

Annex 11: Contractual clauses for the provision of AI services

1. Scope

Insofar as the subject matter of the contract described in more detail in the Terms of Reference is the placing on the market, the putting into service, and the use of AI systems within the meaning of Article 3 (1) of Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence ("AI Act"), the provisions of this Annex shall apply.

2. Transparency of the AI System

The contractor ensures that the AI system has been and shall be designed and developed in such a way that the operation of the AI System is sufficiently transparent to enable GIZ to interpret the system's output and use it appropriately. To ensure beforementioned appropriate transparency, before the delivery of the AI system the contractor shall implement appropriate technical and organisational measures.

3. Technical documentation and instructions for use

- 3.1. The AI system shall be accompanied by instructions for use in an appropriate digital format or otherwise that include concise, complete, correct and clear information that is relevant, accessible and comprehensible to GIZ.
- 3.2. The instructions for use as per Section 3.1 shall contain at least the following information:
 - a. the identity and the contact details of the contractor and, where applicable, of its authorised representative;
 - b. the characteristics, capabilities and limitations of performance of the AI system, including:
 - i. its intended purpose;
 - ii. the level of accuracy, including its metrics, robustness and cybersecurity against which the AI system has been tested and validated, and which can be expected, and any known and foreseeable circumstances that may have an impact on that expected level of accuracy, robustness and cybersecurity;
 - iii. any known or foreseeable circumstance related to the use of the AI system in accordance with its intended purpose or under conditions of reasonably foreseeable misuse, which may lead to risks to the health and safety or fundamental rights; "reasonably foreseeable misuse" means the use of the AI system in a way that is not in accordance with its intended purpose, but which may result from reasonably foreseeable human behaviour or interaction with other systems; including other AI systems;
 - iv. where applicable, the technical capabilities and characteristics of the AI system to provide information that is relevant to explain its output;
 - v. when appropriate, its performance regarding specific persons or groups of persons on which the system is intended to be used;
 - vi. when appropriate, specifications for the input data or any other relevant information in terms of the training, validation and testing data sets used, taking into account the intended purpose of the AI system;
 - vii. where applicable, information to enable GIZ to interpret the output of the AI system and use it appropriately;
 - c. the human oversight measures, including the technical measures put in place to facilitate the interpretation of the outputs of the AI system by the deployers;
 - d. the computational and hardware resources needed, the expected lifetime of the AI system and any necessary maintenance and care measures, including their

frequency to ensure the proper functioning of that AI system, including as regards software updates;

- e. where relevant, a description of the mechanisms included within the AI system that allows deployers to properly collect, store and interpret the logs to ensure appropriate transparency before the delivery of the AI system;

4. Rights to GIZ Data Sets and Data Sets of Third Parties to whom GIZ is contractually affiliated

- 4.1. Rights of use relating to GIZ data sets and data sets of contractually affiliated third parties will accrue to the GIZ or a third party designated as such by the GIZ.
- 4.2. The Contractor is not entitled to use GIZ data sets or data sets of contractually affiliated third parties for any purpose other than the performance of the Agreement.
- 4.3. On first request of GIZ, the Contractor must destroy GIZ data sets. If GIZ so demands, the Contractor must provide feasible evidence of the destruction of GIZ data sets.
- 4.4. GIZ's liability in connection with the provision of its own data sets within the meaning of this Section 4 of this Annex 11: Contractual clauses for the provision of AI services is limited to wilful intent and gross negligence and to damage to life, health and body.

5. Rights to Contractor Data Sets and Third-Party Data Sets

- 5.1. All rights relating to contractor data sets and Third-Party data sets will accrue to the Contractor or a third party.
- 5.2. The contractor grants GIZ a non-exclusive right to use contractor data sets and Third-Party data sets that is in any event sufficient for performance of the provisions of the contract and the AI Act.
- 5.3. The right of use described in Section 5.2 of this Annex 11: Contractual clauses for the provision of AI services includes the right to use contractor data sets and Third-Party Sets for the further development of the AI system, including any new versions thereof, by GIZ or a third party.
- 5.4. At the request of GIZ, the contractor shall provide GIZ with an overview of the contractor's data records and the data records of third parties that were used for the training, validation and testing of the AI system.

6. Indemnifications

- 6.1. The contractor shall indemnify GIZ and the lead executing agency from all claims brought by third parties, including supervisory authorities, arising out of any infringement of intellectual property rights, data protection rights or equivalent rights resulting from the use of the AI system, the Contractor data sets and/or Third-Party data sets by the GIZ.

7. Compliance with Regulation (EU) 2024/1689

Furthermore, with regard to the AI system the contractor overall complies with the applicable requirements of the AI Act.