



**Terra Search Pty Ltd  
USE OF ATV AGREEMENT**



**Terms and Conditions of Use of Terra Search provided ATV's  
by Terra Search Employees**

### **1. VEHICLE SAFE DRIVING**

All conditions and terms of use provided in the Vehicle Safe Driving Induction apply with the understanding that ATV's are NOT PERMITTED to be driven on public roads.

### **2. TERRA SEARCH QUALIFIED DRIVER**

I will not permit any person who is not a Terra Search ATV qualified driver to operate a Terra Search ATV under my control or allocated to me.

### **3. CLIENT QUALIFIED DRIVER**

Persons who are qualified drivers but are not Terra Search employees may only be permitted to drive ATV's after providing a copy of their qualifications to the Operations Manager and with his express approval in writing.

### **4. GENERAL SAFETY OBSERVATIONS:**

As a qualified Terra Search driver I agree and understand that:

ATVs are commonly referred to as ATVs but in reality they are not really All Terrain Vehicles – they can't go *everywhere*, or do *everything*. Respect their limits.

If you follow the guidelines, it is likely that you will be able to show that you are doing everything reasonably possible to keep people on your project safe around ATVs.

You may find that some of the safety steps in the guidelines seriously challenge the way you've always used ATVs. Just because a particular behaviour is common amongst others or you have always done it that way, it doesn't mean that it is acceptable or safe.

If you take another course of action other than those recommended due to on site conditions or other unforeseen circumstances, be aware that you'll need to be able to justify why you took a different action instead of what was stated in the Inductions and Safety Manual - especially if something goes wrong. The responsibility to make safe decisions remains with you.

The safety steps you need to know are summarised here, but more detailed information can be found on the following pages as shown:

- Before you ride ask yourself whether the ATV is the right vehicle for the job
- No sky-larking; ATVs can kill, maim or injure, they are not a 'toy'



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- Ensure riders are trained / experienced enough to do the job
- Always wear a helmet
- Recognise dangerous areas by establishing 'no-go zones'
- Don't carry passengers above the rated capacity
- Don't let kids under 16 ride adult ATVs
- Check the operating condition of the ATV before you ride
- Keep ATVs maintained in a safe condition
- Keep within the manufacturer's towing or carrying limits
- Only use attachments designed for and compatible with the ATV
- Don't do tasks that interfere with safe riding
- Tell someone where you are going
- Avoid use while fatigued or under stress
- Ensure there is no unauthorised access to the ATV, e.g. remove and secure keys

### 5. KEEPING PEOPLE SAFE

It is important that you focus on keeping people safe. Thinking and behaving with safety in mind is likely to ensure that you also meet your duties under the Work Health and Safety Act 2011. Here are some of the things you must do to keep people safe on the project:

- Identify hazards that may cause people to be harmed and put steps in place to manage them.
- Make sure that visitors and clients are aware of hazards that they would not ordinarily expect.
- Make sure you are trained or skilled to work safely including on the particular terrain or conditions of your project; if you feel any concerns, speak to your Supervisor, the Safety Officer or the Operations Manager, don't wait.
- Use the provided protective clothing and equipment.
- Ensure that co-workers have considered relevant ATV hazards and are working safely.
- Stop unsafe behaviour when you see it happening.

#### **The hazard: Personal factors**

The hazard is the driver being impaired due to fatigue, stress, attitude (e.g. over-confidence, recklessness) or being under the influence of drugs and alcohol. This can result in poor judgement, and reduced balance, coordination or reaction times, and will increase the risk of serious injury or fatality.

#### **How to manage the hazard**



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As a driver, **take responsibility** and let someone know if you're not up to the job for any reason.

Reassess the tasks that will be required and identify alternatives where possible if there are stress or fatigue issues. The person who is most willing to take unnecessary risks is often the one who is most keen to 'muck in', help out and get the job done. Tired, stressed, but enthusiastic is not a good mixture.

Never operate a ATV under the influence of drugs and alcohol.

**The hazard: Unauthorised access to the ATV**

The hazard is people being able to ride the ATV without the knowledge or permission of the Supervisor or Qualified Driver.

Unattended ATVs can be a temptation to people untrained or unfamiliar with the bikes or the farm – whether they are visitors, clients, young children or co-workers.

**How to manage the hazard**

Put security measures in place to control access to the bike and keys when the ATV is not in use.

Do not leave the keys in the ignition while the bike is unattended.

**6. THE EMPLOYEE**

6.1 I agree that by signing this agreement on my own behalf or for or on behalf of another person or company (whether named on this Agreement as a joint Employee or otherwise) that we are described as "Employee" in this Agreement.

**7. THE QUAD BIKE/ATV/ATV TRAILER**

Employee understands that:

7.1 S/he operates the ATV, Quad Bike, ATV Trailer (the Vehicle) described in this agreement from Terra Search Pty Ltd or their appointed agent called in this Agreement Terra Search and Terra Search may substitute a vehicle for the Vehicle.

**8. THE DRIVER**

Employee declares that:

- 8.1 to his or her knowledge, only s/he will drive the Vehicle unless (i) written consent is given by the Operations Manager as per clause 3, (ii) the Employee is a company or government department, in which case the Employee's agent may drive the vehicle on the basis that the agent complies with clause 3 and the obligations of the Employee under this Agreement. The Employee shall be liable to Terra Search for any breach or failure to comply with this Agreement by his agent whether such non-compliance is within the scope of the agent's authority or employment or not;
- 8.2 s/he has never been convicted of an offence relating to driving a motor vehicle under the influence of liquor or drugs or with a blood alcohol level over the legal limit;
- 8.3 s/he is over the age of 18 years;



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- 8.4 he holds a current valid Australian motor vehicle driver's licence; and
- 8.5 he has set out correctly his or her particulars overleaf.

## **9 DRIVING THE VEHICLE**

Employee promises that when driving the Vehicle he will:

- 9.1 not use the Vehicle for any illegal purpose, for any race or contest, to tow or propel a vehicle or carry more passengers or load than that for which the Vehicle was built;
- 9.2 not be under the influence of liquor or drugs or have a blood alcohol content above the legal limit of the particular Australian state or territory in which the vehicle is being driven;
- 9.3 not refuse or fail to undergo a breath or blood analysis when directed by a member of the Police Force;
- 9.4 not allow any use of the Vehicle to carry passengers for payment of any kind;
- 9.5 not abuse or misuse the Vehicle or drive or use it when it is damaged or unsafe;
- 9.6 be responsible for the following costs if the Vehicle is being used on unmade or unsealed roads or surfaces:
  - (a) rectifying all damage to tyres, undercarriage, suspension or mechanical components of the Vehicle other than damage attributable to normal wear and tear in the course of reasonable use of the Vehicle for the Project and for rectifying body damage including damage caused by a specific collision on a public road; and return of the Vehicle to Terra Search.
- 9.7 not use or drive the Vehicle for the transportation of property unless Employee first obtains via Terra Search procedures all necessary Governmental approvals, permits or licences, and does all things required by State or Federal authorities and indemnifies Terra Search in respect of any liability to this regard;
- 9.8 not use the Vehicle to convey a load incorrectly or improperly loaded or secured; and
- 9.9 not, without the previous written consent of Terra Search use the Vehicle to carry inflammable liquids, gases or solids having a true flash point under 22.8°C, or any substances of an explosive or corrosive nature.

## **10. RETURNING THE VEHICLE**

- 10.1 Employee will return the Vehicle to Terra Search
  - (a) at the place, date and time specified in the Project Plan;
  - (b) in the same condition as it was when taken, fair wear and tear and unforeseen breakdowns or defects excepted; and
  - (c) in a clean and tidy condition. Vehicles returned in a dirty condition in the opinion of Terra Search shall be cleaned at the Employee's expense at the current hourly rate.
- 10.2 Terra Search may terminate this Agreement and discipline and/or terminate the Employee's employment without notice if Terra Search suspects that Employee has breached this Agreement OR IF it is likely that damage or injury may occur OR IF its use may contribute to an industrial dispute.
- 10.3 If Terra Search disciplines and/or terminates the Employee's employment under the above circumstances, Employee remains liable to pay to Terra Search all costs and charges s/he has already incurred under this Agreement.

## **11. ACCIDENTS AND DAMAGE**

- 11.1 The word "damage" includes loss of and damage to the Vehicle, its tyres (including spares), tools, accessories and equipment, and all costs or expenses arising from such damage.

## **12. DAMAGE TO THE VEHICLE**



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- In addition to any liability under 10.6;
- 12.1 Employee is liable to Terra Search for all damage to the Vehicle where there has been a breach by Employee of this Agreement or where he has made an incorrect declaration; (continued overleaf)
- 12.2
- (i) Employee is liable to Terra Search for all damage up to a general excess of \$500 or the stated excess at the time of project rental;
  - (ii) Employee is liable to Terra Search for all damage up to an age excess of \$500 if vehicle is driven by a driver under the age of 25 years;
  - (iii) Employee is liable for all damage to the Vehicle and to the property of third parties caused by contact between the Vehicle and objects overhanging or obstructing the path of the Vehicle at or above roof level of the driver's cabin; and

**13. DAMAGE TO THIRD PARTIES**

Terra Search has arranged a compulsory third party insurance policy against liability of Employee for damage to property of persons other than Employee or a member of his family or property in his physical or legal custody arising from the use of the Vehicle. Employee acknowledges that whatever insurance is offered to him or taken out by him or by Terra Search on his behalf, that Terra Search is not and has not represented itself to be carrying on the business of insurance.

**14. Liability under 13 is not covered by the policy:**

- 14.1 where Employee is liable to Terra Search for damage to the Vehicle under 6.2(a) unless that liability arises from a breach by his servant or agent of Employee without Employee's knowledge; or
- 14.2 where the Vehicle is an articulated vehicle or part thereof; or
- 14.3 where the Vehicle is used by Employee to carry inflammable liquids, gases or solids having a true flash point under 22.8°C or of any substances of an explosive or corrosive nature.

**15. LIABILITY OF TERRA SEARCH**

- 15.1 Terra Search gives no warranty except those implied by the Trade Practices Act, 1974 or any other law as to the condition of the Vehicle, but nothing herein restricts Employee from exercising his rights and remedies under those laws. Where those laws permit Terra Search to limit liability for breach of implied condition or warranty, Terra Search limits liability to replacement, repair or resupply and in particular Terra Search is not liable for any indirect or consequential loss or damage; and
- 15.2 Terra Search is not liable to any person and Employee indemnifies Terra Search for any loss or damage to any property stolen from the Vehicle or otherwise lost during hiring or any property left in the Vehicle after its return to Terra Search.

**16. CLAIMS AND PROCEEDINGS**

- Where use of a Vehicle by the Employee results in any claim, accident, damage or loss, the Employee:
- 16.1 will report such incident in writing to Terra Search within twenty-four hours after the event;
  - 16.2 will not, without the written consent of Terra Search make or give any offer, promise of payment, settlement, waiver, release, indemnity or admission of liability;
  - 16.3 agrees Terra Search or its Insurer may at its own cost bring, defend, endorse or settle any legal proceedings against third parties;



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16.4 will complete and furnish to Terra Search within a reasonable time any statements, information or assistance which Terra Search or its Insurer may reasonably require, including attending at lawyer's offices and at Court to give evidence.

**17. SERVICING**

Terra Search will be responsible for the regular servicing of the Vehicle as per the Manufacturer's instructions and will keep a record of same. The Employee must report verbally and in writing using the Faulty Equipment Form to the Supervisor, Safety Officer or Operations Manager any defect, damage or issue detected during pre-start checks or at any other time.

**18. PAYMENT**

Employee agrees to pay Terra Search on demand:

- (a) charges in accordance with this Agreement and/or the appropriate Terra Search Schedule of Rates current at the date of commencement of the Project for loss of use of the equipment to the Project. Distance charges are measured by using the Vehicle's odometer;
- (b) all moneys payable by Terra Search or Employee arising out of the use of the Vehicle by Employee or imposed on Terra Search or on Employee by any Governmental or other competent authority; and
- (c) all moneys for which Employee is liable to Terra Search under this Agreement in respect of damage loss or otherwise.

I UNDERSTAND AND AGREE TO THE TERMS AND CONDITIONS OF THIS USE OF ATV AGREEMENT:

**Driver's Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Witness Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_