



Smlouva
o zajištění elektronického informačního zdroje
Classical Scores Library Volume II - IV, Classical Performance in Video a
Dance in Video Volume I – II č. 118/002/PG/2016

uzavřená níže uvedeného dne, měsíce a roku ve smyslu ustanovení § 1746 odst. 2 zákona č. 89/2012 Sb., občanský zákoník, ve znění pozdějších předpisů (dále jen „občanský zákoník“)

1. Smluvní strany

1.1 Dodavatel:

Albertina icome Praha s.r.o.

zapsán v obchodním rejstříku, vedeném Městským soudem v Praze, oddíl C, vložka 20775

Se sídlem: Štěpánská 16, 110 00 Praha 1

Zastoupený: Ing. Vladimírem Karenem, jednatelem

Osoba oprávněná jednat ve věcech technických: [REDACTED]

Tel: [REDACTED]

IČ: 49612158

DIČ: CZ49612158

Bankovní spojení: [REDACTED]

(dále jen „dodavatel“)

1.2 Odběratel:

Univerzita Palackého v Olomouci

veřejná vysoká škola – režim existence dle zákona č. 111/1998 Sb., o vysokých školách a o změně a doplnění dalších zákonů (zákon o vysokých školách), ve znění pozdějších předpisů

Se sídlem: Křížkovského 8, 771 47 Olomouc

Rektor: prof. Mgr. Jaroslav Miller, M.A., Ph.D.

Osoba oprávněná jednat ve věcech technických: [REDACTED]

IČ: 61989592

DIČ: CZ61989592

Bankovní spojení: [REDACTED]

(dále jen „odběratel“)

2. Prohlášení smluvních stran

2.1. Dodavatel je smluvním partnerem poskytovatele elektronických informačních zdrojů Classical Scores Library Volume II - IV, Classical Performance in Video a Dance in Video Volume I – II (dále jen „produkty“) a zároveň jejich oprávněným a jediným autorizovaným distributorem v České republice. Dodavatel je oprávněn zprostředkovat tyto licence k produktům v ČR. Dodavatel prohlašuje, že není nabyvatelem těchto licencí na základě licenčních smluv mezi poskytovateli a dodavatelem.



3. Předmět smlouvy

3.1 Předmětem smlouvy je zajištění produktů pro odběratele. Produkty jsou poskytovány formou online přístupu k serverům poskytovatele licence uvedenému v příloze 1 této smlouvy (dále jen „poskytovatel“) na období počínaje od 1. 1. 2017 do 31. 12. 2019.

3.2. Předmětem této smlouvy je i technická a provozní podpora pro zpřístupnění produktů oprávněným uživatelům po dobu trvání licence, odborné konzultace a spolupráce při zajištění školení pro uživatele. Dále jsou součástí předmětu také ostatní práce a výkony touto smlouvou výslovně neuvedené, avšak dodavatel věděl, vědět měl nebo mohl vědět s ohledem na svoje odborné znalosti a zkušenosti, že jejich provedení je nutné pro řádné splnění smlouvy.

3.3. Vzhledem k charakteru předmětu smlouvy (obsah elektronických informačních zdrojů je chráněn autorským právem) se na užití produktů vztahuje ustanovení licenčních podmínek resp. licenčního ujednání konkrétního poskytovatele. Kopie licence s poskytovatelem tvoří přílohu č. 2 této smlouvy.

4. Cena a platební podmínky

4.1. Cena za plnění v rámci této smlouvy se stanovuje dohodou mezi odběratelem a dodavatelem ve výši 205 258 Kč bez DPH, v rozsahu cenové nabídky uvedené v příloze č. 1 této smlouvy. V případě, že by ke dni fakturace dodavatelem došlo ke změně kurzu ČNB – střed - výchozí měny (GBP) oproti kurzu použitému v kalkulaci (uveden v příloze 1 této smlouvy) o více než 1%, mění se smluvní cena automaticky na cenu přepočtenou kurzem aktuálním ke dni fakturace dodavatelem. Právo fakturovat vzniká dodavateli v prvním roce dnem podpisu smlouvy oběma smluvními stranami. V následujících letech pak k 1. říjnu předchozího roku, pokud se obě strany nedohodnou písemně jinak. Dnem fakturace, který je zároveň dnem uskutečnění zdanitelného plnění, dochází k poskytnutí práva k využití produktů. Odběratel uhradí cenu na základě faktury vystavené dodavatelem ve lhůtě splatnosti 30 dnů ode dne doručení faktury odběrateli.

4.2. Faktura musí splňovat náležitosti daňového a účetního dokladu podle zákona č. 563/1991 Sb., o účetnictví, ve znění pozdějších předpisů, zákona č. 235/2004 Sb., o dani z přidané hodnoty, ve znění pozdějších předpisů a musí mít náležitosti obchodní listiny dle § 435 občanského zákoníku. V případě, že daňový doklad výše uvedené náležitosti nebude splňovat, nebo bude obsahovat nesprávné údaje, vrátí odběratel daňový doklad do dne splatnosti daňového dokladu k opravení bez jeho proplacení. Lhůta splatnosti se v takovém případě dnem zpětného odeslání staví a poté počíná běžet znovu ode dne doručení opravené či nově vyhotovené faktury na adresu odběratele uvedenou v záhlaví této smlouvy.

4.3. Pro případ prodlení odběratele se zaplacením faktury je tento povinen zaplatit dodavateli úrok z prodlení z dlužné částky v zákonné výši, který je splatný do 10 dnů ode dne doručení výzvy k jeho zaplacení.

5. Odpovědnost za vady a smluvní pokuta



5.1. Dodavatel se zavazuje zpřístupnit produkt odběrateli od 1. 1. 2017 do 31. 12. 2019. Pro případ porušení tohoto závazku se sjednává smluvní pokuta ve výši 0,05 % ze smluvní ceny za každý den prodlení. Dodavatel není v prodlení podle předchozí věty v případě, že dojde k prodlení ve zpřístupnění produktu v důsledku prodlení s podpisem písemných licenčních ujednání mezi odběratelem a poskytovatelem (pokud poskytovatel vyžaduje písemnou formu).

5.2. Dodavatel neodpovídá za to, jak aktuální a kvalitní informace jsou v zpřístupňovaných informačních zdrojích k dispozici. Dodavatel rovněž neodpovídá za případnou existenci poruch v přístupu k informačním zdrojům či jejich dočasnou nedostupnost, kterou nezavinil porušením svých povinností.

5.3. Dojde-li během trvání této smlouvy k významným změnám na straně poskytovatele (např. k zásadním změnám v charakteru nebo složení dodávaných elektronických informačních zdrojů, k ukončení poskytování klíčových z nich, k ukončení činnosti poskytovatele apod.) a dodavatel se o takovéto změně dozví, je dodavatel povinen na tuto skutečnost odběratele co nejdříve upozornit a zároveň navrhnout způsob řešení dané situace (např. náhradu jiným elektronickým informačním zdrojem podobného charakteru apod.). Nebude-li odběratel souhlasit s navrhovaným řešením, je dodavatel oprávněn vypovědět plnění smlouvy v dotčené části s výpovědní dobou 30 dní. Ostatní ustanovení smlouvy zůstávají v platnosti.

5.4. Sjednáním smluvní pokuty není dotčeno právo smluvní strany oprávněné požadovat smluvní pokutu na náhradu škody jí vzniklé, a to i ve výši smluvní pokutu přesahující. § 2050 občanského zákoníku se nepoužije. Zaplacením smluvních pokuty není dotčena jí utvrzená povinnost prodlévající smluvní strany plynoucí jí ze smlouvy.

6. Závěrečná ujednání

6.1. Od smlouvy lze odstoupit v případě podstatného porušení smluvních závazků druhou stranou. Odstoupení od této smlouvy musí být učiněno písemně a nabývá účinnosti dnem doručení písemného oznámení druhé smluvní straně. Za podstatné porušení této smlouvy se považují: prodlení odběratele se zaplacením ceny přesahující 20 dnů, prodlení dodavatele se zpřístupněním produktů odběrateli ve sjednané lhůtě.

6.2. Odběratel si vyhrazuje právo vypovědět tuto smlouvu bez udání důvodu, s výpovědní lhůtou jeden měsíc, která běží počínaje následujícím měsícem od měsíce, v němž byla výpověď druhé straně prokazatelně doručena, přičemž odběratel může vypovědět tuto smlouvu na další roční období, tj. max. vždy k 1. 10. předchozího roku.

6.3. Veškeré změny a doplňky této smlouvy musí být učiněny písemnou formou a podepsány oprávněnými zástupci obou smluvních stran. Pro účely doručování právních jednání smluvních stran činěných na základě této smlouvy (výpověď, odstoupení, návrh dodatku či dohody) nebo doručování výzev apod. se uplatní ustanovení § 573 občanského zákoníku. Smluvní strany si dohodly následující pravidla doručování zásilek obsahujících právní jednání nebo výzvu: zásilky jsou zasílány doporučeně, prostřednictvím držitele poštovní licence, na adresu smluvní strany uvedenou v této smlouvě, nebo jinou později oznámenou adresu.

6.4. Tato smlouva je uzavřena podle § 1746 odst. 2 občanského zákoníku a ve věcech neupravených touto smlouvou se práva a povinnosti smluvních stran řídí v celém rozsahu



příslušnými ustanoveními občanského zákoníku, pokud není v této smlouvě sjednáno odchylně jinak. Smluvní strany si v souladu s § 630 odst. 1 občanského zákoníku ujednaly odchylně od § 629 odst. 1 občanského zákoníku pro práva vyplývající z této smlouvy nebo jejího porušení delší promlčecí lhůtu počítanou ode dne, kdy právo mohlo být uplatněno poprvé, a to promlčecí lhůtu v trvání pěti let, tím však není vyloučeno ustanovení § 639 občanského zákoníku.

6.5. Ujednání této smlouvy jsou vzájemně oddělitelná. Pokud jakákoli část závazku podle této smlouvy je nebo se stane neplatnou či nevymahatelnou, nebude to mít vliv na platnost a vymahatelnost ostatních závazků podle této smlouvy a smluvní strany se zavazují nahradit takovou neplatnou nebo nevymahatelnou část závazku novou, platnou a vymahatelnou částí závazku, jejíž předmět bude nejlépe odpovídat předmětu původního závazku. Pokud by smlouva neobsahovala nějaké ujednání, jehož stanovení by bylo jinak pro vymezení práv a povinností odůvodněné, smluvní strany učiní vše pro to, aby takové ujednání bylo do smlouvy doplněno.

6.6. Dodavatel není oprávněn bez souhlasu odběratele postoupit svá práva a povinnosti plynoucí z této smlouvy třetí osobě.

6.7. Tato smlouva nabývá účinnosti dnem jejího podpisu oběma smluvními stranami.

6.8. Tato smlouva je vyhotovena ve čtyřech vyhotoveních s povahou originálu podepsaných oprávněnými osobami obou smluvních stran, přičemž odběratel obdrží tři a dodavatel jedno vyhotovení.

6.9. Dodavatel bere na vědomí, že tato smlouva včetně všech jejích příloh podléhá povinnému zveřejnění podle zákona č. 340/2015 Sb., o registru smluv.

6.10. Odběratel si vyhrazuje právo zveřejnit obsah uzavřené této smlouvy.

6.11. Nedílnou součástí této smlouvy jsou přílohy:

Příloha č. 1 – Seznam produktů, poskytovatelů a nabídková cena

Příloha č. 2 – Kopie licenční smlouvy mezi odběratelem a poskytovatelem

V Praze dne 7.11.2016

V Olomouci dne 21-11-2016

Za dodavatele

Za odběratele

Ing. Vladimír Karen
jednatel Albertina icome Praha s.r.o.

prof. Mgr. Jaroslav Miller, M. A., Ph.D.
rektor UP v Olomouci



Příloha 1 – produkty, poskytovatel a ceny

Produkt/Služba	Poskytovatel	Počet souč. uživ.	Předplatné	Cena v pův. měně	Měna	Cena bez DPH	Cena vč. DPH
Classical Scores Library Volume II - IV, Classical Performance in Video a Dance in Video Volume I – II (01/01/2017-31/12/2017)	ASP	neom.	ano	2140	GBP	65 110 Kč	78 783,10 Kč
Classical Scores Library Volume II - IV, Classical Performance in Video a Dance in Video Volume I – II (01/01/2018-31/12/2018)	ASP	neom.	ano	2247	GBP	68 365 Kč	82 721,65 Kč
Classical Scores Library Volume II - IV, Classical Performance in Video a Dance in Video Volume I – II (01/01/2019-31/12/2019)	ASP	neom.	ano	2359	GBP	71 783 Kč	86 857,43 Kč
Cena celkem:				6746	GBP	205 258 Kč	248 362,18 Kč
Použitá sazba DPH: 21 %							

Použitý kurz ČNB – střed platnost pro: 4. 11. 2016
1 GBP = 30,425 Kč

Za dodavatele

Za odběratele 2. 11. 2016

Ing. Vladimír Karen
jednatel Albertina icome Praha s.r.o.

prof. Mgr. Jaroslav Miller, M. A., Ph.D.
rektor UP v Olomouci

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services. The Customer that has purchased perpetual rights to the Product(s) may optionally load data onto a local server to be accessed by Authorized Users through the Customer's search and retrieval software. In the case of audio or video, such access must be restricted by DRM and be limited to one (1) simultaneous user.

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16. DISPUTE RESOLUTION: If any differences arise between the Customer and ASP relating to the meaning of this Agreement, the parties agree to resolve such differences through Arbitration or by any other means to which the two parties may agree.

17. INDEMNIFICATION: Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred by any third party, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims. This indemnity shall survive the termination of this Agreement.

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We, the undersigned, have read and agree to abide by the conditions contained in this Agreement.

CUSTOMER / SIGNED BY:

Name (please print) prof. Mgr. Jaroslav Miller, M.A., Ph.D.

Title The Rector

Authorized Signature _____

On behalf of Palacký University in Olomouc,
Křižkovského 511/8, Olomouc, 779 00 (postal code), Czech Republic
tax ID number CZ 61989592

Date 30th of April 2015

ASP / SIGNED BY:

Name Eileen Lawrence

Title Senior Vice President

Authorized Signature _____

On behalf of ALEXANDER STREET PRESS, LLC

Date 30th of April 2015

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The seat of UP - Křížkovského 511/8, Olomouc, 779 00 (postal code), Czech Republic and all the other real estates owned by UP in the area of the city Olomouc

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