



Univerzita Palackého
v Olomouci

Smlouva o zajištění elektronického informačního zdroje

UpToDate

024/0VZ/PV/2017

uzavřena 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“)

(dále jen „Smlouva“)

1. Smluvní strany

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“)

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 511/8, 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 elektronického informačního zdroje UpToDate a zároveň jeho oprávněným a jediným autorizovaným distributorem v České republice. Dodavatel je oprávněn zprostředkovat tuto licenci k tomuto 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 elektronického informačního zdroje **UpToDate**, který je specifikovaný dále v příloze č. 1 této Smlouvy (dále jen "Produkt") pro Odběratele. Produkt je poskytován formou online přístupu k serverům poskytovatele licence uvedenému v příloze č. 1 této Smlouvy (dále jen „Poskytovatel“) na období počínaje od 01. 05. 2017 do 30. 04. 2018.

3.2. Předmětem této Smlouvy je i technická a provozní podpora pro zpřístupnění elektronického informačního zdroje **UpToDate** 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, jejichž kopie 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 873 302,09 Kč bez DPH, tj. 1 056 695,52 Kč vč. DPH, z toho DPH 21% 183 393,50 Kč, 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 (USD) oproti kurzu použitému v kalkulaci (uveden v příloze č. 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 dnem podpisu Smlouvy oběma smluvními stranami. 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 kalendářních dnů ode dne prokazatelného 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. Faktura musí být označena číslem této Smlouvy uvedeného 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 kalendářních 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. 05. 2017 do 30. 4. 2018. Pro případ porušení tohoto závazku se sjednává smluvní pokuta ve výši 0,05% ze smluvní ceny za každý kalendářní 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 kalendářních dní. Ostatní ustanovení Smlouvy zůstávají v platnosti.

5.4. Sjednáním smluvní pokuty není dotčeno právo smluvní strany oprávněné požadovat 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 prodlávající 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 kalendářních 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. Výpovědí nevzniká odběrateli nárok na zpětné plnění nečerpaného přístupu.

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 Dodavatel bere na vědomí, že je osobou povinnou spolupůsobit při výkonu finanční kontroly dle § 2 písm. e) zákona č. 320/2001 Sb., o finanční kontrole ve veřejné správě, ve znění pozdějších předpisů.

6.8. Tato Smlouva nabývá platnosti dnem jejího podpisu oběma smluvními stranami a účinnosti dnem uveřejnění v registru smluv dle zákona č. 340/2015 Sb., o registru smluv, v účinném znění.

6.9. Tato Smlouva je vyhotovena v pěti vyhotoveních s povahou originálu podepsaných oprávněnými osobami obou smluvních stran, přičemž Odběratel obdrží tři a Dodavatel dvě vyhotovení.

6.10. Odběratel si vyhrazuje právo zveřejnit obsah uzavřené Smlouvy.

6.11 Dodavatel bere na vědomí, že tato Smlouva včetně všech jejích příloh podléhá povinnému zveřejnění podle zákona č. 340/2015 Sb., o registru smluv, v účinném znění.

6.12. Nedílnou součástí této Smlouvy jsou přílohy:

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

Příloha č. 2 – Kopie licenční smlouvy mezi Odběratelem a Poskytovatelem elektronického informačního zdroje UpToDate.

V Praze dne 19.4.2017

Za Dodavatele

pověřený zástupce Albertina icome Praha s.r.o.
na základě plné moci ze dne 31.8.2015

V Olomouci dne 25-04-2017

Za Odběratele

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

P l n á m o c**Albertina icome Praha s.r.o.**, Štěpánská 16, 110 00 Praha 1

IČ: 49612158

DIČ: 001-49612158

registrace:

Městský soud v Praze, oddíl C, vložka 20775

zastoupená:

Ing. Vladimírem Karenem, jednatelem

zmocňuje :



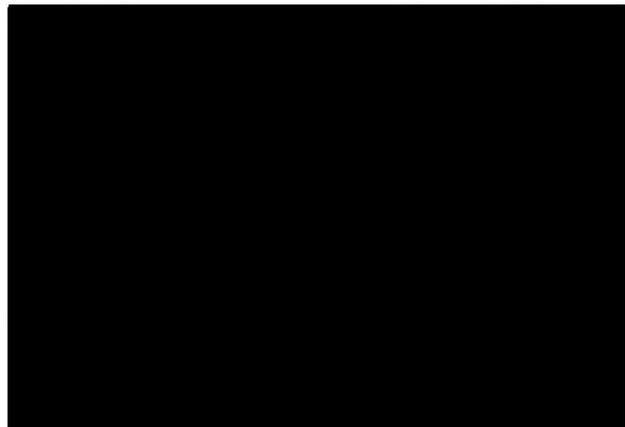
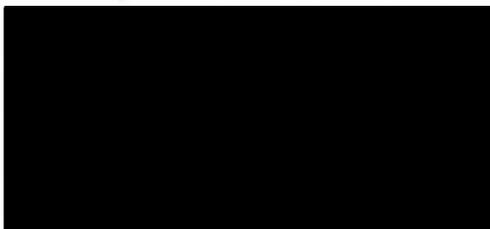
aby zastupoval zmocnitele při realizaci dodavatelsko-odběratelských vztahů, zejm. pak aby za zmocnitele podepisoval smlouvy a další s tím související dokumenty s odběrateli, aby činil za zmocnitele nabídky, a to včetně nabídek v rámci řízení o veřejných zakázkách, a k vykonávání dalších úkonů a skutečností souvisejících s realizací obchodních vztahů společnosti.

V Praze dne

31. 8. 2015

**Albertina icome Praha s.r.o.**zast. Ing. Vladimírem Karenem
jednatelem

Toto zmocnění přijímám:





Příloha č. 1 Smlouvy – Produkty, Poskytovatel a ceny

Produkt/Služba	Vydavatel	Počet souč. uživ.	Předplacené	Cena v zahraniční měně	Měna	Cena v Kč bez DPH	Cena v Kč vč. DPH
UpToDate (01/05/2017- 30/04/2018)	UpToDate	neom.	ano	33 916,-	USD	873 302,09	1 056 695,52
Cena celkem:				33 916,-	USD	873 302,09	1 056 695,52
Použitá sazba DPH: 21 %							

Použitý kurz ČNB – střed Platnost pro 07.04.2017 Pořadí: 70

1 USD = 24,999 Kč

Za Dodavatele 19.4.2017

Za Odběratele 25-04-2017

pověřený zástupce Albertina icome Praha s.r.o.
na základě plné moci ze dne 31.8.2015

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

Contract No.: 001-00-45221492

March 21, 2017

Palacký University Olomouc
Křížkovského 511/8
771 47 Olomouc
Czech Republic

Dear Ladies & Gentlemen,

This letter represents the Addendum of the contract between UpToDate, Inc. and Palacký University Olomouc.

ADDENDUM

For good and valuable consideration, the receipt and sufficiency of which are severally acknowledged, this Addendum hereby modifies the Agreement („the Agreement“) of March 24, 2016 entered into between Palacký University Olomouc („You“ or „Your“) and UpToDate, Inc. for Your subscription to UpToDate online®.

UpToDate, Inc. and Palacký University Olomouc agree as follows:

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- Content updates are performed continuously.

Confirmation of Your Information

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<u>Institution</u>	<u>3rd and 4th Year Students</u>
Palacký University Olomouc	124
<u>Total</u>	<u>124</u>

If the above statistics are inaccurate, please let us know as soon as possible so that we can review the above price and make any necessary adjustments.

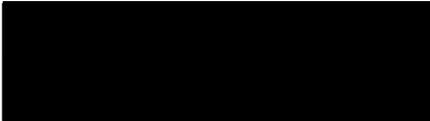
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To confirm Your acceptance of this Addendum, please sign this Addendum in the space below and return it to us. Your renewal will be processed immediately and an executed copy will be returned to You.

Your Supplier will call you shortly to answer any questions that you might have and to discuss the next steps.

Sincerely,



3/21/2017 5:15 PM
Finance - Contract Administration
UpToDate, Inc.

Accepted and Agreed to this 25th day of April, 2017 on behalf of Palacký University Olomouc.

By: _____



Printed Name: Prof. Mgr. JAROSLAV MILLER, M.A., Ph.D.

Title: RECTOR

Accepted and Agreed to this _____ day of _____, 2017 on behalf of UpToDate, Inc.

By: _____

Printed Name: _____

Title: _____
UpToDate, Inc.



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