



## Purchase Contract

concluded in accordance with Section 2079 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended

Number of the Buyer's Purchase Contract: 092/19

Number of the Seller's Purchase Contract: .....

between the following parties:

### **Nuclear Physics Institute of the CAS, p. r. i.**

Headquartered at Řež 130, 250 68 Husinec

represented by: RNDr. Petr Lukáš, CSc., Director

business identification no.: 61389005

tax identification no.: CZ61389005

bank connection:

account number:

registered in the public register of research institutions maintained by Ministry of education, youth and sports

(hereinafter referred to as the "Buyer")

and

### **Vallen Systeme GmbH**

headquartered at Schätflarner Weg 26a, 82057 Icking, Germany

represented by: Thomas Duschl, Horst Trattnig, Hartmut Vallen

business identificat. no.: HRB 100531

tax identification no.: DE 128372233

bank connection:

account number:

registered in the public register maintained by Register of Commerce B of Munich County Court, file mark HRB 100531

(with physical persons as entrepreneurs not entered in the commercial register the registration in the trade licence register shall be specified, the date of registration and reference number)

(hereinafter as the "Seller")

## **1. Initial Provisions**

- 1.1 This contract is concluded on the basis of the results of the tender for the contract to small-scale supply with the name „**Supply of consumables for acoustic emissions measurement for ESS-II project**“.
- 1.2 The Buyer is the recipient of a subsidy provided by Ministry of education, youth and sport within the Operational programme Research, development and education under the name of European Spallation Source – CZ – OP” project, Project Registration Number – OP, Reg. No. CZ.02.1.01/0.0/0.0/16\_013/0001794.
- 1.3 The Seller declares that they have fully acquainted themselves with the scope and nature of the required performance, which they will perform on the basis of the contract concluded to execute the subject of the public procurement order. The Seller declares that they know all technical,



qualitative and other terms and they have such capacities and professional knowledge that are necessary for the performance.

- 1.4 The seller acknowledges that the Buyer is the entity obliged to publish the contract according to the law no 340/2015 Coll., on special conditions the effectiveness of certain contracts, the disclosure of these contracts and the contracts register, as amended (hereinafter referred to as the act. 340/2015 Coll.), and if this contract meets the conditions for publication, the Buyer of this contract shall publish a notice in the registry of contracts. The operative event for the publication of the treaty in the registry is in particular the above values for the subject of performance in excess of 50 000,- CZK without VAT.

## 2. Subject of the Contract

- 2.1 The Seller undertakes to deliver the goods specified in Annex 1 which form a part of this contract, including transport, to the Buyer in a comprehensive manner.
- 2.2 The completely deliver includes:
- the delivery of the goods by the seller to the place of destination;
  - immediate and free elimination of defects claimed during the warranty period.
- 2.3 The Buyer undertakes to take over the subject of purchase and pay the purchase price in the amount and by the method according to Article 4 of this contract.

## 3. Place and time of performance

- 3.1 The Seller undertakes to deliver the subject of purchase, including the execution of the activities specified in article 2 par. 2.1 hereof, to the headquarters of Nuclear Physics Institute of the CAS, p. r. i. at the address:
- Řež 130, 250 68 Husinec
- 3.2 The Seller undertakes to perform completely and hand over the aforementioned subject of purchase to the Buyer within 12 weeks since the conclusion of the contract.
- 3.3 The delivery will **include delivery note** according to the contract of the object of purchase including basic technical documentation and warranty cards. At the same time, the Seller undertakes to inform the Buyer in a timely manner (at least 14 calendar days) that it intends to hand over the object of purchase.

## 4. The Price and Payment Terms

- 4.1 The Buyer undertakes to pay the Seller:

Total price without VAT	283.357,20	CZK
Amount of VAT (21 %)	---	CZK
Total price incl. VAT	---	CZK

The purchase price stated in the Contract is fixed and final, and it includes all the costs of the Seller associated with the fulfilment of its obligations under this Contract. The Parties hereby agree on the price for Delivery provided in accordance with this Contract in the amount of CZK 283.357,20 excluding VAT in accordance with the requirements listed in Annex No. 1 to this Contract (hereinafter the "Price").

VAT shall be imposed on top of all payments made hereunder according to valid legislation. The



applicable VAT rate is 0 % (because of intra community supply) and the Price including VAT is CZK 283.357,20. The contractor's is not a VAT payer respect to the Czech Republic.

- 4.2 The Buyer shall pay the Seller the purchase price in the agreed amount against the invoice/tax document issued by the Seller and delivered to the Buyer. The invoice issued by the Contractor as a tax document must contain all information required by the applicable laws of the Czech Republic. Invoices issued by the Contractor pursuant to this Contract shall, in accordance with relevant legislation, contain particularly the following data:
1. Business name / name and registered office of the Client
  2. Tax identification number of the Client
  3. Serial number of the tax document
  4. Scope and subject-matter of the performance, i.e. quantity.
- 4.3 The invoice/tax document is due in 30 days since the day of its delivery to the Buyer. The invoice/tax document shall contain all prerequisites of the tax document according to Act no. 235/2004 Coll., on value added tax, as amended.
- 4.4 The invoice shall state the information on the financing from the Operational programme Research, development and education within the project **“European Spallation Source – CZ – OP” project, Project Registration Number – OP, Reg. No. CZ.02.1.01/0.0/0.0/16\_013/0001794.**
- 4.5 The invoice/tax document that does not contain the aforementioned data or contains incorrect or incomplete data may be returned by the Buyer to the Seller before the end of its stipulated maturity period. After the properly issued invoice/tax document is delivered the stipulated maturity period begins to run again.
- 4.6 The payment for the delivery can be made in the following currencies: Czech crown or euros. If the payment is made in euros, the amount of the payment must be specified in both currencies on the invoices (see below).

Total price without VAT in CZK	283.357,20 CZK
Exchange rate CZK /EUR	25,62
Total price without VAT in EUR	11.060,00 EUR

- 4.7 The annex of the invoice/tax document shall be delivery note of the object of purchase.
- 4.8 If the provider is registered, by the day the taxable performance is provided, as an unreliable payer as defined in Article 106a of the VAT Act, the acquirer is entitled to pay the part of the price corresponding to the value added tax directly to the tax administrator' bank account in compliance with the provisions of Article 109a of the VAT act. The price for the subject of purchase will be reduced by this sum and the provider will receive only the price for the subject of purchase without VAT.

## 5. The Rights and Obligations of the Contractual Parties

- 5.1 The Seller is responsible for the subject of purchase being in compliance with applicable generally binding legal, technical and safety regulations at the time of its delivery.
- 5.2 The Seller shall hand over the subject of the purchase to the Buyer properly and in time. When performing the contract the Seller shall proceed with adequate professional care. All professional works shall be performed by the Seller's employees with the adequate professional eligibility.



- 5.3 The Seller declares that their employees who will be used to perform the subject of the contract have the specialist knowledge necessary for the performance of the subject of the contract. The Buyer is entitled to verify the substantiation of this professional knowledge even by requesting the submission of relevant documents, such as applicable certificates. The Seller undertakes to submit the documents according to this paragraph to the Buyer at request within 5 work days.
- 5.4 The Seller shall immediately inform the Buyer about all facts that they have identified in the course of the performance of the contract and that may have an influence on the Buyer's interests or may lead to a change in the Buyer's procedures or attitudes.
- 5.5 The Seller undertakes to perform the subject of the contract on their own. The Seller is not entitled to assign the rights, obligations and undertakings under this contract to a third person or other persons without the prior written approval from the Buyer.
- 5.6 If the Seller has proven the meeting of the qualification requirements by a subcontractor, the activities and operations corresponding to these qualification requirements shall be performed by this subcontractor. Any change is possible only on the basis of serious reasons and is subject to the prior written approval from the Buyer.
- 5.7 The Buyer shall provide the Seller with cooperation necessary for the proper and timely provision of the performance under the contract.

## **6. Takeover of the Subject of Purchase**

- 6.1 The title to the subject of purchase is transferred to the Buyer at the moment of takeover. The Seller shall carry the risk of damage to any part of the subject of purchase until the moment of the handover and takeover of the subject of purchase.
- 6.2 The Buyer is entitled not to accept the subject of purchase that does not correspond to the requirements of this contract or of legal regulations. If this is the case, the Buyer shall hand over to or send the Seller a notification stating the reason for refusing to accept the subject of purchase and the period for its elimination. If the notified shortcomings are not eliminated within the determined period the subject of purchase will be considered not delivered.

## **7. Compensation for Loss**

- 7.1 The contractual parties are liable for caused damage within the framework of applicable legal regulations and this contract. The Seller is fully responsible for the performance of the contract even if any relevant part of the performance is provided by a subcontractor.
- 7.2 The contractual parties undertake to make maximum efforts to prevent damage and to minimise damage.

## **8. Warranty for Quality**

- 8.1 The Seller declares that the delivered device will be brand new, not used, not damaged and its quality will comply with the requirements stipulated by this contract and by legal regulations. The Seller shall prove the origin of the subject of purchase at the Buyer's request. The Seller is also responsible for the delivered device not to be encumbered with any rights of third parties, especially rights arising from industrial or other intellectual property.



- 8.2 The Seller shall provide a warranty for quality, i.e. the undertaking that the supplied equipment will be fit to be used for the purpose described in the tender documentation for the period of the warranty and that it will maintain the required properties for this entire period. The warranty period is 12 months. If a warranty claim will be addressed by a repair of the subject of the purchase, the Buyer undertakes to use only new, not used and original spare parts.
- 8.3 The warranty period begins to run on the day of the delivery of the subject of purchase to the Buyer, i.e. on the day the handover protocol is signed by the Buyer.
- 8.4 If the subject of performance has any defects the Buyer is entitled to:
- request the elimination of the defects by the supply of a new subject of purchase without defects, if this is not inadequate given the nature of the defect, or by the supply of the missing part of the subject of purchase,
  - request the elimination of the defects by repairing the subject of purchase,
  - request an adequate discount from the purchase price, or
  - cancel the contract.
- 8.5 Under all circumstances the Buyer has the discretion to choose from the entitlements specified in par. 8.4 of this article. However, the Buyer shall notify the Seller of their choice in a written notification of defects sent to the Seller or without undue delay after this notification. Provisions of Article 2110 of the Civil Code shall not be used.
- 8.6 The Seller shall always eliminate defects in the subject of purchase without delay, however at the latest with the period of 60 work days after they are claimed. All costs relating to the elimination of defects shall be borne by the Seller. If the Seller does not eliminate the defects, the Buyer is entitled to secure the elimination of defects via a third person at the Seller's expense and the Seller shall refund the costs to the Buyer within 15 days after they are claimed by the Buyer in writing.
- 8.7 The Seller is not responsible for defects in the subject of purchase occurring because of common wear and tear, unprofessional use and handling of the subject of purchase or the use of the subject of purchase for other purposes than the intended ones.
- 8.8 The seller must provide at the request of the Buyer post-warranty service for a period of at least 2 years.

## **9. Sanctions**

- 9.1 If the agreed deadline for the supply of the subject of purchase is not observed the Buyer is entitled to charge the Seller a contractual penalty in the amount of 1000 CZK for every even only started day of delay.
- 9.2 If being in delay with the elimination of identified defects the Buyer is entitled to charge the Seller a contractual penalty in the amount of 500 CZK for every even only started day of the delay with the elimination of defects.
- 9.3 If the payment for an invoice is delayed the Seller is entitled to charge the Buyer an interest on late payment in the amount of 0.02 % of the outstanding sum without VAT for every even only started day of delay.
- 9.4 The defaulting contractual party shall pay the sanctions on the basis of a notification delivered by



the entitled contractual party with the maturity period of 30 days since the day of the delivery to the defaulting contractual party.

- 9.5 The payment of the contractual penalty is without prejudice to the Buyer's right to request damages exceeding the contractual penalty and to the Seller's obligation to pay them.

## 10. Cancellation of the Contract

10.1 This contract may be cancelled in the event of a serious violation of the obligations by one contractual party, if such violation is considered serious by this contract or by law. Cancellation of the contract becomes effective on the day of the delivery of a written cancellation notification to the other contractual party.

10.2 The Buyer is entitled to cancel the contract especially:

- a) if they find out that there is a delay with the handover of the subject of purchase,
- b) if they find out that there is a delay with the elimination of defects in the subject of purchase.

## 11. Final Provisions

11.1 The legal relations between the contractual parties established by this contract and not specifically regulated by it shall be governed by applicable provisions of Act no. 89/2012 Coll., the Civil Code, as amended, and by other generally binding legal regulations.

11.2 The contractual parties mutually undertake to cooperate and provide one another with all information necessary for the proper and timely performance of their obligations.

11.3 The contractual parties undertake to make maximum efforts to eliminate mutual disputes arising on the basis of this contract or in relation to it and to settle them especially via authorized persons. If the contractual parties do not agree on the method of how to settle a mutual dispute, any contractual party is entitled to submit such dispute to the subject-matter and locally competent court.

11.4 Person entitled to act on behalf of the Buyer:	RNDr. Petr Lukáš, CSc., Director
Person entitled to act on behalf of the Seller:	Thomas Duschl, Managing Director
Contact person on behalf of the Buyer:	RNDr. Michal Knapek, Ph.D.
	tel. +
	e-mail:
Contact person on behalf of the Seller:	Thomas Thenikl
	Tel.: +
	e-mail:

The contractual parties are entitled to change their authorized persons unilaterally, however they shall notify the other party of such change in writing. This change is effective in relation to the other contractual party from the day the notification of change is delivered.

11.5 This contract becomes valid and effective on the day it is signed by both contractual parties.

11.6 This contract is made in 4 counterparts and each contractual party shall receive two counterparts.

11.7 All changes to this contract may only be made via written annexes approved by all contractual parties. Any change to this contract in other than the written form is thus excluded. For this purpose



the exchange of e-mail or other electronic messages will not be considered the written form.

11.8 This contract will be published via the register of contracts in agreement with Act no. 340/2015 Coll., on special terms of the effectiveness of some contracts and the register of contracts, as amended (the act on the register of contracts). Nuclear Physics Institute of the CAS, v. v. i. hereby undertakes to publish this contract.

11.9 The contract includes as its integral part: Annex no. 1 Technical specifications

11.10 The Seller, under the terms defined herein, in agreement with the Buyer's instructions and while exerting all necessary professional care, undertakes to:

- a) archive all written materials created for the performance under this contract and at any time during this period to secure access of the Buyer to these archived written materials, at least, however, for the period of 10 years since the financial completion of the project, at the same time, however, at least until 31/12/2026,
- b) as the obliged person under Article 2, letter e), of Act no. 320/2001 Coll., on financial inspections in public administration, cooperate in the execution of the financial inspection, which also means allowing the control body of the operational programme Research, development and education access to those parts of the bids, contracts and related documents that are subject to protection according to special legal regulations (e.g. trade secrets, confidential information) on condition that the prerequisites stipulated by legal regulations will be met (e.g. Act no. 255/2012 Coll., on inspection).

11.11 Questions not regulated by this contract shall be governed by applicable provisions of Act no. 89/2012 Coll., the Civil Code.

In Řež on (date) \_\_\_\_\_

In Icking on (date) \_\_\_\_\_

Buyer:

Seller:

\_\_\_\_\_  
RNDr. Petr Lukáš, CSc.  
Director,  
Nuclear Physics Institute  
of the CAS, p. r. i.

\_\_\_\_\_  
Thomas Duschl  
Managing Director