



## Framework Contract for Services [No.: 013/19]

concluded in accordance with Section 131 et seq. of Act No. 134/2016 Coll., on Public Procurement, as amended, and Section § 1746 (2) et seq. of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter the “**Contract**”, “**Act on Public Procurement**” and “**Civil Code**”)

### 1. PARTIES

#### 1.1. Client:

**Ústav jaderné fyziky AV ČR, v. v. i.** (hereinafter “**Nuclear Physics Institute**”)

*(Nuclear Physics Institute of the Czech Academy of Sciences, public research institution)*

registered office: Husinec - Řež 130, 250 68, Czech Republic

represented by: RNDr. Petr Lukáš, CSc., Director

registered in the Register of Public Research Institutions administered by the Ministry of Education, Youth and Sports of the Czech Republic (hereinafter the “**MEYS**” or “**Sponsor**”)

bank details:

ID No.: 61389005

Tax ID: CZ 61389005

and

**Archeologický ústav AV ČR, Praha, v. v. i.** (hereinafter “**Institute of Archaeology**”)

*(Institute of Archaeology of the Czech Academy of Sciences, Prague, public research institution)*

registered office: Letenská 4, 118 01 Praha 1, Czech Republic

represented by: Mgr. Jan Mařík, Ph.D., Director

registered in the Register of Public Research Institutions administered by MEYS

bank details:

ID No.: 67985912

Tax ID: CZ67985912

(Nuclear Physics Institute and Institute of Archaeology hereinafter jointly the “**Client**”)

and

1.2. Contractor:

ISOTOPTECH Zrt. (ISOTOPTECH Nukleáris és Technológiai Szolgáltató Zártkörűen Működő Részvénytársaság) / ISOTOPTECH Nuclear and Technological Services Private Limited Company

registered office: Door 9, Floor 2, No. 53 Piac utca, Debrecen, H-4025

represented by Mihály György Veres

registered in the Hungarian Company Registry

bank details:

IBAN:

4024 Debrecen Vár utca 4.

ID No.: 09-10-000303

Tax ID: HU17781138

(hereinafter the "**Contractor**")

(the Client and the Contractor also referred to as the "**Parties**").

## 2. INITIAL PROVISIONS

- 2.1. The Client is a consortium of Contracting Authorities whose members are the public research institutions listed in Article 1.1 hereof.
- 2.2. The Client is the beneficiary of a grant provided by the Sponsor (MEYS) from the Operational Programme Research, Development and Education (OP RDE) for implementation of the project RAMSES: "Ultra-trace isotope research in social and environmental studies using accelerator mass spectrometry", Reg. No.: CZ.02.1.01/0.0/0.0/16\_019/0000728 (hereinafter the "**Project**").
- 2.3. The Project involves, among others, measurements of  $^{14}\text{C}$  in graphites for research purposes. The purpose of the Contract is to ensure the necessary AMS measurements of  $^{14}\text{C}$  in prepared graphites for research purposes during the Project. Services to be provided under this Contract shall consist of  $^{14}\text{C}$  measurement in graphites prepared in the CRL laboratory during the Project with satisfactory uncertainties and within the delivery periods stipulated herein.
- 2.4. The Contractor has been selected as the winning bidder in the under-the-threshold public contract for supplies administered in the form of a negotiated procedure with publication named "**AMS measurement of  $^{14}\text{C}$  graphites**" (hereinafter the "**Procurement Procedure**")

in accordance with Section 60 et seq. of Act on Public Procurement.

- 2.5. Performance hereunder shall be based on the following annexes which form an integral part hereof:
  - 2.5.1. **Annex No. 1**, which contains **Technical Specification** and detailed description of the subject matter of this Contract including definition and scope of measurement (hereinafter "**Annex No. 1**"); and
  - 2.5.2. **Incentive and Risk Management Instruments** represents a document constituting **Annex No. 2** hereto, which includes sanctions and other incentive mechanisms for timely and proper performance hereunder (hereinafter the "**Annex No. 2**").
- 2.6. In case of any discrepancy between the provisions of this Contract and the provisions of its Annexes the provisions of this Contract shall prevail, except for the provisions of Annexes containing conditions and specifications that are more favourable to the Client (i.e. better technical specification values and/or more technically advanced or demanding solutions or results etc.), in which case such provisions of Annexes shall prevail. In case of any discrepancy between the provisions of the Annexes the provisions containing conditions and specifications that are more favourable to the Client shall prevail.
- 2.7. The Contractor acknowledges that the Client cannot be classified as an entrepreneur in relation to the subject matter hereof, nor it is connected with the Client's business activities.
- 2.8. The Contractor declares that he is capable, within the meaning of Section 5 (1) of the Civil Code, of providing performance under the Contract with such knowledge, diligence and due care that is associated and expected of well-experienced experts in his profession and that his potential performance lacking such professional care would give rise to corresponding liability on his part. The Contractor is prohibited from misusing his expert qualities or his economic position in order to create or exploit dependency of the weaker Party or to establish an unjustified imbalance in the mutual rights and obligation of the Parties. The Contractor represents that he has all the professional prerequisites required for the proper fulfilment of this Contract, is fully authorized to perform this Contract and there exist no obstacles on his part that would prevent him from due performance of this Contract.
- 2.9. The Contractor declares that he assumes the risk of a change in circumstances within the meaning of Section 1765 (2) Civil Code.
- 2.10. The Contractor acknowledges that he is aware of the importance to the Client of the fulfilment of this Contract in terms of quality and schedule and that in the event of a failure by the Contractor to meet them (e.g. in case of delay with delivery and/or in the case if the Services does not meet the stipulated requirements) the Client may incur substantial damage. Duly and timely performance hereunder is essential for the Client, in particular, given the follow-on activities within the framework of the Project and observation of the respective deadlines for their completion.

### 3. SUBJECT-MATTER

- 3.1. This Contract concerns providing services consisting of accelerator mass spectrometry (AMS) measurement of  $^{14}\text{C}$  in graphites prepared in the Client's radio-carbon laboratory (CRL) in connection to the Project (hereinafter the "**Services**"). The Services shall fully comply with the requirements and specification stipulated herein, including Annex No. 1 (Technical Specification), ensuring measurement of graphites with satisfactory uncertainties as defined herein and within the delivery periods stipulated herein
- 3.2. This Contract stipulates the obligation of the Contractor to provide Services to the Client under the conditions as specified herein and in accordance with the terms hereof. The Contractor undertakes to duly provide the Services to the Client, under the terms agreed herein and within the time frame agreed herein (including timely delivery of the AMS measurement results), at his own cost and risk and for the Price defined herein .
- 3.3. This Contract further stipulates the obligation of the Client to take over the duly and timely provided Services and pay the Price, under the terms hereof, to the Contractor.
- 3.4. The Contractor shall be liable for the said Services fully in accordance with this Contract, his bid submitted within the Procurement Procedure and applicable legal, technical and quality regulations.
- 3.5. The Contractor shall be obliged to accept the Client's orders for measurement of sample graphites up to the anticipated scope of Services as specified in Annex 1 – Technical Specification. The Contractor further undertakes, on the basis of Client's timely request, to provide the Client with Services beyond the anticipated scope specified in Annex 1 - Technical Specification, under the terms and conditions set forth herein and in accordance with the Act on Public Procurement.
- 3.6. The Contractor acknowledges and agrees that the Client shall not be obliged to order any Services from the Contractor, even if their anticipated extent (as specified in Annex 1 – Technical Specification) have not been used in full, in view of the unpredictability of their actual needs. Therefore, the Contractor may not seek from the Client any order(s) of Services in connection herewith, nor claim on the Client any payment or compensation for not ordering the Services.
- 3.7. The Contractor agrees to the specifications as defined in Annex No. 1 and declares, at the time of execution hereof, that he is not aware of any deficiencies therein and that he will be able, on the basis of these specifications, to deliver the Services in the required quality without the need for any additional work.
- 3.8. During the performance of this Contract, the Client is entitled to further specify or clarify the requirements stipulated in Annex No. 1. Such further specifications can be requested by the Client with respect to each measurement no later than on the day of graphites submission for that measurement. These further specifications shall be binding for the Contractor, unless these are inappropriate; in which case the Contractor shall explain in writing the reason for refusing to incorporate them. Under this provision, the Client is not

entitled to substantially change the existing requirements stipulated herein. Should any request for change result in increase of Price such request is binding for the Contractor only if the Price modification is agreed between Parties and such modification is in accordance with the Act on Public Procurement and other applicable legislation and regulations including the rules of the relevant Operational Programme.

#### **4. RIGHTS AND DUTIES OF THE PARTIES AND FURTHER REQUIREMENTS ON THE SERVICES**

- 4.1. The Contractor shall provide the Services continuously within the period as specified in Article 5.1 hereof in the full scope resulting from the number of samples actually submitted by the Client to the Contractor for measurement according hereto.
- 4.2. The Contractor hereby undertakes to provide the Service using the technical equipment about which the Contractor stated, while proving technical qualification within the Procurement Procedure, that he disposes with it and that he will use it to fulfil his obligation to provide the Service according to this Contract. The Contractor is entitled to use technical equipment of demonstrably higher quality for provision of the Services.
- 4.3. Should the Contractor use a subcontractor in order to carry out the measurement (e.g. in case of malfunction of Contractor's technical equipment - AMS device used for providing Services), the Contractor is obliged to inform the Client without undue delay; the Contractor agrees to provide the Client with information which samples were measured by a subcontractor and to identify that subcontractor and his laboratory. While using subcontractor the Contractor remains fully liable for the Services hereunder pursuant to Article 4.8 hereof and shall ensure the proper equipment according to Article 4.2 hereof.
- 4.4. During the performance of this Contract the Contractor proceeds independently, unless hereunder stated otherwise. If the Contractor receives instructions from the Client, the Contractor shall follow such instructions unless these are against the law or in contradiction to this Contract. If the Contractor finds out or should have found out by exercising professional care that the instructions are inappropriate or contradicting valid Czech or EU standards or are in contradiction to this Contract, then the Contractor must promptly notify the Client.
- 4.5. Intangible outputs of the Services (results of AMS measurement) shall be recorded in reports processed by the Contractor. The reports must be clearly structured and processed in sufficient detail to enable an expert in this field to assess the correctness of the Contractor's process in the provision of the Services.
- 4.6. For the entire duration of the Contract, the Contractor undertakes:
  - 4.6.1. to provide the Services hereunder diligently, in particular in accordance with this Contract, the Tender Documentation and his Bid submitted within the Procurement Procedure, valid legal regulations as well as with due professional practices, technical norms, standards, methods and procedures that are required by generally binding legal regulations, while exercising the level of expert skills and professional care that can be

- reasonably expected from a renowned and well-established professional;
- 4.6.2. ensure provision of Services using proper technical equipment pursuant to Article 4.2 hereof;
- 4.6.3. ensure provision of Services by properly qualified and trained staff; and
- 4.6.4. inform the Client promptly about any issues endangering provision of Services or otherwise significantly affecting fulfilment of this Contract.
- 4.7. The Contractor further undertakes to:
- 4.7.1. be available for the Client and cooperate actively with the person authorized by the Client hereunder while providing Services;
- 4.7.2. request the Client in due time for assistance necessary for the proper performance hereof;
- 4.7.3. inform the Client about the state of providing Services hereunder no later than five (5) Business Days upon the Client has requested him to do so;
- 4.7.4. transmit all the outputs of the Services (measurement results) to the Client; and
- 4.7.5. keep the outputs of the Services (measurement results) confidential and not to furnish them without Client's prior written consent to a third party;
- 4.8. The Contractor is liable for the performance of Services provided under this Contract to the Client, in particular for compliance of the Services with this Contract and valid legal regulations. The same applies if the Contractor uses a subcontractor (third party) in order to fulfil his obligations resulting from this Contract whereas the Contractor shall be responsible also for the subcontractor, including their liability for damage.
- 4.9. The Client shall be entitled to inspect provision of the Services hereunder and to assess whether the Services are provided in accordance with this Contract. If the Client believes that the Contractor is in breach of the obligations stipulated herein, the Client is entitled to call the Contractor for remedy and the Contractor is obliged to comply with the Client's requirement.
- 4.10. The Client reserves the right not to pay the Price for the Services or corresponding part thereof in the event that the Services are not provided in accordance with this Contract or in the event that the Client will not be provided with the relevant outgoing Report (measurement results) in accordance with this Contract.
- 4.11. The Client shall provide the Contractor with necessary assistance, in particular the sample graphites or other input materials, information and explanations necessary for the proper performance of the Services hereunder.

## 5. TIME AND PLACE OF THE PROVISION OF SERVICES

- 5.1. This Contract is concluded for a definite period of 48 months. The Contractor undertakes to duly provide the Services from the moment immediately after the date of effectiveness hereof till the end of the above period.
- 5.2. The delivery dates for measurement results of each sample submitted by the Client have been set forth on the basis of the Contractor's bid submitted within the Procurement Procedure, thus they shall be 30 (*in words: thirty*) days upon submission of that sample by the Client to the Contractor for measurement.
- 5.3. Unless the Parties agree otherwise, the place of delivery shall be the Client's facility – located at the Client's registered office as defined in Article 1.1 hereof (hereinafter the "**Place of Delivery**"). The outcomes of Services (outcome reports) shall be transmitted by electronic means (e.g. in the form of an Excel table), in particular via e-mail sent to the Client to the address stated in Article 11.2 hereof). Instead or in addition to the aforementioned electronic outcomes the Client shall be entitled to require their printed version with the measurement results duly confirmed by a stamp of the laboratory and signature of the Contractor's authorized person.

## 6. PRICE; INVOICING; PAYMENTS

- 6.1. The Parties hereby agree on the price for Services provided in accordance with this Contract in the amount of **CZK 1.800 excluding VAT** [*in words: one thousand eight hundred Czech korunas excluding value added tax*] per an AMS measurement of one (1) sample graphite in accordance with the requirements listed in Annex No. 1 to this Contract (hereinafter the "**Price**").
- 6.2. VAT shall be imposed on top of all payments made hereunder according to valid legislation. The applicable VAT rate is **0 % (because of intracommunity supply)** and the Price including VAT is **CZK 1.800**. The Contractor's is not a VAT payer with respect to the Czech Republic.
- 6.3. The Price shall cover any and all performance provided by the Contractor hereunder and include all of the Contractor's activities executed and all of the Contractor's costs accrued or associated with the proper performance hereof. The Price for the subject of this Contract has been set forth on the basis of the Contractor's bid submitted within the Procurement Procedure. The Price cannot be exceeded, is independent of the development of market prices and changes in the foreign exchange rates and may be changed only in accordance with the Act on Public Procurement.
- 6.4. The Price shall be paid by the Client, according to the actual scope of the Services provided and on the basis of tax documents – invoices issued by the Contractor, to the account of the Contractor designated in Article 1.2 hereof. The Contractor undertakes to issue separate invoices for each of the Client, i.e. Nuclear Physics Institute or Institute of Archaeology respectively, based on their instructions, while the sum of the part of the Price for the Services invoiced to Nuclear Physics Institute and the part of the Price for the same Services

invoiced to Institute of Archaeology must not exceed the Price for the Services stipulated in Article 6.1 hereof.

- 6.5. The Contractor shall invoice the Price according to the actual scope of the Services provided while the amount to be paid by the Client based on the invoice shall not exceed the product of the number of measured samples and the Price for measurement of one sample. Invoices shall be issued within the period of 60 days after dispatching the measurement results by the Contractor to the Client.
- 6.6. Invoices issued hereunder shall become payable within thirty (30) days from the date of their delivery to the Client, i.e. Nuclear Physics Institute or Institute of Archaeology, respectively (hereinafter the "**Due Date**").
- 6.7. This provision shall not preclude the Client's right to reject payment for the outputs of the Services if they do not comply with this Contract.
- 6.8. A payment of the amounts invoiced shall be understood to be effected on the day on which it was remitted to the Contractor's account, i.e. the invoice shall be considered to be paid for on the day when the invoiced amount is deducted from the Client's account on behalf of the Contractor's account.
- 6.9. The invoice issued by the Contractor as a tax document must contain all information required by the applicable laws of the Czech Republic. Invoices issued by the Contractor pursuant to this Contract shall, in accordance with relevant legislation, contain particularly the following data:
  - 6.9.1. business name / name and registered office of the Client;
  - 6.9.2. tax identification number of the Client;
  - 6.9.3. business name / name and registered office of the Contractor;
  - 6.9.4. tax identification number of the Contractor;
  - 6.9.5. serial number of the tax document;
  - 6.9.6. scope and subject-matter of the performance, i.e. quantity (extent) and nature of performance supplied or services rendered (including the reference to this Contract);
  - 6.9.7. date of issue of the tax document;
  - 6.9.8. date of the supply of goods or services or date of receipt of the payment on account, whichever comes sooner, in so far as they differ from the date of issue of the tax document – invoice;
  - 6.9.9. payment deadline (due date);
  - 6.9.10. price of the performance provided;

- 6.9.11. number of the Client's order; and
- 6.9.12. a declaration that the invoiced performance is provided for the purposes of the Project: "Ultra-trace isotope research in social and environmental studies using accelerator mass spectrometry," Reg. No. CZ.02.1.01/0.0/0.0/16\_019/0000728;
- 6.10. and, furthermore, the tax documents – invoices shall also be in compliance with agreements on avoidance of double taxation, if applicable in particular cases.
- 6.11. The last invoice in each calendar year must be delivered by the Contractor to the Client no later than on 15<sup>th</sup> of December of that calendar year.
- 6.12. The Client shall not be obliged to effect payments based on incorrectly issued tax documents - invoices. If the tax document – invoice is not issued in accordance with the payment terms stipulated in the Contract or will not meet the required legal requirements or if it is not delivered to the Client by the date specified above, the Client is entitled to return the tax document – invoice as incomplete or incorrectly issued to the Contractor for completion or for new issue within ten (10) business days after its delivery to the Client. In such a case, the Client shall not be deemed to be in delay with payment of the Price or its part, and the Contractor shall issue a corrected invoice with a new identical payment deadline, which shall commence running upon the delivery of the corrected or newly issued tax document – invoice to the Client.
- 6.13. The Client's invoicing data are provided in Article 1.1 hereof.

## 7. SANCTIONS

- 7.1. In the event of the **Contractor's delay** with provision of Services within the deadlines according hereto, namely in respect of the deadline for delivery of the measurement results as set in Article 5.2 hereof, the Client shall be entitled to get a discount from the Price as follows: If the Contractor's delay exceeds the deadline for delivery of the measurement results as set in Article 5.2 hereof by 60 or more days the Client shall be granted a 33% discount of the Price. If the Contractor's delay is shorter than 60 days then the Client shall be granted a lower discount counted according to the length of the delay on linear basis from the above discount as defined in the previous sentence.
- 7.2. Besides the discount according to the above Article, in case of the **Contractor's excessive delay** with provision of Services within the deadlines according hereto, the Client shall be entitled to charge the Contractor with a contractual penalty in accordance with Annex No. 2 hereto.
- 7.3. In the event of the **Client's delay** with payment of the Price or any part thereof within the deadlines set out in this Contract, the Contractor is entitled to charge the relevant Client's Institute (i.e. Nuclear Physics Institute or Institute of Archaeology respectively, depending on the fact which of them that has been invoiced and is in delay) with a late payment interest in accordance with Annex No. 2 hereto, unless the Client proves that the delay was

caused by late release of the funds by the Sponsor.

- 7.4. For the avoidance of any doubt, the Parties agree that during a Party's delay the other Party's liability for delay is excluded; in that case the respective performance deadlines of the latter Party are adequately extended by the period of that delay.
- 7.5. In case that the Contractor breaches his obligation pursuant to Article 4.2 hereof (i.e. to use the technical equipment about which he stated, while proving technical qualification within the Procurement Procedure, that he disposes with it and that he will use it to fulfil his obligation to provide the Service according to this Contract) the Client shall be entitled to charge the Contractor with a contractual penalty in the amount of CZK 20,000 for each individual case of such breach. The Contractor shall be relieved of his obligation to pay the contractual penalty according to the previous sentence if he proves that a technical equipment of demonstrably higher quality has been used to provide the Services under this Contract.
- 7.6. In case that a Party breaches its confidentiality obligation pursuant to Article 9 hereof the Party shall pay the other Party a contractual penalty in the amount of CZK 10,000 for each individual case of such breach.
- 7.7. The Parties agree that contractual penalties hereunder may be imposed repeatedly for each individual case of breach of this Contract.
- 7.8. Unless herein stipulated otherwise, the obliged Party shall pay any of the contractual penalties charged under this Contract no later than within thirty (30) calendar days from the day, on which the entitled Party delivered its enumerated claim for the contractual penalty in writing to the obliged Party.
- 7.9. The Client is entitled to offset unilaterally at any time his claims for the payment of the contractual penalty under this Contract against any claims of the Contractor for the payment of any part of the Price. Such off-set or a payment of contractual penalty shall not affect the Contractor's obligation to provide the Client with the Services in accordance with this Contract.
- 7.10. The Parties deviate from Section 2050 of the Civil Code, and agree that the Client, in addition to the contractual penalty hereunder, is also entitled to damages in excess of contractual penalties hereunder actually paid by the Contractor.

## **8. SPECIAL PROVISIONS**

- 8.1. Under the terms hereof, the Contractor undertakes, in accordance with the Client's instructions and exercising all due professional care, to:
  - 8.1.1. archive all documents produced in connection with the execution hereof and performance hereunder for a period of 10 years after the end of the performance hereunder, but at least until the end of 2033, and allow the Client access to these

archived documents at any time during that period. The Client shall be entitled to take possession of the above documents from the Contractor free of charge after the period of 10 years from the end of performance under the Contract;

- 8.1.2. cooperate within the framework of potential financial control procedures pursuant to Act No. 320/2001 Coll., on financial control, as amended, which includes, but is not limited to, allowing the Sponsor or the competent Managing Authority of the relevant Operational Programme access to also those portions of the bid submitted within the Procurement Procedure, the Contract, orders, subcontracts and related documents that might be subject to protection under special legal regulation, provided that all requirements set forth by legal regulation with respect to the manner of conducting such controls will have been observed; the Contractor shall bind any of its sub-contractors to comply with this obligation accordingly;
- 8.1.3. enable observance of any publicity obligations stemming from the rules of the relevant Operational Programme; and
- 8.1.4. enable the Client to fulfil its obligations pursuant to the Act on Public Procurement.

## 9. CONFIDENTIALITY, PUBLISHING, PUBLICITY

- 9.1. **Confidential information:** For the purposes of this Contract, confidential information means any data or information which is owned or possessed by one of the Parties and is not generally known to the public, or which has not yet been made available, whether in tangible or intangible form, at any time and place, and which the Party explicitly marks as confidential information or business secret. Examples of such information include:
  - 9.1.1. scientific or technical information, inventions, designs, processes, procedures, formulae, improvements, technologies or methods;
  - 9.1.2. concepts, samples, news, data, know-how, progress work, designs, drawings, photographs, development tools, technical data, software, source code, object code, flowcharts and databases;
  - 9.1.3. marketing strategies, plans, financial data or estimates, operations, sales estimates, business plans and performance results relating to past, present or future business activities of the Party or its branches, subsidiaries and affiliates;
  - 9.1.4. business secret; product or service plans and lists of clients or suppliers; or
  - 9.1.5. any other information that could reasonably be considered confidential by the Parties.
- 9.2. The Parties hereby acknowledge that business secrets / confidential information protected by each of the Parties have been developed and obtained through a considerable effort, and are therefore viewed and held as business secrets / confidential information (hereinafter the "**Confidential Information**").

- 9.3. **Originality:** The Parties have agreed that Confidential Information does not have to be original, unique, patentable, and it does not have to be subject to copyright or constitute a business secret to be classified as Confidential Information and therefore protected.
- 9.4. **Designation:** In case of written documents, information communicated orally, or written documents which are not designated, Confidential Information must be designated as such by notifying the other Party of the confidential nature of the information disclosed. This notification must be made orally, by e-mail or written correspondence or by other appropriate means of communication.
- 9.5. **Notifier and Recipient:** For the purposes of this Contract, the Party that discloses Confidential Information under the terms set forth herein to the other Party is considered the notifier (hereinafter the "**Notifier**"). Similarly, the Party that receives Confidential Information is considered the recipient (hereinafter the "**Recipient**").
- 9.6. **Exclusion of protection:** Notwithstanding the above, Confidential Information excludes information which:
- 9.6.1. is already publicly known at the time of its disclosure by the Notifier to the Recipient or become publicly known thereafter without any breach of the terms herein;
  - 9.6.2. was known to the Recipient prior to the disclosure (subject to the provision of appropriate evidence or a written record of such disclosure);
  - 9.6.3. is subsequently made available to the Recipient by a third party that acquired it legally and has no confidentiality obligation towards the Notifier;
  - 9.6.4. becomes publicly accessible in a way other than the violation of the Recipient's confidentiality obligation (i.e. other than the result of the Recipient's fault or omission);
  - 9.6.5. is (or was) developed/acquired by employees, advisors or representatives of the Recipient completely independently of its provision stipulated in this Contract (to be sufficiently demonstrated) without violating the provisions hereof or access to any Confidential Information concerning the Parties; or
  - 9.6.6. is or was provided by the Recipient based on a binding and final act of a public authority (including a requirement of control and audit authorities to submit the documents).
- 9.7. **Purpose of disclosure of Confidential Information:** The Notifier, in connection with the exercise of rights and obligations under this Contract or in the context of related negotiations, may provide the Recipient with Confidential Information. The Recipient undertakes to use Confidential Information solely for the purpose intended by the Parties under this Contract and is not entitled to use Confidential Information for any other purpose without the prior written consent of the Notifier.
- 9.8. **Confidentiality obligation:** The Recipient shall not disclose and shall maintain confidentiality of the information received, with the exception of its employees, representatives or agents who need access to Confidential Information for the fulfilment of

their obligations in connection with the agreed subject-matter of the Contract. The Recipient shall inform them of the confidentiality of the information received and ensure that they keep confidentiality under the conditions set out in this Contract. The Recipient must ensure compliance with these confidentiality obligations and the prohibition of use contained herein, strictly observe them and assume full responsibility for any acts or omissions concerning and caused by its employees or representatives.

- 9.9. **Publications:** The Parties undertake to not include in their publications any Confidential Information, unless the prior written consent of the Notifier is given for such publication (it is sufficient in the form of data communication, e.g. e-mail, etc.). The Contractor undertakes that as part of its publishing activity concerning the subject-matter of this Contract, it shall provide information about the Project and sources of financing in accordance with the publicity rules applicable to the Project, especially in the Acknowledgments section of the publication. In the publications about the subject-matter of this Contract, the Client undertakes to indicate, in an appropriate manner, the Contractor as the authorized supplier. The Contractor undertakes to adhere to any applicable publicity rules resulting from the binding documentation of the Operational Programme and/or Project. The Parties undertake that in their publishing activities they shall protect the legitimate interests of the other Party.

## 10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. If, **in connection** with the performance of the Contract, the Services or any of their parts constitute an author's work within the meaning of Act No. 121/2000 Coll., on copyright, on rights related to copyright and amending certain acts, as amended (hereinafter the "**Copyright Act**"), it is a contract work in the sense of Section 61 of the Copyright Act. In this case, the Contractor grants to the Client a royalty-free licence to use the author's work (or any of its parts) for the purposes of this Contract and/or for the purposes of research and education for the duration of the property rights to author's work on the territory of the whole world, including sub-licence for the purpose of implementing the Project, including its follow-up phases.
- 10.2. For the purposes of this Contract, author's work and industrial rights are hereinafter jointly referred to as intellectual property rights. In the event that a work or part thereof is created in connection with the performance of the Contract, and the Contractor is entitled to register such work or part thereof through any of the forms of industrial property rights (i.e. trademark, patent or invention, utility or industrial design, etc.) protected under applicable legislation of the Czech Republic, foreign State or an international or supranational organization, the Contractor shall grant to the Client, for the duration of the protection of the relevant industrial property rights, a royalty-free licence to use the work for the purposes of the Project and other research and educational activities, as well as for the purposes of this Contract on the territory of the whole world. The Client hereby undertakes not to provide the results of the work to third parties without the prior consent of the Contractor.

## **11. REPRESENTATIVES, NOTIFICATIONS**

- 11.1. The Contractor has appointed the following authorised representative for communication with the Client in relation to the subject of performance hereunder:
- Molnár Anita  
E-mail:
- 11.2. The Client has appointed the following authorised representative for communication with the Contractor in relation to the subject of performance hereunder:
- Ing. Ivo Světlík, Ph.D.  
E-mail:
- 11.3. Unless this Contract provides otherwise, all notifications between the Parties hereunder must be made in writing and delivered to the other Party by an authorised delivery service, in person (with written confirmation of receipt), by registered mail sent using a postal service provider, or may be made by electronic communication with an electronic signature to the Client at \_\_\_\_\_ and to the Contractor at [v](#)
- 11.4. In expert, technical and other than contract matters, electronic communication via e-mail through the above representatives is permitted.

## **12. TERMINATION OF CONTRACT, FORCE MAJEURE**

- 12.1. This Contract may be terminated by its completion, by its expiration, by agreement of the Parties or by withdrawal from the Contract for reasons specified by law or the Contract.
- 12.2. The Client is entitled to withdraw from this Contract without any sanction if any of the following circumstances occur:
- 12.2.1. the Client is withdrawn from or loses the financial subsidy and/or funding for the implementation of the Project or will not be awarded such subsidy and/or funding;
  - 12.2.2. the expenditure or part thereof incurred under this Contract is identified ineligible by the Sponsor or any other control body;
  - 12.2.3. the Contractor breaches this Contract in a substantial manner;
  - 12.2.4. the Contractor is in delay with provision of any supply hereunder (even with only one measurement result) for a period exceeding six (6) calendar months, except where the delay has been caused solely by the Client;
  - 12.2.5. any of the supplies (measurement results) submitted to the Client under this Contract do not meet the technical or other parameters foreseen by this Contract, even after the Client has requested the Contractor twice to meet or supplement them;

- 12.2.6. insolvency proceedings are initiated or pursued against the Contractor or his assets; or
- 12.2.7. should it become apparent that the Contractor has provided information or documents during the Procurement Procedure or in his bid which are false and which had or could have had therefore an impact on the result of the Procurement Procedure which led to the conclusion of this Contract.
- 12.3. The Contractor is entitled to withdraw from this Contract without any sanction if any of the following circumstances occur:
- 12.3.1. the Client breaches this Contract in a substantial manner;
- 12.3.2. the Client is in delay with the payment of the Price or its part for more than three (3) calendar months after the Contractor had sent him a written reminder for the payment of the relevant part thereof.
- 12.4. The Party which is hereunder entitled to withdraw from hereof may withdraw entirely or just with respect to some part of the Services. If herein or in the withdrawal not expressly stated otherwise, withdrawal is deemed to terminate the entire Contract. The act of withdrawal from the Contract shall become effective on the date when the written notification of the withdrawal from the Contract by one of the Parties is delivered to the other Party, with consequences of the Contract termination effective in the “*ex nunc*” regime.
- 12.5. In the event of termination of this Contract for other reasons than for breach of obligations on the part of the Contractor, the Contractor shall be entitled to get reimbursement for the costs which he accrued in connection with the fulfilment of his obligations hereunder prior to the Contract termination, provided that such costs could demonstrably not be avoided (e.g. by timely cancellation of orders), have not been already paid by the Client within any instalment of the Price and are not covered from other sources (e.g. by insurance). Under the same conditions and where not included in the previous reimbursement, the Contractor shall be entitled to the portion of Price for the part of the Services actually delivered to the Client pursuant to the Contract within one (1) month upon termination of the Contract. In other events of termination of this Contract the Contractor shall not be entitled to get any reimbursement and becomes entitled just to the portion of Price for the part of the Services actually delivered to the Client pursuant to the Contract prior to the Contract termination. In any event, the results of the measurements within the Services whose price was paid for by the Client to the Contractor according to this provision shall be transferred and belong to the Client, and the Contractor undertakes to allow the Client to dispose with such accordingly. The Parties shall strive and cooperate to avoid or minimize any further cost that might arise as a consequence of the Contract termination.
- 12.6. Circumstances precluding liability are considered to include obstacles which have occurred independently of the will of the obligated Party, and which prevent it from fulfilling its obligation, provided that it could not be reasonably expected that the obliged Party could overcome or avert these obstacles or their consequences and furthermore that such Party could foresee such obstacles when it entered into the respective covenants (hereinafter the

**“Force Majeure”**). Liability cannot be precluded by obstacles which occurred only when the obligated Party was in delay with fulfilling its duty or arose out of its economic situation. The effects precluding liability shall be limited to the period during which the obstacles causing these effects persist. Force Majeure hereunder does not include the Contractor’s research and development risks in the execution of the Services.

- 12.7. Should a situation occur, which a Party could reasonably consider to constitute Force Majeure (*vis maior*), and which could affect fulfilment of its obligations hereunder, such Party shall promptly notify the other Party and attempt to continue in its performance hereunder in a reasonable degree. Simultaneously, such Party shall inform the other one of any and all its proposals, including alternative modes of performance, however the Party shall not proceed to carry out such alternative performance without the other Party’s previous consent. If a Force Majeure event occurs, the deadlines stipulated herein shall be extended by the period of the duration of that Force Majeure event.

### **13. GOVERNING LAW, DISPUTE SETTLEMENT**

- 13.1. This Contract and any and all legal relationships arising there from are governed by the laws of the Czech Republic.
- 13.2. The Parties acknowledge that areas not expressly regulated by this Contract are governed by the relevant provisions of the Civil Code (Act No. 89/2012 Coll., as amended).
- 13.3. Any and all disputes arising out of this Contract or legal relationships related thereto shall be settled by mutual negotiation between the Parties. If a dispute cannot be settled amicably by negotiation within sixty (60) days, such a dispute shall be decided by the competent court in the Czech Republic having jurisdiction according to the registered office of the Client based on application of any of the Parties.

### **14. TRANSITIONAL AND FINAL PROVISIONS**

- 14.1. This Contract constitutes the entire and comprehensive agreement between the Client and the Contractor.
- 14.2. The Contractor shall not be entitled to transfer rights and duties from this Contract or its part on third parties, to transfer his claims against the Client that arose on the basis or in connection with this Contract on third parties, nor to set off any of his claims or his debtor’s claims against the Client’s claims.
- 14.3. If any provision of this Contract becomes or is declared null, ineffective, non-existent or unenforceable, then such nullity, ineffectiveness, non-existence or unenforceability shall not make the Contract null, ineffective, non-existent or unenforceable as a whole. In such a case, the Parties shall without undue delay clarify such a defective provision within the meaning of Section 553 (2) of the Civil Code, or replace it, to the extent permitted by the applicable laws, by mutual agreement with a new provision, whose meaning is as close as

possible to the intention of the Parties at the conclusion of this Contract.

- 14.4. This Contract becomes valid on the date of its signature by the authorised persons of both Parties and effective on the date of its publication in the Register of Contracts.
- 14.5. This Contract may be changed or supplemented solely by means of written numbered amendments, indicating time and place of conclusion, and signed by duly authorized representatives of the Parties. Within the meaning of Section 564 of the Civil Code, the Parties expressly exclude the possibility to amend the Contract by any other means in any different form.
- 14.6. This Contract is made in the English language and executed in six (6) counterparts each of which is deemed original. The Client shall receive four (4) counterparts (i.e. 2 for each Institute) and the Contractor shall receive two (2) counterparts.

In witness of the agreement with all the contents of the Contract, the Parties attach their signatures:

In Prague, on \_\_\_\_\_

In Debrecen, on \_\_\_\_\_

The Client:

The Contractor

\_\_\_\_\_

Name: RNDr. Petr Lukáš, CSc.  
Position: Director  
On behalf of: Nuclear Physics Institute

\_\_\_\_\_

Name: Mihály György Veres  
Position: C.E.O.  
On behalf of: ISOTOPTECH ZRT.

\_\_\_\_\_

Name: Mgr. Jan Mařík, Ph.D.  
Position: Director  
On behalf of: Institute of Archaeology

## Annex No. 1 - Technical Specification

### Measurements

Guaranteed (limiting) uncertainty<sup>1</sup> (one sigma) of AMS measurement shall be **22** years BP of Conventional radiocarbon age<sup>2</sup> for OXA II (NIST SRM 4990C) per one graphite with 1 mg of sample carbon (or corresponding uncertainty for different <sup>14</sup>C activities of other samples).

Number of calibration (OXA II) and fossil graphites (tax free) per one magazine with sample graphites must be at least 3. The maximal number of graphites per one magazine (including OXA II and fossil) shall be **22** (16 unknown samples, 3 OXA II and 3 fossil graphites, provided by the client).

The results of measurements to be delivered by the Contractor to the Client shall include:

- 1) Sample number and description (as indicated by the Contractor),
- 2) Sample activity (reported in years BP of conventional radiocarbon age),
- 3) Uncertainty of the sample activity (one sigma, reported in years BP of conventional radiocarbon age),
- 4) Graphite activity, reported in pMC (percentage of Modern Carbon, including measurement of OXAII and fossil graphites),
- 5) Uncertainty of each graphite pMC (one sigma, percentage of Modern Carbon, including measurement of OXAII and fossil graphites),
- 6) Delta <sup>13</sup>C of each graphite (in per mill of PDB, as measured by AMS system, including measurement of OXAII and fossil graphites),
- 7) Ion current of <sup>12</sup>C for each graphite,
- 8) and, if available, Current of molecular ions (<sup>13</sup>CH) of each graphite.

### Anticipated scope of Services

The Client assumes approx. a number of 5 – 70 graphite samples per month to be submitted by the Client to the Contractor for measurement pursuant to the Contract. The exact number will depend mainly on the current Client's needs resulting from the execution of the Project. The total amount of measurements is limited by the value of the Contract.

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<sup>1</sup> Curie LA. 1995. Nomenclature in Evaluation of Analytical Methods Including Detection and Quantification Capabilities. (IUPAC Recommendation 1995). *Pure & Appl. Chem.* 67(10): 1699-1723.

<sup>2</sup> Stuiver M, Polach HA. 1977. Reporting of <sup>14</sup>C data. *Radiocarbon* 19(3): 355-363.

## **Annex No. 2 - Incentive Tools and Tools to Reduce and Eliminate Risks**

### **1. Motivation mechanisms**

#### **1.1. Contractual penalty – Contractor’s delay**

**1.1.1. Contractual penalty for excessive delay:** If the Contractor’s delay with provision of Services according hereto exceeds the deadline for delivery of the measurement results as set in Article 5.2 of the Contract by more than 60 days the Client shall be entitled to charge the Contractor with a contractual penalty in the amount of CZK 500 per one sample for each day of delay.

**1.2. Late payment interest of the Client:** The rate of late payment interest concerning the Client’s delay with the payment of the Price or any part thereof is 0.01 % of the due part of the Price for each day of delay after the delivery of a Contractor’s written request.

### **2. Risk minimization tools**

#### **2.1. Liability for damage**

**2.1.1.** The Parties are mutually liable for any damage caused by breach of this Contract.

**2.1.2.** If a Party breaches its obligation hereunder or may it or should it be aware of any such breach, that Party shall, without undue delay, notify the other Party which may incur harm to that effect and shall advise it of potential consequences; in such a case, the injured Party shall not be entitled to compensation for the harm that the notified Party could have prevented after such notification.

**2.2. Separate accounting records.** The Contractor shall keep reasonable separate accounting records of the costs of performance hereunder and use the means of ongoing financing through the Client’s payments exclusively in connection with the performance hereunder, and the Client acknowledges that within the performance hereunder, in addition to direct and indirect costs, the Contractor also covers the profit and risk items with regard to expert and highly specialized nature of the Services. This provision does not impose an obligation on the Contractor to report these items to the Client or control bodies.