

# DRILLING SERVICES TERMS AND CONDITIONS

## 1. CONTRACT ACCEPTANCE

- 1.1 We will commence the Drilling Services when you have confirmed acceptance of the Contract. You can accept by:
- (a) instructing us (whether in writing, by email or orally) to proceed with the Drilling Services after this Contract has been provided to you;
  - (b) issuing a purchase order referring to the Proposal or this Contract;
  - (c) confirming acceptance of the Contract via email to us; or
  - (d) signing and returning this Agreement (including electronically).
- 1.2 To the extent that any correspondence from you referring to or communicating acceptance of our Proposal or purchase order or instruction issued by you attaches or refers to any terms and conditions not included in this Contract, these Terms and Conditions prevail to the extent of any inconsistency.

## 2. OUR OBLIGATIONS

- 2.1 We will perform our obligations under the Contract:
- (a) in accordance with the Contract and any Contract Documents;
  - (b) diligently and professionally;
  - (c) where relevant, using materials that are suitable, new and free of defects;
  - (d) using personnel who are adequately trained, have the necessary experience to carry out the Drilling Services and hold all necessary qualifications, approvals, licences and accreditations; and
  - (e) in accordance with all relevant laws and regulations; and
  - (f) in accordance with any applicable HSE procedures.
- 2.2 We will endeavour to liaise with you and your other contractors to coordinate access and movement around the Site. If a difference or dispute arises between us and your other contractors, you must direct the procedure or order of work. If we incur any costs due to your direction under clause 2.2, the cost to us will be added to the Fee and included in the next invoice.

## 3. YOUR OBLIGATIONS

- 3.1 You must:
- (a) pay us the Fee in the manner and at the times stated in the Contract;
  - (b) provide us with access to the Site to the extent necessary to perform the Drilling Services before the Commencement Date, or if there is no Commencement Date, within 7 days of your acceptance of the Proposal;
  - (c) prepare the Site to enable access for our rig and associated equipment, as well as for digging suited mud pits and drainage channels where necessary and promptly provide us with any

- information or directions that we reasonably require in connection with the Drilling Services;
- (d) obtain any approvals that are necessary for the Drilling Services, including approvals from landholders, State or local governments and utility providers;
- (e) ensure access to the Site is uninterrupted for the duration of the Drilling Services;
- (f) you and any site or location that you require us to attend comply with all relevant work health, safety and environment laws; and
- (g) our personnel will undergo all necessary inductions and site-specific safety training before performing the Drilling Services at your requested locations at your cost.

## 3.2 You warrant that:

- (a) the Site is suitable and adequate for the Drilling Services;
- (b) any documents that you have provided to us in relation to the Drilling Services are accurate and free of errors and omissions;
- (c) you will ensure there is an adequate and reliable source of water within a reasonable distance of the Site; and
- (d) you will notify us immediately of any conditions or characteristics that render the Site unsuitable or unsuitable (including weather events) and direct us on how to proceed, with any costs to be added to the Fee and included in the next invoice.

## 4. REPORTING

- 4.1 We will submit a digital progressive log of drilling (PLOD) to your Representative daily, using appropriate drilling project management software.
- 4.2 The PLOD will include a record of drilling progress, including the depth of each drillhole, a statement of any work or delay time and materials used or left in any hole during the reported shift.
- 4.3 Your Representative will authorise each PLOD daily or as soon as is practicable.

## 5. PAYMENT

- 5.1 We will submit invoices fortnightly, or as otherwise set out in the Schedule of Rates or agreed in writing.
- 5.2 Each invoice will set out details of:
- (a) the portion of the Drilling Services carried out in the period to which the invoice relates by reference to relevant PLODs;
  - (b) the payment claimed for that portion of the Drilling Services;
  - (c) any other amount arising out of the Contract that we claim for payment, including:
    - (i) any reimbursable expenses (including repairs to machinery and equipment) plus a reasonable margin for administration;

- (ii) any costs for lost or damaged equipment, calculated according to the following formula:  
$$\text{Reimbursement} = \text{Cost Price} - ((\text{Cost Price} \times \text{Age})/\text{Life})$$

Where:

“Cost Price” means the landed cost of the item to be replaced.

“Age” means the number of metres drilled using the item.

“Life” means the expected life of the item, expressed in metres.

- 5.3 You must pay us the total amount invoiced by the time stated in the invoice, or if no time is stated:
  - (a) for Drilling Services and associated costs, within 21 days of the date of the invoice; and
  - (b) for fuel supply within 7 days of the date of the invoice.
- 5.4 Any amount that is not paid within 7 days of the date of the invoice may attract interest. Interest will be calculated on the daily balance which is unpaid from time to time until the date of payment, at the cash rate target published by the Reserve Bank of Australia on the due date of the payment, plus 4%.
- 5.5 Unless expressly stated to the contrary, the amount of payment for any taxable supply under this Contract has been calculated exclusive of goods and services tax and will be increased by the amount of any goods and services tax.
- 5.6 If any payment is not made when due, we may suspend Drilling Services until payment is received, or alternative arrangements acceptable to us are made.
- 5.7 We reserve the right to assign our entitlements to payment under this Contract and/or to employ the services of a debt collector if any fees remain unpaid 7 days after they were due.
- 5.8 If you do not pay a debt due to us, we may require you to pay part or all of the costs and expenses associated with ensuring payment of such debt. This may include commission and fees payable to a mercantile collection agency or solicitor.

## 6. TIME AND DELAYS

- 6.1 We will perform the Drilling Services within a reasonable time, on a 14-day on, 7-day off or 28 day on, 14-day off roster, unless otherwise agreed in writing
- 6.2 We will be entitled to an extension of any Completion Date if any of the following events or circumstances delay the progress of the Drilling Services:
  - (a) variations to the Drilling Services, including the time for reaching agreement on a variation;
  - (b) inclement weather or conditions resulting from inclement weather;
  - (c) an act or omission by you or your agents, representatives, employees or other contractors;
  - (d) a shortage or delay in the delivery or mobilisation of materials or availability of equipment required for the Drilling Services that was outside of our reasonable control; and
  - (e) any other matter, cause or thing that is beyond our reasonable control.

- 6.3 We will notify you if we become aware of a delay, detailing:
  - (a) the reason for the delay;
  - (b) the period during which the carrying out of the Drilling Services is or will be delayed; and
  - (c) the extension required to any Completion Date.
- 6.4 Where a delay arises due to causes outside of our reasonable control:
  - (a) we are entitled to be paid for any increase in the costs of carrying out the Drilling Services and any other reasonable costs arising out of the delay, including the costs of any demobilisation and mobilisation; and
  - (b) the cost to us will be added to the Fee and claimed in the next invoice.
- 6.5 If by reason of any matter or thing beyond the affected party's reasonable control either party is unable to perform an obligation under this Contract, that party:
  - (a) except to the extent that the obligation is to pay the Fee, is relieved of the obligation to the extent and for the period that it is unable to perform; and
  - (b) will not be liable to the other party for failure to perform the obligation to the extent and for the period of non-performance contemplated by this clause.

## 7. VARIATIONS

- 7.1 We will not vary or omit any part of the Drilling Services except in accordance with the Contract or in accordance with a written direction from you.
- 7.2 We will carry out variations of the Drilling Services, provided that, before commencing the varied Drilling Services, a written agreement is reached between you and us that sets out:
  - (a) the scope of the varied services;
  - (b) the price of the variation;
  - (c) any impact of the variation on the Completion Date.
- 7.3 The Fee will be adjusted by the price of the variation. We will claim the adjustment in our next invoice following the written variation agreement.
- 7.4 Where the Proposal sets out hourly or daily rates, those rates will be reviewed on each anniversary of acceptance of the Contract, or reasonable written notice by us to you.

## 8. LIABILITY

- 8.1 The Drilling Services are delivered solely for your use. We do not accept liability to or in connection with third parties who use or rely on any of the Drilling Services.
- 8.2 We indemnify you against any loss, damage, injury or death arising out of our negligent acts or omissions in the performance of the Drilling Services under this Contract, except to the extent that such loss, damage, injury or death is caused or contributed to by you or your employees, officers, agents, representatives or other contractors.
- 8.3 Our liability for any loss or damage connected with a breach of this Contract, or in tort, or for any other common law or statutory cause of action arising out of

this Contract will (except to the extent prohibited by law) be limited to reperforming the Drilling Services or the Fee, whichever is the lesser.

- 8.4 We will not be liable to you in respect of any indirect or consequential loss, damage, cost or liability of any kind (including negligence) that you may suffer in connection with this Contract, or any economic loss, loss of revenue, profit or anticipated profit, loss of contract, loss of production, loss of product, loss of use of property or business interruption, in each case whether direct or indirect and irrespective of whether or not such losses were foreseeable at the time of entering into the Contract.

## 9. INSURANCE

- 9.1 Before the commencement of the Drilling Services and until the Drilling Services are complete, each party must, at its expense, effect and maintain and ensure that all of its other contractors effect and maintain:
- (a) all insurances required by law and prudent business practice;
  - (b) workers' compensation as required by law;
  - (c) public and products liability insurance with a minimum level of cover of \$20,000,000;
  - (d) motor vehicle third-party liability insurance in accordance with law;
  - (e) all other insurances as required by law or prudent commercial practice.
- 9.2 The parties must provide a copy of the certificates of currency of the insurance referred to in clause 9.1 on request by the other party.

## 10. TERMINATION

- 10.1 This Contract may be terminated at any time by written agreement.
- 10.2 Either party may terminate this Contract:-
- (a) if the other is in default of the terms and conditions of this Contract and fails to remedy the default within 7 days after receiving written notice of the default; or
  - (b) immediately if the other party files for bankruptcy, enters into liquidation, is acquired by another entity or becomes insolvent or is deemed to be insolvent under the *Corporations Act 2001* (Cth).
- 10.3 We may terminate this Contract for our convenience on 14 days' written notice.
- 10.4 If this Contract is terminated in accordance with this clause 9, you must pay us for:
- (a) all Drilling Services delivered up to the date of termination;
  - (b) any costs reasonably incurred by us in anticipation of carrying out the Drilling Services under this Contract; and
  - (c) any reasonable costs arising from the termination, including demobilising from Site.
- 10.5 Termination of this Contract for whatever cause shall be without prejudice to any rights or obligations that have accrued or are owing before the termination, including payments of money.

## 11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- 11.1 Ownership of all Intellectual Property used or created under the Contract vests in us on creation. We grant you a non-exclusive, transferable, royalty-free, irrevocable and perpetual licence to use such Intellectual Property to enjoy the benefits of the Contract.
- 11.2 We each agree that the terms of this Contract are confidential and agree that we must not disclose any information regarding the Contract, its existence or its terms, or acquired as a result of the Contract to any third party (including by making any media release) without the other party's prior written consent unless required by law.

## 12. DISPUTE RESOLUTION

- 12.1 Where a dispute arises in connection with the Contract, we will attempt to resolve the dispute first by mutual negotiation. If we are unable to resolve the dispute within 30 days, the dispute will be submitted to mediation in accordance with the Resolution Institute Rules for Mediation.
- 12.2 If we cannot agree on a mediator, either party may request a nomination from the Resolution Institute.
- 12.3 The costs of the mediation will be dealt with as follows:
- (a) the costs of each of the parties must be borne by the party that incurred them; and
  - (b) the fees and expenses of the mediator and any costs of the mediation must be shared equally between the parties.
- 12.4 Nothing in this clause 12 prevents either party from commencing proceedings to seek urgent injunctive or declaratory relief or us from commencing proceedings at any time to recover unpaid Fees.

## 13. SPECIAL CONDITIONS

- 13.1 If applicable, any Special Conditions set out in the Contract Details or attached to this Contract will take effect as express terms of the Contract. Special Conditions prevail over these General Conditions to the extent of any inconsistency.

## 14. DEFINITIONS

- 14.1 In this Contract, unless the context otherwise requires, capitalised have the meaning given to them in this clause 14, the Proposal or the Contract Details.
- "Drilling Services"** means the services specified in the Proposal.
- "Fee"** means the fee to be paid by you to us in return for the performance of the Drilling Services, as set out in the Proposal and as adjusted in accordance with this Contract.
- "Intellectual Property"** means all rights resulting from the Drilling Services, whether capable of protection by statute, common law or in equity and including copyright, techniques, discoveries, patented and unpatented inventions, patent rights, registered and unregistered trademarks, design rights, circuit layouts and plant varieties and all similar rights and interests including methods and techniques, together with any related documentation.

“**Proposal**” means a project proposal from us setting out the Drilling Services that we will perform in relation to the project, the Fee, and the terms of our engagement.

“**Site**” means the site where the Drilling Services will be performed, as set out in the Proposal or as otherwise agreed in writing.

## 15. GENERAL

- 15.1 This Contract is the entire agreement between the parties concerning its subject matter and supersedes all prior oral or written representations and agreements. If any terms appear on a purchase order or other instruction issued by you, this Contract prevails, and those terms are deemed to have been withdrawn in favour of this Contract.
- 15.2 This Contract can only be amended in writing and signed by both parties.
- 15.3 We may assign our rights or obligations under this Contract without your consent. You may not assign your

rights or obligations under this Contract without our written consent.

- 15.4 Nothing in this Contract creates a relationship of employer and employee, client and agent, partnership or joint venture between the parties or between us and any third party, including your employees, contractors or other personnel.
- 15.5 Neither party has the authority to act for, bind, or incur liabilities on behalf of the other unless agreed otherwise in writing.
- 15.6 A waiver by either party of a breach of this Contract does not constitute a waiver of any succeeding breach of the same or any other provision.
- 15.7 If any part of this Contract is invalid or unenforceable, that provision will be deemed deleted but only to the extent necessary. The remaining provisions of the Contract will remain in full force and effect.
- 15.8 The laws of Western Australia govern this Contract. The parties submit to the non-exclusive jurisdiction of the courts of Western Australia.