Risk Warning and Waiver of Liability

Name of Provider[1]	Central West 4wd Park Pty Ltd
Address of Provider	'Lolowen', 2970 (Lot 95, DP756885 & Lot 1, DP 1136258) & 'Welshmans' 2891 (Lot 36, DP756885, Lot 208, DP724672, Lot 7001 DP1120638, Lot 7303, DP1153959) Hill End Road, Avisford State: NSW Postcode: 2850

Name of Participant	Name:		
Address of Participant	Street:		
	Suburb:	State:	Postcode:
	Date of visit:	Registration No:	

The following pages affect your legal rights and obligations. Please read these carefully and only sign if you fully understand their contents. For Participants under 18 years of age, these documents must be completed by a parent or legal guardian.

Description of Activities[2]:

Four wheel driving and camping.

Risk Warning

I am aware that by my participation in any activities arranged by the Provider, certain risks or dangers may occur which could include:

- Physical, bodily or psychological injury or death.
- Physical exertion to which I am not accustomed.
- Failure of equipment or use of inadequate equipment.
- There may be no or inadequate facilities for treatment or transport to treatment if I am injured.
- The conditions in which the activities are conducted may vary without warning.
- I may cause injury to other persons and/or other persons may cause injury to me.
- I may be injured or die due to the negligence, breach of contract or breach of statutory duty or guarantee of the provider.

I acknowledge that the activities are being undertaken for the purposes of recreation, enjoyment or leisure, and involve a significant degree of risk of physical harm.

I acknowledge that the Activity may be undertaken with one or more other persons as part of a group and that the Provider is not liable for the actions of other participants in the group activity.

[1] Provider includes the officers, employees, agents, contractors, franchisees and assigns of the Provider.

[2] Activities includes all activities and services ancillary to or associated with the named Activity, both before and after the Activity, including transportation to and from the location of the Activity whether provided by the Provider or not, briefings, inductions, training, and the provision of information in all manuals, safety guidelines and other documentation provided to or made available to the Participant with respect to the Activity, familarisation with clothing or equipment and methods of operation of equipment and the wearing and removal of any clothing or equipment associated with the Activity. Unless otherwise specified, a reference to an Activity is a reference to a recreational service or a recreational activity as defined in relevant legislation referred to herein.

By signing below, I acknowledge, agree and understand that the risks associated with the Activities and/or recreational services have been explained to me. I undertake any such risk voluntarily and at my own risk.

I acknowledge that the risk warning above constitutes a *"risk warning"* in accordance with the *Civil Liability Act 2002* (NSW) and the *Civil Liability Act 2002* (WA).

Participant's Warranties

I agree to abide by any of the Provider's rules, and any direction or instruction given to me by the Provider during the course of the Activities. I agree to use and/or wear any equipment given to me by the Provider.

I declare that I am medically and physically fit and able to participate in the Activities. I acknowledge that I must, and agree that I will, disclose any pre-existing medical or other condition, injury or concern that may affect the risk that either I or any other person will suffer injury, loss or damage during the course of the Activities and notify the Provider of any injuries, illness or concerns that may arise during the Activity. I will not engage in any reckless, negligent or foolish behaviour or any other behaviour that is likely to cause injury to me, any other participant or person.

I agree that if I suffer any injury or illness, the Provider may provide evacuation, first aid and/or medical treatment at my expense and that my acceptance of these terms and conditions constitutes my consent to such evacuation, first aid and/or medical treatment.

I declare that I have not consumed any alcohol or mind altering substance, or medication that may impact my judgement or physical capacity, before or at the time of engaging in the Activities.

Exclusion of liability

I agree to and unconditionally release, waive, discharge and forever hold harmless, the Provider or any of its employees, agents, directors or officers, from any claims as a result of any personal injury sustained, whether caused by the Provider's negligent act or wilful act or omission, breach of contract, breach of statutory duty, error, or otherwise in connection with or arising out of the Activities.

I agree that the Provider will not be liable for any claims for personal injury that may be brought against it as a result of or in connection with any act, omission, default, failure or error on the part of the Provider, and agree to indemnify and keep indemnified the Provider in respect of any such claims.

Waiver

It is possible for a supplier of recreational services to ask you to agree that the statutory guarantees under the *Australian Consumer Law* (which is schedule 2 to the *Competition and Consumer Act 2010* (Cth)) do not apply to you. If you sign this form, you will be agreeing that your rights (or the rights of a person for whom or on whose behalf you are acquiring the services) to sue the Provider in relation to the Provider's services or the activities that you undertake because the services or activities provided were not in accordance with the guarantees are excluded, restricted or modified as set out below.

For Queensland, New South Wales, Western Australia, Tasmania, Northern Territory and Australian Capital Territory and Commonwealth

By signing this form, you agree that the liability of the Provider in relation to the activities (as defined by the *Competition and Consumer Act 2010* (Cth), the *Consumer Affairs and Fair Trading Act* (NT) and the *Australian Consumer Law*) and recreational activities (as defined by the *Civil Liability Act 2002* (NSW) and the *Civil Liability Act 2002* (WA)) for any:

(a) Deaths;

(b) Physical or mental injuries (including the aggravation, acceleration or recurrence of such an injury);

(c) The contraction, aggravation or acceleration of a disease;

(d) The coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to an individual:

(i) That is or may be harmful or disadvantageous to you or the community; or

(ii) That may result in harm or disadvantage to you or community;

That may be suffered by you (or a person for whom or on whose behalf you are acquiring the services) resulting from the supply of the recreational services or recreational activities is excluded.

You acknowledge and agree that the above provision operates to exclude the liability of the Provider as a result of a breach of an express or implied warranty that the recreational services will be rendered with reasonable care and skill in accordance with section 5J of the *Civil Liability Act 2002* (WA) and section 5N of the *Civil Liability Act 2002* (NSW).

For South Australia

Exclusion, restriction or modification of rights under the *Australian Consumer Law* (SA)

Your rights:

Under sections 60 and 61 of the *Australian Consumer Law (SA)*, if a person in trade or commerce supplies you with services (including recreational services[3]), there is—

- A statutory guarantee that those services will be rendered with due care and skill; and
- A statutory guarantee that those services, and any product resulting from those services, will be reasonably fit for the purpose for which the services are being acquired (as long as that purpose is made known to the supplier); and
- A statutory guarantee that those services, and any product resulting from those services, will be of such a nature, and quality, state or condition, that they might reasonably be expected to achieve the result that the consumer wishes to achieve (as long as that wish is made known to the supplier or a person with whom negotiations have been conducted in relation to the acquisition of the services).

Excluding, restricting or modifying your rights:

Under section 42 of the *Fair Trading Act 1987*, the supplier of recreational services is entitled to ask you to agree to exclude, restrict or modify his or her liability for any personal injury suffered by you or another person for whom or on whose behalf you are acquiring the services (a ***third party consumer***).

If you sign this form, you will be agreeing to exclude, restrict or modify the supplier's liability with the result that compensation may not be payable if you or the third party consumer suffer personal injury.[4]

Important

You do not have to agree to exclude, restrict or modify your rights by signing this form. The supplier may refuse to provide you with the services if you do not agree to exclude, restrict or modify your rights by signing this form. Even if you sign this form, you may still have further legal rights against the supplier.

A child under the age of 18 cannot legally agree to exclude, restrict or modify his or her rights. A parent or guardian of a child who acquires recreational services for the child cannot legally agree to exclude, restrict or modify the child's rights.

Agreement to exclude, restrict or modify your rights:

I agree that the liability of CENTRAL WEST 4WD PARK PTY LTD [*the Provider*] for any personal injury that may result from the supply of the recreational services that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) is excluded.

Further information:

Further information about your rights can be found at www.ocba.sa.gov.au

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[3] ***Recreational services*** are services that consist of participation in—
- a sporting activity or similar leisure-time pursuit; or
- any other activity that involves a significant degree of physical exertion or risk and is undertaken for the purposes of recreation, enjoyment or leisure.

[4] Personal injury is bodily injury and includes mental and nervous shock and death.

For Victoria

Warning under the *Australian Consumer Law And Fair Trading Act 2012* (Vic)

Under the *Australian Consumer Law (Victoria)*, several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form is required to ensure that the recreational services it supplies to you—

- Are rendered with due care and skill; and
- Are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- Might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the *Australian Consumer Law and Fair Trading Act 2012*, the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the *Australian Consumer Law and Fair Trading Act 2012* if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

NOTE: The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. ***Gross negligence***, in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 and section 22(3)(b) of the *Australian Consumer Law and Fair Trading Act 2012*.

Agreement to exclude, restrict or modify your rights:

I agree that the liability of the Provider for any personal injury that may result from the supply of the recreational services that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) is excluded.

Declaration and Signature

I have read carefully and understand this risk warning and waiver of liability and sign it feely and voluntarily without inducement of any kind.

Signature of Participant: _____ Date: _____

Signature of Witness _____ Date: _____

For Participants under age 18

This is to certify that I, as a parent/guardian with legal responsibility for the Participant, acknowledge, understand and accept all of the above and consent to his/her release as provided above. I release and agree to indemnify and hold harmless the Provider from any and all liabilities arising from my minor child's involvement or participation in the Activities and/or recreational services, even if arising from the negligence of the Provider.

Signature of Legal Guardian: _____ Date: _____

Name (Print): _____

Signature of Witness _____ Date: _____