

## Terms and Conditions of Hire

### 1. Definitions

In these Hire Terms:

**Claim** means any claim, demand, suit, proceeding, action, damages, loss, liability, costs, charges, expenses, outgoings or payments suffered, paid or incurred or threatened, including those arising in contract (including, but not limited to, breach of warranty), those arising in tort (including, but not limited to, misrepresentation or negligence), those arising under statute, those in relation to any breach of an agreement or deed, those based on any statement, representation, warranty, promise, indemnity or undertaking and damages or compensation of any nature and on any grounds.

**Consequential Loss** means:

- (a) in the case of loss or damage resulting from a breach of contract, by virtue of any breach of any fiduciary obligation, by virtue of any actionable wrongful act, or under any other principle of equity, by virtue of any breach of any statutory duty, or under any other legal doctrine, principle or theory all:
  - (i) loss of revenue (other than revenue derived directly from payments for goods or services to be made, or which represents the value of goods or services required to be delivered or provided, under the express terms of these Hire Terms);
  - (ii) loss of profit (other than profit derived directly from payments for goods or services to be made, or the turning to account of the value of goods or services required to be delivered or provided, under the express terms of these Hire Terms);
  - (iii) loss or denial of opportunity, loss of access to markets, loss of goodwill or loss of business reputation;
  - (iv) increased overhead costs; and
  - (v) all other loss which is indirect, remote or unforeseeable loss or loss resulting from some supervening event or special circumstance, whether or not in the reasonable contemplation of the parties at the time of execution of these Hire Terms as being a probable result of the relevant breach; and
- (b) in the case of loss or damage arising from any tort (which expression, for the purposes of this definition, includes any breach of a contractual duty of care and also negligence) - all loss of the kind described in paragraph (a) of this definition, all other loss which is indirect, remote or unforeseeable loss and all pure economic loss of any kind not flowing directly from the commission of the tort.

**End Date** means the earlier of the date all Equipment is returned to the Hofco Facility at either Roma or the Gold Coast by the Hirer or the date the relevant Rental Agreement is terminated in accordance with these Hire Terms.

**Equipment** means all equipment described in the Rental Quote or if not described there, set out in any other document issued or accepted by Hofco, together with such accessories, machinery, tools and associated items, manuals, log books and vehicles as accompanies such Equipment when the Hirer takes possession and includes (but is not limited to) the following down hole or handling tools or goods: down hole motor; fishing equipment including jars and bump subs; bottom hole assemblies (**BHA**) including drill collars, heavy weight drill pipe, stabilizers and subs; survey equipment; drill pipe; drill string handling tools; well control equipment; wire line units and includes any tools or parts for any of the foregoing.

**Event of Default** is defined in clause 11(a).

**Facility** means Hofco's facility at the Gold Coast, Roma or another place nominated by Hofco in writing to the Hirer.

**Hirer** means the person who hires Equipment from Hofco pursuant to these Hire Terms.

**Hire Terms** means these terms and conditions.

**Legal Requirement** means a requirement under any approval, statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, order, rule or subordinate legislation.

**Lost-in-Hole** or **LIH** means any Equipment that has been lost down the well bore while drilling or lost for any reason whatsoever and cannot be returned to Hofco's Facility or the Equipment is damaged beyond repair (DBR).

**PPSA** means the *Personal Property Securities Act 2009* (Cth) as amended from time to time.

**PPSR** means the Personal Property Securities Register established under the PPSA.

**Rental Agreement** means the agreement between the Hirer and Hofco for the hire of the Equipment; "

**Rental Quote** means the form issued by Hofco which includes job details, Equipment and other details for the hire, to which these Hire Terms relate.

**Start Date** means the date the Hirer or the Hirer's nominated carrier agrees to take possession of the Equipment from Hofco at Hofco's Facility.

**Supplier** or **Hofco** means Hofco Oilfield Services Pty Ltd ABN 65 010 166 702;

**Term** means the period between the Start Date and the End Date, including the whole of both the Start Date and the End Date.

### 2. Application of these Hire Terms

- (a) These Hire Terms will apply to and be incorporated into each Rental Agreement (which is the only agreement regulating the hire of Equipment from Hofco) and prevail over any inconsistent terms or conditions contained or referred to in the Hirer's purchase order, confirmation of order, acceptance of a quotation or specification or other document supplied by the Hirer or implied by law, trade custom, practice or course of dealing.
- (b) A purchase order or request to hire Equipment given by a person to Hofco, or a person's acceptance of a quotation for hiring Equipment from Hofco, constitutes an offer by the person to enter into a Rental Agreement for the Equipment specified in it on these Hire Terms. No offer by a person will be accepted by Hofco other than:
  - (i) by a written acknowledgement issued and executed by Hofco; or
  - (ii) (if earlier) by the provision of the Equipment by Hofco to the person,

when a Rental Agreement for the hire and rental of the relevant Equipment on these Hire Terms will be established. The Hirer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document will not govern the Rental Agreement.

- (c) Quotations are given by Hofco on the basis that no Rental Agreement or any other agreement will come into existence except in accordance with this clause 2. Any quotation is valid for a period of 30 days from its date, provided that Hofco has not previously withdrawn it.
- (d) No change to a Rental Contract, whether as to scope, price, Start Date, End Date or any other terms will be binding on Hofco unless reduced to writing and signed by the CEO of Hofco.

### 3. Delivery and Risk

- (a) Risk of and all liabilities for and in respect of the Equipment passes to the Hirer on the Start Date and remains with the Hirer until it is returned to the possession of Hofco at Hofco's Facility.
- (b) Transport, collection and delivery arrangements of the Equipment from Hofco will be the responsibility of the Hirer,

- at the Hirer's sole risk and expense. Any transport arranged by Hofco at the request of the Hirer will be undertaken at the Hirer's sole risk and charged to the Hirer at cost plus 15%.
- (c) The Hirer must provide Hofco a purchase order by fax or email for the Equipment in a form acceptable to Hofco before any Equipment can be loaded out of the Hofco Facility.
- (d) The Hirer must secure and protect the Equipment while the risk of the Equipment is with the Hirer and must not part with possession, remove or allow the Equipment to be removed from the job location stated in the Rental Agreement without Hofco's prior written approval.
- (e) The Hirer will be liable for the cost of repairing any damage suffered to the Equipment while the Equipment is at the Hirer's risk.
- (f) The rights to hire Equipment are personal to the Hirer and the Hirer must not allow nor authorise any person to use, re-hire or have possession of the Equipment at any time, unless expressly agreed by Hofco in writing.
- (g) The Hirer will on request by Hofco at any time, advise Hofco of the current location of the Equipment and the Hirer will allow and procure access by Hofco to any place where the Equipment is located for the purposes of Hofco inspecting the Equipment.
- (h) The Hirer acknowledges that the Equipment is being provided on a dry hire basis only and Hofco has no obligation to provide any other equipment, materials, consumables, supplies, operators or personnel relating to the operation or maintenance of the Equipment.
- 4. Term**
- (a) Unless stated otherwise in the Rental Quote, the period of hire commences on the Start Date and ends on the End Date, whether or not the Hirer uses the Equipment for only part of that period.
- (b) The Hirer must not keep the Equipment longer than the period stipulated in the Rental Agreement or as agreed by Hofco in writing.
- (c) The dates upon which the Equipment is respectively collected and returned to Hofco's Facility will, in each case, be treated as a full days' hire.
- (d) On termination of the Rental Agreement for any reason whatsoever, should Hofco be unable to gain access to the Equipment, hire will continue at the relevant rate until access is available.
- 5. Hire Charges**
- (a) The Hirer will pay Hofco for hire of the Equipment in accordance with the rates for hire set out in the Rental Quote.
- (b) Where a minimum period of hire is specified in the Rental Quote, the Hirer agrees to pay for such period irrespective of the utilisation or return to Hofco of the Equipment or whether the period of hire includes weekends or public holidays.
- (c) The Hirer must pay each tax invoice in full within 30 days of the tax invoice date unless otherwise agreed by Hofco.
- (d) In the event that any Equipment is LIH, the Hirer will pay Hofco the replacement cost as per the Rental Quote, as per the Hofco's standard payment terms, clause 5 (c). The rental fee for the Equipment will cease from the date the Equipment was declared LIH. Where the LIH fee is not stated on the quotation, the fee will be the landed replacement cost, free into store at the Hofco Facility.
- (e) Without limiting any statutory right to interest, Hofco may charge interest to the Hirer on amounts which remain unpaid after the due date for payment. Interest will be calculated at a rate of 1.5% per month calculated daily and compounded monthly.
- (f) The Hirer will indemnify Hofco for all costs and expenses (including commissions payable to commercial or mercantile agents and legal costs on a full indemnity basis) incurred by Hofco in recovering amounts which remain unpaid after the due date.
- (g) Disputed Invoices
- (i) If the Hirer disputes a tax invoice, it must notify Hofco in writing within seven (7) Business Days of receiving the tax invoice. The Hirer and Hofco must negotiate in good faith, to settle the dispute promptly.
- (ii) Nothing in clause 5 (g) relieves the Hirer from paying Hofco the undisputed portion of a tax invoice issued under clauses 5 (c)
- (h) All Equipment will be returned, by the Hirer, in the same serviceable condition it was, when rented. Upon return of any Equipment, all third party inspection charges, freight and associated transport charges to send the Equipment to the machine shop and cost of repairs if required, will be recharged to the Hirer at cost plus 15% or at prices quoted in Dry Hire Terms and Conditions. Replacement parts are charged at the landed cost plus 15%, unless specified otherwise in the Rental Quote.
- Reworked threads repaired at either Roma or Gold Coast (Molendinar) yard will be charged at the following rates

#### Repair Pin or Box Connections

2 3/8" to 3 1/2" FH, IF & REG	AUD \$315.00
4" to 5" FH, IF & REG	AUD \$331.00
5 1/2" FH	AUD \$420.00
5 1/2" to 6 5/8" FH, IF & REG	AUD \$389.00
2 3/8" & 2 7/8" JSH HT PAC	AUD \$398.00
7 5/8" REG	AUD \$466.00
3 1/2"REG (incl. float recess)	AUD \$495.00
4 1/2"REG (incl. float recess)	AUD \$580.00
6 5/8"REG (incl. float recess)	AUD \$637.00
7 5/8"REG (incl. float recess)	AUD \$776.00
5 1/2"FH (incl. float recess)	AUD \$637.00
NC23	AUD \$295.00
All EUE threads (subs)	AUD \$295.00
2 3/8"AOH	AUD \$295.00
1" & 1-1/2" AMMT	AUD \$245.00

#### Repair Premium Licence Connections

XT-39	AUD \$528.00
CDS40, GPDS40, HT-31	AUD \$528.00
GP XT-57	AUD \$777.00
XT-38	AUD \$528.00
VAM CDS40	AUD \$528.00
DPDS 40	AUD \$460.00
2 3/8" & 2 7/8" GP HT PAC	AUD \$460.00

*Connections with a float bore will have an additional charge.*

#### Repair Non Magnetic Connections

2 3/8"to 3 1/2" (FH, IF & REG)	AUD \$458.00
4"to 5"(FH, IF & REG)	AUD \$486.00
5 1/2"to 6 5/8"(FH, IF & REG)	AUD \$637.00

#### Repair Casing Connections

7"BTC (Casing)	AUD \$285.00
9 5/8"BTC (Casing)	AUD \$295.00
5 9/16" SFJ®	AUD \$270.00
5" & 5 1/2" BTC	AUD \$270.00

**Repair Washover Pipe**

5 ¾" & 4 ½" TSWP	AUD \$360.00
7 5/8" & 8 1/8" FJWP	AUD \$380.00

**Straighten bent pipe**

Includes re-inspection	AUD \$240.00
------------------------	--------------

**Re-Cut Stabilizer Mandrel**

3 ½"IF	AUD \$662.00
4"IF	AUD \$834.00
6 5/8" REG	AUD \$1,007.00

**Welding** AUD \$140 per hour, min 1 hour

**Serviceman** AUD \$140.00 per hour, min 1 hour

**Breaking connections** AUD\$161 (per simple break)

Increased charges apply for difficult breaks.

**Replacement of hardbanding per band**

4 ¾" to 5 ½"OD	AUD \$154.00
Above 5 ½" to 7"OD	AUD \$172.00
Above 7" to 8 ½"OD	AUD \$216.00

- (i) All tubulars should be returned to the Hofco Facility from which they were collected by the Hirer, stacked facing the same direction on the truck, i.e. all pins at one end and all boxes the other, as is the case when they leave the Facility.
- (j) If any of the outside diameters (OD's) of drill collars, non-magnetic drill collars, or subs provided, were to wear down to below the requirements or non-conforming as per TH Hill DS-1, Volume 3, 4<sup>th</sup> Edition while in the Hirer's possession, then the tool would not be able to be rented and will be deemed "Damaged Beyond Repair" and the quoted LIH price will apply.
- (k) All Equipment that has rotary shouldered connections (drilling tools) are supplied with thread protectors fitted. Any thread protectors missing when these drilling tools are returned will be charged for at: AUD\$49.50 each, either for box or pin type thread protectors, for 6/58" Reg size, and AUD\$39.50 each for up to 4-1/2" IF size connections.  
5 ¾"TSWP AUD\$360 each.
- (l) The Equipment returned after the rental period will be inspected by a qualified inspector and repaired as necessary. If a Hirer should require re-inspection of any of the Equipment, a request must be in writing to Hofco and will be done at the Hirer's expense and subject to availability of the Equipment. Inspection reports can be provided upon written request from the Hirer. Any certificates requested by the Hirer are to be requested prior to the rental of quoted Equipment
- (m) Excessive depletion or complete depletion of hard banding during the course of a rental period to a Hirer will be recharged at rates stated above.
- (n) All Hofco drill pipes rented will be of "New" or "Premium class" condition as per API standards or as quoted. Any drill pipe that is downgraded to Class II or below at the time of inspection, will be considered to have been LIH and the replacement cost, as quoted, will be recharged to the Hirer. In the event that any item is exposed to or becomes contaminated by H2s gas, corrosion caused by air drilling operations, down hole fires or by any other means, such Equipment will be considered 'Damaged Beyond Repair' and charged to the Hirer at the LIH fee indicated in the original quotation.

- (o) The replacement fee quoted for stabilisers excludes the stabiliser sleeve. Only the body of the stabiliser is included in the quoted replacement fee.
- (p) Hofco mud motors that are returned to Hofco for inspection and repair that have not been flushed of drilling muds and chemicals will incur an additional fee of AUD \$1,000.00.

**6. Safety and Operation**

- (a) The Hirer must ensure that all relevant Legal Requirements and safety standards relating to the safe use and handling of the Equipment are complied with and that the Equipment does not place the public, the community or the environment at risk of injury, illness or damage.
- (b) The Hirer must ensure its employees and other persons working on or around the Equipment:
  - (i) employ the highest practical standards appropriate in the on-shore oilfield industry in Australia;
  - (ii) take active steps, including review of operating manuals, to ensure they are familiar with the safe operation and operating parameters of the Equipment;
  - (iii) are fit for duty and not under the influence of drugs or alcohol; and
  - (iv) are appropriately briefed by the Hirer as to the site, safe work systems, restricted zones and any applicable lift plans or studies.
- (c) The Hirer will pay all fines and penalties incurred while the Equipment is in the possession of the Hirer, or while the risk of the Equipment is with the Hirer.
- (d) The Hirer must, in respect of Equipment during the Term:
  - (i) operate the Equipment in accordance with all Legal Requirements (including those relating to the environment or the use and protection of the environment);
  - (ii) ensure persons operating or erecting the Equipment:
    - (A) are suitably trained on its safe and proper use, qualified to use the Equipment and where necessary, hold a current licence to perform high risk work;
    - (B) wear suitable clothing and protective equipment when operating the Equipment as required or recommended by the manufacturer;
    - (C) ensure that no persons operating the Equipment are under the influence of drugs or alcohol;
    - (D) conduct a job safety analysis prior to using the Equipment; and
    - (E) ensure that no persons carry illegal, prohibited or dangerous substances in or on the Equipment;
  - (iii) display all safety signs and instructions (as required by a Legal Requirement) on or about the Equipment;
  - (iv) ensure that all instructions and signs are observed by operators of the Equipment;
  - (v) ensure the safe loading, securing and transporting of all Equipment in accordance with all Legal Requirements and manufacturer's guidelines, including by observing any safety directions advised by Hofco and/or the manufacturer of the Equipment to ensure its safe loading and handling;
  - (vi) not use the Equipment in an area where friable asbestos is present, or move the Equipment over water, without Hofco's prior written consent;
  - (vii) ensure that the Equipment is not contaminated with any hazardous substances (including asbestos), and if the Equipment becomes contaminated, the Hirer must effectively decontaminate the Equipment, as well as provide Hofco with written details of decontamination processes applied; and
- (e) operate the Equipment in accordance with all Legal Requirements (including those relating to the environment or the use and protection of the environment); and.

- (f) If the Equipment is involved in any accident resulting in injury to persons or damage to property (including damage to the Equipment) immediate notice must be given to Hofco by phone, facsimile or quickest possible means and confirmed in writing to Hofco within 48 hours of the date of the accident. All provisions of the *Queensland Work Health and Safety Act (2011)* relating to notification of accidents and incidents must be strictly adhered to.

## **7. Hirer's warranties**

- (a) The Hirer warrants that:

- (i) it has examined the Equipment to satisfy itself as to the suitability and specifications of the Equipment and its fitness for the Hirer's purposes;
- (ii) the Equipment is suitable for all the Hirer's purposes;
- (iii) the Equipment will only be used for a proper purpose and for which it has been designed, manufactured and supplied;
- (iv) prior to each use of the Equipment, the Hirer will fully inspect the Equipment and the site on which the Equipment is to be used, complete pre-start checks required by Hofco or the OEM, review OEM operating manuals, safety alerts and inspection reports and take such other steps required to determine the suitability of the Equipment to undertake the proposed task; at the same time, the Hirer will identify any foreseeable hazards or risks of harm in respect of the planned use of the Equipment and implement appropriate controls to minimise or where possible, eliminate the risks in accordance with all relevant Legal Requirements;
- (v) the Equipment will only be operated by qualified, experienced and trained personnel who possess current licenses (if required) to operate the Equipment;
- (vi) the Equipment will be operated to a standard of skill, knowledge and competence of an experienced and professional operator of the Equipment in compliance with all relevant Legal Requirements;
- (vii) the Hirer will ensure that all safety information supplied with the Equipment is conveyed to the operator of the Equipment and that any safety related signs, banners, flags or warnings supplied by Hofco in relation to the Equipment are prominently displayed; and
- (viii) the Equipment will be returned to Hofco in the same condition as it was provided by Hofco at the start of the rental period;

- (b) The Hirer acknowledges and agrees that Hofco does not make any judgement or interpretation of survey results obtained using Hofco's survey equipment other than by conventional calculation techniques. On making an interpretation of a survey, Hofco personnel will give the Hirer the benefit of their best judgement as to the correct interpretation. Nevertheless, since all interpretations are based on inferences from electrical or other measurements and in any event, Hofco cannot and does not guarantee the accuracy or the correctness of any interpretation and Hofco will not be liable for, and the Hirer indemnifies and holds Hofco harmless from, any losses, costs, damages or expenses incurred or sustained by the Hirer resulting from any interpretation made by any Hofco personnel, which are to be treated as illustrative only and subject to verification by the Hirer.

- (c) The Hirer warrants and represents to Hofco that:

- (i) the Hirer, being a body corporate, is duly incorporated and validly existing under the *Corporations Act 2001* (Cth) and has full power and authority to enter into and observe and perform the terms of the Rental Agreement, or the Hirer, being an individual, has full power and capacity to enter into and observe and perform the terms of the Rental Agreement;

- (ii) the Rental Agreement constitutes legal, valid and binding obligations enforceable against the Hirer in accordance with its terms;
- (iii) all consents and approvals, whether governmental or otherwise, required in order for the Hirer to observe and perform the Hirer's obligations have been obtained and are in full force and effect;
- (iv) no Event of Default exists and no event has occurred or is continuing to occur which constitutes or might, with the passing of time or giving of notice, or both, constitute an Event of Default; and
- (v) no information supplied by the Hirer to Hofco in relation to the Rental Agreement contained any material misstatement of fact or omitted to state a material fact.

## **8. Hirer's obligations**

The Hirer must, in respect of Equipment during the Term:

- (a) store the Equipment safely and securely;
- (b) only use the Equipment for its intended purpose and in accordance with the manufacturer's instructions;
- (c) The Hirer must, in respect of Equipment during the Term:
  - (i) operate the Equipment in accordance with all Legal Requirements (including those relating to the environment or the use and protection of the environment);
  - (ii) only use the Equipment for its intended purpose and in accordance with the manufacturer's instructions;
  - (iii) at the Hirer's own cost, clean, fuel, lubricate and keep the Equipment in accordance with the manufacturer's and Hofco's reasonable instructions;
  - (iv) not in any way alter, modify, tamper with, damage or repair the Equipment without Hofco's prior written consent;
  - (v) not deface, remove, vary or erase any identifying mark, logo, plate, number, notices or safety information, on the Equipment;
  - (vi) not remove fuel or oil tank caps, bund plugs or seals from the Equipment and ensure that they are in place when the Hirer returns the Equipment;
  - (vii) not remove the Equipment from the site where the Hirer advised Hofco it was intended to be used, without Hofco's prior written consent;
  - (viii) in respect of electrical Equipment, re-testing and re-tagging of the Equipment in accordance with the manufacturer's instructions and the applicable Australian Standard(s) and legal requirements.
- (d) not alter or make any additions to the Equipment or interfere with the Equipment;
- (e) employ the Equipment solely in its own work and not permit the Equipment or any part thereof to be used by any other party for any other work;
- (f) not fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold; and
- (g) immediately advise Hofco orally of any failure in or damage to the Equipment, whatsoever arising and within 48 hours provide written confirmation.

## **9. Liability and indemnity**

- (a) Hofco is not a common carrier and is not responsible for any loss or damage to the Hirer's property or goods in transit. Responsibility and risk for insurance of goods in transit rests exclusively with the Hirer.
- (b) The Hirer assumes liability for and indemnifies and holds harmless Hofco from and against all Claims, costs, damages, losses or expenses of any kind howsoever arising under tort (including but limited to negligence), contract, strict liability, statute or otherwise in relation to the use, possession, maintenance or repair of the Equipment.

- (c) Despite anything in this Agreement, this clause 9 sets out the entire financial liability of Hofco (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Hirer in respect of:
- (i) any breach of a Rental Agreement;
  - (ii) any Claim by the Hirer against Hofco under or in relation to a Rental Agreement or its subject matter;
  - (iii) any use made by the Hirer of the Equipment or any part of them; and
  - (iv) any representation, statement or tortious act or omission (including negligence) arising under or in connection with a Rental Agreement.
- (d) Under no circumstances will Hofco be liable to the Hirer for any Consequential Loss or to the extent that the Claim relates to acts or omissions of the Hirer or someone other than Hofco or the Hirer.
- (e) Without limiting any other provision of this clause 9, Hofco's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance of any Rental Agreement, will be 10% of the consideration received by Hofco from the Hirer under the relevant Rental Agreement in the 30 days preceding the date Hofco's liability arises.
- (f) Without limiting any other provision of this this clause 9, the Hirer will have no Claim against Hofco under or in relation to a Rental Agreement or its subject matter and the Hirer releases and discharges Hofco in respect of such Claims, if the Hirer does not notify Hofco of the Claim in writing within 3 months of return of the Equipment to which the Claim relates and within 1 month of that date, the Claim has not been agreed, compromised or settled or the Hirer has not commenced legal proceedings against Hofco in respect of the Claim.
- (g) Without limiting this clause 9, the Hirer acknowledges and agrees that Hofco is not liable to the Hirer for any Claim, loss, costs, damages or delay relating directly or indirectly to or caused by breakdown, mechanical defect or accident to or of Equipment.
- (h) To the fullest extent permitted by law, Hofco makes no express warranty, representation or condition and excludes all implied warranties, representations and conditions of any type, including as to the fitness of the Equipment for any use to which it is employed by the Hirer.
- (i) All conditions, terms and warranties that are or might otherwise be implied by law, practice, trade usage, or international convention, are excluded to the fullest extent permitted by law.
- (j) The Equipment is provided by description. The Hirer decides what purpose to use the Equipment for and the Hirer alone is responsible for determining the Hirer's technical requirements.
- (k) Any Equipment specifications or performance figures provided by Hofco are approximations and only for general guidance. The Hirer does not rely on any representation made or implied by Hofco or arising out of or implied by Hofco's conduct, nor upon any description, illustration or specification contained in any document produced by Hofco. To the extent that Hofco has made or implied, or by conduct given rise to or implied, any representation that is not expressly stated in these conditions, the Hirer is not proceeding in reliance on that representation because the Hirer has had and taken the opportunity to independently check, verify and form the Hirer's own view about the significance, and the accuracy or otherwise, of the representation upon which the Hirer exclusively relies.
- (l) The Hirer will not rely on any information, advice, warranty, representation or recommendation of any nature given by Hofco or the Fishing Technician. The Hirer will be solely responsible for the acts or omissions of the Fishing Technician who is deemed to act or fail to act under the direction and control of the Hirer and at the sole risk of the Hirer. The Hirer indemnifies and agrees to hold harmless Hofco and the Fishing Technician from and against all claims, costs, damages, losses or expenses suffered or incurred by the Hirer directly or indirectly in connection with or caused by the acts or omissions of the Fishing Technician whilst engaged by the Hirer.
- (m) Provisions of the Australian Consumer Law under the Competition and Consumer Act 2010 (Cth) and other legislation in some cases either cannot be excluded, restricted or modified or can only be restricted or modified to a limited extent. If any provision of that type applies, then to the extent permitted by law, Hofco's liability under the provision is limited as follows. Hofco's liability in relation to supply of goods is limited at its option to replacement of the goods or the supply of equivalent goods or repair of the goods or payment of the cost of replacing the goods or of acquiring equivalent goods or payment of the cost of having the goods repaired or modified. Hofco is not intending to supply any service, but if it does, Hofco's liability where any service is supplied is limited at the option of Hofco to re-supply of the service or the payment of the cost of having the service supplied again.
- (n) To the extent required by law, Hofco does not seek to exclude legal liability (if any) for any death or personal injury caused by Hofco's negligence.

## 10. Title

- (a) The rights of the Hirer to use and take possession of the Equipment are as bailee only. The Equipment is and will at all times remain the absolute property of Hofco.
- (b) The Hirer will not offer, sell, assign, sub-let, pledge, mortgage or otherwise deal with or part with possession of the Equipment in any way which is inconsistent with the rights of Hofco to the Equipment, whether Hofco is owner, lessee, hirer or otherwise of the Equipment.
- (c) The Hirer must ensure if any security interest in the Equipment is created or arises in favour of Hofco, that Hofco's priority is preserved and any defect in the security interest or the perfection of that security interest as a first ranking security interest is overcome, including by promptly executing any further document and doing anything further that is reasonably required by Hofco
- (d) The Hirer must not do or purport to do any of the following in relation to the Equipment – sell, lease, dispose of, create a security interest in, mortgage or part with possession of the Equipment or any interest in it (or purport or attempt to purport to do such thing) or permit any lien or security interest to arise over it. The Hirer may only disclose information or documents, including information of a kind referred to in section 275(1) of the PPSA, if Hofco has given its prior written consent.
- (e) In connection with any such security agreement and to the extent that the PPSA permits, the Hirer waives its rights to receive a copy of any verification statement or financing change statement, any notice required under the PPSA, and its rights and any otherwise existing obligations of Hofco under sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 135, 142 and 143 of the PPSA.
- (f) If the Hirer fails to return the Equipment to Hofco, then Hofco or Hofco's agent may enter upon and into land and premises owned, occupied or used by the Hirer, or any premises where the Equipment is situated as the invitee of the Hirer and take possession of the Equipment without being responsible for any damage thereby caused.
- (g) The Hirer is not authorised to pledge Hofco's credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.

## 11. Default and Termination

- (a) An Event of Default occurs if:

- (i) any money payable under a Rental Agreement is not paid on the due date for payment;
  - (ii) the Hirer fails to observe and perform any of the Hirer's obligations, other than a failure to pay money and such failure continues for more than 3 days after Hofco has given the Hirer notice requiring the Hirer to remedy the breach;
  - (iii) any warranty, representation or statement made by the Hirer under or in connection with a Rental Agreement has, is or has been false in any material respect;
  - (iv) the Hirer, being an individual, commits an act of bankruptcy, is declared mentally ill or is convicted of a criminal offence or dies;
  - (v) a receiver, or an agent in possession for a mortgagee is appointed in respect of any property of the Hirer;
  - (vi) a mortgagee takes possession of any property of the Hirer;
  - (vii) any execution or similar process is made against the property of the Hirer;
  - (viii) an application is made, a resolution is passed or a meeting is convened for the purpose of considering a resolution for the Hirer to be wound up unless the winding up is for the purpose of reconstruction or amalgamation;
  - (ix) a compromise or arrangement is made between the Hirer and its creditors;
  - (x) a resolution is passed, or a meeting is convened for the purpose of considering a resolution for the Hirer to be placed under official management;
  - (xi) the Hirer admits in writing its inability to pay its debts;
  - (xii) an application is made to a court for an order summoning a meeting of any class of creditors of the Hirer;
  - (xiii) an application is made or notice given or other procedure commenced for the dissolution or cancellation of the registration of the Hirer under the *Corporations Act 2001* (Cth) or any similar process; or
  - (xiv) an investigation is commenced under section 13 of the *Australian Securities Commission Act 2001* (Cth) to investigate the affairs of the Hirer.
- (b) On the occurrence of an Event of Default, Hofco may take possession of the Equipment with or without notice to the Hirer and the Hirer must at the Hirer's expense immediately on demand deliver the Equipment in good order and repair in accordance with the directions of Hofco and the Hirer irrevocably authorises Hofco to enter any premises occupied or controlled or believed by Hofco to be occupied or controlled by the Hirer and repossess the Equipment and for such purposes, break open any gate or lock and dismantle the Equipment from any part of the premises to which they may be affixed and the Hirer indemnifies Hofco in respect of any loss arising from any act done under or by virtue of this subclause.
- (c) Upon termination of a Rental Agreement following the occurrence of an Event of Default, the Hirer must pay to Hofco by way of liquidated damages, in addition to and without prejudice to any other right or remedy of Hofco, an amount equal to the total of:
- (i) the unpaid balance of rental for the Term which would have been payable until the expiration of the Term had the Rental Agreement not been terminated;
  - (ii) any other amounts payable by the Hirer under clause 5 or any other provision of these Hire Terms;
  - (iii) Hofco's costs and expenses incurred in repossessing and storing, insuring and registering the Equipment and in entering on and removing the Equipment from land or premises on which the Equipment was situated, and make good any injury or damage caused to the land or premises;
  - (iv) Hofco's costs and expenses of repairs reasonably necessary to bring the Equipment to a saleable condition; and
  - (v) interest calculated in accordance with these Hire Terms.
- 12. Miscellaneous**
- (a) If Hofco fails to or delays in exercising any right, power or remedy which it is entitled to under these Hire Terms, such failure does not amount to a waiver of that right, power or remedy nor does it preclude any further exercise of such rights, powers or remedies as may be provided under these Hire Terms.
  - (b) If any provision of these Hire Terms is invalid or unenforceable in any jurisdiction, it is to be read down, if possible, so as to be valid and enforceable and will otherwise be capable of being severed to the extent of the invalidity or unenforceability without affecting the validity or enforceability of the remaining provisions.
  - (c) All indemnities given pursuant to these Hire Terms will survive the termination of the Rental Agreement. All indemnities given to Hofco under these Hire Terms are also given to Hofco's directors, officers, agents and employees and Hofco accepts the benefit of those indemnities and limitations of liability for them as their agent and trustee.
  - (d) Transportation of the Equipment to the Hirer's designated site will be the responsibility of the Hirer. The Hirer is liable for all Equipment from the time the Equipment is loaded on the truck and departs the Hofco Facility, which also signifies the commencement of the Rental Agreement. If the Hirer requests Hofco to arrange the transport or part of the transport of the Equipment for the Hirer, the responsibility and liability as per the Rental Agreement remains with the Hirer. This includes but is not limited to any damage to the Equipment and LIH costs if applicable.
  - (e) All import taxes, customs duties, clearing costs, quarantine, cleaning and GST costs and any other charges are the responsibility of the Hirer. If Hofco arranges freight which may include importation or exportation of equipment, these costs will be rebilled to the Hirer at cost plus 15%.
  - (f) The results obtained at the well site are always held in strict confidence, subject to any disclosure required by law. It is the Hirer's responsibility to comply with all laws, rules and regulations of federal, state and municipal bodies which may be in effect at the time of performance by Hofco personnel.
- 13. Personnel**
- (a) All induction fees for employees and agents of Hofco required to attend the Hirer's sites will be paid for by the Hirer.
  - (b) No Hofco personnel will have the right to waive or change any of these Hire Terms without the written consent of the CEO of Hofco.
- 14. Insurance**
- (a) The Hirer will, at all times during the Term, effect and maintain the following insurances:
    - (i) workers compensation insurance of unlimited cover in respect of all employees and workers of the Hirer under the laws of the place of their employment, or the place of injury, which covers any Claims for Loss for personal injury in connection with the use of the Equipment;
    - (ii) plant and equipment insurance which covers the Equipment against physical loss or damage for its LIH value as at the date the Rental Agreement;
    - (iii) third party and product liability insurance covering liability to any third party for death or bodily injury (including illness and nervous shock) and loss of and or damage to property arising out of anything done or

- omitted to be done by the Hirer for a liability of not less than \$20 million in respect of any one event; and
- (iv) motor vehicle compulsory third party insurance as required by law and comprehensive insurance for all motor vehicles being the property of the Hirer for a liability of not less than \$10 million in respect of any one incident.
- (b) The insurance policies must, to the extent possible:
- (i) include Hofco as an additional insured party;
  - (ii) provide that the insurance is primary with respect to the interests of Hofco and that all other insurance maintained by Hofco is in excess to and not contributory with the insurance policies maintained by the Hirer;
  - (iii) waive all rights of subrogation by insurers against Hofco; and
  - (iv) contain a "cross liability" endorsement and will operate in the same manner as if there was a separate insurance policy covering each named insured.