



Report CAO-2011-007

To: Mayor and Members of Council

From: Douglas Barnes, CAO

Meeting: November 15, 2011

Subject: Lease of Caledon Equestrian Park & 2015 Pan/Parapan American Games Update

RECOMMENDATION

That Report CAO-2011-007 regarding Lease of Caledon Equestrian Park & 2015 Pan/Parapan American Games Update, be received; and

That subject to the approval of Toronto and Region Conservation Authority Board of Directors, that the Mayor and Clerk enter into a lease agreement for the lands known as the "Caledon Equestrian Park" with the Toronto and Region Conservation Authority and the Equestrian Management Group; and

That subject to Town of Caledon Council approval and the approval of Toronto and Region Conservation Authority Board of Directors of the lease, that the Mayor and Clerk enter into a contribution agreement in accordance with Council resolution 107-2009 for the Town of Caledon's portion of the 44% required capital contribution for the land known as the Caledon Equestrian Park, to be at an upset limit of \$5,373,500 in partnership with its partners, Equestrian Management Group and the Toronto and Region Conservation Authority; and

That Council appoint the CAO and the Sr. Project Manager for the 2015 Pan Parapan American games to provide input regarding the management of the Caledon Equestrian Park; and

That Council enact a by-law to authorize the Mayor and Clerk to execute a Memorandum of Understanding between the Toronto 2015 Host Corporation for the Pan/Parapan American Games and the Town of Caledon for the purpose of outlining the respective responsibilities of Toronto 2015 Pan/Parapan American Games Host Corporation and the Town of Caledon related to a capital project at the Caledon Equestrian Park; and

That Council authorize the Chief Administrative Officer, Director of Corporate Services/Chief Financial Officer/Deputy CAO and Manager of Purchasing and Risk Management to award Tenders and Proposals for 2015 Pan/Parapan American Games.;

That Council authorize the Mayor and Clerk to execute the contracts related to the 2015 Pan/Parapan American Games capital project awards, once approved by the CAO, Director of Corporate Services, and Manger of Purchasing and Risk Management; and



That Staff be directed to report to Council the details of awards following the award of contracts related to the 2015 Pan/Parapan American Games capital project at the Caledon Equestrian Park.

ORIGIN/BACKGROUND

On March 10, 2009, Town of Caledon (Town) Council, through resolution 107-2009 directed Town staff to partner with the Toronto and Region Conservation Authority (TRCA) and the Equestrian Management Group (EMG) known as the "Partnership" to host the equestrian events designated within the 2015 Pan/Parapan American Games Technical package at the Caledon Equestrian Park (CEP).

With Caledon poised to host the equestrian events for the 2015 Pan/Parapan American Games and the current lease for the Caledon Equestrian Park set to expire on August 31st, 2014, the Town and TRCA have proceeded to enter negotiations with EMG for a new lease of the CEP. This direction was as per Town Council resolution 10-2009 and TRCA Executive Committee Resolution # A264/08.

Thorough Council Resolution 107-2009, Council resolved that the Mayor and Clerk be authorized to enter into a Multi Party Agreement (MPA) that identifies the 2015 Pan/Parapan American Games venue plan outlining all commitments obligations and benefits for contributors to Toronto's 2015 Pan/Parapan American Games whether through funding capital commitments or in kind support.

Subsequently the Multi Party Agreement requires the local host (Town of Caledon) to enter into a facility agreement or Memorandum of Understanding (MOU) with the Toronto 2015 Pan/Parapan American Games Host Corporation to begin the capital infrastructure requirements.

DISCUSSION

The Caledon Equestrian Park is currently comprised of lands owned by two land owners and totals approximately 98 acres of land. Currently the TRCA owns 36.4 acres of land on which the Caledon Equestrian Park is established. The Equestrian Management Group owns 61.6 acres of the Caledon Equestrian Park property. (See Appendix A attached).

Under the proposed lease, the Equestrian Management Group will dedicate their lands to the park to facilitate the Equine operation and will transfer approximately 6 acres of land to the ownership of the TRCA. This land transfer will increase the TRCA's land ownership and will allow for all capital buildings required for the 2015 Pan/Parapan American Games to be built on publically owned lands.

Following Council direction, Town Staff engaged the Toronto and Region Conservation Authority and the Equestrian Management Group in lease discussions regarding the Caledon Equestrian Park Lands.



The focus of the discussion, involved reaching a fair lease for the property, which would ultimately lend the operations of the Caledon Equestrian Park to support the Equine / Agricultural Industries. The intended result is to create long term economic spin off for the Town of Caledon through Agritourism.

Rent, land transfer, revenue sharing, and facility / property maintenance were the cornerstones of the discussions.

Under the proposed Terms of the lease, the highlights are as follows:

1. EMG will dedicate approximately 61.6 acres of land (see appendix A) to the “Caledon Equestrian Park”; and
2. EMG will transfer lands under their ownership, required to build all capital buildings for the 2015 Pan/Parapan American Games to the ownership of TRCA, so that all capital requirements are built and retained under “Public Ownership”. Approximate land size and value to be transferred was appraised at \$600,000 (see Appendix A); and
3. EMG will make a \$1,717,834 cash contribution (payable as rent in advance) towards the Capital building requirements as required for the 2015 Pan/Parapan American Games; and
4. Under the provisions of the lease, EMG would be required to pay all utility and operational expenses for the property including liability insurance.

Additionally, under the proposed lease terms, for the lands known as the Caledon Equestrian Park the lease agreement terms are proposed as follows:

Term	Details
1 st - 20 Year Term	<p>1) That the annual basic rent of the property and facility will be equivalent to \$201,000 per annum for the first 20 year term.</p> <p>EMG will pay \$1,717,834 up front as a cash contribution towards the capital improvements of the facility. This includes the amortized \$1,717,834 at a value \$150,000 rent, a \$600,000 land ownership transfer valued at \$30,000 per annum and land contribution consisting of 1.75% of land valued at \$1.2 million solely available for the benefit of the venue for the first term of the lease (\$21,000). Total value of rent being \$201,000 per annum.</p> <p>2) Revenue Sharing - will be implemented between Town, TRCA and EMG and will result from operations outside of the core business of EMG (i.e. 16 annual events). Revenue sharing will include parking, seat sales, trade shows, weddings, permanent stall rentals, additional competitions, breed shows, dog / cat shows etc.</p> <p>Revenue Sharing Split:</p>

	<p>A) The first \$100,000 of revenue sharing shall be divided equally between the Town and TRCA.</p> <p>B) Revenue Sharing (Balance) – The balance of the revenue sharing shall be distributed equally among tenant, Town, and TRCA.</p>
<p>2nd – 20 Year Term</p>	<p>1) Total value of rent being \$201,000 per annum. EMG will make a cash payment of \$180,000 plus a land contribution consisting of 1.75% of land valued at \$1.2 million solely available for the benefit of the venue for the second term of the lease (\$21,000).</p> <p>2) Revenue Sharing - will be implemented between Town, TRCA, and EMG and will result from operations outside of the core business of EMG (i.e. 16 annual events). Revenue sharing will include parking, seat sales, trade shows, weddings, permanent stall rentals, additional competitions, breed shows, dog / cat shows etc.</p> <p>3) Revenue Sharing Split:</p> <p>A) The first \$100,000 of revenue sharing shall be divided equally between the Town and TRCA.</p> <p>B) Revenue Sharing (Balance) – The balance of the revenue sharing shall be distributed equally among tenant, Town, and TRCA.</p>

Council Resolution 107-2009 “authorized Mayor and Clerk to sign Annex B to the Multi Party Agreement (the Joinder Agreement) with the 2015 Pan/Parapan American Games Bid Committee to host the Equestrian events at the Caledon Equestrian Park, as well as a community partnership to the level of cash contribution of 44% of capital costs to an upset limit of \$5,373,500.00 (2014\$) by partners Equestrian Management Group, Toronto and Region Conservation Authority, Region of Peel and Town of Caledon to facilitate renovations or construction of buildings associated with the Pan/Parapan American Games”

It should be noted, that the original project budget forecasted to be an upset limit of \$12,212,500 and included the Cross Country eventing component. This component was included at a budget line item of \$500,000 of which the 44% capital requirement would be paid by the local land owner. This component has been removed as the TO215 Host Corporation has elected to negotiate and project this component directly. By excluding this component, the overall total capital project investment at the Caledon Equestrian Park is \$11,712,500



This Multi Party Agreement (MPA) requires the Town to enter into a Memorandum of Understanding (MOU) with the Toronto 2015 Pan/Parapan American Games Host Corporation for the provisions of building the capital components for the 2015 Pan/Parapan American Games. This MOU is consistent with the reported capital requirements and the already signed MPA.

The investment in the Caledon Equestrian Park provides the opportunity for long term support of the equine / agritourism industry. Additionally, the capital improvements on the property will allow for extended events and business opportunities opportunities at the park outside of the 16 annual horse shows.

FINANCIAL IMPLICATIONS

Project Cost Estimate & Funding

Following an evaluation of the capital improvements necessary to host the 2015 Pan/Parapan American Games Equestrian Events the Bid Committee stated that a total investment of \$9,000,000 was required if the facility was constructed in 2008. In order to allow for inflation the costs and investment fluctuates depending on the year of construction i.e. the 44% contribution is dependant on the year in which construction begins and ends. Due to the project time lines, the project budget will be estimated on 2014 figures.

Year	Total Cost	Partnership cost @ 44%
2008	\$9,000,000	\$3,960,000
2009	\$9,655,000	\$4,248,200
2010	\$10,247,150	\$4,508,746
2011	\$10,750,585	\$4,730,257
2012	\$11,211,623	\$4,933,114
2013	\$11,693,418	\$5,145,104
2014	\$12,212,500	\$5,373,500

As noted in the Discussion section of this report, the \$12,212,500 was reduced by \$500,000 due to TO215 Host Corporation's decision to negotiate and take on the cross country component of the project directly. The revised cost estimate for the project is now \$11,712,500 (= \$12,212,500 - \$500,000).

The Federal and Provincial Governments will pay a combined 56% of all games related capital costs and will assume 100% of the "games related" hosting expenses. Overall, 44% of games related capital costs are to be contributed by the local host (or host partnership group – TRCA, EMG and Town of Caledon). A summary of the funding sources for the \$11,712,500 Caledon Equestrian Park capital project is as follows:



Total Project Cost Estimate	FUNDING				Total Funding
	Fed/Prov 56%	1/3 EMG	1/3 TRCA	1/3 Town	
<u>\$11,712,500</u>	<u>\$6,559,000</u>	<u>\$1,717,834</u>	<u>\$1,717,833</u>	<u>\$1,717,833</u>	<u>\$11,712,500</u>
		<i>Local Host Partnership Group Funding \$5,153,500</i> 44%			

As per Council Resolution 107-2009 the Town's portion of the 44% required capital contribution, is to be at an upset limit of \$5,373,500 in partnership with its partners, EMG and the TRCA.

Cash Flow Projection Assumptions

The following assumptions were included in the 40-year cash flow projections:

- The \$1,717,833 payment from the TRCA will be received throughout the construction phase of the project (e.g. over 2011/2012 to 2014);
- As noted in the Discussion section, payments from EMG are as follows:
 - \$1,717,834 payment from EMG, as rent in advance for the first 20 year period, at the start of the project to be used towards EMG's 1/3 share of the capital funding;
 - \$180,000 as base rent payments from EMG to the Town for years 21 to 40 of the agreement;
 - A projection of \$50,000 a year for the full 40 years representing a conservative estimate of the Town's portion of shared profits for events beyond the 16 events (e.g. estimated \$100,000 of profit would be earned annually above the 16 events. As per the proposed agreement, the Town would be entitled to 50% or \$50,000). The "profit sharing" inflows are dependent upon the success of the management partnership board at attracting profitable events (above the 16 events) and may increase above the \$50,000 annual projection;
- Total of \$6,559,000 of Federal/Provincial grant funding reimbursements taking no more than 6 months from when the funds are projected to be expended;
- Annual debenture repayments are projected to be \$121,122 based on a 20 year debenture at 3.59% (source Infrastructure Ontario municipal lending rates for a 20 year amortizer debenture as at November 10, 2011). Based on feedback at recent budget workshop and budget Council meetings, the 40 year debenture (\$86,830 annual repayments, interest at 4.03%, Infrastructure Ontario Nov. 10, 2011) was considered but not used in the cash flow projections; and
- Internal reserve fund borrowing to cash flow the first 15-16 years following construction will be repaid over the following 15 years with interest at 3% from Caledon Equestrian Park rental/profit sharing proceeds (see more information in the Cash Flow Projection Results section below).



Cash Flow Projection Results

Based on the assumptions listed above on the total cost, funding, and cash inflows/outflows, a cash flow projection for the Caledon Equestrian Park project was prepared. The results of the cash flow projection are as follows:

- Over the 40 year period, the Town is projected to have positive cash flows or earn just over \$2M from rental revenues/profit sharing (net of external debenture repayments and internal reserve repayments, with interest);
- The payback period (or when the Town is projected to have cumulative positive cash flows) is approximately 24 years (by 2035); and
- During the first 20 years the Town is projected to have negative cash flows (e.g. more expenditures due to construction and debt repayments than revenues).
 - However, this may be mitigated if the Town's share of profits over the first 20 years exceeds \$50,000 per year (see more information in the Cash Flow Assumptions section above).
 - Although the Town will finance the construction portion through the \$6.6M Federal/Provincial grant, TRCA and EMG contributions of \$1.7M each, and the Town's \$1.7M via a debenture (in 2014 after construction), the Town may have to internally cash flow or seek the Region of Peel's assistance to interim finance some construction payments due to anticipated time to complete paperwork required to obtain reimbursements mainly from the Federal/Provincial grant.
 - This interim financing arrangement is similar to a Council-approved agreement between the Town of Caledon and the Region of Peel for recent infrastructure stimulus grant funding through the Recreation Infrastructure Canada (RInC) grant program.
 - The Interim financing option with the Region of Peel for RInC grant funded projects was not exercised by the Town as the Town was able to cash flow these projects internally.
 - For approximately 15 to 16 years after construction, the negative cash flows each year to repay the 20 year debenture will likely require temporary reserve fund financing of less than \$100,000 per year.
 - Repayments to the reserve fund, with interest, will come from the net proceeds of Caledon Equestrian Park rental/profit sharing proceeds over the following 15 years.

Summary/Conclusion

The Town will own an \$11.7M asset through a capital investment of \$1.7M. Based on cash flow projections, the Corporation of the Town of Caledon's direct financial impact over the 40 years is a positive cash inflow of approximately \$2M. The positive financial impact to the community is included in a separate report. Town staff engaged the Canadian Sport Tourism Association to complete an "Economic Impact Study" of the Equine industry in Caledon. A report on the outcomes and economic impacts that Equine Industry and the Hosting of the Equine events for the 2015 Pan/Parapan American Games is included in the November 15, 2011 Council agenda.

Cash flow shortages projected in the first 20 year period is projected to be fully recovered and contribute a net \$2M in the second 20 year period and may be mitigated through higher profit sharing revenues.

LEGAL IMPLICATIONS

Lease

A lease for the Caledon Equestrian Park is required for the ongoing land use and operation of the municipal capital facility. This agreement is required to ensure the long term legacy requirements of the 2015 Pan Parapan American games. Following Town Council resolution 10-2009 and TRCA Executive Committee Resolution # A264/08 the Town and TRCA have proceeded to enter negotiations with EMG for a new lease of the CEP. The recommended terms and conditions are attached to this report as Appendix B - Caledon Equestrian Park – Competition Venue Lease

It is recommended that the Town of Caledon enter into a Lease with the Equestrian Management Group and the Toronto and Region Conservation Authority.

Thorough Council Resolution 107-2009, Council resolved that the Mayor and Clerk be authorized to enter into a Multi Party Agreement that identifies the 2015 Pan/Parapan American Games venue plan outlining all commitments obligations and benefits for contributors to Toronto's 2015 Pan/Parapan American Games whether through funding capital commitments or in kind support.

Subsequently the Multi Party Agreement, which was signed by the Town on December 8, 2009 requires the local host (Town of Caledon) to enter into a facility agreement or MOU to begin the capital infrastructure requirements.

Memorandum of Understanding

At the meeting on 7 June 2005, by Resolution W-261-2005, Council adopted Closed Session Joint Legal Services Report 2005-25 (Town Counsel) and Administration Department Report 2005-02 (Chief Administrative Officer), and established as Town of Caledon Council policy, that contributions to the Town of Caledon by community groups are to be the subject of a Memorandum of Understanding negotiated between Town of Caledon and the community group.

The purpose of the memorandum is

- to acknowledge formally the donation of the community group,
- to set out the respective obligations of the Town and the community group, and to permit both to plan their respective financial commitments, in the current year and in future years,
- to give Town Staff an opportunity to review the project and determine whether the project meets Town standards and practices,
- to ensure that the appropriate members of the public and appropriate public agencies have been consulted,
- to determine the Town policies applicable to the project, and
- to determine legal issues such as ownership and liability.

Such a Memorandum of Understanding would acknowledge that donations of goods and services obtained by the municipality on a "competitive tender basis". By authorizing such a Memorandum of Understanding, Council would be meeting the provision in the



Purchasing By-law in section 4.02(l) which states that Council may grant an exception to the competitive process *in any case where Council has granted specific approval for the use of non-competitive procurement processes.*

Memoranda of Understanding between the Corporation of the Town of Caledon and external agencies & community groups have been authorized by Town Council on a regular basis. Examples include the Bolton Rotary contribution to the construction of the extension of the Caledon Centre for Recreation and Wellness, and the installation of the Palgrave Town Clock on the Trailway, and Palgrave gazebo.

It is recommended that the Town of Caledon and Toronto 2015 Host Co. enter into a memorandum of understanding (As attached as Appendix C - MOU – Town of Caledon and Toronto 2015 Host Co. and that Council authorize the Mayor and Clerk to execute the memorandum.

NEXT STEPS

- 1) Release of Design RFP
- 2) Community Consultations Regarding Masterplan

COMMUNITY BASED STRATEGIC PLAN

- 1) 5D: Support and Promote Agricultural Business: Encourage and support opportunities to diversify on farm income as a way of protecting agricultural land for the future generations. Encourage agricultural business and agricultural service industry to remain and thrive in Caledon
- 2) 5I: Promote Tourism: Support and promote Caledon as a tourism destination, recognized for its spectacular natural environment with outdoor activities such as site-seeing, hiking, golfing, trails and fishing, and its vibrant cultural life, thriving arts community, distinctive boutiques, festivals and live theatre.

POLICIES/LEGISLATION

- 1) Town of Caledon's purchasing By-law 2009-151

CONSULTATIONS

Doug Barnes, Chief Administrative Officer
Ron Kaufman, Director/Chief Financial Officer/Deputy CAO
Fuwing Wong, Treasurer
Karen Landry, Director, Administration
Brian Denney, CAO, TRCA
Mike Fenning, Sr. Manager, Conservation Lands and Property Services, TRCA
Kathryn Lockyer, Solicitor, Region of Peel



ATTACHMENTS

- 1) Appendix A – Caledon Equestrian Park Lands
- 2) Appendix B - Caledon Equestrian Park – Competition Venue Lease
- 3) Appendix C - MOU – Town of Caledon and Toronto 2015 Host Co.

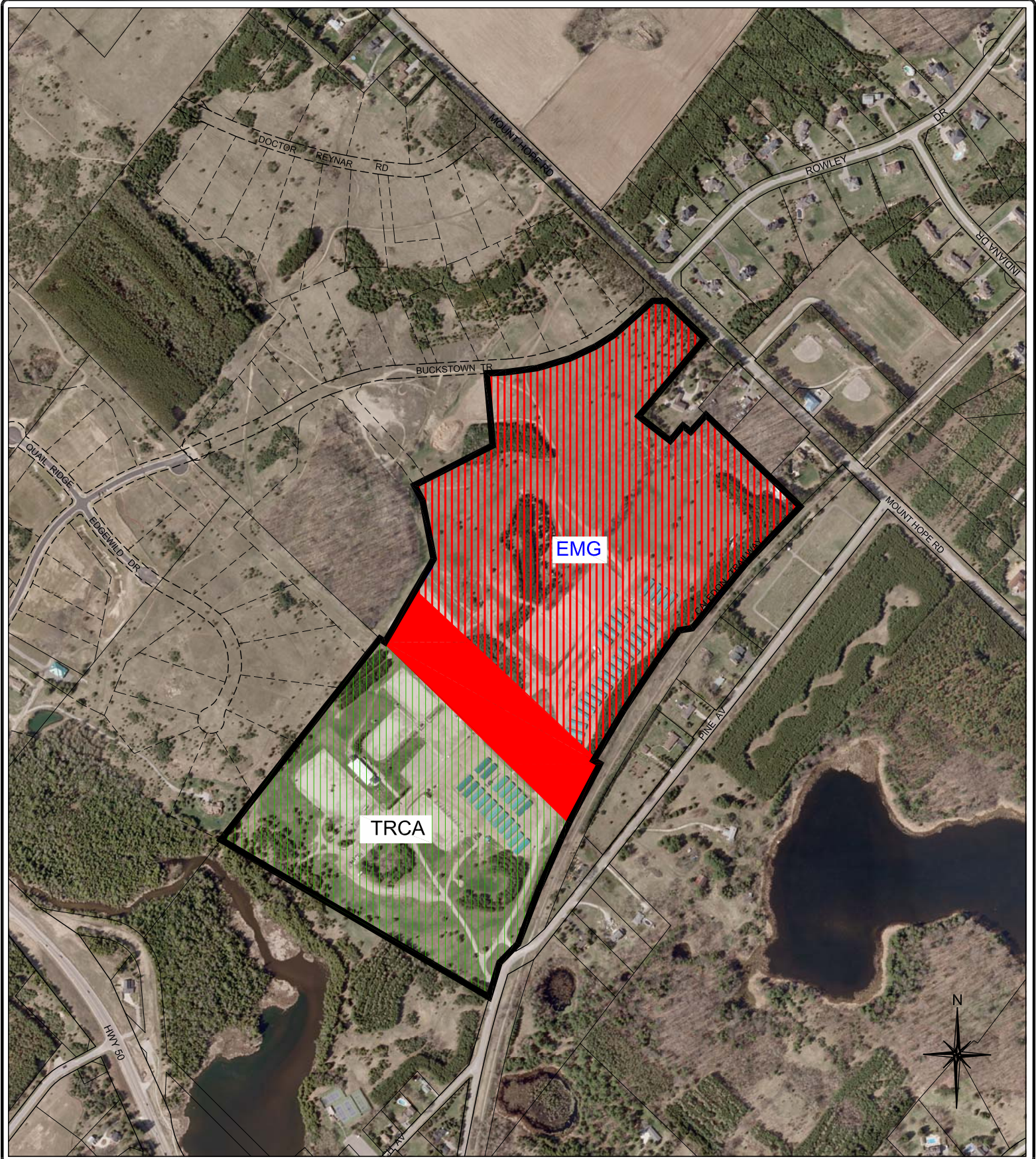
CONCLUSION

The lease of the Caledon Equestrian Park to the Equestrian Management Group should provide Caledon with a sufficient revenue stream to pay back any costs incurred on the Capital Components required for the 2015 Pan Parapan American Games. In addition the legacy of the CEP should result in a long term Economic spin off from Agritourism.

Prepared by:
Name: Marc Seguin
Title: Sr. Project Manager

Approved by:
Name: Rita Trudeau
**Title: Sr. Manager, Capital
Projects and Property
Management**

Approved by:
Name: Douglas Barnes
Title: Chief Administrative Officer



-  TORONTO AND REGION CONSERVATION AUTHORITY (TRCA) APPROX. 36.4AC
-  EQUESTRIAN MANAGEMENT GROUP (EMG) APPROX. 61.6AC
-  CALEDON EQUESTRIAN PARK APPROX. 98.0AC
-  POTENTIAL LANDS TO BE TRANSFERRED FROM EMG TO TRCA TBD



REQUESTED BY: N.K.	FILE NO: EMG REPORT
PROVIDED BY: D.S.	DATE: MARCH 7, 2011
SCALE: N.T.S.	REVISED: JULY 4, 2011

CALEDON EQUESTRIAN PARK - COMPETITION VENUE

Dated as of January 1, 2012

LEASE AMONG:

TORONTO AND REGION CONSERVATION AUTHORITY

and

THE CORPORATION OF THE TOWN OF CALEDON

and

EQUESTRIAN MANAGEMENT GROUP INC.

For period January 1, 2012

to December 31, 2051

THIS INDENTURE OF LEASE made as of _____, 2011

BETWEEN:

TORONTO AND REGION CONSERVATION AUTHORITY

(“TRCA” or “Landlord”)

OF THE FIRST PART

- and -

EQUESTRIAN MANAGEMENT GROUP INC.

(the “Tenant”)

OF THE SECOND PART

- and -

THE CORPORATION OF THE TOWN OF CALEDON

(the “Town” or “Caledon”)

OF THE THIRD PART

WHEREAS:

1. TRCA is or is about to become the owner of the Leased Premises as described on Schedule “A”;
2. On October 31, 1997, the Town and TRCA made an Agreement with the Tenant with respect to the Leased Premises described firstly on Schedule “A”, pursuant to agreement made between TRCA and the Town dated December 29, 1978 (the “Memorandum of Agreement”);
3. The Tenant has requested that TRCA grant it a lease of the Leased Premises for the period from the Commencement Date to December 31, 2051 and TRCA at a meeting of its Members held on _____ has agreed to grant such lease to the Tenant with the Town as a consenting Party hereto, all upon and strictly in accordance with the terms and conditions set out in this Agreement.
4. Town Council at its meeting held on _____, amongst other things, approved the Town entering into a lease with the Tenant for the Leased Premises upon the terms and conditions set out in this Agreement;
5. The Tenant, at the meeting of its board of directors on _____, agreed to this Agreement;

NOW THEREFORE in consideration of and subject to the Rent reserved and the covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Town, in its capacity as authorized manager for and on behalf of TRCA pursuant to the Memorandum of Agreement, and TRCA, as the owner thereof, demises and leases the Leased Premises to the Tenant and the Tenant leases from TRCA, through the Town, the Leased Premises, to have and to hold during the Term, unless sooner terminated as expressly provided in this Agreement, in accordance with the following terms and conditions, and the Town and the Tenant covenant and agree, each with the other, as follows:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

1.1 Definitions

In this Agreement, in addition to the defined terms set out in the recitals, and elsewhere herein, unless the context expressly or by necessary implication otherwise requires, the terms defined herein shall have the following meanings:

“**Affiliate**” means with respect to any Person, any legal entity which directly or indirectly Controls or is Controlled by such Person;

“**Agreement**” means this lease, including its recitals and all schedules attached hereto, Approved Plans and all documents which are expressly stipulated herein to form part of this Agreement;

“**Applicable Law**” means, collectively, every statute, treaty, regulation, by-law, policy, code, judgement, decree, injunction, ordinance, order, rule, guideline, standard, directive, building scheme, covenant, condition and provision of law and of every Authority which from time to time affects the Leased Premises or any Work or any activity thereon including all regulations made under the *Conservation Authorities Act* from time to time and the official plan, zoning and building by laws, the municipal by-laws of the Town, health and safety codes, animal welfare and husbandry legislation rules and regulations, or any successor or replacement legislation from time to time;

“**Applicable Standards**” means, at any particular time during the Term:

- (a) with respect to the state or condition of the maintenance and repair and operation of the Project or any part thereof a standard consistent with a good and sound state of repair as a prudent owner would normally do and in compliance with all relevant Applicable Laws;
- (b) to a standard of a reputable and professionally operated first-class project as determined by the Town;

“**Approvals**” means all approvals required to be obtained from all Authorities including TRCA and Town, all of which approvals to be granted by TRCA and the Town shall be in their capacities only as Parties to this Agreement, and in writing, and “**Approved**” shall mean an item for which Approval is required and has been granted by the relevant Authority;

“**Approved Plans**” means the plans which are to have received and have received the Approval in writing of TRCA and the Town;

“**Assignee**” means any person or entity to whom an Assignment is or is to be made;

“**Assignment**” means any assignment, sale, conveyance, sublease, disposition, licensing, pledge, hypothecation, mortgage, charge, security interest, debenture (floating or otherwise) or other encumbrance of this Agreement or the Leased Premises, or any part of them, or any interest in this Agreement or other arrangement under which the interest of the Tenant in and to this Agreement becomes security for any indebtedness of other obligation, any transaction or occurrence by which any right of use or occupancy of all or any part of the Leased Premises is conferred on any Person other than the Tenant, any transaction or occurrence whatsoever (including, without limitation, expropriation, receivership proceedings, seizure by legal process and transfer by operation of law) which changes or may change the identity of the Person having lawful use or occupancy of all or any part of the Leased Premises; and a transfer or issue by sale, assignment, request, inheritance, transmission on death mortgage, charge, security interest, consolidation, subscription, operation of law or other disposition, or by liquidation, merger or amalgamation, or all or any of the share of or interest in the Tenant, or any agreement or arrangement, or any other act, as a result of which the Tenant or any of the corporations listed below becomes controlled, directly or indirectly, in any manner whatsoever (within the meaning of “controlled” set forth in the *Business Corporations Act* (Ontario), and any amendments or successor legislation for the time being in force and from time to time in force) by a different Person or Persons from any one or more of those Persons who controlled the Tenant or any of the corporations listed below, directly or indirectly in any manner whatsoever, immediately before any such transaction or occurrence. The Persons controlling the Tenant as of the date of execution of this Lease are Craig Collins, Bob Carey and John Weir, their spouses and children, and the company’s controlled by each of Craig Collins, Bob Carey and John Weir, namely Craig A. Collins Investments Inc., Ameresum Investments Limited and John J. Weir Management Limited, respectively, and for greater certainty, any change in control among the three named individuals, their heirs and executors and trustees, their respective spouses and children and the said three corporations so long as three corporations remain controlled by the three named individuals, or their heirs, executors and trustees or their spouses and children, shall not be considered an Assignment;

“**Authority**” means any court or tribunal or commission or government (federal, provincial or municipal), regulatory or administrative body, board, agency, department or authority of any country, province, region, municipality or other political subdivision having jurisdiction in the relevant circumstances, all bodies authorized to make any Applicable Laws, and “**Authorities**” shall have a corresponding meaning;

“**Authorized Member**” or “**Authorized Members**” means the following Persons authorized by the Town, TRCA or the Tenant, as the case may be:

- (a) in the case of the Town or TRCA, the elected officials of Town Council, Members of TRCA, the directors, officers, workers, employees, invitees, subtenants, licensees, agents and contractors designated by the Town or TRCA, as applicable; and
- (b) in the case of the Tenant, the directors, officers, workers, employees and Approved invitees, sub-licensees, agents, contractors and other transferees designated by the Tenant, and all other Persons for whom the Tenant is responsible under Applicable Laws;

“**Business Day**” means any day on which Town is open for business and, more particularly, does not include a Saturday, Sunday or a day observed as a statutory or civic holiday in the Province of Ontario, and “**Business Days**” shall have a corresponding meaning;

“**Business Taxes**” means, to the extent in effect at any time, all taxes, rates, duties, fees and assessments and other charges of every nature and kind that may be levied, rated, charged or assessed against or in respect of:

- (a) all Capital Improvements, equipment and facilities of the Tenant on or in the Leased Premises or any part or parts or TRCA and/or the Town on account of its/their ownership of the Capital Improvements or its/their interest in the Capital Improvements; and
- (b) any and every business carried on or in the Leased Premises or in respect of the use of occupancy by the Tenant or any Approved Assignee or any other occupant,

by any Authority, and any and all taxes which may in future be levied in lieu of any of the foregoing, whether foreseen or unforeseen, but expressly excluding Taxes, other Taxes, any corporate, income profits or excess profits or similar taxes personal to the Town;

“**Capital Improvements**” means all Work of every kind and description now or hereafter erected, constructed, situated, renovated or carried out by or on behalf of the Tenant in, on or about the Leased Premises or any part thereof, including all support facilities now or hereafter used in connection with the uses referred to in Article 6; and does not refer to, and do not include what Town has built pursuant to the MPA hereinafter referred to or to all improvements, buildings, structures, rings, stadiums, and all other permanent erections on the Leased Premises constructed from time to time by the Town or TRCA;

“**Claims**” means claims, demands, losses, costs, charges, damages (direct, indirect, consequential or otherwise), suits, judgements, actions, causes of action, legal proceedings, executions, demands, penalties or other sanctions of every nature and kind whatsoever and any and all costs and expenses arising in connection, including without limitation, reasonable legal fees and disbursements;

“**Commence**” or “**Commenced**” or “**Commencement**” means, for the purpose of construction of any Capital Improvement, the date the Tenant first enters onto the Leased Premises for such purpose including, without limitation, the commencement of the demolition of any structure thereon;

“**Commencement Date**” means January 1, 2012;

“**Completed**” or “**Complete**” or “**Completion**” means the date on which the Leased Premises is completed as defined in the *Construction Lien Act* and in accordance with the requirements of this Agreement, as certified to the Town and TRCA, in accordance with a certificate reasonably satisfactory to them and the Leased Premises is in operation as contemplated in Article 6 of this Agreement;

“**Control**” or “**Controlled**” means the right to direct the management and policies of a Person, whether directly or indirectly, or to elect a majority of the board of directors of a Person, whether through the ownership of voting securities or by contract or otherwise;

“**Development Charges**” means all development charges, levies and impost fees that are charged by the Town or any other Authority, under or pursuant to the *Development Charges Act* (Ontario), the *Education Development Charges Act* (Ontario), if any;

“**Event of Insolvency**” means the occurrence of any one of the following events:

- (a) if the Tenant shall:
 - (i) be wound up, dissolved, or liquidated, or become subject to the provisions of the *Winding-up Act* (Canada);

- (ii) become insolvent or unable to pay debts as they become due or file a petition in bankruptcy or make a general assignment for the benefit of its creditors or a proposal under the *Bankruptcy and Insolvency Act* (Canada), or any other insolvent debtors' legislation, or shall be declared bankrupt or insolvent by a court of competent jurisdiction, or if any involuntary petition seeking the adjudication of the Tenant is not removed within thirty (30) consecutive days;
 - (iii) propose a compromise or arrangement under the *Companies' Creditors Arrangement Act* (Canada), or any successor or replacement legislation or any similar legislation, from time to time;
- (b) if this Agreement or the leasehold interest created by this Agreements is at any time seized or taken in execution or in attachment;

"Fiscal Period" shall be the same as a Rental Year;

"Force Majeure" means any bona fide event beyond the control of the delayed Party such as strikes, acts of God but not an event arising as a result of financial incapacity of such Party or of a Person not at arms length with such Party and not an event caused by an act or omission of such party in performing its obligations pursuant to this Agreement;

"HST" means the tax imposed under Part IX of the *Excise Tax Act* (Canada) ("**ETA**") and any Ontario Harmonization Tax as the same may be amended from time to time, or any successor or replacement legislation, or any tax replacing such tax;

"Landscape Plan" means that detailed landscape plan to be prepared by the Tenant at its expense and Approved by TRCA and the Town as set out in Article 2 of this Agreement relating to any landscaping on the Leased Lands that Tenant may wish to carry out from time to time;

"Leased Premises" means the lands and premises as described in Schedule A including all improvements, structures, buildings, stadium rings, and all other permanent structures and erections thereon from time to time except Capital Improvements;

"Major Improvements" mean any Capital Improvement of stadiums, arenas, stalls, rings, pavilions, building or structural elements, and any demolition, alteration, renovation, maintenance, repair addition building reconstruction, replacement, improvement or other work that, in the reasonable and sole opinion of Town, involves or may result in a structural or substantial change to the Leased Premises;

"Master Plan" means that document prepared by the Tenant and attached hereto as Schedule "F" and articulating, amongst other matters, Capital Improvements, landscaping and design concepts, operational and programming directions and specific building and arena uses and concessions and licenses which Tenant may wish to construct or implement from time to time, and which, if Tenant wishes to amend, change, alter or otherwise depart from same, such amendment, change or alteration is to be first Approved of by TRCA and the Town pursuant to Article 2 of this Agreement;

"Material Contracts" means, collectively:

- (a) all contracts affecting the Leased Premises which are significant to construction and development;

"Member" means the "Member" as defined in the *Conservation Authorities Act*;

"Minor Improvements" means any Capital Improvement or other item of work in respect of the Leased Premises that is not a Major Improvement and which complies with each of the following criteria;

- (a) involves the routine maintenance or cosmetic repair, refurbishment or replacement of any non-structural part of the Project;
- (b) is completed in accordance with all Applicable Laws and Approved Plans; and
- (c) does not exceed the sum of \$50,000.00, inclusive of labour, materials, and taxes.

In the event of a disagreement, the Town, acting reasonably, shall determine what a Minor Improvement is;

"Occupancy Agreement" means any arrangement or agreement, by licence or concession, made by the Tenant whereby rights to use, occupy or enjoy or use stables, stalls or space or to carry on business within any part thereof, but not a substantial part thereof, are granted to any Person (other than the Tenant) from time to time to show or sell goods, wares or services or to accommodate horses or other animals;

“**Permitted Encumbrances**” means those encumbrances set out in Schedule C attached hereto;

“**Permitted Occupant**” means all Persons, other than the Tenant, entitled by the Tenant to occupy and enjoy the use of or to carry on business within portions of the Leased Premises pursuant to an Occupancy Agreement;

“**Person**” or “**person**” if the context allows, includes but is not limited to any individual, firm, association, partnership, corporation or trust or any group or combination thereof;

“**Pre-Existing Contamination**” means any and all Contamination in or upon the Leased Premises prior to September 1, 1997 and any Contamination which has emanated prior to September 1, 1997 from it to other lands for which the Tenant would otherwise be held liable to any Person, or to an Authority pursuant to Applicable Laws;

“**Preliminary Concept Plans**” means the plans and specifications Tenant may wish to prepare at its own expense and Approved of in writing by TRCA and the Town as set out in Article 2 of this Agreement which adhere to the general direction established by the accepted Master Plan in respect of each of Capital Improvements, arenas, show and practice areas, stables, building, structures and public spaces in, on or about the Leased Lands;

“**Prime Rate**” means the prime commercial annual lending rate of interest used by the Canadian chartered bank designated by the Town, from time to time on demand loans in Canadian dollars;

“**Project**” means, collectively, all existing buildings, stadiums, stables, arenas, stalls and the Capital Improvements located or constructed and operated, together with the carrying out of all related work and acts, on or about the Leased Lands or any part thereof by the Tenant and its Permitted Occupants from time to time, and any Approved Master Plan;

“**Prohibited Use**” or “**Prohibited Activity**” has the meaning, depending on the context, ascribed to it in Article 6 shall have a corresponding meaning;

“**Rent**” means all amounts payable under this Agreement, including Annual Basic Rent, Revenue Sharing Rent, and Additional Rent, but excluding HST;

“**Rental Year**” means a twelve (12) month period commencing on the first day of January during the Term or on any anniversary date of such date and in each case terminating December 31. However, notwithstanding the foregoing, the last Rental Year of this Agreement shall terminate on the expiration or earlier termination of this Agreement and the first Rental Year shall commence on the Commencement Date, and end on December 31st of the same year as the case may be;

“**Substantial Completion**” or “**Substantially Complete**” means that all Work required to achieve “substantial performance” has been completed as provided in the *Construction Lien Act* (Ontario);

“**Substantial Completion Date**” means the date upon which Substantial Completion has occurred, as evidenced by the publication of certificate of substantial completion in accordance with the *Construction Lien Act* (Ontario);

“**Taxes**” means all real property taxes, rates, duties, fees, charges, assessments, impositions, levies, charges for local improvements and/or licence fees, impost charges or levies whatsoever, that are levied, rated, charged, assessed against or imposed by any Authority having jurisdiction, and any Capital Taxes, business taxes, business occupancy taxes or other taxes levied against the Town and/or the Tenant and attributable to the Leased Premises;

“**Term**” means the period commencing on January 1, 2012 and continuing for 40 years through to December 31, 2051;

“**Trade Fixtures and Chattels**” means furnishing, equipment, vehicles, machinery, tools, inside the Leased Premises, parts and materials inventory, communications hardware that is not part of the Capital Improvements, personal property and all other items generally considered to be trade fixtures, installed and used by the Tenant or a permitted Assignee, in its business, but excluding any Capital Improvements;

“**Work**” or “**Project Work**” means the construction and completion of the Capital Improvements, by or on behalf of the Tenant at its expense in accordance with the provisions of this Agreement.

1.2 Headings

The paragraph headings are inserted in this document only as a matter of convenience and for reference and are in no way intended to be part of this Agreement.

1.3 Words

Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and the neuter gender and wherever two or more Persons are bound to any obligation, their liability shall be joint and several.

1.4 Statute Reference

Any reference in this Agreement to any statute or any section shall be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

1.5 Generally Accepted Accounting Principles

Unless otherwise provided for in this Agreement, all calculations to be made hereunder are to be made in accordance with generally accepted accounting principles (“GAAP”) which are in effect from time to time in Canada, consistently applied.

1.6 Obligations as Covenants

Each obligation or agreement of the Town, TRCA or the Tenant expressed in this Agreement, even though not expressed as a covenant, is considered to be a covenant for all purposes.

1.7 Due Authority

The signatories for each entity set out below warrant and represent that they are authorized to bind the corporation or entity for whom they are signing.

1.8 Schedules

The following schedules are attached to this Agreement and form an integral part hereof:

Schedule A	Legal Description of Leased Premises – To be completed, awaiting M or R Plan
Schedule B	Schedule of Rent Payments
Schedule C	Permitted Encumbrances
Schedule D	Description of Adjacent Area, Head Lease and Sublease thereof – To be completed, awaiting M or R Plan
Schedule E	Revenue Sharing Agreement
Schedule F	Master Plan

ARTICLE 2 GRANT AND TERM

2.1 Demise

In consideration of and subject to the Rent reserved and the terms, conditions, covenants and agreements herein contained, on the part of the Tenant to be paid, performed, observed and complied with, the Town, in its capacity as authorized manager for and on behalf of TRCA and with the Approval of TRCA as owner thereof, hereby demises and leases to the Tenant and the Tenant hereby leases from the Town and TRCA, the Leased Premises during the Term, unless and until sooner terminated as expressly provided herein, for the uses and purposes only referred to herein and for no other use whatsoever, subject to the Permitted Encumbrances and the reservation of rights as otherwise provided in this Agreement, including the rights of inspection by the Town and TRCA herein provided.

2.2 Title of TRCA and Town

- (a) TRCA and the Town shall have the right to sell, convey, transfer, mortgage, encumber or otherwise dispose of its/their respective interests in the Leased Premises or any part provided only that such sale, conveyance, transfer, mortgage, encumbrance or other disposition is subordinate to the rights of the Tenant under this Agreement, and provided further. if the sale or transfer is to be to other than a public body such as the governments of Canada or Ontario or of any regional or municipal government or any agency, department or ministry thereof or any conservation authority or any combination thereof, prior to any such sale or transfer, TRCA and the Town shall first notify the Tenant of its desire to sell, and the Tenant shall have 90 days to agree to purchase the Leased Premises on terms and conditions to be negotiated. In the event the Parties cannot come to agreement in the 90 days following the notice, the Town and TRCA shall have the right to sell and transfer their respective interest in the Leased Premises within 270 days of the

giving of the notice of the desire to sell and failing such sale and transfer within the 270 days, this section 2.2(a) shall remain in full force and effect.

- (b) The Tenant agrees to grant at no cost to the Town and TRCA, forthwith upon request, in respect of all easements and/or rights-of-way and/or licences in, over or upon the Leased Premises (collectively and individually called, an “**Easement**”) now or hereafter considered necessary or desirable by the Town and/or TRCA and the Tenant covenants and agrees that it shall execute all such Easements, provided such Easements are prepared by TRCA or the Town. Without limiting the foregoing, TRCA and the Town and each of them shall have the right to enjoy and to grant to third parties effective and uninterrupted easements, licences, Rights of Way, road widenings and other rights and interests in respect of the Leased Premises or any part, from time to time as considered appropriate by TRCA or the Town and same do not, in the opinion of TRCA or the Town, materially interfere with the operation of the Leased Premises by the Tenant. Similarly, the Tenant shall have the right to grant easements for the period this Lease is in full force and effect including but not limited to storm sewer easements on the same terms and conditions. The decision on whether the easements materially interfere with the Leased Premises or operations thereon shall be subject to arbitration as hereinafter described.

2.3 Acceptance of Leased Premises

The Tenant acknowledges and agrees that the Tenant has inspected the Leased Premises prior to its execution of this Agreement, and that the Tenant irrevocably accepts the same “as is” in their present state and condition, agreeing that the Town and TRCA have made no representations, warranties or agreements with respect as to the condition thereof, structural or otherwise, as to their fitness for the Tenant’s intended use, or as to the environmental condition thereof, including the presence of Contaminants in, on or about the Leased Premises.

2.4 End of Term: Surrender of Leased Premises

The Tenant covenants and agrees with the Town and TRCA that, on the expiration or earlier termination of this Agreement, whether by forfeiture, termination, effluxion of time or otherwise:

- (a) the Leased Premises, including all Capital Improvements, as may be modified from time to time in accordance with this Agreement, shall automatically vest in and become the absolute property of TRCA and/or the Town, free from any leasehold interest or Claims of the Tenant or any Person claiming through or under it, except for Permitted Encumbrances, and the Tenant shall peacefully surrender and yield-up to the Town and TRCA, the Leased Premises and Capital Improvements, in as good a condition and state of repair as the Tenant was required to maintain the Leased Premises throughout the Term, free and clear of all liens, charges, subleases, licences, agreements and encumbrances of every nature, and the Tenant shall deliver to the Town all keys to the Leased Premises. At the end of the Term, the Parties will prorate all items of Rent;
- (b) the Tenant shall turn over and assign to the Town such of the Material Contracts, to the extent same are permitted to be assigned as the Town or TRCA shall, by prior written Notice, have directed the Tenant to so assign and in any event any Material Contracts shall not be used or enjoyed by Tenant without the prior written consent of the Town;
- (c) all Occupancy Agreements shall be terminated and the Tenant shall, at its expense, ensure that all Permitted Occupants deliver up vacant possession of their space(s) in good condition and make good all damage.

2.5 Overholding

If, at the end of the Term, by effluxion of time, TRCA permits the Tenant to remain in possession of the Leased Premises and accepts Rent in respect thereof, a tenancy from year to year or otherwise shall not be created by implication of law. In such event the Tenant shall be deemed to be a monthly tenant only at a rental payable monthly in advance of the amount stipulated by TRCA at least 6 months prior to the end of the Term payable at the expiration of the Term, which tenancy may be terminated on one (1) month’s written Notice and otherwise on and subject to the terms and conditions contained in this Agreement.

2.6 Conditions Precedent of this Agreement

This Agreement is conditional on the fulfillment of all the following conditions by the date set forth for the satisfaction of each such condition, failing which, this Agreement shall terminate and each party shall be released from all obligations herein save and except any amounts paid, lands or interests conveyed herein shall be returned, reconveyed and surrendered, without interest or deduction, and with regard to

any land released, reconveyed or surrendered free of all liens, charges or encumbrances created by the party releasing, reconveying or surrendering:

- (a) the Minister responsible for Conservation Authorities shall have approved and consented to this Lease pursuant to the *Conservation Authorities Act* of Ontario prior to the first anniversary of the Commencement Date;
- (b) as of the Commencement Date of this Agreement, there shall be no uncured material default by the Tenant under any prior lease with the Town and/or TRCA or any agreement, permit arrangement or other obligation of the Tenant to the Town and TRCA;
- (c) TRCA shall have entered into an Agreement to acquire, with a closing to take place as soon as possible, title to that part of the Leased Premises described Secondly in Schedule A on or prior to the Commencement Date and such agreement shall have been successfully completed by the first anniversary of the Commencement Date;
- (d) TRCA, Tenant and the Town shall, on or prior to the Commencement Date, have entered into a Head Lease and Sublease of the Adjacent Area as described in Schedule D with the Tenant as landlord under the Head Lease, and a Sublease from the TRCA and the Town with the Tenant as subtenant. If at any time during the Term, the Adjacent Area is not being used solely for the purpose of operating and managing facilities associated with the business of an equestrian park-competition venues (it being understood the Adjacent Area operations to be used to support, enhance and contribute to the operation of the equestrian park-competition venues operation on the Leased Premises), then this shall be considered to be a default under the terms of this Agreement entitling the Town and TRCA to pursue the default remedies set out in this Agreement, the annual rent to be paid under the Head Lease and Sublease shall each be \$21,000.00 per annum, plus H.S.T.; if the Sublease is terminated as a result of a default by Tenant, TRCA may thereafter at any time terminate the Head Lease in which event no further rent shall be payable by TRCA under the Head Lease;
- (e) by the Commencement Date, a contribution agreement shall have been entered into among the parties hereto, which shall provide for, amongst other matters, the payment of \$21,000.00 rent per annum under the Sublease.

ARTICLE 3 RENT

3.1 Payment of Rent

The Tenant covenants and agrees to pay to the Town, or as otherwise in this Agreement provided, as Rent in lawful money of Canada without notice or demand and without any deduction or set-off, whatsoever or pursuant to Section 35 of the *Commercial Tenancies Act*, (the benefit of which is expressly waived by the Tenant), Annual Basic Rent and Additional Rent paid at the times and in the manner hereinafter set out.

3.2 Net Agreement

It is the intention of the Parties that the Rent payable hereunder except any legal and planning expenses of the Town and except for any expenses or capital improvements related to the PAN AM games, incurred by TRCA or Town as referred to in the last sentence of this section 3.2, shall be absolutely net and carefree to TRCA and that, except as otherwise in this Agreement expressly provided, there shall be no abatement, set-off or deferral of Rent and the Tenant shall at its expense and to the complete exoneration of the Town and TRCA, pay or cause to be paid all costs, outlays and expenses of every nature and kind whatsoever relating to or affecting the operations of Leased Premises, the contents, the use or occupancy, or the business carried on including the costs of developing, constructing, administering, operating, maintaining, repairing, upgrading, refurbishing and replacing the Leased Premises during the Term. Notwithstanding the foregoing, Tenant shall not be responsible for (i) any charges of the Town related to ensuring lease compliance by the Tenant for such matters as inspections and compliance with by-laws prior to the giving of any Notice to Tenant under Article 15 hereof; (ii) the cost of constructing improvements and facilities the Town or TRCA have agreed to construct or build pursuant to obligations assumed by the Town or TRCA in the MPA hereafter referred to, or any other agreement, in writing with the Province of Ontario or the 2015 Pan/Parapan Am Games or any agencies or other entities created in connection with the said Games by the Province of Ontario.

3.3 Annual Basic Rent

The Tenant will, throughout the Term, pay on the Commencement Date and on each anniversary thereof during the Term, to the Town or as otherwise in this document provided Annual Basic Rent in the amount of \$180,000.00 per annum payable as provided in the contribution agreement referred to in section 2.6(e) hereof and \$21,000.00 in rent per annum under the Sublease.

3.4 Revenue Sharing

In addition to the Annual Basic Rent Tenant shall pay to the Landlord the Revenue Sharing Rent as calculated, determined and payable as provided in Schedule "E".

3.5 HST on Additional and Revenue Sharing Rent

HST as exigible shall be paid by Tenant on the Additional Rent and Revenue Sharing Rent as and when same are payable to TRCA.

3.6 Town/TRCA Additional Activities

TRCA or Town shall be entitled to request from time to time Tenant to undertake additional activities on the Demised Premises, including the use of the facilities, building and improvement on the Demised Premises so long as same do not materially interfere with the activities in Schedule E-1. The Tenant shall not refuse such request if the requested activities do not materially interfere with the activities listed in Schedule E-1 and any disagreement in this regard shall be subject to arbitration as provided herein. Revenue from the requested activities will be included in the Revenue Sharing Activities referred to in Schedule E, TRCA or the Town shall retain Tenant as its agent for the purpose of settling the terms and provisions of such activities with any party with the Tenant to act reasonably in settling such terms and provisions.

ARTICLE 4 ADDITIONAL RENT

4.1 Additional Rent

In addition to Annual Basic Rent, the Tenant covenants and agrees to pay during the Term of this Agreement, Additional Rent to the appropriate parties and at the times they become payable; or to the Town, based on the Town's reasonable estimates from time to time, and otherwise, within ten (10) days of demand.

Additional Rent shall mean all money payable by the Tenant under this Agreement (except Annual Basic Rent and Revenue Sharing Rent), and all other documents or agreements described or contemplated herein, whether or not designated as Additional Rent and includes, without limitation, the following amounts:

- (a) Building and public liability insurance payable by the Tenant as provided herein;
- (b) all charges and rates for or related to the supply of electricity, water, light, gas or oil, if any, heat, (including air conditioning and installation of meters and equipment as required by the Tenant), and communications services required by the Tenant, as reasonably determined by TRCA and the Town, except to the extent same are billed to and the responsibility of the Tenant.

Additional Rent shall be deemed to be Rent, and is payable when due, and failure to make any such payments on the applicable date for payment shall entitle TRCA and/or the Town to exercise all of the same remedies as a failure to pay Rent hereunder, provided that the Tenant shall be entitled to any and all Notices and cure periods set forth herein as is attributable to failure to pay Rent when due.

4.2 Taxes on Leased Premises

- (a) Taxes levied, rated, charged or assessed during the Term on or in relation to the Leased Premises shall be the responsibility of the Town and Town shall be required to pay same.
- (b) Taxes levied, rated, charged or assessed during the Term on or in relation to the Adjacent Area shall be the responsibility of the Tenant and Tenant shall be required to pay same.

4.3 **Determination of Taxes on Adjacent Area**

If in any year with respect to any Taxes all or any portion of the Adjacent Area are not assessed separately for those portions the Tenant shall pay the Taxes hereof on an allocation to be performed by the Town, acting reasonably.

4.4 **Other Taxes etc.**

In addition to the Taxes payable by the Tenant under this Article 4, the Tenant will pay to the proper taxing Authorities or to the Town, as it may direct, and will discharge in each Rental Year when they become due and payable, the following as related to the Leased Premises and Adjacent Area:

- (a) all HST, sales taxes, excise taxes, places of business taxes, business transfer taxes, capital taxes, and other taxes, whether by law the responsibility of the Town, TRCA or the Tenant, and whether imposed by federal, provincial, municipal, school board, utility commission or other Authority and whether now or in the future in existence.

4.5 **Set-Off**

Notwithstanding anything to the contrary, the Tenant shall have no right to offset, deduct or abate any monies owing by the Tenant to the Town and/or TRCA or other entity under this Agreement for any reason whatsoever including, but not limited to, by reason of a default by the Town and/or TRCA under this Agreement.

4.6 **Interest**

When any Rent, or any interest accrued, or any other amount payable by the Tenant under this Agreement, is in arrears, it will bear simple interest at the rate of 1.25% per month (15%) per year. Interest will be calculated and payable from and including the day after the amount is due until payment in full of the overdue amount is received by the Town.

4.7 **HST**

The Tenant shall pay to the Landlord with each payment of Rent, whenever paid and whether or not same may be paid in advance, any HST exigible on the payment.

ARTICLE 5 TENANT'S CONSTRUCTION

5.1 **Conditions Precedent to Construction**

Construction by Tenant on any part of the Leased Premises or other Tenant's Work, including Capital Improvements shall not commence, unless and until:

- (a) all of the terms and conditions of this Agreement have been complied with to the satisfaction of TRCA and the Town and the plans and specifications for the Capital Improvements have been approved in advance in writing by TRCA and the Town;
- (b) the Tenant, in the performance of any Work, shall obtain and maintain insurance acceptable to each of TRCA and the Town.

5.2 **Tenant's Construction**

- (a) The Tenant shall, at its own expense, obtain all Approvals (including TRCA's and the Town's) and agreements with all Authorities and utilities, including minor variance approvals, site plan agreements, demolition and building permits required to commence construction of any Capital Improvements. The Tenant shall keep TRCA and the Town informed, on a regular basis, regarding the status of all relevant Approvals and the progress of construction and shall provide the Town and TRCA with such evidence thereof, upon request. All such construction shall be carried out only in accordance with all applicable laws, Approvals and the Approved Plans. Tenant, upon commencing any Work or Capital Improvements, shall complete same in a good and workerlike manner, expeditiously, continuously without delay until completed in accordance with the Approved Plans and all Approvals;
- (b) the Tenant shall promptly pay all proper accounts for any Work done or materials furnished under all contracts which it has entered into respecting the construction of any Capital Improvements to the Leased Premises but this shall not prevent the Tenant from

retaining any amounts claimed due which are retained to secure the performance of any Work or the correction of any defect or which are required to be retained under the provisions of the *Construction Lien Act*;

- (c) when the Capital Improvements are completed, the Tenant to the extent it had entered into any agreement with respect to the particular Capital Improvements in any capacity, further represents and warrants to the Town and TRCA that the Leased Premises will comply in all respects with all Applicable Laws, the Approved Plans and this Agreement;

5.3 Inspection of Leased Premises by Town and TRCA

During the Term and without interfering unreasonably with the Tenant's possession of the Project or the possession of any of the Tenant's Permitted Occupants, the Town and TRCA or its/their Authorized Members shall be entitled to enter upon and inspect the Leased Premises, the Project or any part, during normal business hours of the Tenant and in an emergency, without prior Notice in such instances and otherwise upon giving twenty-four (24) hours prior written Notice to the Tenant, to view its state of repair and to determine in a reasonable manner, whether the uses permitted hereunder are being observed and the Tenant and its Authorized Members and Permitted Occupants are in compliance with the other provisions of this Agreement.

5.4 Non-Liability

Neither TRCA and/or the Town nor any employee, agent, representatives or consultant of TRCA and/or the Town shall, by reason of the review by any of them of the Approved Plans or other Contract Documents or the Construction Contract or by reason of any inspection of the Leased Premises incur any liability for any defect in the Approved Plans or other Contract Documents or the Construction Contract or the construction of the Leased Premises, or any damages arising there from and no such review or inspection by such Persons, nor any actual approval of TRCA and/or the Town relating thereto, shall relieve any other Person from liability for any damages arising from such plans or documents or construction of the Leased Premises.

5.5 Discharge of Liens

If any construction lien is filed against the Leased Premises, that is related to construction by the Tenant, the Tenant shall cause the same to be discharged or vacated within ten (10) Business Days of Notice from the Town or TRCA requiring it to do so, failing which the Town and/or TRCA, at the expense of the Tenant, in addition to any other rights or remedies it/they may have including, without limitation, may, but shall not be obliged to, cause such liens or orders to be discharged or vacated by payment into court and the cost and legal costs the Town and/or TRCA on a substantial indemnity basis shall be paid forthwith by the Tenant to the Town and/or TRCA, as appropriate, on demand as Rent in arrears. The foregoing section 5.5 shall not apply to any construction contract to which Tenant is not a party, unless it is a supply of services or materials related to such a construction contract.

ARTICLE 6 OPERATION AND USE OF LEASED PREMISES

6.1 Occupancy and Use

The Tenant agrees that occupancy, use and enjoyment of the Leased Premises shall be subject to the following:

6.2 Non-Involvement of Town and TRCA in Leased Premises

Except as specifically provided herein, or as provided in any agreements or construction contracts arising from or related or pursuant to the MPA that the Town or TRCA is party to and Tenant is not:

- (a) The Tenant acknowledges and agrees on behalf of itself and any Permitted Occupants that the Town and TRCA are not and will not be involved in the construction or operation of the Leased Premises or the Project or any part thereof.
- (b) The Tenant shall, at its sole cost and expense, comply with and cause compliance with any and all applicable Laws including obligations under the *Occupational Health and Safety Act*, *Animal Health Act* and related regulations, as amended, relating to construction and operations at the Leased Premises, including Ministries of Labour and Agriculture concerns or requirements.
- (c) The Tenant agrees and hereby binds itself to fully indemnify and save harmless and release TRCA and the Town of, from and against all Claims, including without limiting

the generality of the foregoing, negligent acts or omissions (but not deliberate acts of the TRCA or the Town or their servants and agents, arising in any way from or in respect of or incidental to:

- (i) any Occupancy Agreement or Special Event Activities;
- (ii) the enjoyment or use by Tenant, any Permitted Occupant or any member of the public of any part of the Leased Premises or the Town's or TRCA's property, equipment and/or licensed vehicles.

Except as set out in Paragraph 6.2 (c) above, the Tenant agrees that it will not make, cause or pursue any Claim against a third party which may result in any Claim over by such third party against TRCA or the Town. This provision may be relied upon and pleaded as an effective estoppel by the Town and TRCA to any allegation to this effect by or on behalf of the Tenant and/or its Permitted Occupants and its/their Authorized Members.

6.3 Public Access to Leased Premises

The Tenant shall, at its expense, during the Term preserve and ensure that all members of the general public shall at all times, excluding Special Event Activities described below, during normal business hours, enjoy the Leased Premises and Adjacent Area in the same manner as if the Leased Premises and Adjacent Area were owned by the Town and it had located and operated thereon community centres or other similar community facilities. Subject to the foregoing, reasonable charges by the Tenant may be imposed on the public for use of the parking lot(s), stalls, access to exhibition/attraction spaces, and to those occasional special events and activities or events at the Leased Premises approved in accordance with the Town's then current policies and Applicable Laws and Approvals and whose predominant purpose is consistent with this Agreement and is compatible with the image of the Leased Premises (collectively and individually, the "**Special Event Activities**").

6.4 Uses

The Leased Premises shall be used and managed by the Tenant only in accordance with Applicable Laws, this Agreement and the applicable use restrictions for the Leased Premises and Adjacent Lands as set out in the Town's official plan and zoning designations from time to time for the following purposes (the "**Permitted Uses**") and for no other purposes, unless the written consent of both the Town and TRCA and all Authorities is obtained prior to any deviation from the Permitted Uses:

- (a) creating, maintaining and operating an equestrian park, and equestrian competition venue in accordance with the Master Plan; and uses that do not contravene Applicable Laws and are in support of, and complimentary and ancillary to, and normally associated with, an equestrian park and equestrian facility.

The Tenant shall, at its expense, conduct or cause to be conducted the Permitted Uses in the whole of the Leased Premises in accordance with the Applicable Laws and this Agreement at all times during the Term and shall provide the Town with such evidence of compliance therewith as the Town may reasonably request.

6.5 Compliance with Applicable Laws and Operating Rules

- (1) The Tenant shall, at its sole cost and expense, at all times comply with all Applicable Laws, and shall not commit or suffer any act or omission that causes or could reasonably be considered to cause, directly or indirectly, an increase in the fire risk or the cost of insurance or prevents the placing of insurance on the Leased Premises, and shall promptly at its own expense effect any changes, additions or repairs to the Leased Premises, as the Town advises the Tenant is necessary or desirable with respect to matters which are its responsibility under this Agreement to so comply with the foregoing or to cease so effecting the fire risk or the insurance.
- (2) The Tenant represents and warrants and covenants and agrees to and with TRCA and the Town (it being acknowledged that TRCA and the Town are relying upon such representations, warranties, covenants and agreements in entering into this Agreement) that:
 - (a) the Tenant will actively operate the Project and, either directly or through its Permitted Occupants, occupy and use the Leased Premises during the Term at a high level of cleanliness and neat appearance for the Permitted Uses upon the terms and conditions herein;

- (b) the Tenant has and will maintain records satisfactory and readily available, to the Town and TRCA for the purpose of determining the amount of Rent due to Landlord only in respect of Revenue Sharing Rent;
- (c) the Tenant shall provide, maintain, operate or cause to be provided, maintained or operated at all times during the Term, all requisite washroom, janitorial and cleaning services and maintenance and repair to keep the washroom and stable facilities and Leased Premises in a good state of cleanliness and condition;
- (d) the Tenant shall at all times during the Term ensure that in the operation of the Leased Premises:
 - (i) all food and beverages to be offered shall be fresh and of high quality, and the Regional of Peel's Medical Officer of Health (or his/her successor) shall have the right without Notice to the Tenant or any Permitted Occupant to individually or jointly inspect at any time the quality of the Food and any other items which are offered for sale;
 - (ii) the Tenant shall, as a minimum, comply with the foods standards as set out in Applicable Laws and Applicable Standards;
 - (iii) the Leased Premises are clean, tidy, and free of debris, manure and litter;
 - (iv) daily provide a sufficient number of suitable employees or other staff;
 - (v) the Tenant shall keep the Leased Premises, to the extent reasonably possible, free of manure, pests and rodents at all times in accordance with applicable legislation;
 - (vi) the Tenant and its Permitted Occupants and its/their Authorized Members shall not cause or permit to brought kept or stored at the Leased Premises any Contaminants or goods of an explosive, dangerous, inflammable or noxious nature except in accordance with Applicable Laws;
 - (vii) the Tenant and its Permitted Occupants shall at all times take all precautions to prevent fire from occurring at or about the Leased Premises, and shall observe and comply forthwith all Applicable Laws and regulations in force from lime to time, all directions that may be given from time to time by the Fire Marshall or other Authorities and all instructions, rules and regulations which may be given from time to tune by the Town with respect to fire, including equipment for, and methods of extinguishing fire, signage, exit procedures, seating and number of patrons, operation, of equipment and flammability of materials and. supplies:
- (e) the Tenant and its Permitted Occupants and its/their Authorized Members shall ensure that nothing is done or kept at or on the Leased Premises which is a nuisance. Tenant shall comply with any order, rule, law or regulation regarding nuisance whether or not compliant with equestrian events.
- (f) neither TRCA nor the Town will be liable to the Tenant or any Permitted Occupant or its/their Authorized Members for any loss or damage or injury (including death) occasioned by fire or vandalism, burglary or theft at the Leased Premises or of any of the property, livestock, animal, inventory, stock or equipment of the Tenant or to or in respect of any Permitted Occupant.

6.6 Prohibited Activities

The Tenant shall not occupy or use nor suffer or permit to be occupied or used any part of the Leased Premises for:

- (a) a casino of any kind, other than a casino operated in accordance with all applicable laws and by and for the benefit of a charity and not operating more than one day a month. This provision may be relied on and pleaded as an estoppel by the Town and/or TRCA to any such request or proposal by or on behalf of the Tenant;
- (b) the sale or provision of tobacco or tobacco products;
- (c) operate any electric or electronic games of amusement;

- (d) except as permitted in the Master Plan and in the Town's Advertising Policy from time to time, advertising the name of any brand, product or franchise in connection with the name Caledon Equestrian Park or advertising, naming or branding the Leased Premises under any name or identity or brand other than the Caledon Equestrian Park, provided nothing herein shall prevent Tenant from giving naming rights to particular rings or facilities within the Leased Premises during the Term, subject to approval of the Town and TRCA which may be unreasonably withheld. However such naming will be considered acceptable if in accordance with the Town's Advertising Policy from time to time as it applies to Town property and for this subsection (d) property will include Leased Premises;
- (e) residential use or accommodation, except temporary trailer accommodation during competition events;
- (f) except in respect of Special Event Activities, sell or provide or permit the sale or provision of alcoholic beverages;
- (g) a ticketed concert venue, promoted to the general public, for over 2500 seats;
- (h) the sale and/or provision of goods and services not in keeping with a reputable and first class development, such as second hand goods or armed services surplus articles insurance salvage stock, fire sale stock or bankruptcy stock or adult entertainment,
- (i) warehousing or storage, transportation or parking uses other than facilities and uses that serve the Permitted Uses as above referred to.

Nothing in this section 6.6 shall be considered, deemed, construed or interpreted to permit, suffer or allow any use or occupancy referred to herein unless same is otherwise in accordance with all Applicable Laws and the other provisions of this Lease.

6.7 **Tenant Personnel**

Upon the Commencement Date of the Agreement, the Tenant shall provide the Town with a list of the names, titles, addresses for service and phone, email and fax numbers of the appropriate people to be contacted by the Town in the event issues regarding the use, operation or management of the Leased Premises up-dated and sent to the Town on any change occurring to the information in the list.

6.8 **Scheduling of Events**

The Tenant, subject to the other provisions herein, and to compliance with all Applicable Laws, shall have exclusive control of any scheduling or booking of any events to take place on the premises during the Term of the Lease, except for the 2015 PAN AM Games and those times the Leased Premises are requested for the preparation of the Leased Premises for the said Games, including construction, inspection, trials and clean up as well as legacy requirements as herein specified or as required pursuant to the MPA.

ARTICLE 7 NAMING AND SIGNAGE RIGHTS AND ADVERTISING

7.1 **Name of Leased Premises**

The Tenant agrees that the Leased Premises, from the outset and continuously throughout the Term, shall be named the "Caledon Equestrian Park" (the "**Name**") which Name shall not be changed without the prior written consent of the Town and TRCA, which may be arbitrarily or unreasonably withheld, and which name and goodwill in connection therewith shall be the property of the Town and TRCA.

7.2 **Signage**

The following provisions subject to the other provisions herein, shall apply to signage in respect of the Leased Premises:

- (a) the Tenant shall be permitted to locate signage for the purpose of showing directions to the Leased Premises and further provided that the size, form, type, colour, design, content and location of such signage shall be subject to the prior written Approval of the Town, having regard to the Town's policies; all current signage erected is approved;
- (b) the Tenant shall have full control over all signage, advertising and display facilities located within the Leased Premises and not visible from the outside of the Leased

Premises, provided that such signage, advertising and display facilities comply with Applicable Laws and the other provisions hereof; and

- (c) the Tenant shall not erect or exhibit any sign, notice, notice board, painting, design, signage or other device advertising unless it is aesthetically compatible with the uses permitted and does not contain any flashing or neon lights. Any such Signage or other device erected in contravention this Article 7 may be removed by the Town without any compensation payable to the Tenant or any Permitted Occupant.

7.3 Signage Rights

Town and TRCA shall be entitled to signage rights as required by them to indicate their contribution to and ownership of the Leased Premises.

ARTICLE 8 INSURANCE

8.1 Tenant's Insurance and Caledon Insurance (Subject to review by EMG's Insurance Co.)

At all times during the Term, the Tenant at its own expense, shall take out and keep in full force and effect the following insurance with insurers satisfactory to the Town and the Tenant.

- (a) all risks insurance on the Leased Premises in an amount equal to one hundred percent (100%) of the full replacement cost based on the cost to repair or the cost to rebuild or replace with new materials of like size, kind and quality, insuring:
 - (i) the Leased Premises with the Town and TRCA as additional insureds provided if the Tenant, after reasonable diligence is not able to obtain such insurance, the Town will, at the request of Tenant, obtain the insurance required by this subsection 8.1(a)(i) and shall include a waiver of subrogation as against the Tenant, either by way of an additional to its existing policy or by way of a separate policy and all premiums payable shall be paid by Tenant on or prior to the date said premiums are due and payable by the Town and shall be considered Additional Rent. Town shall provide to Tenant a copy of the policies placed by it pursuant to this subsection 8.1(a)(i) and unless Tenant notifies Town within 10 days of receipt of such policy to the contrary, Tenant shall be deemed to have approved of same and Town's obligations under this subsection 8.1(a)(i) shall be deemed satisfied;
 - (ii) all property owned by the Tenant or for which the Tenant is legally liable or installed by or on behalf of the Tenant, or located in, on or about the Leased Premises including, without limitation, leasehold improvements, Trade Fixtures and chattels, furniture, stock, office equipment, contents, the Capital Improvements and any buildings and structures erected on the Leased Premises with coverage against all risks of physical damage;
- (b) coverage for the repair and replacement of equipment on a broad form blanket coverage basis, including Business Interruption insurance.

The property policies described in Article 8 shall contain provisions for settling joint loss disputes with Leased Premises;

- (c) comprehensive general liability insurance including owners' and contractors' protective, products, completed operations, intentional bodily injury for the protection of persons or property, personal injury including contractual liability, incidental medical malpractice, employer's liability (including full and contingent employers liability to cover certain tasks not covered under Schedule A of the *Workplace Safety and Insurance Act* (Ontario), as the same may be amended from time to time, or any successor or replacement legislation, broad blanket contractual liability, occurrence property damage and provisions for cross liability and severability of interests with limits of not less than Five Million (\$5,000,000.00) Dollars per any one accident or occurrence; and in such other amounts as the Town may, on not less than thirty (30) days prior written Notice from time to time reasonably require. If serving alcohol on the Leased Premises for compensation, liquor liability insurance in the amount of no less than Two Million (\$2,000,000.00) Dollars per occurrence shall also be provided The Town and TRCA are to be added as an additional insured;

- (d) standard owner's automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000.00) in respect of any one accident;
- (e) during any period of construction if the construction is being carried out pursuant to construction contracts to which the Town or TRCA are not contracting parties:
 - (i) builder's risk insurance (CCDC Form 201) insuring such construction for the full replacement cost with deductibles on a defined occurrence basis for all risks of physical damage;
 - (ii) prior to the commencement of any Tenant's Construction Work including demolition or construction on the Leased Premises, the Tenant shall effect, maintain or cause to be maintained and kept in force, until completion of such work including demolition, repair, alterations, construction, additions and/or renovations to the Leased Premises, insurance insuring the Town, TRCA and the Tenant and its/their respective Authorized Members and all those for whom they are at law responsible (without rights of cross-claim as between the Town, TRCA and the Tenant) from damage to the improvements, Leased Premises, fixtures equipment and building materials forming part of the Leased Premises from time to time during the Work in an amount sufficient to prevent the Town or the Tenant or TRCA from being deemed to be a co-insurer;
- (f) such other forms of insurance as TRCA and/or the Town, acting reasonably, may require from time to time, in form, in amounts and for risks against which TRCA or the Town would insure.

8.2 Insurance Terms and Conditions

(a) Cross-Liability and Severability of Interests

All policies of insurance required to be taken out by the Tenant and where the Town and TRCA are named as additional insureds, except automobile insurance, shall include a cross-liability and severability of interests clause.

(b) Notice of Material Change or Cancellation

Each policy to be taken out by Tenant and or the Town shall contain an endorsement requiring the insurers to notify the Town and TRCA in writing, by registered mail, at least thirty (30) days prior to any material change that restricts or reduces the insurance required under this clause, or cancellation thereof.

(c) Breach of Conditions

Each policy to be taken out by Tenant will contain a waiver in favour of the Town and TRCA of any breach of a policy condition or warranty such that the insurance policy in question will not be invalidated in respect of the interest of the Town and TRCA by reason of a breach of any condition or warranty contained in such policies.

(d) Deductibles

The Parties agree that insurance policies to be taken out by Tenant and or the Town may be subject to deductible amounts, such amounts to be subject to the Approval of the Town, and or the Tenant and which amounts shall be borne by the Tenant.

(e) Primary Coverage

The insurance policies to be taken out by Tenant pursuant to this Article 8 shall be non-contributing with, and applicable only as primary and not as excess to, any other insurance available to the Town and/or TRCA and shall not call into contribution any insurance available to the Town and/or TRCA.

(f) Limits of Insurance

The Town or TRCA, acting reasonably, may require the limits of the insurance policies provided by the Tenant to be increased from time to time. The Tenant shall cause the limits of its insurance on its physical assets located on the Leased Premises to be adjusted for inflation from time to time.

8.3 **Failure to Maintain Insurance**

- (a) The Tenant shall promptly advise the Town and TRCA of any unavailability, cancellation, material alteration or lapse of any policies of insurance required and TRCA or the Town may obtain policies if there is any policy lapse or cancellation or failure to insure as required herein. Any sum so expended by the Town and/or TRCA shall be due and payable on demand without prejudice to any other rights of recourse of the Town and TRCA hereunder.
- (b) No failure to take out insurance as required hereunder shall relieve the Tenant of its obligation to insure hereunder and the Town and TRCA shall not be liable for any loss or damage suffered by the Tenant in connection therewith. If any of the insurance required to be provided and maintained are cancelled or expired for any reason whatsoever at any time, the Tenant and its Authorized Members and any Permitted Occupants shall not be allowed to enter upon, use or enjoy the Leased Premises or any part until such time as the same has been rectified to the satisfaction of the Town and TRCA.

8.4 **Increase in Insurance Premiums and Cancellation of Insurance**

The Tenant agrees that it and its Authorized Members and Permitted Occupants will not keep in or on the Leased Premises any article or substance which may be prohibited by the insurance policies mentioned above, or do or omit, or permit to be done or omitted anything which will cause any increase in the insurance premiums or the cancellation of any insurance policies. If any insurance policy should be cancelled or the coverage reduced or a threat of cancellation or reduction of coverage made by reason of anything arising out of the use or occupation of the Leased Premises and the Site by the Tenant, and if the Tenant fails to remedy the condition giving rise to such cancellation, reduction or threat, on ten (10) days Notice by the Town, the Town may enter the Leased Premises and remedy the condition at the sole cost and expense of the Tenant which cost and/or expense shall be payable to the Town forthwith on demand as Rent in arrears, and in addition or in the alternative, may exercise any other remedy available to it.

8.5 **Payment of Premiums**

The Tenant shall duly and punctually pay all premiums under the policies as they become due and payable.

8.6 **Evidence of Insurance**

Upon execution of this Agreement and thereafter, the Tenant shall deliver to the Town and TRCA evidence of the insurance required to be maintained by it pursuant to this Lease in the form of certificates of insurance, in form and detail satisfactory to the Town. The Tenant will make available the complete original copies of all existing policies for examination if required by the Town. Certificates of insurance evidencing renewal or replacement of policies shall be delivered to the Town fifteen (15) days prior to the expiration of then current policies, without demand having to be made by the Town.

8.7 **Release**

The Tenant hereby releases and discharges the Town and TRCA and its/their Authorized Members, successors and assigns, from any and all liability for Claims in respect of which the Tenant is indemnified under the insurance which it is obligated to obtain pursuant to the terms of this Agreement or of which it would have been indemnified had it obtained such insurance and diligently pursued its claims. The Tenant further covenants and agrees that it will not make, cause or pursue any Claim against a third party which may result in any Claim over by such third party against TRCA or the Town. The Tenant shall, at its expense, require of each Permitted Occupant and include into each Occupancy Agreement, a release and discharge by each Permitted Occupant of the Town and TRCA to the foregoing effect in form and substance satisfactory to TRCA and the Town and their legal counsel, acting reasonably.

8.8 **Payments of Proceeds of Insurance**

The proceeds of the insurance policies described in this Agreement (including the proceeds of any policy referred to in section 8.1(a)(i) the premiums for which were paid by the Town or TRCA and for which Tenant reimbursed the Town or TRCA) other than proceeds attributable to Trade Fixtures and chattels ("**Insurance Proceeds**") shall be used by Tenant, for the purpose of repairing, restoring or rebuilding any of the Leased Premises including all leasehold improvements, and in connection therewith, the Parties agree as follows:

- (a) where Insurance Proceeds become payable in an amount not exceeding the sum of Fifty Thousand (\$50,000.00) Dollars, they shall be released to the Tenant, and such proceeds shall be used by the Tenant to effect repairs, restoration and rebuilding;

- (b) to the extent the Insurance Proceeds payable exceed the sum of Fifty Thousand (\$50,000.00) Dollars, such excess shall be paid to an insurance trustee designated by the Tenant and acceptable to the Town and TRCA such Insurance Proceeds to be released to the Tenant to fund the cost of repairs, restoration and replacements in instalments as progress payments subject to the other terms hereof;
- (c) before any contract is entered into by the Tenant for the carrying out of any repair work, copies of the estimates for all work and the contracts for the completion of such work shall be submitted to the Insurance Trustee (or if no Insurance Trustee, then to the Town and TRCA), and it shall distribute copies to the Town, TRCA and the Tenant;
- (d) any progress payments to be made under this paragraph by the Insurance Trustee to the Tenant shall not be made without the submission of a written statement, certified by the architect of the party or other person satisfactory to the Town to whom the payments are to be made, stating the estimated cost to complete the work or repair at the date of the certificate, the amount claimed by individual contractors at that date, the amount owing on work already done, and the amount of any payments made at that date for work already done;
- (e) in making any payment under this paragraph, regard shall be had to construction lien legislation applicable;
- (f) if this Agreement is forfeited, for whatever cause, all monies retained by the Insurance Trustee or remaining in the bank account referred to in this subsection shall be applied, first; in satisfaction of any amounts payable to the Town and TRCA, the repair and rebuilding of the Leased Premises, and the balance, if any, shall be paid to the Tenant;
- (g) if the Tenant has not undertaken the repair, restoration or replacement within 30 days of the damage occurring or is not proceeding expeditiously to complete the repair, restoration or replacement, the Town at its option may do same and all Insurance Proceeds shall be paid to it for such purpose.

8.9 Co-Insurance

All policies of insurance required under this Article and all renewals shall contain a stated amount co insurance clause effective for the term of the policy or the renewal so as to prevent the Tenant from becoming a co insurer under the terms of such policy or policies and to permit full recovery of the amount insured in the event of loss.

8.10 The Tenant shall carry insurance in its own name to provide coverage with respect to the risk of business interruption to an extent sufficient to allow the Tenant to meet his ongoing obligations to the Landlord and to protect the Tenant against loss of revenues.

8.11 The Tenant shall carry insurance in its name insuring against the risk of damages to the Tenants property within the Premises caused by fire or other perils and the policy shall provide for coverage on a replacement cost basis to protect the Tenant's stock-in-trade, equipment, Trade Fixtures, decorations and improvements.

8.12 The Tenant shall carry public liability and property damage insurance in which policy the Landlord shall be a named insured and the policy shall include a cross-liability endorsement. (a) and the Tenant shall provide the Landlord with a copy of the policy.

ARTICLE 9 REPAIRS, MAINTENANCE AND ALTERATIONS

9.1 Tenant Shall Maintain and Repair

At all times during the Term, the Tenant will carry out all requisite maintenance, repair, replacement, operations and management of the Leased Premises in as good and sound a state of repair as a prudent owner would do so that they meet the Applicable Laws and all other requirements of this Agreement. The Tenant will permit the Town and/or its Authorized Members, at all reasonable times during the Term provided that Tenant is provided with at least twenty-four (24) hours prior written Notice, to enter and view the state of repair of the Leased Premises and shall forthwith undertake any maintenance, repair and replacement work according to any Notice from the Town.

- (a) the Tenant covenants and agrees that if the repair, reconstruction is required due to damage caused by a hazard against which the Leased Premises is insured, the Tenant covenants and agrees that it shall restore the same as nearly as possible to the same state

of utility as prior to the damage with materials of like kind and quality without deduction for depreciation and so they meet the Applicable Standards, to the extent that Insurance Proceeds are available;

- (b) to leave the Leased Premises and improvements in a manner consistent with the obligation of the Tenant to repair, maintain and replace pursuant to the provisions hereunder;
- (c) not to commit or allow waste or injury to the Leased Premises, or any improvements or chattels or equipment and not to use or occupy or permit to be used or occupied the same for any unlawful purpose, or in any manner which results in the cancellation of insurance, or in refusal of an insurer to issue reasonable amounts of insurance, or in refusal of an insurer to issue reasonable amounts of fire (all-risk) and liability insurance thereon;
- (d) to keep the Leased Premises in a safe, clean and orderly condition in the same manner and extent as a prudent owner would normally do and so that they meet the Applicable Laws and other requirements of this Agreement and not to allow any manure, debris, refuse or garbage to accumulate in or from the Leased Premises or any part thereof;
- (e) to comply with all Applicable Laws which relate to use of the Leased Premises during the Term; and
- (f) not to call on the Town or TRCA at any time during the Term to make repairs to or replacements to any part of the Leased Premises or any alternation, addition, change, substitution, whether structural or otherwise.

In this section 9.1, without limiting the other provisions herein, Leased Premises shall include all Capital Improvements and Tenants Fixtures.

9.2 Alterations

Provided the Tenant is not in default under this Agreement, the Tenant may make or permit to be made any replacements, alterations or substitutions of or improvements or other work to any portion of the Leased Premises provided that:

- (a) any Major Improvements shall be commenced only after plans and specifications have first been submitted to and Approved in writing by the Town and TRCA in accordance with the provisions hereof, where applicable;
- (b) any Minor Improvements shall be undertaken after due Notice has been given to the Town and TRCA. Such Notice shall specify the Minor Improvements being undertaken by the Tenant, the approximate cost thereof, the expected duration of the work and the Notice shall also specify the name and address the contractor or contractors undertaking the Minor Improvements. All such Minor Improvements shall be undertaken and completed pursuant to this Agreement, where applicable; and
- (c) every Major Improvement or Minor Improvement shall at all times comply with all Applicable Laws and this Agreement:
 - (i) be of a quality and functionality and standard equal to or superior to the existing improvement, landscaping or work and built in accordance with the relevant Approval of the Town and TRCA;
 - (ii) in all instances, the Tenant agrees that it shall have provided the Town and TRCA with at least fifteen (15) Business Days prior written Notice of any proposed replacement, alteration, substitution or other improvement and the Approval of the Town and TRCA shall first been obtained;
 - (iii) the Tenant shall submit plans and specifications therefore to the Town and TRCA for their written Approval prior to commencement of construction.
- (d) Subsections (a) to (c) do not apply to any Minor Improvements having a cost of less than Ten Thousand Dollars (\$10,000.00).

9.3 Ownership of Trade Fixtures and Chattels

For greater certainty, with respect to any improvements in the nature of Trade Fixtures and Chattels, those Trade Fixtures and Chattels are the property of the Tenant at the end of the Term and may be removed by the Tenant at any time during the Term, in the normal course of Tenant's business at the Leased Premises.

If any of the Capital Improvements are not removed by Tenant within 30 days of the end of the Term, they shall become the sole property of the Town and TRCA.

ARTICLE 10 ENVIRONMENTAL PROVISIONS

10.1 Definitions

For the purposes of this Article 10, the following terms shall have the following meaning ascribed to them:

- (a) **“Contaminant”** means the presence of contaminant(s), as defined in the *Environmental Protection Act*, at levels that contravene applicable Environmental Laws and “Contaminate” and “Contamination” shall have a like meaning;
- (b) **“Discharge”** means any spilling, leaching, pumping, pouring, emitting, injecting, escaping, migrating, dumping, depositing, or other releasing into the natural environment, whether intentional or unintentional, and includes any other definition provided in Environmental Laws;
- (c) **“Environmental Laws”** means any and all applicable federal, provincial, municipal or local laws, by-laws, statutes, regulations, orders, judgments, decrees, guidelines and guidance documents, having the force of law, and obligations or requirements arising from common law; including the prevention of the discharge of Contaminants into the natural environment, relating to the protection of the environment, occupational health and safety, health protection, or to any Contaminant;
- (d) **“Tenant’s Contamination”** means any and all Contamination other than Pre-Existing Contamination approved of in writing by TRCA and the Town.

10.2 Remediation of Leased Premises

During the term of the Lease and upon its termination or expiration, the Tenant will remediate any Contamination that it or its Permitted Occupants have caused or allowed in, on, about or to the Leased Premises and any adjacent lands of the Town or TRCA. Further, such remediation shall not preclude any Claim by the Town or TRCA in respect of any loss or damage suffered as a result of such Contamination.

10.3 Compliance with Environmental Laws

The Tenant, in its use and occupation of the Leased Premises and its activities thereon whether directly or through its Permitted Occupants, will fully comply with all applicable Environmental Laws of the Ministry of Environment and the *Environmental Protection Act* and of any other Authority for the protection of the environment. The Tenant covenants that, during the Term, no Contaminant shall be used, generated, released manufactured, refined, produced, processed, stored, disposed of or allowed anywhere in, on under or about the Leased Premises or adjacent lands of TRCA or the Town, other than in accordance with applicable Environmental Laws and the provisions of this Agreement. Without limiting the foregoing, the Tenant covenants that any Permitted Occupant, will comply with the provisions of Article 10 and all applicable Environmental Laws regulating the use, generation, storage, transportation and disposal of Contaminants in, on, under or about the Leased Premises and any adjacent lands of the Town or TRCA, as the case may be.

10.4 Discharges of Contaminants

- (a) The Tenant will not authorize, cause or permit a Contamination in, on, under or from the Leased Premises.
- (b) Where a Discharge does occur, the Tenant will immediately report the occurrence of the Discharge to all Authorities to whom notification is required under Environmental Laws in the circumstances, and to the Town and TRCA. The Tenant will then immediately stop and clean up the Discharge to bring the Leased Premises and any other affected area, into compliance with Environmental Laws, will repair any damage to the Leased Premises or elsewhere caused by such Discharge and will provide the Town and TRCA with a certificate from the Tenant’s duly qualified consulting engineer confirming such compliance.
- (c) The Tenant will permit the Town to perform an audit by a qualified professional of the Tenant’s Discharges of Contaminants in, on, under or from the Leased Premises at any time(s) during the Term on ten (10) Business Days Notice to the Tenant.

10.5 Orders of an Authority

- (a) The Tenant will fully comply with all orders of an Authority which may be directed to the Tenant and which relate to the Leased Premises or adjacent lands or any part thereof and shall bear the expense of such orders, provided that the contamination which is the subject of the order can be reasonably considered to have been caused or permitted by the Tenant or its Permitted Occupants or its/their invitees or operations or activities.
- (b) Should an order of an Authority be issued to the Town or TRCA requiring the Town or TRCA to do anything in relation to a Discharge of Contaminants caused or permitted by the Tenant or its Permitted Occupants or its/their invitees and relating to its/their use of the Leased Premises, the Tenant will at its own expense, on receipt of written Notice from the Town, comply with the order at the Tenant's expense including preparing and submitting the plans and meet all related requirements.
- (c) If the Tenant fails or refuses to promptly and fully carry out an order referred to in this Article 10, the Town or TRCA may elect in writing to carry out the whole or any part of the order at the Tenant's expense.

10.6 Inspection

- (a) Except in an emergency where no notice is required, TRCA and/or the Town may, on 24 hours prior Notice, inspect the Leased Premises and the Tenant's records relating to its handling of Contaminants to determine whether the Tenant is fully complying with all Environmental Laws and its environmental obligations under this Agreement.
- (b) If TRCA and/or the Town's inspection discloses a breach of an Environmental Law, or a fact situation which could reasonably be anticipated to result in a breach of an Environmental Law, TRCA and/or the Town will have the right to take whatever steps are reasonably required to rectify such breach, or prevent such breach from occurring, as the case may be.

10.7 Environmental Indemnification and Release of TRCA and Landlord

Where TRCA and/or the Town have incurred any expense or damage relating to a Discharge of Contaminants caused by the Tenant, and/or arising from the Tenant's use of the Leased Premises, the Tenant will indemnify TRCA and/or the Town, as the case may be, for all costs incurred by TRCA and/or by the Town with respect to the foregoing.

The Tenant for and on behalf of itself and its Permitted Occupants and its/their Authorized Members, hereby remises, releases, acquits, waives and forever discharges TRCA and the Town and its/their Authorized members of, from and against all actions, manner of actions, causes of actions, losses, suits, demands, costs, and other Claims in respect of any loss, death, injury (including property damage and personal injury) or other Claim howsoever arising, including economic loss, direct or indirect, both in law and equity, which the Tenant and/or its Permitted Occupants and/or its/their Authorized Members ever had, now has or might in the future can, shall or may have, for or by reason of any cause, matter or thing whatsoever existing in any way related or attributable to or arising in connection with contamination of the Leased Premises, and all losses, damages, injuries and other Claims not now known or anticipated but which may arise in the future in respect thereof and all effects and consequences thereof, and the Tenant agrees with TRCA and the Town that no legal action or demand of any kind can or shall be made against them, directly or indirectly, or any of them in respect thereof. The Tenant, on behalf of itself and its Permitted Occupants and its/their Authorized Members further covenant and agree not to make any Claim, commence or maintain any action or take any proceeding, in respect of the aforementioned occurrences, against any other person, firm, corporation or entity (or any combination thereof) who might claim contribution or indemnity under the common law or under the provisions of any statute, including the *Negligence Act*, R.S.O., 1990, as amended, or otherwise from them or any Person or entity discharged by this release, and in the event of a breach hereof, the Town and TRCA or any of them may successfully plead this release as an estoppel. This release is given by the Tenant on its own behalf and of behalf of its Permitted Occupants and on behalf of its/their insurers who might have rights to be subrogated to a Claim of them or any of them. This section shall survive the termination or earlier expiry of this Agreement, notwithstanding any provisions in this Agreement to the contrary.

10.8 Clean Up

The Tenant shall, at its sole cost and expense, at the expiration of the Term, or such earlier termination of this Agreement, remove all Tenant's Contamination in accordance with all Applicable Laws of any Authority and repair any damage to the Leased Premises and any adjacent land of Town or TRCA, caused by the existence and/or the removal of any Contamination.

10.9 Non-Merger

The provisions of this Article 10 will survive and continue to apply following the expiry or earlier termination of this Agreement.

ARTICLE 11 DAMAGE OR DESTRUCTION AND EXPROPRIATION

11.1 No Termination

Save as provided in Article 11 hereof, the partial destruction or damage or complete destruction by fire or other casualty of the Leased Premises shall not terminate this Agreement or entitle the Tenant to surrender possession of the Leased Premises or to demand any abatement or reduction of Rent or other charges payable under this Agreement, any law or statute now or in the future to the contrary notwithstanding.

11.2 Restoration of Leased Premises by Tenant

In the event of damage to or destruction of any part of the Leased Premises, subject to the other provisions hereof, the Tenant shall with all reasonable diligence either reconstruct or replace the Leased Premises or the portion destroyed in whole or in part (as is needed) with a new structure, or repair such damage, or replace such destruction. Any such replacement, repair or reconstruction of the Leased Premises or any part thereof shall be commenced diligently after such damage or destruction and within thirty (30) days from then or such longer period as is reasonably necessary having regard to the circumstances at such time but in any event within one hundred and eighty (180) days after such damage or destruction and shall be made or done in compliance with the provisions of Article 9 and shall be substantially to the scale and character of the structures damaged but after allowing the changes necessitated by then current technology and construction practices and standards and only if Approved by the Town and TRCA. If any repairs or replacements constitute a change or require a new structure to be erected, then, the plans and specifications for such repairs or replacements or new structure shall be first approved by the Parties in accordance with this Agreement, on terms and conditions satisfactory to TRCA and the Town. In no circumstances, except as provided in the following sentences of this section 11.2, will the Town or TRCA be required to pay any costs or expenses of any nature or kind associated with any such repair, reconstruction or replacement. If pursuant to section 8.1(a)(i), the Town has placed insurance, the Town will pay over the insurance proceeds received by the Town in respect of the damage and destruction as the repairs and replacement are completed in accordance with all Applicable Laws and this Lease including the *Construction Lien Act of Ontario*. If the insurance proceeds are insufficient to complete the repair or replacement of the damage and destruction, Tenant shall pay the difference, if any, between any such insurance proceeds received by the Town and Tenant's total costs and expense of completing such repairs, replacements and reconstruction.

11.3 Repair or Replacement by Town

If the Tenant does not commence the replacement, repair or reconstruction of the Leased Premises as required by Article 11 hereof, or having commenced does not proceed diligently to completion, the Town may do so and notwithstanding any other provisions hereof, in the case of damages or destruction of any building constructed pursuant to the MPA referred to in Section 18.18, Town may elect to carry out the repairs, replacement or restoration and all Insurance Proceeds shall be paid to and received by the Town for the purpose of carrying out such repair, replacement and restoration, and for any such purposes the Town shall have a right of entry on the Leased Premises. If the Town exercises its rights under this Article 11, the Tenant will pay over or cause to be paid over to the Town any proceeds of insurance received by the Tenant in respect of the damage or destruction of the Leased Premises. Tenant will pay to the Town within one hundred and twenty (120) days of demand by the Town the difference, if any, between any such insurance proceeds paid to the Town and Town's total costs and expenses of completing such replacement, repair or reconstruction.

11.4 Expropriation

If at any time during the Term, title is taken to any portion of the Leased Premises by expropriation, each Party shall be entitled to separately pursue and retain such compensation as may be awarded to it and the Parties shall co-operate with each other in pursuing their respective claims. The Tenant will have no claim, action, right of action or any other demand against the Town or TRCA as a result or arising from the expropriation of all or any part of the Leased Premises by any entity other than the Town or TRCA.

**ARTICLE 12
INDEMNITY**

12.1 Indemnity by Tenant

The Tenant shall indemnify and save harmless the Town and TRCA and their respective Authorized Members from any and all Claims whatsoever relating to or arising from the Tenant's use and occupancy of the Leased Premises during the Term, including without limitation:

- (a) any breach, violation or non-performance of this Agreement;
- (b) any Injury to Person or Persons, including death resulting at any time from it occurring on or in the Leased Premises or any adjacent land occasioned by the use and/or occupation or arising from or in any way related to Tenant's use and enjoyment of the Leased Premises by the Tenant or its Authorized Members or Permitted Occupants;
- (c) any damage to or loss of property of the Tenant or any Permitted Occupant and all Persons claiming through or under it, them or any of them, or damage to any other property howsoever, occasioned on, in or about the Leased Premises;
- (d) all costs and expenses of every kind and nature relating to the Leased Premises, unless expressly provided under this Agreement to be the responsibility of the Town or TRCA;
- (e) the completion of the Tenant's Work, including the construction of the Leased Premises by the Tenant, including, without limitation, all construction liens in connection therewith;
- (f) Claims arising from any Additional Rent;
- (g) all Claims, including without limitation, negligent acts or omissions, arising in any way from or in respect of or incidental to:
 - (i) any Occupancy Agreement or Special Event Activities;

except and to the extent that such Claims are due to the gross negligence of the Town and/or TRCA or Persons for whom they are in law responsible or any breach by the Town or TRCA of its obligations set forth in this Agreement and to the extent to which the Tenant is not indemnified in respect of such Claims under the insurance which it is obligated to obtain pursuant to the terms of this Agreement or to the extent to which it would not have been so indemnified had it obtained such insurance and diligently pursued its claims. The Tenant agrees that it will not make, cause or pursue any Claim against a third party which may result in any Claim over by such third party against TRCA or the Town. This provision may be relied upon and pleaded as an effective estoppel by the Town and TRCA to any allegation to this effect by or on behalf of the Tenant and/or its Permitted Occupants and its/their Authorized Members.

12.2 Duration

The obligations to indemnify contained in Article 12 shall survive any termination of this Agreement, anything in this Agreement to the contrary notwithstanding.

**ARTICLE 13
ASSIGNMENT AND PERMITTED OCCUPANTS**

13.1 Consent Required

Except with the prior written consent of the Town and TRCA, the Tenant shall not undertake or permit an Assignment of this Lease and any such purported Assignment is void and of no effect; provided:

- (a) Town and TRCA may arbitrarily and unreasonably refuse to consent to any Assignment or request for an Assignment made prior to November 1, 2021;
- (b) Town and TRCA cannot unreasonably or arbitrarily refuse to consent to any Assignment or request for an assignment made after November 1, 2021, but it shall not be considered to be unreasonable or arbitrary to refuse to consent if the Town or TRCA are not satisfied with the experience, financial worth or reputation of the proposed assignee;

- (c) an assignment of this Lease as security for monies borrowed by the Tenant from a Schedule 1 chartered bank for improvements to the Demised Premises and such bank agreeing to and with the Town and TRCA to be bound by all of the terms of the Lease shall be consented to by the Town and TRCA and otherwise on terms reasonably agreeable to Town and TRCA.

The Tenant covenants and agrees not to enter into, authorize, permit or suffer any Assignment except in accordance with this Agreement. No Lease Assignment by the Tenant shall be effective unless consent of the Town and TRCA is obtained and unless and until the proposed Assignee has entered into an agreement directly with the Town and TRCA, satisfactory to them, agreeing to assume the obligations of the Tenant in this Agreement. In no event shall any Assignment to which the Town has consented constitute a release or otherwise relieve the Tenant from the performance of the terms, covenants and conditions herein on its part contained to be observed and performed throughout the Term, including the necessity for the Tenant or any such Assignee to obtain the prior written consent of the Town to a subsequent Assignment. Any Occupancy Agreement entered into with a Permitted Occupant and any Assignment, shall be subject to the other provisions of this Lease and shall be subject to and conditional upon the Tenant's compliance with the following terms and conditions at its sole expense (the waiver of all or part of which shall be in the unfettered discretion of the Town):

- (a) the uses shall be in accordance with Article 6 and that the Town's or TRCA's consent shall not constitute a waiver of the necessity for the Town's consent to any subsequent or Assignment by the Tenant. This restriction on Assignments applies also to any Assignment by operation of Applicable Laws;
- (b) there shall not be any uncured Tenant default at the time of any proposed Assignment under this Agreement;
- (c) the Tenant shall have certified to the Town and TRCA that: the proposed Assignee and its principals have the financial capacity and experience to meet Tenant's obligations under this Agreement; are not parties of ill-repute or bad character; the proposed assignee(s) is/are not Person(s) with whom the Town and TRCA is or has ever been in adverse litigation; and that the conditions and provisions of this section are unmodified and have been met and satisfied in their entirety as stated herein, it being intended that such certificate will be relied upon by TRCA and the Town, as the case may be;
- (d) the Tenant covenants to include in each Occupancy Agreement, in a form satisfactory to the Town and TRCA, the following provisions:
 - (i) the proposed term shall not exceed with renewals a period of 12 months and in any event will expire at a date that is at least five days prior to the expiration or earlier termination of this Agreement;
 - (ii) a positive obligation on the Permitted Occupant to occupy and use the relevant part of the Leased Premises solely for the purpose which shall not be inconsistent with the authorized uses set out in Article 6;
 - (iii) a release and discharge by each proposed Permitted Occupant of the Town and TRCA relating to any Injury or damage resulting from the Permitted Occupant's use of the Leased Premises; along with an indemnity to save the Town and TRCA harmless from all loss, claims, actions, damages, liability and expenses in connection with loss of life, personal injury, damage to property or any other loss or injury arising from Permitted Occupants or its invitees use and enjoyment of the Leased Premises;
 - (iv) on Notice from the Town to any Permitted Occupant, with a copy to the Tenant, all amounts payable by the Permitted Occupant each month under the Occupancy Agreement must from then on be paid by such Permitted Occupant directly to the Town who must apply the same on account of the Tenant's obligations under this Agreement;
 - (v) that all Occupancy Agreements shall include a commercially reasonable form of Town's attornment obligation of all subtenants and licensees of the Leased Premises, in favour of TRCA and the Town.

13.2 Assignment to Affiliate

Notwithstanding the provisions of Article 13, but subject always to compliance with Article 13, as applicable, the Tenant may, at any time so long as an Event of Default has not occurred, effect an

Assignment to an Affiliate as “tenant” provided that the following pre-conditions shall first have been satisfied:

- (a) the Tenant shall not at the time of any proposed Assignment be in default under this Agreement;
- (b) the Assignee shall have expressly covenanted and agreed in writing with the Town and TRCA that the Assignee will perform and observe all of the covenants and obligations of the Tenant under this Agreement, and that the Assignee will remain an Affiliate of the Tenant so long as the Assignee has any interest in this Agreement or such other agreements aforesaid or the Leased Premises;
- (c) the Tenant shall have expressly covenanted and agreed in writing with the Town and TRCA that the Tenant will be jointly and severally liable with the Assignee to perform and observe all of the covenants and obligations being assumed by the Assignee pursuant to this Article 13 and that the Assignee will remain an Affiliate of the Tenant so long as the Assignee has any interest in this Agreement or the Assumption Agreement or the Leased Premises.

13.3 Assignment by Town or TRCA

If the Town and/or TRCA transfers the Leased Premises and/or any part thereof, as provided herein, and the Town and/or TRCA assigns this Agreement to the transferee then, the Town and/or TRCA, as the case may be, shall upon the written assumption being delivered to the tenant of all liability of the assignor hereunder by the assignee, the assignor will be relieved of all liability under this Agreement after the date of such transfer.

13.4 Notice

If the Tenant intends to effect an Assignment, the Tenant shall give prior Notice to the Town and TRCA of such intent specifying the identity of the Assignee and shall provide such financial, business or other information related to the proposed Assignee and its principals as the Town reasonably requires, together with copies of any documents which record the particulars of the proposed Assignment. The Town shall, within thirty (30) Business Days after having received such Notice and all requested information, notify the Tenant that it consents or does not consent to the proposed Assignment in accordance with the provisions and qualifications of this Article 13.

13.5 Preparation of Consent

Subject to Article 18, any document evidencing the Town’s or TRCA’s consent to any Assignment where such consent is required, shall be prepared by the Town or its solicitors and all reasonable legal costs associated with the proposed Assignment, including without limitation, any reasonable due diligence costs in investigating the proposed Assignee or preparing any documentation relating to any Assignment shall be paid immediately by the Tenant.

13.6 Right of Purchase

Notwithstanding any other provision of this Article 13, prior to making any Assignment of the Leased Premises or the Adjacent Area, other than to an affiliate, Tenant shall first notify TRCA and the Town, in writing, of its desire to make an Assignment and Tenant, TRCA and Caledon shall during 90 days of receiving such notice shall attempt to negotiate an agreement to purchase the interest of the Tenant in the Leased Premises or the Adjacent Area and failing such agreement the Tenant shall be entitled to effect an Assignment subject to the other provisions herein within 270 days of the giving of the notice by Tenant, and failing such Assignment being completed within the said 270 days, this section 13.6 shall remain in full force and effect.

ARTICLE 14 [INTENTIONALLY DELETED]

ARTICLE 15 DEFAULT

15.1 Events of Default

In any of the following events (each an “**Event of Default**”):

- (a) if the Tenant undergoes any change of Control to which the Town and TRCA have not consented to in writing. The Tenant shall make available to the Town's auditors and solicitors all corporate books and records of the Tenant and any partner of the Tenant, if any, for inspection at all reasonable times to the extent necessary to determine whether a change of Control has occurred or in the alternative provide from time to time from Tenant's auditors or solicitors, reasonably satisfactory to Town, a certificate that a change in control has or has not occurred;
- (b) if Rent or any part thereof shall not be paid on any day when such payment is due or if the Tenant is in default of any obligations herein, the Town may, at any time from then on, give Notice of such failure or default to the Tenant and if the failure or default is not remedied by the Tenant within ten (10) days after the giving of such Notice in the case of the failure to pay Rent, within ten (10) days in the case of a failure to provide proof of insurance as required hereunder, or in the case of any other default within thirty (30) Business Days after the giving of such notice;
- (c) if the Tenant shall fail or neglect to provide any information required hereunder or to perform or comply with any of the terms, covenants, conditions or obligations contained in this Agreement on the part of the Tenant to be performed or observed (other than the covenants to pay Rent or to provide proof or evidence of insurance), hereunder between the Parties, the Town or TRCA may, at any time from then on, give Notice of such failure or neglect to the Tenant and the Tenant:
 - (i) if the matter complained of in such Notice is capable of being remedied by the payment of money and has not corrected the matter complained of within a period of thirty (30) Business Days after the giving of such Notice; or
 - (ii) if the matter complained of in such Notice is not capable of being remedied by the payment of money and the Tenant has not corrected the matter complained of within a period of thirty (30) Business Days after the giving of such Notice, or if a period of more than such thirty (30) Business Days is reasonably required to remedy, with reasonable diligence, the matters complained of in such Notice, and the Tenant has not promptly commenced to remedy the same and diligently prosecute the remedying of the same to completion;
- (d) if an Event of Insolvency shall have occurred with respect to the Tenant or any other Assignee;
- (e) any insurance policy which the Tenant is required to maintain pursuant to this Agreement is cancelled or not renewed where the Tenant has not replaced such coverage within the times provided herein with coverage as required by this Agreement or which is otherwise a breach of the obligations respecting insurance;
- (f) this Agreement or any material portion of the Tenant's or transferee's assets are taken under a writ of execution (unless same is discharged within thirty (30) days);
- (g) the Tenant purports to make or makes an Assignment other than in compliance with the provisions of this Agreement;
- (h) the Tenant abandons the Leased Premises or any part thereof or disposes or attempts to dispose of any part thereof, other than as permitted pursuant to this Agreement provided that the Leased Premises will not be deemed to have been abandoned if the Tenant has vacated the same to make necessary repairs or has ceased to keep the Leased Premises open owing to seasonal climatic conditions or by reason of the other considerations referred to in Article 6;
- (i) if, in the opinion of the Town, any representation or warranty or information made or supplied by the Tenant to the other Parties in this Agreement or any certificate delivered to TRCA or the Town pursuant thereto shall be untrue or misleading in any material respect as of the date on which it was made;
- (j) the Tenant shall voluntarily cease carrying on activities at the Leased Premises or the Adjacent Area without the prior written consent of both TRCA and the Town (which may be unreasonably or arbitrarily withheld), except where seasonal climatic conditions preclude the operation of the Tenant's activities at the Leased Premises, in which event no such consent is required;

- (k) the Tenant makes a sale under the *Bulk Sales Act* (Ontario), as the same may be amended from time to time, or any successor or replacement legislation, of the goods and chattels at the Leased Premises without the Town's consent;
- (l) if the Tenant is in default of any of its obligations in any agreement or contract it has entered into with one or more of the Town, TRCA and any body or entity providing funding, organizing, co-ordinating or supervising the Pan Am Games in 2015 beyond any applicable cure period in such agreement or beyond 30 days after notice of such default, whichever is longer.

then, the Town or TRCA, at its option, may terminate this Agreement by Notice to the Tenant, in which event such termination shall be effective immediately on the delivery of such Notice and may enter on the Leased Premises with or without process of law and take possession of the Leased Premises.

15.2 Right to Cure Defaults

Without limiting any other remedies the Town or TRCA may have arising out of this Agreement or at law in respect of any default in the performance of the Tenant's obligations under this Agreement, the Town or TRCA shall have the right, in the case of any default and without any re-entry or termination of this Agreement, to enter on the Leased Premises and cure or attempt to cure such default (but this shall not obligate the Town or TRCA to cure or attempt to cure any such default or, after having commenced to cure or attempt to cure such default, prevent the Town or TRCA from ceasing to do so) and the Tenant shall promptly reimburse to the Town or TRCA any expense incurred by the Town or TRCA in so doing and the same shall be recoverable as Rent. The Tenant shall pay the Town's or TRCA's costs and expenses of correcting the default immediately on demand by the Town or TRCA, together with an administration fee equal to twelve and one half percent (12.5%) of all such expenses.

15.3 Other Sums Recoverable as Rent

All amounts which may from time to time become due from the Tenant to the Town or TRCA under any provision of this Agreement (including without limitation amounts due to reimburse the Town for the expense of remedying any default by the Tenant or exercising its rights hereunder if an Event of Default shall have occurred) shall, if unpaid, be recoverable as Rent, and the Town and TRCA shall have all remedies in respect of their non-payment as in the case of a non-payment of Rent.

15.4 Right to Re-enter and Relet

In addition to any other remedy available to the Town or TRCA, if an Event of Default shall have occurred and be continuing beyond the period stipulated in section 15.1(b), the Town or TRCA shall have the right to enter the Leased Premises or any part thereof as agent of the Tenant and to relet the Leased Premises and this Agreement shall thereon terminate. Provided further that in the event that the Town or TRCA shall be entitled to, and shall make a re-entry, the re-entry or other action taken shall not be deemed to relieve the Tenant of its obligation to pay Rent hereunder and such Rent shall continue to accrue and be payable until the Town or TRCA is able to relet the Leased Premises, or otherwise deal with the Leased Premises in such manner that it does not sustain any loss. Provided further that in addition to all other rights reserved to it, the Town or TRCA shall have the right to re-enter on the Leased Premises as agent of the Tenant, without being liable therefor, and to relet the whole or any portion of the Leased Premises for any period and to receive the rent therefor, said rent to be any sum which the Town or TRCA deems reasonable. The Town or TRCA may make such changes in the character or the improvement of the Leased Premises as the Town or TRCA may determine to be appropriate or helpful in effecting such reletting of the Leased Premises. Provided further that the Town or TRCA shall have the right, as agent of the Tenant, to take possession of any property of the Tenant on the Leased Premises, to store such property at the expense and risk of the Tenant or to sell or otherwise dispose of such property in such manner as the Town or TRCA sees fit without notice to the Tenant. The Town or TRCA shall apply the proceeds of any such sale or reletting, first, to the payment of any expenses incurred by the Town or TRCA with respect to any such reletting or sale, second, to the payment of any indebtedness of the Tenant to the Town or TRCA other than Rent and, third, in the event that the default takes place in the second 20 year term the payment of Rent in arrears, with the residue to be held by the Town or TRCA and applied to payment of future Rent as it becomes due and payable, provided that the Tenant shall remain liable for any deficiency to the Town or TRCA. If there is any surplus proceeds from the sale or reletting after the application of the proceeds as provided in the preceding sentence, such remaining surplus **[up to the amount of Annual Basic Rent prepaid by Tenant and received by Landlord for each Lease Year following the Lease year Landlord has re-entered and taken possession of the Demised Premises.]** when received by the Town or TRCA shall be paid to the Tenant.

Notwithstanding anything to the contrary in this Agreement, if an Event of Default shall have occurred and be continuing beyond the period stipulated in section 15.1(b), the Town and/or TRCA, in their discretion, may by themselves, or by its/their Authorized Members, or by a receiver or any replacement

thereof appointed in writing by the Town and TRCA, take possession of any collateral in respect of which the Town and/or TRCA are granted a security interest under or in respect of this Agreement, carry on the business on the Leased Premises or any part, in such manner as TRCA and the Town or such receiver determine, and realize upon the collateral aforesaid and enforce its/their rights under the security interests granted in respect thereof by any remedy or proceeding authorized or permitted hereby or at law including, without limitation, all rights and remedies available to a secured party under the *Personal Property Security Act* (Ontario). If there is a dispute whether a non monetary default under the terms of this Lease has occurred the issue shall be submitted to arbitration as hereinafter described.

15.5 Expenses

Whenever the Town and/or TRCA take any proceedings, does any work, or otherwise incurs any expense or takes any action with respect to any default by the Tenant, and whether or not legal proceedings are begun in consequence of such default and whether or not this Agreement is terminated, the Town shall be entitled to be paid by the Tenant on demand in addition to any other amounts which may be payable or owing hereunder, all of the following:

- (a) the cost of effecting any repairs or performing any obligation, together with a reasonable allowance for overhead and administration;
- (b) court costs, collection costs, and legal fees on a substantial indemnity basis; and
- (c) simple interest on all amounts payable to the Town or TRCA, including payments overdue under the terms of this Agreement and on any monies expended by a Party in consequence by any default by the Tenant, at the rate of 1.25% per month (15% per year) (the “**Default Rate of Interest**”).

15.6 Returned Cheques

The Tenant will pay to the Town or TRCA, immediately on demand, a charge of one hundred dollars (\$100.00) for every cheque tendered by the Tenant to the Town or TRCA that is not honoured by the institution on which it is drawn (the “**Returned Cheque Fee**”). The Returned Cheque Fee may be increased by the Town or TRCA from time to time by Notice to the Tenant, so that it is at all times equal to the charge payable in respect of cheques tendered in payment of tax, water and court service charges that are not honoured by the institution on which they are drawn,

15.7 Waiver by Tenant of Exemption from Distress

The Tenant agrees that notwithstanding anything contained in the *Commercial Tenancies Act* (Ontario), or any statute subsequently passed to take the place of or amend said legislation, none of the goods and chattels of the Tenant on the Leased Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears as provided for by any sections of the said legislation or any amendments thereto.

ARTICLE 16 ARBITRATION

16.1 Arbitrable Matters

Subject to Article 16, all matters in dispute under this Agreement, between all or any of the Parties, or their Assignees, if not settled or agreed between them within twenty (20) consecutive days of such dispute arising, shall be determined by arbitration in accordance with the following provision, unless otherwise provided in this Agreement. The Parties expressly agree that the provisions of the *Municipal Arbitrations Act* (Ontario) shall not apply at any time to any arbitration whatsoever initiated pursuant to this Agreement. Arbitration initiated pursuant to this Agreement shall proceed in accordance with the provisions of the *Arbitrations Act* (Ontario), except as provided for herein. The arbitration will be conducted by a sole arbitrator. Arbitration shall be initiated by the Party desiring arbitration (the “**Initiating Party**”) delivering Notice to the other Party or all other Parties (the “**Responding Party/Parties**”) referring a matter in dispute to arbitration and providing the name(s) of a proposed arbitrator or arbitrators. Upon receiving such Notice, the Responding Party/Parties will have seven (7) days to deliver to the Initiating Party and all other Responding Parties a response, either agreeing to one of the proposed arbitrators, or proposing a different arbitrator or arbitrators that are acceptable to the Responding Party (the “**Response**”). If the Initiating Party and all of the Responding Parties cannot agree on an arbitrator within seven (7) days of delivery of all of the Responses, or if one or more of the Responding Parties fails to deliver a Response within the time required in this provision, then an arbitrator shall be appointed by a judge of the Superior Court of Justice of Ontario upon the application of any Party to the arbitration. The Parties agree that any dispute concerning a matter specifically made

arbitrable by this Agreement shall be submitted to arbitration in accordance with the provisions of this Article, and any determination by arbitration in accordance with this provision shall include an award for the cost of the arbitration, and the result of such arbitration shall be final and binding and shall not be subject to appeal or contestation.

16.2 Arbitration Clarification

For the purposes of Article 16, a dispute does not include the non-payment of Rent or other charges for which the Tenant is responsible under this Agreement and failure by the Tenant to so pay as and when due entitles the Town to terminate this Agreement in accordance with the provisions of Article 14.

ARTICLE 17 STATUS CERTIFICATES

Status Certificates

At any time and from time to time so long as this Agreement shall remain in effect, on not less than ten (10) Business Days' prior written request by the applicable Party to execute, the Town or the Tenant or TRCA, as applicable, will acknowledge and deliver to the other Party or Parties, a statement in writing certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified, stating the modifications) and the dates to which the Rent has been paid, if any, that no Event of Default has occurred hereunder (or, if an Event of Default has occurred and shall be continuing on the date of the status certificate, the nature of such Event of Default) and as to such other matters as may be reasonably requested from time to time by either party.

ARTICLE 18 GENERAL

18.1 Further Tenant Obligations

The Tenant covenants and agrees that, during the Term, the Tenant shall:

- (a) comply with or cause to be complied with, all Applicable Laws in connection with the Tenant's use, operation and management of the Leased Premises.
- (b) perform or cause to be performed all of the obligations on its part under this Agreement;
- (c) promptly pay for all materials supplied and work done in respect of the Leased Premises so as to ensure that no lien is registered against the same or any part or against TRCA's or the Town's or the Tenant's interests in the Leased Premises, as the case may be, and if such a lien is registered or filed, the Tenant shall ensure that it is discharged, at its own expense, forthwith, failing which the Town and/or TRCA may, at its/their option, discharge the lien by paying the amount necessary into court and the Tenant shall reimburse the amount so paid and all expenses of the Town and/or TRCA including reasonable legal fees (on a substantial indemnity basis) to the Town and/or TRCA, forthwith;
- (d) maintain in force during the Term all necessary licences, permits, and other Approvals relating to its use of the Leased Premises or any part by the Tenant and any Permitted Occupant pursuant to this Agreement.

18.2 Provision

The Tenant agrees not to oppose any request under the *Planning Act* for a minor variance or for a Section 37 agreement or for a site plan, re-zoning, severance or official plan amendment of any lands of the Town or TRCA.

18.3 Approvals Required by Parties under Agreement

- (a) Any Approval of TRCA and/or the Town requested pursuant to this Agreement is and shall be subject to the Tenant, at its expense, obtaining and delivering or causing to be obtained and delivered to both TRCA and the Town all Approvals of all Authorities having jurisdiction;
- (b) Any Approval, consent or decision herein shall be in writing;

- (c) Any Approval, consent or decision shall not be unreasonably withheld or delayed unless it is specifically stipulated herein it may be unreasonably withheld or delayed;
- (d) The Party whose Approval or consent is requested shall, within twenty (20) Business Days after receipt of such request, advise the other Party by Notice in writing either that it consents or approves, or that it withholds its consent or Approval and in the latter case it shall set forth, in reasonable detail, its reasons for withholding its consent or approval. In the event that the responding written Notice mentioned is not delivered within the applicable time limit, the Party whose consent or approval is requested shall conclusively be deemed to have refused to give its approval or consent but such party shall nevertheless act promptly either to provide reasons for its refusal or to reverse its deemed refusal.

18.4 Town Role as a Municipality

Nothing in this Agreement derogates from, interferes with, or fetters the exercise by the Town of all of its rights and obligations as a municipality (whether discretionary or mandatory), or imposes any obligations on the Town in its role as a municipality, and the Town shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including its planning rights and responsibilities.

18.5 TRCA Role as a Conservation Authority

Nothing in this Agreement derogates from, interferes with, or fetters the exercise by TRCA of all of its rights and obligations as a conservation authority (whether discretionary or mandatory) or imposes any obligations on TRCA in its role as a Conservation Authority, and TRCA shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities as a conservation authority.

18.6 Force Majeure

If, by reason of Force Majeure, the Tenant or the Town or TRCA, as the case may be, if in good faith and without default or neglect on its part, is/are prevented or delayed in carrying out its obligations hereunder which under the terms of this Agreement at is or may be required to do by a specified date, or within a specific period of time other than the payment of Rent, the date or the period of time within which the obligation or the work was to have been completed shall be extended by a period of time equal to that of such delay or prevention, and the Tenant or the Town or TRCA, as the case may be, shall be deemed not to be in default if it performs and completes the obligation or the work in the manner required by the terms of this Agreement within such extended period of time.

18.7 Registration

The Tenant shall not register or permit the registration of this Agreement or any Assignment or sublease or other document evidencing an interest of the Tenant or anyone claiming through or under the Tenant in this Agreement or the Leased Premises except that at the Tenant's request and subject to the Tenant paying the Town's costs and expenses, the Tenant may register a notice of lease or caveat which describes the Parties, the Term, and contains the other minimum information required under the applicable legislation, but the notice of lease or caveat must be in form satisfactory to the Town or TRCA, acting reasonably.

18.8 Relationship of Parties

Nothing in this Agreement shall create any relationship between the Parties other than that of owner and tenant and authorized contracting manager on behalf of TRCA in the case of TRCA, the Tenant and the Town respectively, and it is specifically agreed that none of the Parties are partners, joint venturers, agents or trustees of the other(s). Without limiting the generality of the foregoing, the Parties expressly acknowledge and agree that the Town and TRCA are in no way liable for the debts or any other liabilities of the Tenant, whether relating to the Leased Premises or otherwise.

18.9 Time of the Essence

Time shall in all respects be of the essence of this Agreement provided.

18.10 Remedies Cumulative

The remedies of Parties under this Agreement are cumulative. Any waiver by such Parties of the strict observance, performance or compliance by another Party hereto of or with any term in this Agreement contained, shall not be deemed to be a waiver of any subsequent default or breach by such other Party.

18.11 Amendment

This Agreement may not be modified or amended except by instrument in writing signed by the Parties.

18.12 Further Assurances

The Town and the Tenant and TRCA and each of them shall and will at all times and from time to time from now and on every reasonable written request so to do, make, do, execute and deliver all such further acts, deeds, assurances and things as may be required for more effectually implementing and carrying out the true intent and meaning of this Agreement.

18.13 Notice

Any notices, demands, requests, agreements, certificates, statements, reports, opinions or other instruments or communications (individually or collectively called a “**Notice**”) which may be or are required to be given pursuant to this Agreement shall be in writing, shall not be unreasonably withheld or delayed unless specifically provided for in this document, and shall be delivered by personal service or sent by prepaid registered mail (except during a postal disruption or threatened postal disruption), or sent by facsimile as follows:

- (a) In the case of the Tenant at:

Equestrian Management Group Inc.

Attention:

Tel:

Fax:

- (b) and in the case of the Town to it at:

The Corporation of the Town of Caledon

Attention:

Tel:

Fax:

- (c) and in the case of TRCA to it at:

Toronto and Region Conservation Authority

5 Shoreham Drive

Downsview, ON Canada

M3N 1 S4

Attn: Chief Administrative Officer

Fax: (416) 661-6898

or at such other place as such Party may from time to time designate by written notice to the others. Any such Notice given in this manner shall be deemed to have been validly and effectively given and received: if personally delivered, on the day of such delivery; or if sent by prepaid registered mail, on the third (3rd) Business Day next following the mailing, provided, however, that during all postal disruption or threatened postal disruption, delivery shall be in person; and if sent by facsimile, on the Business Day next following the day on which it was sent.

18.14 Independent Covenants

If for any reason whatsoever any term, covenant or condition of this Agreement, or the application to any Person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, covenant or condition is deemed to be independent of the remainder of this Agreement and to be severable and divisible from it and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Agreement or any part.

18.15 Conflicts

If there is any inconsistency between any provisions in this Agreement and any Schedule hereto, the terms and provisions of this Agreement shall prevail over the terms and provisions in any Schedule and which provisions prevail in the Agreement or in any Schedule. Conflicts or inconsistencies between provisions in this Agreement and which the parties are unable to resolve, shall be determined by

arbitration. Similarly, conflicts or inconsistencies between provisions in any Schedules hereto and which the parties are unable to resolve, shall be determined by arbitration.

18.16 Entire Agreement

This Agreement, as and from the Commencement Date thereof, constitutes the entire agreement among the Parties pertaining to the Leased Premises and supersedes all prior agreements, including the MOU, understandings, negotiations and discussions, whether oral or written, between the Parties with respect to the Leased Premises.

There are no conditions, warranties, representations or other agreements between the Parties in connection with this Agreement except as specifically set forth herein.

The Agreement between the parties dated October 31, 1997, is superseded, terminated and of no force and effect as of the Commencement Date, provided that any unfulfilled obligations of the Tenant thereunder arising on or prior to the Commencement Date shall remain in full force and effect.

18.17 Binding Effect

This Agreement shall extend to, be binding on and enure to the benefit of the Parties hereto and their respective successors and permitted assigns as limited in this Agreement.

18.18 Amendments

The parties acknowledge the Town has entered into a Joinder Agreement executed by the Town on December 8, 2009, and that they have received and reviewed a copy of same and the "Agreement" as referred to therein. Each of the other parties agrees to co-operate with Caledon to the extent necessary to permit Caledon to comply with all of its obligations under the said Joinder Agreement and the Agreement referred to therein and pursuant thereto its obligation arising under the Agreement and the agreements contemplated therein (the Joinder Agreement, Agreement and any other agreements contemplated or other requirements of the Pan Am Games organizing committees thereunder being referred to herein as the "MPA").

If Caledon, in order to comply with and satisfy its obligations under the MPA, requires amendment, alterations or deletions to the Lease including without limiting the generality of the foregoing any legacy requirements thereunder, the other parties will agree to same, or in the alternative in the case of the Tenant, Tenant or the Town may terminate or suspend the Lease for such period of time as reasonably required so that Caledon will not be in breach of its duties and obligations and covenants under the MPA, any abatement of Rent in the event of a suspension or termination by Tenant or Town, shall be as agreed by the parties acting reasonably, and failing agreement, the amount of the abatement of Rent shall be determined by arbitration.

18.19 Planning Act

This Lease is subject to compliance with the *Planning Act* of Ontario. Tenant shall apply for and obtain any necessary consent thereunder by and at its cost. Town and TRCA shall authorize and appoint Tenant their agent, if requested, to make such applications. Provided that if no consent is obtained as required this Lease notwithstanding any renewals or extensions shall cease and terminate and be surrendered on December 29, 2032. If this Lease terminates pursuant to the preceding sentence, the parties agree to conduct negotiations for the purpose of entering into a new lease for a further 20 years generally in accordance with the terms contemplated herein provided nothing herein shall require or oblige any party to enter into a lease.

IN WITNESS WHEREOF the Parties have hereto affixed their respective corporate seals attested to by the hands of their proper officers in that behalf duly authorized.

THE CORPORATION OF THE TOWN OF CALEDON

Per: _____

Name:
Title:

Per: _____

Name:
Title:

We have authority to bind the Corporation

**EQUESTRIAN MANAGEMENT GROUP
INC.**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

We have authority to bind the Corporation

**TORONTO AND REGION
CONSERVATION AUTHORITY**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

We have authority to bind the Corporation

SCHEDULE "A"

Leased Premises as used in the Lease of which this Schedule A is a part includes all improvements, stadiums, arenas, permanent stalls and stable buildings, rings, pavilions, buildings and structures thereon from time to time other than portable stables and fencing, Tenant's Fixtures and Chattels, and Tenant's equipment.

Firstly

(1) Part of West half of Lot 27, Con VII, Town of Caledon, Regional Municipality of Peel, being Part 1 on Plan 43R4076 consisting of 35.22 acres

Secondly

Part of east half of Lot 27, Concession 7, Town of Caledon, Regional Municipality of Peel, consisting of approximately 6 acres adjacent to the Firstly described Parcel and as finally determined when the site plans are settled by the Town pursuant to the MPA; the said approximately 6 acres are part of Part 1, Plan 43R-29417 save and except Plan 43M-1828.

SCHEDULE "B"

Rent Payments

Subject to the terms of the contribution agreement referred to in section 2.6(e) of this Agreement, the Annual Basic Rent will be calculated and payable as follows:

- (a) Tenant is to make a contribution of \$1,717,834.00 towards the construction of the facilities to be constructed pursuant to the MPA and Tenant in exchange will be considered to have paid annually during the first 20 years of the Term the sum of \$150,000.00 on account of Annual Basic Rent;
- (b) Tenant is to convey free of charge the lands described Secondly on Schedule A hereto and having a value of \$600,000.00 and Tenant in exchange will be considered to have paid annually during the first 20 years of the Term the sum of \$30,000.00 on account of Annual Basic Rent.

The Adjacent Area described in Schedule "D" which will be used in conjunction with the lands described in Schedule A will be retained by the Tenant but it will ensure that it will be available for use during the Term and will be leased by Tenant to TRCA and sublet back to TRCA in accordance with the terms of a head lease and sublease; rent in each instance will be \$21,000.00 per annum plus H.S.T. throughout the Term, provided if there is a default by the subtenant under the sublease, tenant under the head lease shall be required to pay the rent under the Head Lease until the said tenant under the Head Lease at its option and sole discretion terminates the Head Lease, whereupon no further rent shall be payable under the Head Lease. If the area of the Lands subject to the Head Lease shall be reduced then the rent of \$21,000.00 shall be reduced proportionately.

SCHEDULE "C"

PERMITTED ENCUMBRANCES

The following are a list of permitted encumbrances:

1. All reservations, limitations, provisos and conditions expressed in the original grants from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation;
2. The reservations, limitations, conditions and exceptions set out in the *Land Titles Act* (Ontario);
3. Liens for realty taxes, charges, rates and assessment not yet due, or if due, the validity of which is being contested in good faith;
4. Undetermined or inchoate liens and charges incidental to current construction or current operations which have not filed or registered in accordance with applicable law or of which written notice has not at the time been duly given in accordance with the applicable law or which relate to obligations neither due nor delinquent or have by operation of law expired or been extinguished;
5. Restrictions, easements, servitudes, party wall agreements, licences, rights of way and other similar rights and agreements registered against title to the Lands;
6. Defects or irregularities in title which are of a minor nature and will not in the aggregate impair the value or the use of the Lands affected thereby for the purposes for which it is held by the Purchasers and any minor encroachments from or onto the Lands that an up-to-date survey might reveal;
7. Any subdivision, servicing, development, engineering, site plan, financial or other similar agreement with a municipal or other public or quasi-public authority registered against title to the Lands;
8. All applicable governmental orders, laws, by-laws and regulations;
9. Zoning restrictions, restrictions on the use or transfer or charging of the Property, development fees, imposts and levies, lot levies, sewer charges, development charges and education development charges, and any requirements which have been, now are or may in the future be issued by any federal, provincial, municipal or other governmental authority having jurisdiction over the Property, all as of the date of this agreement;
10. Easements for sewers, electric lines, telegraph, telephone and pipe lines, gas mains and water mains, cable and other similar purposes.

SCHEDULE "D"

DESCRIPTION OF ADJACENT AREA

Town of Caledon, Regional Municipality of Peel, being part of the east half of Lot 27, Concession 7, being PIN 14341-0486, and being Part 1 on Plan 43R-29417, save and except Secondly as described on Schedule A and save and except Plan 43M-1828.

Provided, however, if Tenant obtains a consent under Section 50 of the *Planning Act* of Ontario for that part of Part 1 on Plan 43R-29417 being lots 30-33 shown on an Environmental Management Plan dated February 2004, job number 7588, Map 10A; the Landlord shall postpone its interest in said lots 30-33 to any mortgage placed thereon to a Schedule 1 Chartered Bank, provided that until such time as the said Bank realizes on the mortgage security, Landlord shall enjoy and use the said lots 30-33 in accordance with the terms of the head Lease referred to in Section 2.6(d) of the Lease of which this Schedule D is a part.

SCHEDULE "E"

REVENUE SHARING AGREEMENT

1. Revenue Sharing Activities in this Schedule E means the following activities and uses on the Demised Premises and Adjacent Lands during the Term:
 - (a) parking, seat sales, trade shows, weddings, meetings, lease of permanent office spaces, stall rentals of stalls within buildings constructed after the Commencement Date, additions and competitions (spring, autumn, winter – indoors), breed shows (light and heavy horses), club meetings (Pony Club, Dog Fanciers, Bird Watchers, Snow Mobile, etc.), dog and cat shows, agricultural, auctions and competitions, TV/movie location rentals, event broadcast coverage (advertising revenue);
 - (b) Activities pursuant to section 3.6 of the Lease;
 - (c) Competition, activities and uses that are not substantially similar to the competitions that constitute the core business of the Tenant in 2011; which core business is as set out on Schedule E-1;
 - (d) Activities and uses not carried on by the Tenant at the Demised Premises by the Tenant prior to the Commencement Date.

For greater certainty Revenue Sharing Activities shall not include stall rentals from temporary stalls existing as of the Commencement Date, camp ground rentals, Tenant's activities not on the Demised Premises except for accounting, administration, software development and sales in connection with those activities.

2. Revenue Sharing Rent shall be in each Rental Year of the Term the Gross Revenues from Revenue Sharing Activities less the following:
 - (i) all Operating Costs of the Tenant, Town and TRCA as may be reasonably attributed to the Revenue Sharing Activities, all of which costs shall be paid to the party incurring such costs;
 - (ii) management fee which shall be 15% of the Gross Revenue from the Revenue Sharing Activities and which fee shall be paid to the Tenant at the same time as the Revenue Sharing Rent is paid to the Town and TRCA, as a fee for managing and supervising and organizing the Revenue Sharing Activities and which shall be in addition to Operating Costs of the Tenant incurred by it in such managing, supervising and organizing.
3. The Revenue Sharing Rent shall be paid and distributed as follows by Tenant for each Rental Year during the Term:
 - (a) the first \$100,000 of Revenue Sharing Rent shall be divided equally between the Town and TRCA;
 - (b) the balance of Revenue Sharing Rent shall be distributed equally among Tenant, Town and TRCA.

and shall be paid and distributed by the Tenant within 60 days following the end of each Rental Year, provided if the Revenue Sharing Rent exceeds \$200,000.00 in any calendar year, the Town or TRCA may require for the subsequent year that there be quarterly calculations and payments within 60 days following each quarter of the subsequent Rental Year based on Tenant's best estimate of what the Revenue Sharing Rent may be for such quarter.

4. "**Gross Revenue**" means all income and proceeds of sales of every kind (whether in cash or on credit) received by the Tenant with respect to or derived from Revenue Sharing Activities (whether sold on or off the Demised Premises). Gross Revenue includes all revenue received by subtenants and all concessionaires located at and operating within the Demised Premises or Adjacent Lands on account of or with respect to Revenue Sharing Activities and all revenue derived from any indemnity by virtue of any insurance policy against loss of revenues from business interruption insurance; however, there shall be deducted from these revenues:
 - (a) all credits or reimbursements to customers or patrons;

- (b) all amounts or credits received in settlement of claims for material loss or damage;
 - (c) any HST, sales, use or excise or gross revenue tax imposed by any federal or provincial governmental authority directly on sales and collected in respect of or related to the Revenue Sharing Activities, provided that the amount thereof is added to the selling price or absorbed therein and paid by the Tenant to such governmental authority. No business tax based upon income or profit as such shall be deducted from Gross Revenue in any event whatsoever.
5. Tenant shall submit to the Landlord and Town within 60 days after the completion of each Rental Year a statement showing the amount of Gross Revenue and Operating Costs during the preceding Rental Year certified by the Tenant and the Tenant's auditor who shall be an independent chartered accountant. Subject as hereinafter set forth, the Landlord or Town shall have the right at its own expense to make a complete audit of the Tenant's financial records concerning the Revenue Sharing Activities in order to verify such statements of Gross Revenue and Operating Costs and in this regard the Tenant shall, during business hours and upon reasonable notice, make all of its records relating to the Gross Revenue and Operating Costs for the Revenue Sharing Activities available at the offices of the Tenant in the Town of Caledon or such other place as the Town may in writing approve. The Tenant shall be required to keep and maintain such supporting records relating to Gross Revenue and Operating Costs that an auditor would require in order to prepare the Statement of Gross Revenue and Operating Costs and for at least six (6) years following the end of each Rental Year. In the event that the Tenant's statement of Gross Revenue and Operating Costs for such Rental Year is found by the new audit to have been understated by five percent (5%) or more for Gross Revenue, or overstated by five percent (5%) or more for Operating Costs, then the Tenant shall pay to the Landlord the cost of the audit by the Landlord, in addition to any such deficiency payment calculated on the basis of six percent (6%) above the prime rate of interest charged by the Town's bank to its most credit worthy customers from time to time.
6. **"Operating Costs"** means the aggregate of all expenses and costs of every kind determined for each Rental Year, on an accrual basis in accordance with Generally Accepted Accounting Principles and without duplication, incurred by or on behalf of Tenant, Town or Landlord to the extent and proportion relating to, and for the operation, maintenance, repairs, replacements and management of the Revenue Sharing Activities and all insurance relating to the Revenue Sharing Activities. Operating Costs shall include without duplication all costs in respect of the following to the extent and proportion that the same can be fairly and reasonably be attributable to the Revenue Sharing Activities:
- (a) all remuneration including wages and fringe benefits of employees directly and to the extent employed or engaged in the Revenue Sharing Activities;
 - (b) landscaping, maintenance, cleaning, janitorial services, and garbage and waste removal;
 - (c) operation, maintenance, repair and replacements in respect of any equipment, if any;
 - (d) all utilities supplied;
 - (e) machinery, equipment, facilities and systems installed;
 - (f) all insurance which Landlord, Town or tenant obtains and the cost of any deductible amounts payable by Landlord, Town or Tenant in respect of any insured risk or claim;
 - (g) policing, supervision, security and traffic control;
 - (h) office expenses including telephone, stationery and supplies;
 - (i) communications, sound, visual, lighting and other systems;
 - (j) "Operating Costs", however, shall be reduced by the proceeds of insurance and damages paid by third parties in respect of an to the extent of costs included in Operating Costs as set forth above but to the extent only of the amount actually received;
 - (k) Operating Costs, however, shall exclude or there shall be deducted from Operating Costs (as the case may be) the following:
 - (i) Realty Taxes.

7. **“Generally Accepted Accounting Principles”** means accounting principles generally accepted in Ontario at the time the proper accounting treatment for the relevant costs or allocation is determined.
8. The Gross Revenue and Operating Costs for the period from the Commencement Date to the end of the calendar year in which the Commencement Date falls shall not be separately calculated or allocated but shall be included in the calculations, allocations and determination of the following calendar year. However, for the calendar year in which the Term ends, the calculation, determination and allocation shall not be included in the preceding Rental Year but shall be calculated determined and allocated and paid as a separate Rental Year.

SCHEDULE “E-1”

CORE BUSINESS OF THE TENANT

The following list represents the competitions owned and managed by EMG and the competitions currently under contract to host events at the Caledon Equestrian Park. These dates represent the core business of EMG.

- Classic @ Palgrave Phase 1 – May 11-15, 2011
- Caledon National – May 18-22, 2011
- Trillium @ Palgrave – May 27-29, 2011
- Spring into Dressage – June 3-5, 2011
- Classic @ Palgrave Phase 2 – June 8-12, 2011
- Summer Classic – June 15-19, 2011
- CornerStone @ Palgrave – June 22-26, 2011
- Quarter Horse Summeramma – July 1-4, 2011
- Classic @ Palgrave – Phase 3 – July 6-10, 2012
- Dressage Summer Festival – July 15-17
- Classic @ Palgrave – Phase 4 – July 20-24, 2012
- Equestrian Festival – July 27-31, 2011
- Summer Festival – August 3-7, 2011
- Dressage Summer Classic – August 19-21, 2011
- Trillium Zone Classic – August 26-28, 2011
- Trillium Championships – September 8-11, 2011
- Autumn Classic – September 15-18, 2011
- Canadian Show Jumping Tournament – September 21-25, 2011

SCHEDULE "F"

Master Plan

November 10, 2011

THE CORPORATION OF THE TOWN OF CALEDON

6311 Old Church Road
Caledon, ON
L7C 1J6

Attention: Doug Barnes, Chief Administrative Officer

Dear Sirs:

RE: Caledon Equestrian Park in Support of the 2015 Pan American and Parapan American Games

The purpose of this Letter Agreement is to set out the terms and conditions upon which the Caledon Equestrian Park will be developed as the main venue for the equestrian events (dressage and show jumping) to be held during the 2015 Pan American and Parapan American Games.

1. Background. Toronto Organizing Committee for the 2015 Pan American and Parapan American Games (“**TO2015**”) has entered into a Multi-Party Agreement dated November 5, 2009 (the “**MPA**”) pursuant to which TO2015 has accepted the mandate to organize and execute the 2015 Pan American and Parapan American Games (the “**Games**”) in the summer of 2015. The Corporation of the Town of Caledon (“**Caledon**”) has executed a Joinder Agreement dated December 8, 2009 pursuant to which Caledon has agreed to be bound by the terms and conditions of the MPA. The MPA sets out the responsibilities of the parties thereto for the Games and the legacy component of the Games (the “**Legacy**”).

2. Description of Parties. TO2015 is a not-for-profit organization that has been granted the mandate to mount the Games as set out above.

Caledon is a municipal corporation located in the Regional Municipality of Peel which leases and manages:

- (a) the lands cross-hatched in green and in solid red on Schedule A attached (the “**TRCA Lands**”) containing approximately 36.4 acres and owned or to be owned by the Toronto and Region Conservation Authority (“**TRCA**”); and
- (b) the lands cross-hatched in red on Schedule A attached containing approximately 61.6 acres (the “**EMG Lands**”) and owned by Equestrian Management Group (“**EMG**”).

The TRCA Lands and the EMG Lands together comprise the Caledon Equestrian Park (“**CEP**”) which is operated as an equestrian facility by EMG under license from Caledon.

TO2015 and Caledon are collectively referred to as “**Parties**”. CEP is referred to herein as the “**Venue**”.

3. Objectives of the Parties. The Parties have agreed that the Venue shall be the location of equestrian events (other than the cross country equine component and modern pentathlon

events) to be held during the Games and, to that end, that the Venue will be renovated and used in the manner set out herein (the “**Project**”).

4. Conduct of the Parties. In respect of the performance of their roles and responsibilities under this Letter Agreement, each Party agrees that it will (a) act in a cooperative and collaborative manner in carrying out its respective roles with respect to the Project as necessary, so as to facilitate the effective and efficient delivery of the Project; (b) throughout the Project, keep the other Party informed with respect to the status of the Project, as necessary; and (c) at all times, act in an open and transparent manner and in accordance with the best interests of the Project.

Notwithstanding the foregoing, the Parties acknowledge and agree that, if TO2015 determines that a particular course of action must be taken, or that a decision is required to be made in a certain way in order to meet TO2015's responsibility to deliver the Project in time for and in the manner required by the Games, then TO2015 may direct that a particular course of action be taken or decision be made and the other Party shall comply with such direction, to the extent reasonable, including, if considered necessary by Caledon, by amending other agreements and leases to which TO2015 may not be a party where such direction would affect such agreements.

5. Obligations of Caledon. Caledon agrees that it will perform the following obligations:

- (a) Oversee and manage the Project pre-development activities necessary to prepare the Venue for construction activities including but not limited to: (i) conducting necessary provincial and federal environmental assessments in accordance with applicable legislation; and (ii) securing and managing any necessary leases, restrictions, options agreements and land transfers as between Caledon and any other parties to ensure that the appropriate parties control the Venue and that Caledon has the requisite power and authority to enter into this Agreement and the Facility Agreement and to enforce same; (iii) any zoning or use amendments; (iv) demolition activities; (v) servicing and enabling works;
- (b) Prepare a functional program for the Venue consistent with both Games and Legacy requirements for the review and approval of TO2015;
- (c) Develop plans and necessary documents to fully illustrate the Project for review and approval of TO2015, Equine Canada (“**EC**”) and Federation Equestre Internationale (“**FEI**”);
- (d) Prepare a list of the proposed design candidates for the review, evaluation and approval of TO2015, EC, and FEI working in collaboration with the Caledon;
- (e) Provide such plans and documents to TO2015 to act as base drawings for Games overlay documentation in electronic format;
- (f) Subject to the approval of TO2015, enter into, oversee, execute and manage all design contracts and construction contracts in accordance with approved open, fair and transparent contract competition procedures, in accordance with Caledon's purchasing policy (but in any event in an a manner that is no less rigorous than the procedures used by TO2015) in a way that respects the diversity strategy of TO2015;
- (g) Employ best practices for the procurement of goods and services, project management, design and construction in order to support the efficient, effective delivery of the Project in a manner that will meet or exceed the requirements and expectations of TO2015;

- (h) Incorporate TO2015 objectives and requirements into all elements of the Project design and construction including, without limitation, requirements with respect to delivery of the Games, diversity, accessibility and sustainability;
- (i) Provide regular progress reporting to TO2015 in a form acceptable to TO2015, acting reasonably, with respect to all procurement, design, construction, financial and other Project-related matters;
- (j) Be responsible for all insurance needs of the Project and the usual activities associated with the operation of the Venue and name TO2015 as an additional insured;
- (k) Be solely responsible to TO2015 for Caledon's share of the Project Budget as set forth herein and in the MPA;
- (l) Comply with the MPA and ensure that any and all leases, licenses, agreements and restrictions entered into are also consistent with the MPA;
- (m) Seek and obtain TO2015 approvals as necessary to authorize and execute the work of the Project;
- (n) Provide access to TO2015 and its Project Manager who shall have full access and full disclosure rights during all phases of the Project;
- (n)o) Be solely responsible for any cost overruns in excess of the approved Project Budget;
- (p) Enforce all Project warranties for the benefit of the Games;
- (q) Enter into the Facility Agreement;
- (r) Complete all of the foregoing with due dispatch and within the timelines established by TO2015 to ensure that the Venue is complete and ready in advance of the Games and in any event by no later than June 1, 2014.

6. Obligations of TO2015. TO2015 agrees that it will perform the following:

- (a) Provide Games-related information on a timely basis to assist the Parties with the timely development of the Project;
- (b) Provide timely approvals, subject to rights and obligations under the MPA, when and as required to allow the timely development of the Project;
- (c) Subject to invoice approval and audit rights, contribute up to 56% of the Project Budget as set out in Paragraph 10 below;
- (d) Subject to receipt of proper information from Caledon, seek and obtain, necessary approvals from EC and FEI as required for the proper execution of the events planned for the Venue during the Games;
- (e) Provide Games overlay and operational oversight consistent with the requirements of the Games; and
- (f) Provide to the Parties for their review and reasonable comments, the Facility Agreement.
- (g) Be responsible for any supplemental insurance needs at the test events and Games events hosted at the Venue which supplemental insurance shall be in addition to insurance placed by Caledon and will name Caledon, as an additional insured.

7. Project Schedule. The Parties agree that time is of the essence for all aspects of the Project schedule and each Party shall use commercially reasonable measures to ensure that critical dates are met. To this end, the Parties acknowledge and agree that the Venue must be ready for pre-Games activities (including test events and training) by no later than June 1, 2014. Critical dates and milestones will be further defined in the Facility Agreement.

8. Project Budget. The Parties acknowledge that the actual costs of completing the Project have not yet been determined but that they are estimated to be in the upset range of \$11,712,500. Caledon, in a timely manner, will prepare for TO2015 approval a budget for the Project (the "**Budget**") which will include an appropriate contingency for cost overruns.

9. Allowable Costs. Budget allowable and excluded costs shall be defined in the Facility Agreement and shall generally be determined as follows:

- (a) Allowable costs will include:
 - (i) Hard construction costs including direct and indirect costs attributable to the construction of the Project;
 - (ii) On-site development costs as required by the site plan application process including costs related to archeological assessment, storm water management report, traffic impact study, soil stability and geotechnical report, lighting study, Federal Environmental Assessment and hydro-geological study; and
 - (iii) TO2015 soft costs including design consulting fees, TO2015 project management fees, TO2015 Project Manager review services.

- (b) Excluded costs will include:
 - (i) Offsite enabling works, if required;
 - (ii) Caledon administrative and other soft costs
 - (iii) Costs of remediation, if any;
 - (iv) costs to the Project that result from increases in scope which are requested and approved by Caledon including as a result of enhancements to the functional program; and
 - (v) HST.

All costs associated with environmental assessment and remediation of the Project shall be the sole responsibility of Caledon. However, TO2015 agrees that the initial costs associated with an environmental assessment consultation shall be included in the Budget. Remediation costs arising from prior use of the Venue shall be paid by Caledon. Soft costs of Caledon, including the costs associated with pre-development studies, shall not be included in the Budget and shall be for the sole account of Caledon.

10. Project Funding.

- (a) Subject to the provisions of paragraph (b) below, Caledon shall be responsible for the payment of all capital costs associated with the Budget plus HST.
- (b) In accordance with the MPA, TO2015 (on behalf of the Federal Government) will contribute 56% towards the total costs associated with the Budget (excluding HST) to a maximum of \$6,559,000.
- (c) TO2015 will not contribute to excluded costs.
- (d) Caledon will be responsible for all HST payable in connection with the Budget.
- (e) Hard costs and soft costs will be invoiced by Caledon to TO2015 on a quarterly basis.
- (f) TO2015 will reimburse Caledon for allowable invoiced hard and soft costs required as a result of any audit conducted by Caledon. Such reimbursement may take the form of an adjustment to future invoices and will be capped at the

lesser of 5% of the Budget and \$5,000,000.

- (g) The Budget and all invoices issued thereunder shall be subject to audit rights by TO2015.

11. Budget management.

The Parties agree that:

- (a) it is the obligation of each and every Party to ensure that the expenditures will not exceed the amounts estimated and shown in the Budget;
- (b) each Party will monitor its expenditures diligently and will provide timely notice to the other Party of any potential over-runs;
- (c) each Party will ensure that appropriate contingencies are incorporated into the Budget so as to provide funds in the event of any expenditure over-runs.

12. Signage during construction and Games. Caledon agrees that during the Games period, TO2015 reserves the right to:

- (a) Designate the name for the Venue;
- (b) Erect signage for the Venue;
- (c) Associate any trademarks or branding with the Venue;
- (d) Install any TO2015 or Games signage at the Venue.

Any of the foregoing rights may be sublicensed to any sponsor of TO2015 or the Games and Caledon will not enter into nor permit anyone else to enter into any agreement or commitment with any party that conflicts with such sponsors rights or interferes with or derogates from TO2015's rights hereunder. As of the commencement date of the Games, the Venue shall be "clean" from a signage and sponsorship perspective.

13. Disclosure under FIPPA. TO2015 may be required to disclose this Letter Agreement under the Freedom of Information and Protection of Privacy Act ("**FIPPA**") or, alternatively, may choose to make voluntary disclosure by way of posting on its website. Caledon expressly agrees to such disclosure.

14. Publicity. Any publicity or publications related to this Letter Agreement shall be at the sole discretion of TO2015. TO2015 may, in its sole discretion, acknowledge the relationship with Caledon. Caledon shall not make use of its association with TO2015 without the prior written consent of TO2015. Without limiting the generality of this paragraph, Caledon shall not, among other things, at any time, directly or indirectly, communicate with the media in relation to this Letter Agreement unless it has first obtained the express written authorization to do so by TO2015.

15. No association with Games. Nothing contained in this Letter Agreement shall be deemed to confer on Caledon the right to associate with TO2015 or the Games in any way without the consent, in writing, of TO2015. Without limiting the generality of the foregoing, Caledon shall not have the right to: advertise or promote itself as an official supplier to TO2015 or the Games; claim any official affiliation with TO2015 or the Games; use any official marks, symbols or nomenclature of TO2015 or the Games. Caledon further agrees that none of its sponsors shall have any right to associate with the Games or to supply the Games and that any association of TO2015 with Caledon or any of its sponsors shall be in the sole discretion of TO2015.

16. Facility Agreement. The Parties agree that, upon execution of this Letter Agreement, they will work toward execution of a more comprehensive facility agreement (the “**Facility Agreement**”) for the Venue that will outline, in more particularity, the obligations of the Parties with respect to construction, Project Budget, Games overlay, operation during the Games, and post-Games period consistent with the provisions herein.

Without limiting the generality of the foregoing or the other matters dealt with in this Letter Agreement, the Parties acknowledge that the Facility Agreement will address the following non-exhaustive list of items:

- The official language requirements established by the MPA;
- Financial penalties associated with the late delivery of the Project to TO2015;
- Participation of all Parties in a Venue Works Committee to monitor the Project;
- Operation and maintenance of the Venue in the period between substantial completion of the Project and Games time;
- Use of the Venue for training events in the period between substantial completion of the Project and Games time;
- Exclusive use of the Venue for test events in the period between substantial completion of the Project and Games time;
- Pre-Games inspections and planning activities
- Exclusive use of the Venue for Games overlay and Games, currently expected to be the period from June 15 to July 31, 2015, with an additional period of non-exclusive use to be determined;
- The provision of sufficient utilities and services for Games use;
- Staffing during Games time, union cooperation and volunteer participation;
- Exclusive broadcast rights during Games time;
- Security and accreditation;
- Exclusive control by TO2015 of advertising, marketing, sponsorships, retail, food and beverage, supply contracts, concessions, ticketing, furniture and equipment during Games time;
- Legacy use including access for community use and high performance sport.

17. Representations and Warranties by Caledon. Caledon covenants, represents and warrants to TO2015 that it has the exclusive right and ability to enter into this Letter Agreement and Facility Agreement with TO2015 and to perform its obligations hereunder and that such performance will not constitute a breach of any other agreement to which Caledon is a party. Caledon further covenants that it will fully enforce the provisions of this Letter Agreement and the Facility Agreement against all other parties who may have an interest in the Venue by virtue of agreements entered into with Caledon including, without limitation, TRCA and EMG.

This Letter Agreement shall remain in full force and effect until the earlier of (a) execution of the Facility Agreement; (b) completion of the Games.

If the foregoing is acceptable to you, please so indicate by signing below and returning a fully signed copy to the undersigned at TO2015.

We look forward to working with you to achieve successful Games.

Yours truly,

TORONTO ORGANIZING COMMITTEE FOR THE 2015 PAN AMERICAN AND PARAPAN AMERICAN GAMES

Murray Noble
Sr. VP of Infrastructure

Agreed to and accepted this ___ day of November, 2011

THE CORPORATION OF THE TOWN OF CALEDON

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I have authority to bind the corporation.