

LIEBHERR – RENTAL LIMITED

GENERAL TERMS AND CONDITIONS FOR CONTRACTS AND TRADING

These terms and conditions are to be read in conjunction with the Model Conditions for the hiring of Plant provided by the Construction Plant Hire Association (hereinafter referred to as CPA) in October 2021. They are the only Terms and Conditions under which Liebherr–Rental Limited conducts its trading activities, save for the sale of Capital Equipment (whereupon separate terms and conditions apply - and can be provided on request). In the event that there is a conflict between these terms and the CPA then these terms will prevail.

1. DEFINITIONS

In these Conditions these words will have the following meaning:

- (a) **"The Owner"** shall mean Liebherr-Rental Limited (**"LRL"**), and includes their successors, agents, and assigns.
- (b) **"The Hirer"** is the Company, firm, person, Corporation, public authority or business taking The Owner's plant on hire and includes their successors, agents, assigns or personal representatives.
- (c) **"Hire"** and **"Rental"** shall be interchangeable terms, with the same meaning, namely the exclusive use of Plant supplied by The Owner to The Hirer for a temporary period of time, for the purposes of this agreement.
- (d) **"Conditions"** shall mean these General Terms and Conditions of Sale.
- (e) **"Contract"** means the Contract entered into by The Owner and The Hirer in respect of the hire of Plant and/or the purchase of related Goods and/or Services and which is to be governed by these Conditions.
- (f) **"Plant"** covers all classes of plant, vehicles, equipment and accessories therefore, which The Owner agrees to hire out to The Hirer.
- (g) A **"day"** shall be 8 hours or if the day is a Friday it shall be 7 hours, unless otherwise specified in the Contract.
- (h) A **"working week"** covers the period from starting time on Monday to finishing time on Friday.
- (i) The **"hire period"** shall commence from the time when the plant leaves The Owner's depot or place where last employed and shall continue until the plant is received back at The Owner's named depot or other agreed location.
- (j) **"Goods"** means any item of whatsoever nature to be utilised for the repair or maintenance of the Plant, which is supplied by The Owner pursuant to the Contract.
- (k) **"In Writing"** means reduced to writing and accepted In Writing on behalf of The Owner. The writing may be in electronic form and includes faxed documents.
- (l) **"Hire Rate"** shall be the monetary value payable per Hire Period, excluding VAT, as stipulated in the Contract, in return for the exclusive use of the Plant, for the purpose agreed with The Owner.
- (m) **"Services"** means the supply of labour, travel and out-of-pocket expenses and or materials.

The headings in these Conditions are for convenience only and shall not be used in construing these Conditions.

2. PRELIMINARY CONSIDERATIONS

- (a) By the acceptance of the contract, or alternatively the acceptance by the Hirer of the Plant on site, The Hirer acknowledges all of the Conditions of The Owner and agrees to be bound by them.
- (b) Unless otherwise agreed In Writing any preceding or accompanying illustrations or descriptive material, including drawings, specifications of weight, performance, dimensions and consumption data provided by the Owner are of a generally informative nature and approximate only, and none of these shall form part of the Contract or give rise to any liability on the part of The Owner.
- (c) Any statements, recommendations or advice given by The Owner to The Hirer as to any matter relating to the Plant whether as to design, characteristics, suitability for a particular purpose, performance, application, use or otherwise howsoever, are given without responsibility and give rise to no liability whatsoever except where given In Writing by an authorised officer of The Owner in response to a specific written request from The Hirer for advice before or at the time the Contract is made.
- (d) The Hirer shall be responsible to The Owner for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by The Hirer, and for giving The Owner any necessary information relating to the Plant within a sufficient time to enable The Owner to perform the Contract. All such information must be provided In Writing.
- (e) The Owner reserves the right to make any changes in the specification of the Plant which are required to conform to any applicable statutory or E.U. requirements or, where the Plant are to be supplied to The Hirer's specification, which do not materially affect their quality or performance.
- (f) The Owner reserves the right, by giving notice In Writing to The Hirer at any time before delivery, to increase the Hire Rate and/or the price of any related Goods and/or Services to reflect any increase in the cost to The Owner which is due to any factor beyond the control of The Owner (for example but not limited to, events of Force Majeure, Act of God, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture).
- (g) The Contract shall be considered contractually binding on both parties for the duration of the hire period.

3. CHARGES, PAYMENT CONDITIONS AND CONSEQUENCES OF NON-PAYMENT

- (a) With respect to Services, if required at any stage in the duration of the hire period, (for assembly, erection, repairs and similar services), The Owner shall charge its current hourly rates and prices in the provision of such Services; the time spent for the purpose of travelling to and from the work site as well as the waiting time spent at the work site constitute working time. For overtime, night work and work on Sundays or public holidays. The Owner's current surcharges shall apply. Travel expenses as well as the out-of-pocket expenses charged by The Owner shall apply and be invoiced separately.
- (b) Payments to The Owner shall be made without offset or deduction whatsoever (and free from any charges or fees) within the period stipulated in the relevant invoice and/or statement of account from The Owner. Payment will only be

deemed to have occurred once the monies owed to The Owner, by The Hirer, have been deposited into the current bank account of The Owner and these funds have in turn been cleared by The Owner's bankers.

- (c) All invoices shall be paid within 30 days of invoice, or earlier if agreed by both parties.
- (d) If the applicable payment date and/or payment period is not complied with by The Hirer, The Owner shall be authorized to charge and invoice The Hirer, without notification to this effect, an annual finance charge of 3% (three percent) above the then current base interest rate of Barclays Bank PLC, or 10% (ten percent), whichever is the greater, calculated on a daily basis, of all due balances, together with all other costs (including legal fees) incurred by The Owner as a result of or in relation to the non-compliance of The Hirer with these payment terms. The above compensation for finance charges and related costs is in addition to any other remedy that The Owner may have pursuant to these conditions and/or at law.
- (e) In addition to the financial penalty set out in 3(d) above, if The Hirer fails to comply with the payment conditions, The Owner shall be authorized, after 7 calendar days of serving written notification to this effect on The Hirer, to collect the Plant and/or attachments used, and to rent this Plant to another Hirer without any prejudice to the Hire fees and/or other monies owed to The Owner, by The Hirer. Any transport and incidental costs incurred in this process will be debited to the Hirer's account, and will be recoverable, as part of the outstanding debt.
- (f) If any invoice remains unpaid after a period of 60 days from invoice date or the credit limit has been exceeded or credit facilities have been withdrawn by The Owner, the whole outstanding debt of The Hirer to The Owner will, subject to The Owner's absolute discretion, become payable immediately.
- (g) If a discount has been allowed from the standard price list, it must be noted that such discounts are conditional upon payment being made to in accordance with these terms. The Owner reserves the right to disallow such discounts, on the unpaid invoices, and to invoice the discount amounts which will then form part of the amount immediately payable.
- (h) The Owner reserves the right to recover any additional costs incurred, as a result of dishonoured or cancelled cheque payments, unpaid bank transfers, or any other form of reversed payment, regardless of the cause.
- (i) Where The Hirer is also a supplier to the Liebherr Group of Companies, The Owner reserves the right, upon notice to The Hirer, to recover any monies due from any unpaid amounts due to The Hirer from any one of the Companies within the Liebherr Group.
- (j) All prices in The Owner's literature are quoted in pounds sterling, excluding VAT, and apply to England, Scotland and Wales only, unless otherwise stated.
- (k) A deposit for each Contract will be required to cover either the whole Hire, or the portion of the Hire, deemed to be appropriate at the absolute discretion of The Owner, together with an amount calculated to cover all anticipated transport and insurance costs. This payment, once agreed, must be made to The Owner, before the Plant is delivered.

4. OBLIGATIONS, RESPONSIBILITIES AND REMEDIES

- (a) The Hirer undertakes to inform The Owner, In Writing at the time of hire or in advance, about any proposed or potential operation of the Plant in arduous and/or difficult conditions. Arduous conditions include but are not limited to sea water, chemicals, fertilizer, abrasive products, contaminated waste and radioactive materials. If required by The Owner, a suitable risk assessment report will be supplied by The Hirer.
- (b) If The Owner has agreed to provide Services as part of its obligations, The Hirer shall assist The Owner in the performance of such Services by providing (at its sole expense and at such time and place as The Owner may request) such number and types of auxiliary personnel, equipment or support (winches, rails, electricity, etc.) as may be necessary to perform the Services. Any on-site infrastructure necessary for the provision of Services shall be completed prior to the arrival of The Owner's personnel at the work site. Furthermore, it shall be The Hirer's sole responsibility to effect and maintain such adequate security measures on the work site as may be necessary to properly protect personnel and equipment. The Owner assumes no liability whatsoever with respect to the acts or omissions of any auxiliary personnel assigned to it for the purpose of the performance of its Services or for any damage to or damage caused by the equipment put at The Owner's disposal by The Hirer.

5. LIMITATION OF LIABILITY

- (a) The Owner shall not be liable to The Hirer for any misuse, abuse or any other improper use of the Plant or for any modification of the Plant that has not previously been approved In Writing by The Owner. The Hirer shall defend, fully indemnify and hold The Owner, its affiliates, distributors or agents, and their respective officers, directors and employees, harmless from all and any damages, costs (including legal fees) and liabilities that the latter may incur as a result of or in relation to such misuse, abuse or any other improper use of the Plant or such non-authorized modification of the Plant.
- (b) Any remedies or rights of The Hirer (under contract or at law) other than those specified herein above are herewith excluded. In particular, but without limitation, The Owner shall in no event be liable for The Hirer's loss of profits, goodwill, time, inconvenience or other consequential or incidental damages
- (c) If The Owner has designed, developed or manufactured the Plant on the basis of construction data, drawings, models or other recommendations of The Hirer, The Owner shall not be held liable for and shall give no warranty as to the accuracy, fitness for purpose or other aspects that may derive from such data or recommendations of The Hirer, and undertakes no obligation other than to build the Plant (including parts thereof) in compliance with the data or information provided by The Hirer.
- (d) The Hirer shall fully indemnify and hold The Owner, its affiliates, distributor's or agents, and their respective officers, directors and employees, harmless from all and any damages, costs (including legal fees) and liabilities that the latter may incur as a result of or in relation to any claim by a third party alleging that The Owner, by, through or in relation to the use of drawings, samples, models, other data or recommendations of The Hirer, has infringed any copyright, trademark or patent.

6. GENERAL CONDITIONS

- (a) The Hirer shall not directly or indirectly assign the Contract or any of its rights or obligations hereunder, without the prior written consent of The Owner, In Writing.

- (b) The Hirer shall effect and maintain Third Party Liability insurance with a minimum insurance cover of £1,000,000 for the protection and benefit of any servants, agents and employees of The Owner that may attend The Hirer's premises or work site.
- (c) Any amendment, extension, limitation or other modification of these Conditions shall have no binding effect upon The Owner, unless The Owner has specifically accepted such modification In Writing.
- (d) If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

7. NOTICES

Any notices or note to be given to or by The Owner shall be deemed to be given upon its being posted or sent by fax or email to The Hirer's and/or The Owner's registered office or last known address, or, in the case of an individual or firm, to its last known address.

8. WAIVER

The omission to exercise or any delay in exercising any of its rights or remedies under the Contract shall not constitute a waiver of any such rights or remedies by The Owner.