

## LAND ACCESS AGREEMENT FOR MINERAL EXPLORATION IN VICTORIA

February 2022

The Association of Mining and Exploration Companies (AMEC) provides this template to assist land owners/occupiers and explorers in Victoria to understand their rights and negotiate a land access agreement. Access agreements are needed between explorers and land owner/occupier prior to exploration. AMEC has developed guidance on land access as fact sheets and an industry guide to assist explorers and land owners/occupiers to form an agreement. This template and the accompanying information are written in plain English and outline practical conditions, with options, to allow the agreement to reflect the individual needs of the land owner/occupier and explorer.

*This template is based on current Victorian legislative requirements and common practice only and is not applicable in other States or Territories. This fact sheet provides general information to support the development of land access agreements, each of which must be tailored to accommodate the individual needs of the land owner/occupier and explorer. This provides general information but does not constitute legal advice and the information should always be confirmed for currency.*

### UNDERSTANDING EXPLORATION

Exploration is the scientific process of investigating the mineral potential of the ground. Minerals are generally owned by the State and excluded from property deeds.

Exploration licences are granted by the Victorian Government to explore for a specific group of minerals for a period of up to five years with a further possible renewal of five years and may cover hundreds of square kilometres.

Exploration licences have strict conditions and requirements that align with legislative requirements of the *Mineral Resources (Sustainable Development) Act 1990 (VIC)* and other associated legislation. Specific conditions in exploration licences protect the community and the environment.

Exploration is led by geologists who gather information through a range of scientific methods to assess the economic potential of minerals in the ground.

Exploration is highly speculative, with estimates that only one in 300 areas of interest (prospects) will ever be mined.

***Exploration does not permit mining, nor does it guarantee that mining will ever be approved.***

Each stage of exploration is dependent on the results from the previous stage. New thinking and techniques as well as changing commodity prices can mean that old prospects can be of interest to new explorers.

***This template and the accompanying information outline practical conditions, with options, to allow the agreement to reflect the individual needs of the landholder and explorer.***

### Prepared by Association of Mining and Exploration Companies Inc (AMEC)

AMEC is a leading national minerals industry body representing over 450 member companies across Australia. Our members are explorers, emerging miners, producers, and a wide range of businesses and services working in and for the minerals industry. AMEC represents a growing number of companies exploring and investing in Victoria.

Disclaimer: This guidance is intended to provide summary information only. It does not intend to be comprehensive or to provide specific legal advice. In consideration of the changing nature of legislation, regulations, program rules and guidelines, there is a potential for inherent inaccuracies and potential omissions in information contained in document. All information in this document is provided "as is" with no guarantee of completeness or accuracy and without warranty of any kind, express or implied. In no event will Association of Mining and Exploration Companies Inc, any related members, consultants, or employees thereof be liable to anyone for any decision made or action taken in reliance on the information in this document or for any consequential damages.

### AGREEMENT IS NEEDED PRIOR TO ACCESSING LAND FOR EXPLORATION

In Victoria, the holder of an exploration licence may not carry out any onsite work on the land covered by the licence unless a written agreement or informed verbal consent has been obtained from any relevant private land owner/occupier.

Land owners/occupiers may not veto exploration although certain areas are protected including principal residences. Access arrangements must be negotiated and registered before exploration can commence.

The land access agreement details the conditions on which an explorer will access the land and (if appropriate) any compensation payable. All access arrangements should be based on the understanding that explorers are 'guests' on private land and an appreciation by the land owner/occupier of the needs and rights of mineral explorers.

***Courtesy, honesty, and respect go far to build trust and an effective working relationship between explorers and landowners/occupiers.***

### THIS AGREEMENT TEMPLATE & HOW TO USE IT

AMEC provides this template to assist land owners/occupiers and explorers in Victoria to understand their rights and negotiate a land access agreement. AMEC has also developed up to date guidance on land access as fact sheets and an industry guide to assist explorers and land owner/occupiers to form an agreement.

## LAND ACCESS AGREEMENT FOR MINERAL EXPLORATION IN VICTORIA

This is an access agreement (“**Agreement**”) for the purposes of the Mineral Resources (Sustainable Development) Act 1990 (VIC), between the Land Owner/Occupier (“**Land Owner/Occupier**”) and the Exploration licence holder (“**Explorer**”).

LAND AND LAND OWNER/OCCUPIER				
Owner/Occupier on Land Title:				
Name and Address of Land:				
Lot and DP of Land:	see Annexure A			
<b>Primary contact/s:</b>				
Address of primary contact:				
Contact Details:	Mobile:	Other phone:	Email	
<b>Secondary contact/s:</b>				
Address of secondary contact:				
Contact Details:	Mobile:	Other phone:	Email	
<b>EXPLORATION LICENCE AND EXPLORER</b>				
Exploration Licence Number/s:				
Exploration Licence Holder:				
Address of Explorer:				
<b>Project Manager/s:</b>				
Role of Project Manager:				
Contact details:	Mobile:	Other phone:	Email	
<b>Secondary contact/s:</b>				
Role of contact:				
Contact details:	Mobile:	Other phone:	Email	
<b>Public Liability Insurance:</b>	Insurer:	Policy No.:	Liability Limit:	
<b>EXPLORATION DETAILS</b>				
<b>Exploration methods</b>				
Circle the exploration methods that may be completed under this Agreement  Methods explained in Fact Sheet  Additional space for other activities if required	geological mapping	Yes / No	diamond drilling	Yes / No
	soil and rock chip sampling	Yes / No	reverse circulation drilling	Yes / No
	environmental assessments	Yes / No	rotary air blast drilling	Yes / No
	geophysical survey	Yes / No	costeaming or trenching	Yes / No
	non-mechanical drilling / auguring	Yes / No	bulk sampling	Yes / No
<b>Exploration area:</b>	See map at Annexure A			
<b>Special conditions:</b>	See details at Annexure B			
<b>Compensation:</b>	See details at Annexure C			
<b>Paths of entry:</b>	All gates/main gates / Other (please specify):			[See Annexure A for map]
<b>AGREEMENT DETAILS</b>				
<b>Term of Agreement</b>	From:		To: End of licence / Other (please specify)	
<b>Signatures for Agreement</b>	See end of Annexure C			

## 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where the following terms appear in this Agreement, they have the meaning provided below:
- a). **Contact Person/s**: the person/s described on page 1 of this Agreement who is nominated by the Land Owner/Occupier or Explorer as the most appropriate person for liaison on access issues.
  - b). **Contractor**: any contractor, employee or agent who is retained, employed or directed by the Explorer.
  - c). **Exploration**: has the same meaning as “Exploration” in the Mining Act.
  - d). **Exploration Licence**: the exploration licence issued under the Mining Act as identified on page 1 of this Agreement, including as renewed or varied.
  - e). **Exploration Area**: the area of the Land marked on the map at Annexure A.
  - f). **Exploration Method**: those methods authorised by this Agreement as identified on page 1 of this Agreement.
  - g). **Explorer**: the holder of the Exploration Licence.
  - h). **Land**: the land identified on page 1 of this Agreement.
  - i). **Land Owner/Occupier**: the person specified as the Land Owner/Occupier on page 1 of this Agreement.
  - j). **Mining Act**: the *Victorian Mineral Resources (Sustainable Development) Act (1990)* or as amended.
  - k). **Paths of Entry**: the gates, farm roads and tracks marked on the map at Annexure A.
  - l). **Project Manager**: the field supervisor whose name and contact details are set out on page 1 of this Agreement or as otherwise advised to the Land Owner/Occupier.
- 1.2 In this Agreement unless the contrary intention appears, or the context otherwise permits or requires:
- a). a word importing the singular includes the plural and vice versa;
  - b). a word importing a gender includes each other gender; and
  - c). a reference to a person includes an individual firm or body corporate.
- 1.3 This document and its annexures comprise the entire Agreement and supersede all previous agreements. This Agreement may only be varied by agreement between the parties in accordance with Clause 11.
- 1.4 This Agreement is governed by the laws of Victoria and each party submits to the jurisdiction of the Courts of Victoria.

## 2. ACCESS FOR EXPLORATION

- 2.1 By signing this Agreement, the Land Owner/Occupier grants the Explorer the right to enter the Exploration Area for the term and purpose of this Agreement only.
- 2.2 The Explorer must use all reasonable endeavours to ensure that the Land Owner/Occupier is given at least 24 hours’ notice on each occasion or period of time it intends to access the Exploration Area, unless otherwise agreed between the parties.
- 2.3 The Explorer, and any Contractor, employee or agent who is retained, employed or directed by the Explorer, may access the Paths of Entry and carry out the Exploration Method/s in the Exploration Area in accordance with the terms and conditions of this Agreement.
- 2.4 At the Land Owner/Occupier’s request, the Explorer must meet with the Land Owner/Occupier to assess the condition of roads/tracks and receive a briefing on potential hazards specific to the Exploration Area and Paths of Entry.
- 2.5 At the Land Owner/Occupier’s request, the Explorer must maintain a Land Visitor Register that records the name, position, and date and time of entry and exit of all employees, contractors and others who access the property, and make this register available to the Land Owner/Occupier to view upon request.
- 2.6 The Explorer must, during such period as the Explorer utilises the agreed Paths of Entry, maintain and keep in repair the Paths of Entry having regard to their condition as assessed under Clause 2.5.
- 2.7 The Explorer must not carry out Exploration in any areas not permitted under legislation or this Agreement or marked on the map at Annexure A.

## 3. THE PROJECT MANAGER OVERSEES THE EXPLORATION PROJECT

- 3.1 Prior to the commencement of Exploration, the Explorer must appoint a Project Manager to oversee the exploration program.
- 3.2 The Project Manager must liaise with the Land Owner/Occupier at all reasonable times.
- 3.3 The Explorer will notify the Land Owner/Occupier Contact Person if there is a change of person appointed as Project Manager.

#### 4. OTHER REQUIREMENTS OF THE EXPLORER

4.1 The Explorer must also:

- a). comply with all requirements of the Exploration Licence and approved work plan, the *Code of Practice for Mineral Exploration*, and the Mining Act;
- b). provide the Land Owner/Occupier with a copy of the exploration licence and approved work plan if requested by the Land Owner/Occupier;
- c). develop and comply with a fire management plan in conjunction with the Land Owner/Occupier;
- d). comply with all environmental and biosecurity controls of the Land Owner/Occupier, as detailed in Annexure B;
- e). protect all water sources from contamination;
- f). protect soil from contamination, erosion, and damage, and replace any lost, damaged, or contaminated soil with new soil of the same, or better, soil quality as the original;
- g). erect a fenced compound to house and secure any plant and equipment left on the land overnight;
- h). maintain secure and contained waste facilities and remove and appropriately dispose of any waste on at least a weekly basis;
- i). not interfere with livestock or crops and report any damage and loss of livestock or crops to the Land Owner/Occupier and compensate for any livestock or crop damage or losses;
- j). remediate any damage caused by exploration activities to the same, or better, condition prior to the first access to the land by the Explorer;
- k). maintain access routes in good working order and ensure gates are left as found;
- l). provide and use portable ablutions as appropriate;
- m). ensure no animals or firearms are brought onto the property;
- n). ensure that noise generated by exploration activities within the licensed area does not exceed limits set by the Environment Protection Authority Victoria and the local council;
- o). provide the Land Owner/Occupier with soil chemical characteristics data captured during Exploration that may assist the Land Owner/Occupier in their ordinary use of the land;
- p). comply with such further conditions agreed to by the parties and detailed in Annexure B.

#### 5. AGREEMENT WITH THE LAND OWNER/OCCUPIER

5.1 The Land Owner/Occupier agrees to the Explorer accessing the Land for the purposes of Exploration on the terms and conditions set out in this Agreement and the Land Owner/Occupier and any other invited occupier of the Land:

- a). must not impede, restrict, or interfere with the carrying out of Exploration by the Explorer, and
- b). must not enter or grant an access arrangement to a person over the Exploration Area that is inconsistent with the Explorer's rights under this Agreement.

#### 6. INDEMNITY

6.1 The Explorer must maintain a public liability insurance policy in respect of Exploration as detailed on page 1 of this Agreement.

6.2 At the request of the Land Owner/Occupier, the Explorer must verify its public liability insurance in respect of Exploration to the Land Owner/Occupier at any reasonable time during the term of this Agreement.

6.3 The Explorer indemnifies the Land Owner/Occupier against any loss or damage to neighbouring properties, public roads and places and people caused by exploration activities in connection with this Agreement.

#### 7. COMPENSATION

7.1 The Explorer must pay the Land Owner/Occupier the compensation as set out in Annexure C of this Agreement as soon as possible following completion of the activity specified in the annexure.

7.2 The Land Owner/Occupier may serve notice on the Explorer setting out compensation due in accordance with Annexure C.

7.3 The Explorer must pay all compensation within 45 days of the receipt of a notice under Clause 7.2.

7.4 The Explorer must pay all stamp duty and GST required in respect of this Agreement.

#### 8. REHABILITATION MUST BE COMPLETED BY THE EXPLORER

8.1 On completion of Exploration in the Exploration Area, the Explorer must:

- a). have commenced, or commence as soon as practicable, rehabilitation work;

- b). remove all equipment;
- c). repair all damage to the Exploration Area caused by the Explorer as soon as practicable;
- d). re-contour excavations and earthworks affected in the Exploration Area in such a manner that soil erosion will be minimised as far as practicable;
- e). carry out rehabilitation works in accordance with any relevant conditions of the Exploration Licence which stipulate requirements for rehabilitation of Exploration operations;
- f). repair any damage to any Paths of Entry caused by the Explorer;
- g). replace excavated base material/subsoil/topsoil in the order they were removed to reconstruct the soil profile;
- h). reshape all surface disturbance to be consistent with the pre-existing landform (or slightly elevated to allow for soil compaction);
- i). suitably prepare the land surface for the establishment of vegetation;
- j). rehabilitate any damage to crops or pastures by reseeding; and
- k). rehabilitate with native species of local provenance where native vegetation has been cleared.

- 8.2 If the Explorer does not carry out the rehabilitation which is the responsibility of the Explorer under this Agreement:
- a). the Land Owner/Occupier may serve written notice upon the Explorer setting out the rehabilitation required to be carried out under this Agreement; and
  - b). if a period of 45 days passes after the Explorer receives the notice under this Clause 8.2 and the rehabilitation has not been completed the Land Owner/Occupier may carry out the rehabilitation.
  - c). The Explorer must pay the Land Owner/Occupier's reasonable expenses and costs of carrying out rehabilitation under this Clause 8.2.

## 9. DISPUTE RESOLUTION

- 9.1 If a dispute arises out of or relates to this Agreement, the parties shall endeavour to settle the issues in dispute by negotiation and consultation in good faith. Such discussions may or may not (at the discretion of the parties) involve a third party or parties such as the respective parties' legal representatives or other chosen advisers or nominated persons.
- a). If a dispute arises that cannot be resolved between the parties, either party may refer the dispute to an independent third party for Alternative Dispute Resolution (ADR) for mediation.
  - b). If a dispute arises that cannot be resolved between the parties involving a serious breach of this Agreement, the Land Owner/Occupier may impose a temporary restriction on access to the property by the Explorer. Before any restriction on access is put in place, however, the dispute must be referred by one of the parties to an independent third party for ADR.
  - c). Independent third party means either:
    - i. Mining Warden ([miningwarden.vic.gov.au](http://miningwarden.vic.gov.au)) or
    - ii. Victorian Small Business Commission ([vsbc.vic.gov.au](http://vsbc.vic.gov.au))
  - d). All parties must prioritise the resolving of disputes as quickly as possible.

## 10. TERMINATION OF AGREEMENT

10.1 This Agreement will terminate under whichever is earliest of the following:

- a). on the date stated to be the End of Term on page 1 of this Agreement;
- b). on written agreement of the parties.

10.2 Termination of this Agreement does not affect rights and liabilities accrued as at the time of termination.

## 11. VARIATION TO AGREEMENT

11.1 This Agreement may only be varied in writing, signed by the Explorer and the Land Owner/Occupier.

## 12. FORCE MAJEURE OR UNFORSEEABLE CIRCUMSTANCES

12.1 The Explorer is not liable for a breach of the conditions of this Agreement to the extent that the breach is caused by circumstances outside the control of the Explorer, its Contractors, employees or agents and for the period those circumstances continue. If the Explorer becomes aware of a breach it must:

- a). immediately notify the Land Owner/Occupier;
- b). try to remedy the breach as quickly as possible; and
- c). notify the Land Owner/Occupier when the breach has been remedied.

## ANNEXURE A – LAND TITLE DESCRIPTION, MAP OF EXPLORATION AREA AND PATHS OF ENTRY

Map/s attached should be based on a topographic map or aerial photograph of sufficient resolution to identify relevant features of the Exploration Area and detail:

1. Location of the area of interest for Exploration.
2. Paths of Entry for Exploration i.e., where the Explorer enters and exits.
3. Paths for Exploration – i.e., where the Explorer will travel, and Exploration activity will occur.
4. The location of the areas where access for Exploration is prohibited under this Agreement (e.g., dwellings, gardens, substantial improvements, airstrips etc).
5. The boundary of the Exploration Licence (a second map may be needed to show the full area of the Exploration Licence).

**Land Title References** (as on Land Title Deeds) for the Land are as listed below:

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

Lot No: ..... Deposited Plan: .....

## **ANNEXURE B – SPECIAL CONDITIONS AND FARM PROTOCOLS**

Any special conditions, farm biosecurity protocols or Occupational Health and Safety protocols that the Explorer must comply with in accordance with this Agreement should be detailed below.

## ANNEXURE C – COMPENSATION

Compensation may be payable by the Explorer to the Land Owner/Occupier in accordance with section 85(1), of the *Mineral Resources (Sustainable Development) Act 1990*. Compensation as defined under the MRSDA 1990 is for loss and/or damage and not for the type of activities undertaken. Compensation should be negotiated by each explorer and Land Owner/Occupier as appropriate, but also with consideration for equity for neighbouring landholders. Often compensation is not simply monetary but may include in-kind activities such as the upgrade or grading of a track, installing a gate, fixing a fence or providing soil sample testing data.

*The following table is a guide to compensation rates based on activity. This offers indicative ranges for compensation rates based on industry feedback from Victorian exploration programs. Note that these rates are a guide only and not mandatory.*

Activity	Agreed Rate (\$)	Guide rate (\$)	Detail on Activity
Drilling		\$100 - \$300	per diamond drill hole or mud drill hole or bore hole
		\$50 - \$150	per reverse circulation (RC) or percussion drill hole
		\$5 - \$30	per rotary air blast (RAB) or air core drill hole
		\$1 - \$5	per auger hole
Costeaming or backhoe trenching		\$1	per square metre of land surface disturbed
Bulk sampling		\$1	per square metre of land surface disturbed
Track construction		\$100 - \$125	per kilometre of track constructed with earthmoving equipment
Disturbed crop			calculated through area disturbed <i>(area disturbed (ha) x crop yield (t/ha) x commodity price (\$/t))</i>
Other			

## SIGNATORIES TO THE AGREEMENT

SIGNED FOR LAND OWNER / OCCUPIER		
Land Owner / Occupier:	Name:	Signature:
witness for Land Owner / Occupier:	Name:	Signature:
Land Owner / Occupier: (where second signature needed)	Name:	Signature:
witness for Land Owner / Occupier:	Name:	Signature:
Date:		

SIGNED FOR EXPLORER		
Explorer:	Name:	Signature:
witness for Explorer	Name:	Signature:
Explorer: (where second signature needed)	Name:	Signature:
witness for Explorer	Name:	Signature:
Date:		