

GENERAL TERMS AND CONDITIONS OF CONTRACTS
- CONSTRUCTION WORKS, RECONDITIONING, SERVICES
(01.01.2020)

§ 1 General provisions

1. These General Terms and Conditions of Contracts apply to all contracts for the provision of services, including reconditioning/repair services, or completion of construction works for Pfeifer & Langen companies, being:
 - Pfeifer & Langen Polska S.A. with its registered office in Poznań, ul. Mickiewicza 35, 60-837 Poznań, NIP 784-00-03-412, BDO 7693, District Court Poznań-Nowe Miasto i Wilda in Poznań, 8th Division – National Court Register, company no. 0000080986, share capital PLN 96,713,526.40 (fully paid)
 - Pfeifer & Langen Marketing Sp. z o.o. with its registered office in Poznań, ul. Mickiewicza 35, 60-837 Poznań, District Court Poznań-Nowe Miasto i Wilda in Poznań, 8th Division – National Court Register, company no. 0000149431, NIP 778-11-18-503, BDO 116567, share capital PLN 10,000,000 (fully paid), where those companies are Customers.
2. As used in these General Terms and Conditions of Contract, the following terms shall have the meanings set out below:
 - a. **Customer** – Pfeifer & Langen Polska S.A. or Pfeifer & Langen Marketing Sp z o.o.;
 - b. **Contractor** – each undertaking which has entered into a Contract with the Customer;
 - c. **Reconditioning/Construction Works/Services/Contracted Work** – as agreed between the parties: the reconditioning of premises, plant, buildings etc., the construction works and/or the services to be provided by the Contractor for the Customer within the scope defined in the Contract, hereinafter to be referred to as "Contracted Work";
 - d. **Materials** – all things and means necessary to perform reconditioning or construction works, including any machines or other equipment, which may be necessary for the Contractor to complete the Contracted Work;
 - e. **T&C** – these General Terms and Conditions of Contracts with appendices and Manual, which are applicable to Contracts except to the extent a Contract provides otherwise;
 - f. **Contract** – a contract between the Customer and the Contractor, specifying at the minimum the place where reconditioning, services and/or construction works are to be provided, the remuneration and the related payment terms, the terms, dates and place for acceptance of the services, and the terms of any guarantee or bond; if no such express contract is executed, a Contract shall be constituted by minutes from negotiations where a bidder has been selected as the Contractor to perform Contracted Work for the Customer, or by an order generated by the Customer in SAP or PULSEDIRECT, unless these documents provide that an express Contract is to be executed. The Contract shall take precedence before any different provisions of such a note, offer/bid or order.
 - g. **Manual** – Customer's Internal HSE (Health, Safety and Environment) and HACCP Compliance Manual which is an integral part of these T&C.
3. These T&C and/or the Contract shall be the only contractual regulations which bind the parties in relation to performance of Contracted Work for the Customer. Therefore, the parties exclude the application of any other standard-form contracts (general conditions of contract or warranty, terms of sale, by-laws, etc.), including standard forms used and/or created by the Contractor. By making an offer/bid and commencing negotiations, the Contractor acknowledges having familiarised himself with, and accepts, the T&C and Manual current for the time being. Changes to T&C or the Manual are made by the Customer posting the new version on www.diamant.pl and the Parties shall be bound by the version which is current as at the date of entry into the Contract. The Contractor undertakes to make sure that his employees as well as his subcontractors and their employees are familiarised with the Manual.
4. The provisions of these T&C may be regulated by the Parties in a different manner in writing only, or else any such changes will be invalid.
5. Subject to §1(2)(f), no binding force shall be attached to any agreements, warranties, promises, undertakings or Contract amendments made in any form by unauthorised employees of the Customer in connection with an Order and with the execution of a Contract.
6. Unless a Contract expressly and unquestionably provides otherwise, the rights and duties under any Contract shall be applied only and independently to a particular Pfeifer & Langen company acting as the Purchaser. Nothing in these T&C or any Contract shall create or be interpreted as creating joint and several liability between Pfeifer & Langen companies defined as the Purchaser, unless and only to the extent that the Contract expressly and unquestionably provides otherwise.

§ 2 Entry into Contract

1. It shall be the rule that the final acknowledgment of and entry into a Contract shall be through authorised representatives of the Contractor and of the Customer. The parties exclude the application of Article 68^b of the Civil Code (Customer's silence shall not amount to acceptance).
2. Where the Contractor makes an offer to enter into a Contract, the Contractor shall be deemed to have accepted the T&C. A Contract is executed in accordance with the form submitted by the Customer, as may be revised to include what the Parties agreed during negotiations.
3. If the parties agree in their Contract any provisions that exclude or modify the T&C, these provisions shall expire on completion of the Contract and shall not apply to any other Contracts between the parties.
4. Where an offer is changed in any way or any reservations/exceptions are introduced to it, no Contract shall be deemed to be concluded until the Customer acknowledges in writing his acceptance of such changes or reservations/exceptions.
5. The Contractor must make sure that documents and information relating to his business are up-to-date and must give the Customer a notice of any circumstance which materially affects the Contractor's financial condition. The Contractor shall be liable in damages to the Customer for failure to give the Customer a notice that the Contractor does not have, or has lost, the status of a taxable person for VAT purposes, and in particular the Contractor shall pay a contractual penalty corresponding to charges imposed on the Customer and the amount of VAT the Customer did not recover and of interest payable for that reason.

§ 3 Performance of Contract

1. The Contractor undertakes to complete the Contracted Work with utmost professional diligence and in accordance with the Contract, applicable laws and regulations, and the principles of current engineering, economic and organisational knowledge. The Contractor represents that he is familiar with and has no objections to the conditions and method of performance of works under the Contract and accepts full responsibility in that regard. In particular, the Contractor warrants that all persons involved in performing the Contracted Work on his part or on the part of any subcontractors are duly knowledgeable and have the required qualifications, licenses and experience to properly perform the Contracted Work.
2. The Contractor undertakes to perform the Contracted Work in accordance with such technical and process specifications and using such materials and technologies as specified in the Contract and Appendices. Where the Contractor is to perform construction works, he shall perform them in accordance with the building permit obtained by the Customer.
3. The Contractor shall through his own means provide appropriate equipment and machinery to ensure due completion of the Contracted Work. The Customer shall not be liable for any property of the Contractor left at the work site.
4. The Customer may request the Contractor to do any additional works or reconditioning that may be necessary to duly perform the Contracted Work but that have not and could not have been contemplated in the Contract. Such works or reconditioning may be performed only after the Parties draw up and sign an amendment to the Contract which will specify the scope of such additional works or reconditioning and any special terms on which they are to be performed. The Parties exclude a possibility that any contract for additional works or reconditioning may be entered into by way of implied or tacit acceptance. If the Contractor performs any works or reconditioning that have not been contemplated in the Contract and requested in accordance with the preceding sentences, such works or reconditioning shall be deemed to have been completed for no extra remuneration beyond lump sum agreed for completion of the Contracted Work.
5. The materials used by the Contractor shall have appropriate approvals, certificates and declarations of conformity which attest to their quality and properties and their conformity with Design.
6. On delivery of software media or documentation, the Contractor transfers to the Customer, for no further consideration beyond his lump sum remuneration agreed in the Contract, copyrights and derivative rights in any works (as defined in copyright law) created when performing the Contract, including design documentation and any other materials developed by the Contractor for a purpose defined in the Contract, with respect to all the defined uses (*polo eksploatacji*) indicated in Article 50 of the Copyright and Related Rights Act of 4 February 1994. The Contractor further transfers to the Customer title to all physical media in which such works have been fixed. Software and source codes shall be licensed within the same scope (unlimited and non-exclusive license with requirement to deliver software and source codes on physical media). In addition, the Contractor undertakes to the Customer not to exercise his moral rights as author of any works created in connection with performing the subject-matter of the Contract and authorises the Customer to exercise those rights in the name of the Contractor.
7. An acceptance certificate without Customer's objections shall be considered as an acknowledgment of due completion of the accepted stages or of the entire Contracted Work and shall constitute grounds for the Contractor to issue an invoice where the Contract or the law provides for issuing an invoice.

§ 4 Remuneration and payment terms

1. The Contractor's remuneration specified in the contract is the net amount and will be increased to include VAT which will be accounted for in accordance with the applicable law. The remuneration includes all amounts due to and all costs of the Contractor, including also in respect of copyright transfer/license for each defined use of any copyright works. The remuneration shall not be increased.
2. No advance payment shall be made until the Contractor submits such irrevocable guarantee issued by a bank or an insurance company which guarantees an immediate unconditional refund of the advance payment on Customer's first demand and is valid for a time specified by the Customer in the Contract, and the guarantee has been accepted by the Customer.
3. On completion of the Contracted Work and based on a (final or partial) acceptance certificate signed by the Customer without objections ("no-objections acceptance certificate"), the Customer shall issue a VAT invoice which may be payable by way of a single payment or partial payments. Where a single payment is due for completion of the Contracted Work, the Contractor's remuneration shall be payable on completion of the Contracted Work, on the basis of a final no-objections acceptance certificate signed by the Customer to confirm due completion. Where the Contracted Work is to be performed in stages with a partial payment defined for completion of each such stage, the Contractor's remuneration shall be payable in accordance with the Contract

and/or schedule of works and expenditures, on the basis of partial no-objections acceptance certificates signed by the Customer according to the progress of the works and the related progress payments.

4. Subject to §9 T&C (except for advance payment), the following due dates shall apply:
 - a. advance payment – 14 days after submission of advance payment bond in accordance with §4(2) T&C;
 - b. single payment – first Tuesday after a period of 30 days from delivery to the Customer of a VAT invoice or VAT correcting invoice (or a duplicate thereof) which meets the requirements of these T&C, with the works acceptance certificate attached;
 - c. partial payments – in accordance with the Contract, the first Tuesday after a period of 30 days from:
 - i. delivery to the Customer of a VAT invoice or VAT correcting invoice (or a duplicate thereof) which meets the requirements of sub-para 5 below, with the attached no-objections acceptance certificate signed by the Customer;
 - ii. delivery to the Customer of no-objections acceptance certificates signed by the Customer, in accordance with the progress of the works and the schedule or Contract; as the case may be, with such service to be effected at the email address set out in the Contract or at the address set out in sub-para 5 below. If a due date should fall on a non-business day, it shall be moved to the first business day thereafter.
5. A VAT invoice which meets the requirements of applicable laws and which must mandatorily contain the contract/order reference should be sent in the form of a PDF file in accordance with sub-para 4 above. If the above form cannot be used, it will be acceptable as an exception to use the written form and deliver the invoice to Customer's Finance and Accounting Department at the following address: ul. Fabryczna 2, 63-800 Gostyn. The time for payment shall begin to run on the date on which such a duly and properly issued document is delivered by such method and in such form as specified in the T&C and/or the Contract.
6. The Contractor shall bear all the consequences of a situation where the Customer receives an invoice that does not comply with all the conditions provided in the T&C, which the Contractor undertakes to comply with. If this duty is not fulfilled, and in particular if the contract/order reference is not included, the Customer shall be entitled to receive the net amount of PLN 300.00 as a fee for his administrative and accounting service.
7. The Parties agree that payments under the Contract shall be made by a bank transfer to Contractor's bank account whose number is indicated in the Contract. The Contractor must give such bank account number which has been notified to the tax office with jurisdiction of Contractor's tax compliance and which will feature on the white list of non-exempt taxable persons, and shall give the Customer a written notice of any changes, failing which the Contractor shall pay the Customer a contractual penalty corresponding to the amount transferred to a bank account given by the Contractor which does not feature on the white list, without prejudice to the right to seek full compensation. If the Customer verifies Contractor's bank account to reveal that the account or any other bank account recently given by the Contractor does not feature on the white list, payment made into any of the Contractor's bank accounts notified to the tax office shall constitute a discharge of Customer's obligation to pay the amount due to the Contractor. A payment shall be deemed to be made on the date on which the transfer instruction is submitted to Customer's Bank. The Contractor acknowledges and accepts that the Customer will pay using the split payment mechanism. Such a payment shall constitute a discharge of the Customer's obligation owed to the Contractor.
8. Where the Customer has represented that he accepts receiving Contractor's invoices in the PDF format, the following requirements must be complied with:
 - a) Contractor shall indicate an email address from which his e-invoices will be sent.
 - b) Any email with a PDF invoice must have the subject line starting with the word *faktura* (invoice) and the same word must appear in the PDF filename.
 - c) Any email with a PDF invoice must have separate PDF files attached which show the grounds for issuing the invoice, with the filename of each such PDF file to contain the word *załącznik* (attachment) but not the word *faktura* (invoice).
 - d) One email may contain only one PDF invoice file. Each PDF file must be legible. In the case of a larger number of attachments, they may be sent in more than one email but reference to the relevant invoice must be included.
 - e) PDF invoices for the Customer must be sent only to the following addresses, as appropriate for the given Customer:
 - if for Pfeifer & Langen Marketing Sp. z o.o. faktury.marketing@diamant.pl
 - if for Pfeifer & Langen Polska S.A. faktury.polska@diamant.pl
9. An invoice, a correcting invoice or a duplicate invoice shall be deemed to be received on the date shown in the confirmation of receipt sent from the Customer's system. If electronic issuance, dispatch or receipt of invoices is prevented by formal or technical obstacles, the affected Party must promptly (within 24 hours from an obstacle occurring) notify the other Party, in which case the invoices will be sent on paper. The notice must be sent to the email addresses or to such fax number as indicated by the Parties. If, for reasons attributable to him, the Contractor fails to fulfil or duly fulfil his obligations described in this paragraph, the Contractor shall pay the Customer a contractual penalty corresponding to the amount of the VAT the Contractor did not deduct. In addition, the Customer shall have the right to seek damages in excess of the contractual penalty in accordance with the general rules.

§ 5 Time for completion

The time for completion of the Contracted Work is specified in the Contract. The Contracted Work shall be deemed to be completed on the date of signature of a final acceptance certificate which confirms due completion of the Contracted Work without objections on the part of the Customer.

§ 6 Duties of the parties

1. The Customer shall be required to provide the Contractor with access to the Contracted Work site and deliver the site under a relevant certificate to him, to timely proceed with acceptance of completed works, and to timely pay remuneration.
2. It shall be a responsibility of the Contractor to do whatever is conducive to proper completion of the Contracted Work, and in particular:
 - 1) take custody of work sites by executing relevant certificates;
 - 2) give the Customer a written notice of any additional work that may be necessary, within 3 business days from taking notice of such necessity;
 - 3) ensure that property at the site is protected, including especially against fire;
 - 4) execute and maintain all throughout the duration of the Contract the following contracts of insurance: insurance covering all risks in connection with performing the contracted work with sum insured of at least PLN 1,000,000.00 (one million zlotys zero grosz) per occurrence. The insurance shall include in particular:
 - public liability cover in connection with the works (property damage, personal injury);
 - personal accident cover for own employees or for the employees of any subcontractors.The scope of cover must be approved by the Customer. The Contractor shall furnish to the Customer a photocopy of the policy and of a confirmation of premium payment;
 - 5) keep the site tidy during and on completion of the Contracted Work; having taken custody of the work site by executing relevant certificate, the Contractor shall assume the responsibilities of the site host and shall be responsible for property damage, death or personal injury at the site caused to his employees or subcontractors or to third parties; the Contractor shall immediately notify the relevant authorised representative of the Customer and the owner's representative (*inspektor nadzoru*) of any damage or injury discovered at the site, including damage caused by a third party;
 - 6) the Contractor shall assume the environmental responsibilities and costs relating to the site, including the costs to remove packaging, waste and sewage generated in connection with work on the Contract. The Contractor shall be responsible for environmental and waste management compliance at the site. Packaging, waste and sewage should be removed regularly so that the site is tidy and such things are not stored there; any waste generated due to performance of the Contracted Work shall be property of the Contractor who is required to transfer it to authorised waste collection firms;
 - 7) report readiness for acceptance procedures to the Customer within Contract timeframes;
 - 8) carry out the works in accordance with fire regulations and HSW regulations;
 - 9) ensure that all Contractor's employees who perform the Contracted Work:
 - have professional qualifications adequate for the scope of the Contract;
 - have current medical examinations;
 - have been trained in HSW and fire regulations;
 - are covered by personal accident insurance;
 - 10) the Contractor shall do any such additional work associated with Contracted Work which the Customer may deem necessary and for which the Customer engages the Contractor in accordance with §3(4) hereof. In consideration for additional work, the Contractor will be entitled to remuneration specified in the relevant amendment to the Contract and the additional work shall be settled in accordance with the as-built priced bill of quantities, which the Contractor shall issue on the basis of a quantity survey of the works, approved by Customer's representative;
 - 11) the Contractor shall require his employees (or subcontractors etc., collectively the "employees") to fully and unconditionally comply with HSW regulations, including sobriety control & maintenance, fire protection, sanitary, environmental and HACCP duties, having special regard to Customer's internal site regulations in accordance with the terms of the Manual;
 - 12) the Contractor must take reasonable measures to protect the environment (whether in or outside Customer's facility) and reduce hazards and nuisance to people or property arising from pollution, noise or other effects of his actions. The Contractor shall not permit the use of any dangerous or noxious materials;
 - 13) the Contractor shall provide the Customer with any operating instructions, operation and maintenance documentation (*DTR*), safety certificates, technical approvals, test reports, attestations, type approvals, source codes etc.

3. Considering the need to ensure the safety of people and property in Customer's facilities, the Contractor shall ensure that none of his employees enters or remains in Customer's facilities while under the influence of alcohol or narcotic substances. Where there are reasonable suspicions as to the level of sobriety or intoxication of Contractor's employees entering or remaining in Customer's facilities and this is reported to the Contractor, the Contractor must immediately remove any such person from the site and take action to verify the person's level of sobriety or intoxication and prevent them from working in Customer's facilities. The Customer is entitled to administer preventive or random sobriety tests to persons entering or remaining on the premises. The Contractor must notify this to his employees/subcontractors and ensure compliance with sobriety control and maintenance duties. The foregoing shall not affect Contractor's duties associated with performing the Contract, including without limitation the duty to ensure timely and due completion of the Contracted Work, unless the Contractor unquestionably proves that Customer's suspicion as to the level of the given person's sobriety or intoxication turned out to be groundless.

§ 7 Subcontractors

1. The Contractor undertakes to perform the Contracted Work personally / using his employees.
2. A third party may only be engaged to perform any strictly specified parts or all of the Contracted Work if the Contractor gives the Customer a notice, which must be in writing to be valid, with details of the (construction) work to be so subcontracted ("Notice"), such notice to be given before the subcontractor commences his work, unless within thirty days from receipt of the Notice the Customer objects to engaging the subcontractor for such work, raising his objection ("Objection") with the Contractor and the subcontractor. An Objection must be in writing to be valid. The Customer's approval for subcontracting the work specified in the Notice may be made conditional on provision of additional bond in the form of a bank's/insurance company's guarantee or an additional deposit withheld from amounts paid to the Contractor to secure reimbursement of any fees paid by the Customer to the subcontractors. If the Customer requests the Contractor to provide such additional bond, the Contractor shall be required to submit the relevant documents to the satisfaction of the Customer within 14 days from delivery of the Notice. If the Contractor fails to provide the additional bond as requested by the Customer, the Customer shall raise an Objection. The Contractor shall report to the Customer on the liabilities he owes to subcontractors, with such report to accompany each invoice submitted to the Customer and to set out each subcontractor's name with the amount due and the due date, and shall promptly provide any other information requested from the Customer. If that duty is not complied with or in situations set out in sub-para 6, the Customer may request explanations from the Contractor, suspend outstanding payments for the Contractor equal to the amount due and payable to the subcontractor, and/or demand additional security for his recourse claim against the Contractor. Such payment suspension shall not entitle the Contractor to claim interest from the Customer. When requested by the Customer, the Contractor shall report to him on the liabilities he owes to his subcontractors and shall promptly provide any other information requested from the Customer.
3. The fact that the Contractor has engaged any third party to perform part of the works shall not lead to any increase in the Contractor's remuneration for completion of the Contracted Work.
4. Where the Contractor relies on subcontractors, he must use only professional entities and shall be fully responsible on a strict liability basis for the acts of any entities whom he has subcontracted for construction work, as if for his own actions or omissions.
5. Where any work has been completed by subcontractors, the Contractor shall timely pay the amounts due to them. Where any amounts due to the subcontractors are paid by the Customer, the Contractor shall deduct such amounts first from the remuneration due to the Contractor and then from the security deposit. If the Customer takes notice of any overdue payments from the Contractor to any subcontractor, the Contractor shall be required to provide security for any recourse claim the Customer may have against the Contractor by reason of the Customer meeting the Subcontractor's claims, or else the Customer may rescind the Contract due to Contractor's fault.
6. The Contractor shall ensure that the above duties will be complied with by his subcontractors in relations with their subcontractors (counterparties). The above clauses shall apply in full to subcontractors' counterparties, and the Customer shall be entitled to withhold payments to the Contractor, demand security from the Contractor, in connection with liabilities owed by Contractor's subcontractors to their counterparties.

§ 8 Warranties

1. The Contractor grants the Customer a quality warranty for the completed Contracted Work and the related materials for a period agreed in the Contract but for not less than 24 months from final acceptance certificate.
2. This also includes a warranty that the Contracted Work was properly completed in accordance with the Contract, laws and regulations, instructions and technical documentation.
3. The Contractor undertakes in the warranty period to remove at his own cost any notified defects within a technologically reasonable time after the date of the Customer's defect notification, which however shall not be longer than the time specified in the note or the Contract, considering the period necessary to complete the remedial work, or, in the absence of such arrangements, not longer than 7 days from the date of the Customer's defect notification.
4. If for any reason the Contractor fails to remove such defects within the agreed time, then after the Customer requests the Contractor in writing to remove the defects and the Contractor fails to do so, the Customer shall have the right, and is authorised by the Contractor, to engage a third party to remove the defects while the Contractor shall be liable for the related costs notwithstanding any contractual penalties due to the Customer or any damages.
5. If a request is made to remove a defect covered by the warranty, the warranty period shall be extended to include the entire time from notification of the defect until its removal.
6. The warranty period for a repaired or replaced item shall reset and start anew as of the defect removal date.

§ 9 Performance bond

1. As a security in the form of contract performance bond and retention & maintenance bond (removal of defects and any objections), the Contractor shall pay the Customer by way of deposit an amount equal to at least 10% of such net remuneration of the Contractor as specified in the Contract. The deposit amount shall be payable in accordance with the Contract on the due date of the payment to be made to the Contractor or, in the case of partial payments (other than advance payment), on the due date of each such payment, in such amounts as to ensure that the sum total equals the amount set out in accordance with the preceding sentence. The deposit shall remain in effect for the period of the statutory warranty period or the maximum warranty period set out in the Contract in accordance with § 8 T&C, whichever is longer, plus 30 days (security deposit). If the Contractor fails to pay the deposit amount on time as above, the Contractor requires the Customer to make such withholdings on account of the deposit from each payment due to the Contractor (other than advance payment) as to ensure that the sum total of the amounts withheld equals the full deposit amount. The details on how to make deposit payments shall be provided for in the Contract.
2. The security deposit may be replaced with an unconditional, irrevocable, first-demand guarantee issued by a bank or an insurance company for at least 10% of the net remuneration due to the Contractor as set out in the Contract, such guarantee to remain in effect for the period of the statutory warranty period or the warranty period set out in the Contract in accordance with § 8 T&C, whichever is longer, plus 30 days. The form of such guarantee requires a written approval of the Customer, or else the guarantee will not be accepted and the deposit will not be refunded. The deposit amount will be refunded to the Contractor within 14 days from delivery to the Customer of the bank's or insurance company's guarantee whose terms have been approved by the Customer.
3. The Customer shall be entitled to draw on the performance bond referred to in §§ 9(1) and 9(2) in order to recover the losses and costs he incurs to remove defects detected during acceptance procedures or perform warranty repairs where the Contractor fails to remove a defect on the terms of the Contract within the time agreed by the Parties, and to recover any fees paid to Contractor's subcontractors or any other amounts due to the Customer.
4. The duty to provide a bond under §§ 9(1) and 9(2) shall not apply to such obligations where the total deposit withheld from the remuneration would not exceed PLN 5,000.00 in aggregate, i.e. where the remuneration is not more than PLN 50,000.00, unless such duty is provided for in the Contract/Order.
5. If the Customer draws on the security deposit or the bank/insurance guarantee furnished by the Contractor, the Contractor shall, without request and within a time of not more than 14 days from when the Customer so draws on the bond, reinstate the bond to its amount required under §§ 9(1) and 9(2) T&C.

§ 10 Acceptance

1. Final acceptance shall proceed in relation to the entire works on completion of the Contract. Any partial acceptance procedures shall concern completed stages of the works in accordance with the Contract or schedule.
2. The Contractor shall give the Customer a 5 days' prior notice of the date when the Contractor will be ready to proceed with acceptance. The Customer shall commence acceptance procedures within a maximum of 10 days, or 14 days in the case of final acceptance procedures, from Contractor's notice. Contractor's readiness for acceptance must be notified to an authorised representative of the Customer in writing or by email at his address, with the time starting to run from acknowledgement of receipt of such notice. The foregoing will constitute a basis for the Customer to appoint a time and day for acceptance procedures. If acceptance procedures reveal that the Contracted Work is not ready for acceptance, this shall be acknowledged in the certificate and/or by Customer raising objections or making some other representation. Final acceptance procedures will include also the receipt, or the confirmation of any earlier receipt, of complete documentation and source codes which the Contractor is required to deliver.
3. It is a responsibility of the Contractor to collect and present to Customer's authorised representative such documents as will enable the Customer to assess if the work subject to acceptance procedures has been duly completed. The acceptance procedures shall be reported in a certificate executed in the presence of the Customer and the Contractor, said certificate to record any findings and arrangements made in the process and any dates scheduled for removal of defects or objections. In the event of defects or objections, the certificates shall set out a time for their removal which shall be as short as technically practicable. A time agreed for removal of defects or objections may not operate to postpone any of the base deadlines set out in the Contract. Any detected defects will be removed at the cost of the Contractor.
4. The Customer shall be entitled to refuse to accept any part of the works which has been performed in breach of technical documentation or terms of the Contract.
5. After removal of defects and objections, the Contractor shall give the Customer an at least 3 calendar days' prior written notice of a proposed date for acceptance.
6. Final acceptance shall be deemed to occur when the Customer's authorised representative makes a statement of acceptance without objections in the final acceptance certificate.
7. An acceptance certificate without Customer's objections shall operate as an acknowledgment of due completion of the accepted stages or of the complete Contracted Work and shall constitute grounds for the Contractor to raise an invoice where the Contract or the law provides for raising an invoice.

§ 11 Contractual penalties

1. The Contractor shall pay the following contractual penalties to the Customer:
 - a) for a delay in performing any works specified in the schedule, including in delivering documentation, software, source codes etc, or in completing the Contracted Work, or in removing any defect detected during acceptance procedures or during the warranty period – a penalty of 0.5% of the Contractor's total lump-sum remuneration under the Contract for each day of such delay but in aggregate not more than 20% of the total lump-sum remuneration under the Contract;
 - b) if the contract is rescinded by the Customer, or by the Contractor for reasons other than Customer's fault – a penalty of 10% of the Contractor's total lump-sum remuneration under the Contract;
 - c) for Contractor's failure to perform or duly perform the Contract, including without limitation a breach of § 6(2) T&C, a more than 30 days' delay in performing the Contracted Work or any other breach of Contract justifying Customer's rescission thereof – a penalty of 10% of the Contractor's total lump-sum remuneration under the Contract (notwithstanding the right to charge any other contractual penalty defined elsewhere herein).
2. A contractual penalty of PLN 50,000.00 per employee for the hiring in any form of any employee of the Customer for performing a Contract.
3. A contractual penalty of PLN 10,000 (ten thousand zlotys) for each breach by the Contractor or his employees or subcontractors or subcontractors' employees of any of the duties under §6(2)(11) T&C or any of the rules or duties arising from the Manual or if health and safety at work regulations are breached three times.
4. The Contractor shall pay the following contractual penalties to the Customer for the following violations by Contractor's employees:
 - i. for failure to use individual protection measures, such as protective clothes, helmets, vests, footwear, hearing protectors, sight protectors, safety harnesses etc. – PLN 300 per breach per employee;
 - ii. for non-compliant workplace organisation, such as untidiness, disorder, failure to mark or delimit the area of dangerous work or work at height – PLN 500 per breach per employee;
 - iii. for such conduct of Contractor's employees which violates health and safety at work ("HSW") regulations, sobriety control and maintenance duties or internal plant procedures so that repeat training will have to be provided on worksite hazards or HSW policies in the facility and the involvement of local site personnel will give rise to a charge for training costs and for such personnel's costs according to hourly rates – PLN 150 for each training session provided by local plant's HSW officer;
 - iv. if Contractor's employee brings alcohol onto the premises or is removed from the premises on suspicion of being under the influence of alcohol or refuses to undergo a sobriety test – PLN 500 per breach per employee;
 - v. if Contractor's employee is removed from the premises in the case of theft, i.e. in the case of him being detained by a local employee or security guard with a stolen item – PLN 500 per breach per employee.The Contractor shall not engage for any works under the Contract any employees who have been removed by the Customer for any of the violations described above in points iii. to v., or else he shall pay the relevant contractual penalty as defined above.
5. The Contractor shall pay the Contractor a contractual penalty for rescission of Contract by the Customer or the Contractor, due to Customer's fault, equal to 10% of the Contractor's total lump-sum remuneration under the Contract.
6. In any case where the amount of loss exceeds the amount of contractual penalty, the Party claiming the penalty shall be entitled to recover damages to compensate it for the difference.

§ 12 Rescission of Contract

1. The Customer may rescind the Contract if:
 - a) the Contractor does not perform the Contracted Work or any stages thereof (including failure to deliver documentation) for reasons attributable to him, i.e. fails to commence performing the Contract within 14 days from the agreed commencement date, stops performing the works without a valid cause for a period of 14 days on any single occasion or 21 days in total throughout the duration of the Contract, or there is such a delay in performance of the Contracted Work that the contractual deadline is unlikely to be met;
 - b) the Contractor is late with completing the Contracted Work for more than 30 days and has not notified his readiness for handing over the Contracted Work;
 - c) the Contractor's performance of the works is defective or in breach of design documentation, contract or technical requirements, or the Contractor breaches the Contract or does not respond to written instructions from the Customer to adjust and revise his performance within the time scheduled by the Customer.
2. The Contractor shall be entitled to rescind the contract in the event of a payment delay of more than 30 days.
3. Either Party has the right to rescind the contract within 60 days from the occurrence of any of the events described in sub-para 1 or 2 which justify rescission.
4. The above provisions shall be without prejudice to any right of rescission which may be otherwise available under law.

§ 13 Insurance

1. The Contractor represents that he has and shall throughout the duration of the Contract maintain a civil liability insurance in respect of his business and property with sum insured as specified in the Contract. Also, the Contractor shall comply with insurance-related duties laid down in § 6 T&C.
2. The Contractor shall, within 2 days from execution of the Contract and at any request of the Customer, present the policies of insurance and submit to the Customer their copies with terms and conditions of insurance.
3. The Contractor shall not make any assignment of or any material changes to his contract of insurance without a prior written consent of the Customer.
4. Considering sub-para 3, the Contractor shall give the Customer a prompt notice of any changes made by the insurer to any material terms and conditions of insurance.
5. If the Contractor turns out not to have insurance cover as required by the Contract, the Customer may, and is authorised by the Contractor to, execute the relevant contracts of insurance at Contractor's cost and risk. Such costs will be deducted from the remuneration due to the Contractor.

§ 14 Confidentiality

1. The Contractor must maintain the secrecy of, and must not disclose, any confidential information relating to the Customer which he learns in connection with performing the Contract and shall not use such information for his own purposes or for those of any third party. The Contractor declares that he shall impose that obligation on his employees, subcontractors and others acting in his name or on his behalf.
2. The Customer must maintain the secrecy of, and must not disclose, any confidential information relating to the Contractor which he learns in connection with performing the contract and shall not use such information for his own purposes or for those of any third party. The Customer declares that he shall impose that obligation on his employees.
3. The above obligations shall bind the Contractor all throughout the duration of the Contract and for another 5 years from the date of completion of the Contract (signature of final acceptance certificate for Contracted Work) or its termination.

§ 15 Final provisions

1. The Customer shall have the right to set off amounts due to him from the Contractor against any amounts payable by the Customer to the Contractor as a payment of remuneration for completing the Contracted Work, even before such amounts become enforceable.
2. If any individual provisions of a Contract are or become wholly or partly invalid or ineffective, this shall not affect the effectiveness of the other provisions of the Contract. The invalid or incomplete provisions shall be appropriately replaced with those that are effective or supplemented with new ones in a way which best approximates the provisions of the Contract and the parties' intended business objective.
3. The transfer of any debt-claims (*wierzytelności*) the Contractor may have against the Customer under a Contract requires prior consent of the Customer which must be given in writing to be valid.
4. To be valid, any changes including additions to a Contract or T&C must be made in agreement by authorised representatives of the parties in writing or in such other form in which the Contract was executed. This requirement does not apply to replacing any such persons set out in the Contract as are authorised to act in performance of a Contract and such replacements shall take place via a written notice of replacement to be given to the other Party with particulars of relevant persons. Any declarations of intent made by any Party must be in writing to be valid.
5. Each of the Customer and the Contractor undertakes to promptly notify the other in writing of any change in his address set out in the introductory part of the contract. Any correspondence sent to Contractor's address as set out in the introductory part of the contract shall be deemed to be served on the Contractor on the date of receipt or, if a missed/attempted delivery notice is left, on the date of the first such notice.
6. If any provisions of these T&C proved to be contrary to applicable law or are held to be invalid or ineffective under an order of a competent court, this shall not affect the validity and effectiveness of the other provisions. In such a case the parties undertake to change the provision as appropriate in order to retain the previous intent of the parties.
7. Polish law shall be applicable in performing a Contract and in resolving any disputes that may arise in connection with performing the Contract and any such dispute shall be resolved by a Polish court with jurisdiction at the location of Customer's registered office.
8. Where these T&C or a Contract are executed in any other language versions, the Polish version shall prevail.

Appendix:

- form of contract

Contract

entered into on _____ by and between:

PFEIFER & LANGEN _____, a company with its registered office in Poznań, ul. Mickiewicza 35, 60-837 Poznań, registered in the register of businesses kept by the District Court Poznań - Nowe Miasto i Wilda in Poznań, 8th Commercial Division of the National Court Register, under the number _____, NIP: _____, BDO: _____, share capital: PLN _____ (fully paid), hereinafter referred to as the **Customer**, represented by:

and

company: _____ (*business name*), a company with its registered office in _____, NIP: _____, registered in the register of businesses kept by the District Court _____ Commercial Division of the National Court Register, under the number _____, share capital: PLN _____, Tax Office: _____, represented by:

sole trader: _____ doing business as _____ in _____, NIP _____, PESEL _____, Tax Office: _____

hereinafter referred to as the **Contractor**

This Contract is entered into pursuant to the Customer's General Terms and Conditions of Contracts - Construction Works, Reconditioning, Services ("T&C") which have been accepted by the Contractor, as well as pursuant to note no. ___ dated ___ and the offer/bid dated _____, with provisions of the Contract to take precedence.

§ 1 Contracted Work

- The Contractor shall complete the following for the Customer: _____ in accordance with _____. The Contracted Work includes also the transfer, on terms more specifically set out in T&C, by the Contractor to the Customer of copyrights in design documentation and other materials delivered in performing the Contracted Work, to the extent they constitute copyright works for the purposes of the Copyright and Related Rights Act of 4 December 1994, as well as the grant of license for the following software: _____.
- Place of performance: _____.
- Documentation:
 - to be provided by the Customer: _____
 - to be provided by the Contractor and delivered to the Customer:
 - language: _____, form: _____,
 - language: _____, form: _____,
 - language: _____, form: _____,
 - language: _____, form: _____,
- Completion deadlines for Contracted Work:
 - Start date: _____
 - date: _____
 - End date: _____
 - Schedule of Works and Expenditures: attached / none

§ 2 Contractor's remuneration

- The net final lump-sum remuneration of the Contractor shall amount to PLN _____, including without limitation the transfer of copyrights in _____, the grant of license for _____, the delivery of source codes, and any costs of the Contractor. VAT shall be added to that amount and/or accounted for in accordance with the law.
- The remuneration shall be paid as follows (~~delete as applicable~~):
 - single full payment (subject to security deposit) – in accordance with § 4(4)(b) T&C
 - partial payments – as below or in accordance with schedule of works and expenditures:
 - _____ % of the amount defined in sub-para 1 plus goods and services tax, i.e. the amount of PLN _____ – as advance payment payable within 14 days from submission by Contractor of the original of an irrevocable bank guarantee securing refund of the advance payment, which guarantee shall be valid until _____
 - _____ % of the amount defined in sub-para 1 plus goods and services tax, i.e. the amount of PLN _____ – on completion of _____
 - _____ % of the amount defined in sub-para 1 plus goods and services tax, i.e. the amount of PLN _____ – on completion of _____
 - _____ % of the amount defined in sub-para 1 plus goods and services tax, i.e. the amount of PLN _____ – on completion of _____subject to the security deposit referred to in § 4 of the Contract.
- With respect to amounts specified in § 2(2)(a) and (b) (other than that in § 2(2)(b)(i.)), the due date shall be the first Tuesday falling after a period of 30 days from:
 - service on the Customer of a VAT invoice or VAT correcting invoice (or a duplicate thereof) with the no-objections acceptance certificate attached;
 - the date of the no-objections certificate comprising duly invoiced amounts; as the case may be.
- Payment to be made into Contractor's bank account _____, subject to § 4(7) T&C.
- In accordance with § 4(9) T&C, the Customer represents that, as of the date of the Contract, he accepts receiving Contractor's invoices issued as PDF files and sent by the Contractor from the following email address: _____. If any obstacles described in § 4(9) T&C occur, the notice shall be sent: _____ if to Contractor, then to the following address: _____; fax _____; _____ if to Customer, then to the address set out in § 4(8)(e) T&C; fax: **65 575 02 56**.

§ 3 Statutory and contractual warranty

- Warranty period: _____.
- Time to remove defects: within _____ from Customer's notice of defect.

§ 4 Contract security, penalties

- Bond equal to _____ in force pursuant to T&C.
- Security deposit payable as follows: _____ / as per T&C.
- Contractor to pay contractual penalties in accordance with T&C and in such cases as indicated therein.

§ 5 Insurance

Contractor represents that he has liability insurance in respect of his business with the sum insured equal to PLN _____, as agreed.

§ 6 Persons in charge

- Persons in charge of activities in pursuance of the contract, including acceptance procedures:
 - on the part of the Customer:
 - with respect to: _____;
 - with respect to: _____;
 - on the part of the Contractor:
 - with respect to: _____;
 - with respect to: _____;
- Each Party to the Contract appoints a health and safety coordinator:
 - on the part of the Customer: _____ tel. _____
 - on the part of the Contractor: _____ tel. _____

§ 8 Other provisions

We declare in the name of the Customer that the Customer is a large enterprise as defined by law.

Customer:

Contractor:

Appendices:

- Schedule of works and expenditures for completion of project constituting the subject-matter of Contract
- Staff note dated _____;
- Offer/Bid no. _____ dated _____;
- Contractor's liability insurance policy