



2nd Memorandum of Information European tender for the provision of professional services by a Technical Support Organisation (“TSO”)

Date: July 9, 2025

In this Memorandum of Information, the Contracting Authority provides answers to the questions asked and remarks posted in the context of the above-mentioned European tender. This second Memorandum of Information forms an integral part of the Tender Document and first Memorandum of Information (with our reference 202409075 and TenderNed reference 528527).

Addendum to the Second Memorandum of Information

During the preparation of the Second Memorandum of Information, one question was inadvertently left unanswered. To rectify this, the document has been updated, and this question has been added and answered as question 37.

No.	Chapter/ Paragraph from the selection instructions/the Tender Document	Question	Answer
1.	1.3 Time Schedule	Due to the need to establish strong consortia for the tender and the internal approval processes needed within our companies, we would greatly appreciate it if the deadline for the tender submission could be extended by one additional months.	The Contracting Authority understands that forming strong consortia and obtaining internal approvals can be complex and time-consuming processes. Precisely for that reason, the Contracting Authority has already taken this into consideration when setting the timeline for this tender. Instead of the standard minimum period of 40 days, the Contracting Authority has provided a submission period of 89 days, allowing ample time for consortium building, internal alignment, and preparation of the tender documents. The Contracting Authority believes this generous timeframe provides sufficient opportunity to prepare a suitable and competitive tender. Therefore, we will adhere to the published timetable, and the submission deadline will remain unchanged.

2.	4.3.2 Reference data (technical qualifications)	We would like to know if, where it says "NPPs" under the Competencies table, it would be possible to also include fusion facilities (like ITER) and spent fuel interim storage facilities, as they are considered part of the nuclear industry and consequently, the safety regulations and level of complexity are comparable.	For spent fuel interim storage facilities and fusion facilities other than ITER this is not possible. For ITER specifically, the Contracting Authority agrees that some fundamentals are the same between ITER and a LNPP, although the entire project of building a new LNPP should still be considered of a significantly different kind from developing a prototype Fusion Reactor. Therefore the Contracting Authority will only accept ITER as reference for a NPP for competency 1. Both experience with nuclear fusion and spent fuel interim storage is interesting knowledge that the Contracting Authority would be interested in to see in the tender documents, but it is not sufficient as sole reference to a core competency. It should still be complemented by NPP-specific experiences to give Contracting Authority assurance that Contractor has experience with the unique complexity of a LNPP new build project. Note that ITER adheres to the definition of a nuclear regulated environment, and so this experience can also be used to prove competency 29.
3.	Tender Document - Time Schedule	Would the Contracting Authority consider extending the tender submission deadline after having taken into account the outstanding importance of having the best offers for such an historical tender for the energy policy of the Netherlands, the need for combining the best expertise on the market and many other influencing factors, including the upcoming public summer holidays?	No, see answer to question 1. The Contracting Authority understands that the summer period may affect the availability of staff and consortium partners. For that reason, the Contracting Authority has already taken the holiday season into account when setting the timeline: instead of the standard minimum term of 40 days, a significantly extended submission period of 89 days has been provided. The Contracting Authority believes this timeframe offers sufficient opportunity to prepare a suitable tender, including the formation of a consortium. It is also assumed that parties will not be entirely unavailable throughout the entire summer period (June, July, and August).
4.	Annex 4 - General	Please confirm that tenderer can delete the first table in Annex 4 with an overview of all competencies (on Page 1	Yes, the Contracting Authority confirms that.

		- 3) while we use the template for submitting our project references. Tenderer will start with the part where it says: "You will provide one reference statement" (on page 4). This saves 3 pages per document upon submissions.	We will send an amended Annex 4 via TenderNed.
5.	Annex 4 – Assignment Value	Paragraph 4.3.2 of the Tender Document requests confirmation that the "total value of the reference-assignment(s)" is at least EUR10m excl. VAT, which is required to "exclusively consist of the value of the aspects of the assignment that are equivalent to the service specified in this document". Furthermore, in the MoI, you clarify that the "combined value of all submitted references must amount to EUR 10 million or more". Since our referees need to sign and confirm the declarations in relation to the assignment value in the Annex 4 Reference Statement, we propose to include the total value of the professional services incurred for the respective reference assignment as the "assignment value" in Annex 4 and, separately, provide an estimate of the value of the aspects of the assignment that are equivalent to the service specified in the competence under "Other details" to provide clear evidence that the total value of relevant professional fees incurred on our references are equal to or greater than EUR 10 million in aggregate. Is this approach acceptable for you?	That approach is acceptable to the Contracting Authority as long as you clarify the value of the aspects of the assignment that are equivalent to the service specified in the Tender document.
6.	Annex 4 – Assignment Value	Paragraph 4.3.2 of the Tender Document requests confirmation that the "total value of the reference-assignment(s)" is at least EUR10m excl. VAT, which is required to "exclusively consist of the value of the aspects of the assignment that are equivalent to the service specified in this document". Furthermore, in the MoI, you clarify that the "combined value of all submitted references must amount to EUR 10 million or more". We assume that the reference to EUR10m excl. VAT relates to the value of the professional services incurred – can you please confirm?	Yes, that is correct. The required minimum value of EUR 10 million excl. VAT refers to the total value of the reference assignment(s), specifically the parts of those assignments that are substantively equivalent to the services specified in the Tender Document. Only these equivalent aspects of the reference assignments may be included in calculating the EUR 10 million threshold.

7.	Annex 4 - General	Can you confirm that if the same project reference is used to demonstrate more than one core competency, we are allowed to submit a single Annex 4 that encompasses all the competencies it is being used for?	Yes, that is correct. If the same project reference is used to demonstrate more than one core competency, it is sufficient to submit a single Annex 4 for that reference. It is important, however, that the Annex clearly and specifically indicates which core competency or competencies the reference relates to and how it supports each one. Contracting Authority would like to stress that each core competency must be proven via a maximum of one reference per core competency, although one reference can serve to prove multiple core competencies
8.	Annex 4 – Signature Referee	The Contracting Authority requires Annex 4 to be signed by each referee (client), which results in additional administrative burdens. We assume that we can fulfill this requirement by submitting a separate client statement signed by the client. Can you confirm whether this alternative is acceptable?	No, this is not necessary. As stated in the Tender Document, references do not need to be signed by the referee (the client) at the time of submission. This approach was chosen specifically to reduce the administrative burden on Tenderers. References must only be signed by the winning Tenderer at a later stage. Therefore, submitting a separate signed client statement as an alternative to Annex 4 is not required and not accepted. Submission of Annex 4 without a signature is sufficient at the time of tender submission.
9.	Annex 4 – General & Tender doc 4.3.2	The RfP states: "In case a series of separate yet significantly comparable assignments was carried out for the same client during the reference period, then the turnover of these separate assignments can be combined into a cumulative total." Given the requirement of one reference per competence and this exemption, can you confirm that we are permitted to submit multiple project references containing significantly comparable services for one client over the last 20 years using a single Annex 4 template?	Yes, the Contracting Authority confirms that.
10.	Tender doc 4.3.2 - Competences	Can you confirm whether assessing specific results of investigations within a project (e.g., laboratory findings, seismic research, etc.) is considered relevant expertise in these aspects?	Contracting Authority confirms that for Competency 2.
11.	Tender doc 4.3.2 – Competence 15	The RFP states we are to show: "In-depth knowledge and experience of current reactor designs (EPR, AP1000)" This poses a challenge in a single reference project given they are two technology types.	You must demonstrate a core competency through a single reference. However, the Contracting Authority agrees that proving experience with both EPR and AP1000 technology in one reference is quite unfeasible. In that light, core competency 15 should be read as EPR and AP1000 being

		Please can you confirm that we can provide multiple reference projects covering the multiple technologies?	examples of modern reactor technology and experience with either is sufficient for this competency. In order to remove any confusion regarding this topic, the Contracting Authority will amend this core competency to reflect the abovementioned interpretation. The Contracting Authority will send an amended tender document via TenderNed, in which the changes resulting from this memorandum of information are highlighted in pink.
12.	Tender § 3.5.2 (+ 5.3.1 and 5.3.2) + Framework Agreement 4.4	Can we please confirm our understanding that travel and accommodation costs to any premises or sites outside the Netherlands (e.g. Technology Vendor premises) requested by KGG of the TSO should be reimbursable costs.	This is correct.
13.	Tender doc pg 28, § 4.3.1d + Annex 3a, Article 26	The Contractor has existing insurances for undertaking similar work to the assignment. Can the Contracting Authority confirm that existing insurances which reflect market norms for the level of professional and/or statutory liability insurance for undertaking similar work to the assignment shall be deemed "adequate".	Yes, Contracting Authority confirms that.
14.	Annex 2b - HourlyRates	In Annex 2B, an average hourly rate per Grade is calculated based on the provided hourly rates for different roles. The current structure of Annex 2B allows for a potentially manipulative proposal. If a bidder offers one of the roles at an extremely low rate, they can offset this by proposing the remaining roles at the highest rate, thereby achieving an average rate that maximizes their score. We believe this is not the intention of KGG. We propose including a stipulation in Annex 2B that bidders must not offer rates lower than 20% below the minimum rate. Could you agree with this amendment?	The Contracting Authority acknowledges your concern that the current structure may allow for unfair price manipulation by offering an extremely low hourly rate for one role and offsetting this with higher rates for others. To address this, the Contracting Authority agrees with your proposal to introduce a minimum threshold for the offered rates. Rather than adding a clause in Annex 2B, this will be implemented through an amendment to requirement 3.5.6, which will now read: "The all-in hourly rate of the other functions may not exceed the maximum hourly rate as indicated in section 5.3.2, and may not be lower than 20% below the minimum hourly rate." Furthermore, award criterion 5.3.2 has also been updated accordingly to reflect this requirement: "In your Tender, the offered hourly rate may not exceed the maximum hourly rate and may not be lower than 20% below the minimum hourly rate."

			These changes ensure a fairer and more transparent evaluation process by preventing manipulation of the average hourly rate. The Contracting Authority will send an amended tender document via TenderNed, in which the changes resulting from this memorandum of information are highlighted in pink.
15.	Annex 2b - HourlyRates	The rates in Annex 2b are, as per 3.5.2, all inclusive. Some services may require specialist software which is not specified in the Scope, and not yet known. In the event that efficient delivery of a Task Order can be improved through the provision of specialist software, please can the Contracting Authority confirm that, subject to its acceptance of the Quotation, the costs associated with such software will be chargeable.	No, costs for specialist software are not automatically. Please note that, due to a likely conflict with other, existent Framework Agreements involving software development, such activities fall outside of the TSO scope. However, should you have an idea as to what digital tools ought to be employed for the effective delivery of any or all Task Orders and you have such tools already in your possession ready to be deployed, you can include the use of said tools in your method statements. However, should it become clear that the effective delivery of any Further Agreements require the deployment of specialist software, parties can agree on chargeability of this software in said Further Agreement.
16.	Final tender doc – 3.9	In the RFP, it is stated that the Contractor must deliver a pilot project plan for SROI (Social Return on Investment) within one month after the award. It is also mentioned that the pilot project has a value of approximately 2% of the Agreement value (Agreement value of the further agreements concluded). Can the Contracting Authority confirm that this approximate 2% value applies to task orders issued and completed each year?	No, the contracting authority cannot confirm that. The estimated value of 2% applies to Further Agreements issued that year. It does not apply to Further Agreements completed that year, considering some Further Agreements have a longer duration and would, in that capacity, delay the calculation of the approximate value per year.
17.	Tender doc – 3.5.3	It would be fair and more practical to have the rates indexed annually, even for the Further Agreements and associated Task Orders already agreed/issued. Would the Contracting Authority agree to delete the last sentence of § 3.5.3 of the Tender document ?	The Contracting Authority considers it undesirable to apply indexation to the rates agreed under Further Agreements and associated Task Orders that have already been awarded. These rates are fixed at the time of awarding the Further Agreement, and tenderers are free to take possible future price developments into account when submitting their offers. This approach minimises administrative burden and ensures price stability throughout the term of the Further Agreement.

			As stated in section 3.5.3 of the Tender Document, the Core Team rates can be indexed annually. Therefore, the Contracting Authority will not delete or amend the relevant provision.
18.	5.2.1 & 5.4.1	Please confirm that the Conflict of Interest and Collaboration are expected to be covered in two documents each with a maximum of 3 A4 pages, as these two topics are assessed separately (30 + 30 points).	Your assumption is not correct. As stated in the Tender Document, page 36 section 5.2.1, the additional elements <i>conflict of interest</i> and <i>collaboration</i> must together be explained within a maximum of three A4 pages. Both topics should be described in max 3 A4, regardless of whether it is submitted in one or two document(s). The two topics are assessed separately, that is correct.
19.	3.1.5	We assume no Conflict of Interest, if a subcontractor of the Tenderer is developing parallel its own LNPP newbuild project as an Owner and hence working together with the same vendor candidates (EDF, Westinghouse) e.g. regarding design development for local conditions. In this setup, the corresponding subcontractor would support the Contracting Authority purely on technical matters. Could you confirm this assumption?	Your assumption is correct, provided you can deliver a substantive conflict management plan demonstrating how any other involvement either does irrefutably not compromise your position as an independent adviser or what mechanisms you have in place to maintain believable and clear objectivity.
20.	N/A	In Tender Document - Question 54 in the First MoI, KGG agreed to insert a non-solicitation clause for Core Team Members. Unless we are mistaken, we did not see the integration of such clause in the documents. Also, can you please confirm that when you mention that there will be no solicitation for Core Teams Members "for the duration of the Framework Agreement", it means 5 years (i.e 2 firm years + 3 optional years)?	The non-solicitation clause was inserted as article 8.8.6 in the concept Framework Agreement, creating an exemption for core team members from the general personnel transfer article of 8.8. The Contracting Authority confirms your assumption regarding the duration of said clause, which is, in principle, five years, unless unusual circumstances (as stated in the Framework Agreement or the ARVODI) necessitate earlier termination of the Framework Agreement.
21.	Cover letter	Are Tenderers allowed to provide a cover letter with their proposal? We understand it would not be part of the evaluation.	A cover letter or other documents that will be submitted with your Proposal will not be sent to the assessment team. Although is not forbidden, we kindly ask you not to submit these documents. It is actually a waste of your time and effort.
22.	Tender document; page 7; Time schedule	In the published time schedule the final date for uploading/the receipt of tenders has been stated at 19 August 2025 12:00 hrs. This date is during the summer holidays period. We kindly request you if you are willing to postpone the final deadline with 4 weeks?	No, see answers to questions 1 and 3.

23.	Tender document; page 10. 2.3 Lots	In this Paragraph you emphasize the importance of the partnership in the assignment and the various advantages are mentioned. Do you have experiences which you are willing to share?	It is not possible to share concrete and distinct experiences. However, the Contracting Authority recognizes the critical importance of maintaining a strong partnership with the Contractor throughout the assignment. Our experience in complex, multidisciplinary projects demonstrates that a single Contractor overseeing interconnected workstreams—such as technology selection, owner scope definition, and project management—significantly improves overall project coherence, efficiency, and risk management. Splitting the assignment into multiple lots or engaging several Contractors often leads to increased complexity in coordination, blurred responsibilities, slower decision-making, and higher risks of misalignment. This has been confirmed in previous projects where multiple vendors were involved, resulting in costly delays and interface issues. By working with one Contractor, the partnership fosters mutual understanding, trust, and continuity. This enables rapid commencement of tasks, minimizes repetitive explanations for requests or changes, and reduces administrative overhead. It also facilitates a strategic, long-term perspective on the project, which is especially important given the technical complexity and political sensitivity of the NNB - NL project. Therefore, the Contracting Authority strongly believes that this integrated approach yields significant advantages in terms of time savings, cost efficiency, and quality assurance.
24.	Tender document; page 20; 3.2. Requirements of the core team	In this requirement you indicate an average of working days of at least 125 working days per annum at Contracting Authority premises for the entire core team. Can you inform us if the complete team must be available or a selection of the core team is permitted? We assume this these working days can be planned in consultation with the contractor. Is that correct?	For the answer to your first question, the Contracting Authority refers to the answer to question 8 in the first Memorandum of Information (content related to the Tender Document). We consider all Core Team members to be of crucial and distinct purpose, so it is essential to us to have equal and easy as feasible access to the knowledge and expertise of the whole Core Team. With regards to your second question, your presumption is correct. In consultation Contracting Authority can determine the most productive and manageable schedule for working locally and from a distance, with

			a premise of: the more hours worked locally, the better. Also, as stated in the answer to question 8 (regarding the tender document) in the first Memorandum of Information, we expect the Core Team to work full time (five days per week regardless of work location).
25.	Tender document; page 20; 3.1. General requirements	Requirement 1.3.13 Contracting Authority can state in a Further Agreement, a minimum of total project hours that are to be performed in the Netherlands. This requirement aims to promote local execution, collaboration, and compliance with national standards and practices. Any deviation from this requirement must be explicitly authorized by the Contracting Authority. Can you estimate what the minimum of total project hours must be performed in the Netherlands?	The Contracting Authority refers to the answer to question 33 in the first Memorandum of Information (content related to the Tender Document). Because Contracting Authority considers the ideal amount of locally worked hours to deviate per Further Agreement, Contracting Authority considers it to be of little added value to give an estimation which is quite likely to differ substantially from the de facto amount of hours for at least several prospective further Agreements. However, due to the challenges associated with realizing considerable quota regarding locally worked hours, the formulation of a quote for locally worked hours in Further Agreements will duly take such challenges into account.
26.	Tender document; page 37; 5.2.1 Award criterion 1: Quality of Service	As part of the evaluation process the tenderers have to present on 16th or 17th September. Can you inform us if all tenderers need to present or a selection of tenderers? You do expect to see the complete Core team as proposed?	All Tenderers are invited to give a presentation as part of the evaluation process. During the presentation, all Tenderers will be asked the same set of questions. As stated in the Tender Document (page 38, section 5.2.1): "At least two members (as defined in Award criterion 2) must be present." You are of course free to bring additional team members, as long as the core team is sufficiently represented.
27.	Tender document; page 51; 7.3.15 Structure and content of the Tender	Checklist; 5th bullet Invoicing. Can you please inform us the way you like to receive the required information for invoices as mentioned in the checklist?	You can submit the required invoicing information as a separate annex via TenderNed. This can be a single page (in Word or PDF format) clearly stating the following details: • Name and address details • Chamber of Commerce (KvK) number • Registered place of business according to the Chamber of Commerce • IBAN You may also use a pro forma invoice, for example, as long as it includes all the required information.

28.	Tender document page 38; 5.2.2 Award criterion 2: Quality and merits of the proposed Core Team	You ask for a description (CV) of the individual Core Team members, including names, roles, and relevant knowledge and experience which can be attached as an appendix. Can you give an indication of minimum A4?	The Contracting Authority cannot reasonably link adequate compliance with the award criterion related to the core team to a specific minimum number of pages. For this reason, the Contracting Authority does not impose a maximum number of pages for award criterion 2. However, the Contracting Authority requests that the CVs include only experience and other information that is relevant to the intended role of the respective candidates.
29.	First Memorandum of information; question 4; 3.9 Social Return	We know the Social return obligations and we are aware of the Social Return obligation as stated in the tender document. However in the first Memorandum of Information you answered that % to be spend on social return must be related to the scope of this tender. Can you please clarify furthermore by some examples?	As previously explained in the first Memorandum of Information, under the response to substantive question 37 in the tender document, we have already provided several examples of possible Social Return measures. We kindly refer you to that document for further clarification.
30.	Annex 7a	We assume that Annex 7a Model has to be filled after final selection as the contractor. Can you please confirm our assumption?	We can confirm your assumption.
31.	Tender document page 10; 2. Description and Objectives of the TSO assignment	This tender is focused on selecting a TSO partner for KGG and NEO for the next 2 to 5 years. We assume that the selected consortium partners, their subcontractors and their legally attached companies are not entitled to participate, as individual party, as subcontractor or as consortium partner in any combination/ consortium, in following selection phase of technical and nuclear parties to develop the LNPP's. Is that correct?	We do not entirely grasp your question, but we interpret it as inquiring whether the Contractor selected for the TSO, is also able to submit a tender for succeeding advisory positions for either the directorate or NEO NL, such as, for example an Owner's Engineer. In that case, this is possible. Becoming the TSO does not bar the party in question to participate in succeeding advisory tenders.
32.	Deadline to submit questions	Is it possible to add a 3th round to submit questions?	No, that's not possible.
33.	time schedule 1.3	In light of the complexities involved with establishing an international consortium—including the allocation of activities and responsibilities, the drafting of legal agreements, and the recruitment of individuals (with scarce profiles) willing to relocate to the Netherlands for a minimum of two years—we respectfully request an extension of six weeks for bid submission. This additional period will allow us to adequately address these requirements, especially considering the current holiday season.	No, see answers to questions 1 and 3.

34.	7.3.17 Submission of a Tender in collaboration with other organisations	We are an international professional services network which consists of separate legal entities operating in different countries. We will make use of that network to provide the required references. Are we required to fill in a UAE for each of these entities that is involved in the references?	If you rely on the references of other (legal) entities within your network to demonstrate that you meet the required technical and/or professional capacity, you are indeed making use of their capacities. In such cases, each of those entities must submit a separate European Single Procurement Document (ESPD). This requirement is in line with the tender documentation (in section 7.3.17), which states that if a tenderer relies on the capacities of third parties, those parties must each submit their own ESPD demonstrating that they possess the relevant capacities.
35.	First Memorandum of information; question 10	Regarding Q&A 10 from We think it's important to have a strong digital presence in the core team in the role of a digital senior role. Are you willing to add these digital role to the core team and tender requirements?	Denied. While the Contracting Authority agrees that a digital presence is important, especially with regard to the PMO, it is considered excessive to create a separate Core Team position for digital functions. The Contracting Authority does expect Core Team members to be experienced with the commonly used digital tools relevant to their dossier.
36.	Tender doc 4.3.2 - Competences	In the context of certain of the references for the Competencies set out in the Invitation to Tender, we intend to rely on the experience and expertise of a third party, specifically a natural person rather than a legal entity. The requisite experience and expertise has been gained by this natural person during his employment with previous employers. On our analysis, there is no restriction or prohibition under Dutch procurement law which prevents us from relying on a third party who is a natural person (as opposed to a legal entity). We would appreciate your confirmation that you agree with this analysis and that our reliance on a natural person (as opposed to a legal entity) is acceptable to you from a compliance perspective.	It is permitted to rely on third parties, whether natural persons or legal entities, provided the tenderer demonstrably has access to the capacities of these third parties and that these third parties submit their own European Single Procurement Document (ESPD) in accordance with Article 2.94 of the Dutch Public Procurement Act 2012. A natural person must qualify as a "dienstverlener" (service provider) according to the Aanbestedingswet (Dutch Procurement Law) so this person must be an entrepreneur. For a natural person to be engaged as a third party, they must either be employed by the tenderer or registered as a self-employed entrepreneur (e.g. a sole trader). Accordingly, it is neither practically nor legally permissible to rely on a natural person without business registration as an independent third party for the purpose of meeting suitability requirements.
37.	Annex 2b - HourlyRates	The TSO will need to identify opportunities to provide added value to KGG in delivery, and 3.4.2 requires quotations 'to achieve value for money effectiveness and efficiency for Contracting Authority'. Some Task Order Quotation Values could be lower through increased use of resource Grades A to D as a substitute	No, the Contracting Authority is not willing to consider increasing these rates. The Contracting Authority acknowledges the point regarding the potential use of lower-grade resources to achieve cost efficiency. The rates have been carefully considered and are – including those for Grades A to D – regarded as fair and reasonable within the context of the Framework Agreement.

		for more senior resources if, for example, the period for delivery is non-critical. Grades A to D do not appear to be market-conform, which disincentivises the Contractor from considering different delivery methodologies. Recognising that in some scenarios the effect of more lower grade resources could be to reduce Task Order values, is KGG willing to consider increasing these rates?	
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Remarks regarding draft framework agreement

No.	Article from draft Framework Agreement	Reason for objection	Textual suggestions	Answer
1.	Draft Agreement Article 21.3	Following response to the question number 33 of the 1st Memorandum of Information, we would like to insist in the provision of an explicit exemption for nuclear liability.	<u>Nuclear Responsibility Disclaimer.</u> <i>In any event, the Parties expressly acknowledge and agree that Contractor shall not bear any responsibility related to any kind of nuclear damages. Hence, pursuant to the applicable legislation in this respect, any and all liability for nuclear incidents shall be solely vested upon the operator of the plant and Contractor shall be held harmless of any damage or claim that may arise in this respect.</i>	The Contracting Authority recognises that liability for nuclear damages is highly exceptional and governed by specific international frameworks. The ARVODI-2018 terms, which apply to this procedure, offer a balanced and comprehensive liability regime, including caps and exclusions for indirect damages. Should a future Further Agreement (Task Order) involve activities with a realistic risk of exposure to nuclear damage, the Contracting Authority is open to assessing—within the scope of the Framework Agreement—whether task-specific arrangements are appropriate. If so, such arrangements will be formally laid down in the relevant Further Agreement. However, it should be noted that Contracting Authority considers this to be unlikely, given the mostly preparatory phase of the project.
2.	Article 8.4 MoI Response 26	In the MoI, the Contracting Authority confirms that Article 8.4 explicitly refers to	Since the framework agreement takes precedence over the MoI, can you amend	Clarification regarding Articles 8.4, 8.5 and 8.6 of the draft framework

		Article 21.3 of the ARVODI 2018 and confirms the liability framework as established therein. It does not override or alter the existing liability cap. Therefore, no amendment to Article 8.4 is warranted.	the wording "Notwithstanding article 21.3" changed into "Subject to article 21.3" in article 8.4?	agreement. The Contracting Authority acknowledges that Articles 8.4, 8.5 and 8.6 of the draft Framework Agreement may have caused some confusion. We apologize for any inconvenience and provide the following clarification per article: Article 8.4 This article will be deleted. Article 21.3 of the ARVODI 2018 shall apply. Article 8.5 This article will be amended. <i>Clarification from the Contracting Authority:</i> The Contracting Authority has carefully reviewed the comments regarding Article 8.5 of the draft Framework Agreement. This clause was included to clarify the allocation of risks in cases involving third-party claims. The intention is to ensure that the Contracting Authority is protected against claims for damages brought by third parties that directly result from the Contractor's attributable failure to fulfil its contractual obligations. However, the Contracting Authority acknowledges that the current wording could be interpreted as excluding the liability limitations set out in Article 21.3 of the ARVODI 2018. That is not the intention. To avoid any misunderstanding, Article 8.5 will be amended to explicitly confirm that the liability amounts set out
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			in Article 21.3 of the ARVODI 2018 apply <i>mutatis mutandis</i>. The revised provision reads as follows: <i>8.5 – In addition to article 21 of the ARVODI 2018, the Contractor indemnifies the Contracting Authority against any claims for damages brought by third parties as a result of its failure to discharge its obligations as referred to in article 21.3 of the ARVODI 2018. The liability amounts set out in article 21.3 of the ARVODI 2018 apply mutatis mutandis.</i> Article 8.6 This article will be amended. A fixed penalty amount will be added per incident (in the event of a breach of confidentiality). This penalty refers to the incident itself and is not dependent on the actual damage caused. The revised provision reads as follows: <i>8.6 - If the duty of confidentiality imposed on the Contractor and its Staff and/or subcontractors under article 13 of the ARVODI 2018 is breached, the Contractor will be liable to pay the Contracting Authority a penalty of €50,000 (excl. VAT) per incident.</i> Amended documentation The draft Framework Agreement has been updated accordingly and will be attached in TenderNed. Changes made in response
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				to this second Memorandum of Information are highlighted in pink.
3.	Article 8.5 MoI Response 27	In the MoI, the Contracting Authority confirms that Article 8.5 confirms the applicability of the liability framework under Article 21.3 of the ARVODI 2018. It does not override or extend the limitations of liability as stipulated. Therefore, no amendment to Article 8.5 is warranted.	Since the framework agreement takes precedence over the MoI, can you amend the wording "Notwithstanding article 21.3" changed into "Subject to article 21.3" in article 8.5?	No, see answer to question 2 – Draft Framework Agreement 2 nd MoI.
4.	Annex 3b, Article 21.3 MoI Response 33	Could the Contracting Authority provide an explicit exemption for nuclear liability and clarify that indirect/consequential liability is also excluded? These changes could be appropriately incorporated into the Framework Agreement, for example, by developing Article 8.4 or 8.5, rather than solely relying on the ARVODI terms.	Textual suggestions Notwithstanding any other provision, if the Services are to be performed, relied upon or used at or in connection with a nuclear or related installation, the Contractor and its subcontractor(s) shall never be liable for any loss of, damage to, or loss of use of any property or equipment, wherever located, or injury or death of persons arising out of or resulting from a nuclear incident in the sense given by the Paris Convention of 29 July 1960 and/or the Vienna Convention of 21 May 1963, as amended. The Contracting Authority therefore waives all rights of recovery against the Contractor and its subcontractor(s) on account of any such loss, damage, loss of use, injury or death and shall cause each of its insurers to issue an identical waiver. The Contracting Authority shall moreover indemnify and keep the Contractor and its subcontractor(s) harmless of any claim made by any Third Party in connection with such nuclear incident.	See answer to question 1 – Draft Framework Agreement 2 nd MoI

5.	2.5	Can you please confirm that the cap of 20% for penalties is a cap per order, related to the amount of the Task Order and not the price of the Framework Agreement?	N/A	Confirmed. Please note that the 20% penalties cap applies per Further Agreement. In our applied terminology, the Task Order defines the scope of the Further Agreement.
6.	8.6	Despite KGG's answers on questions raised about the confidentiality penalty (Q20 and Q35 on the first MoI), it is still unclear that the mechanism for breach of confidentiality is liability based and not an automatic penalty, as the current provision suggests.	We therefore propose to amend article 8.6 to remove any uncertainty: <i>"8.6 If the duty of confidentiality imposed on the Contractor and its Staff and/or subcontractors under article 13 of the ARVODI 2018 is breached and the breach is attributable to the Contractor or one of its Staff and/or subcontractors, the Contractor will be liable for such breach under the conditions set out in article 21.3 of the ARVODI 2018. to pay the Contracting Authority a penalty, the amount of which will be determined based on the severity of the breach and the impact of the incident."</i>	No, see answer to question 2 – Draft Framework Agreement 2 nd MoI
7.	8.8	We understand that you agreed for a non-solicitation clause for Core Team Members for the duration of the Framework Agreement (i.e. 5 years). Would you agree to extend the benefit of this clause to the Contractor's staff and not exclusively Core Team Members? If not, do you confirm that – for non-Core team members – the ability of KGG to refrain from recruiting the Contractor's staff inserted in Article 8.8 remains for a duration of 2 years?	N/A	We included non-solicitation clause for Core Team members because we understood the assessment that transfer of Core Team members during the Framework Agreement duration carried a significant risk to the efficient and effective delivery of Core Team Services. However, we see no such risks to the effectivity of service delivery with the broader Contractor staff and we consider the term of two years to be adequately fair, also considering our intention to not actively pursue transfers outside of extraordinary circumstance. See also the answer to question 21 regarding the

				concept Framework Agreement of the first Memorandum of Information. Apart from the 'last resort' status of clause 8.8, We confirm that we at very least not seek to pursue application of this clause in the first two years. Should extraordinary or substantial reasons compel to do so anyway, 8.8 read <i>a contrario</i> obliges Contracting Authority to indemnify Contractor for the transfer.
8.	Draft Framework Agreement Page 6, Article 8.6	In the memorandum of information it appears that you are not willing to make an adjustment to Article 8.6. Our problem with Article 8.6 relates to the fact that you are giving yourself the option of setting a certain penalty after the amount of damages is known, because it is based on the severity of the breach and the impact of the incident. This effectively makes the penalty a form of unlimited liability, because it no longer serves as a deterrent, but as a way to recover damages. As indicated earlier, unlimited liability is unusual in our industry and highly undesirable. If you insist on the penalty in Article 8.6, can you at least disclose the amount of the penalty in advance?		See answer to question 2 – Draft Framework Agreement 2 nd MoI
9.	Draft Framework Agreement Page 6, article 8.5	In the memorandum of information you state that article 8.5 reflects standard practice and the indemnification clause does not extend beyond what is reasonable and customary and aligns with the contractor's professional responsibility. Please know that in the engineering industry this is not the case. In Opinion 331, the Committee of Procurement		See answer to question 2 – Draft Framework Agreement 2 nd MoI

		Experts (CoA) ruled that such a provision violates Regulation 3.9 D (1) of the Guide Proportionality. This is because the contractor would then have unlimited liability, and unlimited liability cannot be required of a contractor. Moreover, unlimited liability is not insurable, the CoA ruled in the same opinion. Considering the opinion of the CvA, we kindly request you to drop the provision in article number 8.5. Are you willing to do so?		
10.	Answer no 3, 19, 26 and 34 MoI regarding Draft Framework Agreement - clause 8.4	Notwithstanding as used in contracts is a preposition to indicate that the phrase or provision that follows limits or qualifies another provision (to which notwithstanding points, i.c. clause 21.3 ARVODI). As a result, the liability of Contractor pursuant to clause 8.4 may well exceed the maximum amount of 21.3 This is the effect of the word notwithstanding. As the Contracting Authority points out in several answers in the Memorandum of Information that the cap of 21.3 continues to apply, we suggest to replace "Notwithstanding clause 21.3" with "Subject to limitation of liability as set out in clause 21.3 [..]" in order to ensure that no ambiguity arises on a later date regarding this clause. Can you agree to that?		See answer to question 2 - Draft Framework Agreement 2 nd MoI.
11.	Answer no 4, 8, 27, 36 MoI regarding Draft Framework Agreement - clause 8.5	Several tenderers have requested to delete clause 8.5 from the agreement which you have not granted. We usually do not accept indemnifications, however based on the fact that the Contracting Authority points out in several answers in the Memorandum of Information that the	"The agreed liability cap shall be applicable to the indemnification".	No, see answer to question 2 – Draft Framework Agreement 2 nd MoI.

		cap of 21.3 of ARVODI-2018 shall apply, we may accept the indemnification. However, the current wording of clause 8.5 is not clear regarding the applicability of the cap of clause 21.3 ARVODI and therefor we would like to request - for clarification purposes - to add following wording to clause 8.5: Can you agree to that?		
12.	Answer no 5, 20 en 35 MoI regarding Draft Framework Agreement - clause 8.6	The contracting authority confirms that the agreed limitation of liability applies to the penalty and that breaches are governed by the liability provisions. However, based on clause 8.6, Contractor could be confronted with an amount of a penalty that is based on the subjective opinion of the contracting authority regarding the severity of the breach and there is or might be no link to actual damages suffered. That is not reasonable nor fair. Can you agree to add/ replace the wording after 'breached' with following wording:	"as has been established in court, the Contractor will be liable to Contracting Authority for all damages directly resulting therefrom".	No, see answer to question 2- Draft Framework Agreement 2 nd MoI.

Remarks regarding draft Further Agreement for the establishment and activities of a Core Team

No.	Article from draft Further Agreement for the establishment and activities of a Core Team	Reason for objection	Textual suggestions	Answer
1.	Annex 3c, Article 6.3	Given the additional administrative burden, we do not believe there will be any added value to adding this	We would suggest to delete article 6.3.	We understand the concern regarding administrative burden. However, Article 6.3 was specifically added in response to questions raised in the first Memorandum

		provision to the contract.		of Information, and reflects a need for transparency in cost components, particularly with regard to wage costs and the place of performance of the work. The core team members may carry out their assignments either at the Contracting Authority's premises in the Netherlands or elsewhere. While we ask for all-in prices, this distinction remains relevant: if a team member performs work from abroad, the associated travel and accommodation costs do not apply. For that reason, the Contracting Authority needs to be able to assess which part of the work was carried out remotely versus on-site. This information is therefore not only relevant for accurate cost allocation but also essential in cases where differentiated pricing may apply, for example where lower hourly rates are charged for remote work. In that sense, the provision provides clarity to both parties and allows for proportional payment. We therefore believe Article 6.3 adds value to the agreement and should remain in place.
2.	3.1	We understand that you refuse to remove the names of Core Team Members in the Draft Further Agreement (answer to Q1 Draft Further Agreement).	N/A	The Contracting Authority confirms that the processing of personal data of Core Team Members in the Draft Further Agreement will be carried out in full compliance with the GDPR (General Data Protection Regulation, in Dutch: AVG

		Since personal data of the Core Team Members (names, job...) will be inserted in the draft at your request, what do you plan regarding GDPR provisions?		(Algemene Verordening Gegevensbescherming)). Personal data included are limited to the necessary information (name, function) required for the proper identification and evaluation of the Core Team within the context of the assignment. Appropriate technical and organisational measures are taken to ensure confidentiality and security of the data. Access to personal data is restricted to authorised personnel only, and data will not be retained longer than necessary for the execution of the agreement and any related administrative or legal obligations. Furthermore, the Contractor ensures that Core Team Members are informed about the processing of their personal data and their rights under the GDPR (in Dutch: AVG).
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Remarks regarding ARVODI-2018

No.	Article from ARVODI	Reason for objection	Textual suggestions	Answer
1.	15.2 ARVODI – 2018 - VOG	Could you please clarify whether obtaining the Certificate of Conduct (VOG) is also required for non-Dutch nationals, or if a certificate of good conduct from their respective country would be considered equivalent?		In principle, a Verklaring Omtrent het Gedrag (VOG) can also be requested for non-Dutch nationals, provided that they will be working in or for the benefit of a Dutch organisation. However, we recognise that in international contexts, obtaining a Dutch VOG may not always be practical.

				Therefore, a certificate of good conduct or equivalent document issued by the competent authority in the individual's country of residence is also acceptable, as long as it meets the same purpose: demonstrating integrity and the absence of relevant criminal convictions. Please ensure the certificate is recent (generally not older than 6 months) and, if necessary, accompanied by a certified translation.
2.	ARVODI - Articles 3.1 & 3.2	Could the Contracting Authority consider replacing articles 3.1 and 3.2 by the bidder proposal text suggestion?	Suggested text would need to be incorporated in the Draft Agreement : The Services provided by the Contractor to the Contracting Authority shall be performed with the degree of skill, diligence, prudence and operating practice which would reasonably and ordinarily be expected from an international engineering company. It is agreed that all Services shall be rendered on the basis of an obligation of means and that the responsibility of the Contractor shall be determined by such qualification.	The Contracting Authority acknowledges the proposed amendment but considers it not applicable at this stage. This procurement concerns the award of a framework agreement, to which the provisions of ARVODI-2018, including Articles 3.1 and 3.2, apply in full. The nature of the contractual obligation (obligation of means or result) will be determined per specific assignment under the framework agreement. As such, the suggested text is not relevant or appropriate in the context of the framework agreement and will not be adopted.
3.	Annex 3a, Articles 21.4 & 21.5 – Damage liability	The Contractor usually accepts these indemnifications as (1) usually the Contracting Authority does not lend us property items that we can cause damage with and (2) it is capped. Due to the expected large fee for this Framework Agreement, the cap would be relatively high.		As already stated in the first Memorandum of Information: <i>Proposal denied. Under Dutch law (Burgerlijk Wetboek), parties are in principle liable without limitation for damage they cause. The ARVODI-2018 has nevertheless chosen to limit liability in a balanced manner, as evidenced by the graduated scale in Article 21.3. Given the</i>

				<i>nature and scope of this assignment, the Contracting Authority sees no reason to limit liability further.</i> The Contracting Authority confirms that the ARVODI-2018 provisions, including Articles 21.4 and 21.5, apply without modification. No negotiations or alternative arrangements on these provisions are possible within the context of this European tender. Tenderers are requested to take this into account when submitting their Proposal.
4.	19.1	In Question 11 – ARVODI in the first MoI, KGG refuses the deletion of the bank guarantee requirement. Can the Contracting Authority confirm that the bank guarantee validity will be limited in time, the duration being equal to the time needed by the consultant to perform services for an amount equivalent to the amount of the advance payment granted?	N/A	The Contracting Authority confirms that if an advance payment is granted and a bank guarantee is required, the validity of the bank guarantee will be limited to the period during which the services covered by the advance payment have not yet been fully delivered. The bank guarantee will expire once the corresponding performance has been delivered in accordance with the agreement. We will send an amended draft Framework agreement via TenderNed, in which the changes resulting from this Memorandum of Information are highlighted in pink.
5.	19.3	Regarding article 19 relating to advance payment, can the Contracting Authority provide the Annex 1 mentioned in article 19?	N/A	The Contracting Authority confirms that "Annex 1" referred to in Article 19.3 of the ARVODI-2018 concerns the model of the on-demand bank guarantee included in the ARVODI-2018 Terms and Conditions. This annex is an integral part of the ARVODI. For completeness, Annexe 1 is also provided as an attachment to this Memorandum of Information.

6.	Warranty period:	In Question 23 – ARVODI in the first MoI, KGG indicated that the provisions for warranty are not covered in the contractual documents and will rely on the Dutch law. Can you please elaborate on what it implies? And especially the warranty duration?	N/A	As stated in the response to Question 23 in the first Memorandum of Information, ARVODI-2018 does not include a specific warranty period. However, the Contractor is required to perform the services with the care and expertise expected of a professional service provider (Article 3 ARVODI-2018 and Article 7:401 of the Dutch Civil Code). If the services are found to be deficient or non-compliant with the agreed standards, the Contracting Authority may request rectification or seek compensation. The applicable duration of this liability is governed by statutory limitation periods under Dutch civil law, including Article 3:310 BW. This limitation period is generally five years from the moment the Contracting Authority becomes aware (or could reasonably have become aware) of the defect and the damage.
7.	Answer no 26 MoI regarding ARVODI - clause 13	Would it be possible on a case by case basis to agree in the Further Agreement for such specific assignments in which the advise/ report is solely intended for the Contracting Authority and not drawn up taking into account the interests of third parties/the public, that such reports/advice will not be provided to third parties outside your own organization without our permission, unless (i) the Client has adopted these statements as its own, therefore under its own name and logo and (ii) these statements do not contain the name of the Contractor or		The Contracting Authority acknowledges that in certain cases, a report or advice may be intended solely for internal use within its organisation, and that external disclosure may not be appropriate without the Contractor's prior consent – particularly where the nature or sensitivity of the content so requires. The parties are free to agree, in the context of a specific Further Agreement, on more detailed arrangements regarding the use and disclosure of such deliverables. In that context, the Contracting Authority is willing – where

		other information that could identify the Contractor as the source?		justified by the nature of the assignment and the deliverable – to agree in writing that: (i) the report or advice will not be shared with third parties outside the Contracting Authority's organisation without the Contractor's consent, unless (ii) the Contracting Authority adopts the content as its own position, under its own name and branding, and without mentioning or otherwise identifying the Contractor as the source.
8.	Answer no 24 MoI regarding ARVODI - clause 24	Given the answer in number 24 of the Memorandum of Understanding could you agree with adding following clause to the Framework Agreement?:	"In the event that a Further Agreement relates to providing branded advice, parties agree that the Contracting Authority shall not be permitted to change the content of reports, advice or other written or oral statements from the Contractor, or to provide them to third parties outside its own organization, without the prior written consent of the Contractor, unless (i) the Contracting Authority has adopted these statements as its own, therefore under its own name and logo, and (ii) these statements do not contain the name of the Contractor or other information that could identify the Contractor as the source."	The Contracting Authority maintains its position as stated in the first Memorandum of Information (response to question 24): the provisions of Article 24 of ARVODI 2018 regarding the full transfer of intellectual property rights to the Contracting Authority remain unchanged and will not be amended in the Framework Agreement. The Contracting Authority must retain the unrestricted right to use, reproduce, adapt and distribute the results of assignments, including advisory reports, within the scope of its public duties. This includes the ability to make such reports publicly available if deemed appropriate. As a matter of principle and established practice, the Contracting Authority does not alter the content of advisory reports post-delivery, nor does it remove attribution. Reports are generally published unaltered and under the

				Contractor's name and logo, reflecting the Contracting Authority's role as a transparent public body subject to public and political scrutiny. In exceptional cases — for example, where the use of strong Contractor branding might create confusion about the origin or authority of a report — the Contracting Authority remains open to discussing additional arrangements at the level of a specific Further Agreement. Therefore, the proposed clause will not be incorporated into the Framework Agreement. However, similar provisions may be proposed by the Contractor during the conclusion of a Further Agreement and will be considered on a case-by-case basis, if appropriate in the context of the specific assignment.
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