## Memorandum of information

## *Date: 1 Juli 2026*

Please find below the answers to the questions raised up to and including 24th June 17:00 CEST. This memorandum contains all questions and answers. New questions and answers can be found from question 80.

| | Subject | Question | Answer |
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| 1 | Annex 2 | When filling in Annex 2, we receive an error message saying that the sheet is protected. Could you upload a new version so that we can complete it? | The column "additional explanation" was accidentally included in Annex 2. We have uploaded a new version 1.2 |
| 2 | Requirement AUD-010 | 1. Within your RFP or vendor qualification process, is it also required beyond the platform itself that implementation partners, integrators, and subcontractors demonstrably operate in accordance with nuclear QA standards such as NQA-1 or ISO 19443?<br>2. Can you confirm that operating in accordance with these standards is sufficient and a certification is not required, since some of these standards are Industry specific for nuclear and not IT (services)?<br>3. As NEO NL is required to meet these standards, can you please inform participants in this RFP what aspects of these requirements are applicable specifically for a document management system? | 1. Yes, see requirements regarding sovereignty.<br>2. Yes we can confirm this<br>3. Please refer to ISO 19443 and NQA-1. The most important subjects to keep into account are 1. the traceability of the information, meaning the DMS will have to integrate with the requirements and configuration management. 2. Als the control of documented information is important, described in sections:<br>7.5 Documented Information<br>8.5 Production and Service Provision<br>8.6 Release of Products and Services |
| 3 | List of requirements | Given the required implementation of Phase 1 within four months, including acceptance, how important does NEO NL consider it that the solution is primarily based on configurable standard functionality and proven implementation approaches, in order to keep implementation, management, and adoption risks under control and to enable rapid deployment? | The objective is explicitly to stay as close as possible to the standard configuration of the application as possible, but thereby being able to adhere to the requirements and realisation of the set business objectives. |
| 4 | Requirements | To what extent does NEO NL value a solution that provides a single, consistent user and administrative experience throughout the entire contract duration, whereby management and configuration are performed centrally, without fragmentation across multiple subsystems or additional technical management environments? | NEO NL prefers an integrated solution. See for example assessment criterium 1 in Q4 Demonstration (page 32 of the Tender Document): “uniformity of the user interface, whereby user groups and different roles experience the same look and feel.” |
| 5 | 2.1 Description and objective of the assignment | To what extent is it important for NEO NL that the organisation, particularly in light of its expected growth and ongoing professionalisation, is able to perform functional application management activities like workflows, metadata settings, authorisations, document classifications, and lifecycle settings independently? So without structural dependency on external consultancy services or custom development. | Functional application management activities as described are expected to be conducted in due time independently, with expert support and advice available for more complex change requests. |
| 6 | Algemeen | What cloud provider will NEO contract with for its data centre from 2027+? | This is not yet decided and therefore not open for sharing. |
| 7 | SaaS | If NEO will do a contract with Azure as a cloud provider, can the solution be switched from the vendor datacentre to NEO datacentre but remain being operated as a SaaS solution by the vendor.<br>Reason for asking is that our system platform sits on top of Microsoft Azure that hosts the proposed DMS solution includimg all the operating and monitoring tooling required to operate the system in a optimal way. | No. NEO cannot confirm that the contract for the cloud provider will be an Azure platform. |
| 8 | Algemeen | What is the approximative number of documents and revisions managed within the NEO DMS? | Current numbers are relatively low (+/- 20K), but expected to grow substantially in the upcoming years after commencement ProjectMER, Vendor Selection/start FEED and safety case.<br><br>Expectation based on reference projects that this will grow between 2027 – 2030 from tens-of-thousands to several million documents. |
| 9 | Data Processing Agreement - Annex 3a - Data Processing Agreement | Article 2.2 of the Data Processing Agreement limits the purposes for which we may process personal data. We need to be able to also process personal data for the purposes of risk management and quality review requirements and client relationship management, administrative and invoicing to be able to perform our services. Would it be acceptable to include these purposes in art. 2.2? | This is not acceptable. |

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| 10 | Annex 3a - Data Processing Agreement | Article 5.2 is not acceptable as we can not accept access to our facilities or internal files due to confidentiality obligations. Would it be acceptable to replace the second part of art. 5.2 with the following? The Processor shall cooperate with the audit by filling out a audit questionnaire. Any findings may be discussed with Processors CISO at our offices. | This is not acceptable. An audit will be done by an independent auditor, therefore confidentiality will be assured. |
| 11 | Annex 3a - Data Processing Agreement, article 6 | Article 6 of the Data Processing Agreement is, partly in view of the way our organisation is structured, not acceptable. The Contractor is part of a global network of local entities. The processing of personal data takes place via various locations, meaning it cannot be guaranteed that this data will not leave the EEA. The Contractor has an Intra-Network Data Transfer Agreement ("INTA") for the transfer of personal data within the international network of which the Contractor is a part. This INTA meets the requirements as established by the EC in the context of international transfers to countries outside the EEA. On this basis, the Contractor is permitted to transfer data outside the EEA, provided the client/contracting authority does not prohibit this. In addition, the Contractor uses various cloud solutions. It is inherent to the use of cloud solutions that data may also be transferred outside the EEA. For this reason, this must be permitted for the Contractor. On the basis of the foregoing, we would like to propose to replace the current wording of article 6 with the following provision:<br><br>"The Processor shall only transfer personal data to countries outside the EEA if the recipient is deemed to provide an adequate level of data protection under the GDPR. On the basis of the Intra-Network Data Transfer Agreement ("INTA"), the Processor is permitted to transfer personal data within the international network of which the Contractor is a part." | This is not acceptable. |
| 12 | Annex 3a - Data Processing Agreement, article 10 | Unlimited liability for data protection breaches is not acceptable for Contractor. Liability needs to be related to the risks involved with the performance of an engagements and the fees paid. Is this is a commercial term we propose to move the liability to the Main Agreement, and cap the liability in accordance with the liability cap in the Main Agreement? | See our answer in question 62. |
| 13 | Annex 3 - Draft contract, article 4.3 | We kindly request that you amend the unilateral renewal options to a mutual renewal. This will allow the parties to consult with each other regarding any renewal. In our view, this is important because the Contractor may also have insights concerning a potential renewal (for example, changes in the Contractor's staffing, operations, or financial situation). Moreover, when the parties consult jointly and choose a mutual renewal, it can foster a long-term, positive relationship between them. Can you agree to this? | We can agree to a mutual renewed agreement as proposed after the first period of unilateral renewal options and a period of four years. In this way en mutual renewal options will be possible in year 8, 9 and 10. |
| 14 | Annex 3- Draft contract, article 9.1 / Annex 3b - ARBIT-2022, article 8.1a. | Article 8.1a ARBIT provides that the intellectual property on a Deliverable that is or has been specifically designed or produced for the Contracting Authority and/or is or has been realised under the direction or supervision of the Contracting Authority or on the basis of its instructions or designs. This provision, if strictly read, would entail a transfer of intellectual property rights on modifications to or configurations of Standard Software (as a Service). For us as an implementation service provider it is neither reasonable nor workable nor acceptable to transfer the intellectual property rights, insofar as such rights can rest on modifications to or configurations of Standard Software, to the Contracting Authority(ies).<br><br>As a result of the transfer of the (intellectual) property and/or moral rights vesting in the results including Documentation and our Source Code and object codes, scripts, specific configurations, etc., we as the creator of the Documentation, Source Code and object codes, scripts, specific configurations etc. would lose the right to use these for other clients. In our view this cannot be the intention, because after completion of the present implementation for the Contracting Authority we would in effect no longer be able to serve new clients for comparable implementations. A Licence for the Contracting Authority should be sufficient on this point, with reference to the last two sentences of paragraph 3.9.1.2 of the Guide to Proportionality issued in January 2022 by the Ministry of Economic Affairs, Agriculture and Innovation (see: https://www.pianoo.nl/sites/default/files/media/documents/2021-10/gids_proportionaliteit_3e_herziening-januari2022.pdf).<br>Conversely, this would also mean that where we have previously carried out a comparable implementation assignment for another contracting authority, we would not be able to use the configurations created in that | Not approved. Article 8.1.a ARBIT does not need to be declared inapplicable. The question seems to be based on a too broad interpretation of Article 8.1.a ARBIT. Intellectual property rights in relation to modifications to or configurations of standard software that is provided (as a service) by the service provider to its customers, will be owned by the service provider and will not have to be transferred to the Contracting Authority. The same counts for documentation not specifically created for - or merely tweaked for use by - the Contracting Authority. Article 8.1.a merely applies to intellectual property rights in relation to deliverables specifically designed for the Contracting Authority or that have been designed or produced in accordance with the Contracting Authority's instructions. The modifications/configurations/documentation/scripts referred to in the question do not qualify as such. |

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| | | assignment for the present implementation, because that other contracting authority also uses the ARBIT. In our view, it is therefore also not in the interest of the Contracting Authority to make this arrangement in its current form under article 8.1a where it concerns the delivery and implementation of Standard Software (as a Service).<br><br>We would therefore ask you to declare article 8.1a ARBIT inapplicable. Are you willing to do so?<br><br>If you are not willing to do so, can you explain why? | |
| 15 | Annex 3b - ARBIT-2022 | ARBIT and implementation services. Where you have intended to make the ARBIT applicable to the implementation services to be provided, the following. For implementation services, the service provider is, even more so than with other forms of service provision, highly dependent on the cooperation of the contracting authority (think of access to personnel of the contracting authority with knowledge of the IT infrastructure, access to and information about systems of third-party suppliers within that IT infrastructure of the contracting authority, etc.). The ARBIT (and indeed the Draft Agreement) are limited to a general cooperation obligation of the contracting authority, without further specifying this. In our view, however, for the success of IT implementation projects it is necessary to elaborate the mutual expectations in much more detail and, in addition to the responsibilities of the contractor, to also clearly and in detail agree on the responsibilities of the contracting authority. In our view, the ARBIT (and the Draft Agreement) do not meet this standard, quite apart from the fact that the ARBIT are primarily focused on the delivery of hardware and software and contain few or no provisions relating to implementation services.<br><br>We would therefore like to propose that we may submit our standard terms and conditions for IT implementation projects with our tender and that the applicability of the ARBIT is thereby excluded. Can you agree to this? If you cannot agree to this, can you explain why? | Not approved. The fact that the ARBIT are not specifically drafted for the provision of implementation services is irrelevant. Where necessary in light of the nature of the services being procured, additional or deviating provisions have been included in the other contract documents (e.g., the Schedule of Requirements and Preferences). The documents attached to the Tender document will therefore not be replaced by the Tenderer's general and/or special terms and conditions. If, in the view of the Tenderer, the ARBIT and/or the draft agreement contain gaps as to the execution of the implementation services, it will be up to the Tenderer to elaborate thereon in its Tender and/or to mention specific requirements regarding the Contracting Authority's responsibilities in relation to the implementation of the DMS. |
| 16 | Annex 3b - ARBIT-2022, article 4.3 | The ARBIT entirely lack any cooperation obligation of the Contracting Authority. For implementation services, the service provider is, even more so than with other forms of service provision, highly dependent on the cooperation of the Contracting Authority (think of access to personnel of the Contracting Authority with knowledge of the IT infrastructure, access to and information about systems of third-party suppliers within that IT infrastructure of the Contracting Authority, etc.). The ARBIT contain only obligations for the Counterparty, save for the very brief obligation on the Contracting Authority in article 4.3 to provide additional information. In our view, however, for the success of IT implementation projects it is necessary to elaborate the mutual expectations in much more detail and, in addition to the responsibilities of the Counterparty, to also clearly and in detail agree on the responsibilities of the Contracting Authority. In our view, the ARBIT (and the Draft Agreement) do not meet this standard.<br><br>In this regard, we would like to request that the following provisions be included in the Contract to be concluded:<br><br>"[X].1 The Counterparty can only perform its work properly if the Contracting Authority complies with its obligations under the Contract (and the Terms and Conditions). It remains the sole responsibility of the Contracting Authority to provide the Counterparty with access to and the ability to use the Contracting Authority's IT infrastructure, including hardware, software, information, data, services and other materials necessary for the Deliverable to be provided. The Contracting Authority shall ensure that it has the appropriate contracts with other suppliers that are necessary for the provision of the Deliverable. The Contracting Authority shall comply with the requirements regarding the Contracting Authority's IT environment and other technical specifications in connection with the Deliverable to be provided.<br>[X].2 Changes or maintenance relating to all third-party related integration development and similar services fall under the relationships and contracts that the Contracting Authority has with the relevant third parties. The Contracting Authority shall ensure that personnel of such third parties are available to provide the assistance that the Counterparty may reasonably require. For the avoidance of doubt, it is | Not approved. Contrary to what the question implies, the draft agreement and the ARBIT are not intended to define the mutual responsibilities during the implementation phase. This should be done in the implementation plan. As described in the Tender Document, The Tenderer must include a plan of approach with its submission. In this plan, the Tenderer must specify, among other things, how the roles and associated responsibilities will be divided between the Contracting Authority and the Contractor during the implementation phase. |

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| | | necessary that the Contracting Authority and these third parties fulfil their responsibilities so that the Counterparty is able to provide the Deliverable to the Contracting Authority.<br>[X].3 The Contracting Authority shall ensure that its personnel are available to provide the assistance that the Counterparty may reasonably require and that the Counterparty obtains access to senior management and other personnel to enable the Counterparty to provide the Deliverable. The Contracting Authority shall ensure that its personnel have the appropriate skills and experience. If a staff member does not perform adequately, the Contracting Authority shall make additional or alternative personnel available.<br>[X].4 The Contracting Authority is solely responsible for improper use of or for the manner and purpose for which the Contracting Authority uses the Deliverable provided by the Counterparty."<br><br>If you cannot agree to this, can you explain why? | |
| 17 | Annex 3b - ARBIT-2022, articles 5.3 and 17.3 | Article 5.3 provides that the Contracting Authority reserves the right to have an audit carried out at the Counterparty and article 17.3 provides that the Contracting Authority may have supervision exercised over the manner in which the Counterparty stores data. We cannot accept audit rights by or on behalf of our clients (other than within the scope of the GDPR in the context of processing personal data), because we are bound by statutory and contractual confidentiality obligations towards our (other) clients, which obligations are jeopardised when clients, on the basis of such provisions in a contract, demand access to our premises and inspection of our data/work files, or require that we grant our competitors such access and/or inspection.<br>We would therefore urgently request that you disapply this provision.<br><br>Should you be unable to agree to this, we would ask you to contractually frame the audit as follows, in order to prevent such an audit from leading to a breach of the confidentiality obligation as it applies to us vis-à-vis our other clients, as well as risks relating to business confidentiality and competitive position:<br>(a) that such an audit will not be carried out by a direct competitor of the Counterparty, including in this case in particular one of the other candidates in the procurement that led to the conclusion of this Contract, as this could provide the Counterparty's competitors with extensive insight into the unique working methods and other unique selling points of the Counterparty;<br>(b) that the Counterparty shall not be required to provide access to its premises, other than the general meeting rooms where no confidential information is present, as in non-general (work) areas confidential information of the Counterparty itself or of its clients or suppliers is or could be present; and<br>(c) that the Counterparty is only required to provide access to the relevant policy documents regarding the storage and use of data and that the internal work files of the Counterparty shall not form part of such an audit, as the internal work files contain business-confidential information of the Counterparty, including potentially (comparisons with) confidential information of its clients; and<br>(d) that the Counterparty shall never be required to provide access to the internal systems of the Counterparty, which will also not be necessary on the basis of TPMs and other information to be provided by the Counterparty to the Contracting Authority; and<br>(e) all of the above only insofar as this does not lead to a breach of the confidentiality obligation and/or breach of other (contractual) arrangements as applicable to the Counterparty vis-à-vis its other clients, contracting authorities or suppliers.<br><br>Can you agree to this? If you cannot agree to this, can you explain why? | Partially approved. The following wording shall be added to Article 5.3 ARBIT:<br>"The Contracting Authority shall not be entitled to audit data/work files of the Counterparty's other clients. Audits under this article 5.3 will not be performed by a direct competitor of the Counterparty." |
| 18 | Annex 3b - ARBIT-2022, article 8 | Article 8 ARBIT deals exclusively with the intellectual property rights relating to the Deliverable to be provided by the Counterparty. What is missing here is an explicit provision regarding the use by the Counterparty of materials provided to the Counterparty by or on behalf of the Contracting Authority. We would therefore like to request that the following provision be included in the Contract to be concluded, in addition to article 8 ARBIT:<br><br>"The Contracting Authority is responsible for obtaining all necessary rights for the use by the Counterparty for the performance of the | Not approved. Which third party materials to be made available by the Contracting Authority does the Tenderer envisage using for the performance of the contract? |

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| | | Contract of the third party materials that the Contracting Authority makes available to the Counterparty or that the Contracting Authority requests the Counterparty to use. The Contracting Authority agrees to indemnify and hold harmless the Counterparty, entities affiliated with the Counterparty and their respective employees, and suppliers against third party claims and all other liabilities, losses, costs and other expenses (including legal costs) arising out of or in connection with the failure by the Contracting Authority to obtain such rights. This indemnity shall not apply to the extent that the third party claim is ultimately found to be the result of wilful misconduct or gross negligence (in Dutch 'opzet of bewuste roekeloosheid') of the indemnified person. The indemnified (legal) persons shall be entitled to rely on the aforementioned indemnity and if necessary this clause constitutes an irrevocable third-party beneficiary clause (in Dutch 'onherroepelijk derdenbeding om niet')."<br><br>Are you willing to include this provision? If you cannot agree to this, can you explain why? | |
| 19 | Annex 3b - ARBIT-2022, article 12.3 | The warranty as included in article 12.3 we consider unreasonable and excessive. Can you therefore agree to disapplying this article, whereby we are of course open to agreeing on a period of "hypercare". You appear to already provide for this in article 11.1 of the Draft Agreement. If you cannot agree to this, can you explain why? | Article 12.3 ARBIT does not apply. Defects must be repaired at the Contractor's expense throughout the entire term of the agreement. |
| 20 | Annex 3b - ARBIT-2022, article 16 | Article 16 ARBIT-2022 contains the requirement for security in the event of advance payments. Providing a bank guarantee involves costs and is time-consuming. Moreover, we consider such security in the case of the Contractor not necessary. Can you agree to disapplying article 16 ARBIT-2022 in the Contract? Or can you confirm that advance payments will not be applicable? | Approved. This is already included in Article 8.3 of the draft agreement. |
| 21 | Annex 3b - ARBIT-2022, articles 17.4 and 32.3 | Articles 17.4 and 32.3 ARBIT leave no room for maintaining an internal work file, also after completion of the engagement. Under our internal risk and compliance procedures, we must be able to maintain an internal work file containing copies of relevant documents. This information serves to enable us at a later stage, e.g. when you have questions or complaints about our services after termination of the Contract, to reconstruct our steps. This serves not only the (procedural) interest of the Counterparty, but also the interest of the Contracting Authority. Moreover, it cannot reasonably be required of us to separately delete from generic back-ups information that has been stored in back-ups on the basis of regular back-up procedures.<br><br>Can you therefore include the following provision in the Contract to be concluded as a supplement to articles 17.4 and 32.3 ARBIT?<br><br>"The provisions of articles 17.4 and 32.3 ARBIT do not affect the right of the Counterparty to maintain and continue to maintain a file regarding the engagement containing copies of relevant documents. The Counterparty shall retain its file for a period that is acceptable for proper professional practice and that is in accordance with statutory provisions and (professional) rules regarding retention periods. The Counterparty is not obliged to destroy data and information stored via an automatic backup system. The Counterparty shall take appropriate measures to safeguard the confidentiality and safe storage of its file. The Contracting Authority has no right of access to the file of the Counterparty."<br><br>If you are not willing to do so, can you explain why? | Not approved. Upon termination of the agreement, the Contracting Authority's data stored by Contractor must be handed over at the Contracting Authority's request, unless mandatory statutory provisions require the Contractor to retain copies of said data for a certain period of time. |
| 22 | Annex 3b - ARBIT-2022, article 17.5 | Article 17.5 ARBIT-2022 contains a penalty of EUR 50,000 for breach of the confidentiality obligation. Agreeing to penalty clauses with Contracting Authorities is highly objectionable for us. In our view, agreeing to a penalty is not necessary because the contractual terms contain a safety net regarding our liability and the resulting obligation to compensate damage, in the event of a breach of (confidentiality) obligations under the Contract. The Contracting Authority has sufficient other sanctioning measures at its disposal in relation to a breach of such obligations. In our view, this provision is unreasonably formulated because it provides for immediate enforceability, without a court establishing that there has indeed been a breach of the confidentiality obligation by the Contractor. In light of the foregoing, we request that you disapply article 17.5 ARBIT-2022 in the Contract.<br><br>If you are not willing to do so, we request that you include in the Contract that the penalty pursuant to article 17.5 ARBIT-2022 shall only | Not approved. An obligation to pay damages is not an effective remedy in the event of a breach of a confidentiality obligation. The "safety net" referred to in the question therefore does not provide sufficient safeguards. |

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| | | be payable if a court has irrefutably established that there has been a breach of the confidentiality obligation by the Contractor and that any penalty paid shall be deducted from the amount of damages to be determined by the court in its discretion. Can you agree to this? | |
| 23 | Annex 3b - ARBIT-2022, article 17 | In providing our services, we use cloud applications, email providers and other supporting IT (cloud) suppliers, including for our document management systems, where files and (client) information are stored in the cloud. In very exceptional cases, in connection with necessary technical support, including for "crisis support" (for example in the event of a hack or in the event of (potential) loss of data that needs to be recovered), a limited number of employees of our IT (cloud) supplier may – to a limited extent – have access to certain confidential (client) information. For these very limited cases where employees of our IT (cloud) suppliers have limited access to confidential (client) information, strict confidentiality arrangements apply.<br><br>For the avoidance of doubt, we emphasise that the support of our internal business processes by the relevant IT (cloud) service providers is necessary for the performance of our services, whereby we accept responsibility for the engagement of these IT (cloud) service providers and guarantee the (enforcement of) confidentiality of the (client) information. Our IT (cloud) service providers include, among others, Microsoft Azure, Google and KPN. We and our IT (cloud) suppliers continue to comply with the highest confidentiality and security standards. If desired, we can provide you with our ISO 27001 certificate and our Information Security Policy Statement and we are of course also willing to explain our information security policy and the requirements we impose on our suppliers in more detail.<br><br>One could argue that information in the context of an engagement agreement may be disclosed to third parties insofar as necessary for the performance of that engagement agreement, but we would like to explicitly bring this to your attention and would like to see the following provision included in the Contract to be concluded.<br><br>Proposed text:<br>"For the purpose of (the performance of) the Contract, the Contracting Authority and the Counterparty may communicate with each other by electronic means and/or make use of electronic storage (including cloud applications).<br>The Counterparty is permitted to use cloud applications to support its business operations. The Counterparty remains responsible vis-à-vis the Contracting Authority for the confidentiality of the confidential information by the relevant IT (cloud) service providers."<br><br>Are you willing to include this provision? If you cannot agree to this, can you explain why? | Approved, provided that the conditions set forth in the agreement regarding the processing of (personal) data are met. |
| 24 | Annex 3b - ARBIT-2022, article 19 | Article 19 ARBIT deals exclusively with the (information) security requirements to be observed by the Counterparty. This provision fails to recognise that the Contracting Authority also has and retains a responsibility for the (information) security measures of its own IT infrastructure. We therefore request that the following provision be included in the Contract to be concluded as a supplement to article 19 ARBIT.<br><br>"You will be solely responsible for ensuring that you have appropriate information and operational technology security procedures in place for any technology you provide, or which may be affected by the Deliverable."<br><br>Are you willing to include this provision? If you cannot agree to this, can you explain why? | Not approved. It is true that the Contracting Authority is responsible for the (information) security measures pertaining to its own IT infrastructure. However, this does not necessitate amending to Article 19 ARBIT, as this falls outside the scope of the requested services. |
| 25 | Annex 3b - ARBIT-2022, article 21 | Supplement to article 21 – use as reference. Because it is, particularly in procurement procedures, customary to require references from tenderers with which they can demonstrate their experience as required by contracting authorities, we would like to see the following provision included in the Contract to be concluded.<br><br>"The Counterparty may wish to refer to the Contracting Authority and the Deliverable provided to the Contracting Authority when promoting its services and to use the name of the Contracting Authority as a | Not approved. If the Contractor wishes to cite the Contracting Authority as a reference for its business development efforts, separate permission must be requested in such cases. |

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| | | reference when citing its experience in proposal documents. The Contracting Authority agrees that the Counterparty may do so, as long as the Counterparty does not disclose any Confidential Information of the Contracting Authority."<br><br>Are you willing to include this provision? If you cannot agree to this, can you explain why? | |
| 26 | Annex 3b - ARBIT-2022, Articles 26.2 and 26.3 | Article 26.2 ARBIT provides for a maximum liability for personal injury and property damage of € 1,250,000 and article 26.3 provides for a maximum liability for damage other than personal injury or property damage of a maximum of 4x the Fee. This limitation of liability as included in the ARBIT is not in line with what is customary in the IT services market. In the Software (as a Service) and implementation services market, the customary limitation of liability is one times the annual contract value.<br>We refer in this context to Prescription 3.9 D of the Guide to Proportionality issued in January 2022 by the Ministry of Economic Affairs and Climate Policy. This Prescription 3.9 D provides that the liability of the contractor should be limited, whereby the limitation of liability customary in the relevant sector should be taken into account. Taking into account the foregoing, we propose to include the following market-standard provision in the Contract. Can you agree to this? If not, can you explain why not?<br><br>"The Counterparty shall provide its services to the best of its ability and exercise the due care that may be expected of it. If errors are made as a result of the provision to the Counterparty of incorrect or incomplete information by the Contracting Authority, the Counterparty shall not be liable for the resulting damage. The total liability of the Counterparty towards the Contracting Authority for any errors that would have been avoided had the Counterparty exercised due care, is limited to a maximum of the fee paid and/or owed by the Contracting Authority for the specific work performed under the engagement from which the errors arise. If the engagement has a duration exceeding twelve months, the total liability in the context of the engagement is limited to a maximum of the fee paid and/or owed by the Contracting Authority to the Counterparty over the last twelve months for the specific work performed under the engagement from which the errors arise. The Counterparty shall not be liable for consequential, indirect, business or punitive damages and/or loss of profit."<br><br>Can you agree to this? If not, can you explain why not? | Not approved. The limitation of the Contractor's liability set forth in Articles 26.2 and 26.3 ARBIT is reasonable and customary in the IT services market and, consequently, does not violate Rule 3.9 D of the Proportionality Guide issued in January 2022 by the Ministry of Economic Affairs and Climate Policy. Please note that the risks actually run by the Contracting Authority are very substantial, given the nature of the services that are to be provided under the agreement. The Contracting Authority does not consider the provision proposed by the Tenderer to be proportionate, in part because it includes additional conditions for holding the Contractor liable and excludes the Contractor's liability for "indirect" and consequential damage. The proposed provision thus amounts to a virtually complete exoneration, which cannot be accepted by the Contracting Authority. |
| 27 | Annex 3b - ARBIT-2022, Article 26.4(d) | Article 26.4(d) ARBIT-2022 provides that the limitation of liability does not apply to (breach of) the data processing agreement. Such unlimited liability is very unusual in our sector. The risk that is placed with the contractor in this manner is moreover disproportionate. We refer in this context to Prescription 3.9D of the Guide to Proportionality. Can you therefore agree to disapplying article 26.4(d), so that damage resulting from a breach of the data processing agreement also falls under the limitation of liability? | Not approved. The proposed deletion of Article 26.4.d ARBIT is not acceptable. This concerns, among other things, claims by third parties asserted against the Contracting Authority, but which are caused exclusively by an act or omission of the Contractor. In other words: this concerns situations in which the Contracting Authority is held liable, even though it was in no way responsible for the cause of the damage (whereas the Contractor was). Naturally, the Contracting Authority must be indemnified by the Contractor against such claims, without the Contractor being able to invoke an exemption. After all, the Contracting Authority has also been unable to exonorate itself from such claims. It would be unreasonable if, in such a case, the Contracting Authority were required to bear (part of) the damage, even though it had no influence whatsoever on its cause. |
| 28 | Annex 3b - ARBIT-2022, Article 26 | We would like to see clarified, in addition to the ARBIT, that the Counterparty accepts no liability to anyone other than the Contracting Authority. Because technical transformation projects often involve multiple parties, including but not limited to end users of the implemented solution and other (IT) suppliers, it is in our view reasonable and necessary that the Contracting Authority indemnifies the Counterparty against claims from such third parties. We therefore request that the following provision be included in the Contract to be concluded as a supplement to article 26 ARBIT.<br><br>"The Counterparty accepts no liability to anyone, other than the Contracting Authority, in connection with the Deliverable to be provided by the Counterparty, unless otherwise agreed in writing. The Contracting | Not approved. The proposed provision would require the Contracting Authority to indemnify and hold harmless the Contractor against third-party claims arising from the Contractor's acts or omissions. In other words, the Tenderer is asking the Contracting Authority to accept liability for damages, even though the Contracting Authority was in no way responsible for the cause of those damages. That is unacceptable. |

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| | | Authority agrees to indemnify and hold harmless the Counterparty, entities affiliated with the Counterparty and their respective employees, and suppliers against any third party claims and other liabilities, losses, expenses and other costs (including legal costs) arising out of or in connection with any claim by anyone else in relation to the Deliverable. This indemnity shall not apply to the extent that the third party claim is ultimately established as the result of wilful misconduct or gross negligence (in Dutch 'opzet of bewuste roekeloosheid') of the indemnified person. The indemnified (legal) persons shall be entitled to rely on the aforementioned indemnity and if necessary this clause constitutes an irrevocable third-party beneficiary clause (in Dutch 'onherroepelijk derdenbeding om niet')."<br><br>Are you therefore willing to include this provision? If you cannot agree to this, can you explain why? | |
| 29 | Annex 3b - ARBIT-2022, Article 26 | In our view, the ARBIT lack a provision on delays caused by the Contracting Authority. The arrangement in article 26.1 ARBIT is in our view not sufficient. We therefore request that the following provision be included in the Contract to be concluded, as a supplement to article 26 ARBIT.<br><br>"[X].1 The Counterparty will have no liability for any failure or delay caused by: (i) any failure on the part of the Contracting Authority to comply with its obligations under the Contract; (ii) any acts or omissions of any third party not engaged by the Counterparty in connection with the project to which the Deliverable relates; or (iii) the performance or non-performance of any hardware, software, networks, infrastructure or materials (including documentation) of third parties not provided by the Counterparty.<br>[X].2 Where there is a delay as referred to in the previous paragraph:<br>(i) the Counterparty shall notify the Contracting Authority when that delay could delay the provision of the Deliverable by the Counterparty; and<br>(ii) the Counterparty shall be entitled to: (a) an extension of time equal to the delay period caused as a direct result of such delay plus a reasonable period necessary to resume the provision of the Deliverable; and (b) recovery of reasonable additional costs insofar as these are directly caused by that delay, including the costs of any additional work necessitated by that delay."<br><br>Can you agree to this? If not, can you explain why not? | Not approved. Although the Contractor is not to be held liable for any failure to perform or any delay in performing its obligations under the agreement, to the extent that such failure or delay is caused by a breach on the part of the Contracting Authority or a third party not acting under the Contractor's responsibility, or by the performance or non-performance of any hardware software, infrastructure, or materials for which the Contractor is not responsible, but that does not necessitate an amendment to Article 26 ARBIT. After all, in such a situation, there is no (legal or contractual) basis for holding the Contractor liable. |
| 30 | Annex 3b - ARBIT-2022, Article 26 | For clarification, we would like to see the following provision included in the Contract to be concluded, as a supplement to article 26 ARBIT, given that implementation projects often involve multiple suppliers. This provision makes clear that the Counterparty is exclusively responsible and liable for its own Deliverable.<br><br>"The Counterparty shall not be liable for (i) any failures of or errors in the products, services or software produced or delivered by other manufacturers, (ii) improper performance or non-performance of the Contracting Authority's IT environment as a result of deficiencies in the products, services and/or software of other manufacturers, (iii) Defects of the Deliverable as a result of a lack of appropriate access to telecommunication and information networks and environments."<br><br>If you cannot honour this request, we would like to receive an explanation why. | Not approved. The Contractor is indeed liable for failures in the services or system it is to provide if such failures are caused by a party, system, or service that it uses for the purpose of providing the services. Regarding defects in third-party products, services, and/or software: please refer to the answer to question 29. |
| 31 | Annex 3b - ARBIT-2022, Article 30.3 | We consider it reasonable to make the termination right as included in article 30.3 reciprocal. For the Counterparty as well, the circumstances mentioned may be reasons to terminate the Contract if the circumstances referred to therein occur with the Contracting Authority or the Counterparty. In addition, in the case of the Counterparty, we must be able to terminate the Contract due to conflict with applicable laws and (professional) regulations including independence rules (entities affiliated with the Counterparty are audit firms, meaning we are bound by independence rules).<br><br>We would therefore like to ask you to include in the Contract to be concluded that the termination grounds as included in article 30.3 apply mutatis mutandis to the Counterparty as well, whereby an additional ground for the Counterparty shall be conflict with applicable laws and | Not approved. A Tenderer must refrain from submitting a Tender if it believes that applicable laws or professional regulations applicable to it (may) prevent it from fulfilling its obligations under the contract to be entered into. |

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| | | (professional) regulations including independence rules. Can you agree to this? If you cannot agree to this, can you explain why? | |
| 32 | Annex 3b - ARBIT-2022, Article 37 | In the context of technology implementation, it is in our view of great importance that any dispute that arises is known to the parties as quickly as possible and is resolved as quickly as possible. If the Contracting Authority has complaints regarding the Deliverable provided, the Contracting Authority should raise these with the Counterparty in a timely manner. For this reason, we consider it necessary to include the following provision in the Contract to be concluded, as a supplement to article 37 ARBIT:<br><br>"Every compensation claim of the Contracting Authority and other rights against the Counterparty, arising from the Contract on any grounds whatsoever, will expire one year after the date on which the damage for which the Counterparty is held liable first manifested itself, and in any event after five years from the date of the event causing the damage."<br><br>Can you agree to this? If you cannot agree to this, can you explain why? | Not approved. There is no reason why the Contracting Authority should agree to a deviation from the statutory statute of limitations that is disadvantageous to it. |
| 33 | Annex 3b - ARBIT-2022, Article 48.2 | The definition of Custom Software includes "modifications to Standard Software specifically for the Contracting Authority". This cannot be the intention, particularly where it concerns the implementation of a SaaS solution. Firstly, modifications to Standard Software should in such a case fall under the definition of Standard Software itself and secondly, configurations of Standard Software are not software. We therefore urgently request that this definition be limited to "software to be developed or developed specifically for the Contracting Authority". See also our question regarding article 8 on intellectual property.<br><br>If you cannot honour this request, we would like to receive an explanation why. | Approved, insofar as it concerns modifications to components that form part of the standard SaaS solution and the Contractor's IT infrastructure. |
| 34 | Annex 3b - ARBIT-2022, Article 53.3 | Article 53.3 provides that the Contractor shall on request and without delay grant access to competent authorities to employment conditions arrangements and cooperate with inspections, audits or wage validation. We would like to add that this shall only take place if there is a legal basis for it. In light of the foregoing, can you agree to replacing article 53.3 with the following provision in the Contract?<br><br>"Article 53.3 of the ARBIT-2022 is not applicable and is replaced by the following provision: The Contractor shall cooperate in providing information regarding employment conditions arrangements to competent authorities, if and insofar as there is a legal basis for doing so." | The following phrase shall be added to Article 53.3 ARBIT: “if and to the extent that there is a legal basis for doing so.” |
| 35 | Annex 3b - ARBIT-2022, Article 53.4 | Article 53.4 provides that the Contractor shall on request and without delay grant the Contracting Authority access to the employment conditions arrangements referred to in paragraph 2 if the Contracting Authority deems this necessary in connection with preventing or handling a wage claim concerning work performed for the purpose of carrying out the Contract. We would like to add that this shall only take place if there is a legal basis for it. In light of the foregoing, can you agree to replacing article 53.4 with the following provision in the Contract?<br><br>"Article 53.4 of the ARBIT-2022 is not applicable and is replaced by the following provision: If the Contracting Authority is confronted with a (threatened) wage claim, the Contractor and the Contracting Authority shall consult regarding (the provision by the Contractor of) information concerning employment conditions that is reasonably necessary for the Contracting Authority in this regard." | Not approved. The proposed provision does not provide the Contracting Authority with the assurance that, if necessary, it will actually be able to inspect the relevant employment agreements, even though this is necessary to mount an effective defense against a wage claim as referred to in Article 53.4 ARBIT. |
| 36 | Annex 3b - ARBIT-2022, Missing provision | The ARBIT do not contain a change control procedure. Inherent to implementation projects is that changes will occur (and this is not limited solely to additional work). We would therefore like to propose that the following provision be included in the Contract to be concluded regarding a change control procedure:<br><br>"[X]. Change Control Procedure<br>[X].1 Where the Contracting Authority or the Counterparty wishes to make a change to the Contract, that change shall be requested in accordance with the change control procedure of this article [X]. Neither the Contracting Authority nor the Counterparty shall unreasonably withhold or delay approval of a change.<br>[X].2 Each Change Request relating to the Contract or the Deliverable shall be referred by the requesting party to the other's representative. | Partially approved. The Contracting Authority agrees to adding of the following provision to the agreement:<br>“[X]. Change Management Procedure<br>[X].1 If the Contracting Authority or the Counterparty wishes to implement a change to the Agreement, such change shall be proposed in accordance with the change management procedure set forth in this Article [X]. Neither the Contracting Authority nor the Counterparty shall withhold or delay approval of a change on unreasonable grounds.<br>[X].2 Any change request relating to the Agreement or the DeliverableWork shall be submitted by the requesting party to the other party.<br>[X].3 Each change request shall include the following: (i) |

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| | | The Counterparty shall maintain a status log of all outstanding and agreed Change Requests.<br>[X].3 Each Change Request shall contain: (i) the name of the change; (ii) the origin and request date of the change; (iii) the reason for the change; (iv) full details of the change including specifications; (v) the costs, if applicable, of the change (and, if applicable, a payment schedule); (vi) a timetable for implementation of the change; (vii) proposals for any acceptance testing of the proposed change; (viii) details of the likely impact, if any, of the change on other aspects of the Contract or Deliverable; and (ix) the validity period of the Change Request.<br>[X].4 In the period of ten (10) Working Days following submission of the Change Request, the parties shall discuss the proposed change.<br>[X].5 The discussion between the parties following submission of a Change Request shall result in either: (i) no further action; or (ii) an agreement to amend the Contract. Any agreed change shall be detailed in an amendment to the Contract, uniquely identified by a sequential number and signed by both parties. Unless a change to the Contract has been made in accordance with the change control procedure, the parties shall continue to perform the Contract as if the Change Request had not been made.<br>[X].6 If the Counterparty is of the view that the investigation of a change and the preparation of a written response to a Change Request from the Contracting Authority would require a significant allocation of resources over and above those stated in the Contract, the Counterparty shall inform the Contracting Authority of this and shall make a proposal for a paid study of the costs and implications of investigating the proposed change and preparing a written response. The Counterparty shall not investigate such change or prepare such written response until the Contracting Authority has accepted the Counterparty's proposal to do so."<br><br>If you cannot accept our proposal, can you explain that choice? | the name of the change; (ii) the request date of the change; (iii) the reason for the change; (iv) details of the change; (v) if the change request is submitted by the Counterparty, the cost of the change (and, if applicable, a payment schedule); (vi) a timeline for implementing the change; (vii) proposals for any acceptance tests of the proposed change; (viii) details of the likely impact, if applicable, of the change on other aspects of the Agreement or Deliverable; and (ix) the validity period of the change request.<br>[X].4 Within ten (10) business days following the submission of the change request, the parties shall discuss the proposed change.<br>[X].5 The discussions between the parties following submission of a change request shall result in either: (i) no further action; or (ii) an agreement to amend the Agreement. Any agreed-upon change shall be detailed in an amendment to the Agreement, uniquely identified by a sequential number and signed by both parties. Unless a change to the Agreement has been made in accordance with the change management procedure, the parties shall continue to perform the Agreement as if the change request had not been made." |
| 37 | Clarification of DMS scope - §2.1.1 | With reference to §2.1.1 and the "DMS functionality and related services from NEO NL", can NEO NL confirm, that the DMS will only support in tasks within the "Core Delivery Activities", i.e. "2.1 - Manage Programmes and Projects" "2.2. - Manage Design", "2.3 - Manage Procruement & Supply Chain", "2.4 - Manage Site Construction", "2.5 Manage Commissioning", "2.6 - Manage Licences, Permits & Consents and "2.7 - Manage Asset Configuration Informaiton Management", excluding "2.8 - Deliver Nuclear Generation Operations"? | No, the DMS will support in tasks within the full scope of the NEO organization, not only Core Delivery activities, although that is where the strong emphasis will lay. |
| 38 | Scope of controlled documentation - §2.1.1 / §2.1.2 (pp. 6–8) | In relation to the requirement for controlled document management, can NEO NL clarify the intended scope of "controlled documentation", including which document types, lifecycle stages, and external-party deliverables are expected to be governed within the DMS? | "Controlled documentation" refers to documents that require formal governance within the DMS, including version control, approval workflows, traceability, retention, access control, and auditability. The scope includes enterprise-wide document types that require controlled management. Governance is expected throughout the document lifecycle, from receipt and review through approval, distribution, retention, and archival, with the exception of document creation and collaboration. Third parties are primarily expected to submit documentation to the DMS rather than work directly within it, although limited external participation, such as document review and commenting, may be required in specific cases. |
| 39 | §2.1.3 (pp. 9–11), Figures 1 and 2, §4.3.2 | With reference to §2.1.3 and Figures 1 and 2, can NEO NL clarify the definition and scope of the Common Data Environment (CDE), to the extent necessary to understand the expected integration requirements between the DMS and the CDE at contract start and in subsequent phases, and confirm whether the information currently provided is sufficient to define these integration needs? | A further architecture and integration requirements between DMS and CDE is under development. For pricing this integration, see our answer in question 75. |
| 40 | Annex 2 IMS-001, IMS-002, IMS-004; §2.1.3 | With reference to IMS-001, IMS-002 and IMS-004, which require enforcement of linkage between documents and object identifiers aligned with a foundation model, can NEO NL clarify what elements of this foundation model (e.g. object definitions, identifiers, reference data and controlled vocabularies) will be available at the start of Phase 1, and to what extent the Contractor is expected to define or assume these in order to meet the stated requirements? | At the start of Phase 1, NEO NL will provide the foundation model available at that time, including the relevant object definitions, identifiers, reference data, and controlled vocabularies and associated governance principles. The Contractor is not expected to define the foundation model but shall provide a solution capable of establishing, enforcing, and maintaining document-to-object relationships in accordance with the foundation model provided by NEO NL. |

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| 41 | Annex 10 “prevents existence of duplicate documentation” and “uploading a new version… prevents duplicate documents” | In Annex 10, “prevention of duplicate documentation” is explicitly requested. How does NEO NL define a “duplicate” for evaluation and operations (e.g., same document number/ID, same file hash, same metadata combination, same title, or same content similarity), and what behaviour is expected (hard-block vs warning vs merge into version history)? | NEO NL considers a duplicate document to be a document that represents the same information as an existing document. Detection may be based on document numbers, file content, and document properties. The solution should support warning, blocking, or versioning mechanisms to prevent unnecessary duplicate records. |
| 42 | Annex 10 Document Capture & Classification (auto classification & metadata extraction) 1 and Annex 2 IMS-029 (no extraction from naming) | Annex 10 requests automatic document type recognition and metadata extraction, while Annex 2 (IMS-029) states that no metadata may be extracted from document naming. Can NEO NL clarify which sources are permitted/expected for metadata extraction (e.g., file properties, document content/OCR, cover sheets/title blocks), and confirm that extraction from file names is explicitly prohibited? | Automatic document type recognition and metadata extraction should be based on document content (including OCR where applicable), file properties, and structured sources such as cover sheets or title blocks. Extraction of metadata from file names is explicitly not permitted. |
| 43 | Annex 10 Search & Retrieval (search by content including scanned documents/OCR) | Annex 10 requires content search including scanned documents/OCR. Can NEO NL clarify which languages and document types are in scope for OCR (e.g., English only vs Dutch+English; PDFs, images), and whether any minimum OCR quality/accuracy is expected for evaluation? | The solution must support OCR for scanned document formats such as PDFs and image files (e.g. JPG, PNG, TIFF) to enable full-text search, with scope limited to English-language content only. OCR quality is expected to be sufficient for reliable search and retrieval under normal scanning conditions; no fixed accuracy threshold is defined, and assessment is based on functional usability. |
| 44 | Annex 10 Collaboration 1 and Annex 2 CRM requirements | For Annex 10 “collaboration”, is NEO NL expecting true real-time co-authoring (multiple users editing the same file concurrently), or is the intent limited to controlled review collaboration via structured comments/annotations and document sharing within access controls? Could you clarify the expected end-state and evaluation focus? | NEO NL expects both real-time co-authoring and controlled review collaboration. This includes simultaneous editing, document sharing, comments, annotations, version control and collaboration within configured access rights. The evaluation will focus on the extent to which the solution enables secure and efficient collaboration throughout the document lifecycle. |
| 45 | Annex 2 IMS-001/002/004 | Several requirements assume a “foundation model aligned with ISO 15926-11” and a “client reference data library” with controlled vocabularies and mappings (e.g., IMS-001/002/004). Can NEO NL clarify what artefacts will be provided by NEO NL at the start of Phase 1 (e.g., object identifier model, reference lists, mapping rules, metadata schema), and what is expected to be delivered/defined by the contractor? | NEO NL in cooperation with its supporting technical support organization is working towards realizing a number of preparatory deliverables such as process descriptions, authorisation matrices, document mgt & retention policies, metadata schemes etc, expected to be mature at start of implementation. It is therefore expected that the duration of discovery / alignment sessions can be limited to 2/3 weeks at start implementation. Vendors are explicitly invited to clearly indicate required inputs they assume to be available at start of implementation versus to be realized in cooperation in their implementation plan. |
| 46 | Annex 2 IMS-001/004 | For Phase 1, what is the minimum expected behaviour regarding enforcement of linkage between documents and object identifiers (e.g., mandatory linking at upload, later enrichment, validation rules, or integration-driven linkage)?<br>Please clarify NEO NL’s minimum viable expectation for “enforce linkage” in Phase 1? | For Phase 1, documents are expected to be linked to a valid object identifier during upload or through automated integrations. The solution should ensure that required linkages are present and provide controlled mechanisms for completing or correcting linkage information where necessary. |
| 47 | PLN-006, TM-011, REP-003/004, 2 | Annex 2 includes multiple requirements for exporting datasets (planning, transmittals, reporting) to ETL/BI platforms. Can NEO NL clarify expected export formats (e.g., JSON/CSV, open archival packages), interface style (pull API vs push events), and whether near-real-time export is required or batch is acceptable, as this could be a major design/cost driver, and impacts audit and governance? | NEO NL expects support for export of datasets in standard formats such as JSON and CSV. Both pull-based and push-based integration patterns are acceptable. Batch exports are considered sufficient unless a specific use case requires near-real-time data exchange. Export capabilities must support applicable audit, governance, and traceability requirements. |
| 48 | Annex 10 Document Control function (manage proposed incoming | In Annex 10, “incoming documents uploaded by users” suggests a controlled intake process. Can NEO NL clarify whether this intake applies only to internal users, or also to external parties (vendors/EPCs) via portals/transmittals, and what the expected ingestion gates are (metadata validation, naming checks, lifecycle state checks) prior to acceptance into the controlled repository? | This involves both internal and external parties (e.g. vendors and EPCs). The expected intake process is via portals and/or transmittals, with ingestion gates including metadata validation, completeness checks, lifecycle state validation, and other controls necessary to ensure that documents meet governance requirements before acceptance into the controlled repository. File naming |

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| | documents) 1 and Annex 2 collaboration/ transmittal ingestion controls (e.g., COL-001/004, PMS-002) 2 | | conventions may be validated where applicable, but should not be used as a source for metadata extraction. |
| 49 | References | In other tenders we sometimes see that it is permitted to combine multiple reference projects (i.e. stack references) to jointly demonstrate compliance with a single required core competency. For example, demonstrating core competency one with two references: one reference proving relevant experience with configuration and implementation of supporting large-scale infrastructure and/or engineering projects (including at least one project with a total project value of no less than EUR 500 million) and the second reference proving experience with support and maintenance of such a project. Do you allow the combination of references to demonstrate experience with one core competence? | We don't allow a combination of references to demonstrate experience with one core competence. We require the core competency to demonstrate not only that the tenderer has carried out the implementation, but also that, following that implementation, the tenderer has provided support and maintenance services. |
| 50 | Pricing & Licensing | Annex 7 Section A, §2.1.8<br>Annex 7 Section A prescribes a per-user licensing model with four defined user types (general, 3rd party, read-only, admin/key-user/document control). However, DMS platforms in the market commonly offer alternative licensing models, such as per-document/per-record, per-storage-volume, concurrent-user, or hybrid models, that may better reflect actual system usage and cost efficiency over a long-term nuclear programme lifecycle. Is NEO NL open to receiving tender responses based on an alternative licensing model (or a combination of models) other than strictly per named user, provided the tenderer demonstrates full cost transparency and comparability? If so, should such an alternative model be presented alongside the per-user pricing in Annex 7 Section A, or may it replace the per-user model entirely? | It's important for this tender that NEO NL can compare the different tenders in a transparent way, for which the basis is named user licensing. If other cost drivers are applicable don not add them to your pricing (this results in the invalidity of your tender).<br><br>Vendors who wish for us to consider another licensing model are invited to inform us of the form and relevant details, after which NEO NL will consider potentially broadening the permitted licensing models. |
| 51 | Sovereignty & SEAL Scope | Could NEO NL clarify how the requirement for digital sovereignty (e.g. SEAL-3 / SEAL-4) will be assessed in relation to solutions that are fully hosted and operated within the EU, but that may have dependencies on non-EU parent companies or technology components? | EU hosting and EU based operations are important, but are not sufficient on their own to demonstrate digital sovereignty.<br>NEO NL will assess the full chain, including and not only limited to, ownership, control, support locations, subcontractors, access to data/metadata/logs, key management and the technology components used, etc. (according to the ISO27036 suppy chain standard)<br><br>A solution with a non EU parent company or non EU technology components may only be acceptable if the tenderer can demonstrate that this does not create extra acceptable risks regarding access, control, continuity or legal dependency. For SEAL 3, the tenderer must demonstrate sufficient EU control and manageable non EU dependencies. For SEAL 4, a higher level is expected, where critical technology, operations and control are fully under EU control. |
| 52 | ARBIT - art. 76.2 | Pursuant to Article 76.2, Repair Times and Response Times qualify as Vital Deadlines. As a result, the Counterparty would be immediately in default (potentially leading to termination and liability) if these service levels are not met. This is considered highly unreasonable. Can the Contracting Authority agree to the deletion of this provision? | Not approved. The Contracting Authority has a strong interest in ensuring sufficient security of supply. The Repair Times and Response Times specified are therefore strict deadlines. |
| 53 | ARBIT - art. 59.6 | The Counterparty cannot accept liability or responsibility if the Contracting Authority or third parties repair defects themselves. The last sentence of this Article 58.6 should then be amended as follows: If the Contracting Authority itself repairs a Defect, or has it repaired by a third party, for the reason referred to above, the responsibility and liability of the Contractor for the Custom Software shall cease entirely. Is the Client willing to do this? | Apart from the first sentence, Article 59.6 ARBIT shall be deleted, since these provisions are not consistent with the provision of a SaaS service. |
| 54 | ARBIT - art. 42-47 | The Counterparty proposes that the precise scope and effect of Articles 42-47 be further determined in the final agreement. The Client requests the delivery of standard software. This concerns third-party standard software, including all intellectual property rights and applicable license conditions governing the operation of the standard software. Consequently, the license rights to be granted may be limited by contractual restrictions imposed by the Counterparty's licensors or any other Counterparty and supersede the contractual terms and conditions of the Contracting Authority. It is therefore impossible to impose the | Not approved. The Contracting Authority wishes to enter into an agreement exclusively with the Contractor for the entire scope of the services. If the Contractor uses the services of a third party in performing the services, the license terms of that third party may form part of the Contractor's Tender, provided that the conditions of Article 9.3 of the agreement are met. In that case, those license terms will therefore become part of the agreement between the Contracting Authority and the |

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| | | conditions as set out herein on the Counterparty, which is not itself the Counterparty to this standard software. Is the Contracting Authority willing to take the license terms of these third parties as a starting point and enter into an 'end-user' license agreement for standard software with the Counterparty? | Contractor. The Contracting Authority will therefore not enter into a license agreement with a partner of the Contractor. Please also refer to the answer to question 78. |
| 55 | ARBIT - art. 26.4 | Unlimited liability in respect of breaches of legislation and regulations relating to the protection of personal data (including administrative fines imposed by a supervisory authority) is not acceptable in the opinion of the Counterparty, nor is it in line with market practice. Such unlimited liability cannot be priced or insured. The Counterparty therefore proposes a separate annual liability cap for breaches relating to personal data protection, amounting to a maximum of two (2) times (200%) the annual Fee, including indemnities. These limitations will overrule the Personal Data Processing Agreement. Can the Contracting Authority agree to this? | Not approved. Please refer to the answer to question 27. |
| 56 | ARBIT - art. 26.3 | In the opinion of the Counterparty, the maximum liability amount per event is disproportionately high, namely four times the total value of the Contract. The number of events is not capped, which creates a theoretical risk for contractors that cannot be priced or insured. The Counterparty considers it reasonable that the Contract and its conditions provide for an appropriate allocation of risks between the parties. In this respect, it may be questioned whether (potential) tenderers are able to submit the best possible offer. A limitation of liability per year is considered more appropriate in view of the services between the Counterparty and the Contracting Authority. The Counterparty therefore proposes that the annual liability be limited to a maximum of 1,5 times (150%) the amount of the annual Fee. Can the Contracting Authority agree to this? | Not approved. Please refer to the answer to question 26. |
| 57 | ARBIT - art. 26.1 | The Counterparty cannot accept liability for indirect or consequential damage. In the case of such damages, there is no or insufficient causal link between any failure on the part of the Counterparty and the potential loss suffered by the Contracting Authority. Furthermore, exclusion of such types of damages is standard market practice. The Counterparty therefore requests that the following be added to Article 26.1: "The Counterparty shall not be responsible or liable for indirect loss, consequential loss, loss of profit, loss due to business interruption, or loss of anticipated savings." | Not approved. The first sentence of the question contains an inherent contradiction: in the event where there is no causal link between a failure on the part of the Contractor and the loss suffered by the Contracting Authority, the Contractor cannot be held liable for such loss. The alleged absence of a causal link in cases of indirect or consequential damage does not, therefore, necessitate the exclusion of liability for such damage. Please also refer to the answer to question 26. |
| 58 | ARBIT - art. 15.5 | The Counterparty proposes to follow an escalation procedure with predefined timelines in order to resolve disputes relating to invoices as quickly as possible. Can the Contracting Authority agree to this? | If the parties cannot agree on an amicable settlement, the matter will ultimately have to be resolved in accordance with the provisions set forth in Article 37 ARBIT. |
| 59 | ARBIT - art. 12.3 | The Counterparty proposes to amend the warranty period and defect correction period from 12 months to a more reasonable and appropriate period of 3 months, taking into account the nature of the services. Is the Contracting Authority willing to agree to this? | Article 12.3 ARBIT does not apply. Defects must be repaired at the Contractor's expense throughout the entire term of the agreement. |
| 60 | ARBIT - art. 8.1 | May the Counterparty assume that all intellectual property rights to those parts of the Deliverable that already vest in the Counterparty or in third parties will remain vested in the Counterparty? | Yes. Please also refer to the answer to question 14. |
| 61 | ARBIT - art. 5.3 | Can the Contracting Authority agree to a notice period of 14 days, that such an audit will be limited to a maximum of once per year, and that it will be carried out by a non-competitor of the Counterparty? | Partially approved. Audits will be announced taking into account a notice period of not less than 14 days and will not be performed by a direct competitor of the Counterparty. Please also refer to the answer to question 17. |
| 62 | Data Processing Agreement (DPA) | art. 10.1<br>The very broadly drafted indemnity in Article 10.1 (covering all claims of all (third) parties in relation to any infringement under this DPA) is, in the Counterparty's view, not reasonable. Such an indemnity cannot be priced, is disproportionate, and is not insurable, which -pursuant to paragraph 3.9.1.1 of the Proportionality Guide - should be taken into account when determining the liability regime. An indemnity for claims effectively means that the Counterparty's liability extends beyond the liability it has towards the Contracting Authority and is willing to accept. In addition, the Counterparty has no ability to limit its liability towards third parties, as such third parties are not known to the Counterparty in advance. Advice 331 of the Commission of Procurement Experts further provides that the exclusion of a limitation of liability is contrary to Article 3.9D of the Proportionality Guide (3rd revised version of January 2022). The Counterparty therefore requests that Article 10.1 be deleted. Can the Contracting Authority agree to this? | NEO NL notes that prescription 3.9D of the Proportionality Guide concerns the (proportionate) limitation of liability between contracting parties. Advice 331 of the Commission of Procurement Experts rules that the explicit and complete exclusion of a limitation of liability is contrary to 3.9D. Article 10.1 of the DPA, however, does not concern the limitation of liability for damages suffered by NEO NL or the service provider itself, but rather the allocation of risk for third-party claims, losses and damages attributable to the processor. Nevertheless, in order to ensure proportionality, NEO NL is willing to amend Article 10.1 to clarify that the indemnification applies only to damages arising from third party claims that are reasonably attributable to a material breach of this DPA by the processor.<br>We propose to amend Article 10.1 as follows. "The Processor indemnifies the Controller and holds the Controller harmless against third party actions, claims, |

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| | | | losses, damages and expenses incurred by the Controller as a result of or connected to a breach of this Data Processing Agreement to the extent that such third party actions, claims, damages, losses and expenses are reasonably attributable to a material breach of this DPA by the Processor.“ |
| 63 | Agreement | art. 7.2<br>Counterparty considers it unreasonable that inflation risks (given the current economic developments) are allocated to the bidders and believes that the agreement and conditions should provide for a certain degree of risk sharing. Counterparty therefore requests the removal of the maximum increases set ("Any increase shall be capped at 2%") by the Contracting Authority and asks that actual indexation be applied instead. Can the Contracting Authority agree to this? | The parties acknowledge that the Contracting Authority, as a publicly owned undertaking performing a public-interest function, has a responsibility to safeguard affordability, budget discipline and continuity of essential services. Price indexation should therefore not operate as an automatic full pass-through of macro-economic inflation to public funds, customers or society at large.<br><br>Inflation risk is a shared economic risk and should be allocated in a balanced and proportionate manner. The Supplier receives partial protection against inflation through an annual indexation mechanism, while retaining an incentive to manage its own cost base through productivity improvements, efficient subcontracting arrangements, labour planning, automation, innovation, waste reduction and prudent financial management.<br><br>The Contracting Authority has limited ability to absorb or pass on additional costs without affecting public budgets, tariffs, investment capacity or the affordability of services. As a state-owned or publicly controlled entity, it should also avoid reinforcing inflationary effects by accepting unrestricted indexation across long-term contracts.<br><br>For that reason, the annual price adjustment shall be limited to 50% of the objectively measured inflation rate, subject in all cases to a maximum of 2% per contract year, reflecting the European Central Bank’s medium-term price stability objective. This mechanism ensures a fair sharing of inflation risk between the parties, preserves price discipline, supports long-term affordability and remains proportionate for both the Contracting Authority and the Supplier. Additionally there is an exception for extreme circumstances, where we can agree to a higher adjustment. |
| 64 | Consortium & Partnership | §7.20, §4.3.2<br>§7.20 permits both consortium and principal-subcontractor structures. If a systems integrator partners with a DMS product vendor:<br>(a) Does NEO NL have a preference for which party acts as principal/lead?<br>(b) For the reference assignments required under §4.3.2, may Core Competency 1 (DMS implementation) be demonstrated by the systems integrator and Core Competency 3 (DMS-CDE integration) by the product vendor, provided both are part of the same tender submission? | a) We have no preference in this regard. However, we do require a single contracting party. Where this means, for example, that the vendor must act as the main contractor or form part of a consortium, that would be a logical outcome. Please also refer to our answers to 54 and 78.<br>b) This is permitted, provided that both parties participate in the tender, either in a main contractor/subcontractor structure or as a consortium. |
| 65 | Demo (Q4) | §5.5, Annex 10<br>§5.5 states the demo must be a "120-minute live demonstration of a working version of the solution" based on Annex 10 scripts. May the tenderer use a pre-configured demonstration environment with representative sample data, or must the demo run on a production-representative environment configured specifically for NEO NL's taxonomy and workflows? | A pre configured demonstration with representative sample data is acceptable, as long as the content of the scripts is covered. |
| 66 | Existing Data & Greenfield | §1.2 describes NEO NL as a "greenfield" with no existing IT landscape. Can NEO NL confirm there is no existing document corpus from the preparatory phase (since February 2026) that requires migration into the new DMS? If documents do exist, what is the estimated volume, format, and current storage location? | There is a documentation set in existence at this point, consisting of approximately 20K documents. The vast majority thereof is however, non-formalized documentation (sketches, drafts, internal working documents) that have not, and will not be formalized. Dependent on the selected scope of the DMS (document cradle to grave, or only formalization/ (internal) publishing of documentation requiring formalization / (internal) publishing, the scope of the documents to be migrated would differ. Formats are (>99%) Word, Excel, PPT, PDF and current storage is Sharepoint. A limited set of documentation is also stored in Aryo Secure document exchange software. |

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| 67 | ABRO & Compliance | SEC-038–041, Annex 9<br>Requirements SEC-038 to SEC-041 reference ABRO for ITBP3 (Annex 9) with a 36-month compliance window and 12-month implementation plan deadline. Could NEO NL clarify:<br>(a) Which specific ABRO-ITBP3 controls from Annex 9 are applicable to the DMS service scope (vs. controls applicable to NEO NL's own infrastructure)?<br>(b) Will the ABRO audit be conducted by NBIV, or may the tenderer engage an equivalent accredited auditor? | a) For the DMS service, the applicable ABRO-ITBP3 controls from Annex 9 cover all supplier managed components where ITBP3/NLD CONFIDENTIAL information is processed, stored, accessed, or managed. This includes: Maangement & organization, Personnel, Physcial, Cyber and Cloud. Controls that apply solely to NEO NL's internal infrastructure, such as internal networks, endpoints, IAM components, and business processes outside the DMS, remain NEO NL's responsibility. b) The ABRO assessment and compliance verification will be performed by NBIV. The tenderer may provide existing certifications, audit reports or assurance statements as supporting evidence, but these do not replace the formal ABRO assessment by NBIV.<br>Any such evidence must clearly describe the scope, covered controls, included subcontractors and any exclusions or limitations. Final assessment and acceptance remain subject to the ABRO process and NBIV verification as required by law. |
| 68 | Annex 2 Requirements | Annex 2 — Quality; Preferences, §5.2<br>§5.2 states that quality preferences are scored binary (yes/no). If a tenderer can deliver a quality preference through configuration or customization during implementation (rather than natively out-of-the-box), should the response be "yes" or "no"? Is there any distinction between native capability and configurable capability in the scoring? | This is permitted and may be answered with "Yes", provided that it is guaranteed that the relevant functionality will be delivered in the applicable phase and that the costs of configuration are included in the implementation and support and maintenance costs. There is no distinction between native capability and configurable capability in the scoring. |
| 69 | Annex 2 Requirements | RM-001<br>Requirement RM-001 states the system "shall be certified for NEN 2082 or ISO 15489." NEN 2082 is a specifically Dutch certification. For international DMS platforms:<br>(a) Must NEN 2082 or ISO 15489 certification be held at time of tender submission, or may it be achieved during the implementation phase?<br>(b) Would NEO NL accept ISO 15489 compliance demonstrated through an independent audit report, rather than formal certification? | NEN2028 certification or complaincy to ISO 15489 must be achieved during the implementation phase 1.<br>NEO NL would accept ISO 15489 compliance demonstrated through an indepedent audit report by an accredited institution |
| 70 | Pricing & Licensing | Annex 7 Section A<br>Annex 7 Section A defines four user types: general users, 3rd party users, read-only users, and admin/key-users/document control. Could NEO NL provide functional definitions or feature-access descriptions for each user type? For example, can 3rd party users only access the external web portal (COL-004), or do they have access to the full DMS interface? | General users are deemed to be internal employees and/or embedded support organisation consultants whom in an integrated manner contribute to the delivery. 3rd party users such as EPC, contractors, client (Ministry) etc are foreseen as having access through an external web portal with restricted access and functionality. Read only users are foreseen to be 3rd party users such as regulators, having access through an external web portal, but without collaboration / review & approval). Admin and key users speak for themselves. |
| 71 | Pricing & Licensing | Annex 7 Section A, §2.1.8<br>Annex 7 Section A prices software on a SaaS basis for all years (2027–2037). However, §2.1.8 states the solution will migrate to on-premise around 2027. After migration, does the software pricing in Section A cover on-premise licensing (perpetual or subscription), or should the tenderer assume a different licensing model post-migration? Should the per-year pricing in Section A reflect the transition from SaaS to on-premise costs? | In section A only the license fee (including maintenance and support fee for the software) is required. |
| 72 | SaaS → On-Prem Migration | §2.1.4(E), §2.1.8, Annex 7 Section B<br>§2.1.8 states the SaaS solution will be migrated to a NEO NL or separately procured data centre "in or around 2027." Annex 7 Section B includes a line item for migration costs. Could NEO NL clarify:<br>(a) Will NEO NL procure and provide the on-premise data centre environment (hardware, network, OS), or must the tenderer include data centre provisioning?<br>(b) What event or decision triggers the migration obligation?<br>(c) Is there a minimum notice period before migration must commence? | NEO NL will procure its own data centre environment. The current tender does only include data centre provisioning for the period before the migration tot the data center operated bij NEO NL (the costs need tot be included in lines 30 and 37 of tab Pricing sheet of Annex 7 Pricing form). The date of the migration will be further agreed upon, but is triggered by NEO's data centre being operational. This is expected in 2027. |
| 73 | Sovereignty & SEAL Scope | §1.2, SOV-001, SOV-004, SOV-012, SOV-016<br>§1.2 references both SEAL-3 (Digital Resilience) and SEAL-4 (Full Digital Sovereignty). SOV requirements vary between hard requirements and strong wishes. Could NEO NL clarify:<br>(a) which SEAL level applies to which data categories or processing operations?<br>(b) Does SEAL-4 apply to the entire DMS, or only to designated vital/classified processes?<br>This distinction affects which components require full EU sovereignty vs. limited non-EU dependency. | There is no distinction in data categories or processing operations for SEAL3 or SEAL 4 level. NEO wishes to reach SEAL 4-level for the entire DMS in the future, or get as close as possible to SEAL 4. We are fully aware that a complete SEAL 4-level is not possible at this moment. This reflects in the requirtements; all efforts made by supplier to reach that level are appreciated and yields a score since they are mostly put as wishes. In other words, we wish to reach full EU sovereignty but are aware of the limits at this moment. |

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| 74 | NEO NL Readiness & Inputs | IMS-001, IMS-002, IMS-004, IMS-012, §5.3<br>Multiple Phase 1 requirements reference NEO NL-specific inputs that are prerequisites for system configuration:<br>(a) document taxonomy and metadata schema (IMS-001, IMS-004)<br>(b) nuclear classification structure per ANVS/IAEA (IMS-002, IMS-012)<br>(c) organizational structure and authorization matrix (§5.3)<br>(d) retention policies and regulatory obligations (IMS-019, RM-004)<br>Which of these are already defined and available to the tenderer during implementation, and which must be co-developed? Will NEO NL provide templates or reference documents? | NEO NL in cooperation with its supporting technical support organization is working towards realizing a number of preparatory deliverables such as process descriptions, authorisation matrices, document mgt & retention policies, metadataq schemes etc, expected to be mature at start of implementation. It is therefore expected that the duration of discovery / alignment sessions can me limited to 2/3 weeks at start implementation. Vendors are explicitly invited to clearly indicate required inputs they assume to be available at start of implementation versus to be realized in cooperation in their implementation plan. |
| 75 | CDE Foundation Dependency | §2.1.3, IMS-001, INT-012, MC-002–004<br>§2.1.3 states the CDE Foundation will be tendered separately "in the near future." Multiple Phase 1 requirements (IMS-001, INT-012, MC-002–004) require integration with a CDE Foundation layer based on ISO 15926-11. How should tenderers plan and price CDE integration given that the CDE platform is not yet selected? Should the tender response assume a specific integration architecture, or should integration costs be excluded from Phase 1 and addressed via the call-off mechanism (Annex 7, Section D)? | Please address the costs for this integration to be excluded from Phase 1 and address these costs via the call-off mechanism from Annex 7, Section D. |
| 76 | Phase 1 Scope & Timeline | §5.3 states that "the presence of key implementation roles from the tenderer is desired at least every other week, for approximately two days per week." Does this refer to on-site presence at NEO NL's offices in The Hague, or is remote participation acceptable? Are there security-related constraints (e.g., access to classified areas) that would require physical presence? | This refers to on-site presence in The Hague. This primarily due to the higher level of effectiveness of collaboration to gain a thorough understanding of NEO NL needs that can be achieved through face-to-face workshop and meeting engagement. Strict weekly attendence for +/- 2 days is not mandatory, but a clear willingness to meet on-site when deemed valuable is required. |
| 77 | Phase 1 Scope & Timeline | §5.3, Annex 2, (Phase 1 tagged requirements)<br>§5.3 states Phase 1 must be "fully completed" within 4 months of contract signing. Annex 2 tags over 150 requirements as Phase 1, spanning IMS, COL, TM, CRM, SEC, AUD, SOV, and others. Does "fully completed" mean all Phase 1-tagged requirements must be implemented and accepted within this 4-month window, or is a prioritized rollout with a subsequent stabilization period acceptable? If so, which functional areas are mandatory at initial go-live? | Of the functional requirements, 90 have been defined as priority for the initial phase. These are deemed to be necessary to get basic document management & control in order within NEO and to facilitate the organization in the current org and programme phase. It is of the upmost importance to achieve this in short order. Baseline is that NEO deems these requirements necessary to get document managemement in order, but NEO can, based on discussion between the parties NEO, agrees to postpone certain requirements.<br><br>Furthermore, collaboration requirements will for example be based on the selected scope of the DMS based on NEO's assessment of the application functionality and selected adoption approach.<br><br>Regarding the non-functional requirements, it should be assumed that the requirements are to be realized within the first release, unless NEO, based on discussion between the parties, agree to postpone certain requirements. The implementation time of (strong) wishes, is based on a.o. the information provided. |
| 78 | ARBIT and SaaS | SaaS suppliers apply their own terms to the provision of licences (including access and use of SaaS). The ARBIT largely diverge from customary market terms and are not tailored to SaaS; for example, the Special Provisions on Licences assume delivery of an Installation Copy and regulate a software licence rather than a right of access to and use of SaaS. For standard SaaS solutions, as with on-premise software, the Contracting Authority needs a licence from the SaaS vendor, and those standard vendor terms are in practice non-negotiable (for both us and the Contracting Authority). We therefore draw attention to the interim relief judgment of the District Court of The Hague of 23 December 2025 (ECLI:NL:RBDHA:2025:27115), published on 3 February 2026. The procurement documents/Draft Agreement provide that the Counterparty's or third-party licence terms apply only if, in short, (i) their applicability is not excluded (9.3.1), (ii) the Agreed Use is not excluded or restricted (9.3.3), and (iii) the Counterparty can demonstrate that the Contracting Authority's rights are not diminished and its obligations not unreasonably increased (9.3.4). In our view, these conditions are disproportionate. The prevailing market model is that vendors make standard software (including SaaS) available exclusively under their own non-negotiable standard terms (EULA/ToS), and the contractor has little | Not approved. The Contracting Authority wishes to enter into an agreement exclusively with the Contractor for the entire scope of the services. If the Contractor uses the services of a third party in performing the services, the license terms of that third party may form part of the Contractor's Tender, provided that the conditions of Article 9.3 of the agreement are met. In that case, those license terms will therefore become part of the agreement between the Contracting Authority and the Contractor. The Contracting Authority will therefore not enter into a license and/or service level agreement with a partner of the Contractor. The same applies to the data processing agreement. The Contracting Authority wishes to conclude a data processing agreement with the Contractor, which relates to the processing of personal data by the Contractor and by its partner(s). In accordance with the relevant provisions of the GDPR, the Contractor is in turn required to enter into a subprocessor agreement with its partner(s). The reference to the interim relief judgment of the District |

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| | | to no ability to amend them. In the above judgment, the judge held that in comparable procurements it is disproportionate to make the applicability of standard vendor terms subject to additional conditions/approval mechanisms beyond the contractor's influence, as this requires disproportionate time and resources while vendors are unwilling to negotiate and the contractor lacks bargaining power.<br>Further, Regulation 3.9A of the Guide to Proportionality requires risks to be allocated to the party best able to manage or influence them, and under section 1.10(1) of the Dutch Public Procurement Act 2012 the contracting authority bears the burden of proving proportionality.<br>Articles 9.3.1, 9.3.3 and 9.3.4 effectively require the contractor to verify each time that vendor terms do not restrict Agreed Use or diminish the Contracting Authority's rights, while the contractor cannot influence those terms; if the Contracting Authority finds them unacceptable, the contractor cannot deliver the software. In our view, the conditions under articles 9.2.1, 9.2.3 and 9.2.4 of the Draft Agreement are disproportionate, also in light of the aforementioned judgment, the provisions of section 1.10(1) of the Dutch Public Procurement Act 2012, Regulation 3.9A of the Guide to Proportionality and the fact that the contractor has no influence over the standard licence terms of vendors.<br>We therefore urgently request that you delete these conditions or amend them such that the standard licence terms of vendors apply to the supply of standard software without additional conditions. We would like to submit the licence terms and SLA for our solution, as well as the standard data processing agreement applicable to our SaaS offering, as a replacement for the ARBIT and the (sub-)data processing agreement(s) proposed for the SaaS component, as neither sufficiently aligns with standard SaaS. By way of example, in TenderNed tender 537085 the contracting authority accepted the supplier's SaaS terms (prevailing over the main contract) and used separate agreements for implementation and for support & maintenance. We request that you adopt the same approach and exclude ARBIT for the SaaS licensing component, since the vendor's licence terms, SLA and DPA are solution-specific and reflect market practice. | Court of The Hague of 23 December 2025, the provisions of section 1.10(1) of the Dutch Public Procurement Act 2012, Rule 3.9 A of the Proportionality Guide and the fact that the Contractor has no influence over the standard licence terms of vendors is irrelevant in this case, as the Contracting Authority has not merely invited implementation partners to tender. This public procurement procedure therefore differs significantly from the procedure that was the subject of the dispute in the aforementioned court ruling. The fact that Tenderer can provide only a portion of the requested services on its own and is therefore largely dependent on subcontractors for the performance of the contract - with little or no ability to amend the subcontractor's terms and conditions - is at its own risk. Consequently, Article 9.3 of the draft agreement is not disproportionate. |
| 79 | Answers on question 51 and 77 | We understand from Answer 51 that, for SEAL-3, NEO NL will assess the entire chain and that the tenderer must demonstrate sufficient EU control and manageable non-EU dependencies. In addition, Answer 77 states that non-functional requirements must, in principle, be implemented within the first release, unless NEO NL agrees to defer certain requirements.<br>Can NEO NL clarify the exact point in time at which SEAL-3 compliance must be demonstrated: upon submission of the tender, upon signing of the agreement, at the start of the SaaS services, at UAT (User Acceptance Test), at Phase 1 go-live / first release, or at another point in time?<br>If SEAL-3 compliance is required before or at the start of the assignment, would NEO NL be willing to consider allowing a transition model under which the tenderer must meet at least SEAL-2 at contract start and demonstrably achieve SEAL-3 no later than, for example, Phase 1 Go Live, or on another date to be determined by NEO NL? Such a commitment could be supported by a binding implementation plan, clear milestones, evidence requirements, audit rights for NEO NL, and appropriate contractual remedies, including termination rights if SEAL-3 is not achieved in time.<br>If NEO NL accepts such a transition model, can NEO NL also clarify how tenderers should complete Annex 2 for the relevant security and sovereignty requirements during the transition period, in particular whether a tenderer may answer "Yes" if SEAL-3 will be achieved by the agreed milestone date rather than at contract start or first release? | SEAL compliance is to be demonstrated before Phase 1-Go Live. This also means that questions in Annex 2 for the security and sovereignty if SEAL-3 will be reached on mentioned time. In order to mitigate the risk of not reaching SEAL-3 in time, it is required to provide us with a transition plan in case of SEAL-3 not having been reached yet at this moment: what is the plan and the guarantees for reaching SEAL-3 in time. |

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| 80 | European single procurement document | in 4.3 NEO asked in financial and economic standing for evidence. Do we need to add evidence A and B? or is A or B the requested evidence? | You are required to provide this information upon request by the Contracting Authority. Accordingly, this information does not need to be submitted with your Tender, as set out in paragraph 6.5.<br><br>Upon request, you must provide both item A and item B referred to in paragraph 4.3:<br><br>A. as evidence of an adequate level of professional and statutory liability insurance; and<br><br>B. as evidence that the most recently issued auditor's report — or, where applicable, review report or compilation report — does not contain a going concern paragraph expressing doubt as to the viability of the organisation. |
| 81 | Pricing form | D-Ongoing support and demand. Can the Contracting Authority confirm whether the indicative hours included in the Pricing Form represent the expected annual volume of such development activities or is it for 10 years? | The quantities are based on estimates from year 1 to 11. We wish to emphasise that no rights may be derived from this. |
| 82 | Pricing form | With reference to Q3 (Ongoing Services during the Operational Phase) and the Pricing Form, could the Contracting Authority clarify whether the development activities during the operational phase are to be considered part of component D (Consultancy and development on demand) of the Pricing Sheet? | Consultancy and development for new functionalities and changes in functionalities after phase 1 are considered as a part of component D in the Pricing sheet. The maintenance and support of the solution as described in Q3 are part of component C Ongoing SLA services. |
| 83 | Aanbesteding sdocument | "In Q3 (Ongoing Services), Tenderers are required to define their own service levels, including service window, response times, and resolution times. However, no minimum or baseline requirements appear to be specified for these service levels (other than helpdesk availability). Could the Contracting Authority clarify how differences in proposed service levels between Tenderers will be assessed and compared, or alternatively specify whether minimum service level expectations apply?" | A deliberately limited number of minimum levels has been defined, in order to align as closely as possible with what tenderers are able to offer, whether or not in consultation with a vendor. The assessment will be carried out on the basis of customary service levels. |
| 84 | Annex 2 Schedule of Requirements and Preferences | With reference to requirement CD-004, which states that critical security updates must be installed within 24 hours of release, could the Contracting Authority confirm whether this 24-hour period is measured as 24 consecutive calendar hours (including outside the service window), or as 24 hours within the offered service window? | This is measured as 24 consecutive hours. |
| 85 | Annex 2 Schedule of Requirements and Preferences | With reference to requirement CD-002 regarding maintaining a sound patch schedule, could the Contracting Authority confirm whether supporting an N-1 version policy for all relevant components (e.g. firmware, operating systems, and applications) is considered compliant with this requirement? | Yes, this is compliant. |
| 86 | Annex 2 Schedule of Requirements and Preferences | With reference to requirement HD-005, which states that in situations where the offered solution is completely unavailable, restoration activities must continue after working hours, could the Contracting Authority confirm whether this requirement only applies to incidents that are reported within the opening times of the helpdesk (09:00–17:00) as described in requirement HD-003? | NEO NL also works with international parties that use the system. In cases where the solution is completely unavailable, an emergency number or e-mail with a short response time, must be available outside helpdesk opening hours to report such critical incidents. |

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| 87 | Aanbesteding sdocument | "In section Q3 (page 30), it is stated that the Contractor is expected not only to provide operational support, but also to actively contribute to the further development and optimisation of the DMS functionality in line with the growth of NEO NL.<br>Could you further clarify/indicate to what extent development activities are expected during the operational phase?" | Business requirements will change over time in line with the various phases of the programme (pre-development, development, construction, commissioning). Hence is it to be expected that after implementation phase 1, in phase 2 and beyond adjustments / additional configuration and potential integrations will be required. This is at this point non-distinct, but the vendor is expected to deliver future additional services. See also our answer on question 83. |
| 88 | Annex 3 - draft contract | Schedule Delivery on demand: We note that additional services may fall outside the scope and assumptions underlying the Pricing Sheet. Applying those rates without flexibility may not be appropriate for materially different services. We therefore propose the that the prices and rates set out in the Pricing Sheet shall serve as a reference. Is that acceptable for the Contracting Authority? | No, this is not acceptable. Support on demand must fall within the scope of the Agreement and may not materially alter the overall nature of the original contract. |
| 89 | Annex 3 - draft contract | Regarding the acceptance procedure (schedule to the draft agreement), would the Contracting Authority be willing to define 'reasonable period' for commencement and completion of acceptance testing, or at least a maximum deadline? In addition, can you clarify how acceptance criteria will be agreed and governed in practice, given that these are to be defined prior to delivery? | Within a 25 working days after Delivery, the Contracting Authority shall carry out one or more acceptance tests. The acceptance criteria shall include, as a minimum, the requirements set out in the Tender Documents, as well as any other requirements otherwise agreed between the Parties. |
| 90 | Aanbesteding sdocument | The review clause refers to Article 2.163c Aanbestedingswet and indicates that amendments are possible where conditions are clearly and foreseeably defined. However, the Agreement does not specify in sufficient detail the permissible scope of changes (e.g. expansion of scope, number of users, or adjustments to planning and timelines). Can the Contracting Authority clarify which specific types of modifications (including scope and timing) are intended to fall within the review clause, and under what conditions and limits such modifications may be made? | Software, including usage rights, maintenance, and support, will be based on the actual number of users. The prices for the Software, including usage rights, maintenance, and support, are fixed in the "Explanation of the Pricing Structure" tab. This explanation must therefore provide an exact substantiation of Part A of the pricing sheet. The expected maximum number of users under this agreement in the production environment will be 1.350 users in total.<br><br>After Phase 1, the call-off of hours will take place based on the need to configure additional functionalities and to further configure existing functionalities, as described in Annex 2. The manner in which these hours are called off is described in the Schedule: Delivery-on-Demand / Call-Off Procedure of the contract. The applicable rates are laid down in Section 0 of the pricing sheet. The maximum number of additional hours to be called off under this agreement, in addition to the effort for Phase 1 and the migration to the NEO NL data centre, is expected 10.000 hours in total.<br><br>The migration to the NEO NL data centre will take place once the data centre operated by NEO NL is fully operational. This is expected by the end of 2027. The price is fixed in line 31 of the pricing sheet. |
| 91 | Aanbesteding sdocument | Can the Contracting Authority confirm that the requirement for all-inclusive pricing (Clause 3.2.3) is limited to the explicitly defined scope and does not extend to future or currently undefined requirements? | The requested fixed price for Phase 1 must include all requested services set out in the Tender Document, including the requirements and awarded wishes relating to Phase 1, as well as the generally expected functionality required to achieve a workable DMS for NEO. |

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| 92 | Aanbesteding sdocument | Pursuant to clause 3.2.4 it is indicated that ''The prices are fixed for the term of the Agreement, except for indexation as contractually provided for''. Can you confirm whether Tenderers are allowed to apply volume-based pricing (e.g. tiered pricing depending on the number of users), or whether a single fixed unit price per user category must apply irrespective of actual volumes? | For A. Software tiered pricing is allowed (see tab Explanation of pricing structure). **We wish to emphasize** that you must explain in detail and traceable how you calculate the annual prices included in Part A of the Pricing Sheet, on the basis of the Explanation of Pricing Structure provided by you for all components of your solution. The purpose of this is to ensure transparency regarding future purchases of your software as well. If your explanation is missing or does not correspond to your price submission in Part A, **this may result in your tender being set aside.** |
| 93 | Aanbesteding sdocument | Can the Contracting Authority confirm that the guaranteed minimum purchase obligations in Clause 2.1.8 remain fully applicable and are not affected by Clause 3.2.2, which states that no rights may be derived from notional quantities? | We confirm for the first year a minimum of:<br>• 200 general users<br>• 100 third-party users<br>• 30 read-only users<br>• 25 admin, key users & document control users<br>For the second year and subsequent years, the guaranteed minimum is:<br>• 250 general users<br>• 200 third-party users<br>• 50 read-only users<br>• 40 admin, key users & document control users |
| 94 | Annex 3 - draft contract, schedule 2 | Given the structure of the exit arrangements, we understand that: (i) the data retrieval period and overall exit support obligations are subject to a clearly defined maximum duration, ensuring that the Contractor's obligations are not open-ended; (ii) the notice period for initiating the switching process is intended to provide sufficient time for proper planning and coordination; and (iii) exit and switching support activities, in particular where the Contractor is required to continue delivering the Services during such period, will be subject to appropriate and mutually agreed remuneration in line with applicable market practice. Can the Contracting Authority confirm this interpretation? | (i) The periods set forth in the Exit Arrangements Schedule shall apply.<br>(ii) Yes.<br>(iii) The Contractor remains entitled to receive the Fees as long as the Contractor continues providing the Services under the Agreement. With regard to the Contractor's switching support activities: please refer to section 9 of the Exit Arrangements Schedule. |
| 95 | Annex 3a - Data processor agreement, art. 5.2 | "We find it unreasonable that the Processor will have to bear the costs of the audit in case of minor findings. We therfore propose to replace the wording by:<br>""Each party shall bear its own costs of an audit.The Controller shall bear the costs of the auditor, unless a material non-compliance by the Processor is identified, in which case the Processor shall bear such costs." | Approved. |
| 96 | Annex 3a - Data processor agreement, art. 5.2 | "Audits are very tiem consuming and intrusive. Therefore we propose to raplace the first sentince of the second paragraph by:<br>""The auditor shall perform the audit in a manner that minimizes disruption to the Processor's business operations. To this end:<br>(a) The auditor shall primarily rely on available documentation, certifications and audit reports (such as ISO certifications, SOC reports or equivalent);<br>(b) Where such documentation is insufficient to demonstrate compliance, the auditor may request additional information or perform a remote (desk) audit;<br>(c) On-site audits shall only be conducted where (i) there is a reasonable indication of non-compliance, (ii) a Personal Data Breach has occurred, or (iii) required by a competent authority, and where less intrusive means have proven insufficient." | Not approved. Article 5.2 already provides for the option to propose executing less intrusive audit measures. Furthermore, it goes without saying that any audit should be performed in a manner that minimizes disruption to the Contractor's business processes. |
| 97 | Annex 3b - Arbit article 76.2 | It is not market conformant that not meeting the service levels Repair Times, Response Times and Availability result in being immediately inf default with notice of default being required and giving the Contracting Authority the right to immeditae termination of the Agreement. It is common practice that breaching these type of service give rise to applying service credits and/or the obligation to draw up a remedial plan and only after repeated afilure within a certain period the right to terminate. Coulkd the Contracting Authority agree to declaring article 76.2 not applicable but deal with the consequences of service level failures in the SLA? | Not approved. However, please note that failure to adhere to Repair Times or Response Times or failure to provide the agreed Availability will not automatically result in termination of the Contract. The appropriate remedy to be pursued by the Contracting Authority will be chosen after assessing all circumstances at hand. |

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| 98 | Annex 3b - Arbit article 32 | Can the Contracting Authority confirm that (i) the Counterparty shall not be liable for any acts or omissions of the Contracting Authority or a third party during the transition, (ii), the Counterparty's performance obligations, including service levels, shall be reasonably adjusted, (iii) the scope of transition assistance shall be limited to clearly defined and proportionate activities and all (iv) transition services shall be provided on a chargeable basis? | (i) Yes.<br>(ii) No. The Contractor's performance obligations remain unchanges during the (re)tranistion period.<br>(iii) No. Please refer to the Exit Arrangements Schedule.<br>(iv) No. That would constitute a violation of the relevant provisions of the Data Act. |
| 99 | Memorandum of Information, Q 36 | "The revised additional clause as agreed to by the Contracting Authority applies to changes to the Agreement as well as changes to the Deliverable but is not entirely consistent. The following changes are required for consistency purposes:<br>- in [X].1 -add in the first line after ""Agreement "" ""or Deliverable""<br>- in [X].2 remove ""Work""<br>- in [X].3 add after ""include"" (to the extent applicable)"" as not all of the points summed up may be relevant to all changes<br>- in [X].5 and [X].6 replace all mentions of ""Contract"" by ""Agreement"" " | Approved. |
| 100 | Annex 3b - Arbit article 26.4 (d) | We propose that this sub-clause is replaced by: "in the event of an agreement concluded between the Parties pursuant to Article 18(2): (i) with regard to claims for damages as referred to in Article 82 GDPR and (ii) administrative fines imposed by the supervisory authority, insofar as these are related to a failure by the Contractor to perform its obligations under that agreement | Partially approved. The following wording will be added to article 26.4.d: "insofar as such fines are attributable to any acts or omissions of the Counterparty". |
| 101 | Annex 3b - Arbit article 12.3 | Based on the the answer to Q 19 in the MoI could it be correctly assumed that defects will be repaired as part of the corrective maintenance that the Contractor will provide? | Defects will need to be repaired as soon as possible in order to secure the agreed level of Availability. |
| 102 | Annex 3a - Data Processing Agreement, article 10 | This provision is superfluous as this is already covered by Arbit clause 26.4 (d). The Contracting Authority is requested to remove article 10.e. | Not approved. The scope of article 26.4.d ARBIT is not limited to breaches of the Data Processing Agreement. |
| 103 | Annex 3 - draft contract, Contents | The list of schedules listed in the Contents is not consistent with schedules mentioned at the bottom of the contract. The first 6 mentioned schedules are missing in the Contents section. We request the Contracting Authority to correct this omission. | Approved. Thank you for your attention. |
| 104 | Annex 3a - Data Processing Agreement, article 1.1 | Please add: "This Data Processing Agreement forms a schedule to the Main Agreement". This addition ensures consistency with the Main Agreement where the DPA is mentioned in article 2.2 and as a schedule at the bottom of the agreement. | Approved. |
| 105 | Annex 3 - draft contract, article 9.3 and Annex 3b - Arbit articles 42 -47 | The Contracting Authority explicitly requests the required functionality either as SaaS or, at a later stage, via the implementation of standard software on premise. SaaS or standard software is provided by software vendors on their standard terms and conditions which are non-, or very limitedly, negotiable. The Contracting Authority puts System Integrators in a very difficult position when demanding them to agree to art. 9.3 of the Agreement and articles 42-47 Arbit and thus forcing the Counterparty to assume more obligations and grant far more rights to the Contracting Authority than it can contract with the software vendor. This is unreasonable, unfair and disproportionate. A Contracting Authority requesting the implementation of standard third party solutions should accept the standard terms and conditions on which these are provided. The System Integrator should accept responsibility and liability for selecting an adequate third party standard solution but not for granting more rights and assuming more obligations with regard to the standard solution than it can contract with the third party vendor. Could the Contracting Authority therefore agree to declare the articles 42 - 47 Arbit inapplicable and to replace article 9.3 of the Agreement by: "In case the Counterparty uses third party Software as a Service ("SaaS") or standard software in providing the Deliverable, the standard license and maintenance and support terms and conditions of the third party pertaining to the use of this SaaS or standard software shall apply exclusively. The foregoing is without prejudice to the Counterparty's responsibility for selecting appropriate third party SaaS or standard software for use in its Deliverables." | Not approved. Please refer to the answer to question 78. |

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| 106 | Annex 3 - draft contract, article 7.2 | "Third paragraph -<br>A. Could the Contracting Authority confirm that software license and subscriptions includes the annual generic maintenance and support fees that the are owed to the software vendor?<br>B. The provision ""provided that such price increase was not foreseeable at the time of entering into the Contract"" leaves room for difference of opinion. We assume that, if the software vendor has a publicly known policy of increasing its standard license and maintenance/support fees periodically (e.g., annually or quarterly), the Contracting Authority does not consider this as ""foreseeable at time of entering into the Contract"" if the percentage of the increases is related to economic factors (e.eg., inflation rate). Could the Contracting Authority confirm this assumption is correct?" | A. Yes.<br>B. Price increases announced at the date of submitting the Tender may not give rise to indexation. |
| 107 | Annex 3 - draft contract, article 7.2 | "A. The answer published in MoI 1 Q63 with regard to the limitation of the indexation to 2 %, or if lower, to 50 % of the relevant increase is not market conformant and not in line with general practice within the public sector in the Netherlands. It is common practice to allow indexation to the full increase of the index figure. Please reconsider.<br>B. The index figure referred to is not very common. As this relates primarily to services provided by human resources it is more common to apply the CBS index figure Collective labor agreement (CAO) hourly wages including special remuneration, category M N Business services (2020=100). Could the Contracting Authority agree thereto?" | A: The Contracting Authority maintains its previous answer.<br>B: The Contracting Authority maintains the index figure. J62 provides a clear, neutral and sector-relevant benchmark. |
| 108 | General | Could the Contracting Authority confirm that they will provide updated documents reflecting all changes the Contracting Authority has committed to in the Memoranda of Information, so that the tenders will have a complete and integrated picture of all terms and conditions they will have to agree to unconditionally without having to go back and forth between the initial documents and the Memoranda of Information? | We can confirm this for the following documents:<br>- Tender document<br>- Annex 2 Schedule of Requirements and Preferences<br>- Annex 7 Pricing form<br>The revised documents will be published before the 4th of Juli. |
| 109 | Annex 2 Schedule of Requirements and Preferences, SEC-003 and SEC-004 | In SEC-001 compliance to the BIO is requested. Please can you explain why these two requirements have been added as a specific requirement, although they are already included in the BIO-framework? | You are correct. SEC-003 and SEC-004 are superfluous and will be removed. |
| 110 | Annex 2 Schedule of Requirements and Preferences, SOV-008 | Does NEO NL require independent third-party assurance (e.g. ISAE 3402 or SOC 2 Type II) to demonstrate the operational effectiveness of controls over time, or are the ABRO and ISMS requirements considered sufficient for audit reliance? | ABRO and ISMS requirements form the baseline but are not automatically sufficient for full audit reliance. NEO NL expects (as evidenced by SOV-008) that the supplier demonstrates that relevant control measures are not only in place but also operate effectively over time (design, existence, and operation). This can preferably be done via independent third-party assurance, such as ISAE 3402, SOC 2 Type II, or an equivalent report. If such assurance is not available, the supplier must be able to provide alternative evidence and fully cooperate with periodic or ad-hoc audits by NEO NL or designated third parties, in accordance with SOV-008. |
| 111 | Annex 2 Schedule of Requirements and Preferences, RM-001 | Formally a system cannot be 'certified' against NEN 2082 or NEN-ISO 16175-1 or ISO 15489. We propose to replace the wording by: The system shall be demonstrably compliant with NEN-ISO ISO 16175-1 or ISO 15489. | Agreed. The wording shall be changed into "The system shall be demonstrably compliant with NEN-ISO ISO 16175-1 or ISO 15489". |
| 112 | Annex 2 Schedule of Requirements and Preferences, RM-001 | NEN 2082 is no longer active. It was officially withdrawn and superseded by NEN-ISO 16175-1 in order to align with broader, international records management standards. Should this requirement be adjusted accordingly? | Agreed. The wording shall be changed into "The system shall be demonstrably compliant with NEN-ISO ISO 16175-1 or ISO 15489". |
| 113 | Annex 2 Schedule of Requirements and Preferences | The requirements documentation refers to responsibilities related to functional management. Could the Contracting Authority confirm whether functional management will remain the responsibility of NEO NL, and whether the Contractor's scope is focussed on to technical support and further development of the solution? | Functional management shall remain the responsibility of NEO NL. |
| 114 | Annex 3 - draft agreement, Schedule AI | Throughout this schedule the terms AI applications, AI system, AI functionality are used. It seems like these terms are interchangeable. Could the Contracting Authority in order to avoid confusion and ambiguity consistently apply the terms (or preferably, one term) and add (a) definition(s) to the schedule. | The words "AI applications" and "AI functionality" should be read as "AI system" as defined in the AI Act (Regulation (EU) 2024/1689). |

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| 115 | Annex 3c - Standby agreement | Could the Contracting Authority confirm that, if the Standby agreement is converted into an Agreement with the second highest ranked Tenderer, the initial term and the maximum term of the Agreement after the conversion remains 3 years with annual options to extend until the maximum term of 10 years? This is relevant because tenderers will base their pricing on an initial term of 3 years. | We can confirm this |
| 116 | Annex 3 - draft agreement art. 2.2 and Annex 3a - Data processing agreement art. 12.1 | Both clauses deal with the prevalence of the one agreement over the other agreement but these clause are contradicting each other. Could the Contracting Authority remove the conflict between the clauses? | Article 2.2 will prevail. The data processing agreement shall be adapted. |
| 117 | Legal Terms & Conditions | Arbit – art 12.5<br>With regard to question nr 59, the Contracting Authority answered: "Article 12.3 ARBIT does not apply. Defects must be repaired at the Contractor's expense throughout the entire term of the agreement."<br>With the potentially very long term of the agreement, the Counterparty considers it unreasonable to accept such a long warranty period of 12 months. The implementation phase ends with acceptance and it is business standard that after acceptance there is a reasonable warranty period and after this warranty period defects will be covered under support and maintenance.<br>Is Contracting Authority willing to make this distinction and - as earlier requested - to limit the warranty period and defect correction period to a period of 3 months after acceptance? | Not approved. Repair of Defects forms an integral part of the SaaS solution to be provided by the Contractor or, in the event of migration to another data center, the provision of support and maintenance services. A warranty period of three months is not in line with the envisaged way of service delivery. |
| 118 | Legal Terms & Conditions | Arbit – art 12.4<br>With regard to question nr 59, the Contracting Authority answered: "Article 12.3 ARBIT does not apply. Defects must be repaired at the Contractor's expense throughout the entire term of the agreement."<br>Could the Contracting Authority explain where it is stated that defects must be repaired throughout the entire term of the agreement? | This follows from the description of the assignment in the Tender document. |
| 119 | Legal Terms & Conditions | Arbit – art 12.3<br>With regard to MoI - question nr 59, the Contracting Authority answered: "Article 12.3 ARBIT does not apply. Defects must be repaired at the Contractor's expense throughout the entire term of the agreement." Could the Contracting Authority explain why art 12.3 Arbit would not apply? | Article 12.3 ARBIT is not tailored to the provision of a SaaS solution. |
| 120 | Legacy content migration scope | Memorandum of Information (15 June); Q&A 8, 66<br>Q8 and Q66 confirm an existing corpus of approximately 20.000 documents in SharePoint and Aryo, largely non-formalized, with the migration scope depending on which DMS is selected. Could NEO NL clarify (a) when the migration scope will be determined (prior to contract signing or during the discovery phase), (b) which party is responsible for that decision, and (c) whether metadata enrichment of legacy content prior to migration is expected to be performed by NEO NL or by the contractor? | a) during discovery phase, b) NEO NL, c) partly by Neo and partly by the contractor.<br><br>Please address the costs for this migration to be excluded from Phase 1 and address these costs via the call-off mechanism from Annex 7, Section D. |
| 121 | CDE Foundation integration assumption | Memorandum of Information (15 June); Q&A 75; par. 2.1.3; Annex 7 Section D<br>Q75 confirms that CDE integration costs are excluded from Phase 1 and are addressed through the Annex 7 Section D call-off. For the purpose of preparing Q3 (service description) and the related Annex 2 and 7 (pricing of integration) responses, could NEO NL provide the integration approach (e.g. expected interface style, protocols, data exchange patterns) so that tenderers respond against a consistent baseline? | We fully understand your question but cannot provide this at this time. |
| 122 | Phase 1 priority requirements | Memorandum of Information (15 June); Q&A 77; par. 5.3; Annex 2 v1.2<br>Q77 confirms that approximately 90 functional requirements have been identified as priority for Phase 1. Annex 2 v1.2 currently tags more than 150 requirements as "First phase". Could NEO NL publish the list of the 90 priority requirements, or update the Annex 2 tagging accordingly, so that all tenderers can plan and price Phase 1 on a comparable basis? | Referring back to the initial answer, the vendor is expected to deliver upon the designated scope of work as defined in the Annex 2 v1.2, with caveats mentioned. The 90 simply refers to functional requirement as a subset of the 150. All phase 1 requirements in Annex 2 v1.2 must be implemented in phase 1. |

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| 123 | SEAL-4 scoring | Memorandum of Information (15 June); Q&A 73; Annex 2 SOV strong wishes<br>Q73 confirms that SEAL-4 is aspirational for the DMS as a whole and that partial efforts toward SEAL-4 will be recognized. Could NEO NL clarify how partial efforts will be assessed and weighted within the Annex 2 scoring? Will SEAL-4 progress be evaluated per requirement, per category (e.g. data plane, control plane, key management, support), or on an overall basis? | The requirements in Annex 2, from SOV-001 to SOV-025, refer to the Seal-4 level. If you are able to meet these requirements at the time of acceptance of Phase 1, prior to go-live, you may answer these requirements with "Yes". |
| 124 | Sovereignty evidence | Memorandum of Information (15 June); Q&A 51, 73<br>In Q51 NEO NL states that a solution involving a non-EU parent company or non-EU technology components may be acceptable if the tenderer demonstrates that this does not create unacceptable risks regarding access, control, continuity or legal dependency, assessed in accordance with ISO 27036. Could NEO NL clarify what forms of evidence will be considered sufficient to demonstrate this, for example supplier assurance reports, sub-processor declarations, contractual safeguards, or operational controls? Could NEO NL also confirm whether the absence of any single element automatically results in disqualification, or whether an overall assessment will be made? | NEO NL assesses this comprehensively and on a risk-based basis. The overall assessment will have to demonstrate the risks regarding access, control, continuity and legal dependency are sufficiently managed. |
| 125 | Refereces | Aanbestedingsdocument, par. 4.3.2. Nr. 1<br>You state: "at least one project with a total project value of no less than EUR 500<br>million". Is the requirement that we need to provide a DMS-project with a mimimum contract value of EUR 500 million? Or can the DMS configuration, implementation, etc. be part of a larger project that has a total value of EUR 500 million? In case that it is solely the DMS project that needs to meet this project value of EUR 500 million we would like to point out that this is a disproportionate requirement in this tender. | We ask for a reference showing: "the configuration, implementation, support and maintenance of a Document Management System (DMS) supporting large-scale infrastructure and/or engineering projects, including at least one project with a total project value of no less than EUR 500 million.". For the avoidance of doubt, the reference submitted by you must concern the use of a DMS configured, implemented, supported and maintained by you, whereby that DMS has supported the referee in relation to a large-scale infrastructure and/or engineering project with a project value of not less than EUR 500 million. |
| 126 | References | Aanbestedingsdocument, par. 4.3.2. Nr. 1<br>You state: "the configuration (…) engineering projects". Projects is plural. How many projects does this core competence need to describe? Is 2 enough? Or is 1 also matching the core competence? | At least one large-scale infrastructure and/or engineering project with a project value of not less than EUR 500 million is sufficient. |
| 127 | Security policy - Annex 2 Schedule of Requirements | We understand that NEO requires strict security measures to be applied in the DMS as stipulated in Annex 2. To which extent is Supplier envisioned to identify, prepare, design and implement measures that are not directly tied to the DMS application itself? For example: NEO mentions the internal Security Policy document, is Supplier expected to perform designs and implementation of each topic of the NEO security policy? | The security measurements as mentioned in the Requirements suffice. |
| 128 | Security policy - Annex 2 Schedule of Requirements | We understand in SEC-002 that supplier is expected to draft and implement a policy for cryptography. Does NEO have a policy for cryptographic available? If not, is the expectation of NEO that Supplier develops and implements this policy with the entirety of NEO as scope, or solely relating the DMS? | The supplier is expected to draft and implement a policy for cryptography, relating to the DMS solely. |
| 129 | Classification - Annex 2 Schedule of Requirements | What is the highest information classification level that NEO will use the DMS for? Eg: Dep.V, Stg.C, Stg.G, Stg.ZG? | The highest classification level will be NEO restricted. This is comparable to Dept V - but since we are no longer a governmental organisation, the classification levels you mention, are not applicable. |
| 130 | ABRO - Annex 2 Schedule of Requirements | In SEC-038 - SEC-041, requirements are stated for the Supplier to implement and adhere to the ABRO 2026 ITBP3 requirements. Can you inform us if this requirement is only for the Lead Tenderer, or also applies to Subcontractors? | This also applies to subcontractors. |
| 131 | Security - Annex 2 Schedule of Requirements , Tender document 1.2 | In the tender document par. 1.2 NEO describes that 'security is central to everything NEO does…down to the smallest bolt". In Annex 2 you have set certain security requirements for the solution. However, NEO does not require certain in-depth technical security profiency via for example industry security certifications or working experience in sensitive environments. This raises a concern for a match in the required technical security capabilities versus the environment NEO operates in. NEO operates at the highest security standards and should be protected against nation-state level threats. As a result, we feel NEO should require technically capable professionals to help secure the DMS, to prevent a mismatch in threat level versus asked for capabilities.<br>Can you agree to adding as requirement that the team should have security professionals onboard that are highly certified (examples: CISSP, CISA, CISSP-ISSAP, GPEN, MSc specifically in Cybersecurity, Computer | We fully agree with your analysis of security being central to NEO NL. However, we shall not be adding these requirements to the team in this stage of the tender. We do appreciate the resumes that are added to comply with our security and safety needs. |

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| | | Science or Engineering, VGB-B (until Stg Geheim) national security clearance, etc.) and/or that have tangible experience in working in security and intelligence within highly complex and confidential environments in the Dutch Central Government? | |
| 132 | Annex 4 - Reference Assignment Form | In Annex 4 (Reference Assignment Form), it is stated that one form should be submitted per core competency. However, the form itself includes all three core competencies, each with a Yes/No selection. Could you please confirm that, per form, “Yes” should be indicated if the competency covered by the respective reference, and “No” if competencies that are demonstrated through other references in separate forms? | We can confirm that, per form “Yes” should be indicated if the competency covered by the respective reference, and “No” if competencies that are demonstrated through other references in separate forms. |
| 133 | License terms - Memorandum of information 15 June NEO NL DMS, question 78 | In your answer to question 78 you do not explicitly provide an answer to the core of our question, that is about the procurement documents/Draft Agreement providing that the Counterparty’s or third-party licence terms apply only if, in short, (i) their applicability is not excluded (9.3.1), (ii) the Agreed Use is not excluded or restricted (9.3.3), and (iii) the Counterparty can demonstrate that the Contracting Authority’s rights are not diminished and its obligations not unreasonably increased (9.3.4).<br><br>Point (i) is very unclear. How would the applicability of the license conditions be excluded in the Specifications? We have no indications that you have. Can you confirm that you have not explicitly excluded the applicablity of the standards license conditions of the third parties used by the Counterparty?<br><br>Point (ii) is very implicit and creates large uncertainty and point (iii) is very burdensum as a candidate would need to assess all tender documents line by line to see if there's any deviation from it when applying its standard license terms.<br><br>By way of illustration: in the context of information security, professional suppliers of such SaaS services apply their own security measures, which are based on the supplier’s global organisational structure and the processes and procedures established and applied by that supplier. In all reasonableness, it is impossible for such suppliers, such as Candidate, to adapt those security measures for individual customers of their SaaS cloud services. Given the one-to-many nature of the service, those measures and procedures apply to all customers. As the Contracting Authority will appreciate, it is impossible to make exceptions in this respect. Consider, for example, what it would mean if a supplier were to adjust its global security measures in connection with, for instance, technical developments, but had made divergent arrangements regarding its security measures with certain customers. This would mean that the supplier would have to enter into discussions with each of those individual customers in order to amend the security measures. From a practical perspective, this is unworkable and, given the nature of public SaaS cloud services, also entirely disproportionate. Candidate therefore strongly requests that the Contracting Authority reconsider its answer in this case and permit Candidate to rely solely on its own security measures as referred to in its SaaS terms and conditions.<br><br>We thereforerequest you to remove requirements (i), (iii) and (iv), so that only (ii) remains ("(a) the Counterparty has expressly stipulated that they should apply; (b) a copy of the relevant licence conditions has been attached to the Tender, and (c) such licence conditions form an explicit part thereof;". | Not approved. As pointed out in the answer to question 78, the Contracting Authority does not wish to be bound upfront by third-party terms and conditions. If the Contractor relies on the services of a third party vendor in the provision of services to the Contracting Authority, the terms and conditions of such third party may form part of the Contractor's Tender, provided that the conditions of article 9.3 of the Agreement are met. It is up to the Tenderer to assess whether the standard terms and conditions of its third-party vendor(s) are in accordance with the provisions of article 9.3 of the Agreement. As for point (i) referred to in the question: the Contracting Authority has not explicitly excluded the applicability of certain third-party license terms in the Tender document. |

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| 134 | Audit - Memorandum of information 15 June, question 17 | In your answer to question 17, you do not explain why you can only partially agree to the - in our view - very reasonable conditions we requested to agree to in relation to your audit rights. We are pleased that you have agreed to point (a) and partially to point (c) and (e) - as well as (in your answer to question 61) including a notice period of not less than 14 days, but unfortunately, the audit right is still too wide. Even where the audit is conducted by an independent auditor. Please do note that these conditions are necessary for us in order to preserve confidentiality for all our clients and to protect our company. More specifically, the reference to TMPs is inspired by GIBIT-2025 which could be seen as a more recent market consensus when contracting with governmental entities.<br><br>We kindly request you to reconsider our question 17. If not acceptable to you, could you please explain why? | The provisions under (a) through (e) proposed by the Tenderer are not acceptable as these provisions, taken as a whole, would effectively nullify the Contracting Authority's audit rights, especially where the said provisions stipulate that the Contractor is only required to provide access to policy documents, that the internal work files of the Contractor shall not form part of an audit and that the Contractor shall never be required to provide access to its internal systems. Please note that a TPM does not make conducting an audit a priori unnecessary. However, the following wording shall also be added to article 5.3 ARBIT: "Before the Contracting Authority has an audit conducted, it will first ask the Counterparty to submit the TPM issued to the Counterparty within 7 days. The Contracting authority is entitled to have the information security measures implemented by the Counterparty audited by the designated CSIRT." |
| 135 | Insurance - reporting previous claims - Annex 3b - ARBIT-2022, Article 29.3 | Pursuant to insurance arrangements with our insurer, we are not allowed to report previous claims under the same policy in the current policy year, as required under article 29.3 ARBIT-2022. Could you please remove that obligation by including in the Agreement that Article 29.3 is amended as follows: "29.3. On request, the Counterparty will immediately present proof of these coverages to the Contracting Authority in the form of a certificate of insurance." | Approved, provided that the certificate of insurance to be submitted specifies the nature, amount, and geographic scope of the insured risks, as well as the extent of coverage. |
| 136 | GDPR audit - Memorandum of information 15 June, question 10 | Could you at least confirm that the audit under article 5.2 of the Data Processing Agreement will be subject to the following safeguards:<br>(a) the audit will be limited to documents and information strictly relevant to compliance with the Data Processing Agreement;<br>(b) the auditor will not be granted access to our premises other than general meeting rooms used for conducting meetings or interviews;<br>(c) the auditor will not be granted access to our internal systems, internal work files, or data/work files relating to other clients;<br>(d) the auditor and the Contracting Authority will be bound by appropriate confidentiality obligations with respect to all information obtained during the audit; and<br>(e) the Contracting Authority will provide reasonable prior written notice (at least 14 days) before an audit is conducted?<br>These safeguards do not limit NEO's ability to verify compliance through an independent auditor, but they are necessary to protect the confidentiality of the Contractor's other clients and the integrity of the Contractor's internal operations. | (a) the audit will be limited to documents and information strictly relevant to compliance with the Data Processing Agreement; this is OK<br>(b) the auditor will not be granted access to our premises other than general meeting rooms used for conducting meetings or interviews; this is OK<br>(c) the auditor will not be granted access to our internal systems, internal work files, or data/work files relating to other clients; this is OK<br>(d) the auditor and the Contracting Authority will be bound by appropriate confidentiality obligations with respect to all information obtained during the audit; this is and<br>(e) the Contracting Authority will provide reasonable prior written notice (at least 14 days) before an audit is conducted? we will provide a written notice of 5 working days |

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| 137 | Liability - Memorandum of information 15 June, question 12 | We acknowledge and appreciate the clarification in your answer to question 62, including the proposed amendment to article 10.1 of the DPA limiting the indemnity to third-party claims reasonably attributable to a material breach of the DPA by the Processor. This is a constructive step.<br>However, could you confirm that the Processor's liability under the amended article 10.1 (including the indemnity for third-party claims) remains subject to the general limitation of liability agreed under the Main Agreement? If uncapped liability is maintained for DPA-related claims, could you explain why such uncapped liability would be proportionate and insurable for a processor in this context, in light of prescription 3.9D of the Proportionality Guide and Advice 331 of the Commission of Procurement Experts? | The Processor's liability under the amended article 10.1 remains subject to the general limitation of liability agreed under the Arbit-2022.<br><br>In the Arbit-2022 there is also a uncapped liability (26.4.d) in the event of claims for compensation due to an infringement of legislation on the protection of personal data or actions contrary to the lawful instructions of the controller. Loss or damage includes fines imposed by the supervisory authority. This concerns, inter alia, claims brought by third parties against NEO NL which have been caused exclusively by an act or omission of the Contractor. In other words, these are situations in which NEO NL is held liable, while NEO NL has in no way been responsible for the cause of the damage, whereas the Contractor has been.<br><br>It follows as a matter of course that the Contractor must indemnify and hold NEO NL harmless against such claims, without the Contractor being entitled to rely on any limitation or exclusion of liability. After all, NEO NL itself has not been able to exclude or limit its liability in respect of such claims.<br><br>It would be unreasonable for NEO NL, in such circumstances, to bear all or part of the damage, where NEO NL has had no influence whatsoever on the occurrence or cause of that damage. |
| 138 | Dependencies - Memorandum of information 15 June, question 15 | In your answer to question 15, you state that the Tenderer may specify dependencies and assumptions regarding the Contracting Authority's cooperation in its tender submission.<br><br>Could you confirm that any such dependencies and assumptions stated in the Tender — including assumptions regarding the availability of Contracting Authority personnel, access to systems, timely provision of information and decisions, and cooperation of third-party suppliers engaged by the Contracting Authority — will form part of the contractual framework and will be taken into account when assessing delays, acceptance milestones, service levels and liability?<br><br>Without this confirmation, the Contractor has no assurance that it will not be held responsible for delays or shortcomings attributable to the Contracting Authority's failure to cooperate. | Any requirements regarding the Contracting Authority's responsibilities specified by the Tenderer will be taken into account when assessing the Tender submitted by the Tenderer. Naturally, any such requirements may not deviate from (any document that forms part of) the Agreement. For clarity's sake: the Contractor will not be held responsible for delays or shortcomings solely attributable to the Contracting Authority's failure to fulfil its obligations under the Agreement. |
| 139 | Cooperation - Memorandum of information 15 June, question 16 | We appreciate that you intend to address mutual responsibilities in the implementation plan. However, we maintain that general cooperation principles should also be reflected in the contract itself. We are not requesting that the contract contain the detailed allocation of day-to-day responsibilities — that can indeed be addressed in the implementation plan — but rather that the contract establish the general principle that the Contracting Authority has a cooperation obligation, including timely provision of information, access, personnel, decisions and feedback necessary for the Contractor to perform its obligations.<br><br>Could you agree to include such a general cooperation clause in the contract, with the detailed elaboration remaining in the implementation plan? | The following wording shall be added to article 4.3 ARBIT: "The Contracting Authority shall ensure that its personnel are available to provide information and feedback necessary for the Counterparty to perform its obligations under the Agreement and that the Counterparty obtains access to senior management if necessary to facilitate the decision-making process." |
| 140 | Audit - Memorandum of information 15 June, question 17 | In your answer to question 17, you do not explain why you can only partially agree to the - in our view - very reasonable conditions we requested to agree to in relation to your audit rights. We are pleased that you have agreed to point (a) and partially to point (c) and (e) - as well as (in your answer to question 61) including a notice period of not less than 14 days, but unfortunately, the audit right is still too wide. Even where the audit is conducted by an independent auditor.<br>Please do note that these conditions are necessary for us in order to preserve confidentiality for all our clients and to protect our company. More specifically, the reference to TMPs is inspired by GIBIT-2025 which could be seen as a more recent market consensus when contracting with | Please refer to our answer to question 134. |

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| | | governmental entities.<br><br>We kindly request you to reconsider our question 17. If not acceptable to you, could you please explain why? | |
| 141 | IPR indemnity - Memorandum of information 15 June, question 18 | In your answer to question 18, you ask which third-party materials the Contractor envisages using. By way of example, and without limitation, the following types of materials may be provided by or on behalf of the Contracting Authority or may need to be used by the Contractor in performing the contract: blueprints and designs; documentation and functional/technical specifications; interface specifications and API documentation; datasets (including test data and migration data); configurations; third-party software and platforms provided or mandated by the Contracting Authority; integration components; and materials from other suppliers engaged by the Contracting Authority.<br><br>Given that such materials may be subject to third-party intellectual property rights or restrictions, we reiterate our request that the contract include:<br>(a) an obligation on the Contracting Authority to ensure that the Contractor is entitled to use materials provided by or on behalf of the Contracting Authority for the purpose of performing the contract; and<br>(b) an indemnity from the Contracting Authority in respect of third-party intellectual property claims arising from the Contractor's use of such materials in accordance with the contract.<br>Could you reconsider and agree to include such a provision? | Approved. The following wording shall be added to article 8 ARBIT: "The Contracting Authority is responsible for obtaining the necessary rights for the use by the Counterparty for the performance of the Contract of the third party materials that the Contracting Authority makes available to the Counterparty or that the Contracting Authority requests the Counterparty to use. The Contracting Authority agrees to indemnify the Counterparty against third-party claims solely arising out of the Contracting Authority's failure to obtain such rights." |
| 142 | Warranty - Memorandum of information 15 June, question 19 | In your answer regarding article 12.3 ARBIT, you state that defects must be repaired at the Contractor's expense throughout the entire term of the agreement. While the Contractor is committed to delivering high-quality services, an open-ended and unconditional defect repair obligation for the full contract term is disproportionate and inconsistent with market practice for SaaS and IT implementation services.<br><br>Could you agree to replace the current position with a limited warranty provision, along the following lines:<br>(i) The Contractor warrants that the Services will be performed in a professional and workmanlike manner and will function in all material respects in conformance with the Agreement;<br>(ii) With respect to additional/implementation services, if the Contracting Authority notifies the Contractor in writing of a breach of this warranty within 30 days of performance of the relevant services, the Contractor will re-perform the affected portion of the services at no additional charge;<br>(iii) The Contractor does not warrant that the services will be error-free or will operate without interruption;<br>(iv) The Contractor's sole obligation and the Contracting Authority's sole remedy under this warranty are limited to either the correction of errors in the affected services or, at the Contractor's election, a pro rata refund or credit of the fees paid for the particular portion of the services that is defective — to the extent permitted by applicable law.<br><br>This approach provides the Contracting Authority with meaningful protection while establishing a clear and insurable risk profile for the Contractor. | Not approved. The proposed provisions would effectively nullify the Contractor's obligation to perform the services. Please also refer to our answer to question 119. |

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| 143 | File - Memorandum of information 15 June, question 21 | In your answer regarding articles 17.4 and 32.3 ARBIT, you state that retention of data after termination is permitted only where mandatory statutory provisions require it. However, the Contractor also has legitimate interests in maintaining an internal work file that are not conditional solely on a statutory retention obligation. Specifically:<br>(a) the Contractor must be able to defend itself adequately against any claims of breach of contract or professional negligence that may arise after termination;<br>(b) retention of a work file also serves the Contracting Authority's interests, as the Contracting Authority may at a later stage have questions about how the engagement was conducted.<br><br>Could you agree to permit the Contractor to retain an internal work file for a reasonable period consistent with professional practice and legitimate business, risk management and compliance interests (for example, a period aligned with the applicable limitation period for contractual claims), subject to:<br>(i) the work file remaining subject to the confidentiality and security obligations under the agreement;<br>(ii) the Contracting Authority having no access right to the work file; and<br>(iii) the work file being destroyed upon expiry of the retention period?<br>We respectfully submit that conditioning retention solely on a statutory obligation is unnecessarily restrictive and does not reflect legitimate business needs. | Not approved. |
| 144 | Penalty - Memorandum of information 15 June, question 22 | We appreciate that the Contracting Authority considers an obligation to pay damages to be insufficient in case of a confidentiality breach. However, article 17.5 ARBIT provides for an immediately payable penalty of EUR 50,000 per breach without requiring that a breach has been finally established. This creates a disproportionate risk, as the Contractor may face penalty claims on the basis of alleged breaches that have not been determined by a competent authority.<br><br>Could you reconsider your position and agree to one or both of the following modifications:<br>(a) the penalty becomes payable only after the breach has been established by a competent court or arbitral tribunal, or after the Contractor has acknowledged the breach in writing; and/or<br>(b) any penalties paid are credited against damages ultimately awarded for the same breach (i.e., the penalty serves as a minimum damages amount rather than being cumulative with full damages) - in deviation of article 14.3 ARBIT?<br><br>This approach preserves the deterrent effect of the penalty while ensuring proportionality and avoiding situations where a penalty is paid for breaches that are subsequently not upheld. | Partially approved. Any penalties to be paid shall be deducted from the amount of damages to be paid for the same breach of the duty of secrecy. |
| 145 | Liability - Memorandum of information 15 June, question 26 | We respectfully disagree with the characterisation of our request as a "virtually complete exoneration." The Contractor does not seek to exonerate itself from liability, but rather to achieve a proportionate liability cap that is aligned with established market practice in the SaaS and IT services sector.<br><br>In this market, liability caps are typically set at one times the annual fees or the aggregate fees paid in the preceding 12 months for the relevant services, with customary carve-outs for fraud, wilful misconduct and gross negligence. For example, it is common practice for major SaaS and IT service providers to cap their aggregate liability at the fees paid in the 12 months preceding the claim-giving event, with exclusions for indirect and consequential damages. These arrangements reflect the commercial reality that service fees are calibrated to a defined risk profile.<br><br>We note that prescription 3.9D of the Proportionality Guide provides that a disproportionate allocation of liability risks is not permitted, and that Advice 331 of the Commission of Procurement Experts confirms that a complete exclusion of a limitation of liability is contrary to 3.9D. While these authorities address the exclusion of caps rather than prescribing a specific cap level, they do underscore the importance of proportionality.<br><br>Against this background, could you:<br>(a) reconsider and agree to a liability cap of one times the annual fee for the relevant service category (SaaS licence fees and/or implementation | Not approved. This question does not give rise to a reconsideration of our answer to question 26. |

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| | | fees, as applicable), with appropriate carve-outs for fraud, wilful misconduct and gross negligence; or<br>(b) if you maintain that the current caps (4x fee / EUR 1,250,000) are customary, identify the market data or risk assessment on which you rely to support that position? | |
| 146 | Unlimited liability - Memorandum of information 15 June, question 27 | We acknowledge that the Contracting Authority may face third-party claims attributable to the Contractor's acts or omissions. However, the attribution of risk to the Contractor does not in itself require that liability be unlimited. GDPR and data-protection related risks can be very substantial, difficult to predict in magnitude, and extremely difficult — or impossible — to insure on an unlimited basis. An unlimited liability exposure creates an uninsurable and unquantifiable risk that a contractor cannot reasonably price into its fee.<br><br>Prescription 3.9D of the Proportionality Guide provides that a disproportionate allocation of liability risks is not permitted. Advice 331 of the Commission of Procurement Experts further confirms that the explicit exclusion of a limitation of liability is contrary to 3.9D. While these authorities do not prescribe a specific cap, they support the principle that liability should be proportionate and capable of being priced and insured.<br><br>Could you agree to apply a separate, higher liability cap for DPA-related claims — rather than unlimited liability — which would still provide the Contracting Authority with meaningful protection while allowing the Contractor to quantify and insure its risk? For example, a cap of [2-3]x the annual fee or a fixed amount proportionate to the nature and volume of personal data processed could be considered. If you maintain that unlimited liability is appropriate, could you explain how the Contractor is expected to insure and price this risk? | In article 26.4.d ARBIT (i) the words "claims for compenstation" shall be replaced with the following: "third-party claims for compensation", and (ii) the words "Loss or damage includes" shall be replaced with the following: "The aforementioned third-party claims include". These amendments ensure that the Contractor is only liable without limitation in the event of third-party claims attributable to the Contractor's acts or omissions. Please also refer to our answer to question 100. |

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| 147 | Indemnity - Memorandum of information 15 June, question 28 | To clarify our request: we are not asking the Contracting Authority to accept liability for the Contractor's acts or omissions, nor to hold the Contractor harmless against legitimate claims arising from a breach attributable to the Contractor.<br><br>The issue is rather that, in a complex IT implementation involving multiple parties (end users, other suppliers, subcontractors), third parties may seek to direct claims against the Contractor for matters that should properly be addressed through the contractual relationship between the Contracting Authority and those third parties. In that situation, we consider it reasonable that:<br>(a) third-party claims are channelled through the Contracting Authority (as the contracting party vis-à-vis those third parties) rather than being asserted directly against the Contractor; and<br>(b) the Contracting Authority indemnifies the Contractor against such direct third-party claims, except to the extent that the claim is finally determined to result from the Contractor's wilful misconduct, gross negligence, or an attributable breach of the agreement by the Contractor.<br><br>This is a narrower request than the Contracting Authority suggests. It preserves the Contractor's full liability to the Contracting Authority for attributable breaches, but prevents the Contractor from facing direct claims from parties with whom it has no contractual relationship. Could you reconsider on this basis? | Not approved. This question does not give rise to a reconsideration of our answer to question 28. The Contracting Authority will not indemnify the Contractor against any third-party claim based on tort that is asserted directly against the Contractor due to any of the Contractor's acts or omissions. |
| 148 | limitation - Memorandum of information 15 June NEO NL DMS, question 32 | "We understand that the Contracting Authority does not wish to be disadvantaged by a shorter claim period. However, we would like to explain why a contractual claim period is in both parties' interests in the context of an IT implementation:<br><br>(a) Timely notification and investigation: IT implementations generate extensive technical logs, documentation and configuration data. Over time, personnel change, systems are updated, and the ability to investigate root causes diminishes. A contractual claim period promotes timely notification while relevant evidence and knowledge are still available.<br><br>(b) Legal certainty: Both parties benefit from clarity on when claims may still be raised. This enables appropriate resource planning and avoids situations where claims are raised years after an issue could first have been identified.<br><br>(c) Efficient remediation: Early notification allows for efficient remediation while the Contractor still has the relevant knowledge and access.<br><br>We emphasise that a contractual claim period does not deprive the Contracting Authority of remedies for claims that are asserted in a timely manner. Could you agree to a claim period of one year from discovery of the relevant defect or breach, subject to an absolute long-stop of five years from delivery/performance of the relevant services? Alternatively, if this is not acceptable, could you propose a reasonable alternative that addresses both parties' interests in timely dispute resolution?" | Not approved. This question does not give rise to a reconsideration of our answer to question 32. |
| 149 | Wage claim - Memorandum of information 15 June, question 35 | We do not fully understand your answer to this question. The provision we proposed expressly provides that the Contractor will cooperate and provide reasonably necessary information in the event of a threatened or actual wage claim, while respecting confidentiality, privacy and legal-basis requirements. This gives the Contracting Authority assurance of cooperation — which is precisely what your answer states is needed.<br><br>Could you confirm that any inspection or access under article 53.4 will be limited to what is strictly necessary and legally permissible for the purpose of preventing or defending against the relevant wage claim, and will be subject to appropriate confidentiality safeguards?<br><br>If you maintain your refusal of the proposed provision, could you explain specifically why an obligation to cooperate and provide reasonably necessary information — subject to a legal basis for disclosure — is insufficient for the purpose of article 53.4? | Not approved. The Tenderer did not propose to cooperate and to provide information, but merely to consult with the Contracting Authority. Therefore, the proposed provision does not provide the Contracting Authority with the assurance that, if necessary, it will actually be able to inspect the relevant employment agreements. Moreover, article 53.4 ARBIT already stipulates that any inspection or access is limited to what is necessary for the handling of a wage claim. All in all, this question does not give rise to a reconsideration of our answer to question 35. |

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| 150 | Annex 2 | SaaS environment is mentioned in several pages on Tender Document. Please specify what do you mean by SaaS environment. Is for example Netherlands located Microsoft Azure environment acceptable ? Is there an option that NEO NL will aquire the IT-services from some Dutch IT-provider or is the DMS Service Provider (Contractor) always responsible also for the IT-environment ? | NEO accepts SaaS solutions hosted within the European Economic Area, provided that the supplier can demonstrate compliance with the security, sovereignty and data protection requirements specified in the tender documentation.<br><br>The use of Microsoft Azure, including Azure regions located in the Netherlands, could be acceptable provided that the proposed solution meets all applicable tender requirements regarding data residency, access control, operational security, supplier governance, and digital sovereignty.<br><br>The supplier shall clearly describe the hosting architecture, the location of all data processing activities, the legal entities involved in service delivery, and any dependencies on non-European service providers.<br><br>During the period the system should be delivered as a Saas solution the Tenderer must also offer the IT-services related to the SaaS services. |
| 151 | Annex 2 - PLN-007 | Could you please clarify what are physical progress or execution calculations? | Deliverables (documents) produced to through various stages of development, which represent % progress on schedule. The application should enable data to be used for such purposes. |
| 152 | Annex 2 | What exactly are these handover processes? Or can you estimate the number of different handover processes? Are deliverables collection of documents? | The handover processes refer to the formal transfer of information and documentation between project phases, organizations, or responsible parties. A deliverable may consist of a single document or a collection of related documents and associated metadata that together fulfil a contractual or project requirement. The exact number of handover processes is not predefined and will depend on the project lifecycle and contractual arrangements. |
| 153 | Annex 2 | What are these interfaces? Are they interfaces for the system or for the power plant, or possibly some other interfaces?<br>Could you provide a example of desired interface? | The interfaces are project and asset interfaces, not software or system integration interfaces. An interface is a managed boundary between two systems, disciplines, organizations, or contractors where responsibilities, information, and deliverables must be coordinated throughout the project. An example is the interface between the turbine supplier and the balance-of-plant contractor, where mechanical, electrical, and documentation responsibilities are managed through an Interface Agreement (IA). |
| 154 | Annex 2 - MFR-009 | The system shall register transmittals containing large digital files while storing the actual files in separate controlled environments. Wha this separate environment is assumed to be? Could Microsoft Blob Storage account be used for this or is this dedicated local disc location or some other arrangement? | The separate environment that we mention in MFR-009 only refers to an environment within the DMS ecosystem that cannot be accessed by unauthorised parties. Not to an environment outside the DMS. |
| 155 | Annex 2 - SEC-016 | What are these untrusted environments? How are these accessed and why there is need to import data from these? | This entails deliveries from third party vendors, for example design documents. |
| 156 | Annex 2 - INT-004 | How and from were is this additional information to the log generated? | This concerns logging of the REST API actions; it is expected to be generated with the other REST API loggings from INT-003. |

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| 157 | Annex 2 | What is the purpose of delivery matrix? If users can access the system, and view documents (published ones according to their role) why there is need for separate delivery matrix? If delivery matrix is telling to the system that document should be separately sent to the recipients, how is this planned to be implemented (email, integration, notification)? If document is sent separately through delivery matrix, this also can easily breach security controls such as "high classified document is sent to unwanted person as the person is added in matrix". Do you have example of delivery matrix? How does delivery matrix manage external user rights? | Assuming the question relates to the distribution matrix, not a delivery matrix, which isn't mentioned in the Appendix. Importance is that there is need for a strictly organized dissemination of information on documents to all involved parties. Given the multi-contractor environment this extends over various parties whom interact with the NEO NL DMS, but are separate entities. Distribution should always adhere to security controls, making notification or integration the most feasible methods<br><br>Essence: user based access does not per se equate the parties requiring to be informed. |
| 158 | Annex 2 - AUD-011 | Is system supposed to generate audit documentation about the objects, documents and relations? Is there a specification on how this audit documentation should be structured? Or is this supposed to be certain template where a selected item events should be collected? | The solution shall maintain a complete audit trail for objects, documents, metadata, relationships, and user actions. No specific format or template for audit documentation is prescribed. Audit information shall be structured, searchable, and exportable to support reporting, compliance, and audit activities. |
| 159 | Annex 4 | We require an NDA to be able to provide details of some customers use case operating in the Nuclear field. Could we get an NDA signed before submission? | No. The Contracting authority will not provide an NDA. However, the Contracting Authority herewith confirms that the reference assignments submitted by the Tenderer will only be dealt with by the Contracting Authority's evaluation committee and their advisors for the purpose of assessing the Tender. |
| 160 | Annex 2 | Can you provide an Applicability boundary of sovereignty requirements across environments. | NEO intends to be as sovereign as possible. |
| 161 | Annex 2 | Do you expect migration of existing documents, metadata, correspondence, transmittals, audit histories, comments, or legacy registers into the new DMS? | See our answers on questions 8, 66 and 120. |
| 162 | Annex 2 | Can you provide a prioritized list of mandatory dashboards and reports for Phase 1 versus later phases? | For Phase 1, the priority is dashboards and reports supporting document management, interface management, transmittals, workflow status, and project progress. Additional dashboards and reports, including advanced analytics and project-specific reporting, may be introduced in later phases based on business needs and implementation priorities. |
| 163 | Annex 2 | The AI section contains extensive requirements. Can you confirm whether these are mandatory for Phase 1, or intended as architectural readiness requirements for future phases? | The AI section contain mainly requirements to the future readiness of the system. However, some of the requirements clearly state that the system is not allowed to work in a certain way, such as for example use of external AI models. These requirements are mandatory from the start. |

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| 164 | Annex 2 | Can you please clarify whether mobile functionality is expected for browser-only use, native apps, or both? | As described in CSU-003, the system shall support mobile execution of checklists and punchlists. As described in CSU-004, the mobile solution shall support offline operation and synchronize automatically when connectivity is restored. Furthermore, CSU-006 describes redlining functionality on mobile devices, MFR-007 describes what should be possible to upload , metadata capture et cetera. How this is facilitated, is up to the supplier; through native apps, browser or both. |
| 165 | Annex 2 | Can you share the expected source systems and integration approach for planning, MDR, VDRS, work packages, POs, and project controls data? | Not at this moment. |
| 166 | annex 2 | How many approval workflow variants are expected in scope for Phase 1? | No fixed number of approval workflow variants is prescribed for Phase 1. As a minimum, the solution shall support the standard approval workflows required for core document and interface management processes. Additional workflow variants may be configured in later phases as business requirements evolve. |
| 167 | Annex 2 | How many named users, concurrent users, external users, supplier users, and privileged administrators are expected, including subcontractors and regulators? | Please read the appropriate documentation provided in this Tender in Annex 7 tab Pricing sheet cells A and B 14 to 24.<br><br>For the number of concurrent users, the tenderer may assume 80% of the stated number of named users. |
| 168 | Annex 2 | "Please confirm whether Annex 2 is to be completed by indicating only “Yes” or “No” in the column G, and whether no additional comments on the requirements are expected or permitted.<br>In the absence of remarks, should bidders interpret requirements strictly as stated, or are reasonable assumptions allowed?" | Strictly as stated in the context of the information provided in the Descriptive Document? |
| 169 | Annex 2 Managing Scope | Please specify the number and types of environments that need to be provisioned (e.g., Development, QA, Production). | During the SaaS stage, this is, as we can imagine, set up by the supplier and we expect the set-up to be explained to us in the tender documentation. In the phase where the DMS is in our own data centre, we require OTAP (where O and T may be combined) and there will also be a clear proposal from supplier's side where training can take place and how migration will be handled. |
| 170 | Annex 2 Schedule of Requirements and Preferences NEO NL_adjusted version 1.2.xlsx | The excel file is restricted. Shall bidders copy the data from the requirements dms sheet and<br>update the values in another tab? How shall bidders add input to the cells for Yes / No? | Only the blue cells, starting at F19, should be completed with “Yes” or “No”. You may use the dropdown button for this purpose. |
| 171 | Annex 2 Schedule of Requirements and Preferences NEO NL_adjusted version 1.2.xlsx - IMS-029 | What do you mean by this? Can you expand on this point? | We want to stress the importance of quality of data in this requirement. We do not trust derivation of metadata from human-added content such as the naming of a file. In our experience, this does not yield unambiguous quality data. |
| 172 | Annex 2 Schedule of Requirements and Preferences NEO NL_adjusted version 1.2.xlsx - | "From a sovereignty perspective, it is envisaged that, following the initial period during which a<br>SaaS solution is procured, the solution will be migrated in or around 2027 to a data centre<br>operated by NEO NL, or to a separately procured data centre" - Practically, how does NEO<br>envision this integration? | This entails moving the DMS from a SaaS-solution to our own data centre. Transferring to the data centre operated by NEO NL will have impact on the integrations. |

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| | 2.1.8 Review Clause (P.13) | | |