

# General Terms and Conditions for Purchase of LCS Cablecranes Ltd.

Valid as of September 2024

These present General Terms and Conditions have primarily been drawn up for legal transactions between companies. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 is expressly excluded.

## 1 INTRODUCTION

- 1.1 Unless the contracting parties have expressly agreed otherwise in writing, the present General Terms and Conditions shall apply.
- 1.2 The contracting parties are hereinafter referred to as Purchaser and Contractor, or individually as Party and together as Parties.

## 2 CONCLUSION OF CONTRACT

- 2.1 All quotations or proposals of Contractor are subject to change without prior notice and without obligation. The validity expires automatically 30 (thirty) days after quotation / proposal date. Contractor reserves the right to prior sale.
- 2.2 A contract shall be deemed to have been made upon receipt of the written statement of acceptance associated with the offer or written order confirmation. Assembly is only included if it is explicitly confirmed in writing.
- 2.3 Purchaser's purchase conditions shall only be binding upon Contractor if Contractor has accepted them separately.
- 2.4 Any modification and amendment of the contract shall be confirmed in writing to become effective.
- 2.5 Contractor reserves the right to replace, at any time during the contract period, a part of the goods with an equivalent item due to substantial special design-and-development-related reasons.
- 2.6 If import and/or export licenses or foreign currency permits or other authorizations are required for the performance of the contract, Purchaser shall make every reasonable effort to obtain the necessary licenses or permits in due time.
- 2.7 Purchaser may not transfer any rights arising out of the contract to a third party without the prior written approval of Contractor.

### 3 DRAWINGS, DOCUMENTS & TOOLS

- 3.1 All data on weights, measures, content, price, or performance, as contained in catalogues, brochures, circular letters, advertisements, graphic presentations, price lists or alike, shall only be definitive if the contract expressly refers to them. Generally, the data is only an approximate indication and therefore non-binding.
- 3.2 Drawings, design drafts, cost estimates and other technical documents, as well as samples, catalogues, brochures, graphic presentations or alike shall always remain the intellectual property of Contractor. Any use, copying, reproduction, dissemination, and transfer to third parties, as well as any publication and presentation thereof may only be made with the express approval of the owner.
- 3.3 Unless otherwise agreed, Contractor shall retain possession and ownership of the tools, equipment, moulds, auxiliary tools, etc., required or manufactured for the performance of the contract. To the extent such tools or equipment can be specifically used solely for the respective products manufactured for Purchaser, such tools and equipment shall be solely used within that scope.

### 4 PACKAGING

Unless other arrangements have been agreed upon

- a) the listed prices are without packaging;
- b) the goods are packaged according to general trade practice to avoid, under normal transport conditions, any damage to the goods on their way to the agreed destination. The goods are packaged at Purchaser's expense, and the packaging material will only be taken back if agreed by the Parties.

### 5 DELIVERY & PASSAGE OF RISK

- 5.1 Unless otherwise agreed by means of contract, the goods shall be deemed to have been sold "ex works" (EXW) (ready for collection). The Parties can agree on another INCOTERM where Contractor shall arrange (or part of) the transportation to Purchaser. The INCOTERMS shall apply in the version valid on the date when the contract is concluded.
- 5.2 In the absence of any other agreement, the period of delivery of goods shall begin at the latest of the following dates:
- a) the date when the contract is concluded,
  - b) the date on which Purchaser has complied with all technical, commercial and financial preconditions,
  - c) the date on which Contractor has received a payment on account that is due prior to the delivery of the goods, or a commercial letter of credit has been issued.
- 5.3 Contractor shall have the right to make partial or advance deliveries.

- 5.4 If Contractor is arranging the transport or parts of it, Contractor can never be held liable for a delay in delivery/transportation and/or damage for the sold goods during transportation, unless caused by Contractor's gross negligence or wilful misconduct.
- 5.5 If Purchaser does not accept the goods supplied or the assembly works performed in the contractually agreed place or at the contractually agreed time, and if no reason for relief according to Article 15 applies, Contractor may either demand the performance of the contract or withdraw from the contract, granting a respite. In any event Purchaser is obliged to pay damages in full.
- 5.6 If the goods are not delivered collectively, as contractually agreed, and consequently have been segregated due to a reason caused by Purchaser, Contractor may store the goods at Purchaser's cost and risk. Contractor shall also be entitled to claim a refund for any justified expenses that Contractor had to incur in connection with performing the contract and that are not covered by the payments received. This precludes all other claims against Purchaser due to the segregation caused by Purchaser.
- 5.7 If Contractor has caused a delay in delivery or the assembly, Purchaser may either demand the performance of the contract or withdraw from the contract, granting a reasonable respite. In case of custom-made goods according to the order, it shall be considered, when setting a respite, that Contractor probably might not use these goods for another purpose.
- 5.8 If a delivery or the assembly is delayed on account of a circumstance on Contractor's part that constitutes a reason for relief according to Article 15, a reasonable extension of the period of delivery or assembly shall be granted, without default being incurred.
- 5.9 In the event of non-compliance with the delivery or assembly period caused by the Contractor, Contractor shall refund Purchaser for any dunning and collection costs arising as further damage due to the delay.
- 5.10 Any other claim of Purchaser against Contractor, due to Contractor's delay, than those listed in Article 5 shall be precluded.
- 5.11 If Contractor has to withdraw or re-dispatch its assembly operators due to a suspension of the assembly which is not caused by Contractor, the costs arising thereby have to be borne by Purchaser.
- 5.12 In case Contractor's assembly personnel cannot work on full shifts through no fault of themselves, invoicing is still affected for all legal working hours.
- 5.13 If Purchaser insists that the assembly is performed even in case of unfavourable weather, any liability for a damage arising thereby passes to the Purchaser.

## **6 PRECAUTION OF THE PURCHASER REGARDING THE ASSEMBLY**

- 6.1 In case of the performance of assembly services by Contractor, Purchaser has to initiate in a timely manner, prior to the commencement of the assembly works, but also meanwhile, and on its own cost and risk, all preparations and preliminaries with respect to personnel and material which are necessary for the properly start of the assembly works, their failure-free performance and orderly finalization.
- 6.2 If not stipulated to the contrary, this includes at least the respective constructional provisions of the construction site, the supply with the necessary devices, tools, instruments, locker rooms and sanitary

facilities and other gadgets, required auxiliary supplies and working material, unskilled labour, etc. All necessary supply provided by Contractor is invoiced separately.

- 6.3 Since Contractor has to provide only the usual hand tools, the use of all other special tools and features, which cannot be provided by Purchaser and consequently are supplied by Contractor, are invoiced separately, together with the costs for the transport and backhaul, on the basis of an extra agreement.

## **7 INSURANCE & CUSTODY OF THE PURCHASER**

In case of assembly works performed by Contractor, Purchaser has to provide sufficient custody for all materials provided by the Contractor and personal equipment of the assembly personnel and is liable until complete finalization of the assembly works or the clearance and the transportation of these materials and personal equipment back to Austria. If a damage, destruction or loss of these materials and personal equipment occurs due to a force majeure event Purchaser is also liable. Security instructions and other hazard notes are conducted by Purchaser as well as provisions regarding fire protection.

## **8 IMMINENT DANGER**

In case of imminent danger, the approval of Purchaser is assumed for such services which were necessary for the performance of the order but for which the approval of Purchaser could not be achieved in due time. Purchaser must be informed as soon as possible about the performance of these services which were not part of the order. Since these services of Contractor were inevitable, they must be accepted and compensated by Purchaser. Contractor has to invoice these services separately and disclose them in detail.

## **9 ACCEPTANCE TEST IN CASE OF ASSEMBLY**

- 9.1 If the performance of an acceptance test is contractually agreed between the Parties, Contractor has to inform Purchaser in writing about the readiness of the goods to be delivered, with the exception of spare parts and service work, or the readiness to accept the performed assembly. Such notification shall be given in good time and include a date of acceptance testing which enables Purchaser to prepare itself in due course for the testing or to be represented at the testing by an authorized person who shall be notified in advance to Contractor. Purchaser undertakes to participate in the acceptance testing during the normal working hours. In the event of inspection by the public authorities, such inspection will be deemed to be equivalent to acceptance by Purchaser.
- 9.2 An acceptance report on the acceptance test shall be prepared by Contractor.
- 9.3 In the event of Purchaser or its authorized representative not attending the acceptance test despite having been notified in due time, Contractor shall prepare the acceptance report by itself and sign it. Purchaser shall receive a copy of the acceptance report. In such cases, Purchaser shall not be entitled to object to the accuracy of the acceptance report.
- 9.4 Purchaser shall bear all costs (personnel costs, costs for equipment, material, auxiliary supplies) incurred in connection with the acceptance test performed.

- 9.5 If only immaterial defects (defects that do not significantly impair the function and/or purpose of the goods delivered or the assembly) are detected during the acceptance test, the goods delivered or the assembly performed will, at all events, be deemed accepted.
- 9.6 If material defects are detected during the acceptance test, Contractor shall remedy such defects without delay. After remedying, Purchaser shall receive a notice of remedying, and a new acceptance test shall be performed as well as a new acceptance report prepared by Contractor.
- 9.7 With receipt of the acceptance report or the operation and maintenance manual, Purchaser declares to have fully and adequately informed itself and its employees about the handling, operating, product-related use and maintenance of the goods delivered, or the assembly performed.

## 10 PRICE & TAXES

- 10.1 Unless otherwise agreed, all prices shall be in Euro, ex works of Contractor, exclusive of Value added tax (or similar taxes, dues, and duties), documents and packaging. If the Parties decide that Contractor shall arrange the transportation of the goods to Purchaser based on the selected INCOTERM, the costs for transportation are to be received by Contractor prior to actual delivery.
- 10.2 Where applicable, Contractor will charge Value added tax and other government levies in accordance with applicable (international) laws and regulations, if necessary, retrospectively.
- 10.3 Unless agreed otherwise, the salary of the assembly workers during the normal working hours (which correlate to the legal weekly working hours) is included in the price for the assembly.

Not included in the price for assembly are:

- a) Travel costs of the assembly workers
- b) Arising accommodation allowance and overnight stays (including catering according to European standard)
- c) Costs arising due to subsequent amendments with regards to the material but also the time
- d) Value added tax
- e) Work done besides the normal working hours.

- 10.4 Costs for maintenance, repair, spare parts, lubricants, diesel fuel and other consumables are not included in the price and must be borne by Purchaser separately.
- 10.5 Where withholding tax is applicable, Purchaser is obliged to inform Contractor respectively prior to the contract and Contractor is entitled to change the conditions of its quotation / proposal. A signed proof of payment by Purchaser of the withholding tax is mandatory. Purchaser is obliged to deliver this proof of payment to Contractor within 30 (thirty) days from payment of such tax. In case of delay or when the absence of this proof of payment leads to extra costs and/or non-deductible taxes for Contractor these costs will be charged to Purchaser.

10.6 When a contract is made with the prices being left open, the price shall be calculated based on the sales price valid on the day of delivery or the price valid at assembly.

## 11 PAYMENT & OWNERSHIP

11.1 Payments shall be made in compliance with the agreed conditions of payment. Unless specific conditions of payment have been agreed upon, one third of the price shall be due immediately after entering into the contract, one third after half of the delivery period has lapsed, and the rest upon delivery. All invoices shall be paid within 30 (thirty) days after the invoice date, except the payment of the first invoice which is due immediately after invoice date.

11.2 With respect to the assembly Purchaser is obliged, if Contractor so requests, to make a sufficient down or partial payment prior to deployment of the manpower or during the assembly works. Payment of such an invoice must be made in full immediately after receipt of the invoice. All other invoices relating to the assembly are issued by Contractor at the end of each calendar month and shall be paid by Purchaser within 30 (thirty) days from invoice date.

11.3 Purchaser shall not have the right to withhold payments due to warranty claims or any other counterclaims that Contractor has not accepted.

11.4 If Purchaser defaults on one of the agreed payments or any other performance, Contractor may either insist on the performance of the contract and

- a) postpone compliance with Contractor's own obligations until Purchaser has paid the arrears in payment,
- b) use a reasonable extension of the period of delivery or performance of assembly,
- c) call for the immediate payment of all outstanding amounts and related costs (both judicial and extrajudicial) in case of a delay in payment for more than 1 (one) month – without obligation to give prior notice,
- d) the legal rate of interest in the amount of 9.2 percentage points above the base rate, whereas the base rate that applies on the first calendar day of each half year is decisive for the respective half year,

or announce its withdrawal from the contract, granting a reasonable respite.

11.5 In any event, Purchaser shall refund to Contractor all dunning and collection costs arising as a further damage to Contractor on account of the delay.

11.6 Any other claims of Contractor against Purchaser, due to Purchaser's delay, than those listed in Article 11 shall be precluded.

11.7 Contractor shall reserve the ownership in the object sold until Purchaser has met all financial obligations. Purchaser shall comply with all required measures to safeguard the reservation of ownership (especially to insure the object sold on its own costs against all damages including disruption of a machine and theft until

Purchaser has achieved full ownership of the object sold; claims out of the insurance are assigned to Contractor). Without the prior written approval of Contractor Purchaser may not make any alterations to the goods until Purchaser has met all financial obligations. Contractor is entitled to document Contractor's ownership on the outside of the delivery item. In case of attachment or another form of recourse, Purchaser shall have to claim Contractor's ownership and to inform the latter without delay.

## 12 WARRANTY

- 12.1 Contractor shall warrant for any defects in the design, the workmanship and the material provided and fitted by him, which appear within 12 (twelve) months as of the date at which the operating permit is granted, at the date as of the delivery, in case of agreed assembly by Contractor as of the end of the assembly work. Warranty is due independent as to whether the defect already existed at the time of handed over or not. Any rule on presumption is precluded.
- 12.2 Purchaser must inform Contractor immediately and in writing of any defects that have appeared to preserve its warranty claim. Defects that appear within the time frames indicated in Art. 12.1 and of which Contractor is informed without delay, may still be claimed in court by Purchaser one year after expiry of the period indicated in Art. 12.1.
- 12.3 If Contractor must warrant for defects in accordance with the aforementioned provisions, it shall comply with its warranty obligation at its choice by repairing or replacing the defect. Other means of warranty for remediable defects shall be precluded. Cancellation of the contract for non-remediable defects shall be precluded.
- 12.4 During the warranty period as stated in Art. 12.1 the Contractor shall bear the costs for its specialists for their repair or replacement work performed at construction site. Purchaser shall bear the travel costs and accommodation and catering costs for the Contractor's personnel performing replacement or repair work at any place other than the factory of the Contractor in Austria.

During the warranty period as stated in Art. 12.1 the Contractor shall bear the costs for the necessary parts / components to be repaired or replaced at construction site. Purchaser shall bear the costs for transport and import of these necessary parts / components. Upon Contractor's request, Purchaser shall immediately send any defective component, which is replaced by Contractor, at its own costs to Contractor, at Contractor's premises in Austria. The replaced components shall become Contractor's property. Warranty is due independent as to whether the defect already existed at the time of handed over or not. Any rule on presumption is precluded.

When delivering used components and used systems, Contractor shall not provide any warranty.

- 12.5 The warranty obligation does not apply to defects that arise due to non-compliance with applicable operating conditions, service and maintenance conditions, improper treatment, inappropriate maintenance, inappropriate use, or normal wear. Warranty does not extend to defects due to force majeure, excessive soiling, fire and other external impact.
- 12.6 The warranty obligation shall cease if a person not expressly authorized by Contractor makes any changes and/or repairs on the delivered or assembled system. If the repair was performed by a qualified person, and

Purchaser can prove that the repair is not the reason for the subsequent defect, the aforementioned stipulations shall not apply.

12.7 If a system is produced according to design data, surveying reports, drawings or other information provided by Purchaser, Contractor shall not be obliged to warrant for the correctness of this information, but only for the workmanship based on this information. Nor shall Contractor be obliged to check instructions by Purchaser, or documents provided by Purchaser, for their correctness. However, Contractor's duty to warn regarding obviously incorrect instructions/documents shall continue to apply.

12.8 If Contractor has fitted components provided by Purchaser, Contractor's warranty obligation shall only extend to the fitting work but not to the components/the material. Contractor shall not be obliged to examine the component provided by Purchaser/the material provided by Purchaser for its fitness. However, Contractor's duty to warn regarding obviously unfit components/materials shall continue to apply.

12.9 If components must be disassembled and assembled for improvements pursuant to Art. 12.5, Purchaser shall bear the costs thereof, if the assembly was not part of the contract.

12.10 An improvement pursuant to Art. 12.4 or 12.5 does not extend the warranty period for the entire system. The warranty period for repaired or replaced components or for improvement work shall be 6 (six) months, in any event, as of the making of the improvement or the replacement, without the foregoing restricting Art.

12.12.1 Any existing rule on presumption shall be precluded.

12.11 Purchaser shall bear the costs for downtime, loss of business, loss of revenue, any penalties, loss of profit or any other indirect or consequential loss or damage itself.

## 13 DAMAGES

13.1 The mere appearance of a defect within the period indicated in Art. 12.1 does not give rise to a breach of contract.

### 13.2 Defectiveness:

Contractor shall not have any obligation to damages, in addition to the warranty obligation, for any defects of the deliveries or performances.

### 13.3 Consequential Damage of Defects:

- a) Contractor shall not be liable for any damage that was impossible to anticipate as a possible consequence of a breach of contract at the time of entering the contract.
- b) Contractor's liability for slight negligence and compensation for consequential damage, damage for purely pecuniary damage, indirect damage, loss of production, financing expenses, cost of replacement energy, loss of energy, data or information, lost profit, savings not made, loss of interest and damage arising from third-party claims against Purchaser shall be excluded.



- c) All claims for damages shall be excluded in the event of any conditions for assembly, commissioning, and use (as may be contained, e.g., in operating instructions) or requirements for admission or approval by the authorities not being met by Purchaser.
- d) If penalties are stipulated, any claims in excess thereof which are based on the same grounds as such penalties shall be excluded.

13.4 The liability of Contractor is in principle limited with twice the contractual amount as agreed between the Parties on the date of conclusion of the contract, however with the maximum insurance coverage for the respective damage. All possible legal liability claims of Purchaser are compensated with this cap; the monetary cap is not pledged in addition to the legal liability.

13.5 Any and all claims of Purchaser against Contractor, on whatever legal grounds and under whatever title, shall be governed by the provisions of Art. 13 with final effect and such provisions shall also apply to all of Contractor's employees, subcontractors and sub-suppliers.

#### 13.6 Product Liability

The delivered item provides only the safety that may be expected based on the respectively valid admission regulations, acceptance tests and operating regulations.

## 14 TERMINATION

14.1 Each Party may terminate the Contract by written notice to the other Party due to the following reasons:

- a) The other Party breaches an essential term or condition of the contract by an act or omission and does not remedy such a breach within a grace period of 14 (fourteen) days.
- b) The other Party or its parent company is or becomes insolvent or bankrupt.
- c) The other Party or its parent company stops or suspends its operation, or sells a substantial part of its business, or a trustee or liquidator is appointed for some or all of the assets of the other Party or its parent company.

14.2 Purchaser may terminate the contract by written notice to Contractor if Contractor does not deliver the goods or does not perform the assembly as agreed in the contract. The same applies if Contractor, upon request of Purchaser, does not provide adequate evidence in a timely manner that it is capable of acting. A termination is only valid if Contractor does not remedy the breach within a grace period of 14 (fourteen) days.

14.3 Contractor may terminate the contract by written notice to Purchaser if Purchaser does not pay a contractual invoice when due and does not remedy such breach within a grace period of 14 (fourteen) days.

14.4 In case of termination due to Art. 14.1, 14.2 or 14.3 Contractor shall be paid immediately for all the goods and contractual services, which were delivered or performed until termination to the satisfaction of both Parties. However, Contractor shall also be entitled to demand that products and/or parts thereof already delivered shall be returned.

14.5 The termination is effective from the day which the terminating Party states in the termination notice (which may not be prior to the date of the termination notice; in case no date is mentioned the termination is effective from the day the other Party receives the written notice).

## **15 FORCE MAJEURE**

15.1 Contractor shall be released from its responsibility for full or partial non-performance of its obligations if such non-performance is the consequence of a Force Majeure event, including but not limited to: flood, fire, earthquake and other natural disasters, war or military operations, resolutions or decrees of the government in country of deployment, confiscation, embargo, prohibition of foreign-currency transfers, riot, absence of means of transport, sinking of ship, plane crash, general dearth of supply goods, or restrictions of energy consumption.

15.2 Each Party shall immediately inform the other Party about the existence of such a Force Majeure event to prevent the enlarging of any loss. The consequences of such a Force Majeure event regarding the obligations of the Parties are determined by Art. 5 and 11. Immediately upon cessation of the Force Majeure event each Party shall take all necessary steps to resume performance of its obligations.

15.3 If a Force Majeure event lasts for a period of 90 (ninety) consecutive days, either Party may terminate the contract by giving 30 (thirty) days prior written notice.

15.4 Any amount due by Purchaser to Contractor in accordance with the contract prior to the date of occurrence of Force Majeure shall be paid independently of occurrence of said Force Majeure. If any such circumstance directly affects the fulfilment of the obligations in time stipulated by the contract, this term should be shifted adequately for the validity period of the corresponding obligation.

## **16 QUALITY, SAFETY AND ENVIRONMENT**

Purchaser shall provide records or other documents which shall prove that Purchaser operates according to the quality management system ISO 9001, the safety management system ISO 45001 and the environmental management system ISO 14001, or a similar system.

## **17 PLACE OF JURISDICTION, APPLICABLE LAW, PLACE OF PERFORMANCE**

17.1 These Terms and Conditions and all rights and obligations under contracts between Purchaser and Contractor shall exclusively be governed by and construed in accordance with the laws of British Columbia.

17.2 The Convention of the United Nations on Contracts for the International Sale of Goods of 11 April 1980 shall expressly be precluded.

All disputes shall be settled by negotiations between the Parties. If the Parties do not come to a settlement within 3 (three) months, the dispute shall be submitted to the exclusive jurisdiction of the court with competences for Contractor's principal place of business. Contractor may, however, also resort to another court with jurisdiction for Purchaser.

17.3 The contracting Parties may also agree that an arbitral tribunal has jurisdiction.

17.4 Contractor's principal place of business shall be the place of performance for deliveries and payments, also if the transfer is agreed to be in a different place.

## **18 CONFIDENTIAL INFORMATION & DATA STORAGE**

18.1 All rights to the data, which a Party provides to the other Party for performance of the contract, remain with the delivering Party. The receiving Party may use the documents and all related information only to fulfil the contract.

18.2 Purchaser declares its express consent to the storage of all data (e.g. plans, drawings, technical documents, software) relevant to the business relationship and processing of the orders placed and/or to the delivery commitments.

18.3 Any personal data transmitted shall be solely stored and used for the purposes of the contractual relationship and, to the extent, which is necessary for the performance of the contract, shall also be passed on to any cooperation partners/vicarious agents involved during the course of the performance of the contract. Purchaser declares its consent thereto. Thus, transfer of personal data shall be on a voluntary basis. Purchaser has the right to have personal data erased at any time (right to revoke).

18.4 The data shall not be made available to any uninvolved third party.

18.5 To the extent that personal data is stored or otherwise processed, such storage or processing shall be performed in compliance with the relevant data protection laws.

## **19 FINAL PROVISIONS**

19.1 There are no oral side agreements. Modifications of or amendments to these General Terms and Conditions and/or to the contract and/or annexes hereto or to the contract shall be effective only if made in writing; this shall also apply to any waiver of this requirement.

19.2 If any of the provisions of these General Terms and Conditions is or becomes invalid, the validity of the remaining provisions hereof shall not be affected thereby.

19.3 The invalid provision shall be replaced by a valid provision that comes as close as possible to the intended purpose of the invalid provision in economic and commercial terms.

19.4 A change of these General Terms and Conditions will not negatively affect an existing pricing which is advantageous for Purchaser.

LCS Cablecranes Ltd, September 2024