

Liebherr Sales Kluing Sdn. Bhd. [Company No: 200201021624 [589287-A)]
General terms and conditions of purchase

Any and all deliveries and/or services ordered by LIEBHERR shall be exclusively governed by the following general terms and conditions of purchase. LIEBHERR shall not accept – and herewith explicitly rejects – any conflicting terms in any offer and/or other document submitted by the CONTRACTOR.

- 1. Order**

Notwithstanding any pre-submitted offers, contracts shall be concluded exclusively on the basis of and in full compliance with the content of the order placed by LIEBHERR in writing, by e-mail or telefax.
- 2. Order confirmation**

Orders placed by LIEBHERR shall be immediately confirmed by the CONTRACTOR in writing, by e-mail or telefax. Deviations from the order shall be clearly pointed out in the written order confirmation and shall only be binding upon LIEBHERR if and to the extent the latter explicitly accepts such deviations in writing, by e-mail or telefax; a receipt of the goods and/or services without reservation shall in no event be considered as an acceptance of such deviations.
- 1. Time of delivery and performance**
 - 3.1. Time is of essence. The binding time of delivery and/or performance of service shall be as specified in the order.
 - 3.2. In case of an impending delay in delivery and/or performance of service, in whole or in part, LIEBHERR shall be immediately informed by the CONTRACTOR in writing, by e-mail or telefax, thereby indicating the reasons for and the probable duration of the delay, failing which LIEBHERR shall be at liberty to terminate and/or cancel the contract, in whole or in part, and the CONTRACTOR shall not be entitled to any claim for damages.
 - 3.3. If LIEBHERR is prevented from and/or delayed in accepting delivery and/or performance of service due to an event outside of LIEBHERR's control, in particular, but without limitation to, any act of God, accident, fire, earthquake, flood, explosion, strike, act of public enemy, war, rebellion, insurrection, sabotage, trade restrictions, sanctions, natural disasters or extreme natural events, epidemics, pandemic terrorism, transportation delay, shortage of raw material, energy or machinery, operational disruptions, labour disputes, executive, judicial or administrative act or regulation, order or decree of any government and the like, LIEBHERR shall be entitled to postpone the time of delivery and/or performance of service accordingly without being in default. Furthermore, in such event, LIEBHERR shall be entitled to cancel the contract in whole or in part and the CONTRACTOR shall not be entitled to any claim for damages.
 - 3.4. In the event of a delay exceeding 14 (fourteen) calendar days, LIEBHERR shall be entitled to claim liquidated damages amounting to 1% (one percent) of the total contract value per week of delay, capped at 10% (ten percent) of the total contract value. This is in addition to the right to terminate the contract under severe delays and without prejudice to Clause 8.2.
- 4. Costs and risk confirmation**

Unless otherwise agreed, the CONTRACTOR shall ensure that all deliveries of goods and/or performance of services shall be effected according to 'DDP place of destination' (Incoterms 2020) at the costs and risk of the CONTRACTOR and at the location specified by LIEBHERR. In the absence of any such agreement, the CONTRACTOR shall strictly comply with the agreed-upon delivery schedule and/or specifications and the risk of loss or damage to the goods shall pass to LIEBHERR only upon the goods' arrival at and acceptance in writing by LIEBHERR at the specified delivery location. LIEBHERR reserves the right to reject any late and/or non-conforming deliveries of goods and/or performance of service without penalty. Risk of loss and/or damage to goods and/or service shall remain with the CONTRACTOR until formal written acceptance is given by LIEBHERR. The CONTRACTOR shall be solely responsible for any costs associated with any defective and/or delayed goods and/or services. The respective good shall be packed in accordance with the intended mode of transport and in compliance with any LIEBHERR specifications as well as any applicable packaging-specific standards, whereby environmentally friendly packaging materials shall be preferred. Any hazardous good shall be marked by the CONTRACTOR accordingly with reference to the specific type of danger emanating from the hazardous good and the CONTRACTOR shall inform LIEBHERR of any precautionary measures that may be necessary. Furthermore, with regard to the delivery of the good, the CONTRACTOR shall, free of charge, provide LIEBHERR with any and/or all relevant customs and/or export control data, including without limitation to, the indication of the country of origin (non-preferential origin) and/or, if requested by LIEBHERR, a supplier declaration of preferential origin (for European suppliers) or a certificate of preference (for non-European suppliers), the customs tariff number (HS-Code), the AL number, the ECCN number, technical specifications for checking the list of goods etc.
- 5. Cancellation**
 - 5.1. In the delivery of goods and/or the performance of services by the CONTRACTOR is delayed and/or otherwise not in compliance with the contract, LIEBHERR shall be entitled – without prejudice to any other rights and/or remedies it may have under contract and/or at law and provided that the CONTRACTOR has not remedied the respective default within a reasonable grace period – to cancel the contract in whole or in part. Furthermore, LIEBHERR shall also be entitled to claim a penalty according to section 8.2 hereof.
 - 5.2. If insolvency, receivership, bankruptcy and/or other similar proceedings are commenced by and/or against the CONTRACTOR, or if such an application is dismissed due to lack of funds, LIEBHERR shall be entitled to cancel the contract immediately and claim for damages according to section 8.2 hereof. The same shall also apply if LIEBHERR – at its sole discretion – determines that the CONTRACTOR's creditworthiness and/or ability to pay its debts as and when due has deteriorated, thus endangering LIEBHERR's rights under and/or in relation to the contract, provided that LIEBHERR has unsuccessfully requested the CONTRACTOR to perform its obligations and/or to provide it with corresponding means of security.
- 6. Warranty and guarantee**
 - 6.1. The CONTRACTOR is aware that LIEBHERR is certified according to ISO 9000/9001. The CONTRACTOR hereby explicitly guarantees that the goods and/or services performed shall – in addition to any other requirements of the contract – also entirely meet the quality requirements resulting from these standards.
 - 6.2. Unless explicitly stated otherwise in this section 6, the statutory warranty provisions shall apply. The warranty period shall be for a period of no less than 24 (twenty-four) months. This period shall not be deemed to commence before the goods or services have been put into their intended operation or use, however with respect to any defect in quality, other than a lack of guaranteed characteristics, it shall be deemed to commence three years after the time of delivery/acceptance in writing by LIEBHERR at the latest. The CONTRACTOR agrees to provide extended warranties for critical components as negotiated per individual contract basis. In the event of defects, the CONTRACTOR shall, at its sole expense, promptly repair and/or replace the defective goods. LIEBHERR shall have the right to recover all costs, including transportation, installation, and/or testing, arising from the defective goods. If a defect appears within the first twelve months from the time of the transfer of risk, such defect shall be deemed as having already existed at the time of the transfer of risk.
 - 6.3. Without prejudice to any other rights or remedies LIEBHERR may have under contract and/or at law, parties agree that LIEBHERR may – at its sole discretion and without having to offer the CONTRACTOR the prior opportunity to do so – remedy any defective goods and/or services itself or have them remedied by a third party. Any and/or all costs and expenses in connection with the remedy of a defect – of whatever kind or nature – shall be borne by the CONTRACTOR.
 - 6.4. If any defective goods are replaced and/or repaired and/or if any defective services are re-performed, parties agree that the original warranty period shall restart once again.
 - 6.5. The CONTRACTOR shall explicitly guarantee the goods delivered and/or services performed to be free from any kind of defects, including but limited to free from defect in material and/or workmanship throughout the warranty period.
 - 6.6. In the event of goods relying on digital components contained within and/or connected to such goods to fulfill their specified functions, the CONTRACTOR shall guarantee that LIEBHERR will be provided with updates, in particular, but without limitation to, security updates, necessary to maintain the compliance of the goods with the contract for such period as LIEBHERR may reasonably expect on the basis of the nature and/or purpose of the goods and taking into account the circumstances and the nature of the contract. Furthermore, the CONTRACTOR shall inform LIEBHERR of the availability of such updates accordingly.
 - 6.7. The CONTRACTOR shall be responsible for any acts and/or omissions of its sub-contractors and/or sub-suppliers as if such were the acts or omissions of the CONTRACTOR.
 - 6.8. The CONTRACTOR shall waive – except for apparent defects – any objection of late examination and/or late notice and/or claim of defects; payment by LIEBHERR shall in no event be considered as a waiver of any right of LIEBHERR to claim any defects.
 - 6.9. To the extent LIEBHERR has provided a warranty to a customer that does not exceed the statutory warranty obligations towards such customer, LIEBHERR shall be entitled to claim warranty from the CONTRACTOR, even if the warranty period according to section 6.2 has expired.
 - 6.10. If it is to be expected that a claim can be raised against LIEBHERR and/or the CONTRACTOR under any applicable product liability and/or another similar liability as a result of a product hazard based on a defect and/or fault in the goods and/or services, LIEBHERR shall be entitled, at its sole discretion, to remedy such defect and/or fault itself or have such defect and/or fault remedied by a third party at the CONTRACTOR's sole expense, irrespective of whether or not the warranty period for the specific goods and/or services has already expired. In all such circumstance, parties agree for LIEBHERR to remedy such defect and/or fault or have such defect and/or fault remedied at the lowest possible cost and shall inform the CONTRACTOR as soon as possible about the measures taken.
- 7. Compliance**
 - 7.1. The CONTRACTOR guarantees to fully comply with all laws, regulations, directives applicable to the CONTRACTOR in connection with the delivery of goods and/or performance of services as well as any LIEBHERR-guidelines and/or requirements known to the CONTRACTOR and the LIEBHERR-Supplier Code of Conduct (hereinafter referred to as the 'Applicable Regulations').
 - 7.2. If and to the extent the Applicable Regulations include any reporting, documentation and/or other obligations of the CONTRACTOR (in particular, but without limitation to, regarding environmental laws, standards, etc.), the CONTRACTOR shall proactively and on its own expense fulfill these reporting, documentation and/or other

obligations in full and within the prescribed deadlines. Even in the absence of corresponding legal reporting, documentation and/or other obligations of the CONTRACTOR, the CONTRACTOR shall support LIEBHERR and/or its affiliates (companies, that directly or indirectly are controlled by or are under common control by Liebherr-International AG with its seat in 1630 Bulle/Switzerland, where 'control' means the possession, directly or indirectly, of an ownership interest exceeding 50 % (fifty percent) of the voting securities) in fulfilling any such reporting, documentation or other obligations relating to LIEBHERR without delay and at its own expense at the request of LIEBHERR or its affiliates.

- 7.3. LIEBHERR shall at any time be entitled to audit the CONTRACTOR's compliance with the Applicable Regulations and/or to have such compliance audited by an independent third party (e.g. auditor). Notwithstanding this, LIEBHERR reserves the right to conduct and/or appoint external auditors to conduct compliance audits with reasonable notice, at least once annually, to ensure the CONTRACTOR's full compliance with applicable laws and LIEBHERR's corporate standards.
- 7.4. The CONTRACTOR agrees and undertakes to enter into a corresponding agreement with its subcontractors in accordance with sections 7.1 to 7.3.
- 7.5. In the event that the CONTRACTOR and/or his subcontractors breaches any compliance with the Applicable Regulation, LIEBHERR shall be entitled to cancel the contract immediately, and the CONTRACTOR shall not be entitled to any claim for damages.
- 8. Damages, recourse, penalty, indemnification**
 - 8.1. The CONTRACTOR shall fully indemnify, defend, and hold harmless LIEBHERR from and/or against any and all claims, damages, costs, and expenses (including reasonable legal fees) arising out of and/or in connection with any defect in goods supplied, services performed, non-compliance with contract terms, and/or failure to meet agreed-upon specifications. The CONTRACTOR shall bear full liability for any direct, indirect, or consequential damages resulting from defective goods and/or services performed including delays in delivery. Exclusions of liability in favour of the CONTRACTOR or obligations for LIEBHERR to pass on exclusions of liability to third parties shall be deemed as not agreed.
 - 8.2. In the event LIEBHERR cancels the contract for delayed and/or otherwise non-compliant performance by the CONTRACTOR, LIEBHERR shall – without prejudice to any other rights or remedies LIEBHERR may have under contract and/or at law, in particular, but without limitation to, according to sections 5, 6 and 8.1 hereof – be entitled to claim and/or receive from the CONTRACTOR a penalty in the amount of 10 % (ten percent) of the contract value in lieu of its claim for the CONTRACTOR's strict performance of the contract. In the event, LIEBHERR faces delayed and/or otherwise non-compliant performance by the CONTRACTOR (which includes but not limited to non-compliance of providing any documentation and/or other ancillary obligations) without cancelling the contract, LIEBHERR shall – without prejudice to any other rights and/or remedies LIEBHERR may have under contract and/or at law, in particular, but without limitation to, according to sections 5, 6 and 8.1 hereof – be entitled to claim and/or receive from the CONTRACTOR a penalty in the amount of 1 % (one percent) of the contract value for every commenced week during which the delay and/or other non-compliance remains unremedied, capped at 10 % (ten percent), in addition to the CONTRACTOR's strict performance of the contract. In case of a delay being caused by force majeure, the CONTRACTOR's obligation to pay the penalty and/or damages shall be suspended for the reasonable duration of such impediment by force majeure, provided, however, that LIEBHERR has been informed of such circumstance immediately. However, the CONTRACTOR's obligation to pay the penalty shall exist and continue even in the event the delay and/or other non-compliance has been caused without any negligence of the CONTRACTOR and shall be without prejudice to any right of LIEBHERR to claim for damages in excess of the penalty.
 - 8.3. The CONTRACTOR shall defend, fully indemnify and/or hold LIEBHERR, its affiliates, distributors and/or agents, and their respective officers, directors and employees, harmless from any and/or all claims, suits, actions, liabilities, damages and/or costs (including, without limitation to, attorney's fees) arising out of and/or in relation to any third-party damage caused by and/or related to any goods delivered and/or services performed by the CONTRACTOR and/or any breach of any other obligation of the CONTRACTOR.
 - 8.4. The CONTRACTOR shall effect and maintain throughout the duration of the contractual relation with LIEBHERR a business and product liability insurance with a scope of coverage as is customary in the market and provide LIEBHERR with insurance certificates evidencing such insurance coverage upon request.
 - 8.5. The parties agree that LIEBHERR shall not be liable for any indirect, special, consequential, or incidental damages, including but not limited to loss of profits, business interruption, goodwill, use, data, or reputational harm suffered by the CONTRACTOR, even if the CONTRACTOR has been advised of the possibility of such damages. LIEBHERR's total aggregate liability under this contract shall not exceed the total amount paid by the CONTRACTOR to LIEBHERR for the goods and/or services giving rise to the claim, except in cases of willful misconduct or gross negligence. The limitations in this section will not apply to any liability for death and/or personal injury caused by a party's negligence, for fraud and/or fraudulent misrepresentation, and/or for any other liability that cannot lawfully be excluded or limited under Malaysian law. This section shall survive the termination and/or expiry of the contract and applies to the fullest extent permitted by Malaysian law. Each party agrees that these limitations and exclusions are reasonable and/or necessary for conducting business between them.
- 9. Third parties' rights**
 - 9.1. The CONTRACTOR hereby explicitly guarantees that the goods delivered and/or services performed do not infringe any third party's rights, in particular, but without limitation to, intellectual property rights.
 - 9.2. The CONTRACTOR shall defend, fully indemnify and/or hold LIEBHERR, its affiliates, distributors and/or agents, and their respective officers, directors and employees, harmless from any and/or all claims, suits, actions, liabilities, damages and/or costs (including, without limitation to, attorney's fees) arising out of and/or in relation to the actual and/or alleged infringement of any such third party's rights (including, without limitation to, intellectual property rights) concerning any goods delivered and/or services performed by the CONTRACTOR.
- 10. Drawings, tools and models**

Any and all drawings, sketches, tools, technical documents, samples, models or similar, which have been submitted or financed by LIEBHERR for the delivery of goods and/or performance of services by the CONTRACTOR, shall remain and/or be transferred into the property of LIEBHERR and shall neither be released to any third parties nor be used for any purpose other than the one agreed with LIEBHERR. They shall be returned to LIEBHERR immediately upon request or, without need of a respective request, upon the termination of the contract. Further to the above, the CONTRACTOR agrees to comply with the Personal Data Protection Act 2010 of Malaysia and/or any other applicable local data protection laws. This includes obtaining any necessary consents and/or maintaining robust security measures to protect personal data. The CONTRACTOR will provide LIEBHERR with access to their personal data upon request and allow LIEBHERR to correct any inaccuracies to ensure that such data is kept up-to-date in relation to any personal data processed in connection with this contract. The CONTRACTOR shall implement appropriate security measures to protect personal data against unauthorized access, alteration, disclosure, or destruction.
- 11. Place of performance, governing law and legal venue**
 - 11.1. Unless otherwise agreed, the place of performance shall be at the main offices of LIEBHERR as stated in the order or, as applicable, the place where the ordered services are to be performed.
 - 11.2. Any and/or all legal relations between the CONTRACTOR and LIEBHERR out of and/or in relation to the contract shall be governed by and/or construed in accordance with the material laws of Malaysia for national transactions. In the case of international transactions, the English version of the UNCITRAL-Convention on the International Sale of Goods dated April 11th, 1980 ('CISG') shall apply, as amended by the provisions of these General Terms and Conditions of Purchase. However, nothing in this contract shall prevent LIEBHERR from enforcing its rights under Swiss law where applicable.
 - 11.3. In the case of national transactions, the exclusive legal venue shall be the competent courts in Malaysia. Any and all disputes, controversies or claims arising out of or in relation to international transactions with respect to the contract, including, without limitation to, regarding the validity, invalidity, breach or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Arbitration Centre in force on the date on which the Notice of Arbitration is submitted in accordance with those Rules. The seat of the arbitration shall be Zurich, Switzerland, and, unless otherwise agreed by the parties in writing, the arbitral proceedings shall be conducted in English. Notwithstanding the above, LIEBHERR reserves the right to bring an action to any ordinary competent court at the place where the CONTRACTOR's main offices are located.
- 12. General conditions**
 - 12.1. Without the prior written consent of LIEBHERR the CONTRACTOR shall not transfer, whether in whole or in part, any of its rights and/or obligations under the contract to any third parties and/or shall not engage any third parties in the delivery of goods and/or performance of services under the contract.
 - 12.2. Any and all rights or remedies under these general terms and conditions of purchase shall be available to LIEBHERR irrespective of whether or not the CONTRACTOR has committed a fundamental breach of contract and/or regardless of the foreseeability of damage at the time of contract formation.
 - 12.3. The CONTRACTOR shall keep any and all orders as well as any and all commercial, technical and/or other information related thereto strictly confidential and use them solely for the purposes of the contract.