

**Tender Guide  
Selection Phase  
M7 Metro Rolling Stock**

**Version** Final 1.0  
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# 1 Introduction

## 1.1 Tender Guide, Selection Phase

The tender procedure for the Order for the supply of the 'M7 Metro Rolling Stock' is described in this Tender Guide. This document relates to the Tender Guide for the Selection Phase. The Contracting Entity will update Tender Guide repeatedly by issuing a revised version that is suitable for the relevant phase in the tender procedure.

The Contracting Entity envisages that after this Tender Guide, Selection Phase version, the following revised versions of the Tender Guide will be used:

- the Consultation Phase and First Offer Phase version;
- the Dialogue Phase version;
- The Final Offer Phase version.

This guide relates to the period from the placing of the announcement for the Order to the invitation to the Consultation Phase and First Offer Phase.

The Candidate is responsible for checking the proper receipt of this Tender Guide. If the Tender Guide is not (fully) received, the Candidate must notify the Contracting Entity of this immediately by sending an email to the email address stated in paragraph 1.3.

## 1.2 Definitions

Terms written with initial capitals in this Tender Guide are defined in Annex 1 of this Tender Guide.

## 1.3 Contracting Entity

The Contracting Entity is:

GVB Activa B.V.

The address to which all documents to be submitted by the Candidates, and not to be communicated electronically, are to be sent is:

GVB Activa B.V.

Project Metromaterieel M7

T.a.v. de heer Wouter Braam

Arlandaweg 106

1043 HP AMSTERDAM

Requests for information during the Selection Phase can be sent exclusively by email to: [M7@gvb.nl](mailto:M7@gvb.nl)

## **1.4 The Order**

### **1.4.1 Introduction**

This Order relates to the supply of new Metro Vehicles for the metro network in the City of Amsterdam for which GVB is the operator. The Contracting Entity, GVB Activa B.V, is the owner and operator of the strategic assets of GVB, including the rolling stock such as buses, trams and metro.

Metro vehicles in Amsterdam have been numbered by series since the 1970s. The last series of Metro Vehicles ordered carried the generation numbers M5/M6. The generation number M7 has therefore been assigned to the new Metro Vehicle to be ordered.

The requirement for new Metro Vehicles is due to the need to replace the current S1/S2 and S3/M4 rolling stock series (due to them reaching the end of their service life) and the planned expansion of fleet capacity in connection with an expected growth in passenger numbers.

The objective is to start the inflow of the new Metro Vehicles in the period 2021-2022.

### **1.4.2 Metro network in the City of Amsterdam**

The metro network of Amsterdam forms the backbone of local public transport in the capital. It comprises around 52 kilometres of track, of which around two-thirds lies above ground. The metro network currently includes 52 stations. The parking for the vehicles is also in the open air. The underground parts of the network are primarily located in the historic city centre. The metro infrastructure is designed for a maximum axle load of 12 tonnes. A new safety system (Signalling&Control) that will facilitate full (GOA-4) or partial (GOA-2+) automatic running (Grade Of Automation in accordance with the standard EN-IEC-62290-1) is currently being implemented on the network.

The metro network currently consists of four lines:

- Line 50: Isolatorweg – Gein;
- Line 53: Central Station – Gaasperplas;
- Line 54: Central Station – Gein;
- Line 51: Central Station – Westwijk (lightrail).

The North/South line will be put into operation in mid-2018. The North/South line connects Amsterdam North (Buikslotermeerplein) with Amsterdam-South station. The stations in between are Noorderpark, Central Station, Rokin, Vijzelgracht, De Pijp and Europaplein. The North/South line will further reinforce the backbone status of the metro network.

The so-called Amstelveen line, on which lightrail line 51 currently runs, will be dispensed within the future. The metro line to Westwijk will be replaced by a tram line from South station. Preparations are currently underway for the conversion.

See Annex 5 of this Tender Guide: "Overview of the metro network for the Amsterdam region".

### **1.4.3 Strategic starting points of the Contracting Entity**

The Contracting Entity has summarised the objective of the order for the M7 Metro Rolling Stock in the following three strategic starting points:

- In line with the needs of the passenger;
- Compatible with Amsterdam's operational transport system;
- In line with long-term objectives.

### **1.4.4 Scope of the Order**

The Order is broken down into an Initial Order and Options.

The Initial Order comprises the design, construction, testing and ready-to-drive delivery of 30 Metro Vehicles, including the associated documentation and training, plus the supply of the special tools and (strategic) spare parts that are necessary for the maintenance of the Metro Vehicles. The Supplier is also responsible for the homologation of the Metro Vehicles on the network.

Furthermore, Options are requested for:

- The supply of a maximum of 30 additional Metro Vehicles;
- The extension of Metro Vehicles to a maximum of 116.5 metres – this Option also applies for the up to 30 additional Metro Vehicles.

The Signalling & Control (S&C) component for the Metro Vehicles will be supplied by the Contracting Entity to the Supplier of the Metro Vehicles.

### **1.4.5 Requirements for the execution of the Order**

With regard to the Initial Order and the Options, the most important requirements (in broad terms) are as follows:

- length: single Metro Vehicle, maximum approx. 60 metres, two coupled Metro Vehicles, maximum 120 metres;
- width: approx. 3 metres;
- height: maximum 3.8 metres;
- axle load: maximum 12 tonnes (117 kN for EL 6 in accordance with EN 13452-1);
- minimum horizontal curve radius: 78 metres;
- prepared for automatic running (GoA-4);
- boarding height: nominally 1100 millimetres from top of rail;
- based upon existing concept and equipped with technologies that have been proven in practice;
- power supply via catenary (depot) and 3rd rail with 750 V DC;
- low emission of noise and vibrations;
- integration of the Urbalis S&C system of the Amsterdam type from Alstom in the Metro Vehicle;
- execution of the Order in accordance with EN 50126.

#### **1.4.6 Conditions and challenges for executing the Order**

In the vision of the Contracting Entity, successful execution of this Order will depend not only upon the Supplier's quality in terms of the technology, functionality and design of the Metro Vehicle itself, but also upon the quality of the Supplier's process (the quality of managing the supply process from beginning to end), the reliability and maintainability of the Metro Vehicle during operation, and the degree to which environmental pollution is limited during production and throughout the service life of the Metro Vehicle. Furthermore, the Supplier will be expected to consider the (other) aspects of corporate social responsibility (working conditions, integrity and social return).

These aspects are reflected in conditions/requirements (Purchase Agreement including the Functional Requirement Specification (FRS)) and/or as challenges for Candidates in the award criteria.

#### **1.5 Purchase Agreement**

A Purchase Agreement will be concluded for this supply. The draft Purchase Agreement will be provided to the Candidates who qualify for participation in the Consultation Phase. The Functional Requirement Specification (FRS) constitutes part of the (draft) Purchase Agreement.

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## 2 Brief description of the tender procedure

### 2.1.1 Phasing of the tender procedure

The tender procedure will be conducted as a negotiated procedure with prior announcement in accordance with section 3.35 of the Dutch Procurement Act 2012 (Aanbestedingswet 2012) and the Dutch Tendering Regulation for the Utilities Sectors 2016 (Aanbestedingsreglement Nutssectoren 2016; ARN 2016). Paragraph 3.2 includes an overview of the regulations that are applicable to this tender procedure.

The tender procedure will take place in a number of phases, which are shown in the plan below. The dates included are for guidance and may be changed during the tender procedure.

<b>Selection Phase</b>	
Despatch of announcement	9 January 2017
Submission of Applications	14 February 2017
Provisional selection decision	start of March 2017
Legal protection period	March 2017
<b>Consultation phase (max. 5 Candidates)</b>	
Invitation to Consultation Phase	end of March 2017
Individual meetings	May 2017
<b>First Offer Phase (max. 5 Candidates)</b>	
Invitation to First Offer Phase	end of May 2017
Submission of First Offer	start of August 2017
Provisional invitation to Dialogue Phase	October 2017
Legal protection period	October 2017
<b>Dialogue Phase (max. 3 Candidates)</b>	
Dialogue round 1	November 2017
Dialogue round 2	December 2017
<b>Final Offer Phase (max. 3 Candidates)</b>	
Invitation to Final Offer Phase	December 2017
Submission of Final Offer	February 2018
Provisional award decision (appointment of Selected Tenderer)	April 2018
Legal protection period	April/May 2018
<b>Award phase (1 Candidate)</b>	
Signature of contract	End of June 2018

### 2.1.2 Brief description of the tender procedure

#### **Selection Phase**

The tender procedure starts with the Selection Phase. In this phase, the Candidates can qualify for participation in the Consultation Phase and First Offer Phase. The Contracting Entity will, in principle, invite a maximum of five Candidates, to which no exclusion criteria apply and that satisfy the suitability requirements, to participate in the Consultation Phase and First Offer Phase. This Selection Phase is described further in Chapters 4 and 5.

### ***Consultation Phase***

At the start of the Consultation Phase, the FRS and draft Purchase Agreement are provided to the Candidates. Candidates are given the opportunity to ask questions and make (limited) proposals for changes in relation to the FRS during the Consultation Phase. In the Consultation Phase, changes can be made to optimise the FRS and other Tender Documents.

### ***First Offer Phase***

In the First Offer Phase, the Candidates will have to make a First Offer based upon the Tender Documents provided, including the draft Purchase Agreement and the FRS.

After the end of the First Offer Phase, the number of Candidates invited to the next stage of the tender procedure is reduced to a maximum of three. This is done by assessing the Candidates' First Offers on the basis of the qualitative criteria announced in advance (see Chapter 7). The price plays no role in the assessment of this phase. Even if three or fewer Candidates participate in the First Offer Phase, the Candidates will have to submit a First Offer and the First Offers will be assessed by the Contracting Entity.

### ***Dialogue Phase***

In the Dialogue Phase, the Candidates invited to participate in this phase can ask questions, and hold (individual) discussions with the Contracting Entity, about the assessment of the First Offer of the individual Candidate, the FRS and the draft Purchase Agreement. In the Dialogue Phase, possible solutions can be discussed with the Contracting Entity and optimisations made to the Tender Documents. None of the Candidates will drop out in this phase.

### ***Final Offer Phase***

After the Dialogue Phase, the Candidates will be invited to submit a Final Offer. This Final Offer will be assessed on the basis of the criterion 'most economically advantageous tender' (MEAT). Based upon this assessment, the Contracting Entity will appoint one Tenderer (the Selected Tenderer), with whom the Contracting Entity intends to conclude the Purchase Agreement after the expiry of the legal protection period.

The figure below shows a schematic representation of the tender procedure.

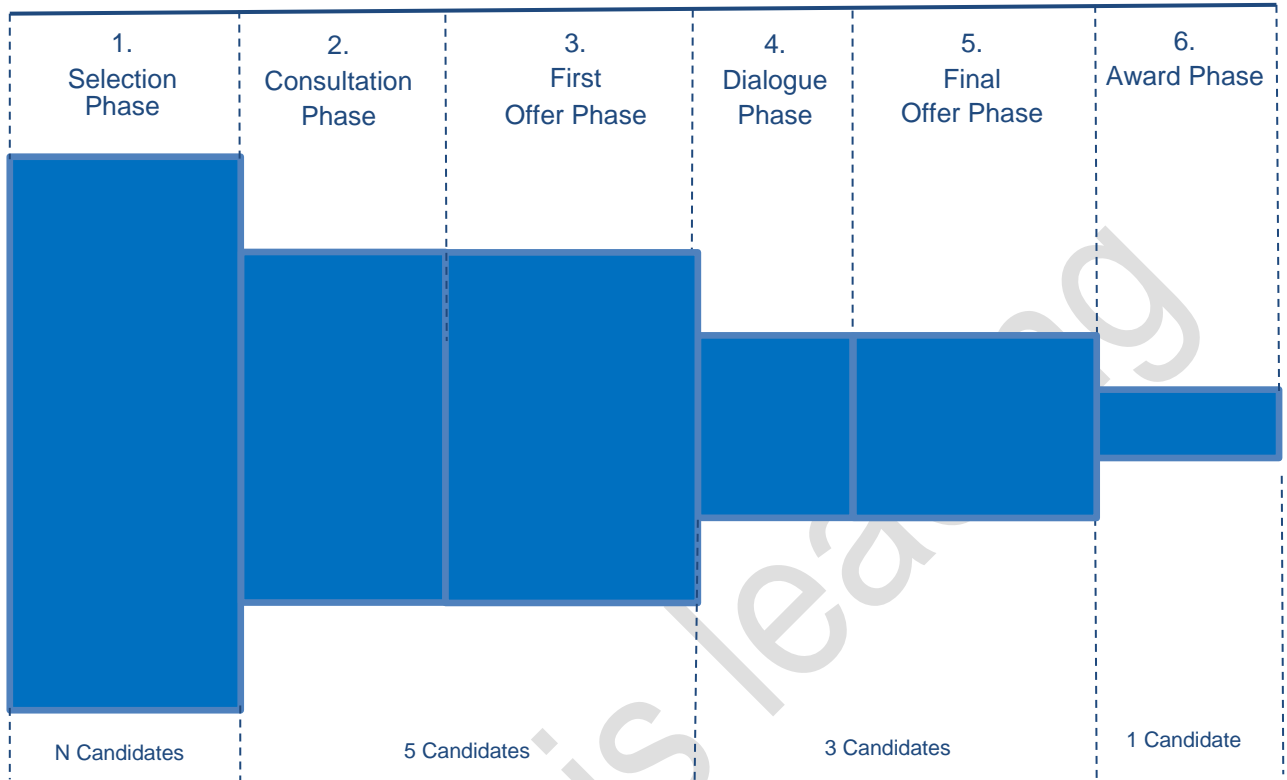


Figure 1: Schematic representation of the tender procedure

## 3 General information

### 3.1 Candidate's declaration of agreement

By submitting the Application, the Candidate declares that it agrees unconditionally with (the intention and content of) the tender procedure described in this Tender Guide.

### 3.2 Applicable regulations

The tender procedure will be conducted in the form of a negotiated procedure with prior announcement (section 3.35 of the Dutch Procurement Act (Aanbestedingswet) 2012).

The following regulations apply to this tender procedure.

- Directive 2014/25/EC of the European Parliament and of the Council of 26 February 2014 (Pb. L 94/243, 28 March 2014) coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC;
- Directive 89/665/EEC of the Council of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, last amended by Directive 2007/66/EC (Pb. L 335/31, 20 December 2007) of the European Parliament and of the Council of 11 December 2007 amending the Directives 89/665/EEC and 92/13/EEC of the Council with regard to the suitability of the review procedures for the award of public contracts;
- Act of 1 November 2012 including new rules regarding tenders (Procurement Act 2012);
- Decree of 11 February 2013 including the regulation of some subjects of the Procurement Act 2012 (Procurement Decree);
- Public Administration (Probity Screening) Act (BIBOB Act as amended in the Official Gazette 2008, 492) and the policy rules for the City of Amsterdam with regard to integrity (Integrity Office Screening Unit);
- The Tendering Regulation for the Utilities Sectors 2016 (Aanbestedingsreglement Nutssectoren 2016; ARN 2016).

A number of elements of this tender procedure deviate from the ARN 2016. If the provisions of this Tender Guide deviate from the provisions of the ARN 2016, the provisions of this Tender Guide shall prevail at all times.

### 3.3 Legal protection - choice of forum

The Contracting Entity will notify the relevant Candidate(s) in writing of any decisions intended to have legal effect within the sense of section 1 paragraph 1 of Directive 89/665/EC.

If a Candidate has any objections to the decision, it must institute preliminary relief proceedings against the Contracting Entity's decision within 20 calendar days of dispatch of the decision by the Contracting Entity. The proceedings are brought from the date of the writ (section 125 of the Dutch Civil Procedures Code).

This period is a time limit. This means that if a Candidate has not actually instituted preliminary relief proceedings within 20 calendar days of dispatch of the decision, the Candidate in question can no

longer appeal against the decision. In that case, the Contracting Entity is also free to (further) implement the decision. In that case, the Candidate in question has also forfeited its rights to claim compensation relating to the decision in proceedings on the merits. After all, this Candidate has, for reasons of its own, not made use of the option of safeguarding its rights by instituting preliminary relief proceedings. It will therefore no longer be possible to base an action for compensation for damages upon this with regard to the decision.

The Contracting Entity would appreciate it if Candidates raise any objections against a decision as quickly as possible, and in any case before actually instituting preliminary relief proceedings, so that the Contracting Entity can respond to these objections. The Contracting Entity however stresses that, in deviation from section 18, ARN 2016, the reporting of an objection against a decision by the Contracting Entity does not suspend or extend the above-mentioned time limit of 20 calendar days.

Every dispute between the parties involved in the tender procedure that arises as a result of the tender procedure to which the Tender Guide is applicable shall be presented to the civil court in Amsterdam.

#### **Complaints procedure**

A Candidate can also choose to follow the complaints procedure. If desired, the complaint can be submitted during or after the expiry of the tender procedure. A complaint can be submitted to the contact for this tender (see paragraph 1.3), who will ensure that the complaint finds its way to a complaints coordinator for the City of Amsterdam.

The complaints procedure has no suspensive effect. Following the complaints procedure does not affect the deadlines and consequences described in the above clauses of this paragraph 3.3.

### **3.4 Aborting the procedure – withdrawal of Candidates**

The Contracting Entity can abort the tender procedure early.

If the Contracting Entity aborts the tender procedure after the Selection Phase, the Contracting Entity will possibly – depending upon the stage that the tender procedure is at and the efforts made by the Candidates up to that point – pay a fee to be freely determined by the Contracting Entity for the costs incurred by the Candidate. Candidates cannot derive rights to any reimbursement from this provision.

Candidates may, up to the submission of the Final Offer, withdraw from the tender procedure without owing the Contracting Entity compensation for damages.

Candidates who are invited to participate in the next phase of the tender procedure, but who nevertheless withdraw, have no right to any compensation for the design costs or other costs.

### **3.5 Announcement and Notice**

The announcement is sent to TenderNed on 9 January 2017 and, via this internet site, sent directly to the Official Journal of the European Union (TED).

### **3.6 Language**

The language in which this tender procedure is conducted is Dutch. Unless stated otherwise, or specified otherwise in writing by the Contracting Entity in the subsequent tender procedure, all documents that the Candidates submit to the Contracting Entity must be in Dutch.

Information relating to reference orders (Annex 3.5 Specimen declaration of experience in terms of technical and organisational competence and declarations of satisfaction from client reference orders) may also be submitted in English.

This Tender Guide and the Functional Requirement Specification will also be provided to the Candidates in English. The Dutch version of these Tender Documents will take precedence at all times and the Candidates can derive no rights from the English versions provided.

### **3.7 Ceiling Price and (abnormally) low Tender Sum**

#### **3.7.1 Ceiling Price**

The Initial Order Tender Sum in the Final Offer may not exceed the Ceiling Price of EUR 168,000,000 excluding VAT.

The First Offers shall not yet include any Tender Sums or prices for the Initial Order or the Options. A First Offer that includes a Tender Sum or a price for the Initial Order or the Options can be discarded by the Contracting Entity.

However, when the Candidate submits the First Offer it will be asked to declare that it believes it is possible to produce a Final Offer for which the Tender Sum is the same as or lower than the stated Ceiling Price.

Final Offers with a Tender Sum exceeding the Ceiling Price are invalid and will be discarded.

The Contracting Entity reserves the right to adjust the Ceiling Price during the tender procedure. Candidates will always be informed of a change of the Ceiling Price in good time.

#### **3.7.2 (Abnormally) low Tender Sum**

A Tender Sum for the Initial Order lower than EUR 134,000,000 will (in any event) be assumed to be abnormally low, as referred to in section 3.74 in conjunction with 2.116 AW. A Tender Sum of this kind needs to be substantiated by the Candidate in the Final Offer.

The Contracting Entity reserves the right to reject a Final Offer with a Tender Sum that is below this announced minimum amount if the substantiation given by the Candidate is – in the opinion of Contracting Entity – insufficient to ensure that the Order will be executed properly and/or if the Contracting Entity has, despite this substantiation, valid reasons to suspect that the low Tender Sum will lead to problems of any kind during the execution of the Order.

### **3.8 Confidentiality and Intellectual Property Rights**

#### **3.8.1 Confidentiality to be observed by the Candidates**

By participating in the tender procedure, the Candidates undertake to keep confidential all information that they receive from the Contracting Entity – unless this is available in the public domain – and not disclose it to third parties. A Candidate may provide such information to parties it relies upon in the context of this tender and in the fulfilment of the Order only if and to the extent that this is necessary for the proper preparation and production of a First Offer and/or a Final Offer. The above-mentioned confidentiality obligation then also applies for this third party. This obligation does not apply if the Tender Documents or other announcements by the Contracting Entity expressly state otherwise.

#### **3.8.2 Confidentiality to be observed by the Contracting Entity and intellectual property rights**

The following are classified as confidential:

- a) Reference information and (First and Final) Offers;
- b) Confidential Information as referred to in paragraph 3.9;
- c) All other information that is confidential by virtue of its nature.

Confidential information will be treated as such by the Contracting Entity. The Contracting Entity will therefore not disclose confidential information to third parties – including other Candidates – unless and to the extent that the Contracting Entity can reasonably be deemed to be compelled to disclose this information on the basis of any legal obligation, to prevent legal proceedings, or in the context of legal proceedings. Before the Contracting Entity discloses confidential information to third parties in these situations, it will consult the Candidate in question about the manner of disclosure that is least objectionable to the latter, without prejudice to the fulfilment of the above-mentioned obligations by the Contracting Entity.

Participating in the tender procedure does not cause any intellectual property rights held by the Candidates to be transferred to the Contracting Entity unless agreed otherwise.

### **3.9 General and Confidential Information**

During the tender procedure the Candidates can ask the Contracting Entity for information about the Order and the Tender Documents. Requests for information can result in the Contracting Entity issuing General Information or Confidential Information.

The Contracting Entity can also provide information to the Candidates on its own initiative.

The Contracting Entity will state the final date by which requests for information can be submitted for each phase in the tender procedure.

### **3.9.1 General Information**

In principle, the Contracting Entity will respond to requests for information by issuing General Information. General Information consists of changes, elaborations and explanations with the same wording and application for each Candidate, or other types of information about the Order or the Tender Documents.

If the Contracting Entity responds to a request for information from a Candidate by issuing General Information, the Contracting Entity will display this request for information in anonymised form and respond in a manner accessible to all the Candidates.

### **3.9.2 Confidential Information**

A Candidate can request, giving reasons, that the Contracting Entity respond to certain requests for information in the form of Confidential Information, rather than General Information, if publication of the requested information would damage the legitimate economic interests of the Candidate. The Contracting Entity shall decide on such a request.

If the Contracting Entity grants this request, it will make such information available exclusively to the Candidate in question by means of Confidential Information. If the Contracting Entity rejects this request, it will announce this and will not provide Confidential Information based upon this request. In that case, the Contracting Entity will also not provide any General Information in which commercially sensitive information is disclosed.

If the implemented or proposed solutions are only possible by the amendment of the Order or the Tender Documents, and the Contracting Entity is of the opinion that such an amendment is in its interests, the Contracting Entity can issue General Information containing an amendment to the Order or the Tender documents. The Contracting Entity will consult the Candidate who made the request for information about the formulation of the General Information. The Candidate will be able to make a proposal to the Contracting Entity regarding the formulation of the General Information.

If this consultation does not lead to agreement about the formulation of the General Information to be provided, the Candidate in question may withdraw its request for (Confidential) Information and the Contracting Entity will provide no Confidential Information in response to this (withdrawn) request nor will it provide any General Information in which commercially sensitive information is disclosed.

### **3.10 Communication**

The Candidates are not permitted to communicate about the tender and the Order with the Contracting Entity's staff and advisors and other (legal) persons who are involved in the tender and the preparation of the Order on behalf of the Contracting Entity (including employees of the City of Amsterdam and Stadsregio Amsterdam), in any other manner than that described in this Tender Guide, except with the written permission of the Contracting Entity.

Candidates shall submit requests for this written permission to the Contracting Entity in the form of a request for information.

Candidates who act in contravention of the provisions of this paragraph can be excluded from (further) participation in the tender.

### **3.11 Digital system for data exchange (Negometrix)**

The Contracting Entity has set up a digital environment for data exchange for this tender procedure via the web-based platform Negometrix. From the start of the Consultation Phase and First Offer Phase, communication between the Contracting Entity and the Candidates, including the submission of requests for information by the Candidates and the provision of information by the Contracting Entity, shall normally take place via Negometrix. Candidates who are invited to the Consultation Phase and First Offer Phase will receive further instructions for the use of Negometrix.

In the Selection Phase, the communication between Candidate and Contracting Entity will *not* take place via Negometrix, but will take place in the manner described in Chapter 4 of the Tender Guide.

Likewise, Applications and Offers should *not* take place via Negometrix. Applications and Offers shall be submitted to the Contracting Entity in the manner specified in Chapter 4 of this Tender Guide.

### **3.12 Conflict of interests**

The Contracting Entity can exclude a Candidate from (further) participation in the tender if this Candidate is or has been involved in the preparation of the tender on behalf of the Contracting Entity, or if the Candidate is assisted in the tender by companies, advisors, staff and other (legal) persons who are or have been involved with the tender in this way. The same applies if (legal) persons from the Candidate's group are or have been involved in this way.

The Contracting Entity will not exclude a Candidate if the Candidate demonstrates that, under the circumstances of the specific case, competition is not and has not been obstructed by the above-mentioned involvement.

### **3.13 Contribution towards costs**

The Contracting Entity will pay each Tenderer that meets the set conditions and has submitted a valid Final Offer, but has not been classified as a Selected Tenderer, a contribution to the costs it has incurred in the Dialogue Phase and the costs relating to the Final Offer. The level of this amount will be announced in the Tender Guide for the Consultation Phase and First Offer Phase.

The Contracting Entity will not pay any contribution to Candidates who are not invited to the First Offer Phase or to Candidates who are not invited to the Dialogue Phase.

## **4 Selection Phase – exclusion criteria and suitability requirements**

### **4.1 General**

The Contracting Entity will assess the Candidates that submit an Application using the exclusion criteria and suitability requirements described in this chapter. The possible selection of a maximum of five parties that are approved for the Consultation Phase and First Offer Phase will take place on the basis of further selection criteria. These are described in Chapter 5.

The Candidate shall satisfy the requirements in this chapter, fully complete the specimens in Annex 3, be authorised to sign, and also append the documents listed in Annex 2. Incomplete and/or incorrect filling in of these forms and/or the failure to provide the documents listed in Annex 2 can lead to exclusion from participation in the tender procedure.

### **4.2 Applications**

Candidates can submit (hand in) or have another party submit (hand in) their Applications marked “Aanmelding aanbestedingsprocedure Metromaterieel M7” (Application for tender procedure for M7 Metro Rolling Stock) on 14 February 2017 from 9 am to 12 noon to the office address stated in paragraph 1.3. The time of 12 noon on 14 February 2017 is the latest time for the submission of the Application. Applications that are not received by the Contracting Entity by this time at the latest are invalid and will not be processed by the Contracting Entity. Candidates who wish to submit their Application earlier than the period on 14 February 2017 mentioned above shall reach an agreement on this with the Contracting Entity via the email address mentioned in paragraph 1.3 of this Tender Guide.

The Application shall be submitted as follows:

1. One original paper copy of all documents to be submitted in accordance with the overview for each tab as included in Annex 2;
2. One paper copy of the documents referred to under 1; and
3. One digital version in pdf format on DVD-R (non overwritable).

The application must be structured identically to the specimens in Annex 3 and signed by an authorised representative.

### **4.3 Involvement of (legal) persons**

(Legal) persons may only make one application as a Candidate, and may only be involved as an Important Subcontractor via one Candidate, unless they can demonstrate that competition is not or will not be affected by applying more than once directly or via another Candidate as an Important Subcontractor.

For the application of this provision, (legal) persons that comply with the conditions below will, in any event, be regarded as a single (legal) person:

- a) (legal) persons who are allied to each other in a manner as referred to in section 2:24a of the Dutch Civil Code; or
- b) (legal) persons who are connected to each other in a group as referred to in section 2:24b of the Dutch Civil Code; or
- c) (legal) persons who are allied to each other under foreign law in a manner comparable to that described under subparagraph 1 or 2.

#### **4.4 Candidates**

Candidates can register as:

- a) A single (legal) person;
- b) A Syndicate (two or more (legal) persons).

In the case of a Syndicate, one of the syndicate members must be appointed as the coordinator using the specimen form 'Application as a Syndicate' under A2 in Annex 3.2. The coordinator must be able to legally represent the other (legal) persons who have registered in all matters relating to this tender procedure. Furthermore, the syndicate members shall declare that they will accept joint and several liability for the obligations arising from any Purchase Agreement for M7 Metro Rolling Stock to be awarded to the Syndicate.

#### **4.5 Deadline for requests for information in the Selection Phase**

Candidates can submit requests for information in the Selection Phase by email to the email address **M7@gvb.nl** by **27 January 2017** at the latest using the Word file in accordance with the format included in Annex 4.

Requests submitted after this deadline will not, in principle, be processed by the Contracting Entity.

The Contracting Entity will provide the General and Confidential Information, in response to requests submitted on time, by 3 February 2017 at the latest.

#### **4.6 Competition regulations**

Perhaps unnecessarily, the Contracting Entity draws the Candidate's attention to the fact that agreements or concerted practices for the purpose of, or resulting in, the full or partial obstruction, restriction or distortion of competition on the Dutch or European market are forbidden.

The Contracting Entity reserves the right, in the case of Candidates that the Contracting Entity suspects of having acted in contravention of the Competition Act (Mededingingswet) and/or other competition regulations, to notify the Consumers and Markets Authority (Autoriteit Consument en Markt) (ACM) and/or to exclude these Candidates from further participation in the tender procedure.

## **4.7 Demonstration of compliance with suitability requirements**

### **4.7.1 General**

Candidates must demonstrate that they satisfy the suitability requirements set down in paragraphs 4.9 and 4.10 inclusive either on their own account or by relying, wholly or partially, upon the strength and/or competence of one (or more) third parties.

### **4.7.2 Relying upon a third party or third parties: Important Subcontractors**

A (legal) person, whose strength and/or competence is relied upon by a Candidate to satisfy one or more suitability requirements and/or further selection criteria, is classed as an Important Subcontractor regardless of the company-law relationships between the Candidate and the (legal) person upon whose strength or **competence** it relies.

NB: This means that a (legal) person belonging to the same group as the Candidate, such as a subsidiary, sister company or parent company, is also classed as an Important Subcontractor if the Candidate relies upon the strength and/or competence of this (legal) person.

If a Candidate relies upon one (or more) third parties – Important Subcontractor(s) – it shall demonstrate in the submission of its Application that it actually has access to the relevant means of the third party or third parties. To this end, the Important Subcontractor in question shall fill in the attached specimen Important Subcontractor's Declaration (Annex 3.3). The completed Important Subcontractor's Declaration(s) shall be submitted with the Application. Furthermore, the Candidate shall submit the completed Uniform European Tender Document for each Important Subcontractor (see paragraph 4.8.3 below).

The Important Subcontractor(s) whose technical and/or organisational competence is relied upon shall actually be deployed by the Candidate in the execution of the Order. The Important Subcontractor(s) whose financial and economic strength is relied upon shall accept joint and several liability for the fulfilment of the obligations arising from any Purchase Agreement for M7 Rolling Stock to be awarded to the Candidate (see paragraph 4.9).

The provisions of this paragraph deviate from and replace the provisions in section 11 ARN 2016.

### **4.7.3 Experience gained in a syndicate**

A Candidate can only rely upon experience gained in a syndicate – whether on its own behalf or through one (or more) Important Subcontractor(s) – if the Candidate, or one of the syndicate members of the Candidate, or the Important Subcontractor, was actually involved in the execution of the activities that are relevant in the light of the suitability requirement stipulated in paragraph 4.10.1.

## **4.8 Exclusion Criteria**

### **4.8.1 Compulsory exclusion criteria**

The Contracting Entity shall exclude from participation or involvement in the tender procedure every Candidate or Important Subcontractor to which one or more of the circumstances as referred to in section 80 paragraph 1 of Directive 2014/25/EC in conjunction with section 57, paragraphs 1 and 2 of Directive 2014/24/EC, as further elaborated upon in the Netherlands in section 2.86 of the Dutch Procurement Act (Aanbestedingswet) 2012 or as further elaborated upon in the national legislation of other states, are applicable.

### **4.8.2 Optional exclusion criteria**

The Contracting Entity can exclude from participation or involvement in the tender procedure every Candidate or Important Subcontractor to which one of the circumstances as referred to in section 8 paragraph 1 of Directive 2014/25/EC in conjunction with section 57 paragraph 4 of Directive 2004/24/EC as implemented in section 2.87 of the Dutch Procurement Act (Aanbestedingswet) 2012 is applicable.

### **4.8.3 Uniform European Tender Document (candidate's declaration)**

As evidence that no exclusion criterion, as described in paragraphs 4.8.1 and 4.8.2, applies the Candidate shall complete and legally sign the Uniform European Tender Document (Annex 3.4) and submit this with its Application. Part III, sections A, B and C of the Uniform European Tender Document relates to the exclusion criteria as referred to in paragraphs 4.8.1 and 4.8.2.

If the Candidate is a Syndicate this requirement applies for each syndicate member.

If the candidate relies upon the strength and/or competence of one or more Important Subcontractors to fulfil the requirements with regard to financial and economic strength and/or technical and organisational competence, all Important Subcontractors shall submit the Uniform European Tender Document (Annex 3.4). Please refer to the specimen of the Uniform European Tender Document (UET, Part II, after C) for the information to be filled in by the Important Subcontractor(s).

If the Candidate, syndicate member or Important Subcontractor fails to fill in the Uniform European Tender Document truthfully, this can lead to the exclusion of the Candidate from participation in the (further) tender procedure.

The Candidate and Important Subcontractor are required to continue to comply with the declarations throughout the entire tender. If – in the course of the tender – an exclusion criteria as referred to in paragraphs 4.8.1 and 4.8.2 becomes applicable to a Candidate or Important Subcontractor, the Candidate must notify the Contracting Entity of that fact immediately and in writing.

*NB: The Uniform European Tender Document (UEA) has replaced the Dutch specimen Candidate's Declaration. The purpose and question of the UEA is different from that of the old Dutch specimen Candidate's Declaration. You should therefore allow sufficient time to complete it.*

*It is not yet possible to lock information filled in, and options selected, by the Contracting Entity itself. Therefore take care when completing the form. The information filled in, and options selected, by the Contracting Entity shall not be changed by the Candidate. Digital signature of the Uniform European Tender Document is likewise not yet possible. The Uniform European Tender Document shall therefore be signed in pen.*

#### **4.8.4 Documentary evidence**

The Contracting Entity can ask the Candidate at any time to hand over documentary evidence regarding the information provided in the Uniform European Tender Document. The Contracting Entity shall in any case ask the Candidates that are invited to the Dialogue Phase to submit the documentary evidence in accordance with section 2.89 of the Procurement Act (Aanbestedingswet):

- a Certificate of Good Conduct for Tendering (CGCT) that is no older than 2 years old on the deadline for the submission of the Application.
- an extract from the trade register that is no older than 6 months old on the deadline for the submission of the Application.
- a declaration from the tax authority that is no older than 6 months old on the deadline for the submission of the Application.

This documentary evidence shall be received by the Contracting Entity within the period stated in the request, which shall be at least 7 calendar days.

The Contracting Entity also accepts documentary evidence from the country of origin that serves an equivalent purpose. If a declaration comparable to the CGCT is not issued by the country of origin, a sworn declaration or a formal declaration made in the presence of a competent judicial or administrative authority, a notary or a competent professional association of the country of origin will suffice.

Failure to submit this documentary evidence, or to submit it on time, can lead to exclusion from the tender procedure. The Contracting Entity emphasises that some of the institutions in question may have a long application period for certain documentary evidence and, with this in mind, it is the Candidate's responsibility to anticipate the Contracting Entity's request to provide documentary evidence within the period set by the Contracting Entity, which shall be at least 7 calendar days.

The Contracting Entity furthermore reserves the right to ask the Candidates or Important Subcontractors to submit the above-mentioned documentary evidence earlier.

#### **4.8.5 Exclusion**

If the Candidate cannot demonstrate that the exclusion criteria as referred to in paragraphs 4.8.1 and 4.8.2 are not applicable to it or to its Important Subcontractor(s), it can be excluded from (further) participation in the tender.

The Contracting Entity can refrain from exclusion due to the circumstances described in section 2.88 and 2.86a AW of the Procurement Act (Aanbestedingswet). The Contracting Entity shall give a

Candidate to which an exclusion criteria applies the opportunity to demonstrate that it has taken sufficient measures to demonstrate its reliability in accordance with section 2.87a of the Procurement Act (Aanbestedingswet).

Candidates that, in the opinion of the Contracting Entity, act in contravention of the provisions or requirements set down in the Tender Documents can be excluded from (further) participation in the tender.

If it is found at any moment that a Candidate has provided incorrect information, the Candidate can be excluded from (further) participation in the tender.

If the Contracting Entity excludes an Important Subcontractor from involvement in this tender procedure, the Candidate in question shall be given the opportunity to submit a change proposal to the Contracting Entity within 2 calendar days for the replacement of the Important Subcontractor in question.

Candidates that are excluded on the basis of the provisions of this paragraph shall receive no compensation.

#### **4.8.6 Integrity and the Integrity Office Screening Unit**

It is important to the Contracting Entity that the companies with which orders are placed can pass a particular test in the field of integrity, economic and financial strength and technical or professional competence. It therefore screens these companies. It does this using the Uniform European Tender Document (Annex 3.4).

The Contracting Entity will ask the Candidates that are invited to the Dialogue Phase to substantiate the Uniform European Tender Document by providing documentary evidence. The Uniform European Tender Document and the supplied documentary evidence will be provided to the Screening Unit of the Integrity Office of the City of Amsterdam for a further investigation.

The outcome of the screening can result in the Candidate being excluded on the basis of the exclusion criteria as referred to in paragraphs 4.8.1 and 4.8.2, due to it not or no longer complying with the suitability requirements, or due to extra monitoring measures being incorporated into the Purchase Agreement.

By submitting an Application, the Candidate agrees to the performance of the integrity screening and any extra monitoring measures that follow from this. All information provided by the Candidate may be checked by the Contracting Entity. The provision of incorrect information, the failure to provide information or the provision of information too late, as well as the failure to cooperate with the checking of the information provided after a request to this effect by the Contracting Entity, can lead to exclusion. A positive screening outcome is always a precondition for the award of the Order.

#### **4.8.7 BIBOB Consultancy Agency**

If the Contracting Entity has indications that a Candidate or Important Subcontractor is in one or more of the circumstances mentioned in paragraphs 4.8.1 and 4.8.2, but insufficient information is available to

justify exclusion from participation or further involvement, the Contracting Entity can ask for advice from the BIBOB Agency (see section 8 of the Public Administration (Probity Screening) Act (BIBOB Act)). The Contracting Entity will notify the Candidate or Important Subcontractor about which advice has been requested of the content of that advice.

#### **4.8.8 Subcontracting**

Candidates shall bear in mind that the Buyer will demand, during the execution of the Purchase Agreement, that the Supplier be in possession of a declaration for subcontractors (other than Important Subcontractors) that perform work or provide goods or services with a value greater than the applicable threshold as referred to in Directive 2014/25/EC, completed and signed by the subcontractor, showing that no exclusion criteria, as referred to in paragraphs 4.8.1 and 4.8.2, exist in relation to the subcontractor in question.

#### **4.9 Financial/economic strength**

Candidates must have sufficient financial and economic strength to be able to execute the Order. The Candidate must state, by means of the Uniform European Tender Document (UEA, annex 4) that must be submitted with the Application, that it complies with this requirement (see part IV UEA). The Candidates are required to continue to comply with this declaration throughout the entire tender.

Throughout the tendering procedure the Contracting Entity can ask the Candidates to submit documentary evidence regarding financial and economic strength at any time. If the Candidate is a syndicate, all syndicate members shall submit this documentary evidence.

The following can be requested as documentary evidence:

- the full annual accounts over the most recent 3 accounting years; and
- an accountant's declaration from a chartered accountant or an authorised accounting consultant (under section 2:393, paragraph Dutch Civil Code or comparable) with approved scope, and without an explanatory paragraph due to (serious) uncertainty regarding continuity (continuity paragraph). The accountant's declaration relates to the most recently approved and/or adopted financial statement. This declaration must show that (a) the financial statement gives a true impression of the assets and losses/profits and (b) there is no reasonable doubt about the continuity of the Candidate's business operations.

If a Candidate or syndicate member does not have its own financial statement, but has a consolidated financial statement for the group of which it is part, the following shall be submitted as documentary evidence:

- the full consolidated financial statements over the most recent 3 accounting years; and
- an accountant's declaration from a chartered accountant or an authorised accounting consultant (under section 2:393, paragraph Dutch Civil Code or comparable) with approved scope, and without an explanatory paragraph due to (serious) uncertainty regarding continuity (continuity paragraph). The accountant's declaration relates to the most recently approved and/or adopted consolidated financial statement. This declaration must show that (a) the financial statement gives

a true impression of the assets and profits and (b) there is no reasonable doubt about the continuity of the Candidate's business operations.

- a declaration from the (highest) parent company of the group in which this parent company accepts joint and several liability for compliance with the obligations arising from any Purchase Agreement for M7 Rolling Stock to be awarded to the Candidate in accordance with the specimen supplied in Annex 6.

If the Candidate or syndicate member relies upon the strength of a third party to comply with this requirement regarding financial and economic strength, this third party is classed as an Important Subcontractor (see also paragraph 4.7.2). In that case a Candidate or syndicate member shall append the following to the above documentary evidence:

- a declaration in which this third party accepts joint and several liability for compliance with the obligations arising from any Purchase Agreement for M7 Rolling Stock to be awarded to the Candidate in accordance with the specimen supplied in Annex 6.

The Contracting Entity can also present the documentary evidence to the Screening Unit of the Integrity Office of the City of Amsterdam for checking, whereby the provisions of paragraph 4.8.6 are applicable.

After a request by the Contracting Entity, the documentary evidence referred to in this paragraph shall be received within the period stated by the Contracting Entity, which shall be at least 7 calendar days.

Failure to submit this documentary evidence, or to submit it in time, can lead to exclusion from the (further) tender procedure.

Furthermore, Candidates shall bear in mind that once the Order has been placed the Supplier will have to provide security in the form of bank guarantees before the first payments are made by the Buyer.

## **4.10 Technical and organisational competence**

### **4.10.1 Experience requirement regarding the design, production and supply of Metro Vehicles**

The Candidate shall demonstrate that it actually has access to the following experience for the execution of the Order:

*The Candidate shall have performed or be currently performing at least one reference order regarding the design, production and supply of a series of at least ten Metro Vehicles. This reference order shall comply with the following (cumulative) requirements:*

- a) the number of Metro Vehicles supplied on the basis of the reference order in the ten years prior to the latest date for the submission of the Application (see paragraph 4.2) that have been in passenger service for at least one year is at least five units; and*
- b) the Metro Vehicles referred to under a) have a continuous flat high floor and bogies, and are in passenger service with a signalling and control system of at least GoA level 1 (in accordance with EN-IEC-62290-1);*

- c) *The Candidate was charged with the day-to-day organisation and leadership (the project management) for the execution of the whole reference order as referred to in this experience requirement;*

*The term “Metro Vehicle” in the context of this suitability requirement (in accordance with the definition in Annex 1) means the following: an electrically driven rail vehicle (electrical multiple unit) designed for passenger service in an urban environment, equipped with a signalling and control system and suitable for running in tunnels and stopping at underground stations (“Operation category” -2 and “Standard Vehicle” N: “HL2” in accordance with EN 45545 or comparable and equivalent).*

The Candidate must demonstrate by the submission of a completed and signed declaration in accordance with Annex 3.5 that it complies with this suitability requirement. The Contracting Entity permits Candidates to submit (at most) one reference order with which the Candidate wishes to demonstrate that it complies with the above-mentioned experience requirement. If the reference order submitted demonstrates that the Candidate satisfies the experience requirement set down in this paragraph and there is a further selection, this reference order will also be assessed on the basis of the criteria for further selection 1 to 3 of paragraph 5.2.

Each reference order shall be accompanied by a declaration of satisfaction from the client for the reference order in question.

The Contracting Entity reserves the right to verify the validity of the references provided. The Candidate must cooperate in this. The process of verification by the Contracting Entity may lead to a reference project being excluded.

If the Candidate consists of two or more (legal) persons (syndicate members), then it shall suffice if one of the syndicate members, or the syndicate members jointly, comply with the above-mentioned experience requirement.

If the Candidate or syndicate member relies upon the strength of a third party to comply with this experience requirement, this third party will be classed as an Important Subcontractor (see also paragraph 4.7.2).

#### **4.10.2 Quality management system requirement**

The Candidate shall demonstrate that it has a certified quality management system on the basis of NEN-EN-9001 or an equivalent standard.

The Candidate shall declare in its Application, using the Uniform European Tender Document (Annex 3.4), that it has such a certified quality management system.

The Contracting Entity can ask the Candidates that are invited to the Consultation Phase and First Offer Phase to demonstrate the correctness of this aspect of the Uniform European Tender Document by the submission of proof of certification.

If the Candidate itself does not have a certified quality management system on the basis of NEN-EN 9001 or an equivalent standard, the Candidate can only rely upon a third party (Important Subcontractor) to fulfil this requirement if the Candidate demonstrates that the whole of the Order will be carried out under the applicability of the quality management system of the Important Subcontractor in question.

If the Candidate consists of two or more (legal) persons (syndicate members), all syndicate members shall have a certified quality management system on the basis of NEN-EN 9001 or an equivalent standard.

#### **4.10.3 Environmental management system requirement**

During the execution of the Order, the Candidate shall actually possess a certified environmental management system on the basis of ISO 14001 or an equivalent standard.

The Candidate shall declare in its Application, using the Uniform European Tender Document (Annex 3.4), that it will actually have a certified environmental management system on the basis of ISO 14001 *during the execution of the Order*.

The Contracting Entity can ask the Candidates that are invited to the Consultation Phase and First Offer Phase to demonstrate the correctness of this aspect of the Uniform European Tender Document by the submission of proof of certification or proof of planning of a certification process showing that the Candidate will be in a position to hold such a certificate at the envisaged time of award of the Order.

If the Candidate itself is not in a position to hold a certified environmental management system on the basis of ISO 14001 or an equivalent standard during the execution of the Order, the Candidate can only rely upon a third party (Important Subcontractor) to fulfil this requirement if the Candidate demonstrates that the whole of the Order will be carried out under the applicability of the environmental management system of the Important Subcontractor in question.

If the Candidate consists of two or more (legal) persons (syndicate members), all syndicate members shall have a certified environmental management system on the basis of (NEN-EN) ISO 14001 or an equivalent standard during the execution of the Order.

#### **4.10.4 Non-compliance with suitability requirements**

If the Candidate cannot demonstrate that it, including its Important Subcontractor(s), complies with the suitability requirements in paragraph 4.9 and 4.10, it can be excluded from (further) participation in the tender. The Candidate, including Important Subcontractor(s), is required to continue to comply with the suitability requirements throughout the entire tender.

If an Important Subcontractor is found not to comply with the suitability requirement in connection with which the Important Subcontractor in question is relied upon, the Candidate in question will be given the opportunity to submit a change proposal to the Contracting Entity within 2 calendar days for the replacement of the Important Subcontractor in question.

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## 5 Selection Phase – Further selection

### 5.1 General

If more than five Candidate that are not excluded on the basis of the exclusion criteria listed in paragraph 4.8 and that comply with the suitability requirements in paragraphs 4.9 and 4.10 have submitted an Application, further selection will take place. The aim of the further selection is to bring the number of Candidates down to the five who are deemed to have the most suitable experience for the proper execution of the Order, and to invite these Candidates to the next phase of the tender procedure.

The selection takes place on the basis of the reference order submitted by the Candidates for the benefit of the suitability requirement of Section 4.10.1 and the extra reference orders submitted for further selection, using the further selection criteria listed below.

For each further selection criterion, the Candidate is requested to provide an explanation of the reference order and the relevance of the experience gained for the criterion in question. The Contracting Entity emphasizes that it is up to the Candidate to clearly express and substantiate the relevance of the experience so that it is demonstrated that the reference is in keeping with the criterion in question.

### 5.2 Criteria for further selection and assessment

The Contracting Entity will rate the compliance with the further selection criteria on the basis of points. A **maximum of 24 points** can be obtained. Further selection takes place on the basis of the following criteria:

1. *If the reference order that the Candidate has submitted to comply with the minimum requirement in the field of technical and organisational competence (from paragraph 4.10.1) was performed with a Safety Case that has a statement from an ISA (Independent Safety Assessor) and this ISA is accredited on the basis of EN-ISO/IEC 17020, **5 points** will be awarded to the Candidate.*
2. *If the Metro Vehicles that are the subject of the reference order as referred to under point 1 of this paragraph are in passenger service at:*
  - *GoA level 2 (in accordance with EN-IEC-62290-1): **3 points***
  - *GoA level 3 of level 4 (in accordance with EN-IEC-62290-1): **6 points****For the award of points on the basis of this criterion 2, the highest GOA level applies that is applicable to Metro Vehicles. A maximum of **6 points** can be obtained based upon this criterion 2.*
3. *If, during the execution of the reference referred to under point 1 of this paragraph, the standard EN 50126 can be shown to have been applied throughout the entire process from design up to and including commissioning, **4 points** will be awarded to the Candidate.*

4. *If, in addition to the reference order referred to under criterion 1 that has already been submitted, the Candidate has carried out extra reference orders that relate to (a) series of at least five supplied Metro Vehicles, the Candidate shall be considered for extra points. Taken cumulatively, each extra reference order shall comply with the following requirements:*
- *in the period of seven years before the latest date for the submission of the Application (see paragraph 4.2), at least five Metro Vehicles shall have been approved for use on the client's metro network or the metro network upon which this client operates services or has another party operate services;*
  - *The Candidate was charged with the day-to-day organisation and leadership (the project management) for the execution of the whole reference order as referred to in this criterion;*
  - *the reference order relates to Metro Vehicles that are approved on a metro network that is not mentioned in another reference order for which points have been awarded in connection with the further selection criteria 1 to 4 inclusive (if nevertheless there are two (or more) reference orders that relate to Metro Vehicles for the same metro network, only the reference order to which the highest number of points is awarded on the basis of the further selection criteria 1 to 4 inclusive will be taken into account; the other reference order(s) will be disregarded for the further selection);*
  - *the Candidate's reference order was performed on behalf of a client that is not mentioned in another reference for which points have been awarded in connection with the further selection criteria 1 to 4 inclusive (if nevertheless there are two (or more) reference orders that were performed for the same client, only the reference order to which the highest number of points is awarded on the basis of the further selection criteria 1 to 4 inclusive will be taken into account; the other reference order(s) will be disregarded for the further selection); and*
  - *the reference order shall be accompanied by a declaration of satisfaction from the client for the reference order in question.*

*The Candidate may submit a maximum of three (3) extra reference orders for assessment based upon this criterion 4.*

*For each extra reference order submitted that complies with all the requirements above, **1 point** will be awarded.*

*Furthermore, the following points will be awarded for this criterion 4:*

- **1 bonus point** *if the extra reference order complies with all the above requirements and the Metro Vehicles run in service at GoA level 2 (in accordance with EN-IEC-62290-1); or*
- **2 bonus points** *if the extra reference order complies with all the above requirements and the Metro Vehicles run in service at GoA level 3 or level 4 (in accordance with EN-IEC-62290-1).*

*For the award of bonus points the highest GOA level applies that is applicable to the Metro Vehicles. For each extra reference order therefore a **maximum of 3 points** (1 point and a maximum of 2 bonus points) can be obtained. Because the Candidate may submit a maximum of three extra reference orders, a **maximum of 9 points** can be achieved for this criterion 4.*

*The term "Metro Vehicle" in the sense of these further selection criteria (in accordance with the definition in Annex 1) means: an electrically driven rail vehicle (electrical multiple unit) designed for passenger service in an urban environment, equipped with a signalling and control system and suitable for running in tunnels and stopping at underground stations ("Operation category" -2 and "Standard Vehicle" N: "HL2" in accordance with EN 45545 or comparable and equivalent).*

If the Candidate relies upon the strength of a third party to comply with this experience requirement, this third party will be classed as an Important Subcontractor (see also paragraph 4.7.2).

The Contracting Entity reserves the right to verify the validity of the references provided. The Candidate must cooperate in this. The process of verification by the Contracting Entity may lead to a reference order being excluded or being given fewer points.

If more than five Candidates receive the same number of points and therefore come into consideration for the next phase of the tender procedure, the Contracting Entity shall extend the selection to six (or more) Candidates.

### **5.3 Invitation to Consultation Phase and First Offer Phase**

If the number of Candidates that are not excluded on the basis of the exclusion criteria referred to in paragraph 4.8 and that comply with the suitability requirements in paragraphs 4.9 and 4.10 is five or fewer, all Candidates that are suitable and have not been excluded will be invited to participate in the Consultation Phase and First Offer Phase.

If there is a further selection on the basis of paragraph 4.11, the Contracting Entity will invite the Candidates selected on the basis of paragraph 4.11 to participate in the Consultation Phase and First Offer Phase.

Candidates that are excluded on the basis of the exclusion criteria listed in 4.8 and/or that do not satisfy the suitability requirements listed in paragraphs 4.9 and 4.10 or – in the event of a further selection – are not amongst the selected Candidates will not be invited to participate in the Consultation Phase and First Offer Phase.

Paragraph 3.3 of this Tender Guide is applicable to decisions by the Contracting Entity not to invite a Candidate to the Consultation Phase and First Offer Phase.

## 6 Consultation Phase

### 6.1 Objective

The objective of the Consultation Phase is to allow the Candidates to familiarise themselves with the Tender Documents (including FRS) that belong with this phase and to ask the Contracting Entity questions about this (requests for information). Requests for information can also include proposals for the amendment of the Tender Documents.

In the version of the Tender Guide for the Consultation Phase and First Offer Phase, the Contracting Entity will further elaborate upon the qualitative award criteria listed in paragraph 6.1.

During the Consultation Phase, one individual information meeting will be offered per Candidate. During this meeting, the Candidate can explain any amendment proposals.

Candidates will be asked to send the subjects that they wish to discuss to the Contracting Entity before the meeting.

Proposed amendments to the Tender Documents must always be accompanied by clear and concise substantiation. The procedure for requests for information, including requests for amendment, is described in paragraph 3.9 of this Tender Guide. The Contracting Entity alone will assess whether a request for amendment is permitted. The Contracting Entity reserves the right to refuse amendment requests.

## **7 First Offer Phase**

### **7.1 Objective**

The Candidates will have to produce and submit their First Offer in the First Offer Phase.

If more than three Candidates submit a valid First Offer, the number of Candidates invited to the next stage of the tender procedure will be reduced to three.

This short-listing will take place on the basis of the assessment of the First Offers and the following qualitative criteria:

1. Process quality;
2. Functionality and design;
3. RAM (reliability, availability, maintainability);
4. Sustainability.

The Contracting Entity will elaborate upon these qualitative award criteria further in the version of the Tender Guide for the Consultation Phase and First Offer Phase. This version of the Tender Guide will be made available with the invitation to the Consultation Phase.

### **7.2 Building upon the First Offer**

The development of the First Offer in further detail is important for the next stage of the tender procedure. Because short-listing takes place on the basis of the First Offers, Candidates shall build upon the First Offer in their further proposals and Final Offer.

The Candidates may, after first obtaining the express written permission of the Contracting Entity, deviate from the First Offers they submitted if a change to the Tender Documents or another development makes this necessary or desirable. To obtain this permission, the Candidate in question will always have to demonstrate that the altered proposal is qualitatively at least equivalent to that included in the First Offer.

If the Final Offer does not build upon the First Offer, the Contracting Entity can declare this offer to be invalid.

### **7.3 Requirements for the First Offer**

The requirements for the First Offer will be stated in the Tender Guide, First Offer Phase version.

### **7.4 Submission of the First Offer**

The requirements with regard to the submission of the First Offer will be stated in the Tender Guide, First Offer Phase version.

### **7.5 Assessment of the First Offer**

The Tender Guide, First Offer Phase version, will describe how the Contracting Entity will assess the First Offers.

## **7.6 Invitation to the Dialogue Phase**

The Contracting Entity will invite the three Candidates with the highest scores for the qualitative criteria to participate in the Dialogue Phase. Paragraph 3.3 of this Tender Guide is applicable to decisions by the Contracting Entity not to invite a Candidate to the Dialogue Phase.

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## **8 Dialogue Phase**

### **8.1 Objective**

The objective of the Dialogue Phase is to:

- a. Discuss the Candidates' First Offers;
- b. Discuss the starting points of the draft Purchase Agreement and make any changes to optimise the Tender Documents in the same way for all Candidates so that these can serve as the basis for the Final Offer; and
- c. Offer Candidates the opportunity to discuss with the Contracting Entity the Final Offer they are to submit.

### **8.2 Consultation and information**

In the Dialogue Phase, the Candidate gets the opportunity to consult the Contracting Entity.

Candidates that participate in the Dialogue Phase can talk to the Contracting Entity about the permissibility of any proposals they make within the Tender Documents and about the amendments to the Tender Documents, including the draft Purchase Agreement, that they propose.

Candidates can submit requests for information in the Dialogue Phase.

Requests for information can also include proposals for the amendment of the Tender Documents. Proposed amendments must be accompanied by clear and concise substantiation.

The procedure for requests for information, including amendment requests, is described in paragraph 3.9 of this Tender Guide.

The Contracting Entity alone will assess whether a request for amendment is permitted. The Contracting Entity reserves the right to refuse amendment requests.

At the end of the Dialogue Phase, the Contracting Entity will include the accepted amendments in a new version of the Tender Documents.

Requests for information can be discussed in the meetings with the Contracting Entity.

### **8.3 Process report and invitation to submit Final Offer**

The Contracting Entity shall draw up a process report of the Dialogue. This will be provided to the Candidate. After the end of the Dialogue Phase, the Candidates will receive an invitation to make a Final Offer.

## **9 Final Offer Phase**

### **9.1 Objective**

The objective of this phase is to appoint the Selected Tenderer.

### **9.2 Content of the Final Offer**

The requirements concerning the content of the Final Offer will be included in a later version of the Tender Guide.

### **9.3 Requirements of the Final Offer**

The Final Offer must satisfy the following requirements:

- a. The Final Offer must be based upon the definitive Tender Documents;
- b. The Tender Sum must be lower than or equal to the Ceiling Price;
- c. The structure of the Final Offer must comply fully with the format described;
- d. The Final Offer must satisfy the provisions in the Tender Guide, Dialogue Phase version and Final Offer Phase version; and
- e. The Final Offer must be built upon the First Offer and must be of at least the same quality.

The requirements that apply to the Final Offer will be further developed in a later version of the Tender Guide.

### **9.4 Submission of the Final Offer**

The requirements concerning the submission of the Final Offer will be included in a later version of the Tender Guide.

### **9.5 Assessment of the Final Offers**

#### **9.5.1 Validity**

The Contracting Entity will first of all investigate whether the Final Offers are valid. Final Offers that do not satisfy the requirements in paragraphs 9.2 and 9.3 may be declared invalid. Paragraph 3.3 is applicable to the Contracting Entity's decision on this matter.

### **9.5.2 Award criterion**

The award criterion is “most economically advantageous tender” (MEAT), i.e. the best ratio of price and quality. The most economically advantageous tender is the valid Final Offer with the lowest “fictitious tender sum”.

The Contracting Entity will determine the fictitious tender sum of the valid Final Offer by adding up:

- a) the Tender Sum; and
- b) the (weighted) price calculation for the Options

and deduct from this:

- c) the fictitious deduction in connection with the assessment of the qualitative criteria:
  - 1. Process quality;
  - 2. Functionality and design;
  - 3. RAM (reliability, availability, maintainability);
  - 4. Sustainability.

If a Candidate achieves the maximum score (5) on all qualitative (sub)criteria, the Candidate will obtain the maximum fictitious deduction totalling EUR 90,000,000.

The award criteria will be developed further in the Tender Guide, Consultation Phase and First Offer Phase version.

### **9.6 Period of validity**

The Final Offer shall be valid for 180 days from the specified submission date for the Final Offer.

### **9.7 Appointment of Selected Tenderer**

The Tenderer with the most economically advantageous tender will be appointed as the Selected Tenderer.

The Contracting Entity will notify each registered Candidate of the intended award at the same time, giving reasons, and stating the name of the Candidate to which the Contracting Entity intends to award the order. No rights can be derived from this intention to award. The notification of the intention to award by the Contracting Entity does not imply acceptance, as referred to in section 6:217, first paragraph, of the Dutch Civil Code, of a Candidate's bid.

The Contracting Entity reserves the right not to proceed to award. In that case, the relevant provisions of paragraph 3.4 of the Tender Guide apply.

## **9.8 Award**

Award will not take place until after the end of the legal protection period as referred to in paragraph 3.3 or, in the case of preliminary relief proceedings against the intention to award, until after the end of the procedure for preliminary relief proceedings.

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## **Annex 1 – Definitions**

In the Tender Guide, Selection Phase, terms with capital letters have the following meanings. Definitions can be used in the singular and in plural.

### **Contracting Entity**

GVB Activa B.V.

### **Tender Guide**

This Tender Guide.

### **Tender Documents**

The Tender Guide, Selection Phase version, the Tender Guide, Consultation Phase and First Offer Phase version, the Tender Guide, Dialogue Phase and the Tender Guide, Final Offer Phase, the (draft) Purchase Agreement and the associated Functional Requirement Specification, the General Information, the Confidential Information for the Candidate in question, the invitations to a (subsequent) phase in the tender procedure and all other documents that the Contracting Entity provides to the Candidates in the context of the tender procedure and considers as such.

### **Application**

The request by the Candidate to be allowed to participate in this tender procedure.

### **General Information**

The information provided by the Contracting Entity to all Candidates in accordance with paragraph 3.9.1 of the Tender Guide, Selection Phase.

### **Initial Order**

The design, construction, testing and ready-to-drive delivery of 30 Metro Vehicles, including associated documentation and instructor training, plus the supply of the special tools and components that are necessary for the maintenance of the Metro Vehicles, under the conditions of the Purchase Agreement.

### **Important Subcontractor**

A (legal) person whose technical competence is relied upon by a Candidate to satisfy the suitability requirements.

### **Syndicate**

Candidate consisting of two or more (legal) persons.

### **Consultation Phase**

The phase of the tender procedure described in Chapter 5 of the Tender Guide.

### **Dialogue Phase**

The phase of the tender procedure described in Chapter 7 of the Tender Guide.

### **Final Offer**

The tender that is produced in the Final Offer Phase by a Candidate (Tenderer) that has been invited to do so.

### **First Offer Phase**

The phase of the tender procedure described in Chapter 6 of the Tender Guide.

### **Uniform European Tender Document**

The Uniform European Tender Document as referred to in paragraph 4.8.3.

### **Functional Requirement Specification (FRS)**

The Functional Requirement Specification M7 Metro Rolling Stock, which constitutes part of the Purchase Agreement.

### **Candidate**

A (legal) person or Syndicate that participates in this tender procedure.

### **Selected Tenderer**

The Candidate with whom the Contracting Entity intends to conclude the Purchase Agreement.

### **Tender Sum**

The amount for which the Tenderer is prepared to supply the Initial Order under the conditions of the Purchase Agreement.

### **Tenderer**

A Candidate who has submitted a Final Offer.

### **Purchase Agreement**

The Purchase Agreement for M7 Metro Rolling Stock to be concluded by the Buyer and the Supplier.

### **Buyer**

GVB Activa B.V.

### **Supplier**

The party with whom the Buyer has entered into the Purchase Agreement.

### **Metro Vehicle**

An electrically driven rail vehicle (electrical multiple unit) designed for passenger service in an urban environment, equipped with a signalling and control system and suitable for running in tunnels and stopping at underground stations ("Operation category" 2 and "Standard Vehicle" N: "HL2" in accordance with EN 45545 or comparable and equivalent in accordance with older standards such as DIN 5510 or NF F 16-101).

### **Order**

All works, goods and services that are performed on the basis of the Purchase Agreement.

### **Options**

The additional orders that the Buyer can place under the Purchase Agreement in addition to the Initial Order.

### **Ceiling Price**

The amount set by the Contracting Entity that the Tender Sum must remain below on penalty of being invalid.

### **Selection Phase**

The phase of the tender procedure described in Chapter 4 of the Tender Guide.

### **Confidential Information**

Confidential information provided to the Candidate by the Contracting Entity in accordance with paragraph 3.9.2 of the Tender Guide.

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## Annex 2 – Content and structure of the Application

### Tab A: Application

The following should be inserted after Tab A:

1. An Application form completed and legally signed by the Candidate.  
*NB: If the Candidate is made up of a single (legal) person, the form in accordance with the specimen in Annex 3.1 should be used. If the Candidate is made up of two or more (legal) persons (Syndicate), Annex 3.2 should be used.*
2. An extract from the trade register for the Candidate.  
*NB: In the case of a Syndicate all (legal) persons (syndicate members) shall submit an extract from the trade register.*

If the authority to represent of the natural person(s) signing an Application form is not fully evident from the extract from the trade register, the following should also be inserted after Tab A:

3. A (special) authorisation provided to the natural person(s) signing the Application, so that they can be legally sign the Application.

### Tab B: Important Subcontractor's Declaration(s)

The following should be inserted after Tab B:

1. An Important Subcontractor's Declaration, completed and legally signed by each Important Subcontractor in accordance with the specimen included in Annex 3.3.
2. A Uniform European Tender Document, completed and signed by each Important Subcontractor in accordance with Annex 3.4.
3. An extract from the trade register for each Important Subcontractor.

If the authority to represent of the natural person(s) signing an Important Subcontractor's Declaration and/or the Uniform European Tender Document is not fully evident from the attached extract(s) from the trade register, the following should also be inserted after Tab B:

4. A (special) authorisation provided to the natural person(s) signing the Important Subcontractor's Declaration, so that they can legally sign the Important Subcontractor's Declaration and/or Uniform European Tender Document.

### **Tab C: Uniform European Tender Document Candidate**

The following should be inserted after Tab C:

1. A Uniform European Tender Document, completed and signed by each Candidate in accordance with Annex 3.4.  
*NB: In the case of a Syndicate, a Uniform European Tender Document completed and legally signed by the syndicate member should be inserted after Tab C for each syndicate member.*

If the authority to represent of the natural person(s) signing a Uniform European Tender Document is not fully evident from the extract(s) from the trade register (provided after Tab A), the following should also be inserted after Tab C:

2. A (special) authorisation provided to the natural person(s) signing the Uniform European Tender Document, so that they can legally sign the Uniform European Tender Document.

### **Tab D: Declaration of experience in terms of technical and organisational competence**

The following should be inserted after Tab D:

1. A declaration in accordance with the specimen in Annex 3.5 completed and legally signed by the Candidate (maximum one declaration)
2. A declaration of satisfaction produced and signed by the client of the reference order.

If the authority to represent of the natural person(s) signing a declaration of experience in terms of technical and organisational competence is not fully evident from the extract(s) from the trade register (provided after Tab A), the following should also be inserted after Tab D:

3. A (special) authorisation provided to the natural person(s) signing the declaration of experience in terms of technical and organisational competence, so that they can legally sign the Uniform European Tender Document.

### **Tab E: Reference projects for further selection criterion 4**

The following should be inserted after Tab E:

1. A declaration in accordance with the specimen in Annex 3.5 completed and legally signed by the Candidate for each reference order (maximum 3 declarations)
2. A declaration of satisfaction for each reference order produced and signed by the client of the reference order.

If the authority to represent of the natural person(s) signing a declaration of experience in terms of technical and organisational competence is not fully evident from the extract(s) from the trade register (provided after Tab A), the following should also be inserted after Tab D:

3. A (special) authorisation provided to the natural person(s) signing the declaration of experience in terms of technical and organisational competence, so that they can legally sign the Uniform European Tender Document.

## Annex 3 – Format of Application

### Annex 3.1: Specimen Application form, one (legal) person

#### A. Information on Candidate

Name (according to trade register)	
Legal form	
Registered office	
Country of establishment	
Office address	
Email	
Telephone	
Registration in trade register (location and registration number)	
Name of contact	

#### B. Information on Important Subcontractor(s)<sup>1</sup>

Name	
Legal form	
Registered office	
Country of establishment	
Office address	
Email	
Telephone	
Registration in trade register (location and registration number)	

#### C. Signature of Candidate<sup>2</sup>

Name of Candidate	
Name of natural person with authority to represent	
Place and date of birth	
Job title	
Date	
Signature	

<sup>1</sup> To be filled in by each Important Subcontractor on whose experience the Candidate relies. The table should be repeated as often as necessary.

<sup>2</sup> If two or more natural persons are only authorised to represent the Candidate jointly, the tables under C should be filled in so that the name, place and date of birth, job title, date and signature can be given for each of these natural persons.

## Annex 3.2: Specimen Application form, Syndicate

### A1. Information on Candidate/Syndicate

Name of Syndicate	
Legal form (if applicable)	

### A2. Information on Syndicate coordinator

Name of syndicate member 1 (according to trade register)	
Legal form	
Registered office	
Country of establishment	
Office address	
Email	
Telephone	
Registration in trade register (location and registration number)	
Name of contact	

### A3. Information on other syndicate member(s) <sup>3</sup>

Name of syndicate member 2 (according to trade register)	
Legal form	
Registered office	
Country of establishment	
Office address	
Email	
Telephone	
Registration in trade register (location and registration number)	

## B. Declaration by syndicate members

### B.1 Joint and several liability of syndicate members

By signing this form, all the above-mentioned syndicate members declare that they will accept joint and several liability for the obligations arising from any Purchase Agreement for M7 Metro Rolling Stock to be awarded to the Syndicate.

### B.2 Authority to coordinator of Syndicate

<sup>3</sup>In the case of a Syndicate with more than two syndicate members, the tables under A3 and C in this specimen form should be repeated for syndicate member 3 (and so on).

By signing this form, the other syndicate member(s) (named above under A3) grant the coordinator of the Syndicate (named above under A2) the authority to represent the Syndicate in all matters relating to this tender procedure for M7 Metro Rolling Stock.

### C. Signature of Syndicate<sup>4</sup>

Name of syndicate member 1 (according to trade register)	
Name of natural person with authority to represent	
Place and date of birth	
Job title	
Date	
Signature	

Name of syndicate member 2 (according to trade register)	
Name of natural person with authority to represent	
Place and date of birth	
Job title	
Date	
Signature	

<sup>4</sup>If two or more natural persons are only authorised to represent a syndicate member jointly, the tables under C should be completed so that the name, place and date of birth, job title, date and signature can be stated for each of these natural persons.

### Annex 3.3: Specimen Important Subcontractor's Declaration

#### A. Information on Important Subcontractor<sup>5</sup>

Name (according to trade register)	
Legal form	
Registered office	
Country of establishment	
Office address	
Email	
Telephone	
Registration in trade register (location and registration number)	
Name of contact	

#### Important Subcontractor's Declaration

**[name of Important Subcontractor]** declares:

1. that it has taken note of the Tender Guide for this tender procedure and unconditionally agrees to the procedure set down within it;
2. that all information that it has provided and will provide to the Contracting Entity, directly and indirectly, in the context of this tender procedure is correct and that it is aware that any inaccuracies within this identified by the Contracting Entity can result in the exclusion of the Candidate from further participation in this tender procedure.
3. that, if the Order is awarded to **[name of Candidate]**, **[name of Candidate]** will have at its disposal for the execution of the Order the means that **[name of Candidate]** is relying upon in the context of this tender procedure.

Thus signed at [location], [date]<sup>6</sup>

[Important Subcontractor]

[name of natural person with authority to represent]

[job title]

[signature]

<sup>5</sup>To be completed by each Important Subcontractor upon whose competence and/or strength the Candidate relies.

<sup>6</sup>If two or more natural persons are only authorised to represent the Important Subcontractor jointly, these natural persons shall sign this declaration jointly.

### **Annex 3.4: Uniform European Tender Document (Candidate's declaration)**

The Uniform European Tender Document will be provided as a separate file.

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### Annex 3.5: Specimen declaration of experience in terms of technical and organisational competence and/or further selection

This declaration must be completed and signed by the Candidate. A separate declaration must be completed, signed and submitted for each reference order.

The Contracting Entity reserves the right to ask for further information from the client's contact stated in this form.

REFERENCE ORDER	
For* *please tick what is applicable: one choice only per reference	<input type="checkbox"/> Experience in terms of technical and organisational competence (paragraph 4.10) and further selection criteria 1, 2 and 3 (paragraph 5.2) (max. 1 reference order) <input type="checkbox"/> Further selection criterion 4 (max. 3 reference orders)
Name of reference order	
Order sum or invoiced amount (in euros excluding VAT)	
Place of execution	
Period of execution	
Client	Name
	Address
	Name of contact
	Telephone
	Email
Contractor <sup>7</sup>	
With this reference order the Candidate demonstrates that it actually has at its disposal for the execution of the Order the experience in the production and supply of Metro Vehicles in accordance with the requirement in paragraph 4.10.1. and/or that it complies with the requirements with regard to further selection as described in paragraph 5.2	
Description of reference order by which the Candidate demonstrates that it has at its disposal the required experience (paragraph 4.10.1 and/or 5.2). (maximum 500 words)	

<sup>7</sup>The Contractor must be (a syndicate member of) the Candidate or an Important Subcontractor.

- Declaration of satisfaction by client of reference order attached

Thus signed at [location], [date]<sup>8</sup>

[Candidate / Important Subcontractor]

[name of natural person with authority to represent]

[job title]

[signature]

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<sup>8</sup>If two or more natural persons are only authorised to represent the Candidate or Important Subcontractor jointly, these natural persons shall sign this declaration jointly.

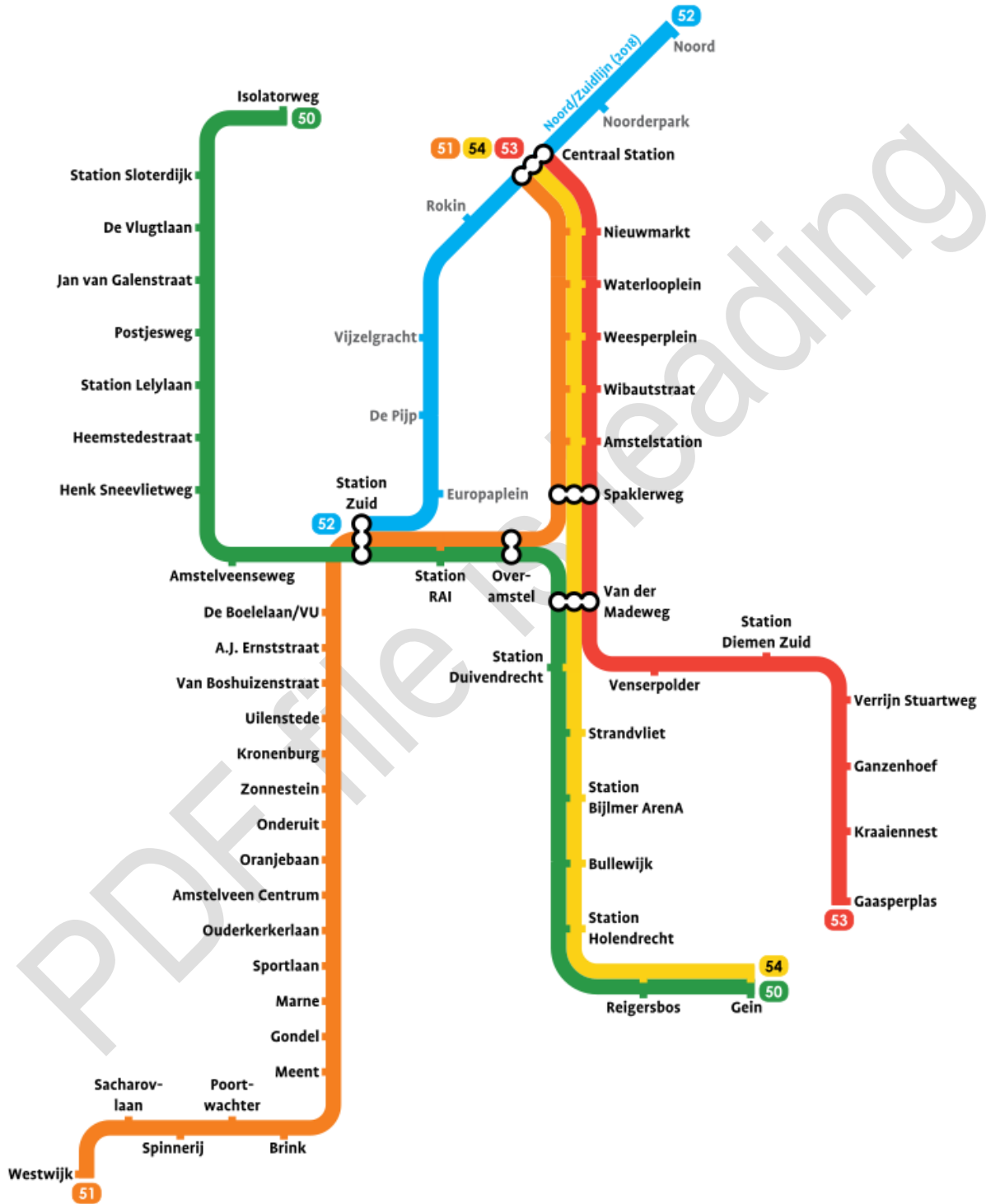


## Annex 4 – Specimen request for information

Request for information on M7 Metro Rolling Stock							
		Name of Candidate:					
		Date:					
No	General/Confidential Information		Relates to				Question
	General/Confidential	If confidential, state reason	Document name	Page/paragraph	Item/requirement number	Quotation/text passage	Description of question
1							
2							
3							
..							
..							
..							

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## Annex 5 - Overview of the Amsterdam metro network



## Annex 6 – Declaration of joint and several liability

By signing this form, the undersigned declares that it will accept joint and several liability for the obligations arising from any Purchase Agreement for M7 Metro Rolling Stock to be awarded to **[name of Candidate/syndicate member]**.

Name (according to trade register)	
Legal form	
Registered office	
Country of establishment	
Office address	
Email	
Telephone	
Registration in trade register (location and registration number)	
Name of contact	
Signature	