

2-5. 11. 2019

CONTRACT OF SALE
for delivery, installation and updating of software for pull tests and provision
of the software support

made in accordance with Section 2079 et seq. of Act No. 89/2012 Coll., Civil Code, as amended
(hereinafter referred to as the "Civil Code")

I
Parties

1.1 Buyer: Czech University of Life Sciences Prague
Registered office: Kamýcká 129, 165 00 Prague – Suchbátka
Represented by: Ing. Karel Půbal, Ph.D., bursar
Bank: Česká spořitelna, a. s.
Account No.: 500022222/0800
Co. ID No.: 60460709
Tax ID No.: CZ60460709

(hereinafter referred to as the "**Buyer**") on one part

and

1.2 Seller: Arbosafe GmbH
Registered office: Berengariastr. 9, 82131 Gauting
Represented by: Dipl. – Ing. Andreas Detter
Bank: Kreissparkasse München-Starnberg
Account No.: 22015465 IBAN: DE59702512500022015465
Co. ID No.: 117/121/83014
Tax ID No.: DE263733531
Registered in the Commercial Register maintained by the Court Amtsgericht München entry HR-Nr. 176856

(hereinafter referred to as the "**Seller**") on the other part

(hereinafter together referred to as the "**Parties**")

enter into the following Contract of Sale (hereinafter referred to as the "**Contract**") based on the result of the tender procedure for below-threshold public contract named "Equipment for Pull Tests – Part B – Software for Pull Tests" on the day, month and year set forth below.

II
Subject of the Contract

2.1 The subject of this Contract is the Seller's obligation to deliver the Buyer a software for pull tests and provide the Buyer services associated with the delivery, in particular ensurance of automatic updating of the software, provision of support for 2 years of its operation from its acceptance date and installation of the delivered software at one workstation in the Buyer's

premises, all in the extent and under the terms and conditions set forth herein. The subject of delivery shall include information on the installation method. The subject of this Contract is also the Buyer's obligation to take over the software properly delivered by the Seller and pay the Seller the purchase price for the taken over subject of performance in the way and by date agreed herein.

- 2.2** The Seller declares that it is entitled, directly or based on contractual relations with third persons, to provide / deliver to the Buyer the software including granting licences for the software use at least in the extent defined in this Contract and its Annex and that no moral right or copyright of third person will be infringed by using the software hereunder. The licence is understood as a program product licence within the meaning of the Copyright Act, i.e. a non-exclusive authorization to exercise the right to use a program product in all ways of normal use (including making backup copies).
- 2.3** The support is understood as a help in addressing problems in using the software and in its installation. The updating is understood as a provision of available patches and additional functions of the software.
- 2.4** Exact specification of the subject of performance is provided in the Annex hereto which forms an integral part of this Contract.

III

Time and Place of Performance

- 3.1** The Seller undertakes to hand over the agreed subject of performance to the Buyer **not later than 8 weeks** after the effective date of the concluded Contract.
- 3.2** The subject of performance shall be handed over by the Seller and taken over by the Buyer based on acceptance record signed by both Parties which shall be made in accordance with the terms and conditions specified herein below.
- 3.3** The place of performance is the High-tech Educational Pavilion of the Faculty of Forestry and Wood Technology located in the Buyer's premises at the address Kamýcká 129, 165 00 Prague – Suchdol (contact person: Ing. Václav Bažant, Ph.D., e-mail: bazant@fld.czu.cz).

IV

Price and Payment Terms

- 4.1** The purchase price for the subject of performance delivered in accordance with this Contract and its Annex is fixed based on agreement between the Parties.
- 4.2** The Buyer undertakes to pay the Seller for the subject of performance specified in Art. II hereof the agreed total purchase price in the amount of CZK 200.000,00 exclusive of VAT. The VAT shall be added and paid in accordance with legal regulations applicable at the date of taxable supply.
- 4.3** The purchase price is agreed to be the maximum permissible one which cannot be exceeded. The Seller declares that the purchase price covers all fees and other costs associated with the performance of the subject hereof, ensurance of automatic updating of the software, provision of support for 2 years of its operation from its acceptance date and installation of the delivered software at one workstation in the Buyer's premises. The subject of delivery

shall include information on the installation method.

- 4.4** The Seller declares that the purchase price covers also any costs of administrative fees, taxes, customs duties, approval procedures, execution of required tests, issue of declaration of conformity, certificates and test records, transfer of rights, insurance, handling fees, etc.
- 4.5** The purchase price shall be paid by the Buyer in Czech currency based on tax document – invoice by wire transfer to the Seller’s bank account. The Seller is obliged to issue the invoice within 15 days after proper and timely delivery of the subject of performance and takeover of the same by the Buyer hereunder based on the acceptance record.
- 4.6** The tax document – invoice shall include all details of a proper accounting and tax document required by applicable legal regulations, in particular Act No. 235/2004 Coll., on Value Added Tax, as amended. The invoice shall also include identification of the project (“High-tech Educational Pavilion of the Faculty of Forestry and Wood Technology” with reg. No. CZ.02.2.67/0.0/0.0/16_016/0002471) and identification of the operational programme from which the delivery is co-financed (“Operational Programme Research, Development and Education”). In case the invoice lacks any of the required details, the Buyer shall be entitled to return it before its due date to the Seller for completion without falling into delay with the payment. The period for payment shall then run again from the repeated delivery of the properly completed or corrected invoice.
- 4.7** The invoice shall not be due earlier than 30 days after its issue date. The Seller is obliged to deliver the invoice within 10 business days after its issue date to the address Česká zemědělská univerzita v Praze, Ekonomický odbor, Kamýcká 129, 165 00 Praha – Suchdol (Czech University of Life Sciences Prague, Economic Department, Kamýcká 129, 165 00 Prague – Suchdol). In case of any later delivery the Buyer shall be entitled to require an adequate extension of the invoice due date. Any other delivery shall not be regarded as proper delivery and the Buyer shall not incur the obligation to pay the invoice delivered in another way.
- 4.8** The day on which the invoiced amount is debited to the Buyer’s bank account in order to be credited to the Seller’s bank account shall be regarded as the payment date.
- 4.9** The payment of the purchase price or a part thereof shall be transferred to the Seller’s account published by the tax administrator in accordance with Section 98 of Act No. 235/2004 Coll., on Value Added Tax, as amended, also in case another bank account is stated in the invoice. If the Seller’s bank account is not published in accordance with Section 98 of Act No. 235/2004 Coll., on Value Added Tax, as amended, the Buyer shall made the payment to bank account only after it is published by the tax administrator without falling into delay with the payment. The publication of bank account by the tax administrator shall be notified by the Seller to the Buyer without delay. This provision shall not be applied in case the Seller is not subject to the concerned obligation pursuant to Act No. 235/2004 Coll., on Value Added Tax, as amended.

V

Rights and Obligations of the Parties

- 5.1** The Seller is obliged to deliver the subject of performance in the agreed quantity and quality. The subject of performance delivered by the Seller to the Buyer hereunder shall meet the quality requirements stipulated in this Contract and its Annex.

- 5.2 The Seller is obliged to deliver the subject of performance to the Buyer free of defects in accordance with the terms and conditions of this Contract. The takeover of the subject of performance by the Buyer based on the takeover confirmation in the record of acceptance of the subject of performance shall be regarded as proper delivery of the subject of performance. The acceptance record cannot be signed before the physical delivery of the subject of performance is fully completed by the Seller including all related activities and services agreed herein.
- 5.4 The Buyer shall acquire the title to the subject of performance on the day when the subject of performance is taken over from the Seller based on the acceptance record. The risk of damage to the subject of performance shall pass to the Buyer at the same moment.
- 5.5 The Seller shall be liable to the Buyer for any damage or other harm caused by any breach the obligations hereunder or obligations imposed by applicable legal regulations.
- 5.6 The Parties agreed and the Seller decided that the person authorized to act on the Seller's behalf in matters related to this Contract and its performance is:
name:
e-mail address: _____
tel. No.: XXXX
- 5.7 The Parties agreed and the Buyer decided that the person authorized to act on the Buyer's behalf in matters related to this Contract and its performance is:
name: XXXX
e-mail address:
tel. No.:
or
name: XXXX
e-mail address:
tel. No.:
- 5.8 All correspondence, instructions, notices, requests, records and other documents sent by either Party to the other Party based on or in connection with this Contract shall be made in writing in Czech or English language and delivered by hand, registered letter, fax or e-mail for the attention and to the mailing addresses of the authorized persons listed herein.

VI

Guarantee for the Subject of Performance

- 6.1 The Seller assumes guarantee for the subject of performance for a period of 24 months. The guarantee period shall start from the day on which the subject of performance is delivered to the Buyer, i.e. on which the acceptance record is signed by the Buyer.
- 6.2 The Buyer shall be obliged to notify the Seller in writing of any defect under guarantee without delay. The Seller shall carry out the repair of any defective subject of performance under guarantee free of charge within 30 business days after the defect notification or shall agree another deadline for correction of the claimed defect with the Buyer. In the event the aforementioned date is not met, the Buyer shall be entitled to have the defects corrected by

a third person at the Seller's expense without prior notice informing of this step.

- 6.3** In case of repair of any defective subject of performance in the guarantee period the guarantee period shall be extended by the time from the defect notification till the defect correction by the Seller or third person at the Seller's expense within the meaning of the last sentence of Art. 6.2 hereof.
- 6.4** Any defect can be claimed only during the guarantee period and a claim sent on the last day of the guarantee period shall also be deemed to be a timely raised claim.

VII Penalty Clause

- 7.1** In the event the Seller fails to deliver the subject of performance by the date fixed hereunder, the Seller undertakes to pay the Buyer a penalty in the amount of 0.5 % of the purchase price for each day of the delay.
- 7.2** The Seller shall be obliged to pay the Buyer a penalty in the amount of 0.05 % of the purchase price for each day of a delay with correction of claimed defects by the date set forth in Art. 6.2 hereof.
- 7.3** In the event of the Buyer's delay with the invoice payment the Seller shall be entitled to charge to the Buyer a late payment interest in the amount of 0.05 % of the outstanding sum for each day of the delay with the invoice payment.
- 7.4** No circumstances excluding liability shall affect the obligation to pay a penalty.
- 7.5** The payment of penalty by the Seller shall be without prejudice to the Buyer's right to full compensation for damage or other harm.

VIII Term and Termination

- 8.1** This Contract shall come into force on the day when signed by authorized representatives of both Parties. This Contract shall become effective at the moment when published in the Register of Contracts in accordance with Act No. 340/2015 Coll., on Special Conditions for the Effectiveness of Certain Contracts, Publication of these Contracts and the Register of Contracts (Act on the Register of Contracts), as amended.
- 8.2** This Contract can be terminated by:
- a) written agreement between the Parties;
 - b) written termination notice given by the Buyer;
 - c) withdrawal from this Contract.
- 8.3** This Contract can be withdrawn from only for the reasons specified herein or in applicable legal regulations. Either Party can withdraw from this Contract due to any material breach of the obligations of the other Party hereunder. The material breach of this Contract is understood, in particular, as:
- a) failure by the Buyer to pay the purchase price hereunder within a period longer than 30 calendar days after the invoice due date;
 - b) failure by the Seller to properly and timely deliver the subject hereof and remedy this

default within 5 business days after written notice from the Buyer informing of nonperformance of this Contract;
c) the Seller's approach to performance of this Contract contrary to the provisions hereof, instructions of the Buyer's authorized representative or legal regulations.

- 8.4** The Buyer shall be entitled to withdraw from this Contract in the event the Seller becomes an unreliable VAT payer according to the information stated in the Register of VAT Payers.
- 8.5** The Contract termination shall render all obligations of the Parties hereunder null and void. Any claims for compensation for damage or other harm and for payment of penalties agreed to be imposed for any breach of the obligations hereunder raised before this Contract termination, and the liabilities of the Parties which are to survive this Contract termination because this is provided for herein or because of their nature, or in case of which it is required by law, shall survive this Contract termination.
- 8.6** The Seller assumes the risk of a change in the circumstances in accordance with the Civil Code.

IX Final Provisions

- 9.1** The relations between the Parties shall be governed by the Czech law. The legal relations arising from and in connection with this Contract regarding matters not explicitly regulated hereby shall be governed by applicable provisions of the Civil Code and other applicable legal regulations.
- 9.2** Any alterations of this Contract can be made solely based on written agreement between the Parties. Such agreements shall have the form of dated and numbered amendments to this Contract signed by both Parties.
- 9.3** If the reason for invalidity applies only to some of the provisions of this Contract, then only the concerned provisions shall be invalid unless their nature, content or circumstances under which they were agreed show(s) that they are not severable from the remainder of this Contract.
- 9.4** The Parties shall at all times endeavour to settle any disputes arising from this Contract amicably. Should the amicable settlement of a dispute not be achieved within 30 business days after its first notification to the other Party, either Party shall be entitled to refer its claim to the competent court.
- 9.5** This Contract is executed in 4 (four) counterparts each of which being valid as an original. Each Party shall receive 2 (two) counterparts.
- 9.6** The Annex named Technical Specification of the Subject of Performance drawn up by the Seller is an integral part of this Contract.
- 9.7** The Seller unreservedly agrees with the publication of full text of this Contract so that it can be the subject of provided information in accordance with Act No. 106/1999 Coll., on Free Access to Information, as amended. The Seller also agrees with the publication of full text of this Contract in accordance with Section 219 of Act No. 134/2016 Coll., on Public Procurement, as amended and Act No. 340/2015 Coll., on Special Conditions for the Effectiveness of Certain Contracts, Publication of these Contracts and the Register of Contracts (Act on the Register of Contracts).

9.8 The Seller acknowledges and agrees that it is a person with the obligation defined by Section 2 (e) of Act No. 320/2001 Coll., on Financial Control in Public Administration Amending Certain Acts, as amended. The Seller is obliged to perform the obligations arising from the aforementioned act.

9.9 The Parties represent they have read this Contract before signing it and they agree with its content without reservations. This Contract expresses their true, real, free and earnest will. In witness of authenticity and veracity of these representations the authorized representatives of the Parties have set their hands below.

In Prague on 12 -11- 2019

In Gauting on 18-4-19

For and on behalf of the Buyer:
Czech University of Life Sciences Prague

For and on behalf of the Seller:
Arbosafe GmbH

Specification of Subject of Performance – Part B VZ

Program name: Arbostat evaluation software

Use of the device:

The software for TreeQinetic instruments. Windload analysis for trees analogous to Eurocode EN 1991-1-4-1 / DIN 1055-4 for the dynamic gust reaction of tree crowns. Evaluation of static load test data (measurements of force vs. fibre strain and root plate tilt) to be used in expertises on tree risk assessment by trained consulting arborists incl. tables of guideline values for wind structure (National Annexes to Eurocode 1 for Britain, France, Germany and the Netherlands) and green wood properties as well as references for parameters used in the dynamic and static analysis.

The licence's validity is not limited in time and may be used in one company's office at up to 3 workstations.

The price includes technically required updates for the duration of 2 years.

Training for the Pull Test Method

The training consists of 4 units, which are held on 4 days in sequence. Participation on all days is mandatory for acquiring the licence for using Arbostat software.

Unit 1: Introduction - Tree biomechanics and basics of pull tests with the following contents:

- engineering concepts and safety
- fracture, Hook's Law, elastic limit
- tipping behaviour of trees
- wind effects on urban sites
- dynamics of wind and trees
- pull test demonstration

Unit 2: Hands-on training in pull tests (TreeQinetic system) with the following contents:

- measuring technology, devices
- pull test and sensor setup
- data acquisition and validation
- limits in the pull test, risks

Unit 3: Evaluation with Arbostat software with the following contents:

- wind structure, tree response
- beam theory, material properties
- tipping load, soil and roots
- practical application in Arbostat

Unit 4: Practical exercises. In this unit, all acquired knowledge will be applied.

- practical pull tests
- evaluations with Arbostat

The delivered software shall then be installed by the participant at one workstation in the contracting authority's premises. The licence shall be granted for unlimited time.

The subject of delivery shall include information on the installation method.