



STANDARD TERMS AND CONDITIONS OF SALE AND SERVICE RELATING TO JCE GROUP (UK) LIMITED,
JCE (EUROPE) LIMITED & JCE ENERGY LIMITED

1. DEFINITIONS

1.1 For the purpose of these Terms and Conditions, the following definitions and rules of interpretation apply:

- (a) "JCE" means the relevant JCE company being either JCE GROUP (UK) LIMITED (Company number SC095517), JCE (EUROPE) LIMITED (Company number SC111985) or JCE ENERGY LIMITED (Company number SC56568) with whom the Customer is contracting.
- (b) "Business Day" means a day other than a Saturday, Sunday or public holiday, when banks are open for business.
- (c) "Customer" means person, persons, firm or company named in the Contract to whom JCE will be providing Services and/or Equipment.
- (d) "Equipment" means all equipment, tools, products, materials and supplies and/or merchandise sold by JCE and/or provided in connection with services performed by JCE under the Contract.
- (e) "Equipment Specification" means any specification for the Equipment, including any relevant plans or drawings, that is agreed in writing by the Customer and JCE.
- (f) "Services" means all services supplied by JCE, including services of employees, agents and sub-contractors necessary to perform the Contract.
- (g) "Service Specification" means the description or specification for the Services provided in writing by JCE to the Customer.
- (h) "Order" means the Customer's order for the supply of Equipment and/or Services, as set out in the Customer's purchase order form.
- (i) "EXW" means EXW – Ex Works (named place of delivery) as defined in the International Commercial Terms 2020 published by the International Chamber of Commerce.
- (j) "Force Majeure Event" has the meaning given in paragraph 11.
- (k) "Special Conditions" means those Special Conditions set out in the Contract including any documentation set out therein.
- (l) "Intellectual Property Rights" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- (m) "JCE IPR" means Intellectual Property Rights owned or licensed to JCE.
 - i. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - ii. A reference to a party includes its personal representatives, successors and permitted assignees.
 - iii. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
 - iv. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
 - v. A reference to writing or written includes email but not fax.

2. APPLICABILITY

- 2.1 The agreement in writing concluded between JCE and the Customer including any Special Conditions, specifications and any other documents that are expressly referred to therein together with these Terms and Conditions shall constitute the entire contract (the "Contract") between the parties and may not be amended except with the consent in writing by a JCE authorised representative.
- 2.2 All Services and/or Equipment furnished to the Customer will only be on these Terms and Conditions, notwithstanding different or additional terms and conditions contained on any of the Customer's forms, which are hereby rejected and which will not be applicable or binding on JCE. In the event of a conflict between these Terms and Conditions and the provisions of any of the Customer's printed or other prepared form of purchase orders, work or service orders, job or delivery tickets, or other similar forms, the provisions of these Terms and Conditions shall prevail. These Terms and Conditions shall not be altered, changed or modified, except as specifically provided herein or by the written agreement of the Customer and JCE.
- 2.3 Any quotation issued by JCE is valid for a period of 30 days only from the date of issue provided that it has not previously been withdrawn by JCE. Quotations issued by JCE do not constitute an offer and are subject to change at any time. Any orders placed in response to a quotation or otherwise will only be binding when accepted in writing by JCE. All instructions, notices, agreements, authorisations, approvals and acknowledgements shall be in writing by the Customer's authorised representative as designated by the Customer.

3. SHIPPING, DELIVERY, TITLE & RISK OF LOSS

- 3.1 All Equipment shall be delivered EXW (at the location identified by JCE), and delivery shall be deemed to have been received on the date when JCE has notified the Customer that the Equipment is ready for delivery and has been placed at the disposal of the Customer.
- 3.2 The risk in the Equipment shall pass to the Customer at the time of delivery.
- 3.3 Title shall pass to the Customer upon receipt of payment by cleared funds to JCE of the amounts due in respect of the Contract. JCE shall retain Title to the Equipment until full payment has been made. For the avoidance of doubt, any such transfer of Title in the Equipment shall not imply transfer of ownership of any JCE IPR.
- 3.4 JCE may deliver the Equipment in instalments. Each instalment shall be a separate contract and no cancellation or termination of any one contract relating to an instalment shall entitle the Customer to repudiate or cancel the remaining part of the Contract. Any dates quoted for delivery of the Equipment are approximate only, and the time of delivery is not of the essence. JCE shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Customer's failure to provide JCE with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.
- 3.5 If the Customer fails to take delivery of the Equipment within three Business Days of JCE notifying the Customer that the Equipment is ready, then except where such failure or delay is caused by a Force Majeure Event or by JCE's failure to comply with its obligations under the Contract in respect of the Equipment: (a) delivery of the Equipment shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which JCE notified the Customer that the Equipment was ready; and (b) JCE shall store the Equipment until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 3.6 If 20 Business Days after the day on which JCE notified the Customer that the Equipment was ready for delivery the Customer has not taken delivery of it, JCE may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.
- 3.7 Until title to the Equipment has passed to the Customer, the Customer shall:
 - 3.7.1 store the Equipment separately from all other goods, products and equipment held by the Customer so that it remains readily identifiable as JCE's property;
 - 3.7.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;
 - 3.7.3 maintain the Equipment in satisfactory condition and keep it insured against all risks for its full price on JCE's behalf from the date of delivery;

- 3.7.4 notify JCE immediately if it becomes subject to any of the events listed in paragraph 13.1; and
- 3.7.5 give JCE such information relating to the Equipment as JCE may require from time to time.

- 3.8 Subject to paragraph 3.9, the Customer may resell or use the Equipment in the ordinary course of its business (but not otherwise) before JCE receives payment for the Equipment. However, if the Customer resells the Equipment before that time:
 - 3.8.1 it does so as principal and not as JCE's agent; and
 - 3.8.2 title to the Equipment shall pass from JCE to the Customer immediately before the time at which resale by the Customer occurs.
- 3.9 If before title to the Equipment passes to the Customer the Customer becomes subject to any of the events listed in paragraph 13.1 then, without limiting any other right or remedy JCE may have:
 - 3.9.1 the Customer's right to resell Equipment or use it in the ordinary course of its business ceases immediately; and
 - 3.9.2 JCE may at any time: (i) require the Customer to deliver up all Equipment in its possession that has not been resold, or irrevocably incorporated into another product; and (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment is stored in order to recover it.

4. NON-DELIVERY

- 4.1 The quantity of any consignment of Equipment as recorded by JCE on dispatch from JCE's place of business or other designated location shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide evidence to the contrary. JCE shall not be liable for non-delivery of Equipment (even if caused by JCE's alleged negligence) unless the Customer gives written notice to JCE of the non-delivery within forty-eight (48) hours of the date and time when the Equipment would in the ordinary course of events have been received.
- 4.2 If JCE fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Equipment of similar description and quality in the cheapest market available, less the price of the Equipment. JCE shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide JCE with adequate delivery instructions for the Equipment or any relevant instruction related to the supply of the Equipment.

5. WARRANTY

- 5.1 JCE warrants the Equipment, when properly stored, commissioned, installed, used and maintained, shall be free from defects in material and workmanship. JCE's obligation under this warranty shall be limited to replacing or repairing the part or parts of the Equipment, at JCE's option, which prove to be defective in material or workmanship within a period of twelve (12) months following delivery; ("Warranty Period"), provided the Customer gives JCE prompt notice of any defect and provides reasonable proof in a form and substance satisfactory to JCE (acting in its sole discretion) including all relevant data and documentation needed to assess the performance and operation of the Equipment. Any defective Equipment or part thereof must be returned freight prepaid by the Customer to an authorised service centre designated by JCE for inspection. JCE will deliver any replacements for defective Equipment to the Customer prepaid to the delivery destination provided by the original order. Equipment returned to JCE for which JCE provides a replacement under this warranty shall become the property of JCE. These Terms and Conditions shall apply to any repaired or replacement Equipment supplied by JCE.
- 5.2 The foregoing warranty is in lieu of all other warranties or guarantees, whether oral, written, expressed, implied or statutory and JCE makes no warranty as to fitness for purpose or merchantability of the Equipment supplied. JCE's warranty obligations and the Customer's remedies are solely and exclusively as stated herein.
- 5.3 The Warranty Period shall not be extended for repaired or replaced parts or Equipment. Such parts or Equipment shall remain under warranty only for the unexpired portion of the Warranty Period. JCE's sole liability shall be (at its option) to repair or replace parts or Equipment or reperform Services under this condition. JCE may in its sole discretion credit Customer's account for a portion or such parts or Equipment determined by JCE to be defective.
- 5.4 The foregoing warranty does not apply to (a) defects in Equipment caused or contributed to by abrasive materials, corrosion due to aggressive fluids, lightning, improper voltage supply, mishandling or misapplication; (b) Equipment or parts which are normally consumed in operation, or have a normal life inherently shorter than the Warranty Period; (c) alterations or repairs carried out without prior written approval of JCE, or using Equipment for a purpose other than that for which such Equipment was intended; (d) installations carried out by the Customer unless Customer's personnel have been appropriately trained and certified by JCE; (e) installations in which the Customer has not used the application engineering practices for the Equipment as approved by JCE; (f) damage caused by defective Equipment where the Customer makes further use of the Equipment after the earlier of the Customer's awareness of the defect or the time when the Customer ought to have become aware of such defect; (g) defects in the Equipment or its performance arising from or in connection with information, drawings, chart interpretations, technical specifications or instructions provided by the Customer to JCE; (h) any damage resulting from the incorrect installation and use of the Equipment.

6. IPR INFRINGEMENT

- 6.1 If the Customer receives a claim or otherwise becomes aware that any Equipment infringes or allegedly infringes any Intellectual Property Right belonging to a third party, the Customer shall notify JCE immediately in writing and give information, assistance and exclusive authority to JCE to evaluate, defend and settle such claim of potential infringement. JCE shall then at its own expense and sole option (a) settle such claim; (b) procure for the Customer the right to use such Equipment; or (c) replace or modify the Equipment to avoid infringement or (d) remove the Equipment and refund the purchase price (including transportation and installation costs) less a reasonable amount for depreciation; or (e) defend such claim.
 - 6.2 The Customer shall save, indemnify, defend and hold harmless the JCE from all claims, losses, damages, costs (including legal costs), expenses and liabilities of every kind and nature for, or arising out of, any alleged infringement by the Customer of any Intellectual Property Right arising out of or in connection with the performance of the obligations of the Customer under the Contract.
 - 6.3 All Intellectual Property Rights in or arising out of or in connection with the Contract (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by JCE.
7. INDEMNITIES
- 7.1 All exclusions and indemnities given under this Clause 7 (save for those under Clause 7.2(c) and 7.3(c)) shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.
 - 7.2 JCE shall be responsible for and shall save, indemnify, defend and hold harmless the Customer Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
 - i. loss of or damage to property of JCE whether owned, hired, leased or otherwise provided by JCE arising from or relating to the performance of the Contract;
 - ii. personal injury including death or disease to any person employed by JCE arising from or relating to the performance of the Contract; and
 - iii. personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of JCE. For the purposes of this Clause 7.2(c) "third party" shall mean any party which is not a member of JCE or the Customer Group.

- 7.3 The Customer shall be responsible for and shall save, indemnify, defend and hold harmless JCE from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of;
- loss of or damage to property of the Customer Group whether owned, hired, leased or otherwise provided by the Customer Group arising from or relating to the performance of the Contract;
 - personal injury including death or disease to any person employed by the Customer Group arising from, relating to or in connection with the performance or non-performance of the Contract; and
 - subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Customer Group. For the purpose of this Clause 7.3(c) "Third Party" shall mean any party, which is not a member of JCE or the Customer Group.
 - at JCE's option, either the repair or replacement or reimbursement of the full cost of JCE's equipment, tools and/or instruments which are lost or damaged while in the Customer's sole care custody and control or are lost-in-hole during the provision of the Services or are lost or damaged due to abrasion or corrosion occasioned by well effluents unless such loss or damage is due to the sole negligence of JCE.
- 7.4 Notwithstanding anything to the contrary in the Contract, the Customer shall be responsible for and shall save, indemnify, defend and hold JCE harmless from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of any acts or omissions of the employees or agents of JCE in connection with the performance of the Services (or any part of the Services), where, in accordance with the Contract, the employees of JCE are under the supervision, direction or control of the Customer in respect of those Services or part of the Services.
- 8. INSURANCE**
- 8.1 The Customer shall maintain levels of insurance sufficient to cover their respective liabilities and obligations under the Contract and at law. The Customer shall provide proof of the relevant insurance coverage, when requested.
- 9. PRICES AND PAYMENT**
- 9.1 All prices are subject to change without notice. The Price shall be the price set out in the Order or, if no price is quoted, the price set out in JCE's published price list as at the date of the order.
- 9.2 The charges for Services shall be calculated on a time and materials basis:
- the charges shall be calculated in accordance with JCE's schedule of rates at the date of the Contract;
 - JCE's daily fee rates for each individual person are calculated on the basis of an eight hour day on Business Days;
 - JCE shall be entitled to charge an overtime rate for any time worked by individuals whom it engages on the Services outside the hours referred to in paragraph 9.2.2, as detailed in JCE's schedule of rates at the date of the Contract; and
 - JCE shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom JCE engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by JCE for the performance of the Services, and for the cost of any materials.
- 9.3 Prices for Equipment do not include packing and preparation of export shipment, inland or ocean freight, loading, unloading, insurance or forwarding fees, taxes, or duties of any kind or other similar charges. The Customer agrees to pay such charges incurred by JCE on the Customer's behalf together with additional handling charges upon receipt of JCE's invoice for the same.
- 9.4 Unless JCE and the Customer otherwise agree in writing to payment terms other than those specified herein, payment shall be made in accordance with remittance instructions provided by JCE. New accounts will be on a pro forma basis. Upon approved credit, the following terms will apply:
- Due to the cost of handling small orders, the minimum invoice value will be £50.00 plus VAT.
 - All payments shall be made within 30 days after the date of JCE's invoice.
 - Time for payment shall be of the essence.
 - JCE may suspend credit to the Customer and may withhold shipment of Equipment ordered, suspend or cancel performance under the Contract if in its sole judgement the financial condition of the Customer warrants such action. Suspension of performance may result in rescheduling days.
 - Prices do not include applicable taxes or duties. The Customer is solely responsible for paying all applicable taxes and duties. JCE will add taxes to the price where required by applicable law, and the Customer will pay all such taxes unless the Customer provides a duly executed tax exemption certificate in a form satisfactory to JCE.
 - Where applicable JCE's quotation is based on the rate of exchange as at the date of the quotation. Any increase or decrease at the time of invoice will be adjusted accordingly, providing payment is made within 30 days of intimation by JCE. Should any delay in payment occur, then the rate of exchange at the time of payment will also be adjusted, due and payable by the customer.
 - The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
 - All payments payable to JCE under the Contract shall become due immediately on termination regardless of any other provision.
 - Claims for errors on JCE invoices must be made in writing within 7 days from the date of the invoice, otherwise such claim will not be accepted.
 - If credit terms are not met, in addition to its other legal rights JCE has the right to (i) defer or cancel, at its option, the Services and/or further shipments of Equipment; and (ii) charge the Customer interest at the maximum rate permitted by applicable law on the unpaid balance due from the due date until payment of the overdue sum, whether before or after judgment. The Customer will indemnify JCE for all costs including legal fees and expenses JCE incurs in connection with sums due by the Customer.
 - in respect of Equipment, JCE shall invoice the Customer on or at any time after completion of delivery.
- 10. CONFIDENTIALITY**
- 10.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by JCE or its agents and any other confidential information concerning JCE's business or the Equipment or the Services which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to its employees, agents or sub-contractors on a need to know basis for the purpose of the Contract and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Customer in terms of the Contract.
- 11. FORCE MAJEURE**
- 11.1 JCE reserves the right to defer the date of delivery of Equipment and/or the date of performance of Services, to cancel the Contract, or reduce the volume of the Equipment and/or amend the scope of the Services ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying out the Contract due to circumstances beyond its reasonable control, including, natural disasters, forces of nature, earthquake, tidal wave, landslide, flood, lightning, hurricane, typhoon, storm or other weather conditions not included in normal planning, epidemic, pandemic and plague; changes in law or regulations, governmental actions; acts of civil or military authority; fire; explosion; lock-outs, strikes and/or labour disputes (whether or not relating to either party's workforce); civil commotion; protests; war; national emergency; riot; civil insurrection; acts of terrorism; restraints or delays in transportation; restraints or delays in manufacturing and inability of JCE to obtain adequate or suitable supplies from usual sources, or acts of the Customer resulting in commercial impracticality (a "Force Majeure Event"). In the event of any such delay, the date of delivery and/or performance shall be deferred for period equal to the time lost by reason of the delay. Neither JCE nor the Customer shall be entitled to any damages, costs or expenses arising from or incurred as a result of a Force Majeure Event.
- 12. LIMITATION OF LIABILITY**
- 12.1 The restrictions on liability in this paragraph 12 apply to every liability arising under or in connection with the Contract including liability in contract, delict (including negligence), misrepresentation, restitution or otherwise.
- 12.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- death or personal injury caused by negligence;
 - fraud or fraudulent misrepresentation;
 - breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
 - defective products under the Consumer Protection Act 1987
- 12.3 Subject to paragraph 12.2, the total liability of JCE on any claim whether in contract, delict (including negligence) or otherwise arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any Equipment or the provision of any Services under the Contract, or the performance or non-performance of the Contract shall not exceed the price actually received by JCE from the Customer for the specific Services or for the specific Equipment under the Contract.
- 12.4 This paragraph sets out specific heads of excluded loss and exceptions from them:
- Subject to paragraph 12.4, the types of loss listed in paragraph 12.4.2 are wholly excluded by the parties, but the types of loss and specific losses listed in paragraph 12.4.3 are not excluded. If any loss falls into one or more of the categories in paragraph 12.4.2 and also falls into a category, or is specified, in paragraph 12.4.3, then it is not excluded.
 - The following types of loss are wholly excluded:
 - loss of profits;
 - loss of sales or business;
 - loss of agreements or contracts;
 - loss of anticipated savings;
 - loss of use or corruption of software, data or information;
 - loss of or damage to goodwill; and
 - indirect or consequential loss.
 - The following types of loss and specific loss are not excluded:
 - sums paid by the Customer to JCE pursuant to the Contract, in respect of any Equipment or Services not provided in accordance with the Contract;
 - wasted expenditure;
 - additional costs of procuring and implementing replacements for, or alternatives to, Equipment or Services not provided in accordance with the Contract. These include, but are not limited to, consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials; and
 - losses incurred by the Customer arising out of or in connection with any third party claim against the Customer which has been caused by the act or omission of JCE. For these purposes, third party claims shall include demands, fines, penalties, actions, investigations or proceedings, including those made or commenced by subcontractors, JCE's personnel, regulators and customers of the Customer.
- 12.5 JCE has given commitments as to compliance of the Equipment and Services with relevant specifications in paragraph 5 and paragraph 16. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.6 Unless the Customer notifies JCE that it intends to make a claim in respect of an event within the notice period, JCE shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 12.7 The Customer understands and agrees that the forgoing liability limitations are essential elements of the Contract and that in the absence of such limitations the material and economic terms of the Contract would be substantially different.
- 12.8 This paragraph 12 shall survive termination of the Contract.
- 13. TERMINATION**
- 13.1 JCE may terminate the Contract:
- immediately upon notice to the Customer, should any sum not be paid to JCE within 30 days from the date of the invoice rendered;
 - immediately upon notice to the Customer if the Customer is in breach of any obligation under the Contract and the Customer has failed to remedy such breach within thirty days of written notice to the Customer requiring the breach to be remedied;
 - immediately upon notice to the Customer if there is any change in the ownership, management or Control of the Customer (Control for these purposes having the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly);
 - immediately upon notice to the Customer if the Customer ceases or threatens to cease to carry on business or substantially the whole of its business or JCE has reasonable cause to believe that the Customer is unable to pay its debts when due;
 - without notice to the Customer if the Customer becomes insolvent or bankrupt, enters into liquidation, or a receiver, administrator, administrative receiver, manager, trustee or similar officer is appointed in relation to it or over any of its assets or any action is taken or threatened by or against it analogous to the foregoing in any jurisdiction; or
 - immediately upon notice to the Customer if a Force Majeure Event continues for 60 days or more.
- 13.2 Where JCE terminates any Contract under this paragraph 13, the Customer shall immediately (and in any event within seven (7) days):
- pay to JCE: (a) all amounts invoiced by JCE under the Contract which remain unpaid at the date of termination; (b) a fair and reasonable price in respect of work completed or in progress but not invoiced at the date of termination; (c) all costs (including without limitation a sum in respect of overheads) incurred by JCE connected with termination; (d) all suppliers' and sub-contractors' termination charges.
 - return all Equipment which has not been fully paid for. If the Customer fails to do so, then JCE may enter the Customer's premises and take possession of such Equipment. Until such Equipment has been returned, the Customer shall be solely responsible for its safe keeping and will not use it for any purpose not connected with this Contract.
- 13.3 Termination of any Contract by JCE shall be without liability or obligation of any kind on the part of JCE. Such termination shall not affect the rights of JCE accrued prior to the date of termination. Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.
- 13.4 The Customer may not cancel or reschedule the delivery date of any Equipment and/or Services to be provided under the Contract without the prior written consent of JCE. In the event that JCE provides such consent, any such cancellation or rescheduling of Equipment and/or Services by the Customer will result in a charge to the Customer to be determined by JCE. Purchase orders once placed and accepted by JCE may be cancelled only with JCE's consent. Any cancellation at the Customer's request may result in a cancellation charge equal to (a) 20% of standard Equipment/Services; and (b) 100% of the full Contract price for non-standard or special Equipment/Services. Cancellation charges for accessories and components sourced from third parties will be charged at full price. JCE shall, at its sole discretion, adjust the price and delivery dates or make such other amendments as may be required as a result of any change order agreed to be issued by the Customer and JCE. No amendment to the Contract shall be valid unless agreed in writing by JCE (at its sole discretion).

14. DISPUTE RESOLUTION

14.1 Any dispute between the parties in connection with or arising out of the Contract shall be resolved by means of the following procedure:

- (a) the dispute shall initially be referred, by means of a formal notice, to the representative of each party who shall discuss the matter under dispute and make all reasonable efforts to reach an agreement;
- (b) if no agreement is reached under paragraph 14(a) within thirty (30) days of the date of the formal notice, the dispute shall be referred to an appropriate senior executive of each of the parties who shall meet to discuss the matter in dispute and make all reasonable efforts to reach an agreement;
- (c) if no agreement is reached under paragraph 14(b) within ninety (90) days of the date the dispute was referred to the senior executives of each party, the dispute shall be referred to mediation in accordance with the further provisions of this paragraph.

14.2 If any dispute arises in connection with this agreement, the parties will attempt to settle it by mediation. Unless otherwise agreed between the parties, the mediator will be nominated by Core Solutions Group, 10 York Place, Edinburgh, EH1 3EP ("Core"). To initiate the mediation a party must give notice in writing ("ADR notice") to the other party to the dispute requesting a mediation. A copy of the request should be sent to Core. The mediation will start not later than 45 days after the date of the ADR notice. The commencement of a mediation will not prevent the parties commencing or continuing court proceedings.

15. MISCELLANEOUS

15.1 All samples, drawings, descriptive matter, specifications and advertising issued by JCE and any descriptions or illustrations contained in JCE's catalogues or brochures are issued or published for the sole purpose of giving an indication of the type of Equipment available and no prices or other particulars contained therein shall form part of the Contract. They are subject to change without notice as it may be necessary to occasionally modify the materials, finishes or other components of the Equipment.

15.2 Assignment

15.2.1 JCE may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

15.2.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of JCE.

15.3 Notices

15.3.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:

- 15.3.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 15.3.1.2 sent by email to the address specified in the Order.
- 15.3.1.3 Any notice or communication shall be deemed to have been received:
- 15.3.1.4 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 15.3.1.5 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
- 15.3.1.6 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this sub-paragraph, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

15.3.2 This paragraph does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15.4 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this paragraph shall not affect the validity and enforceability of the rest of the Contract.

15.5 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

15.6 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

15.7 Entire agreement

15.7.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

15.7.2 Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

15.7.3 Nothing in this paragraph shall limit or exclude any liability for fraud.

15.8 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce any term of the Contract.

15.9 Except as set out in these Terms and Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

15.10 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Scotland.

15.11 Each party irrevocably agrees that the Scottish courts shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

16. SERVICES

16.1 JCE shall supply the Services to the Customer in accordance with the Service Specification in all material respects. JCE shall use all reasonable endeavours to meet any performance dates for the Services, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services. JCE reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and JCE shall notify the Customer in any such event. JCE warrants to the Customer that the Services will be provided using reasonable care and skill.

17. CUSTOMER OBLIGATIONS

17.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in the Service Specification and the Equipment Specification are complete and accurate;
- (b) co-operate with JCE in all matters relating to the Services;
- (c) provide JCE, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by JCE to provide the Services;

(d) provide JCE with such information and materials as JCE may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

(e) prepare the Customer's premises for the supply of the Services;

(f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

(g) comply with all applicable laws, including health and safety laws;

(h) keep all materials, equipment, documents and other property of JCE (JCE Materials) at the Customer's premises in safe custody at its own risk, maintain JCE Materials in good condition until returned to JCE, and not dispose of or use JCE Materials other than in accordance with JCE's written instructions or authorisation; and

(i) comply with any additional obligations as set out in the Service Specification and the Equipment Specification;

(j) at its own expense secure any permits or any other authorizations (including but not limited to work permit and visas for employees of JCE) which may be required to permit JCE to perform the Services. The Customer agrees to indemnify JCE against any costs, claims, actions, demands or expenses incurred or suffered in connection with the Customer's failure to obtain any permits or authorizations required to perform the Services.

17.2 If JCE's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

(a) without limiting or affecting any other right or remedy available to it, JCE shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays JCE's performance of any of its obligations;

(b) JCE shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from JCE's failure or delay to perform any of its obligations as set out in this paragraph 17.2; and

(c) the Customer shall reimburse JCE on written demand for any costs or losses sustained or incurred by JCE arising directly or indirectly from the Customer Default.