

## TERMS AND CONDITIONS OF FULL-HIRE

**1. DEFINITIONS**

In these terms and conditions and overleaf:

“**Agreement for Hire**” means the agreement between the Owner and the Hirer for the Hire of the Crane;

“**Crane**” means the Crane hired by the Owner to the Hirer and includes all accessories and other equipment of the Owner attached to the Crane or to be used in connection therewith.

“**Hirer**” means the company, firm, person, corporation or public authority taking the Owner(s) crane on hire and includes the Hirer’s successors and personal representatives.

“**Owner**” means Crane works NZ Limited and includes its successors and assigns.

“**Site**” means the Hirer’s site where the Crane is to be delivered and used.

**2. FULL-HIRE**

Subject to the Agreement for Hire and these Terms and Conditions, the Owner shall let and the Hirer shall take on hire the Crane for a period of time and at the rate specified in the Agreement for Hire. The parties agree that the Crane is hired on terms that the Owner provides the Crane operator, fuel and oil for the Crane and shall attend to everyday running repairs of the Crane.

**3. ACCEPTANCE BY HIRER**

By confirming the hire of the Crane, the Hirer acknowledges that that the Hirer has read and understood these Terms and Conditions and that the Hirer accepts and will be bound by these Terms and Conditions. The Owner is under no obligation to enquire as to the authority of any person confirming hire on behalf of the Hirer. The Hirer agrees that these Terms and Conditions shall apply to all hireage of cranes from the Owner by the Hirer to the exclusion of any other terms and conditions.

**4. SITE ACCESS AND SITE CONDITIONS**

The Hirer shall ensure that the access way to the Site is stable and firm and of gradient no steeper than 1 in 10. Should the Crane require to be towed into or out of the Site, the towage cost shall be additional to the hireage rate quoted in the Agreement for Hire and will be payable by the Hirer. The Hirer shall be solely responsible for ensuring that the ground at the Site is adequate to support the Crane under its wheels and outriggers. The Hirer will ensure that clearance of 4m is afforded in respect of any overhead wires and also that footpaths, kerbs and channels are suitably planked.

**5. USE OF CRANE**

The Hirer shall not use the Crane, or permit the Crane to be used, to lift any load which is beyond the rated lifting capacity of the Crane or for any purpose other than that for which it is expressly hired.

Where the weight of the proposed lift approximates the maximum lifting capacity of the Crane, the Owner reserves the right to have the weight of the proposed lift confirmed on a certified weighbridge with the costs of such being additional to the rate quoted in the Agreement for Hire and being payable by the Hirer.

Subject to clause 6, the Hirer shall not issue instructions to the Crane operator which conflict with the directions of the Owner, the Crane operator’s employment obligations, or would otherwise breach these Terms and Conditions or cause any risk to persons or property

Where the Hirer has understated the weight or dimensions of the goods to be lifted by the Crane and the Owner has relied on the weight, dimensions or working radius stated, the Hirer shall be liable for all extra cost and risk incurred by the Owner by reason of the Owners’ reliance upon such stated weight, dimensions or working radius.

Where the proposed lift involves the handling of precast concrete objects the Hirer must supply the Owner with Reids Safe Lifting Guide and Certification or suitable alternative and written evidence that the panels were lifted and racked according to the supplied document within 24hrs of the Crane arriving at the Site before the lift may commence.

**6. HANDLING OF CRANE**

The Crane operator as employed by the Owner shall be under the direction and control of the Hirer and shall, for all purposes in connection with his employment and the working of the Crane be regarded as the servant or agent of the Hirer who alone will be responsible for any claims arising in connection with the operation of the Crane by the Crane operator. The Hirer shall not allow any person to operate the Crane without first obtaining the written consent of the Owner.

**7. BREAKDOWN OR DAMAGE TO CRANE**

The Hirer shall be responsible for all costs or damage whatsoever including the cost of repairs suffered or incurred by the Owner as a consequence of any breakdown or damage to the Crane where such breakdown or damage is caused by any negligent act or omission or misdirection or misuse of the Crane by the Hirer or the Hirers’ servants, agents, contractors or subcontractors and in particular the Hirer shall be responsible for the payment of hire at the appropriate standby rate during the period the Crane is necessarily idle as a result of any such negligent act or omission or misdirection or misuse of the Crane as aforesaid.

The Hirer will refrain from any act which may in any way prejudice, invalidate or result in the cancellation of any insurance policy effected over the Crane.

**8. DAMAGE TO SERVICES AND PROPERTY**

The Hirer shall be solely responsible for all damage which may be caused to underground and overhead services, footpaths, driveways, grounds, lawns, fences, structures or any other property whatsoever by the use of the Crane whilst on hire to the Hirer including any damage caused by the Crane whilst entering or leaving the Site or manoeuvring whether on or off the site or otherwise. For the avoidance of doubt the Hirer shall be responsible for fully complying with clause 4 above and for advising and informing the Owner of any site hazards, ground instability or other issues that may interfere with the proper operation of the Crane during the period of hire. The Owner is not liable for loss or damage to goods being handled by the Crane or damaged by the Crane however caused during the period of the hire.

**9. RESPONSIBILITY FOR LOSS, INCLUDING CONSEQUENTIAL LOSS**

Under no circumstances whatsoever shall the Owner be liable whether in contract or tort or otherwise for any direct, indirect or consequential loss or damage arising out of any breakdown or stoppage of the Crane or out of the delayed arrival or non-arrival of the Crane at the job site or otherwise arising out of or in connection with the hiring of the Crane to the Hirer.

**10. NOTICE OF ACCIDENT**

If the Crane is involved in any accident resulting in injury to any person or damage to property immediate notice must be given to the Owner by telephone or in writing delivered to the Owner’s principal office.

**11. SLINGS**

The Owner will supply with the Crane its standard selection of slings and no responsibility is accepted by the Owner for loss or delay if these are found to be unsuitable for the purpose required. The Owner does not accept responsibility for the correct use of slings or for the method or slinging adopted by the Hirer.

**12. LATTICE JIB CRANES**

Where transport of additional jib sections is required, the cost thereof will be additional to the rates quoted in the Agreement for Hire and will be payable by the Hirer.

**13. SUB-LETTING**

The Hirer shall not sublet or otherwise part with possession of the Crane or any part thereof to any third party without first obtaining the written consent of the Owner. The Hirer, at the Hirers’ own expense, shall protect and defend the Owner from all claims, liens and legal processes of creditors of the Hirer and shall keep the Crane and any part thereof free and clear of any such claims.

**14. PERIOD OF HIRE**

Hire shall be charged on a depot-to-depot basis and the period of hire shall therefore be from the time of the dispatch of the crane to the Hirer from the Owners depot to the time of delivery of crane by the Hirer to the Owners.

**15. OVERTIME AND EXTRA WORKING**

The rate or rates of hire specified in the Agreement for Hire are for a notional working day or 8 hours per day, 7.30am to 4pm allowing a 30-minute lunch break. If the Crane is worked outside these hours additional charges will be payable by the Hirer in accordance with the Owner’s current crane hire list of charges. (Available from the Owner on application).

**16. CANCELLATION**

Where the Hirer cancels a booking for the Crane of three consecutive days or more within 24hrs of the Crane being due on Site the Hirer’s account will be charged in accordance with the Owners current crane hire list of charges for 8hrs or the daily rate whichever is less. The Owner may at the Owner’s discretion waive this charge.

**17. PAYMENT**

Subject to any special terms as to progress payments in the Agreement for Hire or sub-contractors agreement, the Owner shall issue the Hirer with an invoice weekly. Payment shall be made in full by the 20<sup>th</sup> of the month following the date of invoice. The Hirer may not withhold payment or make any deductions from any amount owing to the Owner without the Owner’s prior written consent. Default interest will accrue on any invoice sum or part thereof not paid by the due date at the rate of 2.5% per month from the due date until the Owner receives payment in full (including accrued interest which shall compound monthly) is received by the Owner. Any amount becoming due and payable in terms of this paragraph shall be a liquidated debt and the Owner shall be entitled at any time to commence proceedings against the Hirer for payment of the debt including accrued interest and the Owners’ collection, enforcement and legal costs incurred in recovering all amounts due and payable by the Hirer.

**18. LIMITATION OF LIABILITY AND INDEMNITY**

The Owner shall not be liable whether in contract or tort or otherwise, for any loss or damage whatsoever caused by anything which is beyond the Owners’ control including but not limited to weather conditions and conditions due to weather conditions, ground conditions, strikes and industrial disputes. The Owner’s liability to the Hirer for any claim (whether in contract, tort (including negligence) or by virtue of a breach of any statutory duty or otherwise) shall not exceed the hire charge paid for the hire period to which the claim relates. The Hirer shall indemnify and keep indemnified the Owner from and against all damage or loss suffered or incurred as a consequence of any negligent act or omission on the part of the Hirer or the Hirers’ servants, agents, contractors or subcontractors during the period of hire.

**19. ORAL AGREEMENTS AND STIPULATIONS**

No agreement, representation, or warranty given or entered in to by the Owner or by any agent or employee of the Owner and not in conformity with these Terms and Conditions shall be binding upon the Owner unless confirmed in writing by the Owner.

**20. WAIVER**

No waiver of any breach, or failure to enforce any provision, of these Terms and Conditions at any time by any party will in any way limit or waive the right of that party to subsequently require strict compliance with these Terms and Conditions.

**21. GOVERNING LAW**

These Terms and Conditions shall be governed by and interpreted in accordance with the laws of New Zealand and parties submit to the exclusive jurisdiction of the Courts of New Zealand.