

1. GENERAL

- 1.1. These Terms and Conditions of Purchase (**Conditions**) shall apply to all Agreements (as defined below) entered into by any company belonging to Sandvik group as specified in the Purchase Order (**Sandvik**), Sandvik AB being the ultimate parent company of the Sandvik group of companies, and a seller concerning supply and purchase of goods and/or services and/or consultancy as specified in the Purchase Order (**Supplier**), and Sandvik and Supplier each individually a "**Party**" and collectively the "**Parties**".
- 1.2. The Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, proposals and other representations and communications between the Parties. Any modification of or addition to these Conditions shall be valid only if expressly agreed in writing.
- 1.3. The applicability of general and/or special terms and conditions of Supplier is hereby expressly excluded. Any possible terms contained in Supplier's quote, acknowledgement of Purchase Order, delivery note, tax invoice or otherwise, in deviation from these Conditions are only valid if Sandvik notifies Supplier in writing of its express approval of Supplier's terms.
- 1.4. Supplier is not permitted to assign all or any part of the Agreement without the prior written consent of Sandvik. Supplier acknowledges that no permitted assignment in any way relieves it from the performance of its obligations under the Agreement. Supplier is not permitted to pledge its rights under the Agreement.
- 1.5. If any provision of the Agreement is void or unenforceable, the provision shall be severed from the Agreement to the extent it is void or unenforceable without affecting the validity or enforceability of the rest of the Agreement.

2. DEFINITIONS

- 2.1. In these Conditions: **ABC-Laws** means any applicable international, national, federal, state, municipal and local laws, orders, statutes, directives, decrees, treaties and regulations relating to anti-bribery, corruption and anti-money laundering legislation, including for the avoidance of doubt, the *Malaysian Anti-Corruption Commission Act 2009*, the *Malaysian Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities 2001*, the *US Foreign Corrupt Practices Act*, the *UK Bribery Act 2010*, the *UN Convention Against Corruption*, *Inter-American Convention Against Corruption*, *Group of States Against Corruption (GRECO)* and any applicable country legislation implementing the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and any other applicable legislation enacted to enforce or implement any international convention prohibiting bribery and/or corruption; **Affiliate** means any entity which is controlled by a Party, which controls a Party hereto or which is under common control with a Party hereto. For purposes of this Agreement, "control" of an entity means the direct or indirect ownership of more than fifty per cent (50%) of the shares or interests entitled to vote for the shareholders, the directors of such entity or equivalent power over the management of such entity, for so long as such entitlement or power exists; **Agreement** means (i) if applicable, the written supply and purchase agreement including its appendices, if any; (ii) the Purchase Order including its appendices, if any; (iii) these Conditions; and (iv) Supplier's acknowledgement of Purchase Order. In case of any discrepancies between the main body of the written supply and purchase agreement and any of its appendices, the content of the main body of the Agreement shall prevail. In case of any discrepancies between any of the appendices of the written supply and purchase agreement, the appendix with the smallest number shall prevail. In case of any discrepancies between the Purchase Order, these Conditions and Supplier's acknowledgement of the Purchase Order, first priority is given to the Purchase Order, followed by these Conditions and lastly Supplier's acknowledgement of Purchase Order, unless otherwise agreed in writing; **Anti-Slavery Laws** means the *Malaysian Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007*, the *Malaysian Employment Act 1955* and any other law which

prohibits exploitation of a worker, human trafficking, slavery, slavery-like behaviour, servitude, forced labour, child labour, debt bondage or deceptive recruiting for labour or services (or similar), and is applicable in the jurisdiction in which the Parties are registered or conduct business or in which activities relevant to the supply and delivery of the Goods are to be performed; **Chain of Responsibility Legislation** means all law imposing responsibilities, obligations and/or liabilities on any person who is deemed to have control over any aspect of the transportation of goods by road, including the *Malaysian Sale of Goods Act 1957*, together with supporting regulations, in place from time to time; **Confidential Information** means any information or data, in respect of a Party or its Affiliates or representatives or their respective operations, including but not limited to reports, brochures, technical documents, specifications, part-numbers, service manuals, drawings, information, interpretations, production methods and records containing or otherwise reflecting any information that is or may be proprietary and/or includes, but is not limited to, trade secrets, concepts, know-how, designs, patent applications, inventions, software, (cross)references, processes, business plans, financial information, that a Party discloses to the other Party or its Affiliates or representatives in writing, orally or in some other manner; **Data Protection Legislation** means (i) if directly applicable, the *General Data Protection Regulation ((EU) 2016/679)*, and/or (ii) *Malaysian Personal Data Protection Act 2010*, including any statutory instruments, regulations or orders made or issued thereunder, as amended or updated from time to time; **Delivery Date** means (i) for Goods, the date the Goods must be delivered to the delivery location; and (ii) for Goods containing services and/or consultancy, the date the services and/or consultancy must be completed; as set out in the Purchase Order; **Documentation** means (i) for Proprietary Goods: installation and assembly drawings and instructions; transport, handling and storage instructions; manuals and user guides; information for use of Goods, spare parts list with identification drawings; identification and tracking system of Goods (if applicable); appropriate EC Declaration of conformity or Declaration of incorporation of partly completed machinery; and (ii) for all Goods: the country of origin; information of hazardous Goods and substances (if any); documentation containing required customs or export information; safety labels for the Goods (if applicable) and all other documentation and information as specified in the Agreement and related to the Goods and the use, installation, support and maintenance thereof; **Goods** means (i) tangible and intangible goods (including software, firmware and hardware), equipment, accessories, tools, structures, parts, machines, systems (including but not limited to any raw materials and components of any of the foregoing), designs, documentation, and (ii) services and/or consultancy to be purchased by Sandvik and designed, manufactured, tested, stored and/or delivered by Supplier pursuant to the Agreement and the Purchase Order(s); **Gross Negligence** means any act or omission committed with reckless disregard of the consequences; **Intellectual Property** means including but not limited to any and all patents, copyrights, trademarks, trade dress, knowhow, trade secrets, industrial design rights and all other intellectual property rights or intellectual property (whether registered or unregistered) anywhere in the world. Intellectual Property shall also include any improvements, enhancements and derivative works based on any pre-existing Intellectual Property; **Price** means the price set out in the Purchase Order; **Production Tools** means all special tooling, patterns, moulds, templates, special equipment, other hardware and/or software required for the manufacturing, delivery, installation and/or commissioning of the Goods including all related Intellectual Property rights; **Proprietary Goods** means all Production Tools, drawings, production methods, prototypes or Documentation and Specifications supplied by a Party to the other Party for the manufacturing, delivery, installation, operation and/or commissioning of the Goods under the Agreement and

which contain Intellectual Property of a Party or to which a party has a right to license or otherwise provide them to the other Party; **Purchase Order** means the purchase order issued by Sandvik to Supplier for the purchase of the Goods; **Sanctions Authority** means: (i) the United Nations Security Council; (ii) the United States of America; (iii) the United Kingdom; (iv) the European Union and (e) the Government of Malaysia, including the relevant sanctions authorities of any of the foregoing; **Sanction Laws** means any trade or economic sanctions, laws enacted, administered, imposed or enforced by any Sanctions Authority, relating to trade embargoes, sanctions, or restrictions on any countries, entities, or individuals pursuant to a Sanctioned Territory, Sanctioned Person or Sanctioned List; **Sanctions List** means: (i) the Consolidated United Nations Security Council Sanctions List; (ii) the Specially Designated Nationals and Blocked Persons List or the Sectoral Sanctions Identification List maintained by the US Office of Foreign Assets Control; (iii) the Consolidated List of Persons, Groups and Entities subject to European Union Financial Sanctions; (iv) the Consolidated List of Financial Sanctions Targets or List of persons subject to restrictive measures in view of Russia's actions destabilising the situation in Ukraine, maintained by the UK Treasury; or (v) any similar list maintained by, or public announcement of sanctions made by, any other Sanctions Authority; **Sanctioned Person** means: (i) any person listed on, or directly or indirectly owned or controlled by one or more persons listed on, a Sanctions List; (ii) any person owned or controlled by, or acting on behalf of or for the benefit of, any person on a Sanctions List; (iii) a government of any country that is the subject of Sanctions or an agency or instrumentality of, or a person directly or indirectly owned or controlled by, such a government; or (iv) any person that is resident or located in, operating from, or incorporated under the laws of (as applicable) a Sanctioned Territory; **Sanctioned Territory** means Crimea, Cuba, Iran, North Korea, Syria or any other country which, after the date of the Agreement, becomes the target of comprehensive, country-wide or territory wide Sanctions; **Sandvik Code** means the Sandvik Supplier Code of Conduct; as amended from time-to-time; **Specifications** means all instructions, references to standards, Documentation and other information which together specify the technical form and characteristics of the Goods, such as performance, operation, quality, health, safety, traceability and other requirements, any inspection and test procedures and/or any other requirements of the Goods, as specified in the Agreement or, if not specified in the Agreement, as specified in Sandvik's request for quote, proposal, tender or comparable request where applicable; **Technical Data** means all data relating to or derived from the technical operation of any Goods delivered, including without limitation, all information gathered from sensors, instruments, monitors, or other industrial control or devices or control systems at least partly located or used at Sandvik's end-customer's site or on the Goods. **VAT** means any value-added tax, goods and services tax, consumption tax, or similar tax imposed by legislation, including the sales tax imposed by the *Malaysian Sales Tax Act 2018*; and **Wilful Misconduct** means any act or omission committed either with the intent to cause loss or damage, or recklessly as to whether loss or damage might result.

3. CONCLUSION OF THE AGREEMENT

- 3.1. An Agreement is concluded between the Parties (i) if the Agreement includes a written supply and purchase agreement, when both Parties have duly signed the Agreement or (ii) if the Agreement does not include a written supply and purchase agreement, when Sandvik has issued a Purchase Order to Supplier and Supplier has accepted such Purchase Order. To accept a Purchase Order, Supplier shall submit a written order confirmation to Sandvik within three (3) business days from the receipt of the Purchase Order. Failure to submit such confirmation within the time stated above shall be deemed as an acceptance of the Purchase Order.
- 3.2. Sandvik may from time-to-time issue forecasts of its anticipated future requirements for the Goods. Unless otherwise agreed in writing between the Parties, such forecasts are non-binding on Sandvik.

- 3.3. In case the Agreement is a framework agreement, Supplier shall not be entitled to reject Purchase Orders, which are based on the framework agreement between the Parties, provided that: (i) they are pursuant to the terms and conditions of the framework agreement, (ii) they contain the prices applicable pursuant to the framework agreement during the relevant price period as set out in the framework agreement, and (iii) the Delivery Dates of the ordered quantities are reasonably allocated over time.
- 4. DELIVERY TERMS**
- 4.1. Supplier shall make the Goods available to Sandvik on the delivery terms specified in the Agreement. Unless otherwise agreed in writing, the delivery term shall be FCA (Incoterms 2020) at the place of manufacture of the Goods or, in respect of Goods containing services and/or consultancy, at the location set out in the Purchase Order.
- 4.2. In respect of each delivery, unless otherwise agreed in writing, Supplier shall provide the Documentation to Sandvik. The Documentation shall be delivered on both printed paper and in electronic format in the English language. Documentation is considered as an integral part of the Goods and the delivery of the Goods is therefore not duly completed until delivery of the Documentation is to Sandvik's satisfaction.
- 4.3. Supplier shall pack and mark the Goods as specified in the Agreement and at its expense. If the Agreement does not include packing instructions, Supplier shall use appropriate commercial packaging to prevent damage during transport.
- 4.4. Supplier shall provide Sandvik with all necessary information for customs declaration as applicable, including information on general origin of the Goods. Where applicable, Supplier shall issue a supplier's declaration or a long-term supplier's declaration for the Goods having preferential or non-preferential origin status in accordance with European Union rules of origin governing the preferential trade.
- 4.5. Time is of the essence to Sandvik. Supplier shall not make partial deliveries or deliver any earlier or any later than the agreed Delivery Date, unless otherwise agreed in writing by the Parties.
- 4.6. Should any delivery be at risk of being delayed due to reasons attributable to Supplier, Supplier shall undertake all necessary measures at its expense in order to meet the agreed Delivery Date, including but not limited to organizing express or airfreight shipment. If Supplier anticipates that any delivery is in danger of being delayed, Supplier shall notify Sandvik without delay in writing, giving the reason for the delay and specifying a new Delivery Date. Supplier shall pay for any special delivery costs in case of changed Delivery Dates.
- 4.7. Sandvik shall be entitled to liquidated damages, without any need of further notice or judicial intervention, for delayed delivery of Goods or any part of it, or its related Documentation, at a rate of 2% of the purchase price of the delayed Goods calculated for each beginning week of delay. The liquidated damages shall not exceed 20% of the purchase price of the delayed Goods.
- 4.8. Sandvik is not obliged to inspect the Goods upon delivery. Instead, Sandvik must be able to rely on the quality management system of Supplier which shall control the production process and shall assure that the Goods are in accordance with the Specifications and the Agreement.
- 5. SUPPLIER'S GENERAL OBLIGATIONS**
- 5.1. Supplier shall perform its obligations in a professional, timely, efficient and careful manner according to highest market standards and in accordance with and in full compliance with the Agreement, all applicable laws and regulations and good industry practice.
- 5.2. Supplier shall verify before accepting the Purchase Order that Supplier has obtained all information necessary to determine that the Goods are fit for their intended purpose for which Sandvik is purchasing the Goods. Supplier is aware that the Goods will be used as a part of or in connection with mining and construction applications or equipment that may operate under extreme load, hard climatic conditions and/or twenty-four (24) hours a day.
- 5.3. Supplier shall, with due diligence, inspect the drawings and Specifications provided by Sandvik. Supplier shall, without delay, notify Sandvik of any defect, discrepancy and inconsistency discovered therein.
- 5.4. Supplier shall not make any changes to the Goods or Specifications or the production methods without Sandvik's prior written consent. Supplier shall be allowed to, upon notice to Sandvik and with no additional cost to Sandvik, make minor modifications to the Specifications, which do not affect the Delivery Dates, fit, performance, function or warranty of the Goods.
- 5.5. Supplier agrees that the Technical Data, if any, shall belong to Sandvik, and shall be transmitted to Sandvik for purposes including, but not limited to, developing its products, solutions and services. Sandvik shall own all works, products, reports and improvements based upon, derived from, or incorporating Technical Data. Technical Data may be transferred (i) to the Sandvik's Affiliates and (ii) to third parties who act for or on Sandvik's behalf for processing in accordance with the non-exclusive purpose(s) listed above or as may otherwise be lawfully processed. Sandvik's rights to use Technical Data shall survive the termination or expiration of the Agreement, any applicable warranty period and any other commercial contract between Supplier and Sandvik. For the avoidance of doubt, Technical Data shall be considered as Sandvik's Confidential Information.
- 5.6. Supplier warrants that the Goods, including its logic-bearing system components (e.g. hardware, firmware, and software hereafter referred to collectively as the "Critical Components") shall in no event contain any viruses, trojans, spyware or any other malware and it shall not manufacture, distribute or subject any of Sandvik's information systems to the same. The Goods shall be delivered with the latest authentic Supplier security patches. Supplier agrees to provide summary documentation of all known and reasonably suspected vulnerabilities for the Critical Components and agrees to deliver the relevant documentation with the recommended compensating mitigation workarounds for the Goods. Sandvik and Supplier shall agree on the maintenance and support of any Critical Components separately in writing.
- 5.7. Supplier represents and warrants that the Goods do not contain, do not interfere with, do not require, are not linked to and do not make use of any third-party software, including any open source software, unless agreed otherwise in accordance with this Clause 5.7. This means that Supplier shall not, without the prior written consent of Sandvik, include any third-party software, including open source software, in the Goods. In case Supplier intends to use any third-party software in the Goods, including open source software, Supplier shall provide Sandvik with all information on any third-party software to be included in the Goods as well as a comprehensive and accurate risk evaluation report in which Supplier defines any identified legal and technical risks (if any) associated with the use of the third-party software in question. After Sandvik has reviewed the report, the Parties shall agree mutually in writing upon the conditions of the use of such third-party software prior to the use in order to minimize any such risks. Supplier shall always comply with the license terms of any third-party software used as part of the Goods as well as the conditions of the use agreed by the Parties. Supplier is obliged to maintain a list of used third-party software and provide Sandvik with a comprehensive and up-to-date list of the same without undue delay, if such list is requested by Sandvik. For the avoidance of any doubt, inclusion of any third-party software in the Goods in accordance with this Clause 5.7 does not in any way limit or affect any of Supplier's liabilities under this Agreement or otherwise.
- 6. PRICE AND PAYMENT**
- 6.1. The purchase prices included in the Agreement and/or the separate Purchase Order are fixed and are excluding VAT but shall include (i) any other taxes, duties, fees and other charges that need to be added to the prices for the Goods according to valid statutory provisions related to the country of origin/manufacture and/or country of delivery, and (ii) all packaging and packing costs. If the supplied Goods are subject to VAT, Sandvik will pay an additional amount on account of such VAT, provided that the VAT amount is invoiced at the same time and in the same manner as the payment for the supplied Goods and Sandvik is provided with a tax invoice or similar prescribed document as required by law.
- 6.2. Supplier shall not be entitled to increase prices unless otherwise agreed in writing by the Parties.
- 6.3. Payment shall be made within 90 calendar days from the receipt of the invoice. Invoicing may not be made until the relevant Goods have been delivered and accepted by Sandvik, unless otherwise agreed in writing by the Parties. The invoice shall always state a Purchase Order number. Supplier shall comply with Sandvik's invoicing routines, as applicable and informed to Supplier by Sandvik from time to time. Supplier acknowledges and agrees that invoices that do not comply with the invoicing routines will be considered incomplete and not due for payment.
- 6.4. Payment for the Goods is subject to deduction or set-off of any claim related to the Agreement which Sandvik may have against Supplier.
- 6.5. Payment under an Agreement shall not be construed as a waiver of any rights by Sandvik or as an acceptance of any defective Goods, Goods failing to comply with the requisite Specifications, Goods of an unsatisfactory quality, or otherwise failing to conform to the Agreement.
- 7. VARIATION AND CANCELLATION**
- 7.1. Sandvik has the right to direct variations in the Goods ordered without separate compensation to Supplier. Variations may include, but are not limited to, increases or decreases in the quantity, changes in Specifications and execution of the Goods or any part thereof, as well as changes in the delivery schedule. If such variation has a substantial effect for the costs of Supplier, a fair adjustment of the price may be made. If Sandvik has ordered variation of its Purchase Order, Supplier shall honour its obligations arising under the altered order within the Delivery Date originally provided, unless such variation reasonably requires that Supplier be allowed a later Delivery Date.
- 7.2. Sandvik may cancel the Agreement, partly or in its entirety, without reason at any time. Should Sandvik cancel the Agreement, partly or in its entirety, for convenience: (i) for Goods that are ready for delivery from Supplier, and which Supplier cannot reasonably reallocate to a third party, Sandvik shall take delivery of such part of the Goods and pay the relevant parts of the agreed price set forth in the Agreement; (ii) for Goods that are not ready for delivery from Supplier, and which Supplier cannot reasonably reallocate to a third party, Sandvik shall pay Supplier's proven direct costs for such Goods (or the relevant part thereof) prior to the cancellation; or (c) for Goods that Supplier reasonably can and is allowed to reallocate to a third party, Sandvik shall be entitled to such cancellation without paying any part of the price for such Goods or incurring any costs.
- 8. TESTS AND INSPECTIONS**
- 8.1. Supplier shall conduct all necessary tests and inspections of the Goods prior to the delivery at its own expense to ensure that the Goods meet the Specifications. Supplier shall obtain all inspection or test certificates required by the laws and regulations of the country of manufacture and/or as specified in the Agreement.
- 8.2. Supplier shall keep written records of all tests and inspections referred to in Clause 8.1, stating the time, purpose, object, results, findings and the conductor of the test or inspection. Such records shall be available to Sandvik for at least 10 years after the delivery of the Goods.
- 8.3. Sandvik or its representative shall upon reasonable notice to Supplier be entitled to perform and conduct tests and inspections of the Goods and manufacturing procedure at Supplier's premises during normal working hours. Such tests or inspections shall not constitute acceptance of the Goods and shall be aimed to evaluate Supplier's compliance with the Agreement.
- 8.4. If the Goods do not meet the Specifications during such tests or inspections or if any defects exist, Supplier shall immediately correct such defects and shall pay Sandvik's expenses, if any, resulting from further tests and inspections.
- 8.5. Sandvik may perform tests or inspections on test samples. If Sandvik rejects a test sample Sandvik shall, at

- Supplier's request, return the test sample to Supplier and Supplier shall without delay deliver a new or corrected test sample to Sandvik at Supplier's cost. If such new or corrected sample fails to pass Sandvik's tests or inspections or fails to conform with the Agreement, Sandvik is entitled to cancel the Agreement without any liability on its part and return all test samples to Supplier at Supplier's cost.
- 8.6. Approved or rejected tests or inspections shall not relieve Supplier of its obligations under the Agreement.
- 8.7. No failure or inability of Sandvik to inspect or test any part of the Goods, including drawings, information and samples, as well as any approval, consent or rejection by Sandvik, shall release Supplier from its obligations and/or liability under the Agreement and/or law.
- 9. RISK OF LOSS AND TRANSFER OF TITLE**
- 9.1. The risk of loss and title to the Goods shall pass from Supplier to Sandvik upon completed delivery and acceptance of the Goods in accordance with the agreed delivery term.
- 9.2. If Sandvik is unable to receive the Goods or any part thereof on the agreed Delivery Date, the risk of such Goods shall pass to Sandvik when such Goods have been stored by Supplier as agreed by Sandvik.
- 9.3. Supplier hereby waives all rights and powers it may have in relation to the right of retention of title, the right of recovery and the right to claim back goods.
- 10. PRODUCTION TOOLS**
- 10.1. Supplier shall provide all Production Tools at its own cost unless otherwise agreed. Production Tools provided by Sandvik shall fully remain and be marked as the property of Sandvik. Production Tools paid for by Sandvik and provided by Supplier shall become the property of Sandvik.
- 11. WARRANTY**
- 11.1. Supplier represents and warrants that: (i) the Goods meet the Specifications, (ii) the Goods are free from defects including defects resulting from faulty design, materials or workmanship, (iii) the Goods are fit and safe for the intended purpose and use, which is known to Supplier; (iv) the Documentation is free from defects including errors, omissions or unclear statements; and (v) all warranties implied by the *Malaysian Sale of Goods Act 1957* apply.
- 11.2. In event of a warranty claim by Sandvik, Supplier shall without delay investigate the reason for the defect in the Goods and secure the supply chain to eliminate the risk of such claim in the future. Supplier shall within 30 days of the claim from Sandvik deliver a report to Sandvik explaining the results of the claim investigation and also what corrective and preventive measures are being taken to avoid similar quality problems in the future.
- 11.3. The responsibility of Supplier under the warranties shall be limited to defects which occur during the warranty period or which can be satisfactorily demonstrated to have been in the Goods during the warranty period. Sandvik shall promptly notify Supplier of any defects in the Goods and Supplier shall, at its discretion and without delay, repair or replace the defective Goods at Supplier's cost. Repair shall be carried out at the place where the Goods are located unless Supplier deems it more appropriate that the Goods are sent to Supplier or a destination specified by Supplier at Supplier's cost. The Goods for replacement by Supplier shall be made available for collection by Supplier at its own cost at the location specified by Sandvik.
- 11.4. Supplier is not responsible under the warranties for defects caused by (i) a failure by Sandvik to follow the instructions in the Documentation, (ii) modifications or alterations made to the Goods after the delivery without the prior consent of Supplier, or (iii) materials or structures prescribed or provided by Sandvik.
- 11.5. The warranty period shall be 24 months from the date of takeover, or 36 months from the date of the completed delivery of the Goods to Sandvik, whichever is longer. The date of takeover means the date when Sandvik's customer or end-user (as the case may be) of the Goods has accepted delivery of the Goods to it. Sandvik shall inform Supplier in writing of the date of takeover upon request.
- 11.6. Notwithstanding the warranty period provided to Sandvik as set out in Clause 11.5, in the event of defective Goods repaired or replaced by Supplier, a new warranty period of 24 months shall commence on the date Sandvik accepts the repaired or replaced Goods.
- 11.7. In urgent cases or if Supplier fails to remedy any defect in the Goods within a reasonable time, Sandvik or a third party appointed by Sandvik shall be entitled to repair or replace such defect at Supplier's cost or, if the defect is not capable of reasonable repair by Sandvik, to terminate the Agreement and withhold payment of invoice entirely or in part. Any such repair by Sandvik in accordance with this Clause 11.7 shall not release Supplier from any responsibility under its warranties, provided that such repair has been performed in accordance with the instructions of Supplier or otherwise with adequate skill and expertise. In case the Agreement is partly terminated, Sandvik shall be entitled to compensation for its loss, costs and damage up to a maximum of 100 per cent of that part of the purchase price which is attributable to the part of the Goods in respect of which the Agreement is terminated.
- 11.8. The Parties agree to handle warranty claims in a practical manner and in a way that minimizes the costs and damage to Sandvik's end-users. This means that in certain situations, for example in the event of safety risks, Sandvik or a third party appointed by Sandvik may replace or repair the defect Goods or part thereof, without prior notification to Supplier, and Supplier shall compensate the purchasing price of replacement parts, materials and labour used for the replacement or repair, and the related travel and freight costs.
- 11.9. If a defect in the Goods is such that Sandvik decides it appropriate to carry out a product recall to repair or replace the defective Goods, Sandvik shall promptly notify Supplier. Supplier shall at its own cost give such assistance to Sandvik as is reasonably requested and pay for Sandvik's expenses resulting from such product recall.
- 11.10. If a fault, defect or deficiency is discovered in the Goods and Sandvik has a reason to assume that it may also occur in other Goods delivered by Supplier, all such Goods shall be considered defective regardless of their warranty period.
- 12. LIABILITY**
- 12.1. Without prejudice to any liability set out in these Conditions, in the Agreement or at law, a Party shall compensate the other Party for any loss or damage suffered as a result of a breach of the Agreement.
- 12.2. Supplier shall indemnify and hold Sandvik harmless from any and all liabilities, damage, costs (including reasonable legal fees), expenses or loss incurred by Sandvik and its directors, subcontractors and customers as a result of claims, suits, actions, demands or proceedings related to and/ or arising from injury and/or death, loss of and/or damage to property which may be attributable to Supplier's performance of its obligations under the Agreement, or to the delivery of the Goods or the use thereof. In case of third-party litigation, Sandvik shall agree on settlements at its discretion and Supplier shall assist and fully cooperate with Sandvik in all stages of the proceedings and processes.
- 12.3. The product liability for the Goods rests with Supplier. In case Sandvik, despite Supplier's product liability for Goods, becomes liable towards a third party under any law or regulation, Supplier shall fully indemnify and hold Sandvik harmless against and from such liability. If Sandvik is, as to the Goods, liable under a law or regulation to provide a third party with a notification regarding the identity of (i) the party primarily responsible for product liability (e.g. the original manufacturer or the importer of the Goods) or (ii) the party from which the Goods was procured (e.g. a subcontractor of Supplier), and Supplier fails to provide the said information to the third party within a reasonable period of time due to the acts or omissions of Supplier, then Sandvik shall be entitled to receive from Supplier any compensation paid to the party incurring the loss or damage.
- 12.4. Supplier shall hold and maintain, at its expense, insurance coverage to appropriately cover Supplier's responsibilities under the Agreement in the amount and on terms as would be reasonably expected to be maintained by a competent and professional seller experienced in supplying goods of a similar nature to the Goods in the country where the Goods will be supplied, with a reputable insurer reasonably satisfactory to Sandvik. Such insurance must include a waiver of subrogation clause and state Sandvik as an additional insured. A certificate of such insurance shall be provided to Sandvik upon request.
- 12.5. Except to the extent caused by a Party's Gross Negligence or Wilful Misconduct, a Party is not liable to the other Party for any indirect or consequential loss or, damage, including, without limitation, loss of profits. This limitation of liability does not apply to the warranty obligations, the obligation of Supplier in relation to delay of delivery, the indemnification obligations of Supplier and/or consequences of infringement of Intellectual Property rights of the Parties (to the extent any of them would be considered consequential damages and/or losses). Any damage caused by the Goods to any property other than the Goods or persons, and costs attributable to the mitigation or prevention of such damage, shall always be deemed as direct damage.
- 12.6. Supplier's liability towards Sandvik for its undertakings shall be the same regardless of whether the undertaking is performed by Supplier or its subcontractor.
- 13. INTELLECTUAL PROPERTY RIGHTS**
- 13.1. A Party acknowledges and agrees that the other Party's Proprietary Goods shall at all times be and remain the exclusive and absolute property of the other Party.
- 13.2. Supplier hereby grants to Sandvik, without in any way limiting Sandvik's right to use the Goods throughout its lifetime, a worldwide, non-exclusive, non-transferable, irrevocable, sub-licensable, perpetual, royalty free and fully paid-up right and license to use any Supplier Proprietary Goods for the sole purpose and to the extent necessary for the utilization of the Goods purchased from Supplier, including but not limited to repair, support and service the Goods, integrate it with other products and/or develop interfaces of interoperability with other products, with no accounting or reporting obligations towards Supplier. Supplier will during the validity of the Agreement, provide Sandvik with access to any related information necessary for the utilization of the Goods purchased from Supplier.
- 13.3. Unless specifically agreed otherwise between Sandvik and Supplier in writing, all Intellectual Property related to the Goods created in co-operation between Sandvik and Supplier during the term of the Agreement (including but not limited to design changes or updates or upgrades of Sandvik Proprietary Goods), shall be vested in Sandvik or any Sandvik Affiliate designated by Sandvik. Supplier hereby transfers the Intellectual Property, including the right to modify and right to assign the Intellectual Property further, to Sandvik or any Sandvik Affiliate designated by Sandvik and waives its rights thereto. Supplier must acquire all relevant rights in order to ensure that Supplier can transfer the Intellectual Property in accordance with this Clause 13.3 to Sandvik or any Sandvik Affiliate designated by Sandvik.
- 13.4. Supplier warrants that the Goods and Supplier Proprietary Goods do not infringe any Intellectual Property or any other rights of any third party. Supplier shall, at its own expense, indemnify, defend and hold Sandvik its agents and employees, and anyone selling or using the Goods and Supplier Proprietary Goods harmless, from and against any and all claims, losses, damage, costs and expenses (including reasonable attorneys' fees) arising out of or in connection with any and all claims brought by a third party alleging that the production, use or sale of the Goods and Supplier Proprietary Goods constitute an infringement or alleged infringement or misappropriation of any third party right, including, without limitation, any third party Intellectual Property right.
- 13.5. In the event that Supplier, at any time during the duration of the Agreement or thereafter, transfers or assigns any of its Intellectual Property rights to any third party, such assignment shall be subject to the rights granted to Sandvik and Sandvik's end-users.

- 13.6. Supplier shall honour and refrain from using or referring to the trademarks or trade names (as for example SANDVIK®) owned or generally used by Sandvik or any company belonging to Sandvik group unless: i) in connection with the activities of Supplier with Sandvik, and ii) the Agreement explicitly allows or obliges Supplier to use those trademarks or trade names.
- 14. CONFIDENTIALITY**
- 14.1. Each Party undertakes, under the term of the Agreement and for a period of ten (10) years thereafter, to refrain from revealing or forwarding to a third party or otherwise making public any Confidential Information.
- 14.2. The non-disclosure obligation shall not include information that: (i) is in the public domain at the time of execution of the Agreement, or which comes in the public domain during the term of the Agreement other than pursuant to a breach of the Agreement by the Party receiving the information; (ii) is known to the receiving Party at the time of disclosure by the other Party without a restriction on further disclosure; (iii) is received from a third party without a restriction on further disclosure; (iv) is independently developed without using material or information received from the other Party by an employee, subcontractor or consultant of the receiving Party; or (v) the receiving Party is required to disclose by law or by a governmental or administrative agency or body (including without limitation any securities exchange body) or decision by a court of law, but then only after first notifying the other Party of the required disclosure. In the event either of (i), (ii), (iii) or (v) above applies, the receiving Party shall keep confidential that it has also obtained the information from the other Party.
- 14.3. In the event that a Party should commit a breach of any of the confidentiality provisions, then such Party shall indemnify the other party against any claim, liability, loss, damage or expense (including legal fees and costs on a full indemnity basis) that the non-breaching Party incurs or suffers directly or indirectly as a result of such breach.
- 14.4. Notwithstanding the above, each Party shall be entitled to disclose the other Party's Confidential Information to its Affiliates and their respective directors, officers, employees or consultants, who need to know such material and information for the purposes set forth in the Agreement, on the condition that such Party undertakes to have confidentiality obligations in force with such Party, which is not less restrictive than those set forth herein. Notwithstanding the before mentioned, a Party disclosing information to any of its Affiliates and their respective directors, officers, employees or consultants, is at all times responsible and liable for the compliance by its Affiliates and their respective directors, officers, employees or consultants with the confidentiality provisions pursuant to the Agreement including these Conditions.
- 15. COMPLIANCE**
- 15.1. Supplier undertakes to comply with the Sandvik Code, Anti-Slavery Laws, Sanction Laws and ABC-Laws in the performance of its obligations in relation to the Agreement. Supplier shall ensure that its entire subcontractor and sub-supplier chain involved in supply of the Goods comply with Sandvik Code, Anti-Slavery Laws, Sanction Laws and ABC-Laws.
- 15.2. Supplier shall ensure that the Goods are in conformity with all applicable laws and regulations including those regarding registration, evaluation, authorisation and restriction of use of hazardous substances and chemicals.
- 15.3. Supplier shall furnish to Sandvik all relevant Documentation and information about the Goods to enable Sandvik to comply with all applicable environmental, health and safety legislation, licenses and permits in its use of the Goods.
- 15.4. Supplier undertakes to specify in writing to Sandvik at the earliest opportunity and, prior to accepting a Purchase Order, any Goods, parts, components or devices included in the Goods which are subject to export restrictions in the country of manufacture or in the countries where any of the Goods, parts or components incorporated in the Goods originate from. Supplier shall also specify the scope of such export restrictions. Supplier shall always provide Sandvik without undue delay and in appropriate language: a valid certificate of origin for supplied Goods (including included US components); a valid HS Code (the code of the Harmonized System, or the Harmonized Commodity Description and Coding System, which is an internationally standardized system of names and numbers to classify traded products, developed and maintained by the World Customs Organization); a valid Long Term Declaration (Supplier's one-off declaration which is valid for consignments over a longer period of time and which can be made out for any consignments delivered during a period up to a maximum of two years) or a certificate of preferential origin; a declaration of conformity; a valid item test certificate; the current customs certification program participation status (C-TPAT, AEO, etc.); an up to date MSDS sheet (the material safety data sheet prepared in accordance with the laws and regulations applicable to the delivery and the Goods); an ECCN (the Export Control Classification Number, as listed in the Commerce Control List (Supplement No. 1 to Part 774 of the U.S. Export Administration Regulations)) relating to the Goods; and advanced manifest details. Sandvik shall make available its Supplier Trade Data Guideline upon request.
- 15.5. The Goods shall be in compliance with any environmental and safety regulations prescribed in the law or by the authorities in the country where the Goods will be manufactured/operating/used.
- 15.6. Supplier undertakes to comply with any and all Data Protection Legislation, as well as with the Agreement, including any appended data protection agreement, when processing personal data under the Agreement. Supplier may only process personal data under the Agreement in accordance with Sandvik's instructions as applicable from time to time and shall not be entitled to process personal data under the Agreement for any purpose or in any manner other than is necessary to perform obligations pursuant to the Agreement. Where Supplier processes personal data in connection with the provision of the Goods or otherwise in the performance of its obligations under the Agreement, it is acknowledged that Supplier shall take all such appropriate technical and organizational measures in order to protect the personal data processed under the Agreement. If the Parties have not concluded a data processing agreement (either separately or by attaching such an agreement as an integral part of the Agreement), Supplier is not allowed to process any personal data or on behalf of Sandvik.
- 15.7. If Supplier becomes aware or suspects that there has been unauthorised access, modification, disclosure or other misuse or interference with any Personal Information (as defined under the Data Protection Legislation) which it collects, stores, and handles (**Data Breach**), Supplier must immediately notify Sandvik of that Data Breach. Supplier must promptly disclose to Sandvik all information relevant to that actual or suspected Data Breach and provide Sandvik with access to the copies of relevant records relating to the investigation. Without limiting Supplier's other obligations under this Agreement, if Supplier becomes aware of a Data Breach, Supplier must, at its own cost, and as a matter of priority (i) take all reasonable steps to contain and remedy the Data Breach; and (ii) take appropriate remedial action to prevent the affected Personal Information from further breach.
- 15.8. At Sandvik's request, Supplier must (at Supplier's cost) provide all reasonable assistance (including the provision of information, access to documents and Supplier's personnel) as Sandvik may require from time to time, including to investigate any actual, alleged or reasonably suspected breaches by Supplier or its employees of the Code of Conduct, Anti-Slavery Laws, Sanction Laws or ABC Laws.
- 15.9. If Sandvik exercises its right under clause 17.1 because of a failure to comply with requirements of the Code of Conduct, Anti-Slavery Laws, Sanction Laws or ABC Laws, Sandvik (i) will not be liable for any losses suffered by Supplier; and (ii) Supplier provides a release and indemnity to Sandvik in respect of any losses incurred by Supplier.
- 16. FORCE MAJEURE**
- 16.1. Neither Party shall be liable in respect of any breach or non-performance of the Agreement if and to the extent that such Party is prevented or delayed from performing its obligations under the Agreement due to extraordinary circumstances outside such Party's control and provided that such circumstances could not have been avoided by such Party and were not foreseeable at the time of execution of the Agreement. Force Majeure events shall not include financial difficulties, non-performance of a sub-supplier, shortage or lack of material or resources or shortage of transport.
- 16.2. A Party who wishes to rely on an impediment referred to in Clause 16.1 above for discharge of its obligations hereunder must, without delay, inform the other Party thereof. A corresponding duty to inform the other Party shall apply when the impediment, which the Party has relied on for release of its obligations, has come to an end.
- 16.3. If the fulfilment of the Agreement or a delivery thereunder is delayed or is likely to be delayed for at least three (3) months due to Force Majeure, each Party is entitled to terminate the Agreement with immediate effect upon providing the other Party with written notification.
- 17. TERMINATION**
- Without prejudice to any other right or remedy available under the Agreement, law or these Conditions, either Party shall have the right to terminate the Agreement and any or all Purchase Orders with immediate effect and without compensation to the other Party if: (i) the other Party should pass a resolution, or any court should make an order, that the other Party shall be wound up or if a trustee in bankruptcy, liquidator, receiver, or manager on behalf of a creditor should be appointed over substantially all of the assets of the other Party or if circumstances shall arise which would entitle the court or a creditor to make a winding-up order or if it otherwise is likely that the other Party is insolvent in the reasonable opinion of the other Party; or (ii) a Party has committed a material breach of the Agreement (including Sandvik Code, ABC-Laws, Anti-Slavery Laws and Sanction Laws), and if rectifiable, not rectified the same within thirty (30) days after receipt of a written notice specifying the breach. For the purpose hereof, a breach of any ABC-Laws, Anti-Slavery Laws, Sanction Laws or Sandvik Code shall for the purpose of the Agreement not be considered to be rectifiable; or (iii) in the event that a Force Majeure situation has not been cured within three (3) months.
- 17.1. Sandvik shall have the right to terminate the Agreement or a part of it with immediate effect and without compensation to Supplier if Supplier ceases to carry out its business or the ownership or control of Supplier or a material part of its business change.
- 17.2. If Sandvik terminates the Agreement under Clauses 17.1 or 17.2 above, Sandvik shall be entitled to return all or part of the unused Goods to Supplier at Supplier's cost and Supplier shall reimburse Sandvik for all paid invoices of the returned Goods in full.
- 18. PACKING, LABELLING AND TRANSPORT**
- 18.1. Supplier shall properly pack, mark, and provide transport documentation for the Goods in accordance with instructions provided by Sandvik. Supplier will be liable for all loss or damage caused by unsuitably packed Goods. Supplier will comply with all applicable laws, awards, codes, agreements or arrangements, in relation to, without limitation, fatigue management and the transportation of dangerous goods, and the Chain of Responsibility Legislation.
- 18.2. Supplier shall further provide all documentation required by the carriers involved and by the authorities of the country of destination and any other country in relation to which such documentation would be required. Separate packing slips must be submitted for each Purchase Order, and should clearly show (i) Purchase Order Number; (ii) Quantity and description of material forwarded (if part number shown on Purchase Order is superseded, annotate documents accordingly); (iii) Purchaser's stock number for each item if applicable; (iv) Date and method of dispatch; number of packages dispatched; and, (v) Weight of each package.
- 19. PROHIBITED IMPORTS**
- 19.1. Supplier warrants that Goods covered by a Purchase Order are not a prohibited import under the applicable law and that the Goods may be legally imported into Malaysia.

Supplier will indemnify and save harmless Sandvik from all loss or damage arising from breach of this warranty.

- 19.2. Supplier shall always provide Sandvik without undue delay and in appropriate language: A valid Certificate of Origin for supplied Goods (including included US components); a valid HS Code; a valid Long Term Declaration or a certificate of preferential origin; a declaration of conformity; a valid item test certificate; the current customs certification program participation status (CTPAT, AEO, etc.); an up to date MSDS sheet; an ECCN relating to the Good; and advanced manifest details.
20. **APPLICABLE LAW**
 - 20.1. Any dispute arising out of or in connection with the Agreement (including any question regarding its existence, validity or termination) shall be governed by the laws of Malaysia.
 - 20.2. If either Party determines there is any dispute or difference between them arising out of or in connection with the Agreement (including interpretation of the Agreement and conduct of the Parties prior to the Agreement) (in this Clause called "**dispute**") then the Party identifying the dispute must give written notice to the other Party, detailing the dispute ("**Dispute Notice**").
 - 20.3. Within 14 Days of the Dispute Notice, each party must nominate a representative (with authority to resolve the dispute) and the representatives must meet at least once to attempt to resolve the dispute.
 - 20.4. If the parties have not resolved the dispute under Clause 20.3, then within 28 Days of the Dispute Notice, either Party may refer the dispute to binding arbitration, by notice to the other Party. The parties have agreed to be bound to such arbitration, which shall be in accordance with the Arbitration Rules of the Asian International Arbitration Centre, in effect on the date of the Agreement (the "**AIAC Rules**"), and shall be conducted in English. The arbitration proceeding, information disclosed during the arbitration proceedings and the result of such proceedings is subject to confidentiality.
 - 20.5. Where Clause 20.4 applies, the seat of the arbitration shall be Kuala Lumpur, unless Sandvik and Supplier mutually agree to another location, and the arbitration shall be conducted by a single arbitrator jointly selected by the parties, and in the event the parties cannot agree on the selection of the arbitrator within 35 Days from the Dispute Notice, an arbitrator shall be appointed pursuant to the AIAC Rules.
 - 20.6. Despite the existence of a dispute under this Clause 20, the Parties must continue to perform their obligations under the Agreement and a Party is not prevented from commencing a court proceeding relating to any dispute where that Party seeks urgent interlocutory or declaratory relief.