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Agreement to Lease

**Premises: Taylors Hill West Recreation Reserve Football Facilities and Pavilion,
Orbis Avenue, Plumpton 3335**

Melton City Council
and

Sunshine George Cross Soccer Club Limited
ACN 005 623 576, trading as Caroline Springs George Cross SC

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Schedule

1. **Date of this Agreement:**
(Clause 1) The day of
2. **Council:**
(Clause 1) Melton City Council of 232 High Street, Melton,
Victoria 3337
3. **Tenant:**
(Clause 1) Sunshine George Cross Soccer Club Limited
ACN 005 623 576 of Level 1, 12 Cramer Street,
Preston, Victoria 3020, trading as Caroline
Springs George Cross SC
4. **Land:**
(Clause 1) The land contained in certificates of title volume
11577 folio 300, volume 11516 folio 591 and
volume 11337 folio 037
5. **Premises:**
(Clause 1) The Premises on the plan attached to this
Agreement as Attachment 1 being the whole of
the Land known as Taylors Hill West Recreation
Reserve Football Precinct, located at 52 Orbis
Road, 70 Orbis Road and 84 Orbis Road,
Plumpton 3335
6. **Permitted Use:**
(Clause 1) Sports, recreation and social facility including but
not limited to sports competition, training, offices,
reception, cafe/kiosk, bistro, function centre and
storage
7. **Condition Precedent Date:**
(Clauses 1 & 2) **##To be confirmed – please see clause 2]**
8. **Estimated Completion Date:**
(Clauses 1 & 4) The estimated completion date for each Stage is
as follows:
Stage 1: 1 January 2018
Stage 2: 1 July 2018
Stage 3: 1 January 2019
9. **Sunset Date:**
(Clauses 1 & 4.6) **1 July 2020**
10. **Fitout Period:**
(Clauses 1 & 6) 6 months



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Agreement to Lease

The Council is the owner of the Land and proposes carrying out Council's Works.

Upon completion of Council's Works, Council and the Tenant have agreed to enter into the Lease of the Premises. The Lease will commence at different times for each part of the Premises consisting of a Stage, as further provided for in clause 4.2.

This Lease is executed as a deed on the _____ day of _____ 2016

The Common Seal of the Melton City Council
was hereunto affixed in the presence of:

)
)
)

.....

Councillor

.....

Chief Executive Officer

**Executed by Sunshine George Cross
Soccer Club Limited ACN 005 623 576** in
accordance with s 127(1) of the *Corporations
Act 2001*:

)
)

.....
Signature of Director

.....
Signature of Director/Company Secretary

.....
Print full name

.....
Print full name



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1. **Definitions**

In this Agreement, unless expressed or implied to the contrary:

Act means the *Retail Leases Act 2003 (Vic)*.

Certificate of Practical Completion means the certificate issued by Council's architect or project manager certifying that a Stage of Council's Works is substantially completed in accordance with this Agreement (other than minor works).

Commencement Date means the commencement date of the Lease which, in respect of each Stage, will be the commencement date determined in accordance with clause 4.10.

Condition Precedent Date means the date specified in Item 7.

Council means the party named in Item 2 and includes Council's successors and assigns and where it is consistent with the context, includes Council's employees and agents.

Council's Works means the works to be undertaken by or on behalf of Council to construct the Facility in Stages, as further described in Attachment 2 and includes all associated works required by the Council in its discretion for the purposes of providing access to and amenity for the Premises.

Development Approvals means permits, consents and approvals required to carry out Council's Works, including the Planning Permit, but excludes the Planning Scheme Amendment.

Estimated Completion Date means, in respect of each Stage, the anticipated date of completion of Council's Works the subject of that Stage, as specified in Item 8.

Facility means the facility to be known as the Taylor's Hill West Recreation Reserve and Pavilion.

Fitout Period is the period of time specified in Item 10.

Fitout Plans means the detailed plans and specifications and any other documentation required by Council detailing the Fitout Works.

Fitout Works means the works to be undertaken by the Tenant specified in Attachment 3 and which relate to the premises the subject of Stage 2.

Handover Date means the date notified in writing by Council to the Tenant that the Tenant may commence carrying out the Fitout Works under this Agreement.

Insolvency Event means:

- (a) in the case of a natural person, if that person:
 - (i) becomes bankrupt;
 - (ii) assigns the person's estate; or
 - (iii) enters into a deed of arrangement or composition for the benefit of creditors.
- (b) in the case of a corporation, if that corporation:



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- (i) goes into liquidation (including provisional liquidation) other than a voluntary liquidation for the purposes of reconstruction or reorganisation;
- (ii) is wound up or dissolved or has an application made for its winding up or dissolution;
- (iii) enters into a scheme or arrangement with or makes an assignment for the benefit of its creditors or any class or classes of them;
- (iv) is placed under official management;
- (v) has an agent in possession or a receiver and/or manager or an administrator appointed to the whole or any substantial part of its assets; or
- (vi) has an inspector or investigator appointed under the *Corporations Act 2001* (Cth).

Item means an item in the Schedule.

Land means the land specified in Item 4.

Lease means the lease attached to this Agreement in Attachment 4.

OHS Act means the *Occupational Health and Safety Act 2004* (Vic).

OHS Law means the OHS Act, the OHS Regulations, and any other occupational health and safety law, regulation or by-law that applies to work being carried out on the Premises.

OHS Regulations means the *Occupational Health and Safety Regulations 2007* (Vic).

Permitted Use means the use specified in Item 6.

Premises means the premises described in Item 5.

Planning Permit means any planning permit or other authorisation under the Melton Planning Scheme or the *Planning and Environment Act 1987* (Vic) required to use or develop the Land for the Permitted Use.

Planning Scheme Amendment means amendment C178 of the Melton planning scheme.

Practically Complete means, in respect of a relevant Stage, the completion of Council's Works the subject of that Stage, with the exception of minor items which can be fully completed before the later of:

- (a) the completion of the Fitout Works without material interference with the carrying out of the Fitout Works, and
- (b) the Commencement Date,

and **Practical Completion** has a corresponding meaning.

Principal Contractor means the position of principal contractor referred to in Chapter 5 of the OHS Regulations.

Schedule means the schedule at the front of this Agreement.



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Small Business Commissioner means the Small Business Commissioner referred to in the Act.

Stage means one or more of Stage 1, Stage 2 or Stage 3, (as the context dictates) of Council's Works, as set out in Attachment 2.

Stage 1 has the meaning given in Attachment 2.

Stage 2 has the meaning given in Attachment 2.

Stage 3 has the meaning given in Attachment 2.

Sunset Date means the date specified in Item 9.

Tenant means the party named in Item 3 and includes the Tenant's successors and assigns and where it is consistent with the context, includes the Tenant's employees, agents, invitees and persons the Tenant allows on the Land.

Subject to this Agreement, terms capitalised in this Agreement which are defined in the Lease shall otherwise bear the meaning ascribed to each term respectively in the Lease.

2. Conditions precedent

2.1 Statement of conditions precedent

2.1.1 This Agreement is conditional upon Council obtaining all Development Approvals by the Conditions Precedent Date.

2.1.2 This Agreement is conditional upon approval of the Planning Scheme Amendment by the date which is 12 months after the date of this Agreement.

2.2 Termination of Agreement

2.2.1 If the condition precedent specified in clause 2.3.1(a) has not been satisfied by the Condition Precedent Date, Council may terminate this Agreement by notice in writing to the Tenant at any time prior to the condition precedent being satisfied. Upon such a termination, the Tenant releases Council from any claims for costs, damages, losses, compensation or expenses whatsoever in connection with this Agreement.

2.2.2 If the condition precedent specified in clause 2.1.2 has not been satisfied by the required date, either party may terminate this Agreement by notice in writing to the other at any time prior to the condition precedent being satisfied. Upon such a termination, each party releases the other from any claims for costs, damages, losses, compensation or expenses whatsoever in connection with this Agreement.

2.3 Exemption from *Retail Leases Act 2003*

2.3.1 The Tenant acknowledges that Council has entered into this Agreement on the basis that:

- (a) the Tenant is a body corporate that exists for the purposes of providing or promoting community, cultural, sporting, recreational or similar facilities or activities or objectives and that applies its profits in promoting its objects and prohibits the payment of any dividend or amount to its members; and



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- (b) accordingly, pursuant to the determination made by the Minister for Small Business under s 5 of the Retail Leases Act dated 6 October 2014, the Retail Leases Act does not apply to this Agreement.

2.3.2 This Agreement is conditional on the Tenant amending its constitution as follows:

- (a) to provide a clear statement of purpose referable to the Permitted Use under this Lease;
- (b) to give effect to the provisions of clause 2.3, namely, by including:
 - (i) an acknowledgment that the Tenant is a body corporate that exists for the purposes of providing or promoting community or similar facilities or objectives;
 - (ii) a requirement that the Tenant apply its profits in promoting its objects; and
 - (iii) a prohibition on the payment of any dividend or amount to the Tenant's members.

2.3.3 If the condition subsequent referred to in clause 2.3 is not satisfied within 6 months after the date of this Agreement, Council may terminate this Agreement with immediate effect by giving written notice to the Tenant.

2.3.4 Except to the extent expressly permitted or required under this Lease, the Tenant must not alter its constitution without Council's prior written consent.

3. Council's powers and reservations

Council reserves the following rights:

- 3.1 to transfer, grant or create easements in favour of any of the owners, tenants or occupiers of land adjacent to the Land or with any relevant authority; and
- 3.2 re-arrange the traffic patterns and the parking and other common areas or alter the size, shape or dimensions of any structures on the Land (other than the Premises),
provided that Council in exercising the rights reserved by this clause shall not do anything which shall substantially and materially derogate from the enjoyment of the rights conferred on the Tenant by this Agreement.

4. Council's Works

4.1 Completion of Council's Works

4.1.1 Council must:

- (a) obtain all necessary permits from the relevant authorities for the construction of Council's Works;
- (b) carry out and complete Council's Works in a proper and workmanlike manner; and

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- (c) subject to the events specified in clause 4.5, use its reasonable endeavours to have the each Stage of Council's Works Practically Complete by the Estimated Completion Date for that Stage.
- 4.1.2 Council's Works shall be executed under the absolute control and management of Council and notwithstanding anything herein contained, Council shall not be under any obligation to effect any work on or to the Land other than Council's Works.
- 4.1.3 Subject to clause 4.1.4, a certificate signed by Council's architect stating that a Stage of Council's Works is Practically Complete will be conclusive evidence of that fact.
- 4.1.4 If the Tenant disputes that a certificate of Practical Completion should have been issued, the Tenant may refer the dispute to the President for the time being of the Victorian chapter of the Royal Australian Institute of Architects to nominate an architect to act as an expert and not as an arbitrator to decide what (if any) works are required to complete Council's Works and when the Fitout Period will commence. The fees and expenses of the architect must be borne equally between the parties. The Tenant must not object to the issuing of a certificate of Practical Completion on the basis that Council's Works are not Practically Complete, where in the opinion of Council, the failure to achieve Practical Completion has been caused or contributed to by the Tenant or the Fitout Works.
- 4.2 Staged Works**
- 4.2.1 The Tenant acknowledges and agrees that Council's Works are to be undertaken and completed in several Stages, with the effect that:
- (a) the Lease will commence at different times in respect of each area of the Premises the subject of a Stage;
 - (b) this Agreement will continue to apply despite the Lease commencing in respect of certain areas, and will continue to apply until both parties have fully complied with all their obligations arising under this Agreement;
 - (c) certain improvements, areas, amenities, services, items and deliverables may not be available until all Stages of Council's Works are completed; and
 - (d) the Tenant may experience dust, noise or other discomforts as a result of the Tenant taking possession of portions of the Premises while Council's Works relating to other Stages are ongoing.
- 4.2.2 The Tenant must not:
- (a) exercise any rights or seek compensation of any kind by reason of any matter referred to in clause 4.2.1;
 - (b) object to the carrying out of any part of Council's Works;
 - (c) object to the dust, noise or other discomforts or nuisance that may arise during the course of completion of Council's Works; or
 - (d) institute or prosecute any action or proceeding for injunctions or damages arising out of or connected with the completion of Council's Works.



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4.3 Variations requested by Tenant

If the Tenant requires any modifications to any of Council's Works, and Council agrees with the Tenant in its absolute discretion that it can accommodate such modifications, the Tenant agrees that it will pay all costs of and incidental to the effecting of such modifications including, but not limited to, the reasonable costs of Council's consultants in overseeing such modifications. If Council agrees to any modifications to any of Council's Works it may do so subject to such conditions as it may in its absolute discretion determine.

4.4 Other variations

Council may make variations to Council's Works at any time where the variation:

- 4.4.1 is properly required by any relevant authority; or
- 4.4.2 is considered by Council or its architect to be necessary or desirable and which does not materially detrimentally affect the Premises.

4.5 Delays in Council's Works

If Council's Works are delayed by any of the following:

- 4.5.1 weather sufficiently inclement to prevent Council from proceeding with Council's Works;
- 4.5.2 any prohibition or embargo imposed by any legislation or regulation or delay of any authority giving its approval to Council's Works;
- 4.5.3 any disputes between employers and employees or a strike or lockout affecting any of the trades employed in carrying out Council's Works;
- 4.5.4 any temporary or permanent unavailability of any required material or service for Council's Works;
- 4.5.5 any proceedings taken or threatened by any person in connection with Council's Works;
- 4.5.6 any variations to Council's Works requested by the Tenant and agreed to by Council; or
- 4.5.7 any other matter, cause or thing beyond the control of Council,

Council may by written notice to the Tenant, within 30 days of the occurrence of any of the events specified above, defer the Estimated Completion Date by a period equivalent to the duration of the event.

4.6 Termination of Agreement

If, due to an event referred to in clause 4.5, the entirety of Council's Works (other than minor works) are not Practically Complete by the Sunset Date, then either party may terminate this Agreement by notice to the other party at any time prior to Practical Completion of Council's Works. Upon such a termination, each party releases the other from any claims for costs, damages, losses, compensation or expenses whatsoever in connection with this Agreement, except for an antecedent breach of this Agreement.



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4.7 Delay caused by Tenant

Despite clause 4.6, if any part of Council's Works is delayed by any act of or default by the Tenant or other cause attributable, whether directly or indirectly, to the Tenant and such delay results in the inability of Council to complete Council's Works by the Estimated Completion Date, the Tenant agrees that it shall upon demand being made by Council pay to Council such rent and other payments more particularly specified as are required to be paid by the Tenant to Council under the Lease commencing from the date that would have been the Commencement Date but for such delays.

4.8 Variations requested by Tenant

If the Tenant requires any modifications to any of Council's Works, and Council agrees with the Tenant in its absolute discretion that it can accommodate such modifications, the Tenant agrees that it will pay all costs of and incidental to the effecting of such modifications including, but not limited to, the reasonable costs of Council's consultants in overseeing such modifications. If Council agrees to any modifications to any of Council's Works it may do so subject to such conditions as it may in its absolute discretion determine.

4.9 Certificate of Practical Completion

Council must give the Tenant a copy of each Certificate of Practical Completion in respect of each Stage within 5 Business Days of the date of issue of that Certificate of Practical Completion.

4.10 Determination of Commencement Date

In respect of each area the subject of a Stage, the Lease will commence on the day which is 5 Business Days after the date of issue of the Certificate of Practical Completion relating to that Stage (**Commencement Date**).

5. Tenant's Contribution**5.1 The parties acknowledge and agree that:**

- 5.1.1 Council has agreed to construct the Facility on the condition that the Tenant pays to Council an amount of \$1,000,000 plus GST towards Council's Works (**Capital Contribution**), and the Tenant will pay the Capital Contribution to Council as follows:
- (a) \$500,000 plus GST payable 5 days after Council informs the Tenant that Council has awarded a tender relating to the construction of the Facility; and
 - (b) \$500,000 plus GST payable 5 days after Council has given to the Tenant a copy of the Certificate of Practical Completion relating to Stage 1;
- 5.1.2 Subject to clause 5.1.3, the Capital Contribution is not refundable in any circumstances whatsoever (including termination of this Agreement or the Lease);
- 5.1.3 if this Agreement is terminated by the Tenant exercising a right of termination arising due to a breach of this Agreement by Council, Council must refund the Capital Contribution to the Tenant within 60 days of the termination; and
- 5.1.4 notwithstanding the payment of the Capital Contribution by the Tenant, Council's Works shall remain the sole property of Council at all times, and the Tenant shall not be entitled to claim compensation from Council for the value of the Capital Contribution.



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6. Fitout Works**6.1 Application for approvals**

The Tenant must:

- 6.1.1 expeditiously apply for all consents, permits and approvals to enable the Tenant to carry out the Fitout Works;
- 6.1.2 use its best endeavours to obtain the consents, permits and approvals and produce copies to Council upon request; and
- 6.1.3 if an authority refuses an application for a consent, permit or approval, do everything reasonably necessary to obtain the consent, permit or approval including appealing the decision of any authority to a court or tribunal and making such further applications as are necessary.

6.2 Approval of Fitout Plans

- 6.2.1 The Tenant must deliver the Fitout Plans to Council within 6 months from the date of this Agreement. The Fitout Plans must comply with the requirements of Council from time to time.
- 6.2.2 Within 30 days of receiving the Fitout Plans, Council must give the Tenant written notice that:
 - (a) the Fitout Plans are approved; or
 - (b) amendments are required to be made to the Fitout Plans and to be resubmitted for Council's approval.
- 6.2.3 Where amendments are required to the Fitout Plans, the Tenant must re-submit the amended Fitout Plans within a further period of 14 days from the date of Council's requested amendments.

6.3 Handover of Premises

- 6.3.1 Council will give to the Tenant at least 10 days notice of the Handover Date (which may be varied by subsequent notices) in relation to the area of the Premises the subject of Stage 2.
- 6.3.2 If Council's Works relating to a Stage 2 is not completed by the relevant Estimated Completion Date, Council will complete the relevant part of Council's Works as soon as practicable after the relevant Estimated Completion Date.
- 6.3.3 The Fitout Period commences on the earlier of:
 - (a) the day after the Handover Date; and
 - (b) the date on which the Tenant commences the Fitout Works.
- 6.3.4 Subject to the Tenant complying with its obligations under clause 6.6, on the commencement of the Fitout Period Council must grant to the Tenant a right of access to the relevant parts of the Premises under licence for the Fitout Period to carry out the Fitout Works, until such time as the Lease commences in relation to all relevant parts of the Premises.



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6.4 Cost of Fitout Works

The Tenant must promptly pay all costs, charges and expenses:

- 6.4.1 in connection with the Fitout Works, including the cost of all additional lighting, telephone and power outlets and light switches and of all alterations or additions to the airconditioning or any other equipment in the Premises;
- 6.4.2 incurred by Council in considering the proposed Fitout Works and in monitoring such works, including the fees of Council's architect, project manager or other building consultants employed by Council and any relevant authority (which costs must be reasonable);
- 6.4.3 incurred by Council in connection with the Fitout Works, including the costs, charges and expenses of modifying or varying Council's Works or the Facility because of the Fitout Works or of giving access to the Premises outside normal business hours; and
- 6.4.4 for all utilities consumed by the Tenant during the course of its carrying out of the Fitout Works.

6.5 Completion of Fitout Works

In carrying out the Fitout Works, the Tenant must:

- 6.5.1 comply with the Fitout Plans approved by Council;
- 6.5.2 comply with the tenancy design guidelines, fitout guidelines and other requirements of Council from time to time;
- 6.5.3 carry out all works expeditiously in a proper and workmanlike manner and in accordance with the requirements of the relevant authorities and to the reasonable satisfaction of Council;
- 6.5.4 complete all works during the Fitout Period;
- 6.5.5 comply with all instructions and directions given by Council and comply with procedures and requirements established by Council or Council's building contractor:
 - (a) to regulate industrial relations while construction activities are being carried out on the Land; and
 - (b) in respect of Council's occupation health and safety requirements;
- 6.5.6 not interfere with or delay the carrying out of Council's Works or other works in the vicinity of the Land; and
- 6.5.7 remove all debris left on the Land by the Tenant and if the debris is not removed by the Tenant within 3 days of demand by Council, the Tenant must pay Council's costs for removing the debris; and
- 6.5.8 pay Council the cost of any damage caused to the Premises and any other improvements on the Land.

6.6 Insurances by Tenant

The Tenant must:



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- 6.6.1 effect the following insurances prior to the Handover Date:
- (a) accident compensation;
 - (b) motor vehicle, plant and equipment;
 - (c) a contractor's construction risk policy in respect of the Fitout Works for its full value;
 - (d) public liability insurance for a minimum of \$20 million concerning one single event; and
 - (e) any other insurances reasonably required by Council,
- 6.6.2 ensure that the insurance policies note the interest of Council and any financier or other person reasonably required by Council, and ensure that the insurance policies are with an insurer and for amounts approved by Council;
- 6.6.3 not commence the Fitout Works until the Tenant has provided proof to Council that the Tenant has satisfied the requirements of clauses 6.6.1 and 6.6.2.

6.7 Occupational health and safety

For the purposes of the OHS Law, the Tenant agrees that on and from the date on which Council grants the Tenant a right of access to the Premises under clause 6.3:

- 6.7.1 the Tenant has sole management and control of the Premises and has sole responsibility for ensuring that the Premises and the means of entering and leaving them are safe and without risks to health;
- 6.7.2 Council appoints the Tenant as Principal Contractor in respect of the Fitout Works and any other works to be carried out by the Tenant on the Premises to which an OHS Law applies;
- 6.7.3 the Tenant must carry out such works in accordance with the requirements of the OHS Law; and
- 6.7.4 Council authorises the Tenant to exercise whatever authority is necessary for the Tenant to discharge the responsibilities of the appointment under clause 6.7.2.

6.8 Certification of Fitout Works

Council must procure its project manager (or other appropriate person) to certify that the Fitout Works are completed (including any defects) in accordance with the Fitout Plans approved by Council under clause 6.2 as soon as practicable after the Tenant gives Council:

- 6.8.1 written notice that the Fitout Works are completed; and
- 6.8.2 copies of all occupancy permits and certificates of final inspection required under the *Building Act 1993* (Vic) in respect of the Fitout Works.

6.9 Commencement of Lease

Nothing in this clause 6 will be taken to affect the determination of the Commencement Date pursuant to clause 4.10.



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7. Release and indemnity**7.1 Release**

The Tenant releases Council from all claims resulting from any damage, loss, death or injury in connection with the Land and the carrying out of Council's Works and the Fitout Works.

7.2 Indemnity

The Tenant indemnifies and holds harmless Council against all claims resulting from any damage, loss, death or injury in connection with the Land or any loss or damage suffered by Council occurring as a result of:

7.2.1 any act or default by the Tenant, including the misuse of any plant or equipment;

7.2.2 any industrial dispute or disruption caused or contributed to by the Tenant; or

7.2.3 the carrying out of or any delay in the carrying out of the Fitout Works,

except to the extent that any damage, loss, death or injury is caused or contributed to by the negligence of Council.

8. Assignment and sub-letting**8.1 No Assignment or sub-letting**

The Tenant must not assign or purport to assign any of its rights or obligations under this Agreement without the prior written consent of Council.

8.2 Change in shareholding

The Tenant must seek Council's prior written consent where the Tenant is a corporation (other than a corporation listed on any stock exchange in Australia) and it intends to effect a change in the control of the corporation as existed at the date of entering into this Agreement (whether occurring at the one time or through a series or succession of issues or transfers), or a change in the holding of more than one-half of the issued share capital, either beneficially or otherwise.

9. No caveat**9.1 Not lodge caveat**

The Tenant must not lodge a caveat on the title to the Land.

9.2 Removal of caveat

If the Tenant lodges a caveat on the title to the Land, the Tenant appoints Council as its attorney to do everything necessary to remove the caveat including executing and registering a withdrawal of caveat and the Tenant must reimburse to Council any costs incurred by Council in exercising its rights under this clause.



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10. Lease of Premises**10.1 Execution of Lease**

The Tenant must sign and return the Lease to Council at the time of signing this Agreement. After the Lease has been executed by Council, Council or its solicitor will hold the Lease in escrow until the Commencement Date has been determined.

10.2 Authority to complete Lease

Once the Commencement Date in respect of all Stages has been determined, the Lease will be released from escrow and the Tenant authorises Council to complete the Lease by insertion of:

- 10.2.1 the Commencement Date (in respect of each individual Stage);
- 10.2.2 the Expiry Date, which shall be 20 years from the day that the Lease commences (in respect of the Stage 1);
- 10.2.3 the condition report in Attachment 3 of the Lease; and
- 10.2.4 any other relevant details necessary to complete the Lease including affixing any plans to the Lease.

10.3 Lease binding on the parties

On and from the Commencement Date, even if the Lease is not executed by the parties to this Agreement, the Lease will be deemed to have commenced and the terms of the Lease are binding as if the Lease had been executed by Council and the Tenant.

10.4 Commencement of trade

- 10.4.1 Despite clause 10.3 and despite any other provision of this Agreement or the Lease, the Tenant must not commence trading from the Premises until the Tenant has given Council all of the following:
 - (a) the Lease duly executed by the Tenant;
 - (b) evidence that the Tenant has taken out all of the insurances required to be effected by the Tenant under the Lease; and
 - (c) payment of any moneys which the Tenant is obliged to pay to the Landlord under this Agreement.
- 10.4.2 In respect of the part of the Premises the subject of Stage 2 only, the Tenant must not commence trading from the Premises until the Tenant has complied with clause 10.4.1 and also provided to Council copies of all occupancy permits and certificates of final inspection required under clause 6.8.2 in respect of the Fitout Works.

11. Costs and stamp duty

The Tenant must pay to Council within 7 days of demand:

- 11.1 stamp duty on this Agreement and the Lease (including penalties and fees) and any other document in connection with this Agreement;



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- 11.2 Council's reasonable costs in giving any consent or approval under this Agreement;
- 11.3 Council's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Agreement by the Tenant; and
- 11.4 Council's costs (including charges on a solicitor-own client basis) in relation to the exercise or attempted exercise of any right, power, privilege, authority or remedy of Council under or by virtue of this Agreement.

12. Default by Tenant

If:

- 12.1.1 an Insolvency Event occurs in relation to the Tenant; or.
- 12.1.2 the Tenant does not remedy any breach of this Agreement within 30 days of receiving written notice from Council,

Council may, without prejudice to any other rights or remedies of Council, terminate this Agreement by written notice to the Tenant and:

- 12.1.3 Council will not be obliged to grant the Lease to the Tenant; and
- 12.1.4 the Tenant will pay to Council damages of whatever kind or nature arising directly or indirectly from the default of the Tenant.

The determination of this Agreement will be without prejudice to the obligations of the Tenant to pay to Council any money which has become due and owing by the Tenant as at the date of determination whether such money has then been quantified or not.

13. GST

13.1 Definitions

In this clause:

- 13.1.1 words and expressions that are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law;
- 13.1.2 **GST** means GST within the meaning of the GST Law and includes penalties and interest. If under or in relation to the *National Taxation Reform (Consequential Provisions) Act 2000* (Vic) or a direction given under s 6 of that Act, the supplier makes voluntary or notional payments, the definition of GST includes those voluntary or notional payments and expressions containing the term 'GST' have a corresponding expanded meaning
- 13.1.3 **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999*.

13.2 GST exclusive

Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.



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13.3 Increase in consideration

If GST is payable in respect of any supply made by a supplier under this Agreement (**GST Amount**), the recipient will pay to the supplier an amount equal to the GST payable on the supply.

13.4 Payment of GST

Subject to clause 13.5 the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.

13.5 Tax invoice

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 13.4.

13.6 Reimbursements

If this Agreement requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

13.6.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and

13.6.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

13.7 Adjustment events

If an adjustment event occurs in relation to a taxable supply under this Agreement:

13.7.1 the supplier must provide an adjustment note to the recipient within 7 days of becoming aware of the adjustment; and

13.7.2 any payment necessary to give effect to the adjustment must be made

14. General**14.1 Notices**

Any notice required to be served under this Agreement must be in writing and must be served by post, facsimile transmission or hand delivered to:

14.1.1 the Tenant at its address set out in this Agreement, the Tenant's registered office address or the last known address of the Tenant; and

14.1.2 Council at its address set out in this Agreement or any other address notified in writing to the Tenant by Council.

14.2 Entire understanding

This Agreement contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Agreement and have no effect.



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14.3 Waiver

If Council does not exercise or delays exercising any of Council's rights under this Agreement, it will not be a waiver of the breach of this Agreement by the Tenant or of Council's rights under this Agreement.

15. Interpretation**15.1 Governing law and jurisdiction**

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

15.2 Persons

In this Agreement, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

15.3 Joint and several

If a party consists of more than one person, this Agreement binds them jointly and each of them severally.

15.4 Legislation

In this Agreement, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

15.5 Clauses and headings

In this Agreement:

15.5.1 a reference to a clause, schedule or attachment is a reference to a clause, schedule or attachment in or to this Agreement; and

15.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Agreement.

15.6 Severance

In this Agreement:

15.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

15.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Agreement.

15.7 No Relationship

No party to this Lease has the power to obligate or bind any other party. Nothing in this Lease will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between Council and the Tenant. Nothing in this



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Lease will be deemed to authorise or empower the Tenant to act as agent for or with Council.

15.8 **Number and gender**

In this Agreement, a reference to:

15.8.1 the singular includes the plural and vice versa; and

15.8.2 a gender includes the other genders.

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Attachment 1

Plan of the Premises

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Attachment 2

Council's Works

The Council Works will consist of the following:

Stage 1: Construction of 2 synthetic soccer pitches with spectator fencing, ball protection fencing and sports field lighting and delivery of approximately 200 car spaces with exact number to be determined by the Town Planning Process;

Stage 2: Construction of a pavilion that caters for a range of recreation activities with components including change rooms, umpires room, bistro, first aid rooms, public amenities, storage and administration spaces. Detailed design of the pavilion will be undertaken by as per the requirements of Council; **[[Preliminary drawings could be included if available]]** and

Stage 3: Construction of 2 natural grass soccer pitches with spectator fencing, ball protection fencing and sports field lighting and undertaking of landscaping including all hard surfaces, tree planting, soft landscaping, furniture, drinking fountains and lighting,

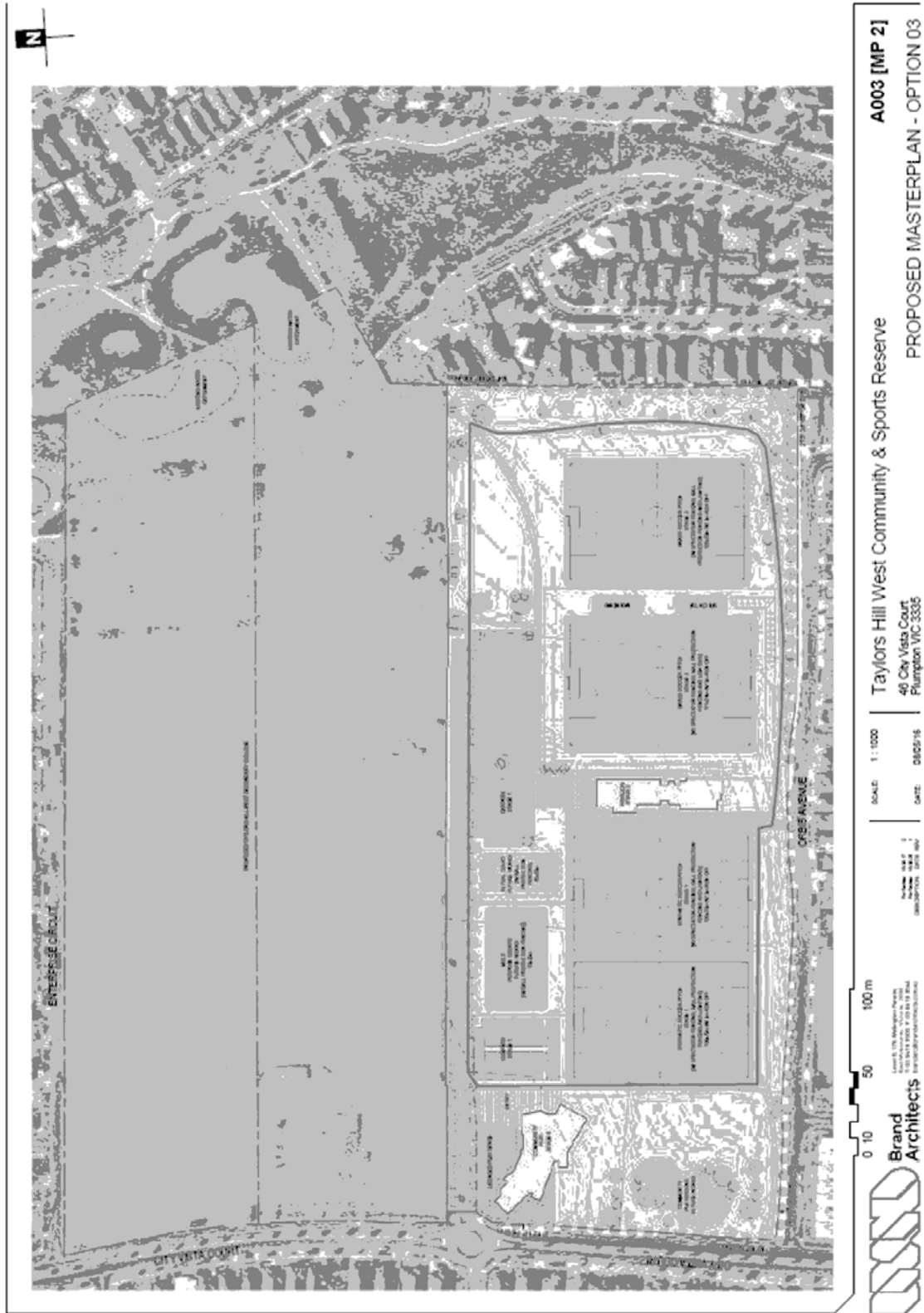
with the works relating to each of Stage 1, Stage 2 and Stage 3 to be generally consistent with the works described as the Stage One Works, Stage Two Works and Stage Three Works respectively in the master plan annexed.



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##Master Plan to be inserted

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Attachment 3

Fitout Works relating to Stage 2

[##We understand the Fitout Works by the Tenant relate only to the Stage 2 area – for confirmation. Please provide a description of the Fitout Works to be undertaken by the Tenant, together with specifications and plans if available.]

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Attachment 4

Lease

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Melbourne Victoria 3000 Australia

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DX 259 Melbourne

Lease

**Premises: Taylors Hill West Recreation Reserve Football Facilities and Pavilion,
Orbis Avenue, Plumpton 3335**

Melton City Council
and

Sunshine George Cross Soccer Club Limited
ACN 005 623 576, trading as Caroline Springs George Cross SC

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Schedule

Item 1.	Council: (Clause 1)	Melton City Council of 232 High Street, Melton 3337
Item 2.	Tenant: (Clause 1)	Sunshine George Cross Soccer Club Limited ACN 005 623 576 of Level 1, 12 Cramer Street, Preston 3020, trading as Caroline Springs George Cross SC
Item 3.	Land: (Clause 1)	The land contained in certificates of title volume 11577 folio 300, volume 11516 folio 591 and volume 11337 folio 037
Item 4.	Premises: (Clause 1)	The whole of the Land and improvements located on the Land, known as Taylors Hill West Recreation Reserve Football Precinct, known as 52 Orbis Road, 70 Orbis Road and 84 Orbis Road, Plumpton, 3335
Item 5.	Commencement Date: (Clauses 1)	Stage 1: Stage 2: Stage 3:
Item 6.	Expiry Date: (Clause 1), being 20 years from the date that the Lease first commences in respect of any Stage or portion of the Premises
Item 7.	Term: (Clauses 1 & 4.1)	In respect of each area the subject of a Stage, the term commencing from the Commencement Date relating to that Stage, until the Expiry Date.
Item 8.	Further Term(s): (Clauses 1 & 4.2)	Not applicable
Item 9.	Last date for exercising the Option for the Further Term: (Clause 4.2.1)	Not applicable
Item 10.	Rent : (Clause 1 & 5)	\$1 per annum plus GST, payable if demanded
Item 11.	Permitted Use: (Clauses 1 & 13.1)	Sports, recreation and social facility including but not limited to sports competition, training, offices, reception, cafe/kiosk, bistro, function centre and storage



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Lease

Council leases the Premises to the Tenant subject to the terms contained in this Lease.

This Lease is executed as a deed on the _____ day of _____

The Common Seal of the Melton City Council)
was hereunto affixed in the presence of:)
)

..... Councillor

..... Chief Executive Officer

Executed by Sunshine George Cross)
Soccer Club Limited ACN 005 623 576 in)
accordance with s 127(1) of the *Corporations*
Act 2001:

..... Signature of Director/Company Secretary

..... Signature of Director

..... Print full name

..... Print full name

1. Definitions

In this Lease unless expressed or implied to the contrary:

Act means the *Retail Leases Act 2003* (Vic).

Agreement to Lease means the agreement to lease entered into between the Council as landlord and the Tenant as tenant, in respect of the Premises and pursuant to which this Lease was entered into.

Building Act means the *Building Act 1993* (Vic).

Building Regulations means the *Building Regulations 2006* (Vic).

Commencement Date means in respect of each area the subject of a Stage, the date specified in Item 5.

Contamination includes any solid, liquid, gas, radiation or substance which makes or may make the condition of the Premises or groundwater beneath or part of the surrounding environment:

- (a) unsafe, unfit or harmful for habitation by persons or animals; or
- (b) unfit for any use permitted under any applicable planning scheme as amended from time to time

or which is defined as such in any Environmental Protection Legislation.

Council means the Council specified in Item 1 and includes Council's successors and assigns and where it is consistent with the context includes Council's employees and agents.

Council's Fixtures means all fittings, fixtures, and chattels contained in the Premises at the Commencement Date or installed by Council during the Term, but excluding the Tenant's Property.

Council's Works has the meaning given in the Agreement to Lease.

Environmental Protection Legislation means any statute, regulation, code, proclamation, ministerial directive, ordinance, by law, planning policy or subordinate legislation, past, present or future, relating to pollutants and contaminants, use of land, human health and safety or protection of the environment.

Essential Safety Measure has the meaning given to that term in the Building Regulations.

Expiry Date means the date specified in Item 6.

Facility means the facility known as the Taylor's Hill West Recreation Reserve and Pavilion.

Further Term means the further term(s) specified in Item 8.

Insolvency Event means:

- (a) in the case of a natural person, if that person:
 - (i) becomes bankrupt;

- (ii) assigns the person's estate; or
 - (iii) enters into a deed of arrangement or composition for the benefit of creditors.
- (b) in the case of a corporation, if that corporation:
- (i) goes into liquidation (including provisional liquidation) other than a voluntary liquidation for the purposes of reconstruction or reorganisation;
 - (ii) is wound up or dissolved or has an application made for its winding up or dissolution;
 - (iii) enters into a scheme or arrangement with or makes an assignment for the benefit of its creditors or any class or classes of them;
 - (iv) is placed under official management;
 - (v) has an agent in possession or a receiver and/or manager or an administrator appointed to the whole or any substantial part of its assets; or
 - (vi) has an inspector or investigator appointed under the *Corporations Act 2001* (Cth).

Item means an item in the Lease Particulars.

Land means the land specified in Item 3.

Lease means this lease and includes all attachments and schedules.

Lease Particulars means the schedule of Items specified on the page at the front of this Lease.

Lettable Area(s) means the lettable area of the Premises or the Land, as applicable, assessed for Rates and Taxes as determined by a surveyor engaged by Council.

Local Government Act means the *Local Government Act 1989* (Vic).

OHS Act means the *Occupational Health and Safety Act 2004* (Vic).

OHS Law means the OHS Act, the OHS Regulations, and any other occupational health and safety law, regulation or by-law that applies to work being carried out on the Premises.

OHS Regulations means the *Occupational Health and Safety Regulations 2007* (Vic).

Owners Corporation has the meaning given to that term in the *Subdivision Act 1988* (Vic).

Permitted Use means the use specified in Item 11.

Premises means the premises specified in Item 4 and includes Council's Fixtures.

Rates and Taxes means the rates, taxes, charges and levies specified in clause 6.

Principal Contractor means the position of principal contractor referred to in Chapter 5 of the OHS Regulations.

Rent means the amount specified in Item 10 as reviewed, adjusted or increased under this Lease.

Small Business Commissioner means the Small Business Commissioner referred to in the Act.

Special Conditions means the conditions set out in Attachment 1 (if any).

Stage has the meaning given as defined in the Agreement to Lease.

Tenant means the Tenant specified in Item 2 and includes the Tenant's successors and assigns and where it is consistent with the context includes the Tenant's employees, contractors, agents, invitees and persons the Tenant allows in the Premises.

Tenant's Property means all property in the Premises including all fixtures, fittings and chattels owned or leased by the Tenant.

Term means the term specified in Item 7 and includes any period of overholding.

2. Local Government Act 1989

This Lease is entered into pursuant to s 190 of the Local Government Act.

3. Negotiation and disclosure requirements

3.1 Negotiation for Lease

If the Act applies to this Lease, the Tenant acknowledges receiving from Council:

3.1.1 a copy of the proposed Lease; and

3.1.2 a copy of the information brochure about retail leases published by the Small Business Commissioner,

as soon as the Tenant entered into negotiations with Council, or its agent in respect of this Lease.

3.2 Disclosure statement

If the Act applies to this Lease, the Tenant acknowledges having received from Council:

3.2.1 a disclosure statement (in the form prescribed by the Act); and

3.2.2 a copy of the proposed lease,

at least 7 days prior to the Tenant entering into this Lease.

4. Duration of the Lease

4.1 Term

This Lease is for the Term starting on the Commencement Date.

4.2 Option for a Further Term

Council will grant to the Tenant a new lease for the Further Term if the Tenant:

- 4.2.1 gives Council written notice asking for a new lease, not earlier than 6 months or later than 3 months, before the end of the Term (the last date for exercising the option for the Further Term is specified in Item 9);
- 4.2.2 has remedied any breach of this Lease of which the Tenant has received written notice from Council;
- 4.2.3 has not persistently defaulted under this Lease and Council has given written notice of the defaults; and
- 4.2.4 complies with all reasonable requirements of Council including where the Tenant is a corporation, procuring such directors or shareholders of the Tenant as may be reasonably required by Council to execute the guarantee contained in this Lease.

The new lease for the Further Term will commence on the day after this Lease ends and contain the same terms and conditions as this Lease but with no option for a further term where the last option for the Further Term has been exercised.

4.3 Execution of new Lease for Further Term

The Tenant and the Guarantor (where applicable) must:

- 4.3.1 execute the new lease for the Further Term; and
 - 4.3.2 sign any disclosure statement provided by Council to the Tenant,
- and return the above to Council within 14 days of receipt from Council.

4.4 Holding Over

If the Tenant continues to occupy the Premises after the Expiry Date with Council's consent, except under a lease arising from the valid exercise of an option to renew, the following provisions will apply:

- 4.4.1 the Tenant will occupy the Premises as a monthly tenant at a total rental payable monthly in advance being an amount equal to one-twelfth of the aggregate of the Rent and any other money payable by the Tenant to Council under this Lease as at the Expiry Date, the first of the monthly payments to be made on the day following the Expiry Date;
- 4.4.2 as far as applicable, the monthly tenancy will otherwise continue on the terms and conditions of this Lease;
- 4.4.3 the Rent or any part of it for the monthly tenancy may be reviewed whenever Council determines it appropriate and any provisions in this Lease relating to calculation of, limitation on or right of review of the Rent or any part of it will not apply;
- 4.4.4 either party may terminate the monthly tenancy by giving to the other 1 month's notice to the other party expiring on any date; and
- 4.4.5 if the Tenant defaults in the performance of its obligations under the monthly tenancy, Council may terminate the monthly tenancy by giving the Tenant 24 hours' notice.

5. Payment of Rent

The Tenant must:

- 5.1 pay the Rent to Council if demanded; and
- 5.2 pay the Rent in the manner specified by Council from time to time.

6. Outgoings

Rates and Taxes

The Tenant must pay to Council, or the relevant authority:

- 6.1.1 local government rates and charges;
- 6.1.2 water rates and charges, including water usage charges;
- 6.1.3 sewerage and drainage rates and charges;
- 6.1.4 land tax (assessed on a single holding basis) except this cost is excluded where the Act applies to this Lease; and
- 6.1.5 all other rates, taxes, charges and levies assessed in connection with the Premises.

6.2 Proportion of Rates and Taxes

If any Rates and Taxes are not separately assessed in connection with the Premises, the Tenant must pay to Council within 14 days of demand the proportion of the Rates and Taxes that the Lettable Area of the Premises bears to the total Lettable Area assessed.

6.3 Receipt for payment

The Tenant must provide to Council:

- 6.3.1 copies of all notices, assessments or invoices for any Rates and Taxes received by the Tenant directly from the relevant authority within 14 days of receipt; and
- 6.3.2 receipts for any Rates and Taxes paid by the Tenant within 7 days of request by Council.

7. Other expenses**7.1 Services**

The Tenant must, within 14 days of demand:

- 7.1.1 pay for all services in connection with the Premises, including electricity, gas, water and telephone services; and
- 7.1.2 where the Premises are not separately metered, pay for the cost of installing separate meters to assess the charges for the services.

7.2 Costs and duty

7.2.1 The Tenant must pay to Council within 14 days of demand:

- (a) the stamp duty payable on this Lease (including penalties and fees);
- (b) Council's reasonable costs in considering the granting of any consent or approval under this Lease (regardless of whether Council actually gives such consent or approval);
- (c) the cost of any insurance premium to insure the Premises against damage or destruction;
- (d) the cost of carrying out any repairs to Council's Fixtures except to the extent that such costs are not recoverable under the Act, the Building Act or the Building Regulations;
- (e) Council's architects or contractor's fees payable pursuant to clause 10.4.2(d); and
- (f) Council's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Lease by the Tenant.

7.2.2 Each party must bear its own costs of preparing, negotiating and entering into this Lease.

8. GST**8.1 Definitions**

In this clause:

- 8.1.1 words and expressions that are not defined in this Lease but which have a defined meaning in the GST Law have the same meaning as in the GST Law;
- 8.1.2 **GST** means GST within the meaning of the GST Law and includes penalties and interest. If under or in relation to the *National Taxation Reform (Consequential Provisions) Act 2000* (Vic) or a direction given under s 6 of that Act, the supplier makes voluntary or notional payments, the definition of GST includes those voluntary or notional payments and expressions containing the term 'GST' have a corresponding expanded meaning; and
- 8.1.3 **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

8.2 GST exclusive

Except as otherwise provided by this clause, all consideration payable under this Lease in relation to any supply is exclusive of GST.

8.3 Increase in consideration

If GST is payable in respect of any supply made by a supplier under this Lease (**GST Amount**), the recipient will pay to the supplier an amount equal to the GST payable on the supply.

8.4 Payment of GST

Subject to clause 8.5 the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Lease.

8.5 Tax Invoice

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 8.4.

8.6 Reimbursements

If this Lease requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

8.6.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and

8.6.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

8.7 Adjustment events

If an adjustment event occurs in relation to a taxable supply under this Lease:

8.7.1 the supplier must provide an adjustment note to the recipient within 7 days of becoming aware of the adjustment; and

8.7.2 any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

9. Payment requirements**9.1 No deduction or right of set-off**

The Tenant must pay all amounts due under this Lease to Council (including the Rent and Rates and Taxes) without deduction or right of set-off.

9.2 Interest on late payments

The Tenant must pay to Council on demand interest at the rate per annum equal to the current rate fixed under section 2 of the *Penalty Interest Rates Act 1983* (Vic) plus 2% per annum on any money payable by the Tenant under this Lease and remaining unpaid after the due date. Interest will be computed from the date on which such payment became due.

9.3 Payment after Termination

The Tenant must:

9.3.1 make all payments due under this Lease; and

9.3.2 provide all information to Council under this Lease to calculate any such payments, even if this Lease has ended.

9.4 Method of payment

The Tenant must make all payments under this Lease in such manner as Council reasonably requires, which may include by direct debit.

10. Repairs, refurbishment and alterations**10.1 Condition report**

The Tenant acknowledges and agrees that the condition report attached to this Lease in Attachment 3 reflects the true condition of the Premises as at the Commencement Date.

10.2 Repairs and Maintenance

The Tenant must:

- 10.2.1 keep the Premises and the Tenant's Property clean and free from rubbish, store all rubbish in proper containers and have it regularly removed;
- 10.2.2 keep the Premises in the same condition as it was in at the date the Tenant first entered occupation of the Premises (fair wear and tear excepted) including repairing or replacing anything in the Premises (including all furnishings and floor coverings) which are damaged, worn or destroyed with items of at least the same quality;
- 10.2.3 paint and where appropriate paper, any parts of the Premises previously painted or papered whenever reasonably required by Council;
- 10.2.4 maintain in working order all plumbing, drains, pipes and sewers exclusively servicing the Premises;
- 10.2.5 pay the costs (if any) for the removal of waste and sewerage from the Premises;
- 10.2.6 maintain any gardens or grounds in the Premises in good condition well watered and free of weeds;
- 10.2.7 treat in a proper and professional manner (including polishing or varnishing as appropriate) all surfaces of the Premises (including wood, tile and metal surfaces) with the appropriate materials approved by Council when reasonably required by Council;
- 10.2.8 repair all defective lights, fluorescent tubes, windows, doors and locks in or exclusively servicing the Premises;
- 10.2.9 make good any damage caused to any adjacent property by the Tenant;
- 10.2.10 take all reasonable measures to ensure that any fair wear and tear to the Premises does not cause any loss or damage to the Premises, the Building, or any person; and
- 10.2.11 give Council prompt written notice of any material damage to the Premises or anything likely to be a risk to the Premises or any person in the Premises,

except to the extent that the Act, the Building Act or the Building Regulations require Council to carry out the repair or maintenance obligation referred to in this clause 10.2.

10.3 Equipment in Premises

The Tenant must:

- 10.3.1 repair and maintain Council's Fixtures including airconditioning and heating equipment exclusively serving the Premises (but excluding expenses of a capital nature) in accordance with Council's reasonable requirements; and
- 10.3.2 comply with Council's reasonable requirements concerning the use of Council's Fixtures, including airconditioning and heating equipment,

except to the extent that the Act, the Building Act or the Building Regulations require Council to carry out the repair or maintenance obligation referred to in this clause 10.3.

10.4 Alterations to Premises

- 10.4.1 The Tenant must not carry out any alterations or works to the Premises without Council's written consent, which may be granted, granted subject to conditions, or withheld in Council's absolute discretion.
- 10.4.2 The Tenant must ensure any alterations or works to the Premises, any services to the Premises or the Tenant's Property are carried out:
 - (a) strictly in accordance with plans and specifications approved by Council;
 - (b) by qualified tradespersons approved by Council;
 - (c) to Council's reasonable satisfaction and in accordance with Council's reasonable requirements (including Council's requirements as to the standard, type, quality, size and colour of any of the Tenant's Property);
 - (d) under the supervision of Council's architect or consultant (the cost of which must be paid by the Tenant to Council within 14 days of demand); and
 - (e) in accordance with all rules and requirements of any authorities having jurisdiction over the Premises.

10.5 Occupational health and safety

For the purposes of the OHS Law, the Tenant agrees that:

- 10.5.1 the Tenant has sole management and control of the Premises and has sole responsibility for ensuring that the Premises and the means of entering and leaving them are safe and without risks to health;
- 10.5.2 Council appoints the Tenant as Principal Contractor in respect of any works to be carried out by the Tenant on the Premises to which an OHS Law applies;
- 10.5.3 the Tenant is must carry out such works in accordance with the requirements of the OHS Law; and
- 10.5.4 Council authorises the Tenant to exercise whatever authority is necessary for the Tenant to discharge the responsibilities of the appointment under clause 10.5.2.

10.6 Not interfere with services

The Tenant must not interfere, misuse or overload any services to the Premises, including electricity, gas and water.

10.7 Defacing Premises

The Tenant must not deface or damage the Premises (including drilling holes in the Premises) except where approved by Council in accordance with clause 10.3.

10.8 Failure to repair and maintain

If the Tenant does not carry out any repairs, maintenance or other works required under this Lease within 14 days of receiving written notice from Council, Council may enter the Premises to carry out such repairs, maintenance and works at any reasonable time after giving the Tenant reasonable notice. The cost of all such repairs, maintenance and works must be paid by the Tenant to Council on demand.

11. Insurance**11.1 Public liability and glass insurance**

The Tenant must maintain insurance noting Council's interest as landlord, but not as joint insured, with an insurer approved by Council for:

11.1.1 public liability for the amount of \$20 million concerning 1 single event (or such greater sum as reasonably required by Council); and

11.1.2 any windows and any other glass in the Premises for the full replacement value.

11.2 Tenant's Property

The Tenant must insure the Tenant's Property for loss and damage from risks including fire and water damage for its full replacement value.

11.3 Condition in policies

The Tenant must ensure that the insurance policies effected by the Tenant contain a condition that the insurer will notify Council at least 14 days before the policies lapse.

11.4 Payment and production of policies

The Tenant must pay all insurance premiums on or before the due date for payment and produce to Council copies of the certificate of currency on or before each anniversary of the Commencement Date.

11.5 Not invalidate policies

The Tenant must:

11.5.1 not do anything which may make any insurance effected by Council or the Tenant invalid, capable by being cancelled or rendered ineffective, or which may increase any insurance premium payable by Council; and

11.5.2 pay any increase in the insurance premium caused by the Tenant's act, default or use of the Premises.

11.6 Requirements by insurer

The Tenant must comply with all reasonable requirements of Council's insurer in connection with the Premises.

12. Release, indemnity, compensation and liability**12.1 Release**

The Tenant uses and occupies the Premises at its own risk and releases Council from all claims resulting from any damage, loss, death or injury in connection with the Premises except to the extent that such claims arise out of Council's negligence.

12.2 Indemnity

The Tenant must indemnify and hold harmless Council against all claims resulting from any damage, loss, death or injury in connection with the Premises and the use and occupation of the Premises by the Tenant except to the extent that such claims arise out of Council's negligence.

12.3 No compensation

Council is not liable to the Tenant for any loss or damage incurred by the Tenant due to:

- 12.3.1 any damage to the Premises;
- 12.3.2 the failure of Council's Fixtures or any plant and equipment (including air conditioning and escalators) to operate properly;
- 12.3.3 the interruption or damage to any services (including electricity, gas or water) to the Premises;
- 12.3.4 the overflow or leakage of water in the Premises, or

except to the extent to which Council is liable where the Act applies.

12.4 No liability

The Tenant acknowledges and agrees that:

- 12.4.1 nothing in this Lease in any way limits, fetters or restricts the power or discretion of Council in the exercise of its statutory rights, duties or powers under the *Planning and Environment Act 1987* (Vic) or the Local Government Act or the exercise of any other statutory right, power or duty that Council may lawfully exercise; and
- 12.4.2 Council will not be liable to the Tenant under this Lease (including but not limited to a breach of the covenant of quiet enjoyment or a derogation of the grant of this Lease) for any acts or omissions of Council undertaken in any capacity including (but not limited to) in exercising any powers referred to in clause 12.4.1,

except nothing in this clause releases Council from any obligations it owes to the Tenant under this Lease in its capacity as the owner of the Premises.

13. Use of Premises**13.1 Permitted Use**

The Tenant must use the Premises for the Permitted Use and not use the Premises for any other purpose.

13.2 No warranty

The Tenant:

- 13.2.1 acknowledges that Council does not represent that the Premises are suitable for the Permitted Use; and
- 13.2.2 must make its own enquiries as to the suitability of the Premises for the Permitted Use.

13.3 Illegal purpose

The Tenant must not use the Premises for any illegal purpose or carry on any noxious or offensive activity on the Premises.

14. Other obligations concerning the Premises**14.1 Compliance with laws**

The Tenant must comply with all laws and any requirements of any authority in connection with the Premises and the Tenant's use and occupation of the Premises, except the Tenant will not be required to carry out any structural works unless the need for such works arises from:

- 14.1.1 the negligent act or omission of the Tenant;
- 14.1.2 the failure by the Tenant to comply with its obligations under this Lease; or
- 14.1.3 the Tenant's use of the Premises.

14.2 Licences and permits

The Tenant must maintain all licences and permits required for the Tenant's use of the Premises and obtain the prior written consent of Council before varying any licence or permit or applying for any new licence or permit.

14.3 Nuisance

The Tenant must not do anything in connection with the Premises which may:

- 14.3.1 cause a nuisance or interfere with any other person; or
- 14.3.2 be dangerous or offensive in Council's reasonable opinion.

14.4 Security

The Tenant must keep the Premises secure at all times when the Premises are not being used by the Tenant.

14.5 Signs

- 14.5.1 The Tenant must:
 - (a) seek the prior written consent of the Council before displaying or affixing any signs, advertisements or notices to any part of the Premises where such signs, advertisements or notices are visible from outside the Premises;

- (b) within 7 days of written demand by the Council, remove any sign, advertisement or notice which in the reasonable opinion of the Council is unsuitable, unsightly or objectionable;
- (c) not place any movable signs (including A-frame signs) outside the Premises without first obtaining the Council's written consent; and
- (d) immediately prior to vacating the Premises at the expiration of the Term remove all signs, advertisements or notices and make good any damage or disfigurement caused to the Premises as a result of the installation or removal of such signs, advertisements or notices.

14.5.2 The Tenant must seek the prior written consent of the Council before displaying or affixing any signs, advertisements or notices to any part of the Premises even if not visible from outside the Premises. Council will not unreasonably withhold consent if signs, advertisements or notices comply with Council's policies.

14.6 No vending machines

The Tenant must not permit any vending or amusement machines in the Premises.

14.7 No auctions

The Tenant must not conduct any auctions or fire sales in the Premises.

14.8 No smoking

The Tenant must:

- 14.8.1 not permit any smoking in the Premises; and
- 14.8.2 display 'no smoking' signs in the Premises if requested by Council.

14.9 Heavy objects and inflammable substances

The Tenant must not:

- 14.9.1 store any inflammable or explosive substances in the Premises unless required for the Permitted Use; or
- 14.9.2 store any heavy objects in the Premises or anything likely to damage the Premises.

14.10 Television and radio

The Tenant must not install any televisions, radios, music systems or other equipment in the Premises which can be heard outside the Premises without obtaining the prior written consent of Council.

14.11 Endanger Premises

The Tenant must not do or permit anything to be done in connection with the Premises which in the opinion of Council may endanger the Premises or be a risk to any person or property.

14.12 Tenant's employees

The Tenant must use all reasonable endeavours to ensure that the Tenant's employees, agents, contractors and invitees observe and comply with the Tenant's obligations under this Lease, where appropriate.

15. Tenant's environmental obligations**15.1 Comply with Environmental Protection Legislation**

The Tenant must, in its use of the Premises, comply with all Environmental Protection Legislation and any permit, approval, authority or licence issued pursuant to any Environmental Protection Legislation.

15.2 Not permit Contamination

The Tenant must not spill or deposit, or carry out any activities on the Premises which may cause any Contamination, or permit any Contamination to escape in any other way into or on the Premises, drainage or surrounding environment.

15.3 Notify of and clean up Contamination

If any Contamination is found in or near the Premises, or the existing Contamination is exacerbated during the Term, the Tenant must at its own cost:

- 15.3.1 immediately notify Council, the Environment Protection Authority and any other appropriate Authority;
- 15.3.2 clean up the Contamination and do everything necessary to minimise harm; and
- 15.3.3 promptly comply with any notice, order, direction or requirement of Council and of any authority in relation to any such Contamination.

15.4 Indemnify Council

In addition to any other indemnity in this Lease, the Tenant indemnifies Council against all claims for damages, loss, injury or death caused by or arising out of or otherwise in respect of any Contamination being spilled, deposited or otherwise escaping into or on the Premises or a breach of this clause by the Tenant.

15.5 Obtain reports, surveys or audits

The Tenant must immediately obtain any reports, surveys or audits which Council may reasonably require to enable Council to determine whether a breach of the terms of this clause has occurred. The Tenant will also pay Council on demand the reasonable costs of any such report, survey or audit which Council may obtain.

16. Dealing with interest in the Premises**16.1 No parting with possession**

The Tenant must not give up possession of the Premises including assigning this Lease, sub-lease the Premises or granting to any person a licence or concession in respect of the Premises without Council's prior written consent, which may be granted, granted subject to conditions, or withheld in Council's absolute discretion, subject to clause 16.2.

16.2 Conditions of assignment

Where the Act applies to this Lease, Council will not unreasonably withhold its consent to an assignment of this Lease if the Tenant:

- 16.2.1 has complied with clause 16.4 and Council has not accepted the offer;
- 16.2.2 requests Council in writing to consent to the assignment of the Lease to a new tenant;
- 16.2.3 has remedied any breach of this Lease of which the Tenant has received written notice from Council;
- 16.2.4 provides to Council the name and address of the new tenant and proves to Council's reasonable satisfaction that the new tenant is solvent and able to comply with its obligations under this Lease by providing at least 2 references as to the financial circumstances of the new tenant and at least 2 references as to the business experience of the new tenant;
- 16.2.5 executes and procures the new tenant to execute an assignment of lease which must include a condition by which the Tenant releases Council from any claims arising under or in connection with the Lease and otherwise in a form approved by Council;
- 16.2.6 procures the new tenant to provide such additional security as Council may reasonably require;
- 16.2.7 where the new tenant is a corporation procures such directors or shareholders of the new tenant, as may be reasonably required by Council, to execute a guarantee substantially in the form of the guarantee contained in this Lease;
- 16.2.8 pays Council's reasonable costs in connection with approving the new tenant and the costs of the preparation, negotiation and stamping of any document required under this clause; and
- 16.2.9 where the Act applies to this Lease, provides the new tenant with a copy of the disclosure statement as required by s 61(3) of the Act.

16.3 No assignment if Act to apply

Despite anything to the contrary in this Lease, if the Act does not apply to this Lease and an assignment of this Lease, would result in the Act applying to this Lease (either during the Term or as a result of the grant of a lease for the Further Term) Council may withhold its consent to an assignment of this Lease.

16.4 Right of first refusal

The Tenant must, prior to applying for Council's consent for an assignment of this Lease, give written notice to Council offering to assign this Lease to Council, or its nominee on the same terms as the proposed assignment. The offer must remain open for acceptance by Council for 14 days.

16.5 Change in shareholding

If the Tenant is a corporation (other than a corporation listed on any stock exchange in Australia) a change in the control of the corporation as existed at the Commencement Date (whether occurring at the one time or through a series or succession of issues or transfers) or a change in the holding of more than one-half of the issued share capital, either

beneficially or otherwise, will be deemed to be an assignment of this Lease and the Tenant must seek Council's prior written consent in accordance with this clause 16.

16.6 Mortgage of Lease

The Tenant must not create any security over this Lease or the Tenant's Property.

17. Tenant's obligations at the end of this Lease

Tenant's obligations

At the end of this Lease, the Tenant must:

- 17.1.1 vacate the Premises and give them back to Council in a condition consistent with the Tenant having complied with its obligations under this Lease;
- 17.1.2 remove the Tenant's Property (including all signs and lettering) and reinstate the Premises to the condition the Premises were in prior to the installation of the Tenant's Property including making good any damage caused by the removal of the Tenant's Property; and
- 17.1.3 give to Council all keys and other security devices for the purposes of obtaining access to the Premises.

17.2 Tenant's Property left in Premises

Anything left in the Premises after 7 days of the end of this Lease will be deemed to be abandoned by the Tenant and will become the property of Council and may be removed by Council at the Tenant's cost and at the Tenant's risk and the parties agree that this clause 17.2 is an agreement about the disposal of uncollected goods for the purposes of s 56(6) of the *Australian Consumer Law and Fair Trading Act 2012 (Vic)*.

18. Council's rights and obligations

18.1 Quiet enjoyment

As long as the Tenant does not breach this Lease, Council must not interfere with the Tenant's use and occupation of the Premises except as provided by this Lease.

18.2 Alterations to the improvements

Council may carry out any works, alterations, renovation or refurbishment of the Land which may include extending or reducing any buildings on the Land.

18.3 Dealing with the Land

Council may:

- 18.3.1 subdivide the Land or grant easements or other rights over the Land or the Premises except where it will unreasonably interfere with the Tenant's use and occupation of the Premises;
- 18.3.2 install, repair and replace pipes, cables and conduits in the Premises; and

18.3.3 use the roof and external walls of the Premises for any purposes Council determines.

18.4 Entry by Council

Council may enter the Premises at any reasonable time after giving the Tenant reasonable notice to:

18.4.1 inspect the condition of the Premises;

18.4.2 rectify any default by the Tenant under this Lease;

18.4.3 undertake an environmental inspection or accreditation or monitor the environmental management of the Premises, including energy and water use;

18.4.4 carry out any inspection, repairs, maintenance, works or alterations in the Premises which Council decides to or is required to carry out by any law or authority.

Council must use all reasonable endeavours to cause as little disruption as possible to the Tenant's use of the Premises in exercising Council's rights under this clause.

18.5 Emergency entry

Council may enter the Premises at any time without giving notice to the Tenant in an emergency.

18.6 Reletting and sale

Council may:

18.6.1 affix a 'For Lease' sign on the Premises and show the Premises to intending tenants at any reasonable time upon reasonable notice to the Tenant during the 6 months prior to the end of the Term (except where the Tenant has validly exercised an option for a Further Term); and

18.6.2 affix a 'For Sale' sign on the Premises and show the Premises to intending purchasers of the Premises at any reasonable time upon reasonable notice to the Tenant during the Term.

Any sign erected by Council must not unreasonably interfere with the Tenant's use and occupation of the Premises.

18.7 Council's consent

Unless otherwise provided for in this Lease, where Council is required to give its consent under this Lease, Council may give or refuse its consent subject to such conditions as Council may determine in its absolute discretion.

18.8 Change in landlord

If a person other than Council becomes entitled to receive the rents reserved by this Lease whether by operation of law or otherwise (**New Landlord**) then:

18.8.1 Council is released from all further obligations under this Lease arising after the New Landlord becomes landlord; and

- 18.8.2 the Tenant must at the cost of Council enter into a deed reasonably required by Council under which the Tenant covenants that the New Landlord shall have the benefit of all of the Tenant's obligations under this Lease.

19. Termination of Lease**19.1 Re-entry**

Council may re-enter the Premises and terminate this Lease if:

- 19.1.1 any part of the Rent is in arrears for 14 days (whether or not Council has demanded payment); or
- 19.1.2 an Insolvency Event occurs in relation to the Tenant or any Guarantor; or.
- 19.1.3 the Tenant breaches this Lease and does not remedy the breach within 14 days of receipt of written notice from Council.

19.2 Damages following determination

If this Lease is terminated by Council, the Tenant agrees to compensate Council for any loss or damage Council suffers arising in connection with the Tenant's breach of this Lease including the loss of the benefit of the Tenant performing its obligations under this Lease up to the expiration of the Term.

19.3 Essential terms

The essential terms of this Lease are clauses 5, 7.1, 7.2, 8, 8.1, 10.2, 10.3, 10.4, 11, 13.1, 13.3, 14, 15, 16 and 17. The breach of an essential term is a repudiation of this Lease.

19.4 No deemed termination

If the Tenant vacates the Premises, Council will not be deemed to have terminated this Lease merely by the acceptance of keys from the Tenant, entry into the Premises for any purpose, or the showing of the Premises to prospective tenants or purchasers. This Lease will be deemed to continue until such time as Council gives notice to the Tenant terminating this Lease, or otherwise agrees with the Tenant that this Lease is terminated.

20. Destruction or damage of Premises**20.1 Reduction in Rent**

If the Premises, or any part of the Premises is destroyed or damaged to the extent that the Tenant cannot use or have access to the Premises (except if the Tenant causes or contributes to the destruction or damage, or Council's insurer is not legally required to reinstate the Premises because the Tenant caused or contributed to the destruction or damage) then Council will reduce the Rent and other amounts due under this Lease by a reasonable amount depending upon the nature and extent of destruction or damage until the Tenant can use or have access to the Premises.

20.2 Reinstatement of Premises

If the Premises or any part of the Premises are destroyed or damaged, Council may, within 3 months from the date of such damage or destruction, give notice to the Tenant:

- 20.2.1 terminating this Lease, where Council considers that the damage or destruction is such that repairing it is impracticable or undesirable; or
- 20.2.2 that Council will commence reinstatement of the Premises to a condition where the Tenant can use or have access to the Premises.

Council does not have to reinstate the Premises.

20.3 Tenant's right of termination

Where the Tenant has not caused or contributed to the damage or destruction of the Premises and the payment of the insurance for the Premises is not refused due to the act or default of the Tenant, the Tenant may give written notice to Council terminating this Lease where Council does not:

- 20.3.1 give notice to the Tenant pursuant to clause 20.2; or
- 20.3.2 commence reinstatement within 12 months of the date of damage or destruction.

Upon termination of this Lease, each party is released from all further obligations under this Lease except nothing in this clauses releases either party from any breach of this Lease arising prior to the date of termination.

20.4 Dispute resolution

If a dispute arises under this clause about the amount of the Rent or Outgoings other amounts payable by the Tenant, either party may ask the President of the Australian Property Institute (Victorian Division) to nominate a valuer to determine the dispute as an expert. The parties will be bound by the determination of the valuer and will share the fees of the valuer equally.

20.5 No compensation

The Tenant acknowledges that if the Premises are destroyed or damaged, the Tenant is not entitled to receive any compensation from Council, except this clause does not apply where the Act applies to this Lease.

21. Personal Property Securities Act

21.1 Terms used in this clause

In this clause 21 :

- 21.1.1 **Council PPS Property** means any item of property:
- (a) in which the Council has an interest; and
 - (b) which is situated on the Premises at any time during the term of this Lease;
- 21.1.2 **PPS Act** means the *Personal Property Securities Act 2009* (Cth);
- 21.1.3 **Tenant PPS Property** means any item of property:
- (a) in which the Tenant has rights;
 - (b) which is situated on the Premises at any time during the term of this Lease; and

- (c) of which, whether before or after the end of the term of this Lease:
- (i) the Council may require the Tenant to transfer ownership to the Council; and
 - (ii) the Tenant is obliged to transfer ownership to the Council,

but does not include any Council PPS Property; and

21.1.4 words and expressions that are not defined in this Lease but which have a defined meaning in the PPS Act have the same meaning as in the PPS Act.

21.2 Tenant's Security Interest in favour of Council

The Tenant:

- 21.2.1 charges its right title and interest in all Tenant PPS Property in favour of the Council, as security for the performance of the Tenant's obligations under this Lease, including but not limited to the Tenant's obligations to transfer ownership in the whole or any part of the Tenant PPS Property to the Council at the expiry or termination of the Lease;
- 21.2.2 acknowledges and agrees that the charge granted by the Tenant under clause 21.2.1 constitutes the grant of a Security Interest which the Council is entitled to register under the PPS Act;
- 21.2.3 acknowledges and agrees that the grant of this Lease also constitutes the grant of a Security Interest in the Council PPS Property in favour of the Council, which interest the Council is entitled to register under the PPS Act as a Purchase Money Security Interest; and
- 21.2.4 must do all things required by the Council from time to time (including, without limitation, signing any documents required by the Council) to enable the Council to register its above Security Interests under the PPS Act, and to otherwise perfect its Security Interest in the Tenant PPS Property and the Council PPS Property so that the Council's Security Interests have priority over any other Security Interests under the PPS Act in relation to the Tenant PPS Property and the Council PPS Property.

21.3 No other Security Interest

The Tenant:

- 21.3.1 warrants that it has not granted a Security Interest in respect of any Council PPS Property on or prior to execution of this Lease that has not been previously disclosed to the Council in writing; and
- 21.3.2 agrees that it will not grant a Security Interest in respect of any Council PPS Property or Tenant PPS Property in favour of any person other than the Council without the Council's prior written consent, which consent may be granted or withheld in the Council's absolute discretion and on any conditions that the Council considers necessary or desirable at its absolute discretion.

21.4 Indemnity

The Tenant must indemnify and hold harmless the Council against all claims, damages or loss incurred by the Council as a consequence of any breach by the Tenant of this clause.

21.5 Documents under PPS Act

The Tenant acknowledges and agrees that:

21.5.1 it waives its right under the PPS Act to receive a copy of any 'verification statement' or 'financing charge statement' (as those terms are defined in the PPS Act); and

21.5.2 on the expiration or earlier termination of this Lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Council considers necessary or desirable under or as a result of the PPS Act to release any registered Security Interests under the PPS Act in relation to the Tenant PPS Property and the Council PPS Property.

21.6 Possession of Tenant PPS Property

If this Lease is terminated by the Council as a consequence of a default by the Tenant under this Lease, without limitation to any other rights of the Council, the Council may take possession of the Tenant PPS Property by way of set off for any loss or damage the Council is entitled to recover in connection with the Tenant's breach of the Lease.

21.7 Essential term

This clause is an essential term of this Lease.

21.8 Inconsistency with other clauses

In the event of any inconsistency between this clause and any other provision of this Lease, the provisions of this clause will prevail and that other provision will be read down and interpreted accordingly.

22. General**22.1 Notices**

Any notice required to be served under this Lease must be in writing and must be served by post, facsimile transmission or hand delivered to:

22.1.1 the Tenant at its address set out in this Lease, the Tenant's registered office address, the Premises, or the last known address of the Tenant; and

22.1.2 Council at its address set out in this Lease or any other address notified in writing to the Tenant by Council.

22.2 Time of service

A notice or other communication is deemed served:

22.2.1 if served personally or left at the person's address, upon service;

22.2.2 if posted, 2 business days after posted;

22.2.3 if served by facsimile transmission, subject to the next sub-clause, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile machine; and

22.2.4 if received after 6.00 pm in the place of receipt or on a day which is not a business day, at 9.00 am on the next business day.

22.3 Entire understanding

This Lease and the disclosure statement (if any) contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Lease and have no effect.

22.4 Waiver

If Council accepts the Rent or any other monies under this Lease (before or after the end of this Lease) or does not exercise or delays exercising any of Council's rights under this Lease, it will not be a waiver of the breach of this Lease by the Tenant or of Council's rights under this Lease.

22.5 Special Conditions

This Lease is subject to the Special Conditions. The Special Conditions override any inconsistent provisions in this Lease to the extent of the inconsistency.

23. Interpretation

23.1 Governing law and jurisdiction

This Lease is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.

23.2 Persons

In this Lease, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

23.3 Joint and several

If a party consists of more than 1 person, this Lease binds them jointly and each of them severally.

23.4 Legislation

In this Lease, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

23.5 Clauses and headings

In this Lease:

23.5.1 a reference to a clause, schedule or attachment is a reference to a clause, schedule or attachment in or to this Lease; and

23.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Lease.

23.6 Severance

In this Lease:

- 23.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and
- 23.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Lease.

23.7 Number and gender

In this Lease, a reference to:

- 23.7.1 the singular includes the plural and vice versa; and
- 23.7.2 a gender includes the other genders.

23.8 No relationship

No party to this Lease has the power to obligate or bind any other party. Nothing in this Lease will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between Council and the Tenant. Nothing in this Lease will be deemed to authorise or empower the Tenant to act as agent for or with Council.

23.9 Exclusion of statutory provisions

The following statutory provisions are excluded from this Lease:

- 23.9.1 Section 144 of the *Property Law Act 1958* (Vic); and
- 23.9.2 Division 7 of the *Transfer of Land Act 1958* (Vic).

Attachment 1

Special Conditions

1. Staged Commencement Dates

- 1.1 The parties acknowledge that this Lease will commence at different times in respect of each area of the Premises the subject of a Stage, and agree that until this Lease commences in respect of all Stages, the term 'Premises' shall, where the context dictates, be construed by reference to that part of the Premises in respect of which the Lease has commenced.
- 1.2 The parties agree that the Agreement to Lease will continue to apply despite the Lease having commenced in respect of certain areas, and will continue to apply until both parties have fully complied with all their obligations arising under the Agreement to Lease.

2. Payment of Capital Contribution

- 2.1 The parties acknowledge and agree that the parties have entered into this Lease pursuant to the Agreement to Lease. Under the Agreement to Lease, Council constructed the Premises at its cost, and the Tenant agreed:
 - 2.1.1 to pay to Council a non-refundable amount of \$1,000,000 plus GST towards Council's Works (as defined in the Agreement to Lease) (**Capital Contribution**);
 - 2.1.2 that the Capital Contribution is not refundable in any circumstances whatsoever, (including termination of this Lease);
 - 2.1.3 if the Lease is terminated for any reason prior to the Capital Contribution being paid, the Tenant will (to the extent unpaid) remain liable to pay to Council the Capital Contribution; and
- 23.9.3 notwithstanding payment of the Capital Contribution, Council's Works shall remain the sole property of Council at all times, and the Tenant shall not be entitled to claim compensation from Council for the value of the Capital Contribution.

- 2.2 This Special Condition is an essential term of the Lease.

3. Exemption from Retail Leases Act 2003

- 3.1 The Tenant acknowledges that Council has entered into this Lease on the basis that:
 - 3.1.1 the Tenant is a body corporate that exists for the purposes of providing or promoting community, cultural, sporting, recreational or similar facilities or activities or objectives and that applies its profits in promoting its objects and prohibits the payment of any dividend or amount to its members; and
 - 3.1.2 accordingly, pursuant to the determination made by the Minister for Small Business under s 5 of the Retail Leases Act dated 6 October 2014, the Retail Leases Act does not apply to this Lease.
- 3.2 This Lease is conditional on the Tenant amending its constitution as follows:
 - 3.2.1 to provide a clear statement of purpose referable to the Permitted Use under this Lease;
 - 3.2.2 to give effect to the provisions of clause 3, namely, by including:

- (a) an acknowledgment that the Tenant is a body corporate that exists for the purposes of providing or promoting community or similar facilities or objectives;
- (b) a requirement that the Tenant apply its profits in promoting its objects; and
- (c) a prohibition on the payment of any dividend or amount to the Tenant's members.

3.2.3 If the condition subsequent referred to in clause 3 is not satisfied within 3 months after the date of this Lease, Council may terminate this Lease with immediate effect by giving written notice to the Tenant.

3.2.4 Except to the extent expressly permitted or required under this Lease, the Tenant must not alter its constitution without Council's prior written consent.

4. Additional signage

The Tenant must, at its own cost, erect a sign on the Premises which must:

- 4.1 clearly state the name of the Tenant, the activities conducted at the Premises and invite residents and ratepayers of the municipality to become members of the Tenant;
- 4.2 comply with all local planning laws and requirements; and
- 4.3 be to Council's reasonable satisfaction.

5. Membership of Tenant

The Tenant must:

- 5.1 permit residents and ratepayers of the municipality to become members of the Tenant upon satisfying the Tenant's reasonable requirements for membership;
- 5.2 upon demand, inform Council of the number of members of the Tenant; and
- 5.3 within 7 days of demand, provide all necessary documents to Council to verify the membership of the Tenant.

6. Reporting requirements

The Tenant must give to Council:

- 6.1 within 60 days of the end of each financial year an audited financial report, including a statement of assets and liabilities and profit and loss statement for the Tenant for that financial year; and
- 6.2 within 14 days of the Tenant's annual general meeting, a written report detailing:
 - 6.2.1 the activities conducted by the Tenant during the preceding year and, where applicable, a list of the groups which have used the Premises and a list of times at which the Premises were used; and
 - 6.2.2 the office bearers appointed to the Tenant, their duties and the length of term of the office of each office bearer.

7. Tax exempt

The Tenant must not undertake any activity or permit anything to be done which may cause it to cease being exempt from Commonwealth income tax under the *Income Tax Assessment Act 1997* (Cth).

8. Liquor licence

The Tenant must:

- 8.1 seek the prior written consent of Council before applying for any licence or permit under the *Liquor Control Reform Act 1998* (Vic) (**Licence or Permit**), or applying for any variation, removal, transfer, surrender or release of the Licence or Permit or nominating any person to be a licensee or permittee;
- 8.2 produce the Licence or Permit to Council for inspection upon demand;
- 8.3 comply with any conditions of the Licence or Permit imposed by Council;
- 8.4 comply with all conditions of the Licence or Permit and all laws relating to the licence or permit;
- 8.5 not allow the Licence or Permit to be cancelled or suspended;
- 8.6 renew the Licence or Permit and notify Council in writing within 14 days of the renewal;
- 8.7 promptly notify Council in writing if the Licence or Permit is cancelled or suspended or if the Tenant receives any notice, summons or fine in relation to the Licence or Permit;
- 8.8 indemnify Council for any damages or costs incurred in relation to the Licence or Permit or a breach of this clause by the Tenant; and
- 8.9 surrender the Licence or Permit within 21 days of receiving a written notice from Council, which Council may give to the Tenant if the Tenant's use of the Premises is causing or likely to cause a nuisance to local residents.

9. Gaming licence

The Tenant must seek the prior written consent of Council before applying for any licence under the *Gambling Regulation Act 2003* (Vic). Council may withhold its consent or give its consent subject to such terms and conditions as Council may determine in its absolute discretion.

10. Club-Specific Conditions

##The club-specific conditions in Attachment 4 are in preliminary draft from only, require various further annexures and remain to be negotiated. When each concept is agreed, the relevant condition will be included as a Special Condition in this Attachment 1.]

- 10.1 The Tenant must comply with the terms and conditions set out in Attachment 4.
- 10.2 This Special Condition is an essential term of the Lease.

11. Maintenance and Management Responsibilities

- 11.1 Despite anything to the contrary contained in this Lease:

- 11.1.1 the Tenant must carry out the obligations which are described in the maintenance schedule attached to this Lease as Attachment 5 (**Maintenance Schedule**) as being the responsibility of the Tenant; and
- 11.1.2 subject to Special Condition 11.2, Council must carry out the obligations which are described in the Maintenance Schedule as being the responsibility of Council.
- 11.2 Council shall only be obliged to carry out its obligations in accordance with the Maintenance Schedule provided:
- 11.2.1 the Tenant has complied with its repair obligations under the Lease (including the Maintenance Schedule);
- 11.2.2 the need for such repair and maintenance has not resulted from damage caused by the Tenant (in which case the Tenant will be responsible for such repairs and maintenance); and
- 11.2.3 the Tenant has given the Council reasonable prior written notice of the need for such repairs.
- 11.3 To the extent of any inconsistency between the Maintenance Schedule and any other obligations in the Lease, the Maintenance Schedule shall prevail.
- 11.4 The Tenant agrees to comply with all maintenance, repair and other responsibilities stated to be those of the Tenant in the Attachment 5.
- 11.5 This Special Condition is an essential term of the Lease.

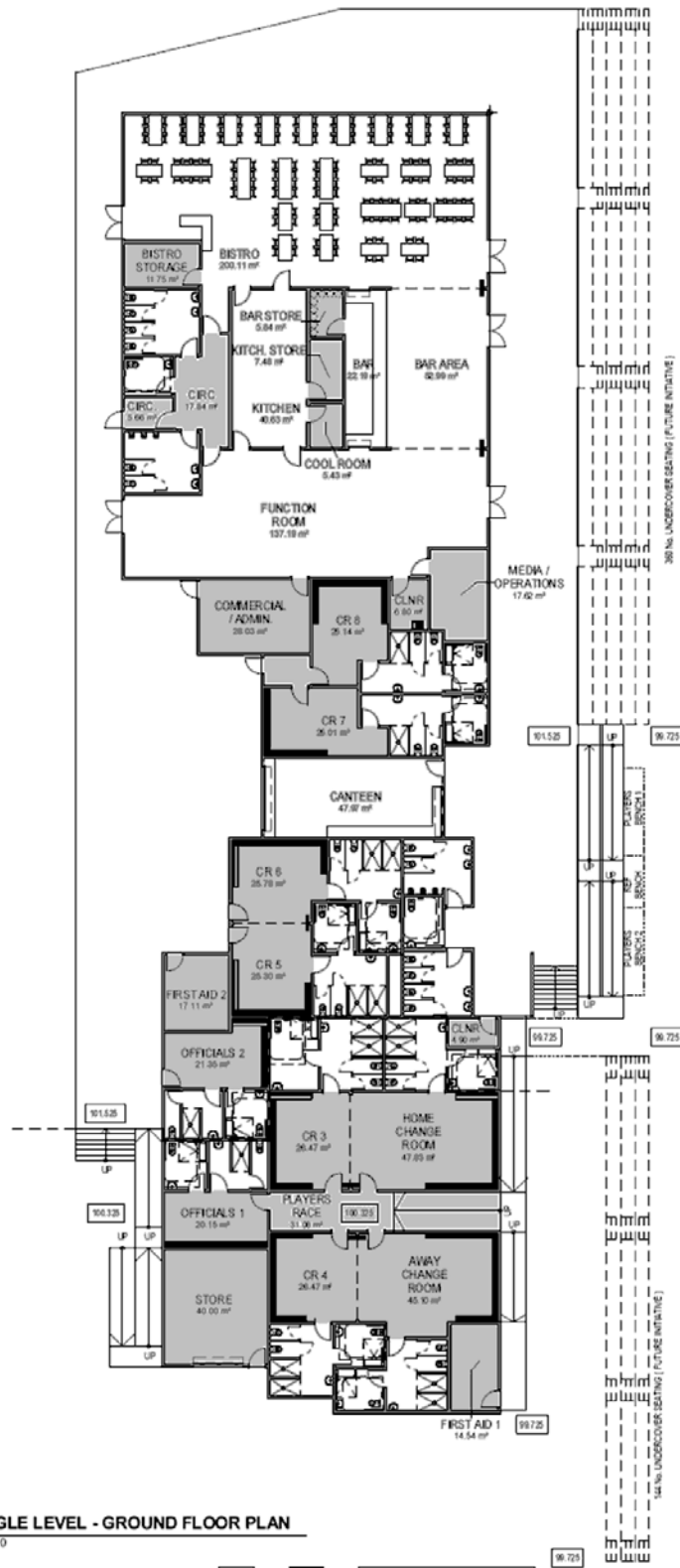


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Attachment 2

Plan of Premises

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Attachment 3

Condition Report

DRAFT

Attachment 4

Club-Specific Requirements

[##This is a preliminary draft only, requires various further annexures and remains to be negotiated. When each concept is agreed, the relevant condition will be included as a Special Condition in Attachment 1.]

1. Definitions

- 1.1. **The Site** means the Premises.
- 1.2. **The Club** means the Tenant.
- 1.3. **Club Manager** means the member of the Club's staff delegated to manage the operations of the Club. This may include from time to time on a temporary basis any other member of the Club's staff.
- 1.4. **Council Manager** means Council's nominated Recreation and Youth Manager, or such other Council staff as Council nominates, and includes any Council approved delegate of that person.
- 1.5. **Club Rooms** means those parts of the Pavilion that Council reasonably requires be made available to the community, but excluding the areas required exclusively by the Club at all times, such as back of house areas and offices, as directed by Council from time to time.
- 1.6. **Extended Operating Hours** has the meaning given in clause 3.2.
- 1.7. **Facility** means [TBA]
- 1.8. **Sportsgrounds** means all land either natural, synthetic or hard surface that have been designed primarily for the playing of sport and located within the Site, and outlined in red at [Annexure B Plan Two].
- 1.9. **Pavilion** means the building that has been designed primarily to support the Sportsgrounds for the playing of sport and located within the Site and identified on [Annexure B Plan Three].
- 1.10. **Daytime** means hours between 8.30am and 3.30pm Monday to Friday during school terms which from time to time will be published by the Government of Victoria.

2. Public Perception

- 2.1. The Club acknowledges and agrees that:
 - 2.1.1. notwithstanding that the Club is an independent entity, in the operation of the Club at the Site the Club and the Club's staff may be perceived to be the representing Council; and
 - 2.1.2. the Club must respect public perception at all times by ensuring that the presentation, manner and image conveyed by persons employed by or engaged with the Club are consistent with the good name, reputation and image of the Council.
- 2.2. All printed and electronic communications produced by the Club should make it clear that the Site is under the operation and management of the Club.
- 2.3. The Club must not place any logo or signage on the outside facade of any improvement on the Premises for the purpose of promotion of the Services without first obtaining the Council Manager's written approval.
- 2.4. At the expiration or earlier determination of this Lease, the Club must remove all signs, advertisements, posters etc. displayed or affixed to the Premises, excluding those items owned by Council.

3. Hours of Operation of the Club

- 3.1. Unless otherwise agreed in writing by Council, at a minimum, the following areas of the Facility must be open and accessible to the community during the following times:

Day	Open	Close
Monday to Thursday - Sportsgrounds	9.00am	9.00pm
Monday to Thursday - Club Rooms	9.00am	9.00pm
Friday, Saturday and Sunday - Sportsgrounds	9.00am	8.00pm
Friday, Saturday and Sunday - Club Rooms	9.00am	9.00pm
Public Holidays – Sportsgrounds	9.00am	8.00pm
Public Holidays - Club Rooms	9.00am	9.00pm
Good Friday & Christmas Day	Closed	

- 3.2. The Club will have access and use of following areas of the Facility (which may also be open and accessible to the community) during the following Extended Operating Hours:

Day	Open	Close
Monday to Thursday Sportsgrounds	7.00am	10.00pm
Monday to Thursday Club Rooms	8.00am	Midnight
Friday, Saturday and Sunday Sportsgrounds	7.00am	10.00pm
Friday, Saturday and Sunday Club Rooms	7.00am	Midnight
Public Holidays Sportsgrounds	9.00am	10.00pm
Public Holidays Club Rooms	9.00am	Midnight
Good Friday & Christmas Day	Closed	

- 3.3. The Club must not use or operate from the Facility outside the Extended Operating Hours without the written agreement of Council. If changes are required because of the Club's National Premier League licence conditions, Council will not unreasonably withhold its consent provided the extended hours are not inconsistent with applicable planning permits and Council's policies.

This Special Condition is an essential term of this Lease.

- 3.4. The Club and Council will agree in writing prior to the commencement of each anniversary of the Commencement Date, circumstances where the times of operation of the Club may be altered.
- 3.5. The bistro/café/kiosk may be open during the Extended Operating Hours stipulated for the Club.
- 3.6. The Club must not grant exclusive or sole use of:
- 3.6.1. any part of the Facility to any persons during Club hours of operation without the written approval of Council; or
 - 3.6.2. Where a school, community group or club festival requires exclusive or sole use of the Facility or a section of the Facility, the Club must advertise at the Facility the date and time of such an event. The advertisements must include notices with details of the closure being placed in prominent locations within the Facility for a minimum of 7 days prior to the closure.

4. FACILITIES

- 4.1. The Club will be responsible for the day to day operation of the Facility and will be responsible for all bookings and administration of the Facility and the Site in respect of these bookings.
- 4.2. The Club must make all relevant parts of the Facility available for hire to the local community at times the relevant parts are not required for the exclusive use of the Club.
- 4.3. Sportsground and Pavilion allocations for the exclusive use of the Club will be negotiated between Council and the Club prior to the Commencement Date and reviewed and agreed annually no less than 30 days prior to the anniversary of the Commencement Date. If the parties fail to agree, Council will specify the allocations acting reasonably and having regard to usual requirements of similar clubs in Victoria.
- 4.4. The Club will not be required to comply with Council's Community Facilities Access Policy to the extent only that it relates to the minimum ratio of members being City of Melton residents, but the Club must maintain or exceed the membership of all non National Premier League teams at the ratios consistent with the Council Community Facilities Access Policy.
- 4.5. At any time the membership of the Club must consist of no less than 50% Melton residents.
- 4.6. A minimum of no less than 30% of the available time for use of the sportsgrounds must be available for community booking/hire/use. Percentage availability to be calculated based on an average weekly allocation and reported to Council as outlined in [Section 17] of these Special conditions.
- 4.7. Availability of Sportsgrounds. The Club must, subject to weather and Sportsground conditions, ensure a minimum of:
 - 4.7.1. two synthetic football fields for organised club training or playing or festivals are available for community booking at all times when these facilities have not been allocated for exclusive use of the Club; and
 - 4.7.2. one natural grass football field for organised club training or playing (subject to playing conditions being suitable) are available for community booking at all times when not allocated for exclusive use of the Club; and
 - 4.7.3. one synthetic sportsfield is available at all times for unstructured activities when not hired for organised playing/training, clinics or festivals and not allocated for exclusive use of the Club.
- 4.8. The Club may, as a result of inclement weather or surface conditions affecting the Sportsgrounds, declare that the Sportsgrounds are 'out of service'. All periods of 'out of service' must be approved in advance of such declaration by the Council Manager.
- 4.9. The changing, support and other services facilities reasonably required in connection with any booking of any part of the Facility (e.g. First aid/Umpires rooms) must be made available to the booking party.
- 4.10. The Club agrees to negotiate in good faith a joint use agreement, either with or without Council acting as a party to the agreement, with the government school planned to be constructed on the site adjacent to the north of the Site, for formal access to the synthetic sportsgrounds for daytime use only, should the Dept of Education and Training (DET), the school or it's successors seek such an agreement.
 - 4.10.1. Any such agreement must be offered at fees and charges as provided for in Section 14 of this Attachment
 - 4.10.2. Any non daytime use will be subject to separate negotiations between the Club and DET/School at fees and charges approved under [Section 16] appropriate to the requested time of use
- 4.11. The Club must not prevent informal access by school students and the general community to the Sportsgrounds when they are not hired, except during the 'out of service' times approved by the Council Manager.
- 4.12. The Club must not provide free use of Facilities to, and must not enter into contractual arrangements with any persons, without Council's prior written approval.
- 4.13. Provided that income generating activities programmed by the Club are not compromised and subject to availability, Council may:
 - 4.13.1. use the Sportsgrounds throughout the year without charge; and
 - 4.13.2. enter into agreements with third parties granting them use of the Pavilion or parts thereof at community rates.

5. BISTRO/KIOSK/CAFÉ AND SOCIAL SPACES

- 5.1. The Club may subject to relevant planning and other permits being obtained operate a kiosk/cafe/bistro facility from the Pavilion when the Sportsfields are in use during the hours of operation of the Club.
 - 5.2. Alcohol must not be permitted to be sold or consumed in the Facility unless written approval is provided by Council, appropriate planning permits are obtained and the appropriate and statutory licensing arrangements followed.
 - 5.3. Cigarettes, prohibited drugs and chewing gum must not be provided or offered for sale within the Facility.
 - 5.4. Council may, without liability of any kind to the Club, direct the Club to withdraw any merchandise from sale which Council considers detracts from the public image of the Facility or Council itself.
- 6. BUILDING ASSETS, EQUIPMENT & TECHNOLOGY**
- 6.1. Council and the Club must comply with their respective building and asset maintenance responsibilities which are set out in [Annexure C] to these Special Conditions.
 - 6.2. Council will supply the Furniture , fixtures and equipment (FFE) and any other items agreed to by the parties from time to time. The list of FFE is attached at [Annexure E] of these special conditions.[when provided]
 - 6.3. The Club must supply the following equipment if required
 - 6.3.1. all computers, printers, photocopiers;
 - 6.3.2. all software (including membership management and POS of sale software),required to effectively and efficiently operate the Club.
 - 6.4. The Club must maintain all equipment referred to in [Annexure E] in good operation and repair.
 - 6.5. Site Inspections. Council reserves the right at all times to inspect the Facilities. The Club must co-operate with Council for the purpose of such inspections.
 - 6.6. Site inspections will be randomly conducted and will involve physical inspections of the Facility by the Council Manager or the Council Manager's Representative. The Council Manager will advise if the inspection is to be accompanied by the Contractor's Representative or not.
 - 6.7. The Club must, following the inspection, be advised of any Club non-conformances in writing. The Club will have three (3) days to fully address any non-conformances to the satisfaction of the Council Manager. Council reserves the right to nominate a shorter period than three days should the nature of the non-conformance (e.g. safety issue) require a more rapid response.
- 7. GROUNDS MAINTENANCE**
- 7.1. Council and the Club must comply with their respective grounds maintenance responsibilities which are set out in [Annexure C] to these Special Conditions.
- 8. MANAGEMENT AND STAFFING**
- 8.1. The Club is responsible for the total management of the Facility and will be responsible for the employment of any and all staff working at the Facility.
 - 8.2. The Club must meet its legal and statutory obligations to its staff and work to industry best practice.
 - 8.3. Club Management - Representative. The Club must have available a Club Representative (available to Council to deal with operational and agreement related issues. The Club must ensure that the Club's Representative can be contacted by Council at all times in case of emergencies and must respond to Council phone calls within one hour and associated requests within 48 hours.
- 9. LICENCES, PERMITS & CERTIFICATES**
- 9.1. The Club must ensure that all licences, permits and certificates required for the operation of the Facility are obtained and maintained in accordance with relevant legislation.
 - 9.2. The Club must ensure that the licences, permits and certificates remain in force throughout the Term.
 - 9.3. The Club must display all licences, permits and certificates required to be displayed by legislation. The Club must ensure the payment of all royalties required to be paid by law.
- 10. KEYS/ACCESS PASSES**
- 10.1. The Club must ensure that;
 - 10.1.1. All keys and access passes provided by the Council are securely retained;

- 10.1.2. The number of key or access pass holders is restricted to those members of staff who require the keys for the purposes of the Lease;
- 10.1.3. The Council Manager is informed immediately of the loss of any such keys or access passes and that the Club replaces any keys and replaces locks at the Club's expense if so required by the Council Manager.
- 10.1.4. All locks, keys and access pass replacement are authorised through the Council. All replacements will be at the Club's expense.
- 10.1.5. A key register and access pass register is maintained so that all staff sign when issued a key or access pass. The Council is to have access to this register if required
- 10.1.6.

11. SPONSORSHIP AND GRANTS

- 11.1. This Lease does not grant any naming rights or signage rights to the Club, except to the extent expressly stated to the contrary.
- 11.2. Subject to clause 11.3, the Club may seek sponsorship and grant opportunities for the Club.
- 11.3. The Club must not seek or accept sponsorship in circumstances where the presentation, manner and image conveyed by that sponsorship is immoral, discriminatory, offensive or otherwise inconsistent with the good name, reputation, policies and image of Council. This clause only applies if there is some connection (however small) between the sponsorship of the Club and the Premises, Facility or Council.

12. FEES AND CHARGES FOR COMMUNITY USE

- 12.1. Fees and Charges for community use of the sportsgrounds (and associated facilities) will be determined by negotiation between the Club and Council and agreed in writing by Council prior to the Commencement Date.
- 12.2. The fee table at [Annexure D] of these special conditions is the base framework for fees and charges as agreed
- 12.3. The Club may, from time to time, suggest changes to fees and add additional fees and, if approved in writing by Council, those new fees shall apply.
- 12.4. The Club must keep the public fully informed of current prices and proposed changes to fees and charges by:
 - 12.4.1. making casual price information for the Club Services available in leaflet form, website and signage at the Club or in electronic format;

13. MONITORING AND REVIEW PROGRAM

- 13.1. Without limiting any other provision of this Lease, the Club must, upon request, provide Council with detailed data on the Club's financial, membership and usage performance.
- 13.2. This program is fundamental to Council's and the Club's monitoring system and must include:
 - 13.2.1. Percentage Space available for community bookings
 - 13.2.2. Number of Community bookings of sportsgrounds
 - 13.2.3. Percentage utilisation sportsgrounds by Community bookings
 - 13.2.4. Number of commercial bookings of sportsgrounds

13.3. Other Review Mechanisms

- (a) Council may use the following resources and procedures to facilitate its review of the Club's performance:
 - 13.3.1. Sportsground audits;
 - 13.3.2. Bi annual Facility Audits;



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Attachment 5

Asset Maintenance Responsibilities

Maintenance Specification

This table outlines the Maintenance Responsibilities of Melton City Council and the nominated Club for the maintenance of the Taylors Hill West Precinct.

Note: Supervision of Maintenance Contractors carrying out works is the responsibility of the party who initiated the works. However both parties will work supportively of each other to ensure the maintenance of the facility is optimised.
Overriding Principles:

Any damage through fault or misuse of the service contractor's employees or agents will be fully payable or responsible by the service contractor.

Club Obligations

The Club is to have full responsibility for general and operational maintenance. Council will be responsible for all statutorily required obligations in respect of reporting Essential Safety measures

Council Obligation

The Council is to provide an asset condition report for facilities to cover all buildings, plant, equipment (excluding non-fixed assets) and other appropriate items, which is to be agreed upon with the Club on the commencement date.

No.	Maintenance Item:	Melton City Council Responsibility:	Club Responsibility:	Frequency and Standards:
1	Air Conditioning, Air Handling Unit's, & fixed ventilation fans.	<ul style="list-style-type: none"> Supply and replacements of units (Excluding pool hall air heating plant and boiler. separate section of contract) 	<ul style="list-style-type: none"> All regular cyclical maintenance and repairs. All reactive maintenance and repairs Letting and management of any service contract. 	<ul style="list-style-type: none"> Monthly / 3 monthly / annually.
2	Alarms / After hours Security.	<ul style="list-style-type: none"> Emergency after hours contact. 	<ul style="list-style-type: none"> All monitoring fees and associated call out fees. 	<ul style="list-style-type: none"> As required.

5	Cleaning	• NIL	• All.	
7	Doors & Door Hardware External: Including roller doors automatic doors, & external locks.	• NIL	ALL	• As required
8	Doors & Door Hardware Internal: Including grills, door furniture, closers, & locks.	• NIL	Replacement Repairs and maintenance	• As required
9	Electricity: Supply mains, sub- station, sub-mains and switchboards.	• Replacement and repairs.	• Upgrade (if required) due to additions or alterations of equipment installed. • Council to approve all upgrades.	• To Australian Standards and regulations.
10	Electrical wiring, light fittings and power points.	• NIL	• Replacement • Repairs and maintenance	• To Australian Standards and regulations.
11	Essential Services: All regulatory requirements: • Fire protection services and equipment • Emergency Exit Lighting • Paths of Travel and	• .ESM reporting	• Routine maintenance and repairs as well as inspections • Cost of refilling or replacement of fire extinguishers when discharged or stolen. • Ensure that all nominated	• To Australian Standards and legislative requirements.

	<p>exits</p> <ul style="list-style-type: none"> • Emergency warning system • Fire detectors and alarms • Fire sprinkler system 		<p>emergency paths of travel (including exit doors) remain clear of obstruction and that all minimum requirements of evacuation signage are adhered to.</p>	
12	Fencing and Gates.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • Fences and gates (if applicable). • Replacement • Repairs and maintenance • All fencing to safety standards. 	<ul style="list-style-type: none"> • To Australian Standards and regulations.
13	Fixtures, Fittings and Equipment.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • All replacement and maintenance and repairs of permanent built-in fixtures: For example:- ovens, stoves, dishwashers supplied by Council • All FF&E supplied by Club • Free standing equipment and appliances. • Includes:- Microwave ovens, fridge/freezers, portable heaters, washing machines, etc. 	<ul style="list-style-type: none"> • As required.
14	Floors and floor coverings – cleaning.	<ul style="list-style-type: none"> • NIL 		<ul style="list-style-type: none"> •
15	Floor coverings – repair	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • Replacement 	<ul style="list-style-type: none"> • To health and safety

	and replacement		Repairs and maintenance	requirements.
16	Floor maintenance – Timber.	<ul style="list-style-type: none"> • Replacement 	<ul style="list-style-type: none"> • Replacement • Repairs and maintenance 	
17	Garbage (waste and recycle) collection	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL 	<ul style="list-style-type: none"> • Bins and waste materials must be stored in allocated areas.
18	Furniture	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • All repairs and replacement of Furniture which is procured by the Contractor • All repairs and replacement of Furniture which is procured by the Council • Ensure that Council supplied Furniture & Equipment is not damaged other than normal wear and tear 	
19	Garden Maintenance	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • All • General rubbish tidy up of grounds 	
20	Graffiti Removal	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • All external. • All internal. 	<ul style="list-style-type: none"> • As required
21	Grease Traps.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL 	<ul style="list-style-type: none"> • Clean out by plumber as required.
22	Guttering, Symphonic System & downpipes maintenance and cleaning.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL • NIL 	<ul style="list-style-type: none"> • As required, dependent on condition report and inspection by Council.

24	Keys, lock cylinders and padlocks.	<ul style="list-style-type: none"> Locks fitted to external doors. System integrity check. 	<ul style="list-style-type: none"> Costs of repairs or replacement of all internal locks, cylinders & keys, and additional keys as required. 	<ul style="list-style-type: none"> Council to organise all works through Council contracted Locksmith.
25	Lighting:	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> All motion sensors All external lighting All internal light globes and fittings 	<ul style="list-style-type: none">
26	Painting - external surfaces.	<ul style="list-style-type: none"> ALL 	<ul style="list-style-type: none"> NIL 	<ul style="list-style-type: none"> ten-year cycle. Dependent on Council inspections and report. To Australian Standards AS/NZS 2310 –1995, AS2311-1992, AS/NZS 2312-1994.
27	Painting – internal surfaces.	<ul style="list-style-type: none"> NIL 	<ul style="list-style-type: none"> Annual Cosmetic updates and painting 	<ul style="list-style-type: none"> To Australian Standards AS/NZS 2310 –1995, AS2311-1992, AS/NZS 2312-1994. As required. Dependent on Council inspections and report.
28	Paving & footpaths	<ul style="list-style-type: none"> Replacement 	<ul style="list-style-type: none"> ALL Cleaning and Repair 	<ul style="list-style-type: none">
29	Pest & vermin eradication.	<ul style="list-style-type: none"> White ant/termite only 	<ul style="list-style-type: none"> ALL 	<ul style="list-style-type: none"> To Australian Standards and the requirements of Council's Health Department.
30	Plumbing:	<ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> Replacement Repairs and maintenance 	<ul style="list-style-type: none"> As required. Hot water service to be serviced once every five (5) years. Dependent on Council

				inspections and report.
31	Roof, fall arrest system and Skylights:	<ul style="list-style-type: none"> • ALL 	<ul style="list-style-type: none"> • NIL 	
32	Sanitary Disposal:	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL- Supply, install, servicing and maintenance. 	<ul style="list-style-type: none"> • In accordance with Health Regulations
34	Security grills and screens.	<ul style="list-style-type: none"> • Replacement 	<ul style="list-style-type: none"> • Repairs and maintenance 	
35	Sewer blockages.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL 	<ul style="list-style-type: none"> • As required
36	Sewer sump and pumps.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL 	
37	Signage maintenance. Identification and operating hours.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL • All costs for associated with change of internal & external signage 	<ul style="list-style-type: none"> • To Council's advertising policy, identity guidelines and requirements.
38	Stairs, Rails, Balustrades and hand rails.	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Replacement • Repairs and maintenance 	
39	Structural maintenance: Including building footings, foundations, stumps, timber frame, roof, walls, ceilings, doors, window frames, floors and verandas.	<ul style="list-style-type: none"> • ALL 	<ul style="list-style-type: none"> • NIL 	
43	Trees – removal and pruning.	<ul style="list-style-type: none"> • ALL 	<ul style="list-style-type: none"> • NIL 	
44	Vandalism	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL External 	<ul style="list-style-type: none"> • As required.

45	Walls	<ul style="list-style-type: none"> • ALL External 	<ul style="list-style-type: none"> • All Internal • Repairs or replacement to Club Furniture, Fixture or equipment. • ALL Internal 	<ul style="list-style-type: none"> • As required, dependent on condition report and inspection by Council. • To Australian Standards & regulations.
46	Windows - Glazing replacement.	<ul style="list-style-type: none"> • NIL 	<ul style="list-style-type: none"> • ALL 	