

appendices



Special Elected Members Briefing Session
26 August 2014

And

Special Meeting of Council
2 September 2014

TABLE OF CONTENTS

ITEM	TITLE	PAGE NO
7.1	West Coast Eagles Agreement for Lease	3
7.1	West Coast Eagles Lease.....	47

7.1 West Coast Eagles Agreement for Lease



TOWN OF
VICTORIA PARK

Agreement for Lease

Town of Victoria Park
Owner

and

Indian Pacific Limited trading as the West Coast Eagles
Tenant

Table of contents

1.	Definitions and interpretation	2
1.1	Definitions.....	2
1.2	Interpretation	8
1.3	Inconsistency with statutory provisions	9
1.4	No fettering.....	9
2.	Objectives	9
3.	Condition Precedent and Rights to Terminate	10
3.1	Condition Precedent – WAPC Approval.....	10
3.2	Funding	10
3.3	Other conditions	11
3.4	Best Endeavours and Notification	11
3.5	Notification of milestones	11
3.6	Parties may extend Sunset Date.....	12
3.7	Effect of Termination	12
4.	Joint Working Group	12
5.	Community Benefits Delivery Program	12
6.	Community Liaison.....	12
7.	DA Plans and Specifications	13
8.	Development Approval.....	13
9.	Building Plans and Specifications	14
10.	Building Permit.....	14
11.	Building Contract.....	15
12.	Facilities accommodated within the Development	15
13.	Lease	15
13.1	Grant of Lease.....	15
13.2	Execution of Lease.....	15
13.3	Parties bound from Commencement Date	16
14.	Warranties and Acknowledgements.....	16

14.1	Mutual Warranties and Representations	16
14.2	Condition of Premises	16
14.3	Acknowledgements by the Tenant	16
15.	Exclusivity	17
15.1	Parties to deal exclusively	17
15.2	Discussions with AFL, Government and Perth Demons.....	17
15.3	Promotion as future training base.....	18
16.	Integration of Development with the Owner's Stage 1 Development	18
17.	Access to the Premises prior to the Commencement Date.....	18
18.	Assignment	19
18.1	No assignment prior to Commencement Date	19
18.2	Assignment after Commencement Date.....	19
18.3	Change of Control Event	20
18.4	Amalgamation or merger of Local Council	20
19.	GST Liability	20
20.	Dispute Resolution	21
20.1	Determination of Disputes	21
20.2	Negotiation	21
20.3	Mediation	21
20.4	Termination of mediation.....	21
20.5	Court proceedings and other relief	22
20.6	Continuation of rights and obligations	22
21.	Indemnity.....	22
21.1	Owner's indemnity	22
21.2	The Tenant Indemnity	22
22.	Miscellaneous	22
22.1	Mortgaging interests.....	22
22.2	Notices	22
22.3	Confidentiality	22
22.4	Duty and Costs	23
22.5	Approvals and consents	24

22.6	Variation and waiver	24
22.7	Relationship.....	24
22.8	Entire agreement.....	24
22.9	No merger	24
22.10	Indemnities	24
22.11	Inconsistent Law.....	24
22.12	Supervening Laws.....	24
22.13	Caveat.....	25
22.14	Counterparts.....	25
22.15	Obligations under this Agreement	25
Annexure A	.....	27
Annexure B	.....	28
Annexure C	.....	29
Annexure D	.....	30
Annexure E	.....	31
Annexure F	.....	34
Annexure G	.....	35
Annexure H	.....	36
Annexure I	.....	37

Agreement for Lease

Date

2014

Parties

Town of Victoria Park
(Owner)

ABN 77 284 857 739
of 99 Shepperton Road,
Victoria Park

**Indian Pacific Limited trading
as the West Coast Eagles**
(Tenant)

ABN 31 009 178 894
of 250 Roberts Road, Subiaco

Background

- A. The Owner is the registered proprietor of the Land known as "Lathlain Park".
- B. The Land is reserved under the Metropolitan Region Scheme for the purpose of "parks and recreation".
- C. The Owner intends to undertake a multi stage redevelopment of the Land.
- D. The Tenant intends to undertake the Development of the Premises.
- E. The Tenant's Development and the Owner's Stage 1 Development together comprise "stage 1" of the redevelopment of the Land.
- F. On 6 September 2013, the Owner and the Tenant entered into the Heads of Agreement to formally record the process agreed between the Parties with respect to "stage 1" of the redevelopment of the Land.
- G. The Owner's Stage 2 Development does not form part of the obligations of the Parties as outlined in this Agreement or the Lease but it is the Owner's intention to complete the Stage 2 Development should funding be available.

- H. The Parties intend that the Land will serve as the home ground of a WAFL team for the duration of the Term or for as long as the Perth Demons or other WAFL team wish to use the Land as its home ground.
- I. The Owner agrees to grant to the Tenant and the Tenant agrees to accept a lease of the Premises on and subject to the terms and conditions expressed and implied in this Agreement and the Lease.

Agreement

1. Definitions and interpretation

1.1 Definitions

In this Agreement unless the context otherwise requires, the expressions:

AFL means Australian Football League ACN 004 155 211.

Agreement means this document as amended, supplemented or varied from time to time in writing by the Parties including any Annexures.

Alternate Representative means a person appointed as an Alternate Representative in accordance with rule 3 of the JWG Rules.

Approving Authority means the Authority responsible for issuing a Development Approval or Building Permit.

Authority means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body.

Building means the building to be constructed on the Building Envelope.

Building Contract means a building contract or contracts made between the Tenant and its builder or builders with respect to the construction of the Development in accordance with the Building Plans and Specifications.

Building Envelope means that part of the Premises that is labelled "Building Area" on the Plan.

Building Permit means a building permit (or permits if building permits are obtained on a staged basis) issued under the Building Act 2011 in relation to the development the subject of the Building Plans and Specifications.

Building Plans and Specifications means the plans and specifications for the Development developed from the DA Plans and Specifications and being consistent with:

- (a) the Plan; and
- (b) the Development Approval,

and prepared in a form, and to a level of detail, required to be lodged for a Building Permit.

Business Day means a day, not being a Saturday, Sunday or public holiday, on which banks are generally open for business in the State.

Certificate of Design Compliance means a certificate of design compliance as defined in section 19 of the Building Act 2011 (WA).

Claim means any claim, demand, proceeding or cause of action of any nature whatsoever (including for damages), whether for money or otherwise, and regardless of the legal or other basis on which it may be put (including negligence), arising out of or directly referable to the particular subject matter.

Contamination has an equivalent meaning as that given to the term "Contaminated" in the Contaminated Sites Act 2003, and includes any Prior Contamination.

Contamination Enquiries means enquiries relating to the presence or existence of Contamination on the Premises.

Commencement Date means the day immediately after the last to occur of:

- (a) the date when the WAPC grants the WAPC Approval;
- (b) the date when the Tenant gives notice to the Owner that it has obtained, or is satisfied it can obtain, the Funding;
- (c) the date when the Tenant obtains the Development Approval;
- (d) the date when the Tenant obtains the Building Permit; and
- (e) the date when the Tenant provides the Owner with a copy of the fully executed Building Contract.

Change of Control Event means a change in the beneficial ownership of any substantial holding (within the meaning of Part 6C.1 of the Corporations Act) or of the majority of the officeholders of the Tenant.

DA Plans and Specifications means the development application plans and specifications and other material forming part of the development application to be prepared by the Tenant with respect to the Development in accordance with clause 7 and which must:

- (a) be consistent with the Plan;
- (b) be for a development for the uses described in paragraphs (a) to (c) of the definition of Permitted Purpose in the Lease and provide for the future accommodation of the uses described in paragraphs (d) to (h) of the definition of Permitted Purpose in the Lease;
- (c) show all external signage;
- (d) provide for the external facade of the Building to be in sympathy with adjoining streetscapes;
- (e) be in a high level of detail; and
- (f) be in the form required to be lodged for Development Approval.

Design Review Committee means a committee established by the Owner to assist the Owner with the review of the DA Plans and Specifications.

Development means a development for the Permitted Purpose which includes a high performance AFL training, administration, community centre and two AFL standard ovals.

Development Approval means the development approval (or approvals if the development approvals are obtained on a staged basis) required under the Planning and Development Act 2005 (WA) or the Local Government Laws in relation to the development the subject of the DA Plans and Specifications.

Dispute means any dispute, controversy, difference or claim arising out of or in connection with this Agreement including any question concerning its formation, validity, interpretation, performance, breach or termination.

Funding means finance approval or funds necessary to undertake the Development.

GST, adjustment note, input tax credits, tax invoice and taxable supply have the meaning they bear in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) ("the GST Act").

GST rate means a percentage equal to the rate of GST imposed on a taxable supply by the GST Act.

Guidelines means the guidelines set out in **Annexure G**.

Heads of Agreement means the heads of agreement made between the Owner and the Tenant dated 6 September 2013.

Insolvency Event means, with respect to the Tenant:

- (a) an application is made to a court for an order or an order is made that the Tenant be wound up;
- (b) an application is made to a court for an order appointing a liquidator or provisional liquidator of the Tenant or one is appointed, whether or not under an order;
- (c) a meeting is convened or a resolution is passed to appoint an administrator of the Tenant;
- (d) the Tenant enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration or arrangement involving any of them, except if done to reconstruct or amalgamate while solvent, on terms approved by the Owner;
- (e) the Tenant proposes to or enters into a deed of company arrangement with or for the benefit of all or any class of its creditors without the consent of the Owner;
- (f) a resolution is passed to wind up or dissolve the Tenant;
- (g) the Tenant is dissolved;
- (h) the Tenant is insolvent within the meaning of that expression in section 95A(2) of the Corporations Act or any event mentioned in paragraphs (a) to (f) inclusive of section 459C(2) of the Corporations Act occurs in respect of the Tenant;
- (i) the appointment of an administrator or a controller, as defined by the Corporations Act, in respect of the Tenant, or a receiver, or manager, or receiver and manager of the whole or part of the assets and undertaking of the Tenant; and
- (j) anything analogous or having a substantially similar effect to any event specified above happens under the Law of any applicable jurisdiction.

JWG means the joint working group established pursuant to clause 4.

JWG Objectives means the objectives set out in Annexure F.

JWG Rules means the provisions contained in Annexure E.

JWG Secretary means a person appointed by the Owner to perform the role of secretary.

Land means:

- (a) Lot 1 on Diagram 26715 being the whole of the land comprised in Certificate of Title Volume 1425 Folio 934;
- (b) Lot 2 on Diagram 26715 being the whole of the land comprised in Certificate of Title Volume 1425 Folio 935; and
- (c) Lot 3 on Diagram 26715 being the whole of the land comprised in Certificate of Title Volume 1425 Folio 936.

Laws means all statutes, rules, regulations, proclamations, ordinances or by-laws present or future of the State and, where applicable, the Commonwealth, and any amendment or re-enactment of them for the time being in force, and includes any relevant Australian Standards.

Lease means a lease in the form annexed to this Agreement as annexure A.

Local Government Laws means:

- (a) *the Local Government Act 1995 (WA)*;
- (b) *the Local Government (Miscellaneous Provisions) Act 1960 (WA)*;
- (c) *the Building Act 2012 (WA)*;
- (d) the Planning Scheme; or
- (e) any other Laws.

Loss means a loss, Claim, action, damage, liability, cost, charge, expense, penalty, compensation, fine or outgoing suffered, paid or incurred.

Owner's Project Objectives means the objectives contained in Annexure C.

Parking and Movement Network Plan means a plan which seeks to coordinate, in an efficient and effective manner:

- (a) the parking of motorised and non-motorised vehicles for a variety of needs at the Land (e.g. staff, visitors, maintenance crew, deliveries);
- (b) ingress and egress of all visitors to the Land, whether by vehicle or other transit method (e.g. walking or cycling); and
- (c) the passage of pedestrians through the Land.

Party means the Owner or the Tenant according to the context.

Permitted Person means any person falling within any of the following categories:

- (a) the customers, invitees, licensees and visitors of the Tenant; and
- (b) the employees, agents and contractors of the Tenant.

Permitted Purpose means “Permitted Purpose” as defined in the Lease.

Perth Demons means Perth Football Club Inc. (ABN 12 991 769 986).

Perth Demons Agreement means the “Heads of Agreement” dated 24 February 2014 made between the Tenant and the Perth Demons, and then if the Tenant and Perth Demons enter into a more formal agreement, that formal agreement.

Plan means the plan attached as Annexure B.

Planning Scheme means such “Planning Scheme” (as that term is defined in the *Planning and Development Act 2005 (WA)*) as is in force in respect of the Premises from time to time.

Premises means that part of the Land outlined on the Plan.

Prior Contamination means any Contamination that:

- (a) did exist prior to the date of this Agreement; or
- (b) arises out of any Contamination that did exist prior to the date of this Agreement.

Representative means the persons nominated by the Owner or the Tenant to be members of the JWG as well as any Alternate Representative.

Services means utilities and services supplied to or in the Premises including gas, water, drainage, electricity and telecommunications.

Stage 1 Development means the Owner’s redevelopment of those parts of the Land identified on the Plan.

Stage 2 Development means the construction of dedicated facilities for the Perth Demons and other community groups on the Land.

State means the State of Western Australia.

Sunset Date means 30 June 2016.

Tenant’s Obligations means the several obligations contained or implied in this Agreement on the part of the Tenant to be observed or performed.

Tenant’s Project Objectives means the objectives contained in Annexure D.

WAFL means the Australian rules football competition run by the West Australian Football Commission.

WAPC means the Western Australian Planning Commission.

WAPC Approval means the approval by the WAPC to this Agreement and any part of the Lease that require the consent of the WAPC pursuant to section 136 of the *Planning and Development Act 2005* (WA).

1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) The singular includes the plural, a gender includes every other gender and words importing persons include bodies corporate.
- (b) The word “including” means “including, but not limited to”.
- (c) The word “person” means a person, partnership, joint venture, unincorporated association, corporation and a government or statutory body or an Authority.
- (d) A covenant entered into by more than one person is deemed to be entered into by them jointly and each of them severally.
- (e) If the date on or by which any amount is payable or any act or thing must be done under this Agreement is not a Business Day, the payment must be made or the act or thing must be done on or by the next Business Day.
- (f) The Tenant’s Obligations are binding on, and enforceable against, the Tenant as defined in this Agreement and any occupier of the Premises from time to time.
- (g) The headings and an index have been inserted for convenience only and are not to be taken into account in interpreting this Agreement.
- (h) Reference to a clause is a reference to a clause or sub-clause of this Agreement and a reference to a paragraph is a reference to a paragraph of the clause or sub-clause in which the reference occurs.
- (i) A reference to a schedule or annexure means a schedule or annexure to this Agreement.
- (j) Where a word or expression is defined in this Agreement, another part of speech or grammatical form of that word or expression has a corresponding meaning.

- (k) Reference to a body, organisation or rating tool includes, if it has ceased to exist or to be relevant, that body, organisation or rating tool's successor or replacement, or, if none, the body, organisation or rating tool that is most appropriate, as determined by the Owner acting reasonably.
- (l) A reference to time is to Perth, Western Australia time.
- (m) A rule of construction does not apply to the disadvantage of a Party because the Party was responsible for the preparation of this Agreement or any part of it.
- (n) A reference to A\$, \$A, dollar or \$ is to Australian currency.
- (o) A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

1.3 Inconsistency with statutory provisions

In the event of any inconsistency between:

- (a) an obligation, right or power of either the Owner or Tenant under this Agreement; and
- (b) an obligation, right or power of the Owner under the Local Government Laws,

then the obligation, right or power of the Owner under the Local Government Laws prevails.

1.4 No fettering

Nothing in or arising out of this Agreement in any way:

- (a) diminishes the Owner's rights and powers; or
- (b) fetters any discretion that the Owner has,

under the Local Government Laws.

2. Objectives

- (a) Without limiting the operation of this Agreement, the Parties acknowledge that:
 - (i) the Owner is facilitating the Development in order to achieve the Owner's Project Objectives; and

- (ii) the Tenant is undertaking the Development in order to achieve the Tenant's Project Objectives.
- (b) If there is any Dispute between the Parties as to the proper construction of this Agreement, then the construction to be applied will be that which gives best effect to the objectives stated in clause 2(a).

3. Condition Precedent and Rights to Terminate

3.1 Condition Precedent – WAPC Approval

- (a) This Agreement is subject to and conditional on the WAPC Approval being obtained by the Sunset Date.
- (b) The Owner must make application to the WAPC within three (3) months after the date on which the last Party to sign this Agreement signs it, if not already made.
- (c) The Tenant agrees to do all things reasonably necessary to assist the Owner to obtain the WAPC Approval.
- (d) Either Party may terminate this Agreement if the WAPC:
 - (i) refuses to grant the WAPC Approval at any time prior to the Sunset Date;
 - (ii) grants the WAPC Approval on terms and conditions that are unacceptable to either Party acting reasonably; or
 - (iii) has not granted the WAPC Approval by the Sunset Date.

3.2 Funding

- (a) The Parties shall work collaboratively and in good faith, and use best endeavours, in seeking Funding from the State and Federal Governments within an agreed timeframe, but no later than the Sunset Date.
- (b) The Tenant must immediately notify the Owner when it has obtained the Funding.
- (c) The Parties acknowledge and agree that:
 - (i) the Owner's Stage 2 Development may require funding from many of the same sources as the Tenant's Funding;
 - (ii) the seeking of funding for the Owner's Stage 2 Development is the responsibility of the Owner and the Perth Demons; and

- (iii) the Tenant must work collaboratively and in good faith with the Owner and the Perth Demons to support the funding of the Stage 2 Development.
- (d) Either Party may terminate this Agreement if the Tenant has not obtained the Funding, on terms acceptable to the Tenant, by the Sunset Date.

3.3 Other conditions

Either Party may terminate this Agreement by notice to the other Party if any of the following conditions is not satisfied by the Sunset Date:

- (a) the Tenant is satisfied with the outcome of its Contamination Enquiries;
- (b) the Tenant has obtained the Development Approval on terms acceptable to the Tenant; and
- (c) the Tenant has obtained the Building Permit on terms acceptable to the Tenant.

3.4 Best Endeavours and Notification

- (a) The Tenant must use its best endeavours to:
 - (i) complete its Contamination Enquiries;
 - (ii) obtain the Development Approval; and
 - (iii) obtain the Building Permit,on or before the Sunset Date.
- (b) The Owner must use its best endeavours to:
 - (i) obtain the WAPC Approval; and
 - (ii) expedite the Tenant's applications for the grant of Development Approval and for the issue of a Building Permit,on or before the Sunset Date.

3.5 Notification of milestones

The Parties, acting through the JWG, will update each other on their progress towards satisfying the conditions in clauses 3.1, 3.2 and 3.3 whenever requested.

3.6 Parties may extend Sunset Date

The Parties may extend the Sunset Date by mutual agreement in writing.

3.7 Effect of Termination

If a Party gives notice to the other Party terminating this Agreement pursuant to clause 3.1, 3.2 or 3.3 then from the date of that notice:

- (a) this Agreement is of no further force and effect;
- (b) the obligations in clause 15 no longer apply;
- (c) the dispute resolution framework in clause 20 will not apply; and
- (d) each Party will be released from all liability to each other in respect of this Agreement except in respect of any prior breach of this Agreement.

4. Joint Working Group

- (a) As soon as practicable after the date of this Agreement, the Parties will establish the JWG.
- (b) The JWG will comprise members representing both the Owner and Tenant. Each of the Owner and the Tenant may appoint up to 3 members.
- (c) The Parties must ensure that the JWG operates in accordance with and complies with the JWG Rules and the Parties must ensure that their Representatives comply with the JWG Rules.

5. Community Benefits Delivery Program

- (a) The Parties will work collaboratively to develop and agree a community benefits delivery program for the delivery of joint community benefits in accordance with the principles in **Annexure H** and the strategy in **Annexure I**, and finalise that community benefits delivery program in accordance with clause 17.7 of the Lease.
- (b) In developing and finalising that community benefits delivery program, each Party will act, promptly, diligently and reasonably, and upon finalisation, each Party will signify agreement to the community benefits delivery program by the endorsement of its chief executive officer.

6. Community Liaison

The Parties acknowledge and agree that:

- (a) the Owner will liaise with the community from time to time in order to obtain feedback with respect to the Development (including the DA Plans and Specifications and the Building Plans and Specifications); and
- (b) the Tenant will participate in any community liaison activities reasonably requested by the Owner.

7. DA Plans and Specifications

- (a) The Tenant will as soon as practicable prepare a preliminary draft version of the DA Plans and Specifications.
- (b) The DA Plans and Specifications will then be developed and finalised in accordance with the Guidelines.
- (c) The DA Plans and Specifications will include a Parking and Movement Network Plan, prepared in collaboration with the Owner. The precise number of parking bays within the Building Envelope will be determined by the Parking and Movement Network Plan, but no more than 250 parking bays will be permitted within the Building Envelope (unless otherwise agreed by the Parties).

8. Development Approval

- (a) When the form of the DA Plans and Specifications have been determined in accordance with clause 7, the Tenant must submit an application for the grant of the Development Approval with the Approving Authority.
- (b) The Tenant acknowledges that:
 - (i) the Approving Authority may be the Owner acting in its capacity as the relevant local authority;
 - (ii) if the application for the grant of the Development Approval is submitted to a Development Assessment Panel, the Owner acting in its capacity as the relevant local authority may make recommendations to the Approving Authority regarding the DA Plans and Specifications and the conditions to be imposed on the Development Approval;
 - (iii) the Approving Authority may impose conditions on the Development Approval; and
 - (iv) the Owner's approval of the DA Plans and Specifications under the Guidelines (or the Tenant determining the form of the DA Plans and Specifications under paragraph 7 of the Guidelines) is without

prejudice to any rights and powers held by the Owner as the Approving Authority or the relevant local authority making recommendations to the Approving Authority.

- (c) The Tenant acknowledges and agrees that the Owner owes no duty and has no responsibility to the Tenant to review the DA Plans and Specifications for errors, design defects, omissions, compliance with any Laws, or compliance with the requirements of this Agreement.
- (d) Upon issue of the Development Approval by the Approving Authority, the Tenant must immediately provide a copy of the Development Approval to the Owner.

9. Building Plans and Specifications

- (a) The Tenant will as soon as practicable following the grant of Development Approval prepare an initial draft of the Building Plans and Specifications.
- (b) The Building Plans and Specifications will then be developed and finalised in accordance with the Principles.

10. Building Permit

- (a) When the form of the Building Plans and Specifications have been determined in accordance with clause 9, the Tenant must submit the Building Plans and Specifications to the Approving Authority for approval and issue of the Building Permit.
- (b) If the Tenant engages a building surveyor contractor with respect to its application for a Building Permit, the Tenant must provide a Certificate of Design Compliance to the Owner in addition to any documents required pursuant to clause 10(a).
- (c) The Tenant acknowledges that:
 - (i) the Approving Authority will be the Owner acting in its capacity as the relevant local authority;
 - (ii) the Approving Authority may impose conditions on the Building Permit; and
 - (iii) the Owner's approval of the Building Plans and Specifications under clause 9 (or the Tenant determining the form of the Building Plans and Specifications under clause 9) is without prejudice to any rights and powers held by the Owner as the Approving Authority at Law (acting in its capacity as the Approving Authority).

- (d) The Tenant acknowledges and agrees that the Owner owes no duty and has no responsibility to the Tenant to review the Building Plans and Specifications for errors, design defects, omissions, compliance with any Laws, or compliance with the requirements of this Agreement.
- (e) Upon issue of the Building Permit by the Approving Authority, the Tenant must immediately provide a copy of the Building Permit to the Owner.

11. Building Contract

The Tenant must provide a copy of the executed Building Contract to the Owner.

12. Facilities accommodated within the Development

The Parties acknowledge that:

- (a) while DA Plans and Specifications are to evidence the capacity, within the Building Envelope, to accommodate all uses described in paragraphs (a) to (h) of the definition of Permitted Purpose in the Lease, the first stage of the Development will accommodate, as a minimum, each of the uses described in paragraphs (a) to (c) of the definition of Permitted Purpose in the Lease; and
- (b) clause 8.8 of the Lease deals with the later accommodation of the uses described in paragraphs (d) to (h) of the definition of Permitted Purpose in the Lease.

13. Lease

13.1 Grant of Lease

The Owner will grant and the Tenant will accept the Lease commencing on and from the Commencement Date.

13.2 Execution of Lease

- (a) Not later than seven (7) days after the Commencement Date, the Tenant and the Landlord must agree on such insertions or minor details as are required to prepare the Lease in a form suitable for execution and the Tenant must then execute three copies of the Lease suitable for registration under the Transfer of Land Act 1893 and deliver them to the Owner's solicitors.
- (b) The Owner must arrange for:
 - (i) execution of the Lease by the Owner;
 - (ii) the submission of the Lease to WAPC for endorsement, and

(iii) register the Lease.

as soon as reasonably practicable after receiving the executed Lease from the Tenant.

13.3 Parties bound from Commencement Date

On and from the Commencement Date, the Owner and the Tenant will be bound by the covenants and conditions contained in the Lease, even if the Lease has not at the Commencement Date been signed.

14. Warranties and Acknowledgements

14.1 Mutual Warranties and Representations

Each Party warrants and represents to the other Party that:

- (a) it has the legal capacity to enter into and perform its obligations under this Agreement;
- (b) it is not entering this Agreement as the trustee of a trust or for and on behalf of any other person otherwise than as stated in this Agreement; and
- (c) as at the date of this Agreement, no conflict of interest exists or is likely to arise in relation to the performance of its obligations under this Agreement.

14.2 Condition of Premises

- (a) The Tenant acknowledges and agrees that it is taking the Premises in its as is, where is, condition based on its own enquiries and investigations.
- (b) The Owner advises that so far as it is aware, the Premises is not contaminated or suspected of being Contaminated.

14.3 Acknowledgements by the Tenant

Except to the extent expressly provided otherwise in this Agreement, the Tenant acknowledges and agrees that the Owner makes no representations or warranties in respect of any matter or thing with respect to the Premises or the Development including:

- (a) the suitability of the Premises for the Development;
- (b) the final cost to complete the Development;
- (c) the value, condition or state of repair of the Premises (and any structures or improvements on the Premises);

- (d) the existence or non-existence of any Contamination on the Premises or Land;
- (e) the existence of existing infrastructure and Services on the Premises or Land;
- (f) the nature and timing of any development on any land adjacent to or near the Project Site (including the Stage 1 Development and Stage 2 Development);
- (g) the impact that the Stage 1 Development or Stage 2 Development may have on the Development; and
- (h) the suitability of the Development to meet the Tenant's Project Objectives,

and, to the full extent permitted by Law, the Tenant disclaims any liability and responsibility for any representation, warranty, statement, opinion or information made or communicated (orally or in writing) by the Owner to the Tenant.

15. Exclusivity

15.1 Parties to deal exclusively

- (a) The Owner must deal exclusively with the Tenant with respect to the achievement of the Owner's Project Objectives.
- (b) The Tenant must deal exclusively with the Owner with respect to the achievement of the Tenant's Project Objectives.
- (c) The Tenant must not:
 - (i) engage in any negotiations (either directly or indirectly); or
 - (ii) undertake any development (either directly or indirectly),with any person or entity (other than the Owner) with respect to the development of an elite training and administration facility for the Tenant to replace the current training and administration facility at Subiaco Oval unless and until this Agreement is terminated in accordance with clause 3.1, 3.2 or 3.3.

15.2 Discussions with AFL, Government and Perth Demons

- (a) Provided both Parties first agree, nothing in clause 15.1 prevents either Party from entering into discussions or negotiations with the State Government, the Federal Government or the Perth Demons regarding the Development.

- (b) Nothing in clause 15.1 prevents either Party from entering into discussions or negotiations with contractors, consultants or advisors regarding the Development, Premises or Land.
- (c) Nothing in clause 15.1 prevents the Tenant from entering into discussions or negotiations with the AFL regarding the Development.

15.3 Promotion as future training base

From the date of this Agreement for Lease until the Commencement Date of the Lease the Tenant must promote the Premises as its future head office, administration centre and future Primary Training Base.

16. Integration of Development with the Owner's Stage 1 Development

The Parties:

- (a) acknowledge that the integration of the Development with the Stage 1 Development will be mutually beneficial to both Parties and will result in more favourable development, design and accessibility outcomes and the more efficient use of the Land;
- (b) agree that if the Owner wishes to develop its plans and specifications relating to the Stage 1 Development at the same time as the DA Plans and Specifications are developed, they will work together in good faith to ensure that so far as is reasonably practicable the Development will be integrated with the Stage 1 Development; and
- (c) agree that despite clause 15(b), progress of the Stage 1 Development must not in any way impede or delay progress of the Development.

17. Access to the Premises prior to the Commencement Date

- (a) Subject to the terms and conditions of this clause 17, the Tenant (and its employees, agents, contractors) may access the Premises for the purpose of:
 - (i) preparing the DA Plans and Specifications and Building Plans and Specifications;
 - (ii) undertaking the Contamination Enquiries; and
 - (iii) any other purpose reasonably required for the performance of the Tenant's obligations under this Agreement.
- (b) The Tenant may only access the Premises at reasonable times and upon giving the Owner reasonable prior written notice.

- (c) In exercising its rights under this clause 17, the Tenant must:
 - (i) not cause nuisance or annoyance to the Owner or its employees, agents, contractors, tenants, invitees, or residents of the Land and ensure that the Tenant's consultants and other persons it authorises to access the Premises does not do so;
 - (ii) not carry out works on or within the Premises without the Owner's prior written consent (such consent can be withheld in the Owner's absolute discretion); and
 - (iii) rectify immediately at its own expense any damage it does to the Premises or the Land.
- (d) The Tenant (and its its employees, agents, contractors) exercises its rights under this clause 17 at the Tenant's risk.
- (e) The Tenant releases the Owner from, and agrees that the Owner is not liable for, any Loss directly or indirectly arising from or incurred in connection with damage to, or Loss or any property or injury to, or the death of any person as a consequence of the Tenant (or its employees, agents, contractors) exercising its rights under this clause 17, except where such Loss arises from the negligent act of the Owner.

18. Assignment

18.1 No assignment prior to Commencement Date

Subject to clause 18.4, the Parties must not assign, dispose of or otherwise deal with their respective rights and interests in this Agreement or a right under this Agreement.

18.2 Assignment after Commencement Date

- (a) After the Commencement Date of the Lease, the Tenant must not assign, dispose of or otherwise deal with its rights and interests in this Agreement without the prior written consent of the Owner.
- (b) The Owner will not unreasonably withhold its consent to a request for assignment pursuant to clause 18.2(a) if the Tenant is assigning this Agreement together with the Lease and the Owner has approved the assignment under the terms of the Lease.

18.3 Change of Control Event

If a Party to this Agreement is a company (other than a company listed on the Australian Stock Exchange) any Change of Control Event is deemed to be an assignment of this Agreement and clauses 18.1 and 18.2 will apply.

18.4 Amalgamation or merger of Local Council

The Parties acknowledge and agree that:

- (a) a change in the municipal boundaries of the Owner; or
- (b) the merger or amalgamation of the Owner (or any part of the Owner) with any other local authority or authorities,

will not constitute the assignment of this Agreement even if the name or legal identity of the Owner changes as a result.

19. GST Liability

- (a) The Parties acknowledge that GST is payable in respect of each taxable supply made under this Agreement.
- (b) All amounts payable under any provision of this Agreement (other than a reimbursement for any GST inclusive payment or outgoing made by the reimbursed Party and in respect of which the reimbursed Party is entitled to an input tax credit) are expressed in amounts that do not include the GST payable.
- (c) In respect of each taxable supply made under this Agreement (other than a reimbursement for any GST inclusive payment or outgoing made by the reimbursed Party and in respect of which the reimbursed Party is entitled to an input tax credit) the recipient of the supply must pay an amount increased by the GST rate in lieu of and in substitution for the amount otherwise required to be paid for that taxable supply under this Agreement.
- (d) The Party making a taxable supply under this Agreement must issue a valid tax invoice and any relevant adjustment note to the recipient for that taxable supply.
- (e) Any review or adjustment of any consideration payable for a taxable supply under any other clause of this Agreement must take into account that this clause requires an adjustment of that consideration and must take account of any adjustment to that consideration which has already been or is required to be determined, under the provisions of this clause.

20. Dispute Resolution

20.1 Determination of Disputes

If a Dispute arises then that Dispute must be resolved in accordance with the requirements and procedures set out in this clause 20.

20.2 Negotiation

- (a) If there is a Dispute, then within 10 Business Days of a Party (referred to in this clause as a Dispute Party) notifying the other Dispute Party in writing of the Dispute, a senior representative from each Dispute Party must meet and use all reasonable endeavours acting in good faith to resolve the Dispute by joint discussions.
- (b) The meeting will be without prejudice except to the extent of any agreements made, recorded and signed by the Parties.

20.3 Mediation

- (a) If the Dispute referred to in clause 20.2 is not settled within 25 Business Days after notification under clause 20.2, the Dispute Parties will, if mutually agreed, submit the Dispute to non-binding mediation in accordance with the Mediation Rules of the Institute of Arbitrators and Mediators Australia.
- (b) The mediator will be a neutral dispute resolution practitioner agreed between the Dispute Parties from a panel suggested by the President of The Institute of Arbitrators & Mediators Australia or, failing agreement, a mediator will be appointed by the President of The Institute of Arbitrators & Mediators Australia.
- (c) Any mediation meetings and proceedings under this clause must be held in Perth, Western Australia.

20.4 Termination of mediation

If, within 28 days (or any other period agreed to in writing between the Dispute Parties) after the appointment of a mediator under clause 20.3:

- (a) the Dispute is not settled by mediation under clause 20.3; or
- (b) no agreement is reached to refer the Dispute to mediation under clause 20.3(a),

either Dispute Party may commence court proceedings in relation to the Dispute.

20.5 Court proceedings and other relief

A Dispute Party may not start court proceedings in relation to a Dispute until it has exhausted the procedures in this clause, unless the Dispute Party seeks injunctive or other interlocutory relief.

20.6 Continuation of rights and obligations

Despite the existence of a Dispute, each Dispute Party must continue to perform this Agreement.

21. Indemnity

21.1 Owner's indemnity

The Owner indemnifies the Tenant against any Loss the Tenant suffers or incurs arising solely and directly from or in connection with any breach by the Owner of any of its obligations under this Agreement.

21.2 The Tenant Indemnity

The Tenant indemnifies the Owner against any Loss the Owner suffers or incurs arising solely and directly from or in connection with any breach by the Tenant of any of its obligations under this Agreement.

22. Miscellaneous

22.1 Mortgaging interests

The Tenant may mortgage, charge or encumber the Tenant's interest under this Agreement, and the chargee or mortgagee (**Interest Holder**) is entitled to register any interest or caveat on title to the Land with respect to the Tenant's interest under this Agreement with the prior consent in writing of the Owner which will not be unreasonably withheld if the Owner, Tenant and Interest Holder enter into a deed of covenant in a form acceptable to the Owner acting reasonably and the Tenant pays the Owner's cost of and incidental to the preparation and negotiation and execution of the deed.

22.2 Notices

The provisions of clause 26.12 of the Lease will apply to any notices served or given under or relating to this Agreement.

22.3 Confidentiality

(a) The parties must treat as confidential information:

- (i) the provisions of this Agreement; and
 - (ii) all information provided by the other Party in connection with this Agreement.
- (b) A Party must not disclose the other Party's confidential information to any person except:
- (i) to employees (which term includes agents, contractors, subcontractors) on a "need to know" basis provided those persons first agree to observe the confidentiality of the information;
 - (ii) to legal and financial advisers;
 - (iii) with the other party's prior written consent which shall not be unreasonably withheld or delayed;
 - (iv) if required by law (including any Local Government Laws), any regulatory body;
 - (v) if it is in the public domain other than as a result of a party's breach of an obligation of confidentiality; or
 - (vi) to the extent reasonably required for a funding application with respect to the Development.
- (c) The recipient of confidential information indemnifies the disclosing party against and must pay on demand any Losses, costs or damages directly or indirectly incurred by the disclosing party by reason of a breach of the recipient's obligations under this Agreement including any breach or misuse of the disclosing party's confidential information by an employee, officer, agent, contractor, legal, financial or other professional adviser of the recipient.
- (d) The obligations in this clause 22.3 survive any termination or expiry of this Agreement.

22.4 Duty and Costs

- (a) Each Party must pay its own costs and expenses in relation to the preparation, negotiation and execution of this Agreement.
- (b) the Tenant must pay duty and other government imposts relating to this deed and its related documents and transactions.

22.5 Approvals and consents

By giving its approval or consent a Party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the approval or consent.

22.6 Variation and waiver

A provision of this Agreement, or a right created under it, may not be waived or varied except in writing, signed by the Party or Parties to be bound.

22.7 Relationship

Except where this Agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the Parties.

22.8 Entire agreement

- (a) This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, undertakings and documents.
- (b) The Parties agree that the Heads of Agreement is at an end and is superseded by this Agreement.

22.9 No merger

The warranties, undertakings and indemnities in this Agreement do not merge on expiry or termination of this Agreement.

22.10 Indemnities

The indemnities in this Agreement are continuing obligations, independent from the other obligations of the Parties under this Agreement and continue after this Agreement ends. It is not necessary for a Party to incur expense or make payment before enforcing a right of indemnity under this Agreement.

22.11 Inconsistent Law

To the extent permitted by law, this Agreement prevails to the extent it is inconsistent with any Laws.

22.12 Supervening Laws

Any present or future Laws which operate to vary the obligations of a Party in connection with this Agreement with the result that another Party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) are

excluded except to the extent that their exclusion is prohibited or rendered ineffective by law.

22.13 Caveat

The Tenant may lodge a subject to claim caveat against the title to that part of the Land that relates to the Premises to protect its interests under this Agreement but must produce a withdrawal of the caveat for lodgement immediately prior to but contemporaneously with lodgement of the Lease for registration.

22.14 Counterparts

This Agreement may consist of a number of copies, each signed by one or more Parties. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is signed will be the date of this Agreement.

22.15 Obligations under this Agreement

The obligations of the Parties do not cease on the Commencement Date and any obligations, which have not been satisfied at the Commencement Date, must still be performed in accordance with this Agreement.

Executed by the Parties as a deed.

Executed by
Indian Pacific Limited
ACN 009 178 894
pursuant to Section 127
of the Corporations Act



.....
Director

.....
Director/Secretary

.....
Full Name (please print)

.....
Full Name (please print)

Dated this day of2014

The common seal of the **Town of Victoria Park**
was hereunto affixed by authority of
a resolution of the Council
in the presence of:



.....
Signature of Mayor

.....
Signature of Chief Executive Officer

.....
Full Name (please print)

.....
Full Name (please print)

Dated this day of2014

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Agreement for Lease

Annexure A
Lease

Annexure C

Owner's Project Objectives

1. To ensure that any redevelopment planning and plans for the Development focus on the whole of the Lathlain Park precinct, whilst being cognizant of the needs and aspirations of the community from surrounding areas.
2. To promote the efficient and effective planning and use of inner metropolitan land within the Town of Victoria Park's municipality.
3. To catalyse urban revitalisation of the Lathlain Park precinct as well as the Lathlain and Carlisle areas more generally.
4. To improve and increase the community's opportunities for active and passive recreation pursuits within the Lathlain Park precinct.
5. To improve and increase the opportunities for equitable community access to the Lathlain Park precinct.

Annexure D

Tenant's Project Objectives

1. To develop a world-class training, administration and community facility which shall enable the Tenant to achieve both on-field and off-field competitive advantage.
2. To develop dedicated facilities for the Tenant's community programs (including The Wirrpanda Foundation Limited) which facilitate the future growth and expansion of the Tenant's community activities.
3. To ensure that the Premises has sufficient space to cater for the facility expansion needs of the Tenant over the next 99 years.

Annexure E

JWG Rules

1. Meetings

- (a) The Parties agree that:
 - (i) JWG meetings will be held monthly;
 - (ii) a Party may convene a meeting of the JWG at any other time by giving not less than 5 Business Days' notice of it to the other Party; and
 - (iii) each JWG meeting will be chaired by a Representative of the Tenant.
- (b) The Owner and the Tenant may invite any of its employees or contractors who are not Representatives to attend a JWG meeting (provided they must give at least 2 Business Days' notice of the proposed invitees to the other Party).
- (c) The Owner and the Tenant may jointly invite employees or representatives of the Perth Demons to attend a JWG meeting.
- (d) A proposed agenda for all meetings of the JWG must be communicated by:
 - (i) the JWG Secretary in the case of a meeting held under rule 1(a)(i) and at least 2 Business Days prior to the meeting; or
 - (ii) the Party convening a meeting under rule 1(a)(ii) at least 2 Business Days prior to the meeting.
- (e) If a Representative has received a proposed agenda for a meeting of the JWG then the Representative may make a written request to the JWG Secretary that an item be included in the agenda and the JWG Secretary must:
 - (i) amend the agenda accordingly; and
 - (ii) distribute a copy of the amended agenda to each Representative.
- (f) Unless all of the Representatives agree upon an alternative time and place, all meetings of the JWG must take place during business hours on a Business Day at the offices of the Town of Victoria Park.
- (g) The quorum for any meeting of the JWG will be 2 Representatives, comprising at least one Representative of each of the Owner and the Tenant and the JWG Secretary.

-
- (h) Attendance by a Representative may be by telephone and the Parties must count that Representative in the quorum.
 - (i) If a quorum is not present within 30 minutes of the appointed time for the meeting, the JWG Secretary must:
 - (i) adjourn the meeting to a time and date not less than 2 Business Days and not greater than 5 Business Days thereafter; and
 - (ii) the JWG Secretary will notify the Representatives of the adjourned meeting in accordance with this rule 1.
 - (j) Each Party must cause its Representatives and the JWG Secretary to enter into an agreement to keep all meetings of the JWG and all documents and matters pertaining to the activities of the JWG confidential.

2. Voting

- (a) The JWG will make decisions by unanimous vote and where a unanimous decision cannot be reached, the matter must be referred to the CEOs of both Parties who must endeavour to resolve the matter.
- (b) The Owner and the Tenant will each have one vote on the JWG which can be exercised by any Representative of each respective Party.
- (c) A Representative may exercise their vote:
 - (i) in person;
 - (ii) by proxy (who need not be a Representative) appointed in writing by that Party; or
 - (iii) by Alternate Representative appointed in writing by the Party appointing that Representative.
- (d) The JWG Secretary must keep a written record of decisions made at each meeting of the JWG and distribute a copy of it to each Representative as soon as practicable but in any event, not more than 5 Business Days, after the meeting.
- (e) Unless a Representative objects to the written record kept by the JWG Secretary in accordance with rule 2(e) within 3 Business Days of receiving it, that written record will be prima facie evidence of the decisions and proceedings of the meeting to which it relates.

3. Removal and replacement of Representatives

- (a) The Owner or the Tenant may, by written notice to the other:

- (i) remove or replace a Representative appointed by it; and
 - (ii) appoint and maintain an alternate for any Representative appointed by it.
- (b) An Alternate Representative may exercise all the powers of the Representative whose alternate he or she is to the extent that the Representative has not exercised them.

4. JWG Objectives

The Representatives must act in good faith and use their best endeavours to achieve the JWG Objectives in a timely manner and in any event before the expiry of the Latest Date.

5. Powers of the JWG

The JWG does not have any power to:

- (a) vary the terms of this Agreement; or
- (b) make binding decisions on behalf of either Party.

6. Functions of the JWG

- (a) The function of the JWG is to:
 - (i) achieve the JWG Objectives;
 - (ii) make recommendations to the Parties in relation to the Development; and
 - (iii) do anything else required of the JWG under this Agreement.
- (b) The JWG must endeavour to achieve the JWG Objectives in a way consistent with the Owner's Project Objectives and the Tenant's Project Objectives.

Annexure F

JWG Objectives

1. To assist the Tenant to secure the Funding.
2. To review proposed designs for the Development having regard to the advice obtained from the planning and design consultants engaged by either Party.
3. To endeavour to recommend a preferred design for the Development for the review and consideration of the Parties.
4. To consider the possible integration of the Development with the Owner's redevelopment plans for the broader Lathlain Park Precinct.
5. To assist the Tenant with obtaining the Development Approval, the Building Permit and all other necessary approvals through planning and regulatory bodies.
6. To monitor the achievement of project deliverables (including as to quality) and if necessary identify any specific actions to be taken.
7. To identify and manage risks raised by the project.
8. To review proposed remedial actions required to maintain overall project objectives and assist where possible.
9. Ensure that the project is delivered on time.
10. To discuss and monitor the Tenant's progress towards achieving "Practical Completion" (as defined in the Lease) of the Development.
11. To discuss any issues or concerns that arise during the construction phase of the Development.

Annexure G

Guidelines

1. The preparation and revision of the DA Plans and Specifications and Building Plans and Specifications will be an iterative and collaborative process between the Owner and the Tenant acting through the JWG, and each Party must use best endeavours to ensure that process is followed as quickly as practicable.
2. The Owner intends to engage a Design Review Committee on its behalf to assist, advise and facilitate the Owner's input with respect to the DA Plans and Specifications and Building Plans and Specifications.
3. In preparing and arriving at a final set of DA Plans and Specifications, the Tenant and Owner must meet and discuss in good faith the removal and relocation of any significant trees located on the Premises.
4. The removal and relocation of any significant trees located on the Premises will be dealt with in accordance with clause 20.3 of the Lease.
5. Subject to clause 12 of this Agreement, the Tenant may decide those parts of the DA Plans and Specifications and Building Plans and Specifications relating to the internal areas of the Building at its absolute discretion except to the extent that the internal areas of the Building impact on the external façade of the Building in which case Principle 6 will apply).
6. In preparing and arriving at a final set of DA Plans and Specifications and Building Plans and Specifications, the Tenant must give reasonable, full and proper consideration to:
 - (a) any concerns raised or feedback received during community open days at Lathlain Park (that the Owner asks the Tenant to consider);
 - (b) any concerns raised or any feedback received from the community (that the Owner asks the Tenant to consider); and
 - (c) the comments, concerns and suggested changes of the Owner and the Design Review Committee,relating to DA Plans and Specifications and Building Plans and Specifications (other than the internal areas of the Building except to the extent the internal areas of the Building impact on the external façade of the Building).
7. If the Parties are unable to agree the form of the DA Plans and Specifications or Building Plans and Specifications then the Tenant's decision with respect to the form of the DA Plans and Specifications or Building Plans and Specifications will be final (other than the Parking and Movement Network Plan which must be acceptable to the Owner, acting reasonably).

-
8. The Parties acknowledge and agree that the DA Plans and Specifications and Building Plans and Specifications must not be significantly different from the transaction contemplated in the business plan for a major land transaction prepared and advertised by the Owner on or about October 2013.

Annexure H

Community Benefit Principles

1. Community benefits delivered by the Tenant form part of the benefits to the Owner in lieu of a wholly commercial transaction. The resources which the Tenant must provide for the delivery of community benefits are specified in clause 17.7(g) of the Lease.
2. Community benefit deliverables will be monitored annually and reviewed at least every five (5) years.
3. The design and delivery of community benefits will take a collaborative approach between the Owner and the Tenant, taking into consideration each party's strategic objectives.
4. Partnership with local community stakeholders are encouraged through stakeholder engagement in program selection, design, development, delivery and evaluation.
5. Local community development will be enabled through; lifelong learning, empowerment, increasing participation, access and inclusion, leadership and collaboration.
6. Design, development and delivery of community benefits programs, services and assets will be:
 - (a) evidence based;
 - (b) responsive to trend data; and
 - (c) locally responsive.

Annexure I

Community Benefits Strategy

1. Background

It is acknowledged that through partnership, the West Coast Eagles and the Owner are uniquely positioned within the community to be role models and leaders for positive community benefits.

The Community Benefits Delivery Program will be developed, delivered and resourced jointly by the Parties and will outline the initiatives to be delivered in collaboration for the benefit of the Town of Victoria Park community. The Tenant's resourcing obligations in regard to the delivery of the initiatives are detailed in clause 17.7 of the Lease.

2. Purpose

The purpose of this Community Benefits Strategy is to:

1. Describe how the community benefits delivered by the Tenant form part of the benefits to the Owner in lieu of a wholly commercial transaction.
2. Formalise the collaborative commitment between both Parties to meaningfully and purposefully generate health and wellbeing benefits within the Town of Victoria Park community through the Community Benefits Delivery Strategy.
3. Define the process by which the Parties will plan, establish, deliver, monitor and review the Community Benefits Delivery Strategy during the term of the Agreement for Lease and Lease.
4. Establish an agreed framework which provides both Parties with:
 - a. Sufficient certainty as to how the Community Benefits Delivery Program will be planned, established, delivered, monitored and reviewed over the term of the Agreement for Lease and Lease; and
 - b. Sufficient flexibility for the Community Benefits Delivery Program to evolve over time to match the evolving health and wellbeing needs of the local community.

3. Community Benefit Principles

Establishment, delivery, monitoring and review of the Community Benefits Delivery Program will be based on the following principles:

1. Community benefits delivered by the Tenant form part of the benefits to the Owner in lieu of a wholly commercial transaction. The resources which the Tenant must provide for the delivery of community benefits are specified in clause 17.7(g) of this Lease.
2. Community benefit deliverables will be monitored annually and reviewed at least every five (5) years.
3. The design and delivery of community benefits will take a collaborative approach between the Owner and the Tenant, taking into consideration each Party's strategic objectives.

-
4. Partnerships with local community stakeholders are encouraged through stakeholder engagement in program selection, design, development, delivery and evaluation.
 5. Local community development will be enabled through; lifelong learning, empowerment, increasing participation, access and inclusion, leadership and collaboration.
 6. Design, development and delivery of community benefits programs, services and assets will be:
 - a. evidence based;
 - b. responsive to trend data; and
 - c. locally responsive.

4. Establishment of the Community Benefits Delivery Program

Initiatives within the Community Benefits Delivery Program could take the form of services, events, projects, facilities, activities, programs or infrastructure which are mutually agreed by both parties to be most advantageous for the local community. The Community Benefits Delivery Program will contain key performance indicators to measure the delivery of the initiatives specified within the Community Benefits Delivery Program. Unless agreed otherwise, planning and establishment of the Community Benefits Delivery Program will be undertaken jointly by the Parties in the following manner:

1. The convergence of stated strategic objectives of the Parties will be identified and agreed;
2. Local community health and wellbeing related trends and community health and wellbeing profiles will be jointly prepared and analysed;
3. A collaborative set of objectives, based in response to items 1 and 2 above, will be agreed by the Parties;
4. The Parties will jointly devise and agree response initiatives (e.g. services, events, projects, facilities, activities, programs or infrastructure) required to achieve the objectives in 3, above.
5. The Parties will jointly plan the delivery of initiatives agreed in item 4, above.
6. The Community Benefits Delivery Program will be approved for delivery by the Chief Executive Officer (or equivalent) of each Party.

5. Delivery of the Community Benefits Delivery Program

During the term of the Lease, initiatives will be delivered in accordance with:

1. The Community Benefits Delivery Program; and
2. The Community Benefit Principles.

6. Monitoring and Review of the Community Benefits Delivery Program

1. At least once every lease year, the Community Benefits Delivery Program will be monitored and reported on against pre-agreed key performance indicators.

-
2. At least once every five (5) lease years, the Community Benefits Delivery Program will be:
 - a. reviewed to ensure the document remains responsive to changing community needs and aspirations; and
 - b. reviewed against the Community Benefits Principles to ensure alignment of the initiatives against the original intent of the Lease.

7.1 West Coast Eagles Lease



TOWN OF
VICTORIA PARK

Ground Lease to West Coast Eagles

Town of Victoria Park
(Owner)

and

Indian Pacific Limited trading as the West Coast Eagles
(Tenant)

The following covenants by the lessee are to be construed according to section ninety-four of the *Transfer of Land Act 1893* as amended (Note 9)

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Table of contents

1.	Agreement Definitions and interpretation	1
2.	Grant and Term	10
3.	Rent.....	10
4.	Rates and Taxes	10
5.	Other payments.....	11
6.	Indemnity and insurance provisions.....	12
7.	Repair and maintenance by Tenant	13
8.	Use of Premises.....	14
9.	Additional covenants by Tenant	17
10.	Make Good at end of Term	19
11.	Make Good upon termination of Lease	19
12.	Owner's covenant	20
13.	Assignment and subletting	20
14.	Default provisions.....	22
15.	Extension of Term	24
16.	Car Parking	24
17.	Community Benefits	24
18.	Perth Demons	27
19.	Joint Working Group	28
20.	Development Obligations	28
21.	Lathlain Park Upgrade Contributions	29
22.	Warranties and Acknowledgements.....	30
23.	Signage and naming rights	31
24.	State Emergency.....	31
25.	Dispute resolution	32
26.	General provisions	33
	Schedule 1	38
	Schedule 2	39
	Schedule 3.....	40

Ground Lease to West Coast Eagles

Date:

Parties

Town of Victoria Park
(Owner) ABN 77 284 857 739
of 99 Shepperton Road,
Victoria Park

**Indian Pacific Limited trading
as the West Coast Eagles**
(Tenant) ABN 31 009 178 894
of 250 Roberts Road,
Subiaco

Background

- A. The Owner is the registered proprietor of the Land.
- B. The Land is reserved under the Metropolitan Region Scheme for the purpose of “parks and recreation”.
- C. The Owner and Tenant entered into the Agreement for Lease.
- D. The Tenant will undertake the Development on the Premises.
- E. The Parties intend that the Land will serve as the home ground of a Western Australian Football League team for the duration of the Term.
- F. The Landlord agrees to grant and the Tenant agrees to take a lease of the Premises on the terms in this Lease.
- G. Part of the consideration received by the Owner for granting this Lease is the community benefits to be provided by the Tenant under clause 17 and the uses described in paragraphs (d) to (h) of the definition of Permitted Purpose or the Additional Community Dividends to be provided in lieu of those uses.

1. Agreement Definitions and interpretation

1.1 Definitions

ADI has the meaning given to that term in the *Banking Act 1959* (Cth).

AFL means Australian Football League ACN 004 155 211.

Agreement for Lease means the agreement for lease made between the Owner and the Tenant in respect of the Premises dated [] 2014.

Approved Insurer means an insurance company authorised to carry on business under the *Insurance Act 1973* (Cth).

Assessment means an assessment, charge or levy issued by an Authority in respect of Rates and Taxes.

Authority means any government, statutory, public or other authority or body having jurisdiction over the Premises or the Land or any matter or thing relating to it including those assessing or imposing local authority or municipal rates, water rates and land tax and metropolitan region improvement tax and those providing or supplying services and utilities to the Land or the Premises.

Building means the building constructed by the Tenant within the Building Envelope as part of the Development excluding any Car Park within the Building Envelope.

Building Envelope means that part of the Premises identified as the "Building Envelope" on the Premises Plan.

Building Permit means the building permit obtained by the Tenant in accordance with clause 9 of the Agreement for Lease.

Business Day means a day, not being a Saturday, Sunday or public holiday in the State.

Car Park means those parts of the Premises set aside for the parking of motor vehicles.

Claim means any claim, demand, legal proceedings or cause of action including any:

- (a) based in contract (including breach of warranty);
- (b) based in tort (including misrepresentation or negligence);
- (c) under common law or in equity; or
- (d) under any Law arising from a breach of warranty, representation, covenant under, or term of, this Lease.

Commencement Date means [REDACTED].

Community Benefit Principles means the principles in Schedule 2.

Community Benefits Delivery Program means the program referred to in clause 17.7 of this Lease.

Controller has the same meaning as in the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Date for Practical Completion means the date which is 36 months after the Commencement Date.

Default Rate means a rate of interest per annum which is 4% higher than the benchmark rate of the 90 day bank bill rate as last published in the Monday edition of *The West Australian* newspaper prior to the occurrence of the Event of Default, or if *The West Australian* was not published on that day or the 90 day bank bill rate did not appear in it, then as published on the next day on which the 90 day bank bill rate appears in *The West Australian*. If that doesn't happen within 7 days of the Event of Default, or if that rate ceases to exist, it means the 90 day bank bill rate as published by the Owner's bank.

Development means a development to be undertaken and Improvements to be made in accordance with:

- (a) the Development Approval;
- (b) the Building Permit;

- (c) the Building Contract (as that term is defined in the Agreement for Lease); and
- (d) all Laws and Requirements.

Development Approval means the development approval obtained by the Tenant in accordance with clause 6 of the Agreement for Lease.

Dispute includes any dispute, controversy, difference or Claim arising out of or in connection with this Lease including any question concerning its formation, validity, interpretation, performance, breach or termination.

Environmental Laws means:

- (a) all Laws relating to town planning, the environment, noise, development, construction of structures, health, contamination, radiation, pollution, waste disposal, land management and Hazardous Materials;
- (b) all conditions of all consents, approvals, authorisations, licences and permits issued under any law in clause (a); and
- (c) regulations and any order, guideline, notice, direction or requirement of any Authority in relation to these matters.

Event of Default means the breach or non-performance by the Tenant of any of the Tenant's Obligations.

External Areas means the whole of the Premises, Services and the Improvements (including the external façade of the Building) other than the internal areas of the Building.

Final Period means the period from and including the 1st day of July immediately preceding Termination up to the date of Termination.

Force Majeure means any circumstance beyond the reasonable control of the Tenant including, but not limited to any of the following:

- (a) act of God;
- (b) act of war declared or undeclared;
- (c) accident, fire, explosion, epidemic;
- (d) public disorder;
- (e) riot, civil disturbance, insurrection, rebellion, sabotage or act of terrorists;
- (f) flood, earthquake, hail, lightning, severe weather conditions or other natural calamity;
- (g) strike boycott or other labour disturbance; or
- (h) non availability of materials or labour,

but does not include the non-availability of funds.

Further Term means the further term of forty nine (49) years.

Hazard means any thing occurring on or emanating from the Premises that may result in injury to a person or harm to the health of a person.

Hazardous Materials means any substance, gas, liquid, chemical, mineral or other physical or biological matter that is:

- (a) or may become toxic, flammable or inflammable;
- (b) otherwise dangerous, harmful to the environment or any life form or which may cause pollution, contamination or any hazard or increase in toxicity in the environment or may leak or discharge or otherwise cause damage to any person, property or the environment; or
- (c) a material or compound controlled, prohibited or regulated from time to time by any Environmental Law.

Improvements means all buildings, structures, earthworks, fixtures, landscaping, vegetation and other improvements constructed, installed or made on or to the Premises. The expression includes the Improvements constructed by or on behalf of the Tenant as part of the Development.

Insolvency Event means, with respect to the Tenant:

- (a) an order is made that the Tenant be wound up;
- (b) the Tenant is dissolved;
- (c) the appointment of a Controller in respect of the whole of the assets and undertaking of the Tenant and that Controller does not perform the Tenant's obligations in this Lease.

JWG means the joint working group established pursuant to clause 3 of the Agreement for Lease.

JWG Rules means the provisions contained in Annexure E of the Agreement for Lease.

Land means:

- (a) Lot 1 on Diagram 26715 being the whole of the land comprised in Certificate of Title Volume 1425 Folio 934;
- (b) Lot 2 on Diagram 26715 being the whole of the land comprised in Certificate of Title Volume 1425 Folio 935; and
- (c) Lot 3 on Diagram 26715 being the whole of the land comprised in Certificate of Title Volume 1425 Folio 936.

Laws means all statutes, rules, regulations, proclamations, ordinances or by-laws present or future of the State and, where applicable, the Commonwealth, and any amendment or re-enactment of them for the time being in force.

Lease means this deed as amended, varied or supplemented from time to time including any schedule or annexure, however it is not limited to the legal estate created on registration but also includes any tenancy or other right whether legal, equitable or otherwise under which the Tenant occupies or is entitled to occupy the Premises, including a tenancy for a fixed term, a periodic tenancy or a tenancy at will.

Lease Year means:

- (a) the Preliminary Period;

- (b) each consecutive period of 12 months from and including the 1st day of July in each year during the Term; and
- (c) the Final Period.

Local Government Laws means:

- (a) the Local Government Act 1995 (WA);
- (b) the Local Government (Miscellaneous Provisions) Act 1960 (WA);
- (c) the Building Act 2012 (WA);
- (d) the Planning Scheme; or
- (e) any other Laws.

Month means a calendar month.

OSH Incident means:

- (a) an actual or suspected breach of any requirement under OSH Legislation by the Owner, the Tenant or any Permitted Person;
- (b) an incidence of personal injury or harm caused to a person at the Premises;
- (c) an event that gives rise to a risk to the safety and health of a person, whether or not that event is required to be reported under OSH Legislation;
- (d) the issue of any notice or direction by an authorised person under the OSH Legislation to the Owner, the Tenant or any Permitted Person which directly or indirectly relates to the use of the Premises; and
- (e) the commencement of any inquiry or investigation undertaken by an authorised person under the OSH Legislation which directly or indirectly relates to the use of the Premises.

OSH Legislation means all Laws regarding work health and safety that apply at or to the Premises from time to time, including:

- (a) all Australian Standards or Codes of Practice referred to or made under those work health and safety Laws; and
- (b) all licenses, terms or conditions issued to or imposed on the Owner, the Tenant or any Permitted Person by an Authority pursuant to those work health and safety Laws.

Oval 1 means the AFL standard training oval identified as "Oval 1" on the Premises Plan.

Oval 2 means the AFL standard training oval identified as "Oval 2" on the Premises Plan.

Oval Areas means Oval 1 and Oval 2.

Oval Areas Standard means the following standard:

- (a) grass coverage – the coverage should be consistent across the entire playing surface;
- (b) thatch or organic layer – thatch (the layer above the soil and below the grass tip) should be kept to a minimum;

- (c) traction – consistency across the entire playing surface (40-60 Nm);
- (d) hardness – consistency across the entire playing surface (60-90 gravities); and
- (e) grass length – will change depending on season and Tenant requirements. (Summer minimum 10mm and Winter maximum 30mm).

Owner means the person so described in this Lease and that person's successors, executors, administrators, assigns and transferees and includes the person entitled to possession of the Premises at Termination.

Owner's Project Objectives means "Owner's Project Objectives" as defined in the Agreement for Lease.

Parking and Movement Network Plan means the plan so titled prepared as required by the Agreement for Lease.

Party means the Owner or the Tenant according to the context.

Permitted Person means any employee, agent, contractor, customer, invitee, licensee or visitor of the Tenant, including the employees and sub-contractors of the Tenant's agents and contractors.

Permitted Purpose means:

- (a) administration offices for an AFL football club;
- (b) administration offices associated with community organisations such as The Wirrpanda Foundation Limited;
- (c) indoor and outdoor training, education, aquatic, medical, rehabilitation and recovery activities associated with an AFL sports organisation;
- (d) functions and catering space (open to the public);
- (e) museum (open to the public);
- (f) café (open to the public);
- (g) sports medicine and medical facilities (open to the public);
- (h) child care (open to the public); and
- (i) any other purpose from time to time agreed by the parties,

and without expanding the definition of "Permitted Purpose", it does not include music concerts or live music events.

Perth Demons means Perth Football Club Inc. (ABN 12 991 769 986).

Perth Demons Agreement means the "Heads of Agreement" dated 24 February 2014 made between the Tenant and the Perth Demons, and then if the Tenant and Perth Demons enter into a more formal agreement, that formal agreement.

Planning Scheme means such "Planning Scheme" (as that term is defined in the Planning and Development Act 2005 (WA)) as is in force in respect of the Premises from time to time.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Practical Completion means that:

- (a) the Tenant's builder or builders have certified that practical completion has been achieved;
- (b) the relevant Authority has issued a certificate of occupancy;
- (c) Oval 1 and Oval 2 are in a condition capable of use by the Tenant for training purposes; and
- (d) the Building is otherwise completed and commissioned except for minor defects which do not prevent the Building from being fit for its intended purpose.

Preliminary Period means the period commencing at midnight on the day preceding the Commencement Date and expiring at midnight on the next 30th June.

Premises means the premises described on the Form L1 cover page to this Lease and the expression includes the Improvements and the Services located on or within the Premises.

Premises Plan means the plan of the Premises in Schedule 1.

Primary Training Base means the headquarters and main high performance training, administration and community centre used by the Tenant.

Rates and Taxes means the aggregate in each Lease Year of all:

- (a) council rates and charges payable to the relevant Authority including charges for rubbish removal;
- (b) water, drainage and sewerage rates and licence fees payable to the relevant Authority for the supply or extraction of water including meter fees and charges for the disposal of storm water and sewerage and charges for water consumption;
- (c) land tax and charges (State or Commonwealth) and Metropolitan Region Improvement Tax; and
- (d) any other rate, tax or imposition,

levied, charged or assessed in respect of the Premises, any part of the Premises, the Land, or the use, ownership or occupation of them.

Rent means a single payment of \$10, if demanded.

Requirements means every condition of approval or consent, requirement, notice, order or direction of any Authority.

Security Interest has the meaning given to that term in the PPSA.

Services means all utilities and services supplied to or in the Premises including gas, water, drainage, fresh air, exhaust systems, electricity, telecommunications, sprinkler systems, heating, lighting, lift services, electrical services, electrical power supply, hydraulic services, mechanical services and the air conditioning system.

State means the State of Western Australia.

State Class Emergency means a state of emergency that has been declared in accordance with section 56 of the Emergency Management Act 2005 (WA).

Substantial Commencement means completion of the site works with respect to the Development and completion of the structural works to the ground floor slab level (including the pouring of the ground floor slab) in relation to the Building.

Substantial Commencement Date means the date which is 24 months after the Commencement Date.

Tenant means the person so described in this Lease and that person's successors, executors, administrators and permitted assigns and, where not contrary to the context, includes any sub-tenant.

Tenant's Obligations means the several obligations contained or implied in this Lease and on the part of the Tenant to be observed or performed.

Tenant's Project Objectives means "Tenant's Project Objectives" as defined in the Agreement for Lease.

Term means the period of fifty (50) years starting on the Commencement Date and where the context permits includes any Further Term, any other renewal of this Lease and any period of holding over.

Termination means the expiry by passage of time or the sooner determination of the Term or any Further Term.

Works Conditions means that the works must be performed:

- (a) at the Tenant's cost (excluding the Owner's costs incurred in connection with the works, which include the Owner's reasonable administrative and other reasonable costs of giving consent and the reasonable fees of any architect or other consultant used by the Owner in connection with the works);
- (b) in a proper and workmanlike manner, in accordance with all relevant Australian Standards;
- (c) in accordance with all Laws and Requirements;
- (d) if required for compliance with any Local Government Law, in accordance with plans and specifications approved by the Owner (which approval must not be unreasonably withheld) and subject to any conditions that the Owner imposes on its consent (which conditions (if any) must be reasonable); and
- (e) in accordance with and only after obtaining the approvals of all relevant Authorities.

1.2 Interpretation

In this Lease, unless the context otherwise requires:

- (a) The singular includes the plural, a gender includes every other gender and words importing persons include bodies corporate.
- (b) The word "including" means "including, but not limited to".
- (c) The word "person" means a person, partnership, joint venture, unincorporated association, corporation and a government or statutory body or an Authority.
- (d) A covenant entered into by more than one person is deemed to be entered into by them jointly and each of them severally.

- (e) If the date on or by which any amount is payable or any act or thing must be done under this Lease is not a Business Day, the payment must be made or the act or thing must be done on or by the next Business Day.
- (f) The Tenant's Obligations are binding on, and enforceable against, the Tenant as defined in this Lease and any occupier of the Premises from time to time.
- (g) The headings and an index have been inserted for convenience only and are not to be taken into account in interpreting this Lease.
- (h) Reference to a clause is a reference to a clause or sub-clause of this Lease and a reference to a paragraph is a reference to a paragraph of the clause or sub-clause in which the reference occurs.
- (i) A reference to a schedule or annexure means a schedule or annexure to this Lease.
- (j) Where a word or expression is defined in this Lease, another part of speech or grammatical form of that word or expression has a corresponding meaning.
- (k) Reference to a body, organisation or rating tool includes, if it has ceased to exist or to be relevant, that body, organisation or rating tool's successor or replacement, or, if none, the body, organisation or rating tool that is most appropriate, as determined by the Owner acting reasonably.
- (l) A reference to time is to Perth, Western Australia time.
- (m) A rule of construction does not apply to the disadvantage of a Party because the Party was responsible for the preparation of this Lease or any part of it.
- (n) A reference to A\$, \$A, dollar or \$ is to Australian currency.
- (o) A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

1.3 Objectives

- (a) Without limiting the operation of this Lease, the Parties acknowledge that:
 - (i) the Owner has entered into this Lease in order to achieve the Owner's Project Objectives; and
 - (ii) the Tenant has entered into this Lease in order to achieve the Tenant's Project Objectives.
- (b) If there is any Dispute between the Parties as to the proper construction of this Lease, then the construction to be applied will be that which gives best effect to the objectives stated in clause 1.3(a).

1.4 Owner's Limitation of Liability

The Tenant acknowledges and agrees that, subject to the provisions of this Lease, the covenants on the part of the Owner will bind the person entitled to be the registered proprietor of the Land for the time being but will not render the Owner personally liable in damages for any breach except in the case of the Owner's own acts or defaults or those of its employees, contractors or agents while the Owner is registered proprietor of the Land.

1.5 Local Government laws prevail

In the event of any inconsistency between:

- (a) an obligation, right or power of either the Tenant or the Owner under this Lease; and
- (b) an obligation, right or power of the Owner under the Local Government Laws,

then the obligation, right or power of the Owner under the Local Government Laws prevails.

1.6 No fetter

Nothing in or arising out of this Lease in any way:

- (a) diminishes the Owner's rights and powers; or
- (b) fetters any discretion that the Owner has,

under the Local Government Laws.

1.7 Owner's agent

The Owner may, at the Owner's expense, appoint a person (**Managing Agent**) to manage the Land, and may from time to time replace the Managing Agent. The Managing Agent has authority to act for and on behalf of the Owner in connection with this Lease.

2. Grant and Term

2.1 Grant

The Owner leases the Premises to the Tenant and the Tenant takes a lease of the Premises:

- (a) for the Term;
- (b) at the Rent; and
- (c) subject to the terms of this Lease.

2.2 Commencement Date

This Lease commences on the Commencement Date.

3. Rent

The Tenant must pay the Rent when demanded.

4. Rates and Taxes

The Tenant must pay all Rates and Taxes payable in respect of the Premises or the Land or the use, occupation and ownership of the Premises in each Lease Year as follows:

- (a) If a separate Assessment issues for the Premises, then the Tenant must pay to the relevant Authority on or before the date specified by it for payment, the amount of the Assessment.

- (b) If no separate Assessment issues for the Premises, the Tenant must pay to the Owner on demand the proportion of the Assessment attributable to the use, occupation and ownership of the Premises as certified and determined by the Owner, whose certificate and determination in the absence of manifest error will be final and binding on the Tenant.
- (c) The Tenant's portion of Rates and Taxes for the Preliminary Period and the Final Period will be apportioned on a daily basis in respect of periods less than 12 months.

5. Other payments

5.1 Services

The Tenant must pay to the relevant Authority on or before the date specified by it for payment:

- (a) all costs, charges and meter rentals for all utilities and Services including electric power, gas, water consumed on or for the Premises; and
- (b) all charges for the removal of garbage and trade waste (including wet waste and food garbage) from the Premises.

5.2 Charges and expenses arising through default etc

The Tenant must pay to the Owner on demand by it, all legal and other costs, charges and expenses for which the Owner is liable, suffers or incurs in connection with:

- (a) any Event of Default by the Tenant including all costs, charges and expenses, solicitors costs and surveyors fees incurred by the Owner for the purpose of the preparation and service of a notice under section 81 of the *Property Law Act 1969 (WA)* or otherwise and requiring the Tenant to remedy an Event of Default and even if forfeiture for the Event of Default is avoided otherwise than by relief granted by a Court;
- (b) the exercise or attempted exercise of any power right or remedy of the Owner under this Lease arising from any Event of Default by the Tenant;
- (c) obtaining or attempting to obtain payment of any money to be paid under this Lease; and
- (d) any Claim concerned with any matter referred to above or any other matter in connection with this Lease, including legal costs and disbursements calculated on the greater of a solicitor and own client basis or an indemnity basis, which the Owner has paid or pays to any other person provided they are of a reasonable amount and have been reasonably incurred, however this clause will not apply if the Tenant is awarded costs as against the Owner in any Claim, or if the Owner discontinues its Claim for any reason.

5.3 Interest on arrears

If any money is owing by the Tenant to the Owner but is unpaid in breach of the provisions of this Lease, the Tenant must pay interest to the Owner on the outstanding money at the Default Rate calculated daily on the money from the due date for payment until actual payment of the money and interest on it.

5.4 GST Liability

- (a) Any reference in this clause to terms defined or used in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* ("**GST Act**") is, unless the context indicates otherwise, a reference to that term as defined or used in the GST Act.

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- (b) Any amount referred to in this Lease which is relevant in determining a payment to be made by a Party to another is exclusive of any GST unless indicated otherwise.
 - (c) The Parties agree that:
 - (i) GST is payable in respect of any taxable supply made under this Lease;
 - (ii) in respect of any taxable supply made under this Lease, the recipient must pay to the supplier the amount equal to the GST liability on that taxable supply at the same time as the recipient is required to pay the consideration for that taxable supply to the supplier under this Lease. The GST liability for any taxable supply is:
 - A. where the consideration is exclusive of GST, the amount equal to the rate of GST multiplied by the consideration attributable to the taxable supply made by the supplier to the recipient; or
 - B. where the consideration is inclusive of GST, the amount determined in accordance with the GST Act;
 - (iii) if a Party is entitled to be reimbursed for an expense or outgoing incurred in connection with this Lease, the amount of the reimbursement will be net of any input tax credits which may be claimed by the Party being reimbursed or the representative member of the GST Group in which that Party is a member in relation to that expense or outgoing;
 - (iv) the supplier must issue:
 - A. a tax invoice to the recipient of any taxable supply in respect of that taxable supply; and
 - B. any relevant adjustment note to the recipient of a taxable supply in respect of any adjustment that arises from an adjustment event relating to that taxable supply; and
 - (v) any review or adjustment of any consideration payable for a taxable supply must take into account that this clause requires an adjustment of that consideration and must take account of any adjustment to that consideration which has already been or is required to be determined, under the provisions of this clause.

6. Indemnity and insurance provisions

6.1 Tenant's Indemnity

The Tenant indemnifies the Owner against loss, cost and expense howsoever arising from all Claims which the Owner may incur in connection with the loss of life, or personal injury, or damage to any property (wheresoever occurring) in relation to:

- (a) any occurrence at the Premises; or
- (b) the use by the Tenant (or any sub-tenant or Permitted Person) of the Premises,

whether or not occasioned by any act, neglect, default or omission by the Tenant or by a Permitted Person or by any other person, other than to the extent to which the Claim is wholly or partly due to or arises out of an act or omission (whether or not negligent) of the Owner or of any person for whom the Owner is vicariously liable.

6.2 Public liability Policy

The Tenant must, before the Commencement Date, take out and at all times keep in force with an Approved Insurer, a public liability policy with a cover for any one occurrence of not less than \$20 million or a greater amount as the Owner may reasonably require.

6.3 Insurance against fire and other risks

The Tenant must, before the Commencement Date, take out and at all times keep in force with an Approved Insurer a policy of insurance to cover all Improvements against loss or damage by fire, fusion, explosion, smoke, lightning, flood, storm, tempest, rainwater, earthquake, riot, civil commotion, malicious damage, impact by vehicles, sprinkler leakage, water damage, aircraft and articles dropped from aircraft and other risks against which, in the opinion of the Owner, a tenant may and does ordinarily insure, in the full replacement value.

- (a) The Tenant acknowledges and agrees that in relation to any claim the Tenant makes on any policy of insurance the Tenant is required to maintain under this Lease, regardless of:
- (i) whether the Tenant's insurance policies respond or not; and
 - (ii) the reason why the insurance policies respond or fail to respond,
- the Tenant is not released (in whole or in part), from any of its obligations under any of the indemnities set out in this Lease, or generally.

6.4 Produce policies and receipts for premiums

The Tenant must, before the Commencement Date, produce to the Owner certificates of currency issued by an Approved Insurer, and at any time on demand the original of the policies of insurance required to be taken out by the Tenant under this Lease and the receipts relating to the payment of premiums on them and on demand produce annual certificates of renewal of them and on demand produce certificates of currency for them.

7. Repair and maintenance by Tenant

7.1 Repair and Maintain External Areas

- (a) The Tenant must at the Tenant's own expense keep, repair and maintain the External Areas (and the verge between the boundary of the Premises and Bishopsgate Street) and the Tenant's fixtures, fittings, plant, equipment and furnishings located within the External Areas so that they remain in safe, good and substantial repair, order and condition.
- (b) The obligations of the Tenant under paragraph (a):
- (i) require the Tenant to repair and make good any damage or disrepair caused by any risk against which the External Areas are insured;
 - (ii) extend to repairs due to fair wear and tear consistent with normal use; and
 - (iii) extend to doing capital and structural works and repair of structural damage.

7.2 Specific repair, operation and maintenance obligations with respect to the Oval Area

In addition to clause 7.1, the Tenant's repair and maintenance obligations with respect to the Oval Areas include:

- (a) cutting grass on the Oval Areas and attending to any other landscaping works (such as weeding);
- (b) keeping and maintaining the Oval Areas at the Oval Areas Standard; and
- (c) installing and maintaining any reticulation servicing the Oval Areas.

7.3 Lessor not obliged to repair Premises

Other than as specified in clause 8.5, nothing in this Lease requires the Lessor to repair or maintain the Premises or do capital or structural works or repairs of structural damage.

8. Use of Premises

8.1 Alterations to the External Areas

Subject to clause 8.2, the Tenant must not:

- (a) make any alterations or additions to the External Areas (excluding alterations to the size, shape and configuration of Oval 1 and Oval 2 or alterations to the configuration of the Car Park); or
- (b) alter the number of bays within the Car Park;

unless the Tenant:

- (c) obtains the Owner's prior written consent, which:
 - (i) must not be unreasonably withheld or delayed; and
 - (ii) may be given conditionally or unconditionally in all cases; and
- (d) in undertaking any works, complies with the Works Conditions.

8.2 Alterations to the internal areas of the Building

- (a) Subject to clause 8.2(b), the Tenant may:
 - (i) make any alterations or additions to the internal areas of the Building; and
 - (ii) alter or make any connection to the Services within the internal areas of the Building;

provided that the Tenant

in undertaking any works, complies with the Works Conditions.

- (b) The Tenant must not expand the Building Envelope without the prior written consent of the Owner, which consent must not be unreasonably withheld or delayed.

8.3 Comply with Laws and Requirements

- (a) The Tenant must use the Premises only for lawful purposes.
- (b) The Tenant must not vacate or abandon the Premises.

- (c) The Tenant must punctually comply with and observe at the Tenant's expense all present and future Laws and Requirements which relate to the Premises or their use or the number or sex of the people working in or from or at any time occupying or visiting the Premises, including any notice requiring the carrying out of any repairs or alterations to or the provision of Fire Fighting Equipment for the Premises.
- (d) All works which the Tenant is required to carry out under this clause must be carried out in accordance with the Works Conditions.
- (e) The Tenant must comply with any notice or order which may be given by any Authority in respect of the Premises or their use by the Tenant (whether addressed or given to the Owner or the Tenant and without regard to the person liable by Law to comply with the notice or order) and keep the Owner indemnified in respect of all such matters.

8.4 Use of Premises by the Tenant

- (a) Subject to clause 8.3(a), the Tenant may use the Premises for the Permitted Purpose, and for any purposes ancillary to the operations of an AFL football club (such as fan days), but must not use the Premises for any other use or purpose.
- (b) From the Commencement Date until the date of Practical Completion the Tenant must promote the Premises as its future head office, administration centre and future Primary Training Base.
- (c) From the date of Practical Completion until the expiry of the Term the Tenant must retain, use and promote the Premises as its head office, administration centre and Primary Training Base.
- (d) From the date of Practical Completion the Tenant must:
 - (i) show the street address of the Premises as its physical address on all Tenant's letterhead;
 - (ii) show the address of the Premises as its physical address on the Tenant's website; and
 - (iii) request that the AFL show the address of the Premises as its physical address on the AFL website.

8.5 Irrigation

- (a) The Parties must use best endeavours to jointly develop a plan for the irrigation of the Premises and the Land (**Irrigation Management Plan**) on or before the first anniversary of the Commencement Date.
- (b) Subject to clause 8.5(c), the Irrigation Management Plan will apply for the duration of the Term and the Further Term (if the option to renew for the Further Term is exercised).
- (c) The Irrigation Management Plan must have a 5 year operational period and be updated by the Parties every 3 years during the Term.
- (d) The Irrigation Management Plan must prioritise the supply by the Owner to the Tenant of such volume of water as is from time to time necessary to keep and maintain the playing surfaces of Oval 1 and Oval 2 to an AFL standard (that volume is currently estimated to be approximately 10 megalitres per hectare per year) and must include but is not limited to the following:

-
- (i) shared use of the Owner's water bore located on the Premises;
 - (ii) metering of use of the water bore;
 - (iii) the volume of water that can be extracted by each Party from the water bore;
 - (iv) methodology for charging each Party for use of the water bore and water consumption (with the Parties intending costs will be apportioned between the Parties based on the areas within the Premises being serviced by the bore and the areas on the Land outside the Premises being serviced by the bore and that costs will be calculated on the basis that the Owner must not make a profit from the supply of water); and
 - (v) irrigation plant and equipment that will be used by both Parties and the sharing of repair, maintenance upgrade and replacement costs with respect to those items.
- (e) The Tenant must use best endeavours to present the draft Irrigation Management Plan to the Owner for the Owner's review and approval on or before the date that is 6 months after the Commencement Date.
 - (f) If the Parties are unable to agree on the form of the Irrigation Management Plan by the first anniversary of the Commencement Date then the form of the Irrigation Management Plan will be determined by a turf consultant appointed by the AFL.
 - (g) The Parties must use their best endeavours to comply with the Irrigation Management Plan.
 - (h) The Tenant must not install any additional water bore on, or extract water from, the Premises without the prior consent of the Owner, such consent not to be unreasonably withheld or delayed.

8.6 Occupational Safety and Health

- (a) The Tenant has the control of the Premises and must take all reasonable precautions to ensure the safety and health of each person who may be affected by the Premises and the Tenant's use of them.
- (b) The Tenant must, at all times during the Term:
 - (i) comply with its obligations under OSH Legislation;
 - (ii) identify all Hazards and take all reasonable steps to maintain a safe working environment and to ensure the safety and health of each person who may be affected by the Tenant's use of the Premises, including any Permitted Person; and
 - (iii) assist the Owner to comply with its obligations under OSH Legislation (if any).
- (c) The Tenant is responsible for the costs associated with rectifying any Hazard.

8.7 Facilities to be provided at Premises

The Tenant warrants and represents to the Owner that the following facilities will be made available to the general public under and in accordance with the provisions of clause 17:

- (a) indoor training facilities within the Building subject to clause 17.1; and
- (b) the Oval Areas subject to clauses 17.2 and 17.3,

and upon completion of the Development the Premises will include these facilities.

8.8 Additional facilities

The Parties agree that:

- (a) the initial stage of the Development (**Stage 1**) will accommodate, as a minimum, each of the uses described in paragraphs (a) to (c) of the definition of Permitted Purpose;
- (b) if Stage 1 does not accommodate facilities for any of the uses described in paragraph (d) to (g) of the definition of Permitted Purpose, then during the period of 7 years following Practical Completion the Tenant must extend the Development, at the Tenant's cost, so that by no later than the date that is 7 years following Practical Completion of Stage 1 the Development accommodates facilities for use for each of the purposes described in paragraphs (d) to (g) of the definition of Permitted Purpose within the Building Envelope (**Stage 2**);
- (c) it is the Tenant's intention to include a child care facility in the Development if:
 - (i) the Tenant is able to obtain funding for the development of a child care facility on terms acceptable to the Tenant; and
 - (ii) the child care facility is, in the Tenant's opinion, commercially viable,but the Tenant will not be in default under this Lease if for any reason a child care facility is not provided for in the Development.
- (d) when facilities for use for the purposes described in paragraphs (d) to (g) of the definition of Permitted Purpose are constructed, those facilities will be made available to the general public (and the Tenant may charge fees for public access to those facilities); and
- (e) if a child care facility is constructed, the facility will be made available to the general public (and the Tenant may charge fees for public access to the facility).

9. Additional covenants by Tenant

9.1 No encumbrances

The Tenant may mortgage, charge, encumber or grant any Security Interest in the Tenant's interest in this Lease or any of the Improvements to a financier (**Financier**) provided that the Tenant procures the execution by the Financier of a direct deed in a form and substance satisfactory to both the Financier and the Owner (both acting reasonably) but which contains at least the following provisions:

- (a) if the Financier enters into possession of the Premises, the Financier will during the period of possession, comply with the Tenant's Obligations;
- (b) if the Financier appoints an administrator, a receiver or a receiver and manager (**Controller**), the Financier will procure the compliance by the Controller of the Tenant's Obligations during the period of control;
- (c) the appointment by the Financier of a Controller is not an Event of Default;
- (d) if an Event of Default occurs, the Owner must give the Financier notice of its occurrence and allow the Financier a reasonable time (but in any event not more than 6 months) within which to remedy that Event of Default (or appoint a Controller who does so);

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- (e) the Financier will not sell, agree to sell, transfer or otherwise dispose of the Lease (and ensure that a Controller appointed by the Financier does not do so) unless:
 - (i) the proposed transferee or assignee satisfies the criterion in clauses 13.1(c)(i)A, 13.1(c)(i)B and 13.1(c)(i)C;
 - (ii) the proposed transferee or assignee pays any amounts owing to the Owner by the Tenant under this Lease; and
 - (iii) the proposed transferee or assignee has first executed a deed (to be prepared by the Owner's lawyers at the reasonable cost of the Financier or the proposed buyer), whereby the proposed transferee or assignee agrees to assume the Tenant's Obligations; and
 - (f) the Financier will not transfer or assign its security without first procuring the execution by the proposed assignee of a deed between the proposed assignee and the Owner (to be prepared by the Owner's lawyers at the reasonable cost of the Financier or the proposed assignee), whereby the proposed assignee agrees to assume the Financier's obligations in this clause.

9.2 No absolute caveat

- (a) The Tenant must not lodge an absolute caveat over the Land to protect the interest of the Tenant under this Lease.
- (b) The provisions of this clause do not prevent the Tenant lodging a caveat expressed to be subject to claim. The Tenant must at its cost withdraw any caveat on Termination.

9.3 Registration of Lease

- (a) The Owner must register this Lease at Landgate and the Parties must do all other things reasonably necessary to facilitate registration. Each party will bear its own costs but the registration fee will be paid by the Tenant.
- (b) On or before Termination, the Tenant must provide the Owner with a surrender of this Lease, in registrable form and properly executed by the Tenant but, if the Tenant fails to provide the surrender to the Owner, in consideration of the Owner granting this Lease to the Tenant, the Tenant irrevocably appoints the Owner and each and every one of the directors and other officers of the Owner ("**Officer**") jointly and severally, the agents and attorney of the Tenant to sign and register a surrender of this Lease after Termination, the cost of which is to be paid by the Tenant on demand.
- (c) A person, including the Registrar of Titles of Western Australia, who deals with the attorney or a person purporting to be the attorney under paragraph (b) is:
 - (i) entitled to rely on that person's execution of a document as conclusive evidence that:
 - A. the person is the Owner or an Officer;
 - B. the power of attorney has come into effect;
 - C. the power of attorney has not been revoked;
 - D. the right or power being exercised or purportedly exercised is being properly exercised; and

- E. the circumstances have arisen to authorise the exercise of that right and power; and
- (ii) not required to make these enquiries about the attorney or the power.

9.4 Pass on notices

The Tenant must immediately give notice in writing to the Owner of any notice received by the Tenant from any Authority relating to the Premises.

10. Make Good at end of Term

10.1 Application

This clause applies in the event that the Lease comes to an end due to effluxion of time.

10.2 Discussions on future of Buildings

- (a) If the Tenant does not exercise the option in clause 15.1, the Parties will, during the 45th year of the Term, enter into discussions in relation to the future of the Building. If the Parties do not, by the end of the 45th year of the Term, enter into a mutually acceptable agreement in relation to the future of the Building, clause 10.3 will apply.
- (b) If the Tenant exercises the option in clause 15.1, the Parties will, during the 89th year of the Term, enter into discussions in relation to the possibility of the Tenant's tenure of the Premises being extended beyond the end of the 99th year of the Term (whether by way of a further extension of this Lease or by way of a new lease). If by the end of the 90th year of the Term, an extension of the Tenant's tenure is not agreed, and the Parties have not entered into a mutually acceptable agreement in relation to the future of the Building, clause 10.3 will apply.

10.3 Removal of Building and Tenant's property

- (a) Before the end of the Term the Tenant must (unless the parties agree otherwise under clause 10.2):
 - (i) demolish and remove all of the Building from the Premises;
 - (ii) remove all fixtures and fittings, equipment, partitioning, signs and furnishings erected or installed by the Tenant;
 - (iii) make good to the satisfaction of the Owner any damage caused to the Premises or the Land by the demolition and removal of the Building from the Premises; and
 - (iv) return the Building Envelope to the Owner as a safe, level, vacant site.
- (b) The Works Conditions apply to all work done pursuant to this clause 10.2.
- (c) The Tenant must at Termination yield and deliver up possession of the Premises to the Owner.

11. Make Good upon termination of Lease

11.1 Application

This clause applies in the event that this Lease is terminated other than by reason of effluxion of time.

11.2 Yielding up

Within 6 months following Termination, the Owner must elect to exercise its rights either under clause 11.3 or under clause 11.4. If the Owner fails to make an election within that period, clause 11.3 shall apply.

11.3 Building remains

- (a) If within 6 months following Termination the Owner notifies the Tenant that this clause 11.3 applies then the Tenant must, within 6 months from the date of the notice:
 - (i) remove from the Premises all:
 - A. fixtures and fittings, equipment, partitioning, signs and furnishings erected or installed by the Tenant or purchased by the Tenant from any previous occupier of the Premises (other than any fixtures and fittings, equipment and furnishings which in the opinion of the Owner form an integral part of the Premises); and
 - B. Tenant's chattels; and
 - (ii) make good to the satisfaction of the Owner any damage caused to the Premises or the Land by that erection, installation or removal,

and then yield and deliver up possession of the Premises to the Owner, and the Owner will accept delivery and possession of the Premises "as is where is" and in their then state of repair and condition.

- (b) The property in all fixtures and fittings, equipment and furnishings which under clause 11.3(a)(i)A the Tenant is not to remove from the Premises and Tenant's chattels which the Tenant has not removed from the Premises (together "**Tenant's Abandoned Property**"), will immediately, pass to the Owner and the Owner will not be obliged to pay any consideration or compensation for that property.

11.4 Building removed

If within 6 months following Termination the Owner notifies the Tenant that this clause 11.4 applies then the Tenant must, within 6 months of the notice comply with clause 10.3.

12. Owner's covenant

The Tenant duly paying the Rent and performing and observing the Tenant's Obligations, may peaceably and quietly hold and enjoy the Premises during the Term, without any interruption by the Owner or any person claiming through, under or in trust for the Owner.

13. Assignment and subletting

13.1 Assignment

- (a) The Tenant must not, without the Owner's prior written consent, assign or part with possession or occupation of the Premises, or any part of them, or this Lease, or any estate or interest in it.
- (b) Where the Tenant is seeking to assign part of its interest in the Premises or this Lease the Owner may withhold its consent to the assignment in its absolute discretion.

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- (c) The Owner will not unreasonably withhold its consent to an assignment of the whole of the Premises if:
- (i) the proposed assignee is a person who the Tenant has demonstrated to the satisfaction of the Owner:
 - A. has the ability to meet the obligations of the Tenant under this Lease;
 - B. has the ability to provide the community benefits that the Tenant is required to provide under this Lease; and
 - C. is the holder of a licence entitling the proposed assignee to play in the AFL premiership competition.
 - (ii) prior to the Owner giving its consent or the assignee being given possession of the Premises, the Tenant executes and procures the execution of an:
 - A. assignment of this Lease by the assignee;
 - B. assignment of the Agreement for Lease by the assignee;
 - C. assignment of the Perth Demons Agreement by the assignee; and
 - D. the assignment of any other agreements between the Owner and the Tenant,in a form approved by the Owner and delivers the assignment documents to the Owner;
 - (iii) there is not any existing unremedied Event of Default; and
 - (iv) the assignor Tenant has withdrawn any caveat lodged by the Tenant over the Land or any part of it.

13.2 Subletting

- (a) The Tenant may only sub-let, licence, grant rights over or part with possession or occupation of the Premises, or any part of them, or this Lease, or any estate or interest in it (**Sublet**) under and in accordance with the provisions of this clause 13.2.
- (b) Where the Tenant is seeking to Sublet all or part of Oval 2, the Owner may withhold its consent to the sublease in its absolute discretion.
- (c) Where the Tenant is seeking to Sublet part of the Premises (other than Oval 2) for any use specified in paragraphs (b), (d), (e), (f), (g) and (h) of the definition of Permitted Purpose, the Tenant may do so without the Owner's consent but the Tenant must give notice to the Owner:
 - (i) stating the name of the sub-tenant;
 - (ii) stating the proposed term of the sublease;
 - (iii) attaching a premises plan showing the location of the premises within the Premises;
 - (iv) stating the Tenant's use for the premises.

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- (d) Without limiting clause 13.2(c), the Tenant may, without the consent of the Owner Sublet any part of the Building to The Wirrpanda Foundation Limited.
 - (e) If the Tenant seeks to Sublet part of the Building other than under clause 13.2(c) or clause 13.2(d), the Tenant must first obtain the Owner's prior written consent. The Owner must not unreasonably withhold its consent to the subletting of part of the Building if:
 - (i) the proposed sub-tenant is a person who the Tenant has demonstrated to the satisfaction of the Owner:
 - A. has the ability to meet the obligations of the Tenant under this Lease;
 - B. is a respectable, responsible and solvent person; and
 - C. has prior experience performing and undertaking the Permitted Purpose;
 - (ii) prior to the Owner giving its consent or the sub-tenant being given possession of the Premises, the Tenant executes and procures the execution of a sub-lease of this Lease by the sub-tenant, in a form approved by the Owner and delivers the sub-lease to the Owner;
 - (iii) the Rent, Rates and Taxes, charges relating to Services, and other money payable under this Lease are paid and there is not any existing unremedied Event of Default; and
 - (iv) the Tenant pays to the Owner all reasonable costs, charges and expenses incurred by the Owner for any enquiries which may be made by or on behalf of the Owner to satisfy the Owner that the proposed sub-tenant meets the criteria set out in paragraph (i) and for the preparation and approval of the form of sub-lease, whether or not the subletting proceeds.

13.3 Change in shareholding of Tenant corporation

Where the Tenant is a corporation (other than a company listed on the Australian Stock Exchange) any change in the beneficial ownership of any substantial holding (within the meaning of Part 6C.1 of the Corporations Act) is deemed to be an assignment of this Lease and clause 13.1 applies.

13.4 Tenant released

If the Tenant assigns the whole of the Tenant's interest in this Lease and the Premises under and in accordance with clause 13.1(c), the Owner (by operation of this clause 13.4) unconditionally releases the Tenant from its obligations in this Lease.

14. Default provisions

14.1 Termination provisions

If:

- (a) there is a breach by the Tenant of its obligation to retain, use and promote the Premises as its head office, administration centre and Primary Training Base during the Term (clause 8.4(c)), and that breach is not remedied by the Tenant within a reasonable time (being not more than 45 days) after notice of the breach is given by the Owner to the Tenant;
- (b) the Premises are abandoned, deserted or vacated by the Tenant;

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- (c) any Insolvency Event (other than the appointment of a Controller by a Financier) occurs in respect of the Tenant;
 - (d) subject to clause 20.2, the Tenant fails to Substantially Commence the Development by the Substantial Commencement Date;
 - (e) the Tenant:
 - (i) is in breach of clause 17.7 during a Lease Year;
 - (ii) the breach of clause 17.7 is a material breach when viewed against the whole of the community benefits to be provided by the Tenant to the Owner or as directed by the Owner under clause 17.7;
 - (iii) the Owner notifies the Tenant that the Tenant must make-good the failure to provide the community benefits during the period of 12 months starting on the date of the notice; and
 - (iv) the Tenant does not make-good the failure to provide the community benefits during the period of 12 months starting on the date of the notice; or
 - (f) the Tenant:
 - (i) is in breach of clause 17.5(d) during a Lease Year with respect to Oval 2;
 - (ii) the breach of clause 17.5(d) with respect to Oval 2 is a material breach when viewed against the whole of the community access to Oval 2 allocated under clause 17.5(d);
 - (iii) the Owner notifies the Tenant that the Tenant must make-good the breach of 17.5(d) with respect to Oval 2 during the period of 12 months starting on the date of the notice; and
 - (iv) the Tenant does not make-good the breach of 17.5(d) with respect to Oval 2 during the period of 12 months starting on the date of the notice,

then the Owner may at its option re-enter on, occupy and resume possession of the Premises or any part of them in the name of the whole and this Lease and the Term will then cease and determine but without releasing the Tenant from the Rent and all other money accrued up to the time of the re-entry and without prejudice to the right of action of the Owner in respect of any breach of the Tenant's Obligations.

14.2 Owner's general law rights

If an Event of Default occurs, the Owner has its general law rights, including rights to:

- (a) claim damages; and
- (b) sue for specific performance,

but may only exercise a right of re-entry and termination in the circumstances set out in clause 14.1

14.3 Make Good where Tenant fails to Substantially Commence

In the event that the Owner terminates this Lease in accordance with clause 14.1(d), then (notwithstanding clause 11) the Tenant must within 6 months of Termination comply with clause 10.3.

15. Extension of Term

15.1 Option of Renewal

The Tenant has the option exercisable by written notice to the Owner given not more than 8 years nor less than 6 years before the expiration of the Term of taking a new lease for the Further Term on and subject to the same terms and conditions as are contained in or implied by this Lease except for this provision for renewal.

16. Car Parking

- (a) The Parking and Movement Network Plan will form the basis by which parking, ingress to and egress from the Land (by all modes of transport) is collaboratively managed between the Tenant and Owner.
- (b) During the Term, the Parties will adopt a collaborative approach to the provision of an effective, but not excessive, number of parking bays within and in the vicinity of the Land.
- (c) The collaborative approach will vary over time and may from time to time include:
 - (i) the development and implementation of a travel plan to facilitate public access to and egress from the Oval Areas, including by way of encouragement of public transport; and
 - (ii) reciprocal parking arrangements as between the Owner, the Tenant and Perth Demons.
- (d) the Owner acknowledges and agrees that up to 150 bays within the Building Envelope may be secured and made available for use by:
 - (i) the Tenant and its Permitted Persons; and
 - (ii) the Perth Demons in accordance with the terms of the Perth Demons Agreement.

17. Community Benefits

17.1 Community usage of indoor facilities within the Building

- (a) Subject to the provisions of this clause 17.1, if the Tenant's indoor training hall is not required for training or rehabilitation by the Tenant or under other contractual commitments of the Tenant, the Tenant must make the facility available to:
 - (i) the Perth Demons pursuant to the terms of the Perth Demons Agreement; and
 - (ii) to other individuals and groups from the general public that the Tenant approves acting reasonably.

The Tenant will also make its gymnasium available for use by the Perth Demons (when the gymnasium is not required by the Tenant) under the terms of the Perth Demons Agreement.

- (b) The Parties acknowledge and agree that:
- (i) the community usage of the facilities pursuant to clause 17.1(a)(ii) will be on a cost recovery basis and the Tenant is not obliged to subsidise the cost of maintenance, cleaning and operations of the facilities as a direct result of that community usage;
 - (ii) the Tenant will set the community usage fees on an annual basis;
 - (iii) community usage of the facilities will be subject to and on the terms of a standard user agreement as determined by the Tenant from time to time; and
 - (iv) community access to the facilities may vary depending on the training and rehabilitation requirements of the Tenant.

17.2 General public and community use Oval 1

The Parties acknowledge and agree that:

- (a) Oval 1 is designated for the priority use of the Tenant, will be lighted and fenced and will have permanent goal line fencing or netting (designed to restrict the flight of footballs);
- (b) usage of Oval 1 by the Perth Demons is intended to be pursuant to the terms and conditions of the Perth Demons Agreement;
- (c) the current Oval 1 usage arrangements are set out in Schedule 3;
- (d) the Parties must comply with the usage arrangements set out in Schedule 3;
- (e) subject to this clause 17.2, the right of individuals and groups from the general public to use Oval 1 will be determined at the complete discretion of the Tenant; and
- (f) any community users approved by the Tenant will be subject to and on the terms of a standard user agreement as determined by the Tenant from time to time.

17.3 Use of Oval 2 by the public at large

The Parties acknowledge and agree that:

- (a) subject to clauses 17.5 and 17.6, the public at large (including individuals and community groups not related to the Tenant or to the Perth Demons) will be given access to Oval 2 – the Tenant may recover the actual costs incurred by the Tenant in providing ground lighting (if provided) and may require reimbursement for damage caused to Oval 2, but otherwise that access to Oval 2 will be free of charge;
- (b) if requested by the Owner, the Tenant must provide the Owner with written details as to when Oval 2 is available for use by the public at large;
- (c) access by the public at large to Oval 2 may be restricted under clause 17.6(c) but will otherwise not be unreasonably withheld by the Tenant;
- (d) the Tenant will be responsible for administering a bookings system so that community and community groups can book Oval 2 for events; and
- (e) the Tenant must display the contact details for booking Oval 2 on its website and must provide the contact details to the Town.

17.4 Signage, fencing and lighting at Oval 2

The Parties acknowledge and agree that:

- (a) the Tenant may erect boundary fencing around Oval 2 provided that:
 - (i) Oval 2 must remain accessible to the public at large;
 - (ii) Oval 2 may be fully fenced, but there must be a reasonable number of access points around Oval 2 for access by the public at large;
- (b) the Tenant may place signs around the perimeter of Oval 2 in order to advise members of the public that training is in progress and public access is not permitted whilst training is taking place; and
- (c) any goal line fencing or netting (designed to restrict the flight of footballs) may be permanent.

17.5 Shared use of Oval 2 by the Tenant, Perth Demons and public at large

The Parties acknowledge and agree that:

- (a) Oval 2 will be used jointly by the Tenant, Perth Demons and the public at large;
- (b) usage of Oval 2 by the Perth Demons is intended to be pursuant to the terms and conditions of the Perth Demons Agreement;
- (c) the current Oval 2 usage arrangements are set out in Schedule 3; and
- (d) the Parties must comply with the usage arrangements set out in Schedule 3.

17.6 Oval 2 playing surface and restrictions on access

The Parties acknowledge and agree that:

- (a) the Tenant will monitor the condition of the playing surface of Oval 2 which must be maintained by the Tenant at the Oval Areas Standard;
- (b) the Tenant acknowledges that use of Oval 2 by the public at large may have an impact on the surface of Oval 2;
- (c) access to the whole or parts of Oval 2 by the public at large (including individuals and community groups) may be temporarily restricted by the Tenant if the public access is adversely impacting the standard of the playing surface of those parts;
- (d) notwithstanding clause 17.3(b), the Tenant cannot permanently restrict public access to Oval 2; and
- (e) the AFL's formally appointed turf consultants will be used to determine compliance with the Oval Areas Standard and playing surface standard if there is any Dispute between the Tenant and the Owner relating to the condition of the playing surface of Oval 2.

17.7 Community Benefits Deliverables

- (a) On and from the Commencement Date until the date of Practical Completion the Tenant will (after consulting with the chief executive officer of the Town) extend the delivery of its existing community programs to include the Town of Victoria Park to the extent that the

Tenant's existing community programs are appropriate and applicable to the Town of Victoria Park.

- (b) The Parties, acting in accordance with clause 5(a) of the Agreement for Lease, must use best endeavours to finalise the Community Benefits Delivery Program, prior to the date of Practical Completion.
- (c) If the Parties have not finalised the Community Benefits Delivery Program, in accordance with clause 5(b) of the Agreement for Lease, on or before the date of Practical Completion then there will be a Dispute and it will be determined in accordance with clause 25.
- (d) The Community Benefits Delivery Program that is developed and agreed by the Parties or determined in accordance with clause 17.7(c) will apply from the date of Practical Completion and will be reviewed in accordance with clause 17.7(e) below.
- (e) Monitoring and review of the Community Benefits Delivery Program shall be undertaken jointly by the Tenant and Owner in accordance with the Community Benefit Principles.
- (f) The Tenant must deliver the community benefits in the Community Benefits Delivery Program and comply with the Community Benefits Delivery Program for the duration of the Term.
- (g) Notwithstanding clauses 17.7(b) to (f), above, the community benefits delivered by the Tenant from the date of Practical Completion shall incorporate, for each and every year of the Term:
 - (i) the equivalent of one (1) full time employee of The Wirrpanda Foundation Limited;
 - (ii) the equivalent of two (2) full time employees of the Tenant provided that the equivalent of only one (1) full time employee is required to be provided by the Tenant so long as one (1) full time employee of The Wirrpanda Foundation Limited is being provided pursuant to clause 17.7(f)(i); and
 - (iii) the delivery of the community programs will be supported by 100 hours per year of player involvement (but if the programs do not warrant this amount of hours, the Tenant shall not be required to make up the time in a subsequent year).
- (h) With the exception of clause 17.7(g)(iii), if any part of the deliverables under the Community Benefits Delivery Program are unable to be provided by the Tenant during the course of a year, the Tenant must make-good the failure to provide those community benefits in the subsequent year.

18. Perth Demons

- (a) The Tenant must comply with its obligations in the Perth Demons Agreement.
- (b) The Tenant will provide the Owner with a copy of any default, breach or dispute notice issued by the Tenant to the Perth Demons under the Perth Demons Agreement.
- (c) The Tenant will provide the Owner with a copy of any default, breach or dispute notice issued by the Perth Demons to the Tenant under the Perth Demons Agreement.
- (d) The Tenant must not terminate the Perth Demons Agreement without the prior written consent of the Town.

- (e) The Tenant must not agree to vary the Perth Demons Agreement in any material respect without first consulting with the Owner.
- (f) It is the intention of the Owner and Tenant that
 - a sporting organisation will always have the benefit of the rights materially the same as those granted under the Perth Demons Agreement for so long as the Tenant remains in occupation of the Premises.
- (g) If the Perth Demons:
 - (i) cease to exist;
 - (ii) cease to be based at the Land; or
 - (iii) no longer wish to have the benefit of the Perth Demons Agreement,
 at any time for any reason, the Parties will enter into good faith discussions with a view to identifying an Australian Rules football organisation (**Substitute Organisation**) to which benefits materially the same as those in the Perth Demons Agreement may be granted. The Tenant will not act unreasonably but is under no obligation to enter into an agreement with a Substitute Organisation:
 - (i) whose objects and proposed use of the Land are not compatible with the Permitted Purpose; or
 - (ii) with which the Tenant does not have a good relationship.
- (h) The Perth Demons Agreement must be renewed or extended for so long as the Tenant remains in occupation of the Premises.

19. Joint Working Group

The Parties acknowledge and agree that the JWG established under the Agreement for Lease will continue to operate and meet (in accordance with the JWG Rules) until such time as the Tenant has achieved Practical Completion of the Development.

20. Development Obligations

20.1 Construction Deadlines

- (a) The Tenant must Substantially Commence the Development as soon as practicable following the Commencement Date but in any event by no later than the Substantial Commencement Date.
- (b) The Tenant must use best endeavours to immediately give Notice to the Owner once the Tenant has achieved Substantial Commencement.
- (c) Once the Tenant has achieved Substantial Commencement the Tenant must continuously construct the Development until it has achieved Practical Completion of Stage 1.
- (d) The Tenant must use best endeavours to achieve Practical Completion of Stage 1 by the Date for Practical Completion.
- (e) The Tenant must immediately give Notice to the Owner once the Tenant has achieved Practical Completion.

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- (f) The Tenant must immediately notify the Owner if the Tenant believes it is unlikely to:
 - (i) achieve Substantial Commencement by the Substantial Commencement Date; or
 - (ii) achieve Practical Completion of Stage 1 by the Date for Practical Completion.

20.2 Force Majeure

- (a) If the Tenant is prevented or hindered by Force Majeure from wholly or partly complying with any obligation in this clause 20, that obligation is suspended for the duration of such Force Majeure.
- (b) Without limiting clause 20.2(a), if the Tenant is prevented or hindered from:
 - (i) achieving Substantial Commencement by the Substantial Commencement Date; or
 - (ii) achieving Practical Completion of the Development by the Date for Practical Completion,due to Force Majeure then that date is extended by the length of the delay caused by Force Majeure.
- (c) If the Tenant wishes to claim the benefit of this clause 20.2, it must give Notice of the Force Majeure occurrence to the Owner including reasonable details of:
 - (i) the Force Majeure occurrence;
 - (ii) the effect of the Force Majeure occurrence on the performance of the Tenant's obligations; and
 - (iii) the likely duration of the delay in performance of those obligations.
- (d) The Tenant must use its best endeavours to remove the cause and/or effect of the Force Majeure, and keep the Owner informed of the things done by the Tenant in this regard.

20.3 Removal and Relocation of Significant Trees

If the Development necessitates the removal of any significant trees on the Premises then the Owner may remove any of those significant trees from the Premises, and must then reinstate the Premises, at its cost. Any such tree may be relocated within the Premises with the agreement of the Tenant (acting reasonably).

21. Lathlain Park Upgrade Contributions

21.1 Financial Contribution to the Owner

- (a) The Tenant must pay the amount of \$1,000,000 plus GST to the Owner (free from set-off, deduction or counterclaim) in accordance with this clause 21.1.
- (b) The amount payable by the Tenant under clause 21.1(a) is a contribution towards the cost of the Owner's community upgrade works to the Lathlain Park precinct.
- (c) The Owner must apply the funds received from the Tenant under clause 21.1(a) towards the cost of the Owner's community upgrade works to the Lathlain Park precinct.

- (d) The amount payable by the Tenant under clause 21.1(a) is payable to the Owner by the following instalments:
- (i) \$334,000 plus GST within 10 Business Days after the date when the Owner gives Notice to the Tenant that it has entered into a building works contract with respect to the Owner's community upgrade works and that those works are 25% complete;
 - (ii) \$333,000 plus GST within 10 Business Days after the date when the Owner gives notice to the Tenant that the building contract works are 50% complete; and
 - (iii) \$333,000 plus GST within 10 Business Days after the date when the Owner gives notice to the Tenant that the building contract works have reached practical completion.

21.2 Financial Contribution to the Perth Demons

- (a) The Tenant must pay the amount of \$1,000,000 plus GST to the Owner (or the Perth Demons at the direction of the Owner) (free from set-off, deduction or counterclaim) in accordance with this clause 21.2.
- (b) The amount payable by the Tenant under clause 21.2(a) is a contribution towards the cost of the construction of the new club facilities and a new grandstand for the Perth Demons.
- (c) The Owner must provide the Tenant with costed details of the proposed construction works referred to in clause 21.2(b) together with evidence that the proposed works are fully funded other than the \$1,000,000 plus GST to be provided by the Tenant.
- (d) The amount payable by the Tenant under clause 21.2(a) is payable to the Owner (or the Perth Demons at the direction of the Owner) by the following instalments:
- (i) \$334,000 plus GST within 10 Business Days after the date when the Owner gives Notice to the Tenant that it (or the Perth Demons) has entered into a building works contract with respect to construction of the new club facilities and a new grandstand for the Perth Demons and that those works are 25% complete;
 - (ii) \$333,000 plus GST within 10 Business Days after the date when the Owner gives Notice to the Tenant that the building contract works are 50% complete; and
 - (iii) \$333,000 plus GST within 10 Business Days after the date when the Owner gives Notice to the Tenant that the building contract works have reached practical completion.

22. Warranties and Acknowledgements

22.1 Mutual Warranties and Representations

Each Party warrants and represents to the other Party that:

- (a) it has the legal capacity to enter into and perform its obligations under this Lease;
- (b) it is not entering this Lease as the trustee of a trust or for and on behalf of any other person otherwise than as stated in this Lease; and
- (c) as at the date of this Lease, no conflict of interest exists or is likely to arise in relation to the performance of its obligations under this Lease.

22.2 Condition of Premises

The Tenant acknowledges and agrees that it is taking the Premises in its as is, where is, condition based on its own enquiries and investigations.

22.3 Acknowledgements by the Tenant

Except to the extent expressly provided otherwise in this Lease, the Tenant acknowledges and agrees that the Owner makes no representations or warranties in respect of any matter of thing with respect to the Premises or the Development including:

- (a) the suitability of the Premises for the Development;
- (b) the final cost to complete the Development;
- (c) the value, condition or state of repair of the Premises (and any structures or improvements on the Premises);
- (d) the existence or non-existence of any Contamination on the Premises or Land;
- (e) the existence of existing infrastructure and Services on the Premises or Land;
- (f) the nature and timing of any development on any land adjacent to or near the Project Site (including the nature and timing of any proposed development on the balance of the Lathlain Park precinct); and
- (g) the impact that any development on the balance of the Lathlain Park precinct may have on the Development; and,

to the full extent permitted by Law, the Tenant disclaims any liability and responsibility for any representation, warranty, statement, opinion or information made or communicated (orally or in writing) by the Owner to the Tenant.

23. Signage and naming rights

- (a) The Parties acknowledge and agree that the Tenant may erect signage on any part of the Premises (including light-emitting diode and other signage around each of Oval 1 and Oval 2) but:
 - (i) any proposed sign within the Premises or any part of the Premises must not be offensive, rude or likely to cause embarrassment; and
 - (ii) the Tenant's signage rights will be subject to the Tenant obtaining all relevant approvals required by any Local Government Law.
- (b) The Tenant is entitled to name the Premises, but any such name requires the consent of the Owner, not to be unreasonably withheld.
- (c) The Owner gives no warranty or representation as to the nature, extent or value of the commercial rights that the Tenant can or may be able to obtain in respect of the Premises.

24. State Emergency

- (a) In the event of a State Class Emergency occurring in or nearby the Town of Victoria Park, the External Areas must be made available by the Tenant to the State Emergency Service, or similar Authority, or to the Owner, for the purpose of temporary

accommodation for persons evacuated from their homes as a result of the State Class Emergency.

- (b) The term of the temporary accommodation will be at the discretion of the State Emergency Service, or similar Authority.
- (c) The Owner will repair any damage to the Premises caused as a result of temporary accommodation in a State Class Emergency.
- (d) Subject to clause 24(c), no compensation will be payable to the Tenant for any Loss incurred as a result of the External Areas being used for temporary accommodation in a State Class Emergency.

25. Dispute resolution

25.1 Determination of Disputes

If a Dispute arises then that Dispute must be resolved in accordance with the requirements and procedures set out in this clause.

25.2 Negotiation

- (a) If there is a Dispute, then within 10 Business Days of a Party (referred to in this clause as a Dispute Party) notifying the other Dispute Party in writing of the Dispute, a senior representative from each Dispute Party must meet and use all reasonable endeavours acting in good faith to resolve the Dispute by joint discussions.
- (b) The meeting will be without prejudice except to the extent of any agreements made, recorded and signed by the Parties.

25.3 Mediation

- (a) If the Dispute referred to in clause 25.2 is not settled within 40 Business Days after notification under clause 25.2, the Dispute Parties will submit the Dispute to non-binding mediation in accordance with the Mediation Rules of the Institute of Arbitrators and Mediators Australia.
- (b) The mediator will be a neutral dispute resolution practitioner agreed between the Dispute Parties from a panel suggested by the President of The Institute of Arbitrators & Mediators Australia or, failing agreement, a mediator will be appointed by the President of The Institute of Arbitrators & Mediators Australia.
- (c) Any mediation meetings and proceedings under this clause must be held in Perth, Western Australia.

25.4 Termination of mediation

If, within 40 Business Days (or any other period agreed to in writing between the Dispute Parties) after the appointment of a mediator under clause 25.3 the Dispute is not settled by mediation under clause 25.3, either Dispute Party may commence court proceedings in relation to the Dispute.

25.5 Court proceedings and other relief

A Dispute Party may not start court proceedings in relation to a Dispute until it has exhausted the procedures in this clause, unless the Dispute Party seeks injunctive or other interlocutory relief.

25.6 Continuation of rights and obligations

Despite the existence of a Dispute, each Dispute Party must continue to perform this Lease.

25.7 Expert determination

- (a) Any Dispute in relation to clause 17.7(c) or paragraphs 6 or 7 of Schedule 3 which is not settled by mediation will not be the subject of court proceedings but rather will be referred to expert determination, and the determination of the expert will be final and binding on the parties.
- (b) In the case of a Dispute in relation to the turf conditions or turf maintenance requirements under paragraph 7 of Schedule 3, the independent expert will be a turf consultant appointed by the AFL at the request of either Party.
- (c) In the case of a Dispute in relation to clause 17.7(c), paragraph 6 of Schedule 3, or paragraph 7 of Schedule 3 (other than Dispute governed by 25.7(b)), the independent expert will be a person appointed by the President of the Law Society of Western Australia at the request of either Party.

26. General provisions

26.1 Damage to Building

- (a) If the Building or any part of them are destroyed or damaged so as to be unfit for occupation or use then the Tenant may, within 12 months after the date of that damage or destruction (or within 3 months after the date on which any insurance claim by the Tenant is finally settled, whichever is the later) elect to either:
 - (i) rebuild and reinstate the Building; or
 - (ii) terminate this Lease.
- (b) If the Tenant does not make an election pursuant to clause 26.1(a), then the Owner may terminate the Lease at any time thereafter.
- (c) If either Party terminates the Lease pursuant to clause 26.1, then (notwithstanding clause 11) the Tenant must within 6 months of Termination comply with clause 10.3.
- (d) If the Tenant elects to rebuild and reinstate the Building, the Tenant will do so to such design as enables the Building to be used for the Permitted Uses for which the Building were used immediately prior to the damage or destruction (the Tenant being under no obligation to replicate Improvements exactly as they were prior to the damage or destruction) and:
 - (i) the Tenant must promptly and diligently proceed with the rebuilding and reinstatement; and
 - (ii) the Works Conditions will apply to the rebuilding and reinstatement.

26.2 Environmental Obligations

The Tenant must:

- (a) not cause any contamination to the Land or cause or permit any Hazardous Materials to be introduced to the Land; and

- (b) decontaminate by appropriate treatment, removal or otherwise any pollution, contamination or Hazardous Materials introduced, caused or permitted to occur by the Tenant or the Permitted Persons and in accordance with the requirement of any relevant Authority carry out all investigative, remedial or decontamination action to the Land as required by any Environmental Law and to the satisfaction of all relevant Authorities.

26.3 Liability for loss

- (a) The Owner will not, in any circumstances, be liable to the Tenant for any loss, damage or injury suffered by the Tenant as a result of:
 - (i) the Tenant's occupation and use of the Premises;
 - (ii) the enjoyment of the Tenant's other rights with respect to the Land; or
 - (iii) the breakage, blockage, or overflow of any sewer, waste drains, conduits, cables, wires, gutters, down pipes or storm water drains from any cause.
- (b) The Owner will not be liable to the Tenant in respect of any loss or damage suffered by the Tenant by reason of or arising out of any act, neglect or default of any other tenant or occupier of the Land.

26.4 Liability for Owner and others

- (a) Despite anything in this Lease or any Law to the contrary, before the Owner will be liable for any loss or damage the Tenant suffers by reason of the Owner doing or failing to do any thing in respect of the Premises or the Land, the Tenant must give the Owner a notice specifying the act or omission and the reasonable time for its performance or rectification and the Owner must have failed to do so within the time specified in the notice.
- (b) The Tenant will be liable for any act, neglect, default or omission of a Permitted Person in any way arising with respect to the rights and obligations created by this Lease.

26.5 Holding over provisions

If the Tenant continues to occupy the Premises with the agreement of the Owner after Termination, then the Tenant will be a monthly tenant on the same terms and conditions (with appropriate changes made) as are contained or implied in this Lease excluding any option for a Further Term.

26.6 Moratorium

The application to this Lease of any present or future moratorium or Law having the effect of extending the Term or Further Term, reducing or postponing the payment of the Rent or any part of it or otherwise affecting the operation of the Tenant's Obligations or providing for compensation rights or privileges at the expense of the Owner in favour of the Tenant or any other person is excluded and denied so far as an exclusion and denial is lawful.

26.7 Jurisdiction

- (a) This Lease is governed by, and to be interpreted in accordance with, the Laws of the State and, where applicable, the Laws of the Commonwealth of Australia.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of the State and the Courts of Appeal from them. Each Party waives any right it

has to object to a Claim being brought in those Courts including by alleging that the Claim has been brought in an inconvenient forum if those Courts do not have jurisdiction.

26.8 Severance

If any term or condition of this Lease or the application of them to any person or circumstances is invalid or unenforceable, the remaining terms and conditions are not affected and each other term and condition of this Lease is valid and enforceable to the fullest extent permitted by Law.

26.9 Consents and approvals

Except as otherwise specifically provided in this Lease any consent or approval which may be granted by the Owner under this Lease may be granted or refused or granted subject to conditions in the absolute discretion of the Owner. A consent or approval given by the Owner to an ongoing course of conduct, may be withdrawn at any time.

26.10 Effect of waiver

No consent or waiver express or implied by the Owner or the Managing Agent to or of any Event of Default will be construed as a consent or waiver to or of any other Event of Default.

26.11 No Partnership

This Lease does not in any way or for any purpose constitute the Owner a partner of the Tenant in the conduct of the Tenant's business or otherwise, or a joint venturer or a member of a joint enterprise with the Tenant.

26.12 Notices

- (a) Any notice, consent, approval, demand or other communication to be given or made under this Lease (unless otherwise provided):
 - (i) must be in writing;
 - (ii) must be signed by or on behalf of the Party giving or making it;
 - (iii) may be given in any of the following modes:
 - A. by facsimile transmission;
 - B. by pre-paid mail;
 - C. by hand delivery; or
 - D. by email to the email address of the Chief Executive Officer of the other Party; and
 - (iv) may be addressed, delivered or transmitted to the Party to receive it at its registered office or principal office for the time being, or at the address or facsimile number:
 - A. shown in this Lease; or
 - B. later notified to the other Party from time to time.
- (b) A notice sent by pre-paid post, facsimile or email is taken to be received:
 - (i) in the case of post, on the third Business Day after posting; and

- (ii) in the case of facsimile or email:
 - A. if transmitted before 5.00pm (Perth time) on a Business Day: on that Business Day;
 - B. if transmitted after 5.00pm (Perth time) on a Business Day: on the next following Business Day;
 - C. if transmitted on a day not being a Business Day: on the next day being a Business Day;
 - D. if, in any instance, the sender can produce a transmission report by the facsimile machine from which the facsimile was sent which indicates the time and date of transmission and that the facsimile was sent in its entirety to the facsimile number of the recipient.
- (iii) in the case of email, one hour after the email is sent, unless the sender receives notification from its email server or the other party's email server that the email is undeliverable or was not delivered.
- (c) The Owner's solicitor or the Managing Agent may give or serve notice on the Tenant with the same effect as if it had been given or served by the Owner.

26.13 Entire Agreement

The Parties acknowledge and agree that:

- (a) the terms and conditions set out in this Lease and the Agreement for Lease:
 - (i) contain the entire agreement as concluded between the Parties with respect to the Premises;
 - (ii) supersede any negotiations or discussions before the execution of this Lease; and
 - (iii) supersede anything contained in any brochure, market analysis, report or other document prepared by the Owner or any of the Owner's agents or consultants for submission to potential tenants of the Land; and
- (b) the Tenant has not been induced to enter into this Lease by any or any alleged statement, representation, warranty or condition verbal or written made by or on behalf of the Owner and or the Owner's agents or consultants which is not contained in this Lease or the Agreement for Lease.

26.14 Exclusion of Statutory Provisions

- (a) The covenants powers and provisions implied by virtue of sections 80 and 82 of the *Property Law Act 1969 (WA)* and 92, 94 and 95 of the *Transfer of Land Act 1893 (WA)* are excluded from, and do not apply to this Lease.
- (b) The use in this Lease of words in any form of words contained in the first column of Part II of the Twelfth Schedule of the *Transfer of Land Act 1893 (WA)* do not imply any covenant under Section 94 of that Act.

EXECUTED by the Parties to this Lease as a Deed on the date specified on page 1.

Executed by
Indian Pacific Limited
ACN 009 178 894
pursuant to Section 127
of the Corporations Act

.....
Director

.....
Director/Secretary

.....
Full Name (please print)

.....
Full Name (please print)

Dated this day of20

The common seal of the **Town of Victoria Park**
was hereunto affixed by authority of
a resolution of the Council
in the presence of:

.....
Signature of Mayor

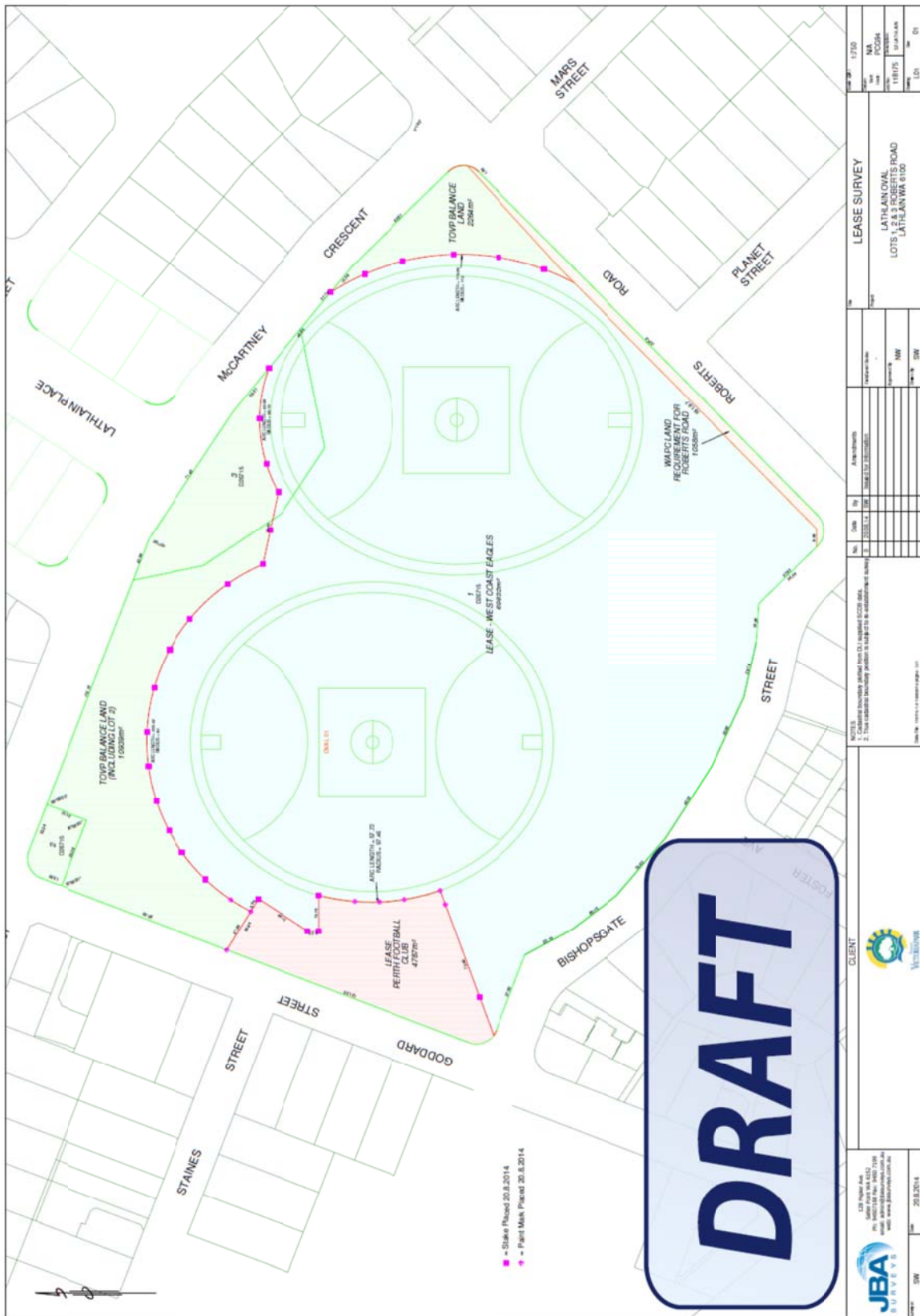
.....
Signature of Chief Executive Officer

.....
Full Name (please print)

.....
Full Name (please print)

Dated this day of20

Schedule 1 Premises Plan



LEASE SURVEY LATHAN CIVIL LOTS 1, 2 & 3 ROBERTS ROAD LATHAN WA 6100		DATE: 17/10 DRAWN: NA CHECKED: NA SCALE: 1:1000
PROJECT: LATHAN CIVIL DRAWING: LEASE SURVEY DATE: 17/10/14	CLIENT: JBA PROJECT: WEST COAST EAGLES DRAWING: LEASE SURVEY DATE: 17/10/14	NOTES: 1. This survey is for the purpose of the lease. 2. This survey is subject to the conditions of the lease.
SURVEYOR: JBA PROJECT: WEST COAST EAGLES DRAWING: LEASE SURVEY DATE: 17/10/14	CLIENT: JBA PROJECT: WEST COAST EAGLES DRAWING: LEASE SURVEY DATE: 17/10/14	NOTES: 1. This survey is for the purpose of the lease. 2. This survey is subject to the conditions of the lease.

Schedule 2

Community Benefit Principles

1. Community benefits delivered by the Tenant form part of the benefits to the Owner in lieu of a wholly commercial transaction. The resources which the Tenant must provide for the delivery of community benefits are specified in clause 17.7(g) of this Lease.
2. Community benefit deliverables will be monitored annually and reviewed at least every five (5) years.
3. The design and delivery of community benefits will take a collaborative approach between the Owner and the Tenant, taking into consideration each party's strategic objectives.
4. Partnerships with local community stakeholders are encouraged through stakeholder engagement in program selection, design, development, delivery and evaluation.
5. Local community development will be enabled through; lifelong learning, empowerment, increasing participation, access and inclusion, leadership and collaboration.
6. Design, development and delivery of community benefits programs, services and assets will be:
 - (a) evidence based;
 - (b) responsive to trend data; and
 - (c) locally responsive.

Schedule 3

Oval 1 use

	Monday – Friday		Saturday	Sunday
	Before 5pm	After 5pm		
Tenant	Tenant Priority	Tenant will need access on weekdays which are not Perth Demons Training Nights at times after 5pm	Tenant priority - when the Saturday is not a WAFL Match Day	Tenant Priority when the Sunday is not a WAFL Match Day (Perth Demons have priority on Oval 2)
Perth Demons		Perth Demons priority (Senior Squad) on the 3 Training Nights (<i>note 1</i>) and on any WAFL Match Day which falls into this category	Perth Demons priority on WAFL Match Days	Perth Demons priority on WAFL Match Days
Community	Subject to meeting the above priority use requirements, community access is available at the discretion of Tenant.			

Oval 2 Use

	Monday – Friday		Saturday	Sunday
	Before 4pm	After 4pm		
Tenant	Tenant Priority (other than on the Tenant players' day off) (<i>note 2</i>)	Tenant has priority when Perth Demons or any other group is using Oval 1 (<i>note 5</i>)	Tenant priority when Perth Demons have priority to Oval 1	Tenant priority when Perth Demons have priority to Oval 1
Perth Demons	Perth Demons Priority on Tenant players' day off (<i>note 2</i>)			Perth Demons priority when Tenant have priority to Oval 1
Community	Access to a minimum of 100 'daylight' hours of passive recreation use per calendar month (<i>note 3 and note 7</i>).			

Notes

- Perth Demons' Training Nights will be set annually in advance, during the period from 1 November to 15 December each year (**Allocation Period**), under and in accordance with the following procedure:

- during the Allocation Period, the parties will in good faith discuss and endeavour to agree on what Perth Demons' training nights will be;
 - in so doing, the parties will have regard to AFL and WAFL fixturing and use best endeavours to agree on a Perth Demons training schedule which as far as possible accommodates both Perth Demons and Tenant having regard to AFL and WAFL fixturing; and
 - failing agreement, Perth Demons' three training nights will be as nominated by Perth Demons.
2. The Tenant players' day off will be nominated by Tenant annually in advance, on or before 15 December.
 3. Community access permitted unless scheduled access has been allocated to Tenant or Perth Demons. Community access may be scheduled during the Allocation Period at the discretion of Tenant where neither Tenant nor Perth Demons requires scheduled access to the relevant time slot. Outside of the Allocation Period, Community access will be at the discretion of the Tenant, however, approval will not be unreasonably withheld.
 4. Subject to Tenant's priority, turf condition and maintenance requirements, Oval 1 will be made available for special events such as WAAFL finals and "Country Week" football. Fixturing of such special events for the following season will be agreed during the Allocation Period and subject to turf condition and maintenance requirements. Outside of the Allocation Period it will be at the discretion of Tenant, however, approval will not be unreasonably withheld.
 5. Perth Demons Colts will train on Oval 2 unless Oval 2 is required by Tenant for its own use, or Tenant determines that turf condition and maintenance requirements preclude training on Oval 2.
 6. The parties acknowledge that there may be occasions when one party needs access at a time which has been scheduled for access by the other party. Where this occurs the parties will work together in good faith and act reasonably to determine whether there is a mutually acceptable work around and may change the scheduled access accordingly.
 7. If turf conditions or maintenance requirements restrict access to Oval 2 for a period, the parties will work together in good faith and act reasonably with a view to readjusting access so that the burden of the restriction falls on them equally.

ATTESTATION SHEET

PAGE

Dated this day of 2014

LESSOR/S SIGN HERE (Note 10)

See within Lease.

LESSEE/S SIGN HERE (Note 10)

See within Lease.

INSTRUCTIONS

1. If insufficient space in any section, Additional Sheet, Form B1, should be used with appropriate headings. The boxed sections should only contain the words "see page ..."
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.
4. Where issued, the Duplicate Certificate of Title is required to be produced or if held by another party then arrangements must be made for its production.

NOTES

1. DESCRIPTION OF LAND

Lot and Diagram/Plan/Strata/Survey-Strata Plan number or Location name and number to be stated.

Extent - Whole, part or balance of the land comprised in the Certificate of Title to be stated. If part, define by recital and/or sketch.

The Volume and Folio number to be stated.

2. LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS

- (a) In this panel show (subject to the next paragraph) those Limitations, interests, encumbrances and notifications affecting the land being leased that are recorded on the certificate(s) of title:
 - (i) In the Second Schedule;
 - (ii) If no Second Schedule, that are encumbrances;
- (b) (Unless to be removed by action or document before registration hereof)
- (c) Do not show any:
 - (i) Easement Benefits or Restrictive/Covenant Benefits; or
 - (ii) Subsidiary interests or changes affecting a limitation, etc, that is to be entered in the panel (eg. If a mortgage is shown, do not show any partial discharges or any document affecting either). The documents shown are to be identified by nature and number. The plan/diagram encumbrances shown are to be identified by nature and plan/diagram number. Strata/survey-strata plan encumbrances are to be described as "Interests on strata/survey-strata plan".
- (d) If none show "nil".

3. LESSOR

State the full name of the Lessor/Lessors (REGISTERED PROPRIETOR) as shown in certificate of title and the address/addresses to which future notices can be sent.

4. LESSEE

State full name of the Lessee/Lessees and the address/addresses to which future notices can be sent. If two or more state tenancy e.g. Joint Tenants, Tenants in Common. If Tenants in Common specify shares.

5. TERM OF LEASE

Must exceed 3 years.

Term to be stated in years, months and days or as the case may be. Commencement date to be stated. Options to renew to be shown.

6. RECITE ANY EASEMENTS TO BE CREATED

Here set forth any Easements to be created as appurtenant to the lease commencing with the words "together with" and/or any Reservations hereby created encumbering the lease commencing with the words "reserving to".

7. State amount of yearly rental in figures.

8. State term of payment.

9. Insert any Covenants required.

10. LESSOR/LESSEE EXECUTION

A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The full name, address and occupation of the witness must be stated.

EXAMINED

OFFICE USE ONLY

LEASE

LODGED BY

ADDRESS

PHONE No.

FAX No.

REFERENCE No.

ISSUING BOX No.

PREPARED BY JACKSON McDONALD

ADDRESS 140 St Georges Terrace
PERTH WA 6000
Ref: RZC 4631343_4.DOCX

PHONE No. (08) 9426 06611 FAX No. (08) 9481 8649

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

1. _____ Received Items
2. _____ Nos.
3. _____
4. _____
5. _____
6. _____ Receiving Clerk

Registered pursuant to the provisions of the *TRANSFER OF LAND ACT 1893* as amended on the day and time shown above and particulars entered in the Register.