

Attachment 2 to the Tender Documentation

PURCHASE AGREEMENT

entered into by and between on the below mentioned day, month and year:

Global Change Research Centre AS CR, v. v. i.

headquartered at: Bělidla 986/4a, Brno, Post Code 603 00

Acting by: Director

Prof. RNDr. Ing. Michal V. Marek, DrSc.

Company Reg. No.: 67179843

Tax ID No.: CZ67179843

Registered in the Register of Public Research Institutions kept by the Ministry of Education, Youth and Sports CR

Bank account: ...

hereinafter referred to as the **“Purchaser”**

and

the company

...

headquartered at:....., Post Code ...

Acting by: ...

Company Reg. No.: ...

Tax ID No.: CZ...

Registered in the Commercial Register kept at ... court in ... Section ... insert ...,

Bank account: ...

hereinafter referred to as the **“Seller”**

Preamble

1. On their accession to the European Union the Czech Republic became a Member State utilizing aid in the framework of the European regional policy. In line with the objectives of the European regional policy, one of the priorities of the Czech Republic is to enhance the country's competitiveness and focus on the knowledge-based economy. One of the main operational programmes that contribute to the fulfilment of these objectives is the **Operational Programme Research and Development for Innovation (OP RDI)**. **OP RDI will provide funding until 2013 to ensure specific objectives 1 and 2, i.e. creation of European centres of excellence and regional R&D centres.**

2. The Purchaser, the **Global Change Research Centre AC CR v.v.i.** (formerly the Institute of System Biology and Ecology AS CR v.v.i.), has decided to utilize the opportunity to obtain funding for the creation of new modern research infrastructure from the Structural Funds., **who presented the project CzechGlobe - Centre for the Study of the Impacts of Global Climate Change** in the framework of Priority Axis 1 - European Centres of Excellence.

3. The aim of the CzechGlobe project is mainly to provide deep scientific knowledge of the issue of **global climate change** (GCC), development of procedures to reduce its impact and adapt to its effects.

I.

Subject of the Agreement

1. The Seller agrees to supply and installation of the subject of purchase to the Purchaser – comprehensive supply of aerial hyperspectral **display systems, i.e. aerial hyperspectral VNIR system, aerial SWIR hyperspectral system, aerial LWIR hyperspectral system**, as well as **two IMU units and at least one GNSS unit needed for the operation of the hyperspectral systems and calibration equipment to calibrate all the sensors and related software. The Seller further agrees to carry out training of the installation, operation and maintenance of each of the hyperspectral systems.** The basic parameters of the subject of the purchase are provided in detail in the **“Detailed basic technical specifications of the individual parameters of the hyperspectral systems”** which forms Attachment No. 1, hereto. The Purchaser agrees to accept the duly delivered subject of purchase from the Seller and pay the purchase price agreed upon in Article IV, herein.

II.

Time, place and method of supply of the subject of purchase

1. The Seller shall undertake to supply the subject of purchase to the Purchaser **at the following times:**

- a) **Supply of aerial hyperspectral VNIR system by 10. 4. 2014** at the latest
- b) **Supply of aerial hyperspectral SWIR system by 10. 11. 2014** at the latest
- c) **Supply of aerial hyperspectral LWIR system by 10. 11. 2014** at the latest

2. The Seller shall also be obliged to supply an IMU/GNSS unit with each of the hyperspectral systems or connect the system to the already supplied IMU/GNSS unit. The Seller shall also be obliged to supply calibration equipment with each of the hyperspectral systems if not supplied in the previous delivery. The Seller shall also be obliged to supply software and other equipment necessary for the full functionality of the system with each of the hyperspectral systems, if not already supplied in the previous delivery.

3. At the time of delivery of the hyperspectral system at the latest the Seller shall install each of hyperspectral systems to aircraft designated by the Purchaser at Brno Airport - Tuřany, unless the Contractual Parties agreed otherwise. The Seller shall be obliged to notify the Purchaser of the expected date of installation of the hyperspectral system at least 10 working days in advance. The Purchaser may reject the proposed installation date within 3 working days, in which case the Contractual Parties shall agree upon an alternative installation date. The Purchaser shall provide the Seller with all assistance necessary for the proper and timely installation of each of the hyperspectral systems.

4. In addition to the subject of purchase, the Seller shall further agree to provide all documents relating to the subject of purchase, in particular:

- Detailed manuals or handbooks for use and maintenance of the subject of purchase
- Warrantee certificates for the subject of purchase

whereby all of the above documents or documents must be in the Czech or English language.

5. Due delivery, installation and transfer of each complete and faultless hyperspectral system will be certified by a **transfer protocol** signed by both Contractual Parties stating the date of delivery and acceptance of the hyperspectral system by the Purchaser.

6. The Seller shall be obliged to perform within 10 working days of delivery and acceptance of the hyperspectral system at least 5 days (8 hours per day) of **training of the installation, maintenance, operation and calibration of the hyperspectral system.** The Seller shall be obliged to carry out the training in Brno, in the Czech

or English language. In the event that the Seller installs two hyperspectral systems at the same time, one training of the installation, maintenance and operation shall be sufficient.

7. The Purchaser shall perform a **test flight** within 10 working days of delivery and acceptance of the hyperspectral system, during which the functionality of the hyperspectral system will be verified. During the test flight data will be scanned by the hyperspectral system in a spatial resolution of 1 meter. The data will be processed and the accuracy of data georeferencing will be verified. The data will be considered as being successfully georeferenced in the event that the root mean square error in the position of 15 control points will be lower than 3.0 m. The Purchaser shall be required within 3 working days after the test flight to notify the Seller of any detected objections or to state that no objections were detected. The Seller shall be entitled to be present during the test flight and data georeferencing.

III.

Responsibilities of the Contractual Parties

1. The Seller shall be obliged to supply the subject of purchase to the Purchaser at the agreed time and place, in the required quantity, quality, design, to provide the documents that relate to the subject of purchase and allow the Purchaser to acquire ownership of the purchase.

2. The Purchaser shall be obliged to accept, view and pay the Seller the agreed purchase price for the subject of purchase properly and in a timely manner.

3. The Seller shall bear all costs associated with the transport of the subject of purchase until its delivery to the Purchaser as a complete and faultless unit at the agreed place.

4. The Seller shall bear the cost of insurance of the subject of purchase to the time of handover to the Purchaser, and shall declare that this cost is included in the purchase price.

5. The Seller shall acknowledge that it is obliged to cooperate in the exercise of financial control pursuant to Article 2 letter e) of Act No. 320/2001 Coll., on financial control in public administration, as amended. In the framework of the financial control the Seller shall also undertake to provide at least until 2025 the governing body of the OP RDI (MSYS) access to those parts of the tender proposal, contracts and related documents, which are subject to protection pursuant to special legislation (e.g. trade secrets, classified information), provided that they meet the requirements of the legislation (e.g. Article 11 letters c) and d), Article 12 paragraph 2 letter f) of Act No. 552/1991 Coll., on state control, as amended).

6. The Seller shall also ensure that control and access of inspection bodies is also possible for their subcontractors. The Seller shall also undertake to cooperate with control authorities during submission of information and delivery of documents relating to its activities under this Agreement.

7. The Seller shall be obliged to ensure, in the case of any subcontractor agreements, the fulfilment of all their obligations arising from this Agreement.

8. **The Seller shall submit to the Purchaser a list of subcontractors, stating those subcontractors to which they pay more than 10% of the total price of the tender (supply) for performance of their subcontract. The list of subcontractors shall be submitted to the Purchaser within 60 days of completion of the Agreement.**

In the event that the subcontractor is a joint stock company, an attachment to the list shall be a list of owners of shares with an aggregate nominal value exceeding 10% of capital completed within 90 days of the date of submission of the list of subcontractors.

IV.

Purchase price

1. The Buyer shall undertake to pay the Seller the purchase price in the agreed amount for supply of the subject of purchase pursuant to Article I, herein:

Price of aerial hyperspectral VNIR system CZK without VAT

Price of aerial hyperspectral SWIR system CZK without VAT

Price of aerial hyperspectral LWIR system CZK without VAT

Total price without VAT CZK

VAT will be added to the price without VAT at the statutory rate

2. The agreed purchase price is **fixed as the maximum permissible price** and includes all of the Seller's costs associated with the delivery of the subject of purchase to the location provided in Article II, section 2, herein. The agreed purchase price thus includes among other things:

- delivery of two IMU units and at least one GNSS unit
- installation costs for the hyperspectral systems
- delivery of calibration equipment to calibrate all sensors
- delivery of related software
- service and maintenance staff training for the subject of purchase at the place of transfer
- authorized warranty service for the subject of purchase during the warranty period

3. The purchase price shall be payable on the basis of invoices issued by the Seller. A separate invoice shall be issued for each hyperspectral system. Attached to each invoice shall be a copy of the delivery and acceptance protocol of the hyperspectral system and either a notification from the Purchaser that no objections were determined during the test flight or a sworn statement from the Seller that the Purchaser did not provided notification of whether any objections were determined nor not within the time specified herein.

4. The Seller shall be entitled to issue a proforma invoice for each of the hyperspectral systems of up to 30% of the price of the system.

5. The invoice due date is agreed for a period of **30** days from date of invoice.

6. Invoices issued by the Seller under this Agreement must comply with the statutory requirements of a tax document. At the same time each invoice must contain the registration number and name of the project in the form: CZ.1.05/1.1.00/02.0073, CzechGlobe - Centre for the Study of the Impact of Global Climate Change.

7. If an invoice does not meet the above mentioned requirements, the Purchaser shall be entitled to return it to the Seller, whereby the Seller shall be obliged to issue a new invoice with a new due date. In which case, the Purchaser shall not be in arrears with the payment of the invoice.

8. The Purchaser shall be entitled to suspend any payment to the Seller if the Seller is in default with the fulfilment of any obligation to the Purchaser under this Agreement. In which case, the maturity date shall be extended for the period of the authorized suspension of the payment.
9. The Purchaser's obligation to pay the agreed purchase price is met on the day the invoiced amount is debited from the Purchaser's bank account.
10. The Seller shall agree to proceed with any claim against the Purchaser arising under this agreement to a third party.

V.

Warranty period, liability for defects, claim conditions, confidentiality

1. The Seller shall provide a quality guarantee for a period of **12 months** for the subject of purchase under this Agreement. The warranty period shall begin on the date of delivery and acceptance of the hyperspectral system. A service inspection and testing of the specifications of the input parameters for the instrumentation specified by the Purchaser shall be performed within twenty one days before the end of the warranty period and any defects shall be removed by the Seller by the end of the warranty period.
2. Claims for defects during the warranty period shall be made by the Purchaser in writing to the Seller without delay after they are discovered. In writing means also via e-mail or fax.
3. The warranty period shall be extended for a period starting from the date of a claim and ending on the elimination of defects. In the event that the Seller does not respond to the claimed defect, it is considered that the claim has been acknowledged.
4. The Seller shall agree to seek to remove the claimed defects no later than **10 working days** from the day the Purchaser's claim was delivered in writing, unless the Contractual Parties agree otherwise. If the Seller fails to remove the defect within the period specified herein or within another deadline agreed in writing by the Contractual Parties, the Seller undertakes to pay the contractual penalty in the amount of **20,000 CZK** for each day of delay and case of delay in defect removal. Removal of defects shall be carried out at the place of the delivery and acceptance of the subject of purchase or at the workplace of the Seller or authorized service centre. In the case of removing the defect in the Seller's workplace or authorized service centre the expenses of transporting the subject of purchase to the service centre and back shall be covered in full by the Seller.
5. The Seller shall be required to remove any and all identified defects and deficiencies in the subject of purchase during the warranty period at their own cost and responsibility. In the event that the Seller does not remove a duly and timely claimed defect within the agreed deadline, the Purchaser shall be entitled to remove defect at Seller's expense.
6. The Contractual Parties shall agree that the penalty stipulated herein, compensation for damages or other monetary claims of the Contractual Parties shall be payable on the day following the receipt of their billing to the Contractual Party which is obliged to pay.

VI.

Declarations, sanctions, fictitious delivery

Besides the sanctions for breach of contractual obligations agreed by the Contractual Parties in Article V, paragraph 4, herein the Contractual Parties shall agree to apply the following sanctions:

1. The Seller hereby declares that:
 - it has no outstanding obligations, for which enforcement or execution could be held against it by a final court decision, or other title listed in Article 274 of the Civil Procedure Code,
 - it is not in a state of bankruptcy within the meaning of the Insolvency Act, as amended, it has not been declared bankrupt and at the time of signing this Agreement it has not filed for insolvency proceedings, nor is it in a position where he threatened with bankruptcy
 - is not liable to pay tax and has no arrears with the state authorities of its departments.
 - Any and all facts that would, for the duration of this Agreement, have an impact on the truthfulness of the above-mentioned statement, the Seller must notify the Purchaser within 3 working days from the date such a fact becomes known to them. In the case of non-compliance of this obligation, the Purchaser may require the Seller to pay a single penalty in the amount of **100,000 CZK**.
2. If any of the aforementioned declarations made by the Seller prove to be false, the Purchaser may require the Seller to pay a single penalty in the amount of **500,000 CZK**.
3. In the case of delay of the Seller in fulfilment of the deadlines stated in Article II., paragraph 1, herein the Contractual Parties agree that the Seller shall be obliged to pay the Purchaser a penalty in the amount of **70,000 CZK** for each calendar day of delay.
4. If the Purchaser defaults in the payment of the purchase price, it shall be obliged to pay the Seller contractual interest in the amount of 0.05% of the amount due for each day of delay.
5. The Contractual Parties agree that all duly dispatched shipment of any Contractual Party addressed to the other Contractual Party shall be deemed to have been received on the fifth day of it being demonstrably sent, regardless of whether this shipment was received by the Contractual Party, to whom it was the addressed.

VII.

Withdrawal from the Agreement, force majeure

1. Withdraw from the Agreement is only possible in the cases provided for herein or by law.
2. The Contractual Parties agree that the Purchaser may withdraw from this Agreement without any penalty in the event that CB OP RDI or any other inspecting agency identifies the costs that they would have incurred under the Agreement as being ineligible.
3. The Contractual Parties agree that a **material breach of the obligations under this Agreement**, for which the affected Contractual Party may withdraw from this Agreement shall mean in particular:
 - commencement of insolvency proceedings against the Seller, initiation of liquidation of the Seller or if the Seller loses its authorization to conduct business activity
 - if the Seller defaults on the delivery of the hyperspectral system for more than 30 days
 - if the Seller defaults on the removal of warranty defects for more than 30 days

- if the Purchaser fails to pay the Seller the purchase price for the subject of purchase within a reasonable time (*at least 14 days*) stated in a written reminder from the Seller for payment received by the Purchaser at the address of its registered office
- if the Seller transfers its obligation to deliver the purchased item or part to another party without the prior written consent of the Purchaser.

4. Notice of withdrawal from this Agreement must be in writing and shall be effective upon delivery to the other Contractual Party. The notice of withdrawal from this Agreement must include the reason for withdrawal.

5. Withdrawal from the Agreement shall terminate all of the rights and obligations of the Contractual Parties under this Agreement. Withdrawal from the Agreement shall not affect the claim for damages arising from a breach of contract or contractual provisions relating to the settlement of disputes between the Contractual Parties or a claim for payment of a penalty.

6. A Contractual Party to which performance was rendered prior to withdrawal from the Agreement shall return this performance. If performance is returned by the Contractual Party which withdrew from the Agreement, it may claim reimbursement of the expenses incurred.

7. Both Contractual Parties agree that if they are prevented in complying with the obligations under this Agreement due to the intervention of a force majeure or other unforeseen circumstances that occur through no fault of either Contractual Party, and they have a direct impact on the performance of the subject of the Agreement, they shall agree to extend the delivery date of the subject of the purchase in proportion to the duration of the circumstances preventing compliance with the original deadline. The Contractual Party incurring a force majeure shall inform the other Contractual Party in writing of the fact within five days after its occurrence and within 5 days after its end. Notification of a force majeure shall be documented by confirmation from a competent authority within another 20 days after its end clearly stating that the force majeure occurred and the consequences thereof. If these deadlines are not met, the Contracting Party can not invoke a force majeure. Force majeure or unexpected circumstances in this sense include in particular:

- natural disasters (*e.g. flood, flood, fire, lightning, damaging winds, etc.*)
- terrorist attacks and hostile military action,
- state of war and mobilization,
- civil unrest, riots, general strikes, coup.

VIII.

Other and final provisions

1. This Agreement was drawn up by agreement of the Contractual Parties on its entire content.

2. The legal relations between the Contractual Parties arising from this Agreement and the legal relations of the Contractual Parties, herein expressly unaltered shall be governed by the applicable regulations of the Czech Republic.

3. The Contractual Parties agree that the court with jurisdiction to hear and decide any dispute arising between the Purchaser and the Seller under this Agreement or in connection with it shall be the **general court of the Purchaser**.

4. Changes or amendment to this Agreement can only be made in the form of written addenda which will be numbered consecutively, explicitly declared as a supplement to this Agreement and signed by the authorized representatives of the Contractual Parties.

5. In the event that any of the provisions of this Agreement prove to be invalid or ineffective, this fact shall not affect the other provisions of this Agreement which shall remain valid and effective; at the same time, the Contractual Parties agree to replace the invalid/ineffective provisions of the Agreement with valid and effective provisions, which in their meaning will be close to the original content of the invalid/unenforceable provisions. In the event of any discrepancy between the attachments and parts of the Agreement and the text of the Agreement, the text of the Agreement shall take precedence.

6. This Agreement shall come into force upon signature by both Contractual Parties.

7. The Contracting Parties declare that the Agreement was drawn up on the basis of their true, solemn and free will, in witness whereof they attach their signatures.

8. An integral part of this Agreement is the following Attachment:

Attachment No. 1 “Detailed basic technical specifications of the individual parameters of the hyperspectral systems”.

9. This Agreement is prepared in two counterparts, with each Contractual Party receiving one copy, thereof.

Done indate

Done indate ...

.....
on behalf of the Purchaser
Global Change
Research Centre AS CR,
v.v.i.

.....
on behalf of the Seller

Prof. RNDr. Ing. Michal V. Marek, DrSc.