

A Binding Contract Template

PURCHASE CONTRACT

entered into on the day, month and year below, pursuant to the provisions of Section 2079 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as "**Civil Code**"), by and between the following contracting parties (hereinafter referred to as "**Contract**"):

Charles University

Registered office: Ovocný trh 3 - 5, 116 36 Prague 1, Czech Republic

Corporate ID Number: 00216208

Represented by: prof. RNDr. Jan Kratochvíl, CSc., Dean of the Faculty of Mathematics and Physics

(hereinafter referred to as "**Buyer**")

and

NANOSCALE BIOMAGNETICS, S.L.

Registered office: **C/Panama 2 Local 1, Zip Code 50012, Zaragoza, Spain**

Represented by: **Nicolas Cassinelli, Director of NANOSCALE BIOMAGNETICS, S.L.**

Corporate ID Number: **B99210171**

VAT Number: **ESB99210171**

Bank details: **Banco Santander IBAN ES 03 0049 5995 0020 1614 3073 / SWIFT: BSCHESMMXXX.**

(hereinafter referred to as "**Seller**")

(the Buyer and the Seller hereinafter jointly referred to as "**Contracting Parties**")

1 SUBJECT OF PURCHASE

- 1.1 Under the terms and conditions set out herein, the Seller undertakes to supply **Analytical instrument for the study of magnetic heating processes of materials** (hereinafter referred to as "**Subject of Purchase**"), which forms an integral part hereof; and the Buyer undertakes, under the terms and conditions hereof, to pay to the Seller in return for the supply of the Subject of Purchase the purchase price pursuant to Article 2 hereof.
- 1.2 For the purposes hereof, the supply of the Subject of Purchase also means the transportation thereof to the address specified in Article 3.1 hereof, including the installation of the Subject of Purchase (if the installation is required by the Buyer), its putting into operation and the training of its operators (hereinafter referred to as "**Supply**").
- 1.3 The Subject of Purchase shall be implemented under the terms and conditions set out herein, in conformity with the outcome of the procurement procedure for the award of the above-limit public supply contract titled **„Analytické zařízení pro studium magnetického nanoohřevu materiálů/Analytical instrument for study of magnetic nanoheating processes of materials.“**, and in conformity with the contracting authority's (Buyer's) decision to award the public contract dated November 9th, 2017 (that is, in conformity with the specifications of the public contract and with the bid of the selected bidder - Seller, to the extent stipulated in the tender dossier for the public contract).
- 1.4 The Subject of Purchase shall be implemented in accordance with the tender dossier, with the bidder's (Seller's) bid, with the legal and technical requirements valid at the time of signing the Contract, and with the related regulations.
- 1.5 The Subject of Purchase and all its components will consist of new, i.e. unused things.

2 PURCHASE PRICE

- 2.1 The purchase price agreed by and between the Contracting Parties in return for the Supply of the Subject of Purchase amounts to:

1.554.000 CZK excl. VAT
VAT 21% in the amount of 326.340 CZK
1.880.340 CZK incl. VAT

(hereinafter referred to as "**Purchase Price**").

- 2.2 The Seller declares that the Purchase Price covers in full all of the Seller's costs associated with the Supply of the Subject of Purchase and with its installation and putting into operation and with the training of its operators hereunder.

3 TERMS OF SUPPLY

- 3.1 The Seller undertakes to supply to the Buyer the Subject of Purchase, and to hand over to the Buyer all the documents relating to the Subject of Purchase and necessary to take over and use the Subject of Purchase, after the conclusion of the Contract within 6 months from the day of delivery of a written call for performance from the Buyer to the Seller, unless agreed otherwise by and between the Contracting Parties; a written call is also a call in electronic form.
- 3.2 The place of supply of the Subject of Purchase means the following address: Ke Karlovu 5, 120 00 Praha 2, Czech Republic.
- 3.3 The Seller undertakes to supply to the Buyer all the items of the Subject of Purchase within the scope of a single supply. The Buyer is not obliged to accept partial supplies of the individual items of the Subject of Purchase.
- 3.4 The Seller is obliged to notify the Buyer of the exact date of the Supply of the Subject of Purchase not less than 48 hours in advance, failing which the Buyer is not obliged to take over the Subject of Purchase.
- 3.5 Regarding the handover and takeover of the Subject of Purchase, a **Handover and Takeover Report** shall be executed by the authorized persons.
- 3.6 The ownership right to the Subject of Purchase, as well as the risk of damage to the Subject of Purchase, shall pass over to the Buyer as at the moment of takeover of the Subject of Purchase - that is, upon the signing of the **Handover and Takeover Report** by the authorized persons pursuant to Article 8.

4 TERMS OF PAYMENT

- 4.1 The Seller may invoice the Buyer for the Supply of the Subject of Purchase on the basis of the **Handover and Takeover Report** signed by the authorized persons.
- 4.2 The price shall be paid by the Buyer on the basis of an invoice issued by the Seller. This invoice must contain all the elements of a tax invoice in accordance with Act No. 235/2004 Coll., on value added tax, as amended, and shall be accompanied by the Handover and Takeover Report pursuant to Article 3.6 hereof, signed by the authorized persons specified in Article 8 hereof.
- 4.3 The invoice shall be payable within 3 calendar days following the day of its delivery to the Buyer. The day on which the Buyer's account has been debited with the invoiced amount shall be regarded as the day of settlement of the relevant invoice.
- 4.4 The Buyer reserves the right to return to the Seller, within the date of its maturity, a tax invoice (invoice) which should not contain all the information required under the binding regulations of the Czech Republic or hereunder, or which should contain incorrect information (with a specification of the missing elements or incorrect information), or which should not be accompanied by the aforementioned Handover and Takeover Report signed by the authorized persons specified in Article 8. In such case, the maturity period of the tax invoice (invoice) shall only commence upon the delivery of the duly corrected tax invoice (invoice) to the Buyer.

5 DEFECTS IN THE SUBJECT OF PURCHASE, AND WARRANTY PERIOD

- 5.1 The Seller declares that the Subject of Purchase is free from any factual or legal defects whatsoever.
- 5.2 The Seller provides the Buyer with warranty for the quality of the Subject of Purchase to the extent of **twenty-four** months. In respect of all the items of the Subject of Purchase, the warranty period pursuant to the previous sentence shall commence on the day of takeover of the Subject of Purchase by the Buyer. In the case of partial supplies, the warranty period in respect of all the items of the Subject of Purchase shall only commence on the day of takeover of the last partial supply of the Subject of Purchase by the Buyer.
- 5.3 The Buyer is hereunder not obliged, upon the takeover or as soon as possible after the takeover of the Subject of Purchase from the Seller, to inspect the same in order to detect defects in the Subject of Purchase. The Contracting Parties have agreed that the exclusion of this obligation, as well as of the other obligations of the Buyer pursuant to the provisions of Sections 2104, 2105 and 2112 of the Civil Code, shall be without prejudice to the Seller's liability for all the defects in the Subject of Purchase claimed with the Seller by the Buyer at any time during the warranty period, and without prejudice to the Seller's obligation to eliminate such defects pursuant to Article 5.4.
- 5.4 For the duration of the warranty period pursuant to Article 5.2, the Seller undertakes to eliminate, free of charge, any and all defects in the Subject of Purchase, at all times within a reasonable time limit stipulated by the Buyer or agreed by and between the Contracting Parties.

6 PENALTIES

- 6.1 If the Seller should breach its obligations to supply the Subject of Purchase pursuant to Article 1.1 and Article 1.2 hereof within the deadline pursuant to Article 3.1 hereof, the Seller shall be obliged to pay to the Buyer a contractual fine in an amount equal to 0.1 % of the purchase price, for each commenced day of the default.
- 6.2 If the Buyer should be in default with the payment of the purchase price in return for the Subject of Purchase, the Seller may charge to the Buyer default interest amounting to 0.05 % of the outstanding amount, for each commenced day of the default.
- 6.3 If the Seller should breach its obligation to eliminate any defect in the Subject of Purchase within the time limit specified in Article 5.4 hereof, the Seller shall be obliged to pay to the Buyer a contractual fine in an amount equal to 0.05 % of the purchase price, for each commenced day of the default.
- 6.4 The payment of any contractual fine hereunder shall be without prejudice to the Buyer's right to compensation of the damage incurred in full.

7 TERMINATION OF THE CONTRACT

- 7.1 This Contract may be prematurely terminated solely by agreement between both Contracting Parties, or by the Buyer's withdrawal in accordance with this article.
- 7.2 The Buyer may withdraw from this Contract, if the Seller should be in default with the supply of the Subject of Purchase for a period of more than 30 days as against the date agreed in Article 3.1 hereof, and if the Seller should fail to rectify the situation even within 10 days following the delivery of the Buyer's written notice.
- 7.3 Withdrawal from the Contract shall be effective as at the moment of delivery of a written notice of withdrawal from the Contract, to the Seller by the Buyer.
- 7.4 Termination of this Contract shall be without prejudice to the provisions relating to contractual fines, and to the provisions relating to such rights and obligations the nature of which implies that they are to survive the termination of the effectiveness hereof.
- 7.5 The implementation of the Subject of Purchase hereunder is conditional on the provision of support from the Operational Programme "Research, Development and Education". Non-

provision of this support to the Buyer by the Ministry of Education, Youth and Sports of the Czech Republic constitutes a condition subsequent (resolutive condition) hereof.

8 AUTHORIZED PERSONS

- 8.1 The communication between the Contracting Parties shall be conducted, in particular, by the following authorized persons, accredited personnel or statutory representatives of the Contracting Parties:
- a) The Buyer's authorized person is _____, tel.: _____, e-mail: _____
 - b) The Seller's authorized person is _____ telephone: _____ e-mail: _____
- 8.2 The authorized persons (unless they are the statutory body) are not authorized to amend, supplement or cancel this Contract, unless they present a power of attorney granted to them for this purpose by the persons authorized to act externally for the relevant Contracting Party in matters relating hereto. The Contracting Parties may unilaterally alter the authorized persons, but are obliged to notify the other Contracting Party of such an alteration without delay in writing.
- 8.3 Any and all claims, notifications, requests, transfers of information, etc. (hereinafter referred to as "**Communication**") between the Contracting Parties hereunder must be executed by the relevant Contracting Party in written form and delivered to the other Contracting Party in person, by registered mail, or via e-mail using a recognized electronic signature.

9 OTHER PROVISIONS

- 9.1 The liability for damage to the Subject of Purchase, or to a part thereof, shall be borne by the Seller in full until the day of handover and takeover of the entire Subject of Purchase. The Seller is obliged to compensate the Buyer in full for any damage arisen at the moment of the Supply of the Subject of Purchase, except when the damages are caused by handling and/or operation by the Buyer's staff.
- 9.2 The Contracting Parties have agreed that none of the Contracting Parties may assign the rights and obligations hereunder to a third party without the explicit written consent of the other Contracting Party.
- 9.3 The Seller is an entity obliged to co-act in the exercise of financial control carried out in connection with the payment for goods or services from public expenditure pursuant to Section 2(e) of Act No. 320/2001 Coll., on financial control in public administration and amending certain legislation, as amended.

10 COMMON AND FINAL PROVISIONS

- 10.1 If any obstacle should occur such as, in particular,
- (i) the Buyer's default with the provision of cooperation conditioning the Seller's performance;
 - (ii) circumstances excluding liability pursuant to Section 2913(2) of the Civil Code, etc.;
- which might, in any manner whatsoever, affect the dates of supply of the Subject of Purchase, the Seller shall be obliged to notify the Buyer of such an obstacle in writing, not later than within five (5) calendar days following the moment of occurrence of the obstacle. If the Seller should fail to notify the Buyer of the obstacles in writing within the said 5 days' time limit, any and all of the Seller's rights associated with the existence of the relevant obstacle shall cease to exist - in particular, the Seller shall not be entitled to any postponement of the dates of supply of the Subject of Purchase.
- 10.2 The Contracting Parties undertake to cooperate with each other and to provide each other with any and all cooperation necessary in supplying the Subject of Purchase hereunder. The

Contracting Parties are obliged to notify each other of any and all facts which are or might be relevant to the performance hereof.

- 10.3 In supplying the Subject of Purchase, the Seller is obliged to act with due professional care and in conformity with the Buyer's instructions.
- 10.4 With the exception of altering the authorized persons pursuant to Article 8.2 hereof, any and all changes and amendments of this Contract may be made solely on the basis of a written supplement hereto, signed by both Contracting Parties.
- 10.5 This Contract is governed by the laws of the Czech Republic.
- 10.6 The Contracting Parties undertake that any dispute arisen hereunder or in connection herewith shall be preferentially resolved in an amicable manner, if possible within thirty (30) days following the day on which one Contracting Party has notified the other Contracting Party of the dispute. Otherwise, the ordinary courts of the Czech Republic shall be competent to resolve any disputes arisen hereunder.
- 10.7 If any provision hereof should be - or in future become - invalid, ineffective or unenforceable, or if it should be found such by a competent authority, the other provisions hereof shall remain valid and effective, unless the nature of such a provision or the content thereof or the circumstances in which it has been entered into, imply that the provision is inseverable from the other content of this Contract. The Contracting Parties undertake to replace an invalid, ineffective or unenforceable provision hereof by another provision, the content and meaning of which best corresponds to the original provision and to this Contract as a whole.
- 10.8 The Contracting Parties declare that the facts contained herein are not regarded by them as trade secret within the meaning of Section 504 of the Civil Code, and grant hereby consent to the use and disclosure of such facts without stipulating any other conditions.
- 10.9 This Contract will come into force on the day of its signing by both Contracting Parties. This Contract will be mandatorily published in the register of contracts pursuant to the Act No. 340/2015 Coll., on special conditions of effectiveness of certain contracts, the publication of these contracts and the registry of contracts (act on the registry of contracts), as amended. The Contracting Parties agree that this Contract will be published through the registry of contracts by the Charles University, Faculty of Mathematics and Physics. The Contract becomes effective not earlier than on the day of its publication in the registry of contracts.
- 10.10 The Contracting Parties declare that they have read this Contract, that they consent to its content and, in witness thereof, they append their signatures hereunder.

In Prague, on 4. 12. 2017

Buyer:

prof. RNDr. Jan Kratochvíl, CSc.
Dean of the Faculty of Mathematics
and Physics

In Zaragoza, on November 21th 2017

Seller:

Nicolas Cassinelli
Director of NANOSCALE
BIOMAGNETICS, S.L.