

Steelhead Desanders Pty Ltd Standard Terms and Conditions

The rental of Goods by Supplier to Customer shall be made upon the following terms and conditions:

1. Rental of Goods

- 1.1 All Goods proposed in the Quotation are currently available "ex stock" and subject to prior commitment.
- 1.2 Transportation of Goods from the Depot to Site and return to Depot, including loading, handling, transportation and unloading will be provided by or on behalf of Supplier at Customer's cost (as set out in the Quotation).
- 1.3 Installation and decommissioning of the Goods at Site will be provided by or on behalf of Supplier at Customer's Cost (as set out in the Quotation).
- 1.4 The Customer must provide all reports, testing results or other information reasonably requested by the Supplier throughout the Rental Period.
- 1.5 The operation of all Goods is the sole responsibility of Customer and shall be carried out at Customer's sole risk. The Customer must ensure that the operation of the Goods is at all times in accordance with the Operations Manual.
- 1.6 Customer has complete custody and control of the Site at all times, including the conditions created in the well, the well premises and the drilling and/or production equipment used in the well. In the event that well conditions prevent satisfactory operation of Goods, Customer is not relieved of responsibility for Rental as outlined in the Quotation.
- 1.7 During the Rental Period, no Goods may be disassembled, dressed, changed, altered or in any way modified without the prior written approval of Supplier.
- 1.8 All Goods rented by Supplier to Customer shall be supplied with a current inspection report. Upon return of Goods to the Depot, all Goods (whether used or unused by Customer) shall be subjected to a full inspection by a third party inspection service. The cost of such inspection and any subsequent repairs to the Goods (including all work carried out in-house or by third party, and costs relating to the transportation of Goods to and from third party companies) shall be charged to Customer at cost plus 15%. Customer must also pay Rental while the Goods are being repaired.
- 1.9 If any Goods are lost for any reason during the Rental Period, damaged beyond repair, not returned to Supplier at the end of the Rental Period, or returned to Supplier in a condition beyond economical repair, Customer must pay to Supplier the Replacement Charge.
- 1.10 Any equipment, tools, machinery, supplies, apparatus, appliances, materials, consumables, articles and all other items which are not expressly provided for by this Contract but are required to operate the Goods in accordance with this Contract must be sourced and supplied by the Customer at the Customer's sole expense.

2. Purchase Price and Invoicing

- 2.1 Customer shall pay Supplier the Rental in accordance with the Quotation.
- 2.2 The Rental Period shall commence on and from the day the Goods are to be collected from the Depot and shall conclude on the day the Goods are returned to the Depot, and in all cases, will be a minimum of 365 days. The Customer agrees to pay Rental for the duration of the Rental Period.
- 2.3 Rental shall also be payable by Customer for any period during which the Goods are being repaired, fixed or are otherwise unavailable for supply by Supplier, if the repairs or other work is identified as necessary in the inspection report provided under clause 1.7.
- 2.4 Supplier shall submit a monthly invoice for the Rental. Customer shall have 30 days from the receipt of Supplier's invoice to pay the amounts set out in such invoice. Interest at a rate of 0.01% per day may be charged by Supplier on invoices not paid within 30 days.
- 2.5 Unless otherwise expressly stated all fees, prices or the sums payable or consideration to be provided in connection with this Contract are exclusive of any GST.
- 2.6 Supplier must pay all stamp duty, registration fees, taxes or other duties payable in respect of the execution and performance of this Contract and the dealings pursuant to it.

3. Title and Risk

- 3.1 Title to and ownership of the Goods rented to Customer by Supplier shall at all times remain with Supplier, regardless of who is in possession of the Goods.
- 3.2 Risk in the Goods will pass from Supplier to Customer from the time at which the Goods are unloaded from a truck at the Site and will pass back to Supplier from Customer from the time the Goods are fully loaded back on to a truck at the Site.
- 3.3 For the avoidance of doubt, clause 3.2 applies irrespective of whether Supplier arranges for loading, unloading or transportation of Goods on behalf of Customer.

4. SDI's Interest

- 4.1 Customer acknowledges that:
 - (a) the Goods have been sold by SDI to Supplier pursuant to the SDI Supply Agreement and subject to conditions on use of the Goods;
 - (b) under the terms of the SDI Supply Agreement, Supplier is prohibited from dealing with or disposing of the Goods other than for permitted purposes including the purpose of hiring the Goods to Customer for Customer's use ("Permitted Purpose") in accordance with these rental terms and conditions;
 - (c) except with the prior written consent of SDI and Supplier, Customer must not transfer, lease or otherwise dispose of or deal with any part of the Goods or allow any person to acquire any interest in any such Goods; and
 - (d) Customer must not allow a person other than SDI and Supplier (or any person permitted by SDI and Supplier) to have a Security Interest over the Goods.
- 4.2 Customer agrees that it shall not use the knowledge gained from the use of the Goods to duplicate the Goods or provide knowledge to third parties for the purpose of duplication of the Goods or the manner of operation of the Goods in any way.
- 4.3 Customer shall not itself, or assist others to, reverse-engineer, reproduce, sell, offer to sell or resupply the Goods.
- 4.4 Customer agrees that it will not use confidential information obtained by it in respect of the Goods other than for the purpose of using the goods under hire from Supplier.
- 4.5 Customer acknowledges that the Goods are subject to pending patents filed in Australia.

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5. PPSA

- 5.1 The parties acknowledge that this Contract gives rise, or may give rise, to one or more Security Interests in favour of Supplier.
- 5.2 Supplier may take, and Customer must take any steps Supplier reasonably requires to perfect or otherwise ensure the enforceability and priority of any Security Interest granted under or resulting from this Contract, including, at the request of Supplier:
- (a) obtaining and giving any consents;
 - (b) producing and providing any receipts or information (including serial numbers) in respect of the Goods;
 - (c) signing or procuring the signing of any documents;
 - (d) facilitating registration of any Security Interest on the PPSR;
 - (e) facilitating the giving of notice to any person, including any person who also has, or appears to have, a Security Interest over the Customer or the Goods; and
 - (f) facilitating the exercise of Supplier's right in enforcing any Security Interest.
- 5.3 If, in breach of these terms and conditions, the Customer attempts to dispose of or otherwise deal with the Goods, the Customer acknowledges that despite the disposal or dealing:
- (a) Supplier has not authorized the disposal or agreed that the dealing would extinguish Supplier's Security Interest; and
 - (b) Supplier's Security Interest continues in the Goods.
- 5.4 To the extent permitted under the PPSA, Supplier need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d), and 132(4) of the PPSA.
- 5.5 Supplier need not give any notice under the PPSA (including a notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.
- 5.6 Customer warrants that the Goods are not, and will not become, a fixture for the purposes of the PPSA, and agrees to take such steps as Supplier reasonably requires to prevent the Goods becoming a fixture for the purposes of the PPSA. Supplier or its nominee or agent will be entitled to remove the Goods from any premises owned or occupied by Customer (whether or not the Goods are affixed) at the end of the term or following a breach of these terms and conditions by Customer and Customer agrees:
- (a) to procure appropriate acknowledgements from any owner, landlord or mortgagee of the premises in a form reasonably required by Supplier, to ensure that Supplier's interest in the Goods, its rights to remove the Goods from the premises, and its right to enter the premises for that purpose, are acknowledged; and
 - (b) to detach, or procure the detachment of, the Goods from the premises at the end of the term or following a breach of these terms and conditions by Customer.
- 5.7 Supplier may assign its rights or novate its rights and obligations under this Contract without the consent of Customer. Customer must execute all documents necessary to give effect to any novation or assignment permitted under this clause.
- 5.8 Customer must not assign any of its rights under this Contract or novate any of its rights and obligations under these terms and conditions without the prior written consent of Supplier. Any purported dealing in breach of this clause 5.8 is void and of no effect.

6. Warranties

- 6.1 Subject to clause 6.2, Supplier warrants that the Goods will be free from Defects during the Rental Period. A "Defect" includes any defect that affects the safety, operation or function of Goods (in accordance with the Operations Manual) and that is not caused by Customer or a third party.
- 6.2 Supplier makes no representation or warranty that the Goods are fit for the purpose intended by Customer.
- 6.3 Customer warrants that it has conducted its own enquiries and investigations in respect of the Goods and the use of the Goods for the intended purpose and Customer has not relied on any representations or warranties made by Supplier in respect of the Goods (including any made prior to execution of this Contract), other than as expressly set out in this Contract.

7. Insurance

- 7.1 Customer must, for the duration of the Rental Term, effect and have in place public and product liability insurance for the amount of \$20,000,000 per occurrence with insurers authorised and licensed to operate in Australia.
- 7.2 Customer must ensure that the public and product liability insurance provides that, insofar as the policy may cover more than one insured, all insuring agreements and endorsements will operate in the same manner as if there were a separate policy of insurance covering each named insured.

8. Indemnity and Liability

- 8.1 Customer shall indemnify Supplier from and against all Claims and Liabilities however arising that Supplier suffers, sustains or incurs as a result of or in connection with:
- (a) the breach of this Contract by Customer;
 - (b) the negligence of Customer; and
 - (c) the act or omission of Customer,
- except to the extent that any Claim or Liability is caused or contributed to by the negligence, breach of contract or wilful misconduct of Supplier.
- 8.2 Supplier shall indemnify Customer from and against all Claims and Liabilities however arising that Customer suffers, sustains or incurs as a result of or in connection with:
- (a) the breach of Contract by Supplier;
 - (b) the negligence of Supplier;
 - (c) the act or omission of Supplier,
- except to the extent that any Claim or Liability is caused or contributed to by the negligence, breach of contract or wilful misconduct of Customer.
- 8.3 In no event shall any party be liable (including under any indemnity) for Consequential Loss. Consequential Loss includes indirect loss, loss of profit, loss of production, loss of reputation, loss of revenue, loss or denial of opportunity, loss of bargain, loss of approval, licence or registration, loss of production, loss of access to markets, loss of goodwill,

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loss of use, loss of data, loss in connection with any Claim made by a third party, and loss that is similar or directly related to any of the categories of loss set out in this clause, whether or not such loss was within the reasonable contemplation of the parties at the time that they entered into this Contract.

8.4 The indemnities in this clause 8 shall survive the termination of this Contract.

9. Intellectual Property

9.1 SDI retains ownership of Intellectual Property Rights subsisting in the Goods and nothing in this Contract assigns any of those Intellectual Property Rights to Customer. Customer acknowledges that Supplier has been granted a licence by SDI under the SDI Supply Agreement to exercise the Intellectual Property Rights to the extent necessary for Supplier to hire the goods to customers in Australia.

9.2 Solely to the extent necessary for Customer use the Goods during the Rental Period, Supplier grants Customer a revocable, non-transferable, royalty-free, non-exclusive sub-licence during the Rental Period to exercise the Intellectual Property Rights.

9.3 Customer agrees that all Intellectual Property Rights subsisting in any modifications, variations, changes and revisions (including updates and upgrades) to the Goods, which are created or developed by Customer, vest in SDI as such rights are created. Customer must inform Supplier immediately as such rights are created and must execute any assignment documentation reasonably required by SDI in order to give effect to this clause 9.3.

10. Confidentiality

10.1 Each party must keep strictly confidential all information relating to the business, operations, prospects and finances of the other party that it obtains in connection with the performance of this Contract and not disclose any such information to a third party except where:

- (a) disclosure may be required by an Applicable Law or rules of a stock exchange;
- (b) a party has given its written consent to the use or disclosure of the confidential information;
- (c) disclosure is to legal or other professional advisers; or
- (d) disclosure is to a bona fide proposed third party assignee.

10.2 The confidentiality obligation contained in this clause 9 shall survive the termination of this Contract and continue to bind the parties.

11. Termination

11.1 An order for Goods which has been confirmed in writing cannot be cancelled by Customer under any circumstances without Supplier's consent and except upon terms which will indemnify Supplier for all loss to be incurred as a result of such cancellation.

11.2 A minimum Rental Period of 30 days applies to all Goods. In the event of a premature return of Goods prior to the expiry of the minimum Rental Period, Rental shall continue to be charged to Customer until the minimum Rental Period has expired.

12. Force Majeure

A party is not liable for failure to perform its obligations under this Contract to the extent and for so long as its performance is prevented or delayed because of a Force Majeure Event. A party seeking to rely on a Force Majeure Event must immediately give written notice to the other party of the occurrence and details of the Force Majeure Event including its likely duration and do everything reasonably practicable to recommence performing its obligations under this Contract as soon as possible. For the purposes of this clause 7, Force Majeure Event means acts of God; war, riots, civil disturbances, strikes, orders, decisions or measures of governmental authorities of whatever nature or denomination; power failure or breakdown of machinery; or any other event which is unpredictable, insurmountable, and outside the control of the parties hereto.

13. GST

13.1 If any GST Supply made under or in connection with this Contract is a Taxable Supply then the GST Recipient of that GST Supply shall pay the GST in respect of that GST Supply to the GST Contractor within 14 days of receiving a Tax Invoice for that GST Supply, where the GST is calculated in accordance with the GST Law and on the basis that the consideration otherwise payable under this Contract is the Value of the Taxable Supply.

13.2 If a payment to a Party under this Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that Party, then the payment will be reduced by the amount of any Input Tax Credit to which that Party is entitled for that loss, cost or expense.

13.3 In this clause 13:

- (a) GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the related imposition Acts of the Commonwealth;
- (b) GST, GST Law, Input Tax Credit, Taxable Supply, Tax Invoice and Value have the same meaning as in the GST Act;
- (c) GST Recipient means the Party that receives a GST Supply;
- (d) GST Contractor means the Party that makes a GST Supply; and
- (e) GST Supply means a supply (as defined in the GST Act) that is made under this Agreement.

14. Miscellaneous

14.1 This Contract is governed by and construed in accordance with the laws of Queensland. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this Contract.

14.2 Supplier's general terms and conditions contained herein shall prevail and take precedence over any conflicting terms and conditions contained in any Customer request for quotation, purchase order, service order or other documentation or printed form of Customer, notwithstanding any language in Customer's forms to the contrary. Despite any prior arrangements written or oral, this Contract constitutes an exclusive statement of the agreement between Supplier and Customer with respect to the rental of the Goods.

14.3 A party's waiver of a right under or relating to this Contract, whether prospectively or retrospectively, is not effective unless it is in writing and signed by that party. No other act, omission or delay by a party will constitute a waiver of a right. A single or partial exercise or waiver by a party of any right under or relating to this Contract will not prevent any other exercise of that right or the exercise of any other right.

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- 14.4 The rights and remedies under this Contract are cumulative and not exclusive of any rights or remedies provided by law.
- 14.5 If anything in this Contract is or is determined to be unenforceable, illegal, voidable or void in a jurisdiction then it is severed for that jurisdiction and the rest of this Contract remains in full force and effect in all other jurisdictions. This clause has no effect if the deletion of the provision or provisions would substantially alter the intentions of the parties or the commercial nature of this Contract.
- 14.6 Time is of the essence in this Contract.
- 14.7 No variation of this Contract is effective unless such variation is executed by the parties in writing.
- 14.8 Supplier shall perform this Contract as an independent contractor. This Contract does not constitute an association, corporation, or partnership between the parties, or constitute one party as the agent of any other party.
- 14.9 This Contract may be executed in any number of counterparts each of which will be considered an original but all of which will constitute one and the same instrument. A party who has executed a counterpart of this Contract may deliver it to, or exchange it with, another party by emailing a PDF (portable document format) copy of the executed counterpart to that other party.

15. Definitions and interpretation

- 15.1 In this Contract:

Claim includes any action, claim, claim for compensation, claim for abatement of any obligation (monetary or otherwise), claim for any cost, damage, expense, injury, liability and/or loss, counter-claim, demand, proceeding, remedy, right, right of action, set-off and suit and includes any damage suffered, incurred and/or sustained in connection with any one or more of any of them.

Contract means the Quotation, these terms and conditions and any attachments to these terms and conditions.

Customer means the party specified in the Quotation.

Depot means the nominated base where the Goods are stored, as outlined in the Quotation.

Goods means the goods set out in the Quotation.

Intellectual Property Rights means all intellectual and industrial property rights and interests in Australia and throughout the world, whether registered or unregistered and whether created before on or after the commencement of the Rental Period, including trademarks, designs, patents, inventions, circuit layouts, copyright and analogous rights, confidential information, know-how, trade secrets and all other intellectual property rights set out in Article 2 of the convention establishing the World Intellectual Property Organisation of 14 July 1967.

Liabilities means any and all liabilities, losses, debts or obligations, whether actual or contingent, present or future, qualified or unqualified or incurred jointly or severally with any other person.

Operations Manual means the manual for installation and operation supplied to the Customer by the Supplier.

PPSA means *Personal Property Securities Act 2009* (Cth).

Quotation means the quotation issued by the Supplier for the rental of Goods as described therein and to which these terms and conditions are attached.

Rental means the total price of renting the Goods, as set out in the Quotation.

Rental Period means the period of time that the Goods are rented by Supplier to Customer, as outlined in the Quotation and defined by clause 2.2 of these terms and conditions.

Replacement Charge means a sum of seven hundred, fifteen thousand and four hundred dollars (AUD\$715,400) per Good.

SDI means Specialized Desanders Inc.

SDI Supply Agreement means the agreement between SDI and Supplier titled "Desander Supply Agreement".

Security Interest has the meaning given in the PPSA.

Site means the wellsite, the well and all supporting infrastructure to the well and includes all personnel and equipment engaged at the wellsite.

Supplier means Steelhead Desanders Pty Ltd ACN 602 555 939.

- 15.2 Unless the contrary intention appears, a reference in this Contract to:

- (a) any statute, ordinance, code or other law includes regulations and other instruments under any of them and consolidations, amendments, re-enactments or replacements of any of them;
- (b) money is to Australian dollars, unless otherwise stated;
- (c) singular includes the plural and plural includes the singular;
- (d) a party includes the party's executors, administrators, successors, substitutes and permitted assigns; and

- 15.3 The words include, including, such as, for example and similar expressions are not to be construed as words of limitation.

- 15.4 A provision of this Contract must not be construed to the disadvantage of a party merely because that party or its advisers were responsible for the preparation of the Contract or the inclusion of the provision in the Contract.

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16. EXECUTION

Executed as an Agreement.

Executed by the **Company** in the presence of :

.....
Witness signature Signature

.....
Witness name Name
(*please print*)

.....
Title (*please print*)
Date: / /

Executed by **XXXXX XXXXX**
in the presence of:

.....
Witness signature Signature

.....
Witness name Name (*please print*)
(*please print*)

.....
Title (*please print*)
Date: / /

16.1