

# ***TERMS & CONDITIONS***

This is a contract between the dealer and the customer named on the schedule. It covers the breakdown of the machine listed in the schedule when it is outside the base warranty period of the original contract issued by the manufacturer, subject to the following terms and conditions.

Only the parts listed in the coverage sheets are covered, subject to the TNS ASSURED Extended Warranty Option listed in the schedule.

## Definitions

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### ADMINISTRATOR

EPG Administration Services, a trading name of Shepherd Compello Ltd.

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### BREAKDOWN

Shall mean any electrical, hydraulic or mechanical breakdown of a covered component shown to be due solely to defective materials or factory workmanship causing sudden and unforeseen stoppage of the functions thereof and necessitating repair or replacement before it can resume work.

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### CUSTOMER

Shall mean the name of the owner (or lessee where the machine is leased) of the machine who is domiciled in selected locations worldwide.

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### REPAIRER

Shall mean any TNS approved dealership.

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### COMPONENTS

Shall mean those parts installed in the factory or genuine manufacturer parts installed by an authorised dealer.

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### REPAIR/REPLACEMENT

Shall mean the usual and reasonable charges for components and/or labour to repair or replace the machine covered by this contract exclusive of any such charges as recoverable by a dealer and any part of such charge that may exceed the Limit of Indemnity for any one claim and for the aggregate of all claims that applies to this contract.

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### LIMIT OF INDEMNITY

The maximum liability under this contract for any one machine during the period of cover shall not exceed 100% of the current market value as defined by the administrator or £500,000 (or equivalent) whichever is less in respect of any one breakdown and/or 100% of the machine value in the aggregate during the coverage period.

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### TERRITORIAL LIMITATIONS

This contract is restricted to the breakdown of machinery occurring in any country where TNS ASSURED Extended Warranty applies.

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### CLAIMS SERVICE

Shall mean an organisation representing TNS ASSURED Extended Warranty, who will investigate the cause of breakdown.

## Customer's responsibilities

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### OPERATION AND SERVICING

The customer, at their own expense, must maintain, operate and service the machine covered by this contract as indicated in its operator manual. The customer must maintain adequate records of the machine's maintenance and service history, including the use of genuine manufacturer parts.

For coverage to be operative hereunder the customer must maintain the purchased equipment to which this contract applies in accordance with the manufacturer's service and maintenance recommendations.

Only genuine manufacturer parts and consumables are to be used. Failure to meet these obligations may result in the rejection of any claim submitted and the possible avoidance of this contract.

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### SERVICE AND INSPECTION

The customer must fully service and inspect the machine covered by this contract according to the schedules and procedures laid down in the operator's manual.

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### REPAIRS

Authorised repairs must be performed by a dealer. When requesting covered repairs, the customer must present this document and, if requested, complete records of the machine's maintenance and service history/ genuine manufacturer's parts purchased.

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### PRECAUTIONS

**The customer shall ensure that:**

- a. All acts necessary to comply with any statutory obligations with regard to the machinery covered under this contract are observed;
- b. All reasonable precautions are taken to prevent any breakdown to the machinery covered under this contract.

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### ALTERATION OR MODIFICATION

The customer shall inform the dealer of any proposed alterations or modifications to the machinery and/or attachments and any proposed departure from working conditions as per design intent where specified in the relevant operator's manual. In turn the dealer must inform TNS ASSURED Extended Warranty.

## General conditions

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### **PAYMENT OF TNS ASSURED EXTENDED WARRANTY CONTRACT FEE**

The TNS ASSURED Extended Warranty contract fee is due at the point of registration. If the fee is not paid within 30 days from the date of registration then this agreement may be revoked.

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### **REFUND OF TNS ASSURED EXTENDED WARRANTY FEE**

The fee for this contract is not refundable.

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### **REPAIR / REPLACEMENT**

Subject to the terms, conditions and limitations that follow and provided that the customer has at all times observed the customer's responsibilities herein then a dealer will repair or replace, as it elects, any components of the machine covered under this contract that experience a breakdown within the territorial limits during the period of cover, without charge to the customer for parts or labour.

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### **STATUTORY AND CONTRACTUAL RIGHTS**

This contract does not preclude you from exercising your contractual, legal or statutory rights as a customer of the machine retailer or your rights under the initial manufacturer's warranty.

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### **SUBROGATION**

The Administrator shall be entitled in the event of any loss to undertake in the name and on behalf of the customer the absolute conduct control and settlement of any proceedings as its own expense and for its own benefit but in the name of the customer to recover compensation or secure indemnity from any third party in respect of anything covered under this contract.

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### **REPAIR AUTHORISATION**

Repairs may be commenced without authorisation but on the understanding that any reimbursement is dependent on a valid claim.

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### **DISMANTLING CHARGES**

Any exploratory dismantling charges will only be reimbursed as part of a valid claim, such charges must be in accordance with the manufacturing time guides and codes. It is the responsibility of the customer to authorise dismantling and to pay the charges if such dismantling proves that the failure is not the responsibility of TNS ASSURED Extended Warranty.

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### **SAFEGUARDING MACHINERY**

The customer shall take all reasonable steps to safeguard the machine covered by this contract from loss or damage and to maintain it in an efficient condition.

## General conditions

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### SERVICING

The machine covered by this contract must be serviced in accordance with the manufacturer's recommendations and within the time of the recommended intervals.

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### DISPUTE

If any dispute or complaint should arise regarding this contract then the customer can request a review of the claim by the administrator. After such review if the customer is still in dispute then the customer shall submit in writing an appeal which shall be referred to the compliance department of the administrator. Their decision is final and no further appeal will be accepted except in the case of any additional material facts coming to light. The above is in addition to your legal rights as a consumer.

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### REGISTRATION INFORMATION

The due observance and fulfillment of the terms and conditions of this contract by the customer insofar as they relate to anything to be done or complied with by the customer and the truth of the statements and answers contained in the registration and/or inspection form shall be conditions precedent to any liability of TNS ASSURED Extended Warranty to make any payment under this contract.

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### OTHER GUARANTEES

A dealer shall not be liable in respect of any claim covered by any other existing warranty, guarantee or insurance in respect of any excess beyond the amount which is payable under such warranty, guarantee or insurance.

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### FRAUDULENT CLAIMS

If any claim is fraudulent in any respect, all benefits under this contract will be forfeited.

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### REPRESENTATIONS CONTRARY TO THIS CONTRACT

TNS ASSURED Extended Warranty shall not be liable for any statements or representation, written or verbal (by whosoever made) which contradicts the terms and conditions of this contract, unless such statement or representation is supported in writing by TNS ASSURED Extended Warranty on their behalf within the limits specified in the schedule of this cover.

## General exclusions

### This contract does not cover:

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#### PREVENTATIVE PROCEDURES AND RECALL COSTS

The cost of establishing preventative maintenance procedures or the cost of recall by the manufacturer of the machinery covered under this contract or any part thereof nor the cost of alterations, additions, improvements or overhauls.

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#### CONSEQUENTIAL LOSS

Loss of use of the machinery covered under this contract or any other consequential loss, penalties for delay or detention, or in connection with guarantees of performance or efficiency, or any legal liability of whatsoever nature.

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#### APPLICATION OF TOOLS, EXTRANEEOUS DAMAGE

##### Any Breakdown:

- a. caused by the application of any tool or process during the course of maintenance, inspection, modification or overhaul;
- b. due to fire, lightning, explosion, extinguishing of a fire or subsequent demolition, aircraft or other aerial devices or articles dropped therefrom, theft or attempted theft, collapse of buildings, flood inundation, escape of water from water containing apparatus, earthquake, subsidence, landslide, avalanche, hurricane, cyclone, volcanic eruption, or similar natural catastrophes;
- c. due to vandalism, malicious damage or similar acts;
- d. any external influences.

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#### WEAR AND TEAR

The cost of remedying or making good or loss or damage arising out of the normal wearing out or wearing away or any part of the machinery or its degradation or the reduction in operational performance due to working stresses, abrasion, erosion or corrosion which are not attributable to defects in materials.

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#### PRE-EXISTING FAULTS

Any breakdown where the fault(s) could be reasonably stated by a suitably qualified engineer to have existed before the commencement of the cover period.

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#### PREVIOUS REPAIR

Any loss arising from any incomplete, ineffective or inappropriate repair.

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#### REPEAT FAILURES

Recurring failures occurring within 500 hours or six months of one another.

## General exclusions

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### TRANSPORTATION

Any costs associated with transporting the machine covered under this contract for the purpose of maintenance and/or repair.

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### TACHOGRAPH

Any breakdown where the tachograph/hourmeter/odometer has been tampered with, altered, disconnected or is not working and has not been reported to TNS ASSURED Extended Warranty.

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### MANUFACTURERS SPECIFICATION

Any loss or damage resulting from alteration or modification from the manufacturer's specification.

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### TRADE OWNERSHIP

Machines which are owned temporarily or otherwise (resulting from trade in or acquisition for the purpose of resale) by a business involved in the selling or servicing of the range of machinery covered by this contract.

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### INTENTIONAL ACTS

#### Any Breakdown caused by:

- a. intentional act or willful neglect by the customer;
- b. the imposition of abnormal conditions directly or indirectly resulting from:
  - I. Intentional overloading of covered machinery;
  - II. Experiments involving the imposition of any abnormal conditions on covered machinery.
  - III. Testing of any kind.
  - IV. Use of machine other than which the machine is intended for.
  - V. Adjustment to the machine's hydraulic settings or the machine's governing software other than stated by the manufacturer.

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### MAINTENANCE

- a. Any breakdown to machinery covered under this contract that has not been serviced in accordance with the manufacturer's recommended standards.
- b. Any loss or damage, which in the opinion of a qualified engineer appointed by TNS ASSURED Extended Warranty was caused wholly or partially from a lack of maintenance, abuse or neglect in taking preventive steps or overloading or over revving of the machine's engine (governor seals must be intact).
- c. Expenses associated with routine maintenance and/or replacement of service items, consumable such as oils, filters, coolants and the like, and normal wear items (unless required to repair a covered defect).



## General exclusions

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### BETTERMENT

Costs incurred for the betterment of the machine covered under this contract or its components.

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### OVERTIME CHARGES

Charges for overtime labour requested by the customer.

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### REPLACEABLE PARTS, NON STANDARD PARTS AND ADJUSTMENTS

**The cost of remedying making good or replacing:**

- a. Ground engaging gear / components including but not limited to metal and rubber tracks and bucket teeth.
- b. Parts subject to wear and tear or considered expendable or which may require renewal periodically under normal operational conditions including, but not confined to:
  - I. Powertrain – Filters, Rocker Cover Gaskets, Fanbelts, Drive Belts, Fans, Dry Plate Clutches, Release Bearings, Track Rod Ends, Wheel Nuts and Studs, Tubes, Track Running Gear and Track Plates
  - II. Electrics – Bulbs, Fuses, Battery(ies), Lamps, Lenses, in- cab entertainment units
  - III. Hydraulics – Filters, Hoses and Hose Clamps
  - IV. Fuel Injection – Filters, Injectors and contaminated fuel
  - V. Braking System – Discs, Friction and Counter Plates, Brake Pads (including Handbrake) and Cables
  - VI. Miscellaneous – Wiper Blades and Arms, Glass, Seat, Cab Trim, Seat Belts, Weather Strips, Rubber Seals, Door Gas Struts, Handles, Tyres, Locks, Hinges, Mirrors, Bodywork and Paintwork, Boom Wear pads, Pins and Bushes, Drive Belts, Air Conditioning charge/pressure, Receiver Dryers, Hose Clamps, Cab Filters, Fork Lift Mast Chains, Lift Forks, Buckets, Teeth, Side cutters, Toeplates, Tow Hitches and Tow Bars; All attachments fitted to the Dipper, Boom and Loader Arms; Boom Pads and Bolts, Paint, Cab and Canopy Fittings, glass, Door Locks, All Hoses and the like.
  - VII. Working Items – Oils, Grease, Filters, Antifreeze
  - VIII. Service items and other components subject to routine maintenance or periodic repair or replacement.
- c. Any goods or parts thereof on which the manufacturer's identifiable number or marks have been removed.
- d. Any second-hand goods or parts thereof.
- e. Components not approved by the manufacturer.
- f. Any defects and/or damage attributable to an error in the assembly of goods where such goods are supplied in sections which require to be assembled.
- g. Any parts which have not failed unless, it is known good engineering practice to do so, and recommended by the manufacturer.
- h. Any adjustments, recalibration or loading/updating of software where there is no breakdown or physical part damage.

## General exclusions

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### EXCLUDED COMPONENTS

All components / systems **NOT** listed in the coverage sheet.

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### DUAL LIFTS

Any breakdown caused by any operation in which a load is shared between any item of machinery covered under this contract classed as a lifting plant and any other lifting equipment.

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### NON STANDARD COMPONENTS

Any breakdown due to failure to comply with the manufacturer's instructions or the use of components or attachments not approved by the manufacturers.

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### DEFECTIVE DESIGN

Any breakdown due to defective design.

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### OBSOLETE PARTS

Any increase in cost above the manufacturer's last published list price for replacing a failed part which is no longer available from the OEM under their original part number.

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### PENALTIES

Penalties for any delay or detention, liquidated damages or any other consequential loss, damage or liability unless expressly covered by this contract.

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### CONTRACTUAL LIABILITY

Any liability which attaches by virtue of an agreement which would not have attached in the absence of the agreement other than as provided for herein.

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### WAR RISKS

Any consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

## General exclusions

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### TERRORIST ACTS

Loss or damage by fire or explosion directly or indirectly occasioned by or happening through or in consequence of civil commotion and/or terrorism.

For the purposes of this contract, terrorism shall mean any act of any person acting on behalf of or in connection with any organisation with activities directed towards the overthrowing or influencing of any government de jure or de facto by force or violence. In any action suit or other proceedings where a dealer alleges that by reason of this definition any loss or damage is not covered by this contract the burden of proving that such loss or damage is covered shall be upon the customer.

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### NUCLEAR RISKS

- a. Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss.
- b. Any legal liability of whatsoever nature;

directly or indirectly caused by or contributed to by or arising from

- I. Ionising radiations or contaminations by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
- II. The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

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### SONIC BANG

Loss, destruction or damage directly occasioned by pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

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### PERIOD OF THE WARRANTY

Any occurrence before the commencement date and after the expiry date as stated in the schedule or any loss covered by the manufacturer's original warranty.

## Termination of contract

**TNS ASSURED Extended Warranty is relieved of its obligations under this contract if:**

- a. service (other than normal maintenance and replacement of service items) is performed by someone other than an authorised dealer; or
- b. the machine is altered or modified in a way not approved by the manufacturer; or
- c. the machine's hourmeter, tachograph or odometer has been rendered inoperative or otherwise tampered
- d. with; or
- e. the machine is removed from the territory in which this contract applies.
- f. the purchased equipment is not maintained in accordance with the manufacturer's recommendations and at an approved Manufacturer repair facility.
- g. if genuine manufacturer parts and consumables are not used.

## Transfer of TNS ASSURED Extended Warranty upon resale

**Any unexpired portion of this contract may be transferred, on one occasion, to a subsequent purchaser of the machine only if:**

- a. the subsequent purchase is made before the expiry date of this contract.
- b. the machine is determined to be in satisfactory condition following an inspection performed by an authorised dealer in accordance with a dealer's instructions at the subsequent purchaser's expense; and that transfer documentation, upon forms furnished by the authorised selling dealer, are properly completed and submitted for confirmation along with the inspection report; and
- c. written confirmation of the transfer along with an amended contract is received by the subsequent purchaser.

## Claims procedures

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### CONTACT

Contact your dealer from whom this contract was issued or any other TNS ASSURED approved dealership, to organise an inspection of the machine covered under this contract to ascertain the cause of failure. Please be prepared to hand the following documents to a dealer:

- a. This contract.
- b. Proof of servicing, including the use of genuine manufacturer parts.

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### CAUSE ESTABLISHED

A dealer will establish the cause of the breakdown, and check that the component(s) directly causing the failure are covered by this contract.

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### RETENTION OF PARTS

A dealer will be obliged to retain all replaced parts, after settlement of the claim or otherwise authorised, for a maximum period of 90 days unless otherwise instructed by TNS ASSURED Extended Warranty.

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### MILEAGE AND TRAVEL TIME

Costs for mileage or travel time will not be reimbursed.

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### EXPERT ASSESSMENT

TNS ASSURED Extended Warranty reserve the right to examine the machine covered under this contract and subject the damage to expert assessment before commencement of any repairs and/or replacements within 24 hours of claims notification. It shall be clearly understood and agreed that in the event of any dispute arising as to the extent of the liability of a dealer the decision of the assessor shall be final and binding on both a dealer and the customer.

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### COMPLETION OF REPAIRS

Following completion of repairs, the completed claim form, invoice, and any supporting documents (this may include this document) will be forwarded by the repairing dealer for reimbursement. Where necessary, the documents will be posted back to the customer following review by TNS ASSURED Extended Warranty; please check they are intact. Any additional costs not covered hereby, or in excess of the terms of this contract, must be settled directly with a dealer at the time of repair. A dealer forwarding the documentation on your behalf will be deemed to have authority to receive payment direct for the cost of repair and/or replacement.

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### SUBMISSION TIMES

For a claim to be considered, final claim details must be submitted within 30 days of the completion date of the equipment repair.