

# THE SERVICE ORIENTATED LIFTING SOLUTIONS PROVIDER SINCE 2008



## Our Services

The lifting services we provide are not about what we do, it's all about achieving your project needs. Flexibility and adaptability are our watchwords and the key to your project's success. We respond to your project challenges; we can provide complete engineering and operational packages, or bespoke lifting solutions to suit your project schedule. Our service aspiration is to become your integrated long-term trusted lifting advisor and solutions provider.



### Tower Crane Hire

We have a dedicated team of experienced specialists and an industry leading technical department.



### Warehousing & Distribution

Our premium on-site storage facility gives you peace of mind that your goods will be secure until you need them.



### Contract Lift

We provide any scale of contract lift service, from a single small crane lift, to a full range of multiple crane operations.



### Resource & Labour

Supplying skilled, experienced lifting crews to guarantee a professional service and maintain a strong reputation with our clients.



### Plant Installation

We provide heavy lift and specialist equipment or full end to end plant handling solutions.



### Helicopter Lift

Radius Group provides the industry-leading, fully-managed helicopter contract lifting service.



### Technology

We create a 3D virtual environment based on real-world data, that enables us to plan your project in greater detail.



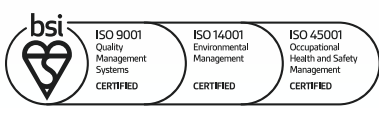
### Logistics & Transport

We will plan and execute the efficient transportation and storage of your goods from the source to site.



### Lifting Assurance & Consultancy

Radius has many years experience managing and consulting on a variety of lifting projects.





# RADIUS GROUP LIMITED | GENERAL TERMS AND CONDITIONS

## To be read in conjunction with relevant CPA Conditions

### DEFINITIONS

"We" or "Us" means Radius Group Limited.

"You", "Your" or "the principal" refers to the party with whom we contract to provide goods and/or services.

### 1 GENERAL

- 1.1 Unless otherwise agreed in writing, these general terms shall apply to all, and any contracts entered into by Us for the provision of goods or services and/or the provision of such goods and/or services. We will not, unless otherwise agreed in writing, provide goods or services under any terms but these. All estimates and quotations issued by Us are expressly limited to the terms of our offer and any terms proposed by You that materially alter our offer will not be accepted by Us unless expressly agreed in writing. For the avoidance of doubt, a signed sub-contract order does not constitute such an agreement. Your terms and/or those of any third party shall not under any circumstances apply to the contract and/or to the provision of such goods and/or services, even in the event where they have not been rejected or opposed explicitly by Us. Any accompanying Terms and Conditions with your purchase order and/or sub-contract order will not invalidate these Terms of Business, even if signed by us, when we effect delivery without reservation.
- 1.2 These terms shall also incorporate the CPA Conditions which have been provided with them. Where no CPA terms have been provided, then these terms shall apply in any event.
- 1.3 Where there is any conflict between these terms and any other term of the contract, be that a term in the CPA Conditions or otherwise, the contract shall be construed so that these terms shall take precedence over any other conflicting term.
- 1.4 The nullification or nullity of any provision of these terms shall not affect the validity of the remaining provisions of these terms.
- 1.5 You confirm and warrant that You are accepting these terms on Your own behalf and on behalf of any other parties who may have an interest in the goods and/or services being provided and/or who have an interest in any items being moved and/or transported and/or handled and/or stored pursuant to the provision of those goods and/or services.

### 2 FORMATION OF THE AGREEMENT

- 2.1 Regardless of the form in which they are expressed, all our offers including the offer provided with this document, if any, shall not be binding. They shall become binding and a contract formed only after Our final acceptance of the order in writing.
- 2.2 Offers shall remain open for consideration for seven (07) days unless otherwise stated in estimate.
- 2.3 All prices mentioned by us shall always be net prices without VAT or other charges and/or taxes of any nature.
- 2.4 The grounds on which any goods and/or services are to be provided shall be adequately compacted and feature a stable underground to allow for normal moving and installing of Our equipment as well as for providing the goods and/or services. The responsibility for ensuring this lies with You and You warrant that any ground and/or roads that is utilized is appropriate as set out in this clause. In addition, all the access roads and the grounds themselves shall have to be adequately accessible and practicable.
- 2.5 If the terms of clause 2.4 and/or clause 2.8 are not complied with, then You shall be in breach and You shall be responsible and liable for all and any extra costs and/or damage and/or losses that are incurred because of the state of the ground and/or road.
- 2.6 Furthermore, if the terms of clause 2.4 and/or clause 2.8 are not complied with, then You shall be in breach and You shall indemnify Us in respect of all and any costs and/or damage and/or losses and/or liability which We may incur because of the state of the ground or the road.
- 2.7 Furthermore, if the terms of clause 2.4 and/or clause 2.8 are not complied with, then We shall have the right to cancel the contract and if We do so cancel the contract, You, will be liable to pay the total agreed price for the provision of goods and/or services under the contract in accordance with clause 4.3.



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- 2.8 In the event that the provision of goods and/or services will require use of the public highway, You, will ensure that We are granted free and unrestricted access to all necessary areas. It will be Your responsibility to arrange and ensure all road closures, removal of all vehicles and other obstacles. All responsibility for road closures and diversions are Yours. Should you wish for Us to act on Your behalf in arranging these services We will do so solely as Your agent and You will still be liable for all costs associated with the work plus our agent fee of 20%.

### 3 CHANGES – PRICE REVISIONS

- 3.1 Our price, as confirmed in the order acceptance, covers only the provision of goods or services as confirmed in the order. Any changes, adjustments and additional work shall constitute a new and additional agreement, without prejudice to earlier commitments. We shall be entitled to charge for any changes, adjustments and/or additional work either at an agreed rate or in accordance with our normal rates. For the avoidance of doubt, any such additional agreement shall also be subject to these terms, as if it had been part of the original contract confirmed in the order confirmation.
- 3.2 The prices are based on the goods and/or services being provided on ordinary workdays. You will be responsible for extra charges if any goods and/or services are provided on Saturdays, Sundays and holidays.
- 3.3 The price does not include taxes and/or duties and/or charges and/or fees payable to authorities, for instance but not limited to import duties, fines, additional costs for police protection or escorting, removal of fences, buildings, street furniture or other expenses resulting from laws or regulations, including but not limited to guarantees and securities. Costs of this nature shall be payable by You on demand by Us. You shall also be responsible for an extra 15% for administrative costs.
- 3.4 Site rate and/or bonus which are locally or nationally agreed and differ from Our basic operator rates will be recharged at cost plus a cover charge to include the national insurance contribution.
- 3.5 You warrant that all the information, including but not limited to the weight and centre of gravity of any goods, You, have given is correct. You will be responsible to Us for all any extra costs, losses or damages which arise from the provision of inaccurate information.
- 3.6 If We are delayed in the provision of the goods and/or services covered by this contract due to adverse weather conditions, We, shall be entitled to charge You for the period of any delay at our normal charging rates. This shall be in addition to the contract price. The decision of what amounts to adverse weather shall be solely Ours.

### 4. EXECUTION – DELAY – INTERRUPTION

- 4.1 The time of performance by Us shall not be of the essence of the contract. Furthermore, dates and timetables are provided for Your information only and are not contractually binding.
- 4.2 We have the right to use any and all means in providing the goods and/or services, in deviation from the confirmation of order, if required.
- 4.3 In the event of any cancellation of the order, You, shall pay, unless otherwise agreed in writing, the total agreed price for the provision of the goods and/or services under the agreement.
- 4.4 In the event of any delay or postponement of the provision of the goods and/or services, regardless of its cause, with nothing excepted, You, have to pay any and all costs, expenses and damages of any nature arising from such postponement or delay immediately. If the provision of the goods and/or services cannot be undertaken within a reasonable period because of the postponement or delay, then We shall be entitled to treat the contract as cancelled. In such circumstances, we will inform You in writing and You will be obliged to pay the contract price in accordance with clause
- 4.5 The decision as to what is a reasonable period, in all the circumstances, will rest solely with Us.
- 4.6 We shall not be liable to You or anyone in respect of any delay to the provision of the goods and/or services for whatever reason, even if such delay arises due to Our negligence.
- 4.7 If the provision of the goods and/or services is possible only with significant risk to the personnel and/or the equipment (as assessed solely by Us) We may cancel the contract and You shall be liable to pay for the portion carried out already, in proportion with the order as a whole, including the costs of any nature in connection



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therewith.

## 5 RISKS – LIABILITY

- 5.1 Where We lease or provide any equipment to You without a driver or operator, such equipment shall be leased or provided to be used only in accordance with the specifications and requirements of that equipment. Any such equipment is leased or provided without any responsibility on Our part. You shall be responsible for compliance with any and all labour and safety regulations applicable to the equipment leased. In the event of leasing or providing the equipment with a driver or operator, You shall be in charge of guarding, instructing, monitoring and controlling the equipment and personnel during the entire term that the equipment is leased or provided. You shall be solely responsible for the actions of any such driver or operator. Furthermore, You alone shall be entirely responsible in the event of any accident or otherwise which results directly or indirectly from the lease or provision of the equipment, its use or even caused by detention.
- 5.2 Although Radius Group Limited makes all efforts possible in providing the goods and/or services in the manner agreed, We shall not be liable for any faults or failure in the performance of the agreement or for any other breach of contract relating to the provision of the goods and/or services even where such occurs due to Our negligence, except where such a breach was undertaken intentionally by Us with intent to breach the contract.
- 5.3 In the event that We are liable to You, Our maximum liability shall be the sum of £25,000. We will not be liable to You for any sum in excess of £25,000, even where the liability arises from Our negligence.
- 5.4 Under no circumstances shall Our liability be limited or excluded in respect to claims for death or personal injury. In all other cases, the exclusions, defences and limitations of liability shall apply.

## 6. INSURANCE

- 6.1 In the event that We transport, store, move and/or handle goods pursuant to the order, then You shall ensure that such goods are properly and fully insured against all and any loss and/or damage that could occur.
- 6.2 You will also ensure that such insurance includes a waiver of subrogation in favour of Us.
- 6.3 You will further ensure that if such loss and/or damage occurs that a claim is pursued under the said insurance.
- 6.4 Where any goods transported, stored and/or handled by Us are not owned by You, You shall also ensure that You have adequate liability insurance to cover any claim which may be brought against You in respect of the loss and/or damage of the goods being transported, moved, stored or handled by Us.
- 6.5 You will also ensure that such insurance includes a waiver of subrogation in favour of Us.
- 6.6 You will furthermore ensure that if any claim is made against You, that You will pursue a claim under the said insurance.
- 6.7 You will not bring any claim against Us, and We shall not be liable for any such claim, arising from the loss and/or damage to goods (of whatever nature) whilst being transported, moved, stored or handled by Us. This shall be the case even where the said loss and/or damage arises by reason of Our negligence.
- 6.8 Furthermore, You shall fully indemnify Us in respect of any claim brought against Us by any other party arising from the loss and/or damage to goods (of whatever nature) whilst being transported, stored or handled by Us. This shall be the case even where the said loss and/or damage arises by reason of Our negligence.
- 6.9 Where We lease or provide equipment to You, You shall ensure that the equipment is fully insured. Such insurance must cover all and any defects with the equipment and all and any liabilities which could arise from Your possession and/or use of equipment, including any acts or omissions of the personnel operating the equipment. Such insurance must provide cover for damage caused to third parties by the equipment and/or the personnel and for any damage of the goods being handled.
- 6.10 You will also ensure that such insurance includes a waiver of subrogation in favour of Us.
- 6.11 You will furthermore ensure that if any claim is made against You, that You will pursue a claim under the said insurance.



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- 6.12 Furthermore, You shall indemnify Us in respect of any claim brought against Us by any other party arising from the leasing, provision or use of such equipment. This shall be the case even where the circumstances of the claim arise from Our negligence.

## 7 RECOURSE

- 7.1 You shall notify any complaint relating to damage caused to third parties, buildings or equipment, etc., as well as to any defective execution of the order by registered letter, within one (01) day, at the latest, after the incident. If you fail to do this, the complaint concerned shall be declared as inadmissible.
- 7.2 On the occasion of the execution of the order, the principal or his employee shall sign the worksheet and enter any and all comments on this sheet.
- 7.3 We shall, in any event, be discharged from all liability whatsoever and howsoever arising unless proceedings are commenced against Us and we are given written notice of the same within one year of Our confirmation of the order.

## ART. 8 PAYMENTS

- 8.1 All invoices shall be payable at Our place of business. The customer shall be prohibited, at all times, from withholding or off-setting any payment.
- 8.2 Unless otherwise agreed, the invoice shall be payable within thirty (30) days following the date of the invoice. The Late Payment of Commercial Debts (Interest) Act 1998 as amended and/or replaced from time to time shall apply to sums which are outstanding.

## ART 9. – DISPUTES AND APPLICABLE LAW

- 9.1 The contract shall be subject to English law and to the non-exclusive jurisdiction of the English Courts. Except for provisions to the contrary, the laws of England shall be applicable to our agreements, legal actions and factual actions.
- 9.2 If any clause of these terms is found to be void or unenforceable, for whatever reason, all the other clauses shall remain in force.

## 10 DIVISIBILITY CLAUSE

- 10.1 This contract is divisible. Each delivery made hereunder shall be deemed to arise from a separate contract and shall be invoiced separately; any invoice for a delivery shall be payable in full, in accordance with the terms of payment provided for herein, without reference to and notwithstanding any defect of default in delivery with any other instalment.

# **SUPPLEMENTARY CONDITIONS APPLICABLE TO TOWER CRANES 2021**

## **TO BE READ IN CONJUNCTION WITH THE CPA MODEL CONDITIONS FOR THE HIRING OF PLANT 2021**

**EXPLANATORY NOTE:** The purpose of these Supplementary Conditions is, both partly, to raise awareness of the Hirer's responsibilities under the British Standard Code of Practice 7121-5 for the Safe Use of Tower Cranes ("BS 7121-5") and partly to define contractually the extent of the Owner's and Hirer's responsibilities as between themselves. BS 7121-5 makes it clear that the Hirer is in overall control of the lifting operation and is responsible for providing a suitably trained and experienced "appointed person" to ensure the adequate planning and supervision of the operation. When provided, the Owner's responsibility is limited to providing competent personnel, and a crane that is properly maintained, inspected, tested and thoroughly examined where necessary.

For the avoidance of doubt, when the hire is subject to the CPA's Model Conditions for the Hiring of Plant 2021 ("CPA Model Conditions"), the Owner is not a specialist sub-contractor and/or sub-contractor of the Hirer. The Owner will supply Plant pursuant to the CPA Model Conditions together with these Supplementary Conditions to form the Contract between the Owner and the Hirer.

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1 These Supplementary Conditions are applicable to Tower Cranes only and shall be referred to as the "Supplementary Conditions".
- 1.2 Unless the context suggests otherwise words and terms in these Supplementary Conditions shall have the same meaning as in the CPA Model Conditions.
- 1.3 If any conflict shall appear between any provisions of the Supplementary Conditions and the provisions of the CPA Model Conditions then the former shall prevail.

### **RESPONSIBILITIES OF THE HIRER**

#### **2. PLANNING, SUPERVISING, CO-ORDINATING, SLINGING AND HANDLING**

- 2.1 In order to comply with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (SI 1998 No. 2307) and BS 7121-5, the Hirer is responsible for planning, supervising, co-ordinating and controlling the lifting operations, including the preparation and distribution of risk assessments, method statements and for the safe slinging of the goods to be lifted or handled. The Hirer will be responsible for provision of emergency rescue of personnel from the crane in accordance with industry Good Practice.
- 2.2 If advice or information is sought from and given by any person supplied by the Owner, the Hirer understands and accepts that such advice or information is given without responsibility and does not relieve or reduce the Hirer's requirement to make their own independent assessment as outlined in clause 2.1 above.
- 2.3 When the Owner provides any personnel including a Crane Supervisor, crane co ordinator, slinger, signaller or crane operator (as defined in BS 7121-5), all such personnel will work under the direction and control of the Hirer's Appointed Person, notwithstanding that the Appointed Person may not be on site, in accordance with Clause 8 of the CPA Model Conditions for the Hiring of Plant (2021).
- 2.4 The Hirer is responsible for ensuring, that the tower crane operative carries out the daily and weekly checks in accordance with the manufacturer's instructions to the tower crane, and to notify any defects to the Owner and take appropriate action on their findings. The Hirer is also responsible for the completion and retention of records and compliance with all Health and Safety and other applicable legislation and regulations at all times. The cost of carrying out the daily and weekly checks will remain the responsibility of the Hirer.
- 2.5 The Hirer must ensure that the tower crane operative is supervised whilst ascending and descending the tower crane to ensure that the operative ascends



and/or descends the tower crane safely and without harm. The Hirer must also ensure that the tower crane operative leaves the site safely at the end of each Working Day.

- 2.6 During times of darkness or limited daylight, the Hirer must ensure that the tower crane operative has adequate lighting to safely ascend and/or descend the tower crane. The Hirer is responsible for the cost of fitting any Emergency and Escape lighting on the crane.
- 2.7 The Hirer shall ensure that the operator has placed the crane in correct out of service condition when left unattended or when adverse weather (e.g., high winds) are anticipated in-line with manufacturer's instructions. The Hirer will be responsible for any damage caused to the crane if the crane is operated in adverse weather or is not left in the correct out of service condition as per clause 13 of the Model Conditions.

### **3. EXCLUSION ZONES**

- 3.1 The Hirer shall receive written confirmation of the exclusion zone from the Owner, within a reasonable period prior to the tower crane being erected, serviced, examined, adjusted, modified or dismantled. For the avoidance of doubt, the exclusion zone may extend beyond the boundary of the site and include any relevant airspace. Such exclusion zone remains the responsibility of the Hirer.
- 3.2 The Hirer will create and maintain an exclusion zone (including any relevant airspace) at no cost to the Owner, whilst the tower crane is either being erected, serviced, examined, adjusted, modified or dismantled. During this time, the Hirer will be solely responsible for preventing any unauthorised personnel from entering the exclusion zone. Should the Hirer fail to comply with this requirement, the Hirer will be solely liable for any loss or damage or injury to persons or property and to costs sustained by the Owner as a result of suspension of works arising from the failure to maintain the area.
- 3.3 The Hirer shall be charged if any anti-collision, zoning, camera systems or similar, needs to be fitted, adjusted, modified or changed to the crane.

### **4. POWER SUPPLY AND EARTHING**

- 4.1 The Owner shall advise the Hirer of the electrical power requirements of the crane, and any ancillary equipment.
- 4.2 At the Hirer's cost, the Hirer will arrange the power supply to terminate in a suitably sized electrical isolator switch (EIS) that is capable of being padlocked in the off position and will be in close proximity to the base of the tower crane. This power supply will remain available until the tower crane has been completely dismantled.
- 4.3 The Hirer shall provide evidence to the Owner that the electrical supply circuits including earthing arrangements, to the crane have been inspected and tested after installation and at three monthly intervals thereafter.
- 4.4 The Owner will be responsible for connecting the power supply to the tower crane from the Hirer's EIS, ensuring it is of the required size for the crane's requirements.
- 4.5 The Owner will be responsible for the inspection and test of the electrical circuits from the EIS to the termination point on the crane control panel.

### **5. GROUND AND SITE CONDITIONS, BASE AND TIES**

Without prejudice to Clause 7 of the CPA Model Conditions:

- 5.1 The Hirer shall be fully liable to the Owner for any damage to the tower crane or any Plant required for the erection, servicing, adjusting, modifying and dismantling of the tower crane or any associated equipment for the tower crane caused by ground and site conditions and shall indemnify the Owner and hold the Owner harmless against any liability, expense, loss or damage caused by ground and/or site conditions.
- 5.2 The Owner will provide sufficient written technical information that will allow the Hirer to prepare a suitable base/foundation which may include embedment frames/sockets, and where applicable, the mast-ties fixing points interfacing with the structure, that can withstand all of the forces the tower crane exerts in all

permissible configurations and in normal circumstances.

- 5.3 The Hirer must confirm in writing that the base/foundation is compliant with the written technical information by the Owner, and with all current legislation, Approved Code of Practice (ACOP) and industry good practice, including but not limited to BS 5975. The Hirer will indemnify the Owner should the Hirer not comply with this requirement and will also be liable for all hire charges and/or costs that would apply if this non-compliance had not arisen.
- 5.4 The Hirer must ensure that any structure (temporary or permanent works) to which the tower crane will be mounted or attached can withstand all of the forces applied from the operation and testing of the tower crane in all permissible configurations and in normal circumstances. The Hirer will be responsible for any damage caused to the structure as a result of any use of the tower crane.
- 5.5 The Hirer must ensure that the base of the crane is kept free from obstruction and surface water, which may require the installation of surface water drains or pumped systems. Where any part of the tower crane is below the ground's surface, the Hirer at their own cost will install and maintain a pump system to keep the area free of water. The Hirer will be liable for any damage as per clause 13 of the Model Conditions if the Hirer fails to comply.

## **6. ERECTION, MODIFICATION AND DISMANTLING**

- 6.1 The Hirer shall give the agreed period of notice to the Owner prior to erecting or modifying or dismantling the tower crane and associated equipment or any alterations thereto.
- 6.2 Insofar as the Hirer's use of the tower crane will require any licence, permission or authorisation from any private or public body or government or Local Authority or the giving of notice for any such licence, permission or authorisation, which may include but not limited to 'oversailing', the giving of any such notice shall be the entire responsibility of the Hirer, who must ensure that sufficient notice is given to the Owner to guarantee compliance with the relevant regulations. This responsibility extends to ensure that the site is kept clear of all obstructions and that if required, traffic management arrangements are set up and operated correctly. Where the Owner is required to obtain a licence, permission or authorisation to supply traffic management on the Hirer's behalf the Hirer shall indemnify the Owner against any costs and/or expenses incurred by the Owner in doing so.
- 6.3 The Hirer must clear the entire area surrounding the tower crane and associated equipment, which may be defined in the lift plan, prior to the erection, or modification or dismantling of the tower crane, unless otherwise agreed by the Owner. Any reasonable costs incurred by the Owner due to the presence of debris, material or plant (including machinery and equipment) within the area will be chargeable to the Hirer.
- 6.4 The Hirer must provide without charge to the Owner, a suitable working area, which will be subject to clause 3 (Exclusion Zones), where the tower crane can be erected, tested, commissioned, modified, adjusted, moved, and includes during re-testing, service inspections or Thorough Examination(s), for the duration of the Contract.
- 6.5 The Owner will charge the Hirer for any time the Owner's personnel are required during erecting, dismantling, modifying, adjusting, moving the tower crane, or for any other situation including re-testing, and service inspections or Thorough Examination(s), for the duration of the Contract. The Hirer shall ensure that the Crane Operator fully assists the Owner or the Owner's representative(s) during the service inspection(s) or Thorough Examination(s). The Hirer shall also allow the Owner, or any representative(s) of the Owner and their vehicle(s), free and unrestricted access to the tower crane and any associated equipment and to all areas of their operation. The Owner reserves the right to recover the costs of inspecting and maintaining the crane if access can not be provided on weekdays during normal working hours as defined in clause 1(h) of the CPA Model Conditions.



- 6.6 The hire charge will begin once the crane has been erected, tested and commissioned. Hire charges will continue until the crane is off-hired by agreement with the Owner provided always sufficient written notice has been received from the Hirer to the Owner.
- 6.7 The Hirer shall not adjust or modify the tower crane, or any attachments supplied by the Owner, nor will the Hirer attach or fix anything to the tower crane without prior express written permission of the Owner. If there is a need for the Owner's representative to ensure safe adjustment, modification or movement of the tower crane, or to review the Hirer's attachments or fixings, then any reasonable costs incurred by the Owner in so doing will be charged to the Hirer.
- 6.8 The Hirer will ensure that statutory Thorough Examination(s) of the tower crane and any associated Plant supplied are carried out. Subject to the Owner's written agreement, the Owner may facilitate the Thorough Examination(s) on the Hirer's behalf for an additional agreed fee.
- 6.9 Any costs incurred by the Owner as a result of delays or cancellation by any cause beyond the Owner's reasonable control including but not limited to adverse weather, aborted road closures, ground conditions, route to/from as well as access/egress in the planned area of operations, or industrial action on site during the erection, modification, or dismantling of the tower crane and associated equipment will be charged in full to the Hirer. Where applicable, clause 23(b) of the CPA Model Conditions will also take effect.
- 6.10 Subject to Clause 25 of the CPA Model Conditions, the Hirer shall be liable to the Owner for the agreed fees and charges regardless of any change in the Hirer's circumstances or the circumstances affecting the use to which the Hirer intends or intended to put the tower crane to, and any decision to accept a cancellation or variation of the Contract in any respect shall be at the Owner's full and entire discretion.

## **7. LIGHTNING PROTECTION**

It is the responsibility of the Hirer to ensure that the tower crane structure is provided with an adequate conducting path to earth, in accordance with Clause 9.1.1 of BS7121:5-2019 and any subsequent amendments. The Hirer is responsible for carrying out the 'continuity test'. The Hirer will be liable for any damage as per clause 13 of the Model Conditions.

## **8. SUPPLY OF ALTERNATIVE CRANE**

In the event that the Contract specifies a particular type of crane, the Owner reserves the right to supply a suitable alternative crane to that specified subject to prior written acceptance by the Hirer, and the Owner shall have no liability to the Hirer for any additional costs in respect of that variation.

## **9. PROVISION OF LIFTING ACCESSORIES**

If requested and specified by the Hirer in advance, the crane will be provided with specific certified lifting accessories, subject to availability and at additional cost. The Owner accepts no responsibility for any costs, losses or expenses incurred or delay caused should the lifting accessories prove unsuitable.

## **10. WORKING TIME REGULATIONS**

The Hirer should ensure that whilst on site, the Owner's personnel are complying with the Working Time Regulations.

## **11. MINIMUM HIRE PERIOD**

The Hirer will hire the tower crane(s) for the minimum period as stated on the Contract. The Owner reserves the right (at its absolute discretion) to charge the Hirer up to the balance of the Contract, should the hire be terminated earlier than contractually agreed. Any changes levied will be subject to the duty to mitigate.

## **12. EXTENDING THE HIRE PERIOD**

- 12.1 The Owner shall consider any written request from the Hirer to extend the Hire Period in the Contract. Should the Owner decline the Hirer's request, then the

Owner shall not be liable for any of the Hirer's losses as stipulated in clause 12(b) of the Model Conditions.

- 12.2 Any extension of the Hire Period beyond the Minimum Hire Period or previously agreed Hire Period is subject to renegotiation of the Offer between the Owner and Hirer, unless otherwise explicitly agreed in writing by the Owner.
- 12.3 The Hirer is responsible for ensuring that any and all permits, which may include but are not limited to those within clause 6.2, are renewed for the extended Hire Period, and at the Hirer's cost.

### **13. HOLIDAY PERIODS**

It is the responsibility of the Hirer to ensure the safekeeping of all Plant hired which is not returned to the Owner before the start of any Holiday Period. This Plant will be deemed to be in use during the Holiday Period and will be charged in accordance with the terms of the Contract.

### **14. INSURANCE**

The Hirer shall have adequate insurance to comply with its liabilities under the Contract. The Owner reserves the right at any reasonable time to require confirmation and evidence that the Hirer is complying with its insurance obligations.

## **RESPONSIBILITIES OF THE OWNER**

### **15. LIMITATIONS OF LIABILITY**

Without prejudice to the terms of Clause 12 of the CPA Model Conditions, the Owner shall have no liability to the Hirer in respect of any damage, including but not limited, to:

- 15.1 any goods or other items being moved by the tower crane,
- 15.2 any surface or subsurface features such as underground services,
- 15.3 any above ground structures, including any overhead cables, overhanging or protruding things which might result from the travelling, positioning or working of the tower crane or any associated equipment.
- 15.4 any delays in erecting, testing, commissioning, modifying, adjusting, repositioning, or dismantling the tower crane due to adverse weather conditions, including during re-testing, in-service inspections and Thorough Examinations nor the effect this has on their or their client(s) work schedules.

# MODEL CONDITIONS FOR THE HIRING OF PLANT (With effect from October 2021)

These conditions are not to be used for consumer contracts.

A consumer contract is a contract entered into with a person acting in their own capacity and not for or on behalf of any business or trade entity.

## 1. DEFINITIONS

- The "Contract" is the Contract between the Owner and the Hirer for the hire of Plant, which incorporates the Offer and is governed by these conditions.
- The "Hire Period" shall commence when either 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. For the avoidance of doubt the Hire Period includes any time the Plant is being transported to or from site; or is left on site during evenings, nights, weekends, or any Holiday Period.
- The "Hirer" is the Company, firm, person, Corporation, or public authority taking the Owner's Plant on hire and includes their successors or personal representatives.
- "Holiday Period" covers any cessation of work over Easter, Christmas, and the New Year, as well as any other Bank or Public holidays.
- "Offer" is the Owner's offer to hire the Plant to the Hirer which will include details of the Plant to be hired, the Hire Period, relevant hire rates and charges and any supplementary conditions to be incorporated into the Contract.
- The "Owner" is the Company, firm or person letting the Plant on hire and includes their successors, assignees, or personal representatives.
- "Plant" covers all classes of Plant, or replacement Plant, machinery, vehicles, equipment, accessories, and any ancillary items, welfare units, accommodation, vehicles, or equipment therefor, which the Owner agrees to hire to the Hirer including any personnel, or anything which is supplied by the Owner to effect the hire, and anything supplied by the Owner for the safe operation and routine inspection and maintenance of the Plant.
- A "Working Day" shall be from 8.00 am to 4.30 pm, Monday to Thursday, and 8.00 am to 3.30 pm, on Friday allowing a half-hour lunch break each day, unless otherwise specified in the Contract.
- A "Working Week" covers the period from 8.00 am on Monday to 3.30 pm on Friday, unless otherwise specified in the Contract.

## 2. EXTENT OF CONTRACT

No terms, conditions, or warranties other than as specifically set forth in the Offer shall be deemed to be incorporated or to form part of the Contract or shall otherwise govern the relationship between the Owner and the Hirer in relation to the hire of any particular Plant pursuant to the Offer. This excludes all other terms or conditions which the Hirer may seek to apply under any order or acknowledgement or acceptance or similar document and supersedes all prior negotiations, representations, or agreements, whether written or oral unless and to the extent that they are expressly accepted in writing and signed by the Owner. The Owner and the Hirer do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to the Contract, except that a person who is a successor to or an assignee of the rights of the Owner is deemed to become a party to the Contract after the date of succession or assignment (as the case may be).

## 3. ACCEPTANCE OF PLANT

Acceptance of the Plant or any personnel supplied by the Owner on site implies acceptance of all terms and conditions herein unless otherwise previously agreed in writing.

## 4. UNLOADING AND LOADING

The Hirer shall be responsible for the unobstructed access and egress to the site, and where applicable any access road to the site and, unless otherwise agreed in writing, for unloading and loading of the Plant at the site or on the access road; and any personnel supplied by the Owner for such unloading and/or loading shall be deemed to be under the direction and control of the Hirer. Such personnel shall for all purposes in connection with their employment in the unloading and/or loading of the Plant be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 13) who shall be solely responsible for all claims arising in connection with unloading and/or loading of the Plant by, or with the assistance of, such personnel.

## 5. DELIVERY IN GOOD ORDER AND MAINTENANCE: INSPECTION REPORTS

- Unless written notification is received by the Owner within 24 hours from the commencement of the Hire from the Hirer, the Plant shall be deemed to be in good order, save for either an inherent fault or a fault not ascertainable by reasonable examination, in accordance with terms of the Contract and to the Hirer's satisfaction, provided that where the Plant requires to be erected on site, the periods stated above shall be calculated from the date of completed erection of Plant. The Hirer shall be responsible for the safe keeping of the Plant, its use in a workmanlike manner within the manufacturer's rated capacity and in accordance with the manufacturer's and/or the Owner's recommendations, and its return on the completion of the Hire Period in equal good order (fair wear and tear excepted).
- The Hirer shall at all times when hiring Plant without the Owner's operator or driver take all reasonable steps to keep themselves acquainted with the state and condition of the Plant. If such Plant is continued at work or in use in an unsafe and unsatisfactory state or environment, the Hirer shall be solely responsible for any damage, loss, cost, expense, or accidents whether directly or indirectly arising therefrom.
- Any inspection report required under the relevant legislation, or a copy thereof, shall be supplied by the Owner, if requested by the Hirer, and returned on completion of the Hire Period.

## 6. SERVICING AND INSPECTION

The Hirer shall at all reasonable times allow the Owner, the Owner's agents, or insurers to have access to the Plant to inspect, test, adjust, repair, or replace the same. The Hirer shall allow such access during the Working Day. The Owner reserves the right

to charge the Hirer for any inspection or maintenance work carried out on the Plant during the Hire Period.

## 7. GROUND AND SITE CONDITIONS

- The Hirer is deemed to have knowledge of the site, the site's access road, the property or land where the Plant is to be delivered or collected, loaded or unloaded, to work on, travel over, be transported over, be erected or dismantled on is suitable for the use of such Plant, and any electronic interference which may affect the Plant.
- Subject to 7(a), if, in the opinion of the Hirer, the ground (including any private access road or track) is soft or unsuitable for the Plant, then the Hirer shall supply and lay suitable support in a suitable position for the Plant.
- Any suitable support supplied by the Owner is provided solely to assist the Hirer under their duties within clause 7(b) and expressly not to relieve the Hirer of their legal, regulatory, or contractual obligations to ensure adequate stability of the Plant.
- The Hirer is responsible for the protection of, and liable for any damage to, any underground, surface or above ground services and utilities including, but not limited to cables, ducts, water pipes and gas lines, and any pavements, bridges, tunnels, and roadways on or adjacent to the site and the Hirer shall liaise as necessary and comply with all requirements of the relevant statutory authority or similar body.

## 8. HANDLING OF PLANT

- When a driver or operator or any person is supplied by the Owner with the Plant, the Owner shall supply a person competent in operating the Plant or for such purpose for which the person is supplied and such person shall be under the direction and control of the Hirer. Such drivers or operators or persons shall for all purposes in connection with their employment in the working of the Plant be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 13) and the Hirer shall be solely responsible for all site costs and claims arising in connection with the operation of the Plant by the said drivers/operators/persons.
- The Hirer shall not allow any other person to operate such Plant without the Owner's prior written consent.
- Such drivers or operators or persons shall not operate any other plant or machinery or undertake work other than that for which they are supplied by the Owner unless previously agreed in writing between the Owner and the Hirer.

## 9. BREAKDOWN, REPAIRS AND ADJUSTMENT

- Any breakdown or the unsatisfactory working of or damage to any part of the Plant must be notified immediately to the Owner and confirmed in writing. Any claim for breakdown time will only be considered from the time and date at which written notification is received and acknowledged by the Owner.
- Full allowance for the hire charges set out in the Offer will be made to the Hirer for any stoppage due to breakdown of the Plant caused by the development of either an inherent fault or a fault not ascertainable by reasonable examination or fair wear and tear and for all stoppages for normal running repairs in accordance with the terms of the Contract.
- The Hirer shall not repair, modify, or alter the Plant without the prior written permission of the Owner (including without limitation the changing or repair of any tyre/puncture). The Hirer is responsible for all costs incurred in the changing or replacement of any tyre (which must be of an equivalent specification) as approved by the Owner and for the repair of any puncture.
- The Hirer shall be responsible for all expense involved arising from any breakdown, unsatisfactory working of or damage to any part of the Plant due to the Hirer's negligence, misdirection, or misuse of the Plant, whether by the Hirer or their servants, and for the payment of hire at the idle time rate as defined in clause 25, during the period the Plant is necessarily idle due to such breakdown, unsatisfactory working or damage. The Hirer is responsible for the cost of spares and/or repairs due to theft, loss, or vandalism of the Plant. The Owner will be responsible for the cost of repairs, inclusive of the cost of spares, to the Plant involved in breakdown from all other causes.

## 10. OTHER STOPPAGES

No claims will be admitted (other than those allowed for under "Breakdown" (clause 9) or for "Idle Time" (clause 25), as herein provided), for stoppages through causes outside the Owner's control, including but not limited to adverse weather and/or ground conditions nor shall the Owner be responsible for the cost or expense of recovering any Plant from soft or unsuitable ground, or a hazardous environment. For the avoidance of doubt, the Hirer shall be responsible for the cost and expense of recovering any Plant from soft or unsuitable ground or a hazardous environment.

## 11. LOSS OF OTHER PLANT DUE TO BREAKDOWN

Each item of Plant specified in the Contract is hired as a separate unit and the breakdown or stoppage of one or more units or vehicles (whether the property of the Owner or otherwise) through any cause whatsoever, shall not entitle the Hirer to compensation or allowance for the loss of working time by any other unit or units of Plant working in conjunction therewith, provided that where two or more items of Plant are expressly hired together as a unit, such items shall be deemed to be one unit for the purpose of breakdown.

## 12. LIMITATION OF LIABILITY

Except for liability on the part of the Owner which is expressly provided for in the Contract (including these clauses):

- The Owner shall have no liability or responsibility for any loss, or damage of whatever nature due to or arising through any cause beyond the Owner's reasonable

control;

- (b) the Owner shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the hire, for any of the Hirer's loss of profit, loss of use of the Plant or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and
- (c) whenever the Contract (including these clauses) provides that any allowance is to be made against hire charges, such allowance shall be the Hirer's sole and exclusive remedy in respect of the circumstances giving rise to the allowance, and such remedy shall be limited to the amount of hire charges which would otherwise be or become due if the allowance in question had not been made.
- (d) For the avoidance of doubt, nothing in these conditions limits or seeks to exclude the Owner's liability for claims of death or personal injury caused by the Owner's negligence, fraud or for any other liability for which it is not permitted to seek to limit or exclude by operation of law.

### **13. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE**

- (a) For the avoidance of doubt, it is hereby declared and agreed that nothing in this clause affects the operation of clauses 4, 5, 8 and 9 of these conditions.
- (b) For the duration of the Hire Period (which for the avoidance of doubt includes the time Plant is left on site during a Holiday Period) the Hirer shall, subject to the provisions referred to in sub paragraph (a) be liable for all loss of or damage to the Plant, and shall also fully and completely indemnify the Owner and any personnel supplied by the Owner in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the storage, transit, transport, unloading, loading or use of the Plant during the continuance of the Hire Period, and in connection therewith, whether arising under statute or common law. In the event of loss of or damage to the Plant, hire charges shall be continued at idle time rates as defined in clause 25 until the settlement has been agreed. Payment of the settlement must be made within 21 calendar days of the date of the agreement or idle time charges can be reinstated from the date of that agreement. Should idle time charges be re-instated, the agreed settlement figure remains payable in full.
- (c) For the avoidance of doubt, notwithstanding any agreement by the Owner to waive hire charges after any agreed period of use of the Plant, the Hirer's obligations specified under clause 13(b) shall continue for the duration of the Hire Period.
- (d) Notwithstanding the above the Hirer shall not be responsible for damage, loss, or injury, subject to clauses 1(b) and 7:
  - (i) prior to delivery of any Plant to the site (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving such highway) where the Plant is in transit by transport of the Owner or as otherwise arranged by the Owner,
  - (ii) during the erection and/or dismantling of any Plant where such Plant requires to be completely physically erected/dismantled on site, provided always that such erection/dismantling is under the exclusive control of the Owner or their agent,
  - (iii) after the Plant has safely been removed from the site, and until it is in transit on a highway maintainable at the public expense (or where the site is not immediately adjacent to a highway maintainable at the public expense including the site's access road, after it has safely joined such highway) to the Owner by transport of the Owner or as otherwise arranged by the Owner (excluding always on such occasion that the Plant is on a Public Highway (or access road) during the currency of the hire and is being utilised by the Hirer)
  - (iv) where the Plant is travelling to or from a site on a highway maintainable at the public expense (or, where the site is not immediately adjacent to a highway maintainable at the public expense including the site's access road, prior to its leaving or after its joining such highway) under its own power with a driver supplied by the Owner (excluding always on such occasion that the Plant is on a Public Highway (or access road) during the currency of the hire and is being utilised by the Hirer).

### **14. NOTICE OF ACCIDENTS**

If the Plant is involved in any accident resulting in injury to persons or damage to property, immediate notification must be given by the Hirer to the Owner by telephone and confirmed in writing to the Owner no later than 24 hours after such telephone notification. In relation to any claim in respect of which the Hirer is not bound to fully indemnify the Owner, no admission of liability, offer, promise of payment or indemnity shall be made by the Hirer without the Owner's prior written permission.

### **15. RE-HIRING ETC.**

Neither the Plant nor any part thereof shall be re-hired, sub-let, or lent to any third party without the prior written permission of the Owner.

### **16. CHANGE OF SITE**

The Plant shall not be moved from the site to which it was delivered or consigned without the prior written permission of the Owner.

### **17. RETURN OF PLANT FOR REPAIRS**

If during the Hire Period the Owner decides that urgent repairs to the Plant are necessary then the Owner may arrange for such repairs to be carried out on site or at any location of the Owner's nomination. In the event that urgent repairs to the Plant are necessary the Owner shall be obliged to replace the Plant with similar Plant if available, the Owner (but without prejudice to any of the provisions of clauses 9 and/or 13) paying all transport charges involved. In the event of the Owner being unable to replace the Plant the Owner shall be entitled to terminate the Contract forthwith (but without prejudice to any of the provisions of clauses 9 and/or 13) by giving written notice to the Hirer. If such termination occurs:

- (a) within three months from the commencement of the Hire Period, the Owner (but without prejudice to any of the provisions of clauses 9 and/or 13) shall pay all transport charges involved, or,
- (b) more than three months from the commencement of the Hire Period, the Owner (but without prejudice to any of the provisions of clauses 9 and/or 13) shall be liable only for the cost of reloading and return transport.

### **18. BASIS OF CHARGING**

- (a) The Hirer shall render to the Owner for each Working Week an accurate statement of the number of hours the Plant has worked each day. When any personnel, operator or driver is supplied by the Owner, the Hirer shall sign their time record sheets. The signature of the Hirer's representative shall bind the Hirer to accept the hours shown on the time records sheets. Where applicable, the Plant's telematics may be checked against the Hirer's statement or operator's signed timesheet, should any conflict arise, then the telematics will take precedence over all other records. (If there is any conflict between the signed timesheet and any other record taken, then the signed timesheet takes precedence.)
- (b) The Hirer shall be charged for any toolbox talks, briefings, inductions, mandatory training which the Owner's personnel have to attend prior to or when working on the Hirer's site.
- (c) Full allowance will be made for breakdown periods resulting from mechanical or electrical faults or absence of driver or operator supplied by the Owner except where breakdown is due to acts or omissions of third parties and/or the Hirer's misuse, misdirection or negligence, subject however to the provisions of clause 8 of these conditions.
- (d) Breakdown time in respect of such periods shall be allowed for not more than the Working Day less the actual hours worked.
- (e) Plant shall be hired out either:
  - (i) for a stated minimum number of hours per Working Day or per Working Week or,
  - (ii) without any qualification as to minimum hours. Odd days at the beginning and at the end of the Hire Period shall be charged pro rata.
- (f) Stoppages due to changing of tyres and repairs to punctures will be chargeable as working time up to a maximum of 2 hours for any one stoppage and any excess will be charged for at the appropriate idle time rates.
- (g) In the case of Plant which is required to be dismantled for the purpose of transportation, if the Owner agrees to a modification of the hire charge for the period required for assembling on site and dismantling upon completion of the Hire Period, such modification of the hire charge and the Hire Period for which it shall apply shall be stated in the Offer/Contract.
- (h) The Hirer shall pay the Owner's invoice within 30 days net unless otherwise agreed.
- (i) Any query with the Owner's invoice must be raised in writing by the Hirer within 14 calendar days of receiving the invoice.
- (j) The Owner in their absolute discretion may agree to accept electronic records and data as an alternative to written statements of the number of hours, time record sheets and other information related to charging that the Hirer is required to provide to the Owner. Such electronic records and data may include but is not limited to telematics automatically generated by the plant and electronic log books.

### **19. PLANT HIRED ON A DAILY BASIS WITHOUT QUALIFICATION AS TO HOURS**

The full daily rate will be charged on a daily basis irrespective of the hours worked except in the case of breakdown for which the Owner is responsible, when the actual hours worked will be charged pro rata of the average Working Day. No hire charge shall be made for Saturday and/or Sunday unless at the Hirer's request, the Plant is actually worked or has been delivered to site or is on standby. The Hirer must inform the Owner if the Plant is going to be used at these times.

### **20. PLANT HIRED BY THE WEEK OR MONTH WITHOUT QUALIFICATION AS TO HOURS**

The weekly or monthly rate shall be charged irrespective of the number of hours worked, except in the case of breakdown for which the Owner is responsible when an allowance pro rata of the agreed weekly rate or pro rata of the agreed monthly rate will be made for each full Working Day broken down calculated to the nearest half Working Day.

### **21. PLANT HIRED BY THE WEEK OR MONTH WITH QUALIFICATION AS TO HOURS**

The full hire for the period in the Contract will be charged as per the Working Day or Working Week and an additional pro rata charge will be made for hours worked in excess of such period. An allowance will be made for breakdowns for up to the entirety of that Working Day providing always that where the actual hours worked are in excess of the breakdown time, the actual hours worked shall be chargeable. Idle time for this purpose shall be treated as actual working time. An allowance may be made for any Holiday Period that falls within the Working Day or Working Week, provided that the Plant is not available for the Hirer to use during that time.

### **22. "ALL-IN" RATES**

Where "All-In" rates are charged by agreement the minimum period shall be as defined in the Contract and in accordance with the hire rates and terms contained therein, subject to the provisions of clause 26.

### **23. PERIOD OF CHARGING**

- (a) Within the Hire Period, an allowance may be made of not more than 1 day's hire charge each way for travelling time. If the Plant is used on the day of travelling, full hire rates shall be paid for the period of use on that day. If more than 1 day is properly and unavoidably occupied in transporting the Plant, a hire charge at idle time rates shall be payable for such extra time, provided that where Plant is hired for a total period of less than one Working Week, the full hire rate shall be paid from the date of despatch to the date of return to the Owner's named depot or other agreed location.
- (b) Should the Hirer delay the commencement of the Hire Period for whatever reason, then the Owner reserves the right to charge the Hirer the idle time rate as defined in clause 25 for the intervening period
- (c) If the Plant is not made available for collection as agreed between the parties, such Plant shall be deemed with immediate effect to be placed back on hire. The Hirer shall be responsible for the safekeeping of the Plant in accordance with clause 13, and for all the reasonable costs and expenses incurred by the Owner in seeking to collect such Plant.
- (d) Upon the completion of the Hire Period, the Hirer shall clean and where necessary, decontaminate the Plant. All fuel and contaminants will be removed from bunds, storage tanks and bowsers. The Hirer shall be liable for any costs, liabilities and expenses incurred by the Owner should the Hirer fail to comply with this clause.



## **24. HIRER'S LIABILITY DURING THE NOTICE OF TERMINATION OF CONTRACT**

- a) Where the intended duration of the hire of the Plant is indeterminate or having been defined becomes indeterminate the Contract shall be terminable by 7 working days' notice in writing given by either party to the other except in cases where the Plant has been lost or damaged. Notwithstanding that the Owner may have agreed to accept less than 7 working days' notice of termination, the Hirer's obligations under clause 13 shall continue until the Plant is returned to the Owner in accordance with clause 31 or until the Owner has collected the Plant within the 7 working days following the acceptance of short notice. Oral notice given by the Hirer to the Owner's driver or operator shall not be deemed to constitute compliance with the provisions of this clause.
- b) Without prejudice to clause 24(a), should the Hirer fail to make the Plant available for collection by the Owner before the end of the 7 working days' notice, the Hirer's obligations under clause 13 shall continue for a further 3 working days or until such time as the Plant is made available for collection and the Owner has collected the Plant. For the avoidance of doubt, where the Hirer gives a notice pursuant to clause 24(a) but subsequently and with the consent of the Owner, withdraws such notice, the obligations of clause 13 shall continue to apply and the requirements of clause 24 will apply to any later termination of the Contract.
- c) If the Hirer terminates the Contract before the Hire Period commences, then the Hirer is liable for all reasonable costs and charges incurred by the Owner or to which the Owner is committed at the time of termination.
- d) Should the Hirer terminate the Contract once the Hire Period has commenced, the Owner reserves the right to charge the Hirer the balance of the Contract. Where the Hire Period has not commenced but insufficient notice of cancellation is provided by the Hirer to allow the Owner to mitigate the effects of late cancellation, the Owner reserves the right (at its absolute discretion) to charge the Hirer the full balance of the charges for the Hire Period.
- e) The Hirer may off-hire the Plant by written notification via an electronic device or application (app.). This off-hire will only be accepted by the Owner, provided the Owner issues an off-hire confirmation to the Hirer.

## **25. IDLE TIME**

When the Plant is prevented from working for a complete Working Week, the hire charges shall be two thirds of the hire rate or such other idle time rate as is agreed in writing by the Owner for the period during which the Plant is not in use. If the Plant works for any time during the Working Day, then the whole of that Working Day shall be charged as working time. In any case no period less than one Working Day shall be reckoned as idle time save for as provided for in clause 18(f). Where an "All-In" rate is charged, idle time is calculated on the machine element only. Full rate will be charged for the operator.

## **26. WAGES AND OTHER CHARGEABLE ITEMS RELATING TO DRIVERS AND OPERATORS OF PLANT**

All chargeable items shall be paid by the Hirer at the rates set out in the Contract save that any subsequent increases before and/or during the Hire Period arising from awards under any wage agreements and/or from increases in the Owner's statutory contribution shall be charged as additions at cost by the Owner and shall be admitted and paid by the Hirer.

## **27. TRAVELLING TIME AND FARES**

Travelling time, fares and similar expenses for drivers, operators and any person supplied by the Owner, incurred at the beginning and end of the Hire Period and where appropriate return fare of the driver, operator and any person supplied by the Owner to their home may be chargeable at cost. No charge shall be made by the Owner for any such expenses incurred by other employees of the Owner for the purpose of servicing, repair, or maintenance of Plant, unless necessitated by the Hirer's negligence, misdirection, or misuse of the Plant.

## **28. FUEL, OIL AND POWER**

- (a) Fuel, fuel additives or power shall when supplied by the Hirer and where instructed or specified by the Owner, be of a grade and type specified. The Hirer shall be solely responsible for all damages, losses, costs, and expenses incurred by the Owner if the Hirer fails to supply, maintain, or use the wrong/contaminated fuel, fuel additives or power rating. Fuel, fuel additives or power when supplied by the Owner, to be charged at an agreed cost.
- (b) If the Plant requires an electrical supply to either safely operate or recharge, then the Hirer will be responsible for the cost of providing the correct electrical supply, which will be available prior to the Plant's delivery, and continue until the Plant has left the site. The Hirer shall ensure that all current Health and Safety and other applicable legislation and industry guidance is complied with including fitting, testing and inspection of the supply. The Hirer will indemnify the Owner against any and all damages, losses, or claims should the Hirer fail to do so.

## **29. SHARPENING OF DRILLS/STEELS ETC.**

The cost of re-sharpening or replacement of drill bits, blades, bucket teeth and other ancillary items shall be borne by the Hirer.

## **30. OWNER'S NAME PLATES**

The Hirer shall not remove, deface, or cover up the Owner's name plate or mark on the Plant indicating that it is the Hirer's property, without the prior written permission of the Owner.

## **31. TRANSPORT**

The Hirer shall pay the cost of and if required by the Owner, arrange transport of the Plant from the Owner's depot or other agreed location to the site and return to the Owner's named depot or other agreed location on completion of the Hire Period.

## **32. GOVERNMENT REGULATIONS**

- a) The Hirer will be responsible for compliance with all relevant legislation, regulations, instructions, or guidance issued by the Government, Government Agencies, Local Authorities, statutory regulators, and Public/Corporate Bodies established by Parliament/Government including (without limitation) regulations under the Bribery Act, the Civil Aviation Act, the Construction (Design and Management) Regulations, the Environmental Acts, Factories Acts, the General Data Protection Regulation (GDPR), the Health and Safety at Work, etc. Act and observance of the Road Traffic Acts should they apply, including the cost of road

fund licences and any insurances made necessary thereby, save that if and during such time as the Plant is travelling, whether for full or part journey from Owner to site and site to Owner under its own power with a driver supplied by the Owner, the Owner and not the Hirer shall be responsible as aforesaid.

- b) For the avoidance of doubt, the Hirer shall indemnify the Owner against any and all charges, fines, or losses that the Owner may become liable for as a result of the Hirer utilising the Plant during the Hire Period.

## **33. PROTECTION OF OWNER'S RIGHTS**

The Hirer shall not re-hire, sell, mortgage, charge, pledge, part with possession of or otherwise deal with the Plant except as provided under clause 15 and shall protect the same against distress, execution or seizure and shall indemnify the Owner against all losses, damage, costs, charges, and expenses arising as a direct result of any failure to observe and perform this condition except in the event of Government requisition.

## **34. TERMINATION AND SUSPENSION**

- (a) The Owner may terminate the Contract forthwith by written notice to the Hirer if one or more of the following events occur:
  - (i) The Hirer defaults in punctual payment of any sum due to the Owner for hire of Plant or other charges payable pursuant to these conditions and fails to remedy such default within 10 working days or such other period as might be considered reasonable under the circumstances upon receiving written notice requiring it to do so;
  - (ii) The Hirer fails to observe and perform the terms and conditions of the Contract and fails to remedy such default within 10 working days of receiving written notice requiring it to do so;
  - (iii) The Hirer suffers, or the Owner reasonably believes that the Hirer shall suffer, any distress or execution to be levied against them;
  - (iv) The Hirer makes or proposes to make any arrangement with their creditors or becomes insolvent within the meaning of Section 113 of the Housing Grants, Construction and Regeneration Act 1996 or any amendment or re-enactment thereof for the time being in force; or
  - (v) The Hirer does or causes to be done or permit or suffer any act or thing whereby the Owner's rights in the Plant may be prejudiced or put into jeopardy.
- (b) In the event of termination under sub-paragraph (a) above:
  - (i) The Hirer must give the Owner or the Owner's agents, immediate unobstructed access to recover the Plant.
  - (ii) The Owner shall be entitled to claim the hire charges outstanding as at the date of termination of the hire under this clause and return transport charges under clause 31.
- (c) The rights under sub-paragraph (a) and (b) above:
  - (i) May be exercised notwithstanding that the Owner may have waived some previous default or matter of the same or a like nature.
  - (ii) Shall not affect the Owner's right to claim damages for breach of Contract or recover any sums due under the Contract as a debt.
- (d) If the Hirer does not make payment of a sum by the final date on which payment is due to be made, the Owner has the right to suspend performance of its obligations under the Contract. The right to suspend may not be exercised without first giving to the Hirer at least 7 working days' notice in writing of the Owner's intention to suspend performance, stating the ground or grounds on which the Owner intends to suspend performance. The right to suspend performance will cease when the Hirer makes payment in full of the amount due.

## **35. CHANGES IN NORMAL WORKING WEEK**

The foregoing provisions have been framed upon the basis of the Hirer working a 5-day week of 39 hours; it is hereby agreed that in the event of:

- (a) there being any agreed change in the normal weekly hours in the industry in which the Hirer is engaged or,
- (b) the Contract being made with reference to a 5-day week of other than 39 hours. Clauses 1(h) and (i), 18(d) and (e), 20 and (in regard to breakdown allowance and reduction for statutory holidays) 21 shall be deemed to be modified conformably and in the event of an alteration in the normal weekly working hours in the said industry the "Hire Rates and Terms" of Plant hired for a minimum weekly or daily period shall be varied pro rata.

## **36. DISPUTE RESOLUTION**

- (a) The Owner will determine which court will have exclusive jurisdiction and interpretation of the law for this Contract be it governed by the country where the Owner's Head Office or site is located.
- (b) Both parties to the Contract have a right to refer any difference or dispute arising under or in connection with the Contract to adjudication and the procedure set out in Part 1 of the Scheme for Construction Contracts (England and Wales) Regulations 1998 or such equivalent legislation which confers on the parties the statutory right to adjudicate within the relevant jurisdiction (or any amendment or re-enactment thereof for the time being in force) will apply. The person (if any) specified in the Contract to act as adjudicator may be named in the Offer. The specified nominating body to select adjudicators shall be the Construction Plant-hire Association acting by its President or Chief Executive for the time being.
- (c) The Owner and the Hirer shall comply forthwith with any decision of the adjudicator; and shall submit to summary judgment and enforcement (and/or, under Scots law, shall consent to a motion for summary decree and submit to enforcement) in respect of all such decisions; in each case, without any defence, set-off, counterclaim, abatement, or deduction. Where, under Scots law, the Owner, the Hirer, or the adjudicator, wishes to register a decision of the adjudicator for execution in the Books of Council and Session, any other party shall, on being requested to do so, forthwith consent to such registration by subscribing the decision before a witness.

## **37. LATE PAYMENTS**

The Owner reserves the right to charge the Hirer for the late payment of any outstanding invoices under the Late Payment of Commercial Debts (Interest) Act 1998, or any subsequent legislation.

## **38. SEVERABILITY**

If any of these clauses are held to be unlawful, void, or unenforceable, then that clause will be deemed severable and will not affect the validity and enforceability of the remaining clauses, to the extent permitted by law.



# **STANDARD TERMS AND CONDITIONS FOR CONTRACT LIFTING SERVICES 2021**

## **(THESE CONDITIONS ARE NOT TO BE USED FOR CONSUMER CONTRACTS)**

### **1. SCOPE AND DEFINITIONS**

- 1.1 The terms and conditions set out in this document describe the trading policy and practice of the Company for its “Contract Lifting Services”, as distinct from its crane-hire services, and form the Standard Contract Terms and Conditions for any Contract Lifting Services entered into by the Company.
- 1.2 “Contract Lifting Services” means the supply of a supervised lifting service including planning and execution of the lifting operation in accordance with the relevant Regulations and Codes of Practice.
- 1.3 These terms and conditions shall not be varied except with the Company’s written agreement.
- 1.4 No other terms and conditions shall apply to any Contract Lifting Services contract entered into by the Company unless expressly agreed in writing by means of a quotation or otherwise between the Company and Client. In particular, any terms and conditions specified by the Client on an order form or otherwise, shall not be binding on the Company and shall not apply to any Contract Lifting Services contract unless agreed in writing by the Company prior to the commencement of the lifting operation. The contract does not create any right enforceable by or purport to confer any benefit on any person not a party to it except that a person who is a successor to or an assignee of the rights of the Company is deemed to become a party to the contract after the date of succession or assignment (as the case may be).
- 1.5 Unless otherwise agreed by the Company and the Client, these terms and conditions also apply to any additional work that the Company may agree to carry out for the Client, and which may arise from or is connected with any Contract Lifting Services contract.
- 1.6 The following words and phrases used in these terms and conditions have the meanings indicated:
  - 1.6.1. “Appointed Person” means the person given the authority to assess, plan and organise the work; to select suitable or appropriate plant and equipment, to ensure statutory documentation is current and in order; to provide instruction and supervision for the work to be undertaken safely; and to stop the work whenever they consider danger is likely to arise if it were to be continued.
  - 1.6.2. “Crane Supervisor” means the person who supervises the lifting operation within the safe system of work developed by the Appointed Person and has the authority to stop the operation if they deem it unsafe to continue.
  - 1.6.3 “Client” means the person or organisation requiring the lift to be carried out, and includes the Client’s employees, agents, assignees, successors, and personal representatives.
  - 1.6.4. “Company” means the company or firm agreeing to carry out the Contract Lifting Services and includes its assignees, successors, and personal representatives.
  - 1.6.5. “Contract Equipment” means any Lifting Appliance and other equipment and accessories used or intended to be used by the Company in performing, or in connection with, the Contract Lifting Services.
  - 1.6.6. “Contract Goods” means the goods which are to be lifted by the Company in accordance with these terms and conditions.
  - 1.6.7 “Contract Lifting Services” may include the removal, transportation, storage, and installation of goods.
  - 1.6.8 “Contract Price” means the price agreed by the Company and the Client as payment for the performance by the Company of the Contract Lifting Services, which may be a lump-sum price or a time related schedule of rates.

- 1.6.9 “Lifting Appliance” means work equipment for lifting or lowering loads and includes its attachments used for anchoring, fixing, or supporting it.
- 1.6.10. “Regulations and Codes of Practice” includes but is not limited to the Lifting Operations and Lifting Equipment Regulations 1998 (SI 1998 No. 2307), the Provision and Use of Work Equipment Regulations 1998 (SI 1998 No. 2306), the British Standard Codes of Practice for the Safe Use of Cranes (BS 7121), as amended from time to time, and/or any other Regulations or Codes of Practice which may supersede them.

## **2. QUOTATIONS AND CONTRACT PRICE**

- 2.1 Unless otherwise specified by the Company in writing, every quotation is open for acceptance for a period of thirty days, after which the quotation will be subject to confirmation.
- 2.2 Unless otherwise specifically noted by the Company in writing, every quotation is based on the assumption that the following circumstances apply:
- 2.2.1. The work will be carried out under the Company’s direction without interruption and on a clear site with adequate approaches suitable for the necessary movement of the Contract Equipment.
- 2.2.2. The Client is responsible for ensuring that the site’s ground or other surface will be firm, level and in good condition, and will provide proper support for the loads imposed by the Contract Equipment as stated by the Company and also including the weight of the item(s) to be lifted as stated by the Client.
- 2.2.3. The Contract Lifting Services will be carried out in daylight during normal working hours unless otherwise agreed.
- 2.2.4 All information provided by the Client is complete, true, and accurate.
- 2.3 Where all or any of the above circumstances do not apply, the Company may issue a revised quotation for the Contract Lifting Services. If this is not accepted by the Client, who shall be liable for the costs so far incurred by the Company, the Company may elect to be discharged from the contract without further liability to the Client.
- 2.4 Any additional work which the Company is required to perform must be authorised by the Client in writing and will involve an extra charge, additional to the Contract Price.
- 2.5 The Contract Price may be increased by the amount of any costs incurred by the Company as a result of delays or cancellations in commencing or completing the contract work due to circumstances beyond the Company’s reasonable control including but not limited to adverse weather or industrial action.

## **3. FORMATION AND TERMINATION OF THE CONTRACT**

- 3.1 No contract is created before the Company accepts a written order for the carrying out of the Contract Lifting Services work. The commencement of the contract will be subject to availability of the Contract Equipment at the time requested.
- 3.2 If the Client terminates the contract without the written agreement of the Company, the Client is liable for the full Contract Price. If the Company has agreed in writing to the cancellation, the Client shall be liable for such reasonable proportion of the Contract Price as may be assessed by the Company at that time, together with all costs and charges incurred by the Company or to which it is committed.
- 3.3 A contract involving an unspecified number of lifts over an indeterminate period may be terminated by either party giving the other party not less than seven days’ notice in writing or such other notice as may be agreed between the parties.

## **4. STATUS AND AUTHORITY OF CLIENT AND COMPANY**

- 4.1 The Client warrants that the Client is the owner or the authorised agent of the owner of the Contract Goods and is authorised to accept and does accept these terms and conditions for Contract Lifting Services.
- 4.2 The Client requires and authorises the Company to assume overall control of the Contract Lifting Services, to provide the Appointed Person and to plan, supervise, carry out and complete the Contract Lifting Services in accordance

with the relevant Regulations and Codes of Practice including, where considered by the Company to be appropriate, to control and instruct the Client's personnel involved in the work.

- 4.3 From information provided by the Company, the Client acknowledges that the site and the site's access road or track can withstand the loads that the Contract Equipment exerts during travelling, being erected/dismantled, or during operations. Should this not be the case, then the Client will provide and lay suitable support to avoid any damage to any underground, surface, or above ground services. Any subsequent damage which results in the Client's failure to comply with this is addressed in clause 8.5.2.
- 4.4 The Client undertakes to clear the contract site, including public highways and access roads or tracks where necessary, of all vehicles and personnel not directly involved with the Contract Lifting Services and, for that purpose, is responsible for setting up barricades, tapes, or cones, to the extent that the Company may at its discretion require for the performance of the contract. With respect to road closures, bus lane closures etc, irrespective of whether the Company has arranged these on behalf of the Client, the Client is ultimately responsible both for ensuring that the Company has clear and unrestricted access to all areas of operation and that the Client is responsible for all costs incurred should the operation be aborted due to the lack of such clear and unrestricted access, or other circumstances beyond the Company's control.
- 4.5 With the permission of the Client, which shall not be unreasonably withheld, the Company may arrange for the Contract Lifting Services, or any part of the work, to be carried out by agents, sub-contractors or independent contractors who, for the purposes of the contract shall be regarded as the Company and whose rights against and liabilities to, the Client shall be the same as those of the Company under these contract terms and conditions.

## **5. REGULATIONS AND CODES OF PRACTICE**

- 5.1 The Company will perform the Contract Lifting Services in accordance with the relevant Regulations and Codes of Practice.
- 5.2 At the Client's request, the Company will provide the Client with any available information relevant to the qualifications and competence of the Appointed Person provided by the Company, who, in accordance with the relevant Regulations and Codes of Practice will have overall responsibility for the Contract Lifting Services under the contract.
- 5.3 In the absence of written notice by the Client to the contrary, received by the Company prior to the commencement of the lifting operation, the Appointed Person and/or Crane Supervisor shall be deemed to be to the satisfaction of the Client.
- 5.4 The Client shall supply, or confirm, in writing all information available to the Client, which is requested by the Company and/or the Appointed Person or which the Client should be reasonably aware may be necessary, or useful, to facilitate compliance with the Regulations and Codes of Practice. This includes, but is not limited to, the location of anything on or near the site, above or below the ground, which is likely to be damaged by, or cause damage to the Contract Equipment, or which is likely to affect the health or safety of any person involved in the work.

## **6. LIABILITY OF THE COMPANY**

- 6.1 The Company shall be liable for loss or for damage or injury to persons or property when caused solely by the Company's negligence in the performance of the contract and shall not be liable for any such loss, or damage or injury due in whole or in part to any negligence on the part of the Client or any third party.
- 6.2 The Company's liability, if any, arising from or in connection with the Contract Lifting Services contract:
  - 6.2.1 For loss or destruction of or damage to the Contract Goods shall be limited to a total of £25,000 (twenty-five thousand pounds sterling) irrespective of the number of items being lifted/handled.
  - 6.2.2 For any other loss, damage or injury shall be limited to a total sum of

£5,000,000 (five million pounds sterling)

Unless in either case, a different amount is agreed in writing by the Company and the Client prior to the commencement of the contract.

- 6.3 Full details of any loss, damage or injury, which is or may be the subject of a claim by the Client against the Company shall be notified by the Client to the Company within seven days of the date of discovery thereof.
- 6.4 Any proceedings to enforce any such claim by the Client against the Company must be commenced not later than twelve months after the date of occurrence of the event giving rise to the loss, damage or injury.

## **7. EXCLUSION OF THE COMPANY'S LIABILITY**

- 7.1 The Company shall not be liable for any loss, damage or injury caused by, or arising from or as the result of, any of the following:
  - 7.1.1. Any defect in the Contract Goods including any design defect and any defect relating to the lifting points on the contract goods.
  - 7.1.2. Inaccurate or incomplete information given by the Client.
  - 7.1.3. Any instructions given by the Client to the Company's employees.
  - 7.1.4 Any defect in the equipment provided by the Client.
  - 7.1.5. Any act or omission of any personnel supplied by the Client, or by any body or person under contract to the Client in connection with the Contract Goods, except when correctly following the Company's instructions for the purpose of performing the Company's work under the contract.
  - 7.1.6. Delay in commencing or completing the contract work due to circumstances beyond the Company's control including, but not limited to, any strike or other industrial action or adverse weather conditions.
  - 7.1.7. Unexpected or unforeseen subsidence or unstable ground conditions.
- 7.2 The Company shall not be liable or responsible for any of the following, however arising:
  - 7.2.1 Loss or damage of whatever nature due to or arising through any cause beyond the Company's reasonable control.
  - 7.2.2 Whether by way of indemnity or by reason of any breach of the contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the contract, for any of the Client's loss of profit, loss of the use of the plant or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and
  - 7.2.3 Loss or damage to the Contract Goods whilst in storage outside the control of the Company.

## **8. INSURANCE**

- 8.1. The Company will carry insurance to cover its potential liability under the contract having regard to the maximum amounts referred to in clause 6.2.
- 8.2. The Company may, at its discretion, exclude the contract from cover under its existing policies and require a specific insurance policy to cover the contract to be provided by and at the expense of the Client. This specific insurance policy shall provide the Company with protection no less extensive than would have been the case if this clause 8.2 had not been invoked.
- 8.3 If the Company is of the opinion that the insurance cover held by the Client may be insufficient to meet any applicable requirements of clause 8.2 of the Client's liabilities under the contract, the Company may require the Client to take out at the Client's expense additional liability insurance cover or take out such cover itself and recover the cost from the Client as a debt.
- 8.4. If the value of the Contract Goods exceeds the Company's liability limits referred to in clause 6.2, and the Client requires the Company to increase its cover, it is the responsibility of the Client to give the Company sufficient written notice of that fact

with details of the value of the Contract Goods so that the Company's liability cover, if agreed by the Company, can be increased accordingly. The cost of any additional cover will be passed on to the Client.

- 8.5 The Client agrees to indemnify the Company against –
- 8.5.1 Any claim arising from or connected with the Company's work on the contract site, in preparing the site or performing the contract, including claims of nuisance and claims of trespass to persons, property, land or air space.
  - 8.5.2 All other losses, damages or claims in respect of any matters arising from or in connection with the contract and for which, under these terms and conditions, the Client is liable or for which under clause 7 the Company is not liable; and
  - 8.5.3 Any liability arising from or in connection with the contract to pay any amount in excess of the relevant limits referred to in clause 6.2.
  - 8.5.4 The Client will be liable for any loss or damage to the Contract Equipment from either their own negligence, during non-working hours, or whilst it is in situ, except where this loss or damage is caused by the Company.
  - 8.5.5 Subject to the Client being liable within clause 8.5.4, then the Client may be charged two-thirds of the Contract Price whilst the Contract Equipment is being repaired or replaced.
- 8.6 The Client shall insure against its liability to indemnify the Company and all other liabilities of the Client under the contract.
- 8.7 If requested by the Company, the Client shall produce a copy of any insurance policy together with evidence of the premium having been paid, held by the Client and relevant to the contract.

## **9. TRANSPORTATION OF CONTRACT GOODS**

- 9.1 The Company is not a common carrier.
- 9.2 If, under the contract, the Contract Goods, or any part of them, require transportation by air, sea, road or rail, the Company may either undertake the transportation or arrange for transportation by some other person or organisation.
- 9.3 In the latter event referred to in clause 9.2, unless otherwise agreed in writing by the Company, the Company's liability for the Contract Goods so transported shall be no greater than that of the person or organisation carrying out the transportation, that is, the airline, shipping company, haulage contractors or railway authority concerned, and the amount of compensation, if any, payable for loss of or damage to the Contract Goods during transportation shall be limited to the amount recoverable from that person or organisation in respect of that loss or damage.

## **10. PAYMENT OF CHARGES**

- 10.1 All prices quoted are exclusive of VAT, which will be charged at the rate prevailing at the date of invoice.
- 10.2 All charges by the Company are payable strictly thirty days net from the date of the Company's invoice or as set out in the contract offer.
- 10.3 All charges are payable in full and the Client shall not withhold payment as retention or discount or for any reason whatsoever, regardless of any arrangements for payment to the Client by another party under any other contract.
- 10.4 The Company's policy is to enforce its right to add interest and administration costs for late payments under the Late Payment of Commercial Debts Regulations 2002 or any other subsequent Regulations that supersede them.
- 10.5 The Company shall have a general lien over any goods and equipment, or the property of the Client in the custody of the Company, for unpaid debts due and payable to the Company by the Client. The Company shall notify the Client when exercising the right of lien under this clause and if the Client fails to settle all such debts within one month of notification, the Company may sell, as agent of the Client, all or any of the items subject to the lien and apply the proceeds towards payment of the outstanding debt and the expenses of the sale together with interest accrued to that date.



## **11. LAW OF THE CONTRACT**

- 11.1 The Company will determine which court will have exclusive jurisdiction and interpretation of the law for this Contract be it governed by the country where the Company's Head Office or site is located.
- 11.2 Both parties to the Contract have a right to refer any difference or dispute arising under or in connection with the Contract to adjudication and the procedure set out in Part 1 of the Scheme for Construction Contracts (England and Wales) Regulations 1998 (or such equivalent legislation which confers on the parties the statutory right to adjudicate within the relevant jurisdiction (or any amendment or re-enactment thereof for the time being in force) will apply. The person (if any) specified in the Contract to act as adjudicator may be named in the Offer. The specified nominating body to select adjudicators shall be the Construction Plant-hire Association acting by its President or Chief Executive for the time being.
- 11.3 The Company and the Client shall comply forthwith with any decision of the adjudicator; and shall submit to summary judgment and enforcement (and/or, under Scottish law, shall consent to a motion for summary decree and submit to enforcement) in respect of all such decisions; in each case, without any defence, set-off, counterclaim, abatement, or deduction. Where, under Scottish law, the Company, the Client, or the adjudicator, wishes to register a decision of the adjudicator for execution in the Books of Council and Session, any other party shall, on being requested to do so, forthwith consent to such registration by subscribing the decision before a witness.

## **FOOTNOTES**

- 1) Acceptance of the Contract Equipment on site implies acceptance of all these terms and conditions.
- 2) These standard terms and conditions for Contract Lifting Services are the copyright of the Construction Plant-hire Association and must NOT be reproduced, stored in any retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise unless they are current members of the Construction Plant-hire Association.
- 3) Copies of these standard terms and conditions are only available from the Construction Plant-hire Association.

# **SUPPLEMENTARY CONDITIONS APPLICABLE TO MOBILE CRANES (WHEELED AND CRAWLER MOUNTED) 2021**

## **TO BE READ IN CONJUNCTION WITH THE CPA MODEL CONDITIONS FOR THE HIRING OF PLANT 2021**

**EXPLANATORY NOTE:** The purpose of these Supplementary Conditions is to raise awareness of the Hirer's responsibilities under British Standard 7121 Code of Practice for the Safe Use of Cranes ("BS 7121") and to define contractually the extent of the Owner's and Hirer's responsibilities as between themselves. BS 7121 makes it clear that the Hirer is in overall control of the lifting operation and has responsibility for providing a suitably trained and experienced "appointed person" to ensure adequate planning and supervision of the operation. The Owner's responsibility is limited to providing a competent driver and a crane that is properly maintained, inspected, tested where necessary, thoroughly examined and certificated.

For the avoidance of doubt, when the hire is subject to the CPA's Model Conditions for the Hiring of Plant 2021 ("CPA Model Conditions"), the Owner is not a specialist sub-contractor and/or sub-contractor of the Hirer. The Owner will supply Plant pursuant to the CPA Model Conditions together with these Supplementary Conditions to form the Contract between the Owner and the Hirer.

Notwithstanding the above paragraph, it is a specific recommendation of BS 7121-1:2016 and subsequent amendments that where the Hirer does not have the expertise to carry out the lifting operation, the Hirer should employ the Owner or another competent organisation to undertake the work on a "Contract Lift" basis. Should the Hirer enter into a Contract Lift arrangement with the Owner it would be carried out under the CPA's Contract Lifting Services conditions; (copy available upon request).

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1 These Supplementary Conditions are applicable to Mobile Cranes (wheeled and crawler mounted) only and shall be referred to as the "Supplementary Conditions".
- 1.2 Unless the context suggests otherwise words and terms in the Supplementary Conditions shall have the same meaning as in the CPA Model Conditions.
- 1.3 If any conflict shall appear between any provisions of the Supplementary Conditions and the provisions of the CPA Model Conditions then the former shall prevail.

### **2. PLANNING, SUPERVISING, SLINGING, HANDLING**

- 2.1 In order to comply with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (SI 1998 No. 2307) and BS 7121-1 the Hirer is responsible for the supervision of all aspects of the crane's activities from when it enters the site and until it leaves. This includes but is not limited to positioning, rigging, de-rigging, planning, supervising and controlling the lifting operations, including the preparation and distribution of risk assessments, method statements and for the safe slinging of the goods to be lifted or handled.
- 2.2 If advice or information is sought from and given by any person supplied by the Owner, the Hirer understands and accepts that such advice or information is given without responsibility and does not relieve or reduce the Hirer's requirement to make their own independent assessment as outlined above.

### **3. GROUND AND SITE CONDITIONS**

Without prejudice to the terms of Clause 7 of the CPA Model Conditions the Hirer shall be entirely responsible for the preparation and maintenance of any ground upon which the crane or support vehicles will travel over or from which they will operate. The Hirer shall be fully liable to the Owner for any damage to the crane or support vehicle caused by ground conditions and shall indemnify the Owner and hold the Owner harmless against any liability, expense, loss or damage caused by ground conditions.

### **4. TRAVELLING, ERECTION AND DISMANTLING**

- 4.1 Any time spent setting up, transporting and moving the crane and support vehicles, erecting and dismantling the jibs and transporting additional jibs sections or ballast

is payable by the Hirer to the Owner at the rate specified in the Contract. The Hirer shall also allow the Owner, or any representative of the Owner, free and unrestricted access to the crane and support vehicles and to all areas of their operation.

- 4.2 Insofar as the Hirer's use of the crane will require any licence, permission or authorisation from any private or public body or government or Local Authority or the giving of notice to any such body, Government or Authority then the obtaining of any such licence, permission or authorisation, or the giving of any such notice, shall be the entire responsibility of the Hirer, who must ensure that sufficient notice is given to the Owner to guarantee compliance with the Road Vehicles (Authorisation of Special Types) (General) Order 2003 and subsequent amendments. This responsibility extends to ensuring that the site is clear of all obstructions and that traffic management arrangements are set up and operated correctly. Where the Owner is required to obtain such licence, permission or authorisation or to supply traffic management on the Hirer's behalf a charge will be added.
- 4.3 Subject to Clause 25 of the CPA Model Conditions, the Hirer shall be liable to the Owner for the agreed fees and charges regardless of any change in the Hirer's circumstances or the circumstances affecting the use to which the Hirer intends or intended to put the crane or support vehicle and any decision to accept a cancellation or variation of the Contract in any respect shall be at the Owner's full and entire discretion.

## **5. SUPPLY OF ALTERNATIVE CRANE**

In the event that the Contract specifies a particular type of crane or support vehicle, the Owner reserves the right to supply a suitable alternative crane or support vehicle to that specified. Acceptance of the crane or support vehicle on site shall be acceptance of the variation of the Contract in respect of the crane or support vehicle supplied and the Owner shall have no liability to the Hirer in respect of that variation.

## **6. PROVISION OF LIFTING ACCESSORIES**

If requested and specified by the Hirer in advance, the crane will be provided with specific certificated lifting accessories, subject to availability and at additional cost. The Owner accepts no responsibility for loss or delay should the lifting accessories prove unsuitable.

## **7. LIMITATION OF LIABILITY**

Without prejudice to the terms of Clause 12 of the CPA Model Conditions, the Owner shall have no liability in respect of any damage including but not limited to:

- any goods or other items lifted or to be lifted;
- any surface or subsurface features such as underground services;
- any above ground structures, including any overhead cables, overhanging or protruding things, which might result from the travelling, positioning or working of the crane or of any support vehicle.

## **8. INSURANCE**

- 8.1 The Hirer shall have adequate insurance to comply with its liabilities under the Contract. The Owner reserves the right at any reasonable time to require confirmation and evidence that the Hirer is complying with its insurance obligations.
- 8.2 At the discretion of the Owner it may be possible to give the Hirer an interest in the Owner's own Insurance Policy for a fee. This must be agreed in writing prior to the commencement of the work.