

NOTICE OF MEETING

Notice is hereby given that an ordinary meeting of Council will be held in the

**Council Chamber – Glenelg Town Hall
Moseley Square, Glenelg**

Tuesday 10 March 2020 at 7.00pm

Roberto Bria
CHIEF EXECUTIVE OFFICER

Ordinary Council Meeting Agenda

1. OPENING

The Mayor will declare the meeting open at 7:00pm.

2. KAURNA ACKNOWLEDGEMENT

We acknowledge Kaurna people as the traditional owners and custodians of this land.

We respect their spiritual relationship with country that has developed over thousands of years, and the cultural heritage and beliefs that remain important to Kaurna People today.

3. SERVICE TO COUNTRY ACKNOWLEDGEMENT

The City of Holdfast Bay would like to acknowledge all personnel who have served in the Australian forces and services, including volunteers, for our country.

4. PRAYER

Heavenly Father, we pray for your presence and guidance at our Council Meeting. Grant us your wisdom and protect our integrity as we carry out the powers and responsibilities entrusted to us on behalf of the community that we serve.

5. APOLOGIES

5.1 Apologies Received

5.2 Absent

6. ITEMS PRESENTED TO COUNCIL

7. DECLARATION OF INTEREST

If a Council Member has an interest (within the terms of the Local Government Act 1999) in a matter before the Council they are asked to disclose the interest to the Council and provide full and accurate details of the relevant interest. Members are reminded to declare their interest before each item.

8. CONFIRMATION OF MINUTES

Motion

That the minutes of the Ordinary Meeting of Council held on 25 February 2020 be taken as read and confirmed.

Moved Councillor _____, Seconded Councillor _____

Carried

9. PUBLIC PRESENTATIONS

9.1 **Petitions - Nil**

9.2 Presentations - Nil**9.3 Deputations**

9.3.1 Brighton Sports and Social Club – Mr Steve Phillips
Mayor Wilson has approved a deputation from Mr Steve Phillips on behalf of Brighton Sports and Social Club regarding Brighton Rugby Union Football Club Lease Agreement.

9.3.2 Brighton Lacrosse Club – Mr Jason Webb
Mayor Wilson has approved a deputation from Mr Jason Webb on behalf of Brighton Lacrosse Club regarding Brighton Rugby Union Football Club Lease Agreement.

9.3.3 Brighton Rugby Union Football Club – Mr Wayne Londema
Mayor Wilson has approved a deputation from Mr Wayne Londema on behalf of Brighton Rugby Union Football Club regarding Brighton Rugby Union Football Club Lease Agreement.

10. QUESTIONS BY MEMBERS**10.1 Without Notice****10.2 On Notice - Nil****11. MEMBER'S ACTIVITY REPORTS - Nil****12. MOTIONS ON NOTICE**

12.1 Motion on Notice - Brighton Traffic Report– Councillor Lindop (Report No: 70/20)

13. ADJOURNED MATTERS - Nil**14. REPORTS OF MANAGEMENT COMMITTEES, SUBSIDIARIES AND THE DEVELOPMENT ASSESSMENT PANEL**

14.1 Draft Minutes – Alwyndor Management Committee – 20 February 2020 (Report No: 65/20)

15. REPORTS BY OFFICERS

15.1 Items in Brief (Report No: 66/20)

15.2 E-Scooter Update (Report No: 67/20)

15.3 Jetty Road Banners (Report No: 68/20)

15.4 Brighton Rugby Union Football Club Lease Agreement (Report No: 69/20)

16. RESOLUTIONS SUBJECT TO FORMAL MOTIONS

Presented for the information of Members is a listing of resolutions subject to formal resolutions, for Council and all Standing Committees, to adjourn or lay on the table items of Council business, for the current term of Council.

- 17. URGENT BUSINESS – Subject to the Leave of the Meeting**
- 18. CONFIDENTIAL ITEMS**
- 19. CLOSURE**

ROBERTO BRIA
CHIEF EXECUTIVE OFFICER

Item No: **12.1**

Subject: **MOTION ON NOTICE – BRIGHTON TRAFFIC REPORT – COUNCILLOR LINDOP**

Date: 10 March2020

PROPOSED MOTION

Councillor Lindop proposed the following motion:

- 1. That Administration investigate and report to Council, options to improve traffic conditions and safety for customers, shop owners and pedestrians using the eastern footpath on Brighton Road in proximity to the Gregory Street and Marlborough Street intersections.**
- 2. That the investigation include any traffic incident information available and a traffic risk assessment for the location and assess any treatments that could improve safety which may include bollards.**

BACKGROUND

In discussions with business owners, they have advised me that there have been many serious car accidents in this intersection of Brighton Road, Gregory Street and Marlborough Street. In the last nine (9) months I have been advised that these incidents have become far more serious with multiple car pile ups and, most recently, a truck mounted the footpath and was stuck on the building on the corner of Brighton Road and Gregory Street.

Therefore, I believe we should investigate options to improve safety for customers, shop owners and pedestrians using the eastern footpath around the Brighton Road, Gregory Street, and Marlborough Street intersection. These options could include bollards or any other treatments that may improve safety concerns.

Item No: **14.1**

Subject: **DRAFT MINUTES – ALWYNDOR MANAGEMENT COMMITTEE – 20 FEBRUARY 2020**

Date: 10 March 2020

Written By: Personal Assistant, GM Alwyndor

General Manager: Alwyndor, Ms B Davidson-Park

SUMMARY

The draft minutes of the Alwyndor Management Committee meeting held on 20 February 2020 are provided for information.

RECOMMENDATION

1. **That the draft minutes of the Alwyndor Management Committee meeting held on 20 February 2020 be noted.**
 2. **That having considered Attachment 2 to Report No: 65/20 Draft Minutes – Alwyndor Management Committee – 20 February 2020 in confidence under Section 90(2) and (3)(b) of the Local Government Act 1999, the Council, pursuant to Section 91(7) of the Act orders that Attachment 2 be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.**
-

COMMUNITY PLAN

Community: Building a healthy, active and resilient community
Community: Providing welcoming and accessible facilities
Economy: Supporting and growing local business

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Not Applicable.

BACKGROUND

This report is presented following the Alwyndor Management Committee meetings.

The Alwyndor Management Committee was established to manage the affairs of Alwyndor Aged Care Facility. The Council has endorsed the Committee's Terms of Reference and given the Committee delegated authority to manage the business of Alwyndor Aged Care Facility.

If an Elected Member requires further detail, the public Agenda and papers to the AMC are available on the Council's website and on the Hub, while the confidential papers are only available to the Elected Members on the Hub in the Alwyndor Committee section.

BUDGET

Not Applicable.

LIFE CYCLE COSTS

Not Applicable.

Attachment 1



CITY OF HOLDFAST BAY

Minutes of the meeting of the Alwyndor Management Committee of the City of Holdfast Bay held at Alwyndor Aged Care, Dunrobin Road, Hove on Thursday 20 February 2020 at 6.30 pm.

PRESENT

Elected Members

Councillor Philip Chabrel
Councillor Susan Lonie

Independent Members

Chairperson – Mr Kim Cheater
Mr Todd Bamford – via teleconference
Mr Kevin Whitford

Staff

General Manager Alwyndor – Ms Beth Davidson-Park
Residential Services Manager – Mr Graham Harding
Acting Home Support Services Manager – Ms Molly Salt
Finance Manager – Ms Leisa Humphrey
Personal Assistant – Ms Marisa Dinham

1. OPENING

The Chairperson declared the meeting open at 6.40pm.

2. KAURNA ACKNOWLEDGEMENT

With the opening of the meeting the Chairperson stated:

We acknowledge the Kurna people as the traditional owners and custodians of this land.

We respect their spiritual relationship with country that has developed over thousands of years, and the cultural heritage and beliefs that remain important to Kurna People today.

3. APOLOGIES

For Absence - Ms Julia Cudsi
Ms Trish Aukett
Ms Julie Bonnici

3.2 Leave of Absence - Nil

4. DECLARATION OF INTEREST

Members were reminded to declare any interest before each item.

5. CONFIRMATION OF MINUTES

5.1 Minutes of Previous Meeting

Motion

That the minutes of the Alwyndor Management Committee held on 19 December 2019 be taken as read and confirmed.

Moved by Councilor Lonie, Seconded by Councilor Chabrel

Carried

5.2 Confidential Minutes of Previous Meeting

Motion

That the confidential minutes of the Alwyndor Management Committee held on 19 December 2020 be taken as read and confirmed.

Moved by Councilor Lonie, Seconded by Councilor Chabrel

Carried

6. REVIEW OF ACTION ITEMS

6.1 Action Items

6.2 Confidential Action Items

7.1 General Managers Presentation – Staff Survey Results 2019.

The General Manager presented the findings of the most recent Staff Survey undertaken by Best Practice Australia. The positive results and increased levels of staff satisfaction were noted in the majority of areas surveyed including trust and confidence in leadership, work place safety and client centred focus with an overall outcome being that Alwyndor has a culture of optimism.

Members agreed that the presentation be presented to Council; the CEO to work with the General Manager to brief Council.

Action:

1) The CEO to work with the General Manager to brief Council with the recent Staff Survey Results.

Motion:

That the Alwyndor Management Committee:

- 1. Note the presentation and excellent culture survey results and recommend that the Survey results be presented to Council.**

Moved Councilor Lonie, Seconded Councilor Chabrel

Carried

7.2 General Manager's Report (Report No: 01/20)

1. Enterprise Bargaining, Industrial and staffing matters

Noted that Ms Molly Salt was successful being appointed to Manager, Community Connections position after the recruitment process.

Motion

That the Alwyndor Management Committee:

- 1. Note the completion of the Enterprise Bargaining negotiations and the pending voting process.**
- 2. Support the submission made by Alwyndor to the Royal Commission Consultation Paper: Aged care program redesign - services for the future.**
- 3. Note the Alwyndor Organisational Chart as at February 2020.**

Moved T Bamford, Seconded K Whitford

Carried

8. CONFIDENTIAL ITEMS**Exclusion of the Public – Section 90(3)(d) Order**

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Alwyndor Management Committee hereby orders that the public be excluded from attendance at this meeting with the exception of the General Manager and Staff in attendance at the meeting in order to consider Report's and Attachments to Reports No: 01/20, 02/20, 03/20, 04/20 Report in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* Alwyndor Management Committee is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 48/19 Monthly Financial Report – November 2019 on the following grounds:

- d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to confer a commercial advantage on a third party of Alwyndor, in addition Alwyndor's financial position is reported as part of Council's regular budget updates.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

3. The Alwyndor Management Committee is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councilor Chabrel, Seconded Councilor Lonie

Carried

- 8.1 General Manager's Report (Report No: 02/20)
- 8.2 Monthly Financial Report – January 2020 (Report No: 03/20)
- 8.3 Financial Investments (Report No: 04/20)
- 8.4 Review of Financial Governance Policies (Report No: 05/20)

RETAIN IN CONFIDENCE – Section 90(3) Order

That having considered Agenda Item 8.1 General Manager's Report – January 2020 (Report No: 02/20), 8.2 Monthly Financial Report – January 2020 (Report No: 03/20), 8.3 Financial Investments (Report No: 04/20), 8.4 Review of Financial Governance Policies (Report No: 05/20), in confidence under section 90(2) and (3)(d) of the Local Government Act 1999, the Alwyndor Management Committee, pursuant to section 91(7) of that Act orders that the Report, Attachments and Minutes be retained in confidence for a period of 18 months and that this order be reviewed every 12 months.

Moved Councillor Lonie, Seconded K Whitford

Carried

9. URGENT BUSINESS – Subject to the leave of the meeting

Nil

10. DATE AND TIME OF NEXT MEETING

The next meeting of the Alwyndor Management Committee will be held on Thursday 19 March 2020 in the Meeting Room, Alwyndor Aged Care, 52 Dunrobin Road, Hove.

Members were reminded that an in-camera session would be held 6.15pm over dinner and that the administration would enquire about the potential for the Public Information Disclosure Act training to be conducted from 8.30pm to 9.00pm on Thursday, 19 March 2020.

11. CLOSURE

The meeting closed at 8.45pm.

CONFIRMED 19 March 2020

CHAIRPERSON

Item No: **15.1**

Subject: **ITEMS IN BRIEF**

Date: 10 March 2020

Written By: Personal Assistant

General Manager: Strategy and Business Services, Ms P Jackson

SUMMARY

These items are presented for the information of Members.

After noting the report any items of interest can be discussed and, if required, further motions proposed.

RECOMMENDATION

That the following items be noted and items of interest discussed:

1. Events Update

COMMUNITY PLAN

Culture: Supporting excellent, efficient operations

COUNCIL POLICY

Not applicable

STATUTORY PROVISIONS

Not applicable

REPORT

1. Events Update

Fatboy Slim Beach Concert - 1 February 2020

The final concert for the 2020 Summer was hampered in preparation due to significant rainfall prior to the event. This provided logistically challenging scenarios such as storm water rivers running through the site the night prior. The cooler weather and rain on event day resulted in the late arrival of the crowd, with the

majority entering the gate after 6pm, once the weather cleared. The weather held for the evening and there was a great atmosphere throughout the event site with a generally well behaved crowd. More than 6,000 tickets were sold with a breakdown of:

- 1% Internationals;
- 6% Interstate; and
- 93% South Australians (10% being Holdfast Bay residents)

Summer Nights Fork on the Road – 14 February 2020

Summer Nights Fork on the Road was held at Angus Neill Reserve on Friday 14 February 2020 from 5.30pm to 8.30pm. This was the first time Council had collaborated with Fork on the Road, an established brand who bring their own following with them, as well as promotional channels. Food Vendors included:

- Sooki Lala;
- What's the Scoop;
- Beyond India;
- Bread & Meat Co;
- L'Arôme Catering; and
- Honey Puff Lads.

Activities for the kids included:

- Face painting;
- Nature Play;
- Plai Space;
- ABC Kids Zone Soft Play; and
- Dig a Dino.

Live music was provided by Jon Wiza.

This was a free event for all to attend, including the kids activities (except for food and beverage for purchase) Attendance was estimated at 2,000 to 2,500 people and predominately families, which were the target market for the event.

Item No: **15.2**

Subject: **E-SCOOTER UPDATE**

Date: 10 March 2020

Written By: General Manager, Community Services

General Manager: Community Services, Ms M Lock

SUMMARY

This report summarises the outcomes of discussions with the Department of Planning, Transport and Infrastructure (DPTI) and the tender process undertaken by the Local Government Association (LGA) and the Western Alliance of Councils for a six (6) month trial of electric scooters (e-scooters) within the Holdfast Bay Council area and the implications associated with such a trial.

It is recommended that Council approve the six (6) month trial.

RECOMMENDATION

That Council endorse the six (6) month trial of the e-scooters, to begin 13 March 2020.

COMMUNITY PLAN

Community: Building a healthy, active and resilient community
Community: Providing welcoming and accessible facilities
Economy: Making it easier to do business
Economy: Harnessing emerging technology
Economy: Boosting our visitor economy

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Legislation is required to be amended under the Road Traffic Act and a notice in the Government Gazette to enable the use of e-scooters on footpaths or shared paths.

This legislation amendment was Gazetted by the Government on Thursday 5 March 2020.

BACKGROUND

On September 24 2019 Council resolved motion C240919/1619 as follows:

That Council:

- 1. endorse administration to continue to work with the Western Alliance of Councils to progress the tender documents and processes development for the 6-month trial, commencing November 2019; and*
- 2. endorse the Request for Tender document for 'E-Scooter mobility services' for release to the market and the tender process to be managed by the Local Government Association (LGA).*

Moved Councillor Lonie, Seconded Councillor Patton

Carried

REPORT

As a result of the Request for Tender submissions, demonstrations and reference checks, two (2) proponents were selected for the e-scooter trial as were evaluated by representatives of the Western Alliance Councils and the LGA (who ran the procurement process).

The two (2) preferred proponents awarded in November 2019 were:

- Neuron; and
- Ride.

Neuron are currently operating in Bangkok, Darwin, Brisbane, Singapore, Chiang Mai and Cyberjaya. Ride are operating in Adelaide and are a local business. Generally it costs \$1 to unlock each scooter and 30 cents per minute thereafter all accessible by a phone app with incentives offering discounts for parking in certain areas, taking a 'selfie' demonstrating that you are wearing a helmet and other good practice riding.

In December 2019, the Western Alliance of Councils - Cities of Holdfast Bay, Charles Sturt, West Torrens and Port Adelaide Enfield Councils submitted an application to the Department of Planning, Transport and Infrastructure for an E-scooter Trial Exemption and Authorisation from Outer Harbor to Seacliff predominantly on the 3.5 metre to 4.0 metre wide 'Coast Park Trail' (with some sections of footpath required where the Coast Park does not exist). A total distance of approximately 25km.

The trial of e-scooters along our coast offers an opportunity for the community and visitors to enjoy our wonderful coastline whilst assessing the demand for such an experience rather than relying on the motor car or walking large distances. It also offers visitors to the coastline an opportunity to park further away from the popular destination points such as Semaphore, Henley Square and Glenelg and 'ride' a scooter instead of visitors having to find a park close to their destination.

As a mobility and tourism strategy we have seen first-hand in trials that people enjoy using e-scooters and would be a progressive initiative to have them along coastal tracks. It encourages people to spend more time travelling further and increasing footfall for local businesses.

Over the last 6-9 months in Adelaide, we have seen how e-scooters can provide a fun, safe and environmentally friendly transport solution. It can also help significantly reduce some of the parking pressures offering visitors to the coastline an opportunity to park further away from the popular destination points.

A pilot of e-scooters over the coming months would allow the local and state government to gain extensive data, help local businesses increase footfall and create more jobs for locals.

The Western Alliance of Councils will install footpath 'decals' to help identify how to access nearby scooters when leaving public transport.

Refer to Attachment 1

It was intended that this trial operate for six months from 13 March 2020 with State Government approval being granted via gazettal on Thursday 5 March 2020 of the corridor.

As previously reported the trial is intended to:

- be in operation from 6am-9pm 7 days per week;
- have speeds restricted to 15km/h with further restrictions in areas of high pedestrian activity to 8km/h;
- have designated parking areas provided that permits the user to only disengage from use when they are in the parking area (to be indicated by footpath decals;
- area of use to be 'geofenced' meaning that the scooters will slow to a stop if outside the designated 'riding' area; and
- up to two proponents to be chosen for the trial with up to 250 scooters for each proponent evenly distributed to be provided along the entire 30km coastline.

DPTI made the following changes;

- all users to be 18+ (reason: this is to maintain consistency between the city trial and coast park trial);
- not permitting users to engage with an e-scooter after 8:30pm to reduce the risk;
- e-scooters will be removed at night from high risk areas e.g. Moseley Square; and
- SAPOL will have a direct link with Ride and Neuron. It should be noted that e-scooter users are subject to regulations and the Australian Road Rules (ARR's) and SAPOL can issue penalties for any breaches of the ARR's or offences that may apply.

Within the City of Holdfast Bay Council area the trial will be limited to the Coast Park area only from Glenelg to Seacliff. The e-scooter trial will finish at the Seacliff Surf Club and will not enter Kingston Park.

The following 'go slow' areas where scooters will be automatically restricted to 8km/hr at areas of high activity are:

- Patawalonga Gates to Wigley Reserve Playground (200m)
- Glenelg Surf Club via Foreshore Playground & Glenelg Jetty to Stamford Grand Hotel (350m)
- Glenelg Jetty to Moseley Square tram stop (125m)
- Broadway Kiosk (distance 100m)
- Kent St intersection (distance 75m)
- Somerton Surf Club via Minda to Gladstone Road (500m)
- Brighton Jetty, Esplanade Hotel to Bindarra Road (125m)
- Seacliff (100m north Wheatland Street to 50m south Wheatland Street = 150m)
- Seacliff Boat Ramp to Seacliff Surf Club (200m)

The Western Alliance Councils have developed Section 222 (*Local Government Act 1999*) agreements which will be issued to the two preferred proponents so Council can ensure that any undesirable outcomes are mitigated, with formally agreed responsibilities, expectations and key performance indicators written into the agreement.

Refer to Attachment 2

Section 222 provides sufficient options for Council to oversee these services through imposing operational conditions – speed limits, preferred parking zones, operational dates/times and appropriate insurances and geographical areas. The total number of e-scooters permitted will be determined by Council. Council has the right to review and amend the amount of e-scooters throughout the trial period based on performance and demand.

A formal review including a customer satisfaction user survey will be undertaken three months into the trial (by the successful proponents). Council officers will evaluate public benefits, positive environmental impacts against any risks associated with e-scooters. Council officers will undertake further engagement with both e-scooter users and the community within the last 30 days of the six month trial.

Safety Management Plan and Mitigation

Each supplier was required to provide a comprehensive work, health and safety plan and to also provide a 'live' demonstration in an off-street area of how their geofencing would work.

A member of the Western Alliance Team will meet with SAPOL and DPTI monthly to report any incidents or near misses (that will be closely monitored and reported by Ride and Neuron) with serious incidents reported to same immediately upon notification.

Each supplier has demonstrated via their tender proposal or via the demonstration, the ability to provide geofenced areas or other similar technology to effectively restrict e-scooters from operating or being parked in areas nominated by Council, including but not limited to:

- the areas shown in the attached Coast park map;

- ability to determine if the geofence has been breached by users and send push notifications to users warning of incorrect use;
- ability to penalise incorrect use and/or incentivise correct use;
- ability to restrict speed limits to meet the legislated requirements and within selected areas that may be nominated by the relevant Council;
- ability to limit the maximum operating speed to 15km/h;
- ability to further reduce speed limits (8km/h) in 'Slow go' areas nominated by each Council;
- ability to provide preferred parking zones or restrict where e-scooters can be parked;
- technology the supplier has available or has in development, for docked, semi-docked e-scooter or preferred parking areas, including but not limited to near fields technology;
- ability to determine if an e-scooter has been appropriately and safely parked;
- ability to determine if an e-scooter is faulty, damaged or vandalized;
- ability to determine if an e-scooter has fallen over;
- methodology for providing helmets for e-scooter users;
- methodology or ability to affix helmets to each e-scooter, track helmets, or use technology to determine if an e-scooter is without a helmet to aid with riders complying with the requirement to wear a helmet;
- ability to monitor and act upon reports of litter caused by abandoned, removed, or damaged e-scooters and helmets; and
- methodology on how the Supplier proposes to ensure users comply with all applicable State Laws.

Refer Attachment 3

The scooters will be required to stay on paths predominantly with some limited road crossings, only where scooters are required to cross the road to access paths on the other side of the road.

A Safe Work Method Statement is attached for further information on safety and risk requirements.

Refer Attachment 4

BUDGET

There will be minor costs associated with promoting the proposal to the community and stakeholder consultation. There will be some indirect costs associated with Council Administration's time to develop and consider the proposal further.

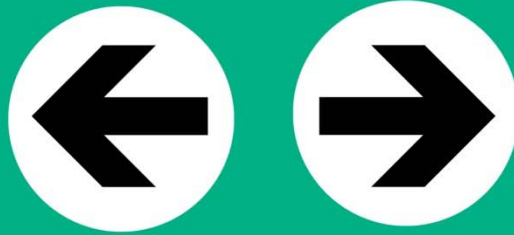
For the trial a 'flat' permit fee of \$8,000 across the four councils will be applicable for the successful proponent.

LIFE CYCLE COSTS

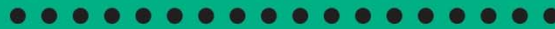
Not applicable

Attachment 1





Follow the **e-scooter** trail



adelaidebeaches.com.au

general trail

 200m

Over walking?

Jump on the **e-scooter** trail



PORT ADELAIDE ENFIELD



CITY OF WEST TORRENS



HOLDFAST BAY



adelaidebeaches.com.au

train station



Park your e-scooter here

Please park scooter off path



adelaidebeaches.com.au

parking (symbol)



Park your e-scooter here

Please park scooter off path



adelaidebeaches.com.au

parking (arrows)



e-scooter **go slow zone**

e-scooter will automatically reduce speed to 8km/h



 adelaidebeaches.com.au

go slow zone



e-scooter walking zone

*For your safety, e-scooters operate on
zero power through this zone*



adelaidebeaches.com.au

e-scooter walking zone



e-scooter **walking zone**

*For your safety, e-scooters operate on
zero power through this zone*



 adelaidebeaches.com.au

e-scooter walking zone



no e-scooters

Attachment 2



1 Permit

The On-Street Activity Permit that will be issued to the successful Proponents is outlined below and will need to be issued separately by each Council.

ON STREET ACTIVITIES PERMIT

Pursuant to the provisions of section 222 of the *Local Government Act 1999*, the Permit for the On-Street Activity described hereunder is hereby granted.

DESCRIPTION OF PERMITTED ACTIVITY	PERMIT NUMBER
Permitted Activity: Operation of a commercial e-scooter share scheme Permitted Location: Within the Cities of Port Adelaide Enfield, Charles Sturt, West Torrens and Holdfast Bay (The Western Council Alliance) as defined in the Minister's Gazette Notice Dated xxxx , during operating times and any other area specified in this Permit in the area defined in Appendix A for each Council. Maximum Number of e-scooters to be within the Permit boundary at any one time: 500 (250 per proponent) 24-hour contact number : (to be published on each council website website) 6am-9pm (daylight saving); 6am-6pm (non daylight saving) Chris Dunn (PAE)	«Licence_Number»
LOCATION	LICENCE TYPE
Coast Park (from Outer Harbor to Semaphore South) as defined on the map provided in Appendix A.	«Licence_Type»

This Permit can be cancelled, suspended or modified by Council at any time by written notice to the Permit Holder and no compensation will be offered to the Permit Holder.

This Permit is non-transferable. The Permit Holder cannot transfer this Permit or, subcontract or assign any right or obligation under it without the prior written consent of the Council, which may be granted or withheld in the Council's absolute discretion.

With any application for such consent, the Permit Holder must provide all information required by the Council, including evidence that the proposed transferee, assignee or sub-contractor is capable of performing the Permitted Activity to be transferred, assigned or sub-contracted.

Unless otherwise agreed in writing by the Council, no such transfer, assignment or sub-contract relieves the Permit from any liability under this Permit or at law in respect of the performance or purported performance of this Permit and the Permit Holder is responsible for the acts and omissions of any transferee, assignee or sub-contractor or any transferee's, assignee's or sub-contractor's employees and agents as if they were the acts or omissions of the Permit Holder

Expiry Date: **TBC 2020**

This Permit is issued for a period of **6 months** (or part thereof) and concludes on **xxxx** (the 'Expiry Date').

1. PERMIT GENERAL CONDITIONS

The Permit Holder (shared e-scooter operator) must:

- 1.1. Accept any decision by Council to cancel, suspend or modify the permit.
- 1.2. Accept that the permit is subject to the Minister's Gazette Notice allowing for the operation of e-scooters in the area's defined in the notice.
- 1.3. Make good any damage caused and/or reimburse Council for any or maintenance costs that caused by or in connection with the operation of the Permitted Activity.
- 1.4. Maintain at all times during the Term of this Permit public liability insurance for the sum of Twenty Million Dollars (\$20,000,000.00) in respect of any one claim which arises as a result of the negligent act or omission of the Permit Holder. The Permit Holder will provide Council with an insurance Certificate of Currency which notes the interests of all Council in relation to the Permit. Council must be notified immediately if the policy is cancelled or altered or allowed to lapse.
- 1.5. Maintain at all times personal accident insurance coverage for each trip that the customers of the Permit Holder's e-scooter undertake. The Permit Holder will provide Council with an insurance Certificate of Currency and provide information of the policy and its coverage on the Permit Holder's website and mobile phone application for the duration of the Permit.
- 1.6. Indemnify and release Council from all liability arising from or in connection with this Permitted Activity or the conduct of the Permit Holder's business by the Permit Holder or any of the Permit Holder's agents, including:
 - 1.6.1. Any claim made by any person for injury, direct and indirect loss or damage arising in any manner
 - 1.6.2. Any direct and indirect loss or damage to any property belonging to the Permit Holder or other persons located in the vicinity of the Permitted Location caused by the Permit Holder or the Permit Holder's agents.
 - 1.6.3. Any direct and indirect loss, damage, injury or illness of any type sustained by any person in relation to or as a result of the Permitted Activity.
- 1.7. Remove all e-scooters from the public road and any other public land on the expiry of this Permit unless agreed otherwise.
- 1.8. This permit is issued for a period of six months (6) (or part thereof) and will expire on the expiry date. If KPI's are met then consideration will be given to making this trial permanent.

2. Customer experience and education

The Permit Holder (shared e-scooter operator) must:

- 2.1. Provide 24/7 communication channels for users, including a clearly advertised telephone number on their website, app and devices. The Permit Holder must have a complaint handling process and a clear plan in place to respond to queries and complaints.
- 2.2. As directed by the South Australian Police (SAPOL), Department of Planning, Transport and Infrastructure (DPTI) and/or Council, provide e-scooter users with rules and regulations specific to South Australia to ensure responsible riding and public safety when operating and parking the shared e-scooters on roads, footpaths, shared use paths and public spaces.
- 2.3. Provide terms and conditions of use which promote responsible and legal use, public safety and good behaviour. The Permit Holder is to have systems in place to incentivise good parking behaviour and penalise user non-compliance.
- 2.4. Undertake e-scooter awareness campaigns as directed by Council to increase awareness of the applicable laws and rules to increase user compliance.

3. E-scooter product, operations and performance

The Permit Holder (shared e-scooter operator) must:

- 3.1. Not use e-scooters for the primary purpose of advertising or marketing.
- 3.2. Not allow number of e-scooters in operation or parked within the boundaries of the Permit to exceed the maximum permitted by Council.
- 3.3. That the Permit Holder's e-scooters fleet can only be used within the approved area as outlined in the Minister's approved Gazetted area. E-scooters are prohibited to be outside of the times of 6am to 9pm (6am to 6pm in non-daylight saving periods), outside of the Minister's approved area or in any other area nominated by Council. Permit Holders must be able to effectively geofence the approved areas to ensure that e-scooters can only be used in the approved areas outlined in this Permit. The permit holder must also be able to suspend or relocate a geofenced area for events/leisure activities or emergencies as required as directed by Council or SAPOL.
- 3.4. Equip all e-scooters with a GPS tracker to enable all e-scooters to be located by the Permit Holder at all times, to ensure and monitor balanced and appropriate distribution of e-scooters and enable the identification of e-scooter users in the event of an accident, incident or inappropriate use.
- 3.5. Provide Council with real-time information on the entire fleet through a documented application program interface (API). The data to be published to Council's API should include the following information in real-time for every parked device: identification number, GPS coordinate, availability start date, available start time, power level, date of last service, time to next service, service status.
- 3.6. Provide information to enable data to be used by Ride Report, an open data standard for shared mobility so that real-time data feeds are available online in a uniform format so that map and transportation-based apps can easily incorporate this data into their platforms. Council reserves the right to display information about the operators on its website and may release this data to the Department of Planning, Transport and Infrastructure or its agents and representatives.
- 3.7. Provide Council and its representatives with the authority and ability to easily move or relocate e-scooters that are deemed to be in inappropriate locations without the need to contact the Permit Holder.
- 3.8. Monitor the location of all e-scooters at all times to avoid nuisance, clutter or congestion caused by its e-scooters, including the ability for the Permit Holder to identify if an e-scooter has been fallen over.
- 3.9. Only allow their e-scooter fleet to operate within approved areas and as outlined in the Minister's approved Gazetted area.
- 3.10. Ensure that e-scooters cannot be operated within any exclusion area, including temporary event exclusion areas, as directed by Council.
- 3.11. Speed restrict e-scooters to a maximum speed of 15km/h and 8km/h in 'go slow' zones, including on downhill descent, unless otherwise specified in each specific region of this Permit and ensure compliance with all relevant legislation and road traffic requirements.
- 3.12. Ensure that all e-scooters are legal and safe to operate under Australian laws and regulations.

4. Notification, response timeframe and compliance requirements

The Permit Holder (shared e-scooter operator) must:

- 4.1. Notify and provide reports on any known incidents and injuries resulting in hospitalisation or paramedic attendance of a user or third party within 24 hours of the incident time.
- 4.2. Respond to and resolve issues within the following response time:

ISSUE	EXAMPLES (without limitations)	RESPONSE TIME
Dangerously located	Hanging from a tree On a median strip	Within 30 minutes
Impeding access	Impeding property access or parked across pedestrian kerb ramp	Within 1 hour
Fallen over e-scooter	Not parked in a standing position	Within 3 hours
Inappropriate density	Cluster and breaching density limits	Within 4 hours
Damaged, faulty or abandoned	Missing Wheels	Within 6 hours
Inappropriately located	Parked outside of the designated parking areas	Within 6 hours
Unused	Unused for more than 3 days	Within 24 hours

Penalties for breaches and offences may be issued by the relevant authority.

- 4.3. Ensure e-scooters remain in a safe and presentable condition so as not to detract from the amenity of the area in which they are parked.
- 4.4. Adhere to the directions of Council or any of its representatives and relocate any e-scooters that are not suitably parked or may create a nuisance.
- 4.5. Notify Council within 2 business days of any media activity or requests associated with the operation of this Permit.

5. Safe e-scooter parking

The Permit Holder (shared e-scooter operator) must:

- 5.1. Not cause disruption or nuisance. The Permit Holder must ensure that their e-scooters do not compromise or have a negative impact on other street users, including people with a disability. E-scooters must not be parked or allowed to remain on or in inappropriate locations such are:
 - 5.1.1. Within the pedestrian zone of a footpath or pathway;
 - 5.1.2. Where an e-scooter poses a safety hazard;
 - 5.1.3. Where they could interfere with pedestrian access generally or access to amenities;
- 5.2. Educate users of preferred or restricted parking zones as listed below and as otherwise advised by Council at its sole discretion:
- 5.3. Ensure that when e-scooters are parked near public bike racks, the designated racks should be left available for parking bicycles.
- 5.4. As determined that e-scooters shall be parked in designated parking areas defined by 'earth wraps' or similar along the shared path and as indicated in the plans provided in Appendix A. This will ensure safe and consistent access to footpaths for all users.

- 5.5. Ensure that in other areas, e-scooters should be parked in the designated parking areas. This will ensure safe and consistent access to footpaths for all users.
- 5.6. Ensure that e-scooters are parked in an upright position and not leaning or resting on other street furniture, buildings or infrastructure.
- 5.7. Have methods to implement and enforce designated parking and exclusions zones. All designated parking and exclusions zones set by Council must be displayed and detailed on the Permit Holder's application and service maps. Council may determine the location of parking and exclusion zones at any time within the Permit Term.

6. Deployment and density requirements

The Permit Holder (shared e-scooter operator) must:

- 6.1. Not exceed the maximum number of e-scooter specified in this Permit.
- 6.2. Deploy the fleet in a manner consistent with the safe e-scooter parking clause.
- 6.3. Monitor the location of all e-scooters daily to avoid clutter or clustering of e-scooters in any one location and adhere to the fleet size and density limits set by Council.
- 6.4. Collect or redistribute e-scooters when maximum scooter densities are reached within 4 hours of hitting the maximum density, unless otherwise agreed by the Council.
- 6.5. The maximum density allows e-scooters from other regions to be ridden into a region and remain for a period of time before returning or leaving the region.

The maximum number of e-scooters permitted may be amended at any time at the discretion of Council. If the maximum number of e-scooters is decreased, Council will provide the Permit Holder notification of the decrease no less than 5 business days prior to the amendment being implemented. Council may increase the maximum permitted e-scooter fleet at any time and may specify a timeframe for the increase.

Council, at its discretion, may temporarily increase the maximum number of deployed e-scooters permitted for major events, activities, disruptions or periods to facilitate the transportation of patrons and users within a specific region. Permit Holders will be notified of any temporary increase a minimum of 5 business days prior to the increase being implemented.

7. Reporting and data sharing

The Permit Holder (shared e-scooter operator) must:

- 7.1. Provide Council access to live API access points for trips and vehicle status (including all required fields) in the Mobility Data Specification (MDS) Provider API format (if applicable).
- 7.2. Provide access to MDS Provider API to third party organisations as directed by Council (if applicable).
- 7.3. Provide a monthly report on the statistics on their operations. The report is to be provided outlining the data collected and analysed for each calendar month. The report must be provided electronically by the 15th day of the next subsequent month. Each monthly report must include, but is not limited to:
 - 7.3.1. An overview of data provided in the MDS Provider API (if applicable).
 - 7.3.2. If the E-scooter boundary is expanded across multiple Council boundaries, a overview of data provided in the MDS Provider API for each specific region.

- 7.3.3. Details and breakdown on e-scooter use and management during major events.
- 7.3.4. The number of customer feedback queries received and categorised. The report shall include the number and type of complaints reported by users, non-users, Councils, Government Agencies or any other sources. The report should include the average time taken to resolve complaints and by type.
- 7.3.5. The statistics on known incidents, collisions, near misses and injuries including information about the date, time, contributing factors and severity. Data is to be consistent with the metric system used in Australia. Reports to include: total number of reported and/or observed crashes and collisions, total number of reported injuries categorised by property damage only, minor injury, serious injury and fatality, total number of third-party injuries (i.e. pedestrian collisions) categorised by property damage only, minor injury, serious injury and fatality, and a summary of the change to policy, requirements or procedures as a result of the above safety incidents. The report shall also include the number of categorised incidents for the month, calendar year and total since the commencement of the Permit.
- 7.3.6. An overview of the average life of scooters and percentage/count lost to vandalism vs. normal depreciation.
- 7.3.7. Carbon emission reporting including the estimated total kWh consumed to charge the e-scooter fleet for the period and the number of kilometres travelled by the Permit Holder vehicles and whether those vehicles were internal-combustion vs. electric
- 7.3.8. Any data available that is relevant to ride quality and braking coefficients if requested.
- 7.4. To undertake a customer satisfaction user survey within 3 months of the commencement date and to share those survey results with the Western Council Alliance Team. Additional user surveys may be requested by Council through the Permit Term. Each proponent will need to demonstrate how they will undertake this requirement as part of their submission.
- 7.5. Provide access to any user surveys and responses undertaken, or surveys that the Permit Holder is a participant to. This data must be in an anonymised format, including removal of email addresses or unique user identifiers.
- 7.6. Provide anonymised data collected to Council to assist with ongoing network planning and facility improvements. Data spreadsheet (in excel and/or other agreed format) containing information on all trips undertaken in the reporting month including, but not limited to:

	Format	Description
Company Name	[company name]	n/a
Type of bicycle or e-scooter	"Standard" or "Electric"	n/a
Trip record number	Xxx00001, xxx00002, xxx00003, ...	3-letter company acronym+ consecutive trip #
User Demographic data (aggregated format only)		For example, country of origin, gender and age (if collected).
Trip duration	MM:SS	n/a
Trip distance	KM	n/a

Trip waypoints to track the route (at least every minute)	An XML file format to be agreed	n/a
Start date	MM, DD, YYYY	n/a
Start time	HH:MM:SS (00:00:00 – 23:59:59)	n/a
End date	MM, DD, YYYY	n/a
End time	HH:MM:SS (00:00:00 – 23:59:59)	n/a
Start location	GPS location	n/a
End location	GPS location	n/a

8. Exclusions areas

The Permit Holder (e-scooter share operator) must:

- 8.1. Geofence areas to ensure that e-scooters can only be used in the approved areas outlined in this Permit and its appendices. Permit holders must adhere to any initial or subsequent directs for short term and permanent geofencing made by Council.
- 8.2. Prohibit e-scooters from being ridden or parked in any area nominated by Council, including temporary geofenced exclusion areas for special events.

9. Designated parking

The Permit Holder (e-scooter share operator) must:

- 9.1. Ensure e-scooters are in designated parking areas if and as directed by Council. The format and layout of these parking areas will be determined by Council in consultation with the Permit Holder.

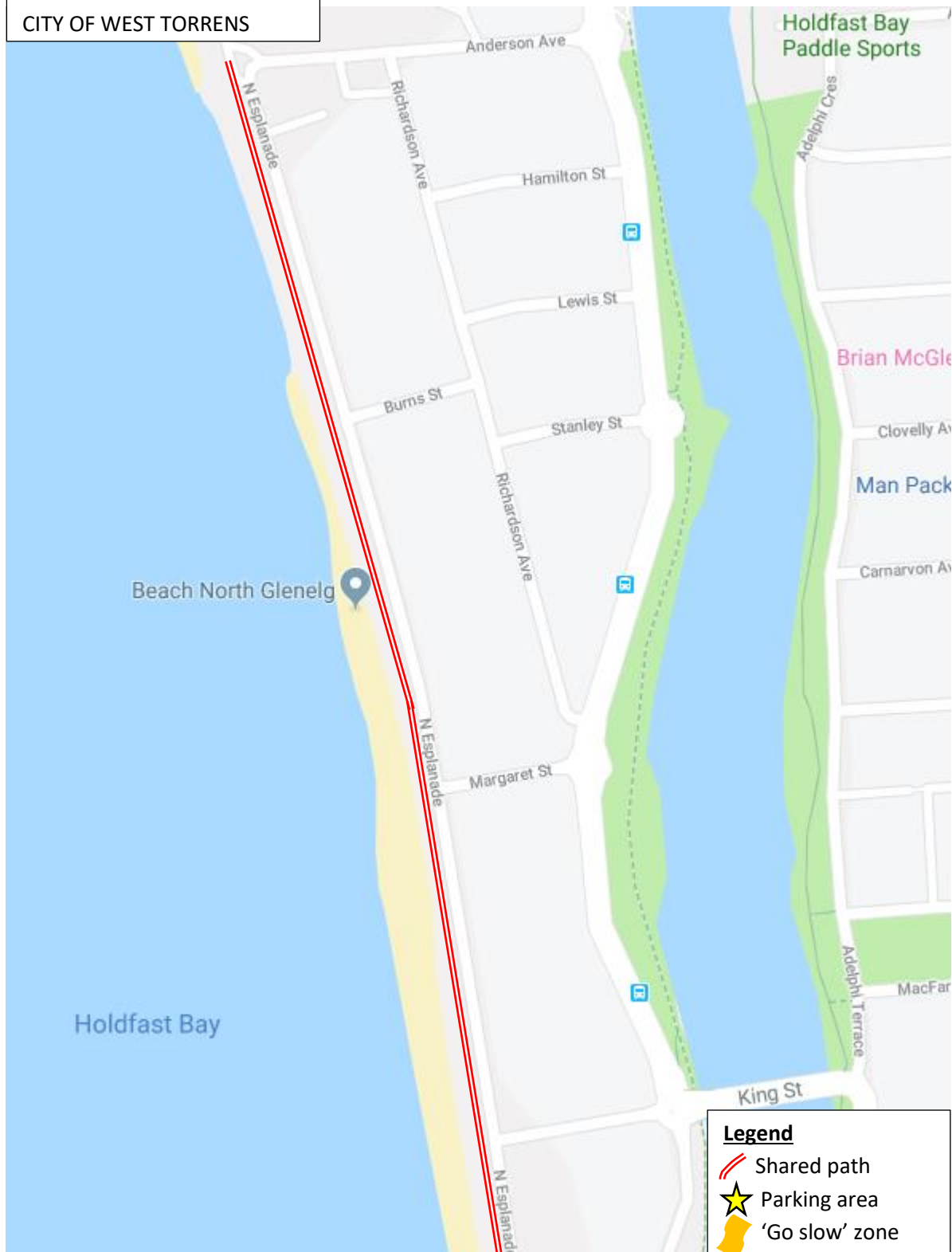
Permit Holder Fees

That a Permit Fee of **\$1,000 AUD per proponent/Council for the 6 month trial (GST exempt)** is applicable for the Permit. This Permit Fee is invoiced prior to the commencement of the Permit and charged monthly in advance. If a Permit is revoked for any reason, relevant fees charged in advance will be reimbursed. Council from time to time may amend, alter, revoke or change the fee structure, including fees applicable to this Permit. The Permit Holder will be notified in writing if there are any changes to the fees for this permit.

Attachment 3



COUNCIL BOUNDARY WITH
CITY OF WEST TORRENS

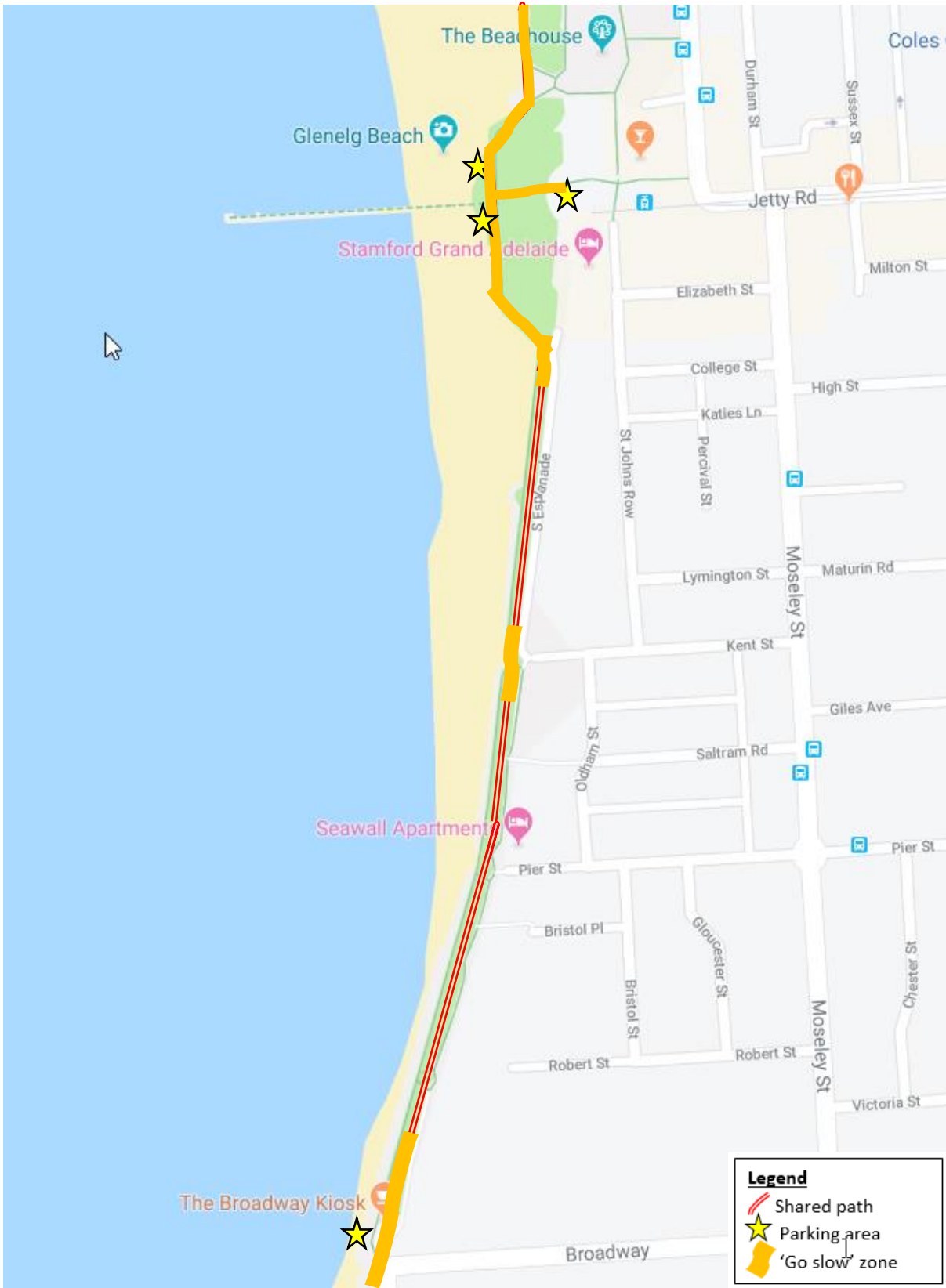


Note: permitted area restricted to 1.0 metre either side of shared path

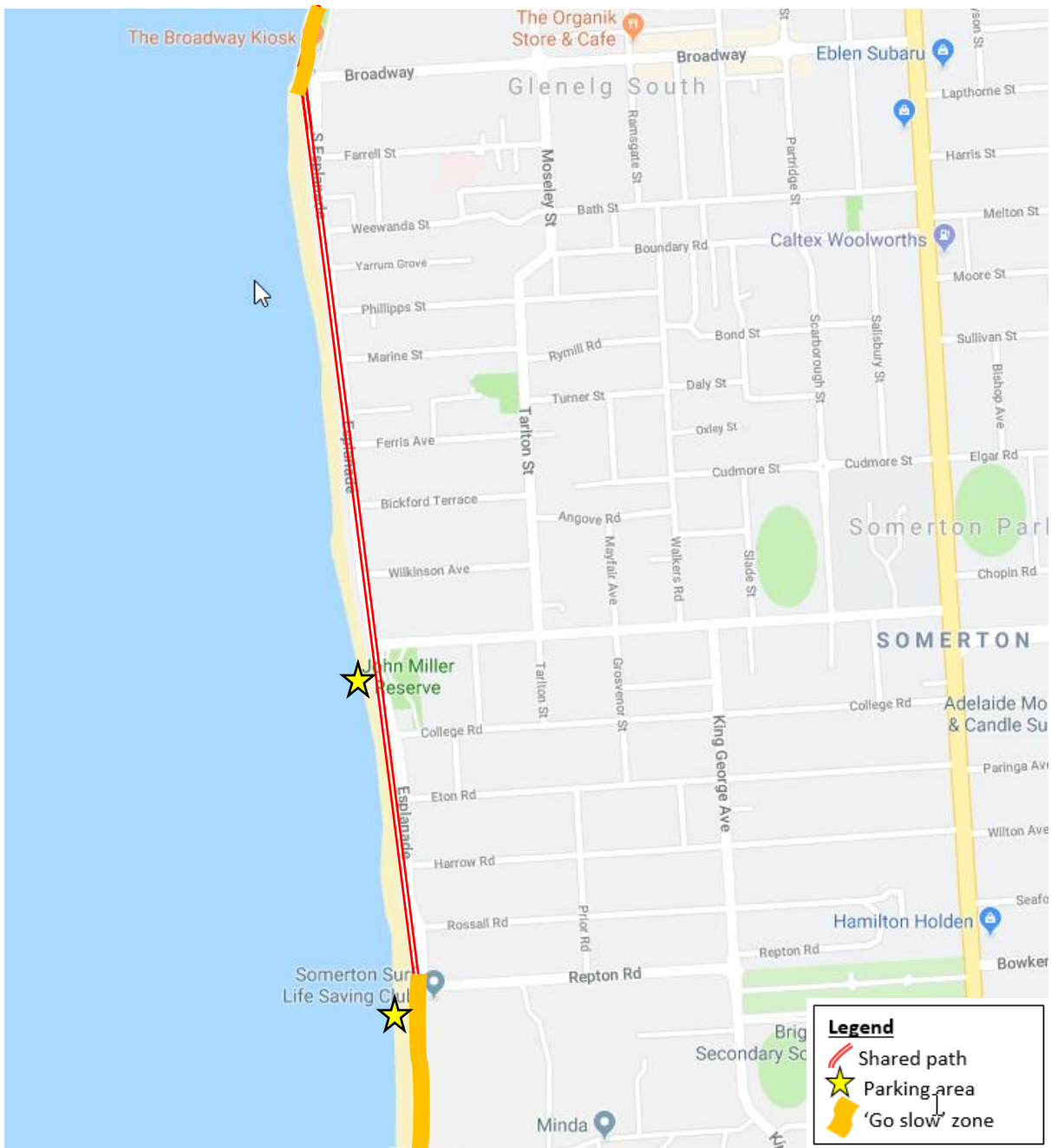
MAP 2



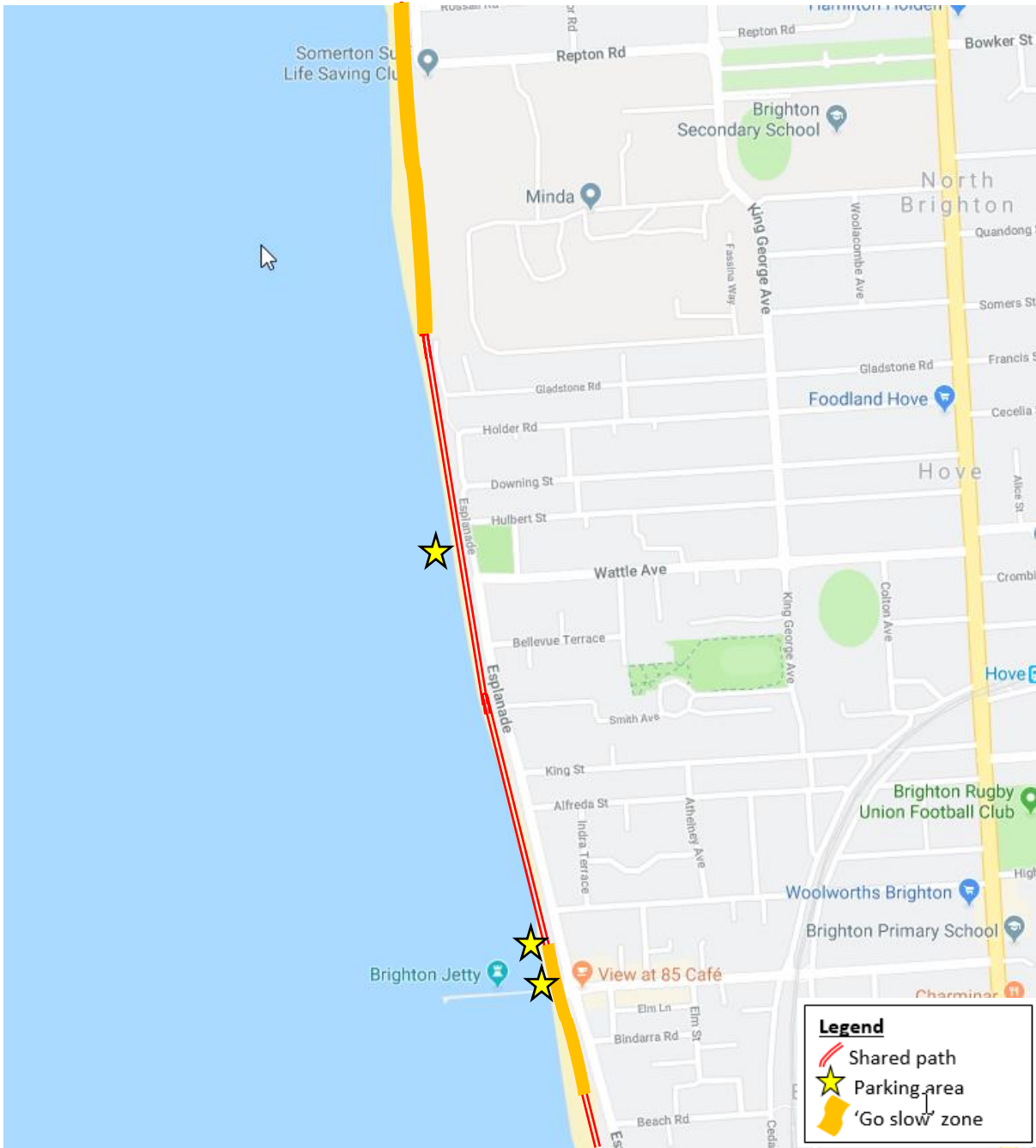
MAP 3



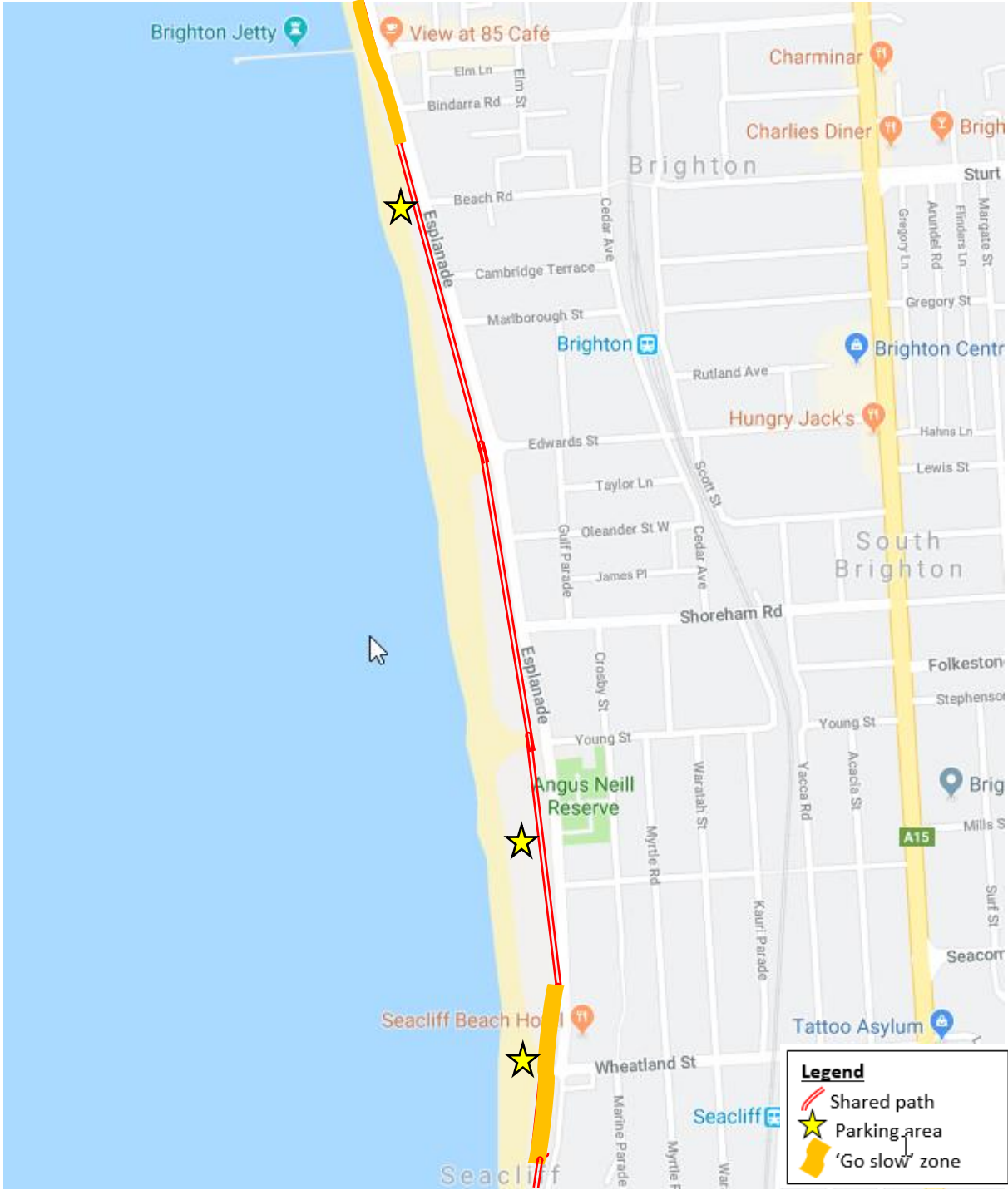
MAP 4



MAP 5



MAP 6



MAP 7



Attachment 4



SAFE WORK METHOD STATEMENT (SWMS)

Company:	Western Councils Alliance	ABN:	
Contact Person:	Chris Dunn	Phone:	0400 290 233
Area / Locations:	Coast Park (and some footpaths) from Outer Harbor to Seacliff		
Task Description:	Review of potential risks and hazards associated with 6 month trial of e-scooters along the Coast Park form Outer Harbor to Seacliff		
Author:	The Western Alliance team		

Definition of Likelihood	
Rare	Event may only occur in exceptional circumstances. Event is unlikely to occur within the next 5 years.
Unlikely	Event is unlikely to occur. The event has less than 25% chance of occurring. Event may occur within the next 5 years.
Possible	Event could occur at some time. The event has a 25-49% chance of occurring. Event will occur within the next 30 months.
Likely	Event will probably occur once per year. The event has a 50-74% chance of occurring. Event will occur within the next 18 months.
Almost certain	Event is expected to occur more than once per year. The event has more than 75% chance of occurring. Event will occur within the next 6 months.

Consequence Level	Risk Legend	Risk Matrix					
1 - Critical	E – Extreme		R	U	P	L	A
2 - Major	H – High	1	H	H	H	E	E
3 - Medium	M – Moderate	2	M	M	H	H	E
4 - Minor	L – Low	3	L	M	M	H	H
5 - Insignificant		4	L	L	M	M	H
		5	L	L	L	M	M

SAFE WORK METHOD STATEMENT (SWMS)

	CRITICAL STEPS IN TRIALS List the steps relevant to the trial which will be carried out	POTENTIAL HAZARDS Adjacent to each step list the potential hazards that could cause harm.	Likelihood	Consequence	Risk without controls	RISK CONTROL MEASURES For each identified risk, list the control measures required to eliminate or minimise the risk of harm.	Likelihood	Consequence	Residual Risk	Risk Owner Ultimate responsibility and acceptance for ensuring that the control measures are in place.
1	Device and control management									
	Geofencing/ Geographic limitations	Devices going outside gazetted trial boundary. Being used contrary to gazettal	L	3	H	<ul style="list-style-type: none"> Geofencing to be in place /regular monitoring by proponents – witnessed use of geofencing during demonstrations 	R	3	L	Western Alliance Councils /Proponents
	Mass limits (device)	Risk of devices being deployed that exceed legislative parameters	U	5	L	<ul style="list-style-type: none"> Reviewed at demo – will inspect prior to deployment, will be speed limited and regular ad-hoc inspections will be undertaken by relevant staff and the proponents 	R	5	L	Western Alliance Councils /Proponents
	Hardware/software updates over the course of the trial	New unverified technologies yet to be proven	U	5	L	<ul style="list-style-type: none"> The two (2) proponents have agreed to data sharing for the project. The current technologies have been trialled, tested and refined in other trials throughout Australia and around the world 	R	5	L	Western Alliance Councils /Proponents
	Fleet balancing/ Density management	Too many devices deployed in one area	L	4	M	<ul style="list-style-type: none"> These will be carefully monitored by both proponents and designated parking areas will be created and scooters deployed by staff to each parking area based on demand. This will be regularly updated and reviewed as it is in the best interest of the proponents that there are adequate scooters at each parking location and vice versa to ensure maximum potential of 'rides'. 	U	4	L	Western Alliance Councils /Proponents
	Helmet management	Helmets not available for device use causing non-compliance with gazette notice	P	3	M	<ul style="list-style-type: none"> A helmet lock is being considered by both proponents which does not allow disengagement of the device without the helmet being attached and discounts will be offered for 'selfies' with the helmet on at the end/beginning of a ride. 	R	3	L	Western Alliance Councils /Proponents
	Broken or defective devices management		P	2	H	<ul style="list-style-type: none"> There are strict KPI's that the two (2) proponents will need to meet and report to as part of their permit conditions in regards to 	R	2	M	Western Alliance Councils /Proponents

SAFE WORK METHOD STATEMENT (SWMS)

						repair to broken or defective devices. These will be monitored continuously and reported back to Council who will then on-share with DPTI.				
2 Public Amenity										
	Management of congestion areas (e.g. high pedestrian use areas)	Footpath infrastructure not wide enough to support device, other mobility aids and pedestrian use due to high traffic (e.g. shopping strip)	L	2	H	<ul style="list-style-type: none">In areas of high pedestrian use scooters will be speed restricted to 8km/h (controlled by geofencing). Decals on the path will signify this. Decals will also be in place along the trail so that pedestrians and other users are aware that scooters may be present. At times of events scooters will be restricted altogether and may be removed out of the event area – this can be undertaken quickly as demonstrated in the demos that were undertaken.	U	2	M	Western Alliance Councils /Proponents
	Nuisance/littering of helmets and or devices	Helmets separating from devices and causing litter Devices left on road or thoroughfare causing issue to other traffic (vehicles) Causing a tripping hazard to pedestrians	P	4	M	<ul style="list-style-type: none">A helmet lock is being considered by both proponents which does not allow disengagement of the device without the helmet being attached and discounts will be offered for 'selfies' with the helmet on at the end/beginning of a ride.There will be regular 'assessments' by the proponents staff to ensure that helmets/scooters are picked up	U	4	L	Western Alliance Councils /Proponents
	Environmental damage – e.g. waterway littering	Devices abandoned in waterways – potentially degrading and leeching material from battery	P	2	H	<ul style="list-style-type: none">An alarm will be sounded to the proponent for any scooters that venture outside the geofenced area and scooters will not operate outside the geofenced area.	U	2	M	Western Alliance Councils /Proponents
3 Preferred Parking/Docking										
	Device parking management		L	4	M	<ul style="list-style-type: none">Users will only be able to disengage in designed parking areas; these will be designated by 'decals'.	U	4	L	Western Alliance Councils /Proponents
	No go zones		L	3	H	<ul style="list-style-type: none">The trail will be geofenced such that users will not be able to proceed outside of the geofenced area and an alarm will sound to the proponents	U	3	M	Western Alliance Councils /Proponents

SAFE WORK METHOD STATEMENT (SWMS)

						who will immediately be notified that the scooter is outside the approved area. The trail will be designed with decals as indicated in Attachment 3 of this submission				
	Slow zones		L	3	H	<ul style="list-style-type: none">Users will be speed restricted to 8km/h in areas of high pedestrian activity	U	3	M	Western Alliance Councils /Proponents
4	Risks to other road users									
	Interactions with pedestrians		L	3	H	<ul style="list-style-type: none">Bells are provided and advice on how to use safely is provided within the 'app'. In areas of high pedestrian activity, the scooters will be speed restricted to 8km/hr and 15 km/hr generally. Signs will be provided along the path at regular intervals to inform users of the trial	P	3	M	Western Alliance Councils /Proponents
	Interactions with vulnerable road users (elderly/disabled)		L	2	H	<ul style="list-style-type: none">Bells are provided and advice on how to use safely is provided within the 'app'. In areas of high pedestrian activity, the scooters will be speed restricted to 8km/hr and 15 km/hr generally. Signs will be provided along the path at regular intervals to inform users of the trial	U	2	M	Western Alliance Councils /Proponents
	Interactions with cyclists		L	3	H	<ul style="list-style-type: none">Bells are provided and advice on how to use safely is provided within the 'app'. In areas of high pedestrian activity, the scooters will be speed restricted to 8km/hr and 15 km/hr generally. Signs will be provided along the path at regular intervals to inform users of the trial	P	3	M	Western Alliance Councils /Proponents
	Collisions with other road users	e.g. pedestrians/vehicles	L	2	H	<ul style="list-style-type: none">A 'crash' detector and anti-tipping alarm is deployed on the scooters which sends an alarm to the proponents if there is suspicion of a crash (which can then send an emergency signal) or the scooters are lying on the ground.	U	2	M	Western Alliance Councils /Proponents
5	Risks to road infrastructure									
	Damage to road infrastructure by use		U	3	M	<ul style="list-style-type: none">There will be limited use on the road. However, Council staff will regular monitor use and any damage to infrastructure that may result	R	3	M	Western Alliance Councils /Proponents

SAFE WORK METHOD STATEMENT (SWMS)

	Collisions with road infrastructure	e.g. fixed points (traffic lights, signs etc)	P	3	M	<ul style="list-style-type: none"> A audit has been undertaken with the two (2) preferred proponents walking along the entire route to identify any issues/concerns/gaps/ in infrastructure that need addressing and the addition of more 'go slow' zones 	U	3	M	Western Alliance Councils /Proponents
6	Pre-trial device testing									
	How organisation plans to undertake pre-trial device testing to show speed restriction; helmet locks etc		L	3	H	<ul style="list-style-type: none"> A demo has been undertaken and the route has been walked/ridden with the Western Alliance Councils and the two (2) preferred proponents 	U	3	M	Western Alliance Councils /Proponents
7	Training to device user/compliance with road rules									
	Maximum speed restriction (15km/hr)		L	3	H	<ul style="list-style-type: none"> Speed restricted to 15km/h by way of geofencing and further restricted in areas of high pedestrian activity 	R	3	L	Western Alliance Councils /Proponents
	Helmet use		P	2	H	<ul style="list-style-type: none"> A helmet lock is being considered by both proponents which does not allow disengagement of the device without the helmet being attached and discounts will be offered for 'selfies' with the helmet on at the end/beginning of a ride. 	U	2	M	Western Alliance Councils /Proponents
	Other road rule infractions	Pillion passengers Cargo Drink/drug driving etc.	P	2	H	<ul style="list-style-type: none"> Time of use is restricted from 6am to 9pm on any day which means that 'drunken' behaviour is less likely. Scooters will be removed overnight from areas of high pedestrian activity. Alarms will notify the relevant proponent when the scooter is overloaded 	U	2	M	Western Alliance Councils /Proponents
8	Complementary management with other device operators									
	Interactions between proposed operators (e.g. periodic helmet swap)		P	4	M	<ul style="list-style-type: none"> There will be many staff from both proponents monitoring use of the scooters and changing batteries over as required. The helmets will be cleaned each time the batteries are swapped over 	U	4	L	Western Alliance Councils /Proponents

SAFE WORK METHOD STATEMENT (SWMS)



	How trialling organisations may manage permits should there be disagreement between 3 rd party operators		P	3	M	<ul style="list-style-type: none"> Work collaboratively and monthly meetings with the two preferred proponents and the Western Alliance Team. Terms of reference with each proponent have been discussed on the 'walk/drive' tour with the two (2) preferred proponents. 	R	3	L	Western Alliance Councils /Proponents
9	Traffic management plan (TMP)									
	Event planning		P	2	H	<ul style="list-style-type: none"> At times of events scooters will be restricted altogether and may be removed out of the event area – this can be undertaken quickly using 'geofencing' as demonstrated in the demos that were undertaken. 	U	2	M	Western Alliance Councils /Proponents
	Complex intersections	e.g. Scramble crossings	P	2	H	<ul style="list-style-type: none"> Decals will be installed identifying preferred route Any complicated intersections/concerns discussed and addressed on route assessment by the installation of decals to identify the trail/corridor and/or introducing more 'go slow' zones. Further information will be provided to users on the 'app' provided by each provider 	U	2	M	Western Alliance Councils /Proponents
10	Additional Information									
	Management and reporting of incidents	Including near misses	P	2	H	<ul style="list-style-type: none"> through proponent 'app' and engagement with SAPOL on reported incidents and regularly intervening as required 	U	2	M	Western Alliance Councils /Proponents

SAFE WORK METHOD STATEMENT (SWMS)

Key Contact Officers for SWMS

Notices required: The following persons are authorised representatives of each nominated agency. Notices required by the SWMS are considered to be provided if provided to the officers below and * indicates primary officers that may provide agreement of that agency.

	Officer	Title / Position	Phone	Email
<i>Applicant Name</i>	Chris Dunn	Manager, Construction, Design and Transport (PAE)	0400 290 233	chris.dunn@cityofpae.sa.gov.au
	Damian Landrigan	Technical Officer – Traffic & Transport (City of HB)	8229 9943	dlandrigan@holdfast.sa.gov.au
DPTI	TBC			

Acknowledgements / Authorisations

	Name	Signature	Date	Acknowledgements / Authorisations: By signing this part, the person certifies that they have reviewed this SWMS to the best of their ability and they are satisfied that there are no significant deficiencies / errors.
	Chris Dunn		19/12/2019	

Record of Reviews - SWMS

If any risks change or are amended during the trial period, the SWMS also requires updating. In this case, the amended SWMS shall go through the entire review & certification process again.

Reviewed by: (Name)	On (Date)	Title / Position	Signature

Item No: **15.3**

Subject: **JETTY ROAD BRIGHTON BANNERS**

Date: 10 March 2020

Written By: General Manager, Community Services

General Manager: Community Services, Ms M Lock

SUMMARY

Administration were approached in October 2018 to investigate outdoor signage for Jetty Road Brighton following formal Trader meetings undertaken with Administration. Since then Administration has conducted an analysis and review of installation of a banner on Jetty and Brighton Roads, Brighton. With all optimal locations exhausted this report reflects the locations reviewed and the recommendation for the next steps of the project.

RECOMMENDATION

That Council endorse no further work be undertaken on the Jetty Road Brighton Banner project.

COMMUNITY PLAN

Community: Providing welcoming and accessible facilities
Economy: Supporting and growing local business
Economy: Making it easier to do business
Economy: Boosting our visitor economy

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Not Applicable.

BACKGROUND

Administration were approached in October 2018 to investigate outdoor signage for Jetty Road Brighton following formal Trader meetings undertaken with Administration. Since then Administration have conducted an analysis and review of installation of a banner on Jetty and Brighton Roads, Brighton. A location was determined based on the engineering scan reports for

installation of the banner to be installed across the road (verge to verge) in front of residential dwellings. Community engagement was undertaken notifying residents of the project and the proposed location of the banner. Upon receiving resident feedback, Administration re-evaluated the proposed location and considered alternate locations along Jetty and Brighton roads closer to businesses.

REPORT

As a result of resident engagement, it was recommended that the current location proposed and the design of the street banner be amended to accommodate the concerns of the residents. A series of valid points raised during the discussion were carefully considered by Administration. These include:

- amenity of the area;
- visual impact of the street as an avenue of trees with the Remembrance Arch framing the vista at the end of the road; and
- location and whether it would provide the desired effect of signalling an entrance into a precinct.

Further consideration was afforded for the existing eight poles installed within the shopping / café precinct on Jetty Rd Brighton, which have doubled sided banners, totalling 16 banners. Administration thereafter assessed alternative locations on Jetty and Brighton Roads, Brighton plus updated designs to achieve a desired outcome for both residents and businesses alike.

An alternative location was determined on Brighton Road however due to the complexity of underground utilities infrastructure and the number of existing outdoor signs already installed in and around the intersection it was no longer considered a viable option. In addition Administration sought SA Water approval confirming this location would not be viable due to underground infrastructure, and the depth of the footings that would be required to meet wind rating requirements.

Importantly all optimal/effective banner locations have been exhausted with minimal costs incurred against the allocated budget. Therefore Administration recommend to conclude this project.

BUDGET

\$3,520 expenditure to date from an allocated budget of \$25,000.

LIFE CYCLE COSTS

Not applicable

Item No: **15.4**

Subject: **BRIGHTON RUGBY UNION FOOTBALL CLUB LEASE AGREEMENT**

Date: 10 March 2020

Written By: Team Leader Commercial and Leasing

General Manager: City Assets and Services, Mr H Lacy

SUMMARY

Following the 2017 expiration of the lease agreement held between the City of Holdfast Bay and the Brighton Rugby Union Football Club (*Club*), the long-term tenant continued to occupy and use their former building and playing fields in Hold Over mode.

As part of the current Brighton Oval precinct redevelopment, the Club's former clubroom has been demolished to allow for the construction of new substantially larger and more complex facility. The land occupied has also increased by approximately 700m² to allow for a warm up area to the north of the existing playing field.

To reflect the new build and to apply the provision set out in the Sporting & Community Club Leasing Policy (approved by Council on 24 April 2018), it is recommended that Council enters into a new lease agreement with the Brighton Rugby Union Football Club for their non-exclusive use of a portion of Brighton Oval, in time for the Rugby season opening game scheduled for 04 April 2020.

Full details of the proposal are outlined within this report.

RECOMMENDATION

That Council:

- 1. enters into a new Lease Agreement with the Brighton Rugby Union Football Club Incorporated over a portion of land at Brighton Oval for a period of five years commencing from the date of occupation, with an Option to Renew for a subsequent five years;**
 - 2. charges the Lessee an annual rent in the first year of \$4,790 (plus GST) with annual incremental increases in subsequent years as outlined in table 1 of the report; and**
 - 3. endorse the Mayor and Chief Executive Officer to be authorised to execute and seal any documents required to give effect to this lease.**
-

COMMUNITY PLAN

Placemaking: Creating lively and safe places

Community: Providing welcoming and accessible facilities

Community: Fostering an engaged and contributing community

COUNCIL POLICY

Sporting and Community Leasing Policy: 24 April 2018 - Motion No.: C240418/1124

STATUTORY PROVISIONS

Local Government Act 1999.

Retail and Commercial Leases Act 1995.

BACKGROUND***Previous Reports, Applications and Decisions***

- Council Report No.: 438/12; Item No.: 14.9, Brighton Rugby Union Club – Lease, 13 November 2012 (Resolution No.: C131112/722).
- Council Report No.: 135/18; Item No.: 14.6, New Lease Brighton Rugby Union Club – Lease, 24 April 2018 (Resolution No.: C240418//1132).
- Council Report No.: 460/19; Item No.: 15.6, Brighton Oval Lease Agreements, 10 December 2019 (Motion No.: C101219/1702).

Following the expiration of the lease agreement held between the City of Holdfast Bay and the Brighton Rugby Union Football Club (Club) on 30 June 2017, Council endorsed in April 2018 a new lease agreement for use by the Club of a portion of Brighton Oval (Motion C240418/11/32 Report 135/18).

The new lease document was drafted to reflect Council's updated Sporting and Community Leasing Policy (approved by Council on 24 April 2018). The lease provided for non-exclusive use of a portion of the Brighton Oval together with exclusive use of the old clubroom buildings occupied at the time.

The terms included:

- period of five years commencing 01 July 2018;
- option to renew for a subsequent five years; and
- annual rent (inclusive of building rent and grounds maintenance contribution) commencing at \$4,000 (plus GST) and subject to annual CPI increases.

However this agreement was never fully executed and the tenant has remained in holdover, continuing to incur a rental cost of \$3,197 (exc GST) per year.

The Club did not pay any grounds maintenance charges under previous leases.

In the meantime, the ***Sporting and Community Leasing Policy*** was endorsed by Council on 24 April 2018 to ensure a balance between commerciality, community benefits and the long term viability of sporting clubs and to provide consistency and transparency in the treatment of leases.

Refer Attachment 1

Redevelopment of the Brighton Oval precinct

As part of the current Brighton Oval precinct redevelopment, the Club's former clubroom has been demolished to allow for the construction of new substantially larger and more complex facility, with double storey, additional uni-sex changerooms and more extensive clubrooms, kitchen, plant and equipment.

A new agreement is now required before the Club enters the new premises which covers exclusive use of the building and non-exclusive use of the playing fields which form a portion of Brighton Oval.

REPORT

The new lease agreement (presented in Attachment 2) has been prepared under the Retail and Commercial Leases Act 1995 and is based on the provisions of Council's Sporting and Community Leasing Policy (24 April 2018).

The Agreement comprises:

- Lease terms and conditions;
- Schedule 1;
- Schedule 2 – Maintenance Schedule;
- Schedule 3 – Plan of Premises;
- Schedule 4 – Plan of Rugby Field; and
- Rules and Regulations.

Administration has been working with all three (3) sporting clubs (including the Rugby Club) to review and negotiate various conditions and terms of the lease, maintenance schedules and applicable rental and ground maintenance. The Clubs elected to negotiate as a block rather than individually.

A copy of the draft Lease Agreement is presented in Attachment 2, with a copy of Council's Disclosure Statement presented in Attachment 3.

Refer Attachments 2 and 3

The draft lease agreement represents the current status of negotiations, but not all matters have been agreed and the Clubs still have concerns (which will be discussed later) about the cost impact of the proposed leases, some legal obligations being applied via the lease and also some maintenance requirements.

Whilst these concerns are noted and acknowledged, Administration believes that the draft lease being presented to Council reasonably reflects the terms and responsibilities for clubs outlined in Council's Sporting and Community Leasing Policy (24 April 2018), is consistent compared to other recent agreements, reasonable in terms of the broader community's commitment to support clubs and is sustainable into the future within the club's capabilities for membership growth and fund raising.

Basis of Rental

Under the 2018 Sporting and Community Leasing Policy, clubs are required to pay a market rent for Council owned premises they occupy based on a fixed percentage of the capital cost of the building less any equity (capital contribution) that the club has invested in the building.

This "market rent" is then discounted by a standard 70% Community Club Leasing rebate to determine the "net rental". This net rental figure is then subject to further incentive discounts (up to a maximum of 70%) as outlined in the policy which reflect the club's commitment/adoption of activities and programs with specific community outcomes – being:

- Clubrooms available/hired for public access (maximum 10% discount);
- Implementation of Inclusive sports programs (maximum 10% discount);
- Quality and implementation of good club governance practices (max 20% discount);
- Implementation of youth programs (maximum 10% discount); and
- Grounds/clubrooms used for multi-code programs (maximum 10% discount).

As such, the Club was offered the standard 70% community club discount plus an additional 55% incentive discount (out of a total further discount of 70%).

In addition to rental charges for the building, Council's policy requires that Clubs share the maintenance costs for both the buildings and grounds.

Responsibilities for building maintenance are established through a site specific maintenance schedule (in this case similar for each of the three club leases) which sets out the respective responsibilities for operational costs, repairs, maintenance (whether routine servicing or breakdown maintenance) and end-of-life replacement. Administration and the Club have negotiated over these responsibilities and the draft maintenance schedule reflects Administration's view of what we consider are fair and equitable. However there are items in the maintenance schedule which the Rugby Club (and by default the other 2 Clubs) do not support. These will be discussed later in the report.

A grounds maintenance charge is being introduced in this lease to ensure the clubs pay a proportion of the additional grounds maintenance costs to maintain the grounds from community

park level to sports ground level. These additional costs include extra top dressing; fertiliser, weed controls and soil conditioners; additional verti-draining programs; and additional watering and higher costs for bore and irrigation repairs to ensure turf is safe for sport and can survive the high usage of sports fields.

Administration and the Clubs have negotiated the ground maintenance charge which initially was proposed at \$0.45/m² of leased area but after negotiation has been set at \$0.30/m² of leased area.

The Rugby Club lease agreement has therefore been drafted based on these principles.

Expanded Lease Area

Under the proposed new Rugby lease, the Club will occupy a new clubroom located on the western side of the Brighton Oval on an exclusive basis together with non-exclusive access to the adjacent playing field. As part of the Brighton Oval redevelopment, the Rugby Club will also lease on a non-exclusive basis, an additional 700m² to allow for a warm up area to the north of the Club's playing field.

The leased area is marked on drawings presented in Attachment 2 (included in the draft lease Schedule 4 - page 54 for the Rugby Field leased area and Schedule 3 page 53 for the clubroom leased area).

Refer Attachment 2

Rental and Ground Maintenance Fee

Building rental:

After allowing for equity contribution of \$77,071, the rental calculation after Community Lease discount of 70% and incentive discounts of 55% (out of a total of 70%) has resulted in rebated commencing rent of \$7,452 (excl GST) per annum for the occupancy of the building.

Ground Maintenance fee:

The portion of leased area utilised by the club includes a grassed playing surface and warm up areas is determined at 12,375m² in size.

Applying the grounds maintenance fee at \$0.30/m² of leased grass area the grounds maintenance fee has been set at \$3,713 (excl GST). This amount is charged to the club in addition to rent over the term of the lease.

Total Rent

Combining property rental and grounds maintenance fees gives a total commencing annual rent charge to the club of \$11,164 (excl GST).

Rent charges incremental implementation

Considering that the rental in hold over mode was \$3,197 per annum with no contribution towards grounds maintenance, Administration is proposing that the increase in costs incurred by the Club be phased in over 5 years as proposed below:

Rugby Club	Rental incremental implementation				
cost breakdown:	year 1	year2	year 3	year 4	year 5
Building rental component	\$ 3,197	\$ 4,261	\$ 5,325	\$ 6,388	\$ 7,452
Ground maintenance charge	\$ 1,593	\$ 2,123	\$ 2,653	\$ 3,183	\$ 3,713
Total costs	\$ 4,790	\$ 6,384	\$ 7,977	\$ 9,571	\$ 11,164

Table 1: Incremental Rental Implementation Schedule

The aim is to enable the Club to adapt financially to the increase rent and other occupancy costs over the duration of the first five year term of the lease.

The rent will then be subject to annual CPI increases commencing from start of year 6 if the extension is enacted.

Terms of Agreement

Pursuant to the provisions outlined in Section 3 of the Policy, the new Lease Agreement will be based on an initial term of five (5) years, with an Option to Renew for a subsequent five (5) year term.

Payment of Outgoings

The Lessee is responsible for the payment of Outgoings applicable to their respective leased area. Outgoings include:

- Council rates (although the club can apply for a rebate);
- Emergency Services Levy and Landscape (old NRM levy) Levy;
- Water & power costs;
- Air Conditioning costs;
- Building insurance; and
- Any other applicable rates, charges and/or taxes incurred by Council related to the leased area.

Refer Attachment 3

Maintenance Fund

Under the lease, the Club is required to fund a range of maintenance activities on the buildings and leased area. These are documented in the Maintenance Schedule (refer Attachment 2 – draft lease Schedule 2 pages 43 to 52).

The Club is required to establish a maintenance fund of \$7,500pa for the premises in a separate bank account to fund the general building and other maintenance responsibilities. These include general maintenance, repair and replacement of fixtures, fittings and chattels in accordance with the Building Maintenance Schedule of the Lease Agreement. This is a not new clause and was included in the Club's previous lease dated 2013.

The Lessee is also responsible for marking out the playing field and absorbing all associated costs.

Administration has negotiated that the maintenance fund need not be set up until Year 2 of the initial lease period. This reflects the fact that the buildings are new, that there are other builder's and manufacturer's warranties applicable during that period.

Special Conditions of Lease

Most conditions of the proposed lease are standard terms and are already contained in the Club's holdover lease, but some are specific or new to all Brighton Oval tenants (refer Attachment 2 - Schedule 1 of the draft lease, from page 43). These include:

- Community programs led by Council - Council may use the premises free of charge for the sole purpose of running community events, up to 4 hours a week per building outside of training and game times;
- Special events - Council may run up to three special or major sporting, community or other events per year across the precinct, providing clubs with minimum 90 days notification; and
- The Club will be allowed to hire the premises and to sub-licence the grounds within the scope of the permitted use, subject to approval from Council.

Refer Attachment 2

Maintenance

All three new buildings are considerably larger than the previous, with double storey and more extensive plant and equipment. With Council having invested considerable funds into the new premises at the Brighton Oval, it will be important to maintain the value and condition of these new assets, including the new plant and equipment contained within each building.

With this in mind, a detailed maintenance schedule (refer Attachment 2 - draft lease Schedule 2 pages 43 to 52) has been drafted as part of the lease and aims to clarify:

- Where responsibility of various aspects of maintenance stands (Council or Tenant);
- The frequency of required maintenance (programs); and

- The cases where Council will organise maintenance, but on charge the tenant. This typically applies when maintenance requires to be guaranteed at a certain level, such as the servicing of lifts.

Refer Attachment 2

As a general rule, Council will be responsible for the structural maintenance and replacement of the building.

As part of the lease negotiations, Administration has retained lift maintenance as a Council responsibility/cost to ensure that lifts are maintained at a high level, that recommended manufacturer's servicing is undertaken and that certificates compliance are forthcoming.

Other Maintenance/Fixtures & Fittings

Administration has retained responsibility for fire systems maintenance including servicing and certification of fire extinguishers, fire blankets, fire hose reels and smoke/fire detection systems. This will ensure that fundamental safety systems installed in the buildings are correctly maintained and certified without the risk that appropriate maintenance/inspections may have been inadvertently overlooked.

Council has further retained responsibility for periodic external painting of the building except where painted surfaces are damaged by the actions of the club and/or its guests.

Maintenance of carparks, paths and landscaping outside the leased areas but adjacent to the clubrooms and grounds are the responsibility of council.

The Club retains all responsibilities for maintenance, upgrade and replacement of the sports lighting and scoreboard.

The Club also retains full responsibility for the solar panels installed on the roof, for kitchen installations/appliances and for any other tenant installed equipment such as cool-rooms, fridges, bar equipment, dishwashers and audio-visual equipment.

Furniture is being supplied by the club and they are responsible for its upkeep and replacement.

Club Costs

If endorsed by Council, the proposed annual rental and grounds maintenance fees for the Rugby Club lease will increment as outlined in Table 1 earlier in the report.

The increase in the Club's rental costs in 2020/21 financial year is estimated at \$1,548 (excl GST).

After 5 years, once full charges are applied, the Club's forecast rental (no CPI adjustments proposed until year 6) result in rent of \$11,164 (excl GST) compared to estimated current rent (CPI adjusted) of \$3,461, a forecast increase of approximately \$7,660 (excl GST).

Club Concerns

During negotiations for the lease agreement and maintenance schedules, the Club's raised a number of issues where the Clubs have not accepted Administration's decision. Generally these relate to:

Time Pressures

The Clubs have raised serious concerns about the time pressures placed on them to negotiate revised leases and maintenance schedules for the new clubrooms.

Cost estimations for each building were sent by email in December 2018 as well as a link to the Policy. It was then outlined that Administration would be working through the leases in parallel with the construction phase. The Rugby Club was provided with a draft lease on 15 November 2019 and negotiation in regards to the draft maintenance schedule occurred on 02 and 03 December with the other two clubs. Due to a range of circumstances, subsequent meetings did not continue until 02 February 2020 giving approximately 1 month to conclude the detailed negotiations. Administration has worked to summarise Club responses in between formal negotiation meetings, marking up a working copy of the lease and maintenance schedule.

Lease Agreement Clauses

The clubs have expressed concerns over a range of clauses which they believe prejudice their position or impose unreasonable costs and/or risks on the Clubs. The clauses are marked as tracked changes in the attached working copy of the lease with Administration's comments also shown (refer Attachment 4).

Refer Attachment 4

Administration has reviewed all of the Clubs' proposed amendments/concerns and has modified the draft lease where agreed.

Where Administration believe the requested change was not in the Council's or the community's best interest the proposed amendment has not been agreed.

Maintenance Schedule

A number of areas of disagreement were raised in the draft maintenance schedule (refer Attachment 4 - Schedule 2 in Clubs marked up copy of lease) however through negotiation, have been largely resolved. The main areas resolved include:

- Responsibility for lift maintenance – with Council
- Air conditioning maintenance – with clubs
- Painting – exterior periodic painting – with Council
- Fire systems maintenance – with Council

Some areas where the clubs disagree with Administration's decisions:

- Responsibility for gutter cleaning – propose with Council
- Security system & master key system – Clubs wish to retain management
- Storage of materials – clubs to be allowed to store materials outside clubrooms

State Government Grant as Club Equity

The Clubs have requested that Council consider granting recognition of the State Government Grant funding provided to the project as Club Equity for the purposes of their rental calculation.

The Brighton Oval Clubroom Redevelopment Project (Stage 1) received \$2.0m in funding from the State Government. The clubs contend that this was largely as a result of their actions and lobby and that therefore the grant, whilst formally paid to the Council, should be regarded as funding that the clubs contributed to the project – and hence should provide a discount off the capital cost of the buildings used in determining Market Rent.

Council may wish to consider this request before determining whether to endorse the proposed draft lease presented by Administration.

Request for Extension of Negotiating Period & Licence to Occupy Clubrooms

In recognition of the time pressures to conclude lease negotiations, the Clubs have collectively requested further time to negotiate the lease documentation, maintenance schedule and annual rental costs.

A consequence of continuing negotiations would be that finalising of the proposed Rugby Club lease (the subject of this report) would potentially need to be delayed until after the start of the Rugby season opening game scheduled for 4 April 2020. The Rugby Club (with support from the other 2 clubs) has therefore requested that they be granted a short term temporary Licence to occupy their clubrooms prior to signing the formal lease to enable the clubrooms to be used for the 1st game of the season. Clubs have requested that Council consider this option.

Noting that there is still an outstanding net debt owed (\$7,480) by the Rugby Club for their drop down balcony and other requested variations (offset by Council's contribution towards kitchen fitout). This should be resolved before any occupancy of the buildings is offered.

BUDGET

Council has funded its costs associated with the preparation and negotiation of lease including legal advice and services.

Under the terms of the Lease, Council will be responsible for the structural maintenance and replacement of the buildings, the costs of which are included in both the long term financial and asset management plans.

As currently proposed in the maintenance schedule, Council's anticipated maintenance costs per year for each of the three (3) buildings is estimated at \$15,200 per year, or \$45,600 in total. This

estimate is based on existing servicing costs incurred by Council on other sporting complexes. This compares to Council's average maintenance costs for the previous buildings of around \$26,600pa – representing additional new building maintenance costs of around \$19,000 pa once all 3 buildings are complete.

Ground maintenance - the current annual budget for the grounds maintenance at the Brighton Oval precinct is \$88,300 pa (inclusive of wages, materials and service contracts). This is anticipated to increase with the overall upgrade of the precinct to around \$95,000 in 2020/21. The proposed partial recovery of these costs from the Brighton Oval Precinct tenants is \$7,295 in 2020/21, represents approximately 8% of the total costs of grounds maintenance.

In total, the maintenance budget for the Brighton Oval for 2020/21 is expected to be in excess \$140,600 per year once all Stage 1 and 2 works are complete. In comparison, the average total maintenance spend for Brighton Oval buildings and grounds prior to redevelopment was approx. \$114,900.

Council's maintenance expenditure is therefore expected to increase by around \$25,700 (22%) once all Stage 1 and 2 works are complete.

This increase (or pro-rata) will need to be included as new expenditure in the 2020/21 annual operating budget.

LIFE CYCLE COSTS

The estimated life cycle costs of the buildings and grounds will be determined later in the project.

Attachment 1



Classification:	Statutory Policy.
Trim Container	TRIM Container Number
Trim Document Number:	TRIM Document Number
First Issued / Approved:	24 April 2018
Last Reviewed:	24 April 2018
	C240418/1124
Next Review:	2021
Responsible Officer:	Property Officer
Date Placed on Web:	Date placed on the Web

1. PREAMBLE

This policy provides a framework for the leasing and licensing of Council owned community and sporting facilities within the City of Holdfast Bay.

1.1 Background

The City of Holdfast Bay provides a range of sport and recreation facilities and services to the community including sportsgrounds, clubrooms and community centres.

As the owner of community land, Council plays an important role in the provision of a diverse range of community, recreation and sports infrastructure, in collaboration with local clubs and associations, to meet the ever changing needs of our community.

Council also has a responsibility to ensure that it balances the costs of maintaining and improving its facilities in conjunction with a club or groups ability to maintain sustainable (and growing) membership and participation.

1.2 Purpose

The purpose of this policy is to provide a consistent and transparent process for the granting and renewal of a lease or license. The policy provides guiding principles for the negotiation of leases and licences, while further taking into account both the financial and community objectives of Council as outlined in “*Our Place 2030 Strategic Plan*”.

1.3 Scope

This policy extends to the leasing of all facilities to sporting and community clubs within the City of Holdfast Bay, with the exception of Kauri Community and Sport Centre.

SPORTING AND COMMUNITY CLUBS LEASING POLICY

1.4 Definitions

- 1.4.1 Community Land:** means all local government land (excluding roads) owned or managed by Council as classified under Chapter 11 of the *Local Government Act 1999*;
- 1.4.2 Council:** means a council within the meaning of the *Local Government Act 1999*;
- 1.4.3 Lessor:** means lessor within the meaning of *Retail and Commercial Lease Act 1995*, but in the context of this policy additionally means *Council*;
- 1.4.4 Lessee:** means lessee within the meaning of *Retail and Commercial Lease Act 1995*;
- 1.4.5 Lease:** refers to a contract by which Council (as landlord) grants exclusive rights to occupy land and/or premises to a tenant for a specified time and under certain terms and conditions;
- 1.4.6 Licence:** refers to a contract by which Council (as licensor) grants non-exclusive contractual rights to occupy land and/or premises to a licensee, for a specified time and under certain terms and conditions;
- 1.4.7 Outgoings:** means all reimbursable tax charges, insurance premiums, utility, maintenance and repair costs that are associate with the operation of the premises.
- 1.4.8 Tenant:** means Lessee within the meaning of *Retail and Commercial Lease Act 1995*

1.4 Strategic Reference

Placemaking: Creating vibrant and safe places
Placemaking: Developing walkable connected neighbourhoods
Community: Building a healthy, active and resilient community
Community: Celebrating culture and diversity
Community: Providing welcoming and accessible facilities
Community: Fostering an engaged and contributing community

2. PRINCIPLES

2.1. Viability of Organised Sport and Recreation

- 2.1.1** Council recognises that a number of factors impact the viability of organised sports and recreation. Some factors include, but are not restricted to: participation numbers/membership; population changes; a shift to participation in unstructured recreation; and leisure

SPORTING AND COMMUNITY CLUBS LEASING POLICY

- 2.1.2** As populations and residential density increases, Council recognises that sporting and community clubs will continue to play a valuable role in the health and connectedness of our community;
- 2.1.3** As a result of this, when negotiating lease or licence agreements with a sporting club, recreation or community group, Council will balance the need of the community and long term viability and sustainability of individual clubs or community groups;

2.2 *Public Use*

- 2.2.1** Wherever practicable, Council will encourage community access to Council owned facilities, buildings, and playing fields.
- 2.2.2** When it is necessary, because of the nature of the sport or building use, for access to be controlled or limited to club members only, then Council expects that those facilities will be made available to the community by way of hire or membership;
- 2.2.3** Where facilities are not made available to the community per sections 2.2.1 and 2.2.2 of this policy, Council reserves the right to apply occupancy terms and conditions that reflect exclusive use of the land and/or premises.

2.3 *Maximising Facility Usage*

- 2.3.1** The monetary value of Council's sporting and community assets is considerable. Council supports the view that best community value of these assets is achieved where the facility or building use is maximised.
- 2.3.2** Council will offer additional incentives to groups which provide for multiple activities and sporting codes, which results in shared facilities, and increased use.
- 2.3.3** As joint use will be encouraged wherever practicable, to further support this principle, Council will continue to review its assets with an aim to ensure they are strategically located and provide for maximum community usage.

2.4 *Inclusion*

- 2.4.1** Council encourages and supports the participation of all people in our community in both formal and informal sport and recreation. Therefore, Council will offer incentives to all clubs and groups who support a diverse range of participation in their clubs or programs. Reductions in rent deducted from the market rental figure will be offered where a club demonstrates and provides evidence of their alignment to the principles of the policy.
- 2.4.2** For the purpose of section 2.4.1 of the policy, these incentives, which align with State Government principles, include:

SPORTING AND COMMUNITY CLUBS LEASING POLICY

2.4.2.1 Diversity of ages in membership registration;

2.4.2.2 Active participation in Federal or State Government Sports initiatives in order to encourage growth of the club within the City of Holdfast Bay.

3 LEASE TERM, RENTAL AND MAINTENANCE

- 3.1** Pursuant to section 202 of the *Local Government Act 1999* a maximum term of five (5) years will be applied to all future lease and licence agreements;
- 3.2** Accept when doing so is deemed to be inconsistent with Council decision and/or strategic direction, all five (5) year leases will include a subsequent five (5) year option to renew;
- 3.3** Rental will be based on the equity that Council and/or the Club has in the facility. Where a Club is deemed to have 100% equity in a building, maintains the building in line with relevant legislation and successfully complies with building audits, no building rent will be applied;
- 3.4** Where clubs have no equity in the building, all lease and licence agreements will incur annual rental fees based on a market appraisal of the property by an independent valuer;
- 3.5** When negotiating the terms and conditions of each respective community lease or licence agreement, Council, at their discretion, **may** incrementally reduce any applicable annual rental fee when a Lessee provides evidence of such services and/or initiatives outlined in section 2 of this policy;
- 3.5.1** Additional incentives may be offered to clubs who demonstrate they are well managed with a high level of governance and strategic planning. This includes but not limited to: attendance at Council club development workshops and participation in STARCLUB club development program.
- 3.6** Recognising that maintenance requirements may vary between sites depending on the condition of the asset, standard building maintenance responsibilities for Council and club will be defined and applied to all lease and licence agreements;
- 3.7** Leased premises shall be inspected by Council staff annually, or at such other times as considered appropriate. Any works identified in these inspections that is deemed to be the responsibility of the Club must be completed within an agreed timeframe by a licensed tradesperson. If the work is not completed within this timeframe Council will undertake the work and recoup all costs from the Club.
- 3.8** At the conclusion of a lease, and immediately prior to vacating the premises, the tenant must complete all necessary repairs and/or maintenance on the premises required to restore the property to the reasonable satisfaction of Council.

SPORTING AND COMMUNITY CLUBS LEASING POLICY

4 LAND RENT

- 4.1** Council is the custodian of community land for the use and enjoyment of the residents/ratepayers and visitors to the City. Therefore no rent will be charged for land associated with a sporting club or community group where that land is generally available to the community outside of scheduled activities;
- 4.2** However, similarly to sections 2.2.3 of this policy, where with Council's approval a Club chooses to enclose the land and restrict community access for the purpose of exclusive use, annual rental fees based on a market appraisal of the land will be imposed;
- 4.3** Clubs such as tennis, bowls, croquet and hockey which have 'fine turf' or 'artificial' surfaces, will receive the land component of any rent free of charge providing:
 - 4.3.1** any playing service is maintained to a minimum, public reserve standard;
 - 4.3.2** club membership is open to all ages, genders and cultures; and
 - 4.3.3** the facilities are available for community use at a reasonable hire fee.

5 GROUND MAINTENANCE SERVICE LEVELS

- 5.1** Recognising that service levels may vary between sites, and depending on the level of use of the ground, the sporting code, and grade of sport being played, ground maintenance service levels will be defined and agreed upon with Clubs for the term of any lease or licence.
- 5.2** Council will maintain turf playing surfaces to a public reserve standard, in line with broader community expectations. Where additional services are required by the Club, partial cost recovery will be applied for the additional provision of maintenance services
- 5.3** Where multiple clubs contemporaneously use playing services that are maintained to a higher standard, the distribution of any partial recovery of costs will be determined by any seasonal use and/or degree of use each respective club has over the playing service.

6 ASSETS FOR THE FUTURE

- 6.1** Priority will be given to major facility upgrades that have strategic alignment to Council and are included in endorsed master plans and or strategic plans.
- 6.2** Where a building facility upgrade is requested by a Club or required due to non-compliance with the current legislation, Clubs may jointly fund or apply for third party grant funding, upgrades or Council may consider fully funding building upgrades that result in:
 - 6.2.1** consolidation of assets;
 - 6.2.2** current legislation compliance;
 - 6.2.3** higher usage levels of fewer assets;
 - 6.2.4** multiple-use of facilities;

SPORTING AND COMMUNITY CLUBS LEASING POLICY

- 6.2.5** increase range of activities, services and programs being offered; and
- 6.2.6** increased participation particularly by target groups e.g. children and teenagers, aged, disabled, women, people from culturally diverse backgrounds

6.3 Where a substantial upgrade or new facility is to be developed, Clubs must demonstrate participation, membership, good Governance and financial sustainability. Submissions for building upgrades should include:

- 6.3.1** a statement of community benefit;
- 6.3.2** analysis of relevant trends in population, recreation and sport;
- 6.3.3** an assessment by the peak bodies of the relevant sporting codes, of the future building and sport facility requirements (for the codes involved) within the City over the next 20 years;
- 6.3.4** assessment of the financial capacity of the Clubs involved (including audited financial statements for the preceding three years of operation);
- 6.3.5** a five year forward Business Plan, including financial projections and projected growth in participation, membership to be achieved with the proposed redevelopment;

6.4 Capital works undertaken and funded by Council on a building will be reflected in an increase in the percentage of equity Council holds in the building. All capital works undertaken on Council buildings will be approved and project managed by Council.

7 ANCILLARY FACILITY MAINTENANCE

- 7.1** Ancillary facilities (such as sports lighting, sight screens, scoreboards, sports fencing etc) will be the responsibility of the Clubs to fund and maintain, however, Council will consider applications for joint funding on a case by case basis. The facilities will be audited by Council and Clubs will be instructed of any actions required as a result of the audit;
- 7.2** Where Clubs fail to undertake work specified in the audit, that is deemed the responsibility of the Clubs, Council will undertake the work and charge the Club accordingly;

8 PROFESSIONAL/COMMERCIAL CLUBS

- 8.1** Recreation and sporting clubs are finding it increasingly difficult to attract volunteers to help with coaching, administration and maintenance. Council acknowledges that some amateur clubs now offer players and volunteers some type of remuneration to cover expenses related to their services.
- 8.2** If however the profits gained from a commercial activity are not reinvested into the Club facilities or sport, then the Club may be deemed as being commercial in nature, and a rent charged in accordance with the City of Holdfast Bay's Commercial Leasing Policy may apply.

SPORTING AND COMMUNITY CLUBS LEASING POLICY

9 NAMING RIGHTS

- 9.1** It is acknowledged that Council holds the naming rights to all community and sporting facilities on Council-owned land;
- 9.2** When clubs wish to encourage sponsorship through fixed signage, council consent must first be obtained.

10 SUB-LEASE / SUB-LICENCE

- 10.1** Where a Club wishes to enter into a sub-lease or licence arrangement for part or all of the premises to another club or commercial activity, approval must first be received from the Council prior to entering into the arrangement. The Council reserves the right to assist the sub-tenant in negotiating a sub-lease or licence fee based on the nature and quantum of the proposed agreement, and the head lease paid by the tenant club / association.

11 REFERENCES

11.1 Legislation

- *Associations Incorporations Act 1985.*
- *Local Government Act 1999.*
- *Retail and Commercial Leases Act 1995.*

11.2 Other References

- Associated procedures, guidelines and policies.
- Appendix A: Sporting & Community Leas

SPORTING AND COMMUNITY CLUBS LEASING POLICY

APPENDIX A:

SPORTING AND COMMUNITY LEASING POLICY INCENTIVE & DISCOUNT SCHEDULE

1. Community Organisation Discount

- 1.1 For the purpose of section 2.1 of this policy, in order to support clubs further achieve growth and remain sustainable for community benefit, Council will offer a discount of up to and including 90% of the recommended 'Market Rent'.
- 1.2 In accordance with section 8 of this policy to be eligible for the entirety of this discount, the club must provide reasonable evidence that their occupancy and any activities conducted onsite during their tenancy will not be deemed as being commercial in nature.

2 Lease Incentive Discounts

- 2.1 For the purpose of sections 2.2, 2.3, 2.4 and 3 of the this policy, and in addition to section 1 of this schedule, Council offers lease rental reductions to sporting clubs and community groups who can demonstrate the following initiatives and/or programs are incorporated into their operations:

INCENTIVE	REDUCTION	CRITERIA
Public Access <10%	10%	<i>Facilities that are made available to the public via 'hire agreements'</i>
Inclusion <20%	5%	<i>Diversity of age membership initiatives</i>
	5%	<i>Multicultural initiatives</i>
	5%	<i>Diversity of gender (both in membership and Committee / Board representation) initiatives</i>
	5%	<i>Alignment with State and Federal inclusion initiatives</i>
Good Governance <20%	10%	<i>Demonstrated evidence/accreditation of sustainable strategic planning and ongoing volunteer training and management (e.g STARCLUB, Good Sports etc)</i>
	5%	<i>Regular attendance at club development initiatives and workshops</i>
	5%	<i>Annual Submission of relevant governance and financial reports, and attendance at club development workshops</i>
Youth / Aged Focused Programs <10%	5%	<i>Permanent Programs and Facilities</i>
	5%	<i>Occasional Programs (e.g. seasonal sporting programs)</i>
Multi-code <10%	10%	<i>Evidence of continual multi-facility users</i>

Attachment 2



LEASE AGREEMENT

Between:

CITY OF HOLDFAST BAY

("Landlord")

and

BRIGHTON RUGBY UNION FOOTBALL CLUB INCORPORATED

("Tenant")

PORTION OF 410-420 BRIGHTON ROAD HOVE SA 5048

1.	INTERPRETATION AND DEFINITIONS	5
2.	GRANT OF LEASE	8
3.	RENT AND RENT REVIEW	8
3.1	Rent.....	8
3.2	Rent Review	9
4.	GST	10
5.	RATES, TAXES AND OUTGOINGS	10
5.1	Rates and Taxes	10
5.2	Utility Charges	10
5.3	Payment Of Outgoings	10
6.	MAINTENANCE AND REPAIRS	11
6.1	Maintenance.....	11
6.2	Maintenance of Plant and Equipment	12
6.3	Tenant's Other Maintenance Obligations	12
6.4	Grease Trap and Range Hood.....	12
6.5	Repairs.....	14
6.6	Cleaning	14
6.7	Notice of Defect.....	14
6.8	Land and Grounds.....	15
6.9	Inspection and Landlord Works	15
6.10	Employment of Contractors	15
6.11	Painting	15
7.	ALTERATIONS AND ADDITIONS.....	15
7.1	Alterations by Tenant.....	15
7.2	Alterations by Landlord	16
8.	ASSIGNMENT AND OTHER DEALINGS	17
8.1	Assignment, Subletting and Disposal of Tenant's Interests.....	17
8.2	Hiring out of Premises	18

9.	USE OF PREMISES	19
9.1	Permitted Use.....	19
9.2	No Warranty by Landlord.....	20
9.3	Licensed Premises	20
9.4	Signs, notices and advertisements	20
9.5	Compliance with Acts, By Laws and Regulations.....	21
9.6	Use of Premises and Provision of Emergency Number.....	21
9.7	Restrictions on Use.....	22
9.8	Heavy Machinery	22
9.9	Locking mechanisms	23
9.10	Use of Conduits	23
9.11	Blinds and Awnings	23
9.12	Airconditioning	23
9.13	Electricity Supply	24
10.	TENANT GOVERNANCE.....	25
11.	INSURANCE	25
11.1	Tenant's Insurance	25
11.2	Insurance not to be affected	26
12.	INDEMNITY, RELEASE AND RISK	26
12.1	Indemnity.....	26
12.2	Release	27
12.3	Tenant to Occupy Premises at own Risk	27
13.	TENANT'S YIELDING UP OBLIGATIONS	27
14.	LANDLORD'S OBLIGATIONS AND RIGHTS.....	28
14.1	Quiet Possession.....	28
14.2	Reservation of Services.....	28
14.3	Costs of Proceedings.....	28
14.4	Right to Enter.....	29
14.5	Interest on Overdue Amounts	30

15.	DAMAGE TO BUILDING OR PREMISES	30
16.	REDEVELOPMENT AND DEMOLITION.....	30
17.	RULES AND REGULATIONS	32
18.	EXTENSION OF TERM	33
19.	ESSENTIAL TERMS, RE-ENTRY, BREACH, DAMAGES.....	33
19.1	Essential Terms.....	33
19.2	Power of Re-entry.....	33
19.3	Damages generally.....	34
20.	NOTICES	34
21.	COSTS.....	34
22.	MISCELLANEOUS.....	34
22.1	Holding Over.....	34
22.2	Waiver	35
22.3	Acceptance of Rent Arrears.....	35
22.4	Kiosks and Marquee	35
22.5	No Caveat	35
22.6	Landlord and Tenant Act	35
22.7	Power of Attorney	35
22.8	Special Conditions	36

CITY OF HOLDFAST BAY ABN 62 551 270 492 of PO Box 19 Brighton SA 5048 ("**Landlord**")

THE PARTY NAMED IN ITEM 1 OF SCHEDULE 1 ("Tenant")

- A. The Landlord is registered as the proprietor, or has the care, control and management, of the Land.
- B. The Tenant has requested a lease of the Premises for the Permitted Use.
- C. The Landlord has agreed and resolved to grant the Tenant a lease of the Premises on the terms and conditions of this agreement.
- D. Where required, the Landlord has undertaken public consultation and/or been granted Parliamentary approval in accordance with the *Local Government Act 1999 (SA)*.
- E. The parties wish to record the terms of their agreement as set out in this Lease.

1. INTERPRETATION AND DEFINITIONS

1.1 “Accounting period” means respectively:

- (a) the period from the commencement of the term to the next 30th June;
 - (b) each successive period of twelve months commencing on the 1st July and expiring on the next 30th June during the term and any extension of the term;
 - (c) the period from the 1st July in the last year of the term (or the last year of the extended term if the term be extended) to the date of expiration or termination of this Lease.
- 1.2 **“the Act”** means the *Retail and Commercial Leases Act 1995* (SA).
- 1.3 **“Building”** means the building or buildings erected on the Land and also the fixtures and fittings in the building together with any extensions or alterations subsequently made to the building.
- 1.4 **“Commencement Date”** means the date specified in Item 5 of Schedule 1.
- 1.5 **“Common Areas”** means those portions of the Land designated by the Landlord for common use by the occupiers of the Land and their employees invitees and licensees.
- 1.6 **“Default Rate”** means a rate of two per centum (2%) per annum greater than the published annual rate of interest charged from time to time by Westpac Banking

Corporation on overdraft facilities of more than \$100,000.00 and if there is more than one rate published the higher of those rates.

- 1.7 **"GST"** has the meaning given to it under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any similar or ancillary legislation.
- 1.8 **"Land"** means the land described in Item 3 of Schedule 1 and includes the Building on any part of the Land.
- 1.9 **"Landlord"** means the City of Holdfast Bay and includes:
 - (a) the executors administrators and assigns of the Landlord if the Landlord is a natural person,
 - (b) the successors and the assigns of the Landlord if the Landlord is a body corporate,
 - (c) (where the context allows) any servants workmen or agents of the Landlord,
- 1.10 **"Landlord's Property"** means all Landlord's fixtures, fittings, plant, equipment, services, chattels and any other goods installed or situated in or on the Premises by or behalf of the Landlord and available for use by the Tenant.
- 1.11 **"Outgoings"** means (to the extent that the same are not specifically payable by any tenant of the Building or the Tenant pursuant to this Lease) all amounts paid or payable by the Landlord or payments which the Landlord incurs or may be or become liable for in any one Accounting period or in any other lesser or relevant period in respect of the Land and the building whether by direct assessment or otherwise howsoever and includes:
 - (a) all rates taxes charges assessments outgoing levies and impositions whatsoever which may be assessed charged or imposed in respect of the Land or the building or any part thereof including any charges for excess water but excluding income tax capital gains tax and all other taxes applicable to income or capital gain payable by the Landlord;
 - (b) all insurance premiums and other charges including stamp duty payable by the Landlord in relation to policies of public risk insurance covering the building and the Landlord's fixtures and fittings therein (including all glass if applicable) against normal and usual risks deemed necessary by the Landlord (including but without limiting the generality thereof loss or damage by fire, explosion, storm, lightning, earthquake, tempest, flood, burst pipes, impact, aircraft and articles dropped therefrom, riot, civil commotion and malicious or accidental damage, loss of rent and machinery breakdown) to the full insurable value thereof,
 - (c) the costs of electricity or other sources of energy consumed in the production and reticulation of chilled water and conditioned air for the air conditioning equipment servicing the building and all other costs arising from the operation of the air conditioning system including but not limited to fuel oil grease labour and a full comprehensive maintenance contract (if any);
 - (d) all costs in connection with the repair, maintenance, operation and replacement of air conditioning equipment, all other services and plant and equipment in the Building and Common Areas from time to time which are not the Landlord's sole and express responsibility under this Lease ;

- (e) all costs in connection with the cleaning, lighting, heating and air-conditioning of the Premises and Common Areas and providing supplies and consumables for toilets, washrooms and other facilities provided to the Premises and in the Common Areas;
 - (f) all costs in connection with caretaking and security services;
 - (g) all costs (including employment and other usual employment on-costs) of the management, control and administration of the Land and Building;
 - (h) except where it is the Landlord's sole and express responsibility under this Lease, the cost of maintaining lighting servicing and repairing the Building such cost comprising the gross costs and expenses of every kind and nature incurred by the Landlord including but not limited to the replacement of parts necessary to keep any of the plant, machinery and equipment in good working order and condition, and all things necessary in the reasonable opinion of the Landlord for the operation maintenance repair and/or renovation of the Common Areas in a state of good and sanitary order condition and repair;
 - (i) all reasonable legal, accounting and other professional fees incurred in connection with the conduct and operation of the Building and in particular any such fees of and incidental to the preparation of any estimates or statements of Outgoings or otherwise required to be furnished by the Landlord to the Tenant hereunder or at law.
 - (j) all and any other expenditure costs or expenses incurred by the Landlord in or about or incidental to the Building or the Premises not hereinbefore expressly referred to.
- 1.12 **"Premises"** means the whole or portion of the Land specified in Item 2 of Schedule 1 and includes all buildings improvements appurtenances alterations or additions (if any) now or hereafter situated thereon and any fixtures fittings plant equipment goods chattels furniture furnishings and effects (if any) of the Landlord's Property.
- 1.13 **"rent"** means the rent payable under this Lease.
- 1.14 **"Review Date"** means the respective date(s) set out in Item 7 of Schedule 1.
- 1.15 **"Rules and Regulations"** means the procedures and rules and regulations annexed hereto and so entitled and or as may from time to time be made, varied or amended by the Landlord pursuant to this Lease.
- 1.16 **"Services"** means the services (such as gas, electricity, water, sewerage, drainage, communications, fire fighting, air conditioning, lifts, plant, equipment, pipes and cables) to or of the Building or any premises in or the Land, provided by authorities, the Landlord or any person authorised by the Landlord.
- 1.17 **"Schedule"** means the Schedules annexed hereto.
- 1.18 **"Tenant"** means the Tenant named in Item 1 of Schedule 1 and includes:-
- (a) the executors administrators and permitted assigns of the Tenant if the Tenant is a natural person,
 - (b) the successors and the permitted assigns of the Tenant if the Tenant is a body corporate,

- (c) any and all Trust or Trusts of which the Tenant is trustee,
 - (d) (where the context allows) any servants workmen or agents of the Tenant and any other person in or about the premises at any time at the request or invitation of or under the control or direction of the Tenant,
- 1.19 **"Tenant's Property"** means any and all fixtures and fittings and other equipment installed in or brought on to or kept in the Premises by the Tenant.
- 1.20 **"Tenant's Proportion"** means the same proportion as the lettable area of the premises bears to the whole of the lettable area of the Building, such lettable areas to be determined in accordance with the Property Council of Australia 1997 method of measurement or such other method of measurement as the Landlord reasonably determines.
- 1.21 **"Term"** means the term specified in Item 5 of Schedule 1 and includes the term of any extension or renewal and period of holding over of this Lease.
- 1.22 Headings to clauses shall not form part of this Lease or be used for the purpose of interpretation but shall be deemed to be for the purpose only of facilitating reference to the various provisions of this Lease.
- 1.23 Where the context of this Lease permits or requires:
- (a) words in the singular shall include the plural and words in the plural include the singular;
 - (b) words of or importing the masculine gender include the feminine gender;
 - (c) words referring to a person include a body corporate,
- 1.24 A reference to any statute code or regulation includes all amendments and revisions made from time to time to that statute code or regulation and any statute code or regulation passed in substitution therefor or incorporating any of its provisions.
- 1.25 Any provision of this Lease which by virtue of the Act (if it applies to this Lease) or any other statute or law is invalid void or unenforceable, is capable of severance without affecting any other provision of this Lease.
- 1.26 Unless otherwise stated, the Landlord may in its discretion give (conditionally or unconditionally) or withhold any approval or consent under this Lease.
- 1.27 If the Tenant comprises two or more persons the word "Tenant" will apply to them jointly and each of them severally.

2. GRANT OF LEASE

The Landlord grants and the Tenant accepts a lease of the Premises for the Term as set out in this Lease.

3. RENT AND RENT REVIEW

3.1 Rent

The Tenant must pay the rent as specified in Item 6 of Schedule 1 and reviewed in accordance with the terms of this Lease to the Landlord as directed from time to time by the Landlord or the Landlord's agent. The Tenant must pay the rent monthly in

advance, the first payment to be made on or before the Commencement Date and subsequent payments must be made on the same day of each calendar month during the Term without any abatement, deduction or demand.

3.2 Rent Review

3.2.1 The rent will be reviewed as at and from each Review Date specified in Item 7(a) of Schedule 1;

3.2.2 The rent will be reviewed as at and from each Review Date specified in Item 7(b) of Schedule 1 to an amount determined in accordance with the following formula:-

$$A = \frac{R \times C1}{C2}$$

where

'A' is the revised annual rent.

'R' is the annual rent payable during the year immediately preceding the relevant Review Date.

'C1' is the Index Number for the quarter ending immediately prior to the relevant Review Date.

'C2' is the Index Number for the quarter ending immediately prior to the date the rent being reviewed first became payable

3.2.3 The words "Index Number" used above mean the Consumer Price Index (All Groups) for Adelaide as published by the Australian Bureau of Statistics but if the Australian Bureau of Statistics ceases to publish the Consumer Price Index before the end of the Term, the words "Index Number" will mean some index reflecting fluctuations in the cost of living in Adelaide upon which the parties agree, but in default of such agreement, such index as will be determined by the President for the time being of the Australian Property Institute (South Australian Division) or his nominee as reflecting fluctuations in the cost of living in Adelaide, and such person's decision will be final and binding on the parties. In making such determination the President or his nominee will be deemed to be acting as an expert and not as an arbitrator. The cost of any such determination will be borne equally by the Landlord and the Tenant.

3.2.4 Until the rent is determined or agreed in accordance with the relevant rent review formula the Tenant will continue to pay to the Landlord rent at the rate applicable immediately prior to the relevant Review Date. On the first day for payment of rent after the rent is determined or agreed in accordance with this clause the Tenant must pay the new rent to the Landlord together with an adjustment (if any) in respect of the period from the date of the rent review until the date of such payment.

3.2.5 If this Lease is not a lease to which the Act applies, the rent payable pursuant to any review of rent will in no case be less than the rent payable immediately prior to the relevant Review Date.

4. **GST**

Unless otherwise stated in Item 6 of Schedule 1, rent and other monies payable by the Tenant to the Landlord pursuant to this Lease do not include any GST. If a GST is chargeable with respect to the payment by the Tenant to the Landlord of rent and or other monies pursuant to this Lease, the Tenant must on demand pay the GST or reimburse the Landlord for any GST paid or payable by the Landlord with respect to such rent and or other monies. The Landlord must provide to the Tenant an appropriate tax invoice in respect of any such GST payment or re-imbursement by the Tenant.

5. **RATES, TAXES AND OUTGOINGS**

5.1 **Rates and Taxes**

The Tenant must pay or reimburse to the Landlord the Tenant's Proportion of all present and future rates charges taxes levies assessments duties impositions and fees (including council rates and emergency services levy) levied, assessed or charged in respect of the Premises or upon the owner or occupier of the Premises and such payments must be adjusted between the Landlord and the Tenant as at the Commencement Date and the end or termination date of this Lease in respect of that portion of the financial year the relevant cost was incurred.

5.2 **Utility Charges**

5.2.1 The Tenant must pay as and when the same fall due, all charges for gas, electricity, oil and water separately metered and consumed in or on the Premises (excluding the public toilets) and also all charges in respect of any telephone and internet services connected to the Premises and all other charges and impositions imposed by any public utility or authority for the supply of any other utility service separately supplied and/or consumed in respect of the Premises.

5.2.2 If the Tenant defaults in payment of any of the charges referred to in clause 5.2.1 then the Landlord may pay the same and recover the amount paid as if the same were rent in arrears payable by the Tenant.

5.3 **Payment Of Outgoings**

5.3.1 The Tenant must pay the Tenant's Proportion of the Outgoings by way of equal monthly payments together with the rent each month or by way of lump sum payments as Outgoings are incurred or payable by the Landlord (as the Landlord may direct). If the year in which any particular outgoing is payable does not coincide with a year of this Lease, the amount the Tenant is to pay in the first and last years of this Lease is to be adjusted proportionately.

5.3.2 The Landlord will calculate the actual amount payable by the Tenant pursuant to this clause as soon as possible after 30 June in each Accounting Period and will adjust any difference. Any over-payment by the Tenant will be credited to the first payment due by the Tenant after the assessment is made (or refunded if this Lease is at an end) and any under-payment by the Tenant shall be added to the first payment to be made by the Tenant after the assessment is made (or will be paid by the Tenant on demand if this Lease is at an end).

6. MAINTENANCE AND REPAIRS

6.1 Maintenance

- 6.1.1 The Tenant must keep and maintain the Premises, the Tenant's Property and any Services situated within the Premises and which exclusively service the Premises in good and substantial repair and condition and where appropriate in good working order, which includes an obligation to ensure that all electrical wiring and appliances are at all times in a safe condition.
- 6.1.2 If the Landlord so requires, the Tenant must enter into a service and maintenance contract in respect of any airconditioning plant and equipment exclusively servicing the Premises, which contract must be first approved by the Landlord (such approval not to be unreasonably withheld);
- 6.1.3 The Tenant must promptly repair any damage to the Building or the Land caused or contributed to by the act, omission, negligence or default of the Tenant. Any work must be undertaken by an appropriately qualified contractors and/or tradesmen and in a proper and professional manner.
- 6.1.4 In addition to the maintenance, repair and replacement obligations outlined in this clause (and this Lease generally) the respective responsibilities of the Landlord and the Tenant for the maintenance that is reasonably expected to be needed during the Term including planned structural maintenance, painting and replacement or renovation works are set out in Schedule 2 (**Maintenance**).
- 6.1.5 Where the Tenant is responsible for any Maintenance pursuant to the terms of this Lease, the Tenant must, at the same time as providing a copy of its annual report in accordance with clause 10, provide a report to the Landlord setting out the amount of money to set aside in the following year (as applicable from time to time) for Maintenance, in addition to the monies deposited into the maintenance fund (in accordance with special condition 5 of Item 10). The Tenant will not be required to set aside any money for maintenance costs during the first year of the Term, but must comply with this requirement each year commencing on the first anniversary of the Commencement Date.
- 6.1.6 The Tenant must, when requested to do so by the Landlord, provide the Landlord with:
- (a) a copy of all records, invoices, receipts, records, reports, certificates and other related information in relation to all maintenance, repair and/or replacement works carried out by (or on behalf of) the Tenant during the Term;
 - (b) a report setting out all projected items of preventative maintenance, including new plant and equipment requiring warranty servicing, the approximate date when each item of maintenance is likely to be required and the estimated cost; and
 - (c) a report setting out the amount of money currently set aside by the Tenant for Maintenance.

6.2 Maintenance of Plant and Equipment

If the Tenant exclusively uses any plant or machinery installed in the Premises or the Landlord installs any plant or machinery at the request of the Tenant within and or servicing the Premises then the Tenant must keep all such plant or machinery maintained serviced and in good repair and will enter into and keep current at the Tenant's expense such maintenance service and repair contracts as are reasonably required by the Landlord for that purpose with contractors approved by the Landlord.

6.3 Tenant's Other Maintenance Obligations

The Tenant must at the Tenant's expense:

- 6.3.1 ensure that all waste is placed daily in suitable receptacles and subject to this clause 6, ensure the Premises is cleaned regularly in a proper and professional manner and ensure all waste and refuse is promptly and regularly removed from the Land;
- 6.3.2 as soon as is reasonably possible make good any damage to any part of the Building (including the Common Areas) or to the Premises or any part thereof (including ceilings) caused or contributed to by the Tenant;
- 6.3.3 immediately replace all broken glass in respect of the Premises;
- 6.3.4 take all proper precautions to keep the Premises free from pest infestation and if required by the Landlord engage a pest exterminator approved by the Landlord for that purpose;
- 6.3.5 repair or where appropriate replace any Landlord's Property such as heating lighting electrical and plumbing fittings installed in the Premises broken or damaged by the Tenant;
- 6.3.6 comply with all statutes ordinances proclamations orders and regulations affecting the Premises or any fixtures or fittings installed by the Tenant;
- 6.3.7 comply with any notices or orders which may be given by any statutory or regulatory authority in respect of the Premises or their use by the Tenant and keep the Landlord indemnified for all such matters.

6.4 Grease Trap and Range Hood

- 6.4.1 Where any range-hood, exhaust, grease arrestor or triple interceptor and associated plant and equipment exclusively service the Premises, the Tenant must:
 - (a) at its own expense, regularly clean, service, maintain, repair (when damage is caused by the Tenant) and empty (where applicable) each device to ensure it is in good working order and condition and so that nothing impairs its operation or efficiency, or causes unreasonable annoyance, nuisance, damage or disturbance to any persons who occupy nearby space or premises;
 - (b) pay for all running costs associated with each device;
 - (c) not do, or permit, or suffer to be done, anything in relation to each item that might interfere with, or impair, its efficient operation;

- (d) comply with all applicable laws, regulations and notices and requirements of any governmental body relating to the grease arrestor and the transport and disposal of grease and other waste from the grease arrestor;
- (e) provide to the Landlord upon request all service notes and invoices evidencing the completion of all servicing, repairs, cleaning and waste removal;
- (f) obtain and maintain during the Term all permits, licences or other consents required in relation to the installation, use and operation of the grease arrestor;
- (g) promptly and fully comply with all directions and requirements of the Landlord regarding the use and operation of the grease arrestor which the Landlord notifies the Tenant in writing.

- 6.4.2 If any range-hood, exhaust, grease arrestor or triple interceptor comprises the Landlord's Property, then the Tenant will not be responsible for any replacement of those items at the end of their useful life provided that the need for replacement was not caused or contributed by the act, omission, negligence or default of the Tenant. If any range-hood, exhaust, grease arrestor or triple interceptor comprises the Tenant's Property, then the Tenant is in all respects responsible for all costs associated with those devices.
- 6.4.3 If the Premises are not connected to a range-hood, exhaust, grease arrestor or triple interceptor or similar device and the Tenant's use of the Premises means that the Premises are required to be connected to such a device, then the Tenant must promptly install such a device in compliance with clause 7, at its expense and thereafter comply with clause 6 and this clause 9.
- 6.4.4 Where a range-hood, exhaust, grease arrestor or triple interceptor does not exclusively service the Premises, the Tenant must punctually pay, free from all deductions, a proportion of all charges associated with maintenance of the range-hood, exhaust, grease arrestor or triple interceptor as the Landlord in its sole discretion deems reasonable having regard to:
- (a) the ratio of the lettable area of the Premises to the lettable area of the Building; and
 - (b) other occupants on the Land; and
 - (c) the respective use of the range-hood, exhaust, grease arrestor or triple interceptor by all occupiers of the Land; and
 - (d) any other reasonable factor that is relevant to the Landlord.
- 6.4.5 Without limiting any other provision of this Lease, the Tenant:
- (a) must maintain insurance for the grease arrestor;
 - (b) must periodically clean, empty, service, and maintain the grease arrestor;
 - (c) must repair and/or replace the grease arrestor (when damage is caused by the Tenant);

(d) must reinstate and make good; and

(e) indemnifies the Landlord,

in the same manner and to the same extent as provided in this Lease.

6.4.6 If the Tenant does not pay the costs of any of the Services by the respective due date, the Landlord may pay for the Services and the amount paid is repayable by the Tenant as a debt due to the Landlord.

6.5 Repairs

If at any time during this Lease the Landlord, or the Landlord's agents or contractors find any defect decay or want of reparation in the Premises or find any state or condition thereof contrary to any covenant or agreement on the part of the Tenant contained in this Lease, the Landlord, or the Landlord's agent or contractor may give to the Tenant notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Tenant must within such time sufficiently and in good and proper and professional manner make good repair restore or amend the same to the reasonable satisfaction of the Landlord and if the Tenant fails to comply with any such notice the Landlord may (but is not obliged to do so) by or with the Landlord's attorney agent and or contractors enter into and upon the Premises and carry out the requirements of such notice (causing as little disturbance to the Tenant as is practicable). All costs charges and expenses incurred by the Landlord in so doing will be a debt due from the Tenant to the Landlord payable on demand and recoverable in the same manner in all respects as the rent hereby reserved.

6.6 Cleaning

6.6.1 The Tenant must ensure the Building is routinely and properly cleaned (including without limitation to arrange for all rubbish waste and garbage to be regularly removed from the Premises) except the public toilets and litter bins installed by the Landlord.

6.6.2 If the Landlord provides or requires a service for the routine cleaning of the Building or the Premises then the Tenant must, if reasonably requested by the Landlord, use such service for the Cleaning of the Premises (to the extent the service applies) and must permit the Landlord's cleaning contractors to have access to the Premises at all reasonable times for the purpose of carrying out such cleaning.

6.7 Notice of Defect

The Tenant must promptly give notice to the Landlord (or where appropriate to the appointed agent of the Landlord) of:-

6.7.1 any damage and of any accident to or defect or want of repair in the Premises or in the Building or in any Services or other facilities provided by the Landlord in the Premises or the Building to make the Premises or the Building, Common Area and the Land safe from any danger, risk or hazard; or

6.7.2 any circumstance or event which the Tenant ought reasonably be aware might cause danger, risk or hazard to any person within the Premises or the Building.

6.8 Land and Grounds

The Tenant must not deposit or cause permit or suffer to be deposited any debris refuse or rubbish of any kind in or on any Common Areas grounds gardens yards lanes ways or rights of way or in or on any public road or footway abutting upon or adjacent to the Premises or the Land.

6.9 Inspection and Landlord Works

The Tenant must permit the Landlord and the Landlord's agents and contractors and all persons authorised by them at all reasonable times of the day and on reasonable notice to enter the Premises to examine the state of repair and condition thereof, carry out and observe the Landlord's maintenance and repair obligations as set out in Schedule 2, and execute repairs or to paint the Premises or any part thereof (which the Landlord may do without prejudice to any covenant or agreement on the part of the Tenant contained in this Lease). The Landlord in executing such repairs must use reasonable endeavours to cause as little disturbance to the Tenant as is practicable.

6.10 Employment of Contractors

If any work has to be done by the Tenant in or about the Premises in order to comply with the Tenant's obligations pursuant to this Lease the Tenant must engage and employ only such contractors who are qualified licensed professionals as have a public liability policy for an amount which in the reasonable opinion of the Landlord is adequate. The engagement of contractors will require prior written approval by the Landlord for any significant work.

6.11 Painting

6.11.1 The Tenant must, at its cost, paint all parts of the Premises which have previously been painted, or should reasonably be painted when such painting is reasonably required and as set out in Schedule 2

(a) ;

6.11.2 The Tenant must carry out the painting in a proper and professional manner, in colours reasonably approved by the Landlord.

7. ALTERATIONS AND ADDITIONS

7.1 Alterations by Tenant

7.1.1 The Tenant must not install or use in the Premises internal partitions other than of a standard and specification previously approved in writing by the Landlord.

7.1.2 The Tenant must not install or place in the Premises any heavy item fixture or fitting which may (in the reasonable opinion of the Landlord) cause unreasonable noise or vibrations, overload the switchboard or cause structural or other damage to any part of the Building.

7.1.3 The Tenant must not make alterations or addition to the Premises nor install or alter any partitioning or temporary or permanent structures or fittings in the Premises without the Landlord's prior written approval, and :

- (a) in seeking the Landlord's approval to a proposed alteration, addition or installation the Tenant must submit plans and specifications of the proposed work;
- (b) if the Landlord agrees to grant its approval, then such approval may be granted subject to any conditions the Landlord considers appropriate, including:
 - (i) any such work be supervised by a person nominated by the Landlord;
 - (ii) any such work be executed by contractors or tradesmen in a proper and professional manner under the supervision of appropriately qualified persons approved by the Landlord with public liability insurance for an amount that in the reasonable opinion of the Landlord is adequate;
 - (iii) the Tenant obtains all necessary approvals or permits necessary to enable such proposed work to be lawfully effected and on request by the Landlord produces for inspection to the Landlord copies of all such approvals and permits;
 - (iv) upon completion of the works, the Tenant must produce to the Landlord any certificates of compliance issued by any such statutory or regulatory authority;
 - (v) the Tenant reimburses the Landlord any reasonable cost or expense that it incurs as a result of the installation operation or removal of any such equipment fixture fitting or machinery.

7.2 Alterations by Landlord

7.2.1 The Tenant will permit the Landlord and any person authorised by the Landlord:

- (a) to carry out inspections of or modifications or additions to or other works on the Land (including the Premises where the Landlord has given reasonable prior notice to the Tenant); and
- (b) where the Landlord has given reasonable prior notice to the Tenant to enter the Premises for the purpose of carrying out such works

causing as little disturbance as is practical to the Tenant in undertaking such works provided that the Landlord may not commence to carry out any alteration or refurbishment to the Land (other than routine maintenance or repairs) that is likely to adversely affect the Tenant's use of the Premises unless:

- (c) the Landlord has given the Tenant at least one (1) month's notice of the proposed alteration or refurbishment; or
- (d) the alteration or refurbishment is required by an emergency and the Landlord has given the Tenant the maximum period of notice that is reasonably practicable in the circumstances;

- 7.2.2 Subject to the preceding subclause in an emergency the Landlord may without notice enter the Premises and carry out any works deemed necessary by the Landlord;
- 7.2.3 Except as permitted by the Act, the Tenant will not make any claim or commence any action against the Landlord for breach of this clause or otherwise in respect of such entry on to the Premises or the execution of any of the works contemplated by this clause.

8. ASSIGNMENT AND OTHER DEALINGS

8.1 Assignment, Subletting and Disposal of Tenant's Interests

- 8.1.1 The Tenant must not transfer or assign the Premises or any part thereof or assign, transfer or otherwise dispose of this Lease without the Landlord's prior written consent. The Landlord's consent may be withheld in the Landlord's absolute discretion except where the Act applies.
- 8.1.2 The Tenant must:-
- (a) request the Landlord's consent to an assignment, transfer or other disposition of the Premises or this Lease in writing.
 - (b) promptly provide the Landlord with information the Landlord reasonably requires about the financial standing and business experience of the proposed assignee.
 - (c) if the Act applies to this Lease, before requesting the Landlord's consent to a proposed assignment of the Premises or this Lease, furnish the proposed assignee with:-
 - (i) a copy of any disclosure statement given to the Tenant in respect of this Lease, and
 - (ii) details of any changes that have occurred in respect of the information contained in that disclosure statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware); and
 - (iii) any other procedural requirements set out in the Act.
- 8.1.3 To enable the Tenant to comply with the preceding subclause and if the Act applies to this Lease, the Tenant may, in writing, request the Landlord to provide the Tenant with a copy of the disclosure statement concerned and if the Landlord does not comply with such a request within 14 days after it is made, the preceding subclause will not apply to the Tenant in respect of the assignment transfer or other disposition in relation to which the disclosure statement applies.
- 8.1.4 Where the Act applies, the Landlord may withhold the Landlord's consent to the assignment of the Premises or this Lease in any of the following circumstances:-
- (a) if the proposed assignee proposes to change the use to which the Premises are put;

- (b) if the proposed assignee is unlikely (in the Landlord's reasonable opinion) to be able to meet the financial obligations of the Tenant under this Lease;
 - (c) if the proposed assignee's business skills are inferior (in the Landlord's reasonable opinion) to those of the Tenant, or
 - (d) if the Tenant has not complied with procedural requirements for obtaining the Landlord's consent.
- 8.1.5 Nothing in the preceding subclause will prohibit the Landlord from granting the Landlord's consent to an assignment, transfer or other disposition of this Lease subject to the Tenant complying with such reasonable conditions as the Landlord considers appropriate.
- 8.1.6 Nothing in the preceding provisions of this clause prevents the Landlord from requiring payment of a reasonable sum for legal or other expenses incurred in connection with such a consent (whether consent is granted or not).
- 8.1.7 The Landlord may as a condition of granting its consent require that the proposed transferee or assignee provide to the Landlord such guarantee or guarantees of the transferee's or assignee's performance of the Tenant's obligations under this Lease which the Landlord requires.
- 8.1.8 The Tenant must not:
- (a) grant a sub-lease, licence of concession for the whole or any part of the Premises;
 - (b) part with or share possession of the whole or any part of the Premises;
 - (c) mortgage or otherwise change or encumber the Tenant's interest in this Lease, without the Landlord's prior written consent, which consent the Landlord is not obliged to give notwithstanding anything to the contrary in this Lease.
 - (d) If the Tenant is a company (except a company whose shares are listed on a stock exchange in Australia) a transfer of shares (except as a result of inheritance) totalling more than one half of the issued share capital of the Tenant; or of the controlling interest of the Tenant will be deemed to be an assignment of this Lease requiring the prior written consent of the Landlord.

8.2 Hiring out of Premises

The Tenant may hire the Premises to other persons or bodies on a casual or seasonal basis during such times notified by Landlord from time to time strictly in accordance with the following terms and conditions:

- 8.2.1 If the party wishing to hire the Premises intends to use any floodlights servicing the outdoor areas of the Premises, then unless the proposed use of the floodlights is restricted to times during which the Landlord has already given permission of floodlighting to be used, the Tenant must first obtain the Landlord's written consent.

- 8.2.2 The Tenant must notify the Landlord of the fees set by the Tenant for hiring out the Premises, including the function room rates and any changes to the hire fees within 14 days of the determination of or change in the hire fees.
- 8.2.3 If the Landlord considers at its discretion that the hire fees set by the Tenant are too high or too low (in comparison) with hire fees for similar facilities in those areas of the City of Holdfast Bay Council area then it may direct the Tenant to change the hire fees to a level set by the Landlord.
- 8.2.4 The Tenant must ensure that any hire agreement it enters into does not breach any provision of this Lease and is in such form notified and approved by Landlord.
- 8.2.5 On a quarterly basis and upon written request, the Tenant must provide the Landlord with a full report in relation to the hiring out of the Premises, such details to include the dates, times, name of the hiring party, event purpose, fees charged and any other details reasonably requested by the Landlord.
- 8.2.6 The Tenant must not unreasonably refuse to hire out or otherwise licence the Premises to any person, body or organisation upon receipt of a request to do so from the Landlord and/or any member of the public at any time other than when the Premises are:
 - (a) actively in use by the Tenant; or
 - (b) on hire or licensed to another person, body or organisation pursuant to this clause.
- 8.2.7 When the Premises or the Building is being used for any function or is otherwise being used in relation to any hiring out, the Tenant must ensure that:
 - (a) any noise is kept to a level that does not cause unreasonable annoyance or nuisance to any persons who occupy nearby space or premises; and
 - (b) the use and enjoyment of the Land by any other party or licensee then in possession of or otherwise using the Land is not unduly interfered with or otherwise impeded.

9. **USE OF PREMISES**

9.1 **Permitted Use**

- 9.1.1 The Tenant must use the Premises only for the purpose specified in Item 4 of Schedule 1 or other purposes incidental thereto or for such other purposes which the Landlord may give prior written permission for.
- 9.1.2 The Tenant must not use the Premises or any part thereof nor cause permit or allow anyone to sleep on the Premises, nor carry on or cause permit or allow to be carried on upon the Premises or any part thereof for any noxious noisome or offensive nature and must not use the Premises or any part thereof or cause permit or allow the same to be used for any unlawful purpose without the Landlord's prior written consent.

9.2 No Warranty by Landlord

The Tenant warrants to the Landlord that the Tenant has relied on the Tenant's own judgement and expertise and the Tenant's experts in deciding that the Premises are suitable for the Tenant's purposes and that the Landlord has given no promise, representation or warranty to the Tenant as to the use to which the Premises may be put and that the Tenant has satisfied itself thereof and the Tenant will be deemed to have accepted this Lease with full knowledge of, and subject to, any prohibition or restrictions on the use thereof under or in pursuance of any Act, Ordinance, Regulation, By-law or other statutory enactment or order of Court. Should the Permitted Use require the consent of any authority under or in pursuance of any such Act, Ordinance, Regulation, By-law or other enactment or order of Court the Tenant must obtain such consent at the Tenant's own cost and expense. To the fullest extent permitted by law all warranties as to suitability and as to adequacy implied by law are hereby expressly negated.

9.3 Licenced Premises

9.3.1 The Tenant must not:

- (a) serve, sell or provide to persons; or
- (b) consume or allow persons to consume;
- (c) alcoholic beverages on the Premises without the Landlord's consent.

9.3.2 Unless the Tenant first obtains the written consent of the Landlord, the Tenant must not apply for:

- (a) a liquor licence under the *Liquor Licensing Act 1997*; or
- (b) a gaming machine licence under the *Gaming Machines Act 1992*.

9.3.3 If the Tenant obtains a licence (or licences) as permitted by this clause, the Tenant must not do (or fail to do) or allow any of its employees, agents, contractors, licensees or invitees to do (or fail to do):

- (a) anything that is in breach of the *Liquor Licensing Act 1997* and/or the *Gaming Machines Act 1992* (as the case may be) or of the conditions of the relevant licence; or
- (b) anything that may result in the relevant licence being revoked or suspended.

9.4 Signs, notices and advertisements

9.4.1 The Tenant must not allow any advertisement notice poster hoarding or sign to be affixed to or placed near any window in the Building so as to be visible from the outside of the Building except where the Landlord's consent is obtained and where all relevant laws and statutory requirements are satisfied. Any signage approved by the Landlord at the request of the Tenant must comply with the requirements of this clause.

9.4.2 Any external signage approved by the Landlord for affixing to the exterior of the Building must comply with the Landlord's signage guidelines and obtain all planning approvals prior to installation. However, sponsorship signage funded by the Tenant will only be considered for approval in respect of the

northern and southern ends of the Building and the eastern wall, to a maximum of three (3) signs (one on each wall positioned parallel to the roofline) each having dimensions that do not exceed 3.0m x 1.5m unless the Landlord otherwise approves in writing.

- 9.4.3 All costs associated with the installation of signage to the Building exterior, its maintenance, removal and make good are the full responsibility of the Tenant.
- 9.4.4 Subject to the preceding subclause and obtaining the Landlord's prior written approval and any required statutory approvals, the Tenant may display appropriate advertising signage within the boundaries of the Land, provided such signs do not exceed dimensions of and width of 6 metres and height of 1 metre and are inward facing toward Rugby Field (as defined by special condition 4).

9.5 **Compliance with Acts, By Laws and Regulations**

The Tenant must at the Tenant's cost and expense:

- 9.5.1 comply with every notice order or requirement relating to the Premises and requiring any condition defect or want of reparation to be remedied which may be given or made to the Landlord or to the Tenant in pursuance of the *South Australian Public Health Act (2011)* and or the *Local Government Act (1999)* or Acts for the time being in force in the State of South Australia and or any other Act or Acts of Parliament or any by-laws rules or regulations made under or in pursuance of any such Act or Acts or purporting so to be and will comply therewith within the time limited therein for complying therewith. If the Tenant fails to comply with any statutory or regulatory obligations the Landlord may comply therewith (but it not be obligatory for the Landlord to do so) and all costs charges and expenses incurred by the Landlord in so doing will be a debt due and recoverable from the Tenant in the same manner in all respects as the rent is recoverable;
- 9.5.2 take such precautions against fire on and in respect of the Premises as are or may from time to time be required under or in pursuance of any Statute now or hereafter in force or which may be required by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto and also at the Tenant's own expense in all things, do all such other acts matters and things in relation to fire safety as are or may from time to time be directed or required to be done or executed (whether by the owner or occupier of the Premises) by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto pursuant to any law now or hereafter in force.

9.6 **Use of Premises and Provision of Emergency Number**

The Tenant must:

- 9.6.1 advise the Landlord (or where applicable the Landlord's Managing Agent) of the private address and telephone number of the Tenant's nominated emergency after hours contact and must keep the Landlord or the Landlord's Managing Agent informed of any change of such address or telephone number;

- 9.6.2 secure the Premises against unauthorised entry at all times when the Premises are left unoccupied and the Landlord reserves the right to enter upon the Premises and secure the Premises if left unsecured;
- 9.6.3 not do anything whereby the Services such as the working or efficiency of the air conditioning plant servicing the Building or the Premises may be affected;
- 9.6.4 upon the cessation of the Tenant's right to occupy the Premises, deliver to the Landlord or the Landlord's Agent all keys and or access cards to the Premises; and
- 9.6.5 observe the Rules and Regulations.

9.7 **Restrictions on Use**

The Tenant must not:

- 9.7.1 use or permit to be used for other than their designed purposes any of the fixtures or fittings in the Premises or the Building;
- 9.7.2 store or use inflammable or dangerous substances upon the Premises (except as may be necessary for the ordinary conduct of the Permitted Use of the Premises by the Tenant in which case the Tenant undertakes to notify the Landlord in writing of the maximum quantity of any such inflammable or dangerous substance that the Tenant intends to store on the Premises);
- 9.7.3 cause permit or allow on the Premises or in the Building anything which in the reasonable opinion of the Landlord may become a nuisance or disturbance obstruction or cause of damage whether to the Landlord or to other tenants or users of the Building nor use the Premises in any noisy noxious or offensive manner;
- 9.7.4 do any act or thing, or permit any activities which may discredit the Landlord;
- 9.7.5 obstruct or interfere with any of the entrances of the Building or Common Areas;
- 9.7.6 use or permit to be used any radio record player tape or video recorder television loudspeaker screen or other like equipment likely to be heard or seen from outside the Premises with exclusion of videoing for live streaming and training purposes, the PA system, scoreboard and siren as either installed by the Landlord, or otherwise approved by the Landlord in writing.

9.8 **Heavy Machinery**

- 9.8.1 The Tenant must not bring upon the Premises any heavy machinery or other plant or equipment not reasonably necessary or proper for the conduct of the Tenant's permitted use of the Premises. In no circumstances must the Tenant bring upon the Premises any heavy machinery or other plant or equipment:-
 - (a) of such nature or size or weight as to cause or (in the reasonable opinion of the Landlord) be likely to cause any structural or other damage to the floors or walls or any other parts of the Premises, the Building or the Land, or

- (b) of such construction or manufacture as to cause to emanate therefrom any noise or vibration or noxious odour fume or gas that could pervade the Premises or escape therefrom to the discernible notice of any person outside the Premises.

9.8.2 Prior to bringing upon the Premises any heavy machinery or other plant or equipment permitted to be brought upon the Premises the Tenant must inform the Landlord of the Tenant's intention so to do and the Landlord or the Landlord's architects or engineers may direct the routing installation and location of all such machinery plant and equipment . The Tenant must observe and comply with all such directions.

9.9 Locking mechanisms

- 9.9.1 The Tenant must not tamper with or change any lock of the Premises. Additional, replacement or programming of keys, fobs or access cards will be procured by the Landlord and on charged to the Tenant for payment within 7 days. In the event the Landlord or its agents are required to attend the Premises to provide access, the Tenant will pay a reasonable fee fixed by the Landlord or the Landlord's agent, within 7 days of demand for payment.
- 9.9.2 The Tenant must prepare and maintain an accurate register of all allocated access cards, keys and fobs, and must provide a copy of that register to the Landlord within 14 days of each request.

9.10 Use of Conduits

The Tenant must allow the Landlord and other occupiers of the Land the free and uninterrupted passage of gas water and electricity through and along the services including electrical services situated under in or on the Premises.

9.11 Blinds and Awnings

The Tenant must not erect or affix any blinds or awnings to the outside of the Premises or any blinds to the interior of the windows display windows or doors thereof or affix any fittings to the floors walls or ceilings of the Premises without the prior consent in writing of the Landlord which consent may be granted or refused or granted subject to conditions in the discretion of the Landlord.

9.12 Airconditioning

- 9.12.1 Where any plant machinery or equipment for heating cooling or circulating air is provided or installed by the Landlord in the Premises or in the Building for the benefit of tenants of the Building ("**airconditioning plant**"):
- (a) the Tenant must comply with and observe the reasonable requirements of the Landlord in respect of the airconditioning plant;
 - (b) to the maximum extent permitted by law, the Landlord will be under no liability to the Tenant in respect of the Landlord's inability or failure to operate service maintain or repair the airconditioning plant at any time for any reason and the Tenant acknowledges that the Landlord does not warrant that the airconditioning plant (if any) is suitable or adequate for the business to be conducted in the Premises by the Tenant;

- (c) the Tenant must permit the Landlord and all persons authorised by the Landlord at all reasonable times on giving to the Tenant reasonable prior notice (except in the case of emergency where no notice is required) to enter the Premises to view the state of repair of the airconditioning plant.

9.12.2 Where any airconditioning plant is installed in the Premises or the Building for the exclusive use of the Tenant, the Tenant must keep such airconditioning plant in good repair, condition and working order and must pay all costs of operating and maintaining the same.

9.13 Electricity Supply

If the Landlord and the Tenant have entered into an agreement as to the supply by the Landlord to the Tenant of electricity for the Premises then the terms and conditions of such agreement will apply to the parties and any breach by the Tenant of that agreement will be deemed to be a breach by the Tenant of this Lease. In the absence of any such agreement between the Landlord and the Tenant, the following provisions apply:

- 9.13.1 If at the Commencement Date of this Lease the Landlord supplies electricity to the Premises and requires the Tenant to purchase such electricity from the Landlord, the Tenant must pay to the Landlord for all such electricity at such rate as the parties may agree from time to time and in the absence of such agreement at the maximum rate applicable under the *Electricity (General) Regulations 2012*.
- 9.13.2 Notwithstanding the preceding subclause, there is no obligation on the Landlord to supply or continue to supply electricity to the Premises and upon giving at least 60 days prior written notice to the other either:-
 - (a) the Landlord may elect to cease selling electricity to the Tenant, or
 - (b) the Tenant may elect to cease purchasing electricity from the Landlord.
- 9.13.3 If either the Landlord elects to cease selling electricity to the Tenant or the Tenant elects to cease purchasing electricity from the Landlord in accordance with the preceding subclause, the Tenant must on or before the time at which such sale and purchase is to cease pursuant to the notice given in accordance with the preceding subclause,
 - (a) enter into a contract to purchase electricity for the Premises from a licensed electricity retailer of the Tenant's choice,
 - (b) ensure that any such contract contains a provision that such electricity retailer must provide details to the Landlord concerning the Tenant's consumption of electricity in or in relation to the Premises,
 - (c) install at no cost to the Landlord such new or additional equipment and meters as may reasonably be necessary to supply and record the supply of electricity to the Premises.
- 9.13.4 If the Tenant is supplied electricity via an Inset Network (as defined in the *Electricity (General) Regulations 2012*) on the Land, the Tenant must pay to the Landlord the Tenant's share of Inset Network charges such share to be as is reasonably determined by the Landlord from time to time taking into

account the quantum of electricity provided to the Premises and the quantum of electricity provided to other premises situate on the Land.

9.13.5 Where any solar panels plant is installed on the Building for the exclusive use of the Tenant, the Tenant must keep such solar panels plant in good repair, condition and working order, must pay all costs of operating and maintaining the same and must replace the plant at the end of life.

9.13.6 Save to the extent caused or contributed to by the Landlord's negligence, the Landlord shall not be liable to the Tenant for any failure of electricity supply to the Premises.

10. **TENANT GOVERNANCE**

The Tenant will provide to the Landlord:

- 10.1 upon request, a copy of its constitution;
- 10.2 upon request, a copy of any rules or by-laws of the Tenant in existence at the Commencement Date;
- 10.3 within 28 days of any amendments being made to the Tenant's constitution, rules or by-laws, a copy of those amendments;
- 10.4 by 30 November in each year a copy of the annual report of the Tenant including the balance sheets and auditor's report;
- 10.5 by 30 November in each year a copy of the Tenant's adopted budget within 28 days of adoption if requested by the Landlord;
- 10.6 upon request from the Landlord a schedule of all subleases or other tenancies relating to the Premises; and
- 10.7 upon request from the Landlord or any employee, agent or contractor to examine all financial records and take copies of all accounts records and bank records of the Tenant and/or the minutes or any meeting of the Tenant or any committee of the Tenant.
- 10.8 any other documents that regulate the Tenant's governance and operations.
- 10.9 by 30 September in each year, a copy of the statements evidencing deposits of the required amounts (as per Item 10 of Schedule 1, special conditions 5.1 and 5.2) in the Tenant's maintenance fund.
- 10.10 upon request, any information in relation to the Tenant's use and occupation of the Premises and finances, .

11. **INSURANCE**

11.1 **Tenant's Insurance**

11.1.1 The Tenant must during the entire term hereof and any extensions hereto keep in full force and effect:-

- (a) a policy of public risk insurance with respect to the Premises and the business or businesses carried on in the Premises in which the limits of public risk must not be less than the amount referred to in Item 8 of

Schedule 1. Such policy must include an extension to cover the Tenant's legal liability in respect of death or injury to any person and damage to property of any such person or to the Premises and must include an extension to cover the Tenant's liability in respect of the Landlord's property. The policy must name note the interest of the Landlord.

- (b) a policy of insurance covering the plate glass of the Premises and the Tenant's Property contained in or about the Premises to the full replacement value thereof against all usual risks including loss or damage by fire fire fighting activities fusion explosion lighting civil commotion storm tempest earthquake and malicious damage or accidental damage, and any other insurances required by law or which the Landlord reasonably requires for the amount the Landlord reasonably requires.

- 11.1.2 The Tenant must use the Tenant's best endeavours to ensure that each such policy contains a clause that the insurer will not cancel or change the insurance without first giving the Landlord thirty days prior written notice. The policy or a copy thereof or a certificate of insurance must be produced by the Tenant to the Landlord upon request in writing being made by the Landlord for the production thereof.

11.2 Insurance not to be affected

- 11.2.1 The Tenant must not do or store nor cause permit or suffer to be done or to be stored in or upon or in connection with the Premises anything whereby any policy or policies of insurance now effected or which may hereafter be effected on the Premises or any part thereof or on any adjoining premises belonging to the Landlord may be invalidated or become void or voidable or whereby any increased rate of premium may become payable under any such policy or policies of insurance.
- 11.2.2 Without prejudice to the preceding sub-clause, the Tenant must from time to time on demand by the Landlord pay to the Landlord all extra or excess premiums (if any) for all and any insurance effected by the Landlord (and if the Premises are or become part of land to which either the *Strata Titles Act* or the *Community Titles Act* applies, the body corporate) in relation to the Land and the buildings thereon and or the Premises required on account of extra risk caused directly or indirectly by the use to which the Premises are put by the Tenant and or required by reason of any breach by the Tenant of any covenants in this Lease.

12. INDEMNITY, RELEASE AND RISK

12.1 Indemnity

The Tenant indemnifies the Landlord against all claims, actions, damages, losses, costs and expenses of any nature which the Landlord may suffer or incur or for which the Landlord may become liable in connection with:

- 12.1.1 the Tenant's use or occupation of the Premises;
- 12.1.2 the overflow or leakage of water or any other substance into or from the Premises or arising out of any faulty fixture or fitting of the Tenant;

- 12.1.3 any accident or damage to property or injury or death suffered by any person arising from any occurrence in or near the Premises to any person or property using or near the Premises arising wholly or in part by reason of any act or omission by the Tenant and persons under the control of the Tenant;
- 12.1.4 any act or omission of the Tenant;
- 12.1.5 any fire from the Premises;
- 12.1.6 any breach of this Lease by the Tenant;

save to the extent that any such claim, action, damages, losses, costs and expenses are caused or contributed to by the negligent or wilful act or omission of the Landlord or its agents, employees or contractors.

12.2 **Release**

The Tenant releases the Landlord from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the Premises, the Building and the Land except to the extent that it is caused by the Landlord's negligence.

12.3 **Tenant to Occupy Premises at own Risk**

The Tenant occupies and uses the Premises and the Land at the Tenant's sole risk.

13. **TENANT'S YIELDING UP OBLIGATIONS**

- 13.1 The Tenant must prior to vacating the Premises at the expiration or sooner determination of this Lease (or in the case of the determination of the Term of this Lease within a reasonable time after such determination):
 - 13.1.1 complete any repairs and maintenance which the Tenant is obliged to carry out under this Lease;
 - 13.1.2 remove all of the Tenant's Property in or on the Premises or the Land and immediately make good any damage caused by such removal excluding external signage;
 - 13.1.3 wash down the Premises and treat as previously treated all internal surfaces of the Premises by painting staining polishing or otherwise to a specification reasonably approved by the Landlord and to the reasonable satisfaction of the Landlord;
 - 13.1.4 replace all damaged and non-operative light bulbs and fluorescent tubes in the Premises with new light bulbs and fluorescent tubes; and
 - 13.1.5 thoroughly clean the Premises throughout, remove all refuse therefrom leaving the Premises in a clean, tidy, secure and safe condition;
 - 13.1.6 comply with all reasonable requirements and directions of the Landlord in respect of all removal and reinstatement works;
 - 13.1.7 hand over to the Landlord all keys and other security devices for the Premises which the Tenant has in its possession or control.
- 13.2 If the Tenant does not complete such removal and making good on the expiration of the Term of this Lease (or in the case of the determination of the Term of this Lease

within a reasonable time after such determination) then (without prejudice to any other rights of the Landlord) the Landlord may undertake such obligations and the Tenant must repay on demand all reasonable costs and expenses incurred by the Landlord in so doing.

- 13.3 In addition to the preceding subclause, the Landlord may elect not to effect such removal of the Tenant's Property (including all partitions, alterations and additions) in which case the Landlord may by notice in writing given to the Tenant notify the Tenant that unless the Tenant has effected such removal within fourteen (14) days of the date on which such notice is given such partitions alterations or additions not removed by the Tenant will be forfeited to the Landlord and where the Tenant fails to comply with such notice such partitions alterations and additions will at the expiration of such fourteen (14) day period become the absolute property of the Landlord.
- 13.4 Until such time as the Tenant has complied with its obligations under clause 13.1 or the date upon which the same have been forfeited to the Landlord pursuant to the preceding subclause (whichever is the earlier) ("**the compliance date**"), the Tenant must pay by way of damages to the Landlord an amount which represents the rent payable immediately prior to the expiration or termination of this Lease calculated on a daily basis multiplied by the number of days between the compliance date and the date of expiration or termination of this Lease.

14. **LANDLORD'S OBLIGATIONS AND RIGHTS**

14.1 **Quiet Possession**

Provided that the Tenant pays the rent and all other outgoings and performs and observes the terms conditions and covenants on the Tenant's part to be performed or observed herein contained or implied may during the term or any extension thereof subject to the provisions of this Lease, the Tenant may quietly enjoy the Premises without unlawful interruption by the Landlord or any person lawfully claiming under or in trust for the Landlord.

14.2 **Reservation of Services**

The Landlord reserves the right for itself and for all others authorised by the Landlord the passage of any air conditioning equipment, fire sprinkler systems, pipes, ducts, cables, wiring, communications, water sewerage and drainage connections and any other services through or along or in or into the Premises and also access to and through the Premises at any time for the purpose of installing, maintaining or repairing any such equipment, systems, pipes, ducts, cables, wirings, connections and Services and in such circumstances the Landlord will take reasonable steps not to unreasonably disturb the Tenant's use of the Premises .

14.3 **Costs of Proceedings**

If the Landlord may without fault on the Landlord's part be made a party to any litigation commenced by or against the Tenant by a third party, the Tenant must pay to the Landlord on demand by the Landlord all reasonable legal fees and disbursements (as between solicitor and client) incurred by the Landlord in connection therewith.

14.4 Right to Enter

14.4.1 At any time during the Term of this Lease the Landlord may (except in an emergency when no notice is required) enter the Premises after giving the Tenant reasonable notice:

- (a) to view the state of repair and condition of the Premises;
- (b) carry out any works on the Land or in or to the Building (including alterations, maintenance and redevelopment), but in these circumstances the Landlord will take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- (c) restrict access to the Land including parking areas but in these circumstances the Landlord will take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- (d) redirect pedestrian or vehicular traffic into, out of or through the Land;
- (e) close the Building in an emergency;
- (f) use, maintain, repair, alter and add to Building Services to or in the Premises, but the Landlord must take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- (g) exclude or remove any person from the Land and in such case the Landlord will provide the Tenant with a reason;
- (h) to do anything the Landlord must or may do under this Lease or pursuant to any legal obligation;
- (i) to carry out and observe the Landlord's maintenance and repair obligations as set out in Schedule 2; and

and the Tenant will not be permitted to make any claim or abate any payment if the Landlord exercises any of its rights under this clause.

14.4.2 If the Landlord or the Landlord's agents or contractors find any defect decay or want of reparation in the Premises or find any state or condition thereof contrary to any covenant or agreement on the part of the Tenant contained in this Lease, the Landlord, or the Landlord's agent or contractor may give to the Tenant notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Tenant must within such time sufficiently and in good and proper and professional manner make good repair restore or amend the same to the reasonable satisfaction of the Landlord and if the Tenant fails to comply with any such notice the Landlord may (but is not obliged to do so) by or with the Landlord's attorney agent and or contractors enter into and upon the Premises and carry out the requirements of such notice (causing as little disturbance to the Tenant as is practicable). All costs charges and expenses incurred by the Landlord in so doing will be a debt due from the Tenant to the Landlord payable on demand and recoverable in the same manner in all respects as the rent hereby reserved.

14.5 Interest on Overdue Amounts

If the Tenant does not pay an amount when it is due, and does not rectify such non-compliance within 14 days of written demand (or such other timeframe agreed in writing by the Landlord) then it must pay interest on that amount on demand from when the amount became due until it is paid in full. Interest is calculated on outstanding daily balances of that amount at the Default Rate.

15. DAMAGE TO BUILDING OR PREMISES

15.1 Subject to clause 15.2, if the Building of which the Premises forms part is damaged:-

- 15.1.1 the Tenant is not liable to pay rent or Outgoings or other charges that are attributable to the period during which the Premises cannot be used or are inaccessible due to that damage;
- 15.1.2 if the Premises are still useable but their useability is diminished due to the damage, a fair and just proportion of the rent, Outgoings and other charges payable by the Tenant pursuant to this Lease having regard to the nature of the damage shall abate from the date of the damage until the date that the Premises have become useable. If any dispute as to the amount of rent, Outgoings and charges to be abated arises, the same will be determined by a licensed valuer appointed by the President of the South Australian Division of the Australian Property Institute (or should that body have ceased to exist, the President or other principal officer for the time being of such body or association as then serves substantially the same objects) at the request of the Landlord;
- 15.1.3 if the Landlord notifies the Tenant in writing that the Landlord considers that the damage is such as to make its repair impractical or undesirable, the Landlord or the Tenant may terminate this Lease by giving not less than seven days' notice in writing and neither party shall have any claim for or right to recover any compensation by reason of such termination save in respect of any antecedent breach or default or any claim regarding the cause of such damage;
- 15.1.4 if the Landlord fails to repair the damage within a reasonable time after the Tenant requests the Landlord in writing so to do, then the Tenant may terminate this Lease by giving not less than seven days' notice in writing of termination to the Landlord.

15.2 Damage caused by Tenant

If the damage to the Building was caused or contributed to by the wrongful act or negligence of the Tenant no proportion of the rent, Outgoings and charges shall be abated and the Tenant will not be entitled to terminate this Lease.

15.3 Set off

The Landlord may, by notice to the Tenant, set off any amount due by the Tenant to the Landlord under this Lease or otherwise against any amount due by the Landlord to the Tenant under this Lease.

16. REDEVELOPMENT AND DEMOLITION

16.1 The Tenant acknowledges that:-

- 16.1.1 the Landlord may during the term of this Lease decide to refurbish, repair, redevelop or extend the Premises and/or the Building and land of which the Premises form part;
 - 16.1.2 the Landlord will suffer harm expense and loss if the Landlord elects to do so and is unable to obtain vacant possession of the Premises;
 - 16.1.3 the Landlord has only agreed to the Tenant's offer to lease the Premises on the condition the Landlord can obtain vacant possession of the Premises for the purpose of so refurbishing, repairing, redeveloping or extending as and when required by the Landlord; and
 - 16.1.4 this Lease is expressly subject to a condition precedent that the term of this Lease be subject to the Landlord's right to refurbish, redevelop or extend.
- 16.2 If during the Term or any extension of the Term of this Lease the Landlord elects to refurbish, repair, redevelop or extend the Premises, the Building or the Land of which the Premises form part or any part thereof and the Landlord provides to the Tenant details of the proposed repair, redevelopment or extension sufficient to indicate a genuine proposal to refurbish, repair, redevelop or extend within a reasonably practicable time after the date upon which the Landlord requires vacant possession of the Premises, then the Landlord may on or after the commencement of this Lease:
- 16.2.1 give to the Tenant not less than six (6) months written notice requiring the Tenant to relocate its business to other premises in the Building or on the Land (the "**new premises**") specifying the date on which the Landlord requires vacant possession of the Premises and requires the Tenant to relocate to the new premises (the "**relocation date**") whereupon:-
 - (a) this Lease will terminate on the relocation date; and
 - (b) not less than seven (7) days prior to the relocation date the Tenant must upon receipt of the same from the Landlord execute and deliver to the Landlord:-
 - (i) a surrender of this Lease in registrable form by mutual consent and for no monetary or other consideration effective from the relocation date; and
 - (ii) a lease of the new premises from the relocation date which lease will be upon the terms and conditions hereinafter appearing; and
 - (iii) the Tenant's registered duplicate copy of this Lease; and
 - (c) the Tenant must vacate the Premises and relocate to the new premises on the relocation date.
 - 16.2.2 the relocation to the new premises will be upon the following terms and conditions:-
 - (a) the new premises must (in the reasonable opinion of the Landlord) be of comparable quality and utility to the Premises;
 - (b) the Landlord will, at its cost, move the Tenant's stock from the Premises to the new premises;

- (c) the lease of the new premises shall be on the same terms and conditions as this Lease (changed as necessary),

and the Tenant may, not later than one month (time being of the essence) of receiving the written notice of relocation from the Landlord, notify the Landlord in writing that the Tenant does not intend to enter into a lease for the new premises, in which case the Tenant shall vacate the Premises on the relocation date without any right to compensation or damages from the Landlord by reason of termination of this Lease.

- 16.2.3 give to the Tenant not less than six (6) months written notice requiring the Tenant to vacate the premises specifying the date on which the Landlord requires vacant possession of the Premises (the "**termination date**") whereupon:-

- (a) this Lease will terminate on the termination date; and
- (b) not less than seven (7) days prior to the termination date the Tenant must upon receipt of the same from the Landlord execute and deliver to the Landlord such documents as the Landlord reasonably requires to effect a surrender of this Lease as at the termination date; and
- (c) the Tenant must vacate the Premises on the termination date.

and the Tenant may at any time after receipt of notice of termination from the Landlord terminate this Lease upon giving not less than seven (7) days prior notice in writing to the Landlord.

16.3 **Damage to Goods or Person**

Except to the extent caused by the negligent or wilful act or omission of the Landlord, its servants or agents, the Landlord its attorney or agent shall not be under any liability to the Tenant for any loss expense or damage sustained by the Tenant or any invitee of the Tenant arising out of personal injury or destruction of or damage to goods chattels furniture or effects howsoever caused including by water gas or electricity bursting overflowing leaking or escaping (as the case may be) from any water gas electrical apparatus installation fitting pipe sewer wiring roof or roof gutter down pipe or storm water drain (as the case may be) on in or connected to or appurtenant to the Premises and/or the Building.

17. **RULES AND REGULATIONS**

- 17.1 The Landlord may (in consultation with the Tenant) from time to time make such rules and regulations that the Landlord considers necessary for the management, safety, security, care of or cleanliness of the Premises or the Building.
- 17.2 The Landlord reserves the right to amend from time to time the Rules and Regulations.
- 17.3 The Rules and Regulations bind the Tenant when it receives notice of the Rules and Regulations from the Landlord.
- 17.4 If there is any inconsistency between this Lease and the Rules and Regulations, then this Lease prevails.
- 17.5 A failure by the Tenant to comply with the Rules and Regulations is a breach of this Lease.

- 17.6 The Rules and Regulations applicable at the date of this Lease are those appended to this Lease.

18. **EXTENSION OF TERM**

If not more than six months nor less than three months prior to the expiration of the Term the Tenant gives to the Landlord notice in writing of its desire to extend the Term and if the Tenant is not in breach of any of the covenants agreements and conditions on the part of the Tenant to be performed and complied with, the Tenant (at the Tenant's cost and expense in all things) will be entitled to an extension of the Term for the further period referred to in Item 9 of Schedule 1 at a rent to be fixed in the manner provided by the terms of this Lease but otherwise upon the same terms and conditions as are herein contained with the exception of this right of renewal.

19. **ESSENTIAL TERMS, RE-ENTRY, BREACH, DAMAGES**

19.1 **Essential Terms**

The clauses of this Lease referred to in Item 11 of Schedule 1 are essential terms of this Lease and the Landlord may at its option treat any breach or default by the Tenant in the observance or performance of its obligations under any of such clauses as a repudiation by the Tenant of this Lease.

19.2 **Power of Re-entry**

If:

- 19.2.1 the rent or any part of it is unpaid for sixty (60) days after any of the days on which it should have been paid (although no formal or legal demand may have been made for payment); or
- 19.2.2 the Tenant commits or permits to occur any other breach or default in the due and punctual observance and performance of any of the terms of this Lease and fails to remedy the breach within a period of 14 days of written notice from Landlord (or such shorter time as the Landlord may in any particular case reasonably stipulate); or
- 19.2.3 any property in or on the Premises is seized or taken in execution under any judgment or other proceedings; or
- 19.2.4 the Tenant ceases to be able to pay its debts as they become due; or
- 19.2.5 any step is taken to enter into any arrangement between the Tenant and its creditors; or
- 19.2.6 any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of the Tenant's assets or business; or
- 19.2.7 the Tenant is deregistered or dissolved or any step is taken by any person towards that;

then the Landlord or the Landlord's attorney or duly authorised agent, solicitor or representative may without notice to the Tenant re-enter into and upon the Premises or any part thereof in the name of the whole and use and enforce all such ways and means and adopt all such measures as may be necessary or expedient for the purpose of effecting such re-entry by force or otherwise as the occasion may require

without being liable for any loss expense damage action suit or proceeding or cost and to hold and enjoy the Premises as if these presents had not been made and thereupon the Tenant's leasehold interest in the Premises will cease and determine.

19.3 Damages generally

The Landlord's entitlement to recover losses, damages, costs or expenses will not be affected or limited by:

- 19.3.1 the Tenant abandoning or vacating the Premises;
- 19.3.2 the Landlord re-entering the Premises and/or terminating the Tenant's leasehold interest in the Premises;
- 19.3.3 the Landlord accepting the Tenant's repudiation;
- 19.3.4 conduct of the parties which may or shall constitute a surrender by operation of law.

20. NOTICES

Any notice or other document required to be given or served under this Lease may be given or served:

- 20.1 by personal service or hand delivery, which will be deemed to have been given upon receipt;
- 20.2 by ordinary or registered post or facsimile transmission to the last place of business or residence known of the party, and any notice or other document will when given or served by either of the methods mentioned above be deemed to have been given or served and received by the other party three (3) days after the date of posting or delivery at the document exchange whether actually received or not AND in the case of any notice or document required to be served or given by the Landlord to the Tenant the same may be signed on behalf of the Landlord by its agent, manager, secretary assistant, secretary or solicitor and may be either addressed or delivered to the Tenant at the address of the Premises or such other address of the Tenant as the Tenant may specify in writing from time to time.

21. COSTS

- 21.1 Each party will bear its own costs in respect of the preparation, negotiation, execution and stamping of this Lease.
- 21.2 Subject to any limits imposed by the Act the Tenant must pay all stamp duty and registration fees in respect of this Lease and any renewal, extension, surrender, assignment or transfer of this Lease and any other incidental documents including any lease plan costs.

22. MISCELLANEOUS

22.1 Holding Over

If the Tenant continues in occupation of the Premises after the expiration of the Term or any extension thereof with the consent of the Landlord the Tenant will thereupon become or be deemed to be a monthly tenant of the Landlord at a rent determined in accordance with the provisions of this Lease, and such tenancy will be subject to

such of the conditions and covenants contained in this Lease as are applicable to a monthly tenancy.

22.2 Waiver

No waiver by the Landlord of any breach or non-observance by the Tenant of any covenant herein contained shall constitute a general waiver of the obligations of the Tenant.

22.3 Acceptance of Rent Arrears

In respect of the Tenant's obligations to pay rent the acceptance by the Landlord of arrears of or any late payment of rent will not constitute a waiver of the essentiality of the Tenant's obligations to pay rent on the dates hereinbefore set out for payment of rental or in respect of the Tenant's continuing obligation to pay rent during the Term.

22.4 Kiosks and Marquee

22.4.1 The Landlord may erect kiosks and marquees on the Land for a particular day or days where a sporting game or match will be held, subject to certain conditions and requirements of the Landlord from time to time. Such conditions will include an obligation on the Tenant to ensure that such marquee(s) is either securely tied down and/or weighted in a manner to prevent damage to sub-surface irrigation. The cost of repairs to all damage (to sub-surface services) caused by the erection of marquee(s) or other temporary structures will be the full responsibility of the Tenant.

22.4.2 The Tenant may request the consent of the Landlord to erect a marquee on the Premises for a particular day or days, where a sporting game or match will be held. If the Landlord's consent is granted the such consent will be subject to certain conditions and requirements of the Landlord from time to time. Such conditions will include an obligation on the Tenant to ensure that such kiosk(s) or marquee(s) are securely tied down or weighted in a manner to prevent damage to sub-surface irrigation. The Tenant is responsible for all costs of remedying any damage to sub-surface services caused by the erection of marquee(s) or other temporary structures.

22.5 No Caveat

The Tenant must not lodge or cause or permit to be lodged any absolute caveat over the certificate of title for the Land or the Premises.

22.6 Landlord and Tenant Act

A notice under section 10 of the *Landlord and Tenant Act 1936 (SA)* must allow 14 days for the Tenant to remedy a breach of this Lease if it is capable of remedy and to make reasonable compensation in money to the satisfaction of the Landlord. No period of notice is required in respect of non-payment of rent.

22.7 Power of Attorney

If the Landlord becomes entitled to terminate this Lease and re-enter and take possession of the Premises (a statutory declaration of any duly authorised officer, employee or agent of the Landlord will be conclusive evidence for the purpose of the Registrar-General) then the Tenant irrevocably appoints the Landlord as the attorney of the Tenant to execute any documents and perform any acts the Landlord requires

to give full effect to the power of re-entry under the *Real Property Act 1886* (SA). The Tenant must execute any documents and perform any acts the Landlord requires to give full effect to the power of re-entry under the *Real Property Act 1886* (SA).

22.8 **Special Conditions**

This Lease is subject to the special terms and conditions (if any) specified in Item 10 of Schedule 1 and if there is any inconsistency between any such special terms and conditions and any of the provisions of this Lease and/or the Rules and Regulations then such special terms and conditions will prevail.

DRAFT

SCHEDULE 1

ITEM 1 TENANT (clause 1.18)

Name: Brighton Rugby Union Football Club Incorporated

ABN: 30 403 341 350

Address: 410-420 Brighton Road, Hove SA 5048

ITEM 2 PREMISES (clause 1.12)

That portion of the land comprised in Certificate of Title Register Book Volume 5748 Folio 561 and Volume 5750 Folio 187 and known as 410-420 Brighton Road Hove SA 5048 being the area shaded in red on the plan contained in Schedule 3

ITEM 3 THE LAND (clause 1.8)

The whole of the land comprised in Certificate of Title Register Book Volume 5748 Folio 561 and Volume 5750 Folios 183 and 187

ITEM 4 PERMITTED USE (clause 9.1)

The provision of community recreational rugby and touch rugby club, hiring of the Premises and the Rugby Field on the terms contained in clause 8 and special condition 4 and/or such other use or uses as the Landlord may consent to

ITEM 5 TERM (clause 1.21)

A term of five (5) years commencing on [DATE] (**Commencement Date**) and expiring at 11.59PM on [DATE]

ITEM 6 COMMENCING RENT (clause 3)

\$4,790.00 per annum exclusive of GST, subject to review

ITEM 7 RENT REVIEW (clause 3)

(a) Fixed Review Dates: The rent will be reviewed as follows:

First anniversary of this Lease: \$6,384.00 per annum plus GST

Second anniversary of this Lease: \$7,977.00 per annum plus GST

Third anniversary of this Lease: \$9,571.00 per annum plus GST

Fourth anniversary of this Lease: \$11,164.00 per annum plus GST

- (b) CPI Review Dates: from [DATE] each year during the Term if the Term is renewed or extended

ITEM 8 PUBLIC RISK INSURANCE (clause 11)

TWENTY MILLION DOLLARS per claim and unlimited in the annual aggregate or such higher amount as the Landlord may from time to time reasonably require.

ITEM 9 EXTENSION OF TERM (clause 18)

One further term of five (5) years commencing on [DATE] and expiring on [DATE], if exercised in accordance with clause 18

ITEM 10 SPECIAL CONDITIONS (clause 22.8)

1. **Child Safe Environment**

- 1.1 The Tenant acknowledges that the City of Holdfast Bay is committed to providing a child safe environment (as defined by the *Children's Protection Act 1993*) at all times. A child safe environment is 'an environment, which is both child-safe and child-friendly, where children are valued and feel respected and encouraged to reach their full potential.'
- 1.2 The Tenant represents to the Landlord that it has fulfilled and will ensure that it continues to fulfil its requirements under the *Children's Protection Act 1993* in relation to occupying the Premises for the Permitted Use.
- 1.3 The Tenant must act in the best interests of the community at large.
- 1.4 The Tenant must at the request of the Landlord provide a current police clearance or the relevant criminal history screening certificate under relevant legislation for the Tenant or any of the Tenant's officers, volunteers, members, employees, contractors, tenants and agents who provide services from the Premises.
- 1.5 If the Landlord makes a request of the Tenant under this special condition, the Tenant must provide the requested documents to the Landlord within 10 Business Days of such request. Failure to do so will be considered a breach of an essential term of this Lease.

2. **Tenant's Fitout**

- 2.1 The Tenant must carry out its Fitout Works:

- (a) in a proper and professional manner;
- (b) in a manner that does not expose people to a health and safety risk;
- (c) using good quality materials;
- (d) in accordance with the Tenant's plans and specifications approved by the Landlord;
- (e) in accordance with all approvals and the requirements of authorities;
- (f) in accordance with the reasonable directions of the Landlord and the Landlord's representative;
- (g) in a manner so as not to:
 - (i) disturb other contractors or occupants of the Building; or
 - (ii) prevent or hinder access to the Premises or any part of them by the Landlord or any person authorised by the Landlord;

2.2 In carrying out the Fitout Works the Tenant must:

- (a) ensure that the Tenant's employees, contractors, agent and invitees comply with the requirements of all relevant building site awards and conditions relevant to the construction of the Fitout Works;
- (b) not bring any heavy items of machinery into the Premises likely to damage the Building without the prior approval of the Landlord;
- (c) use the access paths, loading dock and lifts in the Building only to the extent approved from time to time by the Landlord or the Landlord's representative (each acting reasonable), having regard to the requirements of other occupants of the Building; and
- (d) ensure that any defects in the Fitout Works are rectified promptly.

2.3 The Fitout Works and the use by the Tenant of the Land, the Building and the Premises are at the Tenant's risk except to the extent caused by the wilful or negligent act or omission of the Landlord.

2.4 In this special condition, "**Fitout Works**" means the works and installations to fit out and prepare the Premises to the Tenant's occupational requirements as depicted in the plans and specifications approved by the Landlord.

3. **Tenant's Fixtures and Fittings**

- 3.1 For the avoidance of doubt, the Tenant acknowledges that the Landlord has no liability or responsibility for any fixtures, fittings and/or other items installed, owned or otherwise brought onto the Premises by the Tenant.

4. **Licence**

- 4.1 The Tenant may access and use the area outlined in blue on the plan attached at Schedule 4 (**Rugby Field**) during official Tenant training times as approved by the Landlord and during official Rugby SA fixtures and for

the purposes of the Permitted Use, and the terms and conditions of this Lease apply to the Licence mutatis mutandis.

- 4.2 The licence conferred by this special condition does not confer on the Tenant any tenancy, estate or interest in the Rugby Field or the Land.
- 4.3 Without limiting and notwithstanding any other release provided by the Tenant in this Lease, the Tenant agrees that the Landlord is not liable for any death or personal injury to the Tenant or its patrons or customers while accessing, occupying or using the Rugby Field except to the extent caused by the negligence of the Landlord.
- 4.4 Without limiting and notwithstanding any other indemnity provided by the Tenant in this Lease, the Tenant indemnifies the Landlord against all actions, liabilities, claims or demands for any loss, damage, injury, or death incurred or suffered directly or indirectly by the Landlord or any other person in connection with the Tenant's access, occupation or use of the Rugby Field except to the extent caused by the negligence of the Landlord.
- 4.5 Any breach of the licence granted pursuant to this special condition by the Tenant is a breach of this Lease by the Tenant and any breach of this Lease by the Tenant is a breach of the Licence granted pursuant to this special condition subsisting at the time of the breach of the lease by the Tenant.
- 4.6 The Tenant must (on demand) remedy any damage (not including reasonable wear and tear) caused to the Rugby Field by the Tenant's access, occupation and/or use.
- 4.7 The Tenant must ensure the Rugby Field is kept and left in a clean, neat and tidy condition at the end of each use.
- 4.8 The Tenant may coordinate and facilitate hiring out of the Rugby Field strictly subject to the procedure set out in clause 8.2 of this Lease. Any ongoing and regular use of the Rugby Field must be recorded in a sub-licence agreement which is subject to the prior written approval of the Landlord.

5. Maintenance Fund

- 5.1 The Tenant undertakes to the Landlord that it must (on or before entering into this Lease) establish and maintain an account for maintenance to the Premises, and ensure that at least \$7,500 is deposited into an interest earning account each year during the Term which may be applied as follows:
 - (a) the amount of money contributed to this account in a year may be reduced by deducting the value of any work done to the Premises during that year without charge by or on behalf of the Tenant;
 - (b) monies may be withdrawn from this account by the Tenant for the purpose of undertaking maintenance to the Premises;
 - (c) in the event that the Tenant undertakes major capital improvement works to the Premises or the Rugby Field (as defined by special condition 4) the requirement for this annual contribution may be

waived at the discretion of the Landlord upon the written request of the Tenant.

- 5.2 The Tenant will provide to the Landlord on the Commencement Date and annually thereafter, true and complete copies of all statement evidencing such contributions including annual statements. The Tenant agrees that it will not deduct, withdraw or apply any moneys deposited into the holding account without the Landlord's prior written consent. The Tenant further agrees that the moneys held in the holding account will be applied for replacement as reasonably notified by the Landlord.

6. Special events and community programs

- 6.1 The Tenant acknowledges that the Landlord may from time to time use the field and clubrooms for special or major sporting, community or other events.
- 6.2 The Tenant must accommodate the Landlord with up to three special or major sporting, community or other events per financial year, of a duration of 2 days maximum each. The Landlord will provide no less than 90 days written notice to the Tenant.
- 6.3 The Landlord will endeavour to select dates for special events that do not conflict with the Tenant's official training and fixtures. If required, the Landlord will assist to relocate the Tenant during the affected hours, however the relocation is not guaranteed.
- 6.4 The Landlord will be authorised to access and use the Premises (not including the bar area and kitchen stock) free of charge for the sole purpose of running community programs organised and led by the Landlord, up to 4 hours a week on any Monday to Friday (inclusive) during the hours of 9am to 5pm and outside of designated training and game times. The Tenant must accommodate exclusive access to the function room, and non-exclusive access to the kitchen, toilets and all common areas for the duration of these programs. Times and dates will be scheduled a minimum of 2 months in advance and negotiated to not conflict with the Tenant's official training and fixtures.

7. Other

- 7.1 Within 6 months of the date of this Lease (and at the same time as requesting any renewal of this Lease), the Tenant must provide to the Landlord, a copy of its approved strategic business plan (including budgetary projections) conducive to increase revenue, membership (and sports players including female and junior participation). The Landlord will provide reasonable assistance to the Tenant if requested, provided that the Tenant is responsible for the content and all matters relating to the business plan, budgetary statements and related documents.
- 7.2 The Landlord will maintain the Rugby Field (as defined by special condition 4) during the Term to a higher standard than a public reserve (as specified in the Landlord's Community Leasing Policy) and on this basis, the commencing rent includes the Tenant's contribution to the additional maintenance costs the Landlord will incur.

- 7.3 The Tenant must allow the Premises to be hired for or used by community groups for community sport services when not required by the Tenant for training or match commitments.
- 7.4 The Tenant is permitted to (and will be responsible for) marking out the Rugby Field (as defined by special condition 4) and all costs associated therewith.
- 7.5 The Tenant must provide to the Landlord on or before the Commencement Date and on each anniversary of the Commencement Date during the Term evidence of annual inspections/servicing of the Premises and Services in a form satisfactory to the Landlord, including but not limited to copies of all compliance certificates from the relevant authorities regarding fire safety, white ants, air conditioning, grease arrestors, electrical and essential safety provisions.
- 7.6 The Tenant must leave the Premises (including all playing grounds) in a clean and tidy state at the end of each use.
- 7.7 Except as permitted by clause 9.3 of this Lease, the Tenant must not under any circumstances allow alcohol onto the Land and must ensure that its patrons, members and visitors do not bring alcohol onto the Land.
- 7.8 The Tenant must provide to the Landlord on or before the Commencement Date and on each anniversary of the Commencement Date during the Term evidence of annual inspections/servicing of the Premises and Services in a form satisfactory to the Landlord, including but not limited to copies of all compliance certificates from the relevant authorities regarding air conditioning, grease arrestors, electrical and essential safety provisions. The Tenant must at the same time provide to the Landlord a program that specifies planned and scheduled maintenance in relation to the Premises for the coming lease year.

ITEM 11 ESSENTIAL TERMS (clause 66)

Clauses 3.1, 4, 5, 6, 7, 8, 9.1, 9.3, 10, 11, 12, 17, 22.8 and any obligations imposed on the Tenant pursuant to Item 10 of this Schedule

SCHEDULE 2 - Maintenance Schedule

This schedule outlines the particular responsibilities of Landlord and the Tenant, where applicable, and must be read in conjunction with relevant provisions within this Lease including **clauses 6 and 14.5**.

In this Schedule 2, all references to “periodically” *must be interpreted to any program or time frame stated within any manufacturing specifications, Australian Standards or industry best practice benchmarking, as notified by the Landlord to the Tenant from time to time.*

Building - External

Item	Tenant' responsibility		Frequency	Landlord's responsibility
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant		
Storm water system	Clean gutters, downpipes and storm water drains – keep free of debris to prevent blockages.		As required	Repair/replace at end of natural life unless damage caused by Tenant
Storm water pits and pumps	Nil responsibility unless damage caused by Tenant.		As required	Full responsibility unless damaged caused by Tenant
Windows internally and externally, including frames and screens etc.	Clean including frames. Replace broken glazing, repair as required.		Minimum twice a year	Replace frames, glazing and opening/closing mechanisms at end of natural life unless damage caused by Tenant.
Sewer mains and external pipes	Nil		As required	Keep clear of blockages Repair/replace at end of natural life unless damage caused by Licensee's negligence.
Roof and guttering	Keep guttering clean and free of debris at all times		Twice a year	Repair leaks to the roof and repair or replace roof covering (based on capital works programme and budget priorities)
Roof Safety Systems	Nil responsibility	Nil responsibility unless	Periodically	Full responsibility to maintain and

		damaged caused by tenant.		replace at end of life.
Doors/locking mechanisms	Minor adjustments to keep doors operational. Repair (e.g. if door hinge/lock broken, repair/replace locks, door coverings)	Option	As required	Replace mechanisms at end of natural life unless damaged caused by the Tenant.
Building keys, fobs & access cards		Additional, replacement or programming of keys, fobs or cards	As required	Replace system at end of natural life. Council will retain the main master key system and will issue keys and fobs as required.
Solar Panels	Full responsibility. Replace at end of life if required		As required	Nil responsibility, except for removal and reinstatement of system if required for landlord to undertake works.
Walls	Wash, clean periodically.	Option	Annually	Nil responsibility.
	Repair, touch up and repaint damage caused by Tenant and their activities.	Option	As required	Maintain structural stability. Remove graffiti. Periodic repair and painting (e.g. every 10 years) unless damage caused by the Tenant
Glass	Keep clean and maintain. Replace if broken or damaged.		As required	Remove graffiti. Replace structure at end of natural life.
Stairwells/staircase	Keep free of rubbish and debris. Keep access/ egress area clear.		As required	Repair and replace including balustrades, treads risers and landings. Replace at end of natural life.
Paint finishes	Touch up and repaint where damaged in between Council	Option	As required	Periodic painting (e.g. every 10 years) unless caused by the Tenant and their

	periodic paints			activities.
Signs installed by Tenant	Maintain, clean and replace (observing landlord's requirements for installation)		As required	Nil responsibility.
Security lights	Nil responsibility for maintenance, unless damaged by Tenant and their activities. Pay for electricity costs		As required	Maintain and replace lights fittings and any globes.
External Pipes	Repair damage and blockage caused by tenant's negligence.		As required	Replace at end of natural life. Remove tree roots if damaged caused by trees on landlord's land.
General Cleaning, including shed and storage areas.	Full responsibility maintain and keep clean and tidy including surrounds within the leased area.		Periodically	Nil responsibility.
Tenant's fixtures and fittings	Full responsibility.			Nil responsibility.
Balcony's balustrade	Repair, touch up and repaint damage caused by Tenant.	optional	Periodically	Maintain structural stability. Periodic repair and painting (e.g. every 10 years). Replace at end of natural life.
Pest removal in the whole leased area except for bees and wasps	Full responsibility.		As required	Nil responsibility except for bees and wasps.

External Site Surfaces

Item	Tenant' responsibility		Frequency	Landlord's responsibility
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant		
External fence within leased areas	Keep clean and tidy.		As required	Remove graffiti. Maintain and replace at end of natural life.
Building apron/ walkway and/or Garden areas	Keep clean and unobstructed. No storage of waste.		At all times	Maintain and replace.
Storage shed / compound warm up area	Keep clean, maintain, repair and replace as required. No storage outside of designated storage areas.		As Required	Nil responsibility.
Car parks	Nil responsibility unless damage caused by Tenant		Periodically	Full responsibility.
Internal roads line marking	Nil responsibility unless damage caused by Tenant		Periodically	Full responsibility.
Watering / irrigation systems	Nil responsibility unless damage caused by Tenant		Periodically	Full responsibility unless damage caused by Tenant
Tree pruning and care	Nil responsibility unless damage caused by Tenant		As Required	Full responsibility unless damage caused by Tenant
Retaining Walls	Nil responsibility unless damage caused by Tenant		As Required	Maintain, Replace at end of natural life.
Line marking of rugby field	Full responsibility		Periodically	Nil responsibility
Replacement of sporting field	Nil responsibility unless damage caused by Tenant (excluding wear and tear).		As Required	Full responsibility unless damage caused by Tenant
Goal posts	Full responsibility including		As Required	Nil responsibility

	replacement			
Field lighting (including warm up area)	Full responsibility including replacement at Tenants discretion		As Required	Nil responsibility
Score board	Full responsibility including replacement		As Required	Nil responsibility
Memorial sites and fundraising pavers	Full responsibility including replacement and/or land remediation		As Required	Nil responsibility
Signs installed by Landlord (including entry statement)	Nil responsibility unless damage caused by tenant.		As Required	Full responsibility unless damage caused by Tenant
Bench and/or other sitting arrangements owned by the Tenant	Keep clean, maintain, repair and replace as required.		As Required	Nil responsibility
Pest removal including bees on licensed grounds	Nil responsibility.		As Required	Full responsibility

Building internal

Item	Tenant' responsibility		Frequency	Landlord's responsibility
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant		
Water, sewer and gas piping	Keep free from blockages – unblock / repair drains, unless caused by the Landlord Repair damage caused by Tenant.		As required	Repair / unblock drains where damage caused by Landlord. Replace at end of useful life.
Hot water systems	Utility costs associated with HWS.		As Required	Maintenance and replacement at end of life.
Change rooms, fit out and finishes	Full responsibility. Keep clean and tidy.		Periodically	Nil responsibility.
Lift	Keep clean and tidy.	Repair damage caused by tenant.	Periodically	Lift Registration Licence. Periodic servicing, Maintenance, breakdowns, callouts and Replacement at end of life.
Security Alarm System and general Cameras		Call outs or attendance by security patrols or MFS caused by the Tenant and their activities. Any approved changes to the system or its configuration that are requested by the Tenant.	Periodically	Oversee any additions or changes. Manage Council owned CCTV. Configuration of the systems, servicing, maintenance and monitoring. Replacement at end of life
POS CCTV equipment	If Point of Sale CCTV equipment is not installed as part of the building security and CCTV system, Manage	If Point of Sale CCTV equipment installed as part of the building security and CCTV system.	As Required	

	security monitoring of the club system	Call outs or attendance by security patrols or MFS caused by the Tenant and their activities. Any approved changes to the system or its configuration that are requested by the Tenant.		
Fire extinguishers, hose reels and fire blankets, sprinkler systems etc.	Make sure fire equipment is accessible at all times. Report any damage or usage of fire equipment to landlord.	Repair, replace or replenish if used or damaged by Tenant	Periodically	Service, maintain and replace fire extinguishers and blankets, hose reels and sprinkler systems at end of life unless damaged caused by Lessee.
Emergency exit lighting and evacuation signage.	Nil responsibility unless damaged or altered by Tenant.	Optional	Periodically	Full responsibility unless damage caused by Lessee.
Smoke detectors	Nil maintenance responsibility unless damaged by Tenant.	Call outs or attendance by security patrols or MFS caused by the Tenant and their activities. Any approved changes to the system or its configuration that are requested by the Tenant.	Periodically	Configuration of the system, servicing, maintenance and monitoring. Replacement at end of life
Water/waste services – associated fittings including taps etc.	Clean fittings, toilet, sinks, etc. – maintain and replace washers. Replace tap ware, sinks, drains and toilets etc. if		Periodically	Replace sinks, drains and toilets at end of life.

	damaged by tenant.			
Grease Arrestors	Servicing and pumping out of system. Repair/ replacement if damage caused by the Tenant		Periodically	Repair and replacement unless damage caused by Tenant.
Telecommunications – phone/PABX systems	Full responsibility.		As Required	Nil responsibility.
Air conditioning units/thermostats, ducting etc.	Regular services to maintain working order and repairs.	Option	In line with manufacturer's specification	Replace at end of useful life.
Electrical services, sub switchboards, distribution boards and power lighting circuits	Nil responsibility unless damage caused by Lessee.		As Required	Full responsibility unless damaged caused by Lessee.
Doors, locking mechanisms		Full responsibility: proximity card replacement / keep doors operational / replace damage locking mechanisms / replace damaged doors	As Required	Nil responsibility.
Consumer mains	Nil responsibility unless damaged caused by Lessee.		As Required	Full responsibility unless damaged caused by Lessee.
Lighting fixtures	Full responsibility, Replace light fittings and globes, ballast's and fuses. Repair/replace wiring connections.		As required	Replace at end of life
Carpets	Keep clean and free from dirt and stains. Repair any damage caused by misuse by the Lessee. Replace at end of life		Periodically	Nil responsibility.

Vinyl/concrete/tiled/other floors	Clean/polish as required Repair/replace to appropriate finish.		Periodically	Nil responsibility.
Internal walls/screens and Ceilings	Clean and keep free of mould/grime. Repair/ replace where damage caused by Tenant. Touch up painting when required. Periodic repair and painting (e.g. every 10 years)		Periodically	Replacement and structural maintenance responsibility for internal walls/screens and ceilings at end of life.
Lessee's fitting and loose / soft furniture and equipment	Full maintenance and replacement responsibility		As Required	Nil responsibility.
Pest removal including bees	Full responsibility.		As Required	Nil responsibility.
Electrical tagging and testing	Full responsibility.		Periodically	Nil responsibility.
General cleaning	Full responsibility to keep the buildings clean and tidy		Periodically	Nil responsibility.
Tenant 's fixtures and fittings	Full responsibility.		As Required	Nil responsibility.
Bar fit out and kitchens equipment including range hood	Full responsibility, note canopy range hood / extraction system cleaning and servicing.		Periodically	Nil responsibility.
Cool rooms	Full responsibility.		Periodically	Nil responsibility.
Blinds and /or window coverings	Full responsibility and replacement at end of life.		As required	Nil responsibility.
Roller shutters	Cleaning, servicing and		Periodically	Replacement at end of life.

	maintenance			
Glass	Keep clean and maintain Replace if broken or damaged.		Periodical Cleaning, Maintenance as required.	Replace as part of window replacement.

Exterior Toilets

Item	Tenant' responsibility		Frequency	Landlord's responsibility
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant		
Consumables	Nil	Nil	As needed	Supply consumables
Cleaning	Nil	Nil	Periodical	Clean and service toilets as part of toilet cleaning program.
Maintenance and operational activities	Nil	Nil unless damage caused by tenants negligence or activities.	Periodical	Full responsibility unless damaged caused by Tenant
Fitout and Finishes	Nil	Nil	As needed	Replacement of fitout and finishes unless damaged by caused by Tenant
Water and Electricity	Nil Responsibility			Full responsibility. Council to reimburse running costs yearly

Schedule 3 – Plan of Premises



Schedule 4 – Plan of Rugby Field
(special condition 4 in Item 10 of Schedule 1)



RULES AND REGULATIONS

1. The Tenant must not:

- 1.1 smoke in the Building or on the areas outside the Building on the Land;
- 1.2 put up signs, notices, advertisements, blinds or awnings, antennae or receiving dishes or install vending or amusement machines without the Landlord's approval;
- 1.3 hold commercial auction, bankrupt or fire sales in the Premises;
- 1.4 keep an animal or bird on the Premises;
- 1.5 use a business name which includes words connecting the business name with the Building without the Landlord's approval;
- 1.6 remove floor coverings from where they were originally laid in the Premises without the Landlord's approval;
- 1.7 do anything to the floor coverings in the Building which affects any guarantee in connection with them if the Landlord has given the Tenant a notice setting out the relevant terms of the guarantee;
- 1.8 use any method of heating, cooling or lighting the Premises other than those provided or approved by the Landlord;
- 1.9 operate a musical instrument, radio, television or other equipment that can be heard outside the Premises that could cause unreasonable annoyance or nuisance to any person who occupies nearby space or premises;
- 1.10 throw anything out of any part of the Building;
- 1.11 move heavy or bulky objects through the Building without the Landlord's approval;
- 1.12 obstruct:
 - 1.12.1 windows in the Premises except by internal blinds or curtains approved by the Landlord;
 - 1.12.2 any air vents, air conditioning ducts or skylights in the Premises; or
 - 1.12.3 emergency exits from the Building or the Premises; or
 - 1.12.4 the Common Areas; or
 - 1.12.5 interfere with directory boards provided by the Landlord.

2. The Tenant must:

- 2.1 put up signs in the Premises prohibiting smoking nor allow or permit the presence or consumption of alcohol on the Rugby Field (as defined by special condition 4);
- 2.2 if the Landlord approves the Tenant's use of a business name which is connected with the Building, terminate any right it has to use that business name on the date it must vacate the Premises;
- 2.3 participate in any emergency drill of which the Landlord gives reasonable notice;

- 2.4 evacuate the Building immediately and in accordance with the Landlord's directions when informed of any actual or suspected emergency; and
- 2.5 secure the Premises when they are unoccupied and comply with the Landlord's directions about Building security.

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IMPORTANT NOTICE

EXCLUSION OF WARRANTY OF FITNESS FOR PURPOSE

Retail and Commercial Leases Act 1995: Section 18

Retail and Commercial Leases Regulations 1995: Regulation 7

**THE LANDLORD DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE
WILL, FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE
TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON.**

SIGNED as an agreement

DATED

**THE COMMON SEAL of
CITY OF HOLDFAST BAY**
was hereunto affixed in the presence of:

.....
Mayor

.....
Chief Executive Officer

**THE COMMON SEAL of
BRIGHTON RUGBY UNION FOOTBALL CLUB INCORPORATED**
was affixed pursuant to the *Associations
Incorporation Act 1985* in accordance with
its constitution:-

.....
Chairperson/Vice-Chairperson
(Please delete as applicable)

.....
Signature of Committee/Board Member
{Please delete as applicable}

.....
Print Full Name

.....
Print Full Name

Attachment 3



Disclosure Statement - regulation 5

DISCLOSURE STATEMENT UNDER SECTION 12 OF RETAIL AND COMMERCIAL LEASES ACT 1995

INFORMATION FOR LESSEES

Please read the following information carefully.

What is a lease?

A lease is a very important document. It is a legally binding contract between the lessor (landlord) and the lessee (tenant). It sets out the rights and obligations of the lessor and the lessee.

A document that binds the lessee to enter into a lease or to take a shop on lease for a renewed term should be treated as if it were the lease.

What should I look for in a lease?

The main features to consider are:-

- the term of the lease;
- whether there is an option to renew or extend the lease (and the method of exercising any such option);
- the rent and the basis for rent reviews;
- the amounts that the lessee will have to pay in addition to rent eg fit out costs, maintenance and repair costs and shared operating expenses;
- the consequences of breaching a term of the lease.

Make sure you read the whole document and understand the obligations it will place on you, especially the extra charges in addition to rent that you will have to pay.

If the lease is a sublease, you should seek information about the lessor's rights and obligations under the head lease that are relevant to the lease of the shop.

What information is the lessor required to give me?

The lessor must give you a copy of the proposed lease and this disclosure statement. The disclosure statement must contain the matters set out in section 12 of the *Retail and Commercial Leases Act 1995*.

What should I do before signing a lease or other binding document?

Do not sign until you understand exactly what your obligations under the lease will be.

Before signing a lease or other binding document, you should obtain independent legal and financial advice.

- You should discuss the lease (or any agreement for a lease) and the disclosure statement with your own lawyer or leasing adviser.
- You should seek advice about the financial commitments under the lease from your own accountant or recognised financial or business adviser.
- You should also seek advice from an association representing the interests of lessees.

Before signing a lease or other binding document, oral representations made by the lessor or the lessor's agent on which you have relied should be reduced to writing and signed by or on behalf of the lessor.

Before signing a lease or other binding document, the lessee should sign an acknowledgment of receipt of the disclosure statement.

1. Details of Shop

Address: portion of 410-420 Brighton Road, Hove SA 5048

Lettable area of shop: 233.2 square metres (approximately)

The shop may only be used for: provision of community recreational rugby club and/or such other use or uses as the lessor may consent to

2. Term of lease

Term of lease: Five (5) years commencing on [DATE] and expiring [DATE]

3. Renewal or extension of lease

[tick one box]

- ☐ There is no right to renew or extend the term of the lease.
- ☒ The lease gives a right to renew or extend the term of the lease as follows:
One further term of 5 years commencing on [DATE].....
.....

4. Access to shop

Hours during which the lessee will have access to the shop outside trading hours:

Unlimited hours

Date on which the shop will be available for occupation:

[INSERT DATE]

5. Monetary obligations

The lessee's obligations to pay rent, to pay or reimburse outgoings, to make or reimburse capital expenditure and any other monetary obligations imposed on the lessee are set out in Appendix A.

6. Retail shopping centre details

[tick one box]

- ☐ The shop is in a retail shopping centre within the meaning of the *Retail and Commercial Leases Act 1995*. See Appendix B for details.
- ☒ The shop is not in a retail shopping centre within the meaning of the *Retail and Commercial Leases Act 1995*.

7. Consequences of breach

The legal consequences of early termination of the lease by the lessee as set out in the lease are as follows:

The lessee remains responsible for all rent and other payments due pursuant to the Lease and the compliance with the other provisions of the Lease (eg the requirements to insure and maintain).

The lessee may seek to find an assignee of the lessee's interest in the Lease or a subtenant to whom the lessee can underlease the premises. The provisions of the Lease relating to assignment will apply in such case.

The Lessor may also seek to find a replacement tenant in order to mitigate the Lessor's damages. Rent and other monies due pursuant to the Lease will be payable by the lessee until such replacement tenant commences to pay rental. If the rental and other monies that are payable by a bona fide replacement tenant are less than the rental and other monies payable by the lessee, the lessee must compensate the lessor for the difference during the term of the Lease.

The Lessor may also exercise any other remedies that the law allows the Lessor to avail itself of.

The legal consequences of other breaches of the lease are as follows:

The Lessor may exercise all rights available to the Lessor at law.

You should seek legal advice on this question as the rights available to the Lessor are significant.

In particular and without wishing to exclude the ability of the Lessor to avail itself of all rights that the Lessor may have, the lessor may:

- distrain (ie. seize and sell) against your goods on the premises, or
- give you notice to remedy breach and if you do not comply with such notice terminate the lease.

If the Lessor so terminates the Lessor can hold you responsible for damages (ie the rent and other monies payable by you pursuant to the Lease and any other matter requiring the expenditure of monies by the Lessor so as to remedy any breach by you such as reinstatement repair of damage etc) until such time as a replacement tenant commences paying rental.

Again if the rental payable by a replacement tenant is less than the rental the lessee is required to pay under the Lease the lessee must compensate the lessor for that difference.

8. Warnings

Oral representations made by the lessor or the lessor's agent on which the lessee has relied should be reduced to writing and signed by or on behalf of the lessor before the lessee enters into the lease.

The lessee should obtain independent legal and financial advice before entering into the lease.

Date:

Signature of Lessor:

Name: **CITY OF HOLDFAST BAY**

Address: PO Box 19, Brighton SA 5048

IMPORTANT NOTICE
EXCLUSION OF WARRANTY OF FITNESS FOR PURPOSE

Retail and Commercial Leases Act 1995: Section 18

Retail and Commercial Leases Regulations 1995: Regulation 7

**THE LESSOR DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE
WILL, FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE
TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON.**

Acknowledgement of receipt

I acknowledge receipt of this disclosure statement including:

[Tick 1 or more boxes as applicable]

- ☒ Appendix A – Monetary obligations under the lease
- ☐ Appendix B – Retail shopping centre details
- ☒ Attachment – Shop fitting or refitting obligations
- ☒ Attachment – Fixtures, plant or equipment obligations
- ☐ Attachment – Sinking fund obligations
- ☐ Attachment – Proposed changes to shopping centre
- ☐ Attachment – Current tenant mix
- ☐ Attachment – Proposed changes to current tenant mix
- ☐ Attachment – Details of tenant association

Date:.....

Signature:

Name: **BRIGHTON RUGBY UNION FOOTBALL CLUB INCORPORATED**

Address: 410-420 Brighton Road, Hove SA 5048

APPENDIX A: MONETARY OBLIGATIONS OF LESSEE

PART 1 - RENT

1. Base Rent

The base rent payable for the shop is or is calculated as follows:

\$4,790.00 per annum (plus GST)

[if a formula is used to calculate rent, insert the formula]

2. Basis on which base rent may be changed

The base rent may be changed on the following basis:

The rent will be increased as follows:

- (a) \$6,384.00 plus GST on the first anniversary of the Commencement Date;
- (b) \$7,977.00 plus GST on the second anniversary of the Commencement Date;
- (c) \$9,571.00 plus GST on the third anniversary of the Commencement Date;
- (d) \$11,164.00 plus GST on the fourth anniversary of the Commencement Date;
- (e) CPI on [DATE] from [YEAR] each year during the term of the lease

3. Other rent

Other rent payable for the shop is or is calculated as follows:

Not applicable

PART 2 - CAPITAL EXPENDITURE

4. Permissible obligations (section 13 of Retail and Commercial Leases Act 1995)

The lessee will be liable for capital expenditure as follows:

[tick 1 or more boxes as applicable]

- ☒ to pay or reimburse the cost of making good damage to the premises arising when the lessee is in possession or entitled to possession of the premises;
- ☒ to fit or refit the shop as set out on the attachment marked "Shop fitting or refitting obligations" *[the attachment must include sufficient details to enable the lessee to obtain an estimate of the likely cost of complying with the obligation];*
- ☒ to provide fixtures, plant or equipment as set out in the attachment marked "Fixtures, plant or equipment obligations" *[the attachment must include sufficient details to enable the lessee to obtain an estimate of the likely cost of complying with the obligation];*
- ☐ to contribute to a sinking fund to cover major items of repair or maintenance as set out in the attachment marked "Sinking fund obligations" *[the attachment must include reasonable details of the lessee's obligations].*

PART 3 - OUTGOINGS

5. Categories and estimate of annual liability

The lessee will be liable to pay or reimburse outgoings as follows:

Category of outgoings	Estimate of lessee's annual liability (2019/2020 financial year)
local government rates and charges	\$700.00 per year
electricity	Lessee's responsibility
gas and oil	Lessee's responsibility
water and sewerage rates and charges	\$3,500.00 per year
sewerage disposal and sullage	Not applicable
energy management systems	Lessee's responsibility (including solar systems)
air conditioning/ventilation	Lessee's responsibility
building intelligence and emergency systems	Lessee's responsibility for costs of replacement & additional fob keys and access cards to the building
fire protection	Not applicable
security	Lessee's responsibility for call outs and required changes to system configuration
lifts and escalators	Not applicable
public address/music	Not applicable
signs	Lessee's responsibility
public telephones	Not applicable
insurance	\$2,500.00 per year
pest control	Lessee's responsibility (as set out in Schedule 2 of the lease)
uniforms	Not applicable
car parking	Not applicable
child minding	Not applicable
gardening	Not applicable
cleaning	Lessee's responsibility
audit fees	Not applicable

management costs	Not applicable
maintenance and repairs	Lessee's responsibility
other <i>[specify]</i> Emergency Services Levy	\$110.00 per year
Total	\$11,210.00 per year plus as outlined above

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[tick one box and fill in details if required]

- ☒ The lessee is liable for the full amount of the outgoings.
- ☐ The lessee is liable for a proportion of the outgoings calculated according to the following formula:

.....

.....

6. Margin of profit

[tick one box]

- ☒ The amount the lessee is required to pay towards outgoings does not include a margin of profit for the lessor.
- ☐ The amount the lessee is required to pay towards outgoings includes a margin of profit for the lessor as follows:

.....

.....

[provide the percentage profit or the basis on which the profit is to be calculated]

PART 4 - OTHER MONETARY OBLIGATIONS

7. Other

[tick one box]

- ☐ The lessee will not be liable for any other kinds of monetary obligations.
- ☒ The lessee will also be liable for the following kinds of monetary obligations:
- all gas, oil, electricity, excess water or water consumption charges, telephone and other utilities assessed or charged in respect of the premises;
 - a share of the electricity network costs currently charged by SA Power Networks to the lessor in respect of the infrastructure required to enable the supply of electricity to the premises. This charge is based on the lessee's consumption of electricity;
 - where the lessee elects to purchase electricity from a licensed retailer (instead of the lessor), all costs associated with the establishment or provision of an independent supply of all electricity to the shop (including but not limited to the purchase and installation of new meters);
 - the cost of other services related to the supply of electricity (e.g. special meter readings, ancillary charges and market charges);
 - maintaining insurance policies for public liability (for \$20,000,000), plate glass, insurance of the lessee's fixtures and fittings and any other insurance required by legislation or the lessor;
 - repairs and maintenance of the premises;
 - cleaning of the premises;

- all rates, taxes and outgoings levied, assessed or charged in respect of the premises;
- all stamp duty and (if applicable) LTO registration fees relating to the lease;
- GST (payable in addition to the rent and other moneys to be paid by the lessee under the lease);
- the cost to the lessor of consenting to any approved assignment, subletting or mortgage of the lease;
- the cost of complying with any applicable statutory requirements;
- reinstate, make good and yielding up of the premises;
- all costs of indemnifying the lessor; and
- costs incurred by the lessor in relation to a breach of the lease by the lessee.

ATTACHMENT**SHOP FITTING OR REFITTING OBLIGATIONS**

The lessee is required at the lessee's cost to fitout the premises. The requirements for the lessee's fitout will include:

- obtaining all necessary relevant authority approvals (at the lessee's cost);
- obtaining the lessor's approval;
- to pay all costs of the fitout including to pay for all of the lessee's fixtures, fittings plant and equipment.

The lessee is required to re-paint the premises prior to the expiration or surrender of the lease term or earlier determination of the lease

ATTACHMENT**FIXTURES, PLANT OR EQUIPMENT OBLIGATIONS**

To the extent necessary, the lessee is required to provide all fixtures, plant and equipment necessary for the lessee's permitted use of the premises. The lessee is responsible for all connection costs and (on yielding up of the premises) all costs for decommissioning any installed plant and equipment.

If any additional or separate meters are required for recording or measuring any services supplied or consumed on or in the premises these are to be installed at the cost of the lessee.

Upon the expiration or surrender of the lease term or earlier determination of the lease, the lessee is required to remove all its equipment and repair any damage caused by such removal and remove and reinstate any alterations or additions made by the lessee.

Attachment 4



LEASE AGREEMENT

Between:

CITY OF HOLDFAST BAY

("Landlord")

and

BRIGHTON RUGBY UNION FOOTBALL CLUB INCORPORATED

("Tenant")

PORTION OF 410-420 BRIGHTON ROAD HOVE SA 5048

1.	INTERPRETATION AND DEFINITIONS	5
2.	GRANT OF LEASE	9
3.	RENT AND RENT REVIEW	9
3.1	Rent.....	9
3.2	Rent Review.....	9
4.	GST	10
5.	RATES, TAXES AND OUTGOINGS	10
5.1	Rates and Taxes	10
5.2	Utility Charges	10
5.3	Payment Of Outgoings	10
6.	MAINTENANCE AND REPAIRS	11
6.1	Maintenance	11
6.2	Maintenance of Plant and Equipment	12
6.3	Tenant's Other Maintenance Obligations	12
6.4	Grease Trap and Range Hood	12
6.5	Repairs	14
6.6	Cleaning	14
6.7	Notice of Defect	14
6.8	Land and Grounds	15
6.9	Inspection and Landlord Works	15
6.10	Employment of Contractors	15
6.11	Painting	15
7.	ALTERATIONS AND ADDITIONS	15
7.1	Alterations by Tenant	15
7.2	Alterations by Landlord	16
8.	ASSIGNMENT AND OTHER DEALINGS	17
8.1	Assignment, Subletting and Disposal of Tenant's Interests	17
8.2	Hiring out of Premises	19

9.	USE OF PREMISES	20
9.1	Permitted Use	20
9.2	No Warranty by Landlord	20
9.3	Licensed Premises	20
9.4	Signs, notices and advertisements	21
9.5	Compliance with Acts, By Laws and Regulations	21
9.6	Use of Premises and Provision of Emergency Number	22
9.7	Restrictions on Use	22
9.8	Heavy Machinery	23
9.9	Locking mechanisms	23
9.10	Use of Conduits	23
9.11	Blinds and Awnings	23
9.12	Airconditioning	24
9.13	Electricity Supply	24
10.	TENANT GOVERNANCE	25
11.	INSURANCE	26
11.1	Tenant's Insurance	26
11.2	Insurance not to be affected	26
12.	INDEMNITY, RELEASE AND RISK	27
12.1	Indemnity	27
12.2	Release	27
12.3	Tenant to Occupy Premises at own Risk	27
13.	TENANT'S YIELDING UP OBLIGATIONS	27
14.	LANDLORD'S OBLIGATIONS AND RIGHTS	28
14.1	Quiet Possession	28
14.2	Reservation of Services	28
14.3	Costs of Proceedings	29
14.4	Right to Enter	29

14.5	Interest on Overdue Amounts	30
15.	DAMAGE TO BUILDING OR PREMISES	30
16.	REDEVELOPMENT AND DEMOLITION	31
17.	RULES AND REGULATIONS	32
18.	EXTENSION OF TERM	33
19.	ESSENTIAL TERMS, RE-ENTRY, BREACH, DAMAGES	33
19.1	Essential Terms	33
19.2	Power of Re-entry	33
19.3	Damages generally	34
20.	NOTICES	34
21.	COSTS	34
22.	MISCELLANEOUS	35
22.1	Holding Over	35
22.2	Waiver	35
22.3	Acceptance of Rent Arrears	35
22.4	Kiosks and Marquee	35
22.5	No Caveat	35
22.6	Landlord and Tenant Act	35
22.7	Power of Attorney	35
22.8	Special Conditions	36

CITY OF HOLDFAST BAY ABN 62 551 270 492 of PO Box 19 Brighton SA 5048 ("**Landlord**")

THE PARTY NAMED IN ITEM 1 OF SCHEDULE 1 ("Tenant")

- A. The Landlord is registered as the proprietor, or has the care, control and management, of the Land.
- B. The Tenant has requested a lease of the Premises for the Permitted Use.
- C. The Landlord has agreed and resolved to grant the Tenant a lease of the Premises on the terms and conditions of this agreement.
- D. Where required, the Landlord has undertaken public consultation and/or been granted Parliamentary approval in accordance with the *Local Government Act 1999 (SA)*.
- E. The parties wish to record the terms of their agreement as set out in this Lease.

1. INTERPRETATION AND DEFINITIONS

1.1 “**Accounting period**” means respectively:

- (a) the period from the commencement of the term to the next 30th June;
- (b) each successive period of twelve months commencing on the 1st July and expiring on the next 30th June during the term and any extension of the term;
- (c) the period from the 1st July in the last year of the term (or the last year of the extended term if the term be extended) to the date of expiration or termination of this lease.

- 1.2 **"the Act"** means the *Retail and Commercial Leases Act 1995* (SA).
- 1.3 **"Building"** means the building or buildings erected on the Land and also the fixtures and fittings in the building together with any extensions or alterations subsequently made to the building.
- 1.4 **"Commencement Date"** means the date specified in Item 5 of Schedule 1.
- 1.5 **"Common Areas"** means those portions of the Land designated by the Landlord for common use by the occupiers of the Land and their employees invitees and licensees.

- PM192403 008.docx

~~1.6 Corporation on overdraft facilities of more than \$100,000.00 and if there is more than one rate published the higher of those rates.~~

Commented [FR1]: Not accepted. Threshold commonly used, easily found in the public domain.

1.7 "GST" has the meaning given to it under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any similar or ancillary legislation.

1.8 "Land" means the land described in Item 3 of Schedule 1 and includes the Building on any part of the Land.

1.9 "Landlord" means the City of Holdfast Bay and includes:

- (a) the executors administrators and assigns of the Landlord if the Landlord is a natural person,
- (b) the successors and the assigns of the Landlord if the Landlord is a body corporate,
- (c) (where the context allows) any servants workmen or agents of the Landlord,

1.10 "Landlord's Property" means all Landlord's fixtures, fittings, plant, equipment, services, chattels and any other goods installed or situated in or on the Premises by or behalf of the Landlord and available for use by the Tenant.

1.11 "Outgoings" means (to the extent that the same are not specifically payable by any tenant of the Building or the Tenant pursuant to this Lease) all amounts paid or payable by the Landlord or payments which the Landlord incurs or may be or become liable for in any one Accounting period or in any other lesser or relevant period in respect of the Land and the building whether by direct assessment or otherwise howsoever and includes in accordance with Maintenance Schedule 2:

(a) ~~all rates taxes charges assessments outgoing levies and impositions whatsoever which may be assessed charged or imposed in respect of the Land or the building or any part thereof including any charges for excess water but excluding income tax capital gains tax and all other taxes applicable to income or capital gain payable by the Landlord;~~

(b) all insurance premiums and other charges including stamp duty payable ~~by the Landlord~~ in relation to policies of public risk insurance covering the building ~~and the Landlord's~~ fixtures and fittings therein (including all glass if applicable) against normal and usual risks deemed necessary by the Landlord (including but without limiting the generality thereof loss or damage by fire, explosion, storm, lightning, earthquake, tempest, flood, burst pipes, impact, aircraft and articles dropped therefrom, riot, civil commotion and malicious or accidental damage, loss of rent and machinery breakdown) to the full insurable value thereof,

Commented [FR2]: Not accepted.

(c) ~~insurance premiums and other charges including stamp duty for workers compensation insurance for all employees of the Landlord engaged in employment in the building;~~

~~(d)~~(c) the costs of electricity or other sources of energy consumed in the production and reticulation of chilled water and conditioned air for the air conditioning equipment servicing the building ~~and all other costs arising from the operation of the air conditioning system including but not limited to fuel oil grease labour and a full comprehensive maintenance contract (if any);~~

Commented [FR3]: Ok to delete.

~~(e)(d)~~ all costs in connection with the repair, maintenance, operation, and supply, replacement of ~~and renovation of lifts,~~ air conditioning equipment, fire protection equipment, all other services and plant and equipment in the Building and Common Areas from time to time, ~~with the exception of the lifts, air conditioning equipment, Hot water services, council CCTV system and any other services and plant which are not easily accessible and removable;~~

Commented [FR4]: will be reviewed and amended by lawyer to reflect schedule 2

Commented [FR5]: This is council responsibility

(f) all costs in connection with the cleaning, lighting, heating and air-conditioning of the Premises and Common Areas and providing supplies and consumables for toilets, washrooms and other facilities provided to the Premises and ~~in the Common Areas Rugby Field, excluding the public toilets and security lighting;~~

Commented [FR6]: Not agreed

Commented [FR7]: ok

~~(g)~~ ~~(h)(e)~~ all costs in connection with the maintenance, repair, replacement and renovation of car parking areas, pedestrian areas and landscaped areas within and around the Building;

Commented [FR8]: accepted

~~(i)(f)~~ all costs in connection with caretaking and ~~alarm monitoring security services of the building managed by the Tenant;~~

Commented [FR9]: will be amended to: All costs in connection to call outs or attendance by security patrols or MFS caused by the tenant and their activities and all costs relating to changes to the security system when requested by tenant.

~~(j)(g)~~ all ~~Tenant~~ costs (including employment and other usual employment on-costs) of the management, control and administration of the Land and Building;

Commented [FR10]: ok

Commented [FR11]: except for outdoor lights, repaired and maintained by council

~~(k)~~ the cost of maintaining ~~lighting servicing and repairing the Building such cost comprising the gross costs and expenses of every kind and nature incurred by the Landlord including but not limited to the replacement of parts necessary to keep any of the plant, machinery and equipment in good working order and condition; resurfacing and repainting, pest control, and caretaking services, emergency evacuation systems and procedures, access control systems, replanting and re-landscaping, directional signs and other markers, patrol of the Common areas and supervision of traffic directions when reasonably required, car stops, lighting and other utilities and the cost of electricity consumed therein~~ and all things necessary in the reasonable opinion of the Landlord for the operation maintenance repair and/or renovation of the Common Areas in a state of good and sanitary order condition and repair, ~~in accordance with Schedule 2;~~

Commented [FR12]: remove

~~(l)(h)~~ all ~~Tenant~~ reasonable legal, accounting and other professional fees incurred in connection with the conduct and operation of the Building, ~~and in particular any such fees of and incidental to the preparation of any estimates or statements of Outgoings or otherwise required to be furnished by the Landlord to the Tenant hereunder or at law;~~

Commented [FR13]: not agreed

Commented [FR14]: ok

~~(m)~~ all and any other expenditure costs or expenses incurred by the Landlord in or about or incidental to the Building or the Premises not hereinbefore expressly referred to;

Commented [FR15]: not agreed. This is to account for any future outgoings that do not exist at the commencement of the agreement but may be set up during the term of the lease.

1.12 "Premises" means the whole or portion of the Land specified in Item 2 of Schedule 1 and includes all buildings improvements appurtenances alterations or additions (if any) now or hereafter situated thereon and any fixtures fittings plant equipment goods chattels furniture furnishings and effects (if any) of the Landlord's Property.

1.13 "rent" means the rent payable under this Lease.

1.14 "Review Date" means the respective date(s) set out in Item 7 of Schedule 1.

1.15 "Rules and Regulations" means the procedures and rules and regulations annexed hereto and so entitled and or as may from time to time be made, varied or amended by the Landlord pursuant to this Lease.

- 1.16 **"Services"** means the services (such as gas, electricity, water, sewerage, drainage, communications, fire fighting, air conditioning, lifts, plant, equipment, pipes and cables) to or of the Building or any premises in or the Land, provided by authorities, the Landlord or any person authorised by the Landlord.
- 1.17 **"Schedule"** means the Schedules annexed hereto.
- 1.18 **"Tenant"** means the Tenant named in Item 1 of Schedule 1 and includes:-
- (a) the executors administrators and permitted assigns of the Tenant if the Tenant is a natural person,
 - (b) the successors and the permitted assigns of the Tenant if the Tenant is a body corporate,
 - (c) any and all Trust or Trusts of which the Tenant is trustee,
 - (d) (where the context allows) any servants workmen or agents of the Tenant and any other person in or about the premises at any time at the request or invitation of or under the control or direction of the Tenant,
- 1.19 **"Tenant's Property"** means any and all fixtures and fittings and other equipment, infrastructure or buildings installed in or brought on to or kept in the Premises by the Tenant.
- 1.20 **"Tenant's Proportion"** means the same proportion as the lettable area of the premises bears to the whole of the lettable area of the Building, such lettable areas to be determined in accordance with the Property Council of Australia 1997 method of measurement or such other method of measurement as the Landlord reasonably determines.
- 1.21 **"Term"** means the term specified in Item 5 of Schedule 1 and includes the term of any extension or renewal and period of holding over of this Lease.
- 1.22 Headings to clauses shall not form part of this Lease or be used for the purpose of interpretation but shall be deemed to be for the purpose only of facilitating reference to the various provisions of this Lease.
- 1.23 Where the context of this Lease permits or requires:
- (a) words in the singular shall include the plural and words in the plural include the singular;
 - (b) words of or importing the masculine gender include the feminine gender;
 - (c) words referring to a person include a body corporate,
- 1.24 A reference to any statute code or regulation includes all amendments and revisions made from time to time to that statute code or regulation and any statute code or regulation passed in substitution therefor or incorporating any of its provisions.
- 1.25 Any provision of this Lease which by virtue of the Act (if it applies to this Lease) or any other statute or law is invalid void or unenforceable, is capable of severance without affecting any other provision of this Lease.
- 1.26 Unless otherwise stated, the Landlord may in its discretion give (conditionally or unconditionally) or withhold any approval or consent under this Lease.

Commented [FR16]: Not agreed: This is already covered :
if tenant putting a shed, it is tenant property

1.27 If the Tenant comprises two or more persons the word "Tenant" will apply to them jointly and each of them severally.

2. GRANT OF LEASE

The Landlord grants and the Tenant accepts a lease of the Premises for the Term as set out in this Lease.

3. RENT AND RENT REVIEW

3.1 Rent

The Tenant must pay the rent as specified in Item 6 of Schedule 1 and reviewed in accordance with the terms of this Lease to the Landlord as directed from time to time by the Landlord or the Landlord's agent. The Tenant must pay the rent monthly in advance, the first payment to be made on or before the Commencement Date and subsequent payments must be made on ~~or before the same day of each calendar month~~ during the Term without any abatement, deduction or demand.

Commented [FR17]: Amended in new version

3.2 Rent Review

3.2.1 The rent will be reviewed as at and from each Review Date specified in Item 7(a) of Schedule 1 to ~~the amount noted, an amount equal to the rent (disregarding all incentives rebates and rent free periods) payable immediately before the relevant Review Date increased by 2.5% per annum;~~

Commented [FR18]: Amended in new version

3.2.2 The rent will be reviewed as at and from each Review Date specified in Item 7(b) of Schedule 1 to an amount equal to the rent payable immediately before the relevant Review Date increased by 2.2% ~~determined in accordance with the following formula:-~~

3.2.3 —
3.2.4 —
3.2.5 $A = R \times C1 \div C2$

3.2.6 where

3.2.7 —
3.2.8 'A' is the revised annual rent.

3.2.9 —
3.2.10 'R' is the annual rent payable during the year immediately preceding the relevant Review Date.

3.2.11 —
3.2.12 'C1' is the Index Number for the quarter ending immediately prior to the relevant Review Date.

3.2.13 —
3.2.14 'C2' is the Index Number for the quarter ending immediately prior to the date the rent being reviewed first became payable

3.2.15 —
3.2.16 —
3.2.17 The words "Index Number" used above mean the Consumer Price Index (All Groups) for Adelaide as published by the Australian Bureau of Statistics but if the Australian Bureau of Statistics ceases to publish the Consumer Price Index before the end of the Term, the words "Index Number" will mean some index reflecting fluctuations in the cost of living in Adelaide upon which the parties agree, but in default of such agreement, such index as will be determined by the President for the time being of the Australian Property Institute (South Australian Division) or his nominee as reflecting fluctuations in the cost of living in Adelaide, and such person's decision will be final and

~~3.2.2 binding on the parties. In making such determination the President or his nominee will be deemed to be acting as an expert and not as an arbitrator. The cost of any such determination will be borne equally by the Landlord and the Tenant.~~

Commented [FR19]: Not agreed.

~~3.2.193.2.3~~ 3.2.3 Until the rent is determined or agreed in accordance with the relevant rent review formula the Tenant will continue to pay to the Landlord rent at the rate applicable immediately prior to the relevant Review Date. On the first day for payment of rent after the rent is determined or agreed in accordance with this clause the Tenant must pay the new rent to the Landlord together with an adjustment (if any) in respect of the period from the date of the rent review until the date of such payment.

~~3.2.193.2.4~~ 3.2.4 If this Lease is not a lease to which the Act applies, the rent payable pursuant to any review of rent will in no case be less than the rent payable immediately prior to the relevant Review Date.

4. GST

Unless otherwise stated in Item 6 of Schedule 1, rent and other monies payable by the Tenant to the Landlord pursuant to this Lease do not include any GST. If a GST is chargeable with respect to the payment by the Tenant to the Landlord of rent and or other monies pursuant to this Lease, the Tenant must on demand pay the GST or reimburse the Landlord for any GST paid or payable by the Landlord with respect to such rent and or other monies. The Landlord must provide to the Tenant an appropriate tax invoice in respect of any such GST payment or re-imbursement by the Tenant, noting any reimbursement of Outgoings shall only be charged at cost and have not additional GST applied.

Commented [FR20]: Not agreed.

5. RATES, TAXES AND OUTGOINGS

5.1 Rates and Taxes

The Tenant must pay or reimburse to the Landlord the Tenant's Proportion of all present and future rates charges taxes levies assessments duties impositions and fees ~~(excluding council rates, land tax, and emergency services levy)~~ levied, assessed or charged in respect of the Premises or upon the owner or occupier of the Premises and such payments must be adjusted between the Landlord and the Tenant as at the Commencement Date and the end or termination date of this Lease in respect of that portion of the financial year the relevant cost was incurred.

Commented [FR21]: Not agreed. You can apply for an exemption, this is a separate process to the lease agreement. Always been like this

5.2 Utility Charges

5.2.1 The Tenant must pay as and when the same fall due, all charges for gas, electricity, oil and ~~excess~~ water separately metered and consumed in or on the Premises ~~(excluding the public toilets) and external security lighting and council CCTV system~~ and also all charges in respect of any telephone and internet services connected to the Premises and all other charges and impositions imposed by any public utility or authority for the supply of any other utility service separately supplied and/or consumed in respect of the Premises.

Commented [FR22]: Not agreed

Commented [FR23]: Public toilets ok, but security lighting and cctv paid by tenant

5.2.2 If the Tenant defaults in payment of any of the charges referred to in clause 5.2.1 then the Landlord may pay the same and recover the amount paid as if the same were rent in arrears payable by the Tenant.

5.3 Payment Of Outgoings

5.3.1 The Tenant must pay the Tenant's Proportion of the Outgoings by way of ~~equal monthly payments together with the rent each month or by way of lump~~

sum payments as Outgoings are incurred or payable by the Landlord ~~(as the Landlord may direct)~~. If the year in which any particular outgoing is payable does not coincide with a year of this Lease, the amount the Tenant is to pay in the first and last years of this Lease is to be adjusted proportionately.

Commented [FR24]: Not agreed. Currently lump sum or as agreed but this could change if the clubs had difficulty paying.

- 5.3.2 The Landlord will calculate the actual amount payable by the Tenant pursuant to this clause as soon as possible after 30 June in each Accounting Period and will adjust any difference. Any over-payment by the Tenant will be credited to the first payment due by the Tenant after the assessment is made (or refunded if this Lease is at an end) and any under-payment by the Tenant shall be added to the first payment to be made by the Tenant after the assessment is made (or will be paid by the Tenant on demand if this Lease is at an end).

6. MAINTENANCE AND REPAIRS

6.1 Maintenance

- 6.1.1 The Tenant must keep and maintain the Premises, the Tenant's Property and any Services situated within the Premises and which exclusively service the Premises in good and substantial repair and condition and where appropriate in good working order, which includes an obligation to ensure that all electrical wiring and appliances are at all times in a safe condition.

- ~~6.1.2 If the Landlord so requires, the Tenant must enter into a service and maintenance contract in respect of any airconditioning plant and equipment exclusively servicing the Premises, which contract must be first approved by the Landlord (such approval not to be unreasonably withheld);~~

Commented [FR25]: Deletion not agreed. Remains. Already existed in previous lease 2.7.1

- ~~6.1.36.1.2~~ The Tenant must promptly repair any damage to the Building or the Land caused or contributed to by the act, omission, negligence or default of the Tenant.

- ~~6.1.46.1.3~~ In addition to the maintenance, repair and replacement obligations outlined in this clause (and this Lease generally) the respective responsibilities of the Landlord and the Tenant for the maintenance that is reasonably expected to be needed during the Term including planned structural maintenance, painting and replacement or renovation works are set out in Schedule 2 (**Maintenance**).

- ~~6.1.56.1.4~~ Where the Tenant is responsible for any Maintenance pursuant to the terms of this Lease, the Tenant must, at the same time as providing a copy of its annual report in accordance with clause 10, provide a report to the Landlord setting out the amount of money to ~~budgeted set aside~~ in the following year (as applicable from time to time) for Maintenance, ~~in addition to the monies deposited into the maintenance fund (in accordance with special condition 5 of Item 10).~~

Commented [FR26]: Not agreed. This clause has already been amended following to previous meeting with club (see new version)

- ~~6.1.66.1.5~~ The Tenant must, when requested to do so by the Landlord, provide the Landlord with:

- (a) a copy of ~~all invoices, receipts, records,~~ reports, certificates and other related information in relation to all maintenance, repair and/or replacement works carried out by (or on behalf of) the Tenant during the Term;

Commented [FR27]: Ok

- (b) a report setting out all projected items of Maintenance, the approximate date when each item of maintenance is likely to be required and the estimated cost; and
- (c) a report setting out the amount of money currently ~~set aside~~ budgeted by the Tenant for Maintenance.

Commented [FR28]: Not agreed. Maintenance fund existed in prior leases.

6.2 Maintenance of Plant and Equipment

~~The obligations of maintenance if the Tenant exclusively uses any of plant or machinery installed in the Premises are set out in Schedule 2.~~ or, if the Landlord installs any plant or machinery at the request of the Tenant within and or servicing the Premises then the Tenant must keep all such plant or machinery maintained serviced and in good repair and will enter into and keep current at the Tenant's expense such maintenance service and repair contracts as are reasonably required by the Landlord for that purpose with contractors approved by the Landlord.

Commented [FR29]: Accepted.

6.3 Tenant's Other Maintenance Obligations

The Tenant must at the Tenant's expense:

- 6.3.1 ensure that all waste is placed daily in suitable receptacles and subject to this clause 6, ensure the Premises is cleaned regularly in a proper and professional manner and ensure all waste and refuse is promptly and regularly removed from the Land;
- 6.3.2 as soon as is reasonably possible make good any damage to any part of the Building (including the Common Areas) or to the Premises or any part thereof (including ceilings) caused ~~or contributed to~~ by the Tenant;
- 6.3.3 immediately replace all broken glass in respect of the Premises;
- 6.3.4 take all proper precautions to keep the Premises free from pest infestation and if required by the Landlord engage a pest exterminator approved by the Landlord for that purpose;
- 6.3.5 repair or where appropriate replace any Landlord's Property such as heating lighting electrical and plumbing fittings installed in the Premises broken or damaged by the Tenant;
- 6.3.6 comply with all statutes ordinances proclamations orders and regulations affecting the Premises or any fixtures or fittings installed by the Tenant;
- 6.3.7 comply with any notices or orders which may be given by any statutory or regulatory authority in respect of the Premises or their use by the Tenant and keep the Landlord indemnified for all such matters.

Commented [FR30]: Leave as it is. It sets out Council's expectations

Commented [FR31]: Not agreed

6.4 Grease Trap and Range Hood

- 6.4.1 Where any range-hood, exhaust, grease arrestor or triple interceptor and associated plant and equipment exclusively service the Premises, the Tenant must:
 - (a) at its own expense, regularly clean, ~~service, maintain, repair~~ and empty (where applicable) each device to ensure it is in good working order and condition and so that nothing impairs its operation or efficiency, or causes unreasonable annoyance, nuisance, damage or disturbance to any persons who occupy nearby space or premises;

Commented [FR32]: Remains . Grease Trap is the responsibility of the tenant. Was already in previous leases. 2.8.2

- (b) pay for all running costs associated with each device;
- (c) not do, or permit, or suffer to be done, anything in relation to each item that might interfere with, or impair, its efficient operation;
- (d) comply with all applicable laws, regulations and notices and requirements of any governmental body relating to the grease arrestor and the transport and disposal of grease and other waste from the grease arrestor;
- (e) provide to the Landlord upon request ~~all service notes and confirmation of invoices evidencing the completion of all servicing, repairs, cleaning and waste removal;~~
- (f) obtain and maintain during the Term all permits, licences or other consents required in relation to the installation, use and operation of the grease arrestor;
- (g) promptly and fully comply with all directions and requirements of the Landlord regarding the use and operation of the grease arrestor which the Landlord notifies the Tenant in writing.

Commented [FR33]: Not agreed Remains.

- 6.4.2 If any range-hood, exhaust, grease arrestor or triple interceptor comprises the Landlord's Property, then the Tenant will not be responsible for any replacement of those items at the end of their useful life provided that the need for replacement was not caused or contributed by the act, omission, negligence or default of the Tenant. If any range-hood, exhaust, grease arrestor or triple interceptor comprises the Tenant's Property, then the Tenant is in all respects responsible for all costs associated with those devices.
- 6.4.3 If the Premises are not connected to a range-hood, exhaust, grease arrestor or triple interceptor or similar device and the Tenant's use of the Premises means that the Premises are required to be connected to such a device, then the Tenant must promptly install such a device in compliance with clause 7, at its expense and thereafter comply with clause 6 and this clause 9.
- 6.4.4 Where a range-hood, exhaust, grease arrestor or triple interceptor does not exclusively service the Premises, the Tenant must punctually pay, free from all deductions, a proportion of all charges associated with maintenance of the range-hood, exhaust, grease arrestor or triple interceptor as the Landlord in its sole discretion deems reasonable having regard to:
- (a) the ratio of the lettable area of the Premises to the lettable area of the Building; and
 - (b) other occupants on the Land; and
 - (c) the respective use of the range-hood, exhaust, grease arrestor or triple interceptor by all occupiers of the Land; and
 - (d) any other reasonable factor that is relevant to the Landlord.
- 6.4.5 Without limiting any other provision of this Lease, the Tenant:
- (a) must maintain insurance for the grease arrestor;

- (b) must ~~clean/empty repair, maintain and replace any damaged or non-working item comprising the grease arrestor;~~
- (c) must reinstate and make good ~~any damage caused by the Tenant;~~ and
- (d) indemnifies the Landlord ~~should the Clause 6.4.5 (a), (b) & (c) not be complied with.~~

Commented [FR34]: Not agreed

in the same manner and to the same extent as provided in this Lease.

6.4.6 If the Tenant does not pay the costs of any of the Services by the respective due date, the Landlord may pay for the Services and the amount paid is repayable by the Tenant as a debt due to the Landlord.

6.5 Repairs

If at any time during this Lease the Landlord, or the Landlord's agents or contractors find any defect decay or want of reparation in the Premises or find any state or condition thereof contrary to any covenant or agreement on the part of the Tenant contained in this Lease, the Landlord, or the Landlord's agent or contractor may give to the Tenant notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Tenant must within such time sufficiently and in good and proper and professional manner make good repair restore or amend the same to the reasonable satisfaction of the Landlord and if the Tenant fails to comply with any such notice the Landlord may (but is not obliged to do so) by or with the Landlord's attorney agent and or contractors enter into and upon the Premises and carry out the requirements of such notice (causing as little disturbance to the Tenant as is practicable). All ~~reasonable~~ costs charges and expenses incurred by the Landlord in so doing will be a debt due from the Tenant to the Landlord payable on demand and recoverable in the same manner in all respects as the rent hereby reserved.

Commented [FR35]: ok

6.6 Cleaning

6.6.1 The Tenant must ensure the ~~Premises Building~~ is routinely and properly cleaned (including without limitation to arrange for all rubbish waste and garbage to be regularly removed from the Premises) ~~with the exception of the public toilets and any litter bins installed by Council.~~

Commented [FR36]: ok

6.6.2

Commented [FR37]: ok- reworded

~~6.6.36.6.1 If the Landlord provides or requires a service for the routine cleaning of the Building or the Premises then the Tenant must, if reasonably requested by the Landlord, use such service for the Cleaning of the Premises (to the extent the service applies) and must permit the Landlord's cleaning contractors to have access to the Premises at all reasonable times for the purpose of carrying out such cleaning. The Tenant must pay to the Landlord in addition to the rent and as and when required by the Landlord, all costs of the cleaning of the Premises and the Tenant's Proportion of the overall costs of the cleaning of the Building (including any Common Areas).~~

Commented [FR38]: not accepted. This stipulates that it should be reasonably requested by Council only. If clubs keep their premises clean and tidy, this will not be needed.

6.7 Notice of Defect

The Tenant must promptly give notice to the Landlord (or where appropriate to the appointed agent of the Landlord) of:-

Commented [FR39]: To be reviewed by lawyers

- 6.7.1 any damage and of any accident to or defect or want of repair in the Premises or in the Building or in any Services or other facilities provided by the Landlord in the Premises or the Building to make the Premises or the

Building, Common Area and the Land safe from any danger, risk or hazard; or

- 6.7.2 any circumstance or event which the Tenant ought reasonably be aware might cause danger, risk or hazard to any person within the Premises or the Building.

6.8 Land and Grounds

The Tenant must not deposit or cause permit or suffer to be deposited any debris refuse or rubbish of any kind in or on any Common Areas grounds gardens yards lanes ways or rights of way or in or on any public road or footway abutting upon or adjacent to the Premises or the Land.

6.9 Inspection and Landlord Works

The Tenant must permit the Landlord and the Landlord's agents and contractors and all persons authorised by them at all reasonable times of the day and on reasonable notice to enter the Premises to examine the state of repair and condition thereof, carry out and observe the Landlord's maintenance and repair obligations as set out in Schedule 2, and execute repairs or to paint the Premises or any part thereof (which the Landlord may do without prejudice to any covenant or agreement on the part of the Tenant contained in this Lease). The Landlord in executing such repairs must use reasonable endeavours to cause as little disturbance to the Tenant as is practicable.

6.10 Employment of Contractors

If any work has to be done by the Tenant in or about the Premises in order to comply with the Tenant's obligations pursuant to this Lease the Tenant must engage and employ only such contractors as have a public liability policy for an amount which in the reasonable opinion of the Landlord is adequate. ~~The engagement of Contractors will require prior written approval for any significant work and who are previously approved of in writing by the Landlord or the Landlord's architect.~~

Commented [FR40]: Ok, this has already be amended in new version

6.11 Painting

- 6.11.1 The Tenant must, at its cost, paint all parts of the Premises which have previously been painted, or should reasonably be painted as set out in schedule 2:

(a) ~~Within the building for internal walls, when touch up painting is reasonably required and as set out in schedule 2, in addition to a repainting program that does not exceed 10 years, when such painting is reasonably required;~~

(b) ~~On the exterior of the building, when touch up and repaint are required where the painting is damaged, in between Council periodic paints, at the last month of any renewal or extension granted under this Lease.~~

Commented [FR41]: Amended.

- 6.11.2 The Tenant must carry out the painting in a proper and professional manner, in colours reasonably approved by the Landlord.

7. ALTERATIONS AND ADDITIONS

7.1 Alterations by Tenant

- 7.1.1 The Tenant must not install or use in the Premises internal partitions other than of a standard and specification previously approved in writing by the Landlord.

- 7.1.2 The Tenant must not install or place in the Premises any heavy item fixture or fitting which may (in the reasonable opinion of the Landlord) cause unreasonable noise or vibrations, overload the switchboard or cause structural or other damage to any part of the Building.
- 7.1.3 The Tenant must not make alterations or addition to the Premises nor install or alter any partitioning or temporary or permanent structures or fittings in the Premises without the Landlord's prior written approval, and:-
- (a) in seeking the Landlord's approval to a proposed alteration, addition or installation the Tenant must submit plans and specifications of the proposed work;
 - (b) if the Landlord agrees to grant its approval, then such approval may be granted subject to any conditions the Landlord considers appropriate, including:
 - (i) any such work be supervised by a person nominated by the Landlord;
 - (ii) any such work be executed by contractors or tradesmen in a proper and professional manner under the supervision of appropriately qualified persons approved by the Landlord with public liability insurance for an amount that in the reasonable opinion of the Landlord is adequate;
 - ~~(iii) the Tenant pays all reasonable costs incurred by the Landlord in considering the proposed works and their supervision including the fees of architects or other consultants employed by the Landlord;~~
 - ~~(iv)~~ ~~(iii)~~ the Tenant obtains all necessary approvals or permits necessary to enable such proposed work to be lawfully effected and on request by the Landlord produces for inspection to the Landlord copies of all such approvals and permits;
 - (vi) upon completion of the works, the Tenant must produce to the Landlord any certificates of compliance issued by any such statutory or regulatory authority;
 - ~~(vii)(iv)~~ ~~the Tenant reimburses the Landlord any reasonable cost or expense that it incurs as a result of the installation, operation or removal of any such equipment fixture fitting or machinery;~~

Commented [FR42]: ok

Commented [FR43]: Not agreed. remains

7.2 Alterations by Landlord

- 7.2.1 The Tenant will permit the Landlord and any person authorised by the Landlord:
- (a) to carry out inspections of or modifications or additions to or other works on the Land (including the Premises where the Landlord has given reasonable prior notice to the Tenant); and
 - ~~(b)~~ where the Landlord has given reasonable prior notice to the Tenant to enter the Land (including Premises) for the purpose of carrying out such works

Commented [FR44]: Reamin as it is

causing as little disturbance as is practical to the Tenant in undertaking such works provided that the Landlord may not commence to carry out any alteration or refurbishment to the Land (other than routine maintenance or repairs) that is likely to adversely affect the Tenant's use of the Premises unless:

~~(e)~~(b) the Landlord has given the Tenant at least ~~three~~ (3) month's notice of the proposed alteration or refurbishment; or

Commented [FR45]: Not agreed

~~(e)~~(c) the alteration or refurbishment is required by an emergency and the Landlord has given the Tenant the maximum period of notice that is reasonably practicable in the circumstances;

- 7.2.2 Subject to the preceding subclause in an emergency the Landlord may without notice enter the Premises and carry out any works deemed necessary by the Landlord;
- 7.2.3 Except as permitted by the Act, the Tenant will not make any claim or commence any action against the Landlord for breach of this clause or otherwise in respect of such entry on to the Premises or the execution of any of the works contemplated by this clause.

8. ASSIGNMENT AND OTHER DEALINGS

8.1 Assignment, Subletting and Disposal of Tenant's Interests

- 8.1.1 The Tenant must not transfer or assign the Premises or any part thereof or assign, transfer or otherwise dispose of this Lease without the Landlord's prior written consent. The Landlord's consent may be withheld in the Landlord's absolute discretion except where the Act applies.
- 8.1.2 The Tenant must:-
- (a) request the Landlord's consent to an assignment, transfer or other disposition of the Premises or this Lease in writing.
 - (b) promptly provide the Landlord with information the Landlord reasonably requires about the financial standing and business experience of the proposed assignee.
 - (c) if the Act applies to this Lease, before requesting the Landlord's consent to a proposed assignment of the Premises or this Lease, furnish the proposed assignee with:-
 - (i) a copy of any disclosure statement given to the Tenant in respect of this Lease, and
 - (ii) details of any changes that have occurred in respect of the information contained in that disclosure statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware); and
 - (iii) any other procedural requirements set out in the Act.
- 8.1.3 To enable the Tenant to comply with the preceding subclause and if the Act applies to this Lease, the Tenant may, in writing, request the Landlord to provide the Tenant with a copy of the disclosure statement concerned and if

the Landlord does not comply with such a request within 14 days after it is made, the preceding subclause will not apply to the Tenant in respect of the assignment transfer or other disposition in relation to which the disclosure statement applies.

- 8.1.4 Where the Act applies, the Landlord may withhold the Landlord's consent to the assignment of the Premises or this Lease in any of the following circumstances:-
- (a) if the proposed assignee proposes to change the use to which the Premises are put;
 - (b) if the proposed assignee is unlikely (in the Landlord's reasonable opinion) to be able to meet the financial obligations of the Tenant under this Lease;
 - (c) if the proposed assignee's business skills are inferior (in the Landlord's reasonable opinion) to those of the Tenant, or
 - (d) if the Tenant has not complied with procedural requirements for obtaining the Landlord's consent.
- 8.1.5 Nothing in the preceding subclause will prohibit the Landlord from granting the Landlord's consent to an assignment, transfer or other disposition of this Lease subject to the Tenant complying with such reasonable conditions as the Landlord considers appropriate.
- 8.1.6 Nothing in the preceding provisions of this clause prevents the Landlord from requiring payment of a reasonable sum for legal or other expenses incurred in connection with such a consent (whether consent is granted or not).
- 8.1.7 The Landlord may as a condition of granting its consent require that the proposed transferee or assignee provide to the Landlord such guarantee or guarantees of the transferee's or assignee's performance of the Tenant's obligations under this Lease which the Landlord requires.
- 8.1.8 The Tenant must not:
- (a) grant a sub-lease, licence of concession for the whole or any part of the Premises;
 - (b) part with or share possession of the whole or any part of the Premises;
 - (c) mortgage or otherwise change or encumber the Tenant's interest in this Lease, without the Landlord's prior written consent, which consent the Landlord is not obliged to give notwithstanding anything to the contrary in this Lease.
 - (d) If the Tenant is a company (except a company whose shares are listed on a stock exchange in Australia) a transfer of shares (except as a result of inheritance) totalling more than one half of the issued share capital of the Tenant; or of the controlling interest of the Tenant will be deemed to be an assignment of this Lease requiring the prior written consent of the Landlord.

8.2 Hiring out of Premises

The Tenant may hire the Premises to other persons or bodies on a casual or seasonal basis during such times notified by Landlord from time to time strictly in accordance with the following terms and conditions:

8.2.1 If the party wishing to hire the Premises intends to use any floodlights servicing the outdoor areas of the Premises, then unless the proposed use of the floodlights is restricted to times during which the Landlord has already given permission of floodlighting to be used, the Tenant must first obtain the Landlord's written consent.

~~8.2.2 The Tenant must notify the Landlord of the fees set by the Tenant for hiring out the Premises, including the function room rates and any changes to the hire fees within 14 days of the determination of or change in the hire fees.~~

~~8.2.3 If the Landlord considers at its discretion that the hire fees set by the Tenant are too high or too low (in comparison) with hire fees for similar facilities in these areas of the City of Holdfast Bay Council area then it may direct the Tenant to change the hire fees to a level set by the Landlord.~~

~~8.2.4~~

~~8.2.58.2.2~~ The Tenant must ensure that any hire agreement it enters into does not breach any provision of this Lease, ~~and is in such form notified and approved by Landlord.~~

~~8.2.68.2.3~~ On a quarterly basis and upon written request, the Tenant must provide the Landlord with a full report in relation to the hiring out of the Premises, such details to include the dates, times, name of the hiring party, event purpose, ~~fees charged~~ and any other details reasonably requested by the Landlord ~~with the exception of fee charged.~~

~~8.2.78.2.4~~ The Tenant must not unreasonably refuse to hire out or otherwise licence the Premises to any person, body or organisation upon receipt of a request to do so from the Landlord and/or any member of the public at any time other than when the Premises are:

- (a) actively in use by the Tenant; or
- (b) on hire or licensed to another person, body or organisation pursuant to this clause.

~~8.2.88.2.5~~ When the Premises or the Building is being used for any function or is otherwise being used in relation to any hiring out, the Tenant must ensure that:

- (a) any noise is kept to a level that does not cause unreasonable annoyance or nuisance who occupy nearby space or Premises ; and
- (b) the use and enjoyment of the Land by any other party or licensee then in possession of or otherwise using the Land is not unduly interfered with or otherwise impeded.

Commented [FR46]: Not accepted

Commented [FR47]: Not agreed

Commented [FR48]: not agreed. Council should be allowed to view fee charges upon request. This is part of assessing incentive discounts.

9. USE OF PREMISES

9.1 Permitted Use

9.1.1 The Tenant must use the Premises only for the purpose specified in Item 4 of Schedule 1 or other purposes incidental thereto or for such other purposes which the Landlord may give prior written permission for.

9.1.2 The Tenant must not use the Premises or any part thereof nor cause permit or allow anyone ~~to sleep permanently live~~ on the Premises, nor carry on or cause permit or allow to be carried on upon the Premises or any part thereof for any noxious noisome or offensive nature and must not use the Premises or any part thereof or cause permit or allow the same to be used for any unlawful purpose.

Commented [FR49]: Reword to "to sleep on the premises, unless specifically approved by the Landlord."

9.2 No Warranty by Landlord (N/A)

The Tenant warrants to the Landlord that the Tenant has relied on the Tenant's own judgement and expertise and the Tenant's experts in deciding that the Premises are suitable for the Tenant's purposes and that the Landlord has given no promise, representation or warranty to the Tenant as to the use to which the Premises may be put and that the Tenant has satisfied itself thereof and the Tenant will be deemed to have accepted this Lease with full knowledge of, and subject to, any prohibition or restrictions on the use thereof under or in pursuance of any Act, Ordinance, Regulation, By-law or other statutory enactment or order of Court. Should the Permitted Use require the consent of any authority under or in pursuance of any such Act, Ordinance, Regulation, By-law or other enactment or order of Court the Tenant must obtain such consent at the Tenant's own cost and expense. To the fullest extent permitted by law all warranties as to suitability and as to adequacy implied by law are hereby expressly negated.

Commented [FR50]: Not agreed.

9.3 Licenced Premises

9.3.1 The Tenant must not:

- (a) serve, sell or provide to persons; or
- (b) consume or allow persons to consume;
- (c) alcoholic beverages on the Premises without the Landlord's consent.

9.3.2 Unless the Tenant first obtains the written consent of the Landlord, the Tenant must not apply for:

- (a) a liquor licence under the *Liquor Licensing Act 1997*; or
- (b) a gaming machine licence under the *Gaming Machines Act 1992*.

9.3.3 If the Tenant obtains a licence (or licences) as permitted by this clause, the Tenant must not do (or fail to do) or allow any of its employees, agents, contractors, licensees or invitees to do (or fail to do):

- (a) anything that is in breach of the *Liquor Licensing Act 1997* and/or the *Gaming Machines Act 1992* (as the case may be) or of the conditions of the relevant licence; or

Commented [LW(S51)]: This should be removed as the building has been designed to be fit for purpose or noted as not applicable (we accept if this was an existing building and we were a tenant wanting to move in and it had not been designed for the use)

- (b) anything that may result in the relevant licence being revoked or suspended.

9.4 Signs, notices and advertisements

9.4.1 The Tenant must not allow any advertisement notice poster hoarding or sign to be affixed to or placed near any window in the Premises Building so as to be visible from the outside of the Building except where the Landlord's consent is obtained and where all relevant laws and statutory requirements are satisfied. Any signage approved by the Landlord at the request of the Tenant must comply with the requirements of this clause.

Commented [FR52]: ok

9.4.2 Any external signage approved by the Landlord for affixing to the exterior of the Building must comply with the Landlord's signage guidelines and obtain all planning approvals prior to installation. However, sponsorship signage funded by the Tenant will only be considered for approval in respect of the northern and southern ends of the Building and the eastern wall, to a maximum of three (3) signs (one on each wall positioned parallel to the roofline) each having dimensions that do not exceed 3.0m x 1.5m unless approved and negotiated and approved otherwise due to constraints on these facades. This clause will become void if it is not applied to all other Tenants of the City of Holdfast Bay.

Commented [FR53]: can be amended to : unless endorsed by Council.

Commented [FR54]: Not agreed

9.4.3 All costs associated with the installation of signage to the Building exterior, its maintenance, removal and make good are the full responsibility of the Tenant.

9.4.4 Subject to the preceding subclause and obtaining the Landlord's prior written approval and any required statutory approvals, the Tenant may display appropriate advertising signage within the boundaries of the Land, provided such signs do not exceed dimensions of and width of 6 metres and height of 1 metre and are inward facing toward Rugby Field (as defined by special condition 4), with the exception of existing signs with Development Approval. This clause will become void if it is not applied to all other Tenants of the City of Holdfast Bay.

Commented [FR55]: Not agreed

9.5 Compliance with Acts, By Laws and Regulations

The Tenant must at the Tenant's cost and expense:

9.5.1 comply with every notice order or requirement relating to the Premises and requiring any condition defect or want of reparation to be remedied which may be given or made to the Landlord or to the Tenant in pursuance of the *South Australian Public Health Act (2011)* and or the *Local Government Act (1999)* or Acts for the time being in force in the State of South Australia and or any other Act or Acts of Parliament or any by-laws rules or regulations made under or in pursuance of any such Act or Acts or purporting so to be and will comply therewith within the time limited therein for complying therewith. If the Tenant fails to comply with any statutory or regulatory obligations the Landlord may comply therewith (but it not be obligatory for the Landlord to do so) and all costs charges and expenses incurred by the Landlord in so doing will be a debt due and recoverable from the Tenant in the same manner in all respects as the rent is recoverable;

9.5.2 take such precautions against fire on and in respect of the Premises as are or may from time to time be required under or in pursuance of any Statute now or hereafter in force or which may be required by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto and also at the Tenant's own expense in all things, do all such other acts

matters and things in relation to fire safety as are or may from time to time be directed or required to be done or executed (whether by the owner or

occupier of the Premises) by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto pursuant to any law now or hereafter in force.

9.6 Use of Premises and Provision of Emergency Number

The Tenant must:

- 9.6.1 advise the Landlord (or where applicable the Landlord's Managing Agent) of the private address and telephone number of the Tenant's nominated emergency after hours contact and must keep the Landlord or the Landlord's Managing Agent informed of any change of such address or telephone number;
- 9.6.2 secure the Premises against un-authorised entry at all times when the Premises are left unoccupied and the Landlord reserves the right to enter upon the Premises and secure the Premises if left unsecured;
- 9.6.3 not do anything whereby the Services such as the working or efficiency of the air conditioning plant servicing the Building or the Premises may be affected;
- 9.6.4 upon the cessation of the Tenant's right to occupy the Premises, deliver to the Landlord or the Landlord's Agent all keys and or access cards to the Premises; and
- 9.6.5 observe the Rules and Regulations.

Commented [FR56]: ok

9.7 Restrictions on Use

The Tenant must not:

- 9.7.1 use or permit to be used for other than their designed purposes any of the fixtures or fittings in the Premises or the Building;
- 9.7.2 store or use inflammable or dangerous substances upon the Premises (except as may be necessary for the ordinary conduct of the Permitted Use of the Premises by the Tenant in which case the Tenant undertakes to notify the Landlord in writing of the maximum quantity of any such inflammable or dangerous substance that the Tenant intends to store on the Premises);
- 9.7.3 cause permit or allow on the Premises or in the Building anything which in the reasonable opinion of the Landlord may become a nuisance or disturbance obstruction or cause of damage whether to the Landlord or to other tenants or users of the Building nor use the Premises in any noisy noxious or offensive manner;
- 9.7.4 do any act or thing, or permit any activities which may discredit the Landlord;
- 9.7.5 obstruct or interfere with any of the entrances of the Building or Common Areas;
- 9.7.6 use or permit to be used any radio record player tape or video recorder television loudspeaker screen or other like equipment likely to be heard or seen from outside the Premises, with exclusion of livestreaming/game or training videoing, the PA system, scoreboard and siren.

Commented [FR57]: ok – reword to : videoing for live streaming and training, etc.

9.8 Heavy Machinery

9.8.1 The Tenant must not bring upon the Premises any heavy machinery or other plant or equipment not reasonably necessary or proper for the conduct of the Tenant's permitted use of the Premises. In no circumstances must the Tenant bring upon the Premises any heavy machinery or other plant or equipment:-

- (a) of such nature or size or weight as to cause or (in the reasonable opinion of the Landlord) be likely to cause any structural or other damage to the floors or walls or any other parts of the Premises, the Building or the Land, or
- (b) of such construction or manufacture as to cause to emanate therefrom any noise or vibration or noxious odour fume or gas that could pervade the Premises or escape therefrom to the discernible notice of any person outside the Premises.

9.8.2 Prior to bringing upon the Premises any heavy machinery or other plant or equipment permitted to be brought upon the Premises the Tenant must inform the Landlord of the Tenant's intention so to do and the Landlord or the Landlord's architects or engineers may direct the routing installation and location of all such machinery plant and equipment-. ~~The Tenant must observe and comply with all such directions and any reasonable fees payable to the Landlord's architects or engineers in connection with ascertaining the safest and most favourable and convenient method of routing installing and locating such machinery plant and equipment as aforesaid must be paid by the Tenant on demand.~~

Commented [FR58]: keep " the tenant must observe and comply with all such directions" the rest can be deleted.

9.9 Locking mechanisms

9.9.1 The Tenant must not tamper with or change any lock of the Premises. Additional, replacement or programming of keys, fobs or access cards will be procured by the Landlord and on charged to the Tenant for payment within 7 days. In the event the Landlord or its agents are required to attend the Premises to provide access, the Tenant will pay a reasonable fee fixed by the Landlord or the Landlord's agent, within 7 days of demand for payment.

9.9.2 The Tenant must prepare and maintain an accurate register of all allocated access cards, keys and fobs, and must provide a copy of that register to the Landlord within 147 days of each request.

Commented [LW(S59): This is not consistent with discussions. It is planned to be handed to the club to do the fob with council still also having access and the discussion the clubs to have the keys on their system as they are internal and provide council with a master key.

9.10 Use of Conduits

The Tenant must allow the Landlord and other occupiers of the Land the free and uninterrupted passage of gas water and electricity through and along the services including electrical services situated under in or on the Premises.

Commented [FR60R59]: Not agreed. Council will retain the main master key system for all 3 clubs and will issue keys and fobs as required. Clubs will have access to it and can still program new fobs as required.

Commented [FR61]: ok

9.11 Blinds and Awnings

The Tenant must not erect or affix any blinds or awnings to the outside of the Premises or any blinds to the interior of the windows display windows or doors thereof or affix any fittings to the floors walls or ceilings of the Premises without the prior consent in writing of the Landlord which consent may be granted or refused or granted subject to conditions in the discretion of the Landlord.

9.12 Airconditioning

9.12.1 Where any plant machinery or equipment for heating cooling or circulating air is provided or installed by the Landlord in the Premises or in the Building for the benefit of tenants of the Building ("**airconditioning plant**"):

(a) the Tenant must comply with and ~~observe the reasonable requirements of the Landlord in respect of the airconditioning plant with the exception of service, maintenance and repair and replacement;~~

Commented [FR62]: not accepted. As per previous lease and standard lease. But will add "as set out in Schedule 2"

~~(b) to the maximum extent permitted by law, the Landlord will be under no liability to the Tenant in respect of the Landlord's inability or failure to operate service maintain replace or repair the airconditioning plant at any time for any reason and the Tenant acknowledges that the Landlord does not warrant that the airconditioning plant (if any) is suitable or adequate for the business to be conducted in the Premises by the Tenant;~~

Commented [FR63]: not agreed

Commented [FR64]: remain but will remove "replace"

~~(e)~~ ~~(d)~~ ~~(b)~~ the Tenant must permit the Landlord and all persons authorised by the Landlord at all reasonable times on giving to the Tenant reasonable prior notice (except in the case of emergency where no notice is required) to enter the Premises to view the state of repair of the airconditioning plant.

9.12.2 Where any airconditioning plant is installed in the Premises or the Building for the exclusive use of the Tenant, the Tenant ~~must keep such airconditioning plant in good repair, condition and working order and must pay all costs of operating and maintaining the same.~~

Commented [FR65]: remains.

9.13 Electricity Supply

If the Landlord and the Tenant have entered into an agreement as to the supply by the Landlord to the Tenant of electricity for the Premises then the terms and conditions of such agreement will apply to the parties and any breach by the Tenant of that agreement will be deemed to be a breach by the Tenant of this Lease. In the absence of any such agreement between the Landlord and the Tenant, the following provisions apply:

9.13.1 If at the Commencement Date of this Lease the Landlord supplies electricity to the Premises and requires the Tenant to purchase such electricity from the Landlord, the Tenant must pay to the Landlord for all such electricity at such rate as the parties may agree from time to time and in the absence of such agreement at the maximum rate applicable under the *Electricity (General) Regulations 2012*.

9.13.2 Notwithstanding the preceding subclause, there is no obligation on the Landlord to supply or continue to supply electricity to the Premises and upon giving at least 60 days prior written notice to the other either:-

(a) the Landlord may elect to cease selling electricity to the Tenant, or

(b) the Tenant may elect to cease purchasing electricity from the Landlord.

9.13.3 If either the Landlord elects to cease selling electricity to the Tenant or the Tenant elects to cease purchasing electricity from the Landlord in accordance with the preceding subclause, the Tenant must on or before the

time at which such sale and purchase is to cease pursuant to the notice given in accordance with the preceding subclause,

- (a) enter into a contract to purchase electricity for the Premises from a licensed electricity retailer of the Tenant's choice,
- (b) ensure that any such contract contains a provision that such electricity retailer must provide details to the Landlord concerning the Tenant's consumption of electricity in or in relation to the Premises,
- (c) install at no cost to the Landlord such new or additional equipment and meters as may reasonably be necessary to supply and record the supply of electricity to the Premises.

9.13.4 If the Tenant is supplied electricity via an Inset Network (as defined in the *Electricity (General) Regulations 2012*) on the Land, the Tenant must pay to the Landlord the Tenant's share of Inset Network charges such share to be as is reasonably determined by the Landlord from time to time taking into account the quantum of electricity provided to the Premises and the quantum of electricity provided to other premises situate on the Land.

9.13.5 Where any solar panels plant is installed on the Building for the exclusive use of the Tenant, the Tenant must keep such solar panels plant in good repair, condition and working order, must pay all costs of operating and maintaining the same and must replace the plant at the end of life.

9.13.6 Save to the extent caused or contributed to by the Landlord's negligence, the Landlord shall not be liable to the Tenant for any failure of electricity supply to the Premises.

10. TENANT GOVERNANCE

The Tenant will provide to the Landlord:

10.1 ~~Upon request~~ a copy of its constitution;

Commented [FR66]: Added- ok

10.2 a copy of any rules or by-laws of the Tenant in existence at the Commencement Date;

10.3 within 28 days of any amendments being made to the Tenant's constitution, rules or by-laws, a copy of those amendments;

10.4 by 30 November in each year a copy of the most recent annual report available of the Tenant including the balance sheets and auditor's report if requested by the Landlord;

Commented [FR67]: Not agreed.

10.5 by 30 November in each year a copy of the Tenant's most recent adopted budget within 28 days of adoption if requested by the Landlord;

Commented [FR68]: ok

10.6 upon request from the Landlord a schedule of all subleases or other tenancies relating to the Premises; and

10.7 ~~upon request from the Landlord or any employee, agent or contractor to examine and take copies of all accounts records and bank records of the Tenant and/or the minutes or any meeting of the Tenant or any committee of the Tenant~~;

Commented [FR69]: will amend to examine all financial records.

10.8
10.9 ~~any other documents that regulate the Tenant's governance and operations.~~

10.10 ~~by 30 September in each year, a copy of the statements evidencing deposits of the required amounts (as per Item 10 of Schedule 1, special conditions 5.1 and 5.2) in the Tenant's maintenance fund.~~

Commented [FR70]: Remains

10.11 ~~any information in relation to the Tenant's use and occupation of the Premises and finances reasonably required by the Landlord and will permit, upon request from Landlord or any employee, agent or contractor to examine and take copies of all account books and bank books of the Tenant and/or the minutes or any meeting of the Tenant or any committee of the Tenant.~~

Commented [FR71]: Not agreed. Stays.

Commented [FR72]: To be reviewed by lawyer

11. INSURANCE

11.1 Tenant's Insurance

11.1.1 The Tenant must during the entire term hereof and any extensions hereto keep in full force and effect:-

- (a) a policy of public risk insurance with respect to the Premises and the business or businesses carried on in the Premises in which the limits of public risk must not be less than the amount referred to in Item 8 of Schedule 1. Such policy must include an extension to cover the Tenant's legal liability in respect of death or injury to any person and damage to property of any such person or to the Premises ~~and must include an extension to cover the Tenant's liability in respect of the Landlord's property.~~ The policy must name note the interest of the Landlord.

Commented [FR73]: Remains. As previous lease

- (b) a policy of insurance covering the plate glass of the Premises and the Tenant's Property contained in or about the Premises to the full replacement value thereof against all usual risks including loss or damage by fire fire fighting activities fusion explosion lighting civil commotion storm tempest earthquake and malicious damage or accidental damage, and any other insurances required by law or which the Landlord reasonably requires for the amount the Landlord reasonably requires.

~~11.1.2 The Tenant must use the Tenant's best reasonable endeavours to ensure that each such policy contains a clause that the insurer will not cancel or change the insurance without first giving the Landlord thirty days prior written notice.~~

Commented [FR74]: remains

~~11.1.3 The policy or a copy thereof or a certificate of insurance must be produced by the Tenant to the Landlord at the Landlord's place of business upon~~

Commented [FR75]: ok

~~11.1.4~~ ~~11.1.2~~ request in writing being made by the Landlord for the production thereof.

11.2 Insurance not to be affected

11.2.1 The Tenant must not do or store nor cause permit or suffer to be done or to be stored in or upon or in connection with the Premises anything whereby any policy or policies of insurance now effected or which may hereafter be effected on the Premises or any part thereof or on any adjoining premises belonging to the Landlord may be invalidated or become void or voidable or whereby any increased rate of premium may become payable under any such policy or policies of insurance.

~~11.2.2 Without prejudice to the preceding sub-clause, the Tenant must from time to time on demand by the Landlord pay to the Landlord all extra or excess premiums (if any) for all and any insurance effected by the Landlord (and if~~

~~the Premises are or become part of land to which either the *Strata Titles Act* or the *Community Titles Act* applies, the body corporate) in relation to the Land and the buildings thereon and or the Premises required on account of extra risk caused directly or indirectly by the use to which the Premises are put by the Tenant and or required by reason of any breach by the Tenant of any covenants in this Lease.~~

Commented [FR76]: this remains – excess for building insurance when damage caused by tenant, if demanded by council.

12. INDEMNITY, RELEASE AND RISK

12.1 Indemnity

The Tenant indemnifies the Landlord against all claims, actions, damages, losses, costs and expenses of any nature which the Landlord may suffer or incur or for which the Landlord may become liable in connection with:

- 12.1.1 the Tenant's use or occupation of the Premises ~~arising by reason of any act or omission by the Tenant and persons under the control of the Tenant;~~
- 12.1.2 the overflow or leakage of water or any other substance into or from the Premises or arising out of any faulty fixture or fitting of the Tenant;
- 12.1.3 any accident or damage to property or injury or death suffered by any person arising from any occurrence in or ~~adjacent near~~ the Premises to any person or property using or ~~adjacent near~~ the Premises arising ~~wholly or in part~~ by reason of any act or omission by the Tenant and persons under the control of the Tenant;
- 12.1.4 any act or omission of the Tenant;
- 12.1.5 any fire from the Premises;
- 12.1.6 any breach of this Lease by the Tenant;

Commented [FR77]: ok

Commented [FR78]: remains. Standard.

save to the extent that any such claim, action, damages, losses, costs and expenses are caused or contributed to by the negligent or wilful act or omission of the Landlord, ~~or its agents, employees, or contractors.~~

Commented [FR79]: ok

12.2 Release

The Tenant releases the Landlord from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the Premises, the Building and the Land except to the extent that it is caused by the Landlord ~~or its agents, employees, invitees and contractors negligence.~~ ~~The Landlord releases the Tenant from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the Premises, the Building and the Land except to the extent that it is caused by the Tenant or its employees and contractors negligence.~~

Commented [FR80]: ok

Commented [FR81]: not agreed.

12.3 Tenant to Occupy Premises at own Risk

The Tenant occupies and uses the Premises and the Land at the Tenant's sole risk.

13. TENANT'S YIELDING UP OBLIGATIONS

- 13.1 The Tenant must ~~immediately~~ prior to vacating the Premises at the expiration or sooner determination of this Lease (or in the case of the determination of the Term of this Lease within a reasonable time after such determination):

Commented [FR82]: ok

- 13.1.1 complete any repairs and maintenance which the Tenant is obliged to carry out under this Lease;

- 13.1.2 remove all of the Tenant's Property in or on the Premises or the Land and immediately make good any damage caused by such removal excluding external signage;

~~13.1.3 wash down the Premises and treat as previously treated all internal surfaces of the Premises by painting staining polishing or otherwise to a specification reasonably approved by the Landlord and to the reasonable satisfaction of the Landlord taking account of fair wear and tear;~~

Commented [FR83]: remains. Existed in previous lease

~~13.1.4~~ 13.1.3 replace all damaged and non-operative light bulbs and fluorescent tubes in the Premises ~~which are easily accessible from a ladder~~ with new light bulbs and fluorescent tubes; and

Commented [FR84]: not agreed.

~~13.1.5~~ 13.1.4 thoroughly clean the Premises Building throughout, remove all refuse therefrom leaving the Premises Building in a clean, tidy, secure and safe condition;

Commented [FR85]: Retain premises

~~13.1.6~~ 13.1.5 comply with all reasonable requirements and directions of the Landlord in respect of all removal and reinstatement works;

~~13.1.7~~ 13.1.6 hand over to the Landlord all keys and other security devices for the Premises which the Tenant has in its possession or control.

13.2 If the Tenant does not complete such removal and making good on the expiration of the Term of this Lease (or in the case of the determination of the Term of this Lease within a reasonable time after such determination) then (without prejudice to any other rights of the Landlord) the Landlord may undertake such obligations and the Tenant must repay on demand all ~~reasonable~~ costs and expenses incurred by the Landlord in so doing.

Commented [FR86]: ok

13.3 In addition to the preceding subclause, the Landlord may elect not to effect such removal of the Tenant's Property (including all partitions, alterations and additions) in which case the Landlord may by notice in writing given to the Tenant notify the Tenant that unless the Tenant has effected such removal within fourteen ~~(28-44)~~ days of the date on which such notice is given such partitions alterations or additions not removed by the Tenant will be forfeited to the Landlord and where the Tenant fails to comply with such notice such partitions alterations and additions will at the expiration of such fourteen ~~(28-44)~~ day period become the absolute property of the Landlord.

Commented [FR87]: this will remain as 14 days. Previous lease imposed 7 days only so this is more lenient than previous lease.

13.4 Until such time as the Tenant has complied with its obligations under clause 13.1 or the date upon which the same have been forfeited to the Landlord pursuant to the preceding subclause (whichever is the ~~earlier~~ later) ("the compliance date"), the Tenant must pay by way of damages to the Landlord an amount which represents the rent payable immediately prior to the expiration or termination of this Lease calculated on a daily basis multiplied by the number of days between the compliance date and the date of expiration or termination of this Lease.

Commented [FR88]: Remains as "earlier"

14. LANDLORD'S OBLIGATIONS AND RIGHTS

14.1 Quiet Possession

Provided that the Tenant pays the rent and all other outgoings and performs and observes the terms conditions and covenants on the Tenant's part to be performed or observed herein contained or implied may during the term or any extension thereof subject to the provisions of this Lease, the Tenant may quietly enjoy the Premises without unlawful interruption by the Landlord or any person lawfully claiming under or in trust for the Landlord.

14.2 Reservation of Services

The Landlord reserves the right for itself and for all others authorised by the Landlord the passage of any air conditioning equipment, fire sprinkler systems, pipes, ducts,

cables, wiring, communications, water sewerage and drainage connections and any other services through or along or in or into the Premises installed by the Landlord or Service Authority and also access to and through the Premises at any time for the purpose of installing, maintaining or repairing any such equipment, systems, pipes, ducts, cables, wirings, connections and Services provided it does not interrupt the use by the Tenant, unless agreed in writing or an emergency, causing as little disturbance to the tenant as practical.

Commented [FR89]: Not agreed. This is already covered in 14.4, 7.2 and 6.5. however, for consistency will remove "at any time" and add "causing as little disturbance to the tenant as practical."

14.3 Costs of Proceedings

If the Landlord may without fault on the Landlord's part be made a party to any litigation commenced by or against the Tenant by a third party, the Tenant must pay to the Landlord on demand by the Landlord all reasonable legal fees and disbursements (as between solicitor and client) incurred by the Landlord in connection therewith.

14.4 Right to Enter

14.4.1 At any time during the Term of this Lease the Landlord may (except in an emergency when no notice is required) enter the Premises after giving the Tenant reasonable notice:

- (a) to view the state of repair and condition of the Premises;
- (b) carry out any works on the Land or in or to the Building (including alterations, maintenance and redevelopment), but in these circumstances the Landlord will take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- (c) restrict access to the Land including parking areas but in these circumstances the Landlord will take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- (d) redirect pedestrian or vehicular traffic into, out of or through the Land by written agreement with the Tenant (except in emergencies);
- (e) close the Building in an emergency;
- (f) use, maintain, repair, alter and add to Building Services to or in the Premises, but the Landlord must take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- (g) exclude or remove any person from the Land provided there is a suitable reason;
- (h) to do anything the Landlord must or may do under this Lease or pursuant to any legal obligation;
- (i) to carry out and observe the Landlord's maintenance and repair obligations as set out in Schedule 2; and

Commented [FR90]: ok

Commented [FR91]: not agreed

Commented [FR92]: Not agreed. Council may need to use the service in order to repair. This is clearly in the context of repair and maintenance.

Commented [FR93]: Check with Lawyer. Not accepted but will reword to 'give a reason'

and the Tenant will not be permitted to make any claim or abate any payment if the Landlord exercises any of its rights under this clause 14.5 provided it is only of a minor interference with the Tenant's use of the Premises.

Commented [FR94]: Not agreed

~~14.4.2~~ If the Landlord or the Landlord's agents or contractors find any defect decay or want of reparation in the Premises or find any state or condition thereof contrary to any covenant or agreement on the part of the Tenant

contained in this Lease, the Landlord, or the Landlord's agent or contractor may give to the Tenant notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Tenant must within such time sufficiently and in good and proper and professional manner make good repair restore or amend the same to the reasonable satisfaction of the_

14.4.2 Landlord and if the Tenant fails to comply with any such notice the Landlord may (but is not obliged to do so) by or with the Landlord's attorney agent and or contractors enter into and upon the Premises and carry out the requirements of such notice (causing as little disturbance to the Tenant as is practicable). All reasonable costs charges and expenses incurred by the Landlord in so doing will be a debt due from the Tenant to the Landlord payable on demand and recoverable in the same manner in all respects as the rent hereby reserved. This clause will also apply in reverse if the Landlord has not undertaken their obligations.

Commented [FR95]: ok

Commented [FR96]: Not agreed.

14.5 Interest on Overdue Amounts

If the Tenant does not pay an amount when it is due unless in dispute or funds are owed to the Tenant by council, and does not rectify such non-compliance within 2814 days of written demand or other agreed timeframe, then it must pay interest on that amount on demand from when the amount became due until it is paid in full. Interest is calculated on outstanding daily balances of that amount at the Default Rate.

Commented [FR97]: Not agreed.

Commented [FR98]: 14 days is across the board in Council debtor's system and will remain

Commented [FR99]: ok

15. DAMAGE TO BUILDING OR PREMISES

15.1 Subject to clause 15.2, if the Building of which the Premises forms part is damaged:-

15.1.1 the Tenant is not liable to pay rent or Outgoings or other charges that are attributable to the period during which the Premises cannot be used or are inaccessible due to that damage;

15.1.2 if the Premises are still useable but their useability is diminished due to the damage, a fair and just proportion of the rent, Outgoings and other charges payable by the Tenant pursuant to this Lease having regard to the nature of the damage shall abate from the date of the damage until the date that the Premises have become useable. If any dispute as to the amount of rent, Outgoings and charges to be abated arises, the same will be determined by a licensed valuer appointed by the President of the South Australian Division of the Australian Property Institute (or should that body have ceased to exist, the President or other principal officer for the time being of such body or association as then serves substantially the same objects) at the request of the Landlord;

15.1.3 if the Landlord notifies the Tenant in writing that the Landlord considers that the damage is such as to make its repair impractical or undesirable, the Landlord or the Tenant may terminate this Lease by giving not less than seven days' notice in writing and neither party shall have any claim for or right to recover any compensation by reason of such termination save in respect of any antecedent breach or default or any claim regarding the cause of such damage;

Commented [FR100]: not agreed.

15.1.4 if the Landlord fails to repair the damage within a reasonable time after the Tenant requests the Landlord in writing so to do, then the Tenant may terminate this Lease by giving not less than seven days' notice in writing of termination to the Landlord or undertake the repairs and all reasonable costs charges and expenses incurred by the Tenant in so doing will be a debt due from the Landlord to the Tenant payable on demand.

Commented [FR101]: Not agreed

15.2 Damage caused by Tenant

If the damage to the Building was caused or contributed to by the wrongful act or negligence of the Tenant no proportion of the rent, Outgoings and charges shall be abated and the Tenant will not be entitled to terminate this Lease.

15.3 Set off

The Landlord may, by notice to the Tenant, set off any amount due by the Tenant to the Landlord under this Lease or otherwise against any amount due by the Landlord to the Tenant under this Lease. The Tenant may also have reciprocal rights for any amount due by the Landlord to the Tenant.

Commented [FR102]: Not agreed

16. REDEVELOPMENT AND DEMOLITION

16.1 The Tenant acknowledges that:-

- 16.1.1 the Landlord may during the term of this Lease decide to refurbish, repair, redevelop or extend the Premises and/or the Building and land of which the Premises form part;
- 16.1.2 the Landlord will suffer harm expense and loss if the Landlord elects to do so and is unable to obtain vacant possession of the Premises;
- 16.1.3 the Landlord has only agreed to the Tenant's offer to lease the Premises on the condition the Landlord can obtain vacant possession of the Premises for the purpose of so refurbishing, repairing, redeveloping or extending as and when required by the Landlord; and
- 16.1.4 this Lease is expressly subject to a condition precedent that the term of this Lease be subject to the Landlord's right to refurbish, redevelop or extend.

16.2 If during the Term or any extension of the Term of this Lease the Landlord elects to refurbish, repair, redevelop or extend the Premises, the Building or the Land of which the Premises form part or any part thereof and the Landlord provides to the Tenant details of the proposed repair, redevelopment or extension sufficient to indicate a genuine proposal to refurbish, repair, redevelop or extend within a reasonably practicable time after the date upon which the Landlord requires vacant possession of the Premises, then the Landlord may on or after the commencement of this Lease:

- 16.2.1 give to the Tenant not less than six (6) months written notice requiring the Tenant to relocate its business to other premises in the Building or on the Land (the "**new premises**") specifying the date on which the Landlord requires vacant possession of the Premises and requires the Tenant to relocate to the new premises (the "**relocation date**") whereupon:-
 - (a) this Lease will terminate on the relocation date; and
 - (b) not less than seven (7) days prior to the relocation date the Tenant must upon receipt of the same from the Landlord execute and deliver to the Landlord:-
 - (i) a surrender of this Lease in registrable form by mutual consent and for no monetary or other consideration effective from the relocation date; and
 - (ii) a lease of the new premises from the relocation date which lease will be upon the terms and conditions hereinafter appearing; and
 - (iii) the Tenant's registered duplicate copy of this Lease; and
 - (c) the Tenant must vacate the Premises and relocate to the new premises on the relocation date.

16.2.2 the relocation to the new premises will be upon the following terms and conditions:-

- (a) the new premises must (in the reasonable opinion of the Landlord) be of comparable same quality, infrastructure size and utility and also off street car parking availability on the surrounding land to the Premises and Rugby Field;
- (b) the Landlord will, at its cost, move the Tenant's stock items, fixtures, fittings from the Premises to the new premises or provide equivalent in the new premises;
- (c) the lease of the new premises shall be on the same terms and conditions as this Lease (changed as necessary),

Commented [FR103]: Not agreed

Commented [FR104]: Not agreed

and the Tenant may, not later than one month (time being of the essence) of receiving the written notice of relocation from the Landlord, notify the Landlord in writing that the Tenant does not intend to enter into a lease for the new premises, in which case the Tenant shall vacate the Premises on the relocation date without any right to compensation or damages from the Landlord by reason of termination of this Lease.

16.2.3 give to the Tenant not less than six (6) months written notice requiring the Tenant to vacate the premises specifying the date on which the Landlord requires vacant possession of the Premises (the "termination date") whereupon:-

- (a) this Lease will terminate on the termination date; and
- (b) not less than seven (7) days prior to the termination date the Tenant must upon receipt of the same from the Landlord execute and deliver to the Landlord such documents as the Landlord reasonably requires to effect a surrender of this Lease as at the termination date; and
- (c) the Tenant must vacate the Premises on the termination date.

and the Tenant may at any time after receipt of notice of termination from the Landlord terminate this Lease upon giving not less than seven (7) days prior notice in writing to the Landlord.

16.3 Damage to Goods or Person

Except to the extent caused by the negligent or wilful act or omission of the Landlord, its servants or agents, the Landlord its attorney or agent shall not be under any liability to the Tenant for any loss expense or damage sustained by the Tenant or any invitee of the Tenant arising out of personal injury or destruction of or damage to goods chattels furniture or effects howsoever caused including by water gas or electricity bursting overflowing leaking or escaping (as the case may be) from any water gas electrical apparatus installation fitting pipe sewer wiring roof or roof gutter down pipe or storm water drain (as the case may be) on in or connected to or appurtenant to the Premises and/or the Building.

17. RULES AND REGULATIONS

17.1 The Landlord may from time to time make such reasonable rules and regulations in consultation with the Tenant that the Landlord considers necessary for the management, safety, security, care of or cleanliness of the Premises or the Building.

Commented [FR105]: ok

- 17.2 The Landlord reserves the right to amend from time to time the Rules and Regulations.

- 17.3 The Rules and Regulations bind the Tenant when it receives notice of the Rules and Regulations from the Landlord.
- 17.4 If there is any inconsistency between this Lease and the Rules and Regulations, then this Lease prevails.
- 17.5 A failure by the Tenant to comply with the Rules and Regulations is a breach of this Lease.
- 17.6 The Rules and Regulations applicable at the date of this Lease are those appended to this Lease.

18. EXTENSION OF TERM

If not more than six months nor less than three months prior to the expiration of the Term the Tenant gives to the Landlord notice in writing of its desire to extend the Term and if the Tenant is not in breach of any of the covenants agreements and conditions on the part of the Tenant to be performed and complied with, the Tenant ~~(at the Tenant's cost and expense in all things)~~ will be entitled to an extension of the Term for the further period referred to in Item 9 of Schedule 1 at a rent to be fixed in the manner provided by the terms of this Lease but otherwise upon the same terms and conditions as are herein contained with the exception of this right of renewal.

Commented [FR106]: check with Lawyer – is this fair to other clubs

19. ESSENTIAL TERMS, RE-ENTRY, BREACH, DAMAGES

19.1 Essential Terms

The clauses of this Lease referred to in Item 11 of Schedule 1 are essential terms of this Lease and the Landlord may at its option treat any breach or default by the Tenant in the observance or performance of its obligations under any of such clauses as a repudiation by the Tenant of this Lease.

19.2 Power of Re-entry

If:

- 19.2.1 the rent or any part of it is unpaid for sixty (60) days after any of the days on which it should have been paid (although no formal or legal demand may have been made for payment); or
- 19.2.2 the Tenant commits or permits to occur any other breach or default in the due and punctual observance and performance of any of the terms of this Lease and fails to remedy the breach within a period of ~~28~~14 days of written notice from Landlord ~~(or such shorter time as agreed between the Landlord may in any particular case reasonably stipulate parties)~~; or
- 19.2.3 any property in or on the Premises is seized or taken in execution under any judgment or other proceedings; or
- 19.2.4 the Tenant ceases to be able to pay its debts as they become due; or
- 19.2.5 any step is taken to enter into any arrangement between the Tenant and its creditors; or
- 19.2.6 any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of the Tenant's assets or business; or

Commented [FR107]: 14 days from written notice, remains

Commented [FR108]: Not agreed

19.2.7 the Tenant is deregistered or dissolved or any step is taken by any person towards that;

then the Landlord or the Landlord's attorney or duly authorised agent, solicitor or representative may without notice to the Tenant re-enter into and upon the Premises or any part thereof in the name of the whole and use and enforce all such ways and means and adopt all such measures as may be necessary or expedient for the purpose of effecting such re-entry by force or otherwise as the occasion may require without being liable for any loss expense damage action suit or proceeding or cost and to hold and enjoy the Premises as if these presents had not been made and thereupon the Tenant's leasehold interest in the Premises will cease and determine.

19.3 Damages generally

The Landlord's entitlement to recover losses, damages, costs or expenses will not be affected or limited by:

- 19.3.1 the Tenant abandoning or vacating the Premises;
- 19.3.2 the Landlord re-entering the Premises and/or terminating the Tenant's leasehold interest in the Premises except in reference to Clause 16;
- 19.3.3 the Landlord accepting the Tenant's repudiation;
- 19.3.4 conduct of the parties which may or shall constitute a surrender by operation of law.

Commented [FR109]: Check with Lawyer – not accepted as this is for breaches only

20. NOTICES

Any notice or other document required to be given or served under this Lease may be given or served:

- 20.1 by personal service, or hand delivery, which will be deemed to have been given upon receipt;
- 20.2 by ordinary or registered post, email or facsimile transmission to the last place of business or residence known of the parties, and any notice or other document will when given or served by either of the methods mentioned above be deemed to have been given or served and received by the other party three (3) days after the date of posting, sending or delivery at the document exchange whether actually received or not AND in the case of any notice or document required to be served or given by the Landlord to the Tenant the same may be signed on behalf of the Landlord by its agent, manager, secretary assistant, secretary or solicitor and may be either addressed or delivered to the Tenant at the address of the Premises or such other address of the Tenant as the Tenant may specify in writing from time to time.

Commented [FR110]: Not agreed – this is for notice of breaches only. This is not operational comms

21. COSTS

- 21.1 Each party will bear its own costs in respect of the preparation, negotiation, execution and stamping of this Lease.
- 21.2 Subject to any limits imposed by the Act the Tenant must pay all stamp duty and registration fees in respect of this Lease and any renewal, extension, surrender, assignment or transfer of this Lease and any other incidental documents including any lease plan costs.

22. MISCELLANEOUS

22.1 Holding Over

If the Tenant continues in occupation of the Premises after the expiration of the Term or any extension thereof with the consent of the Landlord the Tenant will thereupon become or be deemed to be a monthly tenant of the Landlord at a rent determined in accordance with the provisions of this Lease, and such tenancy will be subject to such of the conditions and covenants contained in this Lease as are applicable to a monthly tenancy.

22.2 Waiver

No waiver by the Landlord of any breach or non-observance by the Tenant of any covenant herein contained shall constitute a general waiver of the obligations of the Tenant.

22.3 Acceptance of Rent Arrears

In respect of the Tenant's obligations to pay rent the acceptance by the Landlord of arrears of or any late payment of rent will not constitute a waiver of the essentiality of the Tenant's obligations to pay rent on the dates hereinbefore set out for payment of rental or in respect of the Tenant's continuing obligation to pay rent during the Term.

22.4 Kiosks and Marquee

22.4.1 The Landlord may erect from time to time during the term and remove and re-erect kiosks, marquees and other temporary or permanent structures in any part of the Land (not comprising the Premises) and may grant to any person the exclusive use of all or any part thereof for such purposes for such periods and upon such terms and conditions as the Landlord may in its absolute discretion think fit provided it does not impact on the operations of the Tenant.

Commented [FR111]: this has already been amended as per previous minutes

22.4.2 The Tenant may request the consent of the Landlord to erect kiosks and marquees on the Premises Land for a particular day or days, where in use by the Tenant or its invitees a sporting game or match will be held subject to reasonable conditions and requirements of the Landlord from time to time. ~~If the Landlord's consent is granted the such consent will be subject to certain conditions and requirements of the Landlord from time to time.~~ Such conditions will include an obligation on the Tenant to ensure that such kiosk(s) or marquee(s) is either tied down or weighted in a manner to prevent damage to sub-surface irrigation.

Commented [FR112]: ok

22.5 No Caveat

The Tenant must not lodge or cause or permit to be lodged any absolute caveat over the certificate of title for the Land or the Premises.

22.6 Landlord and Tenant Act

A notice under section 10 of the *Landlord and Tenant Act 1936 (SA)* must allow 14 days for the Tenant to remedy a breach of this Lease if it is capable of remedy and to make reasonable compensation in money to the satisfaction of the Landlord. No period of notice is required in respect of non-payment of rent.

22.7 Power of Attorney

If the Landlord becomes entitled to terminate this Lease and re-enter and take

possession of the Premises (a statutory declaration of any duly authorised officer, employee or agent of the Landlord will be conclusive evidence for the purpose of the

Registrar-General) then the Tenant irrevocably appoints the Landlord as the attorney of the Tenant to execute any documents and perform any acts the Landlord requires to give full effect to the power of re-entry under the *Real Property Act 1886* (SA). The Tenant must execute any documents and perform any acts the Landlord requires to give full effect to the power of re-entry under the *Real Property Act 1886* (SA).

22.8 **Special Conditions**

This Lease is subject to the special terms and conditions (if any) specified in Item 10 of Schedule 1 and if there is any inconsistency between any such special terms and conditions and any of the provisions of this Lease and/or the Rules and Regulations then such special terms and conditions will prevail.

DRAFT

SCHEDULE 1

ITEM 1 **TENANT** (clause 1.18)

Name: Brighton Rugby Union Football Club Incorporated

ABN: 30 403 341 350

Address: 410-420 Brighton Road, Hove SA 5048

ITEM 2 **PREMISES** (clause 1.12)

That portion of the land comprised in Certificate of Title Register Book Volume 5748 Folio 561 and Volume 5750 Folio 187 and known as 410-420 Brighton Road Hove SA 5048 being the area shaded in red on the plan contained in Schedule 3

ITEM 3 **THE LAND** (clause 1.8)

The whole of the land comprised in Certificate of Title Register Book Volume 5748 Folio 561 and Volume 5750 Folios 183 and 187

ITEM 4 **PERMITTED USE** (clause 9.1)

The provision of community recreational rugby, touch rugby and other reasonable sports related or events conducted by the Tenant or invitees of the Tenant club and/or such other use or uses as the lessor may consent to

Commented [FR113]: amended

ITEM 5 **TERM** (clause 1.21)

A term of five (5) years commencing on [DATE] (Commencement Date) and expiring at 11.59PM on [DATE]

ITEM 6 **COMMENCING RENT** (clause 3)

\$5,333.00 per annum exclusive of GST, subject to review

ITEM 7 **RENT REVIEW** (clause 3)

(a) Fixed Review Dates: The rent will be reviewed as follows:

First anniversary of this Lease: \$7,468.00 per annum plus GST

Second anniversary of this Lease: \$9,604.00 per annum plus GST

Third anniversary of this Lease: \$11,739.00 per annum plus GST

Fourth anniversary of this Lease: \$13,875.00 per annum plus GST

Commented [FR114]: these amounts will be confirmed

- (b) ~~CPI~~ Review Dates: from [DATE] each year during the Term if the Term is renewed or extended

ITEM 8 PUBLIC RISK INSURANCE (clause 11)

TWENTY MILLION DOLLARS per claim and unlimited in the annual aggregate or such higher amount as the Landlord may from time to time reasonably require.

ITEM 9 EXTENSION OF TERM (clause 18) [TBA]

One further term of five (5) years commencing on [DATE] and expiring on [DATE], if exercised in ~~accordance~~ accordance with clause 18

Commented [FR115]: yes

ITEM 10 SPECIAL CONDITIONS (clause 22.8)

1. **Child Safe Environment**

- 1.1 The Tenant acknowledges that the City of Holdfast Bay is committed to providing a child safe environment (as defined by the *Children's Protection Act 1993*) at all times. A child safe environment is 'an environment, which is both child-safe and child-friendly, where children are valued and feel respected and encouraged to reach their full potential.'
- 1.2 The Tenant represents to the Landlord that it has fulfilled and will ensure that it continues to fulfil its requirements under the *Children's Protection Act 1993* in relation to occupying the Premises for the Permitted Use.
- 1.3 The Tenant must act in the best interests of the community at large.
- 1.4 The Tenant must at the request of the Landlord provide a current police clearance or the relevant criminal history screening certificate under relevant legislation for the Tenant or any of the Tenant's officers, volunteers, members, employees, contractors, tenants and agents who provide services from the Premises.
- 1.5 If the Landlord makes a request of the Tenant under this special condition, the Tenant must provide the requested documents to the Landlord within 10 Business Days of such request. Failure to do so will be considered a breach of an essential term of this Lease.

2. **Tenant's Fitout**

- 2.1 The Tenant must carry out its Fitout Works:
 - (a) in a proper and workmanlike manner;

- (b) in a manner that does not expose people to a health and safety risk;
- (c) using good quality materials;
- (d) in accordance with the Tenant's plans and specifications approved by the Landlord;
- (e) in accordance with all approvals and the requirements of authorities;
- (f) in accordance with the reasonable directions of the Landlord and the Landlord's representative;
- (g) in a manner so as not to:
 - (i) disturb other contractors or occupants of the Building; or
 - (ii) prevent or hinder access to the Premises or any part of them by the Landlord or any person authorised by the Landlord;

2.2 In carrying out the Fitout Works the Tenant must:

- (a) ensure that the Tenant's employees, contractors, agent and invitees comply with the requirements of all relevant building site awards and conditions relevant to the construction of the Fitout Works;
- (b) not bring any heavy items of machinery into the Premises likely to damage the Building without the prior approval of the Landlord;
- (c) use the access paths, loading dock and lifts in the Building only to the extent approved from time to time by the Landlord or the Landlord's representative (each acting reasonable), having regard to the requirements of other occupants of the Building; and
- (d) ensure that any defects in the Fitout Works are rectified promptly.

2.3 The Fitout Works and the use by the Tenant of the Land, the Building and the Premises are at the Tenant's risk except to the extent caused by the wilful or negligent act or omission of the Landlord.

2.4 In this special condition, "**Fitout Works**" means the works and installations to fit out and prepare the Premises to the Tenant's occupational requirements as depicted in the plans and specifications approved by the Landlord.

3. Tenant's Fixtures and Fittings

- 3.1 For the avoidance of doubt, the Tenant acknowledges that the Landlord has no liability or responsibility for any fixtures, fittings and/or other items installed, owned or otherwise brought onto the Premises by the Tenant.

4. Licence

- 4.1 The Tenant may access and use the area outlined in blue on the plan attached at Schedule 4 (**Rugby Field**) for any reasonable sporting use during official Tenant training times (that is, three times a week from 5.30pm to 9.30pm) and during official Rugby SA fixtures and for the purposes of the Permitted Use, and the terms and conditions of this Lease apply to the Licence mutatis mutandis. Outside of Tenant sanctioned use the Rugby Field will be available for use by the general public and hire

subject to landlord agreement.

Commented [FR116]: not agreed but Reworded – will be checked by lawyer

4.24.1 The licence conferred by this special condition does not confer on the Tenant any tenancy, estate or interest in the Rugby Field or the Land.

4.34.2 Without limiting and notwithstanding any other release provided by the Tenant in this Lease, the Tenant agrees that the Landlord is not liable for any death or personal injury to the Tenant or its patrons or customers while accessing, occupying or using the Rugby Field unless caused by an act omission or negligence by the Landlord, its employees, agents or contractors.

Commented [FR117]: CHECK with Lawyer

4.44.3 Without limiting and notwithstanding any other indemnity provided by the Tenant in this Lease, the Tenant indemnifies the Landlord against all actions, liabilities, claims or demands for any loss, damage, injury, or death incurred or suffered directly or indirectly by the Landlord or any other person in connection with the Tenant's access, occupation or use of the Rugby Field unless caused by an act omission or negligence by the Landlord, its employees, agents or contractors.

Commented [FR118]: CHECK with Lawyer

4.54.4 Any breach of the licence granted pursuant to this special condition by the Tenant is a breach of this Lease by the Tenant and any breach of this Lease by the Tenant is a breach of the Licence granted pursuant to this special condition subsisting at the time of the breach of the lease by the Tenant.

4.64.5 The Tenant must (on demand) remedy any damage caused to the Rugby Field by the Tenant's access, occupation and/or use excluding reasonable wear and tear.

Commented [FR119]: ok

4.74.6 The Tenant must ensure the Rugby Field is kept and left in a clean, neat and tidy condition at the end of each use.

5. Maintenance Fund

5.1 The Tenant undertakes to the Landlord that it must (on or before entering into this Lease) establish and maintain an account for maintenance to the Premises, and ensure that at least \$7,500 is deposited into an interest-earning account each year during the Term which may be applied as follows:

- (a) the amount of money contribute to this account in a year may be reduced by deducting the value of any work done to the Premises during that year without charge by or on behalf of the Tenant;
- (b) monies may be withdrawn from this account by the Tenant for the purpose of undertaking maintenance to the Premises;
- (c) in the event that the Tenant undertakes major capital improvement works to the Premises or the Rugby Field (as defined by special condition 4) the requirement for this annual contribution may be waived at the discretion of the Landlord upon the written request of the Tenant.

5.2 The Tenant will provide to the Landlord on the Commencement Date and annually thereafter, true and complete copies of all statement evidencing such contributions including annual statements. The Tenant agrees that it will not deduct, withdraw or apply any moneys deposited into the holding account without the Landlord's prior written consent. The Tenant further agrees that the moneys held in the holding account will be applied for

replacement as reasonably notified by the Landlord.

Commented [FR120]: not agreed

6.5. Special events and community programs

~~6-15.1~~ The Tenant acknowledges that the Landlord may from time to time ~~want to use the field and clubrooms for special or major sporting, community or other events.~~

~~6-25.2~~ The Tenant must accommodate the Landlord with up to ~~onethree~~ special or major sporting, community or other events per financial year, of a duration of 2 days maximum ~~each~~. The Landlord will provide no less than 90 days written notice to the Tenant.

~~6-35.3~~ The Landlord will ~~endeavour to work with the Tenant to mutually~~ select dates for special events that do not conflict with the Tenant's ~~or its~~ invitees ~~official training and fixtures use~~. If required, the Landlord will assist to relocate the Tenant during the affected hours, ~~however the relocation is not guaranteed.~~

~~6-45.4~~ The Landlord will be authorised to access and use the Premises ~~(excluding bar and kitchen facilities)~~ free of charge for the sole purpose of running community programs organised and led by the Landlord ~~(but cannot be for other businesses, companies or organisations who could directly approach the Tenant for hire of the Premises)~~, up to 4 hours a week on any Monday to Friday ~~9am – 5pm (inclusive) and outside of designated training and game times~~. The Tenant must accommodate exclusive access to the function room, and non- exclusive access to the ~~kitchen, toilets and all common~~ areas for the duration of these programs. Times and dates will be scheduled a minimum of 2 months in advance and negotiated ~~and agreed with the Tennant~~ to not conflict with the Tenant ~~or its invites use's official training and fixtures.~~

Commented [FR121]: will remain as it was.

Commented [FR122]: Will remain

Commented [FR123]: Excluding bar is accepted.

Commented [LW(S124): As per club meetings hire free but cost of cleaning and power/water/gas usage

Commented [FR125R124]: Not agreed

Commented [FR126]: Not agreed

Commented [FR127]: ok

Commented [FR128]: will remain as it was

7.6. Other

~~7-16.1~~ Within 6 months of the date of this Lease (and at the same time as requesting any renewal of this Lease), the Tenant must provide to the Landlord, a copy of its approved strategic business plan (including budgetary projections) conducive to increase revenue, membership (and sports players including female and junior participation). The Landlord will provide reasonable assistance to the Tenant if requested, provided that the Tenant is responsible for the content and all matters relating to the business plan, budgetary statements and related documents.

~~7-2~~ The Landlord will maintain the Rugby Field (as defined by special condition

~~7-3~~ 4) during the Term to a higher standard than a public reserve (as specified in the Landlord's Community Leasing Policy) and on this basis, the

~~7-4~~ commencing rent includes the Tenant's contribution to the additional ~~7-56.2~~ maintenance costs the Landlord will incur.

~~7-66.3~~ The Tenant must allow the Premises to be ~~hired for or used by~~ community groups for community sport services when not required by the Tenant ~~or its invitees for training or match commitments.~~

~~7-76.4~~ The Tenant is permitted to (and will be responsible for) marking out the Rugby Field (as defined by special condition 4) and all costs associated therewith.

~~7-8~~ The Tenant must provide to the Landlord on or before the

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Commented [FR129]: ok

Commented [FR130]: not agreed

Commencement Date and on each anniversary of the Commencement Date during the Term evidence of annual inspections/servicing of the Premises and Services in a form satisfactory to the Landlord, including but not limited to copies of all compliance certificates from the relevant authorities regarding fire ~~ssafety, whiteafety;~~

~~7.9~~~~7.10~~~~7.11~~

~~7.126.5~~ ~~white ants, air conditioning,~~ grease arrestors, electrical and essential safety provisions.

Commented [FR131]: will remain as is except for fire safety which will be removed

Commented [FR132]: remains

~~7.136.6~~ The Tenant must leave the Premises (including all playing grounds) in a clean and tidy state at the end of each use.

~~7.146.7~~ Except as permitted by clause 9.3 of this Lease, the Tenant must not under any circumstances allow alcohol onto the Land and must ensure that its patrons, members and visitors do not bring alcohol onto the Land.

~~7.156.8~~ The Tenant must provide to the Landlord on or before the Commencement Date and on each anniversary of the Commencement Date during the Term evidence of annual inspections/servicing of the Premises and Services in a form satisfactory to the Landlord, including but not limited to copies of all compliance certificates from the relevant authorities regarding fire safety, ~~air conditioning,~~ grease arrestors, electrical and essential safety provisions. ~~The Tenant must at the same time provide to the Landlord a program that specifies planned and scheduled maintenance in relation to the Premises for the coming lease year.~~

Commented [FR133]: will remain as is except for fire safety which will be removed

ITEM 11 ESSENTIAL TERMS (clause 66)

~~Clauses 3.1, 4, 5, 6, 7, 8, 9.1, 9.3, 10, 11, 12, 17, 22.8 and any obligations imposed on the Tenant pursuant to Item 10 of this Schedule~~

Commented [LW(S134): Need to check these match correctly

Commented [FR135R134]: checked

SCHEDULE 2 - Maintenance Schedule

This schedule outlines the particular responsibilities of Landlord and the Tenant, where applicable, and must be read in conjunction with relevant provisions within this Lease including **clauses 6 and 14.5**.

In this Schedule 2, all references to “periodically” *must be interpreted to any program or time frame stated within any manufacturing specifications, Australian Standards or industry best practice benchmarking, as notified by the Landlord to the Tenant from time to time.*

THIS VERSION IS NOT UP TO DATE - SEE MARKED UP VERSION BY WL 26/02/20

Building - External

Item	Tenant' responsibility		Estimate \$/yr.	Frequency	Landlord's responsibility	Estimated \$/yr.
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant				
Storm water system	Clean gutters, downpipes and storm water drains – keep free of debris to prevent blockages.			As required	Repair/replace at end of natural life unless damage caused by Licensee's negligence.	
Storm water pits and pumps		Nil responsibility unless damaged caused by tenant.		As required	Full responsibility unless damaged caused by Tenant.	
Windows internally and externally, including frames and screens etc.	Clean including frames. Replace glazing, repair as required.		800	Minimum twice a year	Replace frames and opening/closing mechanisms at end of natural life unless damage caused by Licensee's negligence.	
Sewer mains and external	Keep clear of blockages.			As required	Repair/replace at end of	

pipes					natural life unless damage caused by Licensee's negligence.	
Roof and guttering	Keep guttering clean and free of debris at all times		700	Twice a year	Repair leaks to the roof and repair or replace roof covering (based on capital works programme and budget priorities)	
Roof Safety Systems	Nil responsibility	Nil responsibility unless damaged caused by tenant.		Periodically	Full responsibility to maintain and replace at end of life.	600
Doors/locking mechanisms	Minor adjustments to make operable. Keep doors operational – repair (e.g. if door hinge/lock broken, repair/replace locks, door coverings)	Option	100	As required	Replace mechanisms at end of natural life unless damaged caused by the Tenant.	
Building keys, fobs & access cards		Additional, replacement or programming of keys, fobs or cards.		As required	Replace system at end of natural life.	
Solar Panels	Full responsibility. Replace at end of life. Removal and reinstatement of system if required for landlord to undertake works.			As required	Nil responsibility.	
Walls	Wash, clean periodically.	Option	600	Annually	Nil responsibility.	
	Repair, touch up and	Option		As required	Maintain structural	1000

	repaint and damage.				stability. Remove graffiti. Periodic painting (e.g. every 10 years) unless caused by the Tenant and their activities.	
Glass	Keep clean, maintain and remove graffiti. Maintain and window tints or films. Replace if broken or damaged.		400	As required	Replace structure at end of natural life.	
Stairwells/staircase	Keep free of rubbish and debris. Keep access/ egress area clear. Repair and replace including balustrades, treads risers and landings.			As required	Replace at end of natural life.	
Paint finishes	Touch up and repaint where damaged in between periodic paints.	Option		As required	Periodic painting (e.g. every 10 years) unless caused by the Tenant and their activities.	
Signs installed by Tenant	Maintain, clean and replace (observing landlord's requirements for installation)			As required	Nil responsibility.	
Security lights	Nil responsibility for maintenance, unless damaged by Tenant and their activities. Pay for electricity costs			As required	Maintain and replace lights fittings and any globes.	75

External Pipes	Repair damage and blockage caused by tenant's negligence.		As required	Replace at end of natural life. Remove tree roots if damaged caused by trees on landlord's land.
General Cleaning, including shed and storage areas.	Full responsibility maintain and keep clean and tidy including surrounds.		Periodically	Nil responsibility.
Tenant's fixtures and fittings	Full responsibility.			Nil responsibility.
Balcony's balustrade	Cleaning and painting of steel	optional	Periodically	Replace at end of natural life.
Pest removal including bees on shed and storages	Full responsibility.		As required	Nil responsibility.

External Site Surfaces

Tenant' responsibility

Landlord's responsibility

Estimated \$/yr.

External fence	Keep clean and tidy.		As required	Remove graffiti. Maintain and replace at end of natural life.	250
Building apron/ walkway and/or	Garden areas			Keep clean and unobstructed. No storage of waste.	

At all times	Maintain and			replace.		
Storage shed / compound, warm	Keep clean, maintain, repair and replace as required. No			As Required	Nil responsibility.	

up area	storage outside of designated storage areas.				
Car parks	Nil responsibility unless damage caused by Tenant		Periodically	Full responsibility.	800
Internal roads line marking	Nil responsibility unless damage caused by Tenant		Periodically	Full responsibility.	150
Watering / irrigation systems	Nil responsibility unless damage caused by Tenant		Periodically	Full responsibility unless damage caused by Tenant	1000
Tree pruning and care	Nil responsibility unless damage caused by Tenant		As Required	Full responsibility unless damage caused by Tenant	500
Retaining Walls	Nil responsibility unless damage caused by Tenant		As Required	Maintain, Replace at end of natural life.	
Line marking of rugby field	Full responsibility		Periodically	Nil responsibility	
Replacement of rugby field	Nil responsibility unless damage caused by Tenant.		As Required	Full responsibility unless damage caused by Tenant	
Goal posts	Full responsibility including replacement		As Required	Nil responsibility	
Field lighting (including warm up area)	Full responsibility including replacement		As Required	Nil responsibility	
Score board	Full responsibility including replacement		As Required	Nil responsibility	
Memorial sites and fundraising pavers	Full responsibility including replacement and/or land remediation		As Required	Nil responsibility	
Signs installed by Landlord	Nil responsibility unless damage caused by tenant.		As Required	Full responsibility unless damage	

(including entry statement)					caused by Tenant	
Bench and/or other sitting arrangements	Keep clean, maintain, repair and replace as required.			As Required	Nil responsibility	
Pest removal including bees on licensed grounds	Nil responsibility.			As Required	Full responsibility	

Building internal

Item	Tenant' responsibility		Estimate \$/yr.	Frequency	Landlord's responsibility	
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant				Estimated \$/yr.
Water, sewer and gas piping	Keep free from blockages – unblock drains. Repair damage caused by Lessee.			As required	Replace at end of useful life.	
Hot water systems	Utility costs associated with HWS.			As Required	Maintenance and replacement at end of life.	
Change rooms, fit out and finishes	Full responsibility.		1200	Periodically	Nil responsibility.	
Lift	Keep clean and tidy.	Periodic servicing, Maintenance, breakdowns, callouts and	any damage caused by			

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		tenant and its activities.			
Security Alarms and general Cameras		Call outs or attendance by security patrols or MFS caused by the Tenant and their activities. Any approved changes to the system or its configuration that are requested by the Tenant.	Period	Oversee any additions or changes. Configuration of the system, servicing, maintenance and monitoring. Replacement at end of life	1716
POS CCTV equipment	If Point of Sale CCTV equipment is not installed as part of the building security and CCTV system.	If Point of Sale CCTV equipment installed as part of the building security and CCTV system. Call outs or attendance by security patrols or MFS caused by the Tenant and their activities. Any approved changes to the system or its configuration that are requested by the Tenant.	As Rec		
Fire extinguishers, hose reels and fire blankets, sprinkler systems etc.	Make sure fire equipment is accessible at all times. Report any damage or usage	Repair, replace or replenish if or used or damaged by Tenant.	Period	Service, maintain and replace at end of life unless damaged caused by Lessee.	1200

	of fire equipment to landlord.					
Emergency exit lighting and evacuation signage.	Nil responsibility unless damaged or altered by Tenant.	Optional		Periodically	Full responsibility unless damage caused by Lessee.	200
Smoke detectors	Nil maintenance responsibility unless damaged by Tenant.	Call outs or attendance by security patrols or MFS caused by the Tenant and their activities. Any approved changes to the system or its configuration that are requested by the Tenant.		Periodically	Configuration of the system, servicing, maintenance and monitoring. Replacement at end of life Replacement at end of life	880
Water/waste services – associated fittings including taps etc.	Clean fittings, toilet, sinks – maintain and replace washers. Replace tap ware, sinks, drains and toilets.		100	Periodically	Nil responsibility.	
Grease Arrestors	Full responsibility.		1600	Periodically	Nil responsibility.	
Telecommunications – phone/PABX systems	Full responsibility.			As Required	Nil responsibility.	
Air conditioning units/thermostats, ducting etc.	Regular services to maintain working order and repairs.	Option	2800	In line with manufacturer's specification	Replace at end of useful life.	
Electrical services, sub switchboards, distribution boards and power lighting	Nil responsibility unless damage caused by Lessee.			As Required	Full responsibility unless damaged caused by Lessee.	

circuits						
Doors, locking mechanisms		Full responsibility: proximity card replacement / keep doors operational / replace damage locking mechanisms / replace damaged doors		As Required	Nil responsibility.	
Consumer mains	Nil responsibility unless damaged caused by Lessee.			As Required	Full responsibility unless damaged caused by Lessee.	
Lighting fixtures	Full responsibility, Replace light fittings and globes, ballast's and fuses. Repair/replace wiring connections.			As required	Nil responsibility.	
Carpets	Keep clean and free from dirt and stains. Repair any damage caused by misuse by the Lessee. Replace at end of life responsibility		2800	Periodically	Nil responsibility.	
Vinyl/concrete/tiled/other floors	Clean/polish Repair/replace to appropriate finish.		2800	Periodically	Nil responsibility.	
Internal walls/screens and Ceilings	Clean. Keep free of mould/grime Repair damage		750	Periodically	Replacement and structural maintenance	

	caused by use. Repair cracking, repaint. Replace non- structural walls and screens.			responsibility for structural walls and ceilings only.
Lessee's fitting and loose / soft furniture and equipment	Full maintenance and replacement responsibility		As Required	Nil responsibility.
Pest removal including bees	Full responsibility.		As Required	Nil responsibility.
Electrical tagging and testing	Full responsibility.	200	Periodically	Nil responsibility.
General cleaning	Full responsibility to keep the internal premises clean and tidy	3300	Periodically	Nil responsibility.
Licensee's fixtures and fittings	Full responsibility.		As Required	Nil responsibility.
Bar fit out and kitchens' equipment including range hood	Full responsibility, note canopy range hood / extraction system cleaning and servicing.	500	Periodically	Nil responsibility.
Cool rooms	Full responsibility.	400	Periodically	Nil responsibility.
Blinds and /or window coverings	Full responsibility and replacement at end of life.		As required	Nil responsibility.
Roller shutters	Full responsibility and replacement at end of life.	100	Periodically	Nil responsibility.

Glass	Keep clean and maintain. Maintain and		400	Periodical Cleaning, Maintenance as	Replace structure at end of natural life.	

	window tints or films. Replace if broken or damaged.			required.		
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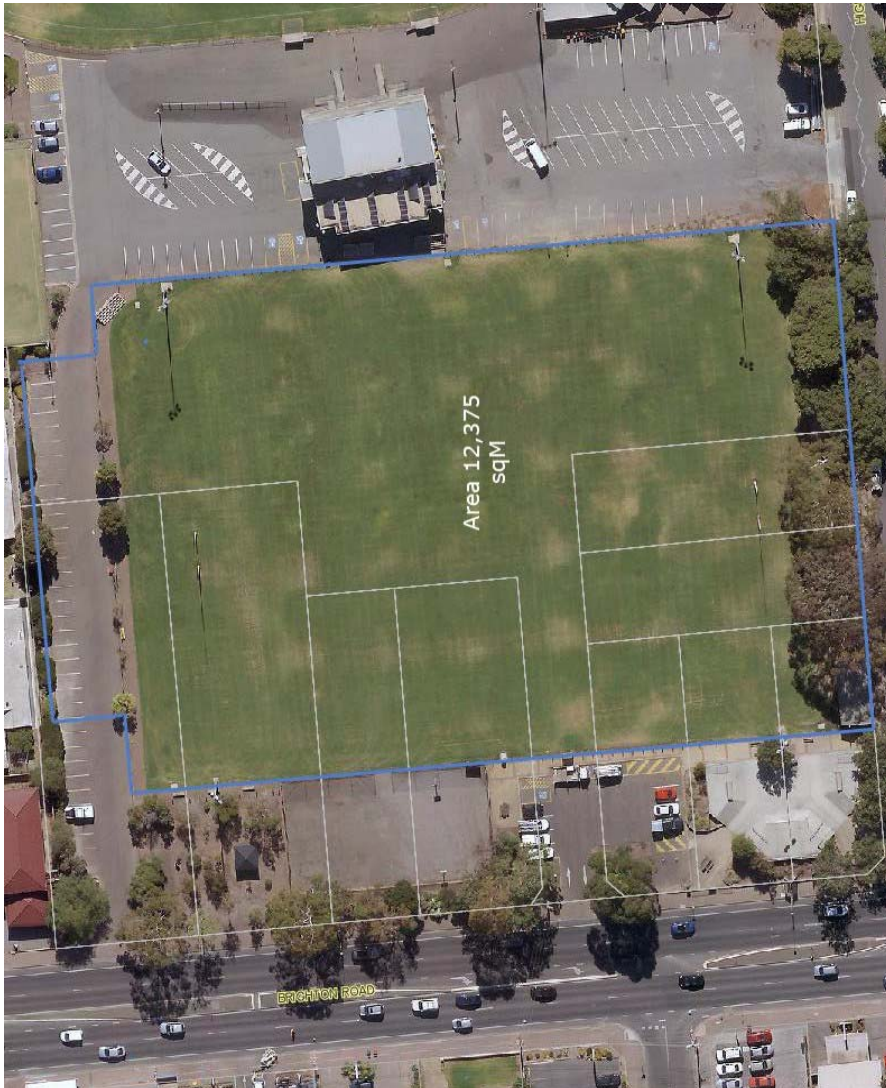
Exterior Toilets

Item	Tenant' responsibility		Estimate \$/yr.	Frequency	Landlord's responsibility	Estimate \$/yr.
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant				
Consumables	Nil	Nil		As needed	Supply consumables	350
Cleaning	Nil	Nil		Periodical	Clean and service toilets as part of toilet cleaning program.	5840
Maintenance and operational activities	Nil	Nil unless damage caused by tenants negligence or activities.		Periodical	Full responsibility unless damaged caused by Tenant.	500
Fitout and Finishes	Nil	Nil		As needed	Replacement of fitout and finishes unless damaged by caused by	

Schedule 3 – Plan of Premises



Schedule 4 – Plan of Rugby Field
(special condition 4 in Item 10 of Schedule 1)



RULES AND REGULATIONS

1. The Tenant must not:

- 1.1 smoke inside the Building ~~or on the areas outside the Building on the Land~~;
- 1.2 put up signs, notices, advertisements, blinds or awnings, antennae or receiving dishes or install vending or amusement machines without the Landlord's approval;
- 1.3 hold auction, bankrupt or fire sales in the Premises;
- 1.4 keep an animal or bird on the Premises;
- 1.5 use a business name which includes words connecting the business name with the Building without the Landlord's approval;
- 1.6 remove floor coverings from where they were originally laid in the Premises without the Landlord's approval;
- 1.7 do anything to the floor coverings in the Building which affects any guarantee in connection with them if the Landlord has given the Tenant a notice setting out the relevant terms of the guarantee;
- 1.8 use any method of heating, cooling or lighting the Premises other than those provided or approved by the Landlord;
- 1.9 operate a musical instrument, radio, television or other equipment that can be heard outside the Premises, excluding live streaming, siren, PA system and scoreboard;
- 1.10 throw anything out of any part of the Building;
- 1.11 move heavy or bulky objects through the Building without the Landlord's approval;
- 1.12 obstruct:
 - 1.12.1 windows in the Premises except by internal blinds or curtains approved by the Landlord;
 - 1.12.2 any air vents, air conditioning ducts or skylights in the Premises; or
 - 1.12.3 emergency exits from the Building or the Premises; or
 - 1.12.4 the Common Areas; or
 - 1.12.5 interfere with directory boards provided by the Landlord.

2. The Tenant must:

- 2.1 put up signs in the ~~Premises Building~~ prohibiting smoking nor allow or permit the presence or consumption of alcohol on the Rugby Field unless licensed accordingly (as defined by special condition 4);
- 2.2 if the Landlord approves the Tenant's use of a business name which is connected with the Building, terminate any right it has to use that business name on the date it must vacate the Premises;
- 2.3 participate in any emergency drill of which the Landlord gives reasonable notice;

- 2.4 evacuate the Building immediately and in accordance with the Landlord's directions when informed of any actual or suspected emergency; and
- 2.5 secure the Premises when they are unoccupied ~~and comply with the Landlord's directions about Building security.~~

DRAFT

IMPORTANT NOTICE

EXCLUSION OF WARRANTY OF FITNESS FOR PURPOSE

Retail and Commercial Leases Act 1995: Section 18

Retail and Commercial Leases Regulations 1995: Regulation 7

THE LANDLORD DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE WILL, FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON.

SIGNED as an agreement

DATED

**THE COMMON SEAL of
CITY OF HOLDFAST BAY**

was hereunto affixed in the presence of:

.....
Mayor

.....
Chief Executive Officer

**THE COMMON SEAL of
BRIGHTON RUGBY UNION FOOTBALL CLUB INCORPORATED**

was affixed pursuant to the *Associations
Incorporation Act 1985* in accordance with
its constitution:-

.....
Chairperson/Vice-Chairperson
(Please delete as applicable)

.....
Signature of Committee/Board Member
{Please delete as applicable}

.....
Print Full Name

.....
Print Full Name