

SHIRE OF CUNDERDIN



SHIRE OF



CUNDERDIN

RANGER SERVICES
AGREEMENT

Shire of Cunderdin Ranger Services Agreement

This Service Agreement is made the ____ day of _____ 2022.

Between

Shire of Cunderdin ABN 75 587 374 670 Lundy Avenue, Cunderdin Western Australia (**'Shire'**)

And

WA Contract Ranger Services Pty Ltd (ACN 47167356523 of PO Box 718 York in the State of Western Australia (**'Service Provider'**))

Recitals

- A. The Contractor is in the business of providing the Services
- B. The Shire has requested the Contractor to provide the Services to and on behalf of the Shire.
- C. The Contractor has agreed to provide the Services to and on behalf of the Shire on the terms and conditions contained in this Agreement.

Definitions, Interpretation and Services

1.1. Definitions

In this Agreement, including the recitals, unless the context otherwise requires, the following terms have the following meanings:

Agreement means this document including any schedules and annexures or any amendment thereof agreed in writing by the Parties;

Applicable Laws means all laws, including, without limitation, legislation and any principle or rule of common law or equity relevant to the performance of the Services;

Confidential Information has the meaning given in clause 9.1;

Contractor means the person or persons, corporation or corporations, who contract to supply the Services to the Shire as set out in the Schedule;

Employees of any party means that party's employees, directors, officers, contractors and agents or any of them;

End Date means the date described in the Schedule;

Event Indicating Insolvency in relation to a party, means something that reasonably indicates that there is a significant risk that party is or will become unable to pay debts as they fall due

Expenses means the Contractor's reasonable out-of-pocket expenses associated with the provision of the Services to the Shire set out in the Schedule;

GST means the Goods and Services Tax as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth);

Loss includes claim, liability, cost and expense;

Mode of Payment means the mode of payment described in the Schedule

Schedule means the schedule to this Agreement;

Service Fee means the amount or rate of remuneration described in the Schedule

Services means the services, tasks, work and requisites to be supplied, rendered provided or performed by the Contractor as set out in the Schedule and includes any and all variations as agreed by the parties;

Special Conditions means the special conditions and technical specifications set out in the Schedule;

Start Date means the date described in the Schedule;

State means the State of Western Australia

Term means the period commencing on the Start Date and expiring on the earlier of the:

- a) End Date; or
- b) Termination of this Agreement in accordance with the provisions of this Agreement.

1.2. Interpretation

In this Agreement, unless the contrary intention appears:

- a) clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
- b) words in the singular number include the plural and vice versa; and
- c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

Services

1.3. Provisions

- a) The Contractor shall provide the Services to the Shire during the Term in consideration of the Shire paying the Service Fee or such further or other fee as is agreed in writing from time to time by the parties.
- b) Subject to clause 3.2 (c) and subject to the Contractor observing and performing the terms and conditions of this Agreement, the Shire shall not control the method, time or place of provision of the Services by the Contractor (or the Contractor's Employees).
- c) The Shire shall be entitled in case of emergency to direct the Contractor as to the method and time and place of provision of the Services.

1.4. Term

The Shire engages the Contractor for the Term. If this Agreement is terminated, then:

- a) The Contractor must fulfil any incomplete obligations under this Agreement not fulfilled by the Contractor as at the last date of the Term;
 - b) The Shire must pay to the Contractor any amounts due or which become due for payment under this Agreement; and
 - c) After the Shire has paid in full all monies due or which become due to the Contractor, the Contractor must immediately yield up to the Shire all property and Confidential Information of the Shire in the Contractor's possession.
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Fees and Payment

1.5. Payment

In consideration of the provision of the Services by the Contractor, the Shire shall pay the Service Fee to the Contractor in the Mode of Payment in accordance with the terms and conditions of this Agreement.

1.6. Invoice

The Contractor shall present an invoice to the Shire at such times and as often as the Contractor considers appropriate (provided it is not more than once per fortnight), for payment by the Shire in respect of:

- a) Services provided by the Contractor since rendering the previous invoice; and
- b) Reimbursement of Expenses approved by the Shire. The Contractor shall retain all relevant receipts, invoices and records, and attach copies to the next invoice being presented to the Shire with summary presented on the invoice detailing the total amount of those Expenses.

1.7. Variation of Service Fees

- a) The Service Fees shall be fixed, unless otherwise stated in this Agreement.
- b) Where the Service Fees are variable, and the Contractor seeks to claim for a variation in the Service Fee during the Term, the Contractor shall give the Shire full details of the claim, including all applicable information as to cost of materials, direct labour, overheads, profit and such other cost components as the Shire may require to verify any claim for a variation.

1.8. Suspension of Payments

Should the Contractor refuse or neglect to carry out the instructions of the Shire in regard to any matter connected with this Agreement, the Shire may suspend all payments to the Contractor until such instructions have been complied with to the complete satisfaction of the Shire.

Contractor's Obligations

1.9. Standard of Care

The Contractor agrees that its Employees must:

- a) Perform the Services under this Agreement in a diligent and professional manner, and to the standard of skill and care expected of a professional experienced in the provision of the type of Services and to the standard reasonable required by the Shire;
- b) Continually use its best endeavours to promote the successful completion of the Services taking into account the interests and welfare of the Shire generally;

- c) Comply with the provisions of all Applicable Laws affecting or pertinent to the Services and their performance.

1.10. Defective performance

- a) The Contractor guarantees that if there is a defect in the performance of the Services the Contractor will remedy the defect or redo the Services at no additional cost to the Shire within the timeframe agreed by the Contractor (acting reasonably) and the Shire.
- b) Where the Contractor:
 - i. Refuses or fails to remedy a defect in performance of the Services; or
 - ii. Fails to redo the services within the agreed timeframe;
 - iii. And the Shire cannot agree on a timeframe to remedy a defect or redo the Services,

then the Contractor agrees that the Shire may arrange for the performance of the necessary remedial work, and recover all and any costs on demand from the Contractor.

1.11. Licence and/or Qualifications

- a) The Contractor must ensure that its Employees hold the requisite licence(s), qualification(s), approvals and experience to legally perform the Services.
- b) The Contractor covenants and warrants that they have obtained and will continue to maintain in accordance with the requirements of all Applicable Laws all permits, visas and licences necessary for the lawful performance of the Services and agree to provide evidence of this to the Shire upon request.
- c) The Contractor shall provide to the Shire all relevant documentation applicable to 1.11.a) above upon request.

Time

- 1.12. The Contractor agrees to provide the Services punctually at or within the time stated in this Agreement, and in this respect time shall be of the essence of this Agreement.
- 1.13. The contractor shall only be entitled to extensions of time for compliance with the Shire's prior written consent, which consent the Shire may withhold at its sole discretion.

Liability

- 1.14. The Contractor is responsible for and indemnifies the Shire from and against:
 - a) All liabilities for all Loss, damage or injury to persons or property caused by the Contractor, its Employees. The amount of such claims, damages, costs and expenses payable, suffered or incurred by the Shire for any such Loss, damage or injury is made good at the Contractor's expense. The Contractor shall, at its own cost and expense, duly comply with all Applicable Laws that apply either to the Contractor or the Services provided by the Contractor; and
 - b) All actions, proceedings, costs, charges, claims, demands and Loss arising from a failure by the Contractor to comply with the Applicable Laws.

No Partnership or Employment

- 1.15. The Contractor supplies the Services as an independent contractor. The contractor is not in partnership or in a joint venture with the Shire, nor is the Contractor and employee, servant or agent of the Shire.
- 1.16. Nothing contained in this Agreement shall constitute the relationship of partnership or employer and employee between the Shire and the Contractor (or their Employees), and it is the express intention of the parties that any such relationship is denied.
- 1.17. Upon written notice to the Contractor, the Shire can demand that any of the Contractor's Employees cease to provide the Services. In such event the Contractor can utilise an alternative person to provide Services.
- 1.18. The parties acknowledge that the Contractor only (and not the Shire);
 - a) Is required to make its own insurance and tax payment arrangements; and
 - b) Controls and is responsible for itself and its Employees. If any Applicable Laws imposes an employer / employee obligation on the Shire and the Contractor, the Contractor undertakes to carry out all such obligations and pay all such costs and indemnifies and holds

the Shire harmless, including indemnifying the Shire from any payroll tax liability.

Insurance

- 1.19. The Contractor shall hold and maintain for the duration of this Agreement a minimum \$20 million public liability insurance and such other necessary insurances (including workers' compensation) for itself and its Employees involved in providing Services to the Shire.
- 1.20. The Contractor shall provide evidence of the insurance set out in clause 1.19 to the Shire prior to the commencement of the Services and at such other times upon request by the Shire.

Confidentiality

- 1.21. Except as authorised by the Shire in writing or as required by the Contractor to provide Services to the Shire or as may be required by law, the Contractor shall not (directly or indirectly) disclose to any third entity or individual not a party to this Agreement any information, forms, specification, processes, statements, records, drawings or data concerning:

- a) the operations and dealings of the Shire; or
- b) the organisation, finance, customers, markets, suppliers and intellectual property and knowhow of the Shire,

which is not in the public domain (except by the failure of the Contractor to observe and perform the covenants, terms and conditions contained in this Agreement) and which has been obtained from providing Services to and on behalf of the Shire.

- 1.22. All records and documents (whether in paper, electronic or other form), including copies and extracts that contain Confidential Information are and remain the property of the Shire, both during the Term and after termination of this Agreement. At the request of the Shire or on termination of this Agreement, the Contractor shall immediately return such records and documents to the Shire.

Termination

- 1.23. The Shire shall have at all times the right to terminate this Agreement with immediate effect by giving notice in writing to the Contractor if any of the following events occur:
- a) the Contractor suffers an Event Indicating Insolvency;
 - b) the Contractor fails to supply and provide the Services on the due dates or dates or at the location or locations specified in the Agreement;
 - c) the Contractor fails to duly and punctually observe and perform all or any of the terms or conditions set out in this Agreement to the complete satisfaction of the Shire;
 - d) the Contractor fails in any manner to perform the Services to the complete satisfaction of the Shire;
 - e) if the Contractor or, where the Contractor is a corporation or trust, any person who controls the Contractor is convicted by a court of an indictable offence.
- 1.24. Upon termination of the Agreement all moneys previously paid to the Contractor shall be deemed to be in full satisfaction of all claims of the Contractor of any kind or description whatsoever under or in respect of the Contract.

Covenants

- 1.25. The Contractor covenants to:
- a) Act with the utmost good faith in all of its dealings with the Shire;
 - b) Provide the Services to the Shire in a skilful, expeditious and professional manner;
 - c) Not intentionally do anything which is or may be harmful to the Shire;
 - d) Report promptly to the Shire all information, explanations and advice required by the Shire or which the Shire ought properly be informed of; and
 - e) Both during the Term and after termination of this Agreement, not use or attempt to use any Confidential Information in a manner which is not first authorised in writing by the Shire (also refer to clause 1.21 and clause 1.22 of this Agreement).

- 1.26. The Contractor shall not incur any liability on behalf of the Shire or in any way pledge or purport to pledge the Shire's credit or accept any order or make any contract binding upon the Shire except to the extent that the Contractor may be authorised in writing by the Shire.
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Special Conditions

- 1.27. The Special Conditions apply to and form part of this Agreement.
- 1.28. To the extent of any inconsistency between the Special Conditions and the other terms of this Agreement, the Special Conditions will apply.
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GST

- 1.29. The parties agree that all amounts to be paid by the Shire to the Contractor pursuant to this Agreement are exclusive of GST.
- 1.30. In respect of any liability of the Contractor for GST incurred pursuant to this Agreement, the Shire covenants to pay the Contractor the amount of the GST immediately upon demand by the Contractor.
- 1.31. The Contractor covenants that any invoice it presents to the Shire pursuant to this Agreement shall comply with the GST Act and be in a format that enables the Shire to claim input tax credits in respect of the taxable supply.
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Indemnities

- 1.32. In relation to each of the indemnities contained in this Agreement:
- a) the indemnity is a continuing obligation, separate and independent from the other obligations of a party, and survives the expiration or termination of this Agreement.
 - b) it is not necessary for a party to incur expense or make a payment before enforcing a right of indemnity conferred by this Agreement.
 - c) a party is liable to pay to the other party so indemnified an amount equal to any Loss suffered or incurred by an employee, officer or agent of that party.
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Assignment or Sub-Contract

- 1.33. The Contractor must not assign or sub-contract this Agreement or any part thereof (including the provision of any of the Services) except with the prior written consent of the Shire, which consent the Shire may withhold at its sole discretion.
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Counterparts

- 1.34. This Agreement may be executed in any number of counterparts and all such counterparts when executed and taken together will constitute this Agreement.
- 1.35. A copy of this Agreement duly signed and sent to another party or their solicitor by facsimile or email transmission shall be as valid and effectual as if the original executed copy of the document had been sent.
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Entire Agreement

- 1.36. This Agreement comprises the entire agreement between the parties in relation to its subject matter and no earlier agreement, understanding or representation, whether oral or in writing, in relation to any matter dealt with in this Agreement will have any effect from the date of this Agreement.
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Further Action

- 1.37. Each party must do or cause to be done or refrain from doing all such acts or things necessary to give effect to this Agreement.
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Choice of Jurisdiction and Law

- 1.38. This Agreement will be governed by and construed in accordance with the law from time to time in force within the State of Western Australia and the parties submit to the non-exclusive jurisdiction of the courts of the State of Western Australia.

No Warranty

- 1.39. The parties acknowledge that in entering into this Agreement, they have not relied on any representations or warranties about the subject matter of this Agreement except as provided in this Agreement.

No Merger

- 1.40. None of the terms or conditions of this Agreement, or of any act, matter or thing done under or by virtue of this Agreement or any other agreement, instrument or document, or judgement or order of any court or judicial proceeding, will operate as a merger of any of the rights and remedies of the parties under this Agreement, and those rights and remedies at all times will continue in force.

Notices

- 1.41. Any notice or demand required to be given served or made pursuant to this Agreement will be deemed to have been properly given if:
- a) sent by prepaid post addressed to the addressee at its usual or last known place of business;
 - b) delivered personally to the person to be served;
 - c) sent by email to an acknowledged address; or
 - d) sent by facsimile transmission to the person at an acknowledged facsimile number.
- 1.42. Any notice given pursuant to the preceding paragraph will be deemed to have been received;
- a) if sent by post, within three (3) working days;
 - b) if sent by e-mail, upon the day of sending; and
 - c) if sent by facsimile, upon the day of sending.
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Waiver

- 1.43. The failure of either party to enforce this Agreement shall in no way be interpreted as a waiver of its respective rights under the Services Agreement.
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Operative Date

- 1.44. The parties agree that the provisions of this Agreement shall be deemed to take effect from the date of execution of this Agreement by all of the Parties.
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Variation

- 1.45. This Agreement shall only be varied by way of a deed of variation signed by the parties.
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Costs

- 1.46. Each party must bear their own legal and other costs and expenses of and incidental to the preparation and execution of this Agreement.
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No Partnership or Agency

- 1.47. The rights, duties, obligations and liabilities of the parties under this Agreement are several and not joint or collective. Each party will be individually responsible only for their obligations as specified in this Agreement.
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Severability

- 1.48. Part or all of any clause of this Agreement that is illegal or unenforceable will be severed from this Agreement and will not affect the continued operation of the remaining provisions of this Agreement.

Consent

- 1.49. Where this Agreement provides that any particular transaction or matter requires the consent, approval or agreement of any party that consent, approval or agreement may be given subject to such terms and conditions as that party may impose, and any breach of such terms and conditions by any person will be deemed to be a breach of the terms of this Agreement.

Schedule 1

1. Contractor

WA Contract Ranger Services Pty Ltd (ACN 47167356523 of PO Box 718 York in the State of Western Australia.

2. Start Date

____ day of ____ 2022

3. End Date

____ day of ____ 2025

4. Services

4.1 Provide a professional Local Government Ranger service of 1 rostered day a fortnight, or more often if requested by the Shire of Cunderdin, in addition to an emergency on-call service. Services may include (but are not limited to):

4.1.1 Dog and cat management

4.1.2 Bushfire hazard reduction

4.1.3 Off road vehicle management

4.1.4 Litter and illegal dumping management

4.1.5 Abandoned vehicle management

4.1.6 Animal control including reptile handling

4.1.7 Caravan and camping control

4.1.8 All other areas of State legislation pertaining to a Local Government Ranger service

4.1.9 All other management of local laws

4.1.10 All other law enforcement within the Shire of Cunderdin

4.2 The on-call component is a full 24/7 Ranger service. Emergency call-outs will be given priority over rostered days at other Local Governments and vice versa.

5. Service Fee / Remuneration

The Principal shall pay the Contractor the following remuneration for delivery of services as prescribed by this agreement:

Consideration	Remuneration
Routine work hours (Monday to Friday between 9 am and 5 pm)	\$95 per hour (plus GST)
Non routine work / emergency call out hours at all other times as approved (time charged from point of departure to Cunderdin and return)	\$95 per hour (plus GST)
Travel (per trip to the Shire of Cunderdin for Routine Work Hours only)	\$95 per trip (plus GST)

6. Expenses

Nil

7. Mode of Payment

By electronic funds transfer to the following Contractor's nominated account:-

Bank	Commonwealth
BSB	066 192
Account No.	10503318
Name	WA Contract Ranger Services Pty Ltd

8. Special Conditions

The Contractor is to liaise with the Shire of Cunderdin's Chief Executive Officer (or delegate) in relation to:

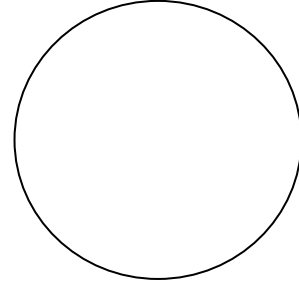
- a) All matters pertinent to this Agreement;
- b) Specific direction on service delivery applicable to this Agreement;
- c) Accurate records and statistical information being maintained and presented to the Shire.

Schedule 2

Executed by the Parties as a deed on the _____ day of _____ 2022

Shire of Cunderdin

THE COMMON SEAL of the Shire of Cunderdin was hereunto affixed pursuant to a resolution of the Shire of Cunderdin in the presence of:



Shire President Signature

Chief Executive Officer Signature

Print Name

Print Name

WA Contract Ranger Services Pty Ltd

Executed by WA Contract Ranger Services Pty Ltd (ACN 47167356523) in accordance with section 127 of the *Corporations Act 2001*:

Sole Director/Secretary Signature

Print Name