

SSS Terms & Conditions – Contract Hire



1. TERMS AND CONDITIONS

This Agreement governs the provision of Services by SSS to the Client.

2. DEFINITIONS

In these Terms and Conditions:

Agreement means the agreement between SSS and the Client for the supply of Services as set out in the Conditions.

Business Day means a day other than a Saturday, Sunday or official holiday in the State.

Conditions means these terms and conditions and where applicable includes the terms of any Invoice, Proposal or Purchase Order and includes the whole of this document as amended, supplemented or varied by SSS from time to time, provided that the terms of this document shall prevail in the event of any inconsistency between such terms.

Claim means in relation to any person, document, thing or occurrence, a claim, counter claim, defence, action or proceeding, appeal, review, judgment, damage, loss, cost, amount, expense, equitable performance, specific performance, liability, obligation or other remedy suffered or incurred by or to or made or recovered by or against the person, or in relation to the document, thing or occurrence, however arising, whether at common law, by or under statute, or by custom or accepted usage, and whether known, unknown, present, ascertained, unascertained, immediate, future or contingent.

Client means the party named in the Proposal or Purchase Order or any other party who has ordered Services from SSS or to whom SSS has supplied Services, and includes any of that party's authorised persons, successors and assigns.

Confidential Information means any or all information, data, documents, records, accounts, invoices and all other things whatever whether reduced to writing or not, and in whatever form, including electronic form, relating to or in any way connected with or touching or concerning this Agreement, SSS, any Contract Personnel or any act matter or thing done or to be done for or under it or any of them.

Consequential Loss means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under an indemnity, contract, tort (including negligence), statute or otherwise.

Contract Personnel means contractors and/or consultants provided to the Client on a contract hire basis by SSS as part of the Services.

Fees means all fees payable by the Client to SSS for the provision of the Services.

Force Majeure Event means any event, occurrence, fact, circumstance, matter or thing that is beyond SSS's reasonable control.

Invoice means a tax invoice for Services provided to the Client SSS.

Insolvency Event means, for a Party, as applicable, being placed, or applying, or resolving to apply, to be placed in liquidation or provisional liquidation, bankruptcy or under administration, having a controller or analogous person appointed to the Party or any of the Party's property, being unable to pay the Party's debts, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing the Party's own affairs for any reason, taking any step that could result in the Party becoming an insolvent under administration, entering into a compromise or arrangement with, or assignment with, or assignment for the benefit of, any of the Party's members or creditors, or any analogous or similar events.

Loss means any Claim, action, damage, judgment, loss, cost, charge, expense, outgoing or payment whether arising in tort (including negligence) or contract or statute or otherwise.

Post Shutdown Reports means any written feedback or report provided to the Client by SSS including inspection and test plans, post shut down reports, records of findings, notes and quality assurance reports.

Purchase Order means a formal order placed by the Client for Services on the terms set out in the Proposal.



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Party or Parties mean respectively a party or parties to this Agreement.

Proposal means a written proposal, estimate, schedule of rates, budget estimate or quotation for Services provided by SSS to the Client.

Rate means the hourly rate for each of the Contract Personnel and/or vehicle as stated in the Proposal.

Related Entity of a Party means another entity which is a “Related Entity” or such similar term as defined in the company legislation that applies in the State.

Services means any service provided by SSS to the Client including the provision of the Contract Personnel to the Client on a contract hire basis, the provision of Technical Reports and the hire of vehicles.

SSS means Specialised Shutdown Support Pty Ltd (ABN: 49 627 692 951) and includes any Related Entity of SSS where that entity has provided Services to the Client.

SSS Staff means any SSS internal staff member.

State means the state of Australian where the Services are provided.

3. Acceptance of Conditions

Any request for Services is subject to acceptance by SSS. The receipt of a Purchase Order will constitute an offer by the Client to SSS and any of the following will be deemed to communicate acceptance of that offer by SSS, constituting a legally enforceable Agreement between the Parties, which is subject to these Conditions:

- 3.1. SSS communicating acceptance of the Purchase Order in writing to the Client; or
- 3.2. SSS providing Services to the Client pursuant to the Purchase Order.

4. Ordering Procedure and Provision of Services

4.1. In requesting Services, the Client must provide SSS with a written request containing all information necessary for SSS to provide an accurate fee estimate, including as applicable:

- (a) Any specifications for the Services;
- (b) Clear and accurate details regarding the Site including the location and any relevant details regarding access to the Site;
- (c) A proposed date and time for start and completion of Services; and
- (d) Any special requirements that may apply to the Client’s request, or provision of Services at the Site.

4.2. After receiving a written request for Services from the Client, SSS shall issue the Client with a Proposal for providing such Services. Any Proposal issued by SSS is valid for 30 days from the date of its issue, unless withdrawn earlier by SSS at its sole discretion. Any Proposal accepted by the Client after 30 days of its issue may be subject to revised terms and additional fees, at SSS’s discretion. For the avoidance of doubt, any Proposal issued by SSS may be withdrawn or cancelled by SSS at any time notwithstanding whether or not the Client has indicated its willingness in any way to proceed with the terms of the Proposal.

4.3. On receipt of a Proposal the Client shall provide a Purchase Order confirming the Services to be supplied by SSS. If SSS chooses, at its sole discretion, to provide the Services as described in the Purchase Order, it may do so without further notice to the Client.

4.4. All Purchase Orders supplied by the Client are subject to acceptance by SSS. In the absence of express notification of acceptance of a Purchase Order by SSS to the Client, SSS providing Services pursuant to a Purchase Order will constitute SSS’s acceptance of the Purchase Order.

4.5. Any variation, inaccuracy or inconsistency in a Client’s instructions or request for Services, may result in additional fees being incurred and charged to the Client. SSS shall not be liable for any Loss arising out of any inaccurate or misleading information provided by the Client including any defect, mistake or omission in any instructions, including as applicable any specifications, plans or measurements.

5. SSS RESPONSIBILITIES



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- 5.1. SSS shall use its reasonable endeavours to seek, and if available, provide appropriately skilled Contract Personnel for the job positions set out in the Proposal.
- 5.2. SSS shall make all reasonable efforts to ensure Contract Personnel have a level of expertise appropriate to the job requirements of the Client as set out in the Proposal.
- 5.3. SSS shall be responsible for payment of all salaries to Contract Personnel and shall provide for the necessary insurances as per statutory requirements in the State.
- 5.4. Upon the Client's request and at the Client's sole cost, SSS shall provide Contract Personnel with Health Safety and Environment ("HSE") working tools and items as specified in the Purchase Order and arrange for the travel of Contract Personnel pursuant to the Purchase Order. SSS will be entitled to charge a fee for this service as provided in the Proposal.

6. CLIENT RESPONSIBILITIES

- 6.1. The Client will pay the Fees to SSS in accordance with Clauses 7 and 8.
- 6.2. The Client shall be responsible for supervision of the Contract Personnel and shall provide Contract Personnel with all necessary information, training, instruction and applicable guidelines to enable Contract Personnel to perform in a manner without risk to their health and compliant with all statutory regulations applicable in the State.
- 6.3. The Client will not approach, solicit, interfere with or endeavour to entice away or employ or engage the services of any SSS Staff or Contract Personnel and will indemnify SSS against any liability, loss, damage, costs (including legal costs and expenses on a solicitor and own client basis), and expenses arising out of or in connection with a breach of this Clause.

7. FEES

- 7.1. The Fee shall be calculated by multiplying the Rate of each Contract Personnel by the actual hours worked by that individual Contract Personnel.
- 7.2. Timesheets that have been approved and signed by the Client shall be taken as acceptance by the Client of the actual hours worked by the Contract Personnel.
- 7.3. The Rate specified in the Proposal is inclusive of salaries, taxes, overtime and other compensation to Contract Personnel.
- 7.4. The Rate is exclusive goods and services taxes unless specifically agreed otherwise and set out in the Proposal.
- 7.5. If costs to SSS increase during the term of this Agreement by reason of an increase in statutory costs or costs related to insurances, then the Rate shall increase such that SSS shall be compensated for any such additional expenses.

8. PAYMENT TERMS

- 8.1. Invoices shall be issued to the Client on a monthly basis and shall be paid, without any deduction or set-off of any kind, within 30 days of the Invoice date by direct transfer or any other means as agreed between the Parties.
- 8.2. In the event the Client disputes any part of an invoice, it shall notify SSS within 10 days after receipt. Where an Invoice is disputed, payment of those parts of the Invoice which are not in dispute shall be made within 30 days of the Invoice date.
- 8.3. If payment of an undisputed part of an Invoice is not made within the period prescribed above, SSS reserves the right to charge interest on the unpaid amount at the rate of 1.5% per month, calculated daily for the period ending on the day the Invoice is actually paid.

9. TERM AND TERMINATION

- 9.1. This Agreement commences on the date of acceptance pursuant to Clause 3 and shall continue until terminated under this Clause.
- 9.2. This Agreement and a Purchase Order may be terminated by either Party in writing and without further liability as per the notice period specified in the Proposal and if no notice period is stated a minimum of 30 days written notice is required.
- 9.3. SSS is entitled to immediately terminate this Agreement by written notice to the Client where:



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- (a) The Client suffers an Insolvency Event; or
- (b) The Client, following a written notice of default allowing a reasonable period of at least ten (10) days in which the breach can be remedied, has failed to remedy the breach within that period and remains in default of its obligations under this Agreement;
- (c) A Force Majeure Event prevents SSS from providing the Services for a period exceeding 30 days.

9.4. In the event of termination, the Client shall pay SSS for the Services for the period up to and including the termination date and the Client will also be liable for any other reasonable costs incurred by SSS resulting from the termination.

10. INDEMNITIES AND LIABILITY

10.1. Liquidated Damages

If Client, or a Related Entity of the Client, directly or indirectly engages any Contract Personnel or SSS Staff to perform any kind of services or employment within a period up to 12 months from their introduction or their placement with Client or termination thereof, whether or not the Client has terminated either this Agreement or a Purchase Order, the Client shall pay SSS a fee in an amount that is equivalent to three (3) full months Rate as and by way of liquidated damages.

10.2. Indemnity Provided by the Client

- (a) The Client hereby indemnifies and agrees to hold SSS harmless from and against any and all Claims, including third party Claims, and/or Losses arising, directly or indirectly, and in any way whatsoever, where such Claims and/or Losses arise from the provision of the Services, the provision of, or information contained in, a Post Shutdown Report or an act or omission of SSS or Contract Personnel.
- (b) The Client shall indemnify SSS against all Claims, liabilities, damages, costs and expenses of every kind and nature (including reasonable legal fees), incurred by SSS as a result of any failure by the Client to comply with its obligations regarding safety, health and protections from injury under local applicable law(s) and standard industry practice.
- (c) The Client hereby irrevocably releases SSS from and against any and all liability and responsibility whatsoever, arising in any manner whatsoever, and whether directly or indirectly, from or as a result of the provision of the Services, the provision of, or information contained in, a Post Shutdown Report and/or any act or omission of Contract Personnel.

10.3. Consequential Loss

Each Party shall bear full responsibility for its own Consequential Loss and in no event shall a Party be liable under any circumstances whatsoever to the other for the other's Consequential Loss and neither shall it indemnify, defend and/or hold harmless the other Party accordingly.

11. CONFIDENTIALITY

The Client must maintain the confidentiality of, and not disclose, any trade secret, Confidential Information or commercially sensitive information about Contract Personnel, SSS or any of its Related Entities obtained while providing services to the Client, other than when required by law or when the information falls into the public domain.

12. POST SHUTDOWN REPORTS

12.1. SSS may supply the Client with Post Shutdown Reports. All Post Shutdown Reports remain SSS's property and the Client agrees not to use, copy or reproduce any Post Shutdown Report for any purpose other than for their own general informational purposes.

12.2. The information contained in any Post Shutdown Report is general in nature. It has been prepared in good faith however it does not take into account all of the Client's objectives, operational requirements or needs. Before acting on any information provided the Client must consider the appropriateness of that information having regard to the Client's specific requirements and objectives and must obtain specific advice. SSS makes no representation or warranty of any kind, express or implied, regarding the accuracy, adequacy, validity, reliability or completeness of any information provided in a Post Shutdown Report.

12.3. SSS is not liable for, or in connection with, any Claim by the Client, and the Client is absolutely barred from making any Claim, arising out of, or in connection with, any information supplied by or on behalf of

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SSS including any information contained in a Post Shutdown Report.

13. GENERAL

13.1. Jurisdiction

The laws in force in the State govern this Agreement.

13.2. Amendments

- (a) This Agreement and any Purchase Order may only be amended in writing signed by the Parties.
- (b) A change to the scope of any Services must be requested by the Client in writing and approved by SSS.

13.3. Assignment

Neither Party may assign any or all of its rights and obligations under this Agreement without the prior written agreement of the other Party.

13.4. Entire Agreement

- (a) The Conditions contains the whole agreement between the Parties in respect of the subject matter of this Agreement and it supersedes and replaces any prior written or oral agreements, representations or understandings between them relating to such subject matter.
- (b) This Agreement shall prevail over any standard terms and conditions of the Client and any other oral or written instructions of the Client.
- (c) To the extent of any inconsistency, the terms and conditions contained in this Agreement prevail.
- (d) The Client confirms that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

13.5. Agency, Partnership etc

- (a) This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.
- (b) Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- (c) Nothing in this Agreement shall create an employment relationship between any SSS Staff or Contract Personnel and the Client.

13.6. Severance

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

13.7. Notices

A notice or other communication connected with this Agreement has no legal effect unless it is in writing. In addition to any other method of service provided by law, the notice may be sent by pre-paid post to the address of the addressee as set out in this Agreement, or sent by email to the email address of the addressee.