



Purchase Agreement

Concluded under Section 2079 et seq. of Act No. 89/2012 Coll., Civil Code (hereinafter only as the “Civil Code”), as amended

SUPPLY OF THE GADAST DETECTOR MODULES

Between:

Name:	Silesian University in Opava
Registered office:	Na Rybníčku 626/1, 746 01 Opava
Company ID No.:	47813059
Data box ID:	qw6j9hq
Legal form:	601 – university
Represented by:	doc. Mgr. Tomáš Gongol, Ph.D., rector
Bank details:	Česká spořitelna, a.s.
Account number:	3118442/0800
Authorised representative in commercial matters and contractual amendments:	Ing. Ivana Růžicková, MPA, quaestor
Authorised representative in technical matters:	Ing. Vratislav Chudoba, Ph.D., phone: +420 553 68 4286, e-mail: vratislav.chudoba@physics.slu.cz

(Hereinafter only as the “**Buyer**”)

And

Name:	[To be completed]
Registered office:	[To be completed]
Company ID No.:	[To be completed]
VAT No.:	[To be completed]
Data box ID:	[To be completed]
Legal form:	[To be completed]
Registered in the Companies Register:	Companies Register kept at [to be completed], section [to be completed], file [to be completed]
Represented by:	[To be completed]
Bank details:	[To be completed]
Account number:	[To be completed]
Authorised representative in commercial matters and contractual amendments:	[To be completed]
Authorised representative in technical matters:	[To be completed] Name, phone and e-mail

(Hereinafter only as the “**Seller**”)

1. FACILITY OF THE AGREEMENT

- 1.1. The facility of this Agreement is the Seller's obligation to provide the Buyer with the supply specified in detail in Annex No. 1 to the Agreement (the "**Supply**") and to allow the Buyer to acquire the ownership title to the Supply and the obligation of the Buyer to accept the Supply and pay the agreed purchase price.
- 1.2. The subject matter of the Supply consists in the supply of 32 GADAST detector modules.
- 1.3. The performance shall include the transport to the site and waste disposal.
- 1.4. The delivered goods shall be fully functional, new, and unrepaid.
- 1.5. The Seller is not authorised to assign the Supply or any part thereof without the prior written consent of the Buyer to another person who would carry out their activities independently and on their own behalf. In the event that Seller does so, he shall be liable to the Buyer for damage caused, in particular, by the fact that he will not receive any funds from the provider, as well as any other related financial loss.
- 1.6. The facility of the Agreement is to be performed within the project entitled "Laboratory for Research with Antiprotons and Heavy Ions – Participation of the Czech Republic – OP – III. (CZ.02.01.01/00/23_015/0008181)", co-financed from the European Regional Development Fund under the Operational Programme "Research, Development and Education" ("**OP RDE**").

2. PLACE AND TIME OF PERFORMANCE

- 2.1. In accordance with the instruction of the Contracting Authority, the place of performance is as follows:
Bezručovo nám. 1150/13, 746 01 Opava
- 2.2. The Contracting Parties shall draw up a handover protocol on the supply and all the relevant parts of the performance. The protocol shall be drawn up in two copies, with the Buyer and the Seller each receiving one copy.
- 2.3. The Seller undertakes to deliver and install the facility of the Agreement at the specified place of performance within 9 months the effective date of the Agreement. Prior to delivering the goods to the place of performance, the Seller will allow the Buyer to inspect the subject of performance directly at the Seller's premises.

3. PURCHASE PRICE AND PAYMENT TERMS

- 3.1. The purchase price was determined by agreement of the Contracting Parties on the basis of the Seller's tender submitted in the procurement procedure entitled "Supply of the GADAST Detector Modules" (the "**Procurement procedure**") with the amount as follows.

Price excl. VAT: CZK [to be completed]

VAT [to be completed] %: CZK [to be completed]

Price incl. VAT

CZK [to be completed]

- 3.2. The price excluding VAT is negotiated as the maximum admissible for the entire duration of the Agreement. If the VAT rate is changed in the course of the Agreement, the VAT at the current rate applicable at the time of the taxable event will be added to the purchase price excluding VAT.
- 3.3. The price includes all the costs of the Seller required for complete and proper performance of the facility of the Agreement and also includes the anticipated development of the Czech crown exchange rates to foreign currencies until the end of its validity.
- 3.4. In the event of a delay in the supply of the facility of the Agreement due to reasons attributable to the Seller, this price shall remain unchanged until the actual supply of the facility of the Agreement.
- 3.5. The price may be increased only on the basis of the following facts and always in accordance with the relevant rules set out in Section 222 of Act No. 134/2016 Coll., on Public Procurement, as amended:
 - a) In the event of changes in the performance requested by the Buyer beyond the tender documentation provided in the procurement procedure or, where applicable, the deliveries excluded by the Buyer from the facility of the Agreement;
 - a) In the event of changes in the scope of the performance by unforeseeable circumstances which none of the Contracting Parties could have influenced;
 - b) In the event of amendments to tax regulations.
- 3.6. The price shall be paid on the basis of an invoice issued by the Seller on the day of signing the handover protocol. The invoice is to be supplemented with the copies of the handover protocol for all components of the Supply confirmed by an authorised representative of the Buyer. The handover protocol will also include measurement protocols demonstrating that the Supply complies with the technical specifications according to Annex No. 1 to this Agreement. These measurement protocols will be submitted to the Buyer in the documentary and electronic format.
- 3.7. The invoice shall be due 30 days from the date of demonstrable service upon the Buyer, including all annexes.
- 3.8. The day of payment shall be deemed as the day on which the payment was debited from the Buyer's account.
- 3.9. All accounting documents shall comply with the requirements of the tax document and the requirements specified in this Agreement (name of the projects, the reason for invoicing with reference to the Purchase Agreement), name and registration number of the project, i.e. "Laboratory for Research with Antiprotons and Heavy Ions – Participation of the Czech Republic – OP – III. (CZ.02.01.01/00/23_015/0008181)", or any other items, the request of which shall be communicated in writing to the Contractor upon signing this Agreement. In the event that the accounting documents do not comply with the specified requirements, the Contracting Authority is entitled to return them for correction; the maturity period commences to run again from the service of the duly corrected document.
- 3.10. Assignment or pledging of the Seller's claims against the Buyer arising from this Agreement is admissible only upon prior written consent of the Buyer, otherwise such assignment or pledging of the claim shall be ineffective.

4. WARRANTY, DEFECTS AND COMPLAINTS

- 4.1. The Seller shall be liable for defects of the Supply at the time of supply, defects established in the period between handing over the Supply to the Buyer and the beginning of the warranty period and defects established during the warranty period. The warranty period for the entire specified Supply is at least 24 months. The warranty period commences to run on the day of signing the handover protocol. If the Supply is taken over by the Buyer with at least one defect or unfinished item, the warranty period commences to run on the day of removal of the last defect or unfinished item. The Seller shall provide the warranty for the quality of the subject matter of the performance pursuant to Section 2113 et seq., as well as the provisions of Section 2161 et seq. Act No. 89/2012 Coll., the Civil Code, as amended.
- 4.2. In the course of the warranty period, the Seller shall perform free of charge all service operations subject to the validity of the warranty.
- 4.3. Any claim for the removal of the defect of the Supply established in the period between the handover of the Supply to the Buyer and the beginning of the warranty period or within the warranty period shall be submitted by the Buyer to the Seller without any undue delay once they have been established, yet no later than on the last day of the warranty period by means of a written notice served to the attention of the authorised representative of the Seller or electronically to the Seller's email address [to be completed] (the "**Complaint**"). Complaints sent by the Buyer on the last day of the warranty period shall also be deemed to have been submitted in a timely manner. In the written complaint, the Buyer shall provide a description of the defect or information on how the defect manifests itself and the manner in which the Buyer requests its removal.
- 4.4. The Buyer may request:
- a) Removal of the defect by repair, if the defect can be eliminated in this manner;
 - b) Removal of the defect by supply of a new performance, if the defect cannot be eliminated by repair;
 - c) A reasonable discount from the agreed price.
- The Buyer may select the method of removing the defect found at his discretion. In the event that the same defect occurs during the warranty period at least a third time or in the event that more than five defects are established with the Supply during the warranty period, the Buyer may request the removal of the defect by supply of new performance or withdraw from the Agreement, even if the last defect may be removed.
- 4.5. The Seller undertakes to remove the claimed defects of the Supply free of charge. In the event of an equipment failure, the Seller guarantees the arrival of a service technician communicating in Czech or English within 14 days upon the Buyer's request to remove the defect. The maximum deadline for removing of the defect is 60 calendar days from the date of service of the complaint, unless otherwise agreed between the Seller and the Buyer. In the event that the Seller fails to remove the defect within the agreed period or if the Seller refuses to remove the defects, the Buyer may remove the defect at his own expense and the Seller shall reimburse the Buyer for the costs of removing the defect within 21 calendar days

- 4.6. The seller shall not be liable for defects which arose from the use of documents and items provided by the Buyer and the Seller could not find out their unsuitability even when exercising the due care, yet warned the Buyer, who insisted on their use in writing.
- 4.7. Furthermore, the provided warranties do not apply to defects caused by improper handling, incorrect or inappropriate maintenance, or failure to comply with the manufacturer's instructions for the operation and maintenance of goods, which the Buyer received from the Seller upon acceptance (e.g. warranty certificates) or of which the Seller instructed the Buyer in writing. In addition, the warranty shall not cover any defects caused by gross negligence or wilful misconduct.
- 4.8. By handing over the Supply confirmed with a signature under this Agreement attached by the contact persons on the handover protocol, the risk of damage to the Supply shall pass onto the Buyer, while this fact does not relieve the Seller of liability for damage caused by supply defects. Until the Supply is handed over and accepted over, the Seller shall bear the risk of damage to the supply.
- 4.9. The buyer may not accept the supply, which demonstrates defects and unfinished work, even if they alone or in conjunction with others do not prevent the proper use of the Supply. Unless the Buyer exercises his right not to accept the Supply showing defects and unfinished items, the Buyer and the Seller shall state in the handover protocol a list of these defects and unfinished work, including the method and date of their removal. If the Buyer and the Seller do not agree on the date of removal in the protocol, defects and unfinished work must be removed within five working days from the date of supply and acceptance of the supply.
- 4.10. In the event that the Seller notifies the Buyer that the supply is ready for handover and acceptance and the handover and acceptance procedure demonstrates that the Supply is not properly completed, the Seller shall reimburse the Buyer all costs incurred in association with the failed handover and acceptance procedure. The Seller shall also bear the costs of organising the repeated procedure.
- 4.11. The goods shall be fully functional, without any additional cost to the Buyer.
- 4.12. The goods are defective if they are delivered in a different quantity, quality and design than specified in this Purchase Agreement.
- 4.13. Unless otherwise agreed in this Purchase Agreement, any claims for defects in the goods shall be governed by the provisions of Se 2113 et seq. and the provisions of Section 2161 et seq. of Act No. 89/2012 Coll.
- 4.14. In the event that the activities of the Seller cause damage to the Buyer or third parties due to omission, negligence or failure to comply with the terms the conditions arising from the legal regulations, technical or other standards or arising from this Agreement, the Seller shall without undue delay redress any such damage and if not possible, provide pecuniary compensation. The amount of damage shall be determined by an expert estimate or expert opinion. All costs associated with this shall be borne by the Seller.
- 4.15. The Seller shall also be liable for damage caused by the activities of those who perform the supply on the Seller's behalf.

5. SANCTIONS

- 5.1. In the event of the Buyer defaulting on the payment of the invoice, the Seller is entitled to charge default interest in the amount of 0.05% of the outstanding amount excluding VAT for each day of default.
- 5.2. In the event of the Seller's default with delivering the goods, the Seller shall pay the Buyer the contractual penalty in the amount of 0.1% of the supply price for each commenced day of default.
- 5.3. In the event of the Seller's default with removal of the reported claim or complaint within the agreed term, the Seller shall pay the Buyer a contractual penalty of CZK 500 for each defect complained of and for each commenced day of default.
- 5.4. The Seller shall pay the Buyer a contractual penalty in the amount of CZK 10,000 for the falsity of the Seller's representation pursuant to Article 8.1 of this Agreement. The Contractor shall pay the contractual penalty regardless of whether and in what amount the Client incurs damage, which may be claimed separately.
- 5.5. Payment of the above mentioned contractual penalties shall be without prejudice to any claim for damages.
- 5.6. No other contractual penalties are admissible.
- 5.7. Any sanction (contractual penalty or default interest) shall be invoiced by the entitled Party to the obliged Party in writing. The obligated Party shall pay the charged sanctions within 30 calendar days upon the date of receipt of the relevant invoice. The Buyer reserves the right to offset outstanding and unpaid contractual penalties and default interest against the unpaid invoice issued by the Seller.

6. OTHER PROVISIONS

- 6.1. The Seller undertakes to deliver the goods in accordance with his tender submitted within the procurement procedure entitled "Supply of the GADAST Detector Modules" and specified in the Annex No. 1 thereto. Subject to an agreement with the Buyer, other goods of the identical or better standard may also be delivered
- 6.2. The Seller undertakes to hand over to the Buyer, together with the goods concerned, the documents relating to the goods and necessary for its proper use.
- 6.3. For the purposes of securing the performance of the public tender, the Seller may provide the deliveries through his subcontractors. The Seller shall ensure that the subcontractors by means of whom he demonstrated the qualifications within the procurement procedure contribute to the performance of the public tender. In the event that the Seller intends to change the subcontractor by means of whom he demonstrated the qualifications within the procurement procedure, the new subcontractor shall comply with the same qualification criteria as the original subcontractor.
- 6.4. Assignment or pledging of the Seller's claims against the Buyer under this Agreement is admissible only upon prior written consent of the Buyer; otherwise any such assignment or pledging of the claim shall be ineffective.

7. WITHDRAWAL FROM THE AGREEMENT AND TERMINATION BY AGREEMENT

- 7.1. In accordance with Section 2002 et seq. of the Civil Code, the material breach under which the other Party may withdraw from the Agreement shall be deemed, in particular, as follows:
- a) The Seller's delay in the performance exceeding 30 days;
 - b) The bankruptcy of the Buyer or the Seller in accordance with Ac No. 182/2006 Coll., Insolvency Act.
- 7.2. The effects of the withdrawal from the Agreement shall occur on the date of service of the withdrawal notice onto the other Contracting Party.
- 7.3. This Agreement may also be terminated by a written agreement of the Contracting Parties.

8. FINAL PROVISIONS

- 8.1. The Seller hereby declares that neither him nor his employee or a member of the statutory body, the statutory body or any otherwise related person:
- a) Participated in the preparation or award of a public contract entitled "Supply of GADAST detector modules";
 - b) Had influence or could affect the outcome of the above Procurement procedure,
 - c) Is in an employment or similar relationship in relation to the Contracting Authority of the above public contract;
- Either individually or in conjunction with another seller or in an association.
- 8.1.1. If this representation by the Seller proves to be untrue, the Buyer may withdraw from this Agreement and the Seller shall compensate the Buyer for the damage caused to the Buyer as a result of the falsity of the representation under this point of the Agreement.
- 8.1.2. In particular, the damage shall be deemed as follows:
- a) All costs associated with the selection of the seller within this Procurement procedure;
 - b) All costs of the new procurement procedure;
 - c) The compensation for damage consisting in the non-provision (or partial non-provision) of the subsidy defined in Article 1 (6) of this Agreement.
- 8.2. All negotiations on the performance of the Agreement will be held in Czech or English.
- 8.3. This Agreement may be amended only by numbered Amendments signed by both Contracting Parties.
- 8.4. The Buyer may terminate the Agreement by written notice with a one-month notice period commencing on the first day of the calendar month following the calendar month in which the notice was served onto the Seller.
- 8.5. The Seller is not entitled to assign the rights and obligations arising from this Agreement to a third party without the Buyer's consent.

- 8.6. Any invalidity of any of the provisions of this Agreement shall not invalidate the remaining provisions. In the event that any provision of this Agreement becomes ineffective or invalid, the Contracting Parties undertake, without undue delay, to replace such provision with a new one.
- 8.7. In the event that either Contracting Party refuses to accept a document or renders it impossible to accept the document, the document shall be deemed to have been served.
- 8.8. The Agreement shall be governed by Czech law. Both Parties have agreed that the applicable provisions of the Civil Code apply to any relationships not regulated by and arising from this Agreement.
- 8.9. Upon signing this Agreement, the signatories hereby confirm the validity of their authorisation to act on behalf the relevant Contracting Party.
- 8.10. The Contracting Parties have agreed that any disputes will be preferably settled by agreement. If the Contracting Parties fail to reach an agreement, the dispute shall be settled by the competent court following the Buyer's registered office.
- 8.11. The Contracting Parties hereby declare that no information contained in this Agreement is subject to trade secrets within the meaning of Section 504 of the Civil Code. This Agreement will be published in accordance with the applicable legal regulations.
- 8.12. Both Contracting Parties hereby declare that they have read the Agreement, they agree with its content and that it has been drawn up as an expression of their true and free will, without any errors or mistakes.
- 8.13. This Agreement has been drawn up in the electronic original.
- 8.14. The Contracting Parties hereby acknowledge that this Agreement will be published in the register of contracts in accordance with the provisions of Act No. 340/2015 Coll., on the Special Terms for the Effectiveness of Certain Contracts, the Publishing of these Contracts and the Register of Contracts.
- 8.15. In accordance with Section 2 (e) of Act No. 320/2001 Coll., on Financial Control, the Seller is a person obliged to co-act during the exercise of the financial control. In this case, the Seller shall provide all the necessary cooperation.
- 8.16. At least until the end of 2036, the Seller undertakes to provide the requested information and documentation related to the implementation of the project to employees or authorised agents of the relevant public bodies (Ministry of Education, Youth and Sports, Ministry of Finance, European Commission, European Court of Auditors, Supreme Audit Office, Ministry of Finance, the competent authority of tax administration, and other authorised public administration bodies) and shall provide the aforementioned persons with the cooperation and conditions for carrying out the control and audit related to the implementation of the project.
- 8.17. In accordance with Act No. 499/2004 Coll., on Archiving and Records Management and on Amendment to some Acts, as amended, and in accordance with Act No. 563/1991 Coll., on Accounting, as amended, and in accordance with the general rules for the applicants and beneficiaries of the Operational Programme of Enterprise and Innovation for Competitiveness, the Seller shall properly maintain, for the period of 10 years upon the expiry of the obligation under the Agreement, all the originals of accounting documents, the Agreement including its amendments, and any other original documentation related to the performance of this Agreement within the Project.

8.18. The following annex forms an integral part of this Agreement:

Annex No. 1 – Technical Specifications

Annex No. 2 - English version of the Purchase Agreement (*note: only if the contract is concluded with a foreign supplier*)

On behalf of the Buyer:

On behalf of the Seller:

Ing. Ivana Růžicková, MPA,
quaestor