

General Terms and Conditions for Crane and Transport Services of BKL Baukran Logistik GmbH

I. General section

Art. 1. All our crane and transport services are subject to the following terms and conditions unless they conflict with any mandatory regulations (such as the CMR = Convention on the Contract for the International Carriage of Goods by Road).

Art. 2. Crane services as contemplated by these terms and conditions are rendered in two regular performance categories: 2.1 Performance category 1 – Making cranes available

This service entails making lifting gear available to the principal at changing locations, including operating personnel, in order to carry out work in accordance with the principal's instructions and plans.

2.2 Performance category 2 – Crane work

Crane work means transporting, in particular lifting, moving and relocating heavy loads and/or persons for work purposes with the aid of lifting gear capable of being relocated and refers to one or several agreed lifting manoeuvres to be carried out by the contractor in accordance with its instructions and plans.

Art. 3. Transport services as contemplated by these terms and conditions mean the transportation by road of goods using motor vehicles as well as the movement or relocation of goods by means of special transport aids such as armoured rollers, heavy-duty roller gears, lifting jacks and the like.

Art. 4. Arrangements in departure from these terms and conditions shall apply only if agreed in specific cases. The burden of proof for the content as well as correct and complete transmission thereof rests on the person relying thereon. In contrast, different terms and conditions shall apply only if agreed in individual cases.

Art. 5. All offers by the contractor are without engagement and required to be confirmed in writing in order to be legally valid.

Art. 6. Findings of deployment site inspections and special arrangements such as concerning the place of loading and discharging, crane siting, etc. must be documented by the parties in order to be legally effective.

Art. 7. Contracts, the execution of which is subject to consent or approval of the competent authorities, in particular pursuant to Section 18 I 2 and Section 22 II.IV as well as Section 29 III and Section 46 I No. 5 of the [German] Road Traffic Ordinance (StVO) Section 70 I of the [German] Road Vehicle Registration Regulation (StVZO) are entered into subject to the suspensive condition of timely permission or approval being given.

Art. 8. Charges and costs relating to expenses imposed by public authorities as well as all procurement and other costs arising from conditions being imposed by authorities as well as police escort charges and other costs of safety precautions ordered by public authorities shall be borne by the principal except as otherwise agreed.

Art. 9. The contractor is entitled to engage other enterprises to perform the contractually agreed assumed obligation except as otherwise agreed.

Art. 10. The principal is entitled, to the exclusion of any claims for damages, to rescind the contract if, after careful inspection prior to or during the deployment of vehicles, machinery or work equipment of any kind, a danger of substantial damage is identified to third-party and/or own possessions and/or assets or of personal injuries. The exclusion of the claims for damages shall not apply if the contractor failed to exercise the duty of care of a prudent businessperson (carrier). In the event of rescission, the remuneration for crane services shall be paid pro rata; transport services are subject to the statutory regulations in force from time to time.

Art. 11. Weather-related disruptions shall not reduce the claim for remuneration subject to set-off of expenses saved except as otherwise agreed.

II. Special section

1. Section

1.1 Duties and liability of contractor making cranes available

Art. 12.1 If the main service rendered by the contractor consists in making lifting gear at changing locations available to the principal as indicated above, along with operating personnel to carry out work at the principal's behest and on its instructions, the contractor shall make lifting gear available that is suitable and operational in general and specific terms in accordance with the relevant statutory parameters and state-of-the-art technology and has been approved by the technical inspection bodies TÜV and UVV. The contractor shall be liable for personnel made available only within the scope of the existing principles relating to errors in selection. **Art. 12.2** Liability shall be ruled out for late availability in cases of force majeure, strikes, road blockages and other unavoidable events whose consequences the contractor was unable to prevent. **Art. 12.3** In all other cases of late availability, the contractor's liability shall be confined to the three-fold value of the hire paid. This limitation shall not apply in cases of intent and gross negligence.

2. Section on crane work and transport services rendered by the contractor and the latter's liability

Art. 13. The contractor undertakes to carry out all orders placed duly and properly, using all the means and technical facilities available to the contractor and taking account of the relevant rules of technology.

Art. 14. In particular, the contractor undertakes to use generally and specifically suitable means of transport and lifting gear that is operational, safe to use and inspected in conformity with the regulations of the inspection bodies TÜV and UVV. Moreover, the contractor undertakes to make generally and specifically suitable operating personnel (crane and vehicle drivers) available who are duly familiar with the operation of the means of transport or lifting gear. Moreover, the contractor undertakes to provide the necessary auxiliary, instruction and other personnel available, including the slinger possibly necessary, at the principal's expense.

Art. 15.1 If the contractor's main service comprises crane work and/or transport services, except as otherwise stated in these General Terms and Conditions the statutory regulations governing the freight business shall apply. The contractor's liability in accordance with these regulations is confined to 8.33 Special Drawing Rights (SDRs) per kilogram of damaged or lost goods. The limitation on liability shall not apply if the damage is attributable to an act or omission committed by the contractor or its vicarious agents with intent or gross negligence, knowing that damage would occur with a certain probability (Section 435 of the [German] Commercial Code (HGB)).

Art. 15.2 The contractor waives the defence of restriction on the sum total of liability pursuant to No. 15.1. for damage to goods up to an amount of EUR 500,000.- as well as for other pecuniary loss up to an amount of EUR 125,000.- for each incident of damage. The provisions of No. 15.1 apply to any claims for damage exceeding the limits defined above.

Art. 16. If the contractor claims an amount exceeding that stated in No. 15, then an agreement in writing shall be entered into to that effect prior to placing the order and the contractor shall be entitled to invoice the principal with the costs of insurance to take account of such higher liability.

Art. 17.1 The contractor shall be required to insure the goods only if an express order was placed in writing, including information on the insurance value and the risks to be covered; a mere statement of the value is not deemed to be an order to take out insurance.

17.2 By accepting an insurance certificate (policy), the contractor does not assume the duties to which the principal is liable in its capacity as such; however, the contractor shall take all measures necessary to maintain the insurance claim.

17.3 In the absence of a written agreement to the contrary, the contractor shall take out insurance subject to the usual terms and conditions of insurance at its place of performance.

1.2 Obligations and liability for crane work and transport services rendered by the contractor

Art. 18. The contractor shall create and maintain all technical requirements necessary for due and proper, harmless execution of the order at the contractor's own expense and risk throughout the relevant assignment. In particular, the principal shall be responsible for keeping the goods to be handled in a suitable condition and ready for execution of the order. The principal is required to specify the right dimensions, weights and special features of the goods (e.g. centre of gravity, type of material, etc.) on a timely basis as well as the sling points in the case of crane services.

Art. 19. The principal is required to obtain the necessary permits from the owners of plots of land, non-public roads, paths and places in order to drive across these and to hold the contractor harmless from any claims by third parties arising from unauthorised use of a third-party-owned plot of land.

Art. 20. In addition, the principal is responsible for ensuring that the condition of the soil, site and other conditions at the deployment site as well as the access paths – except for public roads, paths and places – enable the order to be duly executed without any danger. In particular, the principal is responsible for ensuring that the ground conditions at the location of loading and discharge and/or the crane siting and access paths are suitably strong to resist ground pressures and other strain. And finally, the principal is responsible for all information relating to subterranean cable ducts, supply lines, other earth cables and cavities that might impair the weight-bearing capacity of the ground at the site of deployment or on the relevant access paths. Information must be provided on the location and existence of subterranean cables, shafts and any other cavities without a special request being necessary. If the contractor culpably fails to comply with this duty of notification, it shall be liable for all loss, damage or injury, including damage to property and consequential damage to the contractor's vehicles, machinery and work equipment as well as any pecuniary losses.

Any disclosures and statements by third parties that the contractor avails himself of in order to perform the obligations for which it is responsible shall be deemed to be own disclosures and statements by the principal.

Art. 21. Following a contract award, the principal may not give any instructions to the contractor's personnel without the contractor's consent if such instructions differ in terms of their type and extent or conflict with the contractual purpose.

Art. 22. If the principal culpably violates the obligations stated above, in particular its duty of preparation and co-operation, the principal shall be liable to the contractor for any resulting loss, damage or injury. The provisions of Section 414 para. 2 of the German Commercial Code (HGB) shall remain unaffected by the above.

III. Final provisions

Art. 23. The services of the contractor are required to be rendered in advance and do not confer the entitlement to a discount. Upon performance of the order, the contractor's invoices shall be paid immediately upon receipt except as otherwise agreed after placement of the order. Set-off or retention is permissible only with uncontested or finally adjudicated counterclaims.

Art. 24. The contractor's domicile is the exclusive place of performance and jurisdiction, also regarding any actions concerning cheques and bills of exchange amongst businesspersons. All contracts concluded by the contractor are subject to German law. This also applies to foreign principals.

Art. 25. The contractor's employees and vicarious agents are also entitled to rely on the exemptions and limitations of liability within the scope of these terms and conditions of business. The same applies to any acts and omissions of other persons whose services the contractor enlists in executing the order. The exemptions from and restrictions of liability also apply to extra-contractual claims.

Art. 26. To the extent that any statements are required to be in written form, this shall also apply to data transmissions and any other legible form, provided the issuer's name is identifiable.

Art. 27. Should any parts of these General Terms and Conditions of Business be invalid or inapplicable in individual cases, this shall not affect the validity of all other provisions hereof; the application of Section 139 of the German Civil Code (BGB) therefore is hereby excluded.