

## Purchase Contract

(hereafter the “Contract”)

### 1. CONTRACTUAL PARTIES

#### 1.1 Fyzikální ústav AV ČR, v. v. i.,

with seat: Na Slovance 1999/2, 182 21 Praha 8,  
represented by: RNDr. Michael Prouza, Ph.D., Director,  
Registered in the register of public research institutions of the Ministry of Education, Youth and Sports of the Czech Republic.

Bank: [REDACTED]  
Account No. IBAN: [REDACTED]; SWIFT (BIC): [REDACTED]  
ID No.: 68378271  
Tax ID No.: CZ68378271

(hereinafter the “Buyer”)

and

#### 1.2 ABL & E Handelsgesellschaft m.b.H.,

with seat: Kettenbrückengasse 20, A-1040 Wien, Austria,  
represented by: Dr. Andras Benkö, Managing Director under commercial law (Geschäftsführer  
gewerberechtlich),  
registered in Austria, Handelsgericht Wien.

Bank: [REDACTED]  
Account No. IBAN: [REDACTED]; SWIFT (BIC): [REDACTED]  
ID No. (Firmenbuch Nr.): 141109p  
Tax ID No.: ATU40040308

(hereinafter the “Seller”),

(the Buyer and the Seller are hereinafter jointly referred to as the “Parties” and each of them individually as a “Party”).

## **2. FUNDAMENTAL PROVISIONS**

- 2.1 The Buyer is a public research institution whose primary activity is scientific research in the area of physics, especially elementary particles physics, condensed systems, plasma and optics.
- 2.2 The Buyer wishes to acquire the subject of performance hereof – UV-VIS spectrometer with accessories – in order to measure transmission and reflectance spectra of liquid samples and thin film layers in the UV-VIS region; the subject of performance will be used for specialized scientific research activities at high professional level.
- 2.3 The documentation necessary for the execution of the subject of performance hereof consist of:
- 2.3.1 Technical specifications of the subject of performance hereof attached as **Annex No. 1** hereto.
- 2.3.2 The Seller's Quotation which forms **Annex No. 2** hereto.
- In the event of a conflict between the Contract's Annexes the technical specification / requirement of the higher level / quality shall prevail.
- 2.4 The Seller declares that he has all the professional prerequisites required for the supply of the subject of performance under this Contract, is authorised to supply the subject of performance and there exist no obstacles on the part of the Seller that would prevent the Seller from supplying the subject of this Contract to the Buyer.
- 2.5 The Seller acknowledges that the Buyer considers him capable of providing performance under the Contract with such knowledge, diligence and care that is associated and expected of the Seller's profession, and that the Seller's potential performance lacking such professional care would give rise to corresponding liability on the Seller's part. The Seller is prohibited from misusing his qualities as the expert or his economic position in order to create or exploit dependency of the weaker Party or to establish an unjustified imbalance in the mutual rights and obligation of the Parties.
- 2.6 The Seller acknowledges that the Buyer is not in connection to the subject of this Contract an entrepreneur and also that the subject of this Contract is not related to any business activities of the Buyer.
- 2.7 The Seller acknowledges that the production and delivery of the subject of performance within the specified time and of the specified quality, as shown in Annexes No. 1 and 2 of this Contract (including the invoicing), is essential for the Buyer. If the Seller fails to meet contractual requirements, it may incur damage of the Buyer.
- 2.8 The Parties declare that they shall maintain confidentiality with respect to all facts and information, which they learn in connection herewith and / or during performance hereunder, and whose disclosure could cause damage to either Party. Confidentiality provisions do not prejudice obligations on the part of the Buyer arising from valid legislation.

## **3. SUBJECT-MATTER OF THE CONTRACT**

- 3.1 The subject of this Contract is the obligation on the part of the Seller to deliver and transfer into the Buyer's ownership:

the UV-VIS spectrometer with accessories (hereafter the "**Equipment**")

and the Buyer undertakes to take delivery of the Equipment and to pay to the Seller the agreed upon price.

- 3.2 The following activities form an integral part of the performance to be provided by the Seller:
- 3.2.1 Transport of the Equipment incl. all accessories specified in Annexes 1 and 2 of the Contract to the place and handover, un-packaging and control thereof,
  - 3.2.2 Installation of the Equipment including connection to installation infrastructure at the site;
  - 3.2.3 Execution of the acceptance tests;
  - 3.2.4 Delivery of instructions and operating manuals of the Equipment in English language to the Buyer, in electronic and hardcopy (printed) versions,
  - 3.2.5 Training of operators at the site (at least 1-hour training of 3 operators);
  - 3.2.6 Warranty service,
  - 3.2.7 Ensuring out-of-warranty and post-warranty service,
  - 3.2.8 Provision of technical support in the form of consultations.
- 3.3 The subject of performance (Equipment) is specified in detail in Annexes No. 1 and No. 2 hereto.
- 3.4 The Seller shall be liable for the Equipment and related services to be in full compliance with this Contract, its Annexes and all valid legal regulation, technical and quality standards and that the Buyer will be able to use the Equipment for the defined purpose. In case of any conflict between applicable standards it is understood that the more strict standard or its part shall always apply.
- 3.5 The delivered Equipment and all its parts and accessories must be brand new and unused.

#### **4. PERFORMANCE PERIOD**

- 4.1 The Seller undertakes to deliver, install and handover the Equipment to the Buyer by 31 May 2018 at the latest.
- 4.2 The performance period shall be extended for a period during which the Seller could not perform due to obstacles on the part of the Buyer.

#### **5. PURCHASE PRICE, INVOICING, PAYMENTS**

- 5.1 The purchase price is based on the Seller's submitted bid and amount to **15.368,- €** (in words: --one-five-three-six-eight- Euros and 00 Cents) excluding VAT (hereinafter the "**Price**"). VAT shall be paid by the Buyer and settled in accordance with the valid Czech regulation.
- 5.2 The Price represents the maximum binding offer by the Seller and includes any and all performance provided by the Seller in connection with meeting the Buyer's requirements for the proper and complete delivery of the Equipment hereunder, as well as all costs that the Seller may incur in connection with the delivery and installation and including all other costs of expenses that may arise in connection with creation of an intellectual property and its protection.
- 5.3 The Parties agreed that the Price shall be invoiced after the handover protocol in accordance with Section 8.4 will have been signed. In case the Equipment will be delivered with minor defects and / or

unfinished work, the Price will be invoiced after removal of these minor defects and / or unfinished work.

5.4 The invoice issued by the Seller as a tax document must contain all information required by the applicable laws of the Czech Republic. Invoices issued by the Seller in accordance with this Contract shall contain in particular following information:

5.4.1 name and registered office of the Buyer,

5.4.2 tax identification number of the Buyer,

5.4.3 name and registered office of the Seller,

5.4.4 tax identification number of the Seller,

5.4.5 registration number of the tax document,

5.4.6 scope of the performance (including the reference to this Contract),

5.4.7 the date of the issue of the tax document,

5.4.8 the date of the fulfilment of the Contract,

5.4.9 purchase Price,

5.4.10 registration number of this Contract, which the Buyer shall communicate to the Seller based on Seller's request before the issuance of the invoice,

and must comply with the double tax avoidance agreements, if applicable.

5.5 The Buyer prefers electronic invoicing, with the invoices being delivered to [efaktery@fzu.cz](mailto:efaktery@fzu.cz). All issued invoices shall comply with any international treaties prohibiting double taxation, if applicable.

5.6 Invoices shall be payable within thirty (30) days of the date of their delivery to the Buyer. Payment of the invoiced amount means the date of its remittance to the Seller's account.

5.7 If an invoice is not issued in conformity with the payment terms stipulated by the Contract or if it does not comply with the requirements stipulated by law, the Buyer shall be entitled to return the invoice to the Seller as incomplete, or incorrectly issued, for correction or issue of a new invoice, as appropriate, within five (5) business days of the date of its delivery to the Buyer. In such a case, the Buyer shall not be in delay with the payment of the Price or part thereof and the Seller shall issue a corrected invoice with a new and identical maturity period commencing on the date of delivery of the corrected or newly issued invoice to the Buyer.

5.8 The Buyer shall be entitled to unilaterally set off any of his payments against any receivables claimed by the Seller due to:

5.8.1 damages caused by the Seller,

5.8.2 sanctions.

5.9 The Seller shall not be entitled to set off any of his receivables against any part of the Buyer's receivable hereunder.

## **6. OWNERSHIP TITLE**

- 6.1 The ownership right to the Equipment shall pass to the Buyer by handover. Handover shall be understood as delivery and acceptance of the Equipment duly confirmed by Parties on the Handover Protocol.

## **7. PLACE OF DELIVERY AND HANDOVER OF THE EQUIPMENT**

- 7.1 The place of delivery and handover of the Equipment shall be room No. 33 in building F at the address Fyzikální ústav AV ČR, v. v. i., Cukrovarnická 112/10, 162 00 Praha 6, Czech Republic.

## **8. DELIVERY, INSTALLATION, HANDOVER AND ACCEPTANCE**

- 8.1 The Seller shall transport the Equipment at his own cost to the place of handover. If the shipment is intact, the Buyer shall issue delivery note for the Seller.
- 8.2 The Seller shall perform and document the installation of the Equipment and launch experimental tests in order to verify whether the Equipment is functional and meets the technical requirements of Annexes No. 1 and 2 hereof.
- 8.3 Handover procedure includes handover of any and all technical documentation pertaining to the Equipment, user manuals and certificate of compliance of the Equipment and all its parts and accessories with approved standards.
- 8.4 The handover procedure shall be completed by handover of the Equipment confirmed by the Handover Protocol containing specifications of all performed tests. The Handover Protocol shall contain the following mandatory information:
- 8.4.1 Information about the Seller, the Buyer and any subcontractors,
  - 8.4.2 Description of the Equipment including description of all components and serial numbers,
  - 8.4.3 Description of executed acceptance tests: type of test, duration, achieved parameters,
  - 8.4.4 List of technical documentation including the manuals,
  - 8.4.5 Confirmation on training, its participants and extent,
  - 8.4.6 Eventually reservation of the Buyer regarding minor defects and unfinished work including the manner and deadline for their removal,
  - 8.4.7 Date of signature of the Equipment Handover Protocol.
- 8.5 Handover of the Equipment does not release the Seller from liability for damage caused by product defects.
- 8.6 The Buyer shall not be obliged to accept Equipment, which would show defects or unfinished work and which would otherwise not form a barrier, on their own or in connection with other defects, to using the Equipment. In this case, the Buyer shall issue a record containing the reason for his refusal to accept the Equipment.
- 8.7 Should the Buyer not exercise his right not to accept the Equipment with defects or unfinished work, the Seller and the Buyer shall list these defects or unfinished work in the Handover Protocol,

including the manner and deadline for their removal. Should the Parties not be able to agree in the Handover Protocol on the deadline for removal of the defects, it shall be understood that any defects shall be removed / rectified within 14 days from the handover of the Equipment.

## **9. TECHNICAL ASSISTANCE – CONSULTATIONS**

9.1 The Seller shall be obliged to provide to the Buyer free-of-charge technical assistance by phone or e-mail relating to the subject of performance hereof during the entire term of the warranty period. The Seller undertakes to provide to the Buyer consultations and technical assistance relating to the subject of performance hereof also after the warranty period expires.

## **10. REPRESENTATIVES, NOTICES:**

10.1 The Seller authorized the following representatives to communicate with the Buyer in all matters relating to the Equipment delivery:

e-mail:

tel.

10.2 The Buyer authorized the following representatives to communicate with the Seller:

e-mail:

tel.

10.3 All notifications to be made between the Parties hereunder must be made out in writing and delivered to the other Party by hand (with confirmed receipt) or by registered post (to the Buyer's or Seller's address), or in some other form of registered post or electronic delivery incorporating electronic signature (qualified certificate) to [epodatelna@fzu.cz](mailto:epodatelna@fzu.cz) in case of the Buyer and to [ablevie@ablelab.com](mailto:ablevie@ablelab.com) in case of the Seller.

10.4 In all technical and expert matters (discussions on the Equipment testing and demonstration, notification of the need to provide warranty or post-warranty service, technical assistance etc.) electronic communication between technical representatives of the Parties will be acceptable using e-mail addresses defined in Sections 10.1 and 10.2.

## **11. TERMINATION**

11.1 This Contract may be terminated early by agreement of the Parties or withdrawal from the Contract on the grounds stipulated by law or in the Contract.

11.2 The Buyer is entitled to withdraw from the Contract without any penalty from Seller in any of the following events:

11.2.1 The Seller fails to meet the deadline pursuant to Section 4.1 hereof.

11.2.2 Technical parameters or other conditions required in the technical specification defined in Annex No. 1 and 2 hereto and in the relevant valid technical standards will not be achieved by the Equipment at handover,

11.2.3 Facts emerge bearing evidence that the Seller will not be able to deliver the Equipment.

- 11.3 The Seller is entitled to withdraw from the Contract in the event of the Buyer being in default with the payment for more than 2 months with the exception of the cases when the Buyer refused an invoice due to defect on the delivered Equipment or due to breach of the Contract by the Seller.
- 11.4 Withdrawal from the Contract becomes effective on the day the written notification to that effect is delivered to the other Party. The Party which had received performance from the other Party prior to such withdrawal shall duly return such performance.

## **12. INSURANCE**

- 12.1 The Seller undertakes to insure the Equipment against all risks in the amount of the Price of the Equipment for the entire period commencing when transport of the Equipment starts until duly handed over to the Buyer. In case of breach of this obligation, the Seller shall be liable to the Buyer for any damage that may arise.
- 12.2 The Seller is liable for the damage that he has caused. The Seller is also liable for damage caused by third parties undertaken to carry out performance or its part under this Contract.

## **13. WARRANTY TERMS**

- 13.1 The Seller shall provide warranty for the quality of the Equipment for a period of 12 months. The warranty term shall commence on the day following the date of signing of the confirmation of removal of minor defects or unfinished work or on the day following the date of signing of the Handover Protocol pursuant to Section 8.4 hereof in case the Equipment was handed over without any minor defects or unfinished work. The warranty does not cover consumable things.
- 13.2 Should the Buyer discover a defect, he shall notify the Seller to rectify such defect using the email address [ablevie@ablelab.com](mailto:ablevie@ablelab.com).
- 13.3 The Seller shall be obliged to rectify any claimed defects within 30 working days from receipt of the Buyer's notification. In cases of unusual defects, the Seller shall be obliged to rectify the defect in the period corresponding to the nature of the defect and to define the deadline for the handover of the rectified Equipment.
- 13.4 Any and all costs associated with defect rectification / repair including transport and travel expenses shall be always borne by the Seller.
- 13.5 The repaired Equipment shall be handed over by the Seller to the Buyer on the basis of a protocol confirming removal of the defect (hereinafter the "**Repair Protocol**") containing confirmations of both Parties that the Equipment was duly repaired and is defect-free.
- 13.6 The repaired portion of the Equipment shall be subject to a new warranty term in accordance with Section 13.1, which commences to run on the day following the date when the Repair Protocol was executed.
- 13.7 Should the Equipment suffer from defects which make it demonstrably unusable for a period exceeding 60 days (defect period) during any six (or less) consecutive months during the warranty term, the Seller shall be obliged to rectify such defect by delivering new defect-free Equipment within 60 days from the date the Seller was called upon to deliver the new Equipment. The Equipment is demonstrably unusable, when the technical parameters or other conditions required in the technical specification defined in Annex No. 1 and 2 hereto and in the relevant valid technical standards are not met.

13.8 The Seller undertakes to provide out-of-warranty and post-warranty service at the place of delivery of the Equipment, including repairs, spare parts and transportation, and the work of the service technician at a price not exceeding the usual price and within the time limit referred to in paragraph 13.3 hereof. Seller agrees to provide post-warranty service for at least 3 years from the expiration of the warranty.

#### **14. CONTRACTUAL PENALTIES**

14.1 The Buyer shall have the right to a penalty in the amount of 0.1 % of the Price for each commenced day of delay with the performance pursuant to Section 4.1 hereof.

14.2 The Buyer shall have the right to a penalty against the Seller in the amount of 20,- € for each commenced day of delay with rectifying of claimed defects.

14.3 In the event of the Seller's delay in carrying out out-of-warranty or post-warranty repairs, the Buyer is entitled to claim against the Seller a penalty in the amount of 10,- € for each commenced day of delay.

14.4 The Buyer shall be entitled to claim a contractual penalty against the Seller in the amount of 30 % of the Price, in case he will subsequently take advantage of the opportunity to withdraw from the Contract pursuant to Section 11.2.1 and 11.2.2.

14.5 In case of default in payment of any due receivables (monetary debt) under the Contract, the defaulting Buyer or Seller (the debtor) shall be obliged to pay a contractual penalty in the amount of 0.1 % of the owed amount for each commenced day of delay with the payment.

14.6 Contractual penalties are payable within 30 days of notification demanding payment thereof.

14.7 Payment of the contractual penalty does not prejudice the rights of the Parties to claim damages.

#### **15. DISPUTES**

15.1 Any and all disputes arising out of this Contract or the legal relationships connected with the Contract shall be resolved by the Parties by mutual negotiations. In the event that any dispute cannot be resolved by negotiations within sixty (60) days, the dispute shall be resolved by the competent court in the Czech Republic based on application of any of the Parties; the court having jurisdiction will be the court where the seat of the Buyer is located. Disputes shall be resolved exclusively by the law of the Czech Republic.

#### **16. FINAL PROVISIONS**

16.1 This Contract represents the entire agreement between the Buyer and the Seller. The relationships between the Parties not regulated in this Contract shall be governed by Act No. 89/2012 Coll., the Civil Code, as amended.

16.2 In the event that any of the provisions of this Contract shall later be shown or determined to be invalid, ineffective or unenforceable, then such invalidity, ineffectiveness or unenforceability shall not cause invalidity, ineffectiveness or unenforceability of the Contract as a whole. In such event the Parties undertake without undue delay to subsequently clarify any such provision or replace after mutual agreement such invalid, ineffective or unenforceable provision of the Contract by a new provision, that in the extent permitted by the laws and regulations of the Czech Republic, relates as closely as possible to the intentions of the Parties to the Contract at the time of creation hereof.



- 16.3 This Contract may be changed or supplemented solely by means of numbered amendments in writing, furnished with the details of time and place and signed by duly authorised representatives of the Parties. The Parties expressly reject modifications to the Contract in any other manner.
- 16.4 This Contract is drawn up in two (2) counterparts, each of which is deemed to be the original. Each Party shall receive one (1) counterpart.
- 16.5 The Parties expressly agree that the Contract as a whole, including all attachments and data on the Parties, subject of the Contract, numerical designation of this Contract, the Price and the date of the Contract conclusion, will be published in accordance with Act No. 340/2015 Coll. on special conditions for the effectiveness of some contracts, publication of these contracts and Contract Register, as amended (hereinafter the “**CRA**”). The Parties hereby declare that all information contained in the Contract and its Annexes are not considered trade secrets under § 504 of the Civil Code and grant permission for their use and disclosure without setting any additional conditions.
- 16.6 The Parties agree that the Buyer shall ensure the publication of the Contract in the Contract Register in accordance with CRA.
- 16.7 This Contract becomes effective as of the day of its publication in the Contract Register.
- 16.8 The following Annexes form an integral part of the Contract:
- Annex No. 1: Technical specification on the subject of performance
- Annex No. 2: Seller’s Quotation
- 16.9 The Parties, manifesting their consent with the entire contents of this Contract, attach their signature hereunder.

In Prague on 21. 2. 2018

In Wien on 12. 2. 2018

For the Buyer:

For the Seller:

---

RNDr. Michael Prouza, Ph.D.  
Director

---

Dr. Andras Benkő  
Managing Director under commercial law



**Annex No. 1****Technical specification on the subject of performance – UV-VIS spectrometer with accessories**

Code	Product
11.7730 002	JASCO V-730 double-beam UV-VIS spectrophotometer, Wavelength range: 190-1100 nm, bandwidth: 1.0 nm
11.6680 020	SpectraManager II, based control and analysis software package for JASCO V-700 spectrophotometers. Delivered preinstalled on Toshiba Portégé laptop with additional external monitor.
52.0413 012	2 pcs 10x10 mm Hellma quartz cuvette
52.0412 014	4 pcs 10x10 mm Hellma glass cuvette
11.6630 010	Lightpath mask, 1.5x3 mm (height)
11.6630 020	Lightpath mask, 1.5x1.5 mm
11.7907 811	SLM-907 Specular reflectance accessory for V-730 with 7 mm diameter
11.6001 810	MSK-001 sample holder with 2 mm diameter aperture for SLM-907
11.6002 810	MSK-002 sample holder with 4 mm diameter aperture for SLM-907
11.6712 010	SFC-712 cell holder for flow through cells with 5 and 10 mm lightpath
11.6205 010	Flow through cell with 5 mm lightpath for SFC-712
11.6210 010	Flow through cell with 10 mm lightpath for SFC-712
11.6713 010	LFC-713 cell holder for 30, 50 and 100 mm lightpath flow through cells
11.6230 010	Flow through cell with 30 mm lightpath for LFC-713
11.6741 010	FLH-741 film holder, sliding mount type, film thickness 0.5-25 mm, maximum sample size: 80x100 mm, minimum sample size: 5x5 mm
11.7795 700	VWIS-957 Time interval scan –measures spectra automatically at preselected time intervals
11.6687 109	FCV-SPCMGR2 Data conversion program
11.7797 200	VWMC-972 „Macro Command” program

## Annex No. 2 - Seller's Quotation

182003QCZ\_FZU.doc

Page 1/2

<b>ABL&amp;E HandelsgesmbH.</b> <b>Kettenbrückengasse 20, A-1040 Wien, Austria</b> <b>Tel.: +43-1-586-2305 Fax: + 43-1-586-9475</b> <b>e-mail: ablevie@ablelab.com</b>	 
---	---

<b>QUOTATION No. 182003QCZ_FZU</b>	Page 1 of 2	Date: 06.02.2017
------------------------------------	-------------	------------------

To: [REDACTED] Institute of Physics AS CR Cukrovarnicka 10, 162 00 Praha 6	Tel.:+[REDACTED] Fax:+[REDACTED] Email:[REDACTED]
--	---

In accordance with our General Delivery Conditions we offer you following items at the prices given:

Code	Description	EUR
11.7730 002	<b>V-730 double-beam UV-VIS spectrophotometer</b> Wavelength range: 190-1100 nm, bandwidth: 1.0 nm, slew (wavelength change) speed: 24000 nm/min, variable scan speed: 10-8000 nm/min. Wavelength accuracy: ±0.2 nm, wavelength repeatability: ±0.1 nm, photometric range: -3 - +3 AU, photometric accuracy: ±0.0015 AU (0-0.5 AU), photometric repeatability ±0.0005 AU (0-0.5 AU), stray light at 220 nm 0.02%. Light source: deuterium and wolfram-halogen lamp. RMS noise: 0.00004 AU (0 AU, 500 nm), baseline stability: ± 0.0004 AU/hour. Dimensions: 486(L)x441(W)x216(H) mm, 15 kg. Control possibilities: PC software or stand alone iRM module with graphical interface (to be ordered separately) Standard composition: standard cuvette holder for reference and sample side (for 10 mm cuvettes), holmium filter, USB cable, ISO and CE certificates.	[REDACTED]
11.6680 029	<b>SpectraManager II</b> Win7 and Win10 based control and analysis software package for JASCO V-700 spectrophotometers with functions: - device control: measuring functions (absorbance, transmittance, quantitative analysis with calibration curve, spectrum scanning, fixed wavelength mode on several wavelengths, simple kinetic measurement) - device test (autodiagnostics, wavelength calibration), automatic accessory detection and registration (GLP compliance) - validation software (with USP and EP compliance module, with possibility of user defined setup) - data storage and search function - statistical analysis of calibration curve with tolerance ranges - spectrum analysis (peak search, mathematical functions, derivatives, baseline correction, conversion, overlay); color analysis - simple enzyme kinetics; film thickness measurement - report templates with various styles. Delivered preinstalled on Toshiba Portégé laptop with additional external monitor. <i>This price applies if ordered together with main unit.</i>	[REDACTED]
52.0413 012	2 pcs 10x10 mm Hellma quartz cuvette	[REDACTED]
52.0412 014	4 pcs 10x10 mm Hellma glass cuvette	[REDACTED]

ABL&E HandelsgesmbH, A-1040 Wien, Kettenbrückengasse 20  
 VAT No.: ATU40040308

IBAN(EUR): [REDACTED]

Handelsgericht Wien, Nr. FN 141109p  
 Bank Accounts: [REDACTED] (EUR)  
 SWIFT/BIC: [REDACTED]

