

TERMS AND CONDITIONS OF BUSINESS
FOR THE SUPPLY OF TEMPORARY WORKERS

The Customer's attention is particularly drawn to the provisions of clause 6.

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 5.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 9.8.

Contract: the contract between Four Site and the Customer for the supply of Services in accordance with these Conditions.

Customer: the person, company or partnership which purchases Services from Four Site.

Booking: the Customer's order for Services as set out [*in the Customer's purchase order form OR the Customer's written acceptance of Four Site's quotation OR overleaf*]

Services: the provision of temporary workers by Four Site to the Customer as set out in the Specification.

Specification: the description or specification of the Services provided in writing by Four Site to the Customer.

Four Site: Four Site Contract Services Limited registered in England and Wales with company number 03519534.

2. BASIS OF CONTRACT

2.1 The Booking constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Booking shall only be deemed to be accepted when Four Site issues written acceptance of the Booking at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Four Site which is not set out in the Contract.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. SUPPLY OF SERVICES

3.1 Four Site shall supply the Services to the Customer in accordance with the Specification.

3.2 Four Site shall use reasonable endeavours to ensure the temporary workers supplied in relation to the Services are in accordance with the Specification both in terms of reasonable standards of skill and capability of operating any equipment mentioned therein.

3.3 Four Site shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services and Four Site shall notify the Customer in any such event.

3.4 Four Site warrants to the Customer that the Services will be provided using reasonable care and skill.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

(a) ensure that the terms of the Booking and any information it provides in the Specification are complete and accurate;

(b) co-operate with Four Site in all matters relating to the Services;

(c) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;

(d) keep, maintain and sign accurate time sheet records certifying the hours each individual temporary worker has worked; and

(e) Supervise any temporary workers supplied to ensure their satisfaction with the level of workmanship which if it proves not to be the case then the Customer shall tell the temporary worker to leave the assignment (in such event Four Site will cancel the charge of any time worked provided notification is received with less than 4 hours recorded (or to be recorded) on the time sheet.

4.2 If Four Site's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

(a) Four Site shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Four Site's performance of any of its obligations;

(b) Four Site shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Four Site's failure or delay to perform any of its obligations as set out in this clause 4.2; and

(c) the Customer shall reimburse Four Site on written demand for any costs or losses sustained or incurred by Four Site arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

5.1 The Charges for the Services shall be on a time basis:

(a) the Charges shall be calculated in accordance with Four Site's standard hourly fee rates, as set out in the Specification;

(b) Four Site's standard hourly fee rates are based on a minimum 8 hours charge for engagements of a lesser period;

5.2 Four Site reserves the right to increase its standard hourly fee rates, provided that such charges cannot be increased more than once in any 12 month period. Four Site will give the Customer written notice of any such increase 2 months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify Four Site in writing within 2 weeks of the date of the Customer's notice and Four Site shall have the right without limiting its other rights or remedies to terminate the Contract by giving 2 weeks' written notice to the Customer.

5.3 In addition to the standard hourly fee rates, the Customer shall pay to Four Site a one off commission of 20% of the annual salary of any temporary worker who is engaged directly or indirectly and whether on a short term basis or permanently by the Customer (or a 3rd party as a result of the Customer's introduction) within 6 months of the date of the last occasion when the temporary worker was supplied in relation to the Services.

5.4 Four Site shall invoice the Customer [weekly/monthly] in arrears].

5.5 The Customer shall pay each invoice submitted by Four Site:

(a) within 30 days of the date of the invoice; and

(b) in full and in cleared funds to a bank account nominated in writing by Four Site.

time for payment shall be of the essence of the Contract.

5.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT) and any CITB Construction Skills levy (if applicable). The Customer shall, on receipt of a valid invoice from Four Site, pay to Four Site such additional amounts in respect of VAT and the CITB Construction Skills levy as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5.7 Without limiting any other right or remedy of Four Site, if the Customer fails to make any payment due to Four Site under the Contract by the due date for payment (**Due Date**), Four Site shall have the right to charge interest on the overdue amount at the rate of 6 per cent per annum above the then current Barclays Bank Plc's

base lending rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding monthly.

5.8 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Four Site in order to justify withholding payment of any such amount in whole or in part. Four Site may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Four Site to the Customer.

6. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

6.1 Nothing in these Conditions shall limit or exclude Four Site's liability for death or personal injury caused by its negligence, or the negligence of its agents or subcontractors.

6.2 Subject to clause 6.1:

(a) Four Site shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract including any losses that may result from a deliberate breach of the Contract; and

(b) Four Site's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by a deliberate breach of the Contract shall not exceed the amount charged and received by Four Site in relation to the Contract.

6.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

6.4 This clause 6 shall survive termination of the Contract.

7. TERMINATION

7.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing of the breach;

(b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

(c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(e) the other party (being an individual) is the subject of a bankruptcy petition or order;

(f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 7.1(b) to clause 7.1(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

7.2 Without limiting its other rights or remedies, Four Site may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

7.3 Without limiting its other rights or remedies, each party shall have the right to terminate the Contract by giving the other party 1 months' written notice.

7.4 Without limiting its other rights or remedies, Four Site shall have the right to suspend provision of the Services under the Contract or any other contract between the Customer and Four Site if the Customer becomes subject to any of the events listed in clause 7.1(b) to clause 7.1(l), or Four Site reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

8. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to Four Site all of Four Site's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Four Site shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

9. GENERAL

9.1 Force majeure:

(a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of Four Site including but not limited to strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood, storm or default of Four Site or its subcontractors.

(b) Four Site shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

9.2 Assignment and subcontracting:

(a) Four Site may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

(b) The Customer shall not, without the prior written consent of Four Site, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

9.3 Notices:

(a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

(b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second working day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next working day after transmission.

(c) This clause 9.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

9.4 Waiver:

(a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

(b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

9.5 Severance:

(a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

(b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

9.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

9.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

9.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by Four Site.

9.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.