is necessary, in TNO's opinion, for the submission of a proper Tender.

TNO would advise Tenderers to wait until the last Information Notice is published before submitting their Tender as the Information Notice may contain further clarifications and amendments to the Procurement Guide that are relevant to the preparation of the Tender.

TNO would expressly remind Tenderers that it can answer their questions in confidence (Section 2.53(3) Aw). If a Tenderer does not wish to have a question answered in the Template for Tenderer Questions (Information Notice), the Tenderer must give reasons as to why a public answer would damage its legitimate economic interests. TNO will take a decision on whether or not to answer a question in confidence based on these reasons. If TNO decides not to do so, it will notify the questioner accordingly, giving reasons. The questioner will then have the option of withdrawing or submitting its question for the Template for Tenderer Questions (Information Notice).

## **2.4 Applicable law and disputes**

This Procurement Procedure is governed by the laws of the Netherlands. The Preliminary Relief Judge at the District Court of The Hague shall have exclusive jurisdiction to settle disputes relating to the present Procurement Procedure.

Tenderers should bring their challenges to all or part of the Procurement Procedure, to all or part of the information provided or to other aspects relating to the Procurement Procedure to the attention of the TNO contact person (see Section 2.2.5) at the shortest possible notice.

The period within which legal action must be taken against the Award Decision and/or the Procurement Procedure is twenty (20) calendar days from the date of the Award Decision. Any summons should be served within this period, which is a (contractual) expiry date, at TNO's address. If this objection period, also expiry date, is exceeded without legal proceedings having been commenced by service of a summons, any right to do so shall (inadmissible) lapse. The standstill period is automatically extended to the next working day if the standstill period ends at the weekend, on a public holiday or on a so-called "notice-free day" [when bailiffs cannot issue writs].

A Tenderer wishing to initiate summary proceedings is requested to request foreclosures from TNO.

If a summons has been served within the standstill period, the relevant Tenderer is requested to send a copy of the served summons via TenderNed to the contact person for the Procurement Procedure no later than two (2) working days after service. This is because the processing of documents within TNO can lead to delays in processing the summons.

If a Tenderer institutes summary proceedings in a timely and valid manner in respect of the Award Decision and/or the Procurement Procedure, the Tenderer to which the Contract has been provisionally awarded shall intervene in the summary proceedings. If the Tenderer to which the Contract has been provisionally awarded does not intervene, said Tenderer shall exercise the right to institute court proceedings or third-party proceedings in the event that the judgment in the first-instance summary proceedings orders the amendment or revocation of the Award Decision. This is because it is important for all the parties to obtain clarity as soon as possible and put all the arguments on the table in the first instance. If the standstill period is exceeded, this situation cannot be remedied.

Any Tenderer that has instituted summary proceedings is obliged to provide a copy of the summons when requested to do so by other Tenderers so that said Tenderer(s) can determine whether intervention is appropriate. Of course, it is up to the Tenderer that initiated the summary proceedings to determine whether or not confidential business information will be disclosed at that stage and, if so, which. If the Tenderer that initiated the summary proceedings does not (expeditiously) provide a copy of the summons to the Tenderer requesting it, TNO reserves the right to provide a copy of the summons itself. In doing so, TNO will determine at its own discretion whether confidential business information will be deleted and, if so, which.

If summary proceedings have been instituted in a timely and legally valid manner and the judgment does not oppose the conclusion of the Contract, TNO will be free to enter into the Contract. TNO is not obliged to await any appeal or proceedings on the merits. In other cases, TNO will consider the next steps to be taken based on the judgment in first instance.

## **2.5 Submission of the Tender**

### **2.5.1 Digital tendering**

The Tender consists of the completed and, where necessary, validly signed Appendices **A01 to A04**, the formats of which are appended as Appendices to the Procurement Guide. When the ESPD is validly signed, the Tender as such is also validly signed. The absence of a legally valid signature on the ESPD will render the Tender invalid.

For legally valid signatures, see Section 2.2.20.

For this Tender, TNO is using a digital procurement system via TenderNed. The Tender must be uploaded to the TenderNed digital vault not later than the date and time specified in the schedule in Section 2.1 under "Closing date for submission of Tenders". After uploading, the Tenderer will receive a transaction code via SMS. This code must be entered in TenderNed. The Tender is not actually submitted until the correct transaction code has been entered. The SMS code must therefore be entered within the tendering period for the Tender to be deemed complete and correct.

Tenders received late and/or Tenders not deposited in the digital vault and/or Tenders submitted by means other than via TenderNed will not be considered and will therefore be excluded from participation. Tenderers will remain at all times solely responsible for submitting their Tender on time and in the correct manner.

Tenderers are strongly advised to take careful note of the guide provided by TenderNed for the digital submission of Tenders, particularly as regards placing documents in the digital vault. In doing so, uploading should be completed with the tendering wizard (authorisation by SMS code).

Tenderers are advised to start uploading documents in good time. If a Tenderer experiences problems with the system due to a malfunction of TenderNed, the TNO contact person (Section 2.2.5) and TenderNed should be contacted without delay. In the event that a TenderNed malfunction actually occurs, as a result of which the submission of Tenders is not possible, shortly before the closing date and TNO has not taken note of Tenders that have been uploaded to the TenderNed digital vault on time despite the malfunction, TNO will extend the closing date for submission of Tenders pursuant to Section 2.109 Aw.

TNO further advises Tenderers to take note of the content of Section 2.109a Aw and, in accordance with the provisions of that section, to be prepared to submit the encrypted version of their Tender in a timely manner if occasioned by TenderNed malfunctioning.

### **2.5.2 Sending and grading Tender**

The Tender consists of the following documents. Documents in **Part A** relate to the Tenderer. Documents in **Part B** relate to either Third Party(ies) whose experience/resources the Tenderer appeals to under the Eligibility Requirements and/or the Declaration of Willingness of Tenderer for the required insurance. The documents under **Part B** need to be submitted only if Third Party(ies) are invoked or if Tenderer is not (yet) in possession of either the insurance company's policy or satisfactory statement within the stipulated timeframe.

#### **Part A Submission of the Tender**

The Tender consists of the following components on pain of invalidity.

**Appendix A01** European Single Procurement Document (Tenderer, if applicable: all individual Combination members; the individual Third Party or for the benefit of one or more subcontractors to be used for the work).

**Appendix A02** Format for reference projects

**Appendix A03** Price sheet

**Appendix A04** Format for answering questions/fulfilling Preferences, sub-award criterion: Quality

The above sheets must be completed in full. Only the ESPD needs to be validly signed.

Gather the pdf files, Appendices **A01** to **A04**, as separate "loose" files into a compressed file (zip file) named: "....."\_part **A**. The Tenderer should replace the dotted line with all or part of its company name. Upload this compressed file to TenderNed's digital vault.

#### **Part B Submission of supporting documents**

**Appendix B01** Format for Declaration as to Reliance on Financial and Economic Standing of Third Party or Parties

**Appendix B02** Format for Declaration as to Reliance on Technical and Professional Competence of Third Party or Parties

**Appendix B03** Format for Statement of Policy/Declaration as to Insurance

The above sheets must be completed in full. Only the ESPD need be validly signed.

Gather the pdf files, Appendices **B01** to **B03** as separate "loose" files into a compressed file (zip file) named: "....."\_part **B**. The Tenderer should replace the dotted line with all or part of its company name. Upload this compressed file to TenderNed's digital vault.

### 3 Assessment of Tenderers and Tenders

#### 3.1 Assessment team

A team of subject-matter and process experts has been constituted to conduct a qualitative assessment of the Tenders (assessment of the Tenders on the qualitative Award Criteria). The assessment team assesses the quality of the Tenders without having any knowledge of the financial part of the Tenders.

The members of the assessment team assess, on a strictly personal basis and independently, the elaboration of the qualitative (sub-sub-)award criteria for the Tenders. For these criteria, see section 6.1.2 and its elaboration in Chapter 8. In a meeting of the individual assessors, the average of the individual scores is then determined.

The average of the individual scores then determines the overall score for a sub-sub-award criterion. Average scores are rounded to one decimal place.

In the announcement of the Intention to Award, TNO will state the numbers of completed points per (sub-)sub-award criterion. The total score for sub-award criterion: Quality (QY) has been arrived at by totalling unrounded scores on the sub-sub-award criterion, after which this total score is rounded to a whole number for the purpose of said announcement.

#### 3.2 Assessment procedure

The assessment procedure is as described in the following sections.

- Section 4** : concerns the assessment of the timeliness, formal requirements and completeness of the Tender submitted.
- Section 5** : concerns requirements formulated in respect of Grounds for Exclusion and Suitability Requirements. If one or more Grounds for Exclusion apply and/or if a Tenderer fails to meet the Suitability Requirements, the Tenderer will be excluded/the Tender will be invalid.
- Section 6** : concerns the description of the assessment by TNO of the Tenders against the Award Criterion. The Award Criterion is assessed by allocating points to the Tender
- Section 7** : concerns the assessment of supporting documents and other documents requested by TNO from the intended beneficiary.
- Section 8** : this describes the assessment carried out by TNO in respect of the Minimum Requirements. This involves assessing TNO's requirements and Preferences for the performance of the Contract, i.e. the Programme of Requirements and Preferences ("PoR"):

TNO assesses and ranks the Tenders on the basis of the Award Criterion: Best Value for Money (BVM), see Section 6 in this regard.

TNO may ask the Tenderer for clarification with regard to the submitted Tenders up to the end of the Procurement Procedure. The Tenderer is deemed to be willing and able to answer questions within 48 hours of sending the questions. If questions are not answered (in a timely manner), TNO may interpret the Tender in any manner it sees fit, based on the documents known to it.

## **4 Assessment of timeliness, formal requirements and completeness**

### **4.1 Assessing timeliness of submission**

The Tender must be submitted in a timely manner, i.e. within the tendering period (see Section 2.1). Tenders not submitted in a timely manner are invalid and TNO will discard them.

### **4.2 Assessing for other formal requirements and completeness**

Tenders submitted by means other than through TenderNed will not be assessed and will be discarded. The foregoing is subject to any malfunctions of TenderNed, recognised as such by TenderNed.

The Tenders will be assessed as regards completeness and the formal requirements applicable in the Procurement Procedure, including at all events the legally valid signature. Tenders that are incomplete and/or fail to meet all the formal requirements will be declared invalid by TNO and discarded. Missing answers, documents, or data will result in exclusion if there is no rectifiable omission. Tenderers are reminded that TNO is not obliged to have deficiencies rectified. TNO has the discretionary power to offer a rectification option.

If – for whatever reason – a question cannot be answered or the requested data cannot be submitted in full or at all, this must be explicitly stated at the time of the Tender, together with reasons. Depending on the nature of the deficiency, TNO will assess whether the Tender is invalid, in which case it will be discarded, or whether the deficiency is amenable to rectification.

Deficiencies for which TNO offers a rectification option must be rectified within the timeframe as stated in the relevant request from TNO. If a deficiency is not rectified within the notified period or at all, the Tender will be invalid after all.

## 5 Assessment of Grounds for Exclusion and Suitability Requirements

### 5.1 Assessing Grounds of Exclusion

The Tenderer will be assessed in terms of the Grounds for Exclusion listed in the ESPD (Section III). The Tenderer declares in the ESPD whether the Grounds for Exclusion used are applicable or not at the time of tendering. Where one or more Grounds for Exclusion apply, the Tenderer will generally be excluded. The Tenderer will have the opportunity to give reasons in the ESPD why it should not be excluded after all because of self-cleansing measures or at least why exclusion would be disproportionate. TNO will take these reasons into account in its decision on the final exclusion of the Tenderer. The reasons must be included in or appended to the ESPD. Tenderers may not continue to submit and/or alter the reasons once the tendering period has elapsed.

If the Tenderer is a Combination and a Ground for Exclusion applies to any of the participants in that Combination, the Combination as a whole will be excluded. Each Combination member must submit its own legally signed ESPD.

If the Tenderer relies on the suitability of a Third Party or Parties as described in Section 2.2.10 of the Procurement Guide and a Ground for Exclusion applies to one or more Third Parties, TNO will reject its reliance on the suitability of the Third Party or Parties in question. If the Tenderer, whose reliance on a Third Party or Parties has been rejected, fails – after having been given the opportunity to do so by TNO – to rely (in a timely manner) on the resources of a substitute Third Party or Parties, or if the Tenderer does rely on a substitute Third Party or Parties but fails to comply fully or at all with the requirements set for that purpose, the Tenderer will be excluded from participating in the Procurement Procedure. The substitute Third Party or Parties must be proposed within seven (7) calendar days of a request to that effect from TNO, submitting all the documents requested in the Procurement Documents for that purpose. Proposing a substitute Third Party is not considered an amendment to the Tender. If a Tenderer is permitted to propose a substitute Third Party, the Tenderer may only substitute the Third Party while submitting the relevant documents in this connection. Other parts of the Tender, including, but not limited to, the elaboration of the award criteria remain unchanged.

The completed and validly signed ESPD will suffice in the first instance as evidence that the Grounds for Exclusion do not apply to the Tenderer. At TNO's request, the Tenderer to which TNO intends to award the Contract will provide – by the date specified in Section 7.1 of the Procurement Guide – the supporting documents referred to in Section 7.1. If the Tender is submitted in Combination, all the Combination members must submit the supporting documents listed below. If the Tenderer relies on the standing/resources/experience of one or more Third Parties, then the supporting documents listed below from each Third Party should be submitted.

Tenderers are reminded that it may take several weeks to obtain some supporting documents. Tenderers are therefore advised to request the supporting documents at the earliest possible stage so that they can be supplied in a timely manner – in response to any request from TNO. TNO would point out that any Tenderer relying on a Third Party is itself responsible for the timely submission of supporting documents in respect of the Third Party's ESPD. TNO therefore advises Tenderers to inform, in a timely and appropriate manner, Third Parties on whose suitability they rely which documents may be requested by TNO in the event of award to the Tenderer and the time required to obtain these documents.

Failure to obtain supporting documents in a timely manner or at all remains at the Tenderer's risk. If the supporting documents are not supplied in a timely manner and/or complete, the Tenderer will still be excluded. If a supporting document has not been obtained in a timely manner, but has been requested in good time and the failure to obtain it is not due to a circumstance within the Tenderer's sphere of risk, the Tenderer will not be excluded. To this end, the Tenderer must demonstrate that the relevant supporting document has been requested not later than two (2) working days after publication of the announcement of the Procurement Procedure.

### 5.2 Assessing Suitability Requirements

The Tenderer must, at the time of Tendering, possess a certain minimum level of expertise and ability to perform the Contract: the Suitability Requirements. The Tenderer will be assessed on the Suitability Requirements. If the Tenderer relies on the suitability of a Third Party or Parties as referred to in Section 2.2.10 of the Procurement Guide, TNO will assess whether the Third Party or Parties meets the specified Suitability Requirements, for which the Tenderer relies on said Third Party or Parties.

The Suitability Requirements refer to the required financial and economic standing, technical and professional ability and professional competence that the Tenderer must meet in order to be eligible to submit a Tender.

The Tenderer must meet all the Suitability Requirements at the time when the Tender is submitted. If the Tenderer fails to meet all the Suitability Requirements, with or without relying on one or more Third Parties, the Tender will be invalid.

If tendering in Combination, the Combination as a whole must meet the Suitability Requirements and in principle not all the individual Combination members. However, this may be different for a specific Suitability Requirement.

## **5.2.1 Financial and economic standing**

### **5.2.1.1 Insurance**

The Tenderer must be insured against business liability and/or professional liability, with cover of at least € 1,250,000 per loss-causing event (*Article 20.1 in the General Purchasing Conditions of TNO*) or series of related events, or be willing and able to arrange said insurance cover in the event of an Intention to Award. The Tenderer is responsible for ensuring that, if awarded the Contract, it remains insured at least in accordance with this requirement during the term of the Contract. The Contractor will inform TNO without delay of any changes to the insurance policies. If the Contractor's insurance does not or no longer meets this Suitability Requirement during the term, TNO will be entitled to dissolve the Contract without notice of default or judicial intervention and without being liable to pay compensation to the Contractor.

Ticking the "yes" box in Part IV of the Tenderer's ESPD (Appendix **A01**) will suffice in the first instance as evidence that the Tenderer meets this requirement.

At TNO's request, the Tenderer whose Tender was ranked first will provide the evidence of insurance within the set timeframe as referred to in Section 7.1. This supporting document comprises a policy showing the required insurance cover, the insurance contract, the policy schedule or a satisfactory declaration from the insurance company showing that the Tenderer is insured as required in the Procurement Documents. If a group policy is submitted, the Tenderer must supply a copy thereof to demonstrate that it is jointly insured.

If the Tenderer does not (or not yet) have the insurance company's policy or satisfactory declaration in its possession within the set timeframe, it should sign a Declaration of Readiness instead (Appendix **B03**). By signing this declaration, the Tenderer declares that it will provide a copy of the policy or of a satisfactory statement by the insurance company within seven (7) calendar days after the notification by TNO that it intends to enter into the Contract with the Tenderer under the suspensive condition of the required insurance, based on the assessment of the supporting and other documents already submitted (see Sections 7.1 and 7.2). Said notification will be issued by TNO only after the standstill period has expired without summary proceedings being instituted or – where summary proceedings have been instituted – the relevant judgment states that the Award Decision can be upheld. The Contract will be not be entered into until such time as evidence of the Tenderer being adequately insured has been received. If the Tenderer is unable to provide the required insurance policy or a satisfactory declaration from the insurance company within the set timeframe, the Contract will not be concluded and TNO will retain the right to award the Contract to the Tenderer which would be ranked in first place after the number one was eliminated in accordance with the assessment system, and which has stood by its Tender.

## **5.2.2 Technical and professional competence**

Competence requirements state the degree to which Tenderers may be considered capable of performing the actual activities under the present Contract as required.

### **5.2.2.1 Reference projects**

The Tenderer should demonstrate experience in the required core competences by providing details of reference projects. The Tenderer should cite one reference project for each core competence. The Tenderer may cite the same reference project to fulfil the different core competences.

As evidence that the Tenderer has experience in the core competences listed below, the Tenderer shall cite the required reference projects immediately upon submission of the Tender. To this end, the Tenderer should submit a fully completed Appendix **A02** for each core competency. If the Tenderer uses one reference for multiple core competences, then a completed Appendix **A02** must be submitted for each core competence. The completed Appendix **A02** must show that the reference project cited fulfills all aspects of the core competence. Additions or amendments to the details in Appendix **A02** are not permitted after the expiry of the tender date.

If the Tenderer relies on the technical and professional competence of a Third Party or Parties, the Tenderer shall submit for each core competence for which it relies on the relevant Third Party or Parties an Appendix **A02** fully completed by said Third Party or Parties.

If a project is cited that has not yet been (fully) completed, only the actual results achieved under the current Contract may be stated and a forecast of results is not sufficient.

TNO has identified the following core competences that correspond to the desired experience in key areas of the present Contract.

**Core Competence 1:** The Tenderer has experience in understanding scientific concepts and programming mathematical algorithms.

During the 3 years prior to the date of the Announcement of Contract, the Tenderer completed projects which demonstrate Core Competency 1 and which had a cumulative contract value of at least € 150.000 ex. VAT. The projects must have been completed in accordance with all the relevant contractual conditions, including those relating to lead time and budget.

**Core Competence 2:** The Tenderer has experience in working in an Agile project management and delivery manner.

During the 3 years prior to the date of the Announcement of Contract, the Tenderer completed projects which demonstrate core competency 2 and which had a cumulative contract value of at least € 150.000 ex. VAT. The projects must have been completed in accordance with all the relevant contractual conditions, including those relating to lead time and budget.

TNO reserves the right to check references with the referee without involving the Tenderer. TNO assumes that the Tenderer has informed the referees accordingly. The information obtained by TNO from the referent will be taken into account in the assessment of the Tender.

If the Tenderer has not demonstrated in its Tender that it has the required experience in all the core competences, this will result in the Tender being rendered invalid.

### 5.2.3 Professional competence

By completing the ESPD (Appendix **A01**) and ticking the "yes" box in Part IV, the Tenderer declares that it is registered in the professional or trade register in accordance with the regulations of the Member State in which it is based.

At TNO's request, the Tenderer to which TNO intends to award the Contract within the period specified in Section 7.1 of the Procurement Guide will provide relevant evidence:

- for enterprises based in the Netherlands, an extract from the trade register of the Chamber of Commerce must be submitted, which is not more than six months old at the time of submission of the Tender. For enterprises based outside the Netherlands, a similar document should be appended in accordance with the applicable regulations of the relevant country in which the enterprise is based;
- where the Tenderer is a partnership or general partnership, the Tenderer shall submit the extracts of those that form the partnership/general partnership (if recorded in the trade register) as well as a declaration signed by all the partners showing the power of representation for the purposes of this Tender;
- where the Tenderer is a Combination, the Tenderer shall submit extracts from all participants in that Combination, and;

- where the Tenderer submits a Tender relying on the standing/capacity/experience of one or more Third Parties, the Tenderer shall submit extracts from all Third Parties or subcontractors, as the case may be.

#### 5.2.4 Legal suitability to perform an assignment

On 8 April 2022, the EU adopted a fifth sanctions package regarding the Russian war in Ukraine (Council Regulation 2022/576). In that package, contracting authorities are prohibited from granting assignments to (1) natural persons with Russian nationality or legal entities established in Russia, (2) legal entities that are owned for 50% or more by one of the natural persons or legal entities referred to under (1), and/or (3) natural persons or legal entities acting in the interests or on the instructions of a natural person or legal entity referred to under (1).

TNO applies the above requirements as a suitability condition for this Procurement Procedure. A Tenderer will be legally unsuitable to perform the assignment (Section 2.90(4) of the Dutch Public Procurement Act (*Aanbestedingswet*)), and its Tender will be invalid, if:

- 1) the natural persons have Russian nationality or the legal entities are domiciled in Russia; and/or
- 2) they are legal entities that are owned for 50% or more by natural persons or legal entities referred to under (1); and/or
- 3) they are natural persons or legal entities acting in the interests or on the instructions of a natural person or legal entity referred to under (1).

The Tenderer must therefore demonstrate in its Tender that:

- 1) the Tenderer does not have Russian nationality and/or is not domiciled in Russia; and
- 2) the Tenderer is not owned for 50% or more by a natural or legal person referred to under (1); and
- 3) the Tenderer is not acting in the interests or on the instructions of a natural or legal person referred to under (1), including the payment of monies to a natural or legal person referred to under (1), whether or not it is legally obliged to do so and whether or not it is actually possible at present.

If one or more of the above three (3) requirements cannot be demonstrated, the Tender will be invalid.

Where the Tenderer tenders in Combination, this requirement shall apply to all the individual Combination members. Where the Tenderer relies on the standing/resources/experience of one or more Third Parties, this requirement shall also apply to the Third Parties on whose standing/resources/experience the Tenderer relies. If the Tenderer wishes to use one or more subcontractors during the performance of the Contract, the Contractor will have to demonstrate – for that subcontractor – that it meets this requirement at the time a subcontractor is presented to TNO for approval.

Ticking the "yes" box in Part IV of the Tenderer's ESPD (Appendix **A01**) will suffice in the first instance as evidence that the Tenderer meets this requirement.

To this end, the Tenderer to which TNO intends to award the Contract within the set timeframe as referred to in Section 7.1, shall provide the means of proof relating to this Suitability Requirement. This concerns the following documents:

- a) a recent (not older than six (6) months from date of Tender) extract from the trade register reflecting the most recent state of affairs; and
- b) an up-to-date report on the holding structure (where the Tenderer is part of a holding structure) showing the direct and indirect ownership relationships of the Tenderer; and
- c) a copy of the Tenderer's current articles of association.

In addition, the Tenderer shall declare categorically not to supply products - including semi-finished and finished products - listed in Appendix XVII of the European Commission Regulation (EC) No 833/2014 on Russia Sanctions. When supplying products covered by this Appendix XVII, the Tenderer shall provide as proof a Mill Test Certificate (MTC), or similar certificate such that it meets the requirements and obligations to establish the country of origin.

The Tenderer must continue to meet the Suitability Requirement. TNO will be entitled to verify this during the term of the Contract. If it becomes apparent during the term of the Contract that the Contractor does not meet – or no longer meets – the Suitability Requirement, TNO will be entitled to terminate the Contract with immediate effect, without being liable to pay damages to the Contractor and without the necessity of a notice of default or judicial intervention.

## 6 Assessment of Award Criterion

TNO assesses and ranks the Tenders based on the Award Criterion: Best Value for Money (BVM). The Tenderer with the highest overall score is deemed to have submitted the 'Most Economically Advantageous Tender' and is therefore provisionally awarded the Contract.

### 6.1 Award Criterion: Best Value for Money (BVM)

This criterion is divided into the following sub-award criteria, with the corresponding weighting factors, where the assessment of the sub-award criteria: Price (TP, Total Price) and Quality (QY) is scored by setting a number of point scores to be achieved.

Award criteria	Max. points
Price (TP)	600
Quality (KW)	400
<b>Total</b>	<b>1000</b>

The Tender with the highest total points score will be designated as Best Value for Money "BVM", on the basis of which TNO intends to award the Contract. See also Section 6.2 Award of Contract.

Point scores for each sub-award criterion will be rounded to one (1) decimal place. Total points are scored for each sub-award criterion by adding up unrounded point scores. In the announcement of the Intention to Award, TNO will state the rounded points scores allocated to each (sub-)sub-award criterion.

If the Tenderers with the highest Total Score have an equal Total Score, the Contract will be provisionally awarded to the Tenderer with the highest score for the sub-sub-award criterion Price. If these scores are also equal, a draw will be held among the Tenderers with equal scores which are eligible for award. The protocol for the draw, if any, will be shared with the Tenderers among which lots will be drawn.

If, after the provisional award, the Tenderer with the highest score nevertheless proves to be invalid/is excluded from the procedure, the Tenders will be reassessed on the basis of the Award Criterion: Price, after which a new total score will be determined. TNO will award the Contract again based on this reassessment. This is to avoid what is referred to as the "ranking paradox".

#### 6.1.1 Sub-award criterion: Price TP (Total Price)

To determine the sub-award criterion: TP (Total Price), TNO asks the Tenderer to use the Price Sheet prepared by TNO (in MS Excel) according to Appendix **A03** for its price proposal. This Price Sheet should be completed and appended to the Tender. The Tenderer should strictly follow the outline of the Price Sheet and complete it in full. If the Price Sheet has not been submitted in full and/or correctly or at all, TNO will declare the Tender invalid and exclude it from further participation in the Procurement Procedure. Changing the format and layout of the Price Sheet (Appendix **A03**) will also invalidate the Tender.

When completing the Price Sheet, the following Minimum Requirements apply:

- 1) Prices and expenses should be stated in euros excluding VAT, and accurate to two (2) decimal places;
- 2) Only the unit prices and fees included in the Price Sheet will be assessed and apply during the performance of the final Contract. Prices stated elsewhere in the Tender do not create any rights or obligations between TNO and the Tenderer during the performance of the final Contract;
- 3) The prices/rates listed in the Price Sheet are all-inclusive. This means that all the costs/services/obligations/etc. required for the performance of the Contract in accordance with the contract terms have been factored into the prices and rates. During the performance of the Contract, the Contractor shall not be entitled to any other and/or additional remuneration other than that in accordance with the Price Sheet;

- 4) The rate provided in the first section of Appendix **A03** is for an experienced (5+ years) software engineer, who will work the majority of the time on the Project. If other employees (by experience level or job type) incurring different hourly rates will work occasionally (less than 20% of the total contracted hours) on the project, these can be provided in the second section of Appendix **A03**, however these will be used for information only.
- 5) The Price Sheet should include a price proposal for all the required items. The Tenderer shall use the Price Sheet prepared by TNO unchanged;
- 6) The Tenderer is solely responsible for stating figures and adding them correctly;
- 7) The prices quoted by the Tenderer should be based on the Procurement Documents without reservations of any kind;
- 8) Specific Minimum Requirements or additional instructions relating to the Price Sheet are included in the "additional instructions" tab and are accepted by the Tenderer reservations of any kind;
- 9) The prices and rates quoted in the Tender will apply in the event of final award on commencement of the Contract and will be fixed for the first two (2) Contract years of the Contract. Any adjustments to prices and rates can only be made in accordance with what is included in the Contract in this respect;

The value of the lowest TP (Total Price) is determined on the basis of the cumulative costs in the Price Sheet defined by TNO.

The Tenderer with the lowest TP, being the lowest total price calculation, will be awarded the full number of points, set by TNO at 600 points. For the remaining Tenderers, the number of points to be obtained will be determined on a pro rata basis, with points deducted from the maximum number of points to be obtained.

Total points for TP (Total Price) are calculated according to the following formula:

$$\text{Score TP} = 600 - \left\{ \frac{(I - LI)}{LI} \times 600 \right\}$$

Where:

Number of points = number of points obtained for sub-award criterion TP

I = Tender with "TP"

LI = Tender with the lowest "TP"

If  $I \geq 2 \times LI$ , then zero (0) points are awarded for sub-award criterion TP.

The total score is rounded to whole points.

### 6.1.2 Sub-award criterion: Quality (QY)

Section 8, the Programme of Requirements and Preferences (hereinafter "PoR"), of the Procurement Guide describes the requirements to be met by the performance of the Contract.

The PoR also contains a number of Preferences with regard to the quality of the requested service/supply. These Preferences are set out in the form of a questionnaire. By filling in the Preferences section and answering questions, Tenderers can differentiate themselves in terms of quality. The Tenderer is asked to provide notes for each Preference/question, answering the subject matters listed in the questionnaire.

The Tenderer shall answer the open questions clearly, unambiguously and point by point. When elaborating an answer for each open question, the Tenderer should respect the set maximum number of A4 pages (font size at least 10 points and line spacing at least 1.5). Tenderers should bear in mind, when elaborating the Preferences, that said answers become part of the Contract and must therefore be capable of fulfillment by the Tenderer.

TNO bases the assessment of the answers on the set maximum per answer. This means that Appendices or references to them should not form part of the answer in order to "get around" the set maximum number of A4 pages in this way. However, illustrations, diagrams, organisational charts and sample reports can form part of the answer. Appendices should not form part of the answer and will not be included in the assessment. If the set maximum is exceeded, the excess number of A4 pages will not be included in the assessment. Any part of the elaborated answer that exceeds the maximum will not become part of the Contract.

The elaboration of the Preferences will be assessed in absolute terms conforming to the table Valuation below. It is therefore possible that more than one Tenderer has the same score for the relevant answer to the question asked.

The answers to the questions and therefore the compliance with Preferences should be structured in the manner and order as specified in Section 8 and can be submitted using the Tenderer's own A4 format, subject to the aforementioned requirements.

The distribution of the maximum number of points to be achieved for sub-sub-award criterion: Quality (QY) is shown in the table below.

Chapter 8 Sub-sub-award criteria: Quality	Max points
8.2.4 Staff availability and training	100
8.4.6 Back-end C# development	100
8.4.7 Desktop front-end development	80
8.5.2 Understanding and experience of discrete event simulation	100
8.5.3 Understanding and experience of offshore renewable energy systems	20
<b>Total</b>	<b>400</b>

The assessment of the answers to the questions as posed under the Preferences in the PoR is carried out in the manner described in Section 3.1. As stated in Section 3.1, the average of the individual scores determines the corresponding total score. The average is determined by first determining the score per assessor (percentage \* maximum score) and then averaging that score across all assessors (individual scores summed/number of assessors).

Each percentage referred to in the table equals a percentage of the maximum score per Preference.

Valuation	Score	Notes to valuation
No/poor answer	0%	No answer given or answer is not good, i.e. it is not in accordance with TNO's (minimum) Preference(s)
Unsatisfactory answer	30%	Answer is not complete (the Preference is not fully elaborated), not sufficient, not satisfactory, i.e. it is not fully in line with TNO's Preferences
Satisfactory answer	60%	Answer is sufficient, satisfactory, adequately reflects TNO's Preference(s)
Good answer	90%	Answer is good, i.e. the answer accurately reflects TNO's Preference(s)
Very good answer	100%	Answer is outstanding, i.e. the answer exceeds TNO's Preference(s)

The following questions will be considered when assessing compliance with the Preferences:

- Is the answer specific, realistic, achievable, effective, complete and consistent?
- To what extent does the answer reflect TNO's situation and the Programme of Requirements and Preferences? Does the Tenderer address the requested elements, subject matters and aspects as stated in the relevant Preference/question and the Programme of Requirements and Preferences?

The assessment will be based on the overall impression given by the answer given. The Preference does not involve separate assessment aspects or criteria.

## **6.2 Award of Contract**

### *Notification of the Award Decision*

All Tenderers will receive from TNO, expectedly on the date referred to in the schedule under Section 2.1, the notification of the final result of the assessment of the Tenders and the intended Award Decision. In this notification of the Award Decision, TNO will indicate the Tenderer to which it intends to award the Contract, as well as, for unsuccessful Tenderers, reasons for their rejection.

### *Challenge*

If a Tenderer disagrees with the Intention to Award as notified by TNO, it will be given the opportunity to challenge the Intention to Award within twenty (20) calendar days after the date of publication of the Intention to Award in the manner described in Section 2.4 of the Procurement Guide.

### *Final award*

Once the standstill period has expired without summary proceedings having been instituted or, if summary proceedings have been instituted in a timely manner, the judgment in first instance does not oppose final award, TNO will contact the successful Tenderer as soon as possible to proceed with the award, except where a situation exists in which summary proceedings have been instituted in a timely manner. No final award will be made until the Contract has been validly signed by both Parties. If this is not the case, there is no question of TNO being bound in any way.

### *Digital Signature of Contract*

To this end, TNO signs its Contracts using a so-called advanced digital signature tool, known as ValidSign. On receipt of the provisional award, the Tenderer is requested to provide the e-mail address and personal mobile phone number of the organisation's authorised signatory. The telephone number is needed to make the Contract legally binding (using SMS authentication).

On receipt of the final award, the Tenderer receives an e-mail containing a link to the documents to be digitally signed and clicks on "sign the documents" and is automatically redirected to ValidSign where the signature fields are visible. To sign, the Tenderer clicks "click to sign" and then "confirm". Once the documents have been digitally signed by the Tenderer and TNO, the Tenderer can download the digitally signed documents within a timeframe of thirty (30) days.

## **7 Assessment of supporting and other documents from intended beneficiary**

### **7.1 Requesting supporting and other documents from intended beneficiary**

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, within 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.)

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.

### **7.2 Contract subject to condition precedent**

If the Tenderer is unable to provide a copy of the policy, nor a satisfactory statement from the insurance company, within the timeframe referred to in the previous section, but has signed the Declaration of Readiness in accordance with Appendix **B03**, then TNO will notify the Tenderer after a positive outcome of the assessment of the other (supporting) documents and after the standstill period has expired without summary proceedings having been instituted or – where summary proceedings have been instituted within the standstill period – the relevant judgement shows that the Award Decision can be upheld, that TNO will enter into the Contract with the Tenderer subject to a condition precedent. This condition precedent implies that the Contract will only actually be entered into if, after a timeframe of seven (7) calendar days (see Section 7.1), the Tenderer provides TNO with a copy of the required insurance policy or a satisfactory statement from the insurance company showing that the Tenderer is insured as required in the Procurement Documents. The Contract will not be entered into until after receipt of either document.

If the Tenderer is unable to provide the required insurance policy or a satisfactory statement from the insurance company within the set timeframe, the Contract will not come to fruition and TNO will retain the right to award the Contract to the Tenderer which would be ranked in first place after the number one which was eliminated in accordance with the assessment system.

## 8 Programme of Requirements and Preferences

TNO assesses the Tenders against the Programme of Requirements and Preferences. The Programme of Requirements and Preferences includes Minimum Requirements, Performance Requirements and Preferences. The Minimum Requirements must be met on penalty of invalidity at the time of submission of the Tender, the Performance Requirements only at the time of performance of the Contract and the Preferences must be worked out by Tenderers as part of the award of the Contract.

TNO has the right, but not the (legally enforceable) duty, to ask for clarification as regards meeting the Minimum Requirements and how the Tenderer expects to meet the Minimum Requirements.

As stated in Section 6.1.2 of this Procurement Guide, in addition to the Minimum Requirements and performance requirements, this PoR also contains a number of Preferences as regards the quality of the service. The Preferences must be answered/elaborated upon by the Tenderer in the Tender in response to the qualitative sub-award criteria.

Any changes to the PoR that may occur during the performance of the Contract will be implemented in accordance with the conditions of the Contract. In this regard, TNO will ensure that no material amendment will be made to the Contract.

The objective and scope of the Contract (including this PoR) as well as a description of the current conditions have been described in Section 1.

The Programme of Requirement is divided into the following sections:

8.1	Ownership of IP
8.2	Product and Capability Management
8.3	Project Management and Communication
8.4	Software Engineering Experience
8.5	Subject Matter Experience

The tables in the next section give guidance on maximum lengths of submissions for some requirements. These should be read as guidance only; it is possible for significantly shorter submissions to score full marks.

Where evidence of capability is requested by a preference criterion, the Tenderer should provide a description of their experience and previous projects relating to the specific aspects mentioned in the preference criterion. Project examples are likely to score more highly when they:

- are more recent;
- involve currently-employed staff or corporate knowledge/tools; and
- where satisfied customers can be demonstrated.

It is suggested that, where previous experience is requested, the Tenderer responds in the following structured manner:

1. Describe the project and client background briefly
2. Describe the desired project results and requirements
3. Describe the tasks undertaken, focusing on relevant technical detail
4. Describe the achieved results, lessons learnt, and impact on TNO (and TNO's customers)

Where confidentiality restricts the level of detail that can be given, this should be explained so that it can be taken into account appropriately when scoring.

### 8.1 Ownership of IP

It is essential that TNO is not restricted in any way when using or sharing the code and compiled software products developed under this Contract.

Ownership of IP	
Requirement 8.1.1	All code written by the successful Tenderer under the Contract is the sole property of TNO. No rights to use the source code or compiled Software will be retained by the Contractor (although permission may be requested from TNO, TNO reserves the right to deny permission).
Requirement 8.1.2	The Contractor will not build upon code libraries or software by third parties which is released under a restrictive licence. Acceptable licences are MIT and FreeBSD. Permission to use other libraries must be requested from TNO. Commercial libraries which require a fee for commercial use will only be used for the Project after agreement with TNO, and any fees due (such as for subscriptions) will be paid by TNO and access held under TNO's name.

### 8.2 Product and Capability Management

As described in section 1, TNO seeks to work with a responsible and expert software engineering consultancy, building a long-term relationship to develop a suite of software tools. It is therefore essential that TNO can rely upon the Contractor to manage the code base and its staff development in a way that supports reliable and continuous development.

Product and Capability Management	
Requirement 8.2.1	The code will be written in C#, the tenderer has sufficient experience to efficiently program the relevant software needed by TNO.
Requirement 8.2.2	All code used to deliver the Contract must be held in a version control system, which is used to maintain reliable quality and history.
Requirement 8.2.3	The latest version of the code must be continuously accessible to TNO (> 95% uptime of the version control system).
Preference 8.2.4	<p><b>Staff availability and training</b></p> <p><i>The Tenderer should explain how they will manage training of staff (formal, informal, on-the-job and otherwise) whereby TNO will be focusing on ensuring the availability of sufficient software architects, C# back-end, and desktop GUI software engineers to support a variable workload of 2000 hours/year on average, with an expected maximum positive deviation of +100% (4000 hours/year) and an expected maximum negative deviation of -40% (1200 hours/year).</i></p> <p><i>Based on current experience, at least 2 and up to 6 simultaneous staff with sufficient experience of both the technical requirements, the code base and the subject matter are estimated to be needed.</i></p> <p><b>Assessment Criteria:</b></p> <p><i>The complete answer for this Preference must not exceed a maximum of three (3) A4 pages in font 10 or larger. If the answer is longer than three 3 pages, the excess pages will not be included in the assessment.</i></p> <p><i>The assessment of this sub-sub-criterion involves considering the extent to which the response is specific, realistic, achievable, effective, complete and consistent. To what extent does the answer align with TNO's situation, the stated Preference/question and the PoR.</i></p> <p><i>The assessment will be based on the overall impression created by the answers given.</i></p> <p><i>The aspects "specific, realistic, achievable, effective, complete and consistent" are not sub-sub-award criteria that are assessed individually.</i></p> <p><i>This sub-sub-criterion is rated in absolute terms in accordance with the table as included in Section 6.1.2 with a score between 0% (no/poor answer) and 100% (very good answer).</i></p>

### 8.3 Project Management and Communication

TNO will – as previously explained – sub-contract the successful Tenderer in a series of projects, to deliver developments in capability and new tools required for research and commercial application. These projects have been found to work well when run in the following manner:

- TNO engages with end users to determine the requirements (for user interfaces and for calculation capabilities and assumptions).
- TNO breaks these requirements down into desired features and functional diagrams.
- These requirements are shared with and discussed with the Contractor, who estimates hours for each piece of work.
- A further discussion is held to agree on expected outcomes for the work and therefore the total hour budget available for the Contract.
- Work starts. Every two weeks, working software with limited functionality is demonstrated by the Contractor to TNO, and an update is made of progress and estimates for each task. Work is re-prioritised and added or removed, with the final decision made by TNO.

This ‘Agile’ method of working enables a flexible approach to completing a project and customers’ requirements; and minimises the chance of a failure to deliver working software.

<b>Project Management and Communication</b>	
Requirement 8.3.1	The Tenderer must assign staff for TNO’s projects who are business-fluent in English (able to discuss requirements and the methods used with TNO).
Requirement 8.3.2	The Tenderer must confirm compliance with the way of working described in Paragraph 8.3.
Requirement 8.3.3	The Tenderer must ensure adequate replacement contacts during staff holiday periods.
Requirement 8.3.4	The Tenderer will be in charge of minuting progress meetings with TNO and distributing the meeting minutes.
Requirement 8.3.5	The Tenderer will ensure that TNO can contact qualified Contractor personnel to discuss aspects of the work during the core hours of the working day (10:00 to 16:00 CET) during active project periods, with a maximum response time of no more than 4 hours.
Requirement 8.3.6	The Tenderer organises an annual evaluation meeting between the appointed contact/project leader and TNO. This meeting will only take place when the Tenderer has been granted a minimum of one (1) project in the year prior to the evaluation.
Requirement 8.3.7	The Tenderer must have a complaints management procedure with the following minimum elements: <ul style="list-style-type: none"> <li>- First response to a complaint within 24 hours;</li> <li>- Clear escalation procedure with a table of named individuals and their mandates.</li> </ul>

### 8.4 Software Engineering Experience

The expertise of the Contractor in building and deploying software (particularly written in C# .NET) is critical to the success of this Contract and the projects and products depending on it.

<b>Software Engineering Experience</b>	
Requirement 8.4.1	Offshoring is not allowed, processing and storing production data must be on EU territory and according to valid European Law.
Requirement 8.4.2	The Tenderer must have ability to create software (back-end architecture and programming) using the C# .NET framework.
Requirement 8.4.3	The Tenderer must have ability to create desktop user interfaces using the C# .NET framework. The supporting libraries used should be discussed along with their strengths and weaknesses.

Requirement 8.4.4	The Tenderer must have ability to create web-based user interfaces. The supporting libraries used should be discussed along with their strengths and weaknesses.
Requirement 8.4.5	The Tenderer must have ability to use Microsoft Azure to deploy software, including experience with full stack development.
Preference 8.4.6	<p><b>Back-end C# development</b></p> <p><i>The Tenderer should describe their experience of designing and creating complex software in C#. TNO will evaluate factors such as: size of code base; novelty of design of software; novelty or difficulty of requirements for software; and business importance.</i></p> <p><i>Assessment Criteria:</i></p> <p><i>The complete answer for this Preference must not exceed a maximum of three (3) A4 pages in font 10 or larger. If the answer is longer than three 3 pages, the excess pages will not be included in the assessment.</i></p> <p><i>The assessment of this sub-sub-criterion involves considering the extent to which the response is specific, realistic, achievable, effective, complete and consistent. To what extent does the answer align with TNO's situation, the stated Preference/question and the PoR.</i></p> <p><i>The assessment will be based on the overall impression created by the answers given.</i></p> <p><i>The aspects "specific, realistic, achievable, effective, complete and consistent" are not sub-sub-award criteria that are assessed individually.</i></p> <p><i>This sub-sub-criterion is rated in absolute terms in accordance with the table as included in Section 6.1.2 with a score between 0% (no/poor answer) and 100% (very good answer).</i></p>
Preference 8.4.7	<p><b>Desktop front-end development</b></p> <p><i>The Tenderer should describe their experience of creating robust customer-facing desktop user interfaces in C#. TNO will evaluate factors such as: novelty of front-end design; novelty or difficulty of front-end requirements; and fitness for use.</i></p> <p><i>Assessment Criteria:</i></p> <p><i>The complete answer for this Preference must not exceed a maximum of three (3) A4 pages in font 10 or larger. If the answer is longer than three 3 pages, the excess pages will not be included in the assessment.</i></p> <p><i>The assessment of this sub-sub-criterion involves considering the extent to which the response is specific, realistic, achievable, effective, complete and consistent. To what extent does the answer align with TNO's situation, the stated Preference/question and the PoR.</i></p> <p><i>The assessment will be based on the overall impression created by the answers given.</i></p> <p><i>The aspects "specific, realistic, achievable, effective, complete and consistent" are not sub-sub-award criteria that are assessed individually.</i></p> <p><i>This sub-sub-criterion is rated in absolute terms in accordance with the table as included in Section 6.1.2 with a score between 0% (no/poor answer) and 100% (very good answer).</i></p>

## 8.5 Subject Matter Experience

While skill in programming languages is important, the simulation engine and products being developed in this Contract are complex and require subject matter expertise to complete successfully. It is not expected that the Contractor has experience in offshore renewable energy (although such experience would be beneficial); however, a track record of working with customers in a scientific industry to deliver both technical and user-friendly software is required.

Subject Matter Experience	
Requirement 8.5.1	The Tenderer must have experience in understanding scientific concepts and programming mathematical algorithms.
Preference 8.5.2	<p><b>Understanding and experience of discrete event simulation</b></p> <p><i>The Tenderer should describe their experience creating or running time-domain simulation tools, including experience with discrete event simulation architectures. Key employees should be identified along with their succession plan, if critical.</i></p> <p><i>Assessment Criteria:</i>  <i>The complete answer for this Preference must not exceed a maximum of three (3) A4 pages in font 10 or larger. If the answer is longer than three 3 pages, the excess pages will not be included in the assessment.</i>  <i>The assessment of this sub-sub-criterion involves considering the extent to which the response is specific, realistic, achievable, effective, complete and consistent. To what extent does the answer align with TNO's situation, the stated Preference/question and the PoR.</i>  <i>The assessment will be based on the overall impression created by the answers given.</i>  <i>The aspects "specific, realistic, achievable, effective, complete and consistent" are not sub-sub-award criteria that are assessed individually.</i>  <i>This sub-sub-criterion is rated in absolute terms in accordance with the table as included in Section 6.1.2 with a score between 0% (no/poor answer) and 100% (very good answer).</i></p>
Preference 8.5.3	<p><b>Understanding and experience of offshore renewable energy systems</b></p> <p><i>The Tenderer should describe their understanding of, and experience with, the renewable energy industry and/or other offshore/marine/maritime industries, where such experience is likely to be relevant to this project. Key employees should be identified along with their succession plan, if critical.</i></p> <p><i>Assessment Criteria:</i>  <i>The complete answer for this Preference must not exceed a maximum of three (3) A4 pages in font 10 or larger. If the answer is longer than three 3 pages, the excess pages will not be included in the assessment.</i>  <i>The assessment of this sub-sub-criterion involves considering the extent to which the response is specific, realistic, achievable, effective, complete and consistent. To what extent does the answer align with TNO's situation, the stated Preference/question and the PoR.</i>  <i>The assessment will be based on the overall impression created by the answers given.</i>  <i>The aspects "specific, realistic, achievable, effective, complete and consistent" are not sub-sub-award criteria that are assessed individually.</i>  <i>This sub-sub-criterion is rated in absolute terms in accordance with the table as included in Section 6.1.2 with a score between 0% (no/poor answer) and 100% (very good answer).</i></p>

## 9 Appendices

All the Appendices appended to the Procurement Documents are published with the Procurement Guide at [www.TenderNed.nl](http://www.TenderNed.nl).

The Appendices are divided into three (3) main groups, namely:

### A) Submission of Tender:

- Appendix A01** The Tenderer's ESPD, "European Single Procurement Document" (ESPD)
- *If applicable, this format should be multiplied in proportion to the number individual Combination members; the individual Third Party or for the benefit of one or more subcontractors to be used for the work).*

**Appendix A02** Format for Reference Projects

**Appendix A03** Format for Price Sheet

**Appendix A04** Answer to questions-compliance with Preferences: Quality

### B) Submission of supporting documents:

**Appendix B01** Format for Declaration as to Reliance on Financial and Economic Standing of Third Party or Parties

**Appendix B02** Format for Declaration as to Reliance on Technical and Professional Competence of Third Party or Parties

**Appendix B03** Format for Statement of Policy/Declaration as to Insurance

### C) Additional information:

**Appendix C01** Template for Tenderer Questions (Information Notice)

**Appendix C02** Concept Agreement Software Services C#

**Appendix C03** General Purchasing Conditions of TNO, February 2022.

#### *Remarks*

Some of these Appendices are accessible in "editable" MS Excel or MS Word versions. This is with the aim of simplifying the preparation of a Tender by the Tenderer and therefore also forms the basis for the assessment procedure as described in Section 3. Some documents may be (partially) secured to prevent inadvertent and unintentional changes being made to the documents and texts (including format texts).

Changes to the formats are not permitted. The premise for these documents is that the text (including format text) as contained in the Procurement Guide and published on [www.TenderNed.nl](http://www.TenderNed.nl) will be the authoritative text at all times.