

Queensland

Brisbane Casino Agreement Act 1992

Current as at 27 May 2016

Reprint note

This is the last reprint before repeal. Repealed on 29 October 2026 by 2026 Act No. 27 s 149.

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Queensland

Brisbane Casino Agreement Act 1992

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Brisbane Casino Agreement Act 1992

An Act to authorise the entering into of an agreement for the development and operation of the Brisbane Casino, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Brisbane Casino Agreement Act 1992*.

2 Definitions

In this Act—

Brisbane Casino means a hotel-casino complex located within the following lots—

- Lot 492 on Crown Plan 855445;
- Lot 682 on Crown Plan 855445;
- Lot 300 on Crown Plan 866930;
- Lot 301 on Crown Plan 866931;
- Lot 303 on Crown Plan 866933;
- Lot 304 on Crown Plan 866934;
- Lot 11 on Crown Plan 866932;
- Lot 10 on Crown Plan B31753.

casino agreement means the replacement agreement, as amended from time to time under section 6.

Control Act means the *Casino Control Act 1982*.

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former agreement means the agreement, the terms of which are set out in schedule 2, that was—

(a) made and varied under this Act; and

(b) approved by regulation or ratified by the Legislative Assembly; and

(c) in effect immediately before the replacement agreement took effect.

replacement agreement see section 5(1).

Part 2 Authority to agree to develop and operate Brisbane Casino

3 Minister may make agreement for Brisbane Casino

(1) The Minister is authorised to make, on behalf of the State, an agreement with a person for the development and operation of the Brisbane Casino.

(2) The Minister may make an agreement under subsection (1) only if the proposed agreement has been approved by regulation.

(3) The Minister must notify the date of the making of the agreement by Gazette notice.

(4) The Minister may not enter into an agreement under this section after the commencement of the *Brisbane Casino Agreement Amendment Act 2001*, section 6.

4 Control Act

For the purposes of section 19 of the Control Act, the agreement made under section 3 is taken to be ratified by Parliament.

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Part 2A Replacement agreement

5 Replacement agreement ratified

(1) The former agreement ends and is replaced by the agreement (the ***replacement agreement***) made by the Minister, on behalf of the State, and shown in schedule 1.

(2) The replacement agreement is ratified by the Legislative Assembly for the purposes of the Control Act, section 19.

6 Amendment of replacement agreement

(1) The replacement agreement may be amended by a further agreement between the parties to the replacement agreement.

(2) If the further agreement is ratified by the Legislative Assembly, the further agreement takes effect to amend the replacement agreement.

6A Publication of consolidated agreement

The chief executive must, from time to time, publish a document on the department's website consolidating the replacement agreement and any further agreements made and ratified under section 6.

Part 3 Miscellaneous

6B Agreement has force of law

(1) The casino agreement has effect as if it were a law of the State.

(2) If a provision of the casino agreement is inconsistent with an Act, the provision prevails and the Act is not effective to the extent of the inconsistency.

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(3) Subsection (2) does not affect a provision of another Act that expressly deals with the interaction between the other Act and the casino agreement or this Act.

7 Regulations

The Governor in Council may make regulations for the purposes of this Act (including the casino agreement).

Part 4 Savings and transitional provisions for Brisbane Casino Agreement Amendment Act 2016

8 Definitions for part

In this part—

amending Act means the *Brisbane Casino Agreement Amendment Act 2016*.

decision includes an approval, authorisation, permission, notice and order.

9 Making of replacement agreement

To remove any doubt, it is declared that—

(a) before the commencement, the Minister was authorised to make the replacement agreement for the purposes of this Act and the Control Act; and

(b) the former agreement does not end until the commencement even though the replacement agreement was made before the commencement.

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10 Validity of former agreement etc. not affected

The commencement of the amending Act, and the making of the replacement agreement, does not affect the validity of the former agreement or anything done under the former agreement, including, for example, a decision made by a Minister under the former agreement.

11 Existing applications

(1) This section applies to an application for an approval, authorisation or permission that, immediately before the commencement, was made to, but not decided by, a Minister under the former agreement.

(2) The application may continue to be decided under the former agreement by the Minister administering this Act as if the amending Act had not commenced and the replacement agreement had not been made.

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Schedule 1 Replacement agreement

section 5(1)

BRISBANE

CASINO

AGREEMENT

2

BRISBANE CASINO AGREEMENT

Between:

THE STATE OF QUEENSLAND

of the First Part

And:

JUPITERS LIMITED

of the Second Part

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CASINO AGREEMENT

AN AGREEMENT made this 18th day of February 2016 between the STATE OF QUEENSLAND ("the State") of the First Part and Jupiters Limited (A.C.N. 010 741 045) a Company duly incorporated by law and having its registered office at Level 3, 159 William Street, Brisbane ("the Company") of the Second Part.

WHEREAS:

A. This Agreement replaces all previous agreements and variations and was entered into in accordance with the *Agreement Act* to satisfy section 19 (Agreement to precede grant of casino licence) of the *Control Act.*

B. Prior to the grant of the Casino Licence, the State set out its objectives and considerations in its Brief to Applicants relating to the establishment and operation of a casino-hotel in Brisbane in the State of Queensland.

C. The State acknowledged that the establishment of the Brisbane Casino-Hotel Complex was a large scale development project requiring a very large capital expenditure and that it was necessary to give to the Company the security and assurances contained herein to enable the provision of capital for the establishment of the Brisbane Casino-Hotel Complex.

D. It is desirable that in consideration of the Company entering into obligations on its part hereinafter set out that the Company should be granted the entitlements benefits and privileges hereinafter mentioned.

E. Whilst the parties recognise that the power of the Parliament of the State of Queensland to make laws is absolute and cannot be taken away by an agreement made by the State, it is the intention of the State that the titles, rights and privileges of the Company be not derogated from by the State in any manner whatsoever except as hereinafter provided.

F. The original agreement made on 6 May 1993 between the parties has been previously varied pursuant to the *Agreement Act* on 15 June 1993, 21 October 1994, 6 April 1995, 3 February 1997, 17 January 2002 and 5 April 2002. A further variation was made on 4 October 2011 to allow the playing of two-up on designated days (such as Anzac Day) in non-casino venues, if undertaken in accordance with the *Charitable and Non-Profit Gaming Act 1999*, although this variation was not ratified.

G. The parties acknowledge the Site is part of the proposed Queen's Wharf Brisbane Integrated Resort Development and is included in the Queen's Wharf Brisbane Priority Development Area which was declared on 28 November 2014.

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H. This Agreement provides that the Brisbane Casino-Hotel Complex and the Site are no longer exempt from any Development Legislation unless otherwise provided for in this Agreement.

IT IS AGREED

PART I - PRELIMINARY

1. Definitions.

In this Agreement unless the context otherwise indicates or requires, the terms following shall have the meanings respectively assigned to them:

"Agreement" means this agreement and the schedules thereto and all amendments to such agreement or schedules.

"Agreement Act" means the *Brisbane Casino Agreement Act 1992.*

"Approval Share" means a Share defined as an Approval Share pursuant to the Foundation Agreement.

"Approved Holder" means –

(a) a body registered under the *Life Insurance Act 1995* (Cwlth) if the body, in its last published audited financial statements, held net assets of at least $100 million; or

(b) a regulated superannuation fund, an approved deposit fund, a pooled superannuation trust, or a public sector superannuation scheme within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth) if the fund, trust or scheme, in its last published audited financial statements, held net assets of at least $100 million; or

(c) a managed investment scheme within the meaning of the *Corporations Act* if the scheme, in its last published audited financial statements, held net assets of at least $100 million; or

(d) a person who is a licensed dealer and a member organisation of an Australian stock exchange within the meaning of the *Corporations Act* acting as principal, if the licensed dealer, in its last published audited financial statements, held net assets of at least $100 million; or

(e) an authorised deposit-taking institution that carries on any banking business in Australia within the meaning of the *Banking Act 1959* (Cwlth) and their wholly-owned subsidiaries; or

(f) any building society regulated by the Australian Prudential Regulation Authority and their wholly-owned subsidiaries.

"Brief to Applicants" means that document which is headed "Brief to Applicants Part A General Requirements for the 1991 Extension of Casino Operations in Queensland" together with other supplemental documents, "Casino Gaming Control

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Documents", "Brief to Applicants Part B Specific Requirements", and Addenda as issued and listed in Schedule I.

"Brisbane Casino-Hotel Complex" means all land and Works used, constructed or effected or to be used, constructed or effected on the Site for a hotel, casino and other Uses in accordance with this Agreement.

"Building" has the meaning given in the *Integrated Planning Act 1997*.

"Business Day" has the meaning given in the Queen's Wharf Casino Agreement.

"**Buy Back**" means the time of completion of the selective buy back by the Company of Approval Shares held by the Founders, as agreed between the Founders and the Company in the Buy Back Agreements dated on or about February 2002, effected by the cancellation of the shares bought back.

"Casino" means those areas of the Brisbane Casino-Hotel Complex identified in the Casino Licence.

"Casino Gross Revenue" means casino gross revenue as defined in the *Control Act*.

"Casino Licence" means the licence dated 11 April 1995 granted pursuant to the *Control Act* in respect of the Casino.

"Casino Part" means the part of the Brisbane Casino-Hotel Complex that is a Casino.

"Chief Executive (Gaming Regulation)" means the chief executive of the department responsible for the *Control Act*.

"Chief Executive (Heritage)" means the chief executive of the department responsible for the *Heritage Act*.

"Chief Executive (Natural Resources and Mines)" means the chief executive of the department responsible for the *Land Act*.

"Chief Executive (Public Works)" means the chief executive of the department responsible for public works.

"1992 Conservation Study" means the 1992 conservation study undertaken by Allom Lovell Marquis-Kyle Architects in respect of the Treasury Buildings Groups, a copy of which has been lodged by the Company with the Chief Executive (Gaming Regulation).

"1995 Conservation Report" means the 1995 report undertaken by Allom Lovell Marquis-Kyle Architects in respect of the Former Museum/Library Brisbane, a copy of which has been lodged by the Company with the Chief Executive (Gaming Regulation).

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"Construction Site" means the Site and such other land immediately adjoining the Site as may be reasonably required by the Company which has been approved by the Minister.

"Control Act" means the *Casino Control Act 1982*.

"Corporations Act" means the *Corporations Act 2001* of the Commonwealth of Australia and the regulations made under that Act, and includes –

(a) the Act and regulations as amended from time to time; and

(b) if any law of the Commonwealth is substituted for the Act or regulations – the substituted law.

"Cultural Heritage Significance" has the meaning given to it in the *Heritage Act*.

"decision" means a decision, report or recommendation made or proposed to be made or required to be made and includes –

(a) a matter appearing or purporting to be a decision, report or recommendation; and

(b) a matter relating to or appearing or purporting to relate to a decision, report or recommendation.

"Decision Date" means the day immediately following –

(a) the end of the Public Notice Period where the Heritage Council has decided to publish a Public Notice pursuant to clause 35(g)(i); or

(b) the day on which the Heritage Council has decided not to publish a Public Notice pursuant to clause 35(g)(i).

"Decision Notice" means a notice –

(a) published in –

(i) the gazette; and

(ii) a newspaper circulating throughout Queensland; and

(iii) a newspaper circulating in the Local Government Area; and

(b) containing details of the Minister's decision.

"Development" means –

(a) a Material Change of Use; or

(b) Works; or

(c) Reconfiguring a Lot.

"Development Application" means an application to the Minister for approval of Regulated Development in respect of the Brisbane Casino-Hotel Complex pursuant to clause 15.

"Development Approval" means an approval granted by the Minister in respect of a Development Application and includes other working drawings and specifications approved by the Minister as part of the Development Approval which will result in variations to the Schematic Design Drawings.

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"Development Legislation" means any –

(a) legislation of whatsoever nature relating to Development including, without limitation, the Building Act 1975, the Sewerage and Water Supply Act 1949, the Local Government Act 1993, the City of Brisbane Act 1924, the City of Brisbane Town Planning Act 1964, the City of Brisbane Town Planning Modification Act 1976, the Local Government (Planning and Environment) Act 1990, the Integrated Planning Act 1997, the Sustainable Planning Act 2009, the Economic Development Act 2012, the Land Act 1994 and the Planning Bill 2016 (if it takes effect); and

(b) Planning Instrument whether or not made under the legislation specified in paragraph (a); and

(c) other statutory provisions regulating the Development of the Site.

"Easements" means easements 700603724, 700603750 and 700603774.

"Emergency Work" means the Variation Work that is necessary to support, stabilise or secure the Heritage Place.

"Emergency Works Notice" means a notice setting out –

(a) the damage that has been caused to the Heritage Place; and

(b) the Variation Work that is necessary to repair the Heritage Place so as to –

(i) mitigate the hazards or risks specified in clause 38(a); and

(ii) ensure the safety and effective operation of the Brisbane Casino-Hotel Complex.

"External Structure" means the whole and every part of the Structure (generally called the facade) comprising the exterior walls of the fixed improvements (as defined in the Special Lease):

(a) from and including parapet level downwards including gargoyles, pediments and entablatures; and

(b) including, without limitation, recessed entrances, windows and walls.

"Facade" means the whole and every part of the External Structure which is in existence:

(a) at the Lease Commencement Date for the relevant Special Lease; and

(b) from time to time during the currency of the relevant Special Lease to the extent that it is a restoration, conservation, renovation or repair of the whole or any part of the External Structure in existence at the Lease Commencement Date of the relevant Special Lease; and

(c) from time to time during the currency of the relevant Special Lease to the extent that it is a replacement of the whole or any part of the External Structure in existence as at the Lease Commencement Date of the relevant Special Lease.

"Fabric" means all the physical material of the Heritage Place.

"Financial Agreement" means an agreement between the State and the Company bearing the date 6 May 1993.

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"Former Construction Site" has the meaning given to construction site in the *Brisbane Casino Agreement Regulation 1993*.

"Foundation Agreement" means the agreement between the Company and the Founders dated 4 November 1991.

"Founder" means a member who immediately prior to the Buy Back was registered as the holder of Approval Shares.

"Game" means a game as that term is defined in the *Control Act*.

"gaming" means the playing in the Casino of any Game.

"gaming machine" means any device that is designed so that:

(a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and

(b) it may be operated, wholly or partly:

(i) by the insertion of Australian currency or a chip into the device; or

(ii) by the use of gaming machine credits; or

(iii) by the electronic transfer of gaming machine credits to the device; or

(iv) by the use of gaming machine credits held, stored or accredited by the device or elsewhere.

"gaming machine credit" means a credit of Australian currency, or chips, registered by a gaming machine.

"**Grandfathered Holding**" means the lesser of:

(a) the voting power of a Grandfathered Shareholder held on the date the Buy Back is announced by the Company to Australian Stock Exchange Limited less any shares bought back under the Buy Back; and

(b) the voting power held by the Grandfathered Shareholder at any time after the Buy Back.

"**Grandfathered Shareholder**" means a person:

(a) whose voting power in the Company immediately after the Buy Back is in excess of 10% and immediately prior to the Buy Back was a party to the Foundation Agreement; or

(b) who, immediately prior to the Buy Back held the Minister's approval under clause 53(l) for their voting power in the Company to exceed 5% and whose voting power in the Company exceeds 10% solely as a result of the Buy Back,

provided that a person shall cease to be a Grandfathered Shareholder when their voting power in the Company ceases to exceed 10%.

"Heritage Act" means the *Queensland Heritage Act 1992*.

"Heritage Archaeologist" means a person approved by the Minister pursuant to clause 41(e).

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"Heritage Architect" means a person approved by the Minister pursuant to clause 41(d).

"Heritage Council" means the Queensland Heritage Council established pursuant to section 8 (Establishment of Council) of the *Heritage Act*.

"Heritage Legislation" means any legislation of whatsoever nature which has a purpose which is primarily focused on the Cultural Heritage Significance of a place or an object and includes the *Heritage Act*.

"Heritage Management Plan" means the Heritage Management Plan agreed or approved by the Minister pursuant to clause 33 and includes any amendments to the Heritage Management Plan approved by the Minister.

"Heritage Management Principles" means the following principles for the heritage management of the Heritage Places –

(a) The Use of the Heritage Places to house a casino-hotel requires frequent changes to decoration and presentation during the Lease Period. In the long term such changes generally do not harm the Cultural Heritage Significance of the Heritage Places.

(b) A clear distinction must be made between the Heritage Places themselves and the casino-hotel and furniture and fitments which are temporary and benign and without Cultural Heritage Significance.

(c) The Heritage Places are to be used like a theatre stage, equipped to work and dressed to create the atmosphere required by the casino-hotel function. It is a decision for the Company to decide the style "stage set", to change it from time to time and to make judgements about the taste.

(d) The aim is to protect for the future the Fabric of the Heritage Places that is of Cultural Heritage Significance. It is understood that some elements, even though they are of Cultural Heritage Significance, may be hidden from view during the Lease Period. These hidden elements are to be protected from damage.

(e) The taste and judgment applied to the temporary decoration and furnishings of areas which are –

  (i) not of special Cultural Heritage Significance can be undertaken in most cases as Permitted Variation Work; and

  (ii) of special Cultural Heritage Significance can be undertaken in most cases with approval for Major Variation Work or Minor Variation Work.

"Heritage Minister" means the Minister responsible for the *Heritage Act*.

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"Heritage Place" means the Treasury Building, Land Administration Building, John Oxley Library Building and the Queens Wharf Road Retaining Wall.

"John Oxley Library Building" means the land known as the John Oxley Library Building bounded by William Street, the Riverside Expressway exit to Elizabeth Street, Queens Wharf Road and Miller Park.

"Land Act" means the *Land Act 1994*.

"Land Administration Building" means the land known as the Land Administration Building bounded by George Street, Stephens Lane, William Street and the common boundary shared with Queens Park.

"Lease Commencement Date" means 11 April 1995.

"Lease Period" means the period:

(a) commencing on the Lease Commencement Date; and
(b) ending on the earlier of:
  (i) 10 April 2070;
  (ii) the Special Lease no longer having effect;
  (iii) 11.59pm on the day 39 Business Days after the Unconditional Licence Date .

"Liquor Act" means the *Liquor Act 1992*.

"Local Government" means the Brisbane City Council constituted under the *City of Brisbane Act 1924* and any local government or joint local government established under the *Local Government Act 1993* having jurisdiction in respect of the Local Government Area in which the Site is situated.

"Local Government Area" means the area in which the Local Government has jurisdiction including any place under the control of the Local Government outside the boundaries of the area.

"Maintenance Work" means Variation Work performed for the purposes of the protective care of the Heritage Place including without limitation, for example, the protective care of the materials, features, contents and setting that comprise –
(a) fences;
(b) gardens and grounds;
(c) roads and paths;
(d) roof and drainage systems;
(e) services and utilities; and
(f) the Facade.

Maintenance Work also includes painting work in a colour that substantially conforms with an existing colour scheme at the Heritage Place or a colour scheme

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approved under section 37 (Development by the Crown) of the *Heritage Act* or under Part III.

"Major Park Works" has the meaning given in clause 29.

"Major Variation Work" has the meaning given in clause 35.

"Material Change of Use" has the meaning given in the *Sustainable Planning Act 2009*.

"Materials" means all furniture, fittings, fixtures, statues, ornaments and monuments within or attached to the Buildings, Structures and land comprising the Former Construction Site.

"Method Statement" means a written description of the manner in which Variation Work that is likely to be required repeatedly and that has the potential to cause cumulative harm to the Cultural Heritage Significance of the Heritage Place should be carried out.

"Miller Park" means the land reserved as Miller Park at the date of this Agreement bounded by William Street, the common boundary shared with John Oxley Library Building, Queens Wharf Road and the building known as the Old Commissariat Stores.

"Minister" means the Treasurer or other Minister of the Crown for the time being charged with the administration of the *Control Act*.

"Minor Park Works" has the meaning given in clause 28.

"Minor Repair Work" means –

(a) Variation Works of a minor nature that involves repairs to the Fabric of the Heritage Place and which –
  (i) use the same types of materials and the same construction methods as were originally used on the Heritage Place or which have been approved under section 37 (Development by the Crown) of the *Heritage Act* or under clause 37; or
  (ii) are recommended by the Heritage Architect and approved in writing by the Minister having regard to best available information, conservation technology and conservation trade; and

(b) other Variation Work which is determined from time to time by the Chief Executive (Gaming Regulation).

"Minor Variation Work" has the meaning given in clause 34.

"Natural Resources Minister" means the Minister responsible for the *Land Act*.

"Park Works" means Works that are carried out in Queens Park.

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"Park Works Application" means an application to the Minister for approval of Minor Park Works or Major Park Works pursuant to clauses 28 and 29.

"Permitted Park Works" has the meaning given in clause 27.

"Permitted Variation Work" has the meaning given in clause 36.

"person" includes a company, corporation, firm and any other body of persons having legal entity as such body as well as a natural person.

"Planning Instrument" means any statutory instrument regulating Development.

"Premium Junket Revenue" means premium junket revenue as defined in the *Control Act*.

"Prescribed Development Legislation" means the following Development Legislation –

(a) *Standard Building Regulation 1993*;
(b) *Standard Water Law*;
(c) *Standard Sewerage Law*;
(d) *Fire and Rescue Service Act 1990*;
(e) *Workplace Health and Safety Act 1995*; and
(f) State laws generally applicable to Works.

"Prescribed Information" means details of –

(a) the existing condition of that part of the Heritage Place relevant to the application for approval of Major Variation Work; and
(b) the history and Development of that part of the Heritage Place relevant to the application for approval of Major Variation Work; and
(c) the Cultural Heritage Significance of that part of the Heritage Place relevant to the application for approval of Major Variation Work; and
(d) the proposed Major Variation Work; and
(e) the likely impact of the proposed Major Variation Work on the Cultural Heritage Significance of that part of the Heritage Place relevant to the application for approval of Major Variation Work.

"Prescribed Works" means plumbing work or drainage work as defined in the *Integrated Planning Act 1997*.

"Priority Development Area" has the meaning given in the *Economic Development Act 2012*.

"Public Notice" means a notice –

(a) published in –
  (i) the gazette; and
  (ii) a newspaper circulating throughout Queensland; and
  (iii) a newspaper circulating in the Local Government Area in which the Heritage Place is situated; and
(b) containing any details of the proposed Major Variation Work; and

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(c) inviting written representations from interested members of the public within the Public Notice Period.

"Public Notice Period" means the period specified in the Public Notice not exceeding 20 days from the publication of the Public Notice.

"Public Official" includes a minister, an officer of the public service and an officer or employee of a Public Sector Entity.

"Public Sector Entity" means –

(a) a department or part of a department; or

(b) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for the public or a State purpose (such as the MEDQ under the *Economic Development Act 2012*).

"Public Works Minister" means the Minister of the Crown charged with the construction of Works in respect of land owned by the Crown.

"Queens Park" means the land reserved as Queens Gardens at the date of this Agreement and which is commonly known as Queens Park bounded by William Street, Elizabeth Street, George Street and the common boundary shared with the Land Administration Building but excluding the Queens Park Carpark.

"Queens Park Carpark" means the subterranean land below Queens Park bounded by William Street, Elizabeth Street, George Street and the common boundary shared with the Land Administration Building.

"Queens Wharf Road Retaining Wall" means that part of the stone retaining wall in Queens Wharf Road, located near the intersection of Queen Street, William Street and Queens Wharf Road, that forms part of the boundary of the Site.

"Queen's Wharf Casino Agreement" has the meaning given to casino agreement in the *Queen's Wharf Brisbane Act 2016*.

"Reconfiguring a Lot" has the meaning given in the *Sustainable Planning Act 2009*.

"Regulated Development" means Development other than Prescribed Works.

Example –

Regulated Development means –
(a) a Material Change of Use; and
(b) Reconfiguring a Lot; and
(c) Works other than plumbing work and drainage work.

"Review Act" means the *Judicial Review Act 1991*.

"Schematic Design Drawings" means –

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(a) the Schematic Design Drawings including all plans, drawings, reports or other material relating to the Schematic Design Drawings which were tabled in Parliament; and

(b) all variations and additional plans, drawings, reports and other material relating to the Schematic Design Drawings which were approved under the Agreement; and

(c) the amended Schematic Design Drawings that are prepared pursuant to clause 21.

"Share" means a share or stock in the Company.

"Shareholder" means the person who for the time being is registered under the provisions of the Company's Constitution as the holder of a Share and includes persons jointly so registered.

"Site" means the area of land described as situated in the County of Stanley, Parish of North Brisbane and consisting of –

- Lot 492 on Crown Plan 855445;
- Lot 682 on Crown Plan 855445;
- Lot 300 on Crown Plan 866930;
- Lot 301 on Crown Plan 866931;
- Lot 303 on Crown Plan 866933;
- Lot 304 on Crown Plan 866934;
- Lot 11 on Crown Plan 866932; and
- Lot 10 on Crown Plan B31753.

"Special Facility Licence" means Commercial Special Facility Licence No 89408 (previously Special Facility Licence No 45100594).

"Special Lease" means registered lease title reference 17750245.

"State law" means a law other than a law made by the Local Government or by the Commonwealth.

"State Notice" means the written notice served pursuant to clause 48(a).

"Stephens Lane" means the land adjoining the Site bounded by George Street, Old Printery (William Street), Printing Building (George Street), William Street and the common boundary shared with the Land Administration Building.

"Stop Order" means an order issued by the Minister or the Heritage Minister pursuant to Part III.

"Stored Materials" means the Materials removed from the Site to storage.

"Structure" has the meaning given in the *Building Act 1975*.

"Superfluous Notice" means the written notice served pursuant to clause 49(a).

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"Treasury Building" means the land known as Treasury Building bounded by William Street, Queen Street, George Street and Elizabeth Street.

"Unconditional Licence Date" has the meaning given in the Queen's Wharf Casino Agreement.

"Use", in relation to the Brisbane Casino-Hotel Complex means any use incidental to and necessarily associated with the use of the Brisbane Casino-Hotel Complex.

"Variation Work" means Works that change the Fabric of a Heritage Place on the Site.

"Works" means building work, operational work, plumbing work and drainage work as defined in the *Sustainable Planning Act 2009*.

2. Interpretation.

(a) Unless the context otherwise requires, words importing a singular gender shall include any other gender; the singular includes the plural and vice versa; person includes corporation and/or bodies corporate; whenever a corporation shall be a party hereto the words designating such corporation herein shall extend to and include such corporation, its successors in titles and permitted assigns; whenever a person shall be a party hereto the words designating such person herein shall extend to and include such person and that person's executors, administrators and assigns; where two or more parties are parties to a covenant, agreement, undertaking or provision of any kind hereunder, then whether those parties are referred to individually herein or designated and referred to together by a word in the singular person, such covenant, agreement, undertaking or provision of any kind whatsoever shall bind such parties jointly and each of them severally.

(b) Unless the context otherwise requires, whenever there is any covenant on the part of the Company or obligation placed on the Company (express or implied) then any costs associated with the performance of that covenant or obligation shall be at the expense of the Company.

(c) Headings have been inserted for ease of reference only and do not affect the interpretation of this Agreement.

3. Counting of days.

Unless nominated specifically otherwise within a particular clause herein, the counting of days is to be based on working week days (Monday to Friday inclusive) but excluding public holidays occurring in the Local Government Area.

4. Legislative Acts.

Any reference to any primary or subordinate legislation, unless the context otherwise requires shall include that primary or subordinate legislation amending the same or in substitution therefor.

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5. Authority to enter into Agreement.

The State acknowledges and confirms that approval has been given in accordance with the *Agreement Act* for the Minister, for and on behalf of the State, to enter into this Agreement with the Company and that pursuant to the *Agreement Act* this Agreement is ratified by Parliament for the purposes of section 19 (Agreement to precede grant of Casino licence) of the *Control Act*.

6. Special Lease.

(a) The benefits conferred upon, and the obligations imposed upon, the Company pursuant to this Agreement include those benefits and obligations contained in the Special Lease.

(b) In the event of any conflict between this Agreement and the Special Lease, this Agreement shall prevail.

(c) The parties acknowledge that there are a number of references in the Special Lease to clauses of this Agreement which are now outdated and that for the purpose of clarifying the current clause number of this Agreement:

(i) a reference in the Special Lease to clauses 55 and 56 of this Agreement is now a reference to the current clauses 42 and 43 of this Agreement;

(ii) a reference in the Special Lease to clause 44 of this Agreement is now a reference to the current clause 25 of this Agreement;

(iii) a reference in the Special Lease to clause 78 of this Agreement is now a reference to the current clause 62 of this Agreement;

(iv) a reference in the Special Lease to clause 84 of this Agreement is now a reference to the current clause 68 of this Agreement;

(v) a reference in the Special Lease to clauses 81 and 84 of this Agreement is now a reference to the current clauses 67 and 68 of this Agreement (respectively); and

(vi) a reference in the Special Lease to clause 53(b) of this Agreement is now a reference to the current clause 40(b) of this Agreement.

7. Variation of the Agreement.

The terms of this Agreement, and specifically so far as they give to the Company the entitlements, benefits and privileges as herein provided, may only be varied in accordance with the *Agreement Act*.

8. Stamp Duty.

The Company shall not be liable for any stamp duty on this Agreement or any document entered into between the parties pursuant to or in accordance with this Agreement, including without limiting the foregoing the Financial Agreement and the Special Lease.

9. Agreement to have force of law.

The parties acknowledge that, pursuant to section 5 (Agreement has effect as enactment) of the *Agreement Act*, upon this Agreement being entered into the provisions of this Agreement shall have effect as a law of the State.

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10. Illegal acts.

Notwithstanding anything contained in any Act or other statutory provision or rule of law enacted by the State it is hereby acknowledged that any act by the State, or the Company, connected with, or pertaining to the obligations, titles, rights and privileges of the parties contained in this Agreement, which would, but for the enactment of the *Control Act* and the *Agreement Act* be illegal shall not be illegal.

11. Encumbrances to the Licence.

Subject to any other approvals required under any other Act, the Company may mortgage, charge or otherwise encumber its interests in:

(a) the Casino Licence;
(b) the Special Facility Licence;
(c) the Brisbane Casino-Hotel Complex;
(d) the Special Lease; and
(e) the rights and benefits of the Company under this Agreement,

in accordance with section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act*;

PROVIDED HOWEVER that any such encumbrance shall include the name of the State of Queensland as the lessor of the Site.

12. Bear own costs.

Each party shall pay its own costs in respect of this Agreement.

PART II - DEVELOPMENT AND USE OF BRISBANE CASINO-HOTEL COMPLEX AND RELATED MATTERS

13. Application of Development Legislation to Brisbane Casino-Hotel Complex and the Site.

(a) The Development Legislation applies to the Brisbane Casino-Hotel Complex and the Site, unless otherwise provided for in this Agreement.

(b) During the Lease Period, the Development Legislation will not apply to Regulated Development in respect of the Brisbane Casino-Hotel Complex.

14. Use of Brisbane Casino-Hotel Complex Lawful.

(a) The Brisbane Casino-Hotel Complex shall be deemed to be a lawful use and to be lawfully constructed under any Development Legislation in force in the Local Government Area or in a Priority Development Area in which the Brisbane Casino-Hotel Complex and the Site is situated.

15. Development of the Brisbane Casino-Hotel Complex.

(a) Any Development Legislation in force in the Local Government Area or in

a Priority Development Area in which the Brisbane Casino-Hotel Complex and the Site is situated –

(i) shall not, during the Lease Period, apply to Regulated Development in respect of the Brisbane Casino-Hotel Complex; and

(ii) shall apply to the Prescribed Works except to the extent that the Prescribed Works in respect of the Brisbane Casino-Hotel Complex shall only be required to comply with the standards and requirements applicable to Prescribed Works contained in the Prescribed Development Legislation.

(b) During the Lease Period, If the Company proposes to carry out Regulated Development in respect of the Brisbane Casino-Hotel Complex, the Company must make application to the Minister for approval of the Regulated Development.

(c) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) –

(i) a submission comprising such drawings, reports or other material as is necessary to illustrate the Regulated Development; and

(ii) amended Schematic Design Drawings containing particulars of the Regulated Development; and

(iii) such other information which may be required by the Chief Executive (Gaming Regulation).

(d) The Minister must –

(i) consider the application; and

(ii) make a decision in respect of the application in accordance with clause 15(e); and

(iii) advise the Company in writing of the decision.

(e) The Minister may subject to clause 15(f) –

(i) approve the application in whole or in part unconditionally; or

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 15(e)(i), 15(e)(ii) and 15(e)(iii).

(f) The Minister may refuse the Development Application only if in the case of a Regulated Development involving –

(i) a Material Change of Use, the Material Change of Use is –

(A) not of a like nature to the uses comprising the Brisbane Casino-Hotel Complex; and

(B) in the Minister's discretion an undesirable Development of the Site; or

(ii) Reconfiguring a Lot, the Reconfiguring a Lot is in the Minister's discretion an undesirable Development of the Site; or

(iii) Works –

(A) the Works do not comply with the standards and requirements applicable to Works contained in the Prescribed Development Legislation; and

(B) compliance with the standards and requirements applicable to Works contained in the Prescribed Development Legislation cannot be achieved by the imposition of conditions.

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(g) If Regulated Development involves a Material Change of Use the Company must before carrying out Regulated Development, negotiate with all Public Sector Entities and agree upon, to the satisfaction of the Minister, all matters (including financial contributions) which but for clause 13(b) and clause 15(a)(i) could have been lawfully required as a condition of the consent, permission or approval of the Public Sector Entities under any Development Legislation with respect to that Regulated Development.

(h) If Regulated Development involves Works then in relation to that part of Regulated Development which is Works, the Minister is hereby empowered to authorise, either generally or in a particular case, any person to exercise a power, authority or discretion or to perform a function or duty which is conferred or imposed on the Minister pursuant to clause 15.

(i) If Regulated Development involves a Reconfiguration of Lot, then in relation to that part of Regulated Development which is a Reconfiguration of Lot, the Minister shall assess the application as if it were an application for Reconfiguration of Lot under the *Land Act*.

(j) The Company shall, if required by the Chief Executive (Gaming Regulation), within 1 month of 30 June of each year or such longer period approved by the Chief Executive (Gaming Regulation) provide a report to the Chief Executive (Gaming Regulation) of all Uses carried out on the Brisbane Casino-Hotel Complex since the last report.

(k) The Company must not carry out Regulated Development in respect of the Brisbane Casino-Hotel Complex without first obtaining an approval from the Minister under clauses 15 or 18 or the Appeal Court under clause 19.

16. Brisbane Casino-Hotel Complex to Comply.

The Brisbane Casino-Hotel Complex must comply with –

(a) a Development Approval including any condition in the Development Approval where the Regulated Development authorised by the Development Approval has been started; and

(b) Development Legislation, unless otherwise provided for in this Agreement; and

(c) legislation (including subordinate legislation), unless otherwise provided for in this Agreement.

17. Acknowledgment and Warranties.

(a) The State acknowledges that in respect of the Brisbane Casino-Hotel Complex the Company has –

(i) performed at its own cost the Works set out in Part A of Schedule II; and

(ii) paid to the Local Government the cost of the Works set out in Part B of Schedule II.

18. Internal Review Procedure – Development Applications.

(a) If the Minister does not approve the whole or any part of a Development Application, the Minister must –

(i) issue to the Company a written notice stating –

(A) the grounds upon which the Minister does not approve the whole or such part of the Development Application; and

(B) that the Company may make a written, oral or other type of further submission to the Minister including the introduction of such further alternative proposals for consideration by the Minister as the Company deems necessary; and

(C) the time (at least 10 days after the notice is issued to the Company) within which the further submission may be made; and

(ii) consider any further submission made by the Company within the time stated in the notice (being not more than 20 days after the further submission is made by the Company).

(b) After considering any further submission made by the Company, the Minister must within the time stated in the notice issue to the Company –

(i) a written notice stating –

(A) if the Minister does not accept the further submission, that the Company modify its Development Application in such manner as will satisfy the Minister; or

(B) if the Minister does accept the further submission, the Minister's approval of the Development Application of the Company in its original form or subject to any modification which the Minister directs; and

(ii) in the case of that part of a Development Application a statement of reasons containing –

(A) the reasons for the Minister's decision; and

(B) a reference to the evidence or other material on which the reasons were based.

(c) In the Minister's consideration of all Development Applications or submissions made pursuant to this clause the Minister must have regard to the general design and planning objectives of the State and the Company contained in the Schematic Design Drawings.

19. Appeal.

(a) In this clause –

"Appeal Court" means the Planning and Environment Court established under the *Sustainable Planning Act 2009*.

"Reviewed Decision" means a decision made by the Minister pursuant to clause 18(b) in respect of that part of a Development Application involving –

(a) a Material Change of Use, that the Material Change of Use is not of a like nature to the uses comprising the Brisbane Casino-Hotel Complex; or

(b) Works.

(b) The Company may appeal against a Reviewed Decision within 20 days after a notice is issued to the Company pursuant to clause 18(b).

(c) An appeal must be started by –

(i) filing a written notice of appeal with the Appeal Court; and

(ii) serving a copy of the notice of appeal on the Chief Executive

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(Gaming Regulation).

(d) The Appeal Court may extend the period for appealing.

(e) In deciding an appeal, the Appeal Court –

(i) has the same powers as the Minister; and

(ii) is not bound by the rules of evidence; and

(iii) must comply with natural justice; and

(iv) may hear the appeal in court or in chambers.

(f) An appeal is by way of hearing.

(g) The Appeal Court may –

(i) confirm the Reviewed Decision; or

(ii) set aside the Reviewed Decision and return the issue to the Minister with the directions that it considers appropriate; or

(iii) substitute another decision for the Reviewed Decision, in which case the substituted decision is, for the purposes of this Agreement, taken to be that of the Minister.

20. Time for Approval.

(a) The Minister must, subject to clause 20(b), decide a Development Application within 20 days of the lodgment of the Development Application.

(b) If a Development Application relates to Regulated Development comprising Works as well as a Material Change of Use or Reconfiguring a Lot, the Minister must decide that component of the Development Application being –

(i) the Material Change of Use or Reconfiguring a Lot within 20 days of the lodgement of the Development Application; and

(ii) the Works within 20 days after the approval of the Material Change of Use or Reconfiguring a Lot.

(c) The Minister may in the case of a Development Application (other than a Development Application involving only Works) extend the decision making period specified in clause 20(a) and (b) by not more than 20 days by written notice given to the Company before the end of the decision making period.

(d) If the Minister at any time during the period specified in clause 20(a) and (b) or as extended by clause 20(c) requests the Company to provide further information relevant to the Development Application, the days between the date that the information is requested and the date that the information is provided, inclusive of both dates, shall not be counted in the period specified in clause 20(a) and (b) or as extended by clause 20(c).

(e) If the Minister has not advised the Company of the Minister's decision within the time specified in clause 20(a) and (b) or as extended by clause 20(c) –

(i) that the Development Application has to be resubmitted, giving particular reasons for non-approval; or

(ii) that the Development Application is approved subject to particular conditions being undertaken; or

(iii) that a notice pursuant to clause 18(a) has already been issued covering the topic of the Development Application; or

(iv) that a notice pursuant to clause 18(a) is hereby issued;

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then the Company may at its discretion advise that deemed approval will be in effect by formally advising the Minister.

(f) If no written response as required herein has been received within 2 days of the Company's notice being served, the Minister's approval is deemed to be in effect and the Company may proceed with the Regulated Development for which approval was sought.

21. Schematic Design Drawings.

If Development involving Works is commenced on the Site or the Brisbane Casino-Hotel Complex, the Company shall, as soon as is reasonably practicable, upon the completion of those Works submit to the Chief Executive (Gaming Regulation) amended Schematic Design Drawings that incorporate the Works.

22. Casino to Comply.

The Company shall ensure that all materials, fittings and equipment utilised in operation of the Casino shall be of a high standard of manufacture and of a quality commensurate with an international class casino-hotel.

23. Easements.

(a) The State granted the Easements to the Company.

(b) The Easements shall terminate upon the lawful termination of the Special Lease or any further lease negotiated between the Minister and the Company thereafter in accordance with clause 29(a) of the Special Lease.

24. Special Lease.

(a) The State granted the Special Lease to the Company.

(b) In determining the obligations of the Company in respect of the Brisbane Casino-Hotel Complex under clause 5 of the Special Lease, the Company acknowledges that if as at the Lease Commencement Date the Company shall not have commenced or commenced and completed all the Works in respect of the Brisbane Casino-Hotel Complex (including Works required for any Development of the Brisbane Casino-Hotel Complex under clause 15), upon the completion of such outstanding Works, the obligations under clause 5 of the Special Lease shall be determined having regard to the condition of the Brisbane Casino-Hotel Complex or the relevant part of the Brisbane Casino-Hotel Complex upon completion of such outstanding Works rather than such condition as at the Lease Commencement Date.

25. Acknowledgments and Warranties in respect of Queens Park.

(a) For the purposes of clarity the parties acknowledge that –

(i) Queens Park and Queens Park Car Park are not Heritage Places for the purposes of this Agreement and as such are not subject to Part III of this Agreement; and

(ii) Queens Park is a registered place as that term is defined in Section 4 (Definitions) of the *Heritage Act*; and

(b) The State acknowledges that Queens Park, though not included in the Site, is integrally associated with the Brisbane Casino-Hotel Complex.

(c) The State shall use Queens Park as a public park and for no other purpose.

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(d) The State shall not alter Queens Park or the purpose for which Queens Park is used or hinder or restrict access from Queens Park to the Land Administration Building without the prior written approval of the Company.

(e) The Company acknowledges that the surface of Queens Park is a public place. The Company shall maintain such surface area and the improvements thereon under clauses 5(a), 5(c) and 5(e) of the Special Lease as though such surface area formed part of the demised premises under that Special Lease. Without limiting the generality of this obligation the Company shall be obliged to maintain the following improvements; namely Structures (other than statues and monuments), throughways, landscaped and planted areas, fountains, seating, watering systems, whether present on Queens Park at the commencement of that Special Lease or subsequently placed thereon.

26. Application of Development Legislation and Heritage Legislation to Queens Park.

Any Development Legislation and Heritage Legislation in force in the Local Government Area or in a Priority Development Area in which Queens Park is situated shall not apply to –

(a) Permitted Park Works; or

(b) Minor Park Works except to the extent provided for in clause 28.

27. Permitted Park Works in Queens Park.

(a) In this clause –

"Emergency Works" means Park Works that are in the reasonable opinion of the Company required to be carried out urgently to deal with any emergency on or immediately adjacent to the Site.

"Park Maintenance Works" means the Park Works that are required to be carried out by the Company to comply with clause 25(e).

"Permitted Park Works" means Park Works that are –

(i) Park Maintenance Works; or

(ii) Minor Park Works that are determined by the Minister to be Permitted Park Works; or

(iii) Emergency Works.

(b) During the Lease Period, the Company may carry out Permitted Park Works without an approval under any Development Legislation or Heritage Legislation.

(c) If the Company is carrying out –

(i) Emergency Works, the Company shall –

(A) only carry out such Park Works as is reasonably necessary to remedy the emergency; and

(B) not cause or allow any nuisance or any hindrance to the rights of the State or any other person except in so far as is reasonably necessary to carry out the Emergency Work; or

(ii) Park Maintenance Works, the Company shall not unduly hinder or restrict access to the public to Queens Park or any part thereof; or

(iii) Minor Park Works that have been determined by the Minister to be Permitted Park Works, the Company shall not unduly hinder or restrict access to the public to Queens Park or any part thereof.

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beyond that which is reasonably necessary to carry out the Park Works.

(d) The Company shall –

(i) if required by the Chief Executive (Gaming Regulation) within 1 month of 30 June of each year or such longer period approved by the Chief Executive (Gaming Regulation) provide a report to the Chief Executive (Gaming Regulation) of the Park Maintenance Works carried out since the previous report; and

(ii) as soon as is reasonably practicable after carrying out Emergency Works give written notice of the Permitted Park Works that were carried out to the Chief Executive (Gaming Regulation).

28. Minor Park Works in Queens Park.

(a) In this clause –

"Minor Park Works" means Park Works that are required for the maintenance, repair or operation of the Brisbane Casino-Hotel Complex.

(b) Subject to clause 28(c), during the Lease Period, the Company may carry out Minor Park Works without an approval under any Development Legislation or Heritage Legislation.

(c) During the Lease Period, the Company must not carry out Minor Park Works without the approval of the Minister pursuant to clause 28.

(d) If the Company proposes to carry out Minor Park Works, the Company must make application to the Minister for approval of Minor Park Works.

(e) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) a submission comprising such drawings, reports or other material as is necessary to illustrate the Minor Park Works.

(f) The Company must within 5 days after the lodgement of the application pursuant to clause 28(e), give a copy of the application to the Chief Executive (Natural Resources and Mines) and the Chief Executive (Public Works).

(g) The Minister must within 20 days of the lodgement of the application pursuant to clause 28(e) –

(i) consider the application and the recommendations (if any) of the Chief Executive (Natural Resources and Mines) and Chief Executive (Public Works); and

(ii) make a decision in respect of the application in accordance with clause 28(h); and

(iii) advise the Company in writing of the decision.

(h) The Minister may subject to clause 28(i) –

(i) approve the application in whole or in part unconditionally; and

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 28(h)(i), 28(h)(ii) and 28(h)(iii).

(i) The Minister may refuse the application only if –

(i) the Minor Park Works do not comply with the standards and requirements applicable to Works contained in the Prescribed Development Legislation; and

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(ii) compliance with the standards and requirements applicable to Works contained in the Prescribed Development Legislation cannot be achieved by the imposition of conditions.

(j) If the Company is dissatisfied with the Minister's decision under clause 28(h), the Company may seek a review of the decision in accordance with clause 30.

29. Major Park Works in Queens Park.

(a) In this clause –

"Major Park Works" means Park Works other than Permitted Park Works and Minor Park Works.

(b) During the Lease Period, the Company must not carry out Major Park Works without –

(i) the approval of the Minister pursuant to clause 29; and

(ii) the approvals required from all Public Sector Entities under any Development Legislation.

(c) If the Company proposes to carry out Major Park Works, the Company must make application to the Minister for approval of Major Park Works.

(d) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) a submission comprising such drawings, reports or other material as is necessary to illustrate the Major Park Works.

(e) The Minister must within 20 days of the lodgement of the application pursuant to clause 29(d) –

(i) consider the application; and

(ii) make a decision in respect of the application in accordance with clause 29(f); and

(iii) advise the Company in writing of the decision.

(f) The Minister may –

(i) approve the application in whole or in part unconditionally; or

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 29(f)(i), 29(f)(ii) and 29(f)(iii).

(g) The Minister may extend the decision making period specified in clause 29(e) by not more than 20 days by written notice to the Company before the end of the decision making period.

(h) If the Company is dissatisfied with the Minister's decision under clause 29(f), the Company may seek a review of the decision in accordance with clause 30.

30. Internal Review Procedure – Park Works Application.

(a) If the Minister does not approve the whole or part of a Park Works Application, the Minister must –

(i) issue to the Company a written notice stating –

(A) the grounds upon which the Minister does not approve the whole or such part of the Park Works Application; and

(B) that the Company may make a written, oral or other type of further submission to the Minister including the

introduction of such further alternative proposals for consideration by the Minister as the Company deems necessary; and

(C) the time (at least 10 days after the notice is issued to the Company) within which the further submission may be made; and

(ii) consider any further submission made by the Company within the time stated in the notice (being not more than 10 days after the further submission is made by the Company).

(b) After considering any further submission made by the Company the Minister must within the time stated in the notice issue to the Company –

(i) if the Minister does not accept the further submission – a written notice directing that the Company modify its Park Works Application in such manner as will satisfy the Minister; or

(ii) if the Minister does accept the further submission – a written notice stating the Minister's approval of the Park Works Application of the Company in its original form or subject to any modification which the Minister directs.

(c) In the Minister's consideration of all Park Works Applications or submissions made pursuant to this clause the Minister must have regard to –

(i) the 1992 Conservation Study to the extent that it is relevant to Queens Park; and

(ii) the 1995 Conservation Report to the extent that it is relevant to Queens Park.

PART III - HERITAGE PROTECTION

31. Application of Heritage Legislation and Development Legislation to Brisbane Casino-Hotel Complex and the Site.

(a) During the Lease Period, Heritage Legislation shall not apply to the Brisbane Casino-Hotel Complex and the Site and this Part III shall apply in lieu thereof.

(b) The Heritage Council shall be deemed to have all the powers that are necessary to perform any functions imposed on it pursuant to this Agreement.

(c) During the Lease Period, if a requirement imposed under the Development Legislation in relation to the Cultural Heritage Significance of a place or an object (including as a result of a condition of a consent, permission or approval) applies to land the subject of a Heritage Management Plan pursuant to this Part III, the Heritage Management Plan prevails over the requirement and the requirement will be of no effect while the Heritage Management Plan exists.

(d) Upon the Lease Period ending, Heritage Legislation and any requirement imposed under the Development Legislation referred to in clause 31(c) will have effect and apply to the Brisbane Casino-Hotel Complex and the Site.

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32. Heritage Management Principles.

During the Lease Period, the parties shall exercise their rights and perform their obligations having regard to the Heritage Management Principles.

33. Heritage Management Plan.

(a) The Heritage Management Plan has been agreed by the Minister and the Company.

(b) If the Company wishes to amend the Heritage Management Plan the Company must make application to the Minister to amend the Heritage Management Plan in accordance with the provisions of clause 35 as if the application for amendment of the Heritage Management Plan were an application for approval of Major Variation Work.

(c) The Minister may amend the Heritage Management Plan by publishing a Decision Notice if –

(i) the Company and the Minister have consulted in good faith; and

(ii) the amendment to the Heritage Management Plan is consistent with the Heritage Management Principles; and

(iii) the parties have agreed in writing to the amendments.

(d) The Minister may suspend the Heritage Management Plan from applying to the Brisbane Casino-Hotel Complex and the Site by publishing a Decision Notice if the Minister is unable to amend the Heritage Management Plan pursuant to clause 33(c).

(e) If the Minister is satisfied it is necessary to suspend a Heritage Management Plan, the Minister must –

(i) give the Company a written notice stating –

(A) the reasons for the proposed suspension; and

(B) that the Company may make written representations to the Minister about the suspension; and

(C) the time (at least 15 days after the notice is given to the Company) within which written representations may be made; and

(ii) consider any written representations made by the Company within the time stated in the notice.

(f) After considering any written representations made by the Company the Minister must give to the Company –

(i) if the Minister is not satisfied that the suspension is necessary – a written notice stating that the Minister has decided not to suspend the Heritage Management Plan; or

(ii) if the Minister is satisfied that the suspension is necessary – a written notice stating that the Minister has decided to suspend the Heritage Management Plan.

(g) The suspension of the Heritage Management Plan takes effect from the day the written notice was given to the Company.

(h) If the Minister has suspended the Heritage Management Plan from applying to the Brisbane Casino-Hotel Complex or the Site the Minister may cancel the suspension at any time.

(i) The Company may at any time make application to the Minister for approval of the Heritage Management Plan in accordance with the provisions of clause 35 for approval of a Heritage Management Plan as if

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the application were an application for approval of Major Variation Work.

(j) The Chief Executive (Gaming Regulation) must hold the original or certified copy of each of the following –

(i) any Heritage Management Plan that has been agreed or approved pursuant to clause 33(a) or 33(i); and

(ii) each amendment to the Heritage Management Plan and the corresponding Decision Notice that has been made pursuant to clauses 33(b) and 33(c); and

(iii) any Heritage Management Plan that has been suspended and the corresponding Decision Notice pursuant to clause 33(d); and

(iv) a consolidated Heritage Management Plan incorporating the Heritage Management Plan and all amendments.

34. Minor Variation Work.

(a) In this clause –

"Minor Variation Work" means –

(i) the approval of a Method Statement in respect of Minor Variation Work for the purposes of clause 37; and

(ii) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, the Variation Work specified as Minor Variation Work in the Heritage Management Plan; and

(iii) if a Heritage Management Plan does not apply to the Brisbane Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d), the Variation Work –

(A) involving refurbishment of the Brisbane Casino-Hotel Complex which, in the opinion of the Minister, does not substantially reduce the Cultural Heritage Significance of the Heritage Place; or

(B) relating to Casino operation and surveillance or to security; or

(C) involving installation in the Brisbane Casino-Hotel Complex of security systems, surveillance or computer systems and cabling; or

(D) other than the Variation Work specified in clauses 34(a)(iii)(A), 34(a)(iii)(B) or 34(a)(iii)(C) which –

(1) in the opinion of the Minister is minor in nature; or

(2) does not substantially reduce the Cultural Heritage Significance of the Heritage Place.

(b) During the Lease Period, the Company must not carry out Minor Variation Work without the approval of the Minister pursuant to clause 34.

(c) If the Company proposes to carry out Minor Variation Work, the Company must make application to the Minister for approval of Minor Variation Work.

(d) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation), a submission comprising such drawings, reports or other material as is necessary to illustrate the proposed Minor Variation Work.

(e) The Company must within 5 days after the lodgment of the application pursuant to clause 34(d), give a copy of the application to the Chief

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Executive (Heritage).

(f) The Chief Executive (Heritage) must within 10 days of the receipt of the copy of the application pursuant to clause 34(e) –

(i) consider the application; and

(ii) recommend to the Minister that the proposed Minor Variation Work should be carried out, carried out subject to specified conditions or modifications or not be carried out; and

(iii) forward its recommendation to the Chief Executive (Gaming Regulation).

(g) If the Chief Executive (Heritage) does not give its recommendation to the Chief Executive (Gaming Regulation) within the period prescribed in clause 34(f), the Chief Executive (Heritage) shall be deemed to have recommended the approval of the application without conditions or modifications.

(h) The Minister must within 20 days of the lodgement of the application pursuant to clause 34(d) –

(i) consider the application and the recommendations (if any) of the Chief Executive (Heritage) and Chief Executive (Gaming Regulation); and

(ii) make a decision in respect of the application in accordance with clause 34(i); and

(iii) advise the Company in writing of the decision.

(i) The Minister may –

(i) approve the application in whole or in part unconditionally; or

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 34(i)(i), 34(i)(ii) and 34(i)(iii).

(j) If the Company is dissatisfied with the Minister's decision under clause 34(i) then it may –

(i) elect to have the Minor Variation Work treated as Major Variation Work for the purpose of this Part III; and

(ii) make whatever application and seek whatever approval would be required for Major Variation Work.

(k) The Minister may extend the decision making period specified in clause 34(h) by not more than 20 days by written notice given to the Company before the end of the decision making period.

35. Major Variation Work.

(a) In this clause –

"Major Variation Work" means –

(i) the approval of a Method Statement in respect of Major Variation Work for the purposes of clause 37; and

(ii) the approval or amendment of a Heritage Management Plan for the purposes of clause 33; and

(iii) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, the Variation Work specified as Major Variation Work in the Heritage Management Plan; and

(iv) if a Heritage Management Plan does not apply to the Brisbane

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Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d), the Variation Work which is not Permitted Variation Work or Minor Variation Work.

(b) During the Lease Period, the Company must not carry out Major Variation Work without the approval of the Minister pursuant to clause 35.

(c) If the Company proposes to carry out Major Variation Work, the Company must make application to the Minister for approval of Major Variation Work.

(d) The Company must prior to lodging an application pursuant to clause 35(e), consult with –

(i) the Chief Executive (Gaming Regulation) in relation to all operational matters relating to the Brisbane Casino-Hotel Complex; and

(ii) the Chief Executive (Public Works) in relation to Works matters; and

(iii) the Chief Executive (Heritage) in relation to matters of Cultural Heritage Significance; and

(iv) such other Public Sector Entities as may be nominated by the persons referred to in clauses 35(d)(i), 35(d)(ii) or 35(d)(iii).

(e) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) –

(i) a submission comprising such drawings, reports or other material as is necessary to illustrate the Major Variation Work; and

(ii) the Prescribed Information; and

(iii) such other information which may be required by the persons referred to in clauses 35(d)(i), 35(d)(ii) or 35(d)(iii).

(f) The Company must within 5 days after the lodgment of the application pursuant to clause 35(e) give a copy of the application to –

(i) the Heritage Council by providing a copy of the application to the Chief Executive (Heritage); and

(ii) the Chief Executive (Public Works).

(g) The Heritage Council or a person authorised by the Heritage Council must as soon as practicable after the receipt of the application –

(i) decide whether to publish a Public Notice; and

(ii) publish the Public Notice if it so decides pursuant to clause 35(g)(i).

(h) The Heritage Council must as soon as is reasonably practicable after the Decision Date –

(i) consider the application and any written representations made in respect of the Public Notice published pursuant to clause 35(g)(ii); and

(ii) recommend to the Minister that the proposed Major Variation Work should be carried out, carried out subject to specified conditions or modifications or not be carried out; and

(iii) forward its recommendation to the Minister.

(i) The Chief Executive (Gaming Regulation) and the Chief Executive (Public Works) may as soon as is reasonably practicable after the receipt of the application –

(i) consider the application; and

(ii) recommend to the Minister that the proposed Major Variation Work

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should be carried out, carried out subject to specified conditions or modifications or not be carried out; and

(iii) forward their recommendations to the Minister.

(j) The Minister must as soon as practicable after receiving the recommendation of the Heritage Council –

(i) consider the application, the Heritage Council's recommendation and the recommendations (if any) of the Chief Executive (Public Works) and the Chief Executive (Gaming Regulation); and

(ii) make a decision in respect of the application in accordance with clause 35(k); and

(iii) advise the Company in writing of the decision.

(k) The Minister may –

(i) approve the application in whole or in part unconditionally; or

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 35(k)(i), 35(k)(ii) and 35(k)(iii).

(l) The Minister must publish a Decision Notice as soon as practicable after making the decision in respect of the application in accordance with clause 35(k).

(m) Where the proposed major variation work has been approved by the Minister in accordance with clause 35(k), the Company may carry out the Major Variation Work prior to the Minister publishing a Decision Notice in accordance with clause 35(l).

36. Permitted Variation Work.

(a) In this clause –

"Permitted Variation Work" means –

(i) Variation Work which –

(A) involves a change to the content of a sign or banner in or on a Heritage Place; or

(B) is carried out in accordance with a Method Statement approved pursuant to clause 34 or clause 35; or

(C) is Emergency Work and which is carried out in accordance with clause 38(a); or

(D) is specified in an Emergency Works Notice and which is carried out in accordance with clause 38(e); and

(ii) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, Variation Work specified as Permitted Variation Work in the Heritage Management Plan; and

(iii) if a Heritage Management Plan does not apply to the Brisbane Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d) –

(A) Maintenance Work; or

(B) Minor Repair Work; or

(C) Variation Work (other than Minor Repair Work) that involves the replacement of small items, for example, door or window furniture, or the laying of new carpet, that –

(1) will cause no detriment to the Cultural Heritage

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Significance of the Heritage Place; and

(2) is not of significant scale; and

(3) is reversible; or

(D) Variation Work that is to be wholly undertaken in the basements of the Treasury Building and Land Administration Building in respect of the kitchens, laundry areas, plant rooms, service entrances and back of house areas and plant and equipment installations of the Brisbane Casino-Hotel Complex which do not involve the removal of Fabric; or

(E) Variation Work that involves variations to the furniture and furnishings in the Brisbane Casino-Hotel Complex.

(b) During the Lease Period, the Company may carry out Permitted Variation Work without an approval under this Part III.

(c) The Company shall within 1 month of 30 June of each year or such longer period approved by the Chief Executive (Gaming Regulation) provide a report to the Chief Executive (Gaming Regulation) of all Permitted Variation Work carried out since the previous report.

37. Approval of Method Statement.

(a) If the Company wishes to have a Method Statement approved by the Minister, the Company must make application to the Minister for approval of a Method Statement in respect of –

(i) Minor Variation Work in accordance with the provisions of clause 34 as if the application for approval of the Method Statement were an application for approval of Minor Variation Work; or

(ii) Major Variation Work in accordance with the provisions of clause 35 as if the application for approval of the Method Statement were an application for approval of Major Variation Work.

(b) The Chief Executive (Gaming Regulation) must maintain at no cost to the Company a Register of approved Method Statements that contains –

(i) all approved Method Statements; and

(ii) details of the date of approval of the approved Method Statements; and

(iii) such other matters as the Chief Executive (Gaming Regulation) considers appropriate.

38. Emergency Work.

(a) The Company may carry out Emergency Work without obtaining any approval under this Part III where –

(i) the Fabric of the Heritage Place is damaged causing –

(A) a hazard or a risk of a hazard to human health or safety; or

(B) a risk of further damage to the Heritage Place; or

(ii) directed by an officer authorised by the Chief Executive of the department which administers the *Fire and Rescue Service Act 1990*.

(b) The Company must as soon as is reasonably practicable after starting the Emergency Work in accordance with clause 38(a) give written notice of the Emergency Work to –

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(i) the Chief Executive (Gaming Regulation); and
(ii) the Chief Executive (Heritage); and
(iii) the Chief Executive (Public Works).

(c) The Company must as soon as is reasonably practicable after carrying out the Emergency Work in accordance with clause 38(a) –
(i) give written notice of the Emergency Work that was carried out to the persons specified in clause 38(b); and
(ii) determine the Variation Work that is necessary to repair the Heritage Place; and
(iii) give an Emergency Works Notice to the Chief Executive (Gaming Regulation) and a copy of the Emergency Works Notice to the Chief Executive (Heritage) and the Chief Executive (Public Works).

(d) The Minister must as soon as is reasonably practicable after the receipt of the Emergency Works Notice –
(i) consider the Emergency Works Notice; and
(ii) consult with the Chief Executive (Heritage) and the Chief Executive (Public Works); and
(iii) determine whether the Variation Work specified in the Emergency Works Notice should be carried out, carried out subject to specified conditions or modifications or not be carried out; and
(iv) advise the Company in writing of the decision.

(e) The Company may carry out the Variation Works that is approved by the Minister pursuant to clause 38(d) without any other approval under this Part III.

(f) If the Company is dissatisfied with the decision of the Minister under clause 38(d) then it may make application to the Minister for approval of the Variation Work as Minor Variation Work under clause 34 or Major Variation Work under clause 35.

39. Decision or Opinion.

(a) A decision made or an opinion formed under this Part III, in respect of –
(i) the suspension, approval or amendment of a Heritage Management Plan pursuant to clause 33, must be consistent with the Heritage Management Principles; and
(ii) a matter not referred to in clause 39(a)(i), must be consistent with –
(A) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, the Heritage Management Plan; and
(B) if a Heritage Management Plan does not apply to the Brisbane Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d) –
(1) the Heritage Management Principles; and
(2) the 1992 Conservation Study to the extent that it is not inconsistent with the Heritage Management Principles; and
(3) the 1995 Conservation Report to the extent that it is not inconsistent with the Heritage Management Principles.

(b) The Minister must provide in respect of any decision or when forming an

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opinion under this Part III, a statement of reasons containing –

(i) the reasons for the decision or forming the opinion; and

(ii) a reference to the evidence or other material on which the reasons were based.

40. Other Requirements.

(a) All Variation Work must be carried out in accordance with the requirements of all Public Sector Entities in respect of the carrying out of Variation Work except where otherwise provided for in this Agreement.

(b) If there is any inconsistency between the requirements of the Minister under this Part III and the requirements of any Public Sector Entity for carrying out Variation Work, the requirements of the Minister may notwithstanding any other Act, at the Minister's discretion expressly override the requirements of any Public Sector Entity to the extent of such inconsistency.

Example –

If a development approval granted by the Local Government in respect of plumbing work or drainage work involves Variation Work that conflicts with an approval granted by the Minister under Part III the Minister may override the requirements of the Local Government.

41. Heritage Advice.

(a) The Company shall engage the Heritage Architect to advise on all work which impacts on the conservation of the Cultural Heritage Significance of the Heritage Place.

(b) The Company shall engage the Heritage Archaeologist to advise on and supervise excavations on the Site and to ensure that the archaeological potential of the Heritage Place is professionally investigated and recorded.

(c) All records of archaeological work and recorded artefacts are the property of the State and shall be lodged with the Heritage Minister at the conclusion of any archaeological work. All archaeological material shall be labelled and boxed ready for storage and accompanied by a catalogue of artefacts cross referenced to field records.

(d) The Heritage Architect shall be agreed between the Company and the Minister and failing agreement the Heritage Architect shall be a person nominated by the Company and approved in writing by the Minister whose approval shall not be unreasonably withheld where the person nominated by the Company is an architect of at least 5 years best conservation practice experience in the restoration, renovation, repair and maintenance of heritage buildings utilised for a commercial purpose.

(e) The Heritage Archaeologist shall be agreed between the Minister and the Company and failing agreement the heritage archaeologist shall be a person nominated by the Company and approved in writing by the Minister whose approval shall not be unreasonably withheld where the person nominated by the Company is an archaeologist of at least 5 years experience in the investigation and recording of heritage sites and buildings.

(f) The Company may serve a notice on the Minister that the Company wishes to appoint a new Heritage Architect or a new Heritage Archaeologist in which case a new Heritage Architect or a new Heritage Archaeologist must be approved in accordance with clauses 41(d) and 41(e).

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42. Stop Orders – Heritage Minister.

(a) If, during the Lease Period, the Heritage Minister is of the opinion that –

(i) Variation Work is being carried out other than in accordance with Part III of this Agreement; and

(ii) it is necessary to do so to protect the Heritage Place;

the Heritage Minister may issue a Stop Order requiring a person to stop any Variation Work or prohibiting a person from starting any Variation Work –

(iii) that is not in accordance with Part III of this Agreement; and

(iv) that may destroy or reduce the Cultural Heritage Significance of the Heritage Place.

(b) A Stop Order issued by the Heritage Minister shall be in writing and may be served by affixing it in a prominent position in the Site, whereupon it shall become immediately binding on the Company, its servants and agents and any independent contractors claiming through the Company. The Heritage Minister must send the Stop Order by facsimile transfer to the Company and to the Minister at the same time the Stop Order is served under this clause.

(c) During the Lease Period the Stop Order continues in force, until –

(i) it is revoked by the Heritage Minister or the Minister; or

(ii) the Minister has reached a final determination pursuant to clause 44.

(d) A contravention of a Stop Order made by the Heritage Minister shall constitute a substantial breach by the Company of its obligations under this Agreement.

(e) The Heritage Minister may authorise, by instrument in writing, a person to exercise the Heritage Minister's powers under this clause, which authorisation may be subject to conditions.

(f) The Minister must give written notice to the Company of the person authorised by the Heritage Minister under this clause.

(g) No liability for any loss arising from the giving of a Stop Order will be incurred by the Heritage Minister, the Heritage Minister's appointee or the Crown if the Stop Order is given by the Heritage Minister in the honest and reasonable belief that the requirements of Part III were not being complied with.

43. Stop Orders – Minister.

(a) If, during the Lease Period, the Minister is of the opinion that –

(i) Variation Work is being carried out other than in accordance with Part III of this Agreement; and

(ii) it is necessary to do so to protect the Heritage Place;

the Minister may make a Stop Order requiring a person to stop any Variation Work or prohibiting a person from starting any Variation Work that –

(iii) is not in accordance with Part III of this Agreement; and

(iv) may destroy or reduce the Cultural Heritage Significance of the Heritage Place.

(b) A Stop Order issued by the Minister shall be in writing and may be served by affixing it in a prominent position in the Site, whereupon it shall become immediately binding on the Company, its servants and agents and any independent contractors claiming through the Company. The Minister shall send the Stop Order by facsimile transfer to the Company and the Heritage

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Minister at the same time as the Stop Order is served under this clause.

(c) During the Lease Period the Stop Order continues in force until –
  (i) it is revoked by the Minister; or
  (ii) the Minister has reached a final determination pursuant to clause 44.

(d) A contravention of a Stop Order made by the Minister shall constitute a substantial breach by the Company of its obligations under this Agreement.

(e) The Minister may authorise, by instrument in writing, a person to exercise the Minister's powers under this clause, which authorisation may be subject to conditions.

(f) The Minister must give written notice to the Company of the person authorised by the Minister under this clause.

(g) No liability for any loss arising from the giving of a Stop Order will be incurred by the Minister, the Minister's appointee or the Crown if the Stop Order is given in the honest and reasonable belief that the requirements of Part III were not being complied with.

(h) The Minister has the power to revoke a Stop Order made under clause 42.

44. Internal Review – Stop Order.

(a) If a Stop Order is issued pursuant to clauses 42 or 43 –
  (i) the person issuing the Stop Order must at the same time the Stop Order is served issue to the Company a written notice stating –
    (A) the grounds upon which the Stop Order has been issued; and
    (B) that the Company may make a written, oral or other type of further submission to the Minister; and
    (C) the time (at least 10 days after the notice is issued to the Company) in which the further submission may be made; and
  (ii) the Minister must consider any further submission made by the Company within the time stated in the notice (being not more than 10 days after the further submission is made by the Company).

(b) After considering any further submission made by the Company, the Minister must within the time stated in the notice issue to the Company –
  (i) if the Minister does not accept the further submission – a written notice directing that the Company not carry out the Variation Work;
  (ii) if the Minister does accept the further submission – a written notice directing that the Company carry out the Variation Work in its original form or subject to any modification which the Minister directs.

(c) In the Minister's consideration of all submissions made pursuant to this clause, the Minister must have regard to –
  (i) the general design and planning objectives of the State and the Company contained in the Schematic Design Drawings; and
  (ii) the Heritage Management Principles.

45. Materials.

(a) The Materials remain the property of the State.

(b) The Company may remove all or some of the Materials from the Site.

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46. Management of Storage.

The Company shall:

(a) store the Materials removed from the Site at a place which has been approved by the Minister, which approval shall not be unreasonably withheld, upon such reasonable terms and conditions as the Minister in the Minister's reasonable opinion considers appropriate; and

(b) provide the Minister with a list of all Stored Materials and shall keep an accurate record of the condition of all Stored Materials; and

(c) ensure all Stored Materials stored remain in their pre-removed condition provided that, notwithstanding any other provision of this clause, the Company shall not be responsible if the Stored Materials are affected provided that such affectation has not resulted from the negligence of the Company or the failure of the Company to comply with the reasonable terms and conditions set by the Minister under clause 46(a); and

(d) carry out an inspection of the Stored Materials annually and provide the Minister with a report on the outcome of the inspection; and

(e) notify the Minister of any damage to the Stored Materials within 10 days of the Company becoming aware of the damage.

47. Inspection.

(a) The Company shall permit the Minister and a person authorised in writing by the Minister to enter upon the place where the Stored Materials are stored for the purpose of inspecting and conducting an audit of the Stored Materials whenever reasonably necessary in the reasonable opinion of the Minister if:

(i) the Minister gives to the Company at least 10 days prior written notice of the Minister's intention to inspect the Stored Materials; and

(ii) the authorised representative of the Minister is accompanied by a representative of the Company.

(b) If the person authorised by the Minister does not give notice to the Company within 10 days from the Minister's inspection specifying that the Stored Materials are not being stored in accordance with the terms and conditions set by the Minister under clause 46(a) then the Stored Materials shall be deemed to have been stored in accordance with the terms and conditions set by the Minister under clause 46(a).

48. State Removal.

(a) If the State wishes to remove Stored Materials stored by the Company, it must serve a State Notice on the Company specifying the Stored Materials it requires for removal.

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(b) The Company may object, by notice in writing to the Minister within 20 days of receipt by the Company of the State Notice, to the release of any or all of the Stored Materials specified in the State Notice.

(c) If the Company objects under clause 48(b) then the Minister may issue a written notice on the Company requiring the Company to show cause why the Stored Materials the subject of the State Notice should not be released to the State.

(d) If clause 48(c) applies the following procedure shall apply –

(i) the written notice shall state the grounds upon which the Minister requires the Stored Materials for removal and allow such time as may be reasonable but not less than 10 days by which the Company shall respond; and

(ii) the Company may respond by written, oral or any other type of submission to the Minister and explain the basis for the Company's objection to the release of any or all of the Stored Materials specified in the State Notice; and

(iii) the Minister shall give submissions forwarded to the Minister in answer to the written notice all due consideration and if, in the Minister's opinion:

(A) the Company fails to satisfy the Minister that the State should not be entitled to remove the Stored Materials the subject of the objection notice under clause 48(b) the Minister may require the Company to release some or all of the Stored Materials the subject of the objection notice under clause 48(b); or

(B) if the Minister is satisfied then the State is not entitled to remove some or all of the Stored Materials the subject of the objection notice under clause 48(b), then the State shall not remove those items of the Stored Materials the subject of the objection notice under clause 48(b) which the Minister directs.

(e) Any Stored Materials removed by the State shall be at the risk of the State.

49. Company Return.

(a) The Company may, from time to time after the expiration of 10 years from the Lease Commencement Date of the final Special Lease to be issued for any part of the Site, without being obliged to do so, give a Superfluous Notice to the Minister that the Company no longer requires the Stored Materials specified in the Superfluous Notice.

(b) The Minister shall remove the Stored Materials specified in the Superfluous Notice within 20 days from receipt of the Superfluous Notice by the Minister. If the Minister fails to remove the Stored Materials within the 20 day period then –

(i) the Minister shall indemnify the Company for the cost of the storage of the Stored Materials specified in the Superfluous Notice; and

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(ii) the Company shall cease to be liable in response or in respect of such Stored Materials; and

(iii) all liability and risk shall pass to the State in respect thereof.

(c) If at the time of expiration of all the Special Leases for the Site any part of the Stored Materials are still being stored by the Company, then the Stored Materials shall be removed by the Minister at the risk of the State. If the Minister fails to remove the Stored Materials within 20 days after the expiration of all the Special Leases for the Site then:

(i) the Minister shall indemnify the Company for the cost of storage of the Stored Materials; and

(ii) the Company shall cease to be liable and responsible in respect of the Stored Materials; and

(iii) all liability and risk shall pass to the State in respect thereof.

50. Materials Insurance.

(a) The Company shall take out and maintain or cause to be taken out and maintained policies of insurance in respect of the Stored Materials against theft and damage during the period of storage and transportation of the Stored Materials to and from the place of storage. The policy shall be taken out and maintained in the name of the Company (with the interest of the State noted thereon). The Company shall provide the Minister with evidence of the existence of such policies satisfactory to the Minister.

(b) Breach by the Company of its obligations under clauses 45 to 50 shall not be an event of termination under clause 67 of this Agreement.

51. Inspection of the Site.

(a) The Heritage Minister, Natural Resources Minister and Public Works Minister may, for the purposes of ensuring compliance with Part III, authorise in writing a person to enter and inspect the Site on the basis set out in this clause.

(b) The Heritage Minister, Natural Resources Minister and Public Works Minister must give written notice to the Company of any person authorised in writing pursuant to clause 51(a) to enter and inspect the Site.

(c) Upon receipt by the Company of the written notification pursuant to clause 51(b), the person the subject of such written notification shall subject to clause 51(d) be entitled to access to the Site during the Lease Period.

(d) A person authorised by the Heritage Minister, Natural Resources Minister or Public Works Minister pursuant to clause 51(b) –

(i) must give due notice to the Company of that person's intention to enter and inspect the Site; and

(ii) must not interfere with the progress of any Variation Work except for the purpose of exercising any powers under clause 51; and

(iii) must upon entering the Site –

(A) inform the senior representative of the Company on the Site

of the person's presence; and

(B) comply with all reasonable directions given and on-site policies made by the Company or its contractors in relation to persons entering the Site for the purpose of on-site health and safety.

PART IV - CORPORATE ORGANISATION AND RELATED MATTERS

52. Approvals.

The State has accepted and approved the Constitution of the Company.

53. Company requirements.

The Company shall:

(a) submit to the Minister half-yearly within 3 months of the last day of June or December a copy of its financial accounts for the relevant half-year;

(b) as and when requested by notice in writing by the Minister give to the Minister within 10 days of the date of receipt of such notice a copy of any register required to be kept by the Company pursuant to the *Corporations Act*,

PROVIDED THAT the Minister shall not request pursuant to this subclause a copy of the register more than 4 times in any year;

(c) obtain the prior approval in writing of the Minister to any appointment as a director or alternate director or associate director of the Company;

(d) when directed by the Minister, issue a notice pursuant to section 672A (Disclosure Notices) of the *Corporations Act*;

(e) when directed by the Governor-in-Council, which direction shall be final and conclusive and shall not be appealed against, reviewed, quashed or in any other way called in question in any Court on any account whatsoever, enforce the disposal of the Shares of any Shareholder in accordance with the procedure in that respect set forth in the Constitution of the Company;

PROVIDED THAT the Governor-in-Council shall not issue a direction to dispose of such Shares unless the Shareholder is considered not to be a suitable person to be a Shareholder having regard to those matters specified in section 20 (Suitability of casino licensee and other persons) of the *Control Act* given after a recommendation from the Minister that such Shareholder is not suitable having regard to the matters set out in section 20 (Suitability of casino licensee and other persons) of the *Control Act*;

(f) enforce the vacating from office of any director or alternate director or associate director of the Company in accordance with any direction to that

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effect by the Governor-in-Council;

(g) when directed by the Minister require the production of a statutory declaration by any person registered as the holder of any Shares setting forth the name and address of any person with a relevant interest in the same and full particulars of that interest;

(h) refrain from entering into any loan agreement except with a party or parties or a class of parties approved in writing by the Minister;

(i) except in the case of –

(i) a pro-rata offer of Shares to existing Shareholders of Shares of a class which is already on issue by the Company where notice of the pro-rata offer of Shares has been given to the Minister; or

(ii) an issue of voting Shares pursuant to the terms of any non-voting Shares or convertible securities approved in accordance with clause 53(j),

refrain from the issue of any voting Shares unless the Governor-in-Council has approved such issue and such issue shall be on such terms and conditions as the Governor-in-Council thinks fit;

(j) refrain from issuing any non-voting Shares or securities convertible into voting Shares unless the Minister has approved such issue and such issue shall be on such terms and conditions as the Minister thinks fit;

(k) ensure that the appointment of the auditors of the Company shall be in accordance with the provisions of the *Corporations Act* and that no person shall be nominated as auditor unless that person's nomination has been approved in writing by the Minister;

(l) ensure that the voting power in the Company of any person (other than the Grandfathered Shareholders) shall not exceed 5% at any time without the prior approval in writing of the Minister;

(m) ensure that the voting power in the Company of any person (other than the Grandfathered Shareholders) shall not exceed 10% at any time except in the circumstances where:

(i) their voting power in the Company is at least 90%; and

(ii) within 3 calendar months of acquiring the voting power referred to in subparagraph (i);

(A) their relevant interest in the Company's voting shares is 100%; and

(B) they have a relevant interest in all the Company's securities convertible into voting shares; and

(iii) they have the Governor-in-Council's approval, prior to acquiring the interest referred to in subparagraph (i), to:

(A) have the voting power referred to in subparagraphs (i) and (ii); and

(B) acquire the relevant interest referred to in subparagraph (ii);

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and

(n) ensure that the voting power in the Company of a Grandfathered Shareholder does not exceed their Grandfathered Holding;

(o) ensure that the total number of Shares in any class of non-voting Shares in which any person and their associates (other than an Approved Holder) shall have a relevant interest shall not exceed 5% of the total number of Shares of that class on issue at any time without the prior approval in writing of the Minister;

(p) ensure that the Constitution of the Company shall not be altered or amended without the prior approval in writing of the Minister;

(q) make available for inspection by the Minister or the Minister's nominee duly authorised in writing all information held in respect to the ownership, shareholdings, directors or corporate structure of the Company and all minutes of meetings of Shareholders and directors and other records relating thereto;

(r) make available for inspection by the Minister or the Minister's nominee duly authorised in writing all books, records and documents relating to the financial transactions, bank accounts, source and application of funds, loans and investments of the Company;

(s) ensure that the Minister or the Minister's nominee duly authorised in writing shall be entitled to attend and to speak at any meeting of the Company as though the Minister were a Shareholder in the Company but nothing contained in this clause shall confer on the Minister or the Minister's nominee a right to vote; and

(t) deliver to the Minister a copy of all notices that are forwarded to Shareholders or directors advising of such meetings in the same manner and time frame as if the Minister were a Shareholder or a director.

54. Disposal of excess voting Shares.

Notwithstanding clause 53, a person's voting power or shareholding which is in excess of any of the limitations contained in clause 53(l), (m), (n) or (o) shall not constitute a breach of the conditions of this Agreement if the Company shall have acted forthwith to bring about the disposal of the relevant voting Shares or shareholding in accordance with the powers in that behalf contained in the Constitution of the Company upon the Company becoming aware of the person's voting power or shareholding and that the voting power or shareholding exceeds the relevant limitation PROVIDED THAT the parties acknowledge that the Company is unable to refuse to register a transfer of Shares.

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55. Interpretation of this Part IV.

For the purposes of this Part IV a reference to:

(a) a person's voting power shall have the same meaning as a reference in section 610 (Voting Power in a body corporate) of the *Corporations Act* to a person's voting power;

(b) a relevant interest in Shares shall have the same meaning as a reference to section 608 (Relevant interests in securities) of the *Corporations Act*; and

(c) an associate shall have the same meaning as a reference in Division 2 of Part 1.2 (Associates) of the *Corporations Act* excluding section 13 (References in chapter 7) and section 14 (References in chapter 8) of the *Corporations Act*.

PART V - CASINO LICENCE AND RELATED MATTERS

56. Casino Licence.

(a) The State granted the Casino Licence to the Company.

(b) If the Lease Period is extended or a further lease of the Site is granted to the Company, the Casino Licence shall continue to remain in force in respect of the Site until it is cancelled or surrendered under this Agreement or the *Control Act*.

57. Provisions of Land Act not to apply to Special Lease.

Notwithstanding the provisions of the *Land Act* and any other legislation of whatsoever nature regarding the determination of rent payable in respect of the Site, the rent to be paid under the Special Lease for the duration of the Special Lease shall be $50 per annum in advance and as otherwise prescribed under the Financial Agreement.

58. Exclusivity.

(a) Subject as hereinafter provided, the State shall not either before or during the periods of exclusivity hereinafter provided for respectively, notwithstanding the provisions of any other Act from time to time in force in the State of Queensland authorise, permit or approve in any manner whatsoever and whether pursuant to the *Control Act* or otherwise the conduct or playing in a casino of any of the games listed below or any variation or derivative of such games for a distance of 60 kilometres from the Site and for a period of 10 years from the date upon which the Company opens the Casino for operation and use by members of the public:

blackjack;
roulette;
baccarat;
craps;
two-up;
mini dice;
wheel of fortune; and

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sic-bo.

(b) Subject to clause 58(f) the State shall not, except in a casino licensed pursuant to the *Control Act*, whether before, during or after the period of exclusivity set out in clause 58(a) and notwithstanding the provisions of any other Act from time to time in force in the State of Queensland authorise, permit or approve in any manner whatsoever and whether pursuant to the *Control Act* or otherwise the conduct or playing of the games set out in clause 58(a) or any variation or derivative of such games by the use of any gaming machine.

(c) Nothing in this Agreement shall be construed so as to limit or affect the power of the State to authorise, permit or approve in any manner whatsoever pursuant to any Act for the time being in force in the State the conduct or playing of games by the use of gaming machines other than:
(i) those referred to in clause 58(a); and
(ii) gaming machines that are declared by the Minister by notification published in the Government Gazette to be casino gaming machines as provided for in clause 58(d).

(d) The parties hereto agree that the following provisions shall apply with respect to the declaration and notification of gaming machines as casino gaming machines:
(i) the Minister may at any time in the Minister's discretion or upon receipt of an application by the Company make a declaration and notification in respect of any gaming machine including any gaming machine referred to in clause 58(b) but the non-existence of a notification shall not limit or affect the operation of clause 58(b);
(ii) the Minister shall within 90 days of the receipt thereof or such extended period as the Minister may require consider and determine every application made to the Minister in respect of a gaming machine and, where the Minister refuses the application, the Minister shall notify the applicant in writing of the reasons for the refusal;
(iii) the Minister may in the Minister's absolute discretion refuse to make a declaration and notification in respect of any gaming machine commonly known as a "poker machine" or any variation or derivative thereof or any gaming machine of a like class or description;
(iv) where an application is made to the Minister in respect of any gaming machine other than a gaming machine referred to in clause 58(d)(iii), the Minister shall consider the application and determine whether in all the circumstances of the application it is reasonable that it be granted. The Minister shall consider all material submitted to the Minister in writing by the applicant and the State and, in particular the Minister shall consider whether it has been established to the Minister's reasonable satisfaction that the gaming machine is of a class or description that should be reserved for use in a casino licensed pursuant to the *Control Act*;

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(v) no such declaration and notification shall be revoked, amended or varied without the prior consent in writing of the Company.

(e) Subject always to the State giving due effect to the foregoing provisions of this clause, nothing in this Agreement shall be construed so as to limit or affect the power of the State to authorise, permit or approve in any manner whatsoever and whether pursuant to the *Charitable and Non-Profit Gaming Act 1999* or any other Act for the time being in force in the State of Queensland:

(i) any art union or lottery that is of a class or description commonly conducted or played in Australia or elsewhere at the date of execution of this Agreement no matter how played; and

(ii) any art union or lottery that is a variation or derivative thereof or that is of a like class or description no matter how played.

(f) Clause 58(b) does not apply in relation to the conduct or playing of two-up which is lawful under the *Charitable and Non-Profit Gaming Act 1999*.

59. Casino Tax.

Subject to the provisions of the *Control Act* and clause 66 the amount of the casino tax to be paid by the Company shall be in each month in each year the amount equal to the sum of–

(a) 20% of Casino Gross Revenue for the month in question; and

(b) 10% of Premium Junket Revenue for the month in question.

60. Liquor Act - Special Facility Licence.

(a) The Special Facility Licence was granted in respect of the Brisbane Casino-Hotel Complex and is taken to be a special facility licence for the purposes of the *Liquor Act*.

(b) The Special Facility Licence shall, subject to this Agreement, be administered in accordance with the *Liquor Act*.

(c) Despite section 9 (Ordinary trading hours) of the *Liquor Act* but for the purposes of this Agreement, the ordinary trading hours during which the Special Facility Licence permits the sale or consumption of liquor in the Casino Part are the same hours approved (under section 61 (Hours of operation) of the *Control Act*) for the operation of the Casino Part.

(d) If the Lease Period is extended or a further lease of the Site is granted to the Company, the Special Facility Licence shall continue to remain in force in respect of the Site until it is cancelled or surrendered under this Agreement or the *Liquor Act*.

(e) No amount in addition to that paid by the Company pursuant to the Financial Agreement shall be payable by the Company, pursuant to the *Liquor Act* or otherwise, in connection with the grant of the Special Facility Licence.

61. Land Act – Special Lease.

(a) The Special Lease was granted under the *Land Act 1962* and is taken to be a term lease pursuant to section 476 (Existing lease continues) of the *Land*

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Act.

(b) If the Site is land reserved and set apart for a public purpose, the Development and operation of the Brisbane Casino-Hotel Complex and the Development of the Site is taken to be a purpose declared under the *Land Act* by the Governor-in-Council to be not inconsistent with the reservation or the *Land Act*.

(c) The provisions of the *Land Act* dealing with rental amounts, payments and periods do not apply to the Special Lease.

62. Assignment and Subletting of Special Lease.

(a) (i) The Company shall not assign, sublet or part with the possession of the Site or any part thereof without the prior written consent of the Minister.

(ii) Such consent shall not be unreasonably or arbitrarily withheld or delayed where there is no outstanding breach of any covenant or obligation on the part of the Company under the Special Lease of which the Minister has given a notice to remedy such breach and where a reasonable time has expired after the giving of such notice and in the case of a person of good financial standing and character (the onus of proving such being on the lessee).

(iii) The Minister may require as a condition of the granting of the consent to any assignment or subletting that the proposed assignee or subtenant enter into a covenant with the Minister to be responsible for and to observe the conditions of the Special Lease and give to the Minister a power of attorney similar to that provided under the Special Lease by the Company and further that the Company or proposed assignee or subtenant shall pay all reasonable costs of the Minister properly incidental to the application for the consent.

(iv) Any substantial change in the shareholding and directorships of the Company (other than a company whose shares are quoted by Australian Stock Exchange Limited or any exchange substituted therefore or any foreign exchange dealing with the transfer or sale of shares, stocks or securities) shall be deemed to be an assignment of the Company's interest in the Special Lease. In such event the Company shall apply to the Minister for consent to such assignment and it shall be incumbent on the Company to satisfy the Minister as to the good financial standing and character of the proposed directors and/or shareholders before the Minister shall be obliged to consent to such assignment. For the purposes of this clause a substantial change in shareholding means a change of more than 20% of the issued capital or voting rights of the Company and a substantial change in directorships means a change of more than 20% of the number of directors or the voting rights of the board of directors of the Company.

(b) As a precondition to any consent to assignment granted by the Minister under clause 62(a)(i) the Minister may require any proposed assignee or incoming director or shareholder to provide such guarantees in such form as

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the Minister shall require.

(c) This clause applies notwithstanding Division 3 – subleases of Part 4 – Dealings Affecting Land and Division 1 – Transfers of Part 4 – Dealings Affecting Land of the *Land Act*. These sections of the *Land Act* shall not apply to the Special Lease.

63. Partial Surrender of Special Lease.

No part of the Special Lease may be surrendered by the Company without the approval of the Minister on terms and conditions acceptable to the Minister. In the event of such approval, the State shall accept the partial surrender.

64. Review of Decisions in respect of Brisbane Casino-Hotel Complex, Site and Queens Park.

(a) Decisions made in relation to the Development of the Brisbane Casino-Hotel Complex, Site or Queens Park under –

(i) this Agreement, in the case of Regulated Development, shall –

(A) not be subject to review under the *Review Act* or otherwise; and

(B) only be subject to review in accordance with any review process set out under this Agreement; and

(ii) Development Legislation, in the case of Prescribed Works as contemplated by clause 15(a)(ii), shall –

(A) not be subject to review under the *Review Act* or otherwise; and

(B) only be subject to review in accordance with any review process set out under that Development Legislation which is applicable to the Prescribed Works.

Example for clause 64(a)(i)(B) –

This Agreement provides for an internal review procedure and appeals in respect of Regulated Development in Part II.

This Agreement provides for an internal review procedure in respect of Stop Orders in Part III.

Example for clause 64(a)(ii)(B) –

Decisions made under Development Legislation in respect of Prescribed Works shall be subject to any rights of review that are provided for in that Development Legislation which is applicable to plumbing work and drainage work.

(b) In particular, a decision under Part II or Part III of this Agreement, or another decision, of a Public Sector Entity or Public Official, in relation to the Development of the Brisbane Casino-Hotel Complex, Site or Queens Park under this Agreement —

(i) is final and conclusive; and

(ii) cannot be challenged, appealed against, reviewed, quashed, set-aside, or called into question in any other way, under the *Review Act* or otherwise (whether by the Supreme Court, another court, a

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tribunal, an authority or a person); and

(iii) is not subject to any writ or order of the Supreme Court, another court, a tribunal, an authority or a person on any ground.

Examples of writs and orders to which the sub-clause applies –

Example 1—

Writs of mandamus, prohibition and certiorari.

Example 2—

Certiorari orders, prohibition orders, prerogative orders, prerogative injunctions, and statutory orders of review, within the meaning of the *Review Act*.

Example 3—

Declaratory and injunctive orders.

(c) Without limiting clause 64(b), the *Review Act* does not apply to the following matters –

(i) conduct engaged in for the purpose of making a decision which has the meaning given by section 8 (Conduct engaged in for making decision – preparatory acts) of the *Review Act*;

(ii) other conduct that relates to the making of a decision;

(iii) the making of a decision or the failure to make a decision which has the meaning given by section 5 (Meaning of "making of a decision" and "failure to make a decision") of the *Review Act*;

(iv) a decision;

under this Agreement in relation to the Development of the Brisbane Casino-Hotel Complex, Site or Queens Park.

(d) In particular, but without limiting clause 64(c), the Supreme Court does not have jurisdiction to hear and determine applications made to it under Part 3, 4 or 5 of the *Review Act* in relation to matters mentioned in clause 64(c).

(e) The Minister's power under this Agreement to decide whether to accept or reject a recommendation of a Public Official, the Heritage Council or other Public Sector Entity is not affected by clause 64(b).

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PART VI - CASINO OPERATIONS AND REVIEW THEREOF

65. Hours of Operation.

The State agrees that the Company may open and operate the Casino for use by the public on any day in any year save and except those days in any year which the Company is precluded from so opening pursuant to section 61(8) (Hours of Operation) of the *Control Act* for any number of hours on any such day which may be approved by the Minister from time to time,

PROVIDED HOWEVER that the Minister shall not restrict the number of hours in which the Casino is open as aforesaid to less than 18 hours in any one day unless requested by the Company in writing so to do.

66. Operational Review.

The State agrees to review the rates of casino tax, the amount of fees and the rate of the community benefit levy as defined in the *Control Act* payable by the Company and the terms and conditions of the operation of the Casino in any circumstances of whatsoever nature arising which in the opinion of the Minister are likely to have an adverse impact on the viability of the Casino.

PART VII - TERMINATION

67. Grounds for Termination.

This Agreement, save and except the rights and obligations of the parties hereto and any mortgagee pursuant to clause 69, may be terminated by the Minister in any of the following events:

(a) If there is a substantial breach by the Company of its obligations under this Agreement in respect of which the Minister shall have delivered to the Company and to any mortgagee a notice in writing setting forth particulars of the breach or default and which shall not have been remedied or not have taken steps to have remedied to the satisfaction of the Minister within three months from the date of such notice to remedy;

(b) If:

(i) any distress or execution is levied against the Company which is for an amount in excess of $2,000,000.00 and which is not discharged within 20 days from the date upon which the levy is made; or

(ii) subject to the provisions of clause 11, the benefit of this Agreement is in any way whatsoever pledged, encumbered, mortgaged or assigned without the prior written consent of the Minister in accordance with the provisions of section 32 (Mortgage and assignment of casino licence) of the *Control Act*,

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and the Minister shall have delivered to the Company and to any mortgagee a notice requiring the Company to remedy such circumstance and neither the Company nor the mortgagee shall have remedied or taken steps to remedy such circumstance to the satisfaction of the Minister within a reasonable time (being not less than 10 days) from the date of such notice to remedy;

(c) If any Casino Licence in respect of the Casino is at any time cancelled or surrendered.

68. Termination of Special Lease.

(a) The Special Lease shall be liable to be forfeited if –

(i) the rent or any other money payable by the Company under the Special Lease on a due date is unpaid for a period exceeding 1 month after such due date for payment;

(ii) any money payable by the Company under the Special Lease upon demand is unpaid for a period exceeding 1 month after such demand in writing;

(iii) the Company or other person over whom it has control commits any breach or default in the due and punctual observance and performance of any of the Company's covenants, obligations and provisions under the Special Lease;

(iv) the Company being a company:

(A) an order for the winding up of the Company is made or a resolution for the winding up of the Company is effectively passed (except for the purpose of reconstruction or amalgamation where the Minister has consented thereto in writing and the Company has complied with and caused to be complied with by any other entity resulting from such reconstruction or amalgamation the requirements of such consent, which consent shall not be unreasonably withheld);

(B) goes into liquidation (other than for the purpose of amalgamation or reconstruction) or makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts within the meaning of the *Corporations Act*; or

(C) a receiver or a receiver and manager not being a receiver and manager approved by the Governor-in-Council pursuant to section 32(2)(b) (Mortgage and assignment of casino licence etc.) of the *Control Act* or an official manager is appointed in respect of the assets and undertaking of the Company or any part thereof, or any security holder takes possession of any of the assets and undertaking of the Company or any part thereof;

(v) judgment for an amount in excess of $2,000,000.00 is signed or entered against the Company and remains unsatisfied for 1 month or if any execution or other process of court or authority or any

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distress is sued out against or levied upon the Site and is not paid out or satisfied and withdrawn within 1 month;

(vi) the Company, any mortgagee or other person over whom the Company has control commits any breach or default in the due and punctual observance and performance of any of the Company's covenants, obligations and provisions under any other Special Lease; and either –

(A) if such breach or default is capable of remedy, neither the Company nor any mortgagee has rectified such default or breach prior to the expiration of a reasonable time (not being less than 10 days) after delivery of written notice by the Minister to the Company and any mortgagee detailing such default or breach and requiring such default or breach to be rectified; or

(B) such breach or default is incapable of remedy.

(b) If the Special Lease is liable to be forfeited under clause 68(a), the Minister may refer the matter to the Court for hearing and determination.

(c) The Minister shall give to the Company prior written notice of the Minister's intention to make the reference and shall state in such notice the conditions of the Special Lease that the Minister is satisfied have not been complied with. A copy of the notice given to the Company shall be submitted to the Court with the reference.

(d) If upon the final decision of the matter any such liability to forfeiture is established the Minister may in the Minister's discretion:

(i) recommend to the Governor-in-Council that the Special Lease be forfeited; or

(ii) waive the liability to forfeiture subject to such terms and conditions as the Minister thinks fit to impose upon the Company.

(e) The Governor-in-Council may upon the recommendation of the Minister under clause 68(d)(i) declare the Special Lease forfeited and thereupon and thereby the Special Lease shall be determined and the Company shall be irrevocably divested of its right, title and interest thereunder in and to the land comprised therein.

(f) This clause applies notwithstanding section 234 (When lease may be forfeited), section 238 (Application to the Court for forfeiture), section 239 (Governor-in-Council's options if court decides on forfeiture) and section 241 (Effect of forfeiture) of the *Land Act.* The sections of the *Land Act* shall not apply to the Special Lease.

(g) For the purpose of this clause "Court" means the court defined under the *Land Act* or if there is no such defined term, a court of competent jurisdiction.

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69. Appointment of Administrator.

(a) In the event that the Casino Licence is cancelled or suspended for any reason whatsoever, the following provisions shall apply –

(i) The Governor-in-Council shall appoint an Administrator –

(A) in the case of cancellation of the licence as aforesaid within 7 days of the date of such cancellation; or

(B) in the case of suspension of the licence as aforesaid for a period of not less than 3 months, within 7 days of the date of receipt by the Minister of a request from the Company to appoint an Administrator.

(ii) In the event of a receiver and manager having been approved or appointed prior to either clause 69(a)(i)(A) or clause 69(a)(i)(B) becoming effective, the Governor-in-Council shall appoint that person as Administrator for the purposes of this Agreement.

(iii) Notwithstanding the provisions of sections 19 (Agreement to precede grant of casino licence) and 21 (Hotel-casino complex owner or State as licensee) of the *Control Act* or any provision of this Agreement or the Special Lease the Governor-in-Council shall –

(A) within the period of 7 days referred to in clause 69(a)(i) grant a casino licence to the Administrator; and

(B) if the Special Lease issued to the Company in respect of the Brisbane Casino-Hotel Complex is terminated for any reason grant a special lease (substantially in the form of the Special Lease) in respect of the Brisbane Casino-Hotel Complex to the Administrator.

(iv) The Administrator shall pursuant to the casino licence to be granted pursuant to clause 69(a)(iii) manage and operate in accordance with the provisions of the *Control Act* the Casino as the agent of the Company.

(v) The Administrator if such Administrator has been appointed pursuant to clause 69(a)(ii) may at any time and from time to time but always subject to the rights of any mortgagee pursuant to its security and also pursuant to the provisions of section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* during a period of 12 calendar months from the date of the appointment of the Administrator introduce a proposed assignee to whom the provisions of section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* shall apply as if such assignee was proposed by a mortgagee wishing to enforce its security.

(vi) Should the proposed assignee be acceptable to the Governor-in-Council in the terms of clause 69(a)(v) the Governor-in-Council shall terminate the appointment of the Administrator and assign to the proposed assignee in accordance with the procedure set out in section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* the casino licence issued to the Administrator and the Minister shall approve an assignment of the special lease to the assignee of the casino licence in accordance with clause 62 of this

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Agreement.

(vii) In the event that the Administrator is unable to introduce an acceptable assignee as hereinbefore provided in clause 69(a)(v) the Administrator shall while continuing to operate the Casino as hereinbefore in this clause provided but always subject to any rights of any mortgagee pursuant to its security and also the mortgagee's rights pursuant to the provisions of section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* dispose of the Brisbane Casino-Hotel Complex and arrange for the assignment of the casino licence at the highest attainable price to the assignee who is approved by the Governor-in-Council as if that assignee had been nominated by a mortgagee seeking to enforce its security in accordance with section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act*.

(viii) The casino licence and special lease granted to an Administrator shall not be cancelled or suspended prior to its assignment as referred to in clause 69(a)(vi) but the Governor-in-Council may from time to time within the Governor-in-Council's discretion remove an Administrator and appoint another Administrator in that person's place and shall remove an Administrator who is not a receiver or manager approved pursuant to section 32(2)(b) (Mortgage and assignment of casino licence etc.) of the *Control Act* and replace that person with an Administrator who becomes so approved.

(ix) If the term of any suspension mentioned in clause 69(a)(i) is reduced after a request for the appointment of an Administrator has been made, the Governor-in-Council shall terminate the appointment of any Administrator the Governor-in-Council has appointed following a request that the appointment be so terminated, and

(A) if the Company's Casino Licence has been cancelled, the Governor-in-Council shall assign to the Company the casino licence granted to the Administrator; or

(B) if the Company's Casino Licence has not been cancelled, the Governor-in-Council shall cancel the casino licence granted to the Administrator.

(x) An Administrator may be appointed on such terms which are not inconsistent with this clause as the Governor-in-Council considers desirable in the circumstances of the appointment.

(xi) The term of any special lease granted pursuant to clause 69(a)(iii) shall expire on the last day of the Lease Period.

(b) The parties hereto acknowledge confirm and agree that any termination of this Agreement pursuant to the provisions of clause 67 shall not in any manner whatsoever terminate or reduce the effect of clause 69(a) and the rights and obligations of the parties and any mortgagee therein referred to shall maintain continue and be of full force and effect as if this Agreement had not been terminated.

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70. Impact of Termination on the Development of the Brisbane Casino-Hotel Complex or the Site.

In the event that this Agreement is terminated for any reason whatsoever the provisions of clause 14 shall apply to Development in respect of the Brisbane Casino-Hotel Complex and the Site which at the date of termination has been carried out or approved in accordance with this Agreement.

71. Impact of Termination on Special Facility Licence.

The State acknowledges and agrees that the Special Facility Licence granted pursuant to the *Liquor Act* shall, notwithstanding any termination of this Agreement by whatsoever means or any cancellation or suspension of the Casino Licence by whatsoever means not be cancelled or suspended but rather shall remain in full force and effect so far as it relates to all areas of the Brisbane Casino-Hotel Complex other than the Casino until it shall be cancelled or suspended pursuant to the provision of the *Liquor Act*.

PART VIII - GENERAL

72. Approvals and Notices.

(a) All approvals notices and other writing required or appropriate to be given under the provisions of this Agreement shall be deemed to be properly served if delivered in writing personally or sent by post or by facsimile transmission to:

(i) the Minister at the Minister's principal office in Brisbane;

(ii) the Company at its registered office; and

(iii) such other persons or addresses as each party shall from time to time designate in writing to the other and any such notice or other writing sent by post or by facsimile transmission shall unless the contrary be proved be deemed to have been so given when it would have been delivered in the ordinary course of post.

(b) Although copies of such approvals, notices and other documents required to be given under the provisions of this Agreement to a nominated representative may also be forwarded to such other person specifically designated in writing by that nominated representative such additional copies do not substitute for the primary service.

(c) If, before 4.00 p.m. local time in the place of delivery, a party delivers a notice:

(i) by hand; or

(ii) by facsimile and the sending party completes the transmission;

the notice will be taken as given on the day of delivery or transmission, and in any other case, on the next day.

(d) If a party gives the notice by post the notice will be taken as given on the second business day in the place of delivery after the notice is posted unless it can be established that the notice was not received until a subsequent date,

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in which case that later date will be the date notice was given.

(e) If a party gives notice by facsimile transmission and the transmission is not fully intelligible, or if the sending party, at the time of transmission, has reason to believe that the facsimile transmission is not fully intelligible, the party may not rely upon this clause to prove the giving of the notice.

(f) The receiving party shall not object to a facsimile transmission as not being fully intelligible unless the receiving party requests re-transmissions within 2 hours.

(g) If a facsimile transmission is completed within 2 hours of 5.00 p.m. on a day and is unintelligible, the receiving party has until 10.00 a.m. on the next business day to request the re-transmissions.

(h) The party giving the notice or its agent shall sign the notice. The appearance of the name of the person signing at the end of a facsimile transmission is sufficient evidence of signing.

(i) The addresses, and facsimile number of the parties for the purposes of this clause are to be advised in writing.

(j) The parties may give notice of another address or facsimile number (within Australia) to the other party and the new address shall be the address for service of the party for the purpose of this clause.

73. Waiver.

No omission by any party to require the performance by another or the others of any of the terms or conditions of this Agreement nor any forbearance or indulgence granted or shown by any party to another or others shall release discharge or in any manner affect or prejudice the right of a party at any time to require strict and full performance by another or others of any or all of the terms or conditions to be observed or performed hereunder.

74. Governing Law.

The law of this Agreement shall be the law of the State of Queensland.

75. Delegations.

(a) The Minister may delegate in writing the Minister's powers, rights or obligations pursuant to this Agreement, or any of them, to the Chief Executive (Gaming Regulation) or the Executive Director of the Queensland Office of Gaming Regulation.

(b) The Chief Executive (Gaming Regulation) may delegate in writing the Chief Executive's (Gaming Regulation) powers, rights or obligations pursuant to this Agreement to an officer of the public service within that unit of the public sector for which the Chief Executive (Gaming Regulation) is responsible.

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76. Extensions of Time.

In any case in which the Company is obliged to perform or do an act or thing by or within a time specified in this Agreement the Minister may at any time and from time to time in the Minister's absolute discretion extend the time specified for performing or doing that act or thing.

IN WITNESS WHEREOF the parties have executed this Agreement the day and year hereinbefore written.

Executed as a deed.

Signed for and on behalf of **The State of Queensland** represented by the Honourable **Yvette D'Ath MP**, Attorney-General and Minister for Justice•

.....

in the presence of:

JUSTICE OF THE PEACE (QUALIFIED)
Reg.No.: 33580
DEPT. OF JUSTICE & ATTORNEY-GENERAL

A Justice of the Peace

Executed by **Jupiters Limited ABN 78 010 741 045**

.....
~~Company Secretary~~/Director

JOHN O'NEILL
.....
Name of ~~Company Secretary~~/Director (print)

.....
Director

MATTHIAS BEKIER
.....
Name of Director (print)

SCHEDULE I – BRIEF TO APPLICANTS

- **DOCUMENT GROUP 1**
  - Brief to Applicants
    Part A. General Requirements
  - Brief to Applicants
    Part B. Specific Requirements
    Treasury Building

- **DOCUMENT GROUP 2**
  Casino Control Material
  - Casino Control Regulations 1984
  - Casino Control Act 1982
  - Jupiters Casino Agreement Act 1983
  - Breakwater Island Agreement Act 1984
  - Rules of Casino Games
  - Machine Gaming Legislation

- **DOCUMENT GROUP 3**
  Addenda Issued
  - No. 1 issued on 04.06.91
  - No. 2 issued on 03.07.91
  - No. 3 issued on 09.08.91
  - No. 4 issued on 02.09.91
  - No. 5 issued on 19.09.91

- **DOCUMENT GROUP 4**
  Reports, drawings and other material issued as appendices to the above documents and specifically identified within them.

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SCHEDULE II - WORKS & FEES

A. Works to be performed by Jupiters Limited

1. Cap and divert services and construct new gravity sewer to North Quay/Adelaide Street $400,000

2. Take up and deliver to nominated store, brick pavers to front of Treasury in Queen Street Mall plus other items of BCC furniture within precinct (inclusive of $17,000 bond). $28,000

B. Works to be done by Brisbane City Council

1. Cap and/or divert and reinstate water main

2. Hoarding permit

3. Remove existing street trees

4. Remove parking meters to George, Elizabeth and William Streets

5. Amend/relocate existing traffic signals

6. Remove existing street lights and replace

7. Loading zone fees

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Schedule 2 Former agreement

section 2, definition *former agreement*

BRISBANE

CASINO

AGREEMENT

Consolidated as at 5 April 2002

Authorised by the Parliamentary Counsel

BRISBANE CASINO AGREEMENT

Between:

THE STATE OF QUEENSLAND

of the First Part

And:

JUPITERS LIMITED

of the Second Part

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CASINO AGREEMENT

AN AGREEMENT made this sixth day of May 1993 between the STATE OF QUEENSLAND ("the State") of the First Part and Jupiters Limited (A.C.N. 010 741 045) a Company duly incorporated by law and having its registered office at 9th Floor, Niecon Tower, 17 Victoria Avenue, Broadbeach ("the Company") of the Second Part.

WHEREAS:

A. This Agreement was entered into in accordance with section 4 (Minister may make agreement for Brisbane Casino) of the *Agreement Act* to satisfy section 19 (Agreement to precede grant of casino licence) of the *Control Act*.

B. Prior to the grant of the Casino Licence, the State set out its objectives and considerations in its Brief to Applicants relating to the establishment and operation of a casino-hotel in Brisbane in the State of Queensland.

C. The State acknowledged that the establishment of the Brisbane Casino-Hotel Complex was a large scale development project requiring a very large capital expenditure and that it was necessary to give to the Company the security and assurances contained herein to enable the provision of capital for the establishment of the Brisbane Casino-Hotel Complex.

D. It is desirable that in consideration of the Company entering into obligations on its part hereinafter set out that the Company should be granted the entitlements benefits and privileges hereinafter mentioned.

E. Whilst the parties recognise that the power of the Parliament of the State of Queensland to make laws is absolute and cannot be taken away by an agreement made by the State, it is the intention of the State that the titles, rights and privileges of the Company be not derogated from by the State in any manner whatsoever except as hereinafter provided.

IT IS AGREED

PART I - PRELIMINARY

1. Definitions.

In this Agreement unless the context otherwise indicates or requires, the terms following shall have the meanings respectively assigned to them:

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"Agreement" means this agreement and the schedules thereto and all amendments to such agreement or schedules.

"Agreement Act" means the *Brisbane Casino Agreement Act 1992.*

"Approval Share" means a Share defined as an Approval Share pursuant to the Foundation Agreement.

"Approved Holder" means –

(a) a body registered under the *Life Insurance Act 1995* (Cwlth) if the body, in its last published audited financial statements, held net assets of at least $100 million; or

(b) a regulated superannuation fund, an approved deposit fund, a pooled superannuation trust, or a public sector superannuation scheme within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth) if the fund, trust or scheme, in its last published audited financial statements, held net assets of at least $100 million; or

(c) a managed investment scheme within the meaning of the *Corporations Act* if the scheme, in its last published audited financial statements, held net assets of at least $100 million; or

(d) a person who is a licensed dealer and a member organisation of an Australian stock exchange within the meaning of the *Corporations Act* acting as principal, if the licensed dealer, in its last published audited financial statements, held net assets of at least $100 million; or

(e) an authorised deposit-taking institution that carries on any banking business in Australia within the meaning of the *Banking Act 1959* (Cwlth) and their wholly-owned subsidiaries; or

(f) any building society regulated by the Australian Prudential Regulation Authority and their wholly-owned subsidiaries.

"Brief to Applicants" means that document which is headed "Brief to Applicants Part A General Requirements for the 1991 Extension of Casino Operations in Queensland" together with other supplemental documents, "Casino Gaming Control Documents", "Brief to Applicants Part B Specific Requirements", and Addenda as issued and listed in Schedule I.

"Brisbane Casino-Hotel Complex" means all land and Works used, constructed or effected or to be used, constructed or effected on the Site for a hotel, casino and other Uses in accordance with this Agreement.

"Building" has the meaning given in the *Integrated Planning Act 1997.*

"**Buy Back**" means the time of completion of the selective buy back by the Company of Approval Shares held by the Founders, as agreed between the Founders and the Company in the Buy Back Agreements dated on or about February 2002, effected by the cancellation of the shares bought back.

"Casino" means those areas of the Brisbane Casino-Hotel Complex identified in the Casino Licence.

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"Casino Gross Revenue" means casino gross revenue as defined in the *Control Act*.

"Casino Licence" means the licence dated 11 April 1995 granted pursuant to the *Control Act* in respect of the Casino.

"Casino Part" means the part of the Brisbane Casino-Hotel Complex that is a Casino.

"Chief Executive (Gaming Regulation)" means the chief executive of the department responsible for the *Control Act*.

"Chief Executive (Heritage)" means the chief executive of the department responsible for the *Heritage Act*.

"Chief Executive (Natural Resources and Mines)" means the chief executive of the department responsible for the *Land Act*.

"Chief Executive (Public Works)" means the chief executive of the department responsible for public works.

"1992 Conservation Study" means the 1992 conservation study undertaken by Allom Lovell Marquis-Kyle Architects in respect of the Treasury Buildings Groups, a copy of which has been lodged by the Company with the Chief Executive (Gaming Regulation).

"1995 Conservation Report" means the 1995 report undertaken by Allom Lovell Marquis-Kyle Architects in respect of the Former Museum/Library Brisbane, a copy of which has been lodged by the Company with the Chief Executive (Gaming Regulation).

"Construction Site" means the Site and such other land immediately adjoining the Site as may be reasonably required by the Company which has been approved by the Minister.

"Control Act" means the *Casino Control Act 1982*.

"Corporations Act" means the *Corporations Act 2001* of the Commonwealth of Australia and the regulations made under that Act, and includes –

(a) the Act and regulations as amended from time to time; and

(b) if any law of the Commonwealth is substituted for the Act or regulations – the substituted law.

"Cultural Heritage Significance" has the meaning given to it in the *Heritage Act*.

"decision" means a decision, report or recommendation made or proposed to be made or required to be made and includes –

(a) a matter appearing or purporting to be a decision, report or

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recommendation; and

(b) a matter relating to or appearing or purporting to relate to a decision, report or recommendation.

"Decision Date" means the day immediately following –

(a) the end of the Public Notice Period where the Heritage Council has decided to publish a Public Notice pursuant to clause 35(g)(i); or

(b) the day on which the Heritage Council has decided not to publish a Public Notice pursuant to clause 35(g)(i).

"Decision Notice" means a notice –

(a) published in –

(i) the gazette; and

(ii) a newspaper circulating throughout Queensland; and

(iii) a newspaper circulating in the Local Government Area; and

(b) containing details of the Minister's decision.

"Development" means –

(a) a Material Change of Use; or

(b) Works; or

(c) Reconfiguring a Lot.

"Development Application" means an application to the Minister for approval of Regulated Development in respect of the Brisbane Casino-Hotel Complex or the Site pursuant to clause 15.

"Development Approval" means an approval granted by the Minister in respect of a Development Application and includes other working drawings and specifications approved by the Minister as part of the Development Approval which will result in variations to the Schematic Design Drawings.

"Development Legislation" means any –

(a) legislation of whatsoever nature relating to Development including, without limitation, the Building Act 1975, the Sewerage and Water Supply Act 1949, the Local Government Act 1993, the City of Brisbane Act 1924, the City of Brisbane Town Planning Act 1964, the City of Brisbane Town Planning Modification Act 1976, the Local Government (Planning and Environment) Act 1990, the Integrated Planning Act 1997, and the Land Act 1994; and

(b) Planning Instrument whether or not made under the legislation specified in paragraph (a); and

(c) other statutory provisions regulating the Development of the Site.

"Easements" means easements 700603724, 700603750 and 700603774.

"Emergency Work" means the Variation Work that is necessary to support, stabilise or secure the Heritage Place.

"Emergency Works Notice" means a notice setting out –

(a) the damage that has been caused to the Heritage Place; and
(b) the Variation Work that is necessary to repair the Heritage Place so as to –
  (i) mitigate the hazards or risks specified in clause 38(a); and
  (ii) ensure the safety and effective operation of the Brisbane Casino-Hotel Complex.

"External Structure" means the whole and every part of the Structure (generally called the facade) comprising the exterior walls of the fixed improvements (as defined in the Special Lease):
(a) from and including parapet level downwards including gargoyles, pediments and entablatures; and
(b) including, without limitation, recessed entrances, windows and walls.

"Facade" means the whole and every part of the External Structure which is in existence:
(a) at the Lease Commencement Date for the relevant Special Lease; and
(b) from time to time during the currency of the relevant Special Lease to the extent that it is a restoration, conservation, renovation or repair of the whole or any part of the External Structure in existence at the Lease Commencement Date of the relevant Special Lease; and
(c) from time to time during the currency of the relevant Special Lease to the extent that it is a replacement of the whole or any part of the External Structure in existence as at the Lease Commencement Date of the relevant Special Lease.

"Fabric" means all the physical material of the Heritage Place.

"Financial Agreement" means an agreement between the State and the Company bearing the date 6 May 1993.

"Former Construction Site" has the meaning given to construction site in the *Brisbane Casino Agreement Regulation 1993*.

"Foundation Agreement" means the agreement between the Company and the Founders dated 4 November 1991.

"Founder" means a member who immediately prior to the Buy Back was registered as the holder of Approval Shares.

"Game" means a game as that term is defined in the *Control Act*.

"gaming" means the playing in the Casino of any Game.

"gaming machine" means any device that is designed so that:
(a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and
(b) it may be operated, wholly or partly:
  (i) by the insertion of Australian currency or a chip into the device; or
  (ii) by the use of gaming machine credits; or

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(iii) by the electronic transfer of gaming machine credits to the device; or

(iv) by the use of gaming machine credits held, stored or accredited by the device or elsewhere.

"gaming machine credit" means a credit of Australian currency, or chips, registered by a gaming machine.

"**Grandfathered Holding**" means the lesser of:

(a) the voting power of a Grandfathered Shareholder held on the date the Buy Back is announced by the Company to Australian Stock Exchange Limited less any shares bought back under the Buy Back; and

(b) the voting power held by the Grandfathered Shareholder at any time after the Buy Back.

"**Grandfathered Shareholder**" means a person:

(a) whose voting power in the Company immediately after the Buy Back is in excess of 10% and immediately prior to the Buy Back was a party to the Foundation Agreement; or

(b) who, immediately prior to the Buy Back held the Minister's approval under clause 53(l) for their voting power in the Company to exceed 5% and whose voting power in the Company exceeds 10% solely as a result of the Buy Back,

provided that a person shall cease to be a Grandfathered Shareholder when their voting power in the Company ceases to exceed 10%.

"Heritage Act" means the *Queensland Heritage Act 1992*.

"Heritage Archaeologist" means a person approved by the Minister pursuant to clause 41(e).

"Heritage Architect" means a person approved by the Minister pursuant to clause 41(d).

"Heritage Council" means the Queensland Heritage Council established pursuant to section 8 (Establishment of Council) of the *Heritage Act*.

"Heritage Legislation" means any legislation of whatsoever nature relating to the Cultural Heritage Significance of a place or an object and includes the *Heritage Act*.

"Heritage Management Plan" means the Heritage Management Plan agreed or approved by the Minister pursuant to clause 33 and includes any amendments to the Heritage Management Plan approved by the Minister.

"Heritage Management Principles" means the following principles for the heritage management of the Heritage Places –

(a) The Use of the Heritage Places to house a casino-hotel requires frequent changes to decoration and presentation during the Lease Period. In the long

term such changes generally do not harm the Cultural Heritage Significance of the Heritage Places.

(b) A clear distinction must be made between the Heritage Places themselves and the casino-hotel and furniture and fitments which are temporary and benign and without Cultural Heritage Significance.

(c) The Heritage Places are to be used like a theatre stage, equipped to work and dressed to create the atmosphere required by the casino-hotel function. It is a decision for the Company to decide the style "stage set", to change it from time to time and to make judgements about the taste.

(d) The aim is to protect for the future the Fabric of the Heritage Places that is of Cultural Heritage Significance. It is understood that some elements, even though they are of Cultural Heritage Significance, may be hidden from view during the Lease Period. These hidden elements are to be protected from damage.

(e) The taste and judgment applied to the temporary decoration and furnishings of areas which are –

(i) not of special Cultural Heritage Significance can be undertaken in most cases as Permitted Variation Work; and

(ii) of special Cultural Heritage Significance can be undertaken in most cases with approval for Major Variation Work or Minor Variation Work.

"Heritage Minister" means the Minister responsible for the *Heritage Act*.

"Heritage Place" means the Treasury Building, Land Administration Building, John Oxley Library Building and the Queens Wharf Road Retaining Wall.

"John Oxley Library Building" means the land known as the John Oxley Library Building bounded by William Street, the Riverside Expressway exit to Elizabeth Street, Queens Wharf Road and Miller Park.

"Land Act" means the *Land Act 1994*.

"Land Administration Building" means the land known as the Land Administration Building bounded by George Street, Stephens Lane, William Street and the common boundary shared with Queens Park.

"Lease Commencement Date" means 11 April 1995.

"Lease Period" means 75 years, commencing on the Lease Commencement Date.

"Liquor Act" means the *Liquor Act 1992*.

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"Local Government" means the Brisbane City Council constituted under the *City of Brisbane Act 1924* and any local government or joint local government established under the *Local Government Act 1993* having jurisdiction in respect of the Local Government Area in which the Site is situated.

"Local Government Area" means the area in which the Local Government has jurisdiction including any place under the control of the Local Government outside the boundaries of the area.

"Maintenance Work" means Variation Work performed for the purposes of the protective care of the Heritage Place including without limitation, for example, the protective care of the materials, features, contents and setting that comprise –

(a) fences;
(b) gardens and grounds;
(c) roads and paths;
(d) roof and drainage systems;
(e) services and utilities; and
(f) the Facade.

Maintenance Work also includes painting work in a colour that substantially conforms with an existing colour scheme at the Heritage Place or a colour scheme approved under section 37 (Development by the Crown) of the *Heritage Act* or under Part III.

"Major Park Works" has the meaning given in clause 29.

"Major Variation Work" has the meaning given in clause 35.

"Material Change of Use" means a change of the Use of the Brisbane Casino-Hotel Complex or the Site.

"Materials" means all furniture, fittings, fixtures, statues, ornaments and monuments within or attached to the Buildings, Structures and land comprising the Former Construction Site.

"Method Statement" means a written description of the manner in which Variation Work that is likely to be required repeatedly and that has the potential to cause cumulative harm to the Cultural Heritage Significance of the Heritage Place should be carried out.

"Miller Park" means the land reserved as Miller Park at the date of this Agreement bounded by William Street, the common boundary shared with John Oxley Library Building, Queens Wharf Road and the building known as the Old Commissariat Stores.

"Minister" means the Treasurer or other Minister of the Crown for the time being charged with the administration of the *Control Act*.

"Minor Park Works" has the meaning given in clause 28.

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"Minor Repair Work" means –

(a) Variation Works of a minor nature that involves repairs to the Fabric of the Heritage Place and which –

(i) use the same types of materials and the same construction methods as were originally used on the Heritage Place or which have been approved under section 37 (Development by the Crown) of the *Heritage Act* or under clause 37; or

(ii) are recommended by the Heritage Architect and approved in writing by the Minister having regard to best available information, conservation technology and conservation trade; and

(b) other Variation Work which is determined from time to time by the Chief Executive (Gaming Regulation).

"Minor Variation Work" has the meaning given in clause 34.

"Natural Resources Minister" means the Minister responsible for the *Land Act*.

"Park Works" means Works that are carried out in Queens Park.

"Park Works Application" means an application to the Minister for approval of Minor Park Works or Major Park Works pursuant to clauses 28 and 29.

"Permitted Park Works" has the meaning given in clause 27.

"Permitted Variation Work" has the meaning given in clause 36.

"person" includes a company, corporation, firm and any other body of persons having legal entity as such body as well as a natural person.

"Planning Instrument" means any statutory instrument regulating Development.

"Premium Junket Revenue" means premium junket revenue as defined in the *Control Act*.

"Prescribed Development Legislation" means the following Development Legislation –

(a) *Standard Building Regulation 1993*;

(b) *Standard Water Law*;

(c) *Standard Sewerage Law*;

(d) *Fire and Rescue Service Act 1990*;

(e) *Workplace Health and Safety Act 1995*; and

(f) State laws generally applicable to Works.

"Prescribed Information" means details of –

(a) the existing condition of that part of the Heritage Place relevant to the application for approval of Major Variation Work; and

(b) the history and Development of that part of the Heritage Place relevant to the application for approval of Major Variation Work; and

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(c) the Cultural Heritage Significance of that part of the Heritage Place relevant to the application for approval of Major Variation Work; and
(d) the proposed Major Variation Work; and
(e) the likely impact of the proposed Major Variation Work on the Cultural Heritage Significance of that part of the Heritage Place relevant to the application for approval of Major Variation Work.

"Prescribed Works" means plumbing work or drainage work as defined in the *Integrated Planning Act 1997*.

"Public Notice" means a notice –
(a) published in –
  (i) the gazette; and
  (ii) a newspaper circulating throughout Queensland; and
  (iii) a newspaper circulating in the Local Government Area in which the Heritage Place is situated; and
(b) containing any details of the proposed Major Variation Work; and
(c) inviting written representations from interested members of the public within the Public Notice Period.

"Public Notice Period" means the period specified in the Public Notice not exceeding 20 days from the publication of the Public Notice.

"Public Official" includes a minister, an officer of the public service and an officer or employee of a Public Sector Entity.

"Public Sector Entity" means –
(a) a department or part of a department; or
(b) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for the public or a State purpose.

"Public Works Minister" means the Minister of the Crown charged with the construction of Works in respect of land owned by the Crown.

"Queens Park" means the land reserved as Queens Gardens at the date of this Agreement and which is commonly known as Queens Park bounded by William Street, Elizabeth Street, George Street and the common boundary shared with the Land Administration Building but excluding the Queens Park Carpark.

"Queens Park Carpark" means the subterranean land below Queens Park bounded by William Street, Elizabeth Street, George Street and the common boundary shared with the Land Administration Building.

"Queens Wharf Road Retaining Wall" means that part of the stone retaining wall in Queens Wharf Road, located near the intersection of Queen Street, William Street and Queens Wharf Road, that forms part of the boundary of the Site.

"Reconfiguring a Lot" has the meaning given in the *Integrated Planning Act 1997*.

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"Regulated Development" means Development other than Prescribed Works.

Example –

Regulated Development means –
(a) a Material Change of Use; and
(b) Reconfiguring a Lot; and
(c) Works other than plumbing work and drainage work.

"Review Act" means the *Judicial Review Act 1991*.

"Schematic Design Drawings" means –
(a) the Schematic Design Drawings including all plans, drawings, reports or other material relating to the Schematic Design Drawings which were tabled in Parliament; and
(b) all variations and additional plans, drawings, reports and other material relating to the Schematic Design Drawings which were approved under the Agreement; and
(c) the amended Schematic Design Drawings that are prepared pursuant to clause 21.

"Share" means a share or stock in the Company.

"Shareholder" means the person who for the time being is registered under the provisions of the Company's Constitution as the holder of a Share and includes persons jointly so registered.

"Site" means the area of land described as situated in the County of Stanley, Parish of North Brisbane and consisting of –

- Lot 492 on Crown Plan 855445;
- Lot 682 on Crown Plan 855445;
- Lot 300 on Crown Plan 866930;
- Lot 301 on Crown Plan 866931;
- Lot 303 on Crown Plan 866933;
- Lot 304 on Crown Plan 866934;
- Lot 11 on Crown Plan 866932; and
- Lot 10 on Crown Plan B31753.

"Special Facility Licence" means Special Facility Licence No 45100594.

"Special Lease" means registered lease No 17750245.

"State law" means a law other than a law made by the Local Government or by the Commonwealth.

"State Notice" means the written notice served pursuant to clause 48(a).

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"Stephens Lane" means the land adjoining the Site bounded by George Street, Old Printery (William Street), Printing Building (George Street), William Street and the common boundary shared with the Land Administration Building.

"Stop Order" means an order issued by the Minister or the Heritage Minister pursuant to Part III.

"Stored Materials" means the Materials removed from the Site to storage.

"Structure" has the meaning given in the *Integrated Planning Act 1997*.

"Superfluous Notice" means the written notice served pursuant to clause 49(a).

"Treasury Building" means the land known as Treasury Building bounded by William Street, Queen Street, George Street and Elizabeth Street.

"Use", in relation to the Brisbane Casino-Hotel Complex or the Site, includes any use incidental to and necessarily associated with the use of the Brisbane Casino-Hotel Complex or the Site.

"Variation Work" means Works that change the Fabric of a Heritage Place on the Site.

"Works" means building work, operational work, plumbing work and drainage work as defined in the *Integrated Planning Act 1997*.

2. Interpretation.

(a) Unless the context otherwise requires, words importing a singular gender shall include any other gender; the singular includes the plural and vice versa; person includes corporation and/or bodies corporate; whenever a corporation shall be a party hereto the words designating such corporation herein shall extend to and include such corporation, its successors in titles and permitted assigns; whenever a person shall be a party hereto the words designating such person herein shall extend to and include such person and that person's executors, administrators and assigns; where two or more parties are parties to a covenant, agreement, undertaking or provision of any kind hereunder, then whether those parties are referred to individually herein or designated and referred to together by a word in the singular person, such covenant, agreement, undertaking or provision of any kind whatsoever shall bind such parties jointly and each of them severally.

(b) Unless the context otherwise requires, whenever there is any covenant on the part of the Company or obligation placed on the Company (express or implied) then any costs associated with the performance of that covenant or obligation shall be at the expense of the Company.

(c) Headings have been inserted for ease of reference only and do not affect the interpretation of this Agreement.

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3. Counting of days.

Unless nominated specifically otherwise within a particular clause herein, the counting of days is to be based on working week days (Monday to Friday inclusive) but excluding public holidays occurring in the Local Government Area.

4. Legislative Acts.

Any reference to any primary or subordinate legislation, unless the context otherwise requires shall include that primary or subordinate legislation amending the same or in substitution therefor.

5. Authority to enter into Agreement.

The State acknowledges and confirms that approval has been given in accordance with the *Agreement Act* for the Minister, for and on behalf of the State, to enter into this Agreement with the Company and that pursuant to the *Agreement Act* this Agreement is taken to be ratified by Parliament for the purposes of section 19 (Agreement to precede grant of Casino licence) of the *Control Act*.

6. Special Lease.

(a) The benefits conferred upon, and the obligations imposed upon, the Company pursuant to this Agreement include those benefits and obligations contained in the Special Lease.

(b) In the event of any conflict between this Agreement and the Special Lease, this Agreement shall prevail.

7. Variation of the Agreement.

The terms of this Agreement, and specifically so far as they give to the Company the entitlements, benefits and privileges as herein provided, may only be varied in accordance with the *Agreement Act*.

8. Stamp Duty.

The Company shall not be liable for any stamp duty on this Agreement or any document entered into between the parties pursuant to or in accordance with this Agreement, including without limiting the foregoing the Financial Agreement and the Special Lease.

9. Agreement to have force of law.

The parties acknowledge that, pursuant to section 5 (Agreement has effect as enactment) of the *Agreement Act*, upon this Agreement being entered into the provisions of this Agreement shall have the effect as if the Agreement were an enactment of the *Agreement Act*.

10. Illegal acts.

Notwithstanding anything contained in any Act or other statutory provision or rule of law enacted by the State it is hereby acknowledged that any act by the State, or the Company, connected with, or pertaining to the obligations, titles, rights and privileges of the parties contained in this Agreement, which would, but for the enactment of the *Control Act* and the *Agreement Act* be illegal shall not be illegal.

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11. Encumbrances to the Licence.

Subject to any other approvals required under any other Act, the Company may mortgage, charge or otherwise encumber its interests in:

(a) the Casino Licence;
(b) the Special Facility Licence;
(c) the Brisbane Casino-Hotel Complex;
(d) the Special Lease; and
(e) the rights and benefits of the Company under this Agreement,

in accordance with section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act*;

PROVIDED HOWEVER that any such encumbrance shall include the name of the State of Queensland as the lessor of the Site.

12. Bear own costs.

Each party shall pay its own costs in respect of this Agreement.

PART II - DEVELOPMENT AND USE OF BRISBANE CASINO-HOTEL COMPLEX AND RELATED MATTERS

13. Application of Development Legislation to Brisbane Casino-Hotel Complex and the Site.

(a) Any Development Legislation in force in the Local Government Area in which the Brisbane Casino-Hotel Complex and the Site is situated shall not apply to the Development of the Brisbane Casino-Hotel Complex or the Site except to the extent provided for in this Agreement.

(b) For the purposes of the *Integrated Planning Act 1997*, the Development of the Brisbane Casino-Hotel Complex or the Site (other than Prescribed Works) shall be exempt development.

14. Use of Brisbane Casino-Hotel Complex Lawful.

(a) The Brisbane Casino-Hotel Complex shall be deemed to be a lawful Use and to be lawfully constructed under any Development Legislation in force in the Local Government Area in which the Brisbane Casino-Hotel Complex and the Site is situated.

(b) Any Development Legislation in force in the Local Government Area in which the Brisbane Casino-Hotel Complex and the Site is situated cannot –

(i) stop the Use of the Brisbane Casino-Hotel Complex and the Site from commencing or continuing; or

(ii) further regulate the Use of the Brisbane Casino-Hotel Complex and the Site; or

(iii) require the Use of the Brisbane Casino-Hotel Complex and the Site to be changed; or

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(iv) require the Works constructed or effected or to be constructed or effected in respect of the Brisbane Casino-Hotel Complex or the Site in accordance with this Agreement to be altered or removed.

(c) The Brisbane Casino-Hotel Complex or the Site cannot be interfered with or interrupted by any Public Sector Entity or any person on the grounds that the Brisbane Casino-Hotel Complex or the Site is contrary to any Development Legislation in force in the Local Government Area in which the Brisbane Casino-Hotel Complex and the Site is situated.

(d) All Planning Instruments in force in the Local Government Area in which the Brisbane Casino-Hotel Complex and the Site is situated are deemed to be of no effect to the extent they are inconsistent with this Agreement.

15. Development of the Brisbane Casino-Hotel Complex and the Site.

(a) Any Development Legislation in force in the Local Government Area in which the Brisbane Casino-Hotel Complex and the Site is situated –

(i) shall not apply to Development (other than Prescribed Works) in respect of the Brisbane Casino-Hotel Complex or the Site; and

(ii) shall apply to the Prescribed Works except to the extent that the Prescribed Works shall only be required to comply with the standards and requirements applicable to Prescribed Works contained in the Prescribed Development Legislation.

(b) If the Company proposes to carry out Regulated Development in respect of the Brisbane Casino-Hotel Complex or the Site, the Company must make application to the Minister for approval of the Regulated Development.

(c) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) –

(i) a submission comprising such drawings, reports or other material as is necessary to illustrate the Regulated Development; and

(ii) amended Schematic Design Drawings containing particulars of the Regulated Development; and

(iii) such other information which may be required by the Chief Executive (Gaming Regulation).

(d) The Minister must –

(i) consider the application; and

(ii) make a decision in respect of the application in accordance with clause 15(e); and

(iii) advise the Company in writing of the decision.

(e) The Minister may subject to clause 15(f) –

(i) approve the application in whole or in part unconditionally; or

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 15(e)(i), 15(e)(ii) and 15(e)(iii).

(f) The Minister may refuse the Development Application only if in the case of a Regulated Development involving –

(i) a Material Change of Use, the Material Change of Use is –

(A) not of a like nature to the Uses comprising the Brisbane Casino-Hotel Complex; and

(B) in the Minister's discretion an undesirable Development of

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the Site; or

(ii) Reconfiguring a Lot, the Reconfiguring a Lot is in the Minister's discretion an undesirable Development of the Site; or

(iii) Works –

(A) the Works do not comply with the standards and requirements applicable to Works contained in the Prescribed Development Legislation; and

(B) compliance with the standards and requirements applicable to Works contained in the Prescribed Development Legislation cannot be achieved by the imposition of conditions.

(g) If Regulated Development involves a Material Change of Use the Company must before carrying out Regulated Development, negotiate with all Public Sector Entities and agree upon, to the satisfaction of the Minister, all matters (including financial contributions) which but for clause 13(a) could have been lawfully required as a condition of the consent, permission or approval of the Public Sector Entities under any Development Legislation with respect to that Regulated Development.

(h) If Regulated Development involves Works then in relation to that part of Regulated Development which is Works, the Minister is hereby empowered to authorise, either generally or in a particular case, any person to exercise a power, authority or discretion or to perform a function or duty which is conferred or imposed on the Minister pursuant to clause 15.

(i) If Regulated Development involves a Reconfiguration of Lot, then in relation to that part of Regulated Development which is a Reconfiguration of Lot, the Minister shall assess the application as if it were an application for Reconfiguration of Lot under the *Land Act*.

(j) The Company shall, if required by the Chief Executive (Gaming Regulation), within 1 month of 30 June of each year or such longer period approved by the Chief Executive (Gaming Regulation) provide a report to the Chief Executive (Gaming Regulation) of all Uses carried out on the Site or Brisbane Casino-Hotel Complex since the last report.

16. Brisbane Casino-Hotel Complex to Comply.

The Brisbane Casino-Hotel Complex must comply with –

(a) a Development Approval including any condition in the Development Approval where the Regulated Development authorised by the Development Approval has been started; and

(b) Development Legislation only –

(i) in respect of personal licences that may be required to be held by Development Legislation; and

Example –

The Company must hold if applicable a combustible and flammable liquids licence under the *Building (Flammable and Combustible Liquids) Regulation 1994* and an environmental authority under the *Environmental Protection Act 1994*.

(ii) to the extent that the standards and requirements applicable to Works contained in the Prescribed Development Legislation are complied with (except to the extent they are inconsistent with a Development Approval); and

(c) legislation (including subordinate legislation) other than –
  (i) Development Legislation; and
  (ii) legislation specifically excluded by this Agreement.

17. Acknowledgment and Warranties.

(a) The State acknowledges that in respect of the Brisbane Casino-Hotel Complex the Company has –
  (i) performed at its own cost the Works set out in Part A of Schedule II; and
  (ii) paid to the Local Government the cost of the Works set out in Part B of Schedule II.

(b) Subject to clause 15(g), the parties acknowledge that compliance by the Company with the provisions of clause 16 shall in no manner whatsoever compel or require the Company to carry out any additional Works or to make any financial contributions to any Public Sector Entities in respect of the Use or Development of the Brisbane Hotel-Casino Complex which are in addition to those provided for in clause 17(a). This clause does not affect the rights of a Public Sector Entity to require the payment of –
  (i) a levy or charge of general application; or
  (ii) a fee for a service provided by that Public Sector Entity in relation to Works.

18. Internal Review Procedure – Development Applications.

(a) If the Minister does not approve the whole or any part of a Development Application, the Minister must –
  (i) issue to the Company a written notice stating –
    (A) the grounds upon which the Minister does not approve the whole or such part of the Development Application; and
    (B) that the Company may make a written, oral or other type of further submission to the Minister including the introduction of such further alternative proposals for consideration by the Minister as the Company deems necessary; and
    (C) the time (at least 10 days after the notice is issued to the Company) within which the further submission may be made; and
  (ii) consider any further submission made by the Company within the time stated in the notice (being not more than 20 days after the further submission is made by the Company).

(b) After considering any further submission made by the Company, the Minister must within the time stated in the notice issue to the Company –
  (i) a written notice stating –
    (A) if the Minister does not accept the further submission, that the Company modify its Development Application in such manner as will satisfy the Minister; or
    (B) if the Minister does accept the further submission, the Minister's approval of the Development Application of the Company in its original form or subject to any modification which the Minister directs; and

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(ii) in the case of that part of a Development Application a statement of reasons containing –
(A) the reasons for the Minister's decision; and
(B) a reference to the evidence or other material on which the reasons were based.

(c) In the Minister's consideration of all Development Applications or submissions made pursuant to this clause the Minister must have regard to the general design and planning objectives of the State and the Company contained in the Schematic Design Drawings.

19. Appeal.

(a) In this clause –

"Appeal Court" means the Planning and Environment Court established under the *Integrated Planning Act 1997*.
"Reviewed Decision" means a decision made by the Minister pursuant to clause 18(b) in respect of that part of a Development Application involving –
(a) a Material Change of Use, that the Material Change of Use is not of a like nature to the uses comprising the Brisbane Casino-Hotel Complex; or
(b) Works.

(b) The Company may appeal against a Reviewed Decision within 20 days after a notice is issued to the Company pursuant to clause 18(b).

(c) An appeal must be started by –
(i) filing a written notice of appeal with the Appeal Court; and
(ii) serving a copy of the notice of appeal on the Chief Executive (Gaming Regulation).

(d) The Appeal Court may extend the period for appealing.

(e) In deciding an appeal, the Appeal Court –
(i) has the same powers as the Minister; and
(ii) is not bound by the rules of evidence; and
(iii) must comply with natural justice; and
(iv) may hear the appeal in court or in chambers.

(f) An appeal is by way of hearing.

(g) The Appeal Court may –
(i) confirm the Reviewed Decision; or
(ii) set aside the Reviewed Decision and return the issue to the Minister with the directions that it considers appropriate; or
(iii) substitute another decision for the Reviewed Decision, in which case the substituted decision is, for the purposes of this Agreement, taken to be that of the Minister.

20. Time for Approval.

(a) The Minister must, subject to clause 20(b), decide a Development Application within 20 days of the lodgment of the Development Application.

(b) If a Development Application relates to Regulated Development comprising

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Works as well as a Material Change of Use or Reconfiguring a Lot, the Minister must decide that component of the Development Application being –

(i) the Material Change of Use or Reconfiguring a Lot within 20 days of the lodgement of the Development Application; and

(ii) the Works within 20 days after the approval of the Material Change of Use or Reconfiguring a Lot.

(c) The Minister may in the case of a Development Application (other than a Development Application involving only Works) extend the decision making period specified in clause 20(a) and (b) by not more than 20 days by written notice given to the Company before the end of the decision making period.

(d) If the Minister at any time during the period specified in clause 20(a) and (b) or as extended by clause 20(c) requests the Company to provide further information relevant to the Development Application, the days between the date that the information is requested and the date that the information is provided, inclusive of both dates, shall not be counted in the period specified in clause 20(a) and (b) or as extended by clause 20(c).

(e) If the Minister has not advised the Company of the Minister's decision within the time specified in clause 20(a) and (b) or as extended by clause 20(c) –

(i) that the Development Application has to be resubmitted, giving particular reasons for non-approval; or

(ii) that the Development Application is approved subject to particular conditions being undertaken; or

(iii) that a notice pursuant to clause 18(a) has already been issued covering the topic of the Development Application; or

(iv) that a notice pursuant to clause 18(a) is hereby issued;

then the Company may at its discretion advise that deemed approval will be in effect by formally advising the Minister.

(f) If no written response as required herein has been received within 2 days of the Company's notice being served, the Minister's approval is deemed to be in effect and the Company may proceed with the Regulated Development for which approval was sought.

21. Schematic Design Drawings.

If Development involving Works is commenced on the Site or the Brisbane Casino-Hotel Complex, the Company shall, as soon as is reasonably practicable, upon the completion of those Works submit to the Chief Executive (Gaming Regulation) amended Schematic Design Drawings that incorporate the Works.

22. Casino to Comply.

The Company shall ensure that all materials, fittings and equipment utilised in operation of the Casino shall be of a high standard of manufacture and of a quality commensurate with an international class casino-hotel.

23. Easements.

(a) The State granted the Easements to the Company.

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(b) The Easements shall terminate upon the lawful termination of the Special Lease or any further lease negotiated between the Minister and the Company thereafter in accordance with clause 29(a) of the Special Lease.

24. Special Lease.

(a) The State granted the Special Lease to the Company.

(b) In determining the obligations of the Company in respect of the Brisbane Casino-Hotel Complex under clause 5 of the Special Lease, the Company acknowledges that if as at the Lease Commencement Date the Company shall not have commenced or commenced and completed all the Works in respect of the Brisbane Casino-Hotel Complex (including Works required for any Development of the Brisbane Casino-Hotel Complex under clause 15), upon the completion of such outstanding Works, the obligations under clause 5 of the Special Lease shall be determined having regard to the condition of the Brisbane Casino-Hotel Complex or the relevant part of the Brisbane Casino-Hotel Complex upon completion of such outstanding Works rather than such condition as at the Lease Commencement Date.

25. Acknowledgments and Warranties in respect of Queens Park.

(a) For the purposes of clarity the parties acknowledge that –

(i) Queens Park and Queens Park Car Park are not Heritage Places for the purposes of this Agreement and as such are not subject to Part III of this Agreement; and

(ii) Queens Park is a registered place as that term is defined in Section 4 (Definitions) of the *Heritage Act*; and

(b) The State acknowledges that Queens Park, though not included in the Site, is integrally associated with the Brisbane Casino-Hotel Complex.

(c) The State shall use Queens Park as a public park and for no other purpose.

(d) The State shall not alter Queens Park or the purpose for which Queens Park is used or hinder or restrict access from Queens Park to the Land Administration Building without the prior written approval of the Company.

(e) The Company acknowledges that the surface of Queens Park is a public place. The Company shall maintain such surface area and the improvements thereon under clauses 5(a), 5(c) and 5(e) of the Special Lease as though such surface area formed part of the demised premises under that Special Lease. Without limiting the generality of this obligation the Company shall be obliged to maintain the following improvements; namely Structures (other than statues and monuments), throughways, landscaped and planted areas, fountains, seating, watering systems, whether present on Queens Park at the commencement of that Special Lease or subsequently placed thereon.

26. Application of Development Legislation and Heritage Legislation to Queens Park.

Any Development Legislation and Heritage Legislation in force in the Local Government Area in which Queens Park is situated shall not apply to –

(a) Permitted Park Works; or

(b) Minor Park Works except to the extent provided for in clause 28.

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27. Permitted Park Works in Queens Park.

(a) In this clause –

"Emergency Works" means Park Works that are in the reasonable opinion of the Company required to be carried out urgently to deal with any emergency on or immediately adjacent to the Site.

"Park Maintenance Works" means the Park Works that are required to be carried out by the Company to comply with clause 25(e).

"Permitted Park Works" means Park Works that are –

(i) Park Maintenance Works; or

(ii) Minor Park Works that are determined by the Minister to be Permitted Park Works; or

(iii) Emergency Works.

(b) During the Lease Period, the Company may carry out Permitted Park Works without an approval under any Development Legislation or Heritage Legislation.

(c) If the Company is carrying out –

(i) Emergency Works, the Company shall –

(A) only carry out such Park Works as is reasonably necessary to remedy the emergency; and

(B) not cause or allow any nuisance or any hindrance to the rights of the State or any other person except in so far as is reasonably necessary to carry out the Emergency Work; or

(ii) Park Maintenance Works, the Company shall not unduly hinder or restrict access to the public to Queens Park or any part thereof; or

(iii) Minor Park Works that have been determined by the Minister to be Permitted Park Works, the Company shall not unduly hinder or restrict access to the public to Queens Park or any part thereof beyond that which is reasonably necessary to carry out the Park Works.

(d) The Company shall –

(i) if required by the Chief Executive (Gaming Regulation) within 1 month of 30 June of each year or such longer period approved by the Chief Executive (Gaming Regulation) provide a report to the Chief Executive (Gaming Regulation) of the Park Maintenance Works carried out since the previous report; and

(ii) as soon as is reasonably practicable after carrying out Emergency Works give written notice of the Permitted Park Works that were carried out to the Chief Executive (Gaming Regulation).

28. Minor Park Works in Queens Park.

(a) In this clause –

"Minor Park Works" means Park Works that are required for the maintenance, repair or operation of the Brisbane Casino-Hotel Complex.

(b) Subject to clause 28(c), during the Lease Period, the Company may carry out Minor Park Works without an approval under any Development Legislation or Heritage Legislation.

(c) During the Lease Period, the Company must not carry out Minor Park Works without the approval of the Minister pursuant to clause 28.

(d) If the Company proposes to carry out Minor Park Works, the Company

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must make application to the Minister for approval of Minor Park Works.

(e) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) a submission comprising such drawings, reports or other material as is necessary to illustrate the Minor Park Works.

(f) The Company must within 5 days after the lodgement of the application pursuant to clause 28(e), give a copy of the application to the Chief Executive (Natural Resources and Mines) and the Chief Executive (Public Works).

(g) The Minister must within 20 days of the lodgement of the application pursuant to clause 28(e) –

(i) consider the application and the recommendations (if any) of the Chief Executive (Natural Resources and Mines) and Chief Executive (Public Works); and

(ii) make a decision in respect of the application in accordance with clause 28(h); and

(iii) advise the Company in writing of the decision.

(h) The Minister may subject to clause 28(i) –

(i) approve the application in whole or in part unconditionally; and

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 28(h)(i), 28(h)(ii) and 28(h)(iii).

(i) The Minister may refuse the application only if –

(i) the Minor Park Works do not comply with the standards and requirements applicable to Works contained in the Prescribed Development Legislation; and

(ii) compliance with the standards and requirements applicable to Works contained in the Prescribed Development Legislation cannot be achieved by the imposition of conditions.

(j) If the Company is dissatisfied with the Minister's decision under clause 28(h), the Company may seek a review of the decision in accordance with clause 30.

29. Major Park Works in Queens Park.

(a) In this clause –

"Major Park Works" means Park Works other than Permitted Park Works and Minor Park Works.

(b) During the Lease Period, the Company must not carry out Major Park Works without –

(i) the approval of the Minister pursuant to clause 29; and

(ii) the approvals required from all Public Sector Entities under any Development Legislation.

(c) If the Company proposes to carry out Major Park Works, the Company must make application to the Minister for approval of Major Park Works.

(d) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) a submission comprising such drawings, reports or other material as is necessary to illustrate the Major Park Works.

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(e) The Minister must within 20 days of the lodgement of the application pursuant to clause 29(d) –
  (i) consider the application; and
  (ii) make a decision in respect of the application in accordance with clause 29(f); and
  (iii) advise the Company in writing of the decision.

(f) The Minister may –
  (i) approve the application in whole or in part unconditionally; or
  (ii) approve the application in whole or in part subject to conditions; or
  (iii) refuse the application in whole or in part; or
  (iv) deal with the application under any combination of clauses 29(f)(i), 29(f)(ii) and 29(f)(iii).

(g) The Minister may extend the decision making period specified in clause 29(e) by not more than 20 days by written notice to the Company before the end of the decision making period.

(h) If the Company is dissatisfied with the Minister's decision under clause 29(f), the Company may seek a review of the decision in accordance with clause 30.

30. Internal Review Procedure – Park Works Application.

(a) If the Minister does not approve the whole or part of a Park Works Application, the Minister must –
  (i) issue to the Company a written notice stating –
    (A) the grounds upon which the Minister does not approve the whole or such part of the Park Works Application; and
    (B) that the Company may make a written, oral or other type of further submission to the Minister including the introduction of such further alternative proposals for consideration by the Minister as the Company deems necessary; and
    (C) the time (at least 10 days after the notice is issued to the Company) within which the further submission may be made; and
  (ii) consider any further submission made by the Company within the time stated in the notice (being not more than 10 days after the further submission is made by the Company).

(b) After considering any further submission made by the Company the Minister must within the time stated in the notice issue to the Company –
  (i) if the Minister does not accept the further submission – a written notice directing that the Company modify its Park Works Application in such manner as will satisfy the Minister; or
  (ii) if the Minister does accept the further submission – a written notice stating the Minister's approval of the Park Works Application of the Company in its original form or subject to any modification which the Minister directs.

(c) In the Minister's consideration of all Park Works Applications or submissions made pursuant to this clause the Minister must have regard to –
  (i) the 1992 Conservation Study to the extent that it is relevant to Queens Park; and

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(ii) the 1995 Conservation Report to the extent that it is relevant to Queens Park.

PART III - HERITAGE PROTECTION

31. Application of Heritage Legislation to Brisbane Casino-Hotel Complex and the Site.

(a) During the Lease Period, Heritage Legislation shall not apply to the Brisbane Casino-Hotel Complex and the Site and this Part III shall apply in lieu thereof;

(b) The Heritage Council shall be deemed to have all the powers that are necessary to perform any functions imposed on it pursuant to this Agreement.

32. Heritage Management Principles.

During the Lease Period, the parties shall exercise their rights and perform their obligations having regard to the Heritage Management Principles.

33. Heritage Management Plan.

(a) The Heritage Management Plan has been agreed by the Minister and the Company.

(b) If the Company wishes to amend the Heritage Management Plan the Company must make application to the Minister to amend the Heritage Management Plan in accordance with the provisions of clause 35 as if the application for amendment of the Heritage Management Plan were an application for approval of Major Variation Work.

(c) The Minister may amend the Heritage Management Plan by publishing a Decision Notice if –

(i) the Company and the Minister have consulted in good faith; and

(ii) the amendment to the Heritage Management Plan is consistent with the Heritage Management Principles; and

(iii) the parties have agreed in writing to the amendments.

(d) The Minister may suspend the Heritage Management Plan from applying to the Brisbane Casino-Hotel Complex and the Site by publishing a Decision Notice if the Minister is unable to amend the Heritage Management Plan pursuant to clause 33(c).

(e) If the Minister is satisfied it is necessary to suspend a Heritage Management Plan, the Minister must –

(i) give the Company a written notice stating –

(A) the reasons for the proposed suspension; and

(B) that the Company may make written representations to the Minister about the suspension; and

(C) the time (at least 15 days after the notice is given to the Company) within which written representations may be made; and

(ii) consider any written representations made by the Company within the time stated in the notice.

(f) After considering any written representations made by the Company the

Minister must give to the Company –

(i) if the Minister is not satisfied that the suspension is necessary – a written notice stating that the Minister has decided not to suspend the Heritage Management Plan; or

(ii) if the Minister is satisfied that the suspension is necessary – a written notice stating that the Minister has decided to suspend the Heritage Management Plan.

(g) The suspension of the Heritage Management Plan takes effect from the day the written notice was given to the Company.

(h) If the Minister has suspended the Heritage Management Plan from applying to the Brisbane Casino-Hotel Complex or the Site the Minister may cancel the suspension at any time.

(i) The Company may at any time make application to the Minister for approval of the Heritage Management Plan in accordance with the provisions of clause 35 for approval of a Heritage Management Plan as if the application were an application for approval of Major Variation Work.

(j) The Chief Executive (Gaming Regulation) must hold the original or certified copy of each of the following –

(i) any Heritage Management Plan that has been agreed or approved pursuant to clause 33(a) or 33(i); and

(ii) each amendment to the Heritage Management Plan and the corresponding Decision Notice that has been made pursuant to clauses 33(b) and 33(c); and

(iii) any Heritage Management Plan that has been suspended and the corresponding Decision Notice pursuant to clause 33(d); and

(iv) a consolidated Heritage Management Plan incorporating the Heritage Management Plan and all amendments.

34. Minor Variation Work.

(a) In this clause –

"Minor Variation Work" means –

(i) the approval of a Method Statement in respect of Minor Variation Work for the purposes of clause 37; and

(ii) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, the Variation Work specified as Minor Variation Work in the Heritage Management Plan; and

(iii) if a Heritage Management Plan does not apply to the Brisbane Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d), the Variation Work –

(A) involving refurbishment of the Brisbane Casino-Hotel Complex which, in the opinion of the Minister, does not substantially reduce the Cultural Heritage Significance of the Heritage Place; or

(B) relating to Casino operation and surveillance or to security; or

(C) involving installation in the Brisbane Casino-Hotel Complex of security systems, surveillance or computer systems and cabling; or

(D) other than the Variation Work specified in clauses

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34(a)(iii)(A), 34(a)(iii)(B) or 34(a)(iii)(C) which –

(1) in the opinion of the Minister is minor in nature; or

(2) does not substantially reduce the Cultural Heritage Significance of the Heritage Place.

(b) During the Lease Period, the Company must not carry out Minor Variation Work without the approval of the Minister pursuant to clause 34.

(c) If the Company proposes to carry out Minor Variation Work, the Company must make application to the Minister for approval of Minor Variation Work.

(d) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation), a submission comprising such drawings, reports or other material as is necessary to illustrate the proposed Minor Variation Work.

(e) The Company must within 5 days after the lodgment of the application pursuant to clause 34(d), give a copy of the application to the Chief Executive (Heritage).

(f) The Chief Executive (Heritage) must within 10 days of the receipt of the copy of the application pursuant to clause 34(e) –

(i) consider the application; and

(ii) recommend to the Minister that the proposed Minor Variation Work should be carried out, carried out subject to specified conditions or modifications or not be carried out; and

(iii) forward its recommendation to the Chief Executive (Gaming Regulation).

(g) If the Chief Executive (Heritage) does not give its recommendation to the Chief Executive (Gaming Regulation) within the period prescribed in clause 34(f), the Chief Executive (Heritage) shall be deemed to have recommended the approval of the application without conditions or modifications.

(h) The Minister must within 20 days of the lodgement of the application pursuant to clause 34(d) –

(i) consider the application and the recommendations (if any) of the Chief Executive (Heritage) and Chief Executive (Gaming Regulation); and

(ii) make a decision in respect of the application in accordance with clause 34(i); and

(iii) advise the Company in writing of the decision.

(i) The Minister may –

(i) approve the application in whole or in part unconditionally; or

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 34(i)(i), 34(i)(ii) and 34(i)(iii).

(j) If the Company is dissatisfied with the Minister's decision under clause 34(i) then it may –

(i) elect to have the Minor Variation Work treated as Major Variation Work for the purpose of this Part III; and

(ii) make whatever application and seek whatever approval would be required for Major Variation Work.

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(k) The Minister may extend the decision making period specified in clause 34(h) by not more than 20 days by written notice given to the Company before the end of the decision making period.

35. Major Variation Work.

(a) In this clause –

"Major Variation Work" means –

(i) the approval of a Method Statement in respect of Major Variation Work for the purposes of clause 37; and

(ii) the approval or amendment of a Heritage Management Plan for the purposes of clause 33; and

(iii) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, the Variation Work specified as Major Variation Work in the Heritage Management Plan; and

(iv) if a Heritage Management Plan does not apply to the Brisbane Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d), the Variation Work which is not Permitted Variation Work or Minor Variation Work.

(b) During the Lease Period, the Company must not carry out Major Variation Work without the approval of the Minister pursuant to clause 35.

(c) If the Company proposes to carry out Major Variation Work, the Company must make application to the Minister for approval of Major Variation Work.

(d) The Company must prior to lodging an application pursuant to clause 35(e), consult with –

(i) the Chief Executive (Gaming Regulation) in relation to all operational matters relating to the Brisbane Casino-Hotel Complex; and

(ii) the Chief Executive (Public Works) in relation to Works matters; and

(iii) the Chief Executive (Heritage) in relation to matters of Cultural Heritage Significance; and

(iv) such other Public Sector Entities as may be nominated by the persons referred to in clauses 35(d)(i), 35(d)(ii) or 35(d)(iii).

(e) The Company must make application to the Minister by lodging with the Chief Executive (Gaming Regulation) –

(i) a submission comprising such drawings, reports or other material as is necessary to illustrate the Major Variation Work; and

(ii) the Prescribed Information; and

(iii) such other information which may be required by the persons referred to in clauses 35(d)(i), 35(d)(ii) or 35(d)(iii).

(f) The Company must within 5 days after the lodgment of the application pursuant to clause 35(e) give a copy of the application to –

(i) the Heritage Council by providing a copy of the application to the Chief Executive (Heritage); and

(ii) the Chief Executive (Public Works).

(g) The Heritage Council or a person authorised by the Heritage Council must as soon as practicable after the receipt of the application –

(i) decide whether to publish a Public Notice; and

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(ii) publish the Public Notice if it so decides pursuant to clause 35(g)(i).

(h) The Heritage Council must as soon as is reasonably practicable after the Decision Date –

(i) consider the application and any written representations made in respect of the Public Notice published pursuant to clause 35(g)(ii); and

(ii) recommend to the Minister that the proposed Major Variation Work should be carried out, carried out subject to specified conditions or modifications or not be carried out; and

(iii) forward its recommendation to the Minister.

(i) The Chief Executive (Gaming Regulation) and the Chief Executive (Public Works) may as soon as is reasonably practicable after the receipt of the application –

(i) consider the application; and

(ii) recommend to the Minister that the proposed Major Variation Work should be carried out, carried out subject to specified conditions or modifications or not be carried out; and

(iii) forward their recommendations to the Minister.

(j) The Minister must as soon as practicable after receiving the recommendation of the Heritage Council –

(i) consider the application, the Heritage Council's recommendation and the recommendations (if any) of the Chief Executive (Public Works) and the Chief Executive (Gaming Regulation); and

(ii) make a decision in respect of the application in accordance with clause 35(k); and

(iii) advise the Company in writing of the decision.

(k) The Minister may –

(i) approve the application in whole or in part unconditionally; or

(ii) approve the application in whole or in part subject to conditions; or

(iii) refuse the application in whole or in part; or

(iv) deal with the application under any combination of clauses 35(k)(i), 35(k)(ii) and 35(k)(iii).

(l) The Minister must publish a Decision Notice as soon as practicable after making the decision in respect of the application in accordance with clause 35(k).

(m) Where the proposed major variation work has been approved by the Minister in accordance with clause 35(k), the Company may carry out the Major Variation Work prior to the Minister publishing a Decision Notice in accordance with clause 35(l).

36. Permitted Variation Work.

(a) In this clause –

"Permitted Variation Work" means –

(i) Variation Work which –

(A) involves a change to the content of a sign or banner in or on a Heritage Place; or

(B) is carried out in accordance with a Method Statement approved pursuant to clause 34 or clause 35; or

(C) is Emergency Work and which is carried out in accordance

with clause 38(a); or

(D) is specified in an Emergency Works Notice and which is carried out in accordance with clause 38(e); and

(ii) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, Variation Work specified as Permitted Variation Work in the Heritage Management Plan; and

(iii) if a Heritage Management Plan does not apply to the Brisbane Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d) –

(A) Maintenance Work; or

(B) Minor Repair Work; or

(C) Variation Work (other than Minor Repair Work) that involves the replacement of small items, for example, door or window furniture, or the laying of new carpet, that –

(1) will cause no detriment to the Cultural Heritage Significance of the Heritage Place; and

(2) is not of significant scale; and

(3) is reversible; or

(D) Variation Work that is to be wholly undertaken in the basements of the Treasury Building and Land Administration Building in respect of the kitchens, laundry areas, plant rooms, service entrances and back of house areas and plant and equipment installations of the Brisbane Casino-Hotel Complex which do not involve the removal of Fabric; or

(E) Variation Work that involves variations to the furniture and furnishings in the Brisbane Casino-Hotel Complex.

(b) During the Lease Period, the Company may carry out Permitted Variation Work without an approval under this Part III.

(c) The Company shall within 1 month of 30 June of each year or such longer period approved by the Chief Executive (Gaming Regulation) provide a report to the Chief Executive (Gaming Regulation) of all Permitted Variation Work carried out since the previous report.

37. Approval of Method Statement.

(a) If the Company wishes to have a Method Statement approved by the Minister, the Company must make application to the Minister for approval of a Method Statement in respect of –

(i) Minor Variation Work in accordance with the provisions of clause 34 as if the application for approval of the Method Statement were an application for approval of Minor Variation Work; or

(ii) Major Variation Work in accordance with the provisions of clause 35 as if the application for approval of the Method Statement were an application for approval of Major Variation Work.

(b) The Chief Executive (Gaming Regulation) must maintain at no cost to the Company a Register of approved Method Statements that contains –

(i) all approved Method Statements; and

(ii) details of the date of approval of the approved Method Statements; and

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(iii) such other matters as the Chief Executive (Gaming Regulation) considers appropriate.

38. Emergency Work.

(a) The Company may carry out Emergency Work without obtaining any approval under this Part III where –

(i) the Fabric of the Heritage Place is damaged causing –

(A) a hazard or a risk of a hazard to human health or safety; or

(B) a risk of further damage to the Heritage Place; or

(ii) directed by an officer authorised by the Chief Executive of the department which administers the *Fire and Rescue Service Act 1990*.

(b) The Company must as soon as is reasonably practicable after starting the Emergency Work in accordance with clause 38(a) give written notice of the Emergency Work to –

(i) the Chief Executive (Gaming Regulation); and

(ii) the Chief Executive (Heritage); and

(iii) the Chief Executive (Public Works).

(c) The Company must as soon as is reasonably practicable after carrying out the Emergency Work in accordance with clause 38(a) –

(i) give written notice of the Emergency Work that was carried out to the persons specified in clause 38(b); and

(ii) determine the Variation Work that is necessary to repair the Heritage Place; and

(iii) give an Emergency Works Notice to the Chief Executive (Gaming Regulation) and a copy of the Emergency Works Notice to the Chief Executive (Heritage) and the Chief Executive (Public Works).

(d) The Minister must as soon as is reasonably practicable after the receipt of the Emergency Works Notice –

(i) consider the Emergency Works Notice; and

(ii) consult with the Chief Executive (Heritage) and the Chief Executive (Public Works); and

(iii) determine whether the Variation Work specified in the Emergency Works Notice should be carried out, carried out subject to specified conditions or modifications or not be carried out; and

(iv) advise the Company in writing of the decision.

(e) The Company may carry out the Variation Works that is approved by the Minister pursuant to clause 38(d) without any other approval under this Part III.

(f) If the Company is dissatisfied with the decision of the Minister under clause 38(d) then it may make application to the Minister for approval of the Variation Work as Minor Variation Work under clause 34 or Major Variation Work under clause 35.

39. Decision or Opinion.

(a) A decision made or an opinion formed under this Part III, in respect of –

(i) the suspension, approval or amendment of a Heritage Management Plan pursuant to clause 33, must be consistent with the Heritage Management Principles; and

(ii) a matter not referred to in clause 39(a)(i), must be consistent with –

(A) if a Heritage Management Plan does apply to the Brisbane Casino-Hotel Complex and the Site, the Heritage Management Plan; and

(B) if a Heritage Management Plan does not apply to the Brisbane Casino-Hotel Complex and the Site due to its suspension pursuant to clause 33(d) –

(1) the Heritage Management Principles; and

(2) the 1992 Conservation Study to the extent that it is not inconsistent with the Heritage Management Principles; and

(3) the 1995 Conservation Report to the extent that it is not inconsistent with the Heritage Management Principles.

(b) The Minister must provide in respect of any decision or when forming an opinion under this Part III, a statement of reasons containing –

(i) the reasons for the decision or forming the opinion; and

(ii) a reference to the evidence or other material on which the reasons were based.

40. Other Requirements.

(a) All Variation Work must be carried out in accordance with the requirements of all Public Sector Entities in respect of the carrying out of Variation Work except where otherwise provided for in this Agreement.

(b) If there is any inconsistency between the requirements of the Minister under this Part III and the requirements of any Public Sector Entity for carrying out Variation Work, the requirements of the Minister may notwithstanding any other Act, at the Minister's discretion expressly override the requirements of any Public Sector Entity to the extent of such inconsistency.

Example –

If a development approval granted by the Local Government in respect of plumbing work or drainage work involves Variation Work that conflicts with an approval granted by the Minister under Part III the Minister may override the requirements of the Local Government.

41. Heritage Advice.

(a) The Company shall engage the Heritage Architect to advise on all work which impacts on the conservation of the Cultural Heritage Significance of the Heritage Place.

(b) The Company shall engage the Heritage Archaeologist to advise on and supervise excavations on the Site and to ensure that the archaeological potential of the Heritage Place is professionally investigated and recorded.

(c) All records of archaeological work and recorded artefacts are the property of the State and shall be lodged with the Heritage Minister at the conclusion of any archaeological work. All archaeological material shall be labelled and boxed ready for storage and accompanied by a catalogue of artefacts cross referenced to field records.

(d) The Heritage Architect shall be agreed between the Company and the Minister and failing agreement the Heritage Architect shall be a person nominated by the Company and approved in writing by the Minister whose

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approval shall not be unreasonably withheld where the person nominated by the Company is an architect of at least 5 years best conservation practice experience in the restoration, renovation, repair and maintenance of heritage buildings utilised for a commercial purpose.

(e) The Heritage Archaeologist shall be agreed between the Minister and the Company and failing agreement the heritage archaeologist shall be a person nominated by the Company and approved in writing by the Minister whose approval shall not be unreasonably withheld where the person nominated by the Company is an archaeologist of at least 5 years experience in the investigation and recording of heritage sites and buildings.

(f) The Company may serve a notice on the Minister that the Company wishes to appoint a new Heritage Architect or a new Heritage Archaeologist in which case a new Heritage Architect or a new Heritage Archaeologist must be approved in accordance with clauses 41(d) and 41(e).

42. Stop Orders – Heritage Minister.

(a) If, during the Lease Period, the Heritage Minister is of the opinion that –

(i) Variation Work is being carried out other than in accordance with Part III of this Agreement; and

(ii) it is necessary to do so to protect the Heritage Place;

the Heritage Minister may issue a Stop Order requiring a person to stop any Variation Work or prohibiting a person from starting any Variation Work –

(iii) that is not in accordance with Part III of this Agreement; and

(iv) that may destroy or reduce the Cultural Heritage Significance of the Heritage Place.

(b) A Stop Order issued by the Heritage Minister shall be in writing and may be served by affixing it in a prominent position in the Site, whereupon it shall become immediately binding on the Company, its servants and agents and any independent contractors claiming through the Company. The Heritage Minister must send the Stop Order by facsimile transfer to the Company and to the Minister at the same time the Stop Order is served under this clause.

(c) During the Lease Period the Stop Order continues in force, until –

(i) it is revoked by the Heritage Minister or the Minister; or

(ii) the Minister has reached a final determination pursuant to clause 44.

(d) A contravention of a Stop Order made by the Heritage Minister shall constitute a substantial breach by the Company of its obligations under this Agreement.

(e) The Heritage Minister may authorise, by instrument in writing, a person to exercise the Heritage Minister's powers under this clause, which authorisation may be subject to conditions.

(f) The Minister must give written notice to the Company of the person authorised by the Heritage Minister under this clause.

(g) No liability for any loss arising from the giving of a Stop Order will be incurred by the Heritage Minister, the Heritage Minister's appointee or the Crown if the Stop Order is given by the Heritage Minister in the honest and reasonable belief that the requirements of Part III were not being complied with.

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43. Stop Orders – Minister.

(a) If, during the Lease Period, the Minister is of the opinion that –

(i) Variation Work is being carried out other than in accordance with Part III of this Agreement; and

(ii) it is necessary to do so to protect the Heritage Place;

the Minister may make a Stop Order requiring a person to stop any Variation Work or prohibiting a person from starting any Variation Work that –

(iii) is not in accordance with Part III of this Agreement; and

(iv) may destroy or reduce the Cultural Heritage Significance of the Heritage Place.

(b) A Stop Order issued by the Minister shall be in writing and may be served by affixing it in a prominent position in the Site, whereupon it shall become immediately binding on the Company, its servants and agents and any independent contractors claiming through the Company. The Minister shall send the Stop Order by facsimile transfer to the Company and the Heritage Minister at the same time as the Stop Order is served under this clause.

(c) During the Lease Period the Stop Order continues in force until –

(i) it is revoked by the Minister; or

(ii) the Minister has reached a final determination pursuant to clause 44.

(d) A contravention of a Stop Order made by the Minister shall constitute a substantial breach by the Company of its obligations under this Agreement.

(e) The Minister may authorise, by instrument in writing, a person to exercise the Minister's powers under this clause, which authorisation may be subject to conditions.

(f) The Minister must give written notice to the Company of the person authorised by the Minister under this clause.

(g) No liability for any loss arising from the giving of a Stop Order will be incurred by the Minister, the Minister's appointee or the Crown if the Stop Order is given in the honest and reasonable belief that the requirements of Part III were not being complied with.

(h) The Minister has the power to revoke a Stop Order made under clause 42.

44. Internal Review – Stop Order.

(a) If a Stop Order is issued pursuant to clauses 42 or 43 –

(i) the person issuing the Stop Order must at the same time the Stop Order is served issue to the Company a written notice stating –

(A) the grounds upon which the Stop Order has been issued; and

(B) that the Company may make a written, oral or other type of further submission to the Minister; and

(C) the time (at least 10 days after the notice is issued to the Company) in which the further submission may be made; and

(ii) the Minister must consider any further submission made by the Company within the time stated in the notice (being not more than 10 days after the further submission is made by the Company).

(b) After considering any further submission made by the Company, the Minister must within the time stated in the notice issue to the Company –

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(i) if the Minister does not accept the further submission – a written notice directing that the Company not carry out the Variation Work;

(ii) if the Minister does accept the further submission – a written notice directing that the Company carry out the Variation Work in its original form or subject to any modification which the Minister directs.

(c) In the Minister's consideration of all submissions made pursuant to this clause, the Minister must have regard to –

(i) the general design and planning objectives of the State and the Company contained in the Schematic Design Drawings; and

(ii) the Heritage Management Principles.

45. Materials.

(a) The Materials remain the property of the State.

(b) The Company may remove all or some of the Materials from the Site.

46. Management of Storage.

The Company shall:

(a) store the Materials removed from the Site at a place which has been approved by the Minister, which approval shall not be unreasonably withheld, upon such reasonable terms and conditions as the Minister in the Minister's reasonable opinion considers appropriate; and

(b) provide the Minister with a list of all Stored Materials and shall keep an accurate record of the condition of all Stored Materials; and

(c) ensure all Stored Materials stored remain in their pre-removed condition provided that, notwithstanding any other provision of this clause, the Company shall not be responsible if the Stored Materials are affected provided that such affectation has not resulted from the negligence of the Company or the failure of the Company to comply with the reasonable terms and conditions set by the Minister under clause 46(a); and

(d) carry out an inspection of the Stored Materials annually and provide the Minister with a report on the outcome of the inspection; and

(e) notify the Minister of any damage to the Stored Materials within 10 days of the Company becoming aware of the damage.

47. Inspection.

(a) The Company shall permit the Minister and a person authorised in writing by the Minister to enter upon the place where the Stored Materials are stored for the purpose of inspecting and conducting an audit of the Stored Materials whenever reasonably necessary in the reasonable opinion of the Minister if:

(i) the Minister gives to the Company at least 10 days prior written notice of the Minister's intention to inspect the Stored Materials;

and

(ii) the authorised representative of the Minister is accompanied by a representative of the Company.

(b) If the person authorised by the Minister does not give notice to the Company within 10 days from the Minister's inspection specifying that the Stored Materials are not being stored in accordance with the terms and conditions set by the Minister under clause 46(a) then the Stored Materials shall be deemed to have been stored in accordance with the terms and conditions set by the Minister under clause 46(a).

48. State Removal.

(a) If the State wishes to remove Stored Materials stored by the Company, it must serve a State Notice on the Company specifying the Stored Materials it requires for removal.

(b) The Company may object, by notice in writing to the Minister within 20 days of receipt by the Company of the State Notice, to the release of any or all of the Stored Materials specified in the State Notice.

(c) If the Company objects under clause 48(b) then the Minister may issue a written notice on the Company requiring the Company to show cause why the Stored Materials the subject of the State Notice should not be released to the State.

(d) If clause 48(c) applies the following procedure shall apply –

(i) the written notice shall state the grounds upon which the Minister requires the Stored Materials for removal and allow such time as may be reasonable but not less than 10 days by which the Company shall respond; and

(ii) the Company may respond by written, oral or any other type of submission to the Minister and explain the basis for the Company's objection to the release of any or all of the Stored Materials specified in the State Notice; and

(iii) the Minister shall give submissions forwarded to the Minister in answer to the written notice all due consideration and if, in the Minister's opinion:

(A) the Company fails to satisfy the Minister that the State should not be entitled to remove the Stored Materials the subject of the objection notice under clause 48(b) the Minister may require the Company to release some or all of the Stored Materials the subject of the objection notice under clause 48(b); or

(B) if the Minister is satisfied then the State is not entitled to remove some or all of the Stored Materials the subject of the objection notice under clause 48(b), then the State shall not remove those items of the Stored Materials the subject of the objection notice under clause 48(b) which the Minister directs.

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(e) Any Stored Materials removed by the State shall be at the risk of the State.

49. Company Return.

(a) The Company may, from time to time after the expiration of 10 years from the Lease Commencement Date of the final Special Lease to be issued for any part of the Site, without being obliged to do so, give a Superfluous Notice to the Minister that the Company no longer requires the Stored Materials specified in the Superfluous Notice.

(b) The Minister shall remove the Stored Materials specified in the Superfluous Notice within 20 days from receipt of the Superfluous Notice by the Minister. If the Minister fails to remove the Stored Materials within the 20 day period then –

(i) the Minister shall indemnify the Company for the cost of the storage of the Stored Materials specified in the Superfluous Notice; and

(ii) the Company shall cease to be liable in response or in respect of such Stored Materials; and

(iii) all liability and risk shall pass to the State in respect thereof.

(c) If at the time of expiration of all the Special Leases for the Site any part of the Stored Materials are still being stored by the Company, then the Stored Materials shall be removed by the Minister at the risk of the State. If the Minister fails to remove the Stored Materials within 20 days after the expiration of all the Special Leases for the Site then:

(i) the Minister shall indemnify the Company for the cost of storage of the Stored Materials; and

(ii) the Company shall cease to be liable and responsible in respect of the Stored Materials; and

(iii) all liability and risk shall pass to the State in respect thereof.

50. Materials Insurance.

(a) The Company shall take out and maintain or cause to be taken out and maintained policies of insurance in respect of the Stored Materials against theft and damage during the period of storage and transportation of the Stored Materials to and from the place of storage. The policy shall be taken out and maintained in the name of the Company (with the interest of the State noted thereon). The Company shall provide the Minister with evidence of the existence of such policies satisfactory to the Minister.

(b) Breach by the Company of its obligations under clauses 45 to 50 shall not be an event of termination under clause 67 of this Agreement.

51. Inspection of the Site.

(a) The Heritage Minister, Natural Resources Minister and Public Works Minister may, for the purposes of ensuring compliance with Part III, authorise in writing a person to enter and inspect the Site on the basis set out in this clause.

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(b) The Heritage Minister, Natural Resources Minister and Public Works Minister must give written notice to the Company of any person authorised in writing pursuant to clause 51(a) to enter and inspect the Site.

(c) Upon receipt by the Company of the written notification pursuant to clause 51(b), the person the subject of such written notification shall subject to clause 51(d) be entitled to access to the Site during the Lease Period.

(d) A person authorised by the Heritage Minister, Natural Resources Minister or Public Works Minister pursuant to clause 51(b) –

(i) must give due notice to the Company of that person's intention to enter and inspect the Site; and

(ii) must not interfere with the progress of any Variation Work except for the purpose of exercising any powers under clause 51; and

(iii) must upon entering the Site –

(A) inform the senior representative of the Company on the Site of the person's presence; and

(B) comply with all reasonable directions given and on-site policies made by the Company or its contractors in relation to persons entering the Site for the purpose of on-site health and safety.

PART IV - CORPORATE ORGANISATION AND RELATED MATTERS

52. Approvals.

The State has accepted and approved the Constitution of the Company.

53. Company requirements.

The Company shall:

(a) submit to the Minister half-yearly within 3 months of the last day of June or December a copy of its financial accounts for the relevant half-year;

(b) as and when requested by notice in writing by the Minister give to the Minister within 10 days of the date of receipt of such notice a copy of any register required to be kept by the Company pursuant to the *Corporations Act*,

PROVIDED THAT the Minister shall not request pursuant to this subclause a copy of the register more than 4 times in any year;

(c) obtain the prior approval in writing of the Minister to any appointment as a director or alternate director or associate director of the Company;

(d) when directed by the Minister, issue a notice pursuant to section 672A (Disclosure Notices) of the *Corporations Act*;

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(e) when directed by the Governor-in-Council, which direction shall be final and conclusive and shall not be appealed against, reviewed, quashed or in any other way called in question in any Court on any account whatsoever, enforce the disposal of the Shares of any Shareholder in accordance with the procedure in that respect set forth in the Constitution of the Company;

PROVIDED THAT the Governor-in-Council shall not issue a direction to dispose of such Shares unless the Shareholder is considered not to be a suitable person to be a Shareholder having regard to those matters specified in section 20 (Suitability of casino licensee and other persons) of the *Control Act* given after a recommendation from the Minister that such Shareholder is not suitable having regard to the matters set out in section 20 (Suitability of casino licensee and other persons) of the *Control Act*;

(f) enforce the vacating from office of any director or alternate director or associate director of the Company in accordance with any direction to that effect by the Governor-in-Council;

(g) when directed by the Minister require the production of a statutory declaration by any person registered as the holder of any Shares setting forth the name and address of any person with a relevant interest in the same and full particulars of that interest;

(h) refrain from entering into any loan agreement except with a party or parties or a class of parties approved in writing by the Minister;

(i) except in the case of –

(i) a pro-rata offer of Shares to existing Shareholders of Shares of a class which is already on issue by the Company where notice of the pro-rata offer of Shares has been given to the Minister; or

(ii) an issue of voting Shares pursuant to the terms of any non-voting Shares or convertible securities approved in accordance with clause 53(j),

refrain from the issue of any voting Shares unless the Governor-in-Council has approved such issue and such issue shall be on such terms and conditions as the Governor-in-Council thinks fit;

(j) refrain from issuing any non-voting Shares or securities convertible into voting Shares unless the Minister has approved such issue and such issue shall be on such terms and conditions as the Minister thinks fit;

(k) ensure that the appointment of the auditors of the Company shall be in accordance with the provisions of the *Corporations Act* and that no person shall be nominated as auditor unless that person's nomination has been approved in writing by the Minister;

(l) ensure that the voting power in the Company of any person (other than the Grandfathered Shareholders) shall not exceed 5% at any time without the prior approval in writing of the Minister;

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(m) ensure that the voting power in the Company of any person (other than the Grandfathered Shareholders) shall not exceed 10% at any time except in the circumstances where:

(i) their voting power in the Company is at least 90%; and

(ii) within 3 calendar months of acquiring the voting power referred to in subparagraph (i);

(A) their relevant interest in the Company's voting shares is 100%; and

(B) they have a relevant interest in all the Company's securities convertible into voting shares; and

(iii) they have the Governor-in-Council's approval, prior to acquiring the interest referred to in subparagraph (i), to:

(A) have the voting power referred to in subparagraphs (i) and (ii); and

(B) acquire the relevant interest referred to in subparagraph (ii); and

(n) ensure that the voting power in the Company of a Grandfathered Shareholder does not exceed their Grandfathered Holding;

(o) ensure that the total number of Shares in any class of non-voting Shares in which any person and their associates (other than an Approved Holder) shall have a relevant interest shall not exceed 5% of the total number of Shares of that class on issue at any time without the prior approval in writing of the Minister;

(p) ensure that the Constitution of the Company shall not be altered or amended without the prior approval in writing of the Minister;

(q) make available for inspection by the Minister or the Minister's nominee duly authorised in writing all information held in respect to the ownership, shareholdings, directors or corporate structure of the Company and all minutes of meetings of Shareholders and directors and other records relating thereto;

(r) make available for inspection by the Minister or the Minister's nominee duly authorised in writing all books, records and documents relating to the financial transactions, bank accounts, source and application of funds, loans and investments of the Company;

(s) ensure that the Minister or the Minister's nominee duly authorised in writing shall be entitled to attend and to speak at any meeting of the Company as though the Minister were a Shareholder in the Company but nothing contained in this clause shall confer on the Minister or the Minister's nominee a right to vote; and

(t) deliver to the Minister a copy of all notices that are forwarded to Shareholders or directors advising of such meetings in the same manner and

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time frame as if the Minister were a Shareholder or a director.

54. Disposal of excess voting Shares.

Notwithstanding clause 53, a person's voting power or shareholding which is in excess of any of the limitations contained in clause 53(l), (m), (n) or (o) shall not constitute a breach of the conditions of this Agreement if the Company shall have acted forthwith to bring about the disposal of the relevant voting Shares or shareholding in accordance with the powers in that behalf contained in the Constitution of the Company upon the Company becoming aware of the person's voting power or shareholding and that the voting power or shareholding exceeds the relevant limitation PROVIDED THAT the parties acknowledge that the Company is unable to refuse to register a transfer of Shares.

55. Interpretation of this Part IV.

For the purposes of this Part IV a reference to:

(a) a person's voting power shall have the same meaning as a reference in section 610 (Voting Power in a body corporate) of the *Corporations Act* to a person's voting power;

(b) a relevant interest in Shares shall have the same meaning as a reference to section 608 (Relevant interests in securities) of the *Corporations Act*; and

(c) an associate shall have the same meaning as a reference in Division 2 of Part 1.2 (Associates) of the *Corporations Act* excluding section 13 (References in chapter 7) and section 14 (References in chapter 8) of the *Corporations Act*.

PART V - CASINO LICENCE AND RELATED MATTERS

56. Casino Licence.

(a) The State granted the Casino Licence to the Company.

(b) If the Lease Period is extended or a further lease of the Site is granted to the Company, the Casino Licence shall continue to remain in force in respect of the Site until it is cancelled or surrendered under this Agreement or the *Control Act*.

57. Provisions of Land Act not to apply to Special Lease.

Notwithstanding the provisions of the *Land Act* and any other legislation of whatsoever nature regarding the determination of rent payable in respect of the Site, the rent to be paid under the Special Lease for the duration of the Special Lease shall be $50 per annum in advance and as otherwise prescribed under the Financial Agreement.

58. Exclusivity.

(a) Subject as hereinafter provided, the State shall not either before or during the periods of exclusivity hereinafter provided for respectively, notwithstanding the provisions of any other Act from time to time in force

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in the State of Queensland authorise, permit or approve in any manner whatsoever and whether pursuant to the *Control Act* or otherwise the conduct or playing in a casino of any of the games listed below or any variation or derivative of such games for a distance of 60 kilometres from the Site and for a period of 10 years from the date upon which the Company opens the Casino for operation and use by members of the public:

blackjack;
roulette;
baccarat;
craps;
two-up;
mini dice;
wheel of fortune; and
sic-bo.

(b) The State shall not, except in a casino licensed pursuant to the *Control Act*, whether before, during or after the period of exclusivity set out in clause 58(a) and notwithstanding the provisions of any other Act from time to time in force in the State of Queensland authorise, permit or approve in any manner whatsoever and whether pursuant to the *Control Act* or otherwise the conduct or playing of the games set out in clause 58(a) or any variation or derivative of such games by the use of any gaming machine.

(c) Nothing in this Agreement shall be construed so as to limit or affect the power of the State to authorise, permit or approve in any manner whatsoever pursuant to any Act for the time being in force in the State the conduct or playing of games by the use of gaming machines other than:

(i) those referred to in clause 58(a); and

(ii) gaming machines that are declared by the Minister by notification published in the Government Gazette to be casino gaming machines as provided for in clause 58(d).

(d) The parties hereto agree that the following provisions shall apply with respect to the declaration and notification of gaming machines as casino gaming machines:

(i) the Minister may at any time in the Minister's discretion or upon receipt of an application by the Company make a declaration and notification in respect of any gaming machine including any gaming machine referred to in clause 58(b) but the non-existence of a notification shall not limit or affect the operation of clause 58(b);

(ii) the Minister shall within 90 days of the receipt thereof or such extended period as the Minister may require consider and determine every application made to the Minister in respect of a gaming machine and, where the Minister refuses the application, the Minister shall notify the applicant in writing of the reasons for the refusal;

(iii) the Minister may in the Minister's absolute discretion refuse to make a declaration and notification in respect of any gaming machine commonly known as a "poker machine" or any variation or

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derivative thereof or any gaming machine of a like class or description;

(iv) where an application is made to the Minister in respect of any gaming machine other than a gaming machine referred to in clause 58(d)(iii), the Minister shall consider the application and determine whether in all the circumstances of the application it is reasonable that it be granted. The Minister shall consider all material submitted to the Minister in writing by the applicant and the State and, in particular the Minister shall consider whether it has been established to the Minister's reasonable satisfaction that the gaming machine is of a class or description that should be reserved for use in a casino licensed pursuant to the *Control Act*;

(v) no such declaration and notification shall be revoked, amended or varied without the prior consent in writing of the Company.

(e) Subject always to the State giving due effect to the foregoing provisions of this clause, nothing in this Agreement shall be construed so as to limit or affect the power of the State to authorise, permit or approve in any manner whatsoever and whether pursuant to the *Charitable and Non-Profit Gaming Act 1999* or any other Act for the time being in force in the State of Queensland:

(i) any art union or lottery that is of a class or description commonly conducted or played in Australia or elsewhere at the date of execution of this Agreement no matter how played; and

(ii) any art union or lottery that is a variation or derivative thereof or that is of a like class or description no matter how played.

59. Casino Tax.

Subject to the provisions of the *Control Act* and clause 66 the amount of the casino tax to be paid by the Company shall be in each month in each year the amount equal to the sum of –

(a) 20% of Casino Gross Revenue for the month in question; and

(b) 10% of Premium Junket Revenue for the month in question.

60. Liquor Act - Special Facility Licence.

(a) The Special Facility Licence was granted in respect of the Brisbane Casino-Hotel Complex and is taken to be a special facility licence for the purposes of the *Liquor Act.*

(b) The Special Facility Licence shall, subject to this Agreement, be administered in accordance with the *Liquor Act*.

(c) Despite section 9 (Ordinary trading hours) of the *Liquor Act* but for the purposes of this Agreement, the ordinary trading hours during which the Special Facility Licence permits the sale or consumption of liquor in the Casino Part are the same hours approved (under section 61 (Hours of operation) of the *Control Act*) for the operation of the Casino Part.

(d) If the Lease Period is extended or a further lease of the Site is granted to the Company, the Special Facility Licence shall continue to remain in force in respect of the Site until it is cancelled or surrendered under this Agreement

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or the *Liquor Act*.

(e) No amount in addition to that paid by the Company pursuant to the Financial Agreement shall be payable by the Company, pursuant to the *Liquor Act* or otherwise, in connection with the grant of the Special Facility Licence.

61. Land Act – Special Lease.

(a) The Special Lease was granted under the *Land Act 1962* and is taken to be a term lease pursuant to section 476 (Existing lease continues) of the *Land Act*.

(b) If the Site is land reserved and set apart for a public purpose, the Development and operation of the Brisbane Casino-Hotel Complex and the Development of the Site is taken to be a purpose declared under the *Land Act* by the Governor-in-Council to be not inconsistent with the reservation or the *Land Act*.

(c) The provisions of the *Land Act* dealing with rental amounts, payments and periods do not apply to the Special Lease.

62. Assignment and Subletting of Special Lease.

(a) (i) The Company shall not assign, sublet or part with the possession of the Site or any part thereof without the prior written consent of the Minister.

(ii) Such consent shall not be unreasonably or arbitrarily withheld or delayed where there is no outstanding breach of any covenant or obligation on the part of the Company under the Special Lease of which the Minister has given a notice to remedy such breach and where a reasonable time has expired after the giving of such notice and in the case of a person of good financial standing and character (the onus of proving such being on the lessee).

(iii) The Minister may require as a condition of the granting of the consent to any assignment or subletting that the proposed assignee or subtenant enter into a covenant with the Minister to be responsible for and to observe the conditions of the Special Lease and give to the Minister a power of attorney similar to that provided under the Special Lease by the Company and further that the Company or proposed assignee or subtenant shall pay all reasonable costs of the Minister properly incidental to the application for the consent.

(iv) Any substantial change in the shareholding and directorships of the Company (other than a company whose shares are quoted by Australian Stock Exchange Limited or any exchange substituted therefore or any foreign exchange dealing with the transfer or sale of shares, stocks or securities) shall be deemed to be an assignment of the Company's interest in the Special Lease. In such event the Company shall apply to the Minister for consent to such assignment and it shall be incumbent on the Company to satisfy the Minister as to the good financial standing and character of the proposed directors and/or shareholders before the Minister shall be obliged to consent to such assignment. For the purposes of this clause a

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substantial change in shareholding means a change of more than 20% of the issued capital or voting rights of the Company and a substantial change in directorships means a change of more than 20% of the number of directors or the voting rights of the board of directors of the Company.

(b) As a precondition to any consent to assignment granted by the Minister under clause 62(a)(i) the Minister may require any proposed assignee or incoming director or shareholder to provide such guarantees in such form as the Minister shall require.

(c) This clause applies notwithstanding Division 3 – subleases of Part 4 – Dealings Affecting Land and Division 1 – Transfers of Part 4 – Dealings Affecting Land of the *Land Act*. These sections of the *Land Act* shall not apply to the Special Lease.

63. Partial Surrender of Special Lease.

No part of the Special Lease may be surrendered by the Company without the approval of the Minister on terms and conditions acceptable to the Minister. In the event of such approval, the State shall accept the partial surrender.

64. Review of Decisions in respect of Brisbane Casino-Hotel Complex, Site and Queens Park.

(a) Decisions made in relation to the Development of the Brisbane Casino-Hotel Complex, Site or Queens Park under –

(i) this Agreement, in the case of Regulated Development, shall –

(A) not be subject to review under the *Review Act* or otherwise; and

(B) only be subject to review in accordance with any review process set out under this Agreement; and

(ii) Development Legislation, in the case of Prescribed Works as contemplated by clause 15(a)(ii), shall –

(A) not be subject to review under the *Review Act* or otherwise; and

(B) only be subject to review in accordance with any review process set out under that Development Legislation which is applicable to the Prescribed Works.

Example for clause 64(a)(i)(B) –

This Agreement provides for an internal review procedure and appeals in respect of Regulated Development in Part II.

This Agreement provides for an internal review procedure in respect of Stop Orders in Part III.

Example for clause 64(a)(ii)(B) –

Decisions made under Development Legislation in respect of Prescribed Works shall be subject to any rights of review that are provided for in that Development Legislation which is applicable to plumbing work and drainage work.

(b) In particular, a decision under Part II or Part III of this Agreement, or another decision, of a Public Sector Entity or Public Official, in relation to the Development of the Brisbane Casino-Hotel Complex, Site or Queens Park —

(i) is final and conclusive; and

(ii) cannot be challenged, appealed against, reviewed, quashed, set-aside, or called into question in any other way, under the *Review Act* or otherwise (whether by the Supreme Court, another court, a tribunal, an authority or a person); and

(iii) is not subject to any writ or order of the Supreme Court, another court, a tribunal, an authority or a person on any ground.

Examples of writs and orders to which the sub-clause applies –

Example 1—

Writs of mandamus, prohibition and certiorari.

Example 2—

Certiorari orders, prohibition orders, prerogative orders, prerogative injunctions, and statutory orders of review, within the meaning of the *Review Act*.

Example 3—

Declaratory and injunctive orders.

(c) Without limiting clause 64(b), the *Review Act* does not apply to the following matters –

(i) conduct engaged in for the purpose of making a decision which has the meaning given by section 8 (Conduct engaged in for making decision – preparatory acts) of the *Review Act*;

(ii) other conduct that relates to the making of a decision;

(iii) the making of a decision or the failure to make a decision which has the meaning given by section 5 (Meaning of "making of a decision" and "failure to make a decision") of the *Review Act*;

(iv) a decision;

under this Agreement, or otherwise, in relation to the Development of the Brisbane Casino-Hotel Complex, Site or Queens Park.

(d) In particular, but without limiting clause 64(c), the Supreme Court does not have jurisdiction to hear and determine applications made to it under Part 3, 4 or 5 of the *Review Act* in relation to matters mentioned in clause 64(c).

(e) The Minister's power under this Agreement to decide whether to accept or reject a recommendation of a Public Official, the Heritage Council or other Public Sector Entity is not affected by clause 64(b).

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PART VI - CASINO OPERATIONS AND REVIEW THEREOF

65. Hours of Operation.

The State agrees that the Company may open and operate the Casino for use by the public on any day in any year save and except those days in any year which the Company is precluded from so opening pursuant to section 61(8) (Hours of Operation) of the *Control Act* for any number of hours on any such day which may be approved by the Minister from time to time,

PROVIDED HOWEVER that the Minister shall not restrict the number of hours in which the Casino is open as aforesaid to less than 18 hours in any one day unless requested by the Company in writing so to do.

66. Operational Review.

The State agrees to review the rates of casino tax, the amount of fees and the rate of the community benefit levy as defined in the *Control Act* payable by the Company and the terms and conditions of the operation of the Casino in any circumstances of whatsoever nature arising which in the opinion of the Minister are likely to have an adverse impact on the viability of the Casino.

PART VII - TERMINATION

67. Grounds for Termination.

This Agreement, save and except the rights and obligations of the parties hereto and any mortgagee pursuant to clause 69, may be terminated by the Minister in any of the following events:

(a) If there is a substantial breach by the Company of its obligations under this Agreement in respect of which the Minister shall have delivered to the Company and to any mortgagee a notice in writing setting forth particulars of the breach or default and which shall not have been remedied or not have taken steps to have remedied to the satisfaction of the Minister within three months from the date of such notice to remedy;

(b) If:

(i) any distress or execution is levied against the Company which is for an amount in excess of $2,000,000.00 and which is not discharged within 20 days from the date upon which the levy is made; or

(ii) subject to the provisions of clause 11, the benefit of this Agreement is in any way whatsoever pledged, encumbered, mortgaged or assigned without the prior written consent of the Minister in

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accordance with the provisions of section 32 (Mortgage and assignment of casino licence) of the *Control Act*,

and the Minister shall have delivered to the Company and to any mortgagee a notice requiring the Company to remedy such circumstance and neither the Company nor the mortgagee shall have remedied or taken steps to remedy such circumstance to the satisfaction of the Minister within a reasonable time (being not less than 10 days) from the date of such notice to remedy;

(c) If any Casino Licence in respect of the Casino is at any time cancelled or surrendered.

68. Termination of Special Lease.

(a) The Special Lease shall be liable to be forfeited if –

(i) the rent or any other money payable by the Company under the Special Lease on a due date is unpaid for a period exceeding 1 month after such due date for payment;

(ii) any money payable by the Company under the Special Lease upon demand is unpaid for a period exceeding 1 month after such demand in writing;

(iii) the Company or other person over whom it has control commits any breach or default in the due and punctual observance and performance of any of the Company's covenants, obligations and provisions under the Special Lease;

(iv) the Company being a company:

(A) an order for the winding up of the Company is made or a resolution for the winding up of the Company is effectively passed (except for the purpose of reconstruction or amalgamation where the Minister has consented thereto in writing and the Company has complied with and caused to be complied with by any other entity resulting from such reconstruction or amalgamation the requirements of such consent, which consent shall not be unreasonably withheld);

(B) goes into liquidation (other than for the purpose of amalgamation or reconstruction) or makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts within the meaning of the *Corporations Act*; or

(C) a receiver or a receiver and manager not being a receiver and manager approved by the Governor-in-Council pursuant to section 32(2)(b) (Mortgage and assignment of casino licence etc.) of the *Control Act* or an official manager is appointed in respect of the assets and undertaking of the Company or any part thereof, or any security holder takes possession of any of the assets and undertaking of the Company or any part thereof;

(v) judgment for an amount in excess of $2,000,000.00 is signed or

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entered against the Company and remains unsatisfied for 1 month or if any execution or other process of court or authority or any distress is sued out against or levied upon the Site and is not paid out or satisfied and withdrawn within 1 month;

(vi) the Company, any mortgagee or other person over whom the Company has control commits any breach or default in the due and punctual observance and performance of any of the Company's covenants, obligations and provisions under any other Special Lease; and either –

(A) if such breach or default is capable of remedy, neither the Company nor any mortgagee has rectified such default or breach prior to the expiration of a reasonable time (not being less than 10 days) after delivery of written notice by the Minister to the Company and any mortgagee detailing such default or breach and requiring such default or breach to be rectified; or

(B) such breach or default is incapable of remedy.

(b) If the Special Lease is liable to be forfeited under clause 68(a), the Minister may refer the matter to the Court for hearing and determination.

(c) The Minister shall give to the Company prior written notice of the Minister's intention to make the reference and shall state in such notice the conditions of the Special Lease that the Minister is satisfied have not been complied with. A copy of the notice given to the Company shall be submitted to the Court with the reference.

(d) If upon the final decision of the matter any such liability to forfeiture is established the Minister may in the Minister's discretion:

(i) recommend to the Governor-in-Council that the Special Lease be forfeited; or

(ii) waive the liability to forfeiture subject to such terms and conditions as the Minister thinks fit to impose upon the Company.

(e) The Governor-in-Council may upon the recommendation of the Minister under clause 68(d)(i) declare the Special Lease forfeited and thereupon and thereby the Special Lease shall be determined and the Company shall be irrevocably divested of its right, title and interest thereunder in and to the land comprised therein.

(f) This clause applies notwithstanding section 234 (When lease may be forfeited), section 238 (Application to the Court for forfeiture), section 239 (Governor-in-Council's options if court decides on forfeiture) and section 241 (Effect of forfeiture) of the *Land Act*. The sections of the *Land Act* shall not apply to the Special Lease.

(g) For the purpose of this clause "Court" means the court defined under the

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Land Act or if there is no such defined term, a court of competent jurisdiction.

69. Appointment of Administrator.

(a) In the event that the Casino Licence is cancelled or suspended for any reason whatsoever, the following provisions shall apply –

(i) The Governor-in-Council shall appoint an Administrator –

(A) in the case of cancellation of the licence as aforesaid within 7 days of the date of such cancellation; or

(B) in the case of suspension of the licence as aforesaid for a period of not less than 3 months, within 7 days of the date of receipt by the Minister of a request from the Company to appoint an Administrator.

(ii) In the event of a receiver and manager having been approved or appointed prior to either clause 69(a)(i)(A) or clause 69(a)(i)(B) becoming effective, the Governor-in-Council shall appoint that person as Administrator for the purposes of this Agreement.

(iii) Notwithstanding the provisions of sections 19 (Agreement to precede grant of casino licence) and 21 (Hotel-casino complex owner or State as licensee) of the *Control Act* or any provision of this Agreement or the Special Lease the Governor-in-Council shall –

(A) within the period of 7 days referred to in clause 69(a)(i) grant a casino licence to the Administrator; and

(B) if the Special Lease issued to the Company in respect of the Brisbane Casino-Hotel Complex is terminated for any reason grant a special lease (substantially in the form of the Special Lease) in respect of the Brisbane Casino-Hotel Complex to the Administrator.

(iv) The Administrator shall pursuant to the casino licence to be granted pursuant to clause 69(a)(iii) manage and operate in accordance with the provisions of the *Control Act* the Casino as the agent of the Company.

(v) The Administrator if such Administrator has been appointed pursuant to clause 69(a)(ii) may at any time and from time to time but always subject to the rights of any mortgagee pursuant to its security and also pursuant to the provisions of section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* during a period of 12 calendar months from the date of the appointment of the Administrator introduce a proposed assignee to whom the provisions of section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* shall apply as if such assignee was proposed by a mortgagee wishing to enforce its security.

(vi) Should the proposed assignee be acceptable to the Governor-in-Council in the terms of clause 69(a)(v) the Governor-in-Council shall terminate the appointment of the Administrator and assign to the proposed assignee in accordance with the procedure set out in section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* the casino licence issued to the Administrator and the

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Minister shall approve an assignment of the special lease to the assignee of the casino licence in accordance with clause 62 of this Agreement.

(vii) In the event that the Administrator is unable to introduce an acceptable assignee as hereinbefore provided in clause 69(a)(v) the Administrator shall while continuing to operate the Casino as hereinbefore in this clause provided but always subject to any rights of any mortgagee pursuant to its security and also the mortgagee's rights pursuant to the provisions of section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act* dispose of the Brisbane Casino-Hotel Complex and arrange for the assignment of the casino licence at the highest attainable price to the assignee who is approved by the Governor-in-Council as if that assignee had been nominated by a mortgagee seeking to enforce its security in accordance with section 32 (Mortgage and assignment of casino licence etc.) of the *Control Act.*

(viii) The casino licence and special lease granted to an Administrator shall not be cancelled or suspended prior to its assignment as referred to in clause 69(a)(vi) but the Governor-in-Council may from time to time within the Governor-in-Council's discretion remove an Administrator and appoint another Administrator in that person's place and shall remove an Administrator who is not a receiver or manager approved pursuant to section 32(2)(b) (Mortgage and assignment of casino licence etc.) of the *Control Act* and replace that person with an Administrator who becomes so approved.

(ix) If the term of any suspension mentioned in clause 69(a)(i) is reduced after a request for the appointment of an Administrator has been made, the Governor-in-Council shall terminate the appointment of any Administrator the Governor-in-Council has appointed following a request that the appointment be so terminated, and

(A) if the Company's Casino Licence has been cancelled, the Governor-in-Council shall assign to the Company the casino licence granted to the Administrator; or

(B) if the Company's Casino Licence has not been cancelled, the Governor-in-Council shall cancel the casino licence granted to the Administrator.

(x) An Administrator may be appointed on such terms which are not inconsistent with this clause as the Governor-in-Council considers desirable in the circumstances of the appointment.

(xi) The term of any special lease granted pursuant to clause 69(a)(iii) shall expire on the last day of the Lease Period.

(b) The parties hereto acknowledge confirm and agree that any termination of this Agreement pursuant to the provisions of clause 67 shall not in any manner whatsoever terminate or reduce the effect of clause 69(a) and the rights and obligations of the parties and any mortgagee therein referred to shall maintain continue and be of full force and effect as if this Agreement

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had not been terminated.

70. Impact of Termination on the Development of the Brisbane Casino-Hotel Complex or the Site.

In the event that this Agreement is terminated for any reason whatsoever the provisions of clause 14 shall apply to Development in respect of the Brisbane Casino-Hotel Complex and the Site which at the date of termination has been carried out or approved in accordance with this Agreement.

71. Impact of Termination on Special Facility Licence.

The State acknowledges and agrees that the Special Facility Licence granted pursuant to the *Liquor Act* shall, notwithstanding any termination of this Agreement by whatsoever means or any cancellation or suspension of the Casino Licence by whatsoever means not be cancelled or suspended but rather shall remain in full force and effect so far as it relates to all areas of the Brisbane Casino-Hotel Complex other than the Casino until it shall be cancelled or suspended pursuant to the provision of the *Liquor Act*.

PART VIII - GENERAL

72. Approvals and Notices.

(a) All approvals notices and other writing required or appropriate to be given under the provisions of this Agreement shall be deemed to be properly served if delivered in writing personally or sent by post or by facsimile transmission to:

(i) the Minister at the Minister's principal office in Brisbane;

(ii) the Company at its registered office; and

(iii) such other persons or addresses as each party shall from time to time designate in writing to the other and any such notice or other writing sent by post or by facsimile transmission shall unless the contrary be proved be deemed to have been so given when it would have been delivered in the ordinary course of post.

(b) Although copies of such approvals, notices and other documents required to be given under the provisions of this Agreement to a nominated representative may also be forwarded to such other person specifically designated in writing by that nominated representative such additional copies do not substitute for the primary service.

(c) If, before 4.00 p.m. local time in the place of delivery, a party delivers a notice:

(i) by hand; or

(ii) by facsimile and the sending party completes the transmission;

the notice will be taken as given on the day of delivery or transmission, and in any other case, on the next day.

(d) If a party gives the notice by post the notice will be taken as given on the

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second business day in the place of delivery after the notice is posted unless it can be established that the notice was not received until a subsequent date, in which case that later date will be the date notice was given.

(e) If a party gives notice by facsimile transmission and the transmission is not fully intelligible, or if the sending party, at the time of transmission, has reason to believe that the facsimile transmission is not fully intelligible, the party may not rely upon this clause to prove the giving of the notice.

(f) The receiving party shall not object to a facsimile transmission as not being fully intelligible unless the receiving party requests re-transmissions within 2 hours.

(g) If a facsimile transmission is completed within 2 hours of 5.00 p.m. on a day and is unintelligible, the receiving party has until 10.00 a.m. on the next business day to request the re-transmissions.

(h) The party giving the notice or its agent shall sign the notice. The appearance of the name of the person signing at the end of a facsimile transmission is sufficient evidence of signing.

(i) The addresses, and facsimile number of the parties for the purposes of this clause are to be advised in writing.

(j) The parties may give notice of another address or facsimile number (within Australia) to the other party and the new address shall be the address for service of the party for the purpose of this clause.

73. Waiver.

No omission by any party to require the performance by another or the others of any of the terms or conditions of this Agreement nor any forbearance or indulgence granted or shown by any party to another or others shall release discharge or in any manner affect or prejudice the right of a party at any time to require strict and full performance by another or others of any or all of the terms or conditions to be observed or performed hereunder.

74. Governing Law.

The law of this Agreement shall be the law of the State of Queensland.

75. Delegations.

(a) The Minister may delegate in writing the Minister's powers, rights or obligations pursuant to this Agreement, or any of them, to the Chief Executive (Gaming Regulation) or the Executive Director of the Queensland Office of Gaming Regulation.

(b) The Chief Executive (Gaming Regulation) may delegate in writing the Chief Executive's (Gaming Regulation) powers, rights or obligations pursuant to this Agreement to an officer of the public service within that unit of the public sector for which the Chief Executive (Gaming Regulation) is responsible.

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76. Extensions of Time.

In any case in which the Company is obliged to perform or do an act or thing by or within a time specified in this Agreement the Minister may at any time and from time to time in the Minister's absolute discretion extend the time specified for performing or doing that act or thing.

IN WITNESS WHEREOF the parties have executed this Agreement the day and year hereinbefore written.

SIGNED by

the Treasurer •
of the State of Queensland
for and on behalf of
the State of Queensland

in the presence of: •

A Justice of the Peace

THE COMMON SEAL of
Jupiters Limited was
hereunto affixed by authority
of the Board of Directors
in the presence of
a Director •

and

the Secretary •

in the presence of: •

A Justice of the Peace

SCHEDULE I – BRIEF TO APPLICANTS

- **DOCUMENT GROUP 1**
  - Brief to Applicants
    Part A. General Requirements
  - Brief to Applicants
    Part B. Specific Requirements
    Treasury Building

- **DOCUMENT GROUP 2**
  Casino Control Material
  - Casino Control Regulations 1984
  - Casino Control Act 1982
  - Jupiters Casino Agreement Act 1983
  - Breakwater Island Agreement Act 1984
  - Rules of Casino Games
  - Machine Gaming Legislation

- **DOCUMENT GROUP 3**
  Addenda Issued
  - No. 1 issued on 04.06.91
  - No. 2 issued on 03.07.91
  - No. 3 issued on 09.08.91
  - No. 4 issued on 02.09.91
  - No. 5 issued on 19.09.91

- **DOCUMENT GROUP 4**
  Reports, drawings and other material issued as appendices to the above documents and specifically identified within them.

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SCHEDULE II - WORKS & FEES

A. Works to be performed by Jupiters Limited

1. Cap and divert services and construct new gravity sewer to North Quay/Adelaide Street $400,000

2. Take up and deliver to nominated store, brick pavers to front of Treasury in Queen Street Mall plus other items of BCC furniture within precinct (inclusive of $17,000 bond). $28,000

B. Works to be done by Brisbane City Council

1. Cap and/or divert and reinstate water main

2. Hoarding permit

3. Remove existing street trees

4. Remove parking meters to George, Elizabeth and William Streets

5. Amend/relocate existing traffic signals

6. Remove existing street lights and replace

7. Loading zone fees

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