



**Minister:**                   **Contact person:** Mark Stone, Chief Executive, Parks Victoria  
**Address:** Level 10, 535 Bourke Street, Melbourne VIC 3000  
**Ph:** 03 8627 4699  
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**Manager:**                   **Parks Victoria**  
**Contact person:** Commercial Services  
**Address:** PO Box 1260, Glen Waverley VIC 3150  
**Ph:** 03 9881 6700  
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**Guarantor:**               Not Applicable.

**Park:** Those Parks listed at Annexure A.

**Licence Area:** The Site Names listed at Annexure A within the Park.

**Permitted Purpose:** Entry and use of the Licence Area for hang gliding and paragliding by the Licensee's members of each Site listed in Annexure A within the Park.

**Licence Period:** From 1 May 2009 to 30 April 2012

**Licence Fee:** \$ 1.00 per annum, payable on demand

**Review Date:** Each anniversary of the commencement date of the Licence Period.

**Bond:** Not applicable

**Times of Access to Park:** During the Park opening hours, currently 10am-5pm (daily) including public holidays and weekends or as otherwise agreed by the Minister.

## **Additional Conditions**

### **1. New Definition**

1.1 The following new definition is inserted:

**"Occupational Health and Safety Laws"** means all laws, requirements and regulations concerning the health, safety and welfare of people at work, including (without limitation):

- (a) *Occupational Health and Safety 2004 (Vic)*;
- (b) *Occupational Health and Safety Regulations 2007 (Vic)*;
- (c) *Dangerous Goods Act 1985 (Vic)*; and
- (d) *Dangerous Goods (Storage and Handling) Regulations 2000 (Vic)*.

### **2. Use of the Licence Area**

2.1 The Licensee must: -

- 2.1.1 not use the Licence Area as a residence or allow anyone to sleep at the Licence Area;
- 2.1.2 not prepare or cook food at the Licence Area other than in areas which have been provided or approved by HGFA for that purpose;
- 2.1.3 at its own expense comply on time with all laws and legal requirements concerning the Licence Area, the use and occupation of the Licence Area, and the Minister or the Manager's property;
- 2.1.4 use all reasonable endeavours to ensure that all pilots launching from the Licence Area are a member of the Licensee and are certified to the minimum pilot rating as determined by HGFA.
- 2.1.5 use all reasonable endeavours to ensure the safety of all users of the Licence Area, and in particular all hang gliding participants. If in the opinion of the Minister, the Licence Area is unsafe for the Permitted Purpose, the Minister may close the Licence Area until reasonably satisfied that all necessary repairs and steps have been undertaken by the Licensee at its cost to make safe the Licence Area. The Licensee is not entitled to any compensation as a result of any such closure;
- 2.1.6 keep the Licence Area in good and proper repair;
- 2.1.7 comply with the obligations listed in Annexure B;
- 2.1.8 take all proper precautions to keep the Licence Area free of refuse;
- 2.1.9 not litter the Licence Area; and
- 2.1.10 comply with the Minister's and the Manager's reasonable directions concerning disposal of refuse from the Licence Area.

### **3. Warning Signs**

- 3.1 The Licensee must at the Licensee's cost erect and maintain warning signs and barriers which are approved by the Minister at all public launch sites within the Licence Area in accordance with the requirements of Annexure B or as agreed by the Licensee and approved by the Minister from time to time.
- 3.2 The Licensee must:
  - 3.2.1 only construct launch ramps at any launch site located within the Licence Area in accordance with the requirements of Annexure B;
  - 3.2.2 ensure that any constructed launch ramps are certified as safe for their intended use and the particular site by a qualified engineer;
  - 3.2.3 ensure that the ramps are constructed in accordance with designs approved in writing by the Minister; and
  - 3.2.4 ensure that the ramps contain suitable barriers or signs to discourage use of the ramps by persons who do not hold a current hang gliding qualification as certified by the Licensee.

### **4. Alterations**

The Licensee must not:

- 4.1 carry out any road works, remove any native vegetations or carry out any other Works which may involve site disturbance or vegetation modification at the Licence Area without the prior written approval of the Minister; or
- 4.2 make any alteration, addition or improvement or install any equipment on the Licence Area or affix any signs or notices to the Licence Area without first obtaining the prior written consent of the Minister.

### **5. Competitions and Events**

- 5.1 The Licensee is not permitted to use the Licence Area for competitions or hang gliding events save for and except where the Minister and Manager have given the Licensee prior written approval to do so and issued the Licensee with an Event Permit.
- 5.2 The Licensee acknowledges that it will be required to obtain from the Manager a separate Event permit for each event.

### **6. Closure of Licence Area**

- 6.1 The Licensee acknowledges that the Minister may close the Licence Area or any part of the Licence Area, temporarily or permanently, by notice in writing to the Licensee's Public Officer specifying the reasons for closure; and
- 6.2 The Licensee is not entitled to any compensation as a result of such a closure.

### **7. Access to the Licence Area**

- 7.1 If to gain access to the Licence Area, the Licensee or the Licensee's Members and Agents must cross other land under the possession or control of the Minister or the Manager, then:

- 7.2 the Licensee must comply with the directions of the Minister or the Manager in relation to using that land; and
- 7.3 the Licensee must ensure there is no interference by the Licensee's Members and Agents with any other person using that land.

## 8. Adjoining Landowners

In the event that adjoining landowners within the glide path (the 'Landowners') object to the Licensee landing on their property, the Licensee agrees use its best endeavours to cooperate and participate in open discussion forums initiated by Parks Victoria or otherwise until all issues are resolved.

## 9. Compliance with Aviation Laws & Regulations

- 9.1 The Licensee, its members and associates must at all times in undertaking the Permitted Purpose at the Licence Area comply with all current aviation standards, regulations and laws (including but not limited to) the: -
- (i) HGFA Operations Manual
  - (j) Directions, policies and guidelines issued by HGFA from time to time;
  - (ii) CASA Regulations, Standards, Advisory Publications and laws;
  - (iii) *Civil Aviation Act (Clth) 1988*, Civil Aviation Orders and Civil Aviation Regulations.
- 9.2 The Licensee acknowledges that any failure to comply with Clause 9.1 will constitute a default by the Licensee under this Licence.

## 10. Amendments to Standard Conditions

- 10.1 Standard Condition 4.3 is deleted and replaced with:

The Licensee may not bring on to the Licence Area and the Park during the Licence Period any equipment which is necessary for the Permitted Purpose save for and except to the extent that: -

- (a) the aircraft instruments and equipment are: -
  - i. the flight craft described and shown in the photos at Annexure C;
  - ii. Glider pack up equipment cloth bags, padding or ties;
  - iii. Pilot harnesses, helmets and clothing;
  - iv. emergency locator beacons, emergency communication equipment, torches, whistles, water or first aid kits; andcomply with the relevant design and safety standards as prescribed by the current Civil Aviation Orders (including, but not limited to, *Civil Aviation Order 103.3 Instrument 2007*), Civil Aviation Regulations and Advisory Publications, the HGFA Operations Manual and/or directions and guidelines issued by HGFA from time to time; and/or
- (b) have been approved by the Minister in writing following submission from the Licensee of a plan describing the nature and size of the equipment and its proposed location at the Licence Area or the Park. After receiving the plan the Minister will notify the Licensee of its approval or disapproval within 10 days. The Licensees must not implement any parts of the plan which have not been approved by the Minister.

10.2 Standard Condition 11 is amended by inserting the words “to the extent that Occupational Health and Safety Laws apply.”

10.3 The parties acknowledge that the Standard condition 12 of this Licence is not applicable and is deleted from this Licence and replaced with the following condition: - .

The Licensees are jointly and severally liable for any default or breach under the Licence:

- (a) even if the Minister or the Manager does not sue the Licensees or does not enforce all of its rights or the rights of the Minister against the Licensees;
- (b) even if the licence is varied;
- (c) even after the licence ends;
- (d) for any breach that occurs before the licence ends or arose as a result of the licence ending.

**DATE OF LICENCE:**        /        /2009

**ANNEXURE A**

See Attached

ANNEXURE A

SITES- LAND ACT 1958

Site Name	Park	Mapsheet and Mapsheet No.	Easting <sup>1</sup>	Northing <sup>1</sup>	Details of agreed maintenance regime	Parks Victoria Contact	Club Contact
The Paps	The Paps Natural Features and Scenic Reserve	Alexandra 1:100,000 No 802	Paps # One (North facing) 409663 Paps # Two (West facing) 409582 Paps # Three (South facing) 409674	Paps # One (North facing) 5899645 Paps # Two (West facing) 5899689 Paps # Three (South facing) 5898662	See Schedule 2	Matt Harrington, Ranger in Charge	Melbourne Hang Gliding Club
Mt Mittamatite-Emberys Lookout	Mount Mitta Mitta Regional Park	Corryong 8425-1-2	579300	5999100	See Schedule 2	Scott Thomson, Ranger in Charge	Victorian Hang Gliding and Paragliding Association

<sup>1</sup> Eastings and Northings provide the approximate reference point of the Site.



## ANNEXURE B

### MAINTENANCE REQUIREMENTS FOR SITES LAND ACT 1958

#### The Paps Natural Features and Scenic Reserve

#### **The Paps**

Club Contact:	Melbourne Hang Gliding Club PO Box 8057, Camberwell North VIC 3124
Site description:	Three sites are used with the Reserve: <ol style="list-style-type: none"> <li>1. North facing: large open ground ramp situated within a treed slot. Some soil stabilisation works have been undertaken with soil laid over rocky substrate covered with jute matting. There is a power line servicing the summit which is a single line (with orange marker balls fitted).</li> <li>2. West facing: large open ground ramp situated within a tree slot. There are several communication towers and associated infrastructure on the northern peak.</li> <li>3. South facing: large open ground ramp with minimal vegetation encroachment.</li> </ol>
Landing and/or Launching permitted:	Only Launching permitted
Launch type:	Natural ground ramp
VHPA Site rating:	Advanced

#### Maintenance requirements

Launch ramp certification:	N/A
Site signage:	None present
Barriers:	None present and none required
Access Maintenance:	Road is rough but suitable for 2WD vehicles with reasonable ground clearance under most weather conditions. Track is infrequently maintained by the Manager. Any requirement for higher standard access for competitions etc would rest with the Club.
Toilets:	No toilets exist at the site and there is no intention to construct toilets. Hire portable chemical toilets may need to be considered by the relevant Club during peak usage times.
Other Requirements:	Site must be maintained in a clean and weed free state. Maintenance to the launch ramp surface, including the jute matting is the responsibility of the club. Any alterations, additions or improvements to the ramp surface must be approved in writing by the Manager prior to any works being undertaken.

## Mount Mitta Mitta Regional Park

### **Mt Mittamatite – Emberys Lookout**

Club Contact:	Victorian Hang Gliding and Paragliding Association PO Box 157, Northcote VIC 3070
Site description:	Large granite outcrop facing south east. Large vertical drop. Site is accessible from Ranch Road.
Landing and/or Launching permitted:	Only Launching permitted
Launch type:	Natural ground ramp (note: pre-existing ramp dismantled due to deterioration)
VHPA Site rating:	Intermediate

### Maintenance requirements

Launch ramp certification:	N/A
Site signage:	Safety signage is to be provided and maintained by the Club as part of the proposed ramp improvement.
Barriers:	Safety barriers are to be provided and maintained by the Club as part of the proposed ramp improvement.
Access Maintenance:	Ranch Road is infrequently maintained by the Manager in part and by the Towong Shire in part to dry weather 2WD standard. The walking track is infrequently maintained by the Manager. Any requirement for a higher standard of access would need to be met by the Club.
Toilets:	No toilets exist at the site and there is no intention to construct toilets. Hire portable chemical toilets may need to be considered by the relevant Club during peak usage times.
Other Requirements:	Site must be maintained in a clean and weed free state.

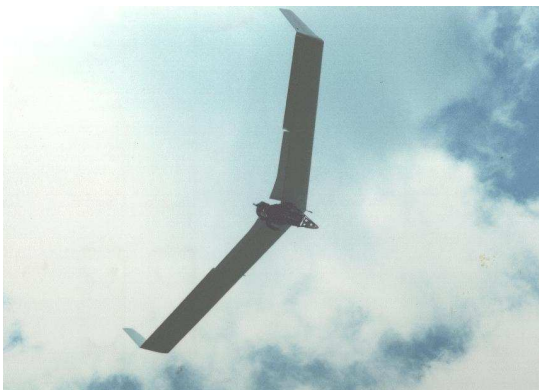
## ANNEXURE C FLIGHT CRAFT

For the purposes of this Licence, approved Flight Craft includes the Hang Gliders and Paraglider as described and shown in the example photos (below), namely: -

### 1. Hang Glider –

- (a) Hang Glider Flex Wing - Foot launched flex wing HG (FAI Class 1) with empty weight not exceeding 70Kg.
- (b) Hanglider Rigid Wing - Foot launched rigid wing HG (FAI Class 2) with empty weight not exceeding 70Kg.

### 2. Paraglider - Foot launched Paraglider (FAI Class 3) with empty weight not exceeding 70Kg.



**Hang Glider Rigid Wing (above)**



**Hang Glider Flex Wing (above)**



**Paraglider (above)**

**CERTIFICATE OF CURRENCY OF PUBLIC RISK INSURANCE**

To be inserted

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**STANDARD CONDITIONS:****1 INTERPRETATION****Meaning of Words**

1.1 In this Licence, the following words or phrases have the following meaning:

“**Bond**” means the amount (if any) so described in the Particulars;

“**CASA**” means the Civil Aviation Safety Authority;

“**GST**” means the goods and services tax levied under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or any other goods and services tax, value added tax, consumption tax or tax of similar effect levied from time to time;

“**GST Act**” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended);

“**Guarantor**” means the person or persons so described in the Particulars;

“**HGFA**” means the Hang Gliding Federation of Australia or its successor at law;

“**HGFA Manual**” means the manual approved by the Civil Aviation Safety Authority containing the procedures and instructions necessary to ensure an acceptable level of pilot training, proficiency and safe conduct of hang gliding operations including (but not limited to) equipment design and performance standards, risks and hazards, hang gliding and paragliding maintenance standards and pre-flight inspection standards.

“**Licence Area**” means the area and/or buildings and any improvements so described in the Particulars located in the Park and shown on the attached Plan (if applicable);

“**Licence Fee**” means the amount so described in the Particulars;

“**Licence Period**” means the period so described in the Particulars;

“**Licensee**” means the person or persons so described in the Particulars;

“**Licensee’s Members and Agents**” means any one or more of the members, officers, employees, agents, contractors, subcontractors, guests, patrons and invitees of the Licensee;

“**Manager**” means Parks Victoria or such other party as the Minister may from time to time appoint as manager of the Park and the Licence Area;

“**Minister**” means the Minister of the Crown for the time being with the responsibility for the *Land Act 1958*, which at the date hereof is the Minister for Environment, Water & Climate Change or his or her authorised delegate, and includes his or her successor at law or such other Minister of the Crown or Government Authority to whom responsibility for this licence may at any time be given;

“**Park**” means the area/s and/or building/s and any improvements described in the Particulars within which the Licence Area is located;

“**Parks Victoria**” means the public authority established under Part 2 of the *Parks Victoria Act 1998* and includes, where the context so admits, its authorised officers;

**"Permitted Purpose"** means the purpose so described in the Particulars, being the purpose for the Licensee's entry into the Park;

**"Principal"** means Parks Victoria and the Minister and includes their officers, employees and agents and their successors and assigns;

**"Tax Invoice"** in relation to a Taxable Supply means an invoice for the Taxable Supply required by the GST Act to support a claim by the recipient for an Input Tax Credit for the GST on the Taxable Supply;

**"Taxable Supply"** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

1.2 In this licence, unless the contrary intention appears:

When this licence requires anything not to be done, this includes not allowing or permitting such thing to be done;

If this licence prohibits the Licensee from doing a thing, the Licensee must:

- (a) ensure the Licensee's Members and Agents do not do that thing;
- (b) not allow or cause any person to do that thing,

If this licence requires the Licensee to do a thing, the Licensee must ensure that, if applicable, the Licensee's Members and Agents do that thing.

A word or expression in the singular includes the plural and the plural includes the singular;

A person includes an individual and a corporation;

A heading may be used to assist in interpretation, and accordingly has only been inserted for convenience. Headings shall not constitute part of this licence, or be considered legally binding;

### **Acknowledgement**

1.3 The Licensee acknowledges that the Manager has been appointed to manage the Park, and that any right, power or authority vested in the Minister shall be treated by the Licensee as a right, power or authority of the Manager, and any lawful direction by the Manager must be complied with or otherwise treated as a direction of the Minister.

### **Individual and Joint Liability**

1.4 If the Licensee or Guarantor includes two or more persons, each such person is liable for the obligations imposed by this licence individually with each other such Licensee or Guarantor.

### **Victorian Law Applies**

1.5 This licence is governed by the laws of the State of Victoria.

### **Remedies Cumulative**

1.6 The rights, obligations, powers and remedies provided in this licence are not exclusive of the rights, duties, powers or remedies provided by law independently of this licence but, unless otherwise provided by law, the provisions of this licence shall prevail in the event of conflict.

## **2. LICENCE AND LICENCE FEE**

- 2.1 The Minister grants and the Licensee takes a licence for the Licence Period to enter the Park and use the Licence Area for the Permitted Purpose on the terms and conditions of this licence in consideration of payment to the Minister by the Licensee of the Licence Fee.
- 2.2 This licence is personal to the Licensee and may not be assigned without the consent of the Minister.
- 2.3 No refund shall be given whether in whole or in part once the Licence Fee has been paid.
- 2.4 The rights granted by this licence are a mere licence to enter and make use of the Licence Area for the Permitted Purpose. No proprietary interest or right to exclusive possession is created.

## **3 GOODS AND SERVICES TAX**

- 3.1 The consideration payable by any party under this licence is the GST exclusive amount of the Taxable Supply for which payment is to be made.
- 3.2 Subject to clause 0, if a party makes a Taxable Supply in connection with this licence for a consideration, then the party liable to pay for the Taxable Supply must also pay, at the same time and in the same manner as the consideration is otherwise payable, the amount of any GST payable in respect of the Taxable Supply.
- 3.3 Where this licence requires a party ("first party") to pay, reimburse or contribute to an amount paid or payable by the other party ("other party") in respect of an acquisition from, or a transaction with a third party for which the other party is entitled to claim an Input Tax Credit, the amount for payment, reimbursement or contribution will be the GST exclusive value of the acquisition by the other party plus any GST payable in respect of the other party's recovery from the first party.
- 3.4 A party's right to payment under clause 0 is subject to a Tax Invoice being delivered to the party liable to pay for the Taxable Supply.

## **4 LICENSEE'S RIGHTS AND OBLIGATIONS**

- 4.1 In consideration of the payment of the Licence Fee and not before payment of the Bond, the Licensee may, for the Licence Period:
- (1) occupy (subject to the rights of the Minister and the Manager in this licence) the Licence Area for the Permitted Purpose;
  - (2) use in common with the Minister and other persons from time to time permitted by the Minister, those parts of the Park reasonably required by the Licensee for access to the Licence Area.
- 4.2 The Licensee must not use the Licence Area or the Park for any purpose other than the Permitted Purpose without the prior written consent of the Minister.
- 4.3 The Licensee may not bring on to the Licence Area and the Park during the Licence Period any equipment which is necessary for the Permitted Purpose unless the location of any such things at the Licence Area or the Park are in accordance with a plan approved by the Minister. Such plan describing the nature and size of such things and their proposed location at the Licence Area or the Park must be submitted to the Minister at least 30 days prior to the Licence Period. After receiving the plan the Minister will notify the Licensee of its approval or disapproval within 10 days. The Licensee must not implement any parts of the plan which have not been approved by the Minister.

- 4.4 The Licensee shall have access to the Park at all times nominated in the Particulars throughout the Licence Period unless otherwise expressly provided in this licence.
- 4.5 The Licensee must obtain at its expense all necessary permits, licences, approvals, consents and authorities required for the Permitted Purpose including any necessary planning permit, and must comply with any lawful conditions of such permits, licences, approvals, consents, and authorities and the law.
- 4.6 The Licensee must also comply with any management plan, rules, or regulations made known to the Licensee by the Minister or the Manager which may from time to time be made by the Minister or the Manager.
- 4.7 The Licensee must carry out all activities under this licence with as much care for the Park and as little inconvenience to any person as possible.
- 4.8 The Licensee must not make any structural or other alterations to any fixtures, improvements or fittings of the Minister or the Manager at or on the Park without the consent in writing of the Minister and must remove all equipment, furnishings, facilities and other things fitted or installed by the Licensee prior to the end of the Licence Period, and make good all damage caused by such removal to the satisfaction of the Minister.
- 4.9 The Licensee must erect, operate and dismantle any equipment required for the Permitted Purpose at the Park in a competent manner without negligence, and without causing any nuisance.
- 4.10 The Licensee must keep the Licence Area and immediate surrounding parts of the Park tidy and free from rubbish and in good and substantial repair and condition as at the commencement of the Licence Period, fair wear and tear excepted.
- 4.11 The Licensee must permit the Minister, the Manager or any person authorised by the Minister to enter the Licence Area and immediate surrounding parts of the Park at any time for the purpose of checking whether the Licensee's obligations are being performed and to check the condition of the Park.
- 4.12 The Licensee must promptly repair any damage to the Licence Area or any other part of the Park to the extent caused or contributed to by the act, omission or default of the Licensee or the Licensee's Members and Agents.
- 4.13 The Licensee must carry out repairs within 14 days of being served with a written notice of any defect or lack of repair which the Licensee is obliged to make good under this licence. If the Licensee does not comply with the notice, the Minister may carry out the repairs and the Licensee must repay the cost of such repairs to the Minister on demand.
- 4.14 The Licensee must observe any directions of the Minister relating to the use of any specific part of the Park including safety requirements.
- 4.15 The Licensee must, at the end of the Licence Period, vacate the Licence Area and the Park and ensure that the Licence Area and Park is in the same condition as at the commencement of the Licence Period, except for fair wear and tear.
- 4.16 The Licensee must not, except in quantities necessary for the Permitted Purpose, bring on to the Park any flammable, volatile or explosive oil or dangerous substance without the consent of Minister.

#### **Licence Fee and Bond**

- 4.17 The Licensee must pay to the Minister no later than 30 days prior to the commencement of the Licence Period the Licence Fee and the Bond unless otherwise agreed in writing.



## Licensee's Behaviour

- 4.18 The Licensee must not:
- (1) do anything that is or may be dangerous, annoying or offensive or that may interfere with other persons;
  - (2) do anything which might affect any insurance policy relating to the Park by causing it to become void or voidable or having any claim on it being rejected, or by causing any premium payable by Minister or the Manager to be increased;
  - (3) except in an emergency, interfere with any of the services or fixtures or fittings of the Minister, the Manager or any person other than the Licensee at or in the Park;
  - (4) remove any of the Minister's or the Manager's property from the Park; or
  - (5) park any vehicle on any oval or grassed area at any time unless with Minister's consent. Vehicles are to remain on roadways or in designated parking areas at all times.
- 4.19 Any activity in breach of the requirements of this licence by the Licensee or the Licensee's Members and Agents will amount to a breach of this licence.
- 4.20 The Licensee must observe all additional obligations so specified in the Particulars.

## Payment of Fees and Interest on Overdue Monies

- 4.21 The Licensee must pay all legal costs and other expenses reasonably incurred by the Minister and/or the Manager as a result of any default by the Licensee in the performance of the Licensee's obligations.
- 4.22 The Licensee must pay interest on any overdue monies payable to the Minister, if demanded by the Minister, at a daily rate equivalent to 2% higher than the rate for the time being fixed under Section 2 of the *Penalty Interest Rates Act 1983* from the time when such monies first become payable until paid in full.

## Obligations after the Licence Period

- 4.23 In addition to any of its obligations under clause 0 the Licensee must prior to the end of the Licence Period:
- (1) leave the Park and the Licence Area in a clean and tidy condition to the reasonable satisfaction of the Minister;
  - (2) repair any damage to the Park or the Licence Area to the extent caused or contributed to by the act, omission or default of the Licensee or the Licensee's Members and Agents.

## 5 THE MINISTER'S RIGHTS AND OBLIGATIONS

- 5.1 The Minister may apply such part of the Bond in performance of any of the Licensee's obligations not properly performed, as provided in this Licence. If the Licensee decides not to proceed with the Permitted Purpose prior to the commencement of the Licence Period, the Bond is, in most cases, refundable but the Minister has the absolute discretion to allow or refuse to refund the whole or any part of the Bond in these circumstances.

- 5.2 The Minister is entitled to prohibit the Licensee from selling, hiring, offering or displaying in the Park any goods, services or other items which, in the Minister's absolute discretion, the Minister considers inappropriate or unsuitable for sale, hire, offer or display at the Park.
- 5.3 The Minister may at any time during the Licence Period do any works or things at or on any part of the Park it is required to do:
- (1) by law;
  - (2) to ensure the Licensee's obligations are performed or carried out, after due notice to the Licensee as provided in this licence;
  - (3) to protect the Park from damage or destruction; or
  - (4) because of an emergency.

In any such event the Minister shall ensure, so far as possible, that no such work or things shall impede or obstruct the Permitted Purpose or the performance of the Licensee's obligations. The Minister shall be entitled to recover the cost of its performance of any of the Licensee's obligations from the Licensee whether or not it applies any part of the Bond.

- 5.4 The Minister may at any time during the Licence Period inspect the Licence Area to ascertain the current state of repair or condition of any part of the Licence Area and to ascertain whether or not the Licensee's obligations are being performed.
- 5.5 Within 24 hours after the expiration of the Licence Period, or the commencement of the first working day after the expiration of the Licence Period, the Minister or the Manager shall inspect the Park and the Licence Area if possible with the Licensee with a view to ascertaining what if any part of the Bond needs to be embargoed for repairs, clean-up or other works to ensure compliance with the Licensee's obligations. The Minister shall make an estimate of the cost of any such repairs or clean-up or otherwise performing the Licensee's outstanding obligations and shall refund such part of the Bond that is not required to ensure the Licensee's obligations are fulfilled. In making any such estimate the Minister shall be entitled to include an amount equivalent to 10% in addition to the estimated costs of complying with the outstanding Licensee's obligations for administration. It is the intention of both the Minister and the Licensee that all remedial works and payments, including the refund of any part of the Bond which should be refunded, should be undertaken and resolved within 30 days of the expiration of the Licence Period.

## 6 INSURANCE

- 6.1 The Licensee must effect and maintain throughout the Licence Period with an insurer approved by the Minister, which approval shall not be unreasonably withheld provided the insurer is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia
- (1) a public, and if relevant, products liability insurance policy for not less than \$10 million (or any greater amount required by the Minister or the Manager) in respect of any single claim arising out of the activities of the Licensee, covering all third party claims arising out of:
    - 6.1.1.1 loss, including financial loss, destruction or damage to real or personal property and ensuing loss of use of that property; and
    - 6.1.1.2 death, injury to, or disease of persons.
- ("Policy")

- (2) an employers' liability and workers' compensation policy which covers any damage, loss or liability suffered or incurred by any person engaged by the Licensee arising:
- 6.1.2.1 by virtue of any statute relating to workers' or accident compensation or employers' liability; or
  - 6.1.2.2 at common law.
- 6.2 The Licensee must effect and maintain the Policy noting the interests of the Principal.
- 6.3 The Licensee must provide the Minister with:
- (1) a certificate of currency for the Policy which clearly confirms the requirements of clause 0:
    - 6.3.1.1 prior to the commencement of the Licence Period;
    - 6.3.1.2 within 14 days of the renewal of the Policy throughout the Licence Period; and
    - 6.3.1.3 at any other time upon request by the Minister;
  - (2) evidence of confirmation of registration with the Victorian WorkCover Authority prior to the commencement of the Licence Period and at any other time upon request by the Minister; and
  - (3) a copy of the Policy upon request by the Minister.
- 6.4 The Licensee must promptly notify the Principal if:
- (1) an event occurs at the Licence Area which may give rise to a claim under or prejudice the Policy; or
  - (2) the Policy is cancelled.
- 6.5 The Licensee must not do anything or allow anything to be done which may:
- (1) prejudice any insurance held in connection with the Park; or
  - (2) increase the premium payable for any insurance held in connection with the Park.
- 6.6 The Licensee must effect and maintain all other insurances in a manner and to such extent which is reasonable and customary for an organisation engaging in activities of the kind referred to and permitted by this licence.

## **7 RELEASE AND INDEMNITY**

### **Release**

- 7.1 The Licensee agrees that it:
- (1) has not relied upon any representation by or on behalf of the Minister concerning the Licence Area or its use;
  - (2) is aware of all laws and legal requirements in relation to the Licence Area and the Permitted Purpose;
  - (3) occupies and uses the Licence Area and the Park at its own risk; and

- (4) has inspected the Licence Area and the Park and is of the opinion that the Licence Area and the Park are safe and suitable for the activities of the Licensee.

7.2 The Licensee releases the Minister and the Manager and their respective officers, employees and agents from:

- (1) all claims and demands resulting from any accident, damage, death or injury occurring at the Park or any other area used by the Licensee or the Licensee's Members and Agents in connection with this licence; and
- (2) all loss, cost, damage, liability or other detriment (whether direct or consequential) suffered or incurred by the Licensee or the Licensee's Members and Agents;

as a direct or indirect result of the Licensee's or the Licensee's Members and Agents occupation and use of the Licence Area or the Park, except to the extent caused or contributed to by the negligence of the Minister or the Manager or their respective officers, employees or agents.

### **Indemnity**

7.3 The Licensee indemnifies and agrees to keep indemnified the Minister and the Manager and their respective officers, employees and agents against all actions, claims, demands, losses, damages, costs and expenses (whether direct or consequential) suffered or incurred by the Minister or the Manager or their respective officers, employees and agents or for which the Minister or the Manager or their respective officers, employees and agents is or may be or become liable concerning:

- (1) the default of the Licensee or the Licensee's Members and Agents under this Licence;
- (2) the Licensee's or the Licensee's Members and Agents use of the Park or any other area used by the Licensee or the Licensee's Members and Agents in connection with this licence; or
- (3) loss, damage or injury to property or persons caused or contributed by the act, omission, default or negligence of the Licensee or the Licensee's Members and Agents,

7.4 except to the extent caused or contributed to by the negligence of the Minister or the Manager or their respective officers, employees or agents.

## **8 FORCE MAJEURE**

8.1 Subject to clause 0, neither party shall be liable to the other party for any failure or delay in the performance of any obligations under this licence if:

- (1) the breach was due to a Force Majeure Event; and
- (2) it could not reasonably have avoided or overcome the Force Majeure Event or its effects.
- (3) Notwithstanding this clause, in the event that the Licensee decides not to proceed with the Permitted Purpose (including due to unsuitable weather) no refund of any fee paid shall be payable by the Minister to the Licensee.

8.2 For the purposes of this licence "Force Majeure Event" means any impediment beyond the reasonable control of the party including (but not limited to) act of God, strike, lockout or other industrial disturbance, illness or injury of any major performer, flood, fire, storm, civil disturbance, order of any public authority, court or tribunal issued after the date hereof, or any federal, state or local government law or regulation.

## 9 BREACH OF LICENSEE'S OBLIGATIONS

- 9.1 The Licensee breaches this licence if the Licensee fails to fulfil any of the Licensee's obligations as and when required, or if no time is prescribed, within a prompt and reasonable time.
- 9.2 In the event of any breach of the Licensee's obligations, except in an emergency, The Minister must give the Licensee notice requiring the Licensee to remedy the breach within a reasonable time. If the Licensee fails to remedy or rectify the breach, The Minister may do any one or more of the following:
- (1) exclude the Licensee from the Park;
  - (2) end this licence;
  - (3) recover from the Licensee or the Guarantor any loss the Minister or The Manager suffers due to the Licensee's breach; or
  - (4) exercise any of the Minister's or Parks Victoria's other legal rights.

## 10 TERMINATION OF LICENCE

- 10.1 The Minister may terminate this licence by notice to the Licensee at any time and for any reason and without payment of compensation.

## 11 OCCUPATIONAL HEALTH AND SAFETY AND EMERGENCY EVACUATION

- 11.1 The Licensee acknowledges that occupational health and safety in relation to the Licence Area is the responsibility of the Licensee (other than to the extent the Minister cannot at law contract out of its obligations with respect to occupational health and safety).
- 11.2 The Licensee must, in relation to the Licence Area:
- 11.2.1 comply with, all Occupational Health and Safety Laws and any applicable Australian Standards;
  - 11.2.2 ensure that there is no risk to the environment or the health, safety and welfare of the Licensee and the Licensee's Members and Agents;
  - 11.2.3 without limiting clauses 11.2.1 and 11.2.2, ensure that no person is exposed to a risk to his or her safety or health arising out of or in connection with the carrying out of the Permitted Purpose;
  - 11.2.4 ensure that a complete copy of the occupational health and safety plan referred to in clause 11.3 is available for inspection by every person to whom such plan is relevant; and
  - 11.2.5 as soon as practicable notify the Minister of any incident or dangerous occurrence at the Licence Area which is notifiable to the Victorian WorkCover Authority pursuant to the provisions of any Occupational Health and Safety Laws, including without limitation, the *Occupational Health and Safety Act 2004 (Vic)* and the *Occupational Health and Safety (Incident Notification) Regulations 1997 (Vic)*.
- 11.3 Within one month after the commencement of the Licence Period, the Licensee must:
- 11.3.1 develop and implement an occupational health and safety plan and supply same to the Minister upon request;

- 11.3.2 in conjunction with the Minister, develop and implement an emergency evacuation and management plan for the operation of the Permitted Purpose.
- 11.4 The Licensee must ensure that at all times its occupational health and safety plan:
- 11.4.1 complies with Australian Standard AS/NZ 4804-2001 (or other similar substitute standard);
- 11.4.2 includes the Licensee's occupational health and safety policy;
- 11.4.3 identifies the obligations of the Licensee under the Occupational Health and Safety Laws;
- 11.4.4 describes the practices that will be employed to secure the health, safety and welfare of persons at work; and
- 11.4.5 identifies measures to eliminate risks to the health, safety and welfare of persons at work.
- 11.5 The Licensee acknowledges that referral of, and any subsequent approval by, the Minister or the Manager of the plans referred to in clause 11.3 does not amount to a warranty by the Minister or the Manager of the suitability of the content of the plans and does not create any liability on behalf of the Minister or the Manager or their respective officers, employees and agents for loss or damage incurred as a result of complying with those plans.
- 11.6 The Licensee acknowledges that it is bound to comply with the Manager's emergency plans for the Licence Area and the Park and that the Licensee's emergency evacuation and management plan and occupational health and safety plan cannot conflict with the Manager's plan. The Licensee is required to comply with all directions of the Manager in an emergency, even if such direction contradicts the Licensee's emergency evacuation and management plan.
- 11.7 To the extent permitted by the law, the Licensee indemnifies and agrees to keep indemnified the Minister and the Manager and their respective officers, employees and agents against all actions, claims, demands, losses, damages, costs and expenses which the Minister or the Manager or their respective officers, employees and agents may suffer or incur, arising out of or in connection with a breach by the Licensee or the Licensee's Members and Agents of any of the obligations under this clause 11.

## 12 GUARANTOR

The Guarantor is required to execute this licence before it is effective.

### **Liability of the Guarantor:**

- 12.1 The Guarantor agrees that the Guarantor is liable to the Minister and the Manager if the Licensee or any person to whom the Licensee assigns this licence is in breach of this licence. The Guarantor agrees to pay the Minister or the Manager any money for the Minister's or the Manager's loss due to the breach.
- 12.2 The Guarantor is liable:
- (1) even if the Minister or the Manager does not sue the Licensee or does not enforce all of its rights or the rights of the Minister against the Licensee;
  - (2) even if the licence is varied;
  - (3) even after the licence ends;
- for any breach that occurred before the licence ended or arose as a result of the licence ending.

### **13 Native Title Act 1993 (Cth)**

- 13.1 If the Licensee proposes to carry out an act which is a “future act” within the meaning of the Native Title Act 1993 (Cth) (“NTA”) then the Licensee must immediately notify the Minister and shall not carry out any such action until those persons as are required to be notified under the NTA of the intention to carry out the future act have been notified and any response considered.
- 13.2 If the Licensee fails to comply with clause 0, the Minister shall not in any way be deemed to have authorised such failure to comply and the Licensee shall indemnify the Minister against any claim made against or compensation sought from the Minister as a result of the Licensee’s failure to comply.
- 13.3 In the event that those persons as are required to be notified under the NTA of the intention to carry out the future act have been notified or a native title claim is made in relation to the Park or the Licence Area or any part thereof the Minister shall not be liable for the consequences of the notification or subsequent processes nor to pay the Licensee any compensation if the Licensee’s use of the Licence Area or any other right or interest of the Licensee under this licence is affected or prejudiced as a result of that notification or claim.

### **14 Aboriginal And Torres Strait Islander Heritage Protection Act 1984 (Cth)**

- 14.1 The Licensee must comply with any declaration, and any conditions made in or pursuant to such declaration, under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth) (“ATSIHPA”) in relation to the Park or the Licence Area or any part thereof.
- 14.2 In the event that a declaration is made under the ATSIHPA, the Minister shall not be liable to pay the Licensee any compensation if the Licensee’s use of the Licence Area or any other right or interest of the Licensee under this licence is affected or prejudiced as a result of that declaration.
- 14.3 If the Licensee proposes to carry out any act which requires the consent of the local Aboriginal community, within the meaning of the ATSIHPA, or the Minister, under section 21U of the ATSIHPA, the Licensee must, prior to carrying out such act, contact the Minister who must use its reasonable endeavours to obtain the necessary consent or licence pursuant to section 21U of the ATSIHPA. The Licensee must not carry out any such act until the necessary consent or permit has been obtained.
- 14.4 If the Licensee fails to comply with any requirement under the ATSIHPA in relation to the Licence Area or the Park, the Minister shall not in any way be deemed to have authorised such failure to comply and the Licensee shall indemnify the Minister against any action taken or claim made against the Minister as a result of the Licensee’s failure to comply.

### **15 Archaeological And Aboriginal Relics Preservation Act 1972**

- 15.1 If the Park or the Licence Area or any part thereof is an archaeological area within the meaning of the Archaeological and Aboriginal Relics Preservation Act 1972 (“AARPA”), the Licensee must not enter that archaeological area until the Minister has obtained the necessary permit pursuant to section 17 of the AARPA and provided a copy of the permit to the Licensee.
- 15.2 If the Licensee proposes to carry out any act which requires the consent of the Minister under section 21 of the AARPA, the Licensee must, prior to carrying out such act, contact the Minister who must make representations to the Minister with the objective of obtaining the necessary consent pursuant to section 21 of the AARPA. The Licensee must not carry out any such act until the necessary consent has been obtained.
- 15.3 If the Licensee discovers a “relic” within the meaning of the AARPA, the Licensee must report the discovery to the Minister and to such persons as are required under section 23 of the AARPA immediately.

## **16 Environment Protection And Biodiversity Conservation Act 1999 (Cth)**

- 16.1 If the Licensee proposes to take an action, which is an “action” within the meaning of Part 3 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (“EPBCA”), then the Licensee must immediately notify the Minister in writing and must not carry out any such action until any necessary approvals are obtained by the Licensee under Part 9 of the EPBCA, at the Licensee’s expense.
- 16.2 The Licensee must comply with any requirements under the EPBCA in respect of the Licensee’s use of the Licence Area at the Licensee’s expense.
- 16.3 If the Licensee fails to comply with clauses 0 and 0, the Minister shall not in any way be deemed to have authorised or assisted such failure to comply regardless of any action taken by the Minister and the Licensee shall indemnify the Minister against any claim made against or compensation sought from the Minister as a result of the Licensee’s failure to comply.
- 16.4 In the event that the Licensee is unable to obtain approval for a proposed action within the meaning of the EPBCA or is in breach of the EPBCA, the Minister shall not be liable to pay the Licensee any compensation if the Licensee’s use of the Licence Area or any other right or interest of the Licensee under this licence is affected or prejudiced as a consequence.

## **17 MISCELLANEOUS PROVISIONS**

### **Notices**

- 17.1 A notice required under this licence must be in writing.
- 17.2 The Minister may serve a notice on the Licensee by:
- (1) giving it to the Licensee personally; or
  - (2) leaving it at or posting it to, or faxing it to the Licensee’s registered office, the address set out in the Particulars or the Licensee’s business address as last known to the Manager.
- 17.3 The Licensee may serve a notice on the Minister or the Manager by leaving it at, or posting it to, or faxing it to:
- (1) the facsimile or address of the Minister or the Manager respectively as set out in the Particulars; or
  - (2) any other address that the Manager nominates.
- 17.4 The Minister may serve a notice on the Guarantor by:
- giving it to the Guarantor personally; or
- leaving it at, or posting it to, or faxing it to the Guarantor's facsimile or address as set out in the Particulars or the address of the Guarantor's last known to the Manager

### **Waiver or Variation**

- 17.5 A provision of or a right created under this licence may not be:
- (1) waived except in writing signed by the party granting the waiver; or
  - (2) varied except in writing signed by the parties.



**Enforcement of Indemnity**

- 17.6 It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this licence.
- 17.7 Each party agree to comply with any additional obligations imposed on it as described in the Particulars.

**Standard Conditions**

- 17.8 The Licensee and the Minister agree that if there is any inconsistency between these standard conditions and the additional conditions, the additional conditions shall apply.

BY SIGNING THIS LICENCE THE LICENSEE ACKNOWLEDGES THAT THE ATTACHED STANDARD CONDITIONS AND ADDITIONAL CONDITIONS WILL APPLY. IF THERE IS AN INCONSISTENCY BETWEEN THE STANDARD CONDITIONS AND THE ADDITIONAL CONDITIONS, THEN THE ADDITIONAL CONDITIONS PREVAIL.

EXECUTED as an agreement.

**SIGNED** , **SEALED AND DELIVERED**)  
under delegation from the **MINISTER** )  
**FOR ENVIRONMENT AND CLIMATE** )  
**CHANGE** by the authorised officer of )  
**PARKS VICTORIA** in the presence of: )

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Mark Stone

\_\_\_\_\_  
Name of authorised officer

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Position of authorised officer

**SIGNED** for and on behalf of **PARKS** )  
**VICTORIA** by its authorised officer in the )  
presence of: )

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Mark Stone

\_\_\_\_\_  
Name of authorised officer

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Position of authorised officer

**LICENSEES:**

**SIGNED** for and on behalf of **THE HANG** )  
**GLIDING FEDERATION OF AUSTRALIA** )  
**INC** (Incorporation No. Y0199420) by its )  
authorised officer in accordance with Section )  
29(1) the *Associations Incorporation Act* )  
(NSW) 1984 in the presence of: )

.....  
Witness

.....  
Name: Chris Fogg  
of 6 Sheridan Crescent  
Stanwell Park NSW 2058

.....  
Date

.....  
Position: Public Officer

**LICENSEES:**

**SIGNED** for and on behalf of the )  
**VICTORIAN HANG GLIDING AND** )  
**PARAGLIDING ASSOCIATION** )  
(Registration No. A0018791T) by its public )  
officer in accordance with Section 19(6) the )  
*Associations Incorporation Act (Vic) 1981* in )  
the presence of: )

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.....  
Witness

Rob Van Der Klooster  
of 44 Tanner Street,  
Breakwater VIC 3219

.....  
Dated

Position: Public Officer