



SERVICES AGREEMENT

This Agreement is between ACR Complete Hire Pty Ltd (t/as Advanced Cranes) ACN 621 160 950, otherwise known as Advanced Cranes (“we”, “us”, or “our”) and you (“Customer”).

This Agreement, as amended or replaced from time to time, applies to any Services that we supplied or are to supply to the Customer or End User.

If the Quote or tax invoice refers to the Agreement or the website, then the Agreement on our website shall apply.

If the Customer constitutes more than one person or entity, this Agreement binds each of them jointly and severally.

1. Commercial Details

- 1.1. **Agreement** means this Services Agreement, including the Purchase Order and the Quote.
- 1.2. **Anti-Corruption and Anti-Tax Evasion Laws** means all applicable laws that prohibit corruption, bribery or tax evasion, including (without limitation):
 - a) the *Australian Criminal Code Act 1995* (Cth); and
 - b) any other applicable law relating to anti-corruption, anti-bribery or anti-tax evasion enacted in any applicable jurisdiction (including, without limitation, (i) statute, ordinance, rule or regulation; (ii) order of any court, tribunal or any other judicial body; (iii) rule, regulation, guideline or order of any public body, or any other administrative requirement; and (iv) similar instrument) which has as its objective the prevention of corruption and/or bribery.
- 1.3. **Drafting and Lift Studies** includes (but is not limited to) either of engineering consultation, site inspection, lift plan design and preparation of Safe Working Method Statements.
- 1.4. **End User** means the Customer’s client(s).
- 1.5. **Equipment** means any equipment provided by us to the Customer (or End User) under this Agreement, including any parts, tools and accessories available for hire.
- 1.6. **Fees** means the fees set out in a Quote, and/or any fees for variations or additions to the Services.
- 1.7. **Inclement weather** means the existence of rain or abnormal climatic conditions (whether they be those of hail, snow, cold, high wind, severe dust storm, extreme high temperature or the like or any combination thereof) by virtue of which it is either not reasonable or not safe for us to continue working whilst the same prevail.
- 1.8. **Modern Slavery** means has the same meaning given to that term as it is defined in the *Modern Slavery Act 2018* (Cth), which includes among other things, any activity, practice or conduct that would constitute an offence in relation to slavery, forced labour, involuntary servitude, debt bondage, human trafficking, and other slavery-like exploitation as prohibited under all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time.
- 1.9. **Payment Terms** means the payment terms as set out in Clause 11.1 herein.
- 1.10. **RDO** means a rostered day off as dictated by the CFMEU.
- 1.11. **Services** means the services set out in the Quote or as communicated by us to the Customer.
- 1.12. **Site** means the location where the Customer has requested for the Services to be provided.

- 1.13. **Purchase Order** means a written request for Services by a Customer or an End User.
- 1.14. **Quote** means our quote for the Services provided to the Customer, whether in written form or as communicated to the Customer or End User from time to time.

2. Term and Appointment

- 2.1. The Customer appoints us to provide the Services directly to the Customer or the End User, as the case may be.
- 2.2. We will provide the Services, as set out in our Quote and in accordance with this Agreement.
- 2.3. The terms set out in this Agreement are effective and deemed to be accepted (irrespective of whether this Agreement is signed) by the Customer on the earlier of:
 - a) the Customer’s acceptance of a Quote in writing; or
 - b) the Customer’s instructions to proceed with the Services. (“Commencement Date”).
- 2.4. This Agreement commences on the Commencement Date and continues in perpetuity unless terminated by either party in accordance with this Agreement (“Term”).
- 2.5. This Agreement constitutes a “standing offer” under which, during the Term, we may provide Services under separate Quotes, and each Quote is subject to, and will be governed by this Agreement.
- 2.6. The Customer agrees to provide contact details (phone number and email address) for each individual responsible for handling its accounts.
- 2.7. To the extent of any inconsistencies between this Agreement and a Quote, the terms of this Agreement will prevail.

3. End User

- 3.1. The Customer may submit a Purchase Order on behalf of an End User.
- 3.2. The Customer must ensure that the End User agrees and, to the extent applicable, complies with the terms of this Agreement.
- 3.3. The Customer acknowledges and agrees that where the Customer has ordered Services on behalf of an End User, the Customer remains solely responsible for the End User’s acts and omissions.

4. Quotes and Rate Schedules

- 4.1. Our Quotes will only be valid for a period of thirty (30) days from the date of the Quote.
- 4.2. Our Quotes are subject to the receipt of a Purchase Order, availability of Equipment and Site inspection
- 4.3. All dates and times quoted for completion of the Services are an estimate and shall not be binding.
- 4.4. Any variations to the Quote will give us the right to stop working until we have agreed to the variation in writing with the Customer.
- 4.5. All prices shown on the rates schedule are GST exclusive and apply to our Equipment only.
- 4.6. All hourly rates are applicable to the nearest forward half-hour.
- 4.7. Minimum Hire Periods are stipulated in the Rates Schedule.
- 4.8. Equipment hire charges are from depot to depot unless otherwise specified in writing by us.
- 4.9. Cranes 40T and above must be accompanied by our dogman.

- 4.10. Any Drafting or List Study Work that has not been included in the Quote, will be charged at a rate of \$150.00 (ex GST) per hour during Standard Working Hours and at the price on application thereafter.
- 4.11. Any project supervision that has not been included in the Quote will be charged at a rate of \$175.00(ex GST) per hour during Standard Working Hours and \$255.00 (ex GST) for any hour worked outside the Standard Working Hours (excluding Public Holidays).

5. Working hours

- 5.1. Standard working hours are from 7:00am to 3:30pm, Monday to Friday (“**Standard Working Hours**”) which includes a thirty minute meal break taken between 11:30am to 1:30pm (“**Meal Break**”).
- 5.2. Any hours worked outside the Standard Working Hours or on a Saturday or Sunday will be charged at the standard hourly rate multiplied by 2 (“**Overtime Rate**”).
- 5.3. If the Meal Break is not taken and the crane or riggers continue to operate, we will charge the Customer the Overtime Rate for thirty minutes, being the Meal Break.
- 5.4. Any hours worked on a Public Holiday or an RDO will be charged at the standard hourly rate multiplied by 2.5 for a minimum of eight (8) hours (“**Public Holiday Rate**”).
- 5.5. All mobile cranes and dogmen will charge travel to and from Site at the applicable rate.
- 5.6. Night shift work (being from 6:00pm to 6:00am) (“**Night Shift**”) will be charged at a minimum of eight (8) hours at the Overtime Rate.
- 5.7. Crew members required to work a shift outside of the Standard Working Hours will be afforded a rest day (“**Lay Day**”). A Lay Day will be paid regardless of where the shift falls during the seven day week. We will charge the Customer for a shift rotation of eight (8) hours per person after the Night Shift, to satisfy our crew member’s Lay Day.
- 5.8. Where our crew members work ten (10) hours or more and for every four (4) hours worked thereafter, meal allowances in the sum of \$59.00 are payable to each crew member.
- 5.9. Where a crane remains on Site overnight, we will charge the Customer for our dogmen’s, operator’s and rigger’s travel time along with any applicable penalty rates.
- 5.10. All site allowances will be charged on ‘per person /per hour’ basis as dictated by the CFMEU.
- 5.11. All consumables (including gas/specialized equipment) will be charged out to the Customer.
- 5.12. Crew members requiring overnight accommodation due to the location of the Site will be charged out at a varying rate depending on the location of the Site. A minimum charge of \$360.00 per night applies for each crane and transport crew, where applicable.
- 5.13. If a crew member does not have a ten (10) hour break between shifts prior to the normal 7:00am start the next day, then, the following eight (8) hour shift (despite being worked during Standard Working Hours) will be charged at the Overtime Rate.
- 5.14. The Customer acknowledges that we may charge extras Fees for any visits to Site due to Inclement weather, industrial disputes, or for any other circumstances which are outside of our control.
- 5.15. If crew members are required to work through the Inclement weather, additional charges will apply for a minimum of two (2) hours and until the end of each respective shift.

6. Tonnage Allowances

- 6.1. Tonnage allowances will be on 100t Cranes or more for operators and riggers as an all-purpose on a per hour/per person basis, in accordance with the Table below:

Tonnage	Allowance	O/T Allowance	Tonnage	Allowance	O/T Allowance
100-150	\$2.50	\$5.00	501-550	\$22.50	\$45.00
151-200	\$5.00	\$10.00	551-600	\$25.00	\$50.00
201-250	\$7.50	\$15.00	601-650	\$27.50	\$55.00
251-300	\$10.00	\$20.00	651-700	\$30.00	\$60.00
301-350	\$12.50	\$25.00	701-750	\$32.50	\$65.00
351-400	\$15.00	\$20.00	750-800	\$35.00	\$70.00
401-450	\$17.50	\$25.00	801-850	\$37.50	\$75.00
451-500	\$20.00	\$40.00			

7. Prime Movers and Counterweight Transportation Charges

- 7.1. Prime Mover rates are charged for a minimum of four (4) hours (including travel time).
- 7.2. Prime Mover overtime rates will apply outside of the Standard Working Hours.
- 7.3. Any Equipment transported on tray trucks will incur fees for each way of the delivery in addition to the standard crane and/or equipment hire charges.
- 7.4. Unless otherwise specified in writing by us, Counterweight Transportation Charges are for within 100km from any of our depots. Any Counterweight Transportation Charges beyond 100km will be charged at the price on application plus fuel charges.
- 7.5. Unless otherwise specified in writing by us, prices relating to standard counterweight requirements are based on four (4) hours per truck (including travel time). Any additional trucks will be charged at prime mover rates.
- 7.6. Delays on Site will be charge at prime mover rates.
- 7.7. Drivers undertaking Counterweight Transportation outside of the Standard Working Hours will be charged at the Overtime Rate.
- 7.8. Travel time and applicable penalty rates will be payable for dogmen and riggers during the time of crane assembly and disassembly. These charges will accrue from the time the crew members leave our depot until they return to our depot.

8. Ownership of Equipment

- 8.1. Nothing in this Agreement shall confer on the Customer any right or property or interest in or to the Equipment and the Customer shall be a bailee only.
- 8.2. The Customer agrees and acknowledges that we own the Equipment and we retain title to the Equipment.
- 8.3. The Customer is not entitled to sell, sub-let, charge, mortgage, pledge or create any form of security over, or otherwise deal with the Equipment in any way.
- 8.4. The Customer agrees that it will not:
 - a) alter, damage modify or fix the Equipment without our prior written consent; and/or
 - b) remove, vary or erase any identifying marks, serial numbers, number plates, notices or safety information from the Equipment.

8.5. The Customer agrees that it will allow us to enter Site during Standard Working Hours to inspect and maintain the equipment provided we give reasonable notice.

- a) immediately cease providing the Services;
- b) charge the Customer interest on the outstanding amounts at the rate prescribed by the *Penalty Interest Rates Act 1983* (Vic) from the due date of payment until the date payment including interest is made in full; or
- c) assign to a third party the right to render invoices and pursue and receive payments, and charge the Customer for any reasonable fees or legal costs incurred by us in pursuing such outstanding payments.

9. Warranties and Representations

- 9.1. By entering into this Agreement, both parties represent and warrant that they are solvent and have all necessary rights, authorities, and consents to perform their obligations under this Agreement.
- 9.2. The Customer acknowledges that, and will ensure the End User acknowledges that, all information contained in a Purchase Order is complete and accurate, and we rely on the accuracy and completeness of such information.
- 9.3. Any deficiencies or inaccuracies in information contained in the Purchase Order, or otherwise provided by the Customer or End User in relation to the Services, will be the Customer's sole responsibility.
- 9.4. The Customer has satisfied itself as to the suitability and condition of the Equipment.
- 9.5. We make no representation and give no guarantee or warranty that the Equipment is suitable for the Customer's intended purpose.

- 11.4. GST and any other applicable taxes are payable at the applicable rate on all amounts chargeable under this Agreement.
- 11.5. Any costs that we reasonably incur (including any legal fees on a full indemnity basis) in recovering any outstanding monies under this Agreement shall be paid by the Customer.

12. Security

10. Customer Acknowledgements

- 10.1. The Customer must provide, and will procure that End Users will provide, us with uninterrupted free and clear access to the Site in order to deliver the Services.
- 10.2. If a Customer or End User fails to provide us with reasonable access in accordance with the above, we will not be liable for any losses arising out of or in connection to the delayed delivery of the Services, and the Customer must pay all reasonable expenses incurred by us in attempting to perform the Services.
- 10.3. The Customer agrees it will be liable for any toll charges incurred on any of our Equipment during the Term.
- 10.4. The Customer agrees that we will charge \$150.00 plus GST for VicRoads over-dimensional permit fees.
- 10.5. The Customer acknowledges that 250T Cranes and above may be affected by VicRoads travel routes and time curfews which may incur additional charges, for which we are not responsible. The Customer agrees to comply with VicRoad's directions.
- 10.6. The Customer acknowledges that it will be charged the Minimum Hire Period (as set out in the Rates Schedule) if there is Inclement weather. Charges will apply for any crew on Site, or in transit to Site, when the Services are suspended.
- 10.7. The Customer acknowledges and agrees that there are Crane fuel surcharges and transport fuel surcharges in addition to the standard hourly charges. Fuel charges will be adjusted each Friday using the Melbourne Terminal Gate pricing information released by the Australian Institute of Petroleum.
- 10.8. The Customer must provide written notice when cancelling the Purchase Order. In order to avoid incurring Fees, the Customer must provide written notice at least 12 hours' prior for Services to be provided during Standard Working Hours and 24 hours' prior for Services to be provided during the Night Shift.

- 12.1. The Customer agrees that this Agreement (together with the Quote) covering any Services, constitutes a security agreement for the purposes of the *Personal Property Securities Act 2009* (Cth) ("**PPSA**").
- 12.2. The Customer gives us a security interest in all present and future property acquired or held by it with respect to any amount owing and unpaid to us pursuant to the Quote, Fees, Services and this Agreement.
- 12.3. The Customer waives any right the Customer has under the PPSA to receive notice in relation to registration events.

13. Termination

11. Fees and Payment

- 11.1. The Customer must pay, or procure the End User to pay, the Fees in accordance with the Payment Terms as set out in the Quote, or alternatively, within fourteen (14) days from the date on the invoice.
- 11.2. The Customer acknowledges that it is liable for the payment of the Fees.
- 11.3. If the Customer is delayed in payment of the Fees, we may, at our election:

- 13.1. We may terminate this Agreement immediately upon notice to the Customer where:
 - a) the Customer has failed to pay the Fees in accordance with the Payment Terms;
 - b) the Customer commits (including as a result of an act or omission of the End User) a material breach of this Agreement which is incapable of being remedied or, if the material breach is capable of being remedied, is not remedied within fourteen (14) days after being required in writing to do so; or
 - c) the Customer is or represents that it is insolvent, or has an administrator, liquidator or receiver and manager appointed, or enters or threatens to enter into bankruptcy; and
 - d) otherwise, at any time without cause, by giving the Customer no less than 14 days' notice in writing.
- 13.2. On termination of this Agreement for any reason, the Customer must pay all outstanding Fees within seven (7) days from receipt of an invoice.
- 13.3. We may cease the supply of Services, without any notice, if the Customer or the End User is in default of this Agreement.
- 13.4. Upon termination of this Agreement in accordance with clause herein, the Customer consents to us taking all steps necessary to recover the Equipment, including entering Site for the purposes of taking possession of the Equipment.

14. Responsibility for the Equipment

- 14.1. The Customer is responsible for any loss, theft or damage to the Equipment during the Term, unless such loss or damage was caused by us.
- 14.2. If the Equipment becomes unsafe to use or breaks down during the Term, the Customer must inform us at the earliest opportunity. The Customer agrees that we may take a minimum of eight (8) hours to respond after being notified in writing of any issues with the Equipment.
- 14.3. Upon inspecting the Equipment, and on the basis that the issue with the Equipment was not as a result of the Customer's actions/omissions, we will

consider whether to provide a suitable substitute Equipment or repair the Equipment at no cost to you.

15. Indemnity

- 15.1. The Customer is liable for and indemnifies us and our personnel from and against all liabilities, expense, loss, cost, damage or claim (including legal costs) incurred or suffered by us in connection with:
- real or personal property damage at the Site;
 - injury to any person at the Site;
 - breach of this Agreement by the Customer or the End User;
 - the End User's failure to pay the Fees (if applicable); and
 - any claim made by the End User.

16. Liability

- 16.1. To the maximum extent permitted by law, we exclude all representations, warranties, or terms implied by law, and any and all liability for loss, cost, damage, expense, or claim suffered or incurred by the Customer, including its directors, officers, employees, agents, contractors or sub-contractors, successors, and assigns, or the End User in connection with this Agreement.
- 16.2. We shall not be held liable for delays or incomplete work due to inclement weather conditions, safety, shortage of labour hire and machinery or materials outside our direct control.
- 16.3. Notwithstanding any other provision of this Agreement to the contrary:
- in respect of any liability of us that cannot be excluded, our liability is limited to either, at our discretion:
 - the reperformance of the Services; or
 - a refund of the Fees paid for the relevant Services, and
 - neither party shall be liable for consequential loss and/or indirect loss.
- 16.4. Any designs, calculations, drawings, specifications, sketches, advice or site assistance produced or given by us for the Customer (collectively, "**Specifications**"), are prepared solely on the information supplied by the Customer and we are not responsible for the accuracy of the details contained therein. All Specifications are indicative only. The Customer acknowledges and agrees that we are not liable for any loss or damage arising from the use of the Specifications. The Customer indemnifies us against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against us and any environmental loss, cost, damage or expense) in respect of: (i) personal injury and death; (ii) damage to tangible property; or (iii) a claim by a third party, in relation to the Customer's use or reliance on the Specifications.

17. Anti-Bribery and Corruption and Anti-Tax Evasion

- 17.1. The Customer represents, warrants and undertakes that the Customer and End User, acted in full compliance with the Anti-Corruption and Anti-Tax Evasion Laws and will continue to comply with the Anti-Corruption and Anti-Tax Evasion Laws (as applicable to them), including in relation to their ongoing obligations under this Agreement.
- 17.2. Throughout the Term, the Customer (and End User) must:
- keep in place policies and procedures (as amended from time to time) ("**Policies and Procedures**") to ensure compliance by the Customer and End User with Anti-Corruption and Anti-Tax Evasion Laws;
 - make the Policies and Procedures available to us upon reasonable request; and
 - enforce the Policies and Procedures.

18. Modern Slavery

- 18.1. In performing its obligations under this Agreement, the Customer (and End User) shall and shall ensure all of its agents, contractors and sub-contractors:
- comply with the Modern Slavery Act; and
 - take all steps reasonably necessary to mitigate or reduce the risks of Modern Slavery practices in the Customer's (and End User's), agents, contractors and/or sub-contractors supply chains or in any part of their business.
- 18.2. The Customer (and End User) represents and warrants that it:
- conducts its business in a manner that is consistent with the principles of the Modern Slavery Act;
 - neither the Customer (or End User), nor any of its officers, employees, or other persons associated with the Customer (and End User):
 - has been convicted of any offence involving Modern Slavery; and
 - having made reasonable enquiries, to the best of its knowledge has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with Modern Slavery.
- 18.3. If at any time the Customer (or End User) becomes aware of Modern Slavery practices in the operations and performance of this Agreement, the Customer must as soon as reasonably practicable take all reasonable action to address and remove these practices.
- 18.4. The Customer must notify us as soon as it becomes aware of any actual or suspected Modern Slavery in the operations and performance of this Agreement, and indemnifies us from any claims, actions, proceedings, loss or damage that we may suffer or incur (including legal fees on a full indemnity basis) as a result of or arising out of a breach of this clause by the Customer (or End User).

19. General

- 19.1. **Dispute Resolution:** If a dispute arises between the parties, on the basis that there is a genuine dispute in respect of the Services, either party may give notice of the dispute (**Dispute Notice**) to the other party. If a Dispute Notice is given:
- the parties must negotiate as soon as possible in an effort to cooperatively resolve the dispute; and
 - if the dispute is not resolved within 21 days of the Dispute Notice being given, the parties must instruct the President of the Law Institute of Victoria to appoint an independent mediator to attempt to resolve the dispute by mediation and the parties must participate in the mediation at the earliest possible opportunity and in good faith. The costs of the mediation must be equally shared by the parties.
- 19.2. **Confidentiality:** Each party agrees to keep the other party's confidential information secret and not use or disclose it to any person without the written consent of the other party, except to the extent necessary to:
- perform its obligations under this Agreement;
 - obtain professional advice in relation to this Agreement; or
 - comply with disclosure obligations required by law, provided that the other party is given reasonable notice of the required disclosure.

- 19.3. **Entire Agreement:** The terms of this Agreement contain the entire agreement between the parties, and superseded and replace any prior representations, negotiations, or agreements, in respect of that subject matter.
- 19.4. **Assignment:** The Customer must not assign, transfer, or novate its rights or obligations under this Agreement except with our prior written consent, which may be withheld or delayed at its discretion. We may assign, transfer, or novate its rights or obligations under this Agreement without the Customer's consent.
- 19.5. **Force Majeure:** We are not responsible for any delays in delivery, erection, dismantling or use of the Equipment due to causes beyond our control which include but are not limited to acts of God, riots, civil commotions, fire, floods, strikes and/or Inclement weather all of which will be deemed a variation to the Agreement and will incur extra Fees.
- 19.6. **Governing Law:** This Agreement is governed by and is to be construed in accordance with the laws in the State of Victoria, the parties submit to the non-exclusive jurisdiction of the courts of Victoria.
- 19.7. **Severability:** If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of this Agreement remains in force.
- 19.8. **Survival:** Any indemnity or any obligation of confidence under this agreement is independent and survives termination of this agreement. Any other term by its nature intended to survive termination of this Agreement survives termination of this Agreement.
- 19.9. **Time:** For the purposes of any payment obligation under this Agreement or Quote, time is of the essence.
- 19.10. **Notices:**
- a) Any notice required under this Agreement may be given by the any party, including any Director or any authorised person of that party.
 - b) Any notice may be given at that party's registered address or other address (including email address) as stipulated in any application connected to this Agreement, the Quote or as notified in writing for the purposes of this clause.