

**SCHEDULE 4 - ACCEPTANCE DEED - ANDAMOOKA PRECIOUS STONES FIELD**

**Part A:** The Applicant agrees, upon duly completing and signing this Acceptance Deed, to be bound by the terms of the Acceptance Deed. This Acceptance Deed is made as a deed poll by:

I, .....(Applicant)

Insert name and, if applicable, ABN

of:

.....  
(Insert address of Applicant)

make this deed poll in relation to:

- (a) Prospecting for precious stones by the Applicant within the Agreement Area and/or
- (b) Opal Mining Operations on a Precious Stones Tenement/s by the Applicant within the Agreement Area

The Applicant covenants as follows:

**1. Covenant to be Bound**

1.1. The Applicant enters into this Acceptance Deed by duly completing and signing this Acceptance Deed and providing the original to the Mining Registrar.

**2. Term**

2.1. Subject to clause 2.2, this Acceptance Deed comes into effect on the date upon which the Applicant complies with clause 1 of this Acceptance Deed and continues for the duration of the term of the Agreement.

2.2. If the Agreement is removed from the Register, the Acceptance Deed will continue until the expiry of the Precious Stones Tenement or PSPP that is in place immediately prior to the Agreement's removal from the Register.

**3. Parties to Acceptance Deed**

3.1. Upon compliance with clause 1 of this Acceptance Deed a contract on the terms of this Acceptance Deed comes into operation between the Applicant, the Corporation and the Kokatha People.

**4. Benefit**

4.1. This Acceptance Deed is made by the Applicant in favour, and for the benefit, of the parties to the Agreement being the Corporation (for and on behalf of the Kokatha People), and the Minister for Energy and Mining on behalf of the State of South Australia.

**5. Applicant activities**

The Applicant covenants that it will:

- 5.1. only undertake Opal Mining Operations on Area A as shown on the Map attached to this Deed (noting that the Prohibited Areas are excluded from Area A);
- 5.2. not remove any old growth tree in the course of any Opal Mining Operations; and
- 5.3. not undertake Opal Mining Operations in the Agreement Area which damage, disturb or interfere with a Aboriginal Site or Object or Remains.

## **6. Aboriginal Heritage Act continues to apply**

- 6.1. The AHA continues to apply within the Agreement Area and nothing in this Acceptance Deed or the Agreement derogates from any obligations to protect and preserve Aboriginal Heritage pursuant to the AHA.

## **7. Discoveries during Opal Mining Operations**

- 7.1. If, at any time during the carrying out of any Opal Mining Operations in the Agreement Area an Applicant identifies any site, object or remains which may be an Aboriginal Site, Aboriginal Object or Remains, the Applicant must, in addition to any other obligations under the AHA:

- (a) promptly report the location of that site, object or those remains to the Corporation;
- (b) cease to carry out the Opal Mining Operations in the vicinity of the site, object or remains;
- (c) leave where discovered, and not damage, disturb or interfere with, the relevant site, object or remains, unless and until:
  - i the Applicant is advised in writing, either by the Corporation or a specialist, that the object or remains is not an Aboriginal Site, Object or Remains; or
  - ii The site, object or remains has been relocated consistently with section 37 of the AHA; or
  - iii the Applicant is otherwise authorised under the AHA to proceed; and
- (d) advise the Registrar before re-commencing with the Opal Mining Operations.

## **8. Other authorised mining activities**

- 8.1. This Acceptance Deed does not apply to any mining activities or proposed mining operations over the Agreement Area that are:
  - (a) authorised by a separate native title mining agreement under Part 7 of the OMA; or
  - (b) to be undertaken pursuant to the *Mining Act 1971*, or the *Petroleum and Geothermal Energy Act 2000*.

## **9. Dispute Resolution**

- 9.1. The Parties will make every effort to ensure that disputes do not arise in carrying out the terms of this Acceptance Deed.
- 9.2. If a dispute arises in relation to this Acceptance Deed the Parties will:
  - (a) make every reasonable effort to resolve the dispute without recourse to court proceedings; and
  - (b) give notice of the reasons for dispute to the other Parties, as soon as possible.

- 9.3. If a Party receives a notice pursuant to clause 9.2(b), they must respond to that notice within 14 days setting out their response to the dispute, and nominating a representative or representatives who will negotiate in good faith with a view to resolving the dispute.
- 9.4. Representatives designated pursuant to clause 9.2(b) must, within 21 days (or such further period as the representatives agree is appropriate) after the receipt of notice referred to in clause 9.2(b), investigate, negotiate and endeavour to settle the dispute.
- 9.5. If the Parties are unable to resolve the dispute within one month of the notice of dispute, the Parties will appoint a mediator to mediate the dispute in accordance with clause 9.6.
- 9.6. Mediation
- (a) A mediator will be appointed by agreement between the Parties or, failing that, by the President of the Law Society of South Australia at the request of any Party.
  - (b) The mediator appointed will have regard to the following:
    - i the intent of the Parties in entering into this Acceptance Deed;
    - ii the preservation of the rights and interests of the Kokatha People, including the rights recognised in the Determination;
    - iii the views on the matter expressed by each of the Parties and by the Kokatha People; and
    - iv the growth and development of the Kokatha People's social, cultural and economic structure.
  - (c) Each Party shall bear its own costs for mediation arising out of this Acceptance Deed. The Parties involved in the mediation will share equally any costs of a mediator.

## 10. Notice Details

### **Kokatha Aboriginal Corporation**

The Chairperson

Kokatha Aboriginal Corporation RNTBC ICN 8093

35 Flinders Terrace

PORT AUGUSTA SA 5700

e-mail: [chrisl@kokatha.com.au](mailto:chrisl@kokatha.com.au)

And to:

Mr S Berg

Berg Lawyers

3/118 Halifax Street 7 Hurtle Square

ADELAIDE SA 5000

e-mail: [sberg@berglawyers.com.au](mailto:sberg@berglawyers.com.au)

Applicant details as per Part A of the executed Acceptance Deed

## 11. Definitions

Terms defined in the Agreement have those defined meanings in this Acceptance Deed unless defined below or unless the context requires otherwise.

**Aboriginal Heritage** means Aboriginal Sites, Objects or Remains;

**Aboriginal Sites, Objects or Remains** means an “Aboriginal site”, “Aboriginal object” or “Aboriginal remains” as defined in the AHA or “Aboriginal remains”, a “significant Aboriginal area” or a “significant Aboriginal object” as defined in the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth);

**Acceptance Deed** means this document;

**Agreement** means the Andamooka Precious Stones Field ILUA, including the Background and Schedules;

**Agreement Area** means the area of land described in clause 5 of the Agreement and depicted on the map at SCHEDULE 2 of the Agreement;

**AHA** means the *Aboriginal Heritage Act 1988* (SA);

**Andamooka Precious Stones Field** means the Andamooka Precious Stones Field as proclaimed under the OMA,

**Applicant** means a person signing this Acceptance Deed;

**Area A** - means the area marked as “Area A” on the Map;

**Area B** means:

- (a) all parts of the Agreement Area excluding those areas which form part of Area A; and
- (b) the Prohibited Areas.

**Corporation** means the Kokatha Aboriginal Corporation (RNTBC) ICN 2932 being a body incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) and an Agent Prescribed Body Corporate for the purposes of the NTA, or such other Prescribed Body Corporate which is authorised by the Kokatha People to act on their behalf in respect of all matters pertaining to this Acceptance Deed;

**Map** means the map annexed at Schedule 2 SCHEDULE 2 of the Agreement and attached to this Acceptance Deed;

**Opal Mining Operations** has the meaning given to “mining operations” under the OMA;

**Mining Registrar** means:

- (a) if there is no designated Opal Mining Registrar under the OMA, the Mining Registrar under the Mining Act; or
- (b) if there is a designated Opal Mining Registrar under the OMA, that person;

**Minister** means the Minister for Energy and Mining for the State of South Australia;

**OMA** means the *Opal Mining Act 1995* (SA);

**Parties** means the Applicant and the Corporation;

**Precious Stones Prospecting Permit or PSPP** has the meaning given to it under the OMA;

**Prohibited Areas** means:

- (a) the areas marked on the Map as Prohibited Areas; and
- (b) any area within 25 metres of either side from the edge of any watercourse or creek bed, and 25 metres from the base of any dune system, whether or not marked on the Map but excluding:
  - i. any ground that had been previously disturbed by Opal Mining Operations as of the date of Registration of this Agreement; and
  - ii. substantive tracks that have been subject to continued use to provide access to Opal Mining Operations as of the date of Registration of this Agreement.

**Prospecting** has the meaning given in section 3 of the OMA;

**Executed by the Applicant/s as a deed poll**

[Insert name of Applicant/s] .....

Signed by Applicant/s .....

Witness Name..... Witness Signature.....

Date:.....