

PURCHASE CONTRACT

Entered into in conformance to § 2079 et seq. of Act 89/2012 Coll., Civil Code, as amended (hereinafter referred to as "CC")

The number of the contract at the contracting authority / purchaser shall be included in the report on the publication of the contract in the Registry of Contracts.

Number of the contract at the supplier:

1. Contracting parties

1.1

Contracting authority: **University of West Bohemia**
Registered seat: Univerzitní 8, 301 00 Pilsen
Acting through: Mgr. Marta Kollerová, Bursar
Company reg. no.: 497 77 513
Tax identity number (DIČ): CZ49777513
Bank: Komerční banka , a.s., Plzeň-město
Account number: 4811530257/0100
(hereinafter referred to as "**Buyer**" or "**Contracting Authority**") as one of the Parties
and

1.2

Supplier: **FOCUS GmbH**
registered seat: HRB 18884 Wiesbaden
Acting through: Mr. Dieter Pohlenz
Company reg. no.: HRB 18884
Tax identity number (DIČ): DE 113844887
Bank: vrbank Untertaunus
Account number: DE17 5109 1700 0011 5244 00
registered in the Registry of Companies kept at Amtsgericht Wiesbaden, Section Handelsregister B, File [FILLED BY SUPPLIER]
(hereinafter referred to as "**Seller**" or "**Supplier**") as the other of the Parties

jointly also referred to as "**Contracting Parties**"

have entered into this Purchase Contract (hereinafter referred to as the "Contract") on the day, month, and year given below.

1.3 The funds for the acquisition of the subject of performance are provided by the Ministry of Education, Youth and Sports, by the means of a subsidy from the Operation Program Research, Development, and Education.

1.4 Project Identification Data

Project name:	Computational and experimental design of advanced materials with new functionalities (CEDAMNF)
Project registration number:	CZ.02.1.01/0.0/0.0/15_003/0000358

1.5 This Contract is entered into on the grounds of the result of a tender for a small-scale public contract for the supply under the name of "**VUV light source for SARPES**" realised outside the scope of Act 134/2016 Coll., Public Procurement Act, as amended (hereinafter referred to as "PPA") and under



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procedure conforming to the chapter [Requirements for applicants and recipients – general principles, version 4, in force by 1 September 2016](#).

- 1.6 The Seller hereby confirms it has been fully familiarised with the scope and nature of the supply in regard of the public procurement mentioned above, that it has received all technical, quality and other conditions, and that it has at its disposal such capacity and expert knowledge required for the performance of the supply. The Seller hereby acknowledges that the purchase of the subject of performance is funded by the Buyer by the means of a subsidy under the project mentioned in Article 1.4 of this Contract.

2. Subject of Performance

- 2.1 The purpose of the Contract is the supply of Subject of Performance as per Article 2.2 for the needs of the project as per Article 1.4 of this Contract.
- 2.2 The Subject of Performance consists of the performance as follows: **VUV light source for SARPES** with accessories, specified in detail in Annex 1 to this Contract (hereinafter referred to as "Subject of Performance").

Integral components of the Subject of Performance are:

- a) Transportation to the place of performance, including the unloading,
- b) Commissioning of the Subject of Performance into full operation, including the verification of faultless operation at the place of performance,
- c) Supply of technical documentation / description of VUV light source installation and user manual for VUV light source in Czech or English language;

3. Purchase Price and Payment Conditions

- 3.1 The purchase price for the Subject of Performance as per Article 2.2 of this Contract is set by agreement of the Contracting Parties and that it corresponds to the Seller's price offer submitted in the tender. The purchase price is hereby agreed as the maximum permitted price, inclusive of all fees and other costs related to the supply of the Subject of Performance and to the meeting of all Seller's obligation as per this Contract.
- 3.2 The Buyer hereby undertakes to pay, to the Seller, for the Subject of Performance the agreed **purchase price in the amount of CZK 540.600.00 less VAT** (in words: **Five hundred ad forty thousand sixhundred** Czech Crowns). A corresponding amount of VAT as per the legislation in force shall be added to the purchase price.
- 3.3 **The Seller is registered for VAT.**
- 3.4 The tax document (the invoice) shall contain all elements under this Contracts as well as elements of a proper accounting and tax document, as stipulated in applicable legal regulations, including without limitation Act 563/1991 Coll., Accounting Act, as amended and Act 235/2004 Coll., Value Added Tax Act, as amended. Should the invoice lack the required elements, the Buyer is entitled to return it within the maturity period to the Seller for completion without being in arrears. The maturity period shall begin running anew once the duly completed or corrected invoice is delivered to the Buyer. **The tax document (invoice) shall contain the wording: "Zakoupeno z projektu OP VVV „Výpočetní a experimentální design pokročilých materiálů s novými funkcionalitami (VEDPMNF), reg. č. CZ.02.1.01/0.0/0.0/15_003/0000358." (English translation: Purchased under the OP RDE project "Computational and experimental design of advanced materials with new functionalities (CEDAMNF))".**
- 3.5 The purchase price shall be paid by the Buyer to the Seller's bank account. The purchase price shall be paid by the Buyer as a one-off payment in the Czech currency against the corresponding tax document - invoice. The Seller is entitled to issuing the invoice after the handover of the Subject of Performance to the Buyer. The maturity period of the invoice is hereby agreed to be thirty (30) calendar days from the demonstrable delivery of the invoice to the Buyer. A copy of the handover report shall be included as an annex to the invoice.
- 3.6 The Buyer shall not offer advance payments for the performance of the subject of this Contract.



4. Time and Place of Performance

- 4.1 The Seller has the obligation to deliver the Subject of Performance in full at the place of performance and to meet all obligations stipulated in Article 2.2 **within 70 days of this Contract coming into force.**
- 4.2 The place of performance is **University of West Bohemia, New Technologies Centre – Research Centre (NTC), Teslova 9a, Building G, Pilsen, Czech Republic.**

5. Handover Report, Title, Transfer of Liability

- 5.1 A handover report shall be prepared and signed by both Contracting Parties on the handover and acceptance of the Subject of Performance. Should the Subject of Performance contain minor defect or unfinished work which do not prevent a full use of the Subject of Performance and should the Buyer not invoke its right not to accept the Subject of Performance as per Article 5.3 of this Contract, the handover and acceptance report of the Subject of Performance shall include a list of any identified defects and unfinished work together with the manner and term of rectification (the term being established by the Buyer) within which the Seller shall rectify any such identified defects and unfinished work.
- 5.2 The title to the Subject of Performance shall be transferred to the Buyer from the Seller at the moment of signing by both Contracting Parties the handover report as per Article 5.1. The liability for damage to the Subject of Performance shall be borne by the Seller until the transfer of title to the Buyer. Only persons identified in Articles 6.5 and 6.6 of this Contract are authorised to sign the handover report.
- 5.3 The Buyer is entitled to refuse the acceptance of the Subject of Performance on the condition it does not display the characteristics required by the Buyer in this Contract or in Annex 1 to this Contract. The Buyer shall not bear the obligation to accept the subject of this Contract if it displays any defect or unfinished work which would not individually or in combination with other defects or unfinished work prevent proper use of the Subject of Performance. In such case, the Buyer shall issue to the Seller a report of non-acceptance of the Subject of Performance, listing the reasons for such non-acceptance.

6. Rights and Obligations of the Contracting Parties

- 6.1 The Seller hereby undertakes to supply the Buyer with the Subject of Performance, including any related performances, as per Article 2.2 of this Contract and to transfer the title to the Subject of Performance as per this Contract. The Buyer hereby undertakes to accept the Subject of Performance under this Contract and to pay the agreed purchase price.
- 6.2 The Seller is not allowed to the transfer of any rights and/or obligations ensuing from this Contract to any third parties without a prior written approval by the Buyer. The Buyer has the right to set off any of its receivables, after or before their due date, ensuing from the right for payment of contractual fines or entitlement for damage claims against any receivable by the Seller, after or before their due date. The Seller shall not have the right to set off, place a lien on, or transfer to a third party any of its receivables against the Buyer without a prior written approval by the Buyer.
- 6.3 The Seller bears liability for damage towards the Buyer incurred by a breach of the Seller's obligations under this Contract or of obligations stipulated by generally binding legislative regulation.
- 6.4 The Seller hereby understands that, as an obliged person under § 2 (e) of Act 320/2001 Coll., on finance control in public administration and amendment of certain acts (Finance Control Act), as amended, it shall offer cooperation in the performance of financial control.
- 6.5 The Contracting Parties have agreed and the Seller has decided that the person authorised to represent the Seller in any matters related to this Contract and its performance shall be:



Name: Dieter Pohlenz

Phone: +49 6126 401431

E-mail: d.pohlenz@focus-gmbh.com

- 6.6 The Contracting Parties have agreed and the Buyer has decided that the person authorised to represent the Buyer in any matters related to this Contract and its performance shall be:

Name: **doc. Dr. Ján Minár**

Phone: +420 735 713 958

E-mail: jminar@ntc.zcu.cz

Name: **Ing. David Lávička, Ph.D.**

Phone: +420 605 726 363

E-mail: dlavicka@ntc.zcu.cz

- 6.7 Any change of authorised persons as per Article 6.5 and 6.6 as per this Contract must be communicated to the other Contracting Party in writing; any such change shall come into force by the delivery of such notification.
- 6.8 Any actions performed by the contacting persons as per above shall not constitute amendments to this Contract and shall not be considered Amendments as per Article 10.4 herein.
- 6.9 The Buyer hereby warrants and the Seller hereby understands that the Buyer is not an entrepreneur under this contractual relationship.

7. Warranty for Quality

- 7.1 The Seller hereby warrants that the Subject of Performance is new, not used before, complete, free of any factual or legal defects, meets the specifications stipulated by this Contract and applicable legal regulations in force.
- 7.2 The Seller hereby offers a warranty for quality to the Subject of Performance in a duration of **twenty four (24) months** (unless the invoice or another document issued by the Seller specifies a longer period). The warranty period shall commence immediately once the Subject of Performance has been handed over to the Buyer, against a duly signed handover report as per Article 5.1 of this Contract. By the means of the warranty for quality, the Seller undertakes that the Subject of Performance shall be, for the duration of the warranty period, capable to perform its intended use, that its quality shall conform to this Contract and that it shall maintain the specifications either as given by this Contract or considered typical.
- 7.3 For the duration of the warranty period, the Seller shall, free of charge, rectify any defect/s by the supply of a new Subject of Performance, by the supply of the missing part/s, or to mitigate the defect/s by repair, free of charge, within **thirty (30) calendar days** after any such defect has been reported by the Buyer. Should the Seller be in default with the mitigation of a defect, the Buyer shall be entitled to removing that defect at the cost of the Seller or to withdrawing from this Contract to a reasonable extent.

8. Contractual Fines

- 8.1 In the case of the Seller's delay with the supply of the Subject of Performance as per Article 2.2 of this Contract against the date specified in Article 4.1 of this Contract, the Buyer shall become entitled to the payment of a contractual fine at the amount of 0.05 % of the agreed overall purchase price less VAT for each full and partial day of delay.
- 8.2 In the case of the Seller's failure to perform within the date established as per the second clause of Article 5.1 of this Contract,



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the Buyer shall become entitled to the payment of a contractual fine at the amount of 0.05 % of the agreed overall purchase price less VAT for each full and partial day of delay.

- 8.3 In the case of the Seller's delay with the performance as per Article 7.3 of this Contract , the Buyer shall become entitled to the payment of a contractual fine at the amount of 0.05 % of the agreed overall purchase price less VAT for each full and partial day of delay.
- 8.4 In the case of the Buyer's default on the payment of the invoice, the Seller shall become entitled to applying a contractual interest on default at the amount of 0.05 % of the amount due for each full and partial day of default.
- 8.5 All contractual fines established under this Contract shall be payable within thirty (30) days from the date of delivery of a written payment notice by the entitled Party to the liable Party.
- 8.6 The application of a contractual fine shall not affect the entitlement for liability damage ensuing from breach of obligation. The Seller also has the obligation to compensate the Buyer for any damage incurred by the breach of the Seller's obligation under this Contract.

9. Withdrawal from Contract

- 9.1. This Contract may only be withdrawn from under reasons stipulated by this Contract or by the Civil Code.
- 9.2. A Party affected by a breach of obligation may unilaterally withdraw from this Contract for reasons of substantial breach of this Contract; as substantial breach of Contract shall qualify especially the following:
 - a) On the part of the Buyer: failure to pay the purchase price as per this Contract within sixty (60) days after the due date of the corresponding invoice,
 - b) On the part of the Seller, if even a part of the Subject of Performance should not be duly delivered by the agreed date,
 - c) On the part of the Seller, if the Subject of Performance should fail to satisfy the specifications declared by the Seller as per this Contract,
 - d) On the part of the Seller, if the Seller should fail to remove defects within the period given by this Contract or in the event of a recurring defect,
 - e) On the part of the Seller, if its bid in the tender precluding the conclusion of this Contract had included information or documents which are untrue and did affect, or may have affected, the results of the tender.
- 9.3. A withdrawal from this Contract shall be made in writing and delivered to the other Contracting Party. The Contracting Parties hereby understand that withdrawal is a unilateral legal act which comes into force by the delivery of the entitled party's intent to withdraw to the other party, unless specified otherwise by this Contract. A withdrawal by the Buyer shall not affect the Seller's entitlement for compensation for damage incurred by breach of this Contract, the entitlement for the payment of contractual fines and other rights and obligations stipulated by the Contract and/or assumed to continue even after termination of this Contract as per § 2005 Civil Code, unless expressly indicated otherwise by this Contract.

10. Joint and Final Provisions

- 10.1. The Seller understands that the Buyer is an organisation required to disclose contracts as per Act 340/2015 Coll., on special conditions for the effectiveness of certain contracts, the disclosure of contracts and the register of contracts (Contract Register Act), as amended (hereinafter referred to as "the Contract Register Act").
- 10.2. The Contract is concluded by the day of signature by the last of the Parties and comes into force by the day of its publication in the contract register, as per the Contract Register Act.
- 10.3. The Seller hereby understands that this Contract shall be published by the Buyer in its entirety, with the exception of personal data and data which the Seller indicated not for disclosure in its tender bid and which is exempt from



- the obligation to disclose as per the Contract Register Act. All duly and reasonably marked parts of the Contract (or its annexes) shall not be published or they shall be anonymised prior to publication.
- 10.4. Any and all changes and/or amendments to this Contracts shall require a written agreement by the Contracting Parties. Any such agreements shall be made as amendments to this Contracts which must be dated, numbered, and signed by both Contracting Parties. Unless stipulated otherwise in the Contract, any notification, approval, or other communication shall be made solely in writing; any agreements made between the Contracting Parties on the telephone or in person shall bear no legal force. A change of authorised persons as per Article 6.5 and 6.6 as per this Contract shall not be deemed as change of the Contract; therefore, no obligation to present an amendment shall be present.
- 10.5. Should any of the Contracting Parties incur situations preventing that Party from due performance of this Contract, that Party shall inform, without undue delay, the other Party, and organise a meeting of representatives of the Buyer and of the Seller.
- 10.6. This Contract as well as any ensuing relations are governed by the law of the Czech Republic; The Terms and Conditions of any of the Parties shall apply solely in situations indicated by this Contract or its amendments. In the event of discrepancy between this Contract and the Terms and Conditions, the wording of this Contracts and potential amendments shall prevail at all times.
- 10.7. In all relations not expressly stipulated in this Contract, the Contracting Parties shall observe the stipulations of generally applicable legal regulations, especially the Civil Code and relevant regulations.
- 10.8. The Contracting Parties declare that they have duly read the text of the Contract, agree with its content which expresses their own free will. The Contracting Parties hereby declare that this Contract is not made under distress or expressly disadvantageous conditions in evidence of which they affix their signatures below.
- 10.9. This Contract is made out in four (4) counterparts bearing the validity of the original document; two (2) shall be obtained by the Buyer and two(2) shall be obtained by the Seller.
- 10.10. The annex given below forms an integral part of this Contract:
- Annex 1 - Technical Specification of the Subject of Performance

The Seller:

In Huenstetten, date: 12.10.20

The Buyer:

In Pilsen, date: 02-10-2020



FOCUS GmbH
Mr. Dieter Pohlenz
Head of Sales



University of West Bohemia
Mgr. Marta Kollerová
Bursar



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Technical Specification of the Subject of Performance

The Subject of Performance “**VUV light source for SARPES**”, which is upgrading facilities of SARPES laboratory with measurement of photo emission for other light sources. The light source must allow for use of He, Ar, Ne, Kr, Xe and H₂. Device consists of the parts mentioned below, meets the (minimum) technical parameters and allows to perform the following functions:

- a) Light source must be provided with a viewport, allowing adjustment of the light source by laser. Suitable laser does not have to be part of the supply.
- b) Supplied VUV light source must be provided with convenient electrical digital source including pressure measurement within the full scope of operating mode. Light source must have automated plasma ignition.
- c) Part of the supply is simple integrated plasma pressure control including user-easy settings of necessary parameters. The light source delivers up to 1 kV anode voltage and up to 300 mA discharge current for most frequently used gases as are He, Ar, Ne.
- d) VUV light source must be able to deliver more than 1×10^{16} photons/s.sr.
- e) VUV light source is water cooled.
- f) Part of the supply is a structural element allowing linear alignment in the z axis up to 100mm, connectable to DN40CF on SARPES device (Photoelectron emission spectrometer with spin and angle resolution). Structural distance between mounting flange DN40CF and measured sample on the SARPES device is 121mm. Working distance (distance between output capillary end and measured sample) must be optimally adjustable to 65mm value.
- g) VUV light source has a light capillary with inner diameter 0.8 mm.
- h) VUV light source must have integrated port aligner allowing for easier installation and adjustment range +/- 3°.
- i) VUV light source must be equipped with an option for connection (port) of 3-stage differential pump.
- j) UV light source must be provided with suitable leak valve and gas inlet.

