

HIRE & SERVICES CONTRACT TERMS & CONDITIONS

These are the terms and conditions referred in the front page of the document headed "Hire Contract" overlaid between the Company and the Hirer and such form part of the Hire Contract ("Terms"). The Hirer agrees to hire the Equipment on the terms of this Hire Contract

1. DEFINITIONS

In this Hire Contract:

Company means Oldfields Holdings Pty Ltd (ABN 92 000 307 988) including its successors or assigns.

Equipment means the equipment so described in the front page of the Hire Contract ("**Front Page**") and includes any additional or replacement equipment or accessories provided under this Hire Contract.

Hire Contract means this contract between the Company and the Hirer and includes the Front Page and the Terms relating to the hire of the Equipment by the Hirer.

Hire Period means the period of hire determined under clause 4 of this Hire Contract.

Hirer means the person, business or corporation so named in the Front Page.

Off Hire Number means the confirmation issued by the Company to the Hirer signifying the end of the Hire Period

2. USE OF EQUIPMENT

2.1 The Hirer agrees to use the Equipment:-

(a) in a skilful and proper manner and for the purpose and within the capacity for which it was designed;

(b) for legal purposes or in a legal manner and the Hirer will comply at its own expense with requirements of all government authorities in relation to use of the Equipment;

(c) at the address described on the Front Page ("**Site**") and the Equipment is only to be removed from the Site for the purpose of returning it to the Company, unless otherwise agreed by the parties;

(d) by it or by its suitably competent employees or, with the approval of the Company, by a suitably competent, certified or licensed operator or certifier.

2.2 The Hirer agrees not to alter or interfere with the Equipment or their identification number

2.3 Is aware of the proper use for which the Equipment is designed and is satisfied that it is suitable for the purpose required by the Hirer; and

2.4 Acknowledges the instructions given by the Company in the proper and safe manner of using the Equipment including those set out in the Front Page and agrees to comply with these instructions

3. PERIOD OF HIRE

3.1 Unless provided elsewhere in the Hire Contract, the Hire Period shall commence on the "Date Out" and cease on the "Return Date", as such dates are shown on the Front Page.

3.2 Despite clause 3.1 above, the Hire Period shall cease when the Equipment is collected by, or returned to the Company or when the Company issues the Hirer an Off Hire Number, whichever is the sooner.

3.3 The receipt by the Hirer of an Off Hire Number shall not relieve the Hirer for liability for the Equipment until it is collected by, or delivered to, the Company.

3.4 The Hirer may be liable for hire or related charges arising from not obtaining an Off Hire Number from the Company, unless the Hirer can prove the return of the Equipment on or by the Return Date or other agreed date.

4. RETURN OF EQUIPMENT

4.1 Unless otherwise agreed by the parties or where the Hirer requests that the equipment be collected by the Company, the Hirer agrees to return the Equipment to the Company to its premises as noted in the Hire Contract immediately at the end of the Hire Period between the hours of 7am and 5pm on weekdays. For the avoidance of doubt, no returns will be accepted on weekends or public holidays or after 5pm.

4.2 Where the Hirer requests that the Equipment be collected by the Company, the Company will use best endeavours to collect the Equipment within 2 working days of such request but it will not be liable to the Hirer if it fails to do so.

4.3 If the Equipment is not returned at the end of the Hire Period or such other time as provided by the Hire Contract, the Hirer will be charged at the same rate of hire until the Equipment is either returned to, or collected by, the Company, up to the date provided when the Hirer obtains an Off Hire Number.

4.4 Receipt of return of the Equipment by the Company is not evidence that the Company accepts the condition in which the Equipment was returned to the Company.

5. HIRE CHARGES

5.1 The Hirer will pay the hire charges at the rate set out in the Front Page and in the manner specified during the Hire Period ("**Hire Charges**").

5.2 The Hire Charges may be amended with the consent of the parties if Hire Period is altered.

5.3 Hire Charges and all other charges or expenses payable to the Company under this Hire Contract shall be invoiced on a "plus GST" basis unless otherwise stated.

5.4 Unless the Hire Contract provides otherwise, where the Hirer fails to return the Equipment to the Company by the Return Date or other agreed date, then

the Company, without limiting its other rights under the Hire Contract, may continue to charge the Hirer Hire Charges until the Equipment is returned to the Company up to the date provided by the Company when the Hirer obtains an Off Hire Number.

6. DELIVERY

6.1 If the Hirer requests the Company to deliver, install, erect, dismantle or collect the Equipment, the Hirer agrees to pay to the Company all of the Company's reasonable expenses occurred in complying with this request in addition to the Hire Charges. These non-hire charges or expenses shall be notified by the Company to the Hirer at the time such request is made. These expenses may also include costs due to any delay incurred, or additional labour performed due to the Hirer's failure to prepare the Site and resulting wasted journeys by the Company or its representatives.

6.2 The Company shall not be liable to the Hirer for any loss or damage the Hirer suffers in the event of any non delivery or, or delay in delivering, the Equipment.

6.3 The Hirer must inform the Company within 24 hours of delivery of the Equipment to it, if the Equipment supplied does not conform with the terms of the Hire Contract otherwise it shall be deemed to do so and in such case the cost of replacing the Equipment, if so requested by the Hirer, will be borne by the Hirer.

7. EQUIPMENT MAINTENANCE

7.1 The Hirer may request the Company to perform maintenance or repair services upon the Equipment and the costs of such services shall be borne by the Hirer.

7.2 The Hirer must not, nor permit a third party to, perform maintenance or repair services on the Equipment.

7.3 In the event that the Hirer breaches clause 7.2 above, the Hirer shall be deemed to have agreed to buy the subject Equipment at its then retail price, as communicated to it by the Company, and such sale shall be deemed to take effect as from the end of the Hire Period and the parties agree to all things to give effect to such sale.

8. EQUIPMENT FAILURE

8.1 If the Equipment becomes unsafe or in a state of disrepair, the Hirer agrees to immediately discontinue use of Equipment and to notify the Company immediately.

8.2 The Hirer will on no account attempt to repair the Equipment without the consent of the Company and will immediately return the Equipment to the Company's premises if required to do so by the Company.

8.3 The Hirer agrees to immediately notify the Company of any accident involving the Equipment.

9. CLEANING AND REPAIR

If the Equipment is not returned in a clean condition, in good repair and working order (fair wear and tear excepted) the Company may at its sole discretion charge the Hirer for all reasonable costs of cleaning the Equipment, restoring it to good repair and working order, or replacement of Equipment, which cannot reasonably be repaired.

10. PAYMENT (COD not applicable)

10.1 Accounts are due and payable at the end of the Hire Period, or on a weekly basis, whichever is the sooner. Hire, delivery, installation, erection, dismantling, collection and maintenance charges or other charges where applicable are payable on strictly net cash terms unless otherwise specified. The Company may separately invoice non-hire charges or expenses which shall be paid within 30 days of the issue of an invoice (unless otherwise notified).

10.2 Where credit is extended terms are cash thirty (30) days from date of invoice. The provision of a credit facility to the Hirer on one occasion does not mean such will be provided on another occasion.

10.3 The Company may, in its sole discretion, on notice to the Hirer either cancel or suspend a credit facility with the Hirer in the event of any breach of this Hire Contract by the Hirer and where the facility is cancelled the Hirer agrees to pay all outstanding amounts due by it to the Company under this Hire Contract within 24 hours of cancellation.

11. LATE PAYMENT

11.1 Interest is payable on any amounts outstanding at the end of the Hire Period at the rate of 10% per annum calculated on a daily basis.

11.2 Where Hire Charges are paid by credit card the Hirer expressly permits the Company to charge to that credit card any additional charges or expenses that may become due and payable by the Hirer under this Hire Contract including but not limited to those payable as a result of late return of the Equipment, extension of the Hire Period, damage to, or loss of the Equipment, retrieval of the Equipment or any other charges that the Hirer accepts responsibility for as part of accepting this Hire Contract even if the charges are identified after the issue of an Off Hire Number.

12. TITLE

12.1 Title to all Equipment hired by the Company to the Hirer remains with the Company and does not pass to the Hirer on any account whatsoever.

12.2 During the hire period, the Hirer must:

- (a) Hold the Equipment as the bailee and fiduciary agent of the Company
- (b) Not supply or sell the Equipment to any person, other than with the Company's prior written consent
- (c) Not allow any person to have or acquire any encumbrance or security interest in the Equipments

12.3 The Hirer has no right to sell the Equipment or deal with the Equipment during the Hire period.



12.4 In the event that the Company agrees to sell (rather than hire) any Equipment to the Hirer, title in that Equipment will remain with the Company until the price for that Equipment (together with all other moneys owing by the Hirer to the Company on any account whatsoever (whether under this Agreement or otherwise) (**Amount outstanding**) is paid to and received in full by the owner in cleared funds. Until title to any Equipment purchased by the Hirer in accordance with this clause 5.4 passes to the Hirer, the Hirer must comply with the obligations set out in clauses 12.2 (a)-(c) (inclusive) and must not sell or otherwise dispose of the Equipment until the amount outstanding is paid in full (and in cleared funds) to the Company.

13. EXCLUSION OF WARRANTIES

13.1 To the extent permitted by law, all warranties in relation to the Equipment are excluded. To the extent warranties are implied by law and cannot be excluded, the Company limits its liability in respect of those warranties to the

replacement or repair of the Equipment at its sole discretion. In no circumstances shall the Company be liable for consequential or indirect loss suffered by the Hirer in respect of its use or non use of the Equipment.

13.2 The Company accepts no responsibility for any drawings, designs or specifications and submission of any drawings, design or specifications does not constitute any warranty, guarantee, representation or opinion of the practicality of construction or the efficacy, safety or otherwise of the Equipment and the Company will not be responsible for the cost of any additional work caused by defects in such drawings, designs or specifications.

14. INDEMNITY

14.1 The Hirer shall indemnify the Company and will keep it indemnified, from and against any loss or damage it may suffer arising out of or in relation to:

(a) any negligent, wilful or fraudulent act or omission on the part of the Hirer, its employees, servants, contractors, generally and in particular with respect to the use of the Equipment;

(b) any breach by the Hirer of its obligations under the Hire Contract.

14.2 Unless otherwise stated in the Hire Contract, the Hirer:

(a) agrees to accept full responsibility for all claims in respect of any injury to persons, loss of productivity or loss of, or damage to, property, arising out of the delivery, servicing, storage, possession, use or failure of the Equipment during the Hire Period ("**Claims**"); and

(b) agrees to indemnify the Company with respect to these Claims; and

(c) will indemnify the Company against any and all losses, damages or expenses incurred by it as a result of the loss of, or damage to, the Equipment however caused.

14.3 Despite any other clause, the liability of the Hirer to indemnify the Company under this Hire Contract will be reduced to the extent such liability arose due to the negligence of the Company.

15. TERMINATION

15.1 The Company may terminate this Hire Contract on written notice to the Hirer at anytime if the Hirer:

(a) commits a breach of this Hire Contract and does not remedy such breach within 5 days of being advised of the breach by the Company; or

(b) being a company, is placed into administration, receivership, liquidation or other form of external management or if an individual, commits an act of bankruptcy.

15.2 Upon termination the Hirer authorises the Company to enter upon the Site or such other place where the Equipment is located to retrieve the Equipment at the cost of the Hirer and the Hirer shall immediately pay any outstanding Hire Charges or other charges or expenses to the Company.

15.3 Termination of this Hire Contract does not affect the accrued rights of the parties at law.

16. SITE ACCESS

The Hirer will, upon the request of the Company, allow, or cause to allow, the Company or its representatives to enter the Site or such other place where the Equipment is located for the purposes of this Contract including delivery, installation, erection, inspection, maintenance, collection or repossession of the Equipment.

17. INSURANCE

17.1 Risk in the Equipment shall pass to the Hirer upon delivery of such to the Hirer.

17.2 The Hirer will effect for the duration of the Hire Contract replacement insurance with a reputable insurer in the joint names of the Hirer and the Company against loss or damage in respect of the Equipment however caused, and will provide proof of such insurance to the Company upon its request.

18. LOST GOODS

18.1 Where Equipment is not returned to the Company or where the Company receives notice that an item of Equipment has been lost or where after reasonable notice from the Company, the Hirer does not produce all or part of the Equipment, such Equipment shall be treated as "Lost Equipment".

18.2 The Company may invoice the Hirer for the Lost Equipment at the retail sale price of such as at the date of the invoice and the Hirer will pay the invoice immediately upon its receipt of such.

18.3 Until the sum described in clause 18.2 above is paid, Hire Charges will continue to accrue for the Lost Equipment.

18.4 Where the Lost Equipment is subsequently returned to

the Company or recovered and taken back into use by the Hirer, the Hirer shall be entitled to a credit equal to the sum paid for the Lost Equipment and the Company shall be entitled to off-set against such sum received in payment of the Hire Charges in respect of the Lost Equipment as if such Equipment had never been lost but had throughout and continuously been in possession and use of the Hirer.

19. NOTICES

19.1 A notice or other communication given under or about this Hire Contract must be in English and in writing and delivered or sent by prepaid post, facsimile or email to the address, facsimile number or email address of the addressee as notified in writing by the addressee to the sender from time to time.

19.2 A notice or other communication given under or about this Hire Contract is taken to be received:

(a) if hand delivered, on delivery;

(b) if sent by prepaid post, 3 days after posting; or

(c) if sent by facsimile or email, when the sender's facsimile or email system confirms the notice or other communication has been transmitted in its entirety to the facsimile number or email address of the addressee, as the case may be.

20. PERSONAL PROPERTIES SECURITY ACT (PPSA)

(a) Defined terms in this clause have the same meaning as given to them in the PPSA.

The Company and the Applicant acknowledge that these terms constitute a Security Agreement and gives rise to a Purchase Money Security Interest ("PMSI") in favour of the Company over the Equipment, supplied to or to be supplied to the Applicant as Grantor pursuant to these Terms and that the Equipment supplied or to be supplied under these terms fall within the PPSA classification of "Other Goods". The Company and the Applicant acknowledge that the Supplier as Secured party, is entitled to register its Security Interest in the Goods supplied or to be supplied to the Applicant as Grantor under these Terms on the PPSR as Collateral.

(b) To the extent permissible at law, the Applicant:

Waives its right to receive notification of or a copy of any verification statement confirming registration of a Financing Statement or a Financing Change Statement relating to a security interest granted by the Applicant, as Grantor, to the Company; Agrees to indemnify the Company on demand for all costs and expenses, including legal costs and expenses on a solicitor/client basis, associated with the ; Registration or amendment or discharge of any Financing Statement registered by or on behalf of the Company; and Enforcement or attempted enforcement of any security interest granted to the Company by the Applicant.

Agrees that nothing in sections 130 to 143 of the PPSA relating to enforcement by the Company of any Security Interest created or provided for herein will apply to these Terms or the Security under the Terms;

Waives any rights it may have under sections 95, 123, 130, 132 (4), 135, 142, 143, 129, 132(3)(d) of the PPSA.

21. GENERAL

21.1 A provision of or a right created under this Hire Contract may not be waived, except in writing signed by the party granting the waiver or varied, except in writing signed by the parties.

21.2 The provisions of this Hire Contract shall be severable, so that the invalidity, unenforceability, or waiver of any of the provisions shall not affect the remaining provisions.

21.3 This Hire Contract constitutes the entire agreement of the parties about its subject matter, and any previous agreements, understandings or negotiations regarding the subject matter do not have any effect.

21.4 A party's non-exercise or delay in exercise of a right, power or remedy does not prevent the exercise of that right, power or remedy by that party.

21.5 Nothing contained in this Hire Contract or otherwise shall create a partnership, representation or agency between the parties nor create any fiduciary relationship between them for any purpose whatsoever.

21.6 This Hire Contract is governed by the applicable law of the State .

21.7 The Company shall not be liable for any failure for any failure or delay to supply, deliver or collect the Equipment where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of the Company including, but not limited to war, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of god, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.



