



**1. Services in Scope**

These Standard Terms and Conditions for XOLTA Services applies to XOLTA's performance of the Services as further described in Schedule 1 (Quotation).

**2. Service Fee**

The price and the associated payment plan, payable by Purchaser to XOLTA for the Services ("Services Fee") is set out in Schedule 1 (Quotation). All prices are exclusive of VAT and other applicable taxes which shall be paid by Purchaser.

**3. Payment terms**

The Service Fee shall be made in advance to XOLTA, or XOLTA's representative to the calendar year for which it is due.

**4. Price adjustments**

XOLTA reserves the right to adjust pricing based on increases in the Danish "nettoprisindeks" on an annual basis.

**5. Effect of Non-payment of the Service Fee**

5.1. If Purchaser does not pay to XOLTA the Service Fee, XOLTA is entitled to assert any remedy available to it under these Standard Terms and Conditions and Danish law, including to immediately cease delivery of the Services to the Purchaser without any liability to the Purchaser.

5.2. To resume XOLTA's delivery of Services, Purchaser must pay to XOLTA all Service Fees which would have been due to XOLTA in the period from Purchaser first defaulted on the payments or terminated the Services and until Purchaser requests XOLTA to resume provision of the Services as well as an administrative fee of 500 DKK.

**6. On-line monitoring and technical support:**

XOLTA provide remote system monitoring as set out in Schedule 1 (Quotation). Deviations from specified thresholds or alarms triggers remote diagnostics to prevent and predict potential battery failure.

**7. Notification of planned service or repair**

Planned system interruptions due to service inspections or necessary maintenance work shall be notified to the Purchaser via email [Purchaser email] at least 5 working days in advance of a planned down time. The Purchaser shall confirm by email within 3 working days to support@xolta.com.

**8 Access to site**

All maintenance and repairs require unobstructed access to the serviced areas. This includes clear working areas and clear passageways.

**9. No Warranty for Services**

THE SERVICES ARE PROVIDED ON AN "AS-IS" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, XOLTA EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, REPRESENTATIONS, CONDITIONS, AND GUARANTEES WITH RESPECT TO THE LI-CENSED SOFTWARE AND THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR ERROR-FREE PERFORMANCE.

**10. Intellectual Property Rights**

Nothing in these Standard Terms and Conditions shall constitute a transfer of title or ownership to any intellectual property rights from XOLTA to Purchaser whatsoever. Purchaser acknowledges and agrees that all intellectual property rights in any work or tangible item arising from or created, produced or developed by XOLTA under or in the course of these Standard Terms and Conditions, including without limitations all right title and interest in and to software, firmware programming routines and all documents, data drawings, specifications, articles sketches, reports, inventions, improvements, modifications, discoveries, tools, scripts and other items relating thereto shall immediately upon creation or performance vest in and shall be and remain the sole and exclusive property of XOLTA and Purchaser shall acquire no right title or interest in or to the same.

**11. Limitation of Liability**

XOLTA's total and aggregate liability, whether based on tort, contract or any other legal basis, arising from or related to the Services is limited to the annual Service Fee received by XOLTA under the Standard Terms and Conditions for the year in which the claim arose.

Neither XOLTA nor any of its employees or agents shall in any case be liable for any special, incidental, consequential, indirect or punitive damages even if advised of the possibility of those damages, including but not limited to: i) loss of actual or anticipated profit, revenue or business, ii) unrealized savings, iii) loss of use of software, iv) damage or corruption to or loss of data or programs and any consequences of not having access to data and programs, v) the cost of recreating lost data, vi) the cost of any substitute equipment, vii) loss of goodwill and viii) loss or damage of business interruptions. However, the above-mentioned limitations do not apply to the defaulting party if the default is due to gross negligence or willful misconduct.

**12. Product Liability**

If the Services supplied by XOLTA cause injury or damage to Purchaser or his belongings, or a third party or his belongings, XOLTA shall compensate Purchaser for his loss subject to the limitations specified in this Section 11.

Notwithstanding the above paragraph of this Section 11, XOLTA cannot be held liable for damage caused to objects or property intended for commercial use, nor can XOLTA under any circumstances be held liable for any consequential loss, loss of profits or other indirect loss, as set out in Section 11 (Limitation of Liability) above, suffered by Purchaser, or for punitive damages, as a result of the Services being defective. If Purchaser has contributed to the damage through negligence or has failed to take reasonable precautions to limit the scope of damage, XOLTA may, however, demand that Purchaser pays a proportion of the compensation which is commensurate with his conduct. XOLTA shall in no event be liable for any injury or damages which may be attributed to incorrect or unusual use of the Services by Purchaser or any person for which Purchaser is responsible.

To the extent that XOLTA might incur product liability towards any third party, Purchaser shall indemnify XOLTA as far as XOLTA's liability has been limited by the three preceding sub-paragraphs above.

In the event of legal action being taken by a third party against XOLTA or Purchaser with a claim for compensation based on the rules governing product liability, regardless of the venue/jurisdiction for such action, the internal relationship between XOLTA and Purchaser shall be settled exclusively pursuant to Section 22 from these Standard Terms and Conditions.

If a claim for damage, as described in this clause, is lodged by a third party against one of the parties, the latter party shall forthwith inform the other party thereof. XOLTA and Purchaser shall be mutually obliged to let themselves be summoned to the court examining claims for damages lodged against one of them on the basis of damage allegedly caused by the goods.

**13. Force Majeure**

XOLTA shall not be liable for failure or delay in performance of its responsibilities hereunder when such failure or delay is caused by wars, riots, uprisings, general strikes or labor disturbances, fire, flooding, natural disasters, monetary restrictions, trade embargoes, transportation delays, interruption or breakdown in energy supplies, shortage of transport, general shortage of materials, restrictions in the use of power and defects, longer periods of disease with key employees, Industrial disputes, force majeure with the subcontractors or any other cause whether or not similar to those specified herein beyond the reasonable control of XOLTA.

**14. Purchaser data**

Purchaser data stored via the Services is the property of Purchaser. Upon request, Purchaser is entitled to: i) receive a copy of the data in a readable standard industry format defined by XOLTA or ii) delete the Purchaser's data.

XOLTA shall protect any Purchaser data, including personal data and any data confidential in nature in accordance with section 15 of these Standard Terms and Conditions.

**15. Personal Data**

To the extent (if any) that either party receives or provides personal data as this term is defined by GDPR in the course of performing or receiving the Services, the parties agree that they will comply with



the data privacy laws applicable to its provision or receipt of such personal data. The party providing such personal data is responsible for providing, obtaining and maintaining any notices, consents or approvals necessary to make such information available to the other party.

The parties agree that no processing of personal data shall be initiated by these Standard Terms and Conditions. Neither party shall be considered a data processor in respect of personal data held by the other party and no party may instruct the other party how or to what end said other party shall process its personal data. Should this change, the parties agree to enter into necessary data processing agreements as mandated by applicable data protection laws.

Purchaser represents and warrants to XOLTA that all personal data introduced by Purchaser from time to time was or will be (as appropriate) collected and processed by or on behalf of Purchaser in accordance with the requirements of the data protection laws, and that Purchaser will not be in breach of the data protection laws in providing any information to XOLTA.

Purchaser shall indemnify and hold XOLTA harmless against any loss, damage, or expense (including reasonable legal costs) which XOLTA incurs or becomes liable for as a result of a breach by Purchaser of the warranty set forth above.

XOLTA's privacy policy may be accessed at [www.xolta.com](http://www.xolta.com)

#### 16. Confidentiality

Purchaser must hold in strict confidence and must not disclose any information related to XOLTA (and its affiliates), the Products or the Services which is disclosed to Purchaser by or on behalf of XOLTA or which is otherwise acquired by Purchaser directly or indirectly from XOLTA or which otherwise comes to the knowledge of Purchaser, whether the information is in oral, visual or written form or is recorded in any other medium ("Confidential Information") to any person, except where Purchaser has received the prior written consent of XOLTA. The Purchaser shall use the same degree of care and supply equivalent measures to the Confidential Information disclosed to it by XOLTA as it would use or apply with respect to its own Confidential Information.

The provisions of the foregoing paragraphs do not apply to the following Confidential Information: i) information after it becomes generally available to the public other than because of a breach of these Standard Terms and Conditions; ii) the disclosure of information in order to comply with any applicable law or legally binding order of any court, Governmental Agency, or administrative or judicial body; or iii) the use or disclosure of information after Purchaser has received or receives it from a third person legally entitled to possess the information and provide it to Purchaser, if the use or disclosure accords with the rights or permission lawfully granted to Purchaser by that third person.

Discussions of the a Party's products, services, policies and personnel with third parties shall be restricted to information commonly available to the general public in form of printed literature, or which is made available to the other by the disclosing party in written or oral connect, which consent shall indicate the restrictions to be made on subsequent disclosure(s), if any. Proprietary information of a Party shall only be disclosed to persons within the other Party having a specific need to attain access to such information for the purpose of the Standard Terms and Conditions between XOLTA and Purchaser.

#### 17. Insolvency of the Purchaser

If (i) Purchaser suspends its payment (in Danish "betalingsstandsning"), makes any compensation or arrangement with its creditors (in Danish "tvangs- eller frivillig akkord"), enters into bankruptcy proceedings (in Danish "konkurs") or undergoes any analogous act or proceeding under applicable foreign law, then without prejudice to any other right or remedy available to XOLTA, XOLTA may treat any Standard Terms and Conditions or order made as repudiated any liability towards Purchaser.

#### 18. Term and Termination of the Services

18.1 The term of the service will commence at the delivery date of the Products and continue in effect for 120 months ("Service Period"). The parties can agree to extend the Standard Terms and Conditions by the end of the Service Period. Any extension or alteration of these Standard Terms and Conditions shall be mutually agreed in writing.

18.2. Either Party may terminate for cause if the other Party is in material breach of any of its obligations under these Standard

Terms and Conditions and such breach is not remedied within 30 days after the receipt of a written notice hereof, or if the breach is not curable, the non-breaching Party shall without further notice, be entitled to terminate the Standard Terms and Conditions with immediate effect. A material failure of the Services shall only entitle Purchaser to terminate the Services, i.e. there shall be no cross default granting Purchaser a right to terminate the purchase of the Products or any other Standard Terms and Conditions, service order or similar in effect between the Parties.

18.3. In case of termination of these Standard Terms and Conditions, irrespective of the reason therefor, and if any such material related to the Services is available to Purchaser, the Purchaser shall immediately cease any use of such material and return it to XOLTA, including documentation and any copies of the documentation. In case of termination due to Purchaser's material default, Purchaser shall not be entitled to receive repayment of any of the payments made under the Standard Terms and Conditions.

#### 19. Export Control

In recognition of U.S. and local (in particular Danish) export control laws, Purchaser hereby agrees that any export license or other documentation will be obtained prior to exportation of any product or technical data acquired by the Purchaser from XOLTA. Accordingly Purchaser shall not sell, export, re-export, transfer, divert or otherwise not to dispose of any such product or technical data directly or indirectly to any person or firm or country, or countries, in violation of the laws or regulations of the United States or local laws (in particular Danish laws). Furthermore, Purchaser agrees to notify any person obtaining such products or technical data from XOLTA of the need to comply with such laws and regulations. Purchaser agrees to, at its own expense, secure such licenses and export and import documents as are necessary to buy and resell the products. In case an export license is refused, Purchaser shall not be entitled to return products or technical data or ask for compensation.

#### 20. Severability

If any provisions in these Standard Terms and Conditions to any extent, be invalid or unenforceable, the remainder of the provisions in this Standard Terms and Conditions shall not be affected thereby and each other provision of Standard Terms and Conditions shall be enforced to the fullest extent permitted by law.

#### 21. Assignment

XOLTA reserves the right to transfer its rights and obligations under this Standard Terms and Conditions to another party, provided that: i) such party is controlling, controlled by, or under common control with XOLTA; or ii) transfer is made to a third party in connection with a bona fide transfer of all or a separate part of XOLTA's business.

Purchaser shall not be entitled to assign any rights or obligations under this Standard Terms and Conditions.

#### 22. Jurisdiction and Law Applicable

The validity, interpretation, construction and performance of these Standard Terms and Conditions shall be governed by the laws of Denmark, with the exclusion of the Convention on Contracts for the International Sale of Goods (CISG).

Any disputes, controversies arising out or in connection with these Standard Terms and Conditions, including any question regarding the understanding of or the extent or scope of these Standard Terms and Conditions, which cannot be settled amicably between the parties shall be settled by the Court of Hillerød.