

## SMLOUVA O DÍLO

### SMLUVNÍ STRANY:

#### Vysoká škola Báňská – Technická univerzita Ostrava

#### IT4Innovations národní superpočítačové centrum

se sídlem: 17. listopadu 2172/15, 708 00 Ostrava-Poruba  
zastoupena: doc. Mgr. Vítem Vondrákem, Ph.D., ředitelem IT4Innovations  
IČ: 61989100  
DIČ: CZ61989100  
bankovní spojení: ČSOB a.s.  
č.ú. : ██████████

(dále jen „Objednatel“)

a

#### Rigaku Innovative Technologies Europe s.r.o.

se sídlem: Novodvorská 994, 142 21 Praha 4-Braník  
zastoupena: ██████████ jednatelem  
IČ: 28400020  
DIČ: CZ28400020  
bankovní spojení: ČSOB a.s.  
č.ú. : ██████████

(dále jen „Zhotovitel“)

Objednatel a Zhotovitel dále v této smlouvě společně též jako „smluvní strany“

dnešního dne uzavřely tuto smlouvu v souladu s ust. § 2586 a násl. zákona č. 89/2012 Sb., občanský zákoník, ve znění pozdějších předpisů (dále jen „občanský zákoník“)

**na provedení servisních prací - „Oprava přístroje Ultima IV – výměna Cu RTG lampy, 2.0 kW, typ A-41-Cu v budově CNT, Studentská 11, 708 00 Ostrava-Poruba“**  
(dále jen „Smlouva“)

### 1. ÚVODNÍ USTANOVENÍ A ÚČEL SMLOUVY

**1.1.** Objednatel uzavírá se Zhotovitelem tuto Smlouvu za účelem realizace předmětu plnění, který je specifikován v čl. 2 odst. 2.1. této Smlouvy. Objednatel za tímto účelem poptal plnění u Zhotovitele, který je pro Českou republiku výhradním dodavatelem přístroje Ultima IV společnosti Rigaku a zároveň autorizovaným servisem pro tento přístroj. Z toho důvodu byla Objednatelem vybrána nabídka Zhotovitele.

**1.2.** Zhotovitel je vázán svou nabídkou předloženou Objednateli, která předcházela uzavření této Smlouvy. Nabídka Zhotovitele tvoří nedílnou součást této Smlouvy jako Příloha č. 1.

## **2. PŘEDMĚT SMLOUVY, DOBA A MÍSTO PLNĚNÍ**

**2.1.** Předmětem smlouvy je provedení servisních prací - oprava přístroje Ultima IV – výměna Cu RTG lampy, 2.0 kW, typ A-41-Cu v budově Nanotechnology Centre, VŠB – Technická univerzita Ostrava, Studentská 11, 708 00 Ostrava-Poruba, včetně dopravy, instalace a všech doprovodných prací (dále jen „Plnění“).

**2.2.** Objednatel se touto Smlouvou zavazuje převzít řádně a včas provedené Plnění a zaplatit Zhotoviteli za Plnění dohodnutou cenu.

**2.3.** Zhotovitel se zavazuje Plnění provést ve lhůtě uvedené v Příloze č. 1 Smlouvy.

## **3. CENA PLNĚNÍ A PLATEBNÍ PODMÍNKY**

**3.1.** Celková cena Plnění specifikovaného v článku 2. Smlouvy byla stanovena ve výši 243.900,- Kč bez DPH, DPH ve výši 21 % činí 51.219,- Kč. Celková cena Plnění včetně DPH činí 295.119,- Kč.

**3.2.** Platební podmínky pro úhradu ceny Plnění dle Smlouvy jsou stanoveny v Příloze č. 1 Smlouvy.

## **4. Závěrečná ustanovení**

**4.1.** Tato Smlouva nabývá platnosti okamžikem jejího podpisu oběma smluvními stranami. Účinnosti Smlouva nabývá dnem jejího uveřejnění v registru smluv ve smyslu zákona č. 340/2015 Sb., o zvláštních podmínkách účinnosti některých smluv, uveřejňování těchto smluv a o registru smluv (zákon o registru smluv), ve znění pozdějších předpisů. Smluvní strany se dohodly, že uveřejnění Smlouvy v registru smluv zajistí Objednatel.

**4.2.** Smluvní strany se dále dohodly, že veškeré další podmínky, v těle této Smlouvy neuvedené, se řídí Přílohou č. 1 Smlouvy.

**4.3.** Tato Smlouva je vyhotovena jako elektronický originál a každá ze smluvních stran obdrží po jednom vyhotovení po jejím podpisu oprávněnými zástupci smluvních stran.

**4.4.** Nedílnou součástí této Smlouvy jsou:

Příloha č. 1 – nabídka Zhotovitele, Standard Terms and Conditions of Sale.

V Ostravě dne dle elektronického podpisu

V Praze dne dle elektronického podpisu

.....  
za IT4Innovations  
národní superpočítačové centrum  
**doc. Mgr. Vít Vondrák, Ph.D.**

.....  
za Rigaku Innovative Technologies Europe s.r.o.

17. listopadu 2172/15  
708 00 Ostrava-Poruba  
Česká republika

spojovatelka: +420 597 321 111  
epodatelna: epodatelna@vsb.cz  
ID datové schránky: d3kj88v

IČ: 61989100  
DIČ: CZ61989100

email: univerzita@vsb.cz  
www.vsb.cz

## Nabídka

Zákazník:	[REDACTED] Nanotechnology Centre VŠB-Technical University of Ostrava 17. listopadu 2172/15 708 00 Ostrava-Poruba
Platnost:	120 dní
Záruka:	12 měsíců
Dodací doba:	4 týdny
Doprava & Instalace:	Zahmtnuta

Položka	Popis	Jed.cena (Kč)	Ks	Cena (Kč)
1	Cu RTG lampa. 2.0 kW, typ A-41-Cu. Včetně dopravy a instalace	[REDACTED]		243.900.-
<b>Celkem bez DPH (Kč)</b>				<b>243.900.-</b>

Thank you for the opportunity to provide you with the above products and services. My colleagues at RITE and I are looking forward to working with you in the future.

Best Regards,

[REDACTED]  
Sales and R&D project manager  
Rigaku Innovative Technologies Europe s.r.o.  
Za Radnici 868  
252 41 Dolní Břežany  
Czech Republic  
Phone [REDACTED]  
peter. [REDACTED]

## Standard Terms and Conditions of Sale

This entire agreement supersedes any other oral and/or written communication on this subject. This document and any other documents specifically referred to as being a part hereof constitutes the entire agreement on the subject matter and shall not be modified except in writing signed by both parties.

### 1. PRICE

Purchase price for each item of equipment is guaranteed until midnight Central Time on the date shown in the "Valid Until" block on page one. Prices designated as "List Prices" are subject to change without notice. Prices are stated in currency listed and do not include taxes of any kind.

### 2. TAXES & DUTIES

If Seller is required by law to collect taxes on any amount subject to this contract, Seller will include such taxes on each applicable invoice and those amounts shall be due on Buyer's receipt of the invoice. If Buyer claims tax-exempt status, Buyer shall provide Seller a tax exemption certificate or other documentation acceptable to the appropriate taxing authority.

Unless otherwise stated, Buyer is solely responsible for all other taxes which Seller is not required by law to collect, any other charges imposed on shipment of the purchased goods. Seller shall not be liable for any delay, loss, or indirect, special, liquidated, incidental, or consequential damages resulting from Buyer's failure to timely pay amounts for which it is responsible.

Buyer is responsible for all duties including customs clearance charges, as applicable, outside of the United States and/or European Community, unless otherwise stated.

### 3. PAYMENT TERMS

Payment shall be made in accordance with the terms stated on page one of this contract. In the event that delivery is delayed at Buyer's request, Buyer shall pay Seller 90% of the total contract amount on the original delivery date.

### 4. SOFTWARE LICENSE

Any software which is used in conjunction with the goods sold by this contract is transferred pursuant to a separate license agreement. Unless otherwise stated, the software is not sold to Buyer and title to the software shall not pass to Buyer.

### 5. SHIPMENT

Shipment shall be made in accordance with the terms stated on page one. If inside delivery is required and not expressly made a part of this contract, an additional charge will apply.

### 6. DELIVERY

Delivery shall be made in accordance with the terms stated on page one. In the event that delivery is delayed at Buyer's request: (1) the equipment warranty period will commence on the original delivery date, and (2) Seller may store the goods at Seller's facility or at such other location as Seller may choose at Seller's sole discretion, and Buyer shall be responsible for all storage and incidental charges, regardless of the location at which the goods are stored.

### 7. TITLE

Buyer grants, and Seller retains, a security interest in all goods to secure payment therefore until all amounts due are paid, and Buyer agrees that it shall execute all documents necessary to secure such interest to Seller. Buyer shall not grant to any third party a security or other interest in the goods purchased pursuant to this contract which is in conflict with this paragraph.

### 8. EQUIPMENT WARRANTY

New goods, except expendables and supplies, are warranted against defects in materials and workmanship that materially affect the functionality of the goods until twelve months from delivery. Seller's sole obligation under this warranty shall be to repair or replace defective components, including the cost of shipping parts and providing labor for installation, if applicable.

This warranty does not extend to other vendors' products that are supplied to Buyer in conjunction with this contract. Those products are warranted by their respective manufacturer's or vendor's warranties in effect on the date of shipment to Buyer. Seller assigns to Buyer all rights it may have in such warranties. All warranties are contingent upon proper use of the goods and operation of the same within manufacturer's specifications.

**THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND CONSTITUTES THE ONLY WARRANTY OF SELLER WITH RESPECT TO THE GOODS.**

### 9. LIMITATION OF LIABILITY

Seller shall not be liable for any incidental, consequential or special damages, including, but not limited to any loss of business, income or profits. Buyer's expenses for downtime, or for making up downtime, and any labor costs of Buyer related to the functioning of components covered by this Agreement. Seller's liability on any claim of any kind of loss, injury, or allocated damages shall not exceed the fraction of the purchase price allocable to the component giving rise to such claim. The foregoing states the exclusive remedy of the Buyer and the exclusive liability of Seller.

Seller agrees to indemnify and hold harmless Buyer and Buyer's employees, officers, directors, affiliates, partially or wholly owned subsidiaries, agents, successors and assigns from all claims arising from or connected with the Seller's performance of this contract, except for claims arising from the negligence, recklessness, or willful misconduct of Buyer or Buyer's employees, officers, directors, affiliates, partially or wholly owned subsidiaries, agents, successors, and assigns. In the event such a claim is asserted, Buyer will notify Seller immediately, and Seller's counsel will represent Buyer. If Buyer elects to be represented through its own counsel in addition to Seller's counsel, Buyer is responsible for its attorney's fees and associated expenses.

### 10. DELAYS

If Seller suffers delay in performance due to any cause beyond its reasonable control including, but not limited to, acts of God, act or failure to act of government, act or omission of Buyer, war, fire, flood, strike or labor trouble, sabotage, or delay in obtaining from others suitable services, materials, components, equipment, or transportation, the time for Seller's performance shall be extended a period of time equal to the period of the delay and its consequences. Seller will give the Buyer written notice within a reasonable time after Seller becomes aware of any such delay.

### 11. SITE PREPARATION

Buyer shall prepare the installation site at Buyer's expense; provide utilities in accordance with Seller's pre-installation instructions and specifications; furnish uncrating, rigging, electrical (including step-up or step-down transformer if needed), plumbing, or other assistance, as required, and furnish materials and labor for connecting specified utilities to the purchased goods.

It is the Buyer's sole responsibility to comply with X-ray registration and satisfy all federal, state, and local X-ray radiation safety regulations with appropriate regulatory authorities.

### 12. INSTALLATION

Not included unless specially noted.

### 13. CANCELLATION & DAMAGES

Buyer may not cancel or terminate this contract for convenience, nor may it direct suspension of Seller's manufacture of the purchased goods or delivery of the same, except with Seller's written consent and then only with tender of payment to Seller sufficient to compensate Seller for all direct and consequential costs incurred as a result of Buyer's agreement to this contract and subsequent cancellation plus a reasonable amount for profit. Buyer understands and agrees that the goods sold pursuant to this contract may be customized and not re-sellable to other customers, and that Seller's loss due to Buyer's cancellation may be the entire contract price and, in such cases, agrees that Seller may reasonably require the payment of 100% of the contract price notwithstanding Buyer's desire to cancel.

### 14. OBJECTIONS TO CHANGES

Seller objects to any changes to these terms and conditions, which Buyer seeks to impose by means of terms stated in Buyer's request for quotation, purchase order, or any other document of Buyer. Issuance of a purchase order hereto by Buyer constitutes Buyer's assent to Seller's terms and conditions. Acceptance of the quotation is expressly limited to the terms and conditions set forth herein. Any modification of these terms of sale must be specifically agreed to in writing by Rigaku/MS.

### 15. AMENDMENT IN WRITING

These standard terms and conditions may not be amended except by a separate written agreement signed by both the Buyer and Seller. Alteration of the text of this document shall not constitute modification of the terms and conditions of this contract.

### 16. GOVERNING LAW

This contract shall be enforced pursuant to the law of the jurisdiction for the Seller's office which issued this quotation, i.e. the Czech Republic.

### 17. ASSIGNMENT

Buyer's obligations pursuant to this contract may not be assigned without the express, written agreement of Seller.

### 18. SEVERABILITY

In the event that a court of competent jurisdiction shall hold any portion of this contract to be void or unenforceable, that portion of this contract shall be severed and the remainder shall remain in full force and effect.