

BOURNE ACCESS - GENERAL SERVICE AGREEMENT TERMS AND CONDITIONS FOR THE PROVISION OF OPERATOR AT HEIGHT SERVICES.

BACKGROUND

1. The Client is of the opinion that the Contractor has the necessary qualifications, experience and abilities to provide services to the Client.
2. The Contractor is agreeable to providing such services to the Client on the terms and conditions set out in this Agreement.
3. IN CONSIDERATION OF the matters, described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

SERVICES PROVIDED

The Client hereby agrees to engage the Contractor to provide the Client with the following services (the "Services"):

1. Provide a LOLER certified Oil and Steel 1265 movable access platform and trained IPAF operator at the client's location for unskilled work at height provided by the hour and under the supervision of the client.
2. The Services will also include any other reasonable tasks which the Parties may agree on. The Contractor hereby agrees to provide such Services to the Client.
3. The operator will be under Your control & direction throughout the hire period. You warrant that You will provide a healthy & safe working environment for the operator and provide him/her with proper & reasonable instructions & supervision. You shall indemnify Us against any losses, costs or damages that the operator might suffer as a result of Your breach of this term.
4. No specific guarantee is made as to the competence of our operator in connection with any works which we may be asked to undertake on site beyond those of the application of reasonable care and skill.

DELIVERY & COLLECTION

1. We will provide to your site equipment and an operator. You must pay Us any transport charges agreed. Delivery will be at the site specified in the contract. If You wish to change the site You must agree to pay Us any additional charges we might incur.
2. You are responsible for ensuring that a clear, firm & accessible area is available for Loading, Unloading and the safe transfer/return and operation of access equipment to the specific location on site where it is required and work is to be undertaken. If We incur extra costs due to any of Your acts or failures to act in this respect You agree to pay Our reasonable charges in compensation of such costs.
3. When authority is needed from landowners or other third parties to enter any area which has restricted access You must obtain consent and arrange for staff to attend to comply with rules or traffic restrictions which are in force at the time.
4. Any person supplied by us to assist us to Load or Unload Equipment will be considered to be under Your control. You must not instruct anyone to do anything that is in breach of Health & Safety or other regulations or would be unsafe.
5. Any road or bridge tolls or congestion or road use charges that We incur during transport to or from Your site will be charged to You.
6. You must tell Us if You require us to work at any other location.

SAFETY

1. You will be responsible for conducting any risk assessment or safety check necessary on site before we use our Equipment & we will comply with all risk assessments already in force at the site of operation in so far as they affect the operation of the Equipment.
2. The Equipment is to remain Our property at all times & You will maintain & neither remove nor obscure any property or safety notices which are placed on the Equipment or within its proximity. You will immediately notify Us of any loss or damage concerning such notices.
3. If for any reason you or staff under your control use our equipment or enter our safe working area they do so entirely at your own risk. No part of this agreement is for the hire of our equipment and no aspect of their safety in this respect forms part of this agreement.
4. You agree to keep our equipment and machinery secure at all times ensuring that it is protected from theft, damage & improper use in so far as this may be reasonable should we agree to leave our equipment unattended on your site;
5. Obtain consent & comply with any rules concerning the use of the Equipment on, over or adjacent to property belonging to anyone else;
6. Inform us immediately if our staff or equipment are/is involved in any accident that results in injury to any person;
7. Allow the operator sufficient time at the start of every period of use to make all of the checks necessary on a MEWP that are laid down in our procedures.
8. Not allow anyone to tamper with or remove any part of the Equipment, including decals, without Our express written consent;
9. You agree to allow our staff adequate access to any location where we are using or have used the Equipment for work under this agreement at your site for the purposes of repair, inspection, calibration or collection of the equipment. If access is denied due to any action or omission on your part We will charge You for any additional costs that We incur.

LIFTING

A MEWP may only be lifted into position by a crane or lift truck by means of the fork sockets or lifting eyes provided by the maker. You should inform us if you intend to locate any MEWP hired on the Contract by such means as We may need to provide you with additional safety information.

LIMITS OF OUR LIABILITY.

1. All times that We advise You for transport or other attendance are approximate.
2. We are not liable for delays that are caused by circumstances beyond our reasonable control.
3. We will not be responsible for any indirect loss, fees, expenses, or loss of savings or profits that You expected to make due to any part of our equipment breaking down or failing to work nor due to any circumstances arising as a result of us ending the contract under safety provisions under this agreement.
4. Save for Our liability for death or personal injury caused by Our negligence or that of Our employees or agents, We will not be responsible for any liability, claim, loss, damage, or expense of any kind or nature caused directly or indirectly by our equipment or its use or from any work having been conducted from it.
5. Should We be found liable for any loss or damage suffered by You or any third party in connection with the equipment or its use. Our liability shall be limited to the value of the "Fixed charge for Service" in this agreement.
6. If You are responsible for delaying or preventing us from recovering our tools/equipment after the expiry date and/or time agreed on the Contract or it is unavailable when our transport calls to collect it you will have to pay our reasonable expenses incurred due to Your failure to allow us to recover it. These expenses may include (but are not limited to) a continuance of our agreed charges, the wasted transport charge & compensation We may have to make to any other party due to the non-availability of our Equipment or its attachments due to Your actions.
7. Any notice due under the above point may be given verbally but must be confirmed in writing within 24 hours. In the event of a dispute concerning termination of service date/time ONLY a written notification will be acceptable as proof of instruction.
8. We may terminate the Contract with immediate effect if:
 - (a) You make a voluntary arrangement with Your creditors or (being an individual or firm) become bankrupt or (being a company) become subject to an administration order or go into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or
 - (b) an encumbrancer takes possession, or receiver is appointed over any of Your property or assets; or You cease or threaten to cease, to carry on business; or We reasonably believe that any of the events mentioned above are about to occur in relation to You and We notify You accordingly.
 - (c) If You fail to pay any charge within 14 days of payment becoming due or commit a breach of any other term of the Contract or should You do or allow to be done any act or thing which in Our reasonable opinion may jeopardise Our rights in our Equipment or any part thereof.
9. In the event that we are unable to recover our equipment until a later time for reasons which are your responsibility, we will issue an off-hire advice note. You agree that only this advice will be recognised as evidence of return of the Equipment to Us.

INSURANCE

1. You MUST provide all insurance or indemnity that is required by law when we use our Equipment under this agreement at your premises. You should ensure that the limitations of liability contained in any insurance are sufficient to cover the risks that You will be exposed to.
2. You must pay the cost of replacing any Equipment that You are unable to restore to Us as a result of any obligations placed upon you under this agreement. You should insure the Equipment for its replacement cost or have sufficient liquid assets to pay Us compensation for its loss. If You receive any money in settlement for all or part of any claim arising out of damage or theft of Our Equipment You must hold that money in trust for Us and pay it to Us on demand. You must not negotiate or compromise any matter without our express permission

TERM OF AGREEMENT

1. The term of this Agreement (the "Term") will begin on the date of this Agreement and will remain in full force and effect until the "Term End" shown above, subject to earlier termination as provided in this Agreement.
2. The Term of this Agreement may be extended with the written consent of the Parties.

- In the event that the CLIENT wishes to terminate this Agreement prior to Term Start, the CLIENT will be required to provide one day's written notice to the CONTRACTOR. In the event that the CLIENT wishes to terminate this Agreement after the Term Start, the CLIENT will become liable for the full cost of services provided under this agreement.

PERFORMANCE

The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

CURRENCY

- Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in GBP.
- The Contractor will charge the Client for the Services provided which include the "Fixed charge" shown above and additional time charged at the hourly rate shown above in addition to other reasonable costs as may be applicable to the work being undertaken (the "Payment"). The signature provided by You (or by anyone on Your behalf) on our time sheet will indicate your agreement that the hours shown will form the basis for our charges.
- The Client will be invoiced when the Services are complete.
- Invoices submitted by the Contractor to the Client are due upon receipt.
- In the event that this Agreement is terminated by the Client prior to completion of the Services but where the Services have been partially performed, the Contractor will be entitled to the full amount of the "Fixed Charge" plus each full and part hour/s of the time on site (following any initial period on site included within the Fixed charge), payment to the TERM END provided that there has been no breach of contract on the part of the Contractor.
- The Contractor will be responsible for all income tax liabilities and National Insurance or similar contributions relating to the Payment and the Contractor will indemnify the Client in respect of any such payments required to be made by the Client.
- The Contractor will be solely responsible for the payment of all remuneration and benefits due to the employees of the Contractor, including any National Insurance, income tax and any other form of taxation or social security costs.
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REIMBURSEMENT OF EXPENCES

- The Contractor will be reimbursed from time to time for reasonable and necessary expenses incurred by the Contractor in Connection with providing the services.
- Pre-approval is not required for expences.

PENALTIES FOR LATE PAYMENT

Any late payments will trigger a fee of 5 % per month on the amount still owing. PENALTIES FOR LATE PAYMENT

CAPACITY/INDEPENDENT CONTRACTOR

In providing the Services under this Agreement it is expressly agreed that the Contractor is acting as an independent contractor and not as an employee. The Contractor and the Client acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service.

NOTICE

All notices, request% demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:

- Client Name and address as shown above
- Contractor: Bourne Property Management Ltd (Trading as Bourne Access)
Basepoint Business Centre, Enterprise Close, Christchurch, Dorset BH23 6NX

INDENMIFICATION

Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable law, each Party agrees to indemnify and hold harmless the other Party, and its respective directors, shareholders affiliates, officers, agents, employees and permitted successors and assigns against any and all claims, losses, damages liabilities, penalties punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective directors, shareholders affiliates officers agents employees, and permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

MODIFICATION OF AGREEMENT

Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorised representative of each Party.

TIME OF THE ESSENCE

Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

ASSIGNMENT

The Contractor will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

ENTIRE AGREEMENT

It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

ENUREMENT

This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and assigns.

TITLES/HEADINGS

Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

GENDER

Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws of England.

SEVERABILITY

In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

WAIVER

The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.