

# MANAGEMENT AGREEMENT

(MANAGER insures – medium to high 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, 2 and 3 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 2, 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.

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# 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 public conservation land or waters where the activity is taking place. Include location, grid reference and maps as appropriate]

## Section C Management Activity: (Clause 1)

[DELETE TEXT - describe the scope of the work and nature of the Management Activity]

The Department's contribution

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

Manager's contribution

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

## Section D Term: (Clause 4)

[DELETE TEXT - insert number of years and months – note there is a maximum of 5 years for medium/high 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]

Final expiry date: [Insert final expiry date - DELETE TEXT]

## Section E New Zealand (national) guidelines and standards: (Clause 12.1(a))

When undertaking the Management Activity on the Site the Manager must follow relevant National guidelines or standards. The following national guidelines and standards are relevant:

[List relevant NZ guidelines/standards. If none enter Not Applicable - DELETE TEXT]

## Section F

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Management Agreement –Manager insures medium-high risk activity

**Health and Safety:  
(Clause 10)**

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 10.3 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**

Special conditions are contained in Annex 3.

**Section I  
The Director-General will appoint a ‘key contact’ / ‘agreement supervisor’  
(Clause 3.3)**

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]

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.

**Section J  
Liabilities and Insurance  
(clause 11)**

A. **Types and amounts:**

- (i) Public Liability Insurance for:

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- (a) **\*\*General indemnity** for an amount no less than \$ [insert amount - DELETE TEXT];
- (b) **\*\*Forest and Rural Fires Act** extension for an amount no less than \$[insert amount - DELETE TEXT]; and
- (c) **\*\*\*Professional indemnity insurance** for an amount no less than \$ [insert amount - DELETE TEXT]
- (d) **\*\*\*Statutory Liability Insurance** for an amount no less than \$ [insert amount - DELETE TEXT]
- (e) **Other Policies and amounts:** [refer to relevant policies. If none - enter N/A - DELETE TEXT]

*\*\* This type of insurance cover is mandatory.*

*\*\*\*Insurance cover only required if the activity involves bridge or building designs and/or building of structures triggering building code compliance.*

*\*\*\*\*Note all insurance coverage amounts are subject to review and may need to be increased or decreased annually.*

*\*\*\*\*\* Staff should contact Legal Services who can facilitate contact with the Department’s insurance broker, Marsh New Zealand, to obtain advice on the type and level of insurance required.*

**B. Details of all policies:**

- (i) Insurance Company: [insert name of Insurance Company - DELETE TEXT]
- (ii) Policy number(s): [insert policy number - DELETE TEXT]
- (iii) Date insurance effected: [insert date insurance cover starts - DELETE TEXT]
- (iv) Date insurance expires: [insert date insurance expires - DELETE TEXT]

*\*If multiple insurance policies are required record all policy numbers in B. (ii).*

***(If any of the policies are not required, insert the words “is not required”)***

**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.*

**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]

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\*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]

**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
- 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.

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## SCHEDULE 2

### STANDARD TERMS AND CONDITIONS OF MANAGEMENT AGREEMENT (MANAGER insures – medium to high risk activity)

1. Management Activity
  - 1.1 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.
  - 1.2 The Manager must undertake the Management Activity in accordance with, and must comply with, the terms and conditions contained in this Agreement and its Schedules.
  - 1.3 The Manager must exercise reasonable skill, care and diligence in carrying out the Management Activity in accordance with standards of skill, care and diligence normally practised by suitably qualified and experienced people in carrying out such activities.
  - 1.4 The Manager must provide the Director-General with evidence of the competency and qualifications of those involved in the carrying out of the Management Activity if the Director-General so requests.
  - 1.5 The Manager is responsible for the acts and omissions of its employees, contractors, agents, clients, volunteers and invitees (excluding other members of the public accessing the Site). The Manager is liable under this Agreement for any breach of the terms of the Agreement by its employees, contractors, agents, clients, volunteers and invitees (excluding other members of the public accessing the Site), as if the breach had been committed by the Manager.
  - 1.6 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. Director-General Approvals
  - 2.1 The Manager must obtain the Director-General's consent or approval on each separate occasion their consent is expressly required under a provision of this Agreement. Approvals provided on earlier occasions in no way infer subsequent activities requiring consent are automatically approved by the Director-General.
  - 2.2 Where this Agreement requires the Director-General to exercise discretion or give any approval to the Manager, then the Director-General must act reasonably and within a reasonable timeframe.

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2.3 When the Director General is required to provide consent to the Manager under this Agreement, such consent must not be unreasonably withheld.

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Management Agreement –Manager insures medium-high risk activity



3. Communications

- 3.1 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.
- 3.2 The Agreement, executed in accordance with either condition 3.1(a) or 3.1(b), is deemed proof of signature of the original.
- 3.3 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 3<sup>rd</sup> working day after posting;

4. Right of Renewal

- 4.1 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.
- 4.2 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.

5. Potential Fees

- 5.1 The Manager must pay all levies rates and other charges, including utility charges payable which relate to the carrying out of the Management Activity.
- 5.2 The Director-General is not liable for any cost incurred in re-establishing the supply of any utilities in the event any of them becoming unavailable for any reason.

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5.3 Where the Director-General has paid such levies, rates or other charges the Manager must on receipt of an invoice from the Director-General pay such sum to the Director-General within 14 days of receiving the invoice. If payment is not made within the 14 days then the Manager is to pay interest on the unpaid sum from the date payment was due until the date of payment at the rate of 15% per annum.

6. Disposal of Interest

6.1 The Manager must not transfer, sub licence, assign, mortgage or otherwise dispose of the Manager's interest under this Agreement or any part of it (which includes the Manager entering into a contract or any other arrangement whatsoever whereby the Management Activity would be carried out by a person (called the assignee) other than the Manager) without the prior written consent of the Director-General.

6.2 The Director-General may in the Director-General's discretion decline any application for consent under clause 6.1.

7. Obligations to protect the environment

7.1 Except where permitted by this Agreement the Manager must not cut down or damage any vegetation; or damage any natural feature or historic resource on the Land; or light any fire on the Site without the prior consent of the Director-General.

7.2 The Manager must ensure that it adheres to the international "Leave No Trace" Principles at all times ([www.leavenotrace.org.nz](http://www.leavenotrace.org.nz)).

7.3 The Manager must not bury:

(a) any toilet waste within 50 metres of a water source on the Site; or

(b) any animal or fish or any part thereof within 50 metres of any water body, water source or public road or track.

7.4 The Manager must immediately report to the Director-General any act in contravention of this Clause 7 and wherever possible the names and addresses of any persons carrying out such acts, and details of circumstances surrounding any such incidents.

8. The erection of new structures or land alterations

8.1 The Manager must not erect, alter or bring on to the Site any structure not authorised in Schedule 3 Special Conditions nor alter the Site in any way without the prior approval of the Director-General.

8.2 In giving approval under clause 8.1 the Director-General may, in the Director-General's sole and absolute discretion, impose any reasonable terms and conditions as the Director-General considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.

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- 8.3 Subject to clause 8.1 the Manager must apply for and obtain any necessary consents or approvals required by any competent authority for any structure brought on to or constructed on the Site by the Manager. The Manager must pay all costs associated with such consents and/or approvals.
- 8.4 The Manager must, upon request by the Director-General, submit written engineering or building plans and details to the Director-General for approval before:
- (a) erecting new structure or altering any structure on the Site
  - (b) altering the Site in any way.

9. Advertising

- 9.1 The Manager must not erect or display any signs or advertising on the Site without the prior approval of the Director-General. At the expiry or termination of this Agreement the Manager must remove all signs and advertising material and make good any damage caused by the removal.

10. Health and Safety

- 10.1 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.
- 10.2 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.
- 10.3 Before commencing the Management Activity, the Manager must prepare and provide to the Director-General 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.
- 10.4 The Manager must have the Health and Safety Plan audited by a suitably qualified person approved by the Director-General and forward to the Director-General a certificate from the auditor certifying that the safety plan is suitable for the Management Activity.
- 10.5 The Manager must obtain from the auditor details as to when the safety plan is to be re-audited. The Manager must comply with any such requirement to re-audit and forward a copy of the re-audit certificate to the Director-General within 5 working days of the certificate being issued.

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10.6 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.

10.7 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 10;
- (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.

11. Liabilities and insurance

11.1 The Manager agrees to carry out the Management Activity at the Manager's own risk and releases to the full extent permitted by law the Director-General and the Director-General's employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property as a result of the carrying out of the Management Activity.

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- 11.2 The Manager must indemnify the Director-General against all claims, actions, losses and expenses of any nature which the Director-General may suffer or incur or for which the Director-General may become liable arising from the Manager’s performance of the Management Activity.
- 11.3 This indemnity is to continue after the expiry or termination of this Agreement in respect of any acts or omissions occurring or arising before its expiry or termination.
- 11.4 The Manager has no responsibility or liability for costs, loss, or damage of whatsoever nature arising from any act or omission or lack of performance or any negligent or fraudulent act or omission by the Director-General, or any contractor or supplier to the Director-General, or any employee or agent of the Director-General.
- 11.5 Without prejudice to or in any way limiting its liability under this clause 11 the Manager at the Manager’s expense must take out and keep current policies for insurance and for the amounts not less than the sums specified in Section J of Schedule 1 with a substantial and reputable insurer.
- 11.6 After every three year period of the Term the Director-General may, on giving 10 working days notice to the Manager, alter the amounts of insurance required under clause 11.5. On receiving such notice the Manager must within 10 working days take out and keep current policies for insurance and for the amounts not less than the sums specified in that notice.
- 11.7 The Manager must provide to the Director-General within 5 working days of the Director-General so requesting:
- (a) details of any insurance policies required to be obtained under this Concession, including any renewal policies if such renewal occurs during the Term; and/ or;
  - (b) a copy of the current certificate of such policies.

12. Compliance obligations of the Manager

- 12.1 In conducting the Management Activity the Manager must comply where relevant:
- (a) relevant New Zealand guidelines and standards; and
  - (b) with the Conservation Act 1987, the Reserves Act 1977, the National Parks Act 1980, Wildlife Act 1953 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the “Legislation”) affecting or relating to the Site or affecting or relating to the Management Activity, including any regulations made under the Conservation Act 1987 and

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Wildlife Act 1953 or bylaws made under the Reserves Act 1977 or the National Parks Act 1980; and

- (c) with 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
- (d) with all Department signs and notices placed on or affecting the Site; and
- (e) with all reasonable notices and directions of the Director-General concerning the Management Activity. A breach or contravention by the Manager of a relevant New Zealand Standard or Guideline referred to in clause 12.1.(a) is deemed to be a breach of this Agreement.

12.2 A breach or contravention by the Manager of any Legislation affecting or relating to the Site or affecting or relating to the Management Activity is deemed to be a breach of this Agreement.

13. Director-General's rights to remedy defaults

13.1 The Director-General may elect to remedy at any time, after giving notice, if practicable, any default by the Manager under this Agreement. Before electing to remedy the fault, the Director-General must, if practicable, first give the Manager notice of the default and a reasonable opportunity to remedy it.

14. Suspension of Agreement

14.1 If, in the Director-General's opinion, there is a temporary risk to any natural or historic resource on or in the vicinity of the Site or to public safety whether arising from natural events such as earthquake, land slip, volcanic activity, flood, or arising in any other way, whether or not from any breach of the terms of this Agreement on the part of the Manager, then the Director-General may suspend this Agreement.

14.2 If, in the Director-General's opinion, the activities of the Manager are having or may have an adverse effect on the natural, historic or cultural values or resources of the Site and the Director-General considers that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Director-General, then the Director-General may suspend this Agreement until the Manager avoids, remedies or mitigates the adverse effect to the Director-General's satisfaction.

14.3 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.

14.4 The Director-General may suspend this Agreement while the Director-General investigates any of the circumstances relating to clauses 14.1 and 14.2 and also while the Director-General investigates any potential breach or possible offence by the Manager, whether or not related to

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the Management Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act.

- 14.5 The word “investigates” in clause 14.4 includes the laying of charges and awaiting the decision of the Court.
- 14.6 The Director-General is not to be liable to the Manager for any loss sustained by the Manager by reason of the suspension of the Agreement under this clause 14 including loss of profits.

15. Termination of Agreement

15.1 The Director-General may terminate this Agreement either in whole or in part:

- (a) when a payment is required to be paid by the Manager under this Agreement whether it has been lawfully demanded or not, is in arrears and unpaid for 14 days after the due payment date; or
- (b) 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 in the Director-General's sole opinion the breach is able to be rectified; and
  - (ii) the Director-General has notified the Manager of the breach; and
  - (iii) the Manager does not rectify the breach within 7 days of receiving notification; or such earlier time as specified by the Director-General; or
- (c) by notice in writing to the Manager where the Manager breaches any terms of this Agreement and in the sole opinion of the Director-General the breach is not capable of being rectified; or
- (d) immediately by notice in writing to the Manager where the Manager breaches clause 12; or
- (e) by notice in writing to the Manager if 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
- (f) by notice in writing to the Manager 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

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- (g) by notice in writing to the Manager if the Manager is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Manager is made subject to a Writ of Sale or charging order; or the Manager ceases to function or operate; or
- (h) 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 whether arising from the conduct of the Management Activity or from natural causes such as earthquake, land slip, volcanic activity, flood, or arising in any other way, whether or not from any breach of the terms of this Agreement on the part of the Manager.

- 15.2 The Director-General may exercise its power to terminate under 15.1(h) without giving notice.
- 15.3 The Director-General may exercise the Director-General's right under this clause to terminate the Agreement notwithstanding any prior waiver or failure to take action by the Director-General or any indulgence granted by the Director-General for any matter or default.
- 15.4 Termination of the Agreement is not to prejudice or affect the accrued rights or claims and liabilities of the parties.

16. On termination or expiry of the Agreement

- 16.1 On termination or expiry of this Agreement, either as to all or part of the Site, the Manager is not entitled to compensation for any structures or other improvements placed or carried out by the Manager on the Site.
- 16.2 The Manager may, with the Director-General's written consent, remove any specified structures and other improvements on the Site. Removal under this clause must occur within the time specified by the Director-General and the Manager is to make good any damage and leave the Site and other public conservation land affected by the removal in a clean and tidy condition.
- 16.3 The Manager must, if the Director-General gives written notice, remove any specified structures and other improvements on the Site. Removal under this clause must occur within the time specified by the Director-General and the Manager is to make good any damage and leave the Site and other public conservation land affected by the removal in a clean and tidy condition and replant the Site with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.
- 16.4 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

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any conditions imposed by the Director-General he/she considers reasonable and appropriate.

17. Dispute Resolution

- 17.1 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.
- 17.2 If the dispute cannot be resolved by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to the Disputes Tribunal, where relevant, or to arbitration, which arbitration is to be carried out in accordance with the provisions of the Arbitration Act 1996.
- 17.3 If the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the New Zealand Law Society is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.
- 17.4 The arbitrator must include in the arbitration award reasons for the determination.
- 17.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Agreement.

18. Scope of the Agreement

- 18.1 Except as provided by legislation, this Agreement and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Agreement and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Agreement.

19. Severing Provisions

- 19.1 Any illegality, or invalidity or unenforceability of any provision in this Agreement is not to affect the legality, validity or enforceability of any other provisions.

20. Payment of Costs

- 20.1 The Manager must pay to the Director-General immediately and on demand

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- (a) all costs and fees (including solicitor's costs and fees of debt collecting agencies engaged by the Director-General) arising out of and associated with steps taken by the Director-General to enforce or attempt to enforce the Director-General's rights and powers under this Agreement including the right to recover outstanding money owed to the Director-General;
- (b) all reasonable costs and expenses incurred by the Director-General, including legal costs and expenses as between solicitor and client, in remedying any default referred to in clause 13.1. The Manager is to pay interest on such costs and expenses if payment is not made within 14 days of the Director-General's demand from the date of the demand until the date of payment at the rate of 15% per annum.

21. Relationship of Parties

- 21.1 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 Management Activity on the Site.
- 21.2 For the avoidance of doubt, the relationship of the parties under this Agreement is not one of partnership,<sup>1</sup> joint venture,<sup>2</sup> or agency.<sup>3</sup>
- 21.3 Nothing expressed or implied in this Agreement is to be construed as:
  - (a) conferring on the Manager any right of exclusive occupation or use of the Site;
  - (b) granting any exclusive estate or interest in the Site to the Manager;
  - (c) affecting the rights of the Director-General and the public to have access across the Site.

22. The Law

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

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Agency is a relationship whereby one person is authorised to act for another.

<i>Manager's initials</i>		<i>Director-General's initials</i>	
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Schedule 3

[DELETE TEXT - any special conditions, sections of relevant SOP's, guidelines/codes can be attached as an appendix. Refer to these docs in Sect E/Sch 1. Maps/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>	
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