



CONTENT DESCRIPTION

The "**Terms of Hire**" (TOH) document attached to this file serves as the primary agreement between Spades Labour Hire Pty Ltd ("*Spades*") and you, the "*Client*". This document outlines all payment and hire conditions for using Spades' services.

By signing the "**Hire Contract**" and/or using Spades' services, the Client agrees to the rates described in the *Hire Contract* and the terms and conditions outlined in this TOH and is bound by its provisions. Any verbal or written declarations that conflict with this TOH will be considered invalid.

This agreement is valid for all services hired from Spades.

Payment Instructions

- Indicative GST exclusive rates are set out in the Hire Contract.
- Payment Due Dates are set out as per the Hire Contract.
- When calculating non-standard and shift rates each day's work will stand alone.
- Minimum hire and cancellations are set out as per the Hire Contract.

Method of Payment

Payment is to be made by directly depositing funds into the following bank account:

Commonwealth Bank

Account Number: 062-124 **BSB:** 1139-1311

Agreement Duration

Start Date: The start date of this agreement is determined by the worker's initial deployment with the client.

***End Date:** _____.

**If the client wishes to include an end date in this agreement, they must notify Spades Labour Hire in writing so that it can be included in the contract.*

This agreement shall remain in effect for the entire duration of the worker's deployment with the client, including beyond the specified 'end date', if applicable.

SUPPLIER INFO

Supplier Company Name: Spades Labour Hire PTY. LTD.

A.B.N: 68.611.743.661



CONTACT

Office Address: Level 2, 65-71 Belmore Road,
Randwick, 2031 NSW



Email Address: Admin@spadeslabour.com



GENERAL TERMS AND CONDITIONS

- 1. Hire Agreement** Spades Labour Hire Pty Ltd (ABN: 686.117.436.61) agrees to provide to the Client identified in the above Schedule titled "Terms and Conditions of Hire" ("the Client") temporary contract workers ("*Workers*", "*Personnel*" or "*Labour-Hire Staff*") when required by the Client, in accordance with the terms and conditions contained in the "*Terms of Hire (TOH)*" Agreement (this document) and as per payment terms and rates established in the "*Hire Contract*" Agreement.
- 1.1** The Client is deemed to have accepted this Agreement when either:
- a) The Client signs this Agreement; or
 - b) Spades sends to the Client a written Confirmation of Labour Hire and Work Order, dispatches requested personnel to the Client and the Client begins assigning work tasks to such personnel.
- 1.2** The Client will notify Spades of any errors or omissions in the "*Hire Contract*" or "*Terms of Hire (TOH)*" (This document) within two (2) business day of receiving it (in respect of which time is of the essence). Failing such notification, the "*Hire Contract*" is deemed accurate and agreed upon.
- 1.3** Spades reserves the right to withhold dispatch of personnel to the Client until the "*Hire Contract*" is signed and returned if deemed necessary.
- 1.4** The Client acknowledges that the Indicative "*Terms & Rates 2023*" PDF file, as well as the rates displayed on the link <https://www.spadeslabourhire.com.au/tnr2023>, are an example only. The rates applicable to all categories of personnel will be negotiated and agreed upon by the parties for each worker type are specified in the "*Hire Contract*" file.
- 1.5** Each provision of temporary contract workers by Spades to the Client constitutes a separate and distinct engagement. Each engagement is not to be regarded as continuous with any previous engagement Spades has performed for the Client.

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2. Spades' Obligations to the Client

Spades will use its best administrative practices to:

- 2.1 Provide suitably qualified and experienced personnel for assignment as per the Client request. Further, Spades will not be liable for any losses or costs incurred by the Client where Spades has been unable to fulfil an assignment request.
- 2.2 As a labour hire company, Spades Labour Hire Pty Ltd will make every effort to promptly respond to and confirm any Work Orders received from the Client within a reasonable time frame, typically between 2 pm and 7 pm on the same day the order was received. However, we cannot guarantee the availability of a suitable candidate for the designated location or time frame, and the Client will not hold us liable for any losses incurred in such cases.
- 2.3 Spades will make all payments to workers for assignments completed.
- 2.4 Spades will make payments of superannuation contributions to employees and contractors when required by legislation to do so.
- 2.5 Spades will make payments of income related taxes with respect to workers' payments as and when required by legislation.
- 2.6 Spades shall provide its staff with the following Personal Protective Equipment (PPE)
 - Standard: hardhat, high visibility shirt, steel cap boots, and gloves.
 - Extended (if required by the client): safety glasses, ear protection, sunscreen, and work pants.
- 2.7 Spades Labour-Hire Staff is being covered by the following insurance policies.
 - (I) public liability;
 - (II) workers' compensation under applicable legislation in the relevant jurisdiction;

3. The Client's Obligations

The Client will:

- 3.1 Provide Spades with full and accurate information about the job requirements relevant to the assignment sufficient to enable Spades to complete and send to the Client a written Confirmation of Labour Hire and Work Order;

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- 3.2** Agree to submit Work Orders through SMS or email, or by completing the form available at <https://www.spadeslabourhire.com.au/order-workers>. Spades reserves the right to request additional information from the Client to fulfill the Work Order.
- 3.3** Agree with the *Schedule of Rates, Allowances, Minimum Hire, Cancellations, Overtime Rates* policies as outlined in the "Hire Contract" document.
- 3.4** Not assign tasks or responsibilities to Spades' workers or require them to perform or participate in work that is not in accordance with the agreed upon Work Order. If the Client wishes to make modifications to the tasks assigned to Spades' workers, such modifications must be made in writing and must be signed by both the Client and an authorised representative of Spades.;
- 3.4.1** Not request Spades workers to perform or participate in any work or use any equipment with which they are unfamiliar or in respect of the use of which they are unqualified or have not received adequate training;
- 3.4.2** Supervise, instruct and direct Spades Labour Hire Staff properly at all times whilst they are on assignment to your organisation;
- 3.4.3** Comply with your regulatory obligations to Spades' workers pursuant to all relevant laws, including laws relating to workplace health and safety, discrimination and harassment;
- 3.5** Provide to the Spades worker all necessary OH&S safety induction, instruction, training and supervision to ensure the worker is able to perform their work in a safe manner that minimises the risk to their health and safety. For any time spent by a Spades worker undertaking any training or induction associated with their assignment must be included within the timesheet.
- 3.6** Spades does not provide any tools or Personal Protective Equipment (PPE) that are not specifically listed in the item **2.6** of this contract. It is the client's responsibility to inform Spades of the required set of PPE (standard or extended) and to provide to the Spades worker any other necessary PPE to perform a job task in a safe manner at all times.
- 3.7** Agree not to directly or indirectly hire or engage any of Spades' workers within the first five hundred (500) worked hours of their assignment to the Client's business. If, after the five hundred (500) worked hours, the Client wishes to hire one of our workers directly, they must inform Spades in writing and agree to engage the worker for an additional five

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hundred (500) worked hours under this agreement. After this period, the Client may hire the worker directly without incurring any additional charges.

3.7.1 Should the Client wish to hire one of our workers immediately after the initial five hundred (500) worked hours, Spades reserves the right to charge a placement fee equivalent a hundred and fifty (150) worked hours at the rate agreed upon in the *"Hire Contract"*. If the Client hires or engages one of our workers without informing Spades, we reserve the right to charge a placement fee equivalent to five hundred (500) worked hours at the rate agreed upon in the *"Hire Contract"* Document.

3.7.2 Spades will release a worker to the client only upon the worker's agreement.

3.7.3 Spades retains the right to refuse the release of a specific worker to the client, at its sole discretion, for any reason.

3.8 Not on-hire or resupply Spades workers to any other person or organisation without Spades consent;

3.9 Inform Spades workers and Spades Office promptly of any unusual workplace risk or practice or of any change in site or safety conditions that may present additional hazards to those working on the site;

3.10 The Client is responsible for ensuring that a toilet, toilet paper, and running water are readily available at the work site as a minimum standard of hygiene for our workers. In the event that these facilities are not present, the Client must make every reasonable effort to provide access to these facilities for our workers as needed.

3.11 Comply with any reasonable requests made by Spades in order to ensure the health and safety of our labour hire staff at the workplace. This includes taking prompt action to rectify any deficiencies in providing a safe work environment or safe systems of work that may pose a threat to the safety of our labor-hire staff or any other person present at the worksite. These actions must be taken in a timely manner and in accordance with our reasonable expectations.

3.12 Without limiting the generality of the previous sub-clause, comply and fully cooperate with Spades reasonable requests aimed at compliance with Spades' and/or your obligations under the *Work Health and Safety Act 2011*;

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- 3.13** Notify us immediately of any event that may give rise to a claim under any insurance policy, statutory indemnity or self-insurance arrangement that relates to our workers whether such policy, indemnity or arrangement is held or established by you or by us;
- 3.14** Report to us any performance issues in relation to our workers in a written format, so that we can manage the feedback process with our workers;
- 3.15** Forward to us promptly a written notification of any workplace incident that may give rise to a claim by, against or involving our workers;
- 3.16** Comply with all legal requirements related to the engagement of our workers, including any obligations to take or refrain from taking actions, or to make or pay any payments, deductions, premiums, levies, allowances, compensation, damages, interest, or costs in relation to our workers or the work they perform while on working with you.;
- 3.17** Maintain the confidentiality and privacy of information we provide to you about our workers, whether written or verbal, including the fact that they may be looking for work;
- 3.18** Compensate us for any work related or statutory charges, levies and taxes for which we may become liable in respect of performing our obligations under these conditions of assignment by reason of such statutory charges, levies or taxes being introduced after the acceptance of the offer to supply services;
- 3.19** Assist where practicable with the rehabilitation of our workers by way of providing such workers, through us, with suitable work (including light duties) once the workers are able to return to work, if one of our workers suffers an injury that is compensable under any law relating to workers' compensation or workplace health and safety;
- 3.20** Sign Spades worker's timesheets on a daily basis and report workers' times in cases in which the workers failed to collect signatures.
- 3.21** The client is solely responsible for providing all necessary tools and equipment required for the completion of the job.

4. Application and Termination

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- 4.1** These conditions of assignment become effective when you either:
- a)** Sign and return this Agreement; or
 - b)** Spades sends you a written confirmation of labour hire and dispatches requested personnel to you.
- 4.2** These conditions of the assignment will remain in force for all future assignments until our agreement has been validly terminated (excepting that some clauses may survive the termination of this agreement, where indicated).
- 4.3** This Agreement may be terminated at any time by either party for any material breach of the terms outlined in the Terms of Hire Agreement, without incurring any penalty. However, termination of this Agreement shall not relieve either party from their obligation to make any pending payments.
- 4.4** If the parties agree to set specific start and end dates for the contract, such dates will be clearly stated at the top of this Agreement on its designed field. The Agreement shall remain in effect until terminated by either party, modified by mutual consent, and at all times while a worker is deployed with the client.

5. Our Charges

- 5.1** Spades charges will be based upon the number of hours that our workers present for work on assignment (including any time when they may be prevented from carrying out work due to delayed start or other factors beyond their control). The Client is directed not to discuss the charges with third parties, including any of Spades' other Clients and workers.
- 5.2** Workers will collect timesheet signatures daily. However, in the case of a missing signature, at the end of each week, you must confirm the accuracy of the weekly timesheets filled out by our workers and submit them to us promptly. Our invoicing week runs from Monday each week to the following Friday. Spades may, at its option, require the Client to submit the timesheet only in instances that require Spades' approval via email or SMS.
- 5.3** The hourly rates that we will charge you will be set out in the "Hire Contract" document, signed by you when opening an account with us. The rates in the

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"Hire Contract" document are exclusive of GST. GST will be added to all invoices as required by law.

- 5.4** All travel and other expenses reasonably incurred by Spades to the rendering of services to the Client.
- 5.5** A Travel Allowance fee is charged on a per worked, per day basis as described in the "Hire Contract". If this fee is waived a confirmation email should be sent and agreed upon. If any other travel expenses are paid in the first instance by Spades, the Client shall reimburse it upon presentation of proof of travel.
- 5.6** Spades will additionally charge for all the time if the worker leaves the Sydney Metro Area. This time shall be considered as travelling time and be charged as worked hours. The border of the Sydney Metro Area for the purpose of this Hire Contract means as listed below:
North border - Hornsby
West border- Springwood / Kurrajong
South Border - Heathcoat / Campbelltown
- 5.7** The Client shall pay an Overnight Allowance for any overnight stays required by Spades' worker(s) outside of the Sydney Metro Area in relation to work for the Client, as outlined in the "Hire Contract." The rate for this allowance is specified in the "Hire Contract" file.
- 5.8** The Client will not pay any of Spades' workers directly for work they perform, expenses they may incur or allowance to which they may be entitled in respect of their assignment.
- 5.9** Should the client request or authorize the use of Spades' own materials or buy tools in the execution of a job, the client acknowledges and agrees that Spades will charge for such materials/tools. The cost will be determined on a per job basis and will be included in the client's invoice.

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- 6. Invoices**
- 6.1** Spades will invoice you by email upon confirmation of timesheets in accordance with clause 5, as stipulated above.
 - 6.2** Spades will create and submit invoices containing the workers name, role title and worked hours, within seven (7) days. Submission of an invoice is a representation by Spades that it is true and complete. The accepted amount will be paid by the Client within due date stipulated on the invoice. A proper invoice will contain the billing details required and all supporting documentation necessary to facilitate payment.
 - 6.3** You will pay our invoices no later than the due date.
Due dates terms are set in accordance with the Hire Contract.
 - 6.4** The Client will be required to pay the invoice within the due date specified on the invoice. If payment is not received by the due date, the interest rate of 50% year will be applied, calculated from the due date.
 - 6.5** Occasionally over or underpayments may occur due to administrative problems or errors in interpreting timesheets or through the application of incorrect details regarding the terms and conditions for particular assignments. Such errors will be rectified through a positive or negative adjustment as appropriate, usually in the next scheduled billing. Spades reserve the right to reclaim any amounts underbilled in error to the Client.

7. Relationships

- 7.1** You acknowledge that we are not performing the services set out in the Work Order; but are instead the supplier of our workers, at your request, to perform the work that you have described in the Work Order

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- 7.2** Whilst they are on an assignment to you, workers who are our employees, will be under your day-to-day control, and you will be responsible for their supervision and direction in a manner consistent with our obligations to them.
- 7.3** Spades reserves all other rights to control the employment relationship of our workers who are our employees, including the right to terminate the employment relationship for any reason that we think fit.
- 7.4** Disrespect or bullying towards Spades' workers or office staff, whether in person, via email, or over the phone, will not be tolerated under any circumstances. If a worker experiences bullying or disrespectful behavior while assignment, the worker has the right to leave the site immediately. In such an event, the client will be charged for the full worked day at the rate defined on the Hire Contract.
- 7.5** If you are not satisfied with one of our workers, but do not want our worker replaced, you may speak to our work in order to give any reasonable instruction, provided that you contact us as soon as is practicable to discuss the matter. If you are not satisfied with one of our workers and want a replacement, you will:
- (a)** speak to us directly about the replacement of our worker;
 - (b)** not communicate anything to our worker indicating that their labour-hire assignment will be cancelled.

8. Exclusion and Indemnities

- 8.1** Our workers may be replaced if their ability to function effectively and safely is limited, in which case we may replace them with another worker.
- 8.2** Our workers may refuse work if it reasonably appears that the working environment is or has become unsafe for any reason, including but not limited to your:
- (a)** not having established safe work procedures;
 - (b)** not complying with safety standards;

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(c) not maintaining plant and equipment;

(d) not complying with any relevant health or safety legislation or regulations or other obligation which under these terms and conditions is for the protection of health and safety;

(e) not providing a sufficiently safe environment under the worker's judgement.

8.3 Because our workers work under your control, supervision and direction:

(a) **NO REPRESENTATIONS:** We make no representation or guarantee that they will achieve certain levels of performance, achieve certain outcomes, solve particular problems, or attain specific goals;

(b) **REDUCED LIABILITY & INDEMNITY:** To the maximum extent permitted by law we will not be liable to you for, and you will hold us harmless against any liability for, damage, loss or injury of whatsoever nature or kind, however caused whether directly or indirectly and whether by our negligence or that of one of our workers (including their servants or agents) whilst they are working under your control, supervision or direction. This sub-clause does not reduce our liability, directly incurred, to the extent to which it may have contributed to any such damage, loss or injury; and

(c) **IMPLIED TERMS:** Our liability for any breach of a term implied in this agreement by any Act of Parliament will be limited, at our option, to providing, or paying the costs of providing, the services again.

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9. General Matters

- 9.1 VARIATION:** Any variation to this Agreement, these conditions of assignment, or to Work Order must be agreed to by the parties, except insofar as the conditions of this agreement expressly permit one party to vary the conditions of assignment or an Work Order unilaterally.
- 9.2 WAIVER:** If we do not take action to enforce or require strict or prompt compliance with our obligations under this agreement, or under the conditions of assignment, this will not affect or in any way limit our rights to exercise remedies we have in respect of such breaches.
- 9.3 JURISDICTION:** This agreement, and these conditions of assignment, are governed by and will take effect in accordance with the laws in force in the State of New South Wales.
- 9.4 ENTIRE AGREEMENT:**
- (a) These terms and conditions represent the entire agreement between you and us in relation to its subject matter.
 - (b) By accepting these terms and conditions you acknowledge that neither we nor anyone acting on our behalf have or has made any warranties or representations to you in relation to the matters covered by our agreement which are not fully set out in these terms and conditions and that before entering into this Agreement you have read these terms and conditions together with the Schedule and have understood them.
- 9.5 DISPUTE RESOLUTION:**
- (a) Should a dispute arise related to this Agreement, including its validity, infringement, or termination, the parties will attempt to resolve it using informal means such as negotiation, mediation, independent assessment, or other alternative dispute resolution techniques.
 - (b) The client acknowledges that if a dispute arises and they cease to respond to resolution attempts, after sufficient attempts to reach them via email and phone, Spades will have the right to pursue legal action in court.

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- (c) The client acknowledges that Spades does not utilize lawyers or debt collectors to issue demand notices, and that notice emails from Spades should be considered as valid and binding as a demand from a solicitor.

9.6 NOTICES:

- (a) a notice or other communication required or permitted to be given by one party to another shall be in writing and:

- (i) delivered;
- (ii) sent by post, postage prepaid; or,
- (iii) sent by email.

- (b) a notice or other communication is sufficiently given if:

- (i) delivered, upon delivery;
- (ii) mailed, on actual delivery to that address as evidenced by the relevant postal service's documentation; or,
- (iii) sent by email, as specified by section 14A of the *Electronic Transactions Act 1999* (Commonwealth)

- 9.7 NO EMPLOYER-EMPLOYEE RELATIONSHIP:** Notwithstanding any language in this TOH to the contrary, the Parties intend that their relationship will be set forth in this Agreement. Neither Party, nor any agent or officer thereof shall be considered an employee of the other Party.

- 9.8 SEVERABILITY:** Any part, provision representation or warranty in this TOH which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof.

- 9.9 CONFIDENTIALITY.** Both parties agree to take all reasonable measures to keep in confidence the execution, terms and conditions of this TOH and the confidential data and information of any party that another party may know or access during the performance of this engagement (hereinafter referred to as "Confidential Information"). Further, no party shall disclose, make

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available or assign such Confidential Information to any third party without the prior written consent of the other party and can in exceptional cases disclose, make available, or assign such Confidential Information to the extent that disclosure is required or compelled by law.

10. Definitions

- 10.1** *Assignment* means the labour-hire placement of one or more of our workers to perform work at your premises, project site or anywhere else specified by you and approved by us.
- 10.2** *Work Order* means a description of the work to be performed as set out or recorded by Spades in a document that specifies:
1. the services to be provided by each of our workers;
 2. the job title of each of our workers;
 3. the time and date upon which the assignment is to commence;
 4. the time and date upon which the assignment is to terminate (if applicable);
 5. the location(s) where the work is to be performed;
 6. any other material or relevant description of the work to be performed or the arrangements relating to it;
- 10.3** *Conditions of assignment* mean the conditions as set out in this document or as varied from time to time via written authorisation.
- 10.4** *Confirmation of Labour Hire and Work Order* means the document sent by Spades to the Client in accordance with clause 1.
- 10.5** *GST* has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth).
- 10.6** *Related body corporate* has the same meaning as in the Corporations Act 2001 (Commonwealth).
- 10.7** *Relevant jurisdiction* means the Australian state or territory jurisdiction in which work.
- 10.8** Accordance with the Work Order is to be performed.

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- 10.9** *Schedule* means the schedule attached to this agreement, which may be substituted from time to time.
- 10.10** *Tax invoice* has the same meaning as in the GST Act.
- 10.11** This Agreement means the whole of this document including the pages titled "Terms and Conditions of Labour-Hire Assignment", "Directors' Guarantee and Acceptance of Terms and Conditions", "General Terms and Conditions" and the Confirmation of Labour Hire and Work Order.
- 10.12** 'Us', 'our' or 'we' refers to the supplier named in the schedule.
- 10.13** *Worker* means one of our employees or independent contractors (including where the context requires their employee's agents and subcontractors) who is performing work, or who is registered to perform work, through us.
- 10.14** 'You' or 'your' refers to the Client named in the schedule and, where the context indicates, a related body corporate of that Client.

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