**FRAMEWORK PURCHASE AGREEMENT**

*concluded pursuant to relevant provisions of the Act No. 134/2016 Coll., on Public Procurement,
and pursuant to § 2079 et seq of the Act No. 89/2012 Coll., Civil Code, as amended*

Contractual parties:

1. **Fyzikální ústav AV ČR, v. v. i.**

Seat: Na Slovance 2, 182 21 Praha 8

Authorized representatives:

* in contractual matters: RNDr. Michael Prouza, PhD., Director
* in technical matters: Fabuľa Peter

tel. +420 266 05 1231; e-mail: Peter.Fabula@eli-beams.eu

ID No.: 683 78 271

Registered in the Registry of public research institutions kept by the Ministry of education, youth and sports

(hereinafter the “**Buyer**”), and

1. **Ecena, s.r.o.**

Seat: 1. máje 97/25, Liberec III-Jeřáb, 460 07 Liberec

Authorized representatives:

* in contractual matters: Ing. Oldřich Janeček
* in technical matters: Ing. Oldřich Janeček

tel. +420 602350844 e-mail: ecena@ecena.cz

ID No.: 60203561

Registered in Krajský soud Ústí nad Labem, [section 20213, file C]

(hereinafter the “**Seller**”);

the parties jointly may be referred to as the “**Parties.**”

The Parties have agreed, on the day, month and year specified below, and on the basis of a completed public contract awarding procedure for the public contract entitled **“Laminar Fan Filter Units** **(TP20\_122)”** (hereinafter the “**Procurement procedure**”), to conclude the following Framework Purchase Contract (hereinafter the “**Contract**”):

**I. Subject of the Contract and General Provisions**

1. The subject of this Contract is the commitment of the Seller to deliver Laminar Fan Filter Units corresponding to the parameters agreed herein (hereinafter the “**Unit**”) to the Buyer in the quality requested by the Buyer, under the terms agreed upon herein. Any provisions hereof must be interpreted in accordance with the terms and conditions of the Procurement procedure and the bid submitted by the Seller thereto. The subject of this Contract is also the commitment of the Buyer to pay the purchase price agreed upon between the Parties in Art. III. hereof.

2. Detailed specification of the Unit is provided in Annexes hereof which form an integral part of this Contract:

Annex 1: Technical Specifications (Requirements Specification Document)

3. The Seller shall deliver Unit identified in Annex 2 hereto by their catalogue numbers or by other designation or another Unit that fully meet the requirements on the Unit set forth by this Contract.

4. The Seller acknowledges that the Buyer is not, in relation to the performance agreed upon hereunder, in a position of an entrepreneur and that the performance is in no manner related to business activities of the Buyer.

5. The Unit shall be new (unused).

**II. Place of Delivery and Deadlines**

1. Place of Delivery shall be the Buyer´s ELI Beamlines facility: Průmyslová 836, 252 41 Dolní Břežany, Czech Republic.

 Framework contract

2. This Contract is a framework contract under which he Seller will deliver the Unit to the Buyer on the basis of partial written orders (hereinafter referred to as "Orders"), with the exception of the first delivery, which the Seller will make automatically without any Order. The Seller will deliver 8 pieces of Unit under the first delivery. The Buyer is entitled to execute Orders as specified herein within the entire term of validity of this Contract.

3. The Seller acknowledges that the numbers of Units to be ordered by the Buyer depend solely on the discretion of the Buyer, i.e. the Buyer does not promises to buy any minimum number of Components, except for the first delivery.

5. The deadline for the delivery of the Unit to the Place of Delivery under the Orders and shall be 8 weeks from the date when the Seller received a Order from the Buyer and for delivery of the Units of the first delivery shall be 8 weeks from the signature of the Contract by both Parties.

**III. Price and Payment Terms**

1. The unit prices for the Unit is 979.00 EUR. VAT shall be added on top of the unit price in accordance with valid legislation.

2. The unit prices have been agreed as the highest acceptable (maximum) prices including any and all associated costs, fees and payments and reflect any and all costs of the Seller associated with the performance of the Seller hereunder. The price includes all costs of the Seller accrued in production, delivery, support that may be provided by the Seller by telephone, operational overhead, IP rights, insurance, taxes, customs, provision of warranty and any other costs that may be in any manner associated with performance hereunder.

3. In cases when the Buyer orders Components defined in Annex 2 hereto and such Components are no longer available, primarily due to the technological development of the product, the Seller shall offer to the Buyer other corresponding Components. The technical parameters of such Components must not be in any manner below the standard that was defined herein. Should the production of any of the Components be stopped or should any Component become unavailable for other reasons, the Seller shall be obliged to inform the Buyer of such fact in sufficient advance so that the Buyer may order needed number of such Components.

4. The price for the Unit shall be paid to the Seller in CZK on the basis of invoices – tax receipts, by bank transfers to the Seller’s account provided in individual invoices. The Seller shall be authorized to issue invoices only after timely and proper delivery and take over of the Unit; all invoices must be accompanied by copies of delivery notes confirmed by the Buyer. The Buyer accepts only electronic invoices delivered to the email address efaktury@fzu.cz.

5. The invoices shall be due in 30 days of their receipt by the Buyer. If an invoice states any other due period such period is deemed irrelevant and the due period stipulated here applies.

6. Payment date shall be understood as the day the invoiced amount was remitted from the Buyer’s account to the Seller’s account.

7. Invoices issued by the Seller shall comply with all requirements defined by applicable legislation, particularly by provisions of Act No. 563/1991 Coll., on Accounting, as amended, and Act No. 235/2004 Coll., on VAT, as amended (for tax receipts). In case of any invoice failing to meet the requirements the Buyer shall be authorized to return such invoice before the due date to the Seller for correction. Once the invoice is corrected and delivered to the Buyer, the due period starts to run from the beginning.

8. The Buyer is entitled to request that any invoice contains identification of a dotation project from which the respective purchase is funded.

**IV. Right and Obligation of the Parties**

1.

2. The ownership right to the delivered Unit and the risk of loss and damage thereto pass to the Buyer upon the takeover of the Unit in the Place of delivery based on a confirmed delivery note.

3. The Buyer can´t store original packaging of the delivered Unit. Absence of original packaging cannot constitute valid reason for denial of potential claims related to the Unit.

4. The Seller shall not assign any rights or obligations hereunder to third persons without a previous written consent of the Buyer.

5. The Seller expressly agrees that he shall not have any right to assign or unilaterally set off any of the receivables he may have against the Buyer arising in connection with this Contract.

**V. Defects and Warranty for Quality**

1. The Seller provides warranty (guarantee) for the quality of the delivered Unit for 24 months. The warranty period shall begin on the day .
2. The Seller is liable for defects present in the Unit upon their handover to the Buyer and for defects that will occur throughout the warranty period.
3. The Buyer shall make any defect claims in writing (including the form of a simple email). The Seller shall establish a special email address for reception of defect claims. The Seller shall receive defect claims during the entire term hereof and the warranty period at: 24 months
4. The Buyer shall specify, in the claim and in writing, the description of the defect and provide, if available, additional documentation (photo or other documentation). Should the Seller not be able to assess existence of the defect without inspecting the Unit, the Parties shall agree whether the Components shall be shipped to the Seller or whether the Seller will inspect the Components at the Buyer’s site. Should the Buyer incur any costs in relation to claiming the defect (such as shipping costs), for which the Seller is liable, the Seller shall compensate the Buyer for any such costs. The Seller shall confirm to the Buyer the receipt of the defect claim within 2 working days of its delivery and shall inform the Buyer, within 5 working days from receiving the claim, carrying out the inspection or receiving the shipped Components for inspection, whether he recognizes the claim or not, and to propose the method of rectifying the defect in accordance with this Contract.
5. The Seller shall rectify the defect by repair or by providing a replacement within 4 weeks from receiving the defect claim, unless a different deadline is agreed by the Parties due to the existence of objective obstacles.
6. In case of an irremovable defect and if the Buyer agrees, the defect might be also removed by provision of an adequate discount.
7. In case the Seller fails to remove any defect within deadlines defined in Section 5 of this Article, or within additional period that may be agreed in writing between the Parties not exceeding 30 days, the Buyer shall be authorized to have the defect rectified by a third person at his own cost and the Seller shall be obliged to compensate the Buyer for these costs within 15 business days from the Buyer claiming these in writing against the Seller. The Seller’s liability (warranty) shall not be in any manner prejudiced by such actions.
8. Warranty does not cover defects caused by unprofessional handling, incorrect or inappropriate maintenance, failure to follow instructions of the manufacturers related to operation or maintenance of the Components, which were provided to the Buyer in writing.

**VI. Delays, Penalties**

1. In case the Seller is in delay with delivery of any Unit to the Buyer, the Seller shall pay to the Buyer a contractual penalty in the amount of FILL IN of the price of the undelivered Unit for each commenced day of delay; such contractual penalty shall not exceed 20% of the price of the undelivered Unit.

2. In case the Seller is in delay with rectifying defects, claimed by the Buyer during the warranty term, within the deadlines defined herein, the Seller shall pay to the Buyer a contractual penalty in the amount of FILL IN of the price of the undelivered Unit for each commenced day of delay; such contractual penalty shall not exceed 20% of the price of the undelivered Unit.

3. In case the Buyer is in delay with any payment due, the Buyer shall be obliged to pay late interest to the Seller in the amount specified by applicable legislation (Government Resolution No. 351/2013 Coll., as amended, or law replacing this resolution).

4. Contractual penalties shall be payable within 15 days of delivery of their enumeration by the other Party. Payment of contractual penalty does not prejudice the right to damages in the extent such damages exceed the amount of the contractual penalty.

5. The Buyer shall be entitled to unilaterally set off any contractual penalty against any payments invoiced by the Seller, even against those which have not become due yet.

**VII. Term, Validity and Effective Date**

1. This Contract becomes valid upon its signature and effective upon its publication in accordance with the applicable law.

2. This Agreement is concluded for the period of 24 months (or a longer period if automatically extended in accordance with the following sentence) or until exhausting the financial limit of 1.950.000 CZK excl. VAT,whichever comes first. If neither of the Parties states in written no later than 2 months before time expiration of this Contracts that it does not wish time extension of the term of this Contract, the term of the Contract is automatically extended by 6 months (maximum four times). The total financial limit of the Contract must not be exceeded.

3. This Contract may be terminated by:

1. agreement of the Parties in writing;
2. termination notice in writing subject to conditions described below;
3. Withdrawal from the Contract by either Party due to reasons defined herein or by law.

4. The Buyer shall be entitled to terminate this Contract by a three-month termination notice in writing, without specifying the reason; the termination notice period starts to run on the first day of the month following the month in which the notice was delivered to the Seller.

5. The Parties are entitled to withdraw from the Contract in case of material breaches of contractual obligations by the other Party, if such material breaches affected the contractual rights of the withdrawing Party. Withdrawal must be made in writing and must be delivered to the other Party. The Buyer shall be entitled to withdraw from this Contract also partially in relation to an individual order.

6. The following instances represent material breaches of the Contract, including but not limited to:

1. seller’s delay with delivery of any Components exceeding 90 days;
2. seller’s delay with removal of defects exceeding three times the applicable period granted hereunder;
3. repeated delay on the Buyer’s part with payment of invoiced amounts for the Components exceeding 90 days.

7. All obligations of the Parties hereunder cease to exist when this Contract becomes ineffective. The rights related to damages compensation and the rights to contractual penalties arising before this Contract became ineffective survive as well as those obligations of the parties which are, by law, under this Contract or by their nature, meant to survive.

**VIII. Final Provisions**

1. This Contract shall be governed by the laws of the Czech Republic, in particular by the Civil Code.

2. This Contract constitutes the entire agreement between the Parties.

3. This Contract may be supplemented or amended solely by the way of written and numbered amendments.

4. Following annexes form an integral part of the Contract:

 Annex No. 1: Technical Specifications (Requirements Specification Document)

5. The Parties confirm they have read the Contract before signing and they understand and agree to its contents. Both Parties confirm their agreement by signing.

On behalf of the Buyer: On behalf of the Seller:

**Fyzikální ústav AV ČR, v. v. i.** Ecena, s.r.o.

………………………………………………………… ……………………………………………………………

RNDr. Michael Prouza, PhD. Ing. Oldřich Janeček

Director

**Annex No. 1 – Technical Specifications (Requirements Specification Document)**

*(Note: Annex No. 1 to the tender documentation issued within the* ***Procurement procedure*** *shall be annexed to this Contract as Annex No. 1 after* ***Procurement procedure*** *is completed but before executing (signing) of the Contract with the selected bidder.)*