

## Agreement concerning DMS functionality and related services from NEO NL

### The undersigned:

1. **Nucleaire Energie Organisatie Nederland B.V.**, a company incorporated under the laws of the Netherlands, having its registered office in The Hague at Carel van Bylandtlaan 5, 2596 HP The Hague, the Netherlands, registered with the Chamber of Commerce under number [99805480], duly represented by ..... in his/her capacity as ....., hereinafter referred to as: the **“Contracting Authority”**;

and

2. **<full name and legal form of contractor>**, having its registered office in <place>, duly represented for the purposes hereof by <position> <name of signatory>, hereinafter referred to as: the **“Counterparty”**;

the Client and the Counterparty hereinafter jointly referred to as the **“Parties”** and individually as a **“Party”**.

### Whereas:

- a. in order to realise the nuclear energy ambitions of the Government of the Netherlands, it has been decided to establish a policy participation;
- b. to that end, the private limited liability company NEO NL B.V. has been incorporated;
- c. NEO NL, is to be responsible for procuring the design, construction and realisation, maintenance, management and operation of nuclear power plants and nuclear reactors in the Netherlands, including for the benefit of the public interest in the energy supply in the Netherlands. The Client will also be tasked with the preparation of these activities;
- d. in the performance of its duties, the NEO NL requires DMS functionality for its business operations, including related services, in connection with which the Client will enter into the Agreement with the Tenderer offering the best price-quality ratio.

### Course of the contracting award procedure

- e. in connection with the matters set out in recitals a. through d. above, the Contracting Authority is conducting a tender procedure for the supply, implementation, support and maintenance of DMS functionality for its business operations, including related services, by means of a European open tender procedure;
- f. on <date>, a contract notice was dispatched by or on behalf of the Contracting Authority to TenderNed, and that notice was published under number <S-number>;
- g. on <date>, the Contracting Authority awarded the Contract to XXXXXXXXX;

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## Agree as follows:

### 1. Definitions

A number of terms in this Contract are written with initial capitals. These terms are defined in the Terms and Conditions and the Data Processing Agreement.

### 2. Subject of the Contract

The Parties hereby conclude a Contract under which the Counterparty undertakes, in consideration of the Fee referred to in article 7, to provide the Deliverable as described in the Specifications, which basically consists of:

- granting of one or more Licences:

Serial number	Subject	Number
A	<i>Notwithstanding the provisions of article 43.2 (d), the scope of the Licence is restricted to NEO NL and its third party users</i>	<i>As described in 2.1.8 of the Tender document</i>

- the performance of the Contract, including Implementation, support and Maintenance:

Serial number	Subject	Number
B	<b>Implementation – Phase 1:</b> <ul style="list-style-type: none"><li>• installation, configuration and delivery of the functionalities and interfaces in accordance with the agreed requirements and wishes;</li><li>• training and education for users and administrators</li></ul>	1
C	<b>Ongoing services:</b> <ul style="list-style-type: none"><li>• provision of support and Maintenance as agreed in the applicable Service Level Agreement (SLA), in accordance with the requirements and wishes set out in the Programme of Requirements and Wishes and in Annex SLA.</li></ul>	1
D	<b>Ongoing support on demand:</b> <ul style="list-style-type: none"><li>• performance of additional services, as set out in the Tender Document and in accordance with the agreed Call-Off Procedure.</li></ul>	On demand, in accordance with the Call-Off Procedure

in order to enable the Contracting Authority to make the Agreed Use thereof.

- 2.2 The following documents are an integral part of this Contract. In the event of mutual inconsistencies, a higher ranked document takes precedence over a lower ranked document:

- 0) Memoranda of Information dd ... and .....
- 1) this document (including schedules)
- 2) the Data Processing Agreement (Data Processing Agreement Schedule) (if applicable);
- 3) the Terms and Conditions (Terms and Conditions Schedule) Arbit 2022;
- 4) the Tender Document (including schedules)
- 6) the tender of <date>, reference (<reference>), submitted by the Counterparty to the Contracting Authority.

### 3. Contacts and reporting

- 3.1 The persons who liaise on behalf of the parties in relation to the performance of the Contract are listed in the Contacts Schedule.

- 3.2 The Counterparty will report <period> on how the Contract is being performed. This report will at least comprise:  
<subject of the report>.

#### 4. Entry into force and term of the Contract

- 4.1 The Contract enters into force once it has been signed by both Parties.
- 4.2 The Contract shall have an initial term of 36 months.
- 4.3 Following expiry of the term referred to in Article 4.2, the Contracting Authority may extend the Contract on unchanged terms for a period of one (1) year. The Contracting Authority may exercise this right seven (7) times.

If the Contracting Authority exercises the extension option, the Contracting Authority shall notify the Counterparty thereof in writing or by email no later than 9 months before expiry of the initial term or the then-current term of the Contract.

If the Contracting Authority does not exercise the extension option, the Contract shall terminate by operation of law upon expiry of the initial term or the then-current term.

The total term of the Contract, including all extensions, shall not exceed 10 years

#### 5. Delivery and Completion

*In the case of Public Service Contracts or the granting of Licences*

- 5.2 The Counterparty will arrange for Completion in the manner, on the date and at the place referred to in the following table. The specified dates are Vital Deadlines.

Serial number	Subject	Manner of Completion	Address and date
A	<i>Licenses including maintenance</i>	<i>Provision of usage rights</i>	<i>NEO NL address, pro rata according to use</i>
B	<i>Fixed price for Phase 1 Implementation services</i>	<i>In accordance with the implementation plan</i>	<i>NEO NL address, in accordance with the implementation plan</i>
C	<i>Ongoing services</i>	<i>In accordance with the SLA/DAP</i>	<i>NEO NL address, pro rata according to use</i>
D	<i>Ongoing support on demand</i>	<i>In accordance with the SLA/DAP and Call-Off Procedure</i>	<i>NEO NL address, pro rata according to use</i>

#### 6. Acceptance

- 6.1 Acceptance of the Deliverable takes place as follows:

Serial number	Subject	Acceptance	Deadline for communication of Acceptance or non-Acceptance
A	<i>Licenses including maintenance</i>	<i>Following go-live after Acceptance of Phase 1 implementation</i>	<i>Quarterly</i>
B	<i>Fixed price for Phase 1 implementation services</i>	<i>In accordance with the Acceptance Procedure</i>	<i>In accordance with the implementation plan</i>
C	<i>Ongoing services</i>	<i>In accordance with the SLA/DAP</i>	<i>Quarterly</i>

**7. Fee**

- 7.1 The Parties agree the following Fees: see Annex 7 – Pricing Form, as part of the Tender submitted by the Counterparty dated XXXXXXXX.
- 7.2 All agreed prices and rates shall remain fixed and unchanged for the entire term of the Contract, unless expressly provided otherwise in the Contract. However, the Counterparty shall be entitled to index the prices and/or rates, insofar as they do not relate to Usage Rights, once per year, for the first time on 1 January 2028, with effect from 1 January of the relevant year.

Any increase shall be capped at 2% or, if lower, half of the maximum of the relevant increase, if any, in the most recently published definitive price index figure of Statistics Netherlands (CBS) available at the time of notification, being the services producer price index for commercial services and transport, index 2021 = 100, for group J6202, compared with the price index figure for that same index 12 months earlier. If the index 2021 = 100 is no longer maintained, its successor index shall be used to calculate the maximum indexation. If group J6202 is no longer maintained, group J62 shall be used to calculate the maximum indexation. If the index J602 (or J62) in any given year is 6% or higher, the Parties shall enter into consultations regarding a possible one-off additional increase, which shall in no event exceed half of the difference between 4% and the higher index.

Furthermore, the Counterparty shall be entitled to index the prices, insofar as they relate to software licences and subscriptions and provided that such price increase was not foreseeable at the time of entering into the Contract, once per quarter, for the first time on 1 January 2028, with effect from the first day of the relevant quarter. Such indexation may only take place after the Counterparty has submitted to the Contracting Authority documentary evidence substantiating the prices paid by the Contractor for those Usage Rights or a general price increase applicable to the entire market, and shall be based on the development of the prices paid or increased by the Counterparty for those Usage Rights compared with the preceding quarter.

Indexation shall take place exclusively in accordance with the provisions of this Article 7.

- 7.3 If the Counterparty wishes to index the prices and/or rates, it shall notify the Contracting Authority in writing of the proposed indexation percentage no later than three (3) months before the intended effective date, in accordance with Article 7.2, stating the basis for and method of calculation of such indexation. The indexation may only be implemented following the Contracting Authority’s prior written approval.
- 7.4 If the Deliverable does not meet the Service Levels owing to a failure imputable to the Counterparty, the Fee will be subject to a discount in accordance with the following table:

Service Levels	Criterion	Discount
<Based on the answer in award criterion Q3>	<criteria>	<discount>
<service level2>	<criteria>	<discount>

**8. Invoicing, indebtedness and payment**

- 8.1 The Fee as referred to in article 7 is payable from <date or moment or after Acceptance>.
- 8.2 An invoice should contain the following information:
  - date of invoice
  - amount of the Fee
  - VAT owed
  - contract number
  - commitment number

8.3 The Counterparty must submit invoices electronically in the manner prescribed in the Specifications.

8.3 By way of derogation from the first sentence of Article 11.1 of the ARBIT-2022, the Contracting Authority shall pay for item C, Ongoing Services, quarterly in advance in accordance with Article 8.1. Article 16 of the ARBIT-2022 shall not apply in this respect.

## **9. General and special terms and conditions**

9.1 As provided in Articles 8.1(a), 8.3 and 8.4 of the ARBIT-2022, the intellectual property rights that may be exercised in respect of the Performance shall be transferred to the Contracting Authority

9.2 Any general and special terms and conditions of the Counterparty or of third parties used by the Counterparty in providing the Deliverable do not apply.

9.3 Notwithstanding article 9.2 and without prejudice to the provisions of article 2.2, the licence conditions of third parties used by the Counterparty in providing the Deliverable also apply if and in so far as:

- their applicability is not excluded in the Specifications;
- (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; and
- the Agreed Use is not thereby excluded or restricted; and
- the Counterparty can demonstrate that the rights of the Contracting Authority under the Contract will not be reduced or that the Contracting Authority's obligations under the Contract will not become unreasonably onerous as a result thereof.

9.4 The acceptance of standard or special terms required for the use of the Deliverable such as click-wrap licences is not binding on the Contracting Authority. The Counterparty guarantees to the Contracting Authority that such acceptance will not restrict the Agreed Use in any way.

9.5 A copy of the Terms and Conditions is appended to the Contract.

## **10. Other provisions**

10.1 In addition to Article 22.1 of the ARBIT-2022, the Counterparty shall not be permitted to replace the proposed personnel until Phase 1 of the Performance has been fully put into operation. Replacement of the proposed personnel shall only be permitted in the event of termination of employment or long-term illness. In such event, the Counterparty shall inform the Contracting Authority thereof in writing.

10.2 The Counterparty shall erase or return the Contracting Authority's data, including personal data, within four weeks after expiry or termination of the Agreement, or such earlier date as may be agreed, failing which the Counterparty shall owe a penalty of EUR 500 per day, subject to a maximum of EUR 25,000. Payment of the penalty shall be without prejudice to the obligation set out in this paragraph and to the Counterparty's obligation to compensate any loss or damage resulting from the breach.

10.3 In the event of early or other termination of the Agreement, the provisions of Annex Exit Procedure shall apply in addition to Article 32 of the ARBIT-2022.

10.4 In the event that the Performance also includes the supply of an AI system or AI functionality, Annex – AI Terms shall apply.

10.5 In Articles 3, 12.3 and 31 of the ARBIT-2022, the term "in writing" shall also include electronic

Done on <date> and signed by:

FOR THE CONTRACTING AUTHORITY

FOR THE COUNTERPARTY

Name: <name>

Name: <name>

Signature:

Signature:

Date:

Date:

**Schedule: Data Processing Agreement**

<attached separately>

**Schedule: Specifications**

<attached separately>

## **Schedule: Contacts**

### *Contracting Authority*

The <position>, currently <name>, is authorised to bind the Contracting Authority in so far as the performance of the Contract is concerned.

### *Counterparty*

The <position>, currently <name>, is authorised to bind the Counterparty in so far as the performance of the Contract is concerned.

**Schedule: Terms and Conditions**

<attached separately ARBIT 2022>

## **Schedule: Service Level Agreement (SLA)**

The SLA forms part of the Maintenance Contract and defines the agreed service level.

To ensure that the SLA is in keeping with the Terms and Conditions, the main service levels for the Deliverable must be included in the Contract. Important service levels are in any event those for which a discount may be deducted from the Fee in accordance with article 7.3. Finally, the following terms from article 68 of the ARBIT-2022 should be used in the SLA:

Availability: the period during which the Deliverable is free of Defects.

Corrective Maintenance: the tracing and resolution by the Counterparty of Faults reported by the Contracting Authority or Faults that have otherwise become known to the Counterparty.

Repair Time: the period, expressed in Service Hours, between the moment when a Fault is reported to the Counterparty and the moment it is resolved.

Innovative Maintenance: the provision by the Counterparty to the Contracting Authority of New Versions or newly developed parts of Products and/or new Documentation.

Preventive Maintenance: measures taken by the Counterparty to prevent Faults and related forms of service.

Response Time: the time within which the Counterparty (or Staff of the Counterparty) must adequately respond to a report by the Contracting Authority of a Fault and other requests of the Contracting Authority for service.

Service Levels: requirements included in the Contract in respect of Maintenance and other agreed forms of service.

Service Hours: hours that fall within the agreed service period.

Fault: a technical problem that occurs when using the Deliverable

In addition, the relevant information concerning ongoing services from the Tender Document and from the Counterparty's Tender under sub-award criterion Q3 must be incorporated herein

## **Schedule: Acceptance Procedure**

Without prejudice to the provisions of the Contract, and by way of further elaboration of Article 6 of this document, Acceptance of the Performance or parts thereof, including phased delivery as also reflected in the plan of approach, shall take place as follows:

- In accordance with a test plan, enabling the Contracting Authority to determine when and what must be tested, the Counterparty shall notify the Contracting Authority in writing and in due time of the Delivery of the Performance or any part thereof, requesting the Contracting Authority to carry out an acceptance test. The Contracting Authority shall confirm in writing and in due time that it will commence the acceptance process. If, following written notice from the Counterparty, the Contracting Authority fails to commence the acceptance process within a reasonable period, the Performance or the relevant part thereof shall be deemed to have been accepted. Operational use shall not automatically constitute Acceptance by the Contracting Authority of the Performance or any part thereof.
- Prior to Delivery, the Parties shall agree acceptance criteria in order to establish objectively whether the Performance complies with the requirements set out in the Tender Document, or agreed during the performance of the Contract, and with the honoured wishes. These criteria shall at least include the matters set out in the Tender Document.
- Prior to Delivery, the Counterparty shall have subjected the Performance or the relevant part thereof to its own testing in such a manner that, when following a normal process flow, the system no longer produces errors that prevent further testing. The Counterparty shall provide a test report in this respect, setting out at least the test protocol used, the test data used, the steps performed, the expected and recorded results, the defects identified and the solutions thereto.
- Within a reasonable period after Delivery, the Contracting Authority shall carry out one or more acceptance tests, prepare a test report and send the signed test report to the Counterparty. The test report shall record any deviations identified from the acceptance criteria. In addition, the Contracting Authority shall record whether the Performance or the relevant part thereof has been approved or rejected. If it appears that the Counterparty's own testing referred to in the previous paragraph has not been properly or fully performed, the Contracting Authority may terminate the acceptance test prematurely, following which the Counterparty shall perform its own testing again.
- If the Contracting Authority approves the Performance or the relevant part thereof, the date of signature of the test report shall be deemed to be the date of Acceptance.
- If the Contracting Authority does not approve the Performance or the relevant part thereof upon the first performance of the acceptance test, it shall repeat that test, in whole or in part, within a reasonable period after renewed Delivery. In a supplementary test report, the Contracting Authority shall record whether the deviations and/or defects identified during the first test have been remedied, whether it now approves the Performance or the relevant part thereof, and whether any new deviations and/or defects have been identified.
- If the Contracting Authority rejects the Performance or the relevant part thereof, the Counterparty shall remedy the identified deviations at its own expense within 30 calendar days from the date of signature of the test report. If the Counterparty fails to do so, the Contracting Authority may, after prior notice to the Counterparty, in which the Counterparty is granted a reasonable period to remedy the deviations after all, remedy the deviations itself or have them remedied by a third party at the Counterparty's expense. In such event, the Counterparty shall provide its full cooperation free of charge, including by providing the Contracting Authority, upon first request, with all information necessary for that purpose. If the Contracting Authority remedies a deviation itself, or has it remedied by a third party, for the reasons referred to above, this shall be without prejudice to the Counterparty's agreed responsibilities for the Performance or the relevant part thereof.
- If the Contracting Authority again rejects the Performance or the relevant part thereof after the second acceptance test, to which the same procedure and time limits as for the first acceptance test shall apply, the Counterparty shall automatically be in default as a result thereof. In such event, the Contracting Authority may dissolve the Contract, in whole or in part, with immediate effect by extrajudicial declaration, without any further notice, demand or notice of default being required.
- Any separate partial acceptances shall not automatically imply that the Performance as a whole has also been accepted. New Deliveries shall, where possible, also be tested in conjunction with previous Deliveries. The Counterparty shall also notify the Contracting Authority when the Performance as a whole has been delivered. Upon Delivery of the entire Performance, the Counterparty shall perform an integral acceptance test in accordance with the procedure described above

**Schedule: Model Timesheets**

### **Schedule: Delivery-on-Demand/ Call Off Procedure**

The Contracting Authority wishes to have the option, after Phase 1 as set out in the Tender Document, to have additional services performed. In addition to the provisions of the Agreement, the following procedure shall apply in such case:

- The Contracting Authority shall submit to the Counterparty a written request for a quotation for the performance of the services referred to in the opening paragraph of this Annex. Such request shall include at least a description of the required services, the date on which Delivery of the services is to take place, and the contact person who can provide further clarification of the request.
- Within 20 Working Days after dispatch of the request, the Counterparty shall submit to the Contracting Authority a binding quotation setting out at least the following elements: an impact analysis of the requested services on the Performance and the Agreement, the price of the requested services, the planning of the requested services, and a detailed description of the services to be performed by the Counterparty. The quotation shall remain valid for at least 90 calendar days.
- The Counterparty undertakes to apply the terms and conditions applicable under the Agreement, including the prices and rates set out in the Pricing Sheet.
- The Contracting Authority shall provide the Counterparty with a written response before expiry of the validity period of the quotation.
- The Counterparty shall not commence the requested services until a written order confirmation has been issued by an authorised representative of the Contracting Authority.

## **Schedule: Exit Arrangements**

The provisions of Schedule: Exit Arrangements shall apply. This applies to the entire Contract. That Annex includes, inter alia, the following provisions:

### ***Provisions concerning switching to another provider of a data processing service or to an on-premises ICT infrastructure***

- 1.** The Contracting Authority may at any time switch to a data processing service offered by another provider of data processing services, or transfer all exportable data and digital assets to an on-premises ICT infrastructure, without delay and in any event no later than after the mandatory transition period of a maximum of 30 days, which commences after the maximum notice period referred to in Article 4, during which the Agreement shall continue to apply and during which the Contractor shall:
  - (a)** provide reasonable assistance to the Contracting Authority and to third parties authorised by the Contracting Authority in the switching process;
  - (b)** act with due care in order to maintain the business continuity of the Contracting Authority and continue to provide the Services under the Agreement;
  - (c)** provide clear information on known risks to the continuity of the provision of the Services on the part of the Contractor;
  - (d)** ensure that a high level of security is maintained throughout the switching process, in particular as regards the security of the data during its transmission and the continued security of the data during the retrieval period specified in Article 7, in accordance with applicable Union or national law.
- 2.** The Contractor shall be obliged to support the Contracting Authority's exit strategy in relation to the Services, including by providing all relevant information.
- 3.** The Agreement shall be deemed to have been terminated, and the Contracting Authority shall be notified of such termination, in each of the following cases:
  - (a)** where applicable, upon successful completion of the switching process;
  - (b)** at the end of the maximum notice period referred to in Article 4, if the Contracting Authority does not wish to switch but wishes to erase all its exportable data and digital assets following termination of the Service.
- 4.** The maximum notice period for initiating the switching process shall be two months.
- 5.** Upon the Contracting Authority's first request, the Contractor shall provide the Contracting Authority with a complete specification of all categories of data and digital assets that may be transferred during the switching process, including at least all exportable data.
- 6.** Upon the Contracting Authority's first request, the Contractor shall provide the Contracting Authority with an exhaustive specification of the categories of data that are specific to the internal functioning of the Contractor's data processing service and that do not form part of the exportable data referred to in Article 5, where there is a risk of infringement of the Contractor's trade secrets, provided that such exceptions do not impede or delay the switching process.
- 7.** A minimum period of at least 60 calendar days shall apply for the Contracting Authority to retrieve data, commencing after expiry of the transition period referred to in Article 1.
- 8.** All exportable data and digital assets generated directly by the Contracting Authority or directly relating to the Contracting Authority shall be fully erased after expiry of the retrieval period referred to in Article 7, or after expiry of an alternative agreed period following the date on which the retrieval period referred to in Article 7 expires, provided that the switching process has been successfully completed.
- 9.** The Contractor shall not charge the Contracting Authority any switching charges within the meaning of Article 29 of the Data Act, other than as specified in the Programme of Requirements and Wishes.

## **Schedule: Artificial Intelligence (AI)**

### **Article 1. Laws and Regulations**

**1.1** The Contractor shall not make available or add to the services any AI applications, or any integration thereof, without the prior express written consent of the Contracting Authority, including agreement on the conditions for implementation. Such consent shall be granted if the AI application complies with applicable laws and regulations, including the forthcoming AI Regulation.

**1.2** The Contractor shall use its best endeavours to ensure that the AI system functions in accordance with such laws and regulations and with the conditions imposed by the Contracting Authority.

**1.3** The Contractor warrants that the Contracting Authority shall at all times be able, when using the AI system, to comply with applicable laws and regulations, including the forthcoming AI Regulation, and shall provide the Contracting Authority with all support required for that purpose. With regard to the reimbursement of costs specifically relating to compliance with the AI Regulation, the following shall apply:

a. if the implementation of AI functionality takes place at the Contractor's initiative, the aforementioned costs shall be borne by the Contractor;

b. if the implementation of AI functionality takes place at the Contracting Authority's initiative, the aforementioned costs shall be borne by the Contracting Authority and, where such costs are recurring in nature, the Parties shall record such costs in an addendum to the Agreement.

**1.4** The Parties agree that the "Module to the ARBIT-2022 Model Agreement for the supply of a high-risk AI system for the health and safety or fundamental rights of persons" hereinafter referred to as the **Annex High-Risk AI Module**, shall apply to the Contractor's services if such services at any time include, or will include, a high-risk AI system within the meaning of Article 6 of the AI Regulation. The obligations set out in the Annex High-Risk AI Module shall take effect from the moment the Contractor commences preparations for the implementation of a high-risk AI system in the services.

### **Article 2. Security**

**2.1** The Contractor shall use its best endeavours to ensure that adequate technical and organisational security measures have been implemented to safeguard the robustness and security of the AI system.

### **Article 3. Use and Development of the AI System**

**3.1** Without prejudice to Article 5 of the Annex High-Risk AI Module, the Contractor shall ensure that, if the AI system qualifies as High Risk within the meaning of Article 1.3 of these AI Terms, the AI system logs all steps taken to arrive at an output, as well as the outputs themselves, that such logs are retained for at least six (6) months, and that such logs are made available for inspection by the Contracting Authority upon request.

**3.2** In developing the AI system, the Contractor shall use an adequate data governance system that complies with the requirements imposed by the AI Regulation, including in relation to the training, validation and testing of the AI system and the maintenance of the necessary technical documentation for that purpose.

**3.3** Training data provided by the Contracting Authority may be used by the Contractor solely for the purpose of training the AI system made available to the Contracting Authority, and not for any other purpose.

**3.4** If the Contractor uses an AI system that has been trained on large quantities of data, displays a significant degree of generality and is capable of performing a wide range of different tasks, the Contractor shall notify the Contracting Authority thereof no later than four weeks before a new version of the relevant AI system is put into use.

**3.5** If the Contractor uses data links with third parties to enrich the training data and/or the AI system, the Contractor shall make such datasets transparent to the Contracting Authority and shall ensure that such datasets do not infringe applicable laws and regulations and/or any third-party rights.

**3.6** If, in developing the AI system, the Contractor uses open-source AI software, the Contractor shall inform the Contracting Authority which open-source AI software is concerned and warrants that it shall use such open-source AI software in accordance with the applicable open-source licence terms.

**3.7** If, in developing the AI system, the Contractor uses closed-source AI software, the Contractor shall make the source code available for inspection in the event of an audit as referred to in Article 2 of the Annex High-Risk AI Module.

#### **Article 4. Audit**

**4.1** The Contracting Authority shall be entitled, once per year, to conduct or have conducted, either itself or by an independent external expert, an audit into the extent to which the Contractor makes the AI system available to the Contracting Authority in accordance with the arrangements and conditions set out in the Agreement and these AI Terms.

**4.2** The Contracting Authority shall be entitled, once per year, or more frequently where this proves necessary, to conduct or have conducted, either itself or by an independent external expert, a fundamental rights impact assessment. The Contractor shall provide cooperation where necessary.

#### **Article 5. Intellectual Property**

**5.1** The Parties agree that the Contractor shall not be entitled to claim any intellectual property rights, in the broadest sense of the term, in respect of the outputs generated by the AI system.