

General Terms & Conditions for Performance of Maintenance Services **apply WORLDWIDE with exception of Germany**

These General Terms & Conditions for the Performance of Maintenance Services ("Maintenance Service GTC") are agreed between the EKATO entity named on the Offer ("EKATO" or the "Service Provider") and the Customer that accepted the Offer ("Customer"). These Maintenance Service GTC, the accepted Offer together with the applicable Supplemental Terms, if any, form the "Contract" or "Agreement."

Capitalized terms are defined at the end of this document.

1. Scope of Application and Services

These Service Conditions apply to maintenance services and ancillary services and supplies provided by EKATO on Customer's equipment/Goods. The type and exact scope of the Services to be performed shall be as defined in the accepted Offer.

1.1 Preventive maintenance

Preventive maintenance shall be undertaken with proper skill and care at the times or at the intervals specified in the Contract. Unless otherwise agreed, preventive maintenance shall include:

- a checking/inspecting the condition of the Equipment;
- b functional checks;
- c adjustments to Equipment, as required;
- d provision and replacement of Spare and Wear Parts;
- e necessary lubrication.

1.2 Corrective maintenance

Corrective maintenance shall be undertaken with proper skill and care in order to rectify any functional defects which have arisen in the Equipment. It shall be undertaken within the time specified in the Contract. Unless otherwise agreed, corrective maintenance shall include:

- a failure tracing;
- b rectification work;
- c provision and replacement of Spare and Wear Parts;
- d functional checks;
- e assistance at functional testing.

2. Place of Performance

2.1 Customer's Premises

Unless agreed otherwise in the Contract, EKATO will perform the Services at Customer's premises where the Equipment is installed.

2.2 Place of Performance distinct from Customer's Premises

Subject to mutual agreement, EKATO may also perform the Services at places distinct from Customer's premises. In such case, and unless otherwise agreed, the Customer shall arrange for the disassembly, re-assembly, storage and transportation of the equipment to and from the Place of Performance at its own cost and risk. During disassembly, re-assembly, storage and transportation, the Customer shall bear the risk of loss or damage to the equipment except where such damage or loss occurs due to Service Provider's negligence.

3. Customer Contributions, duty of co-operation

As a rule, the Customer shall support EKATO in the performance of the Services to the extent reasonably necessary and shall co-operate with EKATO in good faith. Furthermore, the Customer shall fulfill its obligations as specifically agreed under the Contract timely and in such manner as to ensure that EKATO can commence the Services immediately upon arrival of EKATO's personnel and can carry out and complete the Services without delay.

3.1 Access

The Customer shall grant EKATO unhindered access to the Place of Performance including the items to which the Services relate as necessary for the performance of the Services.

If the performance of the Services at the Customers premises is not possible due to technical, weather or access conditions, the Customer shall arrange for other suitable premises such as for example an assembly hall so that the Services can be performed without interruption or delay.

3.2 Health, Safety, Environment (HSE)

The Customer shall be bound to take all necessary and industry-standard measures to minimize or eliminate health and safety risks at the Place of Performance during the entire performance of the Services, in accordance with applicable occupational health and safety regulations.

EKATO's minimum HSE requirements include radiation levels of no more than 0.4 uSv/h, safe transport and working conditions, use of appropriate safety measures, strict avoidance of asbestos and/or exposure to chemical and toxic agents, appropriate sorting, recycling, treatment when handling electronic, electrical and other waste, chemicals and hazardous substances, and compliance with all registration and reporting obligations.

Prior to Service Provider first entering the Place of Performance, the Customer shall provide Service Provider with a safety briefing for the Place of Performance and the Equipment. Customers should provide Service Provider with the necessary personal protective equipment (e.g., helmets, safety shoes, safety goggles, safety belts, gloves, hearing protection) free of charge.

3.3 Permits and Authorization

Excepting permits and authorization which under mandatory law need to be obtained by EKATO, the Customer is responsible for ensuring that all permits and authorizations required for the performance of the Services are in place by the agreed commencement date of the Services.

3.4 Duty to Inform

In due time prior to commencement of the Services, the Customer shall inform the Service Provider in writing of any irregularities, such as for example unusual noises, vibrations, leaks, damages or defects as well detected in the Equipment.

The Customer shall without undue delay inform the Contractor by Written notice of any alterations in/changes to the Equipment or its operation or other measures taken by the Customer which may affect the Contractor's obligations under the Contract.

The Customer shall further inform the Service Provider if the Place of Performance changes or if the type of Services changes. In such case the Parties shall agree on the necessary adjustments, if any, to the Services, the time of performance and the Price. If no agreement is reached, the Service Provider shall be entitled to terminate the Contract within one month from Customer's information of the changes.

3.5 Technical Support

Unless the Services are performed at Service Provider's premises, the Customer shall, at its own cost, provide the Service Provider with safe and suitable workshops, sufficiently qualified workers and operators, including, but not limited to a manhole guard during vessel , as well as electricity, water, pressurized air, tools, transport and lifting equipment as may be necessary for performing the Services.

The Customer shall report the failure of an operating hour meter to the Service Provider immediately and record the operating hours until replacement of the operating hour meter manually.

All items to which EKATO's Services relate shall be made available by the Customer in clean condition. If a Service needs to be performed in confined spaces, such as vessels, silos, etc. the Customer shall ensure that atmospheric testing is carried out prior to commencement of the Services.

3.6 Assistance

If the Service Provider requires, the Customer shall give, free of charge, all necessary assistance for the import and re-export of the Service Provider's equipment and tools, including assistance with customs formalities. The Customer shall give all necessary assistance to ensure that the Service Provider obtains, in good time, visas and any official entry, exit or work permits and, if necessary, tax certificates in the Customer's country.

If so, required by EKATO, the Customer shall provide suitable and convenient board and lodging in the vicinity of the Place of Performance and ensure access to suitable hygiene facilities and medical services.

3.7 Wear and Spare Parts

The Customer shall provide the necessary Spare and Wear Parts and make them available to the Service Provider free of charge, in a timely manner and in sufficient quantities, unless the Service Provider is obliged to deliver Spare and Wear Parts according to the Contract.

3.8 Customers delay

The Customer shall immediately inform EKATO in writing if he is not in a position to let EKATO carry out the Services at the agreed or scheduled time. Any agreed time for performance and completion of the Services shall in such case be extended as necessary having regard to all relevant circumstances.

Regardless of the cause for his delay the Customer shall reimburse EKATO for any additional costs that the latter incurs due to the delay.

4. Subcontracting

EKATO may employ subcontractors to perform the Services. In such case EKATO shall exercise due care to ensure that the subcontractors have appropriate knowledge, resources and experience with regards to the Services to be provided.

5. Working Hours

EKATO will perform the Services Monday through Friday during normal business hours from 7:00 a.m. to 8:00 p.m. local time at the Place of Performance (maximum 8 hours per workday). Unless otherwise agreed, the Services will be performed in compliance with the labor law standards applicable at EKATO's registered business address.

For Services performed outside normal business hours (overtime, weekend, and holiday work), EKATO will charge overtime surcharges in accordance with the then applicable EKATO rates.

6. Forecasting and Scheduling

The timelines for the performance of the Services agreed upon in in the Contract are estimates and non-binding, unless Customer and EKATO agree to specific milestones or dates expressly being subject to liquidated damages ("Binding Dates"), in which case Section 9 shall apply.

7. Changes to the Services

7.1 Change requests and proposals

If Customer sends EKATO a change request in relation to the Services, or if EKATO proposes a change to Customer, EKATO shall send Customer an offer indicating:

- a. The price adjustment estimates;
- b. Adjustments to the schedule;
- c. any other changes to the Contract that may become necessary given the scope and nature of the Services.

7.2 Effectiveness of Changes

The Service Provider is not obliged to accept change requests at the Customer's request if its operations are not set up for such Services. A change to the Services shall become effective when Customer and EKATO have agreed to it in writing.

7.3 Changes in law and standards; Customer alterations to the Goods

7.3.1 Right to adjustments.

EKATO is entitled to reasonable adjustments to the Contract for any additional and/or extended requirements/activities it has to implement or costs it incurs due to any:

- a. laws, regulations, court judgments or decisions, or guidance by public authorities issued, promulgated or changed after the submission of EKATO's offer;
- b. applicable standards or codes of practice published or changed after the submission of EKATO's offer;
- c. Customer's site rules, in each case issued or changed after the effective date of the Contract;
- d. Alterations in or changes to the Goods or their operation or other measures taken by the Customer that may affect the nature, scope, onus and duration of EKATO's obligations under a Contract.

7.3.2 Type of adjustments.

Such adjustments may include e.g. changes to:

- a. the time schedules and scope of Offerings as required;
- b. the Price, to reflect any reasonable additional costs.

7.3.3 Failure to agree on Price adjustments.

In the event that the parties fail to agree on adjustments to the Price within thirty (30) days of EKATO's request to amend the Contract accordingly, EKATO shall be entitled to a Price adjustment reflecting the actual costs incurred to implement the required changes plus reasonable mark-ups for overhead, profit and contingencies.

7.3.4 Failure to agree on adjustment of the time schedules.

In the event that the parties fail to agree on adjustments to the time schedule(s) and/or date of completion of the Services within thirty (30) days of EKATO's request to amend the Contract accordingly, the time schedules/date of completion shall be deemed reasonably extended taking into account the additional activities, changes in scope or changes to the working methods triggered by any of the changes stated in 7.3.1 a. – d.

8. Acceptance

Within five (5) business days of the Service Provider's information to the Customer that the Services have been completed in accordance with the Contract, the Customer shall either confirm acceptance of the Services or, conversely, inform the Service Provider in writing why the Customer does not accept the Services.

If the Customer does not inform the Service Provider within the above-mentioned five days' period why he does not accept the Services, or, if Acceptance is otherwise delayed due to reasons not exclusively attributable to the Service Provider, the Services shall be deemed accepted for all purposes under the Contract.

9. Service Providers Delay

9.1.1 Liquidated damages.

If and to the extent that EKATO is solely responsible for failing to meet Binding Dates and Customer suffers a loss, EKATO shall pay liquidated damages equal to 0.5% of the Price for the delayed Services under the specific Contract for every full week of delay. The Aggregate liquidated damages to be paid by EKATO under a Contract shall not exceed 5% of the Price of the Services owed under the specific Contract.

9.1.2 Termination for delay.

Customer may only terminate the Order due to delay if:

- a. the maximum liquidated damages are payable;
- b. a reasonable additional performance period to complete the Services that was set in writing by the Customer has expired without effect.

9.1.3 Exclusive remedy.

This Section 9 sets out EKATO's entire and exclusive liability for delay, and, to the extent permissible under mandatory law, excludes all of Customer's other rights and remedies for delay. The provisions of this Section 9 do not apply in the event EKATO is liable for delay due to Willful Misconduct or Gross Negligence.

10. Payment, interest, and taxes

10.1 Payment terms

Customer will pay the agreed Price (plus reasonable and verifiable travel and incidental expenses and Tax, if applicable) within 30 days of the invoice date, without deduction, retention or set off. If Customer disputes an invoice, Customer shall pay any undisputed portion of the invoice.

10.2 Late Payment Interest

EKATO is entitled to charge interest on overdue payments at the European Central Bank's base interest rate plus 9% (nine percent) per year.

10.3 Taxes

All prices and expenses stated in the Contract are exclusive of any Tax. Customers shall pay or refund EKATO for any applicable Tax imposed by any government authority for Customer's use or receipt of the Services and/or Goods.

If Customer is exempt from value-added tax or sales tax, it shall provide a valid, timeous, and executed exemption certificate, direct pay permit, or other such government-approved documentation.

If Customer is required by law to deduct or withhold Tax, Customer shall increase/gross-up the amount it pays to EKATO in such manner that EKATO still receives the net amount originally invoiced. Customer will promptly provide all Tax receipts confirming it has paid or has withheld Tax.

11. Adjustments

If Customer fails to:

- a. provide its Contributions in accordance with the respective Contract and/or Section 3 of these Maintenance Service GTC;
- b. fulfil its obligations stipulated in a Contract, or the respective Supplemental Terms, EKATO shall be entitled to adjustments to the Price as well as the time schedule and fees, to make up for any delay or reasonable additional costs EKATO may incur, including, but not limited to additional travel cost, additional accommodation costs and daily allowances of EKATO's personnel, compensation for idling time, demobilization and remobilization costs.

12. Warranty

EKATO guarantees to perform the Services in accordance with the service description as per the accepted Offer, with due diligence and care and in accordance with Good Industry Practice and that ancillary Goods supplied under a maintenance Services Contract will be free from defects in design, material or workmanship upon Delivery.

12.1 Breach of Warranty

If the item to which the Services relate, parts thereof or ancillary Goods supplied by EKATO prove to be defective during the limitation period and if this is demonstrably attributable to EKATO's failure to duly perform the Services/provide Goods free from Defects, EKATO shall, within a reasonable period, rectify the defective Services or the defective Goods at its choice either by the repair or replacement of the defective item part or re-performance of the defective Service. Receipt of a written defect notification sent by the Customer to EKATO promptly after discovery of the Defect and within the limitation period is a condition precedent to EKATO's liability for breach of warranty.

The Service Provider shall provide the same warranty in respect of remedial work/replaced items as for the Services and Goods originally provided in fulfillment of the Services. If EKATO gives instructions to Customer or third parties contracted by Customer, or, if EKATO provides supervisory Services, EKATO shall only be liable for work carried out by the personnel of the Customer and/or such third parties if and to the extent that EKATO has incurred in Gross Negligence or Willful Misconduct with regard to instructions or supervision.

Any further claims and rights in relation to defects other than those expressly specified under this Clause 12 are excluded.

12.2 Warranty exclusions

EKATO excludes any warranty for Defects that do not significantly impair the functionality or use of Goods delivered or an item to which the Services relate and for Defects resulting from:

- a. normal wear and tear;
- b. faulty or negligent installation, handling, or unusually excessive use;
- e. non-compliance with operation, maintenance and storage instructions set forth Contract, manuals, and similar documents made available to Customer;
- f. non-reproducible software errors;
- g. any cause outside of EKATO's control;
- h. modifications, repair, installation, or commissioning made by anyone other than EKATO or their authorized representatives;
- i. not using an Update provided by EKATO.

EKATO does not assume any guarantees without fault. If the word "guarantee" is used in a Contract to define or specify certain performance parameters and/or qualities to be met by the Services or Goods, as a matter of law the term "guarantee" shall instead qualify as a specified characteristic of the Services and/or Goods.

12.3 Limitation period

Customer's claims for Defects shall become statute-barred within 12 months from acceptance.

Insofar as EKATO rectifies a Defect, the limitation period shall commence anew for the rectified/replaced item or Service (restart of the limitation period). However, the limitation period for Defects ends in any event at the latest six (6) months after expiry of the original limitation period for Defects.

13. Ownership of Intellectual Property

Each party remains the owner of its Intellectual Property. Any new Intellectual Property created by EKATO in performance of the Services or incorporated in Goods shall exclusively vest in EKATO.

14. Additional devices, technical data and software

The Service Provider shall be entitled in relation to the provision of the Services to install additional devices and/or software on the items to which the Services relate enabling, in particular, the downloading and collection of technical data, usage and location data, the use and updating of such data, the procurement of interface information, the access to protocols and tests and to connect these devices and/or such software with the Services devices and/or data processing platforms of the Service Provider. Additional devices and/or additional software – where provided by the Service Provider – and the intellectual property rights therein, shall remain the property of the Service Provider and may be deactivated or removed following termination of the Contract or in the event of a breach of the applicable terms and conditions of usage and/or licensing. The Service Provider shall be entitled to use the data of the Customer that are collected in relation to the performance of the Contract for purposes of providing the Services to the Customer, for statistical purposes, for internal data analysis, for the protection of devices and/or software and in order to improve and develop the products and services of the Service Provider, and to have such data edited by third parties.

15. Code format

Offerings containing software will be delivered in object code. If Third-Party Terms require EKATO to furnish Third-Party Technology in source code form, EKATO will provide it upon:

- a. written request;
- b. payment of any reasonable expenses.

16. EKATO software terms

Supplemental Terms as specified in the Contract may additionally apply to EKATO's software.

17. Confidentiality

17.1 Protection and use

The receiving party shall:

- a. protect Confidential Information by the same means and standards of diligence and care it uses to protect its own (and always by at least reasonable means);
- b. use Confidential Information only as required for the purposes of the Contract.

17.2 Limited disclosure

The receiving party shall:

- a. only disclose Confidential Information:
 - to its employees and to the employees of its Affiliates, agents, advisors, and contractors who need to know it;

- with the disclosing party's consent;
- b. make sure that all recipients are bound by confidentiality obligations as strict as those in the Agreement.

17.3 Return and handling

If the disclosing party so requests, the receiving party shall return or destroy all Confidential Information. Copies required under applicable laws or created as part of a routine information technology backup may be kept but must remain confidential.

While performing under the Contract, EKATO's employees, vicarious agents and/or subcontractors may gain general expertise, knowhow, ideas, concepts, and techniques that are then retained in their unaided memories. EKATO may use this residual knowledge without conditions or restrictions.

17.4 Required disclosure

If a governmental agency, laws and regulations, including stocks exchange regulations so requires, the receiving party may disclose Confidential Information, provided it:

- a. promptly gives written notice to the disclosing party (if the law allows);
- b. works with the disclosing party to limit the scope of disclosure.

17.5 Exceptions

The above confidentiality obligations will not apply to any information that:

- a. is or becomes generally available to the public (without the receiving party having breached the Contract/the Agreement);
- b. becomes available to the receiving party from a source other than the disclosing party (if the receiving party has no reason to believe that the information is confidential);
- c. was already in the receiving party's possession without an obligation of confidentiality;
- d. is independently developed by the receiving party without the use of Confidential Information.

18. Data protection

Customer and EKATO shall both comply with applicable laws regarding data protection.

19. Export control compliance

19.1 Export Regulations / No Re-Export

- a. Customer shall comply with all applicable Export Regulations.
- b. Customer shall:
 - not sell, export or re-export, directly or indirectly (e.g., via Eurasian Economic Union (EAEU) countries), any Offerings to Russia or Belarus any Offerings supplied by EKATO in connection with the Contract;
 - undertake its best efforts to ensure that the purpose of this Section 19.1.b is not frustrated by third parties, including authorized solution partners;
 - establish and maintain an adequate monitoring mechanism to detect conduct by any third parties that would frustrate the purpose of this Section 19.1.b.

19.2 Required information

Customer shall promptly provide upon request information about users, the intended use, the location of use, and the final destination of the Offerings.

If Customer intends to disclose to EKATO any information that is defense-related or requires controlled or special data handling, Customer shall:

- a. notify EKATO;
- b. use the disclosure tools and methods EKATO requires.

19.3 Export checks

Before Customer performs any transaction with a third-party concerning the Offerings delivered/provided by EKATO, Customer shall check and certify by appropriate measures (e.g. monitoring) that:

- a. Customer does not violate any Export Regulations with its use, transfer, or distribution of such Offerings, the brokering of contracts, or the provision of other economic resources in connection with Offerings, also considering any prohibitions to get around these (e.g., by undue diversion);
- b. the Offerings are not intended for prohibited or unauthorized non-civilian purposes (for example: armaments, nuclear technology or any other defence and military use);

Customer has screened all direct and indirect parties involved in the receipt, use, or distribution of the Offerings against all applicable restricted party lists of the Export Regulations concerning trading with the entities, persons, and organizations listed there.

19.4 Reservation and suspension

19.4.1 Reservation.

EKATO will not have to fulfil any Contract, if prevented by:

- a. impediments arising out of national or international foreign trade issues;
- b. impediments arising out of customs requirements;
- c. any Export Regulations.

19.4.2 Suspension.

EKATO may limit or suspend fulfillment of the Contract, access to the Offerings by Customer or Customer's users if obliged to do so under Export Regulations.

19.5 Breach of Export Regulations

Any violation of this Section 19 is a material breach of the Contract entitling **EKATO** to suspend or terminate the Contract in accordance with Section 20 and 21.

20. Suspension

20.1 Suspension right

EKATO may suspend the performance of its obligations under a Contract by giving Customer written notice if:

- a. Customer's payment is more than 15 days late or Customer is in delay in providing any agreed payment security;
- b. Customer does not provide the required Contributions in accordance with the Contract after a reasonable grace period set by EKATO has expired without effect;
- c. Customer materially breaches the Contract.

20.2 Payment during suspension

If EKATO suspends performance, Customer shall become immediately liable to pay:

- a. the Price (plus reasonable and verifiable travel and incidental expenses) related to any portion of the Services or Goods delivered or ordered before the effective date of suspension;
any reasonable costs and expenses directly or indirectly incurred as a result of the suspension.

20.3 Schedule adjustment

If EKATO resumes performance, EKATO will adjust all affected schedules to reasonably accommodate the suspension. After 15 days' suspension, EKATO may reassign personnel and already ordered (off the shelf) products.

20.4 Termination for suspension

EKATO may terminate any Contract if the Contract has been suspended for more than 60 days.

21. Termination

21.1 Termination right

Either Customer or EKATO may terminate any Contract upon written notice if the other:

- a. becomes bankrupt or insolvent;
- b. goes into liquidation;
- c. has a receiving order against it;
- d. compounds with its creditors;
- e. continues business under a receiver, trustee, or manager for the benefit of its creditors;
- f. does not cure a material breach within 30 days of notice.

Furthermore, EKATO may terminate if the Customer comes under the direct or indirect control of any competitor of EKATO, or, if an export permit is not granted or revoked by the competent authorities. The right to rescind a Contract is excluded.

21.2 Payment if Customer terminates

If a Contract is terminated by Customer under Section 21.1, Customer shall pay the Price (plus reasonable and verifiable travel and incidental expenses) related to any portion of the Services performed prior to the effective date of termination.

21.3 Payment if EKATO terminates

If a Contract is terminated by Ekato, Customer shall pay:

- a. the Price (plus reasonable and verifiable travel and incidental expenses) for the Services, minus any expenditures avoided by termination;
- b. all reasonable costs and expenses EKATO incurred due to such termination.

21.4 Survival of provisions

Sections 8, 13, 19, 21.2, 21.3, 22, 23, 24 and 27 of these Maintenance Service GTC shall survive termination of the Contract.

22. Liability

22.1 Exclusive liability

This Section 22 shall exclusively govern EKATO's liability for all claims, costs, damages, and indemnities, regardless of the form of action, whether based in contract, statute, tort (including negligence) or otherwise and applies in addition to any other limitation or exclusion of EKATO's liability contained elsewhere in the Agreement and the Contract.

22.2 Scope of limitations

The limitations and exclusions below and in the Contract:

apply to:

- EKATO;
- EKATO's Affiliates;
- EKATO's respective officers, directors, employees, licensors, subcontractors, and legal representatives;

22.3 Liability Cap

EKATO's aggregate liability for all claims arising out of or in connection with the Contract is limited to 100% of the Price paid under the Contract for the Offering.

22.4 Limitations of liability

Service Provider shall not be liable, based on whatsoever legal ground or theory, for lost profit, lost turnover, higher production and maintenance costs, loss or corruption of data, loss of anticipated savings, higher insurance premiums, production downtimes, special, exemplary, or punitive damages, and, for indirect damage and/or consequential damage is excluded.

Insofar as EKATO owes damages, the amount of liability is limited to the agreed Price (net).

22.4.1 The limitations set forth in Section 22.1 – 22.4 shall not apply to/in the event of

- a. Liability due to Wilful Misconduct or Gross Negligence;
- b. For fraudulently concealed Defects;
- c. In connection with liabilities due to injury to life, limb or health and to liabilities which, as a matter of mandatory law, cannot be limited or excluded, in particular, under applicable product liability laws.

23. Force majeure

23.1 No liability

Neither party shall be liable for a performance failure or delay in performance of its obligations (except related to any payment obligations) if and to the extent caused by a Force Majeure event and/or its direct consequences.

23.2 Schedule Adjustment

Impacted schedules in the Contract shall be reasonably adjusted for a Force Majeure event.

23.3 Termination in the event of Force Majeure

If a Force Majeure event or its direct consequences continue(s) for more than 180 days, either Customer or EKATO may terminate the Contract. Customer will pay EKATO the Price for the Services and Goods provided or ordered up to the date of termination.

24. Applicable law and dispute resolution

24.1 Applicable law

These General Terms and Conditions for the Performance of Maintenance Services (Maintenance Service GTC), and any Contract between EKATO and Customer shall be governed by the substantive laws of Switzerland.

24.2 Arbitration

All disputes arising out of or in connection with this Agreement or any Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("ICC").

The number of arbitrators shall be one.

The seat of the arbitration shall be Frankfurt am Main, Germany.

The language of the proceedings shall be English, unless otherwise agreed.

25. Written form and notices

"In writing," "written" or "written form" includes e-mail, unless otherwise stated. Termination notices must be sent by registered letter or courier service to the address specified in the applicable Contract.

26. Affiliates and subcontractors

EKATO may use Affiliates and subcontractors to fulfill its obligations under the Contract.

EKATO remains responsible for its obligations and those of its Affiliates and subcontractors as if EKATO itself was performing all activities related to the Services and the supply of ancillary Goods.

27. Independent relationship

Nothing in the Order creates a partnership or an employment relationship between EKATO and Customer or any of their respective personnel.

28. Order of precedence

In the event of a conflict between the Contract, these Maintenance Service GTC and any Supplemental Terms, the following order of precedence applies:

- a. Contract (excluding any Customer general terms and conditions, even if the document states differently);
- b. applicable Supplemental Terms;
- c. these Maintenance Service GTC.

29. Entire Agreement

The Contract is the entire agreement with respect to its subject matter and supersedes and extinguishes any previous or contemporaneous agreements, assurances, warranties, or representations.

Each party agrees that it has no remedies in respect of any statement or representation (whether made innocently or negligently but excluding any made fraudulently) that is not set out in the Contract.

If a translation of the Contract or the Agreement conflicts with the original, the English language version shall prevail.

Unless explicitly otherwise agreed in writing, the terms of any contract, agreement, general terms or conditions of purchasing, offer acceptances with deviations, or other documents from Customer are excluded and such terms will not apply to any Contract and shall not supplement or amend the Contract irrespective of any language to the contrary in such document.

30. No assignment

Neither party may assign or otherwise transfer (by operation of law or otherwise) its respective rights or obligations under the Contract without the written consent of the other party. However, EKATO may assign or otherwise transfer to an Affiliate or an acquirer of all or substantially all the business covered by the Contract.

31. No waiver

Failure to enforce a provision of the Contract and/or Agreement will not be considered a waiver.

32. Amendments

The Contract and any amendments to it shall only be effective if made in writing and signed by duly authorized representatives of both parties (either manually or by an electronic system agreed upon by the parties).

33. Validity

If any provision(s) of the Contract/Agreement or these Maintenance Service GTC is or become(s) invalid, illegal, or unenforceable, the remaining provisions shall not be affected. Such provision will be deemed to be restated in accordance with applicable law to reflect, to the extent legally enforceable, the parties' original commercial intent.

34. Contract Term

Unless otherwise agreed, a Services Contract is concluded for a period of one year and shall be automatically extended by one year at a time, unless terminated by written notice in least two months prior to the expiry of the current Contract period.

Unless the agreed Price(s), fees and rates is/are to be adjusted pursuant to an index clause, for each one-year contract term EKATO may demand an increase of the agreed Price(s), fees and rates, provided that EKATO informs the Customer in writing and at least three months before expiry of the current Contract term of the increase(s) proposed for the coming Contract term. If the Contract is extended for another Contract term and the Customer has not objected in writing to EKATO's revised Price(s), fees and rates, the Customer shall be deemed to have accepted the proposed Price increase(s).

Definitions

Affiliate	Any legal entity that, directly or indirectly: <ul style="list-style-type: none">• is controlled by a party;• controls a party;• is controlled by a legal entity that directly or indirectly controls a party.
Confidential Information	Information that: <ul style="list-style-type: none">• is disclosed by one party, its Affiliates, or their subcontractors to the other party or their Affiliates;• is marked or declared as confidential (or that any reasonable person can recognize as confidential in its nature);• includes the terms of the Agreement and any Contract, Offerings, EKATO-owned Intellectual Property, and any information Customer derives from benchmarking any Offering.
Contract/Agreement	A contract consisting of a statement of the scope of Services or any other document setting forth the Offerings and the Price (offer), an acceptance form incorporating the Agreement, and which is agreed upon by both parties by manual or electronic signatures or by an electronic system specified by EKATO.
Contributions	Everything Customer (or someone on behalf of Customer) must provide or perform in connection with a Contract so that EKATO can perform the Services, namely, but not limited to Section 3 and including all preparatory work, assistance, documents, information, data, and approvals.
Defect	Non-conformance of the Services with the EKATO specification set out or referred to in the Contract.
Delivery	Making the Goods available to Customer in accordance with the INCOTERMS 2020 stated herein or in the Contract.
Documentation	Instructions for use, learning materials, technical and functional documentation, and API (Application Programming Interface) information made available as part of or incidental to the Services and which may be updated by EKATO from time to time.
Export Regulations	All applicable sanctions, embargoes, and (re-)export control regulations and in any event those of the European Union, the United States of America and any locally applicable jurisdiction.
Firmware	System software incorporated into Goods.
Force Majeure	Any event which is beyond the reasonable control of a party, its affiliates or its subcontractors, which could not have been prevented by good industry practice including, but not limited to, acts of war, riot, civil commotion, terrorism, natural disaster, epidemic or pandemic, strikes, lock-outs, attacks on EKATO's systems (such as virus attacks, hacker attacks), non-issuance of licenses, permits or approvals, or any other act or failure to act by any public authority, or embargos or any other trade sanctions.
Good Industry Practice	means the exercise of that degree of skill, diligence and prudence that would reasonably and ordinarily be expected from a skilled and experienced professional engineer/manufacturing company applying the standards generally adopted by skilled and professional engineers/manufacturers within the appropriate

disciplines involved in the safe performance of obligations of a type and complexity equivalent to those under the Agreement in relation to Services Offerings of a scale and complexity equivalent to those subject of the Contract.

Goods	means tangible goods, equipment, components, parts, in particular Spare and Wear Parts, and materials, which may include Firmware.
Gross Negligence	means any act of failure to act which seriously and substantially deviates from Good Industry Practice and which is in reckless disregard of, or indifference to, the harmful consequences thereof.
Information Technology (IT)	All aspects of technology used to develop, transfer and store information and data including but not limited to Goods, software, IT systems, networks, Internet-enabled applications, cloud applications used by them and common IT interfaces.
Intellectual Property	Rights in data, patents, utility models, trademarks, copyrights, software, ideas, know-how, or any other proprietary material or information, whether registered or non-registered.
Infringement Claim	Where a third party makes a specific claim, allegation or complaint against Customer that the Offerings directly infringe any: <ul style="list-style-type: none">▪ patent or trademark issued or registered by the United States, China, Japan, or the European Patent Office or the European Union Intellectual Property Office;▪ copyright;▪ trade secret.
Offering(s)	The Goods, services, solutions, software or documents provided to Customer as exclusively set out in a Contract.
Place of Performance	shall mean the location where the Service Provider performs the Services.
Price	The price, fees, rates and allowances payable by Customer for the Services including any ancillary Goods that may be provided, as applicable.
Service Provider	shall mean, as the case may be, EKATO, any EKATO Affiliate and any subcontractors, vicarious agents and including all personnel employed by Service Provider for the performance of the Services.
Spare and Wear Parts	shall mean those parts of the Goods which shall be replaced in the course of preventive maintenance Services. The Contract shall identify the Spare and Wear Parts and the intervals at which they shall be replaced.
Supplemental Terms	Additional terms and conditions that apply to a particular Offering shall or Contract as attached or referenced in a Contract such as but not limited to specifications, annexes, exhibits, schedules, attachments.
Tax	Any taxes, duties, and any other charges.
Third Party Technology	Any third-party software, technology, and other materials, including open-source software components, licensed by third parties under separate terms.
Third Party Terms	License conditions that may apply for Third-Party Technology and are specified in the Documentation, Supplemental Terms, Third-Party Technology source code (if any), and/or in "read me," header-, notices-, or similar files.
Update(s)	Software updates, security patches, or bug fixes.
Willful Misconduct	means any conscious, voluntary and deliberate act or failure to act which seriously and substantially deviates from Good Industry Practice and is done with the intention of causing, or in disregard of, the harmful consequences thereof, but shall not otherwise include any error of judgement, mistake, act or omission, whether negligent or not, made in good faith.