

NSP Audit Contract Supplement



This Audit Contract Supplement is intended to be used as a non-disclosure agreement between a 3rd party Auditor and an NSP Operator. Services and Terms, Code of Conduct and Expense Recovery Instructions are provided for the purpose of assisting with the NSP audit process.

DATE: (insert date)

BETWEEN:

Company Name, (Company type) operating in (address, province, postal code)

(the "CONTRACT AUDITOR")

AND:

Operator Name, being the NSP Operator or individual that provides the aircraft transportation service and is licensed by Transport Canada to do so, operating in (address, province, postal code)

(the "OPERATOR")

NSP Audit Contract Supplement

DEFINED TERMS, ABBREVIATIONS, RECITALS AND APPENDIXES

In this Agreement, the following Terms and Abbreviations will have the meanings described below:

- (a) Air Carriers Safety Working Group-Herein referred to as ACSWG,
- (b) Contract Auditor- An individual or company hired by the NSP Operator to ensure compliance with the NSP. Herein referred to as Auditor,
- (c) North Star Practices-Herein referred to as NSP,
- (d) NSP Operator-Herein referred to as Operator,
- (e) Commencement Date-means the start date specified in this Agreement,
- (f) Contract Price-means the agreed amount payable by the Operator to the Auditor for the completed execution of the work as described in this Agreement,
- (g) Effective Date-means the date appearing on the first page of this Agreement,
- (h) Engagement or The Engagement-means the specific work(s) identified in this Agreement
- (i) Materials-includes without limitation all information, standards, outlines, curricula, data, evaluations, specifications, reports, proposals, analyses, documents, drawings, working papers, software and other material specific to the project, in whatever format, as well as intellectual property in the foregoing,
- (j) Standard means the standards described in the Employer Verification audit tool, (refer to); [WorkSafeBC Certificate of Recognition Program Standards and Guidelines, January 2011;](#)
- (k) Term-of this Agreement means the period commencing on the Effective Date and expiring at such time as the parties have fully and finally executed their obligations under this Agreement as decided between the Operator and the Auditor or by the ACSWG,

NSP Audit Contract Supplement

RECITALS

- (a) The Operator is responsible for the direction of the Engagement (as hereinafter defined),
- (b) The Engagement entails Service Delivery of Verification of the NSP Audits on behalf of the Operator in accordance with The NSP (as hereinafter defined), such services to be performed utilizing standards, curricula, evaluations and other materials developed and owned by the ACSWG,
- (c) The Operator has determined to engage the Auditor for the performance of services relating to the Engagement under the terms of this Agreement,
- (d) In cases where the Auditor is not a sole proprietor, the Operator agrees to contract with the Auditor for these services according to the terms and conditions set out in this Agreement on the strict understanding that the Principal is a director and senior officer of the Auditor; and that the Principal agrees to personally oversee, and otherwise ensure all of the services are performed as defined in this Agreement,
- (e) The Operator and the Auditor agree that this Agreement will govern, and may be utilized by, the parties for a series of particular service delivery engagements on the terms described in this Agreement.

The following is a list of the attachments to this Agreement: (See bottom of this document)

- Appendix "A" – SERVICES AND TERMS
- Appendix "B" – AUDITOR CODE OF CONDUCT
- Appendix "C" – AUDITOR EXPENSE RECOVERY INSTRUCTIONS.

1. REPRESENTATIONS AND WARRANTIES OF AUDITOR

The Auditor represents and warrants to the Operator that:

- (a) The Auditor is able to perform the services described in this Agreement in compliance with the NSP Audit criteria.
- (b) The Principal is qualified and able to perform the services described in this Agreement in compliance with the established NSP Practices.
- (c) The Auditor is in good physical condition and knows of no reason, medical or otherwise, why the Auditor cannot safely and effectively participate in all activities within the scope of the Service Delivery and in accordance with the NSP Audit criteria.

The Auditor acknowledges and agrees that the Operator and The ACSWG is relying on these representations and warranties in entering into this Agreement.

NSP Audit Contract Supplement

2. SERVICES

- (a) The Auditor agrees with the Operator to undertake one or more Verification Audits on behalf of the Operator to the various established NSP audit criteria, and in doing so to otherwise observe and perform all obligations, roles and responsibilities contemplated in this Agreement and any other attachments to this Agreement (collectively the “Services”).
- (b) Prior to the commencement of this contract, the parties will execute and deliver to each other a copy of Appendix “A” to this Agreement, completed by the insertion of the following information (as applicable):
 - (i) the contract number;
 - (ii) the commencement date;
 - (iii) the duration;
 - (iv) the contract price;
 - (v) the person to whom the Auditor will report; and
 - (vi) any other agreed terms which are not inconsistent with this Agreement or any attachments to this Agreement.

The parties acknowledge and agree that the execution and delivery of a copy of Appendix “A” will be deemed to give rise to a separate and distinct contract among the parties, governed by all of the terms and conditions of this Agreement and all attachments to this Agreement.

The services information itemized above may be transmitted to the Auditor by electronic mail and upon return receipt of acknowledgement email to The Operator by the Auditor will be deemed to be of the same effect as if Appendix “A” had been fully completed and signed.

3. CONTRACT PRICE, PAYMENT FOR SERVICES AND RECOVERY OF EXPENSES

- (a) Upon the completion of the delivery of the Services by the Auditor to the satisfaction of the Operator in compliance with the timetable, deliverables, milestones and acceptance criteria described in Appendix “A”, and on receipt of a fully completed invoice, the Operator will pay the agreed upon contract price to the Auditor.-
 - (b) All invoices should reference a contract number.

4. AUDITOR CODE OF CONDUCT

In general, it is important for the Auditor to maintain the highest level of professional and safety conduct during the performance of their duties on behalf of The North Star Practices program.

NSP Audit Contract Supplement

The Auditor will follow and adhere to the Auditor Code of Conduct for contract Service Providers as outlined in Appendix "B"; as it may be amended from time to time at the discretion of the ACSWG.

5. CONFIDENTIALITY

- (a) Except such publication, release or disclosure as is reasonably necessary to enable the Auditor to fulfill its obligations under this Agreement to the Operator and the ACSWG, and except as otherwise required by law, the Auditor will treat as confidential, and will not, without the prior written consent of The Operator, publish, release or disclose or permit to be published, released or disclosed, any information in any format which is supplied or obtained or which comes to the knowledge of the Auditor as a result of this Agreement.
- (b) During the term of this Agreement and for an indefinite period subsequent to the expiration or termination of this Agreement, the Auditor will not use at any time any of the Operator's Confidential Information for any purpose except in the due performance of its obligations under this Agreement, unless it will first secure the written consent of the Operator.
- (c) The confidentiality requirements in this section are not voided by removing references to names or other identifying information. Any violation of this confidentiality requirement will be grounds for immediate termination of this agreement and may result in The Operator and/or The ACSWG taking legal action against the Auditor.
- (d) The Auditor will have adequate security measures in place at the worksite to ensure The Operator's Confidential Information is not accessible to unauthorized individuals. The Auditor's security measures for the protection of Operator's Confidential Information may be reviewed at any time by an authorized representative of the ACSWG. All employees of the Auditor employed in the provision of Services under this Agreement will be informed of and understand these privacy standards and will at the request of The Operator and/or The ACSWG execute and deliver to The Operator and/or The ACSWG an agreement to that effect.

6. OWNERSHIP AND PROPRIETARY RIGHTS

- (a) The material developed, received or acquired by the Auditor as a result of this Agreement, including without limitation the safety management system materials and all systems, curricula, photos, programs, specifications, examinations, evaluations and associated documentation and any equipment, machinery or other property, will be the exclusive property of The Operator and will be delivered by the Auditor to The Operator forthwith upon demand by The Operator.
- (b) Without in any way limiting the Confidentiality section above, the Auditor agrees that all trade-marks, trade names, copyrights, moral rights and other proprietary rights in the safety management system materials and other forms, certificates, marketing and promotional material manuals, manual supplements, computer programs and all related materials used by, developed for, or paid for by The Operator in connection with this Agreement are owned exclusively by The Operator

NSP Audit Contract Supplement

or the ACSWG and the Auditor hereby assigns to The Operator and ACSWG all rights, title and interests in such copyrights and other proprietary rights.

7. REPORTING and RELATIONSHIP

- (a) The Auditor will report to the person named in Appendix "A" (as completed and signed by the parties in accordance with the Services section or such other person or persons as The Operator may specify or assign.
- (b) The Auditor is an independent Auditor with respect to the Services to be performed under this Agreement. The Auditor accepts full and exclusive liability for the remittance and payment of any and all taxes and contributions for employment insurance, workers' compensation assessments and income tax assessments which may now or hereafter be imposed by any federal or provincial governmental authority in respect of the payment and receipt of the Contract Price.

8. ASSIGNMENT, SUB-CONTRACTING AND EMPLOYEES

The Auditor will not assign and/or sub-contract any obligation either directly or indirectly under this Agreement without the specific prior written approval of the Operator.

9. LIABILITY AND INDEMNITY

The Auditor will use due diligence in carrying out its obligations under this Agreement, at all times acting in accordance with applicable regulations as well as recognized industry standards. The Auditor will jointly and severally defend, indemnify and save harmless The Operator and its directors, officers, employees, auditors and agents from and against all claims, demands, losses, costs, damages, actions, suits or proceedings (including but not limited to legal fees) which are caused by:

- (a) the breach of this Agreement by the Auditor, or
- (b) the wrongful or negligent acts or omissions of the Auditor, or others providing the Services under this Agreement.

10. TERMINATION

10.1. The Operator may terminate all or any part of this Agreement by immediate notice in writing:

- (a) in the event of any breach of this Agreement by the Auditor;
- (b) if the Auditor fails to provide the Services or deliverables to the Operator to the satisfaction of the Operator.
- (c) if the Auditor fails to adhere to applicable safety and operational policies, procedures which are now, or may hereafter, be recognized or established by the Operator and/or The ACSWG from time to time,
- (d) if the Auditor becomes insolvent, commits an act of bankruptcy, or otherwise fails to meet any financial obligations as they become due; or

NSP Audit Contract Supplement

(e) upon cancellation of their submitted tendered offer.

No such termination will result in any penalty or other charges to The ACSWG or The Operator.

10.2. The Operator may terminate this Agreement without cause at any time during the Term with not less than 15 days written notice to the Auditor. After such termination, the Operator will be under no further obligation to the Auditor, except to pay to the Auditor such amounts as the Auditor may be entitled to receive for any Services provided to the date of termination.

11. COMPLIANCE WITH LAWS AND REGULATIONS

In providing the Services, the Auditor will at all times comply with the Regulations, as well as all other laws and regulations applicable to the Services to be provided pursuant to this Agreement.

12. SAFETY

The Auditor acknowledges that safety is of utmost importance to the ACSWG and agrees to abide by all the safety directions, policies, rules and regulations.

The Auditor shall become familiar with premises and operations in respect of which the work is performed and shall comply with all of Operator's safety rules or rules of the operation being visited. The Auditor shall assume all risks of injury to himself/herself and damage to his/her property in connection with the performance of the work under this Agreement, unless and to the extent such injury or damage is caused by the negligence of the Operator.

The Auditor and all equipment supplied by the Auditor must comply with all current Workers' Compensation Board regulations.

13. INSURANCE

(a) During the term of this Agreement, the Auditor will carry, at a minimum:

- i. Comprehensive General Liability insurance in an amount of not less than \$2,000,000.00 per occurrence, or a greater amount as may be required by the Operator.
- ii. Motor vehicle liability insurance covering the Auditor's owned or leased vehicles with minimum limits of liability of \$2,000,000 inclusive of bodily injuries and property damage.
- iii. Error and Omissions insurance in an amount of not less than \$2,000,000 per occurrence, or such greater amount as may be required by the Operator.

(b) During the term of this Agreement, the Auditor will be registered with, and in good standing, with the WCB and will carry the appropriate WCB coverage.

NSP Audit Contract Supplement

- (c) The Auditor will provide the Operator with certificates of the insurance and coverage described in this section.

14. OBLIGATIONS OF THE AUDITOR UNDER CONTRACT

- (a) The Auditor covenants and agrees with the Operator to dedicate sufficient time and effort to the Auditor in order to enable the Auditor to observe and perform his/her obligations under this agreement fully, effectively and in a timely manner.
- (b) The Auditor will upon written demand given by the Operator
 - i. perform all the obligations of the Auditor under this Agreement.
 - ii. indemnify and save harmless the Operator from any loss, cost, or damage, including consequential loss and costs on a solicitor and own client basis, suffered by The Operator arising out of any failure by the Auditor to pay any amounts payable, or to perform any of the obligations of the Auditor, under this Agreement.
- (c) The indemnity described in this section is absolute and unconditional, and without limiting the generality of the foregoing the liability of the Auditor will not be considered to have been waived or in any way affected by any of the following:
 - i. any extension of time, or indulgence or modification, which The Operator may extend to the Auditor or make with the Auditor from time to time in connection with the performance of any of the obligations of the Auditor under this Agreement.
 - ii. any waiver by, or failure of The Operator to enforce any term of this Agreement.
 - iii. any act or omission by The Operator with respect to matters contained in this Agreement.
 - iv. any assignment or amendment of this Agreement.
 - v. any winding-up, amalgamation, bankruptcy, or receivership of the Auditor, any execution proceedings taken against the Auditor, or any release or discharge of the Auditor in any receivership, bankruptcy, winding-up, or other creditor's proceeding.
 - vi. the filing by the Auditor of a proposal or a notice of intention to file a proposal or the repudiation of this Agreement by the Auditor, or any other person pursuant to the Bankruptcy and Insolvency Act, as amended or substituted from time to time; or
 - vii. any creditor or debtor proceeding applicable to the Auditor, including any application by the Auditor to obtain protection from its creditors.

NSP Audit Contract Supplement

15. NOTICES

All notices, requests, demands or other communications required or permitted shall be in writing and shall be deemed to have been duly given on the date of service if personally delivered, faxed (with a return confirmation) or when received if sent by certified mail (return receipt required) to the party to whom notice is to be given as follows:

- (a) The Auditor at the address in this Agreement

16. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

17. ENTIRE AGREEMENT

- (a) This Agreement constitutes the entire agreement between the parties and cancels and supersedes all other agreements, written or oral, between the parties relating to services rendered.
- (b) The parties acknowledge that they have read and agreed to all terms and conditions of this Agreement and that this constitutes the entire agreement and understanding, expressed or implied, between the parties with respect to this Agreement and that there are no other representations or warranties.
- (c) This Agreement can only be changed by an agreement in writing, duly executed by the authorized representative of the parties.

18. DISPUTE RESOLUTION

All disputes arising out of, or in connection with this Agreement shall be settled by a single arbitrator appointed under the provisions of the *Commercial Arbitration Act* of BC. The venue for the arbitration will be in Nanaimo, BC.

19. ENUREMENT

This Agreement will endure to the benefit of and be binding on the parties and their respective heirs, executors, administrators, successors and permitted assigns.

NSP Audit Contract Supplement

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS AGREEMENT.

THE OPERATOR

PER:

(Operator Name)

Date

THE AUDITOR

PER :

(Auditor Name)

Date

NSP Audit Contract Supplement

Appendix “A”

SERVICES AND TERMS

1. Engagement Commencement Date: Determined by The Operator and The Auditor
2. Engagement Completion Date: Determined by the Auditor
3. Deliverables and acceptance criteria: Provide the completed (NSP) Audit Report to the Operator or when applicable (Triennially to The ACSWG within seven calendar days following the completion of the on-site data collection.
4. Auditor reports (Triennially) to:
Jim Hartwell/ACSWG
Phone: 1-250-923-5728
jimhartwell@hotmail.com
5. Insurance: Attach proof of insurance coverages

Appendix “B”

AUDITOR CODE OF CONDUCT

Overview

The ACSWG recognizes that third-party Auditors, Trainers, Evaluators and Advocates, will have existing business and personal relationships within the aviation/float plane industry and may also provide separate safety advisory services as part of their own consultancy practices. The ACSWG values the viewpoint and expertise gained through these relationships.

This Code of Conduct has been developed to ensure that third party Service Delivery Auditors are able to confidently carry out their work with a clear understanding of the behavior expected of them. It sets out the ethical principles expected while performing an NSP audit and includes some specific guidance for appropriate communication and conduct while engaged by the Operator during the auditing process.

Code of Conduct

Integrity

The integrity of the Auditor allows the Operator to rely and trust their instruction, evaluation, recommendations and guidance.

Auditors will:

- Demonstrate high standards of honesty, fairness, and ethical conduct;
- Be positive and knowledgeable ‘Advocates’ for the NSP program.
- Base evaluations on factual information and truthfully report all findings;

NSP Audit Contract Supplement

- Respect the skills and diversity of other Auditors, recognizing their different experiences and areas of expertise.
- Comply with Canadian Aviation Regulations, as well as all other applicable laws and regulations.

Objectivity

Auditors must exhibit professional objectivity in observing and evaluating employees and employers. Auditors must be independent and impartial, not only in fact, but also in perception.

Auditors will:

- Observe and evaluate without bias, prejudice, variance or compromise.
- Remain free of any influence, interest or relationship that would impair professional judgment, independence or objectivity.
- Conduct business in a respectful, honest and fair manner, without actual or perceived conflict of interest;
- Not discuss or solicit additional business that is outside the scope of the particular auditing process.

Confidentiality

The NSP Auditor must respect the privacy and ownership of all Client/Operator information they gather during their activities and must not disclose any information to outside third parties, either verbally or in writing, without consent from The Operator and The ACSWG, or there is a legal or professional obligation to do so.

Competency

NSP Auditors must diligently apply their professional knowledge, skills and ability in the performance of their roles. Designated Auditors will:

- Engage only in those services for which they are qualified and competent;
- Continually maintain and seek to improve their knowledge, skills and ability;
- Remain in good standing with the ACSWG and, when required, fully participate in ACSWG upgrading or Quality Assurance activities.

Conflict of Interest

Auditors must not use information gained through this contract for any personal gain, financial or otherwise. Potential conflicts of interest should be disclosed to The operator and The ACSWG in writing prior to engaging in the activity in question.

NSP Audit Contract Supplement

Guidance for Service Delivery Auditor Conduct:

Auditors will often be seen as direct representatives of the North Star Practices and the ACSWG and it will, therefore, be difficult for Clients/Operators to distinguish between a representative of the ACSWG and a contracted Auditor. To assist NSP Auditors in separating personal and NSP/ACSWG business interests, the following guidelines are provided.

While delivering or auditing an Operator, an Auditor **may**:

- *If asked* by an Operator, employer or employee about further assistance for paid safety or training activities, suggest general possibilities and also mention if he/she offers this type of service to other employees or employers with similar issues.
- State that it's inappropriate to discuss any potential business activities while acting as a North Star Auditor. They may suggest that the Client is free to contact them following the particular NSP audit engagement if they want to discuss further business. The Auditor can hand out their business card but should not request or obtain the Operator's contact information. The initiative should be left with the Operator to follow-up.

While performing an NSP Audit, an Auditor **must not**:

- Suggest to the Operator that they can personally offer additional consulting or training services for a fee.
- Inflate the Operator's deficiencies to the point that would suggest that they require additional consulting or training from the Auditor.
- Offer a quote or talk about prices, fees structure and availability.
- Either recommend or criticize other auditors, trainers, consultants or evaluators.

Appendix "C"

AUDITOR EXPENSE RECOVERY INSTRUCTIONS

Auditors are expected to submit invoices using their own standard forms. However, invoices must include the following statements:

"The Auditor hereby certifies to the Operator that:

1. All of the Services to be performed by the Auditor under the terms of the contract referred to above have been fully performed in compliance with the terms and standards specified in the contract and all attachments; and
2. All of the expenses described [above] were incurred by the Auditor as evidenced by the attached invoices

Signed the _____ day of _____."