

EQUIPMENT HIRE PURCHASE AGREEMENT – SKF Australia Pty Ltd A C N 004 236 855

HIRE, OWNERSHIP AND RISK

1. The Hirer agrees to hire the Equipment from the Owner on terms and conditions specified in this Agreement for the Term.
2. This Agreement commences on delivery of the Equipment to the Hirer.
3. Notwithstanding that risk in the Equipment will pass to the Hirer upon delivery of the Equipment to the Hirer's nominated premises, legal and beneficial title in and to the Equipment is retained by the Owner until the Hirer has paid the Total Hire Amount over the Term specified in the *Schedule 1* of this Agreement.
4. Upon payment by the Hirer to the owner of the Total Hire Amount, ownership of the Equipment passes to the Hirer.
5. The Hirer is liable for any and all delivery and freight costs incurred if the Equipment is required to be returned to the Owner.
6. Any accessories supplied with the Equipment (including operating manuals and instructions) not returned with the Equipment will be charged at the replacement cost.

TERMS AND CONDITIONS OF HIRE

7. The Hirer covenants to:
  - (a) pay the Owner or Owner's agent the Total Hire Amount by equal monthly instalments commencing on the first day of this Agreement and on the corresponding day of each month thereafter during the Term;
  - (b) pay any and all costs associated with the delivery, repair, maintenance, storage and use of the Equipment during the Term;
  - (c) at its own expense, insure and keep the Equipment insured as per the Owner's reasonable expectation and provide the Owner with the proof of such insurance for the Term;
  - (d) continue to pay the Total Hire Amount on the terms and conditions specified in this Agreement notwithstanding that the Equipment is lost, stolen or damaged beyond repair rendering the Equipment incapable for further use;
  - (e) keep and maintain the Equipment in proper working order and condition and in good and substantial repair;
  - (f) assume all risks and liabilities for and in respect of the Equipment and for injuries to or death of persons, and damage to property arising from the delivery, possession, use, maintenance, repair and storage of the Equipment;
  - (g) not to dispose of or sell, assign any right or interest, grant any Security Interest in, or part possession with the Equipment during the Term;
  - (h) pay GST in respect of any Taxable Supply made under or in connection with this Agreement; and
  - (i) provide banking details in Schedule 2 for the purpose of directly debiting the bank account of the Hirer for payment of any instalment of the Total Hire Amount.

OWNER'S SECURITY INTEREST

8. The Hirer acknowledges and agrees that:
  - (a) the Hirer grants the Owner a Security Interest in the Equipment;
  - (b) the Owner's Security Interest in the Equipment is a Purchase Money Security Interest (PMSI);
  - (c) the Owner's Security Interest secures all monies owing by the Hirer to the Owner on any account;
  - (d) the Owner's Security Interest in the Equipment Attaches to the Equipment when the Hirer obtains possession of the Equipment;
  - (e) this Agreement constitutes a Security Agreement for the purposes and within the meaning of the PPSA; and

- (f) the Owner's Security Interest is only extinguished upon payment of the Total Hire Amount and any other monies due to the Owner by the Hirer on any account.
9. The Hirer agrees:
- (a) to keep the Equipment separately identified and stored;
  - (b) that it will not consent to, grant, seek to grant or deal with any Security Interest in the Equipment adverse to the Owner's Security Interest in the Equipment;
  - (c) that the Owner may register its Security Interest and the Hirer agrees to provide all information and execute all documents necessary to enable the Owner to register and perfect its Security Interest in the Equipment under the PPSA;
  - (d) to promptly inform the Owner in writing of any change of name of the Hirer or of any other details relating to this Agreement that appear on the Personal Property Securities Register; and
  - (e) to pay all of the Owner's costs and expenses incurred in:
    - I. preparing, lodging or registering a Financing Statement or Financing Change Statement in relation to the Security Interest granted to the Owner under this Agreement;
    - II. maintaining and amending those registrations; and
    - III. enforcing any Security Interest granted to the Owner under this Agreement.

#### **DEFAULT AND ENFORCEMENT OF SECURITY INTEREST**

10. Upon the occurrence of a Default Event (which includes the failure to make due and punctual payments of the Total Hire Amount instalments), the Owner has the right (without prejudice to any other rights and remedies it may have) to recover, detach, remove and/or sell the Equipment or any part of it or them. The Owner's employees, agents or contractors may without notice enter any place the Owner believes the Equipment to be without committing a trespass. The Owner will have no obligation to make good any damage caused by such inspection, search, recovery, detachment or removal of the Equipment. The Owner will not be liable for and the Hirer will indemnify and keep the Owner indemnified from and against any costs, claims, damages or losses expended or suffered by the Owner, whether or not contemplated by the Parties, in recovering any such Equipment (including legal costs on a full indemnity basis). If there is any inconsistency between the Owner's rights under this clause 10 and its rights under Chapter 4 of the PPSA, this clause 10 prevails.
11. If Chapter 4 of the PPSA would otherwise apply to the enforcement of the Owner's Security Interest, the Hirer agrees that the following provisions of the PPSA will not apply:
- (a) section 95 (notice of removal of accession to the extent that it requires the Owner to give notice to the Hirer);
  - (b) section 96 (person with an interest in the whole may retain accession)
  - (c) section 121(4) (enforcement of liquid assets – notice to the Hirer);
  - (d) section 125 (obligation to dispose of or retain collateral);
  - (e) section 130 (notice of disposal, to the extent that it requires the Owner to give a notice to the Hirer);
  - (f) section 132(3)(d) (contents of statement of account after disposal);
  - (g) section 132(4) (statement of account if no disposal);
  - (h) section 135 (notice of retention);
  - (i) section 142 (redemption of collateral); and
  - (j) section 143 (reinstatement of security agreement).

#### **NOTICE**

12. The Hirer waives its right to receive any notice under the PPSA (including notice of a verification statement after registration or variation of a registration) unless a requirement for notice cannot be excluded under the PPSA.

#### **CONFIDENTIALITY**

13. The Parties agree that the terms of this Agreement are confidential and agree to keep all Confidential Information strictly secret and confidential, except to the extent that:

- (a) either Party is required by law to disclose it; or
  - (b) such disclosure is required for the purposes of performing any duty and obligation under this Agreement, provided that where the Hirer makes such a disclosure, the Hirer acts in the best interests of the Owner.
14. The Hirer and the Owner agree that neither Party will disclose or authorize the disclosure of any information of the kind described in section 275(1) of the PPSA (including the terms of this Agreement) to an Interested Person or any other person.

## THE PARTIES AGREE

### Definition

In this Agreement, unless expressed or implied to the contrary:

**Agreement** means this hire purchase agreement.

**Attaches** has the meaning given to it in the PPSA.

**Confidential Information** means all information that:

- (a) is disclosed to one Party by or on behalf of the other Party, or which is otherwise acquired directly or indirectly by one Party from the other Party or any adviser engaged by the Parties;
- (b) relates directly or indirectly to the business of a Party or the Party's existing, historic or future products or services, business, operations, administration or strategic plans;
- (c) includes, without limitation, corporate books and records, financial information, personnel information, data, lists of and information concerning customers, suppliers, joint ventures, licensors, licensees, distributors and other persons and entities with whom a Party does business, trade secrets, know-how, computer programs, equipment, designs, techniques or processes, formulae, plans, procedures, methods, trade marks, patents, copyrights, devices, software programs (functional specifications and executable code), improvements, inventions, marketing plans, strategies, forecasts, databases, patterns, compilations, and/or methods, owned by, developed by, known by, or assigned or otherwise conveyed to either Party; and
- (d) is in oral or visual form, or is recorded or stored in a document.

**Corporations Act** means the *Corporations Act 2001 (Cth)*

**Default Event** means the occurrence of any one or more of the following events:

- (a) Default by the Hirer in the due or punctual payment of any amount which is payable to the Owner by the Hirer under this Agreement or in the due or punctual observance or performance of any obligation to be observed or performed by the Hirer under this Agreement;
- (b) The Hirer is presumed insolvent within the meaning of section 459C(2) of the Corporations Act, is placed into liquidation, has an administrator or a receiver and manager or receiver appointed or a mortgagee takes possession of any substantial asset(s) of the Hirer or if any proceedings are issued or an event occurs intended to lead to any of those consequences or if any other action relating to insolvent debtors occurs in relation to the Hirer; or
- (c) The Hirer disputes the terms of any title retention or granting of a Security Interest provision applicable to any Equipment supplied to the Hirer by the Owner, or refuses to return Equipment to the Owner the return of which the Owner has demanded.

**Equipment** means the equipment including all other accessories including operating manuals and instructions as indicated by the description or part number as described in Schedule 1.

**Financing Statement and Financing Change Statement** have the meanings given to them in the PPSA.

**GST** means GST within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

**Hirer** means the person so described in Schedule 1.

**Interested Person** has the meaning given to it in section 275(9) of the PPSA and includes any person with a Security Interest in the Equipment.

**Owner** means SKF Australia Pty Ltd (ABN 87 004 236 855).

**Owner's Agent** means an Authorised SKF Distributor.

**Party** means either the Owner or the Hirer.

**Parties** means the parties to this Agreement.

**Person** means natural persons, companies, corporations and their representatives as defined under the Corporations Act.

**PPSA** means the *Personal Property Securities Act 2009 (Cth)*.

**Purchase Money Security Interest or PMSI** has the meaning given to it in the PPSA.

**Security Agreement** has the meaning given to it in the PPSA.

**Security Interest** has the meaning given to it in the PPSA.

**Taxable Supply** has the same meaning as defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

**Term** means the period specified in the Schedule 1.

**Total Hire Amount** means total amount specified in Schedule 1.

**SCHEDULE 1**

Hirer: [#name and ACN of the company will be required for PPS Registration purposes.]

Equipment: [#insert description of Equipment] [SKF will need to register its interest on the PPS Register as a PMSI prior to the Hirer obtaining possession of the Equipment]

Total Hire Amount:

Term:

Insurance Cover:

**Hirer Details**

Company Name \_\_\_\_\_ ABN \_\_\_\_\_

ACN \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Owners Details**

Company Name: SKF Australia Pty Ltd ABN 87 004 236 855

1<sup>st</sup> Name \_\_\_\_\_ Position \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

2<sup>nd</sup> Name \_\_\_\_\_ Position \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**SCHEDULE 2 – Optional (if Hirer is willing to enter into direct debit facility)**

**Bank Account Direct Debit Authorisation**

|   |        |       |
|---|--------|-------|
| Your Instructions to your Bank  |        | Date: |
| Bank Name:  |        |       |
| Branch Name:  |        |       |
| Branch Address:   |        |       |
| City:   | State: |       |
| <p>Dear Sir:</p> <p>I/We _____ (Company name or individual name)</p> <p>Address _____</p> <p>Hereby request you, until further notice in writing, to debit our/my account, described in the space below, with any amount which SKF Australia Pty Ltd (ABN 87 004 236 855) may debit or charge us/me through the Direct Debit System.</p> <p>We/I understand and acknowledge that:</p> <ol style="list-style-type: none"> <li>1. The Bank may, in its discretion, at any time change the order of priority of payment by it of any monies pursuant to this request or any authority or mandate.</li> <li>2. The Bank may, in its discretion, at any time by notice in writing to us/me terminate the authority as to future debits.</li> </ol> <p>Note: Direct Debit is not available on full range of accounts. If in doubt, please refer to your bank.</p> |        |       |
| Bank Account Name:  |        |       |
| Bank/State/Branch (BSB) Number:   |        |       |
| Bank Account Number:  |        |       |
| Signed by (duly authorized Bank signatories)  |        |       |