



Smlouva č. 126/0VZ/PV/2016

**Smlouva
o zajištění elektronického informačního zdroje Evidence-Based Medicine Reviews
(EBMR)**

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]

IČ: 49612158

DIČ: CZ49612158

Bankovní spojení: [REDACTED]
[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] [REDACTED]

IČ: 61989592

DIČ: CZ61989592

Bankovní spojení: [REDACTED]

(dále jen „odběratel“)

2. Prohlášení smluvních stran

2.1. Dodavatel je smluvním partnerem poskytovatele elektronického informačního zdroje Evidence-Based Medicine Reviews (EBMR) (dále jen „produkt“) a zároveň jeho oprávněným a jediným autorizovaným distributorem v České republice. Dodavatel je oprávněn zprostředkovat tuto licenci k produktu v ČR. Dodavatel prohlašuje, že není nabyvatelem této licence na základě licenční smlouvy mezi poskytovatelem a dodavatelem.

3. Předmět smlouvy

3.1 Předmětem smlouvy je zajištění produktu pro odběratele. Produkt je poskytován formou online přístupu k serveru poskytovatele licence uvedenému v příloze č. 1 této smlouvy (dále jen „poskytovatel“) na období počínaje **od 01. 02. 2017 do 31. 01. 2018**.



3.2. Předmětem této smlouvy je i technická a provozní podpora pro zpřístupnění produktu 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 elektronického informačního zdroje je chráněn autorským právem) se na užití produktu vztahuje ustanovení licenčních podmínek resp. licenčního ujednání konkrétního poskytovatele. Text platných licenčních podmínek odsouhlasených elektronicky v roce 2015 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 105 484,30 Kč bez DPH, v rozsahu cenové nabídky uvedené v příloze č. 1 této smlouvy. Právo fakturovat vzniká dodavateli dnem podpisu smlouvy oběma smluvními stranami. Dnem fakturace, který je zároveň dnem uskutečnění zdanitelného plnění, dochází k poskytnutí práva k využití produktu. 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 01. 02. 2017 do 31. 01. 2018. 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 zpřístupňovaném informačním zdroji k dispozici. Dodavatel rovněž neodpovídá za případnou existenci poruch v přístupu k informačnímu zdroji či jeho 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 dodávaného elektronického informačního zdroje, k ukončení poskytování, 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 smluvní 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 produktu 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.

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 takovouto 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 – Text licenční smlouvy mezi odběratelem a poskytovatelem

V Praze dne 1.12.2016

V Olomouci dne - 9. 12. 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 č. 1 – Seznam produktů, poskytovatelů a nabídková cena

Produkt	Poskytovatel	Licence	Měna	Cena bez DPH	DPH	Cena vč. DPH
Evidence-Based Medicine Reviews (EBMR)	Wolters Kluwer - Ovid	1 SU	Kč	105 484,30	22 151,67	127 635,97
Cena celkem:			Kč	105 484,30	22 151,67	127 635,97

SU = simultaneous users = počet uživatelů oprávněných pracovat s databází současně (na síti).

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

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4.1. The term of this Agreement will commence as of the Effective Date and continues in effect, unless earlier terminated as provided for below, while any Order hereunder remains in effect. If no Orders hereunder are in effect, either Party may terminate this Agreement upon thirty (30) days' prior written notice to the other.

4.2. Subject to earlier termination in accordance with Section 5, (i) with respect to any Products licensed on a Perpetual Access Basis hereunder, the applicable Order shall remain in effect in perpetuity, and (ii) with respect to any Products licensed on a Subscription Basis hereunder, the applicable Order shall remain in effect during the Subscription Term.

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5.3. Any terms or conditions of this Agreement that, by their express terms extend beyond termination or expiration of this Agreement or that by their nature shall so extend, shall survive and continue in full force and effect after any termination or expiration of this Agreement. Without limiting the generality of the foregoing, the obligations and rights of the Parties pursuant to Sections 3, 4, 5, 6, 7, 8, 9, and 10 (if applicable), and any other provisions herein that protect the proprietary rights of Ovid and the Information Providers shall survive the termination or expiration of this Agreement.

6. FEES.

6.1. LICENSE FEES. Unless specified in the applicable Order, Licensee shall pay the License Fees and any applicable taxes within thirty (30) days of the applicable Order Effective Date. Failure to pay all Licensee Fees and applicable taxes within such thirty (30) day period shall constitute a material breach of this Agreement by Licensee, and Ovid reserves the right to exercise its termination right set forth in Section 5.1 upon any such material breach for non-payment.

6.2. ADJUSTMENT FOR CHANGE. No later than thirty (30) days following any changes with respect to the information supplied by Licensee in any Order, Licensee shall update the information contained in the applicable Order by notice of such changes to Ovid, including, without limitation, any mergers or acquisitions, or any additional facilities opened or acquired that should be listed as Authorized Sites. In the event that the change results in a change in fees, the License Fees shall be adjusted, in accordance with Ovid's then-current pricing. In the event that Licensee fails to provide such updated information, Ovid reserves the right to charge Licensee additional fees to cover any period of underpayment by Licensee.

- 6.3. **TAXES.** Licensee will be responsible for the payment of all taxes and other related fees incurred in connection with this Agreement. Licensee shall timely provide Licensee's applicable tax exemption identification number or certificate, if any, as a condition to Ovid not collecting an applicable tax hereunder; provided that Licensee shall remain responsible for any taxes to which such tax-exempt status does not apply.

7. LIMITED WARRANTIES AND LIMITED LIABILITIES.

- 7.1. THE PRODUCTS, THE PLATFORMS, AND THE DOCUMENTATION HEREUNDER ARE FURNISHED BY OVID, ITS AFFILIATES AND LICENSORS AND ACCEPTED BY LICENSEE "AS IS" AND WITHOUT ANY WARRANTY WHATSOEVER. OVID, ITS AFFILIATES AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE FOREGOING, AND OVID, ITS AFFILIATES AND LICENSORS DISCLAIM ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE PRODUCTS, THE PLATFORMS, THE DOCUMENTATION OR THE RESULTS DERIVED THEREFROM, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES REGARDING ACCURACY, QUALITY, CORRECTNESS, COMPLETENESS, COMPREHENSIVENESS, CURRENCY, SUITABILITY, SYSTEM AVAILABILITY, COMPATIBILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR OTHERWISE (IRRESPECTIVE OF ANY COURSE OF DEALING, CUSTOM OR USAGE OF TRADE). IN ADDITION, LICENSEE ACKNOWLEDGES THAT ACCESS TO THE PLATFORMS AND THE PRODUCTS MAY BE SUBJECT TO LIMITATIONS, DELAYS, LATENCY ISSUES AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, AND THAT OVID, ITS AFFILIATES AND ITS LICENSORS ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. NO OVID EMPLOYEE OR AGENT IS AUTHORIZED TO MAKE ANY STATEMENT THAT ADDS TO OR AMENDS THE WARRANTIES OR LIMITATIONS CONTAINED IN THIS AGREEMENT.
- 7.2. THE PRODUCTS ARE NO SUBSTITUTE FOR INDIVIDUAL PATIENT ASSESSMENT BASED UPON THE LICENSEE'S HEALTHCARE PROFESSIONALS' EXAMINATION OF EACH PATIENT. WHILE CERTAIN PRODUCTS MAY DESCRIBE VARIOUS BASIC PRINCIPLES OF DIAGNOSIS AND THERAPY, SUCH PRODUCTS SHOULD BE USED AS GENERAL MEDICAL REFERENCE MATERIALS TO ASSIST THE HEALTHCARE PROFESSIONAL REACH DIAGNOSTIC AND TREATMENT DECISIONS. LICENSEE (AND ITS HEALTHCARE PROFESSIONALS) SHOULD EXERCISE THEIR OWN INDEPENDENT PROFESSIONAL AND CLINICAL JUDGMENT, TAKING INTO ACCOUNT INFORMATION ABOUT PARTICULAR INDIVIDUAL PATIENTS THAT CANNOT BE ASCERTAINED OR TAKEN INTO ACCOUNT AS A PART OF NECESSARILY GENERIC OR SUMMARY PRODUCTS. GIVEN CONTINUOUS, RAPID ADVANCES AND CHANGES IN MEDICAL SCIENCE AND HEALTH INFORMATION, LICENSEE (AND ITS HEALTHCARE PROFESSIONALS) SHOULD CONSULT A VARIETY OF SOURCES WHEN PRESCRIBING MEDICATION, INCLUDING THE MANUFACTURER'S "PACKAGE INSERT". THE ABSENCE OF A WARNING FOR A GIVEN DRUG OR DRUG COMBINATION SHOULD NOT BE CONSTRUED TO INDICATE THAT THE DRUG OR DRUG COMBINATION IS SAFE, APPROPRIATE OR EFFECTIVE IN ANY GIVEN PATIENT. LICENSEE ACKNOWLEDGES THAT THE PROFESSIONAL DUTY TO THE PATIENT IN PROVIDING HEALTHCARE SERVICES LIES SOLELY WITH THE HEALTHCARE PROFESSIONAL PROVIDING PATIENT CARE SERVICES. LICENSEE AND ITS HEALTHCARE PROFESSIONALS ARE SOLELY RESPONSIBLE FOR THE USE OF ANY PRODUCTS, AND LICENSEE'S HEALTHCARE PROFESSIONALS ARE RESPONSIBLE FOR INDEPENDENTLY REACHING ANY MEDICAL JUDGMENT. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, NO RESPONSIBILITY IS ASSUMED BY OVID, ITS AFFILIATES OR LICENSORS FOR ANY INJURY AND/OR DAMAGE TO PERSONS OR PROPERTY, AS A MATTER OF PRODUCTS LIABILITY, NEGLIGENCE LAW OR OTHERWISE, OR FROM ANY REFERENCE TO OR USE BY LICENSEE (OR ANY OF ITS HEALTHCARE PROFESSIONALS) OF ANY OF THE PRODUCTS.

8. LIMITATION OF LIABILITY. IN NO EVENT SHALL OVID, ITS AFFILIATES OR LICENSORS, OR ANY OF ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS, BE LIABLE TO LICENSEE, ITS AUTHORIZED USERS OR ANY THIRD PARTY WHOSE CLAIM ARISES FROM OR IS RELATED TO THE AGREEMENT, UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, (A) FOR LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES OR EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) FOR ANY CLAIMS, DAMAGES OR COSTS OF ANY NATURE IN EXCESS OF THE LICENSE FEE PAID BY LICENSEE TO OVID DURING THE TWELVE MONTHS PRECEDING THE EARLIEST EVENT GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY AND THE DISCLAIMERS SET FORTH IN THIS SECTION 8 ARE INDEPENDENT OF ANY REMEDIES SET FORTH HEREIN AND WILL SURVIVE AND APPLY EVEN IF SUCH REMEDIES ARE FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

9. CONFIDENTIALITY. Licensee acknowledges that the Products and the Platforms are the proprietary property of Ovid, its affiliates and the Information Providers, and that the processes and methodology used in producing the Products and the Platforms are valuable trade secrets. Licensee shall protect the confidentiality thereof with at least the same level of efforts that it employs to protect the confidentiality of its own proprietary and confidential information of like importance and in any event, by reasonable means. Licensee shall not disclose the terms of this Agreement, except as required by law.

10. MISCELLANEOUS.

10.1. AFFILIATES OF OVID. The applicable Ovid entity for purposes of this Agreement shall be determined by Licensee's principal place of business: (i) in Andorra, Belgium, Cyprus, Greece, Israel, Luxembourg, Malta, the Netherlands, San Marino, Turkey or the Vatican City: Ovid Technologies BV; (ii) in the Aland Islands, Albania, Armenia, Austria, Azerbaijan, Belarus, Bosnia Herzegovina, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Faroe Islands, Finland, Georgia, Germany, Greenland, Hungary, Iceland, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Macedonia, Moldova, Montenegro, Norway, Poland, Romania, Russia, Serbia, the Slovak Republic, Slovenia, Svalbard & Jan Mayen, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, or Uzbekistan: Ovid Technologies GmbH; (iii) in Algeria, France, French Guiana, French Polynesia, French Southern Territory, Guadeloupe, Martinique, Monaco, Morocco, New Caledonia, Reunion, Saint Barthélemy, or Tunisia: Ovid Technologies Sarl; (iv) in Portugal or Spain: Ovid Technologies SL; (v) in Afghanistan, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoro Islands, Congo, Congo Democratic Republic, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Guinea, Guinea-Bissau, Iran, Iraq, Italy, the Ivory Coast, Jordan, Lebanon, Liberia, Libya, Malawi, Mali, Mauritania, Mayotte, Niger, Palestine, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Somalia, Sudan, Syria, Togo, Western Sahara, Yemen, or Zimbabwe: Ovid Technologies SRL; or (vi) in Angola, Bahrain, Botswana, England, Ghana, Gibraltar, Guernsey, Ireland, Jersey, Kenya, Kuwait, Lesotho, Madagascar, Maldives, Mauritius, Mozambique, Namibia, Nigeria, Northern Ireland, Oman, Qatar, Saudi Arabia, Scotland, Seychelles, South Africa, Swaziland, Tanzania, Uganda, United Arab Emirates, Wales, or Zambia: Wolters Kluwer Health (Medical Research) Ltd. If none of the foregoing is applicable, then the licensing entity hereunder shall be Ovid Technologies, Inc.

10.2. ASSIGNMENT. Licensee shall not assign this Agreement nor delegate any of its duties, in whole or in part, without the prior express written consent of Ovid. In no event shall Ovid's consent be construed as discharging or releasing Licensee in any way from the performance of its obligations under this Agreement. Ovid may assign this Agreement to any affiliate or successor of Ovid and may delegate its duties, in whole or in part, in each case without any consent of Licensee. An assignee of either Party authorized hereunder shall be bound by the terms of this Agreement and shall have all of the rights and obligations of the assigning Party set forth in this Agreement. If any assignee refuses to be bound by all of the terms and obligations of this Agreement or if any assignment is made in breach of the terms of this Agreement, then such assignment shall be null and void and of no force or effect.

- 10.3. DISPUTE RESOLUTION METHOD AND VENUE.** The Parties agree that any dispute arising hereunder shall be submitted for dispute resolution in the method and venue determined by Licensee's principal place of business, as specified in the Order, as follows: (a) in the United States, disputes shall be submitted to a state or federal court sitting in New York, NY; (b) in Canada, disputes shall be submitted to the federal and provincial courts sitting in Toronto, Ontario; (c) in the Americas, except Canada and the United States, disputes shall be submitted to arbitration in New York, New York, U.S.A., under the rules of the American Arbitration Association; (d) in Europe, the Middle East and Africa, disputes shall be submitted to arbitration in London, England, under the Arbitration Rules of the London Court of International Arbitration; (e) in Asia Pacific, disputes shall be submitted to arbitration in Sydney, (NSW) Australia, under the rules of the Australian Commercial Disputes Centre Ltd. Nothing herein shall be deemed to limit or otherwise affect either Party's right to seek immediate equitable (including injunctive) relief for alleged violations of the Party's intellectual property rights or interests.
- 10.4. DISPUTE RESOLUTION PROCEDURES FOR ARBITRATION.** The Parties agree that the following procedures shall apply to any disputes under this Agreement that are submitted to arbitration. Arbitration shall be conducted before a single arbitrator selected in accordance with the applicable arbitration rules, unless the amount in dispute exceeds the equivalent of US\$250,000. If the amount in dispute exceeds the equivalent of US\$250,000, the dispute shall be decided by three arbitrators, one to be selected by each Party and the two party-appointed arbitrators to agree upon the third. The arbitrators must have experience with and knowledge of the licensing of software, and have been admitted to the practice of law for at least ten years. Under no circumstances are the arbitrators authorized to award damages contrary to Section 8 of this Agreement. The arbitrators shall be authorized to award costs and attorney's fees or to allocate them between the Parties. Any court with jurisdiction shall enforce the agreement of the Parties to arbitrate their disputes and enter judgment on any award.
- 10.5. ENTIRE AGREEMENT; AMENDMENT.** This Agreement, user restrictions and other notices concerning the Products, the Platforms or the Documentation as provided from time to time by Ovid, the terms and conditions for online services available at Ovid's websites and any other documents referenced herein constitute the entire agreement of the Parties with respect to its subject matter. It is expressly agreed that any terms of a purchase order or similar instrument issued by Licensee with respect to this Agreement will not affect the terms and conditions of this Agreement. This Agreement may not be modified or amended except by written consent of the Parties or in accordance with the provisions set forth in Section 3.2 of this Agreement. All headings are for reference purposes only and shall not affect the meaning or interpretation of any provisions of this Agreement
- 10.6. FORCE MAJEURE.** Except for payment obligations, neither party will be liable for any failure in performance or interruption of service due to any unforeseen circumstances or circumstances beyond its control, including, without limitation, war, strikes, civil disturbances and acts of God.
- 10.7. GOVERNING LAW; LANGUAGE OF AGREEMENT.** This Agreement is governed by and shall be construed in accordance with the substantive laws of the State of New York, without giving effect to the principles of conflict of law thereof, and excluding the United Nations Convention on Contracts for the International Sale of Goods. Unless otherwise agreed in writing by the Parties, this Agreement and all related documents shall be drawn up in English. Any translations of this Agreement into any other language shall have no effect. All proceedings related to this Agreement shall be conducted in the English language.
- 10.8. JURY TRIAL WAIVER. EACH PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE OR LEGAL PROCEEDING ARISING OUT OF THE AGREEMENT OR THE SUBJECT MATTER HEREOF.**
- 10.9. NOTICES.** All notices, consents or other communications referred to in this Agreement will be in writing and will be conveyed to the other Party by First Class Mail, return receipt requested, or overnight courier (e.g., FedEx, UPS, etc.) to Ovid at 333 Seventh Avenue, Twentieth Floor, New York, NY 10001 or to Licensee at the address set forth in the Order. Service of such notice, consent or other communication hereunder will be effective when the return receipt is received or upon proof of delivery from the courier.

- 10.10. SEVERABILITY.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws, then such provision shall be revised by a court of competent jurisdiction to be enforceable if permitted under applicable law, and otherwise shall be fully severable. In any event, this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.
- 10.11. WAIVER.** The waiver by a Party of or the failure by a Party to claim a breach of any provision of this Agreement shall not be, or be held to be, a waiver of any subsequent breach or affect in any way the further effectiveness of any such provision.
- 10.12. COUNTERPARTS.** This Agreement may be signed in counterparts, all of which upon execution and delivery shall be considered originals and together shall constitute one agreement. Signed facsimile or portable document format (PDF) copies of this Agreement will legally bind the Parties to the same extent as original documents.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and hereby represent and warrant that their respective signatory below has been and is, on the date of this Agreement, duly authorized by all necessary corporate action to execute this Agreement.

OVID TECHNOLOGIES, INC.

UNIVERZITA PALACKÉHO V OLMOUCI

By: _____

Name: _____

Title: _____

