

CONTRACT
FOR DESIGN AND INSTALLATION, TRAINING SERVICES

THE PARTIES

the Client: ELI-HU Non-Profit Ltd.

registered seat: 6728 Szeged, Wolfgang Sandner utca 3., Hungary;

company registration No: 06-09-015211;

EU VAT No: HU22604255;

represented by Dr. Gábor SZABÓ Managing Director;

(hereinafter referred to as: Client); *and*

the Contractor:

registered seat:

company registration No:

EU VAT No:

represented by:

(hereinafter referred to as: Contractor)

Client and Contractor jointly referred to as Parties, or separately as Party

I.
PREAMBLE

- A.** Based on the identified need, Client has conducted a procurement procedure in the subject matter of ***‘TDR, installation and training for the implementation of a compact setup for generation and compression of broadband ultraviolet pulses for UV-XUV pump-probe spectroscopy’*** falling under the exemption provided in Section 111 point (v) of Act CXLI of 2015 on Public Procurements, which procurement is directly related to, and necessary for the implementation of research and development activities.
- B.** The Contractor has submitted the successful tender and thereupon the Client enters into this contract for design and services (hereinafter referred to as the “Contract”) with the following subject matter and content.
- C.** The financial coverage for the consideration under the Agreement is provided under *the grant agreement concluded within the framework of the Swiss-Hungarian Cooperation Programme II – Research Programme in Hungary, for the implementation the programme component titled ‘ELI ALPS Cooperation’ (SM02-RES PC1).*”
- D.** The Parties hereto agree that Client’s relevant Request for Proposal (hereinafter referred to as the “Request for Proposal”), with all its annexes, especially the technical specifications defining the requirements to be achieved under the Contract by Contractor (hereinafter referred to as the “Technical Requirements”) shall jointly form Annex 1, and the Contractor’s winning proposal submitted by Contractor and accepted by Client (hereinafter referred to as the “Proposal”), shall form Annex 2 to this Contract.

II. EXPLANATORY PROVISIONS

1. For the purpose of this Contract, the Parties shall use the terms below with the following meaning:
 - 1.1. **Reaction Microscope End Station (hereinafter referred to as ReMi-ES):** a scientific instrument designed to image the momentum vectors of charged reaction products in coincidence. ReMi ES is the propriety of Client and is situated in the Facility as defined below.
 - 1.2. **Compact Setup:** A compact, modular setup unit to be used with the Reaction Microscope End Station (ReMi-ES) built on a mobile breadboard, demonstrating all the capabilities, properties, uses and outputs defined in the Technical Requirements.
 - 1.3. **Detailed Technical Design Report (hereinafter referred to as TDR):** technical plan for the implementation, assembly and installation of the Compact Setup prepared by the Contractor according to the terms and conditions laid down in this Contract.
 - 1.4. **Bill of Materials List (hereinafter referred to as BOM List):** A complete, detailed and itemized list of all parts, components, materials, and accessories required for the assembly, installation and operation of the Compact Setup as designed in the TDR.
 - 1.5. **Facility:** The Extreme Light Infrastructure Attosecond Light Pulse Source (ELI ALPS) Facility located in Szeged, Hungary, which is one of the ELI Facilities of the Extreme Light Infrastructure European Research Infrastructure Consortium (ELI ERIC).
 - 1.6. **DL:** abbreviation for the partial performances (deliverables) under this Contract as defined in Section 14. and completed, as applicable, with the serial number of the specific partial performance.

III. SCOPE OF THE CONTRACT

2. [Contractor's main obligations]
 - 2.1. Contractor undertakes to fully design the Compact Setup and hand over the TDR with the BOM List to the Client.
 - 2.2. The Client itself shall be solely responsible for the procurement of the parts, components, materials, and accessories of the Compact Setup as defined and detailed in the BOM List, this activity is not part of the Contractor's obligation under the Contract.
 - 2.3. Once all parts, components, materials, and accessories of the Compact Setup detailed in the BOM List have been procured by Client and have been shipped to the Facility, Client shall assemble the Compact Setup under the direction and supervision of the Contractor (installation services).
 - 2.4. The Contractor shall hold an on-site training to the Client's operating staff on the operation and maintenance of Compact Setup.

- 2.5. Following the installation the Compact Setup shall fully meet the quality and operational requirements set forth in this Contract and annexes, furthermore it shall not exceed the measurement margin of error with regards to the measurable quantity parameters defined in the Technical Requirements and the TDR (where applicable).
- 2.6. Contractor also undertakes that Compact Setup designed in the TDR meets European standards and any legal requirements applicable to it.
- 2.7. [Place of delivery]

The Parties agree that the place of performance of the installation and training services (hereinafter: “place of performance”) shall be: the place of the Facility for which the address is as follows: *6728 Szeged, Wolfgang Sandner u. 3., Hungary* even if such services shall be rendered via online means.

IV. CONTRACTOR’S DESIGN DUTIES

3. [Contractor’s responsibility for preparation of, and liability for the TDR]

- 3.1. The Contractor shall prepare and assume full responsibility for the contents of the TDR.
- 3.2. The Contractor shall acknowledge that the approval by the Client of the TDR shall not affect Contractor’s liability for the TDR. The Client shall not be held liable for the proficiency, compliance and feasibility of the TDR, which shall continue to constitute the sole responsibility of the Contractor after the express approval of the TDR, and Contractor warrants the above in accordance with the present Contract.

4. [Contents of the TDR, the BOM List]

- 4.1. The TDR shall fulfill all requirements defined in the Technical Requirements and include all information indicated therein. In particular but not exclusively it shall contain a detailed design of the Compact Setup, the qualitative and functional requirements thereof, and a list of parameters to be demonstrated during installation containing the margin of error for instrumental measurements (where applicable).
- 4.2. The BOM List is an integral part and annex to the TDR. The BOM list shall include all parts, components, materials, and accessories required for the assembly, installation and operation of the Compact Setup as designed in the TDR.
- 4.3. The BOM List shall specify for each item at least its description, technical specifications, quantity, manufacturer or supplier reference, and part number (where applicable), in a manner sufficient to allow unambiguous procurement by the Client.

5. [Submission and approval of the TDR and BOM List]

- 5.1. From here on out if the TDR is referenced in the Contract, it shall be meant inclusive of the BOM List.
- 5.2. The TDR (that is in full compliance with this Contract and the annexes thereof and whose contents are complete) handed over to the Client shall be approved by the Client.
- 5.3. The Client shall only be entitled to refuse the approval of the TDR if it does not comply with significant requirements specified under this Contract or any annexes thereof (especially if the detailing of the technical content of the report is deemed by the Client as insufficient based on reasonable and detailed

arguments provided for to the Contractor in writing), or if the technical solutions contained therein are unsuitable for the creation of a functional Compact Setup that is in full compliance with the requirements specified herein.

- 5.4. The Contractor shall repair any deficiencies and shall hand over again the TDR within a reasonable deadline mutually agreed upon by the Parties. Such a deadline will not extend the final performance deadline for the relevant deliverable.
- 5.5. The Contractor has complied with its tasks related to the preparation and submission TDR by the deadline if the Contractor has handed over to the Client the final version thereof prior to the expiry of the delivery deadline DL 1 specified in this Contract, provided that the TDR was approved by the Client later on expressly, or the approval was denied by the Client but the deficiencies were remedied prior to the expiry of the deliverable deadline.
- 5.6. The Client shall inform the Contractor about the approval or the refusal to approve the TDR within 5 working days calculated as of the receipt of the final version of the TDR. The Contractor shall not be liable for any delay arising out of the missing by Client of this deadline or the unfounded rejection of the TDR. The time required for Client to check contractual performance as described under this Section does not constitute part of the deadline of performance of this deliverable.
- 5.7. The submission of the TDR including the BOM List if prepared in accordance with the Contract shall be considered to be partial delivery DL 1.

V.

SUSPENSION OF PERFORMANCE

6. [Procurement of Compact Setup by Client, suspension of Contractors performance]
 - 6.1. Upon delivery and acceptance of the DL 1, the Contractor's performance obligations shall be suspended until the Client notifies Contractor in writing that all BOM List parts have been delivered and the Compact Setup can be assembled (Notification to continue).
 - 6.2. If the Client fails to issue such written notice within two (2) years of the Contract, the Contractor may partially withdraw from the with respect to installation service and training (DL 2), without any compensation due for that portion.
 - 6.3. The Contractor remains responsible for the design feasibility: The Compact Setup must be capable of realization strictly in accordance with the TDR.

VI.

INSTALLATION OF THE COMPACT SETUP AND TRAINING

7. [Continuation of performance: installation and training (DL 2)]
 - 7.1. The burden of performance of the Contract shall continue from the date of receipt of Client's Notification to continue. The deadline for the performance of DL 2 shall start on the date of receipt of the Notification to continue by Contractor.

- 7.2. Non-conformities, or delays caused by the Client's failure to order parts, or the correct parts (despite accurate BOM List) shall not constitute delay or fault by the Contractor.
8. [Installation of the Compact Setup]
- 8.1. The Client shall carry out the assembly and commissioning of the Compact Setup to which Contractor shall provide installation services. Within the context of the installation services the Contractor shall direct and supervise Client's assembly of the Compact Setup and commissioning thereof.
- 8.2. As a result of the installation services, the Client shall be able to assemble, commission and operate the Compact Setup so that it fully complies with the quality or functionality requirements specified in the Technical Requirements and TDR and shall operate within the margin of error for instrumental measurements regarding the technical parameters specified under the TDR.
- 8.3. The Contractor shall not be liable for any defects resulting from assembly or commissioning carried out by Client in a manner contrary to, or disregarding, the guidance provided by the Contractor under the installation services.
- 8.4. During commissioning Client shall also ensure the vacuum setup, technological gases, tools, cleanroom environment (temperature, humidity and cleanliness control) and electricity. In addition, equipment for the characterization of the input beam (power meter, photodiode, beam profiler, VIS-NIR spectrometer, pulse duration measurement device) is available upon request.
9. [Training the operating Staff]
- 9.1. The Contractor shall provide a level of training as a result of which the Client's staff could be able to operate the Compact Setup and the whole ReMi-ES with the Compact Setup as intended, without the Contractor's assistance. The training shall also cover the means of proper maintenance of the Compact Setup.
10. [Quantity of installation and training services, means of provisioning]
- 10.1. Contractor shall provide the installation and training services via one adequately trained and qualified professional, who has been accepted by Client as adequate. The total number of service days to be provided by Contractor jointly for the installation and training is 5 (five) working days.
- 10.2. Client shall accept the installation and training services to be provided either on-site or remotely via conference call.

XI. GENERAL RIGHTS AND OBLIGATIONS OF THE PARTIES

11. [Commitment to performance]
- Parties expressly declare in Contract that Contractor has obligation of achieving the results defined in the Contract and its annexes and demonstrating compliance with the technical parameters, safety, quality and functionality requirements as defined therein, there is no contracted result under this Contract that is only on best effort basis, although the initial design in the TDR may be amended by consent of Parties during the performance to optimally

obtain those contracted results. Should such TDR amendment result in delays in further Deliverables, Parties acknowledge to amend accordingly sections 33 and 34 hereunder.

12. [Obligation of notification]

The Parties shall promptly notify each other in written form of any circumstance which may have a material effect or impact on the performance of the Contractor and/or deadlines for performance or Deliverables under the Contract.

13. [Subcontractors]

The Contractor shall not have the right to transfer his liabilities hereunder to third parties. This Contract shall be performed by the Contractor. The Contractor shall only be entitled to procure the services of subcontractors or other service providers if agreed to by Client in advance.

XII. PARTIAL PERFORMANCE (DELIVERABLES) DEADLINES

14. [Deliverable deadlines]

The Parties agree on the following Deliverable Deadlines:

No. of Deliverable	Deliverable description	Deadline
DL 1	TDR, containing BOM List	T0+1 month
DL 2	Providing installation and training services	within 6 months of receipt of Client's Notice to continue

*T0: signature of the contract

XIII. CONTRACTOR'S FEE AND TERMS OF PAYMENT

15. [Financial considerations]

15.1. The Parties hereto agree that the Contractor is entitled to receive a **total of CHF XXXXX without VAT as Contractor's fee (hereinafter referred to as "fee")** for the perfect and complete fulfilment of its contractual duties and obligations under this Contract. I

15.2. All amounts payable to the Contractor under this Contract are taxed by the reverse-charge mechanism, as a result of which, the Value Added Tax (VAT) due is paid by the Client.

16. [Installments to be paid after completion of Deliverables]

The Parties agree that the payment of the fee shall be payable according to the following installments attached to the deliverable upon completion of each specific deliverable:

Deliverable number	Installments payable – CHF exclusive of VAT (partial invoicing)
DL 1	XXX
DL 2	XXX

17. [Contents of the fee]

17.1. The fee shall include the total cost for performing all duties of Contractor set forth in this Contract and in its annexes – including but not limited to the travel and accommodation cost if installation and training are provided on site - as well as all taxes, export custom duties, and the remuneration for the user's rights and industrial property use rights. VAT is not included in the fee. VAT shall be paid by the Client in accordance with the applicable regulations regarding reversed VAT payment.

17.2. Contractor shall not be entitled to receive any further remuneration or expenses under any legal title apart from the fee under this Contract.

18. [Invoicing]

18.1. No invoice shall be submitted for a deliverable unless the Contractor has fulfilled the contractual task defined in this Contract for that specific deliverable, and this has been confirmed by the Customer. To this end the Client shall issue a performance certificate for the deliverable accepted by Client in accordance with this Contract. The issue of such performance certificate shall not be unduly delayed or withheld and in no event shall exceed 8 days from the Client's confirmation on the completion of a deliverable by Contractor in accordance with the terms of this Contract. Such a certificate of performance shall be a mandatory annex of the Contractor's relevant partial invoice.

19. [Payment deadline]

Correctly issued invoices made out to the Client in line with this Contract shall be paid by the Client to the Contractor's bank account designated during performance or on the invoice. The time limit for payment shall be 30 days from date of receipt of the invoice by the Client.

XV. LIABILITY FOR DAMAGES

20. [Liability for damages]

If the Contractor shall be in default in the performance of the Contract and is unable to excuse being in default, then the Contractor shall be held liable for damage that arises during such default in connection with the subject matter of the Contract. The Contractor shall not be deemed to be in default should he prove that the damage i) would have occurred even in the absence of the default in question, ii) was caused by a failure or delay in performing its obligations under this Contract by the Client or any third party acting on its behalf, or iii) was caused by a circumstance beyond its control and unforeseeable at the time of the conclusion of the Contract, and which the Contractor could not reasonably have been expected to avoid or to avert ("Excuses").

21. [Limitation of liability]

Except in cases of gross negligence or willful misconduct the Contractor's liability for damages under this Contract shall be limited to the total contractual amount (fee) under this Contract.

XVI. TERMINATION OF THE CONTRACT

22. [Occurrences that may result in termination of the Contract]

22.1. Either Party may terminate the Contract in the following events:

- a) winding-up or liquidation process, initiated against the other Party; subject to the powers granted to the liquidator or receiver;
- b) bankruptcy proceeding instituted against the other Party or direct change of control of a Party to the benefit of other Party's competitor occur in such a way that it is no longer reasonable for the terminating Party to adhere to this Contract;
- c) mutual Contract between the Parties;
- d) - for any other obligations than payment obligations - , the other Party has breached the Contract, and
- e) in any other way stipulated in this Contract.

In the event that the Contract was terminated for reasons other than Contractor's breach, the Parties acknowledge that Client shall reimburse the Contractor for 100% of all documented costs incurred to date and any amounts related to Deliverables which have been completed as per this Contract. In return, the Contractor shall hand over the relevant materials and work results to the Client.

22.2. Termination of this Contract shall not affect either Party's obligations relating to confidentiality, warranty, and intellectual property rights.

22.3. In case of unilateral termination of the Contract the other Party must be notified in writing by the entitled Party with the reason providing ground for termination.

XVII. WARRANTY

23. [Extent and term of warranty]

23.1. Contractor warrants that:

- i. The TDR and BOM are complete, accurate, and sufficient;
- ii. The Compact Setup can be realized as described in the TDR and with the BOM List items;
- iii. The TDR does not infringe any third-party rights;
- iv. As a result of the assembly and installation the Compact setup shall work as described in this Contract and its annexes.

23.2. The Contractor shall assume the warranty with the terms defined in this Section 23 for a 12 month period from the date of Client issuing the certificate of completion for DL2.

23.3. The Contractor shall not be liable for delays or failures caused by the Client's incorrect procurement, storage, or handling of BOM List listed items or any assembly activities carried out not in accordance with or against the instructions of Contractor provided in the context of its installation service.

23.4. The warranty does not cover defects which are proven by Contractor to be caused by failure of Client to follow Contractor's instructions provided during training on operation and maintenance or otherwise is a result of non-intended use.

XIX. INTELLECTUAL PROPERTY

24. [IP rights, Assignment, Renumeration]

24.1. All intellectual property, know-how, inventions, designs, and documentation generated in the course of preparing the TDR (the "Foreground IP") shall be assigned in full ownership to the Client.

24.2. The Contractor hereby irrevocably assigns to the Client all rights, title, and interest in the Foreground IP, without territorial or temporal limitation. To the extent that such assignment is not legally possible, the Contractor grants the Client the broadest legally permissible, royalty-free, perpetual, worldwide, and transferable right of use.

24.3. Intellectual property pre-existing or developed independently of this Contract ("Background IP") shall remain with the Contractor. The Contractor grants the Client a royalty-free, perpetual, worldwide, transferable license to use such Background IP solely to the extent necessary to exploit the TDR, BOM List, and Compact Setup.

24.4. The Client may freely sublicense any IP under this Contract to contractors, suppliers, or affiliates as needed for manufacturing, assembly, or operation of the Compact Setup.

24.5. The fee defined in this Contract under Section 15.1 is inclusive of all remuneration the Contractor is entitled to receive for the rights of use as set forth in this Section 24 Contractor. Contractor shall not be entitled to any further claims under any legal title for the transfer of rights and attached use and exploitation rights thereof.

24.6. The Parties warrant that any materials, copyright works or information provided by either of them in connection with the fulfilment of the Contract, will not constitute or result in any infringement of third-party rights or legitimate interest.

24.7. If the information transferred during the performance of the Contract is protected by any IP rights i.e. Background IP, the Contractor should clearly indicate this fact.

25. [Rules of Publication]

The Contractor may not publish, present, or otherwise disclose in any scientific, technical, or other publication any results, data, or information generated under this Contract, including but not limited to the Foreground IP, without the Client's prior written consent. Such request for consent shall be made at least sixty (60) days prior to the intended submission or disclosure, in order to allow the Client to review the proposed content. The Client may withhold consent only where the disclosure would: (i) compromise the protection of Foreground IP or patentability of an invention; or (ii) involve the Client's confidential information. Where the Client elects to seek protection of Foreground IP contained in the proposed publication, the Contractor shall defer submission until the necessary protection (e.g., patent application) has been duly filed, provided that such deferral shall not exceed ninety (90) days from the Contractor's request for consent, unless otherwise agreed by the Parties in writing.

XXI. CONFIDENTIALITY

26. [Confidentiality]

26.1. Each Party (“Receiving Party”) shall keep strictly confidential and shall not disclose to any third party any technical, commercial, or other proprietary information received from the other Party (“Disclosing Party”) in connection with this Contract, whether in written, oral, electronic, or any other form (“Confidential Information”).

26.2. Confidential Information may be used by the Receiving Party solely for the performance of this Contract. Disclosure is permitted only on a strict need-to-know basis to the Receiving Party’s employees, agents, and professional advisors, provided that such persons are bound by confidentiality obligations no less stringent than those set out herein.

26.3. Notwithstanding the foregoing, the Client shall be entitled, without any further restriction or additional consent, to disclose Confidential Information to its Affiliates, on a need-to-know basis, for purposes related to the use, implementation, protection, or exploitation of the Deliverables and Foreground IP. For the purposes of this Contract, “Affiliates” shall mean any entity directly or indirectly controlling, controlled by, or under common control with the Client. Affiliates explicitly include ELI ERIC (Extreme Light Infrastructure European Research Infrastructure Consortium), as the Client’s majority owner.

26.4. The confidentiality obligations shall not apply to information that:

- i. was lawfully in the Receiving Party’s possession without restriction prior to disclosure;
- ii. is or becomes publicly available without breach of this Contract;
- iii. is lawfully obtained from a third party without confidentiality obligations; or
- iv. is independently developed without use of the Confidential Information.

26.5. The confidentiality obligations under this Section shall survive the expiration or termination of this Contract for a period of five (5) years.

XXIII. CLOSING PROVISIONS

27. [Notices]

Any notices required to be given pursuant to this Contract shall be given by the Parties in writing (communicated by post, international courier service, or registered mail, return receipt requested or electronically) and sent to the Parties’ respective addresses specified in this Contract.

Technical notifications to:

Client: Tamás Csizmadia (tamas.csizmadia@eli-alps.hu)

Contractor:

Administrative/Legal/Financial notification to:

Client: info@eli-alps.hu; legal@eli-alps.hu; Penzugy@eli-alps.hu

Contractor:

28. [Principle of cooperation]

The Parties hereto shall cooperate with one another and notify each other as soon as possible of any issues with relevance to this Contract, not only concerning the performance of the provisions of this Contract, but also any significant matter which may impact the performance of the Contract.

29. [Amendments]

The Parties agree that this Contract may be amended by mutual consent of the Parties solely in writing.

30. [Governing law]

This Contract shall be governed by the laws of Hungary, in particular by the provisions of Act V of 2013 on the Hungarian Civil Code.

31. [Jurisdiction]

The Parties wish to settle any dispute amicably by way of negotiations and shall submit such dispute to litigation only if the dispute could not be resolved through negotiations within three months. The parties hereby stipulate the exclusive jurisdiction of the District Court of Szeged or the Regional Court of Szeged, Hungary depending on the value of the dispute.

32. [Personal data]

Parties declare that the personal data provided by the other Party in this Contract will be processed by Parties in accordance with Article 6 (1) (b) of the General Data Protection Regulation (GDPR) for the purpose of the performance of this Contract until the termination of the Contract and for any applicable retention period. Following the termination of this Contract, for the enforcement and protection of legal claims arising from this Contract, the Client shall retain the personal data provided by the Contractor hereunder for the purpose of enforcing and defending legal claims arising from the Contract in accordance with the general rules of limitation of the Civil Code and the provisions of the Hungarian Accounting Act (Act C of 2000 on Accounting) on the retention of supporting documents pursuant to Article 6 (1) (c) GDPR.

33. [Partial invalidity]

Should one or more provisions of this Contract be or become invalid, the validity of the other provisions shall not be affected unless the Parties would not have concluded the Contract without the invalid part. The invalid provisions shall be interpreted as the Parties to the Contract originally intended it to be interpreted, subject to any statutory limitations.

34. [Legal capacity and right to representation]

The Parties hereto declare that they are legal persons, with legal capacity who are entitled to conclude this Contract and are duly organised under the laws of their respective countries, and their authorised signatories possess the authorisation required by the valid execution of this Contract.

35. [Entirety clause]

This Contract constitutes the entire Contract between the Parties regarding the subject matter herein and supersedes all prior or contemporaneous communications, representations, understandings, and Contracts, whether written or oral. No modifications, amendments, or waivers of any provisions of this Contract shall be valid unless in writing and signed by both Parties.

**XXIV.
ANNEXES**

36. [Annexes]

The following annexes shall be read and understood in conjunction with, and as an integral part of the Contract even if not physically attached:

Annex No 1.: Request for Proposal and annexes, including Technical Requirements and Definition of deliverables (TDR and BOM list)

Annex No 2.: Contractor's Offer

In case there is any discrepancy or inconsistency between this Contract and its Annexes, the order of interpretation and prevailing order shall be the following:

1. Annex No.1: Request for Proposal and annexes, including Technical Requirements
2. This Contract
3. Annex No 2.: Contractor's Offer

Having examined and interpreted the present Contract, Parties have signed it in the place and at the time indicated below, as being in full Contract with their will.

Szeged,

.....,

.....
Dr. Gábor SZABÓ
Managing Director
ELI-HU Nonprofit Kft.

Client

.....
NAME
TITLE
ORGANIZATION

Contractor