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.

© Copyright of the Construction Plant-hire Association 2021

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

© Copyright of the Construction Plant-hire Association 2021

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

© Copyright of the Construction Plant-hire Association 2021

£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

© Copyright of the Construction Plant-hire Association 2021

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.

© Copyright of the Construction Plant-hire Association 2021

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.

© Copyright of the Construction Plant-hire Association 2021