

MANAGEMENT AGREEMENT

(DOC insures – low risk Activity on public conservation lands or waters)



AGREEMENT NAME: [DELETE TEXT - enter the name in the Central Registry used to describe the agreement]

BETWEEN [insert name of the Manager]
“the Manager”

(Club, Community Group, Company, Hapu, Incorporated Society, Individual, Iwi, or Trust)

Note–If the Manager is a community group or club then this group or club must be registered as a Trust or Incorporated Society on the societies.govt.nz website. If the Manager is a company then this company must be registered as such on the companies.govt.nz website. If the Manager is an individual then the management agreement must be in the name of the individual.

AND: Director-General of Conservation
“the Director-General”

DATE: [insert date]

docDM Reference–[insert docDM]

Registry reference no.: [insert the sequential reference number from the registry]

PREAMBLE

The Department of Conservation Te Papa Atawhai (the Department) is responsible for managing and promoting conservation of the natural and historic heritage of New Zealand on behalf of, and for the benefit of, present and future New Zealanders.

The Department’s operating model aims to achieve greater conservation outcomes through the efforts of others. This will see us placing greater emphasis on collaboration and relationship-building with existing and new ‘partners’, making it easier for others to get involved and work with us, for us to share expertise to enable them to gain the skills and knowledge they need to undertake conservation work, and to identify new and innovative opportunities to enable more New Zealanders to connect with, experience and learn about nature and heritage, and to participate in and contribute to conservation in various ways.

Under section 53(2)(i) of the Conservation Act 1987 the Director-General has the power to enter into agreements necessary for exercising such powers as to enable the Department to perform its functions. The intention of the parties is that the Manager will carry out the Management Activity subject to the terms and conditions of Schedule 1 and 2 of this Agreement.

The Department will be working with iwi as its primary partner, and recognises that it has a particular responsibility under section 4 of the Conservation Act to so interpret and administer the Act so as to give effect to the principles of the Treaty of Waitangi to the extent required under the Conservation Legislation applying to the Management Activity. This will also apply to Acts listed in Schedule 3, such as the Reserves Act 1977, National Parks Act 1980, and Wildlife Act 1953. This involves the building and supporting of effective conservation partnerships with tangata whenua at the local, regional and national level.

<i>Manager’s initials</i>		<i>Director-General’s initials</i>	
---------------------------	--	------------------------------------	--

Schedule 1

Section A Background

[DELETE TEXT - this section should provide brief information on the Manager and their expertise in carrying out the Management Activity. Include reference to any previous, or other existing agreements between the individual/group/company and DOC]

Section B The Site:

[DELETE TEXT - provide a brief description of the land or waters where the activity is taking place. Include location and grid reference. Maps can be added as an appendix but clearly refer to and explain them here in Section B]

Section C Management Activity (Clause 1)

[DELETE TEXT - describe the scope of the work and nature of the activity. Also include an major issues/topics which are outside the scope of the project – DELETE TEXT]

The Department's contribution

[DELETE TEXT - provide a short summary of DOC's contribution to the project]

Manager's contribution

[DELETE TEXT - provide a short summary of Managers contribution to the project]

Section D Term: (Clause 3)

[DELETE TEXT - insert number of years and months – note there is a maximum of 5 years for low risk DOC insures activities] Years and []months

Commencing on: [Insert start date - DELETE TEXT]

Expires on: [Insert expiry date - DELETE TEXT]

Right of renewal: [Yes/No - DELETE TEXT]

Renewal expires on: [Insert final expiry date - DELETE TEXT]

Section E DOC standard operating procedures/Departmental guidelines and standards: (Clause 5.6)

When undertaking the Management Activity on the Site the Manager must follow the

<i>Manager's initials</i>		<i>Director- General's initials</i>	
---------------------------	--	---	--

Management Agreement – DOC insures low risk activity

Department's standard operating procedures (SOPs) and Departmental guidelines and standards. The Department is to provide and discuss with the Manager the relevant sections. The following SOP's, guidelines and standards are relevant:

[List relevant SOP's, guidelines or standards. If none enter Not Applicable. Contact person should provide relevant sections of SOPs and/or guidelines/standards & discuss (append sections and refer to appendix).Or provide seperately in sections or whole]

**Section F
Health and Safety:
(Clause 5.1-5.5)**

The Health and Safety in Employment Act 1992 requires all practicable steps to be taken to ensure the safety of volunteers, and to provide and maintain a safe working environment for volunteers, while carrying out the Management Activity on the Site. The Manager must operate under the Health and Safety Plan referred to in Clause 5.3 Schedule 2 which is to describe the risks associated with the Management Activity, the level of risk and how the risks will be managed.

[DELETE TEXT - save the H&S in docDM and add the number to the central registry of agreement]

**Section G
Reporting Intervals and Meetings:**

The Manager must provide reports including details of any income received or payments made, works undertaken and future proposals in relation to the carrying out of the Management Activity. The parties must meet at least annually to discuss any such reports and to discuss the future conduct of the Management Activity.

[DELETE TEXT - note: an annual written progress report and a completion report at the end of the project activity, is suggested as a minimum]

**Section H
Special conditions (if any)**

[DELETE TEXT – add any special conditions relating to this work/activity. If any special conditions are inserted you must log an Assyst Request for a legal review of the special conditions]

**Section I
The Department will appoint a 'key contact' / 'agreement supervisor'
(Clause 2.3)**

The Director-General will appoint a 'key contact' / 'agreement supervisor' who for the purpose of this Agreement will be the person the Manager communicates or otherwise deals with on all matters relating to this Agreement, including matters identified in the Schedule 2 terms and conditions requiring approvals or consents from the Director-General.

[DELETE TEXT - add in DOC staff member: name, position, office, phone number, postal address and email]

<i>Manager's initials</i>		<i>Director-General's initials</i>	
---------------------------	--	------------------------------------	--

The Manager will appoint a 'key contact' / 'agreement supervisor'

[DELETE TEXT - add in name, position, office, phone number, postal address and email]

If any of the party's details specified in this section change the party whose details change must, within five working days of the change, provide the other party with the changed details.

MANAGER

SIGNED by [insert name - DELETE TEXT] :

.....
Address: [insert address - DELETE TEXT]
Phone number/email: [insert phone number/email address - DELETE TEXT]

*If an individual person (i.e., not part of a formal group) then just sign in presence of witness.

*If representative of Incorporated Society, then signatory should be duly authorised person; possible to have two signatories, sign in presence of witness.

*If organisation is a Company, then signatory should be a Director; if there are two or more Directors than two Directors should sign, in presence of witness. Single Director clause may only be used if you have checked the Company records at the Company's office and have confirmed that the Company has only one Director.

Witness signature

in the presence of:

.....
Witness name [insert name - DELETE TEXT]
Witness occupation [insert occupation - DELETE TEXT]
Witness address [insert address - DELETE TEXT]

DEPARTMENT OF CONSERVATION

SIGNED on behalf of the Director-General of Conservation by:

.....
Title: [insert title - Tier 4 Manager or above - DELETE TEXT]
Phone number/email: [insert phone number/email address - DELETE TEXT]

Witness signature

Acting under delegated authority in the presence of:

.....
Witness name [insert name - DELETE TEXT]
Witness occupation [insert occupation - DELETE TEXT]
Witness address [insert address - DELETE TEXT]

Note:

- A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-32 Manners Street, Wellington 6011.
- Please initial each page of Schedule 1

<i>Manager's initials</i>	<i>Director-General's initials</i>
---------------------------	------------------------------------

- The clause references in Schedule 1 are to the Director-General's Standard Terms and Conditions of Management Agreement in Schedule 2 of this Agreement

<i>Manager's initials</i>		<i>Director-General's initials</i>	
---------------------------	--	------------------------------------	--

Management Agreement – DOC insures low risk activity

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF MANAGEMENT AGREEMENT (DOC INSURES – LOW RISK ACTIVITY)

1. Management Activity

- 1.1 The Manager is authorised to carry out, on the Site, the Management Activity described in Section C Schedule 1 and, in doing so, must comply with the terms and conditions in this Agreement and must exercise reasonable skill, care and diligence.
- 1.2 The Management Activity is that described in Section C Schedule 1. Any activities which, in the opinion of the Director-General, go beyond the nature and scope of the Management Activity are to require a further or different form of agreement between the parties.
- 1.3 This document incorporates the entire agreement between the parties in relation to its subject-matter, and all the terms of the agreement and supersedes and excludes any prior negotiation, understanding, communication or agreement by or between the parties in relation to the subject-matter or any term of the agreement.

2 Communication

- 2.1 The Manager may only commence the Management Activity once both parties have executed a copy of the Agreement. The Agreement is considered to be executed where:
- a) each party signs the same copy of the Agreement; or
 - b) each party signs a duplicate copy of the Agreement and sends it (which may include a printed or PDF copy), either by facsimile, email or post, to the other party.
- 2.2 The Agreement, executed in accordance with either condition 2.1(a) or 2.1(b), is deemed proof of signature of the original.
- 2.3 Where this Agreement provides for approvals, directions, reports, consents, notices and information to be given by one party to the other, they must be provided in writing and sent to the key contact person identified in Section I Schedule 1 and is considered received by that contact person:
- a) in the case of email, on the date receipt of the email (to the address specified in Section I Schedule 1) is acknowledged by the addressee by return email or otherwise in writing;
 - b) in the case of personal delivery, on the date of delivery;
 - c) in the case of fax, on the date of dispatch;
 - d) in the case of post, on the 3rd working day after posting;

<i>Manager's initials</i>		<i>Director-General's initials</i>	
---------------------------	--	------------------------------------	--

2.4 Except as provided by legislation, this Agreement and any written variation agreed by the parties contains the entire understanding between the parties.

3 Right of Renewal

3.1 If there is a right of renewal provided for in Section D of Schedule 1 the Director-General may renew the Term for a further period by giving the Manager at least three month's written notice before the end of the Term, providing that the Manager is not in breach of this Agreement. The Manager is to advise the Director-General within 2 months of receiving such Notice in writing (delivered or sent by mail, fax or e-mail) that it wishes to renew this Agreement.

3.2 The renewal is to be on the same terms and conditions as in this Agreement except that the Term of this Agreement, plus all further renewal terms is to expire on or before the Final Expiry Date identified in Section D Schedule 1-

4 Disposal of Interest

4.1 The Manager must not transfer, sub licence, assign or otherwise dispose of the Manager's interest under this Agreement without the prior written consent of the Director-General.

4.2 The Director-General may decline any application for consent under clause 5.

5 Health and Safety Provisions and Legislative Requirements

5.1 The Health and Safety in Employment Act 1992 require all practicable steps to be taken to ensure the safety of volunteers, and to provide and maintain a safe working environment for volunteers, while carrying out the Management Activity on the Site.

5.2 The Manager must exercise the rights granted by this Agreement in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 its regulations, any new Act in substitution for it, and all other provisions or requirements of any competent authority relating to the exercise of this Agreement.

5.3 The Director-General must prepare and provide to the Manager a Health and Safety Plan for the Management Activity, which meets the Department's requirements covering the Management Activity being undertaken on the Site by the Manager. In carrying out the Management Activity the Manager must comply with the Health and Safety Plan and any safety directions of the Director-General.

5.4 If, in the opinion of the Director-General or on notification by the Manager to the Director-General of a safety accident or risk on the Site, the Health and Safety Plan must be reviewed by the Director-General and, where appropriate, amended or replaced. The Manager must comply with any amendment(s) to, or replacement of, the Health and Safety Plan.

<i>Manager's initials</i>		<i>Director-General's initials</i>	
---------------------------	--	------------------------------------	--

5.5 The Manager must:

- a) notify the Director-General of any natural events or activities on the Site or the surrounding area of which the Manager is aware which may endanger the public or the environment;
- b) take all practicable steps to protect the safety of all persons present on the Site and must, where necessary, erect signposts warning the public of any dangers they may encounter as a result of the Manager's operations;
- c) take all practicable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Manager is aware;
- d) record and report to the Director-General all accidents involving serious harm within 24 hours of their occurrence and forward an investigation report within 3 days of the accident occurring;
- e) ensure that all contracts between the Manager and any contractors contain, at a minimum, the same requirements as clause 5;
- f) be satisfied that facilities or equipment provided by the Director-General to enable the Management Activity to be carried out meet the safety requirements of the Manager;
- g) not bring onto the Site or any land administered by the Department any dangerous or hazardous material or equipment which is not required for purposes of the Management Activity; and if such material or equipment is required as part of the Management Activity, the Manager must take all practicable steps at all times to ensure that the material or equipment is treated with due and proper care.

5.6 In conducting the Management Activity the Manager must comply with where relevant:

- a) the Standard Operating Procedures and Departmental guidelines and standards listed in Section E of Schedule 1. If these Procedures or guidelines and standards are amended or replaced then the Director-General must advise the Manager of the amendment or replacement and the Manager must then comply with the amended or replaced document. The Director-General must provide the Manager with a copy of each document and any amended or replaced document; and
- b) the Conservation Act 1987, including the Department's obligations under section 4 to give effect to the principles of the Treaty of Waitangi, the Reserves Act 1977, the National Parks Act 1980, Wildlife Act 1953 and any other enactment (collectively the "Legislation") affecting or relating to the Land and/or the Management Activity; and

<i>Manager's initials</i>		<i>Director-General's initials</i>	
---------------------------	--	------------------------------------	--

- c) with any regulations made under the Conservation Act 1987 and Wildlife Act 1953 or bylaws made under the Reserves Act 1977 or the National Parks Act 1980 affecting or relating to the Land and/or Management Activity; and
- d) all notices and requisitions of any competent authority affecting or relating to the Site or affecting or relating to the conduct of the Management Activity; and
- e) all Department signs and notices placed on or affecting the Site; and
- f) all reasonable notices and directions of the Director-General concerning the Management Activity.

6 Breach of Agreement

- 6.1 A breach or contravention by the Manager of a relevant standard operating procedure, guidelines or standards or Legislation relating to the Site and/or Management Activity is deemed to be a breach of this Agreement.
- 6.2 The Director-General must, if practicable, give notice of the breach or default of this Agreement to the Manager and provide a reasonable opportunity to remedy the breach or default.

7 Suspension of Agreement

- 7.1 If, in the Director-General’s opinion, there is a temporary risk arising from any cause on or in the vicinity of the Site or to public safety then the Director-General may suspend this Agreement.
- 7.2 The Director-General may suspend the Agreement for such period as the Director-General determines where the Manager has breached any terms of this Agreement.

8 Termination of Agreement

- 8.1 The Director-General may terminate this Agreement either in whole or in part:
 - a) by 14 days notice to the Manager or such sooner period as it appears necessary and reasonable to the Director-General if:
 - (i) the Manager breaches any terms of this Agreement; and
 - (ii) the Manager does not rectify the breach within 7 days of receiving notification, or such earlier time as specified by the Director-General; or
 - (iii) in the sole opinion of the Director-General the breach is not capable of being rectified; or
 - (iv) the Manager ceases to conduct the Management Activity or, in the reasonable opinion of the Director-General, the conduct of the Management Activity is manifestly inadequate; or

<i>Manager’s initials</i>		<i>Director-General’s initials</i>	
---------------------------	--	------------------------------------	--

- (v) if the Manager is convicted of an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act or any statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Site or which in the Director-General's sole opinion affects or relates to the Management Activity; or
- (vi) immediately if there is, in the opinion of the Director-General, a permanent risk to public safety or to the natural and historic resources of the Site.

8.2 This Agreement may be surrendered by the Manager, either in whole or in part, with 14 days written notice to the Director-General subject to any conditions imposed by the Director-General that he/she considers reasonable and appropriate.

8.3 The Director-General is not to be liable to the Manager for any loss sustained by the Manager by reason of the suspension or termination of the Agreement.

9 Dispute Resolution

9.1 If a dispute arises between the parties in connection with this Agreement the parties must, without prejudice to any other rights or entitlements they may have, attempt to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.

10 Relationship of Parties

10.1 The relationship of the parties under this Agreement is a joint working relationship where each party, who are independent bodies, work together as partners and agree, subject to the terms of this Agreement, to co-operate with each other in the carrying out of the Activity on the Site.

10.2 For the avoidance of doubt, the relationship of the parties under this Agreement is not one of partnership,¹ joint venture,² or agency.³

10.3 Nothing expressed or implied in this Agreement is to be construed as conferring on the Manager any right of exclusive occupation, use or interest in the Site or affect the rights of the Director-General and the public to have access across the Site.

¹ Partnership has the same meaning as, although not limited to, that set out in s 4(1) of the Partnerships Act 1908 – the relation which subsists between persons carrying on business (being a trade, occupation or profession) in common with a view to profit.

² Although not limited to this, a Joint Venture is an association of persons for the purposes of a particular trading, commercial or other financial endeavour with a view to mutual profit.

³ Agency is a relationship whereby one person is authorised to act for another.

<i>Manager's initials</i>		<i>Director-General's initials</i>	
---------------------------	--	------------------------------------	--

11 The Law

11.1 This Agreement is to be governed by, and interpreted in accordance with the laws of New Zealand.

Appendix. 1

[DELETE TEXT - sections of relevant SOP's, guidelines or codes can be attached an appendix. Refer to them in Seciton E. Maps or diagrams can be attached as an appendix. Clearly refer to and explain them here in Section B]

<i>Manager's initials</i>		<i>Director- General's initials</i>	
---------------------------	--	---	--