



CITY OF
ADELAIDE

PARK LANDS DEPASTURING LICENCE

Licensee:

PARK LANDS DEPASTURING LICENCE

PARK LANDS DEPASTURING LICENCE made on the date specified in Item 1 of the Schedule
BETWEEN:

THE CORPORATION OF THE CITY OF ADELAIDE (“**the Council**”) a body corporate constituted under the Local Government Act 1999, as amended

AND

The party specified in Item 2 of the Schedule (“**the Licensee**”)

WHEREAS

- A. The matters referred to in the recitals are true and correct in every material particular and shall form part of this Licence.
- B. The Council has the care, control and management of the area of the Park Lands known as Lefevre Park / Nantu Wama (Park 6), which is designated for the purpose of depasturing Horses.
- C. Subject in all respects to the provisions of this Licence, the Council has agreed to grant the Licensee a non-exclusive right to depasture a Horse in the area specified in the Licenced Area.

1. DEFINITIONS & INTERPRETATIONS

1.1. DEFINITIONS

In this Licence unless the contrary intention appears or the context otherwise requires or admits:

“**Approval**” means the prior written approval of the Council.

“**Building**” means a building or structure within the meaning of the Development Act 1993 as amended.

“**Council**” means the Corporation of the City of Adelaide and includes its employees, contractors, workmen, agents and its successors and assigns.

“**Depasturing**” means the pasturing and grazing of Horses upon the Licensed Area.

“**Fixtures, Fittings and Structures**” includes but is not limited to, all drains, pipes, fencing, posts, inspection plates, reticulation equipment, electrical equipment and similar services respectively in, on or under the Licensed Area.

“**GST**” means goods and service tax payable under the “A New Tax System [Goods and Services Tax] Act, 1999”.

“**Horse**” means a horse or pony that is not pregnant and is more than 10 hands high.

“**Licence**” means this licence, the schedule and appendices numbered one and two inclusive which together set out the terms and conditions for depasturing a Horse in the Licensed Area.

“**Licensee**” means the party specified in Item 2 of the Schedule.

“**Licence Fee**” means the amount specified in Item 8 of the Schedule.

“**Licensed Area**” means that portion of the Park Lands specified in Item 3 of the Schedule and more particularly, delineated in red on the map attached hereto and labelled as Appendix One and such other portions of the Park Lands as may from time to time be reserved for this purpose by the Council.

“**Park Lands**” means the Adelaide Park Lands as delineated in the public maps and plans deposited in the Lands Titles Registration Office, the General Registry Office or the Surveyor-General’s Office.

“**Period of Licence**” means the term specified in Item 5 of the Schedule.

“**Permitted Use**” means the use as described in Item 4 of the Schedule.

“**Schedule**” means the Schedule for Depasturing in the Park Lands.

“**Vehicle**” has the same meaning as specified in the Australian Road Rules but excludes a Horse.

1.2. INTERPRETATIONS

Unless the Licence otherwise requires or admits, words importing any gender shall include all genders; words importing natural persons shall include partnerships and corporations and vice versa; words importing the singular shall include the plural and vice versa; headings are for convenience and shall not affect the interpretation of this Licence.

WHERE IT IS AGREED as follows:

2. GRANT OF THE LICENCE

2.1. The Council hereby grants to the Licensee the full liberty and licence during the continuance of this Licence to use the Licensed Area for the Permitted Use (Item 4 of The Schedule) together with all ancillary rights [in common with any other persons authorised by the Council] of ingress thereto and egress there from subject to the terms and conditions in this Licence provided that the rights and powers granted to the Licensee shall rest in contract only and shall not create any estate or interest in the Licensed Area.

2.2. The Licensee acknowledges:

2.2.1. that the licensed Area shall be used for the Permitted Use only and not for any other use without Council’s approval; and

2.2.2. Council does not warrant that the Licensed Area is suitable for the Permitted Use.

3. TERM OF THE LICENCE

This License shall be for the Period of Licence commencing on the date specified in Item 6 of the Schedule and shall continue (subject to the further provisions of this Licence) until the date specified in Item 7 of the Schedule. This License is not transferable.

4. LICENCE FEE

4.1. The Licensee shall pay to the Council the Licence Fee which is indicated in Item 8 of the Schedule, payable in equal calendar quarterly sums always in advance.

4.2. All amounts payable by the Licensee under this licence shall be exclusive of GST.

4.3. The Council shall issue a tax invoice for the license fee no later than 30 days prior to the due date for payment.

4.4. Should the horse be removed from the paddocks for any period of time (up to three months) the Licensee shall pay to Council its standard Depasturing Fee.

5. RENEWAL

Subject to any other conditions of this Licence the Council may agree in writing to renew the period of this Licence for a further period subject to:

- (1) The Licensee not being in material breach of any of the terms and conditions of this Licence.
- (2) The Licensee requesting the Council in writing to enter into a further licence not less than 30 days before the expiry of the then current Licence, Council will send the License Holder a licence renewal notice approximately 30 days prior to the date of termination of the Licence specified in Item 7 of the Schedule; and
- (3) The Licensee accepting the new Licence Fee and any variations to the terms of this Licence as may reasonably be determined by the Council.

6. CONDITIONS OF USE OF THE LICENCE AREA

- 6.1. No person shall use the Licensed Area for any activity pursuant to this Licence until a fully executed copy of this Licence and proof of public liability insurance have been received by the Council and the applicable quarterly instalment of the Licence Fee has been paid.
- 6.2. No Building or, Fitting, Fixture or Structure whatsoever shall be erected, fixed or placed by the Licensee in the Licensed Area without the prior written consent of the Council and/or including Development Approval.
- 6.3. Every Building and Fitting, Fixture or Structure erected by or for the Licensee (including by the Council) and any maintenance thereto shall comply with the Australian Standards applicable to such work and without prejudice to such Australian Standards be of such material and in accordance with such plans as the Council shall approve and be constructed or erected to the satisfaction of the Council.
- 6.4. Every Building and Fitting, Fixture or Structure so erected, fixed or placed upon the Licensed Area shall become the absolute property of the Council and shall not be removed from the Licensed Area or moved to any other part of the Park Lands except with the prior written consent of the Council.
- 6.5. Every Building and Fitting, Fixture or Structure of any kind erected or placed on the Licensed Area which are the responsibility of the Licensee shall be maintained in good and safe condition by the Licensee, and the Licensee, shall when required to do so by the Council, paint, repair, or otherwise keep in good order or remove from the Licensed Area. In the event that the Licensee fails to carry out such painting, repairing or removal, the work may be done by the Council and the cost of the work charged to and be recoverable by action from the Licensee(s). Unless any such debt is paid within 14 days of receipt of written notice from the Council, the Council may revoke this Licence without prejudice to any further right of action against the Licensee(s).
- 6.6. Every Building and Fitting, Fixture or Structure of any kind whatsoever so erected or placed on the Licensed Area that is the responsibility of the Licensee shall have any damage, howsoever caused, repaired and graffiti removed including the restoration of the damaged article restored to a good and safe condition as thoroughly and promptly as is reasonably practicable.
- 6.7. All materials and finishes, including colours of external paints and any signage or logos are subject to the written consent of the Council prior to the Licensee applying or

affixing same to any Building or Fitting, Fixture or Structure of any kind in the Licensed Area.

- 6.8. No person shall drive or ride a vehicle or permit a vehicle to be driven or ridden in, upon or over any part of the Park Lands or park thereon without the permission of the Council.
- 6.9. Separate permission must be obtained for any use of the Licensed Area or adjacent Park Lands for any and all activities other than the Permitted Use and those contemplated with the issuing of this Licence.
- 6.10. The Licence Holder must reside within Council's designated zone (within a 2 kilometre zone of the park known as Park 6) at the time of initial application.

7. SPECIAL CONDITIONS

To observe and perform the special conditions contained in Appendix Two of this Licence, which conditions form part of this Licence. In the event of any inconsistency between the provisions of this Licence and the special conditions, the special conditions shall prevail.

8. COVENANTS BY LICENSEE

In consideration of the said rights and privileges the Licensee HEREBY COVENANTS with the Council as follows:

- 8.1. Not to inscribe upon or affix any sign, advertisement or notice on or to any part of the Licensed Area or on any Building or Fitting, Fixture or Structure subject to this Licence, except with the prior written consent of the Council and then only on the terms and conditions specified by the Council.
- 8.2. To take out and maintain at its his or her expense a policy of public liability for a minimum amount of TEN MILLION DOLLARS [\$10,000,000] arising out of any one claim and shall produce evidence of such insurance by means of a certificate of currency at or prior to the commencement of this Licence and upon any renewal of such insurance. The certificate of currency must note the City of Adelaide as an interested party.
- 8.3. To comply with the provisions of and give all notices required by and cause his or her agents and invitees [if any] to comply with any Act of Parliament, regulation or by-law relating to the use of the Licensed Area PROVIDED THAT this covenant shall not require or permit the Licensee to make any alterations to any Building or Fitting, Fixture or Structure on or in any part of the Licensed Area without the written prior approval of Council.
- 8.4. To comply with and cause to be complied with all lawful Council directions, rules and by-laws regarding the Licensed Area or the Permitted Use thereof concerning the Licensee's exercise of its rights pursuant to this Licence.
- 8.5. To collect and remove from the Licensed Area all litter, rubbish and other matter that may accumulate thereon arising from the exercise of this Licence and to yield up the Licence Area in the same condition as at the commencement of this Licence.
- 8.6. Upon expiration or sooner determination of this Licence all rights to use the Licensed Area under the Licence shall cease and the Licensee shall by revocation or otherwise peaceably and quietly vacate and leave the Licensed Area in the same condition as at the commencement of this Licence.

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- 8.7. The Licensee shall not transfer or assign or sub-licence its rights under this Licence except with the prior written consent of the Council.
- 8.8. To indemnify and keep indemnified the Council, its officers, servants and agents from and against all actions, proceedings, suits, claims, demands, damages, costs and expenses that may be made, brought or prosecuted by the Licensee or any other person in respect of any loss, damage, injury or death or any matter whatsoever arising from or in any way incidental to the exercise by the Licensee of the rights under this Licence and against all costs, damages and expenses that may be incurred by the Council, its officers, servants or agents in defending or settling those actions, proceedings, suits, claims, demands, damages, costs and expenses except to the extent that such injury, damage or loss shall have been caused by or contributed to by the Council, its officers, servants or agents.

9. NATURE OF THE LICENCE

- 9.1. The rights hereby granted rest in contract only and do not create or confer upon the Licensee any tenancy or any estate or leasehold interest in the Licensed Area or any part or parts thereof. The rights hereby granted shall not confer upon the Licensee or any person claiming through or under the Licensee any right of exclusive occupation of all or part of the Licensed Area and the Council may at any time exercise all the rights of an owner with respect thereto which shall include but not be limited to the right to use, possess and enjoy the whole or any part of the Licensed Area.
- 9.2. The Council shall not be liable for any injury to persons riding or otherwise interacting with the horses, nor shall it be liable for any injury, loss or theft of equipment or horses depastured in the Licence Area.

10. TERMINATION BY THE COUNCIL FOR DEFAULT BY THE LICENSEE

Without limiting the provisions of this Licence and in particular the provisions of Clause 8 hereof, the Council may terminate this Licence by notice in writing to the Licensee (but without prejudice to any right or action of the Council in respect of breach of this Licence by the Licensee) in the following events:

- 10.1. If the Licensee fails to materially perform or observe any of its obligations under this Licence and has failed to remedy such material breach after having been served 14 days notice in writing by the Council advising of the material breach and requiring the Licensee to remedy the same.
- 10.2. If the Licensee ceases to use the Licensed Area for the Permitted Use for a period of three (3) months or more, except where any horse needs to be removed from the Licensed Area for veterinary attention.

11. REVOCATION OR SUSPENSION OF LICENCE

This Licence may be revoked or suspended at the discretion of the Council in the event of the Licensee's failure to remedy a material breach of or default under this License. Upon revocation, all rights to use the Licenced Area shall cease and no compensation will be payable by the Council to the Licensee. Any decision to revoke or suspend the licence shall be given to the Licensee in writing giving 30 days to remove the Horse. Should the horse named in Item 4 of the Schedule die during the term of this license, the license will be revoked.

12. SURRENDER

The Licensee may surrender this Licence and thereafter remove the horse named in Item 4 of the Schedule at any time upon giving 30 days written notice to the Council. Upon surrendering the Licence, the Licensee shall have no further obligations to the Council, and shall have no further liability, under this Licence.

13. NOTICES

Any notice to be served by either party to this Licence must be served by sending it to the usual address of the recipient by ordinary mail, facsimile or personal delivery. In the case of ordinary mail, service shall be deemed to occur one business day after the date of posting, and in all other cases deemed to occur on the same day.

14. COSTS

The Licensee must pay all rates, taxes, charges, impositions, levies and licence fees (if any) separately assessed on the Licensee in respect of or arising out of the granting of this Licence. Should the Licence Fee be outstanding for a period of in excess of 60 days the Licence may be revoked by the Council, and the outstanding balance will be forwarded to debt collection.

IN WITNESS whereof the parties have signed this Licence

SIGNED for and on behalf of **THE LICENSEE**

| | | | |
|-------------|--|-------|--|
| Signature: | | Date: | |
| Print Name: | | | |

WITNESS TO LICENSEE'S SIGNATURE:

| | | | |
|-------------|--|-------|--|
| Signature: | | Date: | |
| Print Name: | | | |
| Address | | | |
| Occupation | | | |

SIGNED for and on behalf of the **THE CORPORATION OF THE CITY OF ADELAIDE**

| | | | |
|-------------|--|-------|--|
| Signature: | | Date: | |
| Print Name: | | | |

PARK LANDS DEPASTURING LICENCE

PARK LANDS DEPASTURING LICENCE SCHEDULE

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|--------|------------------------------|--|
| Item 1 | Date of Licence approval | |
| Item 2 | Licensee name and address | |
| Item 3 | Licensed Area | Lefevre Park / Nantu Wama (Park 6) in the Adelaide Park Lands as shown in Appendix One |
| Item 4 | Permitted use | |
| Item 5 | Period of the Licence | Annual |
| Item 6 | Commencement date of Licence | |
| Item 7 | Termination date of Licence | |
| Item 8 | Licence fee | As per Council's endorsed Schedule of Fees and Charges |

SAMPLE

**APPENDIX ONE:
MAP OF LICENCE AREA**



APPENDIX TWO: SPECIAL CONDITIONS FOR DEPASTURING IN THE PARK LANDS

1. No person shall allow any horse to be depastured upon the Park Lands unless that person holds a licence to depasture issued by the Council.
2. To be eligible for placement in the Park Lands a horse must:
 - Not be pregnant;
 - Be at least 11 hands high (110 cm); and
 - Be three years old or older.
3. Upon initial application and prior to the grant of a Licence, applicants shall lodge with the Council a detailed description of each particular horse for which the Licence is requested together with three coloured photographs of the Horse concerned.
4. Upon initial application, a veterinarian inspection including a written report, is required before any Licence is considered. The horse must be verified to be:
 - inspected for any respiratory conditions and skin lesions;
 - immunised for 'strangles' and 'tetanus';
 - paste wormed; and
 - not pregnant.
5. Upon renewal of a Licence it is the responsibility of the Licensee to provide Council with a report certified by a veterinarian, or a statutory declaration that the horse has been treated for the following:
 - currently immunised on an annual basis against 'strangles' and 'tetanus';
 - wormed in line with the paddock rotation roster (approximately every 12 weeks).
6. Should the Licence Holder fail to pay the quarterly instalment of the Licence Fee within 60 days of the due date, a letter will be issued requesting payment of the outstanding fees within 14 days of the date of the correspondence. Should these fees not be received or any alternative arrangements made with the Council within the time frame stipulated, the Licensee will be in breach of their Licence. In such circumstances the Licence will be revoked and the horse will need to be removed from the Licensed Area.
7. A Licence is issued upon the express condition that the Council is not to be held responsible (excluding due to the negligence of Council) for the loss of any horse, nor for any injury or damage to any horse depastured on the Park Lands, whether arising from defective fences or from drains, ditches, poisonous vegetation or from any other cause whatsoever.
8. The Council does not accept responsibility in any degree for any horse which escapes from the Licensed Area, nor will the Council be held liable for any loss which may be occasioned by, or for any damage or injury which may be done by, any horse which escapes or is removed from the Licensed Area, to any person or property or to any building, erection or structure on the Licensed Area, save and except as required by law or where incurred by the Council in defending or settling those actions, proceedings, suits, claims, demands, damages, costs and expenses or where such injury, damage or loss shall have been caused or contributed by the Council.
9. The escape of any horse from the Licensed Area will be considered a breach of the Licence and may result in the Licence being revoked by Council. Should the Licence be revoked, the horse must be removed as quickly as possible from the Licensed Area. A date can be agreed in liaison with the Park Lands Ranger.

10. When being led or driven past reserves, where fences have been removed, all horses must be securely roped and under the control of the person leading or driving the horse or horses.
11. No diseased horse shall be depastured upon the Park Lands. In the event of a horse exhibiting a disease that is considered to be contagious to humans or animals (including other horses), the horse must be immediately isolated from the herd. Should the sick horses condition prove to be fatal to either humans or other animals (including horses) then the Licence will be terminated and the horse must be removed from the Park Lands within the ensuing 24 hour period. Consultation on this matter will be undertaken as required with licence holders, veterinarians, the Department of Primary Industries and Resources of South Australia (PIRSA) and the City of Adelaide's Park Lands Ranger (PLR). The decision to terminate the Licence for reason of contagious illness will be at the complete discretion of City of Adelaide.
12. The Licensee shall comply with any reasonable lawful direction given verbally or in written form by the PLR or any Authorised Officer of the Council.
13. Where persons are specifically licensed to depasture horses in any plantation, any Horse found to be damaging the trees therein, may be removed forthwith from the relevant area notwithstanding the specific permission given.
14. The Licensee must follow a prescribed horse worming programme as reasonably defined by the PLR at the time.
15. Licensees using the feeding pens must leave the pens in a clean and tidy condition. No Horse is to be left in the feeding pens longer than it is necessary to tend to that horse.
16. The Council reserves the following rights:
 - (a) To refuse to licence any person and to cancel any licence without assigning any reason therefore.
 - (b) To require the removal forthwith of any diseased or unsuitable horse from the Park Lands and, failing removal, to impound, at the cost of the Licensee.
 - (c) To remove or relocate horses from one place in the Park Lands to any other place in the Park Lands as and when may be deemed advisable by the PLR or any other officer so authorised by the Council.
17. If a Licensee intends to remove a horse for any period of time from the Licensed Area, the Licensee must notify the Council in writing (either email or formal letter) prior to its removal.
18. In the event that a horse becomes pregnant during the term of this Licence Agreement the Licence Holder will be required to surrender this Licence. The Licence Holder must:
 - (a) notify Council in writing within thirty (30) days of confirmation of the pregnancy;
 - (b) advise of a date for removal – removal to be within 3 months (90) days of confirmation of the pregnancy;
19. Use of the "sick horse paddock":
 - Only horses with a genuine sickness issue may use the sick horse paddock. The PLR must be contacted and give approval PRIOR to admitting the horse to the sick horse paddock. In the event that the PLR cannot be contacted, the horse may be admitted to the sick horse paddock pending permission from the PLR.
 - Pregnant horses are not to be isolated in the sick paddock without the express permission from the PLR
 - New horses entering the paddocks are to be given priority use of the sick horse paddock for isolation and gradual integration in coordination with the PLR.