



EUROPEAN UNION
European Structural and Investing Funds
Operational Programme Research,
Development and Education



Purchase Contract [No.: 090/18]

concluded in accordance with Section § 2079 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter the "**Civil Code**" and the "**Contract**")

1. PARTIES

1.1. Buyer:

Ústav jaderné fyziky AV ČR, v. v. i.

(Nuclear Physics Institute of the Czech Academy of Sciences, public research institution)

registered office: Husinec - Řež 130, 250 68, Czech Republic

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

registered in the Register of Public Research Institutions administered by the Ministry of Education, Youth and Sports of the Czech Republic (hereinafter the "**MEYS**" or "**Sponsor**")

bank details:

ID No.: 61389005

Tax ID: CZ 61389005

(hereinafter the "**Buyer**")

and

1.2. Seller:

CAEN SPA

registered office: **VIA VETRAIA, 11 – 55049 VIAREGGIO (LU) - ITALY**

represented by **Mr. JACOPO GIVOLETTI**

registered in **LUCCA**

bank details:

CASSA RISPARMIO PISTOIA E LUCCHESIA

IBAN:

SWIFT:

ID No.: **102690**

Tax ID: **IT00864500467**

(hereinafter the "**Seller**")

(the Buyer and the Seller also referred to as the "**Parties**").

2. INITIAL PROVISIONS

- 2.1. The Buyer is the beneficiary of a grant from the Sponsor (MEYS) funded within the MEYS “large infrastructures for research, experimental development and innovation” financial tool as well as of a subsidy from the Operational Programme Research, Development and Education (OP RDE) for the implementation of the project FAIR-CZ (“Facility for Antiproton and Ion Research - participation of the Czech Republic”, hereinafter the “**Project**”).
- 2.2. Within the Project (FAIR-CZ) the Czech participation in the Facility for Antiproton and Ion Research (FAIR), being a new European research infrastructure for nuclear and hadron physics at Darmstadt in Germany as a part of the capacity of GSI Helmholtzzentrum für Schwerionenforschung, is organized. Within the FAIR an international group is established involving teams from Czech Republic, Poland, Germany and Russia, 8 different institutions in all. These teams will deliver new electromagnetic calorimeter (ECAL) detector to the FAIR. R&D and detector construction is financed from national budgets, by assigning activities and responsibility for individual subsystems (electronics for data acquisition – Germany, load bearing structure – Poland, lead glass – Russia) or by sharing the expenditure among several partners (high voltage systems – Czech Republic and Slovakia, photomultipliers – Czech Republic, Poland and Germany, assembly and module testing – Czech Republic and Russia).
- 2.3. The Project is simultaneously a part of the Roadmap of Large Infrastructures for Research, Experimental Development and Innovation of the Czech Republic for the years 2016–2022, issued by the MEYS and approved by the Government of the Czech Republic.
- 2.4. With a view to successful implementation of the Project, it is also necessary to provide certain performance according to this Contract. **The aim of this Contract is the supply of a high voltage power supply system for ECAL detector.** An electromagnetic calorimeter (ECAL) is a new detector designed as an extension to the already existing HADES spectrometer at GSI Darmstadt in Germany. The primary purpose of the detector is to measure neutral particles and gamma photons produced by relativistic collisions of heavy ions, which the HADES spectrometer has not been able to measure yet. The detector, forming an integral part of the HADES spectrometer, will work in concert with other detectors. It will be using readouts from the MDC and RPC detectors located in front of it in order to exclude charged particles, and at the same time it will facilitate an improved distinction of electrons and hadrons in higher momentum. The HADES spectrometer with integrated ECAL should be used for measurement already in 2018 within the framework of the Phase 0 of the FAIR project in the SIS-18 accelerator, and later within the new SIS100 accelerator.
- 2.5. The Seller has been selected as the winning bidder in the under-the-threshold public contract for supplies administered in the form of a negotiated procedure with publication named “**High voltage power supply system for ECAL detector Tender - Round 2**” (hereinafter the “**Procurement Procedure**”) in accordance with Section 60 et seq. of Act No. 134/2016 Coll., on public procurement, as amended (hereinafter the “**Act on Public**”).

Procurement”).

- 2.6. Performance hereunder shall be based on the following annexes which form an integral part hereof:
 - 2.6.1. **Annex No. 1**, which contains **Technical Specification** and detailed description of the subject matter of this Contract (hereinafter “**Annex No. 1**”);
 - 2.6.2. **Incentive and Risk Management Instruments** represents a document constituting **Annex No. 2** hereto, which includes sanctions and other incentive mechanisms for timely and proper performance hereunder (hereinafter the “**Annex No. 2**”);
 - 2.6.3. **Warranty Terms and Conditions** represents a document constituting **Annex No. 3** hereto, which describes the quality warranty provided by the Seller and motivates him to deliver the goods in the highest quality (hereinafter the “**Annex No. 3**”).
- 2.7. In case of any discrepancy between the provisions of this Contract and the provisions of its Annexes the provisions of this Contract shall prevail, except for the provisions of Annexes containing conditions and specifications that are more favourable to the Buyer (i.e. better technical specification values and/or more technically advanced or demanding solutions etc.), in which case such provisions of Annexes shall prevail. In case of any discrepancy between the provisions of the Annexes the provisions containing conditions and specifications that are more favourable to the Buyer shall prevail.
- 2.8. The Seller acknowledges that the Buyer cannot be classified as an entrepreneur in relation to the subject matter hereof, nor it is connected with the Buyer’s business activities.
- 2.9. The Seller declares that he is capable, within the meaning of Section 5 (1) of the Civil Code, of providing performance under the Contract with such knowledge, diligence and due care that is associated and expected of well-experienced experts in his profession and that his potential performance lacking such professional care would give rise to corresponding liability on his part. The Seller is prohibited from misusing his expert qualities or his economic position in order to create or exploit dependency of the weaker Party or to establish an unjustified imbalance in the mutual rights and obligation of the Parties. The Seller represents that he has all the professional prerequisites required for the proper fulfilment of this Contract, is fully authorized to perform this Contract and there exist no obstacles on his part that would prevent him from due performance of this Contract.
- 2.10. The Seller declares that he assumes the risk of a change in circumstances within the meaning of Section 1765 (2) Civil Code.
- 2.11. The Seller acknowledges that he is aware of the importance to the Buyer of the fulfilment of this Contract in terms of quality and schedule and that in the event of a failure by the Seller to meet them (e.g. in case of delay with delivery and/or in the case if the Object of Purchase does not meet the stipulated requirements) the Buyer may incur substantial damage. Duly and timely performance hereunder is essential for the Buyer, in particular, given the follow-on activities within the framework of the Project and observation of the

respective deadlines for their completion.

3. SUBJECT-MATTER

- 3.1. This Contract concerns development, construction and delivery of the high voltage power supply system for electromagnetic calorimeter (ECAL detector) of the HADES spectrometer. The system shall fully comply with the requirements and specification stipulated herein, including Annex No. 1 (Technical Specification). The system delivery shall include necessary research and development activities and a free licence to use the system for the needs of the Project, including its follow-up phases (the system and related activities to be made hereunder shall be referred to jointly as the “**Object of Purchase**”).
- 3.2. This Contract stipulates the obligation of the Seller to deliver to the Buyer and transfer to the Buyer the ownership right to the Object of Purchase as specified herein and in accordance with the terms hereof. The Seller undertakes to duly deliver, under the terms agreed herein and within the time frame agreed herein, at his own cost and risk the Object of Purchase to the Buyer at the prescribed location and to hand it over to the Buyer. The Seller shall be liable for delivery of the said Object of Purchase fully in accordance with this Contract, his bid submitted within the Procurement Procedure and applicable legal, technical and quality regulations. For the sake of clarity, the Seller’s obligations hereunder to deliver the Object of Purchase, performance of which has been included in the Purchase Price, shall also include all the activities under the above Article.
- 3.3. This Contract further stipulates the obligation of the Buyer to take over the duly and timely delivered Object of Purchase and pay the Purchase Price, under the terms hereof, to the Seller. For the sake of clarity, the Buyer’s is hereunder obliged to accept and take over only the parts of Object of Purchase that are fully in compliance with all requirements specified in this Contract (including its Annexes).
- 3.4. **Object of Purchase modifications:** Given the experimental nature of works required for development and construction of the Object of Purchase and potential development of its specification their modification may be necessary. Therefore, the Buyer may request modifications to the Object of Purchase or parts thereof at any time before their completion, by means of a written notification addressed to the Seller. Should the Parties not agree in writing otherwise, the Seller shall, within ten (10) business days following the receipt of such request, propose and submit to the Buyer for approval a documentation defining modification of the performance in the form of a “**Modification Request**”. The Seller is entitled to appraise any works or deliveries related to the requested modification as additional or omitted work. The price of this additional and/or omitted work will be specified in the Modification Request.
- 3.5. Each Modification Request shall include in particular the following:
 - 3.5.1. detailed description of the modification;
 - 3.5.2. impact of the modification on the performance deadlines stipulated herein;

- 3.5.3. impact of the modification on other Buyer's facilities in the context of the performance hereunder;
 - 3.5.4. impact of the modification on the Purchase Price;
 - 3.5.5. effect of the modification on other provisions hereof;
 - 3.5.6. calculation of the costs of the modification; and
 - 3.5.7. a proposal for the method of reimbursement of the costs associated with such modification.
- 3.6. The value of the agreed omitted work will be deducted on the basis of the Seller's specification (unit price + Seller's margin) of the total Purchase Price and the price for the respective performance to which the omitted work relates, to be settled within the next payment.
- 3.7. A written agreement of the Parties shall be necessary in order that modifications hereunder are considered valid and billable.
- 3.8. The Parties acknowledge that for conclusion of an agreement on modifications hereunder, the Buyer is obliged to respect the applicable legislation and the rules applicable to the Project, as well as the budget capacity of the Buyer.

4. OBLIGATIONS OF THE SELLER AND FURTHER REQUIREMENTS ON THE SUPPLY

- 4.1. The Seller shall deliver the Object of Purchase in accordance with the Buyer's Orders and must act in such a way that this Contract is performed in time and in due manner.
- 4.2. During the performance of this Contract the Seller proceeds independently, unless hereunder stated otherwise. If the Seller receives instructions from the Buyer, the Seller shall follow such instructions unless these are against the law or in contradiction to this Contract. If the Seller finds out or should have found out by exercising professional care that the instructions are inappropriate or contradicting valid Czech or EU standards or are in contradiction to this Contract, then the Seller must promptly notify the Buyer.
- 4.3. The Seller shall ensure that the Object of Purchase complies with all technical specifications and performance requirements stipulated herein. The Seller is responsible that the Object of Purchase meets valid safety, technical and quality Czech and EU standards.
- 4.4. The Object of Purchase and its components and parts shall be delivered new (i.e. not remanufactured).
- 4.5. The Seller agrees to the specifications as defined in Annex No. 1 and declares, at the time of execution hereof, that he is not aware of any deficiencies therein and that he will be able, on the basis of these specifications, to deliver the Object of Purchase in the required

quality without the need for any additional work.

- 4.6. During the performance of this Contract, the Buyer is entitled to further specify or clarify the requirements stipulated in Annex No. 1. Such further specifications can be requested by the Buyer no later than one (1) month before the scheduled completion of the ordered supply. These further specifications shall be binding for the Seller, unless these are inappropriate; in which case the Seller shall explain in writing the reason for refusing to incorporate them. Under this provision, the Buyer is not entitled to substantially change the existing requirements stipulated herein. Should any request for change result in increase of Purchase Price such request is binding for the Seller only if the Purchase Price modification is agreed between Parties and such modification is in accordance with the Act on Public Procurement and other applicable legislation and regulations including the rules of the relevant Operational Programme.

5. TIME AND PLACE OF DELIVERY

- 5.1. The Seller undertakes to duly deliver the Object of Purchase within two (2) months from the date of execution hereof by both Parties; the Buyer undertakes to take over the Object of Purchase if delivered as anticipated herein; the handover and takeover of the Object of Purchase shall be subject to handover protocol to be drawn up and executed by the Parties as defined below.
- 5.2. The Seller shall be entitled to deliver the Object of Purchase to the Buyer prior to the agreed deadlines for their handover as defined in Article 5.1 herein provided agreement to that effect is reached prior with the Buyer.
- 5.3. Unless the Parties agree otherwise, the place of delivery shall be the Buyer's facility – located at the Buyer's registered office as defined in Article 1.1 hereof (hereinafter the "**Place of Delivery**").
- 5.4. The Seller shall deliver and handover the Object of Purchase or its individual parts at the Place of Delivery. The Buyer shall provide to the Seller for this purpose necessary cooperation.
- 5.5. The Seller shall be entitled to deliver the Object of Purchase or its individual parts to the Buyer at the Place of Delivery prior to the stipulated deadlines for their handover provided that an agreement to that effect is reached before that with the Buyer.

6. PURCHASE PRICE; INVOICING; PAYMENTS

- 6.1. The purchase price for the subject of this Contract has been set forth on the basis of the Seller's bid submitted within the Procurement Procedure as the maximum price that cannot be exceeded, in the amount of **CZK 5.305.872 excluding VAT** [*in words: five million three hundred and five thousand, eight hundred seventy two Czech korunas excluding value added tax*] (hereinafter the "**Purchase Price**").

- 6.2. VAT shall be imposed on top of all payments made hereunder according to valid legislation.
- 6.3. The Purchase Price cannot be exceeded, is independent of the development of prices and changes in the foreign exchange rates and may be changed only in accordance with the Act on Public Procurement.
- 6.4. The Purchase Price shall cover any and all performance provided by the Seller hereunder and include all of the Seller's activities executed and all of the Seller's costs accrued or associated with the proper performance hereof. The Purchase Price includes especially all expenses related to development, construction, delivery and handover of the Object of Purchase, warranty service, any customs duties, fees, insurance etc. as well as the costs associated with creation and protection of intellectual property and Seller's claims arising on the basis of intellectual property laws.
- 6.5. The Purchase Price shall be paid, in accordance with the payment schedule set herein and on the basis of tax documents – invoices issued by the Seller, to the account of the Seller designated in Article 1.2 hereof.
- 6.6. With respect to the above, the Parties have agreed that the Purchase Price shall be paid by the Buyer and that the Seller shall be authorized to invoice the Purchase Price according to the following payment schedule:
- 6.6.1. 100 % of the Purchase Price upon duly delivery of the Object of Purchase confirmed by the Handover Protocol signed by both Parties (as defined below).
- 6.7. Invoices issued hereunder shall become payable within thirty (30) days from the date of their delivery to the Buyer (hereinafter the "**Due Date**").
- 6.8. **Early payment option:** At the request of the Seller the Buyer is entitled to pay a part of the funds in advance as compared to the payment schedule stipulated herein, even in the event of the Seller's delay with delivery of partial deliverables to which the funds are actually pertaining. This option available to the Buyer may be exercised at his discretion, and in doing so the Buyer shall take into account (i) the value of the completed part of the Object of Purchase and the course of the handover procedure; (ii) the Seller's plan submitted to the Buyer describing the Seller's steps for prompt completion of the partial deliverables with which he may be in delay, as well as other follow-on deliveries as well as any risks associated with late payments in relation to the follow-on deliveries. The purpose of this Buyer's option is to enable the Seller to proceed with his performance in order to fulfil his obligation to deliver the Object of Purchase while maintaining the appropriate standard of public funds management entrusted to the Buyer in accordance with the so-called "private debtor/creditor" principle.
- 6.9. **Change in the schedule of payments:** At the request of the Seller, the Buyer is entitled to unilaterally modify the payment schedule stipulated herein effective upon delivery of the modified schedule to the Seller. The purpose of this Buyer's option is to enable the Seller to proceed with his performance in order to fulfil his obligation to deliver the Object of

Purchase and minimise project risks while maintaining the appropriate standard of public funds management practices entrusted to the Buyer in accordance with the so-called “private creditor” principle.

- 6.10. A payment of the amounts invoiced shall be understood to be effected on the day on which it was remitted to the Seller’s account, i.e. 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 Seller’s account.
- 6.11. The invoice issued by the Seller as a tax document must contain all information required by the applicable laws of the Czech Republic. Invoices issued by the Seller pursuant to this Contract shall, in accordance with relevant legislation, contain particularly the following data:
 - 6.11.1. business name / name and registered office of the Buyer;
 - 6.11.2. tax identification number of the Buyer;
 - 6.11.3. business name / name and registered office of the Seller;
 - 6.11.4. tax identification number of the Seller;
 - 6.11.5. serial number of the tax document;
 - 6.11.6. scope and subject-matter of the performance, i.e. quantity (extent) and nature of performance supplied or services rendered (including the reference to this Contract);
 - 6.11.7. date of issue of the tax document;
 - 6.11.8. date of the supply of goods or services or date of receipt of the payment on account, whichever comes sooner, in so far as they differ from the date of issue of the tax document – invoice;
 - 6.11.9. payment deadline (due date);
 - 6.11.10. price of the performance provided;
 - 6.11.11. number of the Buyer’s order; and
 - 6.11.12. a declaration that the invoiced performance is provided for the purposes of the project “Facility for Antiproton and Ion Research - participation of the Czech Republic - OP”, Reg. No. CZ.02.1.01/0.0/0.0/16_013/0001677;
- 6.12. and, furthermore, the tax documents – invoices shall also be in compliance with agreements on avoidance of double taxation, if applicable in particular cases.
- 6.13. The last invoice in each calendar year must be delivered by the Seller to the Buyer no later than on 15th of December of that calendar year.

- 6.14. The Buyer shall not be obliged to effect payments based on incorrectly issued tax documents - invoices. If the tax document – invoice is not issued in accordance with the payment terms stipulated in the Contract or will not meet the required legal requirements or if it is not delivered to the Buyer by the date specified above, the Buyer is entitled to return the tax document – invoice as incomplete or incorrectly issued to the Seller for completion or for new issue within ten (10) business days after its delivery to the Buyer. In such a case, the Buyer shall not be deemed to be in delay with payment of the Purchase Price or its part, and the Seller shall issue a corrected invoice with a new identical payment deadline, which shall commence running upon the delivery of the corrected or newly issued tax document – invoice to the Buyer.
- 6.15. The Buyer's invoicing data are provided in Article 1.1 hereof.

7. RIGHTS AND DUTIES OF THE PARTIES

- 7.1. The Seller undertakes to fulfil all obligations arising herefrom with due professional care, within the deadlines specified herein and/or hereunder, at his expense and risk and for the Purchase Price defined herein.
- 7.2. The Seller shall be obliged to inform the Buyer on their request about the progress of the works carried out in order to complete and deliver the Object of Purchase, in the form of an electronic message in English no later than one (1) week upon such request delivery. If so required by the Sponsor or Operational Programme rules or subsidy/grant conditions determined by the Sponsor, the Seller is obliged to also inform the Buyer about the progress of works every three (3) months, in the form of an electronic message in Czech or English sent to the Buyer's contact person.
- 7.3. In the event of the **Seller's delay** with performance within the deadlines according hereto, particularly in respect of the time of handover of the deliverables, the Buyer is entitled to charge the Seller with a contractual penalty in accordance with Annex No. 2 hereto.
- 7.4. In the event of the **Buyer's delay** with payment of the Purchase Price or any part thereof within the deadlines set out in this Contract, the Seller is entitled to charge the Buyer with a late payment interest in accordance with Annex No. 2 hereto, unless the Buyer proves that the delay was caused by late release of the funds by the Sponsor.
- 7.5. For the avoidance of any doubt, the Parties agree that during a Party's delay the other Party's liability for delay is excluded; in that case the respective performance deadlines of the latter Party are adequately extended by the period of that delay.
- 7.6. Unless herein stipulated otherwise, the Seller shall pay any of the contractual penalties charged under this Contract no later than within thirty (30) calendar days from the day, on which the Buyer enumerated his claim for the contractual penalty.
- 7.7. The Buyer is entitled to offset unilaterally at any time his claims for the payment of the contractual penalty under this Contract against any claims of the Seller for the payment of

any part of the Purchase Price.

- 7.8. The Parties exclude application of Section 2050 of the Civil Code, and agree that the Buyer, in addition to the contractual penalty hereunder, is also entitled to damages in excess of contractual penalties hereunder actually paid by the Seller.
- 7.9. Should a Party breach its obligation hereunder or may it or should it be aware of any such breach, that Party shall, without undue delay, notify the other Party which may incur harm to that effect and shall advise it of potential consequences; in such a case, the injured Party shall not be entitled to compensation for the harm that the notified Party could have prevented after such notification.

8. SPECIAL PROVISIONS

- 8.1. Under the terms hereof, the Seller undertakes, in accordance with the Buyer's instructions and exercising all due professional care, to:
 - 8.1.1. archive all documents produced in connection with the execution hereof and performance hereunder for a period of 10 years after the end of the performance hereunder, but at least until the end of 2033, and allow the Buyer access to these archived documents at any time during that period. The Buyer shall be entitled to take possession of the above documents from the Seller free of charge after the period of 10 years from the end of performance under the Contract;
 - 8.1.2. cooperate within the framework of potential financial control procedures pursuant to Act No. 320/2001 Coll., on financial control, as amended, which includes, but is not limited to, allowing the Sponsor or the competent Managing Authority of the relevant Operational Programme access to also those portions of the bid submitted within the Procurement Procedure, the Contract, orders, subcontracts and related documents that might be subject to protection under special legal regulation, provided that all requirements set forth by legal regulation with respect to the manner of conducting such controls will have been observed; the Seller shall bind any of its sub-contractors to comply with this obligation accordingly;
 - 8.1.3. enable observance of any publicity obligations stemming from the rules of the relevant Operational Programme; and
 - 8.1.4. enable the Buyer to fulfil its obligations pursuant to the Act on Public Procurement.

9. HANDOVER

- 9.1. The Seller shall handover the Object of Purchase or its parts to the Buyer at the Place of Delivery within the stipulated delivery deadlines and, if applicable, along with technical and legal documentation, e.g. user manuals, guides, warranty certificates etc.

- 9.2. During the handover and takeover procedure the Buyer shall be entitled, in particular, to visually inspect the delivered deliverables. The Buyer may, provide to the Seller any comments regarding the delivered deliverables and the Seller shall be obliged to act on the basis of these comments or justify why these are unacceptable.
- 9.3. The Buyer shall not be obliged to verify accuracy of any calculations and details of the technical solution constituting the Object of Purchase.
- 9.4. The handover of the Object of Purchase or its individual parts shall be subject to a handover protocol on the course of the handover and takeover procedure to be drawn up and executed by the Parties; the protocol must include:
 - 9.4.1. details on the Seller and Buyer;
 - 9.4.2. description of the items that are the subject of handover and takeover;
 - 9.4.3. declaration of the Buyer as to whether the Buyer accepts or does not accept the supply;
 - 9.4.4. the date of execution of the protocol on handover and takeover of the supply (hereinafter the "**Handover Protocol**").
- 9.5. The part of the Object of Purchase - partial deliverable in question shall be considered duly completed only by its acceptance effected by execution of the relevant Handover Protocol by both Parties. Assessment and subsequent acceptance of individual part of the Object of Purchase does not affect the Seller's liability for other parts of the Object of Purchase.
- 9.6. In case of any defects of the delivered Object of Purchase or its part, the Buyer shall be entitled to refuse the takeover of that defective delivery. Whenever technically possible the Seller shall remedy the deficiencies within ten (10) business days, unless Parties agree otherwise; however these periods do not imply that the Seller is not in delay with delivery of any deliverable. The Buyer shall be entitled at his discretion (but not obliged) to take over the defective deliverable despite its defect, in particular if such defect does not have a material impact on its functionality. If the Buyer does not exercise his right not to take over the defective delivery, the Parties shall make a list of ascertained defects in the Handover Protocol, including the manner of and deadline for their removal no longer than one (1) month. If the Seller fails to remove ascertained defects within the deadline stated in the Handover Protocol, the Buyer shall be entitled to charge the Seller with a contractual penalty in the amount of 0.5 % of the part of the Purchase Price corresponding to the defective part of the Object of Purchase for each, even incomplete, day of delay. Till the remedy of the defects the Buyer shall be entitled to postpone any due payments up to the amount corresponding to the significance of the defects.
- 9.7. Should the Object of Purchase or its parts have defects, which are not apparent at the handover (i.e. hidden defects), the Parties shall follow regulation stipulated in Section 2112 (1), second sentence, of the Civil Code to make claims.
- 9.8. The Parties wish to deviate from provisions of Section 2126 of the Civil Code and agree

that the Seller shall not be authorized to use institutes established therein.

10. TRANSFER OF OWNERSHIP RIGHT

- 10.1. The ownership right to individual parts of the Object of Purchase shall pass to the Buyer upon their handover and takeover confirmed by the signature of the persons authorised by the Parties hereunder on the Handover Protocol.
- 10.2. The Seller shall bear the risk of damage to the Object of Purchase until passing that risk to the Buyer. The Buyer assumes the risk of damage to the parts of the Object of Purchase along with the transfer of the ownership right to that parts; this fact shall not relieve the Seller from his liability for damage caused as a consequence of defects of the Object of Purchase or part thereof.

11. CONFIDENTIALITY, PUBLISHING, PUBLICITY

- 11.1. **Confidential information:** For the purposes of this Contract, confidential information means any data or information which is owned or possessed by one of the Parties and is not generally known to the public, or which has not yet been made available, whether in tangible or intangible form, at any time and place, and which the Party explicitly marks as confidential information or business secret. Examples of such information include:
 - 11.1.1. scientific or technical information, inventions, designs, processes, procedures, formulae, improvements, technologies or methods;
 - 11.1.2. concepts, samples, news, data, know-how, progress work, designs, drawings, photographs, development tools, technical data, software, source code, object code, flowcharts and databases;
 - 11.1.3. marketing strategies, plans, financial data or estimates, operations, sales estimates, business plans and performance results relating to past, present or future business activities of the Party or its branches, subsidiaries and affiliates;
 - 11.1.4. business secret; product or service plans and lists of clients or suppliers; or
 - 11.1.5. any other information that could reasonably be considered confidential by the Parties.
- 11.2. The Parties hereby acknowledge that business secrets / confidential information protected by each of the Parties have been developed and obtained through a considerable effort, and are therefore viewed and held as business secrets / confidential information (hereinafter the "**Confidential Information**").
- 11.3. **Originality:** The Parties have agreed that Confidential Information does not have to be original, unique, patentable, and it does not have to be subject to copyright or constitute a business secret to be classified as Confidential Information and therefore protected.

- 11.4. **Designation:** In case of written documents, information communicated orally, or written documents which are not designated, Confidential Information must be designated as such by notifying the other Party of the confidential nature of the information disclosed. This notification must be made orally, by e-mail or written correspondence or by other appropriate means of communication.
- 11.5. **Notifier and Recipient:** For the purposes of this Contract, the Party that discloses Confidential Information under the terms set forth herein to the other Party is considered the notifier (hereinafter the "**Notifier**"). Similarly, the Party that receives Confidential Information is considered the recipient (hereinafter the "**Recipient**").
- 11.6. **Exclusion of protection:** Notwithstanding the above, Confidential Information excludes information which:
- 11.6.1. is already publicly known at the time of its disclosure by the Notifier to the Recipient or become publicly known thereafter without any breach of the terms herein;
 - 11.6.2. was known to the Recipient prior to the disclosure (subject to the provision of appropriate evidence or a written record of such disclosure);
 - 11.6.3. is subsequently made available to the Recipient by a third party that acquired it legally and has no confidentiality obligation towards the Notifier;
 - 11.6.4. becomes publicly accessible in a way other than the violation of the Recipient's confidentiality obligation (i.e. other than the result of the Recipient's fault or omission);
 - 11.6.5. is (or was) developed/acquired by employees, advisors or representatives of the Recipient completely independently of its provision stipulated in this Contract (to be sufficiently demonstrated) without violating the provisions hereof or access to any Confidential Information concerning the Parties; or
 - 11.6.6. is or was provided by the Recipient based on a binding and final act of a public authority (including a requirement of control and audit authorities to submit the documents).
- 11.7. **Purpose of disclosure of Confidential Information:** The Notifier, in connection with the exercise of rights and obligations under this Contract or in the context of related negotiations, may provide the Recipient with Confidential Information. The Recipient undertakes to use Confidential Information solely for the purpose intended by the Parties under this Contract and is not entitled to use Confidential Information for any other purpose without the prior written consent of the Notifier.
- 11.8. **Confidentiality obligation:** The Recipient shall not disclose and shall maintain confidentiality of the information received, with the exception of its employees, representatives or agents who need access to Confidential Information for the fulfilment of their obligations in connection with the agreed subject-matter of the Contract. The Recipient shall inform them of the confidentiality of the information received and ensure

that they keep confidentiality under the conditions set out in this Contract. The Recipient must ensure compliance with these confidentiality obligations and the prohibition of use contained herein, strictly observe them and assume full responsibility for any acts or omissions concerning and caused by its employees or representatives.

- 11.9. **Publications:** The Parties undertake to not include in their publications any Confidential Information, unless the prior written consent of the Notifier is given for such publication (it is sufficient in the form of data communication, e.g. e-mail, etc.). The Seller undertakes that as part of its publishing activity concerning the subject-matter of this Contract, it shall provide information about the Project and sources of financing in accordance with the publicity rules applicable to the Project, especially in the Acknowledgments section of the publication. In the publications about the subject-matter of this Contract, the Buyer undertakes to indicate, in an appropriate manner, the Seller as the authorized supplier. The Seller undertakes to adhere to any applicable publicity rules resulting from the binding documentation of the Operational Programme and/or Project. The Parties undertake that in their publishing activities they shall protect the legitimate interests of the other Party.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1. If, **in connection** with the performance of the Contract, the Object of Purchase or any of its parts constitute an author's work within the meaning of Act No. 121/2000 Coll., on copyright, on rights related to copyright and amending certain acts, as amended (hereinafter the "**Copyright Act**"), it is a contract work in the sense of Section 61 of the Copyright Act. In this case, the Seller grants to the Buyer a royalty-free licence to use the author's work (or any of its parts) for the purposes of this Contract and/or for the purposes of research and education for the duration of the property rights to author's work on the territory of the whole world, including sub-licence for the purpose of implementing the Project, including its follow-up phases.
- 12.2. For the purposes of this Contract, author's work and industrial rights are hereinafter jointly referred to as intellectual property rights. In the event that a work or part thereof is created in connection with the performance of the Contract, and the Seller is entitled to register such work or part thereof through any of the forms of industrial property rights (i.e. trademark, patent or invention, utility or industrial design, etc.) protected under applicable legislation of the Czech Republic, foreign State or an international or supranational organization, the Seller shall grant to the Buyer, for the duration of the protection of the relevant industrial property rights, a royalty-free licence to use the work for the purposes of the Project and other research and educational activities, as well as for the purposes of this Contract on the territory of the whole world. The Buyer hereby undertakes not to provide the results of the work to third parties without the prior consent of the Seller.
- 12.3. The intellectual property rights according to Article 12 hereof shall pass to the legal successor of the Buyer, for the duration of the protection period granted to that particular intellectual property right and/or period of existence of ownership rights to copyrighted

work on the territory of the whole world.

- 12.4. The Parties have agreed that the Seller's fee for granting the licence under Article 12 hereof is already reflected and included in the Purchase Price under Article 6 hereof.
- 12.5. In the event that any intellectual property rights arising hereunder are infringed, their owner is entitled to enforce them with the competent public authorities or bodies. The licensee is obliged to inform the owner of the intellectual property rights without undue delay if the licensee becomes aware of the infringement under the previous sentence.
- 12.6. In the event that the work or part thereof is created as a result of a joint activity of the Seller and the Buyer, the two Parties undertake to file a joint application for any intellectual property rights as co-authors.
- 12.7. In the event that any products constituting intellectual property rights are created or co-created by the Seller under the relevant financial contribution under this Contract is commercialized by the Seller in the future, the Seller undertakes to pay to the Buyer from his own proceeds of such commercialization a share corresponding to the financing rate under this Contract. This provision does not apply if the share of profit so determined does not exceed 0.1 % of the gross proceeds of commercialization.

13. REPRESENTATIVES, NOTIFICATIONS

- 13.1. The Seller has appointed the following authorised representatives for communication with the Buyer in relation to the subject of performance hereunder:

In technical matters:

- Mr. Gianni di Maio
E-mail:

In project matters:

- Mr. Gianni di Maio
E-mail:

In contract matters:

- Mr. Gianni di Maio
E-mail: .

- 13.2. The Buyer has appointed the following authorised representatives for communication with the Seller in relation to the subject of performance hereunder:

In technical matters:

- Pavel Tlustý
E-mail:

In project matters:

- Pavel Tlustý
E-mail:

In contract matters:

- Andrej Kugler
E-mail:

- 13.3. Unless this Contract provides otherwise, all notifications between the Parties hereunder must be made in writing and delivered to the other Party by an authorised delivery service, in person (with written confirmation of receipt), by registered mail sent using a postal service provider, or may be made by electronic communication with an electronic signature to the Buyer at _____ and to the Seller at _____
- 13.4. In design, expert or technical matters (e.g. negotiation of the preliminary assessment of part of the Object of Purchase, claiming the warranty, etc.), electronic communication through the above representatives is permitted.

14. TERMINATION OF CONTRACT, FORCE MAJEURE

- 14.1. This Contract may be terminated by its completion, by its expiration, by agreement of the Parties or by withdrawal from the Contract for reasons specified by law or the Contract.
- 14.2. The Buyer is entitled to withdraw from this Contract without any sanction if any of the following circumstances occur:
- 14.2.1. the Buyer is withdrawn from or loses the financial subsidy and/or funding for the implementation of the Project or will not be awarded such subsidy and/or funding;
 - 14.2.2. the expenditure or part thereof incurred under this Contract is identified ineligible by the Sponsor or any other control body;
 - 14.2.3. the Seller breaches this Contract in a substantial manner;
 - 14.2.4. the Seller is in delay with delivery of any supply hereunder for a period exceeding three (3) calendar months, except where the delay has been caused solely by the Buyer;
 - 14.2.5. any of the supplies submitted to the Buyer under this Contract do not meet the technical or other parameters foreseen by this Contract, even after the Buyer has requested the Seller twice to meet or supplement them;

- 14.2.6. insolvency proceedings are initiated or pursued against the Seller or his assets; or
- 14.2.7. should it become apparent that the Seller has provided information or documents during the Procurement Procedure or in his bid which are false and which had or could have had therefore an impact on the result of the Procurement Procedure which led to the conclusion of this Contract.
- 14.3. The Seller is entitled to withdraw from this Contract without any sanction if any of the following circumstances occur:
- 14.3.1. the Buyer breaches this Contract in a substantial manner;
- 14.3.2. the Buyer is in delay with the payment of the Purchase Price or its part for more than three (3) calendar months after an additional period for the payment of the relevant part thereof specified by the Seller pursuant to point 1.2 of Annex No. 2 to this Contract had been provided.
- 14.4. The Party which is hereunder entitled to withdraw from hereof may withdraw entirely or just with respect to some part of the Object of Purchase. If herein or in the withdrawal not expressly stated otherwise, withdrawal is deemed to terminate the entire Contract. The act of withdrawal from the Contract shall become effective on the date when the written notification of the withdrawal from the Contract by one of the Parties is delivered to the other Party, with consequences of the Contract termination effective in the “*ex nunc*” regime.
- 14.5. In the event of termination of this Contract for other reasons than for breach of obligations on the part of the Seller, the Seller shall be entitled to get reimbursement for the costs which he accrued in connection with the fulfilment of his obligations hereunder prior to the Contract termination, provided that such costs could demonstrably not be avoided (e.g. by timely cancellation of orders), have not been already paid by the Buyer within any instalment of the Purchase Price and are not covered from other sources (e.g. by insurance). Under the same conditions and where not included in the previous reimbursement, the Seller shall be entitled to the portion of Purchase Price for the part of the Object of Purchase actually delivered to the Buyer pursuant to the Contract within one (1) month upon termination of the Contract. In other events of termination of this Contract the Seller shall not be entitled to get any reimbursement and becomes entitled just to the portion of Purchase Price for the part of the Object of Purchase actually delivered to the Buyer pursuant to the Contract prior to the Contract termination. In any event, things, rights and any other values whose price was paid for by the Buyer to the Seller according to this provision shall pass, by payment, into the ownership of the Buyer, and the Seller shall be obliged to allow the Buyer to dispose with such accordingly. The Parties shall strive and cooperate to avoid or minimize further cost that might arise as a consequence of the Contract termination.
- 14.6. Circumstances precluding liability are considered to include obstacles which have occurred independently of the will of the obligated Party, and which prevent it from fulfilling its obligation, provided that it could not be reasonably expected that the obliged Party could

overcome or avert these obstacles or their consequences and furthermore that such Party could foresee such obstacles when it entered into the respective covenants (hereinafter the “*Force Majeure*”). Liability cannot be precluded by obstacles which occurred only when the obligated Party was in delay with fulfilling its duty or arose out of its economic situation. The effects precluding liability shall be limited to the period during which the obstacles causing these effects persist. Force Majeure hereunder does not include the Seller’s research and development risks in the execution of the Object of Purchase.

- 14.7. Should a situation occur, which a Party could reasonably consider to constitute Force Majeure (*vis maior*), and which could affect fulfilment of its obligations hereunder, such Party shall promptly notify the other Party and attempt to continue in its performance hereunder in a reasonable degree. Simultaneously, such Party shall inform the other one of any and all its proposals, including alternative modes of performance, however the Party shall not proceed to carry out such alternative performance without the other Party’s previous consent. If a Force Majeure event occurs, the deadlines stipulated herein shall be extended by the period of the duration of that Force Majeure event.

15. GOVERNING LAW, DISPUTE SETTLEMENT

- 15.1. This Contract and any and all legal relationships arising there from are governed by the laws of the Czech Republic.
- 15.2. The Parties acknowledge that areas not expressly regulated by this Contract are governed by the relevant provisions of the Civil Code (Act No. 89/2012 Coll., as amended).
- 15.3. Any and all disputes arising out of this Contract or legal relationships related thereto shall be settled by mutual negotiation between the Parties. If a dispute cannot be settled amicably by negotiation within sixty (60) days, such a dispute shall be decided by the competent court in the Czech Republic having jurisdiction according to the registered office of the Buyer based on application of any of the Parties.

16. TRANSITIONAL AND FINAL PROVISIONS

- 16.1. This Contract constitutes the entire and comprehensive agreement between the Buyer and the Seller.
- 16.2. The Seller shall not be entitled to transfer rights and duties from this Contract or its part on third parties, to transfer his claims against the Buyer that arose on the basis or in connection with this Contract on third parties, nor to set off any of his claims or his debtor’s claims against the Buyer’s claims.
- 16.3. If any Party breaches any duty under this Contract and knows or should have known about such breach, the Party shall notify and warn the other Party of possible consequences.
- 16.4. If any provision of this Contract becomes or is declared null, ineffective, non-existent or

unenforceable, then such nullity, ineffectiveness, non-existence or unenforceability shall not make the Contract null, ineffective, non-existent or unenforceable as a whole. In such a case, the Parties shall without undue delay clarify such a defective provision within the meaning of Section 553 (2) of the Civil Code, or replace it, to the extent permitted by the applicable laws, by mutual agreement with a new provision, whose meaning is as close as possible to the intention of the Parties at the conclusion of this Contract.

- 16.5. This Contract becomes valid on the date of its signature by the authorised persons of both Parties and effective on the date of its publication in the Register of Contracts.
- 16.6. This Contract may be changed or supplemented solely by means of written numbered amendments, indicating time and place of conclusion, and signed by duly authorized representatives of the Parties. Within the meaning of Section 564 of the Civil Code, the Parties expressly exclude the possibility to amend the Contract by any other means in any different form.
- 16.7. This Contract is made in the English language and executed in four (4) counterparts each of which is deemed original. Each of the Parties shall receive two (2) counterparts.

In witness of the agreement with all the contents of the Contract, the Parties attach their signatures:

In Řež, on 06/09/2018

In Viareggio, on 03/08/2018

On behalf of: the Buyer

On behalf of: the Seller

Name: RNDr. Petr Lukáš, CSc.

Position: Director

Name: **Jacopo Givoletti**

Position: **President**

Annex No. 1 - Technical Specification

High voltage power supply system for ECAL detector

Overall description:

High voltage power supply system is used in electromagnetic calorimeter (ECAL) of the HADES spectrometer to power photomultipliers used for signal readout. Power supply system is a central heart of the experiment – its stability and performance determine the quality of the data. Power supply system is also critical from the security and safety point of view – it has to protect human health and electronics against overvoltage, overcurrent or electric shock.

Power supply system consist of the following components: crate with control interface, low voltage power supply to power the crate, high voltage cards insertable to the crate, multichannel cables and connectors to lead the HV to the HV distribution boxes, and Radial connectors compatible with the HV cables of the single modules. Power supply system has to have independent channel for each photomultiplier – this means each photomultiplier can be switched on/off and controlled in order to compensate its different gain. Power supply has to have also electrical properties compatible with the used photomultipliers (current, HV value, ramp up/down speed, trip setting, status monitoring etc. – specified in technical specification).

The high voltage supply system has to be also compact in order to fit to the place prepared in the support construction. Moreover, it must be compatible with the HADES online control environment EPICS.

Technical specification:

- 672 separate floating-ground channels of high voltage + 2 spare high voltage cards
- Power supply 230V/400V
- Frame dimensions: max. width 483 mm (19"), max. height 355 mm (8U), max. depth 750 mm, total number of frames up to max. dimensions max. 5 pieces
- Output min. -3 kV / 2 mA
- Increase / decrease rate min. 10 V / s
- Real-time remote control
- Real-time display of operating parameters (set / current voltage, actual / maximum current, overload / trip)
- Voltage adjustment accuracy: 1 V (or better, i.e. more accurate)
- Current monitoring accuracy: 5 μ A (or better, i.e. more accurate)
- Compatible with EPICS
- high-voltage multichannel cables to connect power supply and distribution boxes, average length 6m, one end equipped with Radial connectors – plug 691802002 with pins 691804300 (or compatible), Radial sockets 691803004 with pins 691804200 or compatible
- number of cables is equal to number of high voltage cards plus one spare cable and socket
- one single-standing four-channel high voltage power supply with manual control for module tests (-3kV / 2 mA)

Annex No. 2 - Incentive Tools and Tools to Reduce and Eliminate Risks

1. Motivation mechanisms

1.1. Contractual penalty – Seller's delay

1.1.1. **Basic rate of contractual penalty:** The basic rate of contractual penalty for each day of delay with delivery of any supply is 0.5 % of the price of that supply for each day of delay after the expiry of an additional period of 30 days specified in the Buyer's written request. Total amount of contractual penalties for delay with delivery of supplies shall not exceed 10 % of the Purchase Price.

1.1.2. **Contractual penalty after reaching 10 % of the Purchase Price.** From the day when the total amount of contractual penalties which the Buyer became entitled to claim from the Seller under this Contract reaches 10 % of the Purchase Price, a reduced contractual penalty of CZK 1.500 is charged for each day of delay.

1.1.3. The contractual penalty is charged by the Buyer on a continuous basis, as the Buyer becomes entitled to it under this Contract. However, the payment of the contractual penalty is postponed to the scheduled date of the last payment, unless it is obvious that the last payment under this Contract is not sufficient to cover the contractual penalty to which the Buyer has become entitled under this Contract.

1.2. **Late payment interest of the Buyer.** The rate of late payment interest concerning the Buyer's delay with the payment of the Purchase Price or any part thereof is 0.01 % of the due part of the price for each day of delay after the expiry of an additional time limit of 30 days specified by the Seller in a written request.

1.3. Liability for damage

1.3.1. The Parties are mutually liable for any damage caused by breach of this Contract. The compensation for damage is limited to 100 % of the total Purchase Price.

1.3.2. Should a Party breach its obligation hereunder or may it or should it be aware of any such breach, that Party shall, without undue delay, notify the other Party which may incur harm to that effect and shall advise it of potential consequences; in such a case, the injured Party shall not be entitled to compensation for the harm that the notified Party could have prevented after such notification.

2. Risk minimization tools

2.1. **Implementation plan.** The Seller is obliged to conduct and periodically evaluate a project implementation plan and inform the Buyer of any material facts and events having but a potential negative effect on the performance under this Contract.

- 2.2. **Risk plan.** The Seller is obliged to conduct and periodically evaluate a risk minimization plan and inform the Buyer of any material facts and events having but a potential effect on the possible increase or activation of risks.
- 2.3. **Separate accounting records.** The Seller is obliged to keep reasonable separate accounting records of the costs of performance hereunder and use the means of ongoing financing according to the Payments Schedule exclusively in connection with the performance hereunder, and the Buyer acknowledges that within the performance hereunder, in addition to direct and indirect costs, the Seller also covers the profit and risk items with regard to the experimental nature of the supply. This provision does not impose an obligation on the Seller to report these items to the Buyer or control bodies.
- 2.4. **Insurance.** The Seller is obliged to ensure adequate insurance of the Object of Purchase components/materials during the period of storage at the Seller's premises, the coverage being equivalent to their value under standard conditions. Furthermore, the Seller is obliged to maintain general third-party liability insurance for the duration of providing performance hereunder, the coverage being equivalent to the value of the Object of Purchase. Additionally, the Seller is obliged to take out risk insurance with the same coverage for the transport of the Object of Purchase to the premises of the Buyer.

Annex No. 3 – Warranty Terms and Conditions

The Object of Purchase has defects if it or its part does not correspond to the result set forth in this Contract.

The Seller is liable for any defects of the Object of Purchase or its parts at the time of their handover and takeover, and is also liable for any defects of the Object of Purchase or its parts found during the entire warranty period (quality warranty).

The Seller provides a quality warranty on the Object of Purchase and/or its part of **12 months**. The warranty period for each part of the Object of Purchase shall begin on the day of the signature of the corresponding Handover Protocol by both Parties. If the Handover Protocol lists any deficiencies, the warranty period shall begin on the day, which follows the day, in which the last deficiency was removed.

The Seller shall pass any existing components warranty to the Buyer. If on the warranty list or other document submitted by the Seller the warranty period is of longer duration, then this longer warranty period shall have priority over the period stated in this Contract.

The Buyer shall request the Seller to remove the defects of the Object of Purchase or a part thereof during the warranty period in writing without undue delay upon their discovery, but no later than on the last day of the warranty period (hereinafter the "**Claim**"). Even a Claim asserted by the Buyer on the last day of the warranty period is considered to have been asserted in due time.

The Seller undertakes to examine the Claim, notify the Buyer of whether or not it accepts the Claim, and provide in writing the deadline for the removal of the defect within two (2) weeks from the delivery of the Claim by the Buyer.

The Seller undertakes to gratuitously remove any defects of the Object of Purchase or its part without undue delay and shall bear all the expenses related with removal of the defects. The deadline for the removal of the defect is one (1) month from the delivery of the Claim, unless otherwise agreed between the Seller and the Buyer, and if the nature of the defect so permits.

The Seller is obliged to remove the defects within the specified time limit, even if he believes that he is not liable for the defects. The costs of removing the defects in these disputed cases shall be borne by the Seller until the clarification or resolution of the conflict.

The Parties shall make a report concerning the removal of the claimed defect which will confirm such removal. The warranty period is extended by the period that elapsed between the assertion of the claim and the removal of the defect.

In case that the Seller does not remove the defect within the stipulated or mutually agreed period or if the Seller refuses to remove the defect, then the Buyer is entitled to remove the defect at his own costs and the Seller shall reimburse these costs within one (1) month after the Buyer's request to do so. In such a case the existing warranty remains intact.

The acts of the Parties constitute claims under this Annex if they are made in writing or by electronic communication by one of the representatives of the Party concerned under the Contract to the address of the other Party.

Usage and storage of the delivered Object of Purchase and/or its parts must be done by the Buyer in accordance with the Seller's instructions. In the event of non-compliance, the Buyer is no longer entitled to claim quality warranty.