

# INSURANCE AND INDEMNITY

"**Approved Insurer**" means an insurer that is APRA endorsed and/or AAA rated by Standard & Poors

"**Insured**" means the Permit Holder, Phillip Island Nature Park, and Other Relevant Parties including their officers, employees, agents, contractors, subcontractors, invitees and their successors and assigns.

"**Other Relevant Parties**" means the Minister for Environment & Climate Change, Minister for Planning, the Secretary to the Department of Sustainability and Environment, the Secretary to the Department of Primary Industries, the Minister of Ports, Minister for Water, Bass Coast Shire Council and any other body delegating its powers to Phillip Island Nature Park.

"**Permit Holder**" means the applicant for the Permit specified in the Permit application form.

"**Term**" means the period of operation of the Permit.

"**Site/s**" means the site or sites to be used or occupied under the Permit.

## 1 INSURANCE

1.1 The Permit Holder must effect and maintain, jointly in the names of the Permit Holder and PINP, with an Approved Insurer the following insurance policies ("**Policies**"):

### (a) Public Liability Insurance

A public liability insurance policy for not less than \$10 million (or any greater amount required by PINP) in respect of any single claim arising out of the activities of the Insured, covering all claims arising out of (but not limited to):

- (i) loss, including financial loss, destruction or damage to real or personal property and ensuing loss of use of that property;
- (ii) death, personal injury or disease of persons.

### (b) Employer's Liability Insurance

An insurance policy in accordance with the *Accident Compensation (WorkCover Insurance) Act 1985* and related Acts or regulations which covers any damage, loss or liability suffered or incurred by any person engaged by the Permit Holder.

### (c) Product Liability Insurance

A product liability insurance policy (if deemed necessary by PINP) for not less than \$20 million (or any greater amount required by PINP) in respect of any single claim arising out of the activities of the Insured.

1.2 The Permit Holder must effect and maintain the Policies in the name of the Insured, and note the interests of the Other Relevant Parties on the Policies.

1.3 The Permit Holder must ensure that the Policies contain provisions under which PINP will be notified of any changes to the Policies.

1.4 The Permit Holder must provide PINP with:

- (a) a certificate of currency for the Policies which clearly confirms the requirements of the preceding clause 1.2–
  - (i) prior to the Permit commencement date; and

(ii) within 14 days of each anniversary of the commencement date throughout the term and any renewed terms (if applicable); and

(iii) at any other time upon request by PINP;

(b) a copy of the Policies upon request by PINP. PINP shall have the right to insist on any amendments to the policy wording or limits as it reasonably requires.

1.5 The Permit Holder must promptly notify PINP if:

- (a) an event occurs which may give rise to a claim under the Policies or which may invalidate any of the Policies; or
- (b) any of the Policies are cancelled.

1.6 The Permit Holder must not do anything or allow anything to be done which may:

- (a) adversely affect any insurance held in connection with the Site/s; or
- (b) increase the premium payable for any insurance held in connection with the Site/s.

1.7 The Permit Holder 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 the Permit.

1.8 The Permit Holder shall deliver upon request to PINP copies of any policies required to be entered into by it pursuant to clause 1.7 and PINP shall have the right to insist on any amendments to the policy wording or limits as it reasonably requires.

# INSURANCE AND INDEMNITY

## 2 RELEASE

- 2.1 The Permit Holder agrees that it:
- (a) occupies and uses the Site/s at its own risk;
  - (b) has inspected the Site/s and is of the opinion that the Site/s is safe and suitable for the activities of the Permit Holder.
- 2.2 The Permit Holder releases Phillip Island Nature Parks (PINP) and Other Relevant Parties from:
- (a) all claims and demands resulting from any accident, damage, death or injury occurring at the Site/s or any other area used by the Permit Holder in connection with this Permit; and
  - (b) all loss, cost, damage, liability or other detriment (whether direct or consequential) suffered or incurred by the Permit Holder, as a direct or indirect result of the Permit Holder's occupation and use of the Site/s or other areas used in connection with this Permit, except to the extent that such loss was caused or contributed to by the negligence of PINP.
  - (c) any loss suffered by the Permit Holder as a direct or indirect result of the cancellation, amendment or suspension of the Permit by PINP or any Other Relevant Parties.

## 3 INDEMNITY

- 3.1 Except to the extent caused or contributed to by the negligence of PINP, the Permit Holder is liable for and indemnifies PINP and the Other Relevant Parties against all liabilities, actions, claims, demands, losses, damages, costs and expenses (whether direct or consequential) for which any of PINP or Other Relevant Parties may be liable arising from or connected to:
- (a) the default of the Permit Holder under this Permit;
  - (b) the Permit Holder's use of the Site/s or any other area used by the Permit Holder in connection with this Permit;
  - (c) loss, damage, or injury to property or persons caused or contributed by the Permit Holder's act, omission, default or negligence; or
  - (d) any breach of environmental laws or occupational health and safety laws by the Permit Holder or its employees or agents.
- 3.2 This clause is intended to operate for the benefit of PINP and the Other Relevant Parties. However, if required by PINP or the Other Relevant Parties at any time after the execution of this Permit, the Permit Holder will enter into a separate deed of indemnity or release with the Other Relevant Parties in substantially the same terms as this clause.
- 3.3 The Permit Holder must ensure that PINP and the names of the 'Other Relevant Parties' are included in its insurance policies in accordance with clause 1.2 and also documented in any certificate of currency for such insurance.