

# General Terms and Conditions of the Federal Specialist Group for **Heavy Transports and Crane Operations**

"Crane + Transport 2020  
(Terms and Conditions for Crane + Transport 2020)  
(As of November 16, 2020)

## I. General Part

### Scope of Application/Applicability and Essential Contractual Obligations

#### 1.1. Scope of Application/Applicability

All our crane and transport services as well as rough assemblies are based on the following conditions, unless mandatory statutory provisions contradict (e.g., HGB or CMR, CMNI/CLNI, CIM/COTIF, MÜ/WA, in each case in the latest version [n. F.]).

#### 1.2. Essential Contractual Obligations

The essential contractual obligations of the contractor are outlined in clauses 2 to 4 of these conditions. These are the obligations whose fulfillment enables the proper execution of the contract and on which the contracting partner can regularly rely and trust.

The cooperation obligations of the client outlined in clauses 18 to 22 also constitute such essential contractual obligations.

### 2. Crane services under these conditions are provided in two types of services:

#### 2.1. Service Type 1 - Crane Provision

Crane provision denotes the provision of lifting equipment along with operating personnel to the client for carrying out work according to their instructions and disposition.

#### 2.2. Service Type 2 - Crane Work

Crane work involves transporting goods, especially the lifting, moving, and relocation of loads and/or persons for work purposes using lifting equipment. It refers to the execution of one or more agreed lifting operations by the contractor according to their instructions and dispo-

sition. This notably includes the isolated heavy cargo handling using a crane.

### 3. Transport Services

Transport services as per these terms refer to the commercial conveyance of goods and the movement or relocation of goods, particularly using special transport aids such as heavy-duty rollers, tank rollers, skid tracks, lifting jacks, air cushions, hydraulic lifting structures, and lifting portals, or similar aids (referred to as floor and cross transports). This includes transport-related interim storage. Heavy cargo is regularly transported unpackaged and unplanned. Packaging, planning of the cargo, loading, stowing, securing, and unloading are obligations of the contractor - except for maritime freight - only if agreed upon. For ship transport, the client agrees to open deck loading.

### 4. Rough Assemblies and Disassemblies, Other Additional Services

#### 4.1. Rough Assemblies and Disassemblies

These, if agreed upon, are integral parts of crane or transport services. This encompasses the assembling or disassembling as well as the securing or loosening of the cargo for transport preparation or execution purposes. For assembly services exceeding these (final assembly, trial runs, fine adjustments, etc.), the BSK assembly conditions apply in the respective latest version.

#### 4.2. Additional Services

These comprise all separately chargeable services not directly related to the essential contractual obligations but complement the entire range of services, such as traffic control measures, structural alterations, or static calculations of traffic routes, route inspections, police escorts.

### 5. Site Inspection

Results from site inspections and specific agreements, e.g., about loading and unloading locations, crane positions, should be documented by the parties.

### 6. Contractual Rescinding Conditions - Public Law Permits and Approvals

Conducting oversize and heavy transports as well as crane operations in public road traffic requires permission or approval from the competent authority, particularly in accordance with §22 StVO, §§ 29 III and 46 I No. 5 StVO, and § 70 I StVZO, and, if necessary, additional special use permits according to road and traffic laws, as well as other necessary public law permits. Contracts concluded under these conditions are conditionally rescinding and terminate if the permission or approval is denied by the competent authority. Compensation claims for services provided until then remain unaffected

### 7. Traffic Control Measures and Supplementary Conditions

If traffic control measures (police escort, auxiliary police, administrative assistants, contracted companies, etc.) or other regulations and supplementary conditions are ordered by authorities to maintain the safety and smoothness of road traffic and/or to protect road infrastructure, contracts concluded under these conditions also hinge on the condition of timely availability of security forces and the timely feasibility of the authorized security measures.



The contractor commits to timely apply for necessary permits and approvals from authorities in accordance with relevant administrative regulations and promptly inform the client about such conditions and supplementary regulations for transport execution that could complicate or hinder the transport process. For this, the BSK leaflet "Traffic Control Measures" applies in the respective latest version.

### 8. Subcontractors and Change of Transport Mode

The contractor is authorized to engage other companies and/or modes of transport to fulfill the contractually undertaken obligations unless otherwise agreed upon.

### 9. Termination of Contract

The contractor reserves the right, excluding any claims for damages, to terminate the contract if, following careful examination before or during the use of vehicles, equipment, or work devices of any kind, and despite all reasonable efforts to prevent damage, significant damage to third-party and/or own property and/or assets or personal injury cannot be reasonably avoided. The exclusion of claims for damages ceases if the contractor fails to exercise the care of an ordinary merchant (carrier). In the event of termination, fees for crane services are calculated proportionately, while transport services are subject to statutory provisions.

## **10. Regulations Regarding Unavoidable Performance Impediments, Weather-Related Interruptions**

The contractor is entitled to immediately suspend operations in case of risk to equipment, cargo, personnel, and/or third parties. The contractor does not forfeit entitlement to compensation in cases of force majeure or when the impediments were unavoidable despite reasonable efforts and utmost care.

Weather-related interruptions do not diminish the entitlement to compensation.

## **11. Scope of Services**

The contractor's performance is determined by the crane, crane rental, or transport contract, or the agreements in the international consignment note. The contractor is responsible for what is necessary for each service as per sections 2 to 4. Services or activities beyond this scope must be either agreed upon or, according to the subsequent regulations, become new terms of the contract via contract modifications. Only if agreed upon, the contractor also provides necessary rigging, guidance, and other personnel at the client's expense. Furthermore, the contractor informs the client about relevant equipment data, such as wheel, track, and support pressures, and the resulting ground pressures.

## **II. SPECIFIC PART**

### **Section 1: Crane Provision**

#### **12. Contractor's Obligations and Liability**

The contractor is responsible for providing a suitable lifting device for the task, which complies with relevant legal provisions and current standards of technology and workplace safety, having been inspected and ready for operation. The contractor is not responsible for rigging the load or providing suitable rigging equipment, such as slings, ropes, lifting straps unless expressly agreed otherwise. The contractor is liable for the provided personnel only within the framework of the applicable principles of selection negligence. Unless there are obvious inaccuracies or incompleteness in the information provided, the contractor is not obliged to verify or supplement the information provided by the client, particularly regarding weight, dimensions, quantities, and other relevant specifics of the loads to be transported.

#### **12.1. Liability Exclusion**

Liability, particularly for non-timely provision, is excluded in cases of force majeure, unrest, acts of war or terrorism, strikes and lockouts, blockades of transportation routes, weather-related conditions, road closures, and other unforeseeable, unavoidable, and severe events.

#### **12.2. Limitation of Liability**

Except in cases of willful intent and gross negligence of the contractor and its agents, the liability of the contractor, particularly concerning non-timely provision, is limited to damages foreseeable and typical for the contract at the time of its conclusion. This limitation of liability does not apply to the violation of life, body, and health of individuals.

### **Section 2: Crane Work and Transport Services**

#### **13. Contractor's Obligations**

The contractor commits to executing all assigned tasks with all available means and technical possibilities in compliance with relevant standards of technology in an orderly and professional manner.

#### **14. Selection of Transport Means, Lifting Equipment, and Personnel**

The contractor is obliged to employ suitable transport means and lifting equipment, which are operational, safe, and compliant with applicable regulations. Furthermore, the contractor undertakes to deploy competent personnel (crane operators and drivers) familiar with operating the transport means or lifting equipment.

#### **15 Contractor's Liability**

##### **15.1. Basic Regulation**

In this section, the legal provisions regarding the carriage of goods apply. The liability of the contractor during custody is limited for damage to goods—ex-

cept in cases of qualified fault according to § 435 of the Commercial Code—to 8.33 Special Drawing Rights (SDRs) per kilogram of the damaged or lost goods.

For sea carriage, the contractor is liable for damage to goods at a rate of 2 SDRs per kilogram of the shipment's gross weight or a maximum of 666.67 SDRs per package or unit, whichever amount is higher. In national inland waterway transports, the contractor's liability is limited to a maximum of 2 SDRs per kilogram of the shipment's gross weight. The same applies to multimodal transports involving a sea carriage component when the location of damage is unknown.

### 15.2. Extensions of Liability in Favor of the Principal

To the benefit of the principal, the contractor, deviating from Clause 15.1, is liable for damages to goods up to the amount of €600,000.00 and for other financial losses for which legal liability exists, up to the amount of €125,000.00, per incident, with the removal of the limit on the total sum of liability. For amounts exceeding these damages, legal provisions apply.

### 15.3. Liability Exclusions for Sea Transport and International Inland Waterway Transport

#### 15.3.1. Sea Transport

In accordance with § 512(2) No. 1 of the Commercial Code (HGB), it is agreed that the contractor, in its capacity as the carrier, is not responsible for the fault of its agents and the ship's crew if the damage resulted from behavior during the navigation or other operation of the ship, but not from actions primarily taken in the interest of the cargo, or from fire or explosion on board a ship.

#### 15.3.2. International Inland Waterway Transport

The contractor, as a carrier or executing carrier, is also not liable according to Article 25(2) CMNI if the damage:

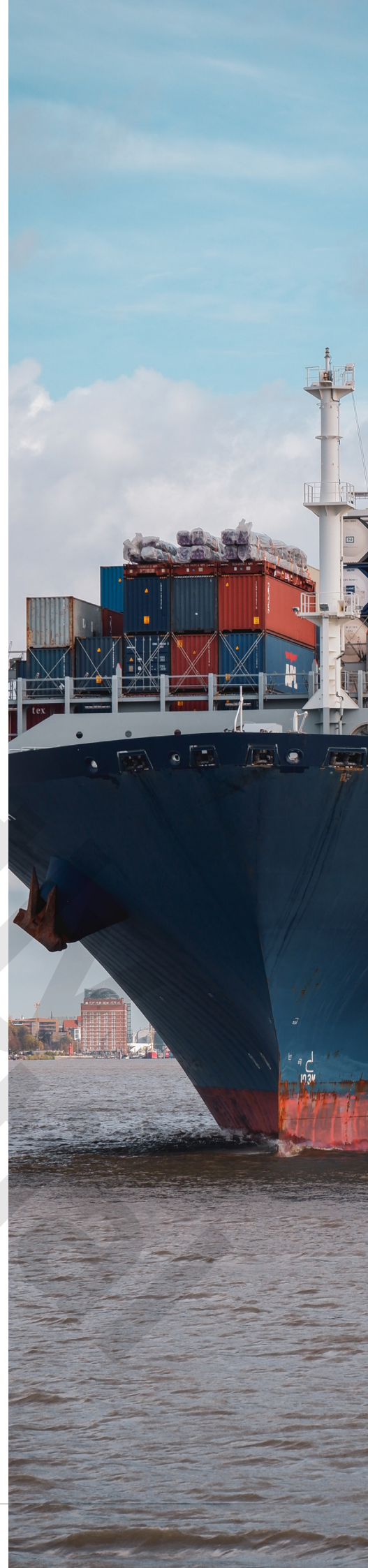
- Resulted from an act or omission of the ship's captain, pilot, or other persons in the service of the vessel or a pushing or towing boat during the nautical navigation or the assembly or disassembly of a push or tow convoy, provided that the carrier has fulfilled its obligations under Article 3(3) CMNI regarding the crew, unless the act or omission was committed with the intention to cause damage or recklessly and with the knowledge that such damage would probably occur;
- Resulted from fire or explosion on board the vessel without proof that the fire or explosion was caused by the fault of the carrier, the executing carrier, or their employees or agents, or by a deficiency in the ship;
- Is attributable to defects in his or a leased or chartered ship existing before the start of the journey, if it is proven that despite due diligence, the defect could not have been discovered before the start of the journey.

### 15.4. Haftungsbegrenzungen

Otherwise, outside the care of the contractor and for other breaches of duty:

Except in cases of intent and gross negligence on the part of the Contractor and its vicarious agents, the Contractor's liability shall be limited in amount to the damages foreseeable at the time of conclusion of the contract and typical for the contract.

This limitation of liability shall not apply to injury to life, limb and health of persons.



## **16. Declaration of higher value**

If the Client requests a higher amount than that specified in Clause 15.2, this must be expressly agreed before the order is placed and the Contractor shall be entitled to invoice the Client for the costs of corresponding insurance for the higher liability.

## **17. Insurance of the goods**

### **17.1. Request for goods insurance**

The Contractor shall only be obliged to insure the goods if an express written order to do so has been received, stating the insured value and the risks to be covered. The mere statement of value shall not be understood as an order for insurance.

### **17.2. Special regulations for goods insurance**

By accepting the insurance certificate (policy), the Contractor does not assume the obligations incumbent on the Client as policyholder, but the Contractor must take all customary measures to maintain the insurance claim.

### **17.3. Agreement on customary insurance conditions**

In the absence of written agreements to the contrary, the Contractor shall insure the goods at the Client's expense in accordance with the insurance conditions customary at its registered office.

## **Section 3: Principal's obligations and liability**

### **18. General obligations of the client and cooperation of the contractor**

The contractor shall create all technical conditions necessary for the proper and safe execution of the order at his own expense and risk and maintain them during the assignment. In particular, the contractor is obliged to keep the goods to be treated available in a condition that is suitable and ready for the execution of the order. The contractor is also obliged to specify the dimensions, weights and special properties of the goods (e.g. center of gravity, type of material) and, in the case of crane services, the attachment points correctly and in good time. Unless otherwise agreed, the contractor is responsible for attaching the load and providing suitable lifting gear.

In particular, the contractor must pass on its special knowledge and information not generally known (together with documents and records) in writing. Information and declarations by third parties which the Contractor uses to fulfill its obligations shall be deemed to be self-declarations by the Contractor.

Where necessary, the Contractor shall support the Contractor over and above the information obligations set out in clause 11 and provide the individual acts of cooperation set out in the following clauses.

### **19. Special obligations regarding access roads**

The contractor must obtain the necessary consent from the owners to drive on third-party properties, non-public roads, paths and squares and indemnify the contractor

against third-party claims that may arise from unauthorized use of a third-party property. The contractor shall bear the risk of the construction road connection due to his duty to ensure traffic safety.

## **20. Special obligations regarding ground conditions, access routes, crane workplace, place of use**

### **20.1. Ground conditions at the place of use and access routes**

The contractor is responsible for ensuring that the ground, space and other conditions at the place of use and the access routes - with the exception of public roads, paths and squares - allow the order to be carried out properly and safely. The Contractor must cooperate in this respect and provide the acts of cooperation regulated in Section 11.

### **20.2. Reference to special risks**

The contractor must always point out special risks and either eliminate them himself or have them eliminated, insofar as they originate from the sphere of the contractor. In particular, the Contractor shall provide the information necessary for the Contractor to adequately assess the special requirements.

### **20.3. Ground conditions**

The contractor is responsible for ensuring that the ground conditions at the loading and unloading site or at the place of use and on the access routes are suitable for the ground pressures and other stresses that occur. If necessary, the contractor must also provide information on the possibilities of soil testing in the case of unknown soil conditions as well as information on enabling the soil conditions for safe operation. The Contractor shall also provide other suitable information that is typically known to him as the operator, insofar as the Contractor recognizably requires this.

### **20.4. Construction site**

With regard to the site and access route, the Contractor shall, if necessary, create the possible construction site to a suitable extent, depending in particular on the wheel, chain and support pressures communicated. If the Contractor wishes to use parking spaces that deviate from the agreed, instructed or recognizable construction site, it must consult the Contractor in this respect and determine the suitability in cooperation with the Contractor.

### **20.5. Shafts, cavities or other non-visible obstacles**

The contractor is responsible for all information about underground cable shafts, supply lines, other underground lines and cavities that could affect the load-bearing capacity of the ground at the site or the access routes.

The contractor must point out the location and presence of overhead and overhead lines, underground cables, lines, shafts and other cavities or other unrecognizable obstacles that could impair the stability and

operational safety of the vehicles and equipment used at the site.

The Contractor shall expressly point out typical risks occurring in the specific situation, such as manholes or cavities in public roads, paths and squares, insofar as the Contractor recognizably requires such information or expressly asks in this regard.

The contractor must point out any special hazards that may arise during the performance of the crane or transport service with regard to the goods to be transported and the environment (e.g. dangerous goods, contamination damage). The contractor must also provide the information possible to him as the operator, e.g. on typical and special risks known to him, insofar as these are not recognizably known to the contractor.

#### **20.6. Information provided by the Contractor**

Subject to the above, the Contractor may rely on any information provided by the Contractor regarding the soil conditions and is not obliged to verify the information provided, unless there is an obvious error or incompleteness or the nature of the matter indicates that there are special soil conditions.

#### **21. Instructions of the contractor**

After the order has been placed, the Contractor may not, without the Contractor's consent, issue any instructions to the personnel deployed by him which deviate from the contractual agreements in terms of type and scope or which run counter to the purpose of the contract.

#### **22. Liability of the contractor**

If the Contractor culpably breaches the aforementioned obligations, in particular his duties of preparation, notification and cooperation, he shall be liable to the Contractor for any resulting damage. The provision of § 414 paragraph 2 HGB remains unaffected by this. The Client shall indemnify the Contractor against any third-party claims for damages arising from the breach of the Contractor's obligations.

In the event of a claim against the Contractor under the Environmental Damage Act or other comparable public, national or international regulations, the Contractor shall indemnify the Contractor in full in the internal relationship, unless the Contractor has caused the damage intentionally or through gross negligence. The objection of contributory negligence remains unaffected by this for both parties.

### **III. FINAL PROVISIONS**

#### **23. Provisions Regarding Compensation, Invoicing, Offset/Withholding, Lien, and Retention Rights of the Contractor**

##### **23.1. Basis of Compensation**

The Contractor is entitled to reimbursement of expenses that, under the circumstances, were deemed necessary and not attributable to the Contractor, particularly fees and costs for administrative expenses, as well as all procurement costs and expenses arising from administrative requirements and other ancillary provisions, such as police escorts, administrative assistants, civilian escorts, and other costs for security measures ordered by authorities, unless otherwise agreed upon. Invoices from the Contractor are to be settled promptly upon completion of the assignment, unless otherwise specified at the time of contract issuance.

##### **23.2. Offset, Withholding**

Offsetting or withholding against claims arising from the contract and related non-contractual claims is only permissible if the counterclaim due is uncontested, ripe for decision, or legally determined, unless the Client is a consumer.

##### **23.3. Lien and Retention Rights**

The Contractor holds a lien and retention rights over goods or other assets within their control for all due and unpaid claims resulting from activities mentioned in Clauses 2 through 4 against the Client. However, such lien and retention rights do not extend beyond statutory carrier or lessor liens and general retention rights. Regarding a lien and retention rights for claims arising from other contracts concluded with the Client, Section 366 (3) of the German Commercial Code (HGB) applies. The Contractor may exercise a lien and retention rights for claims arising from other contracts concluded with the Client only if these claims are uncontested or legally determined, or if the debtor's financial situation jeopardizes the Contractor's claim. In place of the one-month deadline specified in Section 1234 of the German Civil Code (BGB) for the notification of a lien sale, a one-week deadline applies in all cases.

The Client has the right to object to the exercise of the lien if they provide the Contractor with an equally suitable security instrument concerning the claim, such as an unconditional bank guarantee. This also applies to retention rights.

#### **24. German Law, Jurisdiction**

The place of performance and jurisdiction, including for actions involving bills of exchange and promissory notes among merchants, is exclusively the domicile of the Contractor. All contracts concluded by the Contractor are subject to German law. This applies even to foreign Clients.

#### **25. Provisions Regarding Written Form**

Where written form is required for declarations, electronic communication and any other legible form are considered equivalent, provided they identify the sender.

As of November 16, 2020

LIC Logistik & Container Transport GmbH by Fercam