



Mining Lease

Dated

20

The Honourable MP (“Minister”)

and

(“Lessee”)

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Mining Lease

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General terms

1 Definitions and interpretation

1.1 Definitions

In this Lease unless the contrary intention appears, or the context requires otherwise:

"Act" means the *Mineral Resources Development Act 1995*;

"Authorised Purpose" means:

- (a) to carry out Mining Operations in the Lease Area, for minerals of the Category (as defined in the Act) shown in Item 1 of Schedule 2; and
- (b) (only to gain access to the Lease Area), to enter on, and pass over Crown land adjoining the Lease Area;

"Business Day" means a day on which authorised deposit-taking institutions (as defined in the *Banking Act 1959* (Cwlth)) in Hobart are open for general banking business excluding, Saturdays, Sundays and public holidays;

"Deposit" means the sum shown in Item 2 of Schedule 2, determined by the Minister as the security deposit under the Act for this Lease, as varied under clause 7;

"Director" means the Director of Mines appointed under section 8 of the Act;

"Insolvent" means, for a natural person:

- (a) having committed an act of bankruptcy;
- (b) being made bankrupt; or
- (c) being subject to an arrangement under part IV of the *Bankruptcy Act 1966* (Cwlth);

and for a corporation:

- (d) being wound up (other than for the purpose of restructure);
- (e) having a controller appointed;
- (f) coming under administration under the *Corporations Act 2001* (Cwlth);
- (g) being subject to an order for winding up or reconstruction; or

(h) having a receiver, a receiver and manager, an agent in possession, a trustee or guardian appointed to the property of the corporation;

“Inspector” has the same meaning as in the Act;

“Intellectual Property” means all copyright, patents, registered and unregistered trademarks, registered designs, trade secrets and know-how and all other intellectual property rights resulting from intellectual activity;

“Interest Rate” means the aggregate of two per cent (2%) per annum and the same rate as the rate prescribed for the purposes of section 36(a)(ii) of the *Crown Lands Act 1976*;

“Lease” means this mining lease granted under the Act;

“Lease Area” means the land described in Schedule 1;

“Legislative Requirements” means Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth, the State or a local government body exercising lawful jurisdiction;

“Lessee’s Obligations” means the terms in Schedules 3 and 4;

“Mining Operations” has the same meaning as in the Act;

“Minister” means the Minister administering the Act and includes his successors in office;

“Moral Rights” means:

- (a) a right of attribution of authorship;
- (b) a right not to have authorship falsely attributed; or
- (c) a right of integrity of authorship;

granted to creators under the *Copyright Act 1968* (Cwlth);

“Rent” means the annual rent prescribed under the Act;

“Reports” means the reports that the Lessee submits to the Director under the Act;

“Royalty” means the royalty prescribed under the Act;

“Special Provisions” means the terms in Schedule 3;

“Term” means the period from the date of this Lease until the date shown in Item 3 of Schedule 2.

1.2 Interpretation

In this Lease, unless the contrary intention is expressed:

- (a) a reference to this Lease includes its schedules, appendices, annexures and attachments, and any variation or replacement of any of it;
- (b) a reference to a statute, ordinance, code, or other legislative instrument includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes plural and conversely;
- (d) a reference to a gender includes reference to each other gender;
- (e) a reference to a person includes:
 - (i) an individual, a firm, a body corporate, an unincorporated association or a statutory or responsible authority or other authority, as constituted from time to time; and
 - (ii) the person's executors, administrators, successors and permitted assigns;
- (f) an agreement, representation or warranty by, or for, two or more persons binds, or is for their benefit, together and separately;
- (g) a covenant forbidding a person from doing something, also forbids that person from authorising or allowing another person to do it;
- (h) a reference to any thing (including an amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;
- (i) a reference to a clause, paragraph, schedule, annexure or appendix, is a reference to a clause, paragraph, schedule, annexure or appendix in or to this Lease;
- (j) a reference to a day is to be interpreted as the period of time starting at midnight and ending twenty-four (24) hours later;
- (k) a reference to a month or a year means a calendar month or a calendar year respectively;
- (l) words or phrases derived from a defined word have a corresponding meaning to the defined word;
- (m) a term of inclusion is not to be interpreted as a term of limitation;

- (n) all payments referred to in, or to be made under, this Lease must be in Australian dollars;
- (o) a reference to the payment of money within a specified time, means the full clearance of any cheque into the payee's account within that time;
- (p) it operates under Tasmanian time;
- (q) headings are included for convenience only and do not form part of it and are not be used in its interpretation;
- (r) if a party consists of more than one person then this Lease binds all or any two or more of them jointly and each of them severally;
- (s) an uncertainty or ambiguity in the meaning of a provision is not to be interpreted against a party only because that party prepared the provision;
- (t) if a day appointed for the payment of money or the performance of an act, falls on a day that is not a Business Day, then the day for the payment of that money or the performance of that act will instead be the Business Day immediately following the appointed day; and
- (u) "writing" includes typing, lithography, photography and other modes of representing or reproducing words, figures, diagrams and symbols in a tangible and visible form.

2 Issue of Lease

2.1 Grant

The Minister, acting under section 81(1) of the Act, leases the Lease Area to the Lessee exclusively for the Authorised Purpose, subject to:

- (a) the terms and conditions in this Lease; and
- (b) the provisions of the Act.

2.2 Term

This Lease is in force for the Term, unless revoked earlier.

3 Rent and Royalty

The Lessee must pay the Rent and the Royalty as required under the Act.

4 Conditions of Lease

In addition to the conditions imposed under the Act, this Lease is issued subject to the following conditions:

- (a) the Lessee must not use the Lease Area for any purpose other than the Authorised Purpose;
- (b) the Lessee must observe and perform the Lessee's Obligations strictly and punctually;
- (c) the Lessee must comply with all applicable Legislative Requirements;
- (d) the Lessee must not become Insolvent;
- (e) the Lessee must comply with the obligations imposed on the Lessee under clauses 6, 7(b), 8, 9 and 10.

5 Lessee's failure to comply with a condition

5.1 Minister may remedy default

The Minister, or a person appointed by the Minister, may:

- (a) enter the Lease Area and carry out work necessary to secure observance, performance and compliance with all of the terms and conditions contained in this Lease; and
- (b) take whatever action is necessary to remedy a breach of a Legislative Requirement or Lease condition, without prejudice to any other available remedy.

5.2 Lessee must reimburse Minister

The Lessee must reimburse to the Minister all costs incurred under clause 5.1 within seven days of demand, together with interest at the Interest Rate, calculated from the date of expenditure by the Minister to the date of payment by the Lessee.

5.3 Minister may distrain

In addition to any other available right or remedy, the Minister may distrain for unpaid Rent or Royalty.

6 Lessee's further obligations

6.1 Obligations

The Lessee must:

- (a) not start any work for the Authorised Purpose until all Legislative Requirements have been satisfied;
- (b) extract as much of the economic mineral or minerals in the Lease Area as is consistent with the Authorised Purpose, safety and good mining practice;
- (c) take such steps as an Inspector directs, to avoid or protect mining features or artefacts in the Lease Area considered to be of cultural heritage significance;
- (d) undertake an audit of the heritage values of the Lease Area, if directed to do so by the Director, and to deliver the audit report to the Director;
- (e) notify the Inspector if mining features or artefacts, thought to be of significance, are uncovered by Mining Operations;
- (f) carry out all Mining Operations consistently with the mining plan most recently approved by the Director for the Lease Area;
- (g) whenever the Director requires, submit to the Director, an updated mining plan that takes into account:
 - (i) changes to relevant Legislative Requirements and codes of practice;
 - (ii) changes to the environmental effects of the Mining Operation;
 - (iii) changes to permit or Lease conditions;
 - (iv) unforeseen environmental effects of the Mining Operation;
or
 - (v) changes in the scale or nature of the Mining Operation;
- (h) stack non-merchantable timber and other vegetation cleared from the Lease Area, within a cleared area;
- (i) not cut, remove or use any timber on the Lease Area for mining or domestic purposes without the prior written approval of an Inspector, or in the case of State Forest, of the District Forester;
- (j) provide drains and settling ponds to the Director's satisfaction, designed and maintained to meet or exceed the following requirements:
 - (i) to mitigate reasonably foreseeable sediment loss that would result from a one in 10 year storm event;

- (ii) discharge from ponds must occur via a stable spillway that is not subject to erosion;
 - (iii) all dam walls must be stable, treated with topsoil and vegetated or otherwise treated so as to prevent erosion;
 - (iv) ponds must be cleaned out regularly so that, at any time, no more than two-thirds of the depth of the pond contains sediment; and
 - (v) sediment removed during cleaning must be securely deposited so that it will not be transported off the Lease Area by surface run-off;
- (k) not damage or interfere in any way with existing or future roads, tracks, water licences or easements, or drainage systems on the Lease Area;
 - (l) repair any damage to existing or future roads, tracks, water licences or easements, or drainage systems on the Lease Area at the Lessee's cost, to the satisfaction of an Inspector;
 - (m) remove and stockpile surface soil separately from other overburden;
 - (n) rehabilitate worked-out areas concurrently with Mining Operations, so that, except with the Director's prior written approval, the un-rehabilitated area does not exceed the area shown in Item 4 of Schedule 2, at any time;
 - (o) not clear any vegetation or undertake any earthworks, outside the proposed area of disturbance shown on the mining plan, without the Director's prior written approval;
 - (p) take immediate action to suppress any fire for which there is no permit, that commences on the Lease Area during Mining Operations;
 - (q) retain all tailings, waste rock and overburden within the Leased Area and to rehabilitate disturbed areas to the Director's satisfaction;
 - (r) ensure that all equipment entering or leaving the Lease Area is clean and free from earth, mud or vegetation, to minimise the risk of weeds or plant diseases being spread to and from the site;
 - (s) establish within the Lease Area and maintain throughout the Term, an adequate, stable buffer zone at least 10 metres wide, and parallel to, the Lease Area common boundary with all adjoining land occupied or used by another;

- (t) not conduct Mining Operations or ancillary activities on the buffer zone without the prior written approval of an Inspector and the occupier of the adjoining land;
- (u) when Mining Operations are coming to an end:
 - (i) give the Director at least four weeks prior written notice of the date on which the Lessee expects to cease Mining Operations; and
 - (ii) subject to paragraphs (d) and (e) of this clause, if a shaft, an adit, an excavation, a stockpile, wastes, a dam, or other workings, or the access to them, is likely to constitute a hazard, cap, fill, grade or rehabilitate the workings to remove or otherwise secure the hazard to the Director's satisfaction; and
 - (iii) rehabilitate worked out areas of the Lease Area, including revegetating the Lease Area surface, to the Director's satisfaction; and
 - (iv) subject to paragraphs (d) and (e) of this clause, remove all structures, equipment, hazardous substances and debris from the Lease Area unless the Director directs otherwise.

6.2 Unworked mineral

The Director (whose decision on the matter is final), will determine whether the Lessee has satisfied clause 6.1(b).

6.3 Conflict with Quarry Code of Practice

If a permit condition under the *Land Use Planning and Approvals Act 1993*, or a Lease condition under this Mining Lease, conflicts with the *Quarry Code of Practice* approved under section 204 of the Act, then the permit or Lease condition takes precedence.

7 Increased security deposit

- (a) The Minister may require the Lessee to increase the value of the Deposit whenever, and as often as, the Minister sees fit.
- (b) The Lessee must provide any increased Deposit within 20 Business Days after being required to do so.

8 Lessee's indemnities and waiver

8.1 Lessee indemnifies Minister for third party risk

The Lessee must indemnify the Minister against all present and future legal liability, claims, or proceedings for:

- (a) personal injury to, or death of a third party;
- (b) either or both loss of, or damage to, property of a third party; and
- (c) financial loss of a third party;

arising from, or attributable to, the Lessee's occupation or use of the Lease Area.

8.2 Lessee indemnifies Minister against loss and damage

The Lessee must indemnify the Minister against all loss and damage to the Lease Area and all property on it arising from, or attributable to, the Lessee's occupation or use of the Lease Area.

8.3 Waiver of rights of recovery from the Minister

The Lessee waives all present and future rights to claim against the Minister for:

- (a) personal injury to, or death of, the Lessee;
- (b) either or both loss of, or damage to, any of the Lessee's property; and
- (c) financial loss to the Lessee;

arising from, or attributable to, the Lessee's occupation or use of the Lease Area.

8.4 Nature of indemnities and waiver

The indemnities and waiver in this clause 8:

- (a) do not extend to liability caused by the Minister's wrongful (including negligent) act or omission;
- (b) are continuing obligations of the Lessee, separate and independent from any other obligations; and
- (c) survive the termination of this Lease.

9 Insurance

9.1 Lessee to insure

The Lessee must hold and keep current throughout the Term and for as long as the Lessee occupies the Lease Area, contracts of insurance with a reputable insurer lawfully carrying on insurance business in Australia, indemnifying:

- (a) the Minister's and the Lessee's respective liability for:

- (i) personal injury to, or death of, a third party; and
- (ii) either or both loss of, or damage to, the property of a third party;

for at least the sum shown in Item 5 of Schedule 2, for each individual claim or series of claims arising out of a single occurrence, or for such other amount as the Minister reasonably determines from time to time;

- (b) the Lessee's liability for workers' compensation; and
- (c) any other risks that the Minister reasonably requires the Lessee to insure against, for the amount stipulated by the Minister, to the extent that the claim for indemnity is not caused by the Minister's wrongful (including negligent) act or omission.

The liability to be insured against under paragraph (a) is liability arising from, or attributable to, the Lessee's occupation or use of the Lease Area, to the extent that the injury, death, damage or loss is caused by a wrongful (including negligent) act or omission of the Lessee or the Lessee's employees, agents, sub-contractors or invitees.

9.2 Crown to be named as principal

Insurance under clause 9.1(a) must cover "the Crown in Right of Tasmania" as principal under the insurance contract.

9.3 Lessee to notify Director

The Lessee must notify the Director in writing as soon as practicable:

- (a) if an insurance contract taken out under clause 9.1 lapses, is cancelled or is materially altered; or
- (b) if an insurance contract taken out under clause 9.1 is materially altered; or
- (c) if the Lessee claims, or becomes entitled to claim under such an insurance contract for something related to this Lease.

9.4 Evidence of insurance

The Lessee must give the Director evidence of:

- (a) the terms of; and
- (b) payment of the premium for;

each insurance contract taken out under clause 9.1,

- (c) before the Lessee exercises rights under the Lease; and

(d) before each due date for renewal of each such insurance contract.

9.5 Minister may insure

If the Lessee fails to hold or renew each insurance contract required under clause 9.1, then without being obliged to do so, the Minister may:

- (a) take out or renew an insurance contract that the Lessee does not hold or has not renewed; and
- (b) pay any unpaid premium.

The Lessee must pay to the Director, on demand, all costs that the Minister or the Director incurs to do that, and interest on those costs, at the Interest Rate, from the date of outlay to the date of payment.

9.6 Lessee not to prejudice insurance

The Lessee must not do anything that may result in an insurance contract taken out under clause 9.1, or any part of it, becoming invalid or unenforceable.

10 Licence to use Reports

10.1 Grant of licence

Subject to clauses 10.2 and 10.3, the Lessee grants to the Minister a permanent, irrevocable, free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, publish, adapt and exploit the Intellectual Property in all Reports, for any Crown purpose.

10.2 Lessee does not warrant ownership

- (a) The Lessee does not warrant ownership of all Intellectual Property in the Reports.
- (b) The Lessee must use best endeavours to identify to the Director, those parts of each Report in which another person holds Intellectual Property rights.

10.3 Confidentiality of Reports

The Minister must keep confidential for the Term and any renewal of the Term all Reports with respect to activities carried out in the Lease Area provided by the Lessee pursuant to the Act, unless the Lessee waives this entitlement to confidentiality.

10.4 Moral Rights consent from Lessee

The Lessee unconditionally consents to any infringement of the Lessee's Moral Rights resulting from any use of the Reports by or on behalf of the Crown, for any Crown purpose.

10.5 Moral Rights consent from third party authors

To the extent that a third party has Moral Rights in the Reports, the Lessee warrants that it has obtained the third party's unconditional consent to any use of those materials by or on behalf of the Crown, for any Crown purpose.

10.6 Supply of documentary evidence

If the Director so requests, the Lessee must promptly provide to the Director, all Moral Rights consents required by clauses 10.4 and 10.5.

11 Goods and Services Tax

11.1 GST exclusive

Subject to any other provision of this Lease expressing a contrary intention, if GST is imposed on a supply made under it, then the party paying for the supply must pay the amount of the GST to the party making the supply, at the same time as, and in addition to, the amount payable for the supply.

11.2 Tax invoice

A party making a taxable supply under this Lease must give the recipient a tax invoice for the taxable supply when that supply is made.

11.3 Entitlement to input tax credit

If, under this Lease, a party is required to indemnify another party, or to make a reimbursement or contribution to another party, and that other party can obtain an Input Tax Credit on an acquisition associated with that indemnity, reimbursement or contribution, then the amount the party is required to pay is:

- (a) reduced by the amount of that Input Tax Credit; but
- (b) increased by any GST payable by that other party in respect of the indemnity, reimbursement or contribution.

11.4 Defined terms in GST Act apply

In this clause "GST" refers to goods and services tax under *A New Tax System (Goods and Services) Act 1999* ("GST Act") and the terms used have the meanings as defined in the GST Act.

12 Notices

12.1 Giving a notice

- (a) A notice or other communication to be given or made under this Lease must be in writing and addressed, as the case may be, to the receiving party at their address in Schedule 1.
- (b) A party may from time to time change its address or number for service by giving written notice to the other party.

12.2 Serving a notice

A notice or other communication is taken to have been duly served:

- (a) in the case of hand delivery - when delivered;
- (b) if sent by prepaid post - on the third Business Day after the date of posting;
- (c) if sent by facsimile transmission (if the sending facsimile machine produces a print out of the time, date and uninterrupted transmission record of the sending of the notice) - upon completion of sending if completion is within ordinary business hours in the place where the recipient's facsimile machine is located, but if not, then at 9.00 a.m. on the next Business Day.

12.3 Sufficiency of notice etc

A notice or other communication to be given or made under this Lease, is sufficient if:

- (a) in the case of the Minister, it is signed by the Minister, or a duly authorised officer of the Minister's Department, or the Minister's solicitors;
- (b) in the case of the Lessee, it is signed by the Lessee or the Lessee's agent or solicitors.

12.4 Signatures

A printed or copied signature is sufficient when sending a demand, written consent or other communication by facsimile transmission.

13 Exercise of powers

13.1 Minister may delegate

The Minister may exercise any powers, authorities and discretions through permanent officers or any other person or corporation appointed in writing for that purpose.

13.2 Minister's consent

If the Minister's consent is required to be obtained under the provisions of this Lease, the Minister may give or withhold the consent at the Minister's absolute discretion and on the conditions that the Minister imposes.

14 Governing law and jurisdiction

14.1 Law of Tasmania

This Lease is governed by the law of Tasmania, and the parties submit to the jurisdiction of the Courts of Tasmania.

14.2 Proceedings issued under or about this Lease

Any proceedings issued against the Minister or the Director under or about this Lease, must be instituted either:

- (a) in a Tasmanian court; or
- (b) in the Federal Court, from the Tasmanian Registry of that court.

15 Confidentiality

- (a) Despite any confidentiality or intellectual property right subsisting in this Lease or a schedule, appendix, annexure or attachment to it, either party may publish all or any part of it without reference to the other.
- (b) Nothing in this clause derogates from a party's obligations under the *Personal Information Protection Act 2004* (Tas) or the *Privacy Act 1988* (Cwlth).

16 Rights cumulative

The rights and remedies, provided in this Licence are cumulative and not exclusive of any rights or remedies provided by law.

Executed as a deed.

Signing page

Dated:

20

[Delete this note & all Crown execution clauses not used]

Signed by the Honourable [redacted])
MHA (the Minister responsible to)
administer the Act) in the presence)
of:)
)

.....

.....
Signature of witness

.....
Name of witness (block letters)

.....
Address of witness

.....
Occupation

Signed by [redacted] (**Director of**)
Mines) under an Instrument of)
Delegation dated [redacted] [redacted])
[redacted] in the presence of:)
)

.....

.....
Signature of witness

.....
Name of witness (block letters)

.....
Address of witness

.....
Occupation)

Signed by [redacted] under an)
Instrument of Delegation dated)
[redacted] [redacted] [redacted] in the presence)
of:)

.....

.....
Signature of witness

.....
Name of witness (block letters)

.....
Address of witness

.....
Occupation)

Schedule 1

The Lease Area

[Insert cartographic description and lease diagram]

Addresses for service of notices

1. **The Minister:** C/- The Director of Mines
 Mineral Resources Tasmania
 PO Box 56
 Rosny Park Tas 7018

2. **The Lessee:** (*Complete*)

Schedule 2

Item 1 (Refer clause 1.1, “Authorised Purpose”)

Mineral Category; .

Item 2 (Refer clause 1.1, “Deposit”)

Deposit: \$.00.

Item 3 (Refer clause 1.1, “Term”)

Term end date: 2 .

Item 4 (Refer clause 6.1(n))

Un-rehabilitated area: hectares.

Item 5 (Refer clause 9.1(a))

Public risk insurance cover: \$ Million.

Schedule 3

Special Provisions

There are no Special Provisions.

[Drafting note; either delete this note (if there are no Special Provisions)

or delete the previous provision, this note and add the Special Provisions, as appropriate]

Schedule 4

State Forest

This Schedule applies to all parts of the Lease Area that are State Forest.

- (a) The Lessee must liaise with the District Forester responsible for the Lease Area before starting Mining Operations likely to affect State Forest or forestry operations on the Lease Area.
- (b) The Lessee must compensate Forestry Tasmania for each tree removed, at its market value at the time of removal.
- (c) The Lessee must give Forest officers and their agents free access to the Lease Area, including the use of roads and tracks for forestry purposes, throughout the Term.
- (d) The Lessee must sell to Forestry Tasmania, its contractors and agents, forest products:
 - (i) occurring naturally on the Lease Area; and
 - (ii) to which the Lessee is entitled;that Forestry Tasmania reasonably requires, if Forestry Tasmania agrees to pay market value for winning or producing that material.
- (e) If the Lessee and Forestry Tasmania fail to agree about what constitutes market value under this Schedule, the Director may finally determine the issue.