

**JAMAICA CONSERVATION  
&  
DEVELOPMENT TRUST**

**AND**

**NATURAL RESOURCES  
CONSERVATION AUTHORITY**

**DELEGATION INSTRUMENT**

**SEPTEMBER 19, 2002**

# **THE NATURAL RESOURCES CONSERVATION AUTHORITY ACT (1991)**

## **DELEGATION INSTRUMENT**

### **PARTIES**

**THE NATURAL RESOURCES CONSERVATION AUTHORITY** whose address for service within the jurisdiction of the courts of Jamaica is 10 Caledonia Avenue, Kingston 5, in the parish of St. Andrew (hereinafter referred to as the "Authority").

**THE JAMAICA CONSERVATION AND DEVELOPMENT TRUST**, a company limited by guarantee not having a share capital, with registered office at 22B Old Hope Road, Kingston, in the parish of St. Andrew (hereinafter referred to as "JCDT").

### **DEFINITIONS**

"**Authority**" means the Natural Resources Conservation Authority established pursuant to Section 3 of the Natural Resources Conservation Authority Act (1991) and its successors and assigns.

"**Commencement Date**" means the 1<sup>st</sup> of October 2002.

"**Expiry Date**" means the 31<sup>st</sup> October 2012.

"**Management Plan**" is the last revision of the plan governing the management of the National Park as approved by the Authority.

"**Term**" means a period of ten years between the first day of October 2002 and the Expiry Date subject to the provisions relating to the renewal as set out in clause 10 of this agreement.

"**The Act**" means the Natural Resources Conservation Authority Act (1991)

"**Operational Expenses for the Park**" means expenses of the Park, including park management, costs associated with maintenance, salary of park personnel, insurance, equipment and other related costs and costs associated with scientific research, conservation and management programs.

"**Protected Area**" means the National Park as declared in the Natural Resources (National Park) Regulations 1993.

"**User fees**" means any fees that may be collected in accordance with any Regulations governing user fees prescribed for the National Park and any user fees collected from the Hollywell Park.

### **PREAMBLE**

**WHEREAS** Section 6 of the Natural Resources Conservation Authority Act 1991 (hereinafter referred to as "the Act") provides that the Authority may delegate any of its functions under the Act (other than the power to make regulations) to any member, officer or agent of the Authority;



**AND WHEREAS** the JCDT has indicated its intention to manage, protect, and preserve the National Park in the Blue and John Crow Mountains;

**AND WHEREAS** the JCDT, the NRCA and the Forestry Department have signed a Co-Management Agreement for the Blue and John Crow Mountain National Park dated March 17, 2000.

**AND WHEREAS** the Authority is desirous of delegating to JCDT as its agent the functions and obligations set out herein on the terms and conditions so specified;

**NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:-**

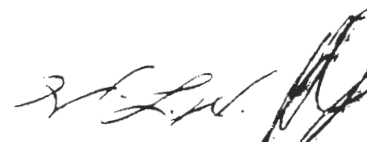
### **GRANT**

- 1.0 The Authority hereby appoints JCDT as an agent of the Authority in accordance with this agreement and pursuant to section 6 of the Act delegates to JCDT the functions and obligations specified herein subject to the terms and conditions so specified.
- 2.0 The instrument of delegation shall be for a term of ten (10) years and may be renewed at the option of the Authority by notice in writing with the consent of JCDT in accordance with clause 10.3.

### **3.0 THE OBLIGATIONS OF THE AUTHORITY**

The Authority shall:

- 3.1 Assist JCDT in performing its obligations and functions described herein by providing a requisite sum as a management fee to be determined by the Parties to this agreement.
- 3.2 Put in place such user fee regulations as may be necessary to assist in the costs associated with management of the National Park, and to revise such fees from time to time as is needed to achieve the goals of the Park .
- 3.3 As far as is practicable to do so co-operate with JCDT in its efforts to perform the functions and obligations stated herein including but not limited to providing technical, enforcement and legal assistance except where it is not practicable to do so.
- 3.4 Use its best efforts to provide JCDT with research assistance and information of which the Authority is possessed, which it may require in its efforts to carry out the functions and obligations described herein.
- 3.5 Monitor the progress of the implementation of the National Park Management Plan and assist in achieving the objectives of such plan and its revisions.
- 3.6 Along with JCDT enter into necessary co-operative agreements with persons and organisations and individuals for the effective management of the National Park according to the provisions of the National Park Management Plan.
- 3.7 Assist JCDT in training its staff with the skills necessary to achieve the goals of the National Park Management Plan as agreed between the parties.



- 3.8 Authorize JCDT to collect on its behalf as its agent, in a manner to be agreed upon user fees payable by users of the National Park and any such other fees as the Authority and JCDT may agree should be collected.
- 3.9 Remit to JCDT as its agent user fees and such other fees collected by the Authority, as the parties may agree. The User fees generated shall be used to cover the operational expenses of the Park.
- 3.10 All user-fees collected and such other fees remitted to JCDT shall be retained by the JCDT in a special account, to be specially reported on, and shall be used to manage the National Park in accordance with the National Park Management Plan and this agreement.
- 3.11 Use its best efforts to obtain duty-free status and GCT-free status for any equipment or service imported or purchased in connection with the management of the National Park, provided that the procurement of such equipment or service is first approved by the Authority.
- 3.12 Identify and assign a senior member of staff who shall be the official liaison between the Authority and JCDT, who will monitor the performance of JCDT within the National Park and who will co-ordinate the fulfillment of the obligations of the Authority under this delegation instrument and the co-management agreement with the Forestry Department.
- 3.13 Consult the JCDT on approvals for permits and development applications, including analysis of environmental impact assessments, and allow representations to be made to the Authority by JCDT before finally approving or determining such matter if the activity for which the permit or approval is sought falls within the National Park or will significantly impact the National Park.
- 3.14 Assist in the appointment of the National Park Rangers and the Protected Area Manager selected by JCDT to become Special District Constables.
- 3.15 Provide guidelines on the standards for management of the National Park including safety, disaster preparedness, preparation of management and operation plans.

#### **4. THE OBLIGATIONS AND FUNCTIONS OF JCDT**

##### **JCDT shall:**

- 4.1 Develop an annual operation plan prior to the month of October of each year that details all the activities that JCDT plans to carry out in the Park each year. This operation plan shall contain a budget for such activities to be conducted by JCDT, which shall be reviewed by the Authority to assess a management fee to be paid yearly. The Operation plan shall include information on activities that will be carried out in relation to staffing, financing, maintenance and improvement of facilities, infrastructure, programs and projects on the following areas, protection and conservation, enforcement, traditional and concurrent uses, recreation and tourism, education, public relations development and administration. The Plan shall be submitted three months from the date of signature of this agreement.
- 4.2 Prepare and submit a National Park Management Plan within eight months (8) of the date of this delegation agreement and take such steps as are necessary for the effective management of the National

Park in keeping with the provisions of the National Park Management Plan and any other legislation so as to ensure the conservation, protection and sustainable use of its natural resources.

- 4.3 Develop, implement and monitor plans and programmes relating to the management of the National Park according to the National Park Management Plan.
- 4.4 In consultation with the Authority revise the National Park Management Plan where so required and where the parties intend to renew the delegation instrument in accordance with section 10.
- 4.5 Promote public awareness of the ecological systems and natural resources of the National Park and the importance of their sustainable use to the social and economic life of Jamaica.
- 4.6 Consult and advise the Authority on matters of general policy relating to the management, development, conservation and care of the environment within the National Park.
- 4.7 Provide all relevant information to the Authority in good time when it is consulted concerning applications for permits and development permission.
- 4.8 Permit the Authority to conduct financial and operational audits of its activities within the National Park after giving seven days (7) notice,
- 4.9 Perform such other functions in the National Park as may be assigned to it by the Authority from time to time by mutual consent.
- 4.10 Maintain in good order and repair all buildings and other facilities for which it has responsibility.
- 4.11 Put in place insurance, employee, property and public liability policies as approved by the Authority to cover equipment, buildings, employees, agents and visitors within the recreational areas of the Protected Area and submit relevant policies to the Authority on an annual basis. Where any claim or suit is made against JCDT it shall report such to the Authority immediately.
- 4.12 Manage the Hollywell Park in accordance with a lease agreement which may be subject to termination in accordance with the termination clause in the said agreement.
- 4.13 Submit to the Authority, bi-annual reports specifying the progress or setbacks in accomplishing the goals of the National Park Management Plan.

## **5. IMPLEMENTATION**

- 5.1 In performing the obligations and functions specified in clause 4, JCDT may with the written consent of the Authority:
  - 5.1.1 Construct buildings and other facilities for administration, education, enforcement and recreation, according to the National Park Management Plan.

- 5.1.2 Monitor compliance with the National Park Regulations and any other laws governing the protection of the environment and report on infractions, record official complaints and conduct such enforcement action where authorized.
- 5.1.3 Investigate the effect on the environment of the National Park of any activity that causes or might cause pollution or might involve waste management or disposal or damage to flora or fauna or might involve dangers to public health.
- 5.1.4 Report to the Authority all environmental incidents and breaches within the National Park of the NRCA Act and its Regulations, the Wild Life Protection Act and its Regulations, and the Watershed Protection Act and its Regulations and any other Act under which the Authority exercises jurisdiction, within twenty-four hours (24) of such breaches coming to the attention of JCDDT, its employees, servants or agents, unless it is not practicable to do so.
- 5.1.5 Make recommendations to the Authority on the zoning of areas within the National Park in order to provide for the effective management of the area, and to advise on regulations or rules with respect to the purposes for which the resources in each zone may be used.
- 5.2 In performing the obligations and functions specified in clause 4, JCDDT shall:
- 5.2.1 Procure the requisite facilities and equipment to carry out the functions herein described.
- 5.2.2 Undertake studies in relation to the National Park and in collaboration with the Authority to encourage and promote research into the use of techniques for the management of pollution and the conservation of natural resources and sustainable development.
- 5.2.3 Recommend that an Environmental Impact Assessment be undertaken for any activity or undertaking or development to be carried out or that is being carried out within or nearby the National Park, if it is in the opinion of JCDDT that such activity is or is likely to have an adverse effect on the environment and public health.
- 5.2.4 Conduct seminars and training programs, gather and disseminate information relating to environmental matters.
- 5.2.5 Formulate and design projects aimed at ensuring the sustainable use of the natural resources within the National Park and the environment in general with 30 days notice to the Authority, and to operate and publicize such projects pursuant to the agreed operation plan.
- 5.2.6 Provide pertinent information to and to inform the public in respect of all aspects of the quality of the environment generally and specifically of the quality of the environment within the National Park.
- 5.2.7 Perform the functions listed in Section 4 of this agreement in accordance with the National Park Management Plan, in accordance with the Act and the Regulations made thereunder.
- 5.2.8 Employ and supervise adequately trained staff who are competent and qualified as necessary for the proper carrying out of the functions for which they were hired.

## **6. SUB-DELEGATION**

- 6.1 The Authority shall not assign or delegate any of the specified functions or obligations contained herein within the National Park without the prior consent in writing of JCDT. This consent shall not unreasonably be withheld. Where a delegation is made by the Authority such delegation agreement shall be negotiated in association with JCDT.
- 6.2 JCDT shall not delegate any of its obligations contained within this delegation instrument without the written consent of the Authority. This consent shall not be unreasonably withheld. Where a delegation is made by JCDT such delegation agreement shall be negotiated in association with Authority.

## **7. INDEMNIFICATION**

- 7.1 The Authority shall indemnify and shall keep indemnified JCDT against any loss, damage or liability whether criminal or civil suffered, arising out of or relating to the Authority's default in the carrying out of its obligations under this agreement.
- 7.2 JCDT shall indemnify and shall keep indemnified the Authority against any and all costs, claims and expenses, loss, damage or liability whether criminal or civil suffered, which may be incurred by the Authority arising out of, or relating to the carrying out of any one or more or all of the functions described herein due to the negligence of JCDT, its employees and agents, or to a breach of this agreement.

## **8. REPORTING**

JCDT shall:

- 8.1 As soon as may be practicable before the 1<sup>st</sup> day of October in each year, submit to the Authority for consideration, its estimates of revenue and expenditure in respect of the period commencing on the 1st day of April in the following year and ending on the 31st day of March of the subsequent year, and shall during that year, submit to the Authority for approval any estimate for further expenditure as may become necessary.
- 8.2 Keep accounts and other records in relation to its business, receipts, expenditure and investments and shall prepare annually a statement of accounts in a form satisfactory to the Authority.
- 8.3 Provide annual audited financial statements to the Authority within three (3) months of the end of each financial year of the activities within the National Park.

## **9. TERMINATION**

- 9.1 This agreement shall terminate at the end of the term.
- 9.2 Either party may terminate this agreement by six (6) months notice in writing to the registered office of the other party for a fundamental breach of this agreement.



9.3 JCDT may, after consultation with the Authority, terminate this agreement provided a minimum of six (6) months notice is given to the Authority and public notice is given by placing such notice in a daily newspaper widely circulating in the island.

## **10. RENEWAL**

10.1 Should for any reason either party does not wish to renew the instrument of delegation, this should be conveyed in writing to the other party not less than twelve (12) months before the expiry of the current agreement.

10.2 At the end of three years, the two parties shall begin discussions towards the renewal of the National Park Management Plan. JCDT is to submit to the Authority for its approval a draft of a new Plan for a period of five-years. This plan should be reviewed by the Authority and comments submitted in writing within six months of the review of the management plan..

10.3 At the end of nine years after the commencement of this agreement, the two parties shall begin discussions towards the renewal of the instrument of delegation. The Authority is to submit to JCDT in writing at that time any wishes it may have concerning the delegation agreement. All negotiations should be complete at least six (6) months before the expiry of this instrument of delegation.

## **11. MISCELLANEOUS**

11.1 In the event that any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality.

11.2 This agreement is capable of amendment by both Parties in writing at any time during its term.

## **12. SUPERCEDES PRIOR AGREEMENT**

This agreement supercedes any prior agreement between the parties whether written or oral and any such prior agreements are cancelled at the commencement date but without prejudice to any rights that have already accrued to either of the parties. However if any rights are accrued prior to this agreement which are in conflict to this agreement then the agreement prevails.

## **13. NOTICES**

Any notice to be served shall be sent by registered post, or by facsimile or electronic mail supported by the original document, to the registered office or address for service of the addressee and shall be deemed to be received by the addressee within five (5) working days of posting or twenty-four hours if sent by facsimile or electronic mail to the correct fax number or electronic mail address of the party.





**14. ARBITRATION**

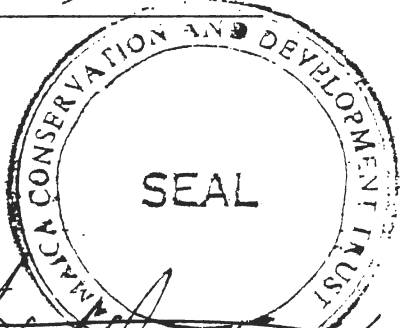
All disputes and differences which shall at any time arise between the parties whether during the term or afterward constituting a fundamental breach of this agreement, or touching or concerning this delegation instrument or its construction or effect of the rights, duties or liabilities of the parties under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the subject matter of this agreement shall be referred to panel of three arbitrators, one proposed by the Authority, one proposed by JCDT and the third to be agreed upon by both parties, the majority decision of those arbitrators being binding upon both parties.

Dated this 19<sup>th</sup> day of September 2002.

Signed for and on behalf of the  
Natural Resources Conservation Authority )  
)

in the presence of  
Cade Exell  
Witness

[Signature]  
Chairman



Signed for and on behalf of the  
Jamaica Conservation and Development Trust )  
)  
in the presence of  
)  
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[Signature]  
Witness

[Signature]  
Chairman