

**CASINO  
AGREEMENT  
REVIEW**

**BRIAN FORREST**

Meeting with Leonard,

23.2.04

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Proposed Amendment to the Casino Agreement	Ready for discussion with Crown Limited
15. Location of Crown's bank accounts for Melb. Casino operations.	NO
16. Information/documents to be provided or made available to the Authority, including:	yes
(a) A report on Crown's capital annual expenditure program and reports on actual expenditure; [located with Item 4]	
(b) A report on Crown's internal and external audit programs and any changes to the programs [see also item 6]	Yes
(c) A report on adherence to or divergence from the internal and external audit programs [see also item 6]	
(d) Provide details of membership of Crown's Audit Committee and any changes to the reporting structure and membership of the committee [see also item 7]:	yes
(e) Make available for inspection, or copies if requested of, Audit Committee agendas, papers and minutes of meetings [see also items 6 and 7].	
(f) Provide details of membership of Crown's Compliance Committee and any changes to the reporting structure and membership of the committee [see also item 8];	yes
(g) Make available for inspection, or copies if requested of, Compliance Committee agendas, papers and minutes of meetings [see also item 8].	
(h) Notice of any new subsidiaries of PBL; [see also items 9 and 10]	NO
(i) A report on Crown's annual budget; [see also item 11]	yes
(j) A report on adherence to or divergence from the budget; [see also item 11]	yes
(k) Continuous Disclosure to the Authority under ASX guidelines.	NO
17. Insurance Obligations under Schedule Five.	NO
18. Quarantining Crown from its other ventures.	NO

**Review of the Casino Agreement**  
**List of possible proposed amendments.**

Proposed Amendment to the Casino Agreement	Ready for discussion with Crown Limited
1. Public availability of the Casino Agreement	yes
2. Public availability of the Casino Licence.	yes
3. Retaining current market share of commission based players' business in Victoria to maximise gross gaming revenue.	NO
4. Maintain the Casino Complex to world class standards, including: (a) addressing expenditure on new capital and large maintenance capital projects (capital expenses); (b) addressing expenditure on ongoing maintenance and cleanliness (operating expenses). [see also item 16(a)]	yes
5. Independence of the directors of Crown Limited.	yes
6. Audit requirements [see also items 16(b), (c) and (e)]	yes
7. Composition of and reporting structure for the Audit Committee [see also items 16(d) and (e)]	yes
8. Composition of and reporting structure for the Compliance Committee [see also items 16(f) and (g)]	yes
9. Full compliance with the Deed of Undertaking [see also item 16(h)]	NO
10. Consequences for non-compliance with the Deed of Undertaking [see also item 16(h)]	NO
11. Measures of Financial Health; eg - debt/equity ratio, reduction of capital [see also items 16(i) and (j)]	NO
12. Location of Crown's Board meetings.	Yes
13. Location of Crown's senior management and management meetings.	Yes
14. Location of Crown's company secretary	Yes

See 16

See 16

See 16

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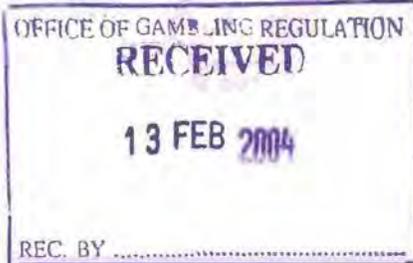




CORP 2001/0147/00004



# Minister For Gaming



55 Collins Street,  
Melbourne, Victoria 3000  
GPO Box 4509RR  
Melbourne, Victoria 3001  
Telephone: (03) 9651 9320  
Facsimile: (03) 9651 9915

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File Ref No: 6947/01/2  
Doc No: 51725

13 FEB 2004

Brian Forrest  
Chairman  
Victorian Casino and Gaming Authority  
5/35 Spring Street  
MELBOURNE VIC 3000

Dear Mr Forrest *Brian*

## REVIEW OF CASINO AGREEMENT

Thank you for your letter dated 18 November 2003 regarding the VCGA's review of the Casino Agreement.

In relation to the terms of agreement referred to in your letter, I would like the Authority to include the first two terms of agreement in its negotiations with Crown. These are: (1) making the Casino Agreement publicly available, and (2) making the Casino Licence publicly available.

With respect to the third term of agreement (requiring Crown to retain current market share of the commission based players' business in Victoria to maximise gross gaming revenue), I wish to receive further advice from your office regarding the enforcement implications of this term prior to making a final decision.

Yours sincerely



**JOHN PANDAZOPOULOS**  
Minister for Gaming



**OFFICE OF GAMBLING REGULATION****REVIEW OF THE CASINO AGREEMENT****PURPOSE**

1. To inform Members of the Minister's response to the Authority's indication that it intends to review the Casino Agreement ("the Agreement") and to recommend a course of action for reviewing the Agreement.

**BACKGROUND**

2. By letter of 5 August 2003, the Chairman asked the Minister for Gaming for his initial approval of the Authority's intention to commence a review of the terms of the Casino Agreement as soon as possible, with a view to renegotiating those terms with Crown Limited. A copy of the Chairman's letter is at **Attachment 1**. The Director of Gaming and Betting made a similar request of the Minister with a Briefing Note of 28 July 2003 that explained the purpose and contents of the Casino Agreement.
3. In response to the Briefing Note the Minister agreed to this request. At the time of writing this paper, the Minister's affirmative response to the Chairman's letter had been drafted, as requested by the Minister.

**COMMENTS**

4. In seeking the Minister's approval on behalf of the Authority, the Chairman undertook that the Authority will seek the Minister's prior written approval of all proposed changes to the Agreement, in accordance with clause 4 of the Agreement, and will also liaise with the Director, Gaming and Racing, in relation to any matters that might be relevant to Government policy.
5. A review of the Casino Agreement will require-
  - an assessment of the purpose, scope and deficiencies of the Agreement;
  - an assessment of what the Authority would like the Agreement to achieve;
  - consideration of what changes Crown would like to be made to the Agreement;
  - liaising with the Director, Gaming and Racing, regarding effect of Government policy on proposed changes to the Agreement;
  - negotiation with Crown regarding proposed changes to the Agreement;
  - submission of the proposed amendments to the Minister for his approval in writing; and
  - execution of the amended Agreement.
6. It is suggested that an efficient approach to managing this project will be for the Authority to establish a sub-committee, to be assisted by a working party comprising some appropriate members of staff of the Office of Gambling Regulation.

### Specific Request From Crown Regarding Single Purpose Restriction

7. By letter of 25 August 2003 to the Chairman of the Authority, Crown has asked for the "single purpose entity restriction" to be deleted. A copy of Crown's letter is at **Attachment 2**. Copies of the relevant clauses in the Casino Agreement are at **Attachment 3**. Crown also wrote to the Minister with the same request. A copy of that letter is at **Attachment 4**.
8. Crown has indicated to the Director of Gaming and Betting that it would like the Authority to determine this request as soon as possible, ahead of the Authority's proposed review of the whole Agreement.
9. Crown states it does not know the original reason for this restriction and is unaware of any other casino or gambling operator in Australia that is limited in this way. The reasons for the restriction are explained below.

#### History of clause 22.1 (p)

10. In an early draft of the Casino Agreement, drafted by Minter Ellison, Solicitors for the VCCA in mid 1993, the relevant clauses provided:

“(q) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document [the Casino Agreement] and the Casino Licence except with the prior written approval of the Authority; and

(p) the Company must not establish or acquire a Subsidiary except with the prior written approval of the Authority.”

11. On 9 August 1993, Crown's solicitors, Blake Dawson Waldron (“Blakes”), asked for these two clauses to be amended (as underlined) to read as follows:

“(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or incidental to or complementary with those businesses except with the prior written approval of the Authority; and

(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority.”

For the purposes of paragraphs (p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of or in conjunction with the contemplated businesses.”

*[Explanation – further clarification of meaning of incidental or complementary as requested of Blakes by Minter Ellison.]*

12. Blakes' suggestion was accepted by the VCCA after the VCCA made the following amendment to the third paragraph (underlined).

“22.4 For the purposes of paragraphs (p) and (q) a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.”

13. The Agreement was signed in that form by Crown and the VCCA on 21 September 1993, after the Minister had given his written consent.
14. When Publishing and Broadcasting Limited ("PBL") merged with Crown in June 1999, the Casino Agreement was amended with the addition of the following paragraph immediately after paragraph (q):
  - “(r) the Holding Company Group [the PBL Group of companies], if it pursues anywhere in Australia a business similar to that of the Company [Crown], will use its best endeavours to ensure that such business is conducted in a manner:
    - (i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and
    - (ii) which is not detrimental to the Company’s interests.”
15. The purpose of this amendment was to acknowledge that, while PBL would not be stopped from purchasing a casino interstate, if it did, it could not operate that casino to the detriment of the Melbourne Casino. The restriction on Crown remained in place.

#### Reasons for the Single Purpose Restriction

16. There are a number of reasons for the Single Purpose Restriction on Crown and PBL:
  1. To ensure that the employment benefits of operating a large casino remain in Victoria. The Restriction ensures that Crown does not shift management of the Melbourne Casino interstate where it might otherwise own and operate another casino. It was reported in the media that, when permitting Tabcorp Holdings Limited to buy Jupiters Casino, the Queensland Government made it a condition that Tabcorp operate its Casino Division from Brisbane.
  2. To prevent the casino operator from shifting or threatening to shift significant sources of casino revenue, such as the high roller business, to an interstate or overseas casino, as a bargaining tool for reduced tax rates or to gain a commercial advantage from the Government.
  3. To ensure the casino operator avoids having a conflict of interest in operating a competing casino and is not distracted from focusing on ensuring the Melbourne Casino and Entertainment Complex does remain an important world quality tourist attraction and generates maximum revenue for the State.
  4. In the event of disciplinary action requiring the Authority to suspend or cancel the casino licence and appoint a manager under section 22 of the *Casino Control Act 1991*, the process could be hampered by the likelihood of such an action having an adverse impact on some other entwined casino business owned by Crown and probably using the Crown name.

#### Comparison with other casino operators and Victorian gaming operators

17. Crown’s comparison with Tabcorp and Tattersall’s fails to take into account that the Melbourne Casino is constructed on land owned by the State and leased to Crown for 99 years. Crown is obliged to maintain and update the entire Complex for the term of the lease. The lease does not contain a right of renewal.

18. The State does not have a vested interest in Tabcorp's and Tattersall's gaming capital infrastructure in Victoria. Tabcorp's interstate expansion does not create a conflict with the source of revenue its gaming operations provide to the State.
19. Crown asserts that no other Australian casino is subject to the Single Purpose clause. This is not correct. It is believed that the Star City Casino is subject to a virtually identical "single purpose" clause in its casino operations agreement, although this still needs to be confirmed. (Note that this is confidential information of which Crown may not be aware and it should not be publicly disclosed.)

### RECOMMENDATION

20. That Members agree –
- (a) to establish a sub-committee to review the Casino Agreement, with a view to amending it;
  - (b) to request the Director of Gaming and Betting to allocate appropriate members of OGR staff to assist the Authority's sub-committee in this task; and
  - (c) in relation to Crown's request to remove the single purpose restriction –
    - (i) advise Crown that the Authority is prepared to consider Crown's request further, for which the letter to Crown is to be settled by the Chairman;
    - (ii) that this item be the first order of business of the sub-committee;
    - (iii) that the sub-committee is to gather the information required to progress this issue, such as research into the position of other casinos interstate and a detailed submission from Crown on its plans; and
    - (iv) that the sub-committee is to identify outcomes that are desired by the State and the Authority and develop options, in conjunction with external legal advice, that could achieve the desired outcomes.

Recommended:  .....

**PETER COHEN**  
 Acting Director of Gaming and Betting  
 Acting Director of Casino Surveillance



VICTORIAN CASINO AND GAMING AUTHORITY

ATTACHMENT 1

05 AUG 2003

The Hon John Pandazopoulos MP  
 Minister for Gaming  
 Level 15  
 55 Collins Street  
 MELBOURNE VIC 3000

Dear Minister

### REVIEW OF THE CASINO AGREEMENT

In the Report of 30 June 2003 regarding the Third Triennial Review of the Casino Operator and Licence, the Victorian Casino and Gaming Authority recommended that the Casino Agreement with Crown Limited should be reviewed.

The purpose of this letter is to seek your initial approval of the Authority's intention to commence a review of the terms of the Casino Agreement as soon as possible, with a view to renegotiating those terms with Crown Limited.

The Casino Agreement was entered into by the Authority, under section 142 of the *Casino Control Act 1991* ("the Act"), on 21 September 1993.

Under section 142(4) of the Act, the Authority may amend or vary an existing agreement into which it entered before 19 June 2003 (the commencement date of section 17 of the **Gaming Legislation (Amendment) Act 2002**).

Clause 4 of the Casino Agreement states that "*Subject to the prior approval in writing of the Minister, the parties may from time to time by agreement in writing vary any provision of this document.*"

The reasons for a review, as outlined in the Third Triennial Review Report, are:

- to realign Crown's obligation as the casino licensee to provide information to the Authority with the Authority's obligation to regulate certain minimum corporate standards for Crown;
- to provide for the removal of redundant clauses relating to the construction of the Casino and Casino Complex;

Level 15  
 55 Spring Street  
 Melbourne  
 VIC 3000  
 PO Box 1988R  
 Melbourne  
 VIC 3001  
 Tel: 03 9651 3333  
 Fax: 03 9651 3777

- to make the Agreement more relevant by reflecting the changed corporate structure of the casino operator; and
- to make Crown's insurance obligations under Agreement more relevant in light of the altered insurance environment since 1993.

In accordance with clause 4 of the Agreement, the Authority will seek your prior written approval of any proposed changes to the Agreement. The Authority will also liaise with the Director, Gaming and Racing in relation to any matters that might be relevant to Government policy.

Yours sincerely



**BRIAN FORREST**  
Chairman



## ATTACHMENT 2

ROWEN CRAIGIE  
Chief Executive Officer

Telephone (61-3) 9292 7234  
Facsimile (61-3) 9292 7257

25 August 2003

Mr. Brian Forrest  
Chairman  
Victorian Casino and Gaming Authority  
Level 5  
35 Spring Street  
MELBOURNE VIC 3000

Dear Brian

**Proposed Variation of the Casino Agreement – Removal of the “Single Purpose Restriction”**

The purpose of this letter is to request a variation of the Casino Agreement by deletion of paragraph 22.1(p), which is referred to generally as the “single purpose entity restriction”.

That restriction prevents Crown from conducting any business other than the Melbourne Casino without the prior written approval of the Victorian Casino and Gaming Authority.

Crown does not know the original reason for this restriction and is unaware of any other casino or gambling operator in Australia that is limited in this way. For example, TABCORP and Tattersall's have extensive and diverse gambling operations throughout Australia and have publicly flagged an interest in overseas diversification.

Further, given the Victorian Government's stated commitment to promote the export oriented development of Victorian companies and industries, it is incongruous that one of Victoria's most successful companies should be restrained from competing both nationally and internationally.

At present, Crown is recognised as one of the best casinos in the world. Crown currently has the greatest market share of international high roller business of any casino in the world. This segment of Crown's operation generates hundreds of millions of dollars of foreign revenue and the resultant taxation revenue to the State. The flow on benefits from the associated high end international tourism to Victoria are also significant.

The gambling industries in Australia, USA and Asia worldwide are competing worldwide to be at the forefront of technology, marketing, training and expertise. In particular, it is seen currently that there are significant advantages to be gained by broadening the activities of a gambling operator beyond a single property or gambling product.

Mr. Brian Forrest  
Victorian Casino and Gaming Authority



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25 August 2003

Crown wishes to retain its current leadership position. To do so, Crown considers that it needs to be able to respond to rapid industry and technological changes that are taking place. Should Crown find it necessary to expand its operations so as to both protect and grow its market share, Crown submits that it is in the interests of both the State and Crown that Crown be allowed to do so.

The Australian and international casino markets are currently undergoing a period of rationalisation of the number of operators, even though new markets are emerging. Crown believes that there is an appreciable risk that the size and scale of merged operations both in Australia and worldwide will make it difficult for Crown to continue to compete effectively in key areas, which in time, will see Crown's position and market share eroded.

Accordingly, Crown requests that the single purpose entity restriction is deleted from the Agreement.

I have separately written to the Minister for Gaming seeking his approval to this request, in accordance with clause 4 of the Agreement.

Should you require any additional information I would be happy to discuss this further.

Yours sincerely



**Rowen Craigie**  
Chief Executive Officer

## ATTACHMENT 3

## EXTRACT FROM THE CASINO AGREEMENT (AS AMENDED)

## 22. CONDITIONS RELATING TO COMPANY STRUCTURE

## 22.1 The following are conditions of this document:

(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority;<sup>1</sup>

(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;<sup>2</sup>

<sup>3</sup>(r) the Holding Company Group, if it pursues anywhere in Australia a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:

(i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and

(ii) which is not detrimental to the Company's interests; and

22.4 For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.

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<sup>1</sup> Varied by Agreement dated 2 June 1999.

<sup>2</sup> Varied by Agreement dated 2 June 1999.

<sup>3</sup> Varied by Agreement dated 2 June 1999.

ATTACHMENT 4



ROWEN CRAIGIE  
Chief Executive Officer

25 August 2003

The Hon John Pandazopoulos MP  
Minister for Gaming  
Level 15  
55 Collins Street  
MELBOURNE VIC 3000

Dear Minister

**Proposed Variation of the Casino Agreement – Removal of the “Single Purpose Restriction”**

I am writing to advise that Crown has written to the Victorian Casino and Gaming Authority to request a variation of the Casino Agreement by deletion of paragraph 22.1(p), which is referred to generally as the ‘single purpose entity restriction’.

That restriction prevents Crown from conducting any business other than the Melbourne Casino without the prior written approval of the Victorian Casino and Gaming Authority.

Crown does not know the original reason for this restriction and is unaware of any other casino or gambling operator in Australia that is limited in this way. For example, TABCORP and Tattersall’s have extensive and diverse gambling operations throughout Australia and have publicly flagged an interest in overseas diversification.

Further, given the Victorian Government’s stated commitment to promote the export oriented development of Victorian companies and industries, it is incongruous that one of Victoria’s most successful companies should be restrained from competing both nationally and internationally.

At present, Crown is recognised as one of the best casinos in the world. Crown currently has the greatest market share of international high roller business of any casino in the world. This segment of Crown’s operation generates hundreds of millions of dollars of foreign revenue and the resultant taxation revenue to the State. The flow on benefits from the associated high end international tourism to Victoria are also significant.

The gambling industries in Australia, USA and Asia worldwide are competing worldwide to be at the forefront of technology, marketing, training and expertise. In particular, it is seen currently that there are significant advantages to be gained by broadening the activities of a gambling operator beyond a single property or gambling product.



The Hon. John Pandazopoulos MP

Page 2  
25 August 2003

Crown wishes to retain its current leadership position. To do so, Crown considers that it needs to be able to respond to rapid industry and technological changes that are taking place. Should Crown find it necessary to expand its operations so as to both protect and grow its market share, Crown submits that it is in the interests of both the State and Crown that Crown be allowed to do so.

The Australian and international casino markets are currently undergoing a period of rationalisation of the number of operators, even though new markets are emerging. Crown believes that there is an appreciable risk that the size and scale of merged operations both in Australia and worldwide will make it difficult for Crown to continue to compete effectively in key areas, which in time, will see Crown's position and market share eroded.

Crown has proposed to the VCGA that the single purpose entity restriction is deleted from the Agreement.

Accordingly, we seek your approval pursuant to clause 4 of the Agreement for the variation to the Agreement.

Should you require any additional information I would be happy to discuss this further.

Yours sincerely

**Rowen Craigie**  
Chief Executive Officer

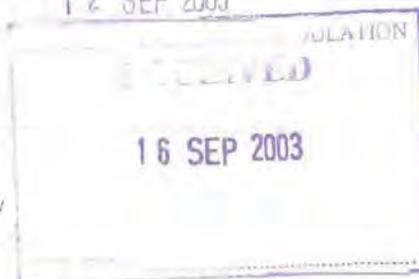
CASE: 2001/0147/00001



## Minister For Gaming

55 Collins Street,  
Melbourne, Victoria 3000  
GPO Box 4509RR  
Melbourne, Victoria 3001  
Telephone: (03) 9651 9320  
Facsimile: (03) 9651 9915

12 SEP 2003



Mr Brian Forrest  
Chairman  
Victorian Casino and Gaming Authority  
Level 5, 35 Spring Street  
MELBOURNE VIC 3000

Dear Mr Forrest *Brian*

### REVIEW OF THE CASINO AGREEMENT

I refer to your letter of 5 August 2003 advising of the intention of the Victorian Casino and Gaming Authority to commence a review of the terms of the Casino Agreement with a view to renegotiating those terms with Crown Limited.

I approve of such a course of action, noting that the Authority will seek my prior written approval of any proposed changes to the Agreement and will liaise with the Director, Gaming and Racing, in relation to any matters that might be relevant to Government policy.

Yours sincerely



**JOHN PANDAZOPOULOS MP**  
Minister for Gaming

## Benchmarking Analysis of Gearing Ratios Overseas and Australian Casinos

### Eighth Variation Agreement

With reference to the Solvency Ratio it states the following definitions of assets and Liabilities.

- "Total Group Assets" means the aggregate of all assets of the **Holding Company Group** which according to Australian Accounting Standards are defined or would be regarded as assets.
- "Total Group Liabilities" means the aggregate of all liabilities of the **Holding Company Group** which according to Australian Accounting Standards are defined or would be regarded as liabilities.

### Seventh Variation Agreement

With reference to the Solvency Ratio it states the following definitions of assets and Liabilities.

- "Total Group Assets" means the aggregate of all assets of the **Group** which according to Australian Accounting Standards are defined or would be regarded as assets.
- "Total Group Liabilities" means the aggregate of all liabilities of the **Group** which according to Australian Accounting Standards are defined or would be regarded as liabilities.

Therefore the only difference between these Seventh and Eighth Agreements in terms of these definitions is "Holding Company Group as opposed to the "Group".

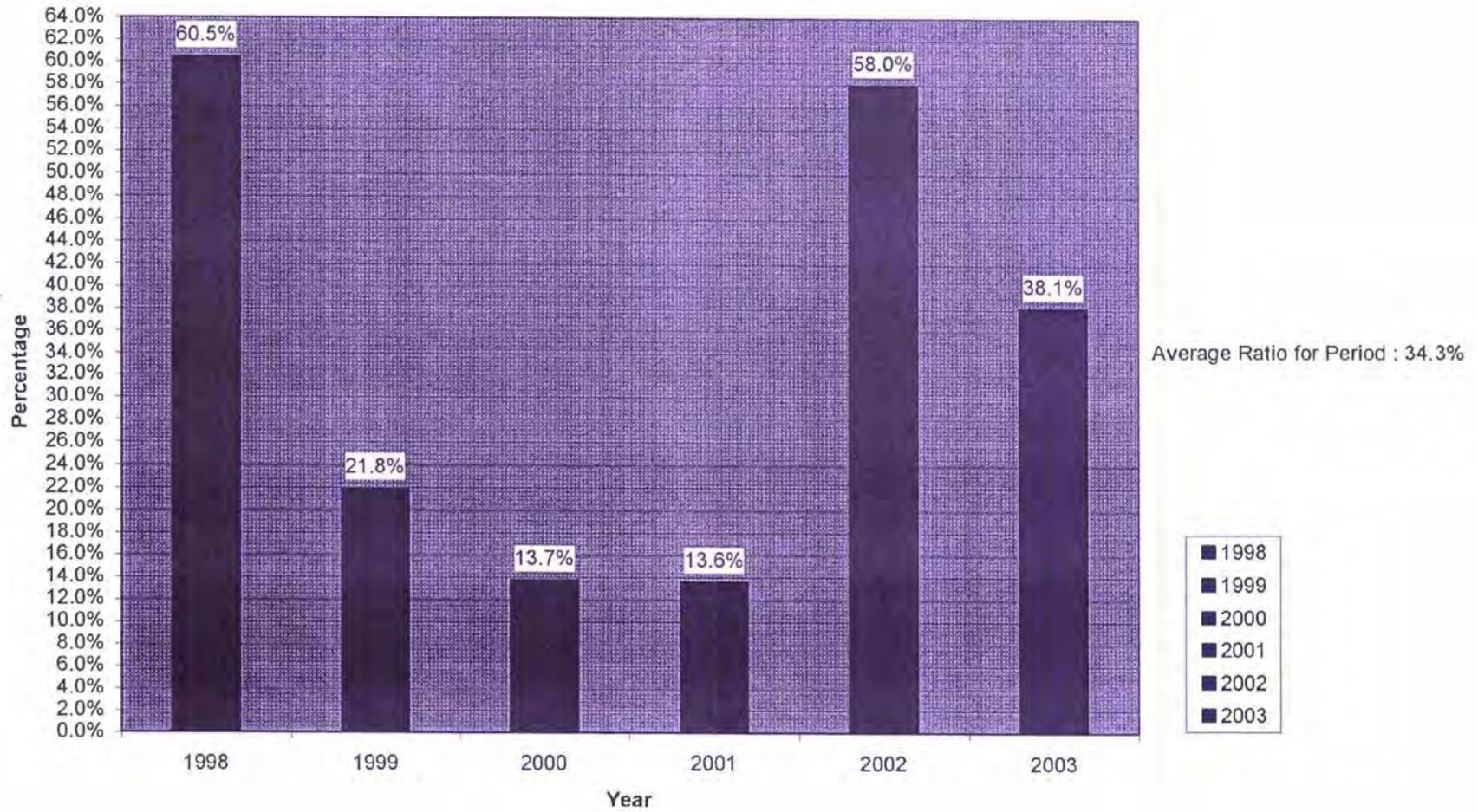
The calculation of the Solvency ratio itself is unchanged since the Seventh Agreement. It states :

*"Subject to clause 22.6, the company must procure that at any time Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority"*

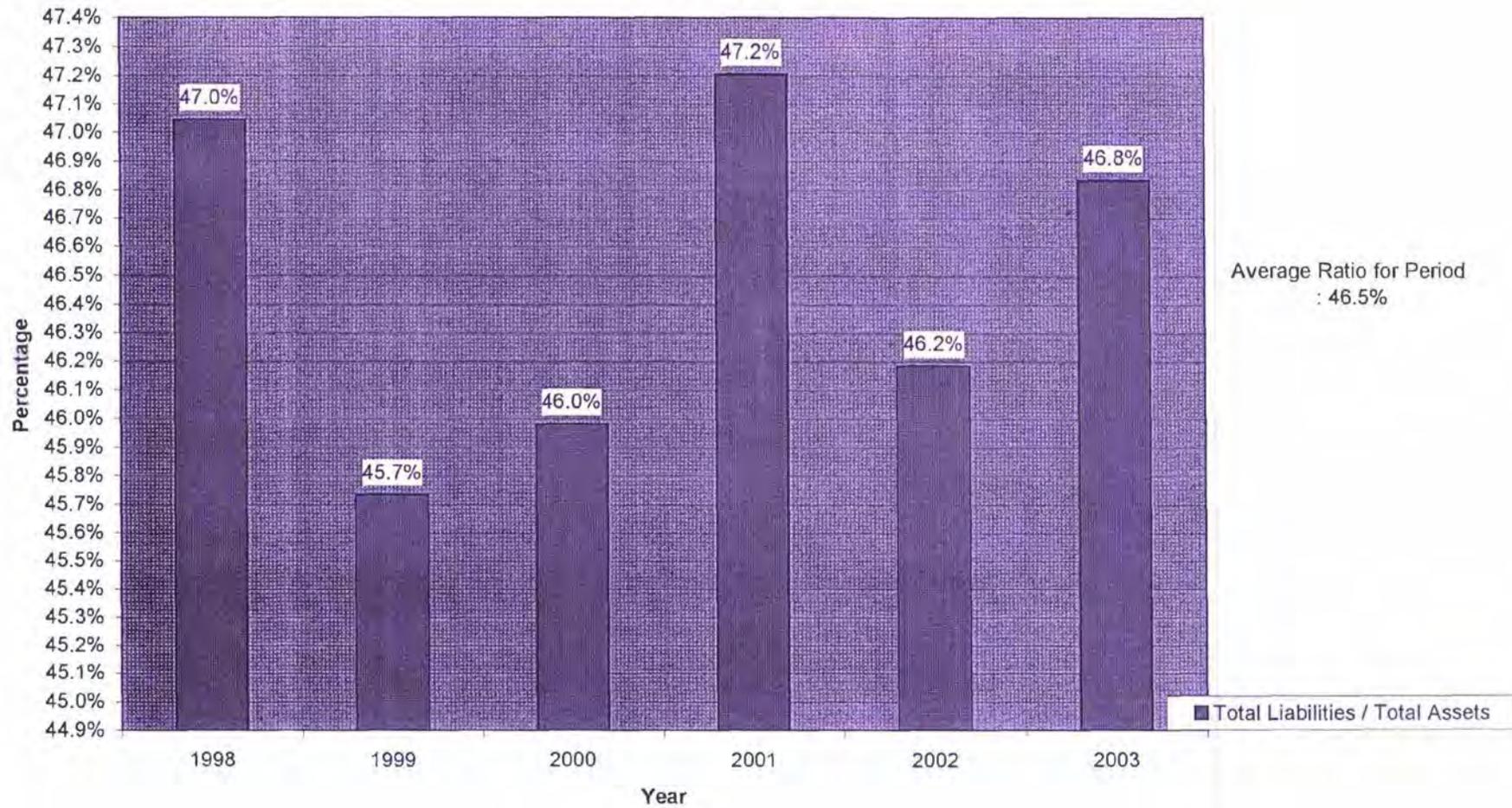
### Summary of Findings Re Solvency Ratio Analysis

- 1/ Av. Solvency Ratio for Australian Casinos and Gaming Companies for the period from 2001 to 2003 : 47%
- 2/ Average Solvency Ratio for Overseas Casinos for the period from 2002 to 2003 : 75%
- 3/ Average Solvency Ratio for Crown (Consolidated) for the period from 1998 to 2003 : 34.3%
- 4/ Average Solvency Ratio for PBL Ltd (Holding Company Group) for the period from 1998 to 2003 : 46.5%

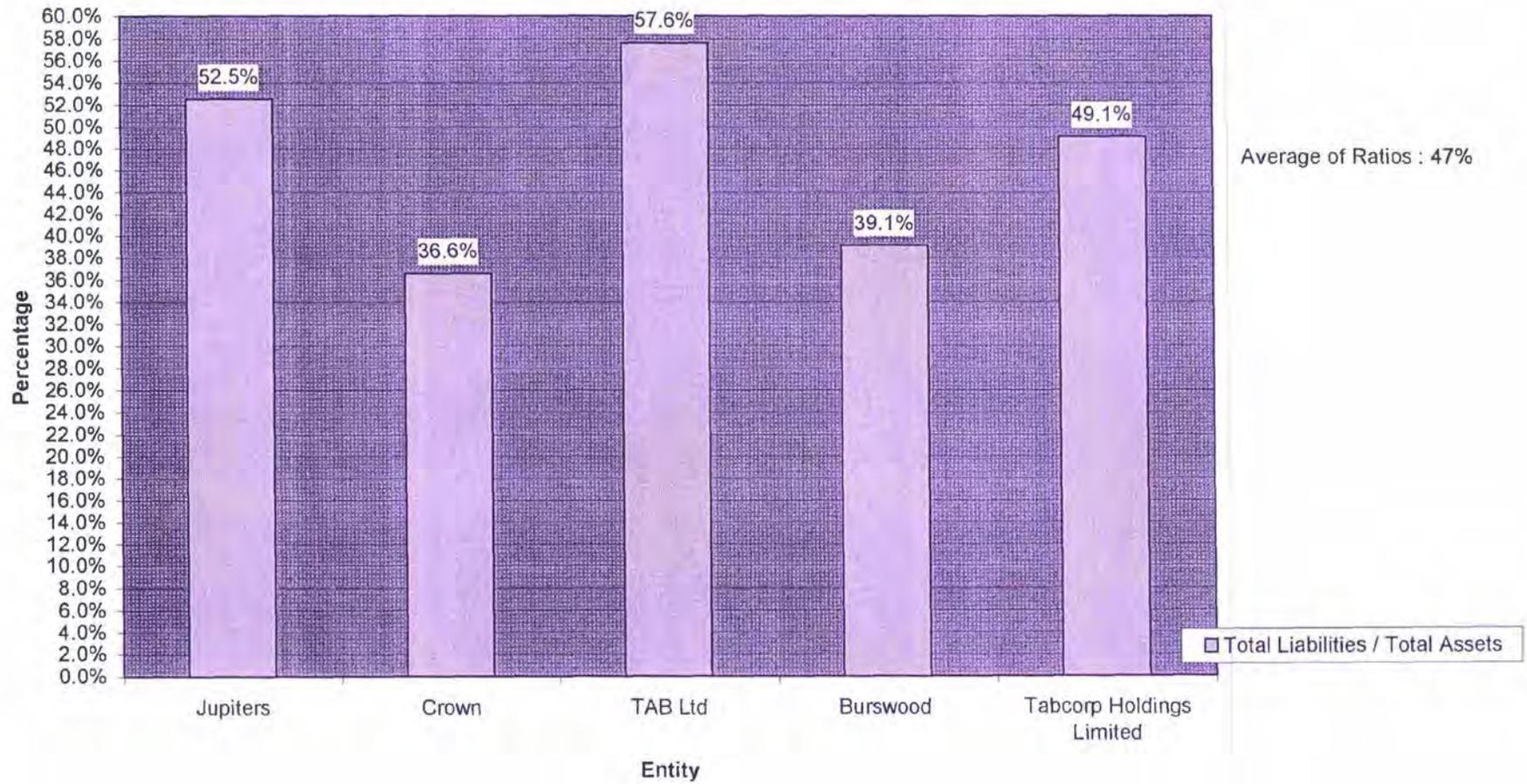
**Crown (Consolidated) Solvency Ratios  
From 1998 to 2003**



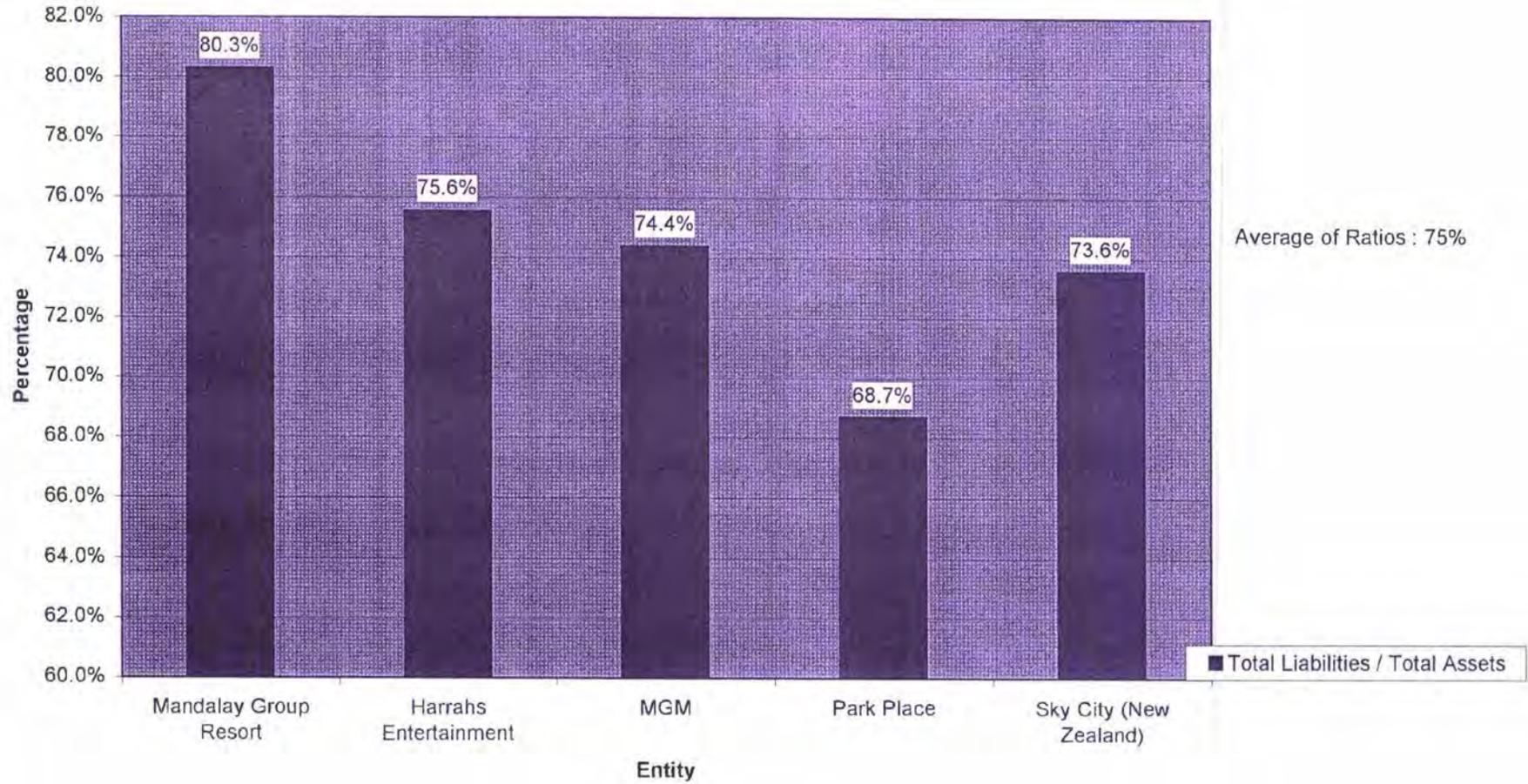
**PBL (Consolidated) Solency Ratios  
From 1998 to 2003**



### Average Solvency Ratio from 2001 to 2003 Australian Casinos and Gaming Companies



Average Solvency Ratio from 2002 to 2003  
Overseas Casinos



## Solvency Calculations

## Summary of Solvency Ratios

Jupiters	52.5%		Crown		PBL
Crown	36.6%	1998	60.5%		47.0%
TAB Ltd	57.6%	1999	21.8%		45.7%
Burswood	39.1%	2000	13.7%		46.0%
Tabcorp Holdings Limited	49.1%	2001	13.6%		47.2%
		2002	58.0%		46.2%
		2003	38.1%		46.8%
Mandalay Group Resort	80.3%				
Harrahs Entertainment	75.6%				
MGM	74.4%		Crown	34.3%	(5 yr av)
Park Place	68.7%		PBL	46.5%	(5 yr av)
Sky City (New Zealand)	73.6%				
Crown (3 yr average)	36.6%				
PBL (3 year average)	45.9%				

## Solvency Calculations

**Analysis of Australian Casino Operations :***(Consolidated Results)*

<u>1/ Jupiters</u>	<u>2001</u>	<u>2002</u>	<u>2003 (F)</u>		
- Total Assets (\$m's)	1,129	1,095	1,099		
- Total Liabilities (\$m's)	499	616	628		
- Total Equity (\$m's)	630	480	471		
- Market Cap (\$m's)	-	-	1,298		
VCGA Ratio	<u>44.2%</u>	<u>56.3%</u>	<u>57.1%</u>	52.5%	Average
Net Debt/Equity (%)	26.8%	64.9%	67.8%		
Net Debt/Net Debt + Equity (%)	21.1%	39.3%	40.4%		

<u>2/ PBL Ltd</u>	<u>2001</u>	<u>2002</u>	<u>2003 (F)</u>		
- Total Assets (\$m's)	6,414	6,523	6,585		
- Total Liabilities (\$m's)	3,028	3,013	2,923		
- Total Equity (\$m's)	3,386	3,510	3,662		
- Market Cap (\$m's)	-	-	6,696		
VCGA Ratio	<u>47.2%</u>	<u>46.2%</u>	<u>44.4%</u>	45.9%	Average
Net Debt/Equity (%)	51.1%	50.0%	43.9%		
Net Debt/Net Debt + Equity (%)	33.8%	33.3%	30.5%		

<u>2a/ Crown</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	2,760	3,633	2,723		
- Total Liabilities (\$m's)	375	2,105	1,039		
- Total Equity (\$m's)	2,385	1,528	1,684		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>13.6%</u>	<u>57.9%</u>	<u>38.2%</u>	36.6%	Average

<u>3/ TAB Ltd</u>	<u>2001</u>	<u>2002</u>	<u>2003 (F)</u>		
- Total Assets (\$m's)	965	1,026	1,007		
- Total Liabilities (\$m's)	466	648	617		
- Total Equity (\$m's)	499	379	390		
- Market Cap (\$m's)	-	-	1,457		
VCGA Ratio	<u>48.3%</u>	<u>63.2%</u>	<u>61.3%</u>	57.6%	Average
Net Debt/Equity (%)	49.0%	103.6%	102.7%		
Net Debt/Net Debt + Equity (%)	32.9%	50.9%	50.7%		

<u>4/ Burswood</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	858	889	854		
- Total Liabilities (\$m's)	355	379	285		
- Total Equity (\$m's)	503	510	569		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>41.4%</u>	<u>42.6%</u>	<u>33.4%</u>	39.1%	Average
Net Debt/Equity (%)	-	59.6%	37.1%		
Net Debt/Net Debt + Equity (%)	-	0.0%	0.0%		

## Solvency Calculations

<u>5/ Tabcorp Holdings</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	2,502	2,414	2,357		
- Total Liabilities (\$m's)	1,259	1,138	1,176		
- Total Equity (\$m's)	1,243	1,276	1,181		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>50.3%</u>	<u>47.1%</u>	<u>49.9%</u>	49.1%	Average
Net Debt/Equity (%)	-	0.0%	0.0%		
Net Debt/Net Debt + Equity (%)	-	0.0%	0.0%		
				47%	Excluding PBL

**Analysis of Overseas Casino Operations :***(Consolidated Results)*

<u>1/ Mandalay Group Resort</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	-	4,354	4,643		
- Total Liabilities (\$m's)	-	3,472	3,754		
- Total Equity (\$m's)	-	883	888		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>-</u>	<u>79.7%</u>	<u>80.9%</u>	80.3%	Average
<u>2/ Harrahs Entertainment Inc</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	-	6,350	6,380		
- Total Liabilities (\$m's)	-	4,879	4,739		
- Total Equity (\$m's)	-	1,471	1,641		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>-</u>	<u>76.8%</u>	<u>74.3%</u>	75.6%	Average
<u>3/ MGM</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	-	10,505	10,411		
- Total Liabilities (\$m's)	-	7,841	7,722		
- Total Equity (\$m's)	-	2,664	2,689		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>-</u>	<u>74.6%</u>	<u>74.2%</u>	74.4%	Average
<u>4/ Park Place</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	-	9,674	9,562		
- Total Liabilities (\$m's)	-	6,717	6,500		
- Total Equity (\$m's)	-	2,957	3,062		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>-</u>	<u>69.4%</u>	<u>68.0%</u>	68.7%	Average
<u>4/ Sky City (New Zealand)</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>		
- Total Assets (\$m's)	955	903	984		
- Total Liabilities (\$m's)	723	638	732		
- Total Equity (\$m's)	232	265	251		
- Market Cap (\$m's)	-	-	-		
VCGA Ratio	<u>75.7%</u>	<u>70.7%</u>	<u>74.4%</u>	73.6%	Average
				75%	Overall Av.

## Solvency Calculations

## Figures from Annual Reports

United States

	<u>Market Value of Equity</u>	<u>Debt as a % of Total Cap.</u>
<u>For the Year Ended, 31st December, 2002</u>		
1/ MGM Mirage	4,618	63.0%
2/ Harrah's Entertainment	4,292	62.7%
3/ Park Palace Entertainment	2,379	58.4%
4/ Mandalay Resort Group	1,885	71.8%

New Zealand

	<u>2001</u>	<u>2002</u>	<u>2003 (F)</u>
1/ Sky City Casino			
- Total Assets (\$m's)	955	903	984
- Total Liabilities (\$m's)	723	638	732
- Total Equity (\$m's)	232	265	251
Net Debt/Equity (%)	254%	194%	233%
Net Debt/Net Debt + Equity (%)	72%	66%	70%

Crown

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
- Total Assets (\$000's)	2,066,740	2,355,279	2,489,232	2,760,516	3,632,798	2,723,263
- Total Liabilities (\$000's)	1,249,701	514,233	341,450	375,625	2,105,485	1,038,602
- Total Equity (\$000's)	817,039	1,841,046	2,147,782	2,384,891	1,527,313	1,684,661
- Market Cap (\$000's)	-	-	-	-	-	-
VCGA Ratio	60.5%	21.8%	13.7%	13.6%	58.0%	38.1%

Average : 34.3%

PBL

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
- Total Assets (\$000's)	3,723,210	6,245,691	6,647,046	6,413,751	6,522,875	7,038,434
- Total Liabilities (\$000's)	1,751,569	2,856,388	3,056,352	3,027,742	3,012,703	3,296,585
- Total Equity (\$000's)	1,971,641	3,389,303	3,590,694	3,386,009	3,510,172	3,741,849
- Market Cap (\$000's)	-	-	-	-	-	-
VCGA Ratio	47.0%	45.7%	46.0%	47.2%	46.2%	46.8%

Average : 46.5%

# OFFICE OF GAMBLING REGULATION

Commercial in Confidence

**Conformed copy of the Casino Agreement for reference purposes only with copies of some relevant related documents**

## Contents

1. **Conformed Copy of the Melbourne Casino Project – Casino Agreement dated 21 September 1993, incorporating Variation Agreements 1 to 8, prepared by Maddock Lonie & Chisholm in July 1999**
2. **Page 57 – the signature page – of the original signed Casino Agreement**
3. **Attachment A to the Casino Agreement (Schedule Six – Insurances)**
4. **Melbourne Casino Complex – Development Proposals**
5. **Temporary Casino Complex – Development Proposals**
6. **Copy of original Casino Licence dated 19 November 1993 – with the following attachments:**
  - **Two drawings showing the Casino Gaming Areas (RL 2.4 and 5.7)**
  - **Letter dated 4 November 1994 amending the Casino Licence with the following attachments:**
    - **Letter from Crown dated 28 October 1994 re Air Conditioning**
    - **Lincoln Scott letter dated 12 October 1994 re Air Conditioning**
  - **Letter dated 12 October 1995 amending the Casino Licence**
  - **Media Release dated 12 October 1995**
  - **Schedule – Solvency Report (attachment to the Seventh Variation Agreement, dated 2 July 1998)**
7. **Melbourne Casino Project – Supplemental Casino Agreement, dated 27 May 1999**
8. **Addresses for the Service of Documents on Crown Limited (Letter from Publishing and Broadcasting Limited dated 6 September 2001 and email from Margot Johnson dated 12 September 2001).**

WLB/13Sept 2001

Maddock Lonie & Chisholm

LAWYERS



DATED

21 SEPTEMBER

VICTORIAN CASINO AND GAMING AUTHORITY

- and -

CROWN LIMITED  
ACN 006 973 262

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MELBOURNE CASINO PROJECT  
CASINO AGREEMENT

[Conformed Copy for reference only –  
As varied by Variation Agreements 1 to 8  
and the Master Security Agreement]

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A MEMBER OF  
*advoc* asia

ADELAIDE, COLOMBO, DUBAI HONG KONG,  
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,  
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

140 WILLIAM STREET MELBOURNE VICTORIA AUSTRALIA 3000

EMAIL: [info@maddocks.com.au](mailto:info@maddocks.com.au)

WEB SITE: [www.maddocks.com.au](http://www.maddocks.com.au)

TELEPHONE: + (61 3) 9288 0555

FACSIMILE: + (61 3) 9288 0666

DX 259 MELBOURNE

COMMERCIAL IN CONFIDENCE

DATED 21 SEPTEMBER 1993

VICTORIAN CASINO AND GAMING AUTHORITY  
(‘Authority’)

CROWN LIMITED  
ACN 006 973 262  
(‘Company’)

MELBOURNE CASINO PROJECT

CASINO AGREEMENT

[CONFORMED COPY - AS VARIED BY  
VARIATION AGREEMENTS 1 TO 8 AND  
THE MASTER SECURITY AGREEMENT]

MINTER ELLISON  
Lawyers  
40 Market Street  
MELBOURNE VIC 3000  
DX 204 MELBOURNE

Telephone (03) 9229 2000  
Facsimile (03) 9229 2666

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**COMMERCIAL IN CONFIDENCE****MELBOURNE CASINO PROJECT****CASINO AGREEMENT**

**AGREEMENT** dated 21 September 1993

**BETWEEN** **VICTORIAN CASINO AND GAMING AUTHORITY** (formerly known as **VICTORIAN CASINO CONTROL AUTHORITY**) a statutory authority established under the *Casino Control Act* with its office at 459 Collins Street, Melbourne ('**Authority**')

**AND** **CROWN LIMITED** ACN 006 973 262 (formerly known as **CROWN CASINO LTD**) with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria ('**Company**')

**RECITALS**

- A. The Authority has power to grant a casino licence under the provisions of the *Casino Control Act*.
- B. The Company has made application for a casino licence and pursuant to such application has provided information and submissions, including the Melbourne Casino Complex Development Proposals and the Temporary Casino Complex Development Proposals, to the Authority.
- C. The Authority has, in accordance with sections 9 and 10 of the *Casino Control Act*, carried out investigations and enquiries in relation to the Company and other persons required to be investigated.
- D. Subject to the terms and conditions of this document and the Management Agreement, the Authority has agreed to grant the Casino Licence to the Company.
- E. The Casino Licence will enable the Company to operate a casino from temporary premises.
- F. The Minister, acting for and on behalf of the State, and the Company have entered into the Management Agreement pursuant to section 15 of the *Casino Control Act* as a condition precedent to the grant of the Casino Licence to the Company.
- G. The Minister has given approval to the Authority pursuant to sections 14 and 142 of the *Casino Control Act* to provide an undertaking to the Company as to exclusivity, to enter into this document and to act for and on behalf of the State in respect of certain matters referred to in this document.

**AGREEMENT****1. DIVISION INTO PARTS**

This document is divided into Parts as follows:

## COMMERCIAL IN CONFIDENCE

PART 1 -	PRELIMINARY
PART 2 -	DEVELOPMENT AND COMPLETION
PART 3 -	COMPLETION
PART 4 -	CORPORATE STRUCTURE AND RELATED MATTERS
PART 5 -	GRANT OF THE CASINO LICENCE
PART 6 -	ENCUMBRANCES AND ASSIGNMENTS
PART 7 -	TERMINATION
PART 8 -	COMPLEMENTARY AGREEMENTS
PART 9 -	GENERAL

## PART 1 - PRELIMINARY

## 2. DEFINITIONS

In this document, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'**Agent**' means National Australia Bank Limited ACN 004 044 937 and any successor to it as agent under the Facility Agreement;

'**Agreement Act**' means the bill referred to in clause 3.2(a) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause;

'**Ancillary Facilities**' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Development Proposals to be constructed on or located within the Temporary Casino Site or the Site, including an hotel, restaurant, retail, recreation, entertainment and car parking facilities, residential and office accommodation, staff facilities, staff car parking, coach storage facilities and open space areas;

'**Assets and Rights**' means all the present and future undertaking, property, assets and rights of or held by the Company;

'**Associate**' has the same meaning as in sections 10 to 17 of the Corporations Law;

'**ASX**' means Australian Stock Exchange Limited;

'**Australian Accounting Standards**' means:

- (a) accounting standards as defined in (or having effect under the *Corporations Law* as if they were accounting standards defined in) section 9 of the *Corporations Law*;
- (b) the requirements of the *Corporations Law* in relation to the preparation and content of accounts; and

## 3 COMMERCIAL IN CONFIDENCE

- (c) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices inconsistent with (a) or (b);

'**Authorisation**' includes a consent, approval, licence, permit, franchise, permission, filing, registration, resolution, direction, declaration and exemption;

'**Authority**' means the Victorian Casino and Gaming Authority;

'**Bank Guarantees**' means the guarantees or letters of credit to be provided by the Company pursuant to clauses 18.1 and 22.9 of the Management Agreement;

'**Business Day**' means a day (other than a Saturday or Sunday) on which banks (as defined in the *Banking Act 1959* (Commonwealth)) are generally open for business in Melbourne;

'**Casino Asset**' means an asset or undertaking of the Company which forms part of the Secured Property and which consists of:

- (a) the Casino Licence;
- (b) the Melbourne Casino;
- (c) the Temporary Casino;
- (d) all gaming equipment used in the Melbourne Casino or the Temporary Casino;
- (e) all revenue derived from the Melbourne Casino or the Temporary Casino (other than revenues which have been deposited or are standing to the credit of the Debt Protection Account or the Debt Service Reserve Account (each as defined in the Facility Agreement) in accordance with the Facility Agreement and any Authorised Investments (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment); or
- (f) all other assets of the Company necessary for the operation of the Melbourne Casino or the Temporary Casino;

and a reference to the '**Casino Assets**' includes any part of them;

'**Casino Control Act**' means the *Casino Control Act 1991* (Victoria);

'**Casino Licence**' means a casino licence as defined in the *Casino Control Act* in relation to the Temporary Casino and the Melbourne Casino in the form of the licence set out in Schedule One;

'**Casino Supervision and Control Charge**' means:

- (a) for the period from the Licensing Date until 30 June 1994, \$5,000,000; and

(b) for each Financial Year from 1 July 1994 until 30 June 1997, \$5,000,000;

**'Company'** means Crown Limited ACN 006 973 262, which will be the casino operator for the purposes of the *Casino Control Act*;

**'Commissioning'** means the checking, testing and acceptance of the operational readiness of and the procedures for the various components of the Melbourne Casino or the Temporary Casino as the case may be (including all staff, facilities and equipment) by the Authority;

**'Complementary Agreements'** means each of the agreements listed in Schedule Two; **'Completion'** means the completion of the construction, the Fit-Out and the Commissioning of the Temporary Casino or the Melbourne Casino, as the case may be, as specified in the Completion Standards and as determined pursuant to clause 20, and **'Complete'** and **'Completed'** have corresponding meanings;

**'Completion Standards'** means:

- (a) for construction, when all the requirements under this document and the *Casino Control Act* in relation to the Melbourne Casino or the Temporary Casino have been complied with;
- (b) for Commissioning, when all the procedures for the various components of the Melbourne Casino or the Temporary Casino (including all staff, facilities and equipment) are in place or immediately and reliably available to the Company such that the Melbourne Casino or the Temporary Casino, as the case may be, can be operated securely and so that there is no risk to the integrity of operation or compromise in the amenity of the Melbourne Casino or the Temporary Casino, as the case may be, which is not acceptable to the Authority; and
- (c) for Fit-Out, when all of the Fit-Out is installed in place and operational with the exception only of minor omissions and maintenance items which, in the reasonable opinion of the Authority, do not affect the security, integrity, operation or amenity of the Melbourne Casino or the Temporary Casino;

**'Construction Agreement'** means the proposed building agreement between the Company and a proposed builder substantially in the form of the draft agreement a copy of which has been signed on behalf of the Authority and the Company and dated the date of this document for the purposes of identification;

[Note: The builder is Grocon Pty Ltd ACN 006 772 238]

**'Contractor's Deed'** has the same meaning as in the Supplemental Development Agreement;

**'Control Acts'** means the *Building Control Act 1981* and the *Planning and Environment Act*;

**'CUB'** means Carlton and United Breweries Limited ACN 004 056 106;

'Deal with' means deal with property in any way other than enter into an arm's length agreement to sell dependent for effect on the Authority's consent, including, but not limited to, offer for sale, grant an option in respect of, create or Dispose of a right in respect of, render or permit to be subject to an Encumbrance, convert, deposit, compromise and allow a counterclaim or right of set-off to arise in respect of;

'Deed of Undertaking and Guarantee' means the agreement under which, amongst other things, the Holding Company and other related companies guarantee to the Authority and the State, the due and punctual performance of certain obligations owed by members of the Group to the Authority and the State;

'Design and Construction Programme' means the programme for the design documentation, construction, Fit-Out, Commissioning and Completion of the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) set out in Schedule One of the Management Agreement, as amended from time to time with the prior written approval of the State;

'Development Agreement' means the agreement dated 30 August 1993 between the Company and Hudson Conway Management Limited ACN 006 742 294 providing for the procuring of the construction of the Melbourne Casino Complex;

'Dispose of' means sell, transfer, assign, alienate, surrender, dispose of, deposit, Lease, part with possession of and enter into any agreement or arrangement to do or allow any of these things;

'Director of Casino Surveillance' means the person appointed under section 94 of the *Casino Control Act*;

'Documentation' means any document or proposal which the Company is required to submit to the Authority under clauses 6, 7, and 8;

'Drawings' means the plans, designs and working drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'Encumbrance' means a mortgage, charge, pledge, lien, assignment, hypothecation, retention of title (other than a retention of title in respect of trading stock), or any other right (including, without limitation, under a trust, agency, hire purchase, sale and repurchase, sale and leaseback or flawed asset arrangement) of a creditor to have its claims satisfied prior to other creditors with, or from the proceeds of or by recourse to any asset and includes any agreement, arrangement or document conferring such a right or having substantially the same economic effect;

'Equity Funding Agreement (Federal)' means the agreement dated 30 August 1993 between Danwick Pty Limited ACN 059 321 667, The Federal Hotels Limited ACN 004 108 249 and Hudson Conway Limited ACN 009 556 629;

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Inserted by Agreement dated 2 June 1999.

**'Facility Agreement'** means the \$300,000,000 multi-option facility agreement dated 30 August 1993 between the Company, the Financiers and the Agent;

**'Finance Documents'** means the Facility Agreement and the Financiers' Securities;

**'Financial Year'** means from 1 July to 30 June (inclusive);

**'Financiers'** means National Australia Bank Limited, Australia and New Zealand Banking Group Limited, HongkongBank of Australia Limited, Bank of Western Australia Limited [*formerly known as R & I Bank of Western Australia Limited*] and State Bank of New South Wales Limited and their successors, assigns and substitutes;

*[Note: HongkongBank withdrew 1 March 1995]*

**'Financiers' Securities'** means the following securities given to the Agent as agent for the Financiers:

- (a) a first registered fixed and floating charge over the undertaking and all the assets of the Company including a mortgage over the Casino Licence;
- (b) a mortgage of the Site Lease and a mortgage of the Temporary Casino Leases;
- (c) each other security given to the Agent or the Financiers as security for the liabilities of the Company under the Facility Agreement;

**'Fit-Out'** means the application of finishing material, gaming equipment, furniture, fittings, furnishings and such other built-in and loose items required to bring any part of the Temporary Casino or the Melbourne Casino (as the case may be) to Completion to a stage to enable Commissioning to take place;

**'Fixed and Floating Charge'** means the second registered fixed and floating charge given by the Company in favour of the Minister on behalf of the State;

**'Force Majeure Event'** has the same meaning ascribed to that term in the Management Agreement;

**'Founding Shareholders Agreement'** means the agreement dated 30 August 1993 between each Sponsor, CUB and the Company providing for the subscription for Shares by the Sponsors and Carlton & United Breweries Limited;

**'Further Amendment Act'** means the bill referred to in clause 3.2(b) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause;

**'Gross Gaming Revenue'** means the total of all sums, including cheques and other negotiable instruments whether collected or not, received in any period by the Company from the conduct or playing of games within the Temporary Casino or the Melbourne Casino (as the case may be) less the total of all sums paid out as winnings during that period in respect of such conduct or playing of games;

<sup>2</sup>'Group' means the Company and its Subsidiaries and any other entity which the directors of the Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Company under the *Corporations Law*;

'Guarantee and Indemnity for Development Agreement' means the guarantee and indemnity dated 30 August 1993 by Hudson Conway Limited ACN 009 556 629 to the Company;

<sup>3</sup>'Holding Company' means the Company's ultimate holding company, within the meaning of that expression as defined in section 9 of the *Corporations Law*, but read as though the reference in paragraph (b) to 'no body corporate' were a reference to 'no body corporate incorporated in Australia';

<sup>4</sup>'Holding Company Group' means:

- (a) the Holding Company;
- (b) the Holding Company's Subsidiaries (including without limitation, the Company and its Subsidiaries); and
- (c) any other entity which the directors of the Holding Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Holding Company under the *Corporations Law*;

'Lease' means an agreement or arrangement under which property is or may be used, occupied, retained, operated or managed by a person for consideration (of whatever form) including, but not limited to, a lease, licence, charter, hire purchase or hiring arrangement;

<sup>5</sup> ...

'Licensing Date' means the date which is 2 Business Days after the conditions precedent in clause 5.1 are satisfied; [19 November 1993]

'Licensing Payment Amounts' means the amounts payable under clause 26.1(b);

'Management Agreement' means the agreement between the Minister acting for and on behalf of the State, and the Company entered into pursuant to section 15 of the *Casino Control Act*.<sup>6</sup>

'Master Security Agreement' means the agreement of even date between the State, the Authority, the Company, the Agent and the Sponsors relating, among other things, to the priority of the Encumbrances given by the Company;

<sup>2</sup> Inserted by Agreement dated 2 July 1998.

<sup>3</sup> Inserted by Agreement dated 2 June 1999.

<sup>4</sup> Inserted by Agreement dated 2 June 1999.

<sup>5</sup> Definition of 'Liabilities' deleted by Agreement dated 2 July 1998.

<sup>6</sup> Varied by Agreements dated 14 November 1994 and 12 October 1995.

**'Melbourne Casino'** means those areas identified in the Drawings for the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

**'Melbourne Casino Complex'** means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of this document and the Management Agreement;

**'Melbourne Casino Complex Development Proposals'** means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

**'Minister'** means the Minister for the time being administering the *Casino Control Act*;

**'Mortgagee'** means any person with any Encumbrance (whether as mortgagee, chargee or otherwise) affecting or in relation to the Assets and Rights of the Company;

<sup>7</sup>**'Note Agreement'** means the deed dated 24 December 1993 between the Company, Permanent Trustee Australia Ltd and National Australia Bank Limited;

<sup>8</sup>**'Note Agreement (Series 2)'** means the deed dated 15 August 1996 between the Company, Permanent Trustee Australia Limited and National Australia Bank Limited;

**'Operations Agreement'** means the agreement dated 30 August 1993 between the Company and Crown Management Pty Ltd ACN 059 301 610 providing for the conduct of the operations of the Temporary Casino and the Melbourne Casino;

**'Permitted Encumbrance'** means an encumbrance of the kind permitted under clause 29.1;

**'Planning Amendments'** means the planning scheme amendments referred to in clause 9 of the Management Agreement;

**'Planning and Environment Act'** means the *Planning and Environment Act 1987* (Victoria);

**'Premium Payment'** means \$10,000,000 being the amount determined by the Treasurer of the State under section 112A of the *Casino Control Act* as the amount payable by the Company under the Management Agreement;

**'Public Authority'** means any government or minister or any governmental, semi-governmental or judicial entity, department, instrumentality or authority;

<sup>7</sup> Inserted by Agreement dated 7 March 1995.

<sup>8</sup> Inserted by Agreement dated 8 May 1997.

**'Receiver'** means receiver, receiver and manager or agent for a mortgagee in possession, according to the nature of the appointment;

**'Related Party'** means the Sponsors and any Subsidiary of the Company;

**'Relevant Legislation'** means the *Casino Control Act*, the Agreement Act and the Further Amendment Act;

**'Secured Property'** means at any time, any present or future right, property or undertaking of the Company, (other than an amount which has been deposited to, or which is standing to the credit of, the Debt Service Reserve Account or the Debt Protection Account (each as defined in the Facility Agreement) and any Authorised Investment (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment)) under the Facility Agreement, of whatever kind or wherever situated which is subject at that time to both:

- (a) the Fixed and Floating Charge; and
- (b) any one or more of the Financiers' Securities;

and a reference to **'Secured Property'** includes any part of it;

**'Share'** means a fully paid ordinary share with a par value of \$0.50 in the capital of the Company;

**'Shareholders Agreement - Crown Management Pty Ltd'** means the agreement dated 30 August 1993 between Hudson Conway Limited ACN 009 556 629, Mulawa Casinos Pty Ltd ACN 060 766 001, The Federal Hotels Limited ACN 004 108 249 and Crown Management Pty Limited ACN 059 301 610;

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<sup>10</sup>**'Site'** has the same meaning as in the Management Agreement;

**'Site Lease'** means the lease of <sup>11</sup>part of the Site from the Minister for Finance on behalf of the State to the Company;

**'Site Lease Supplemental Agreement'** means the agreement between the Minister for Finance, the Company and the Agent;

<sup>12</sup>**'Solvency Report'** means a report prepared in accordance with Australian Auditing Standard AUS 904 'Engagement to Perform Agreed Upon Procedures' and paragraphs .21(a) to (e), .23 and .24 of Australian Auditing Standard ALS 708 'Going Concern' and in a form approved by the Authority from time to time;

<sup>9</sup> Definition of 'Shareholders' Funds' deleted by Agreement dated 2 July 1998.

<sup>10</sup> Varied by Agreement dated 8 May 1997.

<sup>11</sup> Inserted by Agreement dated 8 May 1997.

<sup>12</sup> Inserted by Agreement dated 2 July 1998.

'Sponsors' mean Hudson Conway Limited ACN 009 556 629 and The Federal Hotels Limited ACN 004 108 249 and for the purposes of clause 22.1(a) such other person as the Authority may approve;

'Sponsor's Guarantees' means the guarantees of even date by Hudson Conway Limited ACN 009 556 629 in favour of the Authority and in favour of the State;

'State' means the State of Victoria;

'State's Nominated Representative' means the person appointed from time to time by the minister for the time being administering the *Planning and Environment Act* in accordance with clause 6.4 of the Management Agreement;

'Subsidiary' means any body corporate which would be a subsidiary of the Company within the meaning of section 46 of the *Corporations Law* or any entity which would be a subsidiary of the Company under *Australian Accounting Standard AAS24*;

<sup>13</sup>'Supplemental Casino Agreement' means the agreement under which the Holding Company guarantees to the Authority, the due and punctual performance of obligations owed by each member of the Holding Company Group to the Authority;

'Supplemental Development Agreement' means the agreement of even date between the Authority, the Company, the Sponsors and Hudson Conway Management Limited ACN 006 742 294 which is supplemental to the Development Agreement;

'Supplemental Operations Agreement' means the agreement of even date between the Authority, the Company, the Sponsors and Crown Management Pty Ltd ACN 059 301 610 which is supplemental to the Operations Agreement;

'Supplemental Sponsors' Agreement' means the agreement of even date between the Authority, the Company and the Sponsors which is supplemental to the Founding Shareholders Agreement;

'Temporary Casino' means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Temporary Casino Complex' means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of this document and the Management Agreement;

'Temporary Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'Temporary Casino Leases' means:

<sup>13</sup> Inserted by Agreement dated 2 June 1999.

- (a) the lease from the Port of Melbourne Authority to the Company; and
- (b) the sub-lease between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289 and the Company;

**'Temporary Casino Leases Supplemental Agreements'** means:

- (a) the agreement between the Port of Melbourne Authority, the Company and the Agent; and
- (b) the Temporary Casino Sub-Lease Supplemental Agreement;

**'Temporary Casino Site'** means that part of the World Trade Centre on the land bounded by Spencer Street, Flinders Street Extension and the River Yarra identified in the Plan of Survey annexed to the lease referred to in paragraph (a) of the definition of Temporary Casino Leases;

**'Temporary Casino Sub-Lease Supplemental Agreement'** means the agreement between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289, the Company and the Agent;

<sup>14</sup>**'Total Assets'** means the aggregate of all assets of the Group which according to Australian Accounting Standards are defined, or would be regarded, as assets;

<sup>15</sup>**'Total Group Assets'** means the aggregate of all assets of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as assets;

<sup>16</sup>**'Total Group Liabilities'** means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities.

<sup>17</sup>**'Total Liabilities'** means the aggregate of all liabilities of the Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities;

**'Transaction Document'** means each of this document, the Management Agreement, the Casino Licence, the Site Lease, the Temporary Casino Leases, the Fixed and Floating Charge, the Sponsor's Guarantees, the Master Security Agreement, the Site Lease Tripartite Agreement, the Temporary Casino Leases Supplemental Agreements, the Supplemental Sponsors' Agreement, the Supplemental Development Agreement, the Contractor's Deed, the Bank Guarantees,<sup>18</sup> the Supplemental Operations Agreement,<sup>19</sup> the Deed of Undertaking and Guarantee and the Supplemental Casino Agreement;

<sup>14</sup> Inserted by Agreement dated 2 July 1998.

<sup>15</sup> Inserted by Agreement dated 2 June 1999.

<sup>16</sup> Inserted by Agreement dated 2 June 1999.

<sup>17</sup> Inserted by Agreement dated 2 July 1998.

<sup>18</sup> Varied by Agreement dated 2 June 1999.

<sup>19</sup> Varied by Agreement dated 2 June 1999.

<sup>20</sup>'Trust Deed' means the deed dated 24 December 1993 between the Company and Permanent Trustee Australia Ltd relating to the issue by the Company of unsecured notes;

<sup>21</sup>'Trust Deed (Series 2)' means the deed dated 15 August 1996 between the Company and Permanent Trustee Australia Limited relating to the issue by the Company of unsecured notes;

'Underwriting Agreement' means both the underwriting agreements of 13 August 1993 and 23 August 1993 between the Company, E.L. & C. Baillieu Limited ACN 006 519 393, Rothschild Australia Securities Limited ACN 008 591 768, Macquarie Underwriting Limited ACN 001 374 572, Ord Minnett Securities Limited ACN 003 245 234, James Capel Australia Limited ACN 002 786 272 and the Sponsors; and

'Warranties' means the representations and warranties of the Company set out in Schedule Three.

### 3. COMMENCEMENT OF CERTAIN PROVISIONS

This clause and clauses 2, 5, 6.3, 33, 34, 36, 37, and 39-48 (inclusive) commence on the date of this document.

### 4. VARIATION

Subject to the prior approval in writing of the Minister, the parties may from time to time by agreement in writing vary any provision of this document.

### 5. CONDITIONS PRECEDENT

5.1 The provisions of this document other than the clauses referred to in clause 3 are conditional upon the satisfaction of the following conditions precedent:

- (a) execution of:
  - (i) the Transaction Documents except for the Casino Licence and the Bank Guarantees;
  - (ii) the Finance Documents;
  - (iii) the Development Agreement;
  - (iv) the Operations Agreement;
  - (v) the Construction Agreement;
  - (vi) the Founding Shareholders Agreement;
  - (vii) the Underwriting Agreement;

<sup>20</sup> Inserted by Agreement dated 7 March 1995.

<sup>21</sup> Inserted by Agreement dated 8 May 1997.

- (viii) the Equity Funding Agreement (Federal);
  - (ix) the Shareholders Agreement - Crown Management Pty Ltd; and
  - (x) the Guarantee and Indemnity for Development Agreement;
- (b) each of the conditions precedent in each document referred to in paragraph (a) being satisfied other than:
- (i) conditions precedent contained in paragraphs (14), (15), and (28) of Part 1 of Appendix A to and clause 4.2 of the Facility Agreement and those conditions precedent in Appendix A to the Facility Agreement that are factual or procedural matters that cannot be satisfied until the time of drawdown; and
  - (ii) the issue of the Casino Licence;
- (c) approval of the Planning Amendments; and
- (d) the coming into operation of those parts of the Agreement Act and the Further Amendment Act which relate to the construction, Fit-Out, Commissioning, Completion and operation of the Melbourne Casino Complex and the Temporary Casino Complex each in the form and substance reasonably satisfactory to the Company to enable the Company to comply with its obligations under the Transaction Documents.
- 5.2 The Authority will provide written notice to the Company and to the Minister of satisfaction of the conditions specified in clause 5.1 within 2 Business Days of the satisfaction of all of those conditions.
- 5.3 Each party shall use its best endeavours to ensure the satisfaction of the conditions in clause 5.1 as soon as possible after the execution of this document, and in any event no later than the date specified in clause 5.4.
- 5.4 This document shall terminate upon the Management Agreement terminating under clause 5.2 of that agreement.

## **PART 2 - DEVELOPMENT AND COMPLETION**

### **6. DOCUMENTS TO BE SUBMITTED TO THE AUTHORITY**

- 6.1 The Company must as soon as possible, but within 10 weeks from the Licensing Date submit to the Authority for its approval the following items:
- (a) a schedule identifying the proposed nature and degree of access (including pedestrian and vehicular) to all facilities by people who may be attending the Melbourne Casino together with a report on the vehicular part of that proposal;
  - (b) a detailed development master plan or plans clearly indicating the intentions of the Company for the development of the Melbourne Casino;
  - (c) all final schematic design drawings in relation to the Melbourne Casino;

- (d) a proposal detailing the intended method of carrying out all phases of the development of the Melbourne Casino including the type of contract documentation to be used, the system (including the provision for review and approval by the Authority where required by the Authority) for the calling of tenders and appointment of sub-contractors, nominated sub-contractors, trade contractors and the method for completing construction, Fit-Out and Commissioning of the Melbourne Casino; and
- (e) such other documents, drawings or information reasonably required by the Authority in relation to the Melbourne Casino.

6.2 As soon as practicable, but in any event no later than 3 months after Completion of the Melbourne Casino, the Company must prepare and supply the Authority with:

- (a) a list of and 3 copies of all equipment and construction warranties in relation to the Melbourne Casino provided in favour of the Company;
- (b) 3 copies of instructions and maintenance manuals in relation to the Melbourne Casino for:
  - (i) all hydraulic systems;
  - (ii) all mechanical systems; and
  - (iii) all electrical systems; and
- (c) 3 copies of as built drawings for all services in relation to the Melbourne Casino including:
  - (i) hydraulic drawings;
  - (ii) mechanical drawings;
  - (iii) electrical drawings;
  - (iv) civil works drawings; and
  - (v) architectural drawings.

6.3 The Company must by the 8 December 1994 enter into a contract substantially in the form of the Construction Agreement with a builder approved by the Authority acting reasonably providing for the construction of the Melbourne Casino Complex.

6.4 The Company must procure the execution of the Contractor's Deed before or at the time that the Company enters into the contract referred to in clause 6.3.

#### 6.5 **Provision of Information and Documents**

- (a) The Company must:
  - (i) within 14 days of receiving a request from the Authority; and in any event

- (ii) by 24 May 1996, being the date by which the Company must make available the Gaming Floor and Back of House areas -

provide to the Authority the documents and information referred to in clause 6.1 of the Casino Agreement in accordance with paragraph (b) of this clause.

- (b) The Company complies with its obligations pursuant to paragraph (a) of this clause if:
  - (c) the Company provides the documents or information requested by the Authority;
  - (d) the Company advises:
    - (i) that it is unable, at that stage, to provide the information and/or documents;
    - (ii) the reasons for the Company's inability to provide the information and/or documents; and
    - (iii) the date by which the Company anticipates being able to provide the information and/or documents; and
    - (iv) the Authority does not, within 10 days of the receipt of the advice pursuant to this paragraph give a notice to the Company that the documents and/or information must still be provided in response to the Authority's request; or
- (e) it advises the Authority that, in respect of the documents and/or information requested by the Authority, there has been no variation to or amendment of the documents or information previously provided by the Company to the Authority.
- (f) The Company may respond to a request from the Authority by a combination of the alternatives referred to in paragraph (b) of this clause as is appropriate in the circumstances.
- (g) The Authority may make requests pursuant to paragraph (a) of this clause from time to time as it considers appropriate in its absolute discretion.

<sup>22</sup>6.6 The Company acknowledges, undertakes and agrees that the Company is not permitted to terminate the Construction Agreement without the approval of the State in accordance with clause 9.3 of the Supplemental Development Agreement and without the approval of the Authority in accordance with clause 32.1 of this document.

## **7. MELBOURNE CASINO WORKS**

The Company must, at least 14 days prior to the commencement of any part of the Melbourne Casino, submit to the Authority for approval all working drawings and specifications relating to any such part, and in particular the following details:

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<sup>22</sup>                    Inserted by Agreement 3 March 1995. Varied by Agreement dated 8 May 1997.

- (a) drawings of the floor layouts for the Melbourne Casino showing the placement of gaming tables and closed circuit television cameras and other surveillance facilities;
- (b) drawings of the reflected ceiling showing the location of catwalks (if any), closed circuit television cameras, viewing panels, lights and other fittings and services;
- (c) plans of cashiers' cages, count rooms and all security areas, including access thereto;
- (d) plans of secure areas and facilities to be used for inspectors appointed under the *Casino Control Act*, police and the Company's surveillance and security staff;
- (e) the electrical installations, in particular for the:
  - (i) closed circuit television system for both surveillance of the Melbourne Casino and for use by inspectors appointed under the *Casino Control Act*;
  - (ii) alarm system;
  - (iii) telephone installations;
  - (iv) emergency link to local police headquarters;
  - (v) auxiliary power and lighting provisions; and
  - (vi) fire protection systems and flood control plans for the preceding items in paragraph (e);
- (f) the master-key system proposed; and
- (g) the proposed construction, supply or Fit-Out of the preceding items.

## 8.        **SAFETY PROCEDURES**

The Company must, at least 14 days before the Company intends to open the Melbourne Casino for use by the public, submit to the Authority for its approval details of the following matters so far as they relate to that part of the Melbourne Casino which the Company intends to open:

- (a) fire and flood safety and damage control procedures;
- (b) emergency control procedures;
- (c) crowd control procedures;
- (d) armoured vehicle transfer arrangements; and
- (e) vehicle control and parking arrangements.

## 9.        **VARIATIONS**

- 9.1 The Company must submit to the Authority details of any variations to the Drawings and the working drawings and specifications to be provided pursuant to the Control Acts, the Management Agreement or this document where any such variation in any way relates to the Melbourne Casino.
- 9.2 The Company must not make any such variations without the prior approval in writing of the Authority.

#### **10. APPROVAL BY THE AUTHORITY**

- 10.1 If the Company is required by this document to submit to the Authority any documents or proposal for approval the Company must not proceed with carrying out any works or taking any action described in or contemplated by the documents or the proposal until the Authority has approved the documents or proposal or the documents or proposal have otherwise been dealt with in accordance with this clause 10.
- 10.2 If the Company is required by this document to submit to the Authority any documents or proposal for approval, the Authority may:
- (a) approve the documents or proposal;
  - (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
  - (c) require amendment as specified to the documents or proposal; or
  - (d) reject the documents or proposal.
- 10.3 If the Authority imposes conditions, requires amendment or rejects the documents or proposal pursuant to clause 10.2 the Company may, within 7 days of notification of the condition, amendment or rejection, make a further submission to the Authority as to why the condition should not be imposed, the amendment not be made or the documents or proposal not be rejected.
- 10.4 If the Company makes a further submission to the Authority as provided for in clause 10.3, the Authority shall give the further submission reasonable consideration and may:
- (a) approve the documents or proposal;
  - (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
  - (c) require amendment as specified to the documents or proposal; or
  - (d) reject the documents or proposal.
- 10.5 If:

- (a) the Authority approves the documents or proposal, the Company must proceed with the work in accordance with the approved documents or proposal;
  - (b) the Authority imposes conditions in relation to the approval of the documents or proposal, the Company must comply with those conditions; or
  - (c) the Authority requires amendment to the documents or proposal, the Company must, within 14 days of notification of the requirements, submit to the Authority further documents or a further proposal amended in accordance with the requirements and such documents or proposal shall be dealt with in accordance with this clause 10.
- 10.6 In imposing any conditions to any approval under clause 10 of any document or proposal the Authority must not act unreasonably having regard to the effect of the Melbourne Casino Complex Development Proposals, the Temporary Casino Complex Development Proposals, the Planning Amendments and the design and planning objectives of the State.

## 11. TIME FOR APPROVAL

- 11.1 If the Company submits any documents or proposal to the Authority, the Authority must respond in writing to the Company in the manner contemplated in clause 10 within 14 days of receiving the documents or proposal from the Company or such further period agreed between the Authority and the Company.
- 11.2 If the Authority has not responded in writing to the Company as required by clause 10 within 14 days or such further period as agreed, the Authority will be taken to have given its approval.
- 11.3 Clauses 11.1 and 11.2 apply only in relation to clauses 6 - 20 inclusive.

## 12. DIRECTOR OF CASINO SURVEILLANCE

- 12.1 The Authority must ensure that all documents and proposals which are submitted to the Authority for approval under this document and which must also be approved by the Director of Casino Surveillance under section 59 of the *Casino Control Act* are provided by the Authority to the Director of Casino Surveillance who shall be responsible for providing any necessary approvals.
- 12.2 Clauses 10 and 11 will apply in relation to any approvals to be given by the Director of Casino Surveillance as if the Director of Casino Surveillance were the Authority.
- 12.3 Nothing in this document shall be taken as limiting or fettering the rights of the Director of Casino Surveillance under the *Casino Control Act*.

**13. PROVISION OF FACILITIES FOR INSPECTORS**

The Company must at its expense provide, keep and maintain all facilities and surveillance systems in the Melbourne Casino required for the use of inspectors appointed under the *Casino Control Act*.

**14. SITE ACCESS**

- 14.1 Persons authorised in writing by the Authority or the Director of Casino Surveillance may at all reasonable times have free access to the Site but in doing so such persons must not interfere with the progress of any works except for the purpose of exercising any powers conferred under the Transaction Documents or the *Casino Control Act*. Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice, the Authority or the Director of Casino Surveillance and the Company must co-operate in the co-ordination of the Authority's or the Director of Casino Surveillance's inspections, measurements and tests with the requirements of the Company in relation to any programmes for and the timely Completion of the Melbourne Casino, with the objective of achieving, to the maximum extent possible, inspections, measurements and tests at the most appropriate times during the execution of the works for the Melbourne Casino and prior to closing up of the relevant part of the works.
- 14.2 The Authority or the Director of Casino Surveillance may, from time to time, give to the Company reasonable notice in writing that:
- (a) the Authority or the Director of Casino Surveillance proposes to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests; or
  - (b) the Authority or the Director of Casino Surveillance requires the Company to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests as described in the notice.
- 14.3 If the Company receives a notice pursuant to clause 14.2, the Company must ensure that no part of the works in relation to the Melbourne Casino thereafter becomes inaccessible before any required inspection, measurement or test is completed, and:
- (a) if the notice is pursuant to paragraph 14.2(a), the Company must permit the Authority, the Director of Casino Surveillance or their respective agents to carry out the inspection, measurement or test; or
  - (b) if the notice is pursuant to paragraph 14.2(b), the Company must carry out the inspection, measurement or test, at its cost, in accordance with the conditions set out in the notice and at a time specified in the notice and must immediately thereafter provide to the Authority or the Director of Casino Surveillance a copy of the results of the inspection, measurement or test.
- 14.4 The Authority or the Director of Casino Surveillance and any persons authorised by any of them must not act unreasonably when exercising any powers under clause 14.

14.5 Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice and notwithstanding clause 14.3, if the Authority, the Director of Casino Surveillance or any of their respective agents carry out any inspection, measurement or test or require the Company to carry out any inspection, measurement or test in respect of any part of the works in relation to the Melbourne Casino which has become inaccessible the Authority, the Director of Casino Surveillance or any of their respective agents must first give the Company notice in writing of the Authority's or the Director of Casino Surveillance's reasonable requirements in respect of the inspection, measurement or test.

**15. RECTIFICATION AND SUSPENSION OF THE WORKS IN RELATION TO THE MELBOURNE CASINO**

15.1 If following any inspection, measuring or examination of the works in relation to the Melbourne Casino the Authority is of the opinion that the works do not comply with any of the requirements in clauses 6 - 20 of this document or the reasonable requirements of the Authority which have been notified in writing to the Company or the requirements of any approved Documentation, the Authority may by notice to the Company specify:

- (a) in what respect the works do not comply; and
- (b) what action must be taken to rectify the non-compliance and the reasonable time within which that action is to be taken,

and the Company must comply with that notice.

15.2 If the Authority forms the opinion that the Company has failed for any reason to comply with a notice given pursuant to clause 15.1, the Authority may, without prejudice to any other right or remedy arising because of that failure, by notice to the Company direct the suspension of that part of the works in relation to the Melbourne Casino which is the subject of the notice given pursuant to clause 15.1 until the notice given pursuant to clause 15.1 is complied with.

**16. PROJECT ADVISORY MEETINGS**

16.1 Project advisory meetings must be held on a monthly basis and from time to time as may be required by the Authority during the design documentation, construction, Fit-Out and Commissioning of the Melbourne Casino.

16.2 The principal purposes of these meetings are to monitor design development, contract documentation and progress of the construction of the Melbourne Casino and to ensure compliance by the Company with its obligations under this document.

16.3 The meetings must be:

- (a) at a location determined by the Authority;
- (b) attended by at least 1 and not more than 4 representatives from each of the Authority and the Company; and
- (c) chaired by a person nominated by the Authority.

- 16.4 The State's Nominated Representative may attend the meetings.
- 16.5 The Company must provide accurate minutes to the Authority and the State's Nominated Representative within 3 days after each project advisory meeting.

**17. MULTIPLE COPIES OF PLANS**

The Company must provide to the Authority 3 copies (or such lesser number as may from time to time be agreed) of all plans, specifications and other material required to be provided pursuant to clauses 6 to 18 (inclusive) of this document.

**18. DEVELOPMENT OF THE TEMPORARY CASINO**

- 18.1 The Company must provide to the Authority for its approval all documents, drawings and information additional to the Temporary Casino Complex Development Proposals and the Drawings which are necessary for the design and construction of the Temporary Casino, including details of those items specified in clauses 6,7 and 8 in so far as they relate to the Temporary Casino.
- 18.2 The Company must provide to the Authority for its approval any other documents, drawings or information requested by the Authority in relation to the Temporary Casino.
- 18.3 Clauses 9, 10, 11 and 12 apply (unless the context otherwise requires) in relation to any submissions by the Company to the Authority for the approval of documents and drawings or any proposal relating to the Temporary Casino Complex or to any application by the Company to vary any approved document or drawing as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino the Melbourne Casino.
- 18.4 Clauses 13, 14, 15 and 16 apply (unless the context otherwise requires) in relation to the Temporary Casino Complex and the Temporary Casino Site as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino Site the Site.

**PART 3 - COMPLETION**

**19. OPENING OF THE MELBOURNE CASINO**

It is a condition precedent to approval to open the Melbourne Casino that at least 2000 car parking spaces are available for use on the Site.

**20. COMPLETION**

- 20.1 The Company must give not less than 7 Business Days notice in writing to the Authority that the Company anticipates that the Temporary Casino or the Melbourne Casino, as the case may be, ('**Relevant Works**') will be Completed on the date specified in the notice.

- 20.2 On the date agreed between the Company and the Authority (and if no date is agreed, then on the date specified in the Company's notice under clause 20.1) the Authority must inspect the Relevant Works and consider all matters relevant to the Completion of the Relevant Works.
- 1.1
- 20.3 If the Authority is of the opinion that the Relevant Works are not Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 give notice to the Company of this opinion and state in that notice the reason or reasons why the Authority is of this opinion.
- 20.4 If the Authority is of the opinion that the Relevant Works are Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 issue a certificate to the Company stating the date on which it believes those Relevant Works reached Completion and those Relevant Works shall, for the purpose of this document, be taken to have been Completed on that date.
- 20.5 Upon receipt of a notice from the Authority under clause 20.3, the Company must immediately attend to any matters stated in the notice as requiring attention and upon the Company attending to these matters, the Company must give a further notice in writing to the Authority pursuant to paragraph 20.1.
- 20.6 Any determination by the Authority that any Relevant Works have been Completed is not acceptance that the Company has complied with the Transaction Documents and any right which the Authority may have had prior to that determination is preserved absolutely.
- 20.7 If the Authority does not deliver a notice to the Company under clause 20.3 or a certificate under clause 20.4 within the 10 Business Days period referred to in those clauses, the Relevant Works will be taken to have been Completed on the date on which those Relevant Works were inspected under clause 20.2 and a certificate of Completion will be taken to have been issued by the Authority with a date of Completion on that date.
- 20.8 A certificate of Completion under clause 20 does not excuse the Company from compliance with all relevant legislation in relation to the Relevant Works.

#### **PART 4 - CORPORATE STRUCTURE AND RELATED MATTERS**

##### **21. WARRANTIES OF THE COMPANY**

- 21.1 The Company makes the Warranties to the Authority as at the date of this document and for each day up to and including the Licensing Date.
- 21.2 Each Warranty shall be construed separately and the meaning of each shall in no way be limited by reference to any other representation or warranty contained in this document.

##### **22. CONDITIONS RELATING TO COMPANY STRUCTURE**

- 22.1 The following are conditions of this document:

23 ...  
 24 ...  
 25 ...  
 26 ...  
 27 ...  
 28 ...  
 29 ...

- (c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;
- (d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;
- (e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed;
- (f) <sup>30</sup> the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of Shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;
- (g) where required by the Authority, the Company must enforce the disposal of Shares of any person in accordance with the procedures for such disposal set out in the articles of association of the Company;
- (h) if so requested by the Authority, the Company must when requested, at any time that it is a company within the meaning of Part 6.8 of the *Corporations Law*, issue notices pursuant to Sections 718 and 719 of the *Corporations Law* in respect of particular Shares;
- (i) except for the issue of partly paid shares in the Company to employees of the Company (not exceeding 5% of the fully diluted total issued capital of the Company), options issued to the Sponsors (not exceeding 15% of the fully diluted total issued capital of the Company) and subject to clause 22.1(m)

<sup>23</sup> Substituted by Agreement dated 8 May 1997.

<sup>24</sup> Clause 22.1 (a) deleted by Agreement dated 2 June 1999.

<sup>25</sup> Clause 22.1 (aa) deleted by Agreement dated 2 June 1999.

<sup>26</sup> Clause 22.1 (ab) deleted by Agreement dated 2 June 1999.

<sup>27</sup> Clause 22.1 (ac) deleted by Agreement dated 2 June 1999.

<sup>28</sup> Clause 22.1 (ad) deleted by Agreement dated 2 June 1999.

<sup>29</sup> Clause 22.1 (b) deleted by Agreement dated 2 June 1999.

<sup>30</sup> Substituted by Agreement dated 2 June 1999.

unsecured debt securities issued in the ordinary course of business of the Company which do not materially increase the total indebtedness of the Company, the Company must not issue any shares of a class other than the Shares or any other security (as defined in section 92 of the *Corporations Law*) without the prior written approval of the Authority;

- <sup>31</sup> (j) the Company must not, without the prior written approval of the Authority, issue or announce the issue of Shares, if such issue would require the approval of holders of Shares under rule 7.1 of the Listing Rules of ASX;
- (k) the memorandum and articles of association of the Company must not be amended without the prior written approval of the Authority;
- (l) no person may be appointed as auditor of the Company unless that person's appointment has first been approved in writing by the Authority;
- <sup>32</sup> (m) subject to clause 22.6, the Company must procure that at any time Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority;
- <sup>33</sup> (ma) Total Group Liabilities must not at any time exceed 60% of Total Group Assets without the prior written approval of the Authority;
- (n) the Company must provide to the Authority within 14 days of the end of each month details of all Shares issued by the Company<sup>34</sup> and a list of the top 50 holders of Shares registered at the end of the previous month;
- (o) a director or alternate director of the Company must not gamble in the Temporary Casino or the Melbourne Casino;
- (p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority;<sup>35</sup>
- (q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;<sup>36</sup>
- <sup>37</sup>(r) the Holding Company Group, if it pursues anywhere in Australia a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:

<sup>31</sup> Substituted by Agreement dated 8 May 1997.

<sup>32</sup> Substituted by Agreement dated 2 July 1998.

<sup>33</sup> Inserted by Agreement dated 2 June 1999..

<sup>34</sup> Varied by Agreement dated 8 May 1997.

<sup>35</sup> Varied by Agreement dated 2 June 1999..

<sup>36</sup> Varied by Agreement dated 2 June 1999.

<sup>37</sup> Varied by Agreement dated 2 June 1999.

- (i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and
  - (ii) which is not detrimental to the Company's interests; and
- <sup>38</sup>(s) unless the Company, the Holding Company, the State and the Authority agree otherwise, the Company must ensure that the State is at all times the beneficiary and holder of:
- (i) a first ranking unlimited fixed and floating charge over all the assets and undertakings of the Company; or
  - (ii) a first ranking fixed and floating charge, limited to an amount of not less than \$100,000,000.00, over all the assets and undertakings of the Company, together with a letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).
- 22.2 In clause 22.1, 'Share' or 'Shares' includes, as the context requires, any other class of voting security (as defined in section 92 of the *Corporations Law*) issued by the Company.
- 22.3 For the purposes of clause 22.1, a reference to a person being entitled to Shares has the same meaning as a reference in Part 6.7 of the *Corporations Law* to a person being entitled to voting shares in a company and that person's entitlement will be calculated in the manner prescribed for calculation of substantial shareholdings in Part 6.7 of the *Corporations Law* as if that Part applied.
- 22.4 For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.
- 22.5 For the purposes of clause 22.1, 'hold' or 'held' in relation to Shares means that those Shares are beneficially owned, and includes Shares registered in the name of a nominee holding under a bare trust.
- <sup>39</sup>22.6 Any approval given by the Authority under clauses 22.1(m) and 22.1(ma)<sup>40</sup> may be given subject to such conditions as the Authority determines.

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<sup>38</sup> Inserted by Agreement dated 2 June 1999.

<sup>39</sup> Inserted by Agreement dated 2 July 1998.

<sup>40</sup> Varied by Agreement dated 2 June 1999.

- <sup>41</sup>22.7 If at any time there is any change in Australian Accounting Standards or their application and such change will have a material impact on the compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>42</sup> the Authority agrees to discuss with the Company amendments that may be required to the definitions relevant to clauses 22.1(m) and 22.1(ma)<sup>43</sup> to ensure that the provisions of this document would have the same economic effect had such a change not been made. The Authority is not obliged to agree to any such amendments.
- <sup>44</sup>22.8 For the purpose of monitoring compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>45</sup> the Company must calculate the ratio of Total Liabilities to Total Assets and the ratio of Total Group Liabilities to Total Group Assets<sup>46</sup> as at the last day of every month ('**Calculation Day**') and provide to the Authority written details of such calculation within not more than 10 Business Days after the Calculation Day.
- <sup>47</sup>22.9 If any ratio<sup>48</sup> calculated under clause 22.8 is greater than 60%, the Company must procure that its auditor provides to the Authority a Solvency Report in respect of the Company and the Holding Company Group<sup>49</sup> addressed to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.
- <sup>50</sup>22.10 If any ratio<sup>51</sup> calculated under clause 22.8 is greater than 60%, the Company may make written submissions to the Authority for consideration by the Authority for the purposes of clause 22.12 in relation to the period within which the Company expects any ratio will not exceed 60% and the financial position of the Company and the Holding Company Group.<sup>52</sup> Any such written submissions must be provided to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.
- <sup>53</sup>22.11 For the purposes of clause 22.12, the Authority may by notice in writing to the Company require the Company to provide to the Authority within the period specified in the notice such further information as the Authority requires in relation to a Solvency Report or the financial position of the Company and the Holding Company Group.<sup>54</sup>
- <sup>55</sup>22.12 If:
- (a) any ratio<sup>56</sup> calculated under clause 22.8 is greater than 60%;

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<sup>41</sup> Inserted by Agreement dated 2 July 1998.

<sup>42</sup> Varied by Agreement dated 2 June 1999.

<sup>43</sup> Varied by Agreement dated 2 June 1999.

<sup>44</sup> Inserted by Agreement dated 2 July 1998.

<sup>45</sup> Varied by Agreement dated 2 June 1999.

<sup>46</sup> Varied by Agreement dated 2 June 1999.

<sup>47</sup> Inserted by Agreement dated 2 July 1998.

<sup>48</sup> Varied by Agreement dated 2 June 1999.

<sup>49</sup> Varied by Agreement dated 2 June 1999.

<sup>50</sup> Inserted by Agreement dated 2 July 1998.

<sup>51</sup> Varied by Agreement dated 2 June 1999.

<sup>52</sup> Varied by Agreement dated 2 June 1999.

<sup>53</sup> Inserted by Agreement dated 2 July 1998.

<sup>54</sup> Varied by Agreement dated 2 June 1999.

<sup>55</sup> Inserted by Agreement dated 2 July 1998.

<sup>56</sup> Varied by Agreement dated 2 June 1999.

- (b) the Solvency Report provided under clause 22.9 concludes that there is a reasonable basis for believing that the Company will meet its debts as and when they fall due for the next 12 months;
- (c) the Authority is satisfied that the Company will comply with clauses 22.1(m) and 22.1(ma)<sup>57</sup> within a period acceptable to the Authority; and
- (d) the Authority is otherwise satisfied with the financial position of the Company and the Holding Company Group;<sup>58</sup>

the Authority may determine not to issue a notice to the Company under clause 31.2 of this document in respect of the breach of clauses 22.1(m) and 22.1(ma).<sup>59</sup>

### 23. INSPECTION OF RECORDS

The Company must upon demand make available for inspection by the Authority all records, accounts and information held by or on behalf of the Company and allow the Authority to take copies of or extracts from all such records, accounts and information.

### 24. ATTENDANCE AT COMPANY MEETINGS

- 24.1 A representative of the Authority is entitled to attend and to speak at any meeting of the Company as though he or she were a shareholder of the Company, but this clause does not confer a right to vote on the Authority or its representative.
- 24.2 The Company must deliver to the Authority copies of all notices and circulars that are forwarded to shareholders in the same manner and time frame as if the Authority were a shareholder.

### 25. DISCLOSURE

- 25.1 If the Company is admitted to the Official List of the ASX or is listed on any other stock exchange ('Exchange'), the Company must provide to the Authority a copy of:
  - (a) all notices or other information provided by or on behalf of the Company to the ASX or Exchange; and
  - (b) all notices or other information relating to the Company which are received by the Company from the ASX or Exchange,

on the same date that those notices or other information are provided to the ASX or Exchange or received by the Company.

- 25.2 The Company must immediately notify the Authority of any information necessary to ensure that the Authority is able to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Company.

<sup>57</sup> Varied by Agreement dated 2 June 1999.

<sup>58</sup> Varied by Agreement dated 2 June 1999.

<sup>59</sup> Varied by Agreement dated 2 June 1999.

- 25.3 Without limiting the generality of clause 25.2, the Company must immediately notify the Authority of any event or circumstance which would be material to the Company having regard to the definition of materiality in Australian Accounting Standard AAS5.
- 25.4 The Company and any Subsidiary must, within 15 Business Days of the end of each quarter ending on the last day of September, December and March in each year, give to the Authority a quarterly financial report in the form of the report in Schedule Four.
- 25.5 The Company must provide to the Authority a copy of:
- (a) all notices or other information provided by or on behalf of the Company to the Australian Securities Commission; and
  - (b) all notices or other information relating to the Company which are received by the Company from the Australian Securities Commission,
- on the same date that those notices or other information are provided to the Australian Securities Commission or received by the Company.

## **PART 5 - GRANT OF THE CASINO LICENCE**

### **26. GRANT OF CASINO LICENCE**

#### 26.1 Subject to:

- (a) provision of the Bank Guarantees;
- (b) payment by the Company to the State of:
- (c) the Premium Payment; and
- (d) a further amount of \$190,000,000; and
- (e) payment by the Company of the Casino Supervision and Control Charge due on the Licensing Date,

the Authority will grant the Casino Licence for the Temporary Casino and the Melbourne Casino to the Company on the Licensing Date.

#### 26.2 While the Casino Licence remains in force, the Authority undertakes not to grant a casino licence to any person enabling any person other than the Company to operate a casino:

- (a) anywhere in the State prior to 6 years from the Licensing Date; and
- (b) in those parts of the State within a radius of 150 kilometres from the Site, prior to 12 years from the Licensing Date.

#### 26.3 If after the Melbourne Casino opens for business:

- (a) the Melbourne Casino is Completely Destroyed by an Extension Event prior to the end of the exclusivity period in clause 26.2(b); and
- (b) in the reasonable opinion of the Authority the Company acts diligently to reinstate the Melbourne Casino,

the period in clause 26.2(b) shall be extended by the Extension Period.

- 26.4 For the purposes of clause 26.3 and this clause 26.4, the following words or phrases have the following meanings:

**'Completely Destroyed'** means destruction or damage to the Melbourne Casino or any other Extension Event which causes the complete closure of the Melbourne Casino;

**'Extension Period'** means the lesser of:

- (a) 12 months; and
- (b) the period from the Destruction Date to the date on which the Melbourne Casino reopens for business;

**'Destruction Date'** means the date on which the Melbourne Casino is Completely Destroyed;

**'Extension Event'** means:

- (a) a Force Majeure Event; or
- (b) any other event or circumstance which is outside the control of the Company and has not been directly or indirectly caused by an act or omission of the Company or any of its Associates,

but does not include an event which would not have occurred if the Company had exercised reasonable care and diligence.

- 26.5 If the Company wishes to apply to the Authority for a further casino licence upon the expiration of the Casino Licence, it may do so in accordance with the following provisions:

- (a) if the Company is not in breach of any material provision of this document or of any other Transaction Document, the Company may at any time during the period commencing on the date being the first day of the fifth last year of the term of the Casino Licence and terminating on the date being the last day of the fifth last year of the term of the Casino Licence give notice in writing to the Authority that the Company wishes to apply for the grant of a new licence to operate a casino in the Melbourne Casino Complex;
- (b) following the giving of the notice under clause 26.5(a), the Authority shall within six months inform the Company of the basis on which the Authority is prepared to grant a new licence to operate a casino in the Melbourne Casino

Complex and thereafter the Authority shall negotiate with the Company in good faith with a view to reaching agreement on a basis upon which the Authority is prepared to grant the new licence to the Company;

- (c) the Authority shall have no obligation under this clause 26.5 other than to notify the Company of the basis on which the Authority is prepared to grant a new licence and thereafter to negotiate in good faith with the Company;
- (d) the Company shall have no right or expectation of any nature whatever to the grant of a new casino licence following the expiration of the Casino Licence; and
- (e) if by the first day of the last year of the term of the Casino Licence, agreement has not been reached between the Authority and the Company for the grant of a new casino licence to the Company, the Authority shall be free to grant a new casino licence to any other person with effect from or after the date of expiry of the Casino Licence on such terms and conditions as the Authority in its absolute discretion determines to be appropriate.

## 27. GAMES

27.1 The Authority will publish a notice pursuant to section 60 of the *Casino Control Act* to enable the conduct and playing in the Temporary Casino and the Melbourne Casino of the following games, which must be conducted or played in accordance with the rules approved by the Authority under that section:

- (a) Blackjack;
- (b) American Roulette;
- (c) Baccarat;
- (d) Mini Baccarat;
- (e) Craps;
- (f) Two-up;
- (g) Mini-Dice;
- (h) Wheel of Fortune;
- (i) Sic-Bo;
- (j) Pai Gow;
- (k) Keno;
- (l) Poker;
- (m) French Roulette; and

- (n) if approved by the Authority, games or derivatives devised or developed by the Company.
- 27.2 The Authority approves for the Temporary Casino and the Melbourne Casino all games which are approved as of the date of this document to be played on a gaming machine by the Victorian Gaming Commission and those games shall be taken to be included in the list in clause 27.1.
- 27.3 The Authority will use its good offices with the State to endeavour to procure that the State will approve:
- (a) the offering of linked jackpots for games conducted in the Temporary Casino or the Melbourne Casino; and
  - (b) the joining in the linking of games with other casinos, hotels, clubs and other venues for the purposes of providing linked jackpots on gaming machines or Club Keno.
- 27.4 In approving rules for games under section 60 of the *Casino Control Act* and giving directions under section 61, the Authority shall consult with the Company and shall have regard to the equivalent rules, commercial terms and regulations applicable to other casinos in Australia.

28.

**CASINO OPERATING PRACTICES**

The Company must strive to obtain the maximum Gross Gaming Revenue by conducting its operations in the Temporary Casino and the Melbourne Casino as a discrete business operated in Melbourne in a proper and efficient manner having regard to the best operating practices in international casinos of a similar size and nature to the Melbourne Casino.

**PART 6 - ENCUMBRANCES AND ASSIGNMENTS****29. ENCUMBRANCES**

- 29.1 The Company must not create or permit to subsist any Encumbrance over or in relation to any Assets and Rights of the Company other than:
- (a) Encumbrances solely over any Assets or Rights which are not Casino Assets and where the Encumbrances do not, together, secure actual or contingent indebtedness exceeding, in the aggregate, \$1,000,000;
  - (b) liens arising solely by operation of law (or by an agreement to the same effect) in the ordinary course of the business of the Company where the amount secured:
    - (i) has been due for less than 30 days; or
    - (ii) is being contested in good faith and by appropriate means;
  - (c) without limiting paragraph (b), retention of title arrangements, where the amount payable:

- (i) has been due for less than 30 days; or
- (ii) is being contested in good faith and by appropriate means;
- (d) the Encumbrances referred to in clause 30; or
- (e) any other Encumbrances created or subsisting with the prior approval in writing of the Authority;

except with the prior approval in writing of the Authority and in compliance with any terms or conditions on which that approval is given.

29.2 Subject to clause 29.3, the Company must not dispose of any Assets and Rights of the Company other than pursuant to a Permitted Encumbrance except with the prior approval in writing of the Authority.

29.3 Clause 29.2 does not apply to a disposal of:

- (a) assets other than Casino Assets in the ordinary course of the business of the Company; or
- (b) obsolete or surplus Casino Assets on ordinary commercial terms.

29.4 In clause 29.2 'dispose' includes:

- (c) a disposition of any estate or interest in any manner including by way of sale, transfer, assignment, lease, letting, licence, surrender or abandonment; and
- (d) entering into an agreement or arrangement to effect a disposition,

whether in either case for valuable consideration or not.

### **30. PERMITTED ENCUMBRANCES**

30.1 The Authority has consented to the creation of Encumbrances by the Company under and in accordance with the securities identified in paragraphs (a)<sup>60</sup> of the definition of Financiers' Securities in the Master Security Agreement<sup>61</sup>.

30.2 The ranking as between the Encumbrances referred to in clause 30.1 and the Fixed and Floating Charge and other matters regarding the enforcement of Encumbrances will be regulated by the Master Security Agreement.

30.3 The Company must give prompt notice to the Authority of any Lease that the Company proposes to enter into for, or for the financing of:

- (a) any asset necessary for or incidental to the operation of the Melbourne Casino or Temporary Casino; or

<sup>60</sup> Varied by Master Security Agreement dated 30 July 1997.

<sup>61</sup> Varied by Master Security Agreement dated 30 July 1997.

- (b) any asset whatever having a value, either separately or when aggregated with the value of other assets or equipment leased from the same lessor or related bodies corporate of that lessor, exceeding \$1,000,000;

and before entering into that Lease (or if it has already entered into such Lease, then on request by the Authority) the Company must procure that the lessor of any such equipment or asset enters into a supplemental agreement with the Authority regulating access to and entitlement to that equipment or asset on terms satisfactory to the Authority.

## PART 7 - TERMINATION

### 31. TERMINATION OF THIS DOCUMENT

31.1 This document will automatically terminate:

- (a) without notice to the Company if the Casino Licence is:
  - (i) surrendered; or
  - (ii) cancelled; or
- (b) when the Casino Licence expires due to the effluxion of time.

Such termination does not affect the ability of either party to enforce a right which may have accrued to it under this document prior to such termination.

31.2 Subject to the Master Security Agreement, it shall be a contravention of a condition of the Casino Licence enabling the Authority to serve a notice on the Company pursuant to section 20(2) of the *Casino Control Act* if any of the following events occurs:

- (a) the Company commits a breach of any provision of this document (other than clauses 32.1 and 32.2), and the Authority has given a notice ('Notice') to the Company detailing the particulars of the breach unless:
  - (i) if the breach is capable of remedy:
    - (A) it is remedied within the cure period allowed in the Notice which shall not be less than 60 days to the reasonable satisfaction of the Authority; or
    - (B) the Company:
      - (i) is diligently pursuing a course of action which could reasonably be expected to remedy the breach in a period of time reasonably acceptable to the Authority; and
      - (ii) is making satisfactory progress with such course of action; or
  - (ii) if the breach to which the Notice refers is not capable of remedy:

- (A) the Company is complying to the reasonable satisfaction of the Authority with any reasonable requirements of the Authority in relation to the breach or is attending to the reasonable redress of the prejudice arising from the breach, default or event in the manner specified in the Notice; or
  - (B) the payment of damages constitutes in the reasonable opinion of the Authority, as the case may be, proper redress and the required amount of damages is paid within 15 Business Days of the date for payment as specified in the Notice;
- (aa) an Event of Default (as described in the Deed of Undertaking and Guarantee) occurs under the Deed of Undertaking and Guarantee;
  - (b) any of the following occurs and the Company does not within 10 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:
    - (i) a provisional liquidator or administrator is appointed to the Company;
    - (ii) a Receiver is appointed to any of the Casino Assets;
    - (iii) any Encumbrance becomes enforceable and the holder of the Encumbrance takes possession of any of the Casino Assets; or
    - (iv) a judgment is obtained against the Company and execution or other process of any Court or other authority is issued against or is levied or enforced upon any of the Casino Assets;
  - (c) a liquidator is appointed to the Company;
  - (d) prior to Completion, the Financiers terminate their obligations under the Facility Agreement, or otherwise permanently refuse to permit any further drawings under the Facility Agreement or the facilities provided or available under the Facility Agreement, and the Company does not within 20 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents;
  - (e) a Notice of Intention pursuant to the Supplemental Development Agreement is given by the Developer under that agreement and is not withdrawn within 10 Business Days;
  - (f) a Notice of Intention pursuant to the Contractor's Deed is given by the Contractor under that deed and is not withdrawn within 10 Business Days;
  - (g) except with the prior consent in writing of the Authority the members resolve to wind up the Company;
  - (h) the Site Lease is terminated or surrendered;

- (i) prior to Completion of the Melbourne Casino any one of the Temporary Casino Leases is terminated (other than by effluxion of time) or surrendered;
  - (j) prior to the subscription by the Founding Shareholders for all the Shares for which they have agreed to subscribe under the Founding Shareholders Agreement, any of the following occurs and the Company does not within 10 Business Days after the Authority has given notice to the Company remedy the event or redress the prejudice arising from the event or establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:
    - (i) a Founding Shareholder fails to comply with any obligation to subscribe for Shares in accordance with the provisions of the Founding Shareholders Agreement;
    - (ii) a Receiver, provisional liquidator, liquidator or administrator is appointed to a Sponsor; or
    - (iii) except with the prior consent in writing of the Authority the members resolve to wind up a Sponsor; or
  - (k) Shares having an aggregate subscription amount of \$210,000,000 have not been subscribed for by the Licensing Date by persons other than the Founding Shareholders and within 10 Business Days of the Licensing Date the Company has not established to the reasonable satisfaction of the Authority that the Company will despite this be able to perform its obligations under the Transaction Documents.
- 31.3 The Authority may in its absolute discretion extend any time period referred to in clause 31.2.
- 31.4 Nothing in clause 31.2 shall prevent the Authority from issuing a notice under section 20(2) of the *Casino Control Act* in order to issue a letter of censure or to impose a fine in accordance with the provisions of the *Casino Control Act*.
- 31.5 Subject to clause 26 of the Management Agreement, on termination of this document:
- (a) except as otherwise provided by this document all rights of the Company to, in or under this document will cease but without prejudice to the liability of any party in respect of any antecedent breach or default under this document or in respect of any indemnity or other payment obligation under this document;
  - (b) all moneys owing or remaining unpaid (and whether actually or contingently) to the Authority will (to the extent not then due) become immediately due and payable and the Company must immediately pay all those moneys to the Authority; and
  - (c) except as otherwise provided in this document, neither the Company nor any Sponsor or any other person will have any claim against the Authority with respect to any matter or thing in or arising out of this document and in particular, but without limiting the generality of the preceding paragraphs, the Company will have no claim to the repayment of all or any part of the Licensing Payment Amounts.

- 31.6 Without limiting the Authority's or the State's rights under the Fixed and Floating Charge or otherwise, in the event of the termination of this document neither the Company nor any other person is permitted (without the prior approval in writing of the Authority) to remove from the Casino Complex or the Site or the Temporary Casino Complex or the Temporary Casino Site any gaming equipment, equipment, furniture or fittings necessary for or incidental to the operation of the Melbourne Casino or the Temporary Casino, as the case may be, and the Authority is and will be entitled for so long as it deems fit to use all that gaming equipment, equipment, furniture and fittings for the purpose of operating the Melbourne Casino or the Temporary Casino.
- 31.7 The Company irrevocably appoints the Authority and each of its officers and any manager appointed by the Authority under the *Casino Control Act* jointly and severally to be its attorney and in its name and on its behalf to exercise, sign and do all assurances, deeds, instruments, agreements, acts and things which in the opinion of the Authority or such officer, manager are necessary or expedient to give effect to any right, power or remedy conferred under or in relation to any Transaction Document or the *Casino Control Act* or are necessary or expedient that the Company do.
- 31.8 The power of attorney granted under clause 31.7 survives termination of this document but may only be exercised if an event specified in clause 31.2 has occurred and has not been remedied or waived.

## PART 8 - COMPLEMENTARY AGREEMENTS

### 32. COMPLEMENTARY AGREEMENTS

- 32.1 The Company undertakes that it will not, without the prior written consent of the Authority:
- (a) give or recognise any waiver under a Complementary Agreement;
  - (b) amend, supplement or otherwise modify a Complementary Agreement;
  - (c) assign (whether absolutely or by way of security), novate or otherwise transfer its rights or obligations under a Complementary Agreement;
  - (d) give or permit to be created any Encumbrance over its rights under a Complementary Agreement;
  - (e) terminate a Complementary Agreement; or
  - (f) agree to do any of the above,

where to do so would have a material and adverse effect on the Company's ability to construct or operate the Temporary Casino or the Melbourne Casino in accordance with this document.

- 32.2 The Company must comply with all of its obligations under the Complementary Agreements and must use its best endeavours to ensure that the other parties to the Complementary Agreements (other than the State and the Authority) comply with their respective obligations, where a failure to do so in either case would have a material and adverse effect on the ability of the Company to construct or operate the Temporary Casino or the Melbourne Casino in accordance with this document.
- 32.3 The Company must comply with all of the obligations under the Company's memorandum and articles of association which are relevant or relate to the provisions in clause 22.
- <sup>62</sup>32.4 The Company undertakes to the Authority that by 31 March 1994 the Company will obtain an enforceable commitment upon terms and from persons approved in advance by the Authority that such persons shall provide to the Company not less than \$50,000,000, whether by way of capital subscription or financial accommodation. Such funds shall be in addition to all funds committed to the Company as of the Licensing Date (whether debt or equity).
- 32.5 The approval of the Authority under clause 32.4 shall not be unreasonably withheld.
- <sup>63</sup>32.5 Any agreement entered into by the Company pursuant to clause 32.4 shall be a Complementary Agreement for the purposes of this document.
- 32.6 The parties acknowledge that the underwriting agreement dated 23 August 1993 (being one of the agreements referred to in the definition of the Underwriting Agreement in clause 2) shall not be a Complementary Agreement for the purposes of this document.
- 32.7 The obligations of the Company under clause 32.4 do not derogate from the obligations of the Company under clause 22.1(m) of this document.

## PART 9 - GENERAL

### 33. COMPANY RELIES ON OWN JUDGMENT

- 33.1 Save where a statement, representation or warranty is given in its favour, under this document or any Transaction Document, the Company acknowledges that it is entering into this document in reliance on its own judgment and following review of the Site and the Temporary Casino Site and the business opportunity provided by, among other things, the Casino Licence, and not in reliance on any conduct of or statements, warranties or representations made to the Company or to any other person by or on behalf of the Authority or any of its servants, agents or consultants.

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<sup>62</sup> Inserted by Agreement dated 19 November 1993.

<sup>62</sup> Inserted by Agreement dated 19 November 1993

- 33.2 Save for any statement, representation or warranty made in the Company's favour under this document or any Transaction Document, the Company acknowledges and agrees that no action lies against the Authority or any of its servants, agents or consultants and that no compensation of any kind is payable to the Company in relation to anything done or purported to be done or not done for the purposes of the establishment or operation of the Temporary Casino, Temporary Casino Complex, Melbourne Casino or Melbourne Casino Complex prior to the execution of this document.
- 33.3 Without limiting the generality of clause 33.2, the Company agrees not to take action or make any claim for compensation, damages, costs or expenses against the Authority or any of its servants, agents or consultants in relation to the condition of the Site or the Temporary Casino Site or any third party rights in relation to the Site or the Temporary Casino Site and hereby releases each of those persons from any action or claim whether or not that action or claim is known or foreseeable at the date of this document.
- 33.4 Nothing in this clause 33 limits any liability of Golder Associates Pty Ltd to the Company.

#### **34. INDEMNITY**

- 34.1 The Company indemnifies and will keep indemnified the Authority and its servants, agents and consultants in respect of all actions, claims, demands or costs of third parties arising out of or in connection with any work carried out by or on behalf of the Company pursuant to this document or relating to the Company's operations (including but not limited to the operations of the Temporary Casino Complex and the Melbourne Casino Complex) or arising out of or in connection with the construction, financing, maintenance or use of the Temporary Casino Complex or the Melbourne Casino Complex except expenses of the Authority which are covered by the Casino Supervision and Control Charge.
- 34.2 The indemnity in clause 34.1 does not apply to the extent that any actions, claims, demands or costs arise as a result of the negligence or wilful default of the Authority.

#### **35. INSURANCE**

- 35.1 The Company must:
- (a) insure and keep insured all of its Assets and Rights:
    - (i) for the risks and in the amounts set out in Schedule Five and for such other risks and amounts which the Authority may from time to time reasonably require;
    - (ii) with the interests of the State, the Authority and any Mortgagees noted by endorsement on the policy or if the Authority so directs, in the joint names of the Company and the State and the Authority for their respective rights and interests; and
    - (iii) with underwriters approved by the Authority and, if through an insurance broker, through an insurance broker approved by the Authority;
  - (b) immediately deliver the insurance policies referred to in paragraph (a) to the Authority (unless the Company is unable to do so under the terms of a Permitted

Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient) and, on request, deliver certificates of currency in respect of those insurance policies;

- (c) punctually pay all premiums and sums necessary (including stamp duty) for effecting and keeping current every insurance policy and, promptly on request, hand to the Authority the receipt for any premium or sum paid;
- (d) immediately after they are effected, deliver to the Authority all variations, alterations and additions to any existing insurance policies and all additional or substitute insurance policies (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient); and
- (e) immediately after it becomes aware that it has occurred, notify the Authority of any occurrence which gives or might give rise to a claim or right to claim under any insurance policy.

35.2 The Company must not:

- (a) do or allow to be done anything which might cause any policy of insurance to be prejudiced or rendered void, voidable or unenforceable;
- (b) without the prior consent in writing of the Authority, cause, or take any steps to bring about, the cancellation of, or a material change or reduction in, the cover provided under any insurance policy;
- (c) effect any insurance in respect of the Assets and Rights other than as specified in clause 35.1; or
- (d) make, enforce, settle or compromise a claim or do anything inconsistent with the powers or interests of the Authority.

35.3 Subject to the Master Security Agreement, all proceeds of insurance received by the Company as a result of any claim must be applied by the Company to rectify, remedy or repair the property involved or loss or damage which gave rise to the claim.

**36. CONFIDENTIALITY**

36.1 All documents and information provided by one party to another party under this document must be kept confidential and not disclosed to any person without the consent of the other party unless:

- (a) the information is in the public domain;
- (b) disclosure is required by law;
- (c) the disclosure is necessary for the purpose of obtaining any consent, authorisation, approval or licence from any government or public body or authority;
- (d) it is necessary or desirable that the disclosure be made to any taxation or fiscal authority;

- (e) the disclosure is made on a confidential basis to the officers, employees or agents of a party or to the professional advisers of a party for the purposes of obtaining professional advice in relation to any Transaction Document or the enforcement of any Transaction Document or otherwise for the purpose of consulting those professional advisers;
- (f) the disclosure is made by the Company on a confidential basis to any actual or prospective financier or agent of a financier to the Company;
- (g) the disclosure is necessary in relation to any procedure for discovery of documents or any proceedings before any court, tribunal or regulatory body; or
- (h) the disclosure is necessary to obtain listing on the Australian Stock Exchange.

36.2 The obligations in clause 36.1 apply after termination of this document.

### 37. APPROVALS

37.1 The Authority in exercising any right, power, privilege or discretion conferred on it by this document must act having regard to:

- (a) the Authority's objects as set out in Section 140 of the *Casino Control Act*; and
- (b) the rights, powers, privileges and discretions conferred and the duties and obligations imposed on the Authority under the *Casino Control Act*.

37.2 Unless otherwise stated in this document, if the Company makes a written request for an approval or consent from the Authority under this document and the Authority has not responded in writing within the time specified below from receipt by the Authority of that written request, then the Authority will be taken to have given that approval or consent:

- (a) Clauses 22.1 (c), (f), (i), (j), (k), (l), (m), (p) and (q) - 20 Business Days;
- (b) Clauses 29.1 and 29.2 - 10 Business Days;
- (c) Clause 31.6 - 20 Business Days;
- (d) Clauses 32.1 and 32.4 - 10 Business Days;<sup>64</sup>
- (e) Clause 35.1(a) - 10 Business Days;
- (f) Clause 36.1 - 10 Business Days;
- (g) Clause 43 - 20 Business Days.

37.3 Nothing in this clause 37 shall fetter the powers, rights or obligations imposed or conferred on the Authority under any Act or regulation.

<sup>64</sup>

Amended by Agreement dated 19 November 1993.

**38. DAY OF PAYMENT**

If any day for the payment of money under this document falls on a day which is not a Business Day, the payment will be due on the next day which is a Business Day.

**39. NOTICES**

39.1 A notice or approval required or to be given under this document must be:

- (a) in writing;
- (b) delivered by hand or served by prepaid post or facsimile to the recipient at its address or facsimile number appearing in this clause or such other address or facsimile number as the recipient may have notified to the other party:
  - (i) in the case of the Authority:

Chairman  
Victorian Casino and Gaming Authority  
Level 27, 459 Collins Street  
MELBOURNE VIC 3000

Facsimile: (03) 621 1803

*[amended in accordance with this clause to:*

*Director of Gaming and Betting  
Victorian Casino and Gaming Authority  
Level 1, Building D  
World Trade Centre  
MELBOURNE VIC 3005*

*Facsimile: (03) 9628 7300]*

- (ii) in the case of the Company:

Lloyd J Williams  
Chief Executive Officer  
Crown Limited  
311 Glenferrie Road  
MALVERN VIC 3144

Facsimile: (03) 823 6105

*[amended in accordance with this clause to:*

*Mr Lloyd Williams  
Chairman and Chief Executive Officer  
Crown Limited  
Level 1  
99 Queensbridge Street*

**SOUTHBANK VIC 3006****Facsimile: (03) 9685 4350]**

- 39.2 A notice or approval given in accordance with clause 39.1 is taken to be received:
- (a) if hand delivered, on the day of delivery if delivered before 4.00 pm on a Business Day and otherwise on the Business Day next following;
  - (b) if sent by prepaid post, 3 days after the date of posting; or
  - (c) if sent by facsimile, on the day on which the message confirmation is received if received before 4.00 pm on a Business Day and otherwise on the Business Day next following.

39.3 The provisions of clause 39 are in addition to any other mode of service permitted by law.

**40. COSTS AND STAMP DUTY**

- 40.1 Each party must pay its own costs of preparing and executing this document.
- 40.2 The Company must pay all stamp duty on this document and on any document executed to give effect to this document.

**41. NO WAIVER**

A failure of a party at any time to require full or part performance of any obligations under this document will not affect in any way the rights of that party to require that performance subsequently.

**42. GOVERNING LAW**

- 42.1 This document is governed by the laws applying in Victoria.
- 42.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and courts entitled to hear appeals from those courts.

**43. ASSIGNMENT**

- 43.1 The Company must not assign or attempt to assign or otherwise deal with this document or any right under this document without the prior written approval of the Authority other than pursuant to a Permitted Encumbrance.
- 43.2 The Authority may assign, transfer or dispose of its rights under this document or any other Transaction Document:
- (a) to the State or to any department or agency of the government of the State or statutory authority or corporation which has taken over the objects and functions of the Authority under the *Casino Control Act*; or

- (b) with the approval in writing of the Company to any other person, such approval not to be unreasonably withheld;

provided that the assignee enters into an agreement with the Company agreeing to be bound by the provisions of this document and each other Transaction Document to which the Authority is a party.

#### 44. FURTHER ASSURANCES

Each party must do or cause to be done anything necessary or desirable to give effect to this document, and will refrain from doing anything which might prevent full effect being given to this document.

#### 45. COUNTERPARTS

- 45.1 This document may be executed in any number of counterparts.
- 45.2 All counterparts taken together will be deemed to constitute the one document.

#### 46. SEVERABILITY

- 46.1 The parties agree that a construction of this document which results in all provisions being enforceable is to be preferred to a construction which does not so result.
- 46.2 If, despite the application of clause 46.1, a provision of this document is illegal or unenforceable:
  - (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
  - (b) in any other case, the whole provision is severed,and the remainder of this document continues to have full force and effect.
- 46.3 Clause 46.2 does not apply where its application alters the basic nature of this document or is contrary to public policy.

#### 47. INTERPRETATION

- 47.1 In this document, unless the context otherwise requires or the contrary intention appears:
  - (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) terms importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
  - (c) a reference to any legislation, statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable, and includes any re-enactment or amendment to that legislation, statutory instrument or regulation;

- (d) other grammatical forms of defined words or phrases have corresponding meanings;
  - (e) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this document and a reference to this document includes any schedules and annexures;
  - (f) where a party comprises two or more persons the provisions of this document binding that party bind those persons jointly and severally;
  - (g) terms defined in the *Corporations Law* as at the date of this document have the meanings given to them in the *Corporations Law* at that date;
  - (h) 'party' means a party to this document;
  - (i) a reference to a party to this document or any other document or agreement includes its successors and permitted assigns;
  - (j) a reference to a document or agreement, including this document, includes a reference to that document or agreement as novated, altered or replaced from time to time;
  - (k) a reference to '\$A', 'dollar', 'AUD' or '\$' is a reference to Australian currency;
  - (l) a reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form; and
  - (m) a reference to a specific time for the performance of an obligation is a reference to that time in the State;
- 47.2 In this document headings are for ease of reference only and do not affect the construction of this document.
- 47.3 The Authority is providing the undertaking in clauses 26.2 and 26.3 with the approval of the Minister in accordance with section 14 of the *Casino Control Act*.
- 47.4 The Authority in entering into this document does so on behalf of the State pursuant to the authority granted to the Authority under section 142 of the *Casino Control Act*.
- 47.5 If any ambiguity, inconsistency or conflict exists or arises between this document and the Master Security Agreement, the provisions of the Master Security Agreement take precedence and apply to resolve that ambiguity, inconsistency or conflict.
- 47.6 The Company and the Authority acknowledge that, except as expressly provided for in this document:
- (a) nothing contained in or implied by this document prejudices or affects, or is intended in any way to impose any obligation or restriction on the Authority which conflicts with the obligations and duties of, and restrictions on, the Authority under the Relevant Legislation; and

- (b) if there is any conflict between the provisions of this document or of any Transaction Document and the provisions of the Relevant Legislation, the provisions of the Relevant Legislation prevail.

#### 48. GENERAL OBLIGATIONS

##### 48.1 The Company must:

- (a) maintain its corporate existence;
- (b) comply with all laws applicable to the matters arising under this document from time to time in force including, without limitation, the *Gaming Machine Control Act*, and all mandatory requirements of any Public Authority;
- (c) obtain and renew at the proper times and maintain all Authorisations required:
  - (i) for the Company to perform its obligations under this document;
  - (ii) for the Company to perform its obligations under each Transaction Document; and
- (d) to allow this document and each Transaction Document to be enforced against it;
- (e) obtain and renew at the proper times and maintain all licences and other Authorisations required or advisable or relied on for or in connection with the carrying on of the Company's business;
- (f) comply with the terms and conditions of each Lease to which it is a party where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino;
- (g) comply with its payment obligations under any agreement for the purchase of property where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino; and
- (h) protect the Casino Assets and at the Company's expense prosecute or defend all legal proceedings that are, or the defence of which is, necessary or advisable for the protection of the Casino Assets to the extent appropriate in accordance with prudent business practice; and
- (i) carry out all work reasonably and properly required by any Public Authority in relation to the Assets and Rights where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino.

##### 48.2 The Company must not, without the prior consent in writing of the State:

- (a) Deal with or Dispose of any of the Casino Assets other than by way of maintenance, repair or replacement;
- (b) Deal with or Dispose of any of the Casino Assets other than in the ordinary course of the Company's business;

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- (c) execute, create or permit to subsist any Encumbrance over or affecting the Casino Assets other than a Permitted Encumbrance;
- (d) pull down, alter, extend or remove any building, improvement or fixture forming part of the Casino Assets where to do so would materially adversely affect the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino;
- (e) take on or under a Lease, or acquire for consideration, any asset other than in the ordinary course of the Company's business;
- (f) declare or pay a dividend if a demand has been properly made on the Company under this document or any Transaction Document and has not been satisfied in full; or
- (g) do anything or allow anything to be done in derogation of the rights of the Authority or any other party under any Transaction Document;

except to the extent permitted by clause 29.

## SCHEDULE ONE

## CASINO CONTROL ACT 1991 (VIC)

## CASINO LICENCE

**VICTORIAN CASINO CONTROL AUTHORITY** ('Authority') under Part 2 of the *Casino Control Act 1991 (Vic)* ('*Casino Control Act*') grants to **CROWN CASINO LTD ACN 006 973 262** with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria ('Company') the right to conduct and play games and use gaming equipment in the Casino subject to the provisions of the *Casino Control Act* and the conditions set out in this licence.

## CONDITIONS

**1. Commencement**

This licence comes into force on *[insert commencement date]*.

**2. Duration**

This licence ceases to have effect on *[date to be determined]*, unless sooner cancelled or surrendered under the *Casino Control Act*.

**3. Location and Boundaries - Temporary Casino**

1 The Temporary Casino must be located within the Temporary Casino Complex.

2 The boundaries of the Temporary Casino within the Temporary Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**4. Location and Boundaries - Melbourne Casino**

1 The Melbourne Casino must be located within the Melbourne Casino Complex.

2 The boundaries of the Melbourne Casino within the Melbourne Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**5. Conducting Temporary Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Temporary Casino or open the Temporary Casino to the public for business or otherwise:

- (a) until the Temporary Casino has been Completed in accordance with the provisions of the Management Agreement; nor

- (b) after the Melbourne Casino is opened to the public.

#### **6. Conducting Melbourne Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Melbourne Casino or open the Melbourne Casino to the public for business or otherwise until the Melbourne Casino has been Completed in accordance with the provisions of the Management Agreement.

#### **7. Gaming Equipment - Temporary Casino**

The Temporary Casino:

- (a) must have not more than 130 gaming tables in operation while the Temporary Casino is open for business; and
- (b) must have not more than 1300 gaming machines in operation while the Temporary Casino is open for business.

#### **8. Gaming Equipment - Melbourne Casino**

The Melbourne Casino:

- (a) must have not less than 150 and not more than 200 gaming tables in operation while the Melbourne Casino is open for business; and
- (b) must have not more than 2,500 gaming machines in operation while the Melbourne Casino is open for business.

#### **9. Mortgage etc of Casino Licence**

The Company must not:

- (a) mortgage, charge or otherwise encumber this licence; or
- (b) transfer, assign or otherwise deal with this licence,

except in accordance with the terms and conditions of the Casino Agreement and the Master Security Agreement.

#### **10. Amendment of Licence Conditions**

Notwithstanding sections 16 and 17 of the *Casino Control Act*, the Authority will not amend the conditions of this licence without the prior written approval of the Company except as disciplinary action under section 20 of the *Casino Control Act*.

#### **11. Breach of Licence**

Clause 31.2 of the Casino Agreement and clause 25.2 of the Management Agreement set out events the occurrence of which constitute a contravention of this licence and which, subject to those clauses and the Master Security Agreement, enable the Authority to cancel, suspend or vary the terms of this licence pursuant to section 20 of the *Casino Control Act*.

## 12. Definitions and Interpretation

1 In these conditions, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'**Ancillary Facilities**' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Temporary Casino Complex Development Proposals or the Melbourne Casino Complex Development Proposals (as the case may be) to be constructed on or located within the Temporary Casino Site or the Site, including a hotel, restaurant, retail, recreation, entertainment and carparking facilities, residential and office accommodation, staff facilities, staff carparking, coach storage facilities and open space areas;

'**Casino**' means either the Temporary Casino or the Melbourne Casino, as the case may be;

'**Casino Agreement**' means the agreement dated 1993 between the Authority and the Company;

'**Completed**' has the same meaning as in the Management Agreement;

'**Drawings**' means the plans, designs and working drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'**Management Agreement**' means the agreement dated 1993 between the Minister, acting for and on behalf of the State, and the Company pursuant to section 15 of the *Casino Control Act*;

'**Master Security Agreement**' means the agreement dated 1993 between the State, the Authority, the Company, National Australia Bank Limited as agent for the financiers to the Company and the Sponsors;

'**Melbourne Casino**' means those areas identified in the Drawings of the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'**Melbourne Casino Complex**' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of the Management Agreement and Casino Agreement;

'**Melbourne Casino Complex Development Proposals**' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'Minister' means the Minister for the time being administering the *Casino Control Act*;

'Site' has the same meaning as in the Management Agreement;

'State' means the State of Victoria;

'Temporary Casino' means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Temporary Casino Complex' means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of the Management Agreement and the Casino Agreement;

'Temporary Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification; and

'Temporary Casino Site' has the same meaning as in the Management Agreement.

- 2 In this licence, unless the context otherwise requires or the contrary intention appears:
- (a) a reference in this licence to a party to an agreement or document includes the party's successors and permitted substitutes or assigns;
  - (b) a reference in this licence to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time; and
  - (c) a reference in this licence to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

**DATED** 1993.

**THE COMMON SEAL of VICTORIAN )  
CASINO CONTROL AUTHORITY )  
is affixed in accordance with )  
the directions of the Members )  
pursuant to a resolution dated )  
1993 )**

.....  
Chairman

.....  
Chief Executive Officer

## SCHEDULE TWO

## COMPLEMENTARY AGREEMENTS

- . the Founding Shareholders' Agreement;
- . the Development Agreement;
- . the Construction Agreement;
- . the Finance Documents;
- . the Operations Agreement;
- . the Underwriting Agreement;
- . the Guarantee and Indemnity for Development Agreement;
- . the Note Agreement;<sup>65</sup>
- . the Trust Deed;<sup>66</sup>
- . the Note Agreement (Series 2); and<sup>67</sup>
- . the Trust Deed (Series 2).<sup>68</sup>

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<sup>65</sup> Inserted by Agreement dated 7 March 1995.

<sup>66</sup> Inserted by Agreement dated 7 March 1995.

<sup>67</sup> Inserted by Agreement dated 8 May 1997.

<sup>68</sup> Inserted by Agreement dated 8 May 1997.

## SCHEDULE THREE

## WARRANTIES OF THE COMPANY

1. The Company has been duly incorporated and is validly existing under the laws of its jurisdiction of incorporation, with full power and authority to enter into this document and perform its obligations under this document.
2. This document has been duly authorised, executed and delivered by the Company and constitutes (except to the extent limited by equitable principles, laws relating to penalties and laws affecting creditors' rights generally) a legal, valid and binding obligation of the Company enforceable against it in accordance with its terms, and no other proceedings on the part of the Company are necessary to authorise this document and the completion of the transactions contemplated under this document.
3. The execution and delivery by the Company of this document and the performance by the Company of its obligations under this document in accordance with its terms do not:
  - (a) conflict with the constitution or by-laws of the Company;
  - (b) constitute a violation of or default under any agreements or arrangements to which the Company is a party;
  - (c) except as provided in this document, cause the creation of any Encumbrance upon any of the property of the Company; or
  - (d) contravene any law.
4. A Receiver has not been appointed to the whole or any part of the assets or undertaking of the Company or any Related Party and no such appointment has been threatened or is envisaged by the Company.
5. Neither the Company nor any Related Party is in liquidation or administration and no order, petition, application, proceedings, meeting or resolution has been made, presented, brought, called or passed for the purposes of liquidating the Company or any Related Party or placing the Company or any Related Party under or in administration.
6. Neither the Company nor any Related Party is insolvent within the meaning of section 95A of the *Corporations Law* or otherwise and there is no unfulfilled or unsatisfied judgment or court order outstanding against the Company or any Related Party.
7. As at 16 August, 1993 the unaudited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of

the Company as at that date and as at the Licensing Date the audited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date.

8. All information provided in writing by or on behalf of the Company to the Authority was when given in all material respects true and accurate and not misleading by omission.
9. As at the Licensing Date, the Company will have an issued capital of at least \$350,000,000 comprising 350,000,000 fully paid Shares issued as follows:

Sponsors and Founding Shareholders	140,000,000
Institutional Equity	<u>210,000,000</u>
	350,000,000

10. Hudson Conway Limited ACN 009 556 629 and CUB have given notice to the Treasurer of their proposed interest in the Company in accordance with the provisions of the *Foreign Acquisitions and Takeovers Act 1975 (C'th)* and the Treasurer has informed them that there are no objections to Hudson Conway Limited and CUB acquiring a substantial shareholding in the Company.

**SCHEDULE FOUR****QUARTERLY REPORT TO AUTHORITY**

The quarterly report to the Authority will consist of the following items:

- profit and loss account and cashflow statements comparing budget against actual for the year to date
- balance sheet at the last days of March, September and December
- budgeted profit and loss and cashflow statements to end of current financial year.

SCHEDULE FIVE

INSURANCES

See Annexure A.

COMMERCIAL IN CONFIDENCE

EXECUTED as an agreement.

THE COMMON SEAL of VICTORIAN )  
CASINO CONTROL AUTHORITY )  
[as then known] is affixed in )  
accordance with the directions )  
of the Members pursuant to a )  
resolution dated 5 September )  
1993 )

Common Seal

J.R. Richards

P.J. Connolly

.....  
Chairman

.....  
Chief Executive Officer

THE COMMON SEAL of )  
CROWN CASINO LTD. [as then )  
known] is affixed in )  
accordance with its articles )  
of association in the presence )  
of )

Common Seal

Peter Jonson

B. Hamilton

.....  
Signature of Secretary/Director

.....  
Signature of Director

Peter Jonson

Barry J. Hamilton

.....  
Name of Director  
(please print)

.....  
Name of Director  
(please print)

EXECUTED as an agreement.

THE COMMON SEAL of VICTORIAN CASINO CONTROL AUTHORITY is affixed in accordance with the directions of the Members pursuant to a resolution dated *5 September* 1993



[Redacted signature area]

[Redacted signature area]

*Chairman*

Chief Executive Officer

THE COMMON SEAL of CROWN CASINO LTD. is affixed in accordance with its articles of association in the presence of



[Redacted signature area]

[Redacted signature area]

Signature of ~~Secretary~~/Director

Signature of Director

[Redacted name area]

[Redacted name area]

Name of ~~Secretary~~/Director (please print)

Name of Director (please print)

Rider to replace Schedule Six of the Casino Agreement:

SCHEDULE SIX  
INSURANCES

A. CONSTRUCTION PHASE

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
1.0 Contract Works - Temporary & Permanent Casinos	Full Contract Works Value, Removal of Debris and Professional Fees	\$20,000 each occurrence arising from storm tempest, flood, water damage, subsidence and collapse  \$5,000 other claims	Loss of, damage to or destruction of the Contract Works, by events and/or perils, including, but not limited to, fire, theft, flood, water damage, explosion, malicious damage subsidence and collapse, accidental damage and rain	Contract period, plus defects liability

2.

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
2.0 Public & Products Liability	\$120,000,000 any one occurrence	<p>\$5,000 each and every occurrence for Property Damage Claims.</p> <p>\$5,000 each and every occurrence for Personal Injury claims during the operation of the Temporary Casino.</p> <p>Nil for Personal Injury Claims during the Construction Works.</p>	<p>Damages awarded to third parties for:</p> <p>(a) Personal Injury; and/or</p> <p>(b) Property Damage;</p> <p>which they suffer as a result of:</p> <p>(i) the Contract Works construction activities;</p> <p>(ii) commercial operation of the temporary casino</p>	For the full contract period
3.0 Advance Business Interruption 3.1 Permanent Casino 3.2 Temporary Casino	1. \$190,000,000 Per Annum Permanent Casino 2. \$40,000,000 Six months Temporary Casino	1. The first 60 days during which revenue would have been earned but for the loss. 2. The first 30 days during which revenue would have been earned, but for the loss.	Loss of expected revenue arising from a delay in commencing commercial operation due to a peril/event insured under the Contract Works policy causing loss of, damage to or destruction of the works excluding loss arising out of Ocean Marine Transport.	Contract Period

3.

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
4.0 Workers' Compensation "Work Cover"	As provided by the Act.	As provided by the Act.	The employer's legal liability to indemnify his employees for work related injury, in accordance with the obligations set down under the WorkCover Act 1992.	Subject to annual registration with a Licensed Insurer.
5.0 Transit Inland  Overseas	\$5,000,000 any one conveyance  \$5,000,000 any one conveyance	\$5,000 each occurrence	Loss of, damage to or destruction of materials and supplies intended for incorporation in the Contract Works during inland and/or overseas transit to the site, including whilst loading/unloading and during temporary off-site storage	Contract Period

4.

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
6.0 Contractors Plant and Equipment	\$2,500,000 any one occurrence	\$10,000 for tower cranes \$5,000 other claims	Loss of, damage to or destruction of Contractor's Plant and Equipment owned and/or operated by the various contractors and sub-contractors and used in connection with the Contract at the site of the works.	Contract Period
7.0 Motor Vehicle Comprehensive	<ol style="list-style-type: none"> <li>1. Market Value of vehicle</li> <li>2. \$10,000,000 any one occurrence for Third Party Property Damage</li> </ol>	<ol style="list-style-type: none"> <li>1. \$500 each occurrence.</li> <li>2. \$500 each occurrence.</li> </ol>	<ol style="list-style-type: none"> <li>1. The cost of repair and/or replacement following loss or damage to nominated motor vehicles.</li> <li>2. Damages payable to third parties following damage to their property arising from the use of the Insured's nominated motor vehicles.</li> </ol>	12 months

5.

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
8.0 Motor Vehicle Compulsory Third Party (Personal Injury)	As provided by the Act	As provided by the Act	The vehicle owner and/or driver at the time of the accident, for sums payable to third parties following personal injury suffered by the third party, all in accordance with the provisions of the Transport Accident Act 1991.	Subject to annual registration with the Transport Accident Commission.
9.0 Professional Indemnity	\$20,000,000 All claims in total	The underlying policy limit.	Excess of Loss Cover over Consultant's existing policies.  Financial loss suffered, by the Principal as a result of his consultant(s) committing an error or omission in the discharge of their Professional Duties.	Six years from the date of first design work, subject to review by the Insurer and his subsequent agreement to continue cover after 3 years.

## B. OPERATIONS PHASE

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
1.0 Industrial Special Risks - Permanent Casino	Replacement value of operating facilities.	\$20,000 any one occurrence arising from storm, tempest, flood, water damage, subsidence and collapse  \$5,000 other claims	Loss of, damage to or destruction of the Premises and contents from defined events and/or perils, including but not limited to, fire, theft, flood, water damage, explosion, malicious damage, subsidence and collapse, accidental damage and rain.	12 months
1.1 Industrial Special Risks - Temporary Casino	Replacement value of operating facilities and assets	\$20,000 for earthquake \$5,000 all other claims	Loss of, damage to or destruction of the Premises and contents from defined events and/or perils, including but not limited to, fire, flood, water damage, explosion, malicious damage subsidence and collapse, accidental damage and rain.	12 months

2.

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
2.0 Public & Products Liability	\$120,000,000 any one occurrence	\$5,000 any one occurrence	Damages awarded to third parties for:  (a) Personal Injury; and/or  (b) Property Damage;  which they suffer as a result of the business operations.	12 months
3.0 Director's and Officers' Liability/Company Reimbursement	\$5,000,000 all claims	Directors' and Officers' Nil  Company Reimbursement \$100,000	Damages awarded against Directors and Officers of the company for wrongful acts which they commit in the discharge of their Professional Duties.	12 months
4.0 Workers Compensation  "WorkCover"	As provided by the Act	As provided by the Act	The employer's legal liability to indemnify his employees for work related injury, in accordance with the obligations set down under the WorkCover Act 1992	Subject to annual registration with a Licensed Insurer

3.

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
5.0 Motor Vehicle Comprehensive  Third Party Property Damage	1. Market Value of the Insured vehicle  2. \$10,000,000 any one occurrence	1. \$500 each occurrence  2. \$500 each occurrence	1. The cost of repair and/or replacement following loss or damage to nominated motor vehicles.  2. Damages payable to third parties following damage to their property arising from the use of the Insured's nominated motor vehicles.	12 months
6.0 Motor Vehicle Compulsory Third Party (Personal Injury)	As provided by the Act	As provided by the Act	The vehicle owner and/or driver at the time of the accident, for sums payable to third parties following personal injury suffered by the third party, all in accordance with the provisions of the Transport Accident Act 1991.	Subject to annual registration with Transport Accident Commission

4.

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover
7.0 Comprehensive Crime Package	\$10,000,000 any one occurrence	\$10,000 each and every occurrence	Loss of money/negotiable instruments (including by theft and burglary) through: <ol style="list-style-type: none"><li>1. Employee dishonesty</li><li>2. Committed by persons unknown</li><li>3. Whilst in transit</li></ol>	12 months

## MELBOURNE CASINO COMPLEX - DEVELOPMENT PROPOSALS

The Melbourne Casino Complex will provide:

- A single level casino with initial capacity of 200 gaming tables and 2500 electronic gaming machines;
- A five star fully integrated hotel;
- Australia's first integrated sportsbook;
- A series of restaurants and bars;
- An entertainment precinct;
- A major retail component;
- Multi-purpose ballroom;
- Recreation and sports club;
- Residential apartments;
- River promenade and public spaces; and
- Underground carpark.

2.

## TEMPORARY CASINO COMPLEX - DEVELOPMENT PROPOSALS

The Temporary Casino Complex will provide:

- A casino with capacity for up to 130 gaming tables and 1200 electronic gaming machines; and
- Restaurants and bars;
- Long term improvements to the World Trade Centre.

## CASINO CONTROL ACT 1991 (VIC)

## CASINO LICENCE

VICTORIAN CASINO CONTROL AUTHORITY ('Authority') under Part 2 of the *Casino Control Act 1991 (Vic)* ('*Casino Control Act*') grants to CROWN CASINO LTD ACN 006 973 262 with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria ('Company') the right to conduct and play games and use gaming equipment in the Casino subject to the provisions of the *Casino Control Act* and the conditions set out in this licence.

## CONDITIONS

## 1. Commencement

This licence comes into force on 19 November 1993.

## 2. Duration

This licence ceases to have effect on 18 November 2033, unless sooner cancelled or surrendered under the *Casino Control Act*:

## 3. Location and Boundaries - Temporary Casino

3.1 The Temporary Casino must be located within the Temporary Casino Complex. ?

3.2 The boundaries of the Temporary Casino will be the boundaries of <sup>the</sup> Temporary Casino Complex or such other boundaries approved by the Authority.

## 4. Location and Boundaries - Melbourne Casino

4.1 The Melbourne Casino must be located within the Site ~~of the Melbourne Casino~~ <sup>VENUE OFFICE</sup>

4.2 The boundaries of the Melbourne Casino will be the same as the boundaries of the Site for the period from the grant of this licence until the earlier of:

(a) the repeal of paragraph (b) of the definition of Melbourne Casino site in section 128A(1) of the *Casino Control Act*; and

(b) Completion of the Melbourne Casino Complex.

4.3 The boundaries of the Melbourne Casino following the first to occur of either of the events referred to in paragraphs (a) and (b) of clause 4.2 will be:

(a) the boundaries of the shaded areas in drawing nos SK105 and SK106 dated 17.11.93 and entitled Casino Gaming Areas RL 2.4 and RL 5.7 respectively as prepared by Bates Smart McCutcheon, Perrott Lyon Mathieson and Daryl Jackson Pty Ltd and attached to this licence; or

(b) such other boundaries approved by the Authority.

5. Conducting Temporary Casino

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Temporary Casino or open the Temporary Casino to the public for business or otherwise:

(a) until the Temporary Casino has been Completed in accordance with the provisions of the Management Agreement; nor

(b) after the Melbourne Casino is opened to the public.

6. Conducting Melbourne Casino

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Melbourne Casino or open the Melbourne Casino to the public for business or otherwise until the Melbourne Casino has been Completed in accordance with the provisions of the Management Agreement.

7. Gaming Equipment - Temporary Casino

The Temporary Casino:

(a) must have not more than 130 gaming tables in operation while the Temporary Casino is open for business; and

(b) must have not more than 1300 gaming machines in operation while the Temporary Casino is open for business.

8. Gaming Equipment - Melbourne Casino

The Melbourne Casino:

(a) must have not less than 150 and not more than 200 gaming tables in operation while the Melbourne Casino is open for business; and

(b) must have not more than 2,500 gaming machines in operation while the Melbourne Casino is open for business.

9. Mortgage etc of Casino Licence

The Company must not:

(a) mortgage, charge or otherwise encumber this licence;  
or

(b) transfer, assign or otherwise deal with this licence,

except in accordance with the terms and conditions of the Casino Agreement and the Master Security Agreement.

10. Amendment of Licence Conditions

Notwithstanding sections 16 and 17 of the *Casino Control Act*, the Authority will not amend the conditions of this licence without the prior written approval of the Company except as disciplinary action under section 20 of the *Casino Control Act*.

11. Breach of Licence

Clause 31.2 of the *Casino Agreement* and clause 25.2 of the *Management Agreement* set out events the occurrence of which constitute a contravention of this licence and which, subject to those clauses and the Master Security Agreement, enable the Authority to cancel, suspend or vary the terms of this licence pursuant to section 20 of the *Casino Control Act*.

12. Definitions and Interpretation

- 12.1 In these conditions, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'Ancillary Facilities' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Temporary Casino Complex Development Proposals or the Melbourne Casino Complex Development Proposals (as the case may be) to be constructed on or located within the Temporary Casino Site or the Site, including a hotel, restaurant, retail, recreation, entertainment and carparking facilities, residential and office accommodation, staff facilities, staff carparking, coach storage facilities and open space areas;

'Casino' means either the Temporary Casino or the Melbourne Casino, as the case may be;

'Casino Agreement' means the agreement dated 21 September 1993 between the Authority and the Company;

'Completed' has the same meaning as in the *Management Agreement*;

'Management Agreement' means the agreement dated 20 September 1993 between the Minister, acting for and on behalf of the State, and the Company pursuant to section 15 of the *Casino Control Act*;

'Master Security Agreement' means the agreement dated 21 September 1993 between the State, the Authority, the Company, National Australia Bank Limited as agent for the financiers to the Company and the Sponsors;

'Melbourne Casino' means those areas within the boundaries described in clauses 4.2 or 4.3 (as the case may be) and includes the areas in which money counting, surveillance,

storage and other activities related to the conduct and playing of games are carried on;

'Melbourne Casino Complex' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of the Management Agreement and Casino Agreement;

'Melbourne Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'Minister' means the Minister for the time being administering the *Casino Control Act*;

*Second Deed of Variation*  
'Site' means the land described in plan numbered C.P. 112471A lodged in the Central Plan Office, Survey and Mapping, Victoria, being a plan of survey signed by the Surveyor General;

'State' means the State of Victoria;

'Temporary Casino' means those areas within the boundaries described in clause 3.2 and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Temporary Casino Complex' means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of the Management Agreement and the Casino Agreement;

'Temporary Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification; and

'Temporary Casino Site' has the same meaning as in the Management Agreement.

12.2 In this licence, unless the context otherwise requires or the contrary intention appears:

- (a) a reference in this licence to a party to an agreement or document includes the party's successors and permitted substitutes or assigns;
- (b) a reference in this licence to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time; and

- (c) a reference in this licence to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

DATED *19<sup>th</sup> November*

1993.

THE COMMON SEAL of VICTORIAN )  
 CASINO CONTROL AUTHORITY )  
 is affixed in accordance with )  
 the directions of the Members )  
 pursuant to a resolution dated )  
 16<sup>th</sup> November 1993 )



[Redacted signature]

Chairman

[Redacted signature]

Chief Executive Officer



28th October, 1994

Mr P J Connolly  
Chief Executive Officer - Casino Division  
Victorian Casino and Gaming Authority  
Level 27  
459 Collins Street  
MELBOURNE VIC 3000

Dear Mr Connolly,

Galleria Southern Extension Air-conditioning

We refer to Lincolne Scott memorandum dated 12th October, 1994 regarding the above subject, a copy of which has already been provided to the Authority.

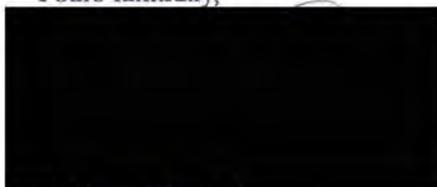
Crown stands by the advice from Lincolne Scott which confirms that the non smoking area at Galleria level is supplied from separate air handling units dedicated specifically to this area.

In addition, the air cleaning units and the high efficiency filtration equipment is the best technology available in the market today.

Crown confirms that Security Staff will enforce the non-smoking policy in this area.

We trust that this satisfies the Authority's requirements.

Yours faithfully,



P J Barraclough  
Project Director

CROWN CASINO LIMITED ACN 008 974 262

CROWN CASINO AT THE GALLERIA

WORLD TRADE CENTRE FLINDERS STREET MELBOURNE VICTORIA 3005 AUSTRALIA  
TELEPHONE (61-3) 685 4200 FACSIMILE (61-3) 685 4850

OCT 12 1994 16:19 LINCOLNE SCOTT MELB. 03 5141885



RECEIVED  
12 OCT 1994

# Lincolne Scott

## Fax/Memo

To	Crown Casino	Date	12 Oct 94
Attention	[REDACTED]	Time	
From	Mark W Henderson	Facsimile No.	[REDACTED]
Project Name	Galleria Casino Extension Melbourne	Project No.	323448/1/1
Subject	Air Handling Plant Configuration	Reference No.	mwh41003
Total number of pages	1	Copies	

DAB	
SRE	
SKT	

Peter,

Following our discussions this morning we confirm that the air handling plant for the extension to the Galleria Casino is physically separate to all other air handling plant that has been installed for the other areas of the Galleria Casino project.

Separate air handling units and supply air ductwork serve each of the Concourse and Galleria levels within the extension, however a common return air duct is used for both levels. The return air is configured in this way to accommodate spill and smoke spill air to suit the zone ( fire ) smoke control system.

Air cleaning units, high efficiency filtration and other air quality measures are incorporated into both extension Concourse and Galleria systems to minimise the effect of any recirculation of contaminated air via the return air path between floors. In addition to this the air quality controls in conjunction with the economy cycle, which operates over a substantial portion of the year, will dilute and exhaust polluted air prior to the filtration process.

We trust the above information meets your needs at this time.

Regards,

[REDACTED]

Mark W Henderson

CLIENT REGISTERED

File Ref.

Comm. No. F 2732

RECEIVED

12 OCT 1994

Project Leader

[REDACTED]

FMGC



VIC CASINO AND GAMING AUTHORITY

*Commercial in Confidence*

12 October 1995

Mr Lloyd J. Williams  
Chairman  
Crown Limited  
99 Queensbridge Street  
SOUTHBANK 3006

Dear Mr Williams

**CASINO LICENCE - AMENDMENT OF CONDITIONS**

I refer to the request of Crown Limited to amend the Casino Licence to increase the number of gaming tables permitted in the Temporary Casino and the Melbourne Casino.

The Authority has determined to amend the conditions of the Casino Licence as follows:

1. Condition 7(a) shall be amended to read:  
“(a) must have not more than 200 gaming tables in operation while the Temporary Casino is open for business; and “.
2. Condition 8(a) shall be amended to read:  
“(a) must have not less than 150 and not more than 200 or, if the Second Deed of Variation to the Management Agreement is ratified by the Parliament of Victoria and comes into operation, not more than 350 gaming tables in operation while the Melbourne Casino is open for business; and”.

3. The following definition shall be inserted in the appropriate alphabetical order in Condition 12.1:

“Second Deed of Variation to the Management Agreement” means the second agreement to be entered into between the Minister on behalf of the State and the Company which varies the Management Agreement in a manner mutually agreed upon by those parties.”

The Authority's determination was subject to the execution of the Second Deed of Variation. The Authority decided that the Deed must include a provision requiring Crown Limited to provide evidence that its financiers have approved the variation proposals for the purposes only of clause 13.3 of the Master Security Agreement and requiring Crown to obtain any additional funding necessary for it to complete the Melbourne Casino Complex. The provision must also require Crown to adhere to the debt and equity ratios set out in clause 22.1(m) of the Casino Agreement.

Yours sincerely

  
JOHN RICHARDS  
Chairman



## VICTORIAN CASINO AND GAMING AUTHORITY

4 November 1994

(Transmitted by Fax: 685 4376)  
(No. of Pages: 2)

Mr Lloyd Williams  
Chairman  
Crown Casino Limited  
Level 1  
99 Queensbridge Street  
South Melbourne Vic 3205

Dear Mr Williams

RE: GALLERIA CASINO - NUMBER OF TABLES

I wish to confirm our verbal advice that the Authority at its Meeting on Friday 28 October 1994 agreed to amend condition 7(a) of the Casino Licence, to increase the number of gaming tables permitted in the Temporary (Galleria) Casino from 130 to 180.

Such amendment was agreed to on the basis of the undertakings and assurances set out in the letter from Crown Casino Ltd dated 28 October 1994, a copy of which is attached.

Yours sincerely

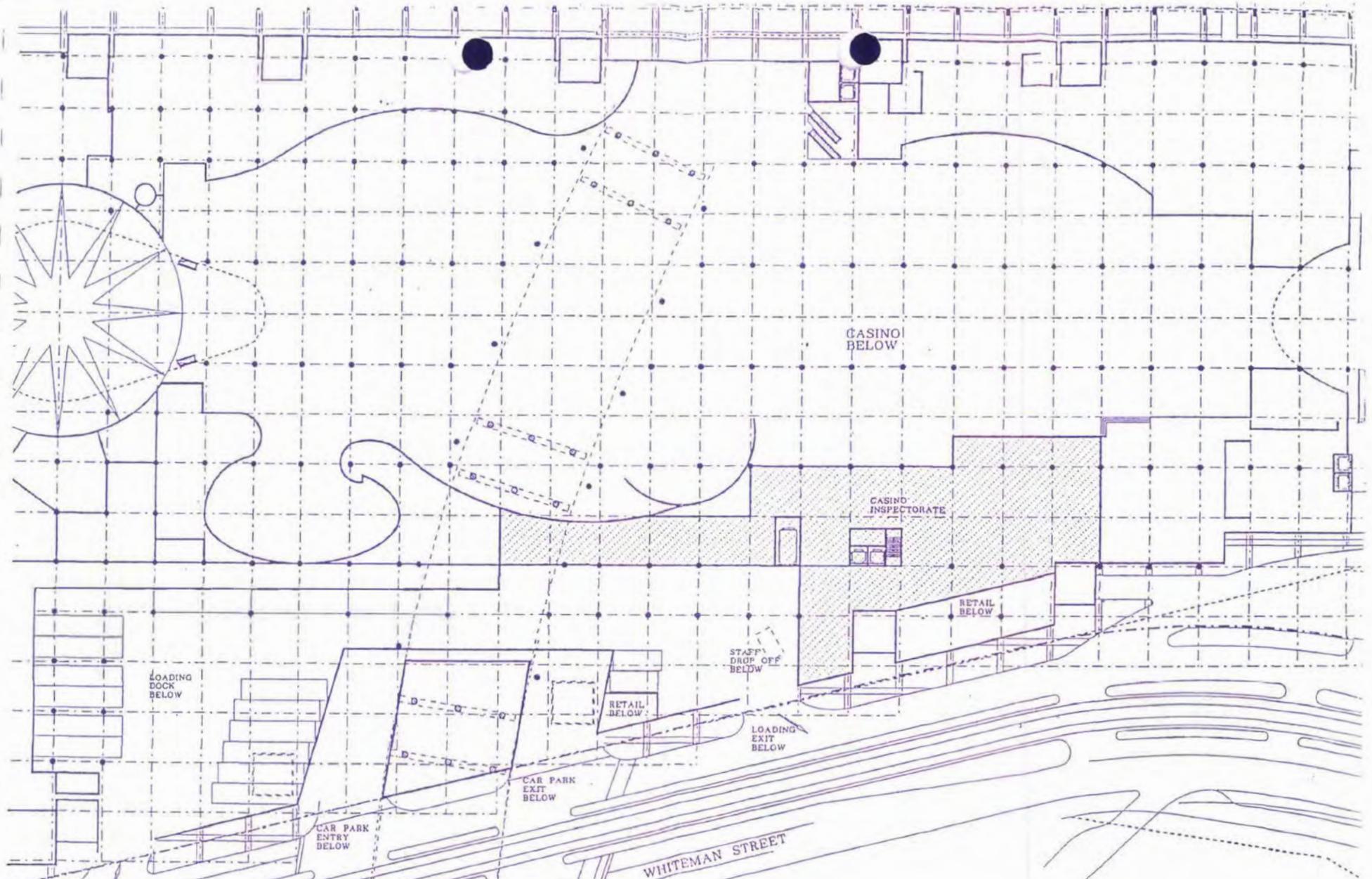


P J Connolly  
Chief Executive Officer  
CASINO DIVISION

Encl.

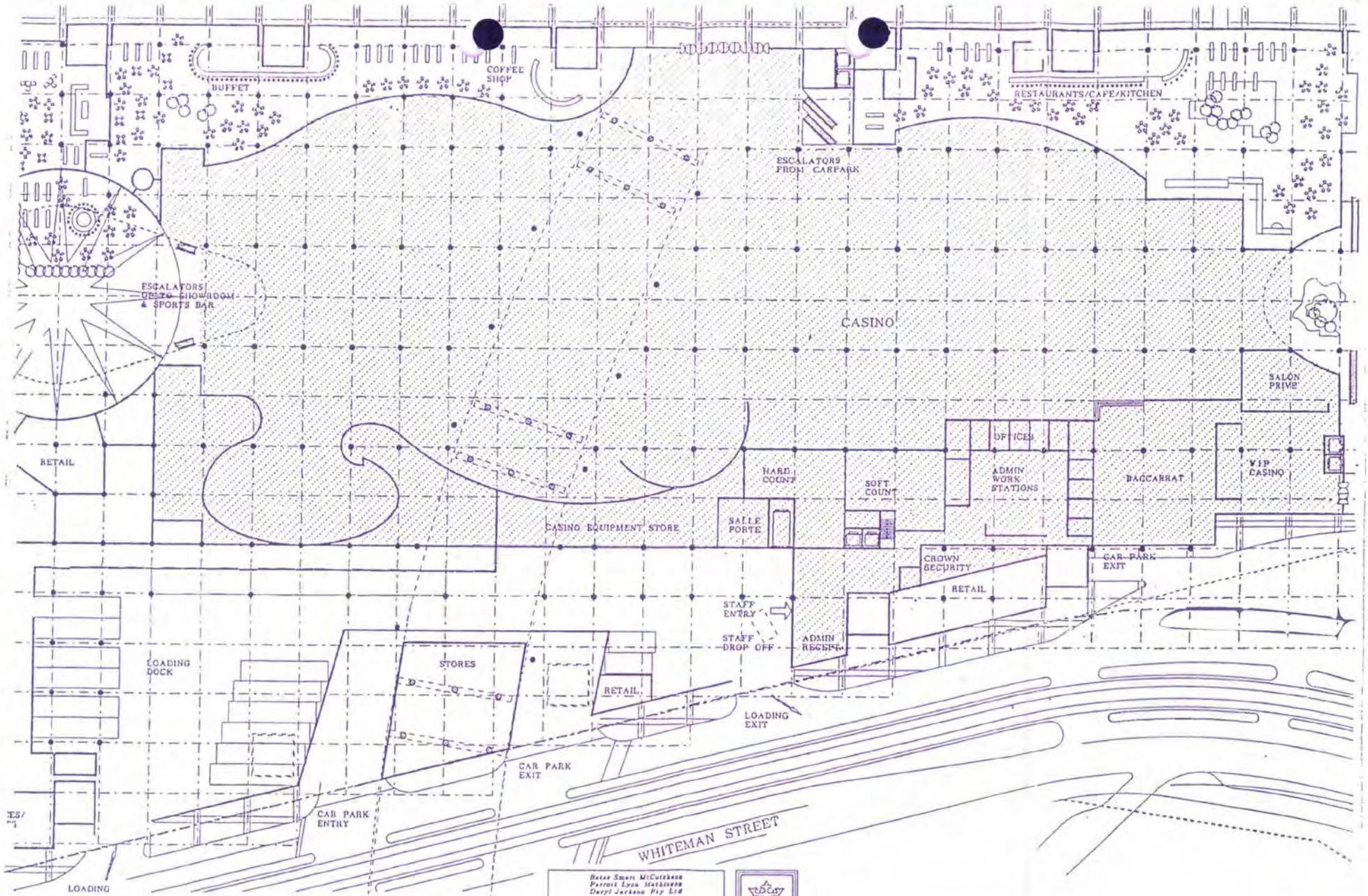
c.c. Mr Tony Jolly, State's Nominated Representative (fax - 628 4083)  
Mr Richard Bunting, Compliance Manager, Crown Casino (fax - 685 4807)  
Mr Ian Manning, Director of Casino Surveillance (fax 690 4898)

RP:BJC:L:0321



David Smart McCarthen  
Patrick Lyons Mathison  
Daryl Jackson Pty Ltd  
Architects in Association  
Casino Gaming Area - RL 1.7  
1:200





Bruce Smart McCutcheon  
 Patrick Lyon Statlerson  
 Cheryl Jackson Pty Ltd  
 Architects in Association  
 Casino Gaming Area - RL 14  
 L10



Drawing No 00108  
 17.11.99

NO SCALE

OCTOBER 12, 1995

MEDIA RELEASE

**DECISIONS OF THE VICTORIAN CASINO AND GAMING AUTHORITY**

The Victorian Casino and Gaming Authority (the Authority) has approved an increase in the number of gaming tables to be permitted at the Crown Casino which is under construction at Southbank from 200 to 350, but has rejected Crown's application for an increase in the number of gaming machines.

Crown and the Minister for Gaming, on behalf of the State, have executed a Deed of Variation to the Management Agreement which includes details of additional payments required by the Government and which is subject to ratification by Parliament. The Authority's decision does not take effect until then.

After considering the existence of the allegations against Hudson Conway, which have arisen out of the litigation involving Gleem Pty Ltd and the SECV (formerly Gas & Fuel Corporation Victoria), and after obtaining independent legal advice from senior counsel, the Authority decided to proceed with consideration of Crown's application to vary the Casino Licence. The matters taken into account by the Authority in making this decision included the following:

- at this stage the allegations are unsubstantiated and investigations have just begun;
- the time it will take to establish whether the allegations are well founded; and
- a decision to consider the application now will not prevent the Authority from taking appropriate future action, if the allegations are substantiated.

The Authority Chairman, Mr John Richards said the Authority, in conjunction with Victoria Police, will continue to investigate the allegations. If at the conclusion of its investigation the Authority decides to take remedial or disciplinary action, it will do so. The Authority's decision to allow an increase of gaming tables would not prevent such action.

Mr Richards said that in reaching its decision to allow an increase in the number of gaming tables, the Authority had taken into account evidence of unsatisfied demand for table games at the Galleria Casino.

Mr Richards said that under the Casino Control Act the Authority was required to consider the promotion of tourism, economic development and employment in its decisions.

The Authority also believes the increase in the number of gaming tables will have minimum impact on other gaming venues, as only Crown Casino is licensed in Victoria to offer table games.

The Authority had ruled against Crown's request for an increase from 2500 to 3500 in the number of gaming machines to be permitted in the permanent casino, because it considered that the demand for gaming machines would be adequately catered for by gaming machine venues in Victorian hotels and clubs and the 2500 gaming machines already permitted at the permanent Southbank Casino.

In a separate decision, Mr Richards said the Authority also had approved an increase in the maximum number of tables to be permitted at the temporary Galleria Casino from 180 to 200 gaming tables. He said the Authority gave its approval because of the high level of unsatisfied demand for table games currently being experienced at the Galleria Casino.

Mr Richards said the Authority, having particular regard to the casino's role as a tourist attraction, also had agreed to lift its restrictions on casino operating hours and allow the Melbourne Casino to operate 24 hours per day for the whole year. This decision brings the Melbourne Casino's hours of operation into line with those of the Sydney Casino.

Media Enquiries:

John Tilton (03) 9486 9449

**SCHEDULE  
SOLVENCY REPORT**

*Attachment to the  
Seventh Variation  
Agreement to the  
Casino Agreement,  
dated 2 July 1998.*

TO: Victorian Casino and Gaming Authority

**Purpose of report**

This report is prepared for the purposes of clause 22.9 of the Casino Agreement between Crown Limited and the Victorian Casino and Gaming Authority, Crown Limited being required by clause 22.9 of that agreement to procure this report on account of it being in breach of clause 22.1(m) of the agreement. We have a copy of the Casino Agreement and are aware of its contents.

**Calculation date**

The calculation date for the preparation of this report is *[relevant calculation date]*, on which date the debt/equity ratio for the purposes of clause 22.1(m) of the Casino Agreement was *[state ratio]%*.

*[If the report is to be submitted later than the 20th day after the relevant calculation date, here insert an explanation for the delay and whether the party giving the report confirms the stated ratio as at the calculation date.]*

**Scope**

*[Here state the scope of the report, including any relevant Australian Auditing Standards relied upon, any disclaimers, &c. Also state whether or not the party giving the report is the external auditor of Crown Limited.]*

1. We obtained *[audited unaudited accounts &c]* for *[period]* and performed the procedures *[detail procedures or incorporate by reference]*.
2. We assessed the solvency of Crown Limited by *[state what was done]*.
3. *[Here state what was looked for.]*
4. *[Here state to what extent (if any) the accounts have been audited and whether an audit has been performed on the solvency of Crown.]*

**Findings**

We report that *[for each thing done under paragraph 2 of the Scope, state whether there was improvement or deterioration, &c]*.

**Opinion**

For the purposes of this report, within its scope and pursuant to its findings, we *[confirm or are unable to confirm]* that nothing has come to our attention that causes us to believe that Crown Limited is not or will not be able to meet its debts as and when they fall due in the period of 12 months from the calculation date. We therefore confirm that there *[is/is not]* a reasonable basis for believing that Crown Limited will meet its debts as and when they fall due in that 12 month period.

*[Signed]*

Chartered Accountants

*[Date]*

**NOTE ON DISCLAIMERS**

The only disclaimer which is not acceptable is one which seeks to fetter the Authority in the way it deals with the report (such as one which states that the report is not to be distributed to any other party).

However, the context in which the report is provided is one of a regulator seeking to be satisfied with the financial position of a regulated entity. The more highly qualified or heavily disclaimed the report is, the less assistance it will provide to that end.

Maddock Lonie & Chisholm

LAWYERS

DATED

27

May

1999

VICTORIAN CASINO AND GAMING AUTHORITY

- and -

CROWN LIMITED

- and -

PUBLISHING AND BROADCASTING LIMITED

MELBOURNE CASINO PROJECT

SUPPLEMENTAL CASINO AGREEMENT

A MEMBER OF  
**advc** *asia*

ADELAIDE, CEBU, DUBAI, HONGKONG,  
JALAPTA, KUALA LUMPUR, MANILA, MELBOURNE,  
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TAIPEI

140 WILLIAM STREET, MELBOURNE, VICTORIA, AUSTRALIA 3000  
EMAIL: [lon@madoc.com.au](mailto:lon@madoc.com.au)  
WEB SITE: [www.madoc.com.au](http://www.madoc.com.au)  
TELEPHONE: +61 (0)3 453 0555  
FAX NUMBER: +61 (0)3 453 1496  
ADV CEN 0142138

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COMMERCIAL IN CONFIDENCE

MELBOURNE CASINO PROJECT  
SUPPLEMENTAL CASINO AGREEMENT

THIS AGREEMENT is made on 27<sup>th</sup> May 1999

BETWEEN

**VICTORIAN CASINO AND GAMING AUTHORITY**

a statutory authority established under the *Gaming and Betting Act 1994*  
with its office at Level 5, 35 Spring Street, Melbourne, Victoria

("Authority")

AND

**CROWN LIMITED ACN 006 973 262**

of Level 1, 99 Queensbridge Street, South Melbourne, Victoria

("Company")

AND

**PUBLISHING AND BROADCASTING LIMITED ACN 009 071 167**

of 1st Floor, 24 Artarmon Road, Willoughby, New South Wales

("PBL")

**RECITALS**

- A. The Authority and the Company entered into an agreement dated 21 September 1993 providing, among other things for the grant of the Casino Licence to the Company ("Casino Agreement").
- B. The Company and PBL have submitted a proposal to the Authority which, if approved by the Authority and others, will enable PBL to acquire all the Shares in the Company.
- C. The Authority enters into this Agreement with the Company under section 142 of the *Casino Control Act 1991*.

**THE PARTIES AGREE**

**1. DEFINITIONS**

**1.1 Definitions in Casino Agreement**

Unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act 1991* or the Casino Agreement have the same meaning when used in this Agreement.

## 1.2 Additional Definitions

In addition to clause 1.1, in this Agreement:

“Casino Variation Agreement” means the Eighth Variation Agreement to the Casino Agreement dated on or about the date of this Agreement;

“Deed of Undertaking and Guarantee” means the Deed of Undertaking and Guarantee dated on or about the date of this Agreement between PBL, the companies named in that agreement as guarantors, the Company, the Authority and the Hon. Roger M Hallam MLC acting for and on behalf of the State of Victoria;

“Guaranteed Obligations” means the respective obligations of each member of the Holding Company Group under the Transaction Documents.

## 2. CONDITIONS PRECEDENT

### 2.1 Conditions

This Agreement has no force or effect unless and until the Casino Variation Agreement has force and effect.

### 2.2 Notification

The Authority must notify the Company within five Business Days of the condition precedent set out in clause 2.1 being satisfied.

## 3. REPRESENTATIONS AND WARRANTIES

- (a) PBL makes the Warranties (other than the Warranties contained in paragraphs 7, 9 and 10) contained in Schedule 3 of the Casino Agreement as at the date of this Agreement.
- (b) PBL acknowledges that the Authority has agreed to give its approval to the merger described in Recital B in reliance on the warranties described in clause 3(a).

## 4. UNDERTAKINGS

Until this Agreement is terminated, PBL undertakes to the Authority that it will:

- (a) comply with, and ensure that each member of the Holding Company Group complies with, the conditions set out in clause 22 of the Casino Agreement, as if it, and each member of the Holding Company Group, were parties to the Casino Agreement;
- (b) ensure that the Company requires the transfer of or compulsorily transfers Shares in accordance with the Company's constitution, if such transfer

will remedy a breach of the Casino Agreement, or if the Authority requests the Company to procure the transfer of those Shares:

- (c) do all other things within its powers, including exercising or refraining from exercising any voting rights relating to any Shares, to procure that the affairs of the Company are conducted in accordance with the conditions set out in clause 22 of the Casino Agreement; and
- (d) promptly provide to the Authority all information in its possession or under its control in connection with the operation of the Melbourne Casino and the Melbourne Casino Complex as may reasonably be required by the Authority from time to time.

## 5. PERFORMANCE GUARANTEE

### 5.1 Guarantee

PBL unconditionally and irrevocably guarantees to the Authority the due and punctual performance by each member of the Holding Company Group of the Guaranteed Obligations of that member of the Holding Company Group.

### 5.2 Indemnity

PBL unconditionally and irrevocably indemnifies the Authority for all losses, costs, expenses, damages and liabilities suffered or incurred by the Authority as a result of any member of the Holding Company Group failing to perform any of the Guaranteed Obligations owed by it.

### 5.3 Payment

Any payment which PBL is liable to pay under clauses 5.1 and 5.2 must be paid by PBL to the Authority within five Business Days of a demand being made by the Authority on PBL.

## 6. PBL IS THE HOLDING COMPANY

The Authority and PBL agree that, for the purpose of the Casino Agreement, PBL will be regarded as the Holding Company (as defined in clause 2 of the Casino Agreement) of the Company.

## 7. ENTITLEMENT TO SHARES

### 7.1 Shareholding in PBL

The Authority agrees that it will not regard:

- 7.1.1 the Company as breaching clause 22.1(f) of the Casino Agreement or article 2.7 of the Company's constitution; or
- 7.1.2 PBL as breaching clauses 4 or 5 of this Agreement.

if a person becomes entitled to more than 5% of the total number of Shares in the Company solely through that person's shareholding in PBL.

#### 7.2 *Casino Control Act 1991* not Affected

For clarity, PBL and the Company acknowledge that clause 7.1 does not affect the operation of the *Casino Control Act 1991*, or the Authority's powers under the *Casino Control Act 1991*, including without limitation, in relation to the approval of a major change in the situation existing in relation to the Company or the Melbourne Casino.

### 8. PROVIDE COPY OF NOTICE

Each of PBL and the Company must provide the Authority with a copy of any notice given to it by any of its financiers (whether directly or through their agent) requiring it to remedy any breach or event of default however described, as soon as practicable after it receives such notice

### 9. PBL ACKNOWLEDGEMENTS

#### 9.1 Independent Undertakings

PBL acknowledges that:

- 9.1.1 its representations and undertakings given in this Agreement are independent representations and undertakings; and
- 9.1.2 the Authority may enforce its rights under this Agreement against PBL without having to exercise any rights under the Casino Agreement against the Company.

#### 9.2 Additional Obligations

PBL acknowledges its obligations under this Agreement are in addition to, and not in derogation from, its obligations under the Deed of Undertaking and Guarantee.

### 10. INJUNCTIONS AND DAMAGES

#### 10.1 Acknowledgement

PBL acknowledges that, if there is a breach or a threatened breach of the terms of this Agreement, the injury which will be suffered by the Authority is of a character which cannot be fully compensated for solely by a recovery of monetary damages.

#### 10.2 Right to Equitable Relief

PBL agrees that if it breaches or if there is a threat of a breach of the terms of this Agreement, then in addition to any damages which may be suffered by the Authority and any other remedies which the Authority

may pursue under this Agreement or under any applicable law, the Authority will be entitled to equitable relief, including the issue of a temporary or permanent injunction, by any court of competent jurisdiction against the commission or continuance of any such breach or threatened breach, without the necessity of proving any actual damage or posting of any bond or other surety.

### 10.3 Additional Rights

For clarity, PBL acknowledges that the rights conferred upon the Authority under this clause 10 are in addition to, and not in place of, the rights conferred upon the Authority under clauses 5.2 and 5.3.

## 11. FURTHER ASSURANCES

The Company and PBL each agrees to do everything for the purpose of giving full force and effect to the terms of this Agreement and the rights and obligations of the parties to it, including without limitation, to execute all documents which the Authority may require.

## 12. COSTS AND STAMP DUTY

- (a) Each party must pay its own costs of preparing, negotiating and executing this Agreement.
- (b) The Company must pay all stamp duty on this Agreement and on any document executed to give effect to this Agreement.

## 13. NO WAIVER

A failure of the Authority at any time to require full or part performance of any obligations under this Agreement will not in any way affect the rights of the Authority to require that performance subsequently.

## 14. ACKNOWLEDGEMENT

- (a) The Company and PBL acknowledge that, except as expressly provided for in this Agreement:
  - (i) nothing contained in or implied by this Agreement or any other Transaction Document prejudices or affects, or is intended in any way to impose any obligation or restriction on the Authority which conflicts with the obligations and duties of, and restrictions on, the Authority under the Relevant Legislation; and
  - (ii) if there is any conflict between the provisions of this Agreement or of any Transaction Documents and the provisions of the Relevant Legislation, the provisions of the Relevant Legislation prevail.

- (b) The Authority in entering into this Agreement does so on behalf of the State pursuant to the authority granted to the Authority under section 142 of the *Casino Control Act*.

15. GOVERNING LAW

- (a) This Agreement is governed by the laws of Victoria.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and courts entitled to hear appeals from those courts.

000100

COMMERCIAL IN CONFIDENCE

EXECUTED by the parties as a deed.

THE OFFICIAL SEAL of VICTORIAN CASINO AND GAMING AUTHORITY is hereto affixed in accordance with the directions of the Authority in the presence of:

*Sue Winneke*

Chairman

SUE WINNEKE

Full name

*Bill Lacey*

Director of Gaming and Betting

WILLIAM LLOYD LACEY

Full name

THE COMMON SEAL of CROWN LIMITED ACN 006 973 262 was affixed in the presence of authorised persons:



*[Signature]*

Director

LLOYD WILLIAMS

Full name

8 WHITSMAN ST, SOUTH BANK

Usual address

*[Signature]*

~~Director~~ SECRETARY

PETER ROVEC

Full name

8 WHITSMAN ST SOUTH BANK

Usual address

THE COMMON SEAL of PUBLISHING AND BROADCASTING LIMITED ACN 009 071 167 was affixed in the presence of authorised persons:



*[Handwritten signature]*

Director

DAVID LECKIE

Full name

24 Lang Road, Centennial Park 2021

Usual address

*[Handwritten signature]*

Director- *Secretary*

Stupee Wright

Full name

103 Harden Ave

Usual address

*Northbridge*

- (b) after the Melbourne Casino is opened to the public.

#### **6. Conducting Melbourne Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Melbourne Casino or open the Melbourne Casino to the public for business or otherwise until the Melbourne Casino has been Completed in accordance with the provisions of the Management Agreement.

#### **7. Gaming Equipment -- Temporary Casino**

The Temporary Casino:

- (a) must have not more than 130 gaming tables in operation while the Temporary Casino is open for business; and
- (b) must have not more than 1300 gaming machines in operation while the Temporary Casino is open for business.

#### **8. Gaming Equipment -- Melbourne Casino**

The Melbourne Casino:

- (a) must have not less than 150 and not more than 200 gaming tables in operation while the Melbourne Casino is open for business; and
- (b) must have not more than 2,500 gaming machines in operation while the Melbourne Casino is open for business.

#### **9. Mortgage etc of Casino Licence**

The Company must not:

- (a) mortgage, charge or otherwise encumber this licence; or
- (b) transfer, assign or otherwise deal with this licence,

except in accordance with the terms and conditions of the Casino Agreement and the Master Security Agreement.

#### **10. Amendment of Licence Conditions**

Notwithstanding sections 16 and 17 of the *Casino Control Act*, the Authority will not amend the conditions of this licence without the prior written approval of the Company except as disciplinary action under section 20 of the *Casino Control Act*.

#### **11. Breach of Licence**

Clause 31.2 of the Casino Agreement and clause 25.2 of the Management Agreement set out events the occurrence of which constitute a contravention of this licence and which, subject to

those clauses and the Master Security Agreement, enable the Authority to cancel, suspend or vary the terms of this licence pursuant to section 20 of the *Casino Control Act*.

## 12. Definitions and Interpretation

1 In these conditions, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

**'Ancillary Facilities'** means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Temporary Casino Complex Development Proposals or the Melbourne Casino Complex Development Proposals (as the case may be) to be constructed on or located within the Temporary Casino Site or the Site, including a hotel, restaurant, retail, recreation, entertainment and carparking facilities, residential and office accommodation, staff facilities, staff carparking, coach storage facilities and open space areas;

**'Casino'** means either the Temporary Casino or the Melbourne Casino, as the case may be;

**'Casino Agreement'** means the agreement dated 1993 between the Authority and the Company;

**'Completed'** has the same meaning as in the Management Agreement;

**'Drawings'** means the plans, designs and working drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

**'Management Agreement'** means the agreement dated 1993 between the Minister, acting for and on behalf of the State, and the Company pursuant to section 15 of the *Casino Control Act*;

**'Master Security Agreement'** means the agreement dated 1993 between the State, the Authority, the Company, National Australia Bank Limited as agent for the financiers to the Company and the Sponsors;

**'Melbourne Casino'** means those areas identified in the Drawings of the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

**'Melbourne Casino Complex'** means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of the Management Agreement and Casino Agreement;

**'Melbourne Casino Complex Development Proposals'** means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

**'Minister'** means the Minister for the time being administering the *Casino Control Act*;

'Site' has the same meaning as in the Management Agreement;  
'State' means the State of Victoria;

'Temporary Casino' means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Temporary Casino Complex' means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of the Management Agreement and the Casino Agreement;

'Temporary Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification; and

'Temporary Casino Site' has the same meaning as in the Management Agreement.

- 2 In this licence, unless the context otherwise requires or the contrary intention appears:
  - (a) a reference in this licence to a party to an agreement or document includes the party's successors and permitted substitutes or assigns;
  - (b) a reference in this licence to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time; and
  - (c) a reference in this licence to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

DATED 1993.

THE COMMON SEAL of VICTORIAN )  
 CASINO CONTROL AUTHORITY )  
 is affixed in accordance with )  
 the directions of the Members )  
 pursuant to a resolution dated )  
 1993 )

.....  
Chairman

.....  
Chief Executive Officer

COMMERICAL IN

## SCHEDULE TWO

(Clause 2)

## COMPLEMENTARY AGREEMENTS

- . the Founding Shareholders' Agreement;
- . the Development Agreement;
- . the Construction Agreement;
- . the Finance Documents;
- . the Operations Agreement;
- . the Underwriting Agreement;
- . the Guarantee and Indemnity for Development Agreement;
- . the Note Agreement;<sup>96</sup>
- . the Trust Deed;<sup>97</sup>
- . the Note Agreement (Series 2); and<sup>98</sup>
- . the Trust Deed (Series 2).<sup>99</sup>

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<sup>96</sup> Inserted by Agreement dated 7 March 1995.

<sup>97</sup> Inserted by Agreement dated 7 March 1995.

<sup>98</sup> Inserted by Agreement dated 8 May 1997.

<sup>99</sup> Inserted by Agreement dated 8 May 1997.

## SCHEDULE THREE

(Clause 2)

## WARRANTIES OF THE COMPANY

1. The Company has been duly incorporated and is validly existing under the laws of its jurisdiction of incorporation, with full power and authority to enter into this document and perform its obligations under this document.
2. This document has been duly authorised, executed and delivered by the Company and constitutes (except to the extent limited by equitable principles, laws relating to penalties and laws affecting creditors' rights generally) a legal, valid and binding obligation of the Company enforceable against it in accordance with its terms, and no other proceedings on the part of the Company are necessary to authorise this document and the completion of the transactions contemplated under this document.
3. The execution and delivery by the Company of this document and the performance by the Company of its obligations under this document in accordance with its terms do not:
  - (a) conflict with the constitution or by-laws of the Company;
  - (b) constitute a violation of or default under any agreements or arrangements to which the Company is a party;
  - (c) except as provided in this document, cause the creation of any Encumbrance upon any of the property of the Company; or
  - (d) contravene any law.
4. A Receiver has not been appointed to the whole or any part of the assets or undertaking of the Company or any Related Party and no such appointment has been threatened or is envisaged by the Company.
5. Neither the Company nor any Related Party is in liquidation or administration and no order, petition, application, proceedings, meeting or resolution has been made, presented, brought, called or passed for the purposes of liquidating the Company or any Related Party or placing the Company or any Related Party under or in administration.
6. Neither the Company nor any Related Party is insolvent within the meaning of section 95A of the *Corporations Law* or otherwise and there is no unfulfilled or unsatisfied judgment or court order outstanding against the Company or any Related Party.
7. As at 16 August, 1993 the unaudited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian

Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date and as at the Licensing Date the audited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date.

8. All information provided in writing by or on behalf of the Company to the Authority was when given in all material respects true and accurate and not misleading by omission.
9. As at the Licensing Date, the Company will have an issued capital of at least \$350,000,000 comprising 350,000,000 fully paid Shares issued as follows:

Sponsors and Founding Shareholders	140,000,000
Institutional Equity	<u>210,000,000</u>
	<u>350,000,000</u>

10. Hudson Conway Limited ACN 009 556 629 and CUB have given notice to the Treasurer of their proposed interest in the Company in accordance with the provisions of the *Foreign Acquisitions and Takeovers Act 1975 (C'th)* and the Treasurer has informed them that there are no objections to Hudson Conway Limited and CUB acquiring a substantial shareholding in the Company.

## COMMERICAL IN

## SCHEDULE FOUR

(Clause 25.4)  
QUARTERLY REPORT TO AUTHORITY

1. The quarterly report to the Authority will be in the same format as required to be provided by a Listed company which is required to provide half-year financial report and director's report in accordance with the *Corporations Act* (with any references to half-year to be replaced by quarter-year) and will consist of the following items: prepared in accordance with the Australian Accounting Standards:
  - profit and loss account (or Statement of Financial Performance) and cashflow statements comparing budget against actual for the year to date with appropriate and reasonable explanations to explain any material differences between budget and actual figures
  - balance sheet (or Statement of Financial Position) at the last days of March, June, September and December
  - budgeted profit and loss (or Statement of Financial Performance) and cashflow statements to end of current financial year.
2. In addition to any other requirements required by the Australian Accounting Standards, the quarterly report referred to in item 1 will list all inter-company or Related Body Corporate balances and disclose all movements made over the previous quarter.
3. In relation to capital expenditure programs, the quarterly reports will provide a list of actual expenditure, compare them to budget against actual and will be classified between 'existing facilities' and 'major new construction'.
4. Where the Company has invested or is indebted for an amount which is Material, the Company must provide, in addition to the information otherwise referred to in Schedule Four, clear and accurate information on the purpose of that investment and, if it is an advance, details of the terms of that advance and the performance of that investment over the relevant quarter.

## COMMERICAL IN

## SCHEDULE FIVE

(Clause 35.1(a)(i))  
INSURANCES

~~See Annexure A.~~

1. Industrial Special Risks Insurances, including Business Interruption Insurance and Consequential Loss of Profits Insurance. The Consequential Loss of Profits insurance cover to be for a minimum period of three years.
2. Property Insurances for the Melbourne Casino and Entertainment Complex, including fittings and fixtures for their full replacement value (immediately upgraded where necessary to take into account any upgrade or enhancement carried out to the Melbourne Casino and Entertainment Complex during any years).
3. Public Risk and Indemnities – for an amount of not less than \$250 million for any one occurrence (subject to adjustment every three years to such amount as the Authority reasonably determines); and pursuant to which policy the State should be specifically indemnified against all actions, suits, claims, demands, proceedings, losses, damages, compensation costs, charges and expenses.

COMMERICAL IN

SCHEDULE SIX  
SOLVENCY REPORT  
(Clause 2)

**SCHEDULE SEVEN**  
**(Clause 22.1(v))**  
**CAPITAL EXPENDITURE**

**1. CAPTIAL EXPENDITURE**

- 1.1 The Company must expend not less than the equivalent of \$300 million (1998 dollars indexed to the CPI - Melbourne [##appropriate indexation method?]) on significant maintenance and improvements of the Melbourne Casino Complex between 1 July 1999 and 20 June 2009.
- 1.2 The Company must provide the Authority with an annual Capital Expenditure Budget Summary Report not later than 1 September of each year specifying:
- (a) the actual and budgeted capital expenditure (in current and 1998 equivalent dollars) for each Financial Year between 1 July 1999 and 20 June 2009;
  - (b) in respect of the immediately preceding Financial Year:
    - (i) each item of capital expenditure expended during the Financial Year; and
    - (ii) in respect of items of expenditure previously budgeted for the Financial Year but not fully expended during the Financial Year, the reason for the expenditure not being fully made and a plan for remedial action;
  - (c) in respect of the current and next Financial Years:
    - (i) a detailed description of and budget for each item of capital expenditure during the Financial Year;
    - (ii) in respect of items previously budgeted for the Financial Year, but not intended to be fully expended during the Financial Year, the reason for the expenditure not been fully made and a plan for remedial action;
  - (d) in respect of each subsequent Financial Year:
    - (i) a proposed budget for each item of expenditure proposed to be made in the Financial Year; and
    - (ii) in respect of items previously budgeted for the Financial Year, but not intended to be fully expended during the Financial Year, the reason for the expenditure not been fully made and a plan for remedial action.

**2. ROUTINE MAINTENANCE AND CLEANLINESS**

- 2.1 The Company must ensure that the Melbourne Casino Complex is maintained and cleaned in accordance with the following standards:

[## Insert Relevant Standards]

3. [##OTHER MATTERS?]

COMMERICAL IN

EXECUTED as an agreement.

THE COMMON SEAL of VICTORIAN )  
CASINO CONTROL AUTHORITY )  
[as then known] is affixed in )  
accordance with the directions )  
of the Members pursuant to a )  
resolution dated 5 September )  
1993 )

Common Seal

J.R. Richards  
.....  
Chairman

P.J. Connolly  
.....  
Chief Executive Officer

THE COMMON SEAL of )  
CROWN CASINO LTD. [as then )  
known] is affixed in )  
accordance with its articles )  
of association in the presence )  
of )

Common Seal

Peter Jonson  
.....  
Signature of Secretary/Director

B. Hamilton  
.....  
Signature of Director

Peter Jonson  
.....  
Name of Director  
(please print)

Barry J. Hamilton  
.....  
Name of Director  
(please print)

COMMERICAL IN

DATED 21 SEPTEMBER 1993

VICTORIAN CASINO AND GAMING AUTHORITY  
(‘Authority’)

CROWN LIMITED  
ACN 006 973 262  
(‘Company’)

MELBOURNE CASINO PROJECT

CASINO AGREEMENT

[CONFORMED COPY - AS VARIED BY  
VARIATION AGREEMENTS 1 TO 8 AND  
THE MASTER SECURITY AGREEMENT]

AND SHOWING VARIATIONS AS MAY BE MADE  
BY NINTH VARIATION DEED

MINTER ELLISON  
Lawyers  
40 Market Street  
MELBOURNE VIC 3000  
DX 204 MELBOURNE

Telephone (03) 9229 2000  
Facsimile (03) 9229 2666

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## COMMERCIAL IN CONFIDENCE

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DX 259-MELBOURNE

SCHEDULE SIX - SOLVENCY REPORT .....  
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## Review of Casino Agreement

### MEETING BETWEEN THE OFFICE OF GAMBLING REGULATION AND CROWN LTD

24 May 2004

#### Attendance:

OGR: Peter Cohen, Sylvia Grobtuch, Bill Balgowan, Rowena Scheffer, Cate Carr

Crown: Rowan Craigie, Mike Segrue, David Courtney, Jack Troost

Peter Cohen opened meeting by tabling two documents – a summary of where negotiations “are at” and a conformed copy of the agreement containing amendments proposed by the Authority.

The meeting proceeded to go through the summary document.

#### PAGE 1:

RC agreed that the items on page 1 had been agreed.

#### PAGE 2:

**Item 1:** Agreed to amend to add “but may include a PBL executive director” to allow a PBL director to be a member of the Audit Committee.

**Item 2:** Agreed to amend the proposal to require Crown to provide a schedule of proposed meetings of the Audit Committee and the minutes of each meeting held.

**Item 3:** Noted that these other matters have been included in the draft conformed agreement, in clause 22.1. (See item 6)

**Item 4:** Agreed to amend to add “but may include a PBL executive director” to allow a PBL director to be a member of the Compliance Committee.

**Item 5:** Agreed to amend the proposal to require Crown to provide a schedule of proposed meetings of the Compliance Committee and the minutes of each meeting held.

**Item 6:** Agreed that the Charter and procedures for the Compliance and Audit Committees must be agreed by the regulator.

**Item 7:** Crown agreed to supply meeting agendas and minutes and will supply a copy of meeting papers where requested to do so by the Authority.

**Item 8:** RC asked whether the Authority was of the view that a director independent of PBL was also independent of Crown?

PC advised that this issue was still under debate within the Authority but if it was resolved one way then Item 9 may become redundant.

RC said **item 9** may raise the obligation on PBL to use its best endeavours to further economic development of Victoria. For example, how does that obligation sit with Item 9? Directors of Crown can't act in the interests of PBL but PBL must act in the interests of Victoria. Authority seems to "want its cake and eat it too". RC said Crown will look at it and get back to the Authority.

**Item 10:** DC said proposal is not acceptable. Why should loans of cash to PBL be disregarded? Indirectly the proposal says Crown can't lend to PBL.

RC said Tatts, Tab and Crown generate large amounts of cash – want to use it to expand operations Australia wide and internationally. The Authority need to decide whether this is a disclosure issue about cash going out of Crown or if the Authority wants to control it. The way it is worded would not prevent Crown from buying Fairfax but does prevent a loan to PBL.

PC said the removal of the single purpose restriction creates greater risk to the state and therefore need to put something in place to make sure that business is still viable.

RC said we need to make it clear that if we can't get agreement about single purpose PBL, which is prepared to headquarter its gaming operations in Melbourne, is prepared to walk away from this whole exercise. PBL doesn't want Tattersall's and Tabcorp to have a free go at Australian gaming markets. Will stick with current agreement and run gaming operations out of Sydney.

#### **Items 24-27**

RC said **Item 25** would be acceptable if the Government and the Authority agreed to establish a tax and regulatory regime commensurate with international standards ie smoking bans, tax rates, no more problem gambling restrictions. Can't force us to be competitive whilst tying our hands behind our back.

**Item 26** agreed that the existing commitment regarding capital expenditure would be written into the agreement.

**Items 25 and 27:** PC will go back to the Government and the Authority about these issues.

**Item 26:** RC said the test for "best endeavours" changes if there are further smoking bans, for example. Could look at increasing capital expenditure if no smart cards, smoking bans for high rollers etc.

**Item 11:** DC said could simply transfer funds by way of dividend, which would never be recovered. This is only half the argument.

**Item 12:** RC said this is single purpose in another form. PC said we can probably take this out.

**Item 13:** It was noted that the definition of "Casino Assets" has been amended to include ancillary assets.

RC said Authority need to decide if it wants to regulate the entire complex or if you are a casino regulator.

**Item 14:** RC will consider and come back to Authority.

**Item 15:** DC said when the notes expire in 2005 Crown will only be required to do half-yearly audit. The standard in a yearly audit.

**Item 16:** I think I must have drifted off here – anyone help?

**Item 17:** I think I must have drifted off here – anyone help?

**Item 18:** I think I must have drifted off here – anyone help?

**Item 19:** limited to capital expenditure on the Melbourne Casino not other Crown projects.

**Item 20:** RC said if Item 12 is deleted this may not be required. PC will consider this.

**Item 21:** RC asked why is this limited to a PBL related entity? Crown will consider this.

**Item 22:** As per item 21.

**Item 23:** Agreed that Crown will provide – an internal audit plan and an annual report on that plan, and end of year report on the external audit.

**Item 30:** No agreement.

RC said the Authority is wrong if it thinks Crown is desperate – can bypass Melbourne and work out of Sydney. Can tell PBL to forget amending the agreement.

Crown will consider matters and advise the Authority what is acceptable and what is not.

**MEETING CLOSED.**

WLB Copy

(copy → CS for RS)



**"Warwick  
Isherwood"**  
<Warwick.Isherwood@maddocks.com.au>

To: <rowena.scheffer@ogr.vic.gov.au>  
cc: <bill.balgowan@ogr.vic.gov.au>,  
<sylvania.grobtuch@ogr.vic.gov.au>

Subject: Amended Casino Agreement \*\* Virus Checked by OGR IT\*\*  
au >

20/05/2004 12:11 PM

Rowena,

The 2 further amendments have been made to the Casino Agreement (being the deletion of the address of Crown on page 1 and the change of the revenue definition contained in paragraph (e) of the Casino Asset definition) and I now attach it both in Word format and PDF format.

Regards

Warwick

-----  
Maddocks

Melbourne - Tel: (61 3) 9288 0555 Fax: (61 3) 9288 0666

Sydney - Tel: (61 2) 8223 4100 Fax: (61 2) 9221 0872

Web: <http://www.maddocks.com.au>  
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Comparison of amended Casino Agreement with original (M0278471).DOC



Comparison of amended Casino Agreement with original(2) \_M027\_.pdf



**"Warwick  
Isherwood"**  
<Warwick.Isherwo  
od@maddocks.com.  
au >

To: <rowena.scheffer@ogr.vic.gov.au >  
cc: <bill.balgowan@ogr.vic.gov.au >,  
<sylvia.grobtuch@ogr.vic.gov.au >  
Subject: Casino Agreement \*\* Virus Checked by OGR IT\*\*

20/05/2004 11:41 AM

Rowena,

I attach:

1. my email letter to you (M0278564);
2. marked-up amended Casino Agreement in Word (M0278471);
3. marked-up amended Casino Agreement (in PDF format); and
4. Casino Agreement (Conformed Copy) (CEN0235).

Regards

Warwick

-----  
Maddocks

Melbourne - Tel: (61 3) 9288 0555 Fax: (61 3) 9288 0666

Sydney - Tel: (61 2) 8223 4100 Fax: (61 2) 9221 0872

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 Email R Scheffer cc B Balgowan S Grobtuch 20.5.04 (M0278564).DOC

 Comparison of amended Casino Agreement with original (M0278471).DOC

 Comparison of amended Casino Agreement with original \_M027\_.pdf

 Casino Agreement (Conformed Copy) (CEN0235,2).DOC



## Maddocks

Lawyers  
 140 William Street  
 Melbourne Victoria 3000 Australia  
 Telephone 61 3 9288 0555  
 Facsimile 61 3 9288 0666  
 Email info@maddocks.com.au  
 www.maddocks.com.au  
 DX 259 Melbourne

### Email Letter

**From**  
 Warwick Isherwood

**Date**  
 20/05/2004

**Direct**  
 [REDACTED]

**Email**  
 [REDACTED]

**To**  
 Ms Rowena Scheffer

**Firm/Company**  
 Victorian Casino &  
 Gaming Authority

**Email**  
 [REDACTED]

**And to**  
 Mr Bill Balgowan

Victorian Casino &  
 Gaming Authority  
 Victorian Casino &  
 Gaming Authority

Ms Sylvia Grobtuch

Our Ref WJI:5023648

Dear Rowena

### Amendments to the Casino Agreement

Further to our telephone conversation yesterday afternoon, I attach:

- a marked-up version of the proposed amended Casino Agreement (M0278471) in Word; and
- a marked-up version of the proposed amended Casino Agreement (in PDF format).

In respect of these draft documents I note the following:

1. The attached versions of the document mentioned above are identical but are merely expressed in different formats. You may wish to send the PDF document to Crown as it is difficult to amend. This reduces the risk of amendments being carried out to the document without the knowledge or consent of the Authority.
2. As agreed, I have amended the definition of "Casino Assets" by inserting (in paragraph (g)) Ancillary Facilities.
3. I have deleted from the definition of "Bank Guarantees" the reference to the guarantees and letters of credit referred to in the Deed of Undertaking and Guarantee.

[5023648/WJI/M0278564:1]

Innerstate office  
 Sydney  
 Affiliated offices  
 Adelaide, Beijing, Brisbane, Colombo,  
 Dubai, Hong Kong, Jakarta, Kuala Lumpur,  
 Manila, Mumbai, New Delhi, Perth,  
 Singapore, Tianjin

4. I have made minor amendments, which corrects grammatical errors or helps with minor interpretation issues, in the following clauses:

Clause	Comment
2	Financiers
2	Material Consultant
2	Material Professional Adviser
2	Total Group Assets
22.1(ba)	Given the change to the definition of Casino Asset, the removal of the words "Ancillary Facilities".
22.1(u)	Joint and several clause.
22.8	Minor grammatical change.

5. The amendments and mark-ups to the document have been made by comparing a document prepared some years ago (from recollection by Minter Ellison) of the Casino Agreement which is stated to be a conformed copy, as varied by Variation Agreements 1 to 8 and the Master Security Agreement. It is also attached (CEN0235). I have not individually checked to ensure that it contains all the amendments and is actually a conformed copy but I believe at this stage it is safe to say that it is.
6. I do not believe that the compare technology used by Microsoft in its Word package (in our version, XP) allows me to certify, categorically, that all the amendments and mark-up which we have sought to capture and which would be included in the Ninth Variation Deed, have actually been marked. If not then, of course, it has been an unintentional result of using the current technology.
7. When Peter Cohen provides the document to Crown (I have assumed that Peter Cohen will do so directly), I would suggest that a mention of the relevant technology should be used. It avoids the unpleasant discovery by any lawyer that the document does not, in actual fact, capture all of the proposed amendments: most people would acknowledge that the technology is not perfect and treat the document accordingly.

Page 03

If you have any queries or questions on this matter then please let me know.

Yours faithfully  
Maddocks

Transmission authorised by:  
Warwick Isherwood  
Partner

COMMERCIAL IN

Date 21 September 1993

## Melbourne Casino Project Casino Agreement

Victorian Casino and Gaming Authority  
[formerly known as the Victorian Casino Control Authority]  
and

Crown Limited  
ACN 006 973 262

CONFORMED COPY FOR REFERENCE ONLY  
AS VARIED BY VARIATION AGREEMENTS 1 TO 8  
AND AS PROPOSED TO BE AMENDED BY VARIATION AGREEMENT 9

Draft 4: 20 May 2004

- COMMERCIAL IN CONFIDENCE -

COMMERCIAL IN

MELBOURNE CASINO PROJECT

## CASINO AGREEMENT

AGREEMENT dated 21 September 1993

**BETWEEN** **VICTORIAN CASINO AND GAMING AUTHORITY** ~~(, formerly known as **VICTORIAN CASINO CONTROL AUTHORITY**)~~ ~~(a statutory authority established under the *Casino Control Act* with its office at 459 Collins Street, Melbourne)~~ ('Authority')

**AND** **CROWN LIMITED** ACN 006 973 262 (formerly known as **CROWN CASINO LTD**) ~~with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria~~ ('Company')

## RECITALS

- A. The Authority has power to grant a casino licence under the provisions of the *Casino Control Act*.
- B. The Company has made application for a casino licence and pursuant to such application has provided information and submissions, including the Melbourne Casino Complex Development Proposals and the Temporary Casino Complex Development Proposals, to the Authority.
- C. The Authority has, in accordance with sections 9 and 10 of the *Casino Control Act*, carried out investigations and enquiries in relation to the Company and other persons required to be investigated.
- D. Subject to the terms and conditions of this document and the Management Agreement, the Authority has agreed to grant the Casino Licence to the Company.
- E. The Casino Licence will enable the Company to operate a casino from temporary premises.
- F. The Minister, acting for and on behalf of the State, and the Company have entered into the Management Agreement pursuant to section 15 of the *Casino Control Act* as a condition precedent to the grant of the Casino Licence to the Company.
- G. The Minister has given approval to the Authority pursuant to sections 14 and 142 of the *Casino Control Act* to provide an undertaking to the Company as to exclusivity, to enter into this document and to act for and on behalf of the State in respect of certain matters referred to in this document.

## AGREEMENT

## 1. DIVISION INTO PARTS

This document is divided into Parts as follows:

PART 1 -	PRELIMINARY
PART 2 -	DEVELOPMENT AND COMPLETION
PART 3 -	COMPLETION

## COMMERICAL IN

PART 4-	CORPORATE STRUCTURE AND RELATED MATTERS
PART 5-	GRANT OF THE CASINO LICENCE
PART 6-	ENCUMBRANCES AND ASSIGNMENTS
PART 7-	TERMINATION
PART 8-	COMPLEMENTARY AGREEMENTS
PART 9-	GENERAL

## PART 1 - PRELIMINARY

## 2. DEFINITIONS

In this document, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'**Ninth Variation Date**' means the \_\_\_\_\_ day of \_\_\_\_\_  
2004;

'**Agent**' means National Australia Bank Limited ACN 004 044 937 and any successor to it as agent under the Facility Agreement;

'**Agreement Act**' means the bill referred to in clause 3.2(a) of the *Casino Management Agreement* when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause; 1993;

'**International First Class Standards**' means the international first class casino standards set out in Schedule Eight.<sup>[0]</sup>

'**Ancillary Facilities**' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Development Proposals to be constructed on or located within the Temporary Casino Site or the Site, including an hotel, restaurant, retail, recreation, entertainment and car parking facilities, residential and office accommodation, staff facilities, staff car parking, coach storage facilities and open space areas;

'**Assets and Rights**' means all the present and future undertaking, property, assets and rights of or held by the Company;

'**Associate**' has the same meaning as in sections 10 to 17 of the Corporations Law;

'**ASX**' means Australian Stock Exchange Limited;

<sup>2</sup>'**Audit Committee**' means the audit committee of the Company appointed and maintained under clause 22.1(la);

'**Australian Accounting Standards**' means:

(a) prior to the Ninth Variation Date:

(i) \_\_\_\_\_ accounting standards as defined in (or having effect under the *Corporations Law* or, after it came into force, the *Corporations Act*

<sup>1</sup> Inserted by Agreement dated [## Ninth Variation Deed]

<sup>2</sup> Inserted by Agreement dated [##Ninth Variation Deed]

## 4 COMMERCIAL IN CONFIDENCE

as if they were accounting standards defined in) section 9 of the *Corporations Law*; or, after it came into force, the *Corporations Act*;

- (bii) the requirements of the *Corporations Law* or, after it came into force, the *Corporations Act* in relation to the preparation and content of accounts; and
- (eiii) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices inconsistent with (a) or (b);

(b) on and after the Ninth Variation Date:

- (i) accounting standards as defined in (or having effect under the *Corporations Act* as if they were accounting standards defined in) section 9 of the *Corporations Act*;
- (ii) the requirements of the *Corporations Act* in relation to the preparation and content of accounts; and
- (iii) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices inconsistent with (a) or (b);

'**Authorisation**' includes a consent, approval, licence, permit, franchise, permission, filing, registration, resolution, direction, declaration and exemption;

'**Authority**' means the Victorian Casino and Gaming Authority;

'**Bank Guarantees**' means the guarantees or letters of credit to be provided by the Company pursuant to clauses 18.1 and 22.9 of the Management Agreement;

'**Business Day**' means a day (other than a Saturday or Sunday) on which banks (as defined in the *Banking Act 1959* (Commonwealth)) are generally open for business in Melbourne;

'**Casino Asset**' ~~means an asset or undertaking of the Company which forms that part of the Secured Property Assets and Rights which consists of:~~ is:

- (a) ~~the Casino Licence;~~
- (b) ~~— necessary or convenient to permit or allow the Melbourne Casino; to operate as a casino; and~~
- (e) ~~— b) used, employed or operated by or on behalf of the Temporary Company to operate the Melbourne Casino;~~

and includes:

- (c) the Casino Licence;

- (d) ~~all gaming equipment used in the Melbourne Casino or the Temporary Casino;~~
- (e) ~~all revenue derived from the Melbourne Casino or the Temporary Casino (other than revenues which have been deposited or are standing to the credit of the Debt Protection Account or the Debt Service Reserve Account (each as defined in the Facility Agreement) in accordance with the Facility Agreement and any Authorised Investments (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment); or~~
- (f) all gaming equipment or equipment, and all assets or rights ancillary to or used in conjunction with gaming equipment used in the Melbourne Casino;
- (g) the Ancillary Facilities; and
- ~~(g) all other assets of the Company necessary or convenient for the operation of the Melbourne Casino or the Temporary Casino;~~

and a reference to the 'Casino Assets' includes any part of them;

'*Casino Control Act*' means the *Casino Control Act 1991* (Victoria);

'**Casino Licence**' means a casino licence as defined in the *Casino Control Act* in relation to the Temporary Casino and the Melbourne Casino in the form of the licence set out in Schedule One;

'**Casino Supervision and Control Charge**' means:

- (a) for the period from the Licensing Date until 30 June 1994, \$5,000,000; and
- (b) for each Financial Year from 1 July 1994 until 30 June 1997, \$5,000,000;

'**Company**' means Crown Limited ACN 006 973 262, which will be the casino operator for the purposes of the *Casino Control Act*;

'**Commissioning**' means the checking, testing and acceptance of the operational readiness of and the procedures for the various components of the Melbourne Casino or the Temporary Casino as the case may be (including all staff, facilities and equipment) by the Authority;

'**Complementary Agreements**' means each of the agreements listed in Schedule Two;

'**Completion**' means the completion of the construction, the Fit-Out and the Commissioning of the Temporary Casino or the Melbourne Casino, as the case may be, as specified in the Completion Standards and as determined pursuant to clause 20, and '**Complete**' and '**Completed**' have corresponding meanings;

'**Completion Standards**' means:

- (a) for construction, when all the requirements under this document and the *Casino Control Act* in relation to the Melbourne Casino or the Temporary Casino have been complied with;
- (b) for Commissioning, when all the procedures for the various components of the Melbourne Casino or the Temporary Casino (including all staff, facilities and equipment) are in place or immediately and reliably available to the Company such that the Melbourne Casino or the Temporary Casino, as the case may be, can be operated securely and so that there is no risk to the integrity of operation or compromise in the amenity of the Melbourne Casino or the Temporary Casino, as the case may be, which is not acceptable to the Authority; and
- (c) for Fit-Out, when all of the Fit-Out is installed in place and operational with the exception only of minor omissions and maintenance items which, in the reasonable opinion of the Authority, do not affect the security, integrity, operation or amenity of the Melbourne Casino or the Temporary Casino;

<sup>3</sup>"Compliance Committee" means the compliance committee of the Company appointed and maintained under clause 22.1(ld);

'**Construction Agreement**' means the proposed building agreement between the Company and a proposed builder substantially in the form of the draft agreement a copy of which has been signed on behalf of the Authority and the Company and dated the date of this document for the purposes of identification;

*{Note: The builder is Grocon Pty Ltd ACN 006 772 238}*

'**Contractor's Deed**' has the same meaning as in the Supplemental Development Agreement;

'**Control Acts**' means the *Building Control Act 1981* and the *Planning and Environment Act*;

'Corporations Act' means the *Corporations Act 2001*;

'**CUB**' means Carlton and United Breweries Limited ACN 004 056 106;

'**Deal with**' means deal with property in any way, other than enter into an arm's length agreement to sell, dependent for effect on the Authority's consent, including, but not limited to, offer for sale, grant an option in respect of, create or Dispose of a right in respect of, render or permit to be subject to an Encumbrance, convert, deposit, licence compromise and allow a counterclaim or right of set-off to arise in respect of;

<sup>4</sup>'**Deed of Undertaking and Guarantee**' means the agreement under which, amongst other things, the Holding Company and other related companies guarantee to the Authority and the State, the due and punctual performance of certain obligations owed by members of the Group to the Authority and the State;

<sup>3</sup> Inserted by Agreement dated [##Ninth Variation Agreement]

<sup>4</sup> Inserted by Agreement dated 2 June 1999.

'**Design and Construction Programme**' means the programme for the design documentation, construction, Fit-Out, Commissioning and Completion of the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) set out in Schedule One of the Management Agreement, as amended from time to time with the prior written approval of the State;

'**Development Agreement**' means the agreement dated 30 August 1993 between the Company and Hudson Conway Management Limited ACN 006 742 294 providing for the procuring of the construction of the Melbourne Casino Complex;

'**Dispose of**' means sell, transfer, assign, alienate, surrender, dispose of, deposit, Lease, licence, part with possession of and enter into any agreement or arrangement to do or allow any of these things;

'**Director of Casino Surveillance**' means the person appointed under section 94 of the *Casino Control Act* or its successors;

'**Documentation**' means any document or proposal which the Company is required to submit to the Authority under clauses 6, 7, and 8;

'**Drawings**' means the plans, designs ~~and~~, working drawings and "as built" drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'**Encumbrance**' means a mortgage, charge, pledge, lien, assignment, hypothecation, retention of title (other than a retention of title in respect of trading stock), or any other right (including, without limitation, under a trust, agency, hire purchase, sale and repurchase, sale and leaseback or flawed asset arrangement) of a creditor to have its claims satisfied prior to other creditors with, or from the proceeds of or by recourse to any asset and includes any agreement, arrangement or document conferring such a right or having substantially the same economic effect;

'**Equity Funding Agreement (Federal)**' means the agreement dated 30 August 1993 between Danwick Pty Limited ACN 059 321 667, The Federal Hotels Limited ACN 004 108 249 and Hudson Conway Limited ACN 009 556 629;

'**Exchange**' means any stock exchange other than the ASX;

'**Excluded Intangible Assets**' means all Intangible Assets of the Holding Company Group other than the Holding Group Intangible Assets;

'**Facility Agreement**' means the \$300,000,000 multi-option facility agreement dated 30 August 1993 between the Company, the Financiers and the Agent;

'**Finance Documents**' means the Facility Agreement and the Financiers' Securities;

'**Financial Benefit**' has the meaning ascribed to it under the *Corporations Act*;

'**Financial Report**' has the meaning ascribed to it under the *Corporations Act*;

'Financial Year' means from 1 July to 30 June (inclusive);

'Financiers' means those financiers who have been where required approved pursuant to this Agreement by the Authority as secured creditors of the Company and who are as at 21 September 1993 National Australia Bank Limited, Australia and New Zealand Banking Group Limited, HongkongBank of Australia Limited, Bank of Western Australia Limited [*formerly known as R & I Bank of Western Australia Limited*] and State Bank of New South Wales Limited and their successors, assigns and substitutes;

*[Note: HongkongBank withdrew 1 March 1995]*

'Financiers' Securities' means the following securities given to the Agent as agent for the Financiers:

- (a) a first registered fixed and floating charge over the undertaking and all the assets of the Company including a mortgage over the Casino Licence;
- (b) a mortgage of the Site Lease and a mortgage of the Temporary Casino Leases;
- (c) each other security given to the Agent or the Financiers as security for the liabilities of the Company under the Facility Agreement;

'Fit-Out' means the application of finishing material, gaming equipment, furniture, fittings, furnishings and such other built-in and loose items required to bring any part of the Temporary Casino or the Melbourne Casino (as the case may be) to Completion to a stage to enable Commissioning to take place;

'Fixed and Floating Charge' means the second-registered fixed and floating charge given by the Company in favour of the Minister on behalf of the State;

'Force Majeure Event' has the same meaning ascribed to that term in the Management Agreement;

'Founding Shareholders Agreement' means the agreement dated 30 August 1993 between each Sponsor, CUB and the Company providing for the subscription for Shares by the Sponsors and Carlton & United Breweries Limited;

'Further Amendment Act' means the bill referred to in clause 3.2(b) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause;

'Gross Gaming Revenue' means the total of all sums, including cheques and other negotiable instruments whether collected or not, received in any period by the Company from the conduct or playing of games within the Temporary Casino or the Melbourne Casino (as the case may be) less the total of all sums paid out as winnings during that period in respect of such conduct or playing of games;

<sup>5</sup>'Group' means the Company and its Subsidiaries and any other entity which the directors of the Company are required to consolidate in the consolidated profit and loss

<sup>5</sup> Inserted by Agreement dated 2 July 1998.

accounts and balance sheets of the Company under the *Corporations Law*; or, after it came into force, the *Corporations Act*;

-**'Guarantee and Indemnity for Development Agreement'** means the guarantee and indemnity dated 30 August 1993 by Hudson Conway Limited ACN 009 556 629 to the Company;

<sup>6</sup>**'Holding Company'** means the Company's ultimate holding company, within the meaning of that expression as defined in section 9 of the *Corporations Law* or, after it came into force, the *Corporations Act*, but read as though the reference in paragraph (b) to 'no body corporate' were a reference to 'no body corporate incorporated in Australia';

<sup>7</sup>**'Holding Company Group'** means:

- (a) the Holding Company;
- (b) the Holding Company's Subsidiaries (including without limitation, the Company and its Subsidiaries); and
- (c) any other entity which the directors of the Holding Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Holding Company under the *Corporations Law*; or, after it came into force, the *Corporations Act*;

**'Holding Group Intangible Assets'** means the Casino Licence and the Operations Agreement;

<sup>8</sup>**"Independent Director"** means

- (a) a director of the Company who:
  - (i) is a Non-Executive Director of the Company;
  - (ii) is not a substantial shareholder of a Relevant Company;
  - (iii) is not an officer of a Relevant Company, other than as a Non-Executive Director of a Relevant Company;
  - (iv) within the last 3 years has not been employed in an executive capacity by a Relevant Company, or been a director after ceasing to hold such employment;
  - (v) within the last 3 years has not been a Material Professional Adviser or a Material Consultant to the Company;
  - (vi) is not a material supplier or customer of a Relevant Company or an officer or otherwise associated directly or indirectly with a material supplier or customer;

<sup>6</sup> Inserted by Agreement dated 2 June 1999.

<sup>7</sup> Inserted by Agreement dated 2 June 1999.

<sup>8</sup> Inserted by Agreement dated [##Ninth Variation Deed]

- (vii) has no material contractual relationship with a Relevant Company (whether involving a controlled contract as defined in the *Casino Control Act* or otherwise), other than as a Non-Executive Director of a Relevant Company;
- (viii) has not been a director or secretary of any Relevant Company for more than 5 years; and
- (ix) is in the opinion of the Authority free from any interest or any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director's ability to act in the best interests of the Company; or

(b) a director of the Company who the Authority stipulates is an independent director;

'Intangible Assets' has the meaning ascribed to that term in the Australian Accounting Standards;

<sup>9</sup>'Internal Control Manual' means the Company's internal control manual approved by the Authority under Section 121 of the *Casino Control Act*.

'Lease' means an agreement or arrangement under which property is or may be used, occupied, retained, operated or managed by a person for consideration (of whatever form) including, but not limited to, a lease, licence, charter, hire purchase or hiring arrangement;

10

...

'Licensing Date' means the date which is 2 Business Days after the conditions precedent in clause 5.1 are satisfied; {19 November 1993};

'Licensing Payment Amounts' means the amounts payable under clause 26.1(b);

'Listed' has the meaning ascribed to it under the *Corporations Act*;

'Management Agreement' means the agreement between the Minister acting for and on behalf of the State, and the Company entered into pursuant to section 15 of the *Casino Control Act*;<sup>11</sup>

'Master Security Agreement' means the agreement of even date between the State, the Authority, the Company, the Agent and the Sponsors relating, among other things, to the priority of the Encumbrances given by the Company;

<sup>12</sup>'Material Consultant' includes a provider (howsoever described) who either directly or indirectly is given or receives a Financial Benefit (whether as principal, consultant or a key personnel of the provider) for any management, marketing or

<sup>9</sup> Inserted by Agreement dated [##Ninth Variation Deed]

<sup>10</sup> Definition of 'Liabilities' deleted by Agreement dated 2 July 1998.

<sup>11</sup> Varied by Agreements dated 14 November 1994 and 12 October 1995.

<sup>12</sup> Inserted by Agreement dated [##Ninth Variation Deed]

advertising services where, in any one year (ending 30 June), the value of the Financial Benefit to the provider is \$100,000 or more;

'Material Contract' means a contract, arrangement or understanding (Contract) which, given all the circumstances, is material to the Company and its operations and without limitation includes:

- (a) a controlled contract (as that term is described under the *Casino Control Act*);
- (b) a Contract by the Company with a Related Body Corporate of the Company;
- (c) a Contract which involves Casino Assets or Ancillary Facilities; or
- (d) Contracts where:
  - (i) the present day value of that Contract is greater than \$25 million; or
  - (ii) the term of the Contract is for more than 5 years; or
  - (iii) where the Contract can be terminated by either party either due to an act of insolvency or at the will of another party.

<sup>13</sup>"Material Professional Adviser" includes a provider (howsoever described) who either directly or indirectly is given or receives a Financial Benefit (whether as principal, consultant or a key personnel of the provider) for any professional services where, in any one year (ending 30 June) the value of the Financial Benefit to the provider is \$100,000 or more;

'Melbourne Casino' means those areas identified in the Drawings for the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Melbourne Casino Complex' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of this document and the Management Agreement;

'Melbourne Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'Minister' means the Minister for the time being administering the *Casino Control Act*;

'Mortgagee' means any person with any Encumbrance (whether as mortgagee, chargee or otherwise) affecting or in relation to the Assets and Rights of the Company;

<sup>13</sup> Inserted by Agreement dated [##Ninth Variation Deed]

<sup>14</sup>"Non-Executive Director" of a company (the First Company) means a director of the First Company who is not an employee of or involved in the operational management of:

- (a) the First Company; or
- (b) a subsidiary or holding company of the First Company; or
- (c) a subsidiary of the holding company of the First Company;

<sup>15</sup>'Note Agreement' means the deed dated 24 December 1993 between the Company, Permanent Trustee Australia Ltd and National Australia Bank Limited;

<sup>16</sup>'Note Agreement (Series 2)' means the deed dated 15 August 1996 between the Company, Permanent Trustee Australia Limited and National Australia Bank Limited;

'Official List' is the official list of entities that ASX has admitted to that official list;

'Onerous Contract' has the meaning ascribed to it under the Australian Accounting Standards;

'Operations Agreement' means the agreement dated 30 August 1993 between the Company and Crown Management Pty Ltd ACN 059 301 610 providing for the conduct of the operations of the Temporary Casino and the Melbourne Casino;

'Permitted Encumbrance' means an encumbrance of the kind permitted under clause 29.1;

'Planning Amendments' means the planning scheme amendments referred to in clause 9 of the Management Agreement;

'Planning and Environment Act' means the *Planning and Environment Act 1987* (Victoria);

'Premium Payment' means \$10,000,000 being the amount determined by the Treasurer of the State under section 112A of the *Casino Control Act* as the amount payable by the Company under the Management Agreement;

'Public Authority' means any government or minister or any governmental, semi-governmental or judicial entity, department, instrumentality or authority;

'Receiver' means receiver, receiver and manager or agent for a mortgagee in possession, according to the nature of the appointment;

'Related Party' means the Sponsors and any Subsidiary of the Company;

'Related Body Corporate' has the meaning ascribed to it under the *Corporations Act*;

<sup>14</sup> Inserted by Agreement dated [##Ninth Variation Deed]

<sup>15</sup> Inserted by Agreement dated 7 March 1995.

<sup>16</sup> Inserted by Agreement dated 8 May 1997.

<sup>17</sup>"**Relevant Company**" means the Company, the Holding Company and any company which has been a Holding Company Group member at any time within the previous 3 years.

'**Relevant Legislation**' means the *Casino Control Act*, the *Agreement Act*, and the Further Amendment Act and the *Gambling Regulation Act 2003*;

'**Secured Property**' means at any time, any present or future right, property or undertaking of the Company, (other than an amount which has been deposited to, or which is standing to the credit of, the Debt Service Reserve Account or the Debt Protection Account (each as defined in the Facility Agreement) and any Authorised Investment (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment)) under the Facility Agreement, of whatever kind or wherever situated which is subject at that time to both:

- (a) the Fixed and Floating Charge; and
- (b) any one or more of the Financiers' Securities;

and a reference to '**Secured Property**' includes any part of it;

'**Security Sharing Deed**' means the Deed dated \_\_\_\_\_ 19 \_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_

<sup>18</sup>"**Senior Executive Manager**" includes:

- (a) the Company's chief executive officer;
- (b) the Company's chief financial officer;
- (c) the Company's chief operating officer;
- (d) any director of the Company who is an employee of the Company;
- (e) any officer of the Company who directly reports to the Company's chief executive officer;
- (f) any officer of the Company who has the authority to bind the Company to an expenditure of \$1 million or more; and
- (g) any officer of the Company who reports directly to the Company's chief executive officer;
- (h) a person who in the opinion of the Authority occupies any position referred to in paragraphs (a) – (g) (inclusive) and whether on a temporary or on a permanent basis.

'**Share**' means a fully paid ordinary share with a par value of \$0.50 in the capital of the Company;

<sup>17</sup> Inserted by Agreement dated [##Ninth Variation Deed]

<sup>18</sup> Inserted by Agreement dated [##Ninth Variation Deed]

'Shareholders Agreement - Crown Management Pty Ltd' means the agreement dated 30 August 1993 between Hudson Conway Limited ACN 009 556 629, Mulawa Casinos Pty Ltd ACN 060 766 001, The Federal Hotels Limited ACN 004 108 249 and Crown Management Pty Limited ACN 059 301 610;

<sup>19</sup>

<sup>20</sup>'Site' has the same meaning as in the Management Agreement;

'Site Lease' means the lease of <sup>21</sup>part of the Site from the Minister for Finance on behalf of the State to the Company;

'Site Lease Supplemental Agreement' means the agreement between the Minister for Finance, the Company and the Agent;

<sup>22</sup>'Solvency Report' means a report in the form set out in Schedule Six prepared in accordance with Australian Auditing Standard AUS 904 'Engagement to Perform Agreed Upon Procedures' and paragraphs .21(a) to (e), .23 and .24 of Australian Auditing Standard ALS 708 'Going Concern' and/or otherwise in a form approved by the Authority from time to time;

'Sponsors' mean Hudson Conway Limited ACN 009 556 629 and The Federal Hotels Limited ACN 004 108 249 and for the purposes of clause 22.1(a) such other person as the Authority may approve;

'Sponsor's Guarantees' means the guarantees of even date by Hudson Conway Limited ACN 009 556 629 in favour of the Authority and in favour of the State;

'State' means the State of Victoria;

'State's Nominated Representative' means the person appointed from time to time by the minister for the time being administering the *Planning and Environment Act* in accordance with clause 6.4 of the Management Agreement;

'Subsidiary' means any body corporate which would be a subsidiary of the Company within the meaning of section 46 of the *Corporations Law* or, after it came into force, the *Corporations Act* or any entity which would be a subsidiary of the Company under Australian Accounting *Standard AAS24*;Standards;

'Subsidiary Company Asset' means all forms of equity (including paid capital, reserves, accumulated profits or losses) held by the Company in a Subsidiary;

'Subsidiary Indebtedness' means the indebtedness to the Company of a Subsidiary;

<sup>19</sup> Definition of 'Shareholders' Funds' deleted by Agreement dated 2 July 1998.

<sup>20</sup> Varied by Agreement dated 8 May 1997.

<sup>21</sup> Inserted by Agreement dated 8 May 1997.

<sup>22</sup> Inserted by Agreement dated 2 July 1998.

<sup>23</sup>**'Supplemental Casino Agreement'** means the agreement under which the Holding Company guarantees to the Authority, the due and punctual performance of obligations owed by each member of the Holding Company Group to the Authority;

**'Supplemental Development Agreement'** means the agreement of even date between the Authority, the Company, the Sponsors and Hudson Conway Management Limited ACN 006 742 294 which is supplemental to the Development Agreement;

**'Supplemental Operations Agreement'** means the agreement of even date between the Authority, the Company, the Sponsors and Crown Management Pty Ltd ACN 059 301 610 which is supplemental to the Operations Agreement;

**'Supplemental Sponsors' Agreement'** means the agreement of even date between the Authority, the Company and the Sponsors which is supplemental to the Founding Shareholders Agreement;

**'Temporary Casino'** means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

**'Temporary Casino Complex'** means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of this document and the Management Agreement;

**'Temporary Casino Complex Development Proposals'** means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

**'Temporary Casino Leases'** means:

- (a) the lease from the Port of Melbourne Authority to the Company; and
- (b) the sub-lease between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289 and the Company;

**'Temporary Casino Leases Supplemental Agreements'** means:

- (a) the agreement between the Port of Melbourne Authority, the Company and the Agent; and
- (b) the Temporary Casino Sub-Lease Supplemental Agreement;

**'Temporary Casino Site'** means that part of the World Trade Centre on the land bounded by Spencer Street, Flinders Street Extension and the River Yarra identified in the Plan of Survey annexed to the lease referred to in paragraph (a) of the definition of Temporary Casino Leases;

<sup>23</sup> Inserted by Agreement dated 2 June 1999.

'**Temporary Casino Sub-Lease Supplemental Agreement**' means the agreement between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289, the Company and the Agent;

<sup>24</sup>'**Total Company Assets**' means the aggregate of all assets of the Group Company which according to Australian Accounting Standards are defined, or would be regarded, as assets;

'**Total Company Liability**' means all liabilities of the Company which according to the Australian Accounting Standards are defined or would be regarded, as liabilities;

<sup>25</sup>'**Total Group Assets**' means the aggregate of all assets of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as assets; and includes Subsidiary Indebtedness and Subsidiary Company Assets and the Holding Group Intangible Assets but does not include the following assets:

- (a) all indebtedness howsoever described owing by one Holding Company Group company or entity to another Holding Company Group company or entity (other than Subsidiary Indebtedness);
- (b) all forms of equity howsoever described (including paid up capital, reserves, accumulated profits or losses) held by a Holding Company Group company or entity (either directly or indirectly) in another Holding Company Group company or entity (other than Subsidiary Company Assets); and
- (c) all Excluded Intangible Assets;

<sup>26</sup>'**Total Group Liabilities**' means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities.

~~<sup>27</sup>'**Total Liabilities**' means the aggregate of all liabilities of the Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities;~~

'**Transaction Document**' means each of this document, the Management Agreement, the Casino Licence, the Site Lease, the Temporary Casino Leases, the Fixed and Floating Charge, the Sponsor's Guarantees, the Master Security Agreement, the Site Lease Tripartite Agreement, the Temporary Casino Leases Supplemental Agreements, the Supplemental Sponsors' Agreement, the Supplemental Development Agreement, the Contractor's Deed, the Bank Guarantees,<sup>28</sup> the Supplemental Operations Agreement,<sup>29</sup> the Deed of Undertaking and Guarantee and the Supplemental Casino Agreement;

<sup>24</sup> Inserted by Agreement dated 2 July 1998.

<sup>25</sup> Inserted by Agreement dated 2 June 1999.

<sup>26</sup> Inserted by Agreement dated 2 June 1999.

~~<sup>27</sup> Inserted by Agreement dated 2 July 1998.~~

<sup>28</sup> Varied by Agreement dated 2 June 1999.

<sup>29</sup> Varied by Agreement dated 2 June 1999.

<sup>30</sup>'Trust Deed' means the deed dated 24 December 1993 between the Company and Permanent Trustee Australia Ltd relating to the issue by the Company of unsecured notes;

<sup>31</sup>'Trust Deed (Series 2)' means the deed dated 15 August 1996 between the Company and Permanent Trustee Australia Limited relating to the issue by the Company of unsecured notes;

'Underwriting Agreement' means both the underwriting agreements of 13 August 1993 and 23 August 1993 between the Company, E.L. & C. Baillieu Limited ACN 006 519 393, Rothschild Australia Securities Limited ACN 008 591 768, Macquarie Underwriting Limited ACN 001 374 572, Ord Minnett Securities Limited ACN 003 245 234, James Capel Australia Limited ACN 002 786 272 and the Sponsors; and

'Warranties' means the representations and warranties of the Company set out in Schedule Three.

### 3. COMMENCEMENT OF CERTAIN PROVISIONS

This clause and clauses 2, 5, 6.3, 33, 34, 36, 37, and 39-48 (inclusive) commence on the date of this document.

### 4. VARIATION

Subject to the prior approval in writing of the Minister, the parties may from time to time by agreement in writing vary any provision of this document.

### 5. CONDITIONS PRECEDENT

5.1 The provisions of this document other than the clauses referred to in clause 3 are conditional upon the satisfaction of the following conditions precedent

- (a) execution of:
  - (i) the Transaction Documents except for the Casino Licence and the Bank Guarantees;
  - (ii) the Finance Documents;
  - (iii) the Development Agreement;
  - (iv) the Operations Agreement;
  - (v) the Construction Agreement;
  - (vi) the Founding Shareholders Agreement;
  - (vii) the Underwriting Agreement;
  - (viii) the Equity Funding Agreement (Federal);

<sup>30</sup> Inserted by Agreement dated 7 March 1995.

<sup>31</sup> Inserted by Agreement dated 8 May 1997.

## 18 COMMERCIAL IN CONFIDENCE

- (ix) the Shareholders Agreement - Crown Management Pty Ltd; and
  - (x) the Guarantee and Indemnity for Development Agreement;
- (b) each of the conditions precedent in each document referred to in paragraph (a) being satisfied other than:
- (i) conditions precedent contained in paragraphs (14), (15), and (28) of Part 1 of Appendix A to and clause 4.2 of the Facility Agreement and those conditions precedent in Appendix A to the Facility Agreement that are factual or procedural matters that cannot be satisfied until the time of drawdown; and
  - (ii) the issue of the Casino Licence;
- (c) approval of the Planning Amendments; and
- (d) the coming into operation of those parts of the Agreement Act and the Further Amendment Act which relate to the construction, Fit-Out, Commissioning, Completion and operation of the Melbourne Casino Complex and the Temporary Casino Complex each in the form and substance reasonably satisfactory to the Company to enable the Company to comply with its obligations under the Transaction Documents.
- 5.2 The Authority will provide written notice to the Company and to the Minister of satisfaction of the conditions specified in clause 5.1 within 2 Business Days of the satisfaction of all of those conditions.
- 5.3 Each party shall use its best endeavours to ensure the satisfaction of the conditions in clause 5.1 as soon as possible after the execution of this document, and in any event no later than the date specified in clause 5.4.
- 5.4 This document shall terminate upon the Management Agreement terminating under clause 5.2 of that agreement.

**PART 2 - DEVELOPMENT AND COMPLETION****6. DOCUMENTS TO BE SUBMITTED TO THE AUTHORITY**

- 6.1 The Company must as soon as possible, but within 10 weeks from the Licensing Date submit to the Authority for its approval the following items:
- (a) a schedule identifying the proposed nature and degree of access (including pedestrian and vehicular) to all facilities by people who may be attending the Melbourne Casino together with a report on the vehicular part of that proposal;
  - (b) a detailed development master plan or plans clearly indicating the intentions of the Company for the development of the Melbourne Casino;
  - (c) all final schematic design drawings in relation to the Melbourne Casino;

- (d) a proposal detailing the intended method of carrying out all phases of the development of the Melbourne Casino including the type of contract documentation to be used, the system (including the provision for review and approval by the Authority where required by the Authority) for the calling of tenders and appointment of sub-contractors, nominated sub-contractors, trade contractors and the method for completing construction, Fit-Out and Commissioning of the Melbourne Casino; and
- (e) such other documents, drawings or information reasonably required by the Authority in relation to the Melbourne Casino.

6.2 As soon as practicable, but in any event no later than 3 months after Completion of the Melbourne Casino, the Company must prepare and supply the Authority with:

- (a) a list of and 3 copies of all equipment and construction warranties in relation to the Melbourne Casino provided in favour of the Company;
- (b) 3 copies of instructions and maintenance manuals in relation to the Melbourne Casino for:
  - (i) all hydraulic systems;
  - (ii) all mechanical systems; and
  - (iii) all electrical systems; and
- (c) 3 copies of as built drawings for all services in relation to the Melbourne Casino including:
  - (i) hydraulic drawings;
  - (ii) mechanical drawings;
  - (iii) electrical drawings;
  - (iv) civil works drawings; and
  - (v) architectural drawings.

6.3 The Company must by the 8 December 1994 enter into a contract substantially in the form of the Construction Agreement with a builder approved by the Authority acting reasonably providing for the construction of the Melbourne Casino Complex.

6.4 The Company must procure the execution of the Contractor's Deed before or at the time that the Company enters into the contract referred to in clause 6.3.

#### 6.5 Provision of Information and Documents

- (a) The Company must:
  - (i) within 14 days of receiving a request from the Authority; and in any event

- (ii) by 24 May 1996, being the date by which the Company must make available the Gaming Floor and Back of House areas -

provide to the Authority the documents and information referred to in clause 6.1 of the Casino Agreement in accordance with paragraph (b) of this clause.

- (b) The Company complies with its obligations pursuant to paragraph (a) of this clause if:
  - (c) the Company provides the documents or information requested by the Authority;
  - (d) the Company advises:
    - (i) that it is unable, at that stage, to provide the information and/or documents;
    - (ii) the reasons for the Company's inability to provide the information and/or documents; and
    - (iii) the date by which the Company anticipates being able to provide the information and/or documents; and
    - (iv) the Authority does not, within 10 days of the receipt of the advice pursuant to this paragraph give a notice to the Company that the documents and/or information must still be provided in response to the Authority's request; or
  - (e) it advises the Authority that, in respect of the documents and/or information requested by the Authority, there has been no variation to or amendment of the documents or information previously provided by the Company to the Authority.
  - (f) The Company may respond to a request from the Authority by a combination of the alternatives referred to in paragraph (b) of this clause as is appropriate in the circumstances.
  - (g) The Authority may make requests pursuant to paragraph (a) of this clause from time to time as it considers appropriate in its absolute discretion.

<sup>32</sup>6.6 The Company acknowledges, undertakes and agrees that the Company is not permitted to terminate the Construction Agreement without the approval of the State in accordance with clause 9.3 of the Supplemental Development Agreement and without the approval of the Authority in accordance with clause 32.1 of this document.

## 7. MELBOURNE CASINO WORKS

The Company must, at least 14 days prior to the commencement of any part of the Melbourne Casino, submit to the Authority for approval all working drawings and specifications relating to any such part, and in particular the following details:

<sup>32</sup>

Inserted by Agreement 3 March 1995. Varied by Agreement dated 8 May 1997.

- (a) drawings of the floor layouts for the Melbourne Casino showing the placement of gaming tables and closed circuit television cameras and other surveillance facilities;
- (b) drawings of the reflected ceiling showing the location of catwalks (if any), closed circuit television cameras, viewing panels, lights and other fittings and services;
- (c) plans of cashiers' cages, count rooms and all security areas, including access thereto,
- (d) plans of secure areas and facilities to be used for inspectors appointed under the *Casino Control Act*, police and the Company's surveillance and security staff,
- (e) the electrical installations, in particular for the:
  - (i) closed circuit television system for both surveillance of the Melbourne Casino and for use by inspectors appointed under the *Casino Control Act*,
  - (ii) alarm system;
  - (iii) telephone installations;
  - (iv) emergency link to local police headquarters;
  - (v) auxiliary power and lighting provisions; and
  - (vi) fire protection systems and flood control plans for the preceding items in paragraph (e);
- (f) the master-key system proposed; and
- (g) the proposed construction, supply or Fit-Out of the preceding items

## 8. SAFETY PROCEDURES

The Company must ~~;~~:

8.1 at least 14 days before the Company intends to open the Melbourne Casino for use by the public, ~~submit to the Authority~~ for its approval; and

8.2 on and after the Ninth Variation Date when it is reasonably prudent or necessary to do so but in any event each year commencing on 30 June 2005,

submit to the Authority details of the following matters so far as they relate to that part of the Melbourne Casino which the Company intends to open:

- (a) fire and flood safety and damage control procedures;
- (b) emergency control procedures;
- (c) crowd control procedures;

- (d) armoured vehicle transfer arrangements; and
- (e) vehicle control and parking arrangements.

## 9. VARIATIONS

9.1 The Company must submit to the Authority details of any variations:

9.1.1 to the Drawings and the working drawings and specifications to be provided pursuant to the Control Acts, the Management Agreement or this document where any such variation in any way relates to the Melbourne Casino; and

9.1.2 after the Ninth Variation Date, to the Melbourne Casino (whether the variations are as a result of an upgrade, enhancement, extension, rebuilding, maintenance repair or replacement or otherwise).

9.2 The Company must not make any such variations without the prior approval in writing of the Authority

## 10. APPROVAL BY THE AUTHORITY

10.1 If the Company is required by this document to submit to the Authority any documents or proposal for approval the Company must not proceed with carrying out any works or taking any action described in or contemplated by the documents or the proposal until the Authority has approved the documents or proposal or the documents or proposal have otherwise been dealt with in accordance with this clause 10.

10.2 If the Company is required by this document to submit to the Authority any documents or proposal for approval, the Authority may

- (a) approve the documents or proposal;
- (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
- (c) require amendment as specified to the documents or proposal; or
- (d) reject the documents or proposal.

10.3 If the Authority imposes conditions, requires amendment or rejects the documents or proposal pursuant to clause 10.2 the Company may, within 7 days of notification of the condition, amendment or rejection, make a further submission to the Authority as to why the condition should not be imposed, the amendment not be made or the documents or proposal not be rejected.

10.4 If the Company makes a further submission to the Authority as provided for in clause 10.3, the Authority shall give the further submission reasonable consideration and may

- (a) approve the documents or proposal;

- (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
- (c) require amendment as specified to the documents or proposal; or
- (d) reject the documents or proposal.

## 10.5 If:

- (a) the Authority approves the documents or proposal, the Company must proceed with the work in accordance with the approved documents or proposal;
- (b) the Authority imposes conditions in relation to the approval of the documents or proposal, the Company must comply with those conditions; or
- (c) the Authority requires amendment to the documents or proposal, the Company must, within 14 days of notification of the requirements, submit to the Authority further documents or a further proposal amended in accordance with the requirements and such documents or proposal shall be dealt with in accordance with this clause 10.

10.6 In imposing any conditions to any approval under clause 10 of any document or proposal the Authority must not act unreasonably having regard to the effect of the Melbourne Casino Complex Development Proposals, the Temporary Casino Complex Development Proposals, the Planning Amendments and the design and planning objectives of the State.

**11. TIME FOR APPROVAL**

- 11.1 If the Company submits any documents or proposal to the Authority, the Authority must respond in writing to the Company in the manner contemplated in clause 10 within 14 days of receiving the documents or proposal from the Company or such further period agreed between the Authority and the Company.
- 11.2 If the Authority has not responded in writing to the Company as required by clause 10 within 14 days or such further period as agreed, the Authority will be taken to have given its approval.
- 11.3 Clauses 11.1 and 11.2 apply only in relation to clauses 6 - 20 inclusive.

**12. DIRECTOR OF CASINO SURVEILLANCE**

- 12.1 The Authority must ensure that all documents and proposals which are submitted to the Authority for approval under this document and which must also be approved by the Director of Casino Surveillance under section 59 of the *Casino Control Act* are provided by the Authority to the Director of Casino Surveillance who shall be responsible for providing any necessary approvals.
- 12.2 Clauses 10 and 11 will apply in relation to any approvals to be given by the Director of Casino Surveillance as if the Director of Casino Surveillance were the Authority.

12.3 Nothing in this document shall be taken as limiting or fettering the rights of the Director of Casino Surveillance under the *Casino Control Act*.

### 13. PROVISION OF FACILITIES FOR INSPECTORS

The Company must at its expense provide, keep and maintain all facilities and surveillance systems in the Melbourne Casino required for the use of inspectors appointed under the *Casino Control Act*.

### 14. SITE ACCESS

14.1 Persons authorised in writing by the Authority or the Director of Casino Surveillance may at all reasonable times have free access to the Site but in doing so such persons must not interfere with the progress of any works except for the purpose of exercising any powers conferred under the Transaction Documents or the *Casino Control Act*. Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice, the Authority or the Director of Casino Surveillance and the Company must co-operate in the co-ordination of the Authority's or the Director of Casino Surveillance's inspections, measurements and tests with the requirements of the Company in relation to any programmes for and the timely Completion of the Melbourne Casino, with the objective of achieving, to the maximum extent possible, inspections, measurements and tests at the most appropriate times during the execution of the works for the Melbourne Casino and prior to closing up of the relevant part of the works.

14.2 The Authority or the Director of Casino Surveillance may, from time to time, give to the Company reasonable notice in writing that:

- (a) the Authority or the Director of Casino Surveillance proposes to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests; or
- (b) the Authority or the Director of Casino Surveillance requires the Company to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests as described in the notice.

14.3 If the Company receives a notice pursuant to clause 14.2, the Company must ensure that no part of the works in relation to the Melbourne Casino thereafter becomes inaccessible before any required inspection, measurement or test is completed, and:

- (a) if the notice is pursuant to paragraph 14.2(a), the Company must permit the Authority, the Director of Casino Surveillance or their respective agents to carry out the inspection, measurement or test; or
- (b) if the notice is pursuant to paragraph 14.2(b), the Company must carry out the inspection, measurement or test, at its cost, in accordance with the conditions set out in the notice and at a time specified in the notice and must immediately thereafter provide to the Authority or the Director of Casino Surveillance a copy of the results of the inspection, measurement or test.

14.4 The Authority or the Director of Casino Surveillance and any persons authorised by any of them must not act unreasonably when exercising any powers under clause 14.

14.5 Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice and notwithstanding clause 14.3, if the Authority, the Director of Casino Surveillance or any of their respective agents carry out any inspection, measurement or test or require the Company to carry out any inspection, measurement or test in respect of any part of the works in relation to the Melbourne Casino which has become inaccessible the Authority, the Director of Casino Surveillance or any of their respective agents must first give the Company notice in writing of the Authority's or the Director of Casino Surveillance's reasonable requirements in respect of the inspection, measurement or test.

**15. RECTIFICATION AND SUSPENSION OF THE WORKS IN RELATION TO THE MELBOURNE CASINO**

15.1 If following any inspection, measuring or examination of the works in relation to the Melbourne Casino the Authority is of the opinion that the works do not comply with any of the requirements in clauses 6 - 20 of this document or the reasonable requirements of the Authority which have been notified in writing to the Company or the requirements of any approved Documentation, the Authority may by notice to the Company specify:

- (a) in what respect the works do not comply; and
- (b) what action must be taken to rectify the non-compliance and the reasonable time within which that action is to be taken,

and the Company must comply with that notice.

15.2 If the Authority forms the opinion that the Company has failed for any reason to comply with a notice given pursuant to clause 15.1, the Authority may, without prejudice to any other right or remedy arising because of that failure, by notice to the Company direct the suspension of that part of the works in relation to the Melbourne Casino which is the subject of the notice given pursuant to clause 15.1 until the notice given pursuant to clause 15.1 is complied with.

**16. PROJECT ADVISORY MEETINGS**

16.1 Project advisory meetings must be held on a monthly basis and from time to time as may be required by the Authority during the design documentation, construction, Fit-Out and Commissioning of the Melbourne Casino.

16.2 The principal purposes of these meetings are to monitor design development, contract documentation and progress of the construction of the Melbourne Casino and to ensure compliance by the Company with its obligations under this document.

16.3 The meetings must be:

- (a) at a location determined by the Authority;
- (b) attended by at least 1 and not more than 4 representatives from each of the Authority and the Company; and
- (c) chaired by a person nominated by the Authority.

- 16.4 The State's Nominated Representative may attend the meetings.
- 16.5 The Company must provide accurate minutes to the Authority and the State's Nominated Representative within 3 days after each project advisory meeting.

**17. MULTIPLE COPIES OF PLANS**

The Company must provide to the Authority 3 copies (or such lesser number as may from time to time be agreed) of all plans, specifications and other material required to be provided pursuant to clauses 6 to 18 (inclusive) of this document.

**18. DEVELOPMENT OF THE TEMPORARY CASINO**

- 18.1 The Company must provide to the Authority for its approval all documents, drawings and information additional to the Temporary Casino Complex Development Proposals and the Drawings which are necessary for the design and construction of the Temporary Casino, including details of those items specified in clauses 6, 7 and 8 in so far as they relate to the Temporary Casino.
- 18.2 The Company must provide to the Authority for its approval any other documents, drawings or information requested by the Authority in relation to the Temporary Casino.
- 18.3 Clauses 9, 10, 11 and 12 apply (unless the context otherwise requires) in relation to any submissions by the Company to the Authority for the approval of documents and drawings or any proposal relating to the Temporary Casino Complex or to any application by the Company to vary any approved document or drawing as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino the Melbourne Casino.
- 18.4 Clauses 13, 14, 15 and 16 apply (unless the context otherwise requires) in relation to the Temporary Casino Complex and the Temporary Casino Site as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino Site the Site.

**PART 3 - COMPLETION**

**19. OPENING OF THE MELBOURNE CASINO**

It is a condition precedent to approval to open the Melbourne Casino that at least 2000 car parking spaces are available for use on the Site.

**20. COMPLETION**

- 20.1 The Company must give not less than 7 Business Days notice in writing to the Authority that the Company anticipates that the Temporary Casino or the Melbourne Casino, as the case may be, ('**Relevant Works**') will be Completed on the date specified in the notice.
- 20.2 On the date agreed between the Company and the Authority (and if no date is agreed, then on the date specified in the Company's notice under clause 20.1) the Authority must inspect the Relevant Works and consider all matters relevant to the Completion of the Relevant Works.

1.1 ———

- 20.3 If the Authority is of the opinion that the Relevant Works are not Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 give notice to the Company of this opinion and state in that notice the reason or reasons why the Authority is of this opinion.
- 20.4 If the Authority is of the opinion that the Relevant Works are Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 issue a certificate to the Company stating the date on which it believes those Relevant Works reached Completion and those Relevant Works shall, for the purpose of this document, be taken to have been Completed on that date.
- 20.5 Upon receipt of a notice from the Authority under clause 20.3, the Company must immediately attend to any matters stated in the notice as requiring attention and upon the Company attending to these matters, the Company must give a further notice in writing to the Authority pursuant to paragraph 20.1.
- 20.6 Any determination by the Authority that any Relevant Works have been Completed is not acceptance that the Company has complied with the Transaction Documents and any right which the Authority may have had prior to that determination is preserved absolutely.
- 20.7 If the Authority does not deliver a notice to the Company under clause 20.3 or a certificate under clause 20.4 within the 10 Business Days period referred to in those clauses, the Relevant Works will be taken to have been Completed on the date on which those Relevant Works were inspected under clause 20.2 and a certificate of Completion will be taken to have been issued by the Authority with a date of Completion on that date.
- 20.8 A certificate of Completion under clause 20 does not excuse the Company from compliance with all relevant legislation in relation to the Relevant Works.

#### **PART 4 - CORPORATE STRUCTURE AND RELATED MATTERS**

##### **21. WARRANTIES OF THE COMPANY**

- 21.1 The Company makes the Warranties to the Authority as at the date of this document and for each day up to and including the Licensing Date.
- 21.2 Each Warranty shall be construed separately and the meaning of each shall in no way be limited by reference to any other representation or warranty contained in this document

##### **22. CONDITIONS RELATING TO COMPANY STRUCTURE**

- 22.1 The following are conditions of this document:

33 ...

<sup>33</sup> Substituted by Agreement dated 8 May 1997.

34 ...  
 35 ...  
 36 ...  
 37 ...  
 38 ...  
 39 ...

<sup>40</sup> (ba) in relation to any meetings which concern the Casino Asset (and whether those meetings are held separately or as part of a meeting involving the Holding Company Group in general), the Company must ensure that not less than 75% of those meetings of its directors or Senior Executive Managers in any Financial Year occur in Victoria;

<sup>41</sup> (bb) the Company must ensure that 75% of its directors and all of its Senior Executive Managers reside in Victoria and, without limitation, that any person appointed as a Senior Executive Manager commence residing in Victoria not less than 90 days after their appointment;

<sup>42</sup> (bd) the Company must ensure that at least one Company secretary resides in Victoria;

(c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;

(d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;

<sup>43</sup> (e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed; of whom not less than one third at any time must be Independent Directors;

(f) <sup>44</sup> the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of Shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;

<sup>34</sup> Clause 22.1 (a) deleted by Agreement dated 2 June 1999.  
<sup>35</sup> Clause 22.1 (aa) deleted by Agreement dated 2 June 1999.  
<sup>36</sup> Clause 22.1 (ab) deleted by Agreement dated 2 June 1999.  
<sup>37</sup> Clause 22.1 (ac) deleted by Agreement dated 2 June 1999.  
<sup>38</sup> Clause 22.1 (ad) deleted by Agreement dated 2 June 1999.  
<sup>39</sup> Clause 22.1 (b) deleted by Agreement dated 2 June 1999.  
<sup>40</sup> Inserted by Agreement dated [##Ninth Variation]  
<sup>41</sup> Inserted by Agreement dated [##Ninth Variation]  
<sup>42</sup> Inserted by Agreement dated [##Ninth Variation]  
<sup>43</sup> Clause 22.1 (e) amended by Agreement dated [##Ninth Variation]  
<sup>44</sup> Substituted by Agreement dated 2 June 1999.

- (g) where required by the Authority, the Company must enforce the disposal of Shares of any person in accordance with the procedures for such disposal set out in the articles of association of the Company;
- (h) if so requested by the Authority, the Company must when requested, at any time that it is a company within the meaning of Part 6.8 of the *Corporations Law*, issue notices pursuant to Sections 718 and 719 of the *Corporations Law* in respect of particular Shares;
- (i) except for the issue of partly paid shares in the Company to employees of the Company (not exceeding 5% of the fully diluted total issued capital of the Company), options issued to the Sponsors (not exceeding 15% of the fully diluted total issued capital of the Company) and subject to clause 22.1(m) unsecured debt securities issued in the ordinary course of business of the Company which do not materially increase the total indebtedness of the Company, the Company must not issue any shares of a class other than the Shares or any other security (as defined in section 92 of the *Corporations Law*) without the prior written approval of the Authority;
- <sup>45</sup> (j) ~~the Company must not, without the prior written approval of the Authority, the Company must not issue or announce the issue of Shares, if such issue would require shares without the approval of holders of Shares under rule 7.1 of the Listing Rules of ASX. For the avoidance of doubt where the Company is not admitted to the Official List or not listed on any Exchange then the approval of the holders of Shares must be obtained as if rule 7.1 of the Listing Rules applied.~~
- (k) the memorandum and articles of association of the Company must not be amended without the prior written approval of the Authority;
- (l) no person may be appointed as auditor of the Company unless that person's appointment has first been approved in writing by the Authority;
- <sup>46</sup> ~~(m) subject to clause 22.6, the Company must procure that at any time Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority;~~
- <sup>47</sup> ~~(ma) Total Group Liabilities must not at any time<sup>48</sup> (la) the Company must appoint and maintain an Audit Committee consisting of:~~
- ~~(i) not less than 2 Independent Directors;~~
- ~~(ii) no Executive Directors; and~~
- ~~(iii) an independent chairperson;~~

<sup>45</sup> Substituted by Agreement dated 8 May 1997.

<sup>46</sup> Substituted by Agreement dated 2 July 1998.

<sup>47</sup> Inserted by Agreement dated 2 June 1999.

<sup>48</sup> Inserted by Agreement dated [##Ninth Variation Deed].

- <sup>49</sup>(lb) the Company must notify the Authority of the identity of each person appointed to the Audit Committee and the resignation or removal of any person from the Audit Committee within 10 Business Days of the appointment, resignation or removal.
- <sup>50</sup>(lc) the Audit Committee must meet in Victoria not less than 4 times in each Financial Year and must have the authority and responsibility to:
- (i) recommend the appointment and removal of the Company's auditor;
  - (ii) determine the Company's internal audit requirements and procedures;
  - (iii) supervise the Company's compliance with its internal and statutory audit requirements; and
  - (iv) and must provide a written quarterly report signed by the Chairperson of the Audit Committee to the Company (commencing three months from the Ninth Variation Date) concerning the Company's internal and external audit programs and performance and provide a copy of the report if requested to the Authority on behalf of the Company any changes to audit program and the reasons why the changes have taken place.
- <sup>51</sup>(ld) the Company must appoint and maintain a Compliance Committee consisting of:
- (i) no less than 2 Independent Directors;
  - (ii) no Executive Directors; and
  - (iii) an independent chairperson.
- <sup>52</sup>(le) the Company must notify the Authority of the identity of each person appointed to the Compliance Committee and the resignation or removal of any person from the Compliance Committee within 10 Business Days of the appointment, resignation or removal.
- <sup>53</sup>(lf) the Compliance Committee must meet in Victoria not less than 4 times in each Financial Year and must have the authority and responsibility to:
- (i) ensure the Company's and Holding Company Group's compliance with:
    - (A) this document;
    - (B) the Casino Licence;
    - (C) each other Transaction Document; and

<sup>49</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>50</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>51</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>52</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>53</sup> Inserted by Agreement dated [##Ninth Variation Deed].

- (D) the Internal Control Manual;
- (ii) supervise the Company's compliance with other:
- (A) statutory; or
- (B) internally determined requirements not inconsistent with clause 22.1(lf)(i);
- (iii) determine the Company's internal compliance requirements and procedures which are consistent with the Internal Control Manual;
- (iv) supervise the Company's compliance with its compliance procedures; and
- (v) and must provide a written quarterly report signed by the Chairperson of the Compliance Committee to the Company (commencing three months from the Ninth Variation Date) concerning the Company's internal and external compliance program and performance and provide a copy of the report if requested to the Authority on behalf of the Company, any change to the compliance program and the reasons why the changes have taken place.

<sup>54</sup> (m) subject to clause 22.6, at any time the Total ~~Company~~ Liability must not exceed 60% of Total Company Assets without the prior written approval of the Authority;

(ma) subject to clause 22.6, the Company must procure that at any time the Total Group Liabilities do not exceed 60% of the Total Group Assets without the prior written approval of the Authority;

(n) the Company must provide to the Authority within 14 days of the end of each month details of all Shares issued by the Company<sup>55</sup> and a list of the top 50 holders of Shares registered at the end of the previous month;

(o) a director or alternate director of the Company must not gamble in the Temporary Casino or the Melbourne Casino;

~~(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority;<sup>56</sup>~~

~~(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;<sup>57</sup>~~

~~<sup>58</sup> (r)~~

<sup>54</sup> Substituted by Agreement dated 2 July 1998.

<sup>55</sup> Varied by Agreement dated 8 May 1997.

<sup>56</sup> Varied by Agreement dated 2 June 1999.

<sup>57</sup> Varied by Agreement dated 2 June 1999.

<sup>59</sup> <sup>60</sup> ...

<sup>61</sup>(ra) the Holding Company Group, if it pursues anywhere in Australia a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:

- (i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and
- (ii) which is not detrimental to the Company's interests; and

<sup>62</sup>(rb) without limiting clause 22.1(ra) the Company, if it pursues anywhere in Australia any business in addition to the Melbourne Casino, the Company will use its best endeavours to ensure that such business is conducted in a manner which is beneficial to the Melbourne Casino and which promotes tourism, employment and economic development generally in the State of Victoria;

<sup>63</sup> (s) unless the Company, the Holding Company, the State and the Authority agree otherwise, the Company must ensure that the State is at all times the beneficiary and holder of:

- (i) a first ranking unlimited fixed and floating charge over all the assets and undertakings of the Company; or
- (ii) a first ranking fixed and floating charge, limited to an amount of not less than \$100,000,000.00, over all the assets and undertakings of the Company, together with a letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).

(t) subject to clause 22.6, the Company must not enter into an Onerous Contract and in any event subject to clause 29 must not enter into any Material Contract without the prior written consent of the Authority;

(u) where the Company advances or provides security (by way of guarantee or otherwise) to a Related Body Corporate of the Company or otherwise becomes indebted for the obligations of a Related Body Corporate of the Company whether separately or jointly with other entities (**Indebted Related Body Corporate**) for a sum which is equal to or greater than the lesser of:

- (i) \$100 million; or
- (ii) 5% of the Total Company Assets

<sup>58</sup> Varied by Agreement dated 2 June 1999.

<sup>59</sup> Varied by Agreement dated 2 June 1999.

<sup>60</sup> Clause 22.1(q) deleted by Agreement dated [##Ninth Variation Agreement]

<sup>61</sup> Varied by Agreement dated 2 June 1999.

<sup>62</sup> Inserted by Agreement dated 2 June 1999.

<sup>63</sup> Inserted by Agreement dated 2 June 1999.

then the Company must cause the Indebted Related Body Corporate to provide to the Authority a Deed of Guarantee and Indemnity in a form approved by the Authority within 21 days of the advance, the provision of security or the indebtedness occurring.

(v) The Company must comply with the obligations contained in Schedule Seven.

- 22.2 In clause 22.1, 'Share' or 'Shares' includes, as the context requires, any other class of voting security (as defined in section 92 of the *Corporations Law*) issued by the Company.
- 22.3 For the purposes of clause 22.1, a reference to a person being entitled to Shares has the same meaning as a reference in Part 6.7 of the *Corporations Law* to a person being entitled to voting shares in a company and that person's entitlement will be calculated in the manner prescribed for calculation of substantial shareholdings in Part 6.7 of the *Corporations Law* as if that Part applied.
- 22.4 ~~For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.~~
- 64 ~~...~~
- 22.5 For the purposes of clause 22.1, 'hold' or 'held' in relation to Shares means that those Shares are beneficially owned, and includes Shares registered in the name of a nominee holding under a bare trust.
- <sup>65</sup>22.6 Any approval given by the Authority under clauses 22.1(m) and 22.1(ma)<sup>66</sup> may be given subject to such conditions as the Authority determines.
- <sup>67</sup>22.7 If at any time there is any change in Australian Accounting Standards or their application and such change will have a material impact on the compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>68</sup> the Authority agrees to discuss with the Company amendments that may be required to the definitions relevant to clauses 22.1(m) and 22.1(ma)<sup>69</sup> to ensure that the provisions of this document would have the same economic effect had such a change not been made. The Authority is not obliged to agree to any such amendments.
- <sup>70</sup>22.8 For the purpose of monitoring compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>71</sup> unless otherwise agreed in writing by the Authority those details must be provided quarterly. the Company must calculate the ratio of Total Group Liabilities to Total Group Assets and the ratio of Total Group Liabilities to Total Group Assets<sup>72</sup> as at the last day of every month ('**Calculation Day**') and provide to the Authority written

<sup>64</sup> Clause 22.4 deleted by Agreement dated [##Ninth Variation Agreement]

<sup>65</sup> Inserted by Agreement dated 2 July 1998.

<sup>66</sup> Varied by Agreement dated 2 June 1999.

<sup>67</sup> Inserted by Agreement dated 2 July 1998.

<sup>68</sup> Varied by Agreement dated 2 June 1999.

<sup>69</sup> Varied by Agreement dated 2 June 1999.

<sup>70</sup> Inserted by Agreement dated 2 July 1998.

<sup>71</sup> Varied by Agreement dated 2 June 1999.

<sup>72</sup> Varied by Agreement dated 2 June 1999.

details of such calculation within not more than 10 Business Days after the Calculation Day.

- <sup>73</sup>22.9 If any ratio<sup>74</sup> calculated under clause 22.8 is greater than 60%, the Company must procure that its auditor provides to the Authority a Solvency Report in respect of the Company and the Holding Company Group<sup>75</sup> addressed to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.
- <sup>76</sup>22.10 If any ratio<sup>77</sup> calculated under clause 22.8 is greater than 60%, the Company may make written submissions to the Authority for consideration by the Authority for the purposes of clause 22.12 in relation to the period within which the Company expects any ratio will not exceed 60% and the financial position of the Company and the Holding Company Group.<sup>78</sup> Any such written submissions must be provided to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.
- <sup>79</sup>22.11 For the purposes of clause 22.12, the Authority may by notice in writing to the Company require the Company to provide to the Authority within the period specified in the notice such further information as the Authority requires in relation to a Solvency Report or the financial position of the Company and the Holding Company Group.<sup>80</sup>
- <sup>81</sup>22.12 If
- (a) any ratio<sup>82</sup> calculated under clause 22.8 is greater than 60%;
  - (b) the Solvency Report provided under clause 22.9 concludes that there is a reasonable basis for believing that the Company will meet its debts as and when they fall due for the next 12 months;
  - (c) the Authority is satisfied that the Company will comply with clauses 22.1(m) and 22.1(ma)<sup>83</sup> within a period acceptable to the Authority; and
  - (d) the Authority is otherwise satisfied with the financial position of the Company and the Holding Company Group,<sup>84</sup>

the Authority may determine not to issue a notice to the Company under clause 31.2 of this document in respect of the breach of clauses 22.1(m) and 22.1(ma).<sup>85</sup>86

<sup>73</sup> Inserted by Agreement dated 2 July 1998.  
<sup>74</sup> Varied by Agreement dated 2 June 1999.  
<sup>75</sup> Varied by Agreement dated 2 June 1999.  
<sup>76</sup> Inserted by Agreement dated 2 July 1998.  
<sup>77</sup> Varied by Agreement dated 2 June 1999.  
<sup>78</sup> Varied by Agreement dated 2 June 1999.  
<sup>79</sup> Inserted by Agreement dated 2 July 1998.  
<sup>80</sup> Varied by Agreement dated 2 June 1999.  
<sup>81</sup> Inserted by Agreement dated 2 July 1998.  
<sup>82</sup> Varied by Agreement dated 2 June 1999.  
<sup>83</sup> Varied by Agreement dated 2 June 1999.  
<sup>84</sup> Varied by Agreement dated 2 June 1999.  
<sup>85</sup> ~~Varied by Agreement dated 2 June 1999.~~  
<sup>86</sup> Varied by Agreement dated 2 June 1999.

<sup>87</sup>22.13 For the purposes of clauses 22.1(ba) to 22.1(bd) (inclusive), 22.1(lc), 22.1(lf) and this clause 22.13 a meeting is held in Victoria if and only if the chairperson of the meeting is physically present in Melbourne and the majority of the persons (not including the chairperson) attending the meeting are physically present at the same place as the chairperson in Melbourne.

### 23. INSPECTION OF RECORDS

The Company must upon demand make available for inspection by the Authority all records, accounts and information held by or on behalf of the Company and allow the Authority to take copies of or extracts from all such records, accounts and information.

### 24. ATTENDANCE AT COMPANY MEETINGS

24.1 A representative of the Authority is entitled to attend and to speak at any meeting of the Company as though he or she were a shareholder of the Company, but this clause does not confer a right to vote on the Authority or its representative.

24.2 The Company must deliver to the Authority copies of all notices and circulars that are forwarded to shareholders in the same manner and time frame as if the Authority were a shareholder.

### 25. DISCLOSURE

25.1 If the Company:

25.1.1 is admitted to the Official List of the ASX or is listed on any other stock exchange (~~Exchange~~)<sup>2</sup>Exchange, the Company must provide to the Authority a copy of:

- (a) all notices or other information provided by or on behalf of the Company to the ASX or Exchange; and
- (b) all notices or other information relating to the Company which are received by the Company from the ASX or Exchange,

on the same date that those notices or other information are provided to the ASX or Exchange or received by the Company;

25.1.2 is not admitted to the Official List and is not listed on any Exchange the Company must provide to the Authority a copy of all notices or other information which would have been required to be provided by or on behalf of the Company to the ASX or Exchange if it were admitted to the Official List or listed on the Exchange on the same date (as the case may be) that those notices or other information should have been provided to the ASX or Exchange

25.2 The Company must immediately notify the Authority of any information necessary to ensure that the Authority is able to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Company

<sup>87</sup> Added by Agreement dated [##Ninth Variation Deed]

- 25.3 Without limiting the generality of clause 25.2, the Company must immediately notify the Authority of any event fact or circumstance which would ~~be material to require disclosure under any rules of the Company having regard ASX or an Exchange pursuant to the definition of materiality in Australian Accounting Standard AAS5 disclosure of information rules (whether under the continuous disclosure rules or otherwise)~~
- 25.4 The Company ~~and any Subsidiary must, within 15 Business Days of the end of each quarter ending on the last day of September, December and March in each year, give to the Authority a quarterly financial report in the form of the report in Schedule Four or must cause to be given to the Authority:~~
- 25.4.1 a quarterly financial report in the form of the report in Schedule Four within 15 Business Days of the end of each quarter ending on the last day of September, December, March and June in each year; and
- 25.4.2 the audited annual Financial Report to the Authority on or prior to 30 September in each year;
- in relation to
- 25.4.3 itself;
- 25.4.4 any Subsidiary;
- 25.4.5 any entity in respect of which the Company or a Related Body Corporate of the Company has an equitable interest (however described); or
- 25.4.6 an entity which is indebted to the Company or any Related Body Corporate of the Company for a sum which is material.
- 25.5 The Company must provide to the Authority a copy of:
- (a) all notices or other information provided by or on behalf of the Company to the Australian Securities and Investments Commission; and
- (b) all notices or other information relating to the Company which are received by the Company from the Australian Securities and Investments Commission,
- on the same date that those notices or other information are provided to the Australian Securities and Investments Commission or received by the Company.
- 25.6 The Company must approve by 30 June of each year the Company's annual budget for the forthcoming financial year and must provide to the Authority a copy of the annual budget within 14 days of its approval.

## PART 5 - GRANT OF THE CASINO LICENCE

### 26. GRANT OF CASINO LICENCE

26.1 Subject to:

- (a) provision of the Bank Guarantees;

- (b) payment by the Company to the State of
- (c) the Premium Payment; and
- (d) a further amount of \$190,000,000; and
- (e) payment by the Company of the Casino Supervision and Control Charge due on the Licensing Date,

the Authority will grant the Casino Licence for the Temporary Casino and the Melbourne Casino to the Company on the Licensing Date.

- 26.2 While the Casino Licence remains in force, the Authority undertakes not to grant a casino licence to any person enabling any person other than the Company to operate a casino:
- (a) anywhere in the State prior to 6 years from the Licensing Date; and
  - (b) in those parts of the State within a radius of 150 kilometres from the Site, prior to 12 years from the Licensing Date

- 26.3 If after the Melbourne Casino opens for business:
- (a) the Melbourne Casino is Completely Destroyed by an Extension Event prior to the end of the exclusivity period in clause 26.2(b); and
  - (b) in the reasonable opinion of the Authority the Company acts diligently to reinstate the Melbourne Casino,

the period in clause 26.2(b) shall be extended by the Extension Period.

- 26.4 For the purposes of clause 26.3 and this clause 26.4, the following words or phrases have the following meanings:

**'Completely Destroyed'** means destruction or damage to the Melbourne Casino or any other Extension Event which causes the complete closure of the Melbourne Casino;

**'Extension Period'** means the lesser of:

- (a) 12 months; and
- (b) the period from the Destruction Date to the date on which the Melbourne Casino reopens for business;

**'Destruction Date'** means the date on which the Melbourne Casino is Completely Destroyed;

**'Extension Event'** means:

- (a) a Force Majeure Event; or

- (b) any other event or circumstance which is outside the control of the Company and has not been directly or indirectly caused by an act or omission of the Company or any of its Associates,

but does not include an event which would not have occurred if the Company had exercised reasonable care and diligence.

26.5 If the Company wishes to apply to the Authority for a further casino licence upon the expiration of the Casino Licence, it may do so in accordance with the following provisions:

- (a) if the Company is not in breach of any material provision of this document or of any other Transaction Document, the Company may at any time during the period commencing on the date being the first day of the fifth last year of the term of the Casino Licence and terminating on the date being the last day of the fifth last year of the term of the Casino Licence give notice in writing to the Authority that the Company wishes to apply for the grant of a new licence to operate a casino in the Melbourne Casino Complex;
- (b) following the giving of the notice under clause 26.5(a), the Authority shall within six months inform the Company of the basis on which the Authority is prepared to grant a new licence to operate a casino in the Melbourne Casino Complex and thereafter the Authority shall negotiate with the Company in good faith with a view to reaching agreement on a basis upon which the Authority is prepared to grant the new licence to the Company;
- (c) the Authority shall have no obligation under this clause 26.5 other than to notify the Company of the basis on which the Authority is prepared to grant a new licence and thereafter to negotiate in good faith with the Company;
- (d) the Company shall have no right or expectation of any nature whatever to the grant of a new casino licence following the expiration of the Casino Licence; and
- (e) if by the first day of the last year of the term of the Casino Licence, agreement has not been reached between the Authority and the Company for the grant of a new casino licence to the Company, the Authority shall be free to grant a new casino licence to any other person with effect from or after the date of expiry of the Casino Licence on such terms and conditions as the Authority in its absolute discretion determines to be appropriate.

## 27. GAMES

27.1 The Authority will publish a notice pursuant to section 60 of the *Casino Control Act* to enable the conduct and playing in the Temporary Casino and the Melbourne Casino of the following games, which must be conducted or played in accordance with the rules approved by the Authority under that section:

- (a) Blackjack;
- (b) American Roulette;

- (c) Baccarat;
  - (d) Mini Baccarat;
  - (e) Craps;
  - (f) Two-up;
  - (g) Mini-Dice;
  - (h) Wheel of Fortune;
  - (i) Sic-Bo;
  - (j) Pai Gow;
  - (k) Keno;
  - (l) Poker;
  - (m) French Roulette; and
  - (n) if approved by the Authority, games or derivatives devised or developed by the Company.
- 27.2 The Authority approves for the Temporary Casino and the Melbourne Casino all games which are approved as of the date of this document to be played on a gaming machine by the Victorian Gaming Commission and those games shall be taken to be included in the list in clause 27.1.
- 27.3 The Authority will use its good offices with the State to endeavour to procure that the State will approve:
- (a) the offering of linked jackpots for games conducted in the Temporary Casino or the Melbourne Casino; and
  - (b) the joining in the linking of games with other casinos, hotels, clubs and other venues for the purposes of providing linked jackpots on gaming machines or Club Keno.
- 27.4 In approving rules for games under section 60 of the *Casino Control Act* and giving directions under section 61, the Authority shall consult with the Company and shall have regard to the equivalent rules, commercial terms and regulations applicable to other casinos in Australia.

## 28. CASINO OPERATING PRACTICES

- <sup>88</sup>28.1 The Company must strive to obtain the maximum Gross Gaming Revenue by conducting its operations in the Temporary Casino and the Melbourne Casino as a discrete business operated in Melbourne in a proper and efficient manner having regard to:

<sup>88</sup> Renumbered by Agreement dated [##Ninth Variation Deed]

- 28.1.1 the best operating practices in international casinos of a similar size and nature to the Melbourne Casino; and
- 28.1.2 fostering responsible gambling in casinos in order to:
- (i) minimise harm caused by problem gambling; and
  - (ii) accommodate those who gamble without harming themselves or others.
- <sup>89</sup>28.2 Where the Authority considers that any Casino Asset is less than International First Class Standards then the Authority will serve a notice on the Company (Notice) and within 7 days the Authority and the Company must meet and discuss the matters referred to in the Notice.
- 28.3 Where a Notice has been served on the Company and the Company and the Authority have not reached an agreement within eight weeks of the service of the Notice on:
- 28.3.1 whether International First Class Standards have been met; or
  - 28.3.2 the method and time by which the International First Class Standards must be met
- then the Authority may request the President for the time being of the Royal Australian Institute of Architects (Victorian Chapter) to appoint an architect with at least 10 year's standing as a member of the Royal Australian Institute of Architects (Victorian Chapter) (Architect) to determine whether the International First Class Standards have been met.
- 28.4 When carrying out his or her determination the Architect must act as independent determiner and not as an agent or consultant to either party.
- 28.5 As a condition of acceptance of the appointment to act the Architect must agree that the Architect must:
- 28.5.1 call for any information or make any investigation that the Architect considers appropriate;
  - 28.5.2 allow each party an opportunity to make written submissions to the Architect;
  - 28.5.3 place the weight on the information or findings of the investigation that the Architect sees fit;
  - 28.5.4 act as expert and not as arbitrator;
  - 28.5.5 determine the dispute in any manner which the Architect considers appropriate;
  - 28.5.6 make the determination within 6 months of the Architect's appointment; and
  - 28.5.7 advise the parties to the dispute in writing of the determination.

<sup>89</sup> Inserted by Agreement dated [##Ninth Variation Deed]

- 28.6 The determination of the Architect is binding on all parties except where there is a manifest error in the Architect's determination or where there has been improper conduct by the Architect.
- 28.7 All costs in relation to the Architect (including all fees and expenses) must be paid by the Company.
- 28.8 Where the Architect for whatever reason is either not appointed or fails to make the determination within 6 months of the Notice being served then the Company must forthwith rectify the matters referred to in the Notice. For the avoidance of doubt, the determination of the Authority as to International First Class Standards as expressed in the Notice will apply and be final and conclusive.
- 28.9 The Company must provide facilities of an international first class standard that are suitable to attract and cater for international commission based players including:
- (a) at least ## number of gaming tables; and
  - (b) at least seven (7) private gaming rooms set aside for exclusive use of VVIP international commission based players.

## **PART 6 - ENCUMBRANCES AND ASSIGNMENTS**

### **29. ENCUMBRANCES**

- 29.1 The Company must not create or permit to subsist any Encumbrance over or in relation to any Assets and Rights of the Company other than:
- (a) Encumbrances solely over any Assets or Rights which are not Casino Assets and where the Encumbrances do not, together, secure actual or contingent indebtedness exceeding, in the aggregate, \$1,000,000;
  - (b) liens arising solely by operation of law (or by an agreement to the same effect) in the ordinary course of the business of the Company where the amount secured:
    - (i) has been due for less than 30 days; or
    - (ii) is being contested in good faith and by appropriate means;
  - (c) without limiting paragraph (b), retention of title arrangements, where the amount payable:
    - (i) has been due for less than 30 days; or
    - (ii) is being contested in good faith and by appropriate means;
  - (d) the Encumbrances referred to in clause 30; or
  - (e) any other Encumbrances created or subsisting with the prior approval in writing of the Authority;

except with the prior approval in writing of the Authority and in compliance with any terms or conditions on which that approval is given.

- 29.2 Subject to clause 29.3, the Company must not dispose of any Assets and Rights of the Company other than pursuant to a Permitted Encumbrance except with the prior approval in writing of the Authority.
- 29.3 Clause 29.2 does not apply to a disposal of:
- (a) those assets other than which are not Casino Assets in the ordinary course of the business of the Company; or
  - (b) obsolete or surplus Casino Assets on ordinary commercial terms; or
  - (c) any other Casino Assets if the disposal is in the ordinary course of the business of the Company;
- 29.4 In clause 29.2 'dispose' includes:
- ~~(e)~~(d) a disposition of any estate or interest in any manner including by way of sale, transfer, assignment, lease, letting, licence, surrender or abandonment; and
  - ~~(d)~~(e) entering into an agreement or arrangement to effect a disposition,
- whether in either case for valuable consideration or not.

### 30. PERMITTED ENCUMBRANCES

- 30.1 The Authority has consented to the creation of Encumbrances by the Company under and in accordance with the securities identified in paragraphs (a)<sup>90</sup> of the definition of Financiers' Securities in the Master Security Agreement<sup>91</sup>.
- 30.2 The ranking as between the Encumbrances referred to in clause 30.1 and the Fixed and Floating Charge and other matters regarding the enforcement of Encumbrances will be regulated by the Master Security Agreement.
- 30.3 The Company must give prompt notice to the Authority of any Lease that the Company proposes to enter into for, or for the financing of:
- (a) any asset necessary for or incidental to the operation of the Melbourne Casino or Temporary Casino; or
  - (b) any asset whatever having a value, either separately or when aggregated with the value of other assets or equipment leased from the same lessor or related bodies corporate of that lessor, exceeding \$1,000,000;

and before entering into that Lease (or if it has already entered into such Lease, then on request by the Authority) the Company must procure that the lessor of any such equipment or asset enters into a supplemental agreement with the Authority regulating access to and entitlement to that equipment or asset on terms satisfactory to the Authority.

<sup>90</sup> Varied by Master Security Agreement dated 30 July 1997.

<sup>91</sup> Varied by Master Security Agreement dated 30 July 1997.

## PART 7 - TERMINATION

## 31. TERMINATION OF THIS DOCUMENT

31.1 This document will automatically terminate:

- (a) without notice to the Company if the Casino Licence is:
  - (i) surrendered; or
  - (ii) cancelled; or
- (b) when the Casino Licence expires due to the effluxion of time.

Such termination does not affect the ability of either party to enforce a right which may have accrued to it under this document prior to such termination.

31.2 ~~Subject to the Master Security Agreement, it~~ It shall be a contravention of a condition of the Casino Licence enabling the Authority to serve a notice on the Company pursuant to section 20(2) of the *Casino Control Act* if any of the following events occurs:

- (a) the Company commits a breach of any provision of this document (other than clauses 32.1 and 32.2), and the Authority has given a notice ('Notice') to the Company detailing the particulars of the breach unless:
  - (i) if the breach is capable of remedy:
    - (A) it is remedied within the cure period allowed in the Notice which shall not be less than 60 days to the reasonable satisfaction of the Authority; or
    - (B) the Company:
      - (i) is diligently pursuing a course of action which could reasonably be expected to remedy the breach in a period of time reasonably acceptable to the Authority; and
      - (ii) is making satisfactory progress with such course of action; or
  - (ii) if the breach to which the Notice refers is not capable of remedy:
    - (A) the Company is complying to the reasonable satisfaction of the Authority with any reasonable requirements of the Authority in relation to the breach or is attending to the reasonable redress of the prejudice arising from the breach, default or event in the manner specified in the Notice; or
    - (B) the payment of damages constitutes in the reasonable opinion of the Authority, as the case may be, proper redress and the required

amount of damages is paid within 15 Business Days of the date for payment as specified in the Notice;

- (aa) an Event of Default (as described in the Deed of Undertaking and Guarantee) occurs under the Deed of Undertaking and Guarantee;
- (b) any of the following occurs and the Company does not within 10 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:
  - (i) a provisional liquidator or administrator is appointed to the Company;
  - (ii) a Receiver is appointed to any of the Casino Assets;
  - (iii) any Encumbrance becomes enforceable and the holder of the Encumbrance takes possession of any of the Casino Assets; or
  - (iv) a judgment is obtained against the Company and execution or other process of any Court or other authority is issued against or is levied or enforced upon any of the Casino Assets;
- (c) a liquidator is appointed to the Company;
- (d) prior to Completion, the Financiers terminate their obligations under the Facility Agreement, or otherwise permanently refuse to permit any further drawings under the Facility Agreement or the facilities provided or available under the Facility Agreement, and the Company does not within 20 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents;
- (e) a Notice of Intention pursuant to the Supplemental Development Agreement is given by the Developer under that agreement and is not withdrawn within 10 Business Days;
- (f) a Notice of Intention pursuant to the Contractor's Deed is given by the Contractor under that deed and is not withdrawn within 10 Business Days;
- (g) except with the prior consent in writing of the Authority the members resolve to wind up the Company;
- (h) the Site Lease is terminated or surrendered;
- (i) prior to Completion of the Melbourne Casino any one of the Temporary Casino Leases is terminated (other than by effluxion of time) or surrendered;
- (j) prior to the subscription by the Founding Shareholders for all the Shares for which they have agreed to subscribe under the Founding Shareholders Agreement, any of the following occurs and the Company does not within 10 Business Days after the Authority has given notice to the Company remedy the event or redress the prejudice arising from the event or establish to the reasonable satisfaction of the

Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:

- (i) a Founding Shareholder fails to comply with any obligation to subscribe for Shares in accordance with the provisions of the Founding Shareholders Agreement;
  - (ii) a Receiver, provisional liquidator, liquidator or administrator is appointed to a Sponsor; or
  - (iii) except with the prior consent in writing of the Authority the members resolve to wind up a Sponsor; or
- (k) Shares having an aggregate subscription amount of \$210,000,000 have not been subscribed for by the Licensing Date by persons other than the Founding Shareholders and within 10 Business Days of the Licensing Date the Company has not established to the reasonable satisfaction of the Authority that the Company will despite this be able to perform its obligations under the Transaction Documents.
- 31.3 The Authority may in its absolute discretion extend any time period referred to in clause 31.2.
- 31.4 Nothing in clause 31.2 shall prevent the Authority from issuing a notice under section 20(2) of the *Casino Control Act* in order to issue a letter of censure or to impose a fine in accordance with the provisions of the *Casino Control Act*.
- 31.5 Subject to clause 26 of the Management Agreement, on termination of this document:
- (a) except as otherwise provided by this document all rights of the Company to, in or under this document will cease but without prejudice to the liability of any party in respect of any antecedent breach or default under this document or in respect of any indemnity or other payment obligation under this document;
  - (b) all moneys owing or remaining unpaid (and whether actually or contingently) to the Authority will (to the extent not then due) become immediately due and payable and the Company must immediately pay all those moneys to the Authority; and
  - (c) except as otherwise provided in this document, neither the Company nor any Sponsor or any other person will have any claim against the Authority with respect to any matter or thing in or arising out of this document and in particular, but without limiting the generality of the preceding paragraphs, the Company will have no claim to the repayment of all or any part of the Licensing Payment Amounts.

- 31.6 Without limiting the Authority's or the State's rights under the Fixed and Floating Charge or otherwise, in the event of the termination of this document neither the Company nor any other person is permitted (without the prior approval in writing of the Authority) to remove from the Casino Complex or the Site or the Temporary Casino Complex or the Temporary Casino Site any gaming equipment, equipment, furniture or fittings necessary for or incidental to the operation of the Melbourne Casino or the Temporary Casino, as the case may be, and the Authority is and will be entitled for so long as it deems fit to use all that gaming equipment, equipment, furniture and fittings for the purpose of operating the Melbourne Casino or the Temporary Casino.
- 31.7 The Company irrevocably appoints the Authority and each of its officers and any manager appointed by the Authority under the *Casino Control Act* jointly and severally to be its attorney and in its name and on its behalf to exercise, sign and do all assurances, deeds, instruments, agreements, acts and things which in the opinion of the Authority or such officer, manager are necessary or expedient to give effect to any right, power or remedy conferred under or in relation to any Transaction Document or the *Casino Control Act* or are necessary or expedient that the Company do.
- 31.8 The power of attorney granted under clause 31.7 survives termination of this document but may only be exercised if an event specified in clause 31.2 has occurred and has not been remedied or waived.

## PART 8 - COMPLEMENTARY AGREEMENTS

### 32. COMPLEMENTARY AGREEMENTS

- 32.1 The Company undertakes that it will not, without the prior written consent of the Authority:
- (a) give or recognise any waiver under a Complementary Agreement;
  - (b) amend, supplement or otherwise modify a Complementary Agreement;
  - (c) assign (whether absolutely or by way of security), novate or otherwise transfer its rights or obligations under a Complementary Agreement;
  - (d) give or permit to be created any Encumbrance over its rights under a Complementary Agreement;
  - (e) terminate a Complementary Agreement; or
  - (f) agree to do any of the above,

where to do so would have a material and adverse effect on the Company's ability to construct maintain, upgrade, enhance, repair, replace or operate the Temporary Casino or the Melbourne Casino in accordance with this document.

- 32.2 The Company must comply with all of its obligations under the Complementary Agreements and must use its best endeavours to ensure that the other parties to the Complementary Agreements (other than the State and the Authority) comply with their respective obligations, where a failure to do so in either case would have a material and adverse effect on the ability of the Company to construct or operate the Temporary Casino or the Melbourne Casino in accordance with this document.
- 32.3 The Company must comply with all of the obligations under the Company's memorandum and articles of association which are relevant or relate to the provisions in clause 22.
- <sup>92</sup>32.4 The Company undertakes to the Authority that by 31 March 1994 the Company will obtain an enforceable commitment upon terms and from persons approved in advance by the Authority that such persons shall provide to the Company not less than \$50,000,000, whether by way of capital subscription or financial accommodation. Such funds shall be in addition to all funds committed to the Company as of the Licensing Date (whether debt or equity).
- 32.5 The approval of the Authority under clause 32.4 shall not be unreasonably withheld.
- <sup>93</sup>32.5 Any agreement entered into by the Company pursuant to clause 32.4 shall be a Complementary Agreement for the purposes of this document.
- 32.6 The parties acknowledge that the underwriting agreement dated 23 August 1993 (being one of the agreements referred to in the definition of the Underwriting Agreement in clause 2) shall not be a Complementary Agreement for the purposes of this document.
- 32.7 The obligations of the Company under clause 32.4 do not derogate from the obligations of the Company under clause 22.1(m) of this document.

## PART 9 - GENERAL

### 33. COMPANY RELIES ON OWN JUDGMENT

- 33.1 Save where a statement, representation or warranty is given in its favour, under this document or any Transaction Document, the Company acknowledges that it is entering into this document in reliance on its own judgment and following review of the Site and the Temporary Casino Site and the business opportunity provided by, among other things, the Casino Licence, and not in reliance on any conduct of or statements, warranties or representations made to the Company or to any other person by or on behalf of the Authority or any of its servants, agents or consultants.

<sup>92</sup> Inserted by Agreement dated 19 November 1993.

<sup>93</sup> Inserted by Agreement dated 19 November 1993

- 33.2 Save for any statement, representation or warranty made in the Company's favour under this document or any Transaction Document, the Company acknowledges and agrees that no action lies against the Authority or any of its servants, agents or consultants and that no compensation of any kind is payable to the Company in relation to anything done or purported to be done or not done for the purposes of the establishment or operation of the Temporary Casino, Temporary Casino Complex, Melbourne Casino or Melbourne Casino Complex prior to the execution of this document.
- 33.3 Without limiting the generality of clause 33.2, the Company agrees not to take action or make any claim for compensation, damages, costs or expenses against the Authority or any of its servants, agents or consultants in relation to the condition of the Site or the Temporary Casino Site or any third party rights in relation to the Site or the Temporary Casino Site and hereby releases each of those persons from any action or claim whether or not that action or claim is known or foreseeable at the date of this document.
- 33.4 Nothing in this clause 33 limits any liability of Golder Associates Pty Ltd to the Company

#### **34. INDEMNITY**

- 34.1 The Company indemnifies and will keep indemnified the Authority and its servants, agents and consultants in respect of all actions, claims, demands or costs of third parties arising out of or in connection with any work carried out by or on behalf of the Company pursuant to this document or relating to the Company's operations (including but not limited to the operations of the Temporary Casino Complex and the Melbourne Casino Complex) or arising out of or in connection with the construction, financing, maintenance or use of the Temporary Casino Complex or the Melbourne Casino Complex except expenses of the Authority which are covered by the Casino Supervision and Control Charge.
- 34.2 The indemnity in clause 34.1 does not apply to the extent that any actions, claims, demands or costs arise as a result of the negligence or wilful default of the Authority.

#### **35. INSURANCE**

- 35.1 The Company must:
- (a) insure and keep insured all of its Assets and Rights:
    - (i) for the risks and in the amounts set out in Schedule Five and for such other risks and amounts which the Authority may from time to time reasonably require;
    - (ii) with the interests of the State, the Authority and any Mortgagees noted by endorsement on the policy or if the Authority so directs, in the joint names of the Company and the State and the Authority for their respective rights and interests; and
    - (iii) with underwriters approved by the Authority and, if through an insurance broker, through an insurance broker approved by the Authority;
  - (b) immediately deliver the insurance policies referred to in paragraph (a) to the Authority (unless the Company is unable to do so under the terms of a Permitted

Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient) and, on request, deliver certificates of currency in respect of those insurance policies;

- (c) punctually pay all premiums and sums necessary (including stamp duty) for effecting and keeping current every insurance policy and, ~~promptly on request,~~ hand to the Authority the receipt for any premium or sum paid; within 14 days of the receipt being received by the Company;
- (d) immediately after they are effected, deliver to the Authority all variations, alterations and additions to any existing insurance policies and all additional or substitute insurance policies (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient), ~~and~~
- (e) immediately after it becomes aware that it has occurred, notify the Authority of any occurrence which gives or might give rise to a claim or right to claim under any insurance policy; and
- (f) ensure that all such policies are to expressly provide that any breach of a policy term or condition or any non-disclosure or misrepresentation or any other act or omission by an insured person whose interest is noted on the policy will not invalidate the cover in respect of the interest of other insureds or persons whose interests are noted on the policy.

35.2 The Company must not:

- (a) do or allow to be done anything which might cause any policy of insurance to be prejudiced or rendered void, voidable or unenforceable;
- (b) without the prior consent in writing of the Authority, cause, or take any steps to bring about, the cancellation of, or a material change or reduction in, the cover provided under any insurance policy;
- (c) effect any insurance in respect of the Assets and Rights other than as specified in clause 35.1; or
- (d) make, enforce, settle or compromise a claim or do anything inconsistent with the powers or interests of the Authority.

35.3 Subject to the Master Security Agreement, all proceeds of insurance received by the Company as a result of any claim must be applied by the Company to rectify, remedy or repair the property involved or loss or damage which gave rise to the claim.

## 36. CONFIDENTIALITY

36.1 All documents and information provided by one party to another party under this document must be kept confidential and not disclosed to any person without the consent of the other party unless:

- (a) the information is in the public domain;
- (b) disclosure is required by law;

- (c) the disclosure is necessary for the purpose of obtaining any consent, authorisation, approval or licence from any government or public body or authority,
- (d) it is necessary or desirable that the disclosure be made to any taxation or fiscal authority,
- (e) the disclosure is made on a confidential basis to the officers, employees or agents of a party or to the professional advisers of a party for the purposes of obtaining professional advice in relation to any Transaction Document or the enforcement of any Transaction Document or otherwise for the purpose of consulting those professional advisers;
- (f) the disclosure is made by the Company on a confidential basis to any actual or prospective financier or agent of a financier to the Company;
- (g) the disclosure is necessary in relation to any procedure for discovery of documents or any proceedings before any court, tribunal or regulatory body; or
- (h) the disclosure is necessary to obtain listing on the Australian Stock Exchange.

36.2 The obligations in clause 36.1 apply after termination of this document.

<sup>94</sup>36.3 This clause 36 does not apply to:

- (a) this document;
- (b) any document varying or amending this document after such variation or amendment takes effect;
- (c) the Casino Licence; or
- (d) any document varying or amending the Casino Licence after such variation or amendment takes effect,

and, such document may be disclosed to any person by either party.

### 37. APPROVALS

- 37.1 The Authority in exercising any right, power, privilege or discretion conferred on it by this document must act having regard to:
- (a) the Authority's objects as set out in Section 140 of the *Casino Control Act*, and
  - (b) the rights, powers, privileges and discretions conferred and the duties and obligations imposed on the Authority under the *Casino Control Act*
- 37.2 Unless otherwise stated in this document, if the Company makes a written request for an approval or consent from the Authority under the clauses specified below, the written request specifies that this document clause 37.2 applies and the Authority has not responded in writing within ~~the time specified below~~ 20 Business Days from receipt by the Authority of that written request, then the Authority will be taken to have given that approval or consent:

<sup>94</sup> Inserted by Agreement dated [##Ninth Variation Agreement]

- (a) Clauses 22.1 (c), (f), (i), (j), (k), (l), (m), (p), (q), (ra) and (q) — ~~20 Business Days;rb);~~
- (b) Clauses 29.1 and 29.2 — ~~10 Business Days;;~~
- (c) Clause 31.6 — ~~20 Business Days;;~~
- (d) Clauses 32.1 and 32.4 — ~~10 Business Days;~~<sup>95</sup>
- Clause ~~35.1(a)~~ — ~~10 Business Days;~~
- ~~(f)(e)~~ Clause 36.1 — ~~10 Business Days;;~~
- ~~(g)(f)~~ Clause 43 — ~~20 Business Days.~~

37.3 Nothing in this clause 37 shall fetter the powers, rights or obligations imposed or conferred on the Authority under any Act or regulation.

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<sup>95</sup>

Amended by Agreement dated 19 November 1993.

**38. DAY OF PAYMENT**

If any day for the payment of money under this document falls on a day which is not a Business Day, the payment will be due on the next day which is a Business Day.

**39. NOTICES**

39.1 A notice or approval required or to be given under this document must be:

- (a) in writing;
- (b) delivered by hand or served by prepaid post or facsimile to the recipient at its address or facsimile number appearing in this clause or such other address or facsimile number as the recipient may have notified to the other party:

- (i) in the case of the Authority:

~~Chairman  
Victorian Casino and Gaming Authority  
Level 27, 459 Collins Street  
MELBOURNE VIC 3000~~

~~Facsimile: (03) 621 1803~~

*Amended in accordance with this clause to:*

***Director of Gaming and Betting***  
Victorian Casino and Gaming Authority  
Level 1, Building D  
World Trade Centre  
MELBOURNE VIC 3005

Facsimile: (03) 9628 7300]

- (ii) in the case of the Company:

~~Lloyd J Williams  
Chief Executive Officer  
Crown Limited  
311 Glenferrie Road  
MALVERN VIC 3144~~

~~Facsimile: (03) 823 6105~~

*Amended in accordance with this clause to:*

***Mr Lloyd Williams***  
***Chairman and Chief Executive Officer***  
***Crown Limited***  
Level 1  
99 Queensbridge Street  
SOUTHBANK VIC 3006

Facsimile: (03) 9685 4350]

- 39.2 A notice or approval given in accordance with clause 39.1 is taken to be received:
- (a) if hand delivered, on the day of delivery if delivered before 4.00 pm on a Business Day and otherwise on the Business Day next following;
  - (b) if sent by prepaid post, 3 days after the date of posting; or
  - (c) if sent by facsimile, on the day on which the message confirmation is received if received before 4.00 pm on a Business Day and otherwise on the Business Day next following

39.3 The provisions of clause 39 are in addition to any other mode of service permitted by law.

#### 40. COSTS AND STAMP DUTY

- 40.1 Each party must pay its own costs of preparing and executing this document
- 40.2 The Company must pay all stamp duty on this document and on any document executed to give effect to this document.

#### 41. NO WAIVER

A failure of a party at any time to require full or part performance of any obligations under this document will not affect in any way the rights of that party to require that performance subsequently.

#### 42. GOVERNING LAW

- 42.1 This document is governed by the laws applying in Victoria.
- 42.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and courts entitled to hear appeals from those courts.

#### 43. ASSIGNMENT

- 43.1 The Company must not assign or attempt to assign or otherwise deal with this document or any right under this document without the prior written approval of the Authority other than pursuant to a Permitted Encumbrance.
- 43.2 The Authority may assign, transfer or dispose of its rights under this document or any other Transaction Document:
- (a) to the State or to any department or agency of the government of the State or statutory authority or corporation which has taken over the objects and functions of the Authority under the *Casino Control Act*; or
  - (b) with the approval in writing of the Company to any other person, such approval not to be unreasonably withheld;

provided that the assignee enters into an agreement with the Company agreeing to be bound by the provisions of this document and each other Transaction Document to which the Authority is a party.

#### 44. FURTHER ASSURANCES

Each party must do or cause to be done anything necessary or desirable to give effect to this document, and will refrain from doing anything which might prevent full effect being given to this document.

#### 45. COUNTERPARTS

- 45.1 This document may be executed in any number of counterparts.
- 45.2 All counterparts taken together will be deemed to constitute the one document.

#### 46. SEVERABILITY

- 46.1 The parties agree that a construction of this document which results in all provisions being enforceable is to be preferred to a construction which does not so result.
- 46.2 If, despite the application of clause 46.1, a provision of this document is illegal or unenforceable
- (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
  - (b) in any other case, the whole provision is severed,
- and the remainder of this document continues to have full force and effect.
- 46.3 Clause 46.2 does not apply where its application alters the basic nature of this document or is contrary to public policy.

#### 47. INTERPRETATION

- 47.1 In this document, unless the context otherwise requires or the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) terms importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
  - (c) a reference to any legislation, statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable, and includes any re-enactment or amendment to that legislation, statutory instrument or regulation;
  - (d) other grammatical forms of defined words or phrases have corresponding meanings,

- (e) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this document and a reference to this document includes any schedules and annexures;
- (f) where a party comprises two or more persons the provisions of this document binding that party bind those persons jointly and severally;
- (g) terms defined:
  - (i) in the *Corporations Law* as at the date of this ~~document~~ Agreement which have not been amended by any variation made to this document prior to the Ninth Variation Date, and has the meanings given to them in the *Corporations Law* at that date; and
  - (ii) in the *Corporations Act* which have been included by a variation made to this document on or after the Ninth Variation Date, having had the meanings given to them in the *Corporations Act* from time to time
- (h) 'party' means a party to this document;
- (i) a reference to a party to this document or any other document or agreement includes its successors and permitted assigns;
- (j) a reference to a document or agreement, including this document, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (k) a reference to '\$A', 'dollar', 'AUD' or '\$' is a reference to Australian currency;
- (l) a reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form; and<sup>96</sup>
- (m) a reference to a specific time for the performance of an obligation is a reference to that time in the State; and<sup>97</sup>
- <sup>98</sup> (n) a reference to a company's "articles of association", "memorandum of association", "memorandum or articles of association" or "memorandum and articles of association" is a reference to the company's constitution and vice versa.

47.2 In this document headings are for ease of reference only and do not affect the construction of this document.

47.3 The Authority is providing the undertaking in clauses 26.2 and 26.3 with the approval of the Minister in accordance with section 14 of the *Casino Control Act*.

47.4 The Authority in entering into this document does so on behalf of the State pursuant to the authority granted to the Authority under section 142 of the *Casino Control Act*.

<sup>96</sup> Amended by Agreement dated [##Ninth Variation Agreement]

<sup>97</sup> Amended by Agreement dated [##Ninth Variation Agreement]

<sup>98</sup> Clause 47.1(n) inserted by Agreement dated [##Ninth Variation Agreement]

- 47.5 If any ambiguity, inconsistency or conflict exists or arises between this document and the Master Security Agreement, the provisions of the Master Security Agreement take precedence and apply to resolve that ambiguity, inconsistency or conflict.
- 47.6 The Company and the Authority acknowledge that, except as expressly provided for in this document:
- (a) nothing contained in or implied by this document prejudices or affects, or is intended in any way to impose any obligation or restriction on the Authority which conflicts with the obligations and duties of, and restrictions on, the Authority under the Relevant Legislation; and
  - (b) if there is any conflict between the provisions of this document or of any Transaction Document and the provisions of the Relevant Legislation, the provisions of the Relevant Legislation prevail.

#### 48. GENERAL OBLIGATIONS

48.1 The Company must:

- (a) maintain its corporate existence;
- (b) comply with all laws applicable to the matters arising under this document from time to time in force including, without limitation, the *Gaming Machine Control Act*, *Gambling Regulation Act 2003* and all mandatory requirements of any Public Authority;
- (c) obtain and renew at the proper times and maintain all Authorisations required
  - (i) for the Company to perform its obligations under this document,
  - (ii) for the Company to perform its obligations under each Transaction Document; and
- (d) to allow this document and each Transaction Document to be enforced against it;
- (e) obtain and renew at the proper times and maintain all licences and other Authorisations required or advisable or relied on for or in connection with the carrying on of the Company's business;
- (f) comply with the terms and conditions of each Lease to which it is a party where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino;
- (g) comply with its payment obligations under any agreement for the:
  - (i) ~~purchase of property where a failure to do so would have a material adverse effect on the Casino Assets;~~ or
  - (ii) the upgrade, enhancement, maintenance repair or operation of the Temporary Casino or the Melbourne Casino; and or the Melbourne Casino Complex

where a failure to do so would have a material adverse effect on the Casino Assets:

- (h) protect the Casino Assets and at the Company's expense prosecute or defend all legal proceedings that are, or the defence of which is, necessary or advisable for the protection of the Casino Assets to the extent appropriate in accordance with prudent business practice; and
- (i) carry out all work reasonably and properly required by any Public Authority in relation to the Assets and Rights where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino.

48.2 The Company must not, without the prior consent in writing of the State:

- (a) Deal with or Dispose of any of the Casino Assets other than by way of maintenance, repair, upgrade, enhancement or replacement;
- (b) Deal with or Dispose of any of the Casino Assets other than in the ordinary course of the Company's business;
- (c) execute, create or permit to subsist any Encumbrance over or affecting the Casino Assets other than a Permitted Encumbrance;
- (d) pull down, alter, extend or remove any building, improvement or fixture forming part of the Casino Assets where to do so would materially adversely affect the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino;
- (e) take on or under a Lease, or acquire for consideration, any asset other than in the ordinary course of the Company's business;
- (f) declare or pay a dividend if a demand has been properly made on the Company under this document or any Transaction Document and has not been satisfied in full; or
- (g) do anything or allow anything to be done in derogation of the rights of the Authority or any other party under any Transaction Document;

except to the extent permitted by clause 29.

## COMMERICAL IN

## SCHEDULE ONE

(Clause 2)  
CASINO CONTROL ACT 1991 (VIC)

## CASINO LICENCE

VICTORIAN CASINO CONTROL AUTHORITY ('Authority') under Part 2 of the *Casino Control Act 1991 (Vic)* ('*Casino Control Act*') grants to **CROWN CASINO LTD ACN 006 973 262** with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria ('**Company**') the right to conduct and play games and use gaming equipment in the Casino subject to the provisions of the *Casino Control Act* and the conditions set out in this licence.

## CONDITIONS

**1. Commencement**

This licence comes into force on *[insert commencement date]*.

**2. Duration**

This licence ceases to have effect on *[date to be determined]*, unless sooner cancelled or surrendered under the *Casino Control Act*.

**3. Location and Boundaries -- Temporary Casino**

1 The Temporary Casino must be located within the Temporary Casino Complex.

2 The boundaries of the Temporary Casino within the Temporary Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**4. Location and Boundaries -- Melbourne Casino**

1 The Melbourne Casino must be located within the Melbourne Casino Complex.

2 The boundaries of the Melbourne Casino within the Melbourne Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**5. Conducting Temporary Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Temporary Casino or open the Temporary Casino to the public for business or otherwise:

- (a) until the Temporary Casino has been Completed in accordance with the provisions of the Management Agreement; nor
- (b) after the Melbourne Casino is opened to the public.

## 6. Conducting Melbourne Casino

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Melbourne Casino or open the Melbourne Casino to the public for business or otherwise until the Melbourne Casino has been Completed in accordance with the provisions of the Management Agreement.

## 7. Gaming Equipment -- Temporary Casino

The Temporary Casino:

- (a) must have not more than 130 gaming tables in operation while the Temporary Casino is open for business; and
- (b) must have not more than 1300 gaming machines in operation while the Temporary Casino is open for business.

## 8. Gaming Equipment -- Melbourne Casino

The Melbourne Casino:

- (a) must have not less than 150 and not more than 200 gaming tables in operation while the Melbourne Casino is open for business; and
- (b) must have not more than 2,500 gaming machines in operation while the Melbourne Casino is open for business.

## 9. Mortgage etc of Casino Licence

The Company must not:

- (a) mortgage, charge or otherwise encumber this licence; or
- (b) transfer, assign or otherwise deal with this licence,

except in accordance with the terms and conditions of the Casino Agreement and the Master Security Agreement.

## 10. Amendment of Licence Conditions

Notwithstanding sections 16 and 17 of the *Casino Control Act*, the Authority will not amend the conditions of this licence without the prior written approval of the Company except as disciplinary action under section 20 of the *Casino Control Act*.

## 11. Breach of Licence

Clause 31.2 of the Casino Agreement and clause 25.2 of the Management Agreement set out events the occurrence of which constitute a contravention of this licence and which, subject to those clauses and the Master Security Agreement, enable the Authority to cancel, suspend or vary the terms of this licence pursuant to section 20 of the *Casino Control Act*.

## 12. Definitions and Interpretation

1 In these conditions, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'**Ancillary Facilities**' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Temporary Casino Complex Development Proposals or the Melbourne Casino Complex Development Proposals (as the case may be) to be constructed on or located within the Temporary Casino Site or the Site, including a hotel, restaurant, retail, recreation, entertainment and carparking facilities, residential and office accommodation, staff facilities, staff carparking, coach storage facilities and open space areas;

'**Casino**' means either the Temporary Casino or the Melbourne Casino, as the case may be;

'**Casino Agreement**' means the agreement dated 1993 between the Authority and the Company;

'**Completed**' has the same meaning as in the Management Agreement;

'**Drawings**' means the plans, designs and working drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'**Management Agreement**' means the agreement dated 1993 between the Minister, acting for and on behalf of the State, and the Company pursuant to section 15 of the *Casino Control Act*;

'**Master Security Agreement**' means the agreement dated 1993 between the State, the Authority, the Company, National Australia Bank Limited as agent for the financiers to the Company and the Sponsors;

'**Melbourne Casino**' means those areas identified in the Drawings of the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'**Melbourne Casino Complex**' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of the Management Agreement and Casino Agreement;

'**Melbourne Casino Complex Development Proposals**' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'**Minister**' means the Minister for the time being administering the *Casino Control Act*;

'**Site**' has the same meaning as in the Management Agreement;

'**State**' means the State of Victoria;

'**Temporary Casino**' means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money

counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

**'Temporary Casino Complex'** means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of the Management Agreement and the Casino Agreement;

**'Temporary Casino Complex Development Proposals'** means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification; and

**'Temporary Casino Site'** has the same meaning as in the Management Agreement.

- 2 In this licence, unless the context otherwise requires or the contrary intention appears:
- (a) a reference in this licence to a party to an agreement or document includes the party's successors and permitted substitutes or assigns;
  - (b) a reference in this licence to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time; and
  - (c) a reference in this licence to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

DATED 1993.

THE COMMON SEAL of VICTORIAN )  
 CASINO CONTROL AUTHORITY )  
 is affixed in accordance with )  
 the directions of the Members )  
 pursuant to a resolution dated )  
 1993 )

.....  
 Chairman

.....  
 Chief Executive Officer

COMMERICAL IN

## SCHEDULE TWO

(Clause 2)

## COMPLEMENTARY AGREEMENTS

- . the Founding Shareholders' Agreement;
- . the Development Agreement;
- . the Construction Agreement;
- . the Finance Documents;
- . the Operations Agreement;
- . the Underwriting Agreement;
- . the Guarantee and Indemnity for Development Agreement;
- . the Note Agreement;<sup>99</sup>
- . the Trust Deed;<sup>100</sup>
- . the Note Agreement (Series 2); and<sup>101</sup>
- . the Trust Deed (Series 2).<sup>102</sup>

+

---

<sup>99</sup> Inserted by Agreement dated 7 March 1995.

<sup>100</sup> Inserted by Agreement dated 7 March 1995.

<sup>101</sup> Inserted by Agreement dated 8 May 1997.

<sup>102</sup> Inserted by Agreement dated 8 May 1997.

## SCHEDULE THREE

(Clause 2)

## WARRANTIES OF THE COMPANY

1. The Company has been duly incorporated and is validly existing under the laws of its jurisdiction of incorporation, with full power and authority to enter into this document and perform its obligations under this document.
2. This document has been duly authorised, executed and delivered by the Company and constitutes (except to the extent limited by equitable principles, laws relating to penalties and laws affecting creditors' rights generally) a legal, valid and binding obligation of the Company enforceable against it in accordance with its terms, and no other proceedings on the part of the Company are necessary to authorise this document and the completion of the transactions contemplated under this document.
3. The execution and delivery by the Company of this document and the performance by the Company of its obligations under this document in accordance with its terms do not:
  - (a) conflict with the constitution or by-laws of the Company;
  - (b) constitute a violation of or default under any agreements or arrangements to which the Company is a party;
  - (c) except as provided in this document, cause the creation of any Encumbrance upon any of the property of the Company; or
  - (d) contravene any law.
4. A Receiver has not been appointed to the whole or any part of the assets or undertaking of the Company or any Related Party and no such appointment has been threatened or is envisaged by the Company.
5. Neither the Company nor any Related Party is in liquidation or administration and no order, petition, application, proceedings, meeting or resolution has been made, presented, brought, called or passed for the purposes of liquidating the Company or any Related Party or placing the Company or any Related Party under or in administration.
6. Neither the Company nor any Related Party is insolvent within the meaning of section 95A of the *Corporations Law* or otherwise and there is no unfulfilled or unsatisfied judgment or court order outstanding against the Company or any Related Party.
7. As at 16 August, 1993 the unaudited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date and as at the Licensing Date the audited

accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date.

8. All information provided in writing by or on behalf of the Company to the Authority was when given in all material respects true and accurate and not misleading by omission.
9. As at the Licensing Date, the Company will have an issued capital of at least \$350,000,000 comprising 350,000,000 fully paid Shares issued as follows:

Sponsors and Founding Shareholders	140,000,000
Institutional Equity	<u>210,000,000</u>
	350,000,000

10. Hudson Conway Limited ACN 009 556 629 and CUB have given notice to the Treasurer of their proposed interest in the Company in accordance with the provisions of the *Foreign Acquisitions and Takeovers Act 1975 (C'th)* and the Treasurer has informed them that there are no objections to Hudson Conway Limited and CUB acquiring a substantial shareholding in the Company.

## COMMERICAL IN

## SCHEDULE FOUR

(Clause 25.4)  
QUARTERLY REPORT TO AUTHORITY

1. The quarterly report to the Authority will be in the same format as required to be provided by a Listed company which is required to provide half-year financial report and director's report in accordance with the Corporations Act (with any references to half-year to be replaced by quarter-year) and will consist of the following items: prepared in accordance with the Australian Accounting Standards:
  - profit and loss account (or Statement of Financial Performance) and cashflow statements comparing budget against actual for the year to date with appropriate and reasonable explanations to explain any material differences between budget and actual figures
  - balance sheet (or Statement of Financial Position) at the last days of March, June, September and December
  - budgeted profit and loss (or Statement of Financial Performance) and cashflow statements to end of current financial year.
2. In addition to any other requirements required by the Australian Accounting Standards, the quarterly report referred to in item 1 will list all inter-company or Related Body Corporate balances and disclose all movements made over the previous quarter.
3. In relation to capital expenditure programs, the quarterly reports will provide a list of actual expenditure, compare them to budget against actual and will be classified between 'existing facilities' and 'major new construction'.
4. Where the Company has invested or is indebted for an amount which is Material, the Company must provide, in addition to the information otherwise referred to in Schedule Four, clear and accurate information on the purpose of that investment and, if it is an advance, details of the terms of that advance and the performance of that investment over the relevant quarter.

COMMERICAL IN

## SCHEDULE FIVE

(Clause 35.1(a)(i))  
INSURANCESSee Annexure A.

1. Industrial Special Risks Insurances, including Business Interruption Insurance and Consequential Loss of Profits Insurance. The Consequential Loss of Profits insurance cover to be for a minimum period of three years.
2. Property Insurances for the Melbourne Casino and Entertainment Complex, including fittings and fixtures for their full replacement value (immediately upgraded where necessary to take into account any upgrade or enhancement carried out to the Melbourne Casino and Entertainment Complex during any years).
3. Public Risk and Indemnities - for an amount of not less than \$250 million for any one occurrence (subject to adjustment every three years to such amount as the Authority reasonably determines); and pursuant to which policy the State should be specifically indemnified against all actions, suits, claims, demands, proceedings, losses, damages, compensation costs, charges and expenses.

COMMERICAL IN

SCHEDULE SIX  
SOLVENCY REPORT  
(Clause 2)

**SCHEDULE SEVEN**  
**(Clause 22.1(v))**  
**CAPITAL EXPENDITURE**

**1. CAPTIAL EXPENDITURE**

- 1.1 The Company must expend not less than the equivalent of \$300 million (1998 dollars indexed to the CPI – Melbourne [##appropriate indexation method?]) on significant maintenance and improvements of the Melbourne Casino Complex between 1 July 1999 and 20 June 2009.
- 1.2 The Company must provide the Authority with an annual Capital Expenditure Budget Summary Report not later than 1 September of each year specifying:
- (a) the actual and budgeted capital expenditure (in current and 1998 equivalent dollars) for each Financial Year between 1 July 1999 and 20 June 2009;
  - (b) in respect of the immediately preceding Financial Year:
    - (i) each item of capital expenditure expended during the Financial Year; and
    - (ii) in respect of items of expenditure previously budgeted for the Financial Year but not fully expended during the Financial Year, the reason for the expenditure not being fully made and a plan for remedial action;
  - (c) in respect of the current and next Financial Years:
    - (i) a detailed description of and budget for each item of capital expenditure during the Financial Year;
    - (ii) in respect of items previously budgeted for the Financial Year, but not intended to be fully expended during the Financial Year, the reason for the expenditure not been fully made and a plan for remedial action;
  - (d) in respect of each subsequent Financial Year:
    - (i) a proposed budget for each item of expenditure proposed to be made in the Financial Year; and
    - (ii) in respect of items previously budgeted for the Financial Year, but not intended to be fully expended during the Financial Year, the reason for the expenditure not been fully made and a plan for remedial action.

**2. ROUTINE MAINTENANCE AND CLEANLINESS**

- 2.1 The Company must ensure that the Melbourne Casino Complex is maintained and cleaned in accordance with the following standards:

[## Insert Relevant Standards based on, for example, reports published by the Facilities Management Association of Australia, Queensland University of Technology Facility Management Procedures Manual etc]

3. [##OTHER MATTERS?]

|

|

**SCHEDULE EIGHT**  
**(Clause 2 and 28)**  
**INTERNATIONAL FIRST CLASS STANDARDS**

The Melbourne Casino and the Ancillary Facilities must be of a standard and type equal to or better than, the average of not less than 5 or more than 10 casinos nominated by the Authority from time to time and which, at the Ninth Variation Date are:

[list]

[also list or nominate at least some standards that an expert can have regard to in making a comparison decision on whether the standard has been reached]

COMMERICAL IN

EXECUTED as an agreement.

THE COMMON SEAL of VICTORIAN )  
CASINO CONTROL AUTHORITY )  
[as then known] is affixed in )  
accordance with the directions )  
of the Members pursuant to a )  
resolution dated 5 September )  
1993 )

Common Seal

J.R. Richards  
.....  
Chairman

P.J. Connolly  
.....  
Chief Executive Officer

THE COMMON SEAL of )  
CROWN CASINO LTD. [as then )  
known] is affixed in )  
accordance with its articles )  
of association in the presence )  
of )

Common Seal

Peter Jonson  
.....  
Signature of Secretary/Director

B. Hamilton  
.....  
Signature of Director

Peter Jonson  
.....  
Name of Director  
(please print)

Barry J. Hamilton  
.....  
Name of Director  
(please print)

COMMERICAL IN

DATED 21 SEPTEMBER 1993

VICTORIAN CASINO AND GAMING AUTHORITY  
(‘Authority’)

CROWN LIMITED  
ACN 006 973 262  
(‘Company’)

MELBOURNE CASINO PROJECT

CASINO AGREEMENT

[CONFORMED COPY - AS VARIED BY  
VARIATION AGREEMENTS 1 TO 8 AND  
THE MASTER SECURITY AGREEMENT]

AND SHOWING VARIATIONS AS MAY BE MADE  
BY NINTH VARIATION DEED

MINTER ELLISON  
Lawyers  
40 Market Street  
MELBOURNE VIC 3000  
DX 204 MELBOURNE

Telephone (03) 9229 2000  
Facsimile (03) 9229 2666

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## COMMERCIAL IN CONFIDENCE

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COMMERCIAL IN CONFIDENCE

Maddock Lonie &amp; Chisholm

LAWYERS

DATED 21 SEPTEMBER 1993

VICTORIAN CASINO AND GAMING AUTHORITY

-and-

CROWN LIMITED  
ACN 006 973 262MELBOURNE CASINO PROJECT  
CASINO AGREEMENT[Conformed Copy for reference only—  
As varied by Variation Agreements 1 to 8  
and the Master Security Agreement]

A MEMBER OF

 adt ESTDADELAIDE, COLOMBO, DUBAI, HONG KONG,  
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,  
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

140 WILLIAM STREET MELBOURNE VICTORIA AUSTRALIA 3000

EMAIL: [info@maddock.com.au](mailto:info@maddock.com.au)WEB SITE: [www.maddock.com.au](http://www.maddock.com.au)

TELEPHONE: + (61 3) 9288 0555

FACSIMILE: + (61 3) 9288 0566

DV 259 MELBOURNE

SCHEDULE SIX - SOLVENCY REPORT .....  
SCHEDULE SEVEN - CAPITAL EXPENDITURE.....  
SCHEDULE EIGHT - INTERNATIONAL FIRST CLASS STANDARDS...

**Sylvia Grobtuch**  
19/08/04 03:37 PM

To: Bill Balgowan/OGR@VCGR, Cate Carr/OGR@VCGR  
cc:  
Subject: copy of brief to Minister prepared earlier this week

Bill and Cate

FYI



Min brief re Cas Agt dot points - 16 Att 4.do

Sylvia

MB No: \_\_\_\_\_

**Ministerial Brief – Minister for Gaming**

**Cover Sheet**

**Subject:** Outcome of Negotiations with Crown on Removal of Single Purpose Company Provision and Changes Required by Government in Exchange

**DOJ File:** \_\_\_\_\_  
**MB No:** \_\_\_\_\_

The Minister for Gaming to: \_\_\_\_\_

	Name:	Position:	Extn:	Signature:	Date:
<b>Author</b>					
<b>Supported by:</b>	Sylvia Grobtuch	Director Legal and Legislation, VCGR	13152		
<b>Supported by:</b>	Peter Cohen	Executive Commissioner, VCGR	13118		

**Recommendation:**

That you –

- a) note the agreed terms which are the outcome of the negotiations with Crown, including the concessions and benefits to which Crown has agreed; and
- b) approve the preparation of a Cabinet Submission seeking the Government’s agreement to implementation of those terms.

**By the Minister for Gaming:**

Approved

.....  
**JOHN PANDAZOPOULOS MP**  
 Minister for Gaming  
 Date:

**Minister for Gaming**

---

**Subject:** Outcome of Negotiations with Crown on Removal of Single Purpose Company Provision and Changes Required by Government in Exchange

---

**Purpose:**

1. To brief you on the outcome of negotiations with Crown Limited on their request for removal of the single purpose company provision, and the corresponding concessions which Crown Limited has agreed to make to the VCGR and the State in exchange.

**Background:**

2. By separate letters dated 25 August 2003 to you and the Chairman of the former Victorian Casino and Gaming Authority (Attachments 1 and 2), Crown asked for removal of the single purpose company provision.
3. On 28 July 2003, the Director of Gaming and Betting provided a brief which asked you for initial approval of the Authority's intention to commence a review of the terms of the Casino Agreement as soon as possible, with a view to renegotiating those terms with Crown. By letter of 5 August 2003, the Chairman made a similar request of you. You agreed to these requests by letter of 12 September 2003 (Attachment 3)
4. The Authority and staff conducted some negotiations with Crown over the following months and a number of matters were agreed in principle with Crown. However, the Authority did not conclude the matter before its members went out of office on 30 June 2004.
5. In July this year, a new negotiation process commenced via a series of weekly meetings convened by your office. The persons attending represented Crown, your office, the Premier's office, the Office of Gaming and Racing and the Victorian Commission for Gambling Regulation.
6. The process concluded on 16 August 2004 with agreement reached on all outstanding issues and with Crown offering a number of benefits and making a series of concessions to the State and the Commission.
7. The dot point list of agreed terms is at Attachment 4. Each term is briefly described using the words on which agreement was reached, plus underneath the terms there is additional explanation **in bold** of their practical effect or impact or the reason for them.

**Issues/Comments:**

**What are the benefits of the agreed terms?**

8. The agreed terms will have the following benefits for the State:
  - Greater transparency – by release of the Casino Agreement and Casino Licence.
  - Increased accountability of the Casino operator – by provision of increased information to the regulator.
  - Tourism benefits flowing from the MOU with Tourism Victoria.
  - Improvement of the asset of the Casino (which is on State land) – by injection of at least \$200M on improvements and maintenance.

- Employment prospects and business status for the State – flowing from the requirements for –
  - Crown to maintain the casino as the flagship casino of the PBL gaming business in Australia; and
  - Crown to endeavour to maintain it as the dominant high roller casino in Australia; and
  - PBL to headquarter its gaming business at Crown Casino.
- More stringent regulation – because the regular review of the casino operator will be far more wide-ranging.

#### **What are the steps forward?**

9. The steps forward appear to be:
- a) approval of the terms agreed by the boards of Crown and the Commission (each is scheduled to meet on Tuesday 17 August);
  - b) conversion of the terms into a formal amending agreement;
  - c) preparation of a draft Cabinet Submission for consultation purposes, and consultation with central agencies, including Treasury;
  - d) consideration of the matter by Cabinet;
  - e) if Cabinet agrees, execution of an amendment to the Casino Agreement, and implementation of some terms by other means eg legislation;
  - f) a joint public announcement or presentation by Crown and the Government on the benefits flowing from the agreed position.

#### **How would the agreed terms be implemented?**

10. Most of the agreed terms would be included in a formal agreement amending the Casino Agreement. However, some terms would need to be implemented by other means, as follows:
- a) The Memorandum of Understanding between Crown and Tourism Victoria.
  - b) Amendment of the *Casino Control Act* 1991 to change the nature and frequency of the regular review of the casino operator.
  - c) Separate financial arrangements may need to be put in place to monitor the injection of over \$200M into the Casino Complex over five years.
  - d) Preparation of a document containing “Agreed Insurance Details”.
  - e) Arrangements for public release of the Casino Licence and Casino Agreement.

#### **Recommendation:**

11. That you –

- a) note the agreed terms which are the outcome of the negotiations with Crown, including the concessions and benefits to which Crown has agreed; and
- b) approve the preparation of a Cabinet Submission seeking the Government's agreement to implementation of those terms.

ATTACHMENT 4

AGREED ON 16 AUGUST 2004

- A new clause providing that at least 75% of Crown's Board of Directors' meetings be held in Melbourne each year  
( **to protect the asset and to facilitate regulation by ensuring Crown , meaning the company which may own or operate more than just the Melbourne Casino, is run from Melbourne**)
- A new clause providing that at least 75% of Crown's Senior Management meetings be held in Melbourne each year  
( **to protect the asset and to facilitate regulation by ensuring Crown is run from Melbourne**)
- A new clause providing that a Crown Company Secretary will be located in Melbourne  
( **to protect the asset and to facilitate regulation by ensuring Crown is run from Melbourne**)
- A new clause providing that the CEO of Crown and those senior executives of Crown directly responsible to the CEO be located in Melbourne  
( **to protect the asset and to facilitate regulation by ensuring Crown is run from Melbourne**)
- A new clause providing that PBL will headquarter its gaming business at Crown Casino  
( **to provide employment prospects, business status and export earnings for the State**)
- A new clause providing that Crown will spend at least \$200M over the next five years on improvement and maintenance of the Crown Casino complex, being –
  - a combination of maintenance, refurbishments and new works; and
  - a minimum of \$25M in each of those years.
 ( **protects the asset of the Casino, which is situated on State land and will revert to the State in 2093**)
- A new clause providing that any changes to the composition or Charter of the Audit or Compliance Committees be notified (within 30 days after the change) to the VCGR.  
( **increased accountability for Crown, by providing the regulator with more information, so it can effectively regulate**)
- Crown will endeavour to maintain Crown Casino as the dominant high roller casino in Australia.  
  
( **to protect tax revenue and provide employment prospects, business status and export earnings for the State**)

- Crown will maintain the Crown Casino as the flagship casino of the PBL gaming business in Australia  
**( to protect tax revenue and provide employment prospects, business status and export earnings for the State)**
- Revisions to clause 22 to delete the single purpose entity requirement  
**(will allow Crown to run other businesses, including other casinos. It is considered that, now that the casino is well established, it would be unnecessarily restrictive to maintain this requirement.)**
- A revision to clause 29 and a number of other complementary clauses to narrow the focus from "Assets and Rights" to "Casino Assets" and all other assets located on Crown (ie State) land.  
**(means that Crown must still ask the regulator for permission to dispose of a Casino Asset – this protects those assets of the Casino situated on State land which will revert to the State in 2093)**
- Clauses providing for provision of specified information to the Government and VCGR at regular intervals or as required. Schedule of information sought is attached.  
**(increased accountability for Crown, by providing the regulator with more information, so it can effectively regulate)**
- Crown to enter into a MOU with Tourism Victoria under which Crown will undertake interstate and international marketing activities to a minimum value of \$5m per annum.  
**(to provide tourism and employment benefits)**
- Add to the regular review required under section 25 of the Casino Control Act, a requirement that the VCGR conduct (not less than once every 5 years) a review of Crown's obligations under the Casino Control Act, Casino (Management Agreement) Act, Gambling Regulation Act and the Transaction Documents (to be specified and to include any new future documents which impose gambling-related obligations on Crown). Review to be conducted every 5 years.  
**(more stringent review –will cover all of Crown's obligations to the State, instead of just whether the Casino Licence should remain in force).**
- An amendment to clause 27.1 (n) to allow for the approval of games other than those devised or developed by the Company. Replace existing clause 27.1(n) with:  
"any other game approved by the Commission for use at Crown".  
**(This change will allow Crown to buy casino table games "off the shelf" instead of having to create them. It will prevent Tattersall's and Tabcorp from developing egm versions of those same games, effective only until November 2005 – due to the exclusivity arrangements for Crown, but this is not considered an issue).**
- A new clause providing that:
  - Crown's existing obligation relating to best operating practices (clause 28);

- PBL's undertaking to headquarter its gaming business at Crown Casino;
- Crown's undertaking to spend at least \$200 million over 5 years;
- Crown's new obligation to endeavour to maintain Crown Casino as the dominant high roller casino in Australia; and
- Crown's undertaking to maintain Crown Casino as the flagship of the PBL gaming business in Australia,

are all conditional upon the Victorian Government and VCGR not taking action to affect the internationally competitive status of the regulatory environment and taxation regime.

In order for Crown to be able to rely on this condition, Crown will have to demonstrate that the action of the Government or the VCGR has materially and adversely affected Crown's ability to compete in the international/and or interstate markets.

**(This provision is a result of Crown's concerns that the Government may make policy changes such as further smoking bans or the introduction of smart cards, and that those changes would make it impossible for them to maintain business at Crown as successfully as at present).**

- Amendments to clause 35 to make the Insurance provisions more contemporary and flexible.
  - Remove details (eg limit of cover, amount of excess, details of cover and period of insurance) from schedule of agreement and put these details in a separate document "Agreed Insurance Details". The separate document must be agreed between the Commission and Crown from time to time to meet the changing market for insurance. If the Commission and Crown are unable to agree then the "Agreed Insurance Details" will be determined by an appropriately qualified independent expert having regard to:
    - the availability of the relevant insurance,
    - the terms and conditions of such insurance in the market; and
    - the cost of such insurance.

Retain other requirements of clause 35 except:

- The insurance required be limited to -
  - Business Interruption Insurance (including insurance for the payment of all casino taxes) for the Melbourne Casino,
  - Products and Public Liability Insurance,
  - Real and Personal Property (also known as Building and Contents or Industrial Special Risks) Insurance (at replacement value) for the entire Melbourne Casino Complex.
- Crown must obtain the VCGR's written agreement to the amounts for which the three items must be insured (including excesses) prior to the previous insurance policy expiring.

- No need for VCGR to approve underwriters or brokers.
- No need for possible claims to be notified unless they relate to incidents within the Melbourne Casino (as defined in the Casino Agreement).  
**(These changes will make the insurance requirements less prescriptive and more realistic, given changes to the insurance industry since the casino was established).**
- Public release of the Casino Licence and Casino Agreement. Crown prepared to accept release of Casino Licence. Release of Casino Agreement agreed by Crown on the basis that none of these agreed terms are altered by the Government or the VCGR.  
**(This implements a recommendation of the Russell report, as well as advancing the Government's policy of transparency).**

**Information to be Provided by Crown Limited to the Victorian Commission for  
Gambling Regulation – agreed at 16 August 2004**

1.	A copy of the agenda for each meeting of the Audit Committee and the Compliance Committee together with the minutes of the meeting (both agenda and minutes to be provided one week after the minutes are confirmed). When requested by the Commission, Crown must make available for inspection by the Commission, or give the Commission, a copy of the papers prepared for or considered by its Audit Committee and its Compliance Committee.
2.	Each year, as soon as available - <ul style="list-style-type: none"> <li>• a copy of Crown's internal audit program as approved by the Crown Board;</li> <li>• an annual report on the internal audit program; and</li> <li>• an annual closing report on Crown's external audit program.</li> </ul>
3.	Before investing in or advancing more than 10% of Crown's Total Assets to an existing or new Crown related body corporate, information on the purpose of that investment and details of the terms of that advance.
4.	Separate quarterly and annual financial statements for each Crown controlled entity in which either Crown or another Crown controlled entity has an investment of 10% or more of Crown's Total Assets. These reports must be submitted at the same times, and be in the same form, as the reports submitted in relation to Crown.
5.	Detailed financial statements, including all reports and information required by the Corporations Act (or any later such requirements under an amending or substitute Act) on an annual basis.  Background – clause 25.4 and Sch. 4 of the Casino Agreement currently require Crown and each of its subsidiaries to provide quarterly reports within 15 business days of the end of each quarter (for the September, December and March quarters) consisting of the following items: <ul style="list-style-type: none"> <li>• profit and loss account and cashflow statements comparing budget against actual for the year to date;</li> <li>• balance sheet as at the last days of March, September and December; and</li> <li>• budgeted profit and loss and cashflow statements to end of current financial year.</li> </ul>
6.	Crown's forthcoming financial year annual budget within 30 days after its approval by the Crown board.
7.	Crown's annual audited accounts within three months after Crown's financial year end .
8.	A report on Crown's annual capital expenditure program, showing separately expenditure on maintenance, refurbishment and new works.

24/5/09

PC, SA, BB, RS, CC.  
 Jack Trott, Milla Squire, RC, David Lombury.

PC: have 2 more, Summary on to show  
 we get at. Aguard + all items  
 confirmed again

Not intended to be any surprises  
 in mail.

Tabled ones.

Page 1 - RC - seen already.

1:- BB  
 intent was that Ex Div 1 could  
 attend but will be with

RC - what is prob with being  
 member.

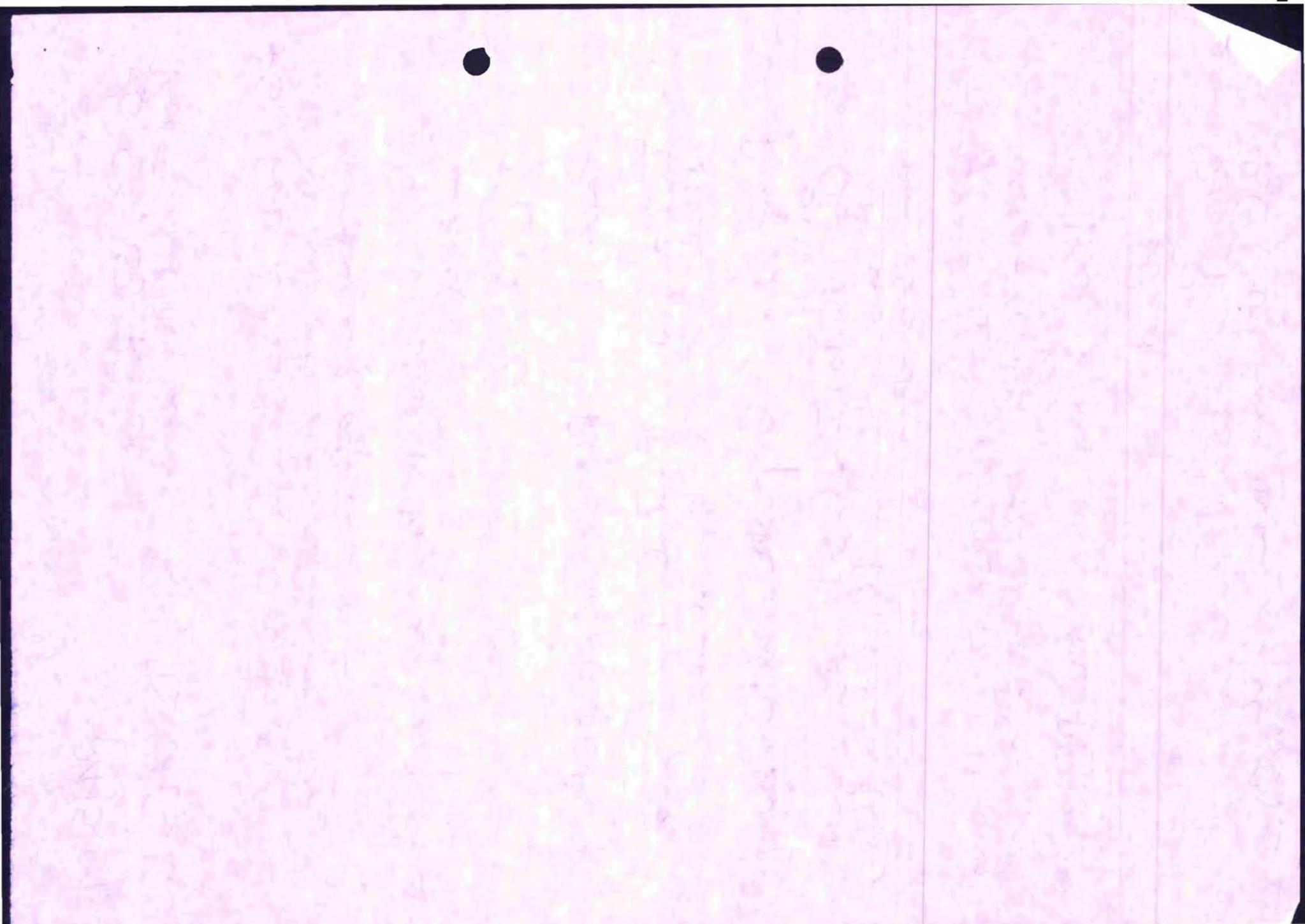
CC - understand C's membership  
 in a circle. Is Peter who  
 an executive Div.

PC - if non-executive Div is

RC - only executive Div is  
 had many within PB's

Aguard.

2. RC why? Board member.  
 BB - to know that cell is in



PC: will be able to say that is meeting + will look at what is done in meeting

7. Agreement + minutes. If want ~~minutes~~ - can request. ~~pop~~

6

5. Some things

4. Some things as 1.

3. See clause 22.1. - can will look

PC - OK

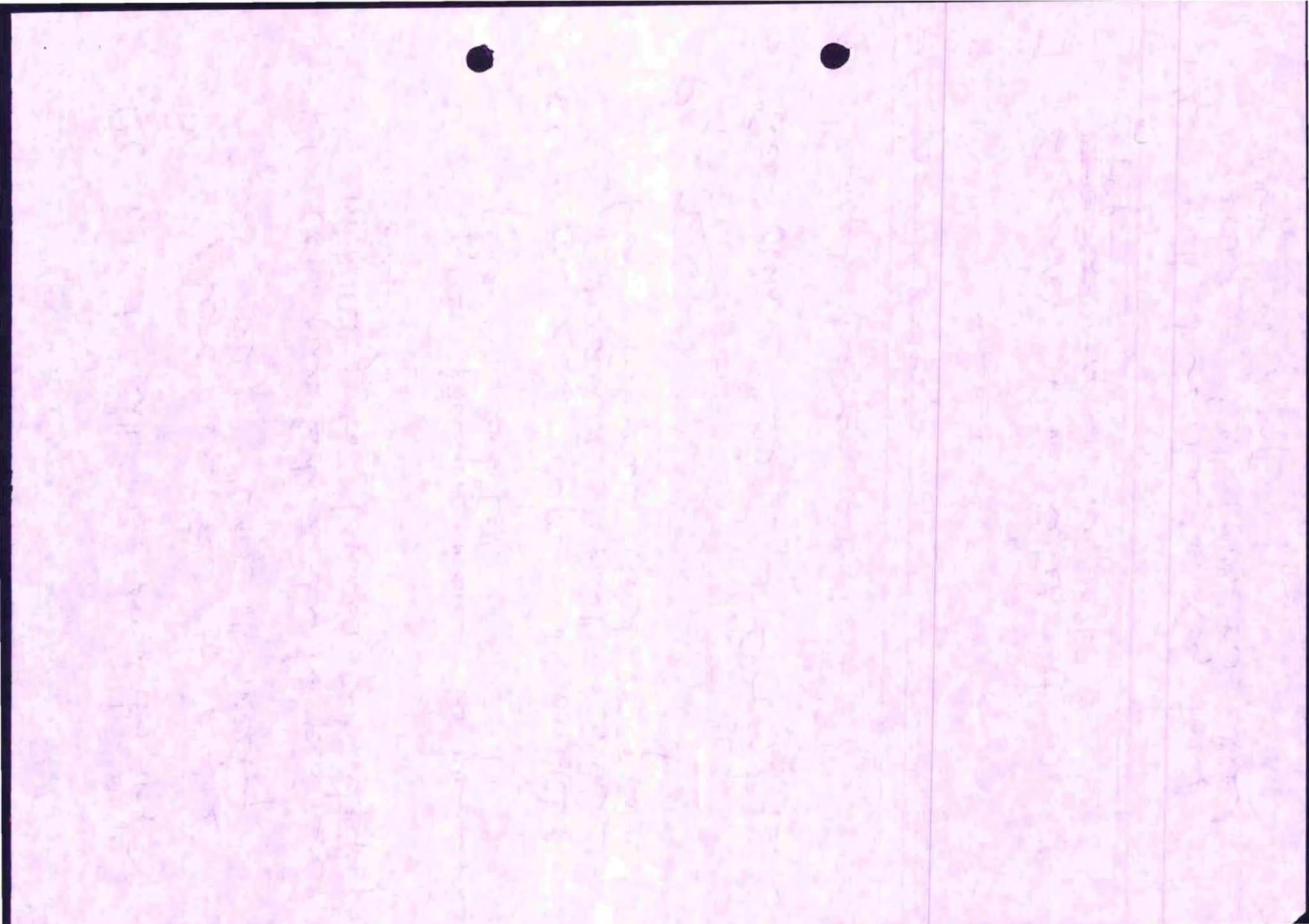
PC - can give copies of minutes for temporary use no problem

PC - gives. Maybe even to provide copies of minutes

PC can give schedule of proposed minutes - do I need to meeting changed?

PC - rule of minute to raise Govt that cite is meeting

PC what will you do with info



RC: optimal now be taking addid +  
 comparison think Terminal Rem  
 as how would had be expectif  
 Reming surprise = Terminal

22 (1~~EC~~) -

RC - are we buy op on 4 times  
 per year.

● PC - aren't want it downline

RC - not less than 3 times

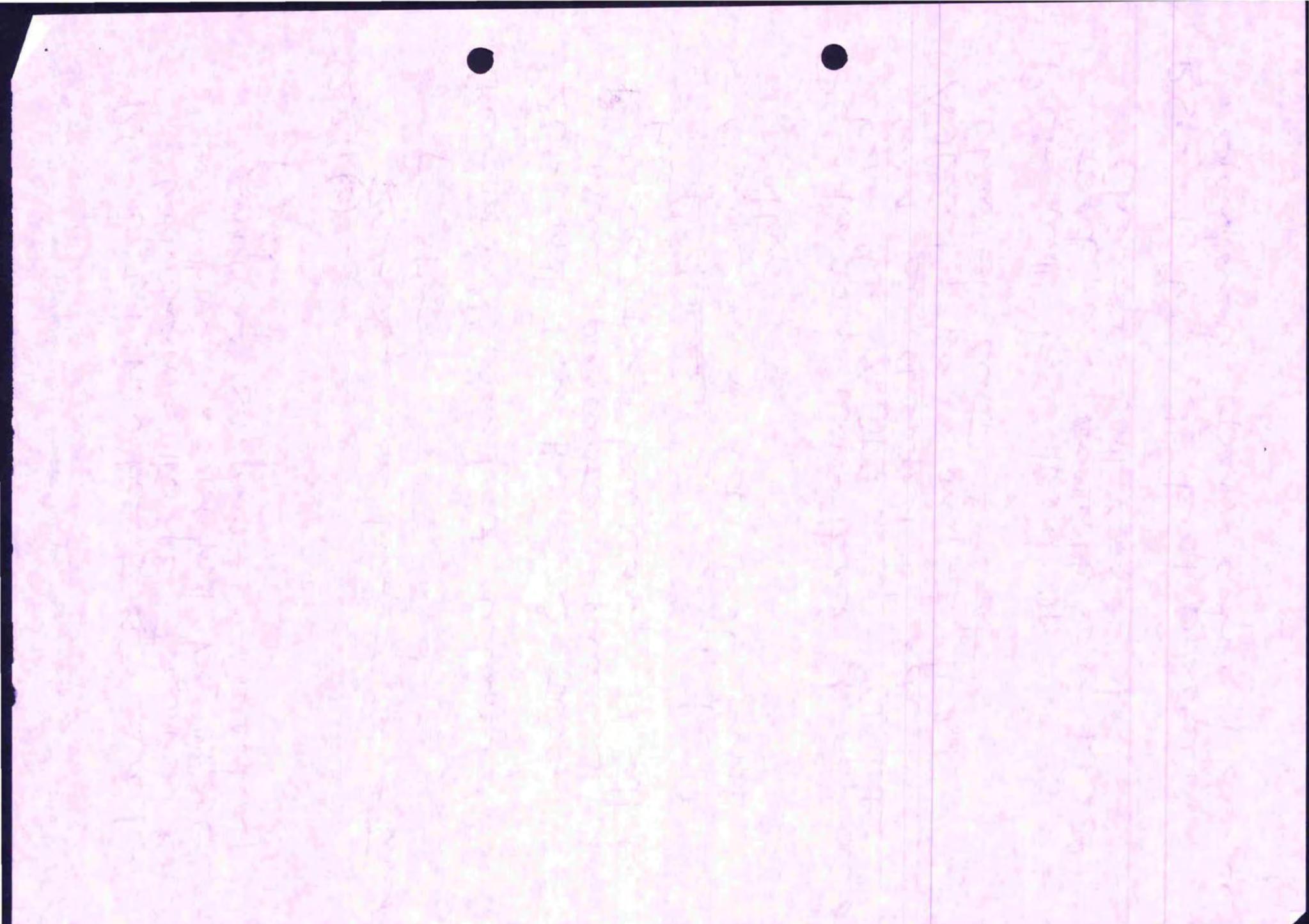
● more prompt answering in  
 the range than answering all the  
 tree.

If ~~shorter~~ ex says that  
 charter must set and time  
 matters

● PC - happy with that if approved  
 by the Authority. Charter  
 will be changed in advance  
 Authority has work + that  
 Charter contains matters.

RC - will take time or  
 that it doesn't say what  
 Charter will contain

RS: - looking at best practice  
 standards, firms bring license



RC :- don't put bond purchase Schemes  
in Finance. Slightly putting purchase  
Scheme -

PC :- consistent with 1CF + 1CF  
Do with 11C + 11F.

DC - bond market minister + union

PC :- take to say that Union will  
have its charter + programme  
approved by the report.

S demand - ~~2019~~ p. 9.

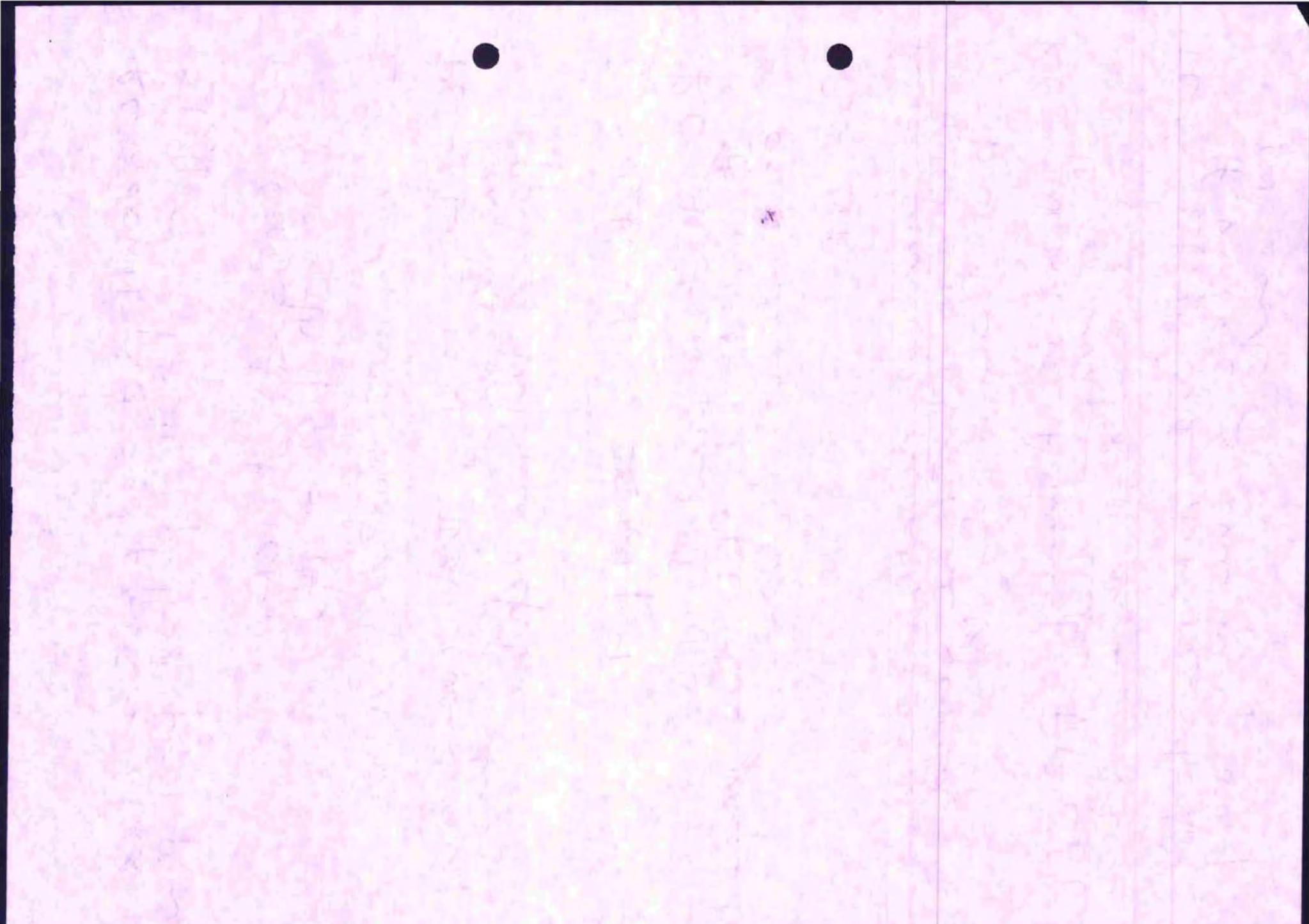
RC - what is bond of (VIII)?  
If ind. dir of PBL the impact  
of direct of crown.

OB :- (VIII)

RS :- Bond of substate is to shift  
C's bond interest in general  
bond PBL out - (?)

RC - what is 'ADL' in 'Print PBL'  
is an impact of debt - of crown  
an impact of debt of crown

PC :- still one substate with ADL  
If make of one way, may  
not need of.



RC: 9-way raise operate -  
 PBL to get the best outcome  
 to just economic growth  
 to just economic growth  
 sit with 9? How can I read

Director of Comm Servs  
 and - the best interests of PBL  
 and PBL may end in best  
 interests of justice

See to need to partition PBL

Yes however - raise operating  
 for PBL, but that is not  
 correct

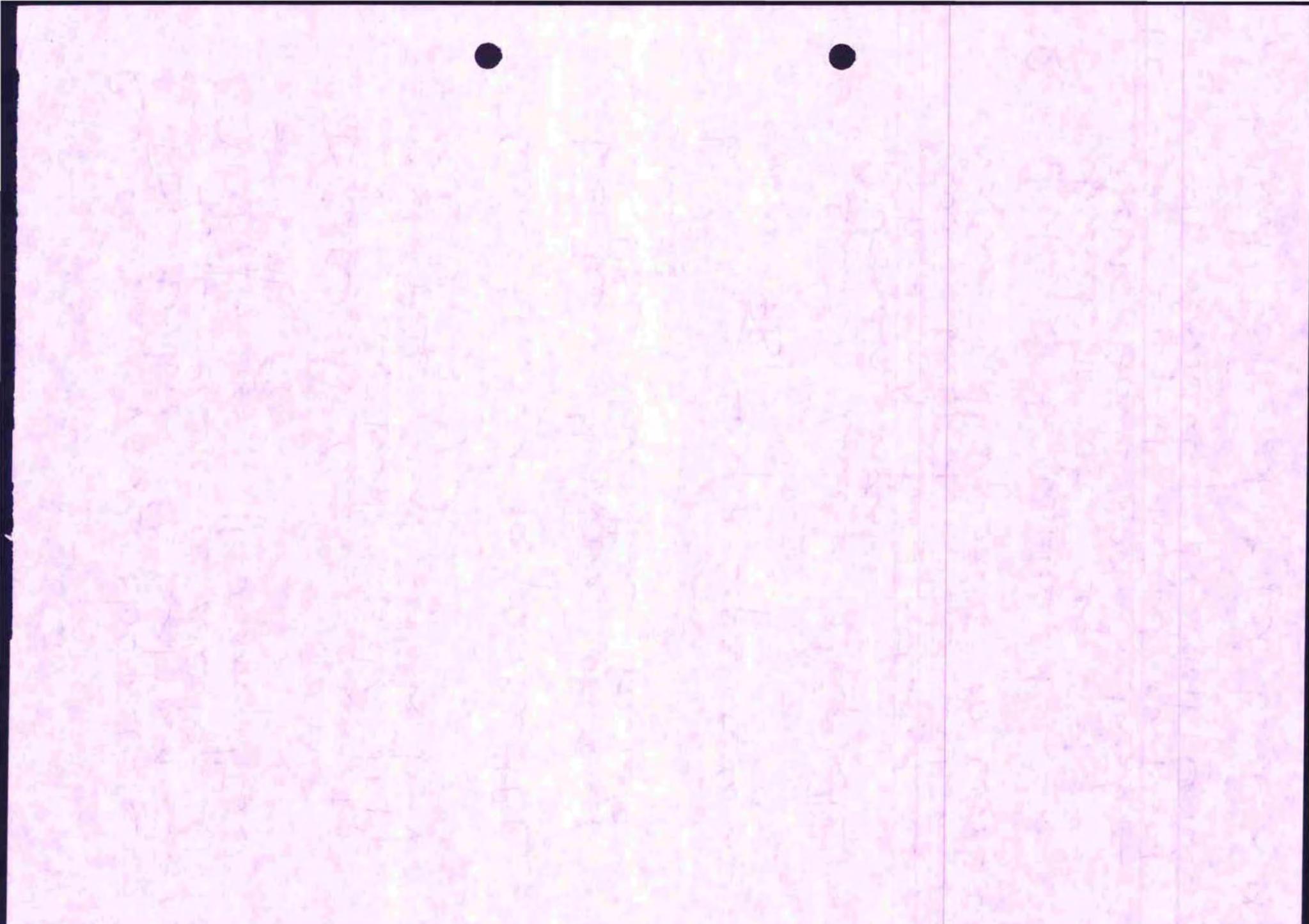
and from PBL. Senior separate work

RC: Senior court looking after  
 judicial interests  
 and help the interested  
 court help PBL with need  
 matters will relate to service

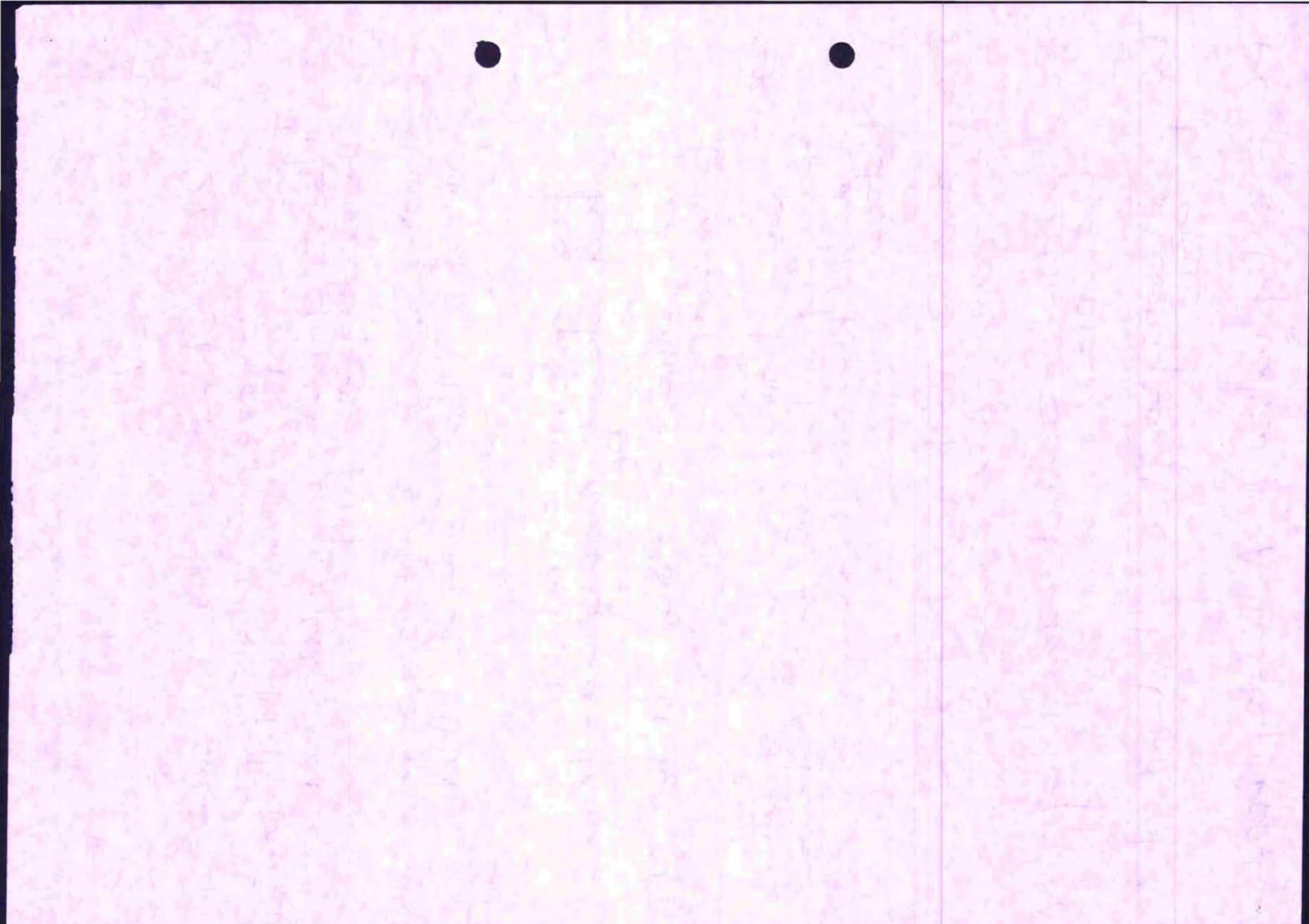
RC: if trying to make it a X  
 reference to the services

PC: ie where it might conflict  
 with judiciary of justice. Service

A - will hold ad + get back on X







RC: Take 'Tab + Govt generate large sums to spend operations and make + infrastructure  
 Need to decide ~~whether~~ the it is disdminum issue - approved issue

PC: Great risk to state in reformed single purpose market: need to put something in place to ensure business still viable

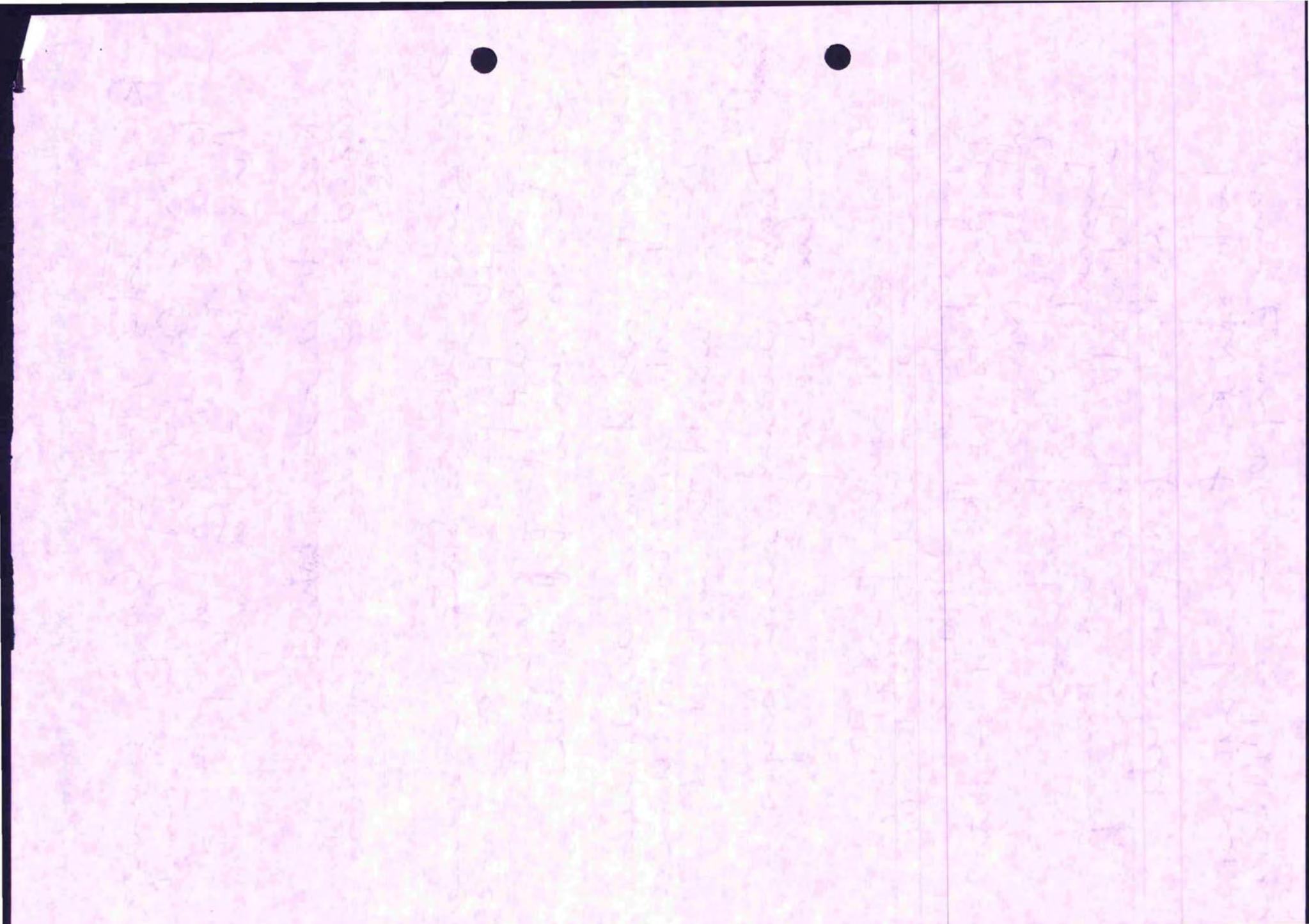
RC: do you want more dividends and you want out a course do you want to ventrals

Doesn't sound like buying for tax. An example

If we can't agree that PBL is which is important to govt. do you want to walk away from single exercise.

Can be no ambiguity. Don't want to let tobacco + tobacco have a piece to Antelope farm markets

I'll stick to court agreement + we want operate and delivery



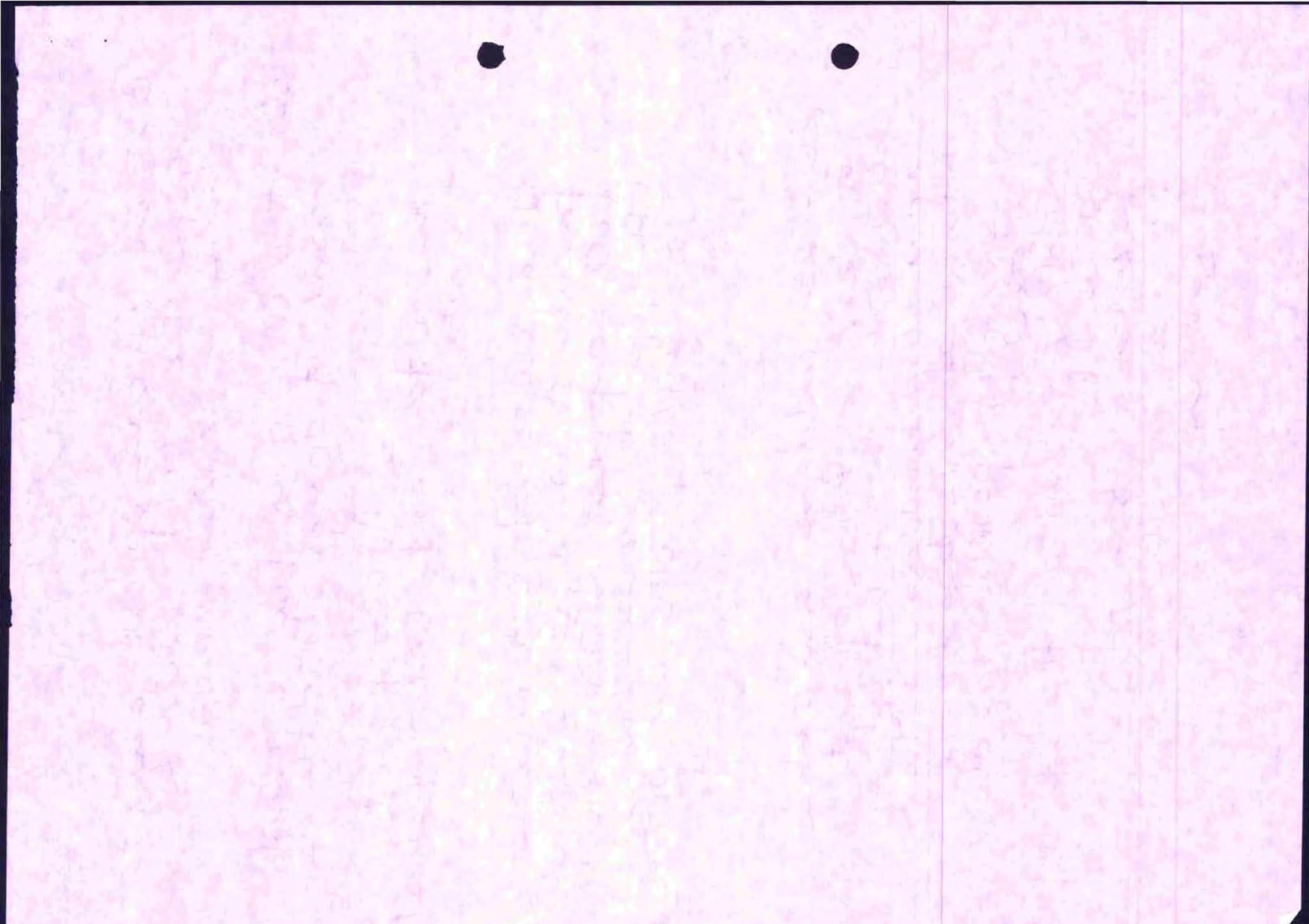
BB: Can you come up with a way to guarantee and ensure to take a venture stream

RC: Two things I have to think about if you're Mischkin!   
 => AS trust, waste,   
 me info about your financial   
 treatment.

Need sufficient \$ to maintain   
 facility to avoid clean standards   
 late say to need \$50M - \$100M   
 Per you to maintain - building   
 the Victoria pretty well protected

27 - 27

RC - 25 could be acceptable   
 of GST + AHT. applied to   
 defensible tax + updating   
 minimum standards is   
 smoking, problem gambling   
 + ~~tax~~   
 smoking exempt for life of   
 amount = Tax value   
 No more imprints a public   
 Gambling.



example -  
 Sonking exempt - for high rollers  
 no standard cards, but limit exempt.

Can't force us to be corrupting  
 whilst tying hands behind - back

If we can get certainty on agree-  
 to give wild cards casino

Reality is that wild have no  
 high roller business

NOTE - Of liberal to wild cards  
 casino is a 1993 concept.

PC: Perhaps we can find a few  
 Q marks to limit prior.

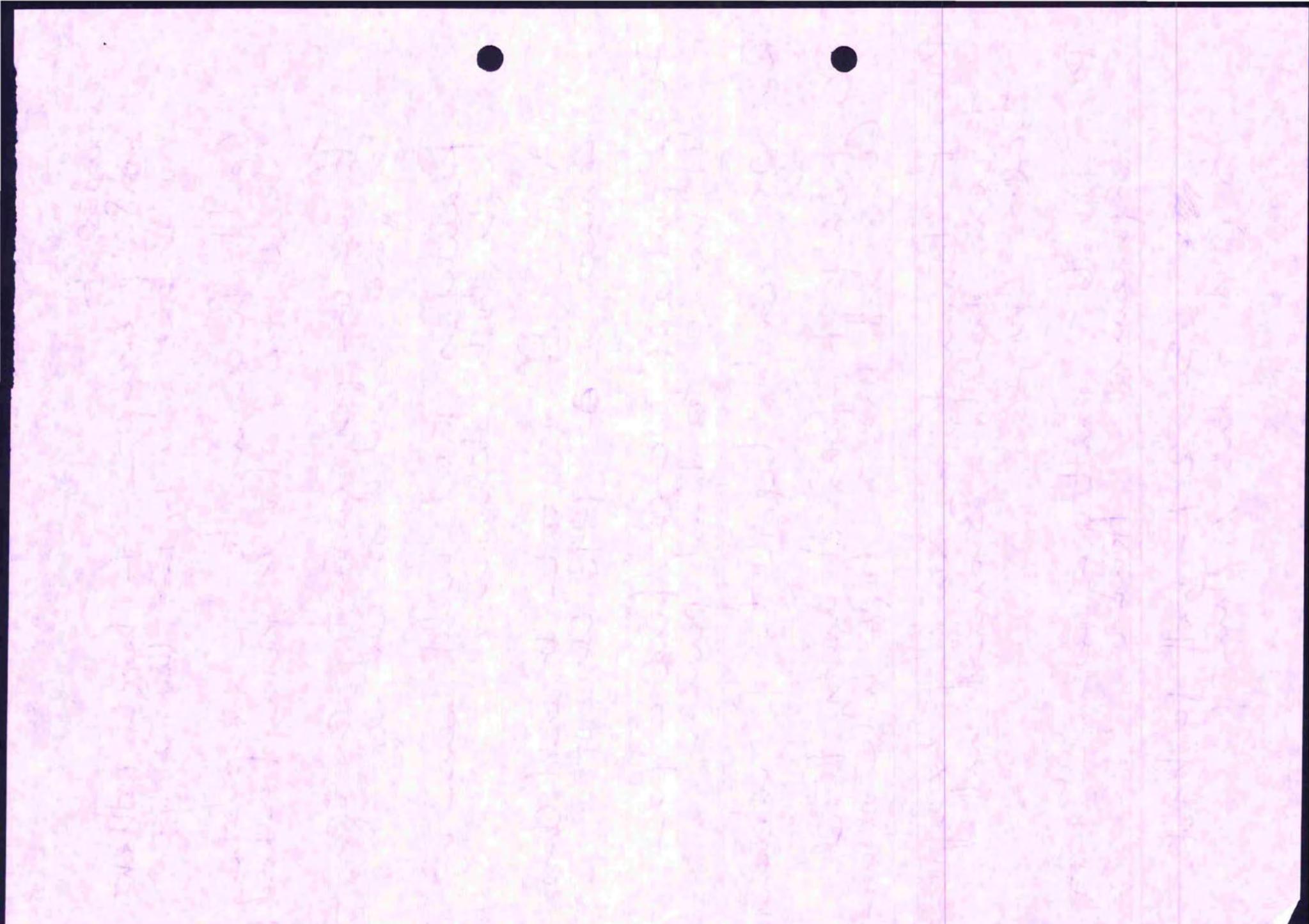
PC: 27 - can't legislate for customers.

PC: looking for some A marks legal  
 cum will want high roller business

PC: if Banned, has Sonking exempt  
 + cum then Banned will exempt  
 track cum.

PC: No. 26 - printing agreement its  
 agreement. Agreed.

~~25~~ 25 + 27 - will go back  
 to card + the Authority



RC: why is Bunnat good for Melb.

PC: 24 - consistent with existing

RC: felt for bank whereas changed  
it sinking bonds etc.  
"being" "upward" to relevant part  
policy.

RC could look at ↑ amount of cap  
● ex. looking at food policy.  
ie sinking + smart capital ↓

PC - put - existing considered the  
↑ subject to changes in gas  
policy.

Item 11

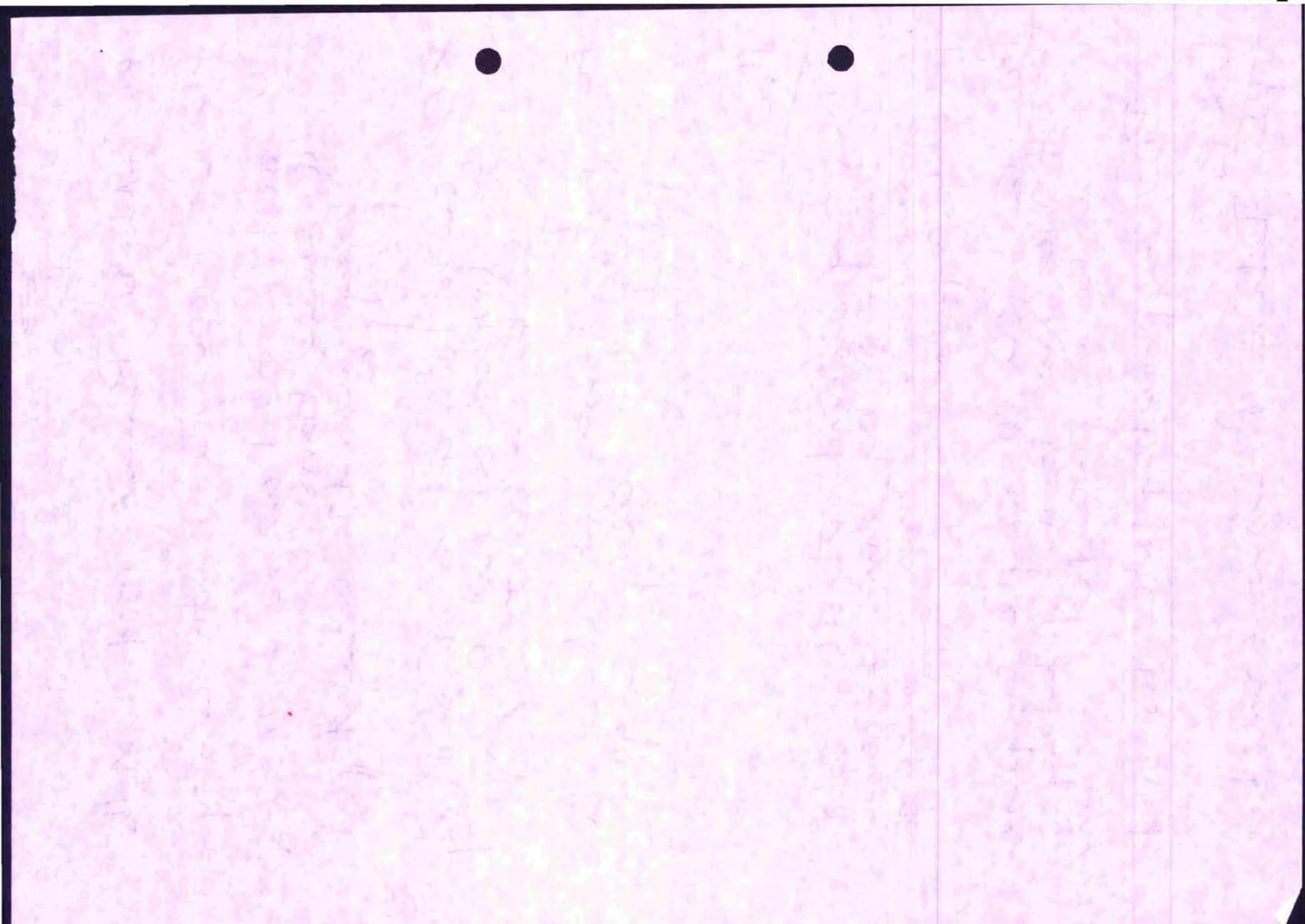
● DC: any dividend withheld - could  
transfer \$ by dividend + new  
money in. This is only  $\frac{1}{2}$   
the amount.

Item 12: RC is single purpose  
If we want to do something  
+ we have protected ourselves.

PC: can probably take this on.

Item 13

← RS: Definit. A casino assets here



be expected to include  
ancillary assets.

RC: if you are concerned with  
entire complex - need to  
decide whether  
Car Park  
we think you are serious  
regulator. If having intended  
reports, have it + work back to  
me.

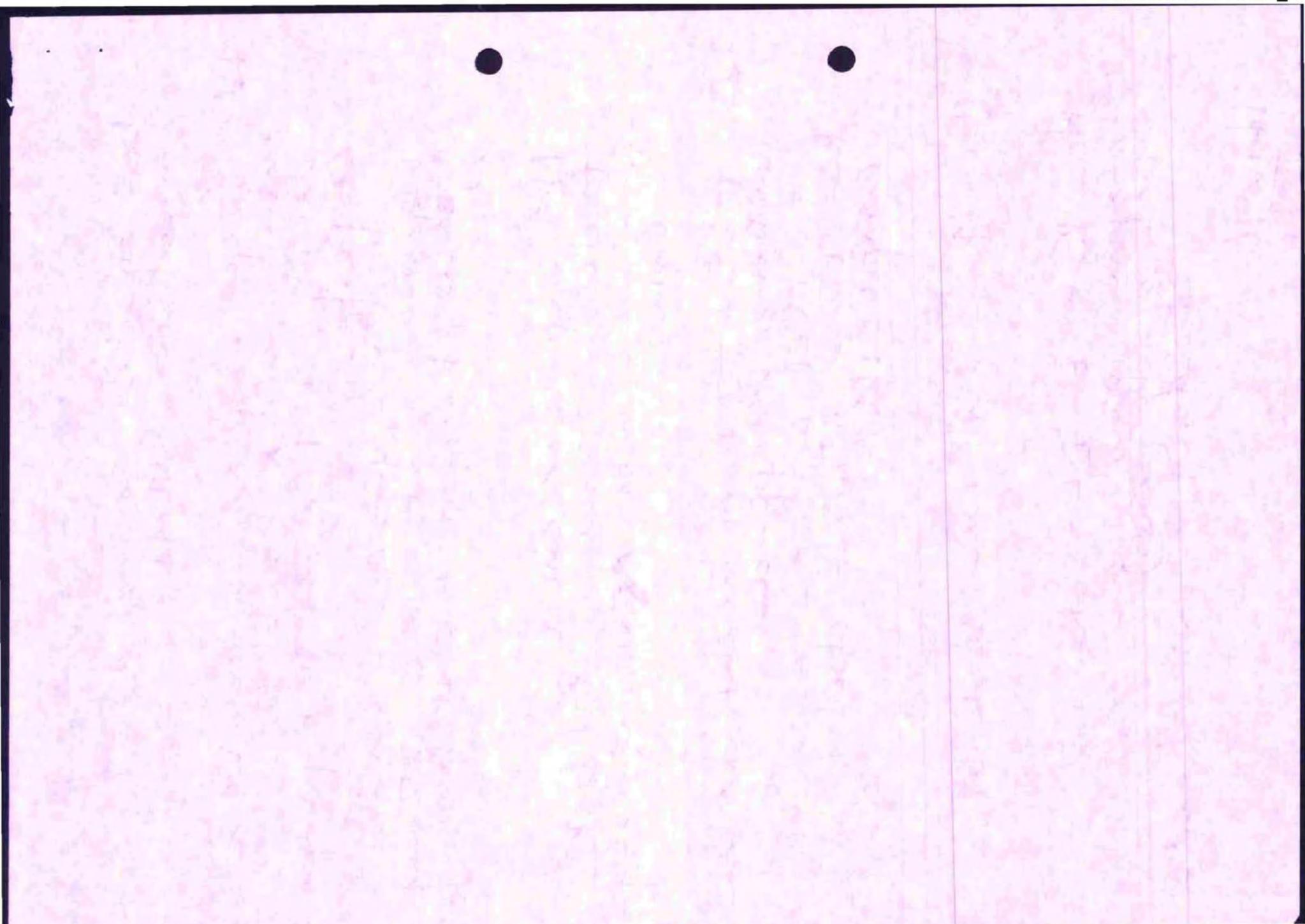
NDA regulator ancillary  
facilities - pressure to make  
it in line with ~~the~~ regulator  
of casino

RC - thought that Authority had been  
warning the applicant  
the rules will be approved  
the case will be approved  
complex is no.

RC: Item 14 - Recum will come back us.

Item 15: DC - who will  
expire upon his year -  
year Swain (2005)  
Standard is annual audit

Item 16



Item 17

Item 19 - case on Help Center not yet  
 comes projects.

Item 20 - <sup>RL</sup> If dropping it 12 days  
 need. PC - will review this.

Item 21. RS - sort of dead yet to  
 be determined.

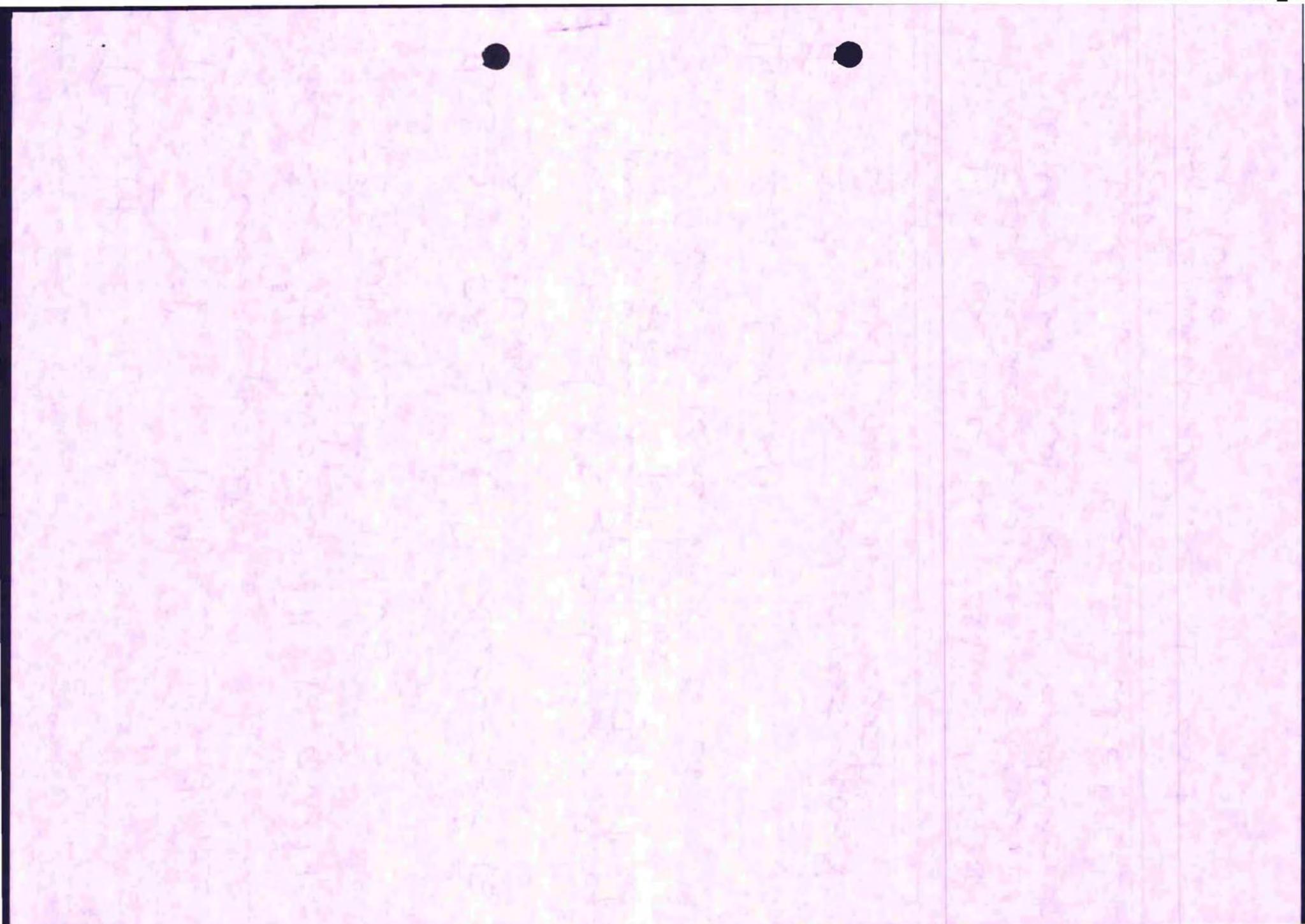
PC: only if PBL related entity?  
 if many boxes - PBL entity - what  
 if in its - Mithras?  
 Come to come back to us.

Item 22: - like 20.

Item 23: - external audit from H  
 necessarily involve cost  
 program.

PC: how can we be allowed to  
 external audit program administered  
 issue that we board administered

RL: write to us saying what you  
 want  
 what would we have to do to  
 get 10/10.



PC:-

Internal smart plan that plan  
Annual input - end of year input  
can't give plan  
PC - satisfactory

Item ~~20~~ 20

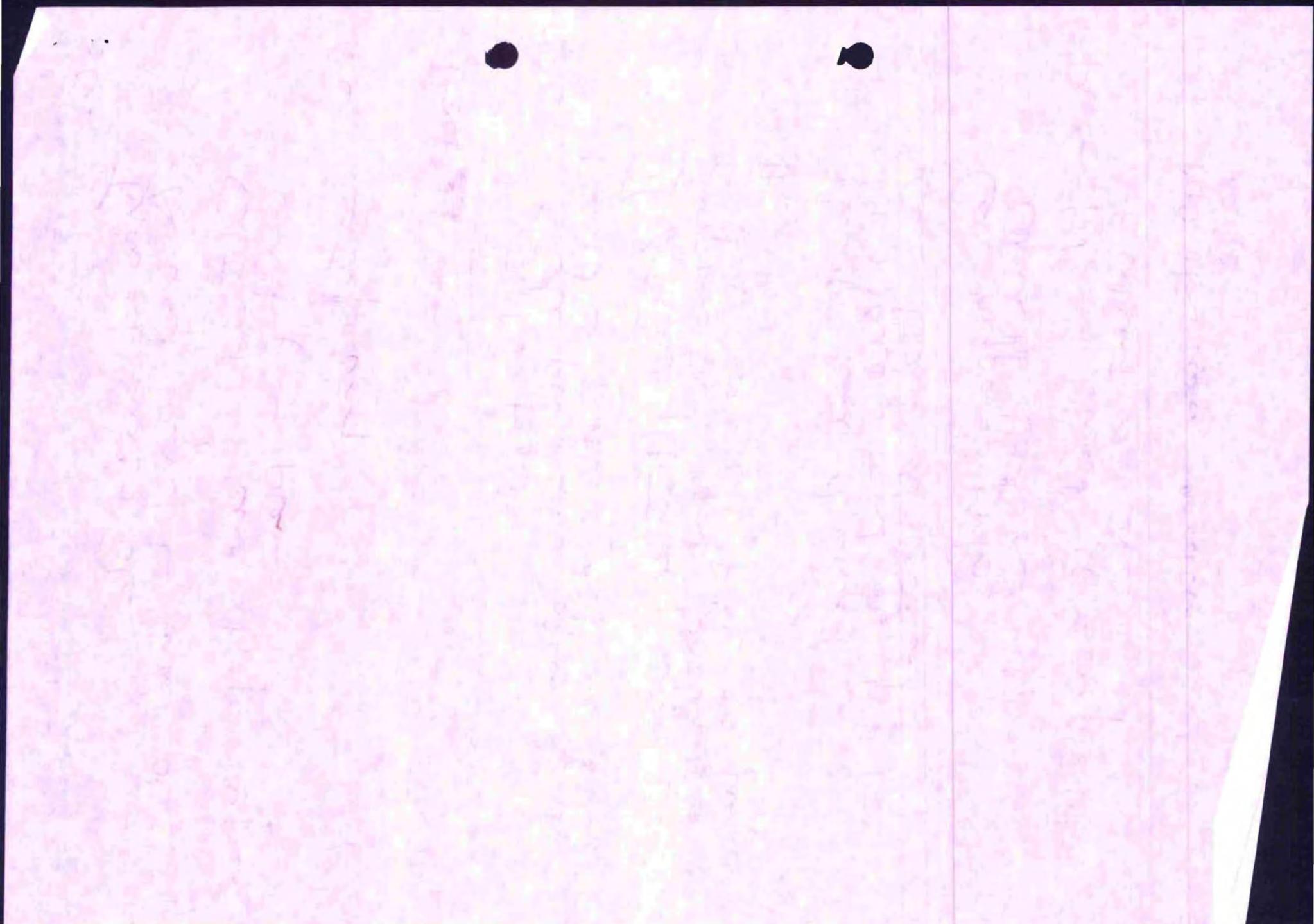
PC - I think that  
single purpose room so with  
providing, how so side  
If Astharity think we are  
propose to, me indicated  
I am to tell PBL to judge  
H.

Thinker has changed. NSI the  
New ideas that NSI the  
case that it critical.

Can bypass Melb  
can to look at.

PC:- Tell in what is acceptable  
+ what is not.

No other ~~was~~ matter want to  
voice



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**Office of Gambling Regulation  
(Peter's Expanded Version)**

**Proposed Amendments to the Casino Agreement**

No.	Agreed Amendments
1.	Any changes to the composition of Charter of the Audit Committee must be notified to the Authority (cl 22.1(lb) )
2.	Any changes to the composition of Charter of the Compliance Committee must be notified to the Authority (cl 22.1(le) )
3.	The Casino Licence will be a public document.
4.	Deletion of the single purpose restriction on Crown Limited, in clauses 22.1(p) and 22.4.
5.	Deletion of restriction on Crown establishing or acquiring a subsidiary that is unrelated to the Melbourne Casino business, in clause 22.1(q).
6.	At least 75% of Crown Board meetings will be held in Victoria.
7.	At least 75% of Crown's Senior Management meetings will be held in Victoria.
8.	A company secretary of Crown will be located in Melbourne.
9.	The CEO of Crown will be located in Melbourne.
10.	The senior executives of Crown directly responsible to the CEO will be located in Melbourne.
11.	The types of insurance for which the interests of the Authority and the State must be noted on each policy are to be limited to Business Interruption Insurance, Products and Public Liability Insurance and Building Insurance. (Deletion of the Authority's regulation of Crown's insurance policies for Motor Vehicles, Workcover and Directors' and Officers' Liabilities).
12.	Various housekeeping amendments – such as address for service of documents (still refers to Lloyd Williams of Crown).
13.	Update references to various Acts of Parliament to also refer to the <i>Gambling Regulation Act 2003</i> .

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No.	Clause	Matters previously discussed but not yet agreed
<b>Audit and Compliance Committees</b>		
1.	Clause 22.1	Crown's <b>Audit Committee</b> must have at least 2 independent directors, and not include Crown's Executive Directors (cl 22.1(la)). <i>but may include PBL as assets</i>
2.	<i>Schedule + minutes</i>	Crown must supply details of any changes to the structure and/or membership of the Audit Committee and dates of proposed meetings.
3.		Other provisions relating to the responsibilities and operation of the Audit Committee and reports to the Authority (cl 22.1(lc)).
4.		Crown's <b>Compliance Committee</b> must have at least 2 independent directors, and not include Crown's Executive Directors (cl 22.1(ld)).
5.		Crown must supply details of any changes to the structure and/or membership of the Compliance Committee and dates of proposed meetings.
6.		Other provisions relating to the responsibilities and operation of the Compliance Committee and reports to the Authority (cl 22.1(lf)).
7.		Crown must provide a copy of, or make available for inspection, the agendas, papers and minutes of its Audit and Compliance Committees, if requested by the Authority.
<b>Crown's Constitution</b>		
8.		The <b>Constitution</b> of Crown must provide for at least one third of its directors to be Independent Directors (a term to be defined) (cl 22.1(e)).
9.		<p>The Constitution of Crown must not expressly authorise its directors to act in the best interests of PBL (cl 22.1(ea)).</p> <p><i>This arises because of a provision of the Corporations Act, which allows a corporation to act in the interests of its parent company where the corporation's constitution states that fact. This proposed clause would prevent Crown inserting a provision in its constitution allowing it to act in the interests of PBL. It is noted that Crown must obtain the prior written approval of the Authority for any proposed amendment of its Constitution.</i></p>
<b>Measures of financial health</b>		
10.		<p>The Casino Agreement to retain the existing 60% maximum <b>debt to equity ratio</b>, (measuring Total Assets to Total Liabilities) but the definition of Total Assets is to be amended to exclude investments in, and advances to, PBL related body corporates. The Casino Licence and Operations Agreement (management rights) with Crown Management P/L will be the only intangible assets permitted to be included in the calculation.</p> <p>Liabilities to PBL will also not be offset.</p> <p>No change is proposed to PBL's current 60% maximum gearing ratio.</p> <p><i>The combined effect of this proposal is to impose a significantly lower cap on the amount of investments that can be made by Crown in PBL related body corporates without prior approval of the Authority.</i></p>

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11.		<p>Any <b>loans</b> from Crown to a PBL related body corporate are to be made at prevailing commercial interest rates.</p> <p><i>This is a recognised "ring fencing" or quarantining technique. It restricts such transactions to an "arms length" basis. Crown may wish to propose another basis, which might be acceptable to the Authority. In some of its current loans to PBL, the interest rates are stated to be "related to" a recognised benchmark. However, such a term is completely meaningless. The related rate could be just 5% of the benchmark!</i></p>
12.		<p>Crown must, before <b>investing</b> in, or <b>advancing</b> more than 5% of Crown's Total Assets to an existing or new Crown related body corporate, provide information on the purpose of that investment and details of the terms of that advance, and obtain the prior approval of the Authority.</p>
13.		<p>Clarification of which <b>Assets and Rights</b> of Crown the Authority is to regulate, if Crown establishes or acquires other businesses. The Authority currently regulates all of Crown's Assets and Rights.</p> <p><i>Crown has raised this issue by proposing, in its Consolidated copy of the Casino Agreement provided to the Authority on 16 April 2004, that the Casino Agreement be amended to limit the Authority capacity to regulate Crown's assets to "Casino Assets". This would mean that other ancillary assets (such as adjacent hotels and carparks) would be beyond the Authority's reach.</i></p> <p><i>We believe that the Authority will also want to continue having an interest in all the Assets and Rights relating to the Melbourne Casino Complex, because of Crown's obligation to operate and maintain these to the international first class standard.</i></p>
<b>Information provision</b>		
14.	Clauses 25.2 and 25.3	<p>Crown must supply the Authority with information that satisfies the ASX Listing Rule 3.1 (<b>Continuous Disclosure</b>) as if it were a listed company.</p> <p>The reference to "Australian Accounting Standards" is to be replaced with a reference to "International Accounting Standards".</p>
15.	Clause 25.4 and Schedule 4	<p>Crown must continue to supply to the Authority <b>detailed financial statements</b>, including any Director's Statutory Report, Director's Declaration, Audit Report and the full notes to accounts on an annual and half yearly basis.</p>
16.		<p>Crown must supply its <b>annual audited accounts</b> to the authority within three months of the year's end (September).</p>
17.		<p>Crown must, now and after its Unsecured Notes cease to be listed in August 2005, supply a <b>Director's Quarterly Report</b>, listing all intercompany balances and movements, including details of any changes to the balances outstanding on the back to back loans between the Crown Group, TCN Channel Nine Pty Ltd and Cubwell Pty Ltd.</p> <p><i>Crown currently supplies Directors Quarterly Reports, that contain important on related party transactions, because of the existence of the Unsecured Notes. The Authority will want to continue receiving the same report after the Unsecured Notes have been redeemed</i></p>

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18.		Crown must provide its forthcoming <b>financial year annual budget</b> by the end of June and a report on adherence or divergence from the budget. Crown must also supply quarterly reports comparing actual figures with budget figures.
19.		Crown must provide a report on its annual <b>capital expenditure program</b> and quarterly reports on actual expenditure classified between “existing facilities” and “major new construction”.
20.		Crown must provide <b>separate quarterly financial statements</b> for each Crown controlled entity in which either Crown and/or another Crown controlled entity has an investment of 5% of Crown’s Total Assets or greater.
21.		<p>If Crown invests in, or advances more than 5% of Crown’s Total Assets to any PBL related body corporate, that body corporate must become a guarantor under the <b>Deed of Undertaking and Guarantee</b>.</p> <p><i>At present pursuant to the DUG, any subsidiary that PBL establishes or acquires, which effectively has assets equal to 10% or more of the PBL assets, or has earning (EBITDA) equal to 10% or more of the PBL earnings must provide a New Guarantors Deed.</i></p> <p><i>In the past, Crown has got around the Casino Agreement, by entering into significant inter company loans by not providing any security for those loans, which would have required Authority approval. It borrowed \$606.33m from Cubwell Pty Ltd and lent \$606.33m to TCN Channel Nine Pty Ltd. According to its letter 31 March 2003, Crown stated that it did not reveal these loans in its Directors Quarterly Reports because “They do not constitute matter adversely affecting the notes ..... nor do they materially prejudice the borrower or any of its subsidiaries”.</i></p>
22.		Crown must, if it acquires <b>other entities</b> and maintains separate accounts for those entities, where material, provide quarterly and annual financial reports for each entity. These reports must be submitted at the same time, and contain the same information, as the reports submitted in relation to Crown.
23.		Crown must provide an <b>annual report on its internal and external audit programs</b> and to notify any changes to those programs within 30 days. Crown must provide a quarterly report on its adherence to or divergence from its internal and external audit programs.
<b>Maintaining the Melbourne Casino and the Melbourne Casino Complex to International First Class Standards</b>		
24.		If Crown pursues anywhere in Australia a business similar to that of the Melbourne Casino, it will use its best endeavours to ensure that such a business is conducted in a manner that is beneficial to the Melbourne Casino. (A similar obligation already rests with PBL in clause 22.1(r)).

Confidential

25.		Crown must ensure that the Melbourne Casino and Melbourne Casino Complex are maintained, upgraded and enhanced to <b>International First-Class Standards</b> .
26.		Crown must expend an agreed annual amount on maintaining, upgrading and enhancing the Melbourne Casino Complex. <i>In 1999, the Chairman of PBL/Crown provided the Authority with a written commitment to spend at least \$300m in capital on the Melbourne Casino Complex over 10 years.</i>
27.		Crown must maintain a minimum level of 'high-roller' infrastructure (private gaming rooms and gaming tables) to encourage Crown to retain the current level of <b>Commission Based Player business</b> at the Melbourne Casino.
<b>Consequential matters</b>		
<b>Definitions</b>		
28.	Clause 2	Replace the definition of "Australian Accounting Standards" with a definition of "International Financial Reporting Standards". Replace "Australian Accounting Standards" with "International Financial Reporting Standards" wherever it appears throughout the agreement.
29.	Schedule 4	Amend to reflect the change in name from "Balance Sheet" to "Statement of Financial Position", and "Profit and Loss Statement" to "Statement of Financial Performance".
<b>Severance</b>		
30.		If any provision of the Ninth Variation Agreement is held by a Court to be illegal, invalid, void, voidable or unenforceable, the Authority may affirm the balance of the agreement or declare that the agreement is void and of no effect (in which case each amendment to the Casino Agreement will be deemed to have been of no effect and never to have been made). <i>This provision has been proposed by the Authority's lawyers to provide a disincentive to Crown challenging any of the new provisions further down the track (ie if the Authority takes disciplinary action for non-compliance).</i>

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**Office of Gambling Regulation  
(General Version)**

**Proposed Amendments to the Casino Agreement**

No.	Agreed Amendments
1.	Any changes to the composition of Charter of the Audit Committee must be notified to the Authority (cl 22.1(lb) )
2.	Any changes to the composition of Charter of the Compliance Committee must be notified to the Authority (cl 22.1(le) )
3.	The Casino Licence will be a public document.
4.	Deletion of the single purpose restriction on Crown Limited, in clauses 22.1(p) and 22.4.
5.	Deletion of restriction on Crown establishing or acquiring a subsidiary that is unrelated to the Melbourne Casino business, in clause 22.1(q).
6.	At least 75% of Crown Board meetings will be held in Victoria.
7.	At least 75% of Crown's Senior Management meetings will be held in Victoria.
8.	A company secretary of Crown will be located in Melbourne.
9.	The CEO of Crown will be located in Melbourne.
10.	The senior executives of Crown directly responsible to the CEO will be located in Melbourne.
11.	The types of insurance for which the interests of the Authority and the State must be noted on each policy are to be limited to Business Interruption Insurance, Products and Public Liability Insurance and Building Insurance. (Deletion of the Authority's regulation of Crown's insurance policies for Motor Vehicles, Workcover and Directors' and Officers' Liabilities).
12.	Various housekeeping amendments – such as address for service of documents (still refers to Lloyd Williams of Crown).
13.	Update references to various Acts of Parliament to also refer to the <i>Gambling Regulation Act 2003</i> .

Confidential

No.	Clause	Matters previously discussed but not yet agreed
<b>Audit and Compliance Committees</b>		
1.	Clause 22.1	Crown's <b>Audit Committee</b> must have at least 2 independent directors, and not include Crown's Executive Directors (cl 22.1(la)).
2.		Crown must supply details of any changes to the structure and/or membership of the Audit Committee and dates of proposed meetings.
3.		Other provisions relating to the responsibilities and operation of the Audit Committee and reports to the Authority (cl 22.1(lc)).
4.		Crown's <b>Compliance Committee</b> must have at least 2 independent directors, and not include Crown's Executive Directors (cl 22.1(ld)).
5.		Crown must supply details of any changes to the structure and/or membership of the Compliance Committee and dates of proposed meetings.
6.		Other provisions relating to the responsibilities and operation of the Compliance Committee and reports to the Authority (cl 22.1(lf)).
7.		Crown must provide a copy of, or make available for inspection, the agendas, papers and minutes of its Audit and Compliance Committees, if requested by the Authority.
<b>Crown's Constitution</b>		
8.		The <b>Constitution</b> of Crown must provide for at least one third of its directors to be Independent Directors (a term to be defined) (cl 22.1(e)).
9.		The Constitution of Crown must not expressly authorise its directors to act in the best interests of PBL (cl 22.1(ea)).
<b>Measures of financial health</b>		
10.		<p>The Casino Agreement to retain the existing 60% maximum <b>debt to equity ratio</b>, (measuring Total Assets to Total Liabilities) but the definition of Total Assets is to be amended to exclude investments in, and advances to, PBL related body corporates. The Casino Licence and Operations Agreement (management rights) with Crown Management P/L will be the only intangible assets permitted to be included in the calculation.</p> <p>Liabilities to PBL will also not be offset.</p> <p>No change is proposed to PBL's current 60% maximum gearing ratio.</p>
11.		Any <b>loans</b> from Crown to a PBL related body corporate are to be made at prevailing commercial interest rates.

Confidential

12.		Crown must, before <b>investing</b> in, or <b>advancing</b> more than 5% of Crown's Total Assets to an existing or new Crown related body corporate, provide information on the purpose of that investment and details of the terms of that advance, and obtain the prior approval of the Authority.
13.		Clarification of which <b>Assets and Rights</b> of Crown the Authority is to regulate, if Crown establishes or acquires other businesses. The Authority currently regulates all of Crown's Assets and Rights.
<b>Information provision</b>		
14.	Clauses 25.2 and 25.3	Crown must supply the Authority with information that satisfies the ASX Listing Rule 3.1 ( <b>Continuous Disclosure</b> ) as if it were a listed company. The reference to "Australian Accounting Standards" is to be replaced with a reference to "International Accounting Standards".
15.	Clause 25.4 and Schedule 4	Crown must continue to supply to the Authority <b>detailed financial statements</b> , including any Director's Statutory Report, Director's Declaration, Audit Report and the full notes to accounts on an annual and half yearly basis.
16.		Crown must supply its <b>annual audited accounts</b> to the authority within three months of the year's end (September).
17.		Crown must, now and after its Unsecured Notes cease to be listed in August 2005, supply a <b>Director's Quarterly Report</b> , listing all intercompany balances and movements, including details of any changes to the balances outstanding on the back to back loans between the Crown Group, TCN Channel Nine Pty Ltd and Cubwell Pty Ltd.
18.		Crown must provide its forthcoming <b>financial year annual budget</b> by the end of June and a report on adherence or divergence from the budget. Crown must also supply quarterly reports comparing actual figures with budget figures.
19.		Crown must provide a report on its annual <b>capital expenditure program</b> and quarterly reports on actual expenditure classified between "existing facilities" and "major new construction".

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20.		Crown must provide <b>separate quarterly financial statements</b> for each Crown controlled entity in which either Crown and/or another Crown controlled entity has an investment of 5% of Crown's Total Assets or greater.
21.		If Crown invests in, or advances more than 5% of Crown's Total Assets to any PBL related body corporate, that body corporate must become a guarantor under the <b>Deed of Undertaking and Guarantee</b> .
22.		Crown must, if it acquires <b>other entities</b> and maintains separate accounts for those entities, where material, provide quarterly and annual financial reports for each entity. These reports must be submitted at the same time, and contain the same information, as the reports submitted in relation to Crown.
23.		Crown must provide an <b>annual report on its internal and external audit programs</b> and to notify any changes to those programs within 30 days. Crown must provide a quarterly report on its adherence to or divergence from its internal and external audit programs.
<b>Maintaining the Melbourne Casino and the Melbourne Casino Complex to International First Class Standards</b>		
24.		If Crown pursues anywhere in Australia a business similar to that of the Melbourne Casino, it will use its best endeavours to ensure that such a business is conducted in a manner that is beneficial to the Melbourne Casino. (A similar obligation already rests with PBL in clause 22.1(r)).
25.		Crown must ensure that the Melbourne Casino and Melbourne Casino Complex are maintained, upgraded and enhanced to <b>International First-Class Standards</b> .
26.		Crown must expend an agreed annual amount on maintaining, upgrading and enhancing the Melbourne Casino Complex.
27.		Crown must maintain a minimum level of 'high-roller' infrastructure (private gaming rooms and gaming tables) to encourage Crown to retain the current level of <b>Commission Based Player business</b> at the Melbourne Casino.

Confidential

<b>Consequential matters</b>		
<b>Definitions</b>		
28.	Clause 2	<p>Replace the definition of "Australian Accounting Standards" with a definition of "International Financial Reporting Standards".</p> <p>Replace "Australian Accounting Standards" with "International Financial Reporting Standards" wherever it appears throughout the agreement.</p>
29.	Schedule 4	Amend to reflect the change in name from "Balance Sheet" to "Statement of Financial Position", and "Profit and Loss Statement" to "Statement of Financial Performance".
<b>Severance</b>		
30.		If any provision of the Ninth Variation Agreement is held by a Court to be illegal, invalid, void, voidable or unenforceable, the Authority may affirm the balance of the agreement or declare that the agreement is void and of no effect (in which case each amendment to the Casino Agreement will be deemed to have been of no effect and never to have been made).

COMMERICAL IN

—Date 21 September 1993

## Melbourne Casino Project Casino Agreement

Victorian Casino and Gaming Authority  
[formerly known as the Victorian Casino Control Authority]  
and

Crown Limited  
ACN 006 973 262

CONFORMED COPY FOR REFERENCE ONLY  
AS VARIED BY VARIATION AGREEMENTS 1 TO 8  
AND AS PROPOSED TO BE AMENDED BY VARIATION AGREEMENT 9

Draft 5: 24 May 2004

- COMMERCIAL IN CONFIDENCE -

COMMERICAL IN

## MELBOURNE CASINO PROJECT

## CASINO AGREEMENT

AGREEMENT dated 21 September 1993

**BETWEEN** **VICTORIAN CASINO AND GAMING AUTHORITY** ~~(, formerly known as VICTORIAN CASINO CONTROL AUTHORITY)~~ ~~(a statutory authority established under the *Casino Control Act* with its office at 459 Collins Street, Melbourne)~~ ('Authority')

**AND** **CROWN LIMITED** ACN 006 973 262 (formerly known as CROWN CASINO LTD) ~~with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria~~ ('Company')

## RECITALS

- A. The Authority has power to grant a casino licence under the provisions of the *Casino Control Act*.
- B. The Company has made application for a casino licence and pursuant to such application has provided information and submissions, including the Melbourne Casino Complex Development Proposals and the Temporary Casino Complex Development Proposals, to the Authority.
- C. The Authority has, in accordance with sections 9 and 10 of the *Casino Control Act*, carried out investigations and enquiries in relation to the Company and other persons required to be investigated.
- D. Subject to the terms and conditions of this document and the Management Agreement, the Authority has agreed to grant the Casino Licence to the Company.
- E. The Casino Licence will enable the Company to operate a casino from temporary premises.
- F. The Minister, acting for and on behalf of the State, and the Company have entered into the Management Agreement pursuant to section 15 of the *Casino Control Act* as a condition precedent to the grant of the Casino Licence to the Company.
- G. The Minister has given approval to the Authority pursuant to sections 14 and 142 of the *Casino Control Act* to provide an undertaking to the Company as to exclusivity, to enter into this document and to act for and on behalf of the State in respect of certain matters referred to in this document.

## AGREEMENT

## 1. DIVISION INTO PARTS

This document is divided into Parts as follows:

PART 1 - PRELIMINARY

## COMMERCIAL IN CONFIDENCE

PART 2-	DEVELOPMENT AND COMPLETION
PART 3-	COMPLETION
PART 4-	CORPORATE STRUCTURE AND RELATED MATTERS
PART 5-	GRANT OF THE CASINO LICENCE
PART 6-	ENCUMBRANCES AND ASSIGNMENTS
PART 7-	TERMINATION
PART 8-	COMPLEMENTARY AGREEMENTS
PART 9-	GENERAL

## PART 1 - PRELIMINARY

## 2. DEFINITIONS

In this document, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'**Ninth Variation Date**' means the \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ 2004;

'**Agent**' means National Australia Bank Limited ACN 004 044 937 and any successor to it as agent under the Facility Agreement;

'**Agreement Act**' means the ~~bill referred to in clause 3.2(a) of the Casino Management Agreement when that bill is passed and comes into operation as an~~ Act of Parliament as contemplated by that clause; 1993, as amended from time to time;

~~'International First Class Standards' means the international first class casino standards set out in Schedule Eight determined in accordance with clause 28.[0]~~

'**Ancillary Facilities**' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Development Proposals to be constructed on or located within the Temporary Casino Site or the Site, including an hotel, restaurant, retail, recreation, entertainment and car parking facilities, residential and office accommodation, staff facilities, staff car parking, coach storage facilities and open space areas;

'**Assets and Rights**' means all the present and future undertaking, property, assets and rights of or held by the Company;

'**Associate**' has the same meaning as in sections 10 to 17 of the Corporations Law;

'**ASX**' means Australian Stock Exchange Limited;

~~'Audit Committee' means the audit committee of the Company appointed and maintained under clause 22.1(la);~~

'**Australian Accounting Standards**' means:

\_\_\_\_\_ Inserted by Agreement dated [## Ninth Variation Deed]

\_\_\_\_\_ Inserted by Agreement dated [##Ninth Variation Deed]

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- (a) prior to the Ninth Variation Date:
- (i) accounting standards as defined in (or having effect under the *Corporations Law* or, after it came into force, the *Corporations Act* as if they were accounting standards defined in) section 9 of the *Corporations Law*; or, after it came into force, the *Corporations Act*;
  - (bii) the requirements of the *Corporations Law* or, after it came into force, the *Corporations Act* in relation to the preparation and content of accounts; and
  - (eiii) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices inconsistent with (i) or (ii);
- (b) on and after the Ninth Variation Date:
- (i) accounting standards as defined in (or having effect under the *Corporations Act* as if they were accounting standards defined in) section 9 of the *Corporations Act*;
  - (ii) the requirements of the *Corporations Act* in relation to the preparation and content of accounts; and
  - (iii) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices inconsistent with (i) or (ii);

'**Authorisation**' includes a consent, approval, licence, permit, franchise, permission, filing, registration, resolution, direction, declaration and exemption;

'**Authority**' means the Victorian Casino and Gaming Authority;

'**Bank Guarantees**' means the guarantees or letters of credit to be provided by the Company pursuant to clauses 18.1 and 22.9 of the Management Agreement;

'**Business Day**' means a day (other than a Saturday or Sunday) on which banks (as defined in the *Banking Act 1959* (Commonwealth)) are generally open for business in Melbourne;

'**Casino Asset**' means ~~an asset or undertaking of the Company which forms that part of the Secured Property Assets and Rights which consists of:~~ is:

- (a) ~~the Casino Licence;~~
- (b) necessary or convenient to permit or allow the Melbourne Casino; to operate as a casino; and

~~(e) — b)~~ used, employed or operated by or on behalf of the Temporary Company to operate the Melbourne Casino;

and includes:

(c) the Casino Licence;

~~(d) all gaming equipment used in the Melbourne Casino or the Temporary Casino;~~

~~(e) all revenue derived from the Melbourne Casino or the Temporary Casino (other than revenues which have been deposited or are standing to the credit of the Debt Protection Account or the Debt Service Reserve Account (each as defined in the Facility Agreement) in accordance with the Facility Agreement and any Authorised Investments (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment); or~~

(f) all gaming equipment or equipment, and all assets or rights ancillary to or used in conjunction with gaming equipment used in the Melbourne Casino; and

(g) the Ancillary Facilities; and

~~(g) all other assets of the Company necessary or convenient for the operation of the Melbourne Casino or the Temporary Casino;~~

and a reference to the 'Casino Assets' includes any part of them;

'Casino Control Act' means the *Casino Control Act 1991* (Victoria);

**'Casino Licence'** means a casino licence as defined in the *Casino Control Act* in relation to the Temporary Casino and the Melbourne Casino in the form of the licence set out in Schedule One;

**'Casino Supervision and Control Charge'** means:

(a) for the period from the Licensing Date until 30 June 1994, \$5,000,000; and

(b) for each Financial Year from 1 July 1994 until 30 June 1997, \$5,000,000;

**'Company'** means Crown Limited ACN 006 973 262, which will be the casino operator for the purposes of the *Casino Control Act*;

**'Commissioning'** means the checking, testing and acceptance of the operational readiness of and the procedures for the various components of the Melbourne Casino or the Temporary Casino as the case may be (including all staff, facilities and equipment) by the Authority;

'**Complementary Agreements**' means each of the agreements listed in Schedule Two;

'**Completion**' means the completion of the construction, the Fit-Out and the Commissioning of the Temporary Casino or the Melbourne Casino, as the case may be, as specified in the Completion Standards and as determined pursuant to clause 20, and '**Complete**' and '**Completed**' have corresponding meanings;

'**Completion Standards**' means:

- (a) for construction, when all the requirements under this document and the *Casino Control Act* in relation to the Melbourne Casino or the Temporary Casino have been complied with;
- (b) for Commissioning, when all the procedures for the various components of the Melbourne Casino or the Temporary Casino (including all staff, facilities and equipment) are in place or immediately and reliably available to the Company such that the Melbourne Casino or the Temporary Casino, as the case may be, can be operated securely and so that there is no risk to the integrity of operation or compromise in the amenity of the Melbourne Casino or the Temporary Casino, as the case may be, which is not acceptable to the Authority; and
- (c) for Fit-Out, when all of the Fit-Out is installed in place and operational with the exception only of minor omissions and maintenance items which, in the reasonable opinion of the Authority, do not affect the security, integrity, operation or amenity of the Melbourne Casino or the Temporary Casino;

<sup>3</sup>"Compliance Committee" means the compliance committee of the Company appointed and maintained under clause 22.1(ld);

'**Construction Agreement**' means the proposed building agreement between the Company and a proposed builder substantially in the form of the draft agreement a copy of which has been signed on behalf of the Authority and the Company and dated the date of this document for the purposes of identification;

*[Note: The builder is Grocon Pty Ltd ACN 006 772 238]*

'**Contractor's Deed**' has the same meaning as in the Supplemental Development Agreement;

'**Control Acts**' means the *Building Control Act 1981* and the *Planning and Environment Act*;

'Corporations Act' means the *Corporations Act 2001*;

'**CUB**' means Carlton and United Breweries Limited ACN 004 056 106;

<sup>3</sup> Inserted by Agreement dated [##Ninth Variation Agreement]

'Deal with' means deal with property in any way, other than enter into an arm's length agreement to sell, dependent for effect on the Authority's consent, including, but not limited to, offer for sale, grant an option in respect of, create or Dispose of a right in respect of, render or permit to be subject to an Encumbrance, convert, deposit, licence compromise and allow a counterclaim or right of set-off to arise in respect of;

<sup>4</sup>'Deed of Undertaking and Guarantee' means the agreement under which, amongst other things, the Holding Company and other related companies guarantee to the Authority and the State, the due and punctual performance of certain obligations owed by members of the Group to the Authority and the State;

'Design and Construction Programme' means the programme for the design documentation, construction, Fit-Out, Commissioning and Completion of the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) set out in Schedule One of the Management Agreement, as amended from time to time with the prior written approval of the State;

'Development Agreement' means the agreement dated 30 August 1993 between the Company and Hudson Conway Management Limited ACN 006 742 294 providing for the procuring of the construction of the Melbourne Casino Complex;

'Dispose of' means sell, transfer, assign, alienate, surrender, dispose of, deposit, Lease, licence, part with possession of and enter into any agreement or arrangement to do or allow any of these things;

'Director of Casino Surveillance' means the person appointed under section 94 of the *Casino Control Act* or his or her successors;

'Documentation' means any document or proposal which the Company is required to submit to the Authority under clauses 6, 7, and 8;

'Drawings' means the plans, designs and working drawings and "as built" drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'Encumbrance' means a mortgage, charge, pledge, lien, assignment, hypothecation, retention of title (other than a retention of title in respect of trading stock), or any other right (including, without limitation, under a trust, agency, hire purchase, sale and repurchase, sale and leaseback or flawed asset arrangement) of a creditor to have its claims satisfied prior to other creditors with, or from the proceeds of or by recourse to any asset and includes any agreement, arrangement or document conferring such a right or having substantially the same economic effect;

'Equity Funding Agreement (Federal)' means the agreement dated 30 August 1993 between Danwick Pty Limited ACN 059 321 667, The Federal Hotels Limited ACN 004 108 249 and Hudson Conway Limited ACN 009 556 629;

<sup>4</sup> Inserted by Agreement dated 2 June 1999.

**'Exchange'** means any stock exchange other than the ASX;

**'Facility Agreement'** means the \$300,000,000 multi-option facility agreement dated 30 August 1993 between the Company, the Financiers and the Agent;

**'Finance Documents'** means the Facility Agreement and the Financiers' Securities;

**'Financial Benefit'** has the meaning ascribed to it under the *Corporations Act*;

**'Financial Report'** has the meaning ascribed to it under the *Corporations Act*;

**'Financial Year'** means from 1 July to 30 June (inclusive);

**'Financiers'** means those financiers who have been approved pursuant to this Agreement by the Authority as secured creditors of the Company ~~National Australia Bank Limited, Australia and New Zealand Banking Group Limited, Hongkong Bank of Australia Limited, Bank of Western Australia Limited [formerly known as R & I Bank of Western Australia Limited] and State Bank of New South Wales Limited and their successors, assigns and substitutes;~~

*[Note: Hongkong Bank withdrew 1 March 1995]*

**'Financiers' Securities'** means the following securities given to the Agent as agent for the Financiers:

- (a) a first registered fixed and floating charge over the undertaking and all the assets of the Company including a mortgage over the Casino Licence;
- (b) a mortgage of the Site Lease and a mortgage of the Temporary Casino Leases;
- (c) each other security given to the Agent or the Financiers as security for the liabilities of the Company under the Facility Agreement;

**'Fit-Out'** means the application of finishing material, gaming equipment, furniture, fittings, furnishings and such other built-in and loose items required to bring any part of the Temporary Casino or the Melbourne Casino (as the case may be) to Completion to a stage to enable Commissioning to take place;

**'Fixed and Floating Charge'** means the ~~second~~-registered fixed and floating charge given by the Company in favour of the Minister on behalf of the State;

**'Force Majeure Event'** has the same meaning ascribed to that term in the Management Agreement;

**'Founding Shareholders Agreement'** means the agreement dated 30 August 1993 between each Sponsor, CUB and the Company providing for the subscription for Shares by the Sponsors and Carlton & United Breweries Limited;

'Further Amendment Act' means the bill referred to in clause 3.2(b) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause;

'Gross Gaming Revenue' means the total of all sums, including cheques and other negotiable instruments whether collected or not, received in any period by the Company from the conduct or playing of games within the Temporary Casino or the Melbourne Casino (as the case may be) less the total of all sums paid out as winnings during that period in respect of such conduct or playing of games;

<sup>5</sup>'Group' means the Company and its Subsidiaries and any other entity which the directors of the Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Company under the *Corporations Law*; or, after it came into force, the *Corporations Act*;

'Guarantee and Indemnity for Development Agreement' means the guarantee and indemnity dated 30 August 1993 by Hudson Conway Limited ACN 009 556 629 to the Company;

<sup>6</sup>'Holding Company' means the Company's ultimate holding company, within the meaning of that expression as defined in section 9 of the *Corporations Law* or, after it came into force, the *Corporations Act*, but read as though the reference in paragraph (b) to 'no body corporate' were a reference to 'no body corporate incorporated in Australia';

<sup>7</sup>'Holding Company Group' means:

- (a) the Holding Company;
- (b) the Holding Company's Subsidiaries (including without limitation, the Company and its Subsidiaries); and
- (c) any other entity which the directors of the Holding Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Holding Company under the *Corporations Law*; or, after it came into force, the *Corporations Act*;

<sup>8</sup>'Independent Director' means

- (a) a director of the Company who:
  - (i) is a Non-Executive Director of the Company;
  - (ii) is not a substantial shareholder of a Relevant Company;

<sup>5</sup> Inserted by Agreement dated 2 July 1998.  
<sup>6</sup> Inserted by Agreement dated 2 June 1999.  
<sup>7</sup> Inserted by Agreement dated 2 June 1999.  
<sup>8</sup> Inserted by Agreement dated [##Ninth Variation Deed]

## 10 COMMERCIAL IN CONFIDENCE

- (iii) is not an officer of a Relevant Company, other than as a Non-Executive Director of a Relevant Company;
  - (iv) within the last 3 years has not been employed in an executive capacity by a Relevant Company, or been a director after ceasing to hold such employment;
  - (v) within the last 3 years has not been a Material Professional Adviser or a Material Consultant to the Company;
  - (vi) is not a material supplier or customer of a Relevant Company or an officer or otherwise associated directly or indirectly with a material supplier or customer;
  - (vii) has no material contractual relationship with a Relevant Company (whether involving a controlled contract as defined in the *Casino Control Act* or otherwise), other than as a Non-Executive Director of a Relevant Company; and
  - (viii) has not been a director or secretary of any Relevant Company for  
more than 5 years; or  
in the last
- (b) A director of the Company who, in the opinion of the Authority, is free from any interest or any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director's ability to act in the best interests of the Company.

'Intangible Assets' has the meaning ascribed to that term in the Australian Accounting Standards;

<sup>9</sup>'Internal Control Manual' means the Company's internal control manual approved by the Authority under Section 121 of the *Casino Control Act*.

'Lease' means an agreement or arrangement under which property is or may be used, occupied, retained, operated or managed by a person for consideration (of whatever form) including, but not limited to, a lease, licence, charter, hire purchase or hiring arrangement;

10

...

'Licensing Date' means ~~the date which is 2 Business Days after the conditions precedent in clause 5.1 are satisfied;~~ ~~19 November 1993;~~

'Licensing Payment Amounts' means the amounts payable under clause 26.1(b);

'Listed' has the meaning ascribed to it under the *Corporations Act*;

<sup>9</sup> Inserted by Agreement dated [## Ninth Variation Deed]

<sup>10</sup> Definition of 'Liabilities' deleted by Agreement dated 2 July 1998.

'**Management Agreement**' means the agreement between the Minister acting for and on behalf of the State, and the Company entered into pursuant to section 15 of the *Casino Control Act*;<sup>11</sup>

'**Master Security Agreement**' means the agreement of even date between the State, the Authority, the Company, the Agent and the Sponsors relating, among other things, to the priority of the Encumbrances given by the Company;

<sup>12</sup>"**Material Consultant**" includes a provider (howsoever described) who either directly or indirectly is given or receives a Financial Benefit (whether as principal, consultant or a key personnel of the provider) for any management, marketing or advertising services where, in any one year (ending 30 June), the value of the Financial Benefit to the provider is \$100,000 or more;

'**Material Contract**' means a contract, arrangement or understanding (**Contract**) which, given all the circumstances, is material to the Company and its operations and without limitation includes:

- (a) a controlled contract (as that term is described under the *Casino Control Act*);
- (b) a Contract by the Company with a Related Body Corporate of the Company;
- (c) a Contract which involves Casino Assets or Ancillary Facilities; or
- (d) Contracts where:
  - (i) the present day value of that Contract is greater than \$25 million; or
  - (ii) the term of the Contract is for more than 5 years; or
  - (iii) where the Contract can be terminated by either party either due to an act of insolvency or at the will of another party.

<sup>13</sup>"**Material Professional Adviser**" includes a provider (howsoever described) who either directly or indirectly is given or receives a Financial Benefit (whether as principal, consultant or a key personnel of the provider) for any professional services where, in any one year (ending 30 June) the value of the Financial Benefit to the provider is \$100,000 or more;

'**Melbourne Casino**' means those areas identified in the Drawings for the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'**Melbourne Casino Complex**' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of this document and the Management Agreement;

<sup>11</sup> Varied by Agreements dated 14 November 1994 and 12 October 1995.

<sup>12</sup> Inserted by Agreement dated [##Ninth Variation Deed]

<sup>13</sup> Inserted by Agreement dated [##Ninth Variation Deed]

'**Melbourne Casino Complex Development Proposals**' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'**Minister**' means the Minister for the time being administering the *Casino Control Act*;

'**Mortgagee**' means any person with any Encumbrance (whether as mortgagee, chargee or otherwise) affecting or in relation to the Assets and Rights of the Company;

<sup>14</sup>'Non-Executive Director' of a company (the **First Company**) means a director of the First Company who is not an employee of or involved in the operational management of:

- (a) the First Company; or
- (b) a subsidiary or holding company of the First Company; or
- (c) a subsidiary of the holding company of the First Company;

<sup>15</sup>'**Note Agreement**' means the deed dated 24 December 1993 between the Company, Permanent Trustee Australia Ltd and National Australia Bank Limited;

<sup>16</sup>'**Note Agreement (Series 2)**' means the deed dated 15 August 1996 between the Company, Permanent Trustee Australia Limited and National Australia Bank Limited;

'Official List' is the official list of entities that ASX has admitted to that official list;

'Onerous Contract' has the meaning ascribed to it under the Australian Accounting Standards;

'**Operations Agreement**' means the agreement dated 30 August 1993 between the Company and Crown Management Pty Ltd ACN 059 301 610 providing for the conduct of the operations of the Temporary Casino and the Melbourne Casino;

'**Permitted Encumbrance**' means an encumbrance of the kind permitted under clause 29.1;

'**Planning Amendments**' means the planning scheme amendments referred to in clause 9 of the Management Agreement;

'**Planning and Environment Act**' means the *Planning and Environment Act 1987* (Victoria);

<sup>14</sup> Inserted by Agreement dated [##Ninth Variation Deed]

<sup>15</sup> Inserted by Agreement dated 7 March 1995.

<sup>16</sup> Inserted by Agreement dated 8 May 1997.

**'Premium Payment'** means \$10,000,000 being the amount determined by the Treasurer of the State under section 112A of the *Casino Control Act* as the amount payable by the Company under the Management Agreement;

**'Public Authority'** means any government or minister or any governmental, semi-governmental or judicial entity, department, instrumentality or authority;

**'Receiver'** means receiver, receiver and manager or agent for a mortgagee in possession, according to the nature of the appointment;

**'Related Party'** means the Sponsors and any Subsidiary of the Company;

**'Related Body Corporate'** has the meaning ascribed to it under the *Corporations Act*;

<sup>17</sup>**"Relevant Company"** means the Company, the Holding Company and any company which has been a Holding Company -Group member at any time within the previous 3 years.

**'Relevant Legislation'** means the *Casino Control Act*, the Agreement Act, the Further Amendment Act and the *Gambling Regulation Act 2003*;

**'Secured Property'** means at any time, any present or future right, property or undertaking of the Company, (other than an amount which has been deposited to, or which is standing to the credit of, the Debt Service Reserve Account or the Debt Protection Account (each as defined in the Facility Agreement) and any Authorised Investment (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment)) under the Facility Agreement, of whatever kind or wherever situated which is subject at that time to both:

- (a) the Fixed and Floating Charge; and
- (b) any one or more of the Financiers' Securities;

and a reference to **'Secured Property'** includes any part of it;

**'Security Sharing Deed'** means the Deed dated \_\_\_\_\_ 19 \_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_

<sup>18</sup>**"Senior Executive Manager"** includes:

- (a) \_\_\_\_\_ the Company's chief executive officer;
- (b) \_\_\_\_\_ the Company's chief financial officer;
- (c) \_\_\_\_\_ the Company's chief operating officer;
- (d) \_\_\_\_\_ any director of the Company who is an employee of the Company;

<sup>17</sup> Inserted by Agreement dated [##Ninth Variation Deed]

<sup>18</sup> Inserted by Agreement dated [##Ninth Variation Deed]

- (e) any officer of the Company who directly reports to the Company's chief executive officer;
- (f) any officer of the Company who has the authority to bind the Company to an expenditure of \$1 million or more; and
- (g) any officer of the Company who reports directly to the Company's chief executive officer;
- (h) a person who in the opinion of the Authority occupies any position referred to in paragraphs (a) to (g) (inclusive) and whether on a temporary, acting or on a permanent basis.

'Share' means a fully paid ordinary share with a par value of \$0.50 in the capital of the Company;

'Shareholders Agreement - Crown Management Pty Ltd' means the agreement dated 30 August 1993 between Hudson Conway Limited ACN 009 556 629, Mulawa Casinos Pty Ltd ACN 060 766 001, The Federal Hotels Limited ACN 004 108 249 and Crown Management Pty Limited ACN 059 301 610;

19 ...

<sup>20</sup>'Site' has the same meaning as in the Management Agreement;

'Site Lease' means the lease of <sup>21</sup>part of the Site from the Minister for Finance on behalf of the State to the Company;

'Site Lease Supplemental Agreement' means the agreement between the Minister for Finance, the Company and the Agent;

<sup>22</sup>'Solvency Report' means a report in the form set out in Schedule Six prepared in accordance with Australian Auditing Standard AUS 904 'Engagement to Perform Agreed Upon Procedures' and paragraphs .21(a) to (e), .23 and .24 of Australian Auditing Standard ALS 708 'Going Concern' and/or otherwise in a form approved by the Authority from time to time;

'Sponsors' mean Hudson Conway Limited ACN 009 556 629 and The Federal Hotels Limited ACN 004 108 249 and for the purposes of clause 22.1(a) such other person as the Authority may approve;

'Sponsor's Guarantees' means the guarantees of even date by Hudson Conway Limited ACN 009 556 629 in favour of the Authority and in favour of the State;

'State' means the State of Victoria;

<sup>19</sup> Definition of 'Shareholders' Funds' deleted by Agreement dated 2 July 1998.

<sup>20</sup> Varied by Agreement dated 8 May 1997.

<sup>21</sup> Inserted by Agreement dated 8 May 1997.

<sup>22</sup> Inserted by Agreement dated 2 July 1998.

**'State's Nominated Representative'** means the person appointed from time to time by the minister for the time being administering the *Planning and Environment Act* in accordance with clause 6.4 of the Management Agreement;

**'Subsidiary'** means any body corporate which would be a subsidiary of the Company within the meaning of section 46 of the *Corporations Law* or, after it came into force, the *Corporations Act* or any entity which would be a subsidiary of the Company under Australian Accounting ~~Standard AAS24~~;Standards;

<sup>23</sup>**'Supplemental Casino Agreement'** means the agreement under which the Holding Company guarantees to the Authority, the due and punctual performance of obligations owed by each member of the Holding Company Group to the Authority;

**'Supplemental Development Agreement'** means the agreement of even date between the Authority, the Company, the Sponsors and Hudson Conway Management Limited ACN 006 742 294 which is supplemental to the Development Agreement;

**'Supplemental Operations Agreement'** means the agreement of even date between the Authority, the Company, the Sponsors and Crown Management Pty Ltd ACN 059 301 610 which is supplemental to the Operations Agreement;

**'Supplemental Sponsors' Agreement'** means the agreement of even date between the Authority, the Company and the Sponsors which is supplemental to the Founding Shareholders Agreement;

**'Temporary Casino'** means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

**'Temporary Casino Complex'** means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of this document and the Management Agreement;

**'Temporary Casino Complex Development Proposals'** means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

**'Temporary Casino Leases'** means:

(a) the lease from the Port of Melbourne Authority to the Company; and

(b) the sub-lease between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289 and the Company;

<sup>23</sup> Inserted by Agreement dated 2 June 1999.

**'Temporary Casino Leases Supplemental Agreements'** means:

- (a) the agreement between the Port of Melbourne Authority, the Company and the Agent; and
- (b) the Temporary Casino Sub-Lease Supplemental Agreement;

**'Temporary Casino Site'** means that part of the World Trade Centre on the land bounded by Spencer Street, Flinders Street Extension and the River Yarra identified in the Plan of Survey annexed to the lease referred to in paragraph (a) of the definition of Temporary Casino Leases;

**'Temporary Casino Sub-Lease Supplemental Agreement'** means the agreement between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289, the Company and the Agent;

<sup>24</sup>**'Total Assets'** means the aggregate of all assets of the Group which according to Australian Accounting Standards are defined, or would be regarded, as assets but does not include the following assets:

- (a) all Related Body Corporate indebtedness, howsoever described, and all investments in Related Bodies Corporate, apart from indebtedness to, or investments in, a Subsidiary of the Company;
- (b) all Intangible Assets of the Group, excluding the amortised values of the Casino Licence and the Operations Agreement; and
- (c) any liabilities of the Group owing to the Holding Company Group.

<sup>25</sup>**'Total Holding Company Group Assets'** means the aggregate of all assets of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as assets;

<sup>26</sup>**'Total Holding Company Group Liabilities'** means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities.

**'Total Liabilities'** means the aggregate of all liabilities of the Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities.

**'Transaction Document'** means each of this document, the Management Agreement, the Casino Licence, the Site Lease, the Temporary Casino Leases, the Fixed and Floating Charge, the Sponsor's Guarantees, the Master Security Agreement, the Site Lease Tripartite Agreement, the Temporary Casino Leases Supplemental Agreements, the Supplemental Sponsors' Agreement, the Supplemental Development Agreement, the Contractor's Deed, the Bank Guarantees,<sup>27</sup> the Supplemental Operations

<sup>24</sup> Inserted by Agreement dated 2 July 1998.

<sup>25</sup> Inserted by Agreement dated 2 June 1999.

<sup>26</sup> Inserted by Agreement dated 2 June 1999.

<sup>27</sup> Varied by Agreement dated 2 June 1999.

Agreement,<sup>28</sup> the Deed of Undertaking and Guarantee and the Supplemental Casino Agreement;

<sup>29</sup>'Trust Deed' means the deed dated 24 December 1993 between the Company and Permanent Trustee Australia Ltd relating to the issue by the Company of unsecured notes;

<sup>30</sup>'Trust Deed (Series 2)' means the deed dated 15 August 1996 between the Company and Permanent Trustee Australia Limited relating to the issue by the Company of unsecured notes;

'Underwriting Agreement' means both the underwriting agreements of 13 August 1993 and 23 August 1993 between the Company, E.L. & C. Baillieu Limited ACN 006 519 393, Rothschild Australia Securities Limited ACN 008 591 768, Macquarie Underwriting Limited ACN 001 374 572, Ord Minnett Securities Limited ACN 003 245 234, James Capel Australia Limited ACN 002 786 272 and the Sponsors; and

'Warranties' means the representations and warranties of the Company set out in Schedule Three.

### 3. COMMENCEMENT OF CERTAIN PROVISIONS

This clause and clauses 2, 5, 6.3, 33, 34, 36, 37, and 39-48 (inclusive) commence on the date of this document.

### 4. VARIATION

Subject to the prior approval in writing of the Minister, the parties may from time to time by agreement in writing vary any provision of this document.

### 5. CONDITIONS PRECEDENT

5.1 The provisions of this document other than the clauses referred to in clause 3 are conditional upon the satisfaction of the following conditions precedent:

- (a) execution of:
  - (i) the Transaction Documents except for the Casino Licence and the Bank Guarantees;
  - (ii) the Finance Documents;
  - (iii) the Development Agreement;
  - (iv) the Operations Agreement;
  - (v) the Construction Agreement;

<sup>28</sup> Varied by Agreement dated 2 June 1999.

<sup>29</sup> Inserted by Agreement dated 7 March 1995.

<sup>30</sup> Inserted by Agreement dated 8 May 1997.

- (vi) the Founding Shareholders Agreement;
  - (vii) the Underwriting Agreement;
  - (viii) the Equity Funding Agreement (Federal);
  - (ix) the Shareholders Agreement - Crown Management Pty Ltd; and
  - (x) the Guarantee and Indemnity for Development Agreement;
- (b) each of the conditions precedent in each document referred to in paragraph (a) being satisfied other than:
- (i) conditions precedent contained in paragraphs (14), (15), and (28) of Part 1 of Appendix A to and clause 4.2 of the Facility Agreement and those conditions precedent in Appendix A to the Facility Agreement that are factual or procedural matters that cannot be satisfied until the time of drawdown; and
  - (ii) the issue of the Casino Licence;
- (c) approval of the Planning Amendments; and
- (d) the coming into operation of those parts of the Agreement Act and the Further Amendment Act which relate to the construction, Fit-Out, Commissioning, Completion and operation of the Melbourne Casino Complex and the Temporary Casino Complex each in the form and substance reasonably satisfactory to the Company to enable the Company to comply with its obligations under the Transaction Documents.
- 5.2 The Authority will provide written notice to the Company and to the Minister of satisfaction of the conditions specified in clause 5.1 within 2 Business Days of the satisfaction of all of those conditions.
- 5.3 Each party shall use its best endeavours to ensure the satisfaction of the conditions in clause 5.1 as soon as possible after the execution of this document, and in any event no later than the date specified in clause 5.4.
- 5.4 This document shall terminate upon the Management Agreement terminating under clause 5.2 of that agreement.

## PART 2 - DEVELOPMENT AND COMPLETION

### 6. DOCUMENTS TO BE SUBMITTED TO THE AUTHORITY

- 6.1 The Company must as soon as possible, but within 10 weeks from the Licensing Date submit to the Authority for its approval the following items:
- (a) a schedule identifying the proposed nature and degree of access (including pedestrian and vehicular) to all facilities by people who may be attending the Melbourne Casino together with a report on the vehicular part of that proposal;

- (b) a detailed development master plan or plans clearly indicating the intentions of the Company for the development of the Melbourne Casino;
- (c) all final schematic design drawings in relation to the Melbourne Casino;
- (d) a proposal detailing the intended method of carrying out all phases of the development of the Melbourne Casino including the type of contract documentation to be used, the system (including the provision for review and approval by the Authority where required by the Authority) for the calling of tenders and appointment of sub-contractors, nominated sub-contractors, trade contractors and the method for completing construction, Fit-Out and Commissioning of the Melbourne Casino; and
- (e) such other documents, drawings or information reasonably required by the Authority in relation to the Melbourne Casino.

6.2 As soon as practicable, but in any event no later than 3 months after Completion of the Melbourne Casino, the Company must prepare and supply the Authority with:

- (a) a list of and 3 copies of all equipment and construction warranties in relation to the Melbourne Casino provided in favour of the Company;
- (b) 3 copies of instructions and maintenance manuals in relation to the Melbourne Casino for:
  - (i) all hydraulic systems;
  - (ii) all mechanical systems; and
  - (iii) all electrical systems; and
- (c) 3 copies of as built drawings for all services in relation to the Melbourne Casino including:
  - (i) hydraulic drawings;
  - (ii) mechanical drawings;
  - (iii) electrical drawings;
  - (iv) civil works drawings; and
  - (v) architectural drawings.

6.3 The Company must by the 8 December 1994 enter into a contract substantially in the form of the Construction Agreement with a builder approved by the Authority acting reasonably providing for the construction of the Melbourne Casino Complex.

6.4 The Company must procure the execution of the Contractor's Deed before or at the time that the Company enters into the contract referred to in clause 6.3.

## 6.5 Provision of Information and Documents

- (a) The Company must:
- (i) within 14 days of receiving a request from the Authority; and in any event
  - (ii) by 24 May 1996, being the date by which the Company must make available the Gaming Floor and Back of House areas -
- provide to the Authority the documents and information referred to in clause 6.1 of the Casino Agreement in accordance with paragraph (b) of this clause.
- (b) The Company complies with its obligations pursuant to paragraph (a) of this clause if:
- (c) the Company provides the documents or information requested by the Authority;
- (d) the Company advises:
- (i) that it is unable, at that stage, to provide the information and/or documents;
  - (ii) the reasons for the Company's inability to provide the information and/or documents; and
  - (iii) the date by which the Company anticipates being able to provide the information and/or documents; and
  - (iv) the Authority does not, within 10 days of the receipt of the advice pursuant to this paragraph give a notice to the Company that the documents and/or information must still be provided in response to the Authority's request; or
- (e) it advises the Authority that, in respect of the documents and/or information requested by the Authority, there has been no variation to or amendment of the documents or information previously provided by the Company to the Authority.
- (f) The Company may respond to a request from the Authority by a combination of the alternatives referred to in paragraph (b) of this clause as is appropriate in the circumstances.
- (g) The Authority may make requests pursuant to paragraph (a) of this clause from time to time as it considers appropriate in its absolute discretion.

<sup>31</sup>6.6 The Company acknowledges, undertakes and agrees that the Company is not permitted to terminate the Construction Agreement without the approval of the State in accordance with clause 9.3 of the Supplemental Development Agreement and without the approval of the Authority in accordance with clause 32.1 of this document.

## 7. MELBOURNE CASINO WORKS

<sup>31</sup> Inserted by Agreement 3 March 1995. Varied by Agreement dated 8 May 1997.

The Company must, at least 14 days prior to the commencement of any part of the Melbourne Casino, submit to the Authority for approval all working drawings and specifications relating to any such part, and in particular the following details:

- (a) drawings of the floor layouts for the Melbourne Casino showing the placement of gaming tables and closed circuit television cameras and other surveillance facilities;
- (b) drawings of the reflected ceiling showing the location of catwalks (if any), closed circuit television cameras, viewing panels, lights and other fittings and services;
- (c) plans of cashiers' cages, count rooms and all security areas, including access thereto;
- (d) plans of secure areas and facilities to be used for inspectors appointed under the *Casino Control Act*, police and the Company's surveillance and security staff;
- (e) the electrical installations, in particular for the:
  - (i) closed circuit television system for both surveillance of the Melbourne Casino and for use by inspectors appointed under the *Casino Control Act*;
  - (ii) alarm system;
  - (iii) telephone installations;
  - (iv) emergency link to local police headquarters;
  - (v) auxiliary power and lighting provisions; and
  - (vi) fire protection systems and flood control plans for the preceding items in paragraph (e);
- (f) the master-key system proposed; and
- (g) the proposed construction, supply or Fit-Out of the preceding items.

## 8. SAFETY PROCEDURES

The Company must at least 14 days before the Company intends to open the Melbourne Casino for use by the public, submit to the Authority for its approval details of the following matters so far as they relate to that part of the Melbourne Casino which the Company intends to open:

- (a) fire and flood safety and damage control procedures;
- (b) emergency control procedures;
- (c) crowd control procedures;
- (d) armoured vehicle transfer arrangements; and

(e) vehicle control and parking arrangements;

and submit to the Authority, although, not for its approval, any amendments to these procedures or arrangements prior to their taking effect or implementation.

## 9. VARIATIONS

9.1 The Company must submit to the Authority details of any variations-;

9.1.1 to the Drawings and the working drawings and specifications to be provided pursuant to the Control Acts, the Management Agreement or this document where any such variation in any way relates to the Melbourne Casino—; and

9.1.2 after the Ninth Variation Date, to the Melbourne Casino (whether the variations are as a result of an upgrade, enhancement, extension, rebuilding, maintenance repair or replacement or otherwise).

9.2 The Company must not make any such variations without the prior approval in writing of the Authority.

## 10. APPROVAL BY THE AUTHORITY

10.1 If the Company is required by this document to submit to the Authority any documents or proposal for approval the Company must not proceed with carrying out any works or taking any action described in or contemplated by the documents or the proposal until the Authority has approved the documents or proposal or the documents or proposal have otherwise been dealt with in accordance with this clause 10.

10.2 If the Company is required by this document to submit to the Authority any documents or proposal for approval, the Authority may:

- (a) approve the documents or proposal;
- (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
- (c) require amendment as specified to the documents or proposal; or
- (d) reject the documents or proposal.

10.3 If the Authority imposes conditions, requires amendment or rejects the documents or proposal pursuant to clause 10.2 the Company may, within 7 days of notification of the condition, amendment or rejection, make a further submission to the Authority as to why the condition should not be imposed, the amendment not be made or the documents or proposal not be rejected.

10.4 If the Company makes a further submission to the Authority as provided for in clause 10.3, the Authority shall give the further submission reasonable consideration and may:

- (a) approve the documents or proposal;

- (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
  - (c) require amendment as specified to the documents or proposal; or
  - (d) reject the documents or proposal.
- 10.5 If:
- (a) the Authority approves the documents or proposal, the Company must proceed with the work in accordance with the approved documents or proposal;
  - (b) the Authority imposes conditions in relation to the approval of the documents or proposal, the Company must comply with those conditions; or
  - (c) the Authority requires amendment to the documents or proposal, the Company must, within 14 days of notification of the requirements, submit to the Authority further documents or a further proposal amended in accordance with the requirements and such documents or proposal shall be dealt with in accordance with this clause 10.
- 10.6 In imposing any conditions to any approval under clause 10 of any document or proposal the Authority must not act unreasonably having regard to the effect of the Melbourne Casino Complex Development Proposals, the Temporary Casino Complex Development Proposals, the Planning Amendments and the design and planning objectives of the State.
- 11. TIME FOR APPROVAL**
- 11.1 If the Company submits any documents or proposal to the Authority, the Authority must respond in writing to the Company in the manner contemplated in clause 10 within 14 days of receiving the documents or proposal from the Company or such further period agreed between the Authority and the Company.
- 11.2 If the Authority has not responded in writing to the Company as required by clause 10 within 14 days or such further period as agreed, the Authority will be taken to have given its approval.
- 11.3 Clauses 11.1 and 11.2 apply only in relation to clauses 6 - 20 inclusive.
- 12. DIRECTOR OF CASINO SURVEILLANCE**
- 12.1 The Authority must ensure that all documents and proposals which are submitted to the Authority for approval under this document and which must also be approved by the Director of Casino Surveillance under section 59 of the *Casino Control Act* are provided by the Authority to the Director of Casino Surveillance who shall be responsible for providing any necessary approvals.
- 12.2 Clauses 10 and 11 will apply in relation to any approvals to be given by the Director of Casino Surveillance as if the Director of Casino Surveillance were the Authority.

- 12.3 Nothing in this document shall be taken as limiting or fettering the rights of the Director of Casino Surveillance under the *Casino Control Act*.

### 13. PROVISION OF FACILITIES FOR INSPECTORS

The Company must at its expense provide, keep and maintain all facilities and surveillance systems in the Melbourne Casino required for the use of inspectors appointed under the *Casino Control Act*.

### 14. SITE ACCESS

- 14.1 Persons authorised in writing by the Authority or the Director of Casino Surveillance may at all reasonable times have free access to the Site but in doing so such persons must not interfere with the progress of any works except for the purpose of exercising any powers conferred under the Transaction Documents or the *Casino Control Act*. Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice, the Authority or the Director of Casino Surveillance and the Company must co-operate in the co-ordination of the Authority's or the Director of Casino Surveillance's inspections, measurements and tests with the requirements of the Company in relation to any programmes for and the timely Completion of the Melbourne Casino, with the objective of achieving, to the maximum extent possible, inspections, measurements and tests at the most appropriate times during the execution of the works for the Melbourne Casino and prior to closing up of the relevant part of the works.
- 14.2 The Authority or the Director of Casino Surveillance may, from time to time, give to the Company reasonable notice in writing that:
- (a) the Authority or the Director of Casino Surveillance proposes to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests; or
  - (b) the Authority or the Director of Casino Surveillance requires the Company to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests as described in the notice.
- 14.3 If the Company receives a notice pursuant to clause 14.2, the Company must ensure that no part of the works in relation to the Melbourne Casino thereafter becomes inaccessible before any required inspection, measurement or test is completed, and:
- (a) if the notice is pursuant to paragraph 14.2(a), the Company must permit the Authority, the Director of Casino Surveillance or their respective agents to carry out the inspection, measurement or test; or
  - (b) if the notice is pursuant to paragraph 14.2(b), the Company must carry out the inspection, measurement or test, at its cost, in accordance with the conditions set out in the notice and at a time specified in the notice and must immediately thereafter provide to the Authority or the Director of Casino Surveillance a copy of the results of the inspection, measurement or test.

- 14.4 The Authority or the Director of Casino Surveillance and any persons authorised by any of them must not act unreasonably when exercising any powers under clause 14.
- 14.5 Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice and notwithstanding clause 14.3, if the Authority, the Director of Casino Surveillance or any of their respective agents carry out any inspection, measurement or test or require the Company to carry out any inspection, measurement or test in respect of any part of the works in relation to the Melbourne Casino which has become inaccessible the Authority, the Director of Casino Surveillance or any of their respective agents must first give the Company notice in writing of the Authority's or the Director of Casino Surveillance's reasonable requirements in respect of the inspection, measurement or test.

**15. RECTIFICATION AND SUSPENSION OF THE WORKS IN RELATION TO THE MELBOURNE CASINO**

- 15.1 If following any inspection, measuring or examination of the works in relation to the Melbourne Casino the Authority is of the opinion that the works do not comply with any of the requirements in clauses 6 - 20 of this document or the reasonable requirements of the Authority which have been notified in writing to the Company or the requirements of any approved Documentation, the Authority may by notice to the Company specify:
- (a) in what respect the works do not comply; and
  - (b) what action must be taken to rectify the non-compliance and the reasonable time within which that action is to be taken,

and the Company must comply with that notice.

- 15.2 If the Authority forms the opinion that the Company has failed for any reason to comply with a notice given pursuant to clause 15.1, the Authority may, without prejudice to any other right or remedy arising because of that failure, by notice to the Company direct the suspension of that part of the works in relation to the Melbourne Casino which is the subject of the notice given pursuant to clause 15.1 until the notice given pursuant to clause 15.1 is complied with.

**16. PROJECT ADVISORY MEETINGS**

- 16.1 Project advisory meetings must be held on a monthly basis and from time to time as may be required by the Authority during the design documentation, construction, Fit-Out and Commissioning of the Melbourne Casino.
- 16.2 The principal purposes of these meetings are to monitor design development, contract documentation and progress of the construction of the Melbourne Casino and to ensure compliance by the Company with its obligations under this document.
- 16.3 The meetings must be:
- (a) at a location determined by the Authority;

- (b) attended by at least 1 and not more than 4 representatives from each of the Authority and the Company; and
  - (c) chaired by a person nominated by the Authority.
- 16.4 The State's Nominated Representative may attend the meetings.
- 16.5 The Company must provide accurate minutes to the Authority and the State's Nominated Representative within 3 days after each project advisory meeting.

#### 17. MULTIPLE COPIES OF PLANS

The Company must provide to the Authority 3 copies (or such lesser number as may from time to time be agreed) of all plans, specifications and other material required to be provided pursuant to clauses 6 to 18 (inclusive) of this document.

#### 18. DEVELOPMENT OF THE TEMPORARY CASINO

- 18.1 The Company must provide to the Authority for its approval all documents, drawings and information additional to the Temporary Casino Complex Development Proposals and the Drawings which are necessary for the design and construction of the Temporary Casino, including details of those items specified in clauses 6,7 and 8 in so far as they relate to the Temporary Casino.
- 18.2 The Company must provide to the Authority for its approval any other documents, drawings or information requested by the Authority in relation to the Temporary Casino.
- 18.3 Clauses 9, 10, 11 and 12 apply (unless the context otherwise requires) in relation to any submissions by the Company to the Authority for the approval of documents and drawings or any proposal relating to the Temporary Casino Complex or to any application by the Company to vary any approved document or drawing as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino the Melbourne Casino.
- 18.4 Clauses 13, 14, 15 and 16 apply (unless the context otherwise requires) in relation to the Temporary Casino Complex and the Temporary Casino Site as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino Site the Site.

### PART 3 - COMPLETION

#### 19. OPENING OF THE MELBOURNE CASINO

It is a condition precedent to approval to open the Melbourne Casino that at least 2000 car parking spaces are available for use on the Site.

#### 20. COMPLETION

- 20.1 The Company must give not less than 7 Business Days notice in writing to the Authority that the Company anticipates that the Temporary Casino or the Melbourne Casino, as the case may be, ('**Relevant Works**') will be Completed on the date specified in the notice.

- 20.2 On the date agreed between the Company and the Authority (and if no date is agreed, then on the date specified in the Company's notice under clause 20.1) the Authority must inspect the Relevant Works and consider all matters relevant to the Completion of the Relevant Works.
- 20.3 If the Authority is of the opinion that the Relevant Works are not Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 give notice to the Company of this opinion and state in that notice the reason or reasons why the Authority is of this opinion.
- 20.4 If the Authority is of the opinion that the Relevant Works are Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 issue a certificate to the Company stating the date on which it believes those Relevant Works reached Completion and those Relevant Works shall, for the purpose of this document, be taken to have been Completed on that date.
- 20.5 Upon receipt of a notice from the Authority under clause 20.3, the Company must immediately attend to any matters stated in the notice as requiring attention and upon the Company attending to these matters, the Company must give a further notice in writing to the Authority pursuant to paragraph 20.1.
- 20.6 Any determination by the Authority that any Relevant Works have been Completed is not acceptance that the Company has complied with the Transaction Documents and any right which the Authority may have had prior to that determination is preserved absolutely.
- 20.7 If the Authority does not deliver a notice to the Company under clause 20.3 or a certificate under clause 20.4 within the 10 Business Days period referred to in those clauses, the Relevant Works will be taken to have been Completed on the date on which those Relevant Works were inspected under clause 20.2 and a certificate of Completion will be taken to have been issued by the Authority with a date of Completion on that date.
- 20.8 A certificate of Completion under clause 20 does not excuse the Company from compliance with all relevant legislation in relation to the Relevant Works.

#### **PART 4 - CORPORATE STRUCTURE AND RELATED MATTERS**

##### **21. WARRANTIES OF THE COMPANY**

- 21.1 The Company makes the Warranties to the Authority as at the date of this document and for each day up to and including the Licensing Date.
- 21.2 Each Warranty shall be construed separately and the meaning of each shall in no way be limited by reference to any other representation or warranty contained in this document.

##### **22. CONDITIONS RELATING TO COMPANY STRUCTURE**

- 22.1 The following are conditions of this document:

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33 ...

34 ...

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39 (ba) in relation to any meetings which concern a Casino Asset (and whether those meetings are held separately or as part of a meeting involving the Holding Company Group in general), the Company must ensure that not less than 75% of those meetings of its directors and/or Senior Executive Managers in any Financial Year are held in Victoria;

40 (bb) the Company must ensure that 75% of all of its Senior Executive Managers reside in Victoria and, without limitation, that any person appointed as a Senior Executive Manager commence residing in Victoria not less than 90 days after their appointment;

41 (bc) the Company must ensure that at least one Company secretary resides in Victoria;

(c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;

(d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;

42 (e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed; of whom not less than one third at any time must be Independent Directors;

32 Substituted by Agreement dated 8 May 1997.

33 Clause 22.1 (a) deleted by Agreement dated 2 June 1999.

34 Clause 22.1 (aa) deleted by Agreement dated 2 June 1999.

35 Clause 22.1 (ab) deleted by Agreement dated 2 June 1999.

36 Clause 22.1 (ac) deleted by Agreement dated 2 June 1999.

37 Clause 22.1 (ad) deleted by Agreement dated 2 June 1999.

38 Clause 22.1 (b) deleted by Agreement dated 2 June 1999.

39 Inserted by Agreement dated [##Ninth Variation]

40 Inserted by Agreement dated [##Ninth Variation]

41 Inserted by Agreement dated [##Ninth Variation]

42 Clause 22.1 (e) amended by Agreement dated [##Ninth Variation]

- (ea) the Constitution of the Company must not expressly authorise the directors of the Company to act in the best interests of the Holding Company for the purpose of section 187 of the *Corporations Act*;
- (f) <sup>43</sup> the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of Shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;
- (g) where required by the Authority, the Company must enforce the disposal of Shares of any person in accordance with the procedures for such disposal set out in the articles of association of the Company;
- (h) if so requested by the Authority, the Company must when requested, at any time that it is a company within the meaning of Part 6.8 of the *Corporations Law*, issue notices pursuant to Sections 718 and 719 of the *Corporations Law* in respect of particular Shares;
- (i) except for the issue of partly paid shares in the Company to employees of the Company (not exceeding 5% of the fully diluted total issued capital of the Company), options issued to the Sponsors (not exceeding 15% of the fully diluted total issued capital of the Company) and subject to clause 22.1(m) unsecured debt securities issued in the ordinary course of business of the Company which do not materially increase the total indebtedness of the Company, the Company must not issue any shares of a class other than the Shares or any other security (as defined in section 92 of the *Corporations Law*) without the prior written approval of the Authority;
- <sup>44</sup> (j) ~~the Company must not, without the prior written approval of the Authority, the Company must not issue or announce the issue of Shares, if such issue would require shares without the approval of holders of Shares under rule 7.1 of the Listing Rules of ASX.~~ For the avoidance of doubt where the Company is not admitted to the Official List or not listed on any Exchange then the prior written approval of the Authority must be obtained;
- (k) the memorandum and articles of association of the Company must not be amended without the prior written approval of the Authority;
- (l) no person may be appointed as auditor of the Company unless that person's appointment has first been approved in writing by the Authority;
- <sup>45</sup>(la) the Company must appoint and maintain an Audit Committee consisting of:
- (i) not less than 2 Independent Directors;
- (ii) no Executive Directors; and

<sup>43</sup> Substituted by Agreement dated 2 June 1999.

<sup>44</sup> Substituted by Agreement dated 8 May 1997.

<sup>45</sup> Inserted by Agreement dated [##Ninth Variation Deed].

(iii) an independent chairperson;

<sup>46</sup>(lb) the Company must notify the Authority of the identity of each person appointed to the Audit Committee and the resignation or removal of any person from the Audit Committee within 10 Business Days of the appointment, resignation or removal.

<sup>47</sup>(lc) the Audit Committee must meet in Victoria not less than 4 times in each Financial Year and must have the authority and responsibility to:

(i) recommend the appointment and removal of the Company's auditor;

(ii) determine the Company's internal audit requirements and procedures;

(iii) supervise the Company's compliance with its internal and statutory audit requirements; and

(iv) provide to the Company a written quarterly report signed by the Chairperson of the Audit Committee (commencing three months from the Ninth Variation Date) concerning the Company's internal and external audit programs including any changes to the programs, the reasons why the changes have taken place and adherence to or divergence from the programs; and

(v) if requested, provide a copy of the quarterly reports referred to in the previous paragraph to the Authority.

<sup>48</sup>(ld) the Company must appoint and maintain a Compliance Committee consisting of:

(i) no less than 2 Independent Directors;

(ii) no Executive Directors; and

(iii) an independent chairperson.

<sup>49</sup>(le) the Company must notify the Authority of the identity of each person appointed to the Compliance Committee and the resignation or removal of any person from the Compliance Committee within 10 Business Days of the appointment, resignation or removal.

<sup>50</sup>(lf) the Compliance Committee must meet in Victoria not less than 4 times in each Financial Year and must have the authority and responsibility to:

(i) ensure the Company's and Holding Company Group's compliance with:

<sup>46</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>47</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>48</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>49</sup> Inserted by Agreement dated [##Ninth Variation Deed].

<sup>50</sup> Inserted by Agreement dated [##Ninth Variation Deed].

- (A) this document;
  - (B) the Casino Licence;
  - (C) each other Transaction Document; and
  - (D) the Internal Control Manual;
- (ii) supervise the Company's compliance with other:
- (A) statutory; or
  - (B) internally determined requirements not inconsistent with clause 22.1(lf)(i);
- (iii) determine the Company's internal compliance requirements and procedures which are consistent with the Internal Control Manual;
- (iv) supervise the Company's compliance with its compliance procedures; and
- (v) provide to the Company a written quarterly report signed by the Chairperson of the Compliance Committee to the Company (commencing three months from the Ninth Variation Date) concerning the Company's internal and external compliance program including any changes to the program, the reasons why the changes have taken place and adherence to or divergence from the program; and
- (vi) if requested, provide a copy of the quarterly reports referred to in the previous paragraph to the Authority.
- <sup>51</sup> (m) subject to clause 22.6, the Company must procure that at any time the Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority;
- (ma) subject to clause 22.6, the Company must procure that at any time the Total Holding Company Group Liabilities do not exceed 60% of the Total Holding Company Group Assets without the prior written approval of the Authority;
- (n) the Company must provide to the Authority within 14 days of the end of each month details of all Shares issued by the Company<sup>52</sup> and a list of the top 50 holders of Shares registered at the end of the previous month;
- (o) a director or alternate director of the Company must not gamble in the Temporary Casino or the Melbourne Casino;
- ~~(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino~~

<sup>51</sup> Substituted by Agreement dated 2 July 1998.

<sup>52</sup> Varied by Agreement dated 8 May 1997.

~~Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority;~~<sup>52</sup>

~~(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;~~<sup>54</sup>

~~<sup>55</sup>(r~~

~~<sup>56</sup> <sup>57</sup> ...~~

<sup>58</sup>(ra) the Holding Company Group, if it pursues anywhere in Australia a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:

(i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and

(ii) which is not detrimental to the Company's interests; and

<sup>59</sup>(rb) without limiting clause 22.1(ra) the Company, if it pursues anywhere in Australia any business in addition to the Melbourne Casino, the Company will use its best endeavours to ensure that such business is conducted in a manner which is-

(i) beneficial to the Melbourne Casino;

(ii) which promotes tourism, employment and economic development generally in the State of Victoria; and

(iii) is not detrimental to the Melbourne Casino Complex.

<sup>60</sup> (s) unless the Company, the Holding Company, the State and the Authority agree otherwise, the Company must ensure that the State is at all times the beneficiary and holder of:

(i) a first ranking unlimited fixed and floating charge over all the assets and undertakings of the Company; or

(ii) a first ranking fixed and floating charge, limited to an amount of not less than \$100,000,000.00, over all the assets and undertakings of the Company, together with a letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance

<sup>52</sup> Varied by Agreement dated 2 June 1999.

<sup>54</sup> Varied by Agreement dated 2 June 1999.

<sup>55</sup> Varied by Agreement dated 2 June 1999.

<sup>56</sup> Varied by Agreement dated 2 June 1999.

<sup>57</sup> Clause 22.1(q) deleted by Agreement dated [##Ninth Variation Agreement]

<sup>58</sup> Varied by Agreement dated 2 June 1999.

<sup>59</sup> Inserted by Agreement dated 2 June 1999.

<sup>60</sup> Inserted by Agreement dated 2 June 1999.

acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).

(t) subject to clause 22.6, the Company must not enter into an Onerous Contract and in any event subject to clause 29 must not enter into any Material Contract without the prior written consent of the Authority;

(u) where the Company advances or provides security (by way of guarantee or otherwise) to a Related Body Corporate of the Company or otherwise becomes indebted for the obligations of a Related Body Corporate of the Company whether separately or jointly with other entities (**Indebted Related Body Corporate**) for a sum which is equal to or greater than the lesser of:

(i) \$100 million; or

(ii) 5% of the Total Assets

then the Company must cause the Indebted Related Body Corporate to provide to the Authority a Deed of Guarantee and Indemnity in a form approved by the Authority within 21 days of the advance, the provision of security or the indebtedness occurring.

(v) The Company must comply with the obligations contained in Schedule Seven.

22.2 In clause 22.1, 'Share' or 'Shares' includes, as the context requires, any other class of voting security (as defined in section 92 of the *Corporations Law*) issued by the Company.

22.3 For the purposes of clause 22.1, a reference to a person being entitled to Shares has the same meaning as a reference in Part 6.7 of the *Corporations Law* to a person being entitled to voting shares in a company and that person's entitlement will be calculated in the manner prescribed for calculation of substantial shareholdings in Part 6.7 of the *Corporations Law* as if that Part applied.

~~22.4 For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.~~

<sup>61</sup>

...

22.5 For the purposes of clause 22.1, 'hold' or 'held' in relation to Shares means that those Shares are beneficially owned, and includes Shares registered in the name of a nominee holding under a bare trust.

<sup>62</sup>22.6 Any approval given by the Authority under clauses 22.1(m) and 22.1(ma)<sup>63</sup> may be given subject to such conditions as the Authority determines.

<sup>61</sup> Clause 22. 4 deleted by Agreement dated [##Ninth Variation Agreement]

<sup>62</sup> Inserted by Agreement dated 2 July 1998.

<sup>63</sup> Varied by Agreement dated 2 June 1999.

- <sup>64</sup>22.7 If at any time there is any change in Australian Accounting Standards or their application and such change will have a material impact on the compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>65</sup> the Authority agrees to discuss with the Company amendments that may be required to the definitions relevant to clauses 22.1(m) and 22.1(ma)<sup>66</sup> to ensure that the provisions of this document would have the same economic effect had such a change not been made. The Authority is not obliged to agree to any such amendments.
- <sup>67</sup>22.8 For the purpose of monitoring compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>68</sup> the Company must calculate the ratio of Total Liabilities to Total Assets and the ratio of Total Holding Company Group Liabilities to Total Holding Company Group Assets<sup>69</sup> as at the last day of every month ('**Calculation Day**') and provide to the Authority written details of such calculation within not more than 10 Business Days after the Calculation Day, or quarterly if agreed in writing by the Authority.
- <sup>70</sup>22.9 If any ratio<sup>71</sup> calculated under clause 22.8 is greater than 60%, the Company must procure that its auditor provides to the Authority a Solvency Report in respect of the Company and the Holding Company Group<sup>72</sup> addressed to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.
- <sup>73</sup>22.10 If any ratio<sup>74</sup> calculated under clause 22.8 is greater than 60%, the Company may make written submissions to the Authority for consideration by the Authority for the purposes of clause 22.12 in relation to the period within which the Company expects any ratio will not exceed 60% and the financial position of the Company and the Holding Company Group.<sup>75</sup> Any such written submissions must be provided to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.
- <sup>76</sup>22.11 For the purposes of clause 22.12, the Authority may by notice in writing to the Company require the Company to provide to the Authority within the period specified in the notice such further information as the Authority requires in relation to a Solvency Report or the financial position of the Company and the Holding Company Group.<sup>77</sup>
- <sup>78</sup>22.12 If:
- (a) any ratio<sup>79</sup> calculated under clause 22.8 is greater than 60%;

<sup>64</sup> Inserted by Agreement dated 2 July 1998.

<sup>65</sup> Varied by Agreement dated 2 June 1999.

<sup>66</sup> Varied by Agreement dated 2 June 1999.

<sup>67</sup> Inserted by Agreement dated 2 July 1998.

<sup>68</sup> Varied by Agreement dated 2 June 1999.

<sup>69</sup> Varied by Agreement dated 2 June 1999.

<sup>70</sup> Inserted by Agreement dated 2 July 1998.

<sup>71</sup> Varied by Agreement dated 2 June 1999.

<sup>72</sup> Varied by Agreement dated 2 June 1999.

<sup>73</sup> Inserted by Agreement dated 2 July 1998.

<sup>74</sup> Varied by Agreement dated 2 June 1999.

<sup>75</sup> Varied by Agreement dated 2 June 1999.

<sup>76</sup> Inserted by Agreement dated 2 July 1998.

<sup>77</sup> Varied by Agreement dated 2 June 1999.

<sup>78</sup> Inserted by Agreement dated 2 July 1998.

<sup>79</sup> Varied by Agreement dated 2 June 1999.

- (b) the Solvency Report provided under clause 22.9 concludes that there is a reasonable basis for believing that the Company will meet its debts as and when they fall due for the next 12 months;
- (c) the Authority is satisfied that the Company will comply with clauses 22.1(m) and 22.1(ma)<sup>80</sup> within a period acceptable to the Authority; and
- (d) the Authority is otherwise satisfied with the financial position of the Company and the Holding Company Group;<sup>81</sup>

the Authority may determine not to issue a notice to the Company under clause 31.2 of this document in respect of the breach of clauses 22.1(m) and 22.1(ma)-<sup>82</sup>83

<sup>84</sup>22.13 For the purposes of clauses 22.1(ba), 22.1(bb), 22.1(lc), 22.1(lf) a meeting is held in Victoria if and only if the chairperson of the meeting is physically present in Victoria and the majority of the persons (not including the chairperson) attending the meeting are physically present at the same place as the chairperson in Victoria.

### 23. INSPECTION OF RECORDS

The Company must upon demand make available for inspection by the Authority all records, accounts and information held by or on behalf of the Company and allow the Authority to take copies of or extracts from all such records, accounts and information.

### 24. ATTENDANCE AT COMPANY MEETINGS

- 24.1 A representative of the Authority is entitled to attend and to speak at any meeting of the Company as though he or she were a shareholder of the Company, but this clause does not confer a right to vote on the Authority or its representative.
- 24.2 The Company must deliver to the Authority copies of all notices and circulars that are forwarded to shareholders in the same manner and time frame as if the Authority were a shareholder.

### 25. DISCLOSURE

#### 25.1 If the Company:

25.1.1 is admitted to the Official List of the ASX or is listed on any other stock exchange (~~Exchange~~)Exchange, the Company must provide to the Authority a copy of:

- (a) all notices or other information provided by or on behalf of the Company to the ASX or Exchange; and

<sup>80</sup> Varied by Agreement dated 2 June 1999.

<sup>81</sup> Varied by Agreement dated 2 June 1999.

<sup>82</sup> ~~Varied by Agreement dated 2 June 1999.~~

<sup>83</sup> Varied by Agreement dated 2 June 1999.

<sup>84</sup> Added by Agreement dated [##Ninth Variation Deed]

(b) all notices or other information relating to the Company which are received by the Company from the ASX or Exchange,

on the same date that those notices or other information are provided to the ASX or Exchange or received by the Company;

25.1.2 is not listed on the Official List the Company must provide to the Authority a copy of all notices or other information which would have been required to be provided by or on behalf of the Company to the ASX if it were admitted to the Official List on the same date (as the case may be) that those notices or other information should have been provided to the ASX.

- 25.2 The Company must immediately notify the Authority of any information necessary to ensure that the Authority is able to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Company.
- 25.3 Without limiting the generality of clause 25.2, the Company must immediately notify the Authority of any event fact or circumstance which would be material to require disclosure under any rules of the Company having regard ASX or an Exchange pursuant to the definition of materiality in Australian Accounting Standard AAS5; disclosure of information rules (whether under the continuous disclosure rules or otherwise)
- 25.4 The Company ~~and any Subsidiary must, within 15 Business Days of the end of each quarter ending on the last day of September, December and March in each year, give to the Authority a quarterly financial report in the form of the report in Schedule Four or must cause to be given to the Authority:~~
- 25.4.1 a quarterly financial report in the form of the report in Schedule Four within 15 Business Days of the end of each quarter ending on the last day of September, December, March and June in each year; and
- 25.4.2 the audited annual Financial Report to the Authority on or prior to 30 September in each year;
- in relation to:
- 25.4.3 itself;
- 25.4.4 any Subsidiary;
- 25.4.5 any entity in respect of which the Company or a Related Body Corporate of the Company has an equitable interest (however described); or
- 25.4.6 an entity which is indebted to the Company or any Related Body Corporate of the Company for a sum which is material.
- 25.5 The Company must provide to the Authority a copy of:
- (a) all notices or other information provided by or on behalf of the Company to the Australian Securities and Investments Commission; and
- (b) all notices or other information relating to the Company which are received by the Company from the Australian Securities and Investments Commission,

on the same date that those notices or other information are provided to the Australian Securities and Investments Commission or received by the Company.

- 25.6 The Company must approve by 30 June of each year the Company's annual budget for the forthcoming financial year and must provide to the Authority a copy of the annual budget within 14 days of its approval.

## PART 5 - GRANT OF THE CASINO LICENCE

### 26. GRANT OF CASINO LICENCE

26.1 Subject to:

- (a) provision of the Bank Guarantees;
- (b) payment by the Company to the State of:
- (c) the Premium Payment; and
- (d) a further amount of \$190,000,000; and
- (e) payment by the Company of the Casino Supervision and Control Charge due on the Licensing Date,

the Authority will grant the Casino Licence for the Temporary Casino and the Melbourne Casino to the Company on the Licensing Date.

26.2 While the Casino Licence remains in force, the Authority undertakes not to grant a casino licence to any person enabling any person other than the Company to operate a casino:

- (a) anywhere in the State prior to 6 years from the Licensing Date; and
- (b) in those parts of the State within a radius of 150 kilometres from the Site, prior to 12 years from the Licensing Date.

26.3 If after the Melbourne Casino opens for business:

- (a) the Melbourne Casino is Completely Destroyed by an Extension Event prior to the end of the exclusivity period in clause 26.2(b); and
- (b) in the reasonable opinion of the Authority the Company acts diligently to reinstate the Melbourne Casino,

the period in clause 26.2(b) shall be extended by the Extension Period.

26.4 For the purposes of clause 26.3 and this clause 26.4, the following words or phrases have the following meanings:

**'Completely Destroyed'** means destruction or damage to the Melbourne Casino or any other Extension Event which causes the complete closure of the Melbourne Casino;

'**Extension Period**' means the lesser of:

- (a) 12 months; and
- (b) the period from the Destruction Date to the date on which the Melbourne Casino reopens for business;

'**Destruction Date**' means the date on which the Melbourne Casino is Completely Destroyed;

'**Extension Event**' means:

- (a) a Force Majeure Event; or
- (b) any other event or circumstance which is outside the control of the Company and has not been directly or indirectly caused by an act or omission of the Company or any of its Associates,

but does not include an event which would not have occurred if the Company had exercised reasonable care and diligence.

26.5 If the Company wishes to apply to the Authority for a further casino licence upon the expiration of the Casino Licence, it may do so in accordance with the following provisions:

- (a) if the Company is not in breach of any material provision of this document or of any other Transaction Document, the Company may at any time during the period commencing on the date being the first day of the fifth last year of the term of the Casino Licence and terminating on the date being the last day of the fifth last year of the term of the Casino Licence give notice in writing to the Authority that the Company wishes to apply for the grant of a new licence to operate a casino in the Melbourne Casino Complex;
- (b) following the giving of the notice under clause 26.5(a), the Authority shall within six months inform the Company of the basis on which the Authority is prepared to grant a new licence to operate a casino in the Melbourne Casino Complex and thereafter the Authority shall negotiate with the Company in good faith with a view to reaching agreement on a basis upon which the Authority is prepared to grant the new licence to the Company;
- (c) the Authority shall have no obligation under this clause 26.5 other than to notify the Company of the basis on which the Authority is prepared to grant a new licence and thereafter to negotiate in good faith with the Company;
- (d) the Company shall have no right or expectation of any nature whatever to the grant of a new casino licence following the expiration of the Casino Licence; and

- (e) if by the first day of the last year of the term of the Casino Licence, agreement has not been reached between the Authority and the Company for the grant of a new casino licence to the Company, the Authority shall be free to grant a new casino licence to any other person with effect from or after the date of expiry of the Casino Licence on such terms and conditions as the Authority in its absolute discretion determines to be appropriate.

## 27. GAMES

- 27.1 The Authority will publish a notice pursuant to section 60 of the *Casino Control Act* to enable the conduct and playing in the Temporary Casino and the Melbourne Casino of the following games, which must be conducted or played in accordance with the rules approved by the Authority under that section:
  - (a) Blackjack;
  - (b) American Roulette;
  - (c) Baccarat;
  - (d) Mini Baccarat;
  - (e) Craps;
  - (f) Two-up;
  - (g) Mini-Dice;
  - (h) Wheel of Fortune;
  - (i) Sic-Bo;
  - (j) Pai Gow;
  - (k) Keno;
  - (l) Poker;
  - (m) French Roulette; and
  - (n) if approved by the Authority, games or derivatives devised or developed by the Company.
- 27.2 The Authority approves for the Temporary Casino and the Melbourne Casino all games which are approved as of the date of this document to be played on a gaming machine by the Victorian Gaming Commission and those games shall be taken to be included in the list in clause 27.1.
- 27.3 The Authority will use its good offices with the State to endeavour to procure that the State will approve:
  - (a) the offering of linked jackpots for games conducted in the Temporary Casino or the Melbourne Casino; and

- (b) the joining in the linking of games with other casinos, hotels, clubs and other venues for the purposes of providing linked jackpots on gaming machines or Club Keno.

27.4 In approving rules for games under section 60 of the *Casino Control Act* and giving directions under section 61, the Authority shall consult with the Company and shall have regard to the equivalent rules, commercial terms and regulations applicable to other casinos in Australia.

## 28. CASINO AND CASINO COMPLEX OPERATING PRACTICES AND STANDARDS

<sup>85</sup>28.1 The Company must strive to obtain the maximum Gross Gaming Revenue by conducting its operations in the Temporary Casino and the Melbourne Casino as a discrete business operated in Melbourne in a proper and efficient manner having regard to:

28.1.1 the best operating practices in international casinos of a similar size and nature to the Melbourne Casino; and

28.1.2 fostering responsible gambling in casinos in order to:

(i) minimise harm caused by problem gambling; and

(ii) accommodate those who gamble without harming themselves or others.

28.2 The Company must operate, manage and maintain the Casino Assets, including upgrading, enhancing and repairing all the infrastructure of the Melbourne Casino and the Melbourne Casino Complex, to International First Class Standards.

<sup>86</sup>28.3 Where the Authority considers that any Casino Asset is being maintained or managed to a standard that is less than International First Class Standards (whether by action or inaction on the part of the Company) then the Authority may serve a notice on the Company under clause 31.2 (Notice).

28.4 Where a Notice has been served on the Company and the Company and the Authority have not reached an agreement within 60 days of the service of the Notice on:

28.4.1 whether International First Class Standards have been met; or

28.4.2 the method and time by which the International First Class Standards must be met –

then, the Authority and the Company may, by mutual agreement appoint an Expert to report to the Authority and the Company on whether the International First Class Standards have been met.

<sup>85</sup> Renumbered by Agreement dated [##Ninth Variation Deed]

<sup>86</sup> Inserted by Agreement dated [##Ninth Variation Deed]

- 28.5 When carrying out his or her assessment the Expert must act as an independent expert and not as an agent or consultant to either party.
- 28.6 As a condition of acceptance of the appointment to act the Expert must agree that the Expert must:
- 28.6.1 have regard to at least five and no more than ten casino and/or casino complexes chosen by the Authority;
  - 28.6.2 call for any information or make any investigation that the Expert considers appropriate, including visiting the relevant casinos and/or casino complexes chosen by the Authority under clause 28.5.1;
  - 28.6.3 allow each party an opportunity to make written submissions to the Expert;
  - 28.6.4 place the weight on the information or findings of the investigation as the Expert sees fit;
  - 28.6.5 act as an expert adviser and not as an arbitrator; and
  - 28.6.6 provide a written report to the Authority and the Company within 4 months of the Expert's appointment.
- 28.7 Subject to clause 28.8, the Authority's decision to proceed to act under clause 31.2 must have regard to the report of the Expert. The Authority may amend the Notice having regard to the report of the Expert and serve it on the Company in accordance with clause 31.2. The procedure and timelines under clause 31.2 will then apply afresh.
- 28.8 All costs in relation to the Expert (including all fees and expenses) must be paid by the Company.
- 28.9 Where the Expert for whatever reason is either not appointed or fails to submit a written report within 6 months of the Notice being served then the Company must forthwith rectify the matters referred to in the Notice. For the avoidance of doubt, where this clause applies, the determination of the Authority as to International First Class Standards as expressed in the Notice will apply and be final and conclusive.
- 28.10 The Company must provide facilities of an International First Class Standard that are suitable to attract and cater for international Commission Based Players including at least 65 number of gaming tables, which must be located in at least seven (7) private gaming rooms set aside for exclusive use of VVIP international Commission Based Players.

## **PART 6 - ENCUMBRANCES AND ASSIGNMENTS**

### **29. ENCUMBRANCES**

- 29.1 The Company must not create or permit to subsist any Encumbrance over or in relation to any Assets and Rights of the Company other than:

- (a) Encumbrances solely over any Assets or Rights which are not Casino Assets and where the Encumbrances do not, together, secure actual or contingent indebtedness exceeding, in the aggregate, \$1,000,000;
- (b) liens arising solely by operation of law (or by an agreement to the same effect) in the ordinary course of the business of the Company where the amount secured:
  - (i) has been due for less than 30 days; or
  - (ii) is being contested in good faith and by appropriate means;
- (c) without limiting paragraph (b), retention of title arrangements, where the amount payable:
  - (i) has been due for less than 30 days; or
  - (ii) is being contested in good faith and by appropriate means;
- (d) the Encumbrances referred to in clause 30; or
- (e) any other Encumbrances created or subsisting with the prior approval in writing of the Authority;

except with the prior approval in writing of the Authority and in compliance with any terms or conditions on which that approval is given.

29.2 Subject to clause 29.3, the Company must not dispose of any Assets and Rights of the Company other than pursuant to a Permitted Encumbrance except with the prior approval in writing of the Authority.

29.3 Clause 29.2 does not apply to a disposal of:

- (a) ~~those assets other than~~ those assets which are not Casino Assets in the ordinary course of the business of the Company; or
- (b) ~~obsolete or surplus Casino Assets on ordinary commercial terms; or~~
- (c) any other Casino Assets if the disposal is in the ordinary course of the business of the Company;

29.4 In clause 29.2 'dispose' includes:

- ~~(e)~~(a) a disposition of any estate or interest in any manner including by way of sale, transfer, assignment, lease, letting, licence, surrender or abandonment; and
- ~~(d)~~(b) entering into an agreement or arrangement to effect a disposition, whether in either case for valuable consideration or not.

### 30. PERMITTED ENCUMBRANCES

- 30.1 The Authority has consented to the creation of Encumbrances by the Company under and in accordance with the securities identified in paragraphs (a)<sup>87</sup> of the definition of Financiers' Securities in the Master Security Agreement<sup>88</sup>.
- 30.2 The ranking as between the Encumbrances referred to in clause 30.1 and the Fixed and Floating Charge and other matters regarding the enforcement of Encumbrances will be regulated by the Master Security Agreement.
- 30.3 The Company must give prompt notice to the Authority of any Lease that the Company proposes to enter into for, or for the financing of:
- (a) any asset necessary for or incidental to the operation of the Melbourne Casino or Temporary Casino; or
  - (b) any asset whatever having a value, either separately or when aggregated with the value of other assets or equipment leased from the same lessor or related bodies corporate of that lessor, exceeding \$1,000,000;

and before entering into that Lease (or if it has already entered into such Lease, then on request by the Authority) the Company must procure that the lessor of any such equipment or asset enters into a supplemental agreement with the Authority regulating access to and entitlement to that equipment or asset on terms satisfactory to the Authority.

## **PART 7 - TERMINATION**

### **31. TERMINATION OF THIS DOCUMENT**

- 31.1 This document will automatically terminate:
- (a) without notice to the Company if the Casino Licence is:
    - (i) surrendered; or
    - (ii) cancelled; or
  - (b) when the Casino Licence expires due to the effluxion of time.

Such termination does not affect the ability of either party to enforce a right which may have accrued to it under this document prior to such termination.

- 31.2 ~~Subject to the Master Security Agreement, it~~ It shall be a contravention of a condition of the Casino Licence enabling the Authority to serve a notice on the Company pursuant to section 20(2) of the *Casino Control Act* if any of the following events occurs:
- (a) the Company commits a breach of any provision of this document (other than clauses 32.1 and 32.2), and the Authority has given a notice ('Notice') to the Company detailing the particulars of the breach unless:

<sup>87</sup> Varied by Master Security Agreement dated 30 July 1997.

<sup>88</sup> Varied by Master Security Agreement dated 30 July 1997.

- (i) if the breach is capable of remedy:
  - (A) it is remedied within the cure period allowed in the Notice which shall not be less than 60 days to the reasonable satisfaction of the Authority; or
  - (B) the Company:
    - (i) is diligently pursuing a course of action which could reasonably be expected to remedy the breach in a period of time reasonably acceptable to the Authority; and
    - (ii) is making satisfactory progress with such course of action; or
- (ii) if the breach to which the Notice refers is not capable of remedy:
  - (A) the Company is complying to the reasonable satisfaction of the Authority with any reasonable requirements of the Authority in relation to the breach or is attending to the reasonable redress of the prejudice arising from the breach, default or event in the manner specified in the Notice; or
  - (B) the payment of damages constitutes in the reasonable opinion of the Authority, as the case may be, proper redress and the required amount of damages is paid within 15 Business Days of the date for payment as specified in the Notice;
- (aa) an Event of Default (as described in the Deed of Undertaking and Guarantee) occurs under the Deed of Undertaking and Guarantee;
- (b) any of the following occurs and the Company does not within 10 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:
  - (i) a provisional liquidator or administrator is appointed to the Company;
  - (ii) a Receiver is appointed to any of the Casino Assets;
  - (iii) any Encumbrance becomes enforceable and the holder of the Encumbrance takes possession of any of the Casino Assets; or
  - (iv) a judgment is obtained against the Company and execution or other process of any Court or other authority is issued against or is levied or enforced upon any of the Casino Assets;
- (c) a liquidator is appointed to the Company;
- (d) prior to Completion, the Financiers terminate their obligations under the Facility Agreement, or otherwise permanently refuse to permit any further drawings under

the Facility Agreement or the facilities provided or available under the Facility Agreement, and the Company does not within 20 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents;

- (e) a Notice of Intention pursuant to the Supplemental Development Agreement is given by the Developer under that agreement and is not withdrawn within 10 Business Days;
- (f) a Notice of Intention pursuant to the Contractor's Deed is given by the Contractor under that deed and is not withdrawn within 10 Business Days;
- (g) except with the prior consent in writing of the Authority the members resolve to wind up the Company;
- (h) the Site Lease is terminated or surrendered;
- (i) prior to Completion of the Melbourne Casino any one of the Temporary Casino Leases is terminated (other than by effluxion of time) or surrendered;
- (j) prior to the subscription by the Founding Shareholders for all the Shares for which they have agreed to subscribe under the Founding Shareholders Agreement, any of the following occurs and the Company does not within 10 Business Days after the Authority has given notice to the Company remedy the event or redress the prejudice arising from the event or establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:
  - (i) a Founding Shareholder fails to comply with any obligation to subscribe for Shares in accordance with the provisions of the Founding Shareholders Agreement;
  - (ii) a Receiver, provisional liquidator, liquidator or administrator is appointed to a Sponsor; or
  - (iii) except with the prior consent in writing of the Authority the members resolve to wind up a Sponsor; or
- (k) Shares having an aggregate subscription amount of \$210,000,000 have not been subscribed for by the Licensing Date by persons other than the Founding Shareholders and within 10 Business Days of the Licensing Date the Company has not established to the reasonable satisfaction of the Authority that the Company will despite this be able to perform its obligations under the Transaction Documents.

31.3 The Authority may in its absolute discretion extend any time period referred to in clauses 28 or 31.2.

31.4 Nothing in clauses 28 or 31.2 shall prevent the Authority from issuing a notice under section 20(2) of the *Casino Control Act* in order to issue a letter of censure or to impose a fine in accordance with the provisions of the *Casino Control Act*.

31.5 Subject to clause 26 of the Management Agreement, on termination of this document:

- (a) except as otherwise provided by this document all rights of the Company to, in or under this document will cease but without prejudice to the liability of any party in respect of any antecedent breach or default under this document or in respect of any indemnity or other payment obligation under this document;
  - (b) all moneys owing or remaining unpaid (and whether actually or contingently) to the Authority will (to the extent not then due) become immediately due and payable and the Company must immediately pay all those moneys to the Authority; and
  - (c) except as otherwise provided in this document, neither the Company nor any Sponsor or any other person will have any claim against the Authority with respect to any matter or thing in or arising out of this document and in particular, but without limiting the generality of the preceding paragraphs, the Company will have no claim to the repayment of all or any part of the Licensing Payment Amounts.
- 31.6 Without limiting the Authority's or the State's rights under the Fixed and Floating Charge or otherwise, in the event of the termination of this document neither the Company nor any other person is permitted (without the prior approval in writing of the Authority) to remove from the Casino Complex or the Site or the Temporary Casino Complex or the Temporary Casino Site any gaming equipment, equipment, furniture or fittings necessary for or incidental to the operation of the Melbourne Casino or the Temporary Casino, as the case may be, and the Authority is and will be entitled for so long as it deems fit to use all that gaming equipment, equipment, furniture and fittings for the purpose of operating the Melbourne Casino or the Temporary Casino.
- 31.7 The Company irrevocably appoints the Authority and each of its officers and any manager appointed by the Authority under the *Casino Control Act* jointly and severally to be its attorney and in its name and on its behalf to exercise, sign and do all assurances, deeds, instruments, agreements, acts and things which in the opinion of the Authority or such officer, manager are necessary or expedient to give effect to any right, power or remedy conferred under or in relation to any Transaction Document or the *Casino Control Act* or are necessary or expedient that the Company do.
- 31.8 The power of attorney granted under clause 31.7 survives termination of this document but may only be exercised if an event specified in clause 31.2 has occurred and has not been remedied or waived.

## PART 8 - COMPLEMENTARY AGREEMENTS

### 32. COMPLEMENTARY AGREEMENTS

- 32.1 The Company undertakes that it will not, without the prior written consent of the Authority:
- (a) give or recognise any waiver under a Complementary Agreement;
  - (b) amend, supplement or otherwise modify a Complementary Agreement;

- (c) assign (whether absolutely or by way of security), novate or otherwise transfer its rights or obligations under a Complementary Agreement;
- (d) give or permit to be created any Encumbrance over its rights under a Complementary Agreement;
- (e) terminate a Complementary Agreement; or
- (f) agree to do any of the above,

where to do so would have a material and adverse effect on the Company's ability to construct maintain or operate the Temporary Casino or the Melbourne Casino in accordance with this document.

- 32.2 The Company must comply with all of its obligations under the Complementary Agreements and must use its best endeavours to ensure that the other parties to the Complementary Agreements (other than the State and the Authority) comply with their respective obligations, where a failure to do so in either case would have a material and adverse effect on the ability of the Company to construct or operate the Temporary Casino or the Melbourne Casino in accordance with this document.
- 32.3 The Company must comply with all of the obligations under the Company's memorandum and articles of association which are relevant or relate to the provisions in clause 22.
- <sup>89</sup>32.4 The Company undertakes to the Authority that by 31 March 1994 the Company will obtain an enforceable commitment upon terms and from persons approved in advance by the Authority that such persons shall provide to the Company not less than \$50,000,000, whether by way of capital subscription or financial accommodation. Such funds shall be in addition to all funds committed to the Company as of the Licensing Date (whether debt or equity).
- 32.5 The approval of the Authority under clause 32.4 shall not be unreasonably withheld.
- <sup>90</sup>32.5 Any agreement entered into by the Company pursuant to clause 32.4 shall be a Complementary Agreement for the purposes of this document.
- 32.6 The parties acknowledge that the underwriting agreement dated 23 August 1993 (being one of the agreements referred to in the definition of the Underwriting Agreement in clause 2) shall not be a Complementary Agreement for the purposes of this document.
- 32.7 The obligations of the Company under clause 32.4 do not derogate from the obligations of the Company under clause 22.1(m) of this document.

<sup>89</sup> Inserted by Agreement dated 19 November 1993.

<sup>90</sup> Inserted by Agreement dated 19 November 1993

**PART 9 - GENERAL****33. COMPANY RELIES ON OWN JUDGMENT**

- 33.1 Save where a statement, representation or warranty is given in its favour, under this document or any Transaction Document, the Company acknowledges that it is entering into this document in reliance on its own judgment and following review of the Site and the Temporary Casino Site and the business opportunity provided by, among other things, the Casino Licence, and not in reliance on any conduct of or statements, warranties or representations made to the Company or to any other person by or on behalf of the Authority or any of its servants, agents or consultants.
- 33.2 Save for any statement, representation or warranty made in the Company's favour under this document or any Transaction Document, the Company acknowledges and agrees that no action lies against the Authority or any of its servants, agents or consultants and that no compensation of any kind is payable to the Company in relation to anything done or purported to be done or not done for the purposes of the establishment or operation of the Temporary Casino, Temporary Casino Complex, Melbourne Casino or Melbourne Casino Complex prior to the execution of this document.
- 33.3 Without limiting the generality of clause 33.2, the Company agrees not to take action or make any claim for compensation, damages, costs or expenses against the Authority or any of its servants, agents or consultants in relation to the condition of the Site or the Temporary Casino Site or any third party rights in relation to the Site or the Temporary Casino Site and hereby releases each of those persons from any action or claim whether or not that action or claim is known or foreseeable at the date of this document.
- 33.4 Nothing in this clause 33 limits any liability of Golder Associates Pty Ltd to the Company.

**34. INDEMNITY**

- 34.1 The Company indemnifies and will keep indemnified the Authority and its servants, agents and consultants in respect of all actions, claims, demands or costs of third parties arising out of or in connection with any work carried out by or on behalf of the Company pursuant to this document or relating to the Company's operations (including but not limited to the operations of the Temporary Casino Complex and the Melbourne Casino Complex) or arising out of or in connection with the construction, financing, maintenance or use of the Temporary Casino Complex or the Melbourne Casino Complex except expenses of the Authority which are covered by the Casino Supervision and Control Charge.
- 34.2 The indemnity in clause 34.1 does not apply to the extent that any actions, claims, demands or costs arise as a result of the negligence or wilful default of the Authority.

**35. INSURANCE**

- 35.1 The Company must:
- (a) insure and keep insured all of its Assets and Rights:

- (i) for the risks and in the amounts set out in Schedule Five and for such other risks and amounts which the Authority may from time to time reasonably require;
  - (ii) with the interests of the State, the Authority and any Mortgagees noted by endorsement on the policy or if the Authority so directs, in the joint names of the Company and the State and the Authority for their respective rights and interests; and
  - (iii) with underwriters approved by the Authority and, if through an insurance broker, through an insurance broker approved by the Authority;
- (b) immediately deliver the insurance policies referred to in paragraph (a) to the Authority (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient) and, on request, deliver certificates of currency in respect of those insurance policies;
  - (c) punctually pay all premiums and sums necessary (including stamp duty) for effecting and keeping current every insurance policy and, ~~promptly on request,~~ hand to the Authority the receipt for any premium or sum paid; within 14 days of the receipt being received by the Company;
  - (d) immediately after they are effected, deliver to the Authority all variations, alterations and additions to any existing insurance policies and all additional or substitute insurance policies (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient); ~~and~~
  - (e) immediately after it becomes aware that it has occurred, notify the Authority of any occurrence which gives or might give rise to a claim or right to claim under any insurance policy; and
  - (f) ensure that all such policies are to expressly provide that any breach of a policy term or condition or any non-disclosure or misrepresentation or any other act or omission by an insured person whose interest is noted on the policy will not invalidate the cover in respect of the interest of other insureds or persons whose interests are noted on the policy.

35.2 The Company must not:

- (a) do or allow to be done anything which might cause any policy of insurance to be prejudiced or rendered void, voidable or unenforceable;
- (b) without the prior consent in writing of the Authority, cause, or take any steps to bring about, the cancellation of, or a material change or reduction in, the cover provided under any insurance policy;
- (c) effect any insurance in respect of the Assets and Rights other than as specified in clause 35.1; or
- (d) make, enforce, settle or compromise a claim or do anything inconsistent with the powers or interests of the Authority.

35.3 Subject to the Master Security Agreement, all proceeds of insurance received by the Company as a result of any claim must be applied by the Company to rectify, remedy or repair the property involved or loss or damage which gave rise to the claim.

### 36. CONFIDENTIALITY

36.1 All documents and information provided by one party to another party under this document must be kept confidential and not disclosed to any person without the consent of the other party unless:

- (a) the information is in the public domain;
- (b) disclosure is required by law;
- (c) the disclosure is necessary for the purpose of obtaining any consent, authorisation, approval or licence from any government or public body or authority;
- (d) it is necessary or desirable that the disclosure be made to any taxation or fiscal authority;
- (e) the disclosure is made on a confidential basis to the officers, employees or agents of a party or to the professional advisers of a party for the purposes of obtaining professional advice in relation to any Transaction Document or the enforcement of any Transaction Document or otherwise for the purpose of consulting those professional advisers;
- (f) the disclosure is made by the Company on a confidential basis to any actual or prospective financier or agent of a financier to the Company;
- (g) the disclosure is necessary in relation to any procedure for discovery of documents or any proceedings before any court, tribunal or regulatory body; or
- (h) the disclosure is necessary to obtain listing on the Australian Stock Exchange.

36.2 The obligations in clause 36.1 apply after termination of this document.

<sup>91</sup>36.3 This clause 36 does not apply to:

- (a) this document;
- (b) any document varying or amending this document after such variation or amendment takes effect;
- (c) the Casino Licence; or
- (d) any document varying or amending the Casino Licence after such variation or amendment takes effect.

and, such document may be disclosed to any person by either party.

<sup>91</sup> Inserted by Agreement dated [##Ninth Variation Agreement]

### 37. APPROVALS

- 37.1 The Authority in exercising any right, power, privilege or discretion conferred on it by this document must act having regard to:
- (a) the Authority's objects as set out in Section 140 of the *Casino Control Act*; and
  - (b) the rights, powers, privileges and discretions conferred and the duties and obligations imposed on the Authority under the *Casino Control Act*.
- 37.2 Unless otherwise stated in this document, if the Company makes a written request for an approval or consent from the Authority under the clauses specified below, the written request specifies that this document clause 37.2 applies and the Authority has not responded in writing within the time specified below 20 Business Days from receipt by the Authority of that written request, then the Authority will be taken to have given that approval or consent:
- (a) Clauses 22.1 (c), (f), (i), (j), (k), (l), (m), ~~(p), (q)~~, 20 Business Days;
  - (b) Clauses 29.1 and 29.2—10 Business Days;
  - (c) Clause 31.6—20 Business Days;
  - (d) Clauses 32.1 and 32.4—10 Business Days;<sup>92</sup>
  - ~~Clause 35.1(a)~~—10 Business Days;
  - ~~(f)(e)~~—Clause 36.1—10 Business Days;
  - ~~(g)(f)~~—Clause 43—20 Business Days.
- 37.3 Nothing in this clause 37 shall fetter the powers, rights or obligations imposed or conferred on the Authority under any Act or regulation.

<sup>92</sup>

Amended by Agreement dated 19 November 1993.

**38. DAY OF PAYMENT**

If any day for the payment of money under this document falls on a day which is not a Business Day, the payment will be due on the next day which is a Business Day.

**39. NOTICES**

39.1 A notice or approval required or to be given under this document must be:

- (a) in writing;
- (b) delivered by hand or served by prepaid post or facsimile to the recipient at its address or facsimile number appearing in this clause or such other address or facsimile number as the recipient may have notified to the other party:
  - (i) in the case of the Authority:

Chairman  
~~Victorian Casino and Gaming Authority~~  
Level 5, 35 Spring Street  
MELBOURNE VIC 3000  
~~Level 27, 459 Collins Street~~  
~~Faeximile: (03) 621 1803~~  
Facsimile: 9651 3777  
~~Level 4, Building D~~  
~~World Trade Centre~~  
~~MELBOURNE VIC 3005~~  
~~Faeximile: (03) 9628 7300~~

- (ii) in the case of the Company:

Lloyd J Williams  
Chief Executive Officer  
Crown Limited  
311 Glenferrie Road  
MALVERN VIC 3144  
Faeximile: (03) 823 6105  
8 Whiteman Street  
SOUTHBANK VIC 3006

39.2 A notice or approval given in accordance with clause 39.1 is taken to be received:

- (a) if hand delivered, on the day of delivery if delivered before 4.00 pm on a Business Day and otherwise on the Business Day next following;
- (b) if sent by prepaid post, 3 days after the date of posting; or
- (c) if sent by facsimile, on the day on which the message confirmation is received if received before 4.00 pm on a Business Day and otherwise on the Business Day next following.

39.3 The provisions of clause 39 are in addition to any other mode of service permitted by law.

#### 40. COSTS AND STAMP DUTY

40.1 Each party must pay its own costs of preparing and executing this document.

40.2 The Company must pay all stamp duty on this document and on any document executed to give effect to this document.

#### 41. NO WAIVER

A failure of a party at any time to require full or part performance of any obligations under this document will not affect in any way the rights of that party to require that performance subsequently.

#### 42. GOVERNING LAW

42.1 This document is governed by the laws applying in Victoria.

42.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and courts entitled to hear appeals from those courts.

#### 43. ASSIGNMENT

43.1 The Company must not assign or attempt to assign or otherwise deal with this document or any right under this document without the prior written approval of the Authority other than pursuant to a Permitted Encumbrance.

43.2 The Authority may assign, transfer or dispose of its rights under this document or any other Transaction Document:

- (a) to the State or to any department or agency of the government of the State or statutory authority or corporation which has taken over the objects and functions of the Authority under the *Casino Control Act*; or
- (b) with the approval in writing of the Company to any other person, such approval not to be unreasonably withheld;

provided that the assignee enters into an agreement with the Company agreeing to be bound by the provisions of this document and each other Transaction Document to which the Authority is a party.

#### 44. FURTHER ASSURANCES

Each party must do or cause to be done anything necessary or desirable to give effect to this document, and will refrain from doing anything which might prevent full effect being given to this document.

#### 45. COUNTERPARTS

- 45.1 This document may be executed in any number of counterparts.
- 45.2 All counterparts taken together will be deemed to constitute the one document.

#### 46. SEVERABILITY

- 46.1 The parties agree that a construction of this document which results in all provisions being enforceable is to be preferred to a construction which does not so result.
- 46.2 If, despite the application of clause 46.1, a provision of this document is illegal or unenforceable:
- (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
  - (b) in any other case, the whole provision is severed,
- and the remainder of this document continues to have full force and effect.
- 46.3 Clause 46.2 does not apply where its application alters the basic nature of this document or is contrary to public policy.

#### 47. INTERPRETATION

- 47.1 In this document, unless the context otherwise requires or the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) terms importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
  - (c) a reference to any legislation, statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable, and includes any re-enactment or amendment to that legislation, statutory instrument or regulation;
  - (d) other grammatical forms of defined words or phrases have corresponding meanings;
  - (e) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this document and a reference to this document includes any schedules and annexures;
  - (f) where a party comprises two or more persons the provisions of this document binding that party bind those persons jointly and severally;
  - (g) terms defined:
    - (i) in the Corporations Law as at the date of this document Agreement which have not been amended by any variation made to this document prior to the

Ninth Variation Date, and has the meanings given to them in the Corporations Law at that date; and

(ii) in the Corporations Act which have been included by a variation made to this document on or after the Ninth Variation Date, having had the meanings given to them in the Corporations Act from time to time.

- (h) 'party' means a party to this document;
- (i) a reference to a party to this document or any other document or agreement includes its successors and permitted assigns;
- (j) a reference to a document or agreement, including this document, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (k) a reference to '\$A', 'dollar', 'AUD' or '\$' is a reference to Australian currency;
- (l) a reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form; and<sup>93</sup>
- (m) a reference to a specific time for the performance of an obligation is a reference to that time in the State; and<sup>94</sup>

<sup>95</sup> (n) a reference to a company's "articles of association", "memorandum of association", "memorandum or articles of association" or "memorandum and articles of association" is a reference to the company's constitution and vice versa.

- 47.2 In this document headings are for ease of reference only and do not affect the construction of this document.
- 47.3 The Authority is providing the undertaking in clauses 26.2 and 26.3 with the approval of the Minister in accordance with section 14 of the *Casino Control Act*.
- 47.4 The Authority in entering into this document does so on behalf of the State pursuant to the authority granted to the Authority under section 142 of the *Casino Control Act*.
- 47.5 If any ambiguity, inconsistency or conflict exists or arises between this document and the Master Security Agreement, the provisions of the Master Security Agreement take precedence and apply to resolve that ambiguity, inconsistency or conflict.
- 47.6 The Company and the Authority acknowledge that, except as expressly provided for in this document:
  - (a) nothing contained in or implied by this document prejudices or affects, or is intended in any way to impose any obligation or restriction on the Authority

<sup>93</sup> Amended by Agreement dated [##Ninth Variation Agreement]

<sup>94</sup> Amended by Agreement dated [##Ninth Variation Agreement]

<sup>95</sup> Clause 47.1(n) inserted by Agreement dated [##Ninth Variation Agreement]

which conflicts with the obligations and duties of, and restrictions on, the Authority under the Relevant Legislation; and

- (b) if there is any conflict between the provisions of this document or of any Transaction Document and the provisions of the Relevant Legislation, the provisions of the Relevant Legislation prevail.

#### 48. GENERAL OBLIGATIONS

48.1 The Company must:

- (a) maintain its corporate existence;
- (b) comply with all laws applicable to the matters arising under this document from time to time in force including, without limitation, the *Gaming Machine Control Act*, *Gambling Regulation Act 2003* and all mandatory requirements of any Public Authority;
- (c) obtain and renew at the proper times and maintain all Authorisations required:
  - (i) for the Company to perform its obligations under this document;
  - (ii) for the Company to perform its obligations under each Transaction Document; and
- (d) to allow this document and each Transaction Document to be enforced against it;
- (e) obtain and renew at the proper times and maintain all licences and other Authorisations required or advisable or relied on for or in connection with the carrying on of the Company's business;
- (f) comply with the terms and conditions of each Lease to which it is a party where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino;
- (g) comply with its payment obligations under any agreement for the purchase of property where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino; and
- (h) protect the Casino Assets and at the Company's expense prosecute or defend all legal proceedings that are, or the defence of which is, necessary or advisable for the protection of the Casino Assets to the extent appropriate in accordance with prudent business practice; and
- (i) carry out all work reasonably and properly required by any Public Authority in relation to the Assets and Rights where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino.

48.2 The Company must not, without the prior consent in writing of the State:

- (a) Deal with or Dispose of any of the Casino Assets other than by way of maintenance, repair, upgrade, enhancement or replacement;
- (b) Deal with or Dispose of any of the Casino Assets other than in the ordinary course of the Company's business;
- (c) execute, create or permit to subsist any Encumbrance over or affecting the Casino Assets other than a Permitted Encumbrance;
- (d) pull down, alter, extend or remove any building, improvement or fixture forming part of the Casino Assets where to do so would materially adversely affect the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino;
- (e) take on or under a Lease, or acquire for consideration, any asset other than in the ordinary course of the Company's business;
- (f) declare or pay a dividend if a demand has been properly made on the Company under this document or any Transaction Document and has not been satisfied in full; or
- (g) do anything or allow anything to be done in derogation of the rights of the Authority or any other party under any Transaction Document;

except to the extent permitted by clause 29.

## COMMERICAL IN

## SCHEDULE ONE

(Clause 2)**CASINO CONTROL ACT 1991 (VIC)****CASINO LICENCE**

**VICTORIAN CASINO CONTROL AUTHORITY** ('**Authority**') under Part 2 of the *Casino Control Act 1991 (Vic)* ('*Casino Control Act*') grants to **CROWN CASINO LTD ACN 006 973 262** with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria ('**Company**') the right to conduct and play games and use gaming equipment in the Casino subject to the provisions of the *Casino Control Act* and the conditions set out in this licence.

**CONDITIONS****1. Commencement**

This licence comes into force on *[insert commencement date]*.

**2. Duration**

This licence ceases to have effect on *[date to be determined]*, unless sooner cancelled or surrendered under the *Casino Control Act*.

**3. Location and Boundaries -- Temporary Casino**

1 The Temporary Casino must be located within the Temporary Casino Complex.

2 The boundaries of the Temporary Casino within the Temporary Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**4. Location and Boundaries -- Melbourne Casino**

1 The Melbourne Casino must be located within the Melbourne Casino Complex.

2 The boundaries of the Melbourne Casino within the Melbourne Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**5. Conducting Temporary Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Temporary Casino or open the Temporary Casino to the public for business or otherwise:

- (a) until the Temporary Casino has been Completed in accordance with the provisions of the Management Agreement; nor

**PROBITY INVESTIGATION CONSULTANTS PTY LTD**

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**FINANCIAL PROBITY AND REGULATORY REPORT**

ON BEHALF OF

**VICTORIAN CASINO AND GAMING AUTHORITY  
(VCGA)**

IN RESPECT OF

**PUBLISHING AND BROADCASTING LIMITED  
AND CROWN LIMITED GROUP**

Prepared by:

**MR PAUL FALLON CPA  
PRINCIPAL**

**PROBITY INVESTIGATION CONSULTANTS PTY LTD**

AND

**MR CHRIS MORCHER  
PRINCIPAL**

**CRISMOR ENTERPRISES PTY LTD**

This report has been compiled from a mixture of publicly available and commercial in confidence information supplied by the VCGA. It has been prepared for the exclusive use of VCGA and the Office of Gambling Regulation (OGR), and should not be released to any other party without the express permission of PIC.

The statements of opinion and fact contained in this Report are made in the belief that they are correct and not misleading; however Probity Investigation Consultants Pty Ltd, its employees and agents, give no warranty in relation thereto and expressly disclaim all liability for any loss and damage however arising.

**COMMERCIAL IN CONFIDENCE**

**15 APRIL 2004**

**PROBITY INVESTIGATION CONSULTANTS PTY LTD**

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1. **Review the regulatory framework and policy for the ongoing monitoring of the financial performance and viability of Crown Limited (Crown) which operates as a subsidiary of the listed Publishing and Broadcasting Limited (PBL).**
  - 1.1 Probity Investigation Consultants Pty Ltd (PIC) has been requested to review the financial and regulatory position of Crown and PBL on behalf of the Victorian Casino and Gaming Authority (Authority). The report which follows provides commercial and financial advice aimed at improving the Authority's ability to effectively monitor Crown and PBL's financial performance, viability and compliance with the existing regulatory requirements contained in the *Casino Agreement* and other relevant documentation. It also recommends a number of additional reporting and compliance requirements and amendments which can be negotiated as part of a review of the *Casino Agreement*, in return for the removal of the single purpose restriction.
  - 1.2 The major corporate and financial constraints imposed on Crown (and subsequently on PBL) are contained in Part 4 (Corporate Structure and Related Matters) of the *Casino Agreement* dated 21 September 1993 (as varied by Variation Agreements 1 to 8). In particular, Clause 22.1 (m) requires that: "subject to Clause 22.6<sup>1</sup> the Company (Crown) must procure that at any time Total Liabilities<sup>2</sup> do not exceed 60% of Total Assets<sup>3</sup> without the prior written approval of the Authority."
  - 1.3 This 60% Maximum Gearing Ratio is the major financial constraint imposed by the Authority on Crown's capital structure. It protects the Authority from any excessive leveraging of the casino operator's balance sheet and reduces the company's risk profile. For the most part, Crown has complied with the 60% limit although there were problems with compliance in the 1997-99 period leading up to the merger of Crown into PBL.
  - 1.4 The 60% maximum gearing ratio was also imposed on PBL as part of the merger documentation that was executed with the Authority in June 1999. It was added as Clause 22.1(ma), which requires that: "Total Group Liabilities<sup>4</sup> must not at any time exceed 60% of Total Group Assets<sup>5</sup> without the prior written approval of the Authority (Inserted by Agreement dated 2 June 1999)."

This clause extends the 60% maximum gearing ratio to the PBL Group and was inserted into the *Casino Agreement* at the time of the Authority agreeing to Crown becoming a wholly owed subsidiary of PBL. The PBL Group has complied with the 60% limit over the past five years.

- 1.5 Clause 22.7 gives Crown the right to discuss any change in Australian Accounting Standards (AAS) which has a material impact on the company's compliance with the 60% gearing limit, although the Authority is not obliged to agree to any amendment in the ratio. This is potentially an important issue, as International Accounting Standards (IAS) are scheduled to replace AAS from 1 January 2005. One of the significant changes is the need for companies to regularly assess the value of mastheads and licences, which are material assets for both Crown<sup>6</sup> and PBL.<sup>7</sup>

<sup>1</sup> Clause 22.6 states that "any approval given by the Authority under clauses 22.1(m) and 22.1(ma) may be given subject to such conditions as the Authority determines."

<sup>2</sup> Total Liabilities, as defined in Clause 2, means "the aggregate of all liabilities of the Group which, according to Australian Accounting Standards are defined, or would be regarded, as liabilities."

<sup>3</sup> Total Assets, as defined in Clause 2, means "the aggregate of all assets of the Group, which according to Australian Accounting Standards are defined, or would be regarded, as assets."

<sup>4</sup> Total Group Liabilities means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities."

<sup>5</sup> Total Group Assets means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as assets."

<sup>6</sup> Crown had total intangible assets of \$ 474 million as at 31 December 2003, which mainly relates to the casino licence and associated management rights.

<sup>7</sup> PBL has \$ 2,922 million of licences and mastheads and \$ 287 million of intangible assets as at 31 December 2003.

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- 1.6 Clause 22.8 requires Crown to calculate the Total Liabilities to Total Assets ratio within 10 business days of month end and to submit the relevant calculation each month. This assists the Authority to monitor Crown's compliance with the maximum gearing ratio on a monthly basis, although we understand that this information is currently only being supplied by Crown and PBL on a quarterly basis. PIC finds that these current arrangements are adequate. However, if the current healthy situation were to deteriorate materially the Authority could request this information on a monthly basis.
- 1.7 Clause 22.9 requires Crown to provide a Solvency Report from its auditor (Ernst and Young) if the gearing ratio is greater than 60%. This report, in respect of Crown and PBL, is intended to provide the Authority with comfort that the Group is solvent. We understand that this particular section has not been utilised to date, although Crown did exceed the 60% gearing limit before its merger into PBL and before this clause came into effect on 2 July 1998.
- 1.8 Clause 25 (Disclosure) requires Crown to provide various disclosures related to its commercial, financial and regulatory status. Clause 25.1 requires Crown to supply copies of all notices and other information supplied to, or received from, the Australian Stock Exchange (ASX). Although Crown is no longer a listed company as such, it has a debt listing which relates to a \$ 200 million issue of Unsecured Notes expiring on 15 August 2005, listed under the ticker CROHB.
- 1.9 As a result of this debt listing, Crown is currently required to provide detailed yearly and half yearly financial statements to the ASX within two months of period end. The yearly accounts and annual report are also currently lodged with the Australian Securities and Investments Commission (ASIC) within three months. However, once CROHB ceases trading in August 2005, Crown will no longer be required to provide this information to the ASX. There is no certainty that Crown will continue to lodge detailed accounts with ASIC on a timely basis (eg In recent years, the 37% owner of PBL, Consolidated Press Holdings Limited (CPH), has lodged its annual accounts with ASIC 11 months after the end of the financial year).
- 1.10 PBL also could, in future, obtain relief from publicly disclosing Crown's accounts by entering into a Deed of Cross Guarantee with the casino company. If this occurs, the Authority will need to ensure that it obtains timely disclosure of detailed financial information to facilitate effective monitoring and regulation of the casino licensee and related entities. PIC recommends that the Authority seek to preserve its right to obtain timely, detailed financial information from Crown directly in the event that the company ceases to publicly disclose its accounts.
- 1.11 The Authority's ability to monitor the financial position of Crown and related entities is assisted by the provisions of Clause 25.2 which requires that:
- “The Company must immediately notify the Authority of any information necessary to ensure that the Authority is able to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Company.”
- The above clause is extremely wide ranging but potentially difficult to interpret and implement. PIC recommends that it be amended or rewritten to provide a more objective test of disclosure, which could rely on the definitions contained in ASX Listing Rule 3 (Continuous Disclosure). In other words, requiring Crown to disclose any information that an Australian publicly listed company would have to disclose under the continuous disclosure regime. Adoption of this dynamic ASX benchmark will also facilitate automatic updating for the latest corporate disclosure rules.
- 1.12 Clause 25.3 also assists in providing guidance in this area by stating that:

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“Without limiting the generality of clause 25.2, the Company must immediately notify the Authority of any event or circumstance which would be material to the Company having regard to the definition of materiality in Australian Accounting Standard AAS 5.”<sup>8</sup>

Apart from this quantitative benchmark, there are also qualitative factors that need to be taken into account when determining whether a particular event needs to be disclosed as material. Once again, PIC would recommend reliance on the guidelines issued by the ASX.

Consideration should also be given to the proposed introduction of International Accounting Standards (IAS) effective from 1 January 2005. IAS will introduce a new materiality standard (IAS 38) which should replace the reference to AAS 5 in this clause.

1.13 Clause 25.4 also requires Crown to supply a quarterly financial report within 15 business days of the end of each quarter ending on the last day of September, December and March in each year in the form specified in Schedule Four, namely:

- Profit and loss account and cashflow statements comparing budget against actual for the year to date;
- balance sheet at the last days of March, September and December; and
- budgeted profit and loss and cashflow statements to end of current financial year.

These requirements enable the Authority to monitor Crown’s financial performance on a quarterly basis and should be maintained, although the wording should be changed to reflect the change in names (since 1999) from Balance Sheet to Statement of Financial Position and Profit and Loss Statement to Statement of Financial Performance.

The above definition should also be expanded to clarify that detailed financial statements are required to be supplied at half year end and year end, including any Director’s Statutory Report, Directors’ Declaration, Audit Report and full Notes to the Accounts.

- 1.14 The year end June audited financial statements should also be supplied within a reasonable timeframe. ASX now requires listed companies (including PBL) to supply audited financial statements within two months of year end, whilst annual reports are required within three months of year end. PIC recommends that Crown be required to submit a copy of its audited annual accounts to the Authority within three months of year end (ie. by the end of September each year).
- 1.15 Clause 25.5 requires Crown to provide copies of all information supplied to, or received from, the Australian Securities Commission (ASC). This requirement is useful and should be retained with the only change in wording to reflect a change in name from ASC to ASIC that has occurred since the execution of the *Casino Agreement* in 1993.
- 1.16 The Authority is currently receiving a Directors’ Quarterly Report from Crown which lists all intercompany balances and movements over the previous quarter. This information is also provided to ASIC, pursuant to Section 283BF of the *Corporations Act* within one month of quarter end, in relation to Crown’s issue of Unsecured Notes and PBL’s issue of Perpetual Adjusting Rate Securities. When the Crown Unsecured Notes expire on 15 August 2005, it is probable that this type of information will no longer be publicly available. PIC recommends that Crown be required to continue submitting the Directors’ Quarterly Report to the Authority with the amendment noted in 1.17.

<sup>8</sup> AAS 5 defines materiality in terms of a minimum 5% of total assets. In the case of Crown, this means that materiality is defined to be an amount in excess of \$ 135 million (\$ 2.75 billion total assets x 5%).

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1.17 Currently, the Crown Directors' Quarterly Report does not include details of the back to back loans between the Crown Group and TCN Channel Nine Pty Ltd (Non-Current Asset of \$ 508 million as at 30 June 2003) and Cubwell Pty Ltd (Non-Current Liability of \$ 508 million as at 30 June 2003). In PIC's opinion, any changes in these material balances should be reported quarterly.

1.18 Conclusion and Recommendations

PIC has assessed the current financial information and gearing ratio requirements contained in the *Casino Agreement* and found in most cases that present arrangements are satisfactory to protect the Authority's regulatory interests. Detailed consideration of the Total Liabilities to Total Assets gearing ratio is deferred to Sections 2 and 3 of this report. The following recommendations are made in the interests of improving the quality of the Authority's monitoring of Crown's (and PBL's) financial performance, viability and regulatory compliance:

1. The Authority's current receipt of Clause 22.8 gearing ratio information from Crown and PBL on a quarterly basis is adequate to enable effective monitoring of the two company's capital structure. However, should the current healthy financial position materially deteriorate, the Authority has the right to require monthly reporting of this information.
2. The Authority should seek to preserve its right to obtain timely, detailed financial information from Crown directly in the event that the company no longer publicly discloses its accounts (This recommendation is assisted by the provisions of Clause 25);
3. Crown should be required to comply with Clause 25.2 by supplying information that satisfies the ASX Listing Rule 3.1 (Continuous Disclosure) as if it was a listed company;
4. Crown should be required to comply with Clause 25.3 (Materiality) by supplying information that satisfies the ASX Listing Rule 3.1 (Continuous Disclosure) and complies with Australian Accounting Standard AAS 5 and the successor International Accounting Standard (IAS 38) that is scheduled to apply from 1 January 2005;
5. Clause 25.4, and the associated Schedule Four, should be amended to reflect the change in names from Balance Sheet to Statement of Financial Position and Profit and Loss Statement to Statement of Financial Performance. The above definition should also be expanded to clarify that detailed financial statements are required to be supplied at half year end and year end, including any Director's Statutory Report, Directors' Declaration, Audit Report and full Notes to the Accounts;
6. Crown should be required to supply its annual audited accounts within a reasonable time, say within three months of year end (ie. By the end of September each year);
7. Clause 25.5 should be amended to reflect the change in name from ASC to ASIC since the *Casino Agreement* was executed in 1993;
8. Clause 2 (Definitions) and any other references to Australian Accounting Standards (AAS) in the *Casino Agreement* will need to be changed to International Accounting Standards (IAS) from 1 January 2005, when IAS is scheduled to replace AAS; and
9. Crown should continue to supply a Directors' Quarterly Report, which lists all intercompany balances and movements over the previous quarter after August 2005, when its Unsecured Notes are no longer listed. This report should be amended to include details of any changes to the balances outstanding on the back to back loans between the Crown Group, TCN Channel Nine Pty Ltd and Cubwell Pty Ltd.

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**2. Commercial and Financial advice regarding possible alternative and appropriate tests of Crown's and PBL's financial health (OGR Position Paper Item 11) - Financial leverage and interest coverage ratios only, including the debt to equity ratio.**

- 2.1 The OGR Position Paper Item 11 puts the case for a reduction in the maximum gearing ratio from 60% to 50%. PIC does not agree with this argument and recommends that the maximum gearing ratio remains at 60%. This is based on our analysis of Crown and PBL's capital structure and their respective risk profiles. PIC finds that both entities are in strong financial health and easily able to support the level of leverage implicit in a capital structure that is 60% funded by liabilities and 40% funded by equity.
- 2.2 This conclusion is based on our extensive experience in analysing the financial statements of over 1,000 entities using Lincoln Indicators risk measurement software programs known as STOCKdoctor and RISKmanager. Both programs use seven key financial ratios which were found to best predict business success or failure, based on over 15 years research by accounting academic, Dr Merv Lincoln. The seven key ratios, which include the Total Liabilities to Total tangible Assets gearing ratio, are weighted to derive a risk score between 0 (low risk) and 1 (high risk) within the following five risk zones:

<u>Lincoln Indicators Risk Rating Range</u>	<u>Risk Zone</u>	<u>Risk Characteristics</u>
0.01 to 0.10	Strong	Minimal Risk
0.11 to 0.30	Satisfactory	Slight risk
0.31 to 0.50	Early Warning Signals	Above average risk
0.51 to 0.80	Marginal	Significant risk
0.81 to 0.99	Distress	Extreme risk

- 2.3 The last risk zone means that the entity is exhibiting the financial characteristics of failing firms and is interpreted as a failure to demonstrate financial viability, in the absence of a satisfactory guarantee from an acceptable parent company. The trend over a minimum three year period is also an important factor, with a deteriorating risk trend of more concern than one that is stable or improving. Please refer to Appendix 1 (Lincoln Indicators System & Product Overview).
- 2.4 Applying the Lincoln Indicators RISKmanager model to Crown, the result is a strong risk score of 0.01 (best possible rating) for the past three years with a finding of undoubted financial viability. There are no apparent weaknesses in the company's financial relationships, with all seven of the Lincoln ratios rated as strong as at 31 December 2003. The only historic weaknesses were an unsatisfactory rating for the Retained Profits to Total tangible Assets ratio between June 2002 and 2003. This reflects a less than optimal level of retained profits which was remedied in the latest half year by retention of its \$ 193 million after tax profit.
- 2.5 Applying the Lincoln Indicators STOCKdoctor (Listed company) model to PBL also results in a strong risk score of 0.01 (best possible rating) for the past three years with a finding of undoubted financial viability. There are no apparent weaknesses in the company's financial relationships, with all seven Lincoln ratios rated as strong in every period.
- 2.6 Appendix 2 (Lincoln Indicators risk ratings for all ASX listed casino and wagering stocks) reveals that Crown and PBL each have the best possible risk score over the past three periods, in

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- addition to several other leading casino and wagering operators.<sup>9</sup> It is interesting to note that these generally strong risk ratings compare with a satisfactory 0.28 industry average.<sup>10</sup>
- 2.7 The Total Liabilities to Total tangible Assets (TLTAI) ratio is a highly weighted component of the Lincoln Indicators financial viability model. It is similar to the Total Liabilities to Total Assets gearing ratio currently used by the Authority to restrict the level of financial leverage that Crown or PBL can apply to their capital structures. The only difference being that Lincoln Indicators deducts all intangible assets in its calculation of TLTAI. The effect of this adjustment is to conservatively increase the gearing ratio by assuming that intangible assets have no value.
- 2.8 Appendix 3 compares the Total Liabilities to Total Assets (TLTA) gearing ratios of the 10 ASX listed casino and wagering stocks and finds that Crown has a gearing ratio of just 32%, whilst PBL has a slightly above average gearing ratio of 45.8%. This compares with Sky City at 77.9% (well over the Authority's 60% limit) and TAB and Tabcorp which are just below the limit, at 57.8% and 58% respectively. The range of results between 15% for Casinos Austria and almost 78% for Sky City and the arithmetic average of 40% intuitively tends to support a 60% limit. However, it is interesting to note that three (Sky City, TAB and Tabcorp) of the largest casino and wagering operators are near or above the 60% limit.
- 2.9 PIC has considered four other ratios, which may be of some relevance when seeking to regulate the leveraging of a company's capital structure and its debt servicing capacity. They are defined as follows:

<u>Potential Financial Ratio</u>	<u>Definition / Measurement</u>
1. Debt to Equity Ratio	Total Short and Long Term External Debt divided by Total Equity or Net Assets
2. Interest Coverage Ratio	Earnings Before Interest and Tax (EBIT) divided by Interest Expense
3. Liability Maturity Ratio	Current Liabilities divided by Total Liabilities
4. Quick Liabilities Ratio	Current Liabilities less Short Term Bank Finance divided by Current Liabilities

- 2.10 The Debt to Equity ratio is widely used for analytical purposes to measure the level of a firm's financial leverage. It focuses on the firm's level of external (normally interest bearing bank) debt compared with its total equity or net assets. The higher the value of this ratio, the higher the level of risk because the more a firm borrows the more susceptible it is to financial difficulties in the event of a downturn in trading. Typically, the level of external debt is no higher than net assets, although firms with strong cash flows can sustain higher debt to equity ratios. In this particular case, the 10 ASX Listed casino and wagering entities were found to have an average Debt to Equity Ratio of almost 69%, compared with 34.9% and 60.6% for Crown and PBL respectively.

Appendix 4 reveals that the range of results varied dramatically from a very low risk 10.3% for Casinos Austria to an extreme 304% for Sky City. Once again, TAB (86.5%), Tabcorp (107%) and Sky City were above the average result. In the case of Sky City and Tabcorp, this was largely due to their aggressive acquisition strategies in recent times.

The Debt to Equity ratio, whilst a useful measure of financial leverage, is considered to be less meaningful than the gearing ratio, which measures the more important relationship between Total

<sup>9</sup> Burswood, Casinos Austria and Tabcorp all have the best possible risk rating of 0.01 in the last three periods.

<sup>10</sup> PBL, which is classified in the media industry, has a strong risk rating of 0.01 which compares with an industry average risk rating of 0.32, an early warning result.

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Liabilities to Total Assets. On this basis, PIC recommends that the Debt to Equity ratio not be adopted for use by the Authority.

- 2.11 The interest coverage ratio is widely used by banks to measure the ability of a firm to service its debt from operational cash flows. Loan agreements often contain an interest servicing covenant that, for example, requires the borrower to maintain a minimum ratio of say 3 between EBIT and interest expense. This ratio is obviously sensitive to the level of EBIT and the level of debt and interest rates. The lower the ratio the higher the risk that the firm will have insufficient cash flow to service its debt.

This ratio is not considered appropriate as a regulatory constraint as it can be easily manipulated, eg by capitalisation or deferral of interest payments. The Authority is not in a position to control these variables and therefore should prefer a ratio that is more representative of overall financial risk and less likely to be manipulated.

- 2.12 The Liability Maturity ratio measures the relationship between current and non-current liabilities. The higher the level of short term liabilities the higher the risk that the firm will be unable to service its debts in the event of a downturn in trading. Strong, creditworthy firms are able to negotiate long term debt facilities which reduce the level of risk by decreasing the amount of principal payments that have to be made in the short-term.

It should be noted that all 10 ASX listed firms analysed have the majority of their debts recorded as non-current (maturing in more than one year). Crown and PBL have the vast majority (if not all) of their debt recorded as non-current. Whilst this ratio should be monitored, it is not considered appropriate as a single regulatory constraint as, once again, it can be manipulated.

- 2.13 The Quick Liabilities ratio measures the firm's reliance on external debt by measuring the relationship between trade and short-term bank finance. It is calculated by dividing Quick Liabilities (Current Liabilities less Short-term bank finance) by Current Liabilities. The lower the value of this ratio, the higher the risk, because there is a limit to the amount of short-term funds available from a bank, and the closer a firm gets to that limit, the less likely additional funds will be available.
- 2.14 All 10 ASX listed firms analysed have a low level of reliance on short-term bank finance and therefore pass the Quick Liabilities test. This is not surprising as listed companies generally have access to longer term bank finance and prefer to borrow on a long term fixed interest basis. The Quick Liabilities ratio is more appropriate for a small to medium sized company that has very limited access to bank funds. On this basis, the ratio is not considered appropriate in this case.
- 2.15 A review of listed US casino and gaming stocks has revealed a generally higher level of gearing than is the case in Australia. This is not surprising, given the more developed state of US capital markets and the lower level of interest rates. A 60% maximum gearing ratio would be exceeded by the vast majority of large US casino and gaming companies. Please refer to Appendix 5, which reveals that the average gearing ratio for listed US gambling stocks is 75%.
- 2.16 US casino and gaming companies are more reliant on debt than equity. Crown's and PBL's capital structure would probably be considered inefficient in the US due to their relatively high cost of capital caused by a greater reliance on equity funding. However, the comparison is somewhat inconclusive due to different tax and regulatory regimes. For example, the existence of dividend imputation in Australia may cause local companies to rely more on equity. On the other hand, it also results in the payment of higher dividends which reduces the level of retained profits and equity. Listed US companies also make greater use of stock buybacks which reduce equity.
- 2.17 The regulatory environment in Australia is also very different to that in the major casino States of Nevada and New Jersey. Clearly, the major Las Vegas and Atlantic City markets are very

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competitive with numerous casinos competing with each other. The Australian casino and gaming industry is generally comprised of monopoly or oligopoly business operations with regulation varying widely between different States. Regulatory requirements in the US, especially in the area of financial ratios and information, are generally more demanding and standardised within similar groups. For example, large listed casino companies are required to supply the same (voluminous) information to regulators on a regular basis.

- 2.18 PIC has reviewed a wide range of financial information required to be submitted by large US casino operators and concluded that these requirements are not well suited to the very different Australian industry. This may change in the longer term as the Australian industry continues its current phase of rationalisation and consolidation. The future existence of two or three "super casino" listed operating groups in Australia may necessitate the introduction of national reporting standards and monitoring systems. In the meantime, the current State by State approach to regulation will probably continue for some time.

2.19 Conclusion and Recommendations:

PIC has provided the above commercial and financial advice in order to guide the Authority on possible changes in the *Casino Agreement* that may be needed to improve its monitoring of the financial health of Crown and PBL. We have found that the existing Total Liabilities to Total Assets ratio is the most appropriate measure of financial leverage risk and recommend that it continues at its present maximum level of 60%. Although four alternative measures of gearing and interest coverage were reviewed, they were found to be largely inappropriate for use as a regulatory financial constraint on Crown and PBL activities, although all four could be used for monitoring purposes.

The following specific recommendations are made after reviewing the appropriateness of current tests (and possible alternative tests) for the Authority to measure the financial health of Crown and PBL:

1. The Authority should retain the existing 60% maximum gearing ratio contained in Clauses 22.1(m) and (ma) of the *Casino Agreement*, although further consideration needs to be given to the definition of Total Assets (Refer Section 5 of this report following);
2. Although the Debt to Equity ratio is a useful alternative measure of financial leverage, we do not recommend that it replace the existing gearing ratio which measures the more important and meaningful relationship between Total Liabilities and Total Assets;
3. The Interest Coverage ratio is also a useful measure of financial risk but again is not considered an appropriate ratio for regulatory purposes, given its susceptibility to manipulation;
4. The Liability Maturity ratio is another useful monitoring tool but not suitable as a general purpose measure of financial leverage risk;
5. The Quick Liabilities ratio is also considered inappropriate in the Crown/PBL situation, as both companies are able to negotiate long term funding facilities; and
6. A high level review of US listed casino and gaming companies indicates a far greater reliance on debt than is the case in Australia, due to very different capital markets, levels of interest rates, tax and regulatory regimes. For this reason, US regulatory requirements are not considered particularly relevant to the Australian environment at this point of time.

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- 3. Financial advice regarding the application of a range of financial measures and indicators to monitor the financial performance and ongoing viability of Crown, focusing on the Total Liabilities to Total Assets balance sheet leverage ratio (60% maximum) contained in the Casino Agreement and alternative cash flow or profit based ratios.**
- 3.1 In the previous section, PIC introduced the Lincoln Indicators financial viability STOCKdoctor and RISKmanager software programs, which measure the risk of ASX listed and unlisted companies respectively. These programs use seven weighted ratios to measure risk on a scale that ranges from 0 (low risk) and 1 (high risk) with five risk zones varying between strong and distress. They are widely used by the private and public sector to measure financial risk for credit evaluation, tender assessment and investment purposes. Please refer to Appendix 1.
- 3.2 One of the two highly weighted ratios in the Lincoln Indicators model is the Total Liabilities to Total tangible Assets (TLTAI) ratio, which is similar to the gearing ratio used by the Authority. The only difference being Lincoln's conservative deletion of all intangible assets in calculating Total Assets. On this basis, the TLTAI ratio is an alternative risk measurement tool that could be used to monitor the financial health of Crown and PBL on a regular basis and compare their risk scores with those of its peer group. The only disadvantage being that the ratio excludes all intangibles and therefore would not include the significant casino licence and management rights that Crown includes as assets. PIC agrees that these assets are not typical intangible assets and have a real value that should be included in financial calculations.
- 3.3 Perhaps more appropriately, the Lincoln Indicators model could be adopted in totality as an alternative measure to regularly monitor the financial performance and ongoing viability of Crown and PBL. Although Crown and PBL were both found to be in a strong financial position, with minimal risk as at 31 December 2003, this situation may not last into the future.
- 3.4 Crown and PBL currently publicly disclose their financial results on a semi-annual basis, with Crown supplying additional information to the Authority on a quarterly basis. This current situation is adequate and enables the Authority to assess the financial position of Crown and PBL on a quarterly and semi-annual basis respectively.
- 3.5 The other highly weighted ratio in the Lincoln Indicators financial viability model is the Cash Flow Before tax to Current Liabilities (CFBCL) Ratio. A satisfactory result in this ratio, which measures the company's margin of safety to meet short-term liabilities from operational cash flows, is critical to a firm's financial health. The CFBCL ratio is a powerful variable that indicates the underlying profitability or cash flow of the firm. In the case of Crown and PBL this ratio is assessed as being strong in the past three periods, indicating that both companies have a very safe margin of financial safety. Empirical research reveals that trends in cash flow from operations are the best indicator of financial health over the longer term<sup>11</sup>;

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<sup>11</sup> Craig Deegan Australian Financial Accounting 2001 Ed. Page 564. "Sharma argues, using the example of Brash Holdings Ltd, that the use of cash flow data ... would have provided an earlier indication of solvency problems than was possible using conventional financial ratios. He argues (p.42); Thus, while accrual liquidity analysis would not have raised any concerns among lenders, a cashflow analysis would certainly have forewarned lenders of Brash's inability to meet obligations from internally generated cash ... as early as four years before voluntary administrators were appointed. The results in Sharma (1996) are generally consistent with those provided in Flanagan and Whittred (1992). In a review of Hooker Corporation, Flanagan and Whittred documented results which indicated that traditional use of financial ratios pertaining to liquidity, solvency and profitability provided poor guides to the probability of corporate failure. Conversely, however, the analysis of trends in cash flows from operations appeared to provide earlier indications of forthcoming financial distress." It is interesting to note that Dr Merv Lincoln is on public record as having predicted the failure of Brashes (well before it failed) using his Lincoln Indicators model, which places a high weighting on the key CFBCL cashflow based ratio.

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- 3.6 Conventional ratios such as the current ratio, which measures the relationship between Current Assets and Current Liabilities, are no longer an accurate indicator of financial viability. Traditionally, financial analysts would look for a healthy company to record a Current Ratio in excess of 1.00, indicating a positive working capital position. However, this is no longer an accurate indicator of financial health as many companies (including Crown) have a Current Ratio well below 1. This reflects the company's high level of investment in non-current assets and is not an indication of solvency or liquidity problems as current assets are not necessarily used to repay current liabilities (large firms have access to other funds).
- 3.7 Other ratios that could be adopted for use in monitoring the financial health of Crown and PBL include the following ratios which are cash flow or profit based:
1. Retained Cash Flows From Operations (RCFFO) to Current Debt: This variable measures the level of cash retained after meeting all operating costs and priority payments such as interest expense and dividends as a percentage of current debt, which indicates short-term debt paying capacity. The higher the ratio of operational cash inflows to debt the better. If an entity depends on debt for cash inflows it is not in a healthy position. Both Crown and PBL record high levels of RCFFO to current debt, partly due to the fact that the vast majority of their debt is non-current. RCFFO to total debt may be an alternative measure to avoid the distorting effect of long term debt concentration.
  2. Retained Profits to Total Assets (RPTAI): This ratio, which is included in the Lincoln Indicators model, measures the percentage of total tangible assets that are in the form of retained profits. The extent of funding from profit retention is an important risk mitigating factor. Lower risk firms have a higher proportion of their funds being sourced from profit retention due to a conservative policy of retaining profits for reinvestment.
  3. Profit before Interest and Tax to Total tangible Assets (PITTAI): This ratio, which is used in the Lincoln Indicators building and property industry model, is a useful measure of the operational profitability of the firm. It effectively measures the firm's Return on Assets (ROA), which Lincoln finds to be the best indicator of long term health in this particular industry. Although neither Crown nor PBL are involved in these specific industries, they both aim to maximise their return on assets. Both firms have a return on assets well over 8% pa (Crown 16.2% and PBL 11.7%) which is the benchmark for strong performance (and categorisation as a STARstock for investment purposes).<sup>12</sup>
  4. Profit Before Tax and Interest to Equity: This is a Return on Equity (ROE) ratio, which is widely used by analysts to measure the firm's efficiency in using its equity base to generate returns for shareholders. Both Crown and PBL have ROE's in excess of 20% (Crown 20.6% and PBL 20.7%) which places them in the top echelon of performers on the ASX.
- 3.8 There is a growing trend for listed companies to maximise their ROA and ROE ratios by removing low returning assets from their financial statements. The accuracy of this statement can be confirmed by the number of listed entities that have removed low yielding property and other assets by separately listing or demerging them. We understand that Crown (and PBL) are also seeking to achieve this objective, by obtaining the Authority's approval for the removal of the recently constructed Promenade Hotel from Crown's financial statements and its listing in a new property trust. This type of transaction is likely to become more common in the future as listed entities seek to maximise their ROA and ROE to boost their share price.

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<sup>12</sup> The Lincoln Indicators STOCKdoctor software program pre-analyses virtually all 1,600 ASX listed stocks and calculates their risk rating and Return on Assets to determine which of these entities are suitable for investment purposes. At time of writing, 117 stocks are listed as STARstocks on the basis of their low risk rating and a ROA consistently above 8% pa. PBL and Crown would both be considered STARstocks.

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**3.9 Conclusion and Recommendations:**

PIC has provided the above financial advice in order to guide the Authority on a range of possible measures and indicators that could be utilised to monitor the performance and ongoing viability of Crown, apart from the 60% maximum gearing ratio, which is currently contained in the *Casino Agreement*. We have found that the Lincoln Indicators model is the best alternative measure of the company's financial health and considered a number of additional cash flow and profit based ratios that could be used for monitoring purposes.

The following specific recommendations are made after reviewing the appropriateness of current tests (and possible alternative tests) for the Authority to measure the financial health of Crown and PBL on a regular (at least semi-annually and preferably quarterly) basis:

1. The Authority should consider applying the Lincoln Indicators financial viability model to the task of monitoring the ongoing performance and viability of Crown and PBL on a quarterly (Crown) and semi-annual (PBL) basis. The ability to monitor Crown's financial performance on a quarterly basis will depend on the continued availability of detailed quarterly accounts.
2. If the Lincoln Indicators model is not utilised, the Authority should consider using cash flow or profit based ratios for monitoring the ongoing financial performance of Crown and PBL. Empirical research has shown that trends in cash flow from operations are the best predictor of financial health or failure. In the case of Lincoln Indicators, a Cash Flow Before tax to Current Liabilities (CFBCL) ratio is one of the two highest weighted ratios.
3. Conventional ratios, such as the current ratio, are no longer an accurate measure of financial health. Many companies, such as Crown, have a deficit of working capital (Current Assets less than Current Liabilities) for extended periods without experiencing solvency or liquidity problems.
4. Four other cash flow or profit based ratios have been suggested for monitoring purposes (RCFFO, RPTAI, PITTAI/ROA and ROE). These ratios could be used collectively to monitor the ongoing financial health of Crown and PBL on a regular basis.

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- 4. Policy advice as to the appropriateness of 11 (OGR Position Paper Item 16) information reporting requirements that the OGR recommends Crown supply on a regular basis or make available on request via amendments to the Casino Agreement.**
- 4.1 In Item 16(a) the OGR recommends that the Authority be supplied with a report on Crown's annual capital expenditure program and quarterly reports on actual expenditure. PIC concurs with this recommendation, which if implemented will allow the Authority to monitor the actual level of capex by Crown compared with budget. If agreed, this recommendation could be implemented by expanding the existing Crown quarterly reports to include actual and budgeted figures for capex over the past quarter, divided into two categories (Existing Facilities and Major New Constructions). The Authority could justify these increased information requirements by relying on its monitoring role to ensure that Crown is meeting its obligations to maintain the Melbourne Casino at world quality standards.
- 4.2 Items 16(b) and (c) refer to a proposal for Crown to report on its internal and external audit programs, with any changes or divergence from these programs to be reported within 30 days. This proposal arises from certain findings of the Authority's *Third Triennial Review of the Casino Operator and Licence (June 2003)*, which inter alia found deficiencies in Crown's historic internal audit programs. The Authority's major concern at that time being a lack of resources allocated to this critical function. Although Crown rejected this finding, there is prima facie evidence to suggest that Crown has not allocated sufficient resources in this area. PIC agrees that Crown should be required to provide regular (say annual advice of the proposed internal audit program for the forthcoming year and quarterly compliance advice) reports to allow the Authority to satisfy its statutory obligations that Crown is complying with the approved internal controls.
- 4.3 PIC would also recommend that the Authority enter into discussions with Crown's external auditor, Ernst and Young, with a view to determining whether it is possible for the accounting firm to expand its audit program to include a greater emphasis on internal controls. According to the latest audit certificate, Ernst and Young review Crown's internal controls over financial reporting but do not provide any assurances as to their effectiveness. This extension of the external auditor's role could be justified by reliance on proposed new Federal anti-money laundering legislation that will soon require casino operators such as Crown to effectively audit the gambling activity of its higher value customers (possibly as low as a \$ 5,000 threshold).
- 4.4 In Items 16(d) and (e) the OGR proposes that Crown provide details of the membership, reporting structure, dates, agendas, papers and minutes of meetings of the company's Audit Committee. PIC understands that Crown has recently established an Audit Committee comprising three non-executive directors. PIC supports OGR's proposal to require Crown to supply details of the Committee's reporting structure, dates, agendas, papers and minutes of meetings.
- 4.5 PIC recommends that Crown be required to adopt the model Audit Committee charter that is posted on the ASX website. Whilst this Charter is only a guideline, it is expected to be adopted as best practice by the majority of the top 300 ASX listed companies, which are required to have Audit Committees from the commencement of the 2004-05 year. Some of the features of the ASX Audit Committee Charter, which are relevant to the Crown situation are as follows:
1. Comprise only non-executive directors;
  2. Contain a majority of independent directors (refer to the definition of independent);
  3. Have an independent Chairperson, who is not the chairperson of the board;

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4. Contain at least three members; and
5. Have a formal Charter.

PIC understands that Crown's Audit Committee, as currently proposed, complies with most of the above requirements, although further information is required to confirm its best practice status. Crown should be encouraged to adopt the ASX Charter which will provide further evidence of its best practice status.

- 4.6 Items 16(f) and (g) are similar to Items 16(d) and (e) in recommending that Crown's Compliance Committee be required to supply similar information to that proposed for the Audit Committee. PIC concurs that Crown should be required to supply detailed information on the reporting structure and membership of the Compliance Committee whilst making available for inspection (or copies) of agendas, papers and minutes of meetings.
- 4.7 PIC notes that the Authority expressed its concern over certain aspects of Crown's corporate governance practices in its *Third Triennial Review of the Casino Operator and Licence (June 2003)*. This report referred to the Authority's concern over the nature of the company's Compliance Committee, which was apparently downgraded from a Board Committee to a Management Committee during the period. Other concerns, such as Crown's failure to appoint two independent directors and provide a guarantee from Petelex Pty Limited, have been resolved or partly resolved.
- 4.8 The OGR also recommends, in Item 16(h), that Crown be required to provide details of any new PBL subsidiary. PIC notes that PBL, in a letter dated 9 February 2004, supplied the Authority with a schedule purporting to contain details of all new subsidiaries created or acquired since its June 1999 execution of a Deed of Undertaking and Guarantee. Clause 6.1(a)(1) of this Deed requires PBL to supply this information within 20 (after creation) or 40 (after acquisition) business days, including details of its incorporation, ownership, Total Assets and EBITDA.
- 4.9 Item 16(i) contains an OGR recommendation that Crown be required to give the Authority a copy of its annual budget in lieu of quarterly reports, as required under Clause 25.4 of the *Casino Agreement*. PIC understands that the Authority historically agreed to substitute annual budget figures for actual quarterly results due to Crown's belief that release of the latter information would breach the company's ASX Listing Rules (Continuous Disclosure). This situation will seemingly be resolved in August 2005, when Crown's debt listing expires. On this basis, PIC recommends that the Authority revert to requiring quarterly financial information (as allowed under Clause 25.4) from that time and not seek to amend the *Casino Agreement* to reflect current practice.
- 4.10 Item 16(j) proposes that Crown be required to provide information on its divergence from budget figures on a regular quarterly basis. In 1995, the Authority agreed to waive Crown's Clause 25.4 quarterly reporting obligations in return for the provision of annual budget figures. In PIC's view, this information should continue to be available on a timely basis and we recommend that an amendment to the *Casino Agreement* be negotiated to require Crown to provide a copy of its approved annual budget for the forthcoming financial year by the end of June.
- 4.11 We also concur with OGR's recommendation, under Item 16(k), that the *Casino Agreement* be amended to require Crown to supply the same type of information that the company would be required to give the ASX as if it were a listed entity (and not just a debt listing, which has lesser continuous disclosure requirements). The implementation of this recommendation (which repeats 1.11 above) will allow for a more objective interpretation of Clause 25.2 which requires Crown to give the Authority:

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“immediate notice of any information necessary to ensure that the Authority is able to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the company.”

Item 16(k) lists a range of information that Crown would be required to supply to the Authority under a proposed amendment to Clause 25.1 (ASX information). Whilst these provide some examples of the type of disclosures required, the Authority should avoid an overly prescriptive definition which fails to capture all possible scenarios.

- 4.12 Whilst Crown is technically a listed company, it does not provide a high level of disclosure to the ASX under its current debt listing. Apart from detailed half yearly and annual accounts and unsecured notes interest data, the company has lodged no other announcements in recent times. Even this limited level of disclosure will cease from August 2005 when the company’s unsecured notes mature. This increases the importance of the Authority seeking to increase the company’s level of disclosure before Crown is delisted.
- 4.13 Part 7 of this report considers other potential future scenarios, for example where Crown is demerged from PBL, assuming the single purpose restriction is lifted. Whilst this is a possibility, the Authority should maintain a flexible approach in negotiating amendments to the *Casino Agreement* and not rely on any particular outcome to remedy a lack of disclosure at the Crown level.
- 4.14 Conclusion and Recommendations:

PIC has reviewed the recommendations contained in the **OGR Position Paper Item 16** and supports the implementation of the following items that require Crown to:

- (a) Provide a report on Crown’s annual capital expenditure program and quarterly reports on actual expenditure classified between “Existing Facilities” and “Major New Construction.” PIC believes that implementation of this recommendation will assist the Authority to monitor Crown’s compliance with its obligation to maintain Melbourne Casino at world quality standards;
- (b) Provide a report on Crown’s internal and external audit programs and any changes to the programs. PIC envisages that this report would be annual (based on financial year proposed audit program) with any changes to be notified on an ad hoc basis within 30 days of occurrence;
- (c) Provide a report on adherence to, or divergence from, the internal and external audit programs. PIC envisages that this report will be provided quarterly and recommends that the Authority enter into discussions with Crown’s external auditor, Ernst and Young, to **determine whether its audit program can be extended to provide greater comfort in the area of internal controls. This extension could be justified by relying on the proposed new Federal anti-money laundering legislation which will require Crown to effectively audit the gambling activity of its higher value customers (possibly as low as a \$ 5,000 threshold);**
- (d) Supply details of any changes to the reporting structure and membership of Crown’s Audit Committee and proposed dates of meetings. PIC supports this recommendation and believes that the most effective way of achieving the Authority’s objectives in this area is to require Crown to adopt the ASX Audit Committee Charter;
- (e) Make available for inspection, or copies if requested of, Audit Committee agendas, papers and minutes of meetings. PIC supports this recommendation and believes that the Authority should encourage Crown to comply in order to meet best practice standards in this critical area. If this approach is not successful, the Authority could rely on its statutory powers to monitor compliance with the approved internal controls;

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- (f) P rovide details of any changes to the reporting structure and membership of the Compliance Committee, along the lines of that information proposed to be provided in respect of the Audit Committee. P IC understands that Crown has historically downgraded this Committee from Board to Management composition and believes that this should be reversed;
- (g) Make available for inspection, or copies if requested of, Compliance Committee agendas, papers and minutes of meetings. P IC supports this recommendation and believes that its implementation may assist in resolving some of the corporate governance issues that were identified in the June 2003 *Third Triennial Review of the Casino Operator and Licence*;
- (h) P rovide details of any new subsidiary of P BL. In P IC's opinion, no amendment to the *Casino Agreement* is required, as this information is already required under Clause 6.1(a)(1) of the *Deed of Undertaking and Guarantee* executed between the P BL Group and the Authority in June 1999.
- (i) P rovide a report on Crown's annual budget. P IC recommends that Crown be required to supply a copy of its annual budget for the forthcoming financial year by the end of June;
- (j) P rovide a report on adherence or divergence from the budget. P IC recommends that Crown supply a quarterly report comparing actual with budget figures;
- (k) P rovide information that would satisfy ASX Listing Rule 3 (Continuous Disclosure) as if it were a listed company. This would provide a more objective interpretation of Clause 25.2. Whilst the OGR has listed a range of information disclosures that would need to be supplied, P IC would prefer a less prescriptive approach; and
- (l) The Authority should maintain a flexible approach to negotiating amendments to the *Casino Agreement* and attempt to allow for possible future developments such as Crown's demerger from P BL, delisting from the ASX in August 2005 or a possible relisting at some future time.

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**5. Assessing intercompany transactions entered into between Crown and related entities impacting on the financial position (assets and liabilities) and performance and viability of the subsidiary company's operations within the consolidated group.**

**5.1 The Consolidated Statement of Financial Position for Crown Limited and Controlled Entities (Crown) at the dates shown below disclose that Crown had:**

	<u>31.12.2003</u>	<u>30.6.2003</u>	<u>30.6.2002</u>
	<u>\$'000</u>	<u>\$'000</u>	<u>\$'000</u>
• Total Shareholders' Equity	1,876,773	1,683,839	1,527,313
<i>comprising:</i>			
• Total Assets	2,753,746	2,675,412	3,632,798
• Total Liabilities	876,973	991,573	2,105,485
• Total Liabilities/Total Assets Ratio	31.8%	37.1%	58.0%

Please refer to Appendix 6 (Crown PBL Group Relevant Corporate Structure).

**5.2 Transactions with Crown Controlled Entities:**

The above consolidated figures for Y2003 exclude significant loans to, and investments in, Crown Controlled Entities – all of which are 100% owned by Crown, and payables due from them. Those items are eliminated as part of the consolidation process for Crown's consolidated financial accounts. Details are given below with summary information contained in Appendix 7 (Crown Unsecured Related Company Receivables and Payables):

- Crown Controlled Entities' Assets:
  - ◊ Current Receivables at 30 June 2003 - \$148.5 million (Y2002 \$93.6 million).
  - ◊ Non-current Investments at 30 June 2003 - \$240.1 million (Y2002 \$240.1 million), almost all of which comprised \$240 million invested in the Crown CP Shareholders Trust.
- Crown Controlled Entities' Liabilities:
  - ◊ Current Payables at 30 June 2003 - \$181.6 million (Y2002 \$109.8 million).

PIC has been advised by OGR that the \$240 million invested in the Crown CP Shareholders Trust relates to the cost incurred by Crown in acquiring the Management Rights to the Crown Casino from the Hudson Conway group.

If Crown ceases to be a single purpose entity, it is conceivable that future investments by the PBL Group in other casinos and gaming ventures will be made either directly through Crown or (more likely) through Crown Controlled Entities.

Crown will rank as an unsecured lender in respect of any cash advances it makes to any Crown Controlled Entity, unless it takes security for such advances. Its ability to generate income on any equity advances to any Crown Controlled Entity, or to recover its equity outlay through sale or wind-up of that entity, will be dependent upon the ongoing financial performance and viability of that entity. It would be reasonable, therefore, to require Crown to provide separate quarterly financial statements for each Crown Controlled Entity in which either Crown and/or another Crown Controlled Entity has an investment (equity and/or loans) of, say, \$135 million or greater.

Note: The \$135 million threshold has been chosen for materiality purposes and represents approximately 5% of Crown's Total Assets. The relevant Australian Accounting Standard Board (AASB) standard defines materiality in terms of a minimum 5% of total assets.

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The question arises as to whether those designated Crown Controlled Entities should also be required to comply with, and maintain, the Total Liabilities / Total Assets 60% Maximum Gearing Ratio imposed on Crown, based on its consolidated financial statements. The reality is that, if any designated Crown Controlled Entity breaches any such Gearing Ratio constraint that is imposed on it, the remedy would be for Crown to advance additional equity funds to that entity. This would not improve Crown's own financial viability. Thus it is not recommended that individual designated Crown Controlled Entities be required to comply with and maintain such a Maximum Gearing Ratio.

A further question that arises is whether the Authority should seek to have Deeds of Cross Guarantee entered into between Crown and its designated Controlled Entities in a similar manner to which PBL has entered into such Deeds with some of its controlled entities. The perceived reason for PBL entering into those Deeds is to eliminate the need for each of those entities to publish separate financial statements. Crown may wish to adopt a similar approach in the future for similar reasons.

There would appear to be very little benefit to the financial viability of Crown if the Authority were to require Deeds of Cross Guarantee entered into between Crown and its designated Controlled Entities as a condition for agreeing to the removal of the Single Purpose Restriction. This is because Crown already controls those entities and can require them to pay back, or refinance their indebtedness whenever it wants to. Moreover, on the downside, if any of those Crown Controlled Entities experience financial difficulties in the future, Crown would be obliged to provide financial support. It is not recommended, therefore, that the Authority require designated Crown Controlled Entities to enter into Deeds of Cross Guarantee with Crown as a condition of agreeing to the removal of the Single Purpose Restriction.

In the event that the Authority ascertains that one of Crown's designated Controlled Entities is experiencing financial difficulties, its protection is the need for Crown to continue to comply with the 60% Maximum Gearing Ratio at the dates of its future consolidated half yearly and annual accounts. Any sub-performance by its Controlled Entities will be reflected in those accounts. Any future breach of that 60% Maximum Gearing Ratio at the Crown level will provide an opportunity for the Authority to step in and, in conjunction with Crown, remedy the situation.

**5.3 Transactions with PBL Related Parties:**

A material portion of Crown's Consolidated Total Assets at the dates shown comprised Related Parties' Indebtedness incurred by PBL Group companies. Details are as follows:

<u>Non-Current Assets</u>	<u>31.12.2003</u>	<u>30.6.2003</u>	<u>30.6.2002</u>
	<u>\$'000</u>	<u>\$'000</u>	<u>\$'000</u>
• Receivables:	348,136	207,929	1,060,062
• Other Financial Assets:	454,787	508,021	606,383
• Totals	<u>802,923</u>	<u>715,950</u>	<u>1,666,445</u>

Notes to Crown's Consolidated Y2003 Financial Statements record that nearly all these advances were made to Publishing and Broadcasting (Finance) Limited (PBL Finance) and TCN Channel Nine Pty Ltd, both of which are wholly-owned by PBL. Details are provided below with summary details contained in Appendix 8 (PBL Unsecured Related Company Receivables and Payables).

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Receivables - Publishing and Broadcasting (Finance) Limited Loans:

Publishing and Broadcasting (Finance) Limited (PBL Finance) owed Crown \$200,587,148 of the Receivables amount shown above for 30 June 2003 (Y2002 - \$1,055,148,200). Those debts are described in Crown's Y2003 Annual Report as being "at call" loans with interest being calculated and paid monthly. Given their at call nature, those loans would appear to be incorrectly classified as Non-Current Receivables in Crown's accounts.

Crown's unaudited financial statements for the half year ended 31 December 2003 disclose that a further \$140 million was advanced during that period to PBL Finance, which owes all the \$348,136,000 of Non-Current Receivables recorded as being outstanding at that date.

PBL Finance acts as Treasury Manager for Crown, investing temporary surplus cash flows on its behalf. PBL Finance does not presently provide a guarantee under Crown's Deed of Undertaking and Guarantee; however, the OGR has informed PIC that this omission is currently being remedied. This Treasury Manager arrangement is acceptable as long as the cross guarantee from PBL continues (and PBL's financial performance and the stipulated financial compliance ratio remain satisfactory). This arrangement allows Crown's Surplus Cash to be invested anywhere within the PBL group, or externally outside those Related Entities.

Other Financial Assets - TCN Channel Nine Pty Ltd Loan:

Notes to Crown's Y2003 Annual Report state that at 30 June 2003 \$508,021,390 (Y2002 - \$3,979,214) was owing by TCN Nine Pty Ltd, a wholly-owned subsidiary of PBL, to Crown Management Pty Ltd, a wholly-owned subsidiary of Crown. It stated that an interest rate of 6.33%, payable annually, is charged on these promissory notes which mature on 24 May 2005.

Crown's audited Y2003 Annual Report shows that Non-Current Loans to PBL Related Parties at 30 June 2002 totalled \$606,383,000, implying that most of those loans were provided to another PBL Related Company not TCN Channel Nine Pty Ltd. At 31 December 2003, \$454,787,000 of those loans were still outstanding.

PIC's ASIC search failed to identify the existence of a company named TCN Nine Pty Ltd and has assumed that the correct name of the borrower is TCN Channel Nine Pty Ltd, which is a guarantor company under the Deed of Undertaking and Guarantee.

Liabilities:

Crown's Consolidated Financial Statements disclose that it had the following Non-Current Interest-Bearing Liabilities to PBL Related Companies at the dates shown:

<u>Non-Current Liabilities:</u>	<u>31.12.2003</u>	<u>30.6.2003</u>	<u>30.6.2002</u>
	<u>\$'000</u>	<u>\$'000</u>	<u>\$'000</u>
Promissory Notes – Related Parties	454,787	508,021	606,383

A Note to Crown's Y2003 Financial Statements disclose that \$508,021,390 was owed by Crown Management Holdings Pty Ltd – a wholly-owned subsidiary of Crown to Cubwell Pty Ltd (a guarantor company), a wholly owned subsidiary of PBL through Consolidated Magazines Pty Limited at 30 June 2003 (Y2002 - \$3,916,351). It states that an interest rate of 6.23%, payable annually, is payable on those promissory notes which mature on 24 May 2005. Inspection of

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Crown's Half Yearly Financial Statements for the period ended 31 December 2003 indicates that this outstanding debt was reduced to \$454,787,000 at 31 December 2003.

It is noted that the Non-Current Liability Borrowings shown above at each of the three dates are identical in amount with the amounts shown above for Non-Current Assets – Other Financial Assets on each of those dates. This implies a relationship, perhaps tax-driven, between these back to back transactions.

Little is known about Cubwell, which was registered on 29 June 2001. Accordingly, in our view it would be inappropriate to offset that liability against the matching advance to TCN Channel Nine Pty Ltd without further detailed particulars.

### 5.4 *Conclusion and Recommendations:*

#### Conclusion:

The present Total Liabilities / Total Assets 60% Maximum Gearing Ratio does not significantly constrain PBL's ability to raise external debt through Crown and to invest in, or lend those funds (plus any surplus Crown funds) to PBL Related Companies, Crown Controlled Entities and/or External Entities. On the basis of Crown's Y2003 Consolidated Accounts, Crown could raise a further \$1,500 million in debt and advance or invest it on that basis without breaching the 60% Gearing Ratio.

Both Crown and PBL are financially strong companies in their own right. There should be no major concern if Crown borrows additional funds of up to that magnitude and invests them in the manner described above, provided there is no breach of its 60% Maximum Gearing Ratio constraint. The presence of the Deed of Undertaking and Guarantee from PBL and Related Companies provides additional financial comfort in that regard.

That conclusion is subject to the proviso that any such investments should be commercially justifiable from a Crown viewpoint - (ie. there should be no subsidised interest rates etc).

#### Recommendations:

- There should be a requirement, if Crown invests in, or advances more than, \$135 million to, an existing or new Crown Controlled Entity, that Crown provides information on the purpose of that investment and, if it is an advance, details of the terms of that advance at its next quarterly reporting date. As at 31 December 2003 the highest such internal loan was a \$ 104 million advance to Crown CPS Holdings Pty Ltd;
- In addition, separate financial accounts should be required to be provided for that Crown Controlled Entity on each Quarterly Reporting date, so that the Authority can monitor that company's ongoing financial performance and viability; and
- If Crown invests in, or advances, more than \$135 million to any PBL Related Entity, that entity should be required to become a guarantor pursuant to PBL's Deed of Undertaking and Guarantee. As at 31 December 2003, there are only two advances in that category. Firstly, there is a \$ 348 million loan to PBL Finance, which we understand is in the process of supplying a Deed of Undertaking and Guarantee to the Authority. Secondly, at that time there is seemingly a \$ 455 million non-current loan advanced to TCN Channel Nine Pty Limited, which is a Guarantor under the original June 1999 Deed of Undertaking and Guarantee. This loan was recorded at \$ 508 million as at 30 June 2003.

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**6. Advice regarding the quarantining (ring-fencing) of Crown's assets and safeguarding its financial performance from the activities of related companies within the PBL and CPH consolidated groups – eg. minimising the potential for asset stripping and debt loading in Crown.**

**6.1** At present the principal financial constraints on Crown's ability to borrow funds and to use them as it sees fit comprise:

- Melbourne Casino Project Casino Agreement (Casino Agreement), Sub-Clause 22.1:
  - (m)... The Company must procure that at any time Total Liabilities do not exceed 60% of Total Assets without the prior written approval of the Authority; and
  - (ma) Total Group Liabilities must not at any time exceed 60% of Total Group Assets without the prior written approval of the Authority.
- PBL's Deed of Undertaking and Guarantee, Sub-Clause 3.2 Gearing Ratio:
  - PBL will not, without the prior written consent of the Beneficiaries, permit or suffer Total Liabilities of the PBL Group to exceed 60% of Total Assets of the PBL Group.

The definitions contained in Clause 2 of the Casino Agreement clarify that Section (m) relates to Crown's Consolidated Accounts and that Section (ma) relates to PBL's Consolidated Accounts. Both sets of consolidated accounts are required to comply with Australian Accounting Standards.

**6.2** The audited Consolidated Statements of Financial Position for the Publishing and Broadcasting Limited (PBL) Group at the dates shown below disclose:

	<u>31.12.2003</u>	<u>30.6.2003</u>	<u>30.6.2002</u>
	<u>\$'000</u>	<u>\$'000</u>	<u>\$'000</u>
• Total Shareholders' Equity	3,921,144	3,741,849	3,510,172
<i>comprising:</i>			
• Total Assets	7,239,089	7,038,434	6,522,875
• Total Liabilities	3,317,945	3,296,585	3,012,703
• Ratio	45.8%	46.8%	46.2%

Clearly PBL has operated well within its Consolidated 60% Maximum Gearing Ratio limit in recent years.

**6.3** As shown above in Section 5, there are presently negligible financial constraints on Crown investing its Surplus Cash in PBL / Crown Controlled Entities and/or external entities. Its ability to invest in new casino, gaming and other activities either directly or through existing or new Crown Controlled Entities is, however, presently constrained by the requirement in the Casino Agreement, Sub-Clause 22.1 (p):

*The Company must not carry on or conduct any business other than the businesses contemplated by or authorised under (that) document and the Casino Licence and any business incidental to or complementary with those businesses except with the prior written approval of the Authority.*

Sub-Clause 22.4 states that "a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses."

**6.4** Effectively that constraint presently inhibits Crown and its Controlled Entities from investing in any non-Crown-related casino and gaming activities, or other ventures unrelated to Crown's present activities, without the Authority's prior written approval. However, there is no constraint on Crown lending money to any non-Crown or PBL Related Company and for them to do so, unless there is a clear linkage between the monies lent by Crown and the investment undertaken.

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The interposition of PBL Finance as an intermediary in any such investment process makes it very difficult for the Authority to establish any such direct linkage.

- 6.5 The request by PBL / Crown to have the single purpose restriction removed has provided the Authority with an opportunity to negotiate additional measures to safeguard Crown's financial performance from the activities of PBL and CPH Related Entities and to minimise the potential for asset stripping by those entities and debt loading in Crown. Effectively, the only present financial constraints are those set out in Section 6.1 above. Those constraints limit the amount of Borrowing that can be undertaken by Crown (and PBL) relative to Consolidated Total Assets.
- 6.6 PIC believes that it would be counterproductive for the Authority to reject the PBL / Crown request. It perceives that, after this restriction has been lifted, Crown's future actions could include:
- The acquisition of other casino and gaming operations in Australia, including the Burswood Casino in Perth where a PBL company (Wilfex Pty Ltd) currently has a 15% shareholding; and, possibly
  - The future demerger of Crown and Crown Controlled Entities from PBL's publishing and media interests. This process may have already commenced with the recent establishment of Petelex Pty Limited to hold PBL's Australian Consolidated Press and Nine Network Australia assets.
- 6.7 The Authority has recognised that key objectives for the Victorian Government are to ensure that:
- Crown's principal place of business remains located in Melbourne; and
  - The majority of future Crown Board Meetings and any future Annual General Meetings of Shareholders be held in Melbourne.
- 6.8 It is difficult to predict the form of corporate structure that will emerge for the Crown Group if the single purpose restriction is removed. Alternative structures include the following:
- A holding company is inserted in the corporate chain above Crown. That company will then hold the PBL Group's separate investments in Crown, Burswood, etc. This approach reflects the approach previously adopted for PBL's publishing and media interests evidenced by the recent incorporation of Petelex Pty Limited.
  - Crown becomes the Holding Company for the Group, with investments in other casino and gaming entities being held in Crown Controlled Entities.
- 6.9 As stated above in Section 5.4, PBL presently has plenty of scope to adopt either structure and/or to make such investments through other PBL Controlled Companies. The only existing financial constraint is the 60% Maximum Gearing Ratio detailed in Section 6.1 that applies to both the PBL and Crown consolidated groups.
- 6.10 PIC is required to advise on how best to ring-fence Crown's assets and to safeguard its financial performance. PIC believes that an optimal way in which to achieve that outcome would be to treat the Crown Casino venture as a "stand-alone" venture within the PBL Group and to apply Project Finance principles.
- 6.11 In Project Finance undertakings, the defined Project Entity or Group is required to submit specified reports at regular intervals to Lenders and to adhere to strict financial ratios. Any breach of compliance, after expiry of a specified rectification period, results in a requirement to immediately repay outstanding project loans in the case of a Project Finance transaction. In the

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case of Crown, any such breach could occasion a review of the suitability of the Company to continue holding its casino licence.

- 6.12 Adoption of this approach would allow more stringent controls and constraints to be applied to the defined Crown Group. No change is envisaged in the existing financial constraints on PBL detailed in Section 6.1.
- 6.13 PIC's appraisal of the existing financial constraints on Crown detailed in Section 6.1 has disclosed that the existing definition of Total Assets allows both Intangibles and PBL Related Company Indebtedness to be fully included in the calculation of Total Assets.
- The inclusion of Crown's existing \$481.7 million of Intangible Assets, which mainly comprise its Crown Licence Premium (at Directors' Valuation, including a revaluation of around \$ 100m since acquisition) and Management (Operations Agreement) rights, both after amortisation to date, does not cause immediate concern because those Intangible Assets are perceived to have genuine value. However, the inclusion of any substantial future Goodwill incurred on any company acquisitions by Crown could raise concern on the ongoing adequacy of the existing Section 6.1 constraints.
- 6.14 Under the proposed "stand-alone" approach, PIC recommends that the existing definition of Crown's 60% Maximum Gearing Ratio should be revised to incorporate the following concepts:
- **Gearing Ratio – 60% (as defined) - based on the Crown Group's Consolidated Accounts at the specified date:**
    - ◊ Total Liabilities divided by Total Assets (both as defined).
    - ◊ *Total Liabilities* at the specified date to be defined to include all Liabilities required to be recorded in the Crown Group's Consolidated Accounts in accordance with Australian Accounting Standards.
    - ◊ *Total Assets* at a specified date to be defined to include all Assets required to be recorded in the Crown Group's Consolidated Accounts in accordance with Australian Accounting Standards from which should be deducted:
      - All Related Party indebtedness and all investments in Related Parties, apart from indebtedness to, or investments in, Crown Controlled Entities; and
      - All Intangible Assets, excluding the amortised values of Crown's Licence and Operations Agreement. (Any future revaluations of those excluded Intangible Assets should be undertaken and endorsed by reputable independent qualified valuers acceptable to the Authority.)
      - Note: No offset will be permitted of Crown Group liabilities to PBL Related Parties.
- 6.15 Adoption of the above approach would quarantine (ring-fence) a greater portion of Crown's assets and would assist in safeguarding its financial performance from the activities of related companies within the PBL and CPH consolidated groups.
- The nature of the revised Gearing Ratio is that a quantifiable amount of financial transactions could still be undertaken with PBL Group companies without the Authority's written permission, but a lower cap would be imposed on the extent of such activities on a collective basis.
- 6.16 Adoption of the revised Gearing Ratio for Crown would have the following impact on the Ratios shown above in Section 5.1, which are based on the existing 60% Maximum Financial Gearing Ratio requirements:

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### Impact of Proposed Revised 60% Maximum Gearing Ratio Requirements:

	<u>31.12.2003</u>	<u>30.6.2003</u>	<u>30.6.2002</u>
	<u>\$'000</u>	<u>\$'000</u>	<u>\$'000</u>
• Advances to PBL Related Companies (Per Section 5.3)	802,923	715,950	1,666,445 <sup>13</sup>
• Amortised Goodwill (Excluding Amortised Crown Licence & Management Agreement Intangibles)	<u>536 (est.)</u>	<u>570</u>	<u>604</u>
• Total PBL Related Company and Intangible Deductions	<u>803,459</u>	<u>716,520</u>	<u>1,667,049</u>
• Total Shareholders Equity	1,876,773	1,683,839	1,527,313

### *Revisions to Crown's Consolidated Financial Position figures and Gearing Ratio shown in Section 5.1:*

• Reduced Total Shareholders' Equity	1,073,314	967,319	(139,736)
<i>comprising:</i>			
• Reduced Total Assets	1,950,287	1,958,892	1,965,749
• Total Liabilities (unchanged)	876,973	991,573	2,105,485
• Gearing Ratio	45.0%	50.6%	107.1%

6.17 The adjusted Gearing Ratios (after incorporating the changes to the Total Assets figures required by the suggested revised definition of the Gearing Ratio set out in Section 6.14) shown in Section 6.16 discloses that Crown would have been in breach of its stipulated 60% Maximum Gearing Ratios in Y2002 (due to a technicality relating to an agreed buyback of \$ 1 billion of its shares. Adjusting for this technicality, the adjusted ratio is 56.2%) and that it had reduced scope for making additional investments in, or loans to, PBL Related Companies during the subsequent reporting periods.

It is important to note, however, that no prohibition has been introduced preventing Crown from making such loans or investments. At 30 June 2003 Crown had the capacity to lend or invest a further \$183.7 million, and at 31 December 2003 a further \$293.1 million, in PBL Related Companies without breaching the revised 60% Maximum Gearing Ratio constraint under the proposed changes to the definitions.

6.18 The new adjusted Gearing Ratio for Crown will also make it more attractive for PBL to make any investments in other casinos and gaming ventures through Crown, rather than through a holding company inserted between Crown and PBL. This will assist in achieving the Victorian Government's perceived objectives detailed in Section 6.7 above.

6.19 It is proposed that the proposed changes to the definition of Crown Group's 60% Maximum Gearing Ratio constraint will be accompanied by revised (more stringent) Reporting Requirements by the Crown Group. These are set out in Section 4 of this report above.

6.20 As a separate issue, PIC notes that Crown's Y2003 Annual Report states that in 2002 Crown was released from its obligation to construct the Lyric Theatre by the Victorian Government and that, in lieu of that obligation, Crown has agreed to undertake an alternative project costing no less

<sup>13</sup> This figure was inflated by a provision of \$ 1 billion as at 30 June 2002 to recognise share buyback obligations.

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than the estimated cost of constructing the Lyric Theatre, being \$42 million. It advises that the nature and timing of the alternative project are at the sole discretion of Crown.

The timing of that commitment is open-ended and imposes no constraint on Crown's use of its Surplus Funds in whatever manner it sees fit. It is suggested that a stipulated completion date of, say, 10 or 20 years should be introduced as part of the negotiations for the abolition of the single purpose company restriction.

#### 6.21 *Conclusion and Recommendations:*

##### Conclusion:

The current Gearing Ratio requirements for both Crown and PBL set out in Section 6.1 impose only relatively minor constraints on the ability of PBL to substantially increase the level of Borrowings in Crown and to invest those funds in other PBL companies. There is also no current assurance that any investments by PBL in other casinos and gaming ventures will be undertaken through Crown.

##### Recommendations:

It is recommended that Crown's existing 60% Maximum Gearing Ratio, details of which are set out in Section 6.1, be amended to exclude investments in, and advances to, PBL Related Companies in the calculation of Total Assets. Liabilities to PBL Related Companies would not be offset. It is also proposed that Intangible Assets, other than those relating to Crown's Casino Licence and Management Contract, should also be excluded. No change is proposed to PBL's present 60% Maximum Gearing Ratio calculation.

The impact of those changes is appraised in Sections 6.16 and 6.17. Their combined effect will be to impose a significantly lower cap on the amount of investments that can be made in PBL Related Companies by Crown without prior approval in writing by the Authority. It will also encourage PBL to make any investments in other casino and gaming ventures through Crown, rather than through a Holding Company inserted between PBL and Crown in the corporate chain. This is because, in calculating Crown's 60% Maximum Gearing Ratio, if the investment is made through Crown it is included in Total Assets, whilst if it is made through a PBL Related Company above Crown in the corporate hierarchy it is excluded in the calculation of Total Assets.

On a more minor level, it is recommended that a timing requirement of, say 10 or 20 years be agreed for the \$42 million capital expenditure commitment referred to in Section 6.20 as part of the negotiations to abolish Crown's single purpose company restriction.

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- 7. Advice on how to protect the interests of the State and quarantine Crown from other ventures if the single purpose restriction is removed from the Casino Agreement , bearing in mind possible future acquisitions, demerger etc (OGR Position Paper Item 18):**
- 7.1** Section 6 provides advice on how to protect Crown's assets and financial performance from the activities of related companies within the PBL and CPH consolidated groups. This section focuses on how to protect the interests of the State and to quarantine Crown from other ventures if the single purpose restriction is removed from the Casino Agreement.
- 7.2** Section 6.6 briefly addresses the type of future investments that Crown might be permitted to make if the current single purpose restriction is lifted and recognises that a future demerger of PBL's casino and gaming company interests from its media and publishing interests could occur. Section 6.7 addresses the desirability of ensuring that Crown's principal place of business remains in Victoria and for future annual general meetings and a majority of its Board meetings to be held in Victoria. (This is already being addressed by the Authority). Section 6.8 considers the impact of any future investments by PBL in other casinos and gaming ventures being made through a holding company of Crown, or through Crown itself. Each of those possibilities is considered in greater depth in this section.
- 7.3** It would appear to be in the Victorian Government's long term best interest that Crown should be permitted to grow through the elimination of the single purpose entity restriction. (There is a limit to how much money can be expended on enhancing and upgrading the Crown Casino's existing approved businesses.) It is also understood that it is important strategically for Crown to expand beyond its existing stand-alone casino business.
- 7.4** The first constraint that the Authority may wish to impose is to define what type(s) of other business Crown should be permitted to invest in. In addition, it is perceived that the Authority may prefer for Crown to expand into jurisdictions which have similar regulatory regimes. Consideration of any such constraints is beyond the scope of PIC's assignment.
- 7.5** Assuming that the Authority agrees to the removal of the single purpose entity restriction and that PBL and Crown are permitted to invest in other casinos and gaming companies in Australia and overseas, the next consideration is whether PBL should be encouraged to make any such investments through Crown or through a holding company interposed between PBL and Crown.
- 7.6** It would be simpler to protect the interests of the State and quarantine Crown from other (new) ventures if any newly permitted investments are made through a holding company of Crown or through a PBL Related Company which is not controlled by Crown. In that case the proposed revised 60% Maximum Gearing Ratio requirements set out in Section 6.14 and the accompanying new reporting requirements would afford Crown and the Victorian Government significant financial protection. That approach would allow the Authority to continue to focus on monitoring the Crown Casino's Melbourne-based activities. That approach could also be preferable for regulators in other Australian states and overseas, which may want to retain a local identity for the newly acquired casino and gaming venture.
- 7.7** That approach, however, may not appeal to the Victorian Government, which may prefer to have any such investments owned by Crown. It should be noted that the proposed new Crown 60% Maximum Gearing Ratio set out in Section 6.14 encourages the ownership of such newly allowed investments directly by Crown. This is because, in calculating Crown's 60% Maximum Gearing

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Ratio, if the investment is made through Crown it is included in Total Assets, whilst if it is made through a PBL Related Company above Crown in the corporate hierarchy it is excluded in the calculation of Total Assets.

- 7.8 If such investments are directly made by Crown, it is important that separate financial records be maintained for each entity. This will be necessary in order to calculate the taxes payable to each Government and to monitor the performance of each separate entity. If those entities are owned and controlled by Crown, they should be required (where material) to provide quarterly and annual financial reports to the Authority at the same time as Crown, so that it can monitor each company's ongoing financial performance. This is because Crown could be required to provide financial support to those entities. It should be noted, however, that the Authority would have no right to intervene as long as Crown's financial Gearing Ratios are not breached.
- 7.9 If those external investments are acquired in the name of a Holding Company of Crown, or by a PBL Related Company, direct monitoring of the financial performance of those external investments by the Authority is not considered to be necessary, unless Crown is required to guarantee the performance of the Holding Company or any of those external investment companies. It would be prudent, however, for the Authority to seek a guarantee under its Deed of Undertaking and Guarantee from the relevant company if Crown invests or advances more than \$135 million to the Holding Company or any of those external investment companies.
- 7.10 A possible area for concern, if the existing single purpose restriction is removed, is that Crown may spend significant funds enhancing and upgrading the facilities at newly acquired casinos and encouraging high rollers and other junket parties to use those alternative facilities in conjunction with, or in lieu of, Crown Casino. The likelihood of that situation arising would increase if lower gaming and other taxes apply elsewhere. The net impact of such an occurrence could be a reduction in, or slower growth of, gaming revenues received by the Victorian Government.
- 7.11 This risk would be reduced if Crown is required to expend an agreed annual amount on maintaining, upgrading and enhancing the Crown Casino complex in Victoria as a condition for the Authority approving the lifting of the single purpose restriction. This amount could perhaps be specified as being a set minimum percentage of Crown's annual gaming revenues. This would help to ensure that Crown continues to spend adequate funds each year on its existing Melbourne-based facilities to ensure that they continue to achieve first class international casino standards.
- 7.12 As far as the lower tax regime issue referred to in Section 7.10 is concerned, the Authority should be aware of a potential downside if it removes the present single purpose restriction imposed on Crown in its Crown Casino licence. It is considered likely that Crown will seek to pit one Government against another in seeking future reductions in the gaming taxes it is obliged to pay. Crown's existing high roller market could be vulnerable in that regard, because it is an extremely mobile market sector.
- Crown will argue that it needs to offer international high rollers a selection of destinations. There is some merit in that argument, given recent developments in this market sector. The Victorian Government may wish to reduce this risk by seeking to extend or increase the \$10 million minimum annual gaming tax which currently applies to this market sector as part of its negotiations for approving the removal of the present single purpose restriction.
- 7.13 In the event of Crown being demerged in the future from the remainder of PBL, possibly through a new holding company being established to hold PBL's casino and gaming interests, the Authority may need to conduct probity investigations to satisfy itself as to the suitability of any shareholder owning or controlling directly or indirectly more than 5% of Crown's shares.

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- 7.14 In that context it is noted that Wilfex Pty Limited, presently 100% owned directly by PBL, presently holds PBL's 15% shareholding in the Burswood casino. This company may be used in future to hold any other PBL Group casino and gaming interests.

**7.15 Conclusion and Recommendations:**

Conclusion:

It could be considered counterproductive for the Victorian Government to refuse to remove the single purpose restriction imposed on Crown now that the Crown Casino complex has been completed and is operating successfully.

The new financial constraints detailed in Section 6 above should ensure that Crown remains financially viable and does not take on board excessive levels of new debt. They will also ensure that excessive funds are not siphoned out of Crown into PBL Related Companies.

A key objective could be to ensure that other casino or gaming company investments take place within the Crown Group umbrella. It should then be possible for the Victorian Government to monitor those operations, if material, and to control them to the extent necessary.

Recommendations:

- Should the Authority agree to ending of the single purpose restriction imposed on Crown as presently defined, it should substitute a much broader range of permissible investments, including investments in casinos and gaming companies and complementary activities interstate and overseas;
- It should require that any such permissible investments be made either directly through Crown or directly through a PBL controlled holding company created to hold Crown and other permissible investments.
- If such permissible investments are made through that holding company, there should be a requirement that such investments do not result in a breach of either the proposed new Crown 60% Maximum Gearing Ratio or PBL's existing 60% Maximum Gearing Ratio.  
 This means that any loans advanced by Crown to the holding company to finance the acquisition of permissible investments will be excluded in the calculation of Crown's Total Assets for the purpose of determining the 60% Maximum Gearing Ratio. It should also be a requirement that any such loans should be made at prevailing commercial interest rates. This will place a financial cap on the amount of such investments that can be undertaken.  
 If the funds advanced by Crown to that holding company are \$100 million or more, the holding company should be required to become a guarantor under the PBL Deed of Undertaking and Guarantee.
- If the permissible investments are directly made by or through Crown, separate financial records should be maintained for each such permissible investment. If any such investments are material (ie. \$135 million or greater, and/or Crown is required to guarantee borrowings incurred which collectively increase Crown's exposure to \$ 135 million or greater), there should be a requirement that quarterly and annual reports should be provided by each such entity to the Authority at the same time that Crown submits its own reports. The contents of those reports should match the information required to be provided to the Authority by Crown. Those reports will enable the Authority to monitor the ongoing financial performance and viability of those entities on an ongoing basis.

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**8. Other commercial and financial advice related to this assignment, as reasonably requested by the Director.**

No such request has been made by the Director at time of writing, although PIC remains available to provide additional advice, as required.

Paul J. Fallon CPA, B Ec., M. Bus.

PRINCIPAL

Probity Investigation Consultants Pty Ltd

Christopher J. Morcher MA (Law) FCA,

FCIS, ASIA

PRINCIPAL

Crismor Enterprises Pty Ltd

VCGA FINAL REPORT 15 APR 04



**Bill Balgowan**

20/05/04 04:58 PM

To: Sylvia Grobtuch/OGR@Ogr

cc: Peter Cohen/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Cate Carr/OGR@Ogr

Subject: Amended copies of the charters for Crown's Audit and Compliance Committees

Sylvia

When we last met with Crown on 23 February 2004, regarding the Casino Agreement Review, Rowen Craigie said that the Crown Board would consider approving further changes to the Audit and Compliance Committees Charters, that had been provided to the Authority on 28 January 2004. He undertook to send us copies of the new Charters once they were approved by the Board.

When we meet with Crown on Monday 24 May, perhaps we could inquire about the new Charters. (However, I suspect that the Crown Board meeting might be on Tuesday 25 May, the same day as our Authority meeting.)

Bill



**Rowena Scheffer**

19/05/04 05:16 PM

To: Sylvia Grobtuch/OGR@OGR, Bill Balgowan/OGR@Ogr, Cate Carr/OGR

cc:

Subject: Casino Agreement Amendments

Dear all

I advised Warwick that I have not been able to work with the document he sent this morning because it doesn't show the changes so far.

Warwick will send us a conformed copy of the casino Agreement showing the changes we want, without any commentary. So it will be a document we can give to Crown.

He expects to be able to send that tomorrow.

Casino Assets Issue

In relation to the definition of Assets etc, the only change I have asked Warwick to make will be to include in the definition of Casino Assets - the Ancillary Facilities. Sylvia, this will cover everything on the Site but not the car park that is not on the Site. Should we ask Peter whether he wants the definition to go further and cover that car park?

The purpose of this amendment is to open discussion about which assets the Authority should regulate if Crown is to broaden its horizons.

The most relevant clauses for the regulation of Casino Assets are clauses 29, 31 and 48.2:

**Clause 31** - "It is a ground of disciplinary action if any of the following occurs and the Company does not within 10 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:

.....

- (i) a provisional liquidator or administrator is appointed to the Company;
- (ii) a Receiver is appointed to any of the Casino Assets;
- (iii) any Encumbrance becomes enforceable and the holder of the Encumbrance takes possession of any of the Casino Assets; or
- (iv) a judgment is obtained against the Company and execution or other process of any Court or other authority is issued against or is levied or enforced upon any of the Casino Assets;

..."

**Clause 48.2** "The Company must not, without the prior consent in writing of the State:

- (a) Deal with or Dispose of any of the Casino Assets other than by way of maintenance, repair or replacement;
- (b) Deal with or Dispose of any of the Casino Assets other than in the ordinary course of the Company's business;
- (c) execute, create or permit to subsist any Encumbrance over or affecting the Casino Assets other than a Permitted Encumbrance;
- (d) pull down, alter, extend or remove any building, improvement or fixture forming part of the Casino Assets where to do so would materially adversely affect the Casino Assets or

the operation of the Melbourne Casino or the Temporary Casino;

(e) take on or under a Lease, or acquire for consideration, any asset other than in the ordinary course of the Company's business;

(f) declare or pay a dividend if a demand has been properly made on the Company under this document or any Transaction Document and has not been satisfied in full; or

(g) do anything or allow anything to be done in derogation of the rights of the Authority or any other party under any Transaction Document;

except to the extent permitted by clause 29."

**Clause 29.2** "Subject to clause 29.3, the Company must not dispose of any Assets and Rights of the Company other than pursuant to a Permitted Encumbrance except with the prior approval in writing of the Authority.

**29.3** Clause 29.2 does not apply to a disposal of:

(a) assets other than Casino Assets in the ordinary course of the business of the Company; or

(b) obsolete or surplus Casino Assets on ordinary commercial terms."

Rowena.

**Bill Balgowan**

18/05/2004 05:34 PM

To: Rowena Scheffer/OGR@Ogr  
CC: Peter Cohen/OGR@Ogr, Sylvia Grobtuch/OGR@Ogr  
Subject: Feedback on discussion with Warwick Isherwood

Rowena

As you will be aware (from the copy of the e-mail that I sent to you), I forwarded to Warwick this morning at around 10.00 am, the email that you drafted last night. I did not make many changes to your draft.

I telephoned Warwick at about 12.15 pm to see if he had any questions. He said that he had only just got out of a meeting and was just starting to read the latest e-mail. He said that he had acted on all the matters raised in your previous e-mail. He would now work his way through the latest e-mail. He asked me several questions.

Before I could ask him when we would receive the next draft, Warwick told me that he would e-mail the next draft to us later today.

I then asked him when we could have a clean copy to review, as previously discussed with him, for Peter Cohen to give to Rowen Craigie at our meeting with Crown on Friday.

Warwick said that it would take a couple of hours to get a clean copy, but he would not like to start it until he had some feedback from the Authority on the draft that he will be sending to us later today. I told Warwick that you and I would review the next draft in the morning and hopefully get back to him by lunchtime tomorrow (Wednesday) so that we can have a clean copy to review on Thursday morning before the meeting with Crown on Friday. This seemed to be acceptable to him.

I also told Warwick that Peter Cohen had advised us that he would not be needed to attend the planned meeting with Crown on Friday, because we would not be discussing the draft in any details. This also seemed to be acceptable to him. (It may have even been a relief!)

Bill

**Sylvia Grobtuch**  
14/05/04 10:56 AM

To: Cate Carr/OGR@Ogr, Michael Lee/OGR@Ogr, Lyn  
Corneliusen/OGR@Ogr, Rowan Harris/OGR@Ogr  
cc:  
Subject: Amendments to the Casino Agreement

for info.

Sylvia

----- Forwarded by Sylvia Grobtuch/OGR on 14-05-04 10:54 AM -----



**"Warwick  
Isherwood"**

To: [REDACTED]  
cc: [REDACTED]

Subject: Amendments to the Casino Agreement \*\* Virus Checked by OGR  
IT\*\*

13-05-04 07:54 PM

Rowena,

I attach:

1. my email letter to you (M0275958); and
2. a draft of the amended Casino Agreement (M0251328).

As often happens when I am making my own amendments I ran into technical difficulties. Thus some of my changes are not in the same format as in other parts of the document (I am at a loss to know how one does double underlining!!).

I will have those matters fixed up but it does not change the content.

I would suggest that all of us re-group in the next day or so (perhaps Friday afternoon or Monday morning) so that we can further discuss the issues and the way forward.

Regards

Warwick

-----  
Maddocks

Melbourne - Tel: (61 3) 9288 0555 Fax: (61 3) 9288 0666

Sydney - Tel: (61 2) 8223 4100 Fax: (61 2) 9221 0872

Web: <http://www.maddocks.com.au>  
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 Email R Scheffer 13.5.04 (M0275)

 Conformed Casino Agreement (incl 9th Variation) 24 Mar 04



































WLB  
copy 4

### Ministerial Brief – Minister for Gaming

#### Cover Sheet

**Subject:** Proposed Takeover of Burswood Casino by a PBL Subsidiary

**DoJ File:** \_\_\_\_\_  
**MB No:** 54932

**The Minister for Gaming to:** \_\_\_\_\_

Note

	Name:	Position:	Extn:	Signature:	Date:
<b>Author</b>	Bill Balgowan	Manager Casino Commercial Projects	13488		
<b>Supported by:</b>	Sylvia Grobtuch	Assistant Director, Legal and Legislation	13152		
<b>Supported by:</b>	Peter Cohen	Acting Director, Gaming and Betting, Acting Director Casino Surveillance	13118		
<b>Supported by:</b>	Ross Kennedy	Director Gaming and Racing	14914		

**Recommendation:**

That the Minister note the brief

**By the Minister for Gaming:**

Noted

.....  
**JOHN PANDAZOPOULOS MP**  
 Minister for Gaming  
 Date:

MB No: \_\_\_\_\_

**Ministerial Brief – Minister for Gaming****Subject: Proposed Takeover of Burswood Casino by a PBL Subsidiary****Purpose:**

1. To provide advice on the proposed takeover of Burswood Casino in Perth by a subsidiary of Publishing and Broadcasting Limited (PBL), which was announced on 27 April 2004.

**Announcement:**

2. Late yesterday, 27 April 2004, PBL issued a Media and ASX Release in which it stated that its wholly owned subsidiary PBL (WA) Pty Limited ACN 095 976 275 (PBL(WA)), intended to make a takeover offer for all the shares in Burswood Limited (Burswood). PBL(WA), formerly known as Wilfex, is currently the largest shareholder in Burswood with 15.6% of Burswood's shares, which were acquired in September 2003.
3. PBL(WA) proposes to offer \$1.40 per share, which is a 29% premium to the 12 month volume weighted average price (VWAP) of Burswood shares to 27 April 2004 and a 44% premium to the one month VWAP prior to PBL(WA)'s initial acquisition of Burswood shares. The proposed takeover is subject to a long list of conditions.
4. In its Media Release, PBL stated that it "wants to further develop Burswood into a first-class entertainment venue which will benefit the people of Perth, and also generate significant international and interstate tourism revenue. PBL will retain a separate Board for Burswood and its head office will remain in Perth."

**Comments:**

5. It has long been speculated in the media that PBL would at some future date make a takeover offer for Burswood, especially since it increased its interest to 15.6% in September 2003. Prior to that date PBL had acquired a 4.9% interest in Burswood, which was revealed in 2001. However, when other investors pushed up the Burswood share price in anticipation of a takeover by PBL, and when PBL was unsuccessful in convincing the WA Government to make a number of concessions to Burswood, it sold over half of its shares.
6. Clause 22.1(r) of the confidential (Melbourne) Casino Agreement between the Authority and Crown Limited places obligations on PBL in the event that it acquires another casino in Australia. Clause 22.1(r) states that if the Holding Company Group (PBL and its subsidiaries) "pursues anywhere in Australia a business similar to that of the Company [Crown's Melbourne Casino], [it] will use its best endeavours to ensure that such business is conducted in a manner
  - (i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria, and
  - (ii) which is not detrimental to the Company's interests;"
7. If PBL or PBL(WA) operated the Burswood Casino in a manner that the Authority considered breached Clause 22.1(r) of the Casino Agreement, the Authority could take legal action against PBL pursuant to Clause 4(a) of the Melbourne Casino Project Supplemental Casino Agreement dated 27 May 1999. In this Clause, PBL undertakes to the Authority that it will:

“comply with, and ensure that each member of the Holding Company Group complies with, the conditions set out in clause 22 of the Casino Agreement, as if it, and each member of the Holding Company Group, were parties to the Casino Agreement.”

8. There has been some speculation in the media that PBL could rename the Perth casino as Crown Burswood to take advantage of the highly recognised world wide and successful “Crown” brand. If this were to occur, it is considered that it would require the prior written approval of the Authority (or the proposed Victorian Commission for Gambling Regulation) under the current provisions of the Casino Agreement. This is on the basis of Clause 29.2, which states that “the Company must not dispose of any Assets and Rights of the Company other than pursuant to a Permitted Encumbrance except with the prior approval in writing of the Authority”
9. Clause 29.4 defines the word “dispose” very broadly to include “a disposition of any estate or interest in any manner including by way of sale, transfer, assignment, lease letting, licence, surrender or abandonment,” and “entering into an agreement or arrangement to effect a disposition”.
10. There has also been speculation in the media and by industry analysts/stock brokers that the Melbourne Casino and any other casinos acquired by the PBL Group could become a separately listed company on the ASX (Australian Stock Exchange). This could result from PBL demerging into a Publishing/Broadcasting Company and a separate Gaming Company. This future possibility is currently being considered in the present review and renegotiation of the Casino Agreement, which is subject to Authority and Ministerial approvals.
11. The question has been raised, whether PBL was able to acquire Crown at a lower price in June 1999, because the market was aware that Crown was subject to the single purpose covenant, which could seriously restrict its future growth potential. The implication being that perhaps the Government could reasonably expect Crown to be required to make a payment to the State in consideration for the State approving the proposed Ninth Deed of Variation to the Casino Agreement, the main purpose of which, from Crown’s perspective, is the removal of the “single purpose restriction”.
12. The “price” paid by PBL for the Crown shares in 1999 represented the commercial value placed on the shares by the market at that time. It was also at a significant premium to the price of the Crown shares that prevailed prior to the proposed merger being announced. In hindsight, many people may claim that PBL got a bargain. However, at the time, Crown was struggling financially and there was a real risk that it may not survive as a stand-alone entity. Crown’s shareholders agreed to the merger with PBL by a significant majority. The Crown shareholders exchanged their Crown shares on the basis of 1 PBL share for every 11 Crown shares. Following the merger, the price of the PBL shares increased significantly and thus the former Crown shareholders shared in this additional benefit.
13. It must also be remembered that the merger of Crown with PBL was recommended by the independent Directors of Crown and the Independent Experts (N M Rothschild & Sons) assessed the merger terms as being fair and reasonable. It is also relevant that there was no competing proposal from any other company, which supports the view that the price paid by PBL at the time was reasonable. Furthermore, at that time Crown was desperate for additional equity and this was immediately provided by PBL in the form of new equity of over \$1,000 million.

14. It is noted that a precedent was established when Transurban successfully negotiated the removal of a single purpose covenant from its agreement with the State some years ago and agreed to make a payment to the State, which is believed to have been around \$10 million
15. It is thus possible for the Government, if it wished to do so, to seek a payment from Crown as part of the consideration for the Government agreeing to the removal of the single purpose restriction from the Casino Agreement. This is a matter on which the Minister may seek his own legal advice. However it is noted that in its present renegotiations of the Casino Agreement with Crown, the Authority is seeking a number of amendments, which Crown would consider fairly onerous (see Attachment). These should be considered by the Government when determining what might be reasonable consideration for the removal of the single purpose restriction.
16. It should be noted that the negotiations with Crown regarding the amendments to the Casino Agreement are being conducted on a confidential basis and some of the proposed amendments have not yet been discussed with Crown. The details of the proposals should not therefore be publicly released.

**Recommendation:**

That the Minister note this brief

**Bill Balgowan**  
**Manager Casino Commercial Projects**  
Tel Ext No: [REDACTED]  
Date: 29 April 2004

### **Main Amendments Likely to be Proposed by the Authority in the Current Renegotiations of the Casino Agreement**

#### **Background**

The Authority is currently involved in renegotiating the **confidential** Casino Agreement with Crown Limited. The Authority is being assisted in this matter by staff of the Office of Gambling Regulation and its external legal advisers. The Authority advised the Minister for Gaming in its Third Triennial Review of the Casino Operator and Licence dated 30 June 2003 that the Casino Agreement needed to be updated. The Minister for Gaming released the report of the Third Triennial Review to the public on 2 September 2003 and gave his approval to the Authority on 12 September 2003 to proceed with the proposed renegotiation. The Minister noted that the Authority was required to seek his prior written approval of any proposed changes to the agreement.

#### **Amendments Proposed by Crown Limited**

Crown has proposed a number of amendments. However, the main amendment proposed by Crown is the deletion of clauses 22.1 (p) and (q), which are collectively referred to as the "single purpose restriction"

- (p) the Company [Crown Limited] must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority;
- (q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;

#### **Likely Amendments to be Proposed by the Authority**

- provide that Crown must ensure that the Melbourne Casino Complex is operated and maintained according to international first-class standards;
- provide that if Crown pursues anywhere in Australia a business similar to the Melbourne Casino, it will have the same obligations as PBL under clause 22.1(r) of the Casino Agreement (see paragraph 6 in the Brief);
- require Crown to comply with the ASX Listing Rules on continuous disclosure and on the disclosure of financial information as if it were a publicly listed company;
- require at least 75% of Crown Board meetings be held in Victoria;
- require at least 75% of Crown's senior management meetings be held in Victoria;
- require at least one Company Secretary be located in Melbourne;
- require Crown's CEO and senior executives be located in Melbourne;
- require Crown to provide the Authority with:
  - information regarding its assets and liabilities on a monthly basis;

- a report on its capital expenditure program on a quarterly basis;
- a report on its internal and external audit program on a half-yearly basis; and
- details of any investments or advances made to a Crown controlled entity;
- set out the scope and responsibility of Crown's Audit Committee, including requirements as to the frequency of meetings and notification of changes in membership;
- set out the scope and responsibility of Crown's Compliance Committee, including requirements as to composition, frequency of meetings and notification of changes in membership;
- exclude investments in, and advances to, PBL related companies in the calculation of total assets for the purposes of the maximum allowable debt to equity ratio. It is also proposed to exclude intangible assets;
- rationalise and simplify Crown's insurance obligations to take into account changes in the insurance market, and
- allow the Casino Licence and the Casino Agreement to be publicly released



# Media release

From the Minister for Gaming

Tuesday 2 September, 2003

## REVIEW OF THE MELBOURNE CASINO OPERATOR AND LICENSE

Gaming Minister John Pandazopoulos, today announced that the Victorian Casino and Gaming Authority's (VCGA) Third Triennial Review of the Melbourne Casino and Operator License was publicly available.

"The Triennial Review is an important check that Crown's obligations as the State's casino operator are being fulfilled to a satisfactory standard," Mr Pandazopoulos said.

"Crown management has specific contractual and regulatory obligations to build, operate and maintain the Melbourne Casino Complex to world class standard."

Mr Pandazopoulos said the triennial review had recommended that it was in the public interest for the casino license to remain in force.

However Mr Pandazopoulos said as a result of the triennial review some parts of Crown's license agreement with the State Government would be updated.

"The report also identifies the need to improve the appearance of some parts of the Casino complex and some improvements to corporate governance, which the Casino needs to address during the three year period before the next review."

Mr Pandazopoulos said updating the licence agreement would also help address some of the corporate governance and reporting issues raised in the review.

"The process will allow some specific parts of the agreement, which has now been in place for a decade, to be updated, as has occurred after previous reviews.

The VCGA review recommends that the renegotiation would provide for:

- The removal of redundant clauses relating to the construction of the Casino and Casino complex,
- Making the agreement more relevant by reflecting the changed corporate structure of the Casino operator
- Making the agreement more relevant in light of the altered insurance environment.

...../2

Mr Pandazopoulos said the Bracks Government was committed to ensuring Victoria remained a world leader in gambling regulation and in efforts to combat problem gambling.

“It’s pleasing that the report also finds Crown is meeting its responsible gambling obligations and is becoming a world leader in this area.”

Section 25 of the *Casino Control Act 1991*, requires the VCGA to conduct a review of the Melbourne Casino operator and the casino licence at intervals not exceeding three years.

The Third Triennial Review covers the period from 1 July 2000 to 30 June 2003.

The report is available on the VCGA’s website:

[www.gambling.vcga.vic.gov.au](http://www.gambling.vcga.vic.gov.au)

COB Friday

1

## Office of Gambling Regulation

28<sup>th</sup> April, 2004

### Casino Agreement Review

#### **List of Probity Investigation Consultants Pty Ltd (PIC) recommendations by category for consideration to be incorporated in the Ninth Deed of Variation to the Casino Agreement.**

##### **Gearing Ratio/Quarantining Crown's Assets**

- PIC recommends that the gearing ratio remain at 60%. (The 60% maximum gearing ratio is the major constraint imposed by the Authority on Crown's capital Structure).
- Crown's existing 60% maximum gearing ratio be amended to exclude investments in, and advances to, PBL related companies in the calculation of total assets. Liabilities to PBL would be not offset. It is also proposed that intangible assets, other than those relating to Crown's casino license and management contract, should also be excluded. No change is proposed to PBL's present 60% maximum gearing ratio calculation.
- Should the Authority agree to ending of the single purpose company restriction imposed on Crown as presently defined, it should substitute a much broader range of permissible investments, including investments in casinos and gaming companies and complementary activities interstate and overseas. These are to be made either directly through Crown or directly through a PBL controlled holding company created to hold Crown and other permissible investments.
- If such permissible investments are made through that holding company, there should be a requirement that such investments do not result in a breach of the 60% maximum gearing ratio for either Crown or PBL. This means that any loans advanced by Crown to the holding company to finance the acquisition of permissible investments will be excluded in the calculation of Crown's total assets for the purpose of determining the 60% gearing ratio. Equally important too, any such loans should be made at prevailing commercial interest rates.

##### **Ratio Analysis (Lincoln Indicators Model)**

- PIC does recommend the application of the Lincoln Indicators model to Crown and PBL accounts. Failing this, the authority should consider using cash flow or profit based ratios for monitoring the ongoing financial health and performance of Crown and PBL.

##### **Reporting /Disclosure Requirements**

- Total assets and total liabilities needs to be submitted on a monthly or at worst quarterly basis to enable effective monitoring of the company's capital structure.
- In terms of disclosure Clause 25 (CA), the Authority should seek to preserve its right to obtain timely, detailed financial information from Crown directly in the event that the company no longer publicly discloses its accounts. The Authority needs to preserve its right to timely and detailed information that satisfies ASX Listing Rule 3.1.
- Clause 22.7 of the Casino Agreement (CA) gives Crown the right to discuss any change in Australian Accounting Standards (AAS) which has a material impact on the company's compliance with the 60% gearing limit, although the Authority is not obliged to agree to any amendment in the ratio. Importantly, the adoption of the new International Accounting Standards (IAS) will mean that companies will need to regularly assess the value of its mastheads and licences, which in this case are material assets for Crown and PBL.

- Crown should be required to disclose information that is material according to AAS 5 (to soon be replaced by International Accounting Standard 38) and ASX listing Rule 3.1.
- Also, some definitions within several sub-clauses of clause 25 (CA) require amending to reflect current Accounting and ASX terminology.
- Provide a report on its annual capital expenditure program and quarterly reports on actual expenditure classified between “existing facilities and “major new construction”. (ie. To maintain world class standards).
- Provide an annual report on Crown’s internal and external audit programs.
- Provide a report on adherence to, or divergence from the internal and external audit programs.
- Supply details of any changes to the reporting structure and membership of Crown’s audit committee and proposed dates of meetings.
- Make available for inspection or copies if requested of, Audit Committee agendas, papers and minutes of meetings.
- Provide details of any changes to the reporting structure and membership of the Compliance Committee.
- Make available for inspection or copies if requested of, Compliance Committee agendas, papers and minutes of meetings.
- Provide details of any new subsidiary of PBL.
- Provide Crown’s forthcoming financial year annual budget by the end of June.
- Provide a report on adherence or divergence from the budget. Recommend that Crown supply a quarterly report comparing actual with budget figures.
- Provide information that would satisfy ASX Listing Rule 3 (Continuous disclosure) as if it was a listed company.
- Provide financial accounts for Crown controlled entities.
- If permissible investments are directly made by or through Crown, separate financial records should be maintained for each such permissible investment. Those reports will enable the authority to monitor the ongoing financial performance and viability of those entities on an ongoing basis.

### **Inter-company Dealings**

- There should be a requirement, if Crown invests in, or advances more than \$135 million to, an existing or new Crown controlled entity, that Crown provides information on the purpose of that investment and, if it is an advance, details of the terms of that advance at its next quarterly reporting date.

- If crown invests in, or advances more than \$135 million to any PBL entity, that entity should be required to become a guarantor pursuant to PBL's Deed of Undertaking Guarantee.
- If the funds advanced by Crown to that holding company are \$100 million or more, the holding company should be required to become a guarantor under PBL Deed of Undertaking Guarantee.
- On a minor level, it is recommended that a timing requirement of, say 10 or 20 years be agreed for the \$42 million capital expenditure commitment as part of the negotiations to abolish Crown's SPCR. This will place a financial cap on the amount of such investments that can be undertaken.



# Maddocks

Lawyers  
140 William Street  
Melbourne Victoria 3000 Australia  
Telephone 61 3 9288 0555  
Facsimile 61 3 9288 0666  
Email info@maddocks.com.au  
www.maddocks.com.au  
DX 259 Melbourne

Date 21 September 1993

## Melbourne Casino Project Casino Agreement

Victorian Casino and Gaming Authority  
[formerly known as the Victorian Casino Control Authority]  
and

Crown Limited  
ACN 006 973 262

CONFORMED COPY FOR REFERENCE ONLY  
AS VARIED BY VARIATION AGREEMENTS 1 TO 8  
AND AS PROPOSED TO BE AMENDED BY VARIATION AGREEMENT 9

Draft 1: 24/03/2004

- COMMERCIAL IN CONFIDENCE -

### Key to annotations:

- [#Red Text]** - Maddocks' note to VCGA - to be removed prior to provision to Crown
- [#Yellow Text]** - general drafting note - to be removed prior to execution

## COMMERICAL IN

## MELBOURNE CASINO PROJECT

## CASINO AGREEMENT

AGREEMENT dated 21 September 1993

**BETWEEN** **VICTORIAN CASINO AND GAMING AUTHORITY** (formerly known as **VICTORIAN CASINO CONTROL AUTHORITY**) a statutory authority established under the *Casino Control Act* with its office at 459 Collins Street, Melbourne (**'Authority'**)

**AND** **CROWN LIMITED** ACN 006 973 262 (formerly known as **CROWN CASINO LTD**) with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria (**'Company'**)

### RECITALS

- A. The Authority has power to grant a casino licence under the provisions of the *Casino Control Act*.
- B. The Company has made application for a casino licence and pursuant to such application has provided information and submissions, including the Melbourne Casino Complex Development Proposals and the Temporary Casino Complex Development Proposals, to the Authority.
- C. The Authority has, in accordance with sections 9 and 10 of the *Casino Control Act*, carried out investigations and enquiries in relation to the Company and other persons required to be investigated.
- D. Subject to the terms and conditions of this document and the Management Agreement, the Authority has agreed to grant the Casino Licence to the Company.
- E. The Casino Licence will enable the Company to operate a casino from temporary premises.
- F. The Minister, acting for and on behalf of the State, and the Company have entered into the Management Agreement pursuant to section 15 of the *Casino Control Act* as a condition precedent to the grant of the Casino Licence to the Company.
- G. The Minister has given approval to the Authority pursuant to sections 14 and 142 of the *Casino Control Act* to provide an undertaking to the Company as to exclusivity, to enter into this document and to act for and on behalf of the State in respect of certain matters referred to in this document.

### AGREEMENT

#### 1. DIVISION INTO PARTS

This document is divided into Parts as follows:

PART 1-	PRELIMINARY
PART 2-	DEVELOPMENT AND COMPLETION
PART 3-	COMPLETION
PART 4-	CORPORATE STRUCTURE AND RELATED MATTERS
PART 5-	GRANT OF THE CASINO LICENCE
PART 6-	ENCUMBRANCES AND ASSIGNMENTS
PART 7-	TERMINATION
PART 8-	COMPLEMENTARY AGREEMENTS
PART 9-	GENERAL

## PART 1 - PRELIMINARY

### 2. DEFINITIONS

In this document, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'**Agent**' means National Australia Bank Limited ACN 004 044 937 and any successor to it as agent under the Facility Agreement;

'**Agreement Act**' means the bill referred to in clause 3.2(a) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause;

<sup>1</sup>"**Agreed World Class Standards**" means the Agreed World Class Casino Standards set out in Schedule 6 as amended in accordance with clause 28.3 from time to time.

'**Ancillary Facilities**' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Development Proposals to be constructed on or located within the Temporary Casino Site or the Site, including an hotel, restaurant, retail, recreation, entertainment and car parking facilities, residential and office accommodation, staff facilities, staff car parking, coach storage facilities and open space areas;

'**Assets and Rights**' means all the present and future undertaking, property, assets and rights of or held by the Company;

'**Associate**' has the same meaning as in sections 10 to 17 of the Corporations Law;

'**ASX**' means Australian Stock Exchange Limited;

<sup>2</sup>"**Audit Committee**" means the audit committee of the Company appointed and maintained under clause 22.1(la);

<sup>1</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>2</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

'**Australian Accounting Standards**' means:

- (a) accounting standards as defined in (or having effect under the *Corporations Law* as if they were accounting standards defined in) section 9 of the *Corporations Law*;
- (b) the requirements of the *Corporations Law* in relation to the preparation and content of accounts; and
- (c) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices inconsistent with (a) or (b);

'**Authorisation**' includes a consent, approval, licence, permit, franchise, permission, filing, registration, resolution, direction, declaration and exemption;

'**Authority**' means the Victorian Casino and Gaming Authority;

'**Bank Guarantees**' means the guarantees or letters of credit to be provided by the Company pursuant to clauses 18.1 and 22.9 of the Management Agreement;

'**Business Day**' means a day (other than a Saturday or Sunday) on which banks (as defined in the *Banking Act 1959* (Commonwealth)) are generally open for business in Melbourne;

'**Casino Asset**' means an asset or undertaking of the Company which forms part of the Secured Property and which consists of:

- (a) the Casino Licence;
- (b) the Melbourne Casino;
- (c) the Temporary Casino;
- (d) all gaming equipment used in the Melbourne Casino or the Temporary Casino;
- (e) all revenue derived from the Melbourne Casino or the Temporary Casino (other than revenues which have been deposited or are standing to the credit of the Debt Protection Account or the Debt Service Reserve Account (each as defined in the Facility Agreement) in accordance with the Facility Agreement and any Authorised Investments (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment); or
- (f) all other assets of the Company necessary for the operation of the Melbourne Casino or the Temporary Casino;

and a reference to the '**Casino Assets**' includes any part of them;

'**Casino Control Act**' means the *Casino Control Act 1991* (Victoria);

## 5 COMMERCIAL IN CONFIDENCE

'**Casino Licence**' means a casino licence as defined in the *Casino Control Act* in relation to the Temporary Casino and the Melbourne Casino in the form of the licence set out in Schedule One;

'**Casino Supervision and Control Charge**' means:

- (a) for the period from the Licensing Date until 30 June 1994, \$5,000,000; and
- (b) for each Financial Year from 1 July 1994 until 30 June 1997, \$5,000,000;

'**Company**' means Crown Limited ACN 006 973 262, which will be the casino operator for the purposes of the *Casino Control Act*;

'**Commissioning**' means the checking, testing and acceptance of the operational readiness of and the procedures for the various components of the Melbourne Casino or the Temporary Casino as the case may be (including all staff, facilities and equipment) by the Authority;

'**Complementary Agreements**' means each of the agreements listed in Schedule Two; '**Completion**' means the completion of the construction, the Fit-Out and the Commissioning of the Temporary Casino or the Melbourne Casino, as the case may be, as specified in the Completion Standards and as determined pursuant to clause 20, and '**Complete**' and '**Completed**' have corresponding meanings;

'**Completion Standards**' means:

- (a) for construction, when all the requirements under this document and the *Casino Control Act* in relation to the Melbourne Casino or the Temporary Casino have been complied with;
- (b) for Commissioning, when all the procedures for the various components of the Melbourne Casino or the Temporary Casino (including all staff, facilities and equipment) are in place or immediately and reliably available to the Company such that the Melbourne Casino or the Temporary Casino, as the case may be, can be operated securely and so that there is no risk to the integrity of operation or compromise in the amenity of the Melbourne Casino or the Temporary Casino, as the case may be, which is not acceptable to the Authority; and
- (c) for Fit-Out, when all of the Fit-Out is installed in place and operational with the exception only of minor omissions and maintenance items which, in the reasonable opinion of the Authority, do not affect the security, integrity, operation or amenity of the Melbourne Casino or the Temporary Casino;

<sup>3</sup>'Compliance Committee' means the compliance committee of the Company appointed and maintained under clause 22.1(Id);

'**Construction Agreement**' means the proposed building agreement between the Company and a proposed builder substantially in the form of the draft agreement a

<sup>3</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Agreement]

## 6 COMMERCIAL IN CONFIDENCE

copy of which has been signed on behalf of the Authority and the Company and dated the date of this document for the purposes of identification;

*[Note: The builder is Grocon Pty Ltd ACN 006 772 238]*

**'Contractor's Deed'** has the same meaning as in the Supplemental Development Agreement;

**'Control Acts'** means the *Building Control Act 1981* and the *Planning and Environment Act*;

**'CUB'** means Carlton and United Breweries Limited ACN 004 056 106;

**'Deal with'** means deal with property in any way other than enter into an arm's length agreement to sell dependent for effect on the Authority's consent, including, but not limited to, offer for sale, grant an option in respect of, create or Dispose of a right in respect of, render or permit to be subject to an Encumbrance, convert, deposit, compromise and allow a counterclaim or right of set-off to arise in respect of;

**'Deed of Undertaking and Guarantee'** means the agreement under which, amongst other things, the Holding Company and other related companies guarantee to the Authority and the State, the due and punctual performance of certain obligations owed by members of the Group to the Authority and the State;

**'Design and Construction Programme'** means the programme for the design documentation, construction, Fit-Out, Commissioning and Completion of the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) set out in Schedule One of the Management Agreement, as amended from time to time with the prior written approval of the State;

**'Development Agreement'** means the agreement dated 30 August 1993 between the Company and Hudson Conway Management Limited ACN 006 742 294 providing for the procuring of the construction of the Melbourne Casino Complex;

**'Dispose of'** means sell, transfer, assign, alienate, surrender, dispose of, deposit, Lease, part with possession of and enter into any agreement or arrangement to do or allow any of these things;

**'Director of Casino Surveillance'** means the person appointed under section 94 of the *Casino Control Act*;

**'Documentation'** means any document or proposal which the Company is required to submit to the Authority under clauses 6, 7, and 8;

**'Drawings'** means the plans, designs and working drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

<sup>4</sup> Inserted by Agreement dated 2 June 1999.

## 7 COMMERCIAL IN CONFIDENCE

**'Encumbrance'** means a mortgage, charge, pledge, lien, assignment, hypothecation, retention of title (other than a retention of title in respect of trading stock), or any other right (including, without limitation, under a trust, agency, hire purchase, sale and repurchase, sale and leaseback or flawed asset arrangement) of a creditor to have its claims satisfied prior to other creditors with, or from the proceeds of or by recourse to any asset and includes any agreement, arrangement or document conferring such a right or having substantially the same economic effect;

**'Equity Funding Agreement (Federal)'** means the agreement dated 30 August 1993 between Danwick Pty Limited ACN 059 321 667, The Federal Hotels Limited ACN 004 108 249 and Hudson Conway Limited ACN 009 556 629;

**'Facility Agreement'** means the \$300,000,000 multi-option facility agreement dated 30 August 1993 between the Company, the Financiers and the Agent;

**'Finance Documents'** means the Facility Agreement and the Financiers' Securities;

**'Financial Year'** means from 1 July to 30 June (inclusive);

**'Financiers'** means National Australia Bank Limited, Australia and New Zealand Banking Group Limited, HongkongBank of Australia Limited, Bank of Western Australia Limited [*formerly known as R & I Bank of Western Australia Limited*] and State Bank of New South Wales Limited and their successors, assigns and substitutes;

*[Note: HongkongBank withdrew 1 March 1995]*

**'Financiers' Securities'** means the following securities given to the Agent as agent for the Financiers:

- (a) a first registered fixed and floating charge over the undertaking and all the assets of the Company including a mortgage over the Casino Licence;
- (b) a mortgage of the Site Lease and a mortgage of the Temporary Casino Leases;
- (c) each other security given to the Agent or the Financiers as security for the liabilities of the Company under the Facility Agreement;

**'Fit-Out'** means the application of finishing material, gaming equipment, furniture, fittings, furnishings and such other built-in and loose items required to bring any part of the Temporary Casino or the Melbourne Casino (as the case may be) to Completion to a stage to enable Commissioning to take place;

**'Fixed and Floating Charge'** means the second registered fixed and floating charge given by the Company in favour of the Minister on behalf of the State;

**'Force Majeure Event'** has the same meaning ascribed to that term in the Management Agreement;

## 8 COMMERCIAL IN CONFIDENCE

'**Founding Shareholders Agreement**' means the agreement dated 30 August 1993 between each Sponsor, CUB and the Company providing for the subscription for Shares by the Sponsors and Carlton & United Breweries Limited;

'**Further Amendment Act**' means the bill referred to in clause 3.2(b) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause;

'**Gross Gaming Revenue**' means the total of all sums, including cheques and other negotiable instruments whether collected or not, received in any period by the Company from the conduct or playing of games within the Temporary Casino or the Melbourne Casino (as the case may be) less the total of all sums paid out as winnings during that period in respect of such conduct or playing of games;

<sup>5</sup>'**Group**' means the Company and its Subsidiaries and any other entity which the directors of the Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Company under the *Corporations Law*;

'**Guarantee and Indemnity for Development Agreement**' means the guarantee and indemnity dated 30 August 1993 by Hudson Conway Limited ACN 009 556 629 to the Company;

<sup>6</sup>'**Holding Company**' means the Company's ultimate holding company, within the meaning of that expression as defined in section 9 of the *Corporations Law*, but read as though the reference in paragraph (b) to 'no body corporate' were a reference to 'no body corporate incorporated in Australia';

<sup>7</sup>'**Holding Company Group**' means:

- (a) the Holding Company;
- (b) the Holding Company's Subsidiaries (including without limitation, the Company and its Subsidiaries); and
- (c) any other entity which the directors of the Holding Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Holding Company under the *Corporations Law*;

<sup>8</sup>"**Independent Director**" means a director of the Company who:

- (a) is a Non-Executive Director of the Company;
- (b) is not a substantial shareholder of a Relevant Company;
- (c) is not an officer of a Relevant Company, other than as a Non-Executive Director of a Relevant Company;

<sup>5</sup> Inserted by Agreement dated 2 July 1998.

<sup>6</sup> Inserted by Agreement dated 2 June 1999.

<sup>7</sup> Inserted by Agreement dated 2 June 1999.

<sup>8</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

- (d) within the last 3 years has not been employed in an executive capacity by a Relevant Company, or been a director after ceasing to hold such employment;
- (e) within the last 3 years has not been a principal of a Material Professional Adviser or a Material Consultant to the Company;
- (f) is not a material supplier or customer of a Relevant Company or an officer or otherwise associated directly or indirectly with a material supplier or customer;
- (g) has no material contractual relationship with a Relevant Company, other than as a Non-Executive Director of a Relevant Company;
- (h) has not been a director or secretary of any Relevant Company for more than ~~##5~~ is this too short? years; and
- (i) is in the opinion of the Authority free from any interest or any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director's ability to act in the best interests of the Company.

<sup>9</sup>"Internal Control Manual" means the Company's internal control manual determined by the Compliance Committee under clause 22.1(lf)(ii).

'Lease' means an agreement or arrangement under which property is or may be used, occupied, retained, operated or managed by a person for consideration (of whatever form) including, but not limited to, a lease, licence, charter, hire purchase or hiring arrangement;

<sup>10</sup>

...

'Licensing Date' means the date which is 2 Business Days after the conditions precedent in clause 5.1 are satisfied; [19 November 1993]

'Licensing Payment Amounts' means the amounts payable under clause 26.1(b);

'Management Agreement' means the agreement between the Minister acting for and on behalf of the State, and the Company entered into pursuant to section 15 of the *Casino Control Act*;<sup>11</sup>

'Master Security Agreement' means the agreement of even date between the State, the Authority, the Company, the Agent and the Sponsors relating, among other things, to the priority of the Encumbrances given by the Company;

<sup>12</sup>"Material Consultant" includes a provider of any management, marketing or advertising services;

<sup>9</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>10</sup> Definition of 'Liabilities' deleted by Agreement dated 2 July 1998.

<sup>11</sup> Varied by Agreements dated 14 November 1994 and 12 October 1995.

<sup>13</sup>"Material Professional Adviser" includes a provider of any accounting, audit or legal services;

'Melbourne Casino' means those areas identified in the Drawings for the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Melbourne Casino Complex' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of this document and the Management Agreement;

'Melbourne Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'Minister' means the Minister for the time being administering the *Casino Control Act*;

'Mortgagee' means any person with any Encumbrance (whether as mortgagee, chargee or otherwise) affecting or in relation to the Assets and Rights of the Company;

<sup>14</sup>"Non-Executive Director" of a company (the **First Company**) means a director of the First Company who is not an employee of or involved in the operational management of:

- (a) the First Company; or
- (b) a Subsidiary or Holding Company of the First Company; or
- (c) a Subsidiary of the Holding Company of the First Company;

~~##Defns of Subsidiary and Holding Company are specific to the Company - need to amend?~~

<sup>15</sup>'Note Agreement' means the deed dated 24 December 1993 between the Company, Permanent Trustee Australia Ltd and National Australia Bank Limited;

<sup>16</sup>'Note Agreement (Series 2)' means the deed dated 15 August 1996 between the Company, Permanent Trustee Australia Limited and National Australia Bank Limited;

'Operations Agreement' means the agreement dated 30 August 1993 between the Company and Crown Management Pty Ltd ACN 059 301 610 providing for the conduct of the operations of the Temporary Casino and the Melbourne Casino;

<sup>12</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>13</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>14</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>15</sup> Inserted by Agreement dated 7 March 1995.

<sup>16</sup> Inserted by Agreement dated 8 May 1997.

'Permitted Encumbrance' means an encumbrance of the kind permitted under clause 29.1;

'Planning Amendments' means the planning scheme amendments referred to in clause 9 of the Management Agreement;

'Planning and Environment Act' means the *Planning and Environment Act 1987* (Victoria);

'Premium Payment' means \$10,000,000 being the amount determined by the Treasurer of the State under section 112A of the *Casino Control Act* as the amount payable by the Company under the Management Agreement;

'Public Authority' means any government or minister or any governmental, semi-governmental or judicial entity, department, instrumentality or authority;

'Receiver' means receiver, receiver and manager or agent for a mortgagee in possession, according to the nature of the appointment;

'Related Party' means the Sponsors and any Subsidiary of the Company;

<sup>17</sup>"**Relevant Company**" means the Company, the Holding Company and any company which has been a Holding Company Group member at any time within the previous 3 years.

'Relevant Legislation' means the *Casino Control Act*, the Agreement Act and the Further Amendment Act;

'Secured Property' means at any time, any present or future right, property or undertaking of the Company, (other than an amount which has been deposited to, or which is standing to the credit of, the Debt Service Reserve Account or the Debt Protection Account (each as defined in the Facility Agreement) and any Authorised Investment (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment)) under the Facility Agreement, of whatever kind or wherever situated which is subject at that time to both:

- (a) the Fixed and Floating Charge; and
- (b) any one or more of the Financiers' Securities;

and a reference to 'Secured Property' includes any part of it;

<sup>18</sup>"**Senior Executive Manager**" includes:

- (a) the Company's chief executive officer;

<sup>17</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>18</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

- (b) the Company's chief financial officer;
- (c) the Company's chief operating officer; ~~##necessary to define CLO, CFO, COO?~~
- (d) any director of the Company who is an employee of the Company;
- (e) any officer of the Company who directly reports to the Company's chief executive officer; and
- (f) any officer of the Company who has the authority to bind the Company to an expenditure of \$5 million ~~1/3000 much / little?~~ or more.

**'Share'** means a fully paid ordinary share with a par value of \$0.50 in the capital of the Company;

**'Shareholders Agreement - Crown Management Pty Ltd'** means the agreement dated 30 August 1993 between Hudson Conway Limited ACN 009 556 629, Mulawa Casinos Pty Ltd ACN 060 766 001, The Federal Hotels Limited ACN 004 108 249 and Crown Management Pty Limited ACN 059 301 610;

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<sup>20</sup>**'Site'** has the same meaning as in the Management Agreement;

**'Site Lease'** means the lease of <sup>21</sup>part of the Site from the Minister for Finance on behalf of the State to the Company;

**'Site Lease Supplemental Agreement'** means the agreement between the Minister for Finance, the Company and the Agent;

<sup>22</sup>**'Solvency Report'** means a report prepared in accordance with Australian Auditing Standard AUS 904 'Engagement to Perform Agreed Upon Procedures' and paragraphs .21(a) to (e), .23 and .24 of Australian Auditing Standard ALS 708 'Going Concern' and in a form approved by the Authority from time to time;

**'Sponsors'** mean Hudson Conway Limited ACN 009 556 629 and The Federal Hotels Limited ACN 004 108 249 and for the purposes of clause 22.1(a) such other person as the Authority may approve;

**'Sponsor's Guarantees'** means the guarantees of even date by Hudson Conway Limited ACN 009 556 629 in favour of the Authority and in favour of the State;

**'State'** means the State of Victoria;

<sup>19</sup> Definition of 'Shareholders' Funds' deleted by Agreement dated 2 July 1998.

<sup>20</sup> Varied by Agreement dated 8 May 1997.

<sup>21</sup> Inserted by Agreement dated 8 May 1997.

<sup>22</sup> Inserted by Agreement dated 2 July 1998.

**'State's Nominated Representative'** means the person appointed from time to time by the minister for the time being administering the *Planning and Environment Act* in accordance with clause 6.4 of the Management Agreement;

**'Subsidiary'** means any body corporate which would be a subsidiary of the Company within the meaning of section 46 of the *Corporations Law* or any entity which would be a subsidiary of the Company under *Australian Accounting Standard AAS24*;

<sup>23</sup>**'Supplemental Casino Agreement'** means the agreement under which the Holding Company guarantees to the Authority, the due and punctual performance of obligations owed by each member of the Holding Company Group to the Authority;

**'Supplemental Development Agreement'** means the agreement of even date between the Authority, the Company, the Sponsors and Hudson Conway Management Limited ACN 006 742 294 which is supplemental to the Development Agreement;

**'Supplemental Operations Agreement'** means the agreement of even date between the Authority, the Company, the Sponsors and Crown Management Pty Ltd ACN 059 301 610 which is supplemental to the Operations Agreement;

**'Supplemental Sponsors' Agreement'** means the agreement of even date between the Authority, the Company and the Sponsors which is supplemental to the Founding Shareholders Agreement;

**'Temporary Casino'** means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

**'Temporary Casino Complex'** means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of this document and the Management Agreement;

**'Temporary Casino Complex Development Proposals'** means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

**'Temporary Casino Leases'** means:

- (a) the lease from the Port of Melbourne Authority to the Company; and
- (b) the sub-lease between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289 and the Company;

**'Temporary Casino Leases Supplemental Agreements'** means:

- (a) the agreement between the Port of Melbourne Authority, the Company and the Agent; and

<sup>23</sup> Inserted by Agreement dated 2 June 1999.

(b) the Temporary Casino Sub-Lease Supplemental Agreement;

**'Temporary Casino Site'** means that part of the World Trade Centre on the land bounded by Spencer Street, Flinders Street Extension and the River Yarra identified in the Plan of Survey annexed to the lease referred to in paragraph (a) of the definition of Temporary Casino Leases;

**'Temporary Casino Sub-Lease Supplemental Agreement'** means the agreement between the Urban Land Authority, Allco Nominees (Vic) Pty Ltd ACN 006 837 289, the Company and the Agent;

<sup>24</sup>**'Total Assets'** means the aggregate of all assets of the Group which according to Australian Accounting Standards are defined, or would be regarded, as assets;

<sup>25</sup>**'Total Group Assets'** means the aggregate of all assets of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as assets;

<sup>26</sup>**'Total Group Liabilities'** means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities.

<sup>27</sup>**'Total Liabilities'** means the aggregate of all liabilities of the Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities;

**'Transaction Document'** means each of this document, the Management Agreement, the Casino Licence, the Site Lease, the Temporary Casino Leases, the Fixed and Floating Charge, the Sponsor's Guarantees, the Master Security Agreement, the Site Lease Tripartite Agreement, the Temporary Casino Leases Supplemental Agreements, the Supplemental Sponsors' Agreement, the Supplemental Development Agreement, the Contractor's Deed, the Bank Guarantees,<sup>28</sup> the Supplemental Operations Agreement,<sup>29</sup> the Deed of Undertaking and Guarantee and the Supplemental Casino Agreement;

<sup>30</sup>**'Trust Deed'** means the deed dated 24 December 1993 between the Company and Permanent Trustee Australia Ltd relating to the issue by the Company of unsecured notes;

<sup>31</sup>**'Trust Deed (Series 2)'** means the deed dated 15 August 1996 between the Company and Permanent Trustee Australia Limited relating to the issue by the Company of unsecured notes;

<sup>24</sup> Inserted by Agreement dated 2 July 1998.  
<sup>25</sup> Inserted by Agreement dated 2 June 1999.  
<sup>26</sup> Inserted by Agreement dated 2 June 1999.  
<sup>27</sup> Inserted by Agreement dated 2 July 1998.  
<sup>28</sup> Varied by Agreement dated 2 June 1999.  
<sup>29</sup> Varied by Agreement dated 2 June 1999.  
<sup>30</sup> Inserted by Agreement dated 7 March 1995.  
<sup>31</sup> Inserted by Agreement dated 8 May 1997.

'**Underwriting Agreement**' means both the underwriting agreements of 13 August 1993 and 23 August 1993 between the Company, E.L. & C. Baillieu Limited ACN 006 519 393, Rothschild Australia Securities Limited ACN 008 591 768, Macquarie Underwriting Limited ACN 001 374 572, Ord Minnett Securities Limited ACN 003 245 234, James Capel Australia Limited ACN 002 786 272 and the Sponsors; and

'**Warranties**' means the representations and warranties of the Company set out in Schedule Three.

### 3. COMMENCEMENT OF CERTAIN PROVISIONS

This clause and clauses 2, 5, 6.3, 33, 34, 36, 37, and 39-48 (inclusive) commence on the date of this document.

### 4. VARIATION

Subject to the prior approval in writing of the Minister, the parties may from time to time by agreement in writing vary any provision of this document.

### 5. CONDITIONS PRECEDENT

5.1 The provisions of this document other than the clauses referred to in clause 3 are conditional upon the satisfaction of the following conditions precedent:

- (a) execution of:
  - (i) the Transaction Documents except for the Casino Licence and the Bank Guarantees;
  - (ii) the Finance Documents;
  - (iii) the Development Agreement;
  - (iv) the Operations Agreement;
  - (v) the Construction Agreement;
  - (vi) the Founding Shareholders Agreement;
  - (vii) the Underwriting Agreement;
  - (viii) the Equity Funding Agreement (Federal);
  - (ix) the Shareholders Agreement - Crown Management Pty Ltd; and
  - (x) the Guarantee and Indemnity for Development Agreement;
- (b) each of the conditions precedent in each document referred to in paragraph (a) being satisfied other than:
  - (i) conditions precedent contained in paragraphs (14), (15), and (28) of Part 1 of Appendix A to and clause 4.2 of the Facility Agreement and those conditions precedent in Appendix A to the Facility Agreement that are

factual or procedural matters that cannot be satisfied until the time of drawdown; and

- (ii) the issue of the Casino Licence;
  - (c) approval of the Planning Amendments; and
  - (d) the coming into operation of those parts of the Agreement Act and the Further Amendment Act which relate to the construction, Fit-Out, Commissioning, Completion and operation of the Melbourne Casino Complex and the Temporary Casino Complex each in the form and substance reasonably satisfactory to the Company to enable the Company to comply with its obligations under the Transaction Documents.
- 5.2 The Authority will provide written notice to the Company and to the Minister of satisfaction of the conditions specified in clause 5.1 within 2 Business Days of the satisfaction of all of those conditions.
- 5.3 Each party shall use its best endeavours to ensure the satisfaction of the conditions in clause 5.1 as soon as possible after the execution of this document, and in any event no later than the date specified in clause 5.4.
- 5.4 This document shall terminate upon the Management Agreement terminating under clause 5.2 of that agreement.

## **PART 2 - DEVELOPMENT AND COMPLETION**

### **6. DOCUMENTS TO BE SUBMITTED TO THE AUTHORITY**

- 6.1 The Company must as soon as possible, but within 10 weeks from the Licensing Date submit to the Authority for its approval the following items:
- (a) a schedule identifying the proposed nature and degree of access (including pedestrian and vehicular) to all facilities by people who may be attending the Melbourne Casino together with a report on the vehicular part of that proposal;
  - (b) a detailed development master plan or plans clearly indicating the intentions of the Company for the development of the Melbourne Casino;
  - (c) all final schematic design drawings in relation to the Melbourne Casino;
  - (d) a proposal detailing the intended method of carrying out all phases of the development of the Melbourne Casino including the type of contract documentation to be used, the system (including the provision for review and approval by the Authority where required by the Authority) for the calling of tenders and appointment of sub-contractors, nominated sub-contractors, trade contractors and the method for completing construction, Fit-Out and Commissioning of the Melbourne Casino; and
  - (e) such other documents, drawings or information reasonably required by the Authority in relation to the Melbourne Casino.

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- 6.2 As soon as practicable, but in any event no later than 3 months after Completion of the Melbourne Casino, the Company must prepare and supply the Authority with:
- (a) a list of and 3 copies of all equipment and construction warranties in relation to the Melbourne Casino provided in favour of the Company;
  - (b) 3 copies of instructions and maintenance manuals in relation to the Melbourne Casino for:
    - (i) all hydraulic systems;
    - (ii) all mechanical systems; and
    - (iii) all electrical systems; and
  - (c) 3 copies of as built drawings for all services in relation to the Melbourne Casino including:
    - (i) hydraulic drawings;
    - (ii) mechanical drawings;
    - (iii) electrical drawings;
    - (iv) civil works drawings; and
    - (v) architectural drawings.

6.3 The Company must by the 8 December 1994 enter into a contract substantially in the form of the Construction Agreement with a builder approved by the Authority acting reasonably providing for the construction of the Melbourne Casino Complex.

6.4 The Company must procure the execution of the Contractor's Deed before or at the time that the Company enters into the contract referred to in clause 6.3.

**6.5 Provision of Information and Documents**

- (a) The Company must:
  - (i) within 14 days of receiving a request from the Authority; and in any event
  - (ii) by 24 May 1996, being the date by which the Company must make available the Gaming Floor and Back of House areas -provide to the Authority the documents and information referred to in clause 6.1 of the Casino Agreement in accordance with paragraph (b) of this clause.
- (b) The Company complies with its obligations pursuant to paragraph (a) of this clause if:
- (c) the Company provides the documents or information requested by the Authority;
- (d) the Company advises:

- (i) that it is unable, at that stage, to provide the information and/or documents;
- (ii) the reasons for the Company's inability to provide the information and/or documents; and
- (iii) the date by which the Company anticipates being able to provide the information and/or documents; and
- (iv) the Authority does not, within 10 days of the receipt of the advice pursuant to this paragraph give a notice to the Company that the documents and/or information must still be provided in response to the Authority's request; or

- (e) it advises the Authority that, in respect of the documents and/or information requested by the Authority, there has been no variation to or amendment of the documents or information previously provided by the Company to the Authority.
- (f) The Company may respond to a request from the Authority by a combination of the alternatives referred to in paragraph (b) of this clause as is appropriate in the circumstances.
- (g) The Authority may make requests pursuant to paragraph (a) of this clause from time to time as it considers appropriate in its absolute discretion.

<sup>32</sup>6.6 The Company acknowledges, undertakes and agrees that the Company is not permitted to terminate the Construction Agreement without the approval of the State in accordance with clause 9.3 of the Supplemental Development Agreement and without the approval of the Authority in accordance with clause 32.1 of this document.

## 7. MELBOURNE CASINO WORKS

The Company must, at least 14 days prior to the commencement of any part of the Melbourne Casino, submit to the Authority for approval all working drawings and specifications relating to any such part, and in particular the following details:

- (a) drawings of the floor layouts for the Melbourne Casino showing the placement of gaming tables and closed circuit television cameras and other surveillance facilities;
- (b) drawings of the reflected ceiling showing the location of catwalks (if any), closed circuit television cameras, viewing panels, lights and other fittings and services;
- (c) plans of cashiers' cages, count rooms and all security areas, including access thereto;
- (d) plans of secure areas and facilities to be used for inspectors appointed under the *Casino Control Act*, police and the Company's surveillance and security staff;
- (e) the electrical installations, in particular for the:

<sup>32</sup> Inserted by Agreement 3 March 1995. Varied by Agreement dated 8 May 1997.

- (i) closed circuit television system for both surveillance of the Melbourne Casino and for use by inspectors appointed under the *Casino Control Act*;
  - (ii) alarm system;
  - (iii) telephone installations;
  - (iv) emergency link to local police headquarters;
  - (v) auxiliary power and lighting provisions; and
  - (vi) fire protection systems and flood control plans for the preceding items in paragraph (e);
- (f) the master-key system proposed; and
- (g) the proposed construction, supply or Fit-Out of the preceding items.

## 8. SAFETY PROCEDURES

The Company must, at least 14 days before the Company intends to open the Melbourne Casino for use by the public, submit to the Authority for its approval details of the following matters so far as they relate to that part of the Melbourne Casino which the Company intends to open:

- (a) fire and flood safety and damage control procedures;
- (b) emergency control procedures;
- (c) crowd control procedures;
- (d) armoured vehicle transfer arrangements; and
- (e) vehicle control and parking arrangements.

## 9. VARIATIONS

- 9.1 The Company must submit to the Authority details of any variations to the Drawings and the working drawings and specifications to be provided pursuant to the Control Acts, the Management Agreement or this document where any such variation in any way relates to the Melbourne Casino.
- 9.2 The Company must not make any such variations without the prior approval in writing of the Authority.

## 10. APPROVAL BY THE AUTHORITY

- 10.1 If the Company is required by this document to submit to the Authority any documents or proposal for approval the Company must not proceed with carrying out any works or taking any action described in or contemplated by the documents or the proposal until the Authority has approved the documents or proposal or the documents or proposal have otherwise been dealt with in accordance with this clause 10.

- 10.2 If the Company is required by this document to submit to the Authority any documents or proposal for approval, the Authority may:
- (a) approve the documents or proposal;
  - (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
  - (c) require amendment as specified to the documents or proposal; or
  - (d) reject the documents or proposal.
- 10.3 If the Authority imposes conditions, requires amendment or rejects the documents or proposal pursuant to clause 10.2 the Company may, within 7 days of notification of the condition, amendment or rejection, make a further submission to the Authority as to why the condition should not be imposed, the amendment not be made or the documents or proposal not be rejected.
- 10.4 If the Company makes a further submission to the Authority as provided for in clause 10.3, the Authority shall give the further submission reasonable consideration and may:
- (a) approve the documents or proposal;
  - (b) subject to clause 10.6, approve the documents or proposal subject to any condition or conditions;
  - (c) require amendment as specified to the documents or proposal; or
  - (d) reject the documents or proposal.
- 10.5 If:
- (a) the Authority approves the documents or proposal, the Company must proceed with the work in accordance with the approved documents or proposal;
  - (b) the Authority imposes conditions in relation to the approval of the documents or proposal, the Company must comply with those conditions; or
  - (c) the Authority requires amendment to the documents or proposal, the Company must, within 14 days of notification of the requirements, submit to the Authority further documents or a further proposal amended in accordance with the requirements and such documents or proposal shall be dealt with in accordance with this clause 10.
- 10.6 In imposing any conditions to any approval under clause 10 of any document or proposal the Authority must not act unreasonably having regard to the effect of the Melbourne Casino Complex Development Proposals, the Temporary Casino Complex Development Proposals, the Planning Amendments and the design and planning objectives of the State.

## 11. TIME FOR APPROVAL

- 11.1 If the Company submits any documents or proposal to the Authority, the Authority must respond in writing to the Company in the manner contemplated in clause 10 within 14 days of receiving the documents or proposal from the Company or such further period agreed between the Authority and the Company.
- 11.2 If the Authority has not responded in writing to the Company as required by clause 10 within 14 days or such further period as agreed, the Authority will be taken to have given its approval.
- 11.3 Clauses 11.1 and 11.2 apply only in relation to clauses 6 - 20 inclusive.

## **12. DIRECTOR OF CASINO SURVEILLANCE**

- 12.1 The Authority must ensure that all documents and proposals which are submitted to the Authority for approval under this document and which must also be approved by the Director of Casino Surveillance under section 59 of the *Casino Control Act* are provided by the Authority to the Director of Casino Surveillance who shall be responsible for providing any necessary approvals.
- 12.2 Clauses 10 and 11 will apply in relation to any approvals to be given by the Director of Casino Surveillance as if the Director of Casino Surveillance were the Authority.
- 12.3 Nothing in this document shall be taken as limiting or fettering the rights of the Director of Casino Surveillance under the *Casino Control Act*.

## **13. PROVISION OF FACILITIES FOR INSPECTORS**

The Company must at its expense provide, keep and maintain all facilities and surveillance systems in the Melbourne Casino required for the use of inspectors appointed under the *Casino Control Act*.

## **14. SITE ACCESS**

- 14.1 Persons authorised in writing by the Authority or the Director of Casino Surveillance may at all reasonable times have free access to the Site but in doing so such persons must not interfere with the progress of any works except for the purpose of exercising any powers conferred under the Transaction Documents or the *Casino Control Act*. Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice, the Authority or the Director of Casino Surveillance and the Company must co-operate in the co-ordination of the Authority's or the Director of Casino Surveillance's inspections, measurements and tests with the requirements of the Company in relation to any programmes for and the timely Completion of the Melbourne Casino, with the objective of achieving, to the maximum extent possible, inspections, measurements and tests at the most appropriate times during the execution of the works for the Melbourne Casino and prior to closing up of the relevant part of the works.
- 14.2 The Authority or the Director of Casino Surveillance may, from time to time, give to the Company reasonable notice in writing that:
- (a) the Authority or the Director of Casino Surveillance proposes to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests; or

- (b) the Authority or the Director of Casino Surveillance requires the Company to carry out, during the progress of the works in relation to the Melbourne Casino, inspections, measurements or tests as described in the notice.
- 14.3 If the Company receives a notice pursuant to clause 14.2, the Company must ensure that no part of the works in relation to the Melbourne Casino thereafter becomes inaccessible before any required inspection, measurement or test is completed, and:
- (a) if the notice is pursuant to paragraph 14.2(a), the Company must permit the Authority, the Director of Casino Surveillance or their respective agents to carry out the inspection, measurement or test; or
- (b) if the notice is pursuant to paragraph 14.2(b), the Company must carry out the inspection, measurement or test, at its cost, in accordance with the conditions set out in the notice and at a time specified in the notice and must immediately thereafter provide to the Authority or the Director of Casino Surveillance a copy of the results of the inspection, measurement or test.
- 14.4 The Authority or the Director of Casino Surveillance and any persons authorised by any of them must not act unreasonably when exercising any powers under clause 14.
- 14.5 Subject to the Authority's or the Director of Casino Surveillance's right to make random inspections without notice and notwithstanding clause 14.3, if the Authority, the Director of Casino Surveillance or any of their respective agents carry out any inspection, measurement or test or require the Company to carry out any inspection, measurement or test in respect of any part of the works in relation to the Melbourne Casino which has become inaccessible the Authority, the Director of Casino Surveillance or any of their respective agents must first give the Company notice in writing of the Authority's or the Director of Casino Surveillance's reasonable requirements in respect of the inspection, measurement or test.
15. **RECTIFICATION AND SUSPENSION OF THE WORKS IN RELATION TO THE MELBOURNE CASINO**
- 15.1 If following any inspection, measuring or examination of the works in relation to the Melbourne Casino the Authority is of the opinion that the works do not comply with any of the requirements in clauses 6 - 20 of this document or the reasonable requirements of the Authority which have been notified in writing to the Company or the requirements of any approved Documentation, the Authority may by notice to the Company specify:
- (a) in what respect the works do not comply; and
- (b) what action must be taken to rectify the non-compliance and the reasonable time within which that action is to be taken,
- and the Company must comply with that notice.

- 15.2 If the Authority forms the opinion that the Company has failed for any reason to comply with a notice given pursuant to clause 15.1, the Authority may, without prejudice to any other right or remedy arising because of that failure, by notice to the Company direct the suspension of that part of the works in relation to the Melbourne Casino which is the subject of the notice given pursuant to clause 15.1 until the notice given pursuant to clause 15.1 is complied with.

## **16. PROJECT ADVISORY MEETINGS**

- 16.1 Project advisory meetings must be held on a monthly basis and from time to time as may be required by the Authority during the design documentation, construction, Fit-Out and Commissioning of the Melbourne Casino.
- 16.2 The principal purposes of these meetings are to monitor design development, contract documentation and progress of the construction of the Melbourne Casino and to ensure compliance by the Company with its obligations under this document.
- 16.3 The meetings must be:
- (a) at a location determined by the Authority;
  - (b) attended by at least 1 and not more than 4 representatives from each of the Authority and the Company; and
  - (c) chaired by a person nominated by the Authority.
- 16.4 The State's Nominated Representative may attend the meetings.
- 16.5 The Company must provide accurate minutes to the Authority and the State's Nominated Representative within 3 days after each project advisory meeting.

## **17. MULTIPLE COPIES OF PLANS**

The Company must provide to the Authority 3 copies (or such lesser number as may from time to time be agreed) of all plans, specifications and other material required to be provided pursuant to clauses 6 to 18 (inclusive) of this document.

## **18. DEVELOPMENT OF THE TEMPORARY CASINO**

- 18.1 The Company must provide to the Authority for its approval all documents, drawings and information additional to the Temporary Casino Complex Development Proposals and the Drawings which are necessary for the design and construction of the Temporary Casino, including details of those items specified in clauses 6,7 and 8 in so far as they relate to the Temporary Casino.
- 18.2 The Company must provide to the Authority for its approval any other documents, drawings or information requested by the Authority in relation to the Temporary Casino.

- 18.3 Clauses 9, 10, 11 and 12 apply (unless the context otherwise requires) in relation to any submissions by the Company to the Authority for the approval of documents and drawings or any proposal relating to the Temporary Casino Complex or to any application by the Company to vary any approved document or drawing as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino the Melbourne Casino.
- 18.4 Clauses 13, 14, 15 and 16 apply (unless the context otherwise requires) in relation to the Temporary Casino Complex and the Temporary Casino Site as if the Temporary Casino Complex were the Melbourne Casino Complex and the Temporary Casino Site the Site.

### **PART 3 - COMPLETION**

#### **19. OPENING OF THE MELBOURNE CASINO**

It is a condition precedent to approval to open the Melbourne Casino that at least 2000 car parking spaces are available for use on the Site.

#### **20. COMPLETION**

- 20.1 The Company must give not less than 7 Business Days notice in writing to the Authority that the Company anticipates that the Temporary Casino or the Melbourne Casino, as the case may be, ('**Relevant Works**') will be Completed on the date specified in the notice.
- 20.2 On the date agreed between the Company and the Authority (and if no date is agreed, then on the date specified in the Company's notice under clause 20.1) the Authority must inspect the Relevant Works and consider all matters relevant to the Completion of the Relevant Works.
- 1.1
- 20.3 If the Authority is of the opinion that the Relevant Works are not Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 give notice to the Company of this opinion and state in that notice the reason or reasons why the Authority is of this opinion.
- 20.4 If the Authority is of the opinion that the Relevant Works are Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 issue a certificate to the Company stating the date on which it believes those Relevant Works reached Completion and those Relevant Works shall, for the purpose of this document, be taken to have been Completed on that date.
- 20.5 Upon receipt of a notice from the Authority under clause 20.3, the Company must immediately attend to any matters stated in the notice as requiring attention and upon the Company attending to these matters, the Company must give a further notice in writing to the Authority pursuant to paragraph 20.1.
- 20.6 Any determination by the Authority that any Relevant Works have been Completed is not acceptance that the Company has complied with the Transaction Documents and any right which the Authority may have had prior to that determination is preserved absolutely.

- 20.7 If the Authority does not deliver a notice to the Company under clause 20.3 or a certificate under clause 20.4 within the 10 Business Days period referred to in those clauses, the Relevant Works will be taken to have been Completed on the date on which those Relevant Works were inspected under clause 20.2 and a certificate of Completion will be taken to have been issued by the Authority with a date of Completion on that date.
- 20.8 A certificate of Completion under clause 20 does not excuse the Company from compliance with all relevant legislation in relation to the Relevant Works.

#### **PART 4 - CORPORATE STRUCTURE AND RELATED MATTERS**

##### **21.      WARRANTIES OF THE COMPANY**

- 21.1 The Company makes the Warranties to the Authority as at the date of this document and for each day up to and including the Licensing Date.
- 21.2 Each Warranty shall be construed separately and the meaning of each shall in no way be limited by reference to any other representation or warranty contained in this document.

##### **22.      CONDITIONS RELATING TO COMPANY STRUCTURE**

- 22.1 The following are conditions of this document:

33      ...

34      ...

35      ...

36      ...

37      ...

38      ...

39      ...

40      (ba) the Company must ensure that not less than 70% of the meetings of its directors in any Financial Year occur in Melbourne;"

41      (bb) the Company must ensure that all of its Senior Executive Managers reside in Melbourne and, without limitation, that any person appointed as a Senior

33      Substituted by Agreement dated 8 May 1997.

34      Clause 22.1 (a) deleted by Agreement dated 2 June 1999.

35      Clause 22.1 (aa) deleted by Agreement dated 2 June 1999.

36      Clause 22.1 (ab) deleted by Agreement dated 2 June 1999.

37      Clause 22.1 (ac) deleted by Agreement dated 2 June 1999.

38      Clause 22.1 (ad) deleted by Agreement dated 2 June 1999.

39      Clause 22.1 (b) deleted by Agreement dated 2 June 1999.

40      Inserted by Agreement dated [#9<sup>th</sup> Variation]

Executive Manager commence residing in Melbourne not less than 90 days after their appointment;

- <sup>42</sup> (bc) the Company must ensure that not less than 70% [REDACTED] of the meetings of the Senior Executive Managers in any Financial Year actually occur in Melbourne.
- <sup>43</sup> (bd) the Company must ensure that at least one Company secretary resides in Melbourne;
- (c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;
- (d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;
- <sup>44</sup> (e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed of whom not less than one third at any time must be Independent Directors;
- <sup>45</sup> (ea) the constitution of the Company must not expressly authorise the directors of the Company to act in the best interests of the Holding Company for the purpose of section 187 of the *Corporations Act 2001*;"
- (f) <sup>46</sup> the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of Shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;
- (g) where required by the Authority, the Company must enforce the disposal of Shares of any person in accordance with the procedures for such disposal set out in the articles of association of the Company;
- (h) if so requested by the Authority, the Company must when requested, at any time that it is a company within the meaning of Part 6.8 of the *Corporations Law*, issue notices pursuant to Sections 718 and 719 of the *Corporations Law* in respect of particular Shares;
- (i) except for the issue of partly paid shares in the Company to employees of the Company (not exceeding 5% of the fully diluted total issued capital of the Company), options issued to the Sponsors (not exceeding 15% of the fully diluted total issued capital of the Company) and subject to clause 22.1(m) unsecured debt securities issued in the ordinary course of business of the

<sup>41</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation]

<sup>42</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation]

<sup>43</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation]

<sup>44</sup> Clause 22.1 (e) amended by Agreement dated [##9<sup>th</sup> Variation]

<sup>45</sup> Clause 22.1 (ea) amended by Agreement dated [##9<sup>th</sup> Variation]

<sup>46</sup> Substituted by Agreement dated 2 June 1999.

## 27 COMMERCIAL IN CONFIDENCE

Company which do not materially increase the total indebtedness of the Company, the Company must not issue any shares of a class other than the Shares or any other security (as defined in section 92 of the *Corporations Law*) without the prior written approval of the Authority;

- <sup>47</sup> (j) the Company must not, without the prior written approval of the Authority, issue or announce the issue of Shares, if such issue would require the approval of holders of Shares under rule 7.1 of the Listing Rules of ASX;
- (k) the memorandum and articles of association of the Company must not be amended without the prior written approval of the Authority;
- (l) no person may be appointed as auditor of the Company unless that person's appointment has first been approved in writing by the Authority;
- <sup>48</sup>(la) the Company must appoint and maintain an Audit Committee consisting of:
- (i) not less than 2 Independent Directors; and
  - (ii) no Executive Directors other than the Company's Chief Executive Officer.
- <sup>49</sup>(lb) the Company must notify the Authority of the identity of each person appointed to the Audit Committee and the resignation or removal of any person from the Audit Committee within 10 Business Days of the appointment, resignation or removal.
- <sup>50</sup>(lc) the Audit Committee must meet in Melbourne not less than 4 times in each Financial Year and must have the authority and responsibility to:
- (i) recommend the appointment and removal of the Company's auditor;
  - (ii) determine the Company's internal audit requirements and procedures;
  - (iii) supervise the Company's compliance with its internal and statutory audit requirements; and
  - (iv) report to the Authority on behalf of the Company concerning the Company's audit program and performance.
- <sup>51</sup>(ld) the Company must appoint and maintain a Compliance Committee consisting of:
- (i) no less than 2 Independent Directors;
  - (ii) no Executive Directors other than the Company's Chief Executive Officer.

<sup>47</sup> Substituted by Agreement dated 8 May 1997.

<sup>48</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed].

<sup>49</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed].

<sup>50</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed].

<sup>51</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed].

<sup>52</sup>(le) the Company must notify the Authority of the identity of each person appointed to the Compliance Committee and the resignation or removal of any person from the Compliance Committee within 10 Business Days of the appointment, resignation or removal.

<sup>53</sup>(lf) the Compliance Committee must meet in Melbourne not less than 4 times in each Financial Year and must have the authority and responsibility to:

(i) ensure the Company's and Holding Company Group's compliance with:

(A) this document;

(B) the Casino Licence;

(C) each other Transaction Document; and

(D) the Internal Control Manual;

(ii) supervise the Company's compliance with other:

(A) statutory; or

(B) internally determined requirements not inconsistent with clause 22.1(lf)(i);

(ii) determine the Company's internal compliance requirements and procedures and the Internal Control Manual consistent with clause 22.1(lf)(i);

(iii) supervise the Company's compliance with its compliance procedures; and

(iv) report to the Authority on behalf of the Company concerning the Company's compliance performance.

<sup>54</sup> (m) subject to clause 22.6, the Company must procure that at any time Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority;

<sup>55</sup> (ma) Total Group Liabilities must not at any time exceed 60% of Total Group Assets without the prior written approval of the Authority;

(n) the Company must provide to the Authority within 14 days of the end of each month details of all Shares issued by the Company<sup>56</sup> and a list of the top 50 holders of Shares registered at the end of the previous month;

<sup>52</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed].

<sup>53</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed].

<sup>54</sup> Substituted by Agreement dated 2 July 1998.

<sup>55</sup> Inserted by Agreement dated 2 June 1999..

<sup>56</sup> Varied by Agreement dated 8 May 1997.

- (o) a director or alternate director of the Company must not gamble in the Temporary Casino or the Melbourne Casino;
- ~~(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority;<sup>57</sup> <sup>58</sup> ...~~
- ~~(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;<sup>59</sup> <sup>60</sup> ...~~
- <sup>61</sup>(r) the Holding Company Group, if it pursues anywhere ~~in Australia~~ *a the company* a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:
- ~~(i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and~~
  - ~~(ii) which is not detrimental to the Company's interests; and, <sup>62</sup> ...~~ *Melbourne Casino Complex*
- <sup>63</sup>(s) unless the Company, the Holding Company, the State and the Authority agree otherwise, the Company must ensure that the State is at all times the beneficiary and holder of:
- (i) a first ranking unlimited fixed and floating charge over all the assets and undertakings of the Company; or
  - (ii) a first ranking fixed and floating charge, limited to an amount of not less than \$100,000,000.00, over all the assets and undertakings of the Company, together with a letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).

22.2 In clause 22.1, 'Share' or 'Shares' includes, as the context requires, any other class of voting security (as defined in section 92 of the *Corporations Law*) issued by the Company.

<sup>57</sup> Varied by Agreement dated 2 June 1999..

<sup>58</sup> Clause 22.1(p) deleted by Agreement dated [##9<sup>th</sup> Variation Agreement]

<sup>59</sup> Varied by Agreement dated 2 June 1999.

<sup>60</sup> Clause 22.1(q) deleted by Agreement dated [##9<sup>th</sup> Variation Agreement]

<sup>61</sup> Varied by Agreement dated 2 June 1999.

<sup>62</sup> Clause 22.1(r) deleted by Agreement dated [##9<sup>th</sup> Variation Agreement]

<sup>63</sup> Inserted by Agreement dated 2 June 1999.

- 22.3 For the purposes of clause 22.1, a reference to a person being entitled to Shares has the same meaning as a reference in Part 6.7 of the *Corporations Law* to a person being entitled to voting shares in a company and that person's entitlement will be calculated in the manner prescribed for calculation of substantial shareholdings in Part 6.7 of the *Corporations Law* as if that Part applied.
- ~~22.4 For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.<sup>64</sup> ...~~
- 22.5 For the purposes of clause 22.1, 'hold' or 'held' in relation to Shares means that those Shares are beneficially owned, and includes Shares registered in the name of a nominee holding under a bare trust.
- <sup>65</sup>22.6 Any approval given by the Authority under clauses 22.1(m) and 22.1(ma)<sup>66</sup> may be given subject to such conditions as the Authority determines.
- <sup>67</sup>22.7 If at any time there is any change in Australian Accounting Standards or their application and such change will have a material impact on the compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>68</sup> the Authority agrees to discuss with the Company amendments that may be required to the definitions relevant to clauses 22.1(m) and 22.1(ma)<sup>69</sup> to ensure that the provisions of this document would have the same economic effect had such a change not been made. The Authority is not obliged to agree to any such amendments.
- <sup>70</sup>22.8 For the purpose of monitoring compliance by the Company with clauses 22.1(m) and 22.1(ma),<sup>71</sup> the Company must calculate the ratio of Total Liabilities to Total Assets and the ratio of Total Group Liabilities to Total Group Assets<sup>72</sup> as at the last day of every month ('**Calculation Day**') and provide to the Authority written details of such calculation within not more than 10 Business Days after the Calculation Day.
- <sup>73</sup>22.9 If any ratio<sup>74</sup> calculated under clause 22.8 is greater than 60%, the Company must procure that its auditor provides to the Authority a Solvency Report in respect of the Company and the Holding Company Group<sup>75</sup> addressed to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.

<sup>64</sup> Clause 22.4 deleted by Agreement dated [##9<sup>th</sup> Variation Agreement]

<sup>65</sup> Inserted by Agreement dated 2 July 1998.

<sup>66</sup> Varied by Agreement dated 2 June 1999.

<sup>67</sup> Inserted by Agreement dated 2 July 1998.

<sup>68</sup> Varied by Agreement dated 2 June 1999.

<sup>69</sup> Varied by Agreement dated 2 June 1999.

<sup>70</sup> Inserted by Agreement dated 2 July 1998.

<sup>71</sup> Varied by Agreement dated 2 June 1999.

<sup>72</sup> Varied by Agreement dated 2 June 1999.

<sup>73</sup> Inserted by Agreement dated 2 July 1998.

<sup>74</sup> Varied by Agreement dated 2 June 1999.

<sup>75</sup> Varied by Agreement dated 2 June 1999.

<sup>76</sup>22.10 If any ratio<sup>77</sup> calculated under clause 22.8 is greater than 60%, the Company may make written submissions to the Authority for consideration by the Authority for the purposes of clause 22.12 in relation to the period within which the Company expects any ratio will not exceed 60% and the financial position of the Company and the Holding Company Group.<sup>78</sup> Any such written submissions must be provided to the Authority by not later than the 20<sup>th</sup> day of the month following the Calculation Day.

<sup>79</sup>22.11 For the purposes of clause 22.12, the Authority may by notice in writing to the Company require the Company to provide to the Authority within the period specified in the notice such further information as the Authority requires in relation to a Solvency Report or the financial position of the Company and the Holding Company Group.<sup>80</sup>

<sup>81</sup>22.12 If:

- (a) any ratio<sup>82</sup> calculated under clause 22.8 is greater than 60%;
- (b) the Solvency Report provided under clause 22.9 concludes that there is a reasonable basis for believing that the Company will meet its debts as and when they fall due for the next 12 months;
- (c) the Authority is satisfied that the Company will comply with clauses 22.1(m) and 22.1(ma)<sup>83</sup> within a period acceptable to the Authority; and
- (d) the Authority is otherwise satisfied with the financial position of the Company and the Holding Company Group;<sup>84</sup>

the Authority may determine not to issue a notice to the Company under clause 31.2 of this document in respect of the breach of clauses 22.1(m) and 22.1(ma).<sup>85</sup>

<sup>86</sup>22.13 For the purposes of clauses 22.1(ba) to 22.1(bd) (inclusive), 22.1(lc), 22.1(lf) and this clause 22.13:

- (a) a meeting is held in Melbourne if and only if the chairperson of the meeting is physically present in Melbourne and the majority of the persons (not including the chairperson) attending the meeting are physically present at the same place as the chairperson in Melbourne;
- (b) Melbourne includes, and is limited to, any place within [REDACTED] kilometres of the Melbourne Casino Complex.

<sup>76</sup> Inserted by Agreement dated 2 July 1998.

<sup>77</sup> Varied by Agreement dated 2 June 1999.

<sup>78</sup> Varied by Agreement dated 2 June 1999.

<sup>79</sup> Inserted by Agreement dated 2 July 1998.

<sup>80</sup> Varied by Agreement dated 2 June 1999.

<sup>81</sup> Inserted by Agreement dated 2 July 1998.

<sup>82</sup> Varied by Agreement dated 2 June 1999.

<sup>83</sup> Varied by Agreement dated 2 June 1999.

<sup>84</sup> Varied by Agreement dated 2 June 1999.

<sup>85</sup> Varied by Agreement dated 2 June 1999.

<sup>86</sup> Added by Agreement dated [##9<sup>th</sup> Variation Deed]

**23. INSPECTION OF RECORDS**

The Company must upon demand make available for inspection by the Authority all records, accounts and information held by or on behalf of the Company and allow the Authority to take copies of or extracts from all such records, accounts and information.

**24. ATTENDANCE AT COMPANY MEETINGS**

24.1 A representative of the Authority is entitled to attend and to speak at any meeting of the Company as though he or she were a shareholder of the Company, but this clause does not confer a right to vote on the Authority or its representative.

24.2 The Company must deliver to the Authority copies of all notices and circulars that are forwarded to shareholders in the same manner and time frame as if the Authority were a shareholder.

**25. DISCLOSURE**

25.1 If the Company is admitted to the Official List of the ASX or is listed on any other stock exchange ('**Exchange**'), the Company must provide to the Authority a copy of:

- (a) all notices or other information provided by or on behalf of the Company to the ASX or Exchange; and
- (b) all notices or other information relating to the Company which are received by the Company from the ASX or Exchange,

on the same date that those notices or other information are provided to the ASX or Exchange or received by the Company.

25.2 The Company must immediately notify the Authority of any information necessary to ensure that the Authority is able to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Company.

25.3 Without limiting the generality of clause 25.2, the Company must immediately notify the Authority of any event or circumstance which would be material to the Company having regard to the definition of materiality in Australian Accounting Standard AAS5.

25.4 The Company and any Subsidiary must, within 15 Business Days of the end of each quarter ending on the last day of September, December and March in each year, give to the Authority a quarterly financial report in the form of the report in Schedule Four.

25.5 The Company must provide to the Authority a copy of:

- (a) all notices or other information provided by or on behalf of the Company to the Australian Securities Commission; and
- (b) all notices or other information relating to the Company which are received by the Company from the Australian Securities Commission,

on the same date that those notices or other information are provided to the Australian Securities Commission or received by the Company.

**PART 5 - GRANT OF THE CASINO LICENCE****26. GRANT OF CASINO LICENCE**

26.1 Subject to:

- (a) provision of the Bank Guarantees;
- (b) payment by the Company to the State of:
- (c) the Premium Payment; and
- (d) a further amount of \$190,000,000; and
- (e) payment by the Company of the Casino Supervision and Control Charge due on the Licensing Date,

the Authority will grant the Casino Licence for the Temporary Casino and the Melbourne Casino to the Company on the Licensing Date.

26.2 While the Casino Licence remains in force, the Authority undertakes not to grant a casino licence to any person enabling any person other than the Company to operate a casino:

- (a) anywhere in the State prior to 6 years from the Licensing Date; and
- (b) in those parts of the State within a radius of 150 kilometres from the Site, prior to 12 years from the Licensing Date.

26.3 If after the Melbourne Casino opens for business:

- (a) the Melbourne Casino is Completely Destroyed by an Extension Event prior to the end of the exclusivity period in clause 26.2(b); and
- (b) in the reasonable opinion of the Authority the Company acts diligently to reinstate the Melbourne Casino,

the period in clause 26.2(b) shall be extended by the Extension Period.

26.4 For the purposes of clause 26.3 and this clause 26.4, the following words or phrases have the following meanings:

**'Completely Destroyed'** means destruction or damage to the Melbourne Casino or any other Extension Event which causes the complete closure of the Melbourne Casino;

**'Extension Period'** means the lesser of:

- (a) 12 months; and
- (b) the period from the Destruction Date to the date on which the Melbourne Casino reopens for business;

'**Destruction Date**' means the date on which the Melbourne Casino is Completely Destroyed;

'**Extension Event**' means:

- (a) a Force Majeure Event; or
- (b) any other event or circumstance which is outside the control of the Company and has not been directly or indirectly caused by an act or omission of the Company or any of its Associates,

but does not include an event which would not have occurred if the Company had exercised reasonable care and diligence.

26.5 If the Company wishes to apply to the Authority for a further casino licence upon the expiration of the Casino Licence, it may do so in accordance with the following provisions:

- (a) if the Company is not in breach of any material provision of this document or of any other Transaction Document, the Company may at any time during the period commencing on the date being the first day of the fifth last year of the term of the Casino Licence and terminating on the date being the last day of the fifth last year of the term of the Casino Licence give notice in writing to the Authority that the Company wishes to apply for the grant of a new licence to operate a casino in the Melbourne Casino Complex;
- (b) following the giving of the notice under clause 26.5(a), the Authority shall within six months inform the Company of the basis on which the Authority is prepared to grant a new licence to operate a casino in the Melbourne Casino Complex and thereafter the Authority shall negotiate with the Company in good faith with a view to reaching agreement on a basis upon which the Authority is prepared to grant the new licence to the Company;
- (c) the Authority shall have no obligation under this clause 26.5 other than to notify the Company of the basis on which the Authority is prepared to grant a new licence and thereafter to negotiate in good faith with the Company;
- (d) the Company shall have no right or expectation of any nature whatever to the grant of a new casino licence following the expiration of the Casino Licence; and
- (e) if by the first day of the last year of the term of the Casino Licence, agreement has not been reached between the Authority and the Company for the grant of a new casino licence to the Company, the Authority shall be free to grant a new casino licence to any other person with effect from or after the date of expiry of the Casino Licence on such terms and conditions as the Authority in its absolute discretion determines to be appropriate.

27. **GAMES**

- 27.1 The Authority will publish a notice pursuant to section 60 of the *Casino Control Act* to enable the conduct and playing in the Temporary Casino and the Melbourne Casino of the following games, which must be conducted or played in accordance with the rules approved by the Authority under that section:
- (a) Blackjack;
  - (b) American Roulette;
  - (c) Baccarat;
  - (d) Mini Baccarat;
  - (e) Craps;
  - (f) Two-up;
  - (g) Mini-Dice;
  - (h) Wheel of Fortune;
  - (i) Sic-Bo;
  - (j) Pai Gow;
  - (k) Keno;
  - (l) Poker;
  - (m) French Roulette; and
  - (n) if approved by the Authority, games or derivatives devised or developed by the Company.
- 27.2 The Authority approves for the Temporary Casino and the Melbourne Casino all games which are approved as of the date of this document to be played on a gaming machine by the Victorian Gaming Commission and those games shall be taken to be included in the list in clause 27.1.
- 27.3 The Authority will use its good offices with the State to endeavour to procure that the State will approve:
- (a) the offering of linked jackpots for games conducted in the Temporary Casino or the Melbourne Casino; and
  - (b) the joining in the linking of games with other casinos, hotels, clubs and other venues for the purposes of providing linked jackpots on gaming machines or Club Keno.
- 27.4 In approving rules for games under section 60 of the *Casino Control Act* and giving directions under section 61, the Authority shall consult with the Company and shall have regard to the equivalent rules, commercial terms and regulations applicable to other casinos in Australia.

**28. CASINO OPERATING PRACTICES**

- <sup>87</sup>28.1 The Company must strive to obtain the maximum Gross Gaming Revenue by conducting its operations in the Temporary Casino and the Melbourne Casino as a discrete business operated in Melbourne in a proper and efficient manner having regard to the best operating practices in international casinos of a similar size and nature to the Melbourne Casino.
- <sup>88</sup>28.2 Without limitation to clause 28.1, the Company must ensure that the Melbourne Casino and Melbourne Casino Complex are *Maintaining* operated to not less than the Agreed World Class Standards.
- <sup>89</sup>28.3 Representatives of the Authority and Company must meet and review the Agreed World Class Standards on 1 July 2007 ~~##arbitrarily chosen as a day about 3 years after the date of the variation~~ and each subsequent third anniversary of that date (or other mutually agreed date).
- <sup>90</sup>28.4 Following a review meeting under clause 28.3, the Authority and Company may agree in writing variations to the Agreed World Class Standards to have effect from the date stated or, if no date is stated, from 1 January in the subsequent year.

**PART 6 - ENCUMBRANCES AND ASSIGNMENTS****29. ENCUMBRANCES**

- 29.1 The Company must not create or permit to subsist any Encumbrance over or in relation to any Assets and Rights of the Company other than:
- (a) Encumbrances solely over any Assets or Rights which are not Casino Assets and where the Encumbrances do not, together, secure actual or contingent indebtedness exceeding, in the aggregate, \$1,000,000;
  - (b) liens arising solely by operation of law (or by an agreement to the same effect) in the ordinary course of the business of the Company where the amount secured:
    - (i) has been due for less than 30 days; or
    - (ii) is being contested in good faith and by appropriate means;
  - (c) without limiting paragraph (b), retention of title arrangements, where the amount payable:
    - (i) has been due for less than 30 days; or
    - (ii) is being contested in good faith and by appropriate means;
  - (d) the Encumbrances referred to in clause 30; or

<sup>87</sup> Renumbered by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>88</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>89</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

<sup>90</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Deed]

- (e) any other Encumbrances created or subsisting with the prior approval in writing of the Authority;

except with the prior approval in writing of the Authority and in compliance with any terms or conditions on which that approval is given.

29.2 Subject to clause 29.3, the Company must not dispose of any Assets and Rights of the Company other than pursuant to a Permitted Encumbrance except with the prior approval in writing of the Authority.

29.3 Clause 29.2 does not apply to a disposal of:

- (a) assets other than Casino Assets in the ordinary course of the business of the Company; or
- (b) obsolete or surplus Casino Assets on ordinary commercial terms.

29.4 In clause 29.2 'dispose' includes:

- (c) a disposition of any estate or interest in any manner including by way of sale, transfer, assignment, lease, letting, licence, surrender or abandonment; and
- (d) entering into an agreement or arrangement to effect a disposition,

whether in either case for valuable consideration or not.

### 30. PERMITTED ENCUMBRANCES

30.1 The Authority has consented to the creation of Encumbrances by the Company under and in accordance with the securities identified in paragraphs (a)<sup>91</sup> of the definition of Financiers' Securities in the Master Security Agreement<sup>92</sup>.

30.2 The ranking as between the Encumbrances referred to in clause 30.1 and the Fixed and Floating Charge and other matters regarding the enforcement of Encumbrances will be regulated by the Master Security Agreement.

30.3 The Company must give prompt notice to the Authority of any Lease that the Company proposes to enter into for, or for the financing of:

- (a) any asset necessary for or incidental to the operation of the Melbourne Casino or Temporary Casino; or
- (b) any asset whatever having a value, either separately or when aggregated with the value of other assets or equipment leased from the same lessor or related bodies corporate of that lessor, exceeding \$1,000,000;

and before entering into that Lease (or if it has already entered into such Lease, then on request by the Authority) the Company must procure that the lessor of any such equipment or asset enters into a supplemental agreement with the Authority regulating access to and entitlement to that equipment or asset on terms satisfactory to the Authority.

<sup>91</sup> Varied by Master Security Agreement dated 30 July 1997.

<sup>92</sup> Varied by Master Security Agreement dated 30 July 1997.

**PART 7 - TERMINATION****31. TERMINATION OF THIS DOCUMENT**

31.1 This document will automatically terminate:

- (a) without notice to the Company if the Casino Licence is:
  - (i) surrendered; or
  - (ii) cancelled; or
- (b) when the Casino Licence expires due to the effluxion of time.

Such termination does not affect the ability of either party to enforce a right which may have accrued to it under this document prior to such termination.

31.2 Subject to the Master Security Agreement, it shall be a contravention of a condition of the Casino Licence enabling the Authority to serve a notice on the Company pursuant to section 20(2) of the *Casino Control Act* if any of the following events occurs:

- (a) the Company commits a breach of any provision of this document (other than clauses 32.1 and 32.2), and the Authority has given a notice ('**Notice**') to the Company detailing the particulars of the breach unless:
  - (i) if the breach is capable of remedy:
    - (A) it is remedied within the cure period allowed in the Notice which shall not be less than 60 days to the reasonable satisfaction of the Authority; or
    - (B) the Company:
      - (i) is diligently pursuing a course of action which could reasonably be expected to remedy the breach in a period of time reasonably acceptable to the Authority; and
      - (ii) is making satisfactory progress with such course of action; or
  - (ii) if the breach to which the Notice refers is not capable of remedy:
    - (A) the Company is complying to the reasonable satisfaction of the Authority with any reasonable requirements of the Authority in relation to the breach or is attending to the reasonable redress of the prejudice arising from the breach, default or event in the manner specified in the Notice; or
    - (B) the payment of damages constitutes in the reasonable opinion of the Authority, as the case may be, proper redress and the required

amount of damages is paid within 15 Business Days of the date for payment as specified in the Notice;

- (aa) an Event of Default (as described in the Deed of Undertaking and Guarantee) occurs under the Deed of Undertaking and Guarantee;
- (b) any of the following occurs and the Company does not within 10 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:
  - (i) a provisional liquidator or administrator is appointed to the Company;
  - (ii) a Receiver is appointed to any of the Casino Assets;
  - (iii) any Encumbrance becomes enforceable and the holder of the Encumbrance takes possession of any of the Casino Assets; or
  - (iv) a judgment is obtained against the Company and execution or other process of any Court or other authority is issued against or is levied or enforced upon any of the Casino Assets;
- (c) a liquidator is appointed to the Company;
- (d) prior to Completion, the Financiers terminate their obligations under the Facility Agreement, or otherwise permanently refuse to permit any further drawings under the Facility Agreement or the facilities provided or available under the Facility Agreement, and the Company does not within 20 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents;
- (e) a Notice of Intention pursuant to the Supplemental Development Agreement is given by the Developer under that agreement and is not withdrawn within 10 Business Days;
- (f) a Notice of Intention pursuant to the Contractor's Deed is given by the Contractor under that deed and is not withdrawn within 10 Business Days;
- (g) except with the prior consent in writing of the Authority the members resolve to wind up the Company;
- (h) the Site Lease is terminated or surrendered;
- (i) prior to Completion of the Melbourne Casino any one of the Temporary Casino Leases is terminated (other than by effluxion of time) or surrendered;
- (j) prior to the subscription by the Founding Shareholders for all the Shares for which they have agreed to subscribe under the Founding Shareholders Agreement, any of the following occurs and the Company does not within 10 Business Days after the Authority has given notice to the Company remedy the event or redress the prejudice arising from the event or establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:

- (i) a Founding Shareholder fails to comply with any obligation to subscribe for Shares in accordance with the provisions of the Founding Shareholders Agreement;
  - (ii) a Receiver, provisional liquidator, liquidator or administrator is appointed to a Sponsor; or
  - (iii) except with the prior consent in writing of the Authority the members resolve to wind up a Sponsor; or
- (k) Shares having an aggregate subscription amount of \$210,000,000 have not been subscribed for by the Licensing Date by persons other than the Founding Shareholders and within 10 Business Days of the Licensing Date the Company has not established to the reasonable satisfaction of the Authority that the Company will despite this be able to perform its obligations under the Transaction Documents.
- 31.3 The Authority may in its absolute discretion extend any time period referred to in clause 31.2.
- 31.4 Nothing in clause 31.2 shall prevent the Authority from issuing a notice under section 20(2) of the *Casino Control Act* in order to issue a letter of censure or to impose a fine in accordance with the provisions of the *Casino Control Act*.
- 31.5 Subject to clause 26 of the Management Agreement, on termination of this document:
- (a) except as otherwise provided by this document all rights of the Company to, in or under this document will cease but without prejudice to the liability of any party in respect of any antecedent breach or default under this document or in respect of any indemnity or other payment obligation under this document;
  - (b) all moneys owing or remaining unpaid (and whether actually or contingently) to the Authority will (to the extent not then due) become immediately due and payable and the Company must immediately pay all those moneys to the Authority; and
  - (c) except as otherwise provided in this document, neither the Company nor any Sponsor or any other person will have any claim against the Authority with respect to any matter or thing in or arising out of this document and in particular, but without limiting the generality of the preceding paragraphs, the Company will have no claim to the repayment of all or any part of the Licensing Payment Amounts.
- 31.6 Without limiting the Authority's or the State's rights under the Fixed and Floating Charge or otherwise, in the event of the termination of this document neither the Company nor any other person is permitted (without the prior approval in writing of the Authority) to remove from the Casino Complex or the Site or the Temporary Casino Complex or the Temporary Casino Site any gaming equipment, equipment, furniture or fittings necessary for or incidental to the operation of the Melbourne Casino or the Temporary Casino, as the case may be, and the Authority is and will be entitled for so long as it deems fit to use all that gaming equipment, equipment, furniture and fittings for the purpose of operating the Melbourne Casino or the Temporary Casino.

- 31.7    The Company irrevocably appoints the Authority and each of its officers and any manager appointed by the Authority under the *Casino Control Act* jointly and severally to be its attorney and in its name and on its behalf to exercise, sign and do all assurances, deeds, instruments, agreements, acts and things which in the opinion of the Authority or such officer, manager are necessary or expedient to give effect to any right, power or remedy conferred under or in relation to any Transaction Document or the *Casino Control Act* or are necessary or expedient that the Company do.
- 31.8    The power of attorney granted under clause 31.7 survives termination of this document but may only be exercised if an event specified in clause 31.2 has occurred and has not been remedied or waived.

## **PART 8 - COMPLEMENTARY AGREEMENTS**

### **32.       COMPLEMENTARY AGREEMENTS**

- 32.1    The Company undertakes that it will not, without the prior written consent of the Authority:
- (a)    give or recognise any waiver under a Complementary Agreement;
  - (b)    amend, supplement or otherwise modify a Complementary Agreement;
  - (c)    assign (whether absolutely or by way of security), novate or otherwise transfer its rights or obligations under a Complementary Agreement;
  - (d)    give or permit to be created any Encumbrance over its rights under a Complementary Agreement;
  - (e)    terminate a Complementary Agreement; or
  - (f)    agree to do any of the above,
- where to do so would have a material and adverse effect on the Company's ability to construct or operate the Temporary Casino or the Melbourne Casino in accordance with this document.
- 32.2    The Company must comply with all of its obligations under the Complementary Agreements and must use its best endeavours to ensure that the other parties to the Complementary Agreements (other than the State and the Authority) comply with their respective obligations, where a failure to do so in either case would have a material and adverse effect on the ability of the Company to construct or operate the Temporary Casino or the Melbourne Casino in accordance with this document.
- 32.3    The Company must comply with all of the obligations under the Company's memorandum and articles of association which are relevant or relate to the provisions in clause 22.

- <sup>93</sup>32.4 The Company undertakes to the Authority that by 31 March 1994 the Company will obtain an enforceable commitment upon terms and from persons approved in advance by the Authority that such persons shall provide to the Company not less than \$50,000,000, whether by way of capital subscription or financial accommodation. Such funds shall be in addition to all funds committed to the Company as of the Licensing Date (whether debt or equity).
- 32.5 The approval of the Authority under clause 32.4 shall not be unreasonably withheld.
- <sup>94</sup>32.5 Any agreement entered into by the Company pursuant to clause 32.4 shall be a Complementary Agreement for the purposes of this document.
- 32.6 The parties acknowledge that the underwriting agreement dated 23 August 1993 (being one of the agreements referred to in the definition of the Underwriting Agreement in clause 2) shall not be a Complementary Agreement for the purposes of this document.
- 32.7 The obligations of the Company under clause 32.4 do not derogate from the obligations of the Company under clause 22.1(m) of this document.

## PART 9 - GENERAL

### 33. COMPANY RELIES ON OWN JUDGMENT

- 33.1 Save where a statement, representation or warranty is given in its favour, under this document or any Transaction Document, the Company acknowledges that it is entering into this document in reliance on its own judgment and following review of the Site and the Temporary Casino Site and the business opportunity provided by, among other things, the Casino Licence, and not in reliance on any conduct of or statements, warranties or representations made to the Company or to any other person by or on behalf of the Authority or any of its servants, agents or consultants.
- 33.2 Save for any statement, representation or warranty made in the Company's favour under this document or any Transaction Document, the Company acknowledges and agrees that no action lies against the Authority or any of its servants, agents or consultants and that no compensation of any kind is payable to the Company in relation to anything done or purported to be done or not done for the purposes of the establishment or operation of the Temporary Casino, Temporary Casino Complex, Melbourne Casino or Melbourne Casino Complex prior to the execution of this document.
- 33.3 Without limiting the generality of clause 33.2, the Company agrees not to take action or make any claim for compensation, damages, costs or expenses against the Authority or any of its servants, agents or consultants in relation to the condition of the Site or the Temporary Casino Site or any third party rights in relation to the Site or the Temporary Casino Site and hereby releases each of those persons from any action or claim whether or not that action or claim is known or foreseeable at the date of this document.

<sup>93</sup> Inserted by Agreement dated 19 November 1993.

<sup>93</sup> Inserted by Agreement dated 19 November 1993

33.4 Nothing in this clause 33 limits any liability of Golder Associates Pty Ltd to the Company.

#### **34. INDEMNITY**

34.1 The Company indemnifies and will keep indemnified the Authority and its servants, agents and consultants in respect of all actions, claims, demands or costs of third parties arising out of or in connection with any work carried out by or on behalf of the Company pursuant to this document or relating to the Company's operations (including but not limited to the operations of the Temporary Casino Complex and the Melbourne Casino Complex) or arising out of or in connection with the construction, financing, maintenance or use of the Temporary Casino Complex or the Melbourne Casino Complex except expenses of the Authority which are covered by the Casino Supervision and Control Charge.

34.2 The indemnity in clause 34.1 does not apply to the extent that any actions, claims, demands or costs arise as a result of the negligence or wilful default of the Authority.

#### **35. INSURANCE**

35.1 The Company must:

(a) insure and keep insured all of its Assets and Rights:

- (i) for the risks and in the amounts set out in Schedule Five and for such other risks and amounts which the Authority may from time to time reasonably require;
- (ii) with the interests of the State, the Authority and any Mortgagees noted by endorsement on the policy or if the Authority so directs, in the joint names of the Company and the State and the Authority for their respective rights and interests; and
- (iii) with underwriters approved by the Authority and, if through an insurance broker, through an insurance broker approved by the Authority;

(b) immediately deliver the insurance policies referred to in paragraph (a) to the Authority (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient) and, on request, deliver certificates of currency in respect of those insurance policies;

(c) punctually pay all premiums and sums necessary (including stamp duty) for effecting and keeping current every insurance policy and, promptly on request, hand to the Authority the receipt for any premium or sum paid;

(d) immediately after they are effected, deliver to the Authority all variations, alterations and additions to any existing insurance policies and all additional or substitute insurance policies (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient); and

- (e) immediately after it becomes aware that it has occurred, notify the Authority of any occurrence which gives or might give rise to a claim or right to claim under any insurance policy.

35.2 The Company must not:

- (a) do or allow to be done anything which might cause any policy of insurance to be prejudiced or rendered void, voidable or unenforceable;
- (b) without the prior consent in writing of the Authority, cause, or take any steps to bring about, the cancellation of, or a material change or reduction in, the cover provided under any insurance policy;
- (c) effect any insurance in respect of the Assets and Rights other than as specified in clause 35.1; or
- (d) make, enforce, settle or compromise a claim or do anything inconsistent with the powers or interests of the Authority.

35.3 Subject to the Master Security Agreement, all proceeds of insurance received by the Company as a result of any claim must be applied by the Company to rectify, remedy or repair the property involved or loss or damage which gave rise to the claim.

## 36. CONFIDENTIALITY

36.1 All documents and information provided by one party to another party under this document must be kept confidential and not disclosed to any person without the consent of the other party unless:

- (a) the information is in the public domain;
- (b) disclosure is required by law;
- (c) the disclosure is necessary for the purpose of obtaining any consent, authorisation, approval or licence from any government or public body or authority;
- (d) it is necessary or desirable that the disclosure be made to any taxation or fiscal authority;
- (e) the disclosure is made on a confidential basis to the officers, employees or agents of a party or to the professional advisers of a party for the purposes of obtaining professional advice in relation to any Transaction Document or the enforcement of any Transaction Document or otherwise for the purpose of consulting those professional advisers;
- (f) the disclosure is made by the Company on a confidential basis to any actual or prospective financier or agent of a financier to the Company;
- (g) the disclosure is necessary in relation to any procedure for discovery of documents or any proceedings before any court, tribunal or regulatory body; or
- (h) the disclosure is necessary to obtain listing on the Australian Stock Exchange.

36.2 The obligations in clause 36.1 apply after termination of this document.

<sup>95</sup>36.3 This clause 36 does not apply to:

- (a) this document;
- (b) any document varying or amending this document after such variation or amendment takes effect;
- (c) the Casino Licence; or
- (d) any document varying or amending the Casino Licence after such variation or amendment takes effect,

and, subject only to the *Casino Control Act* such document may be disclosed to any person by either party.

### 37. APPROVALS

37.1 The Authority in exercising any right, power, privilege or discretion conferred on it by this document must act having regard to:

- (a) the Authority's objects as set out in Section 140 of the *Casino Control Act*; and
- (b) the rights, powers, privileges and discretions conferred and the duties and obligations imposed on the Authority under the *Casino Control Act*.

37.2 Unless otherwise stated in this document, if the Company makes a written request for an approval or consent from the Authority under this document and the Authority has not responded in writing within the time specified below from receipt by the Authority of that written request, then the Authority will be taken to have given that approval or consent:

- (a) Clauses 22.1 (c), (f), (i), (j), (k), (l), (m), (p) and (q) - 20 Business Days;
- (b) Clauses 29.1 and 29.2 - 10 Business Days;
- (c) Clause 31.6 - 20 Business Days;
- (d) Clauses 32.1 and 32.4 - 10 Business Days;<sup>96</sup>
- (e) Clause 35.1(a) - 10 Business Days;
- (f) Clause 36.1 - 10 Business Days;
- (g) Clause 43 - 20 Business Days.

37.3 Nothing in this clause 37 shall fetter the powers, rights or obligations imposed or conferred on the Authority under any Act or regulation.

<sup>95</sup> Inserted by Agreement dated [##9<sup>th</sup> Variation Agreement]

<sup>96</sup> Amended by Agreement dated 19 November 1993.

**38. DAY OF PAYMENT**

If any day for the payment of money under this document falls on a day which is not a Business Day, the payment will be due on the next day which is a Business Day.

**39. NOTICES**

39.1 A notice or approval required or to be given under this document must be:

- (a) in writing;
- (b) delivered by hand or served by prepaid post or facsimile to the recipient at its address or facsimile number appearing in this clause or such other address or facsimile number as the recipient may have notified to the other party:
  - (i) in the case of the Authority:

Chairman  
Victorian Casino and Gaming Authority  
Level 27, 459 Collins Street  
MELBOURNE VIC 3000

Facsimile: (03) 621 1803

*[amended in accordance with this clause to:*

*Director of Gaming and Betting  
Victorian Casino and Gaming Authority  
Level 1, Building D  
World Trade Centre  
MELBOURNE VIC 3005*

*Facsimile: (03) 9628 7300]*

- (ii) in the case of the Company:

Lloyd J Williams  
Chief Executive Officer  
Crown Limited  
311 Glenferrie Road  
MALVERN VIC 3144

Facsimile: [REDACTED]

*[amended in accordance with this clause to:*

*Mr Lloyd Williams  
Chairman and Chief Executive Officer  
Crown Limited  
Level 1  
99 Queensbridge Street  
SOUTHBANK VIC 3006*

*Facsimile:* [REDACTED]

- 39.2 A notice or approval given in accordance with clause 39.1 is taken to be received:
- (a) if hand delivered, on the day of delivery if delivered before 4.00 pm on a Business Day and otherwise on the Business Day next following;
  - (b) if sent by prepaid post, 3 days after the date of posting; or
  - (c) if sent by facsimile, on the day on which the message confirmation is received if received before 4.00 pm on a Business Day and otherwise on the Business Day next following.

39.3 The provisions of clause 39 are in addition to any other mode of service permitted by law.

#### **40. COSTS AND STAMP DUTY**

- 40.1 Each party must pay its own costs of preparing and executing this document.
- 40.2 The Company must pay all stamp duty on this document and on any document executed to give effect to this document.

#### **41. NO WAIVER**

A failure of a party at any time to require full or part performance of any obligations under this document will not affect in any way the rights of that party to require that performance subsequently.

#### **42. GOVERNING LAW**

- 42.1 This document is governed by the laws applying in Victoria.
- 42.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and courts entitled to hear appeals from those courts.

#### **43. ASSIGNMENT**

- 43.1 The Company must not assign or attempt to assign or otherwise deal with this document or any right under this document without the prior written approval of the Authority other than pursuant to a Permitted Encumbrance.
- 43.2 The Authority may assign, transfer or dispose of its rights under this document or any other Transaction Document:
- (a) to the State or to any department or agency of the government of the State or statutory authority or corporation which has taken over the objects and functions of the Authority under the *Casino Control Act*; or
  - (b) with the approval in writing of the Company to any other person, such approval not to be unreasonably withheld;

provided that the assignee enters into an agreement with the Company agreeing to be bound by the provisions of this document and each other Transaction Document to which the Authority is a party.

#### **44. FURTHER ASSURANCES**

Each party must do or cause to be done anything necessary or desirable to give effect to this document, and will refrain from doing anything which might prevent full effect being given to this document.

#### **45. COUNTERPARTS**

- 45.1 This document may be executed in any number of counterparts.
- 45.2 All counterparts taken together will be deemed to constitute the one document.

#### **46. SEVERABILITY**

- 46.1 The parties agree that a construction of this document which results in all provisions being enforceable is to be preferred to a construction which does not so result.
- 46.2 If, despite the application of clause 46.1, a provision of this document is illegal or unenforceable:
  - (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
  - (b) in any other case, the whole provision is severed,and the remainder of this document continues to have full force and effect.
- 46.3 Clause 46.2 does not apply where its application alters the basic nature of this document or is contrary to public policy.

#### **47. INTERPRETATION**

- 47.1 In this document, unless the context otherwise requires or the contrary intention appears:
  - (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) terms importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
  - (c) a reference to any legislation, statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable, and includes any re-enactment or amendment to that legislation, statutory instrument or regulation;
  - (d) other grammatical forms of defined words or phrases have corresponding meanings;

- (e) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this document and a reference to this document includes any schedules and annexures;
- (f) where a party comprises two or more persons the provisions of this document binding that party bind those persons jointly and severally;
- (g) terms defined in the *Corporations Law* as at the date of this document have the meanings given to them in the *Corporations Law* at that date;
- (h) 'party' means a party to this document;
- (i) a reference to a party to this document or any other document or agreement includes its successors and permitted assigns;
- (j) a reference to a document or agreement, including this document, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (k) a reference to '\$A', 'dollar', 'AUD' or '\$' is a reference to Australian currency;
- (l) a reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form; ~~and~~<sup>97</sup>
- (m) a reference to a specific time for the performance of an obligation is a reference to that time in the State; ~~and~~<sup>98</sup>
- <sup>99</sup> (n) a reference to a company's "articles of association", "memorandum of association", "memorandum or articles of association" or "memorandum and articles of association" is a reference to the company's constitution and vice versa.

47.2 In this document headings are for ease of reference only and do not affect the construction of this document.

47.3 The Authority is providing the undertaking in clauses 26.2 and 26.3 with the approval of the Minister in accordance with section 14 of the *Casino Control Act*.

47.4 The Authority in entering into this document does so on behalf of the State pursuant to the authority granted to the Authority under section 142 of the *Casino Control Act*.

47.5 If any ambiguity, inconsistency or conflict exists or arises between this document and the Master Security Agreement, the provisions of the Master Security Agreement take precedence and apply to resolve that ambiguity, inconsistency or conflict.

47.6 The Company and the Authority acknowledge that, except as expressly provided for in this document:

- (a) nothing contained in or implied by this document prejudices or affects, or is intended in any way to impose any obligation or restriction on the Authority

<sup>97</sup> Amended by Agreement dated [##9<sup>th</sup> Variation Agreement]

<sup>98</sup> Amended by Agreement dated [##9<sup>th</sup> Variation Agreement]

<sup>99</sup> Clause 47.1(n) inserted by Agreement dated [##9<sup>th</sup> Variation Agreement]

which conflicts with the obligations and duties of, and restrictions on, the Authority under the Relevant Legislation; and

- (b) if there is any conflict between the provisions of this document or of any Transaction Document and the provisions of the Relevant Legislation, the provisions of the Relevant Legislation prevail.

#### 48. GENERAL OBLIGATIONS

48.1 The Company must:

- (a) maintain its corporate existence;
- (b) comply with all laws applicable to the matters arising under this document from time to time in force including, without limitation, the *Gaming Machine Control Act*, and all mandatory requirements of any Public Authority;
- (c) obtain and renew at the proper times and maintain all Authorisations required:
  - (i) for the Company to perform its obligations under this document;
  - (ii) for the Company to perform its obligations under each Transaction Document; and
- (d) to allow this document and each Transaction Document to be enforced against it;
- (e) obtain and renew at the proper times and maintain all licences and other Authorisations required or advisable or relied on for or in connection with the carrying on of the Company's business;
- (f) comply with the terms and conditions of each Lease to which it is a party where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino;
- (g) comply with its payment obligations under any agreement for the purchase of property where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino; and
- (h) protect the Casino Assets and at the Company's expense prosecute or defend all legal proceedings that are, or the defence of which is, necessary or advisable for the protection of the Casino Assets to the extent appropriate in accordance with prudent business practice; and
- (i) carry out all work reasonably and properly required by any Public Authority in relation to the Assets and Rights where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino.

48.2 The Company must not, without the prior consent in writing of the State:

- (a) Deal with or Dispose of any of the Casino Assets other than by way of maintenance, repair or replacement;

51                    **COMMERCIAL IN CONFIDENCE**

- (b) Deal with or Dispose of any of the Casino Assets other than in the ordinary course of the Company's business;
- (c) execute, create or permit to subsist any Encumbrance over or affecting the Casino Assets other than a Permitted Encumbrance;
- (d) pull down, alter, extend or remove any building, improvement or fixture forming part of the Casino Assets where to do so would materially adversely affect the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino;
- (e) take on or under a Lease, or acquire for consideration, any asset other than in the ordinary course of the Company's business;
- (f) declare or pay a dividend if a demand has been properly made on the Company under this document or any Transaction Document and has not been satisfied in full; or
- (g) do anything or allow anything to be done in derogation of the rights of the Authority or any other party under any Transaction Document;

except to the extent permitted by clause 29.

## COMMERICAL IN

## SCHEDULE ONE

## CASINO CONTROL ACT 1991 (VIC)

## CASINO LICENCE

VICTORIAN CASINO CONTROL AUTHORITY ('Authority') under Part 2 of the *Casino Control Act 1991 (Vic)* ('*Casino Control Act*') grants to **CROWN CASINO LTD ACN 006 973 262** with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria ('**Company**') the right to conduct and play games and use gaming equipment in the Casino subject to the provisions of the *Casino Control Act* and the conditions set out in this licence.

## CONDITIONS

**1. Commencement**

This licence comes into force on *[insert commencement date]*.

**2. Duration**

This licence ceases to have effect on *[date to be determined]*, unless sooner cancelled or surrendered under the *Casino Control Act*.

**3. Location and Boundaries - Temporary Casino**

- 1 The Temporary Casino must be located within the Temporary Casino Complex.
- 2 The boundaries of the Temporary Casino within the Temporary Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**4. Location and Boundaries - Melbourne Casino**

- 1 The Melbourne Casino must be located within the Melbourne Casino Complex.
- 2 The boundaries of the Melbourne Casino within the Melbourne Casino Complex must be those identified in the Drawings *[specify reference]* or as otherwise approved by the Authority.

**5. Conducting Temporary Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Temporary Casino or open the Temporary Casino to the public for business or otherwise:

- (a) until the Temporary Casino has been Completed in accordance with the provisions of the Management Agreement; nor
- (b) after the Melbourne Casino is opened to the public.

**6. Conducting Melbourne Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Melbourne Casino or open the Melbourne Casino to the public for business or otherwise until the Melbourne Casino has been Completed in accordance with the provisions of the Management Agreement.

**7. Gaming Equipment - Temporary Casino**

The Temporary Casino:

- (a) must have not more than 130 gaming tables in operation while the Temporary Casino is open for business; and
- (b) must have not more than 1300 gaming machines in operation while the Temporary Casino is open for business.

**8. Gaming Equipment - Melbourne Casino**

The Melbourne Casino:

- (a) must have not less than 150 and not more than 200 gaming tables in operation while the Melbourne Casino is open for business; and
- (b) must have not more than 2,500 gaming machines in operation while the Melbourne Casino is open for business.

**9. Mortgage etc of Casino Licence**

The Company must not:

- (a) mortgage, charge or otherwise encumber this licence; or
- (b) transfer, assign or otherwise deal with this licence,

except in accordance with the terms and conditions of the Casino Agreement and the Master Security Agreement.

**10. Amendment of Licence Conditions**

Notwithstanding sections 16 and 17 of the *Casino Control Act*, the Authority will not amend the conditions of this licence without the prior written approval of the Company except as disciplinary action under section 20 of the *Casino Control Act*.

**11. Breach of Licence**

Clause 31.2 of the Casino Agreement and clause 25.2 of the Management Agreement set out events the occurrence of which constitute a contravention of this licence and which, subject to those clauses and the Master Security Agreement, enable the Authority to cancel, suspend or vary the terms of this licence pursuant to section 20 of the *Casino Control Act*.

## 12. Definitions and Interpretation

1 In these conditions, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'**Ancillary Facilities**' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Temporary Casino Complex Development Proposals or the Melbourne Casino Complex Development Proposals (as the case may be) to be constructed on or located within the Temporary Casino Site or the Site, including a hotel, restaurant, retail, recreation, entertainment and carparking facilities, residential and office accommodation, staff facilities, staff carparking, coach storage facilities and open space areas;

'**Casino**' means either the Temporary Casino or the Melbourne Casino, as the case may be;

'**Casino Agreement**' means the agreement dated 1993 between the Authority and the Company;

'**Completed**' has the same meaning as in the Management Agreement;

'**Drawings**' means the plans, designs and working drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'**Management Agreement**' means the agreement dated 1993 between the Minister, acting for and on behalf of the State, and the Company pursuant to section 15 of the *Casino Control Act*;

'**Master Security Agreement**' means the agreement dated 1993 between the State, the Authority, the Company, National Australia Bank Limited as agent for the financiers to the Company and the Sponsors;

'**Melbourne Casino**' means those areas identified in the Drawings of the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'**Melbourne Casino Complex**' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of the Management Agreement and Casino Agreement;

'**Melbourne Casino Complex Development Proposals**' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'**Minister**' means the Minister for the time being administering the *Casino Control Act*;

'**Site**' has the same meaning as in the Management Agreement;

'**State**' means the State of Victoria;

**'Temporary Casino'** means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

**'Temporary Casino Complex'** means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of the Management Agreement and the Casino Agreement;

**'Temporary Casino Complex Development Proposals'** means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification; and

**'Temporary Casino Site'** has the same meaning as in the Management Agreement.

- 2 In this licence, unless the context otherwise requires or the contrary intention appears:
- (a) a reference in this licence to a party to an agreement or document includes the party's successors and permitted substitutes or assigns;
  - (b) a reference in this licence to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time; and
  - (c) a reference in this licence to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

DATED 1993.

THE COMMON SEAL of VICTORIAN )  
 CASINO CONTROL AUTHORITY )  
 is affixed in accordance with )  
 the directions of the Members )  
 pursuant to a resolution dated )  
 1993 )

..... Chairman ..... Chief Executive Officer

**SCHEDULE TWO**

**COMPLEMENTARY AGREEMENTS**

the Founding Shareholders' Agreement;

- . the Development Agreement;
- . the Construction Agreement;
- . the Finance Documents;
- . the Operations Agreement;
- . the Underwriting Agreement;
- . the Guarantee and Indemnity for Development Agreement;
- . the Note Agreement;<sup>100</sup>
- . the Trust Deed;<sup>101</sup>
- . the Note Agreement (Series 2); and<sup>102</sup>
- . the Trust Deed (Series 2).<sup>103</sup>

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<sup>100</sup> Inserted by Agreement dated 7 March 1995.

<sup>101</sup> Inserted by Agreement dated 7 March 1995.

<sup>102</sup> Inserted by Agreement dated 8 May 1997.

<sup>103</sup> Inserted by Agreement dated 8 May 1997.

## SCHEDULE THREE

## WARRANTIES OF THE COMPANY

1. The Company has been duly incorporated and is validly existing under the laws of its jurisdiction of incorporation, with full power and authority to enter into this document and perform its obligations under this document.
2. This document has been duly authorised, executed and delivered by the Company and constitutes (except to the extent limited by equitable principles, laws relating to penalties and laws affecting creditors' rights generally) a legal, valid and binding obligation of the Company enforceable against it in accordance with its terms, and no other proceedings on the part of the Company are necessary to authorise this document and the completion of the transactions contemplated under this document.
3. The execution and delivery by the Company of this document and the performance by the Company of its obligations under this document in accordance with its terms do not:
  - (a) conflict with the constitution or by-laws of the Company;
  - (b) constitute a violation of or default under any agreements or arrangements to which the Company is a party;
  - (c) except as provided in this document, cause the creation of any Encumbrance upon any of the property of the Company; or
  - (d) contravene any law.
4. A Receiver has not been appointed to the whole or any part of the assets or undertaking of the Company or any Related Party and no such appointment has been threatened or is envisaged by the Company.
5. Neither the Company nor any Related Party is in liquidation or administration and no order, petition, application, proceedings, meeting or resolution has been made, presented, brought, called or passed for the purposes of liquidating the Company or any Related Party or placing the Company or any Related Party under or in administration.
6. Neither the Company nor any Related Party is insolvent within the meaning of section 95A of the *Corporations Law* or otherwise and there is no unfulfilled or unsatisfied judgment or court order outstanding against the Company or any Related Party.
7. As at 16 August, 1993 the unaudited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date and as at the Licensing Date the audited

accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date.

8. All information provided in writing by or on behalf of the Company to the Authority was when given in all material respects true and accurate and not misleading by omission.
9. As at the Licensing Date, the Company will have an issued capital of at least \$350,000,000 comprising 350,000,000 fully paid Shares issued as follows:

Sponsors and Founding Shareholders	140,000,000
Institutional Equity	<u>210,000,000</u>
	350,000,000

10. Hudson Conway Limited ACN 009 556 629 and CUB have given notice to the Treasurer of their proposed interest in the Company in accordance with the provisions of the *Foreign Acquisitions and Takeovers Act 1975 (C'th)* and the Treasurer has informed them that there are no objections to Hudson Conway Limited and CUB acquiring a substantial shareholding in the Company.

## COMMERICAL IN

## SCHEDULE FOUR

## QUARTERLY REPORT TO AUTHORITY

The quarterly report to the Authority will consist of the following items:

- profit and loss account and cashflow statements comparing budget against actual for the year to date
- balance sheet at the last days of March, September and December
- budgeted profit and loss and cashflow statements to end of current financial year.

COMMERICAL IN

**SCHEDULE FIVE**

**INSURANCES**

See Annexure A.

## COMMERICAL IN

SCHEDULE 6AGREED WORLD CLASS STANDARDS1. CAPITAL EXPENDITURE

1.1 The Company must expend not less than the equivalent of \$300 million (1998 dollars indexed to the CPI – Melbourne [## appropriate indexation method]) on significant maintenance and improvements of the Melbourne Casino Complex between 1 July 1999 and 20 June 2009. //?

1.2 The Company must provide the Authority with an annual Capital Expenditure Budget Summary Report not later than 1 September of each year specifying:

(a) the actual and budgeted capital expenditure (in current and 1998 equivalent dollars) for each Financial Year between 1 July 1999 and 20 June 2009;

(b) in respect of the immediately preceding Financial Year:

(i) each item of capital expenditure expended during the Financial Year; and

(ii) in respect of items of expenditure previously budgeted for the Financial Year but not fully expended during the Financial Year, the reason for the expenditure not being fully made and a plan for remedial action;

(c) in respect of the current and next Financial Years:

(i) a detailed description of and budget for each item of capital expenditure during the Financial Year;

(ii) in respect of items previously budgeted for the Financial Year, but not intended to be fully expended during the Financial Year, the reason for the expenditure not been fully made and a plan for remedial action;

(d) in respect of each subsequent Financial Year:

(i) a proposed budget for each item of expenditure proposed to be made in the Financial Year; and

(ii) in respect of items previously budgeted for the Financial Year, but not intended to be fully expended during the Financial Year, the reason for the expenditure not been fully made and a plan for remedial action.

2. ROUTINE MAINTENANCE AND CLEANLINESS

2.1 The Company must ensure that the Melbourne Casino Complex is maintained and cleaned in accordance with the following standards:

[## Insert Relevant Standards based on, for example, reports published by the Facilities Management Association of Australia, Queensland University of Technology Facility Management Procedures Manual etc]

3. [##OTHER MATTERS?]

What does this mean?

Why this date?

COMMERICAL IN

EXECUTED as an agreement.

THE COMMON SEAL of VICTORIAN )  
CASINO CONTROL AUTHORITY )  
[as then known] is affixed in )  
accordance with the directions )  
of the Members pursuant to a )  
resolution dated 5 September )  
1993 )

Common Seal

J.R. Richards

.....  
Chairman

P.J. Connolly

.....  
Chief Executive Officer

THE COMMON SEAL of )  
CROWN CASINO LTD. [as then )  
known] is affixed in )  
accordance with its articles )  
of association in the presence )  
of )

Common Seal

Peter Jonson

.....  
Signature of Secretary/Director

B. Hamilton

.....  
Signature of Director

Peter Jonson

.....  
Name of Director  
(please print)

Barry J. Hamilton

.....  
Name of Director  
(please print)

COMMERICAL IN

DATED 21 SEPTEMBER 1993

VICTORIAN CASINO AND GAMING AUTHORITY  
(‘Authority’)

CROWN LIMITED  
ACN 006 973 262  
(‘Company’)

MELBOURNE CASINO PROJECT

CASINO AGREEMENT

[CONFORMED COPY - AS VARIED BY  
VARIATION AGREEMENTS 1 TO 8 AND  
THE MASTER SECURITY AGREEMENT]

AND SHOWING VARIATIONS AS MAY BE MADE  
BY 9<sup>TH</sup> VARIATION DEED

MINTER ELLISON  
Lawyers  
40 Market Street  
MELBOURNE VIC 3000  
DX 204 MELBOURNE

Telephone (03) 9229 2000  
Facsimile (03) 9229 2666

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## Appendix 2

**LINCOLN INDICATORS RISK SCORE  
FOR AUSTRALIAN STOCK EXCHANGE LISTED  
CASINO AND WAGERING INDUSTRY**

Name of Entity	December 2003	June 2003	December 2002
<b>Crown Limited</b>	<b>.01</b>	<b>.01</b>	<b>.01</b>
<i>Publishing and Broadcasting Limited</i>	<i>.01</i>	<i>.01</i>	<i>.01</i>
Burswood Limited	.01	.01	.01
Casinos Austria International Limited	.01	.01	.01
Lasseters Corporation Limited	.05	.05	.60
Reef Casino Trust	.05	.05	.05
Sky City Entertainment Group Limited	.10	.10	.10
TAB Limited	.05	.05	.01
Tabcorp Holdings Limited	.01	.01	.01
Unitab Limited	.01	.01	.20

Appendix 3

**RATIO ANALYSIS  
TOTAL LIABILITIES TO TOTAL ASSETS  
SELECTED GAMBLING STOCKS  
LISTED ON THE AUSTRALIAN STOCK EXCHANGE**

Name of Entity	31 December 2003 %	30 June 2003 %	31 December 2002 %
<b>Crown Limited</b>	<b>32.0</b>	<b>37.1</b>	<b>40.7</b>
<i>Publishing and Broadcasting Limited</i>	<i>45.8</i>	<i>46.8</i>	<i>46.4</i>
Burswood Limited	31.5	33.4	37.6
Casinos Austria International Limited	15.3	19.3	21.4
Lasseters Corporation Limited	25.6	30.1	27.8
Reef Casino Trust	19.4	20.1	25.0
Sky City Entertainment Group Limited	77.9	73.7	73.6
TAB Limited	57.8	59.0	60.0
Tabcorp Holdings Limited	58.0	45.0	44.6
Unitab Limited	41.8	44.7	48.4
Arithmetic average of the ratio	40.5	40.9	42.6

Appendix 4

**RATIO ANALYSIS  
DEBT TO EQUITY  
SELECTED GAMBLING STOCKS  
LISTED ON THE AUSTRALIAN STOCK EXCHANGE**

Name of Entity	31 December 2003 %	30 June 2003 %	31 December 2002 %
<b>Crown Limited</b>	<b>34.9</b>	<b>42.0</b>	<b>50.5</b>
<i>Publishing and Broadcasting Limited</i>	60.6	63.7	63.9
Burswood Limited	32.9	38.2	46.7
Casinos Austria International Limited	10.3	11.1	11.9
Lasseters Corporation Limited	15.3	17.3	7.6
Reef Casino Trust	23.0	25.5	28.1
Sky City Entertainment Group Limited	304.0	244.0	245.0
TAB Limited	86.5	95.0	106.0
Tabcorp Holdings Limited	107.0	58.0	62.2
Unitab Limited	14.6	16.7	31.4
Arithmetic average of the ratio	68.9	61.2	65.3

Appendix 5

**RATIO ANALYSIS  
TOTAL LIABILITIES TO TOTAL ASSETS  
SELECTED GAMBLING STOCKS  
LISTED ON THE NEW YORK STOCK EXCHANGE**

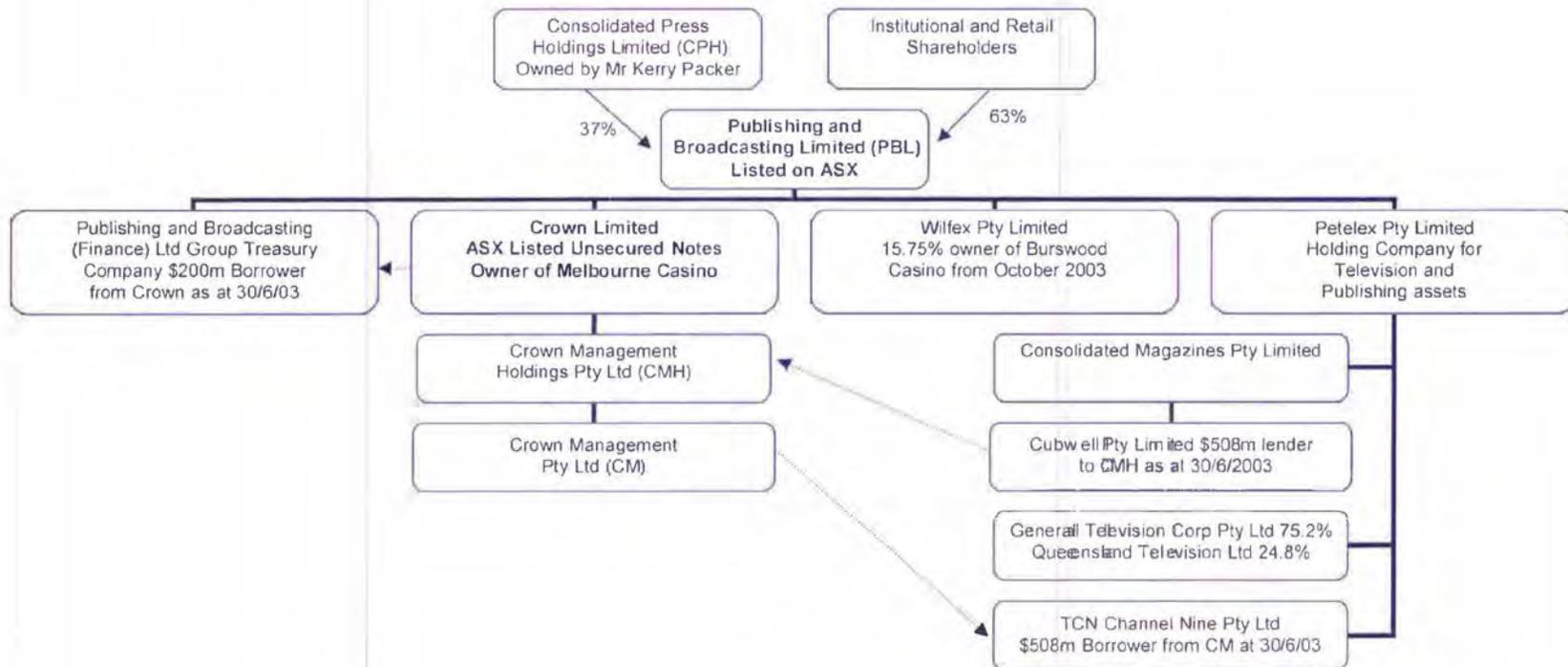
Name of Entity	31 December 2003 %	30 June 2003 %	31 December 2002 %
Alliance Gaming Corporation	80.5	82.6	85.4
Argosy Gaming Company	78.5	80.0	81.3
Aztar Corp	60.3	59.4	57.4
Boyd Gaming Corporation	76.4	76.5	78.6
Caesars Entertainment Inc	68.0	68.0	69.6
Harrahs Entertainment Inc	73.6	74.3	76.8
Mandalay Resort Group	78.6	81.2	76.4
MGM Mirage	76.3	74.2	74.6
Pinnacle Entertainment Inc	79.0	74.4	70.4
Station Casinos Inc	80.5	83.1	83.1
Arithmetic average of the ratio	75.2	75.4	75.4

**RATIO ANALYSIS  
DEBT TO EQUITY  
SELECTED GAMBLING STOCKS  
LISTED ON THE NEW YORK STOCK EXCHANGE**

Name of Entity	31 December 2003 %	30 June 2003 %	31 December 2002 %
Alliance Gaming Corporation	344.2	376.5	484.6
Argosy Gaming Company	286.9	324.5	362.1
Aztar Corp	120.8	112.8	102.7
Boyd Gaming Corporation	249.1	262.1	300.8
Caesars Entertainment Inc	151.0	154.8	166.0
Harrahs Entertainment Inc	211.3	219.1	260.0
Mandalay Resort Group	298.2	346.4	262.0
MGM Mirage	221.7	193.6	199.0
Pinnacle Entertainment Inc	321.6	250.6	198.6
Station Casinos Inc	343.9	429.4	430.7
Arithmetic average of the ratio	254.9	267.0	276.7

Appendix 6

## PBL CROWN GROUP RELEVANT CORPORATE STRUCTURE



Appendix 7

**CROWN LIMITED**  
**UNSECURED RELATED COMPANY RECEIVABLES**

<u>Debtors (Asset)</u>	1/7/2003	September 03 Quarter Movement	December 03 Quarter Movement	31/12/2003
	\$000's	\$000's	\$000's	\$000's
Crown Australia Pty Ltd (Consolidated) - Operating Costs of overseas offices etc	23,791	2,709	10,386	36,886
Melbourne Live - Property related expenditure	14,676	0	285	14,961
Crown Holdings Pty Ltd CPS	92,650	5,700	5,700	104,050
Southbank Investments Pty Ltd	133	0	315	448
Crown Resort (Thailand) Ltd	402	(402)	0	0
Publishing & Broadcasting (Finance) Ltd	200,587	143,046	4,503	348,136
<b>TOTAL</b>	<b>332,239</b>	<b>151,053</b>	<b>21,189</b>	<b>504,481</b>

**CROWN LIMITED**  
**UNSECURED RELATED COMPANY PAYABLES**

<u>Creditors (Liability)</u>	1/7/2003	September 03 Quarter Movement	December 03 Quarter Movement	31/12/2003
	\$000's	\$000's	\$000's	\$000's
Crown Management Holdings Pty Ltd - Re acquisition of Crown Management	150,960	11,636	10,584	173,180
Uchino Pty Ltd - MIS related services	165	0	0	165
Crown Express Pty Ltd - Travel Agency	448	0	0	448
Publishing and Broadcasting Limited – re tax paid reimbursement	0	0	49,900	49,900
<b>TOTAL</b>	<b>151,573</b>	<b>11,636</b>	<b>60,484</b>	<b>223,693</b>

Source: Crown Director's Quarterly Reports September and December 2003

**PUBLISHING AND BROADCASTING LIMITED**  
**UNSECURED RECEIVABLES**  
**Greater than \$50 million**

<u>Debtors (Asset)</u>	1/7/2003	September 03 Quarter Movement	December 03 Quarter Movement	31/12/2003
	\$000's	\$000's	\$000's	\$000's
Petelex Pty Ltd - Intercompany Investment Sales (IIS)	4,840,912	(466)	1,232,877	6,073,324
Nine Network Australia Pty Ltd - Various Operating Charges and IIS	1,377,500	0	(1,377,500)	0
PBL Securities Pty Ltd - Funding and investment accounts	337,085	0	52,220	389,305
Robbdoc Pty Ltd -Funding investments and various operating charges	319,560	0	(3,693)	315,867
PBL Pay TV Pty Ltd -Funding PBL Pay TV investments	223,801	(583)	(24,740)	198,478
ACP Partnership Holdings Group Pty Ltd -Funding investment and dividend payments	109,404	(38,518)	(7,111)	63,775
Wilfex Pty Ltd -Funding shelf company acquisition (Burswood 15.6%)	4,256	0	78,553	82,809
Crown Limited --Various Operating Charges	0	0	49,900	49,900
Others	232,436	(17,599)	73,143	287,979
<b>Total</b>	<b>7,444,954</b>	<b>(57,166)</b>	<b>73,649</b>	<b>7,461,437</b>

**PUBLISHING AND BROADCASTING LIMITED**  
**UNSECURED PAYABLES**

<u>Creditors (Liability)</u>	1/7/2003	September 03 Quarter Movement	December 03 Quarter Movement	31/12/2003
	\$000's	\$000's	\$000's	\$000's
Publishing & Broadcasting (Finance) Ltd	1,979,730	215,917	223,632	2,419,279
ACP Limited	154,190	0	(13,788)	140,402
PBL Marketing Pty Ltd	43,364	0	67	43,431
Others	10,703	1,763	(2,972)	9,494
<b>Total</b>	<b>2,187,987</b>	<b>217,680</b>	<b>206,939</b>	<b>2,612,606</b>

Source: Crown Director's Quarterly Reports September and December 2003

CORR 2001/1223/00051



ROWEN CRAIGIE  
Chief Executive Officer

Telephone [REDACTED]  
Facsimile (61-3) 9292 7257

16 April 2004

*19/4/04*  
Mr Peter Cohen  
Acting Director of Gaming & Betting  
Acting Director of Casino Surveillance  
Office of Gambling Regulation  
Level 5, 35 Spring Street  
Melbourne Vic 3000



Dear Mr Cohen

#### Proposed Amendments to the Casino Agreement

Further to my letter of 22 March 2004 regarding a number of proposed amendments to the Casino Agreement, please find attached a draft copy of the Casino Agreement with marked-up amendments included.

As advised previously, the following matters are included in the attached document:

1. A clause providing that at least 75% of Crown Board meetings will be held in Melbourne each year;
2. A clause providing that at least 75% of Crown's Senior Management meetings will be held in Melbourne each year;
3. A clause providing that a Company Secretary of Crown will be located in Melbourne;
4. A clause providing that the CEO of Crown and those senior executives of Crown directly responsible to the CEO will be located in Melbourne;
5. A clause providing that any changes to the composition or Charter of the Audit Committee or the Compliance Committee will be notified to the Authority;
6. Revisions to clause 22 to delete a number of redundant clauses including the single purpose entity provision;
7. The deletion from clause 22 of the requirement to obtain the Authority's approval of the Company auditor as this is provided for in section 127 of the Casino Control Act;
8. The deletion of clause 23 as section 108 of the Casino Control Act 1991 provides the requisite powers for requesting information in relation to the casino operations;
9. An amendment to clause 27.1 (n) to allow for the approval of games other than those devised or developed by the Company;



10. A revision to clause 29 and a number of other complimentary clauses to narrow the focus from "Assets and Rights" to "Casino Assets";
11. The deletion of a number of redundant clauses including clauses 6 to 12 and clauses 14 to 20;
12. A number of housekeeping changes deleting reference to such things as the Temporary Casino.

Crown has given further consideration to the following matters:

- **Confidentiality**

An amendment has been made to clause 36 to allow for the Casino Licence to be publicly available however it is not considered appropriate for the Casino Agreement to become a public document due to the commercial and sensitive nature of various matters it contains.

- **Market Share of Commission Based Play (CBP)**

As indicated in my previous letter, it is not possible to include a clause to guarantee that a minimum level or minimum market share of CBP will be maintained in the face of increasing world wide competition.

- **Clause 22 – Debt to Equity Ratio**

No change has been made to current arrangements.

- **Insurance**

Amendments to the insurance provisions at clause 35 have been included in the attached document.

I would appreciate your review and consideration of these amendments so that the revised Casino Agreement can be settled as soon as possible.

Yours sincerely

Rowen Craigie  
Chief Executive Officer

Encl.

BLAKE DAWSON WALDRON  
L A W Y E R S

---

# Consolidated Casino Agreement

Incorporating:

First  
Second  
Third  
Fourth  
Fifth  
Sixth  
Seventh  
Eighth

Variation Agreements and the Master Security Agreement

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\CASINOAG.DOC

24 June 1999

Level 39  
101 Collins Street  
Melbourne Vic 3000  
Telephone: (03) 9679 3000  
Facsimile: (03) 9679 3111

Ref: ABG:881489

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COMMERCIAL IN CONFIDENCE

VICTORIAN CASINO CONTROL AUTHORITY  
("Authority")

CROWN LTD.  
ACN 006 973 262  
("Company")

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MELBOURNE CASINO PROJECT

CASINO AGREEMENT

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COMMERCIAL IN CONFIDENCE

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## COMMERCIAL IN CONFIDENCE

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## COMMERCIAL IN CONFIDENCE

## MELBOURNE CASINO PROJECT

## CASINO AGREEMENT

AGREEMENT dated 21 September 1993

**BETWEEN** VICTORIAN CASINO CONTROL AUTHORITY a statutory authority established under the *Casino Control Act* with its office at 459 Collins Street, Melbourne ('*Authority*')

**AND** CROWN LTD. ACN 006 973 262 with its registered office at 8 Whiteman Street Southbank Victoria ('*Company*')

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Deleted: Hudson Conway House, 311 Glenferrie Road, Malvern,

## RECITALS

- A. The Authority has power to grant a casino licence under the provisions of the *Casino Control Act*.
- B. The Company has made application for a casino licence and pursuant to such application has provided information and submissions, including the Melbourne Casino Complex Development Proposals and the Temporary Casino Complex Development Proposals, to the Authority.
- C. The Authority has, in accordance with sections 9 and 10 of the *Casino Control Act*, carried out investigations and enquiries in relation to the Company and other persons required to be investigated.
- D. Subject to the terms and conditions of this document and the Management Agreement, the Authority has agreed to grant the Casino Licence to the Company.
- E. The Casino Licence will enable the Company to operate a casino from temporary premises.
- F. The Minister, acting for and on behalf of the State, and the Company have entered into the Management Agreement pursuant to section 15 of the *Casino Control Act* as a condition precedent to the grant of the Casino Licence to the Company.
- G. The Minister has given approval to the Authority pursuant to sections 14 and 142 of the *Casino Control Act* to provide an undertaking to the Company as to exclusivity, to enter into this document and to act for and on behalf of the State in respect of certain matters referred to in this document.

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## COMMERCIAL IN CONFIDENCE

2.

## AGREEMENT

## 1. DIVISION INTO PARTS

This document is divided into Parts as follows:

PART 1	-	PRELIMINARY
PART 2	-	DEVELOPMENT AND COMPLETION
PART 3	-	COMPLETION
PART 4	-	CORPORATE STRUCTURE AND RELATED MATTERS
PART 5	-	GRANT OF THE CASINO LICENCE
PART 6	-	ENCUMBRANCES AND ASSIGNMENTS
PART 7	-	TERMINATION
PART 8	-	COMPLEMENTARY AGREEMENTS
PART 9	-	GENERAL

## PART 1 - PRELIMINARY

## 2. DEFINITIONS

In this document, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'Agent'<sup>1</sup> means National Australia Bank Limited ACN 004 044 937 and any successor to it as agent under the Facility Agreement;

'Agreement Act' means the Casino (Management Agreement) Act 1993;

'Ancillary Facilities' means all facilities ancillary to the Melbourne Casino, identified in the Development Proposals to be constructed on or located within the Site, including an hotel, restaurant, retail, recreation, entertainment and car parking facilities, residential and office accommodation, staff facilities, staff car parking, coach storage facilities and open space areas;

'Assets and Rights' means all the present and future undertaking, property, assets and rights of or held by the Company;

'Associate' has the same meaning as in sections 10 to 17 of the Corporations Law;

<sup>1</sup> Successor to NAB is ANZ Capel Court Limited under clause 3.5 of the Master Security Agreement

**Deleted:** bill referred to in clause 3.2(a) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause

**Deleted:** Temporary Casino or the

**Deleted:** (as the case may be)

**Deleted:** the Temporary Casino Site or

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COMMERCIAL IN CONFIDENCE

3.

'ASX' means Australian Stock Exchange Limited;

\*

'Australian Accounting Standards' means:

or other standard approved by ASX

- (a) accounting standards as defined in (or having effect under the *Corporations Law* as if they were accounting standards defined in) section 9 of the *Corporations Law*;
- (b) the requirements of the *Corporations Law* in relation to the preparation and content of accounts; and
- (c) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices inconsistent with (a) or (b);

'Authorisation' includes a consent, approval, licence, permit, franchise, permission, filing, registration, resolution, direction, declaration and exemption;

'Authority' means the Victorian Casino Control Authority or its successor;

'Bank Guarantees' means the guarantees or letters of credit to be provided by the Company pursuant to clauses 18.1 and 22.9 of the Management Agreement;

'Business Day' means a day (other than a Saturday or Sunday) on which banks (as defined in the *Banking Act 1959* (Commonwealth)) are generally open for business in Melbourne;

'Casino Asset' means an asset or undertaking of the Company which forms part of the Secured Property and which consists of:

- (a) the Casino Licence;
- (b) the Melbourne Casino;
- (c) \_\_\_\_\_
- (d) all gaming equipment used in the Melbourne Casino;
- (e) all revenue derived from the Melbourne Casino (other than revenues which have been deposited or are standing to the credit of the Debt Protection Account or the Debt Service Reserve Account (each as defined in the Facility Agreement) in accordance with the Facility Agreement and any Authorised Investments (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment); or

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## COMMERCIAL IN CONFIDENCE

4.

(f) all other assets of the Company necessary for the operation of the Melbourne Casino;

and a reference to the 'Casino Assets' includes any part of them;

'Casino Control Act' means the *Casino Control Act 1991* (Victoria);

'Casino Licence' means a casino licence as defined in the *Casino Control Act* in relation to the Melbourne Casino in the form of the licence set out in Schedule One;

'Company' means Crown Ltd, ACN 006 973 262, which will be the casino operator for the purposes of the *Casino Control Act*;

'Commissioning' means the checking, testing and acceptance of the operational readiness of and the procedures for the various components of the Melbourne Casino (including all staff, facilities and equipment) by the Authority;

'Complementary Agreement' means each of the agreements listed in Schedule Two;

'Construction Agreement' means the proposed building agreement between the Company and a proposed builder substantially in the form of the draft agreement a copy of which has been signed on behalf of the Authority and the Company and dated the date of this document for the purposes of identification;

'Contractor's Deed' has the same meaning as in the Supplemental Development Agreement;

'Control Acts' means the *Building Control Act 1981* and the *Planning and Environment Act*;

'CUB' means Carlton and United Breweries Limited ACN 004 056 106;

'Deal with' means deal with property in any way other than enter into an arm's length agreement to sell dependent for effect on the Authority's consent, including, but not limited to, offer for sale, grant an option in respect of, create or Dispose of a right in respect of, render or permit to be subject to an Encumbrance, convert, deposit, compromise and allow a counterclaim or right of act-off to arise in respect of;

"Deed of Undertaking and Guarantee"<sup>2</sup> means the agreement under which, amongst other things, the Holding Company and other related companies guarantee to the

~~Deleted:~~ or the Temporary Casino

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~~Deleted:~~ 'Casino Supervision and Control Charge' means ¶  
(a) for the period from the Licensing Date until 30 June 1994, \$5,000,000; and ¶  
(b) for each Financial Year from 1 July 1994 until 30 June 1997, \$5,000,000; ¶

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~~Deleted:~~ or the Temporary Casino as the case may be

~~Deleted:~~ 'Completion' means the completion of the construction, the Fit-Out and the Commissioning of the Temporary Casino or the Melbourne Casino, as the case may be, as specified in the Completion Standards and as determined pursuant to clause 20, and 'Complete' and 'Completed' have corresponding meanings; ¶  
'Completion Standards' means ¶  
(a) for construction, when all the requirements under this document and the *Casino Control Act* in relation to the Melbourne Casino or the Temporary Casino have been complied with; ¶  
(b) for Commissioning, when all the procedures for the various components of the Melbourne Casino or the Temporary Casino (including all staff, facilities and equipment) are in place or immediately and reliably available to the Company such that the Melbourne Casino or the Temporary Casino, as the case may be, can be operated securely and so that there is no risk to the integrity of operation or compromise in the amenity of the Melbourne Casino or the Temporary Casino, as the case may be, which is not acceptable to the Authority; and ¶

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<sup>2</sup> Amended by the Eighth Variation Agreement to the Casino Agreement effective 30 June 1999

## COMMERCIAL IN CONFIDENCE

5.

Authority and the State, the due and punctual performance of certain obligations owed by members of the Group to the Authority and the State;

'Development Agreement' means the agreement dated 30 August 1993 between the Company and Hudson Conway Management Limited ACN 006 742 294 providing for the procuring of the construction of the Melbourne Casino Complex;

'Dispose of' means sell, transfer, assign, alienate, surrender, dispose of, deposit, Lease, part with possession of and enter into any agreement or arrangement to do or allow any of these things;

'Director of Casino Surveillance' means the person appointed under section 94 of the *Casino Control Act*;

'Drawings' means the plans, designs and working drawings relating to the Melbourne Casino Complex provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'Encumbrance' means a mortgage, charge, pledge, lien, assignment, hypothecation, retention of title (other than a retention of title in respect of trading stock), or any other right (including, without limitation, under a trust, agency, hire purchase, sale and repurchase, sale and leaseback or flawed asset arrangement) of a creditor to have its claims satisfied prior to other creditors with, or from the proceeds of or by recourse to any asset and includes any agreement, arrangement or document conferring such a right or having substantially the same economic effect;

'Equity Funding Agreement (Federal)' means the agreement dated 30 August 1993 between Danwick Pty Limited ACN 059 321 667, The Federal Hotels Limited ACN 004 108 249 and Hudson Conway Limited ACN 009 556 629;

'Facility Agreement'<sup>3</sup> means the \$300,000,000 multi-option facility agreement dated 30 August 1993 between the Company, the Financiers and the Agent;

'Finance Documents' means the Facility Agreement and the Financiers' Securities;

'Financial Year' means from 1 July to 30 June (inclusive);

'Financiers'<sup>4</sup> means National Australia Bank Limited, Australia and New Zealand Banking Group Limited, HongkongBank of Australia Limited, R & I Bank of Western

<sup>3</sup> The Security Sharing Deed dated 30 July 1997 and the Funding Documents (as defined in the Security Sharing Deed) replace the Facility Agreement under clause 3.5 of the Master Security Agreement

<sup>4</sup> C:\Documents and Settings\jii\28175\Local Settings\Temporary Internet Files\OLK1E\Casino Agreement Mods 2.DOC

**Deleted:** 'Design and Construction Programme' means the programme for the design documentation, construction, Fit-Out, Commissioning and Completion of the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) set out in Schedule One of the Management Agreement, as amended from time to time with the prior written approval of the State;<sup>1</sup>

**Comment:** Section 94 is due to be repealed when the Gambling Regulation Act comes into force

**Deleted:** 'Documentation' means any document or proposal which the Company is required to submit to the Authority under clauses 6, 7, and 8;<sup>2</sup>

**Deleted:** Temporary Casino Complex or the

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## COMMERCIAL IN CONFIDENCE

6.

Australia Limited and State Bank of New South Wales Limited and their successors, assigns and substitutes;

'Financiers' Securities'<sup>5</sup> means the following securities given to the Agent as agent for the Financiers:

- (a) a first registered fixed and floating charge over the undertaking and all the assets of the Company including a mortgage over the Casino Licence;
- (b) a mortgage of the Site Lease and a mortgage of the Temporary Casino Leases;
- (c) each other security given to the Agent or the Financiers as security for the liabilities of the Company under the Facility Agreement;

'Fixed and Floating Charge' means the second registered fixed and floating charge given by the Company in favour of the Minister on behalf of the State;

'Force Majeure Event' has the same meaning ascribed to that term in the Management Agreement;

'Founding Shareholders Agreement' means the agreement dated 30 August 1993 between each Sponsor, CUB and the Company providing for the subscription for Shares by the Sponsors and Carlton & United Breweries Limited;

'Gross Gaming Revenue' means the total of all sums, including cheques and other negotiable instruments whether collected or not, received in any period by the Company from the conduct or playing of games within the Melbourne Casino, less the total of all sums paid out as winnings during that period in respect of such conduct or playing of games;

'Group' means the Company and its Subsidiaries and any other entity which the directions of the Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Company under the Corporations Law<sup>6</sup>;

**Deleted:** 'Fit-Out' means the application of finishing material, gaming equipment, furniture, fittings, furnishings and such other built-in and loose items required to bring any part of the Temporary Casino or the Melbourne Casino (as the case may be) to Completion to a stage to enable Commissioning to take place;†

**Deleted:** 'Further Amendment Act' means the bill referred to in clause 3.2(b) of the Management Agreement when that bill is passed and comes into operation as an Act of Parliament as contemplated by that clause;†

**Deleted:** Temporary Casino or the

**Deleted:** (as the case may be)

<sup>4</sup> The Secured Creditors (as defined in the Security Sharing Deed) succeed the Financiers under clause 3.5 of the Master Security Agreement

<sup>5</sup> The Securities (as defined in the Security Sharing Deed) replace the Financiers' Securities under clause 3.5 of the Master Security Agreement

<sup>6</sup> Amended by clause 2(a) of the Seventh Variation Agreement to the Casino Agreement dated 2 July 1998

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## COMMERCIAL IN CONFIDENCE

7.

'Guarantee and Indemnity for Development Agreement' means the guarantee and indemnity dated 30 August 1993 by Hudson Conway Limited ACN 009 556 629 to the Company;

"Holding Company"<sup>7</sup> means the Company's ultimate holding company, within the meaning of that expression as defined in section 9 of the *Corporations Law*, but read as though the reference in paragraph (b) to 'no body corporate' were a reference to 'no body corporate incorporated in Australia';

"Holding Company Group"<sup>8</sup> means:

- (a) the Holding Company;
- (b) the Holding Company's Subsidiaries (including without limitation, the Company and its Subsidiaries); and
- (c) any other entity which the directors of the Holding Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Holding Company under the *Corporations Law*;

'Lease' means an agreement or arrangement under which property is or may be used, occupied, retained, operated or managed by a person for consideration (of whatever form) including, but not limited to, a lease, licence, charter, hire purchase or hiring arrangement;

'Licensing Date' is 19 November 1993;

'Management Agreement' means the agreement between the Minister acting for and on behalf of the State, and the Company entered into pursuant to section 15 of the *Casino Control Act*;

'Master Security Agreement'<sup>9</sup> means the agreement of even date between the State, the Authority, the Company, the Agent and the Sponsors relating, among other things, to the priority of the Encumbrances given by the Company;

~~Deleted:~~ means the date which is 2 Business Days after the conditions precedent in clause 5.1 are satisfied

~~Deleted:~~ 'Licensing Payment Amounts' means the amounts payable under clause 26.1(b).

<sup>7</sup> Amended by the Eighth Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>8</sup> Amended by the Eighth Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>9</sup> Master Security Agreement is replaced by the Master Security Agreement dated 30 July 1997

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## COMMERCIAL IN CONFIDENCE

8.

'Melbourne Casino' means those areas identified in the Drawings for the Melbourne Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Melbourne Casino Complex' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of this document and the Management Agreement;

'Melbourne Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'Minister' means the Minister for the time being administering the *Casino Control Act*;

'Mortgagee' means any person with any Encumbrance (whether as mortgagee, chargee or otherwise) affecting or in relation to the Assets and Rights of the Company;

'Note Agreement' means the deed dated 24 December 1993 between the Company, Permanent Trustee Australia Ltd and National Australia Bank Limited;<sup>10</sup>

'Note Agreement (Series 2)' means the deed dated 15 August 1996 between the Company, Permanent Trustee Australia Limited and National Australia Bank Limited;<sup>11</sup>

'Operations Agreement' means the agreement dated 30 August 1993 between the Company and Crown Management Pty Ltd ACN 059 301 610 providing for the conduct of the operations of the Melbourne Casino;

'Permitted Encumbrance' means an encumbrance of the kind permitted under clause 29.1;

'Planning Amendments' means the planning scheme amendments referred to in clause 9 of the Management Agreement;

Deleted: the Temporary Casino and

<sup>10</sup> Inserted by clause 2(a) of the Fourth Variation Agreement to the Casino Agreement dated 7 March 1995

<sup>11</sup> Inserted by clause 2.1(a)(i) of the Sixth Variation Agreement to the Casino Agreement dated 8 May 1997

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## COMMERCIAL IN CONFIDENCE

9.

'**Planning and Environment Act**' means the *Planning and Environment Act 1987* (Victoria);

'**Public Authority**' means any government or minister or any governmental, semi-governmental or judicial entity, department, instrumentality or authority;

'**Receiver**' means receiver, receiver and manager or agent for a mortgagee in possession, according to the nature of the appointment;

'**Related Party**' means the Sponsors and any Subsidiary of the Company;

'**Relevant Legislation**' means the *Casino Control Act* and the *Agreement Act* as amended;

'**Secured Property**' means at any time, any present or future right, property or undertaking of the Company, (other than an amount which has been deposited to, or which is standing to the credit of, the Debt Service Reserve Account or the Debt Protection Account (each as defined in the Facility Agreement) and any Authorised Investment (as defined in the Facility Agreement) from either of those accounts (or the proceeds of any such Authorised Investment)) under the Facility Agreement, of whatever kind or wherever situated which is subject at that time to both:

- (a) the Fixed and Floating Charge; and
- (b) any one or more of the Financiers' Securities;

and a reference to 'Secured Property' includes any part of it;

'**Share**' means a fully paid ordinary share with a par value of \$0.50 in the capital of the Company;

'**Shareholders Agreement - Crown Management Pty Ltd**' means the agreement dated 30 August 1993 between Hudson Conway Limited ACN 009 556 629, Mulawa Casinos Pty Ltd ACN 060 766 001, The Federal Hotels Limited ACN 004 108 249 and Crown Management Pty Limited ACN 059 301 610;

'**Site**' has the same meaning as in the Management Agreement;<sup>12</sup>

Deleted: 'Premium Payment' means \$10,000,000 being the amount determined by the Treasurer of the State under section 112A of the *Casino Control Act* as the amount payable by the Company under the Management Agreement;

Deleted: ,  
Deleted: and the Further Amendment Act

<sup>12</sup> Amended by clause 21(b) of the Sixth Variation Agreement to the Casino Agreement dated 8 May 1997

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## COMMERCIAL IN CONFIDENCE

10.

'Site Lease' means the lease of part of<sup>13</sup> the Site from the Minister for Finance on behalf of the State to the Company;

'Site Lease Supplemental Agreement' means the agreement between the Minister for Finance, the Company and the Agent;

'Solvency Report' means a report prepared in accordance with Australian Auditing Standard AUS904 'Engagement to Perform Agreed Upon Procedures' and paragraphs 21(a) to (e), 23 and 24 of Australian Auditing Standard AUS708 'Going Concern' and in a form approved by the Authority from time to time<sup>14</sup>;

'Sponsors' mean Hudson Conway Limited ACN 009 556 629 and The Federal Hotels Limited ACN 004 108 249 and for the purposes of clause 22.1(a) such other person as the Authority may approve;

'Sponsor's Guarantees' means the guarantees of even date by Hudson Conway Limited ACN 009 556 629 in favour of the Authority and in favour of the State;

'State' means the State of Victoria;

'State's Nominated Representative' means the person appointed from time to time by the minister for the time being administering the *Planning and Environment Act* in accordance with clause 6.4 of the Management Agreement;

'Subsidiary' means any body corporate which would be a subsidiary of the Company within the meaning of section 46 of the *Corporations Law* or any entity which would be a subsidiary of the Company under *Australian Accounting Standard AAS24*;

'Supplemental Casino Agreement'<sup>15</sup> means the agreement under which the Holding Company guarantees to the Authority, the due and punctual performance of obligations owed by each member of the Holding Company Group to the Authority;

'Supplemental Development Agreement' means the agreement of even date between the Authority, the Company, the Sponsors and Hudson Conway Management Limited ACN 006 742 294 which is supplemental to the Development Agreement;

<sup>13</sup> Amended by clause 2.1(c) of the Sixth Variation Agreement to the Casino Agreement dated 8 May 1997

<sup>14</sup> Amended by clause 2(a) of the Seventh Variation Agreement to the Casino Agreement dated 2 July 1998

<sup>15</sup> Amended by the Eighth Variation Agreement to the Casino Agreement effective 30 June 1999

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## COMMERCIAL IN CONFIDENCE

11.

'Supplemental Operations Agreement' means the agreement of even date between the Authority, the Company, the Sponsors and Crown Management Pty Ltd ACN 059 301 610 which is supplemental to the Operations Agreement;

'Supplemental Sponsors' Agreement' means the agreement of even date between the Authority, the Company and the Sponsors which is supplemental to the Founding Shareholders Agreement;

'Total Assets' means the aggregate of all assets of the Group which according to Australian Accounting Standards are defined, or would be regarded, as assets<sup>16</sup>;

'Total Group Assets'<sup>17</sup> means the aggregate of all assets to the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as assets;

'Total Group Liabilities'<sup>18</sup> means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities;

'Total Liabilities' means the aggregate of all liabilities of the Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities<sup>19</sup>;

'Transaction Document' means each of this document, the Management Agreement, the Casino Licence, the Site Lease, the Temporary Casino Leases, the Fixed and Floating Charge, the Sponsor's Guarantees, the Master Security Agreement, the Site Lease Tripartite Agreement, the Temporary Casino Lease Supplemental Agreements, the Supplemental Sponsors' Agreement, the Supplemental Development Agreement, the Contractor's Deed, the Bank Guarantees, the Supplemental Operations Agreement, the Deed of Undertaking and Guarantee and the Supplemental Casino Agreement<sup>20</sup>;

<sup>16</sup> Amended by clause 2(a) of the Seventh Variation Agreement to the Casino Agreement dated 2 July 1998

<sup>17</sup> Amended by the Eighth Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>18</sup> Amended by the Eighth Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>19</sup> Amended by clause 2(a) of the Seventh Variation Agreement to the Casino Agreement dated 2 July 1998

<sup>20</sup> Amended by the Eighth Variation Agreement to the Casino Agreement effective 30 June 1999

**Deleted:** 'Temporary Casino' means those areas identified in the Drawings for the Temporary Casino Complex as the areas which constitute a casino and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on.¶

'Temporary Casino Complex' means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of this document and the Management Agreement.¶

'Temporary Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification.¶

'Temporary Casino Leases' means:¶

- (a) the lease from the Port of Melbourne Authority to the Company; and¶
- (b) the sub-lease between the Urban Land Authority, Alko Nominees (Vic) Pty Ltd ACN 006 837 289 and the Company.¶

'Temporary Casino Leases Supplemental Agreements' means:¶

- (a) the agreement between the Port of Melbourne Authority, the Company and the Agent; and¶
- (b) the Temporary Casino Sub-Lease Supplemental Agreement.¶

'Temporary Casino Site' means that part of the World Trade Centre on the land bounded by Spencer Street, Flinders Street Extension and the River Yarra identified in the Plan of Survey annexed to the lease referred to in paragraph (a) of the [2]

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## COMMERCIAL IN CONFIDENCE

12.

'Trust Deed' means the deed dated 24 December 1993 between the Company and Permanent Trustee Australia Ltd relating to the issue by the Company of unsecured notes;<sup>21</sup>

'Trust Deed (Series 2)' means the deed dated 15 August 1996 between the Company and Permanent Trustee Australia Limited relating to the issue by the Company of unsecured notes;<sup>22</sup>

'Underwriting Agreement' means both the underwriting agreements of 13 August 1993 and 23 August 1993 between the Company, E.L. & C. Baillieu Limited ACN 006 519 393, Rothschild Australia Securities Limited ACN 008 591 768, Macquarie Underwriting Limited ACN 001 374 572, Ord Minnett Securities Limited ACN 003 245 234, James Capel Australia Limited ACN 002 786 272 and the Sponsors; and

'Warranties' means the representations and warranties of the Company set out in Schedule Three.

3.

## 4. VARIATION

Subject to the prior approval in writing of the Minister, the parties may from time to time by agreement in writing vary any provision of this document.

## 5. CONDITIONS PRECEDENT

5.1 The provisions of this document other than the clauses referred to in clause 3 are conditional upon the satisfaction of the following conditions precedent:

- (a) execution of:
  - (i) the Transaction Documents except for the Casino Licence and the Bank Guarantees;
  - (ii) the Finance Documents;
  - (iii) the Development Agreement;

**Deleted: COMMENCEMENT OF CERTAIN PROVISIONS**  
This clause and clauses 2, 5, 6.3, 33, 34, 36, 37, and 39-48 (inclusive) commence on the date of this document.

<sup>21</sup> Inserted by clause 2(a) of the Fourth Variation Agreement to the Casino Agreement dated 7 March 1995

<sup>22</sup> Inserted by clause 2.1(a)(ii) of the Sixth Variation Agreement to the Casino Agreement dated 8 May 1997

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## COMMERCIAL IN CONFIDENCE

13.

- (iv) the Operations Agreement;
  - (v) the Construction Agreement;
  - (vi) the Founding Shareholders Agreement;
  - (vi) the Underwriting Agreement;
  - (vii) the Equity Funding Agreement (Federal);
  - (viii) the Shareholders Agreement - Crown Management Pty Ltd; and
  - (ix) the Guarantee and Indemnity for Development Agreement;
- (b) each of the conditions precedent in each document referred to in paragraph (a) being satisfied other than:
- (i) conditions precedent contained in paragraph (14), (15), and (28) of Part 1 of Appendix A to and clause 4.2 of the Facility Agreement and those conditions precedent in Appendix A to the Facility Agreement that are factual or procedural matters that cannot be satisfied until the time of drawdown; and
  - (ii) the issue of the Casino Licence;
- (c) approval of the Planning Amendments; and
- (d) the coming into operation of those parts of the Agreement Act and the Further Amendment Act which relate to the construction, Fit-Out, Commissioning, Completion and operation of the Melbourne Casino Complex and the Temporary Casino Complex each in the form and substance reasonably satisfactory to the Company to enable the Company to comply with its obligations under the Transaction Documents.
- 5.2 The Authority will provide written notice to the Company and to the Minister of satisfaction of the conditions specified in clause 5.1 within 2 Business Days of the satisfaction of all of those conditions.
- 5.3 Each party shall use its best endeavours to ensure the satisfaction of the conditions in clause 5.1 as soon as possible after the execution of this document, and in any event no later than the date specified in clause 5.4.
- 5.4 This document shall terminate upon the Management Agreement terminating under clause 5.2 of that agreement.

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COMMERCIAL IN CONFIDENCE

PART 2 - DEVELOPMENT AND COMPLETION

- 6. \_\_\_\_\_
- 6.1 \_\_\_\_\_
- 6.2 \_\_\_\_\_
- 6.3 <sup>23 24 25 26</sup> \_\_\_\_\_
- 6.4 <sup>27</sup> \_\_\_\_\_
- 6.5 <sup>28</sup> \_\_\_\_\_
- 6.6 <sup>29 30</sup> \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 9.1 \_\_\_\_\_

- <sup>23</sup> Amended by clause 2.1(a) of the Variation Agreement to the Casino Agreement dated 19 November 1993
- <sup>24</sup> Amended by clause 2.1 of the Second Variation Agreement to the Casino Agreement dated 31 March 1994
- <sup>25</sup> Amended by clause 2.1 of the Third Variation Agreement to the Casino Agreement dated 25 May 1994
- <sup>26</sup> Amended by clause 2.1(a) of the Fifth Variation Agreement to the Casino Agreement dated 7 March 1995
- <sup>27</sup> Amended by clause 2.1(b) of the Variation Agreement to the Casino Agreement dated 19 November 1993
- <sup>28</sup> Amended by clause 2.1(b) of the Fifth Variation Agreement to the Casino Agreement dated 7 March 1995
- <sup>29</sup> Amended by clause 2.1(c) of the Fifth Variation Agreement to the Casino Agreement dated 7 March 1995
- <sup>30</sup> Amended by clause 2.1(d) of the Sixth Variation Agreement to the Casino Agreement dated 8 May 1997

**Deleted:** DOCUMENTS TO BE SUBMITTED TO THE AUTHORITY

**Deleted:** The Company must as soon as possible, but within 10 weeks from the Licensing Date submit to the Authority for its approval the following items:¶

(a) a schedule identifying the proposed nature and degree of access (including pedestrian and vehicular) to all facilities by people who may be attending the Melbourne Casino together with a report on the vehicular part of that proposal;¶

(b) a detailed development master plan or plans clearly indicating the intentions of the Company for the development of the Melbourne Casino. ... [3]

**Deleted:** As soon as practicable, but in any event no later than 3 months after ... [4]

**Deleted:** The Company must by

**Deleted:** 8 December 1994

**Deleted:** enter into a contract substantially in the form of the Construction Agreement ... [5]

**Deleted:** The Company must procure the execution of the Contractor's Deed before ... [6]

**Deleted:** Provision of Information and Documents¶

(a) The Company must: ... [7]

**Deleted:** The Company acknowledges, undertakes and agrees that the Company ... [8]

**Deleted:** MELBOURNE CASINO WORKS¶

The Company must, at k ... [9]

**Deleted:** SAFETY PROCEDURES¶

The Company must, at ... [10]

**Deleted:** VARIATIONS

**Deleted:** The Company must submit to the Authority details of any variations to the ... [11]

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COMMERCIAL IN CONFIDENCE

15.

9.2		<b>Deleted:</b> The Company must not make any such variations without the prior approval in writing of the Authority.
10.		<b>Deleted:</b> APPROVAL BY THE AUTHORITY
10.1		<b>Deleted:</b> If the Company is required by this document to submit to the Authority any documents or proposal for approval the Company must not proceed with carrying any works or taking any a described in or conten[... [12]
10.2		<b>Deleted:</b> If the Company required by this docum[... [13]
10.3		<b>Deleted:</b> If the Authority imposes conditions, req[... [14]
10.4		<b>Deleted:</b> If the Company makes a further submis[... [15]
10.5		<b>Deleted:</b> If: (a) the Authority app[... [16]
10.6		<b>Deleted:</b> In imposing any conditions to any appro[... [17]
11.		<b>Deleted:</b> TIME FOR APPROVAL
11.1		<b>Deleted:</b> If the Company submits any documents[... [18]
11.2		<b>Deleted:</b> If the Authority has not responded in writie[... [19]
11.3		<b>Deleted:</b> Clauses 11.1 and 11.2 apply only in relation to[... [20]
12.		<b>Deleted:</b> DIRECTOR OF CASINO SURVEILLANCE
12.1		<b>Deleted:</b> The Authority ensure that all documen[... [21]
12.2		<b>Deleted:</b> Clauses 10 and 11 will apply in relation to[... [22]
12.3		<b>Deleted:</b> Nothing in this document shall be take[... [23]
13.	<b>PROVISION OF FACILITIES FOR INSPECTORS</b>	
	The Company must at its expense provide, keep and maintain all facilities and surveillance systems in the Melbourne Casino required for the use of inspectors appointed under the <i>Casino Control Act</i> .	
14.		<b>Deleted:</b> SITE ACCESS
14.1		<b>Deleted:</b> Persons authorised in writing by the Auth[... [24]
14.2		<b>Deleted:</b> The Authority or the Director of Casino Sury[... [25]
14.3		<b>Deleted:</b> If the Company receives a notice pursu[... [26]
		<b>Deleted:</b> G:\CASINO\CORP LEGAL\AGREEMENT\C[... [27]

COMMERCIAL IN CONFIDENCE

16.

14.4	Deleted: The Authority or the Director of Casino Surveillance and any persons authorised by any of them must not act unreasonably when exercising their powers ... [28]
14.5	Deleted: Subject to the Authority's or the Director's ... [29]
15.	Deleted: RECTIFICATION AND SUSPENSION OF ... [30]
15.1	Deleted: If following any inspection, measuring or ... [31]
15.2	Deleted: If the Authority forms the opinion that ... [32]
16.	Deleted: PROJECT ADVISORY MEETINGS
16.1	Deleted: Project advisory meetings must be held ... [33]
16.2	Deleted: The principal purposes of these meetings ... [34]
16.3	Deleted: The meetings must be ... [35]
16.4	Deleted: The State's Nominated Representative ... [36]
16.5	Deleted: The Company must provide accurate minutes ... [37]
17.	Deleted: MULTIPLE COPIES OF PLANS ... [38]
18.	Deleted: DEVELOPMENT OF THE TEMPORARY ... [39]
18.1	Deleted: The Company must provide to the Authority ... [40]
18.2	Deleted: The Company must provide to the Authority ... [41]
18.3	Deleted: Clauses 9, 10, 11 and 12 apply (unless the contract ... [42]
18.4	Deleted: Clauses 13, 14, 15 and 16 apply (unless the contract ... [43]
<b>PART 3 - COMPLETION</b>	
19.	Deleted: OPENING OF THE MELBOURNE CASINO ... [44]
20.	Deleted: COMPLETION
20.1	Deleted: The Company must give not less than 7 Business Days ... [45]
20.2	Deleted: On the date agreed between the Company ... [46]
20.3	Deleted: If the Authority is of the opinion that the Rel ... [47]
20.3	Deleted: G:\CASINO\CORP LEGAL\AGREEMENT\C ... [48]

COMMERCIAL IN CONFIDENCE

17.

- 20.4
- 20.5
- 20.6
- 20.7
- 20.8

**Deleted:** If the Authority is of the opinion that the Relevant Works are Completed, the Authority must within 10 Business Days of the inspection under clause 20.2 issue a certificate to the Company stating the date on which it believes those Relevant Works reached Completion and those Relevant Works shall, for the purpose of this document, be taken to have been Completed on that date.

PART 4 - CORPORATE STRUCTURE AND RELATED MATTERS

- 21.
- 21.1
- 21.2

**Deleted:** Upon receipt of a notice from the Authority under clause 20.3, the Company must immediately attend to any matters stated in the notice as requiring attention and upon the Company attending to ... [49]

22. CONDITIONS RELATING TO COMPANY STRUCTURE

- 22.1 The following are conditions of this document:
  - (a) 31
    - (i) 32
    - (ii) 33
    - (iii) 34
  - (aa) 35
  - (ab) 36

**Deleted:** Any determination by the Authority that any Relevant Works have been Completed is not acceptance that the Company has complied with the Tran ... [50]

**Deleted:** If the Authority does not deliver a notice to the Company under clause 20.3 or a certificate under clause 20.4 within the 10 Business Days period referred to in the ... [51]

**Deleted:** A certificate of Completion under clause 20 does not excuse the Company from compliance with all relevant legislation in relation to the Relevant Works

**Deleted: WARRANTIES OF THE COMPANY**

**Deleted:** The Company makes the Warranties to the Authority as at the date of this document and for each day up to and including the Licensing Date.

**Deleted:** Each Warranty shall be construed separately and the meaning of each shall in no way be limited by reference to any other representation or warranty contained in ... [52]

- 31 Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999
- 32 Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999
- 33 Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999
- 34 Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999
- 35 Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

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## COMMERCIAL IN CONFIDENCE

18.

- (ac) 37
- (ad) 38
- (b) 39
- (i) 40
- (ii) 41
- (c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;
- (d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;
- (e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed;
- (f) the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of Shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;<sup>42</sup>

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<sup>36</sup> Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>37</sup> Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>38</sup> Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>39</sup> Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>40</sup> Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>41</sup> Deleted by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

<sup>42</sup> Amended by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999. Under the Supplemental Casino Agreement the Authority agrees that it will not regard the Company as breaching clause 22.1(f) of the Casino Agreement or article 2.7 of the Company's constitution if a person becomes entitled to more than 5% of the total number of Shares in the Company solely through that person's shareholding in PBL.

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## COMMERCIAL IN CONFIDENCE

25.

## PART 5 - GRANT OF THE CASINO LICENCE

## 26. GRANT OF CASINO LICENCE

## 26.1 Subject to:

- (a) provision of the Bank Guarantees;
- (b) payment by the Company to the State of:
  - (i) the Premium Payment; and
  - (ii) a further amount of \$190,000,000; and
- (c) payment by the Company of the Casino Supervision and Control Charge due on the Licensing Date,

the Authority will grant the Casino Licence for the Melbourne Casino to the Company on the Licensing Date.

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26.2 While the Casino Licence remains in force, the Authority undertakes not to grant a casino licence to any person enabling any person other than the Company to operate a casino:

- (a) anywhere in the State prior to 6 years from the Licensing Date; and
- (b) in those parts of the State within a radius of 150 kilometres from the Site, prior to 12 years from the Licensing Date.

26.3 If after the Melbourne Casino opens for business:

- (a) the Melbourne Casino is Completely Destroyed by an Extension Event prior to the end of the exclusivity period in clause 26.2 (b); and
- (b) in the reasonable opinion of the Authority the Company acts diligently to reinstate the Melbourne Casino,

the period in clause 26.2(b) shall be extended by the Extension Period.

26.4 For the purposes of clause 26.3 and this clause 26.4, the following words or phrases have the following meanings:

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## COMMERCIAL IN CONFIDENCE

26.

'Completely Destroyed' means destruction or damage to the Melbourne Casino or any other Extension Event which causes the complete closure of the Melbourne Casino;

'Extension Period' means the lesser of:

- (a) 12 months; and
- (b) the period from the Destruction Date to the date on which the Melbourne Casino reopens for business;

'Destruction Date' means the date on which the Melbourne Casino is Completely Destroyed;

'Extension Event' means:

- (a) a Force Majeure Event; or
- (b) any other event or circumstance which is outside the control of the Company and has not been directly or indirectly caused by an act or omission of the Company or any of its Associates,

but does not include an event which would not have occurred if the Company had exercised reasonable care and diligence.

26.5 If the Company wishes to apply to the Authority for a further casino licence upon the expiration of the Casino Licence, it may do so in accordance with the following provisions:

- (a) if the Company is not in breach of any material provision of this document or of any other Transaction Document, the Company may at any time during the period commencing on the date being the first day of the fifth last year of the term of the Casino Licence and terminating on the date being the last day of the fifth last year of the term of the Casino Licence give notice in writing to the Authority that the Company wishes to apply for the grant of a new licence to operate a casino in the Melbourne Casino Complex;
- (b) following the giving of the notice under clause 26.5(a), the Authority shall within six months inform the Company of the basis on which the Authority is prepared to grant a new licence to operate a casino in the Melbourne Casino Complex and thereafter the Authority shall negotiate with the Company in good faith with a view to reaching agreement on a basis upon which the Authority is prepared to grant the new licence to the Company;

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## COMMERCIAL IN CONFIDENCE

27.

- (c) the Authority shall have no obligation under this clause 26.5 other than to notify the Company of the basis on which the Authority is prepared to grant a new licence and thereafter to negotiate in good faith with the Company;
- (d) the Company shall have no right or expectation of any nature whatever to the grant of a new casino licence following the expiration of the Casino Licence; and
- (e) if by the first day of the last year of the term of the Casino Licence, agreement has not been reached between the Authority and the Company for the grant of a new casino licence to the Company, the Authority shall be free to grant a new casino licence to any other person with effect from or after the date of expiry of the Casino Licence on such terms and conditions as the Authority in its absolute discretion determines to be appropriate.

## 27. GAMES

27.1 The Authority will publish a notice pursuant to section 60 of the *Casino Control Act* to enable the conduct and playing in the Melbourne Casino of the following games, which must be conducted or played in accordance with the rules approved by the Authority under that section:

- (a) Blackjack;
- (b) American Roulette;
- (c) Baccarat;
- (d) Mini Baccarat;
- (e) Craps;
- (f) Two-up;
- (g) Mini-Dice;
- (h) Wheel of Fortune;
- (i) Sic-Bo;
- (j) Pai Gow;
- (k) Keno;

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## COMMERCIAL IN CONFIDENCE

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- (b) liens arising solely by operation of law (or by an agreement to the same effect) in the ordinary course of the business of the Company where the amount secured:
- (i) has been due for less than 30 days; or
  - (i) is being contested in good faith and by appropriate means;
- (c) without limiting paragraph (b), retention of title arrangements, where the amount payable:
- (i) has been due for less than 30 days; or
  - (ii) is being contested in good faith and by appropriate means;
- (d) the Encumbrances referred to in clause 30; or
- (e) any other Encumbrances created or subsisting with the prior approval in writing of the Authority;

except with the prior approval in writing of the Authority and in compliance with any terms or conditions on which that approval is given.

29.2 Subject to clause 29.3, the Company must not dispose of any Casino Assets of the Company other than pursuant to a Permitted Encumbrance except with the prior approval in writing of the Authority.

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29.3 Clause 29.2 does not apply to a disposal of:

- (a) Casino Assets in the ordinary course of the business of the Company; or
- (b) obsolete or surplus Casino Assets on ordinary commercial terms.

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29.4 In clause 29.2 'dispose' includes:

- (a) a disposition of any estate or interest in any manner including by way of sale, transfer, assignment, lease, letting, licence, surrender or abandonment; and
  - (b) entering into an agreement or arrangement to effect a disposition,
- whether in either case for valuable consideration or not.

30. PERMITTED ENCUMBRANCES

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## COMMERCIAL IN CONFIDENCE

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- 30.1 The Authority has consented to the creation of Encumbrances by the Company under and in accordance with the securities identified in paragraph (a)<sup>57</sup> of the definition of Financiers' Securities in the Master Security Agreement<sup>58</sup>.
- 30.2 The ranking as between the Encumbrances referred to in clause 30.1 and the Fixed and Floating Charge and other matters regarding the enforcement of Encumbrances will be regulated by the Master Security Agreement.
- 30.3 The Company must give prompt notice to the Authority of any Lease that the Company proposes to enter into for, or for the financing of:
- (a) any Casino Asset necessary for or incidental to the operation of the Melbourne Casino; or
  - (b) any Casino Asset whatever having a value, either separately or when aggregated with the value of other Casino Assets or equipment leased from the same lessor or related bodies corporate of that lessor, exceeding \$1,000,000;

and before entering into that Lease (or if it has already entered into such Lease, then on request by the Authority) the Company must procure that the lessor of any such equipment or Casino Asset enters into a supplemental agreement with the Authority regulating access to and entitlement to that equipment or asset on terms satisfactory to the Authority.

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## PART 7 - TERMINATION

## 31. TERMINATION OF THIS DOCUMENT

- 31.1 This document will automatically terminate:
- (a) without notice to the Company if the Casino Licence is:
    - (i) surrendered; or
    - (ii) cancelled; or
  - (b) when the Casino Licence expires due to the effluxion of time.

<sup>57</sup> Amended by clause 3.6 of the Master Security Agreement dated 30 July 1997

<sup>58</sup> Amended by clause 3.6 of the Master Security Agreement dated 30 July 1997

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## COMMERCIAL IN CONFIDENCE

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Such termination does not affect the ability of either party to enforce a right which may have accrued to it under this document prior to such termination.

- 31.2 Subject to the Master Security Agreement, it shall be a contravention of a condition of the Casino Licence enabling the Authority to serve a notice on the Company pursuant to section 20(2) of the *Casino Control Act* if any of the following events occurs:
- (a) the Company commits a breach of any provision of this document (other than clauses 32.1 and 32.2), and the Authority has given a notice ('Notice') to the Company detailing the particulars of the breach unless:
    - (i) if the breach is capable of remedy:
      - (A) it is remedied within the cure period allowed in the Notice which shall not be less than 60 days to the reasonable satisfaction of the Authority; or
      - (B) the Company:
        - (i) is diligently pursuing a course of action which could reasonably be expected to remedy the breach in a period of time reasonably acceptable to the Authority; and
        - (ii) is making satisfactory progress with such course of action; or
    - (ii) if the breach to which the Notice refers is not capable of remedy:
      - (A) the Company is complying to the reasonable satisfaction of the Authority with any reasonable requirements of the Authority in relation to the breach or is attending to the reasonable redress of the prejudice arising from the breach, default or event in the manner specified in the Notice; or
      - (B) the payment of damages constitutes in the reasonable opinion of the Authority, as the case may be, proper redress and the required amount of damages is paid within 15 Business Days of the date for payment as specified in the Notice;

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## COMMERCIAL IN CONFIDENCE

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- (aa) an Event of Default (as described in the Deed of Undertaking and Guarantee) occurs under the Deed of Undertaking and Guarantee;<sup>59</sup>
- (b) any of the following occurs and the Company does not within 10 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:
  - (i) a provisional liquidator or administrator is appointed to the Company;
  - (ii) a Receiver is appointed to any of the Casino Assets;
  - (iii) any Encumbrance becomes enforceable and the holder of the Encumbrance takes possession of any of the Casino Assets; or
  - (iv) a judgment is obtained against the Company and execution or other process of any Court or other authority is issued against or is levied or enforced upon any of the Casino Assets;
- (c) a liquidator is appointed to the Company;
- (d) prior to Completion, the Financiers terminate their obligations under the Facility Agreement, or otherwise permanently refuse to permit any further drawings under the Facility Agreement or the facilities provided or available under the Facility Agreement, and the Company does not within 20 Business Days of the occurrence of the event establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents;
- (e) a Notice of Intention pursuant to the Supplemental Development Agreement is given by the Developer under that agreement and is not withdrawn within 10 Business Days;
- (f) a Notice of Intention pursuant to the Contractor's Deed is given by the Contractor under that deed and is not withdrawn within 10 Business Days;
- (g) except with the prior consent in writing of the Authority the members resolve to wind up the Company;
- (h) the Site Lease is terminated or surrendered;

<sup>59</sup> Amended by the Eight Variation Agreement to the Casino Agreement effective 30 June 1999

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COMMERCIAL IN CONFIDENCE

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31.3 The Authority may in its absolute discretion extend any time period referred to in clause 31.2.

31.4 Nothing in clause 31.2 shall prevent the Authority from issuing a notice under section 20(2) of the *Casino Control Act* in order to issue a letter of censure or to impose a fine in accordance with the provisions of the *Casino Control Act*.

31.5 Subject to clause 26 of the Management Agreement, on termination of this document:

- (a) except as otherwise provided by this document all rights of the Company to, in or under this document will cease but without prejudice to the liability of any party in respect of any antecedent breach or default under this document or in respect of any indemnity or other payment obligation under this document;
- (b) all moneys owing or remaining unpaid (and whether actually or contingently) to the Authority will (to the extent not then due) become immediately due and payable and the Company must immediately pay all those moneys to the Authority; and
- (c) except as otherwise provided in this document, neither the Company nor any Sponsor or any other person will have any claim against the Authority with respect to any matter or thing in or arising out of this document and in particular, but without limiting the generality of the preceding paragraphs, the Company will have no claim to the repayment of all or any part of the Licensing Payment Amounts.

31.6 Without limiting the Authority's or the State's rights under the Fixed and Floating Charge or otherwise, in the event of the termination of this document neither the Company nor any other person is permitted (without the prior approval in writing of the Authority) to remove from the Casino Complex or the Site any gaming equipment, equipment, furniture or fittings necessary for or incidental to the operation of the Melbourne Casino or the Temporary Casino, as the case may be, and the Authority is and will be entitled for so long as it deems fit to use all that gaming equipment, equipment, furniture and fittings for the purpose of operating the Melbourne Casino,

**Deleted:** prior to Completion of the Melbourne Casino any one of the Temporary Casino Leases is terminated (other than by effluxion of time) or surrendered;

**Deleted:** prior to the subscription by the Founding Shareholders for all the Shares for which they have agreed to subscribe under the Founding Shareholders Agreement, any of the following occurs and the Company does not within 10 Business Days after the Authority has given notice to the Company remedy the event or redress the prejudice arising from the event or establish to the reasonable satisfaction of the Authority that despite the occurrence of the event the Company will be able to perform its obligations under the Transaction Documents:¶ (i) a Founding Shareholder fails to comply with any obligation to subscribe for Shares in accordance with the provisions of the Founding Shareholders Agreement;¶ (ii) a Receiver, provisional liquidator, liquidator or administrator is appointed to a Sponsor; or¶ (iii) except with the prior consent in writing of the Authority the members resolve to wind up a Sponsor; or

**Deleted:** Shares having an aggregate subscription amount of \$210,000,000 have not been subscribed for by the Licensing Date by persons other than the Founding Shareholders and within 10 Business Days of the Licensing Date the Company has not established to the reasonable satisfaction of the Authority that the Com... [53]

**Deleted:** or the Temporary Casino Complex or the Temporary Casino Site

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## COMMERCIAL IN CONFIDENCE

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- 31.7 The Company irrevocably appoints the Authority and each of its officers and any manager appointed by the Authority under the *Casino Control Act* jointly and severally to be its attorney and in its name and on its behalf to exercise, sign and do all assurances, deeds, instruments, agreements, acts and things which in the opinion of the Authority or such officer, manager are necessary or expedient to give effect to any right, power or remedy conferred under or in relation to any Transaction Document or the *Casino Control Act* or are necessary or expedient that the Company do.
- 31.8 The power of attorney granted under clause 31.7 survives termination of this document but may only be exercised if an event specified in clause 31.2 has occurred and has not been remedied or waived.

## PART 8 - COMPLEMENTARY AGREEMENTS

## 32. COMPLEMENTARY AGREEMENTS

- 32.1 The Company undertakes that it will not, without the prior written consent of the Authority:
- (a) give or recognise any waiver under a Complementary Agreement;
  - (b) amend, supplement or otherwise modify a Complementary Agreement;
  - (c) assign (whether absolutely or by way of security), novate or otherwise transfer its rights or obligations under a Complementary Agreement;
  - (d) give or permit to be created any Encumbrance over its rights under a Complementary Agreement;
  - (e) terminate a Complementary Agreement; or
  - (f) agree to do any of the above,

where to do so would have a material and adverse effect on the Company's ability to operate the Melbourne Casino in accordance with this document.

- 32.2 The Company must comply with all of its obligations under the Complementary Agreements and must use its best endeavours to ensure that the other parties to the Complementary Agreements (other than the State and the Authority) comply with their respective obligations, where a failure to do so in either case would have a material and adverse effect on the ability of the Company to operate the Melbourne Casino in accordance with this document.

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## COMMERCIAL IN CONFIDENCE

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32.3 The Company must comply with all of the obligations under the Company's memorandum and articles of association which are relevant or relate to the provisions in clause 22.

32.4 <sup>60</sup>

32.5 <sup>61</sup>

32.6 Any agreement entered into by the Company pursuant to clause 32.4 shall be a Complementary Agreement for the purposes of this document.<sup>62</sup>

32.7 The parties acknowledge that the underwriting agreement dated 23 August 1993 (being one of the agreements referred to in the definition of the Underwriting Agreement in clause 2) shall not be a Complementary Agreement for the purposes of this document.<sup>63</sup>

32.8 The obligations of the Company under clause 32.4 do not derogate from the obligations of the Company under clause 22.1(m) of this document.<sup>64</sup>

**Deleted:** The Company undertakes to the Authority that by 31 March 1994 the Company will obtain an enforceable commitment upon terms and from persons approved in advance by the Authority that such persons shall provide to the Company not less than \$50,000,000, whether by way of capital subscription or financial accommodation. Such funds shall be in addition to all funds committed to the Company as of the Licensing Date (whether debt or equity).

**Deleted:** The approval of the Authority under clause 32.4 shall not be unreasonably withheld.

## PART 9 - GENERAL

## 33. COMPANY RELIES ON OWN JUDGMENT

33.1 Save where a statement, representation or warranty is given in its favour, under this document or any Transaction Document, the Company acknowledges that it is entering into this document in reliance on its own judgment and following review of the Site and the Temporary Casino Site and the business opportunity provided by, among other things, the Casino Licence, and not in reliance on any conduct of or

<sup>60</sup> Amended by clause 2.1(c) of the Variation Agreement to the Casino Agreement dated 19 November 1993

<sup>61</sup> Amended by clause 2.1(c) of the Variation Agreement to the Casino Agreement dated 19 November 1993

<sup>62</sup> Amended by clause 2.1(c) of the Variation Agreement to the Casino Agreement dated 19 November 1993

<sup>63</sup> Amended by clause 2.1(c) of the Variation Agreement to the Casino Agreement dated 19 November 1993

<sup>64</sup> Amended by clause 2.1(c) of the Variation Agreement to the Casino Agreement dated 19 November 1993

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COMMERCIAL IN CONFIDENCE

statements, warranties or representations made to the Company or to any other person by or on behalf of the Authority or any of its servants, agents or consultants.

33.2 Save for any statement, representation or warranty made in the Company's favour under this document or any Transaction Document, the Company acknowledges and agrees that no action lies against the Authority or any of its servants, agents or consultants and that no compensation of any kind is payable to the Company in relation to anything done or purported to be done or not done for the purposes of the establishment or operation of the Temporary Casino, Temporary Casino Complex, Melbourne Casino or Melbourne Casino Complex prior to the execution of this document.

33.3 Without limiting the generality of clause 33.2, the Company agrees not to take action or make any claim for compensation, damages, costs or expenses against the Authority or any of its servants, agents or consultants in relation to the condition of the Site or any third party rights in relation to the Site and hereby releases each of those persons from any action or claim whether or not that action or claim is known or foreseeable at the date of this document.

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33.4 Nothing in this clause 33 limits any liability of Golder Associates Pty Ltd to the Company.

34. INDEMNITY

34.1 The Company indemnifies and will keep indemnified the Authority and its servants, agents and consultants in respect of all actions, claims, demands or costs of third parties arising out of or in connection with any work carried out by or on behalf of the Company pursuant to this document or relating to the Company's operations (including but not limited to the operations of the the Melbourne Casino Complex) or arising out of or in connection with the construction, financing, maintenance or use of the Melbourne Casino Complex except expenses of the Authority which are covered by the Casino Supervision and Control Charge.

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34.2 The indemnity in clause 34.1 does not apply to the extent that any actions, claims, demands or costs arise as a result of the negligence or wilful default of the Authority.

35. INSURANCE

35.1 The Company must:

- (a) insure and keep insured all of its Assets and Rights:
  - (i) for the risks and amounts set out in Schedule Five;

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COMMERCIAL IN CONFIDENCE

37.

(ii) with the interests of the State, the Authority and any Mortgagees noted by endorsement on the policy or if the Authority so directs, in the joint names of the Company and the State and the Authority for their respective rights and interests.

(iii)

(b) on request by the Authority, deliver certificates of currency in respect of those insurance policies;

(c) punctually pay all premiums and sums necessary (including stamp duty) for effecting and keeping current every insurance policy and, if requested by the Authority, hand to the Authority a copy of the receipt for any premium or sum paid,

(d)

(e)

35.1 A In the event the Company is unable to comply with clause 35.1(a) due to the prevailing market conditions in the insurance market, the Company must within 14 days advise the Authority and provide the Authority with details of the alternate insurance, if any, obtained by it.

35.2 The Company must not:

(a) do or allow to be done anything which might cause any policy of insurance to be prejudiced or rendered void, voidable or unenforceable;

(b) without the prior consent in writing of the Authority, cause, or take any steps to bring about, the cancellation of, or a material change or reduction in, the cover provided under any insurance policy; or

(c)

(d) make, enforce, settle or compromise a claim or do anything inconsistent with the powers or interests of the Authority.

35.3 Subject to the Master Security Agreement, all proceeds of insurance received by the Company as a result of any claim must be applied by the Company to rectify, remedy or repair the property involved or loss or damage which gave rise to the claim.

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**Deleted:** with underwriters approved by the Authority and, if through an insurance broker, through an insurance broker approved by the Authority;

**Deleted:** immediately deliver the insurance policies referred to in paragraph (a) to the Authority (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient) and, on request, deliver certificates of currency in respect of those insurance policies

**Deleted:** promptly on request.

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**Deleted:** immediately after they are effected, deliver to the Authority all variations, alterations and additions to any existing insurance policies and all additional or substitute insurance policies (unless the Company is unable to do so under the terms of a Permitted Encumbrance which has priority over the Fixed and Floating Charge, in which case copies will be sufficient), a

**Deleted:** immediately after it becomes aware that it has occurred, notify the Authority of any occurrence which gives or might give rise to a claim or right to claim under any insurance policy.

**Deleted:** effect any insurance in respect of the Assets and Rights other than as specified in clause 35.1; or

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## COMMERCIAL IN CONFIDENCE

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35.4 To the extent of any inconsistency with clause 7.9 of the Crown lease dated 19 November 2003 between the Minister for Finance of the State of Victoria and Crown Casino Limited, the provisions of clause 35 of the Agreement will prevail.

### 36. CONFIDENTIALITY

36.1 All documents and information provided by one party to another party under this document, other than the Casino Licence, must be kept confidential and not disclosed to any person without the consent of the other party unless:

- (a) the information is in the public domain;
- (b) disclosure is required by law;
- (c) the disclosure is necessary for the purpose of obtaining any consent, authorisation, approval or licence from any government or public body or authority;
- (d) it is necessary or desirable that the disclosure be made to any taxation or fiscal authority;
- (e) the disclosure is made on a confidential basis to the officers, employees or agents of a party or to the professional advisers of a party for the purposes of obtaining professional advice in relation to any Transaction Document or the enforcement of any Transaction Document or otherwise for the purpose of consulting those professional advisers;
- (f) the disclosure is made by the Company on a confidential basis to any actual or prospective financier or agent of a financier to the Company;
- (g) the disclosure is necessary in relation to any procedure for discovery of documents or any proceedings before any court, tribunal or regulatory body; or
- (h) the disclosure is necessary to obtain listing on the Australian Stock Exchange.

36.2 The obligations in clause 36.1 apply after termination of this document.

### 37. APPROVALS

37.1 The Authority in exercising any right, power, privilege or discretion conferred on it by this document must act having regard to:

- (a) the Authority's objects as set out in Section 140 of the *Casino Control Act*; and

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## COMMERCIAL IN CONFIDENCE

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- (b) the rights, powers, privileges and discretions conferred and the duties and obligations imposed on the Authority under the *Casino Control Act*.

37.2 Unless otherwise stated in this document, if the Company makes a written request for an approval or consent from the Authority under this document and the Authority has not responded in writing within the time specified below from receipt by the Authority of that written request, then the Authority will be taken to have given that approval or consent:

- (a) Clauses 22.1 (c), (f), (i), (j), (k), (l), (m), (p) and (q) - 20 Business Days;
- (b) Clause 29.1 and 29.2 - 10 Business Days;
- (c) Clause 31.6 - 20 Business Days;
- (d) Clauses 32.1 and 32.4<sup>65</sup> - 10 Business Days;
- (e) Clause 35.1(a) - 10 Business Days;
- (f) Clause 36.1 - 10 Business Days;
- (g) Clause 43 - 20 Business Days.

37.3 Nothing in this clause 37 shall fetter the powers, rights or obligations imposed or conferred on the Authority under any Act or regulation.

## 38. DAY OF PAYMENT

If any day for the payment of money under this document falls on a day which is not a Business Day, the payment will be due on the next day which is a Business Day.

## 39. NOTICES

39.1 A notice or approval required or to be given under this document must be:

- (a) in writing;
- (b) delivered by hand or served by prepaid post or facsimile to the recipient at its address or facsimile number appearing in this clause or such other address or facsimile number as the recipient may have notified to the other party:

<sup>65</sup> Amended by clause 2.1(d) of the Variation Agreement to the Casino Agreement dated 19 November 1993

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## COMMERCIAL IN CONFIDENCE

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(i) in the case of the Authority:

Chairman  
 Victorian Casino and Gaming Authority  
Level 5, 35 Spring Street  
 MELBOURNE VIC 3000;  
 Facsimile: (03) 9651 4999

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(ii) in the case of the Company:

Chief Executive Officer  
 Crown Ltd.  
8 Whiteman Street  
Southbank VIC 3006  
 Facsimile: (03) 9292 7257

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39.2 A notice or approval given in accordance with clause 39.1 is taken to be received:

- (a) if hand delivered, on the day of delivery if delivered before 4.00 pm on a Business Day and otherwise on the Business Day next following;
- (b) if sent by prepaid post, 3 days after the date of posting; or
- (c) if sent by facsimile, on the day on which the message confirmation is received if received before 4.00 pm on a Business Day and otherwise on the Business Day next following.

39.3 The provisions of clause 39 are in addition to any other mode of service permitted by law.

#### 40. COSTS AND STAMP DUTY

40.1 Each party must pay its own costs of preparing and executing this document.

40.2 The Company must pay all stamp duty on this document and on any document executed to give effect to this document.

#### 41. NO WAIVER

A failure of a party at any time to require full or part performance of any obligations under this document will not affect in any way the rights of that party to require that performance subsequently.

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## COMMERCIAL IN CONFIDENCE

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**42. GOVERNING LAW**

- 42.1 This document is governed by the laws applying in Victoria.
- 42.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and courts entitled to the appeals from those courts.

**43. ASSIGNMENT**

- 43.1 The Company must not assign or attempt to assign or otherwise deal with this document or any right under this document without the prior written approval of the Authority other than pursuant to a Permitted Encumbrance.
- 43.2 The Authority may assign, transfer or dispose of its rights under this document or any other Transaction Document:
- (a) to the State or to any department or agency of the government of the State or statutory authority or corporation which has taken over the objects and functions of the Authority under the *Casino Control Act*; or
  - (b) with the approval in writing of the Company to any other person, such approval not to be unreasonably withheld;

provided that the assignee enters into an agreement with the Company agreeing to be bound by the provisions of this document and each other Transaction Document to which the Authority is a party.

**44. FURTHER ASSURANCES**

Each party must do or cause to be done anything necessary or desirable to give effect to this document, and will refrain from doing anything which might prevent full effect being given to this document.

**45. COUNTERPARTS**

- 45.1 This document may be executed in any number of counterparts.
- 45.2 All counterparts taken together will be deemed to constitute the one document.

**46. SEVERABILITY**

- 46.1 The parties agree that a construction of this document which results in all provisions being enforceable is to be preferred to a construction which does not so result.

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## COMMERCIAL IN CONFIDENCE

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- 46.2 If, despite the application of clause 46.1, a provision of this document is illegal or unenforceable:
- (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
  - (b) in any other case, the whole provision is severed,
- and the remainder of this document continues to have full force and effect.

46.3 Clause 46.2 does not apply where its application alters the basic nature of this document or is contrary to public policy.

## 47. INTERPRETATION

- 47.1 In this document, unless the context otherwise requires or the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) terms importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
  - (c) a reference to any legislation, statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable, and includes any re-enactment or amendment to that legislation, statutory instrument or regulation;
  - (d) other grammatical forms of defined words or phrases have corresponding meanings;
  - (e) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this document and a reference to this document includes any schedules and annexures;
  - (f) where a party comprises two or more persons the provisions of this document binding that party bind those persons jointly and severally;
  - (g) terms defined in the *Corporations Law* as at the date of this document have the meanings given to them in the *Corporations Law* at that date;
  - (h) 'party' means a party to this document;

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## COMMERCIAL IN CONFIDENCE

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- (i) a reference to a party to this document or any other document or agreement includes its successors and permitted assigns;
- (j) a reference to a document or agreement, including this document, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (k) a reference to '\$A', 'dollar', 'AUD' or '\$' is a reference to Australian currency;
- (l) a reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form; and
- (m) a reference to a specific time for the performance of an obligation is a reference to that time in the State;

- 47.2 In this document headings are for ease of reference only and do not affect the construction of this document.
- 47.3 The Authority is providing the undertaking in clauses 26.2 and 26.3 with the approval of the Minister in accordance with section 14 of the *Casino Control Act*.
- 47.4 The Authority in entering into this document does so on behalf of the State pursuant to the authority granted to the Authority under section 142 of the *Casino Control Act*.
- 47.5 If any ambiguity, inconsistency or conflict exists or arises between this document and the Master Security Agreement, the provisions of the Master Security Agreement take precedence and apply to resolve that ambiguity, inconsistency or conflict.
- 47.6 The Company and the Authority acknowledge that, except as expressly provided for in this document:
- (a) nothing contained in or implied by this document prejudices or affects, or is intended in any way to impose any obligation or restriction on the Authority which conflicts with the obligations and duties of, and restrictions on, the Authority under the Relevant Legislation; and
  - (b) if there is any conflict between the provisions of this document or of any Transaction Document and the provisions of the Relevant Legislation, the provisions of the Relevant Legislation prevail.

## 48. GENERAL OBLIGATIONS

48.1 The Company must:

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## COMMERCIAL IN CONFIDENCE

44.

- (a) maintain its corporate existence;
- (b) comply with all laws applicable to the matters arising under this document from time to time in force including, without limitation, the *Gaming Machine Control Act*, and all mandatory requirements of any Public Authority;
- (c) obtain and renew at the proper times and maintain all Authorisations required:
  - (i) for the Company to perform its obligations under this document;
  - (ii) for the Company to perform its obligations under each Transaction Document; and
  - (iii) to allow this document and each Transaction Document to be enforced against it;
- (d) obtain and renew at the proper times and maintain all licences and other Authorisations required or advisable or relied on for or in connection with the carrying on of the Company's business;
- (e) comply with the terms and conditions of each Lease to which it is a party where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Melbourne Casino;
- (f) comply with its payment obligations under any agreement for the purchase of property where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Melbourne Casino; and
- (g) protect the Casino Assets and at the Company's expense prosecute or defend all legal proceedings that are, or the defence of which is, necessary or advisable for the protection of the Casino Assets to the extent appropriate in accordance with prudent business practice; and
- (h) carry out all work reasonably and properly required by any Public Authority in relation to the Assets and Rights where a failure to do so would have a material adverse effect on the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino.

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48.2 The Company must not, without the prior consent in writing of the State:

- (a) Deal with or Dispose of any of the Casino Assets other than by way of maintenance, repair or replacement;

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COMMERCIAL IN CONFIDENCE

45.

- (b) Deal with or Dispose of any of the Casino Assets other than in the ordinary course of the Company's business;
  - (c) execute, create or permit to subsist any Encumbrance over or affecting the Casino Assets other than a Permitted Encumbrance;
  - (d) pull down, alter, extend or remove any building, improvement or fixture forming part of the Casino Assets where to do so would materially adversely affect the Casino Assets or the operation of the Melbourne Casino or the Temporary Casino;
  - (e) take on or under a Lease, or acquire for consideration, any Casino Asset other than in the ordinary course of the Company's business;
  - (f) declare or pay a dividend if a demand has been properly made on the Company under this document or any Transaction Document and has not been satisfied in full; or
  - (g) do anything or allow anything to be done in derogation of the rights of the Authority or any other party under any Transaction Document;
- except to the extent permitted by clause 29.

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*this would  
be a thing  
such as  
Secured hotel etc*

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## COMMERCIAL IN CONFIDENCE

46.

SCHEDULE ONE  
CASINO CONTROL ACT 1991 (VIC)  
CASINO LICENCE

VICTORIAN CASINO CONTROL AUTHORITY ('Authority') under Part 2 of the *Casino Control Act 1991 (Vic)* ('*Casino Control Act*') grants to CROWN CASINO LTD ACN 006 973 262 with its registered office at Hudson Conway House, 311 Glenferrie Road, Malvern, Victoria ('Company') the right to conduct and play games and use gaming equipment in the Casino subject to the provisions of the *Casino Control Act* and the conditions set out in this licence.

CONDITIONS

1. **Commencement**

This licence comes into force on *19 November 1993*.

2. **Duration**

This licence ceases to have effect on *18 November 2033*, unless sooner cancelled or surrendered under the *Casino Control Act*.

3. **Location and Boundaries - Temporary Casino**

- 3.1 The Temporary Casino must be located within the Temporary Casino Complex.
- 3.2 The boundaries of the Temporary Casino will be the boundaries of the Temporary Casino Complex or such other boundaries approved by the Authority.

4. **Location and Boundaries - Melbourne Casino**

- 4.1 The Melbourne Casino must be located within the Site.
- 4.2 The boundaries of the Melbourne Casino will be the same as the boundaries of the Site for the period from the grant of this licence until the earlier of:
- (a) the repeal of paragraph (b) of the definition of Melbourne Casino site in section 128A(1) of the *Casino Control Act*; and
  - (b) Completion of the Melbourne Casino Complex.
- 4.3 The boundaries of the Melbourne Casino following the first to occur of either of the events referred to in paragraphs (a) and (b) of clause 4.2 will be:

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**COMMERCIAL IN CONFIDENCE**

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(a) the boundaries of the shaded areas in drawing Nos. SK105 and SK106 dated 17.11.93 and entitled Casino Gaming Areas RL 2.4 and RL 5.7 respectively as prepared by Bates Smart McCutcheon, Perrott Lyon Mathieson and Daryl Jackson Pty Ltd and attached to this licence; or

(b) such other boundaries approved by the Authority.

**5. Conducting Temporary Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Temporary Casino or open the Temporary Casino to the public for business or otherwise:

(a) until the Temporary Casino has been Completed in accordance with the provisions of the Management Agreement; nor

(b) after the Melbourne Casino is opened to the public.

**6. Conducting Melbourne Casino**

The Company must not conduct or play or authorise the conduct or playing of a game or the use of any gaming equipment in the Melbourne Casino or open the Melbourne Casino to the public for business or otherwise until the Melbourne Casino has been completed in accordance with the provisions of the Management Agreement.

**7. Gaming Equipment - Temporary Casino**

The Temporary Casino:

(a) must have not more than 200 gaming tables in operation while the Temporary Casino is open for business; and

(b) must have not more than 1300 gaming machines in operation while the Temporary Casino is open for business.

**8. Gaming Equipment - Melbourne Casino**

The Melbourne Casino:

(a) must have not less than 150 gaming tables and not more than 350 gaming tables in operation while the Melbourne Casino is open for business; and

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## COMMERCIAL IN CONFIDENCE

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- (b) must have not more than 2,500 gaming machines in operation while the Melbourne Casino is open for business.

## 9. Mortgage etc of Casino Licence

The Company must not:

- (a) mortgage, charge or otherwise encumber this licence; or
- (b) transfer, assign or otherwise deal with this licence,

except in accordance with the terms and conditions of the Casino Agreement and the Master Security Agreement.

## 10. Amendment of Licence Conditions

Notwithstanding sections 16 and 17 of the *Casino Control Act*, the Authority will not amend the conditions of this licence without the prior written approval of the Company except as disciplinary action under section 20 of the *Casino Control Act*.

## 11. Breach of Licence

Clause 31.2 of the Casino Agreement and clause 25.2 of the Management Agreement set out events the occurrence of which constitute a contravention of this licence and which, subject to those clauses and the Master Security Agreement, enable the Authority to cancel, suspend or vary the terms of this licence pursuant to section 20 of the *Casino Control Act*.

## 12. Definitions and Interpretation

- 12.1 In these conditions, unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act* have the same meanings and the following terms have the meanings indicated if they start with a capital letter:

'Ancillary Facilities' means all facilities ancillary to the Temporary Casino or the Melbourne Casino (as the case may be) identified in the Temporary Casino Complex Development Proposals or the Melbourne Casino Complex Development Proposals (as the case may be) to be constructed on or located within the Temporary Casino Site or the Site, including a hotel, restaurant, retail, recreation, entertainment and car parking facilities, residential and office accommodation, staff facilities, staff car parking, coach storage facilities and open space areas;

'Casino' means either the Temporary Casino or the Melbourne Casino, as the case may be;

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## COMMERCIAL IN CONFIDENCE

49.

'Casino Agreement' means the agreement dated 21 September 1993 between the Authority and the Company;

'Completed' has the same meaning as in the Management Agreement;

'Drawings' means the plans, designs and working drawings relating to the Temporary Casino Complex or the Melbourne Casino Complex (as the case may be) provided by the Company to the Authority and described in Schedule Two of the Management Agreement;

'Management Agreement' means the agreement dated 20 September 1993 between the Minister, acting for and on behalf of the State, and the Company pursuant to section 15 of the *Casino Control Act*;

'Master Security Agreement' means the agreement dated 21 September 1993 between the State, the Authority, the Company, National Australia Bank Limited as agent for the financiers to the Company and the Sponsors;

'Melbourne Casino' means those areas within the boundaries described in clauses 4.2 or 4.3 (as the case may be) and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Melbourne Casino Complex' means the Melbourne Casino and Ancillary Facilities to be constructed on or located within the Site in accordance with the provisions of the Management Agreement and Casino Agreement;

'Melbourne Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Melbourne Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification;

'Minister' means the Minister for the time being administering the *Casino Control Act*;

'Second Deed of Variation to the Management Agreement' means the second agreement to be entered into between the Minister on behalf of the State and the Company which varies the Management Agreement in a manner mutually agreed upon by those parties.

'Site' means the land described in plan numbered C.P. 112471A lodged in the Central Plan Office, Survey and Mapping, Victoria, being a plan of survey signed by the Surveyor-General;

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## COMMERCIAL IN CONFIDENCE

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'State' means the State of Victoria;

'Temporary Casino' means those areas within the boundaries described in clause 3.2 and includes the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on;

'Temporary Casino Complex' means the Temporary Casino and Ancillary Facilities to be constructed on or located within the Temporary Casino Site in accordance with the provisions of the Management Agreement and the Casino Agreement;

'Temporary Casino Complex Development Proposals' means the proposals of the Company in relation to the construction, development and establishment of the Temporary Casino Complex a copy of which has been signed on behalf of the Authority and the Company for the purposes of identification; and

'Temporary Casino Site' has the same meaning as in the Management Agreement.

12.2 In this licence, unless the context otherwise requires or the contrary intention appears:

- (a) a reference in this licence to a party to an agreement or document includes the party's successors and permitted substitutes or assigns;
- (b) a reference in this licence to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time; and
- (c) a reference in this licence to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

DATED 19 November 1993

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COMMERCIAL IN CONFIDENCE

51.

THE COMMON SEAL of )  
VICTORIAN CASINO CONTROL )  
AUTHORITY was affixed in )  
accordance with the direction of the )  
Members pursuant to a resolution )  
dated 1993. )

.....  
Chairman

.....  
Chief Executive Officer



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## COMMERCIAL IN CONFIDENCE

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SCHEDULE TWO  
COMPLEMENTARY AGREEMENTS

- the Founding Shareholders' Agreement;
- the Development Agreement;
- the Construction Agreement;
- the Finance Documents;
- the Operations Agreement;
- the Underwriting Agreement;
- the Guarantee and Indemnity for Development Agreement;
- the Note Agreement;<sup>66</sup>
- the Trust Deed<sup>67</sup>;
- the Note Agreement (Series 2); and<sup>68</sup>
- the Trust Deed (Series 2)<sup>69</sup>.

<sup>66</sup> Amended by clause 2(b) of the Fourth Variation Agreement to the Casino Agreement dated 7 March 1995

<sup>67</sup> Amended by clause 2(b) of the Fourth Variation Agreement to the Casino Agreement dated 7 March 1995

<sup>68</sup> Amended by clause 2.1(i) of the Sixth Variation Agreement to the Casino Agreement dated 8 May 1997

<sup>69</sup> Amended by clause 2.1(i) of the Sixth Variation Agreement to the Casino Agreement dated 8 May 1997

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## COMMERCIAL IN CONFIDENCE

53.

## SCHEDULE THREE

## WARRANTIES OF THE COMPANY

1. The Company has been duly incorporated and is validly existing under the laws of its jurisdiction of incorporation, with full power and authority to enter into this document and perform its obligations under this document.
2. This document has been duly authorised, executed and delivered by the Company and constitutes (except to the extent limited by equitable principles, laws relating to penalties and laws affecting creditors' rights generally) a legal, valid and binding obligation of the Company enforceable against it in accordance with its terms, and no other proceedings on the part of the Company are necessary to authorise this document and the completion of the transactions contemplated under this document.
3. The execution and delivery by the Company of this document and the performance by the Company of its obligations under this document in accordance with its terms do not:
  - (a) conflict with the constitution or by-laws of the Company;
  - (b) constitute a violation of or default under any agreements or arrangements to which the Company is a party;
  - (c) except as provided in this document, cause the creation of any Encumbrance upon any of the property of the Company; or
  - (d) contravene any law.
4. A Receiver has not been appointed to the whole or any part of the assets or undertaking of the Company or any Related Party and no such appointment has been threatened or is envisaged by the Company.
5. Neither the Company nor any Related Party is in liquidation or administration and no order, petition, application, proceedings, meeting or resolution has been made, presented, brought, called or passed for the purposes of liquidating the Company or any Related Party or placing the Company or any Related Party under or in administration.
6. Neither the Company nor any Related Party is insolvent within the meaning of section 95A of the *Corporations Law* or otherwise and there is no unfulfilled or

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## COMMERCIAL IN CONFIDENCE

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unsatisfied judgment or court order outstanding against the Company or any Related Party.

7. As at 16 August, 1993 the unaudited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date and as at the Licensing Date the audited accounts of the Company for the period to 30 June 1993 have been prepared in accordance with Australian Accounting Standards to give a true and fair view of the state of affairs of the Company as at that date.
8. All information provided in writing by or on behalf of the Company to the Authority was when given in all material respects true and accurate and not misleading by omission.
9. As at the Licensing Date, the Company will have an issued capital of at least \$350,000,000 comprising 350,000,000 fully paid Shares issued as follows:
- |                                    |                    |
|------------------------------------|--------------------|
| Sponsors and Founding Shareholders | 140,000,000        |
| Institutional Equity               | <u>210,000,000</u> |
|                                    | 350,000,000        |
10. Hudson Conway Limited ACN 009 556 629 and CUB have given notice to the Treasurer of their proposed interest in the Company in accordance with the provisions of the *Foreign Acquisitions and Takeovers Act 1975 (C'th)* and the Treasurer has informed them that there are no objections to Hudson Conway Limited and CUB acquiring a substantial shareholding in the Company.

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SCHEDULE FOUR  
QUARTERLY REPORT TO AUTHORITY

The quarterly report to the Authority will consist of the following items:

- profit and loss account and cashflow statements comparing budget against actual for the year to date
- balance sheet at the last days of March, September and December
- budgeted profit and loss and cashflow statements to end of current financial year.

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SCHEDULE FIVE  
INSURANCES



6. Motor Vehicle Compulsory Third Party (Personal Injury) – as provided by the Act

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EXECUTED as an agreement.

THE COMMON SEAL of VICTORIAN CASINO CONTROL AUTHORITY is affixed in accordance with the directions of the Members pursuant to a resolution dated 5 September 1993

Common Seal

D Richards (signed)

P J Connolly (signed)

Chairman

Chief Executive Officer

THE COMMON SEAL of CROWN CASINO LTD is affixed in accordance with its articles of association in the presence of:

Common Seal

Peter Jonson (signed)

B J Hamilton (signed)

Signature of Director

Signature of Director

PETER JONSON

BARRY J HAMILTON

Name of Director (please print)

Name of Director (please print)

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## COMMERCIAL IN CONFIDENCE

58.

## SCHEDULE

(Attached to Seventh Variation Agreement to the Casino Agreement)

SOLVENCY REPORT<sup>70</sup>

To: Victorian Casino and Gaming Authority

## Purpose of report

This report is prepared for the purposes of clause 22.9 of the Casino Agreement between Crown Limited and the Victorian Casino and Gaming Authority, Crown Limited being required by clause 22.9 of that agreement to procure this report on account of it being in breach of clause 22.1(m) of the agreement. We have a copy of the Casino Agreement and are aware of its contents.

## Calculation date

The calculation date for the preparation of this report is *[relevant calculation date]*, on which date the debt/equity ratio for the purposes of clause 22.1(m) of the Casino Agreement was *[state ratio]*%.

*[If the report is to be submitted later than the 20<sup>th</sup> day after the relevant calculation date, here insert an explanation for the delay and whether the party giving the report confirms the stated ratio as at the calculation date.]*

## Scope

*[Here state the scope of the report, including any relevant Australian Auditing Standards relied upon, any disclaimers, etc. Also state whether or not the party giving the report is the external auditor of Crown Limited.]*

1. We obtained *[audited unaudited accounts etc]* for *[period]* and performed the procedures *[detail procedures or incorporate by reference]*.
2. We assessed the solvency of Crown Limited by *[state what was done]*.

<sup>70</sup> (Approved by the Authority - clause 3 of the Seventh Variation Agreement to the Casino Agreement dated 2 July 1998)

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## COMMERCIAL IN CONFIDENCE

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3. *[Here state what was looked for.]*
4. *[Here state to what extent (if any) the accounts have been audited and whether an audit has been performed on the solvency of Crown.]*

**Findings**

We report that *[for each thing done under paragraph 2 of the Scope, state whether there was improvement or deterioration etc].*

**Opinion**

For the purposes of this report, within its scope and pursuant to its findings, we *[confirm or are unable to confirm]* that nothing has come to our attention that causes us to believe that Crown Limited is not or will not be able to meet its debts as and when they fall due in the period of 12 months from the calculation date. We therefore confirm that there *[is/ is not]* a reasonable basis for believing that Crown Limited will meet its debts as and when they fall due in that 12 month period.

*[Signed]*  
Chartered Accountants  
*[Date]*

**NOTE ON DISCLAIMERS**

The only disclaimer which is not acceptable is one which seeks to fetter the Authority in the way it deals with the report (such as one which states that the report is not to be distributed to any other party).

However, the context in which the report is provided is one of a regulator seeking to be satisfied with the financial position of a regulated entity. The more highly qualified or heavily disclaimed the report is, the less assistance it will provide to that end.

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**Bill Balgowan**

08/04/04 10:38 AM

To: Rowan Harris/OGR@Ogr  
 cc: Sylvia Grobtuch/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Cate Carr/OGR@Ogr, Lyn Corneliusen/OGR@Ogr  
 Subject: Report from Paul Fallon

Rowan

Yesterday I had a call from Paul Fallon regarding his draft report and late in the day I received an e-copy of the whole report excluding Appendix I, which related to the "System & Product Overview" of the Lincoln Indicators (16 pages).

This morning two copies of the draft report were received. One was addressed to the Acting Director. I have asked Terri to get the IT Branch to register the letter/document and to then give it to Peter. I have the second hard copy that was delivered this morning.

At your earliest convenience, would you please collect the second copy from me and review it for us? I would like your comments on the draft report and in particular, your views on whether parts of the report, or the whole report, should be given to Maddocks. Paul and Chris still have about one day each left to do work on this project and I would appreciate your views on how we could best use this time. My initial expectation is that this time could be best used by asking Paul and Chris to make a presentation on their report to a joint meeting of the OGR and Maddocks. This would minimise the time that OGR staff and our external lawyers would need to spend on studying the PIC report. They could also clarify directly any questions that Peter, Sylvia, you, I or our lawyers have. In accordance with our contract with PIC, they are only obliged to provide this additional advice to us until 16 April 2004.

I printed off a copy from the e-mail attachments yesterday, which I am currently reading. I have taken a copy of Attachment I, which arrived this morning, so that I also now have a complete copy of the draft.

Thanks

Bill

ps:

Late yesterday, I spoke with Sylvia regarding the draft response that Rowena prepared to Maddock's regarding their advice. It was agreed that:

- Sylvia and I would meet on Tuesday to continue our discussion on Maddock's advice.
- Sylvia would arrange a meeting with Rowena and myself on next Wednesday 14 April to discuss the matter.
- Lyn and Cate will be invited to attend this meeting if they are available.
- Sylvia would invite Peter Cohen to attend this meeting or a subsequent meeting with Maddocks.
- Sylvia would then speak to Warwick Isherwood about attending the proposed meeting with Rowena at the OGR offices on Wednesday or less preferably, a subsequent meeting.



**Bill Balgowan**

14/04/04 10:21 AM

To: "Warwick Isherwood" <[REDACTED]>  
cc: Peter Cohen/OGR@Ogr, Sylvia Grobtuch/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Lyn Corneliusen/OGR@Ogr, Cate Carr/OGR@Ogr, Rowan Harris/OGR@Ogr  
Subject: Meeting today with Paul Fallon and Chris Morcher 

Warwick

Further to our telephone discussions yesterday, in preparation for our meeting at 2.45 pm this afternoon with Paul Fallon and Christopher Morcher, attached are the following two documents for your information:

- Covering letter from Probity Investigation Consultants Pty Ltd (PIC)/Paul Fallon dated 7 April 2004



PicLetter070404

- An executive summary of the draft PIC report, (53 pages) which has been prepared for me by Rowan Harris



Exec\_Summary\_RH14040

Regards

Bill Balgowan  
Manager Casino Commercial Projects  
Legal and Legislation Branch  
Office of Gambling Regulation  
Level 5, 35 Spring Street  
Melbourne Vic 3000  
Tel: 03 9651 3488  
Mobile: [REDACTED]  
Email: [REDACTED]

**PROBITY INVESTIGATION CONSULTANTS PTY LTD**

ABN 65 010 925 747

PO BOX 831  
GLEN WAVERLEY VIC. 3150  
EMAIL: [REDACTED]

TEL: (03) 9545 3499  
FAX: (03) 9545 3579  
MOB: [REDACTED]

7 April 2004

Mr Peter Cohen, Acting Director of Gaming and Betting  
Office of Gambling Regulation  
Department of Justice  
Level 5, 35 Spring Street  
MELBOURNE VIC. 3000

THIS DOCUMENT HAS BEEN EMAILED TO BILL BALGOWAN EARLIER TODAY

Dear Mr Cohen

**RE: PBL CROWN GROUP FINANCIAL PROBITY AND REGULATORY ADVICE**

We refer to our contract dated 17 March 2004 to deliver the above services to the Victorian Casino and Gambling Authority (Authority).

Please find attached our draft report dated today which addresses seven of the eight service areas that this firm agreed to supply in our proposal dated 11 March 2004. The only area not addressed to date is Service 8., where this firm has not supplied any other services to the Director.

Our report is designed to provide independent commercial and financial advice in relation to certain statutory obligations of the Authority. Although it is a draft document, we would not expect any major changes to it, apart from the need to correct any factual errors or formatting issues. We also note that this report has been submitted on a "Commercial in Confidence" basis and should not be released to any other party (outside the OGR and Authority) without the express permission of this firm.

We propose invoicing for our services on 16 April 2004, after finalisation of this draft document and provision of any other services that may be required.

We thank you for your instructions and look forward to finalising this assignment in the near term.

Yours sincerely

[REDACTED]

Paul J. Fallon CPA  
**PRINCIPAL**  
OGRCL704



**Rowena Scheffer**

05/04/04 05:43 PM

To: Sylvia Grobtuch/OGR@OGR, Bill Balgowan/OGR@Ogr, Cate Carr/OGR@Ogr, Lyn Corneliusen/OGR@Ogr  
cc:  
Subject: Casino Agreement Review

Dear all,

attached is the draft response to Maddocks and their first draft of the Ninth Deed of Variation - with all the comments we discussed at our meeting last Friday.

As I am not in until Wednesday 16th, perhaps one of you would like to send the letter.  
Happy Easter.

Rowena.



Let-Maddocks 2Apr0

































































**Sylvia Grobtuch**  
26/03/04 12:15 PM

To: Cate Carr/OGR@Ogr, Lyn Corneliusen/OGR@Ogr  
cc:  
Subject: Amendments to the Casino Agreement \*\* Virus Checked by OGR  
IT\*\*

For discussion at our meeting next Wednesday.

Thanks

Sylvia

----- Forwarded by Sylvia Grobtuch/OGR on 26-03-04 12:13 PM -----



**"Warwick  
Isherwood"**

24-03-04 10:21 AM

To: <[REDACTED]>, <[REDACTED]>  
cc:  
Subject: Amendments to the Casino Agreement \*\* Virus Checked by OGR  
IT\*\*

Dear Sylvia, Bill and Rowena

I attach for your consideration:

1. covering email letter (M0253423);
2. preliminary draft of Ninth Variation Agreement (M0251330); and
3. mock conformed copy of the Casino Agreement (M0251328).

As we have discussed, please consider this document as an internal working draft to be considered by the Authority itself. It should not, in my view, be released to any external third parties at this stage.

Undoubtedly there needs to be a meeting between yourselves and ourselves to discuss the matter further and to address a number of issues (drafting and otherwise) which have been revealed when drafting the document.

Regards

Warwick

-----  
Maddocks

Melbourne - Tel: (61 3) 9288 0555 Fax: (61 3) 9288 0666  
Sydney - Tel: (61 2) 8223 4100 Fax: (61 2) 9221 0872  
Web: <http://www.maddocks.com.au>

-----  
The information in this electronic mail is privileged and confidential, intended only for use of the individual or entity named. If you are not the intended recipient, any dissemination, copying or use of the information is strictly prohibited. If you have received this transmission in error please delete it immediately from your system and inform us by email on [info@maddocks.com.au](mailto:info@maddocks.com.au).  
-----

 Email S Grobtuch, B Balgowan  R Scheffer 24.3.04 (M)

 9th Variation to the Casino Agreement (24 Mar 04) (



Conformed Casino Agreement (incl 9th Variation) 24 Mar 0





**Bill Balgowan**

26/03/04 02:21 PM

To: Sylvia Grobtuch/OGR@Ogr  
 cc: Rowena Scheffer/OGR@Ogr, Lyn Corneliusen/OGR@Ogr, Cate Carr/OGR@Ogr  
 Subject: Discussion with Mike Sugrue on Thursday 25 March 2004

Sylvia

Mike called me yesterday to:

(a) Confirm that we had received (?seen?) the letter dated 22 March 2004 that Rowen Craigie had e-mailed to Peter Cohen (on 23 March).

I said that I had seen the letter and noted that Crown would not be submitting any draft clauses to us until early next month

Mike replied that Crown was planning to get get the draft clauses to us next week or the following week.

(b) Let us know that the matter of the Sale and Leaseback of the Crown Promenade Hotel was progressing slowly.

He said that the other party was very slow in executing a Confidentiality Agreement, which has now been done.

The other party is now conducting due diligence investigations.

The matter is hastening slowly! The due diligence could be completed in a week, but they were unsure how long it would actually take.

(c) Mike then inquired how we were progressing with our drafting of the proposed new clauses (which appeared to be the main purpose of the call ! ).

I said that our external lawyers were working on the draft Ninth Deed of Variation.

He said that Crown were making their proposed changes to an electronic copy of the conformed Casino Agreement!

The proposed changes were being high-lighted.

He asked whether they should wait until they received our draft new clauses, so that they could incorporate them in their e-copy of the conformed Casino Agreement!

I explained that this was not necessary. They should get their draft new clauses to us as soon as possible just as we are planning to get our new draft clauses to Crown as soon as possible. I noted that it was agreed at the meeting on 23 February, that we would each prepare drafts of the various new clauses and forward these to the other party and that we would then meet shortly afterwards to discuss the respective proposed new draft clauses.

Mike then asked whether we would like an e-copy of their conformed Casino Agreement at this stage.

Again I explained that this was not necessary, as our lawyers were already working on our own version of the conformed Casino Agreement.

I concluded by saying that we were keen to receive Crown's drafts of the proposed new clauses ASAP.

Bill

ps: I agree that we should meet ASAP to discuss the draft documents forwarded by Maddocks on 24 March. I also believe that we should then meet with Maddocks ASAP to progress the various drafts so that we have something to give to the Sub-committee and Crown.

*cden. 2001/1223/0004*



**FAXED**  
22/3/04

ROWEN CRAIGIE  
Chief Executive Officer

Telephone [redacted]  
Facsimile [redacted]

22 March 2004

*Mr 25/3/04*  
Mr Peter Cohen  
Acting Director of Gaming & Betting  
Acting Director of Casino Surveillance  
Office of Gambling Regulation  
Level 5, 35 Spring Street  
Melbourne Vic 3000



Dear Mr Cohen

**Proposed Amendments to the Casino Agreement**

I refer to our meeting of 23 February 2004 in relation to a number of proposed changes to the Casino Agreement.

**Clauses to be drafted by Crown**

We are progressing with the redraft of the Casino Agreement which will include the following amendments:

1. A clause providing that at least 75% of Crown Board meetings will be held in Melbourne each year;
2. A clause providing that at least 75% of Crown's Senior Management meetings will be held in Melbourne each year;
3. A clause providing that a Company Secretary of Crown will be located in Melbourne;
4. A clause providing that the CEO of Crown and those senior executives of Crown directly responsible to the CEO will be located in Melbourne;
5. A clause providing that any changes to the composition or Charter of the Audit Committee or the Compliance Committee will be notified to the Authority;
6. Revisions to clause 22 to delete a number of redundant clauses including the single purpose entity provision;
7. The deletion of clause 23 as section 108 of the Casino Control Act 1991 provides the requisite powers for requesting information in relation to the casino operations;
8. A revision to clause 29 and a number of other complimentary clauses to narrow the focus from "Assets and Rights" to "Casino Assets";
9. The deletion of a number of redundant clauses including clauses 6 to 12 and clauses 14 to 20

*→ by [unclear]  
Christine*

*Pls copy to  
Bill Cove,  
Reverend & Lynn  
& me,  
original  
to  
Reverend  
to file.  
S.G.  
26/3/04*



## Matters still under consideration

### **Confidentiality**

Crown is still considering the ramifications of deleting or revising clause 36 regarding the confidentiality provisions surrounding both the Casino Agreement and the Casino Licence. At this stage, it is anticipated that an amendment will be made to clause 36 to allow for the Casino Licence to become a publicly available document while preserving the confidentiality of the Casino Agreement due to the commercial and sensitive nature of various matters it contains.

### **Market Share of Commission Based Play (CBP)**

It is not possible to guarantee that Crown will maintain a minimum level of CBP or maintain a minimum market share in the face of increasing world wide competition. Crown's international VIP business will be headquartered in Melbourne. Its future success will be a function of the future gaming and taxation policies of international Governments relative to those of future Victorian Governments. For example, if a future Victorian government was to remove the smoking exemption from Crown's international gaming rooms, Crown would become instantly uncompetitive in the Asian high roller market and suffer a massive loss of CBP volume.

### **Clause 22 – Debt to Equity Ratio**

A preliminary review has been undertaken by Crown as to whether the debt to equity ratio remains the most appropriate financial measure. We are still considering this issue but are yet to identify an alternative measure.

### Clauses to be drafted by the Office of Gambling Regulation

It was agreed at our meeting that draft revisions or additional clauses would be provided by the Office of Gambling Regulation in regard to the following matters:

- Improved Standard for Audit Requirements
- Management Reports
- Insurance Requirements

Given our first hand dealings with the Insurers, Crown will include a revised clause 35 in the draft Agreement to take account of the change in the global insurance environment but we await your suggestions on the remaining two points.

I anticipate a revised Agreement will be available for your review early next month.

Yours sincerely

Rowen Craigie  
Chief Executive Officer



**Bill Balgowan**

23/03/04 11:14 AM

To: Sylvia Grobtuch/OGR@Ogr

cc: Peter Cohen/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Cate Carr/OGR@Ogr, Lyn Corneliusen/OGR@Ogr

Subject: Re: Casino Agreement - letter from Crown dated 22 March 2004

Sylvia

I confirm that I briefly discussed with Peter Cohen my initial comments on the attached letter from Crown, just before Peter had to go to the Authority meeting. There were two main points (para 7 regarding Clause 23 - Inspection of Records and para 9 regarding redundant Clauses 6-12 and 14-20) and some other points:

**(a) Clause 23 - Inspection of Records:**

Crown are proposing to delete this clause in their redraft of the Casino Agreement. The Notes of the Meeting of 23 February 2004, which were prepared by you and me state:

"RC - Crown believes that this Clause is much too broad in scope. It wants the clause reviewed in light of specific legislative obligations. It should be narrowed to cover records inspections relating only to the Melbourne Casino.

BF - That would involve someone making subjective decisions. The Authority would want to retain its comprehensive rights of inspection.

PC - in light of removing the single purpose restriction, this change would make sense so Crown's other business/es could not be subject to this regulator's scrutiny. The regulator is concerned with what happens on the casino gaming floor, which is different from what happens in the multi-deck carpark. The clause would have to be amended as a consequence of the removal of the single purpose restriction.

SG - Other records could be relevant to an "associate" inquiry.

**AGREED** - Crown will submit a redraft for consideration by the OGR."

**(b) Clauses 6-12 and 14-20 which relate to Development of the Casino**

Crown are proposing to delete all these clauses in their redraft of the Casino Agreement. The Notes of the Meeting of 23 February 2004 state:

"RC - Crown proposes that all these clauses be deleted. Crown would also like to see the OGR's list of redundant clauses.

SG - We believe that the matter of redundant clauses could be addressed in a comprehensive preamble to the proposed Variation Agreement.

**AGREED** that Crown to submit their proposed redraft for consideration."

**(c) Progress made by Crown with Drafting of Clauses**

Crown has not progressed the review of the Casino Agreement very much since our last meeting on 23 February 2004. The letter does not contain any new redrafts of any clauses and is merely a progress report incorporating a summary of Crown's view of: (i) Clauses to be drafted by Crown; (ii) Matters still under consideration; and (iii) Clauses to be drafted by the OGR. It advises that Crown anticipates that a revised Agreement will not be available for our review until "early next month"

(d) **OGR/Maddocks Initial Draft Deed of Variation**

The Working Party briefed Maddocks on Friday 5 March 2004 regarding the initial working draft of the proposed Deed of Variation. In its letter dated 10 March, Maddocks advised that they expected to have the draft to us by the cob on Monday 15 March, or more likely on Wednesday 17 March 2004. After we provided Maddocks with more information on 16 March 2004, it was agreed that Maddocks could have a couple more days to complete the draft and they would aim to have the draft to us by Friday 19 March.

Rowena and I both spoke with Maddocks yesterday regarding the availability of the draft. It was not sent to us on Friday because Warwick Isherwood was interstate. It was not sent to us yesterday because Warwick was tied up in other meetings. They now hope to get it to us today. They told Rowena yesterday that they will be providing both the proposed draft Deed of Variation and a draft conformed copy of the proposed amended Casino Agreement.

We have had a number of meetings and telephone discussions with our Financial Consultants. They are obliged to have their draft report to us by cob on Thursday 8 April 2004 and their final report to us by Friday 16 April 2004.

Bill

Sylvia Grobtuch

**Sylvia Grobtuch**  
23/03/2004 09:28 AM  
To: Bill Balgowan/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Cate Carr/OGR@Ogr, Lyn Corneliusen/OGR@Ogr  
cc:  
Subject: Casino Agreement - letter from Crown

Copy of letter from Crown is attached.

Bill, Peter has asked whether it accords with your view of the meeting outcomes.

Sylvia

----- Forwarded by Sylvia Grobtuch/OGR on 23-03-04 09:25 AM -----

**Peter Cohen**  
23-03-04 08:32 AM  
To: Sylvia Grobtuch  
cc:  
Subject: Casino Agreement \*\* Virus Checked by OGR IT\*\*

Sylvia

Rowen rang me late yesterday to advise that he would email me this letter (see attachment). Clearly his intention was for me to have it prior to the Board meeting so I could advise the Board that the matter is progressing. I propose to advise the Board today in my oral report that it has just been received, it confirms Crown's position on those matters that have been raised and that we are in the process of checking that Crown's position is still as we understood it would be at the 23 February meeting.

Peter

----- Forwarded by Peter Cohen/OGR on 23/03/2004 08:27 AM -----



**Jacinta Illingworth**

22/03/2004 06:09 PM

To: "Peter Cohen ([REDACTED])"

<[REDACTED]>

cc:

Subject: Casino Agreement \*\* Virus Checked by OGR IT\*\*

<<cohen - casino agreement.pdf>>

Regards,  
Jacinta

Jacinta Illingworth  
Executive Assistant to CEO  
Crown Limited  
Phone: 61-3 9292 7234  
Facsimile: 61-3 9292 7730  
Mobile: [REDACTED]  
E-mail: [REDACTED]  
Website: [www.crowncasino.com.au](http://www.crowncasino.com.au) <<http://www.crowncasino.com.au>>

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cohen - casino agreemen

22 March 2004

Mr Peter Cohen  
Acting Director of Gaming & Betting  
Acting Director of Casino Surveillance  
Office of Gambling Regulation  
Level 5, 35 Spring Street  
Melbourne Vic 3000

Dear Mr Cohen

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I anticipate a revised Agreement will be available for your review early next month.

Yours sincerely

Rowen Craigie  
Chief Executive Officer



**Bill Balgowan**

26/03/04 04:53 PM

To: Rowena Scheffer/OGR@Ogr

cc: Sylvia Grobtuch/OGR@Ogr, Cate Carr/OGR@Ogr, Lyn  
Corneliusen/OGR@Ogr

Subject: Possible Document to be given to Maddocks

Rowena

I found Chapter 8 on Compliance and Other Matters from the NSW Casino Control Authority's Report on its Third Triennial Review on Star City Casino of December 2003, particularly interesting.

Do you think it would be helpful to Maddocks if we were to send a copy to Warwick/Robert/Miriam? It would probably be of assistance with their drafting of the new clauses relating to Compliance at Crown.

Attached is a pdf copy, should you decide it would be worthwhile to send Maddocks a copy.



Chap8NswCcaRepr2603

Bill

## ANNEXURE 5

from NSW CCA  
3rd Tr Rev Int  
Star City Casino  
Dec 2003.

### Summary of Agreements

#### Casino Operations Agreement

This agreement is between the Authority and Star City and other related companies and governs the relationship between the Authority and Star City during the operation of the casino. It imposes a non-competition warranty (only for the duration of exclusivity period) on Star City as well as obligations with respect to ownership, financial and reporting obligations.

In relation to the operation and management of the casino, Star City:

- Is required to use its best endeavours to conduct and manage the casino at a first-class international standard on a best practice basis;
- Undertakes to operate the casino in accordance with Star City's application for the casino licence and provide all features, facilities and attractions and services described in the licence application;
- Provides certain undertakings in respect of the provision of gaming equipment and to play only the games permitted in accordance with the provisions of the Act; and
- Is obliged to advertise, market and promote the casino.

(Note: In October 2003 a Novation Deed to the Agreement was executed to reflect the sale of Leighton's 15% interest in the management company of Star City.)

#### Casino Exclusivity Agreement

Under this agreement the Authority granted Star City exclusive licence to conduct certain table games on the temporary casino site and Sydney casino site for a period of 12 years from completion of construction of the temporary casino. If, during this exclusivity period, another licensed casino opens in New South Wales on any other site or sites other than the temporary casino site or the permanent casino site, then the Authority will pay to Star City an amount equal to all damages, costs and expenses suffered or incurred by Star City as a result of such occurrence (including loss of profits).

The agreement also provides protection to Star City against the Parliament of the State of New South Wales enacting subsequent legislation prohibiting casinos, either in New South Wales generally, or on the Sydney casino site or temporary casino site, during the period of 30 years from completion of construction of the temporary casino. If this occurs, or if the relevant Minister gives a direction requiring the reduction of table games and gaming machines below a certain number, or requires the casino to operate for less than seven days a week, 24 hours per day, then subject to termination of relevant leases, the Authority shall pay to Star City an amount equal to all damages, costs and expenses suffered or incurred by Star City as a result of that action (including loss of profits).

#### **TABCORP Deed**

This Deed sets out the terms and conditions on which the Authority gives its approval to TABCORP and other entities entering into Agreements with Star City and others.

#### **Casino Licence**

This licence grants the right to conduct and play table games and use gaming machines at the temporary casino site and the permanent casino site subject to provisions of the Act and the conditions set out in the casino licence.

The licence lasts for a period of 99 years from the date of issue unless cancelled by the Authority or surrendered by Star City. The licence confers no right of property on the holder and is incapable of being assigned or mortgaged, charged or otherwise encumbered.

Under the Act no right of compensation arises against the Authority or the Crown for the cancellation, suspension or variation of the terms and conditions of the licence, although the provisions of the Casino Exclusivity Agreement give rise to compensation in certain instances.

#### **Casino Duty and Community Benefit Levy Agreement**

This agreement is between the Treasurer of the State of New South Wales and Star City, as licence holder.

This agreement sets out the obligations of Star City to pay various duties and levies to the Authority. In particular, s.114(1) of the Act specifies that a casino duty is to be paid to the Authority in respect of each casino licence. Further, s.115(1) provides that a community benefit levy is to be paid to the Authority in respect of each casino licence. This agreement sets out the amount and method of payment of the payments to the Government.

The obligations of Star City under this deed are secured by the Casino Control Authority Charge.

(Note: In July 2001 a Casino Duty and Community Benefit Levy Supplemental and Amending Deed ("Surveillance Amending Deed") was entered into to provide for Star City to fund, by way of a casino duty, twelve additional Authority surveillance personnel.)

#### **Casino Taxes Agreement**

This agreement is complementary to the Casino Duty Benefit Levy Agreement, which contains the primary obligations of Star City regarding the payment of duty.

This Agreement:

- Requires Star City to effect and maintain a policy of insurance in respect of the loss of anticipated Casino tax and community benefit levy;
- Provides that Star City agrees to indemnify the Authority in respect of any shortfall of any moneys required to be paid under the Casino Duty and Community Benefit Levy Agreement; and
- Provides that the Authority Charge shall secure Star City's obligations under the Act, the Casino Duty and Community Benefit Levy Agreement and this agreement.

(Note: In October 2003 a Deed of Undertaking was executed to place obligations on TABCORP to fund any shortfall between agreed insurance deductibles and those provided under Star City's insurance policies.)

#### **Casino Control Authority Charge**

The charge gives the Authority a fixed and floating charge over all the assets and undertakings wheresoever, both present and future, of each of Star City's assets.

The Charge secures a payment of all monies and the performance of all obligations, which Star City has to the Authority and secures the punctual performance, observance and fulfilment of the obligations to the Authority.

The Charge is a second ranking charge to the charge given by Star City to the Commonwealth Bank of Australia (CBA) to secure their obligations under the CBA Facility Agreement.

#### **Casino Control Authority Cross Guarantee**

Under the terms of this guarantee, Star City agrees to irrevocably and unconditionally guarantee to the Authority the performance under the project documents and security of each of the other Sydney Harbour Casino Holdings Group of companies.

In addition, Star City has agreed to indemnify the Authority against any loss or damage suffered by it and arising out of a breach of any of the obligations by any of the Sydney Harbour Casino Holdings Group of companies.

#### **Continuity and Co-operation Agreement**

This agreement is between the Authority, Star City and CBA.

As the casino licence confers no proprietary right in Star City, there is therefore no right which can be assigned or mortgaged to the CBA. Without the casino licence, the value of the casino complex is substantially reduced. Therefore, CBA has entered into this agreement with the Authority to provide an enforcement regime which will apply in the event that Star City breaches any term or condition of the casino licence which may result in the licence being suspended or cancelled.

The second purpose of this agreement is to set out a regime which will apply in the event that any member of the Star City Group causes an event of default to occur under the Facility Agreement, and CBA wishes to take action under that agreement and its security as a consequence of that default. In particular, CBA has security

over the Sydney casino site and the casino complex by way of a mortgage of the leasehold interests, charges and mortgages of contractual rights. This agreement sets out the mechanism under which CBA may enforce those securities while ensuring the continuity of the casino licence.

#### **Casino Control Authority Letter of Comfort**

This letter of comfort was provided by the Authority to CBA and Star City.

In the letter of comfort, the Authority sets out certain factors to be taken into account and procedures to be followed by the Authority when:

- Amending the conditions of the licence;
- Cancelling or suspending the licence;
- Issuing a rectification order under the Act; and
- Regulating the operation of the casino generally.

These guidelines in no way give rise to any legal, equitable or enforceable obligation on the Authority, and merely serve to enforce the provisions of the Continuity and Co-operation Agreement.

#### **Minister's Letter of Comfort**

This letter of comfort was provided by the then Minister for Administrative Services, the Honourable Anne Margaret Cohen, MP, in favour of Star City.

This letter of comfort complements the Authority Letter of Comfort, the Continuity and Co-operation Agreement and the Casino Exclusivity Agreement. Having regard to the above, the Minister states that if the Authority acts outside the rectification regime set out in the Continuity and Co-operation Agreement or in disregard of the procedures set out in the Authority's Letter of Comfort, she is prepared to recommend the removal from office of the Authority members, and take whatever action is necessary to ensure that Star City is afforded due process.



**Bill Balgowan**

11/03/04 02:58 PM

To: Sylvia Grobtuch/OGR@Ogr  
 cc: Peter Cohen/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Lyn  
 Corneliusen/OGR@Ogr, Cate Carr/OGR@Ogr  
 Subject: Urgent - Amended Proposal from Probity Investigation Consultants  
 (PIC)

Sylvia

Rowena and I had a very lengthy but beneficial meeting yesterday with Paul Fallon and Chris Morcher regarding their proposal dated 25 February 2004 and our specific requirements with regard to the Renegotiation of the Casino Agreement.

After Paul and Chris signed confidentiality deeds, we were able to give them copies of position papers 11, 16 and 18 and explain exactly the type of advice that we required with respect to these three matters. It was agreed that they would submit an amended proposal comprising a draft "Schedule Two" (List of Services to be provided) to be included in the proposed Contract, for consideration by Rowena and I and a reduction in the estimated capped cost of the work.

Attached for your consideration is a copy of the e-mail that has just been received from Paul.

I think that the schedule produced by Paul and Chris is "spot on" with our requirements as I understand them. Rowena took some notes at the meeting yesterday and was giving some thought to what the schedule should state. She can let us know tomorrow if the draft submitted is acceptable to her or suggest specific additions or other changes tomorrow.

The estimated capped cost has been reduced from \$48,500 to \$35,750, which I consider appropriate and very reasonable. It is a little higher than the possible \$20,000 to \$30,000 that I mentioned to you on Tuesday. However, in our meeting yesterday with Paul and Chris, Rowena mentioned a number of tasks that she wanted PIC to investigate and provide advice on, which I had not taken into account when I mentioned my above range of figures.

I will discuss the attachment with Rowena tomorrow and we will then make a final recommendation to you and Peter.

Have you passed the Confidentiality Deeds onto Peter yet for his signature or have these come back to you yet from him?

We need to send copies of these to PIC with some other documents that Rowena has ready for them (Conformed copy of the Casino Agreement, Supplementary Casino Agreement and the Deed of Undertaking and Guarantee). We would like to do this today or tomorrow by courier.

Has the recommendation to appoint PIC come back to you yet from Peter (with letters to the successful applicant and the two unsuccessful applicants)?

Peter told me yesterday that he was happy with the recommendation and had signed the covering sheet, but had referred the matter to the Chairman for his comments before he signed off on the letters. I checked with Terri this morning regarding this aspect. She advised that the documents were still in the Chairman's in tray.

In Paul's letter he has stated that provided they are appointed by Monday 15 March 2004, they will have their draft advice to us by Thursday 8 April (before Easter) and a final report by 16 April 2004.

Your urgent consideration of these matters would be appreciated.

Bill

----- Forwarded by Bill Balgowan/OGR on 11/03/2004 02:04 PM -----



"Paul Fallon"



11/03/2004 01:14 PM

To: "Rowena Scheffer" <[redacted]>  
cc: "Chris Morcher" <[redacted]>, "Bill  
Balgowan" <[redacted]>

Subject: \*\* Virus Checked by OGR IT\*\*

Please find attached our amended proposal, as requested.

We look forward to your prompt acceptance so we can commence work on Monday.

We have also mailed a hard copy of this amended proposal, with a copy of Paul Fallon's Driver's Licence.



Regards



Paul Fallon vcgapro110304.



## PROBITY INVESTIGATION CONSULTANTS PTY LTD

ABN 65 010 925 747

Suite 7, 78-80 Kingsway  
 GLEN WAVERLEY VIC. 3150  
 Email: [REDACTED]

Tel. (03) 9545 3499  
 Fax (03) 9545 3579  
 Mob. [REDACTED]

11 March 2004

Ms Rowena Scheffer / Mr Bill Balgowan  
 Department of Justice  
 Office of Gambling Regulation  
 Level 5, 35 Spring Street  
 MELBOURNE VIC. 3000

EMAILED TO: [REDACTED]

AND [REDACTED]

Dear Rowena and Bill

**RE: FINANCIAL PROBITY ADVICE - AMENDED PROPOSAL**

We refer to our meeting yesterday and your request that this firm submit an amended proposal to reflect the agreed scope of work in relation to the Crown Financial Probity assignment, for which PIC is Preferred Tenderer. All other terms and conditions contained in our proposal dated 25 February 2004 (in response to your Invitation to Quote document dated 12 February 2004) remain unchanged.

We have carefully considered your requirements and concluded that this firm, in collaboration with our subcontractor Crismor Enterprises Pty Ltd, is able to supply the required services at a capped GST inclusive fee of \$ 35,750. This capped fee is calculated as follows:

<u>Personnel / Cost</u>	<u>Capped Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Paul Fallon, PIC Principal	100	\$ 220.00	\$ 22,000
Chris Morcher, Subcontractor	80	\$ 165.00	13,200
Reimbursement of Costs	N/A	N/A	550
Total Capped Fees and Costs			<u>\$ 35,750</u>

Please find attached Schedule 2 (Services) which we propose to supply.

Provided we are appointed in writing by Monday 15 March 2004, we undertake to complete this assignment by delivering a draft report by close of business on Thursday 8 April 2004 and a final report by Friday 16 April 2004.

We look forward to the opportunity of working with you on this important assignment. Please do not hesitate to contact the writer should you require any further information.

Yours sincerely

[REDACTED]  
 Paul J. Fallon CPA  
**PRINCIPAL**  
 VCGAPRO110304.DOC

## PROBITY INVESTIGATION CONSULTANTS PTY LTD

ABN 65 010 925 747

**SCHEDULE 2: SERVICES**

PIC undertakes to provide the following services to the OGR in a timely and efficient manner:

1. Policy advice to facilitate the establishment of a regulatory framework and policy for the ongoing monitoring of the financial performance and viability of Crown Limited (Crown) which operates as a subsidiary of the listed Publishing and Broadcasting Limited (PBL);
2. Commercial and financial advice regarding possible alternative and appropriate tests of Crown's and PBL's financial health (OGR Position Paper Item 11);
3. Financial advice regarding the application of a range of financial measures and indicators to monitor the financial performance and ongoing viability of Crown, focusing on the Total Liabilities to Total Assets balance sheet leverage ratio (60% maximum) contained in the Casino Agreement and the alternative Debt to Equity Ratio;
4. Policy advice as to the appropriateness of 12 (Position Paper Item 16) information reporting requirements that the OGR recommends Crown supply on a regular basis;
5. Advice regarding the quarantining (ring-fencing) of Crown's assets and safeguarding its financial performance from the activities of related companies within the PBL and CPH consolidated groups eg minimising the potential for asset stripping and debt loading in Crown;
6. Assessing intercompany transactions entered into between Crown and related entities impacting upon the financial position (assets and liabilities) and performance and viability of the subsidiary company's operations within the consolidated group;
7. Advice on how to protect the interests of the State and quarantine Crown from other ventures if the single purpose restriction is removed from the Casino Agreement, bearing in mind possible future acquisitions, demerger etc (OGR Position Paper Item 18); and
8. Other commercial and financial advice related to this assignment, as reasonably requested by OGR prior to 16 April 2004.

The first four tasks will be largely completed by PIC principal, Paul Fallon, who is a qualified CPA and former casino regulator. The last four tasks will largely be completed by our subcontractor, Chris Morcher of Crismor Enterprises Pty Ltd, who is a qualified accountant and lawyer. His work will be supervised by PIC, which will be responsible for quality control and delivery of all services to OGR.

Assuming written acceptance of this proposal on or before Monday 15 March 2004, PIC undertakes to supply the above services in the form of a draft report by Thursday 8 April 2004. A final report will be supplied by Friday 16 April 2004.

Signed

  
Paul J. Fallon CPA  
PRINCIPAL  
Probity Investigation Consultants Pty Ltd

Date

11/3/04

## Comments Regarding the PIC Proposal

### 1. General

Because of confidentiality concerns, the request for proposals had to be deliberately vague as to the exact nature of our requirements for advice.

### 2. PIC Proposal

In its proposal, Probity Investigation Consultants Pty Ltd (PIC) incorrectly assumed that we would want them to build a model using Lincoln Indicators, which can then be used to monitor the performance of Crown against a selected number of other participants in the gaming industry. They stated:

“PIC proposes to adopt the proven, reliable Lincoln Indicators software as a risk measurement tool that will facilitate an accurate comparison of risk between the licence holder and other entities operating in the gaming industry”

### 3. Meeting with PIC

Arrangements have been made to meet with Paul Fallon from PIC and his sub-contractor, Mr Chris Morcher from Chrismor Enterprises Pty Ltd at 1.00 pm on Wednesday 10 February 2004 to clarify our specific requirements. Paul Fallon has merely been informed that PIC is the preferred applicant but we need to discuss with him what our specific requirements are. In particular we will tell him and Chris Morcher that:

- We do not need PIC to build us a model using Lincoln Indicators
- We need PIC's advice to help us and our lawyers to draft some clauses for a new Deed of Variation to the Casino Agreement.
- The main aim of these new clauses is to “ring fence” the Melbourne Casino Complex assets against risks arising from new activities that Crown may undertake once (if and when?) the single purpose covenant is removed.
- Another aim is to specify what additional information/reports the Authority should obtain from Crown (and/or PBL?) to “compensate” for agreeing to abolish the single purpose covenant in the Casino Agreement.
- Whether the 60% debt/equity ratio (Total Liabilities to Total Assets) is still the most appropriate measure for monitoring the financial strength of Crown?
- If not, what are some alternatives that should be considered by the Authority?
- In considering alternatives, it is important to realise that changes to the Casino Agreement require the approval of both Crown and the Authority and then the prior written consent of the Minister for Gaming.

### 4. Estimated Cost

In its proposal, PIC has “estimated capped fees and costs of \$48,500 GST inclusive for a one month investigation based on our current understanding of the scope of the assignment.”

At the meeting with PIC, it is planned to clarify our requirements and to significantly reduce the estimated cost to around \$20,000 to \$30,000.

WLB 090304

**Sylvia Grobtuch**  
04/03/04 04:15 PM

To: "Warwick Isherwood" <[REDACTED]>  
cc: Lyn Corneliusen/OGR@Ogr, Cate Carr/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Bill Balgowan/OGR@Ogr  
Subject: Re: Amendments to the Casino Agreement \*\* Virus Checked by OGR IT\*\*

Warwick

We look forward to meeting with you tomorrow morning at your offices at 10.30.

We will update you on the progress of negotiations so far between Crown Limited and the Authority and discuss what needs to be done to progress the drafting of both the matters which are still proposals and the matters which have been agreed to date. Bill Balgowan and Rowena Scheffer will be with me, and possibly also Cate Carr and Lyn Corneliusen.

I have consulted with Brian Forrest and James Syme, and am able to provide you with the VGS advice, which I attach. This is provided for your information, so that you have the full picture of the advice given to the Authority in this matter. The Chairman does not require you to analyse or respond to the VGS advice.



VGS advice re Authority powers 16

Regards

Sylvia Grobtuch  
Assistant Director, Legal & Legislation  
Office of Gambling Regulation  
Department of Justice  
Level 5, 35 Spring St, Melbourne, VIC.  
Phone: + 61 3 9651 3152  
Fax: + 61 3 9651 4999  
Mobile: [REDACTED]  
Email: [REDACTED]

"Warwick Isherwood" <[REDACTED]>



**"Warwick Isherwood"**  
[REDACTED]

To: [REDACTED]  
cc: [REDACTED]  
Subject: Amendments to the Casino Agreement \*\* Virus Checked by OGR IT\*\*

02-03-04 02:53 PM

Sylvia,

I attach my email letter to you (M0246054).

Regards

Warwick

-----  
Maddocks  
Melbourne - Tel: (61 3) 9288 0555 Fax: (61 3) 9288 0666

## CASINO AGREEMENT NEGOTIATION

### Notes of Meeting held on 23 February 2004 in VCGA Boardroom

#### CROWN

Rowen Craigie  
David Courtney  
Mike Sugrue  
Jack Troost

#### VCGA

Brian Forrest,  
Chairman

#### OGR

Peter Cohen  
Sylvia Grobtuch  
Bill Balgowan

RC – Their extra matters are minor.

BF – Can now deal with the whole package of issues (in response to RC asking for status of the Minister's response and our legal advice) – Minister has told BF to proceed.

#### 1 Location of Crown Board Meetings

BF – 75%

RC – agreed (on basis of 4 meetings per year)

“at least 75% to be held in Melbourne - **AGREED**.”

RC to submit draft of these provisions to SG and once finalised, Crown to provide a new Casino Agreement i.e. Deed of Variation with appropriate Recitals.

OGR to work from Crown's electronic copy of the Casino Agreement - Crown to E-mail it to us shortly.

2. Company Secretary – at least one to be located in Melbourne – **AGREED**

#### 3. Location of Crown's Senior Management

**AGREED** – CEO and all of the CEO's senior management (of Crown) to be located in Melbourne i.e. currently about 9 Crown Management are reporting direct to CEO.

To include Head of Finance and Head of Operations, whatever their formal titles are.

#### 4. Crown's Senior Management Meetings

**AGREED** – At least 75% to be held in Melbourne.

#### 5. Audit Requirements

RC – They have made a change to the audit program so no need for further action.

PC – Asked Crown for words re audit charter as ordered recently by the Authority to continue and Crown agreed to let the regulator know of changes to the composition of the audit committee or compliance committee or to their charters (in advance if they know of changes to occur). – **AGREED**.

BB & PC – missing issue is what the external auditor's program will comprise i.e. key issues in the ICM to be addressed on a rotating basis, so that nothing significant is missed/omitted.

OGR to draft these provisions for Crown's comment.

#### 6. Audit & Compliance Committees

Revised charters to be submitted after Crown May Board Meeting – RC – structure won't alter, but some clauses will.

Compliance Committee Charter – under "receive reports" heading, Crown was asked to include reference to the ICM and the Transaction Documents.

#### 7. Management Reports

BF -details of the reports that are generated are required by the regulator.

RC -see part 11 of Brian's letter of 18/11/2003 and Crown will be happy with this wording.

**AGREED** OGR to draft a clause as per part 11 and include any other reports or documents or material whatsoever requested by the regulator e.g. exclusions appeals.

(Notes SG - also include in the clause:

- right to inspection
- Right to receive copies
- Documents relating to or from the Crown Board Meeting or Monthly Management Meetings).

**AGREED** - We need to discuss separately what from exclusion order files is released to the regulator and Crown and how i.e. psychologist's reports are regarded by the client as highly confidential.

## CROWN EXTRA ISSUES

1. **Insurance Management Reports** required are currently too prescriptive in the new insurance climate.

**AGREED** OGR to redraft clause 35.

2. **Clause 29 - Disposal of assets and rights without Authority's prior approval.**

Crown says it should be restricted to casino assets (e.g. exclude the second carpark).

SG           - non-casino assets may be relevant to word class casino  
              - State land issue is also important.

**AGREED**       - Crown to draft a provision here for the Authority's comment.

## **DISCUSSION ON WORLD CLASS CASINO** (not part of the negotiation)

RC - Crown's ability to deliver a world class casino is affected by the regulatory environment → so Crown needs to put an argument about tax rates → lower tax rates could deliver better entertainment.

PC - Tax charges are for the Minister.

DC - responsible gambling, technology, customer service are all part of the world class casino.

PC - audit process, breadth of games offered also.

PC – not an issue for this negotiation

## **CLAUSE 22**

3. **Appointment of Directors, Share controls**

Crown sees clause 22 reports as redundant, or duplicating ASIC requirements and associate reports of CC Act, overly prescriptive.

**AGREED** – they will submit a redraft of clause 22. To look at only i.e. no content agreed.

4. **Consent re Leases and Supplementary Agreement** – restrict to Casino assets only.

**AGREED** – they will submit a redraft only. To look at only.

5. **Clause 23 – inspection of records.**

Crown wants to look at in light of legislative obligations, potentially too broad in clause 23 in light of legislative requirements.

Should be narrowed to cover records inspections re the casino only

PC – in light of single purpose removal, this change would make sense so Crown's other business/es could not be subject to this regulator's scrutiny.

**6. Clause 32 – some of the agreements are expired.**

**AGREED** - That Crown will submit a revised draft.

BB – The Operations Agreement is still relevant.

7. Clauses 6-12, 14-20 re **development and completion of the Casino** – proposed deletion.

**AGREED** that Crown to submit their proposed redraft for consideration.

8. Crown would like to see OGR's list of **redundant clauses**.

**MINISTER'S ISSUES – BF**

1. Casino Agreement and Licence to be made publicly available.

RC – on expiry of the licence in 20~~3~~3, does the Minister want this to be the subject of debate in the media? (as with the gaming licences' expiry).

(SG departed at 12.00p.m.).

Financial health - OGR to  
look at.  
Quantifying of casino  
assets.

STATE GAMING CONTROL BOARD  
STANDARD FINANCIAL STATEMENTS

for  
Nonrestricted Licensees  
Grossing \$1,000,000 or More Annually

Form *NGC-17*

## INSTRUCTIONS

1. Monetary Amounts are to be rounded to the nearest dollar.

## BALANCE SHEET

2. When physical assets (e.g., land, buildings, furniture, fixtures, equipment) are not owned by the gaming licensee, but are owned by a closely related business entity, such assets, along with all liabilities, are to be reported on the gaming licensee's statement. Rent in such cases is to be replaced by a proper charge to depreciation.
3. In the event the gaming licensee does not also operate the other activities (e.g., rooms, food, beverage), data is to be obtained from these operations and included in the gaming licensee's statement.

## INCOME STATEMENT

4. Complimentary sales are to be reported at retail price.
5. Complimentary expenses are to be expensed to the department initiating the complimentary item.
6. Preferred guest expenses include all items directly related to junket activities except complimentaries.
7. Commissions expense, as applies to the Gaming Department, is the percentage of gaming win, or other payments such as space or slot machine rent, paid to Slot Route Operators and/or the percentage of gaming win, or other payments such as live game or table rent, paid to operations that are licensed to operate within existing casino licensee establishments (e.g., Race Book and/or Sports Pool).  
NOTE: One hundred percent of such revenue is to be reported on the gaming licensee's statement. This includes the portions retained by, or paid to, the Slot Route Operators and/or Race Book and Sports Pool licensees operating in the licensed casino establishments.
8. Other operating income and non-operating income includes all other miscellaneous departments, other than those departments specifically required to be reported separately under schedules B-1 through B-4, as well as interest income, dividends, etc.
9. Average number of employees for the year is the sum of the highest number employed each month, divided by the total number of months covered by the statements.
10. Other general and administrative expenses will be those remaining expenses not categorized under the General and Administrative Expenses section. List the five largest other general and administrative expenses, and indicate if the expense was reported as an other general and administrative expense on last year's statement.

Questions regarding these statements should be directed to:

GAMING CONTROL BOARD  
TAX AND LICENSE DIVISION  
1919 E. College Parkway, P.O. Box 8004, Carson City, NV 89702  
(775) 687 - 6570

## QUESTIONNAIRE

Form NGC-17  
Standard Financial  
StatementCasino Name CASINO06/30/  
Date

1. If these statements cover a period of less than one year, change the starting date  
07/01, and/or ending date 06/30/

2. Was this report prepared by the:

Cash method for gaming, accrual method for other than gaming

Cash method

Accrual method

Other (describe)

3. To whom should inquiries for additional information be directed?

Name

Position with business FINANCIAL CONTROLLER

Address LAS VEGAS BLVD. SO.

City LAS VEGAS

State NV

Zip Code

Area Code 702

Telephone

4. Independent accountants:

Name

Firm Name

Address

City LAS VEGAS

State NV

Zip Code

Area Code 702

Telephone

5. I certify that, to the best of my knowledge and belief, these Standard Financial Statements are correct and complete; and that the records and methods of operation, upon which the statements are based, are maintained in accordance with the regulations of the State Gaming Control Board and the Nevada Gaming Commission.

Name

Position

Licensee, Controller or other Key Employee

Comments -

**DEBT SCHEDULE**  
**SCHEDULE "A-1"**

Casino Name	06/30/███ Date				
Name of Creditor and Affiliation With Licensee	Date of Note	Due Date	Interest Rate	Original Amount	Amount Still Owng
<b>Mortgages</b>					
TOTAL MORTGAGES.....					
<b>Debentures and Bonds</b>					
TOTAL DEBENTURES AND BONDS.....					
<b>Notes</b>					
TOTAL NOTES.....					
<b>Contracts</b>					
EQUIPMENT LEASE					
EQUIPMENT FINANCING					
TOTAL CONTRACTS.....					
<b>Other (describe)</b>					
INTERCOMPANY LOAN					
TOTAL OTHER.....					
TOTAL DEBT.....					

Should balance with totals reflected under long-term debt, Column A, on Balance Sheet (Schedule "A").

INCOME STATEMENT

SCHEDULE "B"

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Casino Name \_\_\_\_\_

06/30/  
Date

Amount to  
Nearest Dollar

REVENUE

Total gaming revenue (from line 19, Schedule B-1) \_\_\_\_\_  
 Total room revenue (from line 42, Schedule B-2) \_\_\_\_\_  
 Total food revenue (from line 61, Schedule B-3) \_\_\_\_\_  
 Total beverage revenue (from line 16, Schedule B-4) \_\_\_\_\_  
 Total other income (from line 41, Schedule B-5) \_\_\_\_\_

TOTAL REVENUE

COST OF SALES (from Schedules B-3, B-4 and B-5)

GROSS MARGIN

DEPARTMENTAL EXPENSES (from Schedules B-1, B-2, B-3, B-4 and B-5)

DEPARTMENTAL INCOME

GENERAL AND ADMINISTRATIVE EXPENSES

Advertising and promotion \_\_\_\_\_  
 Bad debt expense \_\_\_\_\_  
 Complimentary expense (not reported in operating departments) \_\_\_\_\_  
 Depreciation - buildings \_\_\_\_\_  
 Depreciation and amortization - other \_\_\_\_\_  
 Energy expense (e.g., electricity, gas, oil) \_\_\_\_\_  
 Equipment rental or lease \_\_\_\_\_  
 Interest expense \_\_\_\_\_  
 Music and entertainment \_\_\_\_\_  
 Payroll taxes \_\_\_\_\_  
 Payroll - employee benefits \_\_\_\_\_  
 Payroll - officers \_\_\_\_\_  
 Payroll - other employees \_\_\_\_\_  
 Rent on premises \_\_\_\_\_  
 Taxes - real estate \_\_\_\_\_  
 Taxes and licenses - other \_\_\_\_\_  
 Utilities (other than energy expense items) \_\_\_\_\_  
 Other general and administrative expenses (list five largest below) \_\_\_\_\_  
 TOTAL GENERAL AND ADMINISTRATIVE EXPENSES \_\_\_\_\_  
 [Average number of G. & A. employees for the year \_\_\_\_\_]

NET INCOME (LOSS) BEFORE FEDERAL INCOME TAX

Federal income tax - corporate \_\_\_\_\_

NET INCOME (LOSS) BEFORE EXTRAORDINARY ITEMS

EXTRAORDINARY ITEMS

After provision for federal income tax (explain below)

NET INCOME (LOSS)

Five largest other general and administrative expenses:

Check box (  ) if item was reported in other general and administrative expenses on last year's statement

Other General and Administrative Expenses	Misc Description	Expense
<input checked="" type="checkbox"/> BANK/CREDIT CARD CHARGES		
<input checked="" type="checkbox"/> ACCOUNTING/CONSULTING/LEGAL/PROFESSIONAL		
<input checked="" type="checkbox"/> MISCELLANEOUS (DESCRIBE)	BONUS PROVISION	
<input checked="" type="checkbox"/> MISCELLANEOUS (DESCRIBE)	EVS ALLOCATIONS	
<input checked="" type="checkbox"/> MISCELLANEOUS (DESCRIBE)	ACCOUNTING FEES	

Explanation of extraordinary items

DEPARTMENTAL INCOME STATEMENTS

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CASINO

06/30/  
Date

Casino Name

CASINO  
SCHEDULE "B-1"

Amount to  
Nearest Dollar

REVENUE

Pit Revenue (craps, roulette, twenty-one, keno, bingo, etc.)  
Coin operated devices  
Table games (poker, pan, etc.)  
Race book  
Sports book  
TOTAL GAMING REVENUE (to line 13, Schedule B)

DEPARTMENTAL EXPENSES

Bad debt expense  
Commissions  
Complimentary expense  
Gaming taxes and licenses  
Preferred guest expenses (exclusive of complimentaries)  
Payroll taxes  
Payroll - employee benefits  
Payroll - officers  
Payroll - other employees  
Race wire fees  
Other departmental expenses  
TOTAL DEPARTMENTAL EXPENSES  
DEPARTMENTAL INCOME (LOSS)  
[Average number of casino employees for the year]

ROOMS  
SCHEDULE "B-2"

REVENUE

Gross room revenue  
Complimentary rooms  
TOTAL ROOM REVENUE (to line 14, Schedule B)

DEPARTMENTAL EXPENSES

Bad debt expense  
Complimentary expense  
Payroll taxes  
Payroll - employee benefits  
Payroll - officers  
Payroll - other employees  
Other departmental expenses  
TOTAL DEPARTMENTAL EXPENSES  
DEPARTMENTAL INCOME (LOSS)  
[Average number of room employees for the year]

FOOD  
SCHEDULE "B-3"

REVENUE

Food sales  
Complimentary food sales  
TOTAL FOOD REVENUE (to line 15, Schedule B)

COST OF FOOD SALES

GROSS MARGIN

DEPARTMENTAL EXPENSES

Bad debt expense  
Complimentary expense  
Payroll taxes  
Payroll - employee benefits  
Payroll - officers  
Payroll - other employees  
Other departmental expenses  
TOTAL DEPARTMENTAL EXPENSES  
DEPARTMENTAL INCOME (LOSS)  
[Average number of food employees for the year]

**DEPARTMENTAL INCOME STATEMENTS**

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Casino Name

06/30/  
Date

**BEVERAGE  
SCHEDULE "B-4"**

Amount to  
Nearest Dollar

13 REVENUE  
14 Beverage sales .....  
15 Complimentary beverage sales .....  
16 TOTAL BEVERAGE REVENUE (to line 16, Schedule B) .....  
18 COST OF BEVERAGE SALES .....  
20 GROSS MARGIN .....  
22 DEPARTMENTAL EXPENSES  
23 Bad debt expense .....  
24 Complimentary expense .....  
25 Payroll taxes .....  
26 Payroll - employee benefits .....  
27 Payroll - officers .....  
28 Payroll - other employees .....  
29 Other departmental expenses .....  
30 TOTAL DEPARTMENTAL EXPENSES .....  
32 DEPARTMENTAL INCOME (LOSS) .....  
33 [Average number of beverage employees for the year

**OTHER OPERATING AND NON-OPERATING INCOME  
SCHEDULE "B-5"**

38 REVENUE  
39 Other operating and non-operating income .....  
40 Other complimentary items .....  
41 TOTAL OTHER OPERATING AND NON-OPERATING INCOME (to line 17, Schedule B) .....  
43 COST OF OTHER SALES .....  
45 GROSS MARGIN .....  
47 DEPARTMENTAL EXPENSES  
48 Bad debt expense .....  
49 Complimentary expense .....  
50 Payroll taxes .....  
51 Payroll - employee benefits .....  
52 Payroll - officers .....  
53 Payroll - other employees .....  
54 Other departmental expenses .....  
55 TOTAL DEPARTMENTAL EXPENSES .....  
57 DEPARTMENTAL INCOME (LOSS) .....  
58 [Average number of Schedule "B-5" employees for the year

## RATE OF ROOM OCCUPANCY SCHEDULE "D"

Casino Name \_\_\_\_\_

06/30/  
Date

Month	Total Room Days	Available Room Days	Rooms Occupied
July _____			
August _____			
September _____			
October _____			
November _____			
December _____			
January _____			
February _____			
March _____			
April _____			
May _____			
June _____			
Total _____	_____	_____	_____

### INSTRUCTIONS

Total room days, available room days, and rooms occupied are multiplied by the number of days in each month.

Available rooms are total rooms less rooms out of service and rooms used for house purposes (such as temporary conversion to office space).

Complimentary rooms are to be recorded as rooms occupied.

## SCHEDULE OF SQUARE FOOTAGE SCHEDULE "E"

List the approximate area in square feet at the end of the fiscal year occupied by:

Pit Games \_\_\_\_\_

Slots \_\_\_\_\_

Keno \_\_\_\_\_

Bingo \_\_\_\_\_

Race Book and Sports Pool \_\_\_\_\_

Poker and Pan \_\_\_\_\_

TOTAL CASINO AREA \_\_\_\_\_

REPORTING REQUIREMENTS FOR PUBLICLY TRADED CORPORATIONS  
REGISTERED WITH THE NEVADA GAMING COMMISSION

All publicly traded corporations registered with the Nevada Gaming Commission are subject to certain Nevada Gaming Commission approvals and/or filing requirements under NRS 463.625 through 463.645 inclusive, and NGC Regulation 16.

Specifically, attention is directed to:

- (a) NRS 463.635 (1)(a) (maintenance of stock ledger);
- (b) NRS 463.637 (licensing/finding suitable for certain officers and directors);
- (c) NRS 463.639 (details reporting requirements);
- (d) NRS 463.643 (beneficial owners of the Company's voting securities);
- (e) NRS 463.645 (proscribed activities with "unsuitable" or unlicensed persons);
- (f) NGC Regulation 16.110 (Commission prior approval is required for certain public offerings);
- (g) NGC Regulations 16.200 through 16.280, inclusive (Commission prior approval is required for a "change in control," "plan of recapitalization," and "exception repurchase of securities;");
- (h) NGC Regulation 16.310 (administrative Board approval is required before the distribution of a proxy or information statement);
- (i) NGC Regulation 16.330 (details reporting requirements);
- (j) NGC Regulations 16.410 through 16.420, inclusive (detail requirements for employees, officers and directors); and
- (k) NGC Regulation 16.440 (proscribed activities with "unsuitable" person).

The foregoing is not complete nor is it a substitute for the Company's independent review and study of the Nevada Gaming Control Act and the regulations promulgated thereunder.

In an effort to summarize the various reporting requirements, following is a listing of all documents required to be filed with the State Gaming Control Board, Corporate Securities Division.

DOCUMENTS REQUIRED TO BE FILED WITH THE CORPORATE SECURITIES  
DIVISION OF THE STATE GAMING CONTROL BOARD

1. Three copies of all registration statements, including drafts, filed with the Securities and Exchange Commission ("SEC"), even if the offering is not subject to Nevada Gaming Commission

approval. This includes, but is not limited to, Registration Statement of Forms S-1, S-2, S-3, S-4, S-8, SB-1, SB-2, 10 and 10-SB. See NRS 463.639(1)(d); NGC Regulation 16.330(1) & (6).

2. **Three** copies of all proxy statements, including drafts, whether or not subject to Regulation 14A of the SEC, and all information statements; whether or not subject to Regulations 14C of the SEC. See NRS 463.639(1)(d); NGC Regulation 16.310(1) and 16.330(1).
3. **Three** copies of all Annual and Quarterly Reports to Stockholders, Forms 10-K, 10-KSC, 10-Q, 10-QSB, and 8-K, and amendments thereto, and all other material documents or documents considered to be confidential or furnished to the holders of debt or equity securities of the publicly traded corporation, which may be filed by a publicly traded corporation with the SEC or any other national or regional securities exchange. See NRS 463.639(1)(b) & (d); NGC Regulation 16.330(1) & (6).
4. **One** copy of all Forms 3, 4 and 5, and amendments thereto, and Schedules 13D and 13G, and amendments thereto, and all other documents received by a publicly traded corporation which were filed with the SEC by any other person and which relate to such publicly traded corporation. See NRS 463.639(1)(c) & (d); NGC Regulation 16.330(2).
5. **Annually**, a list of the holders of a publicly traded corporation's voting securities, or more frequently as such lists are prepared. See NGC Regulation 16.330(3).
6. **One** copy of all press releases issued by the publicly traded corporation or licensed subsidiary thereof, faxed to the Corporate Securities Division in Carson City, Nevada, at or before the time of release, to be followed by the filing of a hard copy of any such press release within five calendar days after its release. See NGC Regulation 16.330(6).
7. A report filed promptly after the election or appointment of any director, executive officer, or any other officer actively and directly engaged in the administration or supervision of the gaming activities at a licensed gaming establishment associated with a publicly traded corporation. See NRS 463.639(1)(a); NGC Regulation 16.330(4).
8. A report filed promptly after being informed that a controlling person, as defined in NGC Regulation 16.010(4), has disposed of any of such publicly traded corporation's voting securities. See NGC Regulation 16.330(5).
9. **Annually**, a profit and loss statement and a balance sheet for the publicly traded corporation, to be submitted within 120 days

after the close of its fiscal year. Documents filed with or furnished to the SEC containing the same information (i.e., Form 10-K or Form 10-KSB) may be substituted instead so that duplicate filing of the same information will be avoided. See NRS 463.639(1)(b).

(Revised 06/30/97)

MONTH ENDED	_____	AUGUST 31, 2002
QUARTER ENDED	_____	AUGUST 31, 2002
YEAR ENDED	_____	AUGUST 31, 2002

STATE OF NEVADA

STATE GAMING CONTROL BOARD

GAMING REVENUE REPORT

## Table of Contents

County/Area	Revenue Range	Page
STATEWIDE	ALL NONRESTRICTED LOCATIONS	1
	\$1,000,000 AND OVER REVENUE RANGE	2
CARSON VALLEY AREA	ALL NONRESTRICTED LOCATIONS	3
	\$1,000,000 AND OVER REVENUE RANGE	4
CHURCHILL COUNTY	ALL NONRESTRICTED LOCATIONS	5
CLARK COUNTY	ALL NONRESTRICTED LOCATIONS	6
	\$1,000,000 AND OVER REVENUE RANGE	7
CLARK COUNTY DOWNTOWN LAS VEGAS AREA	ALL NONRESTRICTED LOCATIONS	8
	\$1,000,000 AND OVER REVENUE RANGE	9
	\$1,000,000 TO \$12,000,000 REVENUE RANGE	10
	\$12,000,000 AND OVER REVENUE RANGE	11
CLARK COUNTY LAS VEGAS STRIP AREA	ALL NONRESTRICTED LOCATIONS	12
	\$1,000,000 AND OVER REVENUE RANGE	13
	\$1,000,000 TO \$12,000,000 REVENUE RANGE	14
	\$12,000,000 TO \$36,000,000 REVENUE RANGE	15
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NEVADA STATE GAMING CONTROL BOARD

ALL AMOUNTS ARE IN THOUSANDS (MOO OOO)

GAMING REVENUE REPORT

UNIT DESCRIPTION	CURRENT MONTH SUMMARY - AUGUST, 2002					THREE MONTH SUMMARY - 06/01/02 TO 08/31/02					TWELVE MONTH SUMMARY - 09/01/01 TO 08/31/02				
	# OF REPORTING LOCATIONS					# OF REPORTING LOCATIONS					# OF REPORTING LOCATIONS				
GAMES AND TABLES:	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT
	43					43					43				
TWENTY-ONE	36	1,420	64,619	-6.51	12.48	37	1,426	174,214	-8.24	12.64	37	1,433	705,562	-9.07	12.24
CRAPS	35	205	28,424	29.38	15.42	35	205	76,313	0.41	15.10	35	208	280,966	-11.02	12.98
ROULETTE	35	221	15,615	-20.86	20.25	35	222	47,804	-14.75	22.70	35	221	188,984	-15.55	22.84
3-CARD POKER	24	57	5,386	0.00	25.66	24	56	14,631	0.00	26.30	24	36	38,727	0.00	26.12
BACCARAT	17	83	73,784	141.32	29.72	17	86	109,174	-1.30	24.73	19	87	409,059	-17.50	22.01
MINI-BACCARAT	24	86	14,215	-25.83	16.14	24	86	36,733	2.76	16.27	27	88	165,456	-3.22	16.80
KENO	24	53	2,071	6.24	30.77	24	53	6,034	-5.65	30.45	24	51	23,106	-8.65	29.20
BINGO	5	5	-117	-95.29	-5.31	5	5	-245	12.84	-3.65	5	4	116	-13.53	0.42
CARIBBEAN STUD	29	58	3,342	-2.41	30.40	29	57	8,756	-7.33	29.67	29	58	36,692	-17.03	29.11
LET IT RIDE	33	75	3,524	-6.26	20.92	33	76	9,779	-4.89	21.10	33	76	41,030	-9.17	21.34
PAI GOW	15	31	2,446	-4.24	22.22	16	31	5,896	-6.45	22.28	19	31	23,053	-19.73	19.73
PAI GOW POKER	30	121	5,688	-9.04	20.53	30	121	16,303	-5.01	21.64	32	117	68,096	-7.14	22.81
RACE BOOK (1)	31	31	3,895	6.41	16.75	32	31	10,825	-6.14	16.55	34	29	44,975	-7.31	16.72
SPORTS POOL (2)	37	37	4,465	102.61	9.19	37	35	5,914	2.31	4.10	37	34	56,129	-7.10	4.82
OTHER GAMES		78	9,924	55.28	18.54		77	24,552	9.61	22.78		94	70,592	-19.10	17.25
TOTAL GAMES	36	2,561	237,281	24.43	17.74	37	2,566	546,685	-1.96	16.37	37	2,567	2,152,543	-10.14	14.91
CARD GAMES	13	145	2,526	4.61		13	145	7,094	0.38		15	143	28,987	-2.93	
SLOT MACHINES:	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT
5 CENT	40	13,648	39,676	-2.62	9.25	40	13,707	117,185	0.98	9.48	41	13,962	454,343	7.85	9.18
25 CENT	42	24,046	71,402	-13.26	7.08	42	24,322	216,615	-9.92	7.42	42	25,587	850,164	-11.10	7.29
50 CENT	27	1,040	3,270	-21.23	4.99	27	1,047	10,084	-16.89	5.49	27	1,052	44,778	-8.81	6.19
1 DOLLAR	42	11,765	52,546	-12.24	5.04	42	11,871	150,517	-10.97	5.20	42	12,301	606,670	-10.90	5.26
MEGABUCKS	37	287	3,181	-9.49	13.14	37	299	4,659	-54.50	6.92	37	303	34,066	-3.99	11.80
5 DOLLAR	30	1,627	11,682	-9.13	4.24	30	1,624	34,880	-5.09	4.55	31	1,654	139,203	-7.24	4.32
25 DOLLAR	26	315	2,728	-15.13	3.04	26	311	7,787	-11.95	3.26	28	315	37,313	-5.34	3.43
100 DOLLAR	22	220	2,886	-8.20	3.65	22	226	6,681	-6.70	3.08	23	223	29,042	-9.75	3.76
MULTI DENOMINATION	32	4,701	15,832	0.00	3.91	32	4,544	41,825	0.00	3.74	33	2,879	110,418	0.00	3.87
OTHER SLOT MACHINES		930	5,298	-35.90			876	15,087	-31.09			1,153	70,338	-10.44	
TOTAL SLOT MACHINES	43	58,579	208,501	-4.39	5.89	43	58,826	605,320	-2.78	6.08	43	59,429	2,376,335	-2.74	6.13
TOTAL GAMING WIN			448,308	9.03				1,159,099	-2.37				4,557,865	-6.38	
(1)RACE PARI-MUTUEL	30	30	3,730	5.33	17.21	31	31	10,396	-7.10	17.11	31	31	42,856	-8.91	17.08
(2)SPORTS POOL DETAIL															
FOOTBALL	36	36	4,278	123.35	25.63	36	36	4,365	137.23	23.13	36	36	22,945	-16.39	4.13
BASKETBALL	31	31	-110	73.32	-23.49	31	31	-896	-74.68	-6.85	31	31	16,819	22.19	5.48
BASEBALL	36	36	763	1.40	2.56	36	36	1,981	-47.17	2.11	36	36	6,398	-24.10	2.88
SPORTS PARLAY CARDS	35	35	229	108.44	56.74	35	35	266	106.23	49.67	35	35	7,254	5.77	38.48
SPORTS PARI-MUTUEL			0	0.00				0	0.00				1	-96.02	14.39
OTHER			-693	-333.64	-54.49			197	-76.76	1.10			2,712	-30.29	4.38

Columns may not foot due to rounding. Unit detail is shown separately only when there are 3 or more locations reporting specific unit information. Otherwise, such information is included in 'OTHER' categories.

FIGURES ARE CURRENT AS OF: 10/02/02

CLARK COUNTY LAS VEGAS STRIP AREA  
\$72,000,000 AND OVER REVENUE RANGE  
Win Amounts are In Thousands (Add 000)

NEVADA STATE GAMING CONTROL BOARD

GAMING REVENUE REPORT

UNIT DESCRIPTION	CURRENT MONTH SUMMARY - AUGUST, 2002					THREE MONTH SUMMARY - 06/01/02 TO 08/31/02					TWELVE MONTH SUMMARY - 09/01/01 TO 08/31/02				
	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT	# OF LOC'S	# OF UNITS	WIN AMOUNT	% CHANGE	WIN PERCENT
GAMES AND TABLES:															
TWENTY-ONE	22	1,124	58,057	-6.31	12.48	22	1,130	156,660	-9.33	12.65	22	1,139	634,991	-9.97	12.17
CRAPS	22	168	26,295	30.51	15.51	22	168	70,079	-0.72	15.09	22	172	255,987	-12.16	12.85
ROULETTE	22	189	14,090	-22.98	20.03	22	190	43,640	-15.99	22.69	22	189	172,561	-16.72	22.79
3-CARD POKER	18	50	5,040	0.00	26.11	18	49	13,699	0.00	26.88	18	32	36,405	0.00	26.55
BACCARAT	16	82	73,380	140.03	29.71	16	85	108,494	-1.39	24.70	18	86	405,467	-17.92	21.94
MINI-BACCARAT	20	82	13,980	-26.55	16.10	20	82	35,904	1.75	16.10	21	82	163,536	-3.05	16.79
KENO	19	42	1,932	9.55	30.92	19	42	5,621	-4.24	30.53	19	41	21,350	-7.69	29.21
BINGO	3	3	9	-12.19	0.55	3	3	94	178.80	1.86	3	2	1,318	69.84	6.34
CARIBBEAN STUD	21	48	2,982	-1.74	29.67	21	47	7,813	-8.83	29.15	21	48	33,108	-17.08	28.96
LET IT RIDE	22	59	2,963	-4.62	20.73	22	60	8,201	-6.34	20.84	22	59	34,334	-9.21	21.20
PAI GOW	15	31	2,446	-3.78	22.22	16	31	5,896	-6.27	22.28	17	30	22,978	-19.95	19.75
PAI GOW POKER	22	105	5,287	-9.72	20.41	22	105	15,139	-5.65	21.49	22	101	63,664	-7.38	22.84
RACE BOOK (1)	22	22	3,502	6.17	16.90	22	21	9,799	-6.07	16.72	22	19	40,465	-7.91	16.78
SPORTS POOL (2)	22	22	3,766	122.19	9.55	22	22	5,420	2.96	4.68	22	21	49,757	-7.98	4.88
OTHER GAMES		67	9,740	63.53	18.42		66	24,101	12.96	22.74		81	67,990	-18.00	17.10
TOTAL GAMES	22	2,094	223,469	26.06	18.02	22	2,100	510,560	-2.42	16.60	22	2,103	2,003,912	-10.80	15.01
CARD GAMES	12	132	2,469	9.93	12	132	6,934	4.38	12	129	28,246	0.12			
SLOT MACHINES:															
5 CENT	22	10,146	31,857	-1.53	9.25	22	10,183	94,265	1.70	9.52	22	10,281	363,136	8.71	9.25
25 CENT	22	18,379	57,893	-14.66	6.83	22	18,572	175,998	-10.78	7.21	22	19,544	688,988	-11.53	7.12
50 CENT	20	902	3,021	-19.91	4.98	20	909	9,265	-17.05	5.44	20	911	40,896	-9.43	6.14
1 DOLLAR	22	9,454	46,582	-13.27	4.99	22	9,560	132,834	-11.46	5.13	22	9,964	534,654	-10.92	5.19
MEGABUCKS	22	220	2,793	-10.51	13.17	22	231	3,925	-56.62	6.72	22	238	29,815	-4.93	11.84
5 DOLLAR	22	1,464	11,339	-8.62	4.29	22	1,460	33,111	-6.14	4.53	22	1,484	132,547	-6.78	4.33
25 DOLLAR	21	291	2,668	-15.80	3.08	21	287	7,532	-12.36	3.29	21	288	35,969	-4.17	3.44
100 DOLLAR	20	210	2,627	-7.70	3.84	20	205	5,385	-19.63	2.83	20	209	27,225	-9.63	3.74
MULTI DENOMINATION	18	3,455	12,726	0.00	3.80	18	3,350	33,222	0.00	3.65	18	2,154	88,598	0.00	3.87
OTHER SLOT MACHINES		744	4,984	-23.59		713	14,115	-16.37		825	60,235	-3.73			
TOTAL SLOT MACHINES	22	45,265	176,489	-4.98	5.75	22	45,469	509,652	-3.41	5.92	22	45,899	2,002,063	-2.90	6.00
TOTAL GAMING WIN			402,427	10.18			1,027,147	-2.87			4,034,220	-5.98			
(1)RACE PARI-MUTUEL	22	22	3,361	5.07	17.25	22	22	9,432	-7.18	17.11	22	22	38,834	-9.44	17.09
(2)SPORTS POOL DETAIL															
FOOTBALL	22	22	3,496	124.91	25.44	22	22	3,518	142.65	23.14	22	22	20,070	-17.75	3.95
BASKETBALL	19	19	-112	73.18	-30.95	19	19	-627	-75.59	-5.29	19	19	15,028	22.70	5.55
BASEBALL	22	22	815	20.49	3.40	22	22	1,956	-40.29	2.70	22	22	5,659	-27.34	3.23
SPORTS PARLAY CARDS	22	22	219	121.44	64.57	22	22	268	103.30	61.92	22	22	6,682	6.85	40.30
SPORTS PARI-MUTUEL			0	0.00			0	0.00			0	100.00			
OTHER			-652	-201.67	-62.12			296	-60.42	1.88			2,318	-31.42	4.68

Columns may not foot due to rounding. Unit detail is shown separately only when there are 3 or more locations reporting specific unit information. Otherwise, such information is included in 'OTHER' categories.

FIGURES ARE CURRENT AS OF: 10/02/02

# NEVADA GAMING ABSTRACT

## 2001



State Gaming Control Board

## INTRODUCTION

The 2001 NEVADA GAMING ABSTRACT is presented in the same format as the 2000 Abstract.

Information is presented in the following sequence throughout this report.

- Combined Balance Sheet
- Combined Income Statement - Summary
- Combined Income Statement - Detail
  - Casino Department
  - Rooms Department
  - Food Department
  - Beverage Department
  - Other Income
- Average Number of Employees
- Rate of Room Occupancy
- Per Room Per Day Statistics
- Gaming Revenue Per Square Foot
- Ratios

Section 1 features casinos grossing \$1,000,000 and over in gaming revenue during the fiscal year ending June 30, 2001, with aggregate totals shown Statewide, and for Clark County, Douglas County - South Shore Lake Tahoe, Elko County, Carson Valley, Washoe County, and the Balance of Counties.

Section 2 stratifies certain geographical areas into smaller groups based on gross gaming revenue for the fiscal year ending June 30, 2001. Section 2 includes the following markets:

Clark County - Las Vegas Strip, Downtown Las Vegas, Laughlin, Boulder Strip, and Balance of Clark County.

Elko County -Wendover

Washoe County - Reno/Sparks and Balance of Washoe County

Section 3 features Statewide Casinos with Rooms Facilities; and Statewide Publicly Owned Casinos with reported gross gaming revenue of \$12,000,000 and over for the fiscal year ending June 30, 2001.

SECTION 1  
STATEWIDE - SELECTED COUNTIES - BALANCE OF COUNTIES

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COMBINED BALANCE SHEET

Fiscal Year 2001  
 Clark County  
 With Gaming Revenue of \$1,000,000 and over

Amounts Represent 149 Locations.

<u>ASSETS</u>		<u>DOLLARS</u>	<u>PERCENT</u>
<u>CURRENT ASSETS</u>			
Cash .....		814,355,340	3.2%
Receivables	<u>TOTAL</u>	<u>ALLOWANCE</u>	
Casino	621,850,090	252,502,028	1.4%
Trade	246,118,438	14,993,029	0.9%
Sundry	875,454,877	4,234,295	3.4%
Notes	-8,125,640	4,127,775	0.0%
Prepaid Expenses .....		224,359,733	0.9%
Other Current Assets .....		733,392,771	2.9%
<b>TOTAL CURRENT ASSETS</b> .....		<b>3,231,548,482</b>	<b>12.6%</b>
<u>FIXED ASSETS</u>			
	<u>COST</u>	<u>DEPRECIATION</u>	
Land	4,655,001,319	.....	4,655,001,319 18.1%
Land Improvements	472,300,624	117,635,593	354,665,031 1.4%
Buildings & Improvements	14,420,996,322	2,335,489,834	12,085,506,488 47.0%
Furniture & Equipment	5,459,398,422	2,838,932,950	2,620,465,472 10.2%
Lease Improvements	356,049,358	141,718,955	214,330,403 0.8%
Construction in Progress	378,802,051	.....	378,802,051 1.5%
<b>TOTAL FIXED ASSETS</b> .....			<b>20,308,770,764 79.0%</b>
OTHER ASSETS .....			<b>2,172,410,565 8.4%</b>
<b>TOTAL ASSETS</b> .....			<b>25,712,729,811 100.0%</b>
<u>LIABILITIES AND CAPITAL</u>			
<u>CURRENT LIABILITIES</u>			
Accounts Payable - Trade .....		249,790,689	1.0%
Accounts Payable - Other .....		169,323,657	0.7%
Current Portion of Long-Term Debt .....		775,602,239	3.0%
Accrued Expenses .....		801,860,167	3.1%
Other Current Liabilities .....		678,012,478	2.6%
<b>TOTAL CURRENT LIABILITIES</b> .....		<b>2,674,589,230</b>	<b>10.4%</b>
<u>LONG-TERM DEBT</u>		<u>TOTAL OWING</u>	<u>CURRENT PORTION</u>
Mortgages	670,256,005	158,930,131	511,325,874 2.0%
Debentures & Bonds	1,003,073,853	39,614,969	963,458,884 3.7%
Notes	2,038,353,137	262,604,177	1,775,748,960 6.9%
Contracts	50,147,554	10,636,213	39,511,341 0.2%
Other	6,101,395,498	464,985,644	5,636,409,854 21.9%
<b>TOTAL LONG-TERM DEBT</b>	<b>9,863,226,047</b>	<b>936,771,134</b>	<b>8,926,454,913 34.7%</b>
OTHER LIABILITIES .....			2,042,700,897 7.9%
<b>TOTAL LIABILITIES</b> .....			<b>13,643,745,040 53.1%</b>
<u>CAPITAL</u>			
Owners Capital Accounts .....		1,570,614,086	6.1%
Capital Stock & Other Capital .....		5,999,941,101	23.3%
Retained Earnings .....		4,498,429,584	17.5%
<b>TOTAL CAPITAL</b> .....		<b>12,068,984,771</b>	<b>46.9%</b>
<b>TOTAL LIABILITIES AND CAPITAL</b> .....			<b>25,712,729,811 100.0%</b>

<u>Average Assets</u>	<u>Upper Quartile</u>	<u>Median</u>	<u>Lower Quartile</u>
172,568,656	161,343,220	35,235,109	2,339,303

Fiscal Year 2001  
 Clark County  
 With Gaming Revenue of \$1,000,000 and over

1-10

Amounts Represent 149 Locations.

<u>REVENUE</u>	<u>DOLLARS</u>	<u>PERCENT</u>
Gaming .....	7,478,272,635	50.0%
Rooms .....	3,073,854,726	20.5%
Food .....	1,947,495,259	13.0%
Beverage .....	755,285,556	5.0%
Other .....	1,714,049,199	11.5%
TOTAL REVENUE .....	<u>14,968,957,375</u>	100.0%
 COST OF SALES .....	 1,147,483,725	 7.7%
GROSS MARGIN .....	13,821,473,650	92.3%
DEPARTMENTAL EXPENSES .....	7,670,374,209	51.2%
DEPARTMENTAL INCOME (LOSS) .....	<u>6,151,099,441</u>	41.1%
 <u>GENERAL AND ADMINISTRATIVE EXPENSES</u>		
Advertising and Promotion .....	277,241,768	1.9%
Bad Debt Expense .....	7,382,655	0.0%
Complimentary Expense (not reported in departments).....	159,462,579	1.1%
Depreciation - Buildings .....	429,709,596	2.9%
Depreciation and Amortization - Other .....	751,740,843	5.0%
Energy Expense (electricity, gas, etc.) .....	263,852,278	1.8%
Equipment Rental or Lease .....	26,363,721	0.2%
Interest Expense .....	1,275,093,015	8.5%
Music and Entertainment .....	194,144,011	1.3%
Payroll Taxes .....	70,206,478	0.5%
Payroll - Employee Benefits .....	222,478,496	1.5%
Payroll - Officers .....	24,814,825	0.2%
Payroll - Other Employees .....	782,661,774	5.2%
Rent of Premises .....	167,723,590	1.1%
Taxes - Real Estate .....	154,391,808	1.0%
Taxes and Licenses - Other .....	25,321,128	0.2%
Utilities (Other than Energy Expense) .....	55,437,231	0.4%
Other General and Administrative Expenses .....	860,809,055	5.8%
TOTAL GENERAL AND ADMINISTRATIVE EXPENSES .....	<u>5,748,834,851</u>	38.4%
 NET INCOME(LOSS) BEFORE FEDERAL INCOME TAXES AND EXTRAORDINARY ITEMS .....	 <u>402,264,590</u>	 2.7%

<u>Average Revenue</u>	<u>Upper Quartile</u>	<u>Median</u>	<u>Lower Quartile</u>
100,462,801	105,018,709	29,977,116	3,638,217

## COMBINED INCOME STATEMENT - DETAIL

1-11

Fiscal Year 2001  
Clark County  
With Gaming Revenue of \$1,000,000 and over

Amounts Represent 149 Locations.

CASINO DEPARTMENT

<u>REVENUE</u>	<u>DOLLARS</u>	<u>PERCENT</u>
Pit Revenue (Includes Keno and Bingo) .....	2,556,300,809	34.2%
Coin Operated Devices .....	4,687,100,489	62.7%
Poker and Pan .....	52,880,459	0.7%
Race Book .....	93,222,278	1.2%
Sports Pool .....	88,768,600	1.2%
<b>TOTAL REVENUE .....</b>	<b>7,478,272,635</b>	<b>100.0%</b>
 <u>DEPARTMENTAL EXPENSES</u>		
Bad Debt Expense .....	223,419,198	3.0%
Commissions .....	86,435,455	1.2%
Complimentary Expense .....	1,101,073,545	14.7%
Gaming Taxes and Licenses .....	578,895,081	7.7%
Preferred Guest Expenses (no complimentaries) .....	103,306,457	1.4%
Payroll Taxes .....	134,968,887	1.8%
Payroll - Employee Benefits .....	286,357,131	3.8%
Payroll - Officers .....	9,012,735	0.1%
Payroll - Other Employees .....	1,014,289,715	13.6%
Race Wire Fees .....	16,436,839	0.2%
Other Departmental Expenses .....	669,986,565	9.0%
<b>TOTAL DEPARTMENTAL EXPENSES .....</b>	<b>4,224,181,608</b>	<b>56.5%</b>
 DEPARTMENTAL INCOME(LOSS) .....	 <u>3,254,091,027</u>	 43.5%

ROOMS DEPARTMENT

<u>REVENUE</u>	<u>DOLLARS</u>	<u>PERCENT</u>
Room Sales .....	2,580,491,970	83.9%
Complimentary Rooms .....	493,362,756	16.1%
<b>TOTAL REVENUE .....</b>	<b>3,073,854,726</b>	<b>100.0%</b>
 <u>DEPARTMENTAL EXPENSES</u>		
Bad Debt Expense .....	3,013,312	0.1%
Complimentary Expense .....	32,829,990	1.1%
Payroll - Taxes .....	54,930,736	1.7%
Payroll - Employee Benefits .....	174,604,143	5.6%
Payroll - Officers .....	2,440,500	0.1%
Payroll - Other Employees .....	559,267,569	18.2%
Other Departmental Expenses .....	323,559,804	10.5%
<b>TOTAL DEPARTMENTAL EXPENSES .....</b>	<b>1,150,646,054</b>	<b>37.4%</b>
 DEPARTMENTAL INCOME(LOSS) .....	 <u>1,923,208,672</u>	 62.6%

1-12

## COMBINED INCOME STATEMENT - DETAIL (CONTINUED)

Fiscal Year 2001

Clark County

With Gaming Revenue of \$1,000,000 and over

Amounts Represent 149 Locations.

	<u>FOOD DEPARTMENT</u>	
<u>REVENUE</u>	<u>DOLLARS</u>	<u>PERCENT</u>
Food Sales .....	1,539,496,745	79.1%
Complimentary Food Sales .....	407,998,514	20.9%
TOTAL REVENUE .....	<u>1,947,495,259</u>	100.0%
 COST OF SALES .....	 704,395,319	 36.2%
GROSS MARGIN .....	1,243,099,940	63.8%
 <u>DEPARTMENTAL EXPENSES</u>		
Bad Debt Expense .....	314,762	0.0%
Complimentary Expense .....	9,049,610	0.5%
Payroll - Taxes .....	89,793,998	4.6%
Payroll - Employee Benefits .....	245,576,289	12.6%
Payroll - Officers .....	1,976,127	0.1%
Payroll - Other Employees .....	824,179,856	42.3%
Other Departmental Expenses .....	138,002,610	7.1%
TOTAL DEPARTMENTAL EXPENSES .....	<u>1,308,893,252</u>	67.2%
 DEPARTMENTAL INCOME(LOSS) .....	 <u>-65,793,312</u>	 <u>-3.4%</u>

	<u>BEVERAGE DEPARTMENT</u>	
<u>REVENUE</u>	<u>DOLLARS</u>	<u>PERCENT</u>
Beverage Sales .....	403,060,875	53.4%
Complimentary Beverage Sales .....	352,224,681	46.6%
TOTAL REVENUE .....	<u>755,285,556</u>	100.0%
 COST OF SALES .....	 192,959,385	 25.5%
GROSS MARGIN .....	562,326,171	74.5%
 <u>DEPARTMENTAL EXPENSES</u>		
Bad Debt Expense .....	564	0.0%
Complimentary Expense .....	2,394,626	0.3%
Payroll - Taxes .....	22,675,082	3.0%
Payroll - Employee Benefits .....	59,271,525	7.8%
Payroll - Officers .....	148,292	0.0%
Payroll - Other Employees .....	174,395,865	23.1%
Other Departmental Expenses .....	32,847,646	4.3%
TOTAL DEPARTMENTAL EXPENSES .....	<u>291,733,600</u>	38.6%
 DEPARTMENTAL INCOME(LOSS) .....	 <u>270,592,571</u>	 <u>35.8%</u>

COMBINED INCOME STATEMENT - DETAIL (CONTINUED)

1-13

Fiscal Year 2001  
 Clark County  
 With Gaming Revenue of \$1,000,000 and over

Amounts Represent 149 Locations.

<u>REVENUE</u>	<u>OTHER INCOME</u>	<u>DOLLARS</u>	<u>PERCENT</u>
Other Operating and Non-operating Income .....		1,663,017,325	97.0%
Other Complimentary Items .....		51,031,874	3.0%
<b>TOTAL REVENUE .....</b>		<u>1,714,049,199</u>	100.0%
COST OF SALES .....		250,129,021	14.6%
GROSS MARGIN .....		1,463,920,178	85.4%
<u>DEPARTMENTAL EXPENSES</u>			
Bad Debt Expense .....		1,430,242	0.1%
Complimentary Expense .....		28,845,423	1.7%
Payroll - Taxes .....		26,126,647	1.5%
Payroll - Employee Benefits .....		67,708,305	4.0%
Payroll - Officers .....		672,113	0.0%
Payroll - Other Employees .....		268,359,144	15.7%
Other Departmental Expenses .....		301,777,821	17.6%
<b>TOTAL DEPARTMENTAL EXPENSES .....</b>		<u>694,919,695</u>	40.5%
DEPARTMENTAL INCOME(LOSS) .....		<u>769,000,483</u>	44.9%

AVERAGE NUMBER OF EMPLOYEES FOR THE YEAR

CASINO DEPARTMENT .....	45,486
ROOMS DEPARTMENT .....	26,151
FOOD DEPARTMENT .....	40,204
BEVERAGE DEPARTMENT .....	10,663
G & A DEPARTMENT .....	25,864
OTHER DEPARTMENTS .....	<u>12,002</u>
TOTAL .....	<u>160,370</u>

1-14

ROOM OCCUPANCY AND PER ROOM PER DAY ANALYSIS

Fiscal Year 2001  
 Clark County  
 With Gaming Revenue of \$1,000,000 and over

Amounts Represent 149 Locations.

RATE OF ROOM OCCUPANCY

<u>MONTH</u>	<u>AVAILABLE ROOMS</u>	<u>ROOMS OCCUPIED</u>	<u>% OF OCCUPANCY (COMPUTED)</u>
JULY .....	3,193,595	2,956,320	92.57%
AUGUST .....	3,265,909	3,059,756	93.69%
SEPTEMBER .....	3,227,600	2,887,499	89.46%
OCTOBER .....	3,323,226	3,084,164	92.81%
NOVEMBER .....	3,227,761	2,814,871	87.21%
DECEMBER .....	3,295,844	2,633,872	79.91%
JANUARY .....	3,314,672	2,756,855	83.17%
FEBRUARY .....	3,045,291	2,795,345	91.79%
MARCH .....	3,354,972	3,240,722	96.59%
APRIL .....	3,236,586	3,036,906	93.83%
MAY .....	3,352,523	2,998,153	89.43%
JUNE .....	3,219,133	2,964,319	92.08%
<b>TOTAL .....</b>	<b>39,057,112</b>	<b>35,228,782</b>	<b>90.20%</b>

PER ROOM PER DAY STATISTICS

Average Pit Revenue Per Room Per Day	72.56	Average Beverage Sales Per Room Per Day	21.44
Average Slot Revenue Per Room Per Day	133.05	Average Rooms Department Payroll Per Room Per Day	22.46
Average Food Sales Per Room Per Day	55.28	Average Room Rate Per Day	87.25

PER SQUARE FOOT ANALYSIS AND RATIOS

1-15

Fiscal Year 2001  
 Clark County  
 With Gaming Revenue of \$1,000,000 and over

Amounts Represent 149 Locations.

GAMING REVENUE PER SQUARE FOOT OF FLOOR SPACE

<u>AREA</u>	<u>NO. OF CASINOS OPERATING</u>	<u>AVERAGE AREA IN SQUARE FEET</u>	<u>GAMING REVENUE PER SQUARE FOOT</u>
Pit (Includes Bingo and Keno)	104	9,800	2,507
Coin Operated Devices	149	27,938	1,126
Poker and Pan	38	1,461	891
Race and Sports	77	4,359	538
<b>TOTAL CASINO</b>	<b>149</b>	<b>37,403</b>	<b>1,342</b>

RATIOS

	<u>PERCENT</u>
TOTAL CURRENT ASSETS TO TOTAL CURRENT LIABILITIES .....	120.8%
TOTAL CAPITAL TO TOTAL LIABILITIES .....	88.5%
TOTAL CAPITAL TO TOTAL CURRENT LIABILITIES .....	451.2%
TOTAL CURRENT LIABILITIES TO TOTAL LIABILITIES .....	19.6%
TOTAL COMPLIMENTARY EXPENSE TO GAMING REVENUE .....	17.8%
MUSIC AND ENTERTAINMENT EXPENSES TO GAMING REVENUE .....	2.6%
TOTAL REVENUE TO AVERAGE TOTAL ASSETS .....	57.9%
TOTAL REVENUE LESS COMP SALES TO AVERAGE TOTAL ASSETS .....	52.9%
RETURN ON INVESTED CAPITAL* .....	7.2%
RETURN ON AVERAGE ASSETS* .....	6.5%

\* - FORMULAS

Return on Invested Capital is equal to the total of net income (before federal income taxes and extraordinary items) and interest expense divided by the total of average total assets less average current liabilities.

Return on Average Assets is equal to the total of net income (before federal income taxes and extraordinary items) and interest expense divided by the average total assets.

**Sylvia Grobtuch**  
02/03/04 03:32 PM

To: Bill Balgowan/OGR@Ogr, Rowena Scheffer/OGR@Ogr, Cate Carr/OGR@Ogr, Lyn Corneliusen/OGR@Ogr  
cc: Peter Cohen/OGR@Ogr  
Subject: Amendments to the Casino Agreement \*\* Virus Checked by OGR IT\*\*

For info.

Brian has asked me to check as a courtesy whether Mr Syme has any objection to release of his advice to Warwick (notwithstanding that the advice belongs to the Authority).

You'll see that Warwick states "it would be very helpful to us if we could review the opinion of the Victorian Government Solicitor as, without that review, we will not be able to reply to the opinion of James Syme in any substantial manner". I intend to inform Warwick by return email that we are not requiring him to reply to the VGS opinion. The reason is that the VGS opinion has already been adopted by the Authority and is a sufficiently authoritative source for no further advice to be needed on that issue.

As Brian said to me this morning, we now need to move forward.

Sylvia

----- Forwarded by Sylvia Grobtuch/OGR on 02-03-04 03:21 PM -----



**"Warwick  
Isherwood"**



02-03-04 02:53 PM

To: <[REDACTED]>  
cc:  
Subject: Amendments to the Casino Agreement \*\* Virus Checked by OGR IT\*\*

Sylvia,

I attach my email letter to you (M0246054).

Regards

Warwick

-----  
Maddocks

Melbourne - Tel: (61 3) 9288 0555 Fax: (61 3) 9288 0666  
Sydney - Tel: (61 2) 8223 4100 Fax: (61 2) 9221 0872  
Web: <http://www.maddocks.com.au>

-----  
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Email S Grobtuch 2.3.04 (M024



# Maddocks

Lawyers  
 140 William Street  
 Melbourne Victoria 3000 Australia  
 Telephone 61 3 9288 0555  
 Facsimile 61 3 9288 0666  
 Email info@maddocks.com.au  
 www.maddocks.com.au  
 DX 259 Melbourne

## Email Letter

**From**  
 Warwick Isherwood

**Date**  
 2/03/2004

**Direct**  
 [REDACTED]

**Email**  
 [REDACTED]

**To**  
 Ms Sylvia Grobtuch

**Firm/Company**  
 Victorian Casino &  
 Gaming Authority

**Email**  
 [REDACTED]

Our Ref WJI:5023648

Dear Sylvia

### Amendments to the Casino Agreement

Thank you for talking with me yesterday.

I confirm a meeting is to be held at our offices on Friday, 5 March 2004 at 10.30am.

Besides myself, the attendees from our side will be Miriam McDonald and Robert Gregory.

I understand that, besides yourself, Bill Balgowan and Rowena Scheffer will be attending. Are there any other proposed attendees?

I further understand that the purpose of the meeting is to discuss the advices that you have received both from ourselves and the Victorian Government Solicitor. As mentioned, it would be very helpful to us if we could review the opinion of the Victorian Government Solicitor as, without that review, we will not be able to reply to the opinion of James Syme in any substantial manner. Naturally, our objective is not to criticize the opinion of Mr Syme, who is a experienced and well-respected practitioner, but to understand the reasons he has given and to consider the way forward in such a manner that protects the Authority and furthers its goals.

I am particularly interested in seeing the reasons behind any query there may be on the power of the Minister to enter into an agreement. It seems to me that Ministers have authority to enter into contracts on behalf of the government connection with any subject matter which properly comes within their portfolio (see Seddon on Government Contracts and *Kidman v Commonwealth* (1925) 37 CLR 233 at 239-240).

[5023648/WJI/M0246054:1]

Interstate office  
 Sydney  
 Affiliated offices  
 Adelaide, Beijing, Brisbane, Colombo,  
 Dubai, Hong Kong, Jakarta, Kuala Lumpur,  
 Manila, Mumbai, New Delhi, Perth,  
 Singapore, Tianjin

Page 02

I look forward to hearing from you.

Yours faithfully  
Maddocks

Transmission authorised by:  
Warwick Isherwood  
Partner

**Cate Carr**

25/02/04 11:08 AM

To: Rowena Scheffer/OGR, Bill Balgowan/OGR,

CC:

Subject: Casino Agreement and Insurance

Rowena and Bill

Here is a copy of Schedule Five to the Casino Agreement, which contains Crown's obligations regarding insurance. I have added a column to the table showing what I think we should propose (other than simply removing all obligations and leaving them in the site lease!). Essentially the proposal is to:

- remove all obligations relating to the construction phase;
- remove all obligations relating to policy excesses; and
- retain a requirement to maintain insurance for -
  - the buildings and contents;
  - public liability;
  - directors and offices liability;
  - workers compensation;
  - motor vehicle third party personal injury; and
  - comprehensive crime package.

This table, combined with the proposal to amend clause 35(1)(e) (reporting occurrences that may give rise to a claim) to bring it into line with current practice, should provide sufficient detail for this item to be negotiated with Crown.

Let me know if I need to do anything further.



Schedule Five of Casino Agrmt 25.

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## Review of the Casino Agreement

### Position Paper No. 17

#### **THIS ITEM REQUIRES DISCUSSION WITH THE OGR BEFORE IT CAN BE DISCUSSED WITH CROWN**

#### **Insurance**

#### **Why has this proposal been made?**

1. It is proposed to amend the Casino Agreement to remove all obligations on Crown to insure items or events relating to the construction phase of the Casino Project, as these are now obsolete. It is also proposed to update the remaining provisions to bring them into line with the cover that is available in today's insurance market.

#### **Background**

2. Clause 35(1) of the Casino Agreement requires Crown to insure and keep insured all of its Assets and Rights<sup>1</sup> for the risks set out in Schedule 5 of the Agreement for both construction phase and operations phase of the casino project.
3. Schedule 5 also specifies the limits of liability, the amount of any excess and the period of cover. Clause 35(1) also requires "the interests of the State, the Authority and any Mortgagees to be noted by endorsement on the policy".
4. It should be noted that the Lease for the Casino site between the Minister for Finance for the State of Victoria and Crown Limited also imposes an obligation on Crown to insure and keep insured each and all of its interests and each and all of the Minister's interests in:
  - the Site and every part of the Site;
  - all buildings, structures, extensions and improvements on the Site;
  - all equipment, fixtures, fittings and other assets used in or in connection with the Site.
5. Crown has, therefore, a legal obligation to insure, separate from that imposed by the Casino Agreement, albeit an obligation that is not as specific as that imposed by the Casino Agreement. It would appear, on the face of it, that this obligation would require Crown to maintain most, if not all, of the insurance cover listed in Schedule 5.
6. The most important difference between the obligation to ensure under the Casino Agreement and the obligation under the Lease is, however, that a breach of the obligation to insure under the Lease is not grounds for the Authority to issue a "show cause" notice under section 20 of the Act<sup>2</sup>. If Crown fails to comply with the

<sup>1</sup> "Assets and Rights" is defined in clause 2 of the Casino Agreement as meaning "all the present and future undertaking, property, assets and rights of or held by the Company".

<sup>2</sup> It is, however, arguable that the Authority could issue such a notice under clause 25.2 of the Management Agreement on the grounds the Crown was in breach of clause 41(e) of the Management Agreement which requires Crown to "comply with the terms and conditions of each Lease to which it is a

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obligation to insure under the Lease, the Minister has the capacity to issue a notice requiring Crown to remedy the breach and ultimately to regain possession of the Site if Crown fails to comply with the notice.

7. While there commercial imperatives for Crown to maintain appropriate insurance, it is also important for either the State or the Authority to monitor and regulate the maintenance of insurance as the State has an insurable interest in the Site and the Casino Complex. From a regulatory point of view, it is more efficient and expedient for the Authority to continue to monitor and enforce Crown's insurance obligations because the Minister has not appointed any other person to do this for him. It is also easier for the Authority to enforce Crown's obligations via disciplinary proceedings than it would be for the Minister to enforce the lease with a threat of regaining possession of the Site.

#### **What will the proposal fix or change?**

8. The proposal will remove the regulation of many of the types of insurance policies in Schedule Five that the Authority has no interest or jurisdiction to monitor

#### **Policy excess**

9. As pointed out in the advice provided to the Authority by Sparke Helmore, solicitors, in March 2003, a number of the insurance policies maintained by Crown do not comply with the requirements set out the Schedule 5. This non-compliance mostly relates to the level of the excess applying to each policy.
10. Crown maintains that it has complied with the Casino Agreement. It argues that clause 35.1(a)(i) requires that Crown maintain insurance for the *risks* and *amounts* set out in Schedule 5, meaning the risks in set out in columns 1 and 4, and the amounts set out in column 2. Crown claims to have complied with these requirements.
11. Crown also argue that, even if its interpretation of clause 35 is incorrect, changed market conditions mean that some of the policy excesses in Schedule 5 are not attainable in today's insurance market. Apart form some concerns about the level of excess in relation to Crown's Directors and Officers insurance and its crime cover, Sparke Helmore shares this view. Crown indicated in its letter to the Authority dated 16 April 2003, that it would make a submission to the Authority seeking amendments to clause 35 and Schedule 5. Crown may, therefore, raise these issues during the negotiations on the review of the Casino Agreement.
12. The options in relation to the level of excess prescribed by Schedule 5 are to either:
  - remove the excess limits from Schedule 5; or
  - replace the excess limits from Schedule 5 with levels that are appropriate having regard to today's insurance market. Further advice could be sought

---

party where failure to do so would have a material adverse effect on the Casino Assets or the operation of the Temporary Casino or the Melbourne Casino".

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from Sparke Helmore on this matter if it is decided to revise, rather than delete, the excess requirements.

**Notice of any occurrence that may give rise to a claim**

13. Clause 35(1)(e) of the Casino Agreement requires Crown to:

*immediately after it becomes aware that it has occurred, notify the Authority of any occurrence which gives or might give rise to a claim or right to claim under any insurance policy.*

14. In theory, this would require Crown to notify the Authority every time a Crown owned motor vehicle is involved in an accident with another vehicle or every time a Crown employee completes an incident report form.

15. In practice, Crown only provides monthly a Public Liability Insurance Report and Claims History Summary. These reports give details of all public liability claims and a summary of open and closed claims under the various insurance policies<sup>3</sup>.

16. Given the onerous nature of the obligation imposed by clause 35(1)(e) and the fact that it is neither being complied with nor enforced, consideration should be given to removing this obligation altogether or, alternatively, amending the Casino Agreement to reflect current practice in a way that is considered adequate for the Authority's purposes.

**What will happen if the proposal is not adopted?**

17. The insurance provisions contained in the Casino Agreement would remain out of date and out of step with the current market.

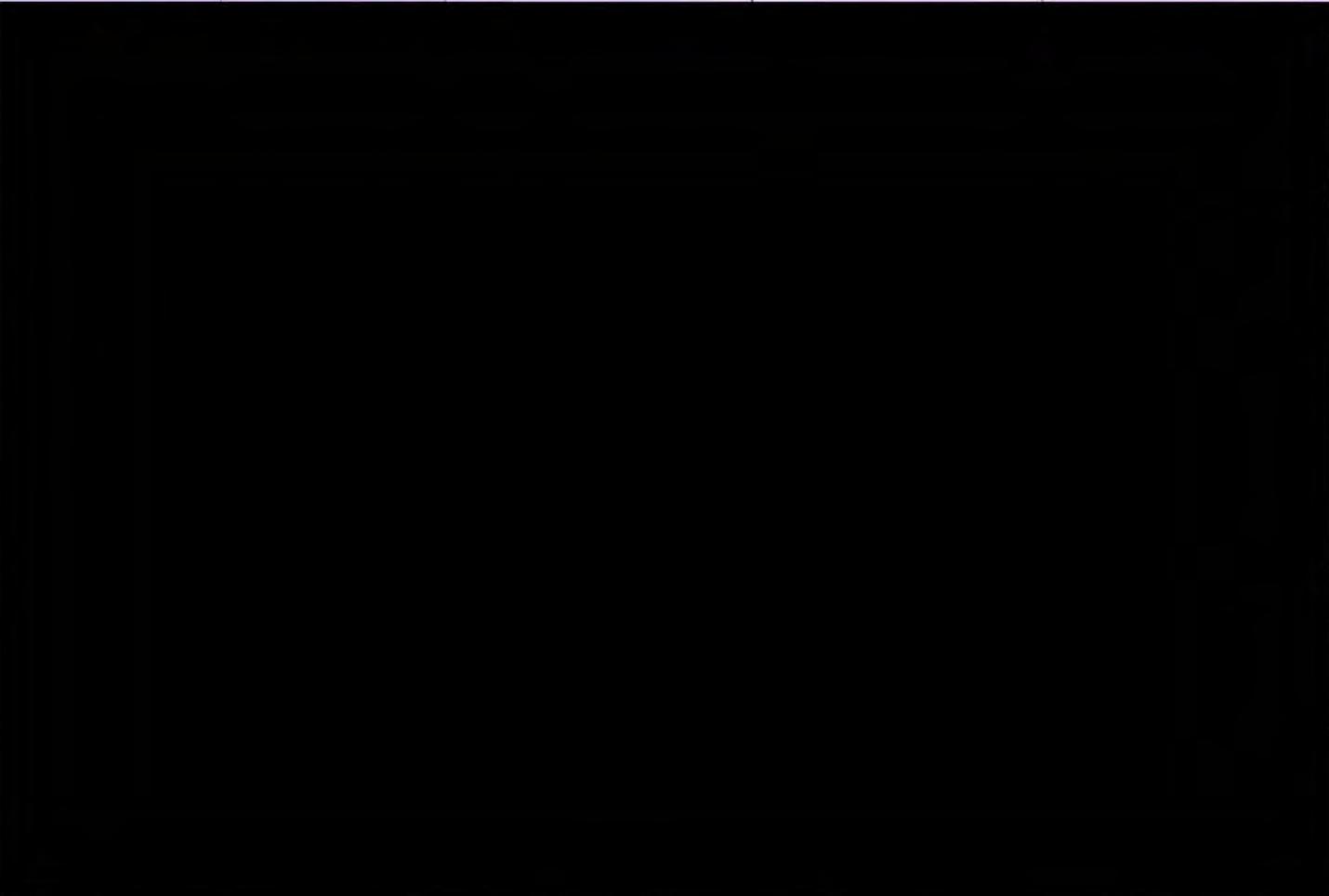
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<sup>3</sup> This reporting arrangement was agreed to by the Authority in November 2000.

## SCHEDULE FIVE

## A. CONSTRUCTION PHASE

Type of Insurance Policy	Limits of Liability	Excess		Cover	Period of Cover	Proposal
						Delete
						Delete
						Delete
						Delete

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover	Proposal
					Delete
					Delete
					Delete
					Delete
					Delete

**B. OPERATIONS PHASE**

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover	Proposal
[REDACTED]					Retain requirement to maintain cover Remove stipulated excess
					Delete
					Retain requirement to maintain cover Remove stipulated excess
					Retain requirement to maintain cover Remove stipulated excess
					Retain requirement to maintain cover

Type of Insurance Policy	Limits of Liability	Excess	Cover	Period of Cover	Proposal
					Delete
					Retain requirement to maintain cover
					Retain requirement to maintain cover Remove stipulated excess

## Review of the Casino Agreement

### List of possible proposed amendments.

Proposed Amendment to the Casino Agreement	Ready for discussion with Crown Limited
1. Public availability of the Casino Agreement	yes
2. Public availability of the Casino Licence.	yes
3. Retaining current market share of commission based players' business in Victoria to maximise gross gaming revenue.	NO
4. Maintain the Casino Complex to world class standards, including: (a) addressing expenditure on new capital and large maintenance capital projects (capital expenses); (b) addressing expenditure on ongoing maintenance and cleanliness (operating expenses). [see also item 16(a)]	yes
5. Independence of the directors of Crown Limited.	yes
6. Audit requirements [see also items 16(b), (c) and (e)]	yes
7. Composition of and reporting structure for the Audit Committee [see also items 16(d) and (e)]	yes
8. Composition of and reporting structure for the Compliance Committee [see also items 16(f) and (g)]	yes
9. Full compliance with the Deed of Undertaking [see also item 16(h)]	NO
10. Consequences for non-compliance with the Deed of Undertaking [see also item 16(h)]	NO
11. Measures of Financial Health; eg - debt/equity ratio, reduction of capital [see also items 16(i) and (j)]	NO
12. Location of Crown's Board meetings.	Yes
13. Location of Crown's senior management and management meetings.	Yes
14. Location of Crown's company secretary	Yes

<b>Proposed Amendment to the Casino Agreement</b>	<b>Ready for discussion with Crown Limited</b>
15. Location of Crown's bank accounts for Melb. Casino operations.	NO
16. Information/documents to be provided or made available to the Authority, including:  (a) A report on Crown's capital annual expenditure program and reports on actual expenditure; [located with Item 4]	yes
(b) A report on Crown's internal and external audit programs and any changes to the programs [see also item 6]  (c) A report on adherence to or divergence from the internal and external audit programs [see also item 6]	Yes
(d) Provide details of membership of Crown's Audit Committee and any changes to the reporting structure and membership of the committee [see also item 7];  (e) Make available for inspection, or copies if requested of, Audit Committee agendas, papers and minutes of meetings [see also items 6 and 7].	yes
(f) Provide details of membership of Crown's Compliance Committee and any changes to the reporting structure and membership of the committee [see also item 8];  (g) Make available for inspection, or copies if requested of, Compliance Committee agendas, papers and minutes of meetings [see also item 8].	yes
(h) Notice of any new subsidiaries of PBL; [see also items 9 and 10]	NO
(i) A report on Crown's annual budget; [see also item 11]	yes
(j) A report on adherence to or divergence from the budget; [see also item 11]	yes
(k) Continuous Disclosure to the Authority under ASX guidelines.	NO
17. Insurance Obligations under Schedule Five.	NO
18. Quarantining Crown from its other ventures.	NO

































*Copy*  
*Please see the footnote on the bottom of page 4.*  
*W.B. Copy from K. [unclear] 10.02.04*  
**COPY** 13/02/04



9 February 2004

PUBLISHING AND BROADCASTING LIMITED  
ABN 52 009 071 167  
LEVEL 2  
54-56 PARK ST  
SYDNEY  
POSTAL ADDRESS  
GPO BOX 4038  
SYDNEY NSW 1028  
AUSTRALIA  
TEL +61 2 9262 8000  
FAX +61 2 9262 8526

Mr Brian Forrest  
Chairman  
Victorian Casino and Gaming Authority  
Level 5, 35 Spring Street  
MELBOURNE VIC 3000

→ *Sylvia*  
*for your attention please.*  
*13/02/04*

By Facsimile: (03) 9651 4999 and original by mail

Dear Mr Forrest

**Deed of Undertaking and Guarantee – New Subsidiaries**

Further to your letter of 20 January 2004, and clause 6.1(a)(1) of the abovementioned Deed, we enclose a schedule of details of all Publishing and Broadcasting Limited ("PBL") subsidiaries acquired or created since 30 June 1999.

Going forward we have put in place procedures to ensure we supply the relevant details for any new subsidiaries acquired by PBL.

Please contact the writer if you have any queries.

Yours sincerely



Stephen Wright  
Company Secretary

Direct Tel:

Attachment

c.c.

Mr Ian Little  
Secretary of The Department of Treasury and Finance of the State of Victoria  
Level 4, 1 Treasury Place  
VICTORIA 3000

By Facsimile: (03) 9651 5027 and original by mail

**PUBLISHING AND BROADCASTING LIMITED**  
**SUBSIDIARIES ACQUIRED AFTER**  
**30 JUNE 1999**

Subsidiary	COMPANY	ACN OR EQUIVALENT	PLACE OF INCORPORATION	DATE OF INCORPORATION	% OWNERSHIP BY PBL	BUSINESS ACTIVITIES	ASSETS (including actual or expected Total Assets) ^ \$	EBITDA ^ (\$)
Y	ACP MH HOLDINGS (NZ) LTD	AK/1209149	New Zealand	08-May-02	100	Holds licences for New Zealand mastheads	5,800,000	-
Y	ACP NETGUIDE MASTHEADS (NZ) LIMITED	1291856	New Zealand	08-Apr-03	100	Publishing company	2,300,000	200,000
Y	ACP NETGUIDE MASTHEADS PTY LTD	104 518 827	VIC	28-Apr-03	100	Publishing company	970,000	95,000
Y	ACP NOMINEES (CI) LTD	CR-88370	Cayman Islands	22-Mar-99	100	Group investment holding company	-	-
Y	ACP POINTS PTY. LIMITED	101 114 532	VIC	26-Jun-02	100	Operator of online websites	-	-
Y	ACPPS HOLDINGS PTY LTD	093 210 310	NSW	06-Jun-00	100	Group investment holding company	-	-
Y	ACPPS HOLDINGS PTY LTD	CR-118046	Cayman Islands	06-Jun-02	100	Group investment holding company	-	-
Y	ACPPS INVESTMENTS PTY LTD	093 210 336	NSW	06-Jun-00	100	Group investment holding company	-	-
Y	AUSTRALIAN CONSOLIDATED PRESS NZ LTD	AK/1144850	New Zealand	12-Jul-01	100	Publishing company	-	-
Y	BASS NEW ZEALAND LIMITED	AK/815227	New Zealand	27-Jun-96	99.9	Non-operating	-	-
Y	BELLFIX PTY LIMITED	095 098 712	NSW	16-Nov-00	99.9	Non-operating	-	-
Y	CML HOLDINGS NO 1 PTY LTD	100 422 795	VIC	03-May-02	100	Group investment holding company	-	-
Y	CROWN RESORT (THAILAND) LIMITED	RVN 04-0071-2644	THAILAND	29-Aug-01	100	Marketing office	50,000	(135,000)
Y	CUBWELL PTY LIMITED **	097 327 314	VIC	29-Jun-01	100	Owns and licenses magazine	390,500,000	-
Y	ECORP HOLDINGS LTD	99908B	BAHAMAS	21-Dec-99	99.9	Group investment holding company	4,800,000	-
Y	ECORP INTERNATIONAL INVESTMENTS LTD	101597B	BAHAMAS	19-Jan-00	99.9	Group investment holding company	-	-
Y	ECORP INTERNATIONAL LTD	120766B	BAHAMAS	30-Jul-01	99.9	Group investment holding company	-	-
Y	EQUIPMENT RESEARCH GROUP PTY LTD	092 269 997	VIC	31-Mar-00	100	Equipment research	4,200,000	700,000
Y	EXHIBITIONS AND TRADE FAIRS PTY LIMITED	096 105 029	VIC	05-Mar-01	75	Organiser of exhibitions & trade fairs	16,800,000	1,620,000
Y	GIT INVESTMENTS LIMITED	26082/6314	MAURITIUS	16-Nov-00	100	Group investment holding company	-	-
Y	GIT PROPERTY COMPANY LIMITED	10454601108	THAILAND	08-Jun-03	100	Group investment holding company	-	-
Y	JAYDIVE PTY LIMITED	094 010 741	NSW	28-Sep-00	100	Non-operating	-	-
Y	JTA DEVELOPMENT PTY LTD	106 310 171	NSW	15-Sep-03	100	Property investment	3,200,000	-
Y	JUSTVANA PTY LIMITED	094 667 311	NSW	05-Oct-00	100	Non-operating	-	-
Y	ROLLER STREET INVESTMENTS PTY LTD	090 565 898	VIC	10-Nov-99	100	Property holding company	3,700,000	-
Y	MANCON NOMINEES PTY LTD	089 197 231	SA	23-Aug-99	99.9	Group investment holding company	-	-
Y	MANDEN PRODUCTIONS PTY LTD	000 549 995	NSW	21-Sep-06	99.9	Property holding company	41,000,000	(3,200,000)
Y	MANPRESS PTY LTD	089 133 291	ACT	17-Aug-99	99.9	Trustee company	-	-
Y	MICJOY PTY. LIMITED	090 774 113	NSW	11-May-01	100	Property holding company	490,000	15,000
Y	MELBOURNE LIVE HOLDINGS PTY LTD	107 664 072	VIC	08-Jan-04	100	Property holding company	15,000,000	-
Y	MLPM HOLDINGS PTY LTD	093 210 372	NSW	06-Jun-00	100	Group investment holding company	-	-
Y	MOTORING GUIDE AUCKLAND LIMITED	AK/615851	New Zealand	31-May-84	100	Publishing company	-	-
Y	NESRAY PTY. LIMITED	089 032 897	NSW	10-Aug-99	100	Group investment holding company	-	-
Y	NTNA HOLDINGS PTY LIMITED	098 429 166	NSW	12-Oct-01	100	Non-operating	-	-
Y	PBL CAPITAL PTY LTD	093 433 982	NSW	22-Jun-00	100	Holds investment in Capital Golf course	36,350,000	-
Y	PBL CO-INVESTMENT NO 1 LTD LIABILITY COMPANY	N/A	USA	28-May-02	100	Group investment holding company	42,000,000	570,000
Y	PBL GAMING (VANUATU) LTD	28132	VANUATU	23-Mar-01	100	Non-operating	-	-



**UBLISHING AND BROADCASTING LIMITED  
SUBSIDIARIES ACQUIRED AFTER  
30 JUNE 1999**

Subsidiary	COMPANY	ACN OR EQUIVALENT	PLACE OF INCORPORATION	DATE OF INCORPORATION	% OWNERSHIP BY PBL	BUSINESS ACTIVITIES	ASSETS (including actual or expected Total Assets) ^ \$	EBITDA ^ (\$)	
	^ Melbourne Live Holdings Pty Ltd is currently a PBL subsidiary. Its ownership structure may change and it is anticipated that this company will be a party to the ownership structure of Crown Promenade Hotel, a matter currently before the VCGA for its consideration.								

NO. 823

PBL 01 2 92828828

9. FEB. 2004 10:13

**Sylvia Grobtuch**  
11/02/04 12:49 PM

To: Rowena Scheffer/OGR@Ogr, Cate Carr/OGR@Ogr  
cc:  
Subject: Casino Agreement Meeting - Monday 23 February 2004 - 10.30am

For info.

Sylvia

----- Forwarded by Sylvia Grobtuch/OGR on 11-02-04 12:45 PM -----

**Sally Grigg**  
11-02-04 11:14 AM

To: Sylvia Grobtuch/OGR@Ogr, Bill Balgowan/OGR@Ogr, Peter  
Cohen/OGR@Ogr  
cc:  
Subject: Casino Agreement Meeting - Monday 23 February 2004 - 10.30am

Dear All,

Please be advised that Rowen Craigie of Crown and the Chairman have confirmed their availability to attend the meeting to discuss the Casino Agreement on Monday 23 February 2004 at 10.30am.

Sally

## **Gambling Regulation Act 2003 - Regulations**

This document sets out the proposed process for:

- Re-making the existing Regulations; and
- Preparing the Regulations that will exclude certain types of signs from the general prohibition on gaming-related signage

under the *Gambling Regulation Act 2003*.

It is proposed that the existing Regulations will be consolidated into 5 new sets of Regulations. They will be:

### **1. Gambling Regulation (Responsible Gambling) Regulations to include:**

- Gaming Machine Control (Clocks) Regulations 2001;
- Gaming Machine Control (Responsible Gambling) (Lighting and Views) Regulations 2001;
- Gaming Machine Control (Loyalty Scheme) Regulations 2003; and
- Gaming Machine Control (Responsible Gambling Information) Regulations 2002.

### **2. Gambling Regulation (Community and Charitable Organisations) Regulations to include:**

- Gaming No 2 (Bingo) Regulations 1998;
- Gaming No 2 (General) Regulations 1998;
- Gaming No 2 (Lucky Envelopes) Regulations 1998; and
- Gaming No 2 (Raffles) Regulations 1998.

### **3. Gambling Regulation (Gaming Machine) Regulations to include:**

- Gaming Machine Control (Jackpots) Regulations 1996;
- Gaming Machine Control (Miscellaneous) Regulations 2001;
- Gaming Machine Control (Restricted Components) Regulations 2002; and
- Gaming Machine Control (Special Employees and Technicians) Regulations 2002.

### **4. Gambling Regulation (General) Regulations to include:**

- Club Keno Regulations 1994;
- Gaming Machine Control (Fees) Regulations 2002;
- Gaming No 2 (Fees) Regulations 1998;
- Gaming No 2 (Trade Promotion Lotteries) Regulations 1998;
- Gaming and Betting (Betting) Regulations 1994;
- Gaming and Betting (Relevant Interests in Shares) Regulations 1994;
- Interactive Gaming (Player Protection) (Fees) Regulations 1999;
- Lotteries Gaming and Betting (Corresponding Offences) Regulations 1997; and
- Lotteries Gaming and Betting (Search Warrant) Regulations 2001.

## 5. Gambling Regulation (Signage) Regulations

The *Gambling Regulation Act 2003* bans gaming machine signs and allows for exclusions from the ban to be granted through regulations. In the Second Reading speech for the *Gambling Regulation Act 2003*, the Minister indicated that regulations would exclude the following from the ban:

- signage within a gaming area; and
- reasonable signage outside venues such as directional signage pointing to the location of a gaming venue or of a gaming room within a venue.

As the provisions on the bans are broadly framed, Gaming Policy Unit will seek legal advice from Crown Counsel (Advisings) on what forms of information constitute signage for the purposes of the prohibition and the regulatory exclusions. The Regulation-making process for this set of Regulations will be separate from the consolidation exercise.

### Indicative Timetable for Consolidated Regulations (i.e. not Signage)

Task	Timeframe
Prepare draft consolidated Regulations for consultation with OGR	Mid February 2004 <ul style="list-style-type: none"> <li>• Responsible Gambling ✓</li> <li>• Community and Charitable Organisations ✓</li> <li>• Gaming Machine</li> <li>• General ✓</li> </ul>
Amend draft Regulations and consult with ORR	February 3 <sup>rd</sup> and 4 <sup>th</sup> week
Send Regulations to Parliamentary Counsel to settle	March
Consult on proposed Regulations	April
Prepare GIC documentation and submit to Executive Council	May
Regulations made	June 2004 (Regulations to provide that they will come into operation on the day which they are made).
Send Regulations to SARC	July 2004 - after Regulations are made
Regulatory Impact Statement Process	Awaiting advice from ORR

### Indicative Timetable for Signage Regulations

Task	Timeframe
Develop policy framework	February - March 2004
Preliminary consultation with key stakeholders	March - April
Regulatory Impact Statement process	April - July
Making of Regulations	July - August
Proclamation of signage ban	August - September

\* The Act grants a 12-month grace period before the signage ban takes effect.

### **Regulatory Impact Statement - Consolidation Regulations**

It is unclear whether a Regulatory Impact Statement (RIS) is required. We have written to the Office of Regulatory Reform (ORR) to obtain advice as to whether a RIS would be required. An exemption may be available on the basis that the Regulations will generally be a re-enactment of existing Regulations and therefore they:

- Do not impose an appreciable economic or social burden on a sector of the public; and
- Are fundamentally machinery in nature.

In the event that a RIS is required, a letter has been prepared and preliminary consultation with DPC has commenced to seek a Certificate from the Premier to exempt the Regulations from the RIS process for at least 9 months. The exemption will be on public interest grounds, to promptly establish the Commission. Upon the expiration of the Certificate, a RIS will have been prepared and the Regulations will be re-made. It is anticipated that RIS will be required for the Signage Regulations, as indicated in the timetable for that process.

### **Transitional issues - Consolidation Regulations**

There are a number of transitional provisions that already exist in the current Regulations that will need to be carried over into the new Regulations. These will be settled in conjunction with Parliamentary Counsel.