



SERVICE CONTRACT

on the provision of maintenance services for the environmental scanning microscope delivered by the Provider to the Client, by and between:

(1) **Institute of Physics of the Academy of Sciences of the Czech Republic, a public research institution**

with its registered office at: Na Slovance 2, Praha 8, PSČ: 182 21

registration No.: 68378271

represented by: RNDr. Michael Prouza, PhD. – director

("Client"), and

(2) **FEI EUROPE B.V.**

with its registered office at: Achtseweg Noord 5, 5651 GG Eindhoven

registration No.: 805698656

represented by: Rodrick John Shipley, Sales Director

("Provider"),

(hereinafter the "**Contract**" and the Client and the Provider jointly as the "**Parties**" and individually as a "**Party**").

WHEREAS

- (A) The Provider has been awarded the public contract titled "Environmental Scanning Electron Microscope_TP16_513" within which it will deliver to the Client an electron microscope under the purchase contract signed between the Parties for performing the public contract (hereinafter the "**Microscope**" and the "**Purchase contract**").
- (B) This Contract sets out terms and conditions under which the Provider shall provide the Client with post warranty maintenance services for the Microscope.

IT WAS AGREED AS FOLLOWS:

1. MAINTENANCE SERVICES

Scope and period of provision

1.1 The scope of the services is set out by the following annexes that form integral part hereof:

- Annex No 1 hereto – Services' specification of 16.7.2019
- Annex No 2 hereto – Service Quote Quo-97984-L3Z9 R11
- Annex 3 Terms and Conditions.



- 1.2 In case of any conflict or discrepancy between this Contract and its annexes the Contract prevails. In case of any conflict or discrepancy among the annexes they should be applied and take priority one over another in the order as they are listed in art. 1.1 hereof.
- 1.3 The services shall be provided based on yearly renewable periods for the period up to 5 years starting with the day following the day on which the basic warranty period according to art. 7.1 of the Purchase contract expires (hereinafter the “**Commencement day**”). The Client shall inform the Provider no later than 30 days before expiry of any one-year period of provision of the services if it orders another year of maintenance services or not (up to the total number of 5 years). The first one-year period shall commence automatically unless the Client informs the Provider 30 days before the Commencement day that they do not request the services at all in which case this Contract terminates on the date of delivery of such statement to the Provider. Art. 1.6 hereof shall survive premature termination hereof and shall remain valid for 5 years from the Commencement day.

Prices and invoicing

- 1.4 The price for one-year term of provision of the services without VAT is set out in Annex 2 hereto.
- 1.5 The Provider is entitled to invoice the Client with the relevant yearly amount on the first day of the invoiced period with 30 days’ due period of the invoice.

Extra services and supplies

- 1.6 In case that any below listed services and/ or supplies are outside of the scope of this Contract, particularly if:
- the yearly scope is limited in number of units or likewise,
 - the Client is not entitled to receive any service or supply under the conditions hereof (e.g. a component failed due to fault of the Client), or
 - the Client has not requested next one-year period of provision of the services and the support therefore finished,

the Provider shall provide such for the following prices:

- price per hour – on site visit – 3 000 CZK excl. VAT
- daily price – on site visit – not exceeding 25 000 CZK excl. VAT
- FEG component 4 600 EUR.

Despite the foregoing, if the Provider’s then-current list prices (as discounted in line with Annex No 3 hereto) are lower the extra services or supplies shall be provided for the lower price.



2. FINAL PROVISIONS

- 2.1 This Contract becomes valid on the date of its signature by the authorized representatives of the Parties and effective on the date of its publication in the register of contracts in line with applicable law.
- 2.2 The Contract shall be governed by the laws of the Czech Republic.
- 2.3 By attaching their signature hereto, the Parties express their consent with the content hereof in its entirety.

IN WITNESS WHEREOF attach Parties their signatures:

Client

Signature: _____

Name: RNDr. Michael Prouza, PhD

Position: Director

Supplier

Signature: _____

Name: Rodrick John Shipley

Position: Sales Director



Annex 1 Services' specification of 16.7.2019

The participant (*i.e. the Provider*) provides "Agile Coverage" of post warranty maintenance services based on a yearly renewable period for a fixed yearly price. The Service Agreement is specified by T&C (in attachment) unless otherwise agreed by the contractual parties.

The price for each year includes:

- 4 on-site service visits (replacement parts, travel and expenses included); any service visit must start within 2 business days from receipt of a request from the Contracting authority
1 visit = minimum of 18 working hours included in the price, further time subject to standard prices of the participant
- The FEG component replacement (the component always included in the scope, labour to be considered as one on-site service visit)
- Preventive maintenance visit – 1 per year
- Telephone support (in English)
- Remote system diagnostics and repair availability
- Microscope SW updates

Period of provision

The Participant guarantees the yearly price for maintenance services for 5 years starting with expire of the 2 years' warranty period of the Microscope.

Renewing

The Contracting authority shall inform the participant (Contractor) no later than 30 days before expiry of any one-year period of provision of maintenance services if it orders another year of maintenance services or not (up to the total number of 5 years).

The participant (Contractor) is entitled to invoice the Contracting authority with the relevant yearly amount on the first day of the renewed period with 30 days' due period of the invoice.

Vyhotovil Milan Mánik, Service Manager, dne 16.7.2019



EUROPEAN UNION
European Structural and Investing Funds
Operational Programme Research,
Development and Education



MINISTRY OF EDUCATION,
YOUTH AND SPORTS

Annex 2 Service Quote Quo-97984-L3Z9 R11



EUROPEAN UNION
European Structural and Investing Funds
Operational Programme Research,
Development and Education



MINISTRY OF EDUCATION,
YOUTH AND SPORTS

Annex 3 Terms and Conditions

Service Contract

System: Quattro S
Agreement: Agile

Effective Date: End of warranty Period
Duration: 1 Years from Effective Date

Agile

The Thermo Scientific Agile service agreement provides a rapid response for customers requiring fewer on-site visits. With a 48-hour targeted on-site response and labor and spare parts included for a defined number of Service Visits (including accessories listed on the contract), replacement FEG tip for applicable products, preventive maintenance visit(s), telephone support and software updates.

To keep your instrument performing at its best you need a Global partner, with a history of over 60 years of service excellence, who is committed to your success. By choosing to purchase a contract you can count on ThermoFisher Scientific Service to maintain your instrument's superior performance, protect your investment, and assure your instrument availability.

For the specific details of your contract, refer to the attached Terms and conditions.

Line #	Part Number	Description
Excluded		
1	9432 909 96391	Compressor 230 V, 50/60 Hz with 4-liter Tank
2	1154507	SAMPLE PREP - Turbo Pumped Cryo System incl. Rotary Vacuum Pump, fracturing device, 60l nitrogen dewar - PP3010T + 13034 + 12145 + PP7450/60L (excl. install & training,) All countries, except Japan.
3	1162388	ACCESSORIES - TEM Prep Slusher - 25314
4	1067153	12406 - ACCESSORIES - TEM grid holder cryo shuttle with bayonet fitting. Takes two grids
Included		
5	1201223	EMO Box
6	FP 3440/52	Acoustic Enclosure for Pre-vacuum Pump
7	1143972	Directional GAD
8	1091079	Lens-mounted DBS Detector
9	1143697	Retractable STEM 3+ Detector
10	1120429	Solid-state Detector Integration Kit
11	1126920	WetSTEM Retractable
12	1126934	Cooling / Heating Stage Control Kit
13	1140650	In-Chamber Nav-Cam
14	1111230	Quattro S
15	1018263	Windows 7 Support Computer
16	1099932	Cryo Interlock Kit
17	1143970	Multi-purpose SEM Holder
Optional		
18	1072686	Air-cooled Water Chiller 230 V, 50/60 Hz

Pricing Summary Service Contract	Agile
Service list price total	Kč431.067,00

SERVICE AGREEMENT

SCHEDULE OF SPECIFIC TERMS AND CONDITIONS – AGILE COVERAGE

These Specific Terms and Conditions are part of the Service Agreement (“Agreement”) between Customer and FEI. All capitalized terms used herein shall have the same meaning as set forth in the Agreement.

1. **“AGILE” SERVICE AGREEMENT:** Includes labor, travel and living expenses for a limited number of Service Visits as set forth in the Service Quote. A “Service Visit” is defined as up to eighteen (18) hours (the equivalent of two (2) business days) of combined labor and travel (“Maximum Service Hours”) performed within a five (5) consecutive business day period (“Maximum Service Period”). Travel time applied to the hours calculation for a Service Visit shall be capped at four (4) hours per business day that service is performed regardless of whether actual travel time exceeds such limit (“Included Travel Time”), up to an aggregate of eight (8) hours for the entire Service Visit. If a service call requires labor and Included Travel Time in excess of the Maximum Service Hours, or can be completed within the Maximum Service Hours but cannot be completed within the Maximum Service Period, any service provided in excess of the Maximum Service Hours or beyond the Maximum Service Period, as the case may be, shall be considered to be a another Service Visit.

In the event Customer exhausts the included Service Visits set forth in the Service Quote but requires additional services prior to the end of the term of this Agreement (“Additional Services”), Customer may issue a purchase order to Company in advance of scheduling such Additional Services. Labor for such Additional Services will be charged at a 10% discount from Company’s then-current list price.

Parts and components are covered under this Agreement for included Services Visits.

2. **CONSUMABLE COVERAGE AND EXCLUSION:** For FEG systems, the FEG source is covered under this Agreement and will be replaced upon failure. All other system consumables are excluded from coverage. Consumables include column sources, depositing and milling materials, GIS and other chemicals, gases and liquids, calibration and testing samples, wearable vacuum parts (Hot/Cold Cathode Gauges, pump seals), sample grids and similar carriers, disposables, apertures and small tooling, and aperture strips.
3. **SOFTWARE COVERAGE:** Software updates that solely improve the functionality of previously purchased software capabilities are included in this Agreement. Software upgrades that add new functionality are available for separate purchase. FEI determines which software releases are classified as updates or upgrades. Amira, Avizo, ResolveRT, and Pergeos software products are excluded from FEI’s standard software coverage and are subject to a separate maintenance agreement. Third party software updates are provided if they are no charge from the original software provider.
4. **TARGETED RESPONSE TIME:** Service availability is Monday through Friday, during FEI’s normal business hours, with a targeted response time of 48 hours.
5. **SCHEDULED MAINTENANCE:** Company will provide scheduled preventive maintenance visit(s) (each a “Scheduled Visit”) during the term of this Agreement. Company will, during the course of a Scheduled Visit, undertake ordinary repairs and adjustments arising from normal usage of the Equipment. Preventative maintenance does not include repairs or adjustments of third party parts or components. Company will work with Customer to arrange a Scheduled Visit on a mutually agreeable date. Cancellation by Customer of the Scheduled Visit or denial of Company access for a Scheduled Visit will relieve Company of any further responsibility to complete the Scheduled Visit. At the discretion of Company, Scheduled Visits may be made at the same time as an unscheduled maintenance visit if such unscheduled maintenance visit occurs within one (1) month before a previously planned for Scheduled Visit.
6. **DISCOUNT ON ADDITIONAL SERVICE:** Labor and parts that are outside the scope of this Agreement can be purchased at a 15% discount from Company’s then current list price. There is no discount on consumables. Company’s service helpdesk or service managers or their designees are authorized to offer service quotes. Any exceptions or changes to quotes or other terms contained in this Agreement must be approved in advance in writing by Company.

SERVICE AGREEMENT

GENERAL TERMS AND CONDITIONS

See Schedule of Specific Terms and Conditions at the beginning of this document

The following terms and conditions (“Agreement”) govern services provided by FEI Company (“Company”) to Customer. The quote for the services (“Service Quote”) and the specific terms and conditions referenced on the Service Quote (“Specific Terms”) are hereby incorporated into the Agreement by this reference, and Customer hereby acknowledges receipt and review and accepts the application of such documents. This Agreement is effective as of the Effective Date specified on the Service Quote.

- 1. EQUIPMENT COVERAGE:** This Agreement relates only to the specific base tool and Company components as well as any additional accessories and/or third party items listed in the Service Quote (“Equipment”). Third party items may come from vendors such as Edax, Gatan, Oxford, and Bruker. Third party items may also include items such as chillers, transformers, compressors, and UPS. Company shall use commercially reasonable efforts to replace or repair any computer necessary for functionality of the Equipment. Customer is responsible for backing up all data stored by Customer on the Equipment.
- 2. SERVICES PROVIDED BY COMPANY:** Company will provide service as described hereunder:
 - 2.1 REQUESTING SERVICE:** To request service on Equipment, Customer shall call the telephone number on the Service Quote. Company will make commercially reasonable efforts to respond within the time frame set out for the coverage level listed in the Service Quote. If a Company representative cannot resolve an Equipment problem in a reasonable time frame, Company will escalate the problem by providing both telephone and/or on-site support, as necessary.
 - 2.2 TELEPHONE SUPPORT:** Company will provide telephone support for repair and maintenance of the Equipment during Company business hours set forth on the Service Quote, exclusive of Company holidays. Such support will include responses about operating practices and service issues that can be diagnosed and resolved over the telephone. For telephone support, Customer shall call the telephone number set forth on the Service Quote or such other number provided by Company.
 - 2.3 PROVISION OF SERVICES:** Services under this Agreement will be performed by Company or its authorized representative. Company may, in its sole discretion, change the authorized representative and will provide Customer updated telephone numbers and hours of service.
 - 2.4 REPLACEMENT PARTS AND COMPONENTS:** Subject to availability, Company will make commercially reasonable efforts to ship standard parts or components, in accordance with the shipping terms on the Service Quote, within twenty-four (24) hours after authorization for a part or component. In certain cases, Equipment or a part will need to be returned to Company for repair or replacement. Equipment may be returned to Company only after approval and assignment of a specific return materials control number by Company. Customer acknowledges and agrees that replacement parts or components may be new or reconditioned to manufacturer’s specifications. Company may, at its sole discretion and to the extent permitted by law, exchange and/or repair and modify existing parts or components of the Equipment, so long as it does not diminish the functionality of the Equipment. Any repairable parts or components supplied and replaced by Company with replacement parts or components shall become the sole property of Company. Company sells repairable parts or components on net price basis. Customer is responsible to return any such parts or components within ninety (90) days after the date of delivery of the replacement parts or components to Customer. Customer will be invoiced full list price if Customer fails to return such parts or components. Any part or component package opened by Customer will be considered as sold and if such part or component is not returned within ninety (90) days after the date of delivery of the replacement part or component, the full list price will be invoiced to Customer. A restocking fee will be charged for all returned parts and components.
- 3. LIMITATIONS ON SERVICES:**
 - 3.1 EQUIPMENT MISUSE:** Company shall not be obligated to provide services for any Equipment failure or defect resulting directly or indirectly (as determined in Company’s sole discretion), from:
 - (a) improper use or care of the Equipment, including operation outside Company’s recommended specifications;
 - (b) malfunctions due to obvious operator misuse, including the introduction of a computer virus
 - (c) improper use of a power supply;
 - (d) a Customer facility failure unrelated to the Equipment;
 - (e) damage due to vandalism, explosion, flood or fire, weather or environmental conditions;

- (f) installation, repairs, modifications, updates, upgrades or maintenance by persons other than Company's representatives;
- (g) loss of Equipment or any accessory parts or components;
- (h) Non-Standard Materials (as defined herein) installed by persons other than Company's representative; or
- (i) wrongful acts, negligence or failure to comply with this Agreement.

3.2 RISK OF DAMAGE FROM CONSUMABLES: Customer shall notify Company in writing of any non-Company authorized consumables used in the Equipment. The costs of all repairs that are caused by the use of non-Company authorized consumables are excluded from Company's service obligations and will be billed separately to the Customer.

3.3 HOURS OF SERVICE: Any service visit, whether involving preventive or corrective maintenance, will be made during regular Company business hours only, as set forth on the Service Quote, exclusive of Company holidays.

3.4 PRODUCTS OF OPERATION/CONTAMINATION: The cost and responsibility for disposal of by-products resulting from Equipment operation remains that of Customer. Company reserves the right to reject any replaced parts or components returned to Company for a repair credit. Any such replaced parts or components, rejected by Company, will be billed to Customer at Company's then-current list price for such part or component. Notwithstanding anything in Section 2.4, in no event will Company accept delivery of any part or Equipment that has been exposed to or is contaminated with radioactive substances, biological/infectious agents, mercury, polychlorinated biphenyls (PCBs), dioxins or sodium azide, even if it is decontaminated.

4. OPERATING ENVIRONMENT: The Customer is responsible for maintenance of an operating environment that complies with Company specifications. System performance issues caused by a non-compliant environment are not covered under this Agreement and will be billed separately to the Customer.

5. END OF COMPLETE SUPPORT: Notwithstanding anything in this Agreement, Customer acknowledges that Company may designate certain Equipment to be in the "End of Complete Support" phase of its life cycle prior to the commencement of this Agreement. Company will notify Customer of any Equipment which is designated to be in such phase. Company makes no assurances or guarantees of replacement parts or components or expertise availability for such Equipment and disclaims any responsibility for non-performance of the Equipment due to unavailability (for any reason). Company makes no assurances or guarantees of replacement parts, components or expertise for third party items deemed "End of Support" by the third party supplier and disclaims any responsibility for non-performance of the Equipment due to unavailability (for any reason) of third party expertise or parts.

If Company does not currently stock a replacement part or component, Company will make commercially reasonable efforts to obtain such part or component from a third party at no charge to Customer. If Company is unable to obtain such part or component from a third party or a third party supplier is unable to supply replacement parts or components, Customer has the right to terminate this Agreement as of the date such replacement part or component request was requested by Customer (the "Request"). If Customer notifies Company of the termination within fifteen (15) days of the Request, all amounts due under this Agreement will terminate as of the date of the Request, and any prepaid amounts under this Agreement due after that date will be refunded to Customer.

For Equipment in End of Complete Support, Company will no longer provide new software updates or upgrades for the Equipment. The most recent software update, if not previously installed, will be available at no charge.

6. CUSTOMER FACILITIES AND EQUIPMENT ACCESS: Customer shall allow Company's representative immediate and full access to the Equipment during each service visit. Customer shall also make available to Company a qualified employee who is familiar with the Equipment and, if the visit is for corrective maintenance, the identified problem. The person must be present during the visit to assist in initial diagnosis to support resolution of the problem. Customer shall provide Company's representative during the visit with a satisfactory and safe work area, and adequate cleaning supplies, electrical power, storage facilities, telephone access, and a recycling bottle, if necessary, for SF6 recovery. Upon notice by Company, Customer shall provide the services of electricians, plumbers, masons, carpenters or other tradesmen, as necessary, to modify or correct Customer's facilities to accommodate proper functioning and service of the Equipment. Upon request, any and all services required must be provided within a reasonable time frame and at no charge to Company.

7. COMPLIANCE WITH RULES: While on Customer's premises, Company's representative shall abide by all reasonable Customer's rules and regulations applicable to the use of such premises, provided Company has received a written copy of such rules and regulations reasonably in advance of Company's visit.

8. **SERVICES OUTSIDE THE SCOPE OF THE AGREEMENT:** Customer may request service, including Equipment shut-downs for facility closings, labor and parts for general Equipment overhauls, reconditioning or relocations, and parts or components beyond what is provided in this Agreement. Before providing such service, parts or components, Company will provide a quote listing an estimate of labor and materials that will be required for such work. All work must be approved in writing by Customer prior to Company undertaking the work by way of an additional confirmed PO and shall be subject to the terms set forth on such quote.
9. **INVOICING AND PAYMENT TERMS:** Upon acceptance of Customer's purchase order (PO), Company will invoice the full Agreement price on or prior to the start of the Agreement period or if required by applicable law, a monthly portion of the full Agreement price at the end of each monthly period. Unless otherwise specifically agreed to by the parties in writing, payment terms are net thirty (30) days from the date of the invoice. Customer is responsible for providing all documents required for Company to invoice Customer within ten (10) business days of the acceptance of a Customer's PO. Payments not received within thirty (30) days of Company's invoice date or if the required document necessary for invoicing are not received within ten (10) business days of the acceptance of Customer's PO, Customer will be subject to a late payment charge equal to eight percent (8%) per annum above the European Central Bank base interest rate or the equivalent rate set by the national central bank of the country in which this Agreement is entered into.
10. **TAXES:** Customer is responsible for all applicable taxes due under the Agreement except for taxes based on Company's income and agrees to indemnify and hold Company harmless for any claims relating thereto. Customers claiming tax-exempt status shall provide Company with satisfactory evidence of such status.
11. **FORCE MAJEURE:** Neither party shall be in breach of this Agreement if it fails to perform due to causes beyond its control, including but not limited to, acts of God, power outage, power surge, fire, theft, war, riot, civil unrest, embargoes, strikes, labor disputes, communications failures, terrorism or acts of civil or military authorities.
12. **WARRANTY AND DISCLAIMER:** All services provided hereunder will be performed in a workmanlike manner. Subject to the terms of this Agreement, all labor, replacement parts or components (excluding consumables) provided by Company are guaranteed for a period of ninety (90) days from the visit completion date. Company's sole and exclusive obligation for breach of warranty shall be, at Company's option, to (a) use commercially reasonable efforts to perform the services in a manner that conforms with the warranty, or replace the replacement parts or components as the case may be, (b) refund to Customer the pro-rata portion of the fees paid to Company allocated to the nonconforming services or replacement parts or components. The remedies set forth in this section are Customer's exclusive remedies for any breach of warranty. **EXCEPT AS SET FORTH IN THIS SECTION, COMPANY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, RESPECTING ITS OBLIGATIONS HEREUNDER.** The aforementioned shall, however, not limit or exclude any statutory rights of Customer due to the provision of nonconforming services or delivery of defective replacement parts or components.
13. **TERM AND TERMINATION:**
 - 13.1 **Term:** Unless agreed to in writing, the term of this Agreement shall be one (1) year from the Effective Date.
 - 13.2 **Termination for Convenience:** Either party may terminate this Agreement at any time with ninety (90) days' prior written notice. If this Agreement is terminated by Customer for convenience, any remaining Agreement balance which may be due to Customer is non-refundable.
 - 13.3 **Suspension or Termination for Breach:** If either party fails to perform its obligations under this Agreement and such failure continues for a period of thirty (30) days (ten (10) days in the event of non-payment by Customer) after written notice of such failure, the non-breaching party shall have the right to suspend or terminate this Agreement and have no further obligation to other party hereunder, and such suspension or termination shall be in addition to and not exclusive, of other rights and remedies available to non-breaching party. Any suspension of this Agreement by Company for non-payment by Customer shall not constitute a waiver of the Customer's obligation to pay all amounts due under this Agreement. To the extent permitted by law, Company shall have the right to suspend or terminate this Agreement in the case of breach or default by Customer under any other Agreement with Company.
14. **INDEPENDENT CONTRACTOR:** Under the terms of this Agreement, Company is an independent contractor and neither party to this Agreement shall be deemed an agent, joint-venturer or partner of the other.
15. **CONFIDENTIAL INFORMATION:** Customer understands that in the course of Company performing its obligations hereunder, Company may disclose confidential information ("Confidential Information"), to Customer. Customer may use Confidential Information only to assist Company in performing its obligations hereunder. Customer agrees not to

disclose Confidential Information, directly or indirectly, to any third party. Customer may, however, disclose Confidential Information to its employees who have a need to know and are bound by confidentiality obligations no less restrictive than those set forth herein. Customer will protect the Confidential Information using the same degree of care it uses to protect its own confidential information, but no less than a reasonable degree of care. Customer's obligations of confidentiality hereunder shall not apply to information which: (a) is now, or hereafter becomes, through no act or failure to act on the part of Customer, generally known or available; (b) is independently known by Customer at the time of receiving such information; (c) is hereafter furnished to Customer by a third party without a breach of any obligation to Company; (d) is independently developed by Customer without using Company's Confidential Information or breaching this Agreement; or (e) is required by law to be disclosed in response to a valid order by a court or other governmental body, provided Customer gives Company prompt written notice of such requirement prior to disclosure so that Company may attempt to obtain an order protecting such information from public disclosure. Customer's obligation under this Section shall survive the termination or expiration of this Agreement. Customer is prohibited from taking photos or video of Company representatives performing service without Company's prior written consent. If Customer begins to take photos or video of a Company representative during the course of a service visit, such representative shall have the right to discontinue service.

16. LIMITATION ON LIABILITY:

16.1 WITH THE EXCEPTION OF CUSTOMER'S LIABILITY ARISING FROM A BREACH OF SECTION 15 ("CONFIDENTIAL INFORMATION"), NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR (I) ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES; OR (II) LOSS OF REVENUE; (III) LOSS OF ACTUAL OR ANTICIPATED PROFITS; (IV) LOSS OF ANTICIPATED SAVINGS; (V) LOSS OF BUSINESS; (VI) LOSS OF OPPORTUNITY; (VII) LOSS OF GOODWILL; (VIII) LOSS OF REPUTATION; OR (XI) LOSS OR CORRUPTION OF DATA, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

16.2 EACH PARTY'S LIABILITY HEREUNDER WILL BE LIMITED TO ACTUAL DIRECT DAMAGES, AND FOR COMPANY SUCH LIABILITY SHALL NOT TO EXCEED THE AMOUNT RECEIVED BY COMPANY HEREUNDER. THESE LIMITATIONS WILL APPLY FOR ALL CLAIMS, INCLUDING WITHOUT LIMITATION, CONTRACT WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. NOTHING HEREIN SHALL EXCLUDE OR LIMIT A PARTY'S LIABILITY FOR (I) FRAUD; (II) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; OR (III) ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED BY LAW.

17. RENEWAL PRICES: Contract prices for renewal of this Agreement are subject to change without notice. Company will provide Customer with a Service Quote which contains the then current pricing prior to the expiration of the current agreement date.

18. NOTIFICATION OF NON-STANDARD CHEMICAL USAGE AND OTHER MATERIALS: Customer agrees to inform Company in writing of any use of non-standard chemicals or gases, bio-hazard substances or radiation (collectively "Non-Standard Materials") on or with the Equipment prior to making a request for Company to service the Equipment. Such notification shall include the name of the Non-Standard Materials, the quantities used, applicable Material Safety Data Sheets (MSDS or SDS) and any other supporting information. Customer shall perform all actions required for system decontamination prior to service by Company, certify such system decontamination if required by Company, and be responsible for the costs of decontamination. Customer shall put in place and maintain any infrastructure, tools or equipment necessary for Company to service the Equipment on which the Customer has used Non-Standard Materials. Company reserves the right to refuse to provide service on Equipment that has a history of usage of Non-Standard Materials and shall have no obligations under this Agreement to provide such service.

19. EXPORT CONTROLS: Customer will not export or re-export, either directly or indirectly, any Equipment, part or component or system incorporating such Equipment, part or component without first obtaining any required license or other approval from the appropriate host government, other applicable authorities, including but not limited to the U.S. Department of Commerce (or any other agency or department of the U.S. Government with appropriate authority), the Dutch Ministry of Foreign Affairs (Ministerie van Buitenlandse Zaken) and Czech Ministry of Industry and Trade (MPO); and/or from Company when applicable. If the delivery of products, services and/or documentation becomes (1) subject to export license, or (2) restricted or prohibited due to (changed) regulations, Company may suspend its obligations and/or terminate the relevant order in all cases without incurring any liability towards the Customer.

- 20. ASSIGNMENT:** Customer may not assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of Company.
- 21. NOTICES:** Any notice required hereunder shall be in writing and shall be deemed given on receipt by such party at the address set forth herein or such other address indicated by either party in writing.
- 22. AMENDMENTS:** This Agreement may only be amended if agreed by both parties in writing.
- 23. ENTIRE AGREEMENT:**
- 23.1** This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.
- 23.2** This Agreement cannot be modified or amended by any other or subsequent document or agreement (including any purchase order, even if such purchase order has a statement to the contrary) and the terms of this Agreement shall govern any service arrangement with Customer, unless modified or changed by a subsequent agreement referencing this Agreement which has been approved in writing by Company. If the terms of this Agreement and the attachments hereto conflict, the terms on the attachments shall govern.
- 24. SEVERABILITY:** If any provision of this Agreement is, for any reason, held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability of such provision shall not affect any other provision of this Agreement. This Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 25. WAIVER:** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.
- 26. HIRING COMPANAY PERSONNEL:** For so long as Customer has a service arrangement with Company (under this Agreement or otherwise), and for one (1) year following the termination of such arrangement, Customer will not directly, indirectly or through a third-party, solicit for hire, hire or otherwise engage, any Company representative, as an employee, independent contractor, representative or agent, or engage any entity where that person is a principal, shareholder, partner or sole proprietor to provide Equipment service, without the prior written consent of Company.
- 27. GOVERNING LAWS:** If this Agreement is entered into in Austria, Belgium, Denmark, Norway, Spain, Sweden, Switzerland or the Netherlands, this Agreement shall be governed by the laws of The Netherlands.
- If this Agreement is entered into in France, this Agreement shall be governed by the laws of France.
- If this Agreement is entered into in UK, this Agreement shall be governed by the laws of UK.
- If this Agreement is entered into in Italy, this Agreement shall be governed by the laws of Italy.