**Agreement on the protection of confidential information**

Agreement number: ....

Parties:

Czech Republic - Central Institute for Supervising and Testing in Agriculture

with registered office: Hroznova 63/2, 603 00 Brno

ID: 00020338

DIC: CZ00020338

represented by: Ing. Daniel Jurečka, Director

(hereinafter referred to as the 'Contracting Authority' or 'ÚKZÚZ')

Contact person for performance: Ing. Vojtěch Řehák, rehak.vojtech@gmail.com, tel.: 736 473 385

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with registered office:

ID:  , TAX ID:

company registered in the Commercial Register maintained by  ,

file mark

bank account:  , account number:

represented by:  ,

(hereinafter referred to as the "**Participant**")

(collectively also referred to as the "**Parties**")

have on this date entered into this Agreement in accordance with the provisions of Section 1746(2) of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the "**Civil Code**")

(hereinafter referred to as the "**Agreement**")

The Parties, being aware of their obligations contained in this Agreement and intending to be bound by this Agreement, agree to the following wording of the Agreement:

1. INTRODUCTORY PROVISIONS
   1. The Contracting Authority declares that:
      1. it is an organisational unit of the State, whose competence and principles of operation are laid down by law   
         No 147/2002 Coll., on the Central Agricultural Inspection and Testing Institute and on the amendment of related acts, as amended, and
      2. meets all the terms and conditions and requirements set forth in this Agreement and is authorized to enter into this Agreement and to duly perform the obligations contained herein.
   2. The Participant represents that:
      1. it has fulfilled all the conditions and requirements set out in this Agreement and is entitled to enter into this Agreement and to duly perform the obligations contained herein.
2. PURPOSE OF THE AGREEMENT
   1. The Participant, intending to participate in the Public Procurement entitled "**Supply of software for the implementation of the Phytosanitary Register in Moldova**" (hereinafter referred to as the "Public Procurement"), awarded under Law No. 134/2016 Coll, on public procurement (hereinafter referred to as "ZZVZ") as part of the project of foreign development cooperation of the Czech Republic in Moldova registered under the title "Strengthening of control and laboratory capacity in the field of phytosanitary in the Republic of Moldova" requires the release of those parts of the tender documentation for the Public Contract that contain information that the Procuring Entity considers confidential and requires its protection (hereinafter referred to as "Confidential Information"). For this reason, the Parties enter into this Agreement, which governs the rules for the treatment of Confidential Information received by the Participant.
3. SUBJECT OF THE AGREEMENT
   1. The subject of this Agreement is the Participant's commitment to use the Confidential Information under this Agreement only in the manner and for the purpose set forth in this Agreement. .
   2. Unless otherwise agreed by the Parties, Participant shall not be entitled to dispose of Confidential Information unless this Agreement is effective at least as specified in paragraph .10.1
4. CONFIDENTIAL INFORMATION
   1. Unless otherwise agreed between the Participant and the Procuring Entity, all information provided by the Procuring Entity to the Participant shall be considered Confidential Information and the use of which is subject to this Agreement, from the following:

* the information set out in Schedule 1 to this Agreement,
* any information or documentation provided by the Parties to each other and marked as "confidential" or otherwise similarly marked,
* financial, economic, organizational, personnel and technical information, such as models, diagrams, data, studies, analyses, documentation, procedures, ideas, know-how, photographs, computer programs and source codes, configurations, manuals, records, etc,
* the terms of this Agreement as well as other contractual arrangements entered into in connection with the cooperation of the Parties,
* the existence of negotiations between the Parties, the results and records of such negotiations,
* any intellectual property information; and
* information subject under Czech law to personal data protection, copyright protection, etc.

1. USE OF CONFIDENTIAL INFORMATION
   1. All Confidential Information shall remain the exclusive property of the Procuring Entity and the Participant shall be entitled to use it only for the purposes of its participation in the procurement procedure for the award of the Public Contract.
   2. The Participant shall maintain the confidentiality of the Confidential Information and shall not disclose it to any third party.
   3. The Participant is entitled to disclose Confidential Information to its employees and authorities only to the extent that it is strictly necessary for that person to become acquainted with the Confidential Information for the purposes of the Participant's participation in the procurement procedure for the award of the Public Contract. Such persons shall be advised of the confidential nature of the information to be provided and shall be bound to confidentiality.
   4. The Participant shall be entitled to disclose Confidential Information to other third parties only with the prior written consent of the Procuring Entity or subject to the conditions set out in Article6 . Agreement.
2. SUBCONTRACTORS
   1. If the Bidder considers cooperating with third parties in the preparation of the Bid for the execution of the Public Contract and/or in the eventual execution of the Public Contract by the Bidder, the Bidder agrees to share Confidential Information with such parties (hereinafter referred to as "**Subcontractors**") only in accordance with this Article6 . of the Agreement.
   2. Any third party working with the Participant pursuant to paragraph6.1 shall be deemed a Subcontractor, regardless of whether:
      1. the collaboration is conducted as part of a consortium by the Participant and such third party, the members of which correspond to the Contracting Authority jointly and severally; or
      2. the cooperation is based on a subcontracting relationship of such third party to the Participant, or
      3. the cooperation is based on a subcontracting relationship of the Participant to such third party; or
      4. the Participant and the third party have chosen any other form of cooperation.
   3. Sharing of Confidential Information is only possible provided that either:
      1. The Subcontractor has entered into an agreement with the Procuring Entity in its own name and on its own behalf with substantially the same content as the content of this Agreement; this condition shall be deemed to be met if the agreement is delivered to the Procuring Entity in electronic form in PDF-A2b format or higher, electronically signed by a person authorized to bind the Subcontractor; ; or
      2. The Participant has entered into an information protection agreement with the Subcontractor under which Confidential Information provided to the Participant and shared with the Subcontractor will also be subject to protection by the Subcontractor; this condition shall be deemed to be met if a single copy of such information protection agreement signed by persons representing the Subcontractor and the Participant is delivered to the Procuring Entity.
3. Participant's implementation team
   1. The following persons will participate in the implementation of the tender on behalf of the Participant's implementation team (the Participant shall indicate the name, surname, date of birth and, where applicable, the ID number of the members of the implementation team):

as employees of the Participant:

as Subcontractors of the Participant:

1. TO FULFIL THE PURPOSE OF THE AGREEMENT
   1. The Participant agrees to promptly return all Confidential Information received to the Principal upon fulfillment of the purpose of this Agreement pursuant to2 . or upon written request of the Principal, and to promptly destroy any copies made by the Participant in connection with the performance of the subject matter and purpose of this Agreement. In particular, the purpose of this Agreement shall be deemed to have been fulfilled if, during the course of the procurement procedure for the award of the Public Contract, the Participant is excluded from the procurement procedure, the Contracting Authority concludes a contract for the performance of the Public Contract with another participant in the procurement procedure, or the procurement procedure for the award of the Public Contract is cancelled. In the event that the fulfilment of the conditions for the fulfilment of the purpose of this Agreement pursuant to the preceding sentence is affected by the duration of the deadline for the submission of objections by the Participants to the procurement procedure for the award of the Public Contract, the submission of objections by the Participants to the procurement procedure for the award of the Public Contract, or administrative proceedings for the review of the acts of the Procuring Entity, the purpose of this Agreement shall be deemed to be fulfilled upon the fulfilment of the conditions pursuant to this sentence.
2. BREACH OF OBLIGATIONS
   1. A Participant shall be liable for any breach of its obligations for handling Confidential Information under Section5 of this Agreement caused by its Subcontractor as if the breach were caused by the Participant. In the event that the Subcontractor has also entered into an agreement with the Procuring Entity pursuant to paragraph6.3.1 , the Participant and the Subcontractor shall be jointly and severally liable for the breach of the Agreement.
   2. If the Participant breaches any obligation under clause5 . of this Agreement, the Grantor shall be entitled to demand payment of a contractual penalty by the Participant in the amount of CZK 1 000 000,- (in words: one million Czech crowns) for each breach of such obligation.
   3. The Participant's obligation to pay the contractual penalty under this Agreement shall be without prejudice to the Entity's right to compensation for damages caused by the breach of the obligations that gave rise to the claim for the contractual penalty, in full.
3. FINAL PROVISIONS
   1. The obligation to protect Confidential Information shall bind the Participant notwithstanding any termination of this Agreement for a period of five (5) years from the execution of this Agreement. The liability and liquidated damages provisions shall be deemed to survive any breach of the obligation under the preceding sentence.
   2. This Agreement may be amended only by written agreement of the Parties in the form of numbered amendments to this Agreement, signed on behalf of each Party by the person or persons authorized to represent such Party.
   3. All rights and obligations under this Agreement shall, unless the nature of such rights and obligations so excludes, pass to the successors in title of the Parties.
   4. The following Annexes form an integral part of the Agreement:

Annex 1 : Specification of Confidential Information

* 1. This Agreement shall be executed in electronic format (.pdf), with each Party receiving a mutually electronically signed data file of this Agreement.

The Parties declare that they have read this Agreement, that they agree with its contents and that they affix their signatures to this Agreement as evidence thereof.

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| --- | --- |
| **Contracting Authority**  At \_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_\_\_\_ | **Participant**  At  on |

Annex 1 - Specification of Confidential Information

1. Security
   1. Minimum requirements for cryptographic means (we do not keep a duplicate internal document, the valid recommendation issued on the NCIB website must be followed) according to <https://nukib.cz/cs/infoservis/doporuceni/>