SALES TERMS & CONDITIONS

1. Definitions

In this document the following words shall have the following meanings:
1.1 “Buyer” means the organisation or person who buys Goods from the Seller;
1.2 “Conditions” means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller;
1.3 “Delivery date” means the date specified by the Seller when the Goods are to be delivered;
1.4 “Goods” means the articles to be supplied to the Buyer by the Seller;
1.5 “Intellectual Property Rights” means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable;
1.6 “Price” means the price set out in the list of prices of the Goods maintained by the Seller as amended from time to time or such other price as the parties may agree in writing plus such carriage, packing, insurance or other charges or interest on such as may be quoted by the Seller or as may apply in accordance with these conditions;
1.7 “Seller” means VULCAN CRANES B.V., Goeman Borgesiuslaan 77, 3515 ET Utrecht, The Netherlands.

2. General

2.1 These conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may seek to apply under any purchase order, order confirmation or similar document.
2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions.
2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer’s acceptance of these Conditions.
2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties including without limitation as to discounts) shall be

inapplicable unless agreed in writing by the Seller.
2.5 Any advice, recommendation or representation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods or otherwise which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and, accordingly, the Seller shall not be liable for any such advice, recommendation or representation which is not so confirmed.
2.6 Nothing in these Conditions shall effect the statutory rights of any Buyer dealing as a consumer.

3. Price and Payment

3.1 Payment of the Price is strictly cash with order unless otherwise agreed on in the contract and confirmed in written form by the Seller in which event payment of the Price is due 14 days following the date of invoice.
3.2 The Seller shall be entitled to charge interest on overdue invoices from the date when payment becomes due interest to accrue from day to day until the date of payment at a rate of 2% per annum.
3.3 The Seller reserves the right to grant, refuse restrict, cancel or alter credit terms at its sole discretion at any time.
3.4 If payment of the Price or any part thereof is not made by the due date, the Seller shall be entitled to:
3.4.1 require payment in advance of delivery in relation to any Goods not previously delivered;
3.4.2 refuse to make delivery of any undelivered Goods whether ordered under the contract or not and without incurring any liability whatever to the Buyer for non-delivery or any delay in delivery;
3.4.3 appropriate any payment made by the Buyer to such of the Goods (or Goods supplied under any other contract) as the Seller may think fit;
3.4.4 terminate the contract.

4. Description

Any description given or applied to the Goods is given by way of identification only and the use of such description shall not constitute a sale by description. For the

avoidance of doubt, the Buyer hereby affirms that it does not in any way rely on any description when entering into the contract.

5. Sample

Where a sample of the Goods is shown to and inspected by the Buyer, the parties hereto accept that such a sample is so shown and inspected for the sole purpose of enabling the Buyer to judge for itself the quality of the bulk, and not so far as to constitute a sale by sample.

6. Delivery

6.1 Unless otherwise agreed in writing, delivery of the Goods shall take place at the address specified by the Buyer on the date specified by the Seller. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.
6.2 The date of delivery specified by the Seller is an estimate only. Time for delivery shall not be of the essence of the contract and while every reasonable effort will be made to comply with such dates compliance is not guaranteed and the Buyer shall have no right to damages or to cancel the order for failure for any cause to meet any delivery date stated.
6.3 If the Seller is unable to deliver the Goods for reasons beyond its control, then the Seller shall be entitled to place the Goods in storage until such time as delivery may be effected and the Buyer shall be liable for any expense associated with such storage.
6.4 If the Buyer fails to accept delivery of Goods on the delivery date or within 3 days of notification that they are ready for despatch whether prior to or after the delivery date the Seller reserves the right to invoice the Goods to the Buyer and charge him therefore. In addition the Buyer shall then pay reasonable storage charges or demurrage as appropriate in the circumstances until the Goods are either despatched to the Buyer or disposed of elsewhere.
6.5 The Seller shall be entitled to deliver the Goods by instalments and where the Goods are so delivered, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall

not entitle the Buyer to treat any other related contract as repudiated.
6.6 Where the Buyer requires delivery of the Goods by instalments, rescheduling requires the Seller's written agreement and will not be possible unless at least 14 days' written notice is provided and so agreed. Each delivery shall constitute a separate contract and failure by the Buyer to pay the Price in respect of any instalment shall entitle the Seller to treat any other related contract as repudiated in addition to any other rights of the Seller pursuant to these Conditions.
6.7 Notwithstanding that the Seller may have delayed or failed to deliver the Goods (or any of them) promptly the Buyer shall be bound to accept delivery and to pay for the Goods in full provided that delivery shall be tendered at any time within 3 months of the delivery date.

7. Acceptance

7.1 The Seller is a distributor of goods and the Buyer is exclusively responsible for detailing the specification of the Goods, for ascertaining the use to which they will be put and for determining their ability to function for that purpose.
7.2 The Buyer is required to test Goods upon delivery and shall be deemed to have accepted the Goods 30 days after delivery to the Buyer. Accordingly, no claim for defect, damage or quality will be entertained (without prejudice to the Seller's other rights pursuant to these Conditions) unless written notice together with all supporting evidence is received by the Seller within 30 days of delivery. After acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.
7.3 The Buyer shall not remove or otherwise interfere with the marks or numbers on the Goods.

7.4 The Buyer has the right to return standard goods within 14 days after delivery without specified reason, providing the goods do not show any traces of use and are returned in their original packaging. If deemed in good order, the Seller shall pay a full refund to the Buyer within 14 days after receiving the goods. Customized goods according to the Buyer's specifications are excluded from this return policy.

7.5 Returned goods shall be sent to the following address: Vulcan Cranes BV, Goeman Borgesiuslaan 77, 3515 ET Utrecht, The Netherlands

8. Risk and Title

8.1 Risk of damage or loss of the Goods shall pass to the Buyer in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection, or in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery.
8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the Price of the Goods and of all other Goods agreed to be sold by the Seller to the Buyer for which payment is then due.
8.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property.
8.4 Until payment of the Price the Buyer shall be entitled to resell or use the Goods in the course of its business but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
8.5 Until such time as the property in the Goods passes to the Buyer (and provided that the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or of any third party where the Goods are stored and repossess the Goods.
8.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.
8.7 The Seller shall be entitled to recover the Price notwithstanding that property in any of the Goods has not passed from the Seller.

9. Insolvency of Buyer

9.1 If the Buyer fails to make payment for the Goods in accordance with the contract of sale or commits any other breach of this contract of sale or if any distress or execution shall be levied upon any of the Buyer's property or the Goods or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented of if a receiver, administrator administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law or if any such matter as provided for in this clause is reasonably apprehended by the Seller all sums outstanding in respect of the Goods shall become payable immediately.
9.2 The Seller may in the circumstances set out in clause 9.1 above also in its absolute discretion, and without prejudice to any other rights which it may have, exercise any of its rights pursuant to clause 8 above.

10. Warranty

10.1 Where the Goods are found to be defective, the Seller shall, replace defective Goods free of charge within the manufacturer's warranty period if acceptable from the date of delivery, subject to the following conditions;
10.1.1. the Buyer notifying the Seller in writing immediately upon the defect becoming apparent;
10.1.2. the defect being due to faulty design, materials or workmanship;
10.2 Any Goods to be repaired or replaced shall be returned to the Seller, if so requested by the Seller.
10.3 Where the Goods have been manufactured and supplied to the Seller by a third party, any warranty granted to the Seller in respect of the Goods shall be passed on to the Buyer and the Buyer shall have no other remedy against the Seller
10.4 The Seller shall be entitled in its absolute discretion to refund the Price of the defective Goods in the event that the Price has already been paid.
10.5 The remedies contained in this Clause are without prejudice and subject to the other Conditions herein, including, but without limitation, to conditions 11 and 12 below.

11. Liability

11.1 No liability of any nature shall be incurred or accepted by the Seller in respect of any representation made by the Seller, or on its behalf, to the Buyer, or to any party acting on its behalf, prior to the making of this contract where such representations were made or given in relation to:-
11.1.1. the correspondence of the Goods with any description or sample;
11.1.2. the quality of the Goods; or
11.1.3. the fitness of the Goods for any purpose whatsoever.
11.2 No liability of any nature shall be accepted by the Seller to the Buyer in respect of any express term of this contract where such term relates in any way to:
11.2.1. the correspondence of the Goods with any description;
11.2.2. the quality of the Goods; or
11.2.3. the fitness of the Goods for any purpose whatsoever.
11.3 Except where the Buyer deals as a consumer all other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods, whether express or implied by statute or common law or otherwise are hereby excluded from the contract to the fullest extent permitted by law.
11.4 For the avoidance of doubt the Seller will not accept any claim for consequential or financial loss of any kind however caused.

12. Limitation of Liability

12.1 Where any court or arbitrator determines that any part of Clause 11 above is, for whatever reason, unenforceable, the Seller shall be liable for all loss or damage suffered by the Buyer but in an amount not exceeding the Price.
12.2 Nothing contained in these Conditions shall be construed so as to limit or exclude the liability of the Seller for death or personal injury as a result of the Seller’s negligence or that of its employees or agents.

13. Intellectual Property Rights

13.1 Where any Goods supplied by us embody, include or contain computer program(s) and/or related documentation the copyright in which is owned by a third party, all rights and liabilities associated with the use and/or reproduction thereof will

be subject to the terms of the applicable end user licence, to the exclusion of all liabilities and obligations on our part.

13.2 The Buyer will indemnify us against all liabilities for infringement of third party intellectual property rights arising from our compliance with the Buyer's specific requirements regarding design or specification for the Goods or arising from the use of the Goods in combination with other products.

13.3 In the event that all the Goods or the use thereof (subject as aforesaid) are held to constitute an infringement of any intellectual property rights and the use is thereby prevented, the will at its own expense and option either procure for the Buyer the right to continue using the Goods or replace the same with a non-infringing product, or modify the Goods so that they become non-infringing, or may elect to retake possession of the Goods and refund the Price. Subject to the foregoing, the Seller shall be under no liability to the Buyer for any loss, damage or enquiry, whether direct or indirect, resulting from any intellectual property right infringement of the Goods.

13.4 All Intellectual Property Rights produced from or arising as a result of the performance of any contract shall, so far as not already vested, become the absolute property of the Seller, and the Buyer shall do all that is reasonably necessary to ensure that such rights vest in the Seller by the execution of appropriate instruments or the making of agreements with third parties.

14. Force Majeure

The Seller shall not be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the Seller shall be entitled to a reasonable extension of its obligations. If the delay persists for such time as the Seller considers unreasonable, it may without liability on its part, terminate the contract or any part of it.

15. Relationship of Parties

Nothing contained in these Conditions shall be construed as establishing or implying any partnership or joint venture between the parties and nothing in these Conditions shall be deemed to construe either of the parties as the agent of the other.

16. Assignment and Sub-Contracting

The contract between the Buyer and Seller for the sale of Goods shall not be assigned or transferred, nor the performance of any obligation sub-contracted, in either case by the Buyer, without the prior written consent of the Seller.

17. Waiver

The failure by either party to enforce at any time or for any period any one or more of the Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Conditions of this Agreement.

18. Severability

If any term or provision of these Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

19. No set off

The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set-off or counterclaim which the Buyer may have or allege to have for any reason whatsoever.

20. Entire Agreement

These Conditions and any documents incorporating them or incorporated by them constitute the entire agreement and understanding between the parties.

21. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of The Kingdom of The Netherlands and the parties hereby submit to the exclusive jurisdiction of the courts of The Kingdom of The Netherlands.

This Sales Terms and Conditions Agreement was last updated November 2023.