

CUSTOMER APPLICATION FORM – Setpoint Air & Mech Pty Ltd

Invoices are Payable 30 days from the date of Invoice

CUSTOMER DETAILS

Note Entity Type: Company, Partnership, Sole Trader, Trust, or Other

Legal Entity Name:

ACN:

Trading Name:

ABN:

Trading Address:

Postal Address:

Telephone:

Website:

Main Email Address:

PURCHASING OFFICER / CONTRACT ADMINISTRATOR (Authorised person)

Name:

Phone:

Email address:

Mobile:

Will you issue a Purchase Order that will be required to be shown on our invoice (state yes or no)

ACCOUNTS PAYABLE OFFICER

Name:

Phone:

Email address:

Mobile:

Claim Date of the Month you require invoices to be submitted by

ACCOUNT INFORMATION:

Date of Commencement of Business

Principal Business Activity

Business Segment or Industry:

Type of Services Generally Required:

- ☐ New & Replacement Installations
 ☐ Periodic Servicing of Equipment
 ☐ Equipment Maintenance
 ☐ Compliance Inspections
 ☐ Other _____

TRADE REFERENCES:

1) Business Name:

Phone:

Contact Name:

Email:

2) Business Name:

Phone:

Contact Name:

Email:

3) Business Name:

Phone:

Contact Name:

Email:

DIRECTORS / PARTNERS DETAILS

Customer - Entity Legal Name:	
Full Name:	
Address:	
Mobile Number:	
Email Address:	
Full Name:	
Address:	
Mobile Number:	
Email Address:	

The agreement between the Customer, it's Owners and Directors as listed above, and Setpoint Air & Mech Pty Ltd, herein referred to as SPA, consist of the below terms and conditions and any others as noted on Quotations issued. Together, these documents supersede any prior agreements, understandings or arrangements. The Customer's details will appear on the Quotation.

- This Agreement is governed by the law of Victoria and the parties submit to the jurisdiction of the Courts of Victoria and any courts taking appeal from them.
- The agreement between SPA and the Customer commences on;
 - if SPA submitted a quotation to the Customer then on the day the Customer signs the quotation as agreement for the Services to be provided by SPA; or
 - if SPA is asked to commence to provide Services to the Customer pursuant to a verbal or written instructions or pursuant to the Customer receiving from SPA its standard or hourly rates and or specific quotation for work to be performed and the Customer signs a purchase order then on the date the purchase order is signed by the Customer.

The agreement between the Customer and SPA continues in operation until the specific task set out in the Quotation is completed or the agreement is terminated in accordance with the provisions herein.
- If SPA is engaged on a retainer or to perform ongoing work then unless the Customer expressly terminates this Agreement, the Agreement will continue in operation until it is terminated and SPA shall be entitled to continue to charge the fees quoted until termination.
- If this Agreement is task specific, completion of the task is when SPA provides notice to the Customer that the contracted work is completed and the Customer receives control over the deliverables, inspect the work and does not raise any material defects with the Services. The Customer has 3 business days being Monday to Friday 8am – 5pm to inspect the work performed by SPA and raise any defects. If the Customer failed to inspect the work, the work is deemed completed without defects and all outstanding fees are due and payable to SPA immediately.
- If the Customer raises defects, the Customer shall provide details to SPA and the parties shall meet in good faith to negotiate a timetable for completion of any remedial work by SPA.
- On completion of the remedial work by SPA, SPA shall provide notice to the Customer and the Customer must inspect the work within 3 business days of the notice and provide secondary inspection report to SPA with any residual issues to remedy. If the Customer failed to inspect the work, the work is deemed completed without defects and all outstanding fees are due and payable to SPA immediately.
- The remedial process shall be repeated until all material defects are remedied.
- If the Customer engages SPA for multiple services, this Agreement will apply jointly and severally to each service component and will continue to apply until the Agreement is terminated or all the tasks are completed. If the Customer continues to provide instructions verbally, continuing to provide purchase orders or instructions in writing to SPA approving work to be performed by SPA, the Customer irrevocably agrees to pay SPA for its services notwithstanding that the Customer may have terminated this Agreement previously or the Agreement has expired.
- SPA warrants that it will provide the Services as stipulated in the Quotation using reasonable care and skill to conform in all material respects with the specification as provided by the Customer. SPA shall use reasonable endeavors to meet any performance dates specified in the Quotation and agreed with the Customer but any such dates shall be estimates only and time shall not be of the essence for the provision of the Services. SPA shall not be liable for any delay in delivery of the Services caused by an event that is not under the direct or indirect control of SPA or the Customer's failure to provide SPA with adequate delivery instructions, access or any other instructions relevant to the supply of the Services. SPA shall have absolute discretion in determining the construction means, technique, methodologies and procedures used to deliver the Services to the Customer.
- The Customer must ensure that the site where work is to be performed must be safe and secure and available for SPA to provide the Services. SPA shall be entitled to decline to commence the provision of the Services, if in SPA reasonable view, the site is inadequate, unsafe or in any way not ready for SPA to provide the Services. SPA shall provide notice to the Customer of the site condition and the Customer must attend to all issues raised by SPA and provide SPA with notice when all out- standing issues have been remedied. SPA has a right to recover any additional costs it incurs as a result of unsafe, insecure or not-able-to access situations. SPA shall not be liable for any delays as a result of the site not being ready for SPA to deliver the Services. If the conditions of the site requires a variation to the Quotation because SPA cannot proceed with the Services as originally offered, SPA will provided an amended Quotation to the Customer and on approval, SPA shall commence delivering the Services.
- SPA undertakes to use the materials it quoted for in the Quotation and in accordance with the specifications as provided by the Customer, however, if SPA considers it reasonable to use comparable materials of not less quality and in compliance with Australian Standards then SPA shall be considered to have complied with the Agreement notwithstanding the deviation from the Quotation.
- SPA had submitted a Quotation to the Customer. The Quotation includes a detailed description of the Services, SPA standard rate and other charges applicable to the Services. The Customer must accept the Quotation for the Services to be provided. Once the Customer accepts the Quotation, its pricing is fixed and cannot be varied unless agreed by the parties in writing or verbally. If SPA commences work pursuant to a purchase order, these terms and conditions will apply to the work provided under the purchase order.
- If the Customer requires any changes to the Quotation, the Customer must submit to SPA a variation request. The variation request must provide details of the changes required and any technical specifications as relevant.

14. SPA must consider the variation request and provide the Customer with details on any variations to the Quotation and the fees charged for the Services. If the parties agree on the variation, SPA must issue the Customer with an amended Quotation for the Customer's approval and on acceptance in writing or verbally of the amended Quotation, SPA must commence providing the Services in accordance with the amended Quotation. If SPA requires a variation, SPA shall advise the Customer of the need for variations and the parties shall meet in good faith to discuss the cause of the variations and the changes required to the Quotation and to any fees charged pursuant to the Quotation.
15. The Quotation may provide a tiered payment. The Customer must pay for the Services in compliance with the tiered payment arrangement as set out in the Quotation plus any applicable Goods and Services Tax. SPA will provide the Customer with notice at the completion of each stage of the Services that entitles SPA to be paid a progressive payment and advise the Customer that payment is due and payable. The Customer is not entitled to withhold any payment except the last payment pending completion of the Services and rectification of any defects identified by the Customer.
16. If the Customer fails to pay any progressive payment as set out in the Quotation, the Customer is in breach of this Agreement and SPA shall be entitled to cease providing the Services. Failure to pay on time entitles SPA to charge interest as set out in the Penalty Interest Rate Act 1983 (VIC) until the funds are paid in full.
17. On the final payment, SPA shall provide the Customer with a test report. SPA shall be entitled to withhold goods and test reports until all payments under the Quotation have been made in full.
18. SPA must issue the Customer with a tax invoice as prescribed under relevant tax laws and must provide details of any Goods and Services Tax to be charged.
19. Unless SPA is in breach of this Agreement and SPA failed to remedy the breach within 30 business days of any notification of the breach, the Customer cannot terminate this Agreement.
20. If the Customer is in breach of this Agreement (payment breach or otherwise), SPA shall provide the Customer with notice and require rectification of the breach within 10 business days. If the Customer fails to remedy the breach, SPA is entitled to terminate this Agreement. If SPA terminates this Agreement due to the Customer's breach, SPA shall be entitled to the full payment of the fees as set out in the Quotation as compensation for the Customer's breach of the Agreement. The Customer acknowledges that the termination fee is a fair and reasonable pre-estimate of the loss that SPA may suffer as a result of an early termination of this Agreement and is not a penalty.
21. If the Customer is a body corporate, the person signing on behalf of the Customer whether a director, secretary or delegate with the requisite authority personally guarantees the payment of the SPA charges in the event the Customer fails to pay. SPA may recover the outstanding SPA charges from the Customer or from the Customer's representative as it deems appropriate.
22. If the Services cannot be delivered or SPA breached this Agreement and failed to remedy the breach within 30 business days (being Monday to Friday 7am to 6pm excluding public holidays), the Customer may terminate this Agreement forthwith. Other as stated herein the fixed term Agreement cannot be terminated early.
23. SPA has the right to subcontract the Services to a third party provided that at all times SPA is liable and responsible for the performance of the third party contractor.
24. Except as expressly stated in this Agreement, SPA shall have no liability to the Customer for any loss or damage whatsoever arising from or in connection with the provision of the Services or for any claim made against the Customer by any third party.
25. If liability is imposed on SPA, the maximum liability that can be imposed is to resupply the Services or the materials relating to the Services to the total value being the lesser of \$12,500 (twelve thousand five hundred dollars) or 25% of the specified service quoted in the Quotation.
26. SPA shall not be liable for any indirect, consequential and or economic loss suffered by the Customer as result of anything done by SPA or omitted to be done by SPA under this Agreement.
27. The Customer indemnifies SPA against all losses, cost and expenses incurred by SPA as a result of providing the Services to the Customer.
28. Each of the parties shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the party by the other party, its employees, agents or subcontractors in relation to the Services. A party in possession of confidential information shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know for the purpose of delivering the Services. For the purpose of this Agreement, all information disclosed by one party to the other in relation to its business operation, the Services, strategy and planning and this Agreement shall be considered confidential. Confidential information shall remain confidential for 5 years after the term of this Agreement. All reports given to Customers by SPA are considered confidential, may only be used for the purpose provided and may not be shared with other parties without the agreement of SPA.
29. This Agreement cannot be amended unless agreed by the parties. SPA may amend the terms of supply of the Services if required by law. This Agreement cannot be assigned by a party to a third party unless agreed by the other party to this Agreement.
30. SPA is free to provide services similar to the Services to any business in the market.
31. Failure to enforce a right under this Agreement shall not be considered a waiver and shall not restrict a party from enforcing its rights at a later date.
32. Unless expressly stated in this Agreement, SPA is engaged as an independent contractor and nothing in this Agreement shall be interpreted to imply a relationship of partnership or employer employee or principal and agent.
33. To the extent required by law or as expected of a prudent business similar to SPA, SPA will hold, for the duration of the engagement with the Customer, such insurance as is reasonable and commercially expected including professional indemnity and public liability.
34. If a notice or communication is required under this Agreement, the notice or communication can be delivered electronically to the email address provided above and if it is a notice in relation to performance, breach or termination of this Agreement it must be followed by a hardcopy communication to the address of the parties stated in the Service Order Form. Email communication during business hours of 7am-6pm Monday to Friday excluding public holidays are deemed received on the day and hard copy communication by post are deemed received 4 business days after dispatch.

EXECUTION:

As an authorised representative of the customer/client I have completed truly and in full the above, I have read and understood the above.

Name:		Signature:	
Position:		Date:	
Name:		Signature:	
Position:		Date:	

Witnessed Signing in the Presence of:

Name of Witness:		Signature:	
Address:		Date:	