



Commercial Recreation and Tour Operator *Parks Eco Pass* Licence

SAMPLE ONLY – TERMS AND CONDITIONS MAY BE SUBJECT TO
CHANGE

The Minister of the State of New South Wales administering the *National Parks and Wildlife Act 1974* (Licensor)

(Licensee)

[Trading Name/brief details of operation]

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DEED OF LICENCE dated the _____ day of _____ 200

PARTIES

THE MINISTER of the State of New South Wales administering the *National Parks and Wildlife Act 1974* (Licensor)

and

THE PARTY IDENTIFIED AT ITEM 1 OF THE REFERENCE SCHEDULE (Licensee)

BACKGROUND

- A** The Licensor licences commercial recreation and tour operators, through the 'Parks Eco Pass' licensing system, to conduct guided tours, instructional and/or educational courses, and other leisure activities in NSW national parks and reserves.
- B** The Licensor has agreed to grant a licence to conduct the Licensed Activities to the Licensee on the terms and conditions contained in this Deed.

THE PARTIES AGREE

1 INTERPRETATION

1.1 Definitions

In this Deed unless the contrary intention appears:

AAS means a NSW Adventure Activity Standard.

Aboriginal Site means a location of Aboriginal significance as defined under the Act.

Accreditation Schedule means Schedule 4 of this Licence.

Act means the *National Parks and Wildlife Act 1974* as amended from time to time and any Act replacing the same.

Authorised Officer means any of those persons holding the positions in the Department identified at Item 6 of the Reference Schedule.

Client means any person participating in the Licensed Activities within the Park(s) other than an Employee or Agent of the Licensee.

Commencement Date means the commencement date of the Term set out at Item 3 of the Reference Schedule.

Consumer Price Index means the Consumer Price Index (All Groups) for the Capital City of Sydney from time to time compiled calculated and published by the Australian Statistician and any index or measure replacing the same.

Contamination means any toxic or hazardous substance, gas, liquid or material, any waste or discharge (other than properly and lawfully discharged sewerage) or any pollutant.

Department means the Department of Environment and Climate Change NSW which context includes any department or authority replacing same.

Director-General means the Director-General of the Department of Environment and Climate Change NSW and includes any person for the time being acting as such or in such alternative position or office as the Licensor may notify from time to time.

Further Licence means a licence granted by the Licensor pursuant to the exercise of the Option by the Licensee.

Guide includes any person acting for the Licensee in conducting the Licensed Activities within the Park(s) whether receiving remuneration or otherwise.

Law means any law whether common law or any law under any statute, ordinance, regulation or code.

Licence means this Parks Eco Pass Licence and all schedules to and variations of this Licence.

Licence Fee means the amount payable by the Licensee in accordance with clause 3.1 and specified in the Reference Schedule.

Licensed Activities means the activities specified in Schedule 2 that may be conducted by the Licensor in the Park(s) pursuant to this Licence.

Licensed Activities Schedule means Schedule 2 of this Licence which specifies Licensed Activities and any AAS relevant to the activities carried out under this Licence.

Licensee means the Licensee and where not repugnant to the context includes the Licensee's Employees and Agents.

Licensee's Employees and Agents means each of the Licensee's employees, agents, officers, subcontractors, service suppliers, sub licensees, concessionaires and invitees (expressed or implied).

Licensing Coordinator means the Parks Eco Pass Licensing Coordinator, Parks and Wildlife Group, Department of Environment and Climate Change.

Licensor means the Minister of the State of New South Wales administering the Act and includes his or her successors in office and where not repugnant to the context includes the servants and agents of the Licensor.

Park(s) means the area of land permanently reserved under the Act and named at Item 2 of the Reference Schedule BUT EXCLUDES any declared Wilderness Area pursuant to the Act and any area covered by this Licence that may during the Term be declared a Wilderness Area.

Parks Eco Pass means a commercial recreation and tour operator licence issued by the Department to an operator to conduct commercial activities in NSW parks and reserves.

Personal Identification Card means the personal identification card(s) issued to the Licensee by the Licensor containing licence number and identification details.

Plan of Management means the plan(s) of management prepared and adopted for the Park(s) by the Licensor as amended from time to time pursuant to the Act or such other plan that replaces it and fulfils in substance the same functions.

Prescribed Rate means the rate prescribed under the Act for overdue monies payable in respect to licences.

PWG means the Parks and Wildlife Group, Department of Environment and Climate Change.

Reference Schedule means Schedule 1 of this Licence.

Regional Manager means the person appointed for the time being as the officer of the PWG in charge of the PWG's region in which the Park is located and includes any person acting as such.

Regulations mean the Regulations, from time to time, made under the Act.

Relevant Authority means, in respect to a particular context or circumstances, any government or any governmental, semi-governmental, quasi-governmental, administrative or judicial body, department, commission, authority, tribunal or entity having jurisdiction and responsibility in respect to that context or circumstance and which may include the Licensor and the Director-General.

Site Specific Conditions means the conditions set out in the Site Specific Conditions Schedule.

Site Specific Conditions Schedule means Schedule 3 of this Licence.

Taxes means taxes, levies, imposts, deductions, charges, withholdings and duties imposed by any authority (including stamp and transaction duties), (together with any related interest, penalties, fines and expenses in connection with them), except if imposed on the overall net income or capital gains of the Licensor.

Term means the term of this Licence set out at Item 3 of the Reference Schedule.

Termination Date means the termination date of the Term set out at Item 3 of the Reference Schedule.

Tour means any organised tourism and/or recreation commercial activity undertaken on the Park(s) as part of the Licensed Activities.

Vehicle Sticker means the Parks Eco Pass identification sticker to be attached on the Licensee's vehicle(s) issued to the Licensee by the Licensor.

1.2 Interpretation

In this Deed unless the context otherwise requires:

- 1.2.1 words denoting the singular number shall include the plural and vice versa;
- 1.2.2 words denoting any gender shall include all genders;
- 1.2.3 words denoting individuals shall include corporations and vice versa;

- 1.2.4 reference to any Act of Parliament or regulation or ordinance or to any section or provision thereof shall include any statutory modification or re-enactment thereof or any statutory provision substituted therefore and ordinances, by-laws, Regulations and other statutory instruments issued thereunder;
- 1.2.5 references to clauses, annexures and schedules are references to clauses, annexures and schedules of this Licence;
- 1.2.6 references to any deed, agreement, licence or instrument shall be deemed to include references to that deed, agreement, licence or instrument as amended, novated, supplemented or replaced from time to time;
- 1.2.7 where a Schedule contains covenants or obligations of the Licensee or the Licensor then the covenant or obligation so expressed shall be read and construed and shall constitute a covenant or obligation on the part of the Licensee or the Licensor, as the case may be, to be performed or observed under this Licence;
- 1.2.8 a reference to any party or to a Relevant Authority or to any other person, corporation or association shall be a reference to them as so constituted from time to time and shall include their successors and permitted assigns and in the case of a Relevant Authority means the body which at the relevant time substantially fulfils the functions of the Relevant Authority; and
- 1.2.9 a reference to any thing (including any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually.

1.3 Headings

Headings are for ease of reference only and shall not affect the construction of this Deed.

1.4 Currency

Unless otherwise stated all currencies referred to in this Deed are in Australian dollars.

1.5 Governing Law

This Deed shall be governed by and construed in accordance with the law of New South Wales and the parties submit to the jurisdiction of the Courts of New South Wales.

1.6 Entire Agreement

This Deed constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior negotiations, understandings and discussions between the parties. No modifications to this Deed shall be effective unless in writing signed by the parties.

1.7 Performance on Next Working Day

Where under or pursuant to this Deed or anything done hereunder the day on or by which any act, matter or thing is to be done is a Saturday, a Sunday or a public holiday in New South Wales, such act, matter or thing may be done on the next succeeding day which is not a Saturday, Sunday or public holiday.

1.8 Joint and Several Liability

Any covenant or agreement on the part of or in favour of two or more persons shall be deemed to bind them or be in favour of them jointly and each of them severally.

1.9 Counterparts

This Licence may consist of counterparts and the counterparts taken together constitute one and the same instrument.

1.10 Licensee's Employees and Agents

If this Licence prohibits the Licensee from doing a thing, then:

- 1.10.1 the Licensee must do everything necessary to ensure that the Licensee's Employees and Agents do not do that thing; and
- 1.10.2 the Licensee may not allow or cause any person to do that thing.

2 GRANT OF LICENCE

2.1 Grant

2.1.1 Pursuant to the provisions of the Act, and in particular Section 152 (1), the Licensor grants to the Licensee a licence to conduct the Licensed Activities in the Park(s) pursuant to the Licensed Activities Schedule and the Licensee hereby accepts the licence subject to the provisions of this Deed.

2.2 Term

The Licence Term is stated at Item 3 of the Reference Schedule.

2.3 Representations

The Licensee represents and warrants that:

- 2.3.1 it has power to enter into and observe its obligations under this Licence; and
- 2.3.2 it has in full force and effect the authorisations necessary to enter into this Licence, observe obligations under it, and allow it to be enforced; and
- 2.3.3 its obligations under this Licence are valid and binding and are enforceable against it in accordance with its terms; and

2.3.4 this Licence does not contravene its constituent documents (when the Licensee is a company) or any Laws or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers or, when the Licensee is a company, the powers of its directors, to be exceeded.

3 LICENCE PAYMENTS

3.1 Licence Fee

3.1.1 The Licensee will pay the Licence Fee on an annual basis (Annual Licence Fee) or as a lump sum (Lump Sum Licence Fee) as specified in the Reference Schedule.

3.1.2 Where the Licence Fee is specified as payable as a lump sum then the Licensee will pay the Lump Sum Licence Fee specified in the Reference Schedule upon the Commencement Date.

3.1.3 Where the Licence Fee is specified as payable on an annual basis then the Annual Licence Fee for the first year of the Term, commencing on the Commencement Date is the amount specified in the Reference Schedule. For the second and each subsequent year of the Term the Annual Licence Fee may be reviewed on each or any anniversary of the Commencement Date of the Licence and derived by multiplying the Annual Licence Fee payable for the year last concluded by the fraction A/B where:

A = the CPI figure last published prior to the first day of the year under review;

B = the CPI figure last publicised prior to the Commencement Date or the first day of the year for which the Licence Fee was last reviewed, whichever is the later.

CPI means the Consumer Price Index for Sydney (All Groups) published by the Australian Bureau of Statistics. If the Consumer Price Index is suspended or discontinued the index to be used shall be the index advised by the Australian Statistician which reflects the basic changes in the cost of living in Sydney during the year.

3.1.4 If the Annual Licence Fee determined in accordance with clause 3.1.3 is less than the Licence Fee for the immediately preceding year the Licence Fee for the year under review shall be equivalent to the Licence Fee paid for the immediately preceding year.

3.1.5 Any reference to the Licence Fee in this Deed (apart from in this clause 3.1) is a reference to either the Annual Licence Fee or the Lump Sum Licence Fee, whichever is applicable under this Deed, and where an Annual Licence Fee applies any reference to Licence Fee is the Annual Licence Fee at any given time as adjusted for CPI from time to time in accordance with this clause 3.1.

3.2 Per Head Use Fee and Quarterly Use Payment

3.2.1 The Per Head Use Fee, as set out in the Reference Schedule, shall apply in respect of each of the Licensee's Clients participating in any of the Licensed Activities.

3.2.2 The Per Head Use Fee may be reviewed on each or any anniversary of the Commencement Date of the Licence and derived by multiplying the Per Head Use Fee payable for the year last concluded by the fraction A/B where:

A = the CPI figure last published prior to the first day of the year under review;

B = the CPI figure last publicised prior to the Commencement Date or the first day of the year for which the Per Head Use Fee was last reviewed, whichever is the later.

CPI means the Consumer Price Index for Sydney (All Groups) published by the Australian Bureau of Statistics. If the Consumer Price Index is suspended or discontinued the index to be used shall be the index advised by the Australian Statistician which reflects the basic changes in the cost of living in Sydney during the year.

3.2.3 If the Per Head Use Fee determined in accordance with clause 3.2.2 is less than the Per Head Use Fee for the immediately preceding year the Per Head Use Fee for the year under review shall be equivalent to the Per Head Use Fee paid for the immediately preceding year.

3.2.4 Any reference to the Per Head Use Fee in this Deed (apart from in this clause 3.2) is a reference to the Annual Licence Fee at any given time as adjusted for CPI from time to time in accordance with this clause 3.2.

3.2.5 The Licensee shall pay the Per Head Use Fee to the Licensor as a lump sum on a quarterly basis ("the **Quarterly Use Payment**").

3.2.6 Each Quarterly Use Payment shall be made within 21 days of the end of each calendar quarter and shall be accompanied by a Quarterly Trip Return Report in accordance with clause 3.3, supporting the calculation of the Quarterly Use Payment.

3.2.7 Where the Licence Term includes a period consisting of only part of a calendar quarter, the Quarterly Use Payment shall be made within 21 days of the end of the portion of the quarter that is within the Term.

3.2.8 Where the Licensee offers a lower concession rate in their fee schedule to a Client to participate in a Licensed Activity, the Licensee may claim the Per Head Use Fee concession rate as set out in the Reference Schedule for that Client when completing their Quarterly Trip Return Report. The Licensee may be required to provide documentation to support any such claims.

3.2.9 Where the Licensee is a Companion Card Affiliate and accordingly offers a free or concession rate to Companion Card holders, the Licensee may claim

the resulting per head use fee concession rate or full exemption (if no charge was made) in relation to that Client's Per Head Use Fee when completing the relevant Quarterly Trip Return Report.

3.3 Quarterly Trip Return Reports

3.3.1 The Licensee must submit a quarterly trip return report to the Licensing Coordinator every calendar quarter in the form specified by the Department ("the **Quarterly Trip Return Report**"). Each report must specify the number of Clients who have participated in the Licensed Activities during the quarter and the Quarterly Use Payment payable. The Quarterly Trip Return Report must include any applicable data pertaining to aspects of the Licensed Activities that may have been conducted by a subcontractor on behalf of the Licensee (including the number of Clients partaking in activities operated by a subcontractor and the associated Per Head Use Fee for those Clients).

3.3.2 The Licensee must submit a Quarterly Trip Return Report within 21 days of the end of each calendar quarter.

3.3.3 Each completed Quarterly Trip Return Report shall be accompanied by the Quarterly Use Payment for that quarter.

3.3.4 Where the Licence Term includes a period consisting of only part of a calendar quarter, the Quarterly Trip Return Report shall be submitted within 21 days of the end of the portion of the quarter that is within the Term.

3.4 Park Use Fees

3.4.1 The Licensee will not be required to pay Park use fees on entry to the Park(s) in addition to the Licence Fee and Quarterly Use Payment.

3.4.2 Notwithstanding clause 3.4.1, the Licensee must pay:

- a) the scheduled fee for all other PWG fee-based services, such as camping, car parking, entry to museums and PWG Discovery programs; and
- b) the Kosciuszko National Park IPART winter surcharge where applicable.

3.4.3 The parties acknowledge that the exemption from Park use fees set out in clause 3.4.1 does not extend to Clients of the Licensee who enter the Park(s) individually in order to undertake Licensed Activities with the Licensor. The Licensee will take reasonable steps to ensure that persons entering the park individually are aware of the relevant obligations with respect to Park entry fees.

3.5 Manner of Payment of Licence Fee

The Licensee shall pay the Licence Fee and other monies payable by the Licensee to the Licensor at the address nominated by the Licensor from time to time and in such manner as the Licensor shall in writing direct.

3.6 Interest on Unpaid Monies

The Licensee shall pay interest on any unpaid monies due under this Deed at the higher of the Prescribed Rate and the rate of 3% per annum above the Westpac Banking Corporation Business Overdraft Indicator Lending Rate or such other equivalent rate as may be determined by the Licensor computed from the due date for the payment of such monies until payment of such monies in full. All such monies shall be recoverable on demand by the Licensor and a certificate by the Licensor as to any amount payable by the Licensee pursuant to this clause shall be prima facie evidence thereof.

4 USE OF PARK(S)

4.1 Licensed Activities

The Licensee shall only conduct such Licensed Activities in such areas within the Park(s) as are specified in the Licensed Activity Schedule and in accordance with the terms of this Licence. The Licensee must comply with any AAS relevant to the Licensed Activities specified in the Licensed Activities Schedule, any Site Specific Conditions and/or any additional activity conditions listed in the Licensed Activities Schedule. The Licensee shall not have exclusive use or occupancy of any area, site, campsite, hut or other location or facility within the Park(s).

4.2 Reasonable Directions

The Licensee and the Licensee's Employees and Agents and the Licensee's Clients will comply with all reasonable directions given by any authorized officer of the Park(s).

4.3 Onus of Proof as to Usage

The Licensee acknowledges that in the matter of proof of whether the Licensee is complying or has complied with the provisions of this Licence as to the Licensed Activities the onus of proof shall be on the Licensee.

4.4 Compliance with Statutory Requirements

4.4.1 The Licensee will at the Licensee's expense observe and comply with and cause to be observed and complied with in respect to the conduct of the Licensed Activities:

- a) the requirements of all Laws, including workers' compensation requirements, and of any Relevant Authority and all notices, orders and directions which may be given under the Law or by any Relevant Authority;
- b) the requirements of the *Food Act 2003* and all other applicable legislation relevant to the service or provision of any food or beverages to clients;
- c) any Plan of Management for the Park(s); and
- d) the requirements of all planning instruments, controls and policies whether

federal, state or local.

4.5 No Noxious Use

The Licensee will not:

- 4.5.1 carry on or permit or suffer to be carried on, in connection with the conduct of the Licensed Activities, any unlawful, noxious or offensive use, act, trade, business, occupation or calling;
- 4.5.2 permit or suffer any riotous, disorderly, offensive or improper conduct in connection with the conduct of the Licensed Activities or permit or suffer any person who is drunk or behaving in a riotous, disorderly, offensive or improper manner to participate in the Licensed Activities;
- 4.5.3 cause, allow or suffer to occur any annoyance, nuisance, injury, disturbance or obstruction to the Licensor or other persons rightfully using or being in the Park(s);
- 4.5.4 carry on or allow any activities of a standard or kind which are not in keeping with the purposes of this Licence, may adversely affect the use and enjoyment of the Park(s), by the public, or in the Licensor's reasonable opinion are unsuitable or objectionable or may damage the image of the Park(s), or the Department;
- 4.5.5 damage, deface, remove or otherwise interfere (or permit or suffer any damage, defacing, removal or other interference) with any built asset, natural feature or cultural heritage place (including any new access trails).

Without affecting the liability of the Licensee for damages or in relation to any other remedy available to the Licensor the Licensee shall remedy to the satisfaction of the Licensor at its own expense any damage caused to the Park(s) by the Licensee in breach of the provision of this clause or otherwise.

4.6 Pollution

The Licensee will not take any action which has the effect, whether direct or indirect, of causing any contamination or pollution of the Park(s) and in particular without limitation the Licensee will:

- 4.6.1 not place, tip or discharge (or allow or suffer to be placed, tipped or discharged) upon any land or in any water or watercourse within the Park(s) any refuse, garbage, night soil, petroleum products, trade waste, building material, earth fill or any offensive or polluting matter or liquid whatsoever; and
- 4.6.2 not place (or allow or suffer to be placed) any obstructing matter on any land or in any water or watercourse or otherwise act or fail to act so as to cause any flow of water to be restricted, obstructed or diverted and will act or comply with any requirement of the Licensor regarding a watercourse.

Without affecting the liability of the Licensee for damages or in relation to any other remedy available to the Licensor the Licensee shall remedy to the satisfaction of the Licensor at its own expense any damage caused to the Park(s) by the Licensee in breach of the provision of this clause or otherwise including by the spillage of petroleum products or other pollutants or the deposition of polluting or obstructive materials within the Park(s).

4.7 Fire Safety

The Licensee will comply with all requirements of the Licensor and all other Relevant Authorities in relation to fire safety AND will in particular ensure that:

- 4.7.1 all reasonable precautions are taken to minimise the risk of fire when conducting the Licensed Activities;
- 4.7.2 at all times a portable stove is used in preference to the lighting of fires within the Park(s) and where it is necessary and permitted by the Regional Manager to light a fire for cooking meals, the Licensee will ensure that any such fire is lit in accordance with the *Rural Fires Act 1997* and the *NPW Regulations* in a properly constructed fire-place where available or in a safe location, with a clear area of at least three (3) metres all round, at least 4.5 metres from any log or stump, at least 1.5 metres from any other flammable material and that the fire is completely extinguished after use;
- 4.7.3 under no circumstances any fires, stoves or naked flames are lit (or permitted or suffered to be lit) during periods of extreme fire danger or in periods of total fire bans or Park(s) fire bans;
- 4.7.4 no burning of timber, grass, cleared vegetation or other combustible matter is undertaken without the prior consent of the Licensor and subject to such conditions as the Licensor and any Relevant Authority may determine;
- 4.7.5 the Licensee and the Licensee's Employees and Agents will not do or suffer to be done any act, matter or thing within the Park(s) whereby the risk of fire might be increased AND in the event of the Park(s) being damaged by fire which is shown to be the result of breach of the Licensee's obligations under this Licence or of negligence in or arising from the Licensee's activities the Licensee will meet all reasonable and proper costs associated with suppression of the fire and all costs of making good such damage and all costs incurred, paid or arising from the death of or injury to any person as a result of the fire;
- 4.7.6 it complies at its cost with all requirements imposed upon it as a licensee conducting the Licensed Activities under the *Rural Fires Act 1997*;
- 4.7.7 every effort is made to conserve and rationalize the use of fuel resources for cooking fires within the Park(s) in connection with the Licensed Activities and will comply with any directions given by the Regional Manager in connection with any restrictions placed on the use of such fuel resources and the necessity to use alternative fuel resources brought from outside the Park(s).

4.8 No Livestock or Domestic Pets

The Licensee shall not allow any poultry, pigs, horses or other livestock nor any dog, cat or other domestic or exotic animal to be brought into the Park(s), unless specifically authorized under this Licence or as an 'assistance animal' under the *Disability Discrimination Act 1992 (Clth)*.

4.9 Flora and Fauna

The Licensee must not damage, destroy, disrupt or remove any native flora (live or dead) or any native fauna (live or dead) from the Park(s). Feeding or handling of wildlife is not permitted without the consent of the Regional Manager.

4.10 Removal of Trees

The Licensee will not (and will ensure that the Licensee's Employees and Agents will not) cut down, fell, injure, lop or destroy any living trees in the Park(s) without the prior written consent of the Licensor.

4.11 Fixtures and Signs

The Licensee:

- 4.11.1 will not without the prior written approval of the Licensor erect, display, affix, paint or exhibit within the Park(s) any structure, sign, advertisement, notice or hoarding or allow or suffer any of the foregoing to be done, and any such approval may be revoked without notice by the Licensor at his or her discretion;
- 4.11.2 will not make any permanent marking upon any tree, plant or rock in the Park(s);
- 4.11.3 at the request of the Licensor will remove any such structures, signs, advertisements, notices, hoarding or markings put in place by or on behalf of the Licensee;
- 4.11.4 will make good any damage or disfigurement caused by the placement or removal of any such structure, sign, advertisement, notice, hoarding or marking.

4.12 Liquor Licence

The Licensee shall not without the prior written consent of the Licensor sell, offer for sale, supply or deliver any liquor in the Park(s) nor apply for any licence to do so. Where the Licensor has given written consent to the Licensee to sell liquor in the Park(s) the Licensee must obtain all of the licences and approvals required by the *Liquor Act 1982* and any other relevant statute and must pay such fees including liquor licence fees as may be payable in order to obtain and maintain such licences and approvals.

4.13 Amplified Sound

The Licensee will not operate or permit to be operated in the Park(s) any apparatus or device for the amplification of music, announcements or other sound to a degree which is objectionable in the opinion of the Licensor.

4.14 Public Protection

The Licensee will take all reasonable steps as the Licensor may consider necessary for the purposes of safeguarding members of the public and others against injury or accident arising from the Licensee's conduct of the Licensed Activities.

4.15 Park(s) Closure

Under no circumstances will the Licensee conduct any activity within any part of the Park(s) which is closed to the public, as directed by the Licensing Coordinator or the Regional Manager or his representative or any duly authorized person, as a result of severe fire danger or any other reason, without the specific authority of the Regional Manager or in any area of the Park(s) which the Regional Manager may direct to be closed to the Licensed Activities from time to time for any reason.

4.16 Access

4.16.1 At no time may the Licensee drive or permit an employee, agent or Client to enter any site or area that is permanently, temporarily or seasonally closed by gates, signs or public notice, unless special conditions on the Licence grant such access. The Licensor reserves the right to change the areas which the Licensee may use, for any reasonable cause including visitor safety and environmental reasons, without compensation for any such change to the Licence.

4.16.2 The Licensee must not drive or permit an employee, agent or Client to drive a vehicle in the Park(s) except on public access roads and tracks constructed for the passage of vehicles with four or more wheels. The Licensee shall only park motor vehicles within the Park(s) in areas designated by the Licensor or any duly authorized officer of the PWG.

4.17 Litter

All rubbish originating from the Licensed Activities must be removed by the Licensee unless rubbish bins are provided.

4.18 Campsites and Huts

Campsites permitted pursuant to the Licensed Activities shall be maintained and left in a tidy condition and shall be located at least twenty (20) metres from any stream, dam or aqueduct. The Licensee must not rely on any huts or campsites for accommodation unless specific prior rights have been granted for the use of the huts or campsites.

4.19 Commercial Filming

The Licensee may not undertake, permit, authorise or otherwise be involved in any filming or photography within the Park(s) for the purposes of promotion of the Licensed Activities or any other commercial activity product without the specific authority of the Licensing Coordinator.

4.20 Subcontractors

4.20.1 The Licensee may engage the subcontractors listed in the Reference Schedule to undertake the approved tasks specified in the Reference Schedule.

4.20.2 The engagement of a subcontractor will not relieve the Licensee of any of the Licensee's responsibilities or obligations under the Licence. The Licensee is liable to the Licensor for the acts, defaults and neglect of any subcontractors or any persons they employ, as fully as if they were the Licensee's acts, defaults or neglect.

4.20.3 If the Licensee wishes to replace a subcontractor or engage new or additional subcontractors the Licensee must first obtain the written approval of the Department.

4.20.4 The Licensee must ensure that all subcontractors are provided with, and display a copy of the Vehicle Sticker on the left hand side of all subcontractor vehicle windscreens at all times when travelling in the Park(s).

5 OPERATIONAL PROVISIONS

5.1 Public Safety

5.1.1 The Licensee acknowledges that it is an occupier of the Park(s), within the meaning of the *Occupational Health and Safety Act 2000*.

5.1.2 The Licensee shall carry out the Licensed Activities in a safe and reliable manner and must comply with the *Occupational Health and Safety Act 2000*, its amendments and regulations.

5.1.3 The Licensee shall notify the Licensor of any natural events or activities on Park(s) which it becomes aware of, which may endanger the public.

5.1.4 The Licensee shall take all reasonable steps to protect the safety of all persons present in connection with the conduct of the Licensed Activities and shall, without limitation, take all reasonable steps to eliminate any dangers to persons that may arise as a result of the Licensed Activities and, subject to clause 4.10, erect signage warning the public of any dangers they may encounter as a result of the Licensee's activities where those dangers cannot be eliminated.

5.1.5 The Licensee shall make all Clients aware before any Licensed Activity

commences of:

- a) all potential hazards and conditions which may be encountered during the Licensed Activity (these may include, but are not limited to, heights, exposure to weather, rapid flowing water, fauna and flora); and
- b) the experiences Clients may encounter during the Licensed Activity.

5.1.6 The Licensee shall ensure that all procedures are in place to minimize the risk of potential hazards to Clients. These procedures may include, but are not limited to, pre-activity briefings, safety equipment and head counts.

5.1.7 The Licensee shall ensure that the supervision during the Licensed Activity is appropriate to the differing clients' experiences and abilities.

5.2 Emergency Response Plan

5.2.1 The Licensee shall develop and maintain an emergency response plan (in such form as is provided by the Licensor from time to time) for each Licensed Activity that outlines procedures to be followed in the event of natural or other disaster, injury, illness or delay. This must be developed for each Licensed Activity and submitted for approval to the Licensing Coordinator prior to the conduct of any Licensed Activity. Notification of approval from the Licensing Coordinator will be necessary prior to the conduct of any Licensed Activity.

5.2.2 The Licensee must ensure the safe evacuation of clients and vehicles in the event of any natural disaster adjacent or near approved routes.

5.2.3 The Licensee must promptly notify the Regional Manager of any natural or other disaster, injury, illness, vehicle accident or delay that may impact on the group.

5.3 Guides and Instructors

The Licensee must ensure that all guides and employees have and maintain the relevant competencies and skills for leading and guiding any Licensed Activity, including but not limited to any experience, knowledge and qualifications required pursuant to the Activity Conditions attached to this Licence, and in particular, any applicable AAS's. The Licensee must also ensure that the ratio of staff to clients meets the requirements specified in the Activity Conditions below or by the PWG from time to time.

The Licensee agrees to submit satisfactory evidence of any such experience, knowledge and qualifications on request by the Licensing Coordinator or Regional Manager.

5.4 First Aid Qualifications

The Licensee must ensure that all guides and instructors have current first aid qualifications. The minimum standard requirement is St Johns Level 2 Basic First Aid or

equivalent. At least one employee or agent of the Licensee present with each group carrying out a Licensed Activity must have this qualification and have in their possession a suitable first aid kit at all times whilst conducting the Licensed Activity.

5.5 Environmental Sustainability

The Licensee should ensure the sustainable and culturally appropriate use of sites by, wherever possible and practicable, informing and educating clients and carrying out its operations in a sustainable manner. In particular, the Licensee will endeavour to:

- 5.5.1 explain to customers how negative impacts on sites can be avoided;
- 5.5.2 build an understanding of natural and cultural heritage conservation management;
- 5.5.3 provide quality visitor experiences;
- 5.5.4 provide good interpretation and education;
- 5.5.5 honour historic places;
- 5.5.6 promote respect for Aboriginal culture and sites;
- 5.5.7 minimize visitor impacts on sites;
- 5.5.8 observe rules to protect conservation values and public safety;
- 5.5.9 encourage active involvement in conservation activities;
- 5.5.10 adopt environmental practices which support environmental sustainability;
- 5.5.11 adopt minimal impact practices for all activities; and
- 5.5.12 report damage, illegal activities and potential problems to the PWG.

5.6 Aboriginal Cultural Heritage Interpretation

- 5.6.1 If the Licensee wishes to undertake detailed, rather than general, Aboriginal cultural heritage interpretation on country, on site or otherwise, the Licensee must employ or otherwise engage members of the relevant Aboriginal community to undertake the interpretation, unless the appropriate representatives of the relevant Aboriginal community have given specific authorisation to the person delivering the detailed Aboriginal cultural heritage interpretation and have approved the content of that interpretation.
- 5.6.2 General interpretation includes information in the public domain, the traditional name of a place and its meaning and the traditional name(s) of the local Aboriginal communities.
- 5.6.3 The Licensee may only promote or identify itself as a provider of Aboriginal heritage interpretation information if the Licensee has engaged a member of the relevant Aboriginal community to undertake that interpretation or has obtained the necessary specific authorisation and approval as outlined above.

5.7 Use of "Parks Eco Pass" Logo

The Licensee may use the PWG's "Parks Eco Pass" logo on its promotional material, including its brochures and website, provided the logo is accompanied by a statement identifying the Licensee as a licensed commercial recreation and tour operator and the Licensee's licence number. A template of the "Parks Eco Pass" logo in the permitted size may be obtained from the Licensing Coordinator and the Licensee may not use any alternative copy. Neither the Licensee nor its employees or agents may make any representation that they are an officer or agent of the PWG. The Licensee must not use the "Parks Eco Pass" logo or any other PWG logos or brands (including but not limited to "NPWS" and/ or the lyrebird motif) on any of its staff uniforms or vehicles.

5.8 Vehicle Stickers and Personal Identification Cards

5.8.1 Vehicle Stickers and Personal Identification Cards will be issued to the Licensee. Vehicle Stickers must be prominently displayed to the front, left-hand side of each of the Licensee's vehicle's windscreens at all times by the Licensee and its agents whilst travelling in the Park(s). Personal Identification Cards must be carried by the Licensee's employees and agents at all times while in the Park(s) conducting the Licensed Activities.

5.8.2 If the Licensee is using hire vehicles, they will be required to display a laminated Vehicle Sticker on the front, left-hand side of each hire vehicle windscreen at all times whilst travelling in the Park(s).

5.8.3 The Licensee may not transfer or lend any of its Vehicle Stickers to any other person and any lost vehicle stickers shall be replaced at cost to the Licensee.

5.9 Handbook

The Licensee will be issued with a Parks Eco Pass Handbook which shall include a copy of all of the Licence conditions and other useful reference material. The Licensee must carry a copy of the Handbook whenever practicable when conducting the Licensed Activities and ensure that all of the Licensee's Guides have read and understood the Licence conditions.

5.10 Vehicle Licensing

All vehicles carrying passengers in New South Wales must be appropriately licensed and registered by the Department of Transport where relevant and by the RTA or equivalent interstate road traffic authority as passenger vehicles and abide by the specific conditions of that licence. All drivers of passenger vehicles must hold a current driver's licence appropriate for that vehicle, including any necessary vehicle endorsement for the vehicle type.

5.11 Accreditation and Training

- 5.11.1 The Licensee must obtain and maintain throughout the term of the Licence such additional certification as is required by the Licensor and specified in the Accreditation Schedule and must submit proof of any such certification annually to the Licensing Coordinator.
- 5.11.2 The Licensee (and such employees and agents as are specified by the Licensor from time to time) are encouraged to undertake indigenous cultural awareness training either through a certification program or other training program, in accordance with the Licensor's directions.

5.12 Licence Transferability

- 5.12.1 Licences for a Term of one year are not transferable.
- 5.12.2 Standard Three (3) Year Licences and Premium Ten (10) Year Licences may be transferred, subject to the written approval of the Licensor.
- 5.12.3 The Term of the Licence may not be extended through a transfer of the Licence.
- 5.12.4 The Licensor retains a discretionary power in relation to the approval of a transfer under clause 5.12.2.
- 5.12.5 For the purposes of clause 5.12.2, the class of licence is specified in the Reference Schedule.

5.13 Performance Monitoring

- 5.13.1 Where the Term of the Licence is greater than one year an annual review will be conducted by the Licensing Coordinator to ensure compliance with the Licence conditions. The annual review will include a review of subcontractor performance.
- 5.13.2 The Licensor may engage appropriate third parties to conduct an audit of the Licensee's compliance with any applicable AAS from time to time to monitor compliance with the Licence.

5.14 Additional Licence

- 5.14.1 After the expiry of the Term the Licensor may, in its absolute discretion, grant an additional licence to the Licensee on such terms and conditions as

the Licensor may reasonably determine provided that the Licensor is satisfied that:

- a) the Licensee has, at least 6 months prior to the expiry of the Licence, notified the Licensor in writing that the Licensee wishes to be granted an additional licence for a specified term;
- b) the Licence has not been terminated prior to the expiry of the term;
- c) there is no subsisting breach of any term or condition of the Licence;
- d) in the opinion of the Licensor (which opinion must be reasonably formed), the Licensed Activity continues to be appropriate and permissible in the Licensor's opinion having regard to any matter or thing including, without limitation, the environmental impact of the Licensed Activity; and
- e) the Plan of Management in force at the time does not prohibit the grant of an additional licence.

5.14.2 The holder of a Standard Licence may apply for a new licence up to one year prior to the expiration of the licence term and the holder of a Premium Licence may apply for a new licence up to two years prior to the expiration of the licence term.

5.15 Tour Schedules

The Licensee must complete a separate Tour Schedule for each proposed Tour. Additional Tour schedules and Tour variation forms, which shall be available on the PWG website, must be submitted to the Licensing Coordinator at least (two) weeks prior to any proposed variation. Applications for a new Tour shall incur a major amendment fee and applications for a variation to an existing Tour shall incur a minor amendment fee. Notification of approval from the Licensing Coordinator will be necessary prior to commencement of any new Tour.

The licensee may delete a Tour from the Licence by completing and lodging a Tour deletion form. The deletion of a Tour Schedule will not incur a fee.

Licensees must also check the PWG Parks Eco Pass website for tour operator alerts such as fire updates and road closures prior to commencing any commercial recreation or tour operator activity.

6 INSURANCES

6.1 Required Insurances

The Licensee shall effect and maintain in respect to the Licensed Activities from the commencement of this Licence the following insurances:

- 6.1.1 a public liability policy covering personal injury and property damage including financial, economic or consequential loss arising as a result of such personal injury or property damage (in an amount of not less than the amount noted at Item 4 of the Reference Schedule or such other higher

amount as the Licensor may from time to time require being the amount which may be paid arising out of any one single accident or event) in connection with the activities of the Licensee in relation to this Licence whereby the Licensor, the Director-General, the Department and the Crown in right of New South Wales shall be included as joint insured parties;

6.1.2 insurance against any liability which may arise at common law or by virtue of any relevant workers' compensation legislation in connection with the Licensed Activities; and

6.1.3 such other special insurances as may be appropriate and required by the Licensor from time to time, including but not limited to product liability insurance.

6.2 Required Arrangements

The following provisions shall apply to all policies of insurance referred to in clause 6.1:

6.2.1 all such policies of insurance shall be effected with an Australian Prudential Regulation Authority (APRA) approved insurance company or a company approved in writing by the Licensor (which approval shall not be unreasonably withheld) and shall be for such amounts and cover such risks and contain such conditions, endorsements and exclusions as are reasonably acceptable to or required by the Licensor;

6.2.2 no exclusions, endorsements or alterations are to be made in or to any such policy of insurance unless first approved in writing by the Licensor (which approval shall not be unreasonably withheld);

6.2.3 all such policies are to be taken out in the names of the Licensor and the Licensee for their respective rights and interests;

6.2.4 duplicate or certified copies of all such policies and all renewal certificates and endorsement slips are to be lodged by the Licensee with the Licensor immediately on receipt by the Licensee;

6.2.5 the Licensee shall provide full true and particular information to the office or company with which such policies are effected on all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or payment of any monies thereunder;

6.2.6 the Licensee shall punctually pay all premiums and other monies payable in respect to all such policies on or before the due date for payment of the same and shall in respect to any such policy of insurance produce to the Licensor receipts for the payment of each premium and any other monies payable thereunder (or other proof of payment to the Licensor's satisfaction);

6.2.7 the Licensee shall not do or permit to be done any act, matter or thing upon or in the vicinity of the Park(s) or when conducting the Licensed Activities whereby any insurance policy may be vitiated or rendered void or voidable or

(except with the written approval of the Licensor) whereby the rate of premium for any such insurance shall be liable to be increased;

- 6.2.8 the Licensor shall be entitled in his or her own name and as the attorney of the Licensee in the name of the Licensee or otherwise to institute all proceedings against any such office or company to recover from it any amount for loss, damage, destruction or injury or other monies payable under any indemnity in favour of the Licensor or the Crown in right of New South Wales.

6.3 Licensor May Insure

At the Licensor's discretion or in default of the Licensee so doing the Licensor may elect to effect all or any insurances referred to in clause 6.1 and charge the Licensee for the costs of the premiums and the Licensee shall upon demand reimburse the Licensor for the same.

6.4 Abatement for Park Closure

The Licensee is not entitled to any reimbursement or waiver of its obligation to pay the Licence Fee that is attributable to any period during which the Licensed Activities cannot be carried out due to the closure of the Park(s) or part of the Park(s) by the Licensor. The Licensee shall not be entitled to any compensation from the Licensor, the Director-General, the Department or the Crown in right of New South Wales for any loss or damage attributable to any such period during which the Park(s) or any part of the Park(s) cannot be used under this Licence.

7 INDEMNITIES

7.1 Acknowledgment

The Licensee acknowledges that the exercise of its rights under this Licence is at the risk of the Licensee.

7.2 Release

- 7.2.1 The Licensee releases to the full extent permitted by law the protected persons from all claims and demands as set out in this clause arising out of, in connection with, in respect to or as a consequence of the conduct of the Licensed Activities.

- 7.2.2 The Licensee's obligations under this clause continue after the termination expiration or other determination of this Licence in respect to any matter or thing happening before such termination, expiration or determination.

- 7.2.3 In this clause:

'protected person(s)' means

- a) the Licensor;
- b) the Director-General;
- c) the employees or officers of the Director-General;
- d) any other person acting under the direction or control of the Licensor or the Director-General for any purpose;
- e) the Crown in right of New South Wales.

‘Claims and demands’ means all actions, suits, claims, demands, proceedings, losses, damages, compensation, sums of money, costs, legal costs, charges and expenses to which the protected persons or any one thereof is or may become liable in respect to loss of or damage to the fixtures or property of the Licensee, financial or economic loss, loss of opportunity or other consequential loss of the Licensee, injury to or death of any person claiming through the Licensee of any kind and however sustained and whether sustained during the conduct of the Licensed Activities or in connection with the Licensed Activities.

7.2.4 It is immaterial to the obligations of the Licensee under this clause that a claim or demand arises out of any act, event or thing that the Licensee is authorised or obliged to do under this Licence or that any time waiver or other indulgence has been given to the Licensee in respect to any such obligation under this Licence.

7.2.5 The obligations of the Licensee under this clause do not apply to the extent that the loss, damage, injury or death arises from or is contributed to by any wilful or negligent act, default or omission on the part of any protected person except as provided in subclause 7.2.6.

7.2.6 The obligations of the Licensee under this clause do apply to loss, damage, injury or death arising from or contributed to or occurring in connection with:

- a) the carrying out of any fire management activity by or on behalf of the protected persons;
- b) the failure to carry out any fire management activity by or on behalf of the protected persons;
- c) any other act or omission of the Licensor or any protected person, whether or not negligent, in respect to the management of fire hazards in the Park(s).

7.3 Indemnity

7.3.1 The Licensee indemnifies and will keep indemnified the protected persons from and against all claims and demands as set out in this clause arising out of, in connection with, in respect to or as a consequence of:

- a) the Licensee's operation of the Licensed Activities the subject of this Licence; or
 - b) any wilful or negligent act, default or omission by the Licensee, the Licensee's employees or officers or any person acting under the control or at the direction of the Licensee during the operation of the Licensed Activities or in the Park(s).
- 7.3.2 The Licensee's obligations under this clause continue after the termination, expiration or other determination of this Licence in respect to any matter or thing happening before such termination, expiration or determination.
- 7.3.3 In this clause:
'protected person(s)' means
- a) the Licensor;
 - b) the Director-General;
 - c) the employees or officers of the Director-General;
 - d) any other person acting under the direction or control of the Licensor or the Director-General for any purpose;
 - e) the Crown in right of New South Wales.
- 'Claims and demands' means all actions', suits, claims, demands, proceedings, losses, damages, compensation, sums of money, costs, legal costs, charges and expenses to which the protected persons or any one thereof is or may become liable in respect to loss of or damage to the fixtures or property of any person, financial or economic loss, loss of opportunity or other consequential loss of any person, injury to or death of any person of any kind and however sustained and whether sustained during the conduct of the Licensed Activities or in connection with the Licensed Activities.
- 7.3.4 It is immaterial to the obligations of the Licensee under this clause that a claim or demand arises out of any act, event or thing that the Licensee is authorised or obliged to do under this Licence or that any time waiver or other indulgence has been given to the Licensee in respect to any such obligation under this Licence.
- 7.3.5 The obligations of the Licensee under this clause do not apply to the extent that the loss, damage, injury or death arises from or is contributed to by any wilful or negligent act, default or omission on the part of any protected person except as provided by subclause 7.3.6.
- 7.3.6 The obligations of the Licensee under this clause do apply to loss, damage, injury or death arising from or contributed to or occurring in connection with:
- a) carrying out of any fire management activity by or on behalf of the protected persons;

- b) the failure to carry out any fire management activity by or on behalf of the protected persons;
- c) any other act or omission of any protected person, whether or not negligent, in respect to the management of fire hazards in the Park(s).

8 DEFAULT AND TERMINATION

8.1 Essential Terms

The following obligations of the Licensee are essential terms of this Licence:

- 8.1.1 The obligations to pay money under clause 3;
- 8.1.2 The obligations under clauses 4.1, 4.6, 4.7, 5.12, 6.1, 7 and 9.2.

This clause 8.1 does not prevent any other obligation under this Licence from being an essential term.

8.2 Events of Default

- 8.2.1 An Event of Default occurs if:
 - a) the Licensee repudiates this Licence; or
 - b) the Licensee does not comply with an essential term of this Licence; or
 - c) the Licensee commits a fundamental breach of this Licence; or
 - d) the Licensee does not comply with any of its obligations under this Licence which is not an essential term and, if the non-compliance can be remedied, it is not remedied within fourteen (14) days after the Licensor issues the Licensee with a written notice to remedy it; or
 - e) the Licensee fails to comply with any notice given by the Licensor, the Director-General or an Authorised Officer under this Licence; or
 - f) (the Licensee being a company) an order is made or a resolution is effectively passed for the winding up of the Licensee (except for the purpose of reconstruction or amalgamation with the written consent of the Licensor which consent shall not be unreasonably withheld); or
 - g) the Licensee goes into liquidation or makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts or if execution is levied against the Licensee and is not discharged within thirty (30) days; or
 - h) the Licensee (being an individual) becomes bankrupt or commits an act of bankruptcy or brings his or her estate within the operation of any law relating to bankrupts.

8.2.2 The Licensee must ensure that no Event of Default occurs.

8.3 Licensor's Right to Terminate

If an Event of Default occurs the Licensor may suspend or terminate this Licence by notice but without prejudice to any action or other remedy which the Licensor has or may have for arrears of the Licence Fee or breach of any covenant or damages or any other remedy as a result of any such event. The Licensee agrees that the Licensor is not liable for and releases the Licensor from liability or loss arising from, and costs, charges and expenses incurred in connection with, anything done by the Licensor under this clause.

8.4 Opportunity to Remedy

Notwithstanding anything in clause 8.2 the Licensor shall not terminate this Licence by notice unless the Licensee has failed to remedy the breach or default (if capable of remedy) within fourteen (14) days after written notice thereof has been given by the Licensor to the Licensee.

8.5 Licensor May Remedy

On each and every occasion on which the Licensee omits or neglects (for a period of not less than fourteen (14) days from the date on which the Licensee is obliged to do the same) to pay any money or to do or effect anything which the Licensee has herein covenanted to pay, do or effect then the Licensor may (without prejudice to any rights and powers arising from such default) pay such money or do or effect such thing as if he or she was the Licensee AND the Licensor may recover from the Licensee the amount of expenses and costs of any such action and a certificate or notice by the Licensor as to any amount payable by the Licensee pursuant to this clause and served upon the Licensee shall be prima facie evidence thereof.

8.6 Licensee to Accept Responsibility for Agents, etc

The Licensee accepts full responsibility for the acts and omissions of the Licensee's Employees and Agents AND in the event of breach by any such person or body of any covenant, term or condition hereof the provisions of this Licence shall apply against the Licensee as if such breach was a breach by the Licensee itself AND the Licensee shall remedy any such breach or where applicable, indemnify the Licensor in respect to such breach.

8.7 Termination for Public or Community Purposes

If in the opinion of the Licensor it is essential for any public or community purpose or any works subsidiary or ancillary to any such work or for the purpose of the care, control and management of the Park(s) to put an end to this Licence and the Licensor gives to the Licensee three (3) calendar months' notice of such opinion in writing expiring at any time then this Licence shall cease and determine without prejudice nevertheless to any then existing remedy which the Licensor may have against the Licensee for the breach of any covenant to be observed or performed by the Licensee.

8.7 Variation of Licence

The Licensor may vary the conditions of the Licence on the provision of fourteen (14) days written notice to the Licensee, where there are demonstrable and urgent concerns regarding visitor safety or environmental impact.

9 PROCEDURAL MATTERS

9.1 Time for Determining Rights and Obligations

This Licence for the purpose of determining the rights and obligations of the parties shall be construed as if it had been executed on the date from which the Term is expressed to run.

9.2 Variation or Waiver

None of the provisions of this Licence shall be taken either at law or in equity to have been varied, waived, discharged or released by the Licensor unless by his or her express consent in writing. No waiver by the Licensor of any breach of any condition contained or implied in this Licence shall operate as a waiver of another breach of the same or of any other condition in this Licence.

9.3 Consents or Approvals

Where anything in this Licence may be done with the approval or consent of the Licensor the Licensor may:

9.3.1 unless otherwise expressly provided in this Licence, give or withhold his or her approval or consent in his or her unfettered discretion; and

9.3.2 impose conditions on that approval or consent.

The consent or approval may be given by the Director-General or an Authorised Officer.

9.4 Opinions by Licensor

Any opinion to be formed by the Licensor for the purposes of this Licence may be formed by the Licensor on such grounds and material as the Licensor determines to be sufficient.

9.5 Licensee Not Agent of Licensor

The Licensee will not directly or indirectly hold out or permit to be held out to any member of the public any statement, act, deed, matter or thing indicating or tending to indicate that the Licensed Activities are being conducted, managed or supervised by the Licensor, the Director-General, the Department or the Crown in right of New South Wales nor shall the Licensee act as or represent itself to be the servant or agent of the Licensor, the Director-General, the Department or the Crown in right of New South Wales.

9.6 Communication with Licensee

The Licensee shall at all times keep the Licensor informed of names, addresses and telephone numbers sufficient for the purpose of communication with the Licensee.

9.7 Notices

9.7.1 Requirements of Effective Notice

A notice or other communication connected with this Deed ('Notice') has no legal effect unless it is in writing, in English and:

- a) delivered at the address for service of the addressee as set out in the Reference Schedule or as otherwise advised in writing to the other party from time to time (the 'address for service');
- b) sent by security post, certified mail or postage prepaid, to the address for service of the addressee; or
- c) sent by facsimile to the facsimile number of the addressee.

9.7.2 Deemed Delivery

Where the Notice is delivered or sent in a manner provided by clause 9.7.1 it is deemed given to and received by the party to which it is addressed:

- a) if delivered, upon delivery;
- b) if mailed, on actual delivery to that address as evidenced by Australia Post documentation;
- c) if sent by facsimile before 4.00 pm on a business day at the place of receipt, on the day it is sent and otherwise on the next business day at the place of receipt.

9.7.3 Provisions With Respect to Facsimiles

Despite clause 9.7.2:

- a) a facsimile is not deemed given and received unless at the conclusion of the transmission the sender's facsimile machine issues a transmission report which indicates that the relevant number of pages comprising the Notice have been sent; and
- b) a facsimile is not deemed given and received if it is not received in full and in legible form and the addressee notifies the sender of that fact within three hours after conclusion of the transmission or by 12.00 noon on the business day on which it would otherwise be deemed given and received, whichever is the later.

9.7.4 Parties' Details

The parties' address for service and facsimile number as at the date of this

Deed are:

- a) Licensor Item 5 of the Reference Schedule
- b) Licensee Item 1 of the Reference Schedule

9.7.5 Notice by Licensor

Any Notice to be given under this Deed by the Licensor may be signed by the Director-General or an Authorised Officer.

9.8 Licences

The Licensee will apply for and take all steps required to obtain all such licences, permits or authorisations and renewals thereof as may in the opinion of the Licensor be necessary for the proper conduct of the Licensed Activities and the Licensee will not do or suffer to be done any act, matter or thing whereby any such licence, permit or authorisation may be or become liable to be forfeited or suspended or the renewal thereof refused.

9.9 No Partnership

Nothing contained in this Licence shall be deemed to constitute a partnership between the Licensor and the Licensee.

10 GOODS AND SERVICES TAX

10.1 Consideration

If a Supply made under or in connection with this Licence is a Taxable Supply then the consideration for the Supply is increased by an additional amount equal to the amount of that consideration multiplied by the relevant GST rate.

10.2 GST Terms

In this clause

- a) GST means goods and services tax under the GST Law;
- b) GST Law has the same meaning as that expression has in *A New Tax System (Goods and Services Tax) Act 1999*; and
- c) a term or expression starting with a capital letter which is defined in the GST law but not defined in these terms has the same meaning as in the GST Law.

11 ABORIGINAL OBJECTS AND HISTORIC RELICS

11.1 Discovery of Objects

The Licensee shall immediately report to the Director-General the discovery of any Aboriginal Object or Historic Relic during the conduct of the Licensed Activities and the Licensee shall comply with all directions made by the Director-General in relation to the Objects in accordance with the Act.

11.2 Definition of Objects

For the purposes of this clause the terms:

Aboriginal Object shall have the same meaning as that term has in the Act;

Historic Relic shall have the same meaning as the term 'relic' as defined in the *Heritage Act 1977*; and

Objects shall mean Aboriginal objects and/or historic relics.

12 ADDITIONAL COVENANTS

The Licensee agrees that it shall comply with the covenants and obligations contained in Schedules 2 and 3.

SCHEDULE 1
REFERENCE SCHEDULE

Item 1 (clause 1.1)	Name and address of Licensee: Facsimile: Email:	
Item 2 (clause 1.1)	Name of Park(s):	
Item 3 (clause 5.12)	Term of Licence: (Specify Class of Licence: Initial (1), Standard(3) or Premium(10))	____ Years with a Commencement Date of ____ and Termination Date of ____ unless otherwise terminated or discontinued as provided herein.
Item 4 (clause 6)	Insurance:	\$10,000,000 (ten million dollars) public liability policy
Item 5 (clause 12.7)	Licensor's address for service: Facsimile:	
Item 6 (clause 1.1)	Authorised Officer:	_____ or any other position in the Department authorised to act by the Director-General
Item 7 (clauses 3.1 and 3.2)	Licence Fee payment type	_____ Specify Lump Sum or Annual
	Lump Sum Licence Fee	\$_____
		or
	Annual Licence Fee	\$_____ per annum
		(cross out the option that is not applicable)
	Per Head Use Fee	\$_____ per head
		(\$_____ concession)
Item 8 (clause 4.20)	Subcontractor (list any approved subcontractor(s) and the tasks they are approved to undertake on behalf of the Licensor)	

**SCHEDULE 2
LICENCED ACTIVITIES
SCHEDULE**

1 LICENSED ACTIVITES

2 APPLICABLE ADVENTURE ACTIVITY STANDARDS (AAS)

3 AREAS OF THE PARK(S)

4 ADDITIONAL ACTIVITY CONDITIONS

SCHEDULE 3

**SITE SPECIFIC
CONDITIONS
SCHEDULE**

SCHEDULE 4

ACCREDITATION

SCHEDULE

EXECUTED as a Deed

EXECUTED for and on behalf of THE LICENSOR by his or her duly appointed officer in the presence of:

Witness

Officer

Name of Witness (print)

Name of Officer (print)

EXECUTED by [Name of Licensee]

Company Secretary/Licensee

Licensee

Name of Company Secretary/Licensee (print)

Name of Licensee (print)

in the presence of:

Witness