

## SERVICE TERMS & CONDITIONS

### 1 General

KSB has a staff of technical servicemen available to provide field service consisting of technical assistance relating to KSB supplied products or other manufacturer's pumps upon the request of Purchaser. The involvement of KSB personnel shall be limited to technical assistance and advice. No KSB technical personnel shall perform any labour unless otherwise negotiated and mutually agreed to by and between KSB and the Purchaser. All services provided by KSB hereunder are hereinafter referred to as "the work."

Neither KSB nor the Service personnel shall be responsible for any acts, omissions or workmanship of employees, contractors, subcontractors, or agents of the Purchaser or from their failure to follow the advice or instructions of the Service personnel, or for performing any work or giving any advice in respect to equipment manufactured or services sold to the Purchaser by others.

### 2 Service Rates

Whenever KSB personnel provide technical assistance, the Purchaser shall pay KSB the applicable rate set forth in the attached schedule unless by other mutual agreement. All work performed on observed holidays will be charged at premium rates. In the event the job site is more than 10 kilometres from the provided accommodation, travel time will be billed at applicable rates. All decisions relating to extended overtime and holiday work shall be made by the KSB serviceman unless prior arrangements are made.

In addition, the Purchaser shall pay for round trip transportation or excess baggage charges for tools or equipment furnished by KSB or the Field Service Engineer.

Purchaser shall also reimburse KSB for incidental costs incurred for the work which is necessary for the operation to proceed: as well as traveling expenses, meals and lodgings as per attached rate schedule.

If not specified, all work is quoted based on actual work being performed within KSB's standard 8 hours per day of operations from Monday to Friday (including travel time). Any work or travel performed outside of these standard hours will be charged in addition to the quotation and will be charged at the after-hours rate.

All prices are quoted excluding GST and are in Australian Dollars unless otherwise specified. Pricing is based on, ceteris paribus:

- Removal of equipment;
- Installation and integration of equipment into pre-existing systems; and
- Overhaul of equipment and / or associated systems.

Any issues or additional complexities therein encountered resulting in delay or additional work, will be charged in addition to the quotation.

No allowance has been made for any delays on-site which are outside our control e.g.: flights, traffic incidents to and from site, online inductions, industrial action, weather, unscheduled work stoppages by other parties, parking and toll fees, onsite equipment malfunctions etc. unless specified.

### 3 Engineering Information

KSB will provide advisory assistance to its Field Service personnel relating to routine engineering problems encountered in connection with the performance of this field service assignment, KSB reserves the right to charge the Purchaser at its regular rates for engineering services such as layout, design, drawings, engineering analysis, engineering reports and visits to the job site or elsewhere by KSB engineering personnel. However, no such engineering services will be undertaken without the authorization of the Purchaser.

### 4 Substitution of Personnel

KSB's obligation is to provide services and not specific personnel. KSB reserves the right at any time, and from time to time, to recall and substitute any of its personnel.

### 5 Modifications

It is recognized that the nature of field service is such that changes in the scope of it as originally contemplated often occur. KSB will undertake additional services within the normal scope of field service but reserves the right to require the Purchaser to confirm in writing any extension of the services originally ordered. KSB shall be entitled, however, to rely upon oral orders, including instructions of the Purchaser's representative at the site. Any additional services performed by KSB pursuant to such written or oral orders or instructions shall be invoiced for on the basis set forth herein or as otherwise agreed to in writing between the parties.

### 6 Working Conditions

The Purchaser shall provide clean and safe working conditions for KSB personnel assigned to the job site. KSB personnel will not be permitted to work in conditions which KSB determines to be hazardous or detrimental to health and safety. The Purchaser shall have no claim for loss or damages occasioned by KSB's decision to remove personnel for health and safety reasons.

### 7 Purchaser's Duties

The Purchaser agrees to provide the following in a timely, orderly and safe fashion at his own expense:

## SERVICE TERMS & CONDITIONS (Continued)

- 7.1 All necessary skilled, semi-skilled, and unskilled labor necessary for the completion of the project.
- 7.2 All necessary and incidental equipment for the erection, installation and operation of the KSB supplied equipment such as hoists, tools, supports, coolants, lubricants, and the like.
- 7.3 Power, lighting, heating, water, and necessary connectors, wires, hoses, and the like.
- 7.4 Convenient theft-proof, vandal-proof, watertight facilities for the storage of tools, machinery, and components. Purchaser shall also provide additional security such as guards and security devices as the circumstances of the job site warrant.
- 7.5 Special clothing and safety gear for use and wear by KSB personnel as is necessary to conform with governmental regulations and the safety needs of the job site unless provided by KSB personnel.
- 7.6 Secure the required authorizations, permissions, or agreements relating to work performed on Union sites for the serviceman prior to his arrival at site.

### 8 Offsets

Neither Purchaser nor any affiliated company or assignee will have the right to offset against any amount which may become payable to KSB under this contract or otherwise, for amounts which KSB may allegedly or in fact owe the Purchaser or any affiliated company or assignee whether arising under this contract or otherwise.

### 9 Force Majeure

All estimates with respect to the time required to complete the work are approximate and will not be construed as creating a situation where "time-is-of-the-essence" unless agreed to in writing by the parties. KSB will not be liable for any loss, damage, detention, or delay due to work, riots, civil insurrection or acts of the common enemy, fire, flood, strikes, or other labor difficulty, acts of civil or military authority including, without limitation, governmental laws, orders, priorities, acts of the Purchaser, embargo, car shortage, wrecks, or delay in transportation, and ability to obtain necessary labor, materials, or manufacturing facilities from unusual sources or other causes beyond the reasonable control of KSB. In the event of delay in completion due to any such cause, the date of completion will be adjusted to reflect the actual length of time as may be necessary to properly reflect the delay.

### 10 Completion of the Project

The Purchaser shall periodically inspect the work. Upon final inspection the Purchaser or its engineer shall, if requested by KSB Service Engineer, issue a Certificate of Completion upon a form satisfactory to KSB, which Certificate of Completion shall not be unreasonably withheld or delayed.

### 11 Limitation of Liability

The remedies of the Purchaser set forth herein are exclusive, and the total liability of KSB with respect to these conditions and services furnished hereunder, in connection with the performance or breach thereof, from technical assistance covered by or furnished under this contract, whether based on contract, warranty, negligence, indemnity, strict liability or otherwise, will in no event exceed the amount paid or agreed to be paid by the Purchaser for the work.

KSB will in no event be liable to the Purchaser, any successors in interest or any beneficiary or assignee of this contract for any consequential, incidental, indirect, special or punitive damages arising out of this contract or any breach thereof, or any defect in, or failure of, or malfunction of the equipment hereunder, whether based upon goodwill, lost profits or revenue, interest, work stoppage, impairment of other goods, loss by reason of shutdown or non-operation, increased expenses of operation of the equipment, loss of use of power system, cost of purchase of replacement power or claims of Purchaser for service interruption whether or not such loss or damage is based on contract, warranty, negligence, indemnity, strict liability or otherwise.

### 12 Conflicts With Other Documents

These terms and conditions prevail in the event of any conflict with the terms and conditions of any purchase order or acknowledgement issued by the Purchaser.

### 13 Governing Law

These conditions shall be construed in accordance with the federal laws of Australia and the respective rights and obligations of the Purchaser and KSB will be governed by these laws..

### 14 Limitation Upon Actions

Any lawsuit brought by Purchaser to enforce any claim or alleged claim against KSB under these conditions or with respect to the equipment to which these conditions relate, must be commenced within one (1) year after the alleged cause of action against KSB has occurred, notwithstanding a longer applicable statute of limitations under law.

### 15 Waiver

Failure of either party to insist upon the strict terms of this Agreement, shall not constitute a waiver of such terms.

## SERVICE TERMS & CONDITIONS (Continued)

### 16 Taxes & Fees

Any federal, state, or local taxes, license, or other fees or any governmental charges that shall arise in connection with KSB's work shall be borne by the Purchaser.

### 17 Entire Contract

This Agreement represents the entire understanding of the parties.

### 18 Warranty

18.1 With the exception of the conditions, warranties, rights and remedies referred to herein, all conditions and warranties (and rights and remedies relating to the breach thereof) whatsoever which would, but for this sub-clause, have been implied into any sale of the goods between the Purchaser and KSB Australia are negated and excluded.

18.2 Certain legislation (including the Competition and Consumer Act and various legislation of the States and Territories of Australia) has the effect of implying certain conditions and warranties into and of granting certain rights and remedies in respect of contracts with consumers which may not be excluded, restricted or modified. Nothing contained in these conditions shall exclude, restrict or modify such conditions, warranties, rights or remedies, but the liability of KSB Australia for breach of any such conditions or warranties shall, where legally permissible, be limited at the option of KSB Australia to –

18.2.1 replacement or repair of the relevant goods or payment of the cost thereof; or

18.2.2 supply of equivalent goods or payment of the costs of obtaining such goods.

18.3 KSB Australia shall be under no liability to the Purchaser for any loss or damage to persons or property or death or injury caused by any act or omission (including negligent acts or missions) of KSB Australia, its servants or its agents.

18.4 The Purchaser acknowledges and agrees that neither KSB Australia nor any person acting or purporting to act on its behalf had made any representation or warranty with respect to the goods or their supply which is not set out in writing.

18.5 The Purchaser warrants to KSB Australia that the goods are not of a kind ordinarily acquired for personal, domestic or household use of consumption and they are not of a kind

commonly bought or ordinarily purchased for private use or consumption.

18.6 The purchase has the responsibility for ensuring that goods are not used for any purpose for which they are not suitable.

18.7 KSB Australia guarantee that the goods manufactured by KSB Australia shall be of first class materials and of sound workmanship and that KSB Australia will make good or replace any defects or defective parts therein which, under proper use, may appear.

18.7.1 in the case of standard manufactured pumps, parts or accessories within 12 months of the date of despatch from our Works; or

18.7.2 in the case of custom manufactured pump sets with 12 months from the date of despatch from our Works or within 12 months of the date of commissioning (whichever is the earlier) and which are proved to be due solely to the use of defective materials or faulty workmanship, paid to KSB Australia unless otherwise arranged, and any defective provided always that such defective parts are promptly returned freight paid to KSB Australia Works unless otherwise arranged and any defective parts are forfeited to KSB Australia. The repaired or new parts will be delivered free to the point of original delivery. Any goods not of KSB Australia's own manufacture included in this offer are sold under such warranty only as is specified by the manufacturers.

18.8 The warranties made herein by KSB Australia are in lieu of any and all other warranties, express or implied by the Purchaser. KSB Australia disclaims any and all warranties of merchantability or fitness for a particular purpose.