

CONDITIONS OF PURCHASE

1. **DEFINITIONS & INTERPRETATION**

- In these terms and conditions (Conditions) the following definitions and rules of interpretation shall apply:
- 1.1 "Company" shall mean the JCB group company identified in the Order;
 - 1.2 "Company's Property" shall mean all documents, drawings, information, equipment, goods or materials provided to the Supplier by the Company in accordance or in connection with the Contract;
 - 1.3 "Company Requirements" means the Company's requirements or specification for the Goods and/or Services as set out in the Order or as otherwise advised by Company to Supplier from time to time pursuant to the Contract;
 - 1.4 "Contract" shall mean the contract formed by the Supplier's acceptance of the Order;
 - 1.5 "Delivery Schedules" means the Company's schedule of delivery requirements for the Goods the subject of a Production Order provided to the Supplier;
 - 1.6 "Goods" shall mean the goods specified in the Order;
 - 1.7 "Intellectual Property Rights" all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;
 - 1.8 "Order" shall mean the Company's written instructions to purchase the Goods and/or Services, incorporating these Conditions, which in relation to the provision of Goods shall either be (a) a Spot Order or (b) a Production Order against which Delivery Schedules shall be raised and in relation to the provision of Services means a Service Order;
 - 1.9 "Production Orders" means the Company's written instructions to purchase the Goods, incorporating these Conditions, confirming the part number, description and price of the Goods and against which the Company's Delivery Schedules shall be raised;
 - 1.10 "Prohibited Act" means committing any act or omission which is an offence (a) under the Bribery Act 2010; (b) under legislation creating offences in respect of fraudulent acts; (c) at common law in respect of fraudulent acts in relation or in connection with the Contract; (d) defrauding or attempting to defraud or conspiring to defraud the Company; or (e) under the Criminal Finance Act 2017 (including the UK tax evasion offence, the UK tax evasion facilitation offence, the foreign evasion offence, the foreign tax evasion facilitation offence);
 - 1.11 "Services" shall mean the services specified in the Order. The Services shall be deemed to include all such ancillary and incidental advice and services as may be reasonably inferred by the Company as being included within the Services to ensure the Company Requirements are met or exceeded;
 - 1.12 "Service Order" means the Company's written instruction to purchase Services, incorporating these Conditions, for an individual specific service requirement confirming the description and price of the Services and, if specified, the required date of completion of performance of the Services;
 - 1.13 "Spot Order" means the Company's written instruction to purchase Goods and/or Services, incorporating these Conditions, for an individual specific delivery requirement confirming the part number, description and price of the Good and the required delivery date of the Good;
 - 1.14 "Supplier" shall mean the company, firm or individual on whom the Company places the Order;
 - 1.15 "Supplier Quality Assurance Manual" or "SQAM" shall mean JCB's Supplier Quality Assurance Manual as may be revised from time to time by the Company and as set out on the JCB website jcb-business.com;
 - 1.16 "Tooling" shall mean all tools, jigs, dies, fixtures, moulds, patterns, plant and/or equipment or other items to be supplied or paid for in whole or in part by the Company in connection with the Contract;
 - 1.17 "VAT" means value added tax chargeable under English law for the time being and any similar additional tax;
 - 1.18 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;
 - 1.19 The words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible;
 - 1.20 Clause headings shall not affect the interpretation of the Contract;

2. **EXISTENCE AND SCOPE OF ORDERS**

- 2.1 These Conditions:
 - 2.1.1 are the only terms and conditions upon which the Company is prepared to procure the Goods and/or Services from the Supplier and these Conditions shall apply to and be incorporated into the Contract to the entire exclusion of all other terms and conditions; and
 - 2.1.2 shall prevail over any terms or conditions contained, or referred to, in any quotation, confirmation of order, specification or other document supplied by the Supplier or implied by any trade custom or previous course of dealings and the Supplier waives any right which it might otherwise have to rely on such terms and conditions.
- 2.2 Each Order shall be deemed to be an offer by the Company to buy the Goods and/or Services subject to these Conditions and no Order shall be accepted until the Supplier either expressly by giving notice of acceptance, or impliedly by fulfilling the Order (in whole or in part) accepts the Order.
- 2.3 Any statement or representation (written or oral) made by or on behalf of the Supplier in connection with the Order which induced the Company to place the Order shall form part of the Contract.
- 2.4 No amendment or variation of the Order or these Conditions shall be effective unless agreed by the Company in writing.

3. **PRICES**

- Unless otherwise stated in the Order or any valid amendment thereof made in accordance with these Conditions, prices are fixed and firm for the duration of the Order inclusive of all charges, costs and expenses including packaging, carriage, insurance and delivery (on the basis of the Incoterm set out in the Order) but exclusive of any applicable VAT.

4. **PAYMENT**

- 4.1 The Supplier's invoices shall clearly state the Company's order numbers, the Company's part numbers (where the Order is for the provision of Goods), and the description, quantity and delivery locations of the Goods and/or Services and such other supporting information required by the Company to verify the accuracy of the invoice and a separate invoice must be rendered for each individual consignment of Goods and/or provision of Services. Unless otherwise agreed, invoices shall be issued as relevant only following delivery of the Goods or completion of the Services. Invoices not in accordance with these requirements will be rejected.
- 4.2 The Supplier must submit statements of account to the Company monthly by the 5th day of each month.
- 4.3 Should the Company dispute the whole or any part of sums payable under any invoice, the Company shall be entitled to withhold payment of the invoice until the dispute is resolved. The parties shall cooperate in good faith to resolve the dispute over the invoice as amicably and promptly as possible and on settlement of any dispute the Company shall make the appropriate payment in accordance with the Contract and with respect to any such settled amount any agreed period within which payments are due to be made, shall commence on the date on which the dispute is resolved. The Supplier's obligations to supply Goods or provide Services shall not be affected by any good faith payment dispute between the parties.
- 4.4 Subject to compliance with Clauses 4.1 and 4.2 and subject to the Company's rights pursuant to Clause 4.3, payments by the Company will normally be made at the month end of the month following receipt of invoice plus one English working day.
- 4.5 The Company shall be entitled at any time to set off against any amounts owing to the Supplier under the Contract any sums which become due from the Supplier to the Company whether under the Contract or on any other account with the Company or any other JCB group company and whether or not any demand has been made for the payment of any such sums.

5. **QUALITY**

- 5.1 Without prejudice to any other of the Company's rights, express or implied by law, the Supplier shall ensure, as a condition of the Contract, that:
 - 5.1.1 all Goods are new and unused, free from defects in design, materials and workmanship, of satisfactory quality, fit for the purposes for which they are intended and comply with the Order or to all specifications, drawings, samples and other descriptions furnished or specified by the Company (including the Company Requirements and any "Production Part Approval Process Documentation" of the Company); and/or
 - 5.1.2 all Services and any services and other obligations provided in connection with the supply of Goods shall be provided using all reasonable care and skill, in accordance with the Contract and to all specifications and descriptions specified by the Company (including any Company Requirements or any dates specified for performance), in accordance with all applicable laws and generally recognised commercial practices and standards in the industry for similar services and by personnel who are suitably skilled and experienced to perform task assigned to them.
- 5.2 Unless otherwise agreed by the Company as part of Company's Supplier appointment process, the Supplier shall operate:
 - 5.2.1 a quality system in accordance with ISO 9001 or equivalent;
 - 5.2.2 an occupational health and safety management system in accordance with BS OHSAS 18001 or equivalent; and
 - 5.2.3 an environmental management system in accordance with ISO 14001 or equivalent.

6. **DELIVERY AND PERFORMANCE**

- 6.1 Unless specific instructions are given in respect of the Order, the Supplier shall not deliver, manufacture or procure any Goods or materials or perform any Services except as authorised, as relevant, in the Spot Order or Service Order or the Company's written Delivery Schedules furnished by the Company to the Supplier which refer to the Production Order, as relevant. The Company shall have no responsibility for Goods or materials or Services not covered in a Spot Order or Service Order or in the Company's Delivery Schedules relevant to a Production Order, as relevant, and shall not be bound by any estimate of quantities or dates or frequency of delivery whether given in the Order or otherwise.
- 6.2 Goods shall be delivered (or if agreed by the Company, collected) not earlier or later than the times (which shall be of the essence of the Contract) and at the places stated in the Spot Order or the Company's Delivery Schedules which relate to a Production Order. Time shall be of the essence as to any dates set out in the Order for performance of any Services.
- 6.3 The Supplier shall promptly advise of any difficulty or delay actual or expected in performance of Orders and its proposed remedial action, without prejudice to any other of its obligations under the Contract.
- 6.4 The Supplier shall, at its expense, provide all necessary assistance, information and drawings to enable the successful installation, operation and maintenance of the Goods or use of the deliverables of any Services.
- 6.5 The Goods shall be adequately packed and protected against damage or deterioration in transit or storage and the Supplier will otherwise comply with all arrangements for packaging as may be in the Company Requirements. For parts delivered for aftermarket purposes, JCB part numbers are required to be visible on individual part packaging or on the parts themselves.
- 6.6 Each delivery shall also be accompanied by an advice note which shall contain the Company's order number, part number and the description, quantity and delivery location of the Goods.
- 6.7 If the Company requires special arrangements to be made because of failure by the Supplier to make deliveries in accordance with the Spot Order or Delivery Schedule or to perform Services in accordance with any Service Order, as relevant, the Supplier shall conform to such requirements at its own expense. The Supplier shall also be responsible for

- any expenses incurred to deliver any incorrectly delivered items to the correct delivery location and to return any items delivered in excess of the quantities specified in the Spot Order or any Delivery Schedules.
- 6.8 The Company shall have no responsibility for packing materials or cases except as agreed in writing between the parties.
 - 6.9 The Supplier shall:
 - 6.9.1 co-operate with the Company in all matters relating to the supply of Goods and/or Services;
 - 6.9.2 observe, and ensure that all employees, agents and subcontractors which it engages in relation to the supply of Goods and/or Services observe all health and safety rules and regulations and any other security requirements that apply at the Company's premises. The Company reserves the right to refuse to such persons access to the Company's premises, which shall only be given to the extent necessary for the delivery of the Goods or the performance of any other obligation connected to the supply of the Goods and/or the performance of the Services;
 - 6.9.3 if the Supplier is accessing the Company's premises when performing the Services, carry out an appropriate risk assessment to evaluate the health and safety risks associated with the provision of any such Services; and
 - 6.9.4 obtain and at all times maintain all licences and consents necessary for its performance of the Contract.
 - 6.10 The Supplier will provide country of origin declarations in relation to Goods to J.C.B. Service (the nominated aftermarket division of the JCB group of companies) upon request. These declarations will be in the format required by JCB Service and will cover all Goods supplied to all JCB group companies, including the Company. Additionally, the Supplier will provide updated declarations as required throughout the year where parts have been re-sourced from a different country to that originally declared, or at the time that any additional Goods are supplied to the Company.

7. **INSPECTION, TESTING AND QUALITY ASSURANCE**

- 7.1 The parties acknowledge and agree that the processes, procedures and standards set out in the Supplier Quality Assurance Manual shall apply to any Goods supplied to Company for use by the Company in its manufacturing operations and the Supplier shall adhere to such processes, procedures and standards.
- 7.2 All supplies although assumed to have been properly inspected and tested by the Supplier prior to delivery or upon completion of Services, as relevant, are subject to inspection and test by the Company, at its discretion.
- 7.3 The Supplier will co-operate with the Company in the carrying out of quality and inspection processes, procedures and standards as the Company may request in relation to the provision of Goods including supporting the Advanced Product Quality Planning (APQP) activities, as required, and the PPAP. The JCB significant code to determine the relevant level of sample approval process will be identified on the component drawing as defined in STP 00250, the standard will specify the documentation to be submitted by the Supplier. Where coding has not been identified on the drawing, code C will apply. The Supplier shall not proceed to production of Product for supply until such time as the Company has approved the PPAP/ISIR, and the sample Product. The manufacture of all parts for production shall remain at the Supplier's risk until the PPAP/ISIR has been approved. All part approval submissions will require a Part Submission Warrant (PSW) to be signed.
- 7.4 The Supplier shall keep the Company advised of the details of such procedures as it operates in connection with the Order for the provision of Goods and details of the manufacturing facility which manufactures Goods and shall not make any change to the specification, the procedures or the manufacturing facility without the Company's prior written agreement. When Goods are purchased against a particular quality standard it is of the essence that the traceability requirements of that standard are complied with.
- 7.5 The Supplier shall, at the Company's request, permit or procure permission for representatives of the Company, its customers and other organisations (including MOD) to carry out such inspections and assessments (including the taking of samples) as they request in connection with any Goods and/or Services and any processes carried out in relation to them including quality assurance systems and procedures.
- 7.6 The Company's right to reject any Goods and/or Services shall not be affected by the carrying out or any failure to carry out any inspection or testing of the Goods and/or deliverable of any Services or any approval given by or on behalf of the Company or by any payment being made for them.

8. **REJECTION AND OTHER RIGHTS**

- 8.1 Without prejudice to any other of its rights express or implied by law, in case of any early, late, partial, excessive, defective or otherwise incorrect delivery or performance or any other failure by the Supplier to comply with the Contract, the Company shall be entitled, at its discretion, to exercise some, all or any of the following rights, namely:
 - 8.1.1 to reject such delivery or performance and, where any Goods and/or Services so rejected are the same as other goods or services supplied by the Supplier to the Company or to any other JCB group company, the Company may reject those goods and/or services also;
 - 8.1.2 to refuse to accept any subsequent Goods and/or Services which the Supplier attempts to make;
 - 8.1.3 to require the Supplier at its expense to immediately supply in substitution for any rejected Goods and/or Services, goods and/or services which conform;
 - 8.1.4 to recover any costs incurred in obtaining substitute Goods and/or Services from a third party;
 - 8.1.5 where paid in advance, at its discretion, for Goods and/or Services that have not been provided by the Supplier, to have such sums refunded by the Supplier;
 - 8.1.6 at the Supplier's expense, to carry out or have carried out any work which the Company considers necessary to conform any Goods and/or Services; and/or
 - 8.1.7 at the Supplier's expense, to remove and replace any rejected Goods which have been incorporated into JCB machines, equipment, parts or attachments.
- 8.2 Goods rejected by the Company shall be collected by the Supplier within thirty (30) days of notice of rejection being despatched by the Company. Pending collection the Goods shall be held at the expense and risk of the Supplier. The Supplier shall be charged an administration fee for each inspection report generated following rejection of Goods and the Supplier shall also pay all expenses incurred by the Company in packing, handling and sorting rejected Goods and, if applicable, removing and replacing any rejected Goods which have been incorporated into machines, equipment, parts or attachments of the Company or any other member of the JCB group of companies. If the Supplier fails to collect the rejected Goods the Company reserves the right, at the Supplier's expense, to destroy or otherwise dispose of the rejected Goods in any manner the Company thinks fit without liability to the Supplier.
- 8.3 Where Goods are rejected by the Company more than three times in any week, the Supplier acknowledges and agrees that this will cause the Company's "quality divert" process as detailed in the SQAM to operate in relation to any ongoing supply of such Goods.

9. **PASSING OF TITLE AND RISK**

Title and risk in Goods shall pass to the Company on delivery at the location stated in the Order.

10. **COMPANY'S PROPERTY, TOOLING AND DRAWINGS**

- 10.1 The Supplier shall:
 - 10.1.1 bear all risks of loss of or damage to and adequately insure the Company's Property whilst in the Supplier's possession or control;
 - 10.1.2 ensure that the Company's Property is marked with such indications of ownership as the Company directs and is kept in good condition;
 - 10.1.3 not permit the Company's Property to be removed from the Supplier's premises or such other premises as may have been agreed by the Company in writing;
 - 10.1.4 not use or permit the use of the Company's Property except for the purpose of the Order;
 - 10.1.5 permit or procure permission for the Company or its representatives to enter at any reasonable time any premises where the Company's Property is located for the purpose of inspecting it;
 - 10.1.6 immediately return the Company's Property on demand in good condition and permit or procure permission for the Company in the course of any inspection pursuant to Clause 10.1.5 to re-possess the same;
 - 10.1.7 pay to the Company on demand the full value (or, where the Company's Property consists of Tooling less than the full cost of which has been contributed by the Company, the proportion of such value which the Company's contribution bears to the cost thereof) of any of the Company's Property which is not returned in good condition or attributed for to the Company's satisfaction, and waive any lien which the Supplier might otherwise have (whether at the date of the Contract or subsequently) on any of the Company's Property for work done thereon or otherwise.
- 10.2 Where the Order is for Tooling, these Conditions shall apply to such Order with reference to 'Goods' being to the Tooling. It is acknowledged that the Tooling shall not be delivered into the physical possession of the Company but shall remain in the possession of the Supplier or the Supplier's vendors for the purposes of fulfilling other Orders for goods from the Company for which such Tooling was ordered and these Conditions shall therefore be construed accordingly.
- 10.3 The Supplier agrees that all Tooling shall be and remain part of the Company's Property. The Supplier further acknowledges and agrees that the Company shall be the owner of any raw materials procured by the Supplier for use in the manufacture of the Tooling and the Supplier shall mark all such raw materials as "property of JCB" along with the appropriate JCB asset number. The Supplier agrees that the requirements stated in Clause 10.1 shall apply to all such Tooling and without prejudice to the generality thereof the Supplier shall, at its expense:
 - 10.3.1 maintain and on the Company's request make available at any reasonable time for inspection a Tooling register and furnish such photographic or other evidence as the Company at any time requests as to the existence, location and condition of the Tooling; and
 - 10.3.2 maintain all Tooling in good condition and immediately replace any items which are lost or destroyed or become worn out.
- 10.4 The Supplier shall, upon demand by the Company at any time (whether verbal or in writing) permit the Company's representatives to enter any of the Supplier's premises or other premises under the Supplier's care and control and to remove any such Tooling from those premises. The Supplier shall indemnify the Company and hold the Company harmless in relation to any and all direct, indirect or consequential losses (including additional cost of production, loss of production, loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) as a result of any delay or refusal by the Supplier (or any third party at the Supplier's direction) to deliver up all of the Tooling when required.
- 10.5 The provisions of this Clause 10 shall survive completion or termination of the Contract.

11. **RESPONSIBILITY FOR INFORMATION & CONFIDENTIALITY**

- 11.1 The Supplier shall treat as confidential during and following completion or termination of the Contract (and, in particular, not use except for the purposes of the Order or permit disclosure to any third party) any technical or commercial know-how, drawings, specifications, data, computer software (including source codes or similar material) or the like prepared by the Supplier or made available by the Company in connection with the Contract. The Supplier shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Supplier's obligations under the Contract. The obligations of confidentiality shall not extend to information which the Supplier can show (a) is in, or has become part of, the public domain other than as a result of a breach of the obligation of confidentiality in this Clause 11.1, (b) was independently disclosed to it by a third party entitled to disclose the same or (c) is required to be disclosed under any applicable law or by order of a court or governmental body or authority of competent jurisdiction, and shall immediately return to the Company on completion of the Contract or earlier on the Company's request. The provisions of this Clause 11.1 shall be without prejudice to the terms of any specific confidentiality agreement that may have been entered into between the Company (or a member of the JCB group of companies) and the Supplier.

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- 11.2 The Supplier shall be responsible for any errors or omissions in any particulars supplied by it, whether or not approved by the Company, except only to the extent that such errors or omissions are due to inaccurate information supplied in writing by the Company and such information was not supplied subject to confirmation by the Supplier.
- 11.3 To the extent that any data or information provided by the Company to the Supplier is personal data within the meaning of the Data Protection Act 1998 the Supplier will:
- 11.3.1 process such data and information only in accordance with the Company's instructions;
 - 11.3.2 not transmit such data and information to any country or territory outside of the European Economic Area without the Company's prior express written consent; and
 - 11.3.3 take such technical and organisational measures against unauthorised or unlawful processing of such data and information and against accidental loss or destruction or, or, damage to, such data and information as are appropriate to the Company as data controller.
- 11.4 The provisions of this Clause 11 shall survive completion or termination of the Contract.
- 12. INTELLECTUAL PROPERTY**
- 12.1 If, as part of the Order, the Company commissions Goods and/or Services to meet a specification or requirement which is specific or unique to the Company, the parties acknowledge and agree that all Intellectual Property Rights in any technical or commercial know-how, drawings, specifications, data, manufacturing information, computer software (including source codes or similar material) or the like produced by the Supplier on behalf of the Company in relation to such Goods and/or Services shall be and remain vested in the Company. The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all such Intellectual Property Rights. The Company grants to the Supplier for the sole purpose of manufacturing the Goods for the Company and for no other purpose whatsoever a non-exclusive, personal, non-transferable, revocable, royalty-free licence of the Intellectual Property Rights relating to such Goods, subject to the Supplier's continuing compliance with its obligations under the Contract.
- 12.2 The Supplier shall, promptly at the Company's request (including during or after the completion or termination of the Contract), do (or procure to be done) all such further acts and things and the execution of all such other documents as the Company may from time to time require for the purpose of securing for the Company the full benefit of the contract, including all right, title and interest in and to the Intellectual Property Rights and all other rights assigned to the Company in accordance with Clause 12.1.
- 12.3 If as part of the Order, the Goods and/or deliverables of the Services are to be imaged to bear the name and/or trade mark "JCB" or the "JCB" logo, the Supplier is granted a fully paid-up, non-exclusive, non-transferable right to use such name and/or trade mark for the purposes of the Order only, but otherwise the Supplier shall not have any rights in the name or trade mark "JCB" or the "JCB" logo. The Company grants to the Supplier a fully paid-up, non-exclusive, non-transferable licence to use the Company's Intellectual Property Rights which may be made available to the Supplier by the Company in connection with the Contract only to the extent necessary and for the purpose of providing the Goods and/or Services to the Company and performing the Supplier's other obligations under the Contract and for no other purpose whatsoever.
- 12.4 The provisions of this Clause 12 shall survive completion or termination of the Contract.
- 13. INDEMNITY AND INSURANCE**
- 13.1 The Supplier shall indemnify, in full and on demand, and hold the Company harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses, any handling, labour or administration charges and the cost of carrying out any remedial work) awarded against, or incurred or paid by, the Company as a result of or in connection with:
- 13.1.1 any alleged or actual infringement, whether or not under English law, of any third party's Intellectual Property Rights or other rights arising out of the receipt, use or supply of the Goods and/or the deliverables of the Services, except to the extent that such infringement results exclusively from a design or written instruction given by the Company and the Supplier having taken all reasonable precautions could not have known that following such instructions might result in the infringement of any third party's Intellectual Property Rights. The Supplier shall, at the Company's request, defend or assist in defending, at the Supplier's expense, any action against the Company or any person to whom the Goods have been supplied;
 - 13.1.2 any liability, loss, damage, injury, cost or expense sustained by the Company which was caused by a breach or negligent performance or failure or delay in performance of the Contract by the Supplier; or
 - 13.1.3 any claim made against the Company in respect of any liability, loss, damage, injury, cost or expense sustained by the Company's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the provision of the Goods and/or Services as a consequence of a breach or negligent performance or failure or delay in performance of the Contract by the Supplier.
- 13.2 The Supplier shall at all times insure and keep itself adequately insured with a reputable insurance company against all insurable liability under the Contract and, in particular, its liabilities under Clause 13.1, and shall, on request, provide the Company with evidence as to the existence and sufficiency of such insurance.
- 13.3 The Supplier shall provide all facilities, assistance and advice required by the Company or its insurers for the purposes of contesting or dealing with any action, claim or demand arising out of the Supplier's performance or purported performance of or failure to perform the Contract.
- 13.4 The provisions of this Clause 13 shall survive completion or termination of the Contract.
- 14. CUSTOMER SERVICE**
- 14.1 Where in response to any claims under the terms of any warranty given by the Company for any of its products, the Company (either itself or through its authorised dealer network) makes good, repairs or replaces any Goods which are proved by the person making the claim to the Company's satisfaction to have been, at the time of their delivery by the Supplier, defective in materials, workmanship or design (except solely to the extent that the Company is responsible for design) or otherwise not in conformity with the Order or these conditions then the Company shall be entitled at its option to credit or compensation for such making good, replacement, or repair from the Supplier, without prejudice to any other rights of the Company, including, without limitation, the reimbursement of any labour or other costs incurred by the Company in undertaking such making good, repair or replacement.
- 14.2 Any Goods replaced under Clause 14.1 will be returned to the Supplier upon its written request and at its expense (and where the Goods or the product containing the same have been consigned to a destination outside the United Kingdom mainland such request shall be accompanied by full payment in advance of the carriage and other charges) and if such request is not made within twenty eight (28) days of the Company's giving the Supplier written notice of such warranty claim the Company may, at its discretion, destroy or otherwise dispose of the defective Goods without liability to the Supplier.
- 14.3 The provisions of this Clause 14 shall survive completion or termination of the Contract.
- 15. TERMINATION AT OPTION OF COMPANY**
- Performance of any Order may be terminated by the Company, at its option, in whole or in part, at any time by written notice to the Supplier (notwithstanding the existence with respect to the Supplier of any force majeure circumstances). In such event the Company's liability shall in no circumstances exceed the price of the Goods delivered and/or Services performed and accepted by the Company and not previously paid for. The Supplier shall also, if so required by the Company in writing, complete all Goods partially manufactured at the date of such notice which are due for delivery within any lead-time previously agreed by the Company and the Company shall pay the price of all such Goods as it accepts.
- 16. TERMINATION FOR DEFAULT OR INSOLVENCY OF THE SUPPLIER**
- 16.1 The Company may, at its discretion, without prejudice to any other remedy, suspend its performance of or (whether or not such performance has previously been suspended) terminate the Contract in whole or in part by written notice to the Supplier at any time if the Supplier:
- 16.1.1 fails to comply with any provision of the Contract or Delivery Schedule or of any other agreement with the Company or any other JCB group company or fails to make progress or otherwise repeatedly breaches so as in the reasonable opinion of the Company to endanger the performance of the Contract and in any of such cases such failure is irremediable or if remediable the Supplier does not remedy the same to the Company's satisfaction within a period of ten (10) days after the date on which the Company has given the Supplier written notice thereof or within such longer period as may be mutually agreed in a remedial plan; or
 - 16.1.2 becomes insolvent, has a receiver, manager, administrative receiver, administrator or trustee in bankruptcy appointed in respect of any of its undertaking assets or income, is the subject of any bankruptcy order or has any petition presented to any court or resolution passed for its winding up, whether compulsorily or voluntarily, or is dissolved, has any restraint or execution levied on any of its assets, enters into any composition or arrangement with its creditors or suffers any similar action in consequence of debt under the laws of any jurisdiction, or the Company bona fide believes that any of the foregoing events may occur.
- 17. OBSOLETE PARTS**
- If the Goods constitute parts used by the Company to manufacture or assemble Company plant, machines, equipment or attachments then in the event that such a part is no longer required for production of the Company's original plant machines, equipment or attachments, the Supplier shall ensure that it is able to continue supplying the Company, as required, with such part for at least ten (10) years following the date on which the relevant part is no longer supplied for production. This Clause 17.1 shall not apply to Goods which are not used by the Company to manufacture or assemble Company plant or equipment. This Clause 17.1 shall survive completion or termination of the Contract.
- 18. FORCE MAJEURE**
- Neither party shall be responsible to the other by reason of failure to perform under an Order arising from causes beyond the control of the party concerned including fire, explosion, or acts or omissions of any authority or governmental agency provided that the Company shall be entitled to obtain elsewhere Goods and/or Services covered by the Order so long as such circumstances prevail and to reduce to that extent without liability to the Supplier its purchases under the Contract. The party affected shall promptly notify the other of the nature and extent of the cause affecting its ability to perform and shall use all reasonable efforts to mitigate the effects of the delay or failure in the performance of its obligations in any way that is reasonably practicable.
- 19. MODIFICATIONS**
- The Company reserves the right, at any time, to request a change to the specifications applicable to the Goods, in the method of packing of the Goods or in the place for delivery and/or in the Company's Requirements for Services and/or time for completion of Services and the parties shall discuss the same in good faith. Any discussions which may take place will be without prejudice to the rights of the relevant parties. The Supplier shall within a reasonable time following such request supply to the Company details as to the adjustment to the purchase price given the requested change which the Supplier shall provide in good faith with reference to the price for the Good and/or Service and also any reasonable demonstrable variations to such price which may be necessary due to the circumstances and nature of the change. If the price is acceptable to the Company, the Company shall issue an amendment to the Contract accordingly.
- 20. COMPLIANCE WITH LAWS**
- General Compliance**
- 20.1 In carrying out its business in connection with the Contract the Supplier shall comply with all applicable laws, statutes, regulations, ordinances, rules, permits, licences, authorisations, codes of conduct and directions and requirements of any relevant governments or regulatory authorities from time to time in force.
- Health, Safety & Environmental Compliance**
- 20.2 The Supplier shall ensure that all Goods:
- 20.2.1 are safe and without risk to health when properly used and the Supplier shall supply to the Company and to the Company's dealers and customers (where appropriate) complete and accurate information to inform the safe and proper use of the Goods (including, where appropriate, safety data sheets);
 - 20.2.2 comply with all applicable laws, statutes, regulations, ordinances, rules, permits, licences, authorisations, codes of conduct and directions and requirements of any relevant governments or regulatory authorities (including, where applicable to the Goods, the Registration Evaluation and Authorisation of Chemicals (REACH) regime, the Waste Electrical and Electronic Equipment (WEEE) regime, the Batteries Directive, the Restriction of Hazardous Substances in Electronic and Electrical Equipment (RoHS) regime, Classification Labelling and Packaging of Substances and Mixtures (CLP) regime or any replacement, substantially similar or equivalent legislation); and
 - 20.2.3 the Supplier acknowledges and agrees that the Company is relying upon the Supplier to ensure that it meets these requirements in respect of the Goods.
- 20.3 Where the Supplier is based outside the EU, the Supplier shall, where relevant, act as importer of the Goods into the EU for the purposes of the REACH regime and appoint an Only Representative to ensure the Supplier's adherence to the REACH regime and the provisions of this Clause 20.
- Supplier Code of Conduct**
- 20.4 The Supplier shall comply with the Code of Conduct.
- Anti-Corruption Compliance**
- 20.5 The Supplier shall not and shall procure that its Associated Persons (as defined in the Bribery Act 2010) will not commit or be involved in committing a Prohibited Act in connection with the provisions of the Contract.
- Modern Slavery & Labour Law Compliance**
- 20.6 The Supplier shall comply with the Modern Slavery Act 2015 including ensuring that neither the Supplier nor any of its officers, employees or other persons associated with it is engaged in slavery or human trafficking.
- 20.7 The Supplier represents and warrants that neither the Supplier nor any of its officers, employees or other persons associated with it:
- 20.7.1 has been convicted of any offence involving slavery and/or human trafficking; and
 - 20.7.2 to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and/or human trafficking.
- 20.8 The Supplier shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- Due Diligence**
- 20.9 The Supplier shall respond to any reasonable requests for information from the Company from time to time in relation to the Supplier's activities pursuant to the Contract, including concerning matters referred to in this Clause 20.10. The Supplier warrants and represents that all such information provided shall be complete and accurate.
- Rights of the Company**
- 20.10 If the Company concludes, in its reasonable opinion that the Supplier (including any Associated Persons, subcontractor or agent, in all cases whether or not acting with the Supplier's knowledge) has breached any of Clauses 20.1 to 20.9 above, then the Company may immediately terminate the Contract on providing written notice to the Supplier. Any notice of termination under this Clause 20.10 shall specify:
- 20.10.1 the nature of the breach;
 - 20.10.2 the identity of the party whom the Company believes has committed the breach; and
 - 20.10.3 the date on which the Contract will terminate.
- 20.11 The Supplier shall indemnify, in full and on demand, and hold the Company harmless against any and all liabilities, claims, fines, costs, losses or damages arising from or related to any breach of this Clause 20 or the termination of the Contract pursuant to Clause 20.10.
- 21. ASSIGNMENT, SUB-CONTRACTING & THIRD PARTY RIGHTS**
- 21.1 The Company may assign the benefit of any of its rights under the Contract but the Supplier shall not without the prior written consent of the Company assign the benefit of any of its rights or sub-contract any of its obligations under the Contract in whole or in part.
- 21.2 If the Company consents to any such assignment or sub-contract the Supplier shall nevertheless continue to be responsible to the Company for all the Supplier's obligations under the Contract.
- 21.3 In the case of any sub-contract to which the Company has so consented the Supplier shall include in its sub-contract terms and conditions consistent with those of the Contract (in particular those relating to compliance with quality standards) for the benefit of and enforceable directly by the Company and furnish the Company on demand with details of any such sub-contract.
- 21.4 The Supplier acknowledges and agrees that the Goods and/or the Services and the provisions of the Contract may be for the benefit of any JCB group company and therefore any such JCB group company shall have the right in its own capacity to enforce any term of the Contract to the extent that it relates to the Goods and/or Services being received by such JCB group company. The Supplier acknowledges that the Company shall also have the right to bring a claim on its own behalf and on behalf of any other JCB group company where such JCB group company suffers loss and in these circumstances such losses shall be deemed to that of the Company. However, both the Company and any other JCB group company shall not be able to recover the same loss twice through duplicate causes of action.
- 21.5 Notwithstanding Section 2 (1) of the Contracts (Rights of Third Parties) Act 1999, the parties to the Contract may vary or terminate the Contract by agreement between them without requiring the consent of any third party on whom this Clause 21 confirms rights.
- 22. RELATIONSHIP OF THE PARTIES**
- Nothing shall be deemed to constitute the Company or the Supplier an agent or partner of the other or authorise either of them to incur any commitment or liability on behalf of the other.
- 23. SEVERANCE & WAIVER**
- 23.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 23.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable to give effect to the commercial intention of the parties.
- 23.3 No failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy. Any waiver must be given in writing and expressly stated to be a waiver. Such a waiver will only apply to the specific events to which it is stated to relate and not to any other events, whether past or future.
- 24. PUBLICITY**
- Neither the Contract nor any details thereof or the Company's name (or the name of any JCB group company) shall be used by the Supplier for advertisement or publicity purposes without the Company's prior written consent.
- 25. NOTICES**
- Any notice given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business and shall be sent by registered post or delivery by hand and shall be deemed to have been properly served two (2) days after posting or on the date of hand delivery.
- 26. GOVERNING LAW & JURISDICTION**
- 26.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 26.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).