



**GAMING MACHINE PURCHASE AGREEMENT  
-VICTORIA-**

**Tabcorp Gaming Solutions Pty Ltd  
("Tabcorp")**

**and**

**Wangaratta RSL Sub-Branch Inc  
("Purchaser")**

**(Wangaratta RSL)**

**TABLE OF CONTENTS**

---

1. **DEFINITIONS AND INTERPRETATION** ..... 3

2 **ACKNOWLEDGEMENTS** ..... 9

3 **CONDITIONS PRECEDENT** ..... 9

4 **PURCHASE OF EGMS AND OPTION TO PURCHASE VENUE ANCILLARY EQUIPMENT** 10

5 **PRICE AND PAYMENT**..... 11

6 **PURCHASER’S AND TABCORP’S WARRANTIES** ..... 12

7 **INDEMNITY** ..... 14

8 **EXCLUSION AND LIMITATION OF LIABILITY** ..... 14

9 **TERMINATION**..... 15

10 **COMPLETION**..... 15

11 **CONFIDENTIALITY**..... 16

12 **COSTS AND DUTY** ..... 17

13 **GST** ..... 18

14 **DISPUTE RESOLUTION** ..... 18

15 **FORCE MAJEURE** ..... 19

16 **GOOD FAITH NEGOTIATIONS** ..... 19

17 **THIRD PARTY BENEFIT** ..... 19

18 **NO MERGER** ..... 20

19 **NO PARTNERSHIP, JOINT VENTURE OR AGENCY**..... 20

20 **SEVERABILITY** ..... 20

21 **NO AMENDMENT** ..... 20

22 **ASSIGNMENT**..... 20

23 **FURTHER ASSURANCES** ..... 20

24 **NO WAIVER** ..... 21

25 **NOTICES** ..... 21

26 **GOVERNING LAW AND JURISDICTION** ..... 21

27 **CONSTRUCTION** ..... 21

28 **ENTIRE AGREEMENT**..... 22

29 **COUNTERPARTS** ..... 22

**SCHEDULE 1 - DETAILS**..... 23

**SCHEDULE 2 – EGMS AND DELIVERABLES** ..... 24

**SCHEDULE 3 – VENUE ANCILLARY EQUIPMENT**..... 26

# **GAMING MACHINE PURCHASE AGREEMENT**

**THIS AGREEMENT** is made on

Between:

## **PARTIES**

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**TABCORP GAMING SOLUTIONS PTY LTD** (ACN 89 138 853 675) of Tower 2, Level 21, 727 Collins Street, Melbourne, Victoria 3008 ("**Tabcorp**")

AND

**THE PARTY** referred to in Item 1 of Schedule 1 ("**Purchaser**")

## **RECITALS**

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- A.** Tabcorp and its Related Entities have substantial capability and expertise in the operation and conduct of gaming and associated retail operations, marketing, advertising and media communications and activities, technological processes and software and hardware development, merchandising, training, distribution, financial systems, security systems and field management.
- B.** Purchaser is a Venue Operator.
- C.** Tabcorp owns the electronic Gaming Machines ("**EGMs**") described in Schedule 2.
- D.** Tabcorp wishes to sell all of its EGMs to Purchaser and Purchaser wishes to acquire all of the EGMs from Tabcorp, subject to the terms and conditions of this Agreement.

**IT IS AGREED** as follows.

## **1. DEFINITIONS AND INTERPRETATION**

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### **1.1 Interpretation**

The following definitions apply unless the context requires otherwise:

"**Act**" means the *Gambling Regulation Act 2003* (VIC).

"**Agreement**" or "**this Agreement**" means these terms and any Schedule or other document or source attached to it or incorporated in it by express reference.

"**Ancillary Agreement**" means each of (if applicable):

- (a) TGS Voluntary Pre-Commitment / Loyalty Program Agreement between Tabcorp and the Purchaser;

- (b) TGS Loyalty Program Agreement Diamond Rewards and Player Rewards Terms and Conditions (including InEGM Functionality) between Tabcorp and the Purchaser;
- (c) MAX Loyalty Program Agreement between Tabcorp and the Purchaser; and
- (d) Deed of Licence – Tableau for TGS Victoria between Tab Limited, Tabcorp and the Purchaser.

“**Artwork**” means the Artwork and graphics for a Game.

“**Authorisation**” includes:

- (a) certificate, permission, licence, approval, authority or exemption from, by or with a Governmental Agency; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration, or notification, the expiry of that period without intervention or action.

“**Business Day**” means a weekday on which banks are open in Melbourne, Victoria.

“**Claim**” means in relation to a Party, a demand, claim, action, proceeding, notice, litigation, investigation judgement or Liability, however arising and whether present, unascertained, immediate, future or contingent.

“**Completion**” means, the completion by the Parties of the sale and purchase of the EGMs and the Venue Ancillary Equipment (if any) under this Agreement.

“**Completion Date**” means the date on which Completion occurs, being:

- (a) on expiry of the Existing GSA, as specified in Item 3 of Schedule 1; or
- (b) such other date as the Parties may agree in writing.

“**Completion Time**” means the time on which Completion occurs, being:

- (a) the time specified in Item 3 of Schedule 1; or
- (b) such other time as Parties may agree in writing.

“**Conditions Precedent**” has the meaning given in clause 3.1.

“**Confidential Information**” in relation to a Party, means, except to the extent such information is public knowledge or becomes public knowledge other than by breach of this Agreement or any other undertaking of confidentiality in relation to it, all information or material proprietary to the Party, in whatever form or of whatever subject matter of a confidential nature or marked or designated as confidential, disclosed by that Party to the other Party to this Agreement pursuant to the terms of this Agreement.

“**Copy of Game**” means a particular copy of the:

- (a) computer program (whether comprising software and/or firmware);

- (b) cinematograph film;
- (c) sound recordings; and
- (d) any other subject-matter in which copyright subsists

that embody a Game, and is stored on a Storage Device.

“**Corporations Act**” means the *Corporations Act 2001* (Cth).

“**Deliverable**” means any Game, Copy of a Game, Game Conversion, Storage Device, Materials and Artwork and, for the avoidance of doubt, excludes Intellectual Property Rights in Licensed Products.

“**EGMs**” means the electronic Gaming Machines described in Schedule 2 currently located at the Venue, and any Deliverables relating to those electronic Gaming Machines.

“**Existing GSA**” means the Gaming Services Agreement between Tabcorp and the Purchaser in respect of the Venue, dated 2 July 2010, for gaming related services

“**Force Majeure**” means an event or cause beyond the reasonable control of the Party claiming force majeure. It includes each of the following, to the extent it is beyond the reasonable control of that Party:

- (a) act of God, lightning, storm, flood, fire, earthquake or explosion;
- (b) strike, lockout or other labour difficulty;
- (c) act of public enemy, war (declared or undeclared), terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic or pandemic;
- (d) the effect of any applicable laws, orders, rules or regulations of any government or other competent authority, and any change to those;
- (e) embargo, inability to obtain any necessary materials, equipment or facilities, power shortage, lack of transportation; and
- (f) breakage or accident or other damage to machinery.

“**Game**” means the software modules and components related to an individual game including game symbols, mathematics, sound effects, artworks and other configurable items and includes a Copy of a Game and related computer game programs for operation on Gaming Machines.

“**Game Conversion**” means, in relation to a Gaming Machine:

- (a) the conversion of an existing Game installed on Gaming Machine to a new Game to operate on that Gaming Machine; and
- (b) the installation of an updated version of a Game on that Gaming Machine.

“**Gaming Machine**” has the same meaning as in the Act.

**“Gaming Machine Manufacturer”** means a manufacturer of Gaming Machines and Games that possesses all necessary Authorisations to conduct their business in Victoria, Australia.

**“Gaming Equipment Purchase Component”** means the amount payable as a component of the Service Package Fee under the Existing GSA in respect of the purchase of EGMs and Venue Ancillary Equipment.

**“Government”** means the Government of the State of Victoria.

**“Governmental Agency”** means a Government or a governmental, semi-governmental or judicial entity or authority. It also includes a self-regulatory organisation established under statute or a stock exchange.

**“GSA”** means the Gaming Services Agreement between Tabcorp and the Purchaser in respect of the Venue, dated on or about the date of this Agreement, for gaming related services.

**“GST Act”** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**“GST Amount”** means in relation to a taxable supply the amount of GST payable, or notionally payable, in respect of that taxable supply.

**“Insolvency Event”**, in relation to a Party, means the happening of any of the following events:

- (a) an order is made that the Party be wound up; or
- (b) a successful application is made to a court for an order appointing a liquidator in respect of the Party, whether or not under an order; or
- (c) the Party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with or assignment for the benefit of all or a class of its creditors (other than for the purpose of a solvent reconstruction, amalgamation, arrangement or compromise); or
- (d) the Party resolves to wind itself up or otherwise dissolve itself or is otherwise wound up or dissolved, except to reconstruct or amalgamate while solvent; or
- (e) a receiver or receiver and manager or other controller (as defined in the *Corporations Act*) is appointed in respect of any substantial part of the property of the Party; or
- (f) the Party is unable to make arrangements satisfactory to the other Party for its debts to be paid when they fall due; or
- (g) as a result of the operation of section 459F(1) of the *Corporations Act*, the Party is taken to have failed to comply with a statutory demand; or
- (h) the Party is granted protection from its creditors under any applicable legislation or an administrator is appointed to the Party.

**“Intellectual Property Rights”** means any and all intellectual and industrial property rights throughout the world, including copyright (including future copyright and rights analogous to copyright), inventions (including patents), trademarks, service marks, designs, confidential information, know-how and circuit layouts, whether or not now existing and whether registered or not, including any right to apply for the registration of such rights and all renewals and extensions, but excludes moral rights, and similar personal rights, which by law are non-assignable.

**“Liability”** means an obligation, loss, liability, expense, cost and damage of any kind and however arising, including penalties, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

**“Licensed Products”** means a Game, Copy of a Game, Game Conversion, Storage Device, Materials and Artwork which a Gaming Machine Manufacturer owns or is authorised to use or supply via license in connection with the operation of the EGMs.

**“Materials”** means any text, audio, video, still images, logo, data, software and Artwork.

**“Parties”** means Tabcorp and Purchaser.

**“PPSA”** means the *Personal Property Securities Act 2009* (Cth).

**“Purchaser’s Personnel”** means the officers, servants and agents of Purchaser and includes any permitted sub-contractor and that sub-contractor’s personnel.

**“Purchaser’s Warranties”** means the representations and warranties in respect of Purchaser set out in clause 6.1.

**“Related Body Corporate”** has the meaning given to it by the *Corporations Act*.

**“Related Entity”** has the meaning given to it by the *Corporations Act*.

**“Required Regulatory Approval”** means all Authorisations that in the reasonable opinion of either Tabcorp or Purchaser are required to be made, obtained or have occurred in connection with this Agreement prior to Completion by or in relation to Tabcorp or Purchaser.

**“Storage Device”** means the device or medium, including any read-only memory device, which stores a Copy of a Game.

**“Tabcorp Group”** means Tabcorp and/or any combination of it or its Related Entities; and each of Tabcorp and its Related Entities from time to time is a **“Tabcorp Group Member”**.

**“Tabcorp’s Nominated Bank Account”** means Tabcorp’s nominated account, the details of which are to be provided to Tabcorp by Purchaser upon Tabcorp's request.

**“Tabcorp Personnel”** means the officers, servants and agents of Tabcorp or any Tabcorp Group Member and includes any permitted sub-contractor and that sub-contractor’s personnel.

**“Tabcorp’s Warranties”** means the representations and warranties of Tabcorp set out in clause 6.3.

**“Total Purchase Price”** means the total sum of the amounts specified in Item 6 of Schedule 1, plus any applicable GST.

**“VGCCC”** means the Victorian Gambling and Casino Control Commission.

**“Venue”** means the Venue where the EGMs are currently located as set out in Item 2 of Schedule 1.

**“Venue Ancillary Equipment”** means certain additional gaming equipment which is not required by law to be supplied in connection with the Gaming Machines, but which is located at the Venue immediately prior to the Completion Date (including jackpot displays), and which, prior to the Completion Date, is owned by Tabcorp (or a Related Body Corporate of Tabcorp), and as described in Schedule 3.

**“Venue Operator”** has the same meaning as in the Act.

## 1.2 Interpretation

In this Agreement, headings are for convenience only and do not affect interpretation, and the following rules apply unless the context requires otherwise.

- (a) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (b) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (c) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement.
- (d) A reference to a party to this Agreement or another agreement or document includes the Party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (e) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (f) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (g) In this Agreement the plural includes the singular and vice versa.
- (h) This a reference to dollars or \$ means Australian dollars, unless otherwise expressly stated.

## 1.3 Consents or approvals

If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of a Party or is within the discretion of a Party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion, unless expressly provided otherwise.



## **2 ACKNOWLEDGEMENTS**

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- 2.1 The Parties agree that the terms of this Agreement are subject to the Act, and to the extent that any terms of this Agreement are or become inconsistent with the Act, the Parties agree to amend this Agreement as necessary and appropriate, or if appropriate amendments are not possible, this Agreement will terminate immediately.
- 2.2 Nothing in this Agreement is intended by either Party to compromise the independence or impartiality of either of them, or create conflicts, in relation to any of their duties to third parties, including governmental bodies or instrumentalities, or in any way supersede or derogate from any existing contractual arrangements the Parties may have, nor should this Agreement or any part of it be so construed.

## **3 CONDITIONS PRECEDENT**

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### **3.1 Conditions Precedent**

Completion will not proceed unless and until Tabcorp:

- (a) receives the following in form and substance satisfactory to it:
  - (i) a copy of this Agreement duly executed by all parties;
  - (ii) and
  - (iii) cleared funds for any outstanding fees payable under clause 3.6(b) ; and
- (b) delivers title to each EGM contained in Schedule 2 and the Venue Ancillary Equipment (if any) contained in Schedule 3.

### **3.2 Parties must co-operate**

Each Party must co-operate with the other and do all things reasonably necessary to procure that the Conditions Precedent are fulfilled as soon as reasonably possible, and in any event on or before the Completion Date.

### **3.3 Specific obligations of co-operation**

Without limiting the generality of this clause 3:

- (a) each Party must take all necessary and appropriate applications and supply all necessary and appropriate information for the purpose of enabling the Conditions Precedent to be fulfilled;
- (b) no Party may withdraw or procure the withdrawal of any application made or information supplied under paragraph (a) of this clause 3.3;
- (c) no Party may take any action that would or would be likely to prevent or hinder the fulfilment of the Conditions Precedent; and
- (d) each Party must:

- (i) supply to the other Party copies of all applications made and all information supplied for the purpose of enabling the Conditions Precedent to be fulfilled;
- (ii) keep the other Party informed in a timely manner of the status of any discussions or negotiations with relevant third parties regarding the Conditions Precedent; and
- (iii) promptly notify the other Party on becoming aware of the fulfilment of any Conditions Precedent, any delay in fulfilling the Conditions Precedent or if the Conditions Precedent are incapable of being fulfilled.

### 3.4 **Waiver**

The Conditions Precedent contained in clause 3.1 cannot be waived, except with the written consent of Tabcorp.

### 3.5 **Termination before Completion**

- (a) Tabcorp may terminate this Agreement before Completion if the Conditions Precedent contained in clause 3.1 is not fulfilled or Tabcorp (acting reasonably) determines that it is incapable of being fulfilled, on or before the Completion Date.
- (b) Tabcorp may terminate this Agreement before Completion if any consent or approval required under the Conditions Precedent is granted on terms unacceptable to Tabcorp.

### 3.6 **Gaming Services Agreement to Terminate on Completion**

- (a) Notwithstanding anything in the Existing GSA, any Ancillary Agreement, or this Agreement, the Parties agree that the Existing GSA and each Ancillary Agreement will terminate on Completion (**Termination Date**).
- (b) After the Termination Date, the Purchaser is required to immediately pay all outstanding Service Package Fees that have accrued under the Existing GSA up until the Termination Date.
- (c) The Purchaser must also comply with its confidentiality obligations under the Existing GSA, including returning and/or destroying Tabcorp's Confidential Information held by the Purchaser.
- (d) Tabcorp reserves any rights accrued prior to termination under the Existing GSA, at law and in equity.

## **4 PURCHASE OF EGMS AND VENUE ANCILLARY EQUIPMENT**

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- 4.1 Prior to the Completion Date, Tabcorp will provide Purchaser with a list of its EGMS which describes each machine as specified in Schedule 2.
- 4.2 Purchaser agrees to purchase (or procure that one of its Related Bodies Corporate purchases), and Tabcorp agrees to sell (or, if applicable, procure that its Related Body

Corporate sells), all of the EGMs on the Completion Date of this Agreement at the value specified in Schedule 1.

- 4.3 In addition, Purchaser agrees to purchase (or procure that one of its Related Bodies Corporate purchases), and Tabcorp agrees to sell (or, if applicable, procure that its Related Body Corporate sells), all of the Venue Ancillary Equipment (if any) on the Completion Date of this Agreement at the value specified in Schedule 1.
- 4.4 Purchaser acknowledges and agrees that the EGMs and Venue Ancillary Equipment (if any) are being sold on an 'as is' 'where is' basis.
- 4.5 Risk and title in the EGMs and Venue Ancillary Equipment:
- (a) remains solely with Tabcorp or its Related Body Corporate until immediately prior to the Completion Date; and
  - (b) subject to the provisions of this Agreement, passes to Purchaser with effect on and from the Completion Date.
- 4.6 Upon Completion, the Purchaser:
- (a) will do everything required to enable Tabcorp to:
    - (i) ensure that a security interest in respect of the EGMs and Venue Ancillary Equipment is enforceable, perfected or otherwise effective in accordance with the PPSA;
    - (ii) apply for any registration, or give any notification, in connection with the security interest; and/or
    - (iii) exercise rights in connection with the security interest in accordance with the PPSA.
- 4.7 Following payment of the Total Purchase Price in accordance with clause 5, Tabcorp will provide a release of any security interests (except for Intellectual Property Rights in Licensed Products) affecting EGMs and Venue Ancillary Equipment (if any) from all persons holding them;

## **5 PRICE AND PAYMENT**

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### **5.1 Total Purchase Price**

In consideration for the sale of EGMs and any Venue Ancillary Equipment, the Purchaser agrees to pay the Total Purchase Price to Tabcorp in accordance with the terms of this Agreement.

### **5.2 Payment of the Total Purchase Price**

The Purchaser will pay the Total Purchase Price in respect of the EGMs and the Venue Ancillary Equipment (if any) as the Gaming Equipment Purchase Component under the Existing GSA, as invoiced by Tabcorp, by direct debit into Tabcorp's Nominated Account, or as Tabcorp may otherwise direct in writing.

## **6 PURCHASER'S AND TABCORP'S WARRANTIES**

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### **6.1 Purchaser's Warranties**

Purchaser represents and warrants to Tabcorp that each of the following warranties (Purchaser's Warranties) is true and correct as at the date of this Agreement and at Completion:

- (a) it has been incorporated as a company in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;
- (b) it has the right, title and power to enter into this Agreement and will carry out its obligations under this Agreement;
- (c) this Agreement constitutes a legal, valid and binding obligation of Purchaser, the execution, delivery and performance by Purchaser of this Agreement does not or will not (with or without the lapse of time, the giving of notice or both) contravene, conflict with or result in a breach of or default under:
  - (iv) any provision of the constitution of Purchaser;
  - (i) any material term or provision of any security arrangement, undertaking, agreement or deed; or
  - (ii) any writ, order or injunction, judgment, law, rule or regulation to which it is a Party or is subject or which it is bound;
- (d) the signatory to this Agreement is duly authorised to execute this Agreement on behalf of the Purchaser and the Purchaser further acknowledges that the execution of this Agreement by the signatory will be effective and binds the Purchaser to the provisions of this Agreement; and
- (e) it has no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;

### **6.2 Purchaser as Trustee**

- (a) If the Purchaser has entered into this Agreement in its capacity as the trustee of a trust, the Purchaser warrants that:
  - (i) the Purchaser has power under the trust to execute and perform its obligations under this Agreement and all necessary action has been taken to authorise the execution and performance of this Agreement under the trust and, if the Purchaser is a corporation, under the constitution of the Purchaser;
  - (ii) the Purchaser has a right to be fully indemnified out of the trust, which right has not been restricted or limited in any way; and
  - (iii) each of the above warranties are and will remain true as long as this Agreement remains in force.

- (b) Tabcorp's rights under this Agreement will rank in priority to the claims of the beneficiaries of the trust.
- (c) The Purchaser, upon the occurrence of an event constituting a ground for termination of this Agreement and on demand by Tabcorp, must exercise its rights of indemnity in relation to the trust and its rights against the beneficiaries of the trust to cause payment to Tabcorp or otherwise hold such rights for Tabcorp.

### 6.3 Tabcorp Warranties

Tabcorp represents and warrants to Purchaser that each of the following warranties (Tabcorp's Warranties) is true and correct:

- (a) it is the sole legal and beneficial owner of the EGMs and the Venue Ancillary Equipment (if any) it and has complete and unrestricted power and authority to sell the EGMs and the Venue Ancillary Equipment (if any) to Tabcorp;
- (b) it has been incorporated as a company in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;
- (c) it has the right, title and power to enter into this Agreement and will carry out its obligations under this Agreement;
- (d) this Agreement constitutes a legal, valid and binding obligation on Tabcorp, enforceable in accordance with its terms by appropriate remedy;
- (e) the signatory to this Agreement is duly authorised to execute this Agreement on behalf of Tabcorp and Tabcorp further acknowledges that the execution of this Agreement by the signatory will be effective and binds Tabcorp to the provisions of this Agreement; and
- (f) it has no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable.

### 6.4 Notification of breach before Completion

If on or before Completion a party becomes aware of any breach or potential breach of this Agreement by the other Party (including Purchaser's Warranties or Tabcorp's Warranties) or any event that has or will cause a Party to be untrue or inaccurate, then that Party (the **Notifying Party**) must:

- (a) immediately notify the other Party of this and provide details of the nature, fact, circumstance or matter giving rise to the breach or the potential breach; and
- (b) allow the other Party a reasonable opportunity to remedy the breach or potential breach.

### 6.5 Remedies for breach of Purchaser's Warranties

Tabcorp's remedy for a breach of Purchaser's Warranties is:

- (a) damages; and
- (b) termination of this Agreement.

#### 6.6 Remedies for breach of Tabcorp's Warranties

Purchaser's sole remedy for breach of Tabcorp's Warranties is termination of this Agreement.

### 7 INDEMNITY

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#### 7.1 Purchaser's Indemnity

- (a) Purchaser will indemnify Tabcorp and its Related Bodies Corporate (each an **Indemnified Party**) against any Claim, loss, damage, liability, cost or expense that may be incurred or sustained by an Indemnified Party resulting from:
  - (i) any breach of a Purchaser Warranty;
  - (ii) the negligence or wilful misconduct of the Purchaser or Purchaser's Personnel,

except to the extent that the Claim, loss, damage, liability, cost or expense arises out of the negligence or wilful misconduct of Tabcorp or Tabcorp's Personnel.

#### 7.2 Tabcorp Indemnity

- (a) Subject to clause 8, Tabcorp will indemnify the Purchaser against any Claim, loss, damage, liability, cost or expense that may be incurred or sustained by the Purchaser resulting from:
  - (i) any breach of a Tabcorp Warranty; or
  - (ii) the negligence or wilful misconduct of Tabcorp or Tabcorp Personnel,

except to the extent that the Claim, loss, damage, liability, cost or expense arises out of the negligence, wilful misconduct or breach of this Agreement by the Purchaser or the Purchaser's Personnel.

### 8 EXCLUSION AND LIMITATION OF LIABILITY

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8.1 Despite any other provision of this Agreement, to the maximum extent permitted by law:

- (a) Tabcorp's maximum aggregate liability to the Purchaser and its Related Bodies Corporate arising out of, and in connection with, this Agreement is the Total Purchase Price;
- (b) Tabcorp will not be liable to Purchaser for or in respect of any loss of profits, loss of revenues, loss of goodwill, loss of business opportunities, payment of liquidated sums or damages of any kind, or any special damages, indirect or consequential loss, in each case arising out of, or in connection with, this Agreement;

- (c) and subject to clause 8.2, all terms and warranties expressed or implied by any legislation, the common law, equity, trade, custom or usage or otherwise are expressly excluded.

8.2 If any legislation implies in this Agreement any term or warranty or prohibits provisions in a contract excluding or modifying the application or exercise of, or liability under, that term or warranty, that term or warranty is deemed to be included.

## **9 TERMINATION**

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### **9.1 Termination Events**

Either Party may terminate this Agreement by written notice to the other Party if:

- (a) the other Party breaches a term of this Agreement, the Existing GSA, or the GSA and does not remedy the breach within 14 days after a written notice requiring the breach to be remedied; or
- (b) the other party becomes subject to, or is reasonably likely to become subject to, an Insolvency Event, except in the case of administration, receivership or scheme of arrangement, in which case as permitted by the administrator or receiver (whichever applies) or to the extent permitted by the law or court.

### **9.2 Rights not limited**

The right of termination of a Party under this clause 9 is in addition to, and not limited by, any other rights and remedies of the Party against the other Party.

### **9.3 No waiver of rights and remedies**

If a Party does not exercise its rights under this clause 9, its other rights and remedies against the other Party will not be lost or limited in any way.

### **9.4 Survival**

Termination or expiry of this Agreement will not prejudice any right of action or remedy which may have accrued to either Party.

## **10 COMPLETION**

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### **10.1 Location of Completion**

Subject to clause 3, Completion will take place either:

- (a) on the Completion Date at the Venue or at such other place as agreed by the Parties; or
- (b) by such other means as agreed by the Parties.

### **10.2 Obligations of Tabcorp on Completion**

On the Completion Date, Tabcorp agrees to:

- (a) deliver or make available to Purchase, all of the EGMs and Venue Ancillary Equipment (if any) by leaving those EGMs and Venue Ancillary Equipment (if any) at the Venue, in the same place that they were situated immediately prior to the Completion Date, or such other location as Purchaser and Tabcorp agree; and
- (b) deliver, or make available to Purchaser, duly executed documentation (as reasonably requested by Purchaser to properly effect and record the transfer of ownership of the EGMs and Venue Ancillary Equipment (if any), including any documents of title relating to the EGMs and Venue Ancillary Equipment (if any).

### 10.3 **Completion of sale and purchase**

Completion of the sale and purchase of each EGM and the Venue Ancillary Equipment (if any) is dependent on the simultaneous completion of the sale and purchase of each other EGM and Venue Ancillary Equipment (if any).

### 10.4 **Obligations after Completion of sale and purchase**

After Completion, both Parties will independently give written disclosure to the VGCCC and any other relevant Governmental Agency as required by the Act, advising it of the disposal and acquisition of the EGMs.

## 11 **CONFIDENTIALITY**

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### 11.1 **Prohibited Disclosure**

Subject to clause 11.2, a Party must not disclose, or use for a purpose other than contemplated by this Agreement, the existence or terms of this Agreement or any Confidential Information supplied by the other Party in connection with this Agreement and that is not in the public domain.

### 11.2 **Permitted Disclosure**

Clause 11.1 does not apply to:

- (a) disclosure under corresponding obligations of confidence as imposed by this clause, to its Related Bodies Corporate or its (or its Related Bodies Corporates) officers or employees or legal, financial or accounting advisers, insurance brokers or consultants;
- (b) disclosure to the other Party;
- (c) disclosure or use of information which is at the time lawfully in the possession of the proposed recipient of the information through sources other than the other Party to this Agreement, or a Related Body Corporate of the other Party to this Agreement;
- (d) disclosure or use of information in enforcing this Agreement or in a proceeding arising out of or in connection with this Agreement;



- (e) disclosure if required under a binding order of a Governmental Agency or under a procedure for discovery in any proceedings;
- (f) disclosure if required under any law or the listing rules of the Australian Securities Exchange or any administrative guideline, directive, request or policy whether or not having the force of law;
- (g) disclosure as required or permitted by this Agreement;
- (h) disclosure to the VGCCC or the State or any governmental agency or any of their agents or representatives;
- (i) disclosure or use of information with the prior written consent of the other Party;
- (j) disclosure in connection with a capital raising, a takeover or an arrangement or compromise under section 411 of the *Corporations Act* being undertaken by it or a Related Body Corporate of it.

### 11.3 Return or destruction of materials

Each Party undertakes within 5 days of a written request by the other Party in the event of a material breach of any of the provisions of this clause or on termination or expiry of this Agreement (for any reason) whichever is the earlier, either:

- (a) promptly to return all relevant documents and other material (in whatever medium) in its possession, custody or control that bear or incorporate any of the other Party's Confidential Information; and
- (b) promptly to destroy by shredding or incineration all relevant documents and other material in its possession, custody or control which bear or incorporate any part of the other Party's Confidential Information and to certify to the other Party that this has been done,

except to the extent that the Party is required by law to retain such documents or materials.

### 11.4 Announcements

Neither Party will make any public announcements in relation to any issues that are subject of this Agreement without the prior written approval of the other Party except:

- (a) when required by law; or
- (b) in the case of Tabcorp, where Tabcorp (or a Related Body Corporate of Tabcorp) wishes to make an announcement to the Australian Securities Exchange (whether required by law or otherwise).

## 12 COSTS AND DUTY

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Each Party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this Agreement and any instrument executed under any transaction evidenced by this Agreement must be payable by Purchaser.

## **13 GST**

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### **13.1 Recovery of GST**

If GST is payable, or notionally payable, on a supply made under or in connection with this Agreement, the Party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the "GST Amount"). Subject to the prior receipt of a Tax Invoice, the GST Amount is payable at the same time that the other consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

### **13.2 Liability net of GST**

Where any indemnity, reimbursement or similar payment under this Agreement is based on any cost, expense or other liability, it will be reduced by any input tax credit entitlement or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.

### **13.3 Adjustment events**

If an adjustment event occurs in relation to a supply made or in connection with this Agreement, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the Parties.

### **13.4 Survival**

This change will not merge on Completion and will continue to apply after expiration or termination of this Agreement.

### **13.5 Definitions**

Unless the context requires otherwise, words and phrases used in this clause that have a specific meaning in the GST Act (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) will have the same meaning in this clause.

## **14 DISPUTE RESOLUTION**

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14.1 Any dispute arising in connection with this Agreement that cannot be settled by negotiation between senior representatives of the Parties acting in good faith will be referred for mediation to be conducted by a mediator agreed between the Parties.

14.2 If the Parties cannot agree on the appointment of a mediator either Party may, upon giving the other Party at least fourteen (14) days written notice, apply to the President of the Law Institute of Victoria to request that a mediator be appointed.

14.3 The Parties agree that the costs of any mediator appointed will be borne equally between them.

14.4 The Parties agree that they may consult and engage legal representatives to appear at any mediation.

- 14.5 The mediation will be conducted in the State of Victoria, unless otherwise agreed by the Parties.
- 14.6 In the event that the dispute between the Parties is not resolved within thirty (30) days of the appointment of the mediator (or a longer period as agreed in writing between the Parties), either Party may pursue any action available at law or in equity to enforce its rights under this Agreement, including litigation.
- 14.7 Nothing in this clause will prevent a Party from seeking urgent or interim equitable relief before an appropriate court.

## **15 FORCE MAJEURE**

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### **15.1 No liability for delay in or failure of performance**

A Party will not be liable for any delay in or failure of performance (other than delay or failure to make a monetary payment) arising from Force Majeure if:

- (a) subject to clause 15.3, it has taken all proper precautions, due care and reasonable alternatives with the intention of avoiding that delay or failure and of carrying out its obligations under this Agreement;
- (b) as soon as possible after the beginning of the Force Majeure affecting the ability of a Party to perform any of its obligations under this Agreement, it gives notice to the other Party that describes the event of Force Majeure, specifies the obligations it cannot perform and provides an estimate of the time during which Force Majeure will continue.

### **15.2 Remedy of Force Majeure**

A Party that is prevented from carrying out its obligations under this Agreement as a result of Force Majeure must remedy the Force Majeure to the extent reasonably practicable and resume performance of its obligations as soon as reasonably possible.

### **15.3 No requirement to settle labour disputes**

A Party is not required, under clause 15.1 or 15.2 to settle any labour disputes against its will.

## **16 GOOD FAITH NEGOTIATIONS**

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If for any reason whatsoever any provision of this Agreement becomes unworkable or unenforceable or is otherwise contrary to any laws in place from time to time, or can be structured in a manner that is more beneficial to both Parties, the Parties agree to consider appropriate alternative arrangements in good faith and to give effect to them, provided that neither Party is materially disadvantaged by the proposed alternative arrangements.

## **17 THIRD PARTY BENEFIT**

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To the extent that a representation, warranty or undertaking or acknowledgement given by

a Party in this Agreement, is given to or for the benefit of any Related Body Corporate of the other Party (such other Party being referred to as the “**Recipient**”) or any director, officer, employee or agent of the Recipient or its Related Body Corporate (each referred to as the “**Third Party Beneficiary**”), the benefit of that representation, warranty, indemnity, undertaking or acknowledgement is held by the Recipient on trust for, and is enforceable by, each such Third Party Beneficiary, notwithstanding that they are not a Party to this Agreement.

## **18 NO MERGER**

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The rights and obligations of the Parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

## **19 NO PARTNERSHIP, JOINT VENTURE OR AGENCY**

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Nothing contained in this Agreement creates a joint venture, employment, partnership or agency relationship between Purchaser and Tabcorp, and neither Party will represent that it is connected to the other Party in these ways. Neither Party has any authority to bind the other Party in any way other than expressed in this Agreement.

## **20 SEVERABILITY**

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Any provision of this Agreement that is prohibited or unenforceable is ineffective to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement or the validity or enforceability of that provision to the extent that it is not otherwise prohibited or unenforceable.

## **21 NO AMENDMENT**

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This Agreement may be amended only by another agreement executed by all Parties.

## **22 ASSIGNMENT**

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- 22.1 The Purchaser may not assign, novate, charge, encumber or otherwise deal with any of its rights or obligations under this Agreement, or attempt or purport to do so, without the prior written consent of Tabcorp.
- 22.2 Tabcorp may assign or novate all or part of this Agreement or any rights or remedies arising out of it without the prior consent of the Purchaser, provided that such assignment or novation is made to an entity or person that has the requisite experience and capability to meet the obligations under this Agreement. The Purchaser must provide all assistance reasonably required by Tabcorp to effect the assignment or novation.

## **23 FURTHER ASSURANCES**

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Each Party must do anything (including executing agreements and documents) necessary

to give full effect to this Agreement and the transactions contemplated by it.

## **24 NO WAIVER**

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A provision of or right under this Agreement may not be waived or varied except in writing signed by the Parties.

## **25 NOTICES**

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25.1 Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:

- (i) must be in legible writing, in English and signed by the sender or a person duly authorised by the sender;
- (ii) must be addressed and delivered to the intended recipient at the postal address or email address, in respect of Tabcorp, as set out in Item 4 of Schedule 1 and, in respect of the Purchaser, as set out in Item 5 of Schedule 1 (or at the postal address or email address last notified by the intended recipient to the sender); and
- (iii) takes effect when taken to be received (or at a later time specified in it), and is taken to be received:
  - (i) if sent by prepaid express post to the Party's address as set out in this Agreement, on the third (3<sup>rd</sup>) Business Day following the date of postage by the sender;
  - (ii) if hand delivered to the Party's postal address set out in this Agreement, on the date of delivery unless such delivery occurs after 5:00pm or at any time on a day which is not a Business Day, in which case the Notice will be deemed to have been effectually served on the next Business Day; and
  - (iii) if sent by email to the Party's email address as set out in this Agreement and the sender has not been informed that the email has not been received by the recipient (by automatic notice or otherwise), on the date of delivery unless such delivery occurs after 5:00pm or at any time on a day which is not a Business Day, in which case the Notice will be deemed to have been effectually served on the next Business Day.

## **26 GOVERNING LAW AND JURISDICTION**

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This Agreement is governed by the laws of Victoria, and each of the Parties irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria, Australia.

## **27 CONSTRUCTION**

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The Parties acknowledge and agree that no rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of this Agreement or any part of it.

## **28 ENTIRE AGREEMENT**

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- 28.1 This Agreement contains the entire agreement between the Parties with respect to its subject matter. It sets out the only conduct relied on by the Parties and supersedes any earlier conduct and prior agreements and understandings between the Parties in connection with its subject matter.
- 28.2 Purchaser acknowledges and represents that it has had the opportunity to seek disclosure of all material information relating to the transactions dealt with by this Agreement and that it has not relied to any extent on any conduct by or on behalf of Tabcorp in relation to those transactions apart from those set out or referred to in this Agreement.

## **29 COUNTERPARTS**

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- 29.1 This Agreement may be executed in any number of counterparts.
- 29.2 All counterparts, taken together, constitute one instrument.
- 29.3 A party may execute this Agreement by signing any counterpart.

**SCHEDULE 1 - DETAILS**

Item #	Item	Details
1.	<b>Purchaser:</b>	Wangaratta RSL Sub-Branch Inc. ABN/ACN - 61412912811
2.	<b>Venue:</b>	Wangaratta RSL Sub-Branch Inc.
3.	<b>Completion Date and Time:</b>	16 August 2022  Or other such date and time agreed by the Parties
4.	<b>Tabcorp's Address for Service:</b>	Tower 2, Level 21, 727 Collins Street, Melbourne, Victoria 3008  Attention: General Manager – MAX Venue Solutions, Tabcorp Gaming Solutions Pty Ltd  Email: Adam.Floyd@tabcorp.com.au
5.	<b>Purchaser's Address for Service:</b>	Wangaratta RSL  2-4 Templeton Street, Wangaratta VIC 3677  Attention: Chris Simsen  Email: manager@wangarattarsl.org.au
6.	<b>Total Purchase Price (plus GST):</b>  <b>(a) for the 50 EGMS; and</b>  <b>(b) for the Venue Ancillary Equipment (if any)</b>	<b>\$616,124.00</b>

**SCHEDULE 2 – EGMS AND DELIVERABLES**

Inventory description	Barcode	License plate	Serial number	Game
EGM, ARISTOCRAT MK6 XCEED CT VIC	806962-002084	3034014566	0069646	BLACK RHINO
EGM, ARISTOCRAT MK6 XCEED CT VIC	806962-001922	3034008540	0065393	5 DRAGONS
EGM, ARISTOCRAT MK6 XCEED CT VIC	806962-002083	3034019309	0665062	WILD TEPEE
EGM, ARISTOCRAT MK6.2 XCITE CT VIC	806963-000559	3034035908	0677099	WILD COUGAR
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000446	3034057765	0682620	DRAGONS CHOICE SUPERCASE
EGM, AINSWORTH A560 X VIC	808065-000048	3404069124	XAR150774	DOUBLE SHOT 5 STAR
EGM, IGT NEO VIC	806971-000984	3064056505	320303	MULTISTAR CHAMPION SERIES
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000083	3034063218	0684220	PLAYERS CHOICE RUBY
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000445	3034043812	0684326	PLAYERS CHOICE GRAND
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000867	3034065335	0684981	PLAYERS CHOICE DIAMOND
EGM, AINSWORTH A600 VIC	808453-0000201	3404073083	XAR164166	QUAD SHOT 5 STAR
EGM, ARISTOCRAT HELIX XT VIC	809140-0000091	3034080230	0685815	MORE MORE CHILLI
EGM, IGT CRYSTAL DUAL 27" VIC	809991-0000049	3064081057	324115	GENIES WISHES BUBBLE BLAST SAP
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0001678	3034082852	0956264	GENGHIS KHAN DRAGON CASH
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000312	3034074629	0951256	AUTUMN MOON DRAGON CASH
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0001679	3034082842	0956254	PEACE & LONG LIFE DRAGON CASH
EGM, IGT CRYSTAL VIC	808067-000300	3064064426	322378	MULTISTAR BIG 3G
EGM, IGT CRYSTAL VIC	808067-000160	3064064386	322338	MULTISTAR DAZZLING DIAMONDS
EGM, IGT CRYSTAL VIC	808067-000392	3064070160	322672	MULTISTAR HOT DIAMONDS
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000684	3034078033	0952834	AUTUMN MOON DRAGON LINK
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000428	3034075481	0953305	GOLDEN CENTURY DRAGON LINK
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000109	3034073904	0951036	HAPPY & PROSPEROUS DRAGON LINK
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000682	3034077989	0952790	PANDA MAGIC DRAGON LINK
EGM, ARISTOCRAT HELIX VIC	807891-000125	3034065842	0690723	DRAGONS RICHES LIGHTNING LINK
EGM, ARISTOCRAT HELIX VIC	807891-001249	3034071541	0690824	FIRE IDOL LIGHTNING LINK
EGM, ARISTOCRAT HELIX VIC	807891-000009	3034066891	0691535	MINE MINE MINE LIGHTNING LINK
EGM, ARISTOCRAT HELIX VIC	807891-000648	3034067635	0692284	RAGING BULL LIGHTNING LINK
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000505	3034045926	0681924	MAGIC TOTEM LIGHTNING LINK
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000905	3034065303	0684949	MAGIC PEARL LIGHTNING LINK
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000555	3034057699	0682896	BENGAL TREASURES LIGHTNING LINK
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000157	3034055462	0683696	HIGH STAKES LIGHTNING LINK
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000685	3034057762	0682617	WILD CHUCO LIGHTNING LINK



EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000811	3034065344	0684990	EYES OF FORTUNE LIGHTNING LINK
EGM, ARISTOCRAT MK7 VIRIDIAN WS VIC	806968-000756	3034065125	0682984	MAGIC TOTEM LIGHTNING LINK
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000565	3034075754	0953605	PANDA MAGIC DRAGON CASH
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000780	3034078645	0955145	GOLDEN CENTURY DRAGON CASH
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000313	3034074643	0951246	HAPPY & PROSPEROUS DRAGON CASH
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000782	3034078637	0955137	SPRING FESTIVAL DRAGON CASH
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0001680	3034082838	0956250	GENGHIS KHAN DRAGON CASH
EGM, ARISTOCRAT HELIX PLUS VIC	809042-0000355	3034074764	0951300	PEACOCK PRINCESS DRAGON CASH
EGM, SCIENTIFIC DUALOS VIC	808066-0000584	3334073776	VTD8126	HAPPY CHANCE PIG
EGM, SCIENTIFIC DUALOS VIC	808066-0000591	3334073762	VTD8112	SILVER STALLION HOT HOT JACKPOTS
EGM, SCIENTIFIC DUALOS VIC	808066-0000322	3334072090	VTD7741	SWEET TWEET CASH CONNECTION
EGM, SCIENTIFIC DUALOS VIC	808066-0000397	3334073497	VTD7847	PIGGY BANKIN LOCKED & LOADED
EGM, SCIENTIFIC DUALOS VIC	808066-0000640	3334076463	VTD8304	KINGS CREST RISING RICHES
EGM, SCIENTIFIC DUALOS VIC	808066-0000588	3334073757	VTD8107	LOCKED UP LOOT LOCKED & LOADED
EGM, KONAMI CONCERTO VIC	808476-0000143	3314075237	013414	ALL ABOARD EXPRESS
EGM, KONAMI CONCERTO VIC	808476-0000162	3314075240	013417	THAI TREASURES ALL ABOARD
EGM, ARISTOCRAT HELIX VIC	807891-000864	3034067073	0691625	PLAYERS CHOICE EMERALD
EGM, ARISTOCRAT HELIX VIC	807891-000905	3034067080	0691632	PLAYERS CHOICE OPAL EDITION

**SCHEDULE 3 – VENUE ANCILLARY EQUIPMENT**

Inventory description	Barcode	Quantity
SBNEXGEN2 SOFTWARE LICENCES - inEGM LOYALTY		50
SBNEXGEN2 KITS (TFT/UGA) - inEGM LOYALTY		50
EBET, Kiosk Stand Metal Frame Only	202222-0000111	1
SIGN, DISPLAY END OF BANK, NETWORKED #ASM-8074-SN-P, ASM-9579	807918-000023	1
SWITCH, TGS LOYALTY- 18 PORT GBIT #CISC SLM2016T-AU	806646-000158	1
UPS, TGS LOYALTY EVOLUTION 650 #M68451	806578-000109	1
SIGN, DISPLAY END OF BANK, NETWORKED #ASM-8074-SN-P, ASM-9579	807918-000043	1
EBET, Kiosk Stand Metal Frame Only	202222-0000115	1
GAME TOP, 250L DOUBLE SIDED PRECISION SIGNS #PSGTL008	809816-0000001	1
SERVER, TGS LOYALTY- DELL POWEREDGE R210 MK II #	806650-000107	1
ROUTER, TGS LOYALTY- CISCO887 SEC-K9 #CISCO887VA-SEC-K9	806648-000158	1

**SIGNING PAGE**

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**EXECUTED** as an Agreement.

Signed for and behalf of **TABCORP  
GAMING SOLUTIONS PTY LTD** by its  
authorised representative in the presence  
of:

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Witness Signature

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Authorised Representative Signature

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Print Name

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Print Name

Signed for and on behalf of the  
**PURCHASER** in accordance with section  
127 of the *Corporations Act 2001* (Cth):

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Director

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Director/Company Secretary

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Print Name

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Print Name