

AGREEMENT
Agreement for Archive Management System

Made and executed this ___ day of _____, 2013 by and between

The National Library Ltd. (CC)
of the Edmond J. Safra Campus,
P.O.B. 39105 Givat Ram, Jerusalem 91390
Israel
(the “**NLI**”)

And

(the “**Vendor**”)

WHEREAS The NLI is interested in engaging the services of a vendor for the provision of a centralized, cloud-based archive management system (“**AMS**”) and a Web portal for the national heritage project, the Heritage Archives Network of Israel Project for the management and presentation of nationally important archival records and their digitized source material located throughout the State of Israel (the “**Solution**”); and

WHEREAS In order to identify and select a vendor therefore, the NLI issued a public request for proposals (the “**RFP**”) on March 24, 2013; and

WHEREAS The Vendor provided the NLI with the response to the RFP attached hereto as Appendix A (the “**Response**”), which was selected by the NLI as the winning response; and

WHEREAS The Vendor determined to engage the Vendor’s service for the provision of the Solution on the basis of the Response and subject to the terms of the RFP;

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. **PREMABLE AND APPENDICES**

- 1.1 The preamble and appendices to this Agreement, including, without limitation, all representations and undertakings contained therein form an integral part of this Agreement.
- 1.2 Without derogating from Section 1.1 above, the following documents are hereby incorporated into this Agreement:

- 2.2.1 Appendix A - The Response
- 2.2.2 Appendix B - The Technical Specifications
- 2.2.3 Appendix C - The Payment Schedule

2. **Definition of the Services and Term**

- 2.1 The Bidder shall provide the NLI the services as provided in the technical specifications attached hereto as Appendix B (the “**Technical Specifications**”), including, without limitations, to design, purchase, install, implement, integrate, operate, examine, start-up, train staff, conduct acceptance testing in relation to the Solution and thereafter provide support and maintenance services therefore, all as required by the NLI and at its sole discretion (the “**Services**”).
- 2.2 The Vendor will provide the Services for a period of four (4) years (the “**Transaction Period**”). The Transaction Period shall include an implementation phase, which will begin from the date of execution of this Agreement and continue until the NLI has approved the AMS after the acceptance testing, but not later than one (1) year after commencement of the Transaction Period (the “**Implementation Phase**”). The Implementation Phase will be followed by a three (3) –year operations phase (the “**Operations Phase**”). Thereafter the Vendor will continue to provide maintenance to the AMS for a period of four (4) years. The NLI may, at its sole discretion, extend the Transaction Period for additional one-year periods (each, an “**Extension**” and collectively, the “**Extensions**”).
- 2.3 During the Transaction Period and any Extensions, if applicable, the NLI may request that the Vendor provide any of the additional services offered by the Vendor in its Response.
- 2.4 Notwithstanding the other provisions of this Section 3, the NLI may terminate this Agreement at any time with thirty (30) days’ prior written notice to the Vendor at its sole discretion and without to obligation to provide any cause for such termination. The Vendor hereby declares that it shall not have the right to any financial or other claim against the NLI in relation to such termination of this Agreement.

3. **Provision of the AMS and Acceptance Testing**

- 3.1 The NLI hereby orders the AMS from the Vendor, including all the works necessary for its implementation and integration thereof as described in the Response.
- 3.2 The Vendor hereby undertakes to provide and install the AMS in its entirety within the time-frame to which it committed in the Response, which shall in no case be longer than one (1) year. The Vendor undertakes that once installed, the AMS shall be fully operational to the NLI’s satisfaction, including, without limitation, its integration into the NLI’s existing systems.
- 3.3 Once the AMS is installed, it the acceptance testing shall be conducted for a period of up to thirty (30) consecutive business days, at the end of which the AMS must satisfy all acceptance tests to the satisfaction of the NLI.
- 3.4 The acceptance tests shall be designed and conducted by the Vendor after their approval by the NLI.
- 3.5 If the NLI determines, in its sole discretion, that the acceptance tests for the AMS have been successfully concluded, it shall give written notice thereof to the Vendor and the date of such notice shall be the commencement of the Operations Phase.

- 3.6 If the NLI does not consider that the acceptance tests for the AMS were successful, the Vendor may attempt to either repair or upgrade the AMS, at no additional cost to the NLI, in a period of no longer than thirty (30) business days (the “**Repair Period**”).
- 3.7 At the conclusion of the Repair Period, the acceptance tests shall be repeated as provided above (the “**Repeated Tests**”). If the NLI determines, at its sole discretion, that the Repeated Tests are successful, the provisions of Section 3.5 shall apply.
- 3.8 In the event that the NLI determines, at its sole discretion, that neither the acceptance tests nor the repeated tests were successful, it may, at its sole discretion, cancel this Agreement or any part thereof. For the avoidance of doubt, following the cancellation of this Agreement as provided in this sub-section, the NLI may, but is not bound to, replace the Vendor with another vendor who shall perform that portion of this Agreement that was so cancelled.
- 3.9 At the end of the Operations Phase, and as an inseparable part thereof, the Vendor shall provide the NLI with a copy of the system file which includes full updated documentation of the all the software components provided by the Vendor, as well as complete documentation of the of the AMS itself, including, without limitation, details of its installation, definitions and adjustments performed thereof, usage instructions, training instructions, expansion potential, etc. (the “**System File**”). The NLI shall be entitled to receive an updated System File annually for the Operations Phase and any Extension or upon termination of this Agreement.
- 3.10 During the Operations Phase and any Extension, the NLI may purchase additional components from the Vendor, in which case the Vendor shall provide the NLI with the same discount from its list price as it offered on the AMS in the pricing offer attached to the Response.

4. **Integration and Training**

- 4.1 The Vendor hereby undertakes to install and integrate the AMS on the NLI’s premises, as provided in the Technical Schedule and the Response.
- 4.2 Furthermore, the Vendor undertakes to train the NLI’s employees, and the employees or staff of the archives participating in the Project who will be using the AMS, in the operation and use of the AMS. Training shall be in accordance with manufacturer guidelines and specifications and shall be conducted on the site in which the AMS was installed. In the course of training, the Vendor shall provide the NLI’s employees and the employee staff of the participating archives with operational training in order to acquaint them with the operation of the AMS and all its components, hardware, software, instruction regarding organization and methods of using the AMS, as well as instruction on software and infrastructure. Training and instruction shall be accompanied by demonstration on the NLI’s computer system.
- 4.3 The Vendor shall provide the NLI with complete operations manuals, manufacturer’s documentation and safety instructions and summary operating instructions. In addition, the Vendor shall provide the NLI with copies in Hebrew of all materials necessary for the individual archives participating in the Project to use the AMS as provided in the Technical Schedule.
- 4.4 In the event that the integration of the AMS is performed by a local integrator selected by the Vendor as provided in the Response (the “**Integrator**”), the Vendor undertakes that if such Integrator is unable to complete the implementation thereof

for any reason whatsoever, the Vendor shall itself either complete the implementation or secure the services of another Integrator acceptable to the NLI therefore.

- 4.5 For the avoidance of doubt, the Vendor is responsible for all works performed by the Integrator and all its obligations herein are binding with respect the work performed by the Integrator.

5. **Warranty, Service and Maintenance**

- 5.1 The Vendor hereby undertakes to provide maintenance and support services for the AMS for the entire Transaction Period and any Extension, as provided in the Technical Specifications.
- 5.2 Without derogating from the provisions of Section 5.1, during the Transaction Period and any Extension the Vendor shall repair any defects in AMS at its sole expense, including, without limitation, defects caused by the installations, materials, or any other aspect of the work conducted by Vendor, as well as any defect caused by negligence on the part of the Vendor or any of its sub-contractors, employees or agents, including, without limitation, the Integrator, its employees or agents.
- 5.3 The Vendor undertakes to address any problems with the AMS as provided in the Technical Specifications.
- 5.4 For the duration of the Transaction Period and any Extension, the Vendor shall update and upgrade all of the software programs provided to the NLI under the terms of this Agreement necessary for the AMS's functionality, including upgrades of the AMS itself and all its components at no additional cost. For the purposes of this sub-section, the term "**updates**" shall include bug fixes, improvements, patches, and new versions of software. The Vendor likewise undertakes to provide maintenance for the software at no additional cost.
- 5.5 Following each occurrence of a bug in the AMS or in the NLI systems as a result of the installation thereof, the Vendor shall update the AMS and all of its accompanying documentation, including, the System File and the manuals.

6. **Vendor's Representations and Warranties**

- 6.1 The obligations expressed to be assumed by the Vendor in this Agreement are legal and valid obligations binding on the Vendor and enforceable in accordance with their terms.
- 6.2 The execution of this Agreement by the Vendor and the exercise of the Vendor's rights and performance of the Vendor's obligations hereunder do not and will not: (i) conflict with any agreement, mortgage, pledge, bank loan or credit agreement, charge or other instrument or document to which it is a party or which is binding upon it or any of its assets, (ii) conflict with its articles of amalgamation, continuance or incorporation, its by-laws or any other organisational documents, or (iii) conflict with any applicable law, regulation or order.
- 6.3 As of the date of this Agreement, no receiver, receiver manager, liquidator or similar officer has been appointed with respect to the Vendor or any part of its assets nor is it aware of any petition or proceedings for such appointment pending.

- 6.4 The Vendor hereby declares and undertakes that for the duration of the Transaction Period and any Extension, it shall have all the licenses, permits and permissions required by law for the performance of the Services as provided in this Agreement.
- 6.5 The Vendor hereby declares that all representations and warranties made by it in the Response are correct, complete and accurate as of the date of signature hereof and that meets all of the qualifications stipulated in the RFP in their entirety. The Vendor hereby declares that it understands that the NLI's willingness to enter into this Agreement with the Vendor is based on the correctness, completeness and accuracy of the abovementioned representations and warranties and that the NLI would not have agreed to enter into this Agreement if it knew that these representations or warranties or any of them were not correct.
- 6.6 The Vendor hereby declares that it has the manpower, equipment, materials, knowledge, experience and other means necessary for the provision of the Services as described in its Response at its disposal, whether directly or by way of an Integrator, and that these will continue to be so available until it has fulfilled all of the requirements of the RFP.
- 6.7 The Vendor hereby declares that the AMS and all of the components thereof, is capable of operating harmoniously together and that it is thus a complete turnkey system capable of operating to the NLI's satisfaction and that it is the Vendor's responsibility to ensure that the AMS operates so and that it is thus the Vendor's responsibility to ensure the following:
- 6.4.1 The AMS shall function as an integrative system for the operational perspective, in terms of reaction time, access speed and execution times, as well as in terms of load balancing, among other things. The Vendor undertakes that AMS shall function as required in the Technical Specifications and shall fully integrate with the NLI's existing systems and equipment.
- 6.4.2 All of the components of the AMS, whether of the Vendors or of outside manufacturers as provided in its Response, are continuously manufactured and supported, and that they will be so manufactured and supported for the Transaction Period and any Extension.
- 6.4.3 With respect to all of the components of the AMS acquired from a third party, the Vendor hereby declares that it has back-to-back warranties from the suppliers or the manufacturers thereof. For the avoidance of doubt, such warranties do not negate or limit the Vendor's liability for any components or the AMS as provided in this Agreement.
- 6.8 The Vendor hereby declares that its undertakings to the NLI in this Agreement or the performance thereof do not in any way breach the rights of any third party, including, without limitation, their intellectual right of any kind (copyrights, patents, trade secrets, etc.).
- 6.9 The Vendor hereby acknowledges and declares that the participation of the Office of the Prime Minister of Israel (the "OPM") in the Heritage Archives Network Israel Project, as described in the RFP, does not and shall not (a) create any obligation of any kind on the part the OPM towards the Vendor and the NLI is solely responsible for any obligations in this Agreement to the Vendor, and (b) create any legal or other relationship between the Vendor and the OPM and the Vendor is not in any way a beneficiary of any contract or undertaking between the OPM and the NLI.
- 6.10 The Vendor hereby declares that it is aware of and versed in the laws regarding conflicts of interests in the State of Israel and that its interests do not conflict in any

way with those of either the NLI or the OPM. In the event that, as a result of a change of circumstances or otherwise, it becomes aware of any such conflict or of any situation which could potentially raise the suspicion of such conflict during the Transaction Period or any Extension, it will immediately inform the NLI thereof.

- 6.11 The Vendor hereby declares and undertakes the following:
- 6.8.1 It examined this Agreement and all documents related to the RFP, including any clarifications published by the NLI (if so published) carefully prior to signing this Agreement, it has thoroughly understood them and it shall have no claims with respect thereto.
 - 6.8.2 All actions with respect to the fulfillment of its obligations hereunder, whether directly or by any of its employees or agents, including, without limitation, those of the Integrator, its employees or agents, shall be performed in an expert manner, at the highest professional standards in Israel and abroad.
 - 6.8.3 The personnel for the performance by it of its obligations hereunder, including the project manager, shall be appointed by the Vendor. Any change in such personnel shall be subject to the prior consent of the NLI. Furthermore, the NLI shall have the right to demand the removal of any of the Vendor's or the Integrator's personnel from the team providing the Services.
- 6.12 The Vendor represents and warrants that the qualifications listed in Section 2.2 of the RFP are correct as of the date hereof and shall so remain for the duration of the Transaction Period and any Extension and shall provide updated copies of documents required in Section 2.4.6 on the date of its execution hereof.
- 6.13 The Vendor hereby declares and undertakes that its Integrator, if any, is aware of all of the provisions of this Agreement and that it has made all of the equivalent declaration, representations and warranties to the Vendor, including, without limitation, those in Section 6.6 and 6.7.

7. **Intellectual Property**

- 7.1 The Vendor hereby declares and undertakes that all components provided to the NLI pursuant to this Agreement shall be new components and that either of the Vendor or the manufacturer owns the AMS, including all of the components thereof, that the AMS, its components and any other products provided by it to the NLI are free of any lien, charge or any other security interest or third-party right and that the Vendor or the relevant manufacturer shall have secured all intellectual property rights in the System and in its components prior to their installation and integration in the NLI's premises and systems. Likewise, the Vendor hereby declares that in the event that neither the Vendor or the manufacturer of a component of the AMS or any other product provided by it hereunder are not the owners of any such component or product when it is ordered in accordance with this Agreement, by the time it is installed and integrated at the NLI's premises and in its systems, the Vendor shall have all licenses, permits or permissions necessary for such installation or integration so that the NLI and any of its administrative units may use the AMS and all its components without interruption. At the NLI's request, the Vendor shall provide the NLI with all licenses, permits or permissions required to prove the ownership or right of use of either the Vendor or the manufacturer, as applicable, in any component or product as described above.

- 7.2 Furthermore, the Vendor hereby declares that use by the NLI or any other participant in the Heritage Archives Network of Israel Project as described in the RFP, including, without limitation, the OPM and the Israel State Archives, of the AMS or any component thereof shall not breach the intellectual property or other rights of any third party whatsoever, and that no claims have been made or threatened with respect to the intellectual property rights in any of the AMS or its components by any third party.
- 7.3 The Vendor hereby undertakes that in the event that use of any component of the AMS or any other product as provided under this Agreement breaches the intellectual property or other rights of any third party, the Vendor shall immediately either secure proper rights to use such component in accordance with the provisions of this Agreement or remove it and replace it with a component acceptable to the NLI in which it has secured proper usage rights, all at the Vendor's sole cost and in order to allow the uninterrupted performance of the AMS.
- 7.4 The provisions of this Section 7 shall not derogate from any other remedy available to the NLI by law or contract with respect to the breaching components, including, *inter alia*, the right to compensation for breach of this Agreement and indemnification as provided herein. Furthermore, in the event the Vendor has available to it similar, equivalent, alternative or other rights with respect to the manufacturer or any other party, the NLI may, at its sole discretion, choose to bring its claims against any or all of the Vendor or such parties, jointly and severally, without derogating from its remedies with respect to the Vendor under law.
- 7.5 The Vendor hereby undertakes that any intellectual property created in the course of the planning, design, implementation and installation of the AMS shall be the property of the NLI and hereby transfers all rights thereto to the NLI. In the event that the cooperation of the Vendor or the Integrator or any employee or agent of either is required for the transfer of such intellectual property rights to NLI, the Vendor undertakes to fully provide such cooperation in a timely manner.

8. **Confidentiality**

- 8.1 The Vendor hereby undertakes to keep confidential every document, program, sketch, program, work order, implementation procedure or any other information or data which it receives, to which it is exposed, or which it creates in the course of or in connection with the performance of its obligations hereunder, directly or indirectly (the "**Confidential Information**").
- 8.2 The Vendor undertakes that all of its employees or agents, including, without limitation, the Integrator and its employees or agents, who are exposed to any Confidential Information, shall execute a confidentiality agreement substantially on the terms of this Section 8.
- 8.3 The Vendor undertakes to comply with the NLI's instructions with respect to the Confidential Information, including, without limitation, arrangements for the protection of the Confidential Information and procedures for collecting and accessing such Confidential Information and marking it as confidential.
- 8.4 The Vendor hereby declares that it is familiar with the provisions of Israel's Protection of Privacy Law, 1981 and all regulations promulgated thereunder and that the Vendor, its employees and agents, including, without limitation, the Integrator and its employees, will comply with its provisions and the provisions of

any other law with respect to the protection and confidentiality of the information available to the Vendor, its employees and agents, including, without limitation, the Integrator and its employees.

- 8.5 The Vendor undertakes to return all Confidential Information to the NLI within two weeks of the termination of this Agreement. With respect to information imbedded in computer memory or which cannot be returned to the NLI for any other reason, the Vendor undertakes to erase such information or delete in a manner that will not allow it to be reconstructed or reproduced.
- 8.6 Without derogating from the above, the Vendor undertakes that it will take all reasonable measures to secure the Confidential Information and to provide the NLI with information regarding such measures upon its request. Furthermore, the Vendor undertakes to ensure that all of its employees and agents, including, without limitations, the Integrator and its employees and agents, protect the Confidential Information to which they have access that is subject to Israel's Computerized Data Bases Regulations and the Protection of Privacy Law, 1981 in accordance with their terms.

9. **Payment**

- 9.1 The full and final compensation to the Vendor for the performance of its obligations in this Agreement shall be as provided in the Payment Schedule. For the avoidance of doubt, it is hereby declared and agreed that the payment listed in the Payment Schedule is the full compensation to which the Vendor is entitled for all of the components of the AMS of any sort, including, without limitation, the works and services to be provided by the Vendor in accordance with this Agreement.
- 9.2 For the avoidance of doubt, the prices stated in the Payment Schedule include the cost of delivery, supply and installation at the NLI's premises.
- 9.3 During the Transaction Period, payments shall be made in accordance with fulfillment by Vendor the milestones specified in the Payment Schedule to the full satisfaction of the NLI, against provision by Vendor of formal VAT invoices and shall be made on a current month + thirty days basis.
- 9.4 All payments will be made in New Israeli Shekels or in the Vendor's local currency, if other than New Israeli Shekels. Payments pursuant to the Payment Schedule shall only be made after provision by the Vendor of the following documents upon execution of this Agreement and at the beginning of each financial year thereafter and which the Vendor agrees constitute a condition precedent for each payment:
 - 9.5.1 Valid recent certification that the Vendor conducts proper books as required by law, is an authorized dealer as required pursuant to the Value Added Tax Law, 5736-1975 and
 - 9.5.2 Valid recent certification required pursuant to the Public Bodies (Transaction)(Enforcement of Booking) Law, 5736-1976 indicating that the Vendor conducts its books as required by Israel's income tax and value added tax laws or certification that it is exempt from such requirements, and that it reports its income and transactions to the tax authorities as required by law.

In the event the Vendor is organized in a foreign jurisdiction, it must provide certification that it conducts proper books, complies with value added tax

legislation and otherwise complies with the requirements in its home jurisdiction for contracting with public entities.

- 9.5 For the avoidance of doubt, nothing in this Agreement shall create any obligation on the part of the NLI to make any payment whatsoever to the Integrator with respect to any work or services provided by it connection with the AMS or otherwise and Vendor hereby undertakes to include an express provision to this effect in its engagement agreements with the Integrator.

10. **Compliance with Laws**

- 10.1 Its performance of this Agreement, the Vendor will comply with all applicable laws, including without limitation all applicable laws relating to the license, sublicense, and distribution of the AMS or any components thereof and export/import control laws and undertakes to ensure that the Integrator so complies. The Vendor agrees to take the required steps necessary, if any, to satisfy any laws or requirements to declare, file, record or otherwise render this Agreement valid.
- 10.2 The Vendor will be responsible for obtaining all applicable government regulatory approvals for its activities required to perform its obligation under in this Agreement.

11. **Indemnification**

- 11.1 The Vendor shall bear sole liability for any direct or indirect damage caused to the NLI or any third party, including, without limitation, the OPM, caused by any act or omission of the Vendor, its employees or agents, including, without limitation, the Integrator, its employees or agents.
- 11.2 The Vendor shall, at its own expense, indemnify, defend, and hold the NLI, and its partners, including the OPM, distributors, affiliates, officers, directors or employees (the “**Vendor Indemnitees**”) harmless from and against any liabilities, damages, costs or expenses (including attorney’s fees and expert witness fees) suffered or incurred by any Vendor Indemnitee from or in connection with any claim, action, demand, suit, or proceeding (“**Claim**”) against such Vendor Indemnitee brought by a third party to the extent the Claim arises out of or resulting from or in connection with this Agreement or the performance hereof by Vendor, its employees or agents, including, without limitation, the Integrator, its employees or agents.
- 11.3 Without derogating from the above, the Vendor shall, at its expense, indemnify, defend and hold the Vendor Indemnitees harmless from and against any liabilities, damages, costs or expenses (including attorney’s fees and expert witness fees) suffered or incurred by any Vendor Indemnitee from or in connection with any Claim brought in connection with the breach of any third party’s intellectual property rights by the Vendor, its employees or agents, including, without limitation, the Integrator, its employees or agents. Furthermore, the Vendor shall defend the NLI, at its own expense, with respect to any Claim that the AMS or any component thereof breaches a third-party patent, copy right or other intellectual property right, and shall bear all expenses, including damages, costs or expenses (including attorney’s fees and expert witness fees) it is ordered to pay with respect to such proceedings. The Vendor shall replace the AMS or any component thereof

that is determined to breach any intellectual property rights with another non-breaching program or component, at its sole expense and, in the event that no such program or component exists, it shall compensate the NLI by reimbursing the full cost of the of the breaching program or component. In the event that the inability to locate and procure a non-breaching program or component causes the NLI further damages, the Vendor shall solely bear such indirect damages in full.

- 11.4 The Vendor shall full insure itself, its employees and agents against its liability to the NLI and the Vendor Indemnitees as provided in this Section 11 and shall provide the NLI with valid certification from its insurance company such it has such sufficient insurance upon execution hereof.

12. **Guarantee and Security**

- 12.1 As security for the performance by the Vendor of its obligations hereunder and against payment of the first payment by the NLI of the first payment as provided in the Payment Schedule, the Vendor undertakes to provide an autonomous bank guarantee from a bank acceptable to the NLI linked to the last Israeli Consumer Price Index (the “**CPI**”) published prior to the execution of this Agreement in a sum New Israeli shekels equal to ten percent (10%) of the total payment to be made by the NLI to Vendor as provided in the Payment Schedule, including value added tax (the “**Guarantee**”). The Guarantee shall be valid for the duration of the Transaction Period and any Extension and the new CPI for any extension of the Guarantee shall be the last CPI published prior to such extension.
- 12.2 The NLI may exercise the Guarantee, in whole or in part, in the event that the Vendor does not fulfill any or all of his obligations as provided in this Agreement after providing proper notice thereof, at the sole discretion of the NLI.
- 12.3 If the NLI has exercised the Guarantee, in whole or in part, but has not terminated this Agreement, the Vendor must provide an additional guarantee such that the total amount guarantee is equal to the sum provided in Section 12.1 above.
- 12.4 The NLI may immediately exercise the guarantee upon termination of this Agreement as provided in Section 17 below.
- 12.5 Provision by the Vendor of the Guarantee is a condition precedent of the validity and effectiveness of this Agreement, this without derogating from the Vendor’s obligations to fully perform its obligations hereunder or imposing any obligation on the NLI.

13. **Professional Adjudicator**

- 13.1 The parties may appoint an adjudicator who shall determine any disputes arising from this Agreement (the “**Adjudicator**”). The Adjudicator shall execute a confidentiality agreement substantially similar to the undertaking in Section 8 above.
- 13.2 The Adjudicator shall be a computer engineer with not less than 10 years’ experience in planning of large computer systems and shall be acceptable to both parties. In the event that the parties are unable to agree on an Adjudicator, he shall be selected by the President of the Association of Engineers, Architects and Graduates in Technological Sciences in Israel.
- 13.3 The parties shall allow the Adjudicator to inspect their premises, if necessary, upon prior coordination and shall in any case provide the Adjudicator with all the

materials, documents, programs and equipment related to the provision of the Services and necessary for the Adjudicator to determine the dispute.

- 13.4 In the event of dispute, the Adjudicator shall, if possible, determine it within twenty (20) days of his appointment.

14. **No Employee-Employer Relations**

- 14.1 The Vendor hereby declares and represents to the NLI that it is performing its obligations hereunder as an independent contractor. Nothing in this Agreement, including but not limited to the location of Services provided hereunder shall render any of the Vendor, its employees or agents, including, without limitation, the Integrator, its employees or agents, an employee, agent or partner of the NLI.
- 14.2 The Vendor hereby declares and represents that it shall make its employees or agents, including, without limitation, the Integrator, its employees or agents that no employee-employer relations shall be created by virtue of the provision of the Services in this Agreement.

15. **Assignment**

- 15.1 The rights, interests and obligations of the Vendor hereunder shall not be assigned or transferred, in whole or in part, without the prior written approval of the NLI. Assignment in violation of this Section 15.1 shall be null and void from the beginning, and shall be deemed a material breach of this Agreement and shall not release the Vendor from his obligations hereunder.
- 15.2 The rights, interests and obligations of the NLI hereunder may be assigned or transferred, in whole or in part, without the prior written approval of the Vendor.

16. **Waiver**

Failure or neglect by the NLI to enforce any of the provisions hereof at any time shall not be construed nor shall be deemed to be a waiver of its rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice such Party's rights to take subsequent action.

17. **Breach of Contract**

- 17.1 If (a) the Vendor's breach of this agreement constitutes a material breach, as such term is defined in the Contract Law (Remedies for Breach of Contract), 2970 or as provided in Section 17.2 below or (b) otherwise breaches this Agreement in a manner than may be remedied within seven (7) days, but does not so remedy the breach, the NLI may terminate this Agreement or perform, directly or using the services of any third party, any obligation which the Vendor undertook to perform hereunder, all at the Vendor's sole expense and in addition to any other remedy available to the NLI in law or contract.
- 17.2 For the purposes of this Section 17, the breach of the following shall be deemed a material breach:
- 17.2.1 The Vendor's failure to meet, or anticipated failure to meet, any of the timetables of deadlines specified by the Vendor in the Response.
- 17.2.2 The Vendor's failure to meet, or anticipated failure to meet, of any of the specifications detailed in the Technical Specifications.

17.2.3 The Vendor's failure to perform any of its obligations as provided in Sections 3.2, 3.4, 3.7, 3.9, 3.10, 4, 5, 6, 7, 8, 9.5, 11, 12 of this Agreement.

18. **Termination**

- 18.1 The NLI may terminate this Agreement without any prior notice in any of the following:
- 18.1.1 A receiver, receiver manager, liquidator or similar officer has been appointed with respect to the Vendor or any part of its assets any petition or proceedings for such appointment are pending;
 - 18.1.2 The Vendor ceases to conduct its operations substantially as conducted on the date hereof for more than thirty (30) days.
 - 18.1.3 If the Vendor assigns or transfer is obligations hereunder, in whole or in part, other than as provided in this Agreement.
 - 18.1.4 The Vendor has abandoned its obligations hereunder.
- 18.2 The NLI may terminate this Agreement upon forty five (45) days' notice in the event that it receives notice from the OPM of changes to the Project that no longer the AMS necessary, in which case it shall make all payment under the Payment Schedule for work provided by the Vendor and approved by the NLI.

19. **Miscellaneous**

- 19.1 This Agreement, including the appendices and schedules and any addendum attached hereto, constitutes the final and entire agreement between the parties regarding the subject matter hereof and all other prior or contemporaneous negotiations, representations, agreements, and understandings are superseded hereby. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties.
- 19.2 The headings to the clauses, sub-clauses and parts of this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement. Any ambiguity in this Agreement shall be interpreted equitably without regard to which party drafted the Agreement or any provision thereof. The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the construction or interpretation of this Agreement.
- 19.3 In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole and, in such event, any such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or intended provision within the limits of applicable law or applicable court decisions.
- 19.4 This Agreement and the parties' rights and obligations thereunder shall for all purposes be solely and exclusive governed by, and construed and enforced under, the laws of the State of Israel and, other than as provided in Section 13 above, all disputes between the parties shall be heard exclusively by the competent courts of the District of Jerusalem.
- 19.5 Notices shall be deemed received at the parties' addresses as provided herein within seven (7) days, other than notices delivered by hand or sent by fax or e-mail,

which shall be deemed received the first business day following such delivery or sending.

19.6 Amendments of this Agreement or any of its terms shall only be valid and effective if executed by both parties hereto.

In witness whereof, the parties have affixed their signatures:

On behalf of

_____ (Date)
The National Library of Israel Ltd. (CC)

_____ (Date)
The Vendor