

Invitation to the Tender for a Public Contract and Qualification Demonstration (Tender Documentation)

The Contracting Authority of a small-scale Public Contract, in the proceedings pursuant to the Public Contracts Act, no. 137/2006 Coll., § 12, Section 3, in the wording of later amendments (hereinafter referred to as the "Law") hereby calls bidders to submit bids in the framework of the **Public Contract "System for Fuel Cell Testing"**.

This Public Contract is amended in compliance with Annex No. 2 of the Manual for Applicants – Bidder Selection Guidelines in the framework of the Operational Programme Research and Development for Innovation, as amended.

1) Identification Data of the Contracting Authority:

| | |
|----------------------------|---------------------------------------------|
| Name: | University of West Bohemia in Pilsen |
| Address: | Univerzitní 8, 306 14 Plzeň, Czech Republic |
| Authorised Representative: | Ing. Arch. Hynek Gloser, Ph.D., Bursar |
| Legal Form: | Public University |
| Identification Number: | 49777513 |

2) Project and Public Contract Title:

| | |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| Project Title: | Centre of New Technologies and Materials (CENTEM) Project Number: CZ.1.05/2.1.00/03.0088 OP Research and Development for Innovation (RDI) |
| Public Contract Title: | System for Fuel Cell Testing |

3) Subject of the Tender; its description(technical conditions/requirements):

The subject matter of the Tender is the delivery of a new, fully operational and complete system for the diagnostics of a membrane-electrode assembly for the research of polymer-electrolyte-membrane fuel cells including accessories (hereinafter referred to as PEM type). The use of this system for precise diagnostics of fuel cells (membrane-electrode assemblies) will result in the possibility of a unique comprehensive analysis of the operating characteristics of a membrane-electrode assembly. Another consequence of the use of this system is its important contribution to accomplishing the currently ongoing project (CENTEM) and future projects.

Detailed technical specifications of the equipment: see Annex No. 3 of this Invitation

An integral part of the Public Contract is to supply the equipment to the site of the fulfilment of the Public Contract, the installation of the equipment, putting it into

operation, providing operating instructions in Czech or English language in writing, and the training of the operation staff of the contracting authority as specified below.

Additional requirements

- The Bidder shall deliver fully operational equipment for membrane-electrode assembly testing without the necessity of any complementary deliveries, such as operating fluids, etc.
- The Bidder shall install and put the equipment into operation at the University of West Bohemia in Pilsen, New Technologies – Research Centre, 42 Veleslavínova Street, Plzeň. The Bidder will transmit a record of installation and operation.
- The Bidder is also obliged to provide, at the site of the fulfilment of the Public Contract, directly on the delivered equipment, professional training of a minimum of two (2) members of the operation staff. The scope of the training shall include a minimum of eight (8) hours. The training shall provide the staff with the ability to fully operate/control the equipment, including all its delivered parts. The Bidder will transmit a record of staff training.
- The record of installation and operation and the record of staff training shall be signed by both Contractual Parties; the Buyer shall be the person referred to in Article 8, herein.
- The Guarantee Period for the delivered equipment is a minimum of 12 months after the handover of the equipment for use.
- The Bidder shall be present for the elimination of possible defects with no delay, unless agreed otherwise in writing with the Purchaser. In this context, the Bidder shall note that the elimination of defects shall begin on a business day from 8:00 a.m. to 2:00 p.m. The presence for defect elimination shall mean the presence of the Bidder at the place designated by the Contracting Authority as the place where the reported defects in the Product shall be eliminated. In the event of a defect during the warranty period, the warranty period shall be extended by the period starting with the notification of the defect by the Contracting Authority to the Bidder until putting the product into operation at the site of the fulfilment.
- During the Guarantee Period, the Bidder shall provide the servicing of the delivered equipment, including its possible transportation to special servicing facilities and back to the place of the fulfilment of the Public Contract at the expense of the Bidder.
- During the Guarantee Period, the Bidder shall eliminate the defect within a maximum of five (5) business days from the presence for the defect elimination, unless agreed otherwise.

The equipment offered by the Bidder as the subject matter of the Public Contract must unconditionally meet the minimum technical parameters required by the Contracting Authority specified in Annex No. 3 of the Invitation. If the technical requirements include trade names of certain products or deliveries, or other designations or illustrations which are related to a particular product, they mean the definition of the expected characteristics, and the Bidder is entitled to propose another, technically and qualitatively comparable proposal/solution.

Should the Invitation to the Tender define a particular product/technology, this will

stand for the minimal required standard. In its Bid, the Bidder is allowed to replace the said product with another product or technology which meets the standard required or even exceeds it. Should the product/subject matter, and its detailed technical specification included in the Mandatory Draft of the Purchase Contract, Annex No. 1, of the Bid fail to meet the minimal technical parameters required, the Bid of the said Bidder will be discarded from further assessment and evaluation, and the Bidder will be excluded from participation in the Tender Process.

Classification of the Subject of the Public Contract Pursuant to CPV:

42990000 – 2 Other targeted machinery

38000000 - 5 Laboratory, optical and precision equipment (excl. glasses)

4) Delivery Terms and Place of the Public Contract:

Anticipated time of the Public Contract Execution: immediately upon the signing of the Contract.

Termination at the latest by: within 5 months of the signing of the Contract.

The place of delivery of the Public Contract is: University of West Bohemia in Pilsen, New technologies – Research Centre, Veleslavínova 42, 306 14 Plzeň.

5) Tender Documents

The Tender Documents are an integral part of the conditions of the Invitation to the Tender (hereinafter referred to as the "Invitation").

6) Type of Tender:

The Public Tender calls for deliveries.

7) Deadline and Place for Submission of Bids and Qualification Demonstration:

a) Deadline for the submission of bids

Bids may be submitted by **September 1, 2014, 12:00 a.m.** at the latest. Bids submitted after the deadline for the submission of bids shall not be opened by the Contracting Authority. The Contracting Authority will inform the Bidder about this fact with no delay.

b) Place for the submission of bids

Bids shall be submitted to the address of the registered office of the Contracting Authority, University of West Bohemia in Pilsen, Univerzitní 8 , 306 14 Plzeň, or in person in the Mail Room of the University of West Bohemia (the Mail Room – office hours 8:00 a.m. – 2:00 p.m.). No other delivery is considered a due submission of the Bid.

8) Contact Person of the Contracting Authority:

The contact person of the Contracting Authority is:

Name: Ing. Tomáš Kovářík, Ph.D.

Phone: +420 377 634 808

E-mail: toko@ntc.zcu.cz

9) Conditions and Requirements for the Preparation of the Bid:

- 9.1 Bids are only submitted in writing, i.e. in a hard copy, in a properly closed envelope. The Contracting Authority recommends the envelope be labelled on its overlaps; the layout of the label includes the name of the company/title and a stamp or signature of the statutory body or a person authorized to act on behalf of and in lieu of the Bidder. The envelope shall be labelled with the sign „Not to be opened – Public Contract Tender: **“System for Fuel Cell Testing”**“. The envelope must include the return address of the Bidder.
- 9.2 The bid must include the identification data of the Bidder, in particular: business company/name, registered office, legal form and identification number. It is also recommended to the Bidder to state the person authorized to act on behalf of or in lieu of the Bidder, and the contact address for written communication between the Bidder and the Contracting Authority.
- 9.3 The Bid must be compiled in the Czech or English language, and must include the Draft Contract signed by the person authorized to act on behalf of or in lieu of the Bidder.
- 9.4 The Bidder will submit its Bid in one original copy. It is recommended to the Bidder that all sheets of the Bid be firmly bound or sewn together to prevent any loss, adequately legible, without any deletions, crossing-outs or rewritings. It is also recommended to the Bidder that all sheets be numbered in uninterrupted ascending order.
- 9.5 Should the Bid be submitted by more Bidders together (Joint Bid), the Bid will state the person who will be authorized to act on behalf or in lieu of the the said Bidders when communicating with the Contracting Authority during the Tender Procedure.
- 9.6 The Bidder will also submit the whole Bid in the electronic form, saved (scanned) in the *.pdf format; the Draft Contract will also be submitted in the *.doc or compatible format. In case of inconsistency between the hard and the electronic wordings of the Bid, the information stated in the written (hard) version will take precedence.
- 9.7 The Bid must be submitted in the following structure:
 - a) Cover Page of the Bid

Title of the Public Contract, place of delivery, identification data of the Contracting Authority.

- b) Contents
The Bid must contain all further listed chapters in the required segmentation which will be assigned the numbers of the relevant sheets/pages.
- c) General data about the Bidder
The name/title of the Bidder, legal form, registered office, identification number, tax identification number, bank, the names of the members of the statutory body of the company including their contacts (phone, fax, E-mail, address), the person authorized to further negotiate including the written authorization to represent the Bidder, and the profile of the company.
- d) Cover Page of the Bid
The Cover Page of the Bid will contain the following information: the title of the Public Contract, basic identification data of the Contracting Authority and the Bidder (including persons authorized to further negotiate), the highest permissible bid price in CZK broken down pursuant to this Invitation to the Tender, the date and signature of the person authorized to act on behalf and in lieu of the Bidder. The Bidder will use Annex No. 1 of this Invitation to the Tender.
- e) Documents evidencing that the qualification prerequisites in the structure stated in Article 11) herein have been met.
- f) Declaration on Word of Honour of the Bidder regarding the qualification prerequisites in the structure stated in Article 11), and further in the scope pursuant to Article 9.8 herein (Annex No. 2 of this Invitation to the Tender).
- g) Bid Price in the breakdown pursuant to Article 13) herein (Annex No. 4 of this Invitation to the Tender).
- h) Draft Contract properly signed, the Mandatory Template of which is Annex No. 7 herein.

9.8 An integral part of the Bid of the Bidder will be its Declaration on its Word of Honour that (i) neither the Bidder, nor any person close to the Bidder, no employee of the Bidder or (ii) its subcontractor, no person close to the subcontractor or an employee of the subcontractor, have participated in the preparation of the Tender Documents (Invitation to the Tender). Part of the Declaration on Word of Honour will also be a declaration that the Bidder has not prepared its Bid in coordination with another Bidder submitting its Bid. (For the mandatory template of the Declaration on Word of Honour – see Annex No. 2 herein.)

10) Bid Validity Period:

Bidders are bound by their Bids for a period of 3 months following its submission. The Bid validity period starts upon the expiration of the time limit for submission of

the bids, and finishes on the day when the Tender Purchase Contract is concluded.

11) Qualification Criteria and Methods to Provide Evidence of Them:

11.1 The Qualification Criteria have been met by the Bidder who has provided evidence of the fulfilment of:

- Basic Qualification Prerequisites,
- Professional Qualification Prerequisites,
- Economic and Financial Eligibility, and
- Technical Qualification Prerequisites.

11.2 Deadline for evidencing the fulfilment of qualification:

The Bidder is obliged to evidence that it has met the Qualification Prerequisites within the deadline for submission of the Bid pursuant to Article 7), subsection a) herein.

11.3 Basic Qualification Prerequisites

11.3.1 The basic qualification prerequisites will be met by a Bidder:

- a) who has not been finally convicted of a criminal offence committed for the benefit of an organized crime group, of a criminal offence of participation in an organized crime group, of legalisation of proceeds of criminal activity, complicity, accepting bribes, bribery, indirect bribery, fraud, loan fraud, including cases of preparation for and attempts to participate in such a criminal offence, or if the conviction for committing such a criminal offence has been expunged; in case of a legal person, this prerequisite must be met by the legal person as well as their statutory body and all its members; if the statutory body of the Bidder or its member is a legal person, this prerequisite must be met by the legal person as well as their statutory body and all members of the statutory body of such a legal person; if the bid or application for participation is submitted by a foreign legal entity through its organizational unit, this prerequisite, apart from the personnel specified herein, must also be met by the managers of the organizational unit; this basic qualification requirement must be met by the Bidder with regard to the territory of the Czech Republic, as well as with regard to the country of its registered office, place of business or residence;
- b) who has not been finally convicted of a criminal offence, where the facts of the case are related to the object of business activities of the Bidder under separate legal regulations or where the conviction for committing such a criminal offence has been expunged; if the Bidder is a legal person, this prerequisite must be met by the legal person as well as their statutory body and all its members; if the statutory body of the Bidder or its member is a legal person, this prerequisite must be met by the legal person as well as their statutory body and all members of the statutory body of such a legal person; if the bid or application for participation is submitted by a foreign legal entity through its organizational unit, this prerequisite, apart from the personnel specified herein, must also be met by the managers of the organizational unit; this basic qualification requirement must be met by the Bidder with regard to

the territory of the Czech Republic, as well as with regard to the country of its registered office, place of business or residence;

- c) who has not accomplished elements of unfair competition practices in the form of bribery under separate legal regulation in the past three years;
- d) who has not been subject to insolvency proceedings involving its assets, in which the declaration of bankruptcy has been issued or insolvency petition has not been rejected due to lack of assets on the part of the Bidder to cover the costs of insolvency proceedings, or the declaration of bankruptcy has not been set aside because of the Bidder's insufficient property or in respect of which receivership has been imposed under separate legal regulation;
- e) who is not in liquidation;
- f) who has no outstanding tax arrears registered in tax records, either in the Czech Republic or in the country of the registered office, place of business or residence of the Bidder;
- g) who has no outstanding arrears in respect of payments and penalties of public health insurance, either in the Czech Republic or in the country of the registered office, place of business or residence of the Bidder;
- h) who has no outstanding arrears in respect of payments and penalties of social security insurance and contribution to the state employment policy, either in the Czech Republic or in the country of the registered office, place of business or residence of the Bidder;
- i) who has not been found guilty of grave professional misconduct in the preceding three years or has not had a disciplinary punishment imposed on them under separate legal regulations, if evidence of professional eligibility under separate legal regulations is required. If the Bidder performs its activities through an authorized representative or any other person liable for the activity of the Bidder, this prerequisite will also apply to these personnel;
- j) who is not enrolled on the black list of Bidders banned from participating in the performance of public contracts, and
- k) who has not been subject to a penalty finally imposed on the Bidder for allowing illegal work under separate legal regulations in the preceding three years.

11.3.2 The Bidder will demonstrate that the basic qualification prerequisites pursuant to Section 11.3.1. of this Invitation to Tender have been met by submitting a Declaration on Word of Honour regarding Section 11.3.1, subsection a)–k) of the Invitation to the Tender. The template of the Declaration on Word of Honour is attached as Annex No. 2 to this Invitation to the Tender.

11.4 Professional Qualification Prerequisites

The professional qualification prerequisites are:

- a) **an extract from the Commercial Register**, if it has been registered, or an extract from another register, if registered, and
- b) **a document evidencing that the Bidder is authorized to pursue business**

activities pursuant to special legislation to the extent corresponding to the subject matter of the Public Contract, in particular, **evidence proving the existence of a relevant trade license.**

The Bidder will demonstrate that the professional qualification prerequisites have been met by submitting a Declaration on Word of Honour, whose template is attached as Annex No. 2 to this Invitation to the Tender.

11.5 **Economic and Financial Eligibility**

The Bidder, in order to prove the fulfilment of its economic and financial eligibility, will submit a Declaration on Word of Honour concerning its economic and financial eligibility to perform the Public Contract. The template of the Declaration on Word of Honour is attached as Annex No. 2 to this Invitation to the Tender.

11.6 **Technical Qualification Prerequisites**

Fulfilment of the technical qualification prerequisites will be demonstrated by a Bidder who submits a **description of the goods** to be delivered; the Bidder will enclose a **colour photograph** (e.g. a catalogue or a brochure) of the equipment bid, including a detailed description which will clearly demonstrate the fulfilment of all technical requirements stated by the Contracting Authority in Article 3 of this Invitation to the Tender.

11.7 Documents evidencing the fulfilment of the qualification prerequisites are submitted by the Bidder in the form of a regular copy.

11.8 When the Bidder misses the qualification criteria, it must demonstrate that the qualification criteria are fulfilled by its subcontractor.¹ In such a case, the Bidder will be obliged to submit the following to the Contracting Authority:

a) documents evidencing that the subcontractor meets the basic qualification requirements in accordance with the Invitation to the Tender, Section 11.3.1, subsection j), and the professional qualification requirements in accordance with the Invitation to the Tender, Section 11.4, subsection a), and

b) a contract entered into with the subcontractor evidencing the subcontractor's commitment to provide the fulfilment required for the Bidder to deliver the Public Contract, or to provide things or rights that the Bidder will be entitled to use and exercise in order to perform the Public Contract, at least within the extent of the subcontractor's qualifications evidenced in accordance with the Invitation to the Tender.

¹ The Bidder is not allowed to act as a subcontractor for another Bidder. However, one subcontractor may be a subcontractor for more Bidders. Should this condition be violated, the Bidder will be excluded from the Tender Procedure.

The Bidder must not employ the subcontractor to provide for the fulfilment of the qualification criteria pursuant to the Invitation to the Tender, Section 11.4, subsection a).

11.9 If the subject matter of the Public Contract is performed by several Bidders together, they submit, for this purpose, a joint bid. In such a case, each of the Bidders is obliged to provide separate evidence of fully meeting the basic qualification prerequisites in accordance with the Invitation to the Tender, Section 11.3, and the professional qualification prerequisites in accordance with the Invitation to the Tender, Section 11.4, subsection a) to the full extent. The Bidders are also obliged to submit an agreement containing a commitment that all of those Joint Bidders will be jointly liable vis-à-vis the Contracting Authority and to third parties in respect of any legal relationships established in the context of the Public Contract, for the entire term of the Public Contract implementation as well as throughout the duration of other liabilities arising from the Public Contract.

11.10 Consequence of Qualification Failure

Should the Bidder fail to meet the qualification prerequisites in the extent specified or required by this Invitation to the Tender, or fail to fulfill the obligation pursuant to the Public Contract Act, § 58, the bid shall be excluded from the rest of the Tender Process by the Contracting Authority.

11.11 The Bidder with whom the Contract shall be concluded is obliged, upon the request of the Contracting Authority before entering into the Contract, to submit originals or certified copies of documents proving its qualification. In the event that the selected Bidder is requested by the Contracting Authority to submit originals or certified copies of documents, and it fails to do so, it will be understood that the Bidder failed to provide proper cooperation necessary for the conclusion of the Contract with the Contracting Authority, and the Bidder who was assessed as the next in the evaluation procedure will be invited to conclude the Contract.

12) Anticipated Value of Public Contract in CZK (without VAT): CZK 1,500,000

The anticipated value of the Public Contract is the highest permissible value. The Contracting Authority does not have more funds. Should the Bidder bid a higher bid price than the anticipated value of the Public Contract, the Bidder shall be excluded from the Tender Procedure for failing to meet the Tender conditions.

13) Calculation of the Bid Price:

13.1 The Bidder must **demonstrate the calculation of the bid price** and state the total bid price broken down as follows: price in CZK excluding VAT, VAT rate in %, total VAT in CZK and the total sum in CZK including VAT. For

stating the bid price, the Bidder shall use the "Table of the Bid Price", enclosed as Annex No. 4 of this Invitation to the Tender.

13.2 The bid price will include all costs incurred in connection with performance of the Public Contract. It will be stated as the highest acceptable price including all additional fees incurred in connection with performance of the Public Contract. The bid price will include, in particular, transportation, possible transport insurance fee, installation of the elements of the equipment, setting the equipment into operation, supply of operational fluids and other necessary materials for the initial operation of the equipment and the training of the operation personnel of the Contracting Authority in the place of delivery to the extent required.

13.3 The bid price can only be exceeded as a result of an amendment to tax regulations concerning the VAT.

14) Options/Alternatives of the Bid:

The Contracting Authority does not admit any alternatives of the Bid.

15) Evaluation Criteria:

The only evaluation criterion is the **bid price**. The bids will be evaluated on the basis of the **lowest bid price (without VAT)** for the whole subject matter of the Public Contract fulfilment.

16) The invitation to the Public Tender shall not be governed by the Public Contracts Act no. 137/2006 Coll., as amended, in accordance with Section 18, subsection 5 of the Act.

17) Language of the Bid:

The Bid shall be written in the Czech or English language.

18) Draft Contract (commercial conditions):

18.1 The Draft Contract shall be signed, on the side of the Bidder, by a competent person, or a person so authorized or delegated; the original copy or a certified copy of the authorization shall, in such a case, be enclosed as part of the Draft Contract by the Bidder, otherwise the Bid of the Bidder will be incomplete.

18.2 The Commercial Conditions are stated in the Mandatory Draft of the Purchase Contract, which is part of this Invitation to the Tender as Annex No. 5. The Bidders are only entitled to fill in, in the Mandatory Draft of the Purchase Contract, relevant data in places highlighted in blue. No other alternations in the

Draft Contract are admissible.

19) Additional Requirements and Conditions of the Contracting Authority:

- 19.1 One Bidder can only submit one Bid. Bidders are not allowed to participate in the Tender Process more than once, for example, as a member of a Joint Group of Bidders in a Joint Bid or as a subcontractor for another Bidder. However, one subcontractor can be a subcontractor for more Bidders.
- 19.2 The Bidder is obliged to specify, in its Bid, the parts of the Public Contract which the Bidder intends to implement through a subcontractor or more subcontractors. In such a case, the Bidder is obliged to state the identification data of all such subcontractors.
- 19.3 The Contracting Authority reserves the right to verify the information provided by the Bidder with a third Party. In such a case, the Bidder is obliged to provide the Contracting Authority with all necessary cooperation.
- 19.4 The Contracting Authority reserves the right not to conclude a Contract with any Bidder.
- 19.5 The Bidder is not entitled to any reimbursement of the costs relating to the participation in the Tender Procedure of this Public Contract. The original copy of the Bid will not be returned to the Bidder.
- 19.6 The Contracting Authority reserves the right to cancel the subject matter of the Public Contract, and modify or complete the conditions of this Invitation to the Tender prior to the deadline for submission of the bids. Also, the Contracting Authority reserves the right to reject all submitted bids, all of which does not oblige the Contracting Authority to provide any reasons for doing so. In such a case, the Contracting Authority shall notify, in writing, all Bidders who have submitted their Bids about these circumstances.
- 19.7 The Contracting Authority reserves the right to modify or complete the subject matter of the Public Contract or its conditions. The Contracting Authority shall inform about this fact, in writing, all Bidders who have been sent the Invitation to the Tender or who have asked to be sent the Invitation to the Tender. The Contracting Authority shall send additional information to the Bidders 4 business days prior to the deadline for submission of the bids, at the latest. Accordingly, the deadline for submission of the Bids will be adequately postponed.
- 19.8 The Contracting Authority is entitled to cancel the Tender Process, providing, in particular:
 - a) during the Tender Process, reasons of special consideration occurred for which the Contracting Authority cannot be asked to continue the Tender Procedure, or
 - b) prior to the deadline for submission of the bids, without giving any reasons,

or

- c) the Bidder selected, or the second Bidder selected, refused to conclude the Contract or did not provide sufficient cooperation to the Contracting Authority in order to conclude the Contract.

20) List of Annexes:

1. Cover Page of the Bid
2. Declaration on Word of Honour to Demonstrate that Qualification Prerequisites Have Been Met
3. Detailed Technical Specification of the Device
4. Table of the Bid Price
5. Mandatory Draft of the Purchase Contract

In Pilsen

Date: - 4 -07- 2014 2014


Západočeská univerzita v Plzni
Investor

.....
Ing. Arch. Hynek Gloser, Ph.D.
Bursar

Annex No. 1 to the Invitation to the Tender

Cover Page of the Bid

BASIC DATA:

Title of the Public Contract: **System for Fuel Cell Testing**

Contracting Authority: University of West Bohemia in Pilsen
Person authorized to act on behalf
of the Contracting Authority: Ing. Arch. Hynek Gloser, Ph.D., Bursar
Registered office: Univerzitní 8, 306 14 Plzeň, Czech Republic
Identification no.: 49777513
Tax identification no.: CZ49777513

Contact person: Ing. Tomáš Kovářík, Ph.D.
Telephone: +420 377 634 808
E-mail: toko@ntc.zcu.cz

Bidder:
Address:
Identification no.:
Tax identification no.:
Person authorized to act
on behalf of the Bidder:
Authorized representatives:

Bid Price – Foreign Bidder

| | Bid price in CZK without VAT |
|-------------------|-------------------------------------|
| Bid price – total | |

Bid Price – Bidder from the Czech Republic

| | Price in CZK without VAT | VAT rate in % | VAT | Price in CZK including VAT |
|-------------------|-------------------------------------|--------------------------|------------|---------------------------------------|
| Bid price – total | | | | |

Place.....Date

.....
 Bussiness name + person authorized to act
 on behalf of the Bidder – Signature
 (to be completed by the Bidder)

Annex No. 2 to the Invitation to the Tender

Bidder:
Address:
Identification no.:

Declaration on Word of Honour To Demonstrate Qualification Prerequisites Have Been Met

I hereby declare on my word of honour that:

- a) I meet the basic qualification prerequisites pursuant to the Public Contracts Act, no. 137/2006 Coll., § 53
- b) I meet the professional qualification prerequisites pursuant to the Public Contracts Act, no. 137/2006 Coll., § 54
- c) I am economically and financially eligible to supply the said Public Contract pursuant to the Public Contracts Act, no. 137/2006 Coll., § 50, Section 1 (c)

I further declare on my word of honour that:

- (i) neither the Bidder, nor any person close to the Bidder, no employee of the Bidder or
- (ii) its subcontractor, no person close to the subcontractor or an employee of the subcontractor, have participated in the preparation of the Tender Documents (Invitation to the Tender). I declare that the Bidder has not prepared the bid in coordination with another Bidder submitting its bid.

Place..... Date

.....
Business name – person authorized to act
on behalf of the Bidder + Signature
(to be completed by the Bidder)

Annex No. 3 to the Invitation to the Tender

Detailed technical specifications of the subject of the public tender

System for Fuel Cell Testing:

- 10 cells PEM fuel cell stack, active cell area 50 cm², liquid cooling, operating temperature up to 180 degC, bipolar plates made from graphite composite, stainless steel end plates;
- pressurized support frame for PEMFC compression, active cell area 50cm², liquid cooling, operating temperature up to 180 degC;
- fuel cell unit with current scan for in-situ measurement of the current density of the PEMFC, minimum 10 x 10 active segments, active cell area 50 cm², operating temperature up to 180 degC, USB communication and control software;
- path length sensor and automatic evaluation unit to measure compression of the PEMFC components, measuring range 2 mm, resolution 1 μm, USB communication, control software;
- 4 x humidity sensor including electronics for measurement of the gases humidity at the inlet and outlet of the fuel cell;
- 4 x manifold single-way for the humidity sensor for inlet and outlet of the gases of the fuel cell;
- platinum dynamic hydrogen reference electrode for measurement of the PEMFC characteristics, active cell area 50 cm², operating temperature up to 180 degC;
- laboratory thermostat for PEMFC operating temperature control, operating temperature range from -40 degC to 200 degC, connecting material (tubing, insulation) to PEMFC;
- pressure regulator for precise adjustment of the compression of the PEMFC components, pressure range up to 10 bar;
- low-resistance, high-load leads set for connection of the external load to PEMFC, cable length 1 m, cross-section 16 mm²;

- positioning and cutting tools for modification (cutting, holes punching) of membrane samples and membrane electrode assemblies with active cell area 50 cm².

Annex No. 4 to the Invitation to the Tender

Table of the Bid Price

| | Bid price in CZK without VAT |
|---------------------------------------------|-------------------------------------|
| System for fuel cell testing | |
| Bid price in CZK without VAT – total | |
| VAT rate in % | |
| VAT in CZK | |
| Bid price in CZK incl. VAT – total | |

Annex No. 5 to the Invitation to the Tender

PURCHASE CONTRACT No. /..... /14

(hereinafter referred to as the "Contract")

Entered into pursuant to the Civil Code, Act no. 89/2012, Coll., Section 2079 et sequentes, as amended

I.

Contracting Parties

1.1. Purchaser: University of West Bohemia in Pilsen

Address: Univerzitní 8, 306 14 Plzeň, Czech Republic
Represented by: Ing. Arch. Hynek Gloser, Ph.D., Bursar
Bank: Komerční banka a.s., Plzeň-město
Account no.: 4811530257/0100
Identification no.: 49777513
Tax identification no.: CZ49777513

(hereinafter referred to as the "Purchaser") as one Contracting Party

and

1.2. Seller:

.....
Address:
Represented by:
Bank:
Account no.:
Identification no.:
Tax identification no.:
Registered in the commercial register of, section
....., insert

(hereinafter referred to as the "Seller") as the other Contracting Party

(together also referred to as the "Contracting Parties")

enter into the following Contract based on the result of the Tender for the small-scale Public Contract entitled "**System for Fuel Cell Testing**":

II.

Subject of the Contract

- 2.1.** The Seller undertakes, within the scope, and pursuant to the terms and conditions of the Contract herein, to supply new fully-functional and complete equipment for the diagnostics of a membrane-electrode assembly for the research of polymer-electrolyte-membrane fuel cells – namely the **System for Fuel Cell Testing**, including all components (hereinafter referred to as the “**Goods**”) to the Purchaser, including all relevant, and to transfer the ownership rights to the Goods to the Purchaser. The Goods are specified in detail in **Annex No. 1** to this Contract and constitutes its integral part.
- 2.2.** The use of this system for precise diagnostics of fuel cells (membrane-electrode assemblies) will result in the possibility of a unique comprehensive analysis of the operating characteristics of a membrane-electrode assembly. Another consequence of the use of this system is its important contribution to accomplishing the currently ongoing project (CENTEM) and future projects.
- 2.3.** The Seller shall deliver fully operational equipment for membrane-electrode assembly testing without the necessity of any complementary deliveries, such as operating fluids, etc.
- 2.4.** The Purchaser undertakes to accept the Goods supplied by the Seller, and to pay the stipulated purchase price for the Goods to the Purchaser by the due date, stipulated herein.
- 2.5.** The Seller’s commitment also includes transportation of the Goods to the place of delivery pursuant to Article III herein (including possible insurance of the Goods during transportation); installation of the Goods and its setting into operation; the duty to demonstrate, to the Purchaser, all the required functions and parameters of the Goods specified in Annex No. 1 herein. The Purchaser has the right not to accept the Goods, should the Seller fail to demonstrate duly and properly all the required functions and parameters of the Goods specified in Annex No. 1 herein.
- 2.6.** The Seller undertakes to supply the relevant technical documentation for the Goods, in particular user’s manuals in the Czech or English language in a written form (hard copy).
- 2.7.** The Seller is also obliged to carry out training of operation staff members, in the

place of delivery directly on the delivered equipment. The scope of the training shall be at least eight (8) hours, with the minimum of two (2) operation staff members undergoing the training. In the training, the operation staff will learn, to the full extent, how to operate the Goods. There will be a written record of the training of the operating staff. This record shall be dated and signed by both Contractual Parties; the Buyer shall be the person referred to in Article V, Section 5.12. The Seller shall then transmit the record of staff training to the Buyer.

- 2.8.** The Seller declares that the Goods meet all requirements of the Purchaser stated in the Invitation to the Tender "**System for Fuel Cell Testing**" and its annexes.

III.

Time and Place of Delivery

- 3.1.** The Seller is committed to deliver the Goods immediately upon the signing of the Contract, at the latest by five (5) months after the signing of the Contract by both Contracting Parties to the Purchaser. Should the Seller be in delay fulfilling the obligations pursuant to Article III, Section 3.1 of the Contract herein, the Purchaser will be entitled to request the Seller to pay a contractual penalty of 0.5% of the purchase price without VAT for every, even incomplete, day of the delay. The total amount of the penalty is not limited.
- 3.2.** The Goods will be transferred by the Seller and accepted by the Purchaser based on the Memorandum on Transfer of the Device duly signed by both Contracting Parties.
- 3.3.** The place of delivery is the University of West Bohemia in Pilsen, New Technologies – Research Centre, Veleslavínova 42, 306 14 Plzeň, Czech Republic.

IV.

Price and Payment Terms

- 4.1.** The purchase price for the Goods is stipulated based on the agreement of the Contracting Parties and results from the price bid submitted by the Seller calculated for the purposes of the Tender concerning the delivery of the subject matter of this contract.
- 4.2.** The Purchaser undertakes to pay the Seller for the supplied Goods, the stipulated purchase price pursuant to Article II herein:

- For the delivery of the **System for Fuel Cell Testing**, including its attachments, the purchase price in the amount of CZK [REDACTED], excl. VAT (in words: [REDACTED] Czech crowns), VAT rate is %, ,VAT is CZK [REDACTED] , the purchase price incl. VAT is CZK [REDACTED].

(the Bidder will complete the data of the bid price pursuant to the Invitation to the Tender, Article 13)

The purchase price will include all costs incurred in connection with performance of the Public Contract and it is stipulated as the highest possible price including all fees and any other costs associated with the supply of the Goods pursuant to this Contract. The price includes transportation as well as relevant insurance, installation of the Goods, electrical installation and its setting into operation, and training of the operation staff members of the Purchaser to the required extent. The Goods will be ready for immediate operation without any need to be completed, in particular by operational fluids, other necessary materials for the initial operation of the equipment, etc.

The purchase price also includes any administrative charges, taxes, duties, approval procedure costs, required testing, compliance statement, certificates, transfer of rights, insurance, transportation charges, etc.

- 4.3.** The purchase price can only be exceeded in relation to an amendment to tax laws concerning VAT. In case of tax regulations concerning VAT having changed, the purchase price will be changed accordingly.
- 4.4.** The Purchaser will settle the purchase price in Czech currency against the tax document (invoice). The purchase price for delivery of the Goods under the Contract will be paid to the Seller on the basis of a tax document (invoice) issued not later than 15 days from the day of delivery of the Goods to the Purchaser, i.e. from the day of signing the Memorandum on Transfer of the Device by both Contracting Parties.
- 4.5.** Enclosed with the invoice issued by the Seller must be a Memorandum on Transfer of Device put into writing and duly signed by the authorized representatives of both Contracting Parties.
- 4.6.** A tax document (the invoice) must contain all elements of a proper accounting

and tax document pursuant to the relevant legislation, namely 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 received by the Purchaser.

- 4.7.** The invoice will be due 30 days after it is demonstrably received by the Purchaser.
- 4.8.** The Purchaser will not provide any advance payments.
- 4.9.** Should the Purchaser be in default with payment of the invoice, the Seller will be entitled to request interest on late payment of 0.05% of the amount due for every, even incomplete, day of the delay from the Purchaser. The interest on late payment will not be charged if the payment is postponed due to late allocation of funding from the State Budget or Grant.
- 4.10.** The Purchaser will be entitled to offset any contractual penalties that the Seller is obliged to pay, against the invoiced amount.

V.

Rights and Obligations of the Contracting Parties

- 5.1.** The Seller will be obliged to deliver the Goods in the agreed quantity, quality and design. All the Goods supplied to the Purchaser according to this Contract must meet the qualitative requirements as stipulated herein.
- 5.2.** The Seller will be obliged to supply to the Purchaser Goods free of any defects and according to the terms and conditions stipulated herein. The Memorandum on Transfer certifying the handover of the Goods may not be signed before a complete delivery of the Goods is supplied to the Purchaser, including relevant installation tasks and services stipulated herein.
- 5.3.** The Seller will be obliged to supply exhaustive technical and other documents necessary for the use of the Goods to the Purchaser together with the Goods, including instructions for use in the English or Czech language.
- 5.4.** The Seller will be obliged to provide the Purchaser, together with the delivery of the device, with the installation of the attachments, setting the device into operation, the equipment being ready for immediate operation, with no need to be

filled, for example, with operational fluids, etc.

- 5.5.** The Purchaser assumes the ownership right to the Goods on the day the Goods are properly delivered and accepted by the Purchaser on grounds of a signed Memorandum of Transfer confirming the receipt of the Goods. The risk of damage to the Goods is assumed by the Purchaser on the same day.
- 5.6.** The Seller is obliged to immediately inform the Purchaser about possible risk that the deadline will not be met, and about any circumstances that might prevent the Goods from being delivered.
- 5.7.** The Seller is obliged to maintain appropriate qualifications, demonstrated in the course of the Tender preceding this Contract, throughout the entire duration of the Contract. If this provision is breached, the Purchaser will be entitled to terminate this Contract.
- 5.8.** The Seller is not entitled to assign any rights or obligations arising from this Contract to a third party without obtaining a previous written consent of the Purchaser.
- 5.9.** The Seller agrees that any receivables that may be claimed from the Purchaser and that come into existence based on this Contract may not be assigned or set off by a unilateral legal act.
- 5.10.** The Seller will be liable to the Purchaser for any damage caused by violation of duties stipulated in this Contract or obligations stipulated by generally binding legal regulations. No contractual penalty provided for in this Agreement shall prejudice the right of the Purchaser to compensation for damage incurred in connection with defective performance, including the Seller's delay in fulfilling the contract. The Seller further agrees that, in the event of defective performance, including delay, it shall reimburse the Purchaser for losses that demonstrably arise.
- 5.11.** The Contracting Parties agreed, and the Seller determined, that the person/s authorized to act on behalf of the Seller in matters relating to the Contract herein and its execution is/are:

Name:

E-mail:

Phone:

5.12. The parties agreed, and the Purchaser determined, that the persons authorized to act on behalf of the Purchaser in matters relating to the Contract herein and its execution are:

Name: Ing. Tomáš Kovářík, Ph.D.
E-mail: toko@ntc.zcu.cz
Phone: +420 377 634 808

5.13. All correspondence, instructions, notices, requests, notes and other documents made out by the Contracting Parties based on this Contract or in relation to it will be made out in writing in Czech or in English language and will be delivered either in person or by registered mail, fax or e-mail to the mailing addresses of the personnel authorized pursuant to this Contract and to their attention.

5.14. The Seller acknowledges that, pursuant to the Financial Control in Public Administration Act no. 320/2001, Coll., Section 2 (e), 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, Contracts 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)) are met. The controlling body of the Operational Programme RDI is similarly authorized to perform an audit of the Seller's subcontractors, as the case may be (see Annex no. 2 to the Guidelines for OP RDI Applicants and Beneficiaries – Contractor Selection Guidelines <http://www.msmt.cz/strukturalni-fondy/spolecne-prilohy-prirucek-pro-zadatele-a-prijemce-op-vavpi-3>).

5.15. The Seller is obliged, during the performance of this Contract, to follow and respect the Manual of Visual Identity of OP RDI published on the website of the Ministry of Education, Youth and Sport: <http://www.msmt.cz/strukturalni-fondy/manual-vizualni-identity-op-vavpi>, in all relevant documents concerning the said Tender Process or Procedure, in particular in the Contract and other documents related to the said Public Contract.

5.16. The Seller will be obliged to properly maintain all documents relating to the execution of the subject matter of the Contract, and archive the original copy of

the Contract and its amendments, the original accounting and other documents, for at least three years after the OP RDI project is closed, i.e. at least until 2025. During the same time period, the Seller will be obliged to provide requested information and documents to the employees or agents of bodies authorized to audit projects performed under OP RDI, and enable them to carry out an audit of the documents related to the execution of the Contract. The Seller will be obliged to create conditions for these personnel to be able to carry out an audit of the project implementation and cooperate in the audit. All documents and the Contract written documents must also be secured against loss, theft or depreciation.

- 5.17.** Should part of the delivery of the Goods pursuant to this Contract be fulfilled by a subcontractor, the Seller is obliged to state the identification data of the said subcontractor. Should part of the delivery of the Goods pursuant to this Contract be fulfilled through a subcontractor, the Seller is obliged to state the identification data of the said subcontractor. Any change in the subcontractor under this contract shall be subject to prior written agreement from the Purchaser.

VI.

Guarantee on the Goods

- 6.1.** The Seller assumes a quality guarantee on the Goods for the period of 12 months. The guarantee period starts on the day the Goods are delivered to the Purchaser, i.e. on the day the Memorandum on Transfer confirming delivery and receipt of the Goods is signed.
- 6.2.** The Purchaser is obliged to inform the Seller about any defects covered by the guarantee as soon as they are identified. The Seller will carry out any repairs covered by the guarantee free of charge and without undue delay, taking into consideration the nature of the defect, including, if need be, the transportation of the Goods to the servicing premises and back, unless agreed otherwise in writing with the Purchaser.
- 6.3.** The Seller will be obliged to remedy the claimed defects, or as the case may be, satisfy other claims of the Purchaser arising from unsatisfactory performance, in the course of the guarantee period; the Seller will start to deal with the defect within 48 hours after being informed about the defect by the Purchaser, by phone on business days between 8:00 a.m.–2:00 p.m., or in writing. The presence for defect elimination shall mean the presence of the Seller at the place designated by the Contracting Authority as the place where the reported defects in the Product shall be eliminated. The Seller is obliged to eliminate the defect within five (5)

business days from the accession to the elimination of defects, at the latest, unless agreed otherwise. If a defect is identified in the course of the guarantee period, the guarantee period will be extended by the time elapsed between the moment when the Purchaser reports the defect to the Seller and its elimination by the Seller.

- 6.4.** In case the Seller's arrival and elimination of the defects reported by the Purchaser in accordance with Article 6.3 herein is delayed, the Seller undertakes to pay a contractual penalty of 0.1% of the purchase price of the Goods without VAT for every, even incomplete, day of the delay to the Purchaser. The total amount of the contractual penalty is not limited.
- 6.5.** The claims may be raised by the last day of the guarantee period at the latest; also claims mailed on the last day of the guarantee period will be considered duly raised claims.
- 6.6.** The guarantee does not cover defects caused by unprofessional manipulation of or mechanical damage to the Device by the Purchaser.
- 6.7.** The Seller undertakes, for the purpose of eliminating the claimed defects, to provide services relating to the Goods, including any transport of the Goods to the service premises and back to the place of delivery under Article III thereof, at its own expense, at least for the duration of the warranty period.

VII.

Validity and Effect of the Contract

- 7.1** The Contract becomes valid and effective on the day it is signed by authorized representatives of the two Contracting Parties.
- 7.2** The Contract can only be terminated for reasons stipulated in the Contract or specified by law. Withdrawal from this Contract will come into effect on the date when the written withdrawal of the withdrawing Party is delivered to the other Party. In the event of termination of this Contract, the Parties are required to settle their mutual claims and obligations set out by law or in this Agreement, within 30 days from the legal effect of the withdrawal, or within the agreed period.
- 7.3** A Contracting Party affected by the other party's failure to meet its obligation may unilaterally terminate this Contract for a gross violation of the Contract; in

particular, the following will be considered a gross violation of this Contract:

- a) 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) Seller's failure to duly deliver the Goods, or even part of the Goods, on the agreed date,
- c) Seller's failure to supply Goods possessing the characteristics declared by the Seller in this Contract,
- d) Seller's failure to start dealing with a claim to eliminate any defects on time, and failure to eliminate the defect itself, pursuant to Article 6.3 herein,
- e) Seller's failure to provide correct information or documents indicative of the actual situation in the Bid that had been submitted to the Tender before this Contract was signed, which have or could have affected the result of the Tender.

7.4 Furthermore, the Purchaser is entitled to terminate the Contract without recourse, provided that the Purchaser is not allocated the funding needed to purchase the subject matter of the Contract.

7.5 The Purchaser is also entitled to terminate this Contract without recourse in case the costs that would have been incurred by the Purchaser in relation to this Contract are found to be non-eligible costs by the OP RDI controlling body, or another audit body. (See Annex No. 2 of the Guidelines for OP RDI Applicants and Beneficiaries – Contractor Selection Guidelines <http://www.msmt.cz/strukturalni-fondy/spolecne-prilohy-priucek-pro-zadatele-a-prijemce-op-vavpi-3>).

7.6 Once the Contract becomes ineffective, any and all obligations of the Contracting Parties arising from this Contract will cease to exist. The ineffectiveness or termination of the Contract will not affect the existence of the right to claim damages and contractual penalties in case of violation of the contractual obligations existing before the Contract becomes ineffective, and obligations of the Contracting Parties that are to survive this Contract by their nature or by law.

VIII.

Closing Provisions

8.1. The relationship between the Parties will be governed by Czech law. Unless expressly stipulated otherwise in the Contract, the relationships that come into

existence based on this Contract and arising from this Contract are governed by the relevant provisions of the Civil Code, Act no. 89/2012, Coll., as amended, and other applicable laws.

- 8.2.** Any and all changes and amendments to the Contract may only be made by a written agreement of the Contracting Parties. Such agreements must be in the form of numbered amendments to the Contract signed by both Parties and dated.
- 8.3.** If either of the Parties is unable to duly perform this Contract due to circumstances preventing it from doing so, the Party will be obliged to inform the other Party about the fact without undue delay and initiate a meeting of the Purchaser's and Seller's representatives.
- 8.4.** If a reason causing one provision to be invalid only affects a certain provision of the Contract, only this particular provision will be invalid, unless its nature or the circumstances under which it was stipulated indicate that it is not severable from the rest of the Contract.
- 8.5.** The Contracting Parties will always strive to reach amicable settlement of possible disputes arising from the Contract. Should no amicable settlement be reached within 30 business days after the first notification of the dispute to the Other Party, either of the Parties is entitled to apply its claim to the competent court. Arbitration is excluded.
- 8.6.** The Contract is made out in four (4) identical copies, each of which is valid as an original. Each of the Contracting Parties will receive two (2) identical copies.
- 8.7.** The following annexes constitute an integral part of the Contract:
a) Annex no. 1 – Detailed Technical Specification of the Goods.
- 8.8.** The Contracting Parties declare that they have read the Contract before signing, and agree with its content without any reservations. The Contract expresses their sincere, real, free and serious will. To demonstrate that these statements are authentic and true, the authorized representatives of the Contracting Parties attach signatures in their own hand.

In Pilsen..... Date

In Date



On behalf of the Purchaser:

On behalf of the Seller:

University of West Bohemia in Pilsen

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Ing. Arch. Hynek Gloser, Ph.D.,
Bursar

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Annex no. 1 to the Contract – Detailed Technical Specification of the Goods

The Bidders are obliged to state technical parameters for the Goods that are to be purchased as specified in Article 3 of the Invitation to the Tender; information may be extended by a specification of the supplied Device; however, it must comply with the Tender Documents.