



**PURCHASE AGREEMENT NO. 0181/19**

On the day, month, and year below, the Contracting Parties:

**University of Pardubice**

Legal Form: a public university established by law  
Registered Office: Studentská 95, 532 10 Pardubice  
Represented by: prof. Ing. Peter Kalenda, CSc., Dean of the FCHT  
Company ID: 00216275  
Tax ID: CZ00216275  
Bank: Komerční banka, a.s., Pardubice branch  
Account Number: 37030561/0100  
Contact Person: [REDACTED]  
Phone, E-mail: [REDACTED]  
(hereinafter referred to as "Buyer")

And

**Nanalysis Corp.**

Registered Office / Place of Business: 1,4600 5 Street NE, Calgary, Alberta,  
Canada T2E 7C3  
Registered: in the Commercial Register maintained by the State of Alberta,  
Court in Alberta, Entry 2009/01/09  
Represented by: [REDACTED]  
Company ID: 2014464792  
Tax ID: 822557492  
Bank: [REDACTED]  
Account Number: [REDACTED]  
Contact Person: [REDACTED]  
[REDACTED]  
(hereinafter referred to as "Seller")

have entered into this Purchase Agreement (hereinafter referred to as the "Agreement"), pursuant to Section 2079 and the following Act No. 89/2012 Sb., the Civil Code, as amended (hereinafter referred to as "CC"), for the purpose of modernizing laboratories and classrooms:

**I. Subject Matter of the Agreement**

1. The Seller hereby undertakes on the basis of its offer of EUR 45,000.00 a public procurement contract entitled "Delivery of a Portable NMR Spectrometer with a Permanent Magnet" (hereinafter referred to as the "Public Procurement Contract"), awarded in accordance with Section 31 of Act No. 134/2016 Sb., On Public Procurement, as amended, hereinafter referred to as "PPA"), to deliver to the Buyer, within the scope and under the Terms and Conditions stipulated in this Agreement, 1 pcs of a portable NMR spectrometer with a permanent magnet NMReady-60PRO. including the accessories and the requisite documentation (hereinafter



referred to as the "Goods"), and to transfer ownership of the Goods to the Buyer. The Goods are specified in detail in Appendix 1 to this Agreement.

2. The Goods must be new, unused, fully functional, not renewed, complete and in accordance with the specifications in Appendix 1 to this Agreement so that it can be fully utilized.
3. The Seller is obliged to deliver the Goods to the place of performance pursuant to Article III, Paragraph (1) of this Agreement in the original packaging of the manufacturer of the Goods in the agreed quantity, quality, design and time.
4. The Seller shall be obliged to put the Goods into operation at the place and time of performance pursuant to Article III of this Agreement.
5. Upon delivery of the Goods pursuant to Article IV of this Agreement, the Seller is obliged to hand over to the Buyer a warranty statement, or a product warranty card, technical documentation, user manuals and all other documentation necessary to operate the Goods in Czech or English.
6. The Buyer undertakes to take over the goods and pay the seller the agreed purchase price pursuant to Article II. paragraph 1 of this Agreement.

## **II. Purchase Price**

1. The Contracting Parties have agreed, within the meaning of Act No. 526/1990 Sb., On Prices, as amended, on this total purchase price of the Goods:  

Total Purchase Price	EUR 45,000.00
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2. The total purchase price referred to in Paragraph 1 of this Article is the highest permissible and fixed price for the entire duration of this Agreement. The negotiated price includes all costs incurred by the Seller for the performance of its obligations under this Agreement (such as the cost of packing, warehousing, transport, insurance, putting into operation, etc.). The Seller is not entitled to charge any additional amounts in connection with the performance under this Agreement.

## **III. Place and Time of Performance**

1. The place of performance is the premises of the University of Pardubice, Faculty of Chemical Technology, Institute of Organic Chemistry and Technology, Studentská 573, Pardubice, 532 10, Czech Republic. The person designated by the Buyer to take over the Goods is the contact person mentioned in the introductory provisions of this Agreement (hereinafter referred to as the "Recipient"), or another person authorized thereto by the Buyer.
2. The Seller is obliged to deliver the Goods to the Buyer duly to the place of performance to the extent specified in Article I of this Agreement no later than 6 weeks after signing the Agreement.
3. The Seller is obliged to deliver the Goods to the Buyer to the place of performance on working days from 08:00 AM to 03:00 PM, except in exceptional cases and after prior agreement with



the recipient. In addition, the Seller is obliged to notify the Recipient by e-mail of the readiness to deliver the Goods, at least 5 working days in advance.

#### **IV. Delivery and Acceptance of the Goods**

1. The Seller's obligation under Article I of this Agreement shall be deemed to have been fulfilled by the acceptance of the Goods by the Recipient or his/her authorized representative and the Seller or its authorized representative at the place and time of performance under Article III of this Agreement. The Buyer is not obliged to take over the Goods that show any defect or arrears of work.
2. Acceptance means the delivery of the Goods including the compliance with all the conditions set out in Article I of this Agreement by the Seller and receipt of the Goods by the Recipient. If the Recipient discovers that the Goods are defective, he/she shall refuse to accept the Goods with defects. Such a refusal shall be documented in writing by the Contracting Parties. 1. The Seller's obligation under Article III (2) of this Agreement shall not be hereby affected.
3. The Acceptance Certificate shall be executed by the Seller and the Recipient, with the date of the acceptance. This date is the date of delivery of the Goods and the record date for the fulfilment of the Seller's obligation under Article III (2) of this Agreement. In the Acceptance Certificate, the Seller shall provide, in particular, the names of the Contracting Parties, the designation of the Goods, their quantity, legible name and signature, the Recipient shall also provide his/her legible name and signature.
4. Self-help sale pursuant to Section 2126 et seq. of the CC shall not be applied.

#### **V. Payment and Invoicing Terms**

1. The right to invoice shall arise to the Seller on the day of the proper delivery of the Goods within the scope of Article I of this Agreement.
2. After the right to invoice has been established, the Seller is obliged to issue and deliver the original of the tax document (hereinafter referred to as the "Invoice") for the Goods delivered at the agreed contractual price (i.e. the total purchase price) within 15 days. The Invoice shall be provided with all the requirements prescribed for a proper accounting and tax document within the meaning of the relevant legislation, in particular Act No. 235/2004 Sb., On Value Added Tax, as amended (hereinafter referred to as "VATA").
3. Along with the Invoice, the Seller is also required to produce the Acceptance Certificate confirmed by the Recipient.
4. The Invoice is due and payable within 30 days from the date of its demonstrable delivery to the address of the Buyer's registered office specified in the introductory provisions of this Agreement.



5. In the event that the Invoice contains incorrect or incomplete data or is not accompanied by the required documents, the Buyer is entitled to return it to the Seller within the due period without falling into arrears with the payment. The Seller shall correct the returned Invoice, or issue a new flawless one, if need be. In such a case, a new due period under Paragraph 4 of this Article shall run from the date of delivery of the corrected or new Invoice.
6. Payment of the total purchase price means debiting the amount from the Buyer's account and crediting it to the Seller's account.
7. The Buyer shall not provide any advance payments. Payments shall be made exclusively in EUR. The Buyer shall pay the total purchase price in the form of a cashless credit transfer to the Seller's account specified in the introductory provisions of this Agreement.
8. The Contracting Parties take note that that, in accordance with VATA, the place of delivery is the Buyer's (Contracting Authority's) registered office, i.e. the Czech Republic, and that is also where the Buyer shall, under the reverse-charge scheme and within the statutory time limit, submit a VAT return and pay the applicable VAT at the rate and amount in accordance with the applicable legal regulations as of the tax point.
9. The Seller declares that it assumes the risk of changed circumstances pursuant to Section 1765 (2) of the CC, Section 1765, Subsection 1, and Section 1766 of the CC shall thus not apply in relation to the Seller.

#### **VI. Rights and Obligations of the Parties, Ownership and the Risk of Damage to Goods**

1. The Seller shall, in performing this Agreement, proceed with professional care, comply with generally binding laws, standards, and other regulations relating to the subject matter of the Agreement, the terms of this Agreement, and the Buyer's instructions.
2. The Buyer undertakes to provide the Seller with the necessary cooperation in fulfilling the subject matter of this Agreement.
3. Ownership of the goods shall be transferred from the Seller to the Buyer by the acceptance of the Goods pursuant to Article IV of this Agreement.
4. The risk of damage to the Goods shall pass to the Buyer within the meaning of Section 2121, Subsection 1 of the CC by the acceptance of the Goods pursuant to Article IV of this Agreement.

#### **VII. Quality Guarantee and Warranty & Return Terms**

1. The Seller shall provide the Buyer with a guarantee of the quality and properties of the Goods corresponding to the subject matter and purpose of this Agreement, for a period of 12 months from the date of acceptance of the Goods. The agreed warranty period shall not apply to goods for which the warranty period is extended by the manufacturer of these goods.



2. The Buyer is obliged to file a warranty claim regarding any defects of the Goods (hereinafter referred to as "Warranty Claims" or "Notice of Warranty Claim") with the Seller in writing (i.e. also by email) without undue delay after discovering them. The Seller is obliged to deliver a written (i.e. also by email) comment to the Buyer in accordance with Section 2117 of the CC with reference to Section 2173 of the CC within 5 working days of the claim. If the Seller's written reply regarding the defect is not delivered to the Buyer within this period, the Seller shall be deemed to have accepted the warranty claim in its entirety. Even a claim sent by the Buyer on the last day of the warranty period is deemed to have been filed in time.
3. The Seller is obliged to remove, free of charge, the defects it has accepted or failed to comment on in accordance with Paragraph 2 of this Article at the place of performance no later than 30 calendar days from the date of delivery of the Notice of Warranty Claim.
4. The method of settling the claim shall be determined by the Buyer. The Buyer is entitled to file a warranty claim even if it regards a defect of the Goods that the Buyer had to see with the usual attention when accepting the Goods.
5. The warranty period shall be automatically extended by the number of days elapsed from the report of the defect to the signature of the Defect Removal Report.
6. The Seller undertakes to provide free of charge, during the warranty period, e-mail support and hotline on business days from 8:00 AM to 4:00 PM for dealing with technical incidents.
7. The Seller undertakes not to charge travel or other costs during the warranty period.

#### **VIII. Contractual Penalties and Interest on Late Payments**

1. In the event of Seller's delay in delivering the Goods (or parts thereof) or fulfilling the obligation under Article I of this Agreement within the agreed period in accordance with Article III (2) of this Agreement, the Buyer shall be entitled to require the Seller to pay a contractual fine of CZK 200 for each commenced day of delay up to the total purchase price excluding VAT.
2. In the event of Seller's delay in removing defects of the Goods, reported in the warranty period under Article VII (3) of this Agreement, the Purchaser is entitled to require the Seller to pay a contractual fine of CZK 200 for each commenced day of delay until the Defect Removal Report has been signed.
3. In the event of failure to meet the due date of the Invoice issued by the Seller, the Seller is entitled to require the Buyer to pay an interest on late payment at the statutory level from the amount due for each commenced day of delay in the payment of the Invoice.
4. The right to invoice and recover a contractual penalty and interest on late payment arises to the Buyer on the first day following the expiry of the period specified as the period for performance, and to the Seller on the first day following the expiry of the invoice due period.





5. Contractual penalties and interest on late payment are due within 30 days of the date of delivery of the written notice of the claim.
6. The Contracting Parties have agreed that the payment of the contractual penalty shall not affect the right to compensation in full for the material or non-material damage incurred, i.e. also in excess of the contractual penalty charged or paid, and this provision is also without prejudice to any obligations arising from this Agreement.
7. The Buyer is entitled to offset a contractual penalty against the amount invoiced by the Seller, whereupon the contact person of the Buyer shall inform the contact person of the Seller by email about the amount of the contractual penalty. By signing this Agreement, the Seller grants consent to such a procedure.

#### **IX. Special Arrangements**

1. The Seller warrants and represents that the Goods are not subject to any rights of third parties.
2. The Seller confirms that it has fully understood the scope and nature of the delivery relating to the subject matter of the above-mentioned Public Procurement Contract and is aware of all technical, qualitative and other terms of delivery.
3. The Seller undertakes to maintain confidentiality regarding all facts that will become known to it in the performance of this Agreement. This obligation also applies to authorized representatives, employees or other assistants of the Seller that are involved in the performance of this Agreement.
4. No rights or obligations under this Agreement, nor the whole of this Agreement, may be transferred or assigned to any third party without the prior written consent of the other Party.
5. Both Contracting Parties shall, without undue delay, inform each other in writing of any facts concerning changes to any of their basic identification or contact details, including legal succession.
6. The Contracting Parties hereby rule out the acceptance of this Agreement with any deviation, even if it is a deviation which does not substantially alter the original terms and conditions. The same applies to negotiating any amendments to this Agreement.
7. The provisions of this Agreement shall be interpreted in accordance with the Tender Terms and Conditions of the Public Procurement Contract, in particular those set out in the Tender Documents of the Public Procurement Contract and in accordance with the Seller's offer.
8. The Buyer is entitled to disclose the concluded Agreement in accordance with legal regulations and the Seller agrees therewith.
9. The Seller undertakes to cooperate in performing financial control. According to Section 2, Subsection (e) of Act No. 320/2001 Sb., on Financial Control in Public Administration and on Amendments to Certain Acts, as amended, the Seller is obliged to cooperate in the performance



of the financial control carried out in connection with the payment for goods from public expenditure or with public financial backing. The Seller undertakes to bind its subcontractors in the same way.

10. The Seller is obliged to keep all certificates and documents for the time and in the manner stipulated by the applicable legal regulations (Act No. 563/1991 Sb., On Accounting, as amended, and Act No. 499/2004 Sb., on Archiving and Records Management and on Amendments to Certain Acts, as amended).
11. The Contracting Parties have agreed that all binding expressions of will shall be made in writing and demonstrably delivered to the other Party to the address of its registered office referred to in the introductory provisions of this Agreement, except in the cases specified in this Agreement where an electronic form is sufficient. If the Contracting Party to which a document is addressed rejects or otherwise thwarts its acceptance, any letter mail sent using a postal service provider is shall be deemed to have been delivered on the third working day after dispatch; however, if it was sent to an address in another country, it would be the 15th working day after dispatch. If the commencement of the period specified in this Agreement is bound with the delivery to the other Contracting Party, and the Contracting Party to which the document is addressed rejects or otherwise thwarts it, such period shall start the day following the expiry of the third working day following the day when the document was deposited at a post office. However, this shall not apply if either of the Contracting Parties makes use of a data box in accordance with Act No. 300/2008 Coll., on Electronic Acts and Authorized Conversion of Documents, as amended.
12. The Buyer declares and the Seller acknowledges that the Buyer is not an entrepreneur in the relationship arising from this Agreement.
13. If the Seller is a group of suppliers in the case of joint participation in the Public Procurement, all these suppliers are jointly and severally liable for the performance of this Agreement.

#### **X. Termination of Obligations**

1. The termination of the obligations under this Agreement shall be governed by the relevant provisions of the CC and by this Agreement.
2. The Contracting Parties have agreed that a material breach of the Agreement within the meaning of Section 2002 (1) of the CC shall, in addition to the cases specified in § 2002 of the CC, also mean:
  - a) Seller's delay in delivering the Goods (or parts thereof) within the agreed period according to Article III (2) of this Agreement for more than 45 calendar days;
  - b) Buyer's delay in paying the purchase price for more than 30 calendar days, and the Seller is obliged to notify, prior to withdrawal from the Agreement, the Buyer in writing of the failure to fulfil its obligations and to provide it with a reasonable time for rectification;
  - c) non-compliance with the agreed quantity, quality or type of the Goods;
  - d) if the Goods do not have the properties declared by the Seller in this Agreement or the properties resulting from this Agreement, or if Goods are not in accordance with the specifications of the Goods;



- e) if the Seller, in its offer in the Public Procurement Contract that preceded the conclusion of this Agreement, provided information or documents that are not in accordance with the facts and affected or could affect the outcome of the tender procedure.
3. Withdrawal from this Agreement shall be in writing and shall take effect on the date of receipt of this written notice to the other Party.
4. In the event of withdrawal from this Agreement, the Parties shall settle their mutual obligations and claims set out in the Act or this Agreement within 30 days of the legal effects of the withdrawal or within the agreed time limit.
5. Termination of this Agreement by withdrawal or otherwise shall be without prejudice to the rights to contractual penalties and compensation for damages and other obligations, the nature of which is such that they shall remain in existence even after the termination of this Agreement.

#### **XI. Final Arrangements**

1. In respect of matters not expressly governed by this Agreement, the rights and obligations of the Parties shall be governed by the applicable provisions of generally binding legal regulations in force in the territory of the Czech Republic, in particular those of the CC and other legal regulations relating to the subject matter of this Agreement.
2. Any disputes that the Parties fail to settle amicably shall lie with a court of the Czech Republic which would have jurisdiction *ratione loci* and *ratione materiae*.
3. This Agreement shall be executed in four duplicate originals. Either Party shall hold two duplicate originals.
4. This Agreement may be amended or supplemented only by written, mutually agreed Appendices numbered in ascending order which shall become an integral part thereof. For this purpose, the exchange of emails or other electronic messages shall not be considered a written form. Amendments invalid due to non-compliance may be objected at any time, even if the performance has already been commenced. Changes to the identification or contact details shall not be an amendment to the Agreement.
5. If, for any reason, any provision of this Agreement is found to be invalid, this fact shall not invalidate the entire Agreement. In such a case, the Contracting Parties shall be obliged to replace the invalid provisions without undue delay with new ones, which shall be in accordance with the meaning and purpose of this Agreement.
6. This Agreement shall come into effect on the date of signature of the Contracting Parties, and enter into force on the date of its publication in the Register of Contracts pursuant to Act No. 340/2015 Coll., On Special Conditions for the Effectiveness of Certain Contracts, on the Publication of such Contracts and on the Register of Contracts (Contracts Registry Act), as amended.





7. The Contracting Parties hereby declare that they have read this Agreement and that it has been concluded after mutual deliberation according to their own free will, explicitly, seriously and comprehensibly, in witness whereof the authorized representatives of the Contracting Parties have affixed their own signatures.
8. The following Appendix is an integral part of this Agreement:  
Appendix 1: Specification of the Goods

In Calgary on 15 March 2019

28. 03. 2019  
In Pardubice on .....

On behalf of the Seller:

On behalf of the Buyer:



Robert Borkowsky



prof. Ing. Petr Kalenda, CSc.  
Dean of FCHT

 **Univerzita Pardubice**  
Fakulta chemicko-technologická  
532 10 Pardubice 2, Studentská 573