

Melbourne Racing Club

Conditions of Corporate Hospitality

Section 1 – General Conditions

Key Terms

Application Form means the corporate hospitality booking application form completed and sent by the Client to MRC.

Carnival means the Caulfield Spring Racing Carnival featuring three days of racing namely the race meetings known as The Age Caulfield Guineas Day, Schweppes Thousand Guineas Day and BMW Caulfield Cup Day (or any other names which may replace those names from time to time).

Caulfield Racecourse Reserve Lease means the lease for the Venue between the Licensor and Trustees of the Caulfield Racecourse Reserve signed on 10 January 1995.

Client means any individual or company named on the Application Form as booking the Dining Facility, Marquee Facility or Reserved Car Park Facility.

Condition means any term or part of the whole of these Conditions and any incorporated terms referred to in Clause 1.2.

Dining Facility means any of the dining restaurants at the Venue including without limitation, the Winning Post Restaurant, the Manikato Restaurant, the Hiskens Stand and the Peter Lawrence Room, as well as dining areas and packages available only during the Carnival, the Festival of Racing and other feature Race days.

Facility means a Dining Facility, Marquee Facility or Reserved Car Park Facility.

Festival means the Caulfield Festival of Racing featuring three days of racing namely the race meetings known as CF Orr Stake Day, Arrowfield Stud Blue Diamond Stakes Day and Futurity Stakes Day (or any other names which may replace those names from time to time).

Insolvency Action means in respect of a party:

- (a) the party is, or under applicable legislation is taken to be, unable to pay its debts as they fall due;
- (b) the appointment of an administrator over all or any of the party's assets or undertaking or the taking of any step preliminary to the appointment of an administrator;
- (c) the appointment of a receiver, receiver and manager, controller, managing controller or similar officer to all or any of the party's assets or undertaking; and/or
- (d) the making of an application or order, commencement of proceedings, passing or proposing in a notice of meeting of a resolution or the taking of an application to a court or other steps (other than frivolous or vexatious applications, proceedings, notices or steps) for the winding up or dissolution of the party or for it to enter an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them.

Licence Period means the periods provided for in the as noted in the Application Form for the Facility.

Licence Period Event means any one of the periods comprising the Licence Period.

Licensed Area means either a Marquee Facility or a Skyline Corporate Suite as noted on the Application Form.

Licensee means the Client and includes its employees, agents, contractors and invitees.

Licensee's Invitees means the number of Licensee's Invitees notified by the Licensee to the Licensor as noted on the Licensee's Application Form or advised by the Licensee to the Licensor in accordance with Clauses 20 and/or 32.

Licensor means MRC.

Marquee Facility means any exclusive, Corporate (Gold or Silver Marquee) or syndicated marquee within the Heath Enclosure.

MRC means The Victorian Amateur Turf Club Incorporating the Melbourne Racing Club including its agents, servants, contractors, Committee and the Trustees.

Package means a package in any Facility – namely a marquee package in respect of a Marquee Facility, a dining package in respect of a Dining Facility and a car park package in respect of a Reserved Car Park Facility.

Race day means a race day scheduled for a time, date and Venue holding the prescribed sporting programme as specified on the website www.melbournerracingclub.net.au from time to time.

Reserved Car Park Facility means any car park facility, inclusive of a mini marquee, within the Railings Village on the in-field of the Venue.

Skyline Corporate Suite means a corporate suite on the Skyline Level of the Rupert Clarke Grandstand at the Venue.

Trustees means Trustees for the time being (and from time to time) of the Caulfield Racecourse Reserve.

Venue means the Caulfield Racecourse, Station Street, Caulfield.

1. Agreement

1.1 The following conditions of corporate hospitality (**Conditions**) apply to all corporate hospitality packages (**Packages**) available at the Venue on any Race day, including the Carnival and the Festival Race days, in conjunction with the Application Form, constitutes a binding agreement between the parties (**Agreement**).

1.2 By signing and sending the Application Form to the Melbourne Racing Club (**MRC**), the Client agrees to comply with:

- (a) these Conditions;
- (b) the MRC Conditions of Attendance (**Conditions of Attendance**) which are incorporated into, and form part of, this Agreement;
- (c) where the Client has booked a Marquee Facility or a Skyline Corporate Suite, the conditions relating to licensing contained in Section 2 of this Agreement (**Licensing Conditions**);
- (d) where the Client has applied for a Reserved Car Park in the Railings Village during the Carnival, the conditions for the Railings Village contained in Section 3 of this Agreement (**Reserved Car Park Conditions**);
- (e) MRC Refund and Exchange Policy;
- (f) MRC On-course Horse Movement Policy; and
- (g) MRC Privacy Policy

All Conditions and policies specified in this Clause 1.2 can be found at the website www.melbournerracingclub.net.au/terms

1.3 To the extent there is any inconsistency between these Conditions and the Conditions of Attendance, these Conditions shall prevail and take precedence.

- 1.4 In the event there is any inconsistency between these Conditions and either the Licensing Conditions or the Reserved Car Park Conditions, whichever is relevant of the Licensing Conditions or Car Park Conditions will prevail.
- 1.5 Booking confirmation is subject to availability. A binding agreement between the MRC and the Client is effective upon receipt by MRC of a completed Application Form and the subsequent receipt by the Client of written booking confirmation from the MRC.
- 1.6 No cancellation or termination of the Agreement by the Client will be accepted by MRC after the Client has received written confirmation of booking by the MRC.
- 1.7 MRC reserves the right to refuse to sell a Package to any company or individual at its sole discretion.

2. Payment

- 2.1 All Clients booking a Package in a Facility, excluding an exclusive Carnival Marquee Facility, will be required to pay in full upon initial booking. Payments may be in the form of cash, cheque or credit card. Credit cards may incur a service fee (refer Clause 2.7).
- 2.2 Subject to the Licensing Conditions, all Clients booking an exclusive Carnival Marquee Facility are required to pay a 50% non-refundable deposit of the total cost of the Marquee Facility upon initial booking.
- 2.3 All amounts payable in respect of GST by the Client in connection with the total price of the Package must be paid by Client to MRC upon execution of this Agreement by Client.
- 2.4 All exclusive Carnival Marquee Facility Clients referred to in Clause 2.2 above shall be invoiced for the balance of their Marquee inclusive of confirmed food, beverage and additional requirements from the last Friday in July of the relevant Carnival year and shall be required to pay for all such items no later than 5pm, on the second Friday in August in the relevant Carnival year.
- 2.5 Failure to pay for a Marquee Facility and catering as outlined in Clauses 2.2 and 2.4 shall entitle the MRC to cancel the Carnival Marquee Facility.
- 2.6 No refunds will be issued for any Package under any circumstances, except for those detailed in Clause 13.1 of this Agreement.
- 2.7 For all Packages exceeding \$10,000, the following credit card charges will apply:
 - (a) BankCard/MasterCard/VISA – 1.75% of the Package value inclusive GST; and
 - (b) DINERS/American Express – 3.1% of the Package inclusive GST.
- 2.8 In the event that the Client does not pay to MRC any amounts required to be paid pursuant to these Conditions on or before the dates that such payments are required to be made, the Client shall be liable to the Licensor for penalty interest at the rate of fifteen percent (15%) per annum on any such amounts accruing from the date that payment is required pursuant to these Conditions until payment is made.

3. Use of Facility

- 3.1 Clients are permitted to attend and/or use their Facility only on the Race day or Race days for which the Facility has been booked and paid for and only during the hours nominated by MRC. Clients are responsible for entry of guests into the Facility and their conduct in the Facility. In the case of an exclusive Marquee Facility, a Skyline Corporate Suite or a Reserved Car Park Facility, subject to Clause 9 the Client may at its own cost use representatives of the MRC's officially appointed security company to control admission of guests into its Facility.
- 3.2 Clients purchasing an exclusive Marquee Facility or a Skyline Corporate Suite may, at their own cost, decorate the interior of their Facility. The Client will have full responsibility for the security, delivery, assembly and set up of all decorations and

associated materials. The Client must obtain approval from MRC and in the case of an exclusive Marquee Facility, Harry the Hirer, for any items that will be suspended from, affixed to or that will in any way impact upon, or apply significant pressure to the Facility structure.

- 3.3 MRC and its contractors accept no responsibility for any property of the Client.

4. Facility Signage

Unless otherwise expressly agreed with MRC, Client signage within each Facility shall comprise plain text on a standard MRC sign on a table stand (in the case of a syndicated Facility) or a plain text sign on a standard MRC sign on the exterior entrance to the Facility in the case of an exclusive Marquee Facility or Skyline Corporate Suite. No company logos or branding may be displayed within or on the exterior of any Facility without the prior written approval of MRC.

5. Issue of Tickets and Ticketing Conditions

- 5.1 No tickets will be issued unless a completed booking form and full payment has been received and confirmed by MRC.
- 5.2 Tickets are not transferable or redeemable for cash.
- 5.3 Lost or stolen tickets will incur a full replacement fee for each ticket.
- 5.4 Requests for replacement tickets must be provided in writing with the exact ticket and or wristband number and proof of purchase.
- 5.5 Replacement tickets can be collected from the Maple Office prior to the relevant Race day or from Gate 23 on the relevant Race day.
- 5.6 MRC will not accept responsibility for tickets lost or misplaced by Australia Post.

6. Entry and Display of Tickets

- 6.1 The Client must ensure that its guests display the correct ticketing at all times. No person will be admitted to any Facility without the correct official MRC ticketing appropriate to the particular Facility. MRC reserves the right to refuse admittance to a person who does not display the correct ticketing, and may require that person to immediately leave the Facility and/or the Venue.
- 6.2 Where a Client or guest wishes to rely on a concession ticket for entry into the Venue the Client or guest (as the case may be) must produce a valid Department of Social Security Pensioner Concession Card or a current and valid secondary or tertiary student identification card or they may be denied entry or asked to leave the relevant Facility or Venue. Students will not be eligible for concession admission on BMW Caulfield Cup Day.

7. Catering

- 7.1 The Client accepts that Events at Caulfield will be the sole permitted provider of catering into the Facilities other than Reserved Car Park Facilities.
- 7.2 MRC follows guidelines for Responsible Service of Alcohol (**RSA**). Staff members are instructed not to serve any alcoholic beverages to guests under the age of 18 years or to guests in a state of intoxication.
- 7.3 Should a Client or its guests be in breach of liquor licensing laws, or procure that any other person breaches such laws, MRC may cancel the Client's Facility (without refund) and require the Client and the Client's guests to leave the Venue.

8. On-selling

- 8.1 The Client must not sell or on-sell any part of their Facility (including any ticket to the relevant Facility) without the prior written approval of MRC.

- 8.2 If MRC approves the purchase of a Facility by an on-seller for the purpose of on-selling that Facility, that on-seller must provide to MRC, for prior approval by MRC, all of its intended advertising materials promoting its sale of tickets to the relevant facility. All such marketing materials must specify all charges associated with the Facility that the on-Seller will seek to charge its guests. Tickets will not be issued to on-Sellers until all advertising materials have been approved by MRC.
- 8.3 On-sellers must not use any advertising materials which have not been approved by MRC in writing including, without limitation, advertising materials in electronic form such as internet-based advertising.
- 8.4 The on-seller purchasing a Facility will be fully responsible for conduct and safety of the ticket holders of the particular Facility.
- 8.5 The on-seller is not permitted to sell any part of a Facility (including any ticket to the relevant Facility) to another person for the purpose of further on-selling. If an on-seller conducts; unauthorised on-selling, MRC reserves the right to cancel its booking without refund.
- 8.6 All on-sellers must provide to MRC a complete list of persons to whom the on-seller has sold tickets for their Facility.

9. Security

- 9.1 MRC shall provide what it deems to be an appropriate level of security for the Venue. In the case of a Client booking an exclusive Marquee Facility, exclusive Dining Facility, a Skyline Corporate Suite or a Reserved Car Park Facility, where the Client requires the presence of a crowd controller at or around the Facility, it shall notify MRC of same requirement six (6) weeks prior to the commencement of the Race day.
- 9.2 Following a request as referred to in Clause 9.1 MRC shall provide a crowd controller as engaged by a third party with whom it has an exclusive arrangement as provided for in Clause 9.3.
- 9.3 The Client shall pay MRC an additional fee at the rate of \$35 per hour (minimum of eight hours) plus GST for each hour of attendance of the crowd controller at or around the Facility which fee shall be the subject of an invoice after the Race day which invoice shall be required to be paid by the Client to MRC within thirty (30) days of the rendering of same invoice.

10. Advertising and Promotions

- 10.1 The Client must not advertise or promote, or procure the advertising or promotion of their Facility or relevant Race day in any way without the prior written consent of MRC.
- 10.2 The Client must not use tickets to a Facility or relevant Race day for advertising or other promotional purposes (including, without limitation, prizes, contests or sweepstakes) without the prior written consent of MRC.
- 10.3 The Client must not (except with the prior written consent of MRC) in any reference to or advertising or promotion of the Client or its activities use the name of MRC, or of any Race day promoted by or on behalf of MRC, that the Client or any of the Client's activities are endorsed by MRC, or that the Client is a sponsor or in some other way connected to MRC or any event promoted by or on behalf of MRC.

11. Suppliers

- 11.1 Clients booking Facilities are required to use the MRC appointed official suppliers for any services required by the Client which are offered by those officially appointed providers.
- 11.2 Clients who are wishing to engage suppliers to provide a service that is not offered by the officially appointed suppliers must obtain prior written consent from MRC, or those suppliers may be denied entry to the Venue or the Client's Facility.

12. Indemnity

- 12.1 The Client agrees and acknowledges that, to the extent permitted by law, MRC will not be liable for any loss or damage suffered by the Client or any other person present at the Venue or the Client's Facility or caused by any acts of omissions of MRC or its employees, agents or contractors, or any other persons present at the Client's Facility or the Venue.
- 12.2 Nothing in these Conditions affects any liability that MRC may have for any (a) breach by MRC of any express term of the Conditions; (b) breach by MRC of any term implied into the Conditions under the general law; or (c) tort committed by MRC.
- 12.3 Any liability of MRC to the Client under the Conditions or otherwise will not under any circumstances extend to loss of chance, profits, revenue, income, dividends or winnings or indirect or consequential loss.
- 12.4 The Client indemnifies MRC against liability for or in respect of any claims, demands, loss, damage, personal injury or death of any person arising out of or in connection with any of the Client's acts or omissions while at a Facility or the Venue.
- 12.5 Nothing in these conditions affects the rights of any person under the Trade Practices Act 1974 (Cth), the Fair Trading Act 1999 (Vic) or similar legislation regarding irrevocable implied conditions or warranties.

13. General

- 13.1 If any part of any Race day including any race, performance, event, any or all of the three days of the Caulfield Spring Racing Carnival or any other event associated with the Caulfield Spring Racing Carnival, is cancelled, abandoned or postponed, in whole or part, due to adverse weather conditions or for any other cause beyond the MRC's control, there is no right to refund or exchange and no obligation is assumed by the MRC for the arrangement of a substitute event, performance or any other element unless otherwise prescribed in the MRC Refund and Exchange Policy, a copy of which can be obtained by contacting MRC on (03) 9257 7200 or on the website www.melbournracingclub.net.au.
- 13.2 Programs, menus, duration and timing may be subject to alteration without notice. The MRC reserves the right to vary, add, withdraw or substitute advertised programs, menus and facilities without notice.
- 13.3 The following dress code (**Dress Code**) shall apply to all Facilities within the Venue.
 - (a) Gentlemen and boys over fourteen (14) years of age shall be required to wear a suit, sports coat or blazer plus a tie at all times. The following items of clothing are unacceptable: pullovers and cardigans (as outer wear), parkas, duffel coats, denim jackets, zippered or waist length leather/casual jackets, shirts without a collar, shorts, jeans, running/sports shoes, thongs or any dilapidated footwear.
 - (b) Ladies and girls over fourteen (14) years of age shall be expected to maintain a suitable standard of dress in keeping with the standard of the Facilities. The following items of clothing are unacceptable: parkas, duffel coats, denim jackets, zippered or waist length leather/casual jackets, any clothing revealing bare midriff, shorts, jeans, running/sports shoes, thongs or any dilapidated footwear.
 - (c) Children under fourteen (14) years of age shall be neatly dressed in keeping with the standards of dress expected from ladies and gentlemen.

The Club reserves the right to refuse admittance to any Facility to patrons not adhering to the Dress Code.

Section 2 – Licensing Conditions (Marquee Facility or Skyline Corporate Suite)

The terms and conditions set out in this Section 2 are applicable to all Clients who have booked a Marquee Facility or a Skyline Corporate Suite at the Venue and shall constitute a licence agreement (License Agreement between the Client and MRC).

Key Terms

In this Section 2, unless the context otherwise requires, the following additional definitions shall apply.

Fit-Out Proposal means a proposal submitted by the Licensee to the Licensor in accordance Clause 27 setting out a floor plan and a full description of the specifications of any installations, displays, fittings, furnishings, decorations or lighting with which the Licensee proposes to fit-out the Licensed Area.

Food and Beverage Product Fee means the fee payable by the Licensee to the Licensor in respect of the Food and Beverage Supplies calculated in accordance with the prices noted in the Food and Beverage Selection.

Food and Beverage Supplies means the food and beverage products to be supplied to the Licensee's Invitees during a Licence Period Event as notified by the Licensee to the Licensor and confirmed by the Licensor to the Licensee in accordance with Clause 19.

Food and Beverage Selection means a written selection of food and beverage products (including a price on a per head basis of each such product).

Hire Fee in this Section 2 of the Agreement means the premium payable by the Licensee to the Licensor in return for, subject to these Conditions, the Licensor licensing to the Licensee the Licensed Area and providing the Hospitality Services for the Licence Period and the provision of the Licence Area Fit-Out as noted in the noted on the Application Form.

Hospitality Services means the services as noted in the Application Form.

Licensed Area Fit-Out means the fit-out of the License Area by the Licensor.

Maximum Licensee's Invitees means the maximum number of Licensee's invitees who may occupy the Licensed Area (Twenty Four (24) in the case of a Skyline Corporate Suite).

Minimum Licensee's Invitees means the minimum number of Licensee's invitees who may occupy the Licensed Area (twenty (20) in the case of a Skyline Corporate Suite).

Payment Date means the day on or before which the Licensee shall pay to the Licensor the Hire Fee as noted on the Application Form.

Ticket means a ticket, wristband, electronic swipe card or any other physical or material thing which permits entry of the Licensee's Invitees to the Venue and the Licensed Area and which identifies the Licensed Area by a number which corresponds with the Licensed Area.

14. Grant of Licence and Hospitality Services

The Licensor:

- (a) occupies the Venue under the Caulfield Racecourse Reserve Lease;
- (b) grants to the Licensee a licence for the benefit of the Licensee's Invitees to enter upon the Venue and to occupy the Licensed Area which constitutes part of the Venue for the License Period (**License Agreement**);
- (c) shall provide the Hospitality Services to and for the benefit of the Licensee's Invitees within the Licensed Area for the Licence Period; and
- (d) shall provide any additional services in accordance with Clause 26 or a crowd controller if requested by the Licensee in accordance with Clause 9.

15. The Licensor's Rights of Access

The Licensee acknowledges that the Licensor may enter upon the Licensed Area at any time without notice during the Licence Period for the purposes of:

- (a) gaining access to other parts of the Venue;
- (b) undertaking any repair, maintenance or cleaning of the Licensed Area;
- (c) providing any security or like services in respect of or in association with the Licensed Area, the Race day and/or any property of the Licensor;
- (d) providing the Hospitality Services;
- (e) inspecting the condition of the Licensed Area and/or observing the compliance or otherwise of the Licensee with the terms of this Agreement;
- (f) for any other purposes that are reasonably necessary for the operation of the Venue and/or the operational requirements of the Licensor;

provided always that the activities referred to in this Clause 15(a) to (f) (inclusive) do not interfere with the reasonable amenity and enjoyment of the Licensee's Invitees of the Licensed Area and the Hospitality Services.

16. Licensor Directions

For the avoidance of doubt the Licensee shall procure that the Licensee's Invitees obey and adhere to any reasonable directions or requirements of the Licensor or any directions, requirements or decisions which relate to or affect the Licensee's Invitees which are provided for in this Agreement.

17. Payment

- 17.1 The Licensee shall pay to the Licensor the Hire Fee by clear funds on or before the Payment Date.
- 17.2 In the event that payment in Clause 17.1 is not made on or before the Payment Date, the Licensor may terminate this Agreement with immediate effect by giving notice to the Licensee whereupon the Licensee shall be liable to the Licensor, de minimus, without derogating from any common law rights of the Licensor arising from such termination or rights granted elsewhere in this Agreement, for the difference in revenue which would have been realised by the Licensor in the event that the Agreement was not so terminated and any revenues realised by the Licensor thereafter arising from the licensing or hiring of the Licensed Area for the Licence Period and the provision of food and beverage products to any third persons or party (if any).

18. Notification of Attendance at a Licence Period Event

- 18.1 No later than six (6) weeks prior to a Licence Period Event the Licensee shall serve on the Licensor a notice indicating as to whether the Licensee shall be requiring for the benefit of its Licensee's Invitees, to occupy and use the Licensed Area in respect of that Licence Period Event.
- 18.2 In the event that the notice required in Clause 18.1 is not given by the Licensee to the Licensor strictly in accordance with the time requirements in same Item the Licensee shall be deemed to have notified the Licensor that it requires the provision and occupancy of the Licensed Area for the benefit of the Licensee's Invitees in respect of that Licence Period Event.
- 18.3 In the event that the Licensee in accordance with Clause 18.1 advises the Licensor that it does not require to occupy for the benefit of the Licensee's Invitees the Licensed Area in respect of a Licence Period Event for the avoidance of doubt there shall be no reduction or rebate payable by the Licensor to the Licensee in respect of the Hire Fee.

19. Food and Beverage Products

- 19.1 If, in accordance with Clause 18, the Licensee advises that it requires to occupy and use the Licensed Area in respect of a Licence Period Event or is otherwise deemed to have so notified the Licensor (**Positive Notice**) the Licensor shall send to the Licensee no later than four (4) weeks prior to such Licence Period Event a Food and Beverage Selection.
- 19.2 Following receipt of the Food and Beverage Selection the Licensee shall notify the Licensor no later than one calendar week prior to any Licence Period Event the subject of Positive Notice of the food and beverage products contained in the Food and Beverage Selection it requires to be supplied by the Licensor at the Licence Period Event. Further in the same notice the Licensee shall indicate the number of Licensee's Invitees that shall be in attendance at the Licence Period Event it being acknowledged and agreed that the number of Licensee's Invitees so notified by the Licensee shall not be less than the Minimum Licensee's Invitees or more than the Maximum Licensee's Invitees.
- 19.3 Following receipt of notification as provided for in Clause 19.2 the Licensor shall use best endeavours to supply during the Licence Period Event the Food and Beverage Supplies, however in the event that any such products are not available the Licensor shall liaise with the Licensee in order to agree substitute products for an agreed Food and Beverage Product Fee.
- 19.4 The Licensee shall pay to the Licensor the Food and Beverage Product Fee within fourteen (14) days following receipt of an invoice in respect of the Food and Beverage Supplies.
- 19.5 Notwithstanding anything to the contrary in these Conditions the Licensee, by giving notice to the Licensor, not less than eight (8) days prior to a Licence Period Event the subject of a Positive Notice may cancel its requirement to occupy and have use of the Licensed Area in respect of same Licence Period Event provided always that within seven (7) days following receipt of an invoice from the Licensor it shall be liable to the Licensor to pay the sum of \$800.00 arising from such cancellation, it being acknowledged and agreed that this sum is a valid pre-estimate of the costs associated with the Licensee's cancellation of its requirement under this Item.
- 19.6 In the event that the Food and Beverage Supplies have been ascertained in accordance with Clause 19.2 and in the event the Licensee attempts to give notice of cancellation to the Licensor at any time later than that as is permitted by Clause 19.5, the parties acknowledge and agree that the Licensor shall provide the Food and Beverage Supplies for the benefit of the Licensee's Invitees during the Licence Period Event and irrespective of any attempted cancellation on the part of the Licensee, the Licensee shall be liable to the Licensor for the Food and Beverage Product Fee.
- 19.7 In the event that the Licensee attempts to give notice of cancellation to the Licensor at any time later than that as is permitted by Clause 19.5, and in the event that the Food and Beverage Supplies have not been ascertained in accordance with Clause 19.2, the Licensor shall not be required to provide any food and beverages during the Licence Period Event and the Licensee shall be required to pay the Licensor within seven (7) days of receipt of an invoice the sum of \$1,200.00 arising from same cancellation it being acknowledged and agreed that this sum is a fair and reasonable estimate of the time, cost and expense caused by the Licensee giving notice of cancellation in these circumstances and the Licensee shall not be entitled to any rebate or reduction of the Hire Fee.
- 19.8 The parties acknowledge and agree that in the event the Licensee in Clauses 18.1 or 18.5 notifies the Licensor that it does not require to occupy or use the Licensed Area in respect of a Licence Period Event, the Licensee and any of the Licensee's Invitees shall not be entitled to occupy or use the Licensed Area during the Licensed Event and nor shall the Licensor be required to make available for the benefit of the Licensee's

Invitee's the Licensed Area. It is further acknowledged and agreed that following any such events the Licensor is at liberty to licence the Licensed Area to any other person or entity of its choosing during such Licence Period Event and the Licensee shall not be entitled to any rebate or reduction of the Hire Fee.

20. Licensee's Invitees

- 20.1 Following payments of the amounts referred to in Clause 17 the Licensor shall send the Tickets to the Licensee via Australia Post registered mail to the Licensee's address as noted on the Application Form
- 20.2 Subject to Clauses 25.1 and 25.2 the parties acknowledge and agree that the Tickets are not transferable or redeemable for cash.
- 20.3 The Licensee shall procure that each of the Licensee's Invitees display a Ticket at all times whilst within the Venue and the Licensed Area.
- 20.4 The Licensee shall procure the number of Licensee's Invitees that the Licensee's Invitees who attend the Licensed Area during a Licence Period Event shall not exceed the number as notified to the Licensor in respect of that Licensed Period Event in accordance with Clause 19.2.
- 20.5 The Licensee acknowledges and agrees that:
 - (a) The Licensor is required to comply with the *Liquor Control Reform Act 1998* and all Responsible Service Of Alcohol requirements and that the Licensor and/or its agents or contractors are not required to serve any alcohol beverages to any of the Licensee's Invitees under the age of eighteen or to any of the Licensee's Invitees it reasonably determines are in a state of intoxication.
 - (b) The Licensor may eject any of the Licensee's Invitees from the Licensed Area or the Venue in the event that the Licensee's Invitees conduct themselves in an antisocial or intoxicated manner or their behaviour constitutes a nuisance to the staging of the Race day and/or any parts thereof and/or detracts from the reasonable amenity of other patrons or the Licensee's Invitees and/or in the event that the Licensor determines that the Licensee's Invitees are undesirable or likely to cause disruption or nuisance to the Race day or are likely to engage in an act of terrorism or cause damage to property of the Licensor, the Licensee's Invitees or patrons.

21. Licensee to Comply and Procure Compliance

The Licensee shall (and shall procure that Licensee's Invitees shall) observe perform and fulfil the requirements of any law for the time being in force including the requirements of any statute regulation ordinance or by-law insofar as the same may apply to the Agreement and in particular but without limiting the foregoing shall comply with the requirements of all laws and regulations relating to health, safety, water supply, sewerage, fire and building and shall not do or permit to be done anything which may conflict with any such law or regulation arising there from.

22. Damage to Venue

- 22.1 Without derogating from the generality of any indemnity granted to the Licensor by the Licensee elsewhere in this Licence Agreement, the Licensee shall be liable for and shall indemnify the Licensor in respect of any damage or destruction to any part of the Venue (including any marquees or corporate boxes comprising the Licensed Area) and further any property of the Licensor or its contractors contained within the Venue caused either directly or indirectly by the Licensee or the Licensee's Invitees.
- 22.2 In addition to any rights of access of the Licensor to the Licensed Area, the Licensor may, at its option, undertake any repair, replacement or other works arising from damage or destruction referred to in Clause 22.1 and whether within the Licensed Area or Venue during any of the periods comprising the Licence Period.

23. General Indemnity and Exclusion of Licensor's Liability

- 23.1 The Licensee acknowledges that it and the Licensee's Invitees occupies and uses the areas within the Venue in accordance with this Licence Agreement at its own risk. The Licensee shall at all times indemnify and hold harmless the Licensor and the Licensor's contractors against all liabilities, proceedings, claims, costs, damages and expenses which the Licensor or the Licensor's contractors may suffer, have brought against them, incur or become liable for in respect of any act injury, loss, costs, damages and expense matter or thing occurring or done or alleged to have been done during the term of the Agreement (including the Licence Period) which is caused or results by or from the act or omission of the Licensee or the Licensee's Invitees and whether negligent or otherwise or which results from any breach of the terms of this Agreement by the Licensee.
- 23.2 The Licensor shall not in any circumstances be liable to the Licensee for whatever reason or cause for any loss, injury, death or damage to the Licensee or the Licensee's Invitees including damage or destruction to the Licensee or the Licensee's Invitees property or loss of amenity or enjoyment arising or occasioned by water, heat, fire, electricity, vermin, explosion, tempest, riot, act of terrorism, civil commotion, bursting pipes, entry of water, failure or suspension of service to the Venue, criminal activity, wilful or deliberate acts, equine virus, virus or disease bacteria affecting the race track or Venue, the cancellation of any Race day or any race performance event scheduled or notified to occur during the Licence Period or a Licensed Period Event including cancellation, abandonment or postponement of any or all such races, performances or events in whole or in part or otherwise for any cause beyond the Licensor's control (**Overriding Circumstances**). However, this Clause shall not apply to any loss, injury, death or damage occasioned by or caused by the Licensor's negligence.
- 23.3 In respect of any Overriding Circumstances which result in any race, race meeting, performance, events scheduled or notified to occur during the Licence Period or Licensed Period Event being cancelled, abandoned or postponed, it is acknowledged and agreed that the Licensee shall not be entitled to repayment or refund of any money paid to the Licensor under this Agreement save for circumstances set out the MRC Refund and Exchange Policy. Further there is no obligation or requirement for the Licensor to arrange for any substitute event, performance, race as a result of such cancellation, abandonment or postponement. [For a full description of where a refund or exchange may apply, please refer to the MRC Refund and Exchange Policy by contacting MRC on 92577200 or consult the website www.melbournracingclub.net.au/terms]
- 23.4 In no event shall the Licensor be liable to the Licensee for any consequential or indirect loss or any loss of profit or business interruption or damage to the Licensee's reputation.
- 23.5 To the fullest extent permissible by law the parties acknowledge and agree that any implied terms contained in either the Goods Act 1958, the Trade Practices Act 1974 or any other act of the Commonwealth or State of Victoria are hereby excluded including the implied terms, conditions or warranties contained in Division 2, Part 5 of the Trade Practices Act 1974 or Part 4 of the Goods Act 1958.
- 23.6 Without derogating from the generality of any exclusion of the Licensor's liability contained elsewhere within this Agreement in no event shall the Licensor be liable to the Licensee for any loss, damage, expense, claims, costs, damages or expenses incurred, suffered or brought against the Licensee resulting from any emergency evacuation of the Venue or part of the Venue.

24. Termination

- 24.1 The parties acknowledge that the Licensor may at its sole discretion terminate this Agreement, by giving notice in writing to the Licensee with immediate effect if at any time:

- (a) the Licensee breaches any term of this Agreement which is capable of remedy and the Licensee fails to remedy such breach within fourteen (14) days of receipt of notice in respect of the breach from the Licensor;
 - (b) the Licensee breaches any term of this Agreement which is not capable of remedy; and/or
 - (c) the Licensee is or becomes subject to any form of Insolvency Action.
- 24.2 The Licensee may terminate this Agreement by giving notice in writing effective immediately if:
- (a) the Licensor is or becomes in material breach of any of the terms of the Agreement and such breach is not rectified within twenty-one (21) days of receiving written notice from the Licensee to rectify the breach; and/or
 - (b) the Licensor is or becomes subject to any form of Insolvency Action.
- 24.3 Subject to Clause 24.4, termination of the Agreement shall not prejudice any rights or remedies already accrued to any party under, or in respect of any breach of this License Agreement.
- 24.4 In the event that this Agreement is terminated by the Licensor in accordance with Clause 24.1 the Licensee shall be liable to pay to the Licensor, without limitation to any of the Licensor's common law rights, the minimum of the Licence Fee and the Food and Beverage Products Fee minus any like fees paid to the Licensor by any other individual or entity following such termination in respect of the licensing to same individual or entity of the Licensed Area for the Licence Period and the provision of hospitality services.
- 24.5 The Licensee shall not and shall procure that the Licensee's Invitees shall not bring any food or drink or other like substances or materials onto the Venue during the Licence Period.

25. Sub-Licensing or On-selling

- 25.1 The Licensee shall not sublet any part of the Licensed Area or resell or on-sell any Tickets to any other person, entity, or corporation without the prior written approval of the Licensor which approval shall be at the Licensor's absolute discretion.
- 25.2 If the Licensor's approval as referred to in Clause 25.1 is forthcoming the Licensee shall remain liable to the Licensor for performance of all its obligations under the Agreement and to procure that any sub-Licensee or individuals or entities to whom Tickets are on-sold comply with the obligations of the Licensee and the requirements imposed on Licensee's Invitees, mutatis mutandi, as contained in the Agreement.
- 25.3 The Licensee acknowledges and agrees that the Licensor has the exclusive rights to provide or has granted exclusive rights to third party contractors to provide the Hospitality Services and/or cleaning security, flowers, audio visual equipment and other services ancillary or associated with the Hospitality Services and/or the provision of the Licensed Area for the benefit of the Licensee's Invitees during the Licence Period.
- 25.4 The Licensee shall not provide or enter into any undertakings, agreements or permit any third party to provide any services in substitution for or in addition to any of the services or their like the subject of any exclusive rights or exclusive arrangements as described in Clause 25.3, without the written consent of the Licensor which may be withheld in its absolute discretion.

26. Additional Services

If requested by the Licensee and if agreed to by the Licensor, which agreement shall be set out in writing the Licensor shall provide to the Licensee services in addition to the Hospitality Services during the Licence Period for an agreed amount which shall also be noted in writing which amount shall be required to be paid by the Licensee to the

Licensor within thirty (30) days from the rendering of an invoice after the Licence Period. For the avoidance of doubt the additional services referred to in this Clause shall be governed by the provisions of these Conditions.

27. Licensed Area

- 27.1 The Licensee shall not construct or erect of any structure or install any fixture on or within the Licensed Area.
- 27.2 The Licensee shall not in any manner fit-out, decorate, or alter the Licensed Area or place or permit to be placed any fittings, installations, or displays in or around the Licensed Area without the prior written agreement of the Licensor. In this event, the Licensee must submit to the Licensor no less than six (6) weeks prior to the commencement of the Licence Period a Fit-Out Proposal for the Licensed Area.
- 27.3 Following provision of the Fit-Out Proposal the Licensor shall advise the Licensee as to whether it approves of same proposal which approval may not be unreasonably withheld. If the Licensor does not so consent it shall advise the Licensee as to what aspects of the Fit-Out Proposal it does not approve of whereupon the Licensee may resubmit an amended Fit-Out Proposal which shall also be subject to the Licensor's approval, which approval shall not be unreasonably withheld.
- 27.4 In the event that the Licensor approves of the Fit-Out Proposal the Licensee must undertake the fit-out in accordance with same Fit-Out Proposal.
- 27.5 Following the completion of the Licence Period the Licensee must remove any fittings, decorations, designs, installations, lightings or displays the subject of the approved Fit-Out in accordance with Clause 27.5 failing which the Licensor may remove all such materials or objects.
- 27.6 In the event that the Licensee undertakes a fit out of the Licensed Area in accordance with an approved Fit-Out Proposal, the Licensee shall be required to take out and hold for the duration of the Licence Period, a Public Liability Insurance Policy noting the Licensee and Licensor as an insured party for an amount not less than ten million dollars (\$10,000,000) in respect of any one event or occurrence and if requested by the Licensor shall provide evidence of such insurance.

Section 3 – Reserved Car Park Conditions (Railings Village)

The terms and conditions set out in this Section 3 are applicable to all Clients who have booked a Reserved Car Park Facility in the Railings Village at the Venue during the Carnival and shall constitute a licence agreement (**Licence Agreement**) between the Client and MRC.

Key Terms

In this Section 3, unless the context otherwise requires, the following additional definitions shall apply.

Caulfield Racecourse Reserve Lease means the lease for the Venue between the Licensor and Trustees of the Caulfield Racecourse Reserve signed on 10 January 1995.

Hire Fee in this Section 3 of the Agreement means the fee payable by the Licensee to the Licensor in respect of the licensing of the Licensed Area as noted in Application Form.

Member means a fully paid-up member of the Licensor.

Non-Member means any person other than a Member.

Pedestrian Pass Payment Date means the date noted on the Application Form or otherwise advised by the Licensor to the Licensee on or before which the Licensee must make payment to the Licensor of the Pedestrian Pass Fee.

Pedestrian Pass Fee means in the event that only one Race day constitutes the Licence Period, the product of the number of Non-Member Licensee's Invitees multiplied by the per

ticket price or in the event that the Licence Period comprises more than one Race day means the sum of the products of the number of Non-Member Licensee's Invitees multiplied by the per ticket price for each Race day as noted in the Application Form or otherwise advised by the Licensor to the Licensee.

Ticket means a ticket, wristband, electronic swipe card or any other physical or material thing which permits entry of the Licensee's Invitees to the Venue and the Licensed Area and which identifies the Licensed Area by a number which corresponds with the Licensed Area.

28. Grant of Licence and Hospitality Services

The Licensor:

- (a) occupies the Venue under the Caulfield Racecourse Reserve Lease;
- (b) grants to the Licensee a licence for the benefit of the Licensee's Invitees to enter the Venue and to occupy the Licensed Area which constitutes part of the Venue for the Licence Period (Licence Agreement); and
- (c) shall provide any additional services in accordance with Clause 45 or a crowd controller if requested by the Licensee in accordance with Clause 9.

29. The Licensor's Rights of Access

The Licensee acknowledges that the Licensor may enter upon the Licensed Area at any time without notice during the Licence Period for the purposes of:

- (a) gaining access to other parts of the Venue;
- (b) undertaking any repair, maintenance or cleaning of the Licensed Area;
- (c) providing any security or like services in respect of or in association with the Licensed Area, the Race day and/or any property of the Licensor;
- (d) inspecting the condition of the Licensed Area and/or observing the compliance or otherwise of the Licensee with the terms of this Agreement;
- (e) for any other purposes that are reasonably necessary for the operation of the Venue and/or the operational requirements of the Licensor;
- (f) provided always that the activities referred to in Clause 29(a) to (f) (inclusive) do not interfere with the reasonable amenity and enjoyment of the Licensee's Invitees of the Licensed Area.

30. Licensor Directions

For the avoidance of doubt the Licensee shall procure that the Licensee's Invitees obey and adhere to any reasonable directions or requirements of the Licensor or any directions, requirements or decisions which relate to or affect the Licensee's Invitees which are provided for in these Conditions.

31. Payment

- 31.1 Upon signing the booking application form, the Licensee shall pay to the Licensor the Hire Fee by clear funds on or before the Payment Date noted in the booking application form or otherwise advised by the Licensor to the Licensee.
- 31.2 The parties further acknowledge and agree that the Hire Fee is not refundable to the Licensee in any circumstances.

32. Licensee's Invitees

- 32.1 On or before 1 September in the year of the relevant Carnival Licence Period, the Licensee shall notify the Licensor of the number of Licensee's Invitees and as to the number of same people who are Members or Non-Members it being acknowledged and agreed that in no event shall the number of Licensee's Invitees be less than fifteen (15) people nor exceed twenty five (25) people.

32.2 On or before the Pedestrian Pass Payment Date the Licensee shall make payment to the Licensor of the Pedestrian Pass Fee.

33. Issue of Tickets

33.1 Subject to receipt of payments of the Hire Fee and the Pedestrian Pass Fee, the Licensor shall send the Tickets to the Licensee via Australia Post registered mail to the Licensee's address as noted on the Application Form. The Licensor acknowledges that Tickets will not be forwarded prior to 1 September in the year of the relevant Carnival.

33.2 Any Member who is also a Licensee's Invitee shall be required to display both their Ticket and evidence that they are a Member when requested by the Licensor and at all times whilst within the Venue and Licensed Area (and the Licensee shall procure compliance by the Members who are Licensee's Invitees of the requirements in this Clause).

33.3 The Licensee shall procure that each of the Non-Members who are the Licensee's Invitees shall at all times display a Ticket whilst in the Venue and the Licensed Area and when requested by the Licensor.

33.4 The parties acknowledge and agree that in the event that either Members or Non-Members who are the Licensee's Invitees do not comply with the requirements of Clauses 33.2 and 33.3 that such Non-Members or Members as the case may be shall not be permitted entry to any the Venue and/or Licensed Area or may be ejected from the Venue or Licensed Area.

33.5 The Licensee shall not and shall procure that the Licensee's Invitees do not transfer or sell to any other party entity or individual Tickets and acknowledges and agrees that the Tickets are not redeemable or transferable for cash or other benefit.

34. Lost or Stolen Tickets

34.1 In the event of a lost or stolen Ticket a request must be in writing to the Licensor by the Licensee requesting a replacement Ticket which replacement shall be at the absolute discretion of the Licensor but shall incur a twenty dollar (\$20) fee provided that any request for a replacement Ticket must also particularise the exact Ticket number and proof of purchase.

34.2 Replacement Tickets may be collected from the Venue at the places notified to the Licensee by the Licensor from time to time.

34.3 The Licensor accepts no liability or responsibility for any Tickets lost or misplaced by Australia Post through registered mail.

35. Facility Signage

The Licensee's Invitees may not place any signage advertising promotional banners, placards or the like in or around the Licensed Area without first obtaining the written consent of the Licensor, which consent shall not be unreasonably withheld.

36. General Acknowledgement

The Licensee acknowledges and agrees that:

36.1 The Licensor is required to comply with the Liquor Control Reform Act 1998 and all Responsible Service Of Alcohol requirements and that the Licensor and/or its agents or contractors are not required to serve any alcohol beverages to any of the Licensee's Invitees under the age of eighteen or to any of the Licensee's Invitees it reasonably determines are in a state of intoxication.

36.2 The Licensor may not permit entry or may eject any of the Licensee's Invitees from the Licensed Area or the Venue in the event that:

- (a) the Licensee or Licensee's Invitees in the Licensor's reasonable opinion is under the influence of alcohol or drugs;

- (b) any of Conditions of Attendance are breached or contravened; and/or
 - (c) the Licensee's Invitees conduct themselves in an antisocial, unruly, disruptive, boorish, exceedingly noisy or intoxicated manner or their behaviour constitutes a nuisance to the staging of the Carnival and/or any parts thereof and/or detracts from the reasonable amenity or enjoyment of other patrons or the Licensee's Invitees and/or in the event that the Licensor determines that the Licensee's Invitees are undesirable or likely to cause disruption or nuisance to the Carnival or are likely to engage in an act of terrorism or cause damage to property of the Licensor, the Licensee's Invitees or patrons.
- 36.3 The Licensor may at any time search (including but not limited to the use of metal detectors) and inspect the Licensee or the Licensee's Invitees or any bag, basket or other receptacle in the Licensee's or the Licensee's Invitees possessions or control and may require the Licensee or the Licensee's Invitees to turn out their pockets and further the Licensor reserves its right at its sole and absolute discretion to confiscate any items which are prohibited in accordance with these Conditions and the Conditions of Attendance.
- 36.4 Any Licensee's Invitees who refuse to submit to any searches referred to in Section 3, Clause 17(c) by the Licensor shall at the Licensor's absolute discretion be refused entry to the Venue.
- 36.5 In the event the Licensor refuses entry to the Licensee or the Licensee's Invitees in accordance with the provisions of this Section 3, Clause 17 the parties acknowledge and agree that the Licensor shall have no liability to the Licensee or the Licensee's Invitees whatsoever including but not limited to any refund of the Hire Fee.

37. Cooking of Food

In no event shall the Licensee or the Licensee's Invitees be permitted to cook, heat, warm, boil, or steam any food or beverages in the Venue and further neither the Licensee nor the Licensee's Invitees shall be permitted to bring on to the Venue or otherwise assemble or operate any cooking, heating, boiling or other device or instrument (or any part of any such device or instrument) including but without limitation any barbeques, gas cookers, stoves, ovens, or the like.

38. Food and Beverages

- 38.1 The Licensee may bring onto the Venue food and beverages for provision to the Licensee's Invitees only during the Licence Period provided always that in respect of any alcoholic beverages for the avoidance of doubt only the Licensee's vehicle permitted to enter the Venue and park in the proximity of the Licensed Area in accordance with Clause 39.1 is to be utilised for the purposes of bringing onto the Venue any such alcoholic beverages.
- 38.2 Subject to Clause 39.2 the Licensee shall not enter into any arrangements with any third party caterer which requires such third party to enter upon the Venue in order to provide catering to the Licensee or Licensee's Invitees during the Licensed Period and further the Licensee shall not permit, encourage or induce any such caterer to so enter upon the Venue.
- 38.3 In the event the Licensee requires any third party, person, entity or individual to enter upon the Venue to provide catering or like services to the Licensee or Licensee's Invitees during the Licence Period the Licensee may engage for such purposes any third party contractors which the Licensor has engaged to provide catering services to the Carnival only and upon request by the Licensee the Licensor shall advise the Licensee of the identity and contact numbers of such third party contractors.
- 38.4 For the avoidance of doubt none of the Licensee's Invitees or any other third party including any third party caterer which the Licensee is permitted to engage in

accordance with this Clause 38.2 shall be permitted to bring onto the Venue or the Licensed Area any alcoholic beverages.

39. Vehicles

It is acknowledged and agreed that during the Licence Period the Licensee shall be permitted to bring onto the Venue or cause to bring on the Venue the following vehicles only:

- 39.1 The Licensee shall be permitted to bring onto Venue and park in the proximity of the Licensed Area for the Licence Period one (1) vehicle only provided that same vehicle enters into the area known as and noted as the Railings Village Enclosure no later than 12 noon on the Race day or Race days comprising the Licence Period.
- 39.2 To enter upon or cause entry upon the Railings Village Enclosure one (1) additional vehicle as driven by the Licensee or any of the Licensee's Invitees for the purposes of delivering any furnishings for the use of the Licensee's Invitees provided that such vehicle enters upon the Venue or the Railings Village Enclosure between the hours of 9.30am and 11.00am only during the Licence Period or each Race day comprising the Licence Period.
- 39.3 In the event that the Licensee engages a third party caterer in accordance with Clause 38.3 such third party caterer may enter upon the Venue and the Railings Village Enclosure between the hours of 9.30am and 11.00am only during the Licence Period or each Race day comprising the Licence Period for the purpose of delivering the food and non-alcoholic beverages for consumption by the Licensee's Invitees.

40. Licensee to Comply and Procure Compliance

The Licensee shall (and shall procure that Licensee's Invitees) shall observe perform and fulfil the requirements of any law for the time being in force including the requirements of any statute regulation ordinance or by-law insofar as the same may apply to the Agreement and in particular but without limiting the foregoing shall comply with the requirements of all laws and regulations relating to health, safety, water supply, sewerage, fire and building and shall not do or permit to be done anything which may conflict with any such law or regulation arising there from.

41. Damage to Venue

- 41.1 Without derogating from the generality of any indemnity granted to the Licensor by the Licensee elsewhere in these Conditions, the Licensee shall be liable for and shall indemnify the Licensor in respect of any damage or destruction to any part of the Venue and further any property of the Licensor or its contractors contained within the Venue caused either directly or indirectly by the Licensee or the Licensee's Invitees.
- 41.2 In addition to any rights of access of the Licensor to the Licensed Area, the Licensor may, at its option, undertake any repair, replacement or other works arising from damage or destruction referred to in Clause 41.1 and whether within the Licensed Area or the Venue during any of the periods comprising the Licence Period.

42. General Indemnity and Exclusion of Licensor's Liability

- 42.1 The Licensee acknowledges that it and the Licensee's Invitees occupies and uses the areas within the Venue in accordance with this Agreement at its own risk. The Licensee shall at all times indemnify and hold harmless the Licensor and the Licensor's contractors against all liabilities, proceedings, claims, costs, damages and expenses which the Licensor or the Licensor's contractors may suffer, have brought against them, incur or become liable for in respect of any act injury, loss, costs, damages and expense matter or thing occurring or done or alleged to have been done during the term of this agreement (including the Licence Period) which is caused or results by or from the act or omission of the Licensee or the Licensee's Invitees and whether negligent or otherwise or which results from any breach of the terms of this agreement by the Licensee.

- 42.2 The Licensor shall not in any circumstances be liable to the Licensee for whatever reason or cause for any loss, injury, death or damage to the Licensee or the Licensee's Invitees including damage or destruction to the Licensee or the Licensee's Invitees property or loss of amenity or enjoyment arising or occasioned by water, heat, fire, electricity, vermin, explosion, tempest, riot, act of terrorism, civil commotion, bursting pipes, entry of water, failure or suspension of service to the Venue, criminal activity, wilful or deliberate acts, equine virus, virus or disease bacteria affecting the race track or Venue, cancellation of any Race day or date comprising the Carnival or any race performance event scheduled or notified to occur during the Licence Period including cancellation, abandonment or postponement of any or all such races, performances or events in whole or in part or otherwise for any cause beyond the Licensor's control (**Overriding Circumstances**). However, this Clause shall not apply to any loss, injury, death or damage occasioned by or caused by the Licensor's negligence.
- 42.3 In respect of any Overriding Circumstances which result in any race, race meeting, performance, events scheduled or notified to occur during the Licence Period or Licensed Period Event being cancelled, abandoned or postponed it is acknowledged and agreed that the Licensee shall not be entitled to repayment or refund of any money paid to the Licensor pursuant to these Conditions save for circumstances set out the MRC Refund and Exchange Policy. Further there is no obligation or requirement for the Licensor to arrange for any substitute event, performance, race as a result of such cancellation, abandonment or postponement. [For a full description of when a refund or exchange may apply, please refer to the MRC Refund and Exchange Policy by contacting MRC on 92577200 or consult the website www.melbournracingclub.net.au/terms]
- 42.4 In no event shall the Licensor be liable to the Licensee for any consequential or indirect loss or any loss of profit or business interruption or damage to the Licensee's reputation.
- 42.5 To the fullest extent permissible by law the parties acknowledge and agree that any implied terms contained in either the Goods Act 1958, the Trade Practices Act 1974 or any other act of the Commonwealth or State of Victoria are hereby excluded including the implied terms, conditions or warranties contained in Division 2, Part 5 of the Trade Practices Act 1974 or Part 4 of the Goods Act 1958.
- 42.6 Without derogating from the generality of any exclusion of the Licensor's liability contained elsewhere within this Agreement in no event shall the Licensor be liable to the Licensee for any loss, damage, expense, claims, costs, damages or expenses incurred, suffered or brought against the Licensee resulting from any emergency evacuation of the Venue or part of the Venue.

43. Termination

- 43.1 The parties acknowledge that the Licensor may at its sole discretion terminate this Licence Agreement, by giving notice in writing to the Licensee with immediate effect if at any time:-
- (a) The Licensee breaches any term of this Agreement which is capable of remedy and the Licensee fails to remedy such breach within fourteen (14) days of receipt of notice in respect of the breach from the Licensor.
 - (b) The Licensee breaches any term of this Agreement which is not capable of remedy.
 - (c) The Licensee is or becomes subject to any form of Insolvency Action
- 43.2 The Licensee may terminate this Agreement by giving notice in writing effective immediately if:-
- (a) The Licensor is or becomes in material breach of any of the terms of this Agreement and such breach is not rectified within twenty-one (21) days of receiving written notice from the Licensee to rectify the breach.

(b) The Licensor is or becomes subject to any form of Insolvency Action.

43.3 Subject to Clause 43.4 termination of this Agreement shall not prejudice any rights or remedies already accrued to any party under, or in respect of any breach of this Agreement.

43.4 In the event that this Agreement is terminated by the Licensor in accordance with Clause 43.1 the Licensee shall be liable to pay to the Licensor, without limitation to any of the Licensor's common law rights, the minimum of the Hire Fee and the Food and Beverage Products Fee minus any like fees paid to the Licensor by any other individual or entity following such termination in respect of the licensing to same individual or entity of the Licensed Area for the License Period and the provision of hospitality services.

44. Sub-Licensing or On-Selling

45.1 The Licensee shall not sublet any part of the Licensed Area or resell or on-sell any Tickets to any other person, entity, or corporation without the prior written approval of the Licensor which approval shall be at the Licensor's absolute discretion.

45.2 If the Licensor's approval as referred to in Clause 44.1 is forthcoming the Licensee shall remain liable to the Licensor for performance of all its obligations under this Agreement and to procure that any sub-Licensee or individuals or entities to whom Tickets are on-sold comply with the obligations of the Licensee and the requirements imposed on Licensee's Invitees, mutatis mutandi, as contained in this Agreement.

45.3 The Licensee acknowledges and agrees that the Licensor has the exclusive rights to provide or has granted exclusive rights to third party contractors to provide catering, cleaning, security, floral arrangements, audio visual equipment and other services in association with the Carnival or the provision of the Licensed Area for the benefit of the Licensee's Invitees during the Licence Period.

45.4 The Licensee shall not provide or enter into any undertakings, agreements or permit any third party to provide any services in substitution for or in addition to any of the services or their like the subject of any exclusive rights or exclusive arrangements as described in Clause 45.1, unless with the written consent of the Licensor which may be withheld in its absolute discretion.

45. Additional Services

46.1 If requested by the Licensee and if agreed to by the Licensor, which agreement shall be set out in writing the Licensor shall provide to the Licensee services in addition to the Hospitality Services during the Licence Period for an agreed amount which shall also be noted in writing which amount shall be required to be paid by the Licensee to the Licensor within thirty (30) days from the rendering of an invoice after the Licence Period. For the avoidance of doubt the additional services referred to in this Clause shall be governed by the provisions of this Agreement.

46.2 The Licensee shall not in any manner fit-out, decorate, or alter the Licensed Area or place or permit to be placed any fittings, installations, or displays in or around the Licensed Area unless with a prior written consent is granted by the Licensor which may be withheld at the Licensor's absolute discretion.