

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR RESERVE PENDING GRANT  
OF FREEHOLD OVER NEW CONSERVATION AREAS**

THIS AGREEMENT is made the                      day of                      200

BETWEEN

**THE STATE OF WESTERN AUSTRALIA** (*State*)

and

**THE CONSERVATION COMMISSION OF WESTERN AUSTRALIA** (*Conservation Commission*) a body corporate established under section 18 of the *Conservation and Land Management Act 1984* (WA)

and

**THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT** (*Executive Director*) a body corporate established under section 38 of the *Conservation and Land Management Act 1984* (WA)

and

[MG Corporation]

**RECITALS**

- A. As soon as practicable following the execution of the Ord Final Agreement the State will grant to the MG Corporation freehold title to the Land subject to the Land being leased back to the State to provide for joint management of the Land.
- B. The Land comprises part of the traditional country of the MG People.
- C. To enable joint management of the land to commence at the earliest possible time, the Minister for Lands will reserve the Land under section 41 of the *Land Administration Act* (WA) 1997 and place the Land in the care, control and management of the Conservation Commission from when the Ord Final Agreement is executed and will cancel the reserve under section 51 the *Land Administration Act* (WA) 1997 when the Land is ready to be transferred as freehold to the MG Corporation.
- D. Under section 19(1)(a) of the *Conservation and Land Management Act 1984* (WA), the function of the Conservation Commission is to have vested in it State forest, timber reserves, national parks, conservation parks, nature reserves and relevant land referred to in section 5(1)(h)
- E. The parties have agreed that the land will be managed as a reserve for the purposes of “conservation and traditional Aboriginal use”.
- F. Under section 33(1)(a) of the *Conservation and Land Management Act 1984* (WA), the function of the Executive Director is, subject to the direction and control of the Minister, to manage the land to which the Act applies.
- G. Under section 33(1)(f) of the *Conservation and Land Management Act 1984* (WA), the Executive Director may provide advice to, or undertake work for or jointly with, and to

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

- supply services or facilities to, any department, public or private body or other person, whether in the State or elsewhere if the Minister is of the opinion that the provision of that advice or the undertaking of that work is in the public interest.
- H. The Parties have agreed that the MG People must from this time forward be involved in caring for and managing the Land.
- I. Having regard to Recital H above, the Parties have agreed that the Land will be managed jointly, to the extent possible under the *Conservation and Land Management Act 1984* (WA), by the MG Corporation on behalf of the MG People and the Department of Conservation and Land Management as a reserve for the purposes of “conservation and traditional Aboriginal use” in accordance with the *Conservation and Land Management Act 1984* (WA) and this Agreement for the period from when the Land is reserved.
- J. The MG People aspire to assume sole responsibility for management of the Land in the long term. The State supports and encourages that aspiration through the development of management capabilities of the MG People and, the development of mechanisms consistent with these aspirations.

**THIS AGREEMENT WITNESSES**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement, unless the contrary intention appears:

*Agreement* means this Agreement as may be varied or replaced from time to time by agreement between the parties.

*Alternate Member* is a person appointed in accordance with clause 6.3(a)(ii).

*CALM Act* means the *Conservation and Land Management Act 1984* (WA).

*CALM Representative* has the meaning in clause 6.4(a)

*Dawang* means the country of a local (or estate) group within the broader country of the MG People.

*Dawang Representative Member* has the meaning in clause 6.3(b).

*Dawawang* means the members of the local (or estate) groups with primary responsibility for the Relevant Dawang according to the traditional laws and customs of the MG People.

*Department* has the same meaning as in the CALM Act.

*Land* means the areas reserved under section 5(1)(h) of the CALM Act as depicted on the map in Schedule 1 to this Agreement as Local Areas.

*LAA* means the *Land Administration Act 1997* (WA).

*Local Area* means each of the following areas depicted on the map in the Schedule 1 as follows or as varied under clause 2.2:

- (a) Ningbing;
- (b) Livistona;

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION AREAS**

- (c) Zimmerman;
- (d) Weaber;
- (e) Pincombe; and
- (f) Packsaddle Swamp.

**Local Dawang** means those Dawang wholly or partly covered by the same Local Area.

**Local Government** has the same meaning as in the *Interpretation Act 1984* (WA).

**Management Plan** means the initial Management Plan created under the CALM Act and any revised or replacement Management Plan current from time to time in respect of the Land under clause 5.

**Management Sub-Plan** means that part of the Management Plan that pertains solely to the management of one Local Area.

**MG Culture** means the living body of traditions, observances, customs, beliefs and cultural practices of the MG People, as evidenced by but not limited to:

- (a) the use of land and waters in accordance with the traditional laws acknowledged and traditional customs observed by the MG People; and
- (b) the native title rights and interests of the MG People in the Land.

**MG People** means:

- (a) those Aboriginal persons who are common law holders under the MG#1 Determination, but not including those persons who are common law holders solely on the basis that they identify themselves as Balanggarra (as defined in the MG#1 Determination) in relation to their native title rights and interests in Lacrosse Island and who are so identified by other members of the Balanggarra group; and
- (b) Aboriginal persons who are members of the native title claim group for the MG#4 Claim and all persons determined to hold native title in the MG#4 Claim area.

**MG#1 Determination** means the determination of native title made by the Full Court of the Federal Court by consent of the parties in proceedings WAG 6293, 6292, 6294, 6295 and 6296 of 1998.

**MG#4 Claim** means Federal Court of Australia native title determination application WAD 124 of 2004, or if such application is discontinued, dismissed or struck out, any other application which replacing application WAD 124 of 2004.

**Minister** means the Minister for the time being responsible for the administration of the *Conservation and Land Management Act 1984* (WA)

**Ord Final Agreement** means a deed entitled Ord Final Agreement entered into by the State of Western Australia, the Western Australian Land Authority, the Conservation Commission of Western Australia, the Miriuwung and Gajerrong #1 (Native Title Prescribed Body Corporate) Aboriginal Corporation, Ben Ward, Kim Aldus, Frank Chulung, Sheba Dignari, Maggie John, Chocolate Thomas, Danny Wallace, Carol Hapke, Nancy Dilyai, Pamela Simon, Jerry Moore and Paddy Carlton, Kimberley Land Council Aboriginal Corporation, Consolidated Pastoral Company Pty Ltd, Carlton Hill

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

Pty Ltd, Crosswalk Pty Ltd, Baines River Cattle Co Pty Ltd, Ord River District Cooperative Ltd and JJ McDonald and Sons Engineering Pty Ltd on [insert date]

**Park Sub-Council** has the meaning in clause 6.1

**Party** means a party to this Agreement and **Parties** means all of them.

**Regional Park Council** means the Regional Park Council comprised from time to time under clause 7(a).

**Referred Business** has the meaning in clauses 8(g)(iii) 10.1(b) and 10.2(d).

**Special Sub-council Decision** has the meaning in clause 11(a).

**Term** means the term of this Agreement specified in clause 3.1.

## **1.2 Interpretation**

In this Agreement, unless the contrary intention appears -

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations;
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) a reference to a statute, ordinance, code, or other law includes regulations, by-laws, rules and other statutory instruments under it for the time being in force and consolidations, amendments, re-enactments, or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (f) references to this Agreement include this Agreement or any other instrument as varied or replaced, and notwithstanding any change in the identity of the parties;
- (g) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and include e-mail and facsimile transmissions;
- (h) an obligation of two or more persons binds them jointly and severally;
- (i) an obligation incurred in favour of two or more persons is enforceable by them jointly and severally;
- (j) if a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (k) references to a person or body which has been reconstituted, amalgamated, reconstructed or merged, or which has ceased to exist and the functions of which have become exercisable by any other person or body in its place, are deemed to refer to the person or body as so reconstituted, amalgamated, reconstructed or merged, or the person or body by which its functions have become exercisable;
- (l) references to this Agreement include its recitals, schedules and annexures (if any);
- (m) headings are inserted for ease of reference only and are to be ignored in construing this Agreement;
- (n) references to time are to local time in Perth, Western Australia;

<b>SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION AREAS</b>
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- (o) where time is to be reckoned from a day or event, that day or the day of that event is to be excluded;
- (p) references to currency are to Australian currency unless stated otherwise;
- (q) no rule of construction applies to the disadvantage of a party on the basis that that party put forward this Agreement or any part of this Agreement;
- (r) a reference to any thing (including, without limitation, any amount) is a reference to the whole and each part of it, and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually; and
- (s) when the day or last day for doing an act is not a Business Day in the place where that act is to be done, then the day or last day for doing the act will be the next following Business Day in the place where that act is to be done.

## **2. MANAGEMENT OF THE LAND**

### **2.1 Joint management**

- (a) The Parties agree that the Land shall be jointly managed by the Executive Director and the MG Corporation on behalf of the MG People, in accordance with this Agreement, subject to the Lease, Covenants, Encumbrances, the Management Plan, and the CALM Act.
- (b) The MG Corporation must ensure that the Dawawang, Sub-council Members, Alternate Members and Dawang Representative Members:
  - (i) where applicable, have been appointed in accordance with this Agreement;
  - (ii) are available to carry out their functions as set out in this Agreement; and
  - (iii) carry out their functions in accordance with this Agreement.
- (c) The Executive Director must ensure that the CALM Representatives and CALM Proxies:
  - (i) are available to carry out their functions as set out in this Agreement; and
  - (ii) carry out their functions in accordance with this Agreement.

### **2.2 Land the subject of this agreement**

Throughout the Term the Parties may, by written agreement, add to or subtract from the Land the subject of this Agreement.

## **3. TERM, TERMINATION & SEVERABILITY**

### **3.1 Term**

The Term of this Agreement is, in accordance with the Ord Final Agreement, for the period from the grant of reserves under section 41 of the LAA and section 5(1)(h) of the CALM Act over the Land following the execution of the Ord Final Agreement until the cancellation of those reserves over the Land under section 51 of the LAA.

### **3.2 Termination**

- (a) This Agreement may only be terminated by the agreement in writing of the Parties.

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

- (b) Where an area of the Land is removed from the operation of this Agreement in accordance with clause 2.2 this Agreement shall cease to apply in respect of that area of the Land but shall continue to apply in respect of the whole of the remaining area of the Land.
- (c) The Parties agree that no breach of the terms of this Agreement will give to any other Party the right to terminate or rescind this Agreement.
- (d) If a Party considers that the terms of this Agreement have been breached:
  - (i) the Party must give notice in writing to the other Parties setting out the details of the alleged breach; and
  - (ii) the Parties must use their best endeavours to resolve that dispute between themselves.
- (e) If the Parties fail to resolve the dispute within 21 days after the service of the notice under clause 3.2(d)(i) the Parties agree that the breach will not give a Party the right to terminate or rescind this Agreement, but subject to subclause (a) the Party may exercise any right or remedy otherwise available to it in respect of such breach.

**3.3 Severance**

If any provision of this Agreement is void, voidable by any Party, unenforceable or illegal in any jurisdiction, it shall be read down so as to be valid and enforceable or if it cannot be so read down, then in an appropriate case a Court may sever that provision or where possible the offending words and the remaining parts not so severed shall remain in full force and effect and be unaffected by the severance.

**3.4 Review**

The Parties agree that within 10 years of execution of this Agreement, and every 10 years thereafter, the Parties must undertake a review of its terms for the purposes of assessing without limitation the operation and implementation of the Agreement and the aspiration of the MG People to assume sole responsibility for management of the Land.

**4. MANAGEMENT PRINCIPLES**

- (a) The MG Corporation and the Executive Director shall jointly manage the Land for the purpose of “conservation and Traditional Aboriginal uses” and, to the extent consistent with the CALM Act, for the following objectives:
  - (i) the preservation and promotion of the Aboriginal cultural and heritage values of the Land;
  - (ii) the preservation and promotion of the natural and environmental values of the Land, including indigenous flora and fauna;
  - (iii) the preservation and promotion of the archaeological values of the Land;
  - (iv) the provision of recreational facilities and facilitation of recreational activities on the Land, including the regulation of public access to the Land to fulfil so much of the demand for recreation by members of the public as is fitting having regard to the matters set out in clauses 4(a)(i), 4(a)(ii), 4(a)(iii) and 4(a)(v);

<b>SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION AREAS</b>
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- (v) the use of the Land by the MG People from time to time in accordance with MG Culture;
  - (vi) the use of the Land by the MG People from time to time consistent with the matters set out in clauses 4(a)(i) - 4(a)(v);
  - (vii) employment, service provision and training opportunities for the MG People in the administration, management and control of the Land from time to time in accordance with Schedule 2 of this Agreement;
  - (viii) commercial opportunities for the MG People and the MG Corporation consistent with the management of the Land for the purposes of “conservation and Traditional Aboriginal uses”;
  - (ix) the implementation, monitoring, assessment and audit of the effectiveness of the Management Plan; and
  - (x) the provision, construction, repair, maintenance and replacement of buildings and infrastructure on the Land for any of the foregoing purposes.
- (b) In managing the Land, the MG Corporation and the Executive Director will consider the need for any or all of the following:
- (i) provision of fencing;
  - (ii) creation of vehicular tracks and roads, and walking and cycling trails and pathways;
  - (iii) provision of firebreaks, fire control and carrying out of prescribed burning;
  - (iv) erection of signage;
  - (v) construction of public conveniences and other public facilities;
  - (vi) weed and feral animal control; and
  - (vii) restriction or prohibition of access for protection of culturally significant sites, or for safety, cultural or conservation purposes.

## **5. MANAGEMENT PLAN**

The Parties will use their best endeavours to ensure that the Regional Park Council develops an initial Management Plan in respect of the Land in accordance with the CALM Act and to ensure that a Management Plan is current in respect of the Land at all times during the Term.

## **6. PARK SUB-COUNCILS**

### **6.1 Park Sub-Councils established**

There shall be a Park Sub-Council for each of the six Local Areas comprised of two (2) representatives from each of the Local Dawang nominated in accordance with clause 6.3(a) ("*Sub-Council Members*") and one (1) CALM representative

### **6.2 Role of Park Sub-Councils**

The Park Sub-Councils will be responsible for:

- (a) the development and review of the Management Sub-Plan and the policies that apply for that Local Area;

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

- (b) the identification of, and appropriate protection and access regimes for any areas of cultural or historical significance to the MG Peoples within that Local Area.

**6.3 MG Representatives**

- (a) The Dawawang from each of the Local Dawang shall nominate Dawawang members as representatives for their respective Dawang as follows:
  - (i) two (2) Sub-council Members; and
  - (ii) an alternate member for each Sub-council Member ("*Alternate Member*").
- (b) The Sub-Council Members of each Park Sub-council must nominate, by way of majority, two (2) of their number to be members of the Regional Park Council ("*Dawang Representative Members*").
- (c) The MG Corporation shall notify the Executive Director, in writing, of the appointments in clause 6.3(a) and 6.3(b) as soon as practicable.

**6.4 CALM Representatives on Park Sub-Councils**

- (a) The Executive Director must appoint one (1) CALM officer ("*CALM Representative*") and one (1) CALM proxy representative for each CALM Representative ("*CALM Proxy*") for each Park Sub-Council and may appoint the same person as the CALM Representative or CALM Proxy for more than one Park Sub-Council.
- (b) The Executive Director must notify the MG Corporation, in writing, of the appointments in clause 6.4(a) as soon as practicable.

**6.5 Meetings of Park Sub-Councils**

- (a) Meetings of the Park Sub-councils shall be conducted in accordance with this clause 6.5.
- (b) Each Park Sub-council must meet to attend to its business as often as it considers necessary, but at least once every 12 months.
- (c) The Executive Director may, on request from a CALM Representative or otherwise, call a Park Sub-council meeting by giving 21 days notice of the meeting in writing to the MG Corporation.
- (d) The MG Corporation may, on request from a Sub-council member or otherwise, call a Park Sub-council meeting by giving 21 days notice in writing to the Executive Director.
- (e) The quorum for a Park Sub-council meeting will be one Sub-council Member from each of the Local Dawang and the CALM Representative.
- (f) Resolutions of the Park Sub-council meeting will be decided by the CALM Representative and a majority of the Sub-council Members voting in favour of the resolution, with each Sub-council Member having one vote.
- (g) The Park Sub-councils may invite other persons to attend its meetings or to advise on any matter it thinks fit.



**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

**7. REGIONAL PARK COUNCIL**

- (a) The management of the Land under this Agreement shall be administered by the Executive Director jointly with the MG Corporation through the Regional Park Council comprised of:
  - (i) two (2) Dawang Representative Members from each of the Park Sub-Councils; and
  - (ii) up to three (3) CALM Representatives, who, where possible all, but at least one, are involved in the day to day management of the Land.
- (b) The three (3) CALM Representatives shall be appointed from time to time by the Executive Director to be members of the Regional Park Council and the Executive Director shall advise the MG Corporation in writing of the appointments.

**8. ROLE OF THE REGIONAL PARK COUNCIL**

- (a) The Regional Park Council's primary role shall be:
  - (i) to prepare Management Plans and related policies for the management of the Land;
  - (ii) to make decisions consistent with the Management Plan;
  - (iii) to monitor the management of the Land including the implementation of the Management Plan;
  - (iv) to give advice to the Executive Director and the Conservation Commission on all aspects of the use, management and development of the Land; and
  - (v) to determine priorities for any matters required to be done in accordance with or in furtherance of the Management Plan.
- (b) The CALM Representatives shall provide annual reports to the Regional Park Council on the implementation and operation of the Management Plan.
- (c) The Executive Director shall consult with the Regional Park Council in relation to any budgets for the implementation and ongoing operation of the Management Plan.
- (d) Until the initial Management Plan has been finalised the Regional Park Council must manage the Land in accordance with the CALM Act and the applicable provisions of this Agreement.
- (e) The Management Plan shall be comprised of:
  - (i) each of the Management Sub-Plans developed by the Park Sub-councils; and
  - (ii) any other matter determined by the Regional Park Council to be relevant to the management of the Land as a whole.
- (f) In developing the Management Plan and undertaking any subsequent reviews the Regional Park Council must take account of the advice and recommendations of the Park Sub-councils in respect of their relevant Local Areas.
- (g) In the event of a conflict between the advice and recommendations of two or more Park Sub-councils in accordance with clause 8(f):

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

- (i) the MG Corporation or the Executive Director may give notice within 21 days to the Executive Director or the MG Corporation, whichever is applicable, of a joint meeting of the Regional Park Council and all the affected Sub-Council Members, to be held within 21 days after the notice is given, for the purpose of attempting to resolve the conflict;
- (ii) in the event that neither the Executive Director nor the MG Corporation convenes a joint meeting under clause 8(g)(i) above or the joint meeting under clause 8(g)(i) does not result in a resolution of the conflict, the conflict shall be resolved by a resolution of the Regional Park Council passed by a three-quarters majority, that majority must include the CALM Representatives; and
- (iii) in the event that the conflict is not resolved by a resolution of the Regional Park Council in accordance with clause 8(g)(ii), the matter to which the advice and recommendations relate must be referred to the Minister and the Minister must determine the matter under clause 10.2(e) as though the matter is Referred Business.

**9. MEETINGS OF THE REGIONAL PARK COUNCIL**

**9.1 Convening meetings**

- (a) The Executive Director must convene the first meeting of the Regional Park Council within forty-five days of the execution of this Agreement.
- (b) The Regional Park Council must meet to attend to its business as often as it considers necessary, but at least once every four (4) months.
- (c) The MG Corporation may, on request from a Dawang Representative Member or otherwise, call a Regional Park Council meeting by giving at least twenty-one (21) days notice in writing to the Executive Director.
- (d) The Executive Director may, on request from a CALM Representative or otherwise, call a Regional Park Council meeting by giving at least twenty-one (21) days notice in writing to the MG Corporation.

**9.2 Chairperson and Secretary**

- (a) The Regional Park Council shall elect a Chairperson and a Secretary from among their number at the first meeting of the Regional Park Council and on each anniversary of that meeting. The Chairperson and Secretary are eligible for re-election.
- (b) The Chairperson shall be the Chairperson of all meetings at which he or she is present, but if he or she is not present or does not wish to chair the meeting the members present at the meeting of the Regional Park Council may elect a member to chair the meeting.
- (c) The Secretary shall keep proper minutes of all meetings of the Regional Park Council.

**9.3 Procedure at meetings**

- (a) Each Regional Park Council member shall have one vote in person at a meeting of the Regional Park Council.

<p style="text-align: center;"><b>SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION AREAS</b></p>
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- (b) The Regional Park Council shall adopt such rules and procedures as it considers necessary to enable it to carry out its functions under this Agreement, but subject to the provisions of this Agreement.
- (c) The Regional Park Council may invite other persons to attend meetings of the Regional Park Council or to advise it on any matter it thinks fit.

#### **9.4 Committees**

The Regional Park Council may appoint committees (comprising Regional Park Council members and other persons) to investigate, consider, and advise or recommend such matters to the Regional Park Council as it thinks fit.

### **10. QUORUM CONSENSUS AND VOTING AT REGIONAL PARK COUNCIL**

#### **10.1 Quorum**

- (a) The quorum for a meeting of the Regional Park Council shall be one (1) Dawang Representative Member from each Park Sub-council and two (2) CALM Representatives.
- (b) If a quorum is not satisfied at two (2) consecutive meetings of the Regional Park Council, the business which was proposed to be discussed at the meetings for which the quorum was not satisfied ("**Referred Business**") may be referred to the Minister for Environment by either of the MG Corporation or the Executive Director and clause 10.2(e) applies.

#### **10.2 Voting**

- (a) Decisions of the Regional Park Council must be made by those members in attendance at a meeting of the Regional Park Council voting on a motion.
- (b) The Regional Park Council will, as far as possible, require a motion to be supported by the consensus votes of all those members in attendance at the meeting of the Regional Park Council .
- (c) If a motion is not supported by the consensus votes of all those members in attendance at a meeting of the Regional Park Council, but:
  - (i) two (2) CALM Representatives; and
  - (ii) a majority of the Dawang Representative Members,in attendance voted in support of that motion, then the motion is deemed to be passed and is a duly made decision of the Regional Park Council.
- (d) If the same motion is not passed and clause 10.2(c) does not apply, at three (3) consecutive meetings of the Regional Park Council then the business which is the subject of that motion ("**Referred Business**") may be referred to the Minister by either the MG Corporation or the Executive Director and clause 10.2(e) applies.
- (e) The Minister shall in respect of Referred Business:
  - (i) consult with the Executive Director and the MG Corporation regarding how Referred Business is to be determined; and
  - (ii) do one or both of the following:
    - (A) decide as to how Referred Business is to be determined; or

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

(B) make a determination of Referred Business.

- (f) A determination of Referred Business by the Minister shall be deemed to be a determination of the Regional Park Council.

**10.3 Funding and administrative support**

- (a) The Department shall provide administrative and secretarial support for the Regional Park Council and the Park Sub-Councils.
- (b) Subject to the Minister's approval, funding shall be provided by the State, through the Department or any other relevant department, for:
- (i) the joint management of the Land under this Agreement (including by implementation of the Management Plan);
  - (ii) the provision of resources, including suitably qualified Departmental staff and trainees;
  - (iii) the administration and operation of the Regional Park Council and Park Sub-councils;
  - (iv) the costs of Regional Park Council members attending meetings of the Regional Park Council and meeting attendance fees for the Regional Park Council members as determined by the Minister for Environment; and
  - (v) the costs of Park Sub-council members attending meetings of the Park Sub-councils and meeting attendance fees for the Park Sub-council members.

**11. SPECIAL SUB-COUNCIL DECISIONS**

- (a) The Regional Park Council may determine that some land management decisions particular to any part of the Land being managed by one or more of the Park Sub-Councils ("Special Sub-Council Decision") may be:
- (i) made by the consensus of the Dawang Representative Members from the affected Park Sub-Councils; or
  - (ii) where applicable, referred to the affected Park Sub-Council for determination.
- (b) At the first meeting of the Regional Park Council following the making of a Special Sub-Council Decision, the Dawang Representative Members for that Park Sub-Council must advise the Regional Park Council of the Special Sub-Council Decision and the Regional Park Council must, where appropriate, implement that Special Sub-Council Decision.

**12. MEMBERSHIP TERM AND VACANCY FOR PARK SUB-COUNCIL AND REGIONAL PARK COUNCIL**

**12.1 CALM representatives**

- (a) If at any time there is a CALM Representative who temporarily cannot perform his or her responsibilities as a member of a Park Sub-council, and/or where applicable, the Regional Park Council:
- (i) the Executive Director must notify the MG Corporation in writing as soon as practicable; and

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

- (ii) the CALM Proxy shall replace the CALM Representative on the Park Sub-Council, and/or where applicable, the Regional Park Council, until the MG Corporation is notified in writing by the Executive Director that the CALM Representative has resumed his or her responsibilities as a member of the Park Sub-council, and/or where applicable, the Regional Park Council.
- (b) If at any time a CALM Representative cannot perform his or her responsibilities as a member of a Park Sub-council, and/or where applicable, the Regional Park Council, permanently, or he or she vacates their position:
  - (i) the Executive Director must notify the MG Corporation in writing as soon as practicable of the vacancy; and
  - (ii) the CALM Proxy shall replace that CALM Representative as a member of the Park Sub-Council, and/or where applicable, the Regional Park Council, until the MG Corporation is notified in writing by the Executive Director that a new CALM Representative has been appointed as the member of the Park Sub-Council, and/or where applicable, the Regional Park Council
- (c) If at any time a CALM Proxy cannot perform his or her responsibilities as a CALM Proxy or vacates their position, the Executive Director may appoint a CALM Proxy to replace a current CALM Proxy and the Executive Director must advise the MG Corporation in writing of the appointment.

**12.2 MG Representatives**

- (a) If at any time a Sub-council Member temporarily cannot perform his or her responsibilities as a Sub-council Member, and/or where applicable, as a Dawang Representative Member:
  - (i) the MG Corporation must notify the Executive Director in writing as soon as practicable;
  - (ii) the Alternate Member shall replace that Sub-council Member, and/or where applicable, the Dawang Representative Member; and
  - (iii) the Alternate Member shall be a Sub-council Member, and/or where applicable, a Dawang Representative Member, until the Executive Director is notified in writing by the MG Corporation that the Sub-council Member has resumed his or her responsibilities as a Sub-council Member, and/or where applicable, as a Dawang Representative Member
- (b) If at any time a Dawang Representative Member cannot perform his or her responsibilities as a Sub-council Member, and/or where applicable, as a Dawang Representative Member, permanently or he or she vacates their position:
  - (i) the MG Corporation must notify the Executive Director in writing as soon as practicable of the vacancy;
  - (ii) the Alternate Member shall replace that Sub-Council Member as a Sub-council Member, and/or where applicable, as a Dawang Representative Member, until the Executive Director is notified in writing by the MG Corporation that a new Sub-council Member, and/or where applicable, as a Dawang Representative Member; and

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

- (iii) the MG Corporation shall facilitate, as soon as practicable, the making of an appointment of a new Sub-council Member, and/or where applicable, a new Dawang Representative Member by the relevant Dawawang.
- (c) If at any time an Alternate Member cannot perform his or her responsibilities as an Alternate Member or vacates their position the MG Corporation shall facilitate as soon as practicable the appointment of a new Alternate Member by the relevant Dawawang and shall notify the Executive Director in writing of the appointment.

**12.3 Term of Appointment**

- (a) Membership of the Park Sub-councils and of the Regional Park Council is for a period of 3 years (or the balance of the relevant 3 year period in the case of a person filling a vacancy) and a member of a Park Sub-Council or Regional Park Council is eligible for subsequent appointment.
- (b) Prior to the end of each 3 year period, the MG Corporation must facilitate the making of appointments for new Sub-Council members and Dawang Representative Members under clauses 6.3(a) and 6.3(b).

**13. FIRST PARK SUB-COUNCILS & FIRST REGIONAL PARK COUNCIL**

- (a) A list of the first Sub-Council Members, and the corresponding Alternate Members, of the first Park Sub-Council for each of the Park Sub-Councils and a list of the first Dawang Representative Members for the first Regional Park Council are set out in Schedule [?] to this Agreement. The obligation to notify the Executive Director of the appointment of the Sub-Council Members, Alternate Members and Dawang Representative Members listed in Schedule [?] in accordance with clause 6.3(c), is deemed to be satisfied.
- (b) A list of the CALM Representatives and corresponding CALM Proxies for the first Park Sub-council for each of the Park Sub-councils, and a list of the three (3) CALM Representatives that are to be members of the first Regional Park Council are set out in Schedule 3 to this agreement. The obligation to notify the MG Corporation with respect to the appointment of the listed persons in accordance with clauses 6.4(b) and 7(b) is deemed to be satisfied.

**14. INDEMNITY**

**14.1 By the State**

The State agrees to indemnify and keep indemnified the MG Corporation against all proceedings, actions, suits, claims, demands, costs and losses ("Losses") suffered or incurred by the MG Corporation to the extent such Losses are incurred by the MG Corporation or any of its members, employees, agents or contractors, as a result of the negligent or other tortious act or omission of the State, the Executive Director or any of either of their officers, employees, agents, or contractors in the purported exercise of its or their rights or obligations under this Management Agreement or the Management Plan.

**14.2 By the MG Corporation**

The MG Corporation agrees to indemnify and keep indemnified the State and the Executive Director against all proceedings, actions, suits, claims, demands, costs and losses ("Losses") suffered or incurred by the State or the Executive Director or both of

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION  
AREAS**

them to the extent such Losses are incurred by the State or the Executive Director or both of them or any of either of their employees, agents or contractors, as a result of the negligent or other tortious act or omission of the MG Corporation or any of its members, officers, employees, agents, or contractors in the purported exercise of its or their rights or obligations under this Management Agreement or the Management Plan.

**15. NOTICES**

- (a) Notices under this Agreement shall be in writing and may be delivered by hand delivery, pre-paid post or facsimile transmission.
- (b) Notice shall be deemed to be received:
  - (i) in the case of hand delivery, on delivery to the address of the Party set out below or as otherwise notified from time to time;
  - (ii) in the case of pre-paid post, five (5) Business Days after posting; and
  - (iii) in the case of facsimile transmission, upon receipt by the sender of a transmission form indicating successful transmission of the entire facsimile.
- (c) Notices to be given to:
  - (i) the State shall be addressed to:  
Facsimile No:
  - (ii) the MG Corporation shall be addressed to:  
Facsimile No:
  - (iii) the Executive Director shall be addressed to:  
Facsimile No:
  - (iv) the Conservation Commission shall be addressed to:  
Facsimile No:
- (d) Any of the Parties may change their respective addresses in clause 15(c) by giving notice in writing by registered post to all other parties.

**16. NO PARTNERSHIP ETC**

Nothing in this Agreement shall be taken to constitute a partnership, agency, joint venture or any other form of legal relationship between the Parties by which any Party may bind any other Party or Parties to contracts, agreements, deeds or any other document creating binding legal obligations. Without limiting the foregoing, no Party may enter into any employment contract or contract for the provision of works, materials or services on or in respect of the Land purporting to bind any other Party or Parties.

**17. GOVERNING LAW**

This Agreement is governed by the law in force in the State of Western Australia and the Parties agree to submit to the non-exclusive jurisdiction of the Courts of Western Australia and the appeal Courts from those Courts.

**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION AREAS**

**SCHEDULE 2**

**MG Conservation Lands Employment Principles**

The Executive Director and the MG Corporation agree to the pursuit of the following principles and objectives in relation to clause 4(a)(vii) of the Management Agreement.

- (a) The Parties to the Management Agreement agree that the Regional Park Council will develop, the Executive Director and the Department will implement and the State will appropriately resource, an Aboriginal Training and Employment Program for the purposes of skills development and training relevant to the administration, planning, management and control of the Land.
- (b) The Aboriginal Training and Employment Program will:
  - (i) provide appropriate skills development and training (both on the job training and a formal study component) for a range of positions required for the management of the Land encompassing low, medium, high and specialist skilled positions;
  - (ii) provide mentors for the training, pre-employment and employment phases of the Aboriginal Training and Employment Program; and
  - (iii) make provision for traditional obligations of the MG People in determining working conditions.
- (c) All Parties will use their best endeavours to ensure that the employment of MG Peoples in the management of the Land will:
  - (i) constitute 50% of all full time equivalent positions within five years of the execution of the Management Agreement, with an appropriate review carried out at that time to determine whether this requirement has been met; and
  - (ii) constitute a majority of all full time equivalent positions within 10 years of the execution of the Management Agreement
- (d) The Executive Director will prepare an annual report to the Regional Park Council on the implementation and operation of the Aboriginal Training and Employment Program, including:
  - (i) development, implementation and operation of specific training and employment programs;
  - (ii) skills acquisition and development;
  - (iii) number of full time equivalent training places;
  - (iv) number of full time equivalent positions; and
  - (v) any changes to the Aboriginal Training and Employment Program which could be considered by the Parties either immediately and by agreement, or at the next review date
- (e) The Parties agree that these Principles will be reviewed at the first 10 year review, as provided for in clause 3.4 of the Management Agreement and, where necessary and appropriate, at each subsequent 10 year review.



**SCHEDULE 6 – MANAGEMENT AGREEMENT FOR NEW CONSERVATION AREAS**

This Agreement was executed by the parties on the date first hereinbefore appearing.

Signed for and on behalf of the )  
STATE OF WESTERN AUSTRALIA )  
by )  
)

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THE COMMON SEAL of )  
THE CONSERVATION COMMISSION )  
was hereunto affixed by )  
in the presence of : )

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THE COMMON SEAL of )  
THE EXECUTIVE DIRECTOR of the )  
DEPARTMENT of CONSERVATION )  
AND LAND MANAGEMENT was )  
hereunto affixed by )  
in the presence of : )

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THE COMMON SEAL of )  
[MG Corporation] was )  
hereunto affixed by )  
in the presence of : )