

**Service contract**

**for the provision of operational support and development of the Phytosanitary Register in Moldova**

1. Parties

Czech Republic - Central Institute for Supervising and Testing in Agriculture

organisational unit of the State

with registered office at Hroznová 63/2, 656 06 Brno

ID 00020338, VAT CZ00020338

on behalf of which acts Ing. Daniel Jurečka, Director of the Institute

Contact person in matters of contract performance: Ing. Vojtěch Řehák, mobile: 736 473 385, e-mail: rehak.vojtech@gmail.com

(hereinafter referred to as the "Customer")

with registered office at

ID NO.       VAT NO. CZ

on whose behalf

registered in the Commercial Register maintained by .       .court in       , section       , insert

contact person in matters of contract performance:       tel:

email:

account with       number

(hereinafter referred to as "Provider")

enter into a Service Agreement for the provision of operational support and development of the Phytosanitary Register in Moldova, (hereinafter also referred to as the "System") in accordance with the provisions of Article 1746(2) of Law No. 89/2012 Coll., Civil Code, as amended.

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

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

1. Subject matter of the Contract
	1. The Provider undertakes to provide the Customer with support and development services for the System under the terms and conditions of the Contract, which are divided into flat-rate and on-demand services. The services shall be provided in English and Romanian. In the event that the Provider does not know any of the languages, it shall provide an interpreter at its own expense.
	2. **Lump sum services for** support and development of the System are lump sum services provided to the Customer periodically by the Provider without prior order of the Customer and include:
		1. Operational Support Service to ensure smooth and trouble-free operation of the System. The service includes in particular:
2. Monitoring of the System operation and load, prevention of any defects and failures of the System and other related activities,
3. operational adjustments, reconfigurations or optimizations to ensure better and safer operation of the System,
4. updating the System including any third party components used, including the application of functional and security patches.
	* 1. Service of solving warranty and post-warranty defects of the System. The subject of the service is the resolution of System defects reported by the Customer or detected by the Provider in the course of providing the service according to2.2.1 . System defects are resolved within the time limits corresponding to the priority/category of the defect. The required timescales for the resolution of individual defect categories are specified in2.2.2.5 . System defects are classified into the following categories:
			1. Category A defect - Unavailable module: the System or an individual module as a whole is out of service or a major part of its functionality is unavailable, in particular:
5. The System's user interface cannot be displayed; the System crashes with an error when it is displayed,
6. services accessible via the Application Programming Interface (API) cannot be used, an API call returns an error condition,
7. the System record cannot be saved or read,
8. cannot log in, the System crashes with an error.
	* + 1. Category B defect - Unavailable function: important functions of the System are unavailable and cannot be invoked in any other way, in particular:
9. some functionalities of the System's user interfaces are not available, while the System as a whole is available and functional,
10. some functionalities accessible through the API are not functional, but the non-functionality of functionalities does not cause the non-functionality of the whole System.
	* + 1. defect category C - Minor functional error: functional errors of a minor nature, failures of functions that can be caused by other means, in particular:
11. Navigation interface elements where another method can be used for navigation,
12. The system errs when certain combinations of conflicting values are entered,
13. not all data is displayed in the list pages or data is incorrectly displayed,
14. the Application Programming Interface (API) does not provide functionality that can be accessed by other means, or there is an error that can be circumvented by a temporary workaround.
	* + 1. Category D - Minor design defect: minor errors that do not affect the functionality of the System, but only the appearance and ergonomics of the System, in particular:
15. Formatting and display errors that do not make it impossible to work with the System,
16. text errors,
17. typos in the application,
18. minor errors in the functionality of the application APIs not affecting the functionality of the calling systems,
	* + 1. During the term of this Agreement, the Provider agrees to respond to and remedy reported warranty and post-warranty defects within the timeframes and under the terms of the following table:

|  |  |  |
| --- | --- | --- |
| **Defect Severity Category** | **Response time**  | **Time to remedy the defect in the operating environment** |
| **A** | 4 hours | 2 working days |
| **B** | Next working day | 7 working days |
| **C** | 7 calendar days | 20 calendar days  |
| **D** | 15 calendar days | 50 calendar days |

* + 1. The Provider agrees to deploy corrected versions of the System addressing the defects first into the System's test environment and, after proper testing, into the System's operational environment, with deployment of corrected versions potentially impacting the services and functionality provided by the System only after written approval by the Customer. Written consent shall be deemed to include an email sent by the Customer to the Provider at the address specified in clause 3.7(b) of the Agreement.
	1. **On-demand services** are provided only upon request by the Customer and implemented after the Customer's prior acceptance of the Provider's offer under the terms of clause 3.2 of the Agreement. The Customer shall have no obligation to request the Services.
		1. The service of solving the Customer's requirements includes the implementation of modifications to the System, configurations, data manipulations or extensions to the System as requested by the Customer. Requests shall be resolved within timeframes corresponding to the approved schedule and implementation date according to the procedure set out in clause . 3.2
			1. System development will be handled in the form of change management - Change Management.
			2. The Customer's tool, to which the Provider will be given access, will be used to manage the implementation of requests for changes to the System.
			3. For all changes made within the System development, the Customer will automatically have an unlimited right of use and a non-exclusive license to the modified parts of the System.
		2. Technical support and consultation services include assistance of the Provider in solving operational problems, System development and other issues related to the operation of the System, in the sense of providing advice and consultation to the Customer's employees.

The Provider undertakes to provide assistance to the Customer in defining requirements for further development of the System according to specific needs. This service does not include the implementation of these requirements.

* + 1. Service of termination of the System support and development services (Exit).

The service is activated at the Client's request at the moment of handing over the support and development services to the Client or another entity designated by the Client. The object of the service is to ensure the handover of the System, all components, functionalities, documentation, information and other artefacts necessary to support the System at no additional cost to the Customer.

1. Method of service provision
	1. The lump sum services defined in the subject matter of the Contract in clause 2.2 of the Contract shall be provided on a recurring monthly basis throughout the term of the Contract without prior order.
	2. The Customer may request the provision of additional services defined in the subject matter of the Contract as on-demand services pursuant to clause 2.3 of the Contract. The Customer shall forward the request for the provision of the service to the Provider through the Customer Support communication channels specified in clause 3.7 of the Contract. In response to the request, the Provider shall send to the Customer, within 10 working days of receipt of the request, a quotation for the requested service, including a proposed schedule and timeframe for performance. The Provider shall commence the provision of the Services upon acceptance of the quotation by the Customer. The Customer shall confirm the acceptance of the offer to the Provider by email sent via the Customer Support communication channel referred to in clause 3.7 of the Contract within 5 working days of receipt of the Provider's offer. If the Customer fails to do so, the Provider's offer shall be deemed not to have been accepted.
	3. Each invoice for on-demand services shall include a statement of activity agreed by the Customer.
	4. The Client's tool shall, by mutual agreement, be the primary record-keeping tool for managing all requests under this contract. Remote access to this tool will be established by the Provider.
	5. Requests shall be entered into the Client's tool according to the following categories:
2. Incidents (representing System defects addressed within the Service as defined in2.2.2 ),
3. Requests (addressed within the service defined in2.3.1 ).
	1. Both parties undertake to make entries into this tool accurately and completely to ensure the smooth implementation of the services under this Agreement and to eliminate any time delays and extra work. Failure to do so shall entitle the other party to return the request for proper completion. No time for implementation shall be allowed after the stated remediation period.
	2. The Provider undertakes to provide the services under this Contract based on the Customer's requirements in 5 × 8 mode on working days from 8:30 a.m. to 5:00 p.m. of the time in the Republic of Moldova by using remote access or, in justified cases where remote access is not possible, at the place of occurrence of operational problems or at another workplace designated by the Customer. System defects resolved within the framework of the flat-rate services and requests raised as part of the on-demand services shall be transmitted to the Provider through the communication channels of the Customer Support Service, which the Provider shall establish for this purpose.

Customer Support will use the following communication channels:

1. telephone - one point of contact at a designated telephone number       ,
2. email - one point of contact at the email address       .
3. Place of performance
* The place of performance shall be the cloud environment of the Contracting Authority specified in Chapter 7, Annex 5 of the ZD - Technical Specification with remote access capability,
* Republic of Moldova, National Food Safety Agency (Agenția Națională pentru Siguranța Alimentelor)
1. Price
	1. The price shall consist of the price for a flat rate service for the provision of operational support for 12 months and the price for all man-hours available on request. The price for 12 months of operational support shall not exceed CZK 500,000.00 incl. VAT and the price for all performance-based services shall also not exceed CZK 500,000.00 incl. VAT.
	2. The price of the flat-rate services pursuant to clause 2.2 shall be invoiced monthly for 12 months at the rate of       CZK excluding VAT, i.e.       CZK including VAT. The amount of VAT shall be       CZK.
	3. The price of one man-hour is       CZK without VAT, i.e.       CZK with VAT. The amount of VAT is       CZK.
	4. Number of man-hours , which will be available on request of the Customer within the price specified in point 5.1, last sentence
	5. In accordance with the Agreement between the Government of the Czech Republic and the Government of the Republic of Moldova on Development Cooperation No. 35/2013 Coll. (hereinafter referred to as the "Agreement with the Republic of Moldova"), the performance provided within the framework of development cooperation is exempt from value added tax and all customs duties. This Agreement applies to suppliers established domestically or in the Republic of Moldova. Suppliers shall indicate VAT at the rate of 0 CZK.
	6. Suppliers who are not established in the country and are not covered by the Agreement with the Republic of Moldova shall indicate in the draft contract a VAT rate of 0 CZK.
	7. The price for on-demand services under clause 2.3 of the Contract shall be determined on the basis of the number of man-hours worked at the rate specified in clause 5.3 of the Contract.
	8. Man-hour means 60 minutes of work by one person within one working day.
	9. Man-hour means the work of one person for eight working hours in one working day.
2. Payment terms and penalties
	1. The price for the provision of support services shall be paid on the basis of an invoice issued by the Provider within 10 working days after the end of each calendar month. The invoiced amount will consist of a fixed price for the provision of the flat-rate services and a price per man-hour for on-demand services provided.
	2. If man-hours worked for on-demand services are invoiced according to clauses 2.3, a statement of work and an acceptance report agreed by the Customer confirming the quality of the solution of the requested service shall be an integral part of each invoice.
	3. The statement of work approved by the Customer shall include at least:
		1. identification of the contracting parties, contract number,
		2. the period for which the report is submitted,
		3. a summary of the contractual parameters achieved,
		4. a summary of breaches of contractual parameters,
		5. a summary of discounts on the price of the service resulting from breaches of the contractual parameters,
		6. signature of the reporting party or the Provider's representative.
	4. The tax document (invoice) issued by the Provider will be due 21 days from the date of its delivery to the Client and will be sent to podatelna@ukzuz.gov.cz. Payment shall be made to the Provider's account as specified in Article 1 of the Contract.
	5. The invoice shall include the Contract number, the statement of activities and the acceptance report agreed on behalf of the UCCCUZ by the contact person set out in clause 7.3 of the Contract, as well as the requirements of a tax document under Czech law. If the invoice does not contain the elements according to the previous sentence, the Customer has the right to return the invoice with justification. The Customer shall not be in default if the invoice is rightfully returned.
	6. In the event of the Client's delay in payment of the invoice, the Provider is entitled to demand interest on the overdue amount for each day of delay, determined in accordance with Government Regulation No. 351/2013 Coll., as amended.
	7. In the event of the Provider's delay in meeting the deadline for the performance of support services under clause 2.2.2 and clause 3.2 of the Contract, the Customer shall be entitled to claim a contractual penalty for delay according to the following scheme:
3. in case of 1 to 3 day delay of the Provider, the amount of the penalty shall be CZK 2,000 for each such day of delay,
4. in the event of 4 to 10 days of delay by the Provider, the amount of the penalty shall be CZK 3,000 for each such day of delay,
5. in the case of the Provider's delay of the 10th day and above, the amount of the penalty shall be CZK 5 000,- for each such day of delay.
	1. In the event of the Provider's delay in the performance of support services in accordance with clauses 12.3 and 12.4 of the Contract, the Customer shall be entitled to apply the contractual penalty for delay according to the following scheme:

in case of 1 to 3 day delay of the Provider, the amount of the penalty shall be CZK 5,000 for each such day of delay,

* 1. The contractual penalty shall be payable within 21 days of the receipt of the invoice by the Provider to the email or address specified in the header of the contract. The Customer shall be served only at the address . podatelna@ukzuz.govcz
	2. The payment of interest on late payment shall not exclude the right of the entitled party to claim compensation for damages that have been proven to have been incurred in the performance of the obligations of the Contract, in an amount exceeding the contractual penalty.
1. Contact persons
	1. The Parties are obliged to inform each other of all facts relevant to the fulfilment of the obligations under the Contract.
	2. The Provider's contact person for contractual matters is       , tel.:       , e-mail:       . The actual work related to the subject of the Contract may be performed by other employees of the Provider, according to the needs and decision of the Provider's contact person.
	3. The contact persons on the part of the Client are Ing. Vojtěch Řehák, mobile: 736 473 385, e-mail: rehak.vojtech@gmail.com . Other employees of the Client, designated by the Client and communicated in writing to the Provider, may also participate in the performance of the Client's rights and obligations.
	4. The contact persons shall be entitled to communicate with each other, to take over parts of the performance of the subject of the Contract and to comment on the course of performance of the subject of the Contract, including specification of deficiencies, and to sign acceptance protocols and activity reports under the Contract.
	5. The Parties undertake not to change the contact person during the performance of the subject of the Contract without serious reasons. In the event of a change in the contact person, the Party that has changed the contact person shall appoint a new contact person without undue delay and inform the other Party in writing without delay.
2. Quality guarantee
	1. The Provider shall provide a quality guarantee for the resolution of a post-warranty defect for a period of 180 days from its rectification.
	2. The Customer shall report defects in the resolution of an operational problem in the same manner as operational problems, except that the Customer shall include the notation "Warranty" in the "Problem Report". The time limits for commencing work to remedy an operational problem and the time limits for remedying an operational problem shall be the same as the time limits for commencing work to remedy an operational problem and the time limits for remedying the operational problem in which the defect occurred.
3. Copyright
	1. The Provider declares that by performing its obligations under the Contract it does not infringe the intellectual property rights of third parties. The Provider warrants to the Customer that its use of the System will not be interfered with by the rights and claims of third parties. The Provider undertakes to pay all costs and damages that the Customer may incur in exercising the above rights and claims.
4. Protection of information
	1. Information and all data that the Provider learns from the Client's information systems are confidential.
	2. It shall not be considered a breach of the obligation under clause 10.1 of the Contract if the Contracting Party is obliged to disclose confidential information on the basis of a statutory obligation.
	3. If the Provider or any of its subcontractors violates the provisions of clause 10.1 of the Contract, the Provider shall be obliged to compensate for the damage caused thereby. Unless otherwise agreed by the parties.
	4. The obligation of confidentiality shall also apply to the Provider's subcontractors.
	5. The obligation of confidentiality shall continue notwithstanding the existence of the termination or expiry of the Contract.
	6. The Client agrees that the Provider shall have the right to mention this project as a reference to third parties.
	7. The Customer shall not have the right to disseminate to third parties, without the Provider's consent, the products handed over or any intellectual property of the Provider of which it has become aware in the course of the contractual relationship.
5. Exclusion of liability
	1. Neither party shall be liable for delays caused by circumstances excluding liability.
	2. Circumstances precluding liability shall be deemed to be an obstacle which has arisen independently of the will of the obliged party and which prevents it from fulfilling its obligation, if it cannot reasonably be assumed that the obliged party would have avoided or overcome the obstacle or its consequences and that it would have foreseen the obstacle at the time of its occurrence.
	3. Liability is not excluded by an obstacle which arose only at a time when the obliged party was in default of its obligation or arose from its economic circumstances. The effects precluding liability are limited to the duration of the obstacle to which the obligations are related.
6. Termination of the contract
	1. On expiry of the period for which the contract is concluded.
	2. If the Customer or the Provider finds a material breach of the performance of the subject matter of the Contract by the other party, it shall have the right to terminate the Contract immediately, a written copy of which must be delivered to the other party. The effects of the written withdrawal shall commence upon delivery of the withdrawal to the other party at the address specified in clause 1 of the Contract or at the customer support email address specified in clause 3.7(b) of the Contract. A material breach of the Contract by the Provider shall be deemed to be a delay of more than 30 days in meeting the deadlines set out in the Contract. A material breach of the Contract by the Customer shall be deemed to be, in particular, a delay of more than 60 days in the payment of obligations to the Provider.
	3. In the event that a new Contract is entered into, whether due to the early termination of the existing Contract or due to the expiry of the term for which this Contract was agreed, the existing Provider undertakes to provide the Customer or third parties designated by the Customer with all assistance necessary for the purposes of the smooth and orderly handover, provision of data migration services, for the duration of the Initialisation of Services under the Contract with the new Provider after the expiry of this Contract, provided that the fulfilment of this objective will depend on the knowledge of the existing Provider acquired as a result of the performance of this Contract. For the avoidance of doubt, it is stated that the Provider shall, as part of the cooperation under this paragraph of the Contract, ensure that the relevant members of the implementation team attend at least 4 times in person at meetings with the Customer or third parties designated by the Customer, and that this form of cooperation may be requested by the Customer until the end of the 6th calendar month following the month in which this Contract has expired. The current Provider undertakes to provide such assistance with professional care, without undue delay and in a responsible manner. The Existing Provider undertakes to respond to a request from the Customer or a third party designated by the Customer and to commence the provision of assistance under this paragraph of the Contract no later than 3 working days from the date of receipt of such request. The Parties agree that the price for the performance under this paragraph is part of the price under Article V of this Contract.
	4. Upon termination of the Contract, the Provider shall at the same time deliver to the Customer all updated documentation including the source codes for the System in such a form that the continuing Provider can provide support and development of the System without any problems.
7. Final provisions
	1. The Contract shall enter into force and effect upon signature by both parties.
	2. The Contract shall be concluded for a fixed term of 12 months starting on the day following the handover of the completed Phytoregistry as specified in Article IV. Contract concluded on the basis of an above-limit public tender conducted in an open tender procedure in the electronic tool EZAK under System No: P25V00000801 entitled "Supply of software for the implementation of the Phytosanitary Register in Moldova".
	3. The Contract may be amended or supplemented only by written amendments signed by authorised representatives of both Parties.
	4. Any disputes not covered by the Contract shall be settled in accordance with the relevant provisions of the Civil Code.
	5. The Contract may be drawn up in duplicate or in electronic form.
	6. The Parties state that they have read the contents of the Contract and declare that it has been negotiated according to their true and free will, which is confirmed by the signatures of their authorised representatives.

In      on       In Brno on

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      Ing. Daniel Jurečka

      Director

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