

MINIMUM COMMERCIAL TERMS AND PAYMENT CONDITIONS

The supplier will submit, together with the indicative tender, a draft contract for the provision of services which must contain at least the below-stated points or provisions (some points may be complied with by reference to the relevant part of the supplier's tender).

In the case of ambiguity or a difference between the Procurement Document or another document prepared by the contracting entity and the draft contract for the provision of services (or other document prepared by the supplier), the document or provision of the contracting entity will take precedence over that of the supplier.

The draft contract for the provision of services must be balanced and the provisions must not deviate from standard terms or be significantly to the disadvantage of the contracting entity with respect to ordinary business practice.

The draft contract for the provision of services and individual provisions will be subject to negotiations within the negotiated procedure with prior publication. The supplier will be obliged to accept possible amendments to this contract proposed by the contracting entity.

Obligatory points or contractual provisions:

1. Precise identification of the contracting parties.
2. Definition of the scope of provided services.
 - 2.1 The scope of services provided will be fully in compliance with the contracting entity's requirements stated in Annex No. 2 to the Procurement Document, entitled "Minimum technical requirements for the system", and with the supplier's tender.
 - 2.2 The scope of services must be in accordance with Annex No. 4 "Functional parameters of the system offered" to the extent stated in the supplier's tender.
 - 2.3 Any potential territorial or other limitations (e.g., of the number of users or managed documents, etc.) to an extent meeting the requirements of the contracting entity stated in the Procurement Document will form part of the definition of the scope of the services provided.
 - 2.4 The services provided must include the standard provision of all licences and other authorisations which are usual in Software as a Service (SaaS) so that the contracting entity is not limited in the regular and undisturbed use of the service.
3. Definition of the scope of software functionality, which will be provided as a service and will fully comply with the contracting entity's requirements stated in Annex No. 2 to the Procurement Document, "Minimum technical requirements for the system", and Annex No. 4 "Functional parameters of the system offered", will form an annex to this contract.
4. Price for the provision of services in accordance with the supplier's tender (all prices must be in CZK)
 - 4.1 Price for the first 4 years of operation will be negotiated as a fixed, maximum, and highest admissible price including all costs of the supplier.
 - 4.2 Any possibility to increase the price per year of operation after expiration of the first 4 years will be limited to a maximum of 5% of the price for the previous year as a reservation to change the obligation.

5. Dates of invoicing of the price for the provision of the software operation services.
 - 5.1. The price for every year of the provision of software operation services will be invoiced by the supplier always as of the date of the anniversary of the launch of the software into full operation at the contracting entity.
6. The invoice will be in compliance with the Czech legal order, VAT will be calculated in accordance with the Czech laws applicable on the date of invoicing.
7. The payment due date will be at least 30 calendar days.
8. Level of services provided.
 - 8.1 Software operation services will be provided on a year-round basis, 24 hours per day, 7 days a week.
 - 8.2 The availability of the software services will be at least 99.0 % for the period of every calendar month of service operation, where the percentage of availability is calculated as the availability period / (total duration of an assessed period – duration of SLA exclusions) x 100.
 - 8.3 Service Level Agreement (SLA) exclusions mean only interruptions of service operation planned in advance, causes beyond the control of the supplier, causes arising from acts of the contracting entity, and isolated cases of service unavailability the duration of which did not exceed 5 minutes in individual cases and which are not cases of a permanent character that would have a negative impact on the contracting entity.
 - 8.4 The interruptions planned in advance will be carried out on other than working days either on pre-agreed standard maintenance times or upon previous notification to the contracting entity no less than 1 calendar week in advance; their total period must not exceed 10 calendar days per year.
 - 8.5 The supplier will submit to the contracting entity quarterly reports containing data on service availability and on interruption of service operation in the given calendar quarter no later than within 30 days of the end of every quarter.
 - 8.6 This quarterly report will always include a percentage share of the period of operability of the service, reasons for the time when the service was inoperable and information on preventive measures adopted, information on how long it took to recover the service after it was inoperable, and planned periods of service inoperability within the quarter.
 - 8.7 In the case of breach of the service availability level within a given calendar month, the contracting entity is entitled to a discount on the service price where the minimum required discounts to which the contracting entity is entitled are as follows:
 - In the case of software availability between 98.5 % and less than 99.0 % – 1 % of the annual service price.
 - In the case of software availability between 98.0 % and less than 98.5 % – 2 % of the annual service price.
 - In the case of software availability between 97.5 % and less than 98.0 % – 3 % of the annual service price.

- In the case of software availability between 97.0 % and less than 97.5 % – 4 % of the annual service price.
 - In the case of software availability of less than 97.0 % – 5 % of the annual service price.
 - In the case of a reduction in service availability below 97.0% in two subsequent monthly periods, the contracting entity is entitled to give an immediate notice of termination of service provision.
- 8.8 Procedure for notification of interruption of service operation and the status of its resolution.
9. Manner of provision of support services and their level
- 9.1 Procedure for incident reporting – the contracting entity requires that the supplier operate an application with web user interface for the purpose of incident reporting.
- 9.2 Reaction times to incidents reported, which will be:
- In the case of unavailability of service – no more than 1 hour of reporting
 - In the case of unavailability of one software module – no more than 2 hours of reporting
 - In the case of other issues in service operation (longer response time, module malfunction) – no more than 1 working day of reporting
 - In the case of other incidents (in particular questions concerning software functionalities, software functionality improvement suggestions, etc.) – no more than 2 working days of reporting.
- 9.3 Manner of incident resolution
- In the case of unavailability of service or unavailability of one software module – incident resolution, provision of an alternative solution accepted by the contracting entity, or mitigating the incident seriousness.
 - In the case of other issues of service operation – application of a patch or an alternative solution accepted by the contracting entity in accordance with the service upgrade schedule.
 - In the case of other incidents – provision of adequate information or response to the question.
10. Monitoring of service operation – the contracting entity requires that the service be monitored in a 24/7 regime from the point of view of both availability and service performance.
11. A provision that the contract (commercial terms and payment conditions) is governed by and interpreted in accordance with the legal order of the Czech Republic, with the exclusion of conflict rules. All disputes arising from these terms and conditions are solely and exclusively subject to the jurisdiction of the courts in Prague having subject matter jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods is not applicable.
12. Any notices under these terms and conditions will be considered effective at the moment of delivery to the address of the contracting entity: (i) in the case of personal delivery at the moment of delivery; (ii) in the case of sending by a recognised national or international courier service on the working day of delivery; (iii) in the case of sending by

registered mail within five (5) working days of sending; (iv) in the case of sending by email at the point when the recipient acknowledged delivery.

13. The contract (commercial terms and payment conditions) may be amended only by a written agreement signed by both contracting parties.
14. The binding text of the contract must be prepared in the Czech language and may have identical multilingual versions (in such a case the Czech language version of the contract will take precedence over other language versions).
15. Access to the materials of the service provider, in particular the documentation of the operated software.
 - 15.1 The supplier is obliged to provide complete user documentation for the software and to update the documentation whenever the software is updated.
 - 15.2 The contracting entity is entitled to print out the documentation or to copy it for its internal needs.
16. Description of implementation services – a time schedule of work, the minimum structure of the time schedule is stated in Annex No. 1 “Specification and scope of the public contract performance”. [The time schedule will be stated in the Procurement Document based on the information obtained in preliminary market consultations.]
17. Scope of service – the services will include project management, software configuration for the needs of the contracting entity, and training of software administrators at the contracting entity’s site, within the scope meeting the requirements of the contracting entity stated in Annex No. 2 “Minimum technical requirements for the system” and Annex No. 4 “Functional parameters of the system offered” to the Procurement Document and as stated in the supplier’s tender.
18. Contact person for technical and commercial communication concerning implementation services.
19. Composition of the supplier’s team for the performance of the contract.
20. Reasonable requirements for cooperation of the customer in implementation and operation.
21. Provision on protection of the data of the contracting entity, including backup.
22. Provision on personal data protection.
 - 22.1 A contract on personal data processing encompassing elements in line with the requirements of the GDPR Regulation (User personal data in the system will be processed in accordance with Act No. 110/2019 Sb., on personal data protection and the Regulation (EU) 2016/679 of the European Parliament and of the Council 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, known as GDPR (general regulation) will form part of the contract.
 - 22.2 The contract will cover technical and organisational measures on the part of the supplier to ensure personal data protection.

23. The period of validity of the contract and the possibilities of its premature termination.
 - 23.1 The contract will be made for a fixed period of 10 years with the possibility of optional extension of the contract for another two years.
 - 23.2 The contract will include the possibility to give notice of termination by the contracting entity with a notice period of 6 months and by the supplier with a notice period of 18 months; neither of the contracting parties will be entitled to terminate the contract before the expiration of the first 4 years of software operation.
 - 23.3 In the case of termination of the contract as of a date other than an anniversary of the launch of the software into full operation, the contracting entity will pay a proportionate part of the fee for services provision.
24. The possibility of withdrawal from the contract in case of gross breach of the contract by the other contracting party (this provision must not be drafted to the disadvantage of the contracting entity).
25. Guarantees for the services.
 - 25.1 Supplier's guarantee that the service will not contain any viruses, spyware, or other malware.
 - 25.2 Supplier's guarantee that the service will be in accordance with the documentation provided.
26. Provision for the protection of the contracting entity against third-party claims concerning infringement of intellectual property in relation to the services provided.
27. The contract will be made in accordance with the legal order of the Czech Republic, any potential disputes arising from the contract will be resolved by Czech courts.
28. Provision that none of the contracting parties are entitled to assign its rights and obligations arising from the contract without the previous written consent of the other contracting party.
29. A provision on reservation of the right to make changes to the obligation under Article 13 of the Procurement Document stating that if in the course of performance of the contract an extraordinary requirement of the contracting entity arises for the purchase of other (additional) services to those explicitly stated in the Procurement Document (i.e., the services specified in the final tender of the supplier), the contracting entity is entitled to also use these other services not specified in the Procurement Document. Such other services mean an extension of the system offered with new applications (if the supplier has such applications available or is planning to develop them at the time of submission of the final tender) or an increase in the maximum number of users or documents.
 - 29.1 In such case a current price list (catalogue) of the supplier will form part of the contract as an annex to it providing regular prices at the given place and time. The prices in the price list may be increased compared to the prices in the final tender in a similar way as the price for system operation (i.e., after 4 years there may be a maximum of 5% increase in the original price provided in the price list for the previous calendar year). The prices for such additional services are always subject to previous written consent by the contracting entity.

- 29.2 In no case will the price for these additional services exceed 30% of the price.
- 29.3 The contracting entity will in such extraordinary case always proceed in accordance with the Public Procurement Act.
- 29.4 The contracting entity is under no obligation to accept the offer of such additional services and their prices.
30. The following provisions:
- 30.1 Under section 2 (e) of Act No. 320/2001 Sb., on Financial Control in Public Administration, as amended, the supplier is a person obliged to co-act during the exercise of financial control. In such case the supplier is obliged to provide all cooperation with the financial control. The supplier agrees to keep all documents required for proper performance of the control of the use of resources from the state budget for a period of at least ten (10) years after the termination of the contract. The supplier agrees to impose this contractual obligation also on its subcontractors.
- 30.2 The contract is signed in electronic form.
- 30.3 The Contracting Parties note that this Contract must be published in the register of contracts under Act No. 340/2015 Sb., as amended and agree to it. The entire text of the contract will be published including all its annexes. The contract will be sent to the register by the contracting entity immediately after it enters into force. The contracting entity at the same time agrees to inform the supplier of the contract registration by sending the supplier a copy of the confirmation of the contract publication from the contract register administrator immediately after receiving it, or to complete in the cover form the relevant field with the supplier's data box ID (in such a case both contracting parties will receive the confirmation of registration of the contract from the administrator of the register of contracts simultaneously).
- 30.4 Any changes to the contract must always be made in accordance with the rules for changes to the obligations arising from public contracts under Act No. 134/2016 Sb., the Public Procurement Act, as amended.
31. The following representations of the supplier:
- 31.1 The supplier is authorised to enter into the contract and to perform its obligations arising from the contract.
- 31.2 On the part of the supplier no consent, granting of an exception, approval, declaration nor permission of a third party or a body is required for entering into the contract or for the performance of the supplier's obligations arising from it; if they are required, they have already been obtained.
- 31.3 Entering into the contract by the supplier does not constitute (i) violation of any duty arising from applicable legal regulations in any legal order that is binding on the supplier, and/or (ii) breach of any obligation arising from any contract to which the supplier is a party, and/or (iii) is not contradictory to any requirement, decision, or preliminary measure of an administrative body or a court or an arbitral award of arbitrators that is binding on the supplier.
- 31.4 To the best awareness and knowledge of the supplier there are no pending or threatening litigations, administrative proceedings, arbitration, or other

proceedings before any body of any jurisdiction that could individually or in combination with other circumstances adversely affect the ability of the supplier to perform its obligations under this contract.

- 31.5 The supplier keeps valid in all essential respects the licences, consents, permissions, and other authorisations required by the legal regulations applicable to the performance of the contract and there is no danger that the validity of such licence, consent, permission, or authorisation would be terminated, the performance itself and its rendering to the contracting entity does not infringe on any third-party rights to patent, trade mark, or other intellectual property protection, trade name, or competition.
- 31.6 Using all due professional care the supplier is not aware of any obstacles concerning the performance, site, or environment of the contracting entity that would make it impossible or difficult to render performance in the manner agreed upon in the contract.
- 31.7 The contract represents a valid and legally binding obligation of the supplier which is enforceable against the supplier in accordance with the contract conditions.
- 31.8 The supplier is not aware of any facts, circumstances, or events that result or could result in making the contract void or voidable.
- 31.9 The supplier agrees to make sure that its representations under this contract remain true and valid over the entire period of effect of the contract.
- 31.10 Before signing this contract the supplier signed the affirmation on the code of ethics which forms an annex to this contract and applies also to all subcontractors within the supply chain. If in the course of performance of the contract the contracting entity finds out that the supplier's affirmation does not correspond to reality, the contracting entity is entitled to withdraw from this contract.