

## GENERAL TERMS AND CONDITIONS

### 1. DEFINITION

- (a) "JCI" means Johnson Controls International (Thailand) Co., Ltd.
- (b) Buyer" means the party who enter into a Contract with JCI wherein JCI agrees to supply and the Buyer agrees to purchase the Goods and/or Services. (as the case may be)
- (c) "Conditions" means these General Terms and Conditions as set out in this document, terms in JCI's Quotation and any additional terms and conditions communicated in writing by JCI.
- (d) "Contract" means the contract between JCI and the Buyer for the supply of Goods and/or Services (as the case may be) by JCI to the Buyer and shall be constituted in its entirety by the Conditions and JCI's Quotation.
- (e) "Delivery Date" means the date of delivery of Goods and/or Services (as the case may be) specified under the Contract, including the completion date for such delivery and/or supply, and any revisions of such date.
- (f) "Installation Date" means the installation or works in relation to the Services specified under the Contract, including the completion date for such installation and any revisions of such date.
- (g) "Goods" means the product(s) that the Buyer agrees to buy from JCI, or any part or quantity thereof.
- (h) "Contract Sum" means the price for the supply of Goods and/or Services. Unless otherwise agreed between the parties Contract Sum includes carriage, packing, and insurance, but excluding taxes that may be imposed on the supply Goods and/or Services by the relevant authorities in Thailand, where such taxes is payable by the Buyer.
- (i) "Proprietary Information" means any and all information and intellectual property relating to the Goods and/or Services, including the installation or operation of the Goods including but not limited to patents, designs, drawings, instruction booklets, specifications, circuit drawings, components, trade secrets, trademarks and copyright in such information and intellectual property.
- (j) "Quotation" means the proposal prepared by the authorised representative from JCI that indicates the Goods, Services and Contract Sum based on the Buyer's request for quotation/proposal.
- (k) "Services" means works in connection with the Goods (including designing, installing, testing and/or commissioning the Goods) and/or works in the Contract.
- (l) "Site" means the land and other places on, above, under, in or through which the Services are to be executed.
- (m) "Start-Up" means testing and commissioning.
- (n) "Controller" means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.
- (o) "Personal Data" means any information which is related to an identified or identifiable natural person.

### 2. CONDITIONS APPLICABLE

- (a) These Conditions shall apply to all contracts for the supply of Goods and/or Services by JCI to the Buyer to the exclusion of all other terms and conditions, including without limitation, any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order, letter of award/acceptance, or similar documents.
- (b) All orders, letters of award/acceptance, or similar documents for the supply of Goods and/or Services by JCI shall be deemed to be an offer by the Buyer to purchase Goods and/or Services pursuant to these Conditions. JCI's Quotations to the Buyer shall merely constitute invitations to treat.
- (c) Buyer's instruction to JCI to proceed with the delivery of the Goods/supply of the Services or acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- (d) Any variation to these Conditions (including any additional terms and conditions agreed between the parties) shall be inapplicable unless agreed to in writing by JCI.
- (e) The Contract shall take precedence over any other oral or written representations, agreements, arrangements or understandings relating to the Goods and/or Services and any matters in connection therewith.
- (f) The Buyer shall not trans-ship, re-export, divert or direct Goods other than in and to the ultimate country of destination declared by the Buyer and specified as the country of ultimate destination in the Contract.

### 3. CONTRACT SUM AND PAYMENT TERM

- (a) The Contract Sum is exclusive of taxes and subject to the addition of any and all applicable service taxes, value added taxes, sales taxes, duties and levies at the rate from time to time in force which shall be paid by the Buyer. If the Buyer is required under the law to deduct or withhold any sum as taxes imposed on or in respect of any amount due or payable to JCI, the Buyer shall be responsible to make such deduction or withholding as required but the net amount payable and remitted to JCI shall be equal to the amount JCI would have received in the absence of any such deduction or withholding.
- (b) **Unless otherwise agreed between JCI and the Buyer, should (i) the Delivery Date or Installation Date is beyond three (3) months from the date of the Contract and (ii) the cost to JCI of supplying the Goods and/or Services be increased by any circumstances of any kind whatsoever beyond the control of JCI, including without limitation, to increased production cost of manufacturers or suppliers/subcontractor, variations in rates of exchange, devaluation of any relevant currency or increase in relevant rates of freight or insurance, JCI shall notify the Buyer of such increase and the Buyer shall bear such increase, in addition to the Contract Sum.**

- (c) In the event JCI is called upon to pay any additional freight or incur any other charges or expenses in respect of the carriage of the Goods covered by the Contract due to any cause whatsoever, such additional freight, charges or expenses shall be payable by the Buyer to JCI in addition to the agreed Contract Sum.
- (d) Unless otherwise agreed between the parties, payment will be strictly in accordance with JCI's quoted payment term and within the specified credit limits.
- (e) Where payment is by letter of credit, unless the Buyer shall open an irrevocable letter of credit with the bank named by JCI, or procure the acceptance by the bank named by JCI of a bill of exchange for the Contract Sum before the day fixed for delivery, JCI shall be at liberty on its own account to deal with, sell or otherwise dispose of the Goods without prejudice to any others rights JCI may have in law or in the Contract.
- (f) Retention monies, if required, shall not be deducted from payments due to JCI. Instead, JCI shall arrange to provide the Buyer with a Bank Guarantee for the retention amount, in a form and substance acceptable to JCI, unless otherwise agreed upon in writing. **Bank Guarantee may be provided for ELV/Installation Projects but not for Service, at no more than (3% / 5%) of contract value (Note: 3% for ELV/Installation Projects and 5% for Equipment Sales)**
- (g) JCI reserves the right to charge late payment interest for any account that is outstanding at the per month rate of one point five percent (1.5%) of the principal amount due and calculated from the due date to the date of final payment, subject to limitations under law. Payment by cheque is not considered as completed until it the payment has been deposited into JCI's bank account.
- (h) If the Buyer fails to make any payment on the due date, then without prejudice to any of JCI's other rights, JCI may:
  - (i) suspend or cancel deliveries/supply of any Goods and/or Services due to the Buyer; and/or
  - (ii) appropriate any payment made by the Buyer to such of the Goods and/or Services (or Goods and/or Services supplied under any other contract with the Buyer) as JCI may in its sole discretion think fit.
- (i) Where payment is by progress claims, in the event of any default in payment, JCI reserves the right to immediately stop all works, including but not limited to the Start-Up at the Site without prior notice.
- (j) Notwithstanding anything to the contrary:  
For ELV/Installation Project:
  - (i) **Project shall be accepted or deemed as accepted by Customer no later than the earlier of the following two events:**
    - (a) 12 months after the Project/Material Handover is issued; or
    - (b) 6 months after the Acceptance of the Whole Project by Owner;
  - (ii) **Final accounting settlement of project shall be completed no later than the earlier of the following two events:**
    - (a) 15 months after the Project/Material Handover is issued; or
    - (b) 9 months after the Acceptance of the Whole Project by Owner;
  - (iii) **Warranty period no longer than the earlier of the following events:**
    - (a) 36 months after the Project/Material Handover is issued; or
    - (b) 30 months after the Acceptance of the Whole Project by Owner.  
For Equipment Sales Project:
  - (j) **Arrival payment should be paid within [30] days after equipment arrival with T/T payment method. Partial shipment shall be settled partially.**
  - (ii) **T&C (Testing & Commission) payment should be paid no longer than the earlier of the following events with T/T payment method:**
    - (a) 6 months after equipment arrival; or
    - (b) 30 days after testing & commission.
  - (iii) **Warranty period no longer than the earlier of the following events: [6+X] months (X=warranty period) after equipment arrival; or X months (X=warranty period) after testing and commission**

### 4. SUPPLY, DELIVERY, ACCEPTANCE AND STORAGE

- (a) The supply of the Goods shall be carried out only during normal working hours unless otherwise stated herein. In the absence of any default on the part of JCI and should the Buyer insist on urgency outside the period allowed for in the Contract, such overtime incurred shall be for the account of the Buyer.
- (b) If applicable, the Buyer shall promptly obtain all necessary import licenses, clearances and other consents necessary for the purchase of the Goods. JCI shall promptly upon request supply all documents reasonably required by the Buyer for this purpose.
- (c) All Goods will be delivered packed in accordance with standard domestic packing methods unless export-packing is specified, in which case, the equipment will be export packed in accordance with JCI's standard packing methods. Any special packing methods must be specifically notified in writing and may be subject to additional costs.
- (d) When Goods are for export shipment, JCI does not assume responsibility for obtaining permits, licenses or other government requirements, and such responsibility shall be that of the Buyer, unless otherwise specifically agreed in writing.
- (e) JCI is deemed to have delivered the Goods when the Goods are made available to the Buyer for physical collection by or on behalf of the Buyer at the Buyer's nominated delivery point. Any unloading or loading shall be the Buyer's responsibility, unless otherwise agreed in writing by JCI.
- (f) JCI may deliver the Goods by instalments (where in JCI's opinion this is reasonable to do so and with prior notice to the Buyer) and issue interim invoices to the Buyer. Without limiting any other provisions in the Contract, failure by the Buyer to pay any instalment, or any other amount when due or the Buyer breaches any terms in the Contract, will entitle JCI to withhold or delay delivery of any remaining Goods ordered.
- (g)

- (h) If the Buyer is unable to collect the Goods at the Buyer's nominated delivery point on the delivery day, JCI may (at its option and without limiting its other rights and remedies) arrange suitable storage of the Goods, whether at its premises or elsewhere and the Buyer must pay or reimburse all costs and expenses of storage, insurance, demurrage, handling and other charges associated with such storage. Delivery shall be deemed to have occurred notwithstanding the Buyer's inability to collect the Goods.
- (i) No Goods delivered to the Buyer which are in accordance with the Contract will be accepted for return without the prior written approval of JCI and on such terms to be determined at the absolute discretion of JCI.
- (j) If JCI agrees to accept any such Goods for return, the Buyer shall be liable to pay a handling charge of ten percent to thirty percent (10% - 30%) of the invoice Contract Sum, JCI has the sole right to decide how much shall be charge the Buyer. Such Goods must be returned by the Buyer carriage-paid to JCI in their original shipping carton.
- (k) Goods returned without the prior written approval of JCI may at JCI's absolute discretion, be returned to the Buyer or stored at the Buyer's cost without prejudice to any rights or remedies JCI may have.
- (l) The Buyer shall inspect the Goods on delivery and shall within three (3) days of delivery notify JCI of any alleged defect, shortage in quantity, damage or failure to comply with description or sample. The Buyer shall afford JCI an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If the Buyer shall fail to comply with these provisions, the Goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods.
- (m) If the Goods are not in accordance with the Contract for any reason, and subject to the other clauses herein, the Buyer's sole remedy shall be limited to JCI making good any shortage by replacing such Goods, or, if JCI shall elect, by refunding a proportionate part of the Contract Sum.
- (n) JCI shall be entitled to (i) appoint its freight forwarder to deliver the Goods to the Buyer and/or (ii) appoint subcontractor to supply the Services to the Buyer.
- (o) Upon the receipt of the service report and/or delivery order and in the absence of any default on the part of JCI, the Buyer is deemed to have acknowledged and accepted the Goods and/or Services performed by JCI, notwithstanding the Buyer's failure or refusal to sign or acknowledge the service report and/or delivery order within three (3) days from the date of receipt.

#### 5. INSTALLATION, COMMISSIONING AND TECHNICAL ASSISTANCE (if applicable)

- (a) The supply of the Services (if applicable) shall be carried out only during normal working hours unless otherwise stated herein. In the absence of any default on the part of JCI and should the Buyer insist on urgency outside the period allowed for in the Contract, such overtime incurred shall be for the account of the Buyer.
- (b) The Buyer shall give adequate written notice to JCI of the date on which the Site will be ready for the commencement of the Services or Start-Up.
- (c) The Buyer shall give JCI full details of Site's safety regulations.
- (d) Unless agreed otherwise in writing, the Buyer shall at his own cost provide equipment, tools and auxiliary materials as are deemed necessary by JCI for proper execution of the operations, such as but not limited to hoisting gear, welding and grinding machines, oils and greases, cleaning and sealing materials, gas and oxygen, electricity, adequate heating and lighting, insulation and ready-for-use scaffolding.
- (e) The Buyer shall give all necessary assistance to ensure JCI obtain visas and any official entry-, exit- or working permits and (if necessary) tax certificates required in the Buyer's country, as well as to ensure that the JCI have access to the Site.
- (f) In the event of delay arising in the operations through circumstances for which JCI cannot be held accountable, any expenses, including but not limited to expenses associated with waiting periods or additional travelling and accommodation expenses, ensuring from such circumstances, shall be payable by the Buyer.
- (g) Should the Contract be suspended for more than ninety (90) days, then JCI shall be entitled to terminate the Contract without liability and without prejudice to the rights accrued up to the date of termination.
- (h) All reasonable extra costs, including the extra cost of completing the Contract for provision of technical personnel, incurred by JCI in consequence of the suspension and the subsequent resumption of work shall be reimbursed by the Buyer.
- (i) JCI shall give reasonable notice to the Buyer when requires any parts of the Services to be inspected, tested and commissioned and/or measured ("Inspection"). The Buyer shall then:
  - (i) forthwith attend or send a properly qualified and authorised representative to take jointly with JCI any inspection, testing and commissioning and measurements of the works that may be necessary for the purposes of any valuation, including valuation of any variation; and
  - (ii) supply of documents and information necessary for the taking or calculation of any measurement, inspection and testing and commissioning and all other particulars that may be reasonably required by JCI for the purpose of establishing agreed measurement, inspection and testing and commissioning.
- (j) Any Inspection taken jointly shall be recorded at the time and signed by the representative of the Buyer and JCI. If the Buyer does not attend or send a representative to take the Inspections jointly with JCI, the Inspection made by JCI notified in writing to the Buyer shall be taken to be correct and shall be final and binding on the Buyer.
- (k) If the Buyer attends or sends a representative but there is no agreement on the whole or part of the Inspection, the Buyer shall notify JCI in writing within seven (7) days of the date upon which the Inspection was taken of the respects in which the Inspection is not accepted as correct. Such notice shall set out in detail the documents and other information in justification. Failure to notify in writing within seven (7) days shall be taken to be an acceptance of the Inspection by the Buyer and it shall be correct, final and binding on the Buyer.

#### 6. TITLE AND RISK

- (a) The Goods shall be at the Buyer's risk as from the time the Goods are delivered to the Buyer.
- (b) In spite of delivery having been made, title in the Goods shall not pass from JCI until:
  - (i) the Buyer shall have paid the Contract Sum in full; and
  - (ii) no other sums whatever under the Contract shall be due from the Buyer to JCI.
- (c) Until the Contract Sum and all other sums due to JCI under the Contract have been fully paid in cash, the Buyer shall keep the Goods free of all taxes and encumbrances, shall not remove the Goods from the premises without written permission of JCI, and shall not transfer any interest in the Goods or in the Contract without written consent of JCI.
- (d) Title to the Goods remains in JCI until the Contract Sum and all other sums due to JCI under the Contract have been fully paid in cash, all Goods whether affixed to the realty or not, shall be deemed to remain moveable property and be deemed severable without injury to the realty.
- (e) The Buyer shall do whatever may be required to maintain JCI's title. Until title in the Goods passes to the Buyer, the Buyer shall hold the Goods and each of them on a fiduciary basis as bailed for JCI. The Buyer shall store the Goods (at no cost to JCI) separately from all other goods in its possession and marked in such a way that they are clearly identified as JCI's property.
- (f) Notwithstanding that the Goods (or any of them) remain the property of JCI, the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of JCI. Any such sale or dealing shall be a sale or use of JCI's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until title in the Goods passes from JCI, the entire proceeds of sale or otherwise of the Goods shall be held in trust for JCI and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as JCI's money.
- (g) JCI shall be entitled to recover the Contract Sum notwithstanding that title in any of the Goods has not passed from JCI.
- (h) Until such time as title in the Goods passes from JCI, the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to JCI. If the Buyer fails to do so, JCI may enter upon any premises owned occupied or controlled by the Buyer where the Goods are situated and repossess the Goods.
- (i) The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of JCI. Without prejudice to the other rights of JCI, if the Buyer does so all sums whatever owing by the Buyer to JCI shall forthwith become due and payable.
- (j) The Buyer shall insure and keep insured the Goods to the full Contract Sum against "all risks" to the reasonable satisfaction of JCI until the date that property in the Goods passes from JCI, and shall whenever requested by JCI produce a copy of the policy of insurance. Without prejudice to the other rights of JCI, if the Buyer fails to do so all sums whatever owing by the Buyer to JCI shall forthwith become due and payable.

#### 7. CANCELLATION AND VARIATION

- (a) **The Contract may not be altered or cancelled or terminated by the Buyer for any reason whatsoever without the written consent of JCI (including suspension, prolongation and acceleration) unless it does so pursuant to, and in accordance with, a right it has under applicable law or an express term of the Contract that authorizes the Buyer to cancel or terminate for cause or JCI's insolvency.** If JCI agrees to alter or cancel or terminate the Contract, **or the Buyer cancels or terminates the Contract pursuant to, and in accordance with, a right it has under applicable law or an express term of the Contract that authorizes the Buyer to cancel or terminate for cause or JCI's insolvency,** JCI reserves the right to forfeit any deposit paid by the Buyer pursuant to the Contract (if any) and the Buyer shall indemnify JCI against any loss, damage and expense incurred by JCI in relation to the alteration or cancellation or termination of **that** Contract including but not limit to the cost of return freight, return shipping to factory of origin, items purchased from third parties for inclusion in the Goods and all labour and engineering costs incurred by JCI in the execution or part execution of the Goods and including compensation payable to any supplier of JCI and loss of profit.
- (b) In the event the Goods are not available due to any circumstances of any kind whatsoever beyond the control of JCI, JCI shall immediately inform the Buyer and provide an alternative to the Goods ("Replacement Goods"). If the Buyer does not agree with the proposed Replacement Goods, it is deemed that JCI and the Buyer have agreed to terminate the Contract and JCI shall promptly repay to the Buyer any sums paid in respect of the Contract Sum. JCI shall not be liable for any loss or damage whatever arising from such termination.
- (c) JCI may cancel and/or terminate the Contract for convenience and without assigning any reason whatsoever at any time before the Goods are delivered and/or Services are performed by giving prior written notice. On giving such notice JCI shall promptly repay to the Buyer and sums paid in respect of the Contract Sum. JCI shall not be liable for any loss or damage whatsoever arising from such cancellation/termination.
- (d) Where Services are supplied by JCI under these Conditions, subject to the prior written notice to the Buyer, JCI shall be entitled to, and the Buyer shall grant any extension of time arising from delays not directly and solely attributable to JCI. JCI shall also be entitled to claim for any loss, damage and expense incurred by JCI in relation to such extension of time.
- (e) Notwithstanding any bill of quantities in the Contract or any other documents regarding valuation of variation, the price of all variations shall be approved by Buyer within thirty (30) days after receiving a Quotation from JCI for the varied Goods and/or Services ("Variation Works"). No Variation Works will be carried out until approval in writing has been received by JCI.

## 8. INSOLVENCY OR OTHER DEFAULTS OF THE BUYER

In the event that the Buyer fails to make payment for the Goods and/or Services (as the case may be) in accordance with the Contract or commits any other breach of the Contract or if any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with its creditors or commits any act of bankruptcy or if any petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, receiver and manager, trustee, judicial manager and/or liquidator shall be appointed over the whole or any part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law, all sums outstanding in respect of the Goods and/or Services (as the case may be) shall become payable immediately. JCI may in its absolute discretion and without prejudice to the other rights which it may have suspend all future deliveries of Goods and/or Services to the Buyer and/or terminate the Contract without liability upon JCI's part.

## 9. WARRANTY AND INSURANCE

- (a) To the maximum extent permitted by law, JCI makes no warranties or representations to the Buyer except to the extent set out in the Contract. JCI makes no and specifically disclaims all representations and warranties that the Services, Goods or Third party product or software will be secure from Cyber threats, hacking or other similar malicious activities.
- (b) JCI warrants (i) the relevant Goods to be free from defects in workmanship and materials under normal use and service during the Warranty Period (as defined below) and (ii) the relevant Services (if applicable) comply with the workmanship and standard in the Contract during the Warranty Period. Unless otherwise agreed between the parties, the Warranty Period for Goods shall be one (1) year from deliver date and the Warranty Period for Services shall be ninety (90) days from installation dated. This warranty does not cover costs of rectification works or recovery of the Goods from the Site or damage, fault, failure or malfunction due to external causes including accident, abuse, misuse, mechanical or electrical overload, abrasion, corrosion, incorrect installation by the Buyer or a third party, failure to perform required preventative maintenance, the use of replacement parts or lubricants which do not meet JCI's specifications or normal wear and tear.
- (c) During the Warranty Period, to the extent permitted by law, the Buyer's sole remedy with respect to breach of warranties set out in clause 9(b) will be rectification works and repair or replacement by JCI (as JCI may elect) of any such defective Goods at JCI's expense. The rectification works and replacement or repaired Goods shall be covered by the unexpired portion of the Warranty Period in respect of the original Goods and/or Services or for a period of ninety (90) days, whichever is the greater.
- (d) For equipment forming part of the Goods which is not manufactured by JCI, the original manufacturer's warranty will apply. JCI's liability for such equipment shall not exceed the liability of the original manufacturer.
- (e) Where the Contract includes the supply of Services, JCI will maintain the relevant insurance policies in accordance with the applicable local laws and jurisdiction only and JCI will maintain public liability insurance for bodily injury and property damage with a policy limit subject to the maximum of US\$1,000,000 per occurrence and in aggregate. Any additional insurance required by the other party to any contract based on the Contract will be paid for by that party and no claim shall be made upon JCI by the Buyer for any sum in excess of JCI's insured maximum. JCI will upon the Buyer's request provide a Certificate of Insurance (COI) in lieu of policy and premium payment receipts.
- (f) The liability of JCI under the Contract will be reduced by the amount of any contributory loss and/or damage to the extent caused by the act and/or omission of the Buyer.
- (g) To the maximum extent permitted by law and notwithstanding any provision to the contrary in Contract, JCI's total liability under each Contract (whether that liability arises under contract, tort, equity, statute or otherwise) for any loss, damage or expense arising out of or in connection with its performance of the Contract, shall be limited to the total Contract Sum paid by the Buyer to JCI for the Goods covered by that Contract and in no event shall JCI be liable for loss (whether direct or indirect) of profits, opportunity, revenue, goodwill, use, production, contracts, business or anticipated savings, corruption or destruction of data or for any special or consequential loss or damage or other losses arising from viruses, ransomware, cyber-attacks or failures or interruptions to network systems whatsoever.
- (h) Unless otherwise agreed between the parties, Buyer's claim for liquidated ascertained damages against JCI, if any, shall be capped at a maximum of ten percent (10%) of the total Contract Sum.

## 10. PROPRIETARY INFORMATION

- (a) The Buyer acknowledges that all Proprietary Information and all right title and interest therein are the sole property of or licensed by JCI and the Buyer shall gain no rights, title or interest in the Proprietary Information whatsoever.
- (b) To the extent software is provided by JCI under this Contract, Buyer agrees that such software may only be used in accordance with the terms and conditions of the software license agreement that accompanied the software.
- (c) The Buyer must not and must not permit any person reasonably within the Buyer's control to, directly or indirectly:

- (i) modify any of the Goods; and/or copy, clone, reverse engineer any hardware Goods; and/or
- (ii) copy, decompile, disassemble or reverse engineer or otherwise derive the source code for any software Goods; and/or
- (iii) copy, modify or decompile any documents accompanying the Goods, without JCI's prior written consent, and in the event the Buyer breaches its obligations under this clause, JCI may immediately terminate the Contract and the Buyer shall indemnify and hold harmless JCI against any and all losses or damages related to such breach of the Contract.

## 11. RE-EXPORT AND RESTRICTION

- (a) The Goods supplied are intended for use only in Thailand. If any Goods are to be re-exported by the Buyer, the Buyer shall immediately inform JCI. JCI has the absolute right to veto the re-export of the Goods by the Buyer and the Buyer shall strictly comply with JCI's decision. It is the Buyer's responsibility to ensure that such Goods and the use to which they are put will comply with all applicable laws of that country.
- (b) The Buyer acknowledges that the Goods purchased by the Buyer may not be sold, leased or otherwise transferred to or utilised by, an end-user engaged in activities related to weapons of mass destruction including but not limited to activities related to design, development, production or use of nuclear materials, nuclear facilities or nuclear weapons, missiles or support of missiles projects or chemical or biological weapons, and the Buyer shall comply with all applicable export and import laws and regulations, including associated embargo and sanction regulations and unless authorised by applicable governmental license or regulation, the Buyer shall not directly or indirectly export or re-export any technical information or software subject to the Contract (including direct products of such technical information or software) to any prohibited destination or country (including release to nationals, wherever they may be located, of any prohibited country) as specified by JCI and applicable export regulations.

## 12. COMPLIANCE

JCI and the Buyer intend that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion or kickbacks, or other unlawful or improper means of obtaining business. The Buyer will not, directly or indirectly, pay, offer, authorise or promise any monies or anything of value (such as gifts, contributions, travel, or entertainment) to any person or organisation (including any employee or official of any governmental authority, government owned or controlled entity, public international organisation or political party; any candidate for political office) for the purpose of improperly influencing their acts or decisions in violation of any anti-bribery or anti-corruption laws, including the United States Foreign Corrupt Practices Act (FCPA) and local anti-corruption laws (collectively, "**Anti-Corruption Laws**"). The Buyer will notify JCI promptly if the Buyer or any of the Buyer's agents have reason to believe that a breach of this clause has occurred or is likely to occur. Any breach of the warranties, representations or agreements in this clause will constitute grounds for immediate termination of the Contract for cause by JCI. The Buyer will indemnify and hold JCI harmless against any actions, legal claims, demands, proceedings, losses, damages, costs, expenses and other liabilities of whatever nature resulting from the Buyer's breach of the representations, warranties and agreements contained in this clause. This clause will not be affected by expiration or termination of the Contract for any reason.

## 13. FORCE MAJEURE

- (a) Neither party shall incur any liability due to failure or delay in performance of any obligation caused by Force Majeure, at least for the duration of the Force Majeure, provided that the affected party shall promptly notify the other of the existence of the Force Majeure and the effect on its ability to perform its obligations, and provided further that the affected party undertakes all reasonable efforts to mitigate the impact of the Force Majeure on the other party.
- (b) The term "Force Majeure" shall mean and include without limitation any Act of God, industry wide strikes, work stoppages, explosion, epidemic, pandemic, fire, flood, war and other hostilities, civil commotion or unrest, cyber-attacks, viruses, ransomware, failures or interruptions to network systems, data breaches, governmental acts, regulations or orders, generalised inadequate supply of raw materials or components, or any other circumstance of a similar nature beyond the reasonable control of an affected party (but excluding any act or omission by an Associate of such party).
- (c) If any Force Majeure endures more than sixty (60) days, the parties shall meet and review in good faith the desirability and conditions of this Contract.

## 14. MISCELLANEOUS

- (a) Network Protection: The Buyer is solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("**Network**") and shall supply JCI secure Network access for providing its services. Goods networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by the Buyer and/or end user against unauthorized access. The Buyer is responsible to take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files prior to receiving the Service or Goods.

- (b) If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from these Conditions, but the rest of the Contract is not affected.
- (c) JCI shall not be liable for any failure to fulfil or any delay in fulfilling any obligation arising from the Contract if the failure or delay has been caused directly or indirectly by any act of God, war or other civil commotion, terrorism, strikes, lockouts, stoppages and restraints of labour, breakdown of machinery, inability to obtain raw materials or fuel, fire or explosion, any government action or any other cause beyond the reasonable control of JCI and not a consequence of the JCI's negligence.
- (d) JCI is committed to provide a healthy and safe workplace for all its employees and subcontractors and JCI will conduct its works in accordance with JCI Occupational Health and Safety standards and in compliance with relevant legislation and regulations in Thailand to ensure the health, safety and welfare of all its employees and subcontractors.
- (e) Any notice, request or other communication that is required to be given to any party hereto under the Contract must be in writing and sent by post, facsimile, email or by hand/courier to the party to whom it is sent at the address shown in the quotation, purchase order or order acknowledgement or to its registered office for the time being or to its last known place of business or to such other address as each party may notify to the other party. Notice is deemed to have been given:
  - (i) at the time it would have been received in the normal course of post if sent by post, or
  - (ii) at the time it was delivered, if sent by hand/courier, or
  - (iii) at the time it was transmitted, if sent by email or facsimile.
- (f) The Buyer undertakes that he / she / it grant consent to JCI to obtain and disclose the Client's credit information which may include Buyer's personal data to any third party for the purpose of assessing the Buyer's credit worthiness, to collect payment due to JCI, to discharge JCI's obligations pursuant to the Contract, for JCI to enforce its right under the Contract or as may be required by applicable law and etc.
- (g) JCI as Controller: JCI will collect, process and transfer certain Personal Data of Buyer and its personnel related to the business relationship between it and Buyer, (for example names, email addresses, telephone numbers) as Controller and in accordance with the Johnson Controls Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Buyer acknowledges the Johnson Controls Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Buyer consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by Johnson Controls is mandatorily required from Buyer's personnel under applicable law, Buyer warrants and represents that it has obtained such consent.
- (h) JCI as Processor: Where JCI will factually act as Processor of Personal Data (as defined therein) on behalf of Buyer, the terms at [www.johnsoncontrols.com/dpa](https://www.johnsoncontrols.com/dpa) shall apply.
- (i) The Contract is governed by and must be interpreted in accordance with the laws of Thailand.
- (j) JCI and the Buyer agree to work together in good faith to attempt to quickly settle disputes or differences that may arise pursuant to the Contract by consultation and negotiation prior to initiating any legal proceedings. If the disputes can't be reached by negotiation within thirty (30) days after either party issues a notice of dispute, the dispute shall be brought up to and finally resolved by Thai court.
- (k) The rights and remedies provided in the Contract will not affect any other rights or remedies available to JCI.
- (l) The Contract shall be binding upon and inure to the benefit of and be enforceable by each of the Parties' successors and assigns. The Buyer shall not assign any rights or benefits under the Contract without JCI's written consent and any purported assignment without JCI's consent shall be void.
- (m) JCI is, and shall be at all times, an independent contractor hereunder and not an agent of the Buyer. Nothing contained in the Contract nor any actions taken by or arrangements entered into between the parties in accordance with the provisions of the Contract shall be construed as or deemed to create any partnership or joint venture between the parties. The Buyer shall have no authority to commit JCI contractually or otherwise to any obligations to third parties and vice versa.
- (n) The Buyer shall bear all costs fees charges and disbursements incurred in relation to or incidental to the preparation and stamping of the Contract.
- (o) A waiver of any provision of the Contract must be in writing signed for and on behalf of JCI. Any time or indulgence granted or delay by JCI in enforcing any provision shall not constitute a continuing waiver or a waiver of any other provision.
- (p) The rights and remedies provided in the Contract will not affect any other rights or remedies available to JCI. Unless expressly provided to the contrary in the Contract, a person who is not a party to the Contract has no right to enforce or to enjoy the benefit of any term of the Contract.
- (q) Any termination of the Contract howsoever occasioned shall not affect any accrued rights or liabilities of either party hereto nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- (r) The Contract constitutes the entire agreement between the parties hereto with respect to the subject matter of the Contract and supersedes all previous negotiations, agreements and commitments (if any).
- (s) The captions and headings to the clauses in the Conditions do not form part of the Conditions and shall not be taken into account in its construction and interpretation.

## 15. DIGITAL ENABLED SERVICES

If JCI provides Digital Enabled Services under these terms, these Digital Enabled Services require the collection, transfer and ingestion of building, equipment, system time series, and other data to JCI's cloud-hosted software applications. Buyer consents to the collection, transfer and ingestion and use of such data by JCI to enable JCI to provide, maintain, protect and improve the Digital Enabled Services and its products and services. Buyer acknowledges that, while Digital Enabled Services generally improve equipment performance and services, Digital Enabled Services do not prevent all potential malfunction, insure against all loss, or guarantee a certain level of performance. As used herein, "Digital Enabled Services" mean services provided hereunder that employ JCI software and cloud-hosted software offerings and tools to improve and enable such services. Digital Enabled Service may include, but are not limited to, (a) remote inspection, (b) advanced equipment fault detection and diagnostics, and (c) data dashboarding and health reporting.

## 16. SOFTWARE

Use, implementation, and deployment of the JCI software and hosted software products ("JCI Software") offered under these terms shall be subject to, and governed by, JCI's standard terms for such JCI Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the JCI Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the JCI Software and improvements to the JCI Software. The JCI Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the JCI Software, its implementation and deployment and any improvements thereto.

## 17. SOFTWARE SUBSCRIPTION TERMS:

Notwithstanding any other provisions of this agreement, unless otherwise set forth in the applicable order, the following terms apply to JCI Software that is provided to Buyer on a subscription basis (i.e., a time limited license or use right), (each a "Software Subscription"):

- (a) Each Software Subscription provided hereunder will commence on the date the initial credentials for the Software are made available (the "Subscription Start Date") and will continue in effect until the expiration of the subscription term noted in the applicable order.
- (b) At the expiration of the Software Subscription, such Software Subscription will automatically renew for consecutive one (1) year terms (each a "Renewal Subscription Term"), unless either party provides the other party with a notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term.
- (c) To the extent permitted by applicable law, Software Subscriptions purchases are non-cancelable and the sums paid nonrefundable.
- (d) Fees for Software Subscriptions shall be paid annually in advance, invoiced on the Subscription Start Date and each subsequent anniversary thereof.
- (e) Customer shall pay all invoiced amounts within thirty calendar days after the date of invoice. Payments not made within such time period shall be subject to late charges as set forth in the Software Terms.
- (f) Unless otherwise agreed by the parties in writing, the subscription fee for each Renewal Subscription Term will be priced at Johnson Controls' then-applicable list price for that Software offering.
- (g) Any use of Software that exceeds the scope, metrics or volume set forth in this agreement and applicable order will be subject to additional fees based on the date such excess use began.

## 18. CONFIDENTIALITY

At all times during the term of this Contract and for period of five (5) years after its termination, a party shall not disclose to any third party any of the terms and conditions of this Contract or any information obtained from other party in the course of performance of this Contract without other party's prior written consent. The term "Confidentiality" does not include (i) information which is already in the possession of a party prior to receipt from the other party and a party can show that such information was in possession of a party prior to the date of disclosure hereunder; and which was not acquired directly or indirectly from the other party; (ii) information which becomes generally available to the public other than as a result of a breach of this Contract; (iii) information which becomes available to a party on a non-confidential basis from a source other than the other party; (iv) information which is independently developed by employees, consultants, or agents of a party without violation of the terms of this Contract or without reference or access to any Confidentiality; or (v) information is disclosed under operation of law.

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