



**PARK LANDS
LEASE AGREEMENT**

Road Safety Centre – Mock Roadway

PARK LANDS LEASE AGREEMENT

THIS PARK LANDS LEASE AGREEMENT is made the day of 2011

BETWEEN: THE CORPORATION OF THE CITY OF ADELAIDE of Town Hall, King William Street, Adelaide SA 5000 (**Council**)

AND: Minister for Police of 9th Floor, Terrace Towers, 178 North Terrace, Adelaide SA 5000 (**Lessee**)

BACKGROUND

- A. The Council has the care, control and management of the Park Lands.
- B. The Lessee wishes to lease the Leased Area for the Permitted Use as set out in this Lease.
- C. The Council has resolved to grant the Lessee a lease of the Leased Area and (if necessary) undertaken public consultation in accordance with the *Local Government Act 1999* and/or both Houses of Parliament have not disallowed the grant of the lease in accordance with the *Adelaide Park Lands Act 2005* (as applicable).
- D. The Council and Lessee wish to record the terms of their agreement in this Lease.

AND THE PARTIES AGREE as follows:

1. ACKNOWLEDGEMENT OF BACKGROUND

The preceding statements are accurate and form part of this Lease.

2. DEFINED TERMS AND INTERPRETATION

2.1 Introductory

In the Lease, unless the contrary intention appears:

- 2.1.1 a reference to this Lease is a reference to this document;
- 2.1.2 words beginning with capital letters are defined in clause 2.2;
- 2.1.3 a reference to a clause is a reference to a clause in this Lease;
- 2.1.4 a reference to an Item is a reference to an item in the Schedule;
- 2.1.5 a reference to the Schedule is a reference to the schedule to this Lease;
- 2.1.6 a reference to an Annexure is a reference to an annexure to this Lease;

- 2.1.7 “including” and similar expressions are not and must not be treated as words of limitation;
- 2.1.8 headings are for convenience only and do not affect interpretation;
- 2.1.9 the singular includes the plural and vice-versa;
- 2.1.10 a reference to an individual or person includes a corporation, partnership, joint venture, authority, trust, state or government and vice versa;
- 2.1.11 a reference to any party in this Lease, or any other document or arrangement referred to in this Lease, includes that party’s executors, administrators, substitutes, successors and assigns;
- 2.1.12 a reference to any document (including this Lease) is to that document as varied, novated, ratified or replaced from time to time; and
- 2.1.13 a reference to any Legislation includes any statutory modification, re-enactment or any Legislation substituted for it, and all by-laws, regulations and rules issued under it.

2.2 Defined terms

In this Lease:

Adelaide Park Lands Management Strategy means the strategy for the Park Lands as required by the Park Lands Act.

Agreed Consideration means the Rent and all other consideration (whether in money or otherwise) to be paid or provided by the Lessee for any supply or use of the Leased Area and any goods, services or other things provided by the Council under this Lease.

Bonython Park Activity Hub Concept Plan means the plan endorsed by Council on 28 June 2011 to inform the development of Bonython Park.

Business Day means a day which is not a Saturday, Sunday or public holiday in Adelaide.

Commencement Date means the commencement date described in Item 2.

Construction Period means the period required by the Lessee to undertake or cause to be undertaken the Works.

Contamination means the presence in, on or under air or water of a substance (solid, liquid or gel) or matter (whether emitting odour, heat, sound, vibration or radiation) at a concentration or level above the concentration or level at which the substance or matter is normally present in, or under land, air or water in the same locality being a presence that presents a risk of harm to human health or any other aspect of the Environment, or results in a non-compliance with or breach of any Environmental Law and **contaminant**, **contaminated** and **contaminate** have a corresponding meaning.

Council means the party described as “Council” in this Lease and where the context permits includes the employees, contractors, agents and other invitees of the Council.

Environment includes:

- land, air and water;
- any organic or inorganic matter and any living organism; and
- human made or modified structures and areas.

Environmental Law means any law that deals with an aspect of the Environment or health whether made before or after the Commencement Date.

Government Agency means any Minister or State government department, agency or instrumentality.

Improvements means any improvements in, on or under the Leased Area permitted or required to be made by the Lessee under this Lease during the Term and includes the Works and any Services.

Leased Area means that portion of the Park Lands being the area described in Item 1 and excludes the Improvements.

Legislation includes any relevant Statute or Act of Parliament (whether State or Federal) and any regulation or by-law including by-laws issued by any local government body or authority (including Council in its separate capacity as a statutory authority) and other subordinate legislation.

Lessee means the party described as "Lessee" in this Lease and where the context permits includes the employees, contractors, agents, customers and other invitees of the Lessee.

Management Plan means the management plan for Tulya Wodli (Park 27) as required by the Park Lands Act.

Native Title Claim means any native title claim as per Native Title legislation, in connection to the lease or the lessee's use of the Leased Area.

Park Lands means the Adelaide Park Lands as defined in the Park Lands Act.

Park Lands Act means the *Adelaide Park Lands Act 2005 (SA)*.

Permitted Use means the use described in Item 4.

Plan means the plan comprising Annexure A.

Programmed Times means times which the Lessee will use the Leased Area for the Permitted Use as advised from time to time.

Public Event means an event permitted by the Council to be held in the Park Lands near or adjacent to the Leased Area.

Remediate means to treat, manage, contain or remove any Contamination in, on or under the land so as to prevent or eliminate any harm to the Environment to a standard endorsed by an independent environmental auditor and consistent with the Permitted Use.

Rent means the rent described in Item 3.

Services includes all services and utilities (including electricity and water and all plant, equipment, pipes, wires and cables in connection with them as applicable) to or of the Leased Area supplied by any Statutory Authority.

Statutory Authorities means any government or semi government authorities (including the Council in its separate capacity as local government authority) or authorities created by or under Legislation.

Statutory Requirements means all relevant and applicable Legislation and all lawful conditions, requirements, notices, policies and directives issued or applicable under any such Legislation or by any Statutory Authorities.

Structural Work includes:

- replacing any Services;
- resurfacing any roads, footpaths and accessways; and
- works to retaining walls, kerbing and guttering.

Term means the term described in Item 2 and any period during which the Lessee holds over or remains in occupation of the Leased Area.

Works means all works to be undertaken on the Leased Area consistent with and necessary for the Permitted Use.

3. **GRANT OF LEASE**

The Council grants and the Lessee accepts a lease of the Leased Area for the Term as set out in this Lease.

4. **RENT AND OCCUPANCY COSTS**

The Lessee must:

- 4.1 pay the Rent at the times and in the manner set out in Item 3;
- 4.2 pay or reimburse the Council for all rates, taxes, charges, fees, levies or other similar amounts duly and properly assessed or charged by any Statutory Authority on or in respect of the use and occupancy of the Leased Area; and
- 4.3 pay the cost for all Services supplied, used or consumed by or on behalf of the Lessee in respect of the Leased Area.

5. USE OF LEASED AREA

5.1 Permitted use

The Lessee must use the Leased Area only for the Permitted Use and must not use or allow the Leased Area to be used during the Programmed Times for any other use without Council's consent.

5.2 Offensive activities

With the exception of the Works and the Permitted Use, the Lessee must not carry on any other offensive or dangerous activities on or from the Leased Area or create a nuisance or disturbance either:

5.2.1 for the Council; or

5.2.2 for the owners or occupiers of any adjoining property; and

must ensure at all times that activities conducted on or from the Leased Area during the Programmed Times will not bring any discredit upon the Council.

5.3 Statutory requirements

The Lessee must comply with all Statutory Requirements relating to:

5.3.1 the Lessee's use and occupation of the Leased Area; and

5.3.2 the nature of the Permitted Use conducted on the Leased Area by the Lessee.

5.4 No alcohol

The Lessee must not permit or allow persons to consume alcohol or alcoholic beverages on the Leased Area during the Programmed Times without the Council's consent.

5.5 Signs

The Lessee must provide and maintain a sign that advises what the Programmed Times are and when the Leased Area is available for use by the public and must not place any signs or advertisements on the Leased Area except a sign or signs which:

5.5.1 are approved by the Council; and

5.5.2 comply with any relevant Statutory Requirements (including any requirement of Council in its separate capacity as a Statutory Authority).

5.6 Dangerous equipment and installations

With the exception of undertaking the Works, the Lessee may only install or use on the Leased Area equipment and facilities which are normally used in connection with the Permitted Use and will not otherwise install or bring onto the Leased Area:

5.6.1 any electrical, gas powered or other machinery or equipment which may pose a danger, risk or hazard;

5.6.2 any dangerous chemicals or other dangerous substances; or

5.6.3 any heavy equipment or items which may damage the Leased Area.

5.7 Fire precautions

The Lessee must comply with all Statutory Requirements relating to fire safety including undertaking at the Lessee's cost any modifications or other works which are required as a consequence of the Lessee's particular use of the Leased Area.

5.8 Fencing

The Lessee may erect or allow to be erected fencing, barriers or other similar devices in, on or around the Leased Premises (or any part of the Leased Premises) consistent with Item 5, provided that the height of any fencing or barrier around the Lease Area must not exceed 1200mm, except during the Construction Period.

5.9 No warranty

The Council makes no warranty or representation regarding the suitability of the Leased Area for the Permitted Use or any other purpose.

6. WORKS

6.1 Undertaking of Works

Subject to clause 6.2, the Lessee may implement and carry out the Works for the purpose of the Permitted Use provided they are consistent with the Council's Bonython Park Activity Hub Concept Plan and the Permitted Use.

6.2 Works Design and Consultation

6.2.1 The Lessee must provide Council with details and copies of all concept design plans for the Works.

6.2.2 The Lessee will provide copies of plans, specifications and other information (including revisions or amendments of any plans, specification and other information) prepared from time to time to ensure any Works are in keeping with the requirements of this Lease.

6.2.3 The obligations under this clause 6.2 are in addition to any obligations of the Lessee to provide plans, specifications and other information to any Statutory Authority (including Council in this separate capacity).

6.2.4 Council will be responsible for its consultant's and legal costs associated with consideration of or consultation about the Works.

6.3 Carrying out of the Works

In carrying out the Works the Lessee must:

6.3.1 complete the Works in a proper and professional manner;

6.3.2 comply with all Statutory Requirements and pay all fees and charges payable to any Statutory Authority;

6.3.3 undertake all necessary remediation works and pay all costs associated with Contamination of the Leased Area as required to carry out the Lessee's Works; and

6.3.4 remove all rubbish and repair and make good any damage to the Park Lands and any other infrastructure and services of Council caused as a result of carrying out the Lessee's Works.

7. PUBLIC CONSULTATION AND PROCEDURES

7.1 Permitted Use Restrictions and Reservations

The Council and the Lessee agree that the respective rights and obligations of the parties including the reservations and restrictions on the use of the Leased Area have been specifically agreed to having regard to:

7.1.1 the public consultation processes undertaken by the Council (if applicable); and

7.1.2 Statutory Requirements.

7.2 Further public consultation

7.2.1 The Council and the Lessee acknowledge and agree that Council may be required to undertake further public consultation to vary the Permitted Use.

7.2.2 Council will be responsible for its costs associated with any public consultation processes undertaken.

8. PUBLIC ACCESS

8.1 Adelaide Park Lands Management Strategy

8.1.1 The Lessee acknowledges that it has received a copy of and is aware of the terms and objectives of the Adelaide Park Lands Management Strategy.

8.1.2 Council will consult with the Lessee in preparation of any revised Management Plan for Tulya Wodli (Park 27) to ensure it is consistent with the terms of this lease and the Leased Area and associated Permitted Use.

8.1.3 Council acknowledges that nothing in this lease derogates from its obligations under the Park Lands Act, the Adelaide Park Lands Management Strategy and the Management Plan for Tulya Wodli as amended from time to time.

8.2 Public Access

8.2.1 The Lessee and Council acknowledge and agree the Lessee must not (except during the Construction Period) cause or allow to be done anything which may restrict public access to and the use of the Leased Area, outside of the Lessee's Programmed Times.

8.2.2 The public must be permitted to use the Leased Area outside of the Lessee's Programmed Times, during daylight hours on weekends, public holidays and South Australian Public School holidays.

8.2.3 Dogs, horses or other animals are not permitted to enter or occupy the Leased Area (except registered Guide Dogs) without Council's consent.

8.3 Public Event

8.3.1 If a Public Event is to be held, the Council will:

8.3.1.1 consult with the Lessee about the Public Event;

8.3.1.2 protect the Lessee's access to the Leased Area during the Programmed Times prior, during and subsequent to the Public Event; and

8.3.1.3 take reasonable steps to minimise any interference with the Lessee's use and occupation of the Leased Area resulting from the Public Event.

8.3.2 The Lessee may undertake any repairs and maintenance required on the Leased Area or in relation to the Improvements as a consequence of damage caused by a Public Event and the Council will reimburse the Lessee for the cost of such maintenance or repair to the extent that the Lessee cannot otherwise recover those costs, providing the Council is advised by the Lessee of the unrecoverable damage within 30 days of the Public Event.

9. INSURANCE

The Lessee warrants that it is entitled to the benefits of the South Australian Government Insurance and Risk Management arrangements administered by the South Australian Government Captive Insurance Corporation in respect of its operations under this Lease and the Leased Area will be insured and covered by these arrangements during the Term.

10. REPAIR AND MAINTENANCE

10.1 Repair and maintenance

The Lessee must at the Lessee's cost and expense keep and maintain the Leased Area and the Improvements in good repair and condition including:

10.1.1 routine maintenance to rectify wear and tear;

10.1.2 undertaking all Structural Work;

10.1.3 maintaining all gardens and landscaped areas at a standard consistent within Bonython Park as set by Council; and

10.1.4 keeping the Leased Area clean and tidy;

provided that the Lessee is not responsible to maintain or repair any infrastructure or services of Council on the Leased Area except to the extent any such repair or maintenance is rendered necessary by any act, omission or negligence of the Lessee or a breach by the Lessee of a term of this Lease.

10.2 Alterations by Lessee

- 10.2.1 Subject to clause 6, the Lessee must not carry out any material alterations or additions to the Leased Area, including the removal of a tree, without the Council's consent.
- 10.2.2 The Lessee must provide full details of the proposed alteration and additions to the Council.
- 10.2.3 The Council may impose any conditions it considers necessary if it gives its consent, including requiring the Lessee to obtain the Council's consent to any agreements that the Lessee enters into in relation to the alterations or additions.
- 10.2.4 The Lessee must carry out any approved alterations and additions:
 - 10.2.4.1 in a proper and workmanlike manner;
 - 10.2.4.2 in accordance with the conditions and approvals imposed by the Council in its capacity as lessor under this Lease;
 - 10.2.4.3 in accordance with all Statutory Requirements (including of the Council in its separate capacity as a relevant Statutory Authority); and
 - 10.2.4.4 in a way to minimise disturbance to others.
- 10.2.5 Each party will bear its own costs, (including legal cost) incurred as a result of the Lessee's alteration and additions under this clause 10.2.
- 10.2.6 Unless otherwise agreed in writing, any alteration or addition made pursuant to this clause will be the property of the Lessee.

10.3 Measures Against Loss or Damage

- 10.3.1 Notwithstanding anything in this Lease but subject to clause 5.8, the Lessee is entitled, but not obliged, to take such measures as the Lessee in its discretion determines to be necessary to protect the Improvements on the Leased Area from loss or damage, including without limitation:
 - 10.3.1.1 the installation of CCTV cameras;
 - 10.3.1.2 the use of lighting in the Leased Area outside of the Programmed Times;
 - 10.3.1.3 the use of a security or police presence; and
 - 10.3.1.4 any other measures as negotiated with and as approved by the Council.

11. ENVIRONMENT

11.1 Environmental obligation

The Lessee must not do anything that causes Contamination or is likely to cause Contamination to the Leased Area or the Environment in contravention of any Environmental Law.

11.2 Indemnity

Without limiting clause 16, the Lessee indemnifies the Council against any costs, action, proceedings, demands, damages or losses (including any duty or obligation to make payment or carry out works) incurred as a result of or contributed to by any breach of an Environmental Law by the Lessee.

11.3 Termination

This clause 11 survives termination or the expiration of this Lease.

12. TRANSFERRING, SUBLETTING AND CHARGING

12.1 Transfer

Subject to clause 12.4, the Lessee must not transfer its interest in this Lease without the Council's consent, which consent may be withheld in Council's discretion.

12.2 Subletting

The Lessee must not sublet or licence any part of the Leased Area without the Council's consent which consent may be withheld in Council's discretion.

12.3 Charging

12.3.1 The Lessee must not charge the Lessee's interest in this Lease or the Improvements without the Council's consent (which consent may be withheld in Council's discretion).

12.3.2 If the Council consents to a charge then the Lessee must enter into a deed in a form required by the Council which ensures the charge is subject to the Council's rights under this Lease.

12.4 Transfer to Government Agency

The Lessee may during the Term transfer its rights and interest in this Lease to a Government Agency without the consent of the Council (provided the Lessee provides written notice to the Council within thirty (30) days after any such transfer has been effected).

12.5 Costs

Each party will bear its own costs (including any legal costs) incurred in relation to any dealing under this clause 12.

13. COUNCIL'S OBLIGATIONS AND RIGHTS

13.1 Quiet enjoyment

Subject to the Council's rights in this Lease and to the Lessee complying with the Lessee's obligations under this Lease, the Lessee may occupy the Leased Area during the Term without interference from the Council.

13.2 Reservations

Despite any other provision of this Lease but subject always to clause 13.3.2, Council reserves to itself the right:

- 13.2.1 to access the Leased Area after giving the Lessee reasonable notice, for the purpose of inspecting, repairing, upgrading and replacing any infrastructure and services of Council on the Leased Area (from time to time); and
- 13.2.2 for the free and uninterrupted passage of Services through, along and under the Leased Area required for the infrastructure and services of Council.

13.3 Right to enter

- 13.3.1 The Council may (except in the case of emergencies when no notice is required) enter the Leased Area after giving the Lessee reasonable notice:
 - 13.3.1.1 to see the state of repair of the Leased Area;
 - 13.3.1.2 to do repairs to the infrastructure and services of the Council located on the Leased Area which the Council cannot reasonably do unless the Council enters the Leased Area; and
 - 13.3.1.3 to do anything the Council must or may do under this Lease or required by Legislation.
- 13.3.2 The Council must take reasonable steps to minimise any interference with the Lessee's use and occupation of the Leased Area under this Lease.

13.4 Maintenance and repair

Subject to clause 10.1, the Council is responsible during the Term to maintain, repair or replace any infrastructure and services of Council on the Leased Area.

13.5 Right to Rectify

Council may at the Lessee's expense do anything which the Lessee should have done under this Lease but which the Lessee has not done or which the Council considers (acting reasonably) the Lessee has not done properly.

14. RETURN OF LEASED AREA ON EXPIRY OR TERMINATION

14.1 Expiry

This Lease will end at midnight on the last day of the Term unless it is terminated earlier by the Council or the Lessee under any other provision of this Lease, in which case it will come to an end when such earlier termination is effected.

14.2 New Lease

- 14.2.1 Not less than two (2) years prior to the expiry of this Lease, the parties will in good faith commence negotiations for the grant of a new lease on such terms and conditions as the parties may agree, to commence upon the expiry of this Lease.
- 14.2.2 In the event that the parties do not come to an agreement as to the terms of a new lease before the expiry of this lease, the provisions of clause 14.3 will apply.
- 14.2.3 Nothing in this clause obliges either party to take out a new lease or limits any obligations required to be undertaken by statute with respect to a new lease.

14.3 Handover of possession

- 14.3.1 When this Lease comes to an end, unless the parties agree otherwise (for example, that the Lessee will hand over possession of the Leased Area and the Improvements to the Council without any reinstatement of the Leased Area), the Lessee will hand over vacant possession of the Leased Area to the Council.
- 14.3.2 If the Lessee is to hand over vacant possession of the Leased Area to the Council, the Lessee must return the Leased Area to grassed Park Lands by:
 - 14.3.2.1 removing the Improvements and repairing any damage caused by such removal such that the Leased Area is left in good order and condition;
 - 14.3.2.2 removing any alterations or additions made by the Lessee; and
 - 14.3.2.3 carrying out and completing any repairs and maintenance that the Lessee is obliged to carry out under this Lease.
- 14.3.3 If it is not practical for the Lessee to undertake and complete these requirements before the Lease comes to an end, then such works must be taken immediately after the Lease comes to any end, but in accordance with the requirements of the Council relating to security, access and time for completion.
- 14.3.4 If at the time that possession of the Leased Area is given back to the Council, the Lessee has not complied with all or any of its obligations under this clause 14.3, the Lessee shall not be relieved of its obligation to comply with these requirements, or to compensate the Council for failure to do so, by reason of the fact that the Council has accepted or taken possession of the Leased Area.

14.4 Holding over

If with the Council's consent the Lessee continues to occupy the Leased Area after the end of this Lease, the Lessee does so as a monthly tenant which:

- 14.4.1 either party may terminate on one month's notice given at any time; and

14.4.2 is on the same terms as this Lease.

15. BREACH AND TERMINATION

15.1 Payment obligations

The Lessee must make payments due under this Lease:

- 15.1.1 without demand (unless this Lease provides demand must be made);
- 15.1.2 without set-off, counter-claim, withholding or deduction;
- 15.1.3 to the Council or as the Council directs; and
- 15.1.4 by direct debit or such other means as directed by the Council.

15.2 Default

If the following events occur or states of affairs subsist during the Term:

- 15.2.1 a party is in breach of a provision of this Lease; and
- 15.2.2 the non-defaulting party serves on the defaulting party a notice to remedy any such breach, and the defaulting party does not dispute the claim; and
- 15.2.3 the notice to remedy specifies one of the following:
 - 15.2.3.1 that the breach is to be remedied within forty (40) Business Days of the service of the notice to remedy if the non-defaulting party reasonably considers that the relevant breach can reasonably be remedied within that period; or
 - 15.2.3.2 that the breach is to be remedied within the longer period which the non-defaulting party considers reasonable given the nature of the breach on the basis that the defaulting party uses its best endeavours to remedy the relevant breach; and
- 15.2.4 any such breach has not been remedied by the defaulting party or otherwise continues for the period specified in the notice to remedy served in relation to the relevant breach or any agreed compensation has not been paid by the defaulting party within the period specified by the non-defaulting party;

then, until the relevant event or state of affairs ceases to subsist the non-defaulting party may do all or any of the following:

- 15.2.5 the non-defaulting party may, by the service of a written notice, terminate this Lease by giving the defaulting party twenty one (21) Business Days' notice of termination provided that the non-defaulting party may not terminate if the defaulting party remedies the breach the subject of the notice of termination within this notice period;
- 15.2.6 the non-defaulting party may, but is not obliged to, remedy any such breach and recover any costs and expenses it may incur from the defaulting party as a debt;

- 15.2.7 the non-defaulting party may institute legal proceedings for injunctive or any other appropriate form of remedy or relief to enforce the defaulting party's performance of the provisions of the Lease; or
- 15.2.8 the non-defaulting party may sue the defaulting party for any damages the non-defaulting party has sustained or incurred.

16. INDEMNITY AND RELEASE

16.1 Risk

The Lessee occupies and uses the Leased Area at the Lessee's risk.

16.2 Indemnity

The Lessee is liable for and indemnifies the Council against all actions, liabilities, penalties, claims or demands for any damage loss, injury or death incurred or suffered by the Council as a result of this Lease including in connection with:

- 16.2.1 the overflow or leakage of water or any other harmful agent into or from the Leased Area;
- 16.2.2 any fire on or from the Leased Area;
- 16.2.3 a breach of this Lease by the Lessee;
- 16.2.4 the Lessee's use or occupation of the Leased Area; or
- 16.2.5 the public's use or occupation of the Leased Area.

to the extent that the damage, loss, injury or death are caused by the neglect, default or omission of the Lessee, its agents, employees or contractors.

16.3 Release

The Lessee releases the Council from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring on the Leased Area to the extent that they are caused by the neglect, default or omission of the Lessee, its agents, employees or contractors.

16.4 Indemnities are independent

Each indemnity is independent from the Lessee's other obligations and continues during this Lease and after this Lease ends.

17. NATIVE TITLE

In the event a Native Title Claim is made then the Lessee:

- 17.1 will be responsible for payment of any compensation and any other moneys payable to the claimant arising from the grant of this Lease or the Lessee's use or occupation of the Leased Area; and
- 17.2 will indemnify and keep the Council indemnified against and in respect of all and any actions, claims, demands, losses, damages, costs and expense however

arising for which the Council may incur or become liable for arising from any Native Title Claim.

18. **DISPUTE RESOLUTION**

If a dispute arises between the parties as to the terms of or operation of this Lease or as to the rights and obligations of the parties under this Lease, then;

- 18.1 the dispute may be referred on fourteen (14) Business Days prior written notice for the Lessee to the [#] (or his/her delegate as nominated by the [#] from time to time) and for the Council to the Chief Executive Officer (or his/her delegate as nominated by the Chief Executive Officer from time to time) who must meet as soon as practicable to make a joint recommendation to the parties for the purpose of resolving the dispute; and
- 18.2 failing resolution of the dispute within twenty eight (28) Business Days in accordance with 19.1 (or such other period as the parties may agree), unless the Council or Lessee determine to exercise their right to have such dispute adjudicated by a court, the dispute may by agreement of the parties be referred to an independent expert agreed upon by the parties or, failing agreement, to an independent expert appointed by the President or Acting President of the Law Society of South Australia for resolution and the fees and expenses of the relevant expert shall in any event be borne and paid by the Council and the Lessee in equal shares.

19. **DELEGATION**

The Director Business Services, or such other person as the Director Business Services may nominate in writing from time to time, may exercise all of the powers and functions of the Minister as Lessee under this Lease.

20. **GENERAL**

20.1 **Costs**

- 20.1.1 Council and the Lessee will each bear their own costs in relation to the negotiation, preparation and execution of this Lease.
- 20.1.2 The Lessee must pay or reimburse to the Council all legal and other costs and expenses reasonably incurred by the Council in consequence of any actual or threatened breach by the Lessee of this Lease or as a result of Council enforcing any rights or remedies of the Council under this Lease or at law as a result of any actual or threatened breach.

20.2 **Waiver**

If the Council accepts or waives any breach by the Lessee, that acceptance or waiver cannot be taken as an acceptance or waiver of any future breach of the same obligation or of any other obligation under this Lease.

20.3 **Council's consent**

Except where otherwise provided in this Lease, where the Lessee is required to obtain the consent of Council to any act matter or thing, that consent will not be unreasonably withheld or granted on unreasonable conditions provided that it is acknowledged by the Lessee that to the extent Council is required by Legislation

or determines it is necessary to undertake any public consultation arising from any request for Council's consent then Council will not be acting unreasonably if as a result of those consultation processes the consent is withheld or granted but on conditions the Lessee considers unreasonable.

20.4 Notice

20.4.1 Without excluding any other form of service, any notice required to be given or served will be sufficiently given or served as follows:

20.4.1.1 in the case of the Lessee, if posted by pre-paid post or delivered to the last known address of the Lessee; and

20.4.1.2 in the case of the Council, if posted by pre-paid post to the Council at its principal place of business in South Australia (which is taken to be the address stated in this Lease unless the Lessee is or ought reasonably be aware that that is not the Council's principal place of business at the relevant time).

20.4.2 Notice served by pre-paid post will be deemed to have been given or served three Business Days after posting.

20.4.3 Any notice may be signed on a party's behalf by its attorney, director, secretary, officer, solicitor, managing agent or authorised agent.

20.5 Severance

If any part of this Lease is found to be invalid, void or unenforceable, then that part will be severed from this Lease and the remainder of this Lease will continue to apply.

20.6 Entire agreement

The Council and the Lessee acknowledge and agree that this Lease contains and represents the entire agreement reached between them with regard to the Leased Area and that no promises, representations or undertakings, other than those contained in this Lease, were made or given or relied upon.

20.7 Variation

This Lease may only be varied by an agreement in writing executed by the Council and the Lessee which is expressed to be an instrument amending the terms of this Lease.

20.8 Auditor General

Nothing in this Lease derogates from the powers of the Auditor General under the *Public Finance & Audit Act 1987 (SA)*.

EXECUTED as an AGREEMENT

The **COMMON SEAL** of **THE**)
CORPORATION OF THE CITY OF)
ADELAIDE was hereunto affixed the)
day of 2011)

.....
Lord Mayor

.....
Chief Executive Officer

[# Lessee execution clause]

THE COMMON SEAL of the MINISTER)
FOR POLICE was hereunto affixed)
in the presence of:)
.....)

Witness)

.....)
Print name

SCHEDULE

ITEM 1 Leased Area	Portion of the Park Lands within Tulya Wodli (Park 27), being the area marked and described in the plan attached as Annexure A
ITEM 2 Term	Nine (9) years commencing [#] (Commencement Date) and expiring at midnight [#]
ITEM 3 Rent	\$1.00 if demanded (inclusive of GST)
ITEM 4 Permitted Use	<p>Subject to the terms of this Lease, the Leased Area:</p> <ul style="list-style-type: none">• may be used during the Construction Period, for the undertaking of the Works (which includes rights for builders, contractors and subcontractors to access and occupy the site specifically for the undertaking of the Works);• may be used generally for the undertaking of any maintenance necessary for the Permitted Use; and• must otherwise be maintained and used for education of the public through formal road safety instruction and informal recreational use by the public on bicycles, wheelchairs and small wheeled (non-motorised) devices, including pedestrian use.
ITEM 5 Fencing Design	As depicted in the plan attached as Annexure B

ANNEXURE B – FENCING DESIGN

