

Amending Deed

Derwent Entertainment Centre – Lease

Dated 7 June 2021

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Melbourne VIC 3000 Australia
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Amending Deed

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Details

Parties	Lessor, Lessee and Guarantor	
Lessor	Name	The Crown in Right of Tasmania acting through the Honourable Roger Jaensch MP (being and in his capacity as the Minister of State Growth)
	Address	4 Salamanca Place, Hobart TAS 7000
	Email	info@stategrowth.tas.gov.au
	Attention	Secretary, Department of State Growth
Lessee	Name	LK Stadiums (Tas) Pty Ltd
	ACN	643 599 740
	Address	Level 13, 10 Queens Road, Melbourne VIC 3004
	Email	boris.rozenvasser@lkg.com.au
	Attention	Boris Rozenvasser
Guarantor	Name	LK Property Group Holdings Pty Ltd (ACN 130 992 282) in its personal capacity and as trustee for the Kestelman Family Trust (No. 5) (ABN 90 398 314 970)
	Address	Level 13, 10 Queens Road, Melbourne VIC 3004
	Attention	Boris Rozenvasser
Date of Deed	See signing page	

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Development Agreement means the document entitled “NBL Tasmanian Team and Derwent Entertainment Redevelopment Project: Development Agreement” between the Lessor and LK Development (Tas) Pty Ltd (ACN 642 876 211) originally dated 8 November 2020 and as amended on or about the date of this document.

Effective Date means the date of this document.

Existing Lease means the document entitled “Lease – Derwent Entertainment Centre” dated 8 November 2020 between the Lessor, the Lessee and the Guarantor.

Minister means the Minister for State Growth.

Transaction Documents means the following documents:

- (a) the Development Agreement; and
- (b) the Existing Lease.

2 Amendments

As from the Effective Date, the Existing Lease is amended to read as set out in Annexure A.

3 Confirmation and acknowledgement

3.1 Confirmations

Each party confirms that:

- (a) except as provided for in Clause 2 (*Amendments*), no other amendments are made to the Existing Lease;
- (b) any reference in a Transaction Document (except in this document) to the Existing Lease is a reference to the Existing Lease as amended by this document; and
- (c) each Transaction Document as amended by this document continues in full force and effect.

3.2 Transaction Documents

The parties acknowledge and agree that this document is a Transaction Document for the purposes of the Existing Lease as amended by this document.

4 General

- (a) Clauses 1.2 (*Interpretation*) to 1.4 (*No rule of construction applies to disadvantage party*) (inclusive), Clause 19 (*Notices*) and Clause 20 (*Miscellaneous*) of the Existing Lease apply to this document as if they

were fully set out in this document, and any reference in those clauses to the "Lease" are taken to be a reference to this document.

- (b) Terms used but not otherwise defined in this document have the meaning given in the Existing Lease.

EXECUTED as a deed

Signing page


Execution by Lessor

Executed as a deed by **The Honourable Peter Gutwein MP** on behalf of the Minister in the presence of the witness named below:

Minister's
signature:
→



Witness'
signature:
→



*Witness
print
name and
position:

CAROL JONES
Manager -
Premier & Ministerial
Services

*Use BLOCK LETTERS

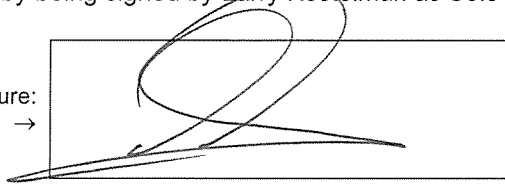
*Witness
print address:

Level 11,
15 Murray St, Hobart

Execution by Lessee

Executed as a deed by **LK Stadiums (Tas) Pty Ltd** under section 127 of the *Corporations Act 2001* (Cwlth) by being signed by Larry Kestelman as Sole Director and Sole Company Secretary:

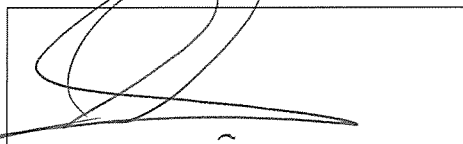
Signature:



Execution by Guarantor

Executed as a deed by **LK Property Group Holdings Pty Ltd** in its personal capacity and as trustee for the Kestelman Family Trust (No. 5) under section 127 of the *Corporations Act 2001* (Cwlth) by being signed by Larry Kestelman as Sole Director and Sole Company Secretary:

Signature:



Annexure A: Amended Existing Lease



Lease

Derwent Entertainment Centre

Date Originally dated 8 November 2020 as amended on 7 June 2021

**The Crown in Right of Tasmania acting through the
Honourable Michael Ferguson MP**
(being and in his capacity as the Minister of State Growth
(Lessor)

and

LK Stadiums (Tas) Pty Ltd (ACN 643 599 740)
(Lessee)

and

**The person or entity (if any) named in Item 1
(Guarantor)**

THE CROWN SOLICITOR OF TASMANIA
111 Macquarie Street Hobart Tasmania 7000
GPO Box 825 Hobart Tasmania 7001
Telephone: (03) 6165 3650
Facsimile: (03) 6173 0265

KING & WOOD MALLESONS
Level 27, Collins Arch
447 Collins Street, Melbourne Victoria 3000
Telephone: (03) 9643 4000
Facsimile: (03) 9643 5999
Doc Ref: 52095347_3

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Lease

Details and recitals

Date: Originally dated 8 November 2020 as amended on 7 June 2021

Parties:

Name	The Crown in Right of Tasmania acting through the Honourable Michael Ferguson MP (being and in his capacity as the Minister of State Growth)
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Short form name	Lessor
Notice details	C/- Department of State Growth 4 Salamanca Place, Hobart, Tasmania, 7000 Facsimile: Not used. Notices cannot be given by facsimile Email: info@stategrowth.tas.gov.au Attention: Secretary, Department of State Growth

Name	LK Stadiums (Tas) Pty Ltd
ACN	643 599 740
Short form name	Lessee
Notice details	Level 13, 10 Queens Road, Melbourne, Victoria 3004 Facsimile: Not used. Notices cannot be given by facsimile Email: boris.rozenvasser@lkg.com.au Attention: Boris Rozenvasser

Name	The person or entity (if any) named in Item 1
Short form name	Guarantor
Notice details	Refer Item 1

Recitals:

- A. Pursuant to the provisions of the Act, the Lessor as Minister may lease Crown land to any person on such terms as the Lessor thinks fit.
- B. The Lessor acting under the powers conferred by the Act (and in particular the Section of the Act) has agreed to grant the Lessee a lease of the Premises in accordance with this Lease and the Act.
- C. The Premises is 'portfolio land' within the meaning of the Act.
- D. The Lessee has agreed to accept a lease of the Premises in accordance with this Lease and the Act.

Information Table

Item 1 Page 1: Guarantor's details	
Name:	LK Property Group Holdings Pty Ltd (ACN 130 992 282) in its personal capacity and as trustee for the Kestelman Family Trust (No. 5) (ABN 90 398 314 970)
Notice details:	Level 13, 10 Queens Road, Melbourne, Victoria 3004 Facsimile: Not used. Notices cannot be given by facsimile Email: boris.rozenvasser@lkg.com.au
	Attention: Boris Rozenvasser

Item 2 (clause 1.1): Premises
All that area of Crown land situated at 601 Brooker Highway, Glenorchy in Tasmania and comprised in folio of the Register Volume 110871 Folio 1 on which the Derwent Entertainment Centre is constructed shown labelled "The Premises" and boldly outlined in black on the Plan (including for the avoidance of doubt the area shown hatched on the Plan).

Item 3 (clause 1.1): Improvements
Not Used.

Item 4 (clause 1.1): Commencement Date
The Date of Stage Practical Completion (as defined in the Development Agreement) for the Project Stage 2B1 (as defined in the Development Agreement).

Item 5 (clause 1.1): Expiry Date
The date that is 10 years after the Commencement Date (subject to clause 3)

Item 6 (clause 1.1): Term
The period of 10 years (subject to clause 3).

Item 7 (clause 3): Option	
Application of clause 3	Applicable
New Lease Term	7 options each for a further term of 5 years and one further option for a term of 4 years
Number of New Terms	8

Item 8 (clause 4): Base Rent

\$200,000.00 per annum as adjusted in accordance with clause 4.2(b).

Item 9 Fixed Rent

Not Used.

Item 10 (clause 4.2): Adjustment of Rent

Applicable.

Item 11 (clause 1.1): Insured Amount

\$150,000,000.00.

Item 12 (clause 1.1): Interest Rate

The rate prescribed by the *Crown Lands Regulations 2011* (Tas) for the purposes of section 36(a)(ii) of the Act.

Item 13 (clause 1.1): Section of Act

Section 29(1).

Item 14 (clause 1.1): Permitted Use

- the staging of entertainment, recreational or sporting events;
- any use in relation to the performing arts;
- any use for educational, cultural or community activities;
- holding of meetings, conventions, conferences, functions, exhibitions and other similar events;
- any use by any government agency or other body connected with the functions of government;
- the sale of food, beverages, merchandise, tickets, memberships and other goods or services related to any of the above uses; and
- any use that is ancillary to any of the above uses;
- any other use approved, in writing, by the Lessor.

Item 15 (clause 16): Special terms and conditions

The following Special terms and conditions apply to this Lease:

1 Hiring Agreements

1.1 Hiring Agreements

- (a) Despite anything in clause 5.1(r), the Lessee may only enter into a hiring agreement with a third party for an Event (“**Hiring Agreement**”) and in accordance with this Special term and condition 1.
- (b) The Lessee may only enter into a Hiring Agreement with:
 - (i) Tasmania Basketball Pty Ltd for the purposes of NBL Matches;
 - (ii) a Specified Community Group or Non-Commercial Group (each as defined in Special terms and condition 1.3) in accordance with Special terms and condition 1.3 (“**Non-Commercial Hiring Agreement**”); or
 - (iii) any other third party which is not a related body corporate of the Lessee,in each case, in accordance with Special terms and conditions 1.2, 1.3 and 1.4 (as applicable).
- (c) For the purposes of this Special term and condition 1:
 - (i) **Event** means an event conducted on the Premises that is a Permitted Use, and includes all NBL Matches; and
 - (ii) **Commercial Hiring Agreement** means any Hiring Agreement other than a Non-Commercial Hiring Agreement.

1.2 Commercial Hiring Agreements

- (a) Subject to Special terms and conditions 1.3 and 1.4, the Lessee must ensure that:
 - (i) each Hiring Agreement contains terms that are substantially in the same form as the form of Hiring Agreement attached to this Lease as “Attachment: Form of Hiring Agreement”(or with such departures that are not materially prejudicial to the interests of the Lessor) or are otherwise consistent with good industry practice or such other terms approved by the Lessor in writing;
 - (ii) each Event and any other activities permitted or contemplated by a Hiring Agreement is a Permitted Use, lawful, does not promote or permit illegal activity or assembly and does not breach any law relating to the development or use of the Premises or the adjoining land;
 - (iii) each Hiring Agreement does not include a hiring date that is more than 36 months after the date of the relevant Hiring Agreement;
 - (iv) each Hiring Agreement contains a provision prohibiting any sub-hiring;
 - (v) the Lessee obtains the Lessor’s prior written consent (such consent not to be unreasonably withheld) before entering into any Hiring Agreement or Hiring Agreements with a counterparty (other than

Tasmania Basketball Pty Ltd) that results in a hire period for that counterparty exceeding 21 days (in aggregate and whether or not continuous) over any 12 month period. For the purposes of this Special term and condition 1.2(v), calculation of the hire period under the Hiring Agreement will not take into account any bump in or bump out periods; and

- (vi) each Hiring Agreement (including, for the avoidance of doubt, any Hiring Agreement for NBL Matches) includes hiring fees and operating expenses for Events, in each case, payable by the Lessee that are consistent with normal industry practice.

1.3 Non-commercial Hiring Agreements

Specified Community Groups

- (a) If a Specified Community Group requests the use of the Premises, the Lessee must make the Premises available to, and enter into a Hiring Agreement with (or otherwise confirm the booking of the Premises to), that Specified Community Group unless:
 - (i) the requested date of use or hire period is prior to the Commencement Date;
 - (ii) the requested date of use or hire period is more than 6 months after the date of the request from the Specified Community Group; or
 - (iii) the Lessee has already entered into a Commercial Hiring Agreement for the requested date of use or hire period; or
 - (iv) all or substantially all of the Premises is required (or reasonably anticipated to be required) for a NBL Match or a NBL Event (including bump in and bump out) during the requested date of use or hire, provided that the Lessee must not refuse to enter into a Hiring Agreement if hiring out the Premises to a Specified Community Group between NBL Matches and/or NBL Events could reasonably be accommodated; or
 - (v) the Specified Community Group does not agree to enter into a Hiring Agreement.
- (b) During the first 5 years of the Term, the hiring fee payable under a Hiring Agreement with a Specified Community Group must reflect hiring fees paid by such groups prior to the date of this Lease and set out in the list attached to this Lease as "Attachment: Community Groups" (subject to an annual adjustment determined in a manner consistent with the method of adjustment to Base Rent as set out in clause 4.2(b)).

Non-Commercial Groups

- (c) If a Non-Commercial Group requests the use of the Premises, the Lessee must make the Premises available to, and enter into a Hiring Agreement with (or otherwise confirm the booking of the Premises to), that Non-Commercial Group unless:
 - (i) the requested date of use or hire period is prior to the Commencement Date;

- (ii) the requested date of use or hire period is more than 30 days after the date of the request; or
 - (iii) the requested date of use is already the subject of a Hiring Agreement pursuant to which a deposit has been paid; or
 - (iv) the requested period of use of the Premises exceeds three (3) consecutive days (in which case, the Lessee is only required to make the Premises available for 3 consecutive days); or
 - (v) all or substantially all of the Premises is required (or reasonably anticipated to be required) for a NBL Match or a NBL Event (including bump in and bump out) during the requested date of use or hire, provided that the Lessee must not refuse to enter into a Hiring Agreement because it would be inconvenient or uneconomical for the Lessee to hire out the Premises to a Non-Commercial Group between NBL Matches and/or NBL Events; or
 - (vi) the Non-Commercial Group does not agree to enter into a Hiring Agreement.
- (d) Unless otherwise approved by the Lessor in writing, the fees and charges payable by a Non-Commercial Group in connection with the hiring of the Premises must not exceed the operating expenses for the Premises directly incurred solely as a result of the Non-Commercial Group's hiring of the Premises.
- (e) Provided the Lessee complies with its obligations under this Special term and condition 1.3, the Lessor agrees to pay to the Lessee the amount of \$175,000 per annum ("**Hiring Fee Contribution**"). The Hiring Fee Contribution:
- (i) is to be paid every six months in arrears (the first such payment to be payable 6 months after the Commencement Date) unless otherwise agreed between the parties;
 - (ii) is to be adjusted annually in the same manner as Base Rent in clause 4.2; and
 - (iii) is only payable after the Lessor receives a valid Tax Invoice for the Hiring Fee Contribution from the Lessee.
- (f) The Lessee must keep, and promptly provide to the Lessor when requested to do so, detailed records of all Non-Commercial Hiring Agreements entered into in accordance with this Special term and condition 1.3 and the costs directly incurred in relation to such Non-Commercial Hiring Agreements.
- (g) For the purposes of this Special term and condition 1.3:
- (i) the period of hire under a Non-Commercial Hiring Agreement will include any bump in or bump out periods, having regard to the nature of the Hiring Agreement and/or Event;
 - (ii) **Specified Community Groups** means the community groups set out in the list attached to this Lease as "Attachment: Community Groups";
 - (iii) **Non-Commercial Groups** means all Tasmanian-based non-commercial entities, including community groups, not for profit

organisations, school and amateur sporting groups (but excluding Specified Community Groups).

1.4 Emergency or disaster

- (a) The Lessee agrees that the Lessor or any Government Body may at any time and without notice to the Lessee enter and use the Premises in connection with any emergency or disaster. To the extent within the Lessor's reasonable control, the Lessor must provide the Lessee with as much prior notice as is reasonable in the circumstances (having regard to the nature of the emergency or disaster).
- (b) The Lessee must ensure that all Hiring Agreements contain a provision that either suspends or terminates the Hiring Agreement in the event that the Lessor or any Government Body requires the use of the Premises in connection with an emergency or disaster.
- (c) The Lessor will reimburse the Lessee for all operating expenses incurred during the period that the Lessor or a Government Body is occupying and using the Premises in accordance with this Special term and condition 1.4 but no other fees or charges will be payable by the Lessor. The Lessee may reduce its payments in respect of Outgoings and Rent under this Lease for any period during which the Lessor enters, uses and occupies the whole or a material part of the Premises in accordance with this Special term and condition 1.4, and any such reduction must be calculated by reference to:
 - (i) the number of days that the Lessor occupies the whole or a material part of the Premises in accordance with this Special term and condition 1.4 and a calendar year of 365 days; and
 - (ii) the proportionate loss of amenity caused by the Lessor's occupation of the Premises.

2 Signage and naming

2.1 Signage restrictions

Notwithstanding any other provision of this Lease, the Lessee must not erect or display, or permit the erection or display of, any signage, advertising or other promotional material on, in or in the area surrounding, the Premises which a reasonable person in the Lessee's position would know:

- (a) promotes or opposes any development law, proposed law, change of law, political party, candidate for public office, policy or any other political activity, cause or interest (other than as part of an Event);
- (b) contains defamatory matter for the purposes of any law relating to defamation;
- (c) infringes the intellectual property rights of any person;
- (d) will or is reasonably likely to constitute an offence for the purposes of any law concerning offensive, obscene or immoral materials;
- (e) will or is reasonably likely to injure, or otherwise materially adversely affect, the reputation of the Lessor; or

- (f) will or is reasonably likely to adversely impact on the public's opinion of Tasmania as a place to live, work, visit or invest.

Without limiting the above, other than as part of an Event (or for an upcoming Event) at the Premises or in the Wilkinsons Point precinct, the Lessee must not erect or display any exterior signage, advertising or other promotional material at the Premises without the prior written consent of the Lessor (such consent not to be unreasonably withheld).

To avoid doubt, signage, advertising or promotional material which promotes 'quick service restaurants' (e.g. fast food), providers of lawful sports betting products (or their products) does not, of itself, contravene Special term and condition 2.1.

2.2 Naming rights

- (a) The Lessee must not grant any naming or sponsorship rights in relation to the Premises without the Lessor's prior written consent, such consent not be unreasonably withheld.
- (b) Notwithstanding Special term and condition 2.2(a), the Lessor may, at its sole discretion, withhold any consent under Special terms and condition 2.2(a) on political or policy grounds.

2.3 Premises name

Unless otherwise approved by the Lessor in accordance with Special term and condition 2.2(a), the Lessee must only use the name "Derwent Entertainment Centre" or "DEC" in connection with the use, occupation, promotion or advertising of the Premises or any part of the Premises.

3 Reserved rights

3.1 Resumption

- (a) The Lessee acknowledges that the Lessor may develop a community sporting facility and/or an elite training facility and ancillary facilities in connection with such community sporting facility or elite training facility (e.g. car parking) on the Resumption Area.
- (b) The Lessor:
- (i) must consult with the Lessee on its development plans; and
 - (ii) if it believes that it is necessary to take back the Resumption Area, may, by at least 4 months' notice ("**Surrender Notice**") to the Lessee, require the Lessee to surrender the Lessee's interest in the Resumption Area.
- (c) On the expiry of the 4 month period or on an earlier day notified by the Lessee:
- (i) the Lessee surrenders to the Lessor all of the Lessee's interest in the Resumption Area, and the Lessor accepts that surrender;

- (ii) the Lessor releases the Lessee from all of its obligations under this Lease in respect of the Resumption Area, but this does not affect any rights of the Lessor that arose prior to the date of such release; and
- (iii) the Lessee releases the Lessor from all of its obligations under this Lease in respect of the Resumption Area, but this does not affect any rights of the Lessee that arose prior to the date of such release.
- (d) The Lessee must, promptly after receiving the Surrender Notice, execute the deed of partial surrender in duplicate and deliver them to the Lessor for execution.
- (e) The Lessee acknowledges that there will be no adjustment in Rent as a result of any surrender under this Special term and condition 3.1.
- (f) The parties are bound by the deed of partial surrender on and from the relevant surrender date, whether or not the deed of partial surrender has been executed by either party.
- (g) In this Special terms and condition 3.1, **Resumption Area** means the part of the Premises shown hatched in the Plan.

3.2 Carpark licence

- (a) The Lessee:
 - (i) acknowledges that the Lessor may require the use of the Car Park for the parking of vehicles by users and/or staff of any community sporting facility and/or an elite training facility developed by the Lessor; and
 - (ii) if requested by the Lessor, agrees to grant the Lessor a non-exclusive licence to park vehicles in the Car Park in accordance with this Special term and condition 3.2.
- (b) The Lessor may at any time after the Lessee surrenders to the Lessor all of the Lessee's interest in the Resumption Area and the Lessor accepts that surrender, provide the Lessee with a written notice setting out:
 - (i) the number of carpark spaces required by the Lessor (which must not exceed 25% of the total available carpark spaces in the Car Park as at the date of completion of the facility referred to in Special term and condition 3.1(a)); and
 - (ii) the proposed licence period (which must not be beyond the expiry of the Term and any further options).
- (c) The Lessee must, within 14 days of the Request, grant the Lessor a non-exclusive licence, for the Licence Fee, to park vehicles in the carpark after the Commencement Date in accordance with the Request and at the Lessor's risk and subject to the Lessee's reasonable directions.
- (d) In this Special term and condition 3.2:
 - (i) **Car Park** means the part of the Premises designated for parking vehicles;
 - (ii) **Licence Fee** means \$1.00 per annum, payable on demand; and

- (iii) **Request** means the Lessor's request in Special term and condition 3.2(b).

3.3 Access licence

- (a) The Lessor may at any time provide the Lessee with a written notice setting out:
- (i) the external part of the Premises that the Lessor requires access to in order to ensure access is maintained to land adjoining the Premises in a manner reasonably acceptable to the Lessor; and
 - (ii) the proposed licence period (which must not be beyond the expiry of the Term and any further options).
- (b) The Lessee must, within 14 days of the Lessor's request in Special term and condition 3.3(b), grant the Lessor and its officers, employees, advisors, consultants, agents and contractors a non-exclusive licence to access that part of the Premises after the Commencement Date, at the Lessor's risk and subject to such persons complying with the Lessee's reasonable requirements in relation to safety, risks and security.

3.4 Replacement car parking

- (a) The Lessor grants the Lessee a non-exclusive licence for the Replacement Car Parks in accordance with this Special term and condition 3.4 ("**Replacement Car Parking Licence**").
- (b) In consideration for payment of the Replacement Car Parking Licence Fee, the Replacement Car Parking Licence is granted by the Lessor to the Lessee:
- (i) for the period commencing on the date that the Lessee surrenders to the Lessor all of the Lessee's interest in the Resumption Area in accordance with Special term and condition 3.1 until the expiry of the Term; and
 - (ii) for such carpark spaces that are asphalted, line-marked and equal in number to the number of carpark spaces surrendered by the Lessee as a result of the Lessee surrendering its interest in the Resumption Area.
- (c) The rights given to the Lessee by this Special term and condition 3.4 are contractual only and do not give the Lessee any interest in the Replacement Car Parks or the right to lodge a caveat in respect of the Replacement Car Park Land.
- (d) If this Lease is terminated before the end of the Term for any reason whatsoever, the Replacement Car Parking Licence simultaneously and automatically terminates.
- (e) The Lessee agrees:
- (i) that the Replacement Car Parking Licence is at the Lessee's risk and subject to the Lessee complying with the Lessor's reasonable requirements in relation to the Replacement Car Parks (including in relation to safety, risks and security); and
 - (ii) to ensure that the insurances referred to in clause 8 extend to the Replacement Car Parks.

- (f) In this Special term and condition 3.4:
- (i) **Replacement Car Parks** means the carpark spaces located on a portion of the Replacement Car Park Land, which accord with the requirements of Special term and condition 3.4(b)(ii), and which are designated by the Lessor as replacement carpark spaces from time to time, provided the Lessor must first consult with the Lessee and give the Lessee at least 60 days' notice prior to varying the location of any carpark space that is designated as Replacement Car Parks for this Lease;
 - (ii) **Replacement Car Park Land** means the land shown hatched and labelled "Proposed Replacement Car Park Land" on the plan attached to this Lease as "Attachment: Replacement Car Park Plan"; and
 - (iii) **Replacement Car Parking Licence Fee** means \$1.00 per annum, payable on demand.

4 Additional termination rights

4.1 NBL season

In addition to the Lessor's rights in clause 9, if:

- (a) at any time, it becomes apparent, based on information publicly released by the NBL, that in the First NBL Season or any subsequent NBL Season, fewer than 11 NBL Matches involving an NBL Team that is based in Tasmania will be played at the Premises; or
- (b) in the First NBL Season or any subsequent NBL Season, fewer than 11 NBL Matches involving an NBL Team that is based in Tasmania are played at the Premises,

the Lessor may, on thirty (30) days' written notice to the Lessee, cancel this Lease and this Lease automatically terminates at the expiry of that thirty (30) days' notice period, and the Lessor must honour any bookings for future Events if requested by the Lessee, to the extent that tickets have been sold and deposits have been paid for those Events, except the Lessor may not cancel this Lease under this Special term and condition 4.1 where an event in Special term and condition 4.1(a) and (b) is triggered solely for the reason that the Lessor occupied the Premises under Special term and condition 3.

4.2 Sea level rise

Despite anything in this Lease, if, at any time during the Term, the Premises becomes incapable of being reasonably occupied for an extended period of time due to a substantial (and not temporary) rise in sea level, either party may give ninety (90) days' written notice to the other party that this Lease is cancelled, and this Lease automatically terminates at the expiry of that ninety (90) day period unless, prior to the giving of that notice, the Premises becomes capable of being occupied for an extended period of time.

4.3 Damage to or destruction of Premises

- (a) If the Premises are substantially destroyed or damaged (other than for the purposes of the Project Works, or as a result of the actions of the Lessee or the

Lessee's Agents other than for the purposes of the Project Works) such that the Premises cannot be used or are inaccessible:

- (i) the Lessee is not liable to pay Rent or other charges payable to the Lessor for the period that the Premises cannot be used or are inaccessible;
 - (ii) the Lessor must consult with the Lessee about any reinstatement of the Premises, but may elect to reinstate the Premises to a different design provided that the new design is no less functional than the existing design of the Premises; and
 - (iii) subject to the Lessor obtaining all relevant approvals from the relevant Government Bodies, the Lessor must promptly reinstate the Premises to at least the condition it was in before the damage or destruction.
- (b) The Lessor is not required to reinstate the Premises under Special term and condition 4.3(a) if:
- (i) the damage or destruction is caused by a prolonged (and not temporary) inundation from the River Derwent; or
 - (ii) the Lessor's insurance will not respond to fully cover the cost of reinstating the Premises, except to the extent caused or contributed to by:
 - (A) any failure by the Lessor to take out or renew or procure any insurance policy it is expressly required to take out or procure under this Lease;
 - (B) any act or omission of the Lessor in relation to the formation of such a policy that invalidates the policy or limits the coverage under the policy;
 - (C) any failure of the Lessor to claim, or to take reasonable steps to enforce a claim, under the policy; or
 - (D) any policy not responding because of any act or omission by the Lessor or a Lessor's Agent.
- (c) The Lessor is not required to reinstate the Premises under Special term and condition 4.3(a) and the Lessee remains liable to pay Rent or other charges payable to the Lessor if the damage or destruction is caused or contributed to by the act, negligence or default of the Lessee or the Lessee's Agents.
- (d) If the Lessor is required by this Lease to reinstate the Premises but fails to diligently commence and pursue the reinstatement works or fails to complete the reinstatement within a reasonable period of time, the Lessee may give the Lessor a notice requiring the Lessor to diligently commence and pursue the reinstatement or complete the reinstatement within a reasonable period of time (as applicable). If, after receipt of the Lessee's notice, the Lessor fails to diligently commence or pursue the reinstatement works, or fails to complete the reinstatement works within a reasonable period of time (as applicable), the Lessee may terminate this Lease on notice to the Lessor.

5 Reporting

The Lessee must provide the Lessor with quarterly reports (on each 31 March, 30 June, 30 September and 31 December during the Term, with the first report due at the end of the full quarter after the Commencement Date) in relation to the Premises, including:

- (a) a report of hirings, forward bookings and cancelled bookings;
- (b) details of revenue and expenses;
- (c) detailed calculations of the Percentage Rent;
- (d) record of known material defects in the Building (to the extent the Lessor has not been made aware of such defects in connection with the Development Agreement); and
- (e) changes in personnel employed wholly or substantially in respect of the business operated from the Premises.

6 Lessor insurance

- (a) The Lessor must take out and keep current throughout the Term and at its cost a contract of insurance (with the Lessor as the insured party and noting the interest of the Lessee as an interested party) with a reputable insurer which meets the following requirements:

Insurance element	Minimum Requirement
Sum insured	In relation to the Building, its full reinstatement or replacement value.
Scope of Cover	<p>Coverage for physical loss, destruction of or damage to the Building (including all improvements, fixtures and fittings) for its reinstatement and/or replacement value from any cause not otherwise excluded from an industry standard Mark IV wording. Actual sub-limits are to be as determined at the time of procuring the policy.</p> <p>Perils covered to include at a minimum:</p> <ul style="list-style-type: none">EarthquakeFloodAction of the sea/tidal wave/tsunamiStorm/tempest/cycloneHail/lightning strikeFire/explosionImpactBurglary/theftMalicious damageAccidental damage

		<p>To the extent that any cause above becomes an Uninsurable Risk, the Crown will not be required to insure for such cause. For this purpose, “Uninsurable Risk” means a risk in respect of which, during the Term:</p> <p>(a) insurance becomes unavailable in the recognised international insurance market from reputable insurers in respect of that risk; or</p> <p>(b) the insurance premium required to be paid to insure that risk with a reputable insurer, or the available terms and conditions of the relevant insurance, are such that the risk is no longer generally insured against in Australia by owners of infrastructure similar to the Building.</p>
	Indemnity Period	Minimum of 36 months
	Period of cover	For a period of 12 months commencing on the Date of Project Practical Completion (as defined in the Development Agreement), to be renewed annually.

(b) The Lessor must, in relation to the insurance taken out under Special term and condition 6(a):

(i) notify the Lessee promptly if:

(A) the insurance is cancelled (other than by renewal); or

(B) an event occurs which may allow a claim under the insurance policy; and

(ii) not do or omit to do anything that will make or is likely to make the insurance invalid or able to be cancelled (other than by renewal).

Operative provisions

The parties agree as follows:

1 Definitions and interpretation

1.1 Definitions

In this Lease, unless the context otherwise requires:

Accounting Period means:

- (a) the period from the Commencement Date to the next 30 June;
- (b) each successive period of 12 months; and
- (c) the period expiring on the Expiry Date or earlier termination of this Lease and commencing on the preceding 1 July.

Accumulated Operating Losses means, as at the commencement of an Accounting Period, the sum of:

- (a) the aggregate of:
 - (i) the Base Rent for all prior Accounting Periods; and
 - (ii) the Outgoings (other than Excluded Outgoings) for all prior Accounting Periods; less
- (b) the aggregate of Gross Annual Turnover for all prior Accounting Periods, provided that, if such calculation results in a negative number, the Accumulated Operating Losses will be deemed to be zero.

Act means the *Crown Lands Act 1976* (Tas).

Agreed Percentage means twenty percent (20%).

Approval or **Approvals** includes:

- (a) any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from by or with a Government Body;
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Government Body intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiration of that period without intervention or action;
- (c) all necessary development approvals, licences, permits and approvals as may be required from time to time by a Government Body for or in respect of the Permitted Use; and
- (d) to avoid doubt, any planning and environment approvals.

Base Rent means the amount set out in Item 8, as adjusted or reviewed from time to time in accordance with this Lease.

Building means the Derwent Entertainment Centre erected on the Premises.

Business Day means a day that is not a Saturday, a Sunday, Easter Tuesday or a statutory holiday (as defined in the *Statutory Holidays Act 2000* (Tas)) or the *Public Holidays Act 1993* (Vic) generally observed in Hobart or Melbourne.

Commencement Date means the date set out in Item 4.

Contamination means a solid, liquid, gas, odour, heat, sound, vibration, radiation or substance of any kind that:

- (a) makes, or is likely to make, the Premises, land or waters adjacent to the Premises (if any) unsafe, unfit or harmful for habitation, use or occupation by any person or animal; or
- (b) causes the Premises, land or waters adjacent to the Premises (if any) to not satisfy all applicable Laws or the criteria, standards or guidelines published, or adopted by any Government Body that has jurisdiction over the Premises.

Consumer Price Index means the 'All groups CPI weighted average of eight capital cities' index or the index officially substituted for it.

Control of an entity includes the power to directly or indirectly.

- (a) determine the management or policies of the entity;
- (b) control the membership of the board or other governing body of the entity; or
- (c) control the casting of more than one half of the maximum number of votes that may be cast at a general meeting of the entity,

regardless of whether the power is in writing or not, enforceable or unenforceable, expressed or implied, formal or informal or arises by means of trusts, agreements, arrangements, understandings, practices or otherwise, and **Controlled** has a corresponding meaning.

Crown means the Crown in Right of Tasmania.

Current CPI means the Consumer Price Index number for the quarter ending immediately before the relevant rent adjustment date.

Date of Project Practical Completion has the meaning given to it in the Development Agreement.

Details means the details and recitals set out above.

Developer means LK Development (Tas) Pty Ltd (ACN 642 876 211).

Development Agreement means the development agreement between the Lessor (as landowner) and the Developer (as developer) dated on or about the date of this Lease.

Excluded Outgoings means the following costs which are directly attributable to the operation and maintenance of the Premises during the Term (but without double-counting):

- (a) third party management charges and expenses (except as specifically allowed for as Outgoings);
- (b) all costs associated with advertising of any event;

- (c) any Outgoing to the extent that the amount incurred is not in accordance with market rates or is unreasonable;
- (d) costs related to any sponsorship arrangement, entertainment or travel (except for direct production costs that are normally paid by a venue operator);
- (e) any capital expenditure;
- (f) interest expenses;
- (g) depreciation;
- (h) any sinking fund;
- (i) any liability or cost covered by insurance;
- (j) loss of income insurance; and
- (k) any Outgoing that is normally recoverable from a hirer in accordance with industry practice.

Expiry Date means the date set out in Item 5.

First NBL Season means the 2021/22 NBL Season.

Government Body includes a body politic, a government (federal, state or local), a governmental, judicial or administrative body, a tribunal, a commission, a department or agency of any government, and a statutory authority or instrumentality.

Gross Annual Turnover means all amounts received or receivable by the Lessee in connection with the operation of the Premises during the Term, including but not limited to amounts received for (but without double-counting):

- (a) hiring fees;
- (b) all outgoings and other costs recovered from hirers in connection with any Hiring Agreement (including the NBL or Tasmania Basketball Pty Ltd);
- (c) booking fees on ticket sales for Events at the Premises;
- (d) sales of goods, merchandise, food and beverages from the Premises;
- (e) sponsorship payments in relation to the Premises (including for naming rights);
- (f) any revenue from any sub-tenancy; and
- (g) licensing fees for any utility provider (e.g. telecommunications),

but does not include:

- (h) returns to suppliers;
- (i) sales where the sale price is later refunded;
- (j) sales of fixtures not part of stock-in-trade;
- (k) any value added, retail turnover, consumption or goods and services tax or tax of a similar nature;
- (l) the amount of any discounts of any nature;
- (m) amounts written off as bad debts in accordance with normal accounting practice;

- (n) the amount of any cancelled lay-by sales (less any payments retained by the seller in respect of them);
- (o) delivery charges;
- (p) sales made by any sub-lessee, concessionaire, franchisee or licensee carrying on a business from the Premises;
- (q) amounts received or transacted on an agency basis;
- (r) charges made by any credit card operator;
- (s) any service finance or interest charges charged to customers relating to the provision of credit or direct debit to customers;
- (t) public telephone charges;
- (u) amounts received on the disposal of trade waste;
- (v) sales of goods or merchandise provided by means of mechanical or vending devices at the Premises which are not owned or operated by the Lessee; and
- (w) money collected:
 - (i) by the Lessee where the profit derived from the collection of such money is given to charities, disaster funds or other public funds; or
 - (ii) for or on behalf of charities, disaster funds or other public funds promoted by or authorised by the Lessee to collect funds in the Premises,
 but in each case only to the extent that such money is given to a charity, disaster fund or other public fund.

Guarantor means the guarantor (if any) set out in Item 1.

GST means any goods and services tax or similar tax imposed by the Commonwealth of Australia (but excluding any penalty, fine, interest or similar payment).

GST Laws means applicable Laws relating to GST.

Improvements means the improvements set out in Item 3.

Information Table means the table titled 'Information Table' (if any) included in this Lease.

Insured Amount means the amount set out in Item 11.

Interest Rate means the rate set out in Item 12.

Item means an item in the Information Table.

Law means:

- (a) principles of law or equity established by decisions of courts;
- (b) legislation and subordinate legislation; and
- (c) requirements, approvals (including conditions) and guidelines of any Government Body that have force of law.

Lease or this Lease means this deed and includes all its annexures, appendices, attachments and schedules (if any).

Lessee means the person or entity set out in the Details and where the context requires includes the Lessee's employees, authorised contractors, sub-contractors, agents, licensees and invitees and any other person claiming through or under the Lessee.

Lessee's Agents means:

- (a) each employee, consultant, contractor, and agent of the Lessee, including any builder, from time to time, engaged by the Lessee;
- (b) each consultant engaged by the Lessee or a builder engaged by the Lessee;
- (c) each employee, subcontractor and agent of any level of any of the above; and
- (d) the employees and agents of any such subcontractor,

who are involved in any activity related to the Premises or the Lessee's obligations under this Lease in that relevant capacity. For the avoidance of doubt, the Lessee's Agents do not include such a person in relation to attending an Event in their personal capacity, the Lessor or the Lessor's Agents.

Lessor means the Minister from time to time administering the Act, the Minister's successors in office and where the context requires includes all persons acting on behalf of the Minister.

Lessor's Agents means:

- (a) each employee, consultant, contractor, and agent of the Lessor;
- (b) each employee, subcontractor and agent of any level of any of the above; and
- (c) the employees and agents of any such subcontractor,

who are involved in any activity related to the Premises or the Lessor's obligations under this Lease in that relevant capacity. For the avoidance of doubt, the Lessor's Agents do not include such a person in relation to attending an Event in their personal capacity, the Lessee or the Lessee's Agents.

Lessor's Outgoings means:

- (a) all land tax, rates and other charges levied against the Premises (including the Car Park) except where, in accordance with any applicable law, such amounts must be paid by the occupier of the Premises; and
- (b) insurance of the Building and the Lessor's Property.

Lessor's Property means all plant, equipment, fixtures, fittings, furniture, furnishings and other property the Lessor provides in the Premises, which do not belong to the Lessee.

Major Default means each of the following events:

- (a) the Lessee fails to comply with any of its obligations under the Special terms and conditions 1.1, 1.2(a)(ii), 1.2(a)(iv), 1.2(a)(v), 1.3(a), 1.3(b), 1.3(c), 1.3(d), 1.4(a), 1.4(b), 2.1, 2.2(a), 3.1(c), 3.1(d), 3.2(c) and 3.3(b);
- (b) the Lessee fails to comply with clause 4.2(a), 4.3(a), 5.1(a), 5.1(c), 5.1(d), 5.1(f), 5.1(g), 5.1(h), 5.1(k), 5.1(l), , 5.1(q), 5.1(r), 5.1(s), or 8.1 of this Lease; and

- (c) any change in the Control of the Lessee or the Guarantor occurs (whether by a single transaction or event or a series of transactions or events), without the consent, in writing, of the Lessor.

Major Default Notice has the meaning given to it in clause 9.1.

Minor Default means any breach of this Lease, other than a Major Default.

Minor Default Notice has the meaning given to it in clause 9.4.

month means calendar month.

NBL means the National Basketball League Pty Ltd ABN 65 164 187 937.

NBL Competition means the professional men's national club basketball competition conducted by the NBL, and known as the 'National Basketball League' or 'NBL'.

NBL Event means an official event sanctioned or endorsed by NBL in connection with the NBL Competition (such as an awards night for NBL Competition or a NBL Team).

NBL Finals Series means the part of the NBL Season designated by the NBL as the "Finals Series" (or similar) for the NBL Competition.

NBL Matches means any games or matches operated, sanctioned or endorsed by NBL which is part of the NBL Competition, including, to avoid doubt, games of the NBL Preliminary Series.

NBL Preliminary Series means the period of time prior to the start of the NBL Regular Season for an NBL Season, during which NBL Teams may participate in one or more professional men's basketball games.

NBL Regular Season means the part of the NBL Season designed by the NBL as the "Regular Season" (or similar) for the NBL Competition, and to avoid doubt, does not include the NBL Final Series or the NBL Preliminary Series.

NBL Season means the period of time commencing at the beginning of the officially sanctioned NBL Preliminary Series (as officially sanctioned by the NBL) and ending at the time that the NBL Final Series ends.

NBL Team means a club that has been licensed by the NBL to participate in the NBL Competition.

Outgoings means all costs that are directly attributable to the operation and maintenance of the Premises during the Term, including, without limitation:

- (a) all third party management charges and expenses directly incurred in relation to the operation of the Premises, but only to the extent that the charges and expenses are reasonably incurred and paid in the context of the Premises and otherwise are on arm's length rates;
- (b) cleaning costs (including sweeping of carpark areas);
- (c) security costs;
- (d) direct production costs that are normally paid by a venue operator;
- (e) utilities (including electricity, water, sewerage, gas, telecommunications) except to the extent normally recoverable from a hirer in accordance with industry practice;

- (f) staff costs directly associated with the operation of the Premises as an entertainment centre and sporting venue (limited, in the case of wages, to amounts payable in accordance with relevant industrial awards, and where there is not award, reasonable costs);
- (g) repair and maintenance costs (excluding capital costs) which are the Lessee's responsibility under this Lease;
- (h) routine painting costs;
- (i) consumable stores;
- (j) all costs associated with ticketing of any event;
- (k) public liability insurance;
- (l) workers' compensation insurance; and
- (m) taxes, rates and other charges levied against the Premises which, in accordance with any applicable law, must be paid by the occupier of the Premises.

Percentage Rent means, for an Accounting Period, the amount (if any) by which the Agreed Percentage of Gross Annual Turnover exceeds the aggregate of:

- (a) Base Rent for the Accounting Period;
- (b) Outgoings for the Accounting Period (other than Excluded Outgoings);
- (c) Accumulated Operating Losses immediately before the commencement of the Accounting Period; and
- (d) to the extent the Outgoings (excluding Excluded Outgoings) for the immediately prior Accounting Period were greater than the Gross Annual Turnover for that Accounting Period, the difference between the Outgoings (excluding Excluded Outgoings) and the Gross Annual Turnover for that prior Accounting Period.

Permitted Use means the right to use the Premises for the purpose set out in Item 14 and for all reasonably necessary ancillary purposes.

Plan means the plan of the Premises which is attached to this Lease as 'Attachment: Plan' which is attached for illustration purposes only.

Premises means that area of Crown land set out in Item 2.

Previous CPI means the Consumer Price Index number for the quarter ending immediately before the last rent adjustment date before the relevant rent adjustment date (or, if there has not been one, the Commencement Date).

Project Practical Completion has the meaning given to it in the Development Agreement.

Project Works has the meaning given to it in the Development Agreement.

Rent means the aggregate of Base Rent and Percentage Rent (if any).

rent adjustment date has the meaning given to it in clause 4.2.

Right includes a right, a power, a remedy, a discretion or an authority.

Section of Act means the section of the Act set out in Item 13.

Special terms and conditions means those special terms and conditions, if any, set out in Item 15.

Tax Invoice has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Term means:

- (a) the period set out in Item 6; and
- (b) where applicable, any further period granted in accordance with clause 3, commencing on the Commencement Date and ending on the Expiry Date (inclusive of those dates).

Transaction Documents means the following documents:

- (a) Development Agreement; and
- (b) this Lease.

Valuer means:

- (a) a person who is qualified to practice as a land valuer under section 4 of the *Land Valuers Act 2001* (Tas); or
- (b) the person appointed as the Valuer-General under the *Valuation of Land Act 2001* (Tas) or his or her nominees.

1.2 Interpretation

In this Lease, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender include all genders;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Lease have a corresponding meaning;
- (d) a reference to a thing (including property or an amount) is a reference to the whole and each part of that thing;
- (e) a reference to a group of persons includes a reference to any one or more of those persons;
- (f) a reference to an annexure, an appendix, an attachment, a schedule, a party, a clause or a part is a reference to an annexure, an appendix, an attachment, a schedule or a party to, or a clause or a part of, this Lease;
- (g) a reference to any legislation or legislative provision includes subordinate legislation made under it and any amendment to, or replacement for, any of them;
- (h) writing includes marks, figures, symbols, images or perforations having a meaning for persons qualified to interpret them;
- (i) a reference to a document includes:
 - (i) anything on which there is writing;

- (ii) any thing from which sounds, images or writings can be reproduced with or without the aid of any thing else;
- (iii) an amendment or supplement to, or replacement or novation of, that document; or
- (iv) a map, plan, drawing or photograph;
- (j) a reference to an agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing;
- (k) a reference to a 'person' includes a natural person, a partnership, a body corporate, a corporation sole, an association, a Government Body, or any other entity;
- (l) a reference to a party includes that party's executors, administrators, successors and permitted assigns and substitutes;
- (m) a reference to a Minister includes, as applicable, that Minister's predecessors and successors in office;
- (n) a reference to a Government Body or other body or organisation that has ceased to exist, or that has been renamed, reconstituted or replaced, or the powers or functions of which have been substantially transferred, is taken to refer respectively to the Government Body or other body or organisation as renamed or reconstituted, or established or formed in its place, or to which its powers or functions have been substantially transferred;
- (o) a reference to an office in a Government Body or other body or organisation includes any person acting in that office, and if the office is vacant, the person who for the time being is substantially responsible for the exercise of the duties, functions or powers of that office;
- (p) mentioning any thing after the words 'includes', 'included' or 'including' does not limit the meaning of any thing mentioned before those words;
- (q) a reference to a day is to be interpreted as the period of time in Tasmania commencing at midnight and ending 24 hours later;
- (r) reference to a time or date in connection with the performance of an obligation by a party is a reference to the time or date in Hobart, Tasmania, even if the obligation is to be performed elsewhere; and
- (s) references to '\$' and 'dollars' are to Australian dollars.

1.3 Headings

Headings are included for convenience only and do not affect the interpretation of this Lease.

1.4 No rule of construction applies to disadvantage party

In relation to the interpretation of this Lease, no rule of construction is to apply to the disadvantage of a party because that party was responsible for the preparation of this Lease or any part of it.

1.5 Information Table

If there is an Information Table:

- (a) an Item that has not been completed will be taken to be 'not applicable'; and

- (b) unless the context otherwise requires, expressions defined in that table have the same meanings when used in other parts of this Lease.

2 Grant of lease

The Lessor grants to the Lessee, and the Lessee accepts from the Lessor, a lease of the Premises under the Section of the Act, to use the Premises for the Permitted Use from the Commencement Date for the Term in accordance this Lease and subject to the Act.

The Lessee acknowledges that:

- (a) the Developer will be entitled to occupy part of the Premises (being the Building Licence Area, as defined in the Development Agreement) from the Commencement Date; and
- (b) the Lessee will have no entitlement to any relief, compensation or other claim under this Lease in relation to any act or omission of the Developer or in respect of the Developer's occupation of the Building Licence Area prior to the end of the Building Licence Term (as defined in the Development Agreement).

The Lessor acknowledges that the Lessee is not responsible for any act or omission of the Developer in respect of the Premises, the Building or the Land during the term of the Lease. Nothing in this clause limits the rights of the Lessor against the Developer under the Development Agreement for such acts or omissions.

3 Option

3.1 Application

This clause 3 applies if Item 7 states that this clause is applicable. For the avoidance of doubt, this clause 3 is not applicable if Item 7 states that this clause 3 is not applicable.

3.2 New lease

- (a) Subject to clause 4.4(d), the Lessor must grant the Lessee a new lease of the Premises for such further term as set out in Item 7 commencing on the expiration of this Lease if the Lessee:
 - (i) makes a written request no earlier than 24 (twenty-four) months and at least 18 (eighteen) months prior to the expiration of this Lease; and
 - (ii) is not in an unremedied Major Default at the time of the request under clause 3.2(a).
- (b) The new lease will be on the same terms and conditions contained in this Lease (with any necessary changes) except that:
 - (i) the commencing Rent for the new lease to be the Rent for the final year of the expired Term as adjusted in accordance with clause 4.2 and clause 4.4;
 - (ii) Special term and conditions 1.3(b) and 4.1(a) will not be included in the new lease; and
 - (iii) the references to "15 (fifteen) months" and "12 (twelve) months" in clause 3.2(a)(i) will be replaced with references to "6 (six) months" and "9 (nine) months" respectively.

3.3 Number of options

The number of new leases that may be created under clause 3.2 is limited to the number specified in Item 7 and clause 3.2 must be excluded from the final lease entered into as a result of the application of that clause.

4 Rent

4.1 Not Used

4.2 Adjustment of Base Rent

- (a) In consideration of this Lease, the Lessee must pay the Base Rent to the Lessor in equal instalments every six months in arrears for the duration of the Term, without set-off or deduction. The first payment is to be made on the first 30 June or 31 December to occur after the Commencement Date and each subsequent payment is to be made at six-monthly intervals on each 30 June and each 31 December during the Term.
- (b) The Lessor will adjust the Base Rent on each 1 July during the Term (**rent adjustment date**). The adjusted Base Rent will be the amount immediately before that rent adjustment date multiplied by the Current CPI at that time and divided by the Previous CPI at that time.
- (c) The Lessor may adjust the Base Rent at any time prior to or following a rent adjustment date, but in any case no later than one (1) month after the rent adjustment date, and the new Base Rent resulting from an adjustment is taken to apply from the relevant effective rent adjustment date.
- (d) Notwithstanding anything else in this clause 4.2, the new Base Rent arising from any rent adjustment cannot be fixed at an amount that is less than the Base Rent for the previous period.

4.3 Percentage Rent

- (a) The Lessee must pay the Percentage Rent in arrears on the last day of each Accounting Period during the Term, without set-off or deduction.
- (b) Within 15 Business Days of each payment of the Percentage Rent, the Lessee must provide reasonable details of the calculations used to determine the Percentage Rent.
- (c) The Lessee must:
 - (i) keep and maintain full and accurate records of all transactions from which Gross Annual Turnover is determined; and
 - (ii) preserve those records for a period of at least 3 years after the end of the Accounting Period to which they relate.

The records must include all supporting data such as invoices, hire agreements, sales records and bank deposit records.

- (d) The Lessor may, on reasonable prior written notice, during business hours on a Business Day, audit and inspect all business records relating to the operation of the Premises and the information used to calculate the Percentage Rent (including, without limitation, auditing the Lessee's outgoings and revenue). The

Lessee must make its records available for such inspection and audit upon request and must use all reasonable endeavours to procure the disclosure of relevant records under the control of any licensee, concessionaire or subtenant.

- (e) If, as a result of the Lessor's audit or inspection of the Lessee's records, the Lessor is of the view that the Percentage Rent (as calculated by the Lessee) was inaccurate, the Lessor may appoint a duly qualified independent accountant to audit the Lessee's records.
- (f) No later than 5 Business Days after receiving a notice in accordance with clause 4.4(e), the Lessee must permit the independent accountant to conduct the audit on reasonable prior notice during business hours on a Business Day and must provide a copy of any report to the Lessee. If the independent accountant determines that the Gross Annual Turnover or the Outgoings disclosed by the Lessee was understated or overstated (as applicable):
 - (A) by 5% or more in any Accounting Period, then the Lessee must pay to the Lessor the reasonable costs of the Lessor's audit;
 - (B) the relevant party must pay or repay the difference between the Percentage Rent paid for any previous Accounting Period and the amount notified by the Lessor in accordance with clause 4.3(e) for that Accounting Period together with interest thereon at the Interest Rate.

4.4 Market Review

- (a) If a new lease is granted to the Lessee in accordance with clause 3.2, the Base Rent payable from and including the commencement date of the new lease (**market review date**) is the amount determined by the Office of the Valuer-General (**OVG**) as being the annual market rent for the Premises as at the market review date.
- (b) The Lessor must notify the Lessee of the OVG's determination of the Base Rent no later than six (6) months before the market review date.
- (c) The Lessor must direct the OVG, in its assessment of the annual market rent, to disregard the Lessee's (the NBL's, any NBL Team's or any of their related parties') goodwill from the operation of:
 - (i) the Premises; and
 - (ii) any businesses on the land adjoining the Premises.
- (d) If the Lessee does not agree with the OVG's assessment of the annual market rent of the Premises, it may inform the Lessor that it withdraws its election to enter into a new lease of the Premises, and this Lease will expire on the Expiry Date.
- (e) The Base Rent applying on and from a market review date must not be:
 - (i) less than the Base Rent immediately before that market review date; or
 - (ii) more than thirty per cent (30%) above the Base Rent immediately before that market review date.

5 Lessee's covenants

5.1 Covenants

The Lessee covenants with the Lessor during the Term as follows:

- (a) to pay the Rent as required under this Lease;
- (b) to pay the costs of delivery of all services used by the Lessee at the Premises including electricity, telephone, telecommunication service and ad valorem charges for water and sewerage (except to the extent that such costs are payable to the Lessor by the Developer under the Development Agreement);
- (c) to pay all Outgoings and Excluded Outgoings, except for Lessor's Outgoings;
- (d) to be responsible for all repairs and maintenance of the Premises that are not expressly stated to be the responsibility of the Lessor under clause 6.4 or at Law the Lessor is prohibited from requiring the Lessee to be responsible for the performance or cost (including by recovery of such costs by the Lessor from the Lessee) of such repairs and maintenance, including, without limitation:
 - (i) carpark cleaning;
 - (ii) maintenance of the grounds (including mowing of lawns);
 - (iii) day to day maintenance of plant and equipment including engagement of contractors;
 - (iv) removal of graffiti;
 - (v) works (including structural works) covered by a defects liability regime (other than works that are the subject of the defects liability regime under the Development Agreement);
 - (vi) works (including structural works) to remedy deficient design or construction undertaken by, or on behalf of, the Lessee or a Lessee's Agent (other than works that are the Developer's responsibility under the Development Agreement); and
 - (vii) works (including structural works) required because of any negligent or unlawful act or omission of the Lessee, any of the Lessee's Agents or any person for whom the Lessee is legally responsible (including, without limitation, event organisers, patrons and any hirer of the Premises) (other than works that are the Developer's responsibility under the Development Agreement);
- (e) to comply with the terms of this Lease, including the Special terms and conditions;
- (f) to comply punctually with all mandatory notices received from the Lessor or any Government Body (excluding any notices received from the Crown in its capacity as Lessor and in connection with this Lease) concerning:
 - (i) the Premises; and
 - (ii) the Permitted Use.
- (g) to punctually comply with:

- (i) all Laws, Approvals and other requirements of a Government Body to the extent that it regulates the Premises or Permitted Use or both in any way or is the express responsibility of the Lessor under this Lease; and
 - (ii) any management plans that are approved under the Act at any time that in any way affect the Premises;
- (h) to obtain, keep current and comply with, for the Term all necessary Approvals as may be required from time to time by all Laws or any Government Body or both, for or in respect of the Permitted Use and occupation of the Premises (including for the avoidance of doubt all necessary Approvals and permits as may be required under the *Land Use Planning and Approvals Act 1993* (Tas) in respect of any works undertaken by the Lessee in accordance with this Lease);
- (i) to give prompt written notice to the Lessor of:
 - (i) receipt of any notice referred to in clauses 5.1(f) and 5.1(g) (unless such notice was provided through the Lessor); and
 - (ii) any damage or defect in the Premises caused or arising as a result of exercising any of the rights conferred under this Lease, unless it is of a minor nature and does not, so far as is reasonably practicable, present a risk to the health and safety of attendees at the Premises;
- (j) to only use, and only allow the use of, the Premises solely for the Permitted Use;
- (k) not do anything in relation to or on the Premises that, in the Lessor's reasonable opinion, will or may result in Contamination of the Premises, land or waters adjacent to the Premises (if any);
- (l) to remove any Contamination from the Premises, land or waters adjacent to the Premises, in each case, which was introduced or caused or materially contributed to by the Lessee or the Lessee's Agents, and make good any such Contamination of the Premises, land or waters adjacent to the Premises (if any);
- (m) to cease exercising the rights conferred under this Lease immediately, as the Lessor reasonably directs, in an emergency (and the Lessee's obligations under this Lease abate as reasonable in the circumstances);
- (n) except as may be:
 - (i) incidental to the Permitted Use; or
 - (ii) provided for in the Special terms and conditions; or
 - (iii) expressly required by this Lease,
 not to remove any living or dead native vegetation, or disturb ground soil, on the Premises without the Lessor's prior written approval;
- (o) not to light a fire on the Premises without the Lessor's prior written approval (not to be unreasonably withheld where this forms part of an Event);
- (p) to keep and leave the Premises and all buildings, structures, facilities, plant, equipment and services or other improvements on the Premises:
 - (i) in good repair and condition (fair wear and tear excepted);
 - (ii) free from vermin, noxious weeds and fire hazards;

- (iii) in a safe state and condition; and
- (iv) maintained, installed and repaired, in accordance with all Laws, Approvals and other requirements of any Government Body, good industry practice and any reasonable directions given by the Lessor,

in each case except to the extent the Lessor is expressly responsible for such things under this Lease;

(q) not to:

- (i) erect any building or structure; or
- (ii) alter the Building or any other building or structure;

on the Premises without obtaining all responsible Government Body's consent and also the Lessor's prior written consent unless expressly required by another provision of this Lease. When seeking the Lessor's consent the Lessee must provide detailed plans of the proposed works, including a development plan and construction management plan, wholly to the satisfaction of the Lessor. The parties acknowledge that the Lessor has consented to the Project Works (as defined in the Development Agreement);

- (r) not to assign, sub-lease, licence (unless for a term of less than 10 Business Days or to the Lessee's designated ticketing, food and beverage or merchandise operators or under a Hiring Agreement entered into in accordance with this Lease), share, transfer, grant any mortgage, charge or other security interests in or otherwise deal with all or any part of the Lessee's rights benefits or obligations under this Lease without the Lessor's prior written consent (it being acknowledged that should the Lessee wish to assign or transfer this Lease the Lessee must comply with section 29(7) of the Act);
- (s) not allow a change of Control of the Lessee without the Lessor's prior written consent;
- (t) not to enter into any service or preventative maintenance contracts or arrangements in relation to the Premises without the Lessor's prior written consent, such consent not to be unreasonably withheld;
- (u) not to grant any management rights in relation to the Premises without the Lessor's prior written consent, such consent not to be unreasonably withheld unless the grant of such rights involves the payment of a capital sum, in which case, the Lessor may withhold its consent in its absolute discretion;
- (v) not to levy any carparking fees or charges on or around the Premises without the Lessor's prior written consent;
- (w) to permit the Lessor, with or without workmen, to enter upon the Premises at all reasonable times during business hours on Business Days or as otherwise agreed (and subject to complying with the Lessee's reasonable requirements in relation to health, safety, risks and security, and being accompanied by a representative of the Lessee) to:
 - (i) review the Lessee's compliance with the terms of this Lease;
 - (ii) inspect the Premises;
 - (iii) carry out works in the Premises in accordance with clause 6.4;

- (iv) to rectify a breach of this Lease by the Lessee (provided that the breach has been notified to the Lessee and the Lessee has failed to rectify the breach within the time required by this Lease, or if no time is specified, within a reasonable period of time); or
- (v) to do anything the Lessor is expressly required to do under this Lease;
- (x) to:
 - (i) remove any plates or signs erected on the Premises at the expiration or sooner determination of this Lease;
 - (ii) make good any damage caused by the removal of such plates or signs; and
 - (iii) meet all reasonable costs associated with the fitting, removal and making good of damage associated with plates and signs on the Premises.
- (y) not to keep any explosive or combustible substances on the Premises unless required for the Permitted Use or an Event and then only in quantities permitted by the relevant statutory authorities and in accordance with all relevant Laws and Approvals;
- (z) the Lessee must:
 - (i) not use or permit to be used or stored on the Premises any radioactive toxic or hazardous chemicals, wastes or substances regulated by law unless required under this Lease and then only in concentrations and quantities:
 - (A) either not prohibited, or permitted, by the relevant Government Body;
 - (B) in accordance with all Laws and Approvals; and
 - (C) in accordance with any conditions imposed by the relevant Government Body;
 - (ii) not permit any petroleum product, oil, grease or any noxious dangerous or poisonous chemical or substance to be discharged through the pipes of the water or sewerage service on the Premises or into any nearby stream or river or into or under the soil and to discharge them only as:
 - (A) either not prohibited, or permitted, by the relevant Government Body;
 - (B) in accordance with all Laws and Approvals; and
 - (C) in accordance with any conditions imposed by the relevant Government Body;
 - (iii) control and restrict the emission of smoke, dust or odours from the Premises in accordance with the applicable Laws and the requirements of the relevant Government Body; and
 - (iv) comply with all demands notices and requirements of any relevant Government Body in respect of contamination of the Premises caused by the Lessee or by occupiers of the Premises (excluding the Lessor or the Lessor's Agents) (which may include the requirement for the carrying out all necessary rehabilitation works to the Premises in accordance with the

requirements of and to the satisfaction of any relevant Government Body at the Lessee's cost); and

- (aa) promptly following a request in writing by the Lessor, to provide such information reasonably requested by the Lessor in relation to the operation of the Premises.

5.2 Determination of Lease

On the expiration or sooner determination of this Lease the Lessee must cease to exercise the rights conferred under this Lease and leave the Premises in a condition consistent with the Lessee's obligations under this Lease, it being acknowledged by the parties that immediately before the expiration or sooner determination of this Lease the Lessee must:

- (a) remove all the Lessee's personal property from the Premises; and
- (b) make good all damage caused by removal in accordance with clause 5.2(a).

5.3 Things remaining on the Premises

The Lessee acknowledges that any of the Lessee's personal property, buildings, structures, facilities, plant and equipment or other improvements remaining on the Premises after the expiration or sooner determination of this Lease without the Lessor's consent and if not removed by the Lessee within 90 days of the expiration or sooner determination of the Lease may at the Lessor's discretion either:

- (a) become the property of the Lessor without compensation to the Lessee (unless compensation is required to be paid under the Act); or
- (b) be removed from the Premises at the Lessee's cost and disposed of by the Lessor without reference or liability to the Lessee with all damage to the Premises caused by such removal to be made good at the Lessee's expense.

5.4 Lessor to provide notices to Lessee

The Lessor must give prompt written notice to the Lessee of receipt of any notice referred to in clauses 5.1(f) and 5.1(g).

5.5 Lessor may recover costs

The Lessee must pay to the Lessor, on demand:

- (a) all money the Lessor expends and which is directly attributable to undertaking work that is the Lessee's responsibility under this Lease (provided that the Lessor has provided written breach notice to the Lessee to do such work and the Lessee has failed to do such work within the time required by this Lease or if no time is specified, within a reasonable period of time); and
- (b) all reasonable costs the Lessor incurs in doing so.

6 Lessor's covenants

6.1 Quiet enjoyment

The Lessor covenants with the Lessee that, subject to the Lessor's rights under this Lease and the Developer's rights under the Development Agreement (if applicable), the Lessor will permit the Lessee to quietly and exclusively use and enjoy the Premises during the Term without any disturbance by the Lessor, or any person claiming through the Lessor.

6.2 Lessor not responsible

Without limiting clause 6.4, the Lessor is not responsible:

- (a) to identify or locate the boundaries of the Premises;
- (b) to construct, maintain or repair any gate, road, track, drain or bridge on the Premises, or used to gain access to the Premises; or
- (c) for any erosion mitigation or, unless expressly stated otherwise, other works associated with the Premises or with the protection or maintenance of the Lessee's personal property, buildings, structures, facilities, plant, equipment and services or other improvements.

6.3 Lessor's Outgoings

Provided the Lessee pays the Rent and observes and performs all the Lessee's obligations in this Lease, the Lessor covenants to pay the Lessor's Outgoings.

6.4 Repairs and maintenance

The Lessor will be responsible for performing, and where a failure to do so will have a material impact on the Lessee's quiet enjoyment, will do so properly and promptly:

- (a) all structural repairs;
- (b) works required to keep the Building weather-tight (including capital expenditure works required to maintain the roof of the Building);
- (c) other material external repairs;
- (d) any major repair works (excluding general maintenance and cleaning) in relation to the carpark;
- (e) capital replacement of, and capital repairs to, major items of plant and equipment (for example, air conditioning, lifts, fire systems, essential safety measures, water, gas and electricity infrastructure); and
- (f) any other capital works and capital expenditure, including as required as a result of a change of law (including in respect of capital works required because of regulatory changes).

7 Lessee's indemnities and waiver

7.1 Lessee indemnifies Lessor for risk

The Lessee indemnifies the Lessor against all present and future legal liability, claims or proceedings against the Lessor for:

- (a) personal injury to, or death of, any person;
- (b) either or both loss of, or damage to, property of any person; and
- (c) financial loss of any person,

arising from, or attributable to, the Lessee's presence on or use of the Premises.

7.2 Lessee indemnifies Lessor against loss and damage

The Lessee indemnifies the Lessor against all loss and damage to the Premises and all the Lessor's property on it arising from or attributable to the Lessee's occupation or use of the Premises.

7.3 Lessee's risk

Except as expressly specified in this Lease, the Lessee agrees to use and occupy the Premises throughout the Term at the Lessee's risk as regards to loss or damage to the Lessee and the Lessee's property.

7.4 Lessee indemnifies Lessor against Contamination

The Lessee releases and discharges the Lessor from and agrees to indemnify the Lessor against all actions, suits, causes of action, claims and demands that the Lessee has at any time against the Lessor arising from or attributable to any Contamination including any future Contamination or the rehabilitation of the Premises and, if any, the surrounding area of land and or water or for or in respect of anything incidental to any of those issues, in each case to the extent that such Contamination is caused, contributed to, or introduced to the Premises, by the Lessee or the Lessee's Agents.

7.5 Waiver of rights of recovery from the Lessor

The Lessee waives all present and future rights to claim against the Lessor for:

- (a) personal injury to, or death of, the Lessee;
- (b) either or both loss of, or damage to, the Lessee's property; and
- (c) financial loss to the Lessee,

arising from, or attributable to, the Lessee's presence on, or use of the Premises.

7.6 Nature of indemnities and waiver

The indemnities and waiver in this clause 7:

- (a) are continuing obligations of the Lessee, separate and independent from any other obligations; and
- (b) survive the expiration or sooner termination of this Lease; but
- (c) do not extend to liability to the extent such liability was caused or contributed to:
 - (i) by the Lessor's or the Lessors Agent's wrongful (including negligent) act or omission, or breach; and/or
 - (ii) by any Government Body entering or using the Premises in connection with any emergency or disaster

The general law principles of mitigation of loss apply to any claim made under this clause 7.

8 Insurance

8.1 Lessee to insure

The Lessee must take out and keep current throughout the Term, and for as long as the Lessee uses the Premises, contracts of insurance with a reputable insurer lawfully carrying on insurance business in Australia, indemnifying:

- (a) the Lessor's and the Lessee's liability for:
 - (i) personal injury to, or death of, any person; and
 - (ii) either or both loss of, or damage to, property of any person,
for not less than the Insured Amount for each individual claim or series of claims arising out of a single occurrence, or for such other amount as the Lessor reasonably determines;
- (b) a comprehensive insurance policy:
 - (i) for the full insurable and replacement value of any building, structure, fixture, fittings, plant and equipment and personal property on the Premises;
 - (ii) against loss or damage by fire storm tempest earthquake lightning explosion burglary and other risks usually covered under a comprehensive insurance policy for fire and related risks; and
- (c) any other risks that the Lessor reasonably requires the Lessee to insure against, for the reasonable amount stipulated by the Lessor, to the extent that the claim for indemnity is not caused by the Lessor's wrongful (including negligent) act or omission.

The liability to be insured against under clause 8.1(a) is liability arising from, or attributable to, the Lessee's use or occupation of the Premises to the extent that the injury, death, damage or loss is caused by a wrongful (including negligent) act or omission of the Lessee or the Lessee's employees, authorised contractors, sub-contractors, agents, Lessees and invitees and any other person claiming through or under the Lessee.

8.2 Crown to be insured

Insurance taken out under:

- (a) clause 8.1(a) and
- (b) clause 8.1(c), if the Lessor requires this clause to apply to it,

must note the interests of "the Crown in Right of Tasmania" under the insurance contract but only to the extent required under this Lease.

8.3 Lessee to notify Lessor

The Lessee must notify the Lessor in writing as soon as practicable:

- (a) if an insurance contract taken out under clause 8.1 lapses or is cancelled (other than for the purposes of replacement) or is altered in a way that is material adverse to the interests of the Lessor; or

- (b) if the Lessee claims, or becomes entitled to claim, under such an insurance contract for something arising from, or attributable to, the Lessee's possession of the Premises.

8.4 Evidence of insurance

The Lessee must give the Lessor evidence of:

- (a) the terms of; and
- (b) payment of the premium for,
each insurance contract taken out under clause 8.1:
- (c) before the Commencement Date; and
- (d) before each due date for renewal of each such insurance contract.

8.5 Lessor may insure

If the Lessee fails to take out or renew each insurance contract required to be taken out under clause 8.1 when due, then without being obliged to do so, the Lessor may:

- (a) take out or renew each such insurance contract that the Lessee has not taken out or renewed; and
- (b) pay any unpaid premium.

8.6 Lessee not to prejudice insurance

The Lessee must not do anything that will or is reasonably likely to result in insurance under clause 8.1 or any part of it becoming invalid or unenforceable.

8.7 Lessor may waive obligation to insure

The Lessor may at the Lessor's discretion waive the Lessee's obligation to insure under this clause 8.1 if provided for in the Special terms and conditions in Item 15.

9 Default

9.1 Major Default Notice

Without prejudice to any other right which the Lessor may have, under this Lease, another Transaction Document or at Law, if a Major Default occurs, the Lessor may give the Lessee a notice in writing (**Major Default Notice**) stating:

- (a) that a Major Default has occurred; and
- (b) facts, matters or circumstances which constitute the Major Default.

9.2 Major Default capable of cure

- (a) Where the Major Default is capable of cure, upon receipt of a Major Default Notice, the Lessee must:
 - (i) upon receipt of a Major Default Notice, commence, and continue to diligently pursue, the cure of the Major Default; and
 - (ii) within 5 Business Days of receipt of a Major Default Notice submit to the Lessor a sufficiently detailed plan which specifies:

- (A) the time frame within which the Major Default will be cured;
 - (B) how the Major Default will be cured;
 - (C) the tasks which will be undertaken to cure the Major Default; and
 - (D) how the Lessee will prevent that Major Default occurring again,
(**Draft Cure Plan**).
- (b) Within 10 Business Days of receipt of the Draft Cure Plan, the Lessor and the Lessee must meet with a view to agree (acting reasonably) the Draft Cure Plan (including the time frame in which the Major Default must be cured (**Applicable Cure Period**)). Once agreed by the Lessor and the Lessee, the Draft Cure Plan will become the agreed cure plan in respect of a Major Default (**Cure Plan**).
- (c) The Lessee must:
 - (i) if applicable, comply with and diligently pursue the cure of the Major Default in accordance with the Cure Plan; and
 - (ii) cure the Major Default within the Applicable Cure Period.
- (d) If:
 - (i) The Lessee does not submit a Draft Cure Plan in accordance with clause 9.2(a); or
 - (ii) the Lessor and the Lessee cannot agree the Draft Cure Plan within 10 Business Days of receipt of the Draft Cure Plan,
 the Lessor must specify:
 - (iii) the Lessor's reasonable requirements in respect of the Lessee to cure the Major Default; and
 - (iv) a reasonable timeframe within which the Major Default must be cured.
- (e) If the Lessee does not comply with the Lessor's requirements in clause 9.2(d), the Lessor may terminate this Lease.

9.3 Major Default not capable of cure

- (a) Where the Major Default is not capable of cure, upon receipt of a Major Default Notice, the Lessee must provide the Lessor with a plan which sets out:
 - (i) the reasons why the Major Default is not capable of cure;
 - (ii) the steps being taken or to be taken by the Lessee which will overcome the consequences of, or reasonably compensate the Lessor for, the Major Default;
 - (iii) how the Lessee intends to address the underlying issue that gave rise to the Major Default (if practical in the circumstances); and
 - (iv) a time frame within which the Lessee will overcome the consequences of, or compensate the Lessor for, the Major Default,
(**Prevention Plan**).
- (b) If the Lessor agrees to the Prevention Plan, the Lessee must:

- (i) comply with and diligently pursue the Prevention Plan; and
 - (ii) comply with the time frames specified in the Prevention Plan for the Lessee to overcome the consequences of, or compensate the Lessor for, the Major Default.
- (c) If:
 - (i) the Lessee does not submit a Prevention Plan in accordance with clause 9.3(a); or
 - (ii) the Lessor does not agree to the Prevention Plan (acting reasonably), the Lessor must specify:
 - (iii) the Lessor's reasonable requirements in respect of the Lessee to overcome the consequences of, or compensate the Lessor for, the Major Default; and
 - (iv) a reasonable timeframe within which the consequences of Major Default are to be overcome or the compensation paid.
- (d) If the Lessee does not comply with the Lessor's requirements in clause 9.3(c), the Lessor may terminate this Lease.

9.4 Notice of Minor Default by the Lessor

- (a) Without prejudice to any other right which the Lessor may have under this Lease, another Transaction Document or at Law, if a Minor Default occurs the Lessor may give notice in writing stating that a Minor Default has occurred and requiring the Lessee to cure or overcome or compensate for the Minor Default within 10 Business Days of the Lessee receiving that notice (**Minor Default Notice**).
- (b) Where the Lessee does not remedy or overcome or compensate for the Minor Default within 10 Business Days, the Minor Default will become a Major Default and clauses 9.1 to 9.3 will apply.

10 Termination

10.1 Termination Events

The Lessor may terminate this Lease by notice, in writing, to the Lessee to that effect:

- (a) (**Major Default**) if there is a Major Default:
 - (i) which is not cured in accordance with clause 9.2(c) or 9.2(d); or
 - (ii) in respect of which the Lessee does not overcome the consequences or compensate the Lessor, in accordance with clause 9.3(b) or 9.3(c);
- (b) (**multiple breaches**): if the Lessee commits more than four unrelated breaches of this Lease in any rolling period of 60 Business Days or less (irrespective of whether the breaches have been remedied or are capable of being remedied but provided that the Lessor provided notice of such breaches to the Lessee within a reasonable period of time after becoming aware of such breaches);
- (c) (**Termination of Transaction Document**) if any other Transaction Document is terminated in accordance with its terms;

- (d) **(repudiation)**: if the Lessee repudiates this Lease;
- (e) **(corporate events)**: if:
 - (i) there is passed a resolution for the winding up or dissolution of the Lessee or the Guarantor other than for the purposes of a solvent reconstruction or amalgamation previously approved in writing by the Lessor;
 - (ii) an application or order is made in any court for the winding up or dissolution of the Lessee or the Guarantor and is not dismissed or stayed within 10 Business Days, other than for the purposes of a solvent reconstruction or amalgamation previously approved in writing by the Lessor;
 - (iii) anything analogous or having a substantially similar effect to any of the events specified above occurs under any applicable Law of another jurisdiction; or
 - (iv) the Lessee or the Guarantor fails to comply with a statutory demand within the meaning of section 459F of the Corporations Act;
- (f) **(insolvency – general)**: if the Lessee or the Guarantor:
 - (i) is unable to pay its debts as and when they fall due for payment or determines that it is insolvent;
 - (ii) convenes a meeting of its creditors or proposes or enters into any scheme of arrangement with its creditors or any of them;
 - (iii) seeks protection from its creditors under any applicable Law; or
 - (iv) has an administrator or receiver appointed to it or any of its assets;
- (g) **(invalidity)**: if this Agreement or the Guarantee is or becomes void, voidable, illegal, invalid, unenforceable, or of materially limited or reduced force or effect, or is claimed to be so by the lessee or the Guarantor (except where due to the acts or omissions of the Lessor or following completion of performance);
- (h) **(distress/execution)**: if any distress or execution for an amount exceeding \$100,000, or its equivalent in another currency, is levied or enforced upon or against any assets of the Lessee or the Guarantor and that distress or execution is not withdrawn, stayed or satisfied within 10 Business Days of its levy or issue;
- (i) **(judgment)**: if a final judgment in an amount exceeding \$100,000, or its equivalent in another currency, is obtained against the Lessee or the Guarantor and is not satisfied or set aside within 15 Business Days of it becoming final; or
- (j) **(cease business)**: if the Lessee or the Guarantor ceases or threatens to cease carrying on business or is otherwise unable to pay its debts as and when they fall due for payment,

(each a “**Termination Event**”).

10.2 Notice of Termination

- (a) If the Lessor gives written notice to the Lessee of a Termination Event, this Lease is cancelled, and this Lease automatically terminates on the date specified in such notice, which, other than for the Termination Event under 10.1(f), must be a date that is at least 90 days from the date of the Lessor’s written notice.

- (b) If the Lessor re-enters and takes possession of the Premises or terminates this Lease following a Termination Event, the Lessor:
 - (i) must use reasonable endeavours to find a replacement lessee of the Premises; and
 - (ii) may otherwise recover from the Lessee all money attributable to the loss of the benefit to the Lessor of the Lessee performing its obligations under this Lease from the date of that termination until the Expiry Date. For the avoidance of doubt, the Lessor's loss of benefit will take in account the Lessor's net position (including any cost savings of the Lessor) as a result of the early termination of this Lease.

10.3 Requirement of Premises for other purposes

The parties acknowledge that this Lease may be cancelled wholly or partially in accordance with section 37 or 38 of the Act and in the case of a partial termination the provisions of those sections of the Act will apply.

10.4 Antecedent breach

A termination or cancellation of this Lease under clause 10 is without prejudice to the Lessor's rights or remedies for arrears of the Rent, for any other moneys owing or for any other antecedent breach of this Lease.

10.5 Rights and liabilities of parties following termination by Lessor

If the Lessor terminates this Lease pursuant to clause 10.1, the rights of the parties will be as though the Lessor had terminated this Lease on the basis of repudiation by the Lessee.

11 Holding over

If the Lessee, with the Lessor's consent, continues to use the Premises after the Term expires, then the Lessee will use the Premises:

- (a) as a lessee on a semi-annual lease or as otherwise agreed;
- (b) at the Rent that is payable immediately prior to the expiration of this Lease and adjusted in accordance with clause 4.2(b) (for the avoidance of doubt clause 4.2(b) will apply regardless of whether or not clause 4.2(b) applies in the Information Table) on a three monthly basis or any other Rent which is agreed by the parties from time to time;
- (c) with the Rent to be paid monthly in arrears; and
- (d) on the terms and conditions of this Lease so far as they are applicable to a semi-annual lease or as otherwise agreed.

Such lease may be determined by either party giving to the other not less than six months' written notice or as otherwise agreed, expiring at any time.

12 Interest

If any moneys owing by a party to the other party under this Lease are not paid on the due date for payment then the amount attracts and bears interest from the due date for payment until the date of actual payment at the Interest Rate.

13 Lessee's risk

If a party is required to do anything or cause anything to be done under this Lease, then the doing of that act, matter or thing is at that party's sole risk and expense unless otherwise expressly provided.

14 No representation or warranty

14.1 No representation about suitability

The Lessor does not represent or warrant:

- (a) that the Premises is suitable to be used for the Permitted Use or for any business or other activity undertaken on the Premises;
- (b) that the fittings, accessories or services available on the Premises are suitable to be used for the Permitted Use or for any business or other activity undertaken on the Premises; or
- (c) that the Premises may lawfully be used for the Permitted Use or for any business or other activity undertaken on the Premises.

14.2 No representation about zoning

Without affecting the generality of clause 14.1 the Lessor does not represent or warrant that the zoning of the Premises will permit it to be used for the Permitted Use whether with the approval or permission of the relevant planning authority or otherwise. It is the Lessee's responsibility to enquire about zoning and the Lessee warrants that before executing this Lease the Lessee has done so to the Lessee's own satisfaction.

15 Guarantee and Indemnity

15.1 Application

This clause 15 applies if the Guarantor in Item 1 states that this clause is applicable. For the avoidance of doubt, this clause 15 is not applicable if the Guarantor in Item 1 states that clause 15 is not applicable.

15.2 Consideration for Guarantee

In consideration of the Lessor agreeing to grant this Lease to the Lessee, at the Guarantor's request, the Guarantor enters into this guarantee and indemnity (called **Guarantee**) in favour of the Lessor on the terms contained in this clause 15.

15.3 Guarantee and indemnity

The Guarantor:

- (a) guarantees the payment of Rent and the Lessee's compliance with all of the Lessee's obligations arising under this Lease; and
- (b) indemnifies the Lessor against all damages, losses, costs and expenses (including legal costs and disbursements on a solicitor and own client basis) incurred by the Lessor because of the Lessee's default under this Lease.

The Guarantor's obligations continue throughout the Term, and while the Lessee, its successors or assignees of this Lease, hold over as periodical tenant after the Term expires.

15.4 Period of Guarantee

This Guarantee covers the whole period while the Lessee occupies, or is entitled to occupy, the Premises as the lessee, or while holding an equitable interest over the Premises under an agreement for lease or as a periodical tenant.

15.5 Extent of Guarantee

This Guarantee extends to claims by the Lessor:

- (a) for damages for breaches of lease covenants by the Lessee;
- (b) for breaches of an essential term of this Lease by the Lessee;
- (c) for repudiation of this Lease by the Lessee;
- (d) for the Lessor's loss or damage if the Lessee abandons or vacates the Premises in breach of this Lease;
- (e) if the Lessor elects to re-enter or to terminate this Lease in accordance with its rights under this Lease;
- (f) for the Lessor's reasonable legal and other expenses of seeking to enforce the Lessee's obligations against the Lessee and the Guarantor, recovering possession and terminating this Lease in accordance with its terms;
- (g) for loss or damage consequent on disclaimer of this Lease on the Lessee's Insolvency, as if this Lease had not been disclaimed.

15.6 Guarantee in favour of owner

This Guarantee is in favour of the Lessor and the Lessor's successors and assigns being the owner of the Premises from time to time during the continuance of this Guarantee.

15.7 Guarantee is joint and several

When there is more than one Guarantor under this Lease:

- (a) the term **Guarantor** in this clause 15 refers to each of the Guarantors and to all of them;
- (b) their obligations as Guarantor are joint and several;
- (c) the Lessor may enforce this Guarantee against all or any of them;
- (d) any notice or demand may be served on all of them, by serving any one of them;
- (e) this Guarantee remains binding on the other Guarantors, even if:
 - (i) a Guarantor fails to execute this Lease;

- (ii) this Guarantee is not binding on a Guarantor;
- (iii) the Lessor releases a Guarantor from liability under this Guarantee.

15.8 Guarantee not discharged

This Guarantee is not discharged, and the Lessor's rights against each Guarantor are not affected, by any of the following:

- (a) if the Lessor grants any indulgence or extension of time to the Lessee or to another Guarantor or other Guarantors;
- (b) if the Lessor neglects or fails to enforce lease covenants against the Lessee;
- (c) if the Lessor waives any breaches or defaults under this Lease, except to the extent of the specific breach to which the waiver applies;
- (d) if the Lessor totally or partially releases the liability of the Lessee, or of another Guarantor or other Guarantors;
- (e) if the Lessor and the Lessee, or any other person, enters into any arrangement, composition or compromise relating to this Lease, except to the extent of the arrangement, composition or compromise;
- (f) if the Lessor and the Lessee vary any provision of this Lease without the Guarantor's consent, but only if the variation is minor and not prejudicial to the Guarantor;
- (g) the death, bankruptcy or winding up of the Lessee or a Guarantor;
- (h) if the Lessee's liability under this Lease, or this Lease is or becomes invalid, illegal, or unenforceable, including through any act, omission or legislation;
- (i) if the Lessor disclaims this Lease following the Lessee's insolvency.

16 Special terms and conditions

- (a) The Special terms and conditions form part of this Lease.
- (b) If there is any inconsistency between the Special terms and conditions and another provision of this Lease, the Special terms and conditions override the other provision to the extent of the inconsistency.
- (c) A Special term and condition is taken not to be inconsistent with another provision of this Lease if the Special term and condition and the other provision of this Lease are both capable of being complied with.
- (d) To avoid doubt and without limiting the operation of clause 20.17, any Right contained in a Special term and condition is in addition to any other Rights provided for in this Lease or at Law.

17 GST

- (a) Unless otherwise stated in this Lease, all amounts payable by one party to another party are exclusive of GST.

- (b) If GST is imposed or payable on any supply made by a party under this Lease, the recipient of the supply must pay to the supplier, in addition to the GST exclusive consideration for that supply, an additional amount equal to the GST exclusive consideration multiplied by the prevailing GST rate. The additional amount is payable at the same time and in the same manner as the consideration for the supply.
- (c) A party that makes a taxable supply under this Lease must provide a valid Tax Invoice to the recipient of the supply.
- (d) A party's right to payment under clause 17(b) is subject to a valid Tax Invoice being delivered to the party liable to pay for the taxable supply.
- (e) If the consideration for a supply under this Lease is a payment or reimbursement for, or contribution to, any expense or liability incurred by the supplier to a third party, the amount to be paid, reimbursed or contributed in respect of the expense or liability will be the amount of the expense or liability net of any input tax credit to which the supplier is entitled in respect of the expense or liability.
- (f) Where any amount payable under this Lease is paid by being set-off against another amount, each amount must be calculated in accordance with this clause 17 as if it were an actual payment made pursuant to this Lease.
- (g) Unless the context otherwise requires, expressions used in this clause 17 that are defined in the GST Laws have the meanings given to those expressions in the GST Laws.

18 Dispute resolution

18.1 Application

This clause 18 does not apply to any dispute or difference between the parties concerning the exercise by any party of any Right under legislation.

18.2 Negotiation

If a party gives written notice to each other party of a dispute or difference concerning this Lease, the parties must undertake negotiations with a view to resolving the dispute or difference.

18.3 Status of negotiations

- (a) Unless otherwise agreed in writing by the parties and subject to applicable Laws, other than the fact of occurrence, all aspects of negotiations for the purpose of clause 18.2 will be without prejudice and treated as confidential including:
 - (i) the willingness of a party to consider a settlement proposal;
 - (ii) any statement made by, or on behalf of, a party during the negotiations; and
 - (iii) any document prepared for the purposes of the negotiations.
- (c) Nothing in clause 18.3(a):

- (i) prevents a party from enforcing any signed settlement agreement made by the parties in relation to the dispute or difference;
- (ii) prevents an agent or instrumentality of the Crown (that is a separate legal entity) from disclosing any matter to the Crown; or
- (iii) prevents a Minister of the Crown from making a statement to Parliament or exercising any Right.

18.4 Further action

If, after 10 Business Days following receipt by a party of a notice under clause 18.2, the parties are unable to resolve the dispute or difference by negotiation, a party may take any lawful action as that party sees fit (including commencing legal proceedings) in relation to the dispute or difference.

18.5 Continuation of performance

Despite the existence of any dispute or difference, unless this Lease has been terminated, each party must continue to perform its obligations in accordance with this Lease.

18.6 Injunctive and other discretionary relief

Nothing in this clause 18 prevents a party from commencing legal proceedings to seek an injunction (whether interim or permanent), a writ of specific performance, declaratory relief, or any urgent or other interlocutory relief.

19 Notices

19.1 Notice requirements

- (a) A notice, certificate, consent, application, waiver or other communication (each a **Notice**) under this Lease must be:
 - (i) in legible writing in the English language;
 - (ii) subject to clause 19.1(c), signed by or on behalf of the sender or by a lawyer for the sender;
 - (iii) marked for the attention of the person or position (if any) specified in the Details applicable to the intended recipient of the Notice or, if the intended recipient has notified otherwise, marked for attention in the way last notified; and
 - (iv) left or sent in accordance with clause 19.2.
- (b) [Not Used].
- (c) A Notice sent by email is taken to have been signed by the sender.
- (d) A Notice must not be given orally.

19.2 Method and address for delivery

- (a) Subject to clause 19.2(b), a Notice must be:
 - (i) left at the intended recipient's address set out in the Details;

- (ii) sent by prepaid ordinary mail (or prepaid airmail, if from one country to another country) to the intended recipient's address set out in the Details;
 - (iii) [Not Used]; or
 - (iv) sent by email to the intended recipient's email address (if any) set out in the Details.
- (b) If the intended recipient of a Notice has notified the sender of another address or email address for the purposes of receiving Notices, then subsequent Notices to that intended recipient must be left at or sent to the address or email address (as applicable) last notified by that intended recipient.

19.3 Time of receipt

- (a) Subject to clause 19.3(b), a Notice is taken to have been received by the intended recipient:
- (i) if left at the intended recipient's address, at the time of delivery;
 - (ii) if sent by prepaid ordinary mail, on the fifth Business Day after the day of posting, or if sent by prepaid airmail from one country to another country, on the tenth Business Day after the day of posting;
 - (iii) [Not Used]
 - (iv) if sent by email, four hours after the time the email was sent (as recorded by the device from which the email was sent) provided that the sender has not received an automated message that the email has not been delivered.
- (b) If a Notice is received by a recipient on a day that is not a Business Day or after 4.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.
- (c) A Notice is effective from the time it is taken to have been received in accordance with clauses 19.3(a) and 19.3(b) (unless a later time is specified in the Notice, in which case the notice takes effect from that time).

19.4 Other modes or places of service

Nothing in this Lease limits or excludes any other mode or place of service required by an applicable Law.

20 Miscellaneous

20.1 Governing law

This Lease is governed by the Laws applying in Tasmania.

20.2 Dispute jurisdiction

The parties submit to the non-exclusive jurisdiction of courts with jurisdiction in Tasmania, and any courts that may hear appeals from those courts, in respect of any proceedings in connection with this Lease.

20.3 Entire agreements clause

This Lease forms the entire agreement of the parties in respect of its subject matter. The only enforceable obligations of the parties in relation to the subject matter of this Lease

are those that arise out of the provisions contained in this Lease. All prior agreements in relation to the subject matter of this Lease are merged in and superseded by this Lease unless expressly incorporated in this Lease as an annexure, an appendix, an attachment or by reference.

20.4 Liability

An obligation of, or a representation, a warranty or an indemnity by, two or more parties (including where two or more persons are included in the same defined term) under or in respect of this Lease, binds them jointly and each of them severally.

20.5 Benefit

An obligation, a representation, a warranty or an indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and each of them severally.

20.6 Compliance with obligations

- (a) A party must ensure that its officers, employees, volunteers, authorised contractors, agents and advisers involved in the performance by that party of its obligations under this Lease:
 - (i) comply with the provisions of this Lease related to that performance; and
 - (ii) do not conduct themselves in a way that would result in the party being in breach of this Lease or that, if the conduct was undertaken by the party, would result in the party being in breach of this Lease.
- (b) If a party is prohibited from doing anything under this Lease, that party must not knowingly assist, authorise or allow any other person to do that thing.

20.7 Severance

If a provision of this Lease is or at any time becomes illegal, prohibited, void or unenforceable for any reason, that provision is severed from this Lease and the remaining provisions of this Lease:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Lease.

20.8 Counterparts

- (a) This Lease may be entered into in any number of counterparts.
- (b) A party may execute this Lease by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.
- (d) This Lease is not to take effect against a party until it has been signed by all parties and delivered, unless it is a deed poll or is intended to take effect immediately when delivered by one or more parties.

20.9 Execution of Lease

If this Lease is not executed prior to or on the Commencement Date and the Lessee uses the Premises from the Commencement Date, then the parties will, from the Commencement Date until this Lease is executed, be in all respects bound by the terms

contained in this Lease as if this Lease had been duly and fully completed and executed by the Lessor and the Lessee prior to or on the Commencement Date.

20.10 Further assurance

The parties agree to do or cause to be done all such acts, matters and things (including, as applicable, passing resolutions and executing documents) as are necessary or reasonably required to give full force and effect to this Lease.

20.11 Business Days

If the day on or by which an act, matter or thing is to be done under this Lease is not a Business Day, that act, matter or thing must be done by no later than the next Business Day.

20.12 No partnership or agency

Unless stated to the contrary in this Lease:

- (a) nothing contained or implied in this Lease will:
 - (i) constitute, or be taken to constitute, a party to be the partner, agent or legal representative of another party for any purpose;
 - (ii) create, or be taken to create, a partnership or joint venture; or
 - (iii) create, or be taken to create, an agency or trust; and
- (b) a party must not represent or hold itself out to be a partner, joint venturer, agent or representative of another party.

20.13 Legal costs

Each party must bear their own costs in preparing and negotiating this Lease.

The Lessee must otherwise pay to the Lessor, on demand, all the Lessor's reasonable costs of:

- (a) any consent, approval, waiver or amendment made under or to this Lease at the Lessee's request;
- (b) any assignment or sub-licensing made under this Lease at the Lessee's request; and
- (c) any surrender or termination of this Lease otherwise than by effluxion of time, agreed or entered into at the Lessee's request.

The Lessee must pay to the Lessor, on demand, all the Lessor's external costs, on a full indemnity basis of and reasonably incidental to, the actual enforcement or exercise of any rights or powers of the Lessor resulting from a default or breach of any covenant of this Lease by the Lessee.

20.14 Amendment

This Lease may only be amended or supplemented in writing signed by the parties.

20.15 Waiver

- (a) A failure or delay in exercising a Right does not operate as a waiver of that Right.
- (b) A single or partial exercise of a Right does not preclude any other exercise of that Right or the exercise of any other Right.

- (c) A Right may only be waived in writing, signed by the party to be bound by the waiver. Unless expressly stated otherwise, a waiver of a Right is effective only in the specific instance and for the specific purpose for which it was given.

20.16 Successors and assigns

This Lease is binding on and benefits each party and, unless repugnant to the sense or context, their respective administrators, personal representatives, successors and permitted assigns.

20.17 Rights cumulative

Each Right provided for in this Lease:

- (a) operates independently of any other Right provided for in this Lease; and
- (b) is cumulative with, and does not exclude or limit, any other Right, whether at Law or pursuant to any other agreement, deed or document.

20.18 Set-off

The Lessor may set-off against any moneys payable by the Lessor to the Lessee under this Lease any debt or other moneys from time to time due and owing by the Lessee to the Lessor (“**Moneys Owing**”) or bona fide Claim for Moneys Owing. This right of set-off does not limit or affect any other right of set-off available to the Lessor.

20.19 Disclosure

- (a) Despite any confidentiality or intellectual property right subsisting in this Lease, a party may publish all or any part of this Lease without reference to another party.
- (b) Nothing in this clause derogates from a party's obligations under the *Personal Information Protection Act 2004* (Tas) or the *Privacy Act 1988* (Cwlth).

20.20 Consent and approvals

- (a) This clause applies to any consent or approval which a party must obtain from another party in accordance with this Lease. For the avoidance of doubt, this clause does not apply to any consent or approval to be given under any legislation.
- (b) A request for consent or approval must be made in writing.
- (c) A consent or approval for the purposes of this Lease is not effective unless given in writing.
- (d) A consent or approval may be given subject to reasonable conditions.
- (e) A party receiving a consent or approval acknowledges that it is required to comply with any conditions subject to which the consent or approval is given in order to enjoy the benefit of the consent or approval.

20.21 Doctrine of merger

The doctrine or principle of merger does not apply to this Lease or to anything done under or in connection with this Lease. Accordingly, no Right or obligation of a party is merged in any thing done pursuant to this Lease.

20.22 Minister or State of Tasmania expressed to be party

- (a) If a Minister of the Crown (acting in that capacity) is expressed to be a party to this Lease, then unless an applicable Law provides otherwise:
 - (i) the Minister enters into this Lease on behalf of the Crown;
 - (ii) the Rights, obligations and liabilities expressed to be those of the Minister are Rights, obligations and liabilities of the Crown; and
 - (iii) each reference in this Lease to the Minister will be taken to include a reference to the Crown.
- (b) For the avoidance of doubt, if the State of Tasmania is expressed to be a party to this Lease, the Rights, obligations and liabilities of the State of Tasmania are Rights, obligations and liabilities of the Crown.

20.23 No interference with executive duties or powers

Nothing in this Lease is intended to prevent, is to be taken to prevent, or prevents, the free exercise by the Governor, by any member of the Executive Council, or by any Minister of the Crown, of any duties or authorities of his or her office. Any provision of this Lease that is inconsistent with this clause is of no legal effect to the extent of the inconsistency.

20.24 Surviving provisions and termination

- (a) The termination of this Lease does not affect or limit the operation or effect of clauses or parts of this Lease:
 - (i) that are expressed to survive the termination of this Lease;
 - (ii) that, at Law, survive the termination of this Lease; or
 - (iii) that are necessary to survive the termination of this Lease:
 - (A) to give full force and effect to the parties' respective Rights, obligations and liabilities on or after the termination of this Lease;
 - (B) to enable a party to make, enforce or defend any claims related to this Lease; or
 - (C) to give full force and effect to the operation of clause 20.24(b) or clause 20.24(c).
- (b) The termination of this Lease does not affect any claims related to, or any Rights, releases, obligations or liabilities accrued or incurred under, this Lease before the date on which this Lease is terminated.
- (c) Nothing in this clause 20.24 affects or limits the operation of another provision of this Lease which gives a party Rights, or imposes obligations on a party, on or after the termination of this Lease.

Executed as a deed

Signing

[*EXECUTION BLOCKS NOT REPRODUCED*]

Attachment: Plan



ELWICK
BAY

FR 157350/2

FR 157350/1

D.E.C

ELWICK
RACECOURSE

FR 110871/1
"THE PREMISES"
(7.165ha CT)

FR 110871/2
BULK WATER PUMP STATION
(NOT PART OF THE PREMISES)

BROOKER

HIGHWAY

NOTES:

NO EASEMENTS HAVE BEEN SHOWN ON THIS PLAN FOR CLARITY. PLEASE REFER TO THE RELEVANT TITLES FOR MORE INFORMATION.
ALL AREAS ARE APPROXIMATE ONLY AND ARE SUBJECT TO FINAL SURVEY.

LEGEND

EXISTING TITLE BOUNDARY

SURROUNDING TITLE BOUNDARY



RESUMPTION AREA (AREA: ± 1.262 ha)

0 20 40 60 80 100m



SCALE

1:3000@A4



PDA Surveyors incorporating WALTER SURVEYS
Surveying, Engineering & Planning
ABN 71 217 806 925

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Hobart, Tasmania, 7000
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**DERWENT ENTERTAINMENT CENTRE (D.E.C)
PREMISES PLAN**
601-601B BROOKER HIGHWAY, GLENORCHY
for DEPARTMENT OF STATE GROWTH

DATE 2 NOVEMBER 2020

SCALE	PAPER
1:3000	(A4)
JOB NUMBER	DRAWING
46092MD - 2B	

Attachment: Community Groups

Organisation	Use	Average Number of events per year	Average attendance per event	Ticketed Event	Venue Hire Fee	Additional Charges
MRA Toy Run	Charity Event	1	4,000	NO	Free use of Car Park	5 hours of duty manager to open building for use of bathrooms
Special Children's Christmas Party	Charity Event	1	1,000	NOT TICKETED BUT INVITATION ONLY	Venue Hire Fee of \$1,750	Event staffing costs and event expenses
Questacon	Community Event	1	10,000	NO	Venue Hire Fee of \$1,750	Event staffing costs and event expenses
Primary School Bands	Concert	1	4,000	YES	Venue Hire fee of \$2,500	Event staffing costs and event expenses
Southern Tasmanian Dance Eisteddfods	Event	1	20,000+	YES	22% of ticket sales - no venue rebate	Event staffing costs and event expenses
Disability Expo	Exhibition	1	800	NO	Venue Hire Fee of \$1,750	Event staffing costs and event expenses
GYC	Graduation	1	2,500		Venue Hire Fee of \$1,750	Event staffing costs and event expenses
St Michaels Collegiate	Graduation	1	2,000		Venue Hire Fee of \$1,750	Event staffing costs and event expenses
St Virgil's	Graduation	1	2,000		Venue Hire Fee of \$1,750	Event staffing costs and event expenses
Primary School Bands	Rehearsals	3	150		No Charge for use of smaller room (Astley Room)	
Jehovah's Witnesses	Religious gathering	4	2500 - 3000		Venue Hire Fee of \$1,750	Event staffing costs and event expenses
Tas Muslim Association	Religious gathering	3	1500 - 1800		Venue Hire Fee of \$1,750	no additional costs for weekdays but staffing charged for on weekends
Sacred Heart School	Religious gathering	1	3,000		Venue Hire Fee of \$1,750	Event staffing costs and event expenses
Triathlon South	Sporting event	4	800		Free use of Car Park	
Northern Suburbs Fun Run	Sporting event	1	800		Free use of Car Park	
Tas Fire	Training	4	20		No charge	No Charge

Attachment: Form of Hiring Agreement



Date

Name

Company

Address

Address

Dear Name

DERWENT ENTERTAINMENT CENTRE VENUE HIRE AND TICKETING AGREEMENT – Event Name

Thank you for choosing the Derwent Entertainment Centre (DEC) to host event name and year. In order to hire this venue, you are required to execute the *Derwent Entertainment Centre Venue Hire and Ticketing Agreement*.

Please find attached a draft Agreement to review. In the meantime, the following information must be provided to enable the Agreement to be finalised:

- A Current Company Extract issued by ASIC (note that the Agreement must be signed by 2 directors, or one director and the secretary, or alternatively under a corporate power of attorney); and
- Copies of certificates of currency of insurance for public liability (minimum coverage of \$20 million per any one occurrence), product liability and professional indemnity as required by the Agreement. The insurance must insure the hirer and be relevant for the event in terms of location and duration and is subject to satisfactory review by DEC management.

Please provide the abovementioned information to the DEC management at your earliest convenience.

The DEC management takes this opportunity to note that the hire fee must be paid within 14 days of signing the agreement and no later than seven (7) days prior to the event. The DEC management reserves the right to refuse any element of the event that may be considered an unacceptable hazard, or which hasn't been approved seven (7) days prior to the event.

All inductions and workplace health and safety requirements (including SWMS) must be complied with and completed at least seven (7) days prior to the event at your expense and provided to the DEC management for approval.

The DEC management reserves the right to cancel the event if the abovementioned requirements are not complied with.

Once a copy of the Agreement is provided to you, this must be signed and returned one (1) week prior to the date that tickets go on sale.

Should you require any further information regarding this matter, please do not hesitate to contact us.

We look forward to working with you.

Yours Faithfully

Renee Brown | Venue Manager | Derwent Entertainment Centre



P: 03 6251 3171 | M: 0408 700 633

E: renee@derwent.com.au | W: www.derwent.com.au



Derwent Entertainment Centre Venue Hire and Ticketing Agreement

Dated:

LK Stadiums Management (Tas) Pty Ltd ACN 645 406 257
("DEC") and

("Hirer")

A.B.N

Event:

Date:

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Schedule 1:

Item 1 Hirer

Company Name:	
Address:	
Telephone:	
Email:	
Attention:	

Item 2 Event Details

Event Title:	
Description:	
Event Date/s:	
Load in Date/s:	
Load out Date/s:	
Estimated Attendance:	

Clearance time and date:

Item 3 Venue Facilities

- (a) The Main Arena together with all halls and passageways leading thereto;
- (b) Astley Room
- (c) Promoters Suite x 1 and Seminar Suites x 4
- (d) Green Rooms x 2
- (e) Dressing Rooms x 4, together with all halls and passageways leading thereto
- ~~(f) Corporate Suites~~

Item 4 Deposits

- (a) Venue Hire Deposit: \$2,500

Deposits Payment Date: 14 days from the date of the Agreement and on presentation of an invoice from DEC

Item 5 Hiring Charges

- (a) A sum equal to 12.5% of net ticket sales (less booking fees) with a minimum charge of \$2,500. PLUS (but not limited to) ALL COSTS (per Schedule 2)
- (b) The sum equal to 15% of the gross amount of sales (excluding GST) received from the sale of programs and printed promotional material and 10% of the gross amount of sales (excluding GST) received from the sale of recorded merchandise sold in accordance with clause 5.
- (c) DEC retains the right to eighty (80) seats per performance. DEC shall have the right to use or sell such seats at its own discretion and to apply the proceeds of the sales of these tickets (if any) in such as manner as it thinks fit.

Date payable: Upon settlement of ticketing funds

Item 6**Tickets**

Booking Fee Category	Fee per ticket	Trans. Fee (Web)	Trans Fee (Phone & Outlet)
\$0.01 - \$49.99	\$3.50	\$3.15	\$4.15
\$50.00 - \$99.99	\$6.00	\$5.95	\$6.95
\$100.00 - \$199.99	\$7.50	\$5.95	\$6.95
\$200.00 plus	\$8.15	\$5.95	\$6.95

Transaction fees passed on to the customer at time of booking

Retail ticket prices: TBC

A Reserve

B Reserve

Accessible Area

- (a) Number of complimentary tickets available to DEC: 80 per show
- (b) Number of corporate suite/Skyboxes tickets available to DEC: 44 per show
- (c) Print fee for complimentary tickets: \$0.47 per ticket (0 – 300 tickets)
- (d) Transaction fees are applied to the customer purchase for outlet, phone and internet sales

Item 7**Refundable Cancellation Period**

The room hire charge of \$2,500 is non-refundable and is payable within fourteen (14) business days of execution of this Agreement.

Item 8**Full Payment Cancellation Period**

1 month from the date of the Event Date:

Schedule 2: Hiring Charges of Additional Facilities – Service Fees **[DRAFTING NOTE: Hiring fees to be updated]**

Item 1 Hiring Charges for Staffing & Event Services

Estimates are based on attendance of XXXX pax. Estimates are shown on a per show basis.

All figures are GST inclusive.

Staffing

Item	Quantity	Rate	Net Amount
Backstage Labour	120 hours	\$45 per hour	
Cleaner (Saturday)	40 hours	\$65 per hour	
Duty Manager	8 hours	\$75 per hour	
Firewarden	6 hours	\$75 per hour	
Head Usher	8 hours	\$45 per hour	
Usher	72 hours	\$40 per hour	
Scanning Entry Point	40 hours	\$40 per hour	
Merchandise/Program Seller	30 hours	\$40 per hour	
Merchandise Supervisor	8 hours	\$45 per hour	
Security (Saturday)	40 hours	\$65 per hour	

Services

Item	Quantity	Net Amount
First Aid	6 Hours	
Power (Metered and charged on consumption)	Estimate	
Rubbish Removal (Per skip bin rate)	Estimate	

Security Staff – Minimum 4 hour shift, Security engagement to be determined by DEC
DEC Staff – Minimum 3 hour shift

1.1 Internet Access

FREE wireless internet provided at a speed of 1500/256kbps per event day (password access)

	5/5mbps	10/10mbps	20/20mbps
1 day rate	\$200.00	\$300.00	\$450.00
3 day rate	\$300.00	\$450.00	\$675.00
7 day rate	\$450.00	\$675.00	\$1010.00

1.2 Production Services

Production charges quoted by DEC's production and technical preferred supplier (Alive Technologies) can be paid upon settlement of ticketing funds at the hirer's discretion.

The Hirer can arrange separate production and technical equipment. However, this is regulated under this Agreement by clause 9.

1.3 Catering

Catering and rider charges quoted by DEC's catering provider to be paid upon settlement of ticketing funds.

(Exclusive catering provider for the Derwent Entertainment Centre)

1.4 Industry Service Fee

The Hirer, in addition to other venue hiring charges as specified in this Agreement shall pay to the Derwent Entertainment Centre an Industry Service Fee, on a per performance basis on the scale of rates as apply on the date of the performance or performances, such rates being established from time to time by Live Performance Australia (LPA) or as negotiated by the producer/promoter/hirer direct with LPA.

LPA is a not-for-profit organisation registered with the Australian Industrial Relations Commission since 1917. The Industry Service Fee is an important component of LPA's revenue base which ensures its ability to service, protect and promote the interests of the live performance industry in Australia.

Performance Size (# of people)	Rate
0 – 250	\$35.00
251 – 500	\$71.00
501 – 1000	\$106.00
1001 – 1500	\$174.00
1501 – 2000	\$218.00
2001 – 3000	\$307.00
3001 – 6000	\$698.00
6000 +	\$1,136.00

Due Date for payment for Service Fees: Upon settlement of ticketing funds

Schedule 3:

Special Conditions

The special conditions which apply to this Agreement are as follows:

1. [The parties acknowledge that:
 - (a) the Venue is, at the date of this agreement, owned by the Crown in Right of Tasmania (represented by the Department of State Growth) (**Crown**);
 - (b) the Crown has granted rights to DEC to occupy and use the Venue under a long term lease (**Lease**); and
 - (c) the Venue will be subject to extensive redevelopment and refurbishment (**Redevelopment Works**).
2. The Hirer agrees that if practical completion of the Redevelopment Works has not been achieved by 30 September 2021, DEC may terminate this Agreement without liability on giving at least thirty (30) days' notice to the Hirer.] **[DRAFTING NOTE: To be included where the Agreement is entered into before practical completion]**
3. Security requirements are determined by DEC at the Hirer's expense according to 1.1 of Schedule 2.
4. Contractors and their employees are required to complete a Derwent Entertainment Centre Workplace Health & Safety induction before they are able to commence work. This can be completed online before arriving at the venue at <http://derwent.com.au/induction/>.

Alternatively, the induction can be completed onsite for a duration of 15 minutes, prior to commencement of work.
5. All technical contractors and staff involved in the set up and pack down of structures, lighting, audio and audio visual elements are required to have completed White Card training for Australia or the country of origin equivalent and have certification to prove that they have done so.
6. All technical contractors and staff involved in the set up and pack down of structures, lighting, audio and audio visual elements must wear personal protective equipment including high visibility shirts or vests and steel cap boots when working on site. Hard hats are to be worn at any time when work is being undertaken overhead.
7. All technical contractors and staff undertaking high risk work must have the appropriate certification to be presented, sighted and recorded before commencing work onsite.
8. A complete Risk Assessment for the event is required a minimum of one month prior to the performance date for review by the venue.
9. Without limiting the generality of clause 7, the Hirer must comply with:
 - (a) the *Liquor Licensing Act 1990* (Tas) and any other laws that relate to the service of alcohol at the Venue; and
 - (b) any directions given by DEC in relation to the DEC's obligations under the *Liquor Licensing Act 1990* (Tas) in respect of the Venue.
10. [All seating, cleaning and entry requirements are to be in line with the Tasmanian Government COVID-19 Guidelines and restrictions.] **[DRAFTING NOTE: To be inserted if applicable]**

THIS AGREEMENT is made the _____ day of _____ between DEC described in clause 1 of this agreement of the one part and the entity, person or persons described in item 1 of Schedule 1 ("the Hirer") of the other part.

1 Definitions

In this deed, unless the contrary intention appears:

Access Pass means a pass which is issued by DEC to the Hirer or issued by the Hirer with the consent of DEC, to enable the Hirer and Associated Persons to have access to the non-public areas of the Venue and the Venue Facilities during the Event.

Additional Facilities means the staff, facilities, equipment, services and other items described in Schedule 2 and excluding the Venue Facilities.

Agreement means this agreement and any annexures, attachments and exhibits attached hereto.

Associated Persons means any employees, contractors, agents or guests of the Hirer and any other persons in any way engaged by or associated with the Hirer but specifically excludes employees or agents of DEC.

Bond means the deposit payable by the Hirer to DEC to account for damage to the Venue or the Venue Facilities, being a part of the Deposits and set out at subparagraph (b) of Item 4 of Schedule 1.

Booking Fee means the booking fee calculated in accordance with item 6 of Schedule 1

Business Day means a day on which banks generally are open for trading in Hobart, Tasmania during normal hours but does not include a Saturday or Sunday;

Complimentary Tickets means tickets issued without charge for the Event.

DEC means LK Stadiums Management (Tas) Pty Ltd ACN 645 406 257.

Deposits means the sums specified in item 4 of Schedule 1 to be paid by the Hirer to DEC and includes the Bond and the Venue Hire Deposit.

Deposit Payment Date means the date specified in item 4 of Schedule 1

Event means the occasion and purpose (*insert name of event*) for which the Venue hire has been requested.

Event Dates means the days on which the Event is to be held as detailed in item 2 of Schedule 1.

Event Times means the times on the Event Dates at which the Event is to be held as detailed in item 2 of Schedule 1.

Full Payment Cancellation Period means the period set out in item 7 of Schedule 1.

Hirer means the entity, person or persons described in item 1 of Schedule 1 responsible for presenting the Event at the Venue.

Hirer's Workers means all servants, agents, employees, sub-contractors and volunteers that work or perform a service for the Hirer in relation to the Event.

Hiring Charges means the charges set out in item 5 of Schedule 1.

Presentation means a single screening, performance or program forming part of the Event.

Refundable Cancellation Period means the time period set out in item 8 of Schedule 1.

Service Fees means the fees and expenses incurred by DEC in providing the Additional Facilities and set out in Schedule 2.

Tickets means tickets of admission to the Venue for the purposes of enabling members of the public

to view a Presentation.

Ticket Sales means the total sales value of all Tickets sold or disposed of on any account by or on behalf of the Hirer for the Event and during the Event Dates and whether for valuable consideration or otherwise (except Complimentary Tickets authorised to be issued under this Agreement) less all Booking Fees payable to DEC or its ticket sales agents.

Venue means the Derwent Entertainment Centre, Brooker Highway, Glenorchy in Tasmania.

Venue Facilities means the areas described in item 3 of Schedule 1.

Venue Hire Deposit means the deposit set out in item 4 of Schedule 1.

2 Agreement for Hire

In consideration of the Hiring Charges and Service Fees payable to DEC by the Hirer, DEC agrees to grant to the Hirer a licence to use and occupy the Venue Facilities and the Additional Facilities for the Event Dates and during the Event Times for the purpose of the Event upon the terms and conditions of this Agreement.

3 Costs and Charges

3.1 Deposits

- (a) The Hirer shall pay the Deposits set out in item 4 of Schedule 1 by no later than the date set out therein.
- (b) If the Deposits are not paid by the agreed date, DEC reserves the right to cancel the booking by the Hirer for the Venue;
- (c) DEC may appropriate the whole or any part of the Deposits towards the satisfaction of any liability of the Hirer under this Agreement whether arising from a failure of the Hirer to pay any amounts to DEC as required by this Agreement or from the breach by the Hirer of any other covenant term or condition of this Agreement.
- (d) The Bond shall be refundable only when the Venue Facilities are delivered up to DEC in good order and condition and all other sums payable by the Hirer to DEC on any account whatever are paid in full.
- (e) DEC is entitled to apply the Bond to repair any damage to the Venue or the Venue Facilities and nothing in this subparagraph shall relieve the Hirer from liability to pay to DEC the cost of repairing any damage in excess of the amount of the Bond.
- (f) If any damage, loss, theft or destruction is identified by DEC, the Bond will be held until the matter is finalised in accordance with this Agreement;
- (g) If DEC is required to use the Bond it will inform the Hirer of an estimate of damage, loss, theft or destruction within fourteen (14) business days.
- (h) If the cost of the damage, loss, theft or destruction exceeds the amount of the Bond the Hirer will pay the balance within seven (7) business days of a request in writing from DEC.
- (i) Provided that the Hirer has complied with the terms of conditions of this Agreement, the Deposits or such balance remaining after any deduction for payment as provided in this Agreement shall be repaid to the Hirer within thirty (30) days from the last Event Date.

3.2 Hire and Service Charges

In consideration of DEC granting to the Hirer a licence to use the Venue Facilities and the Additional Facilities, the Hirer must pay to DEC:

- (a) The Hiring Charges as set out in item 5 of Schedule 1 by the date set out therein;
- (b) The Service Fees for the Additional Facilities set out in Schedule 2 by the date set out therein;
- (c) All additional amounts payable by DEC in providing the use of the Venue Facilities and the Additional Facilities including but not limited to:
 - (i) the wages and on-costs for any additional cleaning, catering or security staff or other additional persons which DEC engages by reason of any act or omission of the Hirer;
 - (ii) the cost of providing additional air-conditioning and illumination to the Venue and any temporary or Hirer's equipment used in connection with the Event (including hire, delivery, installation and removal of equipment);
 - (iii) an additional hiring fee for any variation or increase in the Event Dates or Additional Facilities.

4 Ticket Sales

- (a) DEC shall have the right to print and sell Tickets for the Event through DEC's box office and at other locations as may be approved by DEC at the sole cost of the Hirer.
- (b) DEC shall be entitled to a Booking Fee for each Ticket sold.
- (c) DEC may determine or impose the conditions applicable to the sale of Tickets at its discretion.
- (d) The retail price of Tickets for the Event shall be the prices set out in item 6 of Schedule 1. The Hirer must submit for the approval of DEC full particulars of the information required by DEC in relation to the Tickets.
- (e) The Hirer agrees that in respect of all sales of Tickets:
 - (i) subject to the provisions of this clause, all Ticket Sales will be retained by DEC for a period of five (5) Business Days from the last Event Date following which the Ticket Sales shall be applied together with the Deposits by DEC in satisfaction of all amounts payable by the Hirer to DEC in accordance with this Agreement;
 - (ii) within three (3) Business Days after the last Event Date, DEC shall provide to the Hirer a box office settlement statement detailing the amount of the Ticket Sales and the manner in which the Deposits have been applied towards the satisfaction of the amounts payable by the Hirer to DEC in accordance with this Agreement;
 - (iii) the Hirer must notify DEC in writing of any error or objection in the box office settlement statement referred to in the preceding subparagraph within one (1) Business Day from receipt of the statement from DEC;
 - (iv) if DEC receives no notification in accordance with the preceding subparagraph the settlement statement will be deemed to be true and correct, DEC shall then pay to the Hirer the balance of the Ticket Sales calculated in accordance with the settlement statement no later than five (5) Business Days from the last Event Date;
 - (v) if the Hirer objects to the contents or accuracy of the settlement statement in accordance with this clause, the Hirer and DEC shall use all reasonable endeavours to settle the terms of the settlement statement in which case DEC shall pay the

balance of the proceeds from the Ticket Sales (less any amounts payable to DEC) to the Hirer within 30 days from the last Event Date, such payment to be calculated in accordance with DEC's settlement statement and the parties shall then appoint an arbitrator to finalise any outstanding disputes in accordance with clause 18 of this Agreement.

- (f) The Hirer acknowledges that DEC is the Hirer's agent for the purposes of selling and arranging the sale of Tickets to the presentation of the Event or the Presentations and for making any necessary refund to the purchasers of Tickets in the event that the Presentation or Event is cancelled whether by the Hirer or by DEC.
- (g) If the Event or Presentation is unable to be completed, DEC is not responsible for making a decision with respect to refunds for ticket purchases. The decision with respect to refunds is to be made between the Hirer and the entertainment company that acts as agent selling the tickets for the Event and without prejudice to the liability of the Hirer to DEC pursuant to this Agreement.
- (h) If in the opinion of either DEC or the Hirer, the quality, duration, nature or expectation of any Presentation is or will be in any way adversely affected, for any reason, the Hirer must pay DEC upon demand:
 - (i) all costs incurred by DEC in making any announcements, placing advertisements and generally advising members of the public who have purchased Tickets for the Presentation so affected of the circumstances;
 - (ii) the cost to DEC of settling or contesting at its discretion any claims by members of the public who purchased Tickets.
- (i) The Hirer agrees that:
 - (i) no person will be admitted to any Presentation without a Ticket, a Complimentary Ticket, or an Access Pass;
 - (ii) DEC shall not be responsible for any failure in the ticketing system or for any act, omission or default in respect of the printing supply and sale of Tickets, nor for any fraud on the part of any person engaged by DEC in respect of the printing, supply and sale of the Tickets;
 - (iii) DEC may for any lawful reason, refund to any person who has purchased Tickets for a Presentation, the Ticket price or part thereof in respect of the Tickets or in lieu of a refund offers to provide Tickets to another Presentation and DEC shall be under no liability to the Hirer in respect of any refund or replacement Tickets;
 - (iv) the final determination of the number of Tickets to be sold for each Presentation shall be made by DEC;
 - (v) no Tickets will be released for sale until after DEC is satisfied that they have received sufficient information relating to the Event; and
 - (vi) nothing in this Agreement shall be interpreted as making DEC or any of its employees or agents liable to the Hirer for any losses in revenue in respect of Tickets due to fraud or theft by any person or non-payment by the purchaser of a Ticket.
- (j) The Hirer may receive the number of Complimentary Tickets specified in item 6 of Schedule 1 to the Event upon compliance with DEC's directions and requirements.
- (k) DEC retains the right to the number of DEC's Tickets specified in item 6 of Schedule 1. DEC shall have the right to use or sell such seats at its own discretion and to apply the proceeds of the sales of these Tickets in such manner as it thinks fit.

5 Concessions, Promotion, Merchandise and Sponsorship

- (a) (i) Subject to subparagraph (ii), the Hirer must arrange for extensive local promotion of the Event and shall notify media including press, radio, television, online internet, to ensure reasonable exposure of the Event.
(ii) The Hirer must not include the logo or wording of Derwent Entertainment Centre or DEC in any promotional material without the prior written consent of DEC.
- (b) DEC shall in its discretion determine the concession kiosks and public bars which shall be open during the Event Dates.
- (c) The Hirer shall not be permitted to sell or arrange for the sale of any programs, promotional material or merchandise at the Venue other than through DEC.
- (d) Any sponsorship arrangements pertaining to the Event, including a list of relevant sponsors must be provided to DEC in writing prior to the first Event Date. DEC retains the full discretion to determine what, if any, rights may be granted to the Hirer's sponsors that affect the Venue or the conduct of the Event.
- (e) DEC shall be entitled to retain out of the proceeds of the sale of the programs, promotional material and merchandise the percentage of those proceeds specified in item 5 of Schedule 1.
- (f) DEC shall be entitled to retain full proceeds from the sale of the programs, promotional material and merchandise in satisfaction of all amounts payable by the Hirer to DEC in accordance with this Agreement.

6 Operation of Equipment and Roof Loading

- (a) All equipment and systems provided by DEC or forming part of the Venue shall be operated by DEC and its personnel unless it otherwise determines.
- (b) The main arena lighting, sound, music systems may be operated only during the Event Dates by persons approved by DEC prior to any operation of the systems.
- (c) In the event that the Hirer's use of the Venue includes the suspension of any equipment or weight from the roof of the Venue:
 - a. the Hirer must advise DEC in writing and provide the proposed details of the rigging plan as soon as possible prior to the Event Dates;
 - b. DEC shall engage an engineer or surveyor at the sole cost of the Hirer to prepare an approved rigging plan;
 - c. the Hirer must in erecting, operating and removing equipment from the Venue strictly conform with the approved rigging plan.

7 Hirer's Obligations and Warranties

7.1 Hirer's Obligations

The Hirer must:

- (a) present the Event on the Event Dates and at the Event Times;
- (b) provide to DEC at the cost of the Hirer a copy of the Hirer's proposed program (if any) for the Event prior to its publication or distribution and upon approval by DEC and no later

than 21 days before the Event including seeking approval from DEC of any special effects, contractors or equipment to be used at or brought into the Venue;

- (c) provide an authorised and responsible representative on site who will co-ordinate all communications with DEC and be contactable for the duration of the Event;
- (d) vacate the Venue and remove all of the Hirer's equipment by the end of the last Event Date, and in respect of each Presentation by the clearance time specified in item 2 of Schedule 1 and must at the Hirer's expense make good any damage to the Venue caused by the removal of equipment, and leave the Venue in a clean, safe and proper condition.

If the Hirer fails to remove its equipment, DEC may store such equipment at the Hirer's cost and dispose of such equipment where the Hirer fails to collect such equipment within a reasonable period of time. Where the Hirer fails to vacate the Venue within the time prescribed, the Hirer must pay an additional hiring fee to be determined and applied at DEC's discretion;

- (e) observe and comply and ensure that all Associated Persons observe and comply with the requirements of all laws, orders, awards, industrial agreements and regulations and the requirements of Federal, State, Municipal and Local Authorities and with any lawful direction of public officers which shall impose any duty upon DEC or the Hirer with respect to the use and occupation by the Hirer of the Venue Facilities in connection with the Event and each Presentation and shall indemnify DEC in respect of any non-compliance or breach thereof;
- (f) obtain at its expense and produce to DEC upon request, all permits and other licences required by any government, municipal or statutory authority or under any legislation in order to stage the Event and all necessary licences and authorisations relating to the use in the Event of any copyrighted materials, sound recording, film or performing right, including licences from the Australasian Performing Right Association, or other patented or copyrighted equipment, device or dramatic right;
- (g) for itself, its servants, agents and contractors (including without limitation, its contracted performers) indemnify and hold harmless DEC and its duly authorised representatives from all damages costs and expenses including legal fees for or on account of the use of any patented trademark or copyright material equipment device process or dramatic or other rights used in or incorporated in the conduct of each Presentation and any supporting entertainment.
- (h) pay the call out fee of the Tasmanian Fire Service ("TFS") if the TFS attends the Venue by reason of a false activation of the fire alarm caused by the Hirer, its employees, agents or invitees;
- (i) not and must ensure that the Associated Persons do not without the prior written consent of DEC:
 - (i) bring into the Venue any firearms, explosives, inflammable liquids, hazardous materials, drugs or alcoholic beverages (whether for sale or supply) or any other goods or services for the purpose of sale or supply;
 - (ii) bring into the Venue any smoke machines, misters, hazers, foggers, foamers, oilcrackers, dry ice or fluid, dry density machines, pyrotechnics or similar atmospheric altering equipment, confetti, glitter, powder dust or other such substances, whether manually dispersed or by a discharge mechanism, without the specific prior written approval of DEC (any cost arising from the activation of smoke detectors as a direct result of any non-permitted activity generated by the Event will be charged to the Hirer);
 - (iii) make or attempt to make any collections whether for charity or otherwise;

- (iv) suspend any object or thing from the roof of the Venue;
- (v) install or use or bring into the Venue any equipment, fittings or electrical installation for the staging of the Event; or
- (vi) bring into the Venue any equipment or item which by reason of its weight or vibration resulting from its operation could in the opinion of DEC cause damage to the floor, the roof or to other parts or services of the Venue;
- (j) not do anything whereby:
 - (i) any authorisation or licence in force in respect of the Venue may be forfeited, suspended or not renewed; or
 - (ii) any member of the police force or emergency services or any employee or agent of DEC is obstructed in the exercise of his duties at the Venue;
- (k) for itself and must ensure that the Associated Persons:
 - (i) use the Venue, the Venue Facilities and the Additional Facilities in a safe and proper manner so as not to create any risk of injury or damage to person or property;
 - (ii) comply with all reasonable directions of DEC in connection with the safe and proper use of the Venue, the Venue Facilities and the Additional Facilities;
 - (iii) refrain from marking, painting, drilling into or otherwise defacing any part of the Venue or making any alteration or fixing any item to the structure, fittings, decorations or furnishings of the Venue or the Venue Facilities without the prior approval of DEC;
 - (iv) do not carry on or permit to be carried on within the Venue or any part thereof any acts matter or thing which may be or become a nuisance, annoyance or hazard to DEC, its servants or agents or any other person lawfully entering or using the Venue or the Venue Facilities or any neighbouring or adjacent property or any owners or occupants thereof;
 - (v) comply with DEC's directions concerning all equipment brought into the Venue;
 - (vi) do not block or obscure emergency exits, emergency lights or fire protection equipment; and
 - (vii) do not exceed the floor loading notified by DEC within the Venue;
- (l) comply with any technical support requirements in relation to the use of the Additional Facilities as required by DEC; and
- (m) not erect or display any signage, advertising or other promotional material on, in or in the area surrounding the Venue without DEC's consent.

7.2 Hirer's Warranties

The Hirer warrants, at the time of entering into this Agreement and at all times during the continuance of this Agreement and at all times following the expiration of this Agreement that:

- (a) the Hirer has properly informed itself as to the suitability of the Venue and the Venue Facilities for the presentation of the Event and has not relied upon any representation or advice of DEC, its employees or agents;
- (b) it has the financial, technical, commercial and legal capacity to promote and stage the Event in accordance with information provided to DEC;

- (c) it has and will continue to provide all relevant information to DEC pertaining to the Event to enable DEC to comply with its obligations hereunder;
- (d) the Event or any Presentation will not cause any damage to the Venue or the Venue Facilities or to the reputation or standing of Derwent Entertainment Centre, DEC or the Crown;
- (e) it has obtained all necessary authorisations, licences, consents, releases and waivers from third parties to enable the Event to be promoted and conducted;
- (f) the presentation of the Event will not infringe the intellectual property rights of any third party; and
- (g) it will not do anything which will bring Derwent Entertainment Centre, DEC or the Crown into disrepute or make adverse comments about Derwent Entertainment Centre, DEC or the Crown in the media.

8 Workplace Health and Safety Requirements

- (a) The Hirer must ensure that all servants, agents, employees, sub-contractors and volunteers are aware of and must comply with the requirements of the Work Health and Safety Act 2012 (Tas). Protective equipment as required shall be supplied by the Hirer to those individuals and must be worn and used by servants, agents, employees, sub-contractors and volunteers of the Hirer in accordance with the Work Health and Safety Act 2012 (Tas).
- (b) DEC requires the Hirer to ensure that any servants, agents, sub-contractors or volunteers which may be engaged to perform a service on its behalf, will at all times identify and exercise all necessary precautions for the health and safety of all persons, including the Hirer's employees and DEC's employees and members of the public who may be affected by or benefit from the services.
- (c) The Hirer must contact DEC's Work Health and Safety Advisors and satisfy itself of all work health and safety policies, procedures or measures implemented or adopted by DEC. The Hirer will comply with all such policies, procedures or measures and in the event of any inconsistency, will comply with such procedures or measures as they produce the highest level of health and safety. The Hirer's obligations in this regard also extend to its all servants, agents, employees, subcontractors and volunteers completing an induction arranged by DEC.
- (d) The inductions that need to be completed by the Hirer's Workers are to be completed through the Venue's website. If required, the inductions can also be conducted by a DEC staff member at the Venue, but this would be confirmed with the Hirer. All of the Hirer's Workers must complete the induction at least seven (7) days before starting work at the Venue. DEC reserves the right to cancel the Event or Presentation if this requirement has not been complied with.

9 Use of Equipment at the Venue

- (a) The Hirer can arrange separate production and technical equipment to be used at the Venue for the Event rather than using the equipment provided by DEC's preferred supplier, on the condition that it complies with DEC's workplace health and safety requirements.
- (b) Representatives from DEC'S Workplace Health and Safety team must be consulted about the proposed separate production and technical equipment to be used for the Event at least thirty (30) days before the Event.
- (c) Representatives from DEC'S Workplace Health and Safety team must be able to assess whether the equipment at the Venue is compliant with workplace health and safety

standards at least seven (7) days before the Event.

- (d) DEC is not responsible for any damage to any production or technical equipment whilst the equipment is at the Venue, or any performance capabilities or failure of such equipment, or any consequences associated with such issues, including any costs.

10 Damage and Alterations to Venue

- (a) The Hirer is responsible for any equipment it brings into the Venue including any equipment supplied by a third party for the Event and DEC shall have no liability to the Hirer for any loss of or damage to any such equipment unless such loss or damage is caused by the negligence of DEC.
- (b) The Hirer must report to DEC in writing any damage to the Venue, the Venue Facilities, any of the Additional Facilities or other equipment, facilities and services provided by DEC sustained during use by the Hirer, any Associated Person or any persons attending the Event immediately upon becoming aware of the damage.
- (c) The Hirer must pay to DEC the cost of repairing and making good any damage to the Venue or the Venue Facilities (unless caused by the negligence of DEC, its employees or agents) including the cost of labour and materials and replacement equipment and must if required by DEC itself repair and make good any such damage.
- (d) The Hirer must pay to DEC the amount of any revenue which DEC calculates to have been lost by reason of any damage caused to the Venue or the Venue Facilities or the repairing and making good of any such damage.

11 Entertainment Industry Service Fee

The Hirer, in addition to any other costs or charges payable in accordance with this Agreement, must pay to DEC an industry service fee on a per performance basis on the scale of rates as apply as at the date of each Presentation, such rates being established from time to time by Live Performance Australia (“LPA”) or as negotiated by the Hirer directly with the LPA. LPA is a not-for-profit organisation registered with the Australian Industrial Relations Commission since 1917. The industry service fee is an important component of the LPA’s revenue base which ensures its ability to service, protect and promote the interests of the live performance industry in Australia.

12 DEC’s Rights

DEC reserves the right to:

- (a) access all areas of the Venue at all times for the purpose of carrying out its normal duties;
- (b) determine in its absolute discretion any acceptable sound limits in respect of the Event or use of special effects if it may in DEC’s reasonable opinion create a work health safety or insurance risk, and enforce any sound or other restrictions as necessary;
- (c) refuse admission to or to remove from the Venue at any time any person or Associated Person;
- (d) direct crowd control measures, safety and security systems and procedures;
- (e) suspend or control the Event if in the judgment of DEC it is not in accordance with this Agreement; so long as the hirer has been given reasonable opportunity to rectify the issue
- (f) take all actions and make all directions relating to the use of the Venue and the Venue Facilities by the Hirer or the Associated Persons as it deems necessary;

- (g) authorise an event co-ordinator to exercise on behalf of DEC and at their own discretion, the rights reserved to DEC under this Agreement;
- (h) suspend or cancel any Presentation or Event if in the opinion of DEC it is necessary to vacate the Venue in order to avoid exposing any person to danger or if directed by the Police, Fire brigade or any other relevant authority;
- (i) suspend or cancel any Presentation or Event in whole or in part at any time before the commencement date in its sole discretion;
- (j) restrict or prevent the use of any equipment or effects associated with the Presentation or Event, including but not limited to strobe lights, smoke effects from haze machines,
- (k) issue or approve Access Passes permitting specified persons to have access to specified areas of the Venue normally closed to the public, including areas used by the Hirer on terms and conditions issued and specified by DEC;

13 Insurance

- (a) The Hirer must take out and keep current during the Event Dates a public liability insurance policy, in a form approved by DEC in the name of the Hirer providing coverage for an amount of at least twenty million dollars (\$20,000,000.00 AUD). The public liability policy shall cover such risks and be subject only to such conditions and exclusions as are approved by DEC and shall extend to cover DEC in respect to claims for personal injury or property damage arising out of the negligence of the Hirer.
- (b) The Hirer must produce upon demand by DEC evidence of the currency of the public liability insurance policy in respect of the Event Dates.
- (c) The Hirer must ensure that any contractor engaged by the Hirer for any purpose connected with the Event has public liability insurance in a form approved by DEC, in respect to the activities for which the contractor is engaged in the name of the contractor providing coverage for an amount of at least twenty million dollars (\$20,000,000.00 AUD).
- (d) The Hirer must take out and keep current during the Event Dates a workers compensation insurance policy, which states the number of employees of the Hirer, as well as confirmation that the employees are qualified to work in the jurisdiction of Tasmania.
- (e) The Hirer must not do or suffer or permit to be done any act matter or thing which might in any way adversely affect or prejudice any policy of insurance of DEC or the Crown in respect of the Venue or any part thereof or which may result in the same becoming liable to be avoided or which may cause the premium rate thereof to be increased.
- (f) The Hirer must ensure that its subcontractors take out and keep current during the Event Dates a worker's compensation insurance policy and a public liability insurance policy. Evidence of these insurance policies is to be obtained by the Hirer and provided to DEC at least seven (7) days before the subcontractor commences work at the Derwent Entertainment Centre.

14 Indemnity

- (a) The Hirer agrees to indemnify and to keep indemnified DEC, its servants and agents, and each of them from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made against them, or any of them, arising from the Event or purported performance of the Hirer's obligations under this Agreement and be directly or indirectly related to the negligent acts, errors or omission of the Hirer or any Associated Persons. The Hirer's liability to indemnify DEC shall be reduced proportionally to the extent that any act or omission of DEC, contributed to the loss or liability.
- (b) DEC shall not be liable to the Hirer for any loss of life, personal injury or damage to or loss of property which may be suffered or sustained at the Venue for any cause whatsoever, save where any such death, injury or damage results from a negligent act or omission of DEC or its employees.
- (c) The Hirer agrees to occupy and use the Venue at its own risk and releases DEC from all claims and demands of any kind and from any liability which may arise in respect of any accident, damage or injury occurring to any person or property in or about the Venue, unless caused by an act or omission of DEC except where acting on instructions of the Hirer.
- (d) Notwithstanding any provision of this Agreement, if the Hirer cancels the Event or a Presentation is cancelled or does not take place then and in any such case the Hirer shall indemnify DEC in respect of all claims, causes of action, costs, losses, damages and expenses which DEC sustains or incurs by reason of or arising out of such cancellation or such Event or Presentation being cancelled or not taking place.

15 Third Party Claims

- (a) If, the DEC's ticketing provider withholds funds from DEC (**Claims Amount**) on the basis that in the ticketing provider's reasonable opinion, it is likely that a claim by a party other than the Hirer (**Third Party**) will be made against DEC's ticketing provider arising from the Event (**Third Party Claim**), the Hirer authorises DEC to retain an amount from the Ticket proceeds equal to or less than the Claims Amount.
- (b) DEC must promptly release to the Hirer, the Claims Amount:
 - i. if the claim is settled or resolved between DEC (with approval of the Hirer), the ticketing provider, and the third party, subject to the application of the Claims Amount in satisfaction of any amount agreed to be paid to the third party by the Hirer); or
 - ii. if the Third Party Claim is referred within six (6) months to a Court, tribunal or arbitrator for final determination:
 - A. subject to application of the Claims Amount in full or partial satisfaction of any liability which the Court, tribunal or arbitrator determines the Hirer has to the DEC, the ticketing provider, or the third party (or which the DEC has to the ticketing provider or the third party due to the act or omission of the Hirer); or
 - B. if it is determined finally by a court that the Hirer has no liability; or
 - iii. if the Third Party Claim is not resolved between the parties, or referred to a Court, tribunal or arbitrator for final determination, within six (6) months of retention of the Claims Amount by the DEC.

16 Chargebacks

If, in respect of an Event, the DEC's ticketing provider's credit card acquirer charges back to

certain purchasers an amount in respect of the sale of their Tickets and the chargeback has been raised because of an established failure of the Hirer to supply, the DEC will not be liable to pay that amount of the Ticket proceeds to the Hirer under this Agreement. To the extent that the DEC has already paid that amount to the Hirer, the Hirer must reimburse the DEC on demand.

17 Cancellation

If for any reason the Hirer is unable to proceed with the Event on the Event Dates including events beyond the Hirer's control, but excluding any default on the part of DEC:

- (a) the Hirer must immediately notify DEC in writing the Hirer's cancellation of the Event including the reasons for the cancellation;
- (b) subject to subparagraph (c) hereof, the Hirer's liability to pay the Hiring Charges shall be as follows:
 - (i) if the cancellation is notified in excess of the time frame indicated as the Refundable Cancellation Period prior to the first Event Date, the Deposits shall be refunded to the Hirer;
 - (ii) if the cancellation is notified in a period less than the time frame indicated as the Refundable Cancellation Period prior to the first Event Date, the Venue Hire Deposit will be retained by DEC and the Bond shall be refunded to the Hirer;
 - (iii) in addition to subparagraph (ii), if the cancellation is notified less than the time frame indicated as the Full Payment Cancellation Period prior to the first Event Date, the Hirer must pay the balance of the Hiring Charges as if the Presentation took place on the Event Dates;

provided that where the Hirer is unable to proceed with one or more Presentations (but not the entire Event) on the scheduled Event Dates, DEC will adjust the cancellation fees payable under this subparagraph at DEC's discretion, having regard to the extent of Presentations cancelled;

- (c) the Hirer must pay to DEC upon demand:
 - (i) all costs of any nature incurred by DEC in providing and preparing for the use of the Venue Facilities and the Additional Facilities for the cancelled or postponed Presentation or Event;
 - (ii) all costs of any nature incurred as a result of the failure to present any Presentation or the Event or any change in the scheduled times including but not limited to any advertising charges for either print, TV or radio media, booking fees and inside charges, all phone handling charges, internet charges and administration fees charged by DEC's ticketing provider, all staff costs for any time spent attending to matters arising out of the cancellation of the Presentation and Event;
- (d) DEC may refuse to provide the Hirer with the Venue Facilities and the Additional Facilities on the Event Dates or at the Event Times and is entitled to grant the licence and authority to use the Venue Facilities on those dates and at those times to any other person.
- (e) If the Event is cancelled for any reason and if the DEC's ticketing provider charges the below cancellation fees, the Hirer must in respect of each Ticket sold for an Event, pay 50% of the ticket fees specified in Item 6 of Schedule 1 to a maximum of \$3,000 (incl. GST) per Presentation (and limited to \$5,000 (incl. GST) for the Event in the aggregate, applicable to the Ticket (**Cancellation Fees**).

18 Default and Termination

18.1 Default

Should the Hirer default in making any of the payments pursuant to the terms and conditions of this Agreement, DEC may, in addition to other remedy available to DEC, at the complete discretion of DEC take control over the proceeds of Ticket Sales, programs, promotional material and merchandise collected or received by DEC in accordance with this Agreement and apply such monies as follows:

- (a) in refunding collected monies to ticket holders;
- (b) in payment to DEC in compensation for deficiency or loss or damage arising by virtue of the Hirer's breach of the terms and conditions of this Agreement;

provided that nothing in this Agreement shall be interpreted as making DEC or any of its agents of servants liable to the Hirer for any loss in Ticket revenue due to fraud or non-payment by a purchaser.

18.2 Termination

If at any time:

- (a) the Hirer commits a breach of any term or condition of this Agreement;
- (b) the Hirer is or becomes insolvent;
- (c) the Hirer (not being a company) becomes bankrupt;
- (d) the Hirer (being a company) goes into liquidation (other than a voluntary liquidation for the purposes of reorganisation) or is placed under official management or an administrator, receiver, manager or receiver and manager of any of its assets is appointed;
- (e) in DEC's opinion, there is a likelihood that damage may be caused to the Venue or the Venue Facilities by any of the Associated Persons or by the Hirer exercising its rights under this Agreement;
- (f) there has been a material change in the information provided by the Hirer to DEC prior to the execution of this Agreement;
- (g) in DEC's opinion, the manner in which the Hirer or any of the Associated Persons is using or proposes to use the Venue or the Venue Facilities is likely to injure or prejudice the reputation of DEC or the Venue or is in DEC's opinion, after obtaining legal advice, illegal; or
- (h) the Hirer is unable to promote or proceed with the Event;

then notwithstanding any prior waiver, or indulgence granted by DEC to the Hirer, DEC may, after providing a reasonable opportunity to the Hirer to remedy the default if in the opinion of DEC the default is capable of being remedied, terminate this Agreement by giving the Hirer notice in writing, whereupon this Agreement and any licence hereby granted to the Hirer shall be at an end but without prejudice to any right or remedy of DEC for any breach by the Hirer of this Agreement.

19 Civic Disaster and Police Matters

19.1 Notice to Police

DEC shall give notice to the Glenorchy police office of the date and time of each Presentation within the time period required by the police.

19.2 Civic Disaster

- (a) The Hirer acknowledges that:
 - a. the Crown may at any time and without notice to DEC or the Hirer enter and use the Venue in connection with any disaster or civic emergency; and
 - b. this Agreement will be terminated in the event that the Crown requires the use of the Premises during the Event Dates in connection with any disaster or civic emergency.
- (b) DEC and the Hirer shall be relieved from all liability in respect of any breach of its obligations under this Agreement if an event such as, but not limited to, a business disaster or civic emergency occurs and the Crown needs the Venue to assist in dealing with the effects of that event.

20 Force Majeure

DEC shall be relieved from all liability in respect of any breach of its obligations under this Agreement should such breach be caused, directly or indirectly, by an event of Force Majeure. For the purposes of this clause "Force Majeure" shall mean any act, matter or thing whatsoever not within the reasonable control of DEC and which adversely affects the capacity of DEC to perform its obligations hereunder or wholly prevents the performance of the same.

21 Licence

This licence is a right for the Hirer to occupy the Venue in accordance with the terms and conditions of this Agreement and nothing in this Agreement shall have the effect of providing any exclusive use or possession of the Venue for the Hirer or creating a lease or tenancy agreement. The legal right to possession and control over the Venue including entering and inspecting the Venue remains vested in DEC.

22 Arbitration

22.1 Dispute

If any dispute question or difference shall arise between the parties as to the interpretation construction meaning or effect of any of the provisions of this Agreement or as to the rights duties or liabilities of any of the parties hereto by virtue of this Agreement or otherwise touching the subject matter hereof or arising out of or in relation thereto such dispute question or difference shall if not settled within fourteen (14) days upon demand therefore in writing by any of the parties be referred to arbitration.

22.2 Appointment of Arbitrator

In the event of arbitration the Hirer and DEC shall consult with a view to selecting a single arbitrator but in the event they are unable to agree on the appointment of a single arbitrator within seven (7) days the matter shall be referred to an arbitrator to be appointed by the President for the time being of the Law Society of Tasmania.

22.3 Decision Binding

The decision of the arbitrator shall be final and conclusive and binding on the parties hereto.

22.4 Submission to Arbitrator

Except as otherwise expressly provided herein the reference to arbitration shall be deemed to be a submission to arbitration within the meaning of the *Commercial Arbitration Act 1986* of the State of Tasmania or any statutory modification or re-enactment thereof for the time being in force.

22.5 Proceedings

No party hereto shall be entitled to commence or maintain any action or other proceedings against another party hereto in relation to or arising out of any dispute question or difference capable of being submitted to arbitration pursuant to this clause unless the dispute question or difference has first been referred to and settled by arbitration as herein provided.

23 Jurisdiction and Laws

- (a) This Agreement shall be governed by and construed in accordance with the laws of Tasmania, Australia and the parties submit to the non-exclusive jurisdiction of the courts of Tasmania.
- (b) The Hirer shall comply with the requirements of all laws, orders, awards, industrial agreements and regulations and the requirements of Federal, State, Municipal and Local Authorities and with any lawful direction of public officers which shall impose any duty upon DEC or the Hirer with respect to the use and occupation by the Hirer of the Venue Facilities and Additional Facilities in connection with each Presentation and shall indemnify DEC in respect of any non-compliance or breach thereof.

24 Stamp Duty

The Hirer shall reimburse to DEC all stamp duty payable in respect of this Agreement and any counterpart of this Agreement.

25 Goods and Services Tax

25.1 GST Definitions

For the purposes of this clause:

“**GST**” means GST within the meaning of the GST Act

“**GST Act**” means the “A new tax system (Goods and Services Tax) Act 1999 (as amended)

25.2 Amounts otherwise payable do not include GST

Except where express provision is made to the contrary, the consideration payable by any party under this Agreement represents the taxable supply for which payment is to be made.

25.3 Liability to pay GST

- (a) Subject to clause 23.5, if a party makes a taxable supply in connection with this Agreement for a consideration, which under clause 23.2, represents its value, then the party liable to pay for the taxable supply must also pay, at the same time and in the same manner as the value is otherwise payable, the amount of any GST payable in respect of the taxable supply.
- (b) The Hirer is responsible to pay GST on Ticket Sales and Booking Fees.

25.4 Reimbursements

If this Agreement requires DEC or the Hirer to pay, reimburse or contribute to an amount paid or payable by DEC or the Hirer in respect of an acquisition from a third party for which a party is entitled to claim an input tax credit, the amount required to be paid, reimbursed or contributed by that party will be the value of the acquisition plus, if the recovery is a taxable supply, any GST payable under clause 23.3.

25.5 Tax Invoice

A party's right to payment under clause 23.3 is subject to a valid tax invoice being delivered to the party liable to pay for the taxable supply.

26 Privacy Guidelines

The Hirer must comply with the Information Privacy Principles in the *Personal Information Protection Act 2004* (Tas) and the *Privacy Act 1988* (Cth) in relation to the collection or obtaining any information in relation to patrons attending the Venue.

27 Special Conditions

The Special Conditions set forth in Schedule 3 shall apply to this Agreement and are terms of this Agreement and to the extent of any inconsistency the provisions of Schedule 3 shall prevail.

28 Notices

28.1 Notices

Any notice demand or other documents to be given or served by either party under this Agreement shall be valid and effectual if signed by any attorney or solicitor of that party or any person authorised by the party.

28.2 Service of Notices

Without prejudice to any other means of giving or serving notice any notice or demand or other document requiring to be served under this Lease shall be sufficiently served on the party on whom service is intended if it is left addressed to or forwarded by prepaid letter to that party at his address herein specified or such other address as may from time to time be notified in writing for that purpose by that party served on the party to whom it is addressed when in due course of post, it should have been received by that party.

29 General

29.1 No Assignment

The Hirer must not assign, sublet or sub-licence any of its rights or obligation under this Agreement without the prior written consent of DEC.

29.2 Rules for interpreting this deed

In this deed, unless the contrary intention appears:

- (a) a reference to a person includes a corporation, unincorporated body or authority;
- (b) clause headings are inserted for convenience only and will be ignored in the interpretation of this deed;
- (c) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (d) the annexures to this deed form part of this deed;
- (e) a party includes its successors, assigns, executors and administrators; and

29.3 Entirety

This deed records the entire Agreement between the parties, whether oral or written, in relation to its subject matter. The Hirer abandons and discharges any present or future claim, right or remedy against DEC in relation to any statement, representation, term, warranty, condition, promise or undertaking made, given or agreed to in the course of communication or in any negotiation, arrangement or understanding with respect to the subject matter or any term of this Agreement, whether oral, written or implied made, given or agreed to before or during the making of this Agreement.

29.4 Variation

No variation of this deed is binding unless it is in writing and signed by each party.

29.5 Severance

The other provisions of this deed are not affected by any reading down or severance of particular provisions.

29.6 Multiple Parties

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by them severally; and
- (c) any other reference to that party or that term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

Execution:

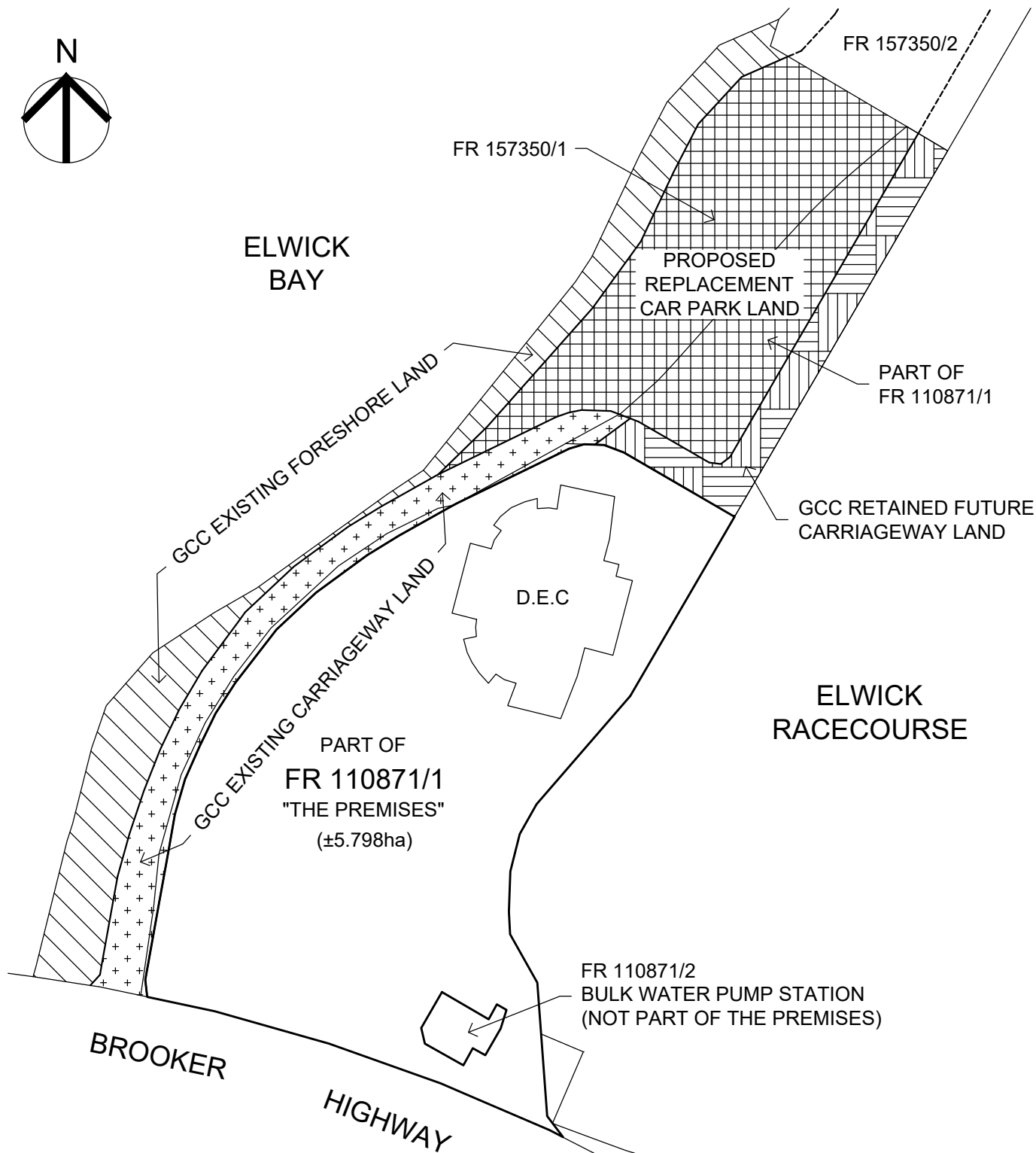
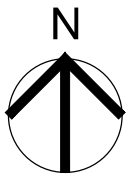
Executed as a deed on this day _____

Signed for and on behalf of the LK Stadiums Management (Tas) Pty Ltd by the Centre Manager:		In the presence of:	
_____		_____	
Signature		Signature	
_____		_____	
Name		Name & Occupation of Witness	
		Address of Witness	
Date:		Date:	

Signed by the Hirer	
pursuant to section 127 of the Corporations Act 2001 by its directors	
Name and signature of Director	Name and signature of Director
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Signature	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Signature
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Name & Occupation	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Name & Occupation of Witness
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Address	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Address of Witness
Date:	Date:

*If someone other than a sole director/secretary or two directors, or a director and a secretary are signing, please provide evidence acceptable under the Corporations Act 2001 of capacity to sign (e.g. corporate power of attorney)

Attachment: Replacement Car Park Plan



LEGEND

PREMISES BOUNDARY

SURROUNDING TITLE BOUNDARY



GCC EXISTING FORESHORE LAND



GCC EXISTING CARRIAGEWAY LAND



GCC RETAINED FUTURE CARRIAGEWAY LAND



PROPOSED REPLACEMENT CAR PARK LAND

0 20 40 60 80 100m



SCALE

1:3000@A4

NOTES:

NO EASEMENTS HAVE BEEN SHOWN ON THIS PLAN FOR CLARITY.
PLEASE REFER TO THE RELEVANT TITLES FOR MORE INFORMATION.
ALL AREAS ARE APPROXIMATE ONLY AND ARE SUBJECT TO FINAL SURVEY.



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Surveying, Engineering & Planning
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**DERWENT ENTERTAINMENT CENTRE (D.E.C.)
REPLACEMENT CAR PARK PLAN
601-601B BROOKER HIGHWAY, GLENORCHY
for DEPARTMENT OF STATE GROWTH**

DATE 2 NOVEMBER 2020

SCALE	PAPER
1:3000	(A4)
JOB NUMBER	DRAWING
46092MD - 3A	