
Tour Operator Licence

<Insert Committee of Management Name or other Licensor>

and

<Insert Licensee Name>

Section 21B Crown Land (Reserves) Act 1978

**DEPARTMENT OF ENVIRONMENT, LAND, WATER AND
PLANNING**

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<insert name>

of **<address>**

(Licensor)

and

<insert name>

of **<address>**

(Licensee)

Background

- A. The Minister appointed the Licensor as the Committee of Management for the Licensed Area under s 14 of the Act.
- B. The Licensee successfully applied for a licence to conduct Tours on the Licensed Area.
- C. The Licensor grants the Licensee a licence to use and occupy the Licensed Area on the terms and conditions of this Licence under section 21B of the Act, with the consent of the Minister.

General Conditions

1. Definitions and Interpretation

1.1 Definitions

When used in this Licence, the words and phrases have the following meanings:

Unless inconsistent with the context or subject matter, each word or phrase defined in this clause 1 has the same meaning when used elsewhere in this Licence.

Accreditation means a recognised tourism industry certification program, endorsed by the Department of Environment, Land, Water and Planning, that encourages improved environmental, cultural and business management, including:

For a Term of **up to 3 years**:

- Nature Tourism – EcoCertification IV;
- The Australian Tourism Accreditation Program (formerly known as the 'Better Business Tourism Accreditation Program'), and
- Respecting Our Culture.

For a Term of **between 3 and 10 years**:

- Advanced Ecotourism – EcoCertification IV;

- Ecotourism – EcoCertification IV; and
- EarthCheck Benchmarking and Certification (formerly known as 'GreenGlobe Company Standard').

Act means *Crown Land (Reserves) Act 1978*.

Adventure Activity Standards means the voluntary guidelines for conducting outdoor recreation activities published by Outdoors Victoria Limited ACN 158 927 872 (or any equivalent body) from time to time. Specifically applicable at the Commencement Date are the Adventure Activity Standards in relation to the following activities:

- River rafting;
- Rock climbing;
- Four wheel driving;
- Bushwalking;
- Trail bike touring;
- Snorkelling, scuba diving and wildlife swims;
- Canoeing and kayaking;
- Recreational caving;
- Mountain biking;
- Recreational fishing / angling;
- Horse trail riding;
- Snow sports
- Surfing sessions; and
- Abseiling.

Annual Fee means the component of the standard Licence Fee fixed and reviewed under Regulation 6, or fixed under Regulation 14 for competitively allocated licences, of each of the Fee regulations.

Association means the Australian Tourism Accreditation Program Limited ACN 095 626 976 (or equivalent body) (ATAP).

Code Red Days means days classified in this manner pursuant to a fire danger rating set by the Bureau of Meteorology, based on the forecast fire danger index.

Commencement Date means the date set out at Item 5 of the Schedule, being the first day of this Licence.

Crown means the Crown in right of the State of Victoria, and includes the Licensor, the Licensor's Representative and each authorised employee, officer or agent of the Crown or the Secretary.

Department means the Department of Environment, Land Water and Planning, or its successor in law.

Fee Regulations means the *Crown Land (Reserves) (Tour Operator Licence Fee) Regulations 2011*.

Insured means the Licensee, including the Licensee's officers, employees, agents, contractors, subcontractors, invitees and their successors and permitted assigns.

Item means an item in the Schedule.

Land has the meaning given to that term in Item 9.

Licence means these Tour Operator Licence Conditions.

Licensed Area means the land and improvements (if any) described at Item 10.

Licence Fee means the periodical amount described at Item 7, as reviewed or varied during the Term.

Licensee means the entity named in Item 3, and includes any permitted assigns or successors in law.

Licensor means the entity named in Item 2, and includes Committees of Management appointed by the Minister to manage the Licensed Area.

Licensor's Representative means an employee or officer of the Licensor nominated to the Licensee in writing from time to time, who is authorised to deal with day to day issues that arise in respect of Tours or the Licensed Area.

Minister means the Minister of the Crown for the time being administering the Act

Other Relevant Parties means the Minister, the Secretary to the Department, Parks Victoria, the Director of National Parks and any other authorised delegate from the Licensor.

Park means a National Park and/or State Park within the meaning of the *National Parks Act 1975* or any other form of recreational area managed by the Licensor.

Permitted Use means the purposes and activities that the Licensee is authorised to carry out on the Licensed Area, as described at Item 10.

Person includes a body corporate or individual.

Regulation denotes a Regulation from the Fee Regulations.

Schedule means the schedule at the rear of this Licence.

Secretary means the Secretary to the Department, being the body corporate established under the *Conservation, Forest and Lands Act 1987*.

Term means the period of days, weeks, months or years described at Item 6, beginning on the Commencement Date.

Tour means an activity, guided tour or recreation programme conducted or coordinated by an employee or officer of the Licensee on the Licensed Area that is consistent with the Permitted Use.

Use Fee means the component of the standard Licence Fee fixed and reviewed under Regulation 8, or for a competitively allocated licence under Regulation 15, featuring differential daily rates, depending on the number of adults and children that participate in Tours.

Vehicle has the meaning given to that term in the *Road Safety Act 1986* (Vic).

2. Grant of Licence

- (a) The Licensor grants the Licensee permission to use the Licensed Area for the Term by virtue of the Act, subject to the conditions set out in this Licence, in common with the Licensor, and other persons authorised by the Licensor.
- (b) The Licensee acknowledges that the rights created by this Licence over the Licensed Area do not constitute an estate or interest in the Licensed Area.

3. Payment Arrangements

- (a) The Licensee acknowledges that the Licence Fee is made of the following components:
 - (i) the Annual Fee; and
 - (ii) the Use Fee.
- (b) Subject to clause (c), the Licensee must pay Annual Fee to the Licensor:
 - (i) annually in advance;
 - (ii) to the address specified in Item 15, or
 - (iii) pursuant to such alternative arrangements as are specified by the Licensor in writing from time to time,
 - (iv) without the need for any demand, and without any rights of deduction, set-off or abatement.
- (c) From 1 July 2014 onwards, if the Term of this Licence is more than 1 year, the Licensee may elect to pay the Annual Fee for the Term as an upfront lump sum, on or before the Commencement Date, calculated on the basis of the value of a fee unit under the Fee Regulations in the year that the lump sum is paid.
- (d) The Licensee must pay the Use Fee to the Licensor:
 - (i) quarterly or annually in arrears at the Licensee's election;
 - (ii) to the address specified in Item 15, or

- (iii) pursuant to such alternative arrangements as are specified by the Licensor in writing from time to time,
 - (iv) without the need for any demand, and without any rights of deduction, set-off or abatement other than:
 - (v) the Use Fee cap fixed under Regulation 9;
 - (vi) the Licensee's right to a refund of any excess paid over the Use Fee cap at the end of the financial year under Regulation 10(2); and
 - (vii) any other mechanism provided for in the balance of this Licence or the Fee Regulations.
- (e) In order to facilitate calculation and reconciliation of the Licensee's Use Fee obligation, the Licensee must:
- (i) maintain a daily record of the number of persons who participate in Tours in the form required under Regulation 11 for standard tour operator licences or Regulation 16 for competitively allocated licences; and
 - (ii) provide a copy of this record to the Licensor or the Licensor's Representative, where he or she is authorised to receive this information on the Licensor's behalf, on:
 - (A) a quarterly basis if the Use Fee is paid quarterly in arrears; or
 - (B) an annual basis if the Use Fee is paid annually in arrears.
- (f) The Licensee must pay interest to the Licensor on any:
- (i) part of the Licence Fee or other monies payable by the Licensee to the Licensor which are outstanding for more than 14 days, or
 - (ii) judgment for the Licensor in an action arising under this Licence, at the penalty interest rate for the time being payable under the *Penalty Interest Rates Act 1983*, calculated from the date the monies or judgment became payable until the date of actual payment (including interest) of all monies to the Licensor in full.
- (g) The Licensee must reimburse the Licensor on demand, for all the Licensor's legal costs and disbursements incurred in connection with:
- (i) any cancellation or surrender of this Licence requested by the Licensee;
 - (ii) any application for the Licensor's consent arising under this Licence;
 - (iii) any failure by the Licensee to perform its obligations under this Licence; or

- (iv) any other deed or other document required to be executed in connection with this Licence.

4. Licensee's Certification

- (a) On or before the Commencement Date, the Licensee must provide satisfactory documentary evidence that the Licensee:
 - (i) has obtained any required Accreditation Certification; and
 - (ii) is currently licensed to conduct the Permitted Use by any relevant body, if this is required by law, to the Licensor if requested.to the Licensor if requested.
- (b) The Licensee must promptly provide documentary evidence confirming the currency of the Licensee's accreditation and any other licence or permit required by law on each successive anniversary of the Commencement Date, to the Licensor if requested.
- (c) The Licensor may issue supplementary requests for proof of accreditation to the Licensee during the Term, where this is reasonably required in the circumstances.
- (d) In addition to completion of the Accreditation Certification, the Licensee must ensure that:
 - (i) its Tour guides have a current first aid qualification, which is equal to or better than the standard required by law or equivalent; and
 - (ii) an additional member of staff supervising each Tour group is also a qualified First Aider and has in their possession a suitable first aid kit.

5. Compliance Requirements

The Licensee acknowledges that:

- (a) the Licensee must comply with:
 - (i) all statutes, regulations, local laws and by-laws applicable to the Licensed Area or the Permitted Use; and
 - (ii) all lawful orders or directions made under these ordinances;
- (b) pets and firearms are not to be taken into Parks, unless specifically permitted by the Licensor;
- (c) fires may only be lit in fireplaces if the Licensed Area is managed under the *National Parks Act 1975*;
- (d) the Licensee may only:
 - (i) use the Licensed Area for the Permitted Use, unless the Licensee obtains the Licensor's prior written consent to variation of the

- Permitted Use, which may be given or withheld in the absolute discretion of the Licensor, and if granted, may be given subject to such conditions as the Licensor sees fit to impose; and
- (ii) conduct Tours and other activities in the Licensed Area that are consistent with the Permitted Use;
- (e) the Licensee must not:
- (i) allow rubbish to accumulate in or about the Licensed Area; or
 - (ii) cause or permit to be done anything about, or in the vicinity, of the Licensed Area, which constitutes an actionable nuisance, annoyance or disturbance to other persons lawfully entitled to use the Licensed Area, or any land adjoining the Licensed Area;
- (f) the Licensee must not enter or remain in, or permit an employee, agent or Tour participant to enter or remain in, any parts of the Licensed Area or the Land that are permanently, temporarily or seasonally closed by gates, signs, electronic or written notification or public notice;
- (g) the Licensee must:
- (i) obtain and comply with the terms of all licences, permits, or authorisations required by law to conduct its Tours;
 - (ii) ensure that such licences, permits and authorisations remain current at all times during the Term;
 - (iii) comply with any:
 - (A) applicable Adventure Activity Standard; and/or
 - (B) additional safety requirements reasonably imposed by the Department or the Licensor, provided that in the event of any inconsistency the higher standard or requirement will prevail;
 - (C) ensure that all contact and business details remain current and that the email address provided is regularly monitored for emergency communications.
- (h) keep the Licensor informed of any ongoing investigations, Notice of Infraction and outcomes of investigations.
- (i) the Licensee must not keep any hazardous materials on the Licensed Area unless it obtains the Licensor's prior written consent, (which may be granted or withheld in the Licensor's absolute discretion), except for a reasonable quantity of any hazardous material which is:
- (i) normally used in connection with the Permitted Use; and
 - (ii) kept in compliance with the requirements of any authority that regulates storage or keeping of the hazardous substance.

6. Licensor's Directions and Tour Interruptions

- (a) The Licensee and the Licensee's employees, agents and Tour participants must obey all reasonable directions given by the Licensor, the Licensor's Representative or the Licensor's other authorised officer, employee, agent or delegate, in respect of the Licensed Area.
- (b) Without limiting the generality of the foregoing, the Licensee acknowledges that it may be directed to cease or suspend Tours for a period specified by the Licensor that is reasonable and proportionate in the circumstances, as a result of any of the following causes:
 - (i) fires, floods, severe storms and other natural disasters;
 - (ii) fuel reduction burns;
 - (iii) Code Red Days; and
 - (iv) any other cause reasonably specified by the Licensor, which is directed at the preservation of human health and/or the environment.
- (c) Except in an emergency, when the Licensor will give the Licensee as much notice as is reasonably practicable in the circumstances, the Licensor will give the Licensee at least 7 days' notice of the need to cease or suspend Tours.
- (d) The Licensee is not entitled to any compensation from the Licensor whatsoever for loss or damage caused or contributed to by the need to suspend, cancel or cease Tours under the provisions of this clause 6, save that the Licensee may be granted a proportionate set-off against future Licence Fee payments, as determined in the Secretary's absolute discretion.

7. Dealing with Emergencies

The Licensee must:

- (a) develop and maintain an emergency response plan that:
 - (i) complies with the law; and
 - (ii) outlines procedures to be followed in the event of natural or other disaster, injury, illness or delay on the Licensed Area; for each Tour (collectively, the "**Emergency Response Plan**") and promptly provide a copy of the Emergency Response Plan to the Licensor if requested;
- (b) ensure the safe evacuation of Tour participants and vehicles from the Licensed Area in the event of any natural or other disaster adjacent or near to approved routes in accordance with the Emergency Response Plan;
- (c) notify the Licensor's Representative, as soon as is reasonably practicable, of any natural or other disaster, injury, illness, Vehicle accident or delay that may impact upon:

- (i) the Tour group; or
 - (ii) other Tours or authorised activities being conducted on the Licensed Area or the Land; and
- (d) file a completed incident report in the form required by the Licensor with the Licensor (or the Licensor's Representative if he or she has been authorised to receive such a document) as soon as is reasonably practicable, after the occurrence of the relevant event.

8. Precautions against Damage and Injury of Wildlife

- (a) Except as expressly authorised by this Licence, the Licensee must not damage, destroy, disrupt or remove any native flora (live or dead) or any native fauna, or any built asset, natural feature or cultural heritage place (including creating new access trails without the Licensor's consent) from the Licensed Area or the surrounding Land.
- (b) Any instances of destruction or damage must be promptly reported to the Licensor's Representative.
- (c) In the event of such damage or destruction, at the Licensor's option, the Licensee must:
 - (i) undertake and complete remedial action specified by the Licensor, at the Licensee's cost; or
 - (ii) reimburse the Licensor for the cost of repairing such damage or destruction within 14 days of demand.
- (d) Feeding or handling of wildlife on the Licensed Area, whether during the course of a Tour or otherwise, is not permitted without the prior consent of the Licensor.
- (e) The Licensee must not drive or permit an employee, agent or Tour Participant to drive a Vehicle on the Licensed Area, except on roads and tracks constructed by, or with the authority of the Licensor, for the passage of Vehicles with four or more wheels.
- (f) At no time may the Licensee drive, or permit an employee, agent or Tour Participant to drive, a Vehicle on roads and tracks that are permanently, temporarily or seasonally closed by gates, signs, notification or public notice, unless another provision of this Licence expressly permits the Licensee to do so.

9. Campsites and Vehicles

- (a) Campsites located on the Licensed Area must be:
 - (i) maintained and left in a tidy condition; and
 - (ii) sited at least 20 metres from any stream, dam or aqueduct.
- (b) If campsites are not furnished with toilets, night soil must be buried at least 100 metres from any stream, dam or aqueduct.

- (c) The Licensee and/or Tour participants may be required to pay additional fees for the right to use campsites.
- (d) The Licensee must not rely on huts or campsites on the Licensed Area to provide accommodation for Tour participants, unless the Licensee has been granted specific prior permission to do so.
- (e) All rubbish originating from Tour operations must be removed by the Licensee or placed into receptacles on the Licensed Area provided for this purpose by the Licensor.
- (f) All vehicles carrying passengers within, to or from the Licensed Area, must be licensed by VicRoads or equivalent interstate road traffic authority as passenger vehicles and driven in a manner that accords with the licence terms.
- (g) All drivers of passenger vehicles must hold a current driver's licence appropriate for that vehicle, including any necessary endorsement for the Vehicle type, copies of which must be promptly provided to the Licensor for review upon request.

10. Conduct of Tours

- (a) The Licensee must:
 - (i) plan, prepare and conduct Tours using all reasonable care and skill;
 - (ii) make all Tour participants aware before the Tour commences, of:
 - (A) potential hazards and conditions that may be encountered during the Tour including, but not limited to, heights, exposure to weather, risk of fire, open water, tidal conditions, rapid flowing water, fauna and flora; and
 - (B) the nature of the experiences that participants may encounter during the Tour;
 - (iii) ensure procedures are in place to minimise the risk of potential hazards to Tour participants, including, but not limited to, pre-tour briefings, appropriate safety equipment and head counts.
 - (iv) Ensure that all Tour participants comply with all conditions of licence.
 - (v) ensure that all guides and employees have obtained any necessary Accreditation and the relevant competencies and skills for leading and guiding a Tour;
 - (vi) ensure that Tour supervision is appropriate to the differing clients' experiences and abilities; and
 - (vii) submit trip return documentation to the Licensor's Representative within 21 days of the following date/s:
 - (A) **[one annual date to be specified];**

(B) **OR [if quarterly submission of information is preferred, select a date within the ranges specified below]:**

- (I) Quarter 1 = 1 July – 30 September;
- (II) Quarter 2 = 1 October – 31 December;
- (III) Quarter 3 = 1 January – 31 March; and
- (IV) Quarter 4 = 1 April – 30 June.

(b) The Licensee acknowledges that the Licensor's evaluation of future Licence applications submitted by the Licensee will be influenced by the Licensee's prior compliance with nominated trip return documentation and Use Fee and other payment obligations under this Licence.

11. Termination

- (a) The Licensor may terminate this Licence if:
 - (i) the Licensee is found guilty of any offence against the Act; or
 - (ii) the Licensee has contravened a condition of this Licence.
- (b) If the Licensor seeks to terminate this Licence, the Licensor must comply with the procedure, set out in section 21J of the Act.

12. Variation or Suspension of Licence

- (a) The terms of this Licence may be varied:
 - (i) by agreement between the parties; or
 - (ii) in the manner specified in Section 21G of the Act
- (b) The variation of this Licence cannot be used to extend the Term.
- (c) The Licensor may temporarily suspend this Licence under sections 21H and 21I of the Act.

13. No Compensation

The Licensee is not entitled to any compensation from the Licensor for loss or damage sustained by the Licensee, caused or contributed to by variation, suspension or termination of this Licence pursuant to the Licensor's rights under clauses 11 and 12 of this Licence.

14. Limitation on Improvements

- (a) The Licensee must not erect, or permit the erection, of any improvement on the Licensed Area.

15. Condition at Termination

Upon the expiration or earlier determination of this Licence, the Licensee must return the Licensed Area to the Licensor in good order and condition, and otherwise in a condition consistent with compliance by the Licensee with its obligations under this Licence.

16. Dealing with Licence

The Licensee must not:

- (a) assign, sub-licence, mortgage or charge this Licence; or
- (b) part with or share possession of the whole Licensed Area or any part of it.

17. Notices

- (a) Any notice, consent or demand or other communication to be served upon or given to the Licensee by the Licensor under this Licence will be deemed to have been duly served or given, if it is:
 - (i) in writing;
 - (ii) signed by the Licensor or a person authorised by the Licensor (including, without limiting the generality of the foregoing, the Licensor's Representative); and
 - (iii) delivered or sent by prepaid post to the Licensee's address set out in Item 4, or any subsequent replacement address that the Licensee notifies to the Licensor in writing.
- (b) The Licensee must give prompt Notice to the Licensor of any change in their business contact details or street address.

Activity Conditions

Where applicable Adventure Activity Standards have not been developed in respect of Tour types authorised by the Permitted Use, the following obligations apply, to the extent that they are relevant to the Permitted Use:

18. Birdwatching/Spotlight tours/Night walks/Coastal walking

- (a) The group size for Tours must not exceed 15 persons including leaders, unless other provisions of this Licence specifically authorise larger groups.
- (b) Wherever possible, groups must:
 - (i) carry and use portable stoves for cooking to reduce the amount of firewood used; and
 - (ii) follow other minimal impact procedures reasonably specified by the Licensor's Representative.

19. Ski touring/Snow shoe tours

The group size for Tours must not exceed 15 persons including leaders, unless other provisions of this Licence specifically authorise larger groups.

20. Boat tours

In addition to any other licences, permits and authorisations required by law, all boats carrying passengers must have a current Certificate of Survey from Transport Safety Victoria.

21. Ballooning

- (a) All balloons must be registered with the Civil Aviation Safety Authority (CASA).
- (b) Ballooning pilots must have a Commercial Pilots Licence.
- (c) The Licensee must:
 - (i) maintain a CASA Air Operator's Certificate; and
 - (ii) provide a copy of the certificate to the Licensor upon request.
- (d) The Licensee must comply with the Australian Ballooning Federation Code of Conduct and all Civil Aviation Regulations pertaining to commercial balloon operations.

22. Fossicking/prospecting/goldpanning

- (a) If the Licensee conducts fossicking, goldpanning or prospecting Tours, the Licensee must require Tour participants to understand and comply with the Acts and regulations protecting archaeological and historic artefacts.
- (b) In Parks, fossicking may only occur in areas specifically set aside for this activity, listed in section 32D of the *National Parks Act 1975*.
- (c) If the Licensee conducts gold fossicking Tours, the Licensee must obtain either a Tourist Fossicking Authority or require all Tour participants to possess a miner's right.

23. Sea kayaking

- (a) In addition to complying with the Adventure Activity Standards for Canoeing / Kayaking activities, the Licensee must discuss the use of camping areas with the Licensor's Representative and other relevant land managers prior to the commencement of any Tour.
- (b) Emergency campsites may only be used if weather conditions make it impossible or unsafe to reach planned sites.

24. Bus / Coach Tours

- (a) All bus operators of Vehicles that have more than 9 seats and are used for the carriage of passengers within, or to and from, the Licensed Area, must

be accredited by Transport Safety Victoria on behalf of the Department of Transport, Planning and Local Infrastructure or its successor

- (b) Proof of this accreditation must be supplied to the Licensor upon request.
- (c) If you provide a transport service carrying passengers for hire or reward, you are undertaking commercial passenger Vehicle work as described in the *Transport (Compliance and Miscellaneous) Act 1983* (Vic). Any Vehicle used for commercial passenger Vehicle work must be licensed and issued with a commercial passenger Vehicle licence certificate.
- (d) Any driver providing commercial passenger Vehicle services must carry valid driver accreditation.

Insurance, Release and Indemnity Provisions

25. Insurance

- (a) The Licensee must effect and maintain throughout the Term with an insurer approved by the Licensor, which approval will not be unreasonably withheld:
 - (i) a public, and if relevant given the nature of the Permitted Use, a products liability insurance policy for not less than \$20 million (or any greater amount required by the Licensor) in respect of any single claim arising out of the activities of the Insured, covering all third party claims arising out of:
 - (A) loss, destruction or damage to real or personal property and ensuing loss of use of that property;
 - (B) death, injury to, or disease of persons; and
 - (ii) a workers' compensation policy which covers any damage, loss or liability suffered or incurred by any person engaged by the Licensee arising:–
 - (A) by virtue of any statute relating to workers' or accident compensation or employers' liability; and/or
 - (B) at common law,(collectively referred to in the balance of this Licence as the "**Policy**").
- (b) The Licensee must effect and maintain the Policy in the name of the Insured, noting the interests of the Other Relevant Parties, and include all activities authorised by the Permitted Use as insured activities for the entire Term.
- (c) The Licensee must ensure that the Licensor is notified of any changes to the Policy.
- (d) The Licensee must provide the Licensor with:

- (i) a certificate of currency for the Policy which clearly confirms satisfaction of the requirements of the preceding clauses (a) and (b)
 - (A) prior to the Commencement Date;
 - (B) within 14 days of each successive anniversary of the Commencement Date throughout the Term and any renewed terms (if applicable);
 - (C) at any other time upon request by the Licensor; but not more than twice in any calendar year, unless extenuating circumstances apply; and
- (ii) a copy of the Policy upon request.
- (e) The Licensee must promptly notify the Licensor if:
 - (i) an event occurs which may give rise to a claim under or prejudice the Policy; or
 - (ii) the Policy is cancelled.
- (f) The Licensee must not do anything or allow anything to be done which may:
 - (i) prejudice any insurance held in connection with the Licensed Area; or
 - (ii) increase the premium payable for any insurance held in connection with the Licensed Area.
- (g) The Licensee must effect and maintain all other insurances in a manner and to such extent as is reasonable and customary for an organisation engaging in the Permitted Use.
- (h) The Licensee will deliver upon request to the Licensor, copies of any policies entered into by the Licensee pursuant to clause 25(g).
- (i) If there is any damage or destruction to any building or improvement on the Licence Area or the Land, caused by the Licensee or their Tour participants, the Licensee must pay on demand to the Licensor, on a full indemnity basis, the costs incurred by the Licensor in rectifying any such damage or destruction.

26. Release

- (a) The Licensee:
 - (i) occupies and uses the Licensed Area at its own risk;
 - (ii) acknowledges that it has inspected the Licensed Area, and is of the opinion that the Licensed Area is safe and suitable for the Permitted Use, including the Licensee's Tours.
- (b) The Licensee releases the Licensor and the Other Relevant Parties from:

- (i) all claims and demands resulting from:
 - (A) any accident, damage, death or injury occurring at the Licensed Area, the Land or any other area used by the Licensee in connection with this Licence; or
 - (B) the pollution or contamination of the Licensed Area, the Land and any bodies of water included therein, and any loss, cost, damage, liability or other detriment incurred in connection with these circumstances;
- (ii) all loss, cost, damage, liability or other detriment (whether direct or consequential) suffered or incurred by the Licensee, as a direct or indirect result of the Licensee's occupation and use of the Licensed Area, the Land, or other areas used in connection with this Licence, except to the extent caused or contributed to by the negligent or unlawful act of omission of the Licensor.
- (c) References in this clause 26 to the Licensee, the Licensor and the Other Relevant Parties, include their respective officers, employees, authorised agents, contractors, subcontractors, invitees and their successors and permitted assigns.

27. Indemnity

- (a) The Licensee indemnifies the Licensor and the Other Relevant Parties against all actions, claims, demands, losses, damages, costs, expenses and liability (whether direct or consequential) for which any of the Licensor or the Other Relevant Parties is or may be or become liable concerning:
 - (i) the default of the Licensee under this Licence;
 - (ii) the Licensee's use of the Licensed Area, the Land or any other area used by the Licensee in connection with this Licence; and
 - (iii) loss, damage, or injury to property or persons caused or contributed by the Licensee's fraudulent, negligent or unlawful act or omission or default under this Licence, except to the extent caused or contributed to by the negligent or unlawful act or omission of the Licensor.
- (b) References in this clause 27 to the Licensee, the Licensor and the Other Relevant Parties include their respective officers, employees, authorised agents, contractors, subcontractors and invitees.
- (c) The Licensee must ensure that the Licensor and the names of the 'Other Relevant Parties' are included in its Policies in accordance with clause 27(b) and documented in any certificate of currency for such insurance.

28. Special Conditions

- (a) Any special condition set out in Item 16:
 - (i) binds the parties; and

- (ii) if there is an inconsistency between a special condition in Item 16 and any other provision of this Licence, the special condition prevails.

29. Waiver

- (a) The non exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right operate to preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.

30. Acknowledgement

- (a) All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this Licence.

31. Counterparts

- (a) This Licence may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

32. Governing Law

- (a) This Licence is governed by the law of the State of Victoria.
- (b) The Licensor and Licensee submit to the non exclusive jurisdiction of the courts of the law governing this Licence and any courts which may hear appeals from those courts in respect of any proceedings in connection with this Licence.

Execution Page

Executed as a deed this

day of

2015

Licensor:

[Insert sealing clause]

Licensee:

[Insert sealing clause]

Schedule 1 Licence Details

Item 1.	Licence Number	[To be inserted as appropriate]
Item 2.	Licensor	[Insert Committee of Management Name]
Item 3.	Licensee	[Entity to be inserted as relevant]
Item 4.	Licensee's Address	[Where the Licensee is a company, the company's registered office, otherwise, postal address of Licensee]
Item 5.	Commencement Date	[Typically the date of execution by the Licensor]
Item 6.	Term	[A fixed term of up to 10 years]
Item 7.	Licence Fee	Annual Fee: [\$[insert]] annually in advance Use Fee: [\$[insert]] per adult; and [\$[insert]] per child
Item 8.	Method of Payments	Eg, by cheque, cash, electronic funds transfer or direct debit, to the following address or bank account:
Item 9.	Reservation Description	[Details to be inserted, including Crown Allotment details] , referred to in this Licence as the 'Land'
Item 10.	Licensed Area	[TBC] , identified as such on the plan attached to this Licence as Annexure A.
Item 11.	Area	[Area in square metres to be inserted where practicable]
Item 12.	Powers under which Licence granted	section 21B of the Act
Item 13.	Permitted Use	[Tour/activity details to be inserted as relevant]
Item 14.	Amount of Public Liability Insurance	\$20 million, or such greater amount as is specified in the discretion of the Licensor from time to time.
Item 15.	Licensor Address	[Will vary, depending on the identity of the Licensor]
Item 16.	Special Conditions	Attached to this Licence as Annexure B [VGSO note: location-specific conditions can be inserted into Annexure B as appropriate]

Annexure A Plan

Annexure B Special Conditions

MINISTERIAL ATTESTATION

Under Section 21B(1) of the *Crown Land (Reserves) Act 1978* I **(insert full name and title)** in the Department of Environment, Land, Water and Planning as delegate of the Minister for Environment, Climate Change and Water hereby approve the decision by the land manager to grant a tour operator licence.

(Signature)