

TERMS OF REFERENCE — ROBOTIZATION AND AUTOMATION

§ 1**GENERAL PROVISIONS**

1. These Terms of Reference (hereinafter referred also to as “ToR”) constitute an integral part of every Agreement.
2. The Parties may exclude these ToR when performing a given Agreement both in whole and in part, for individual provisions named by the Parties. What is more, the Parties may specify the terms and conditions of their cooperation in a way different than stipulated in these ToR. For the validity of the contractual provision excluding or modifying the stipulations of these ToR, a written format is required.
3. If there is any discrepancy between the provisions of these ToR and the provisions of a given Agreement, the latter shall prevail provided they are in a written format, otherwise considered invalid.
4. The Contractor shall not accept the terms of reference applied by the Contracting Entity (and similar, regardless of the name of the document containing them).
5. The Contractor represents that they shall not be held liable for any information included in brochures or publications, advertisements, price lists and other announcements concerning the provided services. The Contractor represents that any information included in them are purely informative and that any models and samples of goods or services presented by the Contractor are purely informative. Publishing any advertisements, announcements concerning the offered goods and presenting any samples and models of goods shall not be an offer as construed under the Polish Civil Code or grounds for the Agreement execution, and shall not constitute assurance concerning the services provided by the Contractor or their properties.
6. The Contractor is obliged to comply with the Code of Conduct for Suppliers and Business Partners of PROPOINT S.A. and the Sustainability Policy for Suppliers and Business Partners of PROPOINT S.A., which are available at <https://www.propoint.pl/partnerzy>.
7. These ToR shall be deemed accepted by the Contracting Entity when the Order is placed or the Offer is accepted. Placing an Order or accepting an offer, the Contractor confirms their consent for including these provisions in the Agreement.

§ 2**DEFINITIONS**

1. Whenever these Terms of Reference mention:
 - 1) the **Contracting Entity** — this shall mean a civil law entity (i.e. an individual, a legal person or another business unit with no legal personality who is given a legal capacity by the relevant act), for which the Contractor performs the Work under the Agreement;
 - 2) the **Contractor** — this shall mean PROPOINT S.A., ul. Bojkowska 37R, 44-100 Gliwice, entered in the Register of Entrepreneurs of the National Court Register at no. 0000931877, NIP: PL6312558212, REGON: 240898185 defect;

- 3) **Parties** — this shall mean the Contracting Entity and the Contractor jointly;
- 4) a **Party** — this shall mean the Contracting Entity or the Contractor;
- 5) a **Subcontractor** — this shall mean a civil law entity (i.e. an individual, a legal person or another business unit with no legal personality who is given a legal capacity by the relevant act) who executed an agreement with the Contractor and performs a part or the whole of the Contractor's service stipulated by the Parties in the Agreement based thereon;
- 6) a **Work** — this shall mean a Contractor's service carried out by the Contractor for the Contracting Entity within the Contractor's business activity, connected with comprehensive robotization of production processes, the scope and dimension of which is specified in the Agreement by and between the Parties. The Work may comprise comprehensive robotization of production processes and its components. The comprehensive robotization of production processes shall mean the development of concepts, designing, delivery, installation, startup, modernization and maintenance of robotic stations including their software;
- 7) the **Agreement** — this shall mean an agreement between the Contracting Entity and the Contractor, the subject of which is the performance of a specific Work for the Contracting Entity by the Contractor;
- 8) the **Framework Agreement** — this shall mean an agreement executed by and between the Contracting Entity and the Contractor which assumes repeatable provision of services in the form of programming, maintenance and/or training services for the Contracting Entity by the Contractor;
- 9) the **Offer** — this shall mean a declaration expressing the Contractor's intent to execute the Agreement under the terms and conditions stipulated in the Offer and in these ToR, addressed to the Contracting Entity;
- 10) the **Order** — this shall mean a declaration of the Contracting Entity expressing their intent to execute the Agreement with the Contractor under the terms and conditions stipulated in these ToR and in the Offer for the performance of the Work or, for the Framework Agreement, under the terms and conditions stipulated by the Parties in the provisions of Chapter XII of these ToR;
- 11) the **Contractor's Website** — this shall mean a website at: <https://www.propoint.pl/ogolne-warunki-zamowienia>
- 12) **Civil Code** — this shall mean the Act of 23 April 1964 Civil Code.

2. The Parties to the Order agree to notify each other of any significant circumstances likely to affect the quality and deadline for the order performance and its other terms and conditions.

§ 3

AGREEMENT EXECUTION

1. To execute the Agreement, two consistent declarations of intent by the Contracting Entity and the Contractor must be made. The validity of the declarations made in this way, and therefore the validity of the Agreement, does not require a written format unless it is decided otherwise by the Parties. This method of Agreement execution does not apply to the Parties' cooperation based on the Framework Agreement.

2. Two modes of Agreement execution are permitted:

- 1) by way of offer and acceptance;
- 2) by way of negotiations.

3. The execution by way of offer and acceptance consists in the Contractor placing an Offer to the Contracting Entity and in the Contracting Entity accepting the terms and conditions stipulated in the Offer. Once the Contracting Entity accepts the terms and conditions of the Offer, the Agreement is executed. Acceptance of the terms and conditions of the Offer equals acceptance of ToR provisions if the Contractor informed the Contracting Entity about ToR in the Offer.

4. The execution by way of negotiations applies when the Parties execute the Agreement in writing based on the terms and conditions agreed by them during bilateral negotiations. The Parties negotiate based on the Offer submitted to the Contracting Entity by the Contractor. The Agreement is considered executed by way of negotiations when the Parties made their declarations of intent in writing.

§ 4

FRAMEWORK AGREEMENT

1. If the Parties execute a Framework Agreement, they shall cooperate based on the Orders placed by the Contracting Entity.

2. For the cooperation based on the Framework Agreement, the Agreement is executed once the Parties accept the Order.

3. The Order mentioned above shall contain:

- 1) address of the Contracting Entity and the Contractor;
- 2) name of the Contractor's service (service type);
- 3) specification of the scope and nature of the service if not determined in the Framework Agreement;
- 4) service provision deadline;
- 5) proposed remuneration amount if not determined in the Framework Agreement.

4. The Contracting Entity guarantees that every order shall be placed by a person authorized to make declarations of intent and contract liability in the Contracting Entity's name. To that aim, such a person shall be obliged to prove their authorization.

5. If the Contractor confirms the possibility to perform the order based on the terms and conditions named in it, the Parties shall be deemed to have accepted the Order jointly.

6. If the Contractor is unable to perform the Order based on the terms and conditions stipulated in it, they may propose Order modifications requiring the Contracting Entity's acceptance. If the Contracting Entity fails to accept the modifications proposed by the Contractor, the Order shall be deemed not accepted.

7. Placement of the Order and statements confirming acceptance of the Order and of any amendments thereto is effective when they are delivered to the other Party in an e-mail form or in writing. The Party

receiving the Order or the statement confirming the Order acceptance shall be obliged to confirm reception of such a statement in an e-mail or in writing.

§ 5

AGREEMENT PERFORMANCE

1. The Contractor shall start to perform the Work on the date named by the Parties in the Agreement or the Offer accepted by the Contracting Entity or on the date agreed by the Parties in writing, otherwise considered invalid.

2. The Contractor shall start to perform the Work after the Contracting Entity has completed any Preliminary Activities (if they are required) and after the Contractor has received any required documents to perform the Work.

3. If starting to perform the Work is conditional on the Contracting Entity's performance of any preliminary activities consisting in the preparation of the environment or the station where the Work is to be used (material or personnel collection etc.), hereinafter referred to as "Preliminary Activities", the Contracting Entity shall be obliged to notify the Contractor of such activities during the Agreement execution and to specify the deadline for their completion.

4. Every Preliminary Activity which the Contractor was not notified of by the Contracting Entity and the Preliminary Activity with an incorrectly estimated period shall extend the Work deadline and results in consequences named below in section 5.

5. If the Contracting Entity needs to carry out Preliminary Activities after the Agreement is executed or if the period for performing the pre-arranged Preliminary Activities was estimated incorrectly:

1) the deadline agreed in the Agreement or in the Offer is no longer binding for the Parties and becomes a solely reference deadline, and its breach does not constitute a failure to perform or improper performance of the Agreement by the Contractor.

2) the Contracting Entity shall notify the Contractor of:

a) the planned deadline of the Preliminary Activities' completion;

b) the Preliminary Activities' completion, no later than 2 days after they are completed.

3) The deadline for the Work completion shall be extended by the time when the Contracting Entity carries out the Preliminary Activities with a reservation that the Work deadline may be further extended by the time when the Contractor does not have resources required to perform the Work. In such a case, the Contractor shall appoint a new deadline for the Work completion immediately after they have been informed of the Preliminary Activities' completion.

4) If the new deadline for the Work completion appointed by the Contractor is not acceptable for the Contracting Entity and the Contractor is not able to perform the Work in a shorter period without compromising anything, the Contractor may withdraw from the Agreement within 10 days after the Contracting Entity refuses to accept the new deadline. Such withdrawal is deemed to be the Contracting Entity's fault consisting in the failure to estimate the scope and duration of

the Preliminary Activities when the Agreement was executed.

If such withdrawal from the Agreement is effected:

- a) the Contracting Entity is not entitled to any claims for damages against the Contractor;
 - b) the Contractor may claim remuneration from the Contracting Entity for any contractual services provided so far which does not affect Contracting Entity's liability for damages relating to the Contractor's withdrawal from the Agreement for the Contracting Entity's fault;
- 5) the Contracting Entity shall not be entitled to withdraw from the Agreement under Article 635 of the Civil Code before they complete the Preliminary Activities.
- 6) The above provisions in section 2–5 also apply when the Contracting Entity delays submission of the documents required to perform the Work to the Contractor.

§ 6

WORK PERFORMANCE SITE

The Work performance site shall be the location named by the Parties in the Offer, in the Agreement or in the place agreed by the Parties in writing, otherwise considered invalid. If the Parties did not agree the Work performance site as stipulated above, the Work is performed in the location selected by the Contractor which they hold a legal title to.

§ 7

WORK ACCEPTANCE PROCEDURES

1. Unless the Parties agreed otherwise in the Offer, the Agreement or in another agreed way, the Work shall be accepted in two stages, i.e.:

- 1) a preliminary acceptance;
- 2) a final acceptance.

2. The preliminary acceptance of the Work takes place in the location named by the Contractor, on the date agreed by the Parties, no later than 5 business days after the Contractor notifies the Contracting Entity of the readiness for acceptance.

1) The preliminary acceptance entails: a) Work pre-commissioning to confirm that the Work conforms to the specification of the service to be provided by the Contractor and

b) development, approval and signature of the report containing the following details by the Parties' representatives:

- date when the report was made;
- all the people present during the activities related to the report development;
- any defects, faults or objections concerning the Work, with the date and method of their rectification;
- the anticipated final acceptance date;
- additional information.

c) By way of exception from the provisions in letter b) above, a preliminary acceptance with no physical presence of the Contracting Entity on the day agreed by the Parties (considered the preliminary acceptance date) is acceptable:

– if the acceptance is carried out using the means of electronic communication making it possible to connect at a distance with the video and audio transmission (e.g. Skype). In such a case the report shall be made and signed solely by the Contractor's representatives, though in contact with the Contracting Entity's representatives,

– if it is impossible to carry out the acceptance procedure as indicated in the first hyphenated section above, the Contractor may carry out the relevant preliminary acceptance activities themselves, with a committee composed of 3 persons appointed from the ones named by the Contractor. The report signed by all the members of the committee appointed in this way shall be sent to the Contracting Entity immediately.

2) The preliminary acceptance is positive if the report named in section 2(1)(b) does not indicate any defects or faults of the Work. Any comments and corrections named by the Contracting Entity are purely instructional and do not result in the non-acceptance of the Work.

3. If the result of the preliminary acceptance of the Work is negative, the Parties agree another date of the preliminary acceptance unless the Parties agree otherwise in writing, otherwise considered invalid.

4. If the result of the preliminary acceptance of the Work is positive and the Parties did not agree otherwise in the Offer, the Agreement or another document in writing, otherwise considered invalid, the Contractor shall deliver the Work to the Contracting Entity to the place named in the Offer, the Agreement or another document in writing, otherwise considered invalid, or to the place which the Contracting Entity holds a legal title to. Such a hand-over:

1) shall not result in transferring the Work ownership from the Contractor to the Contracting Entity;

2) shall constitute solely the hand-over of the Work to the Contracting Entity's dependent possession, with the Contracting Entity obliged to return the Work to the Contractor at their every request. In the failure to return in time despite the Contractor's request, the Contracting Entity shall be obliged to pay a contractual penalty amounting to 60% of the Work value agreed by the Parties which does not exclude, however, the Contractor's right to claim damages in line with general principles;

3) is to enable solely to carry out required tests of the Work to check its conformity to the Parties' arrangements in the Agreement or the Offer. The tests are carried out by trained people on the Contracting Entity's part and solely in the scope agreed with the Contractor in advance. The tests may be carried out by the Contractor, but this must be included in the Offer, the Agreement or another document in writing, otherwise considered invalid. The tests result in the Contractor adding extra man-hours for the Work;

4) transfers the liability for the Work loss and for any damage and defects resulting from any events, including from the Force Majeure and inflicted by anyone (including by people for whom the Contracting Entity is not liable) to the Contracting Entity. The losses, defects and faults occurring in the period when the Work is entrusted to the Contracting Entity are not covered by the guarantee mentioned in § 14 or their warranty liability, or contractual liability for the failure to perform or improper performance of the Agreement.

5. If the preliminary acceptance of the Work is positive (irrespective of the provisions in section 4) above), the Parties shall carry out the final acceptance procedure for the Work.

6. The final acceptance of the Work shall be carried out in the location named by the Contracting Entity in the Offer, the Agreement or another document in writing, otherwise considered invalid, and on the date agreed by the Parties in the Offer, the Agreement or in the preliminary acceptance report. If the acceptance date is not specified, the acceptance shall take no later than 5 business days after the Contractor reports their readiness for acceptance to the Contracting Entity.

1) The final acceptance shall take place by:

a) the Work commissioning to confirm the Work conformity to the Contractor's obligations and

b) development and signature of the hand-over report containing the following by the Parties' representatives:

- date when the report was made;
- enumeration of all the people present when making the hand-over report;
- any defects, failures and objections concerning the work;
- other than mentioned in section 6 below; – additional information.

c) transfer of the ownership title to the Work to the Contracting Entity by the Contractor, taking place when the hand-over report is signed;

d) provision of the Work user manual, inspection reports and other documents mentioned in the hand-over report to the Contracting Entity.

7. If it turns out that the Work's defects on the final acceptance date are so important that they make it significantly difficult to use it as intended or prevent its use (and the defects do not result from reasons on the Contracting Entity's part mentioned in section 4(4) above):

1) the ownership title to the Work is not transferred to the Contracting Entity;

2) the Parties do not make the hand-over report but a report specifying:

- a) any defects mentioned above;
- b) defect rectification deadline;
- c) further indications or suggestions of the Contracting Entity or the Contractor concerning the defect removal method and deadline.

8. If the Parties do not agree as to the significance of the said defect and as to whether they prevent or

make it significantly difficult to use it for its purpose, or as to whether they result from reasons on the Contracting Entity's part mentioned in section 4(4) above, the disputed issues shall be assessed by an expert accepted by the Parties from the group of court experts listed by the Regional Court in Gliwice. The opinion shall be binding for the Parties. The costs of the expert's work shall be borne by the Party whose standing was challenged by the expert. The Party shall also reimburse any costs of the other Party in connection with the time spent by the expert to carry out their activities.

9. The Contractor shall not be held liable for the benefits lost by the Contracting Entity as a result of the failure to transfer the ownership title to the Work and to make the hand-over report.

10. The ultimate hand-over of the Work to the Contracting Entity for use in a way corresponding to their needs shall take place when the hand-over report is signed by the Parties after the final acceptance of the Work is completed.

11. Delaying the final acceptance of the Work by the Contracting Entity and delaying the physical hand-over of the Work after the successful preliminary acceptance of the Work shall result in:

- 1) accruing charges for the Work storage by the Contractor in the amount of 0.5% of the remuneration payable to the Contractor, as indicated in the debit note sent to the Contracting Entity by the Contractor for every day of delay past the deadline agreed in line with § 7(6) hereof;
- 2) authorizing the Contractor to place the Work, at the Contracting Entity's expense, in the escrow deposit, of which the Contractor shall notify the Contracting Entity immediately. Placing the Work in the escrow deposit shall result in deeming the Agreement to be duly performed by the Contractor.

§ 8

WORK INSTALLATION

1. If the Parties agreed in the Agreement or the Offer or in writing, otherwise considered invalid, that the Work is to be installed in the location named by the Contracting Entity, the Contractor shall carry out any installation activities except for activities named explicitly in the Offer, the Agreement or in writing, otherwise considered invalid.

2. The Work installation date and location are agreed by the Parties. Solely the Work which passed the preliminary acceptance successfully can be installed.

3. The Contractor shall start installing the Work in the location named by the Contracting Entity if the latter ensures the relevant preparation of the installation site in line with the Contractor's guidelines and with the Work properties. What is more, the Contractor shall install solely when the Contracting Entity ensures that the installation activities are carried out with no threat to the integrity of any property. In the failure to guarantee the said conditions, the Contractor shall be entitled to refuse to install the Work and the Contracting Entity shall be obliged to indemnify any losses incurred by the Contractor due to the inability to install the Work in the indicated location and time.

§ 9

SUBCONTRACTING

1. The Contractor shall be entitled to entrust the whole or a part of the Work to the Subcontractor unless the Parties reserved the Contractor's obligation to perform the Work themselves in the Agreement or in writing, otherwise considered invalid.

2. The Contractor's liability shall be excluded (up to the willful misconduct) when the Subcontractor is held liable for any losses incurred by the Contracting Entity for the failure to perform or improper performance of the Agreement.

3. Any information concerning the Contractor's cooperation with the Subcontractors when performing the Work and also the information relating directly to Subcontractors (name, organizational and legal structure, activity type etc.) shall constitute business secret of the Contractor under Article 11 section 4 of the Act of 16 April 1993 on combating unfair competition (consolidated text: Journal of Laws of 2003, no. 153, item 1503 as amended) and shall be confidential. The confidentiality of information named in this paragraph shall be excluded when:

1) the Parties agree when executing the Agreement at the latest that any activities related to the Work may be subcontracted solely to the Subcontractor accepted by the Contracting Entity and the Contractor;

2) the Contracting Entity expresses their willingness to pursue claims against the Subcontractor relating to the failure to perform or improper performance of the Agreement.

§ 10

TRAINING

1. The Contractor obliges:

1) to provide Training concerning the Work operation (the so-called "Basic Operator's Training") to the Contracting Entity which is mandatory and offered each time when the job is handed over. If it is not provided, the Contracting Entity shall lose their rights under the warranty and guarantee. The Parties shall stipulate the number of training participants representing the Contracting Entity in the Agreement;

2) the Contractor may carry out the training relating to the Work programming which is not mandatory, though recommended by the Contractor. The training is organized if the Contracting Entity does not resign from it. No later than during the Agreement execution the Parties shall agree the principles of settling such training using one of two possible option, i.e. as a service carried out and settled separately from the Agreement or as a service being a stage of the Agreement and subject to settlement under it.

2. Every training participant, having acquired knowledge and skills required for the proper operation and programming of the Work and having passed the test provided by the Contractor, shall receive a Certificate issued by the Contractor.

3. During the training provided, the Contractor shall not be held liable for any damage, defects and faults

in the Work by the training participants unless the training takes place before the Work is handed over to the Contracting Entity and without the Contracting Entity's equipment involvement in it.

§ 11

ADDITIONAL WORKS

1. To perform additional works, the Parties shall be obliged to execute a separate agreement in one of the formats mentioned in § 2 of ToR.
2. The additional works shall be the works carried out by the Contractor which exceed the subject of the Agreement and also works consisting in modifying the Work in any way, and any other works stipulated by the Parties in the Agreement or in writing, otherwise considered invalid.

§ 12

PERFORMANCE SECURITY

1. The Agreement performance may be made conditional on the provision of the performance security by the Contracting Entity in the format selected by the Contractor. However, if it is impossible to provide the performance security in the format selected by the Contractor, the security format may be named by the Contracting Entity. 2. A performance security may be as follows, including but not limited to:

- 1) a bank guarantee or an insurance guarantee, after the guarantee template is approved by the Contractor;
- 2) mortgage lien;
- 3) financial deposit;
- 4) lien or registered pledge;
- 5) surety provided by the entity accepted by the Contractor;
- 6) bill of exchange with a suretyship by an entity accepted by the Contractor.

3. The security type and the terms and conditions of its provision shall be stipulated in the Agreement or the Parties' arrangements made in writing, otherwise considered invalid.

4. The Contractor may request the security any time, including during the Work performance. If the Contracting Entity does not establish the security during the Work performance having been requested to provide such a security by the Contractor, the Contractor may withdraw from the executed Agreement 14 days after the request was delivered to the Contracting Entity.

§ 13

WORK DEFECTS. WARRANTY

1. If the Work has any defects, the Contracting Entity may pursue claims against the Contractor under:
 - 1) warranty;
 - 2) guarantee;
 - 3) the Contractor's liability for damages in line with the general principles stipulated in the Polish Civil Code.

2. If no defects or faults are included in the preliminary acceptance or hand-over report for the Work, it shall be assumed that the Work was accepted with no defects or faults and that it was handed over complete.

3. The following provisions apply to the warranty:

1) the Contracting Entity who pursues their warranty claims is not entitled to withdraw from the Agreement;

2) the Contracting Entity shall lose their warranty rights if they fail to notify the Contractor of the detected defect 2 business days after it is detected;

3) if the defective Work being the grounds for the warranty rights exercised by the Contracting Entity was installed by the Contracting Entity, its possible dismantling in connection with exercising the warranty rights shall be done solely by the Contractor;

4) if the liability for any physical defects of the Work lies with the Subcontractor, the Contracting Entity shall not be entitled to any warranty claims against the Contractor.

§ 14

GUARANTEE

1. The Contractor offers guarantee for the Work performed by them to the Contracting Entity in line with the general principles stipulated below or in another guarantee document or in the Agreement.

2. Under the provided guarantee, the Contractor obliges to rectify any physical defect of the Work free of charge if it resulted from any causes inherent in the Work and with a reservation of provisions § 14 (9–12).

3. If the rectification is not possible for technical reasons, the Contractor shall be entitled to do it outside the place where the Work is installed.

4. The guarantee is offered for 1 year after the physical acceptance of the Work.

5. The guarantee protection can be extended, but it requires an explicit provision to that end in the Agreement or in the accepted Offer and is connected with the Contracting Entity's need to pay extra remuneration in the amount agreed by the Parties.

6. The Contractor shall start any activities to rectify the defect under the guarantee claim within 14 days after it is submitted. If the said term expires ineffectively, the Contracting Entity shall be entitled to rectify the defect themselves or to have it rectified by any third party at the Contractor's expense. The Contracting Entity shall be obliged to notify the Contractor of such circumstances immediately and to provide them with documents confirming that the defect was rectified and the costs incurred.

7. The standard term for defect rectification under the guarantee claim shall be 21 days after starting to rectify the defect. If the defect cannot be rectified by the appointed deadline, the Parties may agree a longer term for its rectification.

8. The Contractor shall not be held liable for the availability of the required spare parts during the guarantee procedure and, consequently, the waiting time for the spare parts' delivery shall not be included in the term mentioned in section 7 above.

9. The guarantee shall not cover damage and failures resulting from the incorrect Work operation inconsistent with the user manual.

10. The Contracting Entity shall lose their guarantee rights if:

- 1) they fail to report the defect to the Contractor for more than 5 days after it was detected;
- 2) they rectified the Work defects without involving the Contractor, i.e. they permitted unauthorized intervention, including the rectification carried out by an unauthorized person or entity;
- 3) they modified the Work or the station on which the Work was installed, without involving the Contractor and without their explicit permit;
- 4) they used the Work in a way non-conforming to the manual (including by people violating the job instructions) and any written recommendations of the Contractor;
- 5) they failed to provide the basic operator's training;
- 6) they failed to ensure the mandatory inspections.

11. Moreover, the guarantee rights do not apply when:

- 1) there is any moisture or liquid penetration in the Work structure;
- 2) there is any mechanical damage, i.e. the device damage resulting from fall, impact etc.;
- 3) there is any damage caused by the environment, incorrect transport and storage;
- 4) there is any mechanical damage resulting from incorrect operation and use non-conforming to the operation manual;
- 5) there is any unauthorized modification in programs resulting in changing the checksum or deviation from copies provided with the post-completion documents;
- 6) there are no timely inspections as described in the user manual or in the documents provided by the Contractor;
- 7) there is any damage resulting from the partial or total standard wear and tear as per the goods' properties or intended use;
- 8) when the Work was installed in conditions inconsistent with the operation and maintenance manual of the device or with the Contractor's recommendations;
- 9) there is any damage of the Work part subject to standard wear and tear (consumables, filters, seals, light bulbs, fuses etc.);
- 10) there is any damage resulting from modifications and structural changes made by any third party or from use inconsistent with the manual;
- 11) when the damage refers to any maintenance activities, including filter replacement and cleaning, replacement of parts with specific lifespan (fuses, bulbs, batteries and rechargeable batteries);
- 12) when the damage and defects occurred in the housing and structural components not affecting the functionality and correct operation of the products;

13) when the Work startup was not documented in the guarantee document/in the startup report by the specialized maintenance team or people holding relevant qualifications and possessing the relevant experience.

12. The Contractor shall not be held liable for:

- 1) any losses caused by the product operation breaks in the period of waiting for the guarantee services;
- 2) any losses incurred by the Contracting Entity's property other than provided by the Contractor.

§ 15

PAYMENTS

1. The Contractor's remuneration for the works performed by them for the Contracting Entity, including its value, payment deadline and rules of payment, is stipulated in the Agreement or in the Offer accepted by the Contracting Entity.

2. The day of payment shall be the date when the Contractor's bank account is credited.

3. Payment of the remuneration and other due sums to the Contractor shall be to the Contractor's bank account named in the VAT invoice while for other payments to the bank account indicated in the call for payment, debit note or another document.

4. The Contracting Entity's failure to meet the payment deadline shall result in:

- 1) the Contractor accruing statutory interest for delay in commercial transactions in the currently applicable value;
- 2) the Contractor's right to postpone the start of work performance (if the Contracting Entity delays payment of an advance payment or a deposit) or to postpone any further works (if the Contracting Entity delays payment of any further parts of the remuneration) until the overdue sums are paid or until the security of any unpaid dues accepted by the Contractor is provided to them. The term of such postponement of work performance shall extend the period agreed by the Parties for the Work performance and shall not be grounds for the Contractor Entity's pursuit of any claims against the Contractor;
- 3) submitting a call for payment to the Contracting Entity if the failure to meet the deadline results from the Contracting Entity's delay, threatening to withdraw from the Agreement if the overdue sums are not paid by the relevant deadline named in the call, no later however than 10 days after its delivery. After the appointed deadline expires ineffectively, the Contractor shall be authorized to withdraw from the Agreement.

§ 16

LIMITATION OF LIABILITY

The Contractor shall be held liable for the Contracting Entity's claims resulting from the failure to perform or the improper performance of the Agreement solely up to the sum not exceeding the Work value stipulated in the Agreement. The Parties exclude the Contracting Entity's right to claim redress of the loss in line with the general principles behind the amount stipulated in the first sentence.

§ 17

CONFIDENTIALITY

1. The Parties agree that any data and information obtained in connection with the Agreement performance, including but not limited to the ones concerning the status, organization, vendors and interests of the other Party, shall not be disclosed, made available or made public in part or in whole without obtaining the other Party's consent in writing, otherwise considered invalid.
2. To this aim, the Parties agree to execute an understanding to keep the information confidential and not to disclose it as per the draft provided by the Contractor. The Parties may also execute a clause on the prohibition to solicit the Contractor's workers by the Contracting Entity.
3. The Contractor may make the execution of an agreement with the Contracting Entity conditional on the execution of the agreement or clauses named in § 17(2) by the Parties.

§ 18

FORCE MAJEURE

1. The Contractor shall not be held liable for the inability to perform the Work if this results from the Force Majeure events or other events impossible to foresee when the Agreement was executed (e.g. any disturbances of the plant operation, transport delays, epidemics, strikes, legal lockouts, absence of workforce, energy or raw materials, difficulties obtaining any required permits, authority's ordinances and the non-delivery, incorrect or untimely delivery by our suppliers).
2. If the Force Majeure operation exceeds six months, either Party shall be entitled to withdraw from the Agreement after that period expires.

§ 19

COPYRIGHT

1. The Agreement execution and the transfer of the ownership title to the Work to the Contracting Entity shall not automatically transfer any author's economic rights of the Contractor or grant an exclusive license to these rights held by the Contractor with respect to the following to the Contracting Entity:
 - 1) designs developed by the Contractor, required to make, install and operate the Work (including electric designs and mechanical designs);
 - 2) station concept design;
 - 3) the Work software.
2. To transfer the author's economic rights mentioned in section 1 above to the Contracting Entity or to grant the exclusive license to exercise the said rights to the Contracting Entity, a written format is required, otherwise considered invalid.
3. The Contractor does not allow for granting a non-exclusive license to exercise the author's economic rights named in section 1 above to the Contracting Entity. 4. Neither the Agreement execution nor the transfer of the ownership title to the work, nor any other activities by the Contractor under the Agreement shall be deemed to grant a license (either exclusive or non-exclusive) to the Contracting Entity to exercise the author's economic rights of the Contractor mentioned in section

1 above.

§ 20

COMMUNICATION OF THE PARTIES

1. Statements made by the Parties to each other require a written format, otherwise considered invalid, or another material format delivered to the other Party by e-mail. This does not apply to the statements for which the ToR or the Agreement reserve a specific format, otherwise considered invalid.
2. By way of exception from section 1, the hand-over reports and the Work submission reports shall be made in writing, otherwise considered invalid.
3. The Parties agree to notify each other of any planned changes of their address immediately. If the details are not updated by any party, any registered letter sent to the address known to the sender any given time shall be deemed to be delivered effectively on the date of its second advise.

§ 21

ToR AMENDMENT

1. The ToR may be amended unilaterally by the Contractor in the following scope and circumstances:
 - 1) if the legal situation changes — in the scope required to adapt the ToR to the amended applicable law;
 - 2) if there are any production process changes or any changes of the scope of products and services offered by the Contractor — in the scope required to adapt these TOR to the amended commercial offer of the Contractor.
2. Every ToR amendment (except for any stylistic or minor changes) shall be notified to the Contracting Entity by submitting amended ToR provisions to them in writing or in e-mail.
3. Any amendment relating to the Contracting Entity shall come in force 2 weeks after the amended ToR are delivered. In the said 2-week term, the Contracting Entity is entitled to terminate the Agreement with effect at the date when the Contractor receives the termination notice made in writing, otherwise considered invalid.
4. If the Contracting Entity terminates the Agreement as stipulated in section 3 above, they shall be obliged to pay the remuneration for the works done by the Contractor to the Contractor immediately as per the Work progress, no later, however, than 10 days after the termination notice is delivered to the Contractor.
5. The ToR amendment relating to the Agreements which have not been executed yet shall be effective once the amended ToR are published on the Contractor's website.
6. The above provisions apply also to the introduction of new ToR replacing the previous ones by the Contractor.

§ 22

FINAL PROVISIONS

1. In matters not governed by the ToR or the Agreement provisions, the applicable Polish regulations shall apply, including but not limited to the provisions of the Polish Civil Code, of the Polish Copyright Act and the Polish Industrial Property Act.
2. If any provision of these ToR is considered invalid or ineffective under the applicable law or the final or legal decision of any administrative body or court, the other ToR provisions remain in full force and effect. Any invalid or ineffective provisions of these ToR shall be replaced by legally valid and fully effective provisions which cause legal effects as close as possible to the initial economic benefits for each Party.
3. The Contracting Entity must not transfer its rights or obligations stemming from the Agreement to any other party without obtaining a prior written consent of the Contractor.
4. The Parties shall make every effort to resolve any disputes or conflicts likely to emerge in connection with or relating to the execution, termination and performance of the Agreement amicably. If the Parties are unable to resolve the dispute amicably by way of negotiations, the dispute shall be taken to the Polish court of common pleas having local jurisdiction for the city of Gliwice.
5. The Terms of Reference shall come in force when they are published on the Contractor's website and shall refer to the rules of cooperation between the Contracting Entity and the Contractor in relationships taking place after the ToR came in force unless the Parties to the Agreement agree otherwise in writing, otherwise considered invalid.