

PURCHASE CONTRACT

Entered into Pursuant to the Civil Code, Act no. 89/2012, Coll., section 2079 et sequentes and section 2358 et sequentes, as amended, and the Copyright Act, Act no. 121/2000, Coll., as amended

Contracting Parties:

University of West Bohemia

Address: Univerzitní 8, 306 14 Plzeň, Czech Republic
ID no.: 49777513
Tax ID no.: CZ49777513
Person authorized to act
on behalf of the Purchaser: Doc. Ing. František Vávra, CSc.,
Dean of the Faculty of Applied Sciences,
authorized to act on behalf of University of West
Bohemia
Bank: Komerční banka a.s., Plzeň-město
Account no.: 4811530257/0100
On one part as the Purchaser (hereinafter referred to as "the Purchaser")

and

Carstens Medizinelektronik GmbH

registered office: Nelkenweg 8, 37120 Bovenden, Germany
ID No.: HRB Göttingen 1080
Tax ID No.: DE115301240
Represented by: Herr Bahne Carstens
Registered in: the commercial register of Göttingen
Bank: Sparkasse Göttingen
Account no.: IBAN: DE50260500010019000025

On the other part as the Seller (hereinafter referred to as "the Seller")

Entered into this Purchase Contract (hereinafter referred to as the "Contract") on the hereinbelow day, month and year:

I. Introductory Provisions

1. This Purchase Contract is entered into based on the result of the small-scale Public Tender entitled **"Delivery of an Electromagnetic Articulograph for the NTIS Project"** (hereinafter referred to as "the Public Contract"). The Purchaser, as the Contracting Authority, selected the offer submitted by the Seller as the best bid.
2. The Seller confirms that they have become fully acquainted with the scope and nature of the thing that is subject of the purchase and relates to the subject matter of the Public Contract, and that they are aware of all technical, qualitative and other conditions and have the capacities and expertise needed to deliver the Contract.
3. The Seller explicitly confirms that they have studied all the Purchaser's documents and instructions received by the date of execution of this Contract as well as instructions contained in the requirements that the Purchaser defined for the Public Contract, that the Seller has found these requirements to be appropriate, that the purchase price and the method of the Contract delivery contain and take into consideration all the above specified conditions and circumstances.

II. Object of Sale

1. Pursuant to the terms and conditions of this Contract, the Seller undertakes to supply 1 (one) unit of an electromagnetic articulograph including the basic accessories required for its proper functioning – recording, synchronization and visualization of measured data (hereinafter also referred to as "the object of sale" or "the Equipment").
2. The object of sale including the requested accessories is specified in Annex no. 1 to this Contract: Equipment Technical Parameters and Related Obligations of the Seller.
3. The object of sale must be delivered in the agreed quantity, quality and design to the agreed place in the agreed time. The supplied object of sale must be also suitable and fully employable for the agreed purpose of its use as specified in this Contract, and in terms of its use not specifically described in this Contract, it must be suitable and fully employable for the purpose it is usually used for. The Seller expressly declared that the Equipment representing the object of sale meets the technical parameters and features as specified in Annex no. 1 to this Contract and parameters specified in the Tender Cover Page in Annex 2 of this Contract. The Seller undertakes to comply with other related obligations under this Contract and transfer the ownership right to the object of sale on the Purchaser.
4. The object of sale will be new, fully functional, and complete, i.e. will be ready for immediate use and there will be no need to procure other components, it will be supplied including all the necessary components, even if these components are not explicitly described in the invitation to submit bids to the Public Tender.
5. Delivery of the object of sale to its place of delivery, its installation and assembly, calibration and commissioning including testing of its flawless operation, delivery of technical documents and user manuals (either Czech or English language, in hard or electronic copies) and demonstration of all the required parameters constitute integral parts of the Contract's performance.

6. The Seller shall provide the Service Personnel of the Purchaser with training concerning the object of sale; the training agenda will be scheduled for 8 (eight) hours for 3 (three) members of Service Personnel (the agenda will include operation of the object of delivery, including all its components).
7. At least for the duration of the guarantee, the Seller will provide Purchaser phone and e-mail technical support (in Czech, Slovak or English language) on weekdays from 8:00 a.m. to 2:00 p.m.
8. The Purchaser undertakes to accept the delivered object of sale and to pay to the Seller the price stipulated in this Contract under the conditions specified herein.

III. Price and Payment Conditions

1. The purchase price results from the price bid submitted by the Seller calculated for the purposes of the Public Tender.
2. The purchase price will be paid by the Purchaser to the Seller after the object of sale is delivered and accepted, and the Acceptance Protocol is signed by authorized representatives of the two contracting parties.
3. The total purchase price for the entire object of sale is CZK 1.314.072,00 in words: one million three hundred fourteen thousand seventy two Czech crowns excluding VAT (hereinafter referred to as "the Purchase Price").
4. In accordance with the Value Added Tax Act no. 235/2004, Coll., as amended, the Purchase Price is determined excluding VAT; the VAT may be added to the Purchase Price, that the Purchaser will be obliged to pay, or declare or return in any form pursuant to the VAT Act no. 235/2004, Coll., applicable on the date of taxable supply.
5. The Purchase Price will be determined as the highest acceptable (maximum) price that cannot be exceeded, it will include all fees and all additional costs incurred in connection with the performance of the delivery (i.e. transportation and warehouse charges, costs of the approval process, required testing, declaration of properties or conformity¹, certificates and attests, transfer of rights, insurance and possible taxes and charges that the Seller may be obliged to pay in any form according to any applicable laws valid abroad etc.). The Seller is not entitled to charge any other amounts for the performance of the herein Contract.
6. The purchase price for the object of sale will be paid by the Purchaser based on a tax document (hereinafter also referred to as "the invoice") issued by the Seller within 15 days of the delivery and acceptance of the object of sale and duly signed Acceptance Protocol. A copy of the Acceptance Protocol will form an integral part of the invoice.
7. The invoice will be due 30 days from the date when it is demonstrably received by the Purchaser. However, the Purchaser reserves the right to unilaterally extend the due date of the tax document according to its ability to use funds provided by the Research and Development for Innovation Operational Programme (hereinafter referred to as "the OP RDI") by up to 30 calendar days. Such an extension does not establish the Purchaser's delay with the payment of the purchase price.

¹ Pursuant to the Regulation of the European Parliament and of the Council no. 305/2011.

8. The tax document – the invoice must contain all elements of a proper accounting and tax document pursuant to the relevant legislation, namely – yet not exclusively – of the Value Added Tax Act no. 235/2004, Coll., as amended. The Purchaser will be entitled to return an invoice missing the relevant elements to the Seller to be amended before its due date, and the Purchaser will not be in delay with the payment in such a case. The payment period will start again after the duly amended or corrected invoice is sent to the Purchaser.

IV. Place of Delivery and Acceptance of the Equipment

1. The Seller undertakes to deliver the object of sale (including its assembly, commissioning, service personnel training etc.) over to the place of delivery, i.e. University of West Bohemia in Pilsen, Univerzitní 22, Plzeň, Czech Republic, during the working hours of the Purchaser – between 8:00 a.m. and 4:00 p.m., unless stipulated otherwise by the Contracting Parties.
2. The Acceptance Protocol will be made out to certify the delivery and acceptance of the object of sale (including its assembly, commissioning, service personnel training etc.); the Protocol will be signed by authorized representatives of both Contracting Parties.
3. The Purchaser will not be obliged to accept any object of Sale demonstrating any defect or unfinished parts. Together with the object of sale, the Seller will be also obliged to provide to the Purchaser documents needed for the proper hand-over and subsequent operation of the object of sale, and the delivery of these documents is a condition for the object of sale to be accepted by the Purchaser.

V. Term of Delivery

1. The Seller undertakes to start delivering the object of sale on the effective date of the Contract and duly complete the delivery of the object of sale within 4 (four) months after the effective date of the Contract at the latest.

VI. Transfer of Ownership Title and the Risk of Damage of the Object of Sale

1. The ownership title to the object of sale is transferred to the Purchaser on the day the object of sale is duly delivered by the Seller and accepted and its acceptance is certified by the signed Acceptance Protocol. The risk of damage of the object of sale is also transferred to the Purchaser at the same time.

VII. Guarantee

1. The Seller provides the Purchaser with a quality guarantee for the object of sale delivered pursuant to this Contract; the guarantee period will be 24 months.
2. The guarantee period starts on the day the object of sale is duly delivered by the Seller and accepted by signing the Acceptance Protocol by representatives of the two contracting parties.
3. The Purchaser is obliged to inform the Seller, by phone, e-mail or in writing at the following address of the Seller: Nelkenweg 8, 37120 Bovenden, Germany, of any defects without undue delay as soon as they are identified. Claims mailed by the Purchaser on the last day of the guarantee period will also be considered duly raised claims.

4. The Seller will carry out the guarantee repairs free of charge and without delay depending on the nature of the Equipment defect, no later than 30 calendar days after the claim is raised, unless stipulated otherwise by the Contracting Parties. If the nature of the defect permits, the Seller will be obliged to remove the defect in the place of delivery. If this is not possible, the Seller will remove the defect in the Seller's facility.
5. In this respect the Seller acknowledges that the work to remove the defects may start on business days between 8:00 a.m. and 4:00 p.m., unless stipulated otherwise by the Contracting Parties.
6. The Contracting Parties will certify removal of the claimed defect by a protocol certifying the removal of the defect. The guarantee period will be extended by the period lapsed between the date of the guarantee claim and the day of defect removal.

VIII. Termination of the Contract

1. This Contract can be terminated:
 - a) By a written agreement of the Contracting Parties;
 - b) By withdrawal from the Contract for reasons stipulated in the Contract or specified by the law.
2. A Contracting Party may terminate this Contract for a gross violation of the Contract by the other Party. In particular, the following will be considered a gross violation of this Contract:
 - a) The Purchaser's failure to pay the Purchase Price in accordance with this Contract within 60 days after the due date of a relevant invoice;
 - b) The Seller's failure to duly deliver the object of sale (or its part) on the agreed date entitling the Seller to the payment of the purchase price (or its part) based on a relevant invoice;
 - c) The Seller's failure to supply object of sale possessing the properties declared by the Seller in this Contract or properties arising from this Contract;
 - d) The Seller's failure to provide correct information or documents indicative of the actual situation in the Bid submitted to the Public Tender, which have or could have affected the result of the Tender.
3. Should one of the Parties fail to comply with other contractual conditions (such as proper performance of guarantee repairs), the other Party will be entitled to terminate the Contract, if the defaulting Party fails to meet its obligations during extended reasonable period granted to the Party for the purpose.
4. A Party must withdraw from the Contract in writing without undue delay after learning of the violation.
5. Should a Party withdraw from the Contract, the Contracting Parties will be obliged to settle their obligations and receivables as specified by the law or in the Contract within 30 days of the effective date of the withdrawal, or by a stipulated date.
6. Should the Purchaser terminate the Contract for a gross violation of the contractual obligation by the Seller, the Seller will be obliged to pay to the Purchaser possible incurred damage (material and non-material).

IX. Penal Obligations

1. Should the Seller fail to meet its Contractual obligation, in particular, should the Seller be in default with the delivery of the object of sale (incl. its assembly, commissioning, service personnel training etc.), i.e. should the Seller fail to deliver the object of sale (or its part) by the stipulated date, the Seller will be obliged to pay to the Purchaser a contractual penalty of 0.05% of the total Purchase Price for every started day of such delay.
2. Should the Purchaser be in default with the payment of the invoice, the Seller will be obliged to charge the Purchaser with the contractual interest on late payment of 0.05% of the amount due for every started day of the payment delay.
3. Should the Seller fail to meet the specified (or otherwise stipulated) term for the performance of the guarantee repair, the Seller will be obliged to pay to the Purchaser a contractual penalty of 0.05% of the total Purchase Price for each individual failure for every, even started, day of the delay.
4. The obliged Party must settle the contractual sanction (contractual penalty) to the entitled Party within 15 calendar days of receipt of the relevant calculation submitted by the other Contracting Party at the latest.
5. Payment of the contractual penalties in accordance with this Contract does not prejudice the Contracting Party's right to claim damages caused by the other Party's failure to meet its obligation giving rise to the penalty.
6. The Purchaser will be entitled to offset any contractual penalty due from the Seller against invoiced amounts.

X. Other Provisions

1. The Seller acknowledges that, pursuant to the Financial Control in Public Administration Act no. 320/2001, Coll., section 2 (e), as amended, the Seller is a person obliged to cooperate in exercising financial control. A controlling body of the Operational Programme RDI will be authorized to perform an audit and access those parts of the bid, Contract and relating documents that are subject to protection according to special legal regulations (such as trade secrets, proprietary information) for a period of three years after the operational programme is closed, provided that the requirements defined by the law (for example, the State Control Act no. 552/1991, Coll., Section 11 (c) and (d) and Section 12, subsection 2 (f), as amended) are met. The controlling body of the Operational Programme RDI is similarly authorized to perform an audit at the Seller's subcontractors (see Annex no. 2 to the Guidelines for OP RDI Applicants and Beneficiaries: <http://www.msmt.cz/strukturalni-fondy/spolecne-prilohy-prirucek-pro-zadatele-a-prijemce-op-vavpi-3>).
2. The Seller will be obliged to properly maintain all documents relating to the execution of the object of sale (including accounting books) for at least three years after the OP RDI project is closed, i.e. at least until 2021. During the same time period, the Seller will be obliged to provide requested information and documents to the agents of bodies authorized to audit projects performed under OP RDI and will be obliged to create conditions for these personnel to be able to carry out the audit of the project implementation and cooperate in the audit.

XI. Communication

1. All communication or other acts of the Contracting Parties pursuant to this Contract will be addressed to the hereinbelow representatives of the Contracting Parties in Czech or English language.
2. Should this Contract require a written statement by the Parties to communicate or act, the notice will be sent via provider of postal services to the address of the relevant Contracting Party to the attention of the herein specified representative of the Contracting Party.
3. Should this Contract require a certain statement or act of the Contracting Parties to be made in writing by a certain deadline, such deadline will be met, if the statement or act will be delivered electronically to the e-mail of the representative of the other Contracting Party in accordance with the Contract, if the statement or information about the act is sent consequently via provider of postal services to the address of the relevant Contracting Party within three business days.

4. Representatives of the Parties

The Seller declares that the following person was authorized to act in his/her name in the matters relating to the performance of this Contract:

Name: Mr. Dipl. Ing. Bahne Carstens
E-mail: bahne@articulograph.de
Phone: +49 5593 1697.

The Purchaser declares that the following person was authorized to act in his/her name in the matters relating to the performance of this Contract:

Name: doc. Ing. Jindřich Matoušek, Ph.D.
E-mail: jmatouse@kky.zcu.cz
Phone: +420 377 632 530.

5. These representatives, however, have no authority to sign any amendments to the Contract.

XII. Closing Provisions

1. This Contract is governed by Czech law. Matters not expressly stipulated in the Contract are governed by the relevant provisions of the Civil Code, Act no. 89/2012, Coll., as amended. Any disputes arising from this Contract or relating to this Contract will be resolved by a Czech court of the relevant jurisdiction in the place of registered address of the Purchaser.
2. This Contract is made out in four identical copies, each of which is valid as original. Each of the Contracting Parties will receive two identical copies.
3. This Contract may only be altered or amended by written amendments numbered in ascending uninterrupted order and signed by both Contracting Parties.
4. This Contract becomes valid and effective on the date it is entered into, i.e. on the date it is signed by authorized representatives of both Contracting Parties.

5. Should any of the Parties be unable to duly perform the Contract due to a reason on its part, the Party will be obliged to inform the other Party about the fact without undue delay and initiate a discussion between representatives of the Purchaser and the Seller.
6. Annexes to the Contract form its integral part:
 - Annex no. 1: Equipment Technical Parameters and related obligations of the Seller.
 - Annex no. 2: Copy of the Tender Cover Page
 - Annex no. 3: Authorization of the Dean of the Faculty of Applied Sciences of University of West Bohemia in Pilsen to Act on Behalf of the Public University
7. The Contracting Parties declare that they have read the Contract before signing, and agree with its content; in witness thereof both Contracting Parties attach their signatures.

In Boveniden, date 28.7.2014

In Pilsen, date 1.8.2014



On behalf of the Seller
Carstens Medizinelektronik GmbH,
Mr. Dipl. Ing. Bahne Carstens



On behalf of the Purchaser
Doc. Ing. František Vávra, CSc.,
Dean of the Faculty of Applied Sciences
authorized to act on behalf of the
University

Annex no. 1 to the Purchase Contract

Equipment Technical Parameters And Related Obligations of the Seller

The equipment consists of the following components, meets the specified (minimum) technical parameters and supports the following features:

- The number of simultaneously recorded channels at least 8 with the possible extension to at least 16 channels (the ability to track simultaneously at least 8 points of interest)
- 3D capture (the recording of three coordinates of each point of interest – an articulator or a facial point)
- Sampling frequency at least 100 Hz (ensures the minimum allowable quantization of the recording data)
- Synchronization with speech signal (the ability to record articulatory and orofacial data synchronously with speech signal)
- Real-time capture (the recording of articulatory and orofacial data in real time)
- Head movement correction (important to ensure independence of the recorded articulatory and orofacial data on head movements during speaking)



EVROPSKÁ UNIE
EVROPSKÝ FOND PRO REGIONÁLNÍ ROZVOJ
INVESTICE DO VAŠÍ BUDOUCNOSTI



Annex no. 1 to the Invitation

TENDER COVER PAGE

BASIC INFORMATION:

Public Contract Title: Delivery of an Electromagnetic Articulograph for the NTIS Project
Contracting Authority: University of West Bohemia
Registered Address: Univerzitní 8, 306 14 Plzeň, Czech Republic
ID No.: 49777513
Tax ID No.: CZ49777513
Person Authorized to Act on Behalf of the Contracting Authority: Doc. Ing. František Vávra, CSc.
Dean, Faculty of Applied Sciences, authorized to act on behalf of the University

Bidder

Name / business name Carstens Medizinelektronik GmbH
Place of business / registered office Nelkenweg 8, 37120 Bovenden, Germany
ID No.: HRB Göttingen 1080
Tax ID No.: DE115301240
Person Authorized to Act on behalf of the Bidder: Herr Bahne Carstens
Bank: Sparkasse Göttingen
Authorized Representatives: Herr Bahne Carstens

BID PRICE (EXCLUDING VAT):

Subject	Bid price in CZK (excl. VAT)
Electromagnetic Articulograph	1.314.072



EVALUATION CRITERION 2) AND 3):

EVALUATION SUB-CRITERION	Proposed value
Sampling frequency	1250 Hz
Number of simultaneously recorded channels	8

In Bovenden, date April 23rd, 2014



Carstens Medizinelektronik GmbH,
Mr. Dipl. Ing. Bahne Carstens

POVĚŘENÍ

(v souladu se zák. č. 262/2006 Sb.; zákoník práce, ve znění pozdějších předpisů, zák. č. 111/1998 Sb., o vysokých školách, ve znění pozdějších předpisů; zák. č. 137/2006 Sb., o veřejných zakázkách, ve znění pozdějších předpisů)

Západočeská univerzita v Plzni, IČO: 49777513, se sídlem Plzeň, ul. Univerzitní 8/2732, PSČ: 306 14, jednající doc. PaedDr. Ilonou Mauritzovou, Ph.D., rektorkou, tímto

p o v ě ř u j e

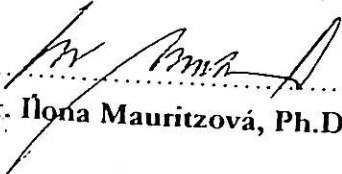
v souladu (i) s Rozhodnutím rektora č. 25R/2012 - Organizačním řádem Západočeské univerzity v Plzni ze dne 28.08.2012, ZCU 028615/2012, (ii) se zák. č. 111/1998 Sb., o vysokých školách; (iii) Statutem Západočeské univerzity v Plzni ze dne 20.12.2012 a (iv) zák. č. 111/1998 Sb., o vysokých školách, ve znění pozdějších předpisů,

k e d n i 1. 8. 2013

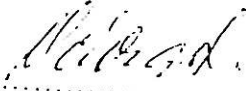
jméno: **FRANTIŠEK** příjmení: **VÁVRA** narozen dne: 22. dubna 1949, bytem: Alej Svobody 52, 323 00 Plzeň, funkce: **děkan Fakulty aplikovaných věd, zaměstnanec Západočeské univerzity v Plzni**, zejména k:

- zajištění všech úkonů souvisejících s organizací, koordinací a výkonem činností při zadávání veřejných zakázek ve smyslu zák. č. 137/2006 Sb., o veřejných zakázkách, ve znění pozdějších předpisů, v rámci Operačního programu Výzkum a vývoj pro inovace, projekt NTIS, CTPVV;
- k podpisu všech právních úkonů souvisejících se zadáváním veřejných zakázek ve smyslu zák. č. 137/2006 Sb., o veřejných zakázkách, ve znění pozdějších předpisů, v rámci Operačního programu Výzkum a vývoj pro inovace, projekt NTIS, CTPVV.

V Plzni, dne 17. července 2013


.....
doc. PaedDr. Ilona Mauritzová, Ph.D., rektorka ZČU

Uvedené pověření přijímám:


.....
doc. Ing. František Vávra, CSc., děkan FAV

Západočeská univerzita v Plzni

Doručeno: 31.07.2014

ZCU 024454/2014

listy: 48

přílohy:

druh:



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