



EVROPSKÁ UNIE  
EVROPSKÝ FOND PRO REGIONÁLNÍ ROZVOJ  
INVESTICE DO VAŠÍ BUDOUCNOSTI



## PURCHASE AGREEMENT

pursuant to Section 409 and following of Act No. 513/1991 Coll., the Commercial Code, as amended (hereinafter the "Commercial Code")

### 1 CONTRACTING PARTIES

**PURCHASER:**

**Masarykova univerzita**

with its registered office at Žerotínovo nám. 9, 601 77 Brno,

ID No.: 00216224,

Tax ID No.: CZ00216224,

represented by prof. RNDr. Jaroslav Koča, DrSc., director of Central European institute of technology MU,

contact person: RNDr. Jan Hejátko, Ph.D., + 420 549 494 165, hejatk@sci.muni.cz

**SELLER:**

Intavis Bioanalytical Instruments AG

ID No. 813155667, Tax ID No. DE813155667,

with its registered office at Widdersdorfer Str. 248-252, D-50933 Köln, Germany registered in the Commercial Register of the Amtsgericht Köln Court in Cologne section HRB, insert no. 39793

represented by Dr. Klaus Nikoleit, Director of Sales

contact person: Dr. Klaus Nikoleit

bank details: Sparkasse Köln-Bonn, BLZ: 37050195, Account no. 29332095,

Swift/BIC: COLS DE 33, IBAN DE73 370 501 98 00 29 33 20 95

### 2 INTRODUCTORY PROVISIONS

2.1 The Purchaser is a researcher of the project entitled "CEITEC – Central European Institute of Technology" (hereinafter the "Project") and recipient of the grant from the Operational Program Research and Development for Innovation (hereinafter "OP RDI"). The goal of the Project is the creation of a European centre of excellence in the field of life sciences and advanced materials and technologies.

2.2 The contracting parties hereby declare that they are aware of the obligation to fulfil the requirements regarding publicity within the framework of the structural fund programmes, as set out in Art. 9 of the Commission Regulation (ES) no. 1828/2006 and the publicity rules of the OP RDI in all the relevant documents relating to the subject of this Agreement.

2.3 The Seller hereby acknowledges that pursuant to Section 2 e) of Act No. 320/2001 Coll., on Financial Control in Public Administration, as subsequently amended, it is a person obliged to provide its co-operation in the course of financial control activities and undertakes to provide its co-operation in compliance with the

aforementioned regulation in the course of financial control activities. This obligation also applies to those parts of the Agreement and relating documents that are subject to protection pursuant to special legal regulations (e.g. business secrets, classified facts), provided that the requirements stipulated in applicable legal regulations are met. The Seller further undertakes to bind all its subcontractors, if any, to a similar extent in this respect.

### 3 SUBJECT OF AGREEMENT

3.1 The subject of this Agreement (hereinafter the "Agreement") is the delivery of **Instrument for automated in situ localization of proteins and RNA** (mentioned also as device or supply), as specified in detail in Annex No. 1 of the Agreement.

3.2 The supply of the goods shall also include the provision of services consisting of the goods installation and launching into operation, it being agreed that:

- a) *installation* shall mean the installation of the device at the place of performance, its assembly or interconnection, connection to power sources, in particular the electricity distribution system, weak-current and optical distribution system, water mains, demineralised water distribution system, gas connection, technical gas connection, heat distribution system, cooling or ventilation system (if the function of the goods is conditional upon such connection);
- b) *launching of the device into operation* shall mean the testing and verification of proper functioning of the device and, if applicable, its setting, as well as the performance of any other acts and works necessary for the device to perform its agreed or usual functions.

3.3 The Seller and the Purchaser further agree that as a part of the supply of the above, the Seller shall also be obliged and undertakes to:

- a) deliver the goods and install it at the place determined for this purpose by the Purchaser;
- b) fully integrate the device with the equipment of the building where it shall be installed;
- c) bring the device into fully functional and operational condition;
- d) deliver documents to the Purchaser necessary for the acceptance and use of the device, including but not limited to:
  - technical documentation of the device, instructions (manuals) for its attendance and maintenance in the Czech or English language;
  - declaration of conformity of the delivered device with approved standards;
- e) duly inform an unlimited number of users – attendance staff of the device and train them at the place of the device installation so that they are able to handle the device without any problems and duly use the device;
- f) submit lists of all items of the delivered device;
- g) remove and discard all packaging and other materials used for the performance of the supply, in compliance with the provisions of Act No. 185/2001 Coll., on Waste Management and on amendments to certain other laws, and in compliance with the applicable decree of the City of Brno;

- h) provide free upgrade of the firmware and software of the device for a period of at least 5 years;
- i) promptly and free of charge remove any defects complained about within the warranty period, with a guarantee of the servicing technician intervention no later than within two business days after the defect reporting;
- j) provide paid post-warranty service to the Purchaser for a period of at least 5 years after the termination of the warranty period, with a guarantee of the servicing technician intervention no later than within four business days after the defect reporting.

3.4 The subject of this Agreement is precisely defined in the Detailed Technical Specification attached to this Agreement as Annex No. 1. If it becomes necessary to perform any additional deliveries and works not expressly specified in Annex No. 1 hereof or in this Agreement in order to fulfil the Purchaser's requirements set out in Annex No. 1 hereof and in order to ensure due performance and operation of the required facilities, the Seller shall be obliged to procure or perform such additional deliveries and works at its own costs and include them in the Seller's performance without any impacts on the purchase price.

3.5 The Seller undertakes, under the terms and conditions stipulated herein, to deliver and hand over to the Purchaser, in a due and timely manner and at its own costs, the goods specified in Annex No. 1 hereof at the place of performance, to transfer the ownership title to the goods to the Purchaser, and to perform the works and services specified in paragraph 1 above. The Seller declares that the delivered goods are new, without any factual or legal defects and that they are not encumbered by any pledges or any other third party rights. The Seller shall be responsible for the delivered goods, provided services, and performed works being carried out with due professional care and in compliance with all applicable legal regulations, this Agreement, including its Annexes, and all relevant technical and quality standards.

3.6 The Purchaser undertakes to accept the delivered goods, provided services and performed works in due and timely manner. The Purchaser is obliged to pay the purchase price to the Seller under the conditions and in the manner set out in the Agreement. The Purchaser shall become the owner of the goods and the risk of damage to the goods shall pass to the Purchaser upon the execution of a protocol on the goods delivery and acceptance.

<b>4 PURCHASE PRICE</b>
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4.1 The purchase price has been determined on the basis of the Seller's offer submitted in tender proceedings as the maximum price that cannot be exceeded with respect to the delivery specified in Art. 3 hereof, amounting to:

1 600 000,- CZK excl. VAT,

320 000,- CZK of VAT

1 920 000,- CZK incl. VAT.

4.2 A detailed breakdown of the price is set out in Annex No. 2 hereof in the form of an itemised budget based on the detailed technical specification and the business terms and conditions stipulated in this Agreement.

4.3 The price includes all costs associated with the goods delivery and performance of the agreed works and services, including but not limited to the costs of the goods procurement, including the costs of their manufacture, costs of the goods transport to the place of performance, including the costs of handling mechanisms, if any, costs of the goods insurance and safeguarding until the moment of their delivery and acceptance, taxes and charges associated with the goods delivery, costs of the accompanying documentation and costs associated with all performance constituting a part of the supply. The agreed purchase price is independent on the price developments and exchange rate fluctuations.

4.4 The Seller hereby declares that it is fully acquainted with the scope and nature of the Purchaser's requirements regarding the goods and that it has correctly determined, assessed and evaluated all the deliveries, services and works necessary for due fulfilment of the Seller's obligations arising herefrom and that for the purpose of determining the price under this Agreement, the Seller:

- a) has reviewed the delivered goods;
- b) has inspected the local conditions for the performance of this Agreement;
- c) has taken into consideration all technical and business terms and conditions set out in the Agreement.

4.5 Unless expressly stated otherwise, all prices specified in this Agreement are quoted without applicable value added tax (VAT) that shall be charged by the Seller in compliance with applicable regulations valid as of the date of the taxable transaction.

4.6 The purchase price is documented by the itemised budget. The Seller is responsible for the itemised budget being in full compliance with the business and technical conditions of the delivery set out in the Agreement. The unit prices set out in the itemised budget serve for documenting the financial volume of the delivered and installed goods. The unit prices set out in the itemised budget represent the highest permissible prices applicable for the entire term of the delivery implementation. The Seller shall not be entitled to request an increase of the agreed price due to any errors or deficiencies in the itemised budget, if such errors result from inaccurate or incomplete evaluation of the delivery.

4.7 The agreed price of the delivery represents the highest permissible price. Any changes of the price may only be made by means of an amendment to this Agreement and only if the VAT rates are changed after the execution of the Agreement and prior to the date of the delivery handover and acceptance (only changes of VAT rates are permissible).

## **5 PAYMENT TERMS**

5.1 The Purchaser shall not make any advance payments to the Seller.

5.2 The purchase price shall be paid after the delivery handover and acceptance based on tax documents (hereinafter "invoices") issued by the Seller.

5.3 If the delivery is handed over by the Seller and accepted by the Purchaser free of defects and unfinished work, the Purchaser shall pay the entire amount of the purchase price, including VAT, within the maturity period set out in Art. 5.4 hereof. If the Purchaser accepts the delivery showing any defects and unfinished work, the Purchaser shall only pay 85 % of the purchase price and the entire amount of applicable VAT within the maturity period set out in Art. 5.4 hereof and the remaining 15 % of the purchase price shall represent a retainer and shall be paid by the Purchaser after the removal of the last defect and the last unfinished work set out in the handover and acceptance protocol, within the maturity period set out in Art. 5.4 hereof commencing as of the day when the last defect or unfinished work is removed.

5.4 The Seller's invoice shall be payable within 30 days after the day following its delivery to the Purchaser's registered office. The retainer, if applied by the Purchaser in compliance with this Agreement, shall be payable at the latest within 30 days after the execution date of the protocol on removal of the last defect or the last unfinished work set out in the handover and acceptance protocol.

5.5 The invoice delivery date shall be deemed the day when the invoice is delivered by mail or courier service to the Purchaser's registered office or the day when the invoice is personally delivered to the Purchaser's mail records.

5.6 The Seller's invoice must meet the requirements prescribed for tax and accounting documents and its form and contents must comply with the provisions of Act No. 563/1991 Coll., as amended, and Act No. 235/2004 Coll., as amended; the invoice must also meet the requirements prescribed for business deeds pursuant to Section 13a of Act No. 513/1991 Coll., as amended, and must include an annex setting out a list of the works performed and deliveries supplied in the structure and with the evaluation based on the method agreed with the Purchaser. The invoice shall contain in particular the following information:

- a) designation of the accounting document and its serial number
- b) identification data of the Purchaser, including tax ID no.
- c) identification data of the Seller, including tax ID no.
- d) essentials prescribed for business deeds
- e) description of the accounting document content
- f) information regarding financing from the Operational Program Research and Development for Innovation within the framework of the project "CEITEC – Central European Institute of Technology", project reg. number CZ.1.05/1.1.00/02.0068.
- g) date of issuance
- h) date of taxable transaction
- i) total price without tax
- j) tax rate
- k) total amount of tax rounded up pursuant to applicable regulations

- l) total price including tax
- m) signature of the Seller's responsible person
- n) annexes
  - o - list of performed works evaluated in the agreed manner
  - o - copy of the handover and acceptance protocol signed by the person who accepted the delivery on the Purchaser's behalf.

Should the invoice fail to contain all the essentials specified above, the Purchaser shall return it for correction without payment. In such a case, the maturity period shall commence again on the delivery date of the corrected or new invoice.

5.7 The Purchaser's financial obligation (debt) shall be deemed fulfilled on the day when the owed amount is debited from the Purchaser's account.

## 6 TERM OF PERFORMANCE

6.1 The commencement date shall mean the execution date of this Agreement. The Seller shall be obliged to commence the delivery preparation on the commencement date.

6.2 The completion date shall mean the day when the Seller informs the Purchaser in writing that it has completed all works and supplies necessary for the fulfilment of its obligations arising from this Agreement and invites the Purchaser to accept the delivery.

6.3 The delivery and acceptance date shall mean the day when the Seller and the Purchaser sign the handover and acceptance protocol.

6.4 The Seller undertakes to duly produce, procure, test and deliver the entire delivery and hand it over to the Purchaser no later than within **10 weeks** after the execution of this Agreement (the delivery and acceptance date).

6.5 The Seller's delay with due completion of the delivery and its handover to the Purchaser shall be classified as a material breach of this Agreement.

6.6 The Seller shall be entitled to complete the delivery before the agreed delivery and acceptance date only subject to the Purchaser's consent.

6.7 The contracting parties may, upon the Purchaser's request, agree on the handover and acceptance of the delivery in several compact and fully functional parts.

6.8 The delivery and acceptance date may be adequately postponed in the following cases:

- a) if the Seller's works are interrupted based on the Purchaser's written instruction;
- b) if the Seller's works are interrupted due to any circumstances excluding liability (force majeure) in the sense of Section 374 of the Commercial Code. The contracting parties shall be obliged to inform each other without delay of the occurrence of such circumstances and agree on the manner of dealing with such situation. Otherwise, they shall not be entitled to appeal to force majeure events.

The period of the delivery implementation shall be extended on the basis of the term of existence of the given obstacle or non-fulfilment of the Purchaser's obligations arising herefrom, taking into consideration the period of time necessary for the works re-commencement, provided that the Seller has taken all measures aimed at minimising or avoiding any delays and subject to written agreement between the contracting parties.

6.9 Unless agreed otherwise, the Seller shall be entitled to carry out the appliances installation and testing on each business day from 8:00 a.m. to 06:00 p.m. The Purchaser shall be entitled, in the event of any changes of its operational conditions, to restrict the above period by means of a written instruction delivered to the Seller. In such a case, the contracting parties shall agree on a change of the delivery and acceptance date in an amendment to this Agreement.

## **7 HANDOVER AND ACCEPTANCE OF THE PLACE OF THE DELIVERY PERFORMANCE (THE SITE)**

7.1 The place of performance shall be the room designated by the Purchaser within the premises of Masaryk University campus Bohunice, Kamenice 753/5, Brno.

7.2 The Purchaser shall be obliged to allow the Seller, no later than within 3 business days after the Seller's written request, to commence the appliances installation and testing by means of handing over the premises designated for the delivery performance (hereinafter the "Site"), unless the Purchaser and the Seller agree on a different date of the Site handover. Upon the Site handover, the Purchaser shall inform the Seller of the following:

- a) the permissible access routes for the transportation of goods to the place of performance;
- b) the points for the connection of the appliances and facilities supplied as a part of the delivery to the distribution systems of electricity, heating, demineralised water, water, ventilation and other utilities, in such utilities are necessary for their operation, including specification of the maximum permissible take-off at individual points;
- c) the rules of operation.

The Seller may request this information prior to the Site handover – in such a case, the Purchaser shall be obliged to provide such information within 3 business days after the delivery of the Seller's request.

## **8 FURTHER TERMS AND CONDITIONS OF THE DELIVERY**

### **Purchaser's instructions**

8.1 In the course of the delivery performance, the Seller shall act independently. However, the Seller undertakes to follow all the Purchaser's instructions relating to the

implementation of the given delivery and pointing out possible breaches of the Seller's contractual obligations.

8.2 The Seller shall be obliged to inform the Purchaser without delay of any unsuitability of items received from the Purchaser or instructions issued by the Purchaser with respect to the delivery performance, if the Seller is capable of detecting such unsuitability having exercised due professional care.

#### **Used materials and products**

8.3 The Seller shall be obliged to obtain all things and items necessary for the delivery performance, unless expressly stated herein that such things and items are to be obtained by the Purchaser.

8.4 The Seller undertakes to use solely new parts and materials (not used before, albeit refurbished) for the delivery performance. The Seller undertakes and guarantees not to use any materials known at the time of their use to be harmful or non-compliant with any applicable sanitary or environmental standards. The Seller further undertakes not to use any materials and supplies for the delivery performance lacking the prescribed certification, if such certification is required for their use by applicable regulations. Should the Seller fail to fulfil the above undertakings, it shall be obliged, upon the Purchaser's written request, to immediately rectify the defective condition and bear all costs associated therewith.

8.5 The Seller shall present, upon the Purchaser's request, but no later than on the delivery and acceptance date, a set of certificates pertaining to the decisive materials and supplies.

#### **Installations**

8.6 In the course of the delivery preparation, the Seller shall consult with the Purchaser the proposed connection of the appliances to the installations. The Seller shall submit the proposed solution to the Purchaser for approval at a time allowing for the delivery completion by the agreed deadline. The Seller may not commence any works at the Site prior to the approval of the proposed solution by the Purchaser.

#### **Inspections of the delivery performance**

8.7 The Purchaser shall be entitled to inspect the delivery performance. The delivery performance contrary to the Seller's obligations arising herefrom shall be classified as a material breach of this Agreement. Should the Purchaser find out that the Seller performs the delivery contrary to its obligations, the Purchaser shall be entitled to request that the Seller rectify any and all defects resulting from the incorrect performance and that it perform the delivery properly; otherwise, the Purchaser shall be entitled to withdraw from this Agreement for this reason.

#### **Safety and health protection at work**

8.8 The Seller is obliged to ensure, in the course of the delivery performance, the observance of all applicable safety, sanitary and environmental measures, as well as measures aimed at fire prevention of the performed delivery and the premises where the delivery is being performed, within the scope and in the manner prescribed in applicable regulations.



8.9 The Seller shall be obliged to conduct initial training focused on safety and health protection at work and on fire prevention measures for all its employees working at the delivery installation and testing at the place of performance. The Seller shall further be obliged from time to time to renew and test the knowledge of its employees regarding safety and health protection at work and fire prevention measures.

8.10 The Seller shall also be obliged to ensure the organisation of initial training of its subcontractors focused on safety and health protection at work and on fire prevention measures.

8.11 The Seller shall be fully responsible for safety and health protection of all persons present with its knowledge at the Site and shall be obliged to ensure that they are equipped with protective work aids.

8.12 The Seller shall be obliged in the course of the delivery performance to supervise and continuously inspect work safety and fire prevention.

8.13 In the event of any injury occurring in the course of the delivery performance at the place of performance or during any activities relating to the delivery performance at the place of performance, the Seller shall be obliged to ensure the injury investigation and execution of the relevant records. The Purchaser shall be obliged to provide the Seller with any co-operation necessary in this respect.

#### **Damage**

8.14 If the Seller's activities cause any damage to the Purchaser or to third parties due to omission, negligence or non-fulfilment of any conditions prescribed by applicable legal regulations, technical or other standards, or stipulated in this Agreement, the Seller shall be obliged to remove such damage without undue delay and, if its removal is not possible, to compensate it financially. All costs associated therewith shall be borne by the Seller.

8.15 The Seller shall also be liable for any damage caused by the activities of any persons performing the delivery for the Seller.

#### **Possibility to appoint a third party to perform a part of the delivery**

8.16 The Seller is entitled to appoint a third party (subcontractor) to perform a part of the delivery only with the Purchaser's prior consent. Even in such a case, however, the Seller shall be responsible for the subcontractor's activities as if these activities were performed by the Seller itself.

8.17 The Seller shall be obliged to ensure in the agreements concluded with its subcontractors the fulfilment of all obligations arising to the Seller under this Agreement.

#### **Launching the delivery into operation, its handover and acceptance**

8.18 The Seller shall be obliged to inform the Purchaser in writing at least 3 business days in advance that the delivery is to be prepared by the agreed deadline for the commencement of tests of appliances/facilities consisting of full operation of all delivered appliances and facilities for a period no shorter than five hours. As a part of the tests, the Seller shall verify, in the Purchaser's presence, all functions of the delivered appliances and facilities, including their respective control systems. Each breakdown of any of the delivered appliances or facilities, ancillary facilities or control

systems resulting in a failure to meet any of the parameters or properties of the delivery prescribed in the Tender Documentation shall cause the tests to be suspended and recommenced from the beginning after the given breakdown is repaired. Successful completion of the tests shall constitute a condition for the handover and acceptance of the delivery. The Purchaser shall be obliged to commence the acceptance procedure immediately after successful completion of the tests and to duly continue with such procedure. The Seller shall be obliged to submit in particular the following documents for the purposes of the handover and acceptance procedure

- a) list of appliances/facilities constituting the delivery, including specification of their unit prices and numbers (broken down by individual rooms);
- b) attestations and certificates pertaining to the materials used in the delivery, declarations of conformity with approved standards with respect to all delivered appliances/facilities;
- c) review protocols;
- d) protocols on successful tests of the delivery, including protocols confirming the fulfilment of all parameters and properties of the delivery prescribed in the Tender Documentation;
- e) manuals for use and maintenance, terms and conditions of maintenance and protection of the appliances/facilities.

The documents must be submitted in the Czech or English language. If the Seller fails to submit the requested documents, the delivery shall not be considered properly completed and capable of being handed over.

8.19 The place of handover and acceptance of the delivery shall be the place of performance.

8.20 The Purchaser shall be entitled to invite other persons to the delivery handover and acceptance the presence of whom is deemed necessary by the Purchaser (e.g. the future user of the delivery).

8.21 The Purchaser and the Seller shall execute a protocol on the course of the handover and acceptance procedure (handover and acceptance protocol).

8.22 The handover and acceptance protocol shall mandatorily include the following information:

- a) information regarding the Seller, its subcontractors and the Purchaser;
- b) description of the delivery to be handed over and accepted;
- c) agreement on the manner and deadline of vacating the Site;
- d) warranty period commencement date;
- e) Purchaser's declaration whether or not it accepts the delivery;
- f) date of signing the handover and acceptance protocol relating to the delivery (this date also represents the taxable transaction date in the sense of the Value Added Tax Act).

8.23 Upon handover of the delivery confirmed by signatures of the contact persons on the handover protocol in compliance with this Agreement, the risk of damage with respect to the delivery shall pass to the Purchaser, which shall not release the Seller from its liability for damage resulting from any defects of the delivery. Until the handover and acceptance of the delivery, the risk of damage with respect to the delivery shall be borne by the Seller.

8.24 The Purchaser shall not be obliged to accept the delivery if it shows any defects and unfinished works, even though these defects and unfinished works in themselves or in connection with others do not prevent proper use of the delivery. If the Purchaser does not exercise its right not to accept the delivery showing defects and unfinished works, the Purchaser and the Seller shall state in the handover and acceptance protocol a list of the identified defects and unfinished works, including the manner and deadline of their removal. If the Purchaser and the Seller do not agree in the protocol on the defects removal deadline, all defects and unfinished works shall be removed within five business days after the delivery handover and acceptance date.

8.25 If the Seller informs the Purchaser that the delivery is prepared for handover and acceptance and it becomes obvious during the handover and acceptance procedure that the delivery is not duly completed, the Seller shall be obliged to reimburse the Purchaser for all costs and expenses incurred by the Purchaser in connection with the unsuccessful handover and acceptance procedure. The Seller shall also bear the costs of organising a new handover and acceptance procedure.

## 9 WARRANTY

9.1 The Seller shall be liable for any defects the delivery may have at the time of its handover, any defects identified in the period between the delivery handover to the Purchaser and the warranty period commencement, and defects identified in the course of the warranty period.

9.2 The Seller shall be responsible for ensuring that the delivery has, for the entire warranty period, the properties agreed in the Agreement and the properties stipulated in applicable legal regulations or properties usual with respect to the purpose of use or properties required by the Purchaser.

The warranty period with respect to the delivery shall be **24** months.

The warranty period shall commence upon the execution of the handover and acceptance protocol by the Purchaser. If the delivery is accepted by the Purchaser with at least one defect, the warranty period shall not commence until the day when the last defect or unfinished work is removed.

9.3 In the case of appliances/facilities having their own warranty certificates, the warranty period is set out in such certificates, but it may not be shorter than the period set out in Art. 9.2 above.

9.4 The Purchaser shall claim removal of defects identified in the delivery in the period between the delivery handover to the Purchaser and the warranty period commencement or in the course of the warranty period without undue delay after the defects identification, no later than on the last day of the warranty period, by means of a written request delivered to the attention of the Seller's responsible person (complaint). Complaints dispatched by the Purchaser on the last day of the warranty period shall also be deemed raised in due time. In the written complaint, the Purchaser shall state the defect description or information how the defect is demonstrated, as well as the requested method of its removal. The Purchaser shall be entitled to request

- a) defect removal by means of repair, if the given defect is repairable;

- b) defect removal by means of delivering a new item, if the given defect is non-repairable;
- c) adequate discount on the agreed price;
- d) the Purchaser shall be entitled to choose the method of defect removal that it finds most suitable. If the same defect occurs for at least three times during the warranty period or if more than five defects occur in the delivery during the warranty period, the Purchaser shall be entitled to request the defect removal by means of delivering a new item or to withdraw from the Agreement, even if the most recently occurring defect is capable of being repaired.

9.5 The Seller undertakes to remove the claimed defects of the delivery free of charge.

9.6 The Seller further undertakes to send its service technician to remove the claimed defect so that the technician arrive to the appliance/facility **no later than within 4 business days** after the complaint delivery. In this respect, the Seller shall be obliged to have at least two qualified service technicians available, qualified to perform repairs of all delivered appliances/facilities. If the Seller's service technician does not remove the claimed defect during this visit, the Seller undertakes, within 2 business days after the complaint delivery, to review the complaint and inform the Purchaser whether it acknowledges the complaint and agree on the deadline for the defect removal (the defect removal deadline shall always be agreed upon in writing). If the Seller fails to do so within the above period of time, the complaint shall be deemed acknowledged and the defect shall be removed at the latest within the period set out in Art. 9.7 hereof. Even if the Seller does not acknowledge the complaint, it shall be obliged to remove the defect – in such a case, the Seller shall inform the Purchaser in writing that the complaint has not been acknowledged and that the costs of the defect removal will be charged to the Purchaser. If the Seller does not acknowledge the complaint, its justification shall be verified by means of an expert opinion to be obtained by the Purchaser. If the complaint is found justified by such expert opinion, the Seller shall also bear the costs of the expert opinion preparation. The Purchaser's right to free removal of the defect shall in this case also arise as of the day of the complaint delivery to the Seller. If the Purchaser's complaint is found to be unjustified, the Purchaser shall be obliged to reimburse the Seller for all demonstrable and reasonable costs associated with the defect removal.

9.7 The maximum period of time for defects removal shall be **15 business days** after the complaint delivery, unless the Seller and the Purchaser agree otherwise. The Seller and the Purchaser shall execute a protocol on the claimed defect removal, confirming that the defect has actually been removed. The warranty period shall be extended by the time elapsed between raising the complaint and the defect removal.

9.8 If any items supplied by the Purchaser are used for the goods manufacture pursuant to the Agreement, the Seller shall not be liable for defects resulting from the use of such items, where the Seller could not have presumed their unsuitability, despite having exercised all its care, or where the Seller informed the Purchaser in writing of their unsuitability, but the Purchaser insisted in writing on their use.

9.9 The granted warranties neither apply to any defects caused by unprofessional handling, incorrect or unsuitable maintenance, or by non-compliance with the manufacturer's guidelines regarding the operation and maintenance of the appliances/facilities received by the Purchaser from the Seller during the acceptance procedure (e.g. warranty certificates) or notified by the Seller in writing. The warranty neither applies to defects caused by gross negligence or wilful conduct.

9.10 If the Seller fails to remove the defect by the agreed deadline or – if no such deadline was agreed – within the time period set out in Art. 9.7 hereof, or if the Seller refuses to remove the defect, the Purchaser shall be entitled to have the defect removed at its own costs and the Seller shall be obliged to reimburse the Purchaser for the costs spent on the defect removal within 21 days after the Purchaser's written request. Should the Seller fail to pay the costs spent on the defect removal within the period set out above, the Purchaser shall be entitled to use the retainer under this Agreement for the settlement of its claim. Where the warranty terms and conditions imply that warranty repairs may only be performed by an authorised person or where an unauthorised intervention results in the extinction of warranty rights, the Purchase may only have the defect removed by an authorised person.

## 10 INSURANCE

10.1 The Seller undertakes to conclude, no later than by the Site takeover, an insurance of liability for damage caused in the course of its business activities, covering any damage that may be caused in the course of the delivery performance to the Purchaser or to any third parties. The Seller undertakes to maintain such insurance for the entire term of the delivery performance. A failure to fulfil this undertaking shall constitute a material breach of this Agreement.

## 11 WARRANTY AND POST-WARRANTY SERVICE

11.1 The Seller is obliged in the course of the warranty period to perform, free of charge, any and all servicing constituting the condition for the validity of the warranty. The Seller is further obliged in the course of the warranty period to perform a free servicing inspection upon the Purchaser's request at least once a year with respect to all the delivered appliances/facilities, consisting of the basic servicing works, in particular setting adjustment of the appliances/facilities.

11.2 The Seller is obliged to ensure paid post-warranty service upon the Purchaser's request at least for a period of 5 years after the expiry of the last day of the warranty period. The provisions of Art. 9 hereof pertaining to defects removal and liability for a failure to remove defects shall apply adequately to the post-warranty service.

11.3 The Seller is obliged to perform post-guarantee preventive servicing no later than within 30 business days after the Purchaser's written request, unless the Purchaser determines another period of time. The Seller is obliged to commence removing the defects of the appliances/facilities within the framework of the post-warranty service no later than within 4 days after the delivery of the Purchaser's request for the defect

removal and to remove the defect no later than within 10 days after the Purchaser's request, unless the Purchaser determines a longer period of time.

## 12 CONTRACTUAL PENALTIES AND DAMAGE COMPENSATION

12.1 Should the Seller be in delay compared to the delivery handover and acceptance date set out in the Agreement, the Purchaser shall be entitled to charge a contractual penalty to the Seller amounting to 0.05 % of the purchase price (including VAT) for each commenced day of delay.

12.2 If the Seller's delay compared to the delivery handover and acceptance date set out in the Agreement exceeds 14 days, the Purchaser shall be entitled to charge an additional contractual penalty to the Seller amounting to 0.1 % of the purchase price (including VAT) for the 15<sup>th</sup> and each subsequent commenced day of delay.

12.3 Should the Seller fail to remove a defect or unfinished work listed in the handover and acceptance protocol by the deadline set out in the handover and acceptance protocol (or, as the case may be, within 5 calendar days after the handover and acceptance date, if no deadline for the defect or unfinished work removal is set out in the protocol), the Purchaser shall be entitled to charge a contractual penalty to the Seller amounting to 0.01% of the purchase price for each single delayed defect or unfinished work for each day of delay.

12.4 Should the Seller fail to remove a claimed defect by the agreed deadline or – if no such deadline was agreed – within the time period set out in Art. 9.6 hereof, the Purchaser shall be entitled to charge a contractual penalty to the Seller amounting to 0.01% of the purchase price for each defect claimed, with the removal of which the Seller is in delay, for each day of delay. Should the Seller fail to remove a defect of the appliance/facility occurring within 5 years after the expiry of the warranty period by the agreed deadline (or – if no such deadline was agreed – within 10 business days after the day of delivery of the Purchaser's request for the defect removal), the Purchaser shall be entitled to charge a contractual penalty to the Seller amounting to 0.01% of the purchase price for each defect claimed, with the removal of which the Seller is in delay, for each day of delay.

12.5 Should the Purchaser be in delay with payment of an invoice compared to the agreed payment date and fails to prove that such delay is caused by a delayed release of funds from the national budget, the Seller shall be entitled to charge default interest to the Purchaser amounting to 0.05% of the outstanding amount for each commenced day of delay.

12.6 Should the Seller materially breach the regulations pertaining to safety and health protection at work or the rules of operation or any other instructions issued by the Purchaser, the Purchaser shall be entitled to charge a contractual penalty to the Seller amounting to:

- CZK 5,000, if it becomes necessary to suspend works due to direct endangering of the employees' lives (e.g. defects of lifting facilities, electrical installations dangerous for human life, etc.) or if the Seller damages a facility used for ensuring safety (removal of railings, covers of openings, etc.)

- CZK 2,000, if the defect is capable of being removed without suspending works, either immediately or by the agreed deadline
- CZK 500 for each single breach of the regulations pertaining to safety and health protection at work or the rules of operation by the Seller's employee (e.g. failure to use prescribed personal protection aids, etc.)
- CZK 2,000 for each commenced day of delay with the removal of any defects endangering work safety, starting from the defect reporting date until its actual removal

12.7 The obliged party shall be obliged to pay the sanctions charged no later than within 14 days after the delivery date of the relevant invoice.

12.8 The same period of time shall apply to the payment of default interest.

12.9 Payment of the sanction (contractual penalty) shall not affect the Purchaser's entitlement to reimbursement of damage suffered by the Purchaser due to the Seller's breach of the obligation covered by the sanction.

### **13 TERMINATION OF THE CONTRACTUAL RELATIONSHIP**

13.1 The contractual relationship established by this Agreement may be terminated by fulfilment, agreement between the contracting parties, or withdrawal.

13.2 The Purchaser shall be entitled to withdraw from this Agreement in the following cases:

- a) the Seller materially breaches its obligations stipulated in the Agreement;
- b) insolvency proceedings being conducted against the Seller;
- c) the Seller commits a minor breach of its obligations stipulated in the Agreement and fails to remedy such breach within an additional period provided by the Purchaser;
- d) the Seller fails to observe the Purchaser's instructions despite the Purchaser's written request;
- e) the provision of financial resources intended for covering the expenses associated with the Project implementation is suspended or terminated or these expenses are classified by the grant provider as non-eligible;

13.3 The contracting parties have agreed on partial exclusion of application of the provisions of Section 351 of the Commercial Code in the event of the Purchaser's withdrawal from the Agreement due to the suspension or termination of the provision of financial resources intended for covering the expenses associated with the Project implementation. In such a case, the Seller shall not claim from the Purchaser compensation of the damage suffered by the Seller in connection therewith.

13.4 The Seller shall be entitled to withdraw from this Agreement if the Purchaser materially breaches its obligations stipulated herein.

13.5 The withdrawal from this Agreement shall become effective upon delivery of the termination notice to the other contracting party.

## 14 AMENDMENTS AND CHANGES OF THE AGREEMENT

14.1 This Agreement may be amended or supplemented only by written amendments numbered in ascending order that must be inscribed as such and that must be validly signed by both contracting parties.

14.2 If any of the contracting parties presents a proposal of an amendment to this Agreement, the other party shall be obliged to express its position to the proposal within fifteen (15) days of the day following the delivery of the amendment proposal.

14.3 The Seller shall be entitled to transfer its rights and obligations arising from this Agreement to another person only with the Purchaser's prior written consent.

## 15 FINAL PROVISIONS

15.1 Subject to the terms and conditions stipulated herein, subject to the Client's instructions and subject to exercise of all necessary professional care, the Seller hereby undertakes:

- a) to archive all written documents executed for the purpose of performing this Agreement and at any time during the term hereof and until 31 December 2025 allow the Client access to such archived documents. The Client shall be entitled after the expiry of 10 years after the completion of the performance hereunder, to collect the above documents from the Supplier free of charge;
- b) as an obliged entity pursuant to Section 2 e) of Act No. 320/2001 Coll., on Financial Control in Public Administration, to provide its co-operation in the course of financial control activities, including the provision of access for the managing authority of the OP RDI to such parts of the offers, agreements and relating documents that are subject to protection pursuant to special legal regulations (e.g. business secrets, classified facts), provided that the requirements stipulated in applicable legal regulations are met (e.g. Section 11 c) and d), Section 12 (2) f) of Act No. 552/1991 Coll., on State Control);
- c) in the agreements concluded with its subcontractors, allow the managing authority of the OP RDI to perform inspections of the Seller's subcontractors within the scope set out in the preceding paragraph;

15.2 The contracting parties have agreed in compliance with Section 262 of Act No. 513/1991 Coll., the Commercial Code, as amended (the Commercial Code) that the legal relations established hereunder shall be governed by applicable provisions of the Commercial Code.

15.3 The following Annexes shall constitute an integral part of this Agreement:

- Annex No. 1 – Detailed Technical Specifications
- Annex No. 2 – Itemised Budget
- *Annex No. 3 – agreement pursuant to Section 51 (6) of the Act (in the case of association of several entities at the side of the Seller)*

In the event of any discrepancies or contradictions between the wording of this Agreement and individual Annexes hereof, the provisions of this Agreement shall prevail. In the event of any discrepancies or contradictions between the wording of



individual Annexes hereof, the Annex listed in a higher order in this provision shall prevail; this shall not apply to Annex No. 4.

15.4 This Agreement has been executed in four counterparts, each having the validity of the original, of which each contracting party shall receive two, one in Czech and one in English version. In the event of any discrepancies or contradictions between the wording and meaning of each versions, the Czech version shall prevail.

15.5 The contracting parties hereby confirm that they have read this Agreement prior to its signing and that they agree with its contents, that this Agreement represents the entire agreement between the contracting parties and that it has not been concluded under duress or under conspicuously disadvantageous conditions. In witness thereof, the contracting parties have attached their respective signatures hereunder.

Date: 4.12.2012

Date: 6.12.2012

Purchaser: **Masarykova univerzita**

Seller: INTAVIS Bioanalytical  
Instruments AG

Name, surname and position:

prof. RNDr. Jaroslav Koča, DrSc.

director of CEITEC MU

Name, surname and position:

Dr. Klaus Nikoleit

Director of Sales, Intavis AG

Signature:

Signature:



INTAVIS AG  
Bioanalytical Instruments  
Widdersdorfer Straße 248-252  
50933 Köln

MASARYKOVA UNIVERZITA  
Středoevropský technologický institut  
Kamenice 753/5, 625 00 Brno

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## ANNEX NO. 1 – Detailed Technical Specification of the Delivery

### Basic features of the InsituPro VSi

The InsituPro VSi is a fully automatic robotic device allowing the in situ detection of DNA, RNA and proteins in biological materials, in particular Arabidopsis (whole mount) seedlings and vibratome or other cuttings (in particular of botanical materials).

The InsituPro VSi can be used for the analysis of genetic expression and the location of proteins in model plants and in selected culture crops. It can be used for the analysis of genetic expression of other biological materials as well, such as animal tissue cultures. The InsituPro VSi allows studying the location of proteins and RNA in biological, in particular botanical materials, thereby significantly increasing the clearness of the functional analyses of selected genes and proteins in the development of model organisms (Arabidopsis Thaliana and others) with possible impacts in the applied sphere.

### Technical parameters of the InsituPro VSi

- process objects in the size of at least from 0.1 mm to 12mm (entire objects or cuts)
- fully automated protocol of samples preparation (dehydration, permeation, (post) fixing, pre-hybridization, blocking and antibody application, all washing steps)
- 18 positions for solution containers (50-1000ml, 2 cooled positions, 2 preheated positions),
- Interchangeable modules for processing of slides (75x25x1 mm or 76x26x1 mm) or different sized whole mount samples (small – 5mm basket diameter, medium - 9 mm basket diameter, large - 13 mm basket diameter)
- work space for 60 slides
- work space for 60 small or medium or 32 large sized whole mount samples processed in baskets in a thermo-regulated multi well tray
- temperature range:  
6 to 75°C for work with whole mount material and  
Ambient to 75°C for work with sections on slides
- open system: any solutions, e.g. normal self-made lab buffers can be used (no limitation by the use of only commercially supplied solutions and reagents)
- table device, 220/240 V, 50 HZ

### Additional features of the delivery

The delivery will include the:

- delivery of basic consumables for launching the device into operation, including basic spare parts (set of plates with different hole size, baskets, slides, pipette needles, reagent bottles),
- delivery of a set of user protocols;

Seller's signature:

  
INTAVIS AG  
Bioanalytical Instruments  
Widdersdorfer Straße 248-252  
50933 Köln

## ANNEX NO. 2 – Purchase Price – Itemised Budget

Qty.	Part-No.	Description	Price (Euro)
1	14.000	InsituPro Vsi base unit, complete (includes the base unit, the reagent racks, a complete reagent bottle set, a manual in English the windows based operation software and a PC to operate the system)	44.800,00 €
1	14.400	work area kit for 60 medium specimens (includes all accessories and basic consumables for the automation of in situ detection on 60 medium sized whole mount preparations or vibratome sections)	4.900,00 €
1	14.900	slide kit (includes all accessories and basic consumables for the automation of in situ detection on 60 standard slides)	9.900,00 €
1	5.010	Installation and training (includes the installation and setup and a 2-day comprehensive hardware and software training)	3.750,00 €
1	99.014	warranty extension to the second year after purchase	2.490,00 €
Additional accessories and spare parts:			
1	12.440	medium incubation baskets, pack of 100 (100µm)	155,00 €
1	12.100	pipetting needle for basket work area	240,00 €
1	12.940	counter slide, pack of 72 (25,0x75)	170,00 €
1	12.110	pipetting needle for slide module	180,00 €
1	35.202	2 ml screw cap mixing vials, pack of 500	70,00 €
1	14.200	reagent bottle set	135,00 €
1	90.022	exhaust tube (DN 100, 5m)	185,00 €
<b>Total value</b>			<b>66.975,00 €</b>

Please note that we accept the payment in CZK of the fixed total price of 1.600.000,- CZK (without VAT).

Any differences to this sum are given as a discount.

Seller's signature:

  
**INTAVIS AG**  
 Bioanalytical Instruments  
 Widdersdorfer Straße 248-252  
 50933 Köln