

Community Joint Use Agreement

The Minister for Education

The Wonthaggi Secondary College Council

The Bass Coast Shire Council

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PARTIES

The Minister for Education of 2 Treasury Place, East Melbourne, Victoria, 3002 for and on behalf of the State of Victoria and the Department of Education and Training (**Minister**)

The School Council of Wonthaggi Secondary College Council of 75 McBride Avenue, Wonthaggi, Victoria, 3995 (**School Council**)

The Bass Coast Shire Council of 76 McBride Avenue, Wonthaggi, Victoria, 3995 (**Community Partner**)

OVERVIEW

- A. The School Council and the Community Partner wish to enter into an agreement for the construction or refurbishment and sharing of new or refurbished facilities at the School.
- B. The Community Partner is a local government authority or a not for profit entity.
- C. The Facility forms part of the construction of the Wonthaggi Secondary College senior campus which is being developed by the Department (on behalf of the Minister) (the **Project**). The Department is responsible for the Project and for entering into a building contract for the Project, including the construction of the Facility.
- D. The Project is estimated to cost \$32,500,000 (based on Cost Plan C) and the Community Partner has agreed to contribute towards the development of the Project as set out in this Agreement.
- E. The completed Facility will be located at the School, on land owned by or managed by the Minister.
- F. The parties agree to carry out the Works to construct the Project and fund them as set out in this Agreement.
- G. When the Works are complete, the School Council and the Minister agree to grant a licence to the Community Partner to use the Facility in accordance with the terms and conditions of this Agreement.

CLAUSES

SECTION A: DEFINITIONS AND INTERPRETATION

1 DEFINITIONS

In this Agreement, unless inconsistent with the context or subject matter:

Act means the *Education and Training Reform Act 2006* (Vic) as amended.

Adjustment Event has the meaning given to it in the GST Legislation.

Agreement means this Community Joint Use Agreement including any annexures and schedules.

Applicable Entity has the meaning given to it under section 3 of the *Child Wellbeing and Safety Act 2005* (Vic).

Building Contract means the contract between the Constructing Party and the Contractor to carry out the Works, being a construct only contract in the form of Australian Standard General Conditions of Contract AS2124-1992 as amended in accordance with Ministerial Directions issued under the *Project Development and Construction Management Act 1994* (Vic).

Capital Works means works that are:

- (a) structural in nature; or
- (b) constitute a non-recurrent upgrade of the Facility; or
- (c) are replacement works which improve the Facility, excluding the Works.

Capital Expenditure means expenditure on Capital Works.

Car Park means the area shown in blue on Plan C.

Certificate of Practical Completion has the meaning given to that term under the Building Contract.

Child-connected work has the meaning given to it in section 4 of the Ministerial Order.

Child Safety Laws means any Laws that in any way relate to child safety, including the *Child Safety and Wellbeing Act 2005* (Vic).

Community Hiring Party means the party responsible for hiring out the Facility (or a part of it) for community use outside School Hours, or any other times that the School Council is entitled to use the Facility as set out in **Part E4** of the Schedule.

Community Partner Area means the area shown in pink on Plan B.

Community Partner's Hours means the times that the Community Partner is entitled to use the Facility, as set out in **Part E2** of the Schedule.

Constructing Party means the party responsible for entering into the Building Contract with the Contractor and for managing the construction phase, as set out in **Part B1** of the Schedule.

Construction Contributions means the financial contributions of the Minister, the School Council and the Community Partner towards the Construction Costs, as set out in **Part B2** of the Schedule.

Construction Costs means the estimated costs of the Works, and other costs relating to the Project, including any consultancy fees, project management fees; and costs for minor works and early works, as at the Date of the Agreement, as set out in **Part B3** of the Schedule.

Contractor means the contractor appointed under the Building Contract to carry out the Works.

Contamination means any solid, a liquid, a gas, an odour or any temperature, sound, vibration, radiation or hazardous material or thing which makes or may make the Land, the Facility, the School or the neighbouring premises:

- (a) polluted as defined in the *Environment Protection Act 1970* (Vic);
- (b) unfit or unsafe for habitation or occupation by humans or animals;
- (c) degraded in any way; or
- (d) non-compliant with any environmental Laws in force from time to time in the State of Victoria.

Date of Operation is the date on which operation or use of the Facility commences, as set out in **Part C1** of the Schedule.

Date of Practical Completion means the date on which the Superintendent certifies that Practical Completion of the Works has been achieved.

Date of the Agreement is the date on which the Minister signs this Agreement.

Department means the Department of Education and Training of the State of Victoria.

Facility means the Facility described in **Part A2** of the Schedule and the whole area shown on Plan B, including the Stadium, the School Council Area, the Community Partner Area and the Car Park.

Facility Operating Hours means the hours when the Facility is entitled to operate, as set out in **Part E3** of the Schedule.

Final Certificate has the meaning given to that term under the Building Contract.

Further Term is the period up to which the Licence may be extended, from the expiry of the Initial Term, as set out in **Part D2** of the Schedule.

GST means the tax payable on taxable supplies under GST Legislation.

GST Legislation means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any related Act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax.

Hirer means the person or entity hiring out the Facility (or a part of it) in accordance with clause 59 and its agents, servants, employees, contractors, invitees and anyone else for whom that person or entity is responsible.

Initial Term means the first term of the Licence, as set out in **Part D1** of the Schedule.

Input Tax Credit has the meaning given to that term in the GST Legislation.

Insolvent has the meaning given to that term under the *Corporations Act 2001* (Cth).

Land means the land on which the School is situated, as outlined in red on Plan A.

Law means:

- (a) any legislation and includes any subordinate legislation, ordinances, by-laws, regulations, rules, other statutory instruments issued and orders made under that legislation, whether Commonwealth, State or local;
- (b) common law; and
- (c) equity.

Licence is the non-exclusive licence to use the Facility granted to the Community Partner under clause 51.1 of this Agreement.

Licence Fee means the fee payable by the Community Partner under this Agreement for the use of the Facility, as set out in **Part D3** of the Schedule.

Licence Term means the period from the Date of Operation up to:

- (a) the expiry of the Initial Term, if the Licence is not renewed; or
- (b) the expiry of the Further Term or such lesser period as may be agreed by the parties, if the Licence is renewed; or
- (c) if this Agreement is terminated prior to the end of the Initial Term or the Further Term (as the case may be), the period up to and including the date of such termination.

Manager means the manager of the Facility from time to time appointed in accordance with clause 58.

Minister means the Minister responsible for the administration of the relevant provisions of the Act.

Ministerial Order means Ministerial Order 870 entitled "Child Safe Standards – Managing the risk of child abuse in schools" (as amended from time to time).

Permitted Use means the purposes for which the Facility can be used, as set out in **Part E5** of the Schedule or as amended and agreed to by the School Council from time to time and notified in writing to the Community Partner, provided always that all use must be in accordance with the Act.

Personnel means a party and its agents, servants, employees, contractors, invitees and anyone else for whom that party is responsible, and does not include a Hirer.

Plan A means the plan of the Land annexed to this Agreement.

Plan B means the plan of the Facility annexed to this Agreement.

Plan C means the plan of the Car Park annexed to this Agreement.

Practical Completion has the meaning given to that term under the Building Contract.

Principal means the principal of the School or any other person acting from time to time as and with the authority of the principal of the School.

Proper Person means a person who is a proper person to be acting in that person's designated capacity in relation to a Facility within a Government School and occupied by school students.

Resolution Institute means the Victorian Chapter of the Resolution Institute or any appropriate successor organisation to the Victorian Chapter of the Resolution Institute.

School means the School specified in **Part A1** of the Schedule.

School Council Area means the area shown in yellow on Plan B.

School Council Child Safety Policies means any relevant School Council policies, codes, guidelines or associated documents that in any way relate to child safety, including any policies, codes, guidelines or associated documents that the School produces for the purpose of meeting its minimum child safety standards pursuant to section 5 of the Ministerial Order.

School Day means a day on which the School is open.

School Hours means, in respect of a School Day, the times set out in **Part E1** of the Schedule.

School Staff has the meaning given to it in section 4 of the Ministerial Order.

Server Room means the area within the Community Partner Area shown in pink and hatched in black on Plan B.

Specifications means the plans and specifications relating to the Works contained in or referred to in the Building Contract.

Stadium means the area shown in green on Plan B.

Statutory Charges means any amount charged against the Facility by any Government Agency.

Superintendent means the superintendent appointed under the Building Contract.

Tax means any present or future tax, levy, impost, deduction, charge, duty, compulsory loan or withholding (together with any related interest, penalty, fine or expense in connection with any of them) levied or imposed by any Government Agency, other than any imposed on net overall income.

Taxable Supply has the meaning given to that term in the GST Legislation.

Works means the construction and/or refurbishment works as described in the Specifications for the Project to be carried out under the Building Contract.

Variation has the meaning given to that term in the Building Contract.

2 INTERPRETATION

2.1 In this Agreement, unless inconsistent with the context or subject matter:

- (a) a reference to any legislation or legislative provision:
 - (i) includes any statutory modification or re-enactment of, or legislative provision substituted for that legislation or legislative provision; and
 - (ii) includes any subordinate legislation, ordinances, by laws, regulations, rules, other statutory instruments issued and orders made under that legislation or legislative provision;
- (b) any marginal notes or headings are included for convenience and do not affect the interpretation of this Agreement;
- (c) a reference to any party to this Agreement or any other document or arrangement includes that party's executors, administrators,

substitutes, successors and permitted assigns;

- (d) the singular includes the plural and vice versa;
- (e) if any day specified by this Agreement falls on a Saturday, Sunday or a day appointed under the *Public Holidays Act 1993 (Vic)* as a holiday for the whole day, that day will be the next day following the specified day which is not a Saturday, Sunday or day appointed under the *Public Holidays Act 1993 (Vic)*;
- (f) a reference to this Agreement includes all documents attached to it;
- (g) a reference to this Agreement or to any deed, agreement, document or instrument includes a reference to such documents as amended, novated, supplemented, varied, altered or replaced from time to time;
- (h) a reference to a group of persons is a reference to all of them collectively and to each of them individually;
- (i) a reference to **dollars** or **\$** is reference to Australian currency; and
- (j) the word **include** in any form is not a word of limitation.

SECTION B: OBJECTIVES

3 OBJECTIVES OF THE PARTIES

- 3.1 The parties acknowledge and agree that their objectives in entering into this Agreement are:
 - (a) to provide for the construction and operation of the Facility for the benefit of the School and the local community;
 - (b) to create a framework for the effective and mutually beneficial long term operation and use of the Facility by each party;
 - (c) to ensure the Facility is constructed and operated safely, and in accordance with the Act and all other relevant Laws; and
 - (d) to achieve these joint objectives through a culture of mutual respect, cooperation and good faith.
- 3.2 The parties must exercise all of their obligations under this Agreement in furtherance of these objectives.

SECTION C: GENERAL**4 APPROVALS TO ENTER INTO THE AGREEMENT**

- 4.1 The Minister approves the School Council entering into this Agreement and the construction of the Facility on the Land, pursuant to the Act.
- 4.2 If the Community Partner is a local government authority, the Community Partner confirms that it has obtained, at its own cost, all necessary approvals and consents required under the *Local Government Act 1989 (Vic)* to enable it to enter into this Agreement and to comply with its obligations under this Agreement.
- 4.3 If the Community Partner is not a local government authority, the Community Partner confirms that it has the power under, and has obtained all necessary consents and authorisations required by, its constitution or equivalent document to enable it to enter into this Agreement and to comply with its obligations under this Agreement.

5 ACKNOWLEDGEMENT BY THE COMMUNITY PARTNER

- 5.1 The Community Partner acknowledges that:
- (a) it understands all risks, difficulties, contingencies and other matters relating to its use of the Facility under this Agreement; and
 - (b) in circumstances where the Works involve the extension or refurbishment of an existing facility located on land owned or managed by the Minister, it has examined that existing facility.

6 NO GRANT OF PROPRIETARY RIGHTS IN THE LAND

- 6.1 The rights conferred by this Agreement rest in contract only and do not grant to the School Council, the Community Partner or any other person any proprietary interest in the Facility or in the Land.

7 ACTING ON BEHALF OF THE MINISTER

- 7.1 Any act, deed, document or thing to be made, done, executed or performed (excluding the execution of this Agreement) and right, duty or power (including the right to issue a notice or give any consent) of the Minister, to be exercised under this Agreement, may be made done on behalf of the Minister by any employee of the Department authorised to do so by the Minister.

8 NOVATION, ASSIGNMENT OR TRANSFER

- 8.1 The Community Partner must not novate, assign or transfer any or all of its rights or obligations under this Agreement without the written consent of the Minister. Such consent must not be unreasonably withheld and may be subject to the Minister's reasonable conditions.
- 8.2 The Minister and School Council may in good faith novate, assign or transfer their respective rights or obligations under this Agreement at any time during the Licence Term. The Minister or the School Council, as the case may be, must give written notice to the Community Partner of such novation, assignment or transfer.

9 DISSOLUTION OF THE SCHOOL COUNCIL

- 9.1 The parties acknowledge and agree that any Law which dissolves the School Council will be deemed to have simultaneously effected a transfer to the Minister of the whole of the School Council's right, title, interest and obligations under this Agreement except where a new School Council is to be substituted, in which case the deemed transfer is to the new School Council.

10 CHANGE OF SCHOOL COUNCIL NAME

- 10.1 If the School Council changes its name, no transfer of its rights, title, interest and obligations occurs but the School Council must provide the Community Partner written notice of the change.

11 LEGAL COSTS

- 11.1 The parties agree that the Minister's legal costs in relation to preparation of this Agreement shall be funded as agreed between the School Council and the Community Partner as set out in **Part B4** of the Schedule.

12 NOTICES**Method of giving Notices**

- 12.1 Any notice given under this Agreement must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:
- (a) hand delivered; or
 - (b) sent by prepaid and registered mail;
- to the address set out in **Part G** of the Schedule, or, if a party gives notice of a change of address, to that changed address.

Time for Receipt

12.2 A notice delivered pursuant to this Agreement shall be deemed to have been received by the addressee:

- (a) in the case of delivery by hand, on the day of delivery; or
- (b) in the case of a posted letter, on the sixth (eleventh, if posted to or from a place outside Australia) day after posting;

unless the delivery is made on a non-business day, or after 4.00pm on a business day, in which case the communication will be deemed to be received on the next business day after that.

13 GOVERNING LAW

13.1 This Agreement is governed by the law of the State of Victoria. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

14 VARIATION OF THIS AGREEMENT

14.1 No addition to or variation of this Agreement is binding unless in writing signed by or on behalf of all parties.

15 WAIVER

15.1 A waiver or indulgence of a breach of any term or condition of this Agreement is only binding if given by written notice. A waiver of one breach of any term or condition of this Agreement operates neither as a continuing waiver, unless so expressed, nor as a waiver of another breach of the same or of any other term or condition of this Agreement.

16 CONFIDENTIALITY

16.1 Except as expressly provided in clause 16.3 below, the parties must treat as confidential the terms and conditions of this Agreement and all other information which comes into their possession as a result of or in the performance of this Agreement.

16.2 The School Council and the Community Partner:

- (a) must not without the permission of the Minister disclose such confidential information to an outside party; and
- (b) must not without the permission of the Minister disclose any details of the terms and conditions of this Agreement to an outside party.

16.3 The exceptions to the parties' obligations in clause 16.1 are where:

- (a) the disclosure is required in order for the relevant party to perform its obligations under this Agreement;
- (b) the disclosure is required by Law or government policy, portfolio responsibilities or constitutional duty for the purposes of informing the relevant Minister, the Crown, the Victorian Auditor-General or Parliament;
- (c) the information is already in the public domain (unless it is in the public domain because of a breach of confidence); or
- (d) the disclosure is otherwise consented to by all the parties.

17 CONFLICT OF INTEREST

17.1 The Community Partner warrants that, to the best of its knowledge and belief after due inquiry as at the date that the Community Partner signs the Agreement, it has no duties or interests that create or might reasonably be anticipated to create a conflict with its duties and obligations under this Agreement.

17.2 The Community Partner must notify the School Council and Minister in writing if at any time after the date that the Community Partner signs the Agreement it becomes aware of any actual or potential conflict of interest and must comply with any reasonable direction of the Minister to manage any risk in connection with such conflict.

18 ENTIRE AGREEMENT

18.1 This Agreement contains the entire agreement between the parties and supersedes any other communications or representations or earlier written or verbal agreements made in connection with the subject matter of this Agreement.

19 COUNTERPARTS

19.1 This Agreement may be executed in counterparts. If this document is executed in counterparts, each counterpart is an original and all of the counterparts together constitute the same document.

20 GST

20.1 Where a party to this Agreement (the Supplier) makes a Taxable Supply under or in connection with this Agreement or in connection with any matter or thing occurring under this Agreement to another party to this Agreement (the Recipient) and the consideration otherwise payable for the Taxable Supply does not include GST, the Supplier shall be entitled, in addition to any other

consideration recoverable in respect of the Taxable Supply, to recover from the Recipient the amount of any GST on the Taxable Supply.

- 20.2 If the amount paid by the Recipient to the Supplier in respect of GST differs from the GST on the Taxable Supply (taking into account any Adjustment Events that occur in relation to the Taxable Supply), an adjustment will be made. If the amount paid by the Recipient exceeds the GST on the Taxable Supply, the Supplier must refund the excess to the Recipient. If the amount paid by the Recipient is less than the GST on the Taxable Supply, the Recipient must pay the deficiency to the Supplier.
- 20.3 Where a party to this Agreement is entitled, under or in connection with this Agreement or in connection with any matter or thing occurring under this Agreement, to recover all or a proportion of its costs or is entitled to be compensated for all or a proportion of its costs, the amount of the recovery or compensation shall be reduced by the amount of (or the same proportion of the amount of) any Input Tax Credits available in respect of those costs.
- 20.4 A party is not obliged to pay any amount in respect of GST to the other party unless and until a valid tax invoice (being an invoice that complies with the GST Legislation) has been issued in respect of that GST.

SECTION D: OVERARCHING REQUIREMENTS

21 MUTUAL OBLIGATION TO FACILITATE COMPLIANCE WITH THIS AGREEMENT AND THE LAW

- 21.1 Each party must do all things reasonably necessary to assist any other party to discharge any obligations that party may have under this Agreement and any relevant Law.

22 COMMUNITY PARTNER'S GENERAL OBLIGATIONS AND PROHIBITIONS IN RESPECT OF THE LAND AND THE FACILITY

- 22.1 The Community Partner must:
- (a) perform all its activities under this Agreement safely so as to protect persons and property;
 - (b) use the Land and the Facility in an appropriate manner;
 - (c) keep the Facility, and the Land tidy and free from rubbish caused by the Community Partner or its Personnel, to the satisfaction of the Principal;

- (d) at its own cost, comply with all relevant Laws in relation to the Community Partner's rights and obligations under this Agreement;
- (e) comply with all relevant Department policies or guidelines, as notified by the School Council in writing to the Community Partner;
- (f) at its cost, comply with any direction given by the Principal in relation to the Community Partner's rights and obligations under this Agreement, if the Principal in his or her absolute discretion considers there is a risk to people or damage to property;
- (g) obey all reasonable rules from time to time made by the School Council with regard to the management of the School and the Facility;
- (h) enter or leave the Facility only by the route and park its motor vehicles in the area nominated by the School Council, unless this Agreement outlines specific arrangements or the School Council has provided its prior written agreement to alternative arrangements;
- (i) observe fire precautions;
- (j) if applicable, ensure that all external doors and windows at the Facility are secured and locked after the Community Partner's use or access of the Facility; and
- (k) at all times exercise due care, skill and judgement and act in good faith.

22.2 The Community Partner must not:

- (a) use or permit the Facility to be used other than for a Permitted Use;
- (b) alter the Facility without the written approval of the School Council, such approval not to be unreasonably withheld, and subject to the Community Partner being responsible for the cost of the alteration unless otherwise agreed between the parties;
- (c) allow the use of advertising at the Facility or the School without the written approval of the School Council;
- (d) cause or permit any Contamination;
- (e) cause or permit any disturbance or nuisance to people at or entering the Facility or the School or to the owners or occupiers of neighbouring premises, including the School Council, and any person using the grounds of the School, except to the extent reasonably necessary to carry out the Community

Partner's obligations under this Agreement;
and

- (f) cause or permit any damage, injury or danger to people at or entering the Facility or the School or to the owners or occupiers of neighbouring premises, including the School Council, and any person using the grounds of the School.

22.3 To the extent applicable, the Community Partner must ensure that its Personnel comply with the obligations and prohibitions contained in this clause.

22.4 Nothing in this clause 22 shall oblige the Community Partner to carry out Capital Works or otherwise incur Capital Expenditure, unless necessary as a consequence of the Community Partner's use of the Facility or as provided for by clause 61 of this Agreement.

23 OCCUPATIONAL HEALTH & SAFETY

23.1 The Community Partner must:

- (a) establish and maintain systems to assess, manage and eliminate risks and hazards at the Facility and the Land, in connection with its rights and obligations under this Agreement, to the standard required by occupational health and safety law; and
- (b) provide appropriate training and supervision for all persons employed or engaged by it in connection with its rights and obligations under this Agreement.

23.2 The Community Partner must ensure that its Personnel comply with the systems and training referred to above.

23.3 The Community Partner must notify the School Council immediately if it breaches any of its obligations under this Agreement with respect to occupational health and safety and provide the School Council with a copy of all relevant information on request.

23.4 The Community Partner must notify the School Council immediately if any notice is issued under occupational health and safety law and provide the School Council with a copy of any documents or other relevant information on request.

24 AUDIT

24.1 The Minister may, at any time, conduct an audit and inspection in respect of all matters relating to the construction, operation, use and maintenance of the Facility including:

- (a) the performance by the parties of their obligations under this Agreement, including their financial obligations;
- (b) all payments made in accordance with the terms of this Agreement;
- (c) the current financial position of the Facility including any provision for future maintenance or Capital Expenditure; and
- (d) matters concerning safety or work health and safety; and
- (e) any incidents occurring at the Facility, including those resulting in injury or death.

24.2 The Minister may appoint a third party to conduct this audit.

24.3 The Minister must give the School Council and the Community Partner reasonable written notice of any proposed audit.

24.4 The Community Partner must provide all reasonably requested information to the Department, the Minister, the School Council or the appointed auditor if requested to do so.

25 PERMISSIBLE DEALINGS WITH THE LAND

25.1 Without derogating from clause 35, at any time during the Licence Term the Minister may subdivide, sell or otherwise dispose of or deal with the whole or any part of the Land, where this does not affect the Community Partner's use of the Facility and the Land pursuant to this Agreement and the Minister does not propose to terminate the Agreement under clause 35.

26 RIGHT OF SCHOOL COUNCIL AND MINISTER TO UNDERTAKE WORKS AT THE FACILITY

26.1 The School Council and the Minister reserve the right to undertake any works and take any other steps which are necessary to comply with any Law or to ensure the safe and proper use of the Facility and the Land.

26.2 The School Council and the Minister must exercise their rights under clause 26.1 at a reasonable time and in a way which seeks, so far as is reasonable practicable, to minimise any interference with the Community Partner's use of the Facility. The School Council or the Minister must give the Community Partner reasonable notice if the School Council or the Minister intends to enter the Facility during the Community Partner's Hours or any other times the Community Partner is entitled to use the Facility. If there is an emergency, the School Council or Minister or any person authorised by the

School Council or the Minister may enter the Facility at any time without notice.

27 DAMAGE TO THE FACILITY CAUSED BY NEGLIGENCE, GROSS NEGLIGENCE OR WILFUL MISCONDUCT

- 27.1 Each party is responsible for damage to the Facility to the extent caused or contributed to by the negligent, unlawful act or omission, gross negligence or wilful misconduct of that party or its Personnel.
- 27.2 Subject to clause 27.3, the responsible party must reimburse the other parties for any costs reasonably incurred by those parties in respect of such damage within 28 days of receiving a written notice from the other parties specifying the damage and the costs.
- 27.3 Where the party responsible for the damage is responsible for carrying out maintenance and repair works to the part of the Facility which is damaged, that party must rectify the damage at its own expense without any contribution from the other parties, regardless of any other provision of this Agreement.

28 DAMAGE TO THE FACILITY NOT COVERED BY INSURANCE

- 28.1 If any part of the Facility or any plant, equipment or property located in the Facility suffers damage which arises from an event or risk that is not covered by any of the insurances required to be obtained by the parties under this Agreement, or under any other applicable insurance (including insurance obtained by a Hirer), and clause 28.2 does not apply, then the party responsible for carrying out maintenance and repair works in respect of the part of the Facility which is damaged must rectify the damage in the first instance with the other party (excluding the Minister) to reimburse 50% of this cost within 30 days of receipt of written notice specifying the damage and the cost incurred. If the cost of rectification is likely to exceed \$5,000 (excluding GST) then the party responsible for rectifying the damage in the first instance must obtain the prior approval of the other party (excluding the Minister, unless the cost of rectification is greater than \$50,000) before carrying out the rectification works.
- 28.2 Clause 28.1 does not apply if the amount is not recoverable under a policy of insurance because:
- (a) The School Council or the Community Partner has failed to meet a condition, requirement or warranty forming part of the policy. In such a

situation, the defaulting party is responsible for the cost of rectifying the damage.

- (b) The Community Hiring Party has failed to ensure that a Hirer obtains the insurance required by clause 59.6(d) of this Agreement. In such a situation, the Community Hiring Party is responsible for the cost of rectifying the damage.

28.3 If the amount is not recoverable under a policy of insurance because a Hirer has failed to meet a condition, requirement or warranty forming part of the policy, then the School Council and the Community Partner will be equally responsible for the cost of fixing the damage if this cannot be recovered from the Hirer. Pending any recovery from the Hirer, the party responsible for carrying out maintenance and repair works in respect of the part of the Facility which is damaged must rectify the damage in the first instance and the other party (excluding the Minister) must reimburse 50% of this cost within 30 days of receipt of written notice specifying the damage and the costs incurred.

28.4 If a party disputes a notice setting out the cost of and responsibility for the damage issued in accordance with any provision of this clause 28, it may within 14 days of receipt of the notice refer the matter for dispute resolution in accordance with this Agreement. Pending resolution of the dispute, that party must pay the amount stated in the notice to the party that issued the notice.

29 INDEMNITY

- 29.1 This clause applies if the Community Partner is not a local government authority.
- 29.2 The Community Partner indemnifies the School Council, the Minister and the State of Victoria against all of their liability, loss, damages, costs (including, without limitation, all legal costs), claims, proceedings and demands (**Loss**) which they suffer or incur in connection with:
- (a) any loss of or damage to any property (real or personal) of the School Council, or its Personnel, the State of Victoria and any staff or students of the School as a result of any action or omission of the Community Partner or its Personnel;
- (b) personal injury to or the death of any person as a result of any action or omission of the Community Partner or its Personnel; and
- (c) any breach of this Agreement by the Community Partner or its Personnel.
- 29.3 The liability of the Community Partner under clause 29.2 is reduced to the extent that negligence of the

School Council or its Personnel contributed to the Loss.

- 29.4 Any indemnities given by the Community Partner in this Agreement are continuing obligations, separate and independent from the other obligations of the Community Partner, and survive termination of this Agreement.

SECTION E: PEOPLE

30 ONLY PROPER PERSONS ARE PERMITTED

- 30.1 The Community Partner may only employ or engage Proper Persons in connection with the use, operation and maintenance of the Facility.
- 30.2 If the Principal, acting reasonably, forms the opinion that a person employed or engaged by the Community Partner is not a Proper Person, the Principal may require the Community Partner to remove such person from the Facility and, if appropriate, to replace him or her with someone of appropriate competence and/or experience who is a Proper Person.

31 REQUIREMENT FOR WORKING WITH CHILDREN AND POLICE CHECKS

- 31.1 The Community Partner must (and must ensure that all persons engaged or used by it to work at the Facility):
- have undertaken a satisfactory working with children check if required pursuant to the *Working With Children Act* or as otherwise requested by the School Council; and
 - have undertaken a satisfactory police records check if the Principal requires this check; and
 - have met any additional relevant legal requirements and policies of the Department in relation to the suitability of persons to work with school children or within the precinct of the School as advised by the School Council or the Principal to the Community Partner.
- 31.2 The Community Partner must ensure the terms and conditions of employment of any staff or of engagement of any contractor used by it for the purpose of carrying out work at the Facility are consistent with the above obligations.

32 CHILD SAFE STANDARDS

- 32.1 The parties acknowledge and agree that Victorian government schools are committed to:
- creating child safe environments;

- protecting students from abuse or harm in the school environment, managing the risk of child abuse, providing support to a child at risk of child abuse and responding to incidents or allegations of child abuse in accordance with their legal obligations, including Child Safety Laws.

- 32.2 This clause only applies to the extent that the Community Partner (and its Personnel) are engaged in Child-connected work.
- 32.3 The Community Partner acknowledges that the School Council, Principal and School Staff are required to comply with Child Safety Laws, the Ministerial Order and School Council Child Safety Policies.
- 32.4 If the Community Partner is an Applicable Entity it warrants to the School Council that it:
- is compliant and will continue to comply with Child Safety Laws; and
 - will immediately provide the School Council with copies of any documents or information in respect to any compliance action taken by any regulatory authority in connection with child safety against the Community Partner (or its Personnel).
- 32.5 The Community Partner (and its Personnel) must:
- if applicable (whether or not the Community Partner must itself comply with Child Safety Laws), comply with any relevant School Council Child Safety Policies; and
 - comply with any reasonable direction by the School Council in respect to compliance by the School Council, Principal and School Staff and/or the Community Partner with any Child Safety Laws or any relevant School Council Child Safety Policies.
- 32.6 The School Council and/or the Minister may terminate this Agreement immediately if, in the School's Council's and/or the Minister's reasonable opinion, it determines at any time that:
- there is a breach of any Child Safety Laws caused by, or in any way connected with, the Community Partner or its Personnel; or
 - the Community Partner or any of its Personnel are not suitable to engage in Child-connected work for the purposes of the School Council, Principal and School Staff's compliance with the Child Safety Laws or relevant School Council Child Safety Policies.

SECTION F: BREACH, DISPUTES AND TERMINATION

33 DEFAULT BY THE COMMUNITY PARTNER AFTER CONSTRUCTION OF THE FACILITY

- 33.1 If the Community Partner commits a substantial breach of this Agreement, the School Council or the Minister may give the Community Partner written notice that the Community Partner is in breach and require the Community Partner to rectify the breach within the time specified in the notice, which must be a reasonable time.
- 33.2 If the Community Partner becomes Insolvent or fails to rectify the breach to the reasonable satisfaction of the School Council or the Minister within the time specified, the School Council or the Minister may:
- do anything that the School Council or the Minister reasonably believes is necessary to rectify the breach; or
 - terminate this Agreement by written notice to the Community Partner.
- 33.3 All costs incurred by the School Council or the Minister in rectifying the breach shall be a debt due from the Community Partner to the School Council or the Minister, payable 30 days from receipt by the Community Partner of an invoice provided by the School Council or the Minister to the Community Partner in respect of the costs.
- 33.4 Nothing in this clause 33 affects any of the School Council's or the Minister's other rights under or in connection with this Agreement.
- 33.5 Termination in accordance with this clause will be effective from the date of receipt of the written notice referred to above.
- 33.6 The parties agree that no compensation is payable to the Community Partner if this Agreement is terminated in accordance with this clause.

34 DISPUTES

- 34.1 All disputes between any of the parties in connection with this Agreement (except for a dispute under clause 36.6 below) must be resolved in the manner set out in this clause.

Notice of Dispute

- 34.2 The parties agree to consult in good faith with each other but if a dispute arises between any of the parties in connection with this Agreement (except for a dispute under clause 36.6 below) any party may serve on the other parties a written notice of the dispute (**Notice of Dispute**). The Notice of

Dispute must adequately identify and give reasonable details of the nature of the dispute.

Meeting of Senior Representatives

- 34.3 If the dispute set out in a Notice of Dispute is not settled within 7 days of receipt of the Notice of Dispute, then the parties to the dispute must each nominate a senior representative (**the Senior Representatives**) who must meet within 35 days of receipt of the Notice of Dispute (or such other time as agreed between the parties to the dispute) and use their best endeavours to negotiate a resolution of the dispute.

Mediation

- 34.4 If:
- the dispute set out in a Notice of Dispute is not settled by the meeting of Senior Representatives referred to in clause 34.3 above; or
 - the Senior Representatives do not meet, within 35 days of receipt of the Notice of Dispute (or such other time as agreed between the parties to the dispute), then the party which issued the Notice of Dispute must refer the dispute to mediation.
- 34.5 The mediation must be conducted by a mediator agreed between the parties to the dispute or, failing agreement within 7 days of the referral to mediation, appointed by the Chair or acting Chair of the Resolution Institute, who must be requested to appoint an independent person reasonably expert in the matters the subject of the dispute. The mediation must be held in accordance with the mediation rules of the Resolution Institute in force at the date of the Notice of Dispute within 60 days of receipt of the Notice of Dispute unless all parties to the dispute agree in writing to a longer period.
- 34.6 The parties to the dispute must share the mediator's costs and any other administrative costs associated with the mediation equally.

Litigation

- 34.7 If the dispute set out in a Notice of Dispute is not settled at the mediation, then any party to the dispute may issue proceedings in respect of the dispute.

Performance of obligations pending resolution of a dispute

- 34.8 Pending the resolution of a dispute in connection with this Agreement:
- the parties must continue to perform their obligations under this Agreement; and

- (b) each party must pay all amounts under this Agreement when due in accordance with this Agreement without regard to the pending dispute and regardless of whether the dispute relates to payment of money.

35 MINISTER'S RIGHTS OF TERMINATION

Minister requires Land

- 35.1 At any time the Minister may terminate this Agreement on notice in writing to the other parties if the Minister requires the Land or part of it for:
- the construction or redevelopment of school buildings;
 - disposal of the Land or the part of it that includes the Facility;
 - closure of the School; or
 - any other reason.
- 35.2 If the Minister elects to terminate this Agreement pursuant to this clause, the Minister must provide as much notice in writing to the other parties as is practicable in the circumstances but using best endeavours to ensure that at least 3 months' notice is given.

Destruction of Facility

- 35.3 If the Facility is damaged or destroyed so as to render it or part of it unfit for use and it is, in the opinion of the Minister, impractical or undesirable to reinstate the Facility or part of the Facility, then the Minister may terminate this Agreement on notice in writing to the parties. Such notice must be given within 6 months after the damage or destruction becoming known to the Minister and termination is effective from the date stated in the notice.

36 MINISTER'S OPTIONS FOLLOWING MINISTER'S TERMINATION

Options

- 36.1 If this Agreement is terminated by the Minister under clause 35 then the Minister must promptly consult with the Community Partner and, as soon as practicable but no later than 90 days, unless the parties agree otherwise, after such consultation, offer to the Community Partner in writing one of the following options:

Option 1:

- The subdivision of the whole or part of the Land to create a separate saleable parcel of land containing the Facility and, provided the Government Land Monitor or successor has approved the sale, first offer the parcel for

sale to the Community Partner at a price to be agreed by the parties or, failing agreement, as determined by the Valuer-General Victoria or successor.

Option 2:

- The entering into a lease of the whole or part of the Land and the Facility between the Minister and the Community Partner consistent with the terms and conditions of this Agreement, with the rent as agreed by the parties, or failing agreement, as determined by the Valuer-General.

Option 3:

- The payment by way of compensation to the Community Partner of such amount as the Minister determines in accordance with clause 36.4 below.

- 36.2 The Community Partner acknowledges that the choice of an option under clause 36.1 is entirely at the discretion of the Minister and cannot be the subject of a dispute or review.

Determination of Compensation

- 36.3 No compensation shall be paid on termination of this Agreement by the Minister under clause 35 except in accordance with clause 36.4.
- 36.4 If this Agreement is terminated by the Minister under clause 35 and the Minister chooses Option 3 in clause 36.1, then the amount of any compensation payable to the Community Partner shall be the amount determined by the Minister in his or her discretion but acting in good faith and taking into consideration the following:

- The Construction Contribution made by the Community Partner, adjusted to reflect the present day value as at the date of the determination by the Minister and reduced to reflect the portion of the Licence Term which has then expired; and
- Any amount which the Community Partner has received or is entitled to receive under a contract of insurance entered into by the Community Partner in respect of the Facility as required by this Agreement (or, in the case where the Community Partner has failed to take out or make a claim under such insurance, the amount it would have been entitled to receive) or any amount which the Community Partner has received or is entitled to receive by way of damages in respect of the loss or destruction of the Facility.

36.5 To avoid doubt, in determining the compensation under clause 36.4 the Minister is not required to take into account any in kind contributions towards the cost of developing, operating or maintaining the Facility made by or on behalf of the Community Partner.

Dispute in connection with Minister's termination offer under the selected option

36.6 If the Community Partner disputes:

- (a) the price at which the parcel of the Land is to be offered to the Community Partner under Option 1;
- (b) the basis of the lease and terms and conditions under Option 2; or
- (c) the compensation payable to the Community Partner under Option 3,

then the dispute must be resolved by expert determination in accordance with clauses 36.7 to 36.11 below.

36.7 The Community Partner must give the Minister and the School Council written notice of the dispute referred to in clause 36.6, which must adequately identify and give reasonable details of the dispute.

36.8 If the Community Partner and the Minister cannot agree on an expert within 14 days of receipt of the Notice of Dispute, either the Community Partner or the Minister may ask the Chair (or acting Chair) of the Resolution Institute to nominate an expert who is reasonably expert in the matters the subject of the dispute to determine the dispute in accordance with the version of the expert determination rules of The Resolution Institute in force at the date of the Notice of Dispute.

36.9 A determination made by the expert will be final and binding on the parties to this Agreement.

36.10 The parties agree that they may be represented by a duly qualified legal practitioner in connection with the expert determination.

36.11 The parties must share the expert's costs and any other administrative costs associated with the expert determination equally.

SECTION G: CONSTRUCTION

37 RESPONSIBILITY FOR CONSTRUCTION

37.1 The Constructing Party is responsible for managing the construction phase and must:

- (a) enter into the Building Contract to carry out the Works with the Contractor;

- (b) use reasonable endeavours to ensure that the Works are commenced, carried out and completed in accordance with the Building Contract;
- (c) do everything which a reasonably prudent principal (as defined in the Building Contract) would do to enforce the Building Contract and ensure that the rights and entitlements of the principal under the Building Contract are exercised in a proper and timely manner;
- (d) use reasonable endeavours to ensure that the Works are progressed diligently and are brought to Practical Completion by the Date of Practical Completion in the Building Contract.

38 ACCESS DURING CONSTRUCTION PHASE

38.1 If the Community Partner is the Constructing Party, the Minister and the School Council grant a licence to:

- (a) the Community Partner and its Personnel; and
- (b) the Contractor and its Personnel;

to enter the Land and to do all things necessary to carry out their obligations under this Agreement and the Building Contract.

39 COMPLYING WITH THE LAW

39.1 The Constructing Party must, at its own cost, apply for and comply with all Laws, authorisations and agreements which apply to the Works and their design, including:

- (a) all necessary permits and approvals under the *Planning and Environment Act 1987 (Vic)* and the *Building Act 1993 (Vic)*; and
- (b) the current Victorian Code of Practice for the Building and Construction Industry, including any applicable implementation guidelines.

40 CONSTRUCTION CONTRIBUTIONS

40.1 The Minister agrees to contribute towards the development of the Project by contributing the Land.

40.2 The Minister, the School Council and the Community Partner agree to make the Construction Contributions as set out in **Part B2** of the Schedule towards the cost of the Construction Costs.

41 CONSTRUCTION SECURITY

- 41.1 Clause 41 applies if the Community Partner is the Constructing Party and the Community Partner is not a local government authority.

Provision of Community Partner's Construction Security

- 41.2 The Community Partner must, by the date nominated by the Department, or failing such nomination by the date of execution of the Building Contract, provide the School Council with security for the performance by the Community Partner of its construction obligations (**Community Partner's Construction Security**). The Community Partner's Construction Security must be in the amount of 10% of the Construction Costs and be in the name of the School Council and the Minister in the form of an unconditional undertaking from a financial institution approved by the Department.

Access to Community Partner's Construction Security

- 41.3 The School Council or the Minister may access the Community Partner's Construction Security without notice to the Community Partner if a Default Event under clause 50 has occurred or if, in the reasonable opinion of the School Council or the Minister:
- the Community Partner or its Personnel has caused loss, cost, damage or expense to the School Council or the Minister or the Community Partner or owes the School Council or the Minister money; and
 - the School Council or the Minister makes a written demand on the Community Partner for the amount of such loss, cost, damage, expense or money; and
 - the Community Partner has failed to either pay the School Council or the Minister the amount demanded, or to provide the School Council or the Minister with adequate reasons in writing why the Community Partner should not be held liable for such loss, cost, damage or expense by the time for payment set out in the demand, which must be reasonable in the circumstances.

Release of Community Partner's Construction Security

- 41.4 Subject to the rights of the School Council and the Minister to call on the Construction Security, the School Council or the Minister must notify the financial institution which issued the security that one half of the Community Partner's Construction Security is no longer required within 14 days of the

issue of the Certificate of Practical Completion under the Building Contract.

- 41.5 Subject to the rights of the School Council and the Minister to call on the Construction Security, the School Council or the Minister must notify the financial institution which issued the security that the remainder of the Community Partner's Construction Security is no longer required within 14 days of the issue of the Final Certificate under the Building Contract.

42 ADDITIONAL CONSTRUCTION COSTS

- 42.1 If it becomes apparent that the cost of the Works exceeds the Construction Costs before the acceptance of the tender for the Works, then the parties must as soon as practicable consider the cost increase and may either:
- agree to change the Specifications in order to reduce the cost of the Works; or
 - meet the additional cost of the Works as agreed between them and recorded in writing.
- 42.2 If the parties cannot reach agreement under clause 42.1 about how to share the cost of the Works before the acceptance of the tender for the Works, then the Minister may terminate this Agreement upon written notice to the other parties. The termination is effective 14 days after receipt of the letter from the Minister. The parties agree that no compensation is payable by any party to any other party in the event of such termination.
- 42.3 If, after the Works have commenced, the cost of carrying out the Works exceeds the Construction Costs for reasons other than the default of the Constructing Party, the parties agree to fund the additional construction costs as set out in **Part B5** of the Schedule, unless clause 42.4 applies.
- 42.4 If the cost of carrying out the Works under the Building Contract exceeds the Construction Costs due to a Variation requested by any of the parties, then the party requesting the Variation must pay the additional costs.
- 42.5 The Constructing Party must ensure that the Superintendent promptly notifies all parties in writing if it appears that the cost of carrying out the Works under the Building Contract will exceed the Construction Costs.

43 TIME FOR PAYMENT OF CONSTRUCTION CONTRIBUTIONS AND ADDITIONAL COSTS

- 43.1 If the Minister is not the constructing Party, the Minister must make payments on account of his or her Construction Contribution (if any) and any

additional costs payable pursuant to this Agreement to the Constructing Party at such times as determined by Department policy, such policy to be advised by the School Council to the Community Partner prior to payment.

- 43.2 Each party (excluding the Minister) not responsible for construction must make payment on account of its Construction Contribution (if any) at such times as the Constructing Party reasonably requests, unless the parties have agreed to a specific regime for payment of such costs, as set out in **Part B6** of the Schedule.
- 43.3 Each party (excluding the Minister) not responsible for construction must make payment on account of any additional costs payable by it pursuant to this Agreement to the Constructing Party at such times as the Constructing Party reasonably requests.

44 REPAYMENT OF CONSTRUCTION CONTRIBUTIONS

- 44.1 If the Constructing Party:
- (a) receives payment in whole or in part of the Construction Contributions made by other parties or additional costs required to be paid by other parties pursuant to clause 42; and
 - (b) for any reason is not required to pay that amount or part of that amount to any Contractor under the Building Contract, a consultant in connection with the works or for legal costs associated with this Agreement or the Building Contract,

then the Constructing Party must refund to the other parties in the proportion paid the amounts not required, including any interest which has accrued on such money.

45 CONSTRUCTION INSURANCE

- 45.1 The Constructing Party must ensure that the provisions of the Building Contract require either the Contractor or the Constructing Party to obtain and maintain the following insurances:
- (a) A public liability policy of insurance covering the Constructing Party, the Contractor and all sub-contractors engaged in relation to the Works for their respective rights and interests and covering their liabilities to third parties. The policy must also cover the liability of the Contractor and the Constructing Party to each other for loss of or damage to property (other than property required to be insured under sub-clause 45.1(b) below) and the death of or injury to any person other than a liability which is required to be insured under a

workers' compensation policy of insurance. The public liability policy must be for an amount of \$20 million in respect of any one occurrence.

- (b) An insurance policy in the joint names of the Constructing Party, the Contractor and all subcontractors engaged in relation to the Works covering the Works against loss or damage resulting from any cause whatsoever.
- (c) Workers' compensation insurance as required by State or Federal Law.

- 45.2 If a part or the whole of the Works is destroyed or damaged during construction, the parties agree that all money received as insurance proceeds must be applied towards the reconstruction or reinstatement of the Works, subject to the Minister's rights in clause 35.

46 SPECIFICATIONS

- 46.1 The Constructing Party must submit Specifications for the approval of each other party not responsible for construction within a reasonable time prior to going out to tender in respect of the Building Contract.
- 46.2 Each party not responsible for construction must:
- (a) review and give initial approval to the Specifications proposed by the Constructing Party within the time limits reasonably specified by the Constructing Party;
 - (b) review and may approve any alteration, variation or amendment of Specifications proposed by the Constructing Party from time to time; and
 - (c) not unreasonably withhold its approval.
- 46.3 The request for tender may not be issued until the parties have approved the draft Specifications to be included with the request for tender.

47 TENDERING

- 47.1 This clause applies if the Community Partner is the Constructing Party.
- 47.2 The Community Partner must notify the School Council and the Department of the planned dates for the tender and evaluation process for the Works and parties must discuss and agree on the extent of the Minister and the School Council's relative involvement in the tender and evaluation process before issuing the request for tender documents.
- 47.3 If tenders for the Works are to be called for by public notice, the Community Partner must provide

a copy of the notice to the School Council and the Department for approval prior to it being advertised.

47.4 During the tender process the Community Partner must comply with all Laws as well as ministerial directions, government policies and other requirements relevant to public construction, including those:

- (a) published by the Building Commission and required under the *Project Development and Construction Management Act 1994* (Vic); and
- (b) published by the Victorian Government Purchasing Board and required under the *Financial Management Act 1994* (Vic).

47.5 For the purposes of clause 47.4, if a ministerial direction conflicts with a supply policy within the meaning of the *Financial Management Act 1994* (Vic), the ministerial direction will prevail.

47.6 If the Community Partner is a local government authority, the Community Partner must ensure that the Community Partner's Construction Contribution complies with any requirements or standards contained in the *Local Government Act 1989* (Vic).

48 INSPECTION OF THE WORKS

48.1 If the Community Partner is the Constructing Party, the Minister and the School Council may inspect the Works at any time prior to the Date of Practical Completion of the Works, on reasonable notice to the Community Partner.

48.2 If the Community Partner is not the Constructing Party, the Community Partner may inspect the Works at any time prior to the Date of Practical Completion of the Works, on reasonable notice to the School Council.

49 PRACTICAL COMPLETION

49.1 The Constructing Party must notify the other parties in writing when Practical Completion of the Works has been achieved.

49.2 The Constructing Party must provide the other parties with a copy of the Certificate of Practical Completion issued by the Superintendent in respect of the Project within 7 days of receiving the certificate.

49.3 If the Community Partner is the Constructing Party, then, within 14 days of the Date of Practical Completion of the Works or any earlier termination of this Agreement, the Community Partner must remove all materials and equipment brought onto the Facility or the Land for the purpose of carrying

out the Works and make good any damage to the Facility and the Land.

49.4 If the Community Partner is the Constructing Party, the Community Partner must provide a complete copy of all 'as built' plans and drawings to the Department within 14 days of the Date of Practical Completion.

50 DEFAULT BY THE COMMUNITY PARTNER DURING THE CONSTRUCTION PHASE

50.1 A Default Event will have occurred if the Community Partner becomes Insolvent or the Community Partner:

- (a) commits a substantial breach of this Agreement; or
- (b) has failed to use reasonable endeavours to ensure the Works are commenced, carried out or completed within a reasonable time (where it is responsible for construction); and

the School Council or the Minister has requested the Community Partner in writing to remedy the breach or failure with 35 days of receipt of the request, and the Community Partner fails to remedy, or commence to remedy, the breach or failure within such time.

50.2 If a Default Event occurs, then the Minister or the School Council may by written notice to the Community Partner:

- (a) terminate this Agreement; or
- (b) where applicable, take over the Community Partner's construction obligations under this Agreement in order to complete the Works.

50.3 The termination or taking over pursuant to clause 50.2 will be effective from the date of receipt by the Community Partner of the written notice issued under clause 50.2.

50.4 If the Minister or the School Council elects to take over and complete the Works under clause 50.2, then the Community Partner must immediately on written notice from the Minister or the School Council:

- (a) novate the Building Contract, and any other agreements relevant to the completion of the Works, to the Minister or the School Council, as directed in the notice; and
- (b) provide to the Minister or the School Council any other documents necessary to complete the Works.

50.5 If the Minister or the School Council has exercised its right to terminate the Agreement or take over

the Works under clause 50.4 and construction security has been provided by the Community Partner in accordance with clause 41 of this Agreement, then the Minister or the School (as the case may be) may access the Community Partner's Construction Security in accordance with the relevant provisions of this Agreement.

SECTION H: LICENCE

51 LICENCE TERM AND LICENCE FEE

Licence

- 51.1 The Minister and the School Council grant a licence to the Community Partner to use the Facility on the terms and conditions of this Agreement.
- 51.2 The parties acknowledge that use of the Facility by the Community Partner and members of the public is not exclusive and is subject to the provisions of this Agreement.

Licence Fee

- 51.3 If demanded, the Community Partner must pay to the School Council the Licence Fee as set out in **Part D3** of the Schedule.

Initial Term of the Licence

- 51.4 The Initial Term of the Licence is for the period set out in **Part D1** of the Schedule and runs from the Date of Operation.

Further Term of the Licence

- 51.5 The Further Term of the Licence is for a period up to the period set out in **Part D2** of the Schedule.

52 LICENCE RENEWAL PROCESS

- 52.1 The Community Partner must notify the School Council in writing at least 6 months but not more than 12 months before the expiry of the Initial Term whether it wishes to renew the Licence for a period up to the Further Term.
- 52.2 If the Community Partner notifies the School Council that it wishes to renew the Licence, the School Council must meet with the Community Partner within 21 days of receipt of the notice to discuss whether any adjustments are required to the arrangements set out in **Sections H, I, J and K** of this Agreement to reflect the passage of time or changes to Department policy or Laws. The School Council must ensure that any agreed adjustments are finalised in writing between the School Council and the Community Partner (**Written Adjustments**).
- 52.3 Once the School Council has prepared any Written Adjustments, the School Council must consult with

the Minister regarding the request for renewal and, as soon as practicable, the School Council must notify the Community Partner in writing either that:

- (a) the Minister and the School Council do not agree to renew the Licence, in which case the Licence Term will terminate at the end of the Initial Term; or
- (b) the Minister and the School Council agree to a renewal of the Licence for an agreed period up to the Further Term, in which case the Licence is deemed to be renewed from the expiry of the Initial Term for the agreed period on the terms and conditions of this Agreement as varied by the Written Adjustments, except for clause 51.5 and this clause 52.

53 OBTAINING AND COMPLYING WITH PERMITS

- 53.1 The Community Partner must obtain or procure all relevant planning permits and licences or approvals necessary for its use of the Facility and to carry out its obligations under this Agreement before commencement of the Licence and must comply with any conditions contained within each such permit, licence or approval.

54 REINSTATEMENT OBLIGATIONS AT THE END OF THE LICENCE TERM

- 54.1 The Community Partner must, at the request of the School Council, at its own cost within one month of the end of the Licence Term:
- (a) remove all materials and equipment brought into the Facility by the Community Partner or its Personnel and make good all damage to the Facility caused by such removal;
 - (b) remove all signs and writing from the Facility, whether permanent or temporary, installed by the Community Partner and make good any damage;
 - (c) ensure that the Facility is in a condition consistent with the Community Partner having fulfilled all of its maintenance obligations and obligations with regards to Capital Works and Capital Expenditure under this Agreement; and
 - (d) do all other acts and things reasonably necessary to enable the School Council or the Minister to use the Facility with minimum disruption or expense.

55 SUB-LICENSING

- 55.1 The Community Partner must not sub-license the Facility except as set out in this Agreement or as

the School Council and Minister agree in writing. The School Council's and the Minister's consent must not be unreasonably withheld. The Community Partner's obligations under this Agreement will not be affected by any such sub-licence.

SECTION I: USE

56 USE OF THE FACILITY BY THE SCHOOL COUNCIL AND COMMUNITY PARTNER

[Option 1: School Council uses during School Hours and Community Partner Uses outside School Hours. There is no overlapping use of the Facility]

School Council's Use of the Facility

- 56.1 The School Council is entitled to use the Facility, excluding the Community Partner Area, during School Hours.
- 56.2 The School Council is entitled to use the Server Room and may access the Server Room as well as those parts of the Community Partner Area necessary to access the Server Room, at all times.
- 56.3 The School Council and the Community Partner must in good faith negotiate the use of the Facility by the School Council during school holiday periods.
- 56.4 The School Council may use the Facility, excluding the Community Partner Area, or a part of it, free of charge outside School Hours on up to 6 occasions each year at such times to be agreed with the Community Partner and subject to the School Council giving four (4) weeks notice before the start of each school term or such other notice period as agreed between the School Council and the Community Partner.
- 56.5 The School Council may negotiate additional use of the Facility (excluding the Community Partner Area) outside School Hours (but within the Facility Operating Hours) with the Community Partner subject to such terms and conditions as agreed with the Community Partner, including fees. Such fees must be reasonable and in no case may exceed fees charged by the Community Partner to other community users of the Facility.
- 56.6 The School Council may use a part or parts of the Community Partner Area free of charge during the Facility Operating Hours subject to availability and at such times to be agreed with the Community Partner.

Community Partner's Use of the Facility

- 56.7 The Community Partner is entitled to use the Stadium and Car Park during the Community Partner's Hours.
- 56.8 The Community Partner is entitled to use the Community Partner Area during the Facility Operating Hours.
- 56.9 The Community Partner may not use the School Council Area during the Facility Operating Hours, or hire out the use of the School Council Area to any Hirer.
- 56.10 The School Council and the Community Partner must in good faith negotiate the use of the Facility by the Community Partner during school holiday periods.
- 56.11 The School Council and the Community Partner may agree in writing to amend the Community Partner's Hours provided the Community Partner's Hours are not outside the Facility Operating Hours and provided such use is at a time when the Facility is not required for ordinary school purposes.

57 USE OF THE FACILITY BY COMMUNITY GROUPS

- 57.1 The School Council and the Community Partner will encourage use of the Facility by community groups, provided that such use is only permitted when the Facility (or relevant part thereof) is not required by the School Council for ordinary school purposes or by the Community Partner for its use. The Community Hiring Party must ensure that any use by the community is a Permitted Use.

58 APPOINTMENT OF A MANAGER

- 58.1 The Community Partner may appoint a Manager at any time during the Licence Term, with the prior written approval of the School Council, to:
- (a) manage the use of the Facility during the Community Partner's Hours and any other times the Community Partner is entitled to use the Facility; and
 - (b) manage the Community Partner's obligations in respect of the Facility (or some of the obligations), in accordance with this Agreement.
- 58.2 In order to obtain the School Council's approval to appoint a Manager, the Community Partner must:
- (a) inform the School Council of its proposed manager and give the School Council at least 30 days to consider the proposed appointment; and

- (b) give the School Council reasonable details of the proposed arrangement, including a copy of the proposed management agreement between it and the manager which meets the requirements of clause 58.5;
 - (c) give the School Council details of any management fees payable to the proposed manager; and
 - (d) provide the School Council with any other information which the School Council may reasonably require.
- 58.3 The School Council must advise the Community Partner in writing whether it approves the appointment of the proposed manager. Such approval must not be unreasonably withheld.
- 58.4 The Community Partner must provide the School Council with details of the addresses and telephone numbers of the senior executives and any other key personnel of the Manager and provide updated details as required.
- 58.5 If the Community Partner wishes to appoint a Manager, the Community Partner must prepare a management agreement. The Community Partner must ensure that the management agreement between it and the Manager contains terms and conditions which:
- (a) are consistent with the Community Partner's obligations under this Agreement;
 - (b) require the Manager to comply with any direction from the Community Partner;
 - (c) stipulate that the management agreement will terminate at the end of the Licence Term;
 - (d) include the same obligations for employees or contractors of the Manager to obtain working with children and police checks as are contained in clause 31 of this Agreement;
 - (e) include a clause which provides that, if the Principal forms the reasonable opinion that a person employed or engaged by the Manager for the purposes of the Facility is not a Proper Person, the Community Partner may require the Manager to remove such person from the Facility and replace him or her with someone of appropriate competence and/or experience who is a Proper Person; and
 - (f) stipulate that where an inconsistency exists between the management agreement and this Agreement, the terms of this Agreement will prevail.

- 58.6 The Community Partner must give the School Council a copy of the executed Management Agreement.
- 58.7 The appointment of a manager does not in any way derogate from or affect the obligations of the Community Partner under this Agreement.

59 HIRING

- 59.1 The Community Partner will, within 30 days after the Date of the Practical Completion, submit proposed rules for hiring the Facility to the School Council for consideration. The parties will, acting in good faith, use reasonable endeavours to agree upon final terms (**User Guide**) before the Date of Practical Completion,
- 59.2 The User Guide will contain rules relating to:
- (a) the types of community organisations that may use the Facility;
 - (b) activities that may be carried out in the Facility;
 - (c) care of the building and equipment;
 - (d) booking protocols;
 - (e) security procedures; and
 - (f) other requirements as agreed between the School Council and the Community Partner.
- 59.3 In the event of any inconsistency between the User Guide and this Agreement, this Agreement will take precedence.

Hire by the School Council during School Hours

- 59.4 The Community Partner acknowledges that the School Council may:
- (a) hire out the Facility or part thereof during School Hours or any other times that the School Council is entitled to use the Facility or part thereof. Any fees charged by the School Council in respect of such hire belong to the School Council unless otherwise agreed between the School Council and the Community Partner; and
 - (b) permit other government or non-government schools and not for profit users to use the Facility or part thereof during School Hours or any other times that the School Council is entitled to use the Facility or part thereof.

Community hire outside School Hours

- 59.5 The Community Hiring Party must ensure that it:
- (a) only hires the Facility out for use by members of the public during the Community Partner's

Hours or any other times the Community Partner is entitled to use the Facility;

- (b) sets terms and conditions for the use of the Facility provided they meet the requirements of clause 59.6;
- (c) collects fees for the hire of the Facility; and
- (d) instructs all Hirers as to what constitutes appropriate behaviour and how to ensure security is maintained during the hire period.
- (e) provides a written report to the Community Partner, when requested by the Community Partner, but not more often than each quarter detailing:
 - (i) Hirers;
 - (ii) the days and times the Facility has been hired in the previous quarter; and
 - (iii) all income received from hiring the Facility.

59.6 The terms and conditions for the use of the Facility by Hirers must:

- (a) be consistent with the current guidelines of the Department, a copy of which must be provided by the School Council to the Community Partner if the Community Partner is the Community Hiring Party;
- (b) require that all Hirers leave the Facility in a clean and tidy condition ready for use, unless the Community Hiring Party makes its own arrangements for the Facility to be cleaned following use by a Hirer or Hirers;
- (c) where applicable, require all Hirers to ensure that all external doors and windows at the Facility are secured and locked following their use of the Facility;
- (d) require that all Hirers enter into and maintain at all times during the use of the Facility public liability insurance, if applicable, property damage insurance for equipment and apparatus belonging to the Hirers and produce evidence of such insurances unless current Department policy does not require the particular user to obtain public liability insurance; and
- (e) only allow the Facility to be used during the Community Partner's Hours and any other times the Community Partner is entitled to use the Facility.

59.7 Any fees charged for such hire of the Facility belong to the Community Hiring Party unless otherwise agreed between the parties. Any fees

charged are to take into account a contribution towards the maintenance costs of the Facility.

SECTION J: OPERATIONAL RESPONSIBILITIES

60 MAINTENANCE

- 60.1 The School Council is responsible for arranging and paying for all maintenance, repair, cleaning, mowing of any grassed areas and security of the Facility (excluding the Community Partner Area and the Car Park) to a standard appropriate for a facility similar to the Facility and taking into account the proposed use of the Facility.
- 60.2 The School Council must establish and maintain a sub-account to the School Council's general account (**Operating Account**) to pay for:
 - (a) maintenance, repair, cleaning, and security of the Stadium;
 - (b) cleaning of the Community Partner Area;
 - (c) insurance of the Facility pursuant to clause 65.7; and
 - (d) costs relating to utilities for the whole Facility pursuant to clause 63.4, 63.5 and 63.6.
- 60.3 Within 15 days of the Operating Account being established, the School Council must deposit \$5,000 into the Operating Account.
- 60.4 The Community Partner must:
 - (a) deposit \$5,000 into the Operating Account within 15 days of being notified by the School Council that the Operating Account has been established; and
 - (b) arrange and pay for all maintenance, repair and security of the Community Partner Area and the Car Park to a standard appropriate for a facility similar to the Facility and taking into account the proposed use of the Facility.
- 60.5 Any interest on funds held in the Operating Account must be added to the balance of the Operating Account.
- 60.6 All fees paid by Hirers of the Facility and collected by the Community Hiring Party must be paid into the Operating Account unless otherwise agreed in writing between the parties.
- 60.7 The School Council is not required to spend all money paid into the Operating Account during a year in that year.
- 60.8 If the balance in the Operating Account is insufficient to pay for all expenses in respect of the Facility identified in clause **Error! Reference**

source not found. above, then the School Council is responsible for meeting one-third of such deficit and the Community Partner is responsible for meeting two-thirds of such deficit.

- 60.9 The School Council must provide an annual reconciliation of the costs paid from the Operating Account to the Community Partner on a date agreed between them, showing whether there is a surplus or deficit in the Operating Account for the previous year.
- 60.10 Any balance in the Operating Account, including any interest, as at the termination or expiry of this Agreement belongs to the School Council.

61 CAPITAL WORKS AND CAPITAL EXPENDITURE

Capital Works

- 61.1 The School Council must arrange all Capital Works in relation to the Facility and ensure they are carried out to a standard appropriate for a facility similar to the Facility and taking into account the proposed use of the Facility.

Responsibility for Capital Expenditure

School Council must set aside funds

- 61.2 The School Council must ensure that it adequately provides for its obligations in relation to Capital Expenditure as provided for in clause 61 and must, except where the parties have agreed to establish a Capital Reserve, set aside sufficient funds to meet those Capital Expenditure obligations as and when they fall due.
- 61.3 The School Council and the Community Partner agree to share the cost of Capital Expenditure in respect of the Facility as follows:
- (a) The School Council will be responsible for meeting one-third of the Capital Expenditure relating to the Stadium and School Council Area; and
 - (b) The Community Partner will be responsible for meeting:
 - (i) two-thirds of Capital Expenditure relating to the Stadium and School Council Area; and
 - (ii) all Capital Expenditure relating to the Community Partner Area and Carpark.
- 61.4 Unless the School Council and the Community Partner agree otherwise, the School Council must pay for Capital Expenditure in the first instance, and the Community Partner must reimburse the

School Council for its share of the costs within 30 days of the Community Partner receiving an invoice from the School Council for that amount in relation to the costs incurred.

62 CAPITAL WORKS PLAN

- 62.1 Within 3 months of the Date of Operation the Community Partner and the School Council must together prepare a 5 year rolling Capital Works plan for the Facility and update it annually.

63 UTILITIES

Metering

- 63.1 The parties agree that electricity and gas supplied to the Facility must be separately metered from the other buildings or facilities located on the Land.
- 63.2 The parties agree that mains water supplied to the Facility must be separately metered from the other buildings or facilities located on the Land unless this is not feasible and this has been discussed between the parties.
- 63.3 Any changes to the metering or payment arrangements contained in clause 63 which occur after this Agreement is executed must be recorded in a document signed by the Community Partner and the School Council and a copy of this document must be sent to the Department.

Water

- 63.4 The School Council must pay for the cost of mains water supplied to the Facility from the Operating Account.

Electricity

- 63.5 The School Council must pay for the cost of electricity supplied to the Facility from the Operating Account.

Gas

- 63.6 The School Council must pay for the cost of gas supplied to the Facility from the Operating Account.

64 ADDITIONAL FINANCIAL OBLIGATIONS OF THE COMMUNITY PARTNER AND THE SCHOOL COUNCIL

Additional financial obligations of the Community Partner

- 64.1 The Community Partner must pay:
- (a) the cost of employing staff and engaging contractors and any other costs or expenses in relation to its use of the Facility and the performance of its obligations in respect of the Facility; and

- (b) any Statutory Charges payable in respect of the Community Partner's use or occupation of the Facility;
- (c) telephone, internet and any other telecommunication charges for the Facility as agreed with the School Council; and
- (d) the cost of any service call outs in relation to the security or fire safety of the Facility, if the call out was required due to an act or omission of the Community Partner or its Personnel.

Additional financial obligations of the School Council

64.2 The School Council must pay:

- (a) the cost of employing staff and engaging contractors in relation to its use of the Facility and the performance of its obligations in respect of the Facility;
- (b) telephone, internet and any other telecommunication charges for the Facility as agreed with the Community Partner; and
- (c) the cost of any service call outs in relation to the security or fire safety of the Facility, if the call out was required due to an act or omission of the School Council or its Personnel.

65 INSURANCE

Public liability insurance

- 65.1 The Community Partner must enter into and maintain at all times during the Licence Term a public liability insurance policy as described in **Part F1** of the Schedule.
- 65.2 Unless the Community Partner is a local government authority, the Community Partner must promptly produce this policy of insurance for inspection by the School Council within 28 days from the Date of Practical Completion of the Facility and annually thereafter.
- 65.3 If the Community Partner is not a local government authority, this insurance must be with an insurer approved by the School Council. Such approval must not be unreasonably withheld.
- 65.4 If the Community Partner does not meet any of its obligations under clauses 65.1 or 65.2, the School Council may suspend the Licence until such obligations have been met.

Property damage insurance

- 65.5 The parties have agreed to insure the Facility in respect of property damage as set out in **Part F3** of the Schedule.

- 65.6 The party responsible for obtaining property damage insurance, as specified in **Part F2** of the Schedule, must provide the other parties with a copy of the policy of insurance for inspection if requested to do so.
- 65.7 The parties have agreed to share the cost of such insurance as set out in **Part F4** of the Schedule.
- 65.8 If the property damage insurance selected and specified in **Part F3** of the Schedule does not include cover for equipment and apparatus belonging to or used by the Community Partner and the School Council which is kept in or on the Facility, then each of the School Council and the Community Partner is responsible for separately insuring the equipment and apparatus belonging to or used by it.
- 65.9 If the Community Partner is not a local government authority and is responsible for obtaining property damage insurance in respect of the Facility, the insurance must be with an insurer approved by the School Council. Such approval must not be unreasonably withheld.
- 65.10 If the Community Partner does not meet its obligations under clauses 65.6 or 65.7 (if applicable), the School Council may suspend the Licence until such obligations have been met.

Workers' compensation insurance

- 65.11 The Community Partner must enter into and maintain at all times during the Licence Term workers' compensation insurance or similar insurance as required by State or Federal Law, including in respect of any volunteer workers.

Not to void insurance

- 65.12 The Community Partner must not do or permit any act, matter or thing to be done which may invalidate, make void or voidable any insurance in relation to the Facility or which increases the premium of any insurance which is payable by the School Council.

SECTION K: CONSULTATION

66 MEETINGS OF REPRESENTATIVES OF SCHOOL COUNCIL AND COMMUNITY PARTNER

- 66.1 Throughout the Licence Term, an authorised representative of the School Council must meet with an authorised representative of the Community Partner, at such places and such times as the School Council's representative may reasonably determine following consultation with the Community Partner's representative, but at least once every six months, to discuss issues

relating to the Facility and its use and to recommend actions and resolutions where necessary.

67 ADVISORY GROUP

- 67.1 The School Council must, within 14 days of the Date of Operation, establish an Advisory Group in respect of the Facility which consists of:
- (a) the Principal or nominee;
 - (b) a representative of the School Council;
 - (c) a representative of the Community Partner;
and
 - (d) a single representative of any other key user or community groups which the School Council and the Community Partner agree should be represented on the Advisory Group.
- 67.2 The Principal must ensure that any changes to the membership of the Advisory Group or the appointed representatives of the members of the Advisory Group are notified in writing to all members of the Advisory Group.
- 67.3 The first chair of the Advisory Group shall be the Principal and thereafter shall rotate to each member of the Advisory Group.
- 67.4 The Advisory Group shall meet at least quarterly as convened by the chair, unless the School Council and the Community Partner agree otherwise.
- 67.5 The Advisory Group must not conduct any business unless at least 3 members are present including the Principal and the Community Partner representative.
- 67.6 The function of the Advisory Group is to provide advice and recommendations to the School Council and the Community Partner in relation to the operation and use of the Facility. The Advisory Group cannot bind any of the parties to the Agreement.

SCHEDULE

A THE SCHOOL AND THE FACILITY			
A1	The School – Clause 1	Wonthaggi Secondary College	
A2	The Facility – Clause 1	<p>Indoor Sporting facility as shown on Plan B and Plan C comprising:</p> <p>A. Stadium (coloured green on Plan B)</p> <p>(a) three basketball/netball (or multi-purpose) courts including seating</p> <p>B. Community Partner Area (coloured pink on Plan B)</p> <p>(a) entrance, foyer and corridors</p> <p>(b) conference area</p> <p>(c) meeting/office area</p> <p>(d) ticket office</p> <p>(e) kitchen area including store</p> <p>(f) administration area</p> <p>(g) server hub</p> <p>(h) sick bay hub</p> <p>(i) cleaners store room</p> <p>(j) male, female and staff toilets (including accessible toilet) and male and female change rooms</p> <p>(k) community store room</p> <p>(l) cleaners store room</p> <p>C. School Council Area (coloured yellow on Plan B)</p> <p>(a) school store room</p> <p>(b) site store room</p> <p>D. Car Park (coloured blue on Plan C)</p>	
A3	Works - Clause 1	Construction of a three court stadium including other associated spaces as part of the construction of the Project.	
B CONSTRUCTION			
B1	Constructing Party - Clauses 1 and 37.1	The Minister	
B2	Construction Contributions (ex GST) - Clauses 1 and 40.2 Note: Project estimated to cost \$32,500,00; the Minister’s Shared Facilities Fund contribution and the Community Partner’s total contribution is towards the cost of the Facility.	Party	Contribution (\$)
		Minister	\$29,500,000 [includes \$3,000,000 from the Shared Facilities Fund]
		School Council	\$ 0
		Community Partner	\$3,000,000 [includes \$1.5m from Sport and Recreation Victoria Better Indoor Stadiums Fund]
		Total	\$32,500,000

B3	Construction Costs (ex GST) - Clauses 1 & 42	\$32,500,000 - includes consultants' fees and project management fees related to construction.	
B4	Legal Costs (ex GST) [insert details of agreement in relation to payment of legal costs for preparation of the Agreement] Clause 11	Party	Percentage (%)
		School Council	N/A
		Community Partner	N/A
B5	Responsibility for additional Construction Costs - Clause 42.3	Details	
		If the additional cost relates to the Community Partner Area or the Car Park, the Community Partner shall fund 100% of the additional cost.	
		If the additional costs relate to the School Council Area, the Minister shall fund 100% of the additional cost.	
		If the additional costs relate to the Stadium, the Minister shall fund 33% and the Community Partner shall fund 67% of the additional cost.	
		If the additional costs relate to a combination of any of the Community Partner Area, Car Park, School Council Area or the Stadium, the costs shall be distributed by agreement.	
		If the additional costs relate to the Project as a whole, including the Facility, the Minister shall fund 82% of the additional costs and the Community Partner shall fund 18% of the additional costs.	
B6	Date for Payment of Constructions Contributions – Clause 43.2	Date	Amount payable
		Upon execution of the Building Contract	25% of the Community Partner's Construction Contribution
		When the Superintendent approves that 50% of the Works are complete	50% of the Community Partner's Construction Contribution
		Upon Practical Completion of the Works under the Building Contract	25% of the Community Partner's Construction Contribution
C DATE OF OPERATION			
C1	Date of Operation – Clauses 1 and 51.4	The Date of Practical Completion of the Works	
D LICENCE			
D1	Initial Term – Clauses 1 and 51.4	30 years	
D2	Further Term – Clauses 1 and 51.5	10 years	
D3	Licence Fee – Clauses 1 and 51.3	\$1.00 per annum if demanded	
E USE OF THE FACILITY			
E1	School Hours – Clause 1 and 56	Monday to Friday 8.00am to 4.00pm	

E2	Community Partner's Hours – Clauses 1 and 56	Facility (excluding the Community Partner Area) Monday to Friday 4.30pm to 10.00pm Saturday and Sunday 8.00am to 10.00pm Community Partner Area Monday to Friday 6.30am to 11.00pm Saturday and Sunday 8.00am to 10.00pm	
E3	Facility Operating Hours – Clauses 1 and 56	Monday to Friday 6.00am to 1.00am Saturday and Sunday 7.00am to 11.00pm unless the Planning Scheme or Planning Permit authorises reduced hours	
E4	Community Hiring Party – Clauses 1 and 59	School Council	
E5	Permitted Use – Clauses 1 and 22.2	The playing, performing or conducting of recreation and sporting activities that would normally be played, performed or conducted in Victoria at a facility similar to the Facility and which by law is capable of being played, performed or conducted at the Facility.	
F PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE			
F1	Public liability insurance – Clause 65.1	Scope of policy	Insurance which provides the Community Partner, including its employees while acting in the course of their employment, with at least \$20 million cover per event against any liability resulting from death or personal injury or the destruction of or damage to property occurring in or on the Facility or arising out of or in relation to the use of the Facility.
F2	Property Damage Insurance for the Facility – Clause 65.6	Party responsible for obtaining	School Council
F3		Scope of policy	<i>Policy only covers damage to the Facility. Each of the School Council and the Community Partner is responsible for equipment and apparatus belonging to it, pursuant to clause 65.8</i> Insurance which provides cover for the reinstatement or replacement value of the Facility and against the destruction of or damage to the Facility. If the policy is obtained by the Community Partner then the School Council and

			the State of Victoria must also be named as insureds in the policy.
F4		Reimbursement arrangements	Not Applicable as the School Council will pay for the cost of the Property Damage Insurance from the Operating Account.
G ADDRESSES FOR NOTICES – Clause 12.1			
Minister	Addressee	Chief Executive Officer Victorian School Building Authority Department of Education and Training	
	Street Address	2 Treasury Place East Melbourne Victoria 3002	
	Postal Address	GPO Box 4367 Melbourne Victoria 3001	
School Council	Addressee	Executive Officer Wonthaggi Secondary College Council	
	Street Address	75 McBride Avenue Wonthaggi Victoria 3995	
	Postal Address	PO Box 119 Wonthaggi Victoria 3995	
Community Partner	Addressee	Chief Executive Officer Bass Coast Shire Council	
	Street Address	76 McBride Avenue Wonthaggi Victoria 3995	
	Postal Address	PO Box 118 Wonthaggi Victoria 3995	

EXECUTION

EXECUTED AS AN AGREEMENT

Signed by
 Manager, Property Unit
this day of
20..... for and on behalf of **James Merlino, MP** in
his capacity as Minister for Education, in the presence
of:

.....
Signature

.....
Signature of witness

.....
Name of witness in full (print)

Signed by the President of the School Council on behalf
of **Wonthaggi Secondary College Council** in the
presence of :

.....
Signature of President of School Council

.....
Name of President of School Council in full
(print)

.....
Signature of witness

.....
Name of witness in full (print)

[Community Partner to confirm execution clause, in particular if under common seal or under delegation]

The common seal of **Bass Coast Shire Council** was
affixed in the presence of:

.....
Signature of Councillor

.....
Signature of Chief Executive Officer

.....
Name of Councillor in full (print)

.....
Name of Chief Executive Officer in full (print)

ANNEXURE A – PLAN A

PLAN OF THE LAND

DRAFT

ANNEXURE B – PLAN B

PLAN OF THE FACILITY (EXCLUDING THE CAR PARK)

DRAFT

ANNEXURE C – PLAN C

PLAN OF THE CAR PARK

DRAFT

Legend Abbreviations

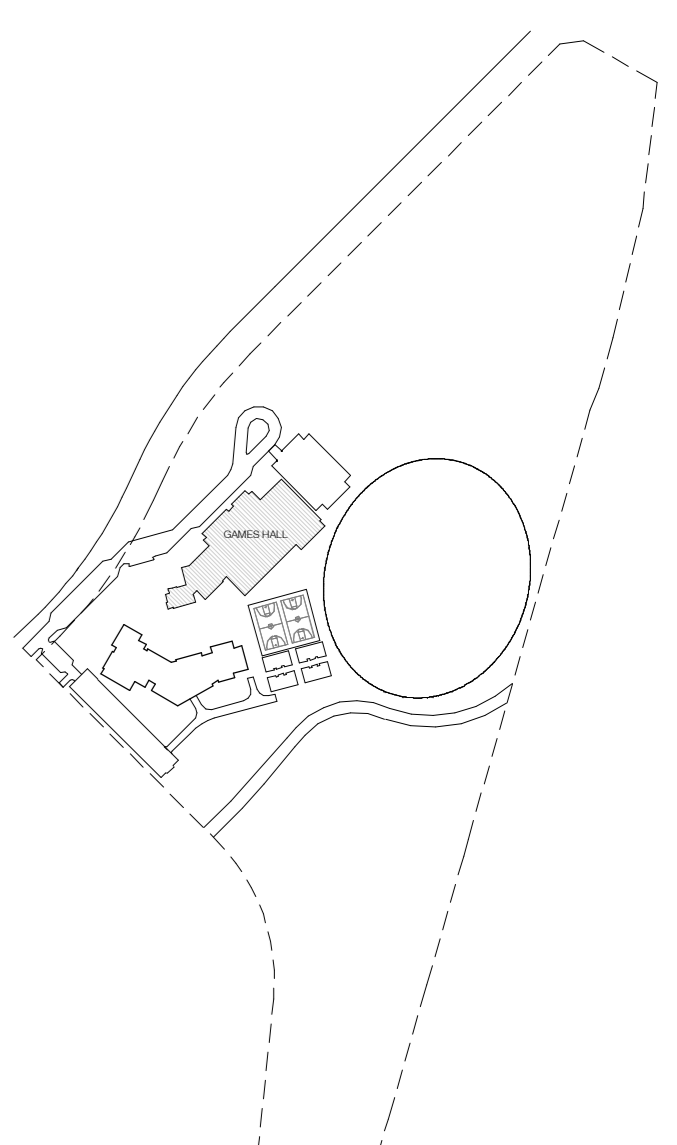
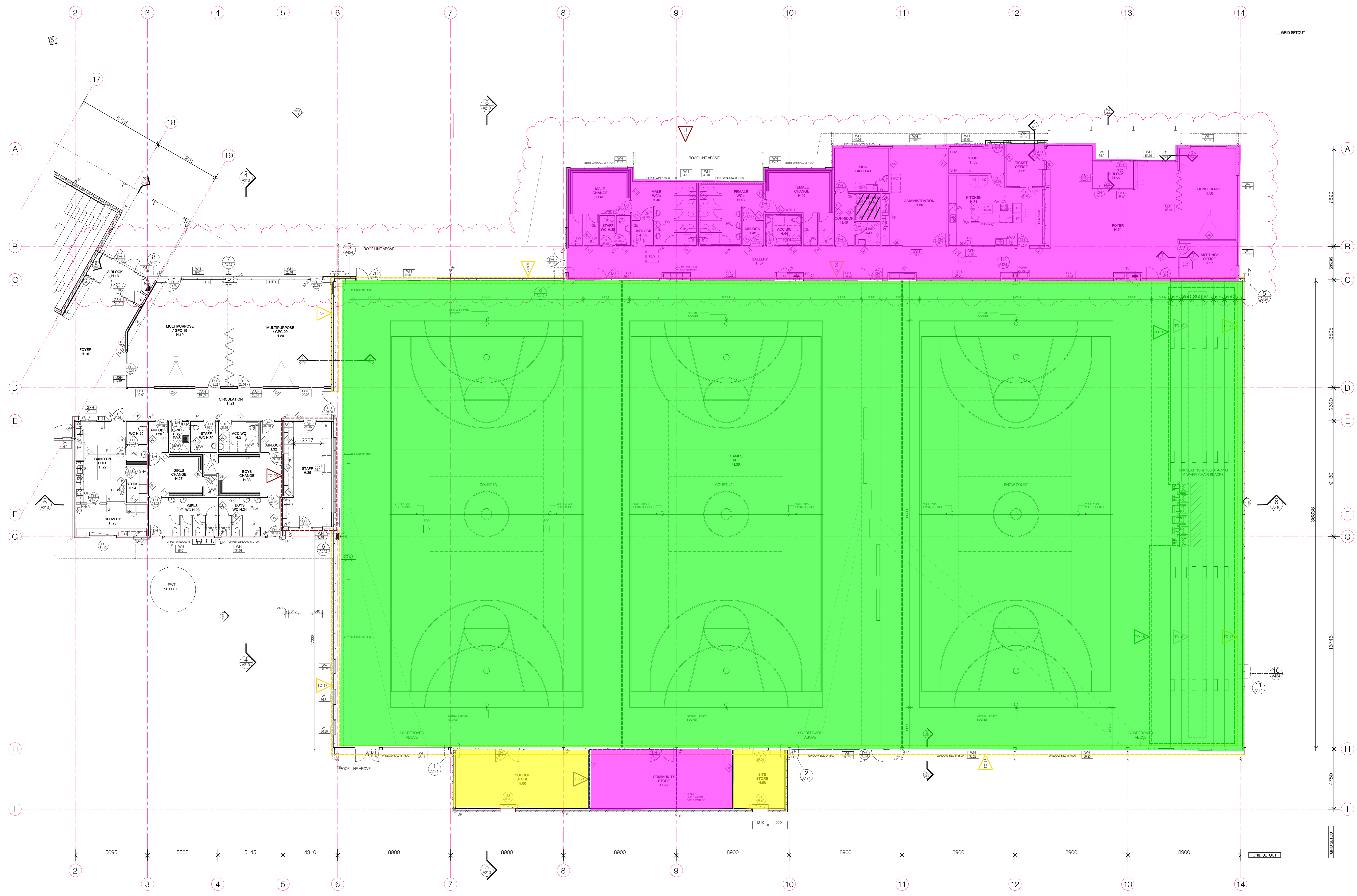
- B BENCH - STANDARD
- BA BENCH
- BF BAR FRIDGE
- BWU BODILING WATER UNIT
- COL COLUMN
- CT COUNTER TOP
- DAT DATA RACK
- DF DRINKING FOUNTAIN
- DN DOWNPIPE
- DW DRAINWASHER
- FHR FIRE HOSE REEL
- FR FRIEDGE
- FW FLOOR WASTE
- FZ FREEZER
- HFBFA HANDS FREE BASIN
- HTR HEATER
- ARC MICROWAVE
- MUL MICROWAVE
- OH OVERHEAD CURBBOARD SHELVING
- OV OVEN
- PC PHOTOCOPIER
- PH PANHEAD
- RWT RAINWATER TANK
- S SINK
- SD SCRAP DISPENSER
- SHV SHELVING
- SKY SKYLIGHT
- TR TROUGH
- TV TELEVISION SCREEN
- UPF UPRAIL
- WB1 WHITEBOARD - TYPE 1

Legend - General

- DOOR NUMBER
- OPERABLE WALL NUMBER
- ROLLER DOOR NUMBER
- ROLLER SHUTTER NUMBER
- WINDOW NUMBER
- GLAZED SCREEN
- RELATIVE LEVEL
- PROPOSED FINISHED FLOOR LEVEL
- DENOTES DEMOLISHED ITEMS

Legend - Wall Types

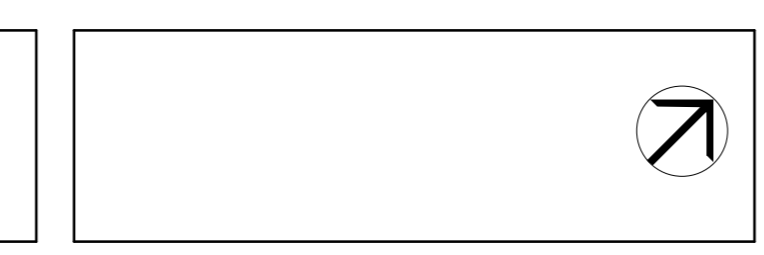
- EXISTING WALL
- STUD WALL
- BLOCK WALL
- BRICK VENEER WALL
- BLOCK VENEER WALL
- ACOUSTIC RATED WALL
- PRECAST CONCRETE WALL
- FIRE RATED WALL
- SMOKE WALL
- PART J WALL
- WALL TYPES REFER TO WALL TYPES DRAWING
- READ THIS DRAWING & WALL TYPES DRAWING IN CONJUNCTION WITH SPEC. APPENDIX C MATERIALS SCHEDULE. CARPENTRY FOR ELEMENTS OF WALL TYPES TO RESIDENT ROOM AREAS, REFER TO TYPICAL DRAWING.



Revision/Issue	Date
P4 Revised DD Issue	01.12.17
P5 DD Encasement 2	08.12.17
P6 Consultant Issue	21.12.17
P7 Consultant Issue	12.01.18
P8 Consultant Issue	15.01.18

Clarke Hopkins Clarke
 115 Sackville Street
 Collingwood Victoria 3068
 Telephone (03) 9419 4340
 Facsimile (03) 9419 4345
 Email studio@chc.com.au
 www.chc.com.au

Scale: As indicated @ A0
 Date: July 2017
 Drawn: CC
 Architect: KC



Project
 Wonthaggi Senior Secondary College
 McKenzie Street, Wonthaggi

Drawing
 BLDG H - Floor Plan (2 of 2)

Drawing No.
 17019/A110A P8

PRELIMINARY