

MEMORANDUM OF UNDERSTANDING

Concluded in Belgrade, on 9th June 2009, by and between:

1. **IBM - International Business Machines d.o.o.** with its seat in Belgrade 11070, Bulevar Mihajla Pupina 6, duly represented by **Miloš Đurković**, General Manager, hereinafter referred to as "**IBM**",
and
2. **Institute of Physics Belgrade**, with its seat in Belgrade 11080, Pregrevica 118, duly represented by **Prof. dr Dragan S. Popović**, Director, hereinafter referred to as the "**Institute**".

IBM and the Institute shall be hereinafter referred to individually as the "Party" or jointly as the "Parties".

Section 1

1. The Parties shall agree to cooperate within the following scope:
 - a) exchange of ideas and experiences related to research and development on new IT architectures and platforms, with special emphasis to applications in physics and related sciences;
 - b) testing, optimization and porting to novel IT architectures and platforms of scientific applications and libraries relevant to the Institute, as well as to the Serbian high performance computing community;
 - c) testing and assessment of IBM hardware and software solutions from the point of view of scientific applications relevant to the Institute;
 - d) mediating and establishing of collaboration related to the scope of this Memorandum between Institute and other IBM partners within the Academic Initiative;
 - e) the practical usage of IBM products during the practical and theoretical courses held at the Institute;
 - f) additional training courses for Institute's PhD students and researchers;
 - g) joint organization of meetings, seminars and conferences related to the scope of this Memorandum, as well as participation of each Party in relevant meetings, seminars and conferences organized by the other Party;
2. The Parties shall agree to cooperate under the scope defined herein for **five years**, starting from the date of signature of this Memorandum of Understanding by both Parties. This Memorandum of Understanding and detailed agreements between the Parties concluded for the particular years shall constitute the base for the cooperation between the Parties.
3. Organization of the cooperation:
 - a) The Parties shall appoint the following persons to be the members of the Coordination Committee, supervising and performing the cooperation process:
 - for the **Institute: dr Antun Balaz**, Research Associate, Institute of Physics Belgrade,
 - for **IBM: Jelena Vukajlović**, IBM Sales & Distribution.

Each Party shall notify the other Party in writing on any change relevant to execution of this Memorandum of Understanding referring to the above persons. Such a change shall not cause any modification to this Memorandum of Understanding.

The Coordination Committee shall recommend the number of practical and theoretical courses, their subject, and the number of students and researchers participating. The Coordination Committee shall also recommend the projects to be discussed regarding the first year of cooperation. The Parties shall mutually agree within 10 days on the implementation of the Coordination Committee's recommendations.

- b) The decisions of the Coordination Committee shall be taken unanimously and drawn up in writing.
 - c) The first Coordination Committee meeting shall take place within 21 days after this Memorandum of Understanding is signed. During the meeting the following shall be established:
 - the list of the courses where new IBM products are implemented;
 - the demand for IBM products and the list of those IBM products that are to be made available for the Institute, as well as the way of their usage,
 - the demand for the PhD students training practices, IBM commits itself to hold,
 - the program meetings dates of the Coordination Committee;
 - the detailed draft of the agreements and projects to be discussed regarding the first year of cooperation, including the above aspects of the mutual cooperation; it shall refer to the agreements concluded independently between the Institute and IBM, only.
4. Starting the cooperation the Institute shall agree:
- a) to use IBM products made available under the theoretical courses to the required extent,
 - b) to direct the Institute's PhD students, to the required extent, to the student training practices organized by IBM,
 - c) to inform the public about the cooperation between the Parties and the achieved results. The parties shall mutually agree in writing about the details of the information to be released.
5. Starting the cooperation, IBM shall agree:
- a) to enable the Institute access to IBM products for theoretical use within the scope and contractual terms to be agreed by both Parties,
 - b) to help the Institute implement and use IBM products during the theoretical courses, within the scope and contractual terms to be agreed by both Parties,
 - c) to recruit the **Institute's PhD** students for the training practices, in accordance with the numbers and dates agreed by both Parties, based on the recommendation of the Coordination Committee.

Section 2

1. This Memorandum of Understanding does not create any liabilities between the Parties, and in particular it is not treated as a promise to conclude an agreement nor as a preliminary agreement.
2. This Memorandum of Understanding is not considered as a transaction document. Products and services are not sold based on this Memorandum of Understanding. Purchase of products and services shall be governed by separate agreements based on standard IBM terms and conditions.

Section 3

Limitation of liability

1. Circumstances may arise where, because of a default on IBM's part or other liability, the Faculty is entitled to recover damages from IBM. In each such instance, regardless of the basis on which the Faculty is entitled to claim damages from IBM (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), IBM is liable for no more than:

- a) damages for bodily injury (including death) and damage to real property and tangible personal property; and
- b) the amount of any other actual direct damages up to the amount of *U.S. \$100,000* in local currency converted according to the exchange rate published by Serbian National Bank on the business day the damages occurred for the product or service that is the subject of the claim.

This limit also applies to any of IBM's subcontractors and Program developers. It is the maximum for which IBM and its subcontractors and Program developers are collectively responsible.

Items for Which IBM is Not Liable

2. Under no circumstances is IBM, its subcontractors, or Program developers liable for any of the following even if informed of their possibility:
 - a) loss of, or damage to, data;
 - b) special, incidental, or indirect damages or for any economic consequential damages; or
 - c) lost profits, business, revenue, goodwill, or anticipated savings

Section 4

1. Neither Party shall have the right to assume any liabilities nor to dispose any rights on behalf of the other Party, without the other Party's express consent to be made in writing or otherwise be null and void.
2. Each Party shall be fully responsible for its own costs and expenses, as well as for its financial obligations and warranties arising here from.
3. Neither Party shall pay any monetary consideration to the other Party for the services arising out of this Memorandum of Understanding.
4. Each Party is free to enter into similar agreements with others.
5. Neither provision hereof shall create a joint venture between the Parties.

Section 5

All the information exchanged between the Parties shall not be **deemed** confidential, unless the Parties state otherwise and agree to sign a separate confidentiality agreement.

Section 6

Joint Invention

1. Joint invention means any idea, concept, design, technique, invention, discovery, or improvement, whether or not patentable, that is created jointly by either party's and/or its Related Companies' employee(s) during the execution of the DOU and for which a patent application is filed.
2. Each Joint Invention will be jointly owned by both parties, together with all patent applications filed for it and all patents issued on it. Each party has the right to grant licenses to others and to assign or otherwise transfer its rights under Joint Inventions without consent from or accounting to the other party.

Section 7

Based on mutual agreement of the Parties, IBM experts may hold practical or theoretical courses at the Faculty.

IBM holds all right, title, and interest (including ownership of copyright) regarding the education materials provided to the Faculty. All records, memos, and other works, that may be regarded as literary works or other works of authorship, that were created during these practical or theoretical courses are the property of IBM.

Section 8

This Memorandum of Understanding may be terminated by each Party, effective 30 calendar days upon receipt of written termination letter.

Section 9

Any change to the provisions hereof requires both Parties' written consent; otherwise shall be deemed null and void.

Section 10

The Faculty warrants and confirms with its signature that this Memorandum of Understanding is accepted in accordance with all applicable laws to the relationship, including but not limited to applicable public procurement rules and other applicable regulations.

Section 11

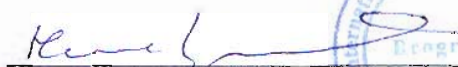
The laws of Republic of Serbia are applicable to this Memorandum of Understanding. In the event of any dispute arising out of or in connection with the present Memorandum of Understanding, the parties shall try to solve it amicably.

Any possible disputes that were not resolved amicably will finally be settled at the competent court placed in Belgrade, Republic of Serbia.

Section 12

This Memorandum of Understanding has been drawn up in two identical copies, one copy for each Party.

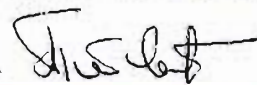
For IBM:



Miloš Đurković, General Manager



For the Institute of Physics Belgrade:



Prof. dr Dragan S. Popović, Director