

Memorandum of Information.			
European Public tender for the delivery of closed-cycle cryogenic system Ref:W5131612474, add 9-5-2025			
No.	Section nr. / subject	Question	Answers
1	2.10 Terms and conditions of payment	Can the Contracting Authority accept the Contractor's standard payment terms as follows: (a) 45% of the contract price to be paid at delivery of the first invoice, and (b) 55% of the contract price to be paid on the date of shipment and to be paid within 30 days of receipt of each invoice, and (c) 10% of the contract price to be received on the date of shipment of the goods, or (2) 30 days from the date of shipment (Does a delay in undertaking acceptance of the goods is directly attributable to the acts or omissions of the Contractor), and payment of each invoice shall be due within 30 days of the date of invoice (without guarantee).	Not Agreed. See requirement 8.6.015 for the Terms and conditions of payment.
2	2.10 Terms and conditions of payment	Does the Contracting Authority accept that the Contractor may provide a bank guarantee for the payment amount, which shall be returned after delivery of the system?	See Requirement 8.6.015 for the Terms and conditions of payment. Bank guarantee covering 40% of the total amount is needed. After delivery TMO will return the bank guarantee.
3	2.11 Factory Acceptance Test (FAT)	(a) Does the Contracting Authority accept that the acceptance criteria shall be as set out in the Contractor's documentation? (b) Does the Contracting Authority agree that it shall accept the goods within 60 days of Site Acceptance Testing ("SAT") (or Factory Acceptance Testing, "FAT", as indicated, according to the acceptance criteria, and the acceptance certificate shall be signed by the Contracting Authority accordingly)? (c) Does the Contracting Authority accept that if delivery or installation/commencing of the goods is delayed for any reason save the Contractor's default, the Contracting Authority shall be deemed to automatically accept the goods? (d) Does the Contracting Authority accept that an installation and/or acceptance certificate shall be conclusive evidence of the goods' conformity with the contract and of the Contracting Authority's final acceptance?	a) Not agreed, acceptance criteria as described in the tender documents. b) Not agreed. c) Not agreed. d) Not agreed, into the possibility for TMO to rectify defects and shortcomings.
4	2.10 Contract Conditions	Warranty Does the Contracting Authority accept that the warranty will be provided on the basis of the Contractor's standard conditions of warranty? (a) Does the Contracting Authority also grant express notice of the defect to the Contractor as soon as reasonably practicable and within the warranty period. (b) Are goods have been used solely for their proper purpose and in accordance with the operating instructions. (c) Are defects has not been caused by fire, accident, misuse, neglect, incorrect installation by the Contracting Authority or its customers, agents or servants, unauthorized alterations, repair or maintenance or the use of sub-standard consumables and has not arisen from the wear and tear. (d) Are defects has not arisen from any design, specification, component or material supplied by or on behalf of the Contracting Authority. (e) All parts of the goods has been replaced with a part not supplied or approved by the Contractor. (f) Agreement to full of all sums due in respect of the goods has been made. (g) Does the Contracting Authority shall be liable for any claims incurred by the Contractor in responding to claims caused by operator error or incorrect installation or other default of the Contracting Authority or other third party. (h) Does the Contracting Authority shall accord the Contractor sufficient access to the goods to enable its staff to inspect and adjust, repair, remove or replace the goods, and (i) Are costs of all consumables shall be paid by the Contracting Authority.	Not agreed. TMO Warranty conditions applicable.
5	2.10 Contract Conditions	Termination Does the Contracting Authority agree that it may only terminate for material breaches that cannot be remedied (and that late delivery does not in itself constitute a material breach)?	Not agreed.
6	2.10 Contract Conditions	Liability cover out for indirect losses Does the Contracting Authority accept that the Contractor shall not be liable for special, consequential or indirect loss?	Consequential is agreed. Indirect loss is not agreed. TMO does not know what is meant by special, therefore not in agreement.
7	2.10 Contract Conditions	Limit of liability Does the Contracting Authority also accept that the aggregate liability of the Contractor for all breaches under or non-performance of its obligations or consequences by any contract shall not exceed a sum equal to the amount paid for the supplies under the contract (except where such liability cannot be excluded in law)?	Not agreed.
8	2.10 Contract Conditions	Indemnities Does the Contracting Authority accept that the only indemnity the Contractor shall provide to the Contracting Authority is that it shall indemnify and hold the Contracting Authority harmless for any breach of third-party intellectual property rights?	Not agreed.
9	2.10 Contract Conditions	Title Does the Contracting Authority accept that title to the goods shall pass to the Contracting Authority upon payment in full?	Agreed.
10	2.10 Contract Conditions	Penalties a) Does the Contracting Authority accept that the only applicable penalties shall be for late delivery? b) Does the Contracting Authority accept that the Contractor shall be given a three (3) month grace period from the original shipment date and that any penalty for late delivery shall be applied after this period? c) Does the Contracting Authority accept that the penalty for late delivery shall be (0.5%) of the value of the delayed goods per week, capped at 5% of the value of the delayed goods? d) Does the Contracting Authority accept that reaching the limit for liquidated damages for late delivery shall not within the Contracting Authority to unilaterally cancel or terminate the contract?	a) Not agreed, also applies if other contractual obligations are not met. b) Not agreed. c) Not agreed. d) Not agreed. Inherent limitation on liability. The liability applies only in event of a violation of essential contractual obligations and is limited to 3 times the assessment value per event and includes inventory damages, however including indirect damages, loss of profits and reputation damages.
11	2.10 Intellectual property	Intellectual Property Does the Contracting Authority accept that all intellectual property rights relating to the goods and all specifications, designs, programmes or other materials issued by or on behalf of the Contractor shall remain the sole property of the Contractor?	For clarity, supplier will retain all of its rights to Background and TMO will not acquire any right to use Supplier's Background, except (and only) as required for the execution of the Agreement. Regarding Foreground, it is very unlikely that Foreground IP will be created under this Agreement. Thus the Foreground IP clause in TMO's Terms & Conditions without apply.
12	2.10 Contract Conditions	Specification Does the Contracting Authority accept that the Contractor undertakes that the goods shall comply with the specification but that it makes no further understanding or guarantee that the goods shall fit for any particular purpose or that the goods shall be certified or compliant in any way beyond that which is stated in the product specification?	Agreed, provided that all requirements as described in the tender documents are met.
13	1.6 Scope of the proposed contract	Commercial terms The Contractor undertakes the commercial terms to be as follows: a) Award time (the delivery, not to include installation, training or acceptance) - to be agreed on award b) Delivery terms - 24 months after award of goods c) Delivery terms - C/D/EX, TMO / Agreement Quantum Technology, Shellwegweg 1, 2629 CK Delft, The Netherlands, Incoterms 2020 Does the Contracting Authority agree to these commercial terms?	a) Not agreed, TMO expects to receive realistic delivery times. b) Not agreed, there are situations that acceptance can take some time therefore warranty starts after acceptance. c) Not agreed.