

# Volvo CE Digital Platform – Volvo Connect

## Terms of Use

### 1. Background

**1.1** The Volvo CE Digital Platform (the “**Platform**”) is the set of digital interfaces, features, functions, and content together making up (i) an e-commerce sales portal (the “**Marketplace**”) enabling Volvo CE end-customers or dealers (the “**Customer**”, also referred to as “**you**” and “**your**”) to browse and order services offered on the Marketplace (the “**Platform Services**”), and (ii) a customer portal enabling the Customer to view and manage their existing Platform Services (the “**Customer Portal**”).

**1.2** The Platform is provided by Volvo Construction Equipment AB, a company limited by shares incorporated in Sweden under company registration number 556121-9338 (“**Volvo CE**”, also referred to as “**we**”, “**us**” and “**our**”).

**1.3** Upon acceptance of these Terms of Use (the “**Terms**”) a binding agreement is formed between you and Volvo CE. As Customer, you represent and warrant that anyone accepting these Terms on your behalf has understood the Terms, and has the right, authority, and necessary authorizations to accept the Terms on your behalf.

### 2. Definitions

In these Terms:

**User** means the end-users authorized by you to access and use the Platform on your behalf.

**User Account** means an account registered for each User, enabling the access and use of the Platform.

### 3. Access to Platform

**3.1** To access the Platform, Users need a User Account. A User Account is created following the completion of the User Account registration process as from time-to-time determined by us.

**3.2** You are solely responsible for determining (i) who within your organization should be registered for a User Account, and (ii) the relevant account permissions associated with any such User Account.

### 4. Platform Services

**4.1** The Marketplace will enable Users to submit orders for Platform Services. Platform Services offered on the Marketplace will always be subject to separate legal terms that will apply between you and the

provider of the Platform Service (the “**Platform Service Terms**”). For the avoidance of doubt, Platform Services are not governed by these Terms, and we have no liability in respect of the Platform Services under these Terms.

**4.2** You acknowledge and agree that by submitting an order for Platform Services in accordance with the Marketplace order process as from time-to-time determined by us, you will be bound by the applicable Platform Service Terms. Users will be required to accept all such applicable Platform Service Terms before submitting an order.

**4.3** You further acknowledge and agree that (i) some Platform Services may not be offered in certain countries and territories, (ii) that your acceptance of these Terms is not contingent on the availability of any specific Platform Services, and (iii) that the Platform Services available on the Marketplace may change over time.

**4.4** You can find all Platform Service Terms applicable to Volvo CE provided Platform Services available on the [Service Marketplace legal site](#).

### 5. Our obligations

**5.1** We will make the Platform available to you as described in these Terms and will use commercially reasonable efforts to provide the Platform without disruptions in availability. We expect planned downtime to be infrequent but will endeavor to provide you with advanced notice if we think it may cause you commercially critical and material inconveniences.

**5.2** Volvo CE is part of the AB Volvo Group of companies, (“**Volvo Group**”). We may leverage Volvo Group companies and/or any third-party contractors (including independent Volvo dealers) in providing the Platform under these Terms. We will be responsible for the Volvo Group companies’ and/or such third-party contractors’ compliance with our obligations under these Terms.

**5.3** Except as expressly stated in these Terms, the Platform and all related components and information are provided on an “as is” and “as available” basis without any warranties of any kind. To the extent permitted by law, we expressly disclaim any and all warranties or guarantees, whether express or implied, including implied warranties or guarantees of merchantability, title, fitness for particular purpose, and non-infringement. You acknowledge that we do not warrant that the provision of the Platform will be uninterrupted, timely, secure, accurate, or error-free, in particular with regard to displayed information and/or calculations relating to your machines and operations (including but not limited to, information

displayed in the Customer Portal). You shall not be entitled to any remedies for any downtime and related inconvenience. We are not responsible for the accuracy of any content that you and/or Users submit to the Platform, including to any element thereof, nor the availability of Platform Services offered on the Platform. If any such warranty or guarantee cannot be excluded at law then, to the extent permitted by law, our liability for breach of such warranty or guarantee is limited to the resupply of the service or payment of the cost of the same.

**5.4** To the extent the Platform includes third-party Platform Services available through the Platform or links to third-party websites or applications not operated or managed by us, we will not be liable for any claims arising from your reliance on, or in connection with, the third-party Platform Services or the content of such websites and applications or any information provided by them.

## **6. Your obligations**

**6.1** You must comply with these Terms and ensure that your Users comply with the Terms. You are responsible for the acts and omissions of your Users and/or any other person who accesses and uses the Platform using your User Accounts.

**6.2** You are responsible for maintaining the confidentiality of all assigned User Accounts. You shall ensure that all User credentials related to the User Accounts (such as username and password) are kept confidential and secure in a manner that no unauthorized third parties may access the User Accounts. You shall immediately notify us of any unauthorized use of your User Accounts.

**6.3** We reserve the right to review User's conduct on the Platform for compliance purposes. If we become aware that you or any of your User's use of the Platform violates these Terms, we will notify you and request that you correct the violation. If you fail to correct the violation within twenty-four (24) hours of our request, we may suspend all or part of your use of the Platform until the violation is corrected.

## **7. Intellectual property rights**

**7.1** We and our licensors reserve all rights, title, and interest (including the right to enforce any such rights) to the Platform. Subject to your compliance with these Terms and all other applicable terms and policies, you are granted a right to access and use the Platform, including any elements of the Platform such as the Customer Portal and Marketplace, and as necessary for ordering Platform Services. You may not sell, rent, lease, redistribute, or syndicate access to the Platform, or any element thereof, to any third party.

**7.2** Each party shall notify the other party in writing without undue delay of any third-party allegation,

claim, threat, or court action claiming that the use of the Platform or content constitutes an infringement of intellectual property rights (or rights associated therewith) owned by such third party ("**Third-Party Claim**").

**7.3** Each party shall indemnify and hold harmless the other party against all liabilities arising from any Third-Party Claim, provided such Third-Party Claim is not a result of the indemnified party's use of the indemnifying party's intellectual property rights (or rights associated therewith) in a manner which is not permitted under these Terms, or otherwise unlawful under the applicable law. The indemnifying party shall have the right to assume charge and direction of the defense and/or settlement of any Third-Party Claim.

## **8. Data privacy**

In providing the Platform and the User Accounts, we may process personal data about your Users. Any data processing under these Terms will be performed in accordance with applicable laws and regulations governing the use and protection of personal data. Our processing of User's personal data is further detailed in the [Platform Account Privacy Notice](#) which Users are provided with during the User Account registration process. You agree to obtain all consents and provide all notifications necessary to enable us to process your data and User data uploaded to the Platform or otherwise provided to us in connection with these Terms (including by providing the Platform Account Privacy Notice to all Users).

## **9. Modifications to the Platform and these Terms**

We may, in our sole discretion, make changes to these Terms, the features of the Platform, and/or the availability and content of Platform Services. Any new versions of the Terms will be published on the [Service Marketplace legal site](#), with or without notice, and it is your responsibility to regularly check the Terms for updates and changes. Your continued use of the Platform following the publishing of a new version of these Terms will mean that you accept and agree to the changes. If you do not agree to any changes to these Terms, you must immediately discontinue your use of the Platform.

## **10. Export**

**10.1** To the extent the Platform is subject to export laws, we shall be responsible for obtaining and maintaining export licenses required for delivery of the Platform to you. To the extent required by law, we undertake to inform you in writing and issue all documentation of any export restrictions in respect of the Platform.

**10.2** You shall comply with all domestic and international export laws and regulations, as applicable, that apply to the content, which include

restrictions on destinations, end users, and end use of such.

## **11. Termination**

**11.1** Both parties may terminate these Terms immediately without cause but must provide each other with thirty (30) days prior written notice of such termination. Your termination notice may be provided directly to Volvo CE or (as applicable) to your local Volvo CE dealer.

**11.2** We may also immediately terminate these Terms if we reasonably believe that the Platform is being used by you or your Users in violation of applicable law, or if your User Accounts have been suspended according to Section 6.3.

**11.3** These Terms will remain in effect until terminated pursuant to either section 11.1 or 11.2 or any other applicable provision of these Terms. Upon termination, we will remove your and your User's access to the Platform.

**11.4** The termination of these Terms shall not affect the validity of any other agreements entered between you and any party (including us) through the Platform. You acknowledge that the termination of these Terms, and the termination of any associated User Accounts may affect the availability of certain Platform Services.

## **12. Limitation of liability**

**12.1** Our liability for any damage or loss of any kind under or in connection with these Terms including under an indemnity shall be limited in the aggregate to AUD \$1000.

**12.2** In no event will either party have any liability to the other or to any Users for any loss of profits, loss of revenue, loss of anticipated savings, loss of opportunity, loss of data, loss of reputation or goodwill or for any loss that does not arise naturally and according to the usual course of things as a result of the breach of these Terms or other event giving rise to the loss or damage including indirect, special, incidental, consequential, cover or punitive damages however caused, and whether or not the party has been advised of the possibility of such damages.

**12.3** The limitations and exclusions in these Terms including under this Section 12 apply with respect to all legal theories, whether in contract (including under indemnity), tort, negligence or otherwise, and to the extent permitted by law.

## **13. Survival**

The following sections shall survive any termination or expiration of these Terms: Section 7 (*Intellectual Property Rights*), Section 12 (*Limitation of liability*), Section 13 (*Survival*), Section 14 (*Miscellaneous*) and Section 15 (Governing law and dispute resolution).

## **14. Miscellaneous**

**14.1 Severance.** If any provision of these Terms is held to be invalid or unenforceable by any competent court, authority or arbitral tribunal, the remainder of that provision and all other provisions will remain valid and enforceable to the fullest extent permitted by applicable law.

**14.2 Force Majeure.** If and to the extent that either party's performance of its obligations under these Terms is impeded or made unreasonably onerous by circumstances beyond its reasonable control, including, but not limited to, general labour disputes, war, fire, lightning, flood, pandemics, epidemics, quarantine, virus outbreaks, acts of terrorism, amendments to regulations issued by governmental authorities, intervention by governmental authorities, such party shall be released from liability in damages for delay in performing or failure to perform such obligations during the period of such circumstances. The party wishing to claim relief by reason of any such circumstance as referred to in this Section 14.2, shall without undue delay notify the other party in writing. If such notice is not provided without undue delay the right to rely on such circumstance is lost. If performance is materially prevented for more than one (1) month as a result of any of such circumstances, the party not affected by force majeure shall be entitled to immediately terminate the Terms by notice in writing.

**14.3 Waiver.** The failure of either party to enforce at any time for any period of any one or more terms shall not be a waiver of such term(s) or of the right of such party at any time subsequently to enforcement.

**14.4 Transfer and assignments.** You may not assign or delegate in whole or in part your rights and obligations under these Terms without our prior written consent, which shall not be unreasonably withheld. We shall have the right to transfer our rights or obligations under these Terms to any Volvo Group company upon notice but without your consent.

**14.5 Entire agreement.** These Terms together with the Platform Account Privacy Notice constitute the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter. Notwithstanding any language to the contrary therein, no terms or conditions stated in a purchase order, vendor onboarding process or web portal, or any other order documentation will be incorporated into or form any part of these Terms, and all such terms or conditions will be null and void. To avoid doubt, the international convention for the sale of goods is also excluded from these Terms.

**14.6 Publicity.** A party shall not be entitled to use the other party's company name, trademark, or logo as a reference for marketing or promotional purposes in public or private communication with existing or potential customers, without such party's prior written approval.

**15. Governing law and dispute resolution**

**15.1** These Terms (including Section 15.2) and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with the laws of Queensland, Australia excluding its conflict of laws principles providing for the application of the laws of any other jurisdiction.

**15.2** Any dispute, controversy or claim arising out of, or in connection with, these Terms, or the breach, termination, or invalidity thereof, or any non-contractual obligations arising out of or in connection with these Terms ("**Dispute**"), shall be finally settled by arbitration. Neither party may commence any arbitration or court proceedings relating to a Dispute (except to seek urgent interlocutory relief) unless the parties have first attempted to resolve the Dispute using reasonable endeavours for a period of up to 14 days after the Dispute is notified to a party. Arbitration shall be administered by the Australian Centre for International Commercial Arbitration (ACICA). The ACICA Rules for Expedited Arbitrations shall apply, unless the institute – taking into account the complexity of the case, the amount in dispute and other circumstances – determines, in its discretion, that the ACICA Arbitration Rules shall apply. In the latter case, the institute shall also decide whether the arbitral tribunal shall be composed of one or three arbitrators. All arbitrators shall be appointed by the institute. The seat of arbitration shall be Brisbane, Queensland. The language of the arbitration shall be English (unless otherwise agreed by the disputing parties).

All arbitral proceedings conducted pursuant to Section 15.2, all information disclosed and all documents submitted or issued by or on behalf of any of the disputing parties or the arbitrators in any such proceedings as well as all decisions and awards made or declared in the course of any such proceedings shall be kept strictly confidential and may not be used for any other purpose than these proceedings or the enforcement of any such decision or award nor be disclosed to any third-party without the prior written consent of the party to which the information relates or, as regards to a decision or award, the prior written consent of all the other disputing parties.

**16. Group benefit**

Volvo CE enters into each provision of these Terms that is expressed for the benefit of Volvo CE and the Volvo Group and any affiliate or member of the Volvo Group on Volvo CE's own account and on trust for the Volvo Group.