

***Purchase Agreement***

On the day, month and year specified below, the contractual parties:

**Czech Technical University in Prague**

**Faculty of Transportation Sciences**

Registered office: Jugoslávských partyzánů 1580/3, 160 00 Praha 6, Czech republic

Correspondence address: Konviktská 20, 110 00 Praha 1, Czech republic

ID No.: 68407700

Tax ID No.: CZ 68407700

Represented by: **doc. Ing. Pavel Hrubeš, Ph.D., Dean of the Faculty**

Represented in technical matters by: xxxxxxxxxxxxxxxxxxxxxxxxx, e-mail: xxxxxxxxxxxxxxxx, tel. xxxxxxxxxxxxxxxx

Banking contact: xxxxxxxxxxxxxxxxxxxxxx

Account no.: xxxxxxxxxxxxxxxxxxxxxx

(hereinafter referred to as the “Purchaser”)

and

Valid8.com, Inc.

Registered office: 599 North Ave., Suite 8-8, Wakefield, MA 01880-1622

registered in the Commercial Register: State of Delaware, USA

Represented by: **Mr. Ian A. Carpenter**

ID No.: 83-0337981

Tax ID No.: 83-0337981

Banking contact: xxxxxxxxxxxxxxxxxxxxxx

Account no.: xxxxxxxxxxxxxxxxxxxxxx

Contact person: xxxxxxxxxxx

Tel.: xxxxxxxxxxxxxxxxxxxxxx, e-mail: xxxxxxxxxxxxxxxxxxxxxx

(hereinafter referred to as the “Seller”)

concluded, in accordance with Section 2079 et seq. of the Act No. 89/2012 Coll., Civil Code, as amended

(hereinafter referred to as the “CC”)

this

**Purchase Agreement**

(hereinafter referred to as the “Agreement”)

**PREAMBLE**

The Seller is the economic operator selected to provide delivery under the public contract titled **“LTE simulation solution for Faculty of Transportation Sciences, CTU”, 1. lot: Stationary LTE simulator**, (hereinafter referred to as the "Public Contract"), awarded by the Purchaser, in an Open Procedure, pursuant to Section 56 of the Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter referred to as the "PPA").

The Seller acknowledges that the Public Contract is financed by the European Union within the framework Operational Program Research, Development and Education

Project: Infrastructure and lab equipment of the FTS CTU

Reg. No. CZ.02.2.67/0.0/0.0/16\_016/0002482

**I.**

**Subject-matter of the Agreement**

1. The Seller undertakes to deliver to the Purchaser, at the place of performance at its own expense and risk, under the terms of this Agreement, a stationary LTE simulator specified in this Agreement (hereinafter referred to as the "Equipment") and to transfer ownership of the Equipment to the Purchaser. The Equipment is specified in detail in the Procurement Documents, the Seller’s submitted tender and the specification of the Equipment stated in Appendix No. 1 and Appendix No. 2 to this Agreement.
2. The Equipment must be new, unused, fully functional, unrenovated, complete, not lent, not leased, not having any other legal defects, and not infringing upon the rights of third parties under patent or other forms of intellectual property, and must comply with the specification presented in Appendix 1 to this Agreement, such that the it can be fully utilised.
3. Furthermore, the subject-matter of performance under this Agreement includes:
4. all components necessary for the operation and use of the Equipment;
5. licenses for the software supplied;
6. transport of the Equipment to its intended site of use;
7. at least 1 day online or telephone support during the setup, configuration, implementation and commissioning of the Equipment within 7 days upon the delivery of the Equipment;
8. training of operators pursuant to article III. (7) of this Agreement;
9. any fees connected with the importation of the Equipment, customs duties, taxes, import and export surcharges, royalties and any other charges connected with the delivery of the Equipment until such time as it is functionally handed over at the place of performance;
10. technical or system documentation for the Equipment;
11. user manuals and conditions for the operation and service of the Equipment, in Czech or English (manuals);
12. removal and liquidation of any waste or materials used in connection with the performance provided hereunder in line with the Act No. 185/2001 Coll. on Waste, as amended.

**II.**

**Purchase price and payment conditions**

1. The total purchase price of the Equipment - **1. lot: Stationary LTE simulator**, is:

CZK 799 343,10 exclusive of VAT

1. The price stated in Article II (1) of this Agreement, represents the maximum acceptable and non-negotiable price. VAT will be added to his price pursuant to the currently valid legal regulations (in case of Czech Seller). If the Seller is a foreign entity, VAT will be paid directly by the Purchaser.

The Seller guarantees that the price agreed includes all of its costs entailed by the performance of duties stipulated by this Agreement (e.g., the cost of customs clearance of the Equipment for the export from the country of the manufacturer or the Seller, the costs of packaging, storage, transport, and insurance of the Equipment for the transport to the place of performance, unloading of the Equipment in the place of performance, handling equipment, approval process, required testing, supplying the declaration of qualities, certificates, attestations, transfer of ownership, on-site staff training, etc.).

1. The Seller is not entitled to charge any other costs related to the performance of this Agreement.
2. The Purchase Price will be paid in two instalments. The first part of the Purchase Price of 50 % will be paid by the Purchaser on the basis of an invoice issued by the Seller after this Agreement comes into force. The second part of the Purchase Price of 50 % will be paid by the Purchaser on the basis of an invoice issued by the Seller after a proper delivery of the Equipment.
3. The invoice shall be due and payable within 30 calendar days. The Purchaser's obligation to pay the purchase price agreed shall be fulfilled on the date that the invoiced amount is deducted from the Purchaser's bank account.
4. The invoices must be issued in CZK and at a value corresponding to the purchase price stated in Article II (1) in conjunction with Article II (4) of this Agreement.
5. In addition to the particulars stated in Section 29 of the Act No. 235/2004 Coll., on Value Added Tax, as amended, the invoice must contain:
6. ID No. of the Purchaser and the Seller;
7. due date;
8. designation of the Seller’s bank and number of the account to which the payment is to be made, constant and variable symbols;
9. indication of the accounting document and its serial number;
10. reference to the Agreement
11. reference to the Order
12. name and registration number of the project
13. stamp and signature of the persons authorized to issue final accounting documents.

8. Together with the second invoice (as a separate document), the Seller is obliged to provide a copy of the acceptance protocol confirmed by both contractual parties.

9. Should the invoice contain any incorrect or incomplete data or lack the required appended documents as stated above, the Purchaser is entitled to return it to the Seller before its due date without risk of being in default. The Seller must correct the returned invoice or issue a new, faultless one. In such cases, a new payment period will run for the Purchaser, in accordance with paragraph 5 of this Article, starting from the delivery date of the corrected or newly issued invoice.

**III.**

**Place and period of performance**

1. The Seller is obliged to deliver the Equipment to the Purchaser **within** **2 months** from the effective date of this Agreement.
2. The Seller is obliged to come to an agreement with the Purchaser, at least 5 business days in advance in writing (by e-mail) about the date for delivery of the Equipment to the place of performance.
3. The place of performance (hand-over and acceptance of the Equipment): Czech Technical University in Prague, Faculty of Transportation Sciences, Konviktská 20, 110 00 Prague 1, Czech Republic.
4. The Equipment is deemed to have been delivered after a mandatory inspection by the Purchaser, and the signing of the acceptance protocol between the Seller and the Purchaser.

The person authorized to sign the acceptance protocol for the Purchaser shall be the person representing the Purchaser in technical matters or his/her authorized representative. Each contractual party shall receive one counterpart.

1. The Purchaser shall not be obliged to accept the delivery of the Equipment if there are defects or unfinished work, regardless of the fact that these may not, in and of themselves or in connection with others, prevent due use of the Equipment. If the Purchaser fails to exercise its right to not accept the Equipment with minor defects or unfinished work, the Purchaser and the Seller shall draw up a list of such defects or unfinished work in the hand-over and acceptance protocol, including the manner and timeline for their remedy. Should the Purchaser and the Seller fail to agree in the hand-over and acceptance protocol on a timeline for the removal of defect or completion of unfinished work, all such defects or unfinished work shall be removed / remedied within 30 days from the handover date.
2. In the acceptance protocol, the Seller shall state the following information:
3. designation of the contractual parties;
4. designation of the Equipment (serial number, model) and its quantity;
5. the start and end dates of the warranty period;
6. the Purchaser's declaration of acceptance or non-acceptance;
7. a description of possible defects or unfinished work and agreement on the date and method of their removal;
8. list of documentation submitted;
9. legible names and signatures of persons representing the Seller and the Purchaser.
10. The Seller is obliged to train at least 5 persons - the Purchaser's employees within 14 days of the delivery and acceptance of the Equipment to an extent sufficient for the safe operation and basic maintenance of the Equipment, in the extent of at least 5 days of training at the Purchaser's workplace, until the staff has fully mastered the operation. The training can take place online.

**IV.**

**Cooperation between the parties**

1. The contractual parties shall make every effort to create the necessary conditions for the implementation of the subject matter of this Agreement, in correspondence to their contractual status. This shall also apply in cases where this is not expressly laid down in the individual provisions of this Agreement.
2. If any of the contractual parties is aware of circumstances preventing it from complying with its contractual obligations, it shall immediately inform the other contractual party thereof in writing. The contractual parties undertake to, without delay and insofar as possible, remove the circumstances preventing them from fulfilling their contractual obligations. If the circumstances are not remedied, the other contractual party shall be entitled to request the fulfilment of the obligation by a substitute date, which shall be determined taking into account the nature of the matter.
3. The Seller will be a person obliged to cooperate in the performance of financial control, in accordance with Section 2 (e) of the Act No. 320/2001 Coll., on Financial Control and on Amending Certain Acts. At the same time, the Seller undertakes to the archive all written documents relating to the fulfilment of the subject of the purchase under this Agreement. The Purchaser is further obliged to provide all information required, document its activity, provide all documentation related to the project, and allow authorized persons to enter their premises and land to verify the conditions of performance of the subject of purchase under this Agreement. The above cooperation will also be provided by the Seller in the case of a check by the provider of institutional support.
4. The Seller is obliged to meet all the qualification requirements directly related to the implementation of this Agreement, throughout the entire duration of the Agreement, which were documented in the procurement procedure specified in the Preamble of this Agreement. The Seller is required to present proof of compliance with the above qualification requirements within 15 calendar days of the date of delivery of a written invitation of the Purchaser.

5. Subcontractors:

5.1. Appendix No. 3 to this Agreement (List of Subcontractors) specifies those parts of the subject of performance under this Agreement which will be provided by a subcontractor of the Seller.

5.2. The Seller is entitled to change a subcontractor only with the consent of the Purchaser. The Seller is obliged to notify the Purchaser in writing of any change in a subcontractor position. A new subcontractor replacing a subcontractor specified in the Seller's tender must meet all the qualification requirements to the extent required by the Purchaser in the Procurement Documents and fulfilled by the original subcontractor specified in the Seller's tender. The Seller will provide proof of fulfilment of the new subcontractor’s qualification requirements.

The Purchaser is obliged to state, within 7 business days from the date of delivery of the written notice, whether it authorizes the change of subcontractor. If the Seller submits to the Purchaser, as part of a subcontractor change, documents required under this provision of the Agreement, and the Purchaser does not express its opinion in this regard by the stipulated deadline, the Purchaser shall be deemed to agree to the change in the position of the subcontractor.

5.3. The Seller is obliged to keep and continuously update an accurate list of all subcontractors involved in the execution of this Agreement. It shall submit this overview to the Purchaser without delay, no later than 7 calendar days from the date of receipt of a request.

**V.**

**Contractual warranty**

1. The Seller is responsible for defects found in the Equipment at the time of delivery, any defects found between the delivery of the Equipment to the Purchaser and the beginning of the warranty period, and the defects found during the warranty period. The warranty period does not run for as long as the Purchaser cannot use the equipment due to defects for which the Seller is responsible. The Seller provides the Purchaser with a guarantee of quality and parameters of the Equipment that correspond to the subject matter and purpose of this Agreement for a period of **12 months**.
2. The warranty period begins to run on the day of signing of the acceptance protocol concerning the acceptance of fully functional, flawless Equipment, by the Purchaser. If the Equipment is accepted by the Purchaser with at least one defect or incompletion, the warranty period begins to run when the last defect has been removed out or outstanding work completed.
3. The Purchaser is obliged to lodge its claims concerning defects detected in the Equipment ("Claim" or "Notification of Claim") in writing (by e-mail) with the Seller, without undue delay after they are detected. The Purchaser shall describe the defects in the claim and also state its requirements, including the term for the removal of the defects by the Seller; provided that the claim is legitimate, it is entitled to:
4. if the defects are immaterial (Section 2107 CC), the Purchaser is entitled to the delivery of the missing Equipment, the removal of other defects in the Equipment, or a discount from the purchase price;
5. if the defects are material (Section 2106 CC), the Purchaser is entitled to demand the removal of the defects by supplying a new flawless item or by supplying the missing item, to request the removal of defects by repairs of the Equipment, if the defects are repairable, to demand a reasonable discount from the purchase price, or to withdraw from the Agreement.
6. The Seller is obliged to confirm to the Purchaser the receipt of the claim, within 5 working days after receiving it, in writing (by e-mail) and then initiate a "fault diagnosis" or initiate "defect removal", by having its service technician visit the place of performance within 5 business days from the confirmation of receipt of the claim, or within a term stipulated by an agreement of both parties.
   1. The Seller is required to assign to the Purchaser a qualified service technician authorized to carry out repairs to the delivered Equipment.
   2. If the service technician fails to remove the claimed defect during his visit, the Seller undertakes to investigate the claim, notify the Purchaser whether it acknowledges the claim, and agree on the deadline for remedying the defect, only in writing, within 5 business days of receipt of the claim.
   3. If, during this period, the Seller fails to deliver a written statement to the Purchaser about the claimed defect, the Seller is deemed to have acknowledged the claim in its entirety. Even claims submitted by the Purchaser on the last day of the warranty period are deemed to have been lodged in time.

The Seller is obliged to remove any defects claimed, which it has acknowledged or not responded to, in accordance with paragraph 4.3. of this Article, at the place of performance, no later than 30 business days from the date of the delivery of the notice of claim, free of charge.

1. The manner by which the claim is resolved shall be determined by the Purchaser.
2. The warranty period is automatically extended by the number of days elapsed from the report of the defect to the signature of the defect removal protocol.
3. The Seller undertakes not to charge travel or other costs associated with the claim during the warranty period. In addition, it undertakes to provide basic diagnoses of failures by telephone or e-mail, and any verification of solutions with the Purchaser by phone or e-mail will be provided free of charge. The technical support provided to the Purchaser by phone or e‑mail will also be provided free of charge.
4. If the Seller fails to remedy the defects claimed within the period referred to in this Article, or if it notifies before the expiry of the period that it shall not remove the defects, the Purchaser shall be entitled to assign the repair to a third party. In this case, the Purchaser may claim from the Seller payment of the amount the Purchaser pays to the third party as a result of proceeding thus. The Purchaser's claim to a contractual penalty from the Seller shall not be extinguished in this case.
5. The rights and obligations arising from the warranty do not expire, either in respect of the Purchaser of Equipment subject to transfer or in the case of the withdrawal of one of the parties from the Agreement. Claims for liability for defects do not prejudice claims for damages or contractual penalties.

**VI.**

**Acquisition of Ownership, transfer of risk, granting of a license**

1. Ownership of the Equipment shall pass from the Seller to the Purchaser upon the acceptance of fully functional, faultless equipment. The risk of damage to the Equipment will pass to the Purchaser at the time of the acquisition of ownership of the Equipment.
2. For the purpose of rational and effective use of the Equipment, the Seller hereby grants to the Purchaser free of charge a license to use the Software for the duration of the Purchaser's ownership of the Equipment.

**VII.**

**Contractual penalties and default interest**

1. If the Seller is in default on the delivery of Equipment at the agreed time, under Article III (1) of this Agreement, the Purchaser is entitled to require that the Seller pay a contractual penalty of 0.05 % of the total purchase price of the Equipment, exclusive of VAT, for each day of default or part thereof, until full performance of the obligation.

2. If the Seller is in default on compliance with the time limit for the commencement of the removal of defects set in this Agreement, it shall pay to the Seller a contractual penalty of CZK 500 for each day of default or part thereof, until full performance of the obligation.

3. If the Seller fails to adhere to the time limit for the removal of defects set in this Agreement, it shall pay to the Seller a contractual penalty of CZK 500 for each day of default or part thereof, until full performance of the obligation.

4. In the event of non-compliance with the due date of invoices issued by the Seller, the Seller is entitled to claim default interest from the Purchaser, in the amount of 0.01 % of the outstanding amount (exclusive of VAT) for each day of default, or part thereof, on the payment of the invoice.

1. The right to invoice and collect a contractual penalty and default interest arises for the Purchaser on the first day after the expiry of the period specified for performance, and for the Seller on the first day following the expiry of the invoice maturity.
2. Contractual penalties and default interest are payable within 14 calendar days from the date of the delivery of the written notice by which they are claimed.
3. The contractual parties have agreed that the payment of a contractual penalty shall be without prejudice to the right to compensation for the full amount of financial or non-financial damage incurred, i.e., including the amount in excess of the contractual penalty invoiced or paid, and it is also without prejudice to the proper performance of the obligations under this Agreement.
4. The Purchaser is entitled to set off the contractual penalty against the amount invoiced by the Seller, and the contact person of the Purchaser shall inform the contact person of the Seller electronically (by e-mail) about the amount of the contractual penalty. By signing this Agreement, the Seller consents to such a procedure.

**VIII.**

**Termination of obligations**

The contractual obligations of the contractual parties shall expire by:

1. **Performance**;
2. **Written agreement of the contractual parties** in the form of an addendum.
3. **Withdrawal from the Agreement**

Either contractual party may withdraw from the Agreement if the other party materially breaches its contractual obligations in spite of having been notified of this in a demonstrable manner (by registered letter).

If the entitled contractual party sets a substitute (additional) period for the other party to fulfil its obligation, the right to withdraw from the Agreement shall arise only after the expiry of that period in vain. This does not apply if the other party states within this period that it will not fulfil its obligation. In that case, the entitled contractual party may withdraw from the Agreement even before the expiry of the additional performance period, upon receipt of the declaration of the other contractual party.

The Purchaser is also entitled to withdraw from the Agreement without prior written notice:

1. if the Seller is in default on the delivery of the Equipment for more than 30 calendar days; and/or
2. if it is determined that the parameters of the Equipment do not correspond to the requirements of the Purchaser specified in the Procurement Documents or the Seller’s tender; and/or
3. if it is determined that the Equipment that is the subject of performance is not new, is used, pledged, borrowed, leased or otherwise legally defective, and infringes on the rights of third parties under a patent or other forms of intellectual property; and/or
4. where the Seller indicated in its tender submitted for the Public Contract specified in the Preamble of this Agreement information or documents which do not correspond to the facts and if this had or could have had an effect on the outcome of the procurement procedure; and/or
5. if insolvency proceedings are commenced pursuant to the Act No. 182/2006 Coll., on Bankruptcy and Methods of Its Resolution, as amended, the subject of which will be the bankruptcy or impending bankruptcy of the Seller, the Seller is obliged to inform the Purchaser of this fact without delay, no later than 7 calendar days from the day of initiation of the proceedings; and
6. in case the Purchaser is not granted a previously promised subsidy from the Operational Program Research, Development and Education or the subsidy is reduced.

Withdrawal from this Agreement shall be in writing and shall take effect on the date of the delivery of this written notice to the other party.

In the event of withdrawal from of this Agreement, the contractual parties shall settle their mutual obligations and receivables set out by law or in this Agreement, within 30 calendar days of the legal effects of the withdrawal or within an agreed period.

Termination of this Agreement by withdrawal from the Agreement or by another manner shall be without prejudice to the right to contractual penalties and compensation for damages and to other obligations, which by their nature survive the termination of this Agreement.

**4. Subsequent impossibility of performance**

The obligation shall expire due to the impossibility of performance if the debt becomes unpayable after the establishment of the obligation (Section 2006 et seq. of CC).

**5. Termination or expiration of the Agreement**

With the termination or expiration of the Agreement, all obligations of the contractual parties arising from the Agreement shall cease to exist. Termination or expiration of the Agreement shall not extinguish claims to compensation of damages, the payment of contractual penalties agreed in the case of breach of contractual obligations, and those obligations of the contractual parties which survive by virtue of the Agreement, their nature, or statutory provision.

**IX.**

**Concluding provisions**

1. In matters not explicitly addressed in this Agreement, the rights and obligations of the contractual parties shall be governed by the relevant provisions of generally binding legal regulations in force in the Czech Republic, in particular the CC and other legal provisions related to the subject matter of this Agreement.
2. Changes or amendments to this Agreement can only be made in the form of written amendments which are agreed by both parties, are numbered in an ascending order, and which shall become integral parts of the Agreement.
3. All text documents submitted by the Seller to the Purchaser in the performance of this Agreement must be submitted in Czech or English.
4. The Seller is not entitled to assign a claim arising from this Agreement to a third party without the prior written consent of the Purchaser.
5. Any disputes which the contractual parties are unable to resolve through amicable settlement will be settled by the court having subject-matter and local jurisdiction in relation to the Purchaser.
6. This Agreement shall be executed in one counterpart in electronic form.
7. If, for any reason, any provision of this Agreement is found to be invalid, that fact will not invalidate the entire Agreement. In such a case, the contractual parties are obliged to replace the invalid clause with a new valid one that will accord with the meaning and purpose of this Agreement.
8. This Agreement shall enter into force on the date of its signature by the last contractual party and take effect on the date of its publication in the Register of Contracts.
9. The contractual parties explicitly agree to the publication of this Agreement in the profile of the Contracting Authority (The Purchaser) according to PPA and in the Register of Contracts in accordance with the Act No. 340/2015 Coll., on Special Conditions for the Effectiveness of Certain Contracts, the Public Disclosure of These Contracts.
10. The Purchaser undertakes to ensure the publication of the Agreement through a Register of Contracts in accordance with the Act on a Register of Contracts.
11. **GDPR:** By signing this Agreement, the Seller, as a data subject, confirms that the Purchaser, as a data controller, has fulfilled an obligation to inform it, in the meaning of the provisions of Section 11 of the Act No. 110/2019 Coll., on the Personal Data Processing Act, as amended, concerning, in particular, the scope, purpose, method, and places of the processing of the data of the data subject, and the possibilities of their handling, as well as the processor. By signing this Agreement, the Seller agrees to the processing of personal data. The consent to the processing of personal data is voluntary and the Seller may at any time withdraw it in full or in part. In the event of withdrawal of consent by the Seller, the Purchaser will no longer process the personal data, except that for which the Seller does not require the Purchaser´s consent, according to the law.
12. The contractual parties declare that they have read this Agreement, and that it has been negotiated after mutual deliberation, according to their free will, certainly, seriously, and comprehensibly, in witness whereof the authorized representatives of the contractual parties affix their handwritten signatures.
13. The following appendices form an integral part of this Agreement:

Appendix 1: Technical Specification

Appendix 2: Technical Data Sheet of the Equipment Offered/Brochure/Detailed Technical Description.

Appendix 3: List of Subcontractors

In Prague, on see October 12, 2020

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For the Purchaser

**doc. Ing. Pavel Hrubeš, Ph.D., Dean of the Faculty**

In Wakefield, on October 2, 2020

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For the Seller

**Mr. Ian A. Carpenter**