



TERMS AND CONDITIONS REGARDING BIM SERVICES

I. INTRODUCTION

These terms and conditions (“Terms”) govern access and use of the JLG Building Information Modeling services (the “BIM Services”) provided by JLG EMEA B.V. (“JLG”) to a BIM Customer as a BIM Services’ customer (“BIM Customer”). When BIM Customer accesses or uses the BIM Services, BIM Customer agrees to all of these Terms. BIM Customer’s use of the BIM Services is also subject to JLG’s privacy policy (“Privacy Policy”). We, JLG, ask that BIM Customer reads these Terms carefully. These Terms apply to use of the BIM Services by the BIM Customer. If BIM Customer agrees to these Terms on behalf of a company or other entity, BIM Customer warrants and represents that BIM Customer is the employee, agent or authorized representative of that company or entity and that BIM Customer has the authority to enter into these Terms on behalf of that company or entity. If BIM Customer does not agree to any of these Terms JLG is unwilling to permit BIM Customer to use the BIM Services and requests that BIM Customer immediately stops using or engaging in any activity concerning the BIM Services.

II. DEFINITIONS

To assist BIM Customer in understanding these Terms please note the definitions hereunder:

Affiliates: Any entity, individual, firm or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with JLG EMEA B.V.

BIM Customer: Any person or employee or representative of an entity registered with an account with JLG for BIM Services.

BIM Customer’s Employees: Employees of the BIM Customer who will be given access to BIM Services’ analytical tools.

BIM Models: Three-dimensional models embedded with data such as information content, geometry and behavior representing JLG machines.

BIMObject Cloud: The hosting site of JLG BIM Models (<http://bimobject.com>).

BIM Services: Access to and use of JLG Building Information Modeling services allowing a BIM Customer and BIM Model Users to download BIM Models.

BIM Model Users: Architects, designers, engineers, consultants and other users who download BIM Models made available by the BIM Customer.

Data Protection Laws: The Directive 95/46/EC (as amended), the General Data Protection Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of natural persons regarding the processing of personal data and on the free movement of such data and repealing the Directive (the “GDPR”) National Data Protection Laws, and any applicable laws and/or regulations implementing the GDPR.

Information: A general term which includes reference to Personal Data and non-personal data.

Personal Data: Information associated with an identified or identifiable natural person and protected as personal data under applicable Data Protection Laws.

Privacy Policy: The JLG privacy policy in place from time to time, and which governs the manner in which User’s data, including Personal Data, is collected and used. The JLG privacy policy which forms part of these Terms.

III. HOW ARE BIM SERVICES PROVIDED?

BIM Services are provided as either a) a free of charge service or b) based on two levels of paid services.

- a) The free of charge service concerns a link on the BIM Customer’s website to the BIMObject Cloud webpage, whereby BIM Model Users exit from BIM Customer’s webpage to download BIM Models.
- b) The two levels of paid services are divided as follows:
 - Service 1: A connection to BIMObject Cloud’s webpage, whereby BIM Model Users can download BIM Models, while remaining in BIM Customer’s webpage, and the provision of analytics over the use of the services by BIM Model Users.
 - Service 2: A connection to BIMObject Cloud’s webpage, whereby BIM Model Users can download BIM Models, while remaining in BIM Customer’s webpage, and the provision of analytics over the use of the services by BIM Model Users, as well as the optimization and customization of the BIM Models (which could include branding) in accordance to the BIM Customer’s preferences.

IV. GENERAL TERMS

1. Legal relationship

1.1 In order to use the BIM Services, BIM Customer is required to register an account. To do this BIM Customer must agree to these Terms and to the Privacy Policy. As stated above once BIM Customer agrees and accepts these Terms BIM Customer is bound by the same and has entered into a contract with JLG for the BIM Services.

1.2 As part of the registration of a BIM Customer account, and occasionally as part of BIM Customer’s continued use of the BIM Services, BIM Customer will be required to provide Information about BIM Customer’s company and BIM Customer’s Employees such as identification or contact details. BIM Customer warrants and agrees that any Information BIM Customer provides will always be accurate, correct and up to date. BIM Customer can correct and/or update BIM Customer’s Information by accessing BIM Customer’s account. BIM Customer shall ensure that any consent required by Data Protection Laws regarding the sharing of Information belonging to BIM Customer’s Employees shall be legally obtained.

1.3 BIM Customer may not use the BIM Services and BIM Customer may not accept these Terms if BIM Customer is not competent on behalf of BIM Customer’s company to enter into a legal agreement.



TERMS AND CONDITIONS REGARDING BIM SERVICES

2. Provision of the BIM Services

2.1 JLG is constantly innovating and refining the BIM Services in order to provide the best possible experience for its BIM Customers. BIM Customer is aware, acknowledges and agrees that the form, nature and content of the BIM Services may change from time to time without the requirement of prior notice to be sent to BIM Customer.

2.2 As part of the continuing innovation, BIM Customer is aware, acknowledges and agrees that BIMobject Cloud may stop (permanently or temporarily) providing services to JLG (or any features within the BIM Services) at BIMobject Cloud's sole discretion, without prior notice to JLG or the BIM Customer.

2.3 BIM Customer is aware, acknowledges and agrees that if JLG disables access to BIM Customer's account, BIM Customer will be prevented from accessing the BIM Services, any part of the BIM Services, BIM Customer's account details or any files or other content which is contained in BIM Customer's account.

3. BIM Customer's use of the Services

3.1 BIM Customer may use the BIM Services to allow BIM Users to download JLG BIM Models from BIMobject Cloud.

3.2 BIM Customer agrees that BIM Customer will not reproduce, duplicate, copy, sell, trade or resell any JLG BIM Models and/or content for any purpose.

4. Account integrity

4.1 BIM Customer is aware, acknowledges and agrees that BIM Customer is responsible for maintaining the confidentiality of passwords associated with the account BIM Customer uses to access the BIM Services.

4.2 BIM Customer specifically agrees that BIM Customer will (i) use commercially reasonable efforts to prevent unauthorized access to or use of the BIM Services; (ii) promptly notify JLG if BIM Customer becomes aware of or reasonably suspects any illegal or unauthorized activity or a security breach involving BIM Customer's account, including any loss, theft, or unauthorized disclosure or use of a username, password, or account.

5. Privacy and BIM Customer's Personal Data

5.1 BIM Customer's access to and use of the BIM Services are also subject to the Privacy Policy. It forms an essential part of these Terms and by accepting these Terms BIM Customer agrees to the use of BIM Customer's personal data in accordance with the Privacy Policy. It is of the utmost importance that BIM Customer reads the Privacy Policy carefully and ensure that BIM Customer is satisfied with same prior to accepting these Terms.

IF BIM CUSTOMER DOES NOT AGREE TO OR HAS ANY RESERVATIONS REGARDING THE CONTENT OF THE PRIVACY POLICY, BIM CUSTOMER MUST NOT USE THE JLG BIM SERVICES.

6. Content of the Services

6.1 BIM Customer is aware, acknowledges and agrees that JLG BIM Models and content are provided by JLG and all information included in JLG BIM Models which BIM Model Users may have access to as part of, or through BIM Customer's use of the BIM Services, are the sole responsibility of JLG. BIM Customer is also aware, acknowledges and agrees that JLG has no obligation, yet reserves the right, to pre-screen, review, flag, filter, modify, refuse or remove any or all JLG BIM Models from the BIM Services.

6.3 BIM Customer is aware, acknowledges and agrees that any content presented to BIM Customer as part of the BIM Services, including but not limited to JLG BIM Models, are protected by intellectual property rights which are owned by or licensed to JLG and/or Affiliates.

6.4 BIM Customer may not reverse engineer, modify, rent, lease, loan, sell, distribute or create derivative works based on the content referred to under Section 6.3 (either in whole or in part) unless BIM Customer has a specific agreement in writing with JLG allowing such actions.

7. Proprietary rights

7.1 BIM Customer is aware, acknowledges and agrees that JLG and/or Affiliates owns all legal right, title and interest in and to the JLG BIM Models, including any intellectual property rights which subsist therein (whether those rights happen to be registered or not, and wherever in the world those rights may exist) and that BIM Customer does not acquire any right, title or interest in or to the JLG BIM Models unless expressly set forth in these Terms.

7.2 Nothing in these Terms give BIM Customer a right to use any of JLG or Affiliates trade names, trademarks, service marks, logos, domain names or other distinctive brand features, unless otherwise agreed in writing with JLG.

8. External links

8.1 The BIM Services include hyperlinks to the BIMobject Cloud websites, content or resources.

8.2 BIM Customer is aware, acknowledges and agrees that JLG is not responsible for the availability of any external sites (including any third-party application) content or resources, and is not liable for any loss or damage which may be incurred by BIM Customer as a result of the availability of those external sites, content or resources, or as a result of any reliance placed by BIM Customer on the completeness, accuracy or existence of any advertising, products, information or other materials on, or available from, such web sites, content or resources.

9. Term and termination

9.1 These Terms enter into force on the date BIM Customer first agrees to them and will continue in force thereafter until terminated by either BIM Customer or JLG as set out below. Upon termination of these Terms for any reason, BIM Customer must immediately cease using BIM Services.

9.2 If BIM Customer wants to terminate these Terms BIM Customer may do so by providing notice to JLG.

9.3 JLG may, at its sole discretion, at any time and for any reason, including a period of account inactivity, terminate these Terms and/or BIM Customer's use of the BIM Services and/or suspend or terminate BIM Customer's account. In the event of termination, BIM Customer's account will be disabled, and BIM Customer may not be granted access to BIM Customer's account or any files or other content contained in BIM Customer's account although residual copies of information may remain in our system.

9.4 When these Terms come to an end, all of the legal rights, obligations and liabilities that BIM Customer and/or JLG have benefited from, been subject to or which have accrued over time whilst these Terms have been in force or which are expressed to continue indefinitely shall be unaffected by this cessation, and the provisions of Section 14 shall continue to apply to such rights, obligations and liabilities indefinitely.

10. Indemnity

BIM Customer agree to hold harmless and indemnify JLG, its Affiliates, subsidiaries and each of their respective directors, officers, agents, and employees from and against any third party claim arising from or in any way related to BIM Customer's use of the BIM Services, any JLG BIM Models, violation of these Terms or any other actions connected with BIM Customer's use of the BIM Services, any JLG BIM Models, including any liability or expense arising from all claims, losses, damages (actual and consequential), suits, judgments, litigation costs and attorneys' fees, of every kind and nature. In such a case, JLG will provide BIM Customer with written notice of such claim, suit or action. JLG shall have the right to participate, at its own expense, in the defense of any claim. BIM Customer shall not agree to any settlement of any claim as set out above without the prior written consent of JLG.



TERMS AND CONDITIONS REGARDING BIM SERVICES

11. Exclusions of Warranties

11.1 NOTHING IN THESE TERMS, INCLUDING SECTIONS 11 AND 12, SHALL EXCLUDE OR LIMIT JLG WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE LIMITATIONS WHICH ARE LAWFUL IN BIM CUSTOMER'S JURISDICTION WILL APPLY TO BIM CUSTOMER AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

11.2 BIM CUSTOMER IS EXPRESSLY AWARE, ACKNOWLEDGES AND AGREES THAT BIM CUSTOMER'S USE OF THE BIM SERVICES IS AT BIM CUSTOMER'S SOLE RISK AND THAT THE BIM SERVICES AND ALL ITS ASSOCIATED CONTENT, INCLUDING JLG BIM MODELS, ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND FREE OF CHARGE, OR AS A PAID SERVICE, WHEN AGREED UPON BETWEEN JLG AND BIM CUSTOMER.

11.3 IN PARTICULAR, JLG, ITS SUBSIDIARIES, AFFILIATES, AND LICENSORS DO NOT REPRESENT OR WARRANT TO BIM CUSTOMER THAT: (i) BIM CUSTOMER'S USE OF THE SERVICES WILL MEET BIM CUSTOMER'S REQUIREMENTS; (ii) BIM CUSTOMER'S USE OF THE BIM SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR; (iii) ANY INFORMATION OBTAINED BY BIM CUSTOMER AS A RESULT OF BIM CUSTOMER'S USE OF THE BIM SERVICES WILL BE ACCURATE OR RELIABLE; (iv) DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO BIM CUSTOMER AS PART OF THE SERVICES WILL BE CORRECTED; AND (v) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY BIM CUSTOMER IN RELATION TO THE BIM SERVICES WILL MEET BIM CUSTOMER'S EXPECTATIONS.

11.4 ANY MATERIAL, INCLUDING BUT NOT LIMITED TO ANY JLG BIM MODELS AND/OR CONTENT, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE BIM SERVICES IS DONE AT BIM CUSTOMER'S USER'S OWN DISCRETION AND RISK AND BIM CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO BIM CUSTOMER'S COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF ANY SUCH MATERIAL.

11.5 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY BIM CUSTOMER FROM JLG OR THROUGH OR FROM THE BIM SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

11.6 JLG FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

11.7 BIM CUSTOMER IS AWARE, ACKNOWLEDGES AND AGREES THAT BIM CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION IN RELATION TO THE BIM SERVICES IS TO CEASE USING THE SERVICE.

11.8 JLG DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, DOES NOT SUPPORT AND DOES NOT ACCEPT ANY RESPONSIBILITY FOR ANY THIRD-PARTY APPLICATIONS (OR THE CONTENT THEREOF)

12. Limitation of Liability

12.1 SUBJECT TO OVERALL PROVISION IN PARAGRAPH 11.1 ABOVE, BIM CUSTOMER IS EXPRESSLY AWARE, ACKNOWLEDGES AND AGREES THAT JLG, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO BIM CUSTOMER FOR:

(a) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY BIM CUSTOMER, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS; RESULTING FROM:

(b) THE USE OR THE INABILITY TO USE THE BIM SERVICES, INCLUDING ANY JLG BIM MODELS AND/OR CONTENT; (ii) ANY DEFECT OR INACCURACY IN THE BIM SERVICES OR ITS ASSOCIATED CONTENT, INCLUDING BUT NOT LIMITED TO JLG BIM MODELS AND/OR CONTENT, REGARDLESS OF THE ORIGIN OF SUCH DEFECT OR INACCURACY; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF BIM CUSTOMER'S TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES; (v) ANY OTHER MATTER RELATING TO THE BIM SERVICES AND/OR ITS ASSOCIATED CONTENT, INCLUDING BUT NOT LIMITED TO JLG BIM MODELS; OR (vi) ANY OF THE ABOVE RELATING TO THIRD PARTY APPLICATIONS (OR THE CONTENT THEREOF); OR

(c) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY BIM CUSTOMER, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:

(d) ANY RELIANCE PLACED BY BIM CUSTOMER ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN BIM CUSTOMER AND ANY MANUFACTURER; (ii) ANY CHANGES WHICH BIMOBJECT CLOUD MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES); (iii) THE TERMINATION OF THESE TERMS AND/OR BIM CUSTOMER'S USE OF THE BIM SERVICES OR THE SUSPENSION OR TERMINATION OF BIM CUSTOMER'S ACCOUNT; (iv) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH BIM CUSTOMER'S USE OF THE BIM SERVICES; (v) BIM CUSTOMER'S FAILURE TO PROVIDE BIMOBJECT CLOUD WITH ACCURATE ACCOUNT INFORMATION; (vi) BIM CUSTOMER'S FAILURE TO KEEP BIM CUSTOMER'S PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL; OR (vii) ANY OF THE ABOVE RELATING TO THIRD PARTY APPLICATIONS (OR THE CONTENT THEREOF).



TERMS AND CONDITIONS REGARDING BIM SERVICES

13. Changes of the Terms

JLG may make changes to these Terms from time to time. Any changes to these Terms will be notified to BIM Customer in writing at the time of change. BIM Customer is aware, acknowledges and agrees that BIM Customer's continued use of the BIM Services after the date on which these Terms have changed as set out above will constitute BIM Customer's acceptance of the changed Terms.

14. General provisions

14.1 BIM Customer is aware, acknowledges and agrees that these Terms constitute the entire agreement and understanding between BIM Customer and JLG relating to the subject matter hereof and supersedes all written or oral commitments, undertakings and agreements which have preceded these Terms.

14.2 BIM Customer is aware, acknowledges and agrees that any amendment, change or modification of these Terms, other than as set out above, may only be made by a written agreement between the parties.

14.3 BIM Customer is aware, acknowledges and agrees that in no event shall any delay, failure or omission of a party in enforcing, exercising or pursuing any right, claim or remedy under this agreement be deemed as a waiver thereof, unless such right, claim or remedy has been expressly waived in writing.

14.4 If any court of law, having the jurisdiction to decide on this matter, finds that any provision of these Terms (or the application thereof) shall be declared or deemed void, invalid or unenforceable in whole or in part for any reason, that provision shall be enforced to the maximum extent permissible so as to affect the intent of these Terms and the remaining provisions of these Terms shall continue in full force and effect.

14.5 BIM Customer is aware, acknowledges and agrees that JLG may provide BIM Customer with notices, including those regarding changes to these Terms, by email, regular mail, or postings. The English language shall be the governing language in BIM Customer's relationship with JLG.

14.6 BIM Customer is aware, acknowledges and agrees that JLG shall be entitled to directly enforce, and rely upon, any provision of these Terms which confers a benefit on (or rights in favor of) them. Except as otherwise expressly provided in these Terms, there shall be no other third-party beneficiaries to these Terms.

15. Governing law and jurisdiction

15.1 These Terms, and BIM Customer's relationship with JLG under these Terms, shall, to the maximum extent permitted by applicable mandatory law in BIM Customer's jurisdiction, be governed by and construed in accordance with the substantive laws of the Netherlands.

15.2 Any dispute, controversy or claim arising out of or in connection with these Terms, or the breach, termination or invalidity thereof, shall be settled by a Dutch court of general jurisdiction and the Amsterdam District Court shall be the court of first instance.

15.3 Notwithstanding the above BIM Customer is aware, acknowledges and agrees that JLG shall always be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction and through any court of competent jurisdiction.

BY ACCEPTING THE TERMS, BIM CUSTOMER CONFIRMS THAT: BIM CUSTOMER HAS CAREFULLY READ THROUGH, HAS UNDERSTOOD AND ACCEPTS TO BE BOUND BY ALL PARTS OF THESE TERMS INCLUDING THE PRIVACY POLICY (AND ALL OF THE TERMS THEREIN REGARDING THE PROCESSING OF BIM CUSTOMER'S INFORMATION INCLUDING BIM CUSTOMER'S PERSONAL DATA).