

Contract of Purchase
No. 2118/40044

Buyer:

Name: **Vojenský technický ústav, s.p., branch VTÚVM**
Place of Business: **Dlouhá 300, 763 21 Slavičín, Czech Republic**
Authorized to represent the company:
Ján Roman, VTÚVM Branch Director
Registered in: **Companies Register kept at Municipal Court in Prague, section A,
Enclosure No.: 75859**
Reg. No./ VAT No.: **242 72 523/ CZ24272523**
Bank connection:
Account No.:

Authorized to negotiate
in contractual matters:

in technical matters:

point of contact:

/hereinafter referred to as the "Buyer"/

Seller:

Name: **FN HERSTAL**
Place of Business: **Voie de Liege, 33 – B-4040 HERSTAL - BELGIUM**
Authorized to represent the company:
V. Verleye, operating director; N. De Gottal, commercial director
Registered in: **Liege**
Reg. No.: **RPM LIEGE: 0441.928.931 / VAT No: BE 0441.928.931**
Bank connection:

BIC (SWIFT):

Authorized to negotiate
in contractual matters:

in technical matters:

/hereinafter referred to as the "Seller"/

1. PREAMBLE

- 1.1 The Seller and the Buyer collectively referred to as the „**Contracting parties**” or separately as the „**Party**”, have agreed to enter into this contract of purchase pertinent to the Contract no. 201080101 concluded on 08.12.2020 between Vojenský technický ústav, s.p., as the supplier and the Ministry of Defence of the Czech Republic as the purchaser.

2. SUBJECT-MATTER OF THE CONTRACT

- 2.1 The Seller undertakes to deliver to the Buyer under the conditions set forth herein the total of 6 kits of the “Emergency Infantry Kit [REDACTED]”, as specified in Annex 1 to this contract (hereinafter referred to as the “Goods”).
- 2.2 The Buyer undertakes to accept the Goods as per this contract and settle the purchase price pursuant to Article 4 below in due date and under the conditions agreed herein.
- 2.3 The Seller hereby undertakes to hand over the Goods to the Buyer, including requested accompanying documents for the Goods, and shall allow the Buyer to take title to the Goods and the Buyer undertakes to accept the Goods and settle the purchase price under the conditions agreed herein.

3. STATEMENT OF THE PARTIES

- 3.1 The Seller declares he is an exclusive owner of the Goods and the Goods are not encumbered by any third party right that would obstruct transfer of ownership right to the Buyer or obstruct the Buyer from an exclusive use of the Goods. The Buyer shall not accept any defects of the Goods.
- 3.2 Both Contracting parties undertake to inform the other Party immediately about the facts that preclude or impose significant limitation on the performance of this Contract or on contractual liabilities of both Parties. The Party incurring such circumstances undertakes to propose a method of solution acceptable for both parties.
- 3.3 The Buyer declares the end user of the Goods shall be the Ministry of Defence of the Czech Republic – Czech Army. The Buyer acknowledges this fact and gives the Buyer a consent to provide the complete Goods-related documentation to the end user, i.e. the Ministry of Defence of the Czech Republic – the Army of the Czech Republic.
- 3.4 In order to avoid any doubts, the Contracting parties state that any intellectual property or intangible property rights of the Seller, especially patents, know-how, inventions, constructions, records, reports, information, specifications, formulae, data, documentation, procedures and methods necessary for or related to the development, production, use, marketing, distribution or sale of the Goods, or any part thereof shall not be affected in any manner and remain the property of the Seller.

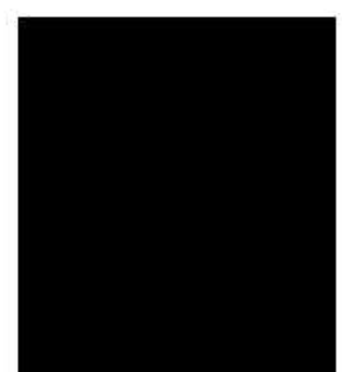
- 3.5 The Seller is obligated to ensure legal employment, fair conditions of employment and proper level of occupational safety for all persons that will be participating in this contract performance.

4. PURCHASE PRICE AND PAYMENT CONDITION

- 4.1 The Contracting parties have agreed upon the total purchase price per one unit in the amount of [REDACTED] (hereinafter referred to as the "purchase price"). The Contracting parties have agreed upon extension of warranty per one unit in the amount [REDACTED]. The total price is EUR [REDACTED] [REDACTED] (hereinafter referred to as the "total price").
- 4.2 The purchase price has been agreed DAP Vojenský technický ústav, s.p., branch VTÚVM, Dlouhá 300, 763 21 Slavičín, Czech Republic, according to INCOTERMS 2020. The purchase price is final and effective for the entire term of the contract covering all the costs incurred to the Seller in relation with the performance of his contractual liabilities.
- 4.3 The Buyer shall settle the [REDACTED] own payment of the price. The Seller is entitled to issue the Advance Payment Invoice 4 months prior to the agreed date of delivery (with due date of [REDACTED]). Upon receipt of the advance payment, the Seller is obligated to issue a tax invoice (advance payment receipt confirmation).
- 4.4 The Buyer is obligated to settle the purchase price to the Seller against an Invoice issued by the Seller not earlier than on the date of signing the Delivery Note, as per Article 5, par. 5.11 hereto.
- 4.5 The tax Invoice shall be delivered to the Buyer in duplicate and must include the contract number and specification of the delivered Goods (name, designation, quantity and unit/total price), a reference to the respective provision of law of the Seller's country, provision of the European Union regulation or other information stating that the transaction is exempted from VAT, in case it is exempted and take into account down payment already paid. The approved Delivery Note as per Article 5, par. 5.11 hereto shall be an integral Annex to the Invoice.
- 4.6 In case the Invoice shall not meet the requirements stipulated herein, the Buyer is entitled to return the Invoice to the Seller for correction within the due period of the Invoice, without being in default with the payment. New term of payment shall start on the date of delivery of the corrected Invoice to the Buyer.
- 4.7 The Contracting parties have agreed upon a due date of the invoice within [REDACTED] from the date of delivery of the Invoice to the Buyer.
- 4.8 The purchase price shall be deemed settled on the day Seller's account is credited with the Purchase Price of the Goods.

5. DELIVERY TERMS – quantity, place of delivery, date of delivery

- 5.1 The Seller undertakes to deliver the Goods to the Buyer not later than by **28.02.2022**.
- 5.2 Delivery of the Goods by the above agreed delivery term is subject to submitting the IIC to the Seller within 3 months from the date of this contract signature.
- 5.3 The Seller is responsible for submitting application for the Export Permit for the Goods in a timely manner. The Buyer undertakes to provide all the necessary assistance, if requested.
- 5.4 The Contracting parties have agreed upon the term of delivery DAP Vojenský technický ústav, s.p., branch VTÚVM, Dlouhá 300, 763 21 Slavičín, Czech Republic, according to INCOTERMS 2020.
- 5.5 The Seller undertakes to deliver with the Goods also the accompanying documents essential for the acceptance and use of the Goods, all in English language.
- 5.6 Risk of occurrence of damage, accidental destruction and accidental deterioration of the Goods shall be transferred from the Seller to the Buyer immediately upon delivery of the Goods to the Buyer's site.
- 5.7 The Buyer has right to use the Goods from the moment of payment of the purchase price of the delivered Goods.
- 5.8 The Seller undertakes to deliver to the Buyer brand new, undamaged, unused Goods, not reconditioned and complying with technical standards, legal regulations and regulations of the manufacturer in force, manufactured not earlier than 12 months prior to the date of delivery. The Seller undertakes to provide declaration on word of honour certifying this fact upon delivery.
- 5.9 Buyer's representative shall not accept the Goods observed to be faulty at the moment of delivery (e.g. damaged packaging, visible damage to the Goods, etc.). In such an event a report shall be issued and undersigned by the Buyer's representative. The Seller is obligated to remedy any and all faults. In case the Seller and the Buyer agree the defect is irremovable, the Seller is obligated to deliver new Goods.
- 5.10 The Buyer shall carry out the Input inspection not later than within 5 (five) days from the date of the Goods delivery to the Buyer's site.
- 5.11 In the event the Input inspection is successful, the Buyer's representative shall confirm the Delivery Note and send it to the Seller within 5 (five) calendar days.
- 5.12 In the event the Buyer unreasonably refuses to confirm the Delivery Note within the above mentioned period and shall not send the Delivery Note back within the period as stipulated in par. 5.11 above, the Goods shall be deemed delivered by the Seller and accepted by the Buyer without any obvious defects and failures; the date of delivery shall be deemed the date the Goods were delivered to the Buyer's facility and the Delivery Note shall be deemed confirmed by the Buyer within the meaning of par. 5.11 above.

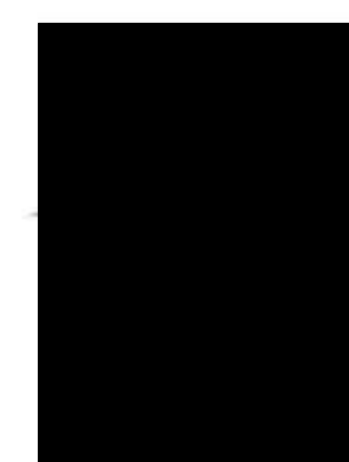


6. WARRANTY AND DEFECTS OF THE GOODS

- 6.1 The Seller undertakes to grant to the Buyer a guarantee covering functionality, performance and quality of the Goods (hereinafter referred to as the "warranty"). The warranty period provided by the Seller shall be [REDACTED] and starts on the date of signing the Delivery Note, as per Article 5, par. 5.11 herein.
- 6.2 In the event of a justified claim for the defected Goods the warranty period stops for the duration of the defective Goods remedy period. The Seller undertakes to ensure repairs and servicing of the Goods for the entire warranty period at his own cost. The Seller undertakes to take his best efforts to have its export/import permits, covering the repair of military items, valid for the entire warranty period.
- 6.3 The Seller undertakes to be ready to provide the post-warranty service until at least 28.02.2037, the scope of the post-warranty service and the payment for these services will be mutually agreed by the Contracting parties. In the event of terminating the production of the Goods, spare parts, SW support provision, etc. the Seller undertakes to notify the Buyer at least 12 months in advance.
- 6.4 The Buyer shall notify the Seller of the observed defect immediately upon observation of such a defect by e-mail to fnh.qa@fnherstal.com. The Seller shall confirm whether he accepts or rejects the claim within 15 (fifteen) calendar days from the date of receipt of the notification.
- 6.5 The Seller undertakes to remedy all defects of the Goods within 90 days from the date of Buyer's notification sent to the Seller by e-mail, unless a different period is agreed between the Seller and the Buyer by reasons worthy of special consideration. Representatives of the Buyer and the Seller shall complete and countersign a "Report on defect remedy and hand over of the Goods".
- 6.6 The Goods shall be considered as faulty especially in the event their design does not meet the specification as set forth in this contract or they do not qualify for use for their original purpose. Any fault in the documentation essential for use of the Goods shall also be considered a defect.
- 6.7 Buyer's right resulting from faulty performance constitutes a defect of the Goods already present at the moment of transferring the risk of damage to the Buyer, even if it occurs later on. Any defect subsequently occurring and caused by neglect of Seller's duty also constitutes Buyer's right. Seller's guarantee obligations resulting from the quality shall remain unaffected.

7. LIABILITY FOR DAMAGE

- 7.1 The Contracting parties shall be liable for any damage incurred up to the maximum value of the Goods. The Contracting parties undertake to make the maximum effort to prevent damages and to minimize incurred damages.



8. SANCTIONS, CONTRACTUAL PENALTIES AND LATE PAYMENT INTEREST

- 8.1 In the event the Seller is in delay with delivery of the Goods, the Buyer is entitled to charge the Seller a contractual penalty amounting [REDACTED] of the price of the Goods not delivered in the agreed due date, excluding VAT, for each day of delay, with a maximum amount of [REDACTED] of the price of the undelivered goods.
- 8.2 In the event the Seller is in delay with the claimed in-warranty remedy of the defected Goods, the Contracting parties have agreed the Seller shall settle to the Buyer a contractual penalty of [REDACTED] of the price of the defective Goods, for each day of delay in defect remedy, with a maximum amount [REDACTED] of the price of the defected Goods.
- 8.3 The due date of the contractual penalty is [REDACTED] from the date of delivery of a written demand for payment.
- 8.4 Settlement of the contractual penalty shall not affect any claim for damage nor default interests. Settlement of the contractual penalty shall not cease the liability under the contractual penalty terms.
- 8.5 The contractual penalty shall be settled by the liable Party, regardless of whether and to what extent the damage occurred to the other Party in this respect. Compensation for damage may be claimed separately in addition to the contractual penalty, in full amount, however not exceeding the maximum value of the total price as agreed in this contract of purchase.
- 8.6 The Contracting parties have further agreed upon a late interest resulting from the late payment of any monetary obligation under this contract of purchase in the amount of [REDACTED] for each day of delay of the payable amount.
- 8.7 The Buyer (Vojensky technicky ustav, s.p.) is entitled to include all claims, especially costs, damage caused by the other contracting party and/or contractual penalties against any other claim of the Seller.

9. DISCHARGE OF THE CONTRACT

- 9.1 The Contracting parties have agreed that the contract shall discharge in the event of the following:
- 9.1.1 Unilateral withdrawal from the contract by the Buyer due to fundamental breach by the Seller, the fundamental breach means:
- a) delay in delivery by more than 20 days;
 - b) in the event the statement of the Seller as per Clause 3, par. 3.1 above proves to be false or the Goods are subject to any legal defects;

- c) a failure to observe warranty conditions as stipulated in Clause 6 herein, not even within the additional grace period of 20 days;
- 9.1.2 Unilateral withdrawal from the contract by any of the Contracting party in the event of the following:
- a) starting insolvency proceedings against other Party's assets or if the insolvent proposal was rejected against the other Party due to insufficient assets to settle the insolvency proceedings;
 - b) persistent Force Majeure pursuant to Clause 11 hereto for the period exceeding 3 months;
- 9.2 Withdrawal from the contract must be in writing and becomes effective on the date of notifying the other Party. The withdrawing Party is liable to set grounds for contract withdrawal in the notification.
- 9.3 Withdrawal from the contract by the Buyer shall not affect any other rights under the contract including but not limited to warranty, payment of contractual penalties and damages.

10. SEVERABILITY CLAUSE

- 10.1 If any provision of this contract of purchase or a part thereof becomes to any extent invalid, illegal, or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect any other provisions of this contract of purchase or parts thereof, unless resulting from this contract of purchase that such provision or its part may not be severed from another content.
- 10.2 In the event as stipulated in Clause 10, par. 10.1 hereto the Contracting parties undertake to replace the invalid and unenforceable provision without undue delay with a new provision of the purpose and economic meaning coming closest to their intentions.

11. FORCE MAJEURE

- 11.1 Neither Party shall be considered to be in default or in breach of its obligations under this Contract to the extent that the performance of such obligation is prevented by any event of Force Majeure. The affected Party is obligated to notify the other Contracting party of an event of Force Majeure at its earliest convenience, however, not later than within 20 days from the date of an Event of the Force Majeure.
- 11.2 The Force Majeure events include, but are not limited to, strikes and unrest, lockouts, natural disaster, war, civil unrest, demonstrations, non-obtaining, revocation or suspension of export or import licenses, allocation or restriction upon the use of materials or manpower, shortage of means of transport like motor vehicles, trains, ships, planes etc., fuel or energy shortages, serious accidents, act (or failure to act) of governmental authorities - such as withdrawal, non-approval or delay in issuing of visa, permits or admissions despite an application in due form.
- 11.3 In the event of Force Majeure the time of delivery shall be extended by a reasonable period necessary to overcome the impact of the Force Majeure event – the act of Force Majeure shall

not relieve any of the Parties from their responsibility to make their best efforts to overcome or reduce the effects of the Force Majeure, even in the event this would require increased effort or higher costs.

- 11.4 The affected Party by the event of Force Majeure shall be required to duly prove and evidence the period of the Force Majeure event and causal connection between the Force Majeure and inability to fulfil properly its obligations under this contract of purchase.

12. FINAL PROVISIONS

- 12.1 Unless otherwise agreed in this contract of purchase, the Contracting parties shall follow the provisions of the Czech law, and based on the mutual consensus the Contracting parties explicitly exclude application of the Vienna Convention to their contractual relationship. The Contracting parties undertake to settle any disputes arising from or in connection with the present Contract of purchase through amicable negotiations. Any disputes that cannot be settled through amicable negotiations shall be finally settled in accordance with the Czech law at the court of general trial jurisdiction of the Buyer.
- 12.2 The Contracting Parties undertake to keep confidential and not to disclose any of the information and facts they acquire under this contract, except if they are obligated to disclose the information under the rule of law to the law enforcement authorities, based on the legitimate decision of the court or pursuant to the law (e.g. Act on contracts register) - the Contracting parties undertake to make good faith efforts in order not to be so compelled and to obtain protective treatment. The Party that is requested to provide the information by court or under the rule of law to the law enforcement authorities shall provide the disclosing Party with prompt written notice so that the disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Clause. In such event, the receiving Party shall disclose confidential information only to the extent that such Party is legally compelled to do so. The receiving Party shall cooperate with the disclosing Party in any effort undertaken to obtain a protective order or other reliable assurance that confidential treatment shall be accorded to the confidential information.
- 12.3 The Seller understands Buyer's obligation to make the contract public in accordance with Act no. 340/2015 Coll. on special requirements for the effectiveness of certain contracts, to make these contracts public and on contract register (Act on contracts register) as a legal person stipulated in § 2, par. 1, letter k) of Act on contracts register, whereupon he explicitly specifies his business secret to be all technical specifications, technical publications and prices, as a consequence of which the Buyer is obligated to exclude this part of the contract from its publication.
- 12.4 The Contract of purchase may be changed or amended only by written, mutually agreed, sequentially numbered amendments agreed by the Contracting parties.
- 12.5 This Contract of purchase becomes valid on the date of signature by both Contracting parties.
- 12.6 This Contract of purchase becomes effective on the date of its publication in the Contracts Register.



12.7 The Contract of purchase has been executed in two originals, one copy for each Contracting party.

12.8 The following annexes form an integral part hereto:

- Annex 1 – Technical specification

12.9 Costs related to this Contract of purchase conclusion shall be borne by the Contracting party incurring such costs.

12.10 The Contracting parties hereby declare that the content hereof is clear and comprehensible to them and expresses their free will, in witness whereof they set their hands.

Herstal, date and seal: 15 July 2021 | 11:57 CEST Slavičín, date and seal: 13.07.2021

