

GENERAL SCANDINAVIAN CONTRACT TERMS FOR WORK INVOLVING CRANES – ASKOM 09

Drawn up jointly by:

Svenska Mobilkranföreningen and Kranutleiernes Landsforening

These terms shall apply to all undertakings and work covered by an agreement, e.g. the hire of cranes with operators, the hire of mobile cranes, concrete pumps, lifts and other equipment, the hire of staff in connection with the hire of cranes or other equipment, the hire of cranes without operators and the hire of crane operators without cranes, as well as all other work covered by an order.



1. DEFINITION OF TERMS

In these contract terms there shall be meant by:

1.1 WORK

All forms of work within an order and all transports in connection therewith.

1.2 AGREEMENT/CONTRACT

An oral or written agreement (signed contract, record of an agreement, description of an order, confirmation of order, offer/acceptance, suborder) for the performance of work.

1.3 CUSTOMER

That party who has placed an order for work or that party who is to pay for same or any other party who has given instructions for the work to be performed at the workplace.

1.4 CRANE LESSOR

That party who, after having received an order, has made an offer or who, on any other basis, is to perform the work at the workplace.

1.5 HOURLY RATE CHARGING

A contract under which the crane lessor is remunerated in accordance with an hourly rate, exclusive of value added tax.

1.6 FIXED PRICE/FIXED OFFER

A contract under which the crane lessor is to perform a job of work clearly and unambiguously defined by the customer for a fixed price agreed between the parties, exclusive of value added tax.

1.7 ADDITIONAL WORK

Any work over and above that for which an order was originally placed.

2. SPHERE OF APPLICATION OF CONTRACT TERMS, ETC.

2.1 These terms shall apply in contractual relations between the customer and the crane lessor. Save where otherwise agreed between the parties in writing, these terms shall apply without alterations or additions.

2.2 These terms shall apply to the whole of the order covered by the agreement made between the parties, e.g. the hire of cranes with operators, the hire of mobile cranes, concrete pumps, lifts and other equipment, the hire of staff in connection with the hire of cranes or other equipment, the hire of cranes without operators and the hire of crane operators without cranes, as well as all other work covered by an order.

2.3 Save where otherwise specially agreed, an offer made by a crane lessor shall be binding for 30 days.

2.4 An agreement binding on the parties shall be deemed to have been made when the crane lessor has informed the customer, either orally or in writing, that the work can be performed.

2.5 In those cases in which an order requires the special training of staff, the customer shall be answerable for all costs incurred for the purpose, e.g. wages and additional remuneration to staff.

3. TERMS OF REMUNERATION – HOURLY RATE CHARGING

3.1 In respect of all orders in which the parties have not made any special agreement concerning a fixed price remuneration shall be paid on an hourly basis in accordance with these terms.

3.2 Hourly rate charging shall be effected on the basis of the crane lessor's price list, save where any other hourly rate has been agreed. The crane lessor's price list or any specially agreed hourly rate shall apply, barring any unforeseen costs which may be incurred after the agreement has been made and which are not included in the hourly rate. The crane lessor shall be entitled to adjust the rates in the event that such unforeseen costs arise after the agreement has been made.

3.3 The agreed hourly rate shall include:

- The crane, as ordered, together with the customary equipment
- Wage costs for the crane operator
- The costs of ordinary fuels and lubricants
- Administration costs and fees
- The costs of liability insurance

3.4 Other costs not indicated under section 3.3 will be charged in accordance with the crane lessor's price list or on the basis of verified costs, including administration costs and fees or in accordance with any other form of charging agreed between the parties. This shall apply to costs for:

- Transport and loading and unloading operations over and above those normally occurring
- Transport of necessary equipment over and above that normally occurring, inter alia the transport of counterweights
- Any specially ordered equipment and the transport thereof
- Escorts and additional staff where applicable
- Additional wages for staff, e.g. overtime pay, additional rates for shift work, daily allowances, overnight accommodation and travelling expenses
- The setting up of machinery and installation of staff
- The necessary licences and/or inspections.

3.5 The period of hire shall be calculated from the moment the crane leaves the crane lessor's depot or other agreed place up to the moment it returns to the same point or other agreed place, in which connection part of an hour shall be calculated as a whole hour. The minimum period of hire shall be three hours.

4. PAYMENT TERMS – FIXED PRICE

4.1 The fixed price submitted by the crane lessor shall, where applicable, include the following:

- All the costs for the crane, together with the customary equipment and any necessary additional equipment which the customer has ordered
- The costs of fuel and lubricants
- The costs of the transport of cranes with equipment, escorts and any accompanying vehicles and loading and unloading operations
- All wage costs for the crane operator
- Administration costs and fees
- Costs incurred as a result of foreseeable requirements on the part of the authorities, as well as transport and installation licences.

4.2 The remuneration for costs over and above those indicated under section 4.1 shall be paid in accordance with the terms of section 3.4. By this shall also be meant any additional costs in accordance with sections 4.1 a) – d) due to the fact that the customer's enquiry was unclear or ambiguous with regard to the nature and extent of the order. Remuneration shall also be payable for unforeseen waiting times.

4.3 The crane lessor shall also be entitled to remuneration for costs incurred as a result of impediments, waiting times or other disruptions beyond his control in the performance of the work.

4.4 The remuneration for additional work over and above that covered by the fixed price shall be calculated in accordance with section 3.

4.5 The crane lessor shall be entitled to adjust the fixed price in the event that unforeseen costs are incurred after the agreement has been made which are not included in the agreed price.

5. CUSTOMER'S RESPONSIBILITY AND DUTY OF INFORMATION

- 5.1 The customer shall be responsible for ensuring that any information supplied to the crane lessor and forming the basis of any assessment of the nature and extent of the work in accordance with the contract is complete and correct.
- 5.2 The customer shall in good time and prior to commencement of the work furnish the crane lessor with all such information as is necessary for the planning and implementation of the work. The following information shall in all cases be furnished by the customer:
- a) The customer's name, telephone number, fax number, e-mail address, any project number and other information concerning the order which the customer considers that the crane lessor will need. In the event that the address for invoicing purposes is different from the customer's address, the address for invoicing purposes shall be given separately. The customer shall be jointly liable for any other party who is responsible for the payment of the order in accordance with section 7.
 - b) The owner and consignee of the goods
 - c) That place where the work is to be performed, the place of loading, the place for the installation of machinery and storage of fuels and the place of unloading
 - d) The nature, value, weight, size (length, breadth and height) of the goods and the lift height
 - e) The time of performance of the work
 - f) Whether additional insurances are required
 - g) Whether there are any special impediments, risks or circumstances likely to constitute an impediment in the case of transport or lifting, e.g. wires, cables, trees, bridges or narrow thoroughfares or other impediments or circumstances which may entail difficulties in connection with transport, unloading or erection of the crane or in the performance of the work
 - h) Whether there is a requirement for special equipment, additional work, assistants, signalmen or other additional work
 - i) Information concerning that person or those persons responsible for coordinating operations and what site regulations are in force at the workplace.

The customer shall be responsible for ensuring that a work environment analysis is drawn up for the order.

- 5.3 The customer shall be responsible for ensuring that the assigned routes and lifting and installation points are accessible, possess a sufficient load-bearing capacity and in other respects are suitable for the performance of the order. Where the customer enquires, the crane lessor will furnish information concerning the crane's working range, axle pressure, support leg pressure, total weight, height and maximum lift height.
- 5.4 The customer shall be responsible for ensuring that the necessary licences and calculations are to hand for the performance of the work, e.g. any loading of parts of the building or any interference with buildings or equipment.
- 5.5 The customer shall be responsible for ensuring that any item which is to be lifted is adequately packaged and protected against the weather and other factors in order to permit lifting to be successfully performed. In the event that the crane lessor considers that the situation is not satisfactory he will be entitled, but not obliged, to take such measures as are necessary at the customer's expense.
- 5.6 Lifting tools and lifting equipment to be used in lifting, e.g. fixed lifting eyes and lifting points and which are made available by the customer must meet the requirements laid down by the authorities.
- 5.7 In the event that performance of the work necessitates the involvement of one or more assistants for the purpose of strapping, securing of the load and signalling, etc., it shall be incumbent on the customer to make such staff available and in this connection ensure that they possess the necessary qualifications for the tasks they are to perform.
- 5.8 The customer shall make available free of charge space in the site hut or similar for the crane lessor's employees.
- 5.9 The customer shall be liable for compensation for all damage and all additional costs incurred as a result of any defective, incorrect, incomplete or unclear information which he is obliged to furnish in accordance with the terms of this chapter (5.1 – 5.8). The crane lessor will be entitled to suspend the work if he judges that the work cannot be performed in an acceptable manner. The crane lessor will be entitled to compensation from the customer for all additional costs resulting from such interruption, e.g. costs for down-times, and for any damage to equipment or injury to staff. In the event of any serious departure from this provision the crane lessor will also be entitled to rescind the contract.

6. OBLIGATIONS OF CRANE LESSOR

- 6.1 Save where otherwise agreed, the crane lessor will make available the crane and the operator, together with the customary lifting equipment, for the performance of the work.
- 6.2 The crane lessor will be responsible for ensuring that:
- a) the work is carried out in an expert and workmanlike manner
 - b) the crane, together with the equipment and accessories belonging thereto, is in good condition and conforms to current requirements for protection and safety
 - c) the crane is operated by competent and properly trained staff
 - d) valid certificates of inspection have been obtained.

- 6.3 If, in the crane lessor's professional opinion, the type of crane required for the performance of the work is larger than or different from the one for which the order was placed or appeared to be required from the information supplied, the customer shall be liable to compensate the crane lessor for all additional costs in accordance with section 5.9, including waiting times and loss of profit for the crane thus ordered. In this connection the crane lessor will only be obliged to perform the work if the necessary crane can be procured within a reasonable time.

7. PAYMENT CONDITIONS

- 7.1 Where an order has been placed by several customers, they shall be jointly and severally liable for payment to the crane lessor.
- 7.2 Payment shall be effected in accordance with the payment plan drawn up by the parties or against invoice after the work has been carried out. Save where otherwise agreed between the parties, invoices shall be paid within 30 days of the invoice date.
- 7.3 In the event that payment is not made on time the crane lessor may, save where otherwise agreed, charge interest for arrears in accordance with the applicable legislation.

8. CANCELLATION

- 8.1 In the event that the customer cancels the order, the crane lessor will be entitled to compensation amounting to 10 % of the calculated contract price, but to a sum not less than 5 000 kr. In the event that the contract price cannot be determined on the basis of hourly rate charging, the crane lessor will be entitled to compensation for those preliminary measures which have been taken on the basis of the hourly rate from time to time in force, but to no less than the charge for three hours.
- 8.2 In the event that an order is cancelled and is thereafter performed by another crane lessor or by the customer himself under his own arrangements, the crane lessor will be entitled to compensation in full for all costs and loss of profit. Compensation shall, however, in all cases amount to no less than 10 000 kr.

9. RESCISSION

- 9.1 Save where some other time is agreed, the customer must perform his obligation to provide information in accordance with section 5 by no later than 10 days before commencement of the order. In the event that such period is exceeded, the crane operator will be entitled to rescind the agreement with immediate effect. A similar entitlement will apply where the information supplied by the customer is incorrect.
- 9.2 If, while work is in progress, the customer fails in good time to perform his payment obligation, suspends his payments or initiates restructuring measures or composition proceedings or becomes bankrupt or in any other manner neglects to perform his obligations under this agreement, the crane lessor may, with immediate effect, rescind the agreement, unless the customer immediately furnishes adequate security for his payment obligation under the contract.
- 9.3 The crane lessor will also be entitled to rescind the agreement with immediate effect in the event that the customer is in serious breach of his obligations under this agreement, infringes safety regulations or in any other way takes action, or neglects to take action, such as would entail a risk of injury to persons or damage to equipment.
- 9.4 In the event that rescission occurs due to a fact which is attributable to the customer in accordance with sections 9.2 or 9.3 or for any other reason, the crane lessor will be entitled to compensation for all costs and loss of profit.
- 9.5 In the event that rescission is due to a fact which is beyond the customer's control, the crane lessor will be entitled to compensation for all costs incurred as a result of the order. Work performed shall be paid for in accordance with the agreed hourly charging rate.

10. LIABILITY

- 10.1 The crane lessor will not be liable for any loss or damage due to delays, save where this has been specially agreed.
- 10.2 The crane lessor will also not be liable for any consequential loss or pure pecuniary loss.
- 10.3 Save where otherwise specially agreed, the crane lessor will not be liable for loss or damage caused to the customer, unless it can be shown that he or any of his employees has caused such loss or damage.
- 10.4 In the case of personal injury or damage to property compensation will be limited to a maximum of 10 Mkr for each case of injury or damage. Save where otherwise agreed, the crane lessor's liability for compensation in respect of property being lifted or transported will be limited to 1 Mkr for each damaging event. Where there are several cases of loss, injury or damage attributable to the same cause, they shall be reckoned as one single case.
(In the Norwegian version of Askom 09 the limits of liability are 1 Mkr and 500 000 kr respectively).
- 10.5 In the event that a signalman or other assistant is required for the performance of the work and such persons are made available by the customer, the crane lessor will not under any circumstances be liable for loss or damage arising as a result of any defective securing of the load or incorrect strapping thereof or as a result of incorrect, incomplete and/or unclear signalling. Nor will the crane lessor be liable for any other loss or damage caused by such persons.

10.6 The crane lessor will not be liable for any loss or damage within the meaning of the [Swedish] Environment Code, unless it can be shown that same is attributable to negligence or carelessness on the part of the crane lessor or his employees. In the event that, notwithstanding this provision, a claim for damages is made against the crane lessor, the latter will have full recourse against the customer. This provision shall also apply to any consequential loss or damage in connection herewith.

11. REASONS FOR EXEMPTION – FORCE MAJEURE

11.1 In the event that performance of the agreement is frustrated, rendered more difficult or unreasonably hampered as a result of circumstances beyond the crane lessor's control, e.g. industrial disputes, breakdown, technical damage, fire, accident, war, act of terrorism, natural catastrophe, orders or omissions of the authorities, new or amended legislation, exchange rate restrictions, insurrection or civil commotion, general shortage of goods, reductions in the supply of fuels and defective or delayed deliveries, the crane lessor will be entitled to claim compensation for additional costs and waiting times and/or rescind the agreement.

The circumstances named above may constitute a reason for exemption only where their effect on the performance of the agreement could not have been foreseen when the agreement was made.

11.2 A party who seeks to rely on a reason for exemption in accordance with 11.1 must, without delay, inform the other party of the occurrence thereof, the effect of same on the performance of the agreement and when it has ceased.

11.3 Where, in the event of a situation arising in accordance with section 11.1, the crane lessor seeks to rely on such fact, both parties shall be entitled to rescind the agreement. Such rescission must be made in writing.

12. INSURANCES

12.1 The crane lessor will be obliged at his own expense to take out and maintain in force adequate liability insurance against that liability derived from section 10 or from the provisions of the law.

12.2 In the event that the customer requires more extensive liability and/or property insurance, same must be agreed as a separate arrangement. In such case the insurance shall form a part of the agreement between the parties. The costs of the insurance shall be paid by the customer as a supplement to the price based on sections 3 and 4.

13. DISPUTES

13.1 Any disputes arising under the contract shall be referred to the general courts, except where the parties have agreed in writing that any dispute will be settled by arbitration proceedings.

13.2 All disputes in connection with the contract shall be settled in accordance with national legislation in that country in which the crane lessor has his registered office/head office.

14. ENTRY INTO FORCE

14.1 These terms shall enter into force on that date determined by Svenska Mobilkranföreningen and Kranutleiernes Landsforening.*

* In force with effect from 01.01.09