

## **ASKOM 19**

### **General Contract Terms for Crane Lifting Services**

*Drafted with a basis in ASKOM 09 – a cooperation between Kranutleiernes Landsforening [National Mobile Crane Hire Association] and Svenska Mobilkranforeningen [Swedish Mobile Crane Hire Association].*

ASKOM 19 applies to members of Kranutleiernes Landsforening where members have referenced it in connection with entering into the Contract, or have stated in communication with the Client - including as information in the signature field in e/mails - that it applies to all services he is to provide

Insofar as the Hire Company has referred to both ASKOM 19 and his own hire terms in the Contract, the Hire Company's own terms and conditions take precedence in the event of a conflict.

Insofar as the Client has referenced his own contract terms, ASKOM 19 shall however apply unless the Hire Company has explicitly accepted that ASKOM 19 does not apply.

Unless otherwise expressly agreed, the Hire Company is solely a supplier and his services are not encompassed by the regulations that may apply to the Client's subcontractors, unless this is explicitly stated.

## **1. DEFINITIONS.**

In these regulations, the following definitions shall apply:

### **1.1 Agreement/Contract:**

An agreement (verbal or signed contract, formally agreed meeting protocol, order document, order confirmation, bid/acceptance etc.) relating to the execution/provision of Services, including agreements relating to hire, cf. Item 1.4.

### **1.2 Client/Lessee:**

The party that has placed an order for the services/task and/or a party that, in writing, has accepted payment responsibility for the service/task.

### **1.3 Hire Company/Supplier/Crane Hire Company:**

The party that has accepted the supply/execution of the Client's order.

### **1.4 Services/Supply:**

The services/supply, including hire, that the Hire Company shall provide.

### **1.5 Monthly/Daily/Hourly services:**

An agreement to provide services according to a unit price based on time/a specific period.

### **1.6 Fixed-price:**

An agreement that fixed, defined services shall be carried out at an agreed fixed price.

### **1.7 Supplementary services:**

Services carried out in addition to those originally ordered.

### **1.8 Prices:**

All prices are stated exclusive of VAT.

### **1.9 Normal working hours**

7.5 hours between Monday to Friday, 07.00 to 16.00 on business days.

1.10 Business days

Monday to Friday, unless these are public holidays and thus general holiday days.

1.11 Foundation

Base for stationary cranes, including a foundation for a crane track and a construction for anchoring of stays/supports etc.

1.12 Installation services

All services associated with assembly, disassembly, raising, relocation, transport, amendments and similar, of both stationary and mobile cranes.

1.13 Handover

The point in time at which stationary cranes are fully installed in accordance with the order confirmation and are able to be used by the Lessee - and the responsibility for the crane is handed over to the Client.

**2. GENERAL TERMS AND CONDITIONS -**

2.1 The regulations in ASKOM 19 apply without amendments or supplements, unless such amendments and supplements are agreed by the parties in writing. Insofar as the parties have entered into another agreement, this agreement applies as long as the other agreement does not regulate circumstances.

2.2 Written quoted prices and contract terms/conditions, including bids, are binding for 30 - thirty - days unless otherwise specifically agreed or stated in the bid, or until they are withdrawn before they are accepted.

2.3 If the task requires training of the Hire Company's personnel beyond that which is required by law in order to carry out the services, and this was not clear when the Contract for the services was signed, the Hire Company has the right to have necessary training costs covered by the Client, including expenses for wages and supplementary costs that may be incurred by the Hire Company. The Hire Company cannot be held responsible for any delays during the time training is being carried out.

2.4 In the event of annulment of a signed agreement for services that is attributable to the Client, directly or indirectly, he shall indemnify the Hire Company against any losses incurred as a result of the annulment, unless otherwise regulated in these terms or in a separate written agreement. The Client cannot release himself from responsibility by claiming that the Hire Company has not demonstrated sufficient activity to obtain alternative hire.

**3 HIRE TERMS WITHOUT FIXED PRICE FOR PROVISION OF AGREED SERVICES**

- 3.1 For all assignments for which a specific fixed-price agreement has *not* been reached, payment shall be calculated according to accrued time used.
- 3.2 Unless otherwise agreed, including that it is specifically stated in the order confirmation or otherwise, the prices set by the Hire Company shall apply. If the Client reduces the stated/estimated time for the services, and the agreed unit price associated with estimated time, The Hire Company has the right to amend the agreed rate to a rate that he can show that he has used in circumstances that are comparable with a new duration of the Services.

The Hire Company also has the right to adjust prices if, after the agreement was signed, it becomes clear that it is necessary to bring in alternative/additional equipment, (including a larger crane and/or additional personnel) than information indicated at the time of the agreement, and this is due to inadequate information from the Client when the agreement was signed.

The Hire Company is not responsible for any delays brought about by having to obtain alternative equipment in order to carry out the services, including if, in such case, he has to decline the assignment.

- 3.3 The quoted unit price includes:
  - a) Services carried out at the site with the agreed crane and standard equipment that can be transported on the crane.
  - b) Wages expenses for personnel, including crane driver (applies to mobile cranes unless otherwise agreed). If the services necessitate working beyond regular working hours, and this was not anticipated when the Contract was signed, the Hire Company has the right to claim additional expenses in such case.
  - c) Ordinary fuel and lubrication.
- 3.4 Expenses that are not listed under Item 3.3 will be payable in addition unless otherwise agreed between the parties. This concerns expenses such as - but not limited to:
  - a) Transport of equipment, loading/unloading of necessary equipment beyond that transported on the crane, including (but not limited to) special transport of counterweights.
  - b) Specially ordered equipment, or necessary special equipment in order to carry out the services, and transport of these
  - c) Any escort vehicles and additional personnel required to carry out this task, in addition to work in connection with exemption applications, permits etc.

- d) Additional wages for personnel in connection with overtime supplements, shift supplements, courses, subsistence/accommodation/travel expenses.
- e) Rigger expenses

**3.5** The hire period is calculated from the point in time that the crane (with equipment) leaves the Hire Company's depot or other agreed site, until the crane returns to the same place or other agreed location. I.e. that the hire period runs during the time it takes to rig the crane for the services, even if the crane is not in use at the site.

The Client must ensure that there is sufficient space at the site for rigging of the crane.

Any partial hours will be calculated as whole hours. The minimum hire period is 3 hours. No deduction in hire charges will be made for waiting time due to delays and/or hindrances that are not attributable to the Hire Company, including (but not limited to) delays caused by weather conditions, traffic conditions that cannot reasonably be predicted, and necessary replacement of equipment.

#### **4. HIRE TERMS AND CONDITIONS WITH A FIXED PRICE FOR PROVISION OF THE AGREED SERVICES**

4.1 Services will be agreed with start-up and finishing times. If the services have not been completed within the agreed or anticipated time frame, and this is due to circumstances that are not attributable to the Hire Company, the Hire Company has in any case the right to end the hire period at the expected time, without liability.

If the Client requests that the hire shall continue, including with a reference to a disagreement regarding responsibility for delays, the Hire Company has the right to demand a payment, that in addition to covering general hire for the equipment, will also cover any losses/expenses/liability incurred by the Hire Company, in that the equipment is not available for other agreed job assignments. The Client, in such case, has the right to demand return of the payment if it becomes legally determined and enforceable that the delay has been caused by the Hire Company.

Unless specifically agreed otherwise, the agreement does not include fixed-price expenses associated with preparation and supply obligations, imposed by the Contract on the Client.

4.2 For an agreement that services shall be carried out at a fixed price, the Hire Company has the right to receive supplementary payment if, after the agreement has been reached, it becomes clear that it will be necessary to bring in alternative/additional equipment and/or personnel and/or use additional working hours, than that stated in the information provided by the Client at the time the agreement was signed, or if unforeseen circumstances - not attributable to the Hire Company - including, but not limited to, waiting time as a result of weather circumstances and/or traffic conditions that he could not reasonably be expected to anticipate.

The same applies if services are delayed as a result of the Client requiring alternative HSE documentation than that which the Hire Company holds as part of his own

routines, inadequate rigging and storage space for equipment, inadequate foundation certification where required etc.

Supplementary payment will be calculated according to the regulations pertaining to unit prices in Item 3. The Hire Company shall notify the Client of supplementary payments as soon as he becomes aware of circumstances that will require supplementary payment.

- 4.3 Hire prices are based on provision during one single shift (up to 12 hours per day). For use over two shifts, the hire charge is increased by 80% unless otherwise agreed.

Operations outside of regular business hours must be agreed with the Hire Company in advance.

- 4.4 The agreed hire does not include setup of a foundation for installation of equipment, laying of cables and similar, installation or removal of these, including setup of any in and out ramps that the Hire Company considers necessary.

Unless otherwise agreed, hire of stationary cranes does not include a crane driver.

## **5. CLIENT'S RESPONSIBILITIES AND DUTY TO PROVIDE INFORMATION**

- 5.1 The Client, in good time before services are started, must provide the Hire Company with all information necessary in order to plan and provide the services. The Client is responsible for ensuring that the information is complete and correct. The following information must always be provided by the Client:

- a) The Client's name, address, telephone number, telefax, e-mail address and any project numbers and other information concerning the assignment that the Client believes the Hire Company requires. If the invoice address is different to the Client's address, the invoice address must be stated separately. The Client is always responsible for payment to the Hire Company.
- b) The location at which the services are to be executed, rigging and loading area, area for location of crane(es) and unloading area.
- c) The type of materials, value, weight, dimensions, sling (lifting) points, centre of gravity, any lifting drawings, lifting height and other information that he considers significant in connection with execution of services. The Client is always responsible for ensuring that the stated sling (lifting) points and attached lifting lugs are suitably located and have satisfactory strength.
- d) The specific date and time for carrying out the services.
- e) The Client himself is responsible for insuring materials to be lifted. If special insurance is required from the Hire Company's side, this must be specifically agreed.

- f) Whether there are any hindrances, risks or special circumstances such as wires (including aerial wires), cables, barriers, bridges or narrow passages, culverts, trenches etc.
- g) Whether there is any requirement for special equipment, banksmen, signalmen, or other additional assistance.
- h) The name of the person responsible for coordination and workplace regulations for the site.

5.2 Unless otherwise confirmed in writing by the Hire Company, the Client is responsible for ensuring that roads, lifting, rigging and storage areas are accessible and are adequate in size and load-bearing characteristics, and are otherwise safe, suitable and usable for executing the services. On request from the Client, the Hire Company shall provide information related to the working area, axle load, support leg pressure, total weight, height and maximum lifting height of the crane.

In circumstances that require construction of a foundation (applies in particular to stationary cranes), the Client is responsible for calculation, construction, execution, strength, stability etc. of the foundation, based on the Hire Company's load specifications and requirements related to physical design.

The Hire Company will not begin installation work before the Client has signed the Hire Company's form confirming the foundation where required. The Hire Company has, however, the right to demand hire charge from the anticipated start time.

5.3 The Client must ensure that all necessary permits and calculations associated with execution of services, including lifting radius, are available before work begins, including that loads on building sections and constructions affected by the services have been calculated.

5.4 The Client is responsible for ensuring that materials to be lifted are properly packaged, protected against wind and weather etc. such that they will tolerate lifting. If the Hire Company finds that these provisions are not satisfactory, he has the right, but not the obligation, to implement any measures he may find necessary.

5.5 For hire of stationary cranes, the Client shall provide a crane driver certified to carry out services, unless otherwise agreed. If the assignment requires the use of assisting personnel, assistance in connection with lifting slings, securing of loads or as a signalman, and no alternative has been agreed in writing with the Hire Company, the Client is obliged to provide for such personnel and for ensuring that these have the necessary qualifications for the services to be carried out.

5.6 The Client shall provide, at no charge, toilets, messroom, changing and washing facilities for the Hire Company's employees.

- 5.7 Unless otherwise agreed in writing, the Client is liable to pay compensation for all damage and all additional expenses incurred by the Hire Company, brought about by inadequate, incorrect, incomplete or imprecise information that the Client is obligated to provide by the regulations in this chapter (5.1-5.7).

The Hire Company has the right to – but does not assume liability by **not** doing so - to stop the services if he finds that they cannot be carried out in a defensible manner. In such case, the Client shall pay for losses/expenses incurred by the Hire Company due to the stoppage, including losses due to the crane being inactive until it can be assigned to other jobs, and for damage/injury that may be caused to the Hire Company's equipment and/or personnel. In the event of a significant breach, the Hire Company has the right to cancel the Contract.

## **6. THE OBLIGATIONS OF THE HIRE COMPANY**

- 6.1 The Hire Company's obligations are to ensure that:
- a) Crane lifting services are carried out in a professional, workmanlike manner (where the Hire Company provides a crane driver)
  - b) The crane and appurtenant equipment are in good condition and comply with applicable safety regulations
  - c) The crane is operated by proficient personnel holding all necessary certifications/permits (where the Hire Company provides crane driver)
  - d) All necessary certificates for the crane are available
  - e) A safe job analysis (SJA) is carried out in accordance with regulations before work is started.

## **7. PAYMENT TERMS AND CONDITIONS**

- 7.1 The Hire Company will send invoices in accordance with his own invoicing routines.

The Hire Company has the right to invoice in advance. If the hire agreement has been signed for more than 2 months, or the hire period is estimated to be at least a corresponding time, the Hire Company has the right to demand, with a 14 day deadline, that the Client furnishes a bank guarantee to secure appropriate payment compliance before services begin, even if the requirement for a bank guarantee is not included in the order confirmation or in the Contract.

In the event of non-payment of an invoice of more than 14 days, all issued invoices will become due for payment immediately, even if the due date for payment at that time has not passed.

In the event of late payment, interest will be payable in accordance with the Interest on Arrears Act unless otherwise specifically agreed.

## **8. CANCELLATION**

- 8.1 If the Client cancels services with a mobile crane that have been agreed with a unit price or time-based rate before the crane has begun the journey to the worksite, the Hire Company has the right to payment of 10% of the assignment's assumed invoice value, in any case a minimum of NOK 7500.

If the assignment is cancelled, but the services are thereafter provided by another hire company, or by the Client himself, within 30 days of cancellation, the Hire Company has the right to full settlement in accordance with the Contract. Compensation shall not under any circumstances be less than NOK 15000.

Services cannot be cancelled after the crane has started the journey to the worksite.

- 8.2 If the Client cancels services agreed with a fixed price, within 1 month of the agreed start-up date, the Hire Company has the right to payment corresponding to 2 months hire.

## **9. REVOCATION**

- 9.1 The Hire Company has the right to revoke the Contract without prior notification to the Client if the Client is in significant breach of his obligations according to this Contract, including that the Client:

- a) Does not comply with his duty to provide information according to Item 5 within 10 days before the expected start-up of services, unless otherwise agreed. The same applies if the provided information is incorrect, or in another manner is in significant breach of the agreed terms and conditions.
- b) During ongoing services, fails to comply with the agreed payment terms in a timely manner, suspends his payments or it becomes evident that he has financial difficulties, enters into debt negotiations, is declared bankrupt and fails without delay to provide a guarantee on request by the Hire Company, or significantly fails to comply other obligations according to the signed Contract.
- c) Breaches safety regulations, or in another manner carries out, or fails to carry out, actions that cause risk to personnel or equipment. In such case, the Hire Company has the right to revoke the Contract immediately.

- 9.2 If the Contract is revoked due to circumstances attributable to the Client, the Hire Company has the right to demand that the Client pays hire charges for the assumed hire period, and covers costs of time spent and expenses brought about by the default by the Client.

9.3 The Client has the right to revoke the Contract if the Hire Company is in serious breach of his obligations according to this Contract, and has not rectified the default within 14 days of the issue being reported by the Client. In the event the Contract is revoked, the Hire Company's liability is limited to the direct losses brought about by the default.

In the event the Contract is revoked by the Client, the Hire Company shall, without delay, recover any equipment that may have been placed at the Client's site.

## **10. LIABILITY**

- 10.1 The Hire Company is not liable for losses brought about by delays unless this is specifically agreed in writing, or he has been wilfully or grossly negligent and the general requirements for causality are met.
- 10.2 The Hire Company, without a specific agreement, is not liable in relation to the Client for any damages caused to the Client during execution of services, directly, indirectly or consequentially, including materials that are suspended by lifting hooks, unless he, or a party acting on his behalf, has shown wilful or gross negligence and this is proven to be the cause of the damage.
- 10.3 If the assignment requires a signaller and/or other assisting personnel from the Client, the Hire Company is not liable for damage occurring as a result of inadequate load security, incorrect use of lifting slings, incorrect, incomplete and/or unclear signals. The Hire Company is not liable for other damage caused by these actions.
- 10.4 It is assumed that the Client will insure materials to be lifted. Without a specific agreement, any compensation liability held by the Hire Company in respect of the Client for any damage caused by the Hire Company is in any case limited to NOK 500 000 per damage incident. Where several incidents of damage can be attributed to the same cause, this will be considered one damage incident.
- 10.5 The Hire Company holds no liability for damage according to the Pollution Control Act, unless the damage has been caused wilfully. If the Hire Company is held responsible by a third party for any such circumstance, the Client shall indemnify the Hire Company, including for any consequential damages.

## **11. EXEMPTION GROUNDS - FORCE MAJEURE**

If the Contract cannot be fulfilled or is disproportionately burdensome to carry out for reasons that are beyond the Hire Company's control, such as labour disputes, operational stoppages, mechanical breakdown, weather conditions, fire, accidents, war, terrorist attacks, natural catastrophes, public authority restrictions, omissions or orders, currency restrictions, disturbances or riots, shortages of goods, restrictions on the supply of fuel, errors or delays regarding deliveries, errors in specifications, execution, materials, equipment etc. and in other respects any circumstances that exempt fulfilment of the contract according to the regulations pertaining to force majeure, the rights and obligations of the parties according to the Contract are annulled as long as these circumstances endure.

- 11.2 The party that wishes to assert exemption grounds according to Item 11.1 is obligated, without delay, to inform the other party of the circumstances being asserted. The party shall also notify the other party as soon as the circumstances cease to apply.

- 11.3 If a situation should arise as described in Item 11.1, and the circumstance endures for more than 30 days, both parties have the right to revoke the Contract without any liability. Notice of revocation must in such case be given in writing.

## **12. INSURANCE**

- 12.1 The Hire Company is obliged, at his own expense, to provide for such insurance as is required by law or public authority regulations.
- 12.2 If the Client requires that a separate insurance policy be taken out by the Hire Company, this must be agreed specifically. In such case, the insurance terms and conditions shall become a part of the contract between the parties. Any expenses relating to such insurance will be charged to the Client as a supplement to the price otherwise agreed.

The Hire Company recommends that the Client take out insurance policies for everything/all circumstances for which the Hire Company is not liable.

- 12.3 If equipment is hired out without a crane driver, the Client is obliged to keep the Hire Company's equipment insured, with the Hire Company as beneficiary in the insurance policy, from handover. The insurance policy certificate must be provided to the Hire Company.

## **13. DISPUTES**

- 13.1 Any disputes arising from these contract terms and conditions shall be resolved before the common courts, unless both parties, in writing, accept arbitration.
- 13.2 Disputes shall be resolved according to national laws in the country in which the Hire Company has his head office, and the Hire Company's legal venue shall be accepted as case processor.

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