



# Victoria Government Gazette

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## Gambling Regulation Act 2003

### DETERMINATION OF STANDARD VENUE CONDITIONS FOR PRE-COMMITMENT SERVICES UNDER SECTION 3.8A.19A OF THE GAMBLING REGULATION ACT 2003

I, Jane Garrett MP, Minister for Consumer Affairs, Gaming and Liquor Regulation, acting under section 3.8A.19A of the **Gambling Regulation Act 2003** determine as follows –

- A. The following Venue Conditions constitute standard conditions that apply to each entity specified in Venue Condition 1 in relation to the provision of Pre-Commitment Services.
- B. The date of effect of these Venue Conditions is the date of publication in the Victoria Government Gazette.

#### 1. Application

These Venue Conditions apply to:

- (a) each Venue Operator;
- (b) the Melbourne Casino Operator; and
- (c) the Monitoring Licensee.

#### 2. Venue Licensee to co-operate with Monitoring Licensee

The Venue Licensee must at all reasonable times and at its own cost cooperate with the Monitoring Licensee and its authorised representatives, agents and contractors and act reasonably and in good faith in all dealings with them:

- (a) relating to or in connection with the provision of Pre-Commitment Services for the Gaming Venue; and
- (b) to the extent otherwise reasonably necessary to facilitate an orderly and efficient connection of all Pre-Commitment Ready Machines in the Gaming Venue to the Pre-Commitment System.

#### 3. Access to Venue

The Venue Licensee must at all reasonable times and at its own cost cooperate with and provide access to the Gaming Venue for the Monitoring Licensee and its authorised representatives, agents and contractors and allow them to undertake all work that is reasonably required to ensure that Pre-Commitment Ready Machines in the Gaming Venue are connected to the Pre-Commitment System:

- (a) before the Pre-Commitment Commencement Date; and
- (b) after that date in accordance with any notice given under Venue Condition 7.

#### 4. Installation of Equipment and Software in Venue

It is the Venue Licensee's responsibility to ensure that all Player Account Equipment and Pre-Commitment Interface Software is installed in a timely manner in its Gaming Venue at its own cost (including Player Account Equipment and Pre-Commitment Interface Software required for each Gaming Machine).

#### 5. Connection of Gaming Machines

A Gaming Machine is not a Pre-Commitment Ready Machine, and cannot be connected to, or notified by the Venue Licensee to the Monitoring Licensee for connection to, the Pre-Commitment System until all required Player Account Equipment and Pre-Commitment Interface Software has been approved and installed in the Gaming Venue in accordance with these Venue Conditions, the Act, the Regulations and the Technical Standards.

**SPECIAL**

**6. Connection of Pre-Commitment Services**

The Monitoring Licensee must ensure that all Gaming Machines that are used for the Conduct of Gaming on and from the Pre-Commitment Commencement Date and which are Pre-Commitment Ready Machines are connected by the Monitoring Licensee to the Pre-Commitment System on and from the Pre-Commitment Commencement Date.

**7. Notice of Connection and Disconnection – Venue Operators****7.1 Notice for Connection on Commencement**

- (a) If the Venue Operator does not require a Gaming Machine that is connected to the Monitoring System to be used in the Conduct of Gaming on and from the Pre-Commitment Commencement Date, the Venue Operator must give not less than 30 days' written notice to the Monitoring Licensee prior to the Pre-Commitment Commencement Date. On and from the Pre-Commitment Commencement Date, each such Gaming Machine will not be connected by the Monitoring Licensee to either the Monitoring System or the Pre-Commitment System and must not be used in the Conduct of Gaming.
- (b) The Monitoring Licensee is not required to connect any Gaming Machine in a Gaming Venue to the Pre-Commitment System unless it is a Pre-Commitment Ready Machine.
- (c) Subject to any written notice being received by the Monitoring Licensee under Venue Condition 7.1(a), all Gaming Machines that are connected to the Monitoring System on the day that is 30 days prior to the Pre-Commitment Commencement Date shall be deemed to be Gaming Machines that are required to be connected to the Pre-Commitment System on and from the Pre-Commitment Commencement Date and for the month following the Pre-Commitment Commencement Date the Monitoring Licensee may charge the Pre-Commitment Fee to the Venue Operator for those Gaming Machines whether or not the Venue Operator has ensured that the Gaming Machines are Pre-Commitment Ready Machines.

**7.2 Notice for Connection after Commencement**

If the Venue Operator requires connection of a Pre-Commitment Ready Machine that was not connected to the Monitoring System on the day that is 30 days prior to the Pre-Commitment Commencement Date, it must notify the Monitoring Licensee and the Monitoring Licensee must, subject to Venue Condition 7.1(b) connect that Gaming Machine to the Pre-Commitment System as follows:

- (a) if it is a Pre-Commitment Ready Machine in an Existing Gaming Venue, within 28 days of the receipt of the notice; and
- (b) if it is a Pre-Commitment Ready Machine in a New Gaming Venue, within 60 days of the receipt of the notice.

**7.3 Disconnection**

If the Venue Operator requires disconnection of the Gaming Venue or of a Gaming Machine from the Pre-Commitment System, the Venue Operator must give written notice to the Monitoring Licensee:

- (a) of not less than 28 days if the Gaming Venue is to be disconnected; and
- (b) of not less than 28 days if a Gaming Machine is to be disconnected (including where a Pre-Commitment Ready Machine is to be relocated within a Venue),

and the Monitoring Licensee must, subject to sighting any required written approval obtained by the Venue Operator from the Commission, effect such disconnection (and reconnection on relocation where notified) in accordance with the written notice given. The Venue Operator must not give the Monitoring Licensee any notice under this Venue Condition 7.3 unless and until the Venue Operator receives the Commission's written approval of the disconnection.

**8. Notice of Connection and Disconnection – Melbourne Casino Operator**

- (a) The Melbourne Casino Operator must comply with its obligations regarding notice of connection and disconnection of Gaming Machines as set out in the Crown Casino Pre-Commitment Related Agreement.
- (b) The Monitoring Licensee is not required to connect any Gaming Machine in the Melbourne Casino to the Pre-Commitment System unless it is a Pre-Commitment Ready Machine.

**9. Venue Licensee and Monitoring Licensee co-operation**

At all times:

- (a) the Monitoring Licensee must act reasonably, co-operatively and in good faith in all of its dealings with the Venue Licensee and in the discharge of its obligations relating to the provision of Pre-Commitment Services; and
- (b) the Venue Licensee must act reasonably, co-operatively and in good faith in all of its dealings with the Monitoring Licensee, the State and the Commission in the discharge of its obligations relating to the Pre-Commitment Services for the Gaming Venue.

**10. Monitoring Licensee's Obligations**

The Monitoring Licensee must:

- (a) subject to Venue Conditions 7.3 and 8, provide the Pre-Commitment Services to the Venue Licensee for the Pre-Commitment Term and in so doing must meet the Pre-Commitment Performance Standards and comply with all Laws, standards, requirements, directions, and binding guidelines applicable to the provision of the Pre-Commitment Services including in accordance with (without limitation and in no particular order):
  - (i) the Monitoring Licence;
  - (ii) the Monitoring Licence Related Agreement;
  - (iii) the Pre-Commitment Related Agreement;
  - (iv) the Technical Standards;
  - (v) the Operational Requirements; and
  - (vi) the Act;
- (b) obtain and maintain all Authorisations required for the Pre-Commitment System and for the Monitoring Licensee to provide the Pre-Commitment Services; and
- (c) otherwise comply with its obligations under the Act, the Monitoring Licence, the Monitoring Licence Related Agreement and the Pre-Commitment Related Agreement.

**11. Venue Licensee's obligations**

The Venue Licensee must:

- (a) punctually pay all amounts due and payable to the Monitoring Licensee as provided for in these Venue Conditions;
- (b) co-operate with and not hinder the Monitoring Licensee in the performance of its functions conferred on it as the Monitoring Licensee either under the Act, the Monitoring Licence, the Monitoring Licence Related Agreement or the Pre-Commitment Related Agreement;
- (c) comply with the Venue Licensee's obligations under the Act, the Technical Standards, the Operational Requirements, the Entitlement Related Agreement for Venues (if applicable) and these Venue Conditions;
- (d) provide all Player Account Equipment required for its Gaming Venue and ensure that the equipment meets all of the requirements under the Act, the Regulations, the Technical Standards and (where required) has been approved by the Commission;

- (e) provide all Pre-Commitment Interface Software required for its Gaming Venue and ensure that the software meets all of the requirements under the Act, the Technical Standards and (where required) has been approved by the Commission;
- (f) take reasonable care of and maintain, update and replace at its own cost all of the Player Account Equipment and Pre-Commitment Interface Software located or used in its Gaming Venue;
- (g) take reasonable care of all Pre-Commitment System Equipment located in its Gaming Venue and meet the reasonable cost of replacement if it is lost or damaged by the Venue Licensee or its employees, contactors or agents;
- (h) ensure that all Pre-Commitment Interface Software required for its Gaming Venue complies with the API Specifications as published by the Monitoring Licensee;
- (i) ensure that the Pre-Commitment Interface Software does not and will not contain any program routine, device, code or instructions (including any code or instructions provided by third parties) or other undisclosed feature, including, without limitation, a time bomb, virus, software lock, drop-dead device, malicious logic, worm, Trojan horse or trap door, that is capable of accessing, modifying, deleting, damaging, disabling, deactivating, interfering with, or otherwise harming the Pre-Commitment System, any computers, networks, data or other electronically stored information, or computer programs or systems;
- (j) ensure that any Loyalty Scheme operating at its Gaming Venue does not and will not contain any program routine, device, code or instructions (including any code or instructions provided by third parties) or other undisclosed feature, including, without limitation, a time bomb, virus, software lock, drop-dead device, malicious logic, worm, Trojan horse or trap door, that is capable of accessing, modifying, deleting, damaging, disabling, deactivating, interfering with, or otherwise harming the Pre-Commitment System, any computers, networks, data or other electronically stored information, or computer programs or systems;
- (k) ensure that any Loyalty System Components that form part of the Pre-Commitment System have been approved by the Commission;
- (l) do everything reasonably necessary to ensure that each person who collects a Player Card from its Gaming Venue is aware of the terms and conditions of use of the Player Card and the Pre-Commitment System as issued by the Monitoring Licensee, prior to such persons first using their Player Card;
- (m) without limiting Venue Condition 11(1), comply with any standard or direction from the Commission regarding information which must be displayed at the Gaming Venue about the terms and conditions of use of the Player Card and the Pre-Commitment System; and
- (n) otherwise comply with its obligations under the Act or any Related Agreement.

## **12. Pre-Commitment Branding and Information**

### **12.1 Pre-Commitment Trade Mark**

- (a) The Venue Licensee must only use the Pre-Commitment Trade Mark:
  - (i) in accordance with the Regulations;
  - (ii) as otherwise permitted by Venue Condition 12.1(b); or
  - (iii) in accordance with prior written approval provided by the State.
- (b) The State grants to the Venue Licensee a non-exclusive, personal, non-transferable, royalty-free licence to use, reproduce, publish, broadcast, communicate, distribute and display the Pre-Commitment Trade Mark on:

- (i) the Interactive Display Screen of a Gaming Machine;
  - (ii) a Kiosk;
  - (iii) a Player Card; or
  - (iv) any material which has been approved in accordance with Venue Condition 12.2, subject to any conditions of that approval,
- solely with respect to the Pre-Commitment System or Pre-Commitment Services, subject to the remaining provisions of this Venue Condition 12.
- (c) The licence in Venue Condition 12.1(b) does not include a right to sub-licence.
  - (d) In relation to its use of the Pre-Commitment Trade Mark, the Venue Licensee must:
    - (i) comply with any guidelines, directions or specifications regarding the use of the Pre-Commitment Trade Mark as notified by the State in writing from time to time, including as to the appearance, colour, size and positioning of the Pre-Commitment Trade Mark;
    - (ii) not use the Pre-Commitment Trade Mark in juxtaposition to any other trade mark, embellishment or device without the prior written consent of the State;
    - (iii) if requested by the State, submit samples of all materials which incorporate the Pre-Commitment Trade Mark for the State's prior written approval; and
    - (iv) cease using, the Pre-Commitment Trade Mark if notified by the State in writing.
  - (e) In relation to third party claims and infringements, the Venue Licensee must:
    - (i) promptly notify the State in writing of any actual or threatened infringement of the Pre-Commitment Trade Mark by third parties, and provide reasonable assistance to the State in any infringement proceedings the State may bring against those third parties;
    - (ii) promptly notify the State of any challenge to the rights of the State, in respect of the Pre-Commitment Trade Mark, or any claim by a third party that use by the State, the Monitoring Licensee or the Venue Licensee of the Pre-Commitment Trade Mark infringes the rights of the third party, and in relation to any such third party claim:
      - (A) allow the State to take over defence of any such claim; and
      - (B) take any steps required by the State to mitigate any third party claim, including to cease using the Pre-Commitment Trade Mark immediately upon being directed to do so; and
    - (iii) keep the State reasonably informed in writing of matters referred to in Venue Condition 12.1(e)(i) and (ii).
  - (f) The Venue Licensee must not:
    - (i) directly or indirectly contest or oppose or assist any other party to contest or oppose the State's ownership of the Pre-Commitment Trade Mark;
    - (ii) use or apply to register the Pre-Commitment Trade Mark as part of its corporate, business, trading or domain name;
    - (iii) bring an action for infringement of the Pre-Commitment Trade Mark without the State's written consent; or
    - (iv) register or use any trade mark or trade name which is substantially identical or deceptively similar to the Pre-Commitment Trade Mark, or act in any other way that is likely to prejudice the distinctiveness of the Pre-Commitment Trade Mark.

- (g) For the avoidance of doubt, the licence granted in Venue Condition 12.1(b) does not include a licence to use the Victoria Government insignia, which includes the words 'State Government Victoria', unless otherwise advised in writing by the State.
- (h) The permission or rights granted to the Venue Licensee under Venue Condition 12.1(a) (iii) and 12.1(b) will terminate immediately upon written notice by the State to the Venue Licensee.

## 12.2 Pre-Commitment Information

- (a) The Venue Licensee must not publish, broadcast, communicate, distribute or display any material containing information about the Pre-Commitment System or Pre-Commitment Services in any medium, without:
  - (i) providing the State with notice of its intention to publish, broadcast, communicate, distribute or display such material, in accordance with Venue Condition 20; and
  - (ii) obtaining the prior written approval of the State, and only in accordance with the terms of such approval.
- (b) The State may withhold or grant such approval, or grant approval on such terms as the State may require, in its absolute discretion (including as to amendments to be made to the material).

## 13. Pre-Commitment Fee

### 13.1 Obligation to pay the Pre-Commitment Fee

The Venue Licensee must pay the Pre-Commitment Fee to the Monitoring Licensee monthly in arrears for the provision of Pre-Commitment Services, and if applicable, at the same time and in the same manner as the Monitoring Fee is payable under the Venue Monitoring Services Agreement.

### 13.2 Calculation of Pre-Commitment Fee

The Pre-Commitment Fee must be calculated in accordance with the Monitoring Licence and the Pre-Commitment Related Agreement. The Monitoring Licensee must only charge a Venue Licensee Pre-Commitment Fees determined in accordance with the Monitoring Licence and the Pre-Commitment Related Agreement. No other fees or charges may be charged to Venue Licensees for Pre-Commitment Services unless provided for in the Monitoring Licence, the Monitoring Licence Related Agreement, the Pre-Commitment Related Agreement or the Crown Casino Pre-Commitment Related Agreement.

### 13.3 Payment of the Pre-Commitment Fee

The Venue Licensee must:

- (a) punctually pay the Pre-Commitment Fee monthly in arrears on the first day of each month during the Pre-Commitment Term (**Pay Date**);
- (b) establish, maintain and operate a Bank Account from which the Monitoring Licensee may directly debit each month amounts due and payable by the Venue Licensee to the Monitoring Licensee under the Monitoring Licence and Pre-Commitment Related Agreement and provide any written authority required by the Monitoring Licensee for this to occur;
- (c) ensure there are sufficient funds in the Bank Account by the Pay Date to enable the Monitoring Licensee to directly debit the Pre-Commitment Fee on the Pay Date and in any event that the Bank Account contains at least the amount advised in the Settlement Report or the tax invoice issued by the Monitoring Licensee for the relevant month; and
- (d) not close or change its Bank Account, Bank Account number or any other details of the Bank Account or operate the Bank Account with overdraft facilities without obtaining the prior written consent of the Monitoring Licensee (which consent shall not to be unreasonably withheld).

**13.4 Direct Debit of Fee**

- (a) The Venue Operator must generate a Settlement Report on the Monitoring Equipment located at the Gaming Venue prior to each direct debit by the Monitoring Licensee or the Monitoring Licensee will issue to the Venue Operator a tax invoice in order to establish the amount of each direct debit.
- (b) The Monitoring Licensee will issue to the Melbourne Casino Operator a tax invoice in order to establish the amount of each direct debit.
- (c) After the Pre-Commitment Commencement Date direct debits will occur on the Pay Date unless and until further written notice is provided by the Monitoring Licensee to the Venue Licensee. The Pay Date may be changed by the Monitoring Licensee from time to time in its absolute discretion by providing reasonable prior written notice to the Venue Licensee.
- (d) In the event that the direct debit of the Bank Account cannot be completed on the relevant Pay Date due solely by reason of a Public Holiday or weekend, the Venue Licensee's obligation to pay the Pre-Commitment Fee by direct debit will be deferred until the next Business Day.
- (e) The Monitoring Licensee may have more than one direct debit and direct debit authorities in place on the Pay Date which, in aggregate, equal the amount payable on each Pay Date.
- (f) The Venue Licensee must sign and provide such direct debit authorities as are reasonably required by the Monitoring Licensee in order to give effect to this Venue Condition 13.

**13.5 No deduction from amounts owing to the Monitoring Licensee**

Unless the Monitoring Licensee agrees in writing to another payment method or directs the Venue Licensee to use any another payment method by giving written notice to the Venue Licensee, payment of all amounts due and payable by the Venue Licensee to the Monitoring Licensee relating to the provision of Pre-Commitment Services must be made without deduction and in the manner required under these Venue Conditions.

**13.6 Adjustment of the Pre-Commitment Fee**

The Pre-Commitment Fee for any month will be reviewed and adjusted by the Monitoring Licensee in accordance with the Monitoring Licence and the Pre-Commitment Related Agreement to allow for any pro-rata calculation, increase or abatement of the Pre-Commitment Fee. Any adjustment to the Pre-Commitment Fee as notified and collected must be adjusted by the Monitoring Licensee in the next monthly Pre-Commitment Fee as notified and collected.

**13.7 CPI Adjustment and Pre-Commitment Fee Changes**

The Pre-Commitment Fee for any month must be reviewed and adjusted by the Monitoring Licensee:

- (a) on each Fee Adjustment Date when the Pre-Commitment Fee will increase by the CPI Adjustment in accordance with the Monitoring Licence and the Pre-Commitment Related Agreement;
- (b) in accordance with clause 16 of the Pre-Commitment Related Agreement;
- (c) in accordance with clause 22 of the Monitoring Licence Related Agreement; or
- (d) if the Monitoring Licence, the Monitoring Licence Related Agreement or the Pre-Commitment Related Agreement (as amended from time to time) or any direction of the Minister under such documents, permits or requires it.

The Monitoring Licensee must notify all changes to the Pre-Commitment Fee to the Venue Licensee in writing as soon as practicable before they come into effect.

**14. Notification of Pre-Commitment Fee on Connection**

The Monitoring Licensee must provide written notice to the Venue Licensee of the Pre-Commitment Fee payable when any notification of Pre-Commitment Ready Machines is given from time to time by the Venue Licensee for connection to the Pre-Commitment System. If the current Pre Commitment Fee appears on the Monitoring Licensee's website that will be sufficient notice under this Venue Condition 14.

**15. Liability**

- (a) The State and the Commission (and their respective employees and agents) shall have no liability whatsoever for any Claim arising from the provision of Pre-Commitment Services nor from any actions or omissions related to the provision of Pre-Commitment Services.
- (b) Subject to and in accordance with the Act, the Monitoring Licence, the Monitoring Licence Related Agreement, the Pre-Commitment Related Agreement and the Crown Casino Pre-Commitment Related Agreement (if applicable to the Venue Licensee), the Monitoring Licensee shall have no liability to a Venue Licensee for any Claim arising from the operation of, or failure in the operation of, the Pre-Commitment System or the provision of Pre-Commitment Services.

**16. Default**

- (a) The Venue Licensee must pay to the Monitoring Licensee the Pre-Commitment Fee on the Pay Date by ensuring that the requisite amount of funds are available in the Venue Licensee's nominated Bank Account on the Pay Date or by any different payment method as agreed by the Monitoring Licensee in writing.
- (b) The Venue Licensee must pay to the Monitoring Licensee the Dishonoured Payment Administration Fee if it fails to pay the Pre-Commitment Fee on the Pay Date.
- (c) The Venue Licensee must pay to the Monitoring Licensee the Default Interest Charge on the amount owing if the Pre-Commitment Fee is not paid on the Pay Date unless the Monitoring Licensee has agreed to waive the Default Interest Charge in writing.
- (d) If the Pre-Commitment Fee is not paid on the Pay Date the Monitoring Licensee may give notice to the Venue Licensee specifying the failure to pay (Payment Demand). The Payment Demand must specify the amount of the unpaid Pre-Commitment Fees, the date due and the period to which the fee relates. The Payment Demand must specify the period for payment of the amount due to be paid to the Monitoring Licensee which period shall be not less than 10 Business Days.

**17. Dispute Resolution****17.1 Dispute Process**

- (a) If a dispute arises between the Venue Licensee and the Monitoring Licensee in relation to these Venue Conditions (which must not be vexatious, frivolous or an abuse of process), including where the Venue Licensee disputes the amount of the Pre-Commitment Fee as notified in accordance with these Venue Conditions (**Dispute**), the party claiming that there is a Dispute must notify the other party in writing, setting out the date of the notice and adequate details and nature of the Dispute (**Dispute Notice**).
- (b) If a Dispute Notice is issued under Venue Condition 17.1(a), the appointed representatives of the Monitoring Licensee and the Venue Licensee (**Appointed Representatives**) must negotiate in good faith and attempt to resolve the dispute as soon as possible. The Appointed Representatives must meet within 10 Business Days of the Dispute Notice for this purpose.
- (c) If either Appointed Representative reasonably requests further information from the other in relation to the Dispute Notice, the other Appointed Representative must provide that information as soon as possible and in any event, within 5 Business Days of the request.



- (d) For the avoidance of doubt, the Venue Licensee must pay and continue to pay all amounts due and payable to the Monitoring Licensee for the provision of Pre-Commitment Services that are not the subject of the Dispute Notice and the Monitoring Licensee must continue the provision of Pre-Commitment Services.
- (e) If the Appointed Representatives are unable to resolve the dispute the subject of the Dispute Notice within 15 Business Days after the date of the Dispute Notice, the dispute may be referred by either Appointed Representatives to an independent expert selected by agreement between them (**Independent Expert**) for a binding determination.
- (f) If the Appointed Representatives are not able to agree on an Independent Expert within 5 Business Days, the Appointed Representative referring the dispute must arrange for an Independent Expert to be appointed by the President or Chief Executive Officer for the time being of the Law Institute of Victoria.
- (g) The Independent Expert will determine any dispute within 10 Business Days, and the determination by the Independent Expert will be final and binding on the Monitoring Licensee and the Venue Licensee subject to the Act, the Monitoring Licence and the Transaction Documents.

## **17.2 Parties to continue to Comply**

Subject to Venue Condition 17.1, the existence of a Dispute (whether or not a Dispute Notice has been issued in respect of that Dispute) does not affect the obligations of the Monitoring Licensee or the Venue Licensee under these Venue Conditions.

## **18. Suspension of Pre-Commitment Services**

### **18.1 Monitoring Suspension**

If Monitoring Services are suspended in accordance with the Monitoring Licence Related Agreement and the Venue Monitoring Services Agreement, the Monitoring Licensee shall suspend the provision of Pre-Commitment Services to the Venue Operator for the same period as the Monitoring Services are suspended.

### **18.2 Pre-Commitment Suspension**

Without limiting Venue Condition 18.1, the Monitoring Licensee may suspend Pre-Commitment Services at a Gaming Venue in whole or in part if:

- (a) the Monitoring Licensee is notified by the Commission, or the Monitoring Licensee otherwise becomes aware, that Loyalty System Components forming part of the Pre-Commitment System in use at the Gaming Venue have not been approved by the Commission; or
- (b) a Payment Demand has been notified to the Venue Licensee and
  - (i) the period for payment of the amount due to be paid under that Payment Demand has elapsed without the related payment being received by the Monitoring Licensee; and
  - (ii) no Dispute Notice (that is not vexatious or frivolous) has been received by the Monitoring Licensee relating to the Payment Demand in respect of which the Dispute remains to be resolved.

## **19. Data**

### **19.1 Venue Access**

- (a) The Monitoring Licensee is permitted to have access to and may deal with Pre-Commitment Venue Data in accordance with the Pre-Commitment Related Agreement. The State has consented to the Monitoring Licensee disclosing the Pre-Commitment Venue Data to the Venue Licensee for the purposes of this Venue Condition.

- (b) The Monitoring Licensee must facilitate access by the Venue Licensee to the Pre-Commitment Venue Data for the purposes of this Venue Condition subject to the requirements of the Pre-Commitment Related Agreement.
- (c) The Authorised Venue Staff of the Venue Licensee are permitted to have access to the Pre-Commitment System and to Pre-Commitment Venue Data solely for the purpose of the operation of the interface to allow Customer Information to be entered onto the Pre-Commitment System and to address Customer enquiries in relation to a Customer's registration on the Pre-Commitment System.
- (d) Access under Venue Condition 19.1(c) must only be available to Authorised Venue Staff who use their own allocated User ID and Password as recorded on the Pre-Commitment System. All access to the Pre-Commitment System by Authorised Venue Staff must be recorded on the audit log provided on the Pre-Commitment System by identifying the correct User ID and Password for the relevant member of the Authorised Venue Staff.
- (e) All Customer Information collected for the purposes of Venue Condition 19.1(c) must be immediately entered onto or transmitted to the central Pre-Commitment System or deleted or destroyed. If there is any delay in entry or transmission of Customer Information on to the Pre-Commitment System, that failure must be rectified as soon as practicable and any Customer Information otherwise recorded must be immediately deleted or destroyed.
- (f) Any employee or agent of the Venue Licensee (including any Authorised Venue Staff) who obtains Customer Information must not use or disclose that information for any purpose other than the purposes set out in Venue Condition 19.1(c). It is an offence under the Act to disclose Pre-Commitment Information for a purpose other than those purposes permitted under the Act.
- (g) Any facility for online access to the Pre-Commitment System provided for the purposes of this Venue Condition 19.1(c) must be controlled by the Venue Licensee in a secure manner to ensure that only personnel who are Authorised Venue Staff can gain access to the Pre-Commitment System or to Pre-Commitment Data.
- (h) Each Customer must consent to use of their Customer Information on the Pre-Commitment System before any Customer Information is obtained from them and Authorised Venue Staff must record the Customer's consent in the manner provided on the Pre-Commitment System user interface in the Gaming Venue.
- (i) The Monitoring Licensee must facilitate access by the Venue Licensee to the Pre-Commitment System and to Pre-Commitment Data for the purposes of this Venue Condition 19.1 subject to the requirements of the Act and the Pre-Commitment Related Agreement.

## 19.2 De-identified Data

The Authorised Venue Staff of the Venue Licensee are permitted to have access to the Pre-Commitment System and to De-identified Pre-Commitment Venue Data for the purpose of facilitating or encouraging the use of the Pre-Commitment System by Customers and the Venue Licensee may retain such data but solely for this purpose. The Venue Licensee and any Authorised Venue Staff must not use any Pre-Commitment Venue Data or any De-identified Pre-Commitment Venue Data for any unauthorised or illegal purposes or for any purpose not permitted by these Venue Conditions or the Act.

**20. Notices****20.1 Notice Requirements**

Any notice or communication required to be sent or given under these Venue Conditions:

- (a) must be in writing;
- (b) must be addressed to the Venue Licensee or the Monitoring Licensee at its last notified address;
- (c) must be addressed to the State at the following address:  
Executive Director  
Office of Liquor, Gaming and Racing  
Department of Justice and Regulation  
Level 29  
121 Exhibition Street  
Melbourne, Victoria 3000;
- (d) must be signed by the party making the notice or communication;
- (e) must be delivered or posted by prepaid post to the last notified address, or sent by fax to the number, of the addressee as last notified; and
- (f) will be deemed to be received by the addressee:
  - (i) (in the case of prepaid post) on the second Business Day after the date of posting;
  - (ii) (in the case of fax) at the local time (in the place of receipt of that fax) which then equates to the time at which the fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety unless that local time is a non-Business Day, or is after 5.00 pm on a Business Day, in which case that communication will be deemed to have been received at 9.00 am on the next Business Day; and
  - (iii) (in the case of delivery by hand) on delivery at the address of the recipient as provided in Venue Condition 20.1(b) or 20.1(c), unless that delivery is made on a non-Business Day, or after 5.00 pm on a Business Day, in which case that delivery will be deemed to have been received at 9.00 am on the next Business Day.

**20.2 Change of details**

The Venue Licensee may change its address for service by giving notice to the Monitoring Licensee and the State in writing. The Monitoring Licensee may change its address for service by giving notice to the Venue Licensee and the State in writing. The State may change its address for service by giving notice to the Venue Licensee and the Monitoring Licensee. A change in address under this Venue Condition must be notified within a reasonable time after such change occurs.

**20.3 Notice by email**

A notice may be served or communication may be sent via email for the purposes of these Venue Conditions and an email is taken to be served or delivered immediately on transmission to the last email address notified to the sending party by the other party for such a notice or communication, unless the sending party receives a notice stating that the delivery of the email has failed.

**21. Goods and Services Tax****21.1 Construction**

In this Venue Condition:

- (a) words and expressions which have a defined meaning in GST Law have the same meaning as in the GST Law;
- (b) GST Law has the same meaning given to that expression in the **A New Tax System (Goods and Services Tax) Act 1999** (Cth); and
- (c) references to GST payable and input tax credit entitlement include GST payable by, and the input tax credit entitlement of, the representative member for a GST group of which the entity is a member.

**21.2 Consideration GST Exclusive**

Unless otherwise expressly stated, all sums payable are, or consideration to be provided under these Venue Conditions is, exclusive of GST.

**21.3 Payment of GST**

If GST is payable on any supply made by a party (or any entity through which that party acts) (**Supplier**) under or in connection with these Venue Conditions or the Pre-Commitment Related Agreement, the recipient will pay to the Supplier an amount equal to the GST payable on the supply.

**21.4 Timing of GST payment**

The recipient will pay the amount referred to in Venue Condition 21.3 in addition to and at the same time that the consideration for the supply is to be provided.

**21.5 Tax Invoice**

The Supplier must deliver a tax invoice, adjustment note or Settlement Report to the recipient which outlines the payment of an amount under Venue Condition 21.3.

**21.6 Adjustment Event**

If an adjustment event arises in respect of a taxable supply made by a Supplier under these Venue Conditions or the Pre-Commitment Related Agreement, the amount payable by the recipient under Venue Condition 21.3 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

**21.7 Reimbursements**

Where a Venue Licensee or the Monitoring Licensee is required to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

**22. Governing law and Jurisdiction**

The law of Victoria governs these Venue Conditions and the non-exclusive jurisdiction of the courts of Victoria, the Courts of Appeal from them and those of the Commonwealth of Australia apply.

**23. Definitions and Interpretation****23.1 Definitions**

**Act** means the **Gambling Regulation Act 2003** (Vic.).

**API Specifications** means the application programming interface specifications for Pre-Commitment Interface Software.

**Appointed Representatives** has the meaning given to that term in Venue Condition 17.1(b).

**Authorisation** includes a consent, approval, licence, permit, registration, resolution, direction, declaration and exemption necessary for the provision of the Pre-Commitment Services.

**Authorised Venue Staff** means those staff or agents of the Venue Licensee who are or have been nominated by the Venue Licensee for this purpose and who hold a valid Gaming Industry Employee's Licence issued by the Commission.

**Bank Account** means an account with an authorised deposit taking institution (as defined in the **Banking Act 1959** (Cth)) being an account established by the Venue Licensee that meets the requirements of Venue Condition 13.

**Business Day** means a day that is not a Saturday, Sunday or a Public Holiday.

**Claim** means any claim, demand, action, proceeding, litigation, liability, indebtedness, monetary liability or penalty, damages, obligation, investigation or judgment, costs charges or expenses however it arises and whether it is present or future, fixed or unascertained, actual or contingent (including by way of contribution or indemnity).

**Commission** means the Victorian Commission for Gambling and Liquor Regulation or any successor body.

**Conduct of Gaming** has the meaning given to that term in section 1.3 of the Act.

**CPI Adjustment** means an adjustment to the Pre-Commitment Fee made annually under the Monitoring Licence and the Pre-Commitment Related Agreement to reflect any change in the Consumer Price Index (as that term is defined in the Monitoring Licence) in the preceding year.

**Crown Casino Pre-Commitment Related Agreement** means the agreement entered into between the Monitoring Licensee and the Melbourne Casino Operator with respect to the provision of Pre-Commitment Services at the Melbourne Casino.

**Customer** means a person who requires to be registered or who is registered on the Pre-Commitment System for the purposes of Gaming in a Gaming Venue.

**Customer Information** means Pre-Commitment Information relevant to a Customer.

**Default Interest Charge** means an interest charge calculated at the rate of 2% above the percentage fixed under the **Penalty Interest Rate Act 1983** (Vic.) from time to time on any amount payable by the Venue Licensee to the Monitoring Licensee under these Venue Conditions which is overdue, for each day that the amount remains overdue.

**De-identified Pre-Commitment Venue Data** means information relevant to Pre-Commitment Services and Customer registration that does not include any Customer Information.

**Dishonoured Payment Administration Fee** means \$120.00 for each instance of the Venue Licensee's Bank Account not having sufficient funds for collection of the monthly fee as notified in accordance with these Venue Conditions and provided that the amount due has not been otherwise paid by the Pay Date.

**Dispute** has the meaning given to that term in Venue Condition 17.1(a).

**Dispute Notice** means a notice of a dispute given under Venue Condition 17.1(a).

**Entitlement Related Agreement for Venues** means the agreement entered into between each Venue Operator and the Minister (on behalf of the State) under section 3.4A.6, 3.4A.6A or 3.4A.17A of the Act or pursuant to the gaming machine entitlement allocation and transfer rules determined by the Minister under sections 3.4A.3 and 3.4A.5(9) of the Act.

**Existing Gaming Venue** means a Gaming Venue in which Gaming is being conducted at the time the notice for connection is given.

**Fee Adjustment Date** has the same meaning that it has in the Monitoring Licence.

**Gaming** has the same meaning that it has in section 3.1.2 of the Act.

**Gaming Industry Employee's Licence** has the same meaning that it has in section 1.3 of the Act.

**Gaming Machine** has the same meaning that it has in the Act.

**Gaming Machine Entitlement** has the same meaning that it has in section 1.3 of the Act.

**Gaming Venue** means an approved venue as defined in section 1.3 of the Act or premises approved for gaming under a casino licence, that authorises the operation of Gaming Machines, issued under the **Casino Control Act 1991** (Vic.).

**Government Agency** has the same meaning that it has in the Monitoring Licence.

**GST** has the same meaning that has in the **A New Tax System (Goods and Services Tax) Act 1999** (Cth).

**Independent Expert** has the meaning given in Venue Condition 17.1(e).

**Interactive Display Screen** has the same meaning that it has in section 3.8A.1 of the Act.

**Kiosk** has the same meaning that it has in section 3.8A.1 of the Act.

**Laws** means:

- (a) principles of law or equity established by decisions of Courts;
- (b) statutes, regulations, by-laws or other subordinate instruments of a Government Agency;
- (c) the Constitution of the Commonwealth;
- (d) binding requirements and mandatory approvals (including conditions) of a Government Agency which have the force of law; and
- (e) guidelines, codes, directions or similar provisions of a Government Agency which have the force of law.

**Loyalty Scheme** has the same meaning that it has in the Act.

**Loyalty System Component** means a computer or communication system component used in the provision of a Loyalty Scheme or which is designed for that purpose.

**Melbourne Casino** has the meaning that it has in the agreement that it is scheduled to the **Casino (Management Agreement) Act 1993** (Vic.).

**Melbourne Casino Operator** means the casino operator of the Melbourne Casino as licensed under the **Casino Control Act 1991** (Vic.).

**Minister** means the Minister appointed to administer the Act from time to time.

**Monitoring Equipment** means the equipment forming part of the Monitoring System that is installed in the Gaming Venue.

**Monitoring Fee** means the fee payable by Venue Operators for the provision of Monitoring Services.

**Monitoring Licence** means the monitoring licence dated 14 November 2011 issued by the Minister to the Monitoring Licensee pursuant to section 3.4.46 of the Act.

**Monitoring Licence Related Agreement** means the agreement so titled dated 14 November 2011 entered into between the Minister and the Monitoring Licensee pursuant to the Monitoring Licence and section 3.4.48 of the Act.

**Monitoring Licensee** means the holder of the Monitoring Licence as appointed pursuant to section 3.4.46 of the Act or any person otherwise appointed under the Act to perform the functions of the Monitoring Licensee under the Act.

**Monitoring Services** has the same meaning that it has in section 1.3(1) of the Act.

**Monitoring System** has the same meaning that it has in the Monitoring Licence.

**New Gaming Venue** means a Gaming Venue in which Gaming is not being conducted at the time the notice for connection is given.

**Operational Requirements** means any operational requirements made by the Commission and approved by the Minister under section 10.1.5C of the Act (if any) in respect of the Conduct of Gaming or the provision of Pre-Commitment Services.

**Password** means a unique combination of letters, numbers and symbols that can be used solely by one person for access to the Pre-Commitment System.

**Pay Date** has the meaning given to that term in Venue Condition 13.3.

**Payment Demand** means a demand for an overdue payment of Pre-Commitment Fees under Venue Condition 16(d).

**Player Account Equipment** has the same meaning that it has in section 3.8A.1 of the Act.

**Player Card** has the same meaning that it has in section 3.8A.1 of the Act.

**Pre-Commitment Commencement Date** means 1 December 2015.

**Pre-Commitment Fee** means the precommitment fees authorised to be charged by the Monitoring Licensee to Venue Licensees for the provision of the Pre-Commitment Services calculated in accordance with the Monitoring Licence and the Pre-Commitment Related Agreement.

**Pre-Commitment Information** has the meaning that it has in section 3.8A.24 of the Act.

**Pre-Commitment Interface Software** means all software required to enable Gaming Machines and Player Account Equipment to interface with the Pre-Commitment System.

**Pre-Commitment Performance Standards** means the minimum standards set out in Schedule 4 of the Pre-Commitment Related Agreement.

**Pre-Commitment Ready Machine** means those Gaming Machines of a Venue Licensee that are:

- (i) located in the Venue Licensee's approved gaming machine area;
- (ii) approved by the Commission;
- (iii) capable of the Conduct of Gaming;
- (iv) have all required Player Account Equipment and Pre-Commitment Interface Software installed; and
- (v) capable of connecting to the Pre-Commitment System.

**Pre-Commitment Related Agreement** means the agreement entered into between the Minister and the Monitoring Licensee for the provision of Pre-Commitment Services.

**Pre-Commitment Services** has the same meaning that it has in section 1.3 of the Act.

**Pre-Commitment System** has the same meaning that it has in section 3.8A.1 of the Act.

**Pre-Commitment System Equipment** means the equipment forming part of the Pre-Commitment System that is installed in the Gaming Venue.

**Pre-Commitment Term** means the period from 1 December 2015 until the expiration or termination of the Monitoring Licence but with respect to Pre-Commitment Services to any Gaming Venue (other than the Melbourne Casino) subject to notification by the Venue Operator under Venue Condition 7.3.

**Pre-Commitment Trade Mark** means any trade name or mark owned by the State or registered by or on behalf of the State that the State requires the Monitoring Licensee under the Pre-Commitment Related Agreement to use in the branding of the Pre-Commitment System (including in relation to Pre-Commitment Services and the Pre-Commitment Website).

**Pre-Commitment Venue Data** means all data and expressions of data contained in, or processed or generated by, the Pre-Commitment System with respect to a Gaming Venue, in whatever form including without limitation all data and expressions of data comprising reports generated by the Pre-Commitment System.

**Pre-Commitment Website** means the website developed, commissioned, operated and hosted on behalf of the State by the Monitoring Licensee under the Pre-Commitment Related Agreement, or as may be subsequently operated and hosted by the State.

**Public Holiday** means a day nominated, appointed or declared as a public holiday under the **Public Holidays Act 1993** (Vic.).

**Regulations** means the regulations made under the Act.

**Related Agreement** means any agreement entered into between the Monitoring Licensee and the Minister, the Monitoring Licensee and the Venue Licensee or the Minister and the Venue Licensee relevant to the provision of services authorised to be conducted by the Monitoring Licensee under the Act.

**Settlement Report** means a report to be generated by the Venue Operator on Monitoring Equipment in the Gaming Venue which report sets out, on a monthly basis, the Pre-Commitment Fees payable to the Monitoring Licensee for the relevant month.

**State** means the Crown in right of the State of Victoria and includes the Minister.

**Technical Standards** means the Victorian Central Monitoring and Control System Requirements document issued by the Commission, the Australia/New Zealand Gaming Machine National Standards, the Victorian Appendix to the Australia/New Zealand Gaming Machine National Standards, the Victorian Pre-Commitment Systems Requirement document issued by the Commission and the Victorian Player Account Equipment Technical Requirements document issued by the Commission, as those documents may be amended from time to time, and any other standards that the Commission may make or amend, as contemplated by sections 10.1.5A to 10.1.5C of the Act.

**Transaction Documents** means the:

- (i) Monitoring Licence;
- (ii) Related Agreements; and
- (iii) all documents entered into under the terms of the Monitoring Licence, the Monitoring Licence Related Agreement and the Pre-Commitment Related Agreement.

**User ID** means a unique user name stored in the Pre-Commitment System for each person who is Authorised Venue Staff.

**Venue Conditions** means these conditions published under section 3.8A.19B of the Act.

**Venue Licensee** means a Venue Operator or the Melbourne Casino Operator.

**Venue Monitoring Services Agreement** means the agreement entered into between the Monitoring Licensee and the Venue Operator with respect to the provision of Monitoring Services in the relevant Gaming Venue.

**Venue Operator** means the holder of a Venue Operator's licence that also holds Gaming Machine Entitlements for the relevant Gaming Venue.

## 23.2 Interpretation

In these Venue Conditions, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) headings are for convenience and do not affect interpretation;
- (d) a reference to any document or agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (e) a reference to a party includes its executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;



- (f) a reference to writing includes any method of representing words, figures or symbols in a permanent and visible form;
- (g) references to any statute, regulation, by-law or guideline or to any provision of any statute, regulation, by-law or guideline include any modification or re-enactment of, or any provision substituted for, and (in the case of a statute) all statutory and subordinate instruments issued under, such statute, regulation, by-law or guideline or such provision; and
- (h) the words ‘including’, ‘include’ or other similar expressions (in any form) are not words of limitation.

Dated 19 November 2015

JANE GARRETT MP  
Minister for Consumer Affairs, Gaming and Liquor Regulation

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