



CONDITIONS FOR SUPPLY OF OPERATOR

1. DEFINITIONS

1.1 The meanings of the terms used in these conditions are set out below.

Term	Meaning
Business Day	a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made
Charges	the charges for the S&B Services as specified in the S&B Proposal
Claim	includes all actions, suits, causes of action, arbitrations, claims, demands, proceedings, complaints and objections in respect of any debts, dues, costs, expenses, obligations, liabilities, interest, verdicts, orders or judgments either at law or in equity or arising under a statute and irrespective of whether the matters giving rise to those claims are known to the parties as at the date of these conditions
Client	the Client to whom S&B has provided the S&B Proposal, more particularly described at Item 1 of Schedule 1
Client Data	data owned or supplied by the Client to which S&B is provided access pursuant to these conditions
Client Site	any site owned, occupied or utilised by the Client at which S&B Services are provided
Commencement Date	the date which the parties agree the provision of the S&B Services is to commence
Confidential Information	the confidential information of a party that relates to the subject matter of these conditions and includes Client Data
Consequential Loss	any indirect or consequential loss; loss of use; loss of product or production; delayed, postponed, interrupted or deferred production; inability to produce, deliver or process; loss of profit, revenue or anticipated revenue; loss of bargain, contract, expectation or opportunity; punitive or exemplary damages; in each case arising from or in connection with the performance of these conditions and whether or not foreseeable at the time of entering into these conditions
Force Majeure	an act, omission or circumstance over which S&B could not reasonably have exercised control
GST	the same meaning as in the GST Act
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>



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Term	Meaning
Intellectual Property	all of the intellectual property rights in any document prepared by or on behalf of S&B or supplied by S&B to the Client including but not limited to patents, patentable inventions, registered and registrable designs, trademarks, names, logos copyright works, moral rights and all improvements to such works
Records	includes hard copy and electronic records
Related Bodies Corporate	has the meaning given in section 9 of the <i>Corporations Act 2001</i>
Restraint Period	the period referred to in clause 5.2
Service Period	the period of time during which the S&B Services are provided pursuant to these conditions
S&B	Simmonds & Bristow Pty Ltd ABN 33010252418
S&B Proposal	the cost estimate to which these conditions are attached
S&B Operator	an officer, employee, agent or contractor nominated by S&B to provide S&B Services
S&B Operator Base	the town or city in which an S&B Operator usually resides
S&B Services	the provision of the services set out in Schedule 2
Working Day	a day on which the S&B Services are to be provided by an S&B Operator to the Client

1.2 Interpretation

- (a) Reference to:
- (i) one gender includes the others;
 - (ii) the singular includes the plural and to the plural includes the singular;
 - (iii) a person includes a body corporate;
 - (iv) a party includes the party's executors, administrators, successors and permitted assigns;
 - (v) a statute, regulation or provision of a statute or regulation (**Statutory Provision**) includes:
 - (A) that Statutory Provision as amended or re-enacted;
 - (B) a statute, regulation or provision enacted in replacement of that Statutory Provision; and



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- (C) another regulation or other statutory instrument made or issued under that Statutory Provision; and
- (vi) money is to Australian dollars, unless otherwise stated.
- (b) "Including" and similar expressions are not words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (d) Headings and any table of contents or index are for convenience only and do not form part of this agreement or affect its interpretation.
- (e) A provision of this agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the agreement or the inclusion of the provision in the agreement.
- (f) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

1.3 Parties

- (a) If a party consists of more than one person, this agreement binds each of them separately and any 2 or more of them jointly.
- (b) An obligation, representation or warranty in favour of more than one person is for their benefit, separately and jointly.
- (c) A party which is a trustee is bound both personally and in its capacity as a trustee.
- (d) Any reference to a party in these conditions includes, and any obligation or benefit under these conditions will bind or take effect for the benefit of, that party's executors, administrators, successors in title and assigns.

2. S&B'S OBLIGATIONS

2.1 S&B warrants to the Client that:

- (a) from the Commencement Date it will supply the S&B Services to the Client;
- (b) the S&B Services will be rendered diligently and efficiently;
- (c) it will perform the S&B Services in accordance with industry standards; and
- (d) it will provide the Client with weekly reports as to the progress of the provision of the S&B Services.

2.2 The S&B Services will be deemed to have been performed in accordance with clauses 2.1(b) and (c) unless the Client notifies S&B within two days of the provision of any S&B Services of:

- (a) the nature of the S&B Services provided by S&B that the Client considers to be in breach of clause 2.1; and
- (b) the basis for the Client's view that the S&B Services rendered were in breach of clause 2.1.

2.3 S&B is responsible for:



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- (a) the payment of all amounts due to any S&B Operator under the terms of any legislation, relevant industrial instrument or contract;
- (b) the payment of any leave entitlements due to any S&B Operator, including but not limited to annual leave, personal leave, parental leave and long service leave;
- (c) subject to these conditions, the deduction and remittance of all applicable taxes from payments due to any S&B Operator, including but not limited to income tax, fringe benefits tax and payroll tax; and
- (d) maintaining a policy of workers' compensation insurance where this is required by legislation in the relevant jurisdiction.

3. LABOUR HIRE LICENCE

- 3.1 The Client acknowledges that the provision of the S&B Operator to the Client by S&B under this agreement (**Labour Hire Services**) is regulated under the *Labour Hire Licensing Act 2017 (Qld)* and associated regulations (**Labour Hire Law**).
- 3.2 S&B warrants that it holds the necessary licence (**Labour Hire Licence**) to enable the lawful provision of the Labour Hire Services to the Client.
- 3.3 The Client agrees to do all things necessary to enable S&B to comply with its obligations under the Labour Hire Law and the terms and conditions of its Labour Hire Licence including, but not limited to, promptly when requested, providing details of the following:
 - (a) the S&B Operator's accommodation during the Service Period;
 - (b) any notifiable incidents under the *Work Health and Safety Act 2001* involving the S&B Operator during the Service Period; and
 - (c) any services (such as meals and transport) provided to workers and any fees charged for those services during the Service Period.

4. INTELLECTUAL PROPERTY AND LICENCE

- 4.1 The parties agree that the ownership of any Intellectual Property vests in S&B.
- 4.2 Subject to clause 3.3, S&B grants to the Client and to the Client's Related Bodies Corporate a licence to use the Intellectual Property for the purpose of:
 - (a) training and supervision of Client employees, agents and subcontractors; and
 - (b) management of the Client's business activities.
- 4.3 The Client must not, without the prior written consent of S&B:
 - (a) sub-license the Intellectual Property;
 - (b) provide copies of any manuals or procedures developed pursuant to these conditions to any third parties;
 - (c) hire, re-record, modify, amend, decompile or tamper with any document supplied by S&B; or
 - (d) remove any copyright marking on any document supplied to it by S&B.



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5. WORKPLACE HEALTH AND SAFETY

5.1 The Client must:

- (a) comply with all the Client's obligations to and in relation to the S&B Operator pursuant to relevant legislation, including legislation relating to workplace health and safety, discrimination and harassment;
- (b) establish and maintain a safe work environment and safe systems of work;
- (c) communicate applicable safe work procedures to the S&B Operator;
- (d) not, without the prior written approval of S&B, allocate tasks or responsibilities to any S&B Operator or require any S&B Operator to perform or participate in work, other than in the provision of the S&B Services;
- (e) provide appropriate induction to the S&B Operator;
- (f) promptly inform S&B of any unusual workplace risk or practice or of any change in site or safety conditions that may present a hazard to any S&B Operator;
- (g) comply with any reasonable requests made by S&B or the S&B Operator to ensure the workplace health and safety of the S&B Operator;
- (h) allow S&B to enter into any the Client Site or any workplace where any S&B Operator is providing S&B Services or is to provide S&B Services to ensure compliance with relevant legislation, including legislation relating to workplace or occupational health and safety, discrimination and harassment;
- (i) notify S&B immediately of any event that may give rise to a Claim under any insurance policy, statutory indemnity or self-insurance arrangement that relates to the S&B Operator;
- (j) notify S&B as soon as practicable of any injury or incident involving the S&B Operator where the health and safety of any person was put at risk, including any near misses.

5.2 S&B must take reasonable steps to ensure that the S&B Operators at all times when on any Client Site:

- (a) acts in accordance with all reasonable directions of the Client in relation to health and safety and environmental matters; and
- (b) minimises disruption to operations at the Client Site.

6. RESTRAINT

6.1 Unless it obtains the prior written consent of S&B, the Client must not, and must ensure that its Related Bodies Corporate do not, either directly or indirectly, during the Service Period and for the maximum enforceable Restraint Period solicit or approach, or procure anyone else to solicit or approach, any S&B Operator with the intention of inducing or encouraging them to terminate their employment or contract with S&B or to perform work for or on behalf of the Client or for any other person.

6.2 Restraint Period means each of:

- (a) twelve months;
- (b) nine months; and
- (c) six months



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after the completion of the Service Period or termination of these conditions, whichever is longer.

- 6.3 Each restraint contained in this clause (resulting from any combination of the wording in clauses 5.1 and 5.2) constitutes a separate and independent provision, severable from the other restraints.
- 6.4 The Client acknowledges and agrees that each of the restraints contained in this clause:
- (a) is reasonable in scope and duration, and
 - (b) is reasonably necessary to protect the goodwill and legitimate business interests of S&B.
- 6.5 If S&B consents to the Client making or accepting an offer of employment to the S&B Operator, either during the Service Period or the Restraint Period, a non-refundable fee of \$15,000 plus GST is payable by the Client to S&B upon acceptance of the offer of employment by the Operator.
- 6.6 If the Client introduces an S&B Operator to a third party which employs the S&B Operator either during the Service Period or the Restraint Period, a non-refundable fee of \$15,000 plus GST is payable by the Client to S&B.

7. CLIENT'S OBLIGATIONS

- 7.1 The Client will make available to the S&B Operator all equipment and facilities necessary for the S&B Operator to provide the S&B Services including but not limited to:
- (a) tools;
 - (b) any necessary safety equipment;
 - (c) field testing equipment as necessary;
 - (d) vehicle as required; and
 - (e) internet access.
- 7.2 The Client must take out and maintain those policies of insurance that would be held by a reasonably prudent business in the position of the Client.
- 7.3 The Client must reimburse S&B for airline flights for the S&B Operator engaged in providing S&B Services:
- (a) from the S&B Operator Base to the Client Site on the first day of any period in which the S&B Operator is scheduled to provide S&B Services at the Client Site; and
 - (b) from the Client Site to the S&B Operator Base on the last day of any period during which the S&B Operator has performed S&B Services or was scheduled to provide S&B Services.
- 7.4 While the S&B Operator is at the Client Site, the Client must arrange and pay for:
- (a) all meals;
 - (b) suitable accommodation including en-suite facilities;
 - (c) transfer of the S&B Operator between the accommodation and the Client Site; and



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- (d) transfer of the S&B Operator between the local commercial airport and the accommodation.

7.5 The Client:

- (a) must provide all access, information, data and demonstrations required by S&B to allow S&B to provide the S&B Services; and
- (b) warrants that all information and data supplied by it and all representations made by it, whether in writing or verbally, are complete and accurate.

8. CHARGES

- 8.1 The Client must pay the Charges at the rate specified in the S&B Proposal.
- 8.2 S&B will forward to the Client an invoice in electronic form at the end of each calendar month. Each invoice must be paid in cleared funds within thirty days into the following bank account:

Account holder: Simmonds & Bristow Pty Ltd

BSB 064111

Account No.: 10006979
- 8.3 If the Client disputes the whole or any portion of an invoice submitted by S&B, the Client must pay the portion of the amount stated in the invoice that is not in dispute and must notify S&B in writing (within seven days of receipt of the invoice) of the reasons for disputing the remainder of the invoice.
- 8.4 If the Client requests S&B to carry out work outside the scope of work set out in the S&B Proposal, including work of a different type, and S&B agrees to carry out that work, the Client agrees that the terms of these conditions shall apply to the additional work and agrees to pay all fees, disbursements and other charges associated with the additional work calculated in accordance with S&B's standard rates at the time the additional work is performed.

9. CONFIDENTIALITY

- 9.1 A party must not, without the prior written approval of the other party, disclose the other party's Confidential Information.
- 9.2 A party is not in breach of clause 8.1 in circumstances where it is legally compelled to disclose the other party's Confidential Information.
- 9.3 Each party must take all reasonable steps to ensure that its employees and agents, and any subcontractors engaged for the purposes of these conditions, do not make public or disclose the other party's Confidential Information.
- 9.4 This clause survives the termination of these conditions.

10. ENVIRONMENTAL INCIDENT REPORTING

- 10.1 If, in the course of providing the S&B Services or otherwise during the Service Period, the S&B Operator becomes aware of any event or circumstance (**Incident**) which, in the S&B Operator's reasonable opinion requires notification to a government agency or department, S&B will immediately give the Client notice of that Incident (**Incident Notice**).
- 10.2 Within 24 hours of receipt of an Incident Notice, the Client must:



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- (a) provide S&B with written acknowledgement of receipt of the Incident Notice; and
- (b) notify the relevant government agency or department of the Incident.

10.3 If the Client fails to acknowledge receipt of the Incident Notice within 24 hours of receipt, S&B will notify the relevant agency or department of the Incident in accordance with its statutory obligation to do so.

10.4 An Incident Notice can be given either:

- (a) in writing by SMS-Text, email, facsimile or letter; or
- (b) verbally.

11. PROPER DEALING

11.1 Each party must act honestly and reasonably in all dealings with the other party.

12. S&B LIABILITY

12.1 Except as expressly provided to the contrary in this agreement, all terms, conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise relating in any way to the S&B Services or to this agreement are excluded to the extent permitted by law.

12.2 If the consumer guarantees under the *Australian Consumer Law* do not apply to this agreement S&B's liability for a breach of this contract is limited to remedying the breach up to a cost equal to the payments it has received under this contract up to the date of the breach. If the breach cannot be remedied, the damages for which S&B is liable will not exceed the amount of the payments it has received under this contract up to the date of the breach.

12.3 If a guarantee under the *Australian Consumer Law* applies to this agreement and the S&B Services are not of a kind ordinarily acquired for personal, domestic or household use or consumption, S&B's liability for failure to comply with the guarantee is limited to, at S&B's sole discretion:

- (a) supplying the S&B Services again; or
- (b) paying the cost of having the S&B Services supplied again.

12.4 The Client warrants that it has not relied on:

- (a) any term, condition or warranty, undertaking, inducement or representation made by or on behalf of S&B which has not been stated expressly in this agreement; or
- (b) any description or illustrations or specifications contained in any document including any catalogues or publicity material produced by S&B if it is not incorporated in or referred to expressly in this agreement.

12.5 The Client warrants that it has provided to S&B all information, documents and instructions necessary in order for S&B to undertake the S&B Services and acknowledges that S&B will rely on that information and those documents and instructions in providing the S&B Services.

13. INDEMNITIES

13.1 The Client must indemnify and hold harmless S&B against:



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- (a) all claims or demands made against S&B;
- (b) all losses incurred by S&B;
- (c) all liabilities incurred by S&B; and
- (d) all legal costs, on a full indemnity basis, and other expenses S&B incurs in connection with a demand, action, arbitration or other proceeding (including mediation, compromise, out of court settlement or appeal);

arising directly or indirectly as a result of or in connection with a breach or non-performance of any of the Client's obligations under this agreement whether express or implied, except to the extent the loss was caused by S&B's negligence or default.

13.2 This clause survives the termination of these conditions.

14. DEFAULT AND TERMINATION

- 14.1 A party may terminate this agreement at any time by written notice to the other party (**Defaulting Party**) if any of the following apply:
- (a) the Defaulting Party fails to carry out any provision of this agreement, the failure is capable of remedy and the Defaulting Party does not remedy that failure within a reasonable time after written notice to the Defaulting Party requiring it to be remedied;
 - (b) the Defaulting Party fails to carry out any material provision of this agreement and the failure is not capable of remedy;
 - (c) the Defaulting Party fails to carry out any provision of any agreement to which both it and another party to this agreement are parties, in existence or entered into after this agreement, the failure is capable of remedy and the Defaulting Party does not remedy that failure within a reasonable time after notice to the Defaulting Party by that other party requiring it to be remedied;
 - (d) execution or other process of a court or authority or distress is levied for an amount exceeding \$10,000 upon any of the Defaulting Party's property and is not satisfied, set aside or withdrawn within 10 Business Days after its issue;
 - (e) an order for payment is made or judgment for an amount exceeding \$10,000 is entered or signed against the Defaulting Party which is not satisfied within 10 Business Days;
 - (f) any other event occurs or circumstance arises which, in the reasonable opinion of a party to this agreement, is likely materially and adversely to affect the ability of the Defaulting Party to perform all or any of its joint or several obligations under or otherwise to comply with the terms of this agreement or an agreement referred to in clause 13.1(c);
 - (g) the Defaulting Party suspends payment of its debts;
 - (h) it becomes unlawful for the Defaulting Party to perform its obligations under this agreement;
 - (i) where the Defaulting Party is a body corporate:
 - (i) the Defaulting Party becomes an externally-administered body corporate under the *Corporations Act 2001*;



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- (ii) steps are taken by any person towards making the Defaulting Party an externally-administered body corporate;
- (iii) a controller (as defined in section 9 of the *Corporations Act 2001*) is appointed of any of the property of the Defaulting Party or any steps are taken for the appointment of a controller;
- (iv) the Defaulting Party is taken to have failed to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001*, or
- (v) a resolution is passed for the reduction of capital of the Defaulting Party or notice of intention to propose such a resolution is given, without the prior written consent of the other parties to this agreement.

14.2 On termination of this agreement under this clause 13, each party retains the rights it had against the other party in respect of any past breach, in addition to any other rights, powers or remedies provided by law.

15. DISPUTE RESOLUTION

- 15.1 If any dispute or difference arises between the parties either during or after the completion of S&B Services or after the termination of this agreement as to any matter arising under this agreement, either party may give to the other notice in writing setting out the particulars of the dispute (**notice of dispute**). Giving a notice of dispute is a condition precedent to either party commencing arbitration or court proceedings with regard to the dispute.
- 15.2 Within 14 days of the service of a notice of dispute the parties must confer at least once to attempt to resolve the dispute or to agree on a method of dispute resolution. Each party must be represented at those conference(s) by a person having authority to resolve the issue in dispute.
- 15.3 If the dispute is not resolved within 7 days of the conference or within such further period as the parties agree, the dispute must be referred to the Australian Disputes Centre (**ADC**) for mediation.
- 15.4 The mediation must be conducted in accordance with ADC Guidelines for Commercial Mediation operating at the time the matter is referred to ADC.
- 15.5 The Guidelines set out the procedures to be adopted, the process of selection of the mediator and the costs involved. The terms of the Guidelines are incorporated in this clause.
- 15.6 This clause does not merge upon completion.

16. NO PARTNERSHIP

- 16.1 This agreement does not create or evidence a partnership between the parties.
- 16.2 No party has authority to act as agent or representative of or in any way bind or commit another party to any obligation.

17. FORCE MAJEURE

- 17.1 S&B will not be liable for any delay or failure to perform its obligations if the delay or failure is due to Force Majeure.



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- 17.2 S&B will notify the Client as soon as practicable of any anticipated delay due to Force Majeure. The performance of S&B's obligations under this agreement will be suspended for the period of the delay due to Force Majeure.
- 17.3 If a delay due to force majeure exceeds 30 days, the Client may terminate this agreement immediately on providing notice to S&B. If the Client gives such notice to S&B:
- (a) S&B will refund moneys previously paid by the Client under this agreement for which no S&B Services have been provided; and
 - (b) the Client will pay S&B a reasonable sum in relation to S&B Services rendered or costs and expenses incurred prior to termination for which no payment has been made by the Client.

18. SUBCONTRACTING

S&B may sub-contract for the performance of this agreement or any part of this agreement, unless specifically agreed otherwise between the parties. S&B will commonly subcontract laboratory testing to Symbio Pty Limited unless otherwise directed by the Client.

19. FILE AND SAMPLE STORAGE AND RETRIEVAL

- 19.1 S&B will store the Client's file/s for up to 7 years following completion of the matter or termination of the Client's instructions. The Client authorizes S&B to destroy the records stored on the Client's file/s after 7 years, except file/s relating to the delivery of training and issuing of qualifications which will be stored for a period of 35 years in accordance S&B's obligations as a Registered Training Organisation.
- 19.2 If the Client wishes to retrieve a file from storage for any reason following completion, the Client agrees to pay the retrieval costs of \$200.00 for each matter, or such greater sum as S&B may require.
- 19.3 Samples of water, soil, aggregate and other materials submitted by or on behalf of the Client for analysis by S&B will be stored at no charge for a brief period (as determined by the sub-contracted laboratory's standard practice but typically for no longer than 2 weeks following the issue of an analytical certificate) from the date of issue of the Laboratory Certificate of Analysis. The Client authorises S&B to approve the appropriate and safe destruction and disposal of the samples.

20. ASSIGNMENT AND NOVATION

- 20.1 The benefit of these conditions must not be assigned by the Client without S&B's written consent.
- 20.2 S&B may consent to the assignment or novation of these conditions by the Client subject to such conditions as it chooses to impose.

21. GST

- 21.1 In this clause:
- (a) **GST** means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* as amended (**GST Act**) or any replacement or other relevant legislation and regulations;



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- (b) words used in this clause which have a particular meaning in the GST law (as defined in the GST Act, and also including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning, unless the context otherwise requires;
 - (c) any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member; and
 - (d) if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, that part of the supply is to be treated as a separate supply.
- 21.2 Unless GST is expressly included, the consideration expressed to be payable under any other clause of this agreement for any supply made under or in connection with this agreement does not include GST.
- 21.3 To the extent that any supply made under or in connection with this agreement is a taxable supply, the GST exclusive consideration otherwise payable for that supply is increased by an amount equal to that consideration multiplied by the rate at which GST is imposed in respect of the supply, and is payable at the same time.
- 21.4 Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other parties to claim any input tax credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this agreement.
- 21.5 If a payment to a party under this agreement is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to clause 20.3. All notices given under these conditions must be in writing and may be delivered in person or by mail or by email.

22. NOTICES

- 22.1 A notice or other communication connected with this agreement (**Notice**) has no legal effect unless it is in writing. 'Writing' includes emails.
- 22.2 In addition to any other method of service provided by law, the Notice may be:
- (a) sent by prepaid ordinary post to the address for service of the addressee, if the address is in Australia and the Notice is sent from within Australia;
 - (b) sent by prepaid airmail to the address for service of the addressee, if the address is outside Australia or if the Notice is sent from outside Australia;
 - (c) sent by email to the email address of the addressee; or
 - (d) delivered at the address for service of the addressee.
- 22.3 A certificate signed by a party giving a Notice or by an officer or employee of that party stating the date on which that Notice was sent or delivered under clause 21.2 is prima facie evidence of the date on which that Notice was sent or delivered.
- 22.4 If the Notice is sent or delivered in a manner provided by clause 21.2, it must be treated as given to and received by the party to which it is addressed:



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- (a) if sent by post from within Australia to an address in Australia, on the 2nd Business Day (at the address to which it is posted) after posting;
- (b) if sent by post to an address outside Australia or sent by post from outside Australia, on the 5th Business Day (at the address to which it is posted) after posting;
- (c) if sent by email before 5pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt; or
- (d) if otherwise delivered before 5pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.

22.5 Despite clause 21.4(c):

- (a) an email message is not treated as given or received if the sender's computer reports that the message has not been delivered; and
- (b) an email message is not treated as given or received if it is not received in full and in legible form and the addressee notifies the sender of that fact:
 - (i) within 3 hours after the transmission ends; or
 - (ii) by 12 noon on the Business Day on which it would otherwise be treated as given and received

whichever is later.

22.6 If a Notice is served by a method which is provided by law but is not provided by clause 21.2, and the service takes place after 5pm on a Business Day, or on a day which is not a Business Day, it must be treated as taking place on the next Business Day.

22.7 A Notice sent or delivered in a manner provided by clause 21.2 must be treated as validly given to and received by the party to which it is addressed even if:

- (a) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent;
- (b) the Notice is returned unclaimed; or
- (c) in the case of a Notice sent by email, the email message is not delivered or opened (unless the sender's computer reports that it has not been delivered).

22.8 S&B's address for service and email address are:

Name	: Simmonds & Bristow Pty Ltd
Attention	: David Bristow
Address	: Unit 2A, 40 Reginald Street, Rocklea Qld 4106
Email address	: To be sent to both david@simmondsbristow.com.au and info@simmondsbristow.com.au

22.9 The Client's address for service and its email address are set out in Item 2 of Schedule 1.

22.10 A party may change its address for service or email address by giving Notice of that change to each other party.

22.11 If the party to which a Notice is intended to be given consists of more than one person then the Notice must be treated as given to that party if given to any of those persons.



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22.12 Any Notice by a party may be given and may be signed by its solicitor.

23. COSTS

23.1 Except as otherwise set out in this agreement, each party must pay its own costs and expenses in relation to preparing, negotiating, executing and completing this agreement and any document related to this agreement.

24. ENTIRE AGREEMENT

24.1 To the extent permitted by law, this agreement constitutes the entire agreement between the parties and supersedes all prior agreements.

25. EXECUTION OF SEPARATE DOCUMENTS

25.1 This agreement is properly executed if each party executes either this document or an identical document. In the latter case, this document takes effect when the separately executed documents are exchanged between the parties.

26. SEVERABILITY

26.1 Any provision of this agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this agreement or affect the validity or enforceability of that provision in any other jurisdiction.

27. GOVERNING LAW AND JURISDICTION

27.1 This agreement is governed by the law of Queensland. The parties submit to the non-exclusive jurisdiction of its courts.

28. VARIATION

28.1 A variation of this agreement will have no force or effect unless it is in writing and signed by each party to this agreement.

28.2 If practical, variations as agreed will be shown as an appendix to this agreement marked "agreed variations".

29. FURTHER ASSURANCE

29.1 Each party must promptly at its own cost do all things (including executing all documents) necessary or desirable to give full effect to this agreement.

30. WAIVER

30.1 A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.

30.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.

30.3 A waiver is not effective unless it is in writing.



CONDITIONS FOR SUPPLY OF OPERATOR

30.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

31. CONTINUING OBLIGATIONS

31.1 Each obligation and warranty of a party (except an obligation fully performed at completion) continues in force despite completion.

32. TIME OF THE ESSENCE

32.1 Time is of the essence of this agreement.

32.2 If the parties agree to vary a time requirement, the time requirement so varied is of the essence of this agreement.

32.3 An agreement to vary a time requirement must be in writing.





CONDITIONS FOR SUPPLY OF OPERATOR

Schedule 1 Client and Client's Notice details

Item 1 **Client**

Name : _____
Address : _____

Item 2 **Notice details:**

Name : _____
Attention : _____
Email : _____
Fax : _____
Phone : _____





CONDITIONS FOR SUPPLY OF OPERATOR

Schedule 2 S&B Services

S&B will provide the following services:

