

SUPPLY PURCHASE CONTRACT

concluded on the day, month and year indicated below in accordance with the provisions of Section 2085 et seq. of Act No. 89/2012 Coll., Civil Code, as amended (hereinafter referred to as the “**Civil Code**”), based on the **results of the tendering procedure** (hereinafter referred to as the “**tendering procedure**”) conducted by the Buyer as a simplified below-threshold procedure pursuant to Section 53 of Act No. 134/2016 Coll., on Public Procurement

between the following Parties:

Ústav fyziky plazmatu AV ČR, v. v. i.

Registered office: U Slovanky 2525/1a, 182 00 Prague 8

Company ID No.: 61389021

Tax ID No.: CZ61389021

Person authorised to represent the contracting authority: prof. RNDr. Radomír Pánek, PhD, Director

Bank details: ČSOB a.s.

Account number: 101256398/0300; IBAN: CZ89 0300 0000 0001 0125 6398, SWIFT: CEKOCZPP

Data mailbox: “zipnqqk”

(hereinafter referred to as the “**Buyer**”)

and

Micro-LAM, Inc.

Registered office: Micro-LAM, Inc.

Company ID No.: 801997583

Tax ID No.: 82-0657903

Represented by:

Bank details: Comercia Bank

Account number: 1853864633

SWIFT (BIC): MNBDUS33

Data mailbox: NA

(hereinafter referred to as the “**Seller**”)

(hereinafter collectively referred to as the “**Parties**” or each of them individually as the “**Party**”)

I. Introductory provisions

1. The Parties acknowledge that the scope and content of the mutual rights and obligations arising from this Contract shall be governed by the valid and effective laws of the Czech Republic, in particular the Civil Code.
2. The Seller acknowledges that by participating in the tender, it claims to be a member of a particular status or profession for specialised performance or otherwise acts as an expert and, in accordance with the provisions of Section 2950 of the Civil Code, shall indemnify the Seller for damage caused by incomplete or incorrect information or harmful advice given in return for remuneration in a matter of their expertise or skill.

3. On the basis of the public tender called **Laser assistance for SPDT**, the Seller submitted, in accordance with the procurement conditions of the public contract, a bid dated 29th of July, 2024 (hereinafter referred to as the "Bid"), which was selected as the most suitable for the performance of the public contract in accordance with the basic evaluation criterion of the lowest bid price. The Seller thus became the selected supplier for the above-mentioned procurement procedure. In connection with fact, the Parties have agreed to conclude this Contract.
4. The Seller acknowledges that the Buyer considers the Seller's participation in the public contract, subject to the fulfilment of the qualification requirements, as confirmation of the fact that the Seller is able, within the meaning of Section 5(1) of the Civil Code, to act with the expertise and care associated with their profession or status in the performance of this Contract, on the understanding that any failure to exercise such professional care will be to their detriment. The Seller may not abuse its quality as an expert or its economic position to create or exploit the dependence of a weaker party and to achieve an obvious and unjustified imbalance in the mutual rights and obligations of the Parties.
5. The Seller acknowledges that the Buyer is not an entrepreneur in relation to the subject of this Contract.
6. For the implementation of the purchase/performance under this Contract, the bid of the Seller submitted in the procurement procedure shall be binding in addition to this Contract.
7. Both Parties declare that this Contract is subject to Czech law and is concluded in accordance with the relevant provisions of the Civil Code in force on the date of conclusion of this Contract.
8. The Seller is the exclusive owner of the goods, the specification and quantity forms Annex No. 1 to this Contract and is an integral part hereof. The Seller declares that the supplied goods are new and unused.

II. Subject of performance

1. The purpose of this Contract is the proper and timely delivery of the goods under the condition of subsequent complete delivery of the goods in the type, quantity, technical parameters and quality (hereinafter referred to as the "goods") in accordance with the specification, which is attached as Annex No. 1 to this Contract and No. 2 to this Contract.
2. The Seller undertakes to hand over to the Buyer, under the conditions agreed in this Contract, the subject of purchase specified in this Contract and to transfer the ownership right to the Buyer at the moment of handing over the subject of purchase. On the basis of this Contract, the Seller sells the above-mentioned goods for a mutually agreed purchase price into the ownership of the Buyer. The Seller undertakes to transfer to the Buyer the ownership of the goods, the Buyer undertakes to accept the goods free of defects and to pay the agreed purchase price to the Seller.
3. The subject of performance under this Contract includes:
 - a) the goods shall be delivered including all accessories necessary for their operation, according to Annexes No. 1 to this Contract;
 - b) transport covered with insurance (risks, responsibility, etc.) related to delivery and transport and the payment of other fees related to transport, if any. Transport and related costs are subject to the Incoterms Delivered at Place (DAP) terms and conditions;
 - c) delivery of manuals for operation in printed and data form on a data medium in the English language;
 - d) the prescribed documents (i.e. data sheets) and certificates, and the delivery note;
 - e) training of the Buyer's personnel in the operation of the goods;
 - f) free warranty servicing.

The Buyer requires that the goods meet the quality requirements according to the agreed terms and that they be accompanied by documents that will sufficiently prove their origin and other parameters according to the applicable standards, law regulations, technical conditions and quality documents according to Czech and European ČSN and EN standards.

4. The costs associated with the delivery of the goods, in particular transport and packaging, including any insurance associated with delivery and transport and including any other fees associated with removal, shall be borne by the Seller. The costs associated with the acceptance of the shall be borne by the Buyer. The Seller undertakes to provide the delivery and warranty certificates and related documentation to the extent provided by the manufacturer, e.g. manuals, data sheets, etc., together with the goods.
5. The Seller declares that the delivered goods are new and unused. All components of the goods shall be new (i.e. not refurbished, etc.) and shall be delivered in working and perfect condition, shall be unused, unpledged, unaltered, unrented, unencumbered by leases or other legal defects and shall not infringe on the rights of third Parties to any patent or other form of intellectual property.
6. The Seller is obliged to comply with the applicable technical standards and ecological requirements and to use environmentally friendly packaging when performing the subject of the Contract. The Seller is obliged to take back all packaging delivered with the goods, to recycle or reuse the packaging in an appropriate manner, or to dispose of it in an environmentally friendly manner.
7. For environmental reasons (to reduce the carbon footprint of transport), the Seller is obliged to use the maximum capacity of the vehicle used to transport the goods to the place of performance, given the volume of delivery carried by one vehicle.

III. Seller's guarantee

1. The Seller declares that it is the owner of the delivered goods and that there are no material or legal defects.

IV. Time, place, manner and quality of performance

1. The Seller agrees to deliver the goods within **5 months** after the contract's effectiveness. At the same time, the Seller points out that this Agreement, in compliance with Czech law, shall enter into effect as of the day when it is disclosed through the register of contracts.
2. The place of delivery is the customer's address: Sobotecká 1660, 51101 Turnov
3. The Parties shall draw up a handover report(s) on the takeover of the goods including the handover of manuals and all other related documentation, which shall be signed by authorised representatives of both Parties. Unless otherwise agreed, the Seller shall compile a handover report and send it signed by e-mail to the Buyer's authorised representative. After checking the correctness of the delivery (scope of delivery, appropriate quality of goods, apparent integrity), the Buyer shall sign the protocol received by e-mail and send it back to the Seller by e-mail. The Parties shall sign the protocol by a simple (manual) signature and send the signed protocol to the other party in scanned PDF format by e-mail. If the contracting party has an electronic signature, it shall sign the protocol with an electronic signature.
4. The risk of damage to the goods or even only partial performance thereof and the ownership right to them passes to the Buyer at the moment of mutual signing of the handover protocol according to clause 3 of this article.
5. The Seller is obliged to notify in writing the Buyer's authorised employee, specified in this Contract or otherwise disclosed to the Seller, of the date of delivery of the goods or even only partial performance thereof, always at least 5 working days before the date of delivery.
6. The Buyer is authorised not to accept the goods if the Seller fails to deliver the goods, in particular if the Seller fails to deliver the goods in the agreed quantity, technical condition and quality, or if the goods have obvious defects, or are damaged or broken, or if the Seller fails to provide the necessary documentation, including the arrangement of other requirements in accordance with the provisions of Article IV of this Contract.
7. The Buyer is not obliged to accept the goods that have defects and deficiencies, even if these defects and deficiencies alone or in combination with others would not prevent the proper use of the goods. If the Buyer does not exercise its right not to accept the goods showing defects and

deficiencies, the Seller and the Buyer shall list the identified defects and deficiencies in the handover protocol, including the method and date of their removal.

8. The Parties reserve the possibility of extending the delivery date due to force majeure or circumstances caused by other unexpected circumstances which occurred without the fault of either Party and which prevent the performance of the Contract within the agreed time. In this case, the delivery date may be extended by the number of days for which the subject of the Contract could not be performed for the reasons stated above.

V. Price and payment terms

1. The Buyer agrees to pay for the complete delivery of the Device to the Seller the purchase price in the amount of:

EUR 180.000,00 in total excl. VAT

VAT separately in EUR 21.600,00

EUR 201.600,00 in total incl. VAT

2. The Seller is authorised to demand payment of VAT in accordance with the relevant legislation.
3. The amount shall be paid as follows:
 - a) The amount of 30% of the Purchase price excluding VAT will be paid after the signature of this Agreement based on the Seller's issued advance invoice.
 - b) The amount of 60% of the Purchase price excluding VAT will be paid after successful Factory Acceptance Test (FAT) based on the Seller's invoice.
 - c) The amount of 10% of the Purchase price will be paid after the signature of the acceptance protocol with no reservations by representatives of both contracting parties and after the training of the Buyer's personnel based on the Seller's invoice.
4. The invoice is due within 30 calendar days from the date of delivery of the invoice to the Buyer. The invoice must meet all the requirements of a tax and accounting document according to the applicable legislation, otherwise the Buyer is authorised to return it to the Seller for correction, even repeatedly. In such cases, the maturity period shall not commence until the date of delivery to the Buyer of the corrected invoice containing all the requirements for a tax and accounting document in accordance with applicable law. The invoice must state:
 - trade name / name and registered office of the Buyer,
 - tax identification number of the Buyer,
 - trade name / name and registered office of the Seller,
 - tax identification number of the Seller,
 - registration number of the tax document,
 - title of the delivery
 - scope and subject matter of performance,
 - date of issue of the tax document,
 - date on which the performance was carried out or the date on which payment was received, whichever is the earlier, if different from the date of issue of the tax document,
 - price of performance,

The invoice shall always be accompanied by a mutually confirmed written handover protocol compiled in accordance with clause 3 of Article IV of this Contract.

5. To avoid any doubt, the Parties state that the purchase price referred to in clause 1 of this article is the **full price**, meaning the price for the complete delivery, which includes transport, any exchange rate differences, packaging and possible disposal thereof, documents for the goods or even partial performance thereof and all other costs of the Seller necessary to fulfil its obligations

under this Contract. The purchase price cannot be increased in any way, except in the case of a change in the VAT rate.

6. In the event that the Buyer pays the price for the delivery from various financial sources, the Seller
7. If the Buyer fails to pay the purchase price, or any part thereof, within the deadlines specified in this Contract, the Buyer shall pay the Seller default interest on the outstanding amount at the statutory rate until the amount is paid, unless the Buyer proves that the delay in payment of the purchase price was caused by the delayed release of funds by the provider of the grant, earmarked public funds or other support for the Buyer's activities as a research organization from public funds.
8. The Seller is obliged to ensure the proper and timely fulfilment of financial obligations towards its subcontractors, no later than 10 working days after receipt of payment of the price from the Buyer. The Seller undertakes to pass on the same obligation to the next levels of the supply chain and to oblige its subcontractors to fulfil and disseminate this obligation also to the lower levels of the supply chain.

VI. Sanctioning arrangements

1. If the Seller delays with the delivery of the goods beyond the deadline under clause 1 of Article IV of this Contract, it is obliged to pay to the Buyer a contracting penalty in the amount of EUR 80 per each started day of delay in the first two months of delay and EUR 100 per each started day of delay in the following months of delay, unless the parties agree explicitly otherwise, while the maximum total amount of the agreed contracting penalty shall not exceed 15% of the purchase price of the Device hereunder.
2. If the Seller fails to meet the deadline for commencing defect removal set forth in this Contract or the handover protocol or agreed by the Parties, it is obliged to pay the Buyer a contractual penalty of EUR 60 per each started day of delay, even if only commenced day of delay, unless the parties agree explicitly otherwise.
3. The provisions on contractual penalties do not affect the Buyer's right to compensation of damages to the extent that the value of damages exceeds the value of the contractual penalty, caused by the breach of obligations, or to withdraw from the contract.
4. The contractual penalty is payable within 30 (thirty) days from the date of delivery of a written request for payment to the Seller. The Buyer is authorised to offset its receivable on the grounds of the contractual penalty against the Seller's due or outstanding claim receivable for payment of the purchase price.

VII. Warranty and servicing conditions

1. The Seller is responsible for defects that the Device has at the moment when it is delivered and also for defects discovered in the course of the entire duration of the guarantee period. The Seller guarantees that, in the course of the guarantee period, the device shall have properties laid down in this Agreement, applicable legal regulations or standards or usual properties, if applicable, i. e. the Seller shall repair the Device or the individual parts thereof gratis under the below conditions if he is properly notified of the defect in the Device. Guarantee period for the subject matter of performance shall be 12 months. The guarantee period shall start as of the moment when the acceptance protocol (or the last part thereof) is signed.
2. The described warranty does not apply to damage to the goods caused by the Buyer using the goods in contravention of the Seller's provided instructions, manuals, or failure to carry out the prescribed maintenance.
3. Complaints shall be made by the Buyer pursuant to clause 8 of this article by telephone to the number below, provided that within 2 working days at the latest they shall also be reported via e-mail or electronically by e-mail to the address below, without undue delay after the Buyer has discovered the defect.

4. Unless the Parties expressly agree otherwise, the Seller is obliged to undertake expert intervention within 10 working days to eliminate defects in the goods or even only partial performance thereof detected during the warranty period by the Buyer. The Seller is then obliged to remove these claimed defects within a reasonable deadline set by the Buyer or agreed by the Parties.
5. If it turns out that the defect in the goods is irremovable, the Seller undertakes to deliver to the Buyer without undue delay, at the latest within 30 days unless otherwise agreed, replacement goods of the same quality and parameters that were agreed for the subject of performance under this Contract free of charge.
6. The warranty period is automatically extended by the period from the time when the defect is reported until the repair is carried out.
7. Reports of defects, claims and breakdowns are accepted by the S [REDACTED]
[REDACTED]
8. During the warranty period, the Seller is obliged to respond adequately to the reported defect within 5 working days from the date of reporting the defect, either by telephone, e-mail or personal visit of the Seller's technician.
9. The rights and obligations under the provided warranty shall not expire with respect to the goods delivered to the Buyer, even in the event of withdrawal from the Contract by either Party.
10. Liability claims are without prejudice to claims for compensation of damages or contractual penalties.

VIII. Miscellaneous provisions

1. The Seller, as a party obliged to cooperate in the performance of financial inspection pursuant to Section 2(e) of Act No. 320/2001 Coll., on financial inspection in public administration and on amendments to certain acts (Act on Financial Inspection), as amended, hereby undertakes, in accordance with the instructions of the Buyer and with all necessary professional care, to cooperate in the performance of financial inspection conducted in connection with the payment of goods or services from public expenditure. The Seller shall also ensure that this obligation applies to any subcontractors of the Seller.
2. The Seller is obliged to maintain confidentiality towards third parties about all facts that it has learned during the implementation of this Contract and in connection therewith, especially those that are protected by the relevant generally binding legal regulations (especially trade secrets, personal data, classified information) or that the Buyer has declared confidential. The nondisclosure obligation shall survive the termination of this Contract. The Seller undertakes to ensure the fulfilment of this obligation by all its employees or other persons used by the Seller for the implementation of this Contract.
3. The Seller shall not be entitled to assign any claim arising from this Contract to a third party without the written consent of the Buyer.
4. The Seller agrees to the publication of the contents of the Contract or its parts in accordance with Act No. 106/1999 Coll., on free access to information, as amended, in particular the obligation of the Buyer to provide information on the price of the goods and the name and registered office of the Seller.
5. The Seller is aware that the Buyer may publish this Contract on its contracting authority profile, including all amendments and attachments, the amount of the price actually paid after completion of the delivery and a list of any subcontractors of the Seller, and all similar information as required by law. The Seller is obliged to provide the Buyer with the necessary assistance in accordance with this provision.
6. The Seller agrees that the disclosure (provision) of the above-mentioned information under the above-mentioned laws is not considered a violation of trade secrets and hereby expressly consents to its disclosure.

7. With regard to the obligations of the Buyer arising in particular from the PPA and Act No. 340/2015 Coll., on special conditions for the effectiveness of certain contracts, publication of these contracts and on the contracts register (Act on the Contracts Register), the Seller agrees to publish all information relating to the binding relationship established between the Seller and the Buyer by this Contract, in particular the actual content of this Contract.
8. The Buyer has authorised the following to act in matters of this Contract:
Name: [REDACTED]
9. The Seller has delegated the negotiation:
Name: [REDACTED]
10. Notification of the other Party via e-mail with a request for confirmation of delivery (unless otherwise agreed by the Parties) within 3 calendar days of the date of change shall be sufficient to change the authorised employees.
11. The Seller is required to meet all the qualification requirements directly related to the performance of this Contract that were demonstrated in the prior procurement procedure throughout the term of the Contract. The Seller is obliged to submit the documents proving the fulfilment of the above qualification requirements within 15 calendar days from the date of receipt of a written request from the Buyer.

IX. Termination and withdrawal, force majeure

1. The Parties may terminate the Contract:
 - a) by written agreement,
 - b) by withdrawal from the contract for reasons stipulated in the Contract or by law.
2. A Party is authorised to withdraw from the Contract in the event of a material breach of contractual obligations by the other Party.
3. Withdrawal from the Contract must be justified, effectuated in writing and delivered to the other Party at its address according to the Contract or via data mailbox, with the consequences of withdrawal *ex tunc*, unless the Parties agree otherwise.
4. The following cases (each individually) in particular are considered to be a material breach of Contract:
 - a) The Seller does not perform the contract at all or does not perform it properly, especially not to the required extent and quality, whereas any of the following shall be considered poor performance of the contract, and thereby a reason for withdrawal from the Contract by the Buyer: (i) failure to comply with the additional deadline for elimination of defects or deficiencies, (ii) repeated failure to accept takeover of the subject of performance due to defects or deficiencies therein, (iii) repeated acceptance of takeover of the subject of performance with reservations due to defects or deficiencies therein,
 - b) The Seller delays with the handing over of the subject of the Contract or part thereof (i.e. partial performance) by more than 30 (thirty) calendar days,
 - c) The Buyer is repeatedly in delay in payment of the price for the subject of the Contract or part thereof (i.e. partial performance) by more than 30 (thirty) days after the maturity date of individual invoices,
 - d) The Seller grants, transfers or assigns its rights and obligations under this Contract to a third party without the prior written consent of the Buyer.
5. The Buyer also has the right to withdraw from the Contract if:
 - a) The Seller ceases to meet the qualification requirements set forth by the Buyer in the procurement documentation, the level of qualification demonstrated in the tender, or fails to provide evidence of its qualification at the Buyer's request during the term of the Contract which

shows that it continues to meet those qualifications,

- b) It is apparent from the Seller's conduct or from circumstances of an objective nature that the Seller will be unable to perform its obligations, including but not limited to the Seller's failure to have the necessary authorisations, permits, expertise and practical experience necessary to properly perform the subject of the Contract, or if the subject of the Contract will not be performed exclusively by persons with appropriate professional qualifications,
 - c) The consequences of force majeure within the meaning of clause 9 of this article on the part of the Seller last longer than 90 days,
 - d) Insolvency proceedings are initiated against the Seller under the Insolvency Act or similar proceedings, the subject of which will be the Seller's bankruptcy or impending bankruptcy, or if bankruptcy is declared on the Seller's property, or the Seller enters into liquidation,
 - e) The Buyer is entitled to withdraw in the case of withdrawal from the Contract without undue delay after the Buyer discovers that the Contract should not have been concluded because the selected Seller submitted data, documents, samples or models prior to the awarding of the public contract that did not correspond to reality and should or could have influenced the selection of the seller,
 - f) The Buyer does not receive the earmarked subsidy or part thereof to finance the subject of performance of this Contract from the Project or it is withdrawn, unpaid or otherwise reduced in whole or in part,
 - g) If the Seller repeatedly (consistently) violates the laws, regulations, technical standards and norms of the Czech Republic or other countries, which it has undertaken to comply with in this Contract.
6. The Party authorised to withdraw from this Contract may withdraw in full or only with respect to certain partial performance.
7. Withdrawal from the Contract does not affect the contractual provisions of the Parties regarding contractual penalties and compensation of damages; these provisions shall survive the termination of the Contract.
8. Neither Party shall have any claim for penalties against the other Party by reason of a breach of obligations under this Contract by the other Party, if such breach is caused by an incident of force majeure that prevents that Party from performing any of its obligations under this Contract. Force majeure under this Contract is considered to be an obstacle that has arisen independently of the will of the obliged Party and prevents it from fulfilling its obligation, if it cannot reasonably be assumed that the obliged Party could have averted or overcome this obstacle or its consequences, and furthermore that it could have foreseen this obstacle at the time of concluding this Contract.
9. Circumstances of force majeure which exclude liability are those obstacles which have arisen independently of the will of the Party and which prevent the fulfilment of the obligation of that Party, provided that the obliged Party cannot reasonably be expected to be able to overcome the obstacle or to avert its consequences (circumstances such as wars, mobilisations, insurrections, natural disasters, pandemics, etc. are considered force majeure). Liability cannot be precluded by obstacles which arose after the obliged Party was in delay in performing its obligations or which arose in connection with its economic situation. The effects precluding liability shall be limited to the period during which the obstacles causing the effects persist.
10. Should a situation arise which a Party could reasonably consider to be an incident of force majeure and which could affect the performance of its obligations under this Contract, that Party shall promptly notify the other Party and shall exert reasonable efforts to continue to perform the subject of the Contract. At the same time, this Party shall inform the other Party of any proposals, including alternative methods of performance, but shall not proceed to such alternative performance without the consent of the other Party.

11. A Party affected by circumstances precluding liability shall not be in delay in performing its obligations to the extent and for the duration of such circumstances, if it notifies the other Party without undue delay of the existence of such circumstances.

X. Final provisions

1. Should any provision of this Contract be or become illegal, invalid or unenforceable in any respect, the legality and enforceability of the remaining provisions of this Contract shall not be affected or impaired thereby. The Parties undertake to replace any such illegal, invalid or unenforceable provision with a new provision that best corresponds to the meaning to the illegal, invalid or unenforceable provision.
2. The Parties undertake to resolve any disputes arising from this Contract primarily amicably. If, however, no amicable settlement of a dispute arising from this Contract is reached, the court with jurisdiction to settle such dispute shall be the court of jurisdiction based on the Buyer's registered office pursuant to the law. All disputes shall be governed by Czech law.
3. This Contract may be amended and supplemented only by written, numbered amendments signed by the authorised representatives of both Parties, except for changes in the authorised employees pursuant to Article VIII hereof, which may be carried out in the manner specified in paragraph 11 Article VIII hereof. All amendments, which shall be designated as amendments to this Contract, shall be an integral part hereof.
4. All documents delivered in accordance with this Contract shall be delivered to the addresses set forth in the header of this Contract or to such other addresses as may be disclosed in writing to the other Party, unless otherwise expressly provided in this Contract. Where an instrument giving notice of the performance of a particular legal act is to be delivered under this Contract, such instrument shall be deemed to have been delivered on the date of its receipt by the addressee. If such a document is sent by registered mail and if there is no proof of its receipt by the addressee, it shall be deemed to have been delivered, or the legal effects of the notified legal act shall take effect, on the third day after it is sent again in the manner specified, unless the law provides otherwise in a particular case. When documents are delivered via a data mailbox, the document - data message is delivered at the moment when the authorised person logs into the data mailbox. If the authorised person does log in within 10 days from delivery of the data message, the data message is deemed to have been delivered.
5. This Contract was made out in English and executed in one electronic counterpart.
6. This Contract comes into validity upon its signing by authorised representatives of both Parties. This Contract then becomes effective either on the date of its conclusion or on the date determined by the relevant law applicable to this Contract, since at the time of its conclusion it was deemed to become effective on the date of its entry in the contracts register.

Annex No. 1: Minimum Technical Parameters (submitted by Seller)

Annex No. 2: Technical documentation

Buyer:

Prague dated

Seller:

Portage dated

Institute of Plasma Physics
of the Czech Academy of Sciences, v. v. i.
prof. RNDr. Radomir Pánek, PhD, Director

Micro-LAM, Inc.