



## Licence VC Mitchell Park – Pavilion 2

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Shire of Donnybrook Balingup

Donnybrook Tennis Club Incorporated

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## Details

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### Parties

#### Shire of Donnybrook-Balingup

of PO Box 94, Donnybrook, Western Australia 6239  
(Licensor)

#### Donnybrook Tennis Club Incorporated

Registration Number 82609706374  
of PO Box 197, Donnybrook, Western Australia 6239  
(Licensee)

### Background

- A     The Licensor has the care, control and management of the Land pursuant to a management order.
- B     The Licensor has agreed to licence and the Licensee has agreed to take a licence of the Licensed Premises upon the terms and conditions contained in this licence.

## Agreed terms

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### 1. Definitions

Unless otherwise required by the context or subject matter the following words have these meanings in this Licence:

**Agreed Hours** means the times that the Licensee may utilise the Licensed Premises under the terms of this Licence, as specified in **Item 3** of the Schedule;

**Amounts Payable** means the Licence Fee and any other money payable by the Licensee under this Licence;

**Centre** means the centre or the building where the Licensed Premises are located;

**CEO** means the Chief Executive Officer for the time being of the Licensor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Licence;

**Licensor's Covenants** means the covenants, agreements and obligations set out or implied in this Licence, or imposed by law to be performed and observed by the Licensor;

**Commencement Date** means the date of commencement of the Term specified in **Item 6** of the Schedule;

**Common Areas** means all those parts of the Centre not exclusively leased or licensed to any tenant and intended for use by the tenants, licensees and/or users of the Centre and their respective invitees in common with each other including all parking areas, roads, walkways, kitchens, corridors, passageways, stairways, elevators, toilets and washrooms in on or about the centre and/or building;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**CPI Review** means the licence fee process described in **clause 3.2(2)**;;

**Further Term** means the further term (if any) specified in **Item 5** of the Schedule;

**GST** has the meaning that it bears in the GST Act;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Licensor's general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Licence** means this deed as supplemented, amended or varied from time to time;

**Licence Fee** means the Licence Fee specified in **Item 7** of the Schedule as varied from time to time under this Licence;

**Licensed Premises** means the premises described in **Item 2** of the Schedule;

**Licensee's Agents** includes:

- (a) the employees, officers, agents, contractors, invitees and licensees of the Licensee; and
- (b) any person on the Licensed Premises by the authority of a person specified in paragraph (a);

**Licensee's Covenants** means the covenants, agreements and obligations set out or implied in this Licence or imposed by law to be performed and observed by the Licensee;

**Licensee's Share** means the proportion that the area of the Licensed Premises bears to the total area of other premises which enjoy or share a benefit resulting from the relevant Non-specific Outgoing and where relevant taking into account the type of outgoing, adjusted by the Licensor (acting reasonably) to take into account relative usage by each tenant or user enjoying that benefit;

**Minister for Lands** means the Minister for Lands in her or his capacity as the body corporate constituted under section 7 of the *Land Administration Act 1997*;

**Notice** means each notice, demand, consent or authority given or made to any person under this Licence;

**Non-specific Outgoings** means all costs the Licensor incurs in relation to the use, conduct, operation, repair and maintenance of the Land, the Centre and/or the Common Areas (whether or not by direct charge or assessment and determined by reference to the amounts paid by the Licensor or if payment has not then been made by reference to the relevant invoice, assessment or statement of liability received by the Licensor or, if none has been received, by reference to the relevant third party agreement which creates the Licensor's obligation to pay) including:

- (a) rates or assessments or other fees payable to an authority (for example water rates, electricity, gas, sewerage);
- (b) costs relating to the provision of water, gas, electricity, telephone, power, and other services;
- (c) costs the Licensor incurs in the maintenance of and repairs to the Land and the Centre;
- (d) costs of operating, repairing, and servicing any mechanical services;
- (e) costs relating to cleaning, pest control, liquid removal, waste removal and fire prevention for the Land and the Centre;
- (f) costs of heating and air conditioning for the Land and the Centre (including costs of repairs and maintenance);

BUT does not include:

- (i) any costs due solely to the Licensee's use of the Licensed Premises;
- (ii) any costs due solely to any other tenant's use of its premises; and
- (iii) expenditure on capital account or of a capital nature;

**Party** means the Licensor or the Licensee according to the context;

**Permitted Purpose** means the purpose set out in **Item 8** of the Schedule;

**Schedule** means the Schedule to this Licence;

**Term** means the term of years specified in **Item 4** of the Schedule and any Further Term; and

**Termination** means the date of:

- (a) expiry of the Term or any Further Term by effluxion of time;
- (b) sooner determination of the Term or any Further Term; or
- (c) determination of any period of holding over; and

**Written Law** includes all acts and statutes (State or Federal) for the time being enacted and all regulations, schemes, ordinances, local laws, by-laws, requisitions, orders or statutory instruments made under any Act from time to time by any statutory, public or other competent authority.

## 2. Grant of licence

### 2.1 Grant of licence

- (1) **Subject to paragraph (2),** the Licensors grants a licence to the Licensee to use the Licensed Premises for the Agreed Hours for the Term, on the terms and conditions provided for in this Licence.

- (2) This Licence is subject to and conditional on the approval of the Minister for Lands under the *Land Administration Act 1997*. The parties acknowledge that the Minister for Lands' consent to this Licence annexed hereto as **Annexure 2**.

### 2.2 Agreed Hours

- (1) The Licensee's use of the Licensed Premises is strictly limited to the Agreed Hours.
- (2) The Licensee may only use the Licensed Premises outside the Agreed Hours with the written consent of the Licensors, which consent shall be subject to the Licensee giving the Licensors seven (7) days written notification of such request and the Licensors having no existing commitment with any other licensee or person. The Licensors' normal hire fees may apply for such additional use; however, the Parties acknowledge and agree that terms and conditions of this Licence will apply to such additional use of the Licensed Premises.
- (3) If the Licensee uses the Licensed Premises outside of the Agreed Hours without the prior consent of the Licensors, the Licensors may issue the Licensee an invoice for such use in accordance with its normal fees and charges and the Licensee must pay such fee within 14 days of receipt.

## 3. Licence Fee and other Payments

### 3.1 Licence Fee

The Licensee covenants with the Licensors to pay to the Licensors the Licence Fee in the manner set out at **Item 7** of the Schedule on and from the Commencement Date clear of any deductions.

### 3.2 Licence Fee Review

The Licence Fee will be reviewed for each of the years of the Term (including any period of holding over) on the dates specified in **Item 10.** of the Schedule. The reviewed Licence Fee will be determined by upon the basis of the minimum Gross Rental Value each financial year as adopted by the Licensor in its annual Budget.

### 3.3 Outgoings

- (1) The Licensee covenants with the Licensor to pay to the Licensor or to such person as the Licensor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Licensed Premises:
  - (a) auxiliary power supply and costs;
  - (b) consumables;
  - (c) charges for sewerage disposal;
  - (d) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges
  - (e) rubbish and recycling collection charges;
  - (f) telephone, electricity, gas and other power and light charges and including but not limited to meter rents and the cost of installation of any meter, wiring or connections AND where possible the Licensee shall ensure that any accounts for all charges and outgoings in respect of telephone, electricity, gas and other power and light charges are taken out and issued in the name of the Licensee; and
  - (g) excesses arising from the building insurance obtained by the Licensor in respect of the Licensed Premises.
  - (h) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Licensee's use and occupation of the Licensed Premises.
- (2) If the Licensed Premises are not separately charged or assessed the Licensee will pay to the Licensor a proportionate part of any charges or assessments referred to paragraph (1) above, being the proportion that the Licensed Premises bears to the total area of the land or premises included in the charge or assessment, and in relation to such charges the Licensor may for such outgoings to be paid in advance by way of instalments.

### 3.4 Non-specific Outgoings

- (1) The Licensee must pay the Licensor the Licensee's Share of each Non-specific Outgoing on a quarterly basis.
- (2) The Licensee must pay the Licensor the Licensee's Share of the Non-Specific Outgoings no later than 1 month after the Licensor gives the Licensee a notice asking for payment.
- (3) The Licensor agrees to provide the Licensee with a written statement detailing all of the Licensor's expenditure on account of Non-Specific Outgoings to which the Licensee is liable to contribute, and the Licensee's Share of such outgoings.

- (4) The parties acknowledge and agree that the Licensee's Share and other tenants share towards the Non-Specific Outgoings may take into account relative use by each tenant, and in that regard the Licensee agrees to provide the Licensee with all relevant information in respect of the Licensee's use (including operating hours and use) of the Licensed Premises to permit the Licensor to make any necessary adjustments in relation to relative use.
- (5) Notwithstanding any other provision of this Licence, in the event that the Licensor determines (acting reasonably), at any time during the Term, that the methodology as set out in this Licence for the sharing or recovery of Non-specific outgoings for the Land and/or Centre does not appropriately reflect tenants' respective consumption or use of the Land and/or Centre, the Licensor may upon three months' written notice to the Licensee outlining the changes to the cost sharing arrangements.

### **3.5 Interest**

Without affecting the rights, power and remedies of the Licensor under this Licence, the Licensee covenants to pay to the Licensor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

### **3.6 Costs**

- (1) The Licensee covenants with the Licensor to pay to the Licensor all costs, legal fees, disbursements, and payments incurred by or for which the Licensor is liable in connection with or incidental to:
  - (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Licence;
  - (b) any breach of covenant by the Licensee or the Licensee's Agents
  - (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Licensee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
  - (d) any work done at the Licensee's request; and
  - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 3.6** or any matter arising out of this Licence.

### **3.7 Payment of money**

Amounts Payable to the Licensor under this Licence must be paid to the Licensor at the address of the Licensor referred to in this Licence or as otherwise directed by the Licensor by Notice from time to time.

### **3.8 Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## 4. Insurance

### 4.1 Insurance to be effected

The Licensee must effect and maintain with insurers approved by the Licensors (noting the Licensors' and the Licensee's respective rights and interest in the Licensed Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out **Item 9** of the Schedule in respect of any one claim or such greater amount as the Licensors may from time to time reasonably require;
- (b) insurance to cover the Licensee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Licensee can and does ordinarily insure in their full replacement value, and loss from theft or burglary; and
- (c) a policy of employers' indemnity insurance, including workers' compensation insurance, against any liability under common law or statute to pay damages to an employee in respect of all employees of the Licensee employed in, about or from the Licensed Premises.

### 4.2 Licensors to obtain building insurance

The Licensors shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Land and/or Centre against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks.

### 4.3 Details and receipts

In respect of the insurances required to be obtained by the Licensee pursuant to this clause the Licensee must:

- (a) on demand supply to the Licensors details of the insurances and give to the Licensors, annually, copies of the certificates of currency in relation to those insurances;
- (b) promptly pay all premiums and produce to the Licensors each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (c) notify the Licensors immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

#### **4.4 Not to invalidate**

The Licensee must not do or omit to do any act or thing or bring or keep anything on the Licensed Premises which might:

- (a) render any insurance effected under this clause, or any insurances on adjoining premises, void or voidable; or
- (b) cause the rate of a premium for the Licensed Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium) to be increased.

#### **4.5 Report**

Each Party must report to the other promptly in writing, and in addition verbally in an emergency:

- (a) any damage to the Licensed Premises of which they are aware; and
- (b) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Licensed Premises or to any person in or on the Licensed Premises.

#### **4.6 Settlement of claim**

The Licensors may, but the Licensee may not without prior written consent of the Licensors, settle or compromise any claims under any policy of insurance required by this clause.

#### **4.7 Licensors as attorney**

The Licensee irrevocably appoints the Licensors as the Licensee's attorney during the Term:

- (a) in respect to all matters and questions which may arise in relation to any insurances required by this clause;
- (b) with full power to demand, sue for and recover and receive from any insurance company or society or person liable to pay the insurance money as are payable for the risks covered by the insurances required by this clause;
- (c) to give good and effectual receipts and discharges for the insurance; and
- (d) to settle, adjust, arbitrate and compromise all claims and demands and generally to exercise all powers of absolute owner.

#### **4.8 Licensee's equipment and possessions**

The Licensee acknowledges it is responsible to obtain all relevant insurances to cover any damage and/or theft to its property. The Licensors do not take any responsibility for the loss or damage of the Licensee's property.

## 5. Indemnity

### 5.1 Licensee responsibilities

The Licensee is responsible and liable for all acts or omissions of the Licensee's Agents on the Licensed Premises and for any breach by them of any covenants or terms in this Licence required to be performed or complied with by the Licensee.

### 5.2 Indemnity

- (1) The Licensee indemnifies, and shall keep indemnified, the Licensor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Licensor and/or the Minister for Lands, or brought, maintained or made against the Licensor and/or the Minister for Lands, in respect of:

- (a) any loss whatsoever (including loss of use);
- (b) injury or damage of, or to, any kind of property or thing; and
- (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (d) the use or occupation of the Licensed Premises by the Licensee or the Licensee's Agents;
- (e) any work carried out by or on behalf of the Licensee on the Licensed Premises;
- (f) the Licensee's activities, operations or business on, or other use of any kind of, the Licensed Premises;
- (g) any default by the Licensee in the due and punctual performance, observance and compliance with any of the Licensee's covenants or obligations under this Licence; or
- (h) an act or omission of the Licensee.

### 5.3 Obligations continuing

The obligations of the Licensee under this clause:

- (a) are unaffected by the obligation of the Licensee to take out insurance, and the obligations of the Licensee to indemnify are paramount, however if insurance money is received by the Licensor for any of the obligations set out in this clause then the Licensee's obligations under **clause 5.2** will be reduced by the extent of such payment; and
- (b) continue after the expiration or earlier determination of this Licence in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Licence.

## **5.4 No indemnity for Lessor's negligence**

The parties agree that nothing in this clause shall require the Licensee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

## **5.5 Release**

(1) The Licensee:

- (a) agrees to use the Licensed Premises at the risk of the Licensee; and
- (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
  - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Licensed Premises or arising from the Licensee's use or occupation of the Licensed Premises by the Licensee; and
  - (ii) loss of or damage to the Licensed Premises or personal property of the Licensee; and

except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

(2) The release by the Licensee continues after the expiration or earlier determination of this Licence in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Licence.

## **5.6 Limit of Lessor's liability**

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Licence which occur while the Lessor is the management body or registered proprietor of the Licensed Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

# **6. Condition of Licensed Premises**

## **6.1 Condition of Licensed Premises**

The Licensed Premises are made available to the Licensee in the condition that they are in at the Commencement Date.

## **6.2 Maintenance and Cleaning**

- (1) The Licensee must keep the Licensed Premises clean, tidy and free from rubbish.
- (2) The Licensee in common with other users of the Licensed Premises must keep Common Areas clean, tidy and free from rubbish.

- (3) The Licensee must leave the Licensed Premises and Common Areas at the end of each period of use in the condition those areas were in at the beginning of the period of use.

### **6.3 Damage to the Licensed Premises**

- (1) The Licensee must report to the Licensors any damage to the Licensed Premises, the Centre and/or Common Areas, or any of the equipment, facilities and services provided by the Licensors, sustained during the Licensee's use of the Licensed Premises immediately upon becoming aware of the damage.
- (2) The Licensee must pay to the Licensors the cost of repairing and making good any damage of the type referred to in paragraph (1) above where such damage is caused whether directly or otherwise by the Licensee or the Licensee's Agents, including the cost of labour and materials and replacement equipment, and must if required by the Licensors, itself repair and make good any such damage.
- (3) The Licensee must pay to the Licensors costs incurred by the Licensors in repairing and making good of any such damage.

### **6.4 Security of Licensed Premises**

- (1) The Licensee must ensure that the building or buildings, and all of the Licensors's fixtures and fittings, are appropriately secured at all times during the Agreed Hours and at the conclusion of the Agreed Hours.
- (2) The Licensee will be responsible for any loss or damage to the Licensed Premises, and the Licensors's fixtures and fittings during the Agreed Hours and at the conclusion of the Agreed Hours, to the extent that any loss or damage was caused or contributed by an act or omission of the Licensee.
- (3) The Licensee covenants and agrees to pay to the Licensors or to such person as the Licensors may from time to time direct any security charges or call out charges which, in the Licensors's reasonable opinion, relate to the Licensee, the Licensee's Agents or the Licensee's use of the Licensed Premises.
- (4) The Licensee must not copy any key, or other security device, and must account for all keys and security devices upon Termination of this Licence.

### **6.5 Return of Licensed Premises to Licensors at conclusion of each period of use**

- (1) The Licensee must vacate the Licensed Premises and remove all of the Licensee's equipment at the conclusion of each period of use, unless the Licensors otherwise agrees that such equipment may remain.
- (2) The Licensee must leave the Licensed Premises in a clean, safe and proper condition and the conclusion of each period of use.
- (3) Where the Licensee fails to remove its equipment, the Licensors may store such equipment at the Licensee's cost and the Licensee acknowledges and agrees that the Licensors may dispose of such equipment where the Licensee fails to collect such equipment within a reasonable period of time.

## 7. No Alterations without prior written consent

The Licensee must not make any alterations to the Licensed Premises or install any fixtures, partitions, fittings, signs or advertisements without the prior written permission of the Licensor, which may be withheld at the absolute discretion of the Licensor.

## 8. Use

### 8.1 Restrictions on use

The Licensee must not and must not suffer or permit a person to:

- (a) (i) use the Licensed Premises or any part of it for any purpose other than the Permitted Purpose; or
- (ii) use the Licensed Premises for any purpose which is not permitted under any local planning scheme or any law relating to health;
- (b) do or carry out on the Licensed Premises any harmful, offensive or illegal act, matter or thing;
- (c) do or carry out on the Licensed Premises any thing which causes a nuisance, damage or disturbance to the Licensor or to owners or occupiers of adjoining properties;
- (d) store any dangerous compound or substance on or in the Licensed Premises;
- (e) do any act or thing which might result in excessive stress or harm to any part of the Licensed Premises;
- (f) display from or affix any signs, notices or advertisements on the Licensed Premises without the prior written consent of the Licensor;
- (g) to use or allow the Licensed Premises to be used for the consumption of alcohol without first obtaining the written consent of the Licensor; or
- (h) use the Licensed Premises as the residence or sleeping place of any person or for auction sales.

### 8.2 Sale of alcohol

The Licensee must not sell or supply liquor from the Licensed Premises or allow liquor to be sold or supplied from the Licensed Premises without the prior written consent of the Licensor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Liquor Licensing Regulations 1989* and *Food Act 2008* and any other relevant written laws that may be in force from time to time.

### 8.3 No warranty

The Licensor gives no warranty:

- (a) as to the use to which the Licensed Premises may be put; or

- (b) that the Licenser will issue any consents, approvals, authorities, permits or licences required by the Licensee under any statute for its use of the Licensed Premises.

#### **8.4 Licensed Premises subject to restriction**

The Licensee accepts the Licensed Premises for the Term subject to any existing prohibition or restriction on the use of the Licensed Premises.

#### **8.5 Indemnity for costs**

The Licensee indemnifies the Licenser against any claims or demands for all costs, on a solicitor client basis, incurred by the Licenser by reason of any claim in relation to any matters set out in this this clause.

### **9. Entry and Inspection**

The Licensee must permit the Licenser to enter the Licensed Premises at any reasonable time to inspect and view the area, to carry out any maintenance work or to rectify any breach of the conditions of this Licence.

### **10. Statutory obligations and notices**

#### **10.1 Comply with statutes**

The Licensee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Licensed Premises, including without limitation all relevant laws relating to occupational health and safety and the health and safety of all persons entering upon the Licensed Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the Permitted Purpose;
- (c) comply with all relevant state and commonwealth law and all relevant codes, including without limitation the Building Code of Australia, and all relevant standards published by Standards Australia;
- (d) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Licensed Premises; and
- (e) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Licensed Premises or to the business the Licensee carries on at the Licensed Premises.

## 10.2 Safety and testing obligations

The Licensee acknowledges and agrees that it is fully responsible at its cost for ensuring that any the Licensee's fixtures or fittings located on the Licensed Premises, are regularly tested, maintained and inspected to ensure that such fixtures and fittings comply with all statutory requirements and are safe for use.

## 10.3 Indemnity if Licensee fails to comply

The Licensee indemnifies the Licenser against:

- (a) failing to perform, discharge or execute any of the items referred to in **clauses 10.1 and 10.2**; and
- (b) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clauses 10.1 and 10.2**.

## 10.4 No fetter

Notwithstanding any other provision of this Licence, the Parties acknowledge that the Licenser is a local government established by the *Local Government Act 1995*, and in that capacity, the Licenser may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any written law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Licenser shall not be taken to be in default under this Licence by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Licence fetter the Licenser in performing its statutory obligations or exercising any discretion.

# 11. Report to Licenser

The Licensee must immediately report to the Licenser:

- (a) any act of vandalism or any incident which occurs on or near the Licensed Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Licensee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Licensed Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Licensed Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Licensee and which affect the Licensed Premises and immediately deliver them to the Licenser.

## 12. Condition of Licensed Premises

### 12.1 Condition of Licensed Premises

The Licensed Premises are made available to the Licensee in the condition that they are in at the Commencement Date.

### 12.2 Maintenance and Cleaning

- (1) The Licensee must keep the Licensed Premises clean, tidy and free from rubbish.
- (2) The Licensee in common with other users of the Licensed Premises must keep Common Areas clean, tidy and free from rubbish.
- (3) The Licensee must leave the Licensed Premises and Common Areas at the end of each period of use in the condition those areas were in at the beginning of the period of use.

### 12.3 Damage to the Licensed Premises

- (1) The Licensee must report to the Licensor any damage to the Licensed Premises, the Centre and/or Common Areas, or any of the equipment, facilities and services provided by the Licensor, sustained during the Licensee's use of the Licensed Premises immediately upon becoming aware of the damage.
- (2) The Licensee must pay to the Licensor the cost of repairing and making good any damage of the type referred to in paragraph (1) above where such damage is caused whether directly or otherwise by the Licensee or the Licensee's Agents, including the cost of labour and materials and replacement equipment, and must if required by the Licensor, itself repair and make good any such damage.
- (3) The Licensee must pay to the Licensor costs incurred by the Licensor in repairing and making good of any such damage.

### 12.4 Security of Licensed Premises

- (1) The Licensee must ensure that the building or buildings, and all of the Licensor's fixtures and fittings, are appropriately secured at all times during the Agreed Hours and at the conclusion of the Agreed Hours.
- (2) The Licensee will be responsible for any loss or damage to the Licensed Premises, and the Licensor's fixtures and fittings during the Agreed Hours and at the conclusion of the Agreed Hours, to the extent that any loss or damage was caused or contributed by an act or omission of the Licensee.
- (3) The Licensee covenants and agrees to pay to the Licensor or to such person as the Licensor may from time to time direct any security charges or call out charges which, in the Licensor's reasonable opinion, relate to the Licensee, the Licensee's Agents or the Licensee's use of the Licensed Premises.
- (4) The Licensee must not copy any key, or other security device, and must account for all keys and security devices upon Termination of this Licence.

## **12.5 Return of Licensed Premises to Lessor at conclusion of each period of use**

- (1) The Licensee must vacate the Licensed Premises and remove all of the Licensee's equipment at the conclusion of each period of use, unless the Lessor otherwise agrees that such equipment may remain.
- (2) The Licensee must leave the Licensed Premises in a clean, safe and proper condition and the conclusion of each period of use.
- (3) Where the Licensee fails to remove its equipment, the Lessor may store such equipment at the Licensee's cost and the Licensee acknowledges and agrees that the Lessor may dispose of such equipment where the Licensee fails to collect such equipment within a reasonable period of time.

## **12.6 Entry and Inspection**

The Licensee must permit the Lessor to enter the Licensed Premises at any reasonable time to inspect and view the area, to carry out any maintenance work or to rectify any breach of the conditions of this Licence.

## **13. Default**

- (1) This Licence is granted subject to the terms and conditions in this Licence and any failure by the Licensee to comply with any of those terms or conditions may result in the Termination of the Licence by the Lessor.
- (2) To terminate this Licence, the Lessor must give the Licensee a written notice stipulating the default and requiring the Licensee to remedy the default within one month of the service of the Notice.
- (3) If the default is not remedied to the satisfaction of the Lessor within one month of the service of a Notice under paragraph (2) above, the Lessor may terminate this Licence on the date of the expiration of the notice without prejudice to any rights the Lessor may have under this agreement.

## **14. Option to renew**

If the Licensee at least three months, but not earlier than twelve months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Licence or at law have been obtained; and
- (b) there is no subsisting default by the Licensee at the date of service of the Notice in :
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Licensee's Covenants,

the Licensor will grant to the Licensee a licence for the Further Term at the Licence Fee and on the same terms and conditions other than this clause in respect of any Further Terms previously taken or the subject of the present exercise and on such other terms and conditions as the Licensor may consider appropriate.

## 15. Holding over

- (1) If the Licensee uses the Licensed Premises after the expiry of the Term with the consent of the Licensor, the Licensee will be a monthly licensee of the Licensor at a licence fee equivalent to one twelfth of the Licence Fee for the period immediately preceding expiry of the Term and subject to paragraph (2) below otherwise on the same terms and conditions of this Licence provided that all consents required under this Licence or at law have been obtained to the Licensee being in possession of the Licensed Premises as a monthly licensee.
- (2) In the event that the Licensee is permitted to hold over the Licensed Premises pursuant to paragraph (1) above, the parties acknowledge and agree that the Licence Fee will continue to be reviewed in accordance with the terms of this Licence.
- (3) Either the Licensee or the Licensor may give notice to the other, at any time, to terminate the monthly licence and termination will take effect one month after the date of service of that notice.
- (4) If the Licensee is granted a new licence of the Licensed Premises following the expiration of the Term of this Licence, the parties acknowledge and agree that the Licensee will as a condition of the grant of the new licence be required to pay the new rental amount payable under the new licence from the date of expiration of this Licence, and in that regard the Licensee must pay to the Licensor any difference or shortfall between the licence fee amount paid under the holding over provision of this Licence and the new licence fee amount payable under the new licence, at the time of executing the new licence.

## 16. Obligations upon Termination

### 16.1 Peacefully surrender

On Termination the Licensee must:

- (a) peacefully surrender and yield up to the Licensor the Licensed Premises in a condition consistent with the observance and performance of the Licensee's Covenants under this Licence; and
- (b) surrender to the Licensor all keys and security access devices and combination for locks providing an access to or within the Licensed Premises held by the Licensee whether or not provided by the Licensor.

## 16.2 Remove property prior to termination

Prior to Termination, unless otherwise mutually agreed between the parties, the Licensee must remove from the Licensed Premises all property of the Licensee which is not a fixture other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Licensor form an integral part of the Licensed Premises and promptly make good, to the satisfaction of the Licensor, any damage caused by the removal..

## 16.3 Licensor can remove property on re-entry

- (1) On re-entry the Licensor will have the right to remove from the Licensed Premises any property of the Licensee and the Licensee indemnifies the Licensor against all damage caused by the removal of and the cost of storing that property.
- (2) The Licensor may, at any time after the expiration or sooner determination of the Term, give the Licensee a notice (**Abandonment Notice**) requiring the Licensee to remove all fittings, plant, equipment, or other articles not previously removed by the Licensee in accordance with the requirement of this clause (**Remaining Items**). On the Licensee's receipt of an Abandonment Notice, the Licensee shall have TWO (2) days within which to remove all Remaining Items and failing removal within that TWO (2) day period, all Remaining Items still on the Licensed Premises or in the Licensor's custody shall be deemed absolutely abandoned by the Licensee and shall automatically become the absolute property of the Licensor and may be sold by the Licensor or disposed of at any time and without further notice or obligation to the Licensee. The Licensor shall be entitled to keep the proceeds of any sales and those proceeds shall not be considered to reduce any arrears, damages or other moneys for which the Licensee may be liable.

## 16.4 Clause to survive termination

The Licensee's obligation under this clause will survive Termination.

## 17. No assignment, sublicensing, or hire

The Licensee must not assign its interest in the Licensed Premises nor sub-licence; hire to a third party, part with possession, or dispose of the Licensed Premises or any part of the Licensed Premises.

## 18. Licensee's acknowledgements

### 18.1 Nature of Licence

The Licensee acknowledges that:

- (a) this Licence does not grant exclusive possession of the Licensed or confer any estate or interest in the Licensed Premises;
- (b) other than the rights granted under this Licence, the grant of this Licence does not create or confer upon the Licensee any tenancy or any other estate or interest in the Licensed Premises; and

- (c) the rights of the Licensee lie in contract only.

## **18.2 Agreed Hours**

The Licensee acknowledges that:

- (a) it only has use of the Licensed Premises during the Agreed Hours and that other users of the Licensed Premises may be permitted to use the Licensed Premises at other times;
- (b) the Agreed Hours may be modified from time to time provided any proposed modification is agreed in advance with the Licensor and recorded in the Licensor's booking system; and
- (c) the Licensee must not obstruct any person or other organisation from using the Licensed Premises outside the Agreed Hours.

## **19. Provision of information**

### **19.1 Provision of information**

The Licensee agrees to provide to the Licensor:

- (a) a copy of the Licensee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any other information on the Licensee reasonably required by the Licensor.

### **19.2 Prior notice of proposal to change rules**

The Licensee agrees that it will not change its rules of association under the *Associations Incorporations Act 2015* without notifying the Licensor of its intention to make such a change prior to consideration of the required special resolution.

## **20. Damage or destruction**

If the Licensed Premises are at any time during the Term destroyed or damaged to an extent as to be unfit for the occupation and use of the Licensee, either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this Licence. The Term will terminate upon such notice being given and the Licensee must vacate the premises and surrender the same to the Licensor, but such termination will be without prejudice however to the liability of the Licensee under this Licence up to the date of termination.

## 21. Disputes

### 21.1 Referral of dispute: phase 1

Except as otherwise provided any dispute arising out of this Licence is to be referred in the first instance in writing to the Licensor's Representative as nominated in writing by the Licensor from time to time (**Licensor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Licensee or such other period of time as is agreed to by the parties between the Licensor's Representative and an officer of the Licensee for the purpose of resolving the dispute (**Original Meeting**).

### 21.2 Referral of dispute: phase 2

In the event the dispute is not resolved in accordance with **clause 21.1** of this Licence then the dispute shall be referred in writing to the CEO of the Licensor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and a senior representative of the Licensee for the purpose of resolving the dispute.

### 21.3 Appointment of arbitrator: phase 3

In the event the dispute is not resolved in accordance with **clause 21.2** of this Licence then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 2012* (as amended from time to time) and the Licensor and the Licensee may each be represented by a legal practitioner.

### 21.4 Payment of Amounts Payable to date of award

The Licensee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Licensee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Licensor and the Licensee then the Licensor will refund to the Licensee the monies paid

## 22. Goods and services tax

### 22.1 Licensee must Pay

If GST is payable on the Basic Consideration or any part thereof or if the Licensor is liable to pay GST in connection with the licence of the Land or any goods, services or other Taxable Supply supplied under this Licence then, unless the Licensor is liable for the payment of a given Taxable Supply, as from the date of any such introduction or application:

- (a) the Licensor may increase the Basic Consideration or the relevant part thereof by an amount which is equal to the GST Rate; and
- (b) the Licensee shall pay the increased Basic Consideration on the due date for payment by the Licensee of the Basic Consideration.

## 22.2 Increase in GST

If, at any time, the GST Rate is increased, the Licensors may, in addition to the GST Rate, increase the Basic Consideration by the GST Adjustment Rate and such amount shall be payable in accordance with **clause 22.1(b)**.

## 22.3 GST invoice

Where the Basic Consideration is to be increased to account for GST pursuant to **clause 22.2** the Licensors shall in the month in which the Basic Consideration is to be paid, issue a Tax Invoice which enables the Licensee to submit a claim for a credit or refund of GST.

# 23. Notice

## 23.1 Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Licence or any other address nominated by a Party by Notice to the other.

## 23.2 Service of notice

A Notice to a Party is deemed to be given or made:

- (a) if by personal delivery, when delivered;
- (b) if by leaving the Notice at an address specified in **clause 23.2(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (c) if by post to an address specified in **clause 23.2(b)**, on the fourth business day following the date of posting of the Notice.

## 23.3 Signing of notice

A Notice to a Party may be signed:

- (a) if given by an individual, by the person giving the Notice;
- (b) if given by a corporation, by a director, secretary or manager of that corporation;
- (c) if given by a local government, by the CEO;
- (d) if given by an association incorporated under the *Associations Incorporation Act 2015*, by any person authorised to do so by the board or committee of management of the association; or
- (e) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## **24. General Provisions**

### **24.1 Licensor's Consent**

The Licensee acknowledges and agrees with the Licensor that:

- (a) if the Licensor consents to any matter referred to in this Licence, the Licensor may consent subject to any conditions that it deems reasonably necessary; and
- (b) if the Licensor consents to any matter referred to in this Licence, the Licensee must, to the reasonable satisfaction of the Licensor, comply with any condition imposed by the Licensor.

### **24.2 Acts by agents**

All acts and things which the Licensor is required to do under this Licence may be done by the Licensor, the CEO, an officer or the agent, solicitor, contractor or employee of the Licensor.

### **24.3 Statutory powers**

The powers conferred on the Licensor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Licence, in addition to the powers conferred on the Licensor in this Licence.

### **24.4 Severance**

If any part of this Licence is or becomes void or unenforceable, that part is or will be severed from this Licence to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

### **24.5 Variation**

This Licence may be varied only by deed executed by the parties subject to such consents as are required by this Licence or at law.

### **24.6 Moratorium**

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Licence do not, to the fullest extent permitted by law, apply to limit the terms of this Licence.

### **24.7 Further assurance**

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Licence.

### **24.8 Waiver**

- (1) Failure to exercise or delay in exercising any right, power or privilege in this Licence by a Party does not operate as a waiver of that right, power or privilege.

- (2) A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

#### **24.9 Governing law**

This Licence is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

### **25. Additional terms, covenants and conditions**

Each of the terms, covenants, and conditions (if any) specified in **Item 11** of the Schedule are part of this Licence and are binding on the Licensor and the Licensee as if incorporated into the body of this Licence. If there is any inconsistency between the provisions of **Item 11** of the Schedule and the remaining provisions of this Licence, the provisions of **Item 11** of the Schedule will prevail to the extent of that inconsistency.

# Schedule

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## Item 1 Land and Centre

### Land

Part of Reserve 23890, Lot 493 on Deposited Plan 183806 comprised in Certificate of Crown Land Title LR3106/474, as detailed on the plan annexed hereto as **Annexure 1**.

### Centre

VC Mitchell Park – Pavilion 2

## Item 2 Licensed Premises

That part of the Building constructed on the Land, and known as VC Mitchell Park – Pavilion 2, as detailed on the plan annexed hereto as **Annexure 1**.

## Item 3 Agreed Hours

As stipulated in the Management Agreement annexed hereto as **Annexure 3** between the Licensor and the Licensee.

## Item 4 Term

5 years\*

## Item 5 Further Term

5 years\*

## Item 6 Commencement Date

To be confirmed.

## Item 7 Licence Fee

- (a) Subject to paragraph (b) below, \$1,667.00\* plus GST per annum, payable annually in advance with the first payment due on the Commencement Date. The parties acknowledge that this amount has been determined upon the basis of the gross rental value for the Licensed Premises determined by the Valuer General.
- (b) Given the community benefits the Licensee provides to the community, the Licensee has agreed to provide a rent subsidy of 75%\* on the following terms and conditions:
  - (i) the Licensee must continue to provide the community benefits and be eligible for such subsidy in accordance with the Licensor's policies; and

- (ii) the Licensee must complete to the Licensor's satisfaction a health check document, in the form required by the Licensor, annually on each anniversary of the Commencement Date or otherwise within a reasonable time upon written request from the Licensor, which document will include (without limitation) contact details and information on committee contacts, committee, membership, and financial management; and
- (iii) in the event the Licensee fails to comply with paragraphs (i) and (ii) above, the Licensor may withdraw the subsidy and the Licensee will be required to pay full Licence Fee in accordance with clause paragraph (a) above.

*\*Final figures to be confirmed*

Item 8 Permitted Purpose

Community and sporting activities and uses reasonably ancillary thereto.

Item 9 Public Liability Insurance

Twenty million dollars (\$20,000,000.00).

Item 10 Review of Licence Fee

Annually on each anniversary of the Commencement Date.

Item 11 Additional terms and conditions

As stipulated in the Management Agreement annexed hereto as **Annexure 3** between the Licensor and the Licensee.

## Signing page

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### EXECUTED by the parties as a Deed

The executed by the **Shire of Donnybrook Balingup**  
in accordance with section 9.49A of the Local  
Government Act

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Signature of Authorised Signatory

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Full name of Authorised Signatory

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Signature of Authorised Signatory

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Full name of Authorised Signatory

Executed by the **Donnybrook Tennis Club**  
**Incorporated** in accordance with the requirements  
of the constitution of the Licensee in the presence of  
each of the undersigned each of whom hereby  
declares by the execution of this document that he  
or she holds the office in the Licensee indicated  
under his or her name-

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Office Holder Sign

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Office Holder Sign

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Name:

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Name:

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Address:

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Address:

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Office Held:

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Office Held:



Plan of Land identifying Reserve to be inserted.

## Annexure 2 – Minister for Lands' consent

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Minister for Lands' consent letter for Reserve/Crown Land to be inserted. Consent must be obtained prior to the Commencement Date.

Management Agreement to be inserted.  
Draft summary of proposal outlined below:

[illegible]

| #   | PMF                                 | Item/Responsibility                                           | Responsible Party | Pavilion 1<br>(127m2) est.<br>cost pa | Pavilion 2<br>(217m2) est.<br>cost pa | Shire (Lessor)<br>cost | Notes on Items                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----|-------------------------------------|---------------------------------------------------------------|-------------------|---------------------------------------|---------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 26  | <input checked="" type="checkbox"/> | Drainage and Sewerage Rates                                   | Shire             | \$0.00                                | \$0.00                                | \$312.00               | The new buildings will be connected to deep sewer via a lift pump and Shires stormwater drainage system. Recent accounts indicate costs @\$32.60/monthly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 27  | <input checked="" type="checkbox"/> | Meter Rent                                                    | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Currently not applicable however in the event that meter costs are charged by the utility providers, utility meter costs will be accounted to each Licensee prorata.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 28  | <input checked="" type="checkbox"/> | Electricity Usage                                             | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine cost. Shire Staff Time - Both pavilions have been designed for efficient use of energy with timers and motion activation. Costs are dependent on metering.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 29  | <input checked="" type="checkbox"/> | Emergency Services Levy                                       | Shire             | \$0.00                                | \$0.00                                | \$425.00               | Meters and sub-meters have been installed for monitoring and consumption back charging. Existing staff will be required to read meters for each billing period and issue invoice for reimbursement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 30  | <input checked="" type="checkbox"/> | Gas Supply                                                    | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensees to establish accounts with Gas suppliers and negotiate ongoing usage costs. Initial connection costs are included in building works budget.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 31  | <input checked="" type="checkbox"/> | Gas Bottle Hire Costs                                         | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensees to establish accounts with Gas suppliers and negotiate ongoing hire costs. Initial connection costs are included in building works budget.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 32  | <input checked="" type="checkbox"/> | Insurance - Building                                          | Shire             | \$0.00                                | \$0.00                                | \$20,237.00            | Only 50% of this sum is applicable for current FY.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 33  | <input checked="" type="checkbox"/> | Insurance - Licensee's Fixtures & Fittings, Equipment & Stock | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine cost                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 34  | <input checked="" type="checkbox"/> | Insurance - Licensee's Public Liability                       | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine cost                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 35  | <input checked="" type="checkbox"/> | Insurance - Licensee's Workers Compensation                   | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine cost                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 36  | <input type="checkbox"/>            | Insurance - Shire's Fixtures & Fittings, Equipment & Stock    | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Included at item 32                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 37  | <input type="checkbox"/>            | Insurance - Shire's Public Liability                          | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Included at item 32                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 38  | <input type="checkbox"/>            | Insurance - Shire's Workers Compensation                      | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Included at item 32                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 39  | <input checked="" type="checkbox"/> | Legal Costs - Lease Drafting                                  | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Shire Staff Time - Initial cost only and existing staff cost.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 40  | <input checked="" type="checkbox"/> | Legal Costs - Sub-Lease Drafting                              | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Shire Staff Time - Initial cost only and existing staff cost.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 41  | <input checked="" type="checkbox"/> | Local Government Rates & Service Charges                      | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | See separate costs for waste charges.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 42  | <input type="checkbox"/>            | Other Consumption Charges                                     | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | As per accounts established by the Licensee.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 43  | <input checked="" type="checkbox"/> | Pest Inspection and Treatment (Rodents/Insects - Estimate)    | Licensee          | \$350.00                              | \$175.00                              | \$0.00                 | Shire will procure and coordinate inspections and treatments for all applicable Shire assets and back charge the Licensees. Shire staff time required (Administration).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 44  | <input checked="" type="checkbox"/> | Termite Inspections                                           | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Not required for Pavilion 1 and 2, commercial construction, no timber structure.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 45  | <input type="checkbox"/>            | NBN Service Provider                                          | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Shire will procure and coordinate NBN. Licensees to reimburse the Shire prorata. - See Item 46a                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 46  | <input checked="" type="checkbox"/> | Phone/Internet - NBN                                          | Mixed             | \$1,440.00                            | \$720.00                              | \$2,268.00             | Shire will procure and coordinate enterprise internet at a cost of \$381 (200/200Mbps) per month. Licensees to reimburse the Shire prorata. - See Item 46a                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 46a | <input type="checkbox"/>            | Phone/Internet - NBN cost reimbursement estimate              | Mixed             | \$0.00                                | \$0.00                                | -\$2,160.00            | Licensees to reimburse the Shire at nominal monthly rate i.e. Pavilion 1 - \$1,120/month and Pavilion 2 - \$500/month.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 47  | <input checked="" type="checkbox"/> | Redecorating                                                  | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Licensees to reimburse the Shire at nominal monthly rate i.e. Pavilion 1 - \$1,120/month and Pavilion 2 - \$500/month.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 48  | <input type="checkbox"/>            | Redecorating - requested by User                              | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | As determined by Councils AMP - Redecorating / upgrades are highly unlikely in the next 10 year period. Renewal will be dependant on volume of use, care and planned maintenance. Any planned works to be in accordance with the Asset Management Plan and budget as determined by Council.                                                                                                                                                                                                                                                                                                                                                                         |
| 49  | <input type="checkbox"/>            | Rubbish/ Recycling Bins, Waste Management                     | Licensee          | \$1,888.00                            | \$417.00                              | \$0.00                 | Prior Approval by the Shire is mandatory, whole life costs to be considered.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 50  | <input type="checkbox"/>            | Safety & Testing Obligations - WHS                            | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Pavilion 2 - 120 litre bins as per Council adopted Fees and Charges Schedule 2024-2025. Pavilion 1 - 1100 litre bins as per commercial operators fees and charges (estimate).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 51  | <input checked="" type="checkbox"/> | Security Systems Monitoring                                   | Shire             | \$0.00                                | \$0.00                                | \$560.00               | See breakdown for FODs, Emergency Lighting, Smoke Detectors and the like.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 52  | <input type="checkbox"/>            | Prorata reimbursement for Security Systems (Estimated)        | Licensee          | \$478.28                              | \$31.72                               | -\$560.00              | Account established under Shire group account.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 53  | <input checked="" type="checkbox"/> | Sewage Disposal (Deep Sewer)                                  | Shire             | \$0.00                                | \$0.00                                | \$1,000.00             | Annual monitoring fee is currently \$560, plus call out costs @ \$200 per event (staff or Night Guard). Licensees to ensure alarms are managed to avoid call out costs being oncharged.                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 55  | <input checked="" type="checkbox"/> | Stormwater Disposal                                           | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | There is annual service and maintenance costs for the lift pump. Estimate only - service quotes are currently being sought from the installation sub- contractor.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 56  | <input checked="" type="checkbox"/> | Structural Maintenance                                        | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Stormwater managed using existing infrastructure.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 57  | <input checked="" type="checkbox"/> | Water & Associated Water Charges to Buildings                 | Licensee          | \$2,400.00                            | \$600.00                              | \$0.00                 | As determined by Councils AMP - Replacements for structural maintenance is highly unlikely in the next 10 year period. Maintenance will be dependant on volume of use, care and planned maintenance. Any planned works to be in accordance with the Asset Management Plan and budget as determined by Council. Meters and sub-meters have been installed for monitoring and consumption back charging. Internal building usage only. Usage 2023 was \$3,000 for original football and tennis pavilions. Recalculation is from separate supply (bore). Shire Staff time will be required to read meters for each billing period and issue invoice for reimbursement. |
| 58  | <input checked="" type="checkbox"/> | Security CCTV                                                 | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Shire managed - integrated into Shire's existing network.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| #  | PMF                                 | Item/Responsibility                                                  | Responsible Party | Pavilion 1<br>(127m2) est.<br>cost pa | Pavilion 2<br>(217m2) est.<br>cost pa | Shire (Lessor)<br>cost | Notes on Items                                                                                                                                                                                                                                                                                                   |
|----|-------------------------------------|----------------------------------------------------------------------|-------------------|---------------------------------------|---------------------------------------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 59 | <input type="checkbox"/>            | Liquor License                                                       | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine                                                                                                                                                                                                                                                                                            |
| 60 | <input type="checkbox"/>            | EFTPOS / Cash System                                                 | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine                                                                                                                                                                                                                                                                                            |
| 61 | <input type="checkbox"/>            | Painting (renewal (AMP))                                             | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | As determined by Councils AMP - Requirements for painting renewal is highly unlikely in the next 10 year period. Renewal will be dependant on volume of use, care and planned maintenance. Any planned works to be in accordance with the Asset Management Plan and budget as determined by Council.             |
| 62 | <input type="checkbox"/>            | Flooring (renewal (AMP))                                             | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | As determined by Councils AMP - Requirements for flooring renewal is highly unlikely in the next 10 year period. Maintenance will be dependant on volume of use, care and planned maintenance. Any planned works to be in accordance with the Asset Management Plan and budget as determined by Council.         |
| 63 | <input type="checkbox"/>            | Sliding Door Servicing & Repairs (Scheduled)                         | Shire             | \$0.00                                | \$0.00                                | \$900.00               | Only Function Room Operable Wall is Applicable.                                                                                                                                                                                                                                                                  |
| 64 | <input type="checkbox"/>            | Elevator Service (Scheduled)                                         | Shire             | \$0.00                                | \$0.00                                | \$1,200.00             | Estimate only - Service quotes are currently being sought from the installation sub- contractor.                                                                                                                                                                                                                 |
| 65 | <input checked="" type="checkbox"/> | Elevator Capital Repairs                                             | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | As determined by Councils AMP - Requirements for elevator capital repairs highly unlikely in the next 10 year period. Repairs will be dependant on volume of use, care and planned maintenance. Any planned works to be in accordance with the Asset Management Plan and budget as determined by Council.        |
| 66 | <input checked="" type="checkbox"/> | Roof Anchors Service & Certification (Annual)                        | Shire             | \$0.00                                | \$0.00                                | \$700.00               | Licensees must not have access to roof - include as notation in license agreement. Procurement and attendance to be coordinated for single annual visit in conjunction with Recreation Centre.                                                                                                                   |
| 67 | <input type="checkbox"/>            | Grease Trap Service & Clearances (Scheduled)                         | Licensee          | \$600.00                              | \$600.00                              | \$0.00                 | Required as scheduled. Clearance costs likely to be \$300 per visit per trap, assume 2 per annum per trap.                                                                                                                                                                                                       |
| 68 | <input type="checkbox"/>            | Vandalism - External                                                 | Shire             | \$0.00                                | \$0.00                                | \$1,000.00             | Licensee to pay if vandalism responsibility can be proven (CCTV or attestation). Proposed "Reactive" budget \$1,000 for Pavilions (combined sum).                                                                                                                                                                |
| 69 | <input type="checkbox"/>            | Vandalism - Internal                                                 | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Unless under the control of the Shire or flier or a result of break-in.                                                                                                                                                                                                                                          |
| 70 | <input type="checkbox"/>            | Solar System Service & Repairs (Annual)                              | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Solar not included in current scope of works.                                                                                                                                                                                                                                                                    |
| 71 | <input checked="" type="checkbox"/> | RCD Testing - Competent Person (6 monthly)                           | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | A person competent can test the RCDs and record test date. In the event of a fail, the Licensee is to notify the Shire.                                                                                                                                                                                          |
| 72 | <input checked="" type="checkbox"/> | Smoke Detector Testing - Competent Person (6 monthly)                | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | A person competent can test the smoke detectors and record test date. In the event of a fail, the Licensee is to notify the Shire.                                                                                                                                                                               |
| 73 | <input type="checkbox"/>            | RCD Testing - Electrical (Annual)                                    | Shire             | \$0.00                                | \$0.00                                | \$1,500.00             | Procurement and attendance to be coordinated for single annual visit.                                                                                                                                                                                                                                            |
| 74 | <input type="checkbox"/>            | Smoke Detector Testing & Certification (Annual)                      | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Included in item 73                                                                                                                                                                                                                                                                                              |
| 75 | <input type="checkbox"/>            | Emergency & Exit Lighting Testing & Certification (Annual)           | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Included in item 73                                                                                                                                                                                                                                                                                              |
| 76 | <input type="checkbox"/>            | Early Warning Fire Indication System (Annual) (FIP, Detection)       | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Included in item 73                                                                                                                                                                                                                                                                                              |
| 77 | <input type="checkbox"/>            | Generator Service (Scheduled)                                        | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Generator is Shire asset and will only be used at this facility in the event of an emergency.                                                                                                                                                                                                                    |
| 78 | <input type="checkbox"/>            | Generator Capital Works & Repairs                                    | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Generator is Shire asset and will only be used at this facility in the event of an emergency.                                                                                                                                                                                                                    |
| 79 | <input type="checkbox"/>            | Testing & Tagging - Licensee's equipment                             | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Testing and tagging is not mandatory - Licensee to pay if deemed necessary under their WHS Plan.                                                                                                                                                                                                                 |
| 80 | <input type="checkbox"/>            | Testing & Tagging - Principle's equipment (being used by tenant)     | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Testing and tagging is not mandatory - Licensee to pay if deemed necessary under their WHS Plan.                                                                                                                                                                                                                 |
| 81 | <input type="checkbox"/>            | Backflow Prevention Device Service (Scheduled)                       | Shire             | \$0.00                                | \$0.00                                | \$300.00               | Infrastructure service cost.                                                                                                                                                                                                                                                                                     |
| 82 | <input type="checkbox"/>            | Gutter Cleaning (Scheduled)                                          | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | Low risk, gutters are unlikely to need cleaning - No access to roof by Licensee.                                                                                                                                                                                                                                 |
| 83 | <input type="checkbox"/>            | Catering Equipment Replacement                                       | Shire             | \$0.00                                | \$0.00                                | \$0.00                 | As determined by Councils AMP - Requirements for replacement of equipment is highly unlikely in the next 10 year period. Replacement will be dependant on volume of use, care and planned maintenance. Any planned works to be in accordance with the Asset Management Plan and budget as determined by Council. |
| 84 | <input type="checkbox"/>            | Catering Equipment Service & Maintenance                             | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine - Maintenance and servicing will dependant on usage and competency of Licensee.                                                                                                                                                                                                            |
| 85 | <input type="checkbox"/>            | Extraction Hood Service & Maintenance (Scheduled cleaning & filters) | Licensee          | \$600.00                              | \$300.00                              | \$0.00                 | Cost estimate only (may be carried out by Licensee). Licensee to establish service provider and pay on account. Cleaning is mandatory under Health Act.                                                                                                                                                          |
| 86 | <input type="checkbox"/>            | First Aid Equipment & Kits                                           | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Licensee to determine                                                                                                                                                                                                                                                                                            |
| 87 | <input type="checkbox"/>            | Defibrillator Service & Maintenance                                  | Shire             | \$0.00                                | \$0.00                                | \$150.00               | Community asset - mounted externally.                                                                                                                                                                                                                                                                            |
| 88 | <input type="checkbox"/>            | Fire Extinguishers                                                   | Licensee          | \$300.00                              | \$100.00                              | \$0.00                 | Procurement and attendance to be managed by the Shire staff and back charged to the Licensee, this will ensure compliance.                                                                                                                                                                                       |
| 89 | <input type="checkbox"/>            | Cleaning - Day-to-Day / Incidental / Post Hire - All Areas           | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Unknown - Licensee to determine - Shire will pay for own use                                                                                                                                                                                                                                                     |
| 90 | <input type="checkbox"/>            | Cleaning - Annual deep clean (estimate)                              | Licensee          | \$2,540.00                            | \$434.00                              | \$0.00                 | Procurement and attendance to be managed by the Shire staff and back charged to the Licensee, this will ensure compliance.                                                                                                                                                                                       |
| 91 | <input type="checkbox"/>            | Floor Cleaning                                                       | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Unknown - Licensee to determine use and associated costs                                                                                                                                                                                                                                                         |
| 92 | <input type="checkbox"/>            | Sanitary Bins                                                        | Licensee          | \$450.00                              | \$150.00                              | \$0.00                 | Cost estimate only - Licensee to establish account with service provider. Shire Administration cost is \$450 per annum and Rec Centre is \$500 per annum.                                                                                                                                                        |
| 93 | <input type="checkbox"/>            | Sharps Containers                                                    | Licensee          | \$0.00                                | \$0.00                                | \$0.00                 | Unknown - Licensee to determine                                                                                                                                                                                                                                                                                  |
| 94 | <input type="checkbox"/>            | Servicing and Maintenance of Audio Visual Equipment and Hardware     | Licensee          | \$900.00                              | \$0.00                                | \$0.00                 | In addition, licensees to include renewal of portable / cordless equipment.                                                                                                                                                                                                                                      |

| #  | PMF                      | Item/Responsibility      | Responsible Party | Pavilion 1<br>(1270m2) est.<br>cost pa | Pavilion 2<br>(217m2) est.<br>cost pa | Shire (Lessor)<br>cost | Notes on Items                       |
|----|--------------------------|--------------------------|-------------------|----------------------------------------|---------------------------------------|------------------------|--------------------------------------|
| 85 | <input type="checkbox"/> | Security keys            | Shire             | \$0.00                                 | \$0.00                                | \$0.00                 | Included in building scope of works. |
| 86 | <input type="checkbox"/> | Replacement of lost keys | Licensee          | \$0.00                                 | \$0.00                                | \$0.00                 | Unknown - Licensee to determine      |
|    | <input type="checkbox"/> |                          |                   | <b>\$19,510.45</b>                     | <b>\$5,832.48</b>                     | <b>\$25,342.93</b>     |                                      |