



WORK CONTRACT

at

Supply and implementation of "Development of software for the implementation of the Phytosanitary Register in Moldova" including other related services

(hereinafter referred to as the "Contract")

**The Parties**

**Client:**

**Czech Republic - Central Institute for Supervising and Testing in Agriculture**

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

ID: 00020338

DIC: CZ00020338

on behalf of which Ing. Daniel Jurečka, Director

Contact person: Mgr. Petr Vaculík

**Contractor:**

[TO BE COMPLETED BY PARTICIPANT]

Registered office: [ADD PARTICIPANT]

ICKO: [ADD PARTICIPANT], DIC: [ADD PARTICIPANT]

a company registered in the Commercial Register kept by the [ADD PARTICIPANT] court in [ADD PARTICIPANT],

section [ADD PARTICIPANT], insert [ADD PARTICIPANT]

bank account number: [ADD PARTICIPANT], account number: [ADD PARTICIPANT]

represented/agent (function): [ADD PARTICIPANT], [ADD PARTICIPANT]

## Basic provisions

1. The Parties declare that they will act in accordance with the terms and conditions of the supra-limit public procurement procedure entitled "Supply of software for the implementation of the Phytosanitary Register in Moldova", conducted in an open tender procedure in the electronic tool EZAK under System No: P25V00000801 (hereinafter referred to as the "Public Procurement") on the basis of which this contract is concluded. The public contract is part of the Czech Republic's foreign development cooperation project in Moldova entitled 'Strengthening of control and laboratory capacity in the field of plant health in the Republic of Moldova'. The aim of the project is to modernise the phytosanitary sector in line with EU requirements, and one of the outputs of the project is the creation of a Phytosanitary Register in the Republic of Moldova. The development cooperation project is registered in the Republic of Moldova under the number 87211394646. The Parties declare that they are aware of the contents of the above document.
2. The Contractor further declares that all requirements and conditions of the Client, as specified in the Tender Documentation, will be accepted in the performance of this contract. In the event of a conflict between the Tender Documents and the text of the Contract, the text of the Tender Documents shall prevail.
3. The Contractor declares and undertakes that it has acquainted itself in detail with the scope and nature of the subject-matter of the contract and that it is professionally competent to ensure the performance of the subject-matter of the contract.
4. The Contractor shall ensure that all the characteristics of the subject-matter of the Contract comply with the generally applicable legislation of the Republic of Moldova throughout the period of validity of this Contract.
5. The contractor and the client undertake to cooperate with each other for the purpose of performance of the contract.
6. For the purposes of this Contract, the following abbreviations shall be introduced and used: as set out in Section 1.3 of Schedule 5 of the ZD - Technical Specification.

## Purpose and object of the contract

1. The purpose of this contract is the supply and implementation of the Register State Phytosanitary (RFS), consisting of the creation of a comprehensive IT solution including the following modules:

- Phytosanitary Control System (PCS),

- Plant Reproductive Material Management System (PRMMS),

- Plant Health Surveillance System (PHSS),

- Phytosanitary Public Portal (PP),

- National Catalogue of Varieties (NCV),

(hereinafter referred to as the RSF system or the Phytoregister).

1. The subject matter of this contract is the Contractor's obligation to perform the work specified below for the Client at its own risk and risk, including the provision of all necessary licenses, documentation, implementation and trial operation.
2. The Client undertakes to accept the duly and timely performed and completed work and to pay the agreed price to the Contractor.
3. The Contractor shall provide technical support and service to the Client for a period of one year starting from the day after the work is put into operation, under the terms and conditions specified in the Service Agreement, which forms Annex 3 to this Agreement.

## Specification of the Work

1. The execution of the work shall include:
2. the creation of the Work, including the provision of all necessary licenses and source code,
3. installation and implementation of the Work,
4. assistance in carrying out acceptance tests under the conditions set out in Article IV of this Work Contract.
5. training of users and administrators,
6. preparation of appropriate project, technical and operational documentation,
7. provision of functional integration interfaces (APIs) including their documentation,
8. performing user acceptance testing (UAT) in cooperation with the Customer,
9. ensuring an acceptance protocol for each stage of the work, signed by the client's representatives.
10. The work, its scope and the content of the performance of its individual parts are defined in this contract in Annex 1 - Technical Specification.
11. If the change or modification affects the functionality of the work or changes the user characteristics of the work, the contractor is obliged to provide updated user documentation and documentation for the information system administrator in English.
12. The Client is entitled to make changes to the HW and SW, settings and configurations of the HW and SW in such a way as to ensure the operation of the Work and related infrastructure. The Client is obliged to inform the Contractor about the changes made to the HW and SW, as well as about the changes to the settings and configuration of the HW and SW in the form of a record, which shall always contain at least a serial number, the date of execution, the date of signature by the Client's representative, as well as the specification of the change to the HW and SW and the change to the settings and configuration of the HW and SW that was made.
13. If the Contractor discovers hidden obstacles to the proper performance of the work during the performance of the subject matter of the Contract, it is obliged to notify the Client without delay and suggest further action.

## Time and place of performance

1. The contractor shall hand over the work to the client at the times specified in the individual stages set out in Article IV(2) of this contract. The contractor shall commence performance of the subject-matter of this contract immediately after the last party has signed this contract.
2. The Contractor shall hand over the work to the Client (or, depending on the nature of the performance, perform it for the Client) without defects and imperfections on the basis of a handover and acceptance report signed by the authorised representatives of both parties and the representatives in the Republic of Moldova under the conditions set out in Article VI of this Contract in the stages and on the dates set out in the table below:

|  |  |  |
| --- | --- | --- |
| **#** | **Latest date** | **Content of delivery** |
| **M1** | M0+4 months | **Accepted:**1. Document with detailed IT analysis and system design (including process models and UI screen designs for all 5 modules - PCS, PRMMS, NCV, PHSS, PP) in English.2. MVP versions of all modules (PCS, PRMMS, NCV, PHSS, PP), including fulfillment of selected functional requirements in chapters 4.1 to 4.5 as per Annex 5 - Technical Specifications:PCS - Functional Requirements 1, 5, 7, 11;PRMMS - functional requirements 1, 6, 7, 8, 12;NCV - functional requirements 1, 3, 4, 10;PHSS - functional requirements 1, 4; PP - functional requirements 1, 5.3. Submission of MVP basic technical documentation (EN)4. Presentation of the MVP to the contracting authority (on-site or online)**Acceptance protocol in English and Romanian languages** signed by representatives of ÚKZÚZ and ANSA under the terms of Article VI, paragraph 4 of this Contract. |
| **M2** | M1+ 5 months | **Accepted:**1. Delivery of extended functionalities of all modules according to Annex 5 - Technical Specifications:PCS: workflow for phytocertificates, digital inspection protocols, validation of operators, WPM passports - chap. 4.3, functional requirements 3, 5, 8, 11, 19; chap. 5.3.PRMMS: certification applications, inspections, checklists - Ch. 4.2, functional requirements 2, 4, 6, 19.NCV: approval and export of varieties - Ch. 4.1, functional requirements 3, 4, 5, 6, 13.PHSS: records of surveys, occurrences, checklists - Ch. 4.4, functional requirements 1, 3, 4, 9, 15.PP: public interface with CMS - ch. 4.5, functional requirements 1, 2, 3, 8.2. Submission of user documentation for new features (RO + EN)3. Submission of technical documentation (EN)**Acceptance protocol in English and Romanian languages** signed by representatives of the CAHRA and ANSA under the terms of Article VI.4 of this Contract. |
| **M3** | M2+ 4 months | **Accepted:**1. Complete implementation of all system features - functional requirements according to Annex 5 - Technical Specifications chapters 4.1 to 4.5:PCS: inspection, certification, registration, connection to LIMS, TRACES, mServices.PRMMS: complete lifecycle of PRM and seed certification, integration with eGov.NCV: fully functional catalogue including exports and registration management.PHSS: investigation planning and evaluation, emergency measures, EPPO methodology.PP: public portal with all functions, multilingualism, CMS.2. Completion of system integration tests (SIT).3. UAT tests with ANSA users and contracting authority representatives.4. Submission of final user documentation (RO + EN).5. Submission of final technical documentation (EN).**Acceptance protocol in English and Romanian languages** signed by representatives of the UAT and ANSA under the terms of Article VI(4) of this Contract. |
| **M4** | M3 2+months | **Accepted:**1. Deployment of the system in the ANSA production environment (live operation).2. System commissioning report signed by representatives of ANSA, the contracting authority and the contractor.3. Verification of correct system functionality and access permissions in production conditions.4. finalisation of localisations, print reports and handover of final documentation (user and technical).5. Confirmation of the availability of backup mechanisms and archiving policy of the system.6. Initiation of warranty support including contacts for incident resolution.**Acceptance protocol in English and Romanian** signed by the representatives of the CAHRA and ANSA under the terms of Article VI(4) of this Contract. |

1. The principal place of performance is the Republic of Moldova, National Food Safety Agency (Agenția Națională pentru Siguranța Alimentelor), Mihail Kogălniceanu 63, MD-2009 , Chișinău, Republic of Moldova (hereinafter referred to as 'ANSA').
2. The Customer's cloud environment specified in Chapter 7 of Annex 1 to this Contract - Technical Specification.

## Price

1. The price of the subject matter of the performance under Article II and within the scope specified in Article III of this contract, broken down according to the Contractor's offer, is set at a total of:

Price excluding VAT (CZK) (to be completed by the PARTICIPANT)

VAT rate (0%) - services are exempt from tax according to the VAT Act No. 235/2004 Coll. and according to the Agreement No. 35/2013 Coll. (Agreement between the Government of the Czech Republic and the Government of the Ministry of Foreign Affairs on Development Cooperation)

Price including VAT (CZK) (to be completed by the PARTICIPANT).

1. The price of the subject of performance will be divided into 2 payments (invoices - tax documents) where the price for M1 will be 25% of the price of the work and the price for M4 will be 75% of the price of the work:
	* 1. M1, 25% of the price according to Article V. paragraph 1 of this contract,

Price excluding VAT (CZK) (to be completed by the PARTICIPANT)

VAT rate (0%) - the services are exempt from tax according to the VAT Act No. 235/2004 Coll. and according to the Agreement No. 35/2013 Coll. (Agreement between the Government of the Czech Republic and the Government of the MD on Development Cooperation)

Price including VAT (CZK) (to be completed by the PARTICIPANT).

* + 1. Price for the processing of the delivery according to M4, 75% of the price according to Article V, paragraph 1 of this contract.

Price excluding VAT (CZK) (to be completed by the PARTICIPANT)

VAT rate (0%) - the services are exempt from tax according to the VAT Act No. 235/2004 Coll. and according to the Agreement No. 35/2013 Coll. (Agreement between the Government of the Czech Republic and the Government of the MD on Development Cooperation)

Price including VAT (CZK) (to be completed by the PARTICIPANT)

1. The prices are quoted as fixed and maximum allowable, including all costs of the Contractor necessary for the proper performance of the subject of the Contract. Prices may be adjusted only under the conditions specified below.
2. Contractors not established in the country and not covered by the Development Cooperation Agreement with the Republic of Moldova shall indicate in the draft contract a VAT of 0 CZK. In accordance with Article 108(3) of Act No 235/2004 Coll., on value added tax, as amended, the client shall pay the statutory amount of VAT directly to the tax administrator.
3. The Parties agree that if the statutory VAT rate for the relevant performance under this contract changes during the performance of this contract, this rate will be reflected in all prices quoted in this contract including VAT and the Contractor shall be obliged to charge the applicable VAT rate from the moment the change in the statutory VAT rate takes effect. It is not necessary to conclude an amendment to this contract to this effect.
4. The contractor is responsible for setting the tax rate in accordance with the applicable legislation.
5. The parties agree that technical support and other services shall be provided free of charge by the contractor throughout the trial period.

## Payment and invoicing conditions

1. Payment of the price of the subject of performance, see Article V, paragraph 2, letter a) of this contract, shall be made after the handover of the part of the work on the basis of the Acceptance Protocol in English and Romanian signed by the authorized representatives of both parties and the authorized representative of ANSA. The date of signature of the Acceptance Protocol shall be the date of the taxable transaction. In the event that the Acceptance Protocol is not signed in accordance with the above sentence, the Client may withdraw from the Contract and the Contractor shall not be entitled to the remuneration under Article V.2.a).
2. The payment of the price of the subject of performance, see Article V, paragraph 2, letter b) of this contract, shall be made after the protocol handover of the entire work into routine operation on the basis of the Acceptance Protocol in English and Romanian signed by the authorized representatives of both parties and the authorized representative of ANSA. The date of signing of the Acceptance Protocol shall be the date of the taxable transaction. The Customer may pay the price according to Article V, paragraph 2, letter b) of this Contract even if the Authorised Representative of ANSA does not approve the Acceptance Protocol.
3. Upon completion of each part of the work specified in Article IV, paragraph 2 of this Contract, the Contractor shall draw up a handover and acceptance report for the part of the work in English and Romanian (hereinafter referred to as the "handover report"), containing a summary of all parts handed over and work carried out and detailed documentation. The Client undertakes to accept these parts of the work if they are duly executed and handed over in accordance with the Contract, without defects or shortcomings. For the purpose of acceptance of each part of the work, an Acceptance Protocol will be drawn up between the parties and signed by authorised representatives of both parties and an authorised representative of ANSA. The Contractor shall invite the Client and ANSA's representative to accept at least 5 working days before the date of handing over the performance for acceptance.
4. The Client and the authorised representative of ANSA shall carry out the acceptance (completion of the test and acceptance reports) for the parts defined in Article IV.2 of this Contract as M1, M2, M3 within one month of the handover of the part of the Work and for the part M4 within two months of the handover of the last part of the Work. If the Client or ANSA's representative fails to carry out this testing/acceptance within the time limit, all time limits shall be suspended and neither the Client nor the Contractor shall be deemed to be in default. The Client reserves the right to request reasonable adjustments to the Work during the course of acceptance.
5. If the client or ANSA's representative does not accept the work or part of it because it contains defects, he is obliged to specify these defects in the handover report. The contractor shall provide the client with assistance in drawing up the handover report. The same applies to the comments in the comments on the document 'Detailed IT analysis and system design'.
6. The handover report and the acceptance report must contain at least the following elements:
* the number of the handover/acceptance report and the date,
* contract number and date of conclusion, contract number,
* the identification of the subject-matter or part thereof,
* the name, registered office, registration number and VAT number of the client and the contractor,
* the name of the project,
* the date of commencement and completion of the relevant part/entire work,
* a detailed definition of the scope of the works and supplies carried out
* a declaration by the client that he/she accepts (does not accept) the performance (part thereof), signature of an authorised person of the client,
* the name and handwritten signature of the person who issued the handover report, including a contact telephone number.
1. The Handover/Acceptance Report shall be handed over in person to an authorised employee of the Customer and an authorised representative of ANSA against written confirmation. If appropriate and practical, the handover report may also be prepared in electronic form, provided that it is signed by both parties with a valid and guaranteed electronic signature in accordance with European Union Regulation No. 910/2014 on electronic identification and trust services for electronic transactions in the internal European market, or the equivalent of this electronic signature used outside the European market.
2. The basis for payment of the price under this contract shall be an invoice, which shall have the requirements of an accounting document pursuant to Act No. 563/1991 Coll., on Accounting, as amended, and a tax document pursuant to Act No. 235/2004 Coll., on Value Added Tax, as amended (hereinafter referred to as the "invoice").
3. The Contractor is entitled, in accordance with Article V, paragraph 2 of this Contract, to issue a separate invoice after the proper completion and handover of the part of the work specified in Article V, paragraph 2, letters a), b), of this Contract, on the basis of an Acceptance Protocol signed by both parties, which shows that the work, part thereof, has been handed over properly and without defects and deficiencies.
4. The invoice shall be due 30 calendar days from the date of delivery to the Client. The invoice will be delivered electronically to the Client's addresspodatelna@ukzuz.gov.cz .
5. In addition to the statutory requirements for a tax document, the invoice must also contain:
* invoice number and date of issue,
* the number of the contract and the date of its conclusion, the number of the public contract,
* the name of the project,
* the subject of performance and its exact specification in words (a reference to the number of the concluded contract is not sufficient),
* the name of the bank and the number of the account into which payment must be made (if the account number is different from that specified in the contract, the contractor must inform the client of this fact),
* the number and date of the relevant handover reports and the Acceptance Report signed by the Contractor's representative and agreed by the Client's representative and an authorised representative of ANSA (the Acceptance Report will be attached to the invoice),
* the invoice due date,
* the name, registered office, registration number and VAT number of the Client and the Contractor,
1. If the invoice does not contain the elements required by law or by this contract, or if the price or VAT is incorrectly invoiced, or if works are invoiced which the contractor has not carried out, the client is entitled to return the invoice to the other party for correction before the due date, indicating the reason for the return. The contractor shall make the correction by issuing a new invoice. On the date of dispatch of the defective invoice to the contractor, the original due date shall cease to run and the new due date shall run again from the date of delivery of the new invoice to the client.
2. The obligation to pay the price is fulfilled on the date of debiting the relevant amount from the customer's account.

## Licence and conditions of use of the work

1. If the output of the Services provided or the result of the Contractor's or subcontractors' activities carried out under this Contract includes subject matter protected by copyright pursuant to Act No. 121/2000 Coll, on copyright, on rights related to copyright and on amendments to certain acts (Copyright Act), as amended (hereinafter referred to as the "**Copyright Work**"), including the manner of selection or arrangement of the contents of the database, the Contractor grants the Client an exclusive right to use such Copyright Work (exclusive licence) in any manner whatsoever on the date of provision of the Copyright Work to the Client, for the entire duration of the copyright in the Copyright Work, respectively. For the duration of the copyright protection, without limitation as to quantity (in particular, number of users, degree of use, technological scope), territory, time (hereinafter referred to as the "**License**") and the Customer hereby acquires the License.
2. The Contractor hereby grants to the Client and the Client hereby accepts an exclusive licence to freely use the Work, including updates thereof, in all the ways specified in Section 12(4) of the Copyright Act, with the licence fee included in the price of the Work pursuant to Article V of this Agreement
3. By this contract, the contractor undertakes to supply the necessary software of the subject matter and other standard software necessary for the operation of the subject matter, including the granting of licensing rights to such software. The contractor undertakes to ensure the industrial and copyright safety of the performance of this contract.
4. If the Contractor uses any of its intellectual property created before the conclusion of this contract or at the time of the performance of this contract in the performance of this contract, the Client shall acquire the right to use it on a non-exclusive basis, without a separate contract and without payment, from the date of its use (application), for an unlimited period of time (even after the termination of the contract). The preceding sentence also applies if the contractor creates a work of authorship in the performance of this contract. The acquisition of the right to use these intellectual property items (any licences) for the purpose of this contract is included in the price of performance. The other provisions of Article VII of this Contract shall also apply to such intellectual property. If the contractor as author has developed the subject matter or any part thereof for the client, the parties shall be bound as set out in the following provisions (only software individually developed for the client, not standard software):
5. The Contractor undertakes to hand over to the Client the source code of the subject of performance, or its parts and components, such as but not limited to third-party runtime libraries (hereinafter referred to as the source code of the subject of performance), and all subsequent changes to the source code of the subject of performance created by the Contractor for the Client. The Subject Matter Source Code shall be delivered via electronic media (e.g. flash disc, etc.), whereby the Contractor shall deliver a new, up-to-date version of the Subject Matter Source Code on the dates specified as M2, M3, M4 and in between, always without delay after its deployment into the production environment.

The delivered source code shall be in the correct version and allow compilation, installation, execution and verification of functionality. In order to comply with the previous sentence, parts of the delivered code that are necessary for compilation but are either a separate licensing subject (e.g. third party library licenses, development environment) or are available or part of the provided software (e.g. web servers, RDBMS management tools) need not be part of the delivered code. However, such components must be explicitly identified in the accompanying source code documentation, including the correct version and source from where they can be obtained or located.

1. The Contractor declares that it has the right to use and grant the Customer the right to exercise all rights to all versions of the source code of the subject matter.
2. The performance of the subject matter of the Contract may include so-called standard software (hereinafter referred to as "standard software") or so-called open source software for which the Contractor cannot grant the Customer the rights under the preceding provisions of this Article or cannot be fairly required to do so, only if at least one of the following conditions is met: ,
	1. The software is software from reputable manufacturers, which is commercially available, i.e. offered worldwide by at least three independent and unrelated entities authorised to modify such software, and which is demonstrably in use in a productive environment worldwide by at least ten independent and unrelated entities at the time of conclusion of the contract. The Contractor is obliged to provide the Client with a written declaration of this fact and to prove this fact at the Client's request.
	2. This is open source software that is provided to the public free of charge, including general availability of the source code and full user, operational and administrative documentation and the right to modify the software. The Contractor shall provide the Client with a written statement to this effect and shall demonstrate this fact at the Client's request.
	3. This is software for which the Contractor shall provide written assurance that, in view of its (i) marginal importance, (ii) uncomplicated interconnectivity or (iii) separability and substitutability in the System without the need to expend significant resources, further development of the System by a person other than the Contractor can be carried out without it, prejudice the rights of the authors of such software, because the source code of such software will not need to be interfered with, or because the eventual replacement of such software will not involve significant complication and expense on the part of the Client. The prior consent of the Customer is required for the significance of the software to be considered marginal.
	4. The Contractor shall provide or arrange for the provision to the Customer of the complete annotated source code of the software and the unconditional right to make any modifications, alterations, changes to such software and to interfere with it at its discretion, to incorporate it into other works of authorship, to include it in works of compilation or databases, etc., including through third parties. The provision of source code shall be subject to the other terms and conditions, in particular Article VII of this Agreement.
	5. The software is software whose API (*Application Programming Interface*) covers all modules and functionalities of the software, is well documented, allows encapsulation of the software and its adaptation within the changing conditions of the Customer's IT environment without the need to interfere with the source codes of the software, and the Contractor grants the Customer the right to use this interface for application programming to the same extent as the software. The Contractor shall describe in detail the methods to further provide authentication or connection of the software to the API.
	6. The Contractor shall undertake to provide the Customer, upon written request of the Customer, within 30 days after the completion of the implementation, with (i) the complete annotated source code of the software and the unconditional right to modify the software or (ii) the API (*Application Programming Interface*) covering all modules and functionalities of the software, is well documented, allows the Software to be encapsulated and adapted to the changing conditions of the Customer's IT environment without the need to interfere with the source code of the Software, and the right to use this interface for application programming to the same extent as the Software.
3. The Contractor undertakes to document separately all use of standard software in the provision of services and to provide the Client with a comprehensive overview of the standard software used (open source software), its licensing terms and alternative providers.
4. The use of any Open Source Software by the Contractor in the performance of this Agreement is subject to the prior written approval of the Client, and the Contractor shall notify the Client in advance whether the software is provided for a fee or free of charge.
5. The Contractor is obliged to prepare and submit an overview of the Open Source Software to the Client no later than upon handing over the subject of performance to the Client, indicating the author (provider), the licensing model, any restrictions that apply to the use of such software and the source codes. The overview according to the previous sentence must be attached to the handover report.
6. The documentation of the annotated source code shall at least include:

- a description of functions and methods

- comments on the main variables and data structures

- comments on exceptional behaviour (e.g. validation, errors)

- an overview of modules and their dependencies

- instructions for building and running the system

1. The customer has the right to interface the work with other software products operated by him.
2. If a database is acquired within the scope of the contract, the customer is entitled to use the database from the moment of acquisition. The Customer shall always be deemed to be the purchaser of such database.
3. The Contractor undertakes not to infringe the copyright of any third party by performing the performance under this contract. Liability for unauthorised interference with the copyright and other rights of third parties rests solely with the contractor.
4. The Contractor expressly declares that it is fully entitled to dispose of the intellectual property rights, including copyright, included in the subject matter of the work and undertakes to ensure the proper and undisturbed use of the work by the Client for this purpose, including securing the consent of the authors of the works in accordance with the Copyright Act.
5. The Customer shall be entitled to transfer, assign or sublicense this License in a non-exclusive manner, including all components of the Work (documentation and similar parts of the performance) and source codes, to use the Copyright Work to the extent identical to the scope of the License to any third party under any other terms and conditions (including the possibility for such party to modify the subject matter of the License and to redistribute it, however, solely for the purposes for which the subject matter was developed).
6. If the Work of authorship is created by the Contractor, the parties make it undisputed that any such Work of authorship was created at the initiative and direction of the Client.
7. The Contractor hereby represents and warrants to the Client that it shall at all times provide the Client with sufficient intellectual property rights in the output of the Services so that the Client shall be entitled to alter and modify the Copyright Works produced by the Provider or its subcontractors in connection with the performance of this Agreement in any manner whatsoever, including through third parties, and shall be entitled to provide the same to third parties, and shall not be restricted from soliciting services similar to the Services under this Agreement or related performance from other Providers in future procurement procedures under the ZZVZ, respectively. in future procurement procedures pursuant to future regulations governing public procurement.

## Liability for damages

1. The Contractor shall be obliged to compensate the Client in full for any damage incurred during the execution and use of the Work in connection with or as a result of a breach of the Contractor's obligations and commitments under this Agreement.
2. In the event that demonstrable damage is caused to the Client or third parties in the course of the Contractor's activities, the Contractor shall be obliged to pay for such damage.
3. If the Contractor fails to fulfil its obligations as set out in Article VI (Payment and Invoicing Conditions) of this Agreement and the Client suffers damage as a result (e.g. by paying penalties imposed by the competent tax authority as a result of late payment of VAT on works and supplies subject to the reverse charge regime), the Contractor shall be obliged to pay the Client in full for such damage.

## Warranty conditions

1. The contractor warrants that the work has the characteristics and functional specifications set out in this contract and that it is fit for the agreed purpose.
2. The Contractor warrants to the Client that the whole of the Work (and each part thereof) shall be free from all defects, material, legal or otherwise. The work or any part thereof is defective if, in particular, it does not correspond to the result specified in the contract, the purpose of its use, or if it does not have the characteristics expressly stipulated in the contract, the documentation, the client, the applicable regulations or does not have the usual characteristics.
3. The contractor guarantees the defect-free nature of the subject of the work for the specified warranty period, i.e. the guarantee for all the properties that the subject of the work is supposed to have, especially according to the contract, according to the individual requirements and instructions of the client or other authorised persons, according to the documentation, standards and other regulations, if they apply to the subject of the work, its parts and accessories. The contractor declares that the subject matter of the work shall retain all such characteristics, functionality and fitness for purpose during this period. During the guarantee period, the scope of the guarantee is therefore unlimited, which means in particular that the work performed under the contract will be free from any defects.
4. Unless otherwise agreed, the warranty period for the Work and each part thereof is agreed for a period of **24 months** and shall commence on the day following the date on which the entire Work is handed over in accordance with M4 into routine operation (signing of the Acceptance Report). The guarantee covers defects or incompleteness of the work that become apparent during the guarantee period, except for defects that the contractor proves were caused by the client or a third party.
5. During the warranty period, the Contractor shall provide the Client with a quality guarantee for the Work and each part thereof within the meaning of the Civil Code and warranty-related service support to the extent and with the parameters as specified in Annex 3 - Service Contract.
6. If a claim is justified against the equipment within the warranty period, the Customer shall be entitled to have the defect repaired free of charge. If the defect cannot be repaired, the customer shall be entitled to the replacement of the defective goods (equipment) including the related work. The warranty period is automatically extended by the repair period of the equipment, if any.
7. The contractor undertakes to remedy the reported defects at his own expense in accordance with the requirements set out in this article of the contract. The rectification of the defect shall be carried out to the extent corresponding to the guarantee according to the time range specified in this Article of the contract.
8. The warranty period shall extend for the period during which the client cannot properly use the work due to defects for which the contractor is responsible.
9. The Client shall be obliged to submit any defects (claims) to the Contractor without undue delay after the defect has been discovered by means of a report in accordance with the provisions of Article XI of this Contract, containing a specification of the defect discovered.
10. The claim may be filed until the last day of the guarantee period, while a claim sent by the Client on the last day of the guarantee period shall be deemed to have been filed in time.
11. Warranty service shall be carried out at the customer's premises free of charge throughout the warranty period.
12. The Contractor shall be liable for the documents and data files that it has handed over to the Customer in the performance of the contract:
* are authorised copies of the Contractor's original documents and data sets,
* do not contain any infiltration means,
* that he has the rights to distribute, install, configure and manage them, which allow him to handle and further provide them as agreed in this contract.
1. In the event that any of the Contractor's aforementioned warranties prove to be false and the Client suffers damage as a result, the Contractor shall be obliged to compensate the Client for such damage.
2. The Contractor shall pay the full amount of the damage caused to the Client by defective performance. The Contractor shall also reimburse the Client for the costs incurred in asserting liability for defects.
3. The risk of damage to the work and other material performance under this contract shall pass to the client upon acceptance.
4. The contractor declares that there are no legal defects in the work or other performance under this contract.

##  Claims - rectification of defects arising from reasons on the contractor's side

1. The client has the right to claim his rights under the contractor's liability for defects in the following:
* the recording materials on which the documents and data files that form the subject of the contractor's performance are stored,
* the content of the documents and data files which form the subject of the contractor's performance,
* the software (product) which forms the subject matter of the contractor's performance.
1. Complaints (defects) shall be reported to the Contractor by the Client's representatives via the contact point for reporting defects in accordance with Article XI of this Contract.
2. The process of rectification of product defects shall be carried out in the modes as specified in the Service Contract as per Annex 3.
3. The classification of defects into each category shall be determined by the Customer.
4. If objective facts indicate the need for a longer period than that specified for each category, a longer period may be agreed in writing. Objective circumstances may include force majeure, malfunctioning of the operating and database platforms, and the time scale of the work required going beyond the scope of the specified time frame.

## Technical support and service

1. Technical support and service are provided free of charge during the implementation of the system. The contact method shall be proposed by the contractor immediately after the contract is signed. The terms and conditions of technical support and service after the system has been handed over without defects and deficiencies are set out in Annex 3 - Service Contract.
2. By mutual agreement, the Contractor shall be allowed secure remote access to the internal infrastructure network for delivery and modification/repair of performance from the Contractor's IP address via TCP/IP protocol for the purpose of performance of part of this contract, in accordance with the terms and conditions specified in Annex 1 of this contract. The Client reserves the right to terminate such access by the Contractor upon prior notice.
3. The Contractor understands that access to the infrastructure of the production part of the system may not be granted and the performance required of the Contractor under this contract may therefore only be carried out by the procedures set out in Schedule 2 to this contract.

## Penalties

1. In the event of delay by the contractor in the execution or handing over of the work or its individual parts (M1 to M4) according to Article IV, paragraph 2 of this contract within the agreed time limit, the contractor undertakes to pay the client a contractual penalty of 0.1% including VAT of the total price of the work according to Article V, paragraph 1 of this contract, for each calendar day of delay, starting from the expiry of the acceptance period and ending with the signing of the acceptance report without defects and shortcomings.
2. In the event that the Client fails to accept the work as defined in Article IV, paragraph 2, section M1, the contractual penalty shall be 15% of the total price for the work, including VAT, specified in Article V, paragraph 1 of this contract. In the event that the Client fails to accept the work defined in Article IV.2, Part M3, the contractual penalty shall be 25% of the total price for the work, including VAT, specified in Article V.1 of this contract.
3. The Contractor shall be obliged to reimburse the Client for any material and non-material damages resulting from the Client's inability to use the work properly and undisturbed. If the Contractor breaches its obligations under Article VII of the Contract, this shall constitute a material breach of this Contract and the Contractor shall pay a contractual penalty of CZK 500,000 to the Client for each individual breach. Payment of the contractual penalty shall in no way affect or limit the Client's right to compensation for damages, which may be recovered in addition to the contractual penalty in full. The contractor shall always be obliged to contractually ensure the free disposal of these rights by the client with the holders of protected intellectual property rights arising in connection with the execution of the work under this contract.
4. In the event that the contractor breaches the obligation or makes a false declaration pursuant to Article VII, Paragraph 6, the client is entitled to claim a contractual penalty of CZK 500,000 for each individual case and full compensation for damages.
5. If the contractor breaches the obligation or makes a false declaration pursuant to Article XIII, the client is entitled to claim a contractual penalty of CZK 500,000 for each individual case and full compensation for damages.
6. If the Contractor breaches the obligation to respond to a request from the Client or a third party designated by the Client and does not start providing the assistance according to paragraph 17 of Article XV of this Agreement within three working days of the date of receipt of such a request, the Contractor shall be obliged to pay the Client a contractual penalty of CZK 5,000 for each day of delay in fulfilling this contractual obligation.
7. In the event that the contractor breaches its obligation under Article XV, paragraph 12 of this contract, it shall be charged a contractual penalty of CZK 300,000 for each missed visit.
8. In the event that the Contractor fails to participate in the online communication between the Contractor's team and the Client in the minimum number required under Article XV, paragraph 13 of this contract, the Contractor shall be charged a contractual penalty of CZK 200,000 for each individual breach of obligation.
9. If the contractor fails to ensure the presence of a knowledgeable professional at on-site or online meetings in breach of Article XV, paragraph 14 of this contract, the contractor shall be charged a contractual penalty of CZK 200,000 for each individual breach.
10. In the event of non-compliance with the due date of an invoice accepted from the Contractor for payment by the Client, the Client undertakes to pay the Contractor default interest at the statutory rate.
11. Penalties are payable within 30 days of the date of delivery of a written statement of the amount thereof to the obliged party.
12. The payment of the contractual penalty shall be without prejudice to the entitled party's right to compensation for damages; the entitled party shall be entitled to full compensation for damages.

## Confidential information, protection of personal data

1. In the event that personal data is processed during the performance of the subject matter of the contract, this contract is also a contract for the processing of personal data within the meaning of Section 34 of Act No. 110/2019 Coll., on the processing of personal data (hereinafter referred to as "Act No. 110/2019"). For the purposes of personal data protection, the contractor has the status of a processor within the meaning of Act No. 110/2019.
2. The Contractor is entitled to process personal data only for the purpose of fulfilling the purpose of this contract.
3. The contractor is entitled to process personal data to the extent necessary for the performance of this contract, for this purpose it is entitled to store personal data on information carriers, to modify, to store for the period necessary to exercise the contractor's rights under this contract, to transfer processed personal data to the client, to destroy personal data.
4. The Contractor shall take sufficient organisational and technical measures to prevent unauthorised persons from accessing personal data on the protection of personal data in accordance with the applicable legal regulations and Article XIII.3 of the contract.
5. The contractor shall ensure that its employees are instructed in accordance with the applicable legislation on the obligation of confidentiality and the possible consequences in the event of a breach of this obligation.
6. The contractor shall ensure that documents and other tangible media containing personal data are kept only in locked rooms.
7. The contractor shall ensure that documents and other tangible media containing sensitive data are kept in lockable cabinets located in locked rooms.
8. The Contractor shall ensure that electronic data files containing personal data are stored in computer memory only:
* when access to such files is password protected,
* access to the use of the computer in whose memory such files are located is password protected.
1. If it is necessary to provide the contractor with a copy of databases, files or data carriers containing any data on the activities of the client and its designated organisations for the purpose of checking the correct functioning of the work, rectifying defects or further development of the work, the contractor shall be obliged to handle such data in such a way that it is not leaked or misused.
2. All facts of a commercial, economic and technical nature relating to the Parties which are not generally available in commercial circles and which come to the knowledge of the Parties in the course of the performance of the subject-matter of the Contract or in connection with this Contract shall be deemed to be confidential information.
3. The Contractor undertakes not to disclose, disclose to others, or use confidential information for its own benefit or for the benefit of any other person. It undertakes to keep it strictly confidential and to communicate it exclusively to those of its employees or subcontractors who are authorised to perform the contract and who are entitled to consult it to the extent necessary for that purpose. The contractor undertakes to ensure that these persons also regard the information in question as confidential and keep it confidential.
4. The obligation to comply with the provisions of this article of the contract does not apply to information which:
* can be disclosed without breach of this contract,
* have been exempted from such restrictions by written agreement of both Parties,
* is known or has been disclosed otherwise than as a result of a breach of duty by one of the Parties,
* the recipient has knowledge of it before the disclosure is made by a Party,
* they are requested by a court, a public prosecutor or a competent administrative authority pursuant to law, or the disclosure of which is required by law,
* disclosed by a Party to a person bound by a statutory duty of confidentiality (e.g. a lawyer or tax adviser) for the purpose of exercising its rights.
1. The obligation to protect confidential information shall continue notwithstanding the termination of this Agreement.
2. Due to the public law nature of the Client, the Contractor expressly declares that it is aware of this fact and agrees to the disclosure of the contractual terms and conditions contained in this contract to the extent and under the conditions resulting from the relevant legislation, in particular Act No. 106/1999 Coll., on free access to information, as amended.
3. The Parties undertake not to disclose the commercial and technical information entrusted to them by the other Party to third parties without the written consent of the other Party and not to use such information for purposes other than to fulfil the terms of this Agreement.

## Validity and effectiveness of the contract

1. This Agreement shall enter into force and effect on the date of its conclusion. This Contract is concluded for a definite period of time, precisely specified in Article IV of this Contract.
2. The Parties may withdraw from the Contract for material breach of the Contract.
3. A material breach of the contractor's contractual obligations shall be deemed to be, inter alia:
4. Delay by the Contractor in the performance of any of its obligations under the Contract for more than 30 days,
5. failure by the Contractor to comply with the Client's instructions in the performance of the subject matter of the Contract,
6. the Contractor preventing the Client from carrying out inspections and tests of the Work or any part thereof,
7. repeated or gross violation of the rules of occupational safety, fire protection, occupational health or other safety regulations and rules by the contractor or his subcontractor at the place of performance,
8. the work has defects which prevent its proper use for the purpose agreed in this contract,
9. the client or an authorised representative of ANSA or both fail to sign the acceptance report as per Article VI, paragraph 1 of this contract.
10. failure to comply with the provisions of the guarantee provided,
11. there is a breach of the Contractor's obligation to protect confidential information or confidentiality under this Contract,
12. insolvency proceedings are initiated against the contractor under the Insolvency Act or the contractor itself files a debtor's petition to initiate insolvency proceedings or a decision is issued on the contractor's bankruptcy,
13. A material breach of contractual obligations by the Client shall be deemed to be, inter alia, a repeated delay by the Client in the payment of any invoice (or part thereof) of more than one (1) month.
14. Withdrawal from the contract must be made in writing; stating the reason; the effects of the withdrawal shall commence on the date of delivery of the notice of withdrawal to the other party, if the withdrawal was justified.
15. In the event that the Client withdraws from the Contract due to a material breach of the Contract by the Contractor, the Contractor shall not be entitled to full payment of the price under Article V of this Contract. The Contractor shall only be entitled to claim from the Client what the Client has enriched himself by the performance of the subject matter of the work. Withdrawal from the contract shall be without prejudice to the Client's right to compensation for any damages and payment of a contractual penalty.
16. If the contractor withdraws from the contract due to a material breach of contract by the client, the contractor is entitled to payment of a proportionate part of the price of the work corresponding to the extent of the work performed. Withdrawal from the contract shall not affect the contractor's right to compensation for any damages and payment of the contractual penalty.
17. In the event of termination of the contract, the contractor is obliged to provide the client, at its own expense, with all assistance for the proper migration of data to another information system of the client's choice.
18. The termination of this Agreement, including the cancellation of the obligation as a result of the parties' agreement or withdrawal from this Agreement, shall not affect the provisions of the Agreement relating to licences, warranties, claims for liability for defects, claims for liability for damages and claims for contractual penalties, provisions on the protection of information, confidentiality, or other provisions and claims, the nature of which implies that they are to survive the termination of this Agreement.
19. The grant of all rights to the Client under the Licence pursuant to this Agreement shall not be terminable or otherwise unilaterally revoked by the Contractor.

## Rights and Obligations of the Parties

1. The Client undertakes to provide the Contractor with the necessary cooperation and to comment on proposals for further action if this is necessary for the proper execution of the Work.
2. The contractor undertakes to act with professional quality and care in the execution of the work.
3. The contractor undertakes to hand over the work properly and on time in accordance with this contract.
4. The contractor shall deliver the work and parts thereof in accordance with this contract in the agreed quantity, quality and workmanship. The parties agree on the 1st quality of the delivered performance.
5. The Contractor shall comply with all safety regulations, all laws and their implementing decrees insofar as they apply to the work to be carried out and relate to the Contractor's activities, occupational safety, fire protection and environmental protection. If the Contractor's breach of these regulations causes damage, the Contractor shall bear the costs.
6. The client shall have the right to ascertain the state of the work at any time during the performance of the work, including the quality control of the work or parts thereof, and the contractor shall create the conditions for this; the contractor shall bear the costs, if any.
7. The contractor undertakes to allow persons authorised to inspect the project from which the contract is paid to inspect documents related to the performance of the contract for at least 10 years after the completion of the financing of the work in a manner consistent with the applicable legal regulations of the Czech Republic and the European Union.
8. In order to verify the fulfilment of the obligations arising from the Project, the Contractor is obliged to cooperate with the relevant institutions carrying out the control. Furthermore, pursuant to the provisions of Section 2(e) of Act No. 320/2001 Coll., on Financial Control in Public Administration and on Amendments to Certain Acts, as amended, the Contractor is obliged to cooperate in the performance of financial control carried out in connection with the payment of goods or services from public expenditure.
9. The Contractor is obliged to inform the Client in writing without undue delay of any facts which have or may have an impact on the performance of the contract, immediately, and no later than the next working day after the relevant fact occurs or the Contractor becomes aware that it may occur.
10. The Contractor shall be obliged to properly retain all documents relating to the execution of the work and proving the use of funds for at least 10 years after the completion of the work in a manner consistent with applicable Czech and European Union legislation. Furthermore, the Contractor shall ensure that all its subcontractors, partners, partners' suppliers also keep all documents related to the execution of the Work in accordance with these Conditions.
11. The Contractor is obliged to participate in all meetings related to the subject of the Contract upon the invitation of the Client, to follow the Client's instructions and to provide the required documentation when performing the performance under this Contract. Participation in such meetings shall not be considered technical support, maintenance, advice or consultation and the Contractor shall not be remunerated for such meetings.
12. During the execution of the contract, four scheduled on-site visits to Moldova shall be mandatory on the part of the Contractor. These visits are mainly for detailed requirements analysis, presentation of the MVP, acceptance of the different phases of delivery, user training and final handover of the system. Each visit is designed to promote effective collaboration, knowledge transfer and successful deployment of the system into the production environment. Below is a table showing the planned schedule of on-site visits with recommended team composition and length:

|  |  |  |  |
| --- | --- | --- | --- |
| Visit (name + date) | Purpose and content | Recommended team composition | Recommended length |
| Kick-off & requirements analysis (1st month) | Introduction to the project, workshop with ANSA, clarification of the client's objectives and requirements, preliminary design of the system architecture | Project Leader,Analyst/System Designer,Senior Developer | 5 days |
| MVP presentation & iteration planning (5th month) | Presentation of MVP, gathering feedback from users, planning additional features and priorities | Project Manager,Analyst/System Designer,Senior Developer | 3 days |
| User training & pilot (12th month) | End user training, mock data entry, assisting with pilot operation in the field | Project Manager,Senior Developer,Tester | 5 days |
| Final acceptance & handover (15th month) | Verification of live operation, resolution of last defects, signing of acceptance report, handover of documentation, discussion on sustainability of the system | Project Manager,Analyst / System Designer,Senior Developer,Technical Specialist | 2-3 days |

1. In addition to physical visits, **intensive online communication between the** contractor and client **team** is essential. Below are the minimum regular online meetings for project management and team coordination. These meetings will ensure a transparent flow of information, ongoing problem solving and involvement of the client in the iterative development process.

|  |  |  |  |
| --- | --- | --- | --- |
| Project Stage | Date and number of meetings | Purpose and content | Recommended contractor roles |
| M1 Analysis & MVP | 2-3 meetings(1 after kick-off, 1 during analysis, 1 just before MVP delivery) | Validation of assignment, verification of development direction, preparation for MVP presentation | Project Manager,Analyst / System Designer, Senior Developer |
| Extension of M2 functionality | 2 meetings (1 after the start of iterations, 1 after UAT tests) | Review of module development, feedback from users, confirmation of next steps | Project Manager,Analyst / System Designer, Senior Developer |
| Finalization of M3 system | 2 meetings (1 before acceptance, 1 before handover) | Verification of system readiness and documentation, confirmation of compliance with requirements | Project Manager,Analyst/System Designer, Senior Developer, Tester, Technical Specialist |
| Final phase M4 | 1 meeting (after pilot operation) | Verification of live operation, collection of last comments before acceptance | Project Manager,Analyst/System Designer, Senior Developer, Tester, Technical Specialist |

1. The Contractor shall ensure the attendance of a technically competent person knowledgeable in the subject matter of this contract for the meetings as per clauses 12 and 13 above. This person shall also be able to communicate in written and verbal English at least at B2 level of the Common European Framework of Reference for Languages.
2. After the completion of the performance under the contract with the winning bidder, the contracting authority is obliged to publish the price actually paid for this performance on its contracting authority profile in accordance with the Public Procurement Act. The contractor expressly agrees to this.
3. In accordance with Section 100(2) of the Public Procurement Act, the client reserves the right to change the contractor under the following conditions:

16.1 the contractual relationship with the Contractor is terminated before the expiry of the originally agreed term of this Contract, including the Service Contract;

16.2 the new provider will be selected from among the participants in the procurement procedure for the Public Contract, and such participants will be approached for the conclusion of the contract in the order in which they ranked in the procurement procedure for the Public Contract; and

16.3 the new Provider accepts the terms and conditions of the Contract to the extent consistent with those between the Client and the Contractor, provided that the price of the new Contractor's performance shall be determined in accordance with the pricing terms and conditions in the new Provider's bid submitted as part of the RFP.

1. In the event that a new contract is concluded either due to early termination of the existing contract or due to the expiry of the period for which the contract was agreed, the existing Contractor undertakes to provide the Client or its designated third parties with all necessary assistance for the purposes of the smooth and orderly handover, provision of data migration services, during the Initialisation of Services under the new Contractor's contract after the expiry of this Contract, provided that the fulfilment of this objective will depend on the knowledge of the existing Contractor acquired as a result of the performance of this Contract. For the avoidance of doubt, it is stated that the Contractor shall, as part of the cooperation under this paragraph of the Contract, ensure a minimum of 4 times the personal attendance of the relevant members of the implementation team at meetings with the Client or third parties designated by the Client, which form of cooperation may be requested by the Client until the end of the 6th calendar month following the month in which this Contract has expired. The existing Contractor undertakes to provide such assistance with professional care, without undue delay and in a responsible manner. The existing Contractor undertakes to respond to a request from the Client or a third party nominated by the Client 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 performance under this paragraph is part of the price under Article V, paragraph 1 of this Contract.

## Authorised persons

1. A list of persons authorised to perform this Contract is attached as Annex 2 to this Contract.

## Final provisions

1. The Parties shall inform each other without undue delay of any changes in addresses, telephone numbers, e-mail addresses, etc.
2. The Contract may be amended by the Parties only in the form of written amendments, which shall be numbered in ascending order, expressly declared to be an amendment to this Contract and signed by authorised representatives of the Parties.
3. The contractor may not assign its rights and obligations under the contract to a third party without the prior consent of the client.
4. The contract shall be drawn up electronically.
5. Relations arising out of the contract and not expressly provided for herein shall be governed by the Legal Code of the Czech Republic, in particular the relevant provisions of the Civil Code and the Copyright Act.
6. All consecutively numbered annexes to the contract form an integral part thereof. List of annexes to the contract:

Annex 1 - Technical Specification of the Tender Documentation

Annex 2 - List of authorised persons.

Annex 3 - Service contract

AT [ADD PARTICIPANT] on [ADD PARTICIPANT] In Brno on .....................

................................. .....................................

on behalf of the contractor for the client

[TO BE COMPLETED BY THE PARTICIPANT] Ing. Daniel Jurečka, Director

**Annex No. 1**

**Technical specification - Annex 1 to the tender documentation**

**Annex No 2**

**List of authorised persons**

On behalf of the Client:

In contractual matters: Ing. Daniel Jurečka, Director, e-mail: daniel.jurecka@ukzuz.gov.cz

in organisational matters: Mgr. Petr Vaculík, e-mail: petr.vaculik@ukzuz.gov.cz, tel.: +420 737 267 611

for technical matters:

Authorized representative of ANSA:

For the contractor:

In contractual matters: XXX, e-mail: @

in organisational matters: XXX, e-mail: @, tel.: +

for technical matters: XXX, e-mail: @, tel.: +

**Annex 3**

**Service contract**