



Air Navigation Services of the Czech Republic

Purchase Contract No. 401/2019/IS/076

"License / software"

(hereinafter referred to as the **"Contract"**)

concluded pursuant to Section 2079 et seq. of the Act. No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the **"Civil Code"**),

1. Parties

Air Navigation Services of the Czech Republic (ANS CR),

A state enterprise incorporated under the laws of the Czech Republic,
having its registered office at: Navigační 787, 252 61 Jeneč, Czech Republic,
Company Identification Number: 497 10 371
VAT Identification Number: CZ699004742
IBAN: CZ1203001712800000088153
SWIFT code: CEKOCZPP

Registered in the Commercial Register administered by the Municipal Court in Prague, under
Ref. No.: Section A, Insert 10771

Represented by: [REDACTED]

(hereinafter referred to as the **"Buyer"**)

and

FREQUENTIS California Inc.

Seated at 2511 Garden Road, Suite A-165, Monterey, CA 93940, USA
Registered in the State of Delaware on February 22, 2010, Registration No: 4791070
Represented by: Ing. Tomáš Vlček (on the basis of power attorney)
Tax Identification Number: 27-1966478
Bank Connection: [REDACTED]
Account Number: [REDACTED]
SWIFT Code: [REDACTED]

(hereinafter referred to as the **"Seller"**)

Each individually referred to as a **"Party"** or collectively as the **"Parties"**.



2. Subject Matter

- 2.1 Upon the terms and subject to the conditions herein contained, the Seller undertakes to deliver the Buyer:
- 2x licenses of smartMessenger 6.x for AMHS/AFTN Contingency TEST cluster,
1x separate program for establishing AFTN connection from ATM system(s) with AMHS/AFTN server
- (hereinafter referred to as **"the Supply"**).
- 2.2 The Buyer hereby undertakes to pay the Seller for the Supply under the terms and conditions defined hereafter. The Price of the Supply is given in Article 3 of this Contract.
- 2.3 The Seller shall incorporate necessary changes into a document „Software Licensing Terms“ including Attachments due to Licencing policy change resulting from delivery of Supply according to the Article 2.1 of this Contract.
- 2.4 The Technical specification of the Supply is in Annex **No. 1** of this Contract.
- 2.5 By this Contract, the Seller grants the Buyer the right to exercise the right to use the SW of the Supply (hereinafter referred to as the **"License"**), to the extent and under the conditions stipulated by this Contract. The License is granted as a non-exclusive, timely, locally or otherwise unlimited right to use the Supply,

3. Price of the Supply

- 3.1 The total contractual price is fixed according to the Price Act No. 526/1990 Coll., as amended. The total contractual price of the Supply covers all items described in Article 2 of this Contract and excludes VAT.
- The total contractual price of the Supply is [83,500*] USD excluding VAT.
- (in words: [Eighty-Three Thousand and Five Hundred] US dollars)
- 3.2 The total contractual price as stated in Article 3.1 of this Contract covers all costs, charges, duties and all other expenses related to the performance of this Supply and covers all other services, rights and delivery provided by the Seller.

4. Payment Terms

- 4.1 The payment to the Seller under this Contract shall be made in USD free of any bank charges, in favour of the Seller to its bank account which is specified in the heading of this Contract.
- 4.2 Payment amounting to [83,500*] USD (in words: [Eighty-Three Thousand and Five Hundred] USD, shall be paid by the Buyer on the basis of an invoice issued by the Seller after delivery of the Supply.
- 4.3 The invoice shall be sent to the Buyer's address given in the heading of this Contract. The invoice shall be payable within thirty (30) days after receipt by the Buyer. The invoice shall be accompanied by the corresponding handover certificate. The invoice issued by the Seller shall also contain a software specification which is being sold and number of licences.
- 4.4 The Buyer may return an invoice if it contains inaccurate or incomplete information or if the price is incorrect. Such return must be made by the due date of the invoice. In such event, the Seller shall issue a new invoice or correct the original invoice and fix a new due date.
- 4.5 The Invoice must be marked with the ANS CR contract number which is located in the header of this Contract.

5. Date of delivery

- 5.1 The Parties have agreed that the Supply shall be delivered within T0 + one (1) month
"T0" is the date of registration of this Contract in the Register of Contracts.
The "month" means a period of thirty (30) consecutive running days.

6. Place of delivery

- 6.1 The Supply shall be delivered via software data storage.

7. Taxes

- 7.1 The Buyer declares that it is a tax resident of the Czech Republic.
7.2 The Seller declares that it is a tax resident of the United States of America.
7.3 The Contract price is final and the Contract price has been calculated and is expressed excluding VAT, including all other taxes, duties and charges.
7.4 All terms of payment according to the Contract shall be subject to the tax laws of the Czech Republic and Double Taxation Agreement between the Czech Republic and the United States of America, number 32/1994 Coll., as amended.
7.5 The Customer is not responsible for any Supplier obligations to tax offices of the Czech Republic or its tax domicile.

8. Warranty

- 8.1 The Seller provides the Buyer with a 1 (one) year warranty period for the Supply (hereinafter **"the warranty period"**). The warranty period starts on the day of delivery.
8.2 The Buyer shall notify the Seller about any defects of the Supply via telephone followed by mail or e-mail notification. Contact details of the Seller for the purposes of announcing the defects are: [REDACTED]
8.3 The warranty does not cover defects caused by unprofessional handling or non-compliance with the instructions.
8.4 The elimination of the defects by the Seller is gratuitous. The Seller shall repair the defect within ten (10) business days from its notification.
8.5 In case of breach of the warranty duties by the Seller, the Buyer has the right to eliminate the defect through a third person. The costs related to such elimination shall be paid by the Seller.
8.6 The warranty period shall be extended by the period which was necessary to eliminate the defect. The period necessary for elimination of a defect begins on a day when the Buyer announces a respective defect to Seller according to Article 8.2 of this Contract and ends on a day when the defect was repaired and handed over to the Buyer.
8.7 Unless stated otherwise in this Contract the liability for defects follows the Section 2615 et seq. of the Civil Code.
8.8 The liability for unencumbered legal title to the Supply shall be carried by the Seller and the liability is not limited to the warranty period agreed herein.
8.9 Under no circumstances shall Seller be liable for any indirect, special, incidental or consequential damages, including but not limited to loss of anticipated profit or loss resulting from business disruption, even if Seller has been advised of the possibility of such damages and

the Seller's total damage shall be limited to 2 (two) times the amount of the aggregated value of the contract.

9. Ownership right and risk of damage

- 9.1 The risk of loss or damage to the Supply shall pass to the Buyer at the moment of signing the handover protocol. The ownership right shall pass to the Buyer at the same date.

10. Contractual penalties

- 10.1 If the Seller fails, for reasons other than Force Majeure, to deliver the Supply in time for delivery in accordance with the provisions of the agreed time schedule in Article 5 of this Contract and/or fails to complete the performance of this Contract within the term specified in Article 5, the Buyer may claim from the Seller, a contractual penalty in the amount of zero point zero five percent (0.05 %) of the total contractual price of the Supply per full day of delay.
- 10.2 In case the Buyer does not meet the payment term according to Article 4 of this Contract, than the Buyer shall be pay an interest rate of 0,05 % (five one hundredths) of the amount invoiced or of its part not yet reimbursed for each day of delay.
- 10.3 In case of any the Seller's delay the contractual penalty shall be paid upon the penalty invoice issued by the Buyer. The penalty invoice shall be due within thirty (30) days following the receipt of the invoice by the Seller.
- 10.4 Contractual penalties shall be paid regardless to any damage occurring to the other Party. Damages can be claimed independently. The right to claim damages remains unaffected.

11. Legal defects

- 11.1 The Seller represents that the Supply hereunder shall be delivered to the Buyer free of any legal defects, including defects under copyrights, patent or industrial rights of third parties. Seller shall indemnify the Buyer for all and any damage suffered as a result of any legal defects of the Supply.

12. Force Majeure

- 12.1 Each Party shall not have any legal liability to the other Party if it cannot perform its obligations under this Contract for a cause of force majeure, i.e. any event that is beyond its reasonable control.
- 12.2 In such a case, the Party, which is prevented from fulfilling its contractual obligations by the force majeure event, shall give notice of the event to the other Party. The contractual obligation of a given Party shall be prolonged for the time of acting of Force Majeure and its consequences.
- 12.3 The performance of this Contract shall be resumed as soon as practicable after such event has come to an end. If the performance of whole or part of this Contract is delayed by reason of Force Majeure for a period exceeding six (6) months, either Party may request termination of this Contract or the affected part thereof. Then the Parties shall endeavour to establish by mutual agreement on the termination of the contractual relationship; failing such an agreement, provisions of Article 15 of this Contract hereafter shall apply.

13. Miscellaneous

13.1 By signing this Contract the Seller acknowledges that it is not authorized to disclose or disseminate any information which could affect the security of civil aviation, namely due to requirements for maintaining security in civil aviation resulting from the relevant legislation (in particular the ICAO Annex No. 17) and imposing on air navigation service providers to take appropriate actions as a base to provide safeguarding of civil aviation against acts of unlawful interference. Particularly, the Seller shall not anyhow reproduce and redistribute any information acquired in connection with the performance thereof.

13.2 Publication

The Seller acknowledges that the Buyer is obliged to publish this Contract and associated information and documents related to the performance under this Contract pursuant to the Act. No. 340/2015 Coll., on the Register of Contracts, as amended, and Act No. 106/1999 Coll., on Free Access to Information, as amended. When this Contract is published in the Register of Contracts, in particular the following information contained in this Contract shall not be provided: name of Buyer's authorized person, Seller's bank account details, contact details in Article 8.2 of this Contract, signatures on the Contract, Annex **No. 1** (Technical Specification) and trade secret within the sense of § 504 of Civil Code as further specified in Article 13.3 of this Contract.

13.3 Trade secret

13.4 Trade secret, within the sense of § 504 of the Civil Code, means all information about price calculation detailed in Annex 1 of this Contract, and for this reason the said price calculation will neither be published nor provided according to Article 13.2 of this Contract.

13.5 Personal Data Protection

The Buyer and Seller shall comply with personal data protection rules pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), i.e. GDPR Regulation, and pursuant to other generally binding legal regulations on personal data protection. More information on data protection on the part of the Buyer is available on

<http://www.rlp.cz/en/company/dataprotection/Pages/default.aspx>

13.6 No change, alteration, modification or addition to this Contract shall be valid unless made in writing and properly executed by the Parties hereto.

13.7 External Entities Entry to the premises and objects of the Buyer

13.7.1. The Seller shall comply with the rules of the entry of external entities to the premises and objects of the Buyer. The obligations of the Seller regarding the entry of external entities to the premises and objects of the Buyer are specified on the following website

<http://www.rlp.cz/en/company/Pages/Entry.aspx>

13.7.2. In case of breach of the rules of entry of external entities according to the Article 13.7.1 of this Contract, the Seller shall pay the Buyer a contractual penalty of EUR 400 (in words: four hundred Euro) for each individual breach.

14. Assignment

14.1 Neither Party to this Contract shall be entitled to assign or transfer any of its contractual rights or obligations to any third party without prior written approval from the other Party; such approval shall not be denied unreasonably.

14.2 The Seller shall be entitled to subcontract, under its responsibility, any part of this Contract.

15. Settlement of disputes

- 15.1 Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach, termination or invalidity therefore, which cannot be settled by the Parties in a friendly manner, shall be finally settled under the appropriate court of the Czech Republic. The Parties agree that a court of Buyer's registered office shall be considered appropriate.
- 15.2 The language to be used in a trial and award shall be Czech.
- 15.3 This Contract is governed by Czech law.

16. Termination

- 16.1 Either Party shall have a right to terminate this Contract in case of the other Party's failure to fulfil its contractual obligations and such failure not having been remedied within thirty (30) days after a written notice by the first Party. In such a case, termination shall become effective upon the receipt of the written notice by the other Party.
- 16.2 This Contract may be terminated by mutual agreement of both Parties.
- 16.3 In case of termination for any reason whatsoever, the Parties shall try to establish a liquidation settlement by mutual agreement; failing such an agreement, the provisions of Article 15 of this Contract shall apply.

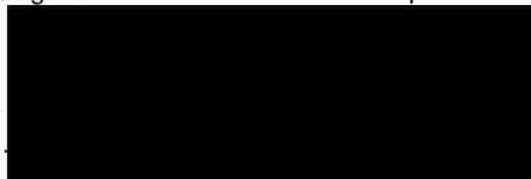
17. Final Provisions

- 17.1 Both Parties declare that the individual Articles of this Contract are sufficient with regards to the requirements for forming a contractual relationship, that the contractual freedom of the Parties has been used and that the Contract has been concluded in such a way that it is not to the debit of either Party.
- 17.2 Both Parties declare that, regarding their own national regulations, they are fully entitled to sign the present Contract.
- 17.3 This Contract shall be valid upon signature by the Buyer and the Seller and shall come into force on the day of its announcement in the Register of Contracts.
- 17.4 This Contract has been signed by their duly authorized representatives in four (4) original copies in English, each Party obtaining two (2) copies).
- 17.5 The following Annex forms an integral part of this Contract:
Annex No. 1 Technical Specification and Price Calculation

In Jeneč, on 19. 8.



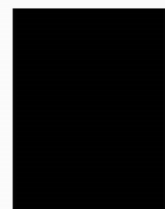
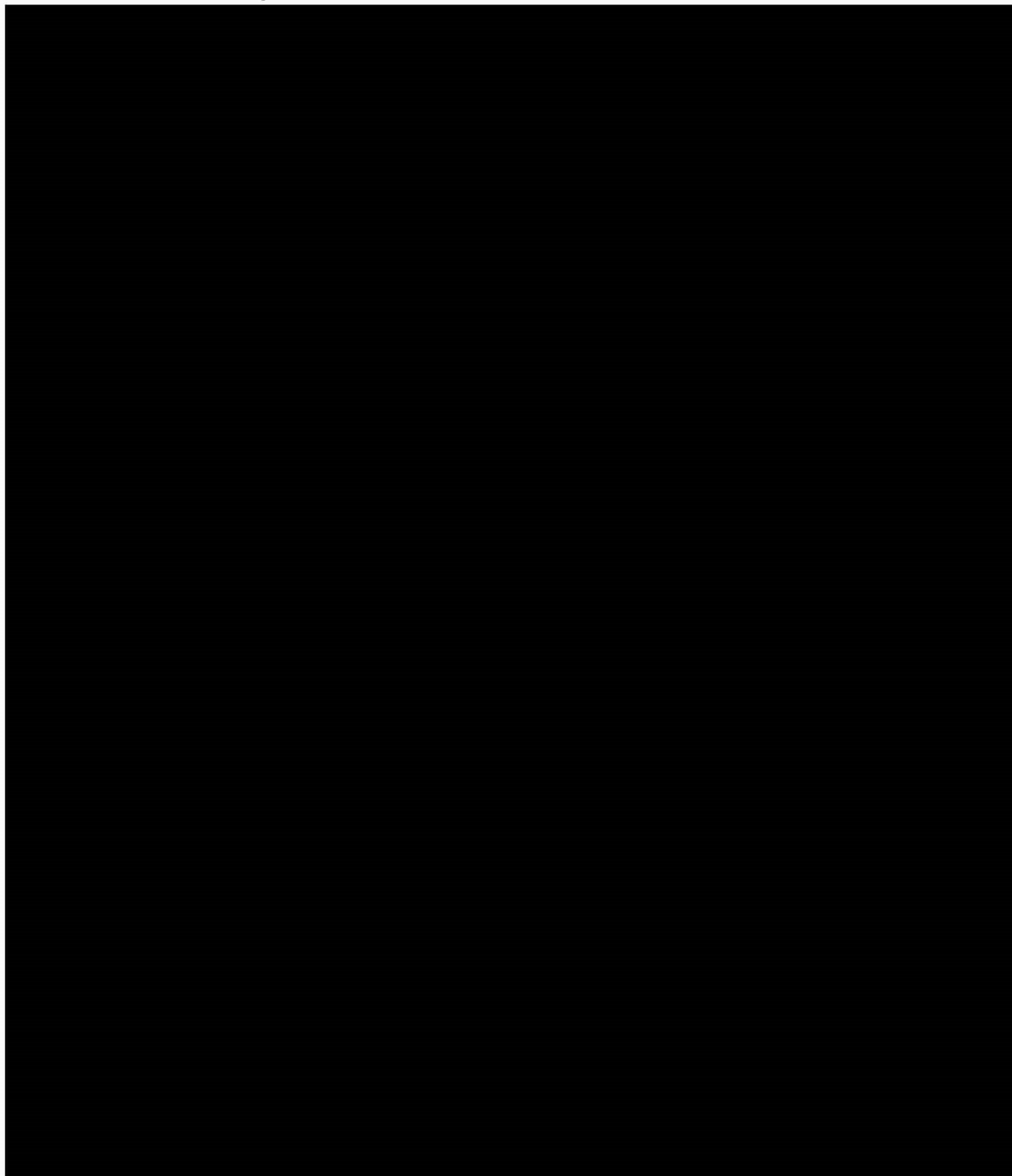
Air Navigation Services of the Czech Republic

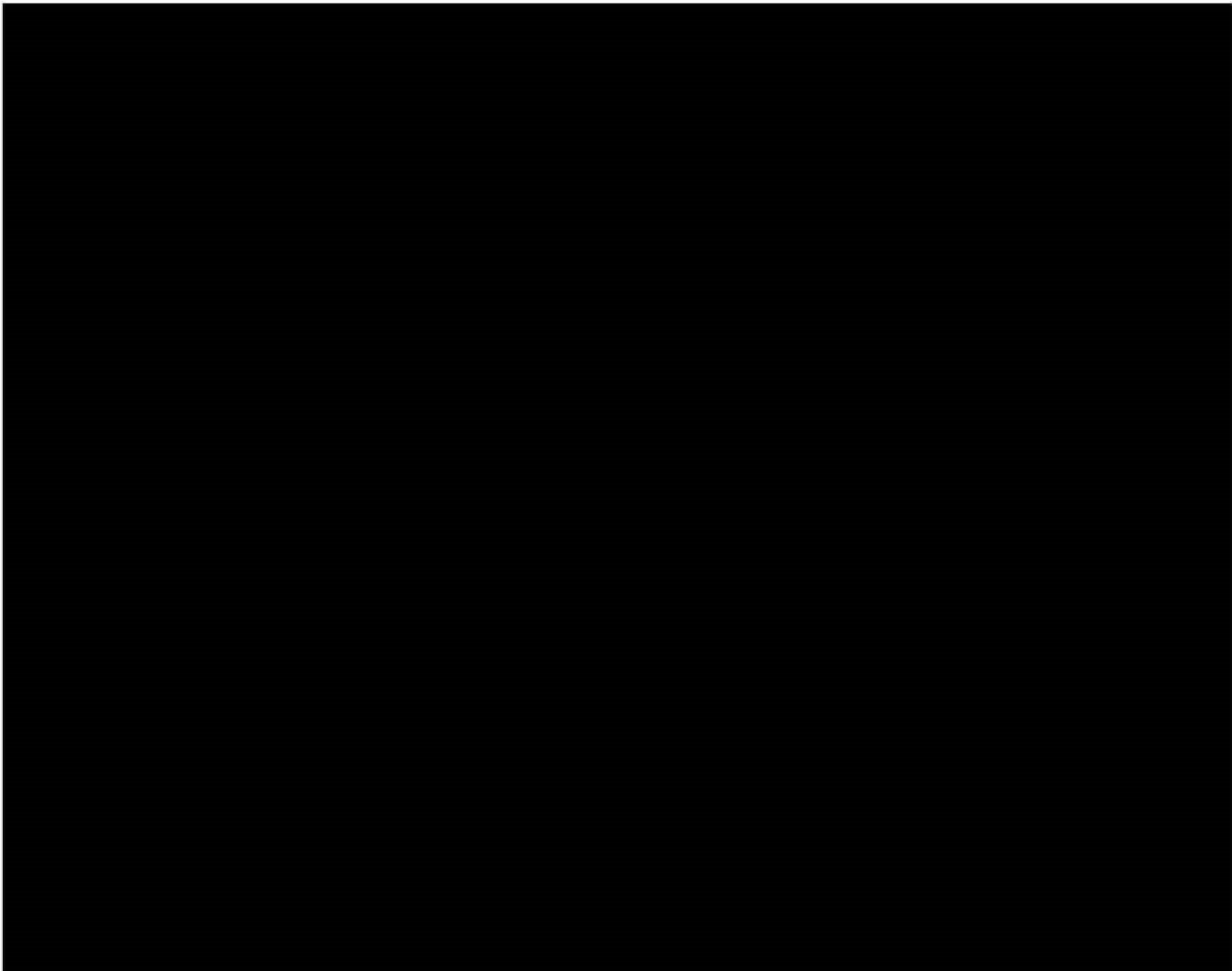


Ing. Tomáš Vlček
on the basis of power attorney



I. Technical specification





Grand Total	83 500
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