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Deed of Licence for the Use of Council Tennis Facilities

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Date of Agreement: 07/09 **2021**

Deed of Licence

Table of Contents

Parties.....	4
Background	4
Conditions.....	4
Licence	4
Term	5
Option to Extend	5
Use of Courts and Facilities	6
Permitted Use	7
Licence Fee.....	7
Security	7
Annual Increases of Licence Fee.....	7
Abatement of Licence Fee	8
Access to and Use of a Site	8
Licensee's Maintenance Obligations	9
Utilities and Services	10
Plan of Management	10
Insurances and Indemnities	10
Upgrades and renovations on a Site.....	11
Licensee's Equipment	12
Council's Access to a Site.....	12
Condition Audit.....	12
Licensee's Covenants and Other Matters.....	13
Service of Notices	14
Termination and Breach.....	15
Application of s3.43 of the CLM Act.....	16
Disputes	16
Floodlighting	17
Parties Representatives	17
Confidentiality.....	17
Interdependency	18
Variations	18
Pre-Contractual Negotiation.....	18

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Warranties	18
Essential Terms	18
Interest on Overdue Money	19
Governing Law and Jurisdiction	19
No Fetter	19
Approvals and Consent	19
Waiver	19
Severability	20
GST	20
Definitions	21
Interpretation	24
Schedule 1	26
Schedule 2	29
Schedule 3	30
Appendix A	34
Appendix B	35
Appendix C	36

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Deed of Licence for the use of Council Tennis Facilities

Parties

Willoughby City Council ABN 47 974 826 099 of 31 Victor Street, CHATSWOOD NSW 2067 (**Council**)

and

Sydney Sports Management Group and Voyager Tennis Pty Ltd ACN652 024 032) of Level 8, 1 O'Connell St, Sydney, NSW, 2000 (**Licensee**)

Background

- A Council has sought tenders for the management of the Sites and has selected the Licensee.
- B The management of the Sites will require the Licensee to access and occupy the Site. Council has adopted a Plan of Management for the Sites.
- C Council has given public notice of the proposal to enter into this Licence and has exhibited notice of the Licence.
- D The Council grants to the Licensee a licence in accordance with the terms of this Deed.

Conditions

Licence

- 1 Under sections 46 and 47 of the LG Act, Council grants a non-exclusive licence to the Licensee during the Term to enter upon a Site and use the Facilities subject to the terms contained in this Licence.
- 2 Despite any other clause of this Deed, the Licence granted under clause 1 shall operate only for so long as the Management Agreement is in force.
- 3 If the Licensee continues to occupy a Site after the expiration of the Term with the consent of the Council, such occupation shall only continue until such time as the Management Agreement is terminated or the service of a notice to quit and shall otherwise be on the same conditions as contained in this Deed excepting any option to renew which shall be deemed expressly excluded.
- 4 The Licensee will at all times during the Term use and occupy a Site in the capacity of an independent contractor to the Council.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Term

- 5 This Licence shall have force and effect on and from the date when the Parties have:
 - (a) both executed the same copy of this Deed and the Management Agreement, or
 - (b) each executed separate counterparts of this Deed and the Management Agreement and exchanged the counterparts.
- 6 The Parties are to insert the date when this Deed commences on the front page and on the execution page.
- 7 The Licensee must at the end of the Term or at the end of any holding over period remove the Licensee's Equipment.

Option to Extend

- 8 Provided the Council is satisfied that the Licensee has complied with the terms of this Deed and the Management Agreement and otherwise in the Council's absolute discretion:
 - (a) Not later than three months prior to the Terminating Date, the Council may in its absolute discretion, by written notice to the Licensee extend the Term for the period set out in Item 4 of Schedule 1;
 - (b) If the Term is extended under clause 8(a) the Licence Fee for the shall be the Option 1 Licence Fee.
- 9 This further term will commence on the day after the Terminating Date and subject to the following will be on the same terms and conditions as this Deed (excluding clause 8) following the exercise of the extension:
 - (a) Clause 8 will be excluded;
 - (b) The Commencement Date in Item 2 of Schedule 1 shall be replaced with the Commencement Date set out in Item 4 Schedule 1 as Commencement Date for Option 1;
 - (c) The Terminating Date in Item 3 of Schedule 1 shall be replaced with the Terminating Date set out in Item 4 of Schedule 1 as Terminating Date for Option 1; and
 - (d) The Option 1 Licence Fee identified under clause 8(b) will become the Licence Fee payable under this Deed.
- 10 Provided the Council is satisfied that the Licensee has complied with the terms of this Deed and the Management Agreement and otherwise in the Council's absolute discretion, not later than three months prior to the expiry of the date set out in Item 3 of Schedule 1 as the terminating date for Option 1, the Council may in its absolute discretion, by written notice to the Licensee advise the Licensee that it wishes to extend the term of this Deed for the period set out in Item 4 of Schedule 1 as Option 2.
- 11 Not used.
- 12 If the Term is extended under clause 10, the Licence Fee shall be the Option 2 Licence Fee.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- 13 This further term will commence on the day after the period specified as the terminating date for Option 1 and terminate on the date specified as the terminating date for Option 2 and subject to the following will be on the same terms and conditions as this Deed following the exercise of Option 2:
- (a) Clause 8 and 9 will be excluded; and
 - (b) the Commencement Date in Item 2 of Schedule 1 shall be replaced with the Commencement Date set out in Item 4 Schedule 1 as Commencement Date for Option 2;
 - (c) the Terminating Date in Item 3 of Schedule 1 shall be replaced with the Terminating Date set out in Item 4 of Schedule 1 as Terminating Date for Option 2;
 - (d) The Licence Fee identified under clause 12 will become the Licence Fee payable under this Deed.

Use of Courts and Facilities

- 14 The Licensee acknowledges that:
- (a) Council has entered into the Pre-existing Licences with Clubs in respect of the Sites and that the Pre-existing Licences remain in force and effect after the grant of the Licence;
 - (b) The Pre-existing Licences grant to the Clubs rights of access to a Site and the use of certain Facilities specified in Appendix C for the periods specified in Appendix C;
 - (c) The Council is entitled to all revenue received under the Pre-existing Licences other than the Additional Use Fee which is payable to the Licensee.
- 15 The Licensee's access and occupation of a Site and use of the Facilities under this Deed is subject to the rights of access and occupation granted to a Club under a Pre-existing Licence. For so long as a Pre-existing Licence is in force for a Site, the Licensee must not do anything which would prevent access to and the use by a Club and its authorised users of those Facilities specified Appendix C for the periods specified in Appendix C.
- 16 Council reserves the right to vary the Pre-existing Licences provided that any variation shall not extend the Facilities available to the licensees under the Pre-existing Licences or increase the times at which those Facilities are available. Without limiting this right, should the Council determine that the use of a Site by the Licensor under this Deed conflicts with a right or obligation granted under a Pre-existing Licence the Council will meet with the Licensee to discuss the conflict. Following that meeting the Council may issue a notice in writing to the Licensee directing it to take the action specified in the notice and the Licensee must comply with that direction.
- 16A Following the termination of the Pre-existing Licences the Licensee must negotiate in good faith with the relevant Club using its reasonable endeavours to permit the continued access to, use and occupation of a Site and Facilities at the same times and for the same periods as currently permitted in the Pre-existing Licences and applying the Council adopted hourly rate for the hire of tennis courts applicable at the time the Pre-existing Licences terminate. The Council will be responsible for setting the hourly rate for the use of the Facilities under any further licence entered into under this clause.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Permitted Use

- 17 The Licensee will not use the Sites or allow the Sites to be used for any purpose other than the Permitted Use.
- 18 The Licensee acknowledges and agrees that it must not conduct from a Site business related to other tennis complexes or tennis clubs in which the Licensee may be involved.

Licence Fee

- 19 The Licensee must pay to Council:
 - (a) a Base Licence Fee plus GST, as specified in Item 5 of Schedule 1 and adjusted in accordance with clause 25; and
 - (b) An Annual Additional Licence Fee plus GST calculated in accordance with Schedule 3.
- 20 The Base Licence Fee plus GST is payable quarterly in advance by direct debit into the Council account specified in item 10 of Schedule 1. Where the precondition for the payment of the Annual Additional Licence Fee, as set out in Schedule 3, is satisfied, the Annual Additional Licence Fee plus GST is payable annually in arrears on the date specified in Item 5 of Schedule 1.

Security

- 21 On the Commencement Date, the Licensee must provide to Council the Security for the amount specified in Item 14 of Schedule 1. The Council, in its absolute discretion, may refuse to allow the Licensee to enter, occupy or use the Sites if the Licensee has not provided the Security to the Council in accordance with this Deed.
- 22 Council may apply part or all of the Security without notice to the Licensee to remedy any breach of this Deed notwithstanding any other remedy it may have under this Deed, under any Act or otherwise at law or in equity. Such application will not waive any breach of any of the Licensee's obligations under this Licence.
- 23 If Council uses the Security in whole or part then the Licensee must within 14 days of written demand from Council top-up the Security to the amount required under this Licence.
- 24 When the Licensee vacates the Sites upon expiration or earlier termination of this Licence, Council must return the Security to the Licensee (or any nominee appointed by the Licensee) less any amount Council deducts to apply towards the costs of rectifying any breach of the Licence or the Management Agreement as provided for in the Management Agreement by the Licensee within fourteen (14) days.

Annual Increases of Licence Fee

- 25 If specified in Item 5 of Schedule 1, the Licence Fee will be increased annually with reference to CPI in accordance with clause 26 of this License. The Licence Review

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Date for the purposes of clause 26 of this Licence shall be the anniversary of the Commencement Date.

- 26 The CPI increase is calculated as follows:

Old Licence fee/old CPI x new CPI = Reviewed Fee

Where:

"Old Licence fee" means the annual Licence Fee payable immediately before the Licence Review Date. On the first Licence Review Date (i.e. the first anniversary of the Commencement Date) the old Licence Fee is the Licence Fee as at the Commencement Date less the GST component included;

"Old CPI" means the CPI number last published (Sydney All Groups) immediately before the previous Licence Review Date (or the Commencement Date as the case may be);

"New CPI" means the CPI number last published immediately before the current Licence Review Date.

Abatement of Licence Fee

- 27 Without any limitation to the operation of clauses 19 and 25 of this Licence, if, during the Term:

- (a) a Force Majeure event occurs; and
- (b) as a result, a Site is destroyed or damaged, or the usual access to it is completely or partly obstructed; and
- (c) because of the destruction, damage or obstruction the Licensee is unable to conduct any of the businesses on a Site in a reasonable manner

the Licensee's obligations under clause 19 to pay the Licence Fee will abate proportionally with the effect on the Licensee's business until the affected Site and access to it is reconstructed or restored by the Council to a level that allows the Licensee to conduct its business and provide the Services on that Site in a reasonable manner.

- 28 If after twelve months the affected Site has not been reconstructed or restored, to a standard at which it can be used for the Services having regard to its condition prior to the Force Majeure Event or access has not been returned to the level described in clause 31, either the Council or the Licensee may notify the other of its intention to end the Licence and the Licence will end one month after the notification date.

Access to and Use of a Site

- 29 The Council and Licensee agree and declare as follows:

- (a) legal possession and control of the Sites shall at all times remain vested in the Council and the Licensee shall not acquire any estate or interest in the Sites;
- (b) the Licensee shall not be entitled to use a Site to the exclusion of the Council or others authorised by the Council; and
- (c) this Licence is personal to the Licensee.

- 30 The Council retains its right of access over a Site and to:

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- (a) enter a Site at any time with employees, workmen, contractors and vehicles for whatever purposes in connection with the exercise of its statutory powers and rights; and
- (b) temporarily prevent the use of a Site by the Licensee to undertake urgent repairs or otherwise in the case of emergencies without payment of compensation,

provided that the Council must use reasonable endeavours to minimise any inconvenience and interference with the Licensee's use and access to a Site.

Licensee's Maintenance Obligations

31 The Licensee shall Maintain the Sites and the Facilities on the Sites and shall be responsible for all day to day maintenance on the Sites in accordance with the Site Maintenance Plan including but not limited to:

- (a) at its own cost, carry out any alterations, additions and repairs to the Sites required by any Law if necessary because of the Licensee's actions or the Licensee's use of the Sites; and
- (b) cleaning and servicing all bathrooms and toilets in all Facilities on the Sites;
- (c) Maintain the tennis courts on the Sites (including any fences or netting enclosing the courts);
- (d) Grounds Maintenance;
- (e) keeping the Sites clean and tidy and free from rodents and other pests, including carrying out annual pest control;
- (f) replacing from time to time as may be necessary all light globes, shades, window dressings and fluorescent tubes within the Facilities on the Sites and carry out minor electrical repairs;
- (g) carrying out any repair of glass breakages, all necessary electrical repairs including to power points, heaters, light fittings, ceiling fans and to leaking taps and toilets;
- (h) steam cleaning the carpets, if any, in the Facilities on the Sites at least once per year; and
- (i) keeping all sinks, lavatories and cisterns clean, tidy, safe and hygienic and in good repair;
- (j) Maintain all Signage on the Sites;
- (k) Maintain all access ways to the Sites and Facilities;
- (l) ensure that an emergency evacuation plan for the Sites which complies with the Specification and Operational Management Plan is in place throughout the Term and that all personnel employed by the Licensee are trained and familiar with its operation; and
- (m) within 24 hours of becoming aware of any Graffiti or Vandalism on a Site or any Equipment, temporarily obscure that Graffiti or Vandalism and thereafter, as soon as possible, remove the Graffiti and restore that part of the Site affected by the Graffiti or Vandalism to its original condition.
- (n) maintenance and repair of fire safety and extinguishing equipment to a Site and any building on a Site, so as to ensure that an annual fire safety

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

certificate pursuant to the Environmental Planning and Assessment Act 1979 can be issued.

Utilities and Services

- 32 The Licensee shall be responsible for arranging and payment for all services, including but not limited to:
- (a) Any taxes that may be payable on the Sites;
 - (b) removal of all waste generated on the Sites including any liquid waste charges;
 - (c) telephone and internet charges;
 - (d) all electricity charges including floodlighting;
 - (e) water usage;
 - (f) the provision of any hygiene services;
 - (g) servicing of any heating and cooling units; and
 - (h) GST on these services.

Plan of Management

- 33 The Licensee covenants that it will observe and comply with the requirements of the Plan of Management, and other relevant policies and strategies of Council adopted as amended from time to time.

Insurances and Indemnities

- 34 The Licensee must, at its expense, take out and maintain a public liability insurance policy with an insurance company licensed to conduct insurance business in Australia and approved by the Council. The interest of Council must be noted on the insurance policy. The limit of liability for any one event shall be not less than the amount specified in Item 11 of Schedule 1 for each incident. The Licensee shall produce Council on request a certificate of currency and the last renewal receipt for payment of premium for such policy within 7 days of such request.
- 35 In addition to the insurance policies which the Licensee must arrange in accordance with clause 34, the Licensee must, if applicable to its operations, hold at all times during the Term current policies in respect of the following insurances:
- (a) property loss damage including plate glass insurance; and
 - (b) such other insurance policies as a prudent person would maintain in the circumstances of the Licensee.
- 36 The Licensee shall indemnify Council, its officers and employees in respect of all Claims, which may arise out of the Licensee's use and/or occupation of the Sites and/or Facilities which may be made against or upon Council, and/or the Licensee by any person whatsoever in respect of personal injury or accident or damage to property arising out of any matter, happening or thing connected with the Sites or Facilities not caused by the neglect or default of Council.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- 37 Despite any other provision of this Licence, both parties exclude, and agree that they shall have no rights against the other for liability for consequential or indirect loss arising out of this Licence including (without limitation) in respect of loss of profits or loss of business.
- 38 Where the Licensee breaches any Law in relation to its use of a Site it is taken to breach a condition of this Licence, provided that:
- (a) the Licensee has been found guilty of the breach, and
 - (b) the Council determines that the breach warrants the termination of this License.
- 39 The Licensee shall indemnify and keep indemnified the Council from and against any Claims arising from the non-compliance by the Licensee with any Law including any Environmental Law that may apply to the Licensee's use and occupation of a Site and access thereto and the Licensee's operation of its business from a Site and access thereto.
- 40 The obligations of the Licensee under clauses 36 – 39 shall continue after the expiration or other determination of this Licence in respect of any act, deed, matter or thing happening before such expiration or determination for the period limited by the Limitations Act 1969 (NSW).
- 41 Part 4 of the *Civil Liability Act 2002* (NSW) does not apply to this Licence.

Upgrades and renovations on the Sites

- 42 The Licensee is responsible for carrying out Refurbishment Works. The Licensee acknowledges that it may be required to vary, restrict or cease its use of the Facilities or a Site or part thereof as a consequence of Refurbishment Works and the Licensee shall not be entitled to make any Claims whatsoever against Council in respect of any disruption to the Licensee's use of the Facilities or a Site resulting from the carrying out of such works.
- 43 Without limiting any other provision of this Deed, the Licensee must not carry out any Refurbishment Work except with the prior written approval of the Council.
- 44 The Refurbishment Work must be carried out:
- (a) in accordance with a design or specification approved by the Council,
 - (b) in accordance with any relevant Approval and applicable Law; and
 - (c) in a proper and workmanlike manner.
- 45 The Licensee, at its own cost, is to comply with any reasonable direction given to it by the Council to prepare or modify a design or specification relating to a Refurbishment Work.
- 46 The design or specification of any Refurbishment Work may be varied by agreement in writing between the Parties, acting reasonably, without the necessity for an amendment to this Deed.
- 47 The Council is not to unreasonably delay or withhold its approval to a request made by the Licensee to vary the Refurbishment Works as a result of the requirements of any Authority.
- 48 The Licensee is to give the Council written notice of the date on which it will complete any Refurbishment Works required carried out under this Deed.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- 49 The Council is to inspect the Refurbishment Works the subject of the notice referred to in clause 48 within 14 days of the date specified in the notice for completion of the Refurbishment Works and the Refurbishment Works are completed for the purposes of this Deed when the Council acting reasonably, gives a written notice to the Licensee to that effect.
- 50 Before the Council gives the Licensee a notice referred to in clause 49, it may give the Licensee a written direction to complete, rectify or repair any specified part of the Refurbishment Works to the reasonable satisfaction of the Council and the Licensee, at its own cost, is to promptly comply with such a direction.
- 51 Upon completion, the Refurbishment Works become the property of Council, and the Licensee shall, without delay:
- (a) remove any equipment used in the carrying out of the Refurbishment Works from the Site and make good any damage or disturbance to the Site as a result of that removal, and
 - (b) ensure the Site is in a neat and tidy state, clean and free of rubbish.

Licensee's Equipment

- 52 The Licensee shall provide the Licensee's Equipment and shall be entitled to bring such equipment onto a Site. Such equipment may remain on the Site at all times during the continuance of this Licence, provided it is appropriately and adequately stored when not in use. The Licensee's Equipment shall remain the property of the Licensee.
- 53 Council shall not be responsible for the safe custody or care of any of the Licensee's Equipment that is brought onto and/or stored on a Site by the Licensee nor shall it be liable for any damage to or loss of the same or any part thereof unless caused by the neglect or default of any officer, servant or agent of Council.
- 54 The Licensee must not erect or install any Signage on the Sites without the prior consent of Council install, other than safety signs. The Council may at any time issue a Direction requiring the Licensor to discontinue to use any piece or mode of advertising to which the Council has granted consent under this clause which in the opinion of the Council has ceased to be suitable or has become unsightly or objectionable.
- 55 The Licensee must ensure that any electrical items used or stored on the Sites are tested regularly and tagged by a licensed electrician in accordance with any statutory requirements.

Council's Access to the Sites

- 56 The Council may at all reasonable times enter any part of the Sites or the Facilities to inspect or examine the Sites or any Refurbishment Work; to remedy any breach by the Licensee of its obligations under this Deed or the Management Agreement, or to exercise any regulatory power.

Condition Audit

- 57 An audit of all physical aspects of the Sites, Facilities and any Council Equipment will be undertaken at the Council's expense no later than the date of possession of

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

the Sites (initial audit) and again every three months prior to the fifth (5th), tenth (10th) or fifteenth (15th) or twentieth (20th) year anniversary of the Commencement Date. The purpose of the audits will be to establish a basis for evaluation of the condition of the Sites at these periods and ensure that all necessary Approvals (such as fire safety certificates) are current. Any deterioration of the condition of a Site (fair wear and tear excepted) identified by the audits must be promptly rectified at the Licensee's cost and in the case of the audit occurring in the tenth or fifteenth year prior to the expiry of the Term.

- 58 Thirty (30) days prior to the end of the term of the Licence, the Council will again inspect the Sites, Facilities and the Council Equipment to ensure that the Licensee has complied with the final audit. If the Licensee fails to carry out the rectification work or actions identified in the final audit, the Council's Representative may authorise any necessary remedial works or actions. All costs incurred by the Council in the performance of remedial work or actions will be payable by the Licensee.
- 59 In addition to the rights set out in clauses 57 and 58, the Council may at all reasonable times and upon giving twenty-four (24) hours' notice to the Licensee (except in the case of emergency when no such notice is required) enter upon the Sites and view the state of repair of the Sites, Facilities and the Council Equipment and may serve a notice upon the Licensee of any defect (the repair of which is the Licensee's obligation under this Licence to undertake) requiring the Licensee to repair the same within twenty eight (28) days or such other period as the Council may consider reasonable.

Licensee's Covenants and Other Matters

- 60 The Licensee must take out and keep current all licences and permits required to provide the Services from a Site;
- 61 The Licensee must not:
- (a) cause or allow any loud noise, noxious or offensive activity or any other nuisance, disturbance or annoyance to the Council or owners or occupiers of adjoining or neighbouring lands or buildings to be made on or to emanate from a Site;
 - (b) use or allow the use of the toilets, conveniences and the water, lighting, heating and air conditioning apparatus, and fire sprinkler systems at the Sites for any purposes other than those for which they were constructed
 - (c) permit smoking on a Site;
 - (d) use a Site for any illegal activity;
 - (e) conduct or allow any auction sale, fire sale, warehouse sale or liquidation sale on a Site;
 - (f) mark, paint, or deface any surface of Site unless permitted by the License;
 - (g) permit any rubbish to accumulate on a Site or in the Facilities unless confined in suitable containers that are not in public view in the Facilities; or
 - (h) interfere with or attempt to control any part of the fire alarm, sprinkler systems, any air conditioning equipment or any other machinery or Council Equipment installed on a Site or both.
- 62 If the Licensee becomes aware (or ought reasonably to have been aware) that a Site or any part of it is unsafe, hazardous or dangerous the Licensee will immediately

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

take such precautions to render the Site safe including (erecting such warning signs, fences and barricades as may be necessary).

- 63 The Licensee must not bring on a Site or keep any Hazardous Substance on a Site without the prior consent of the Council, which consent shall not be unreasonably withheld. The ordinary use of chemicals will not be considered dangerous or offensive for the purposes of this Licence.
- 64 The Licensee must, during the Term, and in relation to a Site:
- (a) comply with relevant Laws affecting a Site including any Environmental Law;
 - (b) use its best endeavours to prevent a breach of any Environmental Law;
 - (c) report any breach of any Law or Environmental Law even if accidental; and
 - (d) provide to the Council as soon as reasonably practicable details of notices received by or proceedings commenced against the Licensee pursuant to an Environmental Law:
 - i. relating to a breach or alleged breach by the Licensee of an Environmental Law; or
 - ii. requiring the Licensee to carry out works to decrease the affectation of the Sites by any Hazardous Substance.
- 65 Every three months during the Term the Council's Representative shall arrange a Site Inspection. The Site inspection shall take place jointly with the Licensee's Representative, following which the Licensee's Representative shall prepare the Tennis Site Inspection Sheet and provide it to the Council within 7 days of the Site inspection under this clause.
- 66 In addition to any inspections carried out under clause 65, an audit of all physical aspects of the tennis and multi-use courts will be carried out every three years from the Commencement Date to assess the standard of these Facilities. If the audit identifies components which have not been maintained to a suitable standard in accordance with this Deed, the Council's Representative may issue a Direction requiring the elements identified to be rectified within the time frame specified in the Direction.
- 67 The Licensee must, on each six month anniversary of the commencement of this Licence provide to Council in respect of the Licensee's use of the Site (without any further request being required by Council), its up to date financial reports.
- 68 The Licensee must immediately advise Council in writing of any significant changes in respect of its financial position (and the nature of such changes) which may reasonably be considered to affect the Licensee's ability to comply with its obligations under this Licence.
- 69 This Licence is personal to the Licensee and the Licensee shall not be permitted to assign, sublicense or transfer the Licence to any other person or organisation except in accordance with this clause. Unless the Council has given its prior written approval to a sublicense to enable the provision of certain services under the Management Agreement, the Licensee must not offer to enter into any agreements with any other party whatsoever for the management, use and/or control of the Facilities or the Sites.

Service of Notices

- 70 Any notice to be served on a Party may be served by:

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- (a) leaving it at the Party's address as specified in Item 6 or Item 7 (as relevant) of Schedule 1;
 - (b) sending it to the email address specified in Item 6 or Item 7 (as relevant) of Schedule 1; or
 - (c) by any of the methods described by Section 710 of the LG Act.
- 71 All costs incidental to the preparation, execution or variation of this Licence, the review of plans and supervision of Refurbishment Works or the rectification of any breach of the Licence by the Licensee including any exercise of the Council's rights under this Deed to rectify a breach shall be borne by the Licensee.

Termination and Breach

- 72 Upon the expiration or determination of this Licence the Licensee shall have the right to remove the Licensee's Equipment, excluding any fixtures, provided that in any such removal the Licensee shall forthwith make good and repair any damage done or caused on a Site by such removal.
- 73 In addition to any rights of termination otherwise set out in this Deed the Council may terminate this Licence:
- (a) if the Management Agreement is terminated;
 - (b) if the Licensee breaches an Essential Term;
 - (c) if the Licensee breaches a condition of this Licence and the Licensee fails to rectify such breach in accordance with the provisions of this Licence;
 - (d) if all or part of any money due to the Council under the Licence remains unpaid for fourteen (14) days after it is due, whether formally demanded or not;
 - (e) if defects notified under the provisions of this Licence are not remedied within the time specified in the notice;
 - (f) if the Licensee is a corporation that:
 - i. stops or threatens to stop carrying on the business; or
 - ii. goes into liquidation, whether voluntary or not; or
 - iii. an order is made or a resolution is passed for its winding up is wound up unless it is for reconstruction or amalgamation; or
 - iv. is placed under the control of a liquidator or receiver (in both cases whether provisional or otherwise); or
 - v. is placed under official management under the Corporations Act 2001 (Cth); or
 - vi. enters into a composition or scheme of arrangement;
 - vii. the interest of the Licensee under the Licence is taken in execution.
- 74 In the circumstances specified in clause 73, the Council may terminate the Licence by:
- (a) notifying the Licensee in writing of the termination of the Licence except in the case of termination under clause 73(b) in which case notice of termination shall taken to have been given on the date on which the Management Agreement is terminated; or

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- (b) re-entering the Sites, with force if necessary, ejecting the Licensee and all other persons from the Sites and repossessing them; or
 - (c) doing both.
- 75 Termination of this Licence under this Deed does not release the Licensee from liability for any prior breach of this Licence and other remedies available to the Council to recover arrears of the Licence Fee.
- 76 Upon termination of the License, the Council may remove the Licensee's property and store it at the Licensee's expense without being liable in trespass, detinue, conversion or negligence. After storing it for at least one month, the Council may sell or dispose of the property by auction or private sale and apply the proceeds of the action or sale towards any moneys due to the Council or any loss or damage or the payment of storage or other expenses.

Application of s3.43 of the CLM Act

- 77 The Parties acknowledge that Cleland Reserve is Crown land under the CLM Act. Without limiting the Licensee's statutory or other rights, the Parties acknowledge that this Licence shall terminate insofar as it applies to under s3.43 of the CLM Act if the reserve is revoked or that part of the reserve is revoked that comprises part of the Sites unless the revocation notification otherwise provides.
- 78 Where only part of a Site is affected by the revocation or proposed revocation the Parties undertake to consult to determine if an agreement under s3.43(2) of the CLM Act can be reached for the continuation of this Licence in respect to that part of a Site not affected by the revocation.
- 79 The Licensee expressly acknowledges that as provided by 3.43(4) of the CLM Act no compensation is payable in respect of the termination of this Licence by the operation of s3.43 of the CLM Act and no compensation shall be payable.

Disputes

- 80 If the Parties are in dispute regarding any matter relating to or arising under this Licence then either Party may give notice and particulars of such dispute to the other Party.
- 81 Where a notice of dispute is served pursuant to this clause the Parties agree to enter into informal negotiations to try and resolve the dispute in good faith and in an amicable manner.
- 82 If the dispute is not resolved informally within 21 days of service of written notification, the Parties may confer with a mutually agreed third party whose role will be to assist in the resolution of the dispute by mediation or expert appraisal of the dispute. The Parties agree to provide all information and assistance reasonably requested by such third party, including access to any accounting or other business records relating to or arising out of the Licence.
- 83 A third party appointed in accordance with this clause may decide in which proportions any fees will be borne by the respective Parties. In the absence of any such decision by the third party fees shall be borne equally by the Parties.
- 84 Neither Party shall be entitled to commence or maintain any proceedings in any court or tribunal until negotiations or mediations have taken place pursuant to this clause except where either Party seeks urgent interlocutory relief.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- 85 Either Party may at any time bring negotiations or mediation to an end by serving upon the other Party written notice stating that the dispute has failed to be resolved. Upon service of such notice both Parties shall be entitled to pursue any legal remedies available to them in relation to the dispute. This clause does not in any way limit a mediator's power to apportion fees under clause 83.
- 86 Despite any dispute under this or any other clause of this Licence the Parties must, unless acting in accordance with an express provision of this Licence, continue to perform their obligations under this Licence.

Floodlighting

- 87 Where floodlights have been installed on a Site at the Commencement Date, the Licensee is responsible for the supply of floodlighting and must take all reasonable steps to supply floodlighting to the recreational components of the Facilities and to pay cost of the floodlighting.

Parties Representatives

- 88 Each Party must nominate a person to act as its representative about matters arising under this Licence. The person so nominated must be the same person as nominated under the Management Agreement.
- 89 The person nominated is the person referred to in Items 12 and 13 of Schedule 1 or such other person as a Party may nominate in writing to the other Party from time to time.

Confidentiality

- 90 The Licensee must not at any time during the currency of this Licence or at any time thereafter unless required in the proper course of carrying out the Services or as authorised by the Council and by Law, disclose to any person any personal information, confidential strategies, operations, processes, dealing or other information relating to the Council or its organisation structure, finances, transactions or affairs which may come to the knowledge of the Licensee during the term of this Licence and shall keep with complete secrecy all or any of the said information which may come to the knowledge of the Licensee, except where disclosure is required by Law by the order of a Court of competent jurisdiction.
- 91 The Licensee agrees and undertakes not to use or attempt to use any or all of the any information in clause 90 in any manner whatsoever which may cause or be calculated or likely to cause injury or loss either directly or indirectly to the Council.
- 92 The Licensee must take all reasonable steps to ensure that its staff, subcontractors, directors and agents do not make public or disclose any of the information referred to in clause 90.
- 93 Clauses 90 -92 continue to apply after expiration or termination of the License.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Interdependency

- 94 This Deed is interdependent with and conditional upon the commencement of the Management Agreement. To the extent there is any inconsistency between the terms of this Deed and the Management Agreement, the terms of this Deed prevail.
- 95 A breach by the Licensee of any provision of the Management Agreement will constitute a breach of this Deed.
- 96 If either Party rescinds the Management Agreement, then either Party will be entitled to rescind this Deed by notice in writing and this contract will be deemed to have been rescinded.

Variations

- 97 No amendment, variation or modification or consent to departure by any Party of the terms of this Licence will have any force or effect, unless effected by a document executed by the Parties.

Pre-Contractual Negotiation

- 98 Except as provided for in clauses 94 -96, this Licence expresses and incorporates the entire agreement between the Parties in relation to its subject matter and all the terms of that agreement, and supersedes and excludes any prior document or collateral negotiations, understanding, communication, agreement, representation or warranty by or between the Parties in relation to that subject matter or any term of that agreement.

Warranties

- 99 The Parties warrant to each other that they:
 - (a) have full capacity to enter into this Deed,
 - (b) have the right and authority to enter into this Deed and to do all things which it is required to do by this Deed;
 - (c) are able to fully comply with their obligations under this Deed.
- 100 The Licensee warrants that:
 - (a) in entering into this Deed it has had the opportunity to inspect the Sites and relies on its own enquiries and not on any representation, warranty or other inducement by or on behalf of the Council except as expressly set out in this document;
 - (b) it does not enter into this Deed as a trustee;
- 101 The Council may rely on each of the Licensee's representations and warranties being true until this Deed expires or is terminated (whichever is the earlier).

Essential Terms

- 102 The essential terms of this licence include each of the Licensee's obligations:

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- (a) to pay money;
- (b) to give and maintain the Security and the Guarantor's guarantee and indemnity; and
- (c) under clause 17 (Use), clauses 34 and 35 (Insurance), clauses 31 and 42 – 51 (Maintenance and Refurbishment Works), and clauses 60 - 69 (Licensee's Covenants).

Interest on Overdue Money

- 103 The Licensee must pay interest to the Council calculated daily at the rate set by the Council's bank as its benchmark rate for overdrafts of \$100,000:
- (a) on any money due under the License; or
 - (b) on any judgment for the Council in an action arising from the License, until all outstanding money and interest is paid in full.

Governing Law and Jurisdiction

- 104 This Deed is governed by the law of New South Wales and the Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.

No Fetter

- 105 Nothing in this Deed shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

Approvals and Consent

- 106 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- 107 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

Waiver

- 108 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 109 A waiver by a Party is only effective if it is in writing, is addressed to the Party whose obligation or breach of obligation is the subject of the waiver, specifies the obligation or breach of obligation the subject of the waiver and the conditions, if any, of the waiver, and is signed and dated by the Party giving the waiver.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- 110 Without limitation, a waiver may be expressed to be conditional on the happening of an event, including the doing of a thing by the Party to whom the waiver is given.
- 111 A waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given, and is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.
- 112 For the purposes of this Deed, an obligation or breach of obligation the subject of a waiver is taken not to have been imposed on, or required to be complied with by, the Party to whom the waiver is given.

Severability

- 113 If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 114 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

GST

- 115 In this clause:
- Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice** have the meaning given by the GST Law.
- GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.
- GST Law** has the meaning given by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input Tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law.
- Taxable Supply** has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.
- 116 All payments to be made or other Consideration to be provided under this Licence are GST exclusive unless otherwise expressly stated.
- 117 If any payment or Consideration to be made or provided by the Licensee to the Council is for a taxable supply under the Licence on which the Council must pay GST and the Council gives the Licensee a tax invoice, the Licensee must pay to the Council an amount equal to the GST payable (the "GST Amount") by the Council for that taxable supply upon receipt of that tax invoice.
- 118 The Parties agree that they are respectively liable to meet their own obligations under the GST Law. The GST Amount must not include any amount incurred in respect of penalty or interest or any other amounts payable by the Council as a result of default by the Council in complying with the GST Law.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- 119 The Licensee will deliver tax invoices to the Council for the Taxable Supply under this Deed, in a form that complies with the GST Law, so that the Council may claim Input Tax Credits for the Taxable Supply.
- 120 No additional amount shall be payable by the Council under clause 119 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 121 No payment of any amount pursuant to the GST provisions of this Deed and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 122 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.
- 123 The GST provisions of this Deed continue to apply after expiration or termination of this Deed.

Definitions

- 124 In this Deed the following terms have the meaning set out below:

Approval includes approval, consent, licence, permission or the like.

Additional Use means the use of the tennis courts if available by a Club in addition to the use specified in column 3 Table 1 in Appendix C.

Additional Use Fee means the concessional fee payable by a Club to the Licensee as calculated in accordance with Appendix C if that Club wishes to book the use of a tennis Court outside the periods specified in column 3 Table 1 in Appendix C.

Annual Additional Licence Fee means the Additional Licence Fee specified in Item 5 of Schedule 1 and calculated in accordance with Schedule 3.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the LG Act, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council on terms satisfactory to Council to pay an amount or amounts of money to the Council on demand issued by a financial institution approved by the Council in its absolute discretion.

Base Licence Fee means the Licence Fee specified in Item 5 of Schedule 1 as varied under clause 14 of the Management Agreement or if the Council exercises an option to extend the Term under clause 8 or clause 10, the Option 1 Licence Fee or the Option 2 Licence Fee.

Commencement Date means the date specified in Item 2 of Schedule 1.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

Cleland Reserve means Cleland Park Reserve (R42986) located on Lot 7307 in DP 1143035.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

CLM Act means the *Crown Lands Management Act 2016*.

Club means the Licensee under a Pre-existing Licence as specified in Appendix C and includes its authorised users.

Consumables has the same meaning as in the Management Agreement.

CPI means the *Consumer Price Index (All Groups, Sydney)* as published by the Australian Bureau of Statistics.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Council means the Council identified in Item 6 of Schedule 1 and includes its employees, agents, contractors and permitted assigns and successors.

Council Signage means all directional and regulatory signage.

Council Equipment means the any equipment, apparatus, vehicle or other equipment or thing owned by the Council and specified in Item 9 of Schedule 1 and Schedule 2 to be used by or on behalf of the Licensee in connection with the performance of the Services and its obligations under this Deed as varied by the Council by notice from time to time.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Direction means any notice in writing issued by the Council's Representative.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Environmental Law means all laws and regulations, consents, permits, environmental protection policies, and directions, standards and guidelines including determinations, of any authority, including federal, state or local government authorities, (and any other like bodies) regulating or otherwise relating to the environment, including but not limited to land use, planning, heritage, coastal protection, water catchments, pollution of air or waters, noise, soil or ground water contamination, chemicals, waste, waste management, use of hazardous or dangerous goods or substances, building regulations, public and occupational health and safety, or noxious trades, use of biodegradable/non-biodegradable products.

Environmental Management System has the same meaning as Environmental Management System under the Management Agreement.

Equipment means Council Equipment and the Licensee's Equipment.

Essential Term means a condition specified in clause 102.

Facilities means any tennis courts, the players' lounge area, the main social room, cafe, pro shop, external seating areas and other associated facilities on a Site but excludes the room known as the Cleland Clubroom within the clubhouse on Cleland Reserve for so long as a Pre-existing Licence in favour of the Cleland Tennis Club is in force

Force majeure means an act, event or cause (other than lack of funds) which is beyond the reasonable control of the Licensee and not due to any fault or negligence on the part of the Licensee, including an act of God, war, sabotage, riot, insurrection, civil commotion, national emergency (whether in fact or law), martial law, fire, lightning, flood, cyclone, earthquake, landslide, explosion, power shortage, epidemic, pandemic, quarantine, radiation or radioactive contamination, government proclamation or order preventing the use of the Sites either temporarily or permanently.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Graffiti means the marking of any part of the Sites or any Equipment or Council Equipment in such a manner that the mark is not readily removable by wiping or by the use of water or detergent.

Grounds Maintenance means maintaining all landscaped areas on the Sites including mowing, pruning of shrubs and plants, provision and spreading of mulches, fertilisers, maintenance of garden beds, replanting plants and provision of replacement plants attending to the removal of noxious weeds.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Hazardous Substance means a substance that is listed in the document entitled 'List of Designated Hazardous Substances' published by Safe Work Australia in its Hazardous Substances Information System or a substance that fits the criteria for a hazardous substance set out in the document entitled 'Approved Criteria for Classifying Hazardous Substances' published by Safe Work Australia.

Item means an item specified in Column 1 of Schedule 1.

Law means any Federal, State or Local Government Statute, regulation, rule, guideline, order or direction or the like given by a competent authority arising from such laws, rules or regulations.

Licensee means the Licensee as defined in item 7 of Schedule 1 and includes its employees, agents, contractors and invitees, and its successors, nominees and assigns.

Licensee's Equipment means all necessary equipment provided by the Licensee for the operation of its activities on a Site (including Consumables, furniture and equipment required to deliver Services such as nets and court fittings, shelving, counters, safes, electrical equipment, water coolers, display furniture, cash registers, or other articles) and includes any plant and machinery and other articles in the nature of trade fixtures.

LG Act means the *Local Government Act 1993* (NSW).

Maintenance Plan has the same meaning as under the Management Agreement.

Management Agreement means the management agreement containing the conditions of contract for the supply of the Services for the Term and executed by the Parties on or about the date of this Deed.

Maintain, means keep the Sites, Facilities and Equipment clean and in a good state of repair and working order having regard to the condition of a Site, Facilities and Equipment at the Commencement Date, but does not include:

- (a) fixing inherent structural defects; or
- (b) undertaking structural repairs

unless the structural repairs, capital improvements and reconstruction are required as a result of damage caused or contributed to by the Licensee or such works are Refurbishment Works.

Operating expenses has the same meaning as set out in the Management Agreement.

Operating Hours has the same meaning as set out in the Management Agreement.

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Operational Management Documents means the Operational Management Documents prepared under the Management Agreement.

Option 1 Licence Fee means the total fee payable under this Deed and identified in item 4 of Schedule 1 as the total Option 1 Licence Fee for the period specified as Option 1 in Item 4 of Schedule 1 as adjusted in accordance with this Deed.

Option 2 Licence Fee means the fee payable under this Deed and identified in item 4 of Schedule 1 as the Option 2 Licence Fee for the period specified as Option 2 in Item 4 of Schedule 1 as adjusted in accordance with this Deed.

Outgoings has the same meaning as in the Management Agreement.

Party means a party to this Deed.

Permitted Use means the use specified at Item 1 of Schedule 1.

Plan of Management means the Plan of Management applicable to the Sites adopted under the LG Act.

Pollution has the same meaning given to that term as under the Dictionary of the *Protection of the Environment Operations Act 1997 (NSW)*.

Pre-existing Licences means the licences set out at Appendix C.

Program has the same meaning as in the Management Agreement.

Refurbishment Works means those capital works, such as Court resurfacing, repairs to the Facilities as specified in the Maintenance Plan.

Services means the services to be delivered by the Licensee under the Management Agreement.

Security means a Bank Guarantee indexed in accordance with the Consumer Price Index (All Groups – Sydney) published by the Australian Bureau of Statistics from the date of this Deed.

Specification has the same meaning as set out in the Management Agreement.

Signage includes but is not limited to all, identification signage, safety and promotional signage and emergency signage but does not include Council Signage.

Sites means that part of land identified in Item 8 of Schedule 1 and Appendices A and B and includes the Facilities on a Site and fixtures

Statute includes all delegated legislation and statutory instruments issued under it.

Tennis Site Inspection Sheet means the completed monthly Tennis Site Inspection Sheet in the form set out in the Specification.

Term means the period of 10 years from the Commencement Date to the Terminating Date (including each of those dates) as extended under clause 8 of this Deed.

Terminating Date means the date identified in Item 3 of Schedule 1.

Willis Park means land known as Lot 28 DP 1130491 being Willis Park – 352A Eastern Valley Way, Middle Cove.

Vandalism means any damage to the Sites resulting from the deliberate destruction or damage of the Facilities other than Graffiti.

Interpretation

- 125 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (b) A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (e) A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
- (f) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (g) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (h) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (i) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (j) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (k) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (l) References to the word 'include' or 'including' are to be construed without limitation.
- (m) A reference to this Deed includes the agreement recorded in this Deed.
- (n) A reference to a Party to this Deed includes a reference to the employees, agents and contractors of the Party, the Party's successors and assigns.
- (o) If more than one Site is identified in Schedule 1, a reference to a Site includes a reference to all the Sites unless the context requires otherwise.

Deed of Licence for the use of Council Tennis Facilities



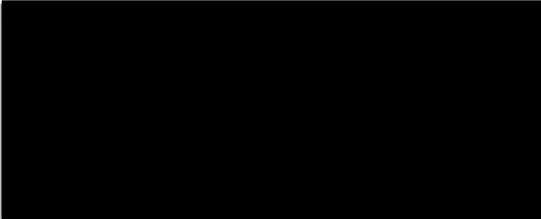
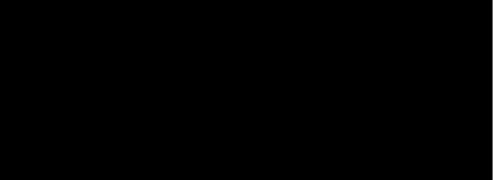
Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Schedule 1

1. Permitted Use	Means the use of a Site for the purpose of undertaking the Services specified in the Management Agreement.
2. Commencement Date	5 October 2021
3. Terminating Date	4 October 2031
4. Options Period	<p>Option 1: 5 years from the Terminating Date in Item 3.</p> <p>Commencement Date for Option 1: the day after the Terminating Date.</p> <p>Terminating Date for Option 1: 5 years from the Commencement Date for Option 1.</p> <p>Option 1 Licence Fee: See Column 4 of Table A in Schedule 3</p> <p>Option 2: 5 years from the Terminating Date of Option 1 if Option 1 is exercised.</p> <p>Commencement Date for Option 2: the day after the Terminating Date for Option 1.</p> <p>Terminating Date for Option 2: 5 years from the Commencement Date for Option 2.</p> <p>Option 2 Licence Fee: See Column 6 of Table A in Schedule 3.</p>
5. Licence Fee	<p>See Schedule 3 for details of the Base Licence Fee and the Annual Additional Licence Fee to be paid for the Term.</p> <p>The Base Licence Fee is to be paid in 4 equal instalments as follows:</p> <ul style="list-style-type: none">• for the first 4 instalments: on 5 October 2021 and thereafter on the 1st day of the following months of January, April and July;• thereafter and for the remainder of the Term: on the first day of October, January, April and July. <p>The 12 month period applicable to the calculation of the Annual Additional Licence Fee commences on 5 October each year of the Term.</p> <p>If the precondition for the payment of the Annual Additional Licence Fee is satisfied, the Annual Additional Licence Fee becomes due and payable on 5 November, being one month after the twelve month period</p>

Deed of Licence for the use of Council Tennis Facilities**Willoughby City Council****Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)**

	referred to in the preceding paragraph.
6. Council	Name: Willoughby City Council Address: 31 Victor Street, CHATSWOOD NSW 2067 Telephone: 02 9777 1000 Email: email@willoughby.nsw.gov.au
7. Licensee	Name: Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032) Address: PKF, Level 8, 1 O'Connell St, Sydney, NSW, 2000 Telephone:  Email: info@ssmgroup.com.au
8. Sites the subject of the Licence	That part of the land shown in Appendix A within land located on land known as Lot 28 DP 1130491 being Willis Park – 352A Eastern Valley Way, Middle Cove That part of the land shown in Appendix B within land known as Cleland Park Reserve (R42986) located on Lot 7307 in DP 1143035
9. Council Equipment	See Schedule 2
10. Payment of Monies	
11. Amount of Public risk Cover	\$20 million for each incident
12. Council's Representative	
13. Licensee's Representative	

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

14.Security	
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Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Schedule 2

Council Equipment

Willis Park

Alarm System

Fire Extinguishers

Floodlights

Court posts and nets

Umpires chairs

Fencing and gates

Cleland Reserve

Floodlights

Court posts and nets

Umpires chairs

Fencing and gates

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Schedule 3

Licence Fee

Base Licence Fee*

Table A

Original Term Years 1- 10	Proposed Payment Years 1- 10	Option 1 – 5 year extension, if exercised by Council	Proposed Payment Option 1 Years 11-15	Option 2 – 5 year extension, if exercised by Council	Proposed Payment Option 2 Years 16-20
Year 1		Year 11		Year 16	
Year 2		Year 12		Year 17	
Year 3		Year 13		Year 18	
Year 4		Year 14		Year 19	
Year 5		Year 15		Year 20	
Year 6					
Year 7					
Year 8					
Year 9					
Year 10					
Total					

*The Licence Fees set out in the table above are exclusive of GST. If the Services are varied under clause 14 of the Management Agreement, the parties are to negotiate in good faith to agree a revised Base Licence Fee which reflects the variation to the Services. If no agreement can be reached the matter will be a dispute under this Agreement which shall be subject to the dispute provisions of this Deed.

Annual Additional Licence Fee

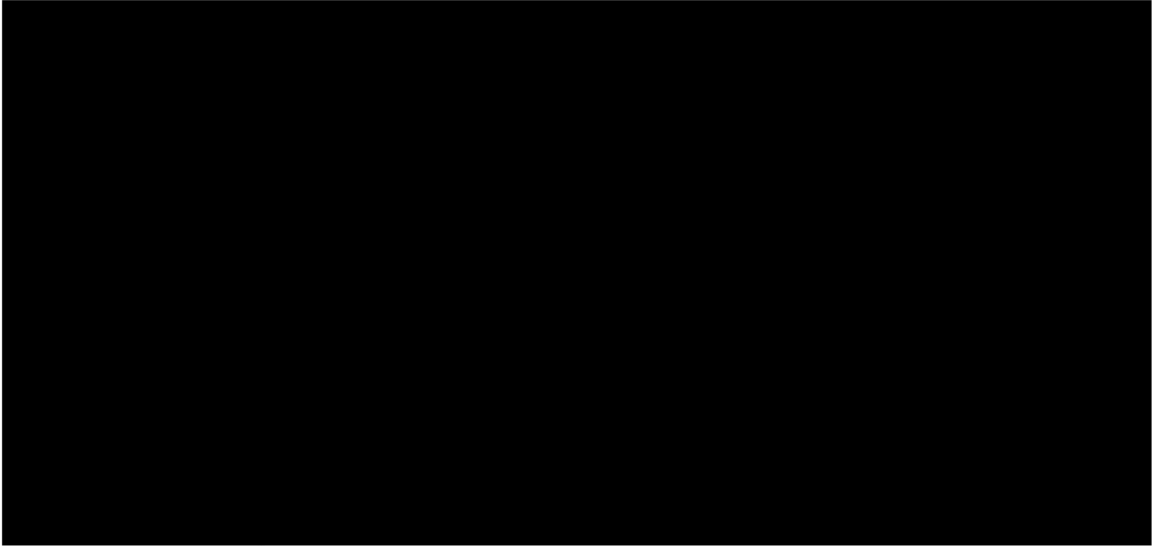
The Annual Additional Licence Fee will be calculated as set out below and payable to a maximum of [REDACTED] per annum:

Precondition to payment of the Annual Additional Licence Fee

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)



Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

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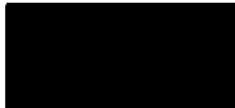
Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

Execution

Executed by the Parties as a Deed

Dated: 07/09/2021

EXECUTED on behalf of the **Council of the City of Willoughby** (ABN 47 974 826 099) by its authorised delegate pursuant to section 377 of the *Local Government Act 1993* in the presence of:



Chief Executive Officer– Debra Just



Witness

Witness CAROL NEMKOTZIE

EXECUTED on behalf of the Licensee in accordance with s127(1) of the Corporations Act (Cth) 2001



Signature of Director

RYAN HENRY
Name of Director



Signature of Director

SCOTT RILEY
Name of Director

Appendix A

Willis Park Tennis and Futsal Courts Aerial View/ Map

— Area of tennis and futsal court - outlined in RED.

■ Location of two Water Sensitive Urban Design (WSUD) raingardens - shown in TEAL (WSUDs not part of the Site).



Appendix B

Cleland Park Reserve Tennis Courts Aerial View / Map

— Area of tennis courts outlined in RED



Deed of Licence for the use of Council Tennis Facilities**Willoughby City Council****Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)****Appendix C****Attach copy of Appendix 2 from the Tender****Table 1**

Cleland Reserve		
Name of Licensee	Terminating Date	Facilities Available to the Club
Artarmon District Tennis Club Inc	30 June 2023	<ol style="list-style-type: none">1. The tennis courts numbered 1, 2, and 3 at the times specified in this Appendix.2. The Clubhouse on a non-exclusive basis during the time the Club is permitted to use the tennis courts referred to in paragraph 1 above and after the use of the tennis courts has finished until the time permitted by any development consent for the use of the Clubhouse, which at the date of this Deed is 8.00pm or sunset during Daylight Savings Time, or 6.00pm or sunset at all other times.
Cleland Tennis Club Inc (ABN 88 679 681 330)	30 June 2023	<ol style="list-style-type: none">1. The tennis courts numbered 4, 5 and 6 at the times specified in this Appendix2. The Clubhouse on a non-exclusive basis during the time the Club is permitted to use the tennis courts referred to in paragraph 1 above and after the use of the tennis courts has finished until the time permitted by any development consent for the use of the Clubhouse which at the date of this Deed is 8.00pm or sunset during Daylight Savings Time, or 6.00pm or sunset at all other times.3. Notwithstanding paragraph 2 above, the Club has the exclusive use of the room known as the Cleland Clubroom within the clubhouse and may store items in that room
Willis Park		
The Cove Sports Club Limited (ABN 62 000 270)	31 March 2022	<ol style="list-style-type: none">1. The tennis courts identified in this Appendix at the times specified in

Deed of Licence for the use of Council Tennis Facilities

Willoughby City Council

Sydney Sports Management Group and Voyager Tennis Pty Ltd (ACN 652 024 032)

913)		this Appendix. 2. The non-exclusive use of Clubhouse during the times the tennis courts are being used as specified in this Appendix.
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Clause 15: Additional Use

Cleland Reserve

Artarmon District Tennis Club and Cleland Tennis Club

Subject always to availability of a tennis court, the Licensee must permit a Club to book the tennis courts on any day for the Additional Use Fee.

The Additional Use Fee is \$5.00 plus GST per hour per court for a maximum of 10 hours per week plus \$3.00 + GST per hour for flood light use if flood lights are required.

If the Additional Use extends beyond 10 hours, the Additional User Fee for each tennis court per hour will be the fee payable in accordance with Council's annual fees and charges for tennis courts published from time to time by Council.

The Willis

The Cove Sports Club Limited

Subject always to availability of a tennis court, the Licensee must permit a Club to book additional tennis courts on any day.

On all days other than Fridays and weekend days, the Additional Use Fee payable by the Club per hour for each tennis court will be the fee identified in Council's annual fees and charges for tennis courts published from time to time by Council.

The Additional Use Fee for the use of each tennis court per hour on Fridays or weekend days will be \$7.50 + GST.

In addition, if it is necessary to use floodlights, the Club will be required to pay the costs of the floodlighting which is an additional amount of \$3.00 + GST per hour per court.

