FRAMEWORK PURCHASE CONTRACT

NATIONAL INSTRUMENTS
END USER VOLUME AGREEMENT

 **Agreement Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

|  |  |
| --- | --- |
| Customer: Fyzikální ústav AV ČR, v. v. i.Id. No.: 683 782 71Address: Na Slovance 2, 182 21 Praha 8Registered in the register of public research institutions kept by the Ministry of Education, Youth and SportsCzech Republic | National Instruments (Czech Republic), s.r.o. (“NI”)ID. No.: 257 80 697Sokolovská 668/136d, Karlín, 186 00 Praha 8Registered in the commercial register kept by the Municipal Court in Prague, sheet C 69618  |
| Contact details:Jack Alexander Naylonphone +420 266 05 1519e-mail: JackAlexander.Naylon@eli-beams.eu | Agreement Start Date (Month /Day/Year):*To be completed by a National Instruments representative*  9/ 30/ 2019  |

**1. BACKGROUND:**

This End User Volume Agreement (including any Exhibits attached and applicable terms and conditions and software licenses referenced herein) (this “Agreement”) sets forth the terms and conditions pursuant to which customer may acquire and use National Instruments hardware and software products set forth on Exhibit 1 attached together with such other items as may be added from time to time by written amendment(s) to this Agreement (the “National Instruments Products”). The National Instruments Products are standard-off-the-shelf products which design or specification NI may change from time to time without notice to, consent of, or liability to customer.

This Agreement has been concluded based on the result of the public contract awarding procedure titled “PXIe and c RIO Instrumentation”. The public contract shall be funded from the Research, Development and Education Operational Program managed by the Ministry of Education, Youth and Sports of the Czech Republic.

The customer shall not be obliged under this Agreement to purchase any minimum number of the National Instruments Products listed in Exhibit 1 unless the customer expressly promises to purchase any minimum number in the Exhibit 1, column Minimum Commitment.

If the customer does not purchase the expected number of the National Instruments Products as indicated in the Exhibit 1 they are entitled to purchase any other National Instruments Products listed in Exhibit 1, however, the total price paid under this Agreement must not exceed the amounts stipulated in Art. 3 hereof. However, the commitment of the customer to buy the “Minimum commitment” number of each National Instruments Products as indicated in Exhibit 1 hereof remains unaffected.

##### 2. GENERAL TERMS AND CONDITIONS OF SALE

ALL TRANSACTIONS CONDUCTED UNDER THIS AGREEMENT WILL BE GOVERNED BY NI’S STANDARD TERMS AND CONDITIONS OF SALE ( SEE <https://www.ni.com/pdf/legal/cz/terms_and_conditions_Czech.pdf>) AND (AS APPLICABLE) THE PROVISIONS OF ANY SOFTWARE LICENSE THAT ACCOMPANIES THE NATIONAL INSTRUMENTS PRODUCTS. NI IS NOT LIABLE FOR DELAYS IN SHIPMENT OF NATIONAL INSTRUMENTS PRODUCTS. ALL OF THE PROVISIONS OF END USER’S PURCHASE ORDER OR OTHER DOCUMENTATION THAT ARE IN CONFLICT WITH THIS AGREEMENT ARE HEREBY WAIVED AND SHALL NOT BE BINDING ON NI.

##### 3. TERM AND DISCOUNTS

This Agreement is effective from the Agreement Start Date above and shall continue for a period of [left out] **months** or to the date on which the total contractual price paid by the customer hereunder exceeds **17 314 475** CZK (the “Total amount”), whatever comes sooner. The Total amount ceiling doesn’t apply in case if NI charges the Customer for the discounted price if minimal committed amount of the units is not ordered. The customer is entitled to make orders even on the last day of validity of this Agreement. If the Agreement Start Date is left blank, then the Agreement Start Date shall be the date NI signs this Agreement. Actual discounts and prices available to customer under this Agreement are set forth in Exhibit 1.

The prices set forth in the Exhibit 1 in the form of unit prices are the final total prices and include all costs of NI related to due performance hereof. The prices include all costs related to the manufacture, transport to the place of delivery, customs, warranty service and any other costs necessary for the performance hereof. The prices are net of VAT that should be paid according to the valid legal regulation.

The customer is entitled to request that any NI invoice includes the agreement number NI is entitled to require that any Purchase order placed for this Agreement includes the agreement number.

The risk of the damage to any of the National Instruments Products passes on to the customer at the moment of taking over it in its site on the address indicated in Art. 5 hereof.Any such damage should be noted on the carrier’s paperwork and notified to NI immediately when Products arrive to the customer’s facility to enable a claim to be made on the carrier. If Exhibit No 1 to this Agreement stipulates longer warranty period than the one stipulated in NI´s standard terms and conditions of sale the length of the warranty period stipulated in Exhibit 1 shall prevail.

The customer shall not be obliged to keep the original packaging of any National Instruments Product as the condition to make a warranty claim.

If the customer is in delay with payment of any financial amount NI are entitled to withdraw from this Agreement only if the customer does not make the payment in additional term given by NI of at least 10 calendar days.

##### 4. EXPORT COMPLIANCE

##### The National Instruments Products are subject to the United States Department of Commerce’s Export Administration Regulations. End User hereby agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations (“EAR”) maintained by the United States Department of Commerce. Specifically, End User covenants that it shall not, directly or indirectly, sell, export, re-export, transfer, divert, or otherwise dispose of any products, software, source code (as the same may be made available by NI in its discretion), or technology (including products derived from or based on such technology) received from NI to any person, entity, or destination prohibited by the laws or regulations of the United States without obtaining prior authorization from the competent government authorities as required by those laws and regulations. Any questions or concerns regarding all applicable export and re-export regulations can be directed to 1 (512) 683 6010 or trade.compliance@ni.com.

##### 5. MISCELLANEOUS

The provisions of section 2,3, and 4 shall survive termination of this Agreement. This Agreement may only be amended by a writing signed by both parties. End User may not assign any of its rights or obligations hereunder without NI’s prior written consent and any attempt to do so shall be void. The relationship between the parties is that of an independent contractor and in no way should the parties be construed as partners, principal/agent, or joint venturers. This Agreement supersedes all prior or contemporaneous communications or understandings, whether oral or written, and constitutes the entire agreement as to the subject matter herein. If a dispute is not resolved within thirty (30) days after written notice of a dispute by one Party to the other Party, Prague, Czech Republic shall be, and is the sole venue for any litigation that may arise from this Agreement. In the event that versions of this Agreement shall be prepared in any language other than English and there shall be a discrepancy between the meaning of any provision of this Agreement in such other version and in the English version, the English version shall govern.

Unless agreed otherwise by the contractual parties, the National Instruments Products shall be delivered by NI to the ELI Beamlines facility located Dolní Břežany, Za Radnicí 836, PSČ 252 41, the Czech Republic. The customer is not entitled to request that National Instruments Products are delivered to any different place.

**Fyzikální ústav AV ČR, v. v. i.** **National Instruments (Czech Republic), s.r.o.**

Signature Signature

RNDr. Michael Prouza Georg Plasswilm

Printed Name Name

Director Director

Title of Person Signing Title

 30. 9. 2019

 Date

NATIONAL INSTRUMENTS

END USER AGREEMENT

###### EXHIBIT 1

**Specific product commitment**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Item No.** | **Part Number** | **Warranty (yr)** | **Code** | **Max expected Qty** | **Minimum commitment** | **Catalog price per unit (excl. VAT)** | **Discount %** | **Price per unit (excl. VAT)** | **Price per item (maximum expected Qty)** |
| 1 | 785623-01 | [left out] | cRIO-9045  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 2 | 785618-01 | [left out] | cRIO-9049 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 3 | 786427-01 | [left out] | cRIO-9057  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 4 | 784333-35 | [left out] | LabVIEW | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 5 | 783496-01 | [left out] | NI 9147 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 6 | 783376-01 | [left out] | NI 9149  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 7 | 784399-01 | [left out] | NI 9202 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 8 | 780968-01 | [left out] | NI 9208 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 9 | 783863-01 | [left out] | NI 9216 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 10 | 782615-01 | [left out] | NI 9220 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 11 | 783283-01 | [left out] | NI 9222 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 12 | 780181-01 | [left out] | NI 9239  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 13 | 780927-01 | [left out] | NI 9264  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 14 | 781098-01 | [left out] | NI 9269 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 15 | 779987-01 | [left out] | NI 9402 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 16 | 779009-01 | [left out] | NI 9423 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 17 | 779139-01 | [left out] | NI 9425 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 18 | 780030-01 | [left out] | NI 9426 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 19 | 779003-01 | [left out] | NI 9474 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 20 | 779140-01 | [left out] | NI 9476 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 21 | 779517-01 | [left out] | NI 9477  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 22 | 779600-01 | [left out] | NI 9485  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 23 | 784539-01 | [left out] | NI 9775 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 24 | 779891-02 | [left out] | NI 9870 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 25 | 779892-02 | [left out] | NI 9871 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 26 | 779019-01 | [left out] | NI 9912  | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 27 | 779018-01 | [left out] | NI 9915 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 28 | 196917-01 | [left out] | NI 9977 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 29 | 782997-01 | [left out] | PCIe-8233 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 30 | 781044-01 | [left out] | PCIe-6321 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |
| 31 | 785321-01 | [left out] | RMC-8356 | [left out] | [left out] | [left out] | [left out] | [left out] | [left out] |

**All the prices are subject to the applicable tax.**

**30 days payment terms. Invoices will be submitted in the electronical format:** efaktury@fzu.cz

NI reserves the right to modify at any time Customer's payment terms granted beforehand. Such modified payment terms, that may include advance payment, shall be applicable to outstanding and future transactions.

When placing an order, Customer is obliged to indicate the Agreement number in order to receive the eligible discount.

***Minimum commitment\** In the end of the term of this Agreement, NI reserves the right to charge Customer for the discounted price if minimal committed amount of the units is not ordered.**