

TENDER DOCUMENTATION

Pursuant to Section 44 of Act No. 137/2006 Coll., on Public Contracts

For processing a bid to an above-the-threshold public contract for supplies
submitted in
an *open procedure* called:

OPTICAL AND X-RAY STREAK CAMERAS FOR EXPERIMENTAL AREAS

Project Name:

ELI: "EXTREME LIGHT INFRASTRUCTURE"

Reg. No. CZ.1.05/1.1.00/02.0061, Operational Program Research and
Development for Innovation, Priority Axis I European Centers of Excellence, Area
of Intervention 1.1. European Centers of Excellence

Contracting Authority:

 **Fyzikální ústav**
Akademie věd ČR, v. v. i.

TENDER DOCUMENTATION

For processing a bid to an above-the-threshold public contract for supplies under Act No. 137/2006 Coll., on Public Contracts, as amended (hereinafter referred to as the "Act")

Public Contract name: **OPTICAL AND X-RAY STREAK CAMERAS FOR EXPERIMENTAL AREAS**

Contracting Authority: Institute of Physics of the Czech Academy of Sciences, public research institution

Registered office: Na Slovance 2, 182 21 Prague 8
Company identification No. 68378271
Tax identification No. CZ68378271

Person authorised to act on behalf of the Contracting Authority: prof. Jan Řídký, DrSc., Director

Pursuant to Section 151 of the Act, the Contracting Authority shall be represented in exercising its rights and obligations in with the tender process by **OTIDEA a.s.**, company identification No. 27142442, registered office at Václavské náměstí 11, 110 00 Prague 1.

Contact person: Mgr. Zuzana Šenoldová
Phone: +420 602 679 551
Email: zuzana.senoldova@otidea.cz

1 SPECIFICATION OF SUBJECT MATTER OF PUBLIC CONTRACT

1.1 Description of Subject Matter of Public Contract

The Contracting Authority, whose principal activity is to conduct research and development in the physical sciences, is the recipient of grants for projects "ELI: Extreme Light Infrastructure" under the Operational Program Research and Development for Innovation (hereinafter the "Project"). High speed (resolution better than a pico second) optical and X-ray streak cameras are desired to monitor plasma dynamics in various kinds of experiments – for e.g., Warm dense matter, spectral identification of hot electrons and spectroscopic characterization of plasma density and temperature.

The Subject Matter of the public tender is the supply of such optical and X-ray streak cameras with high time and space resolution.

Acquisition of these streak cameras are required for performing the commissioning experiments and also by external users when the facility is opened for external users.

The Subject Matter of the Public Contract for supplies includes a selection of a supplier that shall – based on a contract supply performance as specified in **Annex 5 (Technical specification)** and **Annex 6 (Binding text of the Contract for work)** hereto.

The bidder shall be obliged to prepare the bid in accordance with all requirements of the Contracting Authority and in accordance with this Tender Documentation and all its Annexes.

The public contract is divided into individual parts pursuant to Sec. 98 (1) of the Act:

- Part no. 1 – Visible streak camera system (VSCS)**
Part no. 2 – Infra-red streak camera system (IRSCS)
Part no. 3 – X-ray streak camera system (XSCS)

Each contractor may submit a bid to one of the parts or to several or all of the parts.

1.2 Public Contract implementation term

Expected initiation:

November 2015

Expected supply term:

May 2017

1.3 Public Contract implementation place

The registered office of the Contracting Authority and other places necessary for Contract implementation are deemed the Public Contract implementation place.

1.4 Expected value of the Public Contract

Expected value of a whole tender:

570.000,- EUR excluding VAT

Part no. 1 – Visible streak camera system (VSCS)

Expected value:

160.000 EUR excluding VAT

Part no. 2 – Infra-red streak camera system (IRSCS)

Expected value:

160.000 EUR excluding VAT

Part no. 3 – X-ray streak camera system (XSCS)

Expected value:

250.000 EUR excluding VAT

The expected value of the contract is also the maximum value of the public contract, which cannot be exceeded by the bidders. Should the bidder's bid price exceed the referred-to maximum value, then the bid shall be excluded for the reason of failing to meet the tender conditions.

The Subject Matter shall be funded from the Research and Development for Innovations Operational Programme (hereinafter referred to as "RDIOP") of the Priority Axis 1 (PO1).

2 BID PROCESSING CONDITIONS AND REQUIREMENTS FOR ALL PARTS OF PUBLIC CONTRACT

- 2.1** Bids shall be submitted **separately to each part of the public contract (even though multiple bids are submitted by the same bidder)** in writing and in a properly sealed envelope marked - on its closing - with the company identification / name and a stamp or signature of the statutory body of the applicant or a person authorised to represent the applicant. The envelope must be labelled "**Do Not Open**" and include a name of the Public Contract "**Part no. xxx - OPTICAL AND X-RAY STREAK CAMERAS FOR EXPERIMENTAL AREAS**", where xxx stands for a name and number of the appropriate part of the public contract. The envelope must further include an address to which notices pursuant to Section 71 paragraph 5 of the Act shall be sent.

- 2.2 Bids shall be submitted not later than on **7.8.2015** at **14:00** at the following address: **OTIDEA a.s., Building METEOR C, Thámová 681/32, 180 00 Prague 8 - Karlín**. Bids may be delivered in any appropriate manner (by post, courier service, in person, etc.) at the address above on working days from 8:30 AM to 3:30 PM; by 12:00 only on the final day of the term. Any other delivery shall not be deemed proper submission of a bid.
- 2.3 The bid must include identification details of the applicant, in particular the following: commercial name of the company, registered office, ID No., person authorised to act on behalf of the applicant or a person authorised to represent the applicant, contact address for correspondence between the applicant and the Contracting Authority.
- 2.4 The bid must contain a draft contract signed by the person authorised to act on behalf of or in the capacity of the applicant. The bid must be written in Czech or English.
- 2.5 All bid sheets shall be numbered in an ascending continuous series and put firmly together or stitched so that they are adequately secured against falling out of the bid. The bids shall be properly readable with no cancellation and overwriting.
- 2.6 The applicant shall be bound to the entire contents of the bid until 31. 10. 2015.
- 2.7 The applicant shall submit the bid in an original copy. In addition to this original copy, the Contracting Authority also recommends submitting a copy of the applicant's bid.
- 2.8 The Contracting Authority recommends submitting the bid in an electronic form on a CD, either in an MS Office or a compatible or .pdf format as well.
- 2.9 If the bid is submitted jointly by more applicants (joint bid), the applicant shall specify a person in the bid who shall be empowered to represent these applicants for communicating with the Contracting Authority during the tender procedure.
- 2.10 The Contracting Authority recommends to submit the bid in the following structure:
- a) **Bid cover note**
The bid cover note shall include the following details: Public Contract name, basic identification details of the Contracting Authority and applicant (including persons empowered to be involved in further proceedings), bid price structured according to the Tender Documentation which will subject to evaluation, date and signature of the person authorised to act on behalf of the applicant. The applicant may use **Annex No. 1 hereto**.
 - b) **Table of contents**
It must include all sections of the bid mentioned herein, structured as required, to which numbers of appropriate sheets or pages shall be assigned.
 - c) **General information on the applicant**
Name of the applicant, legal form, registered office, Company identification No., Tax identification No., bank, names of company statutory body members incl. contact details (phone, fax, e-mail, address), person authorised to be involved in further proceedings including written authorisation to represent and company profile.

- d) Documents demonstrating **qualification** meeting structured as mentioned in Article 3 hereof.
- e) **Obligatory requirements** pursuant to Section 68 paragraph 3 of the Act:
 - a. List of those statutory bodies or members of the statutory body, who have been in employment, functional or similar relationship with the Contracting Authority within the period of the last 3 years directly prior to the date of bid submission in the form of a statutory declaration.
 - b. Current list of shareholders with equity share exceeding 10 %, if being a joint-stock company.
 - c. Declaration of the bidder (affidavit) to the effect that he has not and will not conclude a prohibited agreement within the meaning of Act No. 143/2001 Coll., on the protection of economic competition, as amended, in connection with this Public Contract.

Bidders demonstrate meeting of the obligatory requirements by submitting an affidavit; bidders may use wording provided in **Annex 3** hereto.

- f) **Subcontractor structure** pursuant to Article 8.1 hereof, if applicable.
- g) **Bid price** structured as required under Article 5 of the Tender Documentation.
- h) **Binding draft contract** signed by a person authorised to act on behalf of or in the capacity of the applicant where the applicant shall be obliged to use the draft contract wording mentioned in **Annex No. 6** hereto and to complete only those parts, which are explicitly specified by the Contracting Authority to be filled by the applicant with a yellow colour.
- i) Detailed **description and specification** of the offered performance, which shall be a document that includes detailed technical specification and/or drawings of the proposed subject matter (device) so that the Contracting Authority is able to check full compliance of the proposed device with the requirements stipulated herein.

Specification shall be elaborated in such detail so that it proves that the solution offered by the bidder is credible and that the bidder (manufacturer) is able to manufacture and deliver device with specifications required herein.

This technical specification shall be attached to the purchase contract as its Annex 1. As part of this description and specification the applicant shall answer all the questions that are listed in **Annex No. 7** hereto.

- 2.11 The applicant shall be authorised to require in writing additional information on these tender conditions in form of a written application addressed to the contact person. The Contracting Authority shall provide answers to properly asked questions in writing pursuant to Section 49 paragraph 2 and 3 of the Act.

3 QUALIFICATION OF SUPPLIERS FOR ALL PARTS OF PUBLIC CONTRACT

- 3.1 Qualification pursuant to Section 50 and subsequent provisions of the Act shall be met by a supplier that demonstrates meeting of the following:

- a) basic qualification criteria pursuant to Section 53 of the Act,

(Bidders may partly use a pattern of affidavit attached hereto as **Annex No. 2** and partly will be obliged to obtain and submit documents specified below in art. 3.3 hereof)

- b) professional qualification criteria pursuant to Section 54 of the Act,
- c) technical qualification criteria pursuant to Section 56 of the Act,
- d) economic and financial ability to fulfil the contract.

(Bidders may use a pattern of affidavit attached hereto as **Annex No. 4**)

3.2 Qualification meeting demonstration time

The applicant shall be obliged to demonstrate that he meets the qualification in the bid submission term specified in paragraph 2.2 of the Tender Documentation.

3.3 Basic qualification criteria for all parts of the public contract

3.3.1 Basic qualification criteria shall be met by a supplier:

- a) who has not been convicted of a crime committed for the benefit of an organized criminal group, the crime of participating in an organized criminal group, money laundering, complicity, graft, bribery, indirect bribery, fraud, credit fraud, including the preparation of, attempt at, or participation in such a crime, or whose conviction of such a crime has been deleted from the criminal record.

If the bidder is a legal entity, this requirement must be met by the legal entity as well as by its statutory body or by every member of its statutory body and, if the bidder's statutory body or a member of the bidder's statutory body is a legal entity, this requirement must be met by the legal entity as well as by its statutory body or by every member of its statutory body.

If the bid is submitted by a foreign legal entity through its organizational unit, this requirement must be met, in addition to the above persons and entities, also by the head of the organizational unit.

Foreign bidder must meet this basic qualification requirement both in relation to the Czech Republic and in relation to the country of the bidder's registered office, place of business or residence;

1. According to Section 53, paragraph 3 (a) of the Act, the required evidence of this basic qualification is an extract from the Penal Register of the bidder. If the bidder is a legal entity, the evidence must include an extract from the Penal Register of the legal entity as well as of its statutory bodies or of every member of its statutory body. If the bid is submitted by a foreign legal entity through its organizational unit, the evidence must include an extract from the Penal Register of the head of the organizational unit as well as of the foreign legal entity and its statutory body or of every member of the statutory body of such foreign legal entity;
 2. The documents constituting the evidence of this basic qualification must be attached to the bid as uncertified copies. The winner of the tender may be required to submit originals or certified copies before entering into the contract;
- b) who has not been convicted of a crime the elements of which are related to the bidder's line of business as defined in special legislation, or whose conviction of such a crime has been deleted from the criminal record.

If the bidder is a legal entity, this requirement must be met by the legal entity as well as by its statutory body or by every member of its statutory body and, if the bidder's statutory body or a member of the bidder's statutory body is a legal entity, this requirement must be met by the legal entity as well as by its statutory body or by every member of its statutory body.

If the bid is submitted by a foreign legal entity through its organizational unit, this requirement must be met, in addition to the above persons and entities, also by the head of the organizational unit.

Foreign bidder must meet this basic qualification requirement both in relation to the Czech Republic and in relation to the country of the bidder's registered office, place of business or residence;

1. According to Section 53, paragraph 3 (a) of the Act, the required evidence of this basic qualification is an extract from the Penal Register of the bidder. If the bidder is a legal entity, the evidence must include an extract from the Penal Register of the legal entity as well as of its statutory bodies or of every member of its statutory body. If the bid is submitted by a foreign legal entity through its organizational unit, the evidence must include an extract from the Penal Register of the head of the organizational unit as well as of the foreign legal entity and its statutory body or of every member of the statutory body of such foreign legal entity;
 2. The documents constituting the evidence of this basic qualification may be attached to the bid as uncertified copies. The winner of the tender may be required to submit originals or certified copies before entering into the contract;
- c) who has not engaged in conduct constituting unfair competition through bribery in terms of special legislation in the past three years;
1. According to Section 53, paragraph 3 (d) of the Act, the bidder must submit an affidavit explicitly confirming that the bidder meets this basic qualification requirement. The affidavit must be submitted in original and bidders may use an affidavit attached hereto as **Annex No. 2**;
- d) whose assets are not or were not, in the past three years, the subject of insolvency proceedings in which a bankruptcy order was issued or in which an insolvency petition was rejected because of insufficiency of assets to cover the costs of insolvency proceedings or in which the bankruptcy was cancelled because of deficiency of assets or in which receivership was instituted according to special legislation;
1. According to Section 53, paragraph 3 (d) of the Act, the bidder must submit an affidavit explicitly confirming that the bidder meets this basic qualification requirement. The affidavit must be submitted in original and bidders may use an affidavit attached hereto as **Annex No. 2**;
- e) who is not in liquidation;
1. According to Section 53, paragraph 3 (d) of the Act, the bidder must submit an affidavit explicitly confirming that the bidder meets this basic qualification requirement. The affidavit must be submitted in original and bidders may use an affidavit attached hereto as **Annex No. 2**;
- f) who has no tax debts registered in the Czech Republic and in the country of the bidder's registered office, place of business or residence;

1. According to Section 53, paragraph 3 (b) of the Act, the bidder must submit as evidence of this basic qualification a certificate from the competent tax authority and an affidavit stating that the bidder is not in arrears with excise tax payments. The certificate and affidavit must explicitly confirm that the bidder meets this basic qualification requirement;
 2. The affidavit must be submitted in original and bidders may use an affidavit attached hereto as **Annex No. 2**. Other documents constituting the evidence of this basic qualification may be attached to the bid as uncertified copies. The winner of the tender may be required to submit originals or certified copies before entering into the contract;
- g) who is not in arrears with public health insurance contributions and with any penalties for non-payment of such contributions, both in the Czech Republic and in the country of the bidder's registered office, place of business or residence;
1. According to Section 53, paragraph 3 (d) of the Public Procurement Act, the bidder must submit an affidavit explicitly confirming that the bidder meets this basic qualification requirement. The affidavit must be submitted in original and bidders may use an affidavit attached hereto as **Annex No. 2**;
- h) who is not in arrears with social security contributions and with any penalties for non-payment of such contributions or with contributions payable under the national employment policy both in the Czech Republic and in the country of the bidder's registered office, place of business or residence;
1. According to Section 53, paragraph 3 (c) of the Act, the bidder must submit as evidence of this basic qualification a certificate from the competent authority or institution. The certificate must explicitly confirm that the bidder meets this basic qualification requirement;
 2. The documents constituting the evidence of this basic qualification may be attached to the bid as uncertified copies. The winner of the tender may be required to submit originals or certified copies before entering into the contract;
- i) *(Intentionally omitted)*
- j) who is not listed in the register of persons and entities banned from public contracts or in the register of persons and entities banned from contracts;
1. According to Section 53, paragraph 3 (d) of the Public Procurement Act, the bidder must submit an affidavit explicitly confirming that the bidder meets this basic qualification requirement. The affidavit must be submitted in original and bidders may use an affidavit attached hereto as **Annex No. 2**;
- k) who has not been fined for facilitating illegal work in terms of special legislation in the past three years;
1. According to Section 53, paragraph 3 (d) of the Act, the bidder must submit an affidavit explicitly confirming that the bidder meets this basic qualification requirement. The affidavit must be submitted in original and bidders may use an affidavit attached hereto as **Annex No. 2**.

3.4 Professional qualification criteria for all parts of the public contract

Professional qualification criteria shall be met by a supplier:

- a) that shall submit an extract from the Commercial Register if it is enrolled thereon or an extract from any other similar register if enrolled thereon, not older than 90 days as of the qualification demonstration, i.e. bid submission date,
- b) business authorisation document under special legal regulations to an extent corresponding to the Subject Matter of the Public Contract, in particular, a document demonstrating the appropriate trade licence or an extract from the Trade Register.

3.5 Technical qualification criteria for all parts of the public contract

Technical qualification criteria shall be met by a supplier submitting the following:

- a) as per Sec. 56 (1) (a): **a list** of at least 1 important delivery provided by the supplier in the past 3 years, specifying its subject and delivery date; the list must, **as an annex, include the following:**
 1. a letter of reference from a public contracting authority, if the delivery has been provided to a public contracting authority, or
 2. a letter of reference from another entity, if the delivery has been provided to an entity other than a public contracting authority, or
 3. a contract with the entity referred to in item 2 above and a certificate of completion, if the bidder cannot obtain the letter of reference required in item 2 above for reasons on the part of the entity.

Specifications of important deliveries:

Part no. 1:

- An important delivery shall consist in a delivery of a visible streak camera system which meets the technical specifications described in Annex 5, provided to one client. Such a delivery does not have to include the input optics, or the calibration procedure as described in the Annex 5.

Part no. 2:

- An important delivery shall consist in a delivery of a Infra-red streak camera system which meets the technical specifications described in Annex 5, provided to one client. Such a delivery does not have to include the input optics, or the calibration procedure as described in the Annex 5.

Part no. 3:

- An important delivery shall consist in a delivery of a X-ray streak camera system which meets the technical specifications described in Annex 5, provided to one client. Such a delivery does not have to include the mount in an air-tight box, or the calibration procedure as described in the Annex 5.

The Letter of reference must include (i) name of the reference entity, (ii) specification of the provided delivery, (iii) date of provision.

- 3.6 The supplier shall submit copies of documents demonstrating qualification meeting unless expressly stipulated otherwise herein. Documents demonstrating that qualification criteria have been met and that are in other than Czech, Slovak or English language must be officially translated into Czech or English.
- 3.7 The applicant shall be authorised under provisions of Section 127 paragraph 1 of Act No. 137/2006 Coll. on Public Contracts – by submitting an extract from the List

of Qualified Suppliers – to fully replace the demonstration of meeting basic qualification criteria pursuant to Section 53 paragraph 1 art. a) through j) and professional qualification criteria pursuant to Section 54 of the Act to such extent to which the documents demonstrating meeting these professional qualification criteria cover the Contracting Authority 's requirements for their demonstration. The extract from the List of Qualified Suppliers must not be older than 3 months pursuant to Section 127 paragraph 4 of the Act.

3.9 If the qualification pursuant to Section 50 (1) (b) and (d) of the Act is demonstrated through a subcontractor, the supplier shall be obliged to provide the Contracting Authority with the following documents:

- A document by which the subcontractor shall demonstrate meeting of the basic qualification criteria pursuant to Section 53 paragraph 1 subparagraph j), i.e. statutory declaration stating that the subcontractor is not included in the register of persons not allowed to be involved in public contracts.
- A document by which the subcontractor shall demonstrate meeting of the professional qualification criteria pursuant to Section 54 subparagraph a), i.e. Certificate of Incorporation not older than 90 days from the bid submission date.
- A contract concluded with the subcontractor demonstrating the subcontractor's obligation to provide specific performance intended for performance of the Public Contract by the supplier or provision of items or rights with which the supplier shall be authorised to dispose in performing the Public Contract, to a minimum extent to which the subcontractor has demonstrated meeting qualification pursuant to Section 50 (1) (b) and (d) of the Act.

However, the supplier shall not be authorised to demonstrate qualification meeting pursuant to Section 53 of the Act and Section 54 subparagraph a) of the Act through the subcontractor.

3.10 Should the Subject Matter of the Public Contract be performed jointly by a number of suppliers and they submit a joint bid for this purpose, each of the suppliers shall be obliged to demonstrate meeting of the basic qualification criteria pursuant to Section 53 of the Act and professional qualification criteria pursuant to Section 54 subparagraph a) to the full extent. The suppliers shall also be obliged to submit a contract including an obligation that all of these suppliers shall be bound jointly and severally towards the Contracting Authority and third parties arisen from any legal relationship in connection with this Public Contract, which shall apply throughout the Public Contract performance.

3.11 **Qualification demonstration of foreign persons**

Unless otherwise provided by a special legal regulation, a foreign supplier shall demonstrate qualification meeting in a manner specified by the law applicable in the country of its registered office, place of business or residence, which shall apply to the extent required by such law and the Contracting Authority . If a particular document is not issued under the law applicable in the country of the registered office, place of business or residence of the foreign supplier, the foreign supplier shall be obliged to demonstrate meeting of such part of the qualification in form of a statutory declaration (affidavit). If an obligation the meeting of which is to be demonstrated within the qualification is not defined in the country of the registered office, place of business or residence of the foreign supplier, the foreign supplier shall provide a statutory declaration in respect of such fact.

Documents demonstrating qualification meeting shall be submitted by the foreign supplier in the original language, accompanied by their official translation into Czech or English, unless otherwise provided by the Contracting Authority in this Tender Documentation or an international contract by which the Czech Republic is bound; this shall also apply should qualification meeting be demonstrated by

documents in other than Czech language by a supplier with a registered office, place of business or residence in the territory of the Czech Republic. The Contracting Authority allows for this Public Contract that the applicant may also submit qualification meeting documents in English,; that means that the applicant does not need to submit official translation into Czech for qualification meeting documents submitted in English.

3.12 Consequence of failing to meet the qualification

A supplier failing to meet the qualification criteria to the required extent or failing to perform the obligation laid down in Section 58 of the Act shall be excluded by the Contracting Authority from the tender procedure.

4 TECHNICAL CONDITIONS FOR ALL PARTS OF PUBLIC CONTRACT

- 4.1 The Subject Matter (the offered technical solution) of the Public Contract must meet all requirements specified in this Tender Documentation and all its Annexes.

5 BID PRICE PROCESSING MANNER FOR ALL PARTS OF PUBLIC CONTRACT

- 5.1 The applicant shall be obliged to give the total bid price in the following structure: price in **EUR** net of VAT and total bid price in **EUR** including VAT. (**bid price should be stated separately for each part of the public contract bidder submits bid in**).
- 5.2 The bid price shall be a fixed and binding maximum permissible price including all fees and any other costs connected with performing the Public Contract. The bid price must also include any costs not explicitly specified but about which the bidder knew or should and could have known considering its professional knowledge, exercising all professional care.
- 5.3 The price may only be modified in connection with any changes to tax regulations regarding the VAT.

6 PAYMENT CONDITIONS FOR ALL PARTS OF PUBLIC CONTRACT

- 6.1 Payment conditions are specified in the draft contract that is an integral part of this Tender Documentation in a form of **Annex No. 6**.

7 EVALUATION CRITERIA FOR ALL PARTS OF PUBLIC CONTRACT

- 7.1 Bids shall be evaluated pursuant to Section 78 paragraph 1 a) of the Act based on the economic merit of the bid, **separately in each part of the public contract**.
- 7.2 Bid evaluation will take into consideration the partial evaluation criteria and their respective weights, using a point system on a scale from 1 to 100 points.

Each of the bids shall be awarded a point score, according to individual partial criteria, reflecting its success within that partial criterion.

- 7.3 Partial evaluation criteria for **parts 1 and 2 of the tender**:

Partial Evaluation Criteria:	Weight (%)
a) Total Bid Price	70
b) Number of spatial resolution units	10
c) Number of temporally resolved events	10
d) Read out system	10

a) Total Bid Price

The Contracting Authority evaluates the total bid price in EUR net of VAT. The structure shall be given in the structure defined in the art. 5 hereto.

The cost evaluation parameter is calculated in accordance with the ratio between the lowest proposed bid and the evaluated bid in question. Weight of this partial criterion is 70 % and a maximum of possibly gained number of points is 70 within this criterion. The Contracting Authority compares values of this partial criteria offered by each applicant with the value of applicant who offered the most suitable value among all bids within this partial criterion.

The most suitable bid within this partial criterion is the one with the lowest bid price.

Within this partial criterion the points shall be awarded accordingly:

$$\text{Number of points (crit. a))} = \left(\frac{\text{Lowest bid price of all the valid bids}}{\text{Bid price of the evaluated bid}} \times 70 \right)$$

b) Number of spatial resolution units

The Contracting Authority evaluates the number of spatial resolution units (defined in Section 4 and 6 of the Annex 5 for each camera respectively). Weight of this partial criterion is 10 % and a maximum of possibly gained number of points is 10 within this criterion. The Contracting Authority compares values of this partial criteria offered by each applicant with the value of applicant who offered the most suitable value among all bids within this partial criterion.

The most suitable bid within this partial criterion is the one with the highest number of spatial resolution units.

Within this partial criterion the points shall be awarded accordingly:

$$\begin{aligned} &\text{Number of points (crit. b))} \\ &= \left(\frac{\text{Number of spatial resolution units in the evaluated bid}}{\text{Highest number of spatial resolution units of the all the evaluated bids}} \times 10 \right) \end{aligned}$$

c) Number of temporally resolved events

The Contracting Authority evaluates the number of temporally resolved events (defined in Section 3.4 of the Annex 5). Weight of this partial criterion is 10 % and a maximum of possibly gained number of points is 10 within this criterion. The Contracting Authority compares values of this partial criteria offered by each applicant with the value of applicant who offered the most suitable value among all bids within this partial criterion.

The most suitable bid within this partial criterion is the one with the highest number of temporally resolved events.

Number of points (crit. c))

$$= \left(\frac{\text{Number of temporally resolved events in the evaluated bid}}{\text{Highest number of temporally resolved events of the all the evaluated bids}} \times 10 \right)$$

d) Read out system

The evaluated bid gets 10 points if one of the following conditions are met: (i) the streak camera system does not use an intensifier or Micro Channel plate for relaying the output of the streak tube, or (ii) if the intensifier is internal to the streak tube and thus the streak tube does not have a phosphor and the intensifier detects electrons and not visible photons. Otherwise, the evaluated bid gets 0 points.

Meeting the Contracting Authority requirements represent the necessary essential and will be rewarded with 0 points. In case bidder gain 0 point within this criterion it does not mean failure to meet the tender conditions.

7.4 Partial evaluation criteria for part 3 of the tender:

Partial Evaluation Criteria:	Weight (%)
a) Total Bid Price	75
b) Number of spatial resolution units	10
c) Number of temporally resolved events	10
d) Internal optical Ethernet communication module in the camera	5

a) Total Bid Price

The Contracting Authority evaluates the total bid price in EUR net of VAT. The structure shall be given in the structure defined in the art. 5 hereto.

The cost evaluation parameter is calculated in accordance with the ratio between the lowest proposed bid and the evaluated bid in question. Weight of this partial criterion is 70 % and a maximum of possibly gained number of points is 70 within this criterion. The Contracting Authority compares values of this partial criteria offered by each applicant with the value of applicant who offered the most suitable value among all bids within this partial criterion

Within this partial criterion the points shall be awarded accordingly:

$$\text{Number of points (crit. a))} = \left(\frac{\text{Lowest bid price of all the valid bids}}{\text{Bid price of the evaluated bid}} \times 75 \right)$$

The most suitable bid within this partial criterion is the one with the lowest bid price.

b) Number of spatial resolution units

The Contracting Authority evaluates the number of spatial resolution units (defined in Annex 5). Weight of this partial criterion is 10 % and a maximum of possibly gained

number of points is 10 within this criterion. The Contracting Authority compares values of this partial criteria offered by each applicant with the value of applicant who offered the most suitable value among all bids within this partial criterion.

The most suitable bid within this partial criterion is the one with the highest number of spatial resolution units.

Within this partial criterion the points shall be awarded accordingly:

$$\begin{aligned}
 &\text{Number of points (crit. b))} \\
 &= \left(\frac{\text{Number of spatial resolution units in the evaluated bid}}{\text{Highest number of spatial resolution units of the all the evaluated bids}} \times 10 \right)
 \end{aligned}$$

c) Number of temporally resolved events

The Contracting Authority evaluates the number of temporally resolved events (defined in Annex 5). Weight of this partial criterion is 10 % and a maximum of possibly gained number of points is 10 within this criterion. The Contracting Authority compares values of this partial criteria offered by each applicant with the value of applicant who offered the most suitable value among all bids within this partial criterion.

The most suitable bid within this partial criterion is the one with the highest number of temporally resolved events.

$$\begin{aligned}
 &\text{Number of points (crit. c))} \\
 &= \left(\frac{\text{Number of temporally resolved events in the evaluated bid}}{\text{Highest number of temporally resolved events of the all the evaluated bids}} \times 10 \right)
 \end{aligned}$$

d) Internal optical Ethernet communication module in the camera

The evaluated bid gets 5 points if the data and control signals from the camera system are relayed to the control computer via fiber optics, and the fiber optic module is located within the airtight box. The trigger signals need not be optical to get these 5 points. Otherwise the evaluated bid gets 0 points.

Meeting the Contracting Authority requirements represent the necessary essential and will be rewarded with 0 points. In case bidder gain 0 point within this criterion it does not mean failure to meet the tender conditions.

- 7.5 Applicant shall state maximally concrete information to partial criterion for the purpose of evaluating bids. Data stated for the purpose of evaluating bids are binding also with respect to subsequent performance of the Tender incorporated to the contract.
- 7.6 Total number of points assigned by the evaluation commission will be created as a sum of the above stated partial evaluation criteria. The evaluating commission determines the final placing by arranging bids based on total number of points assigned. The more points assigned, the better final placings.

- 7.7 The applicant shall not be authorised to make the bid subject to any conditions. Any conditions or provision of several different values in the bid in parts that are subject to the evaluation shall constitute a reason to eliminate the bid and exclude the applicant from the tender process.
- 7.8 In case of equality of the gained total point evaluation, the number of points within the partial evaluation criteria will be decisive in this order: (a), (b), (c) and (d) (within all parts of the public contract).

8 OTHER REQUIREMENTS FOR ALL PARTS OF PUBLIC CONTRACT

- 8.1 The bidder shall be obliged to specify in its bid parts of the Public Contract he intends to assign to one or more subcontractors and provide identification details of all these subcontractors.
- 8.2 The Contracting Authority shall reserve the right to verify the information provided by the applicant with third parties and the applicant shall be obliged to provide the Contracting Authority with assistance in this regard.
- 8.3 The Contracting Authority shall not allow alternative bids.

9 BUSINESS CONDITIONS FOR ALL PARTS OF PUBLIC CONTRACT

- 9.1 The applicant shall be obliged, without any reservations, to accept the binding draft contract in form of **Annex No. 6** hereof. **Applicant shall only fill in that parts of the binding draft contract that are highlighted in yellow colour. Any other amendments to the given wording will cause an exclusion of the applicant from the tender procedure.**
- 9.2 The draft contract must be signed by the applicant by a responsible person/s or a person/s empowered or authorised thereto. In such a case, the original copy or a certified copy of the authority or authorisation must be included in the bid. **Otherwise the bid will be eliminated from the tender procedure.**

10 OPENING ENVELOPES WITH BIDS FOR ALL PARTS OF PUBLIC CONTRACT

- 10.1 Envelopes shall be opened on **7.8.2015 at 14:05** at the seat of OTIDEA a.s. at **Building METEOR C, Thámová 681/32, 180 00 Prague 8 - Karlín.**
- 10.2 Representatives of all applicants who have submitted their bids in the bid submission term (not more than two persons per one applicant) shall be authorised to take part in the envelopes opening (however, not the subsequent reviewing and evaluation of the bids). For envelopes opening, representatives of the applicants shall identify themselves by a Power of Attorney issued by the person authorised to act on behalf of the applicant.

LIST OF ANNEXES:

1. Bid Cover Note *(to be completed, signed and returned with the bid)*
2. Affidavit – Basic Qualification *(to be completed, signed and returned with the bid)*
3. Affidavit pursuant to Sec 68 (3) of the Act *(to be completed, signed and returned with the bid)*

4. Affidavit affirming economic and financial capacity *(to be completed, signed and returned with the bid)*
5. Technical Specifications
6. Binding Text of the Contract *(to be completed, signed and returned with the bid separately to each part of the public contract, NB. for each part of the public contract should be used the same draft of contract and bidder shall fill in the name etc. of the appropriate part where highlighted)*
7. List of questions *(to answered by the applicant and attached to the purchase contract along with the description and specification of the offered performance)*

On behalf of the Contracting Authority:

In Prague on


.....
prof. Jan Řídký, DrSc., Director

Annex No. 1

Bid Cover Note

BASIC DATA:

Public Tender Title: OPTICAL AND X-RAY STREAK CAMERAS FOR
EXPERIMENTAL AREAS

Part: (Bidder shall state name of the appropriate part of the public
contract)

Order party: Institute of Physics of the Czech Academy of Sciences, public
research institution

Registered office: Na Slovance 2, 182 21 Prague 8

Id. No.: CZ68378271

**Person authorized
to represent the order party:** prof. Jan Řídký, DrSc., Director

Tenderer:

Registered office:

Id. No.:

Tax Id. No.:

**Person authorized
to represent the bidder:**

Bank:

Contact person:

Contact address:

Tel: **E-mail:**

Bid price:

Total bid price in EUR excluding VAT:

Total bid price in EUR including VAT:

.....
(Business name of the applicant, name and
signature of the person authorized to
represent the bidder - to be completed by the
applicant)

Annex No. 2

Affidavit – Basic Qualification

pursuant to Act No. 137/2006 Coll., on public contracts, as amended (hereinafter the "Act")

Bidder's business name incl. legal form	.....
Seat / place of business	.....
ID	.....
Authorized representative	.....

I hereby confirm that:

- | | |
|-----------------------------|---|
| Section 53, paragraph 1 (c) | - the bidder has not engaged in conduct constituting unfair competition through bribery in under special legislation; |
| Section 53, paragraph 1 (d) | - the bidder's assets are not or were not, in the past three years, the subject of insolvency proceedings in which a bankruptcy order was issued or in which an insolvency petition was rejected because of insufficiency of assets to cover the costs of insolvency proceedings or in which the bankruptcy was cancelled because of deficiency of assets or in which receivership was instituted according to special legislation; |
| Section 53, paragraph 1 (e) | - the bidder is not in liquidation; |
| Section 53, paragraph 1 (f) | - the supplier has no tax arrears in the excise tax records both in the Czech Republic and in the country of its registered office, place of business or residence, |
| Section 53, paragraph 1 (g) | - the bidder is not in arrears with public health insurance contributions and with any penalties for non-payment of such contributions, both in the Czech Republic and in the country of its registered office, place of business or residence; |
| Section 53, paragraph 1 (j) | - the bidder is not listed in the register of persons and entities banned from public contracts; |
| Section 53, paragraph 1 (k) | - the bidder has not been fined in the past three years for facilitating illegal work in terms of Section 5 (e) (3) of Act No. 435/2004 concerning employment. |

Inon.....

.....
(Business name of the applicant, name and signature of the person authorized to represent the bidder - to be completed by the applicant)

Annex No. 3

Affidavit pursuant to Sec 68 (3) of the Act

made pursuant to Act No. 137/2006 Coll., on Public Contracts, as amended (hereinafter the "Act")

Bidder's business name incl. legal form	.....
Seat / place of business	.....
ID	.....
Authorized representative	.....

- 1) Here below, pursuant to Sec. 68(3)(a) of the Act, we present the List of those statutory bodies or members of the statutory body, who have been in employment, functional or similar relationship with the Contracting Authority within the period of the last 3 years directly prior to the date of bid submission:

(Bidders to fill in names, last names and dates of birth of such persons)

Name	Date of birth

OR

We hereby solemnly declare that none of the statutory officers or members of management of the bidder had been, in the last three years prior to the date of submission of our bid, in employment, functional, contractual or other relationship with the Contracting Authority.

(Delete as appropriate)

- 2) Here below, pursuant to Sec 68(3)(b) of the Act, we present the list of shareholders whose total nominal value of shares owned exceed 10 % of the registered capital, valid as of the date of submission of the bid:

(Bidders who operate as joint-stock companies shall include such list)

If the bidder is not a joint-stock company:

We hereby solemnly declare that we are not a joint-stock company and therefore we cannot present the list of shareholders.

(Delete as appropriate)

- 3) We hereby solemnly declare, pursuant to Sec 68(3)(c) of the Act, that the bidder has not and will not conclude any contract prohibited pursuant to Act No. 143/2001 Coll., on the protection of economic completion, as amended, in connection with the present public contract..

In On

.....
(Business name of the applicant, name and
signature of the person authorized to
represent the bidder - to be completed by the
applicant)

Annex No. 4

Affidavit affirming economic and financial capacity

Pursuant to Sec 50(1)(c) of Act No. 137/2006 Coll., on Public Contracts, as amended (hereinafter the "Act")

Bidder's business name incl. legal form	.....
Seat / place of business	.....
ID	.....
Authorized representative	.....

I, the undersigned, in the capacity of the person who is authorized to act on behalf of the bidder and sign in his name, hereby solemnly declare that we, as the bidder, are pursuant to Sec. 50(1)(c) of the Act, are economically and financially capable to provide performance as required under this public contract for **OPTICAL AND X-RAY STREAK CAMERAS FOR EXPERIMENTAL AREAS - Part:** *(Bidder shall state name of the appropriate part of the public contract).*

In On

.....
(Business name of the applicant, name and signature of the person authorized to represent the bidder - to be completed by the applicant)

Annex No. 5 Technical Specification

Annex No. 6 Binding Text of the Contract

Annex No. 7 List of Questions

1. List the model and make of the streak tube to be used.
2. List the effective length of the photocathode which satisfies the definitions given in the Annex 5
3. List the spatial resolution in lp/mm of the SCS, as per the definition given in Annex 5
4. List the number of spatial resolution units for the SCS
5. List the best temporal resolution of the system.
6. Describe the sweep unit(s): mention sweep range and number of temporal resolved events detectable.
7. Describe the readout system: Kind of camera used, intensifier if any, method of coupling to the streak tube, etc.
8. Describe the magnification of the streak tube and of the readout system at the end of the streak tube.
9. Describe the data and communication link to the SCS (optical or serial or Ethernet, etc.)

PURCHASE CONTRACT

This purchase contract ("**Contract**") was concluded pursuant to section 2079 *et seq.* of the act no. 89/2012 Coll., Civil Code ("**Civil Code**"), on the day, month and year stated below by and between:

- (1) **Institute of Physics of the Academy of Sciences of the Czech Republic, a public research institution,**

with its registered office at:

Na Slovance 2, Praha 8, PSČ: 182 21,

registration no.: 68378271,

represented by: prof. Jan Řídký, DrSc. – director

("Buyer"); and

- (2) _____,

with its registered office at:

_____,

registration no.:

_____,

represented by:

("Seller").

(The Buyer and the Seller are hereinafter jointly referred to as "**Parties**" and individually as "**Party**".)

WHEREAS

- (A) The Buyer is a public contracting authority and the beneficiary of a grant of the Ministry of Education, Youth and Sports of the Czech Republic for a project „*ELI: Extreme Light Infrastructure*“, registration number CZ.1.05/1.1.00/02.0061 ("**Project**"), within the Operational Programme Research and Development for Innovations, priority axis 1, objective 1.1 European Centers for Excellence.
- (B) For the successful realization of the Project it is necessary to purchase the Object of Purchase (as defined below) in accordance with the act no. 137/2006 Coll., on public procurement, and Rules for the Selection of Suppliers within the Operational Programme Research and Development for Innovations.
- (C) The Seller wishes to provide the Object of Purchase to the Buyer for consideration.
- (D) The Seller's bid for the public procurement entitled "*Optical and X-ray streak cameras for*

experimental areas" (part [redacted]), which was published in the Journal of Public Procurement under the registration number 498368 and whose purpose was to procure the Object of Purchase ("**Public Procurement**"), was selected by the Buyer as the most suitable.

IT WAS AGREED AS FOLLOWS:

1. BASIC PROVISIONS

- 1.1 Under this Contract the Seller shall hand over to the Buyer streak camera system, which shall meet requirements listed in Annex 1 (*Technical Specification*) to this Contract ("**Object of Purchase**") and shall transfer to the Buyer ownership right to the Object of Purchase, and the Buyer shall take over the Object of Purchase and shall pay the Seller the Purchase Price (as defined below), all under the terms and conditions stipulated in this Contract.
- 1.2 Under this Contract the Seller shall also carry out following activities ("**Related Activities**"):
 - a) to test the Object of Purchase at the Seller's premises to verify, whether the Object of Purchase fulfils all requirements stipulated in this Contract and prepare a protocol on such testing; the Seller shall inform the Buyer of the testing sufficiently in advance and shall allow the Buyer to be present during the testing;
 - b) to transport the Object of Purchase to the place of delivery;
 - c) to elaborate and hand over to the Buyer documents listed in Annex 1 (*Technical Specification*) to this Contract and other documents that are necessary for the proper takeover and use of the Object of Purchase in English language in electronic form;
 - d) to handover the declaration of conformity of the Object of Purchase with the approved standards, if there are any;
 - e) to elaborate a list of particular items of the Object of Purchase for the purposes of control;
 - f) cooperate with the Buyer during the performance of this Contract.
- 1.3 The Seller promises to the Buyer that if for the fulfillment of the requirements of the Buyer under this Contract or the proper operation of the Object of Purchase are necessary other deliveries and activities not mentioned in this Contract, the Seller shall procure such deliveries or shall carry out such activities at its own expense without any effect on the Purchase Price.
- 1.4 The Object of Purchase and all its subcomponents must be supplied new and unused.

2. THE PLACE OF DELIVERY

- 2.1 The place of delivery is the registered office of the Project in Dolní Břežany village, Central Bohemian Region.

3. THE TIME OF DELIVERY

- 3.1 The Seller shall deliver the Object of Purchase and shall carry out Related Activities within

eighteen (18) months from the effectiveness of this Contract. Due to the potential delay of some activities within the Project during the performance of this Contract, the Buyer is entitled, anytime until the delivery to the place of delivery, to postpone the above mentioned terms of delivery by another six (6) months.

- 3.2 The Seller is entitled to handover the Object of Purchase and to carry out Related Activities during working days between 7:30 and 18:00 hours, unless otherwise agreed by the Parties. Exact working days shall be determined on the basis of mutual agreement. If the agreement is not reached, the Seller shall perform during the last day, on which it is possible to fulfill this Contract in time and the Buyer shall provide to the Seller for this purpose necessary cooperation.
- 3.3 Prior to the handover of the Object of Purchase and the execution of Related Activities the Seller shall invite the Buyer to control the premises for installation of the Object of Purchase in such a way that their readiness for installation of the Object of Purchase is secured (e.g. a control of the location of electricity points, etc.) and possible deficiencies preventing timely and proper installation and demonstration of the operation of the Object of Purchase are eliminated.

4. THE OWNERSHIP RIGHT

The ownership right to the Object of Purchase shall be transferred to the Buyer upon the signature of the Handover Protocol (as defined below) by both Parties.

5. PRICE AND PAYMENT TERMS

- 5.1 The purchase price for the Object of Purchase is _____,- EUR without value added tax ("VAT"), and with the VAT rate 21 % (if applicable in this case) is _____,- EUR ("Purchase Price").
- 5.2 The Purchase Price cannot be exceeded and includes all costs and expenses of the Seller related to the performance of this Contract. The Purchase Price includes, among others, all expenses related to the handover of the Object of Purchase and execution of Related Activities, costs of copyright, insurance, warranty service and any other costs and expenses connected with the performance of this Contract.
- 5.3 The Purchase Price for the Object of Purchase shall be paid in euro on the basis of a tax document – invoice, to the account of the Seller designated in the invoice. The Purchase Price shall be paid in the following manner:
- a) 50 % of the Purchase Price shall be paid after the signature of this Contract;
 - b) 25 % of the Purchase Price shall be paid after the successful testing of the Object of Purchase at the Seller's premises; and
 - c) 25 % of the Purchase Price shall be paid after the signature of the Handover Protocol. The copy of the Handover Protocol must be attached to the invoice.
- 5.4 The Buyer shall realize payments on the basis of duly issued invoices within 30 days from their receipt. 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.

5.5 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 in accordance with this Contract shall contain in particular following information:

- a) name and registered office of the Buyer,
- b) tax identification number of the Buyer,
- c) name and registered office of the Seller,
- d) tax identification number of the Seller,
- e) registration number of the tax document,
- f) scope of the performance (including the reference to this Contract),
- g) the date of the issue of the tax document,
- h) the date of the fulfilment of the Contract,
- i) Purchase Price,
- j) registration number of this Contract, which the Buyer shall communicate to the Seller based on Seller's request before the issuance of the invoice,
- k) declaration that the performance of the Contract is for the purposes of a project "ELI: EXTREME LIGHT INFRASTRUCTURE", registr. number CZ.1.05/1.1.00/02.0061,

and must comply with the double tax avoidance agreements, if applicable.

5.6 In case that the invoice shall not contain the above mentioned information, the Buyer is entitled to return it to the Seller during its maturity period and this shall not be considered as a default. The new maturity period shall begin from the receipt of the supplemented or corrected invoice to the Buyer.

5.7 Last invoice of every calendar year must be delivered to the Buyer on December 15 of that calendar year, at the latest.

6. SELLER'S DUTIES

6.1 The Seller shall ensure that the Object of Purchase and Related Activities are in compliance with this Contract including all its annexes and applicable legal (e.g. safety), technical and quality norms.

6.2 During the performance of this Contract the Seller proceeds independently. 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 if professional care was exercised that the instructions are for any reason inappropriate or illegal or in contradiction to this Contract, then the Seller must notify the Buyer.

6.3 All things necessary for the performance of this Contract shall procure the Seller, unless this

Contract stipulates otherwise.

- 6.4 The Seller is aware that the Buyer does not have at its disposal premises for the storage of packaging and, therefore, shall not store packaging of the Object of Purchase. The absence of original packaging cannot be an excuse for refusal of elimination of defects of the Object of Purchase.

7. **HANDOVER OF THE OBJECT OF PURCHASE**

- 7.1 Handover and takeover of the Object of Purchase shall be realized on the basis of a handover protocol, which shall contain following information ("**Handover Protocol**"):

- a) identification of the Seller, Buyer and subcontractors, if there are any,
- b) declaration of the Seller and Buyer that all Related Activities were carried out,
- c) description of the Object of Purchase, and
- d) date of the signature.

- 7.2 The Handover Protocol must contain following annexes, which shall be elaborated by the Seller:

- a) the protocol on testing that was carried out at Seller's premises,
- b) a list of items of the Object of Purchase,
- c) a declaration of the Seller that the Object of Purchase is in accordance with this Contract, applicable laws and technical norms.

- 7.3 If the Seller does not hand over to the Buyer all above mentioned documents or if the Seller fails to duly carry out all Related Activities or if the Object of Purchase does not meet requirements of this Contract, the Buyer is entitled to refuse the takeover of the Object of Purchase. In such a case the Seller shall remedy the deficiencies within ten (10) working days, unless Parties agree otherwise. The Buyer is entitled (but not obliged) takeover the Object of Purchase despite the above mentioned deficiencies, in particular if such deficiencies do not prevent the Buyer in the proper operation of the Object of Purchase. In such a case the Seller and the Buyer shall list the deficiencies in the Handover Protocol, including the manner and the date of their removal (remedy). If the Parties do not reach agreement in the Handover Protocol regarding the date of the removal, the Seller shall remove the deficiencies within ten (10) working days.

- 7.4 In case that the Seller notifies the Buyer that the Object of Purchase is eligible for handover and takeover and during the course of the handover procedure it will be ascertained that the conditions under this Contract for the signature of the Handover Protocol are not fulfilled and based on this reason the Buyer will refuse to sign the Handover Protocol, then the Seller shall reimburse the Buyer for all costs that were incurred by the Buyer due to unsuccessful handover.

- 7.5 Parties exclude the application of the Section 2126 of the Civil Code.

8. **WARRANTY**

- 8.1 The Seller shall provide a warranty of quality of the Object of Purchase for the period of 12 months. If on the warranty list or other document is the warranty period of longer duration, then this longer warranty period shall have priority over the period stated in this Contract.
- 8.2 The warranty period shall begin on the day when the Object of Purchase (or its part) was used by the Buyer for the first time (and the Object of Purchase was removed from the sealed storage location). The Buyer shall inform the Seller of the day when warranty period started. If the Buyer does not start using the Object of Purchase within two (2) years from the signature of the Handover Protocol, the warranty period shall start on the first day of the third year after the signature of the Handover Protocol.
- 8.3 The Seller shall remove defects that occur during the warranty period free of charge (i.e no charge for spare parts, workmanship, travel expenses, etc.) and in the periods of time stipulated in this Contract. Photocathodes for the XSCS are considered consumables and are not covered under warranty.
- 8.4 If the Buyer ascertains a defect of the Object of Purchase during the warranty period, the Buyer shall notify such defect without undue delay to the Seller. Defects may be notified on the last day of warranty period, at the latest.
- 8.5 The Buyer notifies defects in writing via e-mail. The Seller shall accept notifications of defects on the following e-mail address: [REDACTED]. The Seller shall confirm within 96 hours from the receipt of the notification.
- 8.6 In the notification the Buyer shall describe the defect and the manner of removal of the defect. The Buyer has the right to:
- a) ask for the removal of the defect by the delivery of new Object of Purchase or its individual parts, or
 - b) ask for the removal of the defect by repair, or
 - c) ask for the reasonable reduction of the Purchase Price.

The choice among the above mentioned rights belongs to the Buyer. The Buyer is also entitled to withdraw from this Contract, if by delivering the Object of Purchase with defects this Contract is substantially breached.

- 8.7 The Seller shall remove the defect within 14 days from its notification, unless Parties agree otherwise.
- 8.8 The Seller shall remove the defect within terms stipulated in this Contract even if the notification of the defect is in his opinion unjustified. In such a case the Seller is entitled to ask for reimbursement of the costs of removal of the defect. If Parties disagree on whether the notification of the defect is justified or not, the Buyer shall ask an expert for the expert's opinion, which shall determine whether the notification of the defect was justified or not. In the case that the expert shall consider the notification as justified, then the Seller shall bear costs of the expert's opinion. If the expert considers the notification to be unjustified, then the Buyer shall reimburse the Seller for verifiably and effectively incurred costs of removal of the defect.

- 8.9 Parties shall execute a protocol on the removal of the defect, which shall contain the description of the defect and the confirmation that the defect was removed. The warranty period shall be extended by a period of time that elapses between the notification of the defect until its removal.
- 8.10 In case that the Seller does not remove the defect within stipulated time 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 10 days after the Buyer's request to do so.
- 8.11 The warranty does not cover defects caused by unprofessional manipulation or by the failure to follow Seller's instructions for the operation and maintenance of the Object of Purchase.
- 8.12 Parties exclude the application of Section 1925 of the Civil Code.

9. TECHNICAL SUPPORT AND ADDITIONAL SERVICES

- 9.1 For the ten year period starting from the day of the signature of the Handover Protocol, the Seller has to provide the following services without any cost to the Buyer:
- a) any technical support (by email or by phone) required for troubleshooting the Object of Purchase.
 - b) any software updates that might be needed to keep the Object of Purchase functioning, as well as maintaining the cyber/network security of the control computer.
- 9.2 For the ten year period starting from the day of signature of the Handover Protocol, the Seller has to provide the following services to the Buyer under standard business conditions:
- a) In case of any hardware failure, the Seller shall send replacement modules. If required, the Seller shall provide onsite personnel at the Buyer's facility at Dolní Břežany for troubleshooting and repairs.
 - b) If the problem requires repair to be done at Seller's facility, the Buyer shall send the necessary equipment to the Seller's facility and the Seller has to return the equipment after the necessary repairs.

10. REPRESENTATIONS AND WARRANTIES OF THE SELLER

- 10.1 The Seller represents and warrants to the Buyer that
- a) has all the professional prerequisites necessary for the proper fulfilment of this Contract,
 - b) is fully authorized to perform this Contract, and
 - c) there are no obstacles on the Seller's side that would preclude him from the due performance of this Contract.

11. PENALTIES

- 11.1 If the Seller is in default regarding the delivery of the Object of Purchase, i.e. the Seller breaches its duty to perform this Contract in time and due manner, the Seller shall pay to the Buyer a contractual penalty in the amount of 0,1% of the Purchase Price for every (even commenced) day

of default.

- 11.2 If the Seller is in default with the removal of the defect, the Seller shall pay to the Buyer a contractual penalty in the amount of 0,01% of the Purchase Price for every (even commenced) day of default.
- 11.3 The Seller shall pay contractual penalties within fifteen (15) days from the day, on which the Buyer enumerated its claims. The payment of contractual penalties shall not affect the right of the Buyer to damages even to the extent to which such damages exceeds the contractual penalty.
- 11.4 Total amount of contractual penalties that the Buyer is entitled to claim shall not exceed 30 % of the Purchase Price.
- 11.5 The Buyer is entitled to unilaterally set off claims arising from the contractual penalties against the claim of the Seller for the payment of the Purchase Price.
- 11.6 Parties exclude the Section 2050 of the Civil Code.

12. RIGHT OF WITHDRAWAL

- 12.1 The Buyer is entitled to withdraw from this Contract without any penalties, if any of the following circumstances occur:
- a) the expenses or the part of the expenses that will arise on the basis of this Contract will be found by the provider of the grant or other control body as ineligible;
 - b) the Seller shall be in delay with the fulfilment of this Contract and such delay lasts more than two (2) months;
 - c) the Object of Purchase shall not fulfil the requirements stipulated in this Contract, in particular in Annex 1 (*Technical Specification*);
 - d) the Buyer shall lose a grant for the realization of the Project;
 - e) the insolvency proceeding is initiated against the Seller; or
 - f) the Buyer ascertains that the Seller provided in its bid for the Public Procurement information or documents that do not correspond to the reality and that had or could have had impact on the result of the tendering procedure, which preceded the conclusion of this Contract.

13. SPECIAL PROVISIONS

By signing this Contract, the Seller becomes a person that must cooperate during the finance control within the meaning of Section 2 letter e) of the act no. 320/2001 Coll., on finance control in the public administration, and shall provide to the Directing Body of the Operational Programme Research and Development for Innovations or other control bodies access to all parts of the bid, Contract or other documents that are related to the legal relationship formed by this Contract. This duty also covers documents that are Object to the protection in accordance with other acts (business secrets, secret information, etc.) provided that control bodies fulfil requirements

stipulated by these acts (e.g. Section 11 letter c) and d), Section 12(2) letter f) of the act no. 552/1991 Coll., on state control). The Seller shall secure that all its subcontractors are also obliged to cooperate with control bodies in the above stipulated extent. The possibility of effective control must be preserved until the year 2021.

14. CONFIDENTIALITY

Parties shall not disclose information that shall become available to them in connection with this Contract and its performance and whose disclosure could harm the other Party. Duties of the Buyer ensuing from the applicable legal regulations remain unaffected.

15. REPRESENTATIVES OF THE PARTIES

15.1 The Seller appoints following representatives for the communication with the Buyer:

In technical matters:

Name:

E-mail:

Tel.:

In contractual matters:

Name:

E-mail:

Tel.:

15.2 The Buyer appoints following representatives for the communication with the Seller:

Name: Deepak Kumar Batheja

E-mail: deepak.kumar@eli-beamlines.eu

Name: Katerina Falk

E-mail: katerina.falk@eli-beamlines.eu

Name: Petr Bruza

E-mail: petr.bruza@eli-beamlines.eu

16. FINAL PROVISIONS

16.1 This Contract is governed by the laws of the Czech Republic, especially by the Civil Code.

16.2 All disputes arising out of this Contract or out of legal relations connected with this Contract shall be preferable settled by a mutual negotiation. In case that the dispute is not settled within sixty (60)

days, such dispute shall be decided by courts of the Czech Republic in the procedure initiated by one of the Parties.

- 16.3 The Seller bears the risk of changed circumstances within the meaning of Section 1765 of the Civil Code.
- 16.4 The Seller takes into account that the Buyer is not in relation to this Contract an entrepreneur, nor the subject matter of this Contract is connected with the business activities of the Buyer.
- 16.5 The Seller is not entitled to set off any of its claims or his debtor's claims against the Buyer's claims. The Seller is not entitled to transfer its claims against Buyer that arose on the basis or in connection with this Contract on third parties. The Seller is not entitled to transfer rights and duties from this Contract or its part on third parties.
- 16.6 All modifications and supplements of this Contract must be in writing.
- 16.7 If any of provisions of this Contract are invalid or ineffective, the Parties are bound to change this Contract in such a way that the invalid or ineffective provision is replaced by a new provision that is valid and effective and to the maximum possible extent correspond to the original invalid or ineffective provision.
- 16.8 If any Party breaches any duty under this Contract and knows or should have known about such breach, it shall notify it to the other Party and shall warn such Party of possible consequences of the breach.
- 16.9 This Contract is executed in four (4) counterparts and every Party shall receive two (2) counterparts.
- 16.10 An integral part of this Contract is Annex 1 (Technical Specification). In case of any discrepancy between the provisions of this Contract and the provisions of Annex 1 (Technical Specification) the provisions of this Contract shall prevail.
- 16.11 This Contract shall be valid and effective on the date of the signature of both Parties.

IN WITNESS WHEREOF attach Parties their handwritten signatures:

Buyer

Signature: _____

Name: prof. Jan Řídký, DrSc.

Position: director

Date:

Seller



Signature: _____

Name:

Position:

Date:



ANNEX 1

TECHNICAL SPECIFICATION