Appendix 2 - Commercial Terms and Conditions

**CONTRACT OF PURCHASE**

**Technical University of Ostrava, Faculty of Electrical Engineering and Computer Science**

having its registered office at: 17. listopadu 2172/15, 708 00 Ostrava - Poruba

represented by: prof. Ing. Jan Platoš, Ph.D., Dean

authorised person for contact with the Seller:

prof. Ing. Miroslav Vozňák, Ph.D., e-mail: Miroslav.voznak@vsb.cz, tel.: 596 995 940

Company Number: 61989100

Taxpayer Identification Number: CZ61989100

**(hereinafter referred to as the “Buyer”)**

and

***to be completed by the participant***

having its registered office at/place of business at: *to be completed by the participant*

entry in the Commercial Register (if existing): *to be completed by the participant*

represented by: *to be completed by the participant*

authorised persons for contact with the Buyer:

*to be completed by the participant*, e-mail: *to be completed by the participant*, tel.: *to be completed by the participant*

Data box (if existing): *to be completed by the participant*

Company Number: *to be completed by the participant*

Taxpayer Identification Number: *to be completed by the participant*

bank details: *to be completed by the participant*

account number: *to be completed by the participant*

**(hereinafter referred to as the “Seller”)**

**(hereinafter collectively referred to as the “Contracting Parties”)**

have, in accordance with the provisions of Section 2079 et seq of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the “Civil Code”), entered into this Contract of Purchase (hereinafter referred to as the “Contract”):

**I.**

**Opening provisions**

1. The Buyer declares that:
	* it is a legal person, a public university founded according to Act No. 111/1998 Coll. on higher education institutions and amending and supplementing other laws (Act on Higher Education Institutions), as amended; and
	* it complies with all terms and conditions and requirements laid down in this Contract and is authorised to enter into this contract and fulfil the obligations therein in a due manner.
2. The Seller declares that:
	* it complies with all terms and conditions and requirements laid down in this Contract and is authorised to enter into this contract and fulfil the obligations therein in a due manner.
3. The Buyer enters into this Contract with the Seller with a view to executing the project “Infrastructure support for doctoral study programmes at VSB-TUO”, registration number of the project CZ.02.01.01/00/22\_012/0008111 (hereinafter referred to as the “Project”), which is co-financed from the Operational Programme Jan Amos Komenský (hereinafter referred to as “OP JAK”). A grant is provided via the Ministry of Education of the Czech Republic (hereinafter referred to as the “OP JAK Governing Body”) To this end, the Buyer announced a public contract entitled “QKD system II” (hereinafter referred to as the “Public Contract”). On the basis of that procurement procedure, the Seller’s tender was selected as the most appropriate for the execution of the Public Contract.
4. The Seller is bound by its offer, submitted to the Buyer within the bounds of procurement procedure for the award of the Public Contract, which is used secondarily for the regulation of the reciprocal relationships arising from this Contract.

**II.**

**The subject-matter of the Contract**

1. With this Contract, the Seller undertakes to deliver the goods to the Buyer and enable the Buyer to acquire the right of ownership to the goods, and the Buyer undertakes to receive the goods and pay the Seller the arranged purchase price.
2. On the basis of this Contract, the Seller undertakes to deliver the following goods to the Buyer – **QKD system** - to the extent, in the quality, and according to the exact technical specifications stated in Annex 1 to this Contract - Technical specifications - (hereinafter collectively referred to as the “Object of Purchase”, the “Equipment”, or the “Goods”).
3. The delivery of the Goods includes transport to the place of performance, including unloading and the environmentally-friendly liquidation of packaging, and further:
4. installation of the device (at the place of performance, or remotely with local support from the submitter);
5. training of equipment users in the range of at least 2 working days of 4 hours each;
6. the provision of user documentation and manuals to configure settings, in printed format or in electronic format on a physical carrier medium, in the Czech language or in the English language;
7. the provision of the required authorisation for the use of the Goods, i.e. a licence, for example for the SW that shall be installed in the Equipment or is intended for the operation of the Equipment, to the extent specified in Annex 1 to this Contract (if relevant);
8. implementation of all other services related to the placement and commissioning of the equipment.
9. Performance also includes the provision of warranty servicing on the delivered Goods for the duration of the warranty period, post-warranty servicing, and the technical support in the range of at least 40 hours within three years of delivery of the object of purchase. Technical support according to the previous sentence will be provided in the form of e-mail communication or online, the response time for the provision of support is 14 calendar days from the delivery of the buyer's request to the e-mail address: *to be completed by the participant*.
10. The Seller further undertakes to deliver to the Buyer complete documentation relating to the Goods, as required for handling the Goods and for their operation or as required by the relevant generally-binding legal regulations and Czech and European ČSN and EN standards, together with technical documentation, instructions for maintenance, service logs, warranty certificates, etc.
11. The Goods shall be delivered as new, not refurbished, not demo version.
12. With this Contract, the Buyer undertakes to provide the Seller with the absolutely required coaction during the performance of the subject-matter of the Contract, to the extent arising from this Contract.

**III.**

**Term and place of delivery**

1. The Seller is under obligation to deliver the Goods to the Buyer and to delivery documents and to carry out all activities specified in Article II of this Contract (save the activities specified in paragraph II(4) of this Contract) **not later than 90 calendar days following the date on which the Contract enters into effect.** The Seller undertakes to inform the Buyer of the date of delivery of the Goods a minimum of 5 business days prior to delivery; otherwise, the Buyer is not under obligation to accept the goods on the specified date. In such case this is not breach of the obligation of the Buyer to receive the Goods or provide coaction.
2. The place of performance, i.e. the place of handover of the Object of Purchase to the representatives of the Buyer and the execution of the installation of the Object of Purchase, is Faculty of Electrical Engineering and Computer Science, 17. listopadu 2172/15, 708 00 Ostrava – Poruba, building FEI, room EA005 (hereinafter referred to as the “Place of Performance”).
3. For the purposes of this Contract, the delivery of Goods is understood to be the receiving of the Goods by the Buyer and the execution of all associated activities according to paragraph II(3) of this Contract, i.e. the signing of a record of the handover and acceptance of performance (hereinafter referred to as the “Handover Document”) by the authorised representatives of both Contracting Parties.
4. The Handover Document shall comprise a minimum of the following information:
	* designation of the Buyer and the Seller;
	* designation of the Goods and of this Contract;
	* the declaration of the Buyer that it accepts the Goods;
	* confirmation of the execution of all activities specified in paragraph II(3) of this Contract;
	* the date of signature of the Handover Document; and
	* the names and signatures of the representatives of the Buyer and the Seller.
5. Training of equipment operators according to subparagraph II(3)(b) of this Contract shall take place at the place of performance.
6. The Buyer is authorised not to accept the Goods if the Seller fails to deliver the Goods in a due and timely manner, in particular if the Seller fails to deliver the Goods in the agreed quality, or if the Goods have some other defect, are damaged or broken, if the Seller fails to provide the required documentation relating to the Goods, or fails to provide a licence for the Goods (if relevant), not installing equipment or training users.
7. The Seller is under obligation to hand over the Goods in the required quality according to the provisions of this Contract; the Seller is responsible for the fact that the provided Goods have the technical parameters set out in Annex 1 to this Contract, whereby the Goods are free of all legal defects.
8. The Contracting Parties have expressly agreed on the preclusion of the provisions of Section 2093 of the Civil Code., and consequently, should the Seller deliver to the Buyer a higher quantity of Goods than has been arranged in this Contract, a contract of purchase is not entered into for the surplus quantity, even in the case that the Buyer does not refuse the surplus Goods without undue delay.
9. The right of ownership to the Goods and the risk of damage to the Goods passes to the Buyer at the time at which the Buyer receives the Goods.
10. The Seller hereby undertakes that the Goods shall comply with all technical, legal, safety, and other standards and shall comply with all technical, safety, legal, and other generally-binding legal regulations, and simultaneously declares that the Goods are free of all material and legal defects and that the Goods shall comply with all requirements made by the Buyer in this Contract from the qualitative and quantitative perspective, and that the Goods shall fully match the purpose for which the Buyer is buying the relevant Goods, whereby the Seller simultaneously declares that this purpose is known to it. The Seller is not authorised to determine the properties of the Goods at a later time and the Buyer shall not be bound by a determination of the properties of Goods made by the Seller; for the purposes of this Contract, the provisions of Section 2089 of the Civil Code do not apply.

**IV.**

**The purchase price and the terms and conditions of payment**

1. The Contracting Parties have agreed on the size of the total purchase price for the Goods as follows:

### total price not including VAT CZK *to be completed by the participant*;

### VAT (at a rate of 21%) CZK *to be completed by the participant*,

### total price including VAT CZK *to be completed by the participant*.

1. The total purchase price specified in paragraph 1 of this article includes all costs expended by the Seller in relation to the complete delivery of the Goods and the activities associated with the delivery of the Goods according to Article II of this Contract, including risks, profits, transportation, insurance of transportation, delivery of the Goods with suitable carriage and handling treatment, etc.
2. Value added tax shall be charged according to the provisions of Act No. 235/2004 Coll. on value added tax, as amended (hereinafter referred to as the “VAT Act”). The Contractor is responsible for the fact that the rate of value added tax at the time of invoicing is set in accordance with valid and effective legal regulations.
3. The purchase price is set as a fixed price, the highest permissible and maximum price. The purchase price may only be adjusted should there occur changes to the rates of VAT following the conclusion of this Contract. Any broadening of the subject-matter of performance in comparison with the originally arranged scope must be agreed by the Contracting Parties in advance in writing, as must an agreement on the adjustment of the purchase price.
4. The Seller is due payment of the total purchase price at the time at which the Buyer receives the Goods according to Article III of this Contract, including handover of the relevant documents all confirmed in the Handover Document.
5. The purchase price shall be paid by way of credit transfer into the Seller’s account specified in this Contract pursuant to a tax document-invoice issued by the Seller without undue delay after satisfaction of the terms and conditions laid down in the preceding paragraph of this article of this Contract and delivered to the Buyer. The invoice issued by the Seller must comprise all particulars of a tax and accounting document according to Act No. 563/1991 Coll. on accounting, as amended, and the VAT Act, whereby the invoice must also state the name of the project, the registration number of the project, identification of this Contract, and the relevant delivery CZ CPA code. Where the invoice does not comprise the particulars specified or where the total purchase price is wrongly billed, the Buyer may demand that it be supplemented or may return the invoice for rectification within 30 days of the date of delivery thereof, without paying the invoice. Where the Buyer returns the invoice, the time limit of the payment term recommences for the relevant invoice on the date of delivery of a rectified or newly-created invoice to the Seller. The Seller delivers the invoice to the Buyer electronically to the e-mail address fakturace.phdinfra@vsb.cz.
6. The payment term of the invoice is 30 calendar days following the date of delivery of the invoice to the Buyer. The Contracting Parties have agreed that the obligation to pay the purchase price shall have been fulfilled on the date on which the relevant amount is debited from the Buyer’s account in favour of the Seller’s account specified in this Contract.
7. All payments according to this Contract shall be paid by the Buyer into the Seller’s account specified in the header to this Contract.
8. The Buyer is authorised, within the meaning of the provisions of Section 109 of the VAT Act, to make a securing payment of VAT directly into the account of the competent tax authority should the Seller become an unreliable tax payer to the date of the chargeable event. In such case, the Buyer is not under obligation to pay the amount corresponding to VAT to the Seller and is only under obligation to pay the Seller the amount of the purchase price not including VAT. The Seller’s account specified in the header to this Contract is an account made public by the tax administrator in a way which facilitates remote access in accordance with the provisions of Section 96 of the VAT Act. The Seller is under obligation to state in the invoice only an account which is made public by the tax administrator in accordance with the VAT Act. Where there is a change in the identification of the published account in the course of the duration of this Contract, the Seller undertakes to inform the Buyer of such a change in writing without undue delay. In light of the fact that, according to the provisions of Section 109(2)(c) of the VAT Act, the recipient of the chargeable event guarantees unpaid tax on such event, where the payment for this event is provided entirely or partially by way of credit transfer into an account other than the account of the provider of the chargeable event which is made public by the tax administrator in a manner which facilitates remote access, the Buyer shall only pay the purchase price into an account made public within the meaning of the provisions of Section 96 of the VAT Act. If it is shown at any time that the Seller’s account into which the Seller is seeking payment of the purchase price is not a published account, the Buyer is not under obligation to pay the purchase price into such account; in such case this is not delay on the part of the Buyer in the payment of the purchase price. The provisions of this article of the Contract only stand if relevant to the Seller.
9. The Seller assumes the risk of a change of circumstances according to the provisions of Section 1765 of the Civil Code, particularly in connection with an increase in the costs of the delivery of the Goods according to this Contract.

**V.**

**Authorised persons**

1. The Contracting Parties have agreed on the following authorised persons for contact between the Seller and the Buyer in connection with the performance of this Contract, and for the delivery of all documents (hereinafter referred to as the “Authorised Persons”):
2. Authorised Persons on behalf of the Buyer:
* in contractual and technical matters:

prof. Ing. Miroslav Vozňák, Ph.D., e-mail: miroslav.voznak@vsb.cz, tel.: 596 995 940

* in invoicing matters:

Ing. Markéta Nenzová, e-mail: marketa.nenzova@vsb.cz, tel.: 596 999 016

Ing. Markéta Březinová, e-mail: marketa.brezinova@vsb.cz, tel.: 596 999 201

1. Authorised Persons on behalf of the Seller

*to be completed by the participant*, e-mail: *to be completed by the participant*, tel.: *to be completed by the participant*

*to be completed by the participant*, e-mail: *to be completed by the participant*, tel.: *to be completed by the participant*

1. The Authorised Persons shall represent the Contracting Parties in commercial and technical matters relating to the performance of this Contract, whereby they are not authorised to take action which would directly result in the amendment of this Contract or of its subject-matter.
2. The Contracting Parties may change Authorised Persons by providing written notification to the other Contracting Party, sent to the e-mail address of the Authorised Person of the Buyer in contractual and technical matters.

**VI.**

**Warranty on quality**

1. The Seller provides the Buyer with a warranty on the quality of the Goods delivered according to this Contract **of a length of 24 months**, in accordance with the provisions of Section 2113 of the Civil Code. The warranty on quality commences at the instant of signature of the Handover Document according to paragraph III(4) of this Contract. The Seller undertakes that the Goods shall be fit for use for the agreed purpose and shall retain the agreed properties, and in particular the properties according to this Contract and its annexes, for the duration of the warranty period; the Seller is responsible to the Buyer for the Goods not having legal defects.
2. The Seller undertakes to remove defects which the Buyer reports to the Seller during the warranty period without charge and under the terms and conditions laid down hereunder in this Contract. During the warranty period, the Seller undertakes to provide the Buyer with free servicing of the delivered Goods, including the delivery of the required spare parts. The warranty does not cover normal wear-and-tear of the Goods or defects caused by vis maior. The warranty also does not apply to parts with a limited service life and consumable parts (especially nozzles, sealing elements).
3. The Buyer may make a warranty claim by telephone or in electronic format by way of e-mail, on telephone number *to be completed by the participant* or to e-mail address *to be completed by the participant*.The Buyer is authorised to inform the Seller of a defect to the Goods at any time after it has ascertained the defect, but not later than by the end of the warranty period. The Buyer is under obligation to specify the defect and its manifestation. The Seller undertakes to initiate the resolution of a warranty claim made in person, by telephone, or by e-mail and to initiate removal of the defect not later than **within 3 business days** of the date on which the warranty claim is made. If repairs to equipment must be made in situ, the Seller undertakes to come to carry out repairs not later than **within 15 business days** of the date on which the warranty claim is made. If it is possible to remove defects in situ, the Seller shall do so.
4. The Seller is under obligation to remove defects to the Goods within the warranty period based on a delivered warranty claim and to do so **within a maximum of 30 calendar days** following the date on which the warranty claim is made, unless the Contracting Parties agree in writing on a different time limit for the removal of a defect.
5. If the Seller fail to remove a defect within the time limit laid down in the preceding paragraph because the defect is irremovable, the Buyer is authorised:
6. to demand that new, faultless Goods be delivered within 4 months of the date of the passing of the time limit for the removal of the defect according to paragraph 4 of this article of the Contract;
7. to demand a reasonable discount on the purchase price; or
8. to withdraw from this Contract, without limitation of time in relation to the time when it became clear that it is not possible to remove the defect.

If the Goods are returned in the case of withdrawal from the Contract or new, faultless Goods are delivered, the Buyer is not under obligation to return to the Seller the benefit (wear) that it had from the Goods.

1. Should the Buyer make a claim for a discount on the purchase price in accordance with the preceding paragraph, the Seller is under obligation to return to the Buyer an amount corresponding to the discount on the purchase price within 30 days of the date on which the Buyer makes the claim for a discount with the Seller. If the Buyer has not yet paid the purchase price in full, the Buyer is not under obligation to pay the Seller the portion of the purchase price corresponding to the demanded discount on the purchase price.
2. Travel expenses, the costs of material, and other costs which the Seller incurs in connection with carrying out warranty repairs are covered by the Seller in full.
3. Warranty servicing shall be carried out either at the registered office of the Buyer, or the Seller shall ensure collection of the Goods for warranty repair from the registered office of the Contracting Entity.
4. If the Buyer request as such, the Seller undertakes to provide the Buyer with post-warranty servicing according to the Seller’s price list, with a guarantee of supplies of spare parts, for a minimum period of 5 years following the passing of the warranty period.

**VII.**

**Penalty clauses**

1. Should the Seller fail to observe the time limit laid down for the delivery of the Goods according to paragraph III(1) of this Contract, it is under obligation to pay the Buyer a contractual penalty of 0.1 % of the total purchase price not including VAT for each commenced day of delay.
2. Should the Seller fail to observe the time limits laid down for commencement of the removal of a defect according to paragraph VI(3) of this Contract, it is under obligation to pay the Buyer a contractual penalty of CZK 500,- for each defect and each commenced day of delay.
3. Should the Seller fail to observe the time limits laid down for commencement of the removal of a defect according to paragraph VI(4) of this Contract, it is under obligation to pay the Buyer a contractual penalty of CZK 1.000,- for each defect and each commenced day of delay.
4. Should the Seller fail to observe the time limit laid down for the delivery of new Goods according to subparagraph VI(5)(a) of this Contract, or the time limit for payment of an amount corresponding to a discount on the purchase price according to paragraph VI(6) of this Contract, it is under obligation to pay the Buyer a contractual penalty of CZK 1.000,- for each identified case and each commenced day of delay.
5. Where the Buyer is in delay with payment of the purchase price, the Buyer undertakes to pay the Seller interest on late payment on the unpaid portion of the purchase price including VAT in an amount arising from generally-binding legal regulations.
6. The maximum amount of contractual penalties pursuant to paragraphs 1 - 4 of this article of the contract is limited to 10% of the total purchase price excluding VAT pursuant to paragraph IV(1) of this Contract, regardless of the number of breaches of contractual obligations or the length of the delay.
7. The obliged Contracting Party pays a contractual penalty into the account of the entitled Contracting Party, as specified in the header to this Contract, on the basis of notice of imposing a contractual penalty issued by the entitled Contracting Party and delivered to the obliged Contracting Party. Such notice shall contain a description of and the time designation of the incident which establishes the right to payment of a contractual penalty in accordance with the Contract. The obliged Party must make a statement on the billing of a penalty within a maximum of 10 days after receiving this; otherwise it is deemed that the obliged Party agrees with such billing. A statement in this case is understood to be the written opinion of the obliged Party. Where the obliged Party does not agree with the billing of a penalty, it is under obligation to inform the entitled Party of the reasons for which it does not accept the penalty, and to do so within the arranged time limit. The payment term of billed contractual penalties is 30 days following the date of delivery to the relevant Contracting Party of written notice of the imposition of a contractual penalty, and the date of payment is deemed to be the date on which the amount of the contractual penalty is debited from the account of the relevant Contracting Party for the benefit of the account which is specified in the billing of the contractual penalty.
8. The arrangements on contractual penalties shall be without prejudice to the rights of the injured party to compensation for loss or damage, which may be enforced separately in full in addition to a contractual penalty. Liability for damages and compensation for damages is limited by this Contract to the amount of the purchase price excluding VAT pursuant to paragraph IV(1) of this Contract.
9. The Buyer is authorised to offset a contractual penalty against a claim of the Seller for payment of the purchase price.

**VIII.**

**The dissolution of the Contract**

1. The Contracting Parties are authorised to withdraw from this Contract on the grounds laid down by the Civil Code or in this Contract.
2. The Buyer is authorised to withdraw from this Contract in the case that:
3. the delay of the Seller in delivering the Goods is longer than 30 days after the term of performance laid down in this Contract;
4. the delay of the Seller in removing a defect to Goods is longer than 15 calendar days;
5. insolvency proceedings are ongoing on the assets of the Seller in which a bankruptcy decision has been issued, or a bankruptcy filing has been rejected as a result of the fact that the Seller’s assets are insufficient to cover the costs of insolvency proceedings, or bankruptcy proceedings have been cancelled as a result of the fact that the Seller’s assets are entirely insufficient; or
6. the Seller goes into liquidation.
7. The Seller is authorised to withdraw from the Contract in the case that the Buyer is in delay with the payment of the purchase price by longer than 60 days, even though the Buyer has been warned of this delay by the Seller in writing.
8. Withdrawal must be done in writing and delivered to the other Contracting Party. The Contract is cancelled by way of withdrawal on the date of withdrawal from the Contract.
9. Expiration of the effect of this Contract shall not affect the provisions of the Contract to concern rights arising from liability for defects, liability for loss or damage, and contractual penalties, if these are established prior to expiration of the effect of the Contract, provisions regarding the protection of information, or any other provisions and rights the nature of which indicates that they shall remain in place even following the dissolution of this Contract.

**IX.**

**Other provisions**

1. The Seller undertakes, under the terms and conditions laid down in this Contract and in accordance with the instructions of the Buyer and with all professional diligence:
2. to archive all documents connected with the performance of this Contract and to afford the Buyer access to such archived documents throughout this time, to 31 December 2035, unless the Czech legal order determines a longer time limit for certain documents. The Buyer is authorised to take the documents specified above from the Seller without charge after ten years have passed from the end of the performance of this Contract;
3. to allow all subjects authorised to undertake an inspection of the project from whose funds the purchase price according to this Contract is paid to undertake a check of the documents relating to the performance of this Contract; the Seller is also under obligation, as an obliged person according to Section 2(e) of Act No. 320/2001 Coll. on financial control in public administration, as amended, to cooperate in the undertaking of a financial audit, inter alia to allow the OP JAK Governing Body access even to those parts of offers, contracts, and associated documents which are subject to protection according to special legal regulations (for example, trade secrets, confidential facts), provided that the requirements laid down by legal regulations [in particular Act No. 255/2021 Coll. on inspection (Rules of Inspection), as amended] are satisfied; in its contracts with its subcontractors, the Seller shall bind those subcontractors to allow the OP JAK Governing Body to inspect the subcontractors to the same extent.
4. The Seller is under obligation to maintain confidentiality vis-à-vis third parties with regard to all facts of which it learns during the execution of this Contract and in connection with it which are protected by the relevant generally-binding legal regulations (in particular, trade secrets, personal data, confidential information) or which the Buyer has declared to be confidential. The obligation of confidentiality remains in place even following expiration of the force of this Contract. The Seller also undertakes to ensure these obligations among all of its employees or other persons that the Seller uses for performance according to this Contract.
5. By signing this Contract, the Seller assumes the obligation of socially-responsible performance of a public contract. The Buyer is authorised to inspect fulfilment of such obligations at any time, even without notifying the Seller in advance. If documents need to be submitted for an inspection to be conducted, the Seller undertakes to submit them within a maximum of 2 business days following the delivery of the call of the Buyer. The Buyer shall ensure the following for the entire duration of the performance of this Contract:
6. the fulfilment of all obligations arising from the legal regulations of the Czech Republic, in particular from labour regulations and regulations from the sphere of employment and occupational health and safety, vis-a-vis all persons that are involved in the performance of the subject-matter of the Contract; it shall ensure that its subcontractors fulfil these obligations;
7. the arrangement of and adherence to contractual terms and conditions with its subcontractors which are comparable to the terms and conditions arranged in this Contract, in particular in relation to the size of contractual penalties;
8. the due and timely fulfilment of financial obligations to its subcontractors, in that due and timely fulfilment is deemed to be the full payment of invoices issued by subcontractors for performance provided in relation to the performance of the subject-matter of this Contract within the arranged terms and entirely in accordance with the contractual terms and conditions of the contractual relationship entered into with the subcontractor;
9. that, during the performance of this Contract, environmental impacts are minimised, in particular by sorting waste, saving energy, and respecting sustainability or the possibilities of the circular economy.

**X.**

**Common provisions**

1. The Contracting Parties have expressly declared that they do not wish for any rights and obligations beyond the scope of the express arrangements of this Contract to be inferred from existing or future practice established between the Contracting Parties or customs maintained in general or in the industry to concern the subject-matter of performance of this Contract, unless expressly arranged otherwise in this Contract. In addition to the above, the Contracting Parties confirm that they are not aware of any established business customs of practice between them.
2. The Contracting Parties have agreed to preclude the application of the provisions of Section 557 of the Civil Code, that if an expression used may be interpreted in different ways, in cases of doubt it is interpreted to the detriment of whoever used the expression first.
3. Offsetting against the claims of the Seller established according to this Contract is not permissible. The Contracting Parties preclude the application of the provisions of Section 1987(2) of the Civil Code in relation to claims established for the Buyer from this Contract or in connection with it, and agree that even an uncertain and/or unspecified claim is qualified for offsetting, but only to the time of any filing of an action for performance from this Contract.
4. Where, during the time between entering into this Contract and the handover of the Goods, a higher version of the delivered Goods, or a part thereof, goes into production, the Seller may, subject to the prior written consent of the Buyer, deliver this higher version of the Goods to the Buyer under the terms and conditions laid down in this Contract, without any increase in the total purchase price, while maintaining the time limit for the handover of the Goods, while maintaining the compatibility of the Goods with other technologies which are part of the subject-matter of this Contract, and while maintaining the same of better parameters of the Goods in comparison with the parameters of the Goods originally arranged in this Contract.

**XI.**

**Final provisions**

1. This Contract enters into force on the date of signature thereof by both Contracting Parties and enters into effect on the date of publication in the register of contracts according to Act No. 340/2015 Coll. on the register of contracts. The Buyer shall arrange publication in the register of contracts in accordance with the act specified in the preceding sentence.
2. Amendments and supplements to this Contract may only be made in writing in the form of numbered addendum signed by both Contracting Parties. Should this Contract require that any action be taken in writing, electronic messages shall not be deemed to be “in writing”.
3. The rights and obligations not regulated by this Contract are governed by the legal order of the Czech Republic, in particular the Civil Code and its relevant provisions regarding contracts of purchase.
4. Should any provision of this Contract prove to be invalid or unenforceable or become such following the conclusion of this Contract, this shall not lead to the invalidity or unenforceability of the other provisions of the Contract, unless ensuing otherwise from the mandatory provisions of legal regulations. The Contracting Parties undertake to replace such an invalid or unenforceable provision with a valid and enforceable provision the content of which is as close as possible to the purpose of the invalid or unenforceable provision.
5. The Seller may not assign its rights and obligations arising from this Contract to a third party without the written consent of the Buyer.
6. All disputes between the Contracting Parties arising from or connected with the provisions of this Contract shall invariably first be resolved by conciliatory reciprocal agreement. Where conciliatory resolution cannot be achieved within a reasonable period of time, either of the Contracting Parties shall have the right to refer the contentious matter to the court having venue jurisdiction for a ruling. The court having venue jurisdiction for the consideration of disputes arising from this Contract is the ordinary court of the Buyer, in accordance with Section 89a of Act No. 99/1963 Coll., the Civil Procedure Code, as amended.
7. This Contract has been written in one counterpart in electronic format.
8. Annex 1 - Technical specifications - is in inseparable part of the Contract.
9. This Contract contains a full arrangement regarding the subject-matter of the Contract and all matters which the Contracting Parties should have and wanted to arrange in this Contract and which they deem to be important for the binding nature of this Contract. No expression made by the Contracting Parties in the negotiation of this Contract and no expression made after entering into this Contract may be interpreted contrary to the express provisions of this Contract, neither does it establish any obligation on either of the Contracting Parties.
10. The Contracting Parties concurrently declare that they are aware of all legal repercussions invoked by this Contract and that they agree with all provisions of the Contract, with which they have familiarised themselves in detail, in witness of their free and true will their authorised representatives have set hereunto their hands.

|  |  |
| --- | --- |
| In Ostrava on \_\_\_\_\_\_\_\_\_\_\_\_\_ | In *to be completed by the participant* on *to be completed by the participant*  |
| ...................................................................**Technical University of Ostrava, Faculty of Electrical Engineering and Computer Science**prof. Ing. Jan Platoš, Ph.D.Dean of the Faculty of Mechanical Engineering | ......................................................................*to be completed by the participant* *to be completed by the participant*  |

Annex 1- Technical specifications

**Technical specifications**

**QKD system:**

The subject of the public contract is the supply of two QKD nodes, „Alice“ and „Bob“. Transmitter and receiver modules will consist of three subsystems each:

* Quantum optical transmitter/receiver,
* Quantum post-processing and
* Management and access to keys.

The subject of performance also includes transport to the place of performance, installation od the device (at the place of performance, or remotely with local support from the contracting authority) and training of equipment users in the scope of at least 2 working days of 4 hours each.

**Manufacturer of the device:** *to be completed by the participant*

**Exact type designation of the device:** *to be completed by the participant*

**The device (QKD system) must meet following parameters:**

* Transmitter and receiver modules will consist of three subsystems each:
	+ Quantum optical transmitter/receiver,
	+ Quantum post-processing and
	+ Management and access to keys
* **QKD protocol:**
	+ QKD protocol: CV-QKD or DV-QKD
	+ Required tolerable loss (reach) in optical fiber - corresponds at least to 50 km reach in standard SM fiber (0.2 dB/km loss): min. 10 dB
	+ Secret Key rate: min. 1,4 kb/s
* **Optické parametry:**
	+ Required number of optical fibers: max. two dedicated optical SM fibers
	+ Optical fiber connectors SC/UPC or LC/UPC
* **Management and Access to Keys**
	+ Protocol for key delivery:
		- ETSI GS QKD 004 or ETSI GS QKD 014
	+ Managemet interface: Graphical web interface and API
	+ Availability of data: the raw output of the detector and the sifted key; we need to make them fully accessible to users for educational purposes and experiments
* **Additional requirements**
	+ Height: max. 4 U
	+ Width: max. 19 inches