PURCHASE CONTRACT

concluded pursuant to Section 2079 et seq. of Act No. 89/2012 Sb., the Civil Code, as amended

The Parties

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| **Explosia a.s.** | |
| registered in the Commercial Register kept by the Regional Court in Hradec Králové, Section B, File 1828 | |
| with its registered office at: | Semtín 107, 530 02 Pardubice |
| represented by: | Ing. Radomír Krejča, Chairman of the Board of Directors  Ing. Pavel Mareček, Vice-Chairman of the Board of Directors |
| Id. No.: | 25291581 |
| Tax Id. No.: | CZ25291581 |
| Bank: | account number 19-8209660217/0100 (CZK), Komerční banka, a.s.  78-9204350257/0100 (EUR), Komerční banka, a.s.  115-1738630257/0100 (USD), Komerční banka, a.s.  6344402/0800 (CZK), Česká spořitelna, a.s.  6344592/0800 (EUR), Česká spořitelna, a.s.  6344672/0800 (USD), Česká spořitelna, a.s. |
| (hereinafter referred to as the “**Buyer**”) | |

and

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| --- | --- |
| **Name of the Seller** | |
| registered in the Commercial Register kept by Court designation, Section X, File No. YYYY | |
| with its registered office at: | to be specified |
| represented by: | Name Surname, title  Name Surname, title |
| Id. No.: | to be specified |
| Tax Id. No.: | to be specified |
| Bank: | Bank name  account number: XXXXXX/YYYYY |
| (hereinafter referred to as the “**Seller**”) | |

hereinafter jointly referred to as the Parties

enter into this Purchase Contract (hereinafter referred to as the “Contract”):

Article 1

Subject of the Contract

By the Contract the Seller agrees to hand over to the Buyer the item that forms the subject of the purchase: **2 vacuumable malaxers** according to Annex No. 1 to the Contract, CN No. (hereinafter referred to as the “Item”), and to allow the Buyer to acquire the ownership title to the Item.◂

The Buyer agrees to accept the duly delivered Item and to pay the Seller the purchase price for it.

The Seller’s obligation to hand over the Item to the Buyer shall also include:

1. transporting the Item,
2. installation of the Item within the premises designated by the Buyer,
3. conducting a trial run,
4. training of the Buyer’s employees and other persons designated by the Buyer,
5. handing over the documents,
6. removal and disposal of packaging and other materials in accordance with Act No. 541/2020 Sb., on waste, as amended.
7. The supplier, or any subcontractor, of the electrical part of the Work, shall design or implement in accordance with Decree No. 123/2022 Sb., Decree of the Czech Mining Authority on occupational safety and health protection and safety of operation of dedicated electrical equipment during mining activities, activities employing mining methods and handling of explosives.

The supplier (subcontractor) of the electrical part shall provide the Authorization for assembly, repairs, revisions and tests of dedicated electrical equipment, and a valid Certificate of Professional Competence of the chief electrician and revision technician issued by the District Mining Authority.

The designer shall provide the Authorization to design installations of dedicated electrical equipment and a valid Certificate of Professional Competence of a designer of electrical equipment installations issued by the District Mining Authority, according to Decree of the Czech Mining Authority No. 298/2005 Sb., on the requirements for professional qualification and competence in mining activities or activities employing mining methods.

The Seller declares that it is the exclusive owner of the Item and that no acquisition of any intellectual or other rights is or will be required for the transfer of the ownership title or the use of the Item.

The Seller shall deliver the Item free from any legal or factual defects.

Article 2

Quality and Design of the Item

1. The Seller agrees to deliver the Item whose quality (characteristics) and design correspond to the Contract, and if the arrangements are missing (even partially), to deliver the Item in the highest quality and in the design that fully corresponds to the interests of the Buyer.
2. The Item delivered by the Seller must comply with all legal, technical and other standards, including those of a recommendatory nature. The Seller declares that it is aware of and has fully understood all the standards applicable to the Item.

The Seller agrees to deliver the Item so that it is brand new and no part of it has been previously used or refurbished. Any breach of this obligation shall be considered by the Parties to be a material breach of the Contract.

Article 3

Place and Time of Performance

1. The Seller shall deliver the Item to the Buyer no later than within the following deadlines:

|  |  |
| --- | --- |
| **transport of the Item and installation of the Item, commencement of test operation:** |  |
| **completion of test operation:** |  |
| **training of employees:** |  |
| **delivery and acceptance of the Item:** |  |

1. Delivery terms: DAP registered office of Explosia a.s., Pardubice - Semtín (INCOTERMS 2024).
2. The Seller’s failure to perform in a timely manner shall always constitute a material breach of the Contract.

Article 4

Purchase Price and Payment Terms

1. The purchase price is agreed by mutual agreement of the Parties and amounts to: CZK ………….. (in words: ……………. Czech crowns).VAT at the statutory rate shall be added to the purchase price.
2. The purchase price is agreed as final and highest admissible and includes all the costs of the Seller related to the performance of the Contract.
3. The Buyer shall pay the purchase price only to the Seller’s bank account kept by a domestic payment service provider and published in the register of payers pursuant to Section 98 of Act No. 235/2004 Sb., on value added tax. The Seller declares that the above bank account is such an account and will remain such an account until the Buyer has paid the purchase price in full.
4. The Buyer shall pay the purchase price on the basis of a tax receipt (invoice) payable within 60 days, which meets all the requisites stipulated by the legal regulations and contains the information required by the Buyer.
5. The Seller shall be entitled to issue the tax receipt after the delivery and acceptance of the Item.

The Seller represents that it will pay VAT on the purchase price in a due and timely manner. In this context, the Seller represents that it is in good economic condition, that it is not subject to distraint or insolvency proceedings and is not threatened by such proceedings, and that the Seller is not pursuing any litigation which, if unsuccessful, would lead to inability to meet its obligations. The Seller also represents that no proceedings are being held against it regarding registration of the Seller in the register of unreliable taxpayers.

If the Seller’ representation under paragraph 3 or 6 proves to be false, or if the facts foreseen therein occur, the Buyer shall have the right, at its option:

1. to withdraw from the Contract,
2. to withhold part of the purchase price and to fulfil the obligations towards the tax administrator due to the liability of the recipient of the taxable performance,
3. to take other appropriate measures to secure or consolidate any future claim against the Buyer arising from the fulfillment of the guarantor’s obligations,
4. to set off any of its claims against the Seller’s claim, including claims not yet due or arising in future.

Article 5

Installation, Trial Operation and Training

1. If required by the nature of the Item and if requested by the Buyer, the Seller shall carry out complete installation (assembly) of the Item in the specified space within the deadline agreed with the Buyer.
2. Upon completion of the installation, the Seller shall conduct a trial operation with the Buyer’s participation for the following duration (scope): 3 business days. The purpose of the trial operation is to test all the functions of the Item. The method of the trial operation shall be determined by the Buyer.
3. If any defects or deficiencies are found during the trial operation, the Seller shall be obliged to remove them without undue delay.
4. During or after the trial operation, but no later than upon the delivery and acceptance of the Item, the Seller shall thoroughly train the Buyer’s employees and other persons designated by the Buyer so that these persons are able, based on the training, to use and maintain the Item independently.

Article 6

Delivery and Acceptance of the Item

1. After successful completion of the trial operation, the Seller shall deliver and the Buyer shall accept the Item. The Buyer shall not be obliged to accept the Item if it shows any defects or shortcomings, even if they do not prevent the proper use of the Item, or if the Seller’s performance is otherwise contrary to the Contract.
2. The delivery and acceptance of the Item shall take place by signing the Delivery and Acceptance Protocol, which contains at least the following information:
3. identification of the Parties,
4. determination of the Contract,
5. designation of the Item,
6. a list of documents that the Buyer has accepted from the Seller,
7. a statement by the Buyer as to whether it accepts the Item and an indication of any defects and shortcomings, including an agreed date for their removal,
8. the date and place of execution, together with the names and titles of acting persons.

The Seller shall deliver to the Buyer, no later than before the execution of the Delivery and Acceptance Protocol in the Czech language, all documents (original copies) necessary for the use and maintenance of the Item, as well as other documents related to the Item. The documents shall be submitted in both hard copy and electronic versions. These documents include, but are not limited to:

1. declaration of conformity according to Act No. 22/1997 Sb., on the technical requirements for products (3 x),
2. operating instructions (3 x),
3. initial revision (3 x),
4. ATEX equipment (3 x)
5. record of training of the Buyer’s personnel (3 x)
6. record of the test operation (3 x),

The Seller bears the risk of damage to the Item until the Buyer takes possession of it.

1. The Buyer shall acquire the ownership title to the Item only upon full payment of the purchase price.

Article 7

Warranty for Quality

1. The Seller warrants that for a period of .... (...in words...) months the Item will be fit for use for the agreed purpose and that it will retain the quality and workmanship specified in the Contract.
2. The warranty period begins on the date of delivery and acceptance of the Item. If the Contract or any other instrument, document or packaging of the Item specifies different warranty periods, the longest warranty period shall apply.
3. The Buyer shall be obliged to make a written (including by e-mail) request for remedying the defect (claim) within the warranty period. In the claim, the Buyer shall provide a description of the defect or the manner in which the defect manifests itself.
4. During the warranty period, the Seller shall be obliged to remedy the claimed defect at its own expense. The Seller shall remedy the claimed defect without undue delay, but no later than within 5 days after notification of the claim in the case of defects that prevent the proper use of the Item, or within 10 days for defects that do not prevent the proper use of the Item, unless otherwise agreed in writing with the Buyer.
5. If the defect cannot be remedied by repair, the Buyer has the right, according to its choice, to have a new item delivered or to receive a reasonable discount on the purchase price. If there is a repeated occurrence of the same or different defect, the Buyer also has the right to withdraw from the Contract. The Buyer shall not have the right to have a new item delivered or to withdraw from the Contract if the defect is negligible in nature and does not affect the functionality of the Item.
6. The Seller shall also be obliged to remedy any defect not covered by the quality warranty within the deadlines specified in this Article. In such case, the Buyer shall pay the Seller the usual price, but not more than CZK 1,000.00 excluding VAT for one hour of work, which includes all the costs of the Seller except for the cost of spare parts.

Article 8

Other Rights and Obligations

1. The Seller agrees to act with the utmost professional care and with regard to the interests of the Buyer in the performance of the Contract. The Seller shall be obliged to inform the Buyer in writing without undue delay of all facts that may affect its ability to properly fulfill its obligations under the Contract.
2. The Seller shall be obliged to comply with all binding legal regulations relating to the performance of the Contract. The Seller represents that it is aware of and has fully understood all these regulations.
3. During the performance of the Contract within the Buyer’s premises, the Seller shall ensure compliance with the Buyer’s internal regulations concerning movement and work within the Buyer’s premises, including, but not limited to, guideline OS E 52/5 Entry of Persons and Vehicles into Explosia a.s. If the Seller moves also within Synthesia’s premises, it is obliged to ensure compliance with internaĺ regulations of Synthesia which are available at www.synthesia.eu. The Seller represents that it is aware of and has fully understood all the internal regulations referred to in this paragraph.
4. When moving within the Buyer’s premises and within Synthesia’s premises, the Seller shall be obliged to take extra care and act in such a way as not to endanger persons or items located therein. Similarly, the Seller shall not in any way jeopardize or restrict the operational activities of both premises.
5. The Seller shall be obliged to act independently in the performance of the Contract, without prejudice to its obligation to respect the Buyer’s instructions or other obligations set out in the Contract. The Seller shall be obliged to notify the Buyer in writing without undue delay of any inappropriate nature of the instructions given or requests made by him and to propose a suitable solution to the Buyer.
6. The Seller may only use third parties to perform the Contract with the prior written consent of the Buyer and provided that they are bound to the same obligations as the Seller. In such case, the Seller shall be liable for these persons as if it had performed itself.
7. To perform the Contract within the premises of the Buyer or Synthesia, the Seller may use only persons who are reliable, of good character and capable of independent communication. A person referred to in Section 34 of Act No. 61/1988 Sb., on mining activities, explosives and the state mining administration, as amended, shall not be considered to be of good character. A person who alone and without foreign assistance is fully proficient in the Czech language, including technical or other professional communication related to the subject of the Contract, the objects of business (activity) of the Buyer and the obligations arising for the Seller and the Buyer from the legal regulations and internal regulations of the Buyer and Synthesia, shall be considered to be a person capable of independent communication.
8. The Seller shall train all of its employees and other personnel (including subcontractors) whom it uses to perform the Contract within the Buyer’s or Synthesia’s premises with regard to all obligations arising for them from the Contract, the legal regulations and internal regulations of the Buyer and Synthesia. The Contractor shall in particular, but not exclusively, provide training in occupational health and safety and fire protection. The knowledge referred to in this paragraph shall be continuously checked by the Seller.
9. The Seller shall be responsible for the safety of all persons that the Seller will use to perform under the Contract and shall provide such persons with protective work equipment. The Seller shall be obliged to report any accidents to the Buyer without undue delay and draw up a record of them.
10. The Seller shall provide the Buyer with all necessary assistance to fulfill the obligations arising from the Contract and legal regulations, in particular to register the acquisition of ownership title to the Item in a public list or other records.
11. The Parties consider any breach of the obligations set out in paragraphs 6 to 8 to be a material breach of the Contract.

Article 9

Contractual Penalties and Indemnification

1. If the Seller violates its obligation to deliver the Item to the Buyer on time, it shall pay the Buyer a contractual penalty in the amount of 0.5% of the purchase price (including VAT) for each, even incomplete, day of delay.
2. If the Buyer violates its obligation to pay the purchase price on time, it shall pay the Seller a contractual penalty in the amount of 0.5% of the part of the purchase price (including VAT) for which it is in default, for each, even incomplete, day of delay.
3. The right to a contractual penalty arises at the moment of breach of the contractual obligation. The entitled Party shall issue a tax receipt (invoice) for the payment of the contractual penalty to the obliged Party, payable within 14 days.
4. Contractual penalty arrangements do not relieve the Seller of the obligation to compensate for damage arising from the breach of the obligation to which the contractual penalty relates.
5. The Seller shall be obliged to report to the Buyer any damage caused to the Buyer or any other person in connection with the performance of the Contract. It shall compensate the injured party for such injury without undue delay.

Article 10

Representatives of the Parties

1. The Parties authorise the following persons to exercise their rights and perform their obligations under the Contract:

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| For the Buyer:  tel:  e-mail: |  |

|  |  |
| --- | --- |
| For the Seller:  tel:  e-mail: |  |

However, the persons referred to in paragraph 1 are not authorized to make changes to the Contract.

Article 11

Termination of the Contract

1. The Buyer shall be entitled to withdraw from the Contract if the Seller breaches:
2. its obligation under the Contract and fails to remedy the breach within a reasonable or agreed deadline;
3. repeatedly its obligation under the Contract;
4. materially its obligation under the Contract.

The Buyer shall also be entitled to withdraw from the Contract if:

1. insolvency proceedings are initiated against the Seller;
2. the Seller enters liquidation;
3. the provision of funds to cover expenditures under the Contract is suspended or terminated by any provider, or where such expenditures are determined to be ineligible.

Article 12

Annexes

1. The following annexes form an integral part of the Contract:

* Annex No. 1 - [CN of the Seller]
* Annex No. 2 - [Technical Specification]

1. In the event of any conflict between the Contract and an annex thereto, the Contract shall prevail. In the event of any conflict between the annexes, the Seller shall request the Buyer in writing to determine the priority, otherwise the arrangement more favourable to the Buyer shall prevail.

Article 13

Final Provisions

1. The obligation arising from the Contract shall be governed by the provisions of Act No. 89/2012 Sb., the Civil Code, as amended.
2. Pursuant to the provisions of Section 89a of Act No. 99/1963, the Code of Civil Procedure, as amended, the Parties have agreed that the court having venue jurisdiction according to the Buyer’s registered office shall be competent to resolve all disputes arising from the Contract.
3. The Contract may be amended and supplemented only by full agreement of the Parties in the form of written and numbered amendments.
4. If a Party fails to exercise or enforce any right under or in connection with the Contract, such failure shall not be deemed a waiver of such right.
5. The Buyer represents that it is an obliged entity within the meaning of Section 2(1)(n) of Act No. 340/2015 Sb., on special conditions for the effectiveness of some contracts, the publication of these contracts and the register of contracts (the Register of Contracts Act), as amended. If the Contract is subject to publication in the register of contracts, the Parties have agreed that the Contract shall be published by the Buyer.The Buyer shall publish the Contract except for the data and information selected by the Buyer, the exclusion or obfuscation of which is permitted by the Register of Contracts Act and the related legal regulations. For the avoidance of doubt, the Seller represents that the Buyer shall be entitled to publish the entire content of the Contract and that it is not bound by any instructions of the Seller in this respect; this shall also apply if the obligation to publish the Contract is not stipulated by the Register of Contracts Act or if it is disputed and the Buyer nevertheless publishes the Contract in the Register of Contracts. All provisions of this paragraph shall also apply to any annexes to the Contract, amendments thereto, as well as to contracts concluded on the basis thereof.
6. If the Contract has not been published in the Register of Contracts for reasons set forth in Section 7(3) of the Register of Contracts Act and therefore has not come into effect on the expected date, the Parties shall agree without undue delay after the Contract has come into effect to amend the content of the existing obligation as if the Contract had been duly published from the beginning. This also applies to any annexes to the Contract, amendments thereto and contracts concluded on the basis thereof.
7. The Seller agrees to exercise utmost care to maintain confidentiality of all the contents of the Contract and of all facts of which it has become aware in connection with the performance of the Contract. This shall in no way prejudice any confidentiality obligation of the Seller arising from another contract concluded between the Parties.
8. The Contract shall enter into force and effect on the date of its execution by the last Party. However, if the Contract is subject to the obligation of publication in the register of contracts, it shall not take effect until the date of its publication.
9. The Contract has been drawn up in two counterparts, where each Party shall obtain one counterpart. If the Contract is subject to an obligation of publication in the register of contracts, the Seller shall provide the Buyer with the full text of the Contract in an open and machine-readable format (.doc or .docx) for the purposes of publication, unless it is drawn up by the Buyer. The provisions of the preceding sentence shall also apply to any annexes to the Contract, amendments thereto and to contracts concluded on the basis thereof.
10. The Parties represent that the Contract expresses their free and serious will, free from any errors, and that it is not concluded under duress or strikingly unfavourable conditions.
11. The Parties have read and understood all the provisions of the Contract and in witness whereof they affix their signatures.

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| --- | --- |
| In Pardubice on:  ………………………..  Ing. Radomír Krejča  Chairman of the Board of Directors  Explosia a.s. | In  on:  ………………………..  Name Surname  title  Name of the Seller |
| ………………………..  Ing. Pavel Mareček  Vice-Chairman of the Board of Directors  Explosia a.s. | ………………………..  Name Surname  title  Name of the Seller |