



# Terms And Conditions

## 1. Area of Application

The terms set out herein after shall apply, unless specified otherwise, to all Maintenance performed on the Aircraft or Parts thereof which BATS shall carry out itself or delegate to Subcontractors. Each Work Order shall be deemed to be a separate, Independent order under the present terms.

## 2. BATS'S Obligations

BATS shall cooperate with the Customer to schedule all maintenance requirements in a manner that maximizes the operation and value of the Aircraft to the Customer, provided that no Maintenance or Inspection shall be delayed or postponed unless such Maintenance or inspection may be deferred in accordance with the approved Inspection program tolerances and applicable regulations, and at the discretion of the Customer. BATS undertakes to:

- 1.1. Provide the Customer with technical advice and service related to the Maintenance of the Aircraft.
- 1.2. Comply with relevant laws, rules and regulations and with appropriate Airworthiness Directives, Service Bulletins or retrofit instructions applicable to the Maintenance of the Aircraft.
- 1.3. Maintain all licenses, permits, and permissions, public and private, necessary for BATS to provide the Services under this Agreement.
- 1.4. Guarantee that specialized, licensed and qualified personal performs the Services.
- 1.5. Carry out all works assigned by the Customer In accordance with Manufacturers maintenance manuals.
- 1.6. Provide written reports for the works performed on the Aircraft.
- 1.7. Acknowledge that the Airframe Manufacturer may provide maintenance at no cost for Items under warranty and that the avionics manufacturer may provide warranties with respect to the avionics of the Aircraft for a specified period of time. BATS shall identify repairs required to be made to the Aircraft and its avionics and shall use commercially reasonable efforts to obtain repair service from the appropriate manufacturer(s) In accordance with the terms of the applicable warranty.
- 1.8. If required by the agreed work order, be responsible for the Aircraft's technical administration and services and If required by the agreed work order, ensure transmission of applicable data to the Manufacturers.
- 1.9. Have the Aircraft's type in the scope of Its approval.
- 1.10. Inform the Authority of the Member State of registry whenever the present Agreement has not been respected.

## 3. Obligations of The Customer

The Customer undertakes to:

- 3.1. Ensure that any maintenance of the Aircraft Is performed by an appropriately approved maintenance organization certified in accordance to EASA Part-145.
- 3.2. Keep the Aircraft and Engines Log Books accurate and up-to-date and record all events occurring during the operation of the Aircraft as well as all maintenance or modification works performed.
- 3.3. Provide BATS with authorization substantiated by reference to approved data, when the event of a maintenance task deferment arises.
- 3.4. Provide BATS if agreed in the work order with the entire updated documentation pertaining to the Aircraft and the Engines each time the Aircraft stops to perform scheduled and/or unscheduled Maintenance with BATS including the following Maintenance Data and Its revisions:

Customer' s Maintenance Manual Exposition CAME  
Access to Electronic Maintenance System if required  
Major repair/ modification data  
Airframe, Engine and APU Maintenance manuals "AMM" or Login  
Airframe, Engine and APU Maintenance Programs or Login  
Airframe, Engine and APU Illustrated parts catalogue "IPC" or Login  
Aircraft and outfitter wiring diagrams "WDM" or Login  
Aircraft Structural repair manuals "SRM" or Login  
Aircraft Flight Manual "AFM" (on board of Aircraft) and digital format



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Customer Minimum Equipment List "MEL" (on board of Aircraft) and digital format  
Airworthiness Directives "AD" list as Issued by the country of manufacturer of the Aircraft, Engines & Components, and/or the  
Customer's Aviation Authority  
Service Bulletins

- 3.5. Inform the Aviation Authority of the Member State whenever the present arrangement is not respected or is cancelled by either party.
- 3.6. Carry out all occurrence reporting mandated by applicable regulations.
- 3.7. Inform BATS of any modification which requires special maintenance actions

#### **4. Prices**

Prices under this Agreement shall apply exclusively to such work and supplies as are agreed upon in writing. Work not provided for in the agreed work Order or the agreed AWR (additional work request/finding report) shall be charged for separately. If no fixed price is agreed for such work, BATS shall apply the prices it currently charges for the type of work involved.

The Customer shall not be entitled under any circumstances in particular due to alleged or actual deficiencies (except for an undisputed delay in the performance of the Services by BATS) to withhold payment or part-payment for work performed by BATS. In case of a delay in payment by the Customer, BATS shall be entitled to charge interest for late payment at the rate 12% per annum.

Unless otherwise agreed, payments shall be made within 30 (thirty) days from the date of the invoice or down payment request, by electronic transfer to the bank account Indicated below without any deduction whatsoever. BATS shall not be obliged to accept credit cards, cheques, bills of exchange or money orders. In case of acceptance of the same, such payments shall not be considered to have been affected until the date of crediting to BATS for free disposal by the latter.

#### **5. Scope of Order**

Each work Order shall be deemed to contain an authorization to BATS without specific approval by the Customer to carry out or cause to be carried out all such work as shall be necessary for testing the object to which the Work Order refers, with the exception of test flights. In case the Work Order includes the execution of scheduled or unscheduled Maintenance, testing or Modification work, it shall always cover all such work and testing as shall be deemed necessary by the responsible inspector of BATS to maintain or restore an Aircraft's airworthiness.

#### **6. Work Deadlines**

Observance of such completion and/or delivery deadlines as are acknowledged as binding and guaranteed by BATS shall be subject to the Customer having previously met all contractual obligations, in particular the due and timely delivery of the object of order including aircraft papers, etc, the settlement of technical questions and the remittance of advance payments demanded by BATS. Deadlines shall be postponed if compliance with defined deadline is not possible because of a Force Majeure event

#### **7. Meetings**

The Parties shall meet, as they deem necessary, in person or by telephone conference to evaluate the Maintenance status of the Aircraft as well as any future Maintenance tasks to be performed.

The agenda for such meeting shall be as follows:

- Any defects recorded since the last meeting and any action required (Including cabin items).
- Any deferred defects
- Any Airworthiness Directives, Service Bulletins, or Modifications including parts and appliances issued since the last meeting.
- Review of Aircraft hours/cycles.
- Review of Maintenance planning issues.
- Review of Aircraft due list and Review of audit discrepancies.

A review report will be Issued by the Customer after such meeting and provided to BATS in a timely manner.

#### **8. Exchange of Information**

The Customer shall ensure that BATS is capable to participate on a regular basis in all technical, quality, reliability, work scope planning and contract reviews and meetings. At defined intervals the Customer will be invited to participate in a maintenance review meeting to discuss ways and means of ensuring the greater effectiveness of BATS's performance and the co-operation n with the Customer In achieving safe operation. The Customer and BATS will assess all service information regarding the Aircraft for applicability and Customer will advise BATS when and how compliance should be achieved. BATS will consult with the Customer to jointly plan the Incorporation of all service Information and any subsequent repetitive action Notwithstanding the previous paragraph, before this contract is applicable both parties that are involved in the application of the contract meet in order to be sure that every point leads to a common understanding of the duties of both parties.



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## 9. Quality Monitoring

The Customer may carry out periodic audits on BATS as specified in the Customer's CAME or approved audit plan. BATS shall allow access to Customer to the necessary departments and offices as required to carry out the audits.

The Customer shall provide BATS with timely notification of audit due dates and audit content. Results of the regular quality audits by the Customer shall be forwarded to BATS, BATS undertake to rectify the discrepancies within due time.

BATS shall allow access to the Aviation Authority staff to the necessary departments and offices for conducting audits as required by the Aviation Authority. Access requirements shall be announced via the Customer. The Customer shall provide BATS with timely notification of required access due dates.

## 10. Scheduled Maintenance

Maintenance planning will be carried out by the Customer in collaboration with BATS.

## 11. Unscheduled Maintenance / Defect Rectification.

In the event of a defect occurring during scheduled maintenance BATS will advise Customers, to agree about rectifications, if defect relates to rotatable part and or affect the scheduled ground time. BATS will provide without reference to the operator for consumable part that doesn't affect the ground time.

In the event of a defect occurring at a location where it cannot be rectified by an EASA Part-145 approved maintenance organization and the Aircraft cannot be flown to a place where such rectification can be accomplished, BATS will use its best endeavors to provide prompt on-site support.

## 12. Maintenance Programme

### 12.1. Development and Amendment

The Aircraft shall be maintained in accordance with the Maintenance Program provided by the Customer and approved by the Aviation Authority. The Customer shall be responsible for the initial development of its Maintenance Program and any changes thereto. It shall also be responsible for having approval of the Maintenance Program by the aviation authority.

A copy of the maintenance program and any amendment thereto shall be supplied by the Customer to BATS.

### 12.2. Effectiveness and Reliability

In order to ensure that BATS receives all revisions of the Maintenance Program the customer shall copy any revision that it receives to BATS as a backup.

### 12.3. Deviation

Any deviation from the maintenance schedule as outlined in the Maintenance Program, will have to be approved by the Aviation Authority. BATS will support the Customer with technical data for all variations or deviations from the maintenance schedule, where the Maintenance Program provides for such variation or deviation and the approval of the Aviation Authority is necessary. The sole responsibility for obtaining the necessary approval from the Aviation Authority regarding any deviation or variation of the maintenance schedule shall remain solely with the Customer at all times.

## 13. Airworthiness Data

### 13.1. Documents to be provided by the Customer:

To ensure that BATS is in possession or have access of all necessary data on file for the Aircraft, the following airworthiness data and additional documents, including revisions thereof, shall be made available by the Customer to BATS.

- (1) Customer Maintenance Program (A copy with BATS in MALTA).
- (2) Controlled copy of the Customer's EASA Part-M CAME (A copy with BATS in MALTA).
- (3) Customer's Airworthiness Directive listing.

- (4) Airframe, Engine, and APU manufacturer's maintenance programs.
- (5) Airframe, Engine, and APU manufacturer's maintenance manuals.
- (6) Airframe, Engine and APU manufacturer's illustrated parts catalogue.
- (7) Airframe, Engine, and APU manufacturer's SB's.
- (8) Standard Airframe wiring manuals.
- (9) Any supplemental wiring, maintenance manual and Illustrated parts catalogue.
- (10) Customer's MEL, Aircraft Flight-, Operating and Loading Manuals.
- (11) ICA for any optional equipment or modifications embodied in the Aircraft.

### **13.2. Documents Available at BATS's Premises**

The following airworthiness data and additional documents, including revisions thereof, shall be available at BATS Premises in Malta.

- (1) AD's as issued by the EASA, FAA and the responsible Aviation Authority.
- (2) Airframe, Engine, and APU manufacturer's maintenance program.
- (3) Airframe, Engine, and APU manufacturer's maintenance manuals;
- (4) Airframe, Engine, and APU manufacturer's Illustrated parts catalogue.
- (5) Airframe, Engine, and APU manufacturer's SB's.
- (6) Standard Airframe wiring manuals.
- (7) Standard Airframe maintenance and repair instruction manual.
- (8) SB's regarding Aircraft, Engines, APU and component.

### **14. Airworthiness Directive**

Customer will review all AD's issued against the Aircraft, engine, APU, parts and appliances, in accordance with its own procedures laid down respectively into Part M.

Customer may request to BATS the accomplishment of the applicable AD's within the terms set into the AD detailing the means of compliance and its due date. The Customer will specify the required application of the AD's, proposing their inclusion into the planned work package. BATS will evaluate proposed work package and accept or reject the accomplishment of the AD in accordance with procedures as per MOE.

Customer will maintain a current list of Airworthiness Directives.

### **15. Service Bulletins**

Customer shall obtain all service information relevant to the Aircraft, engines, APU, parts and appliances and equipment as published by the respective manufactures.

Customer will review all review the mandatory applicable Service Information, In accordance with their own procedures laid down respectively into Part M CAME.

Customer may request to BATS the accomplishment of the applicable SB's within the terms set into the SB detailing the means of compliance and it's due date. The Customer will specify the required application of the SB's, proposing their inclusion into the planned work package. BATS will evaluate proposed work package and accept or reject the accomplishment of the SB in accordance with procedures as per MOE.

Customer shall maintain a continuously updated record of the Service Bulletin in the original airframe, engine and APU Maintenance Records.

After Incorporation of any Service Bulletins during accomplishment of agreed work package, the customer shall enter the compliance Information into the Service Bulletin listing of the appropriate Airframe, Engine or APU maintenance Log. Customer will maintain the current list of Airframe Service Bulletins within the maintenance tracking system. Any Service Bulletin with a specific or repetitive compliance date will be entered into the system and, therefore, displayed In the Aircraft due list as applicable.

### **16. Other Modification**

All the modification applied must be approved in accordance with Commission Regulation (EU) 748/2012 PART 21 requirements prior to



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aircraft delivery to Customer. Modifications as requested by the Customer shall be reviewed by BATS. The engineering order detailing the modifications will be added to the agreed Work Order. All Modifications will be submitted to Aviation Authority with a notice of modification before implementation, except when the modification is classified as a Minor Modification and can be approved by an organization holding a DOA Part 21.

## **17. Maintenance Recording**

All original Maintenance Records will be held and maintained by Customer in accordance with Part M requirements. BATS in accordance with Part 145 will retain a copy of all detailed maintenance reports and any associated data for two years from the date the Aircraft or Aircraft Component to which the work relates was released.

## **18. Flight Hours & Cycles Control**

If required by the agreed scope of Services, the Customer shall provide BATS on request a status report detailing current Airframe/Engine and APU Flight Hours and Cycles to allow BATS to plan maintenance schedules.

## **19. Component Control & Removal Forecast**

It is the responsibility of BATS to notify the Customer whenever a Component is replaced, during maintenance, of which the Customer is unaware. BATS will provide acceptable Airworthiness Release Certificate (EASA Form One, FAA 8130-3, or equivalent in original or true copy) for replacing components installed on-board the Aircraft.

## **20. Life Limited Parts**

It is Customer's responsibility to monitor life limited parts (LLP). The Customer's Technical Records are the basis for Life-Limited Part control record of all Life Limited Part will be maintained by the Customer.

## **21. Supply of Parts**

Subject to contract agreements, it is the responsibility of the Customer to supply all Parts, Components and Materials required during Maintenance. The Customer will ensure that Parts, Components and Materials are obtained and appropriately certified by approved sources acceptable as defined in EASA standards. No parts will be fitted to the Aircraft without the existence of either Standard parts or expendables with a C of C. New or Newly overhauled parts by manufacturer other than standard expendables either EASA Form 1 or FAA Form 8130-3 or TCA Form24-0078. Repaired or Inspected other than standard parts or expendables EASA Form 1 or FAA Form 8130-3 or TCA Form27-0078 with "dual release" In block 13.

## **22. Check Flight / Technical Flight**

Check flights and or technical flight (e.g. for the purpose of modification approval, handling checks, following engines or major Airframe components ETC.) may only be carried out if deemed necessary by the Customer and BATS and must only be carried out in accordance with the manufacturer's documentation. Such flights will be carried out by flight crew nominated by the Customer in accordance with Customer's CAME.

## **23. Exchange and Loaned Parts**

### **23.1. Exchange Basis**

If the Customer is supplied with exchange parts, it shall return the off-core Parts to BATS within 10 days of the receipt of such exchange parts. The costs of exchange shall be determined in advance by the supplier of the parts or by BATS. If the expense of repairing the returned off-core parts exceed the cost of the exchange, the Customer shall be charged with the difference by supplementary invoice. If for any reason whatsoever the Customer returns a part remitted to it by BATS without having used it, such Part shall only be accepted if serviceable upon arrival at BATS. If applicable, the Customer shall in addition be charged with a restocking fee and recertification charge of 10% of the part's current list price. If a returned part not used is found to be defective, the Customer shall be charged with the cost of repairing it by supplementary invoice. If the part is not repairable, the Customer shall pay full sales price.

### **23.2. Loan Basis**

So far as loaned Parts are concerned, the provisions of the BATS standard loan agreement shall be applicable even in cases in which no such agreement is specifically concluded. Loaned Parts shall be returned serviceable in any event. If such is not the case, the repair costs or, if repairs are not cost-effective, the replacement cost of loaned Parts shall be charged to the customer.

## **24. Acceptance by the Customer**

The Customer or its representative shall be deemed to have accepted the object of order upon taking redelivery of the same. Redelivery shall be affected at the place of work performance and shall be evidenced by a delivery receipt. BATS shall not be obliged to verify the



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authorization of the person taking redelivery.

Shipment of the object of order to Customer, including temporary storage of the same en-route or at destination, shall be entirely at risk and to account of Customer.

The Customer shall be deemed to be in delay if it fails to take delivery of the object of the order when properly tendered for upon the issuance of the relevant Certificate of Release to Service within three days of being notified of the completion of the work against payment of invoice.

In respect of all due claims, resulting from contractual relations with its Customers, BATS shall have, in addition to its legal right of retention, a contractual right of lien to such objects in its possession to the extent they are the property of the Customer, independently of the Customer's proprietary rights.

Without affecting BATS's other rights under this Agreement, title to all Parts and Components supplied by BATS or any of its Subcontractors in respect of the Aircraft shall only pass to the Customer when the Customer has paid the full amount for such Part or Component. If the Parts and/or Components have been installed but not paid for, BATS may remove any of them and the cost of doing so will be added to the amount due to BATS from the Customer.

## 25. Insurance

During the term of the Agreement, the Customer will procure insurance for the Aircraft by obtaining an Insurance policy (Customer's Policy) for the coverage outlined in subsections (1) and (2) below. Furthermore, Customer's Policy will be issued by a as reputable insurance company of international standard.

1. The Customer will carry and maintain all-risk aircraft hull Insurance in an amount not less than the replacement value of the Aircraft. In all cases and under all circumstances, the Customer agrees that the proceeds of such insurance to which the Customer is entitled shall be deemed to be accepted as the Customer's sole recourse against BATS for any loss or damage to the Customer or to the Aircraft. In addition, the Customer will carry comprehensive aircraft liability Insurance, including coverage for bodily injury and property damage, premises liability, and contractual liability in an amount not less than mandatorily required.
2. The Customer will include BATS and their officers, shareholders, directors, employees, affiliates and subsidiaries as additional insured with respect to all coverage's required by this Agreement.

Customer's Policy will stipulate that:

1. The Insurer provides BATS with at least 30 days' prior notification in the event of cancellation, failure to renew, or material change in coverage of the policy.
2. All coverage's will be considered primary coverage's and not contributory with respect to any other policies in force.
3. There is included a severability of interest clause which provides that the insurance, except for the limit of liability, will operate to give each insured the same protection as if there were a separate policy issued to each insured.

The Customer will:

1. Provide BATS with certificates of Insurance as reasonably requested and specified by BATS immediately prior to the policy effective date,
2. Endorse Customer's Policy so that BATS and their officers, shareholders, directors, employees, affiliates and subsidiaries are listed as additional insured on all of the Customer's liability coverage's.
3. Waive all rights of subrogation against BATS.
4. Include an invalidation (breach of warranty) provision to the effect that coverage for the Customer and/or BATS will not be voided by any act or neglect of the other party.

BATS must hold, at the minimum, Comprehensive Aviation General Liability Insurance, including Aviation Premises, Products and Completed Operations and Hangar Keepers Liability for a combined single limit bodily Injury and property damage in the amount each occurrence (aggregate in respect of products liability).



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**[Note: BATS holds 300 Million Euro cover in MIA and 1.5 Million Cover for Working Parties]**

## **26. Warranties**

BATS warrant that (i) the work performed under this Agreement will be free from defects in workmanship and material, whatever the origin and, (ii) the flawless condition of newly installed parts according to the latest state of technology.

The warranty shall cover any costs and expenses related to the repair or replacement of faulty work or defective parts. Shipping expenses for Parts covered by the warranty shall be borne by the Customer. The warranty shall be valid for 360 days from the date of the redelivery of the Aircraft by BATS and in any event be no longer than 500 Flight Hours, whichever occurs first. Warranty claims based on the quality of work performed or the parts installed shall be made in writing at the time of acceptance or, in case of deficiencies not immediately discoverable, as soon as practical upon discovery, but in any event during the above warranty period. Any claim made by the Customer after the warranty period will be considered by BATS, but BATS will be free to reject them. In case of work performed by third parties under the responsibility and supervision of BATS, the above BATS warranty conditions will apply.

For the installation of parts procured from third parties, BATS's warranty shall be limited to the extent to which BATS is entitled to claim from the respective third party. Should the warranty coverage from the third-party supplier exceed BATS's warranty terms, then they will be passed on in full to the Customer.

Warranty claims shall not be admissible if the respective damage occurs because of gross negligence or is due to the violation of operating instructions, maintenance regulations or other operating errors by the Customer. In addition, no claims under warranty shall be admissible if the customer itself carries out, or causes third parties to carry out, work to repair deficiencies without obtaining prior approval in writing from BATS.

BATS's warranty on free of defects does not extend to used Parts (save in respect of the workmanship for the installation of such used Parts) or Parts delivered by the Customer or temporary repairs installed or performed at request of customer.

## **27. Liabilities and Indemnities**

Customer hereby releases and agrees to Indemnify and hold BATS, its directors, officers, employees and agents harmless from and against any and all liabilities, claims, demands, suits, damages and losses, (including without limitations all attorneys' fees, costs and expenses in connection therewith or Incident thereto) for deaths of or Injuries to any persons whomsoever (Including, without limitation, Customer's employees) and for loss of, damage to, destruction of, or delay in the delivery of any property whatsoever (including, without limitation aircraft of Customer) in any manner arising out of or in any way connected with the goods and/or services provided by BATS hereunder, however, the foregoing indemnification will not apply to any such claim or liability resulting from the willful misconduct or gross negligence of BATS, its directors, officers, employees, or agents.

BATS hereby releases and agrees to Indemnify and hold Customer and its affiliates and their respective directors, officers, employees and agents harmless from and against all liabilities, claims, demands, suits, damages and losses (including without limitations all attorneys' fees, costs and expenses in connection therewith or Incident thereto) for deaths of or Injuries to any persons whomsoever (Including, without limitation, BATS's employees) and for loss of, damage to, destruction of, or delay in the delivery of any property whatsoever in any manner arising out of or in any way connected with the goods and/or services provided by BATS hereunder however, the foregoing indemnification will not apply to any such claim or liability resulting from the willful misconduct or gross negligence of Customer, its employees or agents.

The Customer shall be liable to BATS for any damage caused by it or its representative(s).

Each Party acknowledges and agrees that:

1. The proceeds of insurance to which it is entitled; and
2. Its right to direct damages arising in contract subject to the liability limitation under this Agreement are the sole remedies for any damages, loss or expense arising out of this Agreement or the services arising hereunder. Except as expressly provided in this clause, each Party waives any right to recover any damage, loss or expense arising out of this Agreement or the services provided hereunder. In no event shall either Party be liable or have any duty for indemnification or contribution to the other Party for any claim for damages whether indirect, special, incidental, consequential or punitive or for any loss or use, revenue, profit, business



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opportunities or depreciation of value of the Aircraft or insurance deductible even if the Party had been advised or knew or should have known of the possibility of such damages. The provisions of this clause will survive the termination or expiration of this Agreement.

## 28. Force Majeure

No delay or failure to perform by either Party shall be a default under this Agreement or give rise to any claim for any Losses including anticipated profits if caused by Force Majeure.

Without affecting any other term of this Agreement, if either Party cannot perform any part of this Agreement due to Force Majeure, it shall be excused from liability for such failure and the time for completing any work shall be extended accordingly. The Party claiming Force Majeure shall notify the other Party if any Force Majeure Event is occurring or is likely to occur and shall use best efforts to minimize the effects of any delay caused and continue with the work as soon as possible. Should the Force Majeure event last for more than fifteen "15" Business Days, then either party shall be entitled to early terminate this Agreement with immediate effect giving the other party a written notice.

## 29. Taxes and Duties

### 29.1. Taxes in General

The Customer shall bear all Taxes which may be levied in connection with this Agreement including any payment of any invoices issued by BATS under this Agreement, but not Income tax or such like levied against BATS on its Income, profit or gains by any relevant MALTESE taxing authority because of this Agreement.

### 29.2. Withholdings

The Customer cannot deduct any amount from any of its payments under this Agreement for or because of any Taxes unless the Customer is legally required to do so. If the Customer is so required, the Customer shall deduct the minimum amount necessary to comply with the respective law and pay BATS an extra amount so that BATS receives the same amount on the relevant payment date that it would have received if the deduction had not been made. Customer shall further pay the Tax to the relevant taxing authority according to the laws and obtain a receipt and provide BATS with a copy thereof.

## 30. Intellectual Property

Title to and all intellectual property rights (including copyrights, trademarks, patents, registered design rights or design rights) in all documents or data (including plans, drawings, patterns or designs) supplied by the Customer to BATS for or under this Agreement, shall remain with the Customer or any third Party which is entitled to such intellectual property right. The Customer shall indemnify the Indemnitees against any Losses suffered by the Indemnitees arising from any infringement of any such Intellectual property rights caused by the performance of any services provided or work done under this agreement.

Title to and all Intellectual property rights (including copyrights, trademarks, patents, registered design rights or design rights) in all documents or data (including plans, drawings, patterns or designs) supplied by BATS to Customer for or under this Agreement, shall remain with BATS or any third party which is entitled to such intellectual property right. BATS shall indemnify the Customer against any Losses suffered by the Customer arising from any infringement of any such Intellectual property rights caused by the performance of any services provided or work done under this Agreement.

## 31. Miscellaneous

### 31.1. Complete Agreement

This Agreement represents the entire understanding between the Parties and expressly replaces, supersedes and cancels any prior oral or written agreements, understandings or communications on this subject.

### 31.2. Assignment

Neither the Customer nor BATS may assign this Agreement, in whole or in part, without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either party may assign this Agreement to a fully owned affiliate or successor company without the prior consent of the other party.





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### **31.3. Severability**

If a provision of this Agreement is or becomes illegal, invalid, partially invalid or unenforceable in any jurisdiction, that will not affect the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement, or the legality, validity or enforceability in any other jurisdiction of that or any other provision of this Agreement. The invalid or partially invalid provision will be replaced by a provision which complies with this Agreement in meaning and intent. Any invalidity of one or several provisions of the present terms shall not affect the validity of the remaining terms

### **31.4. Waivers / Remedies**

The waiver by either Party of one breach or default under this Agreement shall not constitute the waiver or any subsequent breach or default, and shall not act to amend or negate the right of the Parties under this Agreement.

### **31.5. Confidentiality**

All Information whether technical, proprietary and/or of any other nature whatsoever, supplied or to be supplied by a Party hereto (the "Disclosing Party") to the other Party hereto (the "Recipient"), in anticipation of or pursuant to this Agreement and any copies thereof, shall remain the property of the Disclosing Party and shall be treated as confidential by the recipient. The recipient shall protect and preserve all information obtained from the Disclosing Party hereunder in the same manner and with the same degree of care and control as the recipient exercises for its own information of similar nature, shall ensure that such information is used solely for the purpose of this Agreement as identified above, shall disclose all information only to those employees or third parties having a need to know and shall not disclose the Information or any part of it to any other person, firm, company or corporation without prior authorization in writing by the Disclosing Party.

### **31.6. Counterparts**

This Agreement may be executed in counterparts each of which will constitute one and the same document.

### **31.7. Set-off**

Customer shall not be entitled to set-off any of its claims against any of BATS'S claims.

### **31.8. Notice and Process Agent**

Any notices given under this Agreement by any of the Parties hereto shall be in writing (by mail or courier, email or fax) and shall be sent to the addresses of the parties as specified in this Agreement. Any change of such address shall be communicated to the other Party. If Customer is not domiciled in MALTA, Customer shall during the Term nominate a process agent in MALTA for the purpose of receiving on behalf of Customer any notices under this agreement and in connection with any proceedings in MALTESE courts arising out of or in connection with this Agreement. Any such notices to the process agent shall be deemed due and punctual notice and in case of cease of any process agent and until a new process agent is nominated and notified to BATS, notice to the ceased process agent shall be deemed due notice to Customer.