

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.