**PURCHASE AGREEMENT FOR TNA SERVICES**

This Purchase Agreement is made by and between:

BBMRI-ERIC, based in Neue Stiftingtalstraße 2/B/6, 8010 Graz, Austria represented by XXXXXXX

Hereinafter referred to as the „TNA Budget Holder”

and

MASARYK MEMORIAL CANCER INSTITUTE (The Bank of Biological Material), based in Žlutý kopec 7 656 53 Brno, Czech Republic represented by Biobank Director and LRI Principal Investigator, XXXXXXX

Hereinafter referred to as the “Service Provider”

Hereinafter also collectively referred to as the „Parties” or individually as a „Party”.

**PREAMBLE**

The Parties agree on this Purchase Agreement within the framework of “canSERV project” (Grant Agreement ID: 101058620). canSERV is an EU-funded project under the Horizon Europe programme that provides cutting edge, interdisciplinary and customised oncology services across the entire cancer continuum. The aim is to offer a comprehensive portfolio of oncology-related research services available to all scientists in EU member countries, associated countries and beyond. canSERV brings together world-class European life science research infrastructures (BBMRI, EURO-BIOIMAGING, ELIXIR, EU-IBISBA, EuroPDX, EU-OPENSCREEN, Instruct, EATRIS, INFRAFRONTIER, EMBRC, ECRIN, EATRIS, MIRRI, ARIE, CCE, EORTC, and IARC) key organisations in the field of oncology, project management and sustainability experts.

canSERV makes transnational access services available through two mechanisms: open calls, and challenge driven calls. Cutting-edge transnational services are always provided according to the content of the respective call. Transnational access allows researchers (users, applicants) free of charge access to services (equipment, expertise, resources) offered by the canSERV consortium members. Transnational access can be in person (physical access) or remote. All services provided by canSERV Service Providers will be available to researchers across the EU member and associated countries to enhance research excellence and give equal user access opportunities to cutting edge cancer services.

Access will be through a single, user-friendly, intuitive, and fast-reactive Transnational and virtual Access (TNA) platform: Common Access Management System (CAMS). The TNA will be built on existing access tools and further developed as an overarching service integration platform providing service pipelines across RIs.

The Parties agree as follows:

1. **DEFINITIONS**

Any word(s) or expression(s) appearing in the Purchase Agreement shall have the meaning described to them in the provisions.

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| **Grant Agreement** | canSERV project has received funding from the European Union’s Horizon Europe research and innovation programme under Grant Agreement ID: 101058620. |
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| **Purchase Agreement**  |

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| The terms and conditions of this Agreement including its Annex(es). |

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| **Service Provider** | Legal entity who owns the installation where services covered by this agreement shall be implemented for Users within the framework of the canSERV project. |
|  |  |
| **Trans-National Access** or **TNA** | The access to services provided by Service Providers to Users following TNA application process as outlined in the Grant Agreement ID: 101058620, upon the conditions as determined by the Service Provider(s) in accordance with the European Charter of Access for Research Infrastructures[[1]](#footnote-2), subject to the relevant terms and conditions as set out in the Consortium Agreement and the Grant Agreement. |
| **TNA Budget Holder**  | Legal entity that as Beneficiary of the Grant Agreement is responsible for managing and allocating financial resources to enable conduct of user projects at a service provider’s research infrastructure installation in execution of the TNA programme under the Grant Agreement. |
|  |  |
| **User** | Any individual or group of individuals, in academia and industry, that has access to and uses Service Provider’s services. Terms and Conditions for Users between User(s) and Service Provider(s) shall govern the relationship between User(s) and Service Provider(s).  |

1. **PURPOSE OF THE PURCHASE AGREEMENT**

The purpose of this Purchase Agreement is to define the relationship between TNA Budget Holder and the Service Provider. canSERV Consortium makes the services of the Service Providers available in the canSERV catalogue(s), it invites applications by external Users of these services, and it organises the selection procedure for User’s requests.

The purpose of the present document is to set forth the financial coverage of TNA delivery by consortium-external Services Providers, including the terms and conditions for reimbursement to Service Provider’s TNA costs by respective TNA Budget Holder Beneficiary.

This Purchase Agreement is not intended, and nothing contained herein shall be deemed to create any partnership, agency or joint venture amongst the Parties.

1. **SERVICES PROVIDED BY THE SERVICE PROVIDER**

The types and delivery of services provided by the Service Provider(s)’ installation(s) are described under the following hyperlink: <https://www.directory.canserv.eu/> The list of services provided by the Service Provider is annexed to this Purchase Agreement (Annex 1 to this Purchase Agreement).

The Service Provider shall conclude an agreement with the User specifying the Service to be provided in line the description which is applicable to this Purchase Contract. Furthermore, the agreement between the Service Provider and the User must clearly specify that the TNA Budget holder provides no warranty and/or liability related to the Service.

1. **FINANCIAL PROVISIONS**

**4.1 Price and cost methodology, deviations**

**Price and cost calculation for services** provided by the Service Provider **is described as Annex 2 to this Agreement.**

For the cost calculations, it was specified in the Grant Agreement that TNA Budget Holders (who are Beneficiaries to the Grant Agreement) declare their eligible cost for direct cost (other than personnel) and personnel cost either (a) as a unit cost for providing transnational access, (b) as cost actually incurred, or (c) as a combination of unit cost and actual cost. In case of combination of unit cost and actual cost, only cost categories and cost items that have not been used in the unit cost calculation may be reimbursed on an actual cost basis. These calculations are attached to this agreement as part of Annex 2.

Changes in relation to the cost calculation methodology and the estimated cost (only unit cost) need to be approved as follows:

If a user requests a service, TNA cost estimations will be checked with the Service Provider by the Coordination Team before approval as part of the feasibility check, which is part of the evaluation process.

1. Deviations from the cost calculation methodology will be indicated to the TNA Budget Holder, who aligns with the canSERV Coordination Team, who will inform the Project Officer and get her/his approval or rejection.
2. Deviation from estimated cost (above 15%) shall also be indicated by the service provider to the TNA Budget Holder/the canSERV Coordination Team. Deviation from estimated cost (below 15%) shall be approved by the TNA Budget Holder.

**4.2 Eligible costs**

The access costs may be declared as unit costs, actual costs or — under certain conditions — as a combination of the two. The service reimbursed can include the following types of eligible costs as listed in 4.2.1. and 4.2.2.

**4.2.1. Eligible costs in case of unit cost calculation methodology**

If the access costs are calculated as unit cost, they must fulfil the following general eligibility conditions and the specific conditions as follows[[2]](#footnote-3):

**Direct costs for providing access can only include:**

1. Costs of contracts for maintenance and repair (including specific cleaning, calibrating and testing) specifically awarded for the functioning of the installation (if not capitalised).
2. Costs of consumables specifically used for the installation and the research work of the users.
3. Costs of contracts for installation management, including security fees, insurance costs, quality control and certification, upgrading to national and/or EU quality, safety and security standards (if not capitalised) specifically incurred for the functioning of the installation.
4. Costs of energy power and water supplied for the installation.
5. Costs of general services when included in the provided access services (library costs, shipping costs).
6. Costs of software licence, internet connection or other electronic services for data management and computing when they are needed to provide access services,
7. Costs of specific scientific services included in the access provided or needed for the provision of access.

Indirect cost for providing access to the installation equal to 25% of the direct costs referred to above*.*

But excluding:

1. All contributions to the capital investment of the infrastructure (including rental, lease or depreciation costs of buildings as well as depreciation and lease of instrumentation.) Those cost are not eligible, unless otherwise specified in the Work programme, in which case only the portion used to provide access under the action can be eligible.
2. Ineligible costs as listed in Article 6.3 of the Grant Agreement (Annex 3 to this Purchase Agreement).

Other categories of eligible costs, including the travel and subsistence costs to support the visit of users, shall be reimbursed on the basis of eligible cost actually incurred.

Personnel cost for the provisions of access can only include costs of administrative, technical and scientific staff directly assigned to the functioning of the installation and to the support of the Users.

**4.2.2. Eligible costs in case of actual cost calculation methodology**

If the access costs are calculated as actual costs, they must fulfil the g*eneral eligibility conditions and the specific conditions for the type of cost in question (e.g. costs for other goods and services must also fulfil the specific eligibility conditions for the cost category C.3 Other goods, works and services).*

Capital investments (i.e., equipment costs for renting, leasing, purchasing depreciable equipment, infrastructure or other assets) will NOT be reimbursed.

No indirect cost shall apply for services provided under the actual cost calculation methodology.

**4.3. Providing data about the services**

The Service Provider provides regular information to TNA Budget Holder about the services provided through the CAMS, as soon as the platform is accessible for the Service Provider.

The units of access for the various installations are specified in Annex 2 of these Purchase Agreement. A unit of access is specified between the parties regardless of whether the access costs are declared as unit cost or actual costs.

**4.4. Invoice and payment**

The invoice must describe each type of service rendered, the proposal identifier (PID) and access identifier (VID) and can only contain reimbursable expenses in accordance with Paragraph 4.2. The total amount due for payment must be clearly included on the invoice. The invoiced quantity of access (no. Units) must match the amount of access recorded in the CAMS. The invoice must show evidence that there is no profit included in the invoiced services. The respective documentation and supporting calculation and documents (timesheets, etc) must be provided by the Service Provider to the TNA budget holder (beneficiary) in case of an audit to prove eligibility and non-profit rule.

Invoices together with a delivery confirmation of the service/s are to be submitted to the address specified by the TNA Budget Holder after approved services have been properly completed in line with the relevant service description. Invoices must be sent within sixty (60) days of completion of the access.

Invoices shall be verified and approved by the TNA Budget Holder [and](https://www.lawinsider.com/clause/payment-terms) subject to routine processing requirements. Incomplete or incorrect invoices are not acceptable and will be returned to the Service Provider for correction.

1. **Horizon Europe rules governing TNA**

Although Service Provider is not third party to the Grant Agreement, the Service provider shall prove that the Service provider acts in line with i) providing correct cost methodology, ii) applying non-profit rules and iii) declaring only eligible cost upon request of the beneficiary.

Therefore, Parties must comply with the Horizon Europe rules governing TNA annexed to this Purchase Agreement (Annex 4), especially:

1. proper implementation of the action
2. conflict of interest
3. confidentiality and security
4. intellectual property rights (IPR) – background and results – access rights and rights of use
5. communication, dissemination and visibility
6. ethics
7. specific rules for access Research Infrastructures
8. **Term**

This Purchase Agreement shall be effective upon signature and shall remain valid for a period of the canSERV project.

1. **Force majeure**

A party prevented by force majeure from fulfilling its obligations under this Purchase Agreement cannot be considered in breach of them. ‘Force majeure’ means any situation or event that:

1. prevents either party from fulfilling their obligations under this Purchase Agreement,
2. was unforeseeable, exceptional situation and beyond the parties’ control, -
3. was not due to error or negligence on their part, and
4. proves to be inevitable in spite of exercising all due diligence.

If the Service Provider is prevented from providing the services for more than three (3) months, contractual obligations and timelines may be affected, leading to potential delays or disruptions in service delivery. In this case, the TNA Budget holder shall notify the Coordination Team as soon as possible.

1. **Non-Compliance Provision - Horizon Europe Funding**

In the event that the Service Provider is found to be in breach of the Horizon Europa rules or the Financial Regulations (*e.g*: not keeping adequate records and other supporting documentation) and thereby:

1. the fund is not allocated to the TNA Budget Holder, then the Service Provider shall not receive the fund; or
2. if the fund is allocated to the TNA Budget Holder, however, the result of a possible EC audit is that the fund shall be repaid, then the Service Provider shall be liable for repayment of the funds, in whole or in part, as determined by the auditor.

**In witness whereof, the Parties have caused this Purchase Agreement to be executed by their duly authorised representatives as of the Effective Date.**

26.11.2024

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| Place and date | Representative of the TNA Budget Holder |
|  |  |
|  |  |
| 22.11.2024 |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Place and date | Representative of the Service Provider |

**Annex 1- List of services provided by the Service Provider**

**Annex 2 – Cost calculation of service in accordance with the canSERV Grant Agreement (if available)**

TNA sheet or Link to the cost calculation methodology defined for the project (e.g. WP10)

**Annex 3 - I****neligible costs as listed in Article 6.3 of the Grant Agreement**

**Annex 4 – Horizon Europe rules governing TNA**

**Annex 5 - Delivery confirmation of the service/s**

**Annex 1-**

 **List of services provided by the Service Provider**

|  |  |  |  |
| --- | --- | --- | --- |
| Application | Approved Service | Service Provider | Maximum Estimated Total Cost |
| **2980** | **10.5\_BBMRI Providing access to 1200 samples/data sets from biobanks across Europe** | **Masaryk Memorial Cancer Institute (The Bank of Biological Material)** | **11,951.10** |

**Annex 2 - Cost calculation of service in accordance with the canSERV Grant Agreement (if available)**

**Amount Requested and Cost Breakdown**:

Nepodléhá uveřejnění dle § 3 odst. 1 zákona č. 340/2015 Sb., o registru smluv, ve znění pozdějších předpisů – obchodní tajemství

**Annex 3- Ineligible costs and contributions as listed in Article 6.3 of the Grant Agreement**

**According to Article 6.3 of the Grant Agreement, the following costs and contributions are ineligible:**

(1) costs or contributions that do not comply with the conditions set out above, in particular:

1. costs related to return on capital or dividends paid by a beneficiary
2. debt and debt service charges
3. provisions for future losses or debts
4. interest owed
5. currency exchange losses
6. bank costs charged by the beneficiary’s bank for transfers from the granting authority
7. excessive or reckless expenditure
8. deductible or refundable VAT (including VAT paid by public authorities acting as public authority)
9. costs incurred or contributions for activities implemented during Grant Agreement suspension

(2) costs or contributions declared under another EU grant (or grants awarded by an EU Member State, non-EU country or other body implementing the EU budget), except for the following cases: if the action grant is combined with an operating grant running the same period and the beneficiary can demonstrate that the operating grant does not cover any (direct or indirect) cost of the action grant

(3)costs or contributions for staff of a national (or regional/local) administration, for activities that are part of the administration’s normal activities (i.e., not undertaken only because of the grant)

(4) costs or contributions (especially travel and subsistence) for staff or representatives of EU institutions, bodies or agencies

(5) other: cost or contributions declared specifically ineligible in the call conditions.

**Annex 4 – Horizon Europe rules governing TNA**

The Parties must comply with the requirements of Horizon Europe rules governing TNA. The detailed description of the provisions can be found in [AGA – Annotated Grant Agreement](https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/guidance/aga_en.pdf) (EU Funding Programmes 2021-2027):

* **proper implementation of the action**

The action must be properly implemented, i.e., implemented in accordance with the TNA Budget Holder’s obligations laid down in the Grant Agreement. The detailed rules can be found in Art. 11 of AGA.

* **conflict of interest**

Both TNA Budget Holder and Service Provider must take all measures to prevent any situation where the impartial and objective implementation of the Purchase Agreement could be compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect interest (‘conflict of interests’). The detailed rules can be found in Art. 11 of AGA.

* **confidentiality and security**

The Parties must keep confidential any data, documents or other material (in any form) that is identified as sensitive in writing (‘sensitive information’) — during the implementation of the action. The Parties must handle classified information in accordance with the applicable EU, international or national law on classified information. The detailed rules can be found in Art. 13 and Annex 5 to AGA.

* **intellectual property rights (IPR) – background and results – access rights and rights of use**

In order to ensure a successful TNA programme, the Parties must give each other mutual access to background that is necessary for the TNA programme implementation. The detailed rules can be found in Art. 16 and Annex 5 to AGA.

* **communication, dissemination and visibility**

The Parties must promote the canSERV project’s TNA Programme and its results by providing targeted information to multiple audiences (including the media and the public) in a strategic, coherent and effective manner. The detailed rules can be found in Art. 17 and Annex 5 to AGA.

* **ethics**

Services involving activities raising ethical issues must be carried out in compliance with:

* ethical principles (including the highest standard of research integrity); and
* applicable EU, international and national law, including the EU Charter of Fundamental Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Supplementary Protocols.

The detailed rules can be found in Annex 5 to AGA.

* **specific rules for access RIs Research Infrastructures**

When implementing access to service provider’s activities, the Parties must respect the following conditions:

* access which must be provided;
* categories of users that may have access,
* procedure and criteria for selecting user groups.

The detailed rules can be found in Annex 5 of AGA.

**Delivery confirmation of the service(s)**

I hereby confirm that the below mentioned service(s) have been delivered and that quantity and quality correspond to the agreed standards.

**Name of the service provider**: …………………………………………………………..

**Call-name:** …………………………………………………………………………..

(e.g. Call for Service Provision on "Advancing Personalised Oncology")

List of services delivered:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Nr.** | **APPID** | **Service code** | **Quantity/ nr. of access** | **End date of service provision:** |
| 1 |  |   |  |  |
| 2 |   |   |  |  |
| 3 |   |   |  |  |
| 4 |   |   |  |  |
| **Name of the user**: | ..................................................................... |
| **Signature of the user**: | ..................................................................... |
| **Name & stamp of the home Institution of user**: | ..................................................................... |

1. European Commission, Directorate-General for Research and Innovation, [European charter of access for research infrastructures: principles and guidelines for access and related services](https://op.europa.eu/en/publication-detail/-/publication/78e87306-48bc-11e6-9c64-01aa75ed71a1/language-en), Publications Office, 2016. [↑](#footnote-ref-2)
2. In accordance with the [EU COMMISSION DECISION](https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/guidance/unit-cost-decision-research-infrastructures_horizon-euratom_en.pdf) authorising the use of unit costs for the costs of providing trans-national and virtual access in Research Infrastructures actions under the Horizon Europe Programme (2021-2027) and the Research and Training Programme of the European Atomic Energy Community (2021-2025). [↑](#footnote-ref-3)