



## TERMS AND CONDITIONS OF SALE

### THE CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO THE PROVISIONS OF CLAUSE 10

#### 1 DEFINITIONS, INTERPRETATION AND GENERAL

- 1.1 In these Conditions:
- (a) **'Business Day'** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business
  - (b) **'Company'** means Tiger Lifting UK Limited or Woo Sing Industrial Co., Ltd;
  - (c) **'Customer'** means the individual, firm, company or other party with whom the Company contracts;
  - (d) **'Contract'** the contract between the Company and the Customer for the sale and purchase of the goods in accordance with these Conditions;
  - (e) **'Defective Goods'** goods, parts or materials, which by reason of fault or incorrect design or workmanship, are found to be defective or fail or are unable to perform in accordance with a Contract;
  - (f) **'Delivery Date'** means in respect of any goods (either the whole of the goods or any instalment, as the context shall permit) which are ready for delivery:
    - (i) the date such goods or instalment of goods are delivered; or
    - (ii) the date such goods or instalment of goods are deemed to be delivered pursuant to clause 6.2(a); or
    - (iii) where goods or an instalment of goods are ready for delivery and delivery is postponed at the Customer's request, the date upon which such request for postponement is notified to the Company;
 whichever shall first occur
  - (g) **'Euro'** means the single currency according to European Community law;
  - (h) **'International Supply Contract'** means such a contract as is described in section 28(3) of the Unfair Contract Terms Act 1977;
  - (i) **'Order'** the Customer's order for the goods, as set out in the Customer's written acceptance of the Company's quotation;
  - (j) **'supply'** includes (but is not limited to) any supply under a contract of sale;
  - (k) **'these Conditions'** means the standard conditions and any other terms of sale set out or referred to in the Company's acknowledgment of Order; and
- 1.2 The headings in these Conditions are for convenience only and are not for the purpose of interpretation.
- 1.3 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.4 If any provision of these Conditions (or of any other conditions or other terms that may be agreed in writing between the Company and the Customer) is or becomes illegal, void or unenforceable for any reason:
- (a) that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected;
  - (b) if any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable
- 1.5 Failure by the Company to enforce strict compliance with these Conditions by the Customer will not constitute a waiver of any of the provisions of these Conditions.
- 1.6 A person who is not a party to the Contract shall not have any rights under or in connection with it
- 1.7 References to clauses are to clauses of these Conditions, unless stated otherwise.

#### 2 CONTRACT TERMS, VARIATIONS AND REPRESENTATIONS

- 2.1 Any Contract shall be subject to these Conditions and, save as set out in these Conditions, no representative or agent of the Company has authority to agree any terms or make any representations inconsistent with them or to enter into any contract except on the basis of them. Any such term representation on contract will bind the Company only if in writing and signed by a director of the Company.
- 2.2 Any drawings, descriptive matter, or advertising produced by the Company and any descriptions or illustrations contained on the Company's website are an invitation to treat only and shall not constitute an offer for sale or have any contractual force.
- 2.3 The Order constitutes an offer by the Customer to purchase the goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable specification are complete and accurate
- 2.4 The Order shall only be deemed to be accepted when the Company issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.5 Unless otherwise agreed in writing by the Company (which shall include anything contained in any quotation delivered by the Company to the Customer) these conditions shall apply to the exclusion of any terms and conditions stipulated or referred to by the Customer in his order (whether by written purchase order or otherwise) or pre-contract negotiations or any inconsistent terms implied by law or trade custom, practice or course of dealing.
- 2.6 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.
- 2.7 Any samples, drawings, descriptive matter, or advertising produced by the Company and any descriptions or illustrations contained in the Company's catalogues, brochures or website are produced for the sole purpose of giving an approximate idea of the goods described in them. They shall not form part of the contract or have any contractual force.
- 2.8 Where the Company has not given a written acknowledgment of Order, these Conditions will nonetheless apply to the Contract provided that the Customer has had prior notice of them.
- 2.9 The Company reserves the right to correct any clerical or typographical error made by its employees at any time.
- 2.10 A quotation for the goods given by the Company shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue

#### 3 SPECIFICATION, INSTRUCTION OR DESIGN

- 3.1 If goods are made to a specification, instruction or design supplied by the Customer or any third party on behalf of the Customer then:
- (a) the suitability and accuracy of that specification, instruction or design will be the Customer's responsibility;
  - (b) the Company reserves the right to amend any such specification, instruction or design if required by any applicable statutory or regulatory requirements (including, but not limited to, any harmonised European standards specified by the Machinery Directive 2006/42/EC);
  - (c) the Customer will indemnify the Company against all infringement or alleged infringement of any third party's intellectual property rights and any loss, damage or expense which it may incur by reason of





any such infringement or alleged infringement in any country; and

- (d) the Customer will indemnify the Company against any loss, damage or expense in respect of any liability arising in any country by reason of the goods being made to such specification, instruction or design.

3.2 Clauses 3(a) and 3(b) shall survive termination of the Contract.

#### 4 CUSTOMER'S REPRESENTATIONS

- 4.1 Where the Company has supplied the goods to the Customer accompanied by a test certificate, the Customer shall maintain a record of the identity of such goods from the date of delivery until such time as the goods are installed/incorporated into other items and records in respect of maintenance works carried out to or in respect of the goods.
- 4.2 If the Customer modifies the goods, the Company shall have no liability in respect of any loss or damage arising from or in connection with any defect of failure in the goods or any error regarding weight, dimensions, capacity.
- 4.3 The Customer shall store the goods in clean, dry, well ventilated conditions and shall maintain and use the goods in accordance with any recommendations made by the Company.

#### 5 QUOTATIONS AND PRICES

- 5.1 Unless otherwise agreed in writing, the Company shall be entitled to increase its prices at any time to take account of any increase in the cost to the Company of purchasing any goods or materials or manufacturing, working on or supplying any goods (including, but not limited to, any such increase arising from any error or inadequacy or change to any specification, instructions or design provided by the Customer, any modification carried out by the Company at the Customer's request, any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate or accurate information or instructions or any change in labour costs, taxes, customs duties, freight charges, insurance premiums or foreign exchange rates) and such increased prices ruling at the date of dispatch by the Company shall be substituted for the previous contract price. In particular, but without prejudice to the generality of the foregoing, if the contract price is specified or payable in the Euro or in a currency other than the Company Currency ('the Payment Currency'), the Company shall be entitled to increase the contract price to take account of any change in the exchange rates between the Company Currency and the Payment Currency (as evidenced by the exchange rates quoted by HSBC Bank plc) which is to the detriment of the Company and which occurs between the acceptance of the order and the actual payment of the contract price.
- 5.2 All prices are quoted are exclusive of VAT (value added tax) or GST (Goods and Services Tax) and the Customer shall pay any and all taxes, duties and other governmental charges payable in respect of the goods.
- 5.3 Without prejudice to the generality of clause 5.2, in respect of goods which have been the subject of claims by the Company for Inward Processing Relief ("IPR"), duty may be charged (in addition to the Company's prices) in the event that the Customer is in the EC.
- 5.4 The price of the goods is exclusive of the costs and charges of inspection, packaging, insurance and transport of the goods, which shall be invoiced to the Customer.
- 5.5 The Company may invoice the Customer for the Goods on or at any time after the completion of delivery

#### 6 DELIVERY

- 6.1 For all contracts other than International Supply Contracts and unless otherwise specified in writing by the Company, the Company shall deliver the goods to the location set out in the Order or to such other location as the parties may

agree at any time after the Company notifies the Customer that the goods are ready.

- 6.2 If the contract requires the Customer to take delivery of the goods at the Company's premises or such other location as may be specified by the Company then:
    - (a) for the purposes of this sub-clause 'the goods' shall mean the whole or any instalment of the goods and 'the collection date' shall mean the date on which the goods are or will be ready for delivery; and
    - (b) the Company shall notify the Customer of the collection date and the Customer shall take delivery of the goods within 5 days of the collection date.
  - 6.3 If the Customer shall for any reason fail to take or accept delivery of the goods on the agreed date or dates, delays in doing so or fails to provide a delivery address pursuant to an Order then, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under the Contract, without prejudice to any other rights of the Company whether under these terms and conditions or otherwise:
    - (a) delivery of the goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Company notified the Customer that the goods were ready; and
    - (b) the Company shall be entitled to make an additional charge in respect of any delay caused by such failure and for any costs incurred as a result of repeated delivery necessitated by such failure.
  - 6.4 If the contract is an International Supply Contract it shall be deemed to incorporate the latest edition of Incoterms current at the date of the contract save that in the event of any inconsistency between the Incoterms and any express term of the Contract (including these Conditions) the latter shall prevail. The Company shall be under no obligation to give the Customer the notice specified in section 32(3) of the Sale of Goods Act 1979.
  - 6.5 Should the Company be delayed in or prevented from delivering the goods due to a failure of the Company's (or its sub-contractor's) computerised business or manufacturing systems or due to any cause beyond the reasonable control of the Company, the Company shall be at liberty to terminate the order placed by the Customer without incurring any liability for any loss or damage arising from such termination (but without prejudice in any such case to rights accrued to the Company in respect of deliveries already made).
  - 6.6 While the Company will endeavour to deliver the goods by any date or within any period agreed upon, such dates and periods are estimates only, given in good faith, and the Company will not be liable for any failure to deliver to deliver by or within such a period nor shall delays in the delivery of an order entitle the Customer to refuse to take delivery of an order. Time for delivery shall not be of the essence of the contract. The Company shall be entitled to defer delivery until any monies due from the Customer have been received.
- #### 7 RISK IN THE GOODS
- 7.1 Save in the case of International Supply Contracts and subject to any agreement in writing by the Company, the risk in goods which the Company agrees to supply shall pass to the Customer on the relevant Delivery Date:
  - 7.2 Delivery shall be deemed to be completed immediately before loading of the goods.
  - 7.3 All other goods or materials shall be at the Customer's sole risk at all times, and the Company shall not be liable for any loss or damage sustained by any goods or materials left with the Company, howsoever caused and whether or not attributable to negligence on the part of the Company or negligence or wilful default on the part of any employee or agent of the Company. The Customer shall adequately insure such goods and materials in respect of loss or damage whilst the same are under the Company's control and/or in transit from and to premises occupied by the Company.





## 8 PAYMENT

- 8.1 Subject to clause 8.2, the Company may invoice the Customer for the goods on or any time after the completion of a Delivery Date.
- 8.2 The Company will reserves the right to submit invoices to the Customer at reasonable intervals or whenever appropriate having regard to the Contract.
- 8.3 Unless otherwise specified in writing by the Company, the Customer shall pay the invoice in full and in cleared funds within 30 days of the first day of the month following the month the invoice was dated. Payment shall be made to the bank account nominated in writing by the Company. Time of payment is of the essence.
- 8.4 In the event that the Customer makes payment in any currency other than the agreed currency, then the Customer shall:
  - (a) pay to the Company a handling charge equal to 10% of the amount paid other than in the agreed currency; and
  - (b) indemnify the Company in respect of all costs and expenses payable by the Company to third parties (including, but not limited to, commission payable to a bank or other financial institution) in respect of the conversion of the amount paid into the agreed currency.
- 8.5 Without prejudice to any other rights it may have the Company reserved the right to charge interest at HSBC Bank plc base rate plus 4% or at the rate specified from time to time under the provisions of Late Payment of Commercial Debts (Interest) Act 1988 (whichever is the higher) on all overdue accounts and for the purposes of clauses 0 and 11 the full purchase price of the goods shall include all interest payable hereunder.
- 8.6 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Company in order to justify withholding payment of any such amount in whole or in part. The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer
- 8.7 In the event that the currency in which the Company has specified payment is to be made is fully replaced by the Euro, the contract price shall be exclusively owed in Euro and this shall not have the effect of terminating the contract between the Company and the Customer.
- 8.8 The Customer shall pay to the Company an amount equal to any costs and expenses incurred (on a full indemnity basis) by the Company in recovering from the Customer any monies due and payable by the Customer to the Company and for the purposes of clauses 0 and 11 the full purchase price of the goods shall include all costs and expenses payable hereunder.

## 9 FAILURE TO PAY, CANCELLATION OR DEFERMENT

- 9.1 If there shall be an Intervening Event, the Company may within a reasonable time thereafter, defer or cancel any further deliveries or services, stop any goods in transit and treat the Contract as determined but without prejudice to its rights to the full purchase price for goods delivered (which shall become immediately due) and damages for any loss suffered in consequence of such determination.
- 9.2 For the purposes of this clause 0 "an Intervening Event" shall be any of the following:
  - (a) failure by the Customer to make any payment when it becomes due;
  - (b) breach by the Customer of any of the terms or conditions of the Contract;
  - (c) the Customer's proposal for or entry into any composition or arrangement with creditors;

- (d) the presentation against the Customer of any petition for a bankruptcy order, administration order, winding-up order or similar process;
- (e) the appointment of an administrative receiver or receiver in respect of the business of any part of the assets of the Customer;
- (f) the Company forming the reasonable opinion that the Customer has become or is likely in the immediate future to become unable to pay his, her or its debts (adopting, in the case of a company, the definition of that term set out in section 123 of the Insolvency Act 1986); and
- (g) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2(b) to clause 9.2(b) (inclusive).

- 9.3 Cancellation by the Customer will only be accepted at the discretion of the Company and in any case on condition that any costs or expenses incurred by the Company up to the date of cancellation and all loss or damage resulting in the Company by reason of such cancellation will be paid by the Customer to the Company forthwith. Acceptance of such cancellation will only be binding on the Company if in writing and signed by a director of the Company.
- 9.4 Any costs or expenses incurred by the Company due to suspension or deferment of any order by the Customer or in the event that the Customer defaults in collecting, or giving instructions for the delivery of any goods or the performance of any services will be payable by the Customer forthwith on demand.

## 10 LIMITATION OF LIABILITY

- 10.1 Nothing in these Conditions shall limit or exclude the Company's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied pursuant to clause 10.3
  - (d) any liability specifically assumed by the Company pursuant to clauses 10.3 and
- 10.2 Without prejudice to clauses 10.1(a), 10.1(b) and 10.1(c), the Company shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, goodwill or business opportunity or any indirect or consequential loss arising under or in connection with the Contract.
- 10.3 All goods supplied by the Company are supplied with the benefit of the terms implied by section 12 of the Sale of Goods Act 1979. Subject to the foregoing, and whether or not the Contract is a contract of sale, all other conditions, warranties and other terms, express or implied, statutory or otherwise, are expressly excluded, save insofar as expressly provided otherwise in these Conditions or as otherwise expressly agreed by the Company in writing provided that if and if and to the extent that any legislation (or any order made pursuant to it) shall make or have made it unlawful to exclude or purport to exclude from the Contract any term or shall have made unenforceable any attempt to exclude any such term, the foregoing provisions of this clause will not apply to any such term.
- 10.4 In the event of any negligence or wilful default on the part of the Company, its employees, agents of sub-contractors in respect of in or in connection with the supply of any Defective Goods or the design or manufacture thereof or in the carrying out of any work, the Company shall have no liability to the Customer save as otherwise provided in this clause 10.3:
  - (a) The Company's liability is limited to re-supplying (with new goods) or (at its discretion) repairing or paying for the repair or re-supply of goods, in the case of defects apparent upon inspection, provided





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that such defect is notified by the Customer to the Company within 14 days of delivery and, in the case of defects not so apparent, provided such notification is made within 12 months of delivery to the Customer;

- (b) Without prejudice to clause 3, the goods shall not be deemed to be defective by reason that they are not fit for their purpose unless the Customer and the Company have undertaken as part of the Contract to be solely responsible for providing the goods for the exact purpose.
- (c) In the event of any error in any weight, dimension, capacity, performance or other description which is part of a Contract, the Company's liability in respect of any direct loss or damage sustained by the Customer as a result of such error shall not exceed the price of the goods in respect of which the description is incorrect.
- (d) A condition precedent to the Company's liability hereunder shall be that the Customer shall have given to the Company reasonable notice of the defect, failure or error and shall have provided authority for the Company's servants or agents to inspect the goods.
- (e) The Company shall have no other or further liability in respect of any direct or consequential loss (including but not limited to loss of profits, loss of business or other economic loss) or damage sustained by the Customer arising from or in connection with any such breach, defect, failure or error as aforesaid.

10.5 The Company will have no liability for damage in transit, shortage of delivery or loss of goods unless:

- (a) the damage in transit, shortage of delivery or loss of goods is directly attributable to any negligence or wilful default on the part of the Company, its employees, agents of sub-contractors; and
- (b) the Customer shall have given to the Company written notice of such damage, shortage of loss (together with reasonable particulars thereof) within 3 days of receipt of the goods or (in the case of total loss) the receipt of the invoice or other notification of despatch.

The Company's liability, if any, shall be limited to re-supplying or (in its discretion) repairing such goods and it shall be a condition precedent to any such liability that the Customer shall, if so requested, provide authority for the company's employees or agents to inspect any damaged goods within 14 days of such request

10.6 For the purposes of clause 10.3, the expression "the carrying out of any work" shall, without prejudice to its generality include the carrying out of all work done in or in connection with the design, manufacture, treatment, testing, delivery, erection, installation, repair or servicing of any goods or in the preparation or provisions of any information or advice

10.7 This clause and these conditions shall have effect subject to the provisions of section 2(1) of the Unfair Contract Terms Act 1977

## 11 RETENTION OF TITLE

11.1 The following provisions shall apply to all Contracts other than International Supply Contracts and to all goods which under the Contract the Company agrees to supply to the Customer. No failure by the Company to enforce strict compliances by the Customer with such provisions shall constitute a waiver thereof and no termination of the Contract shall prejudice limit or extinguish the Company's rights under this clause

- (a) Upon delivery of the goods the Customer shall hold the goods solely as bailee for the Company and the goods shall remain the property of the Company until such time as the Customer shall have paid to the Company and the Company shall have cleared funds for the full purchase price of all goods and supplies,

whether under the Contract or otherwise. Until this time the Company shall be entitled to recover the goods or any part thereof and, for the purpose of exercising such rights, the Customer hereby grants a licence to the Company its employees and agents (together with appropriate transport) to enter upon the Customer's premises and any other location where the goods are situated and remove the goods.

- (b) The Customer is hereby granted a licence by the Company to incorporate the goods in any other products.
- (c) The licence granted under sub-clause 11.1(a) shall extend to detaching the goods from any property to which they are attached or into which they have been incorporated or from any other products or goods to which they have been incorporated or from any other products or goods to which they have been attached pursuant to the licence granted under sub-clause 11.1(b) hereof.
- (d) The Customer is hereby licensed to agree to sell on the goods and any products incorporating any of them on condition that the Customer shall inform its customer of the provisions of sub-clauses 11.1(a) to 11.1(c) The Customer acts as the Company's bailee in respect of any such sale and shall immediately upon receipt of the proceeds of sale, and whether or not payment has become due under clause 0 hereof remit to the Company the full purchase price of the goods sold on less any part thereof which has already been paid and until such amount has been so remitted shall hold such amount as trustee and agent for the Company.
- (e) The Customer shall maintain in appropriate insurance in respect of the goods from the date or dates on which the risk therein passes to him. In the event of any loss or damage occurring while the goods remain the property of the Company the Customer shall immediately on receipt of the insurance monies, remit to the Company the full purchase price of the goods lost or damaged less any part thereof which has already been paid and until such amount has been so remitted shall hold such amount as trustee and agent for the Company. For the avoidance of doubt the provisions of this sub-clause do not affect the Customer's obligations under clause 0.
- (f) The licences granted under such sub-clause 11.1(b), 11.1(c) and 11.1(d) shall be terminable forthwith at any time upon notice by the Company to the Customer

11.2 In the case of International Supply Contracts property in the goods shall pass to the Customer on delivery.

## 12 INTELLECTUAL PROPERTY

Unless otherwise agreed in writing by the Company any intellectual property rights in the goods and in any tooling and in any drawings of other documentation supplied or produced by the Company shall vest in and remain vested in the Company, the Customer agrees to execute any documents the Company deems necessary to give effect to this clause.

## 13 TOOLING

All tooling purchased or produced by the Company for the Contract shall be and remain the property of the Company unless otherwise agreed in writing, notwithstanding that the Customer may have made payment or part payment therefor.

## 14 CONFIDENTIALITY

The Customer agrees that it and its employees and agents will keep confidential all drawings and designs supplied by the Company and will not use, copy or reproduce the same save as specifically authorised by the Company in writing.

## 15 Tests and Marking





- 15.1 If the Company agrees to carry out any tests, certification or marking shall be provided in respect of the goods it shall be entitled to charge therefor.
- 15.2 The Customer shall pay to the Company an amount equal to any costs payable to third parties in respect of any tests, independent design review or report carried out by that third party in respect of the goods at the request of the Customer together with an administration fee (equal to 10% of the third party costs) in respect of the Company procuring the same.
- 15.3 If the Company agrees that any tests shall be carried out in the presence of the Customer or his representative the Company shall notify the Customer of the date from which it is or will be ready to carry out such tests. The Customer undertakes that he or his representative will, by prior appointment, attend at the premises where the goods are situate within 3 days after such date for the purpose of witnessing such tests and agrees that in default of such attendance the Company may proceed with the tests in his absence and he shall be bound by the results thereof.

## 16 USE AND SAFE HANDLING

The Customer warrants that it will pass on to all third parties to whom it may supply the goods or any of them all information as to the use and safe handling of such goods as may have been provided to the Customer by the Company.

## 17 LICENCES

The Customer acknowledges that goods for delivery outside of the United Kingdom may be subject to United Kingdom export controls as well as import controls at their destination. The Customer will be responsible for ensuring that all necessary clearances and licences are obtained prior to the despatch dates for the goods to be supplied and for obtaining all necessary documentation and lodging the same with the Company prior to despatch of the goods

## 18 LAW AND JURISDICTION

The proper law of all Contracts shall be English law which shall govern in all respects the construction and effect of such Contracts and of these conditions. The Customer agrees that in the event of any dispute arising out of the Contract or the performance thereof he will submit to the jurisdiction of the English Courts.

## 19 FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A 'Force Majeure Event' means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

