

# **MAINTENANCE, INSPECTION AND REPAIR SERVICE AGREEMENT**

This Maintenance, Inspection and Repair Service Agreement (“Agreement”), is made and entered into this 30th day of August, 2013, by and between Genie UK Limited, having its principal address at The Maltings, Wharf Road, Grantham, NG31 6BH, England (“Service Provider”), and Northpower Stålentreprenader AB having its principal address at Rörvägen 55, 136 50 jordbro, Sweden (“Customer”).

The Customer desires to engage the Service Provider to perform the Services as described in Schedule A to this Agreement to the units of equipment identified in Schedule B (the “Equipment”). Therefore, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

# **1. ENGAGEMENT AND SCOPE OF WORK**

1.1 Engagement. Customer engages Service Provider, and Service Provider accepts such engagement, to perform the Services in accordance with and subject to the terms and conditions of this Agreement.

1.2 Scope of Services. Except as otherwise provided in this Agreement, Service Provider shall provide all services and goods necessary to perform the Services, including the necessary labor, materials, tools, equipment and utilities. All sales of equipment and parts by Service Provider and its affiliated companies to Customer are subject to the then-current Terms and Conditions of Sale of Service Provider and such affiliated companies.

1.3 Relationship of the Parties. Service Provider and Customer agree that Service Provider shall perform the Services as an independent contractor, retaining control over and responsibility for Service Provider’s activities undertaken in performance of this Agreement. Service Provider shall not be considered an employee or agent of the Customer or its affiliates nor shall Service Provider have authority to contract in the name of or bind the Customer or its affiliates or be entitled to receive any benefits offered to employees of the Customer or its affiliates.

**2. TERM**

2.1 Term. Service Provider’s engagement by Customer pursuant to this Agreement shall become effective on 18th November, 2013 and shall expire on 17th May, 2014, unless earlier terminated pursuant to the terms of this Agreement.

**3. COMPENSATION, INVOICING AND PAYMENT**

3.1 Fees. Customer shall compensate Service Provider for the performance of the Services in accordance with the fee schedule set forth in Schedule A.

3.2 Invoices. Service Provider shall provide invoices to Customer for its fees incurred as specified in Schedule A.

3.3 Payment. Customer shall pay the fees as specified in Schedule A. No portion of the fee may be withheld, deducted or offset by Customer.

**4. WARRANTIES; ACCEPTANCE**

4.1 Qualification. Service Provider warrants that it has and shall maintain at all times while performing the Services, the capability, resources, permits, licenses and registrations necessary to perform the Services. Service Provider shall perform the Service with good workmanship.

4.2 Warranty. Service Provider warrants that the Services shall be free from defects in workmanship for a period of thirty (30) days following completion of the Services. Service Provider further warrants that all materials supplied pursuant to this Agreement shall be new. This warranty is expressly in lieu of and excludes all other warranties, express or implied (including the warranties of merchantability and fitness for a particular purpose) and all other obligations or liability on Service Provider’s part. In the event of any breach of the warranty by Service Provider, the parties agree that Service Provider's liability shall be limited exclusively to the remedies of repair (at Service Provider’s sole discretion) of any defective Services. This Warranty is extended only to the original Customer identified herein and is not transferable. This Warranty shall be null and void if the defect or need for repair results from: (1) the intentional or negligent action or inaction by Customer, its agents or employees; or (2) improper maintenance, improper use, abuse, improper storage, operation beyond rated capacity, operation after discovery of defective or worn parts, accident, sabotage or alteration or repair of the equipment by persons not authorized by Seller. Wear parts and maintenance services including, but not limited to: lamps, lenses, seals, gaskets, hoses, filters, breathers, belts, nozzles, friction plates, glass, clutch and brake linings, wire rope, nuts and fittings, exterior coatings, proper tightening of bolts, adding or replacing of fluids, adjustments of any kind, services, inspections, diagnostic time, travel time and supplies such as hand cleaners, towels and lubricants are not covered under this Warranty.

4.3 Acceptance of Services. Customer agrees to inspect the Services immediately after their completion and to promptly (in no event later than 15 days after the performance of Services) notify Service Provider in writing of any defects in the Services. Customer further agrees that failure to give such prompt notice, or the use of the Equipment after completion of the Services, shall constitute acceptance of the Services. Acceptance shall be final and Customer waives the right to revoke acceptance for any reason, whether or not known by Customer at the time of the acceptance.

**5. SERVICE PROVIDER’S EMPLOYEES**

5.1 Sub-contractors. Service Provider is entitled to engage sub-contractors to perform the Services. Service Provider and its sub-contractors shall have complete and exclusive care, custody and control of its personnel. Service Provider and its sub-contractors shall each furnish competent employees to perform the Services.

**6. CUSTOMER’S OBLIGATIONS**

6.1 On-Site Services. In the event that Service Provider is providing Services at Customer’s worksite (or at a location designated by Customer), Customer shall provide Seller free and clear access and an adequate power supply in order to perform the Services. Customer shall maintain safe working conditions at the worksite, including, without limitation, implementing appropriate procedures regarding hazardous materials. Customer shall immediately remedy any unsafe working condition at the worksite. Service Provider shall be entitled to suspend or terminate the Services in the event it determines that the worksite is unsafe. Service Provider shall have no responsibility or liability for any pre-existing condition of the worksite including, without limitation, violations of safety rules, or other laws or regulations (“Regulations”). In the event that any unsafe working condition or failure of the worksite to comply with a Regulation results in an increase in the Service Provider’s cost of, or the time required for, performance of the Services, Service Provider may make an equitable adjustment in price and schedule. Customer authorizes Service Provider to perform the disassembly and inspection of any Equipment necessary to provide the Services, including provision of all necessary parts and labor, and agrees that Service Provider is not responsible for any damage or loss due to causes beyond Service Provider’s control.

6.2 Safe Use; Risk. Customer shall ensure that all Equipment is stored in proper and safe-to-operate condition at the facilities specified in Schedule A and prepared to be serviced by the Service Provider. Any assembling/disassembling of the Equipment for the purpose of the Services shall be solely carried out by properly trained personnel of Customer and shall be at Customer’s risk. During the performance of the Services, the risk of damage or loss (other than solely caused by Service Provider) to the Equipment and all risks resulting from the use of Equipment shall stay with the Customer.

**7. INSURANCE**

7.1 Insurance. Customer shall maintain at all times while this Agreement is in effect a comprehensive fire, casualty and general liability insurance with a reputable insurer protecting Service Provider and its employees, sub-contractors and Service Provider’s own property against any and all injuries damages or losses relating thereto.

**8. TERMINATION**

8.1 Termination for Bankruptcy or Insolvency. Either party may terminate this Agreement immediately and without notice or further action of any kind: (i) if the other party becomes insolvent or the subject of any state or federal bankruptcy, insolvency or similar proceedings; makes an assignment for the benefit of creditors; becomes unable to pay its debts as they become due; goes into liquidation or winding-up; commences or has commenced with respect to it any dissolution or liquidation proceedings; (ii) if a receiver is appointed for a substantial part of the assets of the other party; (iii) if there is any levy, attachment or similar action against the other party that is not vacated or removed by payment or bonding within 10 days; or (iv) if the other party shall cease to carry on business or threaten to cease to carry on business.

8.2 Termination for Breach. Either party shall have the right to terminate this Agreement if a party in material breach or default of this Agreement (a "Defaulting Party") has received notice from the other party of its breach or default in observing any material provision of this Agreement and such Defaulting Party fails to remedy such default within 30 days after receiving such notice.

8.3 Termination for Convenience. In the event Customer terminates this Agreement without cause, Service Provider shall immediately stop all work under this Agreement, and shall immediately cause its suppliers or subcontractors to cease such work and Customer shall pay all fees and expenses incurred by Service Provider up to the point of termination.

**9. MISCELLANEOUS**

9.1 Notices. Any notice, request, instruction or other document to be given hereunder by either party to the other party shall be in writing and shall be deemed to have been duly given (a) upon receipt if delivery is in person, by electronic mail or electronic facsimile transmission (provided a copy is concurrently mailed in accordance with clause (b) below), or by overnight courier, and (b) three days after mailing if delivery is by certified mail, return receipt requested postage prepaid, in each case addressed to the recipient’s address contained in the first paragraph of this Agreement.

9.2 Force Majeure. Neither party hereto shall be liable to the other party hereto for nonperformance or delay in performance of any of its obligations under this Agreement due to the causes beyond its reasonable control including, but not limited to, fires, floods, labor troubles or other industrial disturbances, governmental acts or regulations, riots, insurrections, lightning, storm, war, and act of the public enemy (herein referred to as "Force Majeure"). Upon the occurrence of any such event, the affected party shall immediately notify the other party as much in detail as possible and shall keep the other party informed of any further developments of such event. Immediately after such event ceases or is removed, the affected party shall perform all its obligations pending with reasonable promptness, unless this Agreement has previously been terminated.

9.3 Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the domestic laws of England, without giving effect to any choice of law or conflict of law provision or rule (whether of England or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than England. Each party hereto agrees to submit to the jurisdiction of the courts of London, England, in any action or proceeding arising out of or relating to this Agreement.

9.4 Limitation of Liability. NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, SERVICE PROVIDER SHALL NOT BE LIABLE FOR AND SPECIFICALLY DISCLAIMS ALL INDIRECT, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES OR LOSSES, WHETHER OR NOT ADVISED OF THE POSSIBILITY THEREOF. Nothing in this Section shall operate to exclude the Service Provider's liability for death or personal injury when directly related to Service Provider's negligent act or omission.

9.5 Survival. The terms of this Agreement that by either explicitly or implicitly are intended to survive shall survive termination or expiration of this Agreement, in whole or part, for any reason whatsoever.

9.6 Entire Agreement; Severability. This Agreement, including the Agreements and/or orders issued pursuant hereto, shall constitute the entire agreement between Service Provider and Customer with respect to the furnishing of services described herein. No provision of this Agreement shall be deemed waived, amended or modified by either party unless such waiver, amendment or modification is in writing, and signed by an authorized representative of each party. If any portion of this Agreement shall be invalid or unenforceable or shall violate any applicable law, then such provisions shall be enforced to the maximum extent permitted by law, and such invalidity or unenforceability shall neither invalidate their effect elsewhere nor affect the validity or enforceability of the other provisions of this Agreement.

9.7 Counterparts. This Agreement may be executed and delivered by each party hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original and both of which taken together shall constitute one and the same agreement.

9.8 Assignment. Subject to the terms and conditions herein, this Agreement may not be assigned by Customer to a subsequent purchaser of the Equipment.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed in duplicate by their duly authorized officers as of the day and year first hereinabove written.

**SERVICE PROVIDER: Genie UK Limited CUSTOMER: Northpower Stålentreprenader AB**

Name: \_\_\_\_\_\_ Name: \_\_\_\_\_\_\_

Printed: Matthew Skipworth Printed: Niklas Granström

Title: Service Solutions Manager Title: Manager

**Schedule A**

**SCOPE OF SERVICES; FEE SCHEDULE**

**A. Scope of Services**

1. For each equipment unit specified in Schedule B to this Agreement (the “Equipment”), Service Provider will provide preventive scheduled maintenance, inspection and repairs (or parts thereof if so instructed by Customer as stated below) for the Term specified in Section 2 above (“Maintenance”), provided this Agreement has not expired or been terminated. The commencement date for such Maintenance for the Equipment will be the effective date stated in Section 2 above. Service Provider will have no obligation to perform Maintenance on any Equipment after termination or expiration of this Agreement.

Customer herewith engages Service Provider for

Y Maintenance

N Inspection

N Repairs

*Y = YES - N = NO*

2. Maintenance will be conducted at a location designated by Customer.

3. The Maintenance may be conducted at the “Designated Machine Location” specified in Schedule B for each Equipment unit. Customer shall provide a work area for the Maintenance, with electric power, water, waste disposal, and access provisions. Service Provider will provide monthly reports to Customer of the Maintenance that has been performed.

4. Service Provider will provide all lubricants, engine oils, filters and hydraulic oil for Maintenance of the Equipment per the manufacturer’s requirements. Customer will pay for any needed parts (above for those explicitly mentioned in the schedules to this Agreement).

5. Maintenance and Inspection of the Equipment will be scheduled by Customer at least five (5) business daysin advance. The parties will cooperate to ensure advance notice is provided to Service Provider of any additional service that may be requested.

6. In the event an Equipment unit does not meet the Inspection criteria because of needed repairs (“Repairs”), Service Provider will provide an estimated cost for such Repairs. Repairs will be performed upon Customer’s approval and issuance of a purchase order or as specified in Service Provider’s terms and conditions of credit. The Repairs must be performed prior to Service Provider acknowledging that the Inspection is completed. Additional fees specified shall apply.

7**.** Maintenance, Inspections, and Repairs will be performed by Service Provider on the Equipment within the hours of 8:30 to 17:00 on normal business days (excluding weekends and public holidays).

8. In the event Customer proposes changes to the Scope of Services stated herein, Service Provider reserves the right to renegotiate the fee agreed between the parties.

**B. Fee Schedule**

1. €330/- for the Term of the Agreement (excluding applicable tax).

2. €150 for first hour, €55 per hour for subsequent hours or part thereof for services performed outside the scope stated in this agreement.

Payment:

* Terms: In advance

**SCHEDULE B**

**List of Equipment Units to be Inspected and Maintained**

The following equipment, listed by Serial Number and Model, is included under this Agreement:

Serial Number Equipment Model Designated Service Location

GS6912-811 GS3369RT Rörvägen 55, 136 50 jordbro, Sweden