

LAND ACCESS ARRANGEMENT FOR MINERAL EXPLORATION

Template published in accordance with Section 141(1A) of the *Mining Act 1992*

This arrangement (agreement), which is an access arrangement for the purposes of section 140 of the *Mining Act 1992* (NSW), commences this _____ day of _____ 20____ between the landholder (landholder) and the authority holder (licence holder) described below and will end two years after the licence holder ceases to hold an authority over the prospecting area, unless otherwise terminated in accordance with this agreement.

Landholder/s:

Address of landholder/s:

Phone: mobile: email:

Fax: UHF channel:

Contact person/s:

(may be as above)

Address of contact person/s:

Phone: mobile: email:

Fax: UHF channel:

Authority details: Exploration licence No: Date granted:

Licence holder:

Head office contact:

Address:

Phone: mobile: email:

Project manager:

Address of project manager:

Phone: mobile: email:

Public liability insurance details: Insurance company:

Policy number: Liability limit: \$

Prospecting area: as shown on map attached to agreement (Annexure B)

and/or

all land described below.

Name and address/location

of land

Title reference for land: Lot Number: Deposited Plan:

Lot Number: Deposited Plan:

and additional titles detailed in Annexure A

Paths of entry: all gates main other gates/tracks

(mark on attached map) other

1. INTERPRETATION

1.1 Where the following terms appear in this agreement, they have the meaning provided below:

- (a) **Authority** means an exploration licence or an assessment lease issued under the *Mining Act 1992*.
- (b) **Contact person** means the person described on page 1 of this agreement who is nominated by the landholder as the most appropriate person for the licence holder to liaise with on access issues.
- (c) **Contractor** means any contractor, employee or agent who is retained, employed or directed by the licence holder who has been identified to the landholder in accordance with this agreement.
- (d) **Deed of entry** means a deed, substantially in the form set out in Annexure F, which has been executed as a deed by the parties under Clause 4 of this agreement.
- (e) **Exploration licence** means the exploration licence described on page 1 of this agreement, including as renewed.
- (f) **Head office contact** means the head office contact authorised to oversee exploration whose name, address and contact details are set out on page 1 of this agreement.
- (g) **Landholder** means the person specified as the landholder on page 1 of this agreement.
- (h) **Licence holder** means the holder of the exploration licence.
- (i) **Mining Act** means the *Mining Act 1992* (NSW) as amended.
- (j) **Paths of entry** means the gates, farm roads and tracks specified on page 1 of this agreement or marked on the map at Annexure B.
- (k) **Project manager** means the field supervisor whose name and contact details are set out on page 1 of this agreement or as otherwise advised to the landholder.
- (l) **Prospecting** means to carry out works on, or to remove samples from, land for the purpose of testing the mineral-bearing qualities of the land and includes any works that are ancillary and incidental to those works.
- (m) **Prospecting area** means the area of the land specified on page 1 or marked on the map at Annexure B.
- (n) **Prospecting method** means those prospecting operations authorised by this agreement.

1.2 In this agreement unless the contrary intention appears or the context otherwise permits or requires:

- (a) a word importing the singular includes the plural and vice versa
- (b) a word importing a gender includes each other gender, and
- (c) a reference to a person includes an individual firm or body corporate.

1.3 This document, its annexures and any deed of entry comprise the entire agreement and supersedes all previous agreements. This agreement may only be varied by agreement between the parties in accordance with Clause 17.

1.4 This agreement is governed by the laws of NSW and each party submits to the jurisdiction of the courts of NSW.

2. ACCESS

- 2.1 The licence holder, and any contractor, employee or agent who is retained, employed or directed by the licence holder, may access the paths of entry and carry out the prospecting method in the prospecting area in accordance with the terms and conditions of this agreement.
- 2.2 The licence holder may only access the prospecting area and paths of entry in accordance with a deed of entry.
- 2.3 At the landholder's request, the licence holder upon first accessing the prospecting area and paths of entry pursuant to this agreement must meet with the landholder for up to one hour to assess and agree on the condition of roads and tracks and receive a briefing on potential hazards specific to the prospecting area and paths of entry.
- 2.4 The licence holder will, during such period as the licence holder utilises the agreed paths of entry, maintain and keep in repair the paths of entry having regard to their condition agreed under Clause 2.3.
- 2.5 The licence holder must not carry out prospecting in any areas not permitted under legislation or this agreement as specified on page 1 or marked on the map at Annexure B.

3. ADVICE

- 3.1 The landholder may terminate this agreement within 14 days of its commencement if the licence holder did not advise the landholder of their right to obtain independent legal advice before the commencement of this agreement.
- 3.2 The licence holder will reimburse the landholder the reasonable costs of the landholder in negotiating this agreement, including any time spent in negotiating this agreement, legal costs of negotiating this agreement and costs for engaging experts as parts of the negotiation process.
- 3.3 Unless otherwise agreed to by the licence holder and landholder, the maximum amount of reasonable costs payable under Clause 3.2 by the licence holder to the landholder is \$1,500 for exempt prospecting activities (exclusive of GST), and \$2,500 for assessable prospecting activities (exclusive of GST). The maximum amount of reasonable costs may be amended by an order made pursuant to section 142 of the Mining Act.
- 3.4 The landholder must provide an estimate of any legal and expert cost disclosure to the licence holder for written approval prior to the charges being initiated under Clause 3.3. Payment will be made following the provision of an itemised invoice for any legal and expert costs.
- 3.5 The licence holder will pay all stamp duty required in respect of this agreement.

4. DEED OF ENTRY

- 4.1 The landholder and licence holder must negotiate the terms of the deed of entry in good faith and the deed of entry must be substantially in the form set out in Annexure F.
- 4.2 The deed of entry will not be binding on any party until it has been executed by all parties.
- 4.3 If, after 14 days of negotiation, the landholder and licence holder cannot agree on the terms of a deed of entry then the parties must seek to resolve the dispute in accordance with Clause 14 of this agreement.
- 4.4 Failure by the parties to agree on the terms of a deed of entry does not invalidate this agreement. This agreement continues to operate unless otherwise terminated in accordance with Clause 16.
- 4.5 For the avoidance of doubt if a proposed deed of entry is refused by a landholder, nothing in this agreement prevents a licence holder from serving notice on the landholder under section 142 of the Mining Act of its intention to seek an access arrangement with the landholder for the carrying out of the prospecting operations the subject of the proposed deed of entry and from following the process for obtaining an access arrangement provided under Division 2 of Part 8 of the Mining Act.

5. APPOINTMENT OF PROJECT MANAGER

- 5.1 Prior to the commencement of prospecting, the licence holder must appoint a project manager to oversee the exploration program.

- 5.2 The project manager must liaise with the landholder at all reasonable times.
- 5.3 The licence holder will notify the landholder and/or contact person if there is a change of person appointed as project manager.
- 6. CONDITIONS TO BE OBSERVED BY THE LICENCE HOLDER**
- 6.1 The licence holder must comply with all requirements imposed by the Mining Act, including the conditions of the exploration licence.
- 6.2 The licence holder shall carry out prospecting in a manner so as to:
- (a) minimise any damage to
 - (i) the surface of the land comprised in the prospecting area and paths of entry
 - (ii) crops, trees, pastures, grasses or other vegetation on the prospecting area and paths of entry
 - (iii) buildings and improvements on the prospecting area and paths of entry.
 - (b) minimise disturbance or interference to stock on the property
 - (c) refrain from entering the prospecting area and paths of entry in wet conditions without prior permission from the landholder and on terms that may be agreed from time to time
 - (d) ensure that no dogs or firearms are brought onto the prospecting area and paths of entry
 - (e) not cut fences without the consent of the landholder and promptly repair any fences or other improvements damaged in the course of non-ground disturbing mineral exploration activity, and
 - (f) leave all gates as found, whether open or shut.
- 6.3 The licence holder must not use water from a farm dam or bore located on the prospecting area and paths of entry without the permission of the landholder.
- 6.4 The licence holder must not fell trees, strip bark or cut timber without the consent of the landholder and in accordance with any applicable legislative requirements.
- 6.5 At the request of the landholder, the licence holder must provide the landholder with a copy of their emergency response management procedure (including fire management) for the prospecting area.
- 6.6 The licence holder will manage garbage, hydrocarbons, waste and refuse in accordance with the terms of the exploration licence and is to place any garbage, waste or empty containers in suitable receptacles and remove them from the prospecting area and paths of entry each day or as soon as practicable.
- 6.7 Before any entry on to the prospecting area and paths of entry, vehicles, boots and equipment are to be cleaned of all superficial accumulation of dirt or vegetable matter in accordance with the landholder's protocols under Clause 6.8.
- 6.8 The licence holder is to abide by any further protocols to prevent the spread of weeds and disease as required by the landholder and as outlined in Annexure C of this agreement.
- 6.9 The licence holder must consult with the landholder on each occasion before accessing agricultural airstrips.
- 6.10 At the request of the landholder, the licence holder must provide the landholder with a copy of the current exploration licence document, and copies of any environmental assessment produced for the purpose of obtaining planning approval in respect of the prospecting area.
- 6.11 Further conditions agreed to by the parties and listed on Annexure D to this agreement form part of this agreement and must be complied with by the licence holder and landholder.

7. COVENANT WITH LANDHOLDER

- 7.1 The landholder agrees that for so long as the licence holder duly and punctually observes and performs the terms and conditions contained in this agreement, the landholder and any other invited occupier of the property:
- (a) will not impede, restrict or interfere with the carrying out of prospecting by the licence holder, and
 - (b) will not enter or grant an access arrangement (under the Mining Act or the *Petroleum (Onshore) Act 1991*) to a person over the prospecting area that is inconsistent with the licence holder's rights under this agreement.
- 7.2 The landholder agrees to notify the licence holder at least six weeks prior to any change that would result in the creation of a new landholder under the Mining Act in respect of all or part of the prospecting area or which would be inconsistent with the licence holder's rights under this agreement.

8. RECORDS

- 8.1 At the landholder's request, the licence holder must keep a record of all equipment, vehicles, chemicals and material that is brought onto or leaves the prospecting area and paths of entry. These records must be available for viewing and/or audit by the landholder and/or contact person at any time during the currency of this agreement.
- 8.2 At the landholder's request, the licence holder must keep a daily record of each person entering and exiting the prospecting area and paths of entry including the name of the person, the person's position and the time entered and exited. These records must be available for viewing and/or audit by the landholder and/or contact person at any time during the currency of this agreement.

9. INSURANCE AND INDEMNITY

- 9.1 The licence holder will effect and maintain a public liability insurance policy in respect of prospecting at all times, as detailed on page 1 of this agreement. The policy must cover liability assumed pursuant to this agreement.
- 9.2 At the request of the landholder, the licence holder must verify its public liability insurance in respect of prospecting to the landholder at any time during the currency of this agreement.
- 9.3 The licence holder, except to the extent provided elsewhere in this agreement, agrees to indemnify the landholder against all loss or damage arising from its actions on the prospecting area and paths of entry in accordance with section 383C of the Mining Act.
- 9.4 The licence holder and landholder must comply with their obligations under work, health and safety legislation.
- 9.5 The licence holder is to abide by any further protocols as required by the landholder and as outlined in Annexure C of this agreement.
- 9.6 Infrastructure and equipment installed on the prospecting area by the licence holder, in accordance with the terms of this agreement, remains the property of the licence holder.
- 9.7 The licence holder expressly agrees that in the absence of negligence or wilful damage caused by the landholder, the landholder will have no responsibility or liability for any loss or damage to personal property of the licence holder.

10. COMPENSATION

- 10.1 The licence holder will pay the landholder the compensation in relation to the carrying out of the prospecting on the prospecting area as set out in Annexure E of this agreement as soon as possible following the completion of the activity.
- 10.2 The landholder may serve notice on the licence holder setting out compensation due in accordance with Annexure E.
- 10.3 The licence holder must pay all compensation within 45 days of the receipt of a notice under Clause 10.2.

11. GROUND DISTURBANCE FOR DRILLING

11.1 The licence holder must ensure that drilling is carried out in accordance with the following provisions:

- (a) All drill holes must be constructed in a manner that will endeavour to prevent erosion and prevent collapse of the surrounding surface.
- (b) Drilling fluids and groundwater returned to the surface as part of the drilling process must be contained in a tank or lined sump pending re-use or lawful disposal.
- (c) Drilling sumps or pits left open and unattended for more than 24 hours must be managed to limit direct access by livestock and native fauna and so that there is a means for egress.
- (d) To minimise the risks associated with gases or liquids contained within the earth:
 - (i) appropriate controls must be applied to effectively manage these risks until the drill holes are permanently plugged or sealed in accordance with the exploration licence conditions
 - (ii) all drill holes must be constructed so as to minimise contamination, cross-contamination and discharge of aquifers during the drilling of the hole, and,
 - (iii) venting or flaring of gases must be conducted in a way that minimises the risk of fire, explosion and pollution.
- (e) Groundwater monitoring bores must be licensed in accordance with the *Water Management Act 2000* and must comply with *Minimum Construction Requirements for Water Bores in Australia* Edition 3 or any document superseding these guidelines.
- (f) All drill holes which are maintained in an accessible condition must be cased to prevent collapse and fitted with a removable cap to ensure the safety of persons and fauna.
- (g) Prior to abandonment, each drill hole must be sealed in accordance with applicable standards and must be completed so as to prevent contamination, cross-contamination and discharge of aquifers.

12. REHABILITATION

12.1 On completion of prospecting in the prospecting area, the licence holder will:

- (a) have commenced, or commence as soon as practicable, rehabilitation work;
- (b) remove all equipment;
- (c) repair all damage to the prospecting area caused by the licence holder as soon as practicable
- (d) recontour excavations and earthworks affected on the prospecting area in such a manner that soil erosion will be minimised as far as practicable
- (e) carry out rehabilitation works in accordance with any relevant conditions of the exploration licence which stipulate requirements for rehabilitation of prospecting operations
- (f) repair any damage to any paths of entry caused by the licence holder
- (g) replace excavated base material, subsoil and topsoil in the order that they were removed to reconstruct the soil profile
- (h) reshape all surface disturbance to be consistent with the pre-existing landform (or slightly elevated to allow for soil compaction)
- (i) suitably prepare the land surface for the establishment of vegetation
- (j) rehabilitate any damage to crops or pastures by reseeding, and
- (k) rehabilitate with native species of local provenance where native vegetation has been cleared.

12.2 If the licence holder does not carry out the rehabilitation that is the responsibility of the licence holder under this agreement:

- (a) the landholder may serve written notice upon the licence holder setting out the rehabilitation required to be carried out under this agreement, and
- (b) if a period of 45 days passes after the licence holder receives the notice under this clause and the rehabilitation has not been completed the landholder may carry out the rehabilitation.
- (c) The licence holder must pay the landholder's reasonable expenses and costs of carrying out the rehabilitation under this clause.

13. PROJECT COMPLETION

13.1 At the request of the landholder, the licence holder must organise a time for the landholder to inspect the prospecting area and paths of entry when prospecting is finished to discuss any remaining issues under this agreement.

14. DISPUTE RESOLUTION

14.1 If a dispute arises out of or relates to this agreement, the parties shall endeavour in good faith to settle the issues in dispute by negotiation and consultation. Such discussions may or may not (at the discretion of the parties) involve a third party or parties such as the respective party's legal representatives or other chosen advisers or nominated persons.

14.2 Nothing in this clause prevents the parties or one or either of the parties pursuing their options under relevant legislation to have the matter resolved (e.g. through the Land and Environment Court).

15. SERIOUS BREACH

15.1 Each of the following events or circumstances is called a serious breach under this agreement:

- (a) if the compensation payable pursuant to any provision of this agreement remains unpaid for a period of 45 days after the date of notification to the licence holder
- (b) if the licence holder commits any breach or default in the due and punctual observance and performance of any of its obligations contained in this agreement and the failure is not remedied, including by dispute resolution in accordance with Clause 14.

16. TERMINATION EVENTS

16.1 This agreement shall terminate;

- (a) in accordance with page 1 of this agreement
- (b) where the landholder ceases to be the landholder for the purposes of the Mining Act
- (c) in the event that the landholder chooses to terminate following a serious breach under Clause 15.1, or
- (d) by mutual agreement of the parties.

16.2 The landholder may terminate this agreement on 14 days' notice to the licence holder where the licence holder commits a serious breach as described in Clause 15.

16.3 The licence holder may terminate this agreement on 14 days' notice to the licence holder where the parties cannot agree on a deed of entry after 14 days of negotiation.

16.4 Termination of this agreement does not affect rights and liabilities accrued as at the time of termination.

16.5 Termination of this agreement will also terminate any deed of entry entered pursuant to this agreement.

17. VARIATION

17.1 This agreement may be varied:

- (a) in writing and signed by the licence holder and the landholder, or
- (b) otherwise in accordance with section 157 of the Mining Act.

18. FORCE MAJEURE

18.1 The licence holder is not liable for a breach of the conditions of this agreement to the extent that the breach is caused by circumstances outside the control of the licence holder, its contractors, employees or agents and for the period those circumstances continue. If the licence holder becomes aware of a breach it must:

- (a) immediately notify the landholder
- (b) try to remedy the cause quickly, and,
- (c) notify the landholder when the cause has been remedied.

SIGNING PAGE

EXECUTED as an agreement on.....

Signed for
(the **licence holder**) by an authorised person in the
presence of

Signature of witness

Name of witness (print)

Signature of authorised person

← _____
Name of authorised person (print)

Office held by authorised person

Signed for
(the **licence holder**) by an authorised person in the
presence of

Signature of witness

Name of witness (print)

Signature of authorised person

← _____
Name of authorised person (print)

Office held by authorised person

Signed for
(the **landholder**) in the presence of

Signature of witness

Name of witness (print)

Signature of landholder

← _____
Name of landholder (print)

Signed for
(the **landholder**) in the presence of

Signature of witness

Name of witness (print)

Signature of landholder

← _____
Name of landholder (print)

Note: Advice on execution of legal agreements should be provided by a legal professional on a case-by-case basis.

19. ANNEXURE A – ADDITIONAL TITLE REFERENCES OF LAND

List of title references in addition to those described on page 1 which describes the prospecting area:

Lot No: Deposited Plan:

ANNEXURE B - MAP OF PROSPECTING AREA

A map should be attached to this agreement (see page 1). This should be based on a topographic map or aerial photograph of sufficient resolution to identify relevant features of the prospecting area and should detail:

1. Paths of entry.
2. Paths of prospecting i.e. where prospecting machinery will travel and prospecting activity will occur.
3. The location of the area of interest for prospecting.
4. The boundary of the exploration licence. If the exploration licence boundary will not fit on this plan a separate plan should be provided showing it in relation to the prospecting area.
5. The location of the areas where access is prohibited under this agreement (e.g. dwellings, gardens, substantial improvements, airstrips etc).

ANNEXURE E - COMPENSATION

Landholders are entitled to compensation for 'compensable loss' suffered or likely to be suffered as a result of the exploration activities on their land. Compensable loss should be negotiated on an individual basis but with due consideration of fairness for neighbouring properties. It should be dependent on, amongst other things, the value of the land, improvement of the land, time of land deprivation and the area of land disturbed.

COMPENSATION RATES BASED ON TYPE OF DISTURBANCE

Activity	Agreed amount \$	Detail on activity
Track construction		Per kilometre
Disturbed crop		Calculated through area disturbed (Area disturbed (Ha) x crop yield (t/Ha) x commodity price (\$/t))
Drilling		Per diamond drill hole or mud drill hole or bore hole
		Per reverse circulation (RC) drill hole
		Per air core drill hole
		Per rotary air blast (RAB) drill hole
		Per auger hole
Costeaming		Per square metre of land surface disturbed
Bulk sampling		Per square metre of land surface disturbed
Backhoe trenching		Per metre
Ditch-witch channelling		Per metre
Other		

ANNEXURE F – DEED OF ENTRY

Permission to enter the property under Clause 4 must be substantially in the form of this annexure.

DEED OF ENTRY

THIS DEED is made on

BETWEEN _____

of _____ (landholder)

AND _____

of _____ (licence holder)

1. This deed forms part of the agreement between the landholder and licence holder executed on _____ (agreement).

2. By signing this deed, the landholder grants the licence holder the right to enter the prospecting area (as defined by the agreement) for the term of this deed only.

3. Failure by the licence holder to duly and punctually observe its obligations under the agreement, including this deed, will entitle the landholder to terminate this deed in accordance with the agreement.

4. The licence holder must use all reasonable endeavours to ensure that the landholder and/or contact person is given 24 - 48 hours' notice on each occasion or period of time it intends to access the prospecting area, unless otherwise agreed between the parties.

5. The licence holder acknowledges that access permitted under this deed is granted exclusively for the following purpose/s:

geological mapping

geophysical surveys

rock/soil/stream sediments sampling

trenching/costeaning

drilling

bulk sampling

environmental assessments

rehabilitation

other [please specify] _____

6. The licence holder will not use or allow to be used (whether directly or indirectly) the prospecting area and paths of entry for any purpose other than those identified in Clause 2, unless with the written permission of the landholder.

7. Periods of permitted access:

7am to dusk

other: from: _____ to: _____

8. Days on which access NOT permitted:

9. Unless otherwise terminated in accordance with the agreement, this deed of entry will terminate on:

DEED OF ENTRY

EXECUTED as a deed on.....

This deed will not be binding on any party until all parties have executed it.

Signed for
(the **licence holder**) by an authorised person in the presence of

Signature of witness

Name of witness (print)

Signature of authorised person ←

Name of authorised person (print)

Office held by authorised person

Signed for
(the **licence holder**) by an authorised person in the presence of

Signature of witness

Name of witness (print)

Signature of authorised person ←

Name of authorised person (print)

Office held by authorised person

Signed for
(the **landholder**) in the presence of

Signature of witness

Name of witness (print)

Signature of landholder ←

Name of landholder (print)

Signed for
(the **landholder**) in the presence of

Signature of witness

Name of witness (print)

Signature of landholder ←

Name of landholder (print)

Note: Advice on execution of legal agreements should be provided by a legal professional on a case-by-case basis.