

TERMS & CONDITIONS OF HIRE EQUIPMENT

Acceptance and implementation of the following terms and conditions of hire by both parties will help Rutherford Global Power, who offers **Equipment** in good faith, to continue to provide a safe and high standard of quality **Equipment** and service to the **Hirer**.

1. DEFINITIONS

- 1.1. **EQUIPMENT** shall mean, Cables, Flameproof Switchgear, Weatherproof Switchgear, High Voltage Switchgear, Low Voltage Switchgear, Transformers, Substations, Starters, etc including all attachments, accessories, tools and supporting documentation;
- 1.2. **TEST REPORT** shall be a report compiled prior to and on completion of the hire giving indication of the state of the Equipment to relevant standards and Statutory requirements – i.e. Cable to AS1747 etc;
- 1.3. **HIRER** shall mean the addressee as per page one;
- 1.4. **RGP** shall mean Rutherford Global Power Pty Ltd, associated companies, successors, assigns contractors and agents and / or the Owner of the Equipment.

2. PROPERTY

- 2.1. The **Equipment** at all times remain the property of **RGP** and no other person will be entitled to transfer, dispose, or deal in any way which is inconsistent with **RGP** rights or these conditions.
- 2.2. If **RGP** is required under these Terms and Conditions or by any relevant authority or is requested to recover, remove or salvage the Equipment, all recovery costs are payable by the **Hirer**.

3. ACCEPTANCE

Taking delivery of the **Equipment**, receipt by **RGP** of the **Hirer's** order number or, the continuation of the hire, shall be regarded as constituting the acceptance of these conditions herein and the reported condition of the **Equipment**.

4. SUITABILITY

The **Equipment** is offered in good faith to meet the **Hirer's** stated specifications. It is the express responsibility of the **Hirer** to determine that the **Equipment** offered is adequate for the purpose intended. All **Equipment** is available for inspection prior to hire and no claims will be considered for failure of the Equipment to perform whatsoever.

5. TRANSPORT AND DELIVERY

All costs associated with the transport (including insurance costs) and delivery of the **Equipment** to and from the site and the original location, unless otherwise agreed in writing with **RGP**, are the responsibility of the **Hirer**.

The **Hirer** agrees to return the **Equipment** as delivered. Should the **Equipment** be returned in any other manner than the **Hirer** agrees to bear the cost of returning the **Equipment** to its original condition.

6. INSURANCE

The **Hirer** shall insure the **Equipment** against theft, loss or damage during the Hire Period and the **Hirer** agrees to pay all costs associated with such insurance.

- 6.1. The **Hirer** will maintain the following policies of insurance from the commencement date of the Hire Agreement until the **Equipment** is returned to the location agreed by **RGP**
 - 6.1.1. Direct physical loss (theft) and / or damage to the **Equipment** for the nominal value declared in Schedule One.
 - 6.1.2. Public Liability insurance for a minimum of \$10,000,000 including the interests of **RGP** as additional insured's.
- 6.2. The **Hirer** shall provide a Certificate of Currency for the above prior to taking possession of the **Equipment** and will name **RGP** as an interested party.

7. COMMENCEMENT

This agreement shall commence upon receipt of the **Hirer's** order number, or when the **Equipment** is loaded for transport and shall terminate following completion of the unloading, post hire inspection and damage repair at the premises agreed by **RGP** and the **Hirer**.



8. CANCELLATION

Should the **Hirer** wish to cancel this agreement prior to taking delivery of the equipment, **RGP** will charge to the **Hirer's** account; ALL COSTS incurred in mobilisation and demobilisation of the equipment.

9. HIRE PERIOD

The period of hire is from the date that the **Equipment** is loaded on transport and continues until the **Hirer** notifies **RGP** of return and the unloading of the Equipment at its original location or at an alternative site agreed with **RGP**.

10. MINIMUM HIRE PERIOD

The period nominated in the hire period in Schedule One is deemed to be the minimum hire period.

11. EQUIPMENT CONDITION INSPECTION

Prior to the commencement of the hire period the **Hirer** and a representative of **RGP** shall have inspected the **Equipment** for the acceptance of the **Equipment's** genuine condition and **Test Reports**. Taking delivery of the **Equipment** shall be regarded as constituting the acceptance of the genuine condition and **Test Report** and that the **Equipment** is in a clean and serviceable condition.

11.1. The **Test Report** for Switchgear, Transformers etc shall include:

- 11.1.1. The Equipment Identification Number;
- 11.1.2. Description;
- 11.1.3. A genuine condition of the **Equipment** including outlets, plugs and couplers;
- 11.1.4. Rating;
- 11.1.5. Size;
- 11.1.6. Customer order number;
- 11.1.7. Whether the **Equipment** is in a clean and serviceable condition;
- 11.1.8. Test Results including electrical measurements performed;
- 11.1.9. Known faults; and
- 11.1.10. List of attachments, accessories, tools and supporting documentation.

11.2. The **Test Report** for Cables shall include:

- 11.2.1. The Cable Identification Number;
- 11.2.2. A genuine condition of the Cable including plugs and bolted couplers;
- 11.2.3. Cable type;
- 11.2.4. Cross sectional area;
- 11.2.5. Length;
- 11.2.6. Customer order number;
- 11.2.7. Whether the Cable is in a clean and serviceable condition;
- 11.2.8. Test Results to AS1747 where applicable;
- 11.2.9. Next service requirement;
- 11.2.10. Known faults;
- 11.2.11. Repairs; and
- 11.2.12. List of attachments, accessories, tools and supporting documentation.

12. PERSONAL PROPERTY SECURITIES ACT 2009 (Cth) ('PPSA')

12.1. The Buyer/Hirer acknowledges that these Terms and Conditions constitute a security agreement that creates a security interest in favour of the Company in all Goods supplied by the Company to the Buyer/Hirer to secure payment from time to time, including future advances. The Buyer/Hirer agrees to grant to the Company a "Purchase Money Security Interest"

12.2. The Buyer/Hirer acknowledges that by assenting to these Terms and Conditions, the Buyer/Hirer grants a security interest (by virtue of **clause 11** of these Terms and Conditions) to the Company.

12.3. The Buyer/Hirer undertakes to:

- 12.3.1. Sign any further documents and/or provide any further information (which information the Buyer/Hirer warrants to be complete, accurate and up-to-date in all respects) that the Company may reasonably require to enable registration of a financing statement or financing change statement (as defined in section 10 of the PPSA) on the Personal Property Securities Register ('PPSR');
- 12.3.2. Not register a financing change statement or make a demand to alter the financing statement pursuant to section 178 of the PPSA in respect of the Goods without the prior consent of the Company;



- 12.3.3. Pay all costs incurred by the Company in registering and maintaining a financing statement (including registering a financing charge statement) on the PPSR and/or enforcing or attempting to enforce the security interest created by these Terms and Conditions including executing subordination agreements; and
- 12.3.4. Be responsible for the full costs incurred by the Company (including actual legal fees and disbursements on a solicitor and client basis) in obtaining an order pursuant to section 182 of the PPSA.
- 12.4. The Buyer/Hirer waives any right it may have under section 115 of PPSA upon enforcement.
- 12.5. Unless otherwise agreed to in writing by the Company, the Buyer/Hirer waives any right to receive the verification statement in respect of any financing statement or finance change statement relating to the security interest under section 157 of the PPSA.
- 12.6. The Buyer/Hirer agrees that immediately on request by the Company the Buyer/Hirer will procure from any person(s) considered by the Company to be relevant to its security position such agreement and waivers as the Company may at any time require.

13. ACCESS

Upon notification to the **Hirer**, the **Hirer** grants to **RGP** an absolute right of access to the premises wheresoever the property is situated for the purpose of inspecting, maintaining or reclaiming **RGP's** Equipment.

14. CHARGES

Hire charges are those stated on Schedule One of this agreement based on the hire rate and hire period (plus any applicable post hire testing/repair costs, fees, taxes, GST, and duties as required by statutory authorities)

- 14.1. The hire rate shall be charged monthly in advance.

15. INVOICING / PAYMENT

Invoices under this agreement will be presented monthly with payment to be made in full, by cheque or other method approved by **RGP**, to **RGP** within thirty (30) days from date of invoice. Interest on overdue accounts will be charged on the amount outstanding until date of payment, at 12% p.a. interest rate. All currency values stated in the Hire Agreement are in Australian Dollars.

16. OPERATION AND SUPERVISION OF EQUIPMENT

The **Hirer** will properly and carefully protect, oil, keep, set, erect, place, protect from freezing, use, operate, load and unload the **Equipment** under all conditions, under competent supervision and shall be responsible for any and all loss or damage to the **Equipment**.

- 16.1. The **Equipment** is supplied on the understanding that it is used by properly trained and competent personnel in compliance with all statutory and manufacturer's requirements, procedures and ratings and for the express purpose for which it is hired;
- 16.2. It is the **Hirer's** responsibility to determine that the **Equipment** is fit for the purpose for which the **Hirer** intends;
- 16.3. The **Hirer** shall supply all materials, parts, accessories and consumables necessary to undertake this operation including supervision and will pay all amounts and costs;
- 16.4. If at any time the **Hirer** finds the **Equipment** is not in a safe operating condition the **Hirer** shall not use or permit it to be used,. The **Hirer** shall immediately notify **RGP** and/or rectify the fault utilising appropriate and competent personnel and/or return the **Equipment** for repair to a RGP approved workshop.

17. NORMAL SERVICING

The responsibility for carrying out the daily, weekly and monthly inspections, servicing, maintenance, repairs, statutory requirements, and adjustment shall be borne by the **Hirer**, together with costs thereof.

- 17.1. Servicing includes, but is not limited to the following:
 - 17.1.1. The cleaning and inspection of the **Equipment**, including those specified in instructions provided by **RGP**;
 - 17.1.2. Adjustment of bolts, nuts, clamps, etc.
 - 17.1.3. Breakdown
 - 17.1.4. Capping of all **Equipment** outlets, couplers and plugs whilst not in service.
 - 17.1.5. Proper transport and handling methods whilst in the care of the **Hirer**. (Note: this is a major area for damage and results in increased post hire charges.)
 - 17.1.6. Repairs including labour, travel and freight.



18. DAMAGE

Rectification of any damage to the **Equipment** is to be charged to the **Hirer**, unless such costs are recoverable under the **Hirer's** insurance including but not limited to misuse, mishandling, faulty operation, negligence, incorrect or neglected servicing, impact damage through use in conditions, which **RGP** considers to be abnormal or adverse, or that decreases **Equipment** and/or component operating life on the part of the **Hirer**,

19. MODIFICATION

The **Hirer** shall not make any modification to the **Equipment** without written consent of **RGP**.

20. STAND DOWN

In the event the **Equipment** is stood down for repairs that are not the responsibility of **RGP**, **RGP** will continue to invoice the **Hirer** at the guaranteed (minimum) Hire Rate.

21. RETURN OF EQUIPMENT - POST HIRE SERVICE

In accordance with Clause 31, the **Hirer** will return all **Equipment** on completion of the hire in the same condition as at the commencement of hiring, and to the original location or a location as agreed with **RGP**.

- 21.1. The **Equipment** shall be returned from hire in a clean and serviceable condition.
- 21.2. **Equipment Condition Inspection.** Following the hire period the **Hirer** shall jointly inspect the **Equipment** with a representative of **RGP** for the review of the **Equipment's** condition.
- 21.3. A post hire service scope of work will be detailed to test and return the **Equipment** to the same condition as at the commencement of the hire period. This includes rectification of damage, functional **Test Report, Test Report** to AS1747 for cables, cleaning, painting, repairs etc and will be to the **Hirer's** account.

22. INDEMNITY

The **Hirer** shall indemnify **RGP** against all claims whatsoever arising out of the use, operation or presence of the **Equipment** during the hire period unless these claims arise from proven negligence solely on the part of **RGP**, its agents or its employees.

23. DELAYS

RGP does not accept any responsibility for any delays whatsoever in the work or costs incurred by the **Hirer** through breakdown, failure or improper functioning of the **Equipment**.

24. LOSSES

The loss of the whole or any portion of the **Equipment** on hire, including tools, supporting documentation and accessories, whether due to theft or any other causes shall be charged to the **Hirer**.

25. ACCIDENTS

RGP does not accept contingent liability in respect of accidents arising from the use or presence of the **Equipment** by the **Hirer** unless these claims arise from proven negligence solely on the part of **RGP**, its agents or its employees.

26. VALIDITY

In any event the quotation shall be valid for acceptance for a maximum period of 30 days unless renewed by **RGP**. Any quotation must be taken as a whole and all prices are so based. Every quotation is subject to withdrawal or alteration at any time before any order is accepted by **RGP** and no order shall be deemed to be accepted until formal acceptance in writing has been posted, facsimile or delivered to the **Hirer**.

27. CONTROL

The **Hirer** shall not move the **Equipment** to another job or site, part with possession or control of the **Equipment**.

28. ASSIGNMENT

The **Hirer** shall not transfer or assign this agreement without prior written authorisation from **RGP**.

29. STATUTES AND REGULATIONS

The **Hirer** shall observe and comply with all relevant statutes and regulations relating to the use of the **Equipment** whilst on site.

30. LIMITATION, INDEMNITY AND LIABILITIES

RGP, its Directors, employees, agents and/or servants, shall not be liable in any way whatsoever to the **Hirer** or any other person for any loss or damage (including but not limited to direct, special, indirect or consequential loss or damage, loss of profit, business revenue, goodwill or anticipated savings) resulting directly or indirectly from any act, omission, error, default or delay (whether negligent or not).



31. GOVERNING LAW

This agreement and agreement conditions shall be governed and interpreted in accordance with the State Laws in which we have issued this contract and any dispute arising under the contract or these conditions is to be heard and determined within the jurisdiction of New South Wales.

32. TERMINATION OF HIRE

- 32.1. **RGP** shall have the right to terminate the agreement and to remove the **Equipment** immediately, should the **Hirer** fail, or refuse to comply with any provision, term or condition of the agreement.
- 32.2. Upon completion of the minimum hire period, either party may terminate the hire by giving seven (7) days' notice of its intention by returning Schedule One authorising the off hire.
- 32.3. In the event of termination, by the **Hirer**, prior to the completion of the minimum hire period, the **Hirer** shall be liable for the hire rate, payable for the period until **RGP** can re-hire the **Equipment**, or that equal to the outstanding balance of the minimum hire period, whichever, is the lesser.

33. ENTIRE AGREEMENT

This contract and these contract conditions constitute the entire agreement of the parties about the rental and previous agreements, understandings and negotiations on the rental cease to have effect.