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| **REPUBLICOFALBANIA** |

MINISTRY OF FINANCE

GeneralDirectorateof Taxation

**Supply Contract**

**SUPPLY OF AN eTAX SYSTEM, LOCALIZATION, IMPLEMENTATION**

**“e-Government Project”**

**e-Taxation**

**January2013**

**Agreement relating to the delivery of software between**

|  |
| --- |
| General Directorate of Tax, Albania |

(herein referred to as the Customer)

|  |
| --- |
| Qualysoft Ressource und Entwicklung für Informationstechnologie GmbH andwedoIT-solutions GmbH  |

(herein referred to as the Vendor)

For the Customer:

GazmirSpahija\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Date, signature, title)

For the Vendor: For the Vendor:

Dr. Herbert Liebl \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Eduard Seewald\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Date, signature, title) (Date, signature, title)

This agreement has been executed in 4 counterparts, 2of which are to be retained by each of the parties.

Delivery and installation site(s)

(Street address, entrance, floor, etc.)

|  |
| --- |
| Main site Drejtoria e Pergjithshme e Tatimeve, Rr. GjinBueShpata, Tirane, Albania; Backup site AKSHI, Rr. "Papa GjonPali II" Nr. 3, floor I, Tirane |

Written inquiries

All written inquiries concerning this agreement shall be addressed as follows:

To the Customer: To the Vendor:

|  |  |  |
| --- | --- | --- |
| Renald Rista |  | Dr. Herbert Liebl(Managing Director, Qualysoft) |

Contact persons (name, phone, e-mail)

For the Customer: For the Vendor:

|  |  |  |
| --- | --- | --- |
| Renald Rista (Project Manager) |  | Dr. Herbert Liebl (Managing Director, Qualysoft) |

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# General provisions

## PREAMBLE

According to the Agreement between the Government of the Republic of Austria represented by the Federal Minister of Finance and the Council of Ministers of the Republic of Albania represented by the Ministry of Finance for the purpose of promoting and expanding financial co-operation dated December 7th, 2010 the Austrian Federal Minister of Finance is prepared to support the granting of tied aid credits on concessional terms.

The soft loan agreement shall be concluded between Albanian Ministry of Finance, as borrower and the Vendor’s bank - Erste Bank der oesterreichischenSparkassen AG,1010 Vienna, Graben 21, as lender.

## Object and scope of the agreement

The object of this agreement is to regulate the Vendor's and Customer's obligations in connection with delivery of hardware, delivery of a COTS-software product, software customization and development project in which the Vendor undertakes to perform all or a significant portion of the specification and development of bespokesoftware system. This agreement applies to the delivery of hardware and software that is specially developed or customized for the Customer, in addition to the delivery of other related services. The scope and execution of the delivery is described in detail in the appendices to this agreement.

A summary of the appendices is provided below in Section 1.3. The detailed content may be found in the individual appendices.

The implementation of this agreement consists of three phases:

1. Delivery of the COTS-Software.
2. Delivery of hardware.
3. Installation, customization and configuration.
4. Other services.

## Appendices to the agreement

|  | **All boxes must be checked off:** | **Yes** | **No** |
| --- | --- | --- | --- |
| 1 | Tender document: Bidding-Document-V-1 |  |  |
| 2 | Tender document: Appendix-A-Requirement Specifications Catalogue |  |  |
| 3 | Tender document: Appendix-C-Hardware-Specification-V1 |  |  |
| 4 | Tender document: Appendix-E-General-Conditions-V1 |  |  |
| 5 | Offer document: ALB-PART-1-2-wedoIT-Power\_Of\_Attorney\_2012-10-08 |  |  |
| 6 | Offer document: ALB-PART-2-4-QS-Confirmation-Country-Wide-License-For-Albania-signed |  |  |
| 7 | Offer document: ALB-PART-2-5-QS-Confirmation-Source-Code-Delivery-signed |  |  |
| 8 | Offer document: ALB-Part-2-8-QS-Warranty-Statement-Hardware-signed |  |  |
| 9 | Offer document: ALB-PART-3-1-Description-of-the-offered-hardware |  |  |
| 10 | Offer document: ALB-PART-3-3-Qualysoft-wedoIT-Solutions-To-Structured-General-Requirements-Final |  |  |
| 11 | Offer document: ALB-PART-3-4-QS-Confirmation-All-Taxes-Can-Be-signed |  |  |
| 12 | Offer document: ALB-PART-3-5-Qualysoft-wedoIT-Solutions-To-Structured-Architecture-Requirements-Final |  |  |
| 13 | Offer document: ALB-PART-3-6-Qualysoft-wedoIT-Solutions-To-Integration-Approach-Final |  |  |
| 14 | Offer document: ALB-PART-3-7-Qualysoft-wedoIT-Solutions-To-Functional-Requirements-Final |  |  |
| 15 | Offer document: ALB-PART-3-8-Qualysoft-wedoIT-Solutions-To-Operations-Requirements-Final |  |  |
| 16 | Offer document: ALB-PART-3-9-wedoIT-InfoSoft-Data-Migration-Concept |  |  |
| 17 | Offer document: ALB-PART-3-10-QS-Implementation-Plan |  |  |
| 18 | Offer document: ALB-PART-3-11-QS-Training-Plan |  |  |
| 19 | Offer document: ALB-PART-3-12-QS-Testing-Approach |  |  |
| 20 | Offer document: ALB-PART-3-13-QS-Project-Management-Approach-Final |  |  |
| 21 | Offer document: ALB-PART-Financial Offer-e-Tax |  |  |
| 22 | Change Request Template |  |  |
| 23 | Decision point template |  |  |
| 24 | Performance bond template |  |  |
| 25  | Warranty bond template |  |  |
| 26  | Hardware warranty |  |  |
| 27 | Acceptance template |  |  |
| 28 | Regression Test Acceptance template |  |  |
| 29 | Clarifications to the offer |  |  |
| 30 | Price list form for change requests |  |  |
| 31 | Offer document: ALB-PART-1-5-Subcontracting Agreement |  |  |

Table 1. Summary of appendices

## Definitions

The **Module Acceptance Date** is defined as the first working day after the successful completion of the acceptance of the software in connection respective deliverable (e.g. hardware, generic system, tax type).

The **Regression Acceptance Date** is defined as the first working day after the successful completion of all Module acceptances and of the regression test for the Software including data migration.

The **Agreement** is defined as this contract document and its appendices.

The **Detailed Specifications** are defined as a document that describes the software to be delivered in detail as set forth in appendices 2 and 14 as well as in mutually agreed detail specification during inception phase.

A **Change** is defined as a modification of the project by changing the work schedule, specifications or Customer's deliveries pursuant to the offered Software

A **Change Order** is defined as a document issued by the Customer demanding a change in the project.

A **Change Estimate** is defined as a description of a change and the assumed effects of the change pursuant to the provisions in Chapter 11.

The **Installation Date** is defined as the day when the Vendor sends a written notice to the Customer that the installation has been completed and the Software is ready for the acceptance test.

The **Delivery** is defined as the delivery of software, hardware, implementation and consulting and support services from the Vendor as described in this agreement.

The **Delivery Date** is defined as the first working day after the Delivery has been or is regarded as having been accepted pursuant to Chapter 9.

The **Project** is defined as the development project to be completed by the Vendor pursuant to this Agreement to specify, develop and deliver software (COTS- and individual software) and hardware, as well as other individual performances that are described in this Agreement.

The **Software** is defined as the COTS software described in the appendices originating from the Vendors offer.

The **Contract Price** is defined as the total payment to be made by the Customer for the performances rendered pursuant to this Agreement.

## Order of Precedence for Documents

If there is any contradiction between the text of this contract document and the appendices in connection with the interpretation of this Agreement, then this contract document shall take precedence over the appendices.

If the solution specifications (Appendix 14) are not in agreement with the requirement specifications (Appendix 2), then this must be expressly stated in the solution specifications. In cases where the solution specification details and describes the requirement specification the former takes precedence over the requirement specification. In the event of any contradictions that are not expressly specified, the requirement specifications shall take precedence over the solution specifications. During the inception phases further project details than expressed in the requirement specification (Appendix 2) and the solution specification (Appendix 14) will be made. These commonly agreed detail specification shall take precedence over the specification documents (Appendix 2 and 14).

## Parties' representatives

On entering into this Agreement, each of the parties shall appoint a representative in written form who shall be authorized to act on behalf of the parties in any matter pertaining to this Agreement (single point of contact). The authorized representative for the parties shall be specified at the beginning of the project right after contract signature.

Each of the parties may appoint a new authorized representative upon 14 days' written notice to the other party.

## Requirements concerning Vendor's resources and qualifications

The Vendor warrants that he has both the qualitative and quantitative resources, as well as the qualifications, that are necessary for execution of the Delivery in accordance with the Customer's requirement specifications (Appendix 2) and his own solution specifications (Appendix 14). The replacement of the project manager or other key personnel does not require any approval by Customer.

## Use of subcontractors

The Vendor may subcontract at maximum 50% of the Project financial volume or other services to subcontractor(s) that may be nominated by his own discretion. The customer has the right to disapprove subcontractors by specifying explicit reasons in written form.

# Scope of the delivery

## Software

The Vendor shall carry out a Project to deliver, localize and implement software. The software consists of (1) delivery of COTS-Software and (2) individual software. The Software and its customization shall fulfill the Customer's objectives, requirements and specifications as described in Appendices 2, 10, 11, 12, 14 and 15. It must be possible to run the Software on the technical platform specified in Appendix 3 and 9.

## Hardware

The Vendor will deliver hardware as specified in Appendix 3 and 9. The Customer needs to take care that all necessary locations and technical requirements for the successful implementation are met. In particular but not limited to, this is:

* Sufficient and dedicated space for the hardware
* Power supply plus corresponding measures to handle power outage
* Network (including internet) connectivity
* Firewall and further security measures
* Personnel of the customer that directs the Vendors experts within the location of the buildings in which the hardware is to be installed.

## Customer's requirement specifications

The Customer's objectives, requirements and specifications for the Delivery are set forth in Appendix 9 up to 19. The Customer assumes responsibility for having clearly expressed his objectives with the acquisition, as well as his requirements, as a basis for the Vendor's performances.

## Product Documentation

According to section 5.2, product documentation shall be delivered together with the Software. The documentation shall be in Albanian and/or English.

## Conversion of Customer data

If conversion of the Customer's data is to be part of the Delivery, then this will be stated in Appendix 16.

## General

Vendor shall be entitled to withhold its services, if Customer is in default of the acceptance of servicesor part servicesor of the payment for accepted services.

All Deliveries shall remain in the sole ownership of Vendor until complete payment for the respective deliverable is made by the Customer.

## training and sustainability

Qualitative trainings shall be performed from the vender for all aspects of the software. Trainings shall be according the appendix 18 and as agreed in steering committee or during the inception phase for functional aspects and technical aspects.

The Vendor will transfer the software knowledge to the local partners (subcontractor) and IT personnel of the Customer appointed to continually work with the Vendor.

The Vendor is entitled to host and perform On the Job Trainings for 5 Customer IT personnel at maximum.

# Project implementation and cooperation

## Work schedule – project plans

The Vendor shall carry out the Project with the work schedule, which will be agreed during the inception phase in accordance with the work schedule outlined in Appendix 20 chapter 3.

During the inception phase the detailed plans for the individual project phases will be developed by the Vendor in close cooperation with the customer and will be approved by the customer.

## Project organisation

The project organization is also specified in Appendix 20 chapter 4.and modified in the clarification document Appendix 29 which takes precedence over Appendix 20 in this respect.

Project Team:

(1) A project team will be formed to carry out the project, which shall contain a sufficient number of qualified employees of Customer and Vendor. The members of this team appointed by the respective parties shall be nominated in writing and giving details of their responsibility within the project, their expert qualifications as well as their contact details (telephone, telefax, e-mail).

(2) The project team shall ensure that all measures are carried out in due time and shall supervise this. Any variations from the time schedule shall be discussed by the project team and substantial changes which significantly influence the entire time schedule of the project shall be put to the steering committee for its decision. The project team itself may decide regarding other changes to the time schedules.

(3) The project team shall hold regular project meetings at intervals to be decided jointly, in which the project status shall be determined in detail and the project planning kept up to date. Customer's Project Manageror appointed person by him, shall prepare a written protocol concerning these meetings, which shall be forwarded without delay to the remaining members of the project team as well as to the steering committee. At the beginning of each project meeting, the protocol of the previous project meeting shall be approved.

(4) If there are differences of opinion within the project team, the steering committee shall decide, which for this purpose may be called by any member of the project team.

Steering Committee:

(1) The parties shall establish a steering committee comprising an equal number of members (including chairman) from the senior employees/decision-makers of both parties, The chairman of the Steering committee will be one of the Customer’s member with no precedence or any difference to the other Steering committee members on vote. All members shall be nominated in writing by name and their contact details(telephone, telefax, e-mail).

(2) The steering committee should supervise the work of the project team as well as decide on any differences of opinion within the project team.

(3) The steering committee shall meet as required. A member or appointed person from steering committee shall prepare a written protocol concerning its meetings, which shall be forwarded without delay after the meeting to the other members of the steering committee. The protocol of the previous meeting shall be approved or is deemed to be at the latest two weeks after the meeting.

## Updating project documentation

The Vendor shall prepare and continuously update the Project documentation specified in Appendix 20 – chapter 5. The Project documentation shall continuously provide an overview of the progress made in the Project, in addition to describing any deviations and prerequisites that have changed in relation to the work schedule, Contract Price and other terms agreed on. Deviations and any agreed Changes and additions shall be registered continuously and followed up in accordance with the routines that are specified in Appendix 20 chapter 6.

## Meetings

If the Customer or Vendor finds it to be necessary, then he may demand a meeting with the other party upon a minimum of 3 days' notice to discuss the contractual relationship and the manner in which the Agreement is being implemented.

## Quality assurance

The project will be carried out following a quality assurance process as described in Appendix 20 chapter 4.4 and Appendix 19.

# Customer's obligations

## Customer's participation

The Customer shall participate in the execution of the Project as specified in Appendix 20 or whenever required by the Vendor.

According to this the Customer has especially the following obligations:

* There is a duty for the Customer to inform the Vendor about emerging project related information as soon as possible; e.g. the Customer must inform the Vendor whether there is any overlap/duplication between the activities in the project and those performed or being performed as part of another project.
* The Customer is asked to bring in meaningful deliverables from current or previous projects that can be used as input to this project.
* At the beginning of the inception phase the customer needs to provide the current tax forms and relevant legal provisions for all 12 tax types relevant to this contract. If the tax form and the legal provisions change during the time of inception phase and the start of the tax specific implementation then the new form and the new provisions shall be implemented.

## Preparation for installation

The customer is responsible to provide a state-of-the-art computing center into which the hardware will be delivered. The availability of the necessary space and infrastructure (such as power supply, network connectivity, internet connectivity) is ensured at maximum 4 weeks after contract effectiveness. The provided infrastructure shall be sufficient to host the hardware in the Vendors offer (Appendix 9). Corresponding and qualified IT personnel in the computing center will be provided by the customer and will be available at the time of hardware installation and configuration. The Vendor has no responsibility on the provided infrastructure of the computing center.

The Customer is responsible for ensuring that the necessary preparations for installation are carried out in accordance with the Vendor's installation instructions. If the preparations for installation are delayed as a result of errors or defects in the Vendor's installation instructions or guidelines, inadequate follow-up of the Vendor's duty of disclosure, or defects in other agreed follow-up in connection with performance of the work, then the Customer is not liable.

When the Software is ready for installation, the Vendor shall conduct a final inspection and give final approval of the Customer's computing center. Vendor’s duty to provide a warning regarding Customer's computing centersis limited to circumstances which are evident and which are recognizable without any testing measures. Any errors or defects that are detected during the inspection shall be remedied by the Customer in the manner and within the period to be instructed by and agreed with the Vendor.

The Customer shall not be considered free of liability in the event of any delay of the installation and approval due to an error or defect in the technical platform even if the Vendor has inspected and approved the platform in writing.

## Customer's obligations During the project phases

Active co-operation by stakeholders in the Project.

The introduction and development of the e-Government solutions is a complex undertaking and full support in terms of ownership, political will, financial and human resources are required. Aiming at implementing the system, the Ministry of Finance and the General Directorate of Taxation (GDT) has an interest to support this Project. A professional project management, the provision of highly qualified expertise and the building of relationships and trust between the project team, the beneficiaries and the stakeholders aim at gaining and strengthening the support from the national stakeholders.

Timely approval and implementation of recommendations/solutions by Customer as Beneficiary.

As for any project, quick and technically qualified feed-back cycles and consequent implementation ensure and facilitate that the envisaged results are achieved in a timely manner. Furthermore, it allows a more efficient and effective use of the available resources. While this is not mainly in the control of the Vendor as consultant, it will help to discuss the recommendations and outputs with the Administration of Customer, involve the local Project Team in the project activities and prepare well structured, clear and precise documents so that the approval of Customer does require less time and consideration. The system implementation will to a certain extend depend on decisions to be taken by the Customer. The Vendor as consultant will support the decision making process by delivering consultancy services, functional and technical input to ease the decision.

From a project management point of view the Vendor as consultant will be able to demand time lines for decision to be taken by Customer. If possible, the time lines will be defined together with the Customer. If the Customer is not able to take a decision within the given time line or has not notified in written form a delay or a time extension (a maximum of 10 working days orworking days agreed by the steering committee), the Vendor may take the decision on behalf of the Customer according to international best practices in order not to endanger the entire project process.

As there is professional management and tight scheduling of necessary tasks within the project the Vendor is not taking responsibility for any kind of delaysoutside the Vendor’s responsibility and delays caused by events not related to this contract(eg. Force majeure).

During the data conversion phase the customer must ensure that qualified experts for the explanation of the currently existing data structure are available.

Generally the Customer must provide internal resources in meetings with the Vendor, who are able to discuss on behalf of the Customer and also take the role as a decision-maker whenever necessary during the meetings.

For the different phases in the project there are different response times stated:

Inception phase: Period between “contract signed” and “kick-off”, 10 weeks after project kick-off.

In the inception phase Customer should respond within a reasonable time to all open issues communicated by the Vender without delaying the project but in any case within one week. If the Customer is not able to provide needed information within that timeframe the Vendor may require from the steering committee to interpret his proposalas an implicit agreement.and in case that one additional week passes without the provision of needed information the Vendor is allowed to interpret his proposal as an implicit agreement in any case.

Project phase: Period between “kick-off” and “final acceptance”

In the project phase Customer should respond within a reasonable time to all open issues communicated by the Vender without delaying the project but in any case within 2 weeks. If the Customer is not able to provide needed information within that timeframe the Vendor may require from the steering committee to interpret his proposal as an implicit agreementand in case that 2 additional weeks pass without the provision of needed information the Vendor is allowed to interpret his proposal as an implicit agreement in any case.

## Customer's other obligations related to execution

The Customer shall make provisions so that the Vendor can carry out his obligations pursuant to this Agreement. Moreover, the Customer shall undertake the tasks and assume the responsibility that lies with him pursuant to this Agreement, and in this connection he shall maintain time schedules, milestones and all other obligations necessary to enable the Vendor to perform the project.

* Corresponding to section 9, the Customer must accept deliverables of the Vendor as far as they are according to the communicated requirements and they have successfully passed the acceptance test.
* The Customer has to ensure a sufficient number of adequate staff during the acceptance process to guarantee an uninterrupted procedure.

It is important to mention that in the event of a strike of employees of the Customer or similar unforeseen events that endanger the project progress the Vendor is not responsible for any upcoming delays. Furthermore the Vendor has the right to go ahead with realizing the project as far as possible to reach.

## Security clearance

The Customer shall apply for security clearance for the Vendor's personnel, and any subcontractors, if such clearance is necessary for the performances to be rendered under this contract.

# Delivery of the software

## Delivery

The Vendor shall deliver the Software described in Appendix 14 fulfilling the requirements described in Appendix 2. The Vendor is responsible for installing the COTS - commercial off the shelf – software as described in Appendix 14 as well as the necessary customization of the COTS-software to fulfill the requirements. In this connection work and services for designing; developing and testing the individual software in accordance with the project plan Appendix 20 will be performed.

According to the implementation plan (Appendix 17) the delivery of the COTS-Software will be performed in the first project phase. The exact delivery date will be defined after project start, however shall not be later than 4 months after project start.

Delivery dates of the customization of the individual tax types will be in accordance with the implementation plan agreed on this contract and may be moved forward if the Vendor and Customer agree in the detailed project plan.

All further deliverables will be according to the project plan.

## Delivery of product documentation

The Vendor shall prepare product documentation as described in Appendix 14 and submit them with delivery of the Software.

The Detailed Specifications shall at least include a general description of the Software (general specifications) in Albanian language, a detailed description of the Software's functionality (functional specifications) in Albanian language and a description of the technical solutions (detailed technical specifications) in English language. This work shall be carried out in accordance with Appendix 14. The Customer's tasks and responsibilities in the preparation of the inception phase are described in detail in chapter 4 of this document.

## Provision of other Services

The provision of other services will take place as described in Appendix 13 (Integration), Appendix 16 (Migration), Appendix 18 (Training), Appendix 19 (Test and Quality Assurance) , Appendix 20 (Project Management) and agreed on this contract. The schedule for the execution of these services is stipulated in Appendix 17.

##

# Installation And configuration

The Vendor shall install the Software at the installation address of the computing center. The address of the computing center is:

Main site Drejtoria e Pergjithshme e Tatimeve, Rr. GjinBueShpata, Tirane, Albania;

Backup site AKSHI, Rr. "Papa GjonPali II" Nr. 3, floor I, Tirane;

Installation shall start and be completed according to the implementation plan agreed. The Vendor shall conduct an installation test in connection with the implementation plan. The Customer shall be given written notice that the installation and installation test of the respective tax types have been completed and that the Software is ready for the acceptance test by the deadlines that will be agreed on during the project inception phase.

Configuration should be done on the basis of the legal requirements for the various tax types.

# Execution of training

The agreed training of the Customer's employees within the Train-the-Trainer module shall be carried out in accordance with appendix 18. Customer shall nominate it’s trainer in due course and communicate to Vendor. Vendor shall instruct Customer’s trainer during the period determined by the parties separately.

Unless otherwise stated, the training shall be carried out at the Customer’s premises.

Training facilities including training rooms, computer equipment, desks and chairs and the necessary infrastructure like access to the internet and electrical power must be provided by the Customer.

The Customer takes on the task to organize training courses including the invitation of attendees and gives them the authorization to attend the training appropriate for the respective role and post within the service. Travel costs including per diems have to be borne by the Customer.

The Vendor shall prepare the necessary course documentation for the various categories of personnel (users, system personnel, operating personnel) prior to the training.

The training material will be prepared in English and translated into Albanian by the Vendor.

# Conversion

The Vendor shall convert the Customer's data as described in Appendix 16.

The conversion of data from the systems that are specified in Appendix 2 to the Software shall be carried out as part of this project (the conversion plan). The detailed plans for this will be prepared in accordance with Appendix 16 and 17.

It is a prerequisite that the Customer carry out any necessary reconciliation and housekeeping of his databases to ensure that the quality of the data in the Customer's existing systems is adequate for conversion to the Software. It is further a prerequisite that the data to be converted will be made available to the Vendor in electronic form in form of an SQL-based database. In the case of non-SQL-based source, data separate conversion programs shall be developed for the extraction and input of data, then customer shall file a change request.

The Vendor is under no circumstances responsible for existing data quality. If a cleaning of the existing data turns out to be necessary then this is in the full and sole responsibility of the Customer. The Vendor may support such an independent data quality project if commonly both parties will agree a corresponding change request on.

Detailed specifications for conversion programs shall be prepared, delivered and approved in connection with the specification phase as described in Appendix 17 and agreed on this contract. A detailed project plan for the conversion shall be submitted pursuant to the detailed specification phase during the project.

# Acceptance

##

## Acceptance test

Completed works must be accepted. If there can be no acceptance tests because of the nature of the services (in particular training, work and services, consulting and/or support services), then the provision of qualifiedservices shall replace such acceptance.

The Customer shall carry out an acceptance test for the Hardware, for the COTS-Software and for the implementation according to the implementation plan agreed in cooperation with the Vendor after the installation and implementation date. The acceptance test shall be performed as described below and within a reasonable number of days but not more than 20 working days after the installation date.

Hardware acceptance procedure:

The Test of Hardware and Operating System Acceptance Procedure consists of the following steps:

1. Partial Delivery Check – to be done immediately upon a partial delivery;
result: documented in a specific form (Acceptance protocol for PARTIAL DELIVERY).
2. Functional Assembly Delivery Check – to be done upon the last partial delivery of a Functional Assembly meeting the acceptance criteria;
result: documented in the delivery section of the specific form (Acceptance protocol for FUNCTIONAL ASSEMBLY).
3. Functional Assembly Functional Tests – to be done upon the results of the Functional Assembly Delivery Check meet the acceptance criteria
result: documented in the specific form (Acceptance protocol for FUNCTIONAL ASSEMBLY).
4. The steps #1 through #3 will be repeated until all Hardware and Standard Software deliverables successfully passed the acceptance test.

The Vendor assumes the obligation to notify the Customer five (5) days before the test beginning about its readiness for the corresponding test and to develop a proposal for the test scenarios and test data to be presented to Customer at the latest one (1) week prior to the test. The exact duration of the test will be defined during the Project Implementation.

Upon completion of the test anacceptance protocol (appendix 27) will be signed by Customer and the Vendor .

Acceptance tests of the generic COTS product and individual tax types customisation (Module Acceptance) have to be carried out on the basis of test cases. Test cases have to be specified by the customer and approved as acceptance relevant by the vendor. For the acceptance of the COTS product the following tests shall be performed based on the English version of the product:

* Taxpayer Registration including registration for different tax types (currently implemented VAT and excise)
* Return sheet processing
* Return sheet assessment (automated assessment for non filers)
* Accounting
* Enforcement
* Payment processing
* Credit and refund processing

Unless otherwise agreed, the following tests shall be performed in connection with the Module acceptance test:

* functional test;
* integration test;
* migration test;
* regression, if applicable.

If the Customer wishes to claim that the Vendor's performances have not been in accordance with the acceptance test, then the Customer must send a written notice of this to the Vendor without delay and in any case within 10 working days after the acceptance test (deadline period) and state in writing why the Software cannot be accepted for the time being. If an acceptance test has not been performed within 20 working days or if the Customer has not raised any claims or notified by the end of the deadline period, then the test will nevertheless be regarded as having been accepted.

If the conditions that are pointed out prevent completion of the acceptance test, then the Customer may demand a new acceptance test start after the conditions have been remedied.

The Customer shall send the Vendor a written notice as to whether the acceptance test has been approved within 10 working days after the acceptance test is actually performed. The Customer cannot refuse to accept the results of the acceptance test if the conditions that have been pointed out are not of any material significance to the Customer's ability to use the Software. Material significance means (1) the system as a whole or the part of the system under review cannot be used, or (2) the error causes substantial restrictions in the use of important functions, which cannot be circumvented by suitable measures for a reasonable time. Other errors shall not prevent the acceptance. The Vendor shall nevertheless remedy any conditions that have been pointed out as soon as possible. Such conditions shall be recorded in the acceptance protocol, which is to be signed by both parties.

The first working day after the Module acceptance test has been or is regarded as having been approved shall be regarded as the Module Acceptance Date.

The following acceptance phases reflecting the agreed implementation plan as well as the invoicing phases (chapter 10.2) shall be carried out:

* Functional and technical specification as a result of the inception phase
* Delivery and configuration of the hardware and acceptance of the hardware.
* COTS system delivered, tested and accepted.
* Module Acceptance of tax types 1(currently not computerized tax), migration and tax type 2(currently computerized tax).
* Module Acceptance of tax types 3 and 4.
* Module Acceptance of tax types 5 and 6.
* Module Acceptance of tax types 7 and 8.
* Module Acceptance of tax types 9 and 10.
* Module Acceptance of tax types 11 and 12.
* Regression Test Acceptance

As described, Module acceptance is handled for each tax type or tax type group individually. Each acceptance is to be regarded as the final acceptance for that corresponding deliverables.

# Implementation plan, Price and payment

## Individual prices and total payment

The total price for the Hardware, Software and all other included deliverables is specified in Appendix 21 to this Agreement. All the prices are quoted excl. VAT and any other taxes.

The overall price of the delivery is 10.312.000,-- EURO.

The Customer must fulfill his payment obligations on the due date. All payments of the Customer under this Agreement shall be made in Euro through the Vendor’s bank in accordance with the terms and conditions of the soft loan agreement to be concluded between the Albanian Ministry of Finance and the Vendor’s bank.

The Payment Schedule is defined in the following chapter.

## implementation plan and payment matrix

The Implementation Plan consists of logical stages and their respective components shown in the next table; the "Timeline" column indicates months after project start, start and end months respectively. The last column shows the proportion of the Contract sum payment, envisaged liberated at upon successful completion of selected milestones.

| **Stage** | **Component** | **Task** | **Timeline** | **Supplier** | **Client** | **Payment (%)** |
| --- | --- | --- | --- | --- | --- | --- |
| **Start** | **End** |
| Contract | na | Prepare final version of agreement and appendices. | 0 | 0 | Prepare & update, sign. | Review, comment, approve and sign. | 10% |
| Inception  | Project Plan (PP) | Detailed PP, including work break down, resource plan agreed. | 1 | 2 | Prepare & update. | Review, comment, approve. |   |
| Inception Report (IR) | Detailed IR, including the system design and specifications (functional, technical and migration). | 1 | 4 | Prepare & update. | Review, comment, approve. | 3% |
|   | HW | Deliver and install agreed HW components, including the required licenses for operating system(s) and DB. | 2 | 2 | Deliver, install and test. | Prepare suitable location, assist with installation, review and approve the test results. | 5% |
|   | C@TS generic | Deliver and install the generic C@TS product, test and approve its structure and functionality. | 3 | 4 | Deliver, install, test. | Participate in test and approve the test results. | 30 |
|
| Tax type specific | TT1(NC) TT2 (C) | Tax type specific functions for one non-computerized tax type and for the first computerized tax. | 3 | 7 | Delivery of functionality: install, perform functional test. | Functional test: prepare test scenarios and cases, participate in test and approve the test results. | 5% |
| Relevant supporting functions and training of GTD users. |
|  Tax type specific | TT2 migration | Conversion and migration of agreed selected data for the computerized tax TT2; migration tested, functional regression test performed. | 6 | 8 | Migration and regressions test: convert and migrate data, test functionality with migrated data; perform regression test. | Migration and migration test: cleanse data, select data for migration, participate in migration and regression testing. | 7% |
|  Tax type specific | TT3, TT4 | Tax type specific functions for two agreed tax types; relevant supporting functions and training of GTD users. | 4 | 10 | Delivery of functionality, as above. | Functional test, as above. | 6% |
| Convert agreed selected data for the two tax types; migration tested, functional regression test performed. | Migration and regression test. | Migration and test. |
|  Tax type specific | TT5, TT6 | Tax type specific functions for two agreed tax types; relevant supporting functions and training of GTD users. | 6 | 12 | Delivery of functionality. | Functional test. | 6% |
| Conversion and migration of agreed selected data for the two tax types; migration tested, functional regression test performed. | Migration and regression test. | Migration and test. |
|  Tax type specific | TT7, TT8 | Tax type specific functions for two agreed tax types; relevant supporting functions and training of GTD users. | 8 | 14 | Delivery of functionality. | Functional test. | 6% |
| Conversion and migration of agreed selected data for the two tax types; migration tested, functional regression test performed. | Migration and regression test. | Migration and test. |
|  Tax type specific | TT9, TT10 | Tax type specific functions for two agreed tax types; relevant supporting functions and training of GTD users. | 10 | 16 | Delivery of functionality. | Functional test. | 6% |
| Conversion and migration of agreed selected data for the two tax types; migration tested, functional regression test performed | Migration and regression test. | Migration and test. |
|  Tax type specific | TT11, TT-last | Tax type specific functions for two agreed tax types; relevant supporting functions and training of GTD users. | 12 | 18 | Delivery of functionality. | Functional test, as above. | 6% |
| Conversion and migration of agreed selected data for the two tax types; migration tested, functional regression test performed. | Migration and regression test. | Migration and test |
|  |   |  |   |
|  |  | Regression test across all generic and tax types specific functions. | 15 | 18 |  | complete regression test, across all generic and tax type specific functions | 5% |
| Common | Help desk (HD) support | Basic application for incoming and outgoing HD traffic - recording, responding and reporting. | 4 | 8 | Delivery of functionality, test. | Functional test: prepare test scenarios and cases, participate in test and approve the test results. |   |
|   | Case management | Case management framework, agreed workflows, tools for creating and adjusting cases and workflows. | 4 | 11 | Delivery of functionality, test. | Functional test, as above. | 5% |
| DWH and Risk Management | Install DWH, create data structure for the agreed data set(s), flush over data from the operational system. | 4 | 13 | Delivery of functionality, test. | Determine data set(s) for the DWH structure. |
| Establish queries for the agreed set of risk tests and benchmarks. | Determine initial risk related queries and benchmark scenarios. |
| Test and adjust queries and reports. | Participate in test and approve the test results. |
| PortalIntranet  | Integrate relevant functions for e-filing, e-payments, reports, crm, with the selected government portal and intranet portal | 4 | 15 | Delivery of functionality, test. | Determine the portal for integration. |
| Determine the functionality to be available to users via the portal. |
| Participate in test and approve the test results. |
| Other | As determined in the IR. | 4 | 16 | As per IR. | As per IR. |
|  | **Total** |  |  |  |  |  | **100%** |

### First payment (Advance Payment)

10% an amount € 1.031.200 (one million thirty one thousand two hundred) advance payment upon presentation of the following documents:

* + Signed and effective contract
	+ Invoice
	+ Performance bond guarantee.

The 10% advance payment of the overall sum is actually the 25% advance payment on the price of the COTS-Software which amounts to 40%.

### Second payment

3% an amount of € 309.360 (three hundred nine thousand three hundred sixty) upon the approval of the Inception Report. Payment will follow upon presentation of the following documents:

* + Approval of Inception Report Notice
	+ Invoice.

### Third payment

5% an amount of € 515.600 (five hundred fifteen thousand six hundred) for delivery and configuration of the hardware and acceptance of the hardware. Payment will follow upon the presentation of the following documents.

* + Acceptance for hardware
	+ Invoice

### Fourth payment

30% an amount of € 3.093.600 (three million ninety three thousand six hundred) for the delivery of the COTS taxation software CATS. This covers the costs of the COTS system (40%) minus 10% of the advance payment. Payment will follow upon presentation of the following documents.

* + Installation
	+ Functional Acceptance of COTS
	+ Invoice.

### Fifth payment

5% an amount of € 515.600 (five hundred fifteen thousand six hundred) for software installation, customization and localizationfor tax types 1(non computerized) and 2(Computerized) and acceptance of these tax types. Payment will follow upon the presentation of the following documents.

* + Functional Module Acceptance for tax types 1 and 2
	+ Invoice.

### Sixth payment

7% an amount of € 721.840 (seven hundred twenty one thousand eight hundred forty) for conversion and migration of data for the computerised tax type 2. Payment will follow upon the presentation of the following documents.

* + Module Acceptance migration data for tax type 2
	+ Invoice.

### Seventh payment

6% an amount of € 618.720 (six hundred eighteen thousand seven hundred twenty) for software installation, customization and localization, conversion and migration of datafor tax types 3 and 4 and acceptance of these tax types. Payment will follow upon the presentation of the following documents.

* + Functional Module Acceptance for tax types 3 and 4
	+ Module Acceptance migration data for tax type 3 and 4
	+ Invoice.

### Eighth payment

6% an amount of € 618.720 (six hundred eighteen thousand seven hundred twenty) for software installation, customization and localization, conversion and migration of data,for tax types 5 and 6 and acceptance of these tax types. Payment will follow upon the presentation of the following documents.

* + Functional Module Acceptance for tax types 5 and 6
	+ Module Acceptance migration data for tax type 5 and 6
	+ Invoice.

### Ninth payment

6% an amount of € 618.720 (six hundred eighteen thousand seven hundred twenty) for software installation, customization and localization, conversion and migration of datafor tax types 7 and 8 and acceptance of these tax types. Payment will follow upon the presentation of the following documents.

* + Functional Module Acceptance for tax types 7 and 8
	+ Module Acceptance migration data for tax type 7 and 8
	+ Invoice.

### Tenth payment

6% an amount of € 618.720 (six hundred eighteen thousand seven hundred twenty) for software installation, customization and localization,conversion and migration of datafor tax types 9 and 10 and acceptance of these tax types. Payment will follow upon the presentation of the following documents.

* + Functional Module Acceptance for tax types 9 and 10
	+ Module Acceptance migration data for tax type 9 and 10
	+ Invoice.

### Eleventh payment

6% an amount of € 618.720 (six hundred eighteen thousand seven hundred twenty) for software installation, customization and localization, conversion and migration of data,for tax types 11 and 12, acceptance of these tax types. Payment will follow upon the presentation of the following documents.

* + Functional Module Acceptance for tax types 11 and 12
	+ Module Acceptance migration data for tax type 11 and 12
	+ Invoice.

### Twelfth payment

This payment may occurs before predefined order during this project.

5% an amount of € 515.600 (five hundred fifteen thousand six hundred) for software installation, customization and localizationfor common services, acceptance of these services. Payment will follow upon the presentation of the following documents.

* + Module Acceptance for common services
	+ Invoice.

### Thirteenth payment

5% an amount of € 515.600 (five hundred fifteen thousand six hundred) for regression test across all generic and tax type specific functions and functional and technical training for all modules conducted. Payment will follow upon the presentation of the following documents.

* + Regression Test acceptance
	+ Delivery of Warranty bond
	+ Invoice.

All of the above documents that will trigger a payment will be delivered in one original plus 4 copies. Generally, the payment shall be performed in accordance with soft loan regulations.All payments shall be carried out at the latest 10 days after the receipt of correct and undisputed invoice.

## Price adjustments

Article 8 to the Soft Loan Agreement between the Government of the Republic of Austria represented by the Federal Minister of Finance and the Council of Ministers of the Republic of Albania represented by the Ministry of Finance specifies that all payments in connection with concessional loans shall be exempted from all taxes and duties imposed by the Albanian side.

Should any kind of customs duties or tax be payable in Albania related to the delivery of goods and services under this contract the Customer is in charge to cover them.

Alternatively a decision shall be issued by the Customer that waives all customs duties and taxes at import of goods and services to be delivered.

## Security/Bank guarantee

## Guarantee for fulfilment of obligations

If requested by the Customer prior to execution of the Agreement, the Vendor shall furnish a guarantee for the fulfilment of his obligations pursuant to this Agreement (Performance Bank Guarantee), limited to a maximum of 10 % of the total payment issued from an Austrian Bank (eg. appended guarantee sample form Appendix 24). Performance Guarantee will be reduced to 6% of the total contract price upon hardware installation and installation of the COTS software and reduced to 0 (Zero) upon the Regression Test Acceptance will be presented. This results in the following performance bond amounts:

10% i.e. an amount € 1.031.200 (onemillionthirtyonethousandtwohundredeuro) at advance payment 10.2.1

Reduction to

6% an amount of € 618.720 (six hundred eighteen thousand seven hundred twenty)upon presentation of acceptance of hardware and upon the acceptance of the COTS product. Appendix 24 shows the precise formulation of the performance bond except for the insertion of the corresponding values and parties.

## Guarantee for Warranty

With the event of Acceptance of Regression Test a warranty guarantee (also referred to as warranty bond) in the amount of 5% € 515.600 (five hundred fifteen thousand six hundred) of the project volume will be issued from an Austrian Bank (eg.appended warranty bond form Appendix 25).to the Customer. The warranty bond will be valid for 1 year after issue date.

Appendix 25 shows the precise formulation of the warranty bond except for the insertion of the corresponding values and parties.

## Expenses

The Vendor shall defray any expenses in connection with the establishment of such guarantees.

# Administration of changes

## Right to make Changes

The Customer is entitled to order Changes with regard to an increase or reduction in the scope, nature, character, quality or execution of the Delivery, in addition to changes in the work schedule for the Project, provided that such Changes lie within the scope of what may have been reasonably expected by the parties at the time the Agreement was executed. The Vendor is, however, not obligated to carry out Changes that represent an overall net change to the original Contract Price in excess of 20%.

If the Vendor's total payment after deductions and increases is reduced by more than 5% of the original Contract Price, then the reduction shall be dealt with as a partial cancellation.In case of any cancellation or termination of the Agreement prior to completion without written agreement between parties as appendix to this contract or due to circumstances caused by the Customer, the Vendor shall be entitled to charge the amount that corresponds to the deliveries which he has provided up until the cancellation or termination, as well as 20% of the amount which corresponds to the unperformed part of the deliveries.

Changes and additions to this Agreement shall be made in writing and signed by an authorized representative of both parties. A catalogue of all the Changes and additions to the Agreement shall be kept. This catalogue constitutes Appendix 22.

It is the intention of the parties that the number of Changes and additions shall be limited to the greatest possible extent so that the work schedule can be met.

## Change Estimates

If the Customer demands in the form of orders, specifications, or otherwise, that specific work be carried out, which is not part of the Vendors obligations pursuant to this Agreement, then the Vendor shall demand in writing that the Customer issue a Change Order and shall issue a high level Change Estimate according to appendix 22.

If the Customer submits a request for a Change, then the Vendor shall send the Customer a Change Estimate without any undue delay and no later than 20 working days after receipt of the request, and this shall include:

1. Description of the Change
2. Description of the work that must be performed as a result of the Change
3. Effects on the solution specifications/Detailed Specifications
4. Effects on the technical platform requirements
5. The Price with detailed specification of the calculation basis
6. Effects on the work schedule
7. Changes in the requirements for the Customer's participation/performances and deliveries from the Customer
8. Changes in test plans or test criteria.

All of the costs associated with preparation of the Change Estimate shall be defrayed by the Customer based on appendix 30. If preparation of the Change Estimate in itself requires changes in the work schedule, then the Vendor shall be entitled to additional extension of time for a period to execute the change order.

## Change Orders

If the Customer still wants the Change to be carried out after he has received the Change Estimate, then he shall notify the Vendor in writing in the form of a Change Order as described in Appendix 22.

The Vendor shall subsequently ensure that the Change Order is incorporated into the Agreement, so that the changes in the specifications, work schedule, technical platform, tests, requirements for the Customer's participation and the price of the change order are stated in the Agreement.

## Consequences of Change Orders

If the Customer demands a Change not provisioned in this contract, appendices or approved inception report, then the Vendor may charge extra payment in the amount of the change order contract price .

The price of the change order shall be calculated based on the hourly rates or other unit prices that are stated in Appendix 30 provided that the work associated with the Changes is basically equivalent to the work for which the hourly rate or unit prices have been set.

In cases other than those mentioned in the previous paragraph, the Vendor shall submit an offer for the increases or deductions to be made for the Changes. This offer shall reflect the general price level in this Agreement.

When the Vendor receives a Change Order, it shall be implemented without undue delay. This shall not apply if the final effect of the Change Order on the price for the Change, work schedule or other terms in this Agreement has not yet been determined.

If Changes and/or additions are demanded then the Vendor shall be entitled to additional extension of time for a period to execute the change order.

## Disputed Change Orders

If the Vendor has demanded that the Customer issue a Change Order, then the Customer shall issue a Change Order pursuant to Appendix 22 within 10 days upon demand. If the Customer regards the work as part of the Delivery, then it shall be expressly stated that the Change Order is disputed (disputed Change Order). The Change Order shall state the grounds for why the Customer considers the Change Order to be disputed. Even if the Change Order is disputed, the Vendor is obligated to carry out whatever has been ordered, provided that the Customer furnishes a payment security in the form of a bank guarantee.

The steering committee is entitled to reject at no charge to the Customer the implementation of the amendment or addition, when it is either technically not feasible or would involve a disproportionate expense which is not reasonable for Vendor to bear.

## Resolution of disputes – disputed Change Orders

If the Vendor has received a disputed Change Order, then he must demand a decision by the steering committee. In case of non common agreement in the steering committee is achieved then a civil suit to settle his claim in accordance with Section 18 can be filed.. The decision of the steering committee shall be binding upon the parties.

# Guarantee period

## Scope

The Vendor shall remedy any errors or defects in the Software encompassed by Appendices 10 to 16 at no additional cost to the Customer, provided that the Customer exercises due care and assuming normal use.

The source code will be delivered to the Customer after the guarantee period ends for COTS and its customizations. The Vendor is not liable to configuration changes in the system carried out by the Customer. The misbehaviour of the system caused by changes carried out by the customer is therefore not covered by the guarantee.

The guarantee period for hardware is one (1) year calculated from the acceptance date for the Hardware.

The guarantee period for the COTS system is one (1) year calculated from the Regression Test acceptance date for the COTS system. However, in case that the Regression Test Acceptance has not taken place 18 months after the Module acceptance of tax type 1 then the one year period of the guarantee shall start 18 months after the Module acceptance of tax type 1.

## Additional payment

In the event of errors and defects that are not covered by the guarantee as determined in paragraph 12.1, the Vendor will provide the same services agreed on above as a billable service. Unless otherwise agreed, the Vendor's Appendix 30 for such services will be applied.

# Maintenance

Maintenance of the system is not covered by this contract.

The Customer has the option to enter into a maintenance agreement with the Vendor. Depending on the type of maintenance and its duration the vendor will submit a financial offer upon request of the Customer.

For services regarded as maintenance the Vendor's list price for such services will be applied.

# Copyright and right of use

## Copyright to the Software

The Customer will be given the non-exclusive copyright and intellectual property rights to the Software and the related source code, documentation, specifications and other materials that are prepared and delivered in accordance with this Agreement, unless otherwise agreed in this contract or its appendices.

These rights also include the right to modification.

The copyright and right to use is limited to the Tax Administration and its local offices within Albanian territory. The source codeof the generic COTS software, copyright and right of use may not be distributed or assigned to any other parties outside of Albania neither to an institution in Albania other than the tax administration and its employees.

## Copyright upon termination of the agreement

Upon the termination of this Agreement, regardless of the grounds, the copyright and other intellectual property rights to the materials in their existing form will be transferred to the Customer at the time of the termination provided that the Customer has already confirmed and accepted respective deliveries of the software and payment has been made.

Until the time when the COTS system as well as the respective deliveries have been delivered and accepted and payment has been made for the corresponding deliveries the copyright and the intellectual property right remains with the Vendor.

# Duty of confidentiality

## Duty of confidentiality etc.

The Customer shall impose a duty of confidentiality on its own employees with respect to the Software's design principles and details. Other parties who are given access to the Software, may be given access to information that is necessary for the proper and efficient use of the Software. This does not apply to any information that is subject to the duty of confidentiality pursuant to this Agreement.

If, however, it is necessary for the individual in question to gain access to such information for the proper and efficient use of the Software, then the Customer shall impose the same duty of confidentiality on this individual that applies to the Customer's own employees.

Confidential Information includes all documents and information in relation to this agreement. Confidential information of either party shall be used by the receiving party solely in accordance with the provision of this agreement.

The Vendor shall impose a duty of confidentiality on its own employees with respect of the data and information shared by Customer for third parties or taxpayers.

## Who is subject to the duty of confidentiality

The duty of confidentiality shall be imposed on the parties' employees and any other individuals who act on behalf of the parties in connection with the implementation of this Agreement.

## Software

The Software and the associated documentation shall also be protected by the parties against illegal and/or unintentional distribution and use.

## Data

The Customer accepts the requirement to grant access to existing data to the Vendor’s employees, provided that these persons have signed a non disclosure agreement.

The non disclosure agreements have to be signed in English language and need to be provided to the Customer upon request.

## Upon termination of the Agreement

Section 15 shall apply also after the termination of this Agreement. Employees or other individuals who resign from their position at one of the parties shall be instructed to maintain confidentiality with respect to the matters mentioned above even after their resignation.

## Safeguarding materials and information

The parties undertake to take whatever precautions are necessary to ensure that materials and information are not disclosed to any other individuals in violation of this section.

# Non-fulfilment and damages

## Notice of default

The party, who wishes to claim that the other party has breached his obligations pursuant to this Agreement, must submit a notice of default in writing without any undue delay after the party has become aware of the breach.

## Delays

## Notice of delay

If installation, acceptance, delivery and/or other performances cannot take place in accordance with the agreed work schedule, then the Vendor shall give the Customer written notice of this without any undue delay after he becomes aware of the situation. This notice shall state the cause of the delay and, as far as possible, when the performance can be rendered. This notification duty applies regardless of the cause of the delay and who is responsible for it.

## Weekly penalties

If the Delivery or the other performance do not occur in accordance with the work schedule due to the Vendors fault, and this is not due to circumstances attributable to the Customer or the circumstances mentioned in Section 17.2 then a weekly penalty will automatically take effect.This weekly fine is equal to 0,1 per cent of the Contract Price and is calculated for each calendar week for the duration of the delay up to a maximum of 30 weeks (i.e. maximum penalty), unless otherwise agreed.

As long as the weekly penalty is in effect, the Customer cannot terminate the Agreement or claim other damages for the delay. This limitation does, however, not apply if the Vendor, or anyone he is responsible for, has failed to give notice as stipulated in Section 16.2.1, or the delay is due to willful intent or gross negligence on the part of the Vendor or anyone he is responsible for. The amount of weeks for which the penalty is calculated shall be the number of completed weeks of the given delay.

If above mentioned delays are a result of a delay of customers obligations then neither these penalties will take affect nor a delay by the Vendor will be registered.

If Customer fails to perform the activities for which it is responsible, then the obligations of Vendor which then cannot be rendered or only by incurring disproportionate additional expenses, shall be suspended for the duration of such default. Additional expenses caused thereby shall be reimbursed by Customer to Vendor.

## Termination

If the proper performances have not been rendered by the end of the maximum weekly fine period, then the Customer can terminate all parts of the Agreement that have not been delivered so far with immediate effect and claim damages as stated below. If an extended deadline has been agreed on, then the Customer cannot terminate the Agreement until this deadline has expired.

## Claims for damages

If the proper performance has not been rendered by the end of the maximum weekly penalty period in the corresponding Section above, then the Customer can claim damages. This includes only losses caused by additional work for the Customer as a reasonable and documented result of the delay. Losses due to the delayed start of operations will not be included. The Vendor is not liable if he can demonstrate that the delay or the cause of the delay cannot be attributed to him.

Claims for damages that result in losses of income will explicitly not be included.

The limitation of liability in Section 16.5 will apply to claims for damages for delays pursuant to this section.

## Defects

## What is regarded as defective performance

The software provided by Vendor shall be substantially in accordance with the product description and specification. There has been a defective performance on the part of the Vendor, if the Delivery does not fulfil the objectives, requirements and specifications that are stipulated in this contract. Rights in case of defects shall be excluded in the case of minor or immaterial deviations from the agreed or assumed characteristics as well as in the case of just slight impairment of use. Defects must be notified by Customer in writing with a comprehensible description of the error symptoms. For the hardware the Customer shall inspect the delivered items without delay for any transport damage and other apparent defects preserve the appropriate evidence and assign any claims for recourse to Vendor while handing over the documents.

## Warranty period

During the warranty period, which is one year from the Delivery Date of hardware, work and services or Regression Test acceptance, the Vendor is obligated to remedy any errors or defects that arise at no added cost. A corresponding period applies to any additional deliveries, and for any portion or portions of the performance that have been replaced. The Customer must give notice in writing within 3 working days after the error or defect has been detected. It is a prerequisite that the error or defect, or the cause of such error or defect, must be proved by the Customer to have existed on the Date of Module Acceptance for Software.

The goal of the remedy is to ensure the specified and agreed level of quality and to ensure that the overall Delivery functions as intended. Errors and defects may be remedied by means of repair, replacement deliveries or additional deliveries out of which Vendor has the right to choose from.

The work to remedy a defect shall commence and be carried out without any undue delay after the defect has been reported to the Vendor.

## Normal payment

If the error is due to negligence on the part of the Customer, his employees or other individuals who must be equated with the Customer, then the Vendor will remedy the error in a corresponding manner, but in return for normal payment.

## Termination

If the nature of the defect is due gross negligence or willful intent on the part of the Vendor and is such that it is of material significance to the Customer's use of the Software, and it cannot be remedied without bringing significant costs upon the Customer, then the Customer can terminate the Agreement.

## Legal defects in title

## What is regarded as a legal defect in title

If the Delivery or work under this Agreement violates the copyrights or intellectual property rights of other parties, then this is regarded as a legal defect in title.

## Claims from third parties

If a claim is filed against the Customer from a third party for the violation of rights, then the Customer is obligated to notify the Vendor of the claim in writing without any undue delay.

Such claims shall be handled by the Vendor at the Vendor's expenses, even for the Customer. From the point in time when the Vendor assumes responsibility for the matter, the Customer is obligated to assist the Vendor in return for special compensation, but he shall act independently in the event of a trial.

## Obligation to remedy legal defects in title

If there is a legal defect in title, then the following options are available to the Vendor to remedy the situation:

1. To obtain the right to use the subject matter of the violation for himself and the Customer
2. To provide the Customer with another corresponding performance that does not violate the rights of other parties within a reasonable period of time, provided that this does not interfere in any significant manner with the execution of work tasks by the Customer
3. To indemnify or safeguard the Customer against any losses.

## Termination

If the Vendor cannot remedy the legal defect in title pursuant to the previous paragraph, and this is of material significance to the Customer, then the Customer can terminate the Agreement.

## Claims for damages

The Customer can claim damages for any documented losses that he incurs as a result of a legal defect in title associated with the Vendor's performance. The limitation of liability in Section 16.5 will apply to claims for damages for legal defects in title pursuant to this section.

## Damages to a third party

If the Customer is ordered to pay damages to a third party as a result of a legal defect in title, then the Vendor is liable to cover this cost.

## Damages

In any case in which the Customer is entitled claim damages the following limitations apply to this liability for damages:

To the extent permitted by law, Vendor shall be liable only for losses caused intentionally or with gross negligence. Vendor assumes no liability for loss of profit, loss of data and tax deficit.

The maximum damages are limited to an amount corresponding to 10% of the Contract Price. This limitation does, however, not apply if the Vendor or anyone he is responsible for has acted with wilful intent.

## Customer’s non-fulfilment

## What is regarded as non-fulfilment

There has been non-fulfilment on the part of the Customer especially if:

1. The installation site is not prepared in accordance with the Vendor's specifications and obligations as stated in section 4.2
2. Payments pursuant to Section 10are not made at the agreed time.
3. The duty of confidentiality pursuant to Section 15is not observed.
4. The Customer does not otherwise fulfill his obligations pursuant to this Agreement.

## Non-payment

In case of delays on the payment procedures described in the agreement of Albanian Ministry of Finance and the Vendor’s Bank, the Vendor will be entitled to financial charges of 0,1% weekly compounded on the amount that has fallen due.

## Covering of additional expenses

The Vendor may demand compensation for documented additional expenses he incurs as a result of non-fulfilment on the part of the Customer. The nature of additional expenses are costs that (e.g. additional travel, repeated installation attempts due to non-fulfillment of computing centre requirements) occur only due to non-fulfilments of customer obligations.

## Termination

If a payment that has fallen due with the addition of interest has not been paid within 30 days from the due date, then the Vendor can send the Customer a written notice that the Agreement will be terminated if settlement is not received within 30 days after the Customer's receipt of the notice.Termination may not be carried out if the Customer settles his payments with the addition of interest before the expiration of the deadline.

If the nature of the non-fulfillment is such that it is of material significance to the Vendor, then he can send a written notice to the Customer that the Agreement will be terminated if the Customer has not ceased or remedied the non-fulfillment within 30 days after receipt of the notice.Termination may not be carried out if the Customer remedies the non-fulfillment situation before the expiration of the deadline.

## Damages

The Vendor can claim damages for any documented losses that can reasonably be attributed to the non-fulfillment, unless the Customer can demonstrate that the non-fulfillment is not attributed to him.

The limitations in Section 16.5 shall not be applicable.

# Miscellaneous

## Risk

The risk of damage to the delivered copies of the COTS Software and the customization according to the individual tax types as the result of an accidental event passes from the Vendor to the Customer on the installation date. The Vendor is responsible for carrying insurance that provides coverage during the period up until this date.

If the delivered program copies are lost after the risk has passed to the Customer, then the Customer is nevertheless entitled to new program copies in return for paying the Vendor's costs in connection with providing such copies.

The risk of damage to the delivered hardware as the result of an accidental event passes from the Vendor to the Customer after the delivery of the hardware into the premises of Customers computing center.

## Force majeure

Events of force majeure, which render a service or obligation of one party substantially more difficult or impossible, shall entitle the party concerned to defer the fulfillment of this obligation or duty for the duration of the hindrance and a reasonable time thereafter. Industrial disputes in the parties' businesses or industrial disputes in third party's businesses, strikes, lockouts, political unrest, governmental directives, changes in political systems and legislative frameworks, and similar circumstances shall be treated as force majeure. If because of the nature of the hindrance it cannot be expected that the service will be provided within a reasonable time, then each party shall be entitled to withdraw in whole or in part from this Agreement in respect of the part of the performance which has not yet been fulfilled.

## Assignment of rights and obligations

The Customer can assign his rights and obligations pursuant to this Agreement to another Albanian government institution, which will be entitled then to the corresponding terms and conditions, provided all of the rights and obligations associated with this Agreement are transferred collectively. This new assignment needs to be in accordance with Softloan regulations and needs written approval from Vendor.

The Vendor can only assign his rights and obligations pursuant to this Agreement upon the written consent of the Customer. Such consent is not necessary for assignment to a company in the same group, or in the event of a merger or spin-off, provided that the Vendor maintains a dominant influence over the company. Moreover, consent cannot be refused without a valid reason.

The way of performing payments pursuant to this Agreement can be freely assigned as long it is in agreement with the separately to be signed Softloan Agreement between the Albanian Ministry of Finance and the Vendor’s bank. All obligations in reference to the payment procedure will remain valid and will be valid for the assigned institution. Such assignment does not relieve the party in question from his obligations and responsibilities.

## Insurance

The Customer, which is a government institution, acts as its own insurer. If this is not the case, then the Customer undertakes to have adequate insurance cover for claims from the Vendor as a result of the Customer's risks or liability pursuant to this Agreement.

The Vendor undertakes to have adequate insurance cover for any claims from the Customer as a result of the Vendor's risk or liability pursuant to this Agreement within the framework of the general insurance terms and conditions. This obligation will be regarded as fulfilled if the Vendor takes out liability insurance on terms that are regarded as ordinary for the insurance sector in Austria.

# Choice of law and resolution of disputes

The parties' rights and obligations pursuant to this Agreement shall be regulated exclusively in accordance with Austrian law, with the exceptions of the law on the conflict of laws and the application of UN Convention of Contracts for the International Sale of Goods (UNCITRAL).

The Parties hereby agree that any dispute, controversy, or claim arising out or in connection with this agreement, including any question regarding its existence, validity, or termination, shall be resolved directly without any prior procedure or notice and finally by arbitration under the Rules of the International Chamber of Commerce in force at the date of the request for arbitration which rules are deemed to be incorporated by reference to this agreement.

The Tribunal shall consist of three arbitrator/s

The place of Tribunal shall be Vienna.

The language of the Tribunal shall be English.

# EFFECTIVENESS OF the CONTRACT

This Contract shall become effective after all of the following conditions are fulfilled

* + 1. The signing of this Contract by both Parties;
		2. ApprovalofOesterreichische Kontrollbank AG;
		3. Signed and EffectiveSoftloan Agreement between the Albanian Ministry of Financeand the Vendor´s BankErste Bank der oesterreichischenSparkassen AG,1010 Vienna, Graben 21;

This Contract will terminate upon fulfillment of the rights and obligations of both Parties as stipulated in the Contract.

If any of these mentioned conditions are not fulfilled the contract shall not be effective. In case that the contract does not become effective neither the Vendor nor the Customer shall have any right on payments or any penalties.