

Services Deed

Between

V8 Supercars Australia Pty Limited

and

Newcastle City Council



Date	14 December 2016
Parties	
1.	V8 Supercars Australia Pty Limited (ACN 077 053 484) as trustee for the AVESCO Unit Trust (ABN 21 767 230 845) of 45 Nerang St, Southport QLD 4215, Australia ("V8SCA")
2.	Newcastle City Council (ABN 25 242 068 129 of City Administration Centre, 282 King Street, Newcastle New South Wales 2300 (the "Service Provider")
Recitals	
A	V8SCA is the controlling body of the Championship.
B	The Service Provider is the Service Provider as detailed in Schedule 1.
C	V8SCA appoints the Service Provider to provide the Services on the terms of this Deed.

It is agreed as follows.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Deed, unless the context otherwise requires:

"Affiliate" means any director, officer, employee, agent, Service Provider, subcontractor, consultant or adviser, or Related Entity of a Party;

"Business Day" means a day on which all banks are open for business in New South Wales, Australia that is not a Saturday, Sunday or a gazetted public holiday in New South Wales, Australia;

"Championship" means the primary motor racing championship managed by V8SCA, at the time of this Deed named the "Virgin Australia Supercars Championship".

"Circuit" means the venue for the Event, including without limitation the race track and all associated buildings, facilities, off-track events and ticketed areas at that venue, as set out on the map in Schedule 4.

"Commencement Date" means the date on which this Deed becomes binding as detailed in Schedule 1;

"Competitor" means any person or entity who competes directly with V8SCA or any of its Related Entities or any of their products or services;

"Confidential Information" means any confidential information provided by V8SCA or any of its Affiliates to the Service Provider or any of its Affiliates, or otherwise obtained by the Service Provider or any of its Affiliates, whether obtained before or after execution of this Deed, in connection with V8SCA or any of their Affiliates, the Services or this Deed. It includes:

- a) the terms and conditions of this Deed;

- b) all business, technical, operational or financial information relating to the business of V8SCA, including but not limited to all documents, records, reports and forecasts which relate to V8SCA or V8SCA's business;
- c) all know-how or trade secrets of V8SCA or its Related Entities;
- d) V8SCA's, its Related Entities' Intellectual Property, including any Developed Intellectual Property Rights developed as a result of the Service Provider providing the Services under this Deed;
- e) details of V8SCA's customers or suppliers or of any of its Related Entities;
- f) any information created under or arising out of the provision of Services under this Deed; and
- g) all other information which by its nature or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential to V8SCA or its Related Entities.

It does not include information which:

- a) is lawfully obtained by the Service Provider from a third party and is not subject to a pre-existing obligation of confidentiality;
- b) is in or becomes part of the public domain, other than through a breach of this Deed;
- c) was known to the Service Provider at the time of disclosure, unless such knowledge arose through breach of an obligation of confidence; or
- d) the Service Provider can prove, by contemporaneous written documentation, was independently acquired or developed without breaching any of the obligations set out in this Deed;

"Deed" means this agreement including all Schedules and/or Annexures;

"Developed Intellectual Property Rights" means any Intellectual Property discovered, developed or which has otherwise come into existence as a result of, for the purposes of, or in connection with the performance of the Services or this Deed;

"Event" means the officially sanctioned round of the Championship to be staged by V8SCA at the Circuit annually during each year of the Term;

"Event Benefits" means the benefits provided by V8SCA to the Service Provider in respect of each year's Event during the Term, as set out in Schedule 3;

"Expiration Date" means the date on which this Deed expires as detailed in Schedule 1;

"Government Entity" means a government or any department, agency or instrumentality thereof (including any company or other entity controlled by a government), a political party or a public international organisation;

"Government Official" means any officeholder, employee or other official (including any immediate family member thereof) of a Government Entity, any person acting in an official capacity for a Government Entity or any candidate for political office;

"GST" means goods and services tax imposed under the GST Act;

"GST Act" has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), or if that Act does not exist means any Act imposing or relating to the

imposition or administration of a goods and services tax in Australia and any regulation made under that Act;

"Insolvency Event" means, in respect of a Party, the happening of one or more of the following events:

- a) except for the purpose of a solvent reconstruction or amalgamation which has the prior written consent of the other Party:
 - i. a liquidator, provisional liquidator, controller or any similar person is appointed to, or takes possession or control of, all or any of its assets or undertaking;
 - ii. an administrator is appointed to it;
 - iii. it enters into, or resolves to enter into, an arrangement, compromise or composition with any of, or any class of, its creditors or shareholders, or an assignment for the benefit of any of, or any class of, its creditors, or process is filed in a court seeking approval of any such arrangement, compromise or composition; or
 - iv. a reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors is proposed or effected;
- b) it is unable to pay its debts or it is presumed to be insolvent under any applicable law;
- c) it stops or suspends or threatens to stop or suspend:
 - i. the payment of all or a class of its debts; or
 - ii. the conduct of all or a substantial part of its business; or
- d) anything having a substantially similar effect to any of the events specified in paragraphs (a) to (d) above happens to it in any jurisdiction;

It does not include the appointment of an Administrator in accordance with the terms of the Local Government pursuant to a Proclamation made by the Governor of New South Wales in connection with the announcement of a council merger between Newcastle City Council and another council.

"Intellectual Property" means any present and future rights, title and interests in and to any industrial or intellectual property rights, whether registrable or not, including but not limited to any confidential information, copyright, moral rights, patents, ideas, concepts, methods, processes, procedures, systems, reports, computer programs, techniques (including function, process, system and data models), templates, generalised features of the structure, sequence and organisation of software, user interfaces and screen designs, consulting and software tools, utilities and routines, logic, coherence and methods of operations of systems, inventions, trade secrets, know-how, product formulations, designs, circuit layouts, data, databases, plant varieties, trademarks, brand names, business names, domain names, internet addresses, applications for any of the foregoing and any improvements, enhancements or modifications to any of the foregoing;

"Nominated Representative" means, in respect of each Party, the person whose details are set out in Schedule 1 for the purposes of clause 4.1;

"Party/Parties" means V8SCA and/or the Service Provider, as the case may be;

"Personal Information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in writing or spoken, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

"Privacy Law" means the Privacy and Personal Information Protection Act, 1998 (NSW) and regulations that relate to commercial communications with individuals (including but not limited to electronic communications), privacy or to the collection, use, disclosure or handling of information about individuals and any code of practice or Privacy Management Plan by which the Service Provider is bound;

"Related Entity" has the meaning in section 9 of the *Corporations Act 2001* (Cth);

"Services" means the services to be provided to V8SCA by the Service Provider pursuant to this Deed, as detailed in Schedule 2 hereto;

"Term" means the term of this Deed, as set out in clause 2.

1.2 In this Deed (except where the context otherwise requires):

- a) any schedules, attachments and annexures form part of this Deed;
- b) any reference to a clause or Schedule is to the relevant clause or Schedule of or to this Deed and any reference to a paragraph is to the relevant paragraph of the Schedule in which it appears;
- c) headings are included for convenience only and shall not affect the interpretation of this Deed;
- d) use of the singular includes the plural and vice versa;
- e) use of one gender includes the other genders;
- f) words such as "includes" and "including" are not to be construed as words of limitation;
- g) if a payment or other act is required by this Deed to be made or done on a day which is not a Business Day, the payment or act must be made or done on the following Business Day;
- h) a reference to '\$' or 'dollars' is to Australian dollars and all amounts payable under this Deed are payable in Australian dollars;
- i) a reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- j) a reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time;
- k) any reference to "persons" includes natural persons, firms, partnerships, companies, corporations, associations, joint ventures, organisations, governments, states, foundations and trusts (in each case whether or not having separate legal personality); and
- l) a covenant or agreement on the part of two or more persons binds them jointly and severally.

2 TERM

Initial period

- 2.1** This Deed commences on the Commencement Date and continues until the Expiration Date unless otherwise agreed in writing by the Parties, or unless terminated early in accordance with clause 14.

Option to extend

- 2.2** V8SCA may, at its discretion at any time prior to the date that is 30 days prior to the Expiration Date, extend the term of this Deed for an additional 5 years from the Expiration Date on the same terms and conditions as set out in this Deed, save as to dates which will need to be updated.

3 THE SERVICES

Supply of Services

- 3.1** V8SCA appoints the Service Provider to provide, and the Service Provider agrees to provide, the Services on the terms and conditions set out in this Deed.

Non exclusivity

- 3.2** Nothing in this Deed creates an exclusive relationship between the Parties in relation to the provision of services like the Services. Nothing in this Deed restricts V8SCA's right to contract with other persons for the performance of services similar to the Services, or to perform any of the Services itself.
- 3.3** Nothing in this Deed is intended to constitute a relationship of agency, partnership, joint venture or trust between V8SCA and the Service Provider. The Parties agree and acknowledge that the Service Provider shall act solely as an independent contractor whilst providing the Services pursuant to this Deed.

Performance of Services

- 3.4** At all times during the term of this Deed, the Service Provider must provide the Services:
- a) promptly, carefully and to the highest possible standard in the ordinary course of carrying out its role as Newcastle City Council;
 - b) in accordance with all applicable laws and regulations;
 - c) exercising all due care, skill and judgement, in an efficient, professional and cost effective manner and in accordance with its role as Newcastle City Council;
 - d) in accordance with reasonable and timely instructions or directions given by V8SCA and/or its Nominated Representative; and
 - e) otherwise in accordance with any specified key delivery dates as described in Schedule 2.

Compliance with laws and directions

- 3.5** At all times during the term of this Deed, the Service Provider must:
- a) hold all authorisations, permits and licences required under any law to perform the Services;
 - b) comply with the requirements of all laws of any kind applying to the Service Provider or to the performance of the Services;

- c) if any, and as advised by V8SCA by no later than 30 June in the relevant year of the Term, comply with V8SCA's standards, operating principles, policies and procedures, in effect from time to time which are consistent with this Deed; and
- d) comply with all reasonable and timely written directions from V8SCA and/or its Nominated Representative.

Cancellation or redirection of Services

- 3.6** If V8SCA considers, acting reasonably, that the Services, or any part of the Services, are not being performed to the required standard, V8SCA may, in addition to any other rights it has under the Deed, cancel or discontinue such Services or engage a third party to provide such Services. V8SCA shall, before exercising its right to cancel or discontinue such Services, first issue a notice in writing addressed to the Service Provider, specifying the required Service or part of the Service to be rectified or remediated and to allow the Service Provider sufficient time, for it to carry out the required Services or part of the Services, the subject of the notice in writing, as may be agreed between V8SCA and the Service Provider.

Delays in delivery of Services

- 3.7** The Service Provider must immediately notify V8SCA in writing if it believes at any time that it is unlikely to be able to deliver any part of the Services by the date specified for delivery. The notice must contain detailed reasons for the anticipated delay and the Service Provider's best estimate of the expected delay. Notification will not relieve the Service Provider from any of its obligations under this Deed.
- 3.8** If the Service Provider provides V8SCA with a notice under clause 3.7, or if any delay otherwise occurs in relation to the performance or delivery of the Services or any part of the Services, V8SCA may, in addition to any other rights it has under this Deed, grant the Service Provider an extension of time to provide the Services the subject of the delay, cancel such Services or engage a third party to provide any such Services.

V8SCA Rights

3.9 V8SCA will retain all commercial rights and other rights in respect of the Event including, without limitation:

- (a) all commercial revenues in respect of the Event;
- (b) all inventories and assets in respect of the Event or otherwise owned by V8SCA and/or its Related Entities;
- (c) Circuit access times at the Event provided that the access times do not impede the Service Provider's ability to carry out the Services;
- (d) all media and broadcast rights to the Event (including all rights to make audio visual recordings of the Event);
- (e) all branding and sponsorship rights regarding the Event;
- (f) any Government Entity funding, sponsorship or other payments;
- (g) commercial rights to licence or merchandise the Event logo and other intellectual property relating to the Event; and
- (h) Event program royalties.

3.10 Clause intentionally not used.

Conflicts of interest

3.11 The Service Provider warrants that as at the date of this Deed it has disclosed in writing to V8SCA all Competitors to whom it currently provides services or to whom it is reasonably foreseeable that the Service Provider will provide services in the future, if any.. At all times during the term of this Deed, the Service Provider must notify V8SCA in writing immediately if it is, or there is the potential that it may be, engaged to provide goods or services to a Competitor and take such action as may be reasonably required by V8SCA.

Protection of information systems

3.12 If the Service Provider is given access to any of V8SCA's information technology systems to enable it to provide the Services, the Service Provider must:

- a) take all reasonable care in utilising the information technology systems including all hardware, software and applications and observe all notified security procedures and work practices;
- b) take all reasonable steps to ensure that it does not interfere with or disrupt or cause any damage to such systems; and
- c) ensure that such systems are protected from unauthorised access, use, misuse, damage or destruction by any person having access to those systems through the Service Provider and must use reputable anti-virus software.

4 NOMINATED REPRESENTATIVES

4.1 Each Party must appoint a Nominated Representative as its authorised representative under this Deed. The Party's Nominated Representative will be responsible for the day to day administration of this Deed on behalf of the Party appointing them.

4.2 The Service Provider must ensure that the Service Provider:

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- a) appoints a competent person to be the Service Provider's Nominated Representative who will be responsible for the day to day oversight of the performance of the Services by the Service Provider. If the Service Provider engages any people other than the Service Provider's Nominated Representative to assist with the provision of the Services on a day to day basis then any such person must be supervised by and report directly to the Service Provider's Nominated Representative;
 - b) notifies V8SCA's Nominated Representative in writing immediately upon a new Nominated Representative being appointed by the Service Provider or of any change of address or telephone number of the Service Provider's Nominated Representative; and
 - c) ensures that the Service Provider's Nominated Representative is available and able to be contacted by V8SCA's Nominated Representative during hours consistent to the Services provided under this Deed.
- 4.3 Each Party is responsible for the acts, omissions and defaults of its Nominated Representative. Any direction, instruction, notice, approval or other communication made or given to its Nominated Representative by each Party will be deemed to have been made or given by each Party.

5 V8SCA OBLIGATIONS

V8SCA Obligations

- 5.1 V8SCA will provide the Service Provider with the Event Benefits in respect of each year's Event during the Term.
- 5.2 V8SCA acknowledges, accepts and agrees that it has sole management and control of the Event.
- 5.3 The Service Provider acts under the direction of V8SCA for the provision of the Services relevant to the Event.
- 5.4 V8SCA acknowledges, accepts and agrees that it is the person conducting a business or undertaking (PCBU) whilst in the course of managing and controlling the Event for the purposes of the Work Health and Safety Act 2011 (NSW) and the Work Health and Safety Regulation 2011 and that it will comply with all such applicable laws and legal requirements imposed under such laws as a consequence of it being a PCBU.
- 5.5 V8SCA agrees with the Service Provider that it will comply with all legal and planning requirements of the Service Provider, noting that the Service Provider is a local council and that the Service Provider cannot fetter its ability to be a planning and regulatory authority for the purposes of the Local Government Act, 1993 (NSW) and the Environmental Planning and Assessment Act, 1979 (NSW), including the roads authority for the Circuit for the purposes of the Roads Act, 1993 (NSW).

Service Provider costs

- 5.6 Unless otherwise agreed in writing between the parties, the Service Provider will be responsible for all own fees, expenses, charges and costs incurred in the provision and completion of the Services and V8SCA will not be liable to the Service Provider for the payment of any amounts other than as expressly set out in this Deed.

6 GST

- 6.1 Terms in this clause 6 have the same meaning as in the GST Act unless otherwise provided.
- 6.2 If a Party ("**GST Supplier**") makes a supply to another Party ("**GST Recipient**") in connection with this Deed (including the provision of the Services), the GST Recipient must pay the GST Supplier an amount equal to any GST payable by the GST Supplier in relation to that supply ("**GST Amount**"), unless the amount payable by the GST Recipient for that supply is already expressed to be inclusive of GST.
- 6.3 The GST Amount must be paid at the same time and in the same manner as making payment of any monetary consideration on which GST is calculated. If the GST Amount is not calculated on monetary consideration, the GST Recipient must pay the GST Amount within 7 days of receipt of a written demand from the GST Supplier.
- 6.4 The GST Recipient's obligation to pay the GST Amount is conditional on the GST Supplier providing the GST Recipient with a tax invoice that complies with the GST Law.
- 6.5 The GST Supplier must do all other things reasonably requested by the GST Recipient to enable the GST Recipient to obtain any input tax credit or other statutory set-off to which it is entitled.
- 6.6 If in relation to a supply made under this Deed an adjustment event occurs that gives rise to an adjustment, the price of that supply (including any GST Amount) will alter accordingly and the GST Supplier must issue an adjustment note to the GST Recipient.

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- 6.7 If a Party to this Deed is required to pay, reimburse or indemnify another Party to this Deed for any cost, expense or other amount that the other Party has incurred or will incur in connection with this Deed, that amount will be reduced by any part thereof for which the other Party (or representative member of this other Party) can claim an input tax credit, partial input tax credit or other like offset.
- 6.8 This clause 6 survives the expiration or termination of this Deed.

7 CLAUSE INTENTIONALLY NOT USED

8 CONFIDENTIALITY

- 8.1 Where the Service Provider is provided with Confidential Information under this Deed, the Service Provider must:
- a) keep the Confidential Information confidential;
 - b) not use, disclose, access or reproduce the Confidential Information for any reason except as is necessary to perform this Deed;
 - c) not, without V8SCA'S prior written consent, disclose Confidential Information to any person other than its employees who need the information for the purposes of this Deed; and
 - d) establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access, use, copying or disclosure, including but not limited to any security measures specified by V8SCA.
- 8.2 The Service Provider acknowledges that the Confidential Information is the valuable property of V8SCA and that any disclosure of it could give rise to potential loss and damage to V8SCA.
- 8.3 The obligations in this clause 8 shall not apply to any information which is:
- a) publicly available through no fault of the Service Provider;
 - b) disclosed under requirement of law or court order; or
 - c) disclosed by the Service Provider with V8SCA'S prior written approval.
- 8.4 At the request of V8SCA, the Service Provider shall not permit any employee, agent or subcontractor of the Service Provider to have access to the Confidential Information until such time as that employee, agent or subcontractor has entered into a confidentiality undertaking with the Service Provider in a form approved by V8SCA in writing. For the avoidance of doubt, and at the request of V8SCA, the Service Provider shall not disclose this Deed to any third party, including, but not limited to, the Councillors of the Services Provider.
- 8.5 The Service Provider must immediately notify V8SCA of any potential, suspected or actual unauthorised use, copying or disclosure of the Confidential Information.

Return of Confidential Information

- 8.6** The Service Provider must immediately on demand, or on completion or termination of this Deed, return to V8SCA, or to the extent permitted by law destroy if requested by V8SCA, any documents in its possession, power or control containing Confidential Information. The Service Provider must not retain copies of any Confidential Information in any form, except to the extent required by law, including the State Records Act 2000 (NSW) and the Service Provider's Records Management Policy. If requested by V8SCA, the Service Provider must give evidence to V8SCA of the destruction of such documents in the event that the destruction of documents is lawfully permitted.

Continuance of obligations

- 8.7** This clause 8 survives the expiration or termination of this Deed.

9 PRIVACY

Disclosure of Personal Information to V8SCA

- 9.1** The Service Provider warrants each of the following to V8SCA:
- a) Any Personal Information that the Service Provider discloses to V8SCA under this Deed has been collected and disclosed in accordance with Privacy Law.
 - b) The individual to whom the Personal Information relates has been made aware of V8SCA's identity, of how to contact V8SCA and of the other matters of which V8SCA is required to inform a person about whom it collects Personal Information under Privacy Law.
 - c) V8SCA is authorised, either by consent of the individual or by law, to collect the Personal Information from the Service Provider and use the Personal Information for the purposes of this Deed.

Collection, use and handling of Personal Information by the Service Provider

- 9.2** In relation to any Personal Information disclosed to the Service Provider by V8SCA or otherwise collected or held by the Service Provider in connection with this Deed, the Service Provider must comply with the following provisions:
- a) The Service Provider must not collect, use, disclose, store, transfer or handle the Personal Information except in accordance with Privacy Law.
 - b) The Service Provider must take all reasonable steps to ensure that the Personal Information is protected from misuse, loss, unauthorised access, modification or disclosure.
 - c) To the extent permitted by law, the Service Provider must take all reasonable steps to destroy or permanently de-identify the Personal Information when it is no longer needed for a purpose connected with this Deed.
 - d) The Service Provider must only use or disclose the Personal Information for a purpose connected with this Deed or as required by law.
 - e) The Service Provider must co-operate with any reasonable request or direction of V8SCA which relates to the protection of the Personal Information or the exercise of the functions of the Privacy Commissioner under Privacy Law.
 - f) The Service Provider must ensure that access by its representatives is limited to people required to access the Personal Information for the purposes of this Deed.

- g) The Service Provider must ensure that any of its representatives who access the Personal Information comply with the requirements of this clause and of the Privacy Law.

Complaints

- 9.3 The Service Provider must promptly inform V8SCA in writing of any complaint that it receives concerning the use, disclosure, storage, transfer or handling of Personal Information and comply with any reasonable direction of V8SCA in relation to a complaint concerning the use, disclosure, storage, transfer or handling of Personal Information, including compliance with the requirements of the Privacy Law.
- 9.4 V8SCA acknowledges and agrees with the Service Provider that it will comply with the Privacy Law.

Continuance of obligations

- 9.5 This clause 9 survives the expiration or termination of this Deed.

10 WARRANTIES

The Service Provider's warranties

- 10.1 The Service Provider undertakes and warrants to V8SCA that:

- a) it will provide the Services in a professional manner using appropriately trained, skilled and experienced personnel;
- b) it will exercise all due care and skill in the provision of the Services to V8SCA;
- c) it will provide the Services in a manner which is consistent at all times with a reasonable and experienced Service Provider, such as a local council, performing the Services of the Service Provider;
- d) it will ensure that the Services will be fit for the purpose for which they are supplied;
- e) it will strictly comply with all applicable laws and regulations in providing the Services to V8SCA;
- f) it will not offer to pay, give, promise to pay, loan either directly or indirectly in each case money or any other thing of value to or for the benefit of a Government Official for the purpose of corruptly:
 - i. influencing any act or decision of a Government Official;
 - ii. inducing a Government Official to do or omit doing any act in violation of the Government Official's lawful duty;
 - iii. securing any improper advantage; or
 - iv. inducing such Government Official to use his or her influence with a Government Entity,
 in each instance to direct business to the Service Provider or V8SCA;
- g) it will ensure that the persons executing this Deed on behalf of the Service Provider have been duly authorised to do so by the Service Provider; and
- h) unless otherwise stated, it does not enter into this Deed as trustee of any trust.

Mutual warranty

- 10.2** Both Parties represent and warrant to the other that their respective entry into this Deed does not violate or constitute a breach of any of its contractual obligations with third parties.
- 10.3** Each Party represents and warrants to the other that it has full authority and capacity to enter into this Deed and perform this Deed in accordance with its terms.

Continuance of obligations

- 10.4** This clause 10 survives the expiration or termination of this Deed.

11 INSURANCE

Insurance

- 11.1** The Service Provider must maintain, during the term of this Deed:
- a) public liability insurance, for an amount not less than the amount specified in Schedule 1 in respect of any claim;
 - b) Councillors and officers insurance;
 - c) motor vehicle including third party property damage;
 - d) professional indemnity insurance; and
 - e) any other insurance policies referred to in Schedule 1.
- 11.2** The policies referred to in clause 11.1 must cover and name the Service Provider against any liability arising out of this Deed or in connection with the performance of the Service Provider's obligations under this Deed. The extent of cover afforded by the policy/s is limited to its terms and conditions, although any significant limitations must be notified to V8SCA in advance.
- 11.3** The Service Provider must comply with and observe the terms of all insurance policies referred to in clause 11.1 and must not do anything which could prejudice any claims or result in any policy being rendered void or voidable.

Evidence

- 11.4** On request by V8SCA, the Service Provider must deliver to V8SCA evidence satisfactory to V8SCA, such as a certificate of currency, that the Service Provider has a particular insurance policy and that the policy is current within 7 business days of a written request by V8SCA to do so, such request to occur once prior to each annual Event.

Failure to insure

- 11.5** If the Service Provider fails to comply with its obligations under this clause 11, V8SCA may:
- e) as appropriate, take out insurance of the types specified in this clause 11 and set-off the premiums paid in respect thereof against any amount payable to the Service Provider under this Deed;
 - f) cease providing the Event Benefits; or
 - g) immediately terminate this Deed.

12 INDEMNITY AND LIABILITY

12.1 The Service Provider will defend, indemnify and hold V8SCA and its Affiliates harmless from and against any and all claims, liabilities, costs, expenses, losses, damages and settlement expenses, including legal costs, that V8SCA or its Affiliates incur, whether directly or indirectly, resulting from, in connection with or arising out of any one or more of:

- a) a material breach of any of the Service Provider's obligations under this Deed;
- b) the performance of the Services;
- c) any breach of any applicable law or regulation;
- d) any negligent or wilful act, omission, default; or
- e) any fraud,

by any one or more of the Service Provider, its employees, agents or contractors.

12.2 V8SCA will defend, indemnify and hold the Service Provider and its Affiliates harmless from and against any and all claims, liabilities, costs, expenses, losses, damages and settlement expenses, including legal costs, that V8SCA or its Affiliates incur, whether directly or indirectly, resulting from, in connection with or arising out of any one or more of:

- a) a material breach of any of V8SCA's obligations under this Deed;
- b) any breach of any applicable law or regulation;
- c) any negligent or wilful act, omission, default; or
- d) any fraud,

by any one or more of V8SCA, its employees, agents or contractors.

12.3 This clause 12 survives the expiration or termination of this Deed.

13 INTELLECTUAL PROPERTY

V8SCA provided Intellectual Property

13.1 The Service Provider acknowledges and agrees that all V8SCA Intellectual Property and other related information that V8SCA provides or makes available to the Service Provider remains the property of V8SCA. The Service Provider must not use or disclose any V8SCA Intellectual Property or information for any purposes other than for the purpose of performing its obligations under this Deed.

13.2 The Service Provider must not modify or use any V8SCA Intellectual Property, V8SCA's products or refer to any of V8SCA's Affiliates on any item or in any of the Service Provider's marketing or other publications without V8SCA'S prior written consent and where such consent is granted it is limited to the performance of the Service Provider's obligations under this Deed. In the event that such consent is granted, the consent will only relate to the purpose for which the consent is provided and will automatically expire when this Deed expires or terminates and is not replaced by a new Deed for the same Services.

13.3 The Service Provider, if required, will sign any separate agreement requested by V8SCA covering the subject of this clause 13 provided the terms of such separate agreement are reasonable to the Service Provider.

Intellectual Property belonging to the Service Provider

- 13.4** V8SCA acknowledges and agrees that the Service Provider continues to own all of its Intellectual Property existing at the date of this Deed, or coming into existence during the term of this Deed other than the Developed Intellectual Property Rights.
- 13.5** If any material, matter or thing (including software, documentation or data) forming part of the Service Provider's Intellectual Property is incorporated in or attached to any V8SCA Intellectual Property or any Developed Intellectual Property Rights, the Service Provider grants V8SCA a perpetual, irrevocable, transferable and royalty free licence (including the right to sub-license) to exercise all intellectual property rights in such material, matter or thing for the purpose of accessing and using V8SCA Intellectual Property or the Developed Intellectual Property Rights.

Developed Intellectual Property Rights

- 13.6** The Service Provider agrees that V8SCA will own any Developed Intellectual Property Rights in any goods, services or material specifically developed, designed, manufactured, produced or supplied by the Service Provider to V8SCA pursuant to this Deed. The Service Provider shall ensure that any Intellectual Property existing in any such material of any nature whatsoever, including any plans, sketches, blueprints, processes shall reside with V8SCA, and the Service Provider will ensure that title to such Developed Intellectual Property Rights vests in V8SCA upon creation.
- 13.7** V8SCA grants the Service Provider a personal, revocable, non-exclusive, non-transferable and non-assignable licence to use the Developed Intellectual Property Rights in connection with the performance of its obligations under this Deed. No other right is given to the Service Provider or its representatives to use any Developed Intellectual Property Rights except in connection with the performance of the Service Provider's obligations under this Deed.

Service Provider's warranty and no infringement

- 13.8** The Service Provider warrants and represents that the Service Provider has the right to provide V8SCA with the Services and any materials developed, designed, manufactured, produced or supplied by the Service Provider to V8SCA pursuant to this Deed.
- 13.9** The Service Provider must not infringe the Intellectual Property rights of V8SCA or a third party in connection with providing the Services. The Service Provider continually indemnifies V8SCA against any loss that V8SCA incurs or suffers, as a direct or indirect result of a breach of the Intellectual Property rights of V8SCA or a third party in connection with the Service Provider providing the Services.
- 13.10** This clause 13 survives the expiration or termination of this Deed.

14 TERMINATION

- 14.1** Clause intentionally deleted.

Termination by V8SCA

- 14.2** V8SCA may terminate this Deed immediately on written notice to the Service Provider if:

- a) the Service Provider is in breach of a material term of this Deed which is capable of remedy, and the Service Provider has not remedied that breach within five Business Days after receiving a written notice from V8SCA requiring it to do so;
- b) the Service Provider is in breach of a material term of this Deed that is not capable of remedy;
- c) the Service Provider has breached any warranty given to V8SCA under this Deed;
- d) the Service Provider commits multiple or recurring breaches of a material term of this Deed, whether or not remedied;
- e) the Service Provider is the subject of an Insolvency Event;
- f) the Service Provider ceases, or indicates that it is about to cease, carrying on its business;
- g) there is any change in the effective management, ownership or control of the Service Provider;
- h) the Service Provider fails to provide the Services completely, or fails to provide the Services in accordance with this Deed; or
- i) V8SCA considers that the Service Provider, any subcontractor or a representative of the Service Provider has or may have committed a crime or been charged with an offence which V8SCA reasonably considers may have the potential to adversely affect the delivery of the Services, V8SCA'S business or reputation.

Termination by the Service Provider

14.3 The Service Provider may terminate this Deed immediately on written notice to V8SCA if:

- a) V8SCA is in breach of a material term of this Deed which is capable of remedy, and V8SCA has not remedied that breach within five Business Days after receiving a written notice from the Service Provider requiring it to do so;
- b) V8SCA is in breach of a material term of this Deed that is not capable of remedy;
- c) V8SCA is the subject of an Insolvency Event.

Return of property

14.4 On termination or expiration of this Deed for any reason, the Parties will each immediately deliver to the other all property in their possession or control which belongs to the other Party and will deliver to or destroy (as applicable and to the extent permitted by law) any Confidential Information of the other Party.

Consequences of termination

14.5 Termination of this Deed will not prejudice any rights or obligations of the Parties which exist prior to termination or expiry.

15 CLAUSE INTENTIONALLY NOT USED

16 NOTICES

Giving notices

16.1 A notice, consent, information, application, request or other communication required or permitted under this Deed, to be served on a person is only given or made if it is in writing and:

- a) sent by email to the valid email address of the Service Provider's Nominated Representative or V8SCA's Nominated Representative (as applicable) and is acknowledged as having been received by the receiving Party;
- b) delivered by hand to the address of the addressee set out in Schedule 1 of this Deed; or
- c) posted, postage prepaid, to that address.

16.2 If a Party gives the other Party 3 Business Days' notice of a change of its postal or email address, a notice, consent, information, application, request or other communication is only given or made by that other party if it is delivered, posted or emailed to the latest postal or email address.

Timing of notice

16.3 Notice is deemed given and received:

- a) if sent by email, in accordance with clause 16.1(a), when it is acknowledged as having been received by the receiving Party
- b) if delivered, upon delivery; or
- c) if sent by post, on the 2nd Business Day (at the address to which it is posted) after posting.

16.4 If a notice, consent, information, application, request or other communication is delivered, or an error free transmission report or acknowledgement in relation to it is received, after the normal business hours of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

17 GENERAL PROVISIONS

17.1 Clause intentionally not used.

No authority to act or bind

17.2 No Party has any power or authority to act for or to assume any obligation or responsibility on behalf of another Party, to bind another Party to any agreement, negotiate or enter into any binding relationship for or on behalf of another Party or pledge the credit of another party except as specifically provided in this Deed or by express written agreement between the Parties.

Variation

17.3 No document or form, including without limitation, any consignment note or receipt or delivery docket, forms part of or varies this Deed unless such a variation is expressly agreed to in writing by both Parties.

Amendment

17.4 This Deed may only be amended by the prior written agreement of both Parties.

Assignment

- 17.5** Except as set out in clause 17.6, neither Party may assign, in whole or in part, its rights and/or obligations pursuant to this Deed without the other Party's prior written consent which consent shall not be unreasonably withheld. Either Party is entitled to consent to an assignment subject to any conditions that such Party, acting reasonably, considers appropriate.
- 17.6** Notwithstanding clause 17.5, V8SCA may at any time assign in whole or in part any of its rights or obligations under this Deed to a Related Entity, provided written notice of such assignment is given to the Service Provider. The Service Provider irrevocably consents to such assignment.

Severability

- 17.7** If a provision in this Deed is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 17.8** If it is not possible to read down a provision as required in this clause that provision is to be severed to the extent necessary without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Deed, and the rest of this Deed remains in full force and effect.

Waiver

- 17.9** A Party's failure or delay to exercise a power or right that it has under this Deed, does not operate as a waiver of that power or right. The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right. A waiver is not effective unless it is in writing. Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

Governing law and jurisdiction

- 17.10** The laws of New South Wales govern this Deed. The Parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

Entire agreement

- 17.11** This Deed together with the Schedules expressly incorporated into this Deed constitutes everything the Parties have agreed in relation to the matters it deals with. No Party can rely on prior agreements, representations, communications and negotiations regarding the subject matter of this Deed, save as permitted by law.
- 17.12** The Parties acknowledge that they have not relied on any representations, promises, terms, conditions (oral or written, express or implied) other than those contained in this Deed.

Relationship of the Parties

- 17.13** Nothing in this Deed shall be construed or interpreted as creating a relationship of employment, partnership, agency or joint venture between the Parties. The relationship between the parties is that of principal and independent Service Provider.
- 17.14** The Service Provider must not:
- e) hold itself as being an agent, representative or partner of V8SCA or being in any way entitled to make any contract or agreement on behalf of V8SCA or to bind V8SCA to the performance, variation, release or discharge of any obligations; and

-
- f) hold out its employees, agents or sub-Service Providers or allow its employees, agents or sub-Service Providers to hold themselves out as being employees or agents of V8SCA.

No public announcement

- 17.15** Parties must not make any public announcement or provide any information to the public or media in relation to this Deed, the termination of this Deed, or its relationship to each other unless it first obtaining written consent of the other party. This clause survives Termination of this Deed.

Deed not to be read against party preparing it

- 17.16** This Deed is not to be construed against a party merely because that party was responsible for preparing it.

Counterparts

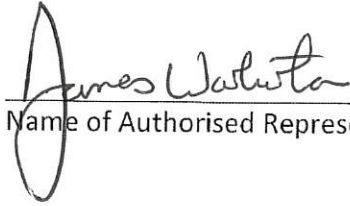
- 17.17** This Deed may be signed in counterparts and all counterparts taken together constitute one document. Once all counterparts have been executed, each counterpart is an effective instrument.

Joint and several

- 17.18** If a party consists of more than one person, this document binds them jointly and each of them severally.

SIGNED, SEALED AND DELIVERED AS A DEED:

Signed for the V8 Supercars Australia Pty
Limited by its authorised representatives:



Name of Authorised Representative

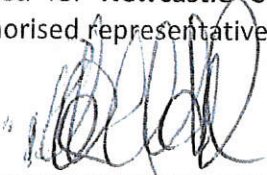
JAMES WARBURTON - C.E.O

Print Name and Position

Name of Authorised Representative

Print Name and Position

Signed for Newcastle City Council by its
authorised representative:



Name of Authorised Representative

Peter Chrystal, Interim Chief Executive
Officer

Print Name and Position

Date:

13/12/16

SCHEDULE 1**AGREEMENT DETAILS**

Commencement Date: 14 December 2016

Expiration Date: 31 December 2021

Service Provider's Details

Newcastle City Council
ABN: 25 242 068 129
Address: City
Administration Centre, 282
King Street, Newcastle
New South Wales
Australia.

Telephone number: (02)
4974 2675

Email address:
fgiordano@ncc.nsw.gov.au

V8SCA's Nominated Representative

(Clause 4)

Name: Murray Hodges
Position: Event Manager
Contact details: Ph. 02 8346 2647
Email:
mhodes@supercars.com

Service Provider's Nominated Representative

(Clause 4)

Name: Frank
Cordingley _____
Position: Director,
Infrastructure _____
Contact details: Ph. 4974 2407
Email:
fcordingley@ncc.nsw.gov.au

Insurance**Public liability insurance**

(Clause 11)

Minimum Amount \$20 million

Notices (V8SCA)

(Clause 16)

Address: 45 Nerang Street, Southport, QLD 4215

Attention: Murray Hodges

Email: mhodges@supercars.com

Copy to

Address: Level 10, 124 Walker Street, North
Sydney, NSW 2060

Email: ahogarth@supercars.com

Attention: General Counsel

Notices (Service Provider)

(Clause 16)

Address: City Administration City, 282 King Street,
Newcastle New South Wales 2300

Attention: _____

Email: _____

**Disclosure of Conflicts
(Clause 3.11)**

Ownership and/or service provision to:

1. nil.

SCHEDULE 2

SERVICES

The Service Provider will provide the following Services in respect of each Event during the Term:

- a) One track sweeping vehicle for the cleaning of the race track within the Circuit, for a five day period on or around each Event with such period to be designated by V8SCA at its complete discretion.
- b) One track sweeping vehicle for the cleaning of the race track within the Circuit, for a three day period on or around each Event with such period to be designated by V8SCA at its complete discretion.
- c) Maintenance and preparation of all parklands within the Circuit in the 14 days immediately preceding each Event, including where reasonably requested by V8SCA the provision of an arborist employed by the Service Provider to review all trees located within parklands within the Circuit for safety and the removal or any unhealthy branches on such trees.
- d) Following each Event, rectification of any parklands within the Circuit so that those parklands are left in the same condition as they were prior to the staging of each Event.
- e) Removal and reinstatement of furniture located within parklands within the Circuit as reasonably requested by V8SCA for the staging of each Event.
- f) Regular maintenance of all assets and infrastructure within the Circuit that are owned by, managed by or the responsibility of the Service Provider to ensure that such assets and infrastructure are available for the safe use of patrons attending each Event (including, all public pathways within the Circuit).
- g) Membership of, and active participation on, any and all committees responsible for traffic and transport issues in respect of each Event.
- h) Prepare and gain all necessary approvals for all traffic plans agreed between V8SCA and the Service Provider within Newcastle (but outside the Circuit) as a result of each Event.
- i) Execute the traffic management plans referred to in paragraph (h) above, and organise, manage and pay for all infrastructure and personnel required to execute those traffic management plans.
- j) Undertake all annual capital works to the parklands within the Circuit as reasonably required by V8SCA for the staging of the Event including, as may be agreed between the Service Provider and V8SCA, new footpaths, utilities assets and infrastructure that are owned by the Service Provider.
- k) Regular (and at least, annual) maintenance and upgrading of all roads within the Circuit, at the direction of and as required by V8SCA.
- l) Payment or waiver of all waste management and rubbish disposal fees, expenses or costs incurred in respect of each Event.

-
- m) Undertake all waste management, cleaning and rubbish collection and disposal required outside the boundaries of the Circuit.
 - n) During the period starting 7 days prior to each Event and ending 7 days following each Event, provision of an onsite (meaning, no greater than 10 kilometres from the Circuit) maintenance crew to service all assets and infrastructure within the Circuit that are owned, controlled, managed or the responsibility of the Service Provider.
 - o) Throughout the Term, active assistance with, and facilitation of, all community consultation required in respect of the Event as reasonably requested by V8SCA.
 - p) Provision of all landscaping and beautification projects within the Circuit following the completion of the initial civil and capital works prior to the first Event including staged (over the course of the Term) replacement planting of any trees removed to undertake the initial civil and capital works.
 - q) Provision to V8SCA of land owned or controlled by the Service Provider within the Circuit for use by V8SCA for operational requirements designated by V8SCA in respect of each Event, including the parking of Championship teams' transporters, the hosting of support category paddocks, and the hosting of the operational compound(s) used by V8SCA for the management of each Event.
 - r) As agreed, the removal before each Event and replacement (with white paint) following each Event, of all nominated line markings on public roads within the Circuit for the staging of each Event.
 - s) Install before each Event and remove following each Event, all temporary (but enforceable) traffic signage required in respect of each Event.
 - t) Provide supplies of water and a reasonable number of water trucks owned or controlled by the Service Provider for use to fill any and all water barriers as required by V8SCA in constructing the Circuit.
 - u) Remove before each Event and replace following each Event or, as agreed, cover all permanent signage within the Circuit or its surrounds necessary for the safe construction and staging of each Event.
 - v) Promptly notify V8SCA of all development applications and/or approvals, construction approvals and/or applications, and/or traffic works to take place within or contiguous to the Circuit during the Term.
 - w) Provide any assistance reasonably required by V8SCA in the event that V8SCA chooses to offer residents that reside inside the Circuit a designated vehicular access time on each day of each Event.
 - x) Ensure V8SCA's access to all sites within the Circuit for each Event including, as may be agreed between the Service Provider and V8SCA:
 - (i) Fort Scratchley; and
 - (ii) Foreshore Park.

SCHEDULE 3

EVENT BENEFITS

V8SCA will provide the following benefits to the Service Provider in respect of each Event during the Term:

- a) 100 x 3-day general admission tickets to access the Circuit during each Event;
- b) a 20 person corporate hospitality suite within the pit building for the exclusive use of the Service Provider during each Event; and
- c) a signage package within the Circuit (to be designated by V8SCA) for the use of the Service Provider. All signage designs must be approved by V8SCA in writing and all production, storage and transportation costs of such signage will be borne by V8SCA.

SCHEDULE 4

CIRCUIT