

Biotechnologický ústav AV ČR, v. v. i.  
 Place of business: Průmyslová 595, 252 50 Vestec  
 IČO: 86652036  
 DIČ: CZ 866520360  
 Represented by: prof. Ing. Bohdan Schneider, CSc., DSc., director  
 hereinafter referred to as the “buyer”

SELLER:	<b>Xtal Concepts GmbH</b>		
Represented by:	Dr. Annette Eckhardt	Position:	Managing Director
Registered seat at:	Schnackenburgallee 13, 22525 Hamburg	Reg. No.:	HRB 122 799
Mailing address:	Schnackenburgallee 13, 22525 Hamburg	VAT No.:	DE283010880
Registered in:	Hamburg, Germany	Account number:	Haspa Hamburg, BIC: HASPDEHHXXX IBAN: DE33 2005 0550 1002 1199 21
VAT payer	YES		

hereinafter referred to as the “seller”

## THE PURCHASE AGREEMENT

Seller's contract number AG-202103-01

Buyer's contract number<sup>1</sup>

### A. Special part

<b>Description of goods</b>	<p><b>New and unused in drop DLS.</b> Absolute (minimum) technical requirements:</p> <ol style="list-style-type: none"> <li>The instrument is able to measure dynamic light scattering in solutions of biomolecules in crystallization plates of regular format (SBS format). It is able to measure also in Terasaki plate format.</li> <li>The instrument is able to measure dynamic light scattering in drop; the smallest volume that can be analyzed is not more than 0.5 µl.</li> <li>The instrument is able to identify particles of sizes in range at least from 1 nm to 1 µm.</li> <li>The instrument is able to work in visible light and take micrographs of drops of individual experiments.</li> <li>The instrument is able to take micrographs of individual experiments in UV spectral region, optimized for protein crystal detection.</li> <li>The instrument enables automatic long-term measurements (the maximum duration of automated measurement is at least 24 h).</li> <li>The instrument provides resulting data for individual measurements and time lapse in a graphical format and in format enabling data processing by independent software.</li> <li>The instrument includes the controlling computer and operating software enabling the proper use of the instrument and the analysis of data obtained.</li> <li>The instrument is able to work at various operation temperatures, in range at least from 10 to 30 °C.</li> </ol> <p>Further definition of the goods specified in the Annex 1 (Technical list of the goods (made by the seller))</p>		
<b>Subject of the contract</b>	<p><b>by the seller</b></p> <ul style="list-style-type: none"> <li>Transfer of ownership of the goods to the buyer</li> <li>Delivery to the place of delivery</li> <li>Demonstration of the functionality of goods</li> <li>Handover of documents</li> <li>Providing necessary training with acquired goods</li> <li>Warranty Service</li> </ul> <p><b>by the buyer</b></p> <ul style="list-style-type: none"> <li>Receipt of the goods at the point of delivery</li> <li>Payment of the purchase price</li> </ul>		
<b>Delivery date</b>	<b>Not later than 10 weeks after order</b>	<b>Place of delivery</b>	- Průmyslová 595, 252 50 Vestec, Czech Republic
<b>Purchase price without VAT</b>	EUR 59.500,00		
<b>Payment of invoices</b>	30 days after delivery	<b>Basic terms of payment</b>	On the invoice must be: <ul style="list-style-type: none"> <li>- Number of this contract</li> <li>- Project No. CZ.02.1.01/0.0/0.0/18_046/0015974</li> </ul>

<sup>1</sup> To be added manually by the buyer before signing the contract. In case of electronic signature of the contract, the buyer shall state the contract number in the name of the contract.

<b>The warranty period</b>	<b>12 months</b>	<b>Removal of defects warranty</b>	Software issues within 30 working days. Hardware issues – a fixed documented plan for removal of defects within 15 working days. Removal of defects within 60 working days (or sooner if possible)
<b>Place of removal of defects</b>	Průmyslová 595, 252 50 Vestec, Czech Republic	<b>Contact for notification of warranty defects</b>	support@xtal-concepts.de
<b>Annexes</b>	-Technical list of the goods (made by the seller)		
Post-warranty service including	<ul style="list-style-type: none"> <li>- elimination of post-warranty defects within 60 working days of notification for the usual price at the place and time</li> <li>- availability of spare parts for the instrument and their delivery within 10 weeks of ordering for the usual price at the time and place</li> </ul> Post-warranty service is provided for a period of at least 48 months from the end of the warranty period.		
The seller hereby declares that at the time of concluding this contract, the following administrative proceedings are being conducted against him for breach of the obligations arising from labour law regulations and / or the anti-discrimination law/regulations <sup>2</sup> .		NO PROCEEDINGS CONDUCTED	
<b>Terms of sanctions</b>	<ul style="list-style-type: none"> <li>- For delay with payment of financial performance interest on late payment 0.1 % of the owed amount (inc. VAT) for each day of delay</li> <li>- For delay in delivery of goods a penalty of 0.1 % of the purchase price (inc. VAT) for each day of delay</li> <li>- For delay in removing reported warranty defects 0.3 % of the purchase price (inc. VAT) for each failure to cure the defect and for each day delay</li> <li>- For delay in remedying the defect stated in the handover protocol CZK 3000 for each day of delay and each defect               <ul style="list-style-type: none"> <li>- For the falsity of the statement concerning administrative proceedings for breach of obligations arising from labour law regulations and / or from the anti-discrimination law/regulations in the amount of CZK 5,000 for each individual case.</li> </ul> </li> </ul> <p>The Contracting party will not be considered as delayed if it is not possible to fulfill obligations due to COVID-19-pandemic related issues and delays, e.g. prohibition of crossing the borders. The contracting party is obliged to:</p> <ol style="list-style-type: none"> <li>1. inform the other contracting party ASAP about this situation;</li> <li>2. prove related issued/delay;</li> <li>3. prove direct context between related issue/delay and the delay of the delivery.</li> </ol> <p>The buyer is entitled to withdraw from the contract, if the delay of the delivery is longer than 6 months.</p>		
<b>Project name</b>	Upgrading Czech Infrastructure for Integrative Structural Biology		

<sup>2</sup> Especially the Charter of Fundamental Rights of the European Union and/or European Convention on Human Rights

## **B. General part**

This part regulates detailed conditions of the purchase contract. The Part A defines basic conditions of this contract. In the event of any conflict between the Part A and the Part B of this contract, the part A has precedence.

### **I. Introductory provisions**

- 1) The seller must deliver the new and unused goods and provide services associated with the delivered goods. If the contract is concluded on the basis of a selection or an award procedure the goods must have product properties and parameters required by the buyer in the tender conditions. Goods must fulfil the stated purpose. If the purpose is not expressly stated, it must fulfil the purpose which is determined by the way the goods are generally used.
- 2) The goods delivered contrary to the paragraph 1 of this Article shall be deemed defective.

### **II. Invoicing and payment terms**

- 1) The purchase price includes all costs and profit of the seller. The purchase price includes, banking and other fees, transport and installation of the goods, putting into a permanent operation, removal of packing material, an operator training and the buyer's costs for warranty service. The purchase price is fixed and complete and includes complete delivery.
- 2) The buyer shall pay the purchase price after receiving the goods and documents necessary for the operation of a device and the signature of the protocol of delivery and acceptance of goods, and possibly even signature of the protocol of installation, on the basis of an invoice (the "*invoice*") with a maturity specified in the Part A of this contract that shall begin upon the delivery of the Invoice to the buyer.
- 3) The date of payment of the purchase price shall be considered the day on which the amount is debited from the account of the buyer to the seller's account stated on the invoice. The invoice must be in accordance with the generally binding legal regulations and according to the part A of this contract, shall contain the maturity date according to this contract and its annexes must contain a copy of the installation protocol signed by both parties. Should the invoice contain incorrect information or be incomplete, the buyer is entitled to return it to the seller for a revision or an amendment. In this case, a new maturity period runs from the date of delivery of the corrected invoice to the buyer. The text of the invoice must state that the charged performance is provided for the purposes of the "Upgrading Czech Infrastructure for Integrative Structural Biology" project, Reg. No. CZ.02.1.01/0.0/0.0/18\_046/0015974, within the Operational Programme Research, Development and Education (OP RDE).
- 4) In case of a risk that the buyer could be liable for unpaid VAT in the sense of § 109 of the VAT Act, the buyer is entitled to pay VAT to the deposit account according to § 109a of the VAT Act.

### **III. Terms of delivery and transfer of title**

- 1) The seller delivers the goods with proper accessories. Accessories especially means installation material, assembly jigs, connectors, jumper cables, user codes, passwords, etc.
- 2) A protocol about delivery and acceptance of the goods (hereinafter the "*acceptance protocol*") shall be drawn up and signed after the delivery and acceptance of the goods. The acceptance Protocol must include, among other things, information about the frequency and method of revisions. If there is a seller's responsibility to install the product, there shall be drawn up and signed an installation protocol by both parties about the installation of goods, commissioning and testing.
- 3) The buyer is obliged to accept the goods only if it is free of defects. The buyer is entitled to refuse defective goods. Should the buyer accept the goods with defects, the acceptance protocol shall state the defects and set a deadline for their removal. By taking over the goods with defects, the buyer loses the right to a contractual penalty for delay in delivery of the goods. The seller shall be entitled to the payment of the price and the guarantee shall begin to run only after the removal of all defects of the goods and the signature of the final handover protocol.
- 4) The seller agrees to deliver to the buyer the documents necessary for the proper use of the goods, for example appropriate approval certificates, declarations of conformity, instructions for usage and operation, assembly and installation instructions.
- 5) Risk of damage to the goods passes to the buyer upon signing the installation protocol. If there is not an obligation of the seller to install the goods, risk of damage passes to the buyer upon signing the acceptance protocol.
- 6) If the seller is required to install the product, the installation shall be completed immediately after the delivery of goods and without undue delay. The seller is obliged to perform the installation with professional care and warn the buyer about risks associated with the placement of goods. The seller is obliged to refuse an installation of the goods if the conditions specified by the manufacturer or by generally binding legal regulations for its implementation are not met. At the request of the seller, the buyer will sign the installation protocol after the installation. Such protocol is not a proof of receipt of the goods nor considers a reason for invoicing the purchase price.
- 7) If the seller is obliged to train operators, he must do so upon delivery, unless the parties agreed otherwise. The buyer is obliged to provide the seller with the necessary cooperation, in particular to determine the persons who shall participate in the training and ensure their participation in the training.
- 8) The buyer is entitled to take over the partial performance. The seller will have the right to receive payment of partial performance, if so provided in the handover protocol. The amount of the price for partial performance may not exceed the amount corresponding to the ratio of the handed over part to the total part. Upon receipt of the partial performance, a deadline will be set for the delivery of the remaining performance. Such period may not exceed 30 days.

#### **IV. Guarantee of quality (warranty)**

- 1) The seller provides the buyer a guarantee of quality (warranty) for the period specified in the Part A. The guarantee (warranty) begins upon the signing of acceptance protocol.
- 2) The seller guarantees that the product will have the usual characteristics or properties stated by the contract during the guarantee period.
- 3) Warranty service is provided free of charge by the seller and includes all costs associated with the warranty service, especially the costs of spare parts, travel and labour services of a technician.
- 4) The buyer announces warranty defects to the contact for notification of warranty defects or seller's authorized person referred to in the Part A of this Contract. Seller shall start examining and working on the removal of the claimed defects after the receipt of the notice of defects without undue delay. If the seller will not be able to remove the defects within the period of time provided for removal of warranty defects set out in the Part A of this Contract, the seller will provide and deliver an adequate replacement device or devices that functionally replace the defective goods, until the defective goods are repaired and put into operation.
- 5) If the warranty defects are removed by the seller according to the part A, the buyer sends notice along with the goods.
- 6) The warranty period does not run as long as the buyer cannot use the goods for its defects, for which is the seller accountable.
- 7) The warranty does not cover damage to the goods caused by an improper or incorrect installation or an incorrect operation contrary to the instructions given in the operating instructions, or an inadequate storage contrary to its technical characteristics.
- 8) The buyer is entitled to withdraw from the contract if he cannot deliver the notice of defects to the seller.
- 9) If the seller is in default with the removal of warranty defects, the buyer has the right to withdraw from the contract after providing an additional reasonable time for removal of defects.
- 10) In the event that the warranty defect is not repairable, the buyer is entitled to withdraw from the contract or to request the delivery of new goods.
- 11) In the case of an unjustified notice of defects the buyer pays the costs of removing defects.
- 12) The buyer has the right for the removal of defects even if the defects were knowable during the contract closure.
- 13) The warranty period does not run for the period when the warranty defect is being removed, starting with the notification of the warranty defect and ending with the return of the repaired goods to the buyer. If new goods are handed over to the buyer instead of repairs, the warranty period for these new goods continues. The continuing warranty shall run for at least half of the warranty period agreed upon in this contract.

#### **V. Responsible public procurement**

- 1) The seller declares that he is aware of the fact that the buyer is interested in realization of the public contract in accordance with the principles of socially responsible public procurement. The principles of environmentally responsible procurement and innovation are elaborated both in the wording of the entire tender documentation and in this contract. This article regulates socially responsible public procurement.
- 2) The seller is obliged to notify the buyer that a public authority (especially the State Labor Inspection Authority or regional inspectorates, the Regional Hygiene Station, etc. or another similar body abroad) has initiated proceedings against him for breach of labour law and / or anti-discrimination law/regulations, if during the duration of this contractual relationship, no later than 10 days from the delivery of the notice of proceedings initiation. The seller's notice will also include information on the date of delivery of the notice of commencement of proceedings.
- 3) The seller is obliged to hand over to the buyer a copy of the final decision terminating the proceedings in the matter pursuant to the previous paragraph of this Article, no later than 7 days from the date on which the decision takes legal effect. Simultaneously with a copy of the final decision, the seller shall provide the buyer with information on the date of the decision's entry into force.
- 4) In the event that the seller is convicted of a misdemeanour, administrative offense or other similar infringement within the proceedings initiated pursuant to this Article, the seller is obliged to take corrective measures and inform the buyer in writing about these, including their implementation.
- 5) For the duration of this contractual relationship, the buyer is entitled to ask the administrative authorities competent to control compliance with labour law and / or the anti-discrimination law/regulations whether administrative proceedings are being conducted with the seller regarding breaches of labour law and / or anti-discrimination law/regulations and all information concerning such proceedings.
- 6) Breach of the obligation specified in this article is a breach of contract with all the resulting consequences.

#### **VI. Final negotiations**

- 1) Contract's penalties are set out in the Part A of this contract. Contracting party is not obliged to pay a contractual penalty if the breach of duty assigned to it by this contract was caused by force majeure.
- 2) If the goods or its part meet the criteria of a copyrighted work, the seller transfer to the buyer even the non-exclusive license to all types of usage of such work without the restrictions of time or spatial constraints. The buyer is not obligated to use the work. The price of the license is included in the purchase price.
- 3) Individuals who enter into this agreement on behalf of each Party signing the contract claim that they are entitled to make a valid contract.
- 4) The seller is not entitled without the prior written consent of the buyer to assign any rights or duties arising from this contract to a third party.
- 5) This contractual relationship should be governed by these documents with descending importance:
  - a) This contract;
  - b) Annexes to this contract;
  - c) Call for tenders;

d) Offer of the seller;

e) General terms and conditions of the seller.

- 6) The seller hereby undertakes the risk of a change in circumstances within the meaning of Section 1765 (2) of the Act No. 89/2012 Coll., the Civil Code.
- 7) This Contract can only be modified by numbered amendments in writing signed by both Parties.
- 8) The buyer excludes the possibility of accepting new contract or variation to the contract or addition to the contract.
- 9) The seller acknowledges that the buyer is obliged to publish all contracts including its annexes and any amendments if the price of performance is greater than 50 000 CZK without VAT. The seller agrees that the buyer discloses the contract pursuant to the Act No. 340/2015 Coll. or/and also according to the Act No. 134/2016 Coll. as a whole, because there is no information in the contract which disclosure would be an unlawful interference with the rights and obligations of the seller or its employees. The seller agrees that the contract will be disclosed.
- 10) This Contract shall enter into force upon a signature by both parties. This contract shall enter into effect upon publication of the contract pursuant to the Act No. 340/2015 Coll.
- 11) The Parties agree that the rights and obligations of this agreement shall be governed by the Civil Code of the Czech Republic.
- 12) This contract has two counterparts, the seller will receive one and the buyer will receive one.
- 13) The Contracting Parties declare that they have read this Agreement, and that it was made after mutual negotiation using their free, serious, determinate and comprehensible will, not in distress or grossly disadvantageous conditions.

In Vestec 29. 06. 2021

In Hamburg date 07.06.2021

Buyer:

Seller:

.....  
prof. Ing. Bohdan Schneider, CSc., DSc. director

.....  
Dr. Annette Eckhardt  
Managing Director  
XtalConcepts GmbH

## Annex No. 1: Technical list of the goods (made by the seller)

### SpectroLight 610

In-plate non-invasive dynamic light scattering system with integrated white light and UV imager for hanging drops, sitting drops and other applications.

DLS and Imaging system for all classic applications in sub- $\mu$ l volumes including:

#### Operation modi

- long time and repeated sample studies due to stored measurement coordinates per droplet (no time limit)  
(in fulfillment of topic 6 of the description of goods in the contract)
- Automatic scanning with unique drop centering (unique drop location algorithm)
- White light imaging  
(in fulfillment of topic 4 of the description of goods in the contract)
- UV light imaging  
(in fulfillment of topic 5 of the description of goods in the contract)
- 

Sample Container: single plate in SBS formats (adapter for Terasaki plates included)  
(in fulfillment of topic 1 of the description of goods in the contract)  
additional formats (e.g. capillary) with special adaptor

Sample Properties: minimum droplet volume about 0.5  $\mu$ L in automated mode  
(in fulfillment of topic 2 of the description of goods in the contract)

particle sizes from 1 nm to 6  $\mu$ m  
(in fulfillment of topic 3 of the description of goods in the contract)

Control PC: PC mounted on 24" display (incl. mouse and keyboard)  
(in fulfillment of topic 8 of the description of goods in the contract)

Proprietary LINUX based SpectroLight control software and LIMS relational database software with GUI for analysis and viewing of results, export functionality of measurement data and results  
(in fulfillment of topic 7 of the description of goods in the contract)

DLS system: Laserdiode 660 nm / 100 mW  
Detector: photomultiplier, dark count rate < 300 Hz, Quantum efficiency 5 to 7%  
Correlator: Sample times from 400 ns to 30 s

Imaging System: built-in microscope, CCD colour camera (1600x1200 px)

Illumination: bright light - integrated white light LED  
UV light - Additional Mercury Arc light

Operation Temperature: range 5 to 55°C (+/- 15°C above or below ambient temperature)  
(in fulfillment of topic 9 of the description of goods in the contract)

Hardware Table top system 650 mm x 270 mm x 450 mm (LxWxH)  
Weight approx.. 20 kg  
Power consumption 115 to 230 V, 100 W