

LEASE

Real Property Act, 1900

Land Titles Office use only

Office of State Revenue use only



(A) **PROPERTY LEASED**

Show no more than 20 References to Title.
Specify the part or premises if appropriate.

The land in Folio Identifier 1/861843

(B) **LODGED BY**

L.T.O. Box	Name, Address or DX and Telephone REFERENCE (max. 15 characters):
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(C) **LESSOR**

..... ROYAL AGRICULTURAL SOCIETY OF NEW SOUTH WALES

(D) The lessor leases to the lessee the property described above subject to the following **ENCUMBRANCES**

- 1.
- 2.
- 3.
- 4.

(E) **LESSEE**

L	<p>FOX STUDIOS AUSTRALIA PTY LIMITED (ACN 004 261 670) of Driver Avenue, Moore Park, New South Wales</p> <p style="text-align: right;">as joint tenants/tenants in common</p>
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(G) 1. **TERM:** Forty (40) years

2. **COMMENCING DATE:** 23 April 1996

3. **TERMINATING DATE:** 22 April 2036

4. With an **OPTION TO RENEW** for a period of 10 years set out in Clause 2.4

5. ~~With an **OPTION TO PURCHASE** set out in~~

6. Together with and reserving the **RIGHTS** set out in the Annexure hereto

Incorporates the provisions set out in **ANNEXURE** hereto.

8. ~~Incorporates the provisions set out in **MEMORANDUM No.** filed in the Land Titles Office.~~

f) We certify this dealing correct for the purposes of the Real Property Act, 1900

DATE OF EXECUTION 27

September
1996

~~Signed in my presence by the lessor who is personally known to me~~

~~Signature of Witness~~

~~Name of Witness (BLOCK LETTERS)~~

~~Address of Witness~~

~~Signature of Lessor~~

Signed in my presence by the lessee who is personally known to me

Signature of Witness

Name of Witness (BLOCK LETTERS)

Address of Witness

Signature of Lessee

I solemnly and sincerely declare that the time for the exercise of the Option to Renew/Purchase in expired lease No.
has ended and the lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act, 1900.

Made and subscribed at in the State of on 19.....

in the presence of

Signature of Witness

Name of Witness (BLOCK LETTERS)

Address of Witness

Signature of Lessor

1. DEFINITIONS, INTERPRETATION AND IMPLIED COVENANTS, ETC

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Backlot means the area of the Premises primarily used for external sets and facades in connection with the Studio.

Change in Effective Control means, in relation to the Lessee, any change in the Effective Control of the Lessee which results in the Lessee not being subject to the Effective Control of The News Corporation Limited or any company which is subject to the Effective Control of The News Corporation Limited.

Commencement Date means 23 April 1996.

Conservation Plan means the Conservation Strategy for the Moore Park Showground dated December 1995 prepared for FSA by Godden Mackay Pty Limited in accordance with the requirements of SEPP No. 47 - Moore Park Showground, which is lodged by FSA with the Heritage Council and available from the offices of the Heritage Council in accordance with SEPP No. 47 - Moore Park Showground.

Effective Control means in relation to any company:

- (a) control of the composition of the board of directors of that company; or
- (b) control of more than one quarter of the maximum number of votes that might be cast at a general meeting of that company; or
- (c) control of more than one quarter of the issued share capital of that company, excluding any part thereof which carries no right to participate beyond a specified amount in the distribution of either profit or capital,

by any person or body.

Family Entertainment Complex means an entertainment complex for use by the general public, including restaurants, retail areas, cinemas, tours and attractions and any complementary, subsidiary or ancillary developments or facilities, to be constructed and operated on part of the Non-Studio Area.

FSA means Fox Studios Australia Pty Limited (A.C.N. 004 261 670).

Grantor means the owner of the Premises at the Commencement Date.

Heritage Buildings means those buildings identified in the Conservation Plan as having exceptional or considerable heritage significance and as being retained by FSA unless subsequently approved for demolition by the relevant consent authority under SEPP No. 47 - Moore Park Showground and/or any planning instrument amending that planning instrument.

Heritage Council means The Heritage Council of New South Wales.

Hordern RHI Site means lot 3 in deposited plan 861843 on which the Hordern Pavilion and the Royal Hall of Industries are located.

Index Number means:

- (a) the Consumer Price Index Sydney All Groups number published from time to time by the Australian Bureau of Statistics; but
- (b) if the Consumer Price Index is suspended or discontinued, the New South Wales Male Basic Wage applicable in the City of Sydney; and
- (c) if the system or practice of the determination of the New South Wales Male Basic Wage ceases, then such index published, at the date of this Lease and at the time of variation of the Minimum Rent, by the Australian Bureau of Statistics which reflects fluctuations of the cost of living in Sydney as may be agreed upon by the Lessor and the Lessee, but if the Parties are unable to agree, as may be determined by the President of the N.S.W. Division of The Australian Institute of Valuers and Land Economists (Inc.) (or of the body which, at the relevant time, is exercising the functions performed in 1995 by that division of that institute) or by some person nominated by him whose decision shall be conclusive and binding.

Joint Occupancy Deeds means the 2 deeds made the date of this Lease between the Grantor and FSA.

Land Tax means the tax imposed or payable pursuant to the Land Tax Management Act 1956 and includes any similar tax to that tax and any tax substituted for that tax.

Lessee means FSA and its permitted assigns.

Lessee's Improvements means all plant, equipment, fixtures and fittings and all buildings and other improvements installed or constructed on the Premises at any time during the Term by or with the approval of the Lessee and includes all Temporary Structures.

Lessor includes the successors in title of the Lessor to the land which, from time to time during the Term, is leased by this Lease.

Minimum Rent means the rent payable under Clause 3.2.

MCI means the Ministerial Corporation for Industry, a statutory body incorporated under the State Development and Industries Assistance Act 1966.

MCI Works, at any time, means the works which the Lessee and MCI have last agreed, in writing, constitute the MCI Works.

Non-Studio Area means the part of the Premises not forming part of the Studio Use Area.

Premises means the land leased by this Lease.

Project means:

- (a) to establish and operate in Sydney at the Premises for the Term a major range of sound stages and production facilities of the highest international standards for the production of film, television and multi-media products and the general enhancement of the Australian film, television and related cultural activities industries for the purpose of fulfilling the intentions of MCI and the Lessee as agreed between MCI and the Lessee; and
- (b) to develop and use the Non-Studio Area as a Family Entertainment Complex and as carparking facilities for that number of carparking spaces as are required to service the general public visiting the Premises during the Term; and

- (c) all activities and matters incidental thereto.

Rent Period means each of the following:

- (a) the period of 4 years commencing on 1 January 1999; and
- (b) each period of 4 years (the whole or part of which is part of the Term) where the first day of each such period is the day which next follows either the period defined in paragraph (a) of this definition or a period described in this paragraph (b).

The first Rent Period is the first such period, the second Rent Period is the second such period and so on.

Stables Site means lot 2 in deposited plan 861843 on which the stables are located.

Studio means the filmed entertainment and sound recording facilities and studios for the generation and recording of images and sound, to be constructed and operated by the Lessee on the Studio Use Area including film, video and multimedia production facilities or a series of such facilities (whether permanent or temporary) and ancillary and support facilities and activities but excluding:

- (a) any facility (other than facilities necessary or required for the conduct of tours of the Studio Use Area) which would fall within the definition of Family Entertainment Complex; and
- (b) unless the consent of MCI is obtained in writing, facilities dedicated to the operation and/or management of any television broadcasting and/or narrowcasting station by a broadcasting service provider licensed under the Broadcasting Services Act 1992 (Cth) or any other legislation which now or in the future regulates the provision of licences to free-to-air or pay television operators (but for the avoidance of doubt, this exclusion does not prohibit use of facilities for television program production).

Studio Use Area means area comprising a minimum ground surface area of 10 hectares, being the part of the Premises which is to be developed and used by the Lessee as a Studio and as a Backlot.

Taxes means, subject to the last sentence of this definition, all rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever which are:

- (a) applicable to so much of the Term as is subsequent to 30 September 1997; and
- (b) at any time during the Term but after 30 September 1997:
- (i) charged, levied, assessed or imposed upon the Premises or any part thereof;
- (ii) charged, levied, assessed or imposed upon the owner or occupier of the Premises or any part thereof; or
- (iii) payable by the Lessor by reason of its ownership of the freehold reversion of the Premises,

whether they are the nature of those currently applicable or not. The word includes Land Tax (but only to the extent that the Lessee is liable for Land Tax by the operation of clause 4.2) and does not include any income tax payable by the Lessor.

Temporary Structures means the temporary structures erected on the Premises by or with the approval of the Lessee and which are intended to remain erect for a maximum period of 365 days from the date of completion of such temporary structures.

Term means the period commencing on the Commencement Date and ending on the Termination Date but, if the whole of this lease is determined or terminated prior to the Termination Date, then ending on the date of such prior determination or termination.

Termination Date means 22 April 2036.

Trust means the Centennial Park and Moore Park Trust and includes any other body which may replace that corporation or that is substituted for that corporation in relation to the vesting of the Premises.

Turnover Rent means the rent payable under Clause 3.5.

Valuer General means the Valuer General appointed under the Valuation of Land Act 1916.

Vesting means the time when the Premises vest in the Trust pursuant to Part 4A of the Centennial Park and Moore Park Trust Act 1983.

Year means a calendar year the whole or part of which is part of the Term.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a clause is to a clause of this Lease.
- (f) A reference to any party to this Lease includes the party's successors and permitted assigns.
- (g) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.

1.3 Implied Covenants

The covenants and powers implied in every lease by virtue of the Conveyancing Act, 1919 Sections 84, 84A and 85 are hereby expressly negatived save so far as they are herein expressly embodied.

1.4 Exclusion of statutes and moratorium

The application to this Lease of any Statute or moratorium is expressly excluded and negated as far as the law permits to the extent that it has the effect of:

- (a) extending the Term;
- (b) reducing or postponing the payment of Minimum Rent or Turnover Rent; or
- (c) otherwise affecting the operation of this Lease.

1.5 Contravention of Statutes

Any provision of this Lease which is void, voidable, unenforceable or invalid because of any Statute:

- (a) must, in any such case and to such extent, be severed from this Lease; and
- (b) this Lease must be read as though such provision did not form part of this Lease whilst such Statute is in force.

2. TERM AND OPTION FOR RENEWAL

2.1 Term

This Lease is for the Term.

2.2 Early Termination

The Lessee, by notice in writing to the Lessor, may terminate this Lease if:

- (a) court proceedings challenging the validity of:
 - (i) SEPP No. 47 - Moore Park Showground and/or any planning instrument amending that planning instrument ; or
 - (ii) this Lease,

are commenced and are not withdrawn, dismissed or, to the reasonable satisfaction of the Lessee, otherwise resolved;
- (b) in the reasonable opinion of the Lessee at the proposed date of termination, the court proceedings will jeopardise the viability of the Project; and
- (c) the Lessee notifies MCI in writing within 20 days of it first becoming aware that those court proceedings will jeopardise the viability of the Project and how they do so; and
- (d) the Lessee and MCI promptly meet to discuss the Lessee's notice referred to in paragraph (c), subject to MCI agreeing to so meet;

then:

- (e) if the Lessee and MCI agree that the Lessee may terminate this Lease, the Lessee may terminate this Lease within 5 days after the date of their agreement; or

- (f) if the Lessee and MCI do not agree within 5 days of the giving of the notice referred to in paragraph (c) that the Lessee may terminate this Lease, the Lessee may nevertheless terminate this Lease if within 20 days of the date of the notice referred to in paragraph (c), the court proceedings are not withdrawn, dismissed, or, to the reasonable satisfaction of the Lessee, otherwise resolved.

2.3 Holding over

The Lessee has no right of holding over under this Lease.

2.4 Option

- (a) The Lessor and Lessee agree that the Lessee has the option for a further term of 10 years commencing on the first day immediately following the Termination Date.

- (b) If the Lessee:

- (i) wants to lease the Premises (or so much thereof as may not have been surrendered pursuant to this Lease prior to the Termination Date) for a further term of 10 years; and

- (ii) gives to the Lessor not less than 6 months written notice of such desire,

then provided that, at the date of the giving of such notice and the date of expiration of the term of this Lease, the Lessee has not failed to comply within a reasonable time with any proper notice duly given by the Lessor to the Lessee requiring the Lessee to remedy any breach committed by the Lessee of the covenants, terms, conditions and provisions herein contained or implied and on the part of the Lessee to be performed or observed, the Lessor must either:

- (i) grant to the Lessee a lease for the further term of 10 years; or

- (ii) vary this Lease by extending the Term by 10 years,

as the Lessee may require by written notice given to the Lessor. If the Lessee requires the Lessor to grant to the Lessee a lease for the further term of 10 years, the Lessor must grant to the Lessee a lease containing the same terms and conditions as are in this Lease except that:

- (A) the date of the first day of the further term of 10 years must be substituted for the date in the definition, in clause 1.1, of "Commencement Date" and wherever else the commencement date appears in that lease;

- (B) the definition of Joint Occupancy Deeds must be omitted from Clause 1.1;

- (C) the definition of the Grantor must be omitted from Clause 1.1;

- (D) the following must be substituted for paragraph (a) of the definition, in clause 1.1, of "Rent Period":

"the period commencing on the Commencement Date and ending on 31 December 2038; and";

- (E) the words "applicable to the Term" must be substituted for the words in paragraph (a) of the definition, in clause 1.1, of "Taxes" and the words "but after 30 September 1997" must be omitted from paragraph (b) of that definition;

- (F) the date of the last day of the further term of 10 years must be substituted for the date in the definition, in clause 1.1, of "Termination Date" and wherever else the termination date appears in that lease;
- (G) paragraph (a) of clause 3.2 must be omitted;
- (H) the rate at which Minimum Rent is payable in respect of the last year of the Term of this Lease must be substituted for the figure in paragraph (b) of clause 3.2;
- (I) the following must be added at the end of paragraph (c) of clause 3.2:

"For the purposes only of this paragraph (c), the first Rent Period under this Lease is deemed to have commenced on 1 January 2035.";

- (J) the date which is the date of this Lease must be substituted for "the date of this Lease" in paragraphs (f)(iv)(B) and (f)(iv)(C) of Clause 3.2;
- (K) the area (expressed in hectares and fractions thereof) of the premises on the Commencement Date must be substituted for the words:

"the area (expressed in hectares and fractions thereof) of the Premises which is subject to this Lease at the date of this Lease"

wherever appearing in clause 3.4;

- (L) the following must be substituted for sub-paragraph (A) of paragraph (ii) of clause 3.5(a):

"the period commencing on the Commencement Date and ending on 30 June next following the Commencement Date;"

Clause 3.5(e) must be omitted, and the following must be substituted for clause 3.5(f):

- "(f) (i) The Lessee must pay to the Lessor, at the beginning of the first Relevant Period and of first Quarter in the second Relevant Period, a sum equal to the quarter of the Turnover Rent payable under the lease pursuant to which this Lease has been granted in respect of the last period of 12 months which was a "Relevant Period" for the purposes of clause 3.5 of that lease.
- (ii) The Lessee must pay to the Lessor at the beginning of the second, third and fourth Quarters of the second Relevant Period, a sum equal to the Turnover Rent payable in respect of the first Relevant Period.
- (iii) The Lessee must pay to the Lessor, at the beginning of each Quarter in the third and each subsequent Relevant Period, a sum equal to one quarter of the Turnover Rent payable in respect of the immediately preceding Relevant Period provided that the amount to be paid in respect of the first Quarter of each Relevant Period is equal to the amount paid in respect of the third and each subsequent Quarter of the immediately preceding Relevant Period.";

- (M) the words "to the Joint Occupancy Deeds and" must be omitted from Clause 5.3(b);

- (N) the matter "(i)" and "; and" must be omitted from Clause 7.2(b) together with all of paragraph (ii) excepting the full stop at the end;
- (O) "The" must be substituted for "Subject to paragraph (c), the" in Clause 6.3(b) and Clause 6.3(c) must be omitted;
- (P) the word "not" must be substituted for "neither the Grantor nor" in Clause 6.1(e)(i); and
- (Q) Clauses 2.4, 5.6, 6.1(a), 6.1(b), 6.1(c), 6.2(a), 6.2(b), 6.2(c), 7.3, 9.2(d), 9.3(a) 11 and 13.3 must be omitted.

If the Lessee requires the Lessor to vary this Lease, this Lease shall be varied by:

- (R) extending the Term by 10 years; and
- (S) effecting the amendments in paragraphs (B), (C), (F), (M), (N), (O), (P) and (Q) of this Clause 2.4.

3. CALCULATION AND PAYMENT OF RENT

3.1 Rent

- (a) The Lessee covenants with the Lessor to pay rent during the Term in accordance with this clause 3 to the Lessor or as the Lessor may have last directed in writing given to the Lessee.
- (b) The Lessee must pay all rent payable to the Lessor under this clause free of all deductions and at such place in Sydney as the Lessor may have last nominated in writing to the Lessee.

3.2 Minimum Rent - Rate

- (a) No Minimum Rent is payable in respect of the period commencing on the Commencement Date and ending on 31 December 1998.
- (b) Subject to clause 3.4, the rate at which Minimum Rent is payable in respect of the first Rent Period is \$2,500,000 per annum.
- (c) Subject to clause 3.2(d) and to clause 3.4, the rate at which Minimum Rent is payable in respect of the third, fifth and each subsequent odd numbered Rent Period is the lesser of:
- (i) 1.12 times the rate at which Minimum Rent was payable in respect of the Rent Period which immediately precedes the relevant Rent Period; and
- (ii) the rate determined as follows:

$$R = A \times \frac{B}{C}$$

where:

R is the rate;

A is the rate (per annum) at which Minimum Rent was payable in respect of the Rent Period which immediately precedes the relevant Rent Period;

B is the Index Number last published prior to the relevant Rent Period;
and

C is the Index Number last published prior to the Rent Period which immediately precedes the relevant Rent Period.

At no time will the Minimum Rent be less than the Minimum Rent payable in respect of the immediately preceding Year.

(d) If:

(i) R is greater than 6%; and

(ii) S is greater than 12%

where:

$$R = \frac{A - B}{B} \times 100;$$

$$S = \frac{A - C}{C} \times 100;$$

A is the Index Number last published during the second, the fourth or any subsequent even numbered Rent Period;

B is the Index Number last published the during the first 2 years of that even numbered Rent Period; and

C is the Index Number last published prior to the first day of that even numbered Rent Period,

the Lessor may request the Lessee to enter into negotiations with the Lessor with the intention of agreeing on the rate at which Minimum Rent ought to be paid in respect of the Rent Period which immediately follows that even numbered Rent Period in lieu of the rate provided for in clause 3.2(c). Such request must be made during the period of 90 days next following the last day of that even numbered Rent Period and by written notice given to the Lessee. If the Lessor makes such a request during that period, the Lessee will enter into such negotiations with the Lessor and must do so within one month of the request and with the intention of agreeing, in good faith, on the rate at which Minimum Rent ought to be paid in respect of the Rent Period which immediately follows that even numbered Rent Period in lieu of the rate provided for in clause 3.2(c). Where such an agreement is made, the Minimum Rent for the Rent Period which next follows the even numbered Rent Period is the amount so agreed.

(e) Subject to Clause 3.4, the rate at which the Minimum Rent is payable in respect of the second, fourth and each subsequent even numbered Rent Period is the rate determined by the Valuer General to be market rent for the Premises at that time on the basis of the assumptions listed in paragraph (f) and the directions in paragraph (g).

(f) The assumptions to be made by the Valuer General are as follows:

(i) If the area of the Studio Use Area is more than 10 hectares, the Valuer-General must assume that the Studio Use Area is the part of the Studio Use Area having an area not exceeding 10 hectares and designated by the Lessee for the purposes of this paragraph (f) and that the Non-Studio Use Area is the balance of the Premises.

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- (ii) The Valuer-General must assume that the Studio Use Area is not part of the Premises leased by the Lease.
 - (iii) The Valuer-General must assume that the use to which the Non-Studio Area is being put at the time is the only use to which the Non-Studio Area may be put.
 - (iv) The Valuer-General must have regard to the restrictions and obligations imposed on the use of the Non-Studio Area by:
 - (A) this Lease;
 - (B) every agreement:
 - (1) entered into on or prior to the date of this Lease; and
 - (2) to which the Lessee and MCI are parties;
 - (C) every agreement:
 - (1) entered into after the date of this Lease;
 - (2) to which the Lessee is a party; and
 - (3) which, the Lessee and MCI have agreed, is to be regarded by the Valuer General under this Clause;
 - (D) the Heritage Council and all relevant heritage, conservation and environment statutes, instruments and orders;
 - (E) all relevant town planning statutes, instruments and orders;
 - (F) the terms of all development consents relating to the Non-Studio Area;
 - (g) The Valuer-General must:
 - (i) if the area of the Studio Use Area is more than 10 hectares, the Valuer-General, in applying these directions, must assume that the Studio Use Area is the part of the Studio Use Area having an area not exceeding 10 hectares and designated by the Lessee for the purposes of this paragraph (g) and that the Non-Studio Use Area is the balance of the Premises;
 - (ii) have regard to the obligations of the Lessee under this Lease and, in particular, to the restrictions on the assignment of this Lease and on sub-letting or other parting with possession;
 - (iii) disregard completely all Lessee's Improvements;
 - (iv) assume that the Non-Studio Area is not contaminated; and
 - (v) disregard the goodwill created by any business of the Lessee or any of the Lessee's Improvements but have regard to the site goodwill associated with the Non-Studio Area.
 - (h) A determination by the Valuer-General is invalid unless:
 - (i) the determination is in writing;

- (ii) the determination lists all factors taken into account in the making of the determination;
- (iii) the determination separately identifies the effect on the determination of each of the assumptions in paragraph (f) and each of the directions in paragraph (g); and
- (iv) a copy, certified by the Valuer-General in favour of the Lessor and the Lessee, has been given to both the Lessor and the Lessee.

Where a determination of the valuer General is invalid by the operation of this paragraph (h), the Lessor or the Lessee may request the Valuer General to make a further determination.

- (i) The Valuer-General must allow the Lessor and the Lessee to make representation to the Valuer-General as to the matters in paragraphs (e), (f) and (g).
- (j) The Minimum Rent in respect of the second, fourth or any subsequent even numbered Rent Period, until a determination is made under paragraphs (e), (f) and (g) is payable at the rate at which Minimum Rent is payable in respect of the immediately preceding Rent Period.
- (k) On:
 - (i) a determination of the Minimum Rent being made under paragraphs (e), (f) and (g); or
 - (ii) an agreement being reached under paragraph (d),

any necessary adjustment of the Minimum Rent previously paid in respect of the relevant Rent Period must be made within one month of the determination or agreement.

3.3 Minimum Rent - payment and adjustment under Clause 3.4

The Lessee must pay the Minimum Rent by quarterly instalments in advance. Each instalment is to be one quarter of the Minimum Rent applicable at the time provided that:

- (a) on the Minimum Rent being reduced by the operation of clause 3.4, the Lessor must refund to the Lessee part of the instalment due at the commencement of the quarter during which the surrender is effected such part being:

$$R = A \times \frac{B}{C}$$

where:

R is the amount to be refunded;

A is the amount of the reduction in the Minimum Rent consequent upon such surrender;

B is the number of days in the relevant quarter following the date of such surrender; and

C is the number of days in the relevant quarter; and

(b) the last instalment shall be proportionate if necessary.

3.4 Partial Surrenders

(a) If the Lessee surrenders to the Lessor part of this Lease relating to an area of approximately 2.5 hectares of the Premises by reason that:

(i) the Lessee has not provided car-parking facilities on the Non-Studio Area; and

(ii) MCI has requested the Lessee to effect such surrender,

the Minimum Rent, on such surrender, is reduced to a rate being:

$$R = MR \times \frac{A}{B}$$

where:

R is the reduced rate;

MR is the rate at which Minimum Rent is payable immediately prior to the date of such surrender;

A is the area (expressed in hectares and fractions thereof) of the Premises which is subject to this Lease at the date of this Lease less 14 hectares; and

B is the area (expressed in hectares and fractions thereof) of the Premises which is subject to this Lease at the date of this Lease less 11.5 hectares.

(b) If the Lessee otherwise surrenders to the Lessor the part of this Lease relating to the whole of the area which is the Non-Studio Area at the time of such surrender, the Minimum Rent, on such surrender, is reduced to \$1.00 per annum provided that if, immediately prior to such surrender, the area of the Studio Use Area which is subject to this Lease is more than 11.5 hectares, the Minimum Rent is reduced to a rate being:

$$R = MR \times \frac{A}{B}$$

where:

R is the reduced rate;

MR is the rate at which Minimum Rent is payable immediately prior to the date of such surrender;

A is the area (expressed in hectares and fractions thereof) of the Studio Use Area which is subject to this Lease immediately prior to such surrender less 11.5 hectares; and

B is the area (expressed in hectares and fractions thereof) of the Premises which is subject to this Lease at the date of this Lease less 11.5 hectares or, if Minimum Rent has previously been reduced under clause 3.4(a), 14 hectares.

3.5 Turnover Rent

(a) In this Clause 3.5:

(i) "Quarter" means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in any Year where the last day of the period is part of a Relevant Period.

(ii) "Relevant Period" means each of the following:

(A) the period commencing on 1 January 1999 and ending on 30 June 1999; and

(B) each period of 12 months, the whole of which is part of the Term, which commences on 1 July and is after the period defined in paragraph (A); and

(C) any period of less than 12 months, the whole of which is part of the Term, which commences on 1 July immediately preceding the last day of the Term and ends on the last day of the Term.

(iii) "Revenue", in relation to a Relevant Period, means the aggregate of monies received by the Relevant Persons from:

(A) the sale of goods and services to the general public at the Non-Studio Area as part of non-Studio activities including without limitation sales in the nature of:

(1) cinema tickets;

(2) food and drink;

(3) merchandise; and

(4) entry tickets to exhibitions and other public attractions conducted on the Non-Studio Area;

(B) the sale of tickets to the general public for tours of the Studio Use Area;

(C) entry fees for the carparking facilities in the Non-Studio Area,

during the Relevant Period but excluding any revenue from activities at the Studio Use Area.

Without limiting the generality of the term includes receipts from:

(A) orders which originated at the Non-Studio Area or at any other place for which delivery is made at the Non-Studio Area;

(B) sales made or services provided by means of mechanical or vending devices at the Non-Studio Area;

(C) services finance or interest charges made on any type of account which itself was or should have been included within Revenues;

The term does not include or if included there shall be deducted:

- (A) all revenue derived directly or indirectly or wholly or partly from activities on the Studio Use Area apart from the sale of tickets for tours of the Studio Use Area;
- (B) the amount of losses incurred in the resale or disposal of merchandise reasonably and properly purchased as trade-ins in the usual course of business;
- (C) the amount of deposits and instalments received on account of lay-bys, hire purchase or credit sales, and which are refunded;
- (D) the amount of a refund on a transaction where the proceeds of the transaction have been included as Revenue;
- (E) the amount of any service, finance or interest charges payable to any financier in connection with provision of credit (other than commissions on credit or store cards);
- (F) the price of goods exchanged between persons if the exchange is not for the purpose of concluding a sale made at or from the Non-Studio Area;
- (G) the price of goods returned to shippers, wholesalers or manufacturers;
- (H) the proceeds of sale of the fixtures and fittings after their use in the conduct of business at or from the Non-Studio Area;
- (I) the amount of discounts provided in the usual course of business;
- (J) the amount of uncollected credit accounts that are written off;
- (K) the net amount paid or payable on account of any purchase tax, receipt tax, or other similar tax imposed at the point of retail sale or hire of goods or services;
- (L) the amount of delivery charges; and
- (M) the amount received from the sale of lottery tickets and similar tickets (other than commission on those sales).

Each sale on an instalment basis, including lay-bys, hire purchase or credit sales and any other sales on credit or terms shall be treated as a sale for the full price in the Relevant Period during which such sale shall be made irrespective of the time of payment thereof.

- (iv) "Relevant Persons" means the Lessee and each person, in the Relevant Period, who the Lessee permits to occupy any part of the Non-Studio Area with authority to use that part of the Non-Studio Area to generate Revenue.
- (b) In addition to the Minimum Rent, the Lessee must pay to the Lessor in respect of each Relevant Period, rent equal to the amount (if any) by which 5% of the Revenue for the Relevant Period exceeds the Minimum Rent for the Relevant Period provided that the amount payable under this Clause in respect of any Rent Period shall not exceed and is limited to 133% of the Minimum Rent for the Relevant Period.

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- (c) Within 90 days of the end of each Relevant Period, the Lessee must furnish to the Lessor a statement of the Revenue for that Relevant Period by a registered public accountant approved by the Lessor which certifies the Revenue has been calculated in accordance with Clause 3.5(a).
 - (d) The Lessor must not divulge or communicate to any person any information provided by the Lessee under this clause, other than the amount of the Turnover Rent payable from time to time.
 - (e) With the statement provided under paragraph (c) in respect of the first Relevant Period, the Lessee must pay to the Lessor the Turnover Rent for the first Relevant Period.
 - (f) The Lessee must pay to the Lessor, at the beginning of each Quarter in each Relevant Period after the first Relevant Period, a sum equal to one quarter of the Turnover Rent payable in respect of the immediately preceding Relevant Period provided that:
 - (i) no amount need be paid in respect of the first Quarter of the second Relevant Period until the Lessee has furnished to the Lessor a statement of the Revenue for the first Relevant Period pursuant to paragraph (c);
 - (ii) the amount to be paid in respect of each Quarter of the second Relevant Period is one half of the Turnover Rent payable in respect of the first Relevant Period; and
 - (iii) the amount to be paid in respect of the first Quarter of the third and each subsequent Relevant Period is equal to the amount paid in respect of the last Quarter of the immediately preceding Relevant Period.
 - (g) With the statement provided under paragraph (c) in respect of each Relevant Period after the first Relevant Period, the Lessee must pay to the Lessor the amount (if any) by which the Turnover Rent for the Relevant Period exceeds the aggregate of all amounts payable by the Lessee under paragraph (f) during the Relevant Period but if the aggregate of those amounts exceed the Turnover Rent for the Relevant Period, the Lessor must promptly refund to the Lessee a sum equal to the excess.
 - (h) The Lessee must keep and maintain on the Premises at all times during the Term accurate records from which the Revenue for the last 6 Relevant Periods can be determined.
 - (i) The Lessee will permit the Lessor or any registered public accountant appointed by the Lessor to enter the Premises on reasonable notice and at reasonable times to inspect the Lessee's records of the Revenue.
 - (j) The Lessor or any registered public accountant appointed by the Lessor may, at any reasonable time and from time to time, audit the books of account, statements, documents, records, returns, papers and files of the Lessee relating to Revenue and the Lessee, at the request of the Lessor, shall make the same available for such inspection or audit at the Premises.
 - (k) If, after any such audit, it is found that the Revenue disclosed in any Lessee's statement furnished under this clause was understated by more than 3%, the Lessee must pay to the Lessor the cost of such audit.
 - (l) If, after any such audit, it is found that the Revenue disclosed in any Lessee's statement furnished under this clause was inaccurate, any necessary adjustment shall immediately be made as between the Lessor and the Lessee.

4. RATES AND TAXES

4.1 Obligation to pay taxes

- (a) Subject to Clause 4.2, the Lessee must pay and discharge all Taxes as and when the same become due for payment.
- (b) If any Taxes are payable by the Lessee and are paid or have to be paid by the Lessor, the Lessee must pay to the Lessor, upon demand, as rent a sum equal to the amount paid by the Lessor.

4.2 Land Tax

- (a) The liability of the Lessee in respect of Land Tax which is actually payable by the Lessor and has been paid by the Lessor is limited to the sum that would be payable by the Lessor by way of Land Tax if at all relevant times:
 - (i) the Premises were the only land owned by the Lessor;
 - (ii) the Premises are not subject to a special trust; and
 - (iii) the Premises are not owned by a non-concessional company.

If, during the Term, the assumptions in paragraphs (ii) and (iii) cease to apply, the liability of the Lessee does not exceed the sum which would be payable by the Lessee by way of Land Tax if at all relevant times:

- (i) the Premises are owned by the Lessee; and
 - (ii) the Premises are the only land owned by the Lessee.
- (b) The Lessee is not liable to pay any Land Tax unless:
 - (i) the Lessor has lodged, or procured the lodgement, with the Office of State Revenue (or other appropriate office) all returns in relation to Land Tax required to be lodged for the purposes of determining the liability for Land Tax payable by the Lessee under this Lease;
 - (ii) the State Office of State Revenue (or other relevant taxing authority) has advised the Lessor and the Lessee in writing that Land Tax is properly payable in respect of the Premises; and
 - (iii) the Lessor has given to the Lessee 2 copies of the assessment issued against the Lessor for the relevant Land Tax.

5. REPAIR

5.1 Obligation to repair

Subject to this clause, the Lessee must keep the improvements on the Premises (other than Temporary Structures) in good repair and condition.

5.2 Alteration

The Lessee may:

- (a) install plant, equipment, fixtures and fittings in any improvements on the Premises;
- (b) make alterations or improvements to any improvements on the Premises other than the Heritage Buildings; and
- (c) make alterations or improvements to the Heritage Buildings envisaged or required by the MCI Works or approved by the relevant consent authority under SEPP No. 47 - Moore Park Showground and/or any planning instrument amending that planning instrument.

5.3 Demolition and Construction

- (a) The Lessee may construct on the Premises any buildings and other improvements at any time during the Term.
- (b) Subject to the Joint Occupancy Deeds and to paragraph (c), the Lessee may demolish and remove any improvements on the Premises at any time during the Term.
- (c) The right of the Lessee under paragraph (b) to demolish and remove any improvements on the Premises at any time during the Term does not extend to:
 - (i) the Heritage Buildings; or
 - (ii) such of the Lessee's Improvements as are not Temporary Structures.
- (d) All Lessee's Improvements placed upon the Premises by the Lessee which are plant or articles for the purposes of Section 54 of the Income Tax Assessment Act 1936 or which fall within the appropriate term used in any Act amending or replacing that section are the property of and shall at all times remain owned by the Lessee unless the Lessee fails to remove them at the end of the Term and clause 5.5(c) applies to them.

5.4 Heritage Buildings

- (a) Except as otherwise provided in this Lease, the Lessor is not obliged, by any provision in this Lease, to maintain the Heritage Buildings.
- (b) On completion of the MCI Works, the responsibility for complying with maintenance obligations in respect of the Heritage Buildings will rest with the Lessee. The Lessee must maintain each of the Heritage Buildings in accordance with the most recent development consent issued in relation to the relevant Heritage Building.
- (c) At the expiration of the Term the Lessee must yield up the Heritage Buildings in good repair and condition and must deal with the Lessee's improvements in accordance with the terms of clause 5.5.
- (d) The Lessee acknowledges that the Heritage Buildings are not the property of the Lessee notwithstanding the Lessee's obligations of repair and maintenance under clause 5.1 and this clause 5.4.

5.5 Lessee's Improvements

- (a) At the expiration of the Term, the Lessee must deal with the Lessee's Improvements in accordance with the terms of this clause 5.5.

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- (b) Prior to the expiry of the Term, the Lessee may at any time:
- (i) with the consent in writing of the Lessor (which consent shall not be unreasonably withheld) remove any buildings and other fixtures (not being Temporary Structures or Heritage Buildings) from the Premises; and
 - (ii) remove other Lessee's Improvements (including Temporary Structures) from the Premises.
- (c) The Lessee may on expiry of the Term remove the Lessee's Improvements from the Premises.
- (d) In removing the Lessee's Improvements in accordance with this clause 5.5, the Lessee must not cause or contribute to any damage to the Premises, the Heritage Buildings or the MCI Works.
- (e) Should any damage be caused to the Premises, the Heritage Buildings or the MCI Works in the course of removal of the Lessee's Improvements, the Lessee must make good such damage. If the Lessee does not do so Lessor may do so at the expense of and as agent for the Lessee, and recover from the Lessee, on demand, the cost of Lessor of so doing.
- (f) If:
- (i) this Lease does not contain an option for renewal: or
 - (ii) this Lease contains an option for renewal but that option is not exercised by the Lessee;

and, in either case, the Lessee does not, on the expiry of the Term, remove the Lessee's Improvements from the Premises, the Lessor, or any person the Lessor directs, must treat the Lessee's Improvements as if the Lessor or such other person had an absolute interest in the same and as if they had become the property of the Lessor or such other person and deal with the same in such manner as the Lessor or such other person thinks fit without being liable in any way to account to the Lessee.

5.6 Limitation

The provisions of Clauses 5.2 and 5.3 apply subject to the Joint Occupancy Deeds.

6. INSURANCE AND INDEMNITY

6.1 Insurance - Heritage Buildings

- (a) The Grantor may but is not under any obligation to insure the Heritage Buildings.
- (b) Whilst the Grantor is the Lessor, the Lessee may but is not under any obligation to insure the Heritage Buildings.
- (c) Paragraph (d) applies only after Vesting.
- (d)
 - (i) During the period that the Trust is the Lessor, it will be a member of the New South Wales Treasury Managed Fund or a similar Government fund.
 - (ii) In accordance with that membership, when the Trust is the Lessor, the Heritage Buildings will be the subject of the following coverage:

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- (A) Loss and/or damage provided the loss and/or damage is fortuitous, real and quantitative (inventory shortage following an extended period would not be considered real in this connection).
 - (B) Coverage is for full replacement (new for old) without co-insurance consideration and includes consequential loss of profits and increased costs of operation as a direct result of the physical loss or damage sustained to the protected property.
 - (C) Exclusions - The Fund shall not be liable for claims for:
 - (1) any illegally based operation;
 - (2) wear, tear, and/or inherent vice; and
 - (D) pollution other than sudden and accidental.
 - (iii) If any loss in respect of the Heritage Buildings, which is the subject of the coverage referred to in this paragraph (d), occurs the Trust will take all appropriate steps to make a claim against the New South Wales Treasury managed Fund in respect of that loss.
 - (e) Subject to any written agreement to the contrary made by the Lessor and the Lessee, if:
 - (i) the Lessor is neither the Grantor nor the Trust; or
 - (ii) the Lessor is the Trust and it ceases to be a member of the New South Wales Treasury Managed Fund or a similar Government fund,

the Lessor must insure and keep insured the Heritage Buildings in the joint names of the Lessor and the Lessee for their respective rights and interests and (at the option of the Lessee) any other person or corporation having an interest therein, from loss or damage by such perils as the Lessor and the Lessee may from time to time agree would be normally and usually insured against by owners and lessees of improvements of a type such as the Heritage Buildings.

6.2 Insurance - non-Heritage Buildings

- (a) The Grantor may but is not under any obligation to insure the Premises (other than the Heritage Buildings).
- (b) Whilst the Grantor is the Lessor, the Lessee may but is not under any obligation to insure the Premises (other than the Heritage Buildings).
- (c) Paragraph (d) applies only after Vesting.
- (d) Unless the Lessor and the Lessee otherwise agree in writing, the Lessee will insure and keep insured the Premises (other than the Heritage Buildings) in the joint names of the Lessor and the Lessee for their respective rights and interests and (at the option of the Lessee) any other person or corporation having an interest therein, from loss or damage by such perils as the Lessor and the Lessee may from time to time agree would be normally and usually insured against by owners and lessees of improvements of a type such as those buildings.

6.3 Public Risk Insurance

- (a) In this clause, *Public Risk Insurance* means public risk insurance:
 - (i) for an amount not less than the sum last agreed upon in writing by the Lessor and the Lessee but, failing agreement, last determined pursuant to Clause 12; and
 - (ii) taken out in the names of the Lessor and the Lessee.
- (b) Subject to paragraph (c), the Lessee must maintain Public Risk Insurance in respect of the Premises during the Term.
- (c) During the period commencing on 28 February 1997 and ending on 21 April 1997 (both days inclusive):
 - (i) the Lessee may but need not maintain Public Risk Insurance; and
 - (ii) the Lessor must maintain Public Risk Insurance.

6.4 Lessee's Insurer

All insurances which the Lessee is required to take out under Clauses 6.2 and 6.3 must be with an insurance company or insurance companies of repute approved by the Lessor which approval shall not be unreasonably withheld.

6.5 Amounts

- (a) The Lessor and the Lessee acknowledge that they envisage that any insurance taken out pursuant to Clause 6.1(e) shall be for the full replacement or reinstatement cost of the Heritage Buildings.
- (b) All insurances which the Lessee is required to take out under Clause 6.2 must be for such amount or amounts and on such basis as may from time to time be agreed between the Lessor and the Lessee.

6.6 Proceeds from insurance

- (a) The Lessee is entitled to all moneys received by virtue of:
 - (i) the coverage provided pursuant to the arrangements described in Clause 6.1(d); and
 - (ii) insurance required to be taken out by the Lessor pursuant to Clause 6.1(e).
- (b) The Lessee (unless the Lessor otherwise agrees in writing or unless the Lessor and the Lessee have previously agreed that the same shall not be necessary) will lay out the moneys referred to in paragraph (a) of this sub-Clause and all such further sums as shall be requisite in rebuilding or reinstating the Heritage Buildings.
- (c) The Lessee may (but need not) lay out the moneys received by virtue of insurance required to be taken out by the Lessee pursuant to Clause 6.2 in rebuilding or reinstating the buildings insured.

6.7 Indemnity

The Lessee must indemnify and keep indemnified the Lessor against all actions, claims and demands made by any person against the Lessor in its capacity as owner of the reversion expectant on the determination of this Lease or any damages, costs or expenses suffered or incurred by the Lessor by reason of such ownership in respect of:

- (a) any activity on the Premises;
- (b) any injury, damage or loss (to person or property) suffered or claimed to be suffered during the Term in or upon the Premises,

but not where the same arises through any act, neglect, default or omission of the Lessor or any of its agents, contractors, servants, workmen, licensees or invitees.

7. ASSIGNMENT, SUBLETTING, ETC.**7.1 Assignment of insubstantial parts of the premises**

- (a) The Lessee must not during the Term licence, sublease or part with possession of the Premises if the licence, sublease or parting with possession is of:
 - (i) a substantial part of the Premises; or
 - (ii) any part of the Studio Use Area, if the total area of the Studio Use Area licensed, subleased or occupied by a party other than the Lessee constitutes greater than 75% of the Studio Use Area.
- (b) Any licence, sublease or parting with possession referred to in this clause 7.1 will be deemed not to be a breach of clause 7.1(a) if the prior written consent of the Lessor is obtained to the licence, sublease or parting with possession (which may be given or withheld in its sole discretion and on such terms and conditions as the Lessor may wish).
- (c) Any agreement entered into by the Lessee for the licence, sublease or parting with possession of any part of the Premises for a term of more than 12 months must include a term that, if this Lease is terminated during the term of the licence, sublease or possession, and the licence, sublease or right of possession is continued in accordance with the provisions of the Conveyancing Act 1919 (NSW) or otherwise, the Lessor will have the right to terminate the licence, sublease or right of possession for just compensation determined in accordance with the Land Acquisition (Just Terms Compensation) Act 1991, including compensation for the market value of the improvements erected on the Premises by the lessee, licensee or holder of the possessory interest having regard to the balance of that term of the licence, sublease or right of possession.
- (d) For the purposes of clause 7.1(a) "substantial part of the Premises" means a part of any one or more of the Non-Studio Area or the Studio Use Area constituting:
 - (i) in the case of the Studio Use Area, an area of 2 hectares or more; or
 - (ii) in the case of the Non-Studio Area:
 - (A) for use as a car park 50% or more of the total area of the Non-Studio Area;
 - (B) for use other than as a car park 40% or more of the total area of the Non-Studio Area; or

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- (iii) in the case of more than one Area, subject always to (i) and (ii), 25% or more of the total area of the combined Areas.
 - (e) Clauses 7.1(a) and 7.1(c) do not apply to non-exclusive licences granted to members of the general public, visitors, users of carparking facilities, users of "common property" in areas of the Premises or users of the Studio Use Area for less than 12 months.

7.2 Other assignments

- (a) Except for licences, subleases or parting with possession undertaken without breaching clause 7.1, the Lessee must not during the Term assign, transfer, mortgage, charge, declare a trust in respect of or otherwise deal with the Premises or this Lease or any part thereof or any estate or interest therein, or attempt to do any of the foregoing, or by any act or deed procure the Premises or this Lease or any part thereof or any estate or interest therein to be assigned, transferred, mortgaged, charged or otherwise dealt with or disposed of.
- (b) Any assignment, transfer, mortgage, charge or declaration of trust or other dealing referred to in clause 7.2(a) will be deemed not to be a breach of clause 7.2(a) if the prior written consent of the Lessor is obtained to the dealing (which may be given or withheld in its sole discretion and on such terms and conditions as the Lessor may wish). Without limiting the discretion of the Lessor under this clause 7.2(b), the consent of the Lessor will not be given to an assignment of the whole or any part of the interest of the Lessee in this Lease:
 - (i) unless the Lessee demonstrates to the satisfaction of the Lessor that the proposed assignee is responsible, respectable, solvent, of sound financial standing and capable of performing the obligations on the part of the Lessee contained or implied in this Lease; and
 - (ii) in the case of an assignment of the whole or any part of the interest of the Lessee in this Lease during any period referred to in the Joint Occupancy Deeds as a Joint Occupancy Period, unless the proposed assignee undertakes the obligations of the Lessee under the Joint Occupancy Deeds and does so by deed in a form reasonably acceptable to the Lessor and to which the Lessor is a party.
- (c) For the purposes of clause 7.2(a), a Change in the Effective Control of the Lessee, without the prior written approval of the Lessor, will be deemed to be an assignment by the Lessee of all of its rights under this Lease.

7.3 Joint Occupancy Deeds

For the purpose of Clause 7.2(b), the Grantor, as the lessor under this Lease, consents to the Joint Occupancy Deeds.

8. OTHER LESSEE'S COVENANTS

8.1 Use

The Lessee may use the Premises as a Studio, as a Family Entertainment Complex and for carparking facilities only.

8.2 Compliance with Notices of Public Bodies

The Lessee must comply with:

- (a) all notices properly issued; and
- (b) all requirements properly made,

during the Term by any statutory or other competent authority affecting the Premises.

8.3 Compliance with other Notices

Provided the Lessor gives to the Lessee prompt notice in writing of any notice issued by or claim made against the Lessor by the owner or occupier of land adjoining the Premises, the Lessee, during the Term, is responsible for any notice issued or claim made (being a notice issued or claim properly made and relating to the Premises but not including a notice issued or claim made relating solely to the freehold reversion of the Premises or the ownership of such freehold reversion) by any adjoining owner or occupier (whether issued to or claimed against the Lessee or the Lessor) affecting the Premises.

8.4 Compliance with statutes

During the Term, the Lessee must comply with and observe all Statutes and all ordinances, regulations and by-laws thereunder relating to the Premises or to the occupation and use of the same.

8.5 Prohibition as to Creation of Nuisance

The Lessee must not do or permit to be done in or upon the Premises a nuisance to the adjoining lands owned by the Lessor.

8.6 Prohibition as to Illegal or Immoral Purposes

The Lessee must not use or permit to be used the Premises or any part thereof for any illegal or immoral purpose.

9. LESSOR'S COVENANTS

9.1 Covenant for quiet enjoyment

The Lessor covenants with the Lessee that the Lessee performing the covenants herein on the Lessee's part contained shall and may peaceably possess and enjoy the Premises for the Term without any interruption or disturbance from the Lessor or any other person or persons lawfully claiming by, from or under the Lessor.

9.2 Consents

(a) The Lessor must consent to any application which the Lessee may wish to make to any government, statutory, local or other authority for permission to:

- (i) install any plant, equipment, fixtures and fittings in any improvements on the Premises;
- (ii) make any alterations or improvements to any improvements on the Premises other than the Heritage Buildings;
- (iii) construct on the Premises any buildings or other improvements; or
- (iv) demolish and remove any improvements on the Premises other than the Heritage Buildings

where that permission is reasonably required by the Lessee to do or use any of the foregoing.

(b) Such consent must be given forthwith upon the Lessee requesting the same in writing.

- (c) The Lessor appoints the Lessee its attorney to give any such consent and generally to do any act or thing which may be required in connection with the giving of such consent. The Lessor agrees to ratify and confirm anything lawfully done by the Lessee as the attorney of the Lessor.
- (d) The provisions of this clause apply subject to the Joint Occupancy Deeds.

9.3 Hordern RHI Site

- (a) The Grantor is not required to comply with and has no obligations pursuant to this Clause 9.3.
- (b) The Lessor covenants with the Lessee that the Lessor, at its cost, will:

- (i) restore and maintain in good repair and condition the exterior of all improvements from time to time on the Hordern RHI Site; and
- (ii) maintain so much of the Hordern RHI Site as is outside of the buildings from time to time on the Hordern RHI Site in a clean and tidy state.

- (c) If:

- (i) the Lessee, acting reasonably, concludes that the Lessor has failed substantially to perform its obligations under clause 9.3(b);
- (ii) the Lessee thereafter calls upon the Lessor, by written notice served on the Lessor, to perform its obligations under clause 9.3(b); and
- (iii) the Lessor does not either:
- (A) dispute, by written notice given to the Lessee within 21 days of receipt of the Lessee's notice, that it has failed substantially to perform its obligations under clause 9.3(b); or
- (B) comply with the Lessee's notice to the reasonable satisfaction of the Lessee within a reasonable time after the Lessee's notice has been served.

the Lessor consents to the Lessee:

- (C) entering upon the Hordern RHI Site for the purposes described in paragraphs (i) and (ii) of clause 9.3(b); and
- (D) doing the things which the Lessor has failed to do.

If the Lessor disputes that it has failed substantially to perform its obligations under clause 9.3(b), the dispute must be resolved pursuant to clause 12 except that if the Lessor and the Lessee fail to agree on the appropriate method of alternate dispute resolution in accordance with clause 12.2(a), either the Lessor or the Lessee may request the president or other most senior office bearer of BOMA to appoint a person to resolve the dispute. The person appointed shall act as an expert and not as an arbitrator. The decision of that person is final and binding and the costs of such determination shall be shared equally between the Lessor and the Lessee. For the purposes of this paragraph, "BOMA" means the organisation known in 1996 as "Building Owners and Managers Association of Australia" but, if that organization no longer exists or has ceased to perform the functions performed by it in 1996, the organization which, at the relevant time, most nearly performs those functions at that time.

Where the Lessee (being entitled so to do) acts pursuant to sub-paragraphs (C) and (D), the Lessee is entitled to require the Lessor to pay to the Lessee (which the Lessor agrees to do) the proper and reasonable costs of the Lessee exercising the rights conferred by this paragraph (c) or may deduct from the rent and any other monies payable under this Lease all such costs.

- (d) The Lessor covenants with the Lessee that, except to the extent it is unlawful for the Lessor so to do, the Lessor will not dispose of any part of the Hordern RHI Site during the Term except to a person:
- (i) who is or becomes the Lessor under this Lease; or
 - (ii) who covenants with the Lessee in terms of the covenants contained in this Clause 9.3.

Such covenants must be given before such disposal is effected and must be by a deed in such form as the Lessee reasonably requires.

9.4 Right of Way

- (a) The Lessor, forthwith upon this Lease being granted, shall grant to the Lessee a right of footway over the part of the Hordern RHI Site marked "RIGHT OF FOOTWAY 5 WIDE" on Deposited Plan 861843 so as to permit access to the Premises from Driver Avenue and to Driver Avenue from the Premises.
- (b) The easement to be created pursuant to this clause shall be appurtenant to the leasehold estate created by this Lease and shall be in registrable form and registered at the land titles office.
- (c) The right of footway to be created shall have the same effect as if the words in Part 2 of Schedule 8 of the Conveyancing Act 1919 had been used.

9.5 Right of Carriage Way

- (a) The Lessor, forthwith upon this Lease being granted, shall grant to the Lessee a right of carriage way over the part of the Hordern RHI Site marked "RIGHT OF CARRIAGEWAY VAR. WIDTH" on Deposited Plan 861843.
- (b) The easement to be created pursuant to this clause shall be appurtenant to the leasehold estate created by this Lease and shall be in registrable form and shall be registered at the land titles office.
- (c) The right of carriage way to be created shall have the same effect as if the words in Part 1 of Schedule 8 of the Conveyancing Act 1919 had been used.

9.6 Infrastructure Works

- (a) In this clause,

Infrastructure Works means works executed on Adjoining Land executed by or on behalf of the Lessee with the consent of the Lessor; and

Adjoining Land means land owned by or vested in the Lessor and which adjoins or is near to or in the vicinity of the Premises.

- (b) The Lessor agrees that, after any Infrastructure Works have been executed, the Lessee, and every person authorised by the Lessee, may enter upon the Adjoining Land, at reasonable times, with tools, implements or machinery, necessary for the purpose and to remain there for

a reasonable time for the purpose of inspecting, cleaning, repairing, maintaining or renewing the Infrastructure Works or any part thereof.

- (c) If requested by the Lessee so to do, the Lessor will grant to the Lessee an easement for such access appurtenant to the leasehold estate created by this Lease which easement shall be in registrable form and shall be registered at the land titles office.

10. DEFAULT

If default is made by the Lessee:

- (a) in the payment of moneys payable under this Lease; or
- (b) in the fulfilment of any covenant, condition or stipulation, whether express or implied in this Lease, and on the part of the Lessee to be performed or observed,

and such default is continued for 1 month after notice requiring rectification or discontinuance (as shall be appropriate having regard to the nature of the default) of the same has been given to the Lessee, the Lessor may re-enter upon the Premises (or any part thereof in the name of the whole) and determine the estate of the Lessee therein but without releasing the Lessee from any liability in respect of the breach or non-observance of any such covenant condition or stipulation.

11. JOINT OCCUPATION PROVISIONS

The Lessor and the Lessee agree that the Grantor and FSA will share the Premises in accordance with the Joint Occupancy Deeds.

12. DISPUTE RESOLUTION

12.1 Dispute Resolution

If any difference or dispute arises out of or in connection with this Lease the following procedure shall be followed in order to resolve it:

- (a) either party shall give written notice of the dispute to the other party. A representative nominated by each party shall meet within 5 Business Days of the date of receipt of notice and attempt in good faith to resolve the dispute;
- (b) if the dispute is not resolved between the nominated representatives then the dispute or difference will be notified to the relevant divisional manager (or the equivalent position) of each party who must meet and attempt in good faith to resolve the dispute within 5 Business Days of the date of receipt of the notice;
- (c) if the dispute remains unresolved, notice shall be given to the Chief Executive Officers of both parties who must meet and attempt to resolve the dispute within 5 Business Days of the date of receipt of notice.

For the purposes of this clause a meeting may take place by telephone or other means of communication.

12.2 Alternative Dispute Resolution

- (a) If the parties fail to resolve the dispute after following the procedures set out in Clause 12.1, then they must agree on the appropriate method of alternate dispute resolution which may include expert determination or mediation within 10 Business Days of the date of the final meeting referred to in Clause 12.1(c).

- (b) If the parties select expert determination as the method of resolving the dispute, the expert shall act as an expert and not an arbitrator, his determination shall be binding upon the parties unless otherwise agreed and his costs shall be shared equally between the parties.
- (c) If the parties fail to agree on the appropriate method of alternate dispute resolution in accordance with Clause 12.2(a), the dispute must be referred for mediation to a mediator nominated by the then current Chairman of Lawyers Engaged in Alternative Dispute Resolution, or that Chairman's nominee. The role of the mediator is to assist in the resolution of the dispute and the mediator may not make a decision which is binding on the parties.
- (d) The costs associated with appointing the mediator under Clause 12.2(c) must be shared equally between the parties.

13. NOTICES AND MISCELLANEOUS

13.1 Stamp duty and costs

- (a) Each party shall bear its own costs arising out of the preparation of this Lease.
- (b) The Lessee shall pay all proper and reasonable costs of the Lessor incurred or arising from any default by the Lessee in the observance or performance of its obligations under this Lease.
- (c) The Lessee shall bear any stamp duty (including fines and penalties) chargeable on this Lease.

13.2 No partnership

This Lease does not constitute any party the agent of another or imply that the parties intend constituting a partnership, joint venture or other form of association in which any party may be liable for the acts or omissions of another.

13.3 Vesting

The Lessee acknowledges that, upon the commencement of Part 4A of the Centennial Park and Moore Park Trust Act 1983, the Premises will vest in the Trust.

13.4 Notices

Any notice given under this Lease:

- (a) must be in writing addressed to the intended recipient at the address stated hereunder but, if another address has been notified by the intended recipient to the sender as the address for service of the intended recipient, then to the address last notified by the intended recipient to the sender:

The Lessor

Attention: Mr Colin Sanders
 Address: Sydney Showground, Paddington, NSW, 2021.
 Fax: 02 9360 9365

The Lessee

Attention: The Chief Executive Officer
 Address: Driver Avenue, Moore Park, NSW, 1363
 Fax: 02 9361 3106

- (b) must be signed by a person duly authorised by the sender,

- (c) will be taken to have been given when delivered, received or left at the above address. If delivery or receipt occurs on a day when business is not generally carried on in the place to which the notice is sent, or is later than 4 pm (local time), it will be taken to have been duly given at the commencement of business on the next day when business is generally carried on in that place.

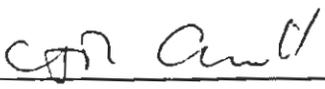
THE COMMON SEAL of ROYAL)
AGRICULTURAL SOCIETY OF NEW)
SOUTH WALES was affixed hereto this)
27th day of September 1996)
and in the presence of:)



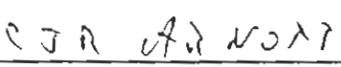
Signature

Print name

Member of Council

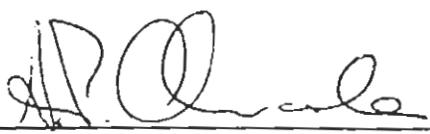


Signature



Print name

Executive Officer

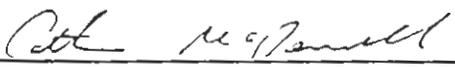


Signature

Print name

Member of Council

EXECUTED by FOX STUDIOS AUSTRALIA)
PTY LIMITED is affixed in)
accordance with its articles of)
association in the presence of:)



Signature



Name of secretary (print)





Director



Name of director (print)

Report: 44



Performance Audit Report

**Sydney Showground,
Moore Park**

**Lease to
Fox Studios Australia**



THE AUDIT OFFICE
OF NEW SOUTH WALES

AUDITING WITH EXCELLENCE

A change of government occurred at the election on 25 March 1995. The incoming Government had established a policy while in Opposition that it would deal exclusively with Fox.

While it is necessary to avoid questioning the merits of the policy objectives set by a Government, it is clear that the Opposition's policy avoided submitting the development of the Showground to a lively competitive process. Usually the likely costs of policies would be weighed against the likely benefits. It is difficult to see how such an analysis could have been undertaken by the then Opposition without access to full information.

Such an approach can also give rise to perceptions that the arrangements finally executed are not necessarily in the best interests of the State.

On 12 April 1995 News Corporation wrote to the Premier of the incoming Government outlining considerations and requirements in respect of a Fox Filmed Entertainment Australian production facility at the Sydney Showground site. Salient points were:

- suspension of tender process
- suspension of REP process
- peppercorn lease for a minimum of 40 years
- phased occupancy with exclusive possession after 1997 Royal Easter Show
- to meet acceptable commercial returns the facility needed to accommodate a themed public attraction and an unfettered production environment must be provided.

On 20 April 1995 the Government announced that it would enter into negotiations with Fox to develop the Showground as a film studio complex, and that the IDC has decided to suspend the assessment of the other EOIs while clarification is sought of the Fox proposals.

On 26 April 1995 the Premier wrote to the Minister for State Development advising that negotiations with Fox were to proceed immediately. The carriage of the project would rest with the Minister and DSRD. The latter would be supported by a taskforce of agencies previously represented on the IDC.

11. Industry Assistance Agreement and Lease Obligations and Commitments

1.1 Sec 10
Sub tenor

- charged a base rent of \$2.5m for the non studio area as from 1 January 1999 (the non studio area is rent free until then)
- charged a turnover rent of up to 33% of the base rent
- charged no rent for the studio area
- charged rent of \$1 if the non-studio area is surrendered
- responsible for insurances other than that relating to heritage buildings
- unable, without prior written consent of the "landlord", to sublease a substantial part of the premises or any part of the studio use area if the sublet part is more than 75% of the latter (a substantial part of the premises means in case of the studio use area, 2 or more hectares: for the non studio use area, subletting more than 50% of that area for use as a car park or more than 40% of that area for use other than a carpark).

Any new development would revert to the State (CPMPT) at the expiry of the lease.

Flowing from and/or as an adjunct to the lease the State is responsible for:

- relocating the RAS to a new Showground at Homebush Bay. The new site has an estimated net cost after a Commonwealth contribution is \$359m. This includes some \$32m for fast tracking the relocation (because of the Fox deal)
- demolishing the Suttor Stand because the site of the stand is to be vacant under the lease (although as recently announced Fox is incorporating the Stand in its facilities)
- as part of the co-location of Fox and RAS, providing temporary structures for the 1997 Royal Easter Show (\$2.1m) and the demolition of buildings in the Machinery Square and the removal of the bitumen covering of the area (\$0.9m). These temporary structures will be re-located to Homebush Bay.