

OPC PTY LTD STANDARD TERMS & CONDITIONS OF HIRE

DEFINITIONS:

- a) **"Commencement date"** shall mean the date indicated in the "First Day of Hire" in the **"Hire of Goods Agreement"**.
- b) **"Container"** means the container hired out to the HIRER and described by "Container Series Number" as set out in the **"Hire of Goods Agreement"**.
- c) **"Contract"** shall mean this contract for hire of the Containers as set out in Hire of Goods Agreement & Standard Terms and Conditions
- d) **"Daily Hire Fee"** shall mean the amount payable by the HIRER to OPC as specified in the **"Hire of Goods Agreement "** or such revised figure as OPC may notify the HIRER from time to time in Writing and is subsequently agreed upon by OPC and the HIRER.
- e) **"Depot"** shall mean the depot(s) of OPC at Altona North, Barry Beach, or other nominated site from where the units are to be collected or delivered.
- f) **"DNV"** shall mean Det Norske Veritas
- g) **"Duration of Hire"** shall mean the period of time from the "First Day of Hire" in the **"Hire of Goods Agreement"**..
- h) **"Equipment"** means any slings, shackles, straps, safety nets, chains, tarpaulins or other covers hired as integral components of the Containers
- i) **"Hire of Goods Agreement"** means the agreement for the Hire of the Containers
- j) **"Inspection"** includes pre-use inspection, Certified Annual Inspection & Three of Four Yearly, Non Destructive Testing as applicable.
- k) **"Interest"** shall mean the amount payable in respect of non-payment of charges (including rental) from the due date for payment thereof until paid, at a rate of three per centum per month.
- l) **"Hire Period"** in respect of each Container the subject of this Contract means the period of time commencing from the dispatch of the Container from the Depot until its return to the Depot.
- m) **"HIRER"** shall mean the entity whose name is specified in the Hire of Goods Agreement, and shall include its employees, agents, successors and assignees.
- n) **"Load Testing"** as required by DNV 2.7-1 or EN12079-3 and any other load testing that may be required following repair to any primary structure members of a container.
- o) **"Maximum Gross Weight"** shall mean the weight nominated on the Container data plate.

- p) **"OPC"** shall mean OPC Pty Ltd A.B.N. 93 767 330 615 registered under the Corporations Law and having its Registered Office at 11 Palmerston Crescent, South Melbourne, VIC 3205 and includes its employees, agents, successors and assignees.
- q) **"Fit for Hire"** means OPC's Units are offered for Hire in Good Condition & suitable for Designed Service
- r) **"Parties"** shall mean OPC and the HIRER.
- s) **"Units"** shall mean the Container(s) and associated fittings (see "h" above) rented by OPC to the HIRER".
- t) **"Writing"** includes, email, cable, facsimile transmission and comparable means of communication.

BASIS of HIRE:

1. OPC and the HIRER have agreed that OPC will hire to the HIRER the Containers for the Duration of Hire, and the HIRER will pay OPC a Daily Hire Fee for each Container hired on the terms and conditions of this Contract.
2. Unless otherwise stated each offshore container supplied under this agreement meets the requirements of DNV 2.7-1 certification and has full material traceability, welder qualifications, weld procedures and testing records maintained on file, as required by industry guidelines, technical notes and DNV 2.7-1.
3. The HIRER and OPC shall jointly inspect each Container prior to dispatch from the Depot and complete and sign the Hire of Goods Agreement. By signing the Hire of Goods Agreement, the HIRER acknowledges that each Container hired is in acceptable condition for intended use and is fit for the HIRER's particular purpose.
4. The Hirer and OPC shall jointly inspect each Container upon return to the Depot and at the discretion of OPC determine any damage (above normal fair wear and tear) that may have occurred during the Hire Period.
5. The HIRER shall be responsible for all transport costs of the Containers to and from the Depots unless otherwise agreed with OPC in Writing.
6. The HIRER agrees to carry out at its own cost routine maintenance of the Containers during the Hire Period. Such routine maintenance shall include lubrication of slings including any Hammerlocks TM. Any damage sustained by the Containers during the Hire Period (occurring as a lack of routine maintenance or otherwise) shall be to the account of the HIRER.
7. The HIRER agrees to carry out a Pre-use check on each Container prior to each individual trip to and from offshore facilities. OPC will provide a sample check form for guidance in this work if so requested.

8. Where the Duration of Hire exceeds 3 months and the HIRER advises OPC that the equipment will be used at a location remote from the Depot, OPC will ensure that all required inspections and Load Testing have a minimum of 3 months currency prior to dispatch from the Depot.
9. Annual Inspections may be carried out at the HIRER'S Onshore locations at the discretion of OPC and subject to availability of qualified Inspectors: subject to the HIRER making available:-
 - (a) suitable supports to place Containers on to allow underside inspection to be carried out. Such supports to have engineering design calculations on file supporting the use at the tare weights of the Containers;
 - (b) a person to assist the inspector;
 - (c) a forklift truck or suitable crane to lift Containers;
 - (d) as many of the Containers due for inspection as practically possible, on the day of planned site visit for inspection, and the HIRER shall accept all reasonable charges incurred as a result of cancellation of any scheduled Container inspections that may have been agreed upon for a nominated date.
 - (e) Otherwise containers may be required to be relocated under direction from OPC
10. The HIRER agrees to provide access by OPC to premises where the Containers may be stored, in use or in transit from time to time. The HIRER agrees to provide all reasonable assistance to OPC in carrying out Inspection of the Containers.
11. The HIRER must pay the Daily Hire Fee in respect of each Container the subject of this Contract and any other agreed charges within thirty days after the date of OPC's invoice for such Daily Hire Fee, failing which the HIRER will be liable to payment of Interest as accruing on the outstanding balance, unless otherwise agreed by OPC.
12. If any Container on hire to the HIRER is damaged, whether totally or partially, the HIRER agrees to immediately return the damaged Container to OPC at the HIRER's cost and if OPC in its sole discretion determines the damage to be beyond "fair wear and tear", pay OPC subject to clause 13.1(a) or 13.1(b) all reasonable costs of repair for any such damaged Container.
- 13.1 The HIRER agrees that:
 - (a) if the HIRER establishes to OPC's satisfaction that any of the Containers on hire are destroyed ("**Destroyed Container**"), the HIRER must pay OPC on demand an amount equal to the replacement value of each Container which is destroyed *plus* daily hire fees up to and including date of receipt or replacement value is paid to OPC

- (b) if the HIRER establishes to OPC satisfaction that any of the Containers on hire are lost (“**Lost Container**”), the HIRER must pay OPC on demand an amount equal to the replacement value of each Container which is lost *plus* an amount equal to the Daily Hire Fees in respect of each such Container payable until receipt of the replacement value is paid to OPC.
 - (c) if in respect of any Container which is returned to OPC, OPC determines in its sole discretion that the container is contaminated, rendered unusable or damaged beyond reasonable repair, that Container will be treated as a Destroyed Container and the HIRER must pay compensation for each such Destroyed Container in accordance with clause 13.1(a) and neither the HIRER or OPC are under any obligation to repair such Destroyed Container.
- 13.2 OPC warrants that each offshore Container supplied meets the requirements for Offshore Service and are supplied with either NATA Test Certificates or DNV2.7-1 Certification.
- 14. By signing the Hire of Goods Agreement, the HIRER:
 - (a) Acknowledges receipt of the Containers in good order and condition and free from any damage or deficiency except as agreed between OPC and the HIRER in Writing.
 - (b) Agrees to meet the expenses for any transportation of the Containers from and to the Depot(s) or any such other place or places as may be mutually agreed between the Parties.
 - (c) Agrees that it will not allow the Containers to be loaded beyond the Maximum Gross Weight – any such overloading shall be deemed a material breach of the Contract and the HIRER fully indemnified OPC from any loss which may arise in consequence of such breach.
 - (d) Agrees that it will not allow the Containers to be used to store or transport unprotected corrosive items which could cause the oxidization or undue abrasion of the Containers and shall exercise all necessary reasonable care in the use thereof and in particular shall ensure that all cargo is properly and sufficiently secured in the Containers – any breach of this condition by the HIRER will render the HIRER liable for the cost of repair or maintenance of the Containers.
 - (e) Agrees that it will be responsible for the cost of the repair and maintenance of each Container hired for the duration of the Hire Period, including any repairs which OPC requires to any Container following its determination under clause 3 of the Contract.

- (f) Agrees that it will not use the containers outside of the design use without prior approval from OPC. It is OPC's expectation that the containers are hired for use in the routine transport of goods to and from offshore locations. Whilst the containers may be suitable for other transport requirements, the customer must seek approval from OPC prior to using for other applications.
15. OPC will use all reasonable endeavours to have the Containers ready for collection by the HIRER from the Depot on the date(s) specified in the Contract but OPC shall not be liable whatsoever in the event of any delay.
16. The HIRER indemnifies and releases OPC against any action, suit, claim or demand, made against OPC by the HIRER or any third party for compensation or damages, including but not limited to incidental or special damages, anticipated or real opportunities, revenue or profits, or otherwise and arising out of, or referable to:
- (a) any damage, injury, death or loss arising directly or indirectly from any negligent or willful act or omission or misfeasance caused directly or indirectly by or arising out of the use or condition of any Containers while on hire to the HIRER or in the possession or control of the HIRER;
 - (b) OPC's performance or OPC's delay in performance of any of its obligations to the HIRER; or
 - (c) The exercise by OPC of any of its rights under this Contract or at law.
- PROVIDED HOWEVER that such indemnity or release is limited to the extent that such injury, loss or damage was not caused by any willful or negligent act, or omission of OPC or any officer, servant or agent of OPC.
17. This release and indemnity includes all costs and expenses incurred by OPC in investigating, seeking legal advice in relation to, defending or settling the claim and includes legal costs on a solicitor and own client basis.
18. The HIRER shall not assign, sub-let, pledge, mortgage or otherwise dispose of or encumber any Container or part thereof or charge the benefit of this Contract without the prior written consent of OPC.
19. The HIRER, shall pay all taxes and charges arising out of or incidental to the use of possession of the Containers, until they are returned to the Depot from where they were collected or other previously agreed point of return in the condition required in Clauses 3 & 24 of this Contract.
20. If the Containers are used in such a way or for such purpose as falls within the scope or jurisdiction of any state or federal Health & Safety Regulations, then the HIRER is deemed to warrant that their use will conform to all such regulations.

21. The HIRER will take all necessary reasonable precautions to prevent damaged Containers being used or put into service and OPC will under no circumstances accept any liability for damaged Containers used in any manner or for any purpose whatsoever.
22. The Containers shall be returned at the end of the Hire Period in a thoroughly clean condition internally and externally, free of all foreign matter, painted markings, residue or any form of taint or contamination, failing which the HIRER shall pay on demand to OPC the cost of cleaning, waste disposals and treatment required for bringing the Containers to an acceptable standard of cleanliness.
23. The HIRER shall not modify or add to the Containers either temporarily or permanently without the prior written consent of OPC. Where OPC has agreed to any such modification or addition, OPC retains the right to require the HIRER to return the Containers in a similar condition as at the commencement of the Hire Period, (fair wear and tear excepted). Upon consultation OPC may agree to the return of the Containers complete with the modifications or additions that shall thereafter be deemed the property of OPC.
24. Should the HIRER request the OPC provides transportation for the Containers to or from the Premises then all risks attaching thereto during the period of transportation shall be with the HIRER and it shall indemnify OPC.
25. The HIRER shall ensure that while the Containers are within its possession or control, the Containers will not be obliterated, defaced and that no identifying marks of any kind as were present on each Container as at the Commencement Date are removed.
26. The HIRER agrees to make the Containers available for Inspection by OPC on request.
27. Where the Containers are rubbish skips the HIRER shall (a) obtain all permits required by any local or other authority and thereafter use the Containers in accordance with the directions attaching thereto.
28. **Insurance**
 - 28.1 **Extent:** The HIRER must maintain at all times during the Hire Period:
 - (a) workers compensation cover as required by the law
 - (b) public and product liability insurance on generally available terms covering general third party liability for physical loss or damage to property and injury or death to persons arising from or in connection with use of the Containers with a limit of liability of not less than \$10,000,000 for any one event
 - (c) property insurance for the full replacement cost of the Containers against loss, damage or destruction arising out of any generally insurable risk commonly

insured with respect to Containers and having regard to the use of the Containers and against such other insurable risks as may be reasonably required by OPC;

- (d) public and property cover on generally available terms for at least \$10,000,000 in relation to any one event arising out of or in connection with this Agreement for which the Hirer may be liable;
- (e) loss or damage to property (including consequential loss); and
- (f) insurance for all insurable risks under a compulsory third party motor vehicle insurance policy in compliance with the laws of the applicable state or territory where the Containers are located for any vehicle used in connection with this Agreement

28.2 Evidence of Insurance

Before proceeding with this Agreement and upon request by OPC, the Hirer must provide OPC with evidence of the existence, coverage and currency of the Hirer's insurance to the satisfaction of OPC. OPC may refuse to proceed with, or terminate, this Agreement in the event that OPC (in its absolute discretion) is of the view that the Hirer's insurance is inadequate.

28.3 Effect of Insurance

The effecting of insurance, whether under clause 28.1 or otherwise, does not limit any liability or obligations of the Hirer under this Agreement.

28.4 Insurance Claims

If requested by OPC, the Hirer must make and pursue a claim under its insurance policies in circumstances where:

- (a) a breach of this Agreement has occurred or a liability to OPC has arisen out of this Agreement and some or all of the resulting loss or damage ("Loss or Damage") is covered under the hirer's insurance policies;
- (b) there are reasonable prospects of the claim succeeding; and
- (c) some or all of the proceeds from a successful claim could be applied towards any Loss or Damage,

however, this clause 28.4 will not apply in circumstances where the Hirer is ready, willing and able to pay for the Loss or Damage on its own account.

29. OPC may at its sole discretion by a separate contract in Writing arrange insurance relative to the hire of the Containers, but nothing in the Contract shall imply:

- (g) the existence of any insurance cover extended by OPC to the HIRER; or
- (h) the waiver by OPC of any obligation on behalf of the HIRER, including the HIRER's obligation under clause 30 of this Contract.

30. The HIRER acquires no rights of ownership or lien of any nature in any of the Containers by virtue of the Contract or any payments made thereunder. The HIRER gives OPC an irrevocable licence to enter property occupied by the HIRER at any time and take any steps OPC considers reasonable, necessary or appropriate to obtain possession of the Containers. In the event that any of the Containers hired herein are owned by a third party and leased by such third party to OPC the right of the HIRER to acquire possession of such Containers shall be subject and subordinate to all the terms of any agreement between such third party and OPC. The Contract shall be liable to immediate termination by OPC in the event of the HIRER failing to pay the Hire fees or any other charges due under the Contract within the due dates for payment, defaulting or failing to perform any other term or condition under the Contract within seven days of demand in writing by OPC or be the subject of any bankruptcy or insolvency proceedings. In such event OPC shall have the right to take immediate repossession of all the Containers leased under the Contract or under any other contract or agreement and the HIRER specifically waives any rights to claim damages occasioned by such repossession. OPC may enforce such right and take immediate repossession without notice or resort to judicial process and for such purpose. OPC, its employees or authorized representatives may enter upon any premises belonging to or occupied by or under the control of the HIRER or such other place or premises where the Containers may be situated. The exercise by OPC of its rights hereunder shall be without prejudice to any other right of action of OPC
31. If any provisions of the Contract are invalidated for any reason whatsoever OPC and the HIRER agree that the terms and conditions of the Contract shall nonetheless remain in full force and effect except for such invalidated provisions, insofar as the application of the remaining terms and conditions permit substantial performance of OPC and HIRER.
32. OPC and the HIRER hereby respectively undertake to the other to keep confidential all information (whether in Writing or otherwise) concerning the Contract and the business and affairs of the other and of any customer or any other third party that it shall have obtained or received as a result of the entering into and subsequent dealings under the Contract.
33. The Contract shall be interpreted and the rights, liabilities and duties of the parties determined in accordance with the Laws of the Commonwealth of Australia and the HIRER submits to the jurisdiction of the courts of that country provided always that notwithstanding the foregoing OPC may enforce the Contract in any court of competent jurisdiction. The HIRER shall pay all costs including all reasonable legal fees and expenses incurred by OPC in enforcing any rights under the Contract.

34. The HIRER agrees that any and/or all additional and/or replacement Containers hired subsequent to the signing of this agreement will be subject to the terms and conditions laid down in this document.
35. By the signing of and receipt of a copy of The Hire of Goods Agreement, the HIRER, accepts all risks relating to the use or operation of the Equipment and the standard terms and conditions of hire. The Hirer accepts full responsibility for all claims in respect of injury to persons, loss of production or loss or damage to property arising out of the use of the Equipment.
36. In clauses 39, 40 & 41:
- (a) **“GST”** means GST within the meaning of the GST Act.
 - (b) **“GST Act”** means A New Tax System (Goods and Services Tax) Act 1999 as amended.
 - (c) **“Input Tax Credit”** has the same meaning as the GST Act.
 - (d) **“Price”** means the consideration for a taxable supply without any discount for GST.
 - (e) **“Tax Invoice”** has the same meaning as in the GST Act.
37. An amount payable by a party under this Contract, in respect of a supply by the other party which is a taxable supply under the GST Act, unless expressed to represent the Price of the supply, represents the GST exclusive value of the supply and the recipient of the supply must, in addition, pay to the supplier the GST payable in respect of the supply.
38. If this Contract requires the HIRER to pay, reimburse or contribute to an amount paid or payable by OPC in respect of an acquisition from a third party for which OPC is entitled to an Input Tax Credit, the amount for payment, reimbursement or contribution will be the GST – exclusive value of the acquisition by OPC plus, if OPC’s recovery from the HIRER will be a taxable supply under the GST Act, the GST payable in respect of that supply.
39. A party’s obligation under this clause to pay the GST on a taxable supply to it by the other party arises on the delivery by the supplier of a Tax Invoice for the supply.
40. The Hirer agrees to use the Equipment in accordance with relevant codes of practice and legislation, including but not limited to:
- (a) International Maritime Dangerous Goods 9IMDG) Code;
 - (b) Australian Dangerous Goods Code;
 - (c) Australian Explosives Code;
 - (d) Environmental Protection & Biodiversity Conservation Act (Federal);

- (e) Environmental Protection Act (State);
- (f) Workcover guidelines for provision of a safe workplace and Relevant industry guidelines, including but not limited to:
- (g) Operating oil & gas company procedures and guidelines and
- (h) Written instructions that may be issued from time to time by OPC.

All Container Hire is subject to OPC Pty Ltd Standard Terms and Conditions of Hire

Acceptance on behalf of

Acceptance for and on behalf of the Hirer

Signature:

Signature:

Name:

Name:

Position Title:

Position Title:

Date of Signing:

Date of Signing: