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Attachment AD– Explosives Compound Licence to Occupy

LICENCE TO OCCUPY FOR:

CONTRACTORS COMPOUND:

CONTRACT NUMBER:

CONTRACT START DATE:

CONTRACT END DATE:

CD-830

Last Updated: 30th July 2015

EXPLOSIVES COMPOUND LICENCE TO OCCUPY

1. DEFINITIONS

In this Licence to Occupy (“**Licence**”):

“**Authority**” shall have the same meaning as defined in the Contract;

“**Company**” means the Company as set out in the Formal Instrument of Agreement of the Contract;

“**Company’s Representative**” shall have the same meaning as defined in the Contract;

“**Compound**” means the fenced area located at;

Latitude: 27°52’47.13”S Longitude 140°00’29.19”E (WGS84)

“**Contract**” means each current contract between the Contractor and the Company under which the Contractor is authorised to occupy the Compound;

“**Contractor**” means the Contractor as set out in the Formal Instrument of Agreement of the Contract;

“**Contractor Facilities**” means all facilities and services required or provided by the Contractor at the Compound other than the Company Facilities and any alterations thereto in accordance with this Licence;

“**Environmental Contamination**” means any of the following and their consequences:

- a) any release, omission, leakage or spillage into any part of the environment of any toxic, poisonous, noxious, polluting or dangerous substance or thing (whether in the form of a solid, liquid, gas, particulate matter or vapour) which is:
 - i) outside normal prudent practice relating to the provision of the Services or the Work under the Contract; or
 - ii) contrary to the Contract or any applicable law; or
- b) any accident, fire, explosion or sudden uncontrolled event which is:
 - i) outside normal prudent practice relating to the provision of the Services or the Work under the Contract; or
 - ii) contrary to the Contract or any applicable law; and

“**Explosives Compound**” means the fenced area located at:

Latitude: 27°52’47.13”S Longitude 140°00’29.19”E (WGS84)

“**Indemnified Party**” has the same meaning as defined in the Contract;

“**Loss**” has the same meaning as defined in the Contract;

“**Magazine and Magazine Annexe**” means the specific magazine and magazine annexe (where detonators are located) allocated to the Contractor by the Company Representative in accordance with this Licence to Occupy;

“**Santos Facilities**” means the facilities and services provided in accordance with Clause 6.1(a) and any alterations thereto in accordance with this Licence to Occupy;

“**Services**” or “**Work under the Contract**” means the services or work under the Contract that the Contractor is required to provide or perform pursuant to each current Contract between the Contractor and the Company under which the Contractor is authorised to occupy the Compound.

In this Licence, the singular includes the plural and the plural includes the singular.

2. LICENCE

2.1 Grant of Licence

The Company grants to the Contractor a licence to occupy within the Explosives Compound on the terms and conditions set out in this Licence to Occupy (“**Licence**”).

2.2 Scope of Licence

- a) Nothing contained in this Licence shall be construed as granting to the Contractor any interest in the land comprising the Compound, other than a licence to occupy the Compound under the terms and conditions set out in this Licence.
- b) The Licence does not confer exclusive possession of the Compound. The Company’s personnel may enter the Compound at any time for any reasonable purpose.

3. ALLOCATION OF MAGAZINE & MAGAZINE ANNEXE SITE WITHIN THE EXPLOSIVES COMPOUND

3.1 Allocation

Subject to the requirements of the Contract the Company’s Representative shall allocate Magazine and Magazine Annexe sites within the Compound to the Contractor. The Company’s Representative shall inform the Contractor of the allocation and location of Magazine and Magazine Annexe sites within the Compound by notice in writing.

3.2 Re-allocation

The Company’s Representative may change the size or location of the Compound allocated to the Contractor by giving the Contractor thirty (30) days notice in writing.

4. TERM AND TERMINATION

4.1 Term

Subject to the other provisions of this Licence and the Contract, the Licence shall:

- a) commence upon execution of this Licence by the Company and the Contractor; and the issuing of written notice by the Company’s Representative, and
- b) cease upon the expiration or termination of the Contract.

4.2 Termination

Subject to the other provisions of the Contract:

- a) the Company may terminate the Licence by giving the Contractor thirty (30) days notice in writing; and
- b) the Contractor may terminate the Licence by giving the Company thirty (30) days notice in writing.

5. CONDITIONS OF LICENCE

5.1 Authorisation

Under this Licence to Occupy the Contractor will supply the Company an Authorised “APPLICATION FOR CLASSIFICATION OF AN EXPLOSIVE” (SafeWork SA – Dangerous Substances Team) for each “Explosive” and “Detonator Type” that is to be stored in the Explosives Compound.

All Explosives and Detonators shall be stored in accordance with the statutory regulations as stipulated by SafeWork SA

Maximum quantities of Explosives and Detonator shall be as stipulated for each Magazine and Magazine Annexe.

5.2 Rental

In consideration for being granted the Licence, the Contractor shall pay to the Company the sum of AUD10.00 per year, on demand, during the currency of the Licence.

5.3 Use

- a) Subject to the other provisions of this Licence and the Contract the Contractor:
 - i) shall use the Compound solely for the purposes of the Contract; and
 - ii) (in particular) shall not use the Compound in connection with an offer or provision of services or goods to persons other than the Company or for any commercial purpose other than the purposes of the Contract.
- c) The Contractor may not use the Compound for purposes other than the purposes of the Contract.
- d) The Contractor must abide by all Safety Rules as outlined in Appendix A (attached to LTO).

5.4 Personnel and Sub-Contractors

The Contractor shall not allow any person other than its personnel, Subcontractors and Subcontractors' personnel to use the Compound. The Contractor shall ensure that all personnel, Subcontractors and Subcontractors' personnel comply with the terms of this Licence at all times while using the Compound.

5.5 No Obstruction, Disruption or Annoyance

While using the Compound, the Contractor shall not cause obstruction, disruption or annoyance to the Company, users of other magazines and magazine annexe's and other persons legitimately present in the area of the Compound.

5.6 Maintain in Reasonable Condition

- a) The Contractor shall maintain their magazines and magazine annexe within the Compound and report any damage to the external facilities and gates to the Company's Representative.

5.7 Storage within the Magazines and Magazine Annexes

Explosives quantities stored in the magazines must not exceed the limits defined by the SafeWork SA storage licence.

The Contractor shall not allow petroleum fuel or like substances to be stored within the Compound or any other materials other than those specified in the licence.

5.8 Contract obligations apply to Licence

The Contractor acknowledges that it occupies and uses the Compound for the purposes of the Contract and that the provisions of the Contract (including provisions relating to Health, Safety and Site Risks) apply to all aspects of the use and occupation of the Compound by the Contractor, its Subcontractors and their personnel.

5.9 Environmental Contamination and Remediation

- a) In the event of any Environmental Contamination occurring that is associated with the use of the Compound and is due, directly or indirectly, to the actions of the Contractor, a Subcontractor or any of their personnel, then:
 - i) the Contractor must immediately notify the Company of the occurrence, nature and extent of the Environmental Contamination;
 - ii) the Contractor must immediately (unless otherwise directed by the Company) take all actions necessary to remedy and/or clean up the Environmental Contamination and return the affected areas to their state prior to the occurrence of the Environmental Contamination; and
 - iii) the Contractor must comply with the reasonable directions of the Company in respect of all such remedial actions.

- b) The Contractor agrees to defend, hold harmless and indemnify and keep indemnified the Indemnified Parties against any Loss (which, to avoid doubt, includes fines, penalties, orders and sanctions imposed under any applicable law) caused by or arising out of or in any way connected with the occurrence of any Environmental Contamination as referred to in Clause 5.8 Notwithstanding the foregoing, Contractor shall not be liable for consequential, incident, indirect or punitive damages, including without limitation, loss of profits, loss of use, loss of revenue or loss of productivity in connection with this Licence.

6. FACILITIES

6.1 Company Facilities

- a) The Company shall ensure that all access roads and roads within the Company facilities are maintained.
- b) The Company may repair, replace or make other alterations to the Company Compound whenever it is deemed necessary in the absolute discretion of the Company.

6.2 Contractor Facilities

- a) All Contractor Magazines and Magazine Annexe's shall (subject to this clause) be provided, installed and maintained by the Contractor at the Contractor's risk and expense.
- b) If the Contractor requires or wishes to make any alteration within the Compound including existing magazine annexe's, the Contractor shall submit to the Company Representative for approval and the Contractor shall not commence the proposed alteration until written approval is received from the Company Representative.

6.3 Facilities after Termination or Expiry of Licence

- a) Upon the termination or expiration of the Licence, the Contractor shall:
 - i) remove all Magazines it has installed from the Compound;
 - iii) conduct such restoration work to the Compound site as is necessary to return the Compound to its condition immediately prior to the commencement of the Licence, or as the Company's Representative otherwise directs in writing.
- b) The Contractor shall perform its obligations under Clause 6.3(a) within thirty (30) days from the earlier of:
 - i) the day on which the Contractor is given or gives notice of the termination of the Licence;
 - ii) the day on which the Contractor is given notice of the termination of the Contract; or
 - iii) the day on which the Licence otherwise expires.

7. INSURANCE

- a) In addition to any other insurances required under the Contract, the Contractor shall obtain and/or maintain at all times during the term of the Licence general property insurance (with a removal of debris extension) covering all facilities situated in the Compound.
- b) The general property insurance must be obtained and/or maintained upon the same terms and conditions as all other insurances that the Contractor is required to obtain and/or maintain under the Contract.

8. SECURITY AND LIABILITY

The security of the Compound is the responsibility of the Company and its contents are the responsibility of the Contractor. The Company shall not be liable for any Loss (whether involving persons, property, the Company Facilities, the Contractor Facilities, Contractor's equipment or otherwise) within the Compound or arising out of the Contractor's use of the Compound.

9. INDEMNITY

The Contractor shall defend, hold harmless and indemnify and keep indemnified the Company against any Loss caused by or arising out of or in any way connected with the Contractor's use of the Compound (excluding any costs for the Company's obligations under this Licence).

10. ASSIGNMENT

The Contractor shall not assign the Licence or any rights relating to the Licence unless the Contract is validly assigned or unless the Contractor obtains the prior written consent of the Company.

11. CHANGE OF TERMS & CONDITIONS

The Company may at any time and in its absolute discretion amend the Licence and any of the terms and conditions of this Licence by giving written notice to the Contractor.

12. MULTIPLE CONTRACTS

In the event that the Contractor occupies the Compound for the purposes of more than one Contract with the Company, then notwithstanding anything else in this Licence:

- a) any previous licences granted to the Contractor for the occupation of the Compound shall be terminated and cease to have effect from the date of commencement of this Licence;
- b) the terms of this Licence shall govern the occupation of the Compound by the Contractor until:
 - i) the expiration or termination of all Contracts pursuant to which the Contractor occupies the Compound;
 - ii) the termination of this Licence in accordance with this Licence; or
 - iii) the replacement of this Licence with a new licence to occupy pursuant to a new Contract or by the agreement of the parties;(whichever occurs first).
- c) in the event of any inconsistency between the provisions of any current Contract between the Company and the Contractor relating to the Contractor's occupation and use of Compound, then the Contractor shall comply with the provisions of the Contract that are most rigorous in relation to the Contractor's occupation and use of the Compound to the extent of such inconsistency.

Appendix A

License to Occupy Explosives Compound

SAFETY RULES FOR CONTRACTORS USING THE MOOMBA MAGAZINE EXPLOSIVES COMPOUND (“Complex”)

1. A Contractor company entering the Explosives Compound must have at least one person within the party with a current Shot Fire Licence.
2. A second contractor company’s personnel must not enter or be within 100 metres of the Explosives Compound if there are already Contractor Company’s personnel present in the Complex.
3. The opening, unpacking, or repacking of explosives packages shall only take place in the sheltered area provided within the compound, or at an equivalent distance from any magazine.
4. No package of explosives is to be opened inside a magazine, and no open package of explosives is to be placed into a magazine.
5. No other substances or articles are to be kept in the magazines, except for a record book for inventory purposes and a wooden handled broom to regularly sweep the magazine floor.
6. Any delivery of explosives to the Explosives Compound that contains packages for more than one contractor is to be left in, or near the shaded area, and then accessed sequentially by each contractor for the purpose of storing respective packages in their magazine.
7. When a contractor is in the magazine Explosives Compound, the gates of the Explosives Compound are to be fully open, and the contractor’s vehicle is to be parked facing the gates with the keys in the ignition.
8. The Explosives Compound must not be accessed if a thunderstorm is approaching or in progress, or during periods of heavy rain
9. Each contractor’s magazine must be positioned as defined in drawing plan no 09500T78. Explosives quantities stored in the magazines must not exceed the limits defined by the SafeWork SA storage licence.
10. Prior to the removal or additional of a magazine to the Explosives Compound permission must be firstly given by Santos and drawing no 09500T78 amended. The relevant contractor must then apply for the appropriate storage licence approval or cancellation from SafeWork SA and submit the amended plan of the Complex.
11. Each contractor must comply with the Explosives Act 1936 (SA), the regulations made pursuant to the Act and the conditions of all relevant licences.

