

Hire Terms & Conditions

1 GENERAL OBLIGATIONS OF THE PARTIES

1.1 In consideration for MPC Kinetic paying the Supplier the Fee, the Supplier will dry hire the Equipment to MPC Kinetic for the Term.

2 WARRANTIES IN RELATION TO EQUIPMENT

2.1 The Supplier warrants that:

- (a) it has the legal right to hire the Equipment to MPC Kinetic;
- (b) the Equipment is of merchantable quality and is for the purpose made known to the Supplier by MPC Kinetic or which the Supplier should reasonably have ascertained;
- (c) the Equipment is free from defects and complies with all Legislative Requirements once Mobilised; and
- (d) the Equipment had been maintained to the manufacturer's specification prior to being Mobilised.

3 COMMENCEMENT OF HIRE

3.1 The Supplier will ensure that the Equipment is Mobilised by the 'Delivery Date' in the PO.

3.2 The Supplier acknowledges that it will not be granted access to the Site by MPC Kinetic until it has complied with the preconditions to Site access notified by MPC Kinetic or which the Supplier should reasonably have been aware of.

4 RESPONSIBILITIES DURING THE TERM

4.1 Unless specified otherwise in the PO, the party designated as being responsible for each of the matters below must perform that obligation (and all obligations incidental to that obligation) in a timely manner and at their own cost.

Responsibility	Supplier	MPC Kinetic
Mobilisation of Equipment to Site from the Supplier's premises so as the Equipment is capable of being used, including transportation, unloading, assembly and commissioning.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maintenance and repairs whilst in MPC Kinetic's possession (other than defects which the Supplier will remain responsible for).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Repair of defects and/or replacement of defective Equipment	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Demobilisation of Equipment from Site to the Supplier's premises at the expiry of the Term	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.2 For Well-site Equipment, the Supplier is responsible for all of the matters identified at clause 4.1.

4.3 Whilst on Site, the Supplier, its employees, agents and contractors must comply with all directions by, and policies and procedures, of MPC Kinetic and any other relevant third party, as notified from time to time.

5 INSURANCE

(a) The Supplier will take the risk in damage to, and loss of, the Equipment during the mobilisation and demobilisation.

(b) During the Term, the Supplier will effect and maintain:

- I. public liability insurance with a limit of not less than \$20,000,000.00 per occurrence for personal injury, death and property damage, and
- II. workers' compensation insurance as required by law.

(c) During the Term, MPC Kinetic may effect insurance covering damage to, or loss of, the Equipment. However, if indicated in the PO or otherwise agreed by the parties in writing, the Supplier may effect this insurance in exchange for payment of an agreed fee.

(d) Within 24 hours of a request from MPC Kinetic the Supplier must provide evidence in the form of a certificate of currency to MPC Kinetic that the insurance required by this Contract is in place.

6 PAYMENT

6.1 MPC Kinetic will pay the Fee to the Supplier between the date the Equipment is Mobilised and the expiry of the Term, however no Fee is payable by MPC Kinetic during any period where the Equipment cannot be used by MPC Kinetic due to a defect in the Equipment or other breach of the Contract by the Supplier.

6.2 The Supplier will provide a Tax Invoice to MPC Kinetic on the last day each month during the Term and during the month following the expiry of the Term for the Fee payable during the previous month. MPC Kinetic may (at its discretion) choose to issue a RCTI to the Supplier, in which case the Supplier will not issue a Tax Invoice to MPC Kinetic. Both parties agree that they are, and will remain, registered for GST and will immediately advise the other party if it ceases to be registered for GST.

6.3 All Tax Invoices from the Supplier must be addressed to the following email, where the MPC Kinetic entity is:

- (a) MPC Group Pty Ltd, MPC Kinetic Holdings Limited, MPC Kinetic Holdings (2) Pty Ltd, MPC Group Holdings Pty Ltd, MPC Group Holdings (2) Pty Ltd or MPC Group Holdings (3) Pty Ltd - accountsmpc@mpckinetic.com;

- (b) Kinetic Well Intervention Services Pty Ltd - kwis.ap@mpckinetic.com;
 - (c) Kinetic Fluid Management and Production Services Pty Ltd - kfm.ap@mpckinetic.com;
 - (d) Kinetic Chemicals Pty Ltd - kc.ap@mpckinetic.com;
 - (e) Well Equipment Solutions Pty Ltd - wes.admin@mpckinetic.com; or
 - (f) Kinetic Well Services Limited - kws.ap@mpckinetic.com.
- 6.4 and the MPC Kinetic representative specified in the Purchase Order, and must include:
- (a) the MPC Kinetic 'Purchase Order number';
 - (b) a detailed description of the Equipment;
 - (c) a calculation of the Fee claimed with supporting documentation satisfactory to MPC Kinetic; and
 - (d) copies of the SMU Clock hours provided by MPC Kinetic (if applicable).
- 6.5 MPC Kinetic will pay the amount of valid Tax Invoices issued by the Supplier under this clause within 45 days from the end of the month of the date of the Tax Invoice, provided that:
- (a) the Tax Invoice complies with this Contract; and
the date of the Tax Invoice does not pre-date the date of use of the Equipment under this Contract, except where MPC Kinetic disputes the Tax Invoice;
 - (b) MPC Kinetic will pay the undisputed part of the Tax Invoice (if any) within this timeframe. However, MPC Kinetic will only be obligated to pay the undisputed part of the Tax Invoice if the Supplier retracts and reissues its Tax Invoice in the amount requested by MPC Kinetic or issues a credit note for the difference; and
 - (c) if the resolution of the dispute determines that MPC Kinetic is to pay an amount to the Supplier, MPC Kinetic will pay that amount upon resolution of that dispute.
- 6.6 No interest will be payable by MPC Kinetic in respect of any Tax Invoice which is due but unpaid.
- 6.7 If MPC Kinetic is of the opinion that there is more money owing from the Supplier to MPC Kinetic than is payable by MPC Kinetic to the Supplier, MPC Kinetic may advise the Supplier of this fact and issue a Tax Invoice to the Supplier for the total amount owing. The Supplier will pay the amount specified in the Tax Invoice to MPC Kinetic within 14 days of the date of the Tax Invoice.
- 6.8 Upon submission of the final Tax Invoice or expiry of the timeframe for submission of the final Tax Invoice under clause 6.2, the Supplier releases and discharges MPC Kinetic from all Claims whatsoever

which the Supplier may have against MPC Kinetic in connection with the Equipment or this Contract.

7 LIABILITY

7.1 Subject to clause 7.2 below:

- (a) the Supplier will indemnify and hold harmless MPC Kinetic and its officers, employees and agents against all Claims arising out of, or in connection with:
 - (i) the Supplier's breach of this Contract, including a breach of warranty; and
 - (ii) the Supplier's negligent acts or omissions;
- (b) upon the expiry of the Term, MPC Kinetic will only be liable to the Supplier for damage to the Equipment (excluding Well-site Equipment) and, under no circumstances, will MPC Kinetic be liable to the Supplier for fair wear and tear to, or defects in, the Equipment (excluding Well-site Equipment) or damage caused or contributed to the Equipment (excluding Well-site Equipment) by defects in the Equipment (excluding Well-site Equipment);
- (c) MPC Kinetic will not be liable for any Claim by the Supplier unless the Supplier provides MPC Kinetic with written notice of the details (including the legal basis, factual basis and quantum) of the Claim within Supplier has given MPC Kinetic written notice of the Claim within five (5) days of the time when the Supplier should have first become aware of the facts or circumstances giving rise to the Claim; and

7.2 Where the supply includes the provision of Well-site Equipment, the Supplier:

- (a) agrees to release, defend, indemnify and hold harmless MPC Kinetic and its subsidiaries, affiliated bodies and related companies, and each of their officers, directors, employees, agents and consultants from and against any and all Claims in relation to the performance, operation or the supply of the Well-site Equipment; and
- (b) accepts liability for loss or damage caused by or to the Well-site Equipment, including retrieval costs, except to the extent that the loss or damage is the direct result of gross negligence or wilful misconduct by MPC Kinetic.

7.3 Subject to clause 7.2, as between the parties, each party will be proportionately liable to the extent of its negligence and indemnifies the other party to the extent of such liability, for Claims for death, injury, or property loss or damage, made by third parties in relation to the performance of the supply of the Well-site Equipment.

7.4 Despite any other provision of this Contract:

- (a) subject to clause 7.4(b), neither party will be liable to each other under this Contract for any

consequential loss, or damages of any nature whatsoever whether based in contract, warranty, tort (including negligence) or otherwise including (but not limited to) those arising out of business interruption, loss of production or product, loss of opportunity, loss of use, loss of profits or loss of revenue howsoever arising and the parties agree that such loss or damages will no be claimed as direct loss or damage;

- (b) nothing in this Contract limits the Supplier's liability to MPC Kinetic for any loss or liability in connection with personal injury, property damage, breach of intellectual property rights, third party claims or fraud of the Supplier or its personnel, wilful misconduct or gross negligence.

7.5 Notwithstanding anything else in this Contract, MPC Kinetic's liability to the Supplier under or in connection with this Contract is limited to the total Fees paid by MPC Kinetic to the Supplier during the Term.

8 TERMINATION

8.1 MPC Kinetic may terminate this Contract by written notice to other party if:

- (a) the Supplier commits a breach of this Contract and fails to remedy that breach within 2 Business Days of receipt of a notice identifying the breach;
- (b) the Equipment is not Mobilised by the 'Delivery Date' in the PO;
- (c) the Equipment does not comply with Legislative Requirements, is not fit for the purpose for which it was hired by MPC Kinetic or is otherwise defective;
- (d) the Supplier commits fraud or misconduct or has an actual or potential conflict of interest which cannot be resolved to MPC Kinetic's satisfaction;
- (e) the Supplier has or is likely to commit a serious safety breach in relation to the supply of the Equipment under this Contract;
- (f) the Supplier suffers an Insolvency Event; or
- (g) a Casualty Event occurs.

8.2 If the Contract is terminated pursuant to:

- (a) clauses 8.1(a)-(f):
 - (i) MPC Kinetic's only liability to the Supplier will be for the Fees payable to the Supplier up to the date of the termination (subject always to clause 8.2); and
 - (ii) the Supplier will liable to demobilise the Equipment from the Site in accordance with MPC Kinetic's instructions at the Supplier's cost;
- (b) clause 8.1(g), subject to clause 7:

- (iii) MPC Kinetic will be liable to pay the Supplier the Fee payable up to the date of the Casualty Event and the market value of the Equipment; and
- (iv) the party insuring the Equipment against damage and loss will be entitled to the Equipment salvage (if any); in addition to any other rights at law MPC Kinetic may have.

8.3 Notwithstanding anything else in this clause, MPC Kinetic may terminate the Contract at any time by giving the Supplier written notice of the expiry of the Term without cause, but nothing will affect MPC Kinetic's right to make Claims against the Supplier for any breach of the Contract.

9 GENERAL

- (a) This Contract may only be amended by written agreement between all parties.
- (b) This Contract becomes binding once the Supplier commences the supply of the Equipment.
- (c) The Supplier must notify MPC Kinetic of any actual or potential conflict of interest immediately upon becoming aware of it and must follow the instructions of MPC Kinetic in relation to resolving that conflict.
- (d) The Supplier must not sub-contract, assign or novate any of its rights or obligations under the Contract without the prior written consent of MPC Kinetic.
- (e) MPC Kinetic may assign or novate, in whole or in part, its rights and obligations under the Contract during or after the expiry of the Term, without the prior written consent of the Supplier and the Supplier must execute any documentation to effect any assignment or novation at its own cost.
- (f) This Contract supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.
- (g) A right under this Contract may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.
- (h) The law in effect at the Site will govern this Contract. Each party irrevocably submits to the exclusive jurisdiction of the courts of that law and courts competent to hear appeals from those courts.
- (i) A clause or part of a clause of this Contract that is illegal or unenforceable may be severed from this Contract and the remaining clauses or parts of the clause of this Contract continue in force.
- (j) Any notice, Tax Invoice or document given under the Contract shall be deemed to be

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sufficiently served, if delivered, posted (by prepaid post), faxed or emailed to a party as per the details in the PO or such other updated details provided by the party:

- (i) if it is posted, on the second Business Day following the date on which it was posted,
 - (ii) if served by facsimile transmission and transmitted by facsimile out of normal business hours (being 8:00am-5:00pm on a Business Day) the Business Day which next follows the day of transmission,
 - (iii) in the case of electronic delivery, at the time shown in the delivery confirmation report generated by the sender's email system, or where a confirmation report is not generated, unless the sender receives a return notification that the email was not delivered, undeliverable or similar, at the time which is 12 hours from the time the email was sent, but if such time is outside of normal business hours, the next Business Day, and
 - (iv) otherwise, any notice, Tax Invoice or document will be deemed to be received at the time of actual receipt.
- (k) Other than a Tax Invoice, all notices under this Contract must be given to, and by, the party's representative identified in the PO.

10 DEFINITIONS & INTERPRETATION

10.1 In this Contract:

'Business Day' means a day that is not a Saturday or Sunday, a public holiday, nor 27, 28, 29, 30 or 31 December in any year at the Site.

'Casualty Event' means where the Equipment is stolen, lost, destroyed or damaged beyond the point of economic repair.

'Claims' means any claim, notice, demand, debt, account, lien, liability, action, proceedings or suit under, arising out of, or in any way in connection with the Contract.

'Contract' means:

- (a) these 'Hire Terms and Conditions'; and
- (b) the PO; and
- (c) any documents referenced in the PO, and in the event of an inconsistency, the order of precedence above will apply.

'Equipment' means the plant or equipment identified in the PO, and includes Well-site Equipment.

'Fee' means the remuneration specified in the PO.

'GST Act' means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or equivalent legislation.

'Insolvency Event' means any of the following events:

- (a) a liquidator, receiver, receiver and manager, administrator, official manager or other controller (as defined in the Corporations Act 2001 (Cth) or equivalent legislation), trustee or controlling trustee or similar official is appointed over any of the property or undertaking of the party;
- (b) the party or the party's property or undertaking becomes subject to a personal insolvency arrangement under part X *Bankruptcy Act 1966* (Cth) (or equivalent legislation) or a debt agreement under part IX *Bankruptcy Act 1966* (Cth) or equivalent legislation;
- (c) the party is, or becomes unable to, pay its debts when they are due or is or becomes unable to pay its debts within the meaning of the *Corporations Act 2001* (Cth) or equivalent legislation, or is presumed to be insolvent under the *Corporations Act 2001* (Cth) or equivalent legislation;
- (d) the party ceases to carry on business; or
- (e) an application or order is made for the liquidation of the party or a resolution is passed or any steps are taken to liquidate or pass a resolution for the liquidation of the party, otherwise than for the purpose of an amalgamation or reconstruction.

'Legislative Requirements' includes:

- (a) Acts, regulations, local laws, by-laws, ordinances, orders, awards and proclamations of the Commonwealth, the State or Territory or local government relevant to the matters the subject of the Contract or where any part thereof is being carried out and the requirements of any other relevant Government agency; and
- (b) certificates, licences, consents, permits, codes, standards, approvals and requirements of organisations having jurisdiction in connection with the use or hire of the Equipment.

'Mobilised' or 'Mobilisation' means when the following has occurred (in the reasonable opinion of MPC Kinetic):

- (a) the Equipment is clean and free of materials, flora or fauna (e.g. fire ants and noxious weeds) and all evidence in support of this has been provided by the Supplier;
- (b) the Equipment is individually lockable in manner which enables isolation of the use of that Equipment;
- (c) evidence satisfactory to MPC Kinetic has been provided to demonstrate that the Equipment complies with the policies and procedures of MPC Kinetic and its client (as notified from time to time); and

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- (d) all other mobilisation activities specified as being the responsibility of the Supplier in clause 4 have been undertaken.

'MPC Kinetic' means the entity specified in the PO.

'PO' means the 'Purchase Order' issued by MPC Kinetic.

'RCTI' has the same meaning as in the GST Act.

'Related Entity' has the same meaning as in the *Corporations Act 2001 (Cth)*.

'Site' means the place specified as 'Deliver To' in the PO.

'Supplier' means the entity identified as such in the PO.

'Tax Invoice' has the same meaning as in the GST Act.

'Term' means the period between the 'Order Date' in the PO and the date notified by MPC Kinetic.

'Well-site Equipment' means the plant or equipment identified in the PO for use at a well-site.

10.2 In this Contract, unless the context indicates otherwise:

- (a) a singular word includes the plural and vice versa;
- (b) 'includes' in any form is not a word of limitation;
- (c) a reference to a party to this Contract or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns; and
- (d) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.

10.3 Where this Contract includes more than one (1) item of Equipment, the terms and conditions of this Contract apply separately to each item of Equipment.

10.4 All terms and conditions of this Contract survive termination or expiry of the Contract