**Purchase contract**

This purchase contract (”**Contract**”) was concluded pursuant to section 2079 *et seq*. of the act no. 89/2012 Coll., Civil Code (“**Civil Code**”), on the day, month and year stated below by and between:

1. **Institute of Physics of the Czech Academy of Sciences, public research institution**

with its registered office at: Na Slovance 2, Praha 8, PSČ: 182 21

registration no.: 68378271

represented by: RNDr. Michael Prouza, PhD. – director

(“**Buyer**”); and

1. **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

with its registered office at: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

registration no.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

represented by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(“**Supplier**”)

(The Buyer and the Supplier are hereinafter jointly referred to as “**Parties**” and individually as “**Party**”.)

**whereas**

1. The Buyer is a public contracting authority and operator of the ELI-Beamlines facility that is financed from the projects within the Operational Program Research, Development and Education.
2. For the successful realization of the above mentioned projects, it is necessary to purchase the Objects of Purchase as defined below.
3. The Supplier’s bid for the public procurement entitled “**L4 10PW Laser Beam Distribution Vacuum Bellows TP22\_006**”, whose purpose was to procure the Objects of Purchase (“Public Procurement”), was selected by the Buyer as the most suitable.

**it was agreed as follows:**

# basic provisions

## Under this Contract the Supplier shall supply to the Buyer 5 pieces of the bellows as these are described in Annex 1 (*Technical Specification*) to this Contract, in the quality described therein (“**Objects of Purchase**”), and shall transfer to the Buyer ownership right to the Objects of Purchase, and the Buyer shall take over the Objects of Purchase and shall pay the Supplier the Purchase Price (as defined below), all under the terms and conditions stipulated in this Contract.

## If for the fulfillment of the requirements of the Buyer under this Contract or for the proper operation of the Objects of Purchase are necessary other deliveries and activities not mentioned in this Contract, the Supplier shall procure such deliveries or shall carry out such activities at its own expense without any effect on the Purchase Price.

# THe place of delivery

## The place of delivery is: Fyzikální ústav AVČR, v.v.i / ELI-Beamlines, Za Radnicí 836, 252 41 Dolní Břežany, Czech Republic.

# the time of delivery

## The Supplier shall deliver the Objects of Purchase within 6 months from the signature of this Contract.

## At the request of the Supplier, the fulfillment date will be extended by the time for which the Supplier is unable to fulfill this Contract in time due to circumstances that occurred independently of its will and which are difficult to predict (e.g. measures in connection with the covid-19 pandemic). In the application, the Supplier shall state the facts and provide documents (evidence) that are important for the assessment of whether the conditions for the extension are met, unless they are generally known facts or publicly available information.

# The ownership right

## The ownership right to the Objects of Purchase shall pass to the Buyer upon signature of the Acceptance Protocol (as defined below) by both Parties.

# price and payment terms

## The total purchase price for the Objects of Purchase (“**Purchase Price**”) without value added tax (“**VAT**”) and unit prices for Objects of Purchase are stated in Annex 2 (*Prices*). VAT will be paid in accordance with the applicable legal regulations.

## The Purchase Price cannot be exceeded and includes all costs and expenses of the Supplier related to the performance of this Contract. The Purchase Price includes, among others, all expenses related to the handover of the Objects of Purchase and execution of related activities, costs (where applicable) of insurance, customs, warranty service and any other costs and expenses connected with the performance of this Contract.

## The Purchase Price for the Objects of Purchase shall be paid on the basis of a tax document – invoice, to the account of the Supplier specified in the invoice. The Supplier is entitled to issue the invoice after signature of the Acceptance Protocol. Copy of the Acceptance Protocol must be attached to the invoice.

## The Buyer shall realize payments on the basis of duly issued invoices within 30 days from their receipt. If the Supplier stipulates any shorter due period of the invoiced amount in an invoice such different due period shall not be deemed relevant and the due period stipulated herein prevails. The invoice shall be considered to be paid for on the day when the invoiced amount is deducted from the Buyer’s account on behalf of the Supplier’s account.

## The invoice issued by the Supplier as a tax document must contain all information required by the applicable laws of the Czech Republic. Invoices issued by the Supplier in accordance with this Contract shall contain in particular following information:

#### name and registered office of the Buyer,

#### tax identification number of the Buyer,

#### name and registered office of the Supplier,

#### tax identification number of the Supplier,

#### registration number of the tax document,

#### scope of the performance (including the reference to this Contract),

#### the date of the issue of the tax document,

#### the date of the fulfilment of the Contract,

#### purchase Price,

#### registration number of this Contract, which the Buyer shall communicate to the Supplier based on Supplier’s request before the issuance of the invoice,

#### a declaration that the invoiced performance is provided for the purposes of the "Advanced Research Using High Intensity Laser Produced Photons and Particles” project, reg. No. CZ.02.1.01/0.0/0.0/16\_019/0000789 or any other project in accordance with instructions provided by the Buyer in advance:

## and must comply with the double tax avoidance agreements, if applicable.

## In case that the invoice shall not contain the above mentioned information, the Buyer is entitled to return it to the Supplier during it maturity period and this shall not be considered as a default. The new maturity period shall begin from the receipt of the supplemented or corrected invoice to the Buyer.

## The Buyer prefers electronic invoicing on the following email address: efaktury@fzu.cz.

# SUPPLIER’s duties

## The Supplier shall ensure that the Objects of Purchase are in compliance with this Contract including all its annexes.

## If the technical conditions stipulated in Annex 1 (*Technical Specification*) are set by the reference to standards or technical documents pursuant to Section 90 (1) or (2) of the Act no. 134/2016 Coll., on the Public Procurement, the Supplier is entitled to offer an equivalent solution only if it mentions this fact in its bid and if it also proves that the proposed solution satisfies in an equivalent manner the requirements defined by the technical conditions. Otherwise, the Supplier is required to offer the solution that meets the technical conditions (i.e. standards and technical documents) set by the Buyer.

## During performance of this Contract the Supplier proceeds independently. If the Supplier receives instructions from the Buyer, the Supplier shall follow such instructions unless these are against the law or in contradiction to this Contract. If the Supplier finds out or should have found out if professional care was exercised that the instructions are for any reason inappropriate or illegal or in contradiction to this Contract, then the Supplier must notify the Buyer.

# Handover of the Objects of purchase

## Handover and takeover of the Objects of Purchase shall be realized on the basis of an acceptance protocol (“**Acceptance Protocol**”).

## If any the Objects of Purchase does not meet requirements of this Contract, the Buyer is entitled to refuse the takeover of the defective Object of Purchase. In such a case the Supplier shall remedy the deficiencies within ten (10) working days, unless Parties agree otherwise. The Buyer will accept longer period than stated in case the Supplier will prove, that he is unable to remedy the deficiencies within the 10 working days limit. The Buyer is entitled (but not obliged) to take over the Object(s) of Purchase despite the above mentioned deficiencies, in particular if such deficiencies do not prevent the Buyer from the proper operation of the Objects of Purchase. In such case, the Buyer shall list the deficiencies in the Acceptance Protocol, including the manner and the date of their removal (remedy). If the Parties do not reach agreement in the Acceptance Protocol regarding the date of the removal, the Supplier shall remove the deficiencies within ten (10) working days.

# warranty

## The Supplier shall provide a warranty of quality of the Objects of Purchase for the period of 24 months. If on the warranty list or other document is the warranty period of longer duration, then this longer warranty period shall have priority over the period stated in this Contract.

## The warranty period shall begin on the day of the signature of the Acceptance Protocol by both Parties. If the Acceptance Protocol lists any deficiencies, the warranty period shall begin on the day of the removal of the last deficiency.

## The Supplier shall remove defects that occur during the warranty period free of charge and in the terms stipulated in this Contract.

## If the Buyer ascertains a defect of any of the Objects of Purchase during the warranty period, the Buyer shall notify the Supplier such defect without undue delay. Defects may be notified on the last day of warranty period, at the latest.

## The Buyer notifies defects in writing via e-mail. The Supplier shall accept notifications of defects on the following e-mail address: [\_\_\_\_\_\_\_\_\_\_\_](mailto:nowak@smartact.com). The Supplier shall confirm within 2 working days the receipt of the notification.

## In the notification, the Buyer shall describe the defect and the manner of removal of the defect. The Buyer has the right to:

#### ask for the removal of the defect by the delivery of a new Object of Purchase or its individual part(s), or

#### ask for the removal of the defect by repair, or

#### ask for the adequate reduction of the Purchase Price, if the repair cannot be fulfilled by the Supplier.

## The choice among the above mentioned rights belongs to the Buyer. However, the Buyer is not entitled to request the delivery of a new Object of Purchase or its part(s) in case of removable defects unless the same defect occurs repeatedly. The Buyer is also entitled to withdraw from this Contract, if by delivering the Object of Purchase with defects this Contract is substantially breached.

## The Supplier shall remove the defect within 30 calendar days from its notification, unless Parties agree otherwise – the Buyer will accept longer period than stated in case the Supplier will prove that he is unable to remove the defect in 30 calendar days limit.

## Parties shall execute a protocol on the removal of the defect, which shall contain the description of the defect and the confirmation that the defect was removed. The warranty period shall be extended by a period of time that elapses between the notification of the defect and its removal if the Buyer was prevented from using the Object of Purchase due to the defect removal.

## In case that the Supplier does not remove the defect within stipulated time or if the Supplier refuses to remove the defect, then the Buyer is entitled to remove the defect at his own costs and the Supplier shall reimburse these costs (to the usual market value) within 10 days after the Buyer’s request to do so.

## The warranty does not cover defects caused by unprofessional manipulation or by failure to follow Supplier’s instructions for the operation and maintenance of the Objects of Purchase.

# penalties

## If the Supplier is in delay with the removal of a defect of any of the Objects of Purchase, the Supplier shall pay to the Buyer a contractual penalty in the amount of 0.02% from the price of the individual Object of Purchase (excl. VAT) for each (even commenced) day of delay.

## The Supplier shall pay contractual penalties within fifteen (15) days from the day, on which the Buyer enumerated its claims. The payment of contractual penalties shall not affect the right of the Buyer to damages even to the extent to which such damages exceeds the contractual penalty.

## Total amount of contractual penalties for delays with defect removals shall not exceed 10 % of the Purchase Price (excl. VAT).

## The Buyer is entitled to unilaterally set off (even yet undue) claims arising from the contractual penalties against the claim of the Supplier for the payment of the Purchase Price.

# right of withdrawal

## The Buyer is entitled to withdraw from this Contract without any penalties, if any of the following circumstances occur:

#### the Supplier is in delay with the delivery of any of the Objects of Purchase by more than three (3) weeks

#### the Objects of Purchase shall not fulfil the requirements stipulated in this Contract, in particular in Annex 1 (*Technical Specification*)

#### the insolvency proceeding is initiated against the Supplier; or

#### the Buyer ascertains that the Supplier provided in its bid for the Public Procurement information or documents that do not correspond to the reality and that had or could have had impact on the result of the tendering procedure, which preceded the conclusion of this Contract.

# ECOLOGICAL, SOCIAL AND INNOVATIVE ASPECTS of this contract

## The Buyer aims to conclude contracts with suppliers that take into account and implement the principles of social responsibility, ecological sustainability and innovation. Therefore, the Supplier shall ensure that:

## a) this Contract shall be fulfilled only by persons that are employed in accordance with the applicable legal regulations (no illegal or child workers);

## b) while performing this Contract, all applicable health and safety regulations and rules at work place are observed;

## c) all persons performing this Contract are employed under fair and non-discriminatory working conditions;

## d) if presented with different manners of fulfilling this Contract, the Supplier shall select the solution/process that is in accordance with the principles governing nature conservation and nature protection, ecological sustainability and ecological waste management; and

## e) if presented with different manners of fulfilling this Contract, the Supplier shall select the solution/process that is the most innovative.

# Final provisions

## This Contract is governed by the laws of the Czech Republic, especially by the Civil Code.

## All disputes arising out of this Contract or out of legal relations connected with this Contract shall be preferable settled by a mutual negotiation. In case that the dispute is not settled within sixty (60) days, such dispute shall be decided by courts of the Czech Republic in the procedure initiated by one of the Parties.

## The Supplier is not entitled to set off any of its claims or his debtor’s claims against the Buyer’s claims. The Supplier is not entitled to transfer its claims against Buyer that arose on the basis or in connection with this Contract on third parties. The Supplier is not entitled to transfer rights and duties from this Contract or its part on third parties.

## All modifications and supplements of this Contract must be in writing.

## If any of provisions of this Contract are invalid or ineffective, the Parties are bound to change this Contract is such a way that the invalid or ineffective provision is replaced by a new provision that is valid and effective and to the maximum possible extent correspond to the original invalid or ineffective provision.

## This Contract is executed in four (4) counterparts and every Party shall receive two (2) counterparts.

## Integral parts of this Contract are Annex 1 (*Technical Specification*) and Annex 2 (*Prices*). In case of any discrepancy between the provisions of this Contract and the provisions of Annex 1 (*Technical Specification*)the provisions of this Contract shall prevail.

## This Contract shall be valid on the date of the signature of both Parties and effective on the day of its publication in the register of contracts according to the respective legal regulation (Act no. 340/2015 Coll., on the Register of Contracts).

## **in witness whereof** attach Parties their signatures:

**Buyer**

|  |
| --- |
| Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: RNDr. Michael Prouza, PhD. |
| Position: Director  Date: |

**Supplier**

|  |
| --- |
| Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: |

**Annex 1**

**technical specification**

**(requirements Specification Document for the Public Procurement)**

*Annex No 2 to the invitation to bid elaborated for the purposes of the Public Procurement (Technical Specification) to be inserted here before the final signature of this Contract with the selected supplier. For the purposes of bid submission bidders don’t have to complete this Contract with Annexes.*

**Annex 2**

**PRICES**

*Annex No 4 to the invitation to bid elaborated for the purposes of the Public Procurement (Bid price table) to be inserted here before the signature of this Contract with the selected supplier in the form the selected bidder made it part if its bid for the Public Procurement. For the purposes of bid submission bidders don’t have to complete this Contract with Annexes.*