

CLAYTON UTZ

# Construction Works Access Licence

Indian Pacific Limited  
WCE

Town of Victoria Park  
Town

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Our reference ST:81041314

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**Contents**

<b>1.</b>	<b>Definitions and interpretation .....</b>	<b>1</b>
1.1	Definitions .....	1
1.2	Interpretation .....	4
<b>2.</b>	<b>Grant of Licence.....</b>	<b>5</b>
<b>3.</b>	<b>Licence Fee .....</b>	<b>5</b>
<b>4.</b>	<b>Rights in contract only .....</b>	<b>6</b>
4.1	Rights in contract only .....	6
4.2	WCE can exercise rights .....	6
4.3	No assignment.....	6
<b>5.</b>	<b>Use of Premises .....</b>	<b>6</b>
5.1	Negative obligations .....	6
5.2	Positive obligations .....	6
5.3	Town warranty .....	7
<b>6.</b>	<b>Works .....</b>	<b>7</b>
6.1	General .....	7
6.2	Permits.....	7
6.3	Contamination.....	7
<b>7.</b>	<b>No warranty as to use.....</b>	<b>8</b>
7.1	No warranty .....	8
7.2	Town's knowledge .....	8
<b>8.</b>	<b>Damage to Licensed Area or Leased Premises .....</b>	<b>8</b>
8.1	Notice of damage.....	8
8.2	Make good obligation.....	8
8.3	No claims about damage.....	9
<b>9.</b>	<b>Risk .....</b>	<b>9</b>
9.1	Licensed Area occupied at the Town's risk .....	9
9.2	Indemnity .....	9
9.3	Insurance .....	9
<b>10.</b>	<b>Work health and safety.....</b>	<b>10</b>
<b>11.</b>	<b>Disclaimer .....</b>	<b>10</b>
11.1	WCE not responsible for loss .....	10
11.2	No Claims .....	10
<b>12.</b>	<b>Breach and termination.....</b>	<b>10</b>
<b>13.</b>	<b>Make good obligations .....</b>	<b>10</b>
<b>14.</b>	<b>Notices .....</b>	<b>11</b>
14.1	Form and address.....	11
14.2	When notice is taken as received .....	11
14.3	Other forms of communication.....	12
<b>15.</b>	<b>Relationship of the Parties.....</b>	<b>12</b>
<b>16.</b>	<b>General.....</b>	<b>12</b>
16.1	Legal and other costs .....	12
16.2	Stamp duty.....	12
16.3	Governing law.....	13
16.4	Counterparts .....	13
16.5	Further assurances.....	13
16.6	No warranties.....	13

CLAYTON UTZ

16.7	Waiver.....	13
16.8	Severance.....	13
16.9	No merger.....	13
16.10	Indemnities .....	13
<b>17.</b>	<b>GST.....</b>	<b>14</b>
17.1	Amounts exclude GST.....	14
17.2	Responsibility for GST .....	14
<b>18.</b>	<b>Special Conditions.....</b>	<b>14</b>
<b>Annexure A - Special Conditions.....</b>		<b>16</b>
<b>1.</b>	<b>Cooperation .....</b>	<b>16</b>
<b>2.</b>	<b>Construction of Works Site fence .....</b>	<b>16</b>
<b>3.</b>	<b>User access on training days .....</b>	<b>16</b>
<b>4.</b>	<b>User access on match days .....</b>	<b>17</b>
<b>5.</b>	<b>WCE asset protection and access .....</b>	<b>17</b>
<b>6.</b>	<b>Other general obligations .....</b>	<b>17</b>
<b>Annexure B - Plan of Stage 1 Licensed Area and Stage 2 Licensed Area.....</b>		<b>19</b>

## Licence

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**Date**

2024

**Parties**

**Indian Pacific Limited ABN 31 009 178 894** of 250 Roberts Road, Subiaco, Western Australia (**WCE**)

**Town of Victoria Park ABN 77 284 859 739** of 99 Shepperton Road, Victoria Park, Western Australia (**Town**)

### Background

- A. WCE is the lessee of the Leased Premises pursuant to the Lease.
- B. The Town is proposing to undertake the Works on the Works Site, and requires access to and the use of the Licensed Area which forms part of the Leased Premises.
- C. The Town will undertake the Stage 1 Works first, and when Practical Completion of the Stage 1 Works has occurred the Town will undertake the Stage 2 Works.
- D. WCE has agreed to grant a non-exclusive licence to the Town to use the Licensed Area for the Permitted Use and on the terms and conditions set out in this Licence.

### Operative part

## 1. Definitions and interpretation

In this Licence unless otherwise indicated by the context or subject matter:

### 1.1 Definitions

**Approvals** means any permit, licence, consent, certificate or other approval obtained or required to be obtained from an Authority or WCE in relation to the Works to be undertaken and includes all approvals and endorsements required under any applicable Law.

**Authority or Authorities** includes any State or Federal government, any semi or local government, any statutory public or any other authority, instrumentality or body having jurisdiction over the Licensed Area, WCE, the Town or either of them or anything in relation to them.

**Business Day** means any day (except a Saturday or Sunday) on which banks are open for business in Western Australia.

**Claim** means any claim, demand or cause of action (whether based in contract, equity, tort or statute), loss, liability, cost, compensation, damage or expense.

**Commencement Date** means the Stage 1 Commencement Date or the Stage 2 Commencement Date (as the case may be), or both:

**Contamination** means a solid, liquid, gas, odour, heat, sound, vibration, radiation or substance which makes or may make the Licensed Area or the surrounding Environment unsafe or unfit for use, habitation or occupation by persons or animals or otherwise environmentally degraded and **Contaminant** has a corresponding meaning.

**Environment** has the meaning given to it in the Environmental Protection Act 1986 (WA).

**Environmental Legislation** means the Environmental Protection Act 1986 (WA) and all other statutes, legislation, regulations and by-laws, State or Commonwealth, which are in force at any time in relation to the protection of the Environment.

**Existing Grandstand** means the grandstand that is currently located on part of the Land shown as "Stage 2 – Demolition of existing facility" on the Plan.

**GST** means any consumption, goods and services or value added tax, by whatever name called, imposed, levied or collected by any federal or state government which operates at any time or times during the contract including without limitation GST as defined in the GST Act and any replacement tax.

**GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Hazardous Chemicals** means any material, substance or solution which may endanger health and safety or the Environment.

**Land** means the land and improvements located at Mineral Resources Park (Lathlain Park) comprising:

- (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.

**Law** means the requirements of all statutes, rules, regulations, proclamations, ordinances or by-laws present or future.

**Lease** means registered Lease N428022 of the Premises between the Town as lessor and WCE as lessee commencing from the date specified in clause 2.2 of the Lease.

**Leased Premises** means that part of the Land together with any improvements and structures on that part of the Land as is identified on the plan annexed to the Lease at Schedule 1, having an approximate area of 6.6582ha.

**Licence** means this deed, including the recitals and any schedules or annexures to this licence.

**Licence Fee** means the amount of \$1.00 per annum plus GST.

**Licensed Area** means the Stage 1 Licenced Area or the Stage 2 Licensed Area, or both, as the case may be.

**New Grandstand** means the new grandstand to be constructed on part of the Land (shown as "Stage 1 – Construction footprint of new facility" on the Plan) by the Town in accordance with plans approved in writing by the WCE and includes all fixtures, fittings and chattels to be installed in the new grandstand and any ancillary works including fencing, paving and landscaping.

**Outgoings** means:

- (a) All rates, taxes, charges and other similar expenses, refuse collection, and emergency services levies payable by WCE in relation to the Licensed Area (whether periodically or not); and

## CLAYTON UTZ

- (b) all utility usage charges including all gas, electricity, water and telecommunication charges relating to the Licensed Area.

**Party** means a party to this Licence.

**Permitted Use** means:

- (a) general construction purposes, delivery of materials, and access, in connection with the Works; and
- (b) all ancillary or incidental purposes including fencing, scaffolding, signage and hoardings, placement and use of plant, equipment and building materials.

**Plan** means the plan attached to this Licence at **Error! Reference source not found.**

**Practical Completion** means:

- (a) in relation to the Stage 1 Works, the date on which the Town's architect or contractor certifies the Stage 1 Works are practically complete, and the Town gives a copy of that certification to WCE; and
- (b) in relation to the Stage 2 Works, the date on which the Town's architect or contractor certifies the Stage 2 Works have been fully completed, and the Town gives a copy of that certification to WCE.

**Requirement** includes any requirement, notice, order, demand, direction, recommendation, request, stipulation or similar notification received from or given by any authority or pursuant to any Law whether in writing or otherwise and notwithstanding to whom such a Requirement is addressed or directed.

**Special Conditions** means the special conditions contained at **Error! Reference source not found.**

**Stage 1 Commencement Date** means the "Surrender Date" referred to in the Agreement for Partial Surrender of Lease N428022 entered into by the Parties before this Licence and being

**Stage 2 Commencement Date** means the date (which cannot be a date before Practical Completion of the Stage 1 Works occurs) on which the Town gives WCE written notice that the Town is ready to commence the Stage 2 Works.

**Stage 1 Licensed Area** means that part of the Land shown highlighted yellow on the Plan and marked "Indicative Stage 1 Construction Access Licence Area".

**Stage 2 Licensed Area** means that part of the Land shown highlighted red on the Plan and marked "Indicative Stage 2 Construction Access Licence Area".

**Stage 1 Works** means all works to be performed by the Town or any of the Town's Associates in respect of the design and construction of the New Grandstand, including paving and landscaping.

**Stage 2 Works** means all works to be performed by the Town or any of the Town's Associates to demolish and remove the Existing Grandstand, including paving and landscaping.

**Term** means:

- (a) for the Stage 1 Licensed Area, the period starting on the Stage 1 Commencement Date and ending on the first to occur of:

- (i) the date on which Practical Completion of the Stage 1 Works occurs; and
  - (ii) the date this Licence is terminated under clause **Error! Reference source not found.**; and
- (b) for the Stage 2 Licensed Area, the period starting on the Stage 2 Commencement Date and ending on the first to occur of:
- (i) the date on which Practical Completion of the Stage 2 Works occurs; and
  - (ii) the date this Licence is terminated under clause **Error! Reference source not found.**

**Town's Associates** means any officer, employee, agent, contractor, consultant, adviser or invitee of the Town (including subcontractors whether directly or indirectly engaged).

**WHS Legislation** means all Laws in connection with workplace health and safety including the Work Health and Safety Act 2020 (WA) and the Work Health and Safety (General) Regulations 2022 (WA).

**Works** means the Stage 1 Works and the Stage 2 Works.

**Works Site** means that part of the Land on which the Stage 1 Works and the Stage 2 Works are to be carried out.

## 1.2 Interpretation

In this Licence:

- (a) headings are for convenience only and do not affect interpretation;
- and unless the context indicates a contrary intention:
- (b) an obligation or liability assumed by, or a right conferred on, 2 or more parties binds or benefits all of them jointly and each of them severally;
  - (c) the expression **person** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
  - (d) a reference to any Party includes that Party's executors, administrators, successors and permitted assigns, including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
  - (e) a reference to any document (including this Licence) is to that document as varied, novated, ratified or replaced from time to time;
  - (f) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
  - (g) if a reference is made to any person, body or Authority and that person, body or Authority has ceased to exist, then the reference is deemed to be a reference to the person, body or Authority that then serves substantially the same objects as the person, body or Authority that has ceased to exist;

- (h) a reference to **writing** or **written** and any words of similar import include printing, typing, lithography and any other means of reproducing characters in tangible and visible form, including any communication effected through any electronic medium if such communication is subsequently capable of reproduction in tangible or visible form;
- (i) if the day or last day for doing anything or on which an entitlement is due to arise is not a Business Day, the day or last day for doing the thing or date on which the entitlement arises shall for the purposes of this Licence be the next Business Day;
- (j) words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;
- (k) references to parties, clauses, schedules, exhibits or annexures are references to parties, clauses, schedules, exhibits and annexures to or of this Licence, and a reference to this Licence includes any schedule, exhibit or annexure to this Licence;
- (l) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (m) the word **includes** in any form is not a word of limitation;
- (n) where a Party covenants, promises, undertakes or agrees to:
  - (i) perform; or
  - (ii) refrain from doing or carrying out,  
some act or thing that Party must:
    - (iii) procure that their respective officers, employees, agents, contractors, consultants, advisers and invitees perform such act or thing; or
    - (iv) refrain from so doing or carrying out such act or thing; and
- (o) a provision must not be interpreted to the disadvantage of a Party because that Party (or its representative) drafted that provision; and
- (p) a reference to **\$** or **dollar** is to Australian currency.

## 2. Grant of Licence

- (a) WCE grants to the Town, and the Town accepts, a non-exclusive licence for the Town and the Town's Associates to enter and remain on:
  - (i) the Stage 1 Licensed Area during the Stage 1 Term; and
  - (ii) the Stage 2 Licensed Area during the Stage 2 Term,  
solely for the Permitted Use.
- (b) WCE or its solicitors is authorised and directed to insert the Stage 1 Commencement Date in clause **Error! Reference source not found.** of this deed, when that date is known.

## 3. Licence Fee

The Town must pay the Licence Fee to WCE if and when demanded by WCE.



## 4. Rights in contract only

### 4.1 Rights in contract only

The rights conferred by this Licence are contractual only and are personal to the Town. Nothing in this Licence shall be construed as creating in or conferring upon the Town any tenancy or other estate or interest in or over the Licensed Area.

### 4.2 WCE can exercise rights

- (a) Subject to clause **Error! Reference source not found.**, WCE may at any time exercise all its rights over the Licensed Area as set out in the Lease, including its rights to use and enjoy the whole or any part of the Licensed Area without limitation.
- (b) WCE must not interfere with the reasonable use and enjoyment of the Licensed Area for the Permitted Use by or on behalf of the Town.

### 4.3 No assignment

The Town must not assign this Licence, grant any sub-licence, or otherwise transfer any of its rights under this Licence.

## 5. Use of Premises

### 5.1 Negative obligations

The Town must not:

- (a) use the Licensed Area for any purpose other than the Permitted Use without the prior written consent of WCE (which may be given or withheld in WCE's absolute discretion or given conditionally);
- (b) subject to clause **Error! Reference source not found.**, make any alteration or addition of any kind to the Licensed Area or any part of it without the prior written consent of WCE (which may be given or withheld in WCE's absolute discretion or given conditionally); or
- (c) allow any other person to enter onto or share occupation of the Licensed Area, except any of the Town's Associates engaged in conducting the Works.

### 5.2 Positive obligations

The Town at its cost must at all times during the Term:

- (a) do everything reasonably necessary to minimise annoyance, nuisance, damage, disturbance or other danger to the Licensed Area, persons, materials and equipment, or to the occupiers or owners of properties adjacent to or in the vicinity of the Licensed Area;
- (b) subject to the Permitted Use, keep the Licensed Area in a clean and safe condition and not permit any accumulation of rubbish in or about the Licensed Area;
- (c) regularly dispose of rubbish, waste and Contaminants on, in or about the Licensed Area, including any soil from earthworks in the Licensed Area;
- (d) keep the Licensed Area in good repair, maintenance and appearance;
- (e) assume liability for compliance with any Law or Requirement in relation to the Works that is made or issued on or after the Commencement Date;

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- (f) comply with any Approval;
- (g) operate and store all construction vehicles, machinery and other equipment on the Licensed Area in a safe manner;
- (h) from the Commencement Date, pay on time or reimburse to WCE on demand all Outgoings;
- (i) minimise any disruption or nuisance to WCE or other users of the Leased Premises including areas adjacent to the Licensed Area;
- (j) erect appropriate fences, hoardings, barriers, barricades and enclosures to prevent public access to the Licensed Area; and
- (k) ensure that all fences, hoardings, barriers, barricades or enclosures constructed on the Licensed Area comply with all Laws and Requirements.

### 5.3 Town warranty

The Town warrants that any person who carries out the Works in connection with the Permitted Use will be:

- (a) suitably qualified and experienced; and
- (b) licensed under all applicable Laws.

## 6. Works

### 6.1 General

The Town must carry out the Works:

- (a) in a proper and workmanlike manner; and
- (b) in accordance with:
  - (i) good building practice and applicable Australian building standards; and
  - (ii) all Laws and Requirements, including the Environmental Legislation and WHS Legislation; and
  - (iii) all restrictions affecting the Licensed Area or noted on any planning approvals applying to the Licensed Area or the Works.

### 6.2 Permits

- (a) The Town at its cost must obtain and keep current all permits, licences, consents and approvals from all relevant Authorities to carry out the Works.
- (b) Before commencing the Works, the Town must provide WCE with a copy of all documents referred to in clause **Error! Reference source not found.**

### 6.3 Contamination

The Town must:

- (a) not cause or permit any Contamination to be brought onto the Licensed Area, and land adjoining the Licensed Area or the Environment surrounding the Licensed Area;

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- (b) ensure that none of the Town's Associates causes or permits any Contamination to be brought onto the Licensed Area, and land adjoining the Licensed Area or the Environment surrounding the Licensed Area;
- (c) handle, store, dispose of, and clean up Hazardous Chemicals in accordance with:
  - (i) the manufacturer's instructions and recommendations; and
  - (ii) all Laws and Requirements;
- (d) if a spillage of Hazardous Chemicals occurs:
  - (i) immediately inform WCE and any Authority which must be informed under Environmental Legislation; and
  - (ii) take all necessary and reasonable steps to clean up the spillage as quickly as possible in accordance with best industry practices and reinstate the Licensed Area to its condition before the spillage;
- (e) indemnify WCE against any Claim that WCE may suffer or incur, including loss in value of the Licensed Area, as a result of any Contamination of the Licensed Area or any adjoining or nearby land, caused or contributed to by the Town or any of the Town's Associates; and
- (f) promptly carry out any remedial work following Contamination, which occurs after the Commencement Date and was not caused by WCE, required by the Environmental Legislation or any other Law and, if the Town fails to do so, WCE may carry out the required work at the Town's cost and expense.

## 7. No warranty as to use

### 7.1 No warranty

WCE gives no warranty either present or future as to the suitability of the Licensed Area or the use to which the Licensed Area may be put.

### 7.2 Town's knowledge

The Town accepts this Licence with full knowledge of, and subject to, any prohibitions or restrictions on the use of the Licensed Area from time to time under any Law or any Requirement and subject to the site conditions existing on the Commencement Date.

## 8. Damage to Licensed Area or Leased Premises

### 8.1 Notice of damage

The Town must give notice to WCE immediately if it becomes aware of any damage to the Licensed Area or Leased Premises.

### 8.2 Make good obligation

The Town must immediately make good any damage to the Licensed Area or Leased Premises caused by:

- (a) any act or omission of the Town's Associates; or
- (b) any breach or default by the Town under this Licence.

### 8.3 No claims about damage

- (a) The Town acknowledges and agrees that the Licensed Area is in a good state of repair and condition on the Commencement Date.
- (b) WCE is not required to carry out any works or repairs to any existing or future defect in the Licensed Area.

## 9. Risk

### 9.1 Licensed Area occupied at the Town's risk

- (a) The Town and the Town's Associates enter and use the Licensed Area at their own risk.
- (b) Except to the extent to which Claims arise out of the negligent or wilful act or omission of WCE or a person for whom WCE is responsible, the Town releases, to the full extent permitted by Law, WCE and its officers, employees, agents, contractors, consultants, advisers and invitees from all Claims of any kind resulting from any accident, damage or injury occurring on the Licensed Area during the Term.
- (c) Except to the extent to which Claims arise out of the negligent or wilful act or omission of WCE or a person for whom WCE is responsible, the Town acknowledges that WCE has no responsibility or liability for any loss or damage to the Town or the Town's Associates on the Licensed Area.

### 9.2 Indemnity

The Town indemnifies and must keep indemnified WCE and its officers, employees, agents, contractors, consultants, advisers and invitees from and against all Claims for which WCE shall or may be or become liable as a consequence of any act, default or omission by the Town or the Town's Associates or howsoever arising as result of the Town's or the Town's Associates' use of the Licensed Area, including, any breach of this Licence by the Town.

### 9.3 Insurance

- (a) Before commencing the Works, the Town must ensure that the following insurances are effected by the Town's Associates:
  - (i) public liability insurance for an amount of not less than \$20,000,000.00 for any one occurrence, and unlimited as to the number of claims;
  - (ii) motor vehicle insurance for an amount of not less than \$20,000,000.00;
  - (iii) workers compensation insurance for an amount of not less than \$50,000,000.00;
  - (iv) product liability insurance for an amount of not less than \$20,000,000.00 for any one occurrence, and unlimited as to the number of claims; and
  - (v) any other insurances required by Law or which WCE reasonably considers desirable or necessary in relation to the Licensed Area or which, in WCE's reasonable opinion, a prudent licensee of good financial standing would take out, for the amounts reasonably required by WCE.
- (b) The insurance policies referred to in clause **Error! Reference source not found.** must be in place before the Commencement Date and must be maintained until completion of the Works.

- (c) The Town must give WCE a copy of the certificates of currency for the insurance policies before commencing the Works.

## 10. Work health and safety

- (a) The Town agrees that for the purposes of the WHS Legislation, the Town has the day to day control of the Licensed Area and must take all reasonable precautions to ensure the safety and health of each person who may be affected by the Licensed Area and the use of it by the Town and the Town's Associates.
- (b) The Town releases and indemnifies and agrees to keep indemnified WCE from and against all Claims for or in respect of which WCE is or may become liable by reason of the WHS Legislation in respect of the Licensed Area or its use except to the extent caused by the negligence or default of WCE or its servants, agents and contractors.

## 11. Disclaimer

### 11.1 WCE not responsible for loss

WCE is not responsible for any loss, damage or injury to the Town or to any Town's Associates caused by any defect in the Licensed Area.

### 11.2 No Claims

The Town must not make any Claim against WCE in respect of such loss, damage or injury.

## 12. Breach and termination

- (a) If the Town breaches any term or condition of this Licence, WCE may give the Town written notice containing details of the breach and requiring the breach to be remedied within a specified period being at least 14 days (**Breach Notice**).
- (b) If the Town does not remedy the breach or breaches within the time specified in the Breach Notice, WCE may terminate this Licence by written notice to the Town.

## 13. Make good obligations

- (a) In this clause, **Make Good Works** means:
  - (i) removing any and all of the Town's or the Town's Associates property brought onto the Licensed Area;
  - (ii) returning the Licensed Area to the same condition as it was in immediately before the commencement of the Term or such other condition as reasonably required by WCE;
  - (iii) reinstating existing surfaces and finishes within the Licensed Area to WCE's satisfaction; and
  - (iv) repairing any damage to the Licensed Area or the Lease Premises caused by the Works to WCE's satisfaction.
- (b) The Town must:
  - (i) vacate and yield up to WCE the Stage 1 Licensed Area at the end of the Term applicable to the Stage 1 Licensed Area;

- (ii) vacate and yield up to WCE the Stage 2 Licensed Area at the end of the Term applicable to the Stage 2 Licensed Area; and
- (iii) undertake the Make Good Works before doing so.

## 14. Notices

### 14.1 Form and address

A notice or other communication given by a Party under this Licence:

- (a) must be in writing;
- (b) may be given by a Party or any authorised officer of that party or its solicitor or agent; and
- (c) is sufficiently served on a Party if:
  - (i) left at the address of the addressee;
  - (ii) sent by regular or priority post, or by express post, or by registered post to the address of the addressee; or
  - (iii) sent by email to a Party's email address,in each case as set out below, or to any other postal or email address previously notified to the sender.

### 14.2 When notice is taken as received

A notice is taken to be received:

- (a) if left at the address of the addressee, at the time it is left;
- (b) if sent by regular or priority post, or by express post, or by registered post, on the third day after posting; and
- (c) if sent by email, at the time the email was sent, unless:
  - (i) the sender is aware that the transmission is impaired; or
  - (ii) it is sent:
    - A. on a day which is not a Business Day; or
    - B. after 5.00pm,in the place of receipt, in which case it is taken as given at 9.00am on the next Business Day in the place of receipt.

#### If to WCE:

Attention: Richard Godfrey – Chief Operating Officer

Email: richardg@wce.com.au

#### If to the Town:

**Town to provide details**

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Attention: [insert]

Email: [insert]

### 14.3 Other forms of communication

The Parties agree that in the event of an emergency:

- (a) communication may be made by SMS or mobile to the mobile number specified below.

**If to WCE:**

Contact: Peter Souris – Club Operations Manager

Mobile: 0411 057 210

**If to the Town:**

Contact: [insert name]

Mobile: [insert]

- (b) The Parties further agree that any communication made to a Party in accordance with clause 14.3 **Error! Reference source not found.**:

(i) does not constitute as notice having been deemed duly served; and

(ii) notice must still be given,

in accordance with clause **Error! Reference source not found.**

## 15. Relationship of the Parties

- (a) Nothing contained in this Licence, whether express or implied, shall be read or construed so as to operate to place the Town and WCE in the relationship of a partnership or joint venturers, and it is hereby agreed and acknowledged that each of the parties are independent contracting parties.
- (b) No pPrty shall have any authority or power for or on behalf of any other party to enter into contracts, to pledge any credit, to incur any liabilities, to, assume any obligations or to make any warranties or representations whatsoever without the previous written consent of that other party, or as otherwise expressly provided in this Licence.

## 16. General

### 16.1 Legal and other costs

The Town must pay WCE's reasonable costs and expenses (including legal costs and expenses) in connection with preparing, negotiating, and executing this Licence.

### 16.2 Stamp duty

The Town is liable for and must pay any duty assessed on this Licence under the Duties Act 2008 (WA).

**16.3 Governing law**

This Licence is governed by the law of Western Australia and the Parties submit to the non-exclusive jurisdiction of the Courts of that State.

**16.4 Counterparts**

This Licence may be executed in any number of counterparts and by the Parties on separate counterparts. Each counterpart constitutes an original of this Licence, and all together constitute one agreement.

**16.5 Further assurances**

Each Party must sign any document and do anything else reasonably necessary to give effect to the terms of this Licence.

**16.6 No warranties**

The Parties agree that:

- (a) no information, representation or warranty by the Parties or their respective employees or agents was supplied or made with the intention or knowledge that it would be relied upon in entering into this Licence; and
- (b) no information, representation or warranty has been relied upon by a Party in entering into this Licence.

**16.7 Waiver**

No waiver by a Party of a breach by the other Party of any obligation, provision or condition of this Licence expressed or implied shall operate as a waiver to or of any other breach of the same or any other obligation, provision or condition of this Licence expressed or implied.

**16.8 Severance**

If any provision or part of a provision of this Licence is or becomes illegal, invalid or unenforceable it will be severed to ensure the effectiveness, validity or enforceability of the remainder of the Licence is not affected.

**16.9 No merger**

Any provision of this Licence that is capable of having effect after the termination or expiry of this Licence survives the termination or expiry and continues to bind the Parties until it is satisfied or completed.

**16.10 Indemnities**

- (a) Each indemnity in this Licence is a continuing obligation, separate and independent from the other obligations of the Parties, and survives termination or expiration of this Licence.
- (b) It is not necessary for a Party to incur expense or to make any payment before enforcing a right of indemnity conferred by this Licence.
- (c) A Party must pay on demand any amount it must pay under an indemnity in this Licence.



## **17. GST**

### **17.1 Amounts exclude GST**

Any amounts referred to in this Licence exclude GST unless otherwise expressly stated to the contrary and all amounts payable or consideration to be provided under this Licence are exclusive of GST.

### **17.2 Responsibility for GST**

Despite any other provision in this Licence, if GST is imposed on any supply made by the supplier under this Licence the recipient must pay to the supplier an amount equal to the GST payable on the supply subject to receiving a tax invoice.

## **18. Special Conditions**

- (a) The Special Conditions are incorporated into and form part of this Licence.
- (b) Each Party must perform and observe its respective obligations contained in the Special Conditions.
- (c) The Special Conditions prevail over the other terms of this Licence to the extent of any inconsistency between the Special Conditions and the other terms of this Licence.

CLAYTON UTZ

**Executed** as a deed.

**Executed by Indian Pacific Limited ABN 31 009 178 894** in accordance with section 127 of the Corporations Act 2001 (Cth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of above signatory

\_\_\_\_\_  
Full name of above signatory

**EXECUTED by TOWN OF VICTORIA PARK** in accordance with section 9.49A(4) of the Local Government Act 1995 by its Chief Executive Officer who is authorised to execute this deed:

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Full Name of Chief Executive Officer (print)

## Annexure A - Special Conditions

In these Special Conditions:

- (a) **Oval 1** has the same meaning as in the Lease.
- (b) **User** means WCE, WCE's officers, employees, agents, contractors, consultants or invitees, and any sporting team or authority associated with the AFL, WAFL or AFLW, and any other persons nominated by WCE from time to time.

### 1. Cooperation

The parties must cooperate with one another and act reasonably at all times having regard to their shared objectives of the Town constructing the New Grandstand and the continued operation of WCE's usual activities at the Leased Premises.

### 2. Construction of Works Site fence

- (a) Before commencement of the Works, the Town must ensure that a construction footprint fence is built around the perimeter of the Stage 1 Works and the Stage 2 Works (**Footprint Fence**) to separate the applicable Works Site from Oval 1.
- (b) The Footprint Fence must be built in accordance with the following specifications:
  - (i) to be of abnormal height and at least double the height of a normal temporary chainmesh fence;
  - (ii) shrouded in dust proof mesh;
  - (iii) to be setback a minimum of 1.2m from the Oval 1 playing surface boundary fence;
  - (iv) comply with Australian Standards AS1428; and
  - (v) otherwise accommodate WCE's reasonable and practicable specifications.
- (c) The Town must consult with WCE as to any proposed treatment of the ground surface between the Footprint Fence and the Oval 1 playing surface boundary fence to ensure that it remains safe for spectators and other visitors to traverse during User matches and associated events.
- (d) Any treatment to the ground surface mentioned at 2(c) must also take into account access for any emergency/medical situations (e.g. paramedic, gurney, etc.)

### 3. User access on training days

- (a) Users do not require access between the Oval 1 playing surface boundary fence and the Footprint Fence on training days.
- (b) WCE must give the Town (and the Town's Associates as nominated by the Town) the training schedules of each User as soon as reasonably practicable once those training schedules are known. The parties acknowledge that weekly training schedules will only be confirmed 1 week prior to any training actually taking place.

#### 4. User access on match days

- (a) On any day that is designated by the WCE to be a match day, and when special events are held on Oval 1, from 6:00am until such time as notified by WCE, the Town must ensure that:
  - (i) Users have unimpeded access:
    - A. between the Oval 1 playing surface boundary fence and the Footprint Fence, and
    - B. to the Oval 1 northern undercover tiered seating structure, ;
  - (ii) there are no sounds emanating from the construction area or the Licenced Area that may in the opinion of the WCE interfere with the running or management of a match or a special event, including without limitation sirens, beeping or whistling; and
  - (iii) there is no construction noise sounds emanating from the construction area or the Licenced Area that in the opinion of the WCE would interfere with the match broadcast or any media commentary.
- (b) WCE must provide the Town (and the Town's Associates as nominated by the Town) all match day fixtures as soon as they are announced by the relevant authority.
- (c) The Parties acknowledge that match day fixtures are likely to be announced by the relevant authority sometime around May/June for AFLW, and late October for men's league and January for WAFL.

#### 5. WCE asset protection and access

##### Oval 1 North-west light tower

- (a) The Town must ensure that WCE is given ongoing and unrestricted access to the Oval 1 North-west light tower (**Tower**).
- (b) During the Term, the Town must:
  - (i) consult WCE on how the Tower is to be protected during the carrying out of the Works; and
  - (ii) confirm as soon as possible whether the Tower is within the proposed construction footprint or Licenced Area.

##### Tower distribution box

- (a) The Town must ensure that WCE is given ongoing and unrestricted access to the Tower distribution box.
- (b) The Town must consult WCE on how Tower distribution box is to be protected during carrying out of the Works.

##### Entry/exit locations

The Town must procure installation of rubber matting or similar material to be placed on and around the entry/exit location from the Licenced Area to assist with the removal of sand and/or construction materials from player boots/shoes.

##### Advertising/logos

- (a) If the Town or Town's Associates propose to have any advertising or logos on display in or on the Works Site, Licensed Area, or Footprint Fence, the Town must ensure that:
  - (i) the advertising or logos do not conflict with any WCE or AFL sponsorship arrangements; and
  - (ii) the Town consults with WCE before any advertising or logos are displayed.
- (b) Despite paragraph (a), if WCE considers that any advertising or logos on the Footprint Fence conflict with any WCE or AFL sponsorship arrangements, WCE may place coverings over or otherwise conceal the advertising or logos on the Footprint Fence on WCE match days or training days.

## 6. Other general obligations

- (a) The Town must ensure that the Town's Associates entering the Works Site do not film or photograph West Coast Eagles training or matches, and that they must (before entering the Works Site) give a written acknowledgement to that effect to WCE in a form reasonably required by WCE.
- (b) The Leased Premises are a smoke free area. The Town must ensure that the Town's Associates do not smoke (whether by cigarettes, vapes, or otherwise) within any part of the Licensed Area, the Leased Premises, or the access area between the Footprint Fence and the Oval 1 boundary fence.
- (c) The Town must ensure that Perth Football Club and its officers, employees, agents, contractors, consultants and invitees, at all times have direct and unimpeded access from their building onto the Oval 1 playing surface.
- (d) The Town must ensure that the Town and the Town's Associates do not park or leave any vehicles on the Licensed Area or the Leased Premises without the express written permission of the WCE.
- (e) The Town must ensure that construction machinery and equipment (including cranes) do not protrude:
  - (i) from outside the Works Site; or
  - (ii) over or above Oval 1,whenever Users are on Oval 1.
- (f) The Town acknowledges and agrees that:
  - (i) WCE may at times use drones to film football training;
  - (ii) the Land is within a flight path and the proximity zone to the Perth Airport; and
  - (iii) this prohibits the use of any drone which weighs more than 250g.
- (g) WCE and the Town must work in good faith to agree on protocols for the return of any footballs which are accidentally kicked within the Licensed Area. Any discussions and agreement must also include a properly appointed person of the Town or the Town's Associates to attend to returning footballs outside of any construction hours or non-work days.

Annexure B - Plan of Stage 1 Licensed Area and Stage 2 Licensed Area

Commented [TC1]: Plan to be updated following survey.

