

# LEASE

SHIRE OF DENMARK  
[Lessor]

and

DENMARK EQUESTRIAN  
MANAGEMENT GROUP INC.  
[Lessee]

**Whole of Reserve 39067 being  
Lot 1004 on Deposited Plan 215923**

## Table of Contents

<b>1.</b>	<b>Definitions and interpretation</b>	<b>4</b>
1.1	Terms in Reference Schedule	4
1.2	Definitions	4
1.3	Interpretation	5
<b>2.</b>	<b>Reserve, term and holding over</b>	<b>5</b>
2.1	Reserve	5
2.2	Term	5
2.3	Monthly Tenancy	5
<b>3.</b>	<b>Rent and rent reviews</b>	<b>5</b>
3.1	Rent	5
<b>4.</b>	<b>Operating Expenses</b>	<b>6</b>
4.1	Expenses Due to Lessee's Use	6
4.2	Goods and Services Tax	6
<b>5.</b>	<b>Use of the Premises</b>	<b>7</b>
5.1	Permitted Use	7
5.2	Restrictions on Use	7
5.3	No warranty as to Use	7
5.4	Official Requirements and rules	7
5.5	Caveats	7
<b>6.</b>	<b>Maintenance and repair</b>	<b>7</b>
6.1	Repair	7
6.2	Cleaning and Maintenance	8
6.3	Not to pollute	8
6.4	Lessor's right to inspect and repair	8
6.5	Notice of damage or defect in services	8
<b>7.</b>	<b>Assignment and subletting</b>	<b>8</b>
<b>8.</b>	<b>Insurances and indemnities</b>	<b>8</b>
8.1	Lessee's insurance	8
8.2	Lessee's policies	8
8.3	Proof of insurance policies	8
8.4	Lessee's release and indemnity	9
8.5	Lessor's Insurance	9
<b>9.</b>	<b>Occupational Safety and Health Act</b>	<b>9</b>
<b>10.</b>	<b>Default and termination</b>	<b>9</b>
10.1	Default	9
10.2	Forfeiture of Lease	10
10.3	Consequences of Default	10
10.4	Waiver	10
10.5	Interest on Overdue Money	10
<b>11.</b>	<b>Termination of Term</b>	<b>11</b>
11.1	Termination by Notice	11
11.2	Lessee's obligations	11
11.3	Failure to Remove Lessee's Property	11

<b>12.</b>	<b>General</b>	<b>11</b>
12.1	Notices	11
12.2	Costs	12
<b>13.</b>	<b>Option of Renewal</b>	<b>12</b>
<b>14.</b>	<b>Damage and destruction</b>	<b>12</b>
14.1	Definitions	12
14.2	Abatement	12
14.3	Either party may terminate	13
14.4	Lessee may terminate	13
14.5	Dispute resolution	13
<b>15.</b>	<b>Severability</b>	<b>14</b>
<b>16.</b>	<b>Entire Understanding</b>	<b>14</b>
<b>17.</b>	<b>Organisations</b>	<b>14</b>
<b>18.</b>	<b>Lessor's Consent</b>	<b>14</b>
<b>19.</b>	<b>Property Law Act</b>	<b>14</b>
	<b>Schedule 1 - Reference Schedule</b>	<b>15</b>
	<b>Appendix 1 – Reserve 39067 (delineated in red)</b>	<b>18</b>
	<b>Appendix 2 – Ministerial Consent</b>	<b>19</b>

## Parties

1. **Shire of Denmark** of 953 South Coast Highway, Denmark, Western Australia (**Lessor**)
2. **Denmark Equestrian Management Group Incorporated** (IARN A1030762U) of PO Box 37, Denmark, Western Australia (**Lessee**)

## Agreed terms

**SUBJECT TO THE COVENANTS AND POWERS IMPLIED UNDER THE LAND ADMINISTRATION ACT 1997 AND THE TRANSFER OF LAND ACT 1893 AS AMENDED (UNLESS HEREBY NEGATED OR MODIFIED) AND ALSO TO THE COVENANTS AND CONDITIONS CONTAINED HEREIN.**

### 1. Definitions and interpretation

#### 1.1 Terms in Reference Schedule

Terms in bold type in the Reference Schedule have the meaning shown opposite.

#### 1.2 Definitions

**Authority** includes any government or governmental, semi-governmental, administration, fiscal or financial body, department, commission, council, authority, tribunal, agency or entity including but not limited to any court, tribunal, agency or entity including but not limited to any court, tribunal or person having jurisdiction over the parties, the Premises or this Lease;

**CEO** means the person employed as the Chief Executive Officer of the Lessor from time to time;

**Claim** includes any claim or legal action and all costs and expenses incurred in connection with it;

**Commencing Date** means the commencing date specified in the reference schedule;

**Financial Year** means 1 July to 30 June;

**Lessor's Property** means any property owned by the Lessor on the Premises including but not limited to the items specified in the reference schedule;

**Lessee's Property** means any property owned by the Lessee on the Premises including but not limited to the items specified in the reference schedule;

**Land** means the land described in the Reference Schedule;

**Official Requirement** means any requirement, notice, order or direction of any statutory authority and includes the provisions of any statute, ordinance or by-law;

**Plan** means the plan of the Land annexed to this Lease (if any);

**Premises** mean the whole of the Land and includes the Lessor's Property;

**Purposes** means the purposes described in the Reference Schedule;

**Services** means all utilities and services to the Premises;

**Structural Building Repairs** means substantial and major repairs or replacement of essential structures relating to all loads, internal actions, material properties and foundation conditions that significantly affect structural sufficiency or serviceability including but not limited to:

- floors;
- masonry;
- roof covering and roof structure;
- footings and foundations;
- painting of external surfaces;
- outer walls of any construction but does not include windows, doors, doorframes, and door furniture;

- ceilings; and
- Sewerage, drainage and water supply but does not include taps and other visible water fittings.

**Lessee's Employees** means each of the Lessee's employees, contractors, agents, customers, sublessees, licensees, invitees, volunteers, or others (with or without invitation) who may be on Premises;

**Lessee's Property** includes all fixtures and other on the Premises which are not the Lessor's;

**Term** means the term of this Lease specified in the reference schedule and includes the further term as applicable; and

**Termination Date** means the date of termination of this Lease specified in the reference schedule.

### 1.3 Interpretation

- (a) Reference to:
- (i) the singular includes the plural and the plural includes the singular;
  - (ii) a person includes a body corporate;
  - (iii) a party includes the party's executors, administrators, successors and permitted assigns;
  - (iv) "month" or "monthly" means calendar month or calendar monthly; and
  - (v) a right includes a remedy, authority or power.
- (b) If a party consists of more than one person, this Lease binds them jointly and each of them severally.
- (c) Headings are for convenience only and do not form part of this Lease or affect its interpretation.

## 2. Reserve, term and holding over

### 2.1 Reserve

The Land is vested in the Lessor for the Purposes with the power to lease for any term not exceeding 21 years subject to the consent of the Minister for Lands and this lease is subject to the covenants and powers implied under the *Land Administration Act 1997 (WA)* and the *Transfer of Land Act 1893 (WA)* (unless negated or modified by the provisions of this Lease) and to the covenants and conditions contained in this Lease.

### 2.2 Term

The Lessor leases the Premises to the Lessee for the Term commencing on the Commencing Date.

### 2.3 Monthly Tenancy

If the Lessee continues to occupy the Premises after the Term with the Lessor's consent then:

- (a) the Lessee does so as a monthly lessee on the same basis as at the last day of the Term; and
- (b) either party may terminate the monthly tenancy by giving to the other 1 month's notice expiring on any day.

## 3. Rent and rent reviews

### 3.1 Rent

- (a) The Lessee must pay the Rent in the amount and method described in the Reference Schedule.
- (b) Each payment of Rent must be made with an additional amount equal to any goods and services, consumption, value added tax applying to that payment.

## **4. Operating Expenses**

### **4.1 Expenses Due to Lessee's Use**

- (a) The Lessee must pay to the relevant authorities all charges for rates, taxes, charges, assessments, licence fees, duties, impositions, penalties, and other outgoings whatever which now or at any time during the Term are assessed and charged upon or in respect of the Premises or the use or occupation of the Premises or any part.
- (b) The Lessee must pay to the relevant authorities all charges for gas, electricity, water, telephone and internet and the costs incurred by the Lessor in providing Services to the Premises.
- (c) The Lessee must pay to the Lessor all expenses due solely to the Lessee's use of the Premises.

### **4.2 Goods and Services Tax**

#### **(a) Consideration is exclusive of GST**

The consideration for a Supply under this Lease is exclusive of any GST imposed on the Supply.

#### **(b) Recovery of GST**

If a Supply under this Lease is subject to GST:

- (i) the Recipient of the Supply must pay, in addition to the other consideration payable or to be provided for the Supply, an additional amount equal to the GST; and
- (ii) the Recipient must pay the additional amount to the supplier at the same time as the other consideration.

However, the Recipient need not pay the additional amount until the supplier gives the Recipient a Tax Invoice.

#### **(c) Adjustment of additional amount**

If the additional amount differs from the amount of GST payable by the supplier on the Supply:

- (i) the supplier must promptly issue an Adjustment Note to the Recipient; and
- (ii) an amount equal to the difference must be paid by the supplier to the Recipient, or by the Recipient to the supplier, as appropriate.

#### **(d) Reimbursement**

If any party is entitled to payment of any costs or expenses by way of reimbursement or indemnity, the payment must exclude any part of that cost or expense which is attributable to GST for which that party or the Representative Member of any GST Group of which that party is a member is entitled to an Input Tax Credit.

#### **(e) Definitions**

In this clause, Adjustment Note, GST, GST Group, Input Tax Credit, Member, Recipient, Representative Member, Supply and Tax Invoice have the meanings given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

## **5. Use of the Premises**

### **5.1 Permitted Use**

The Lessee must only use the Premises for the Permitted Use.

### **5.2 Restrictions on Use**

The Lessee must not:

- (a) disturb lessees or owners of adjacent premises;
- (b) overload any Services;
- (c) damage the Lessor's Property;
- (d) alter the Premises, or do any building work without the Lessor's prior consent;
- (e) do anything that may invalidate the Lessor's insurance or increase the Lessor's premiums or risk; or
- (f) damage, destroy or remove any native vegetation on the Premises without the CEO's consent other than pruning, trimming or cutting vegetation with the intention of keeping the premises neat and tidy.
- (g) Not allow anything to be done or to occur in or about the Premises which is noxious, offensive or audibly or visually a nuisance.

### **5.3 No warranty as to Use**

The Lessor does not warrant that the Premises:

- (a) is suitable for any purpose; or
- (b) may be used for the Permitted Use.

### **5.4 Official Requirements and rules**

At its expense, the Lessee must comply with any Official Requirement concerning the Premises, the Lessee's Property or the Lessee's use or occupation of the Premises.

### **5.5 Caveats**

The Lessee must not lodge or register any absolute caveat against the certificate of title to the land of which the Premises forms part to protect its interests under this Lease but the Lessee shall be entitled to lodge a "Subject to claim" caveat against the certificate of title to the land of which the Premises forms part.

## **6. Maintenance and repair**

### **6.1 Repair**

- (a) The Lessee must:
  - (i) keep and maintain the Premises in good repair, order and condition including painting of internal surfaces; and
  - (ii) fix any damage caused by the Lessee or the Lessee's Employees.
- (b) The Lessor is responsible for Structural Building Repairs and may do any repairs or maintenance to the Premises. The Lessor must give the Lessee reasonable notice before doing so and must cause as little disruption to the Lessee's business as is reasonably possible in the circumstances.

## **6.2 Cleaning and Maintenance**

The Lessee must:

- (a) do such things as may reasonably be required to eradicate, exterminate and keep the Premises free from rodents, vermin, noxious weeds and other pests of any kind, and will procure that pest exterminators are employed from time to time for that purpose;
- (b) keep the Premises clean and tidy and free of infectious diseases; and
- (c) keep the Lessee's Property clean and maintained in good order and condition.

## **6.3 Not to pollute**

- (a) The Lessee must not cause pollution in or contamination of the Premises or any adjoining land by garbage, waste matter, oil and other pollutants whether by stormwater or other run-off or arising from use of the Premises.
- (b) The Lessee must collect and dispose of all garbage, waste matter, oil and other pollutants from the Premises at a place and in a manner required or approved by the Lessor and all relevant authorities having control over the disposal of waste matter and the protection of the environment.

## **6.4 Lessor's right to inspect and repair**

- (a) The Lessor may enter the Premises for inspection or to carry out maintenance, repairs or major structural repairs at any reasonable time after giving notice to the Lessee. In an emergency, the Lessor may enter at any time without giving the Lessee notice.
- (b) The Lessor may carry out any of the Lessee's obligations on the Lessee's behalf if the Lessee does not carry them out on time. If the Lessor does so, the Lessee must promptly pay the Lessor's costs.

## **6.5 Notice of damage or defect in services**

The Lessee must promptly give the Lessor notice of:

- (a) any damage to, defect or disrepair in the Services or the Lessor's Property; and
- (b) any circumstances likely to cause any risk to the Premises or any person.

## **7. Assignment and subletting**

- (a) The Lessee must obtain the Lessor's written consent, and if required by law, the written consent of the Minister for Lands pursuant to the *Land Administration Act 1997 (WA)* before the Lessee assigns, sublets or deals with its interest in the Premises.
- (b) Subject to clause 18, the Lessor may grant or withhold its consent in its discretion.

## **8. Insurances and indemnities**

### **8.1 Lessee's insurance**

The Lessee must effect & keep effected in respect of the Premises and use of the Premises adequate public risk insurance in any amount not less than \$20,000,000 in respect of any one claim.

### **8.2 Lessee's policies**

All policies under this clause 8 must be acceptable to the Lessor and with an insurer approved by the Lessor and endorsed to note the interest of the Lessor as Lessor of the Premises.

### **8.3 Proof of insurance policies**

The Lessee must give the Lessor evidence of its insurance if the Lessor asks for it.



#### **8.4 Lessee's release and indemnity**

- (a) The Lessee occupies and uses the Premises at its own risk.
- (b) The Lessee releases the Lessor and the Minister for Lands from and indemnifies them against all Claims for damages, loss, injury or death:
  - (i) whether or not it is caused by the Lessee's negligence or default if it:
    - (A) occurs on the Premises;
    - (B) arises from the use of the Services on the Premises; or
    - (C) arises from the overflow or leakage of water from the Premises, except to the extent that it is caused by the Lessor's or Minister for Land's deliberate act or negligence; and
  - (ii) if it arises from the negligence or default of the Lessee or the Lessee's Employees, except to the extent that it is caused by the Lessor's or Minister for Land's deliberate act or wilful negligence.
- (c) The Lessee releases the Lessor and the Minister for Lands from and indemnifies them against any Claim or costs arising from anything the Lessor is permitted to do under this Lease.

#### **8.5 Lessor's Insurance**

- (a) The Lessor will insure, at the Lessor's cost, the Premises. The Lessee must pay to the Lessor the sum of \$1,000 for each claim made against the Lessor's insurance policy relating to the Premises during the term of this lease other than where the premises have been damaged and the cause of the damage was not in any way connected to the Lessee's, or the lessee's invitees, occupation of the premises. The Lessor must at its own cost meet all other costs of repair, replacement and reinstatement not met by the insurer in respect of each claim.

#### **9. Occupational Safety and Health Act**

- (a) The Lessee acknowledges and agrees that for the purpose of the *Occupational Safety and Health Act 1984 (WA)* (**Act**) the Lessee has the control of the Premises and all plant and substances on the Premises.
- (b) The Lessee releases and indemnifies the Lessor from and against any claim against or obligation or liability of the Lessor under any occupational health and safety legislation as defined in the Act, except to the extent that any breach of the Act is contributed to by the Lessor's deliberate act or negligence.

#### **10. Default and termination**

##### **10.1 Default**

The Lessee defaults under this Lease if:

- (a) the Rent or any money payable by the Lessee is unpaid for 20 business days;
- (b) the Lessee breaches any other term of this Lease and such breach is unremedied within 20 business days of notice of breach having been served on the Lessee;
- (c) the Lessee assigns its property for the benefit of creditors; or
- (d) the Lessee becomes an externally-administered body corporate within the meaning of the *Corporations Act 2001* (Cth).

## 10.2 Forfeiture of Lease

If the Lessee defaults and does not remedy the default when the Lessor requires it to do so, the Lessor may do any one or more of the following:

- (a) re-enter and take possession of the Premises and by notice to the Lessee, terminate this Lease;
- (b) by notice to the Lessee, convert the unexpired portion of the Term into a tenancy from month to month;
- (c) exercise any of its other legal rights; or
- (d) recover from the Lessee any loss suffered by the Lessor due to the Lessee's default.

## 10.3 Consequences of Default

### (a) Repudiation

- (i) If the Lessee repudiates this Lease or breaches an essential term of this Lease the Lessor may recover all money payable by the Lessee under this Lease up to the end of the Term. However, the Lessor must minimise its loss.
- (ii) The essential terms are:
  - (A) to pay Rent (clause 3.1);
  - (B) to pay Operating Expenses (clause 4.1 and Special Condition 12 of the reference schedule);
  - (C) to use the Premises for only the Permitted Use (clause 5.1);
  - (D) to comply with Official Requirements (clause 5.4);
  - (E) to repair (clause 6.1); and
  - (F) not to assign, sublet or deal with the Lease without consent (clause 7).

### (b) Lessor's Entitlement to Damages

The Lessor's entitlement to damages is not limited or affected if:

- (i) the Lessee abandons the Premises;
- (ii) the Lessor elects to re-enter the Premises or terminate this Lease;
- (iii) the Lessor accepts the Lessee's repudiation; or
- (iv) the parties' conduct constitutes or may constitute a surrender by operation of law.

### (c) Liquidated Debt

The Lessor may remedy any default by the Lessee and recover its costs of doing so from the Lessee as a liquidated debt.

## 10.4 Waiver

- (a) No waiver by the Lessor is effective unless it is in writing;
- (b) Despite the Lessor's knowledge at the time, a demand for Rent or other money owing by the Lessee or the subsequent acceptance of Rent or other money does not constitute a waiver of any earlier default by the Lessee.

## 10.5 Interest on Overdue Money

The Lessor may charge daily interest to the Lessee on any late payment by the Lessee at a rate of 3% above the rate which would be charged to the Lessor by the Lessor's bank for borrowing the same amount on unsecured overdraft as certified by the Lessor's bank manager.

## **11. Termination of Term**

### **11.1 Termination by Notice**

- (a) The Lessor may terminate this Lease by giving 6 months' written notice to the Lessee, notwithstanding that:
  - (i) the Lessee is not in default; or
  - (ii) that the term of the Lease has not expired.
- (b) The Lessee may terminate this Lease by giving 3 months' written notice to the Lessor notwithstanding that the term of the Lease has not expired.
- (c) In the event of this Lease being terminated pursuant to subclause 11.1(a) or 11.1(b) each Party will retain its rights against the other in respect of any past breach of this Lease.

### **11.2 Lessee's obligations**

On termination the Lessee must:

- (a) vacate the Premises and give it back to the Lessor in good repair and condition in accordance with the Lessee's obligations in this Lease;
- (b) remove all the Lessee's Property from the Premises;
- (c) repair any damage caused by removal of the Lessee's Property and leave the Premises in good repair and condition; and
- (d) return all keys, security passes and cards held by it or the Lessee's Employees.

### **11.3 Failure to Remove Lessee's Property**

If the Lessee does not remove the Lessee's Property at the end of the Term, the Lessor may:

- (a) remove and store the Lessee's Property at the Lessee's risk and expense; or
- (b) treat the Lessee's Property as abandoned, in which case title in the Lessee's Property passes to the Lessor who may deal with it as it thinks fit without being liable to account to the Lessee.

## **12. General**

### **12.1 Notices**

#### **(a) In Writing**

Any notice given under this Lease must be in writing. A notice by the Lessor is valid if signed by an officer or solicitor of the Lessor or any other person nominated by the Lessor.

#### **(b) Notice of Address**

The Lessee must promptly notify the Lessor of its address and telephone number or email address and update the notice if any changes occur.

#### **(c) Service of Notice on Lessee**

The Lessor may serve a notice on the Lessee by:

- (i) giving it to the Lessee personally;
- (ii) sending it to the Lessee's email address; or
- (iii) posting it to the Lessee's last known address.

#### **(d) Service of Notice on Lessor**

The Lessee may serve a notice on the Lessor by leaving it at, or posting or emailing it to the Lessor's office set out in Item 2 of the Reference Schedule.

## 12.2 Costs

The Lessee must pay the Lessor:

- (a) duty (if any) on this Lease; and
- (b) the Lessor's reasonable legal fees and outlays:
  - (i) for the preparation and negotiation of this Lease;
  - (ii) relating to any assignment or subletting;
  - (iii) arising from any breach of this Lease by the Lessee;
  - (iv) for any Lessor's consent under this Lease.
- (c) half of any costs associated with registration of this Lease or Amendments to the Lease; and
- (d) half of any of the lessor's reasonable legal expenses associated with any substantial amendments to the Lease that are not requested by either party (for example, if they are required by law or due to a change in circumstances beyond either party's control).

## 13. Option of Renewal

- (a) The Lessor hereby grants to the Lessee the option to renew this Lease for the further term or terms (if any), specified in Item 5 of the reference schedule, so long as the term of the lease plus any option does not exceed 21 years, upon the terms, covenants, conditions and restrictions of this Lease (excepting any exercised right of renewal). The Lessee may exercise such option if and only if:
  - (i) the Lessee has first given to the Lessor written notice of such exercise of option not less than 3 months and not more than 6 months prior to the expiration of the Term; and
  - (ii) the Lessee is not, at the time of giving the notice under this clause in breach of any of the terms, covenants or conditions of this Lease.

## 14. Damage and destruction

### 14.1 Definitions

In this clause 14:

- (a) **abatement notice** means a notice given under clause 14.2(a);
- (b) **reinstatement notice** means a notice given by the Lessor to the Lessee of the Lessor's intention to carry out the reinstatement works; and
- (c) **reinstatement works** means the work necessary to:
  - (i) reinstate the Premises; and
  - (ii) make the Premises fit for occupation and use and accessible by the Lessee.

### 14.2 Abatement

- (a) If at any time the Premises are wholly or partly:
  - (i) unfit for occupation and use by the Lessee; or
  - (ii) inaccessible having regard to the nature and location of the Premises and the normal means of access to them,as a result of destruction or damage then from the date that the Lessee notifies the Lessor of the relevant event, the Rent and any other money payable by the Lessee are to abate according to the circumstances.
- (b) If clause 14.2(a) applies, the remedies for:

- (i) recovery of the Rent and any other money or a proportionate part falling due after the damage or destruction; or
- (ii) enforcement of the obligation to repair and maintain,

are suspended from the date of the abatement notice until the Premises are reinstated or otherwise made fit for the Lessee's occupation and use and fully accessible.

#### 14.3 Either party may terminate

If clause 14.2(a) applies, then at any time after 2 months from the date the abatement notice is given either party may terminate this Lease by notice to the other unless the Lessor has within that period of 2 months:

- (a) given the Lessee a reinstatement notice; and
- (b) started to carry out the reinstatement works.

#### 14.4 Lessee may terminate

If the Lessor gives a reinstatement notice to the Lessee and does not commence the reinstatement works within a reasonable time, the Lessee may terminate this Lease by giving not less than 2 months' notice to the Lessor and, at the expiration of the notice period, this Lease terminates.

#### 14.5 Dispute resolution

- (a) No party to this agreement will start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this agreement (**dispute**) unless it has complied with this clause.
- (b) A party claiming that a dispute has arisen must notify the other parties, giving details of the dispute.
- (c) During the 21 day period after a notice is given under clause 14.5(b) (or longer period agreed in writing by the parties to the dispute) (**initial period**) each party to the dispute (**disputant**) must use its best efforts to resolve the dispute.
- (d) If the disputants are unable to resolve the dispute within the initial period, each disputant agrees that the dispute must be referred for mediation in accordance with the Mediation Rules of the Law Society of Western Australia, at the request of any disputant, to:
  - i. a mediator agreed on by the disputants; or
  - ii. if the disputants are unable to agree on a mediator within seven (7) days after the end of the initial period, a mediator nominated by the President of the Law Society of Western Australia or the President's nominee.
- (e) The role of any mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on a disputant unless that disputant has so agreed in writing.
- (f) Any information or documents disclosed by a disputant under this clause:
  - i. must be kept confidential; and
  - ii. may not be used except to attempt to resolve the dispute.
- (g) Each disputant must bear its own costs of complying with this clause and the disputants must bear equally the costs of any mediator engaged.
- (h) After the initial period, a disputant that has complied with clauses 14.5(a), (b) and (c) may terminate the dispute resolution process by giving notice to each other disputant.
- (i) If in relation to a dispute a disputant breaches any provision of clauses 14.5(a) to (f), each other disputant need not comply with clauses 14.5(a) to (f), in relation to that dispute.

**15. Severability**

- (a) As far as possible all provisions of this Lease must be construed so as not to be invalid, illegal or unenforceable.
- (b) If anything in this Lease is unenforceable, illegal or void then it is severed and the rest of this Lease remains in force.
- (c) If any provision cannot be read down, that provision will be void and severable and the remaining provisions of this Lease will not be affected.

**16. Entire Understanding**

This Lease:

- (a) contains the entire agreement and understanding between the parties on everything connected with the subject matter of this Lease; and
- (b) supersedes any prior agreement or understanding on anything connected with that subject matter.

**17. Organisations**

- (a) If any organisation ceases to exist, a reference to that organisation will be taken to be a reference to an organisation with similar objects to the original organisation nominated by the Lessor.
- (b) Reference to the president of an organisation will, in the absence of a president be read as a reference to any person fulfilling the duties of a president.

**18. Lessor's Consent**

Unless otherwise stated, if the Lessor's consent or approval is required:

- (a) the Lessor must consider the request promptly and be reasonable in giving or refusing its consent or approval;
- (b) the Lessor may require the Lessee to comply with any reasonable conditions before giving its consent; and
- (c) it is not effective unless in writing.

**19. Property Law Act**

The following sections of the *Property Law Act 1969 (WA)* do not apply to this Lease:

- (a) Section 80; and
- (b) Section 82.

## Schedule 1 - Reference Schedule

**1. Lessor**

Shire of Denmark  
of 953 South Coast Highway, Denmark, Western Australia

**2. Lessee**

Denmark Equestrian Management Group Incorporated (IARN A1030762U)  
of PO Box 37, Denmark, Western Australia

**3. Land**

**3.1 Reserve**

Reserve 39067.

**3.2 Purpose**

Horse Racing Tracks and Recreation.

**3.3 Premises**

The whole of the land comprised in Lot 1004 on Deposited Plan 215923.

**4. Term**

**4.1 Period**

21 years 0 months

**4.2 Commencing Date**

XXX (subject to date of Ministerial approval)

**4.3 Termination Date**

XXX

**5. Further term**

**5.1 Period**

Nil

**5.2 Commencing Date**

Not applicable

**6. Rent**

\$1 per annum (plus GST)

**7. Permitted Use**

To use the Leased Premises only for the purpose of carrying on in a proper manner the objects of the Lessee as set out in its constitution of Articles of Association, including equestrian activities.

**8. Lessor's Property**

Nil

## **9. Lessee's Property**

Nil

## **10. Special conditions**

The following special conditions (if any) form part of this Lease and in the event of any inconsistency between the foregoing provisions of this Lease and the special conditions, the special conditions prevail:

### **10.1 Inspection and Maintenance**

The Lessor's Principal Building Surveyor will, at least on an annual basis, inspect the Premises and Land to determine the state of maintenance in accordance with the Lease and to determine any major structural repairs required.

### **10.2 Rate Concession**

Council will annually consider the provision of a concession to the value of the local government rates levied with respect to the property, noting that the Lessee is required to meet any costs applicable to the property relating to any other rates and taxes including, but not limited to, the Emergency Services Levy and refuse charges.

### **10.3 Mowing of Lawns**

The Lessor shall at its own expense slash or mow the lawns on at least four (4) occasions during each calendar year at the times nominated in writing at least 14 days before the required date by the Lessee.

### **10.4 Consent for Ad-Hoc Use**

The Lessee is granted consent to permit non members to use the premises from time to time and charge a reasonable user fee for that use. Third party use of the leased premises is solely at the discretion and risk of the Lessee who must indemnify the Lessor and the Minister for Lands against any claims for loss, damage or liability.

### **10.5 Fire Mitigation**

The Lessee will provide reasonable assistance to the Lessee in order to comply with fire mitigation obligations of the Shire of Denmark's annual Fire Management Notice. Assistance will be subject to any budget considerations and competing priorities.

### **10.6 Consent for Overnight Camping**

The Lessee is granted consent to permit its members and/or a third party to camp overnight at the leased premises, with their horse(s), subject to the following conditions;

- (a) Maximum of three consecutive (3) nights per person;
- (b) Limit of 25 persons camping at the premises on any one night;
- (c) The total number of nights permitted for any overnight camping shall not exceed a total of 3 months in any 12 month period;
- (d) The lessee must provide, annually to the lessor, a register of persons who have been permitted to camp overnight within the previous 12 months;
- (e) Each camper being required to supply their own drinking water, noting that there is no potable water at the leased premises;



- (f) A map of the emergency evacuation points and procedures being made accessible to each camper; and
- (g) Each camper must sign a disclaimer;
  - i. indemnifying the lessor and the Minister for Lands against any claims for loss, damage or injury; and
  - ii. agreeing to abide by the rules and guidelines set out by the lessee.

The Lessee is granted consent to charge a reasonable user fee for third party use. Third party use of the leased premises is solely at the discretion and risk of the Lessee.

### **10.7 Scheduled Events**

In this condition, ***scheduled event*** means any activity that is outside of normal everyday activities and is hosted or facilitated by the lessee or one, or more, of its member clubs.

The Lessee is granted consent to hold scheduled events at the leased premises subject to the following;

- (a) Event approval from the Shire of Denmark, and compliance with any approval conditions; and
- (b) Compliance with condition 10.6, should camping be part of the activity.

### **10.8 Rate Waiver**

Council will consider waiving the rates on an annual basis in accordance with section 6.47 of the Local Government Act 1995. In any case, the lessee shall still be required to meet the cost of the Emergency Service Levy (ESL), refuse, administration and interest (if any) charges payable on the land.



**Appendix 2 – Ministerial Consent**

**To be obtained**

DRAFT