



# RENTAL AGREEMENT

between

**AFGRI EQUIPMENT A DIVISION OF AFGRI OPERATIONS (PTY) LIMITED**  
Registration Number: 1995/005872/07

("AFGRI")

and

**[INSERT COMPANY NAME]**  
Registration Number:.....

("the Company")

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## 1. DEFINITIONS

In this Agreement, unless the context indicates otherwise, the words and expressions set out below shall have the meanings assigned to them and cognate expressions shall have a corresponding meaning, namely:

- 1.1 **“Agreement”** means this agreement and the annexures attached hereto;
- 1.2 **“Business Day”** means any day which is not a Saturday, Sunday or a public holiday in the jurisdiction where the Property is situated in;
- 1.3 **“Deposit”** means an amount of **R5,000.00 (Five Thousand Rand)**;
- 1.4 **“Effective date”** means the law of the Republic a; means **insert date**, notwithstanding the actual signature date hereof;
- 1.5 **“Equipment”** **GREGOIRE G120;;**
- 1.6 **“Parties”** means collectively the parties to this Agreement and “Party” shall mean either of them as the context requires;
- 1.7 **“Recorded Hours”** means the amount of hours for which the Company has utilised the Equipment during the Rental Period, as recorded on the clocking system on the Equipment;
- 1.8 **“Rental period”** means the period commencing on the Effective Date and the expiring on the Termination Date;
- 1.9 **“Termination date”** means the date as contemplated in **clause 3.2**;
- 1.10 **“VAT”** means value-added tax or similar taxes charged and levied and any other indirect tax additionally imposed; and
- 1.11 **“VAT Act”** means the Value-Added Tax Act No 89 of 1991, as amended from time to time

## 2. RENTAL

AFGRI hereby agrees to rent the Equipment to the Company and the Company hereby agrees to hire the Equipment from AFGRI on the terms and conditions set out in this Agreement.

## 3. DURATION AND TERMINATION

- 3.1 This Agreement shall commence on the Effective Date, and shall endure for the Rental Period.

3.2 The Rental Period shall expire on the date on which AFGRI has inspected the Equipment and confirmed by written notice to the Company that the Equipment has been safely returned to AFGRI's premises.

3.3 The Company shall be required to return the Equipment, in the same condition, normal wear and tear excluded, in which it was in on the Effective Date.

#### **4. DEPOSIT**

4.1 The Company shall pay the Deposit into AFGRI's nominated bank account on or before the Effective Date, but always before the Company takes possession of the Equipment, unless AFGRI agrees in writing that the Deposit can be paid on a different date.

4.2 The Deposit shall be retained by AFGRI for the duration of the Rental Period, and held as continuing covering security against risk of damage occurring to the Equipment.

4.3 AFGRI shall be entitled to increase the amount of the Deposit, in which event the Company shall be obliged to make payment to AFGRI of the shortfall upon demand.

4.4 AFGRI shall be entitled at any stage during the Rental Period and/or upon termination of this Agreement, to utilise the Deposit in order to pay for the costs of repair of defects sustained to the Equipment during the Rental Period which were reasonably within the Company's control.

#### **5. RENT**

5.1 The rent payable by the Company to AFGRI for the Equipment during the Rental Period shall be an amount of R 850.00 (EIGHT HUNDRED AND FIFTY RAND), excluding VAT, per hour for every Recorded Hour.

5.2 AFGRI shall be entitled, upon reasonable notice given and during reasonable hours, to attend at the Company's premises and inspect the condition of the Equipment and the clocking system on the Equipment.

5.3 The rent shall be discharged by the Company in the following manner:

5.3.1 If the Rental Period is less than 30 (thirty) calendar days:

5.3.1.1 upon the return of the Equipment to AFGRI, AFGRI will issue the Company with written confirmation that the Equipment has been returned to AFGRI safely, and such confirmation will record the total Recorded Hours, as per the clocking system on the Equipment;

- 5.3.1.2 if the amount of Deposit is sufficient to cover the costs of repair of damages caused by the Company (if any) as well as the amount of rent payable with reference to the Recorded Hours, then AFGRI will reimburse the Company within 14 (fourteen) days of the Termination Date, the relevant balance of the Deposit;
- 5.3.1.3 in the event that the amount of the Deposit is insufficient to cover the costs of repair of damages caused by the Company (if any) as well as the amount of rent payable with reference to the Recorded Hours, AFGRI will issue the Company with an invoice reflecting the amount of rent payable, which invoice shall be payable by the Company within 14 (fourteen) calendar days of the date on the invoice;
- 5.3.2 if the Rental Period is longer than 30 (thirty) calendar days:
- 5.3.2.1 AFGRI shall issue the Company with a monthly invoice reflecting the amount of rent payable based on the Recorded Hours applicable to the previous 30 (thirty) calendar days. The Company hereby agrees at all times to cooperate with AFGRI in determining the Recorded Hours applicable to the previous 30 (thirty) calendar days;
- 5.3.2.2 the invoices referred to in **clause 5.3.2.1** shall be payable within 14 (fourteen) calendar days of the date on the invoice;
- 5.3.2.3 upon the return of the Equipment to AFGRI, AFGRI will issue the Company with written confirmation that the Equipment has been returned to AFGRI safely, and such confirmation will record the total Recorded Hours applicable as from the last invoice date, as per the clocking system on the Equipment;
- 5.3.2.4 if the amount of Deposit is sufficient to cover the costs of repair of damages caused by the Company (if any) as well as the amount of rent payable with reference to the Recorded Hours from the last invoice date, then AFGRI will reimburse the Company within 14 (fourteen) calendar days of the Termination Date the relevant balance of the Deposit;
- 5.3.2.5 in the event that the amount of the Deposit is insufficient to cover the costs of repair of damages caused by the Company (if any) as well as the amount of rent payable with reference to the Recorded Hours from the last invoice date, AFGRI will issue the Company with a final invoice reflecting the amount of rent payable, which invoice shall be payable by the Company within 14 (fourteen) calendar days of the date on such invoice.
- 5.4 All of the payments required to be made by the Company in terms of this Agreement shall be paid into AFGRI's Bank Account, free of bank charges, set off or any other deduction.

## **6. RECORDED HOURS**

- 6.1 The Company hereby agrees and accepts that the rent charged shall be with reference to the Recorded Hours as per the clocking system used in respect of the Equipment, in terms of this Agreement.
- 6.2 The Company shall notify AFGRI immediately upon gaining knowledge of any error with the clocking system, and shall immediately desist from utilizing the Equipment.

## **7. DELIVERY, RISK AND OWNERSHIP**

- 7.1 Subject to clause 4.1, the Company shall be entitled to take delivery of the Equipment from the Effective Date from the premises of AFGRI.
- 7.2 The Parties agree that AFGRI shall not be responsible or liable to deliver the Equipment to the Company and that all costs associated with the Company taking delivery (or returning) of the Equipment are for the sole account and care of the Company.
- 7.3 All risks whatsoever associated with the Equipment shall pass to the Company upon the Company taking delivery of the Equipment at AFGRI's premises.
- 7.4 The Parties agree that AFGRI shall at all times remain the legal and beneficial owner of the Equipment.

## **8. UNDERTAKING AND RESTRICTIONS OF USE OF THE EQUIPMENT**

- 8.1 With effect from the Effective Date, the Company hereby undertakes in favour of AFGRI:
  - 8.1.1 to store the Equipment, when not in use, in a facility on the Company's premises whereby the Equipment will be reasonably protected from all causes of damage;
  - 8.1.2 not to remove the Equipment from the Company's premises, unless AFGRI has given the Company prior written consent thereto and the Company undertakes to comply with such conditions as AFGRI may impose in that regard;
  - 8.1.3 to utilise the Equipment only on the Company's premises, unless AFGRI has given the Company prior written consent to utilise the Equipment on premises other than the Company's premises, in which event the Company undertakes to comply with such conditions as AFGRI may impose in that regard;

- 8.1.4 not to utilise the Equipment for any other purpose than for which it was designed;
- 8.1.5 not to attempt to encumber the Equipment in any manner;
- 8.1.6 to maintain the Equipment, at the Company's own cost, in good working order and condition. Such maintenance obligation will include the cost of all services and repairs which may arise while the Equipment is in the Company's possession;
- 8.1.7 to notify AFGRI immediately of any damage whatsoever to the Equipment howsoever arising, or of any defect in respect of the Equipment including (without limitation) the clocking system;
- 8.1.8 to be liable to pay all costs and expenses which may be payable after return and inspection of the Equipment arising from damage caused to the Equipment during the Rental Period, in the event that the Deposit is insufficient to discharge such costs and expenses; and
- 8.1.9 to permit AFGRI or its representatives reasonable access to the Company's premises and the Equipment in order to inspect the Equipment, or in the event that the Company has breached any term of this Agreement, to retrieve the Equipment from the Company.

## 9. INSURANCE

- 9.1 The Company hereby undertakes to insure the Equipment with a reputable insurer in respect of the Rental Period ("**the Insurance Cover**").
- 9.2 The Company undertakes in favour of AFGRI:
  - 9.2.1.1 to refrain from acting in any manner which may invalidate any insurance policy in respect of the Equipment, including the Insurance Cover;
  - 9.2.1.2 to ensure that AFGRI is at all times the nominated beneficiary under the Insurance Cover;
  - 9.2.1.3 to be liable for and to pay all premiums relating to the Insurance Cover; and
  - 9.2.1.4 to provide AFGRI with written confirmation regarding the payment of premiums in respect of the Insurance Cover when requested to do so.

## 10. DOMICILIUM

- 10.1 Each Party chooses the address set out opposite its name below as its *domicilium citandi et executandi* at which all notices, legal processes and other communications must be delivered for the

purposes of this Agreement:

AFGRI: AFGRI Building  
12 Byls Bridge Boulevard  
Highveld  
Centurion  
0169

Email: insert

the Company: .....  
.....  
.....  
.....  
.....

Email: .....

- 10.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing, but it shall be competent to give notice by telefax and electronic mail.
- 10.3 Each Party may by written notice to the other Party change its chosen address to another physical address and/or its chosen telefax number to another telefax number and/or its chosen electronic mail address to another electronic mail address, provided that the change shall become effective on the 14<sup>th</sup> (fourteenth) day after the receipt of the notice by the addressee.
- 10.4 Any notice to a Party contained in a correctly addressed envelope and:
  - 10.4.1 sent by prepaid registered post to it at its chosen address; or
  - 10.4.2 delivered by hand to a responsible person during ordinary business hours at its chosen address,
  - 10.4.3 shall be deemed to have been received, in the case of **clause 10.4.1**, on the 7<sup>th</sup> (seventh) Business Day after posting (unless the contrary is proved) and, in the case of **clause 10.4.2**, on the day of delivery.
- 10.5 Any notice by telefax or by electronic mail to a Party at its telefax number or its electronic mail address shall be deemed, unless the contrary is proved, to have been received on the first Business



Day after it is transmitted.

## 11. BREACH

- 11.1 In the event that the Company fails to comply with any of the provisions contained in this Agreement, AFGRI shall be entitled to, without notice to AFGRI and without prejudice to any other rights available to AFGRI, cancel this Agreement and enter onto any premises on which the Equipment may be stored in order to take possession of the Equipment.
- 11.2 In the event of the Company exercising its rights as envisaged in **clause 11.1** AFGRI shall be entitled, without prejudice to any other rights available to AFGRI, to retain all such amounts as AFGRI may have received from the Company in terms of this Agreement (including the Deposit) or otherwise as a pre-estimation of the consideration payable by the Company to AFGRI for the use and enjoyment of the Equipment and/or as a pre-estimation of AFGRI's damages as a result of the Company's breach.
- 11.3 The rights of AFGRI as contained in **clauses 11.1** and **11.2** shall be in addition to any other rights that AFGRI may have in law and shall not be construed to limit any other rights to which AFGRI may be entitled.
- 11.4 The Company shall be liable for all costs and expenses (calculated on an attorney and own client scale) incurred as a result of or in connection with any breach by the Company.

## 12. INTERPRETATION

- 12.1 In this Agreement, unless the context requires otherwise:
- 12.1.1 words importing any one gender shall include the other two genders;
- 12.1.2 the singular shall include the plural and *vice versa*;
- 12.1.3 a reference to natural persons shall include created entities (corporate or unincorporated) and *vice versa*.
- 12.2 In this Agreement, the headings have been inserted for convenience only and shall not be used for nor assist or affect its interpretation.
- 12.3 Any reference in this Agreement to an enactment is to that enactment as at the conclusion hereof and as amended or re-enacted from time to time.
- 12.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on

any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this Agreement.

- 12.5 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day.
- 12.6 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail in this Agreement.
- 12.7 All of annexures incorporated herein and shall have the same force and effect as if they were set out in the body of this Agreement.
- 12.8 Expressions defined in this Agreement shall bear the same meanings in the annexures to this Agreement, which do not themselves, contain their own definitions.
- 12.9 Words and/or expressions defined in any particular clause in the body of this Agreement shall, unless the application of such words and/or expressions is specifically limited to that clause, bear the meaning so assigned to it throughout this Agreement.
- 12.10 The terms “holding” and “subsidiary” in relation to any company shall bear the meanings assigned to them in the Companies Act No 71 of 2008, as amended from time to time or any replacement Act.
- 12.11 The *contra proferentem* rule shall not apply and accordingly, none of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provisions.
- 12.12 The *eiusdem generis* rule shall not apply and accordingly, whenever a provision is followed by the word “including” followed by specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned.
- 12.13 A reference to any statutory body or court shall be construed as a reference to that statutory body or court as at the Signature Date and as substituted from time to time thereafter by successor statutory bodies or courts, as the case may be.
- 12.14 Unless specifically provided to the contrary, all amounts referred to in this Agreement are exclusive of VAT, if applicable.
- 12.15 The expiration or termination of this Agreement shall not affect such of its provisions if expressly provided that they will continue to apply, after such expiration or termination or which of necessity

must continue to apply after such expiration or termination.

### **13. GENERAL**

- 13.1 No Party shall have any claim or right of action arising from any undertaking, representation or warranty not included in this document.
- 13.2 No failure by any Party to enforce any provision of this Agreement shall constitute a waiver of such provision or affect in any way that Party's right to require performance of any such provision at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the provision itself.
- 13.3 No agreement to vary, add to or cancel this Agreement shall be of any force or effect unless reduced to writing and signed on behalf of all the Parties.
- 13.4 It is agreed that each clause of this Agreement is severable, the one from the other, and if any clause is found to be defective or unenforceable for any reason by any competent court, then the remaining clauses shall continue to be of full force and effect.
- 13.5 Each Party warrants that it is acting as a principal and not as an agent for an undisclosed principal.
- 13.6 The Parties hereby consent to the non-exclusive jurisdiction of the High Court of the Republic of South Africa in connection with any action which any Party to this Agreement may institute in connection with this Agreement.
- 13.7 This Agreement will be governed by the laws of the Republic of South Africa.

### **14. COSTS**

The Company shall bear the costs to be incurred in connection with the drafting and negotiation of this Agreement (if any).

### **15. EXECUTION**

This Agreement may be signed in counterparts, in which event the originals together will constitute the entire agreement between the Parties.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

\_\_\_\_\_  
**AFGRI**

\_\_\_\_\_  
**SIGNATURE**

**Witness:**

Signature : \_\_\_\_\_

Full Name : \_\_\_\_\_

ID Number : \_\_\_\_\_

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

\_\_\_\_\_  
**COMPANY**

(Full name and surname of authorised person)

\_\_\_\_\_  
**SIGNATURE**

**Witness:**

Signature : \_\_\_\_\_

Full Name : \_\_\_\_\_

ID Number : \_\_\_\_\_