

DATED 5<sup>th</sup> DAY OF August 2008

**VARIATION OF TAB DUTY AGREEMENT**

**BETWEEN**

**TREASURER OF SOUTH AUSTRALIA**

**-AND-**

**SA TAB PTY LTD  
(A.C.N. 096 604 170)**



**Government  
of South Australia**

**CROWN SOLICITOR  
Level 9, 45 Pirie Street, Adelaide SA 5000**

**THIS AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ 2008

**BETWEEN:**

**TREASURER OF SOUTH AUSTRALIA** a body corporate pursuant to the *Administrative Arrangements Act 1994* of State Administration Centre, 200 Victoria Square, Adelaide, South Australia 5000  
(“**Treasurer**”)

**AND**

**SA TAB PTY LTD (A.C.N. 096 604 170)** of 188 Richmond Road, Marleston, South Australia 5033  
(“**Licensee**”)

**BACKGROUND**

- A. The Treasurer and the Licensee are parties to a Duty Agreement made on 6 December 2001 (as varied from time to time, the “**Duty Agreement**”).
- B. The Treasurer and the Licensee varied the Duty Agreement by a document titled ‘Variation of TAB Duty Agreement’ in 2004.
- C. Section 14(6) of the *Authorised Betting Operations Act 2000* permits the Duty Agreement to be varied by a later agreement between the parties.
- D. The parties wish to enter into this Agreement to amend the Duty Agreement.

**THE PARTIES AGREE:**

**1. DEFINITIONS AND INTERPRETATION**

**Definitions**

In this Agreement:

“**Agreement**” means this agreement between the parties.

**Interpretation**

All words and expressions defined in the Duty Agreement have the same meanings in this Agreement.

If there is any inconsistency between any term of the Agreement and the Duty Agreement then to the extent of the inconsistency that term of the Agreement prevails over that term of the Duty Agreement.

## 2. BACKGROUND

The parties agree that the matters referred to in the Background under the Agreement are true and correct in every material particular and that the Background forms part of the Agreement.

## 3. AMENDMENT OF THE DUTY AGREEMENT

With effect on and from 1 July 2008, the following amendments are made to the Duty Agreement:

3.1 Clause 5.1 is deleted in its entirety and replaced with the following:

### "5.1 **Duty payable in respect of Racing**

The Licensee must, in respect of each Relevant Period described in column 1 of the following table, pay to the Treasurer duty equal to the amount described in column 2 of the following table:

Relevant Period	Amount of Duty Payable
Relevant Periods falling between 1 July 2008 and 30 June 2009	\$252,500 plus the Variable Component
Relevant Periods falling between 1 July 2009 and 30 June 2010	\$252,500 plus the Variable Component
Relevant Periods falling between 1 July 2010 and 30 June 2011	\$252,500 plus the Variable Component
Relevant Periods falling between 1 July 2011 and 30 June 2012	\$252,500 plus the Variable Component
Relevant Periods falling after 1 July 2012 until 30 June 2016	\$252,500

3.2 Clause 5.2 is deleted in its entirety and replaced with following:

### "5.2 **Duty payable in respect of events other than Racing**

The Licensee must pay to the Treasurer duty equal to 6% of all Nett Betting Revenue (including Nett Betting Revenue derived from proprietary racing and simulated racing), other than Nett Betting Revenue attributable to Racing."

3.3 The definition of "Act" in clause 1.1 is deleted and replaced with:

"**Act**" means the *Authorised Betting Operations Act 2000 (SA)*;

3.8 The following definition is inserted at clause 1.1:

"**Racing**" has the meaning attributed in the Act;

3.9 The definition of "Variable Component" in clause 1.1 is deleted in its entirety and replaced by the following:

"**Variable Component**" means, in respect of each of the following Relevant Periods, an amount equal to the greater of:

- (a) 3% of all Nett Betting Revenue attributable to Racing between 1 July 2008 and 30 June 2009;
- (b) 2.1% of all Nett Betting Revenue attributable to Racing between 1 July 2009 and 30 June 2010;
- (c) 1.2% of all Nett Betting Revenue attributable to Racing between 1 July 2010 and 30 June 2011;
- (d) 0.6% of all Nett Betting Revenue attributable to Racing between 1 July 2011 and 30 June 2012; and
- (e) zero.

3.10 Each of the following definitions in clause 1.1 are deleted in their entirety:

- (a) "financial year";
- (b) "Flat Component";
- (c) "Review"; and
- (d) "Review Period".

3.11 Clauses 1A and 5.5 are deleted in their entirety.

#### **4. CONFIRMATION OF THE DUTY AGREEMENT**

Subject only to the amendments contained herein and such other alterations (if any) as may be necessary to make the Duty Agreement consistent with the Agreement the Duty Agreement remains in full force and effect and will be read and construed and be enforceable as if the terms of the Agreement were inserted therein by way of addition or substitution (as the case may be).

Nothing in the Agreement will abrogate, prejudice or diminish or otherwise affect any rights, remedies, obligations or liabilities of any of the parties arising with respect to any matter or thing done or effected or otherwise in respect of any Relevant Period prior to 1 July 2008.

#### **5. COSTS**

Each of the parties to the Agreement will bear that party's own legal or other costs of and incidental to the negotiation, preparation and execution of the Agreement.

#### **6. PROPER LAW**

The Agreement is governed by and construed in accordance with the laws of the State of South Australia and the parties agree to submit to the jurisdiction of the courts of that State.

#### **7. COUNTERPARTS**

This Agreement may be executed in any number of counterparts each of which is taken to be an original. All of those counterparts taken together constitute one instrument.

#### **8. NO REPRESENTATIONS**

Each party acknowledges that it has not been induced to enter into this Agreement by any promise or representation, warranty or undertaking given or made by the party, or any of its servants, agents, related or affiliated entities, contractors or

assigns, on or prior to execution of this Agreement unless such promise, representation, warranty or undertaking is contained in this Agreement. Each party acknowledges that in entering into this Agreement it has not relied on any representations or warranties about its subject matter except as expressly provided by the written terms of this Agreement.

**9. VARIATIONS**

Any variation of this Agreement must be in writing and signed by each party.

**10. NON-MERGER**

Each representation, covenant and obligation under this Agreement shall continue in full force and effect until such representation, obligation or covenant is satisfied or completed.

**11. CONTRA PROFERENTEM**

In the interpretation of this Agreement no rules of construction shall apply to the disadvantage of one party on the basis that that party put forward the Agreement or any part thereof.

**EXECUTED AS AN AGREEMENT**

**THE COMMON SEAL** of the  
**TREASURER OF SOUTH AUSTRALIA**  
was affixed hereto by the Treasurer in the  
presence of:



.....*Rebecca Bruce*.....  
Witness

Print Name: *REBECCA BRUCE*

**THE COMMON SEAL** of **SA TAB PTY LTD**  
**(A.C.N. 096 604 170)** was hereto affixed to  
this Agreement by two of its Directors or by  
one of its Directors and the Company  
Secretary



Signed: .....*[Signature]*.....

Name: *B. FLETTON*

Position: *DIRECTOR*

Signed: .....*[Signature]*.....

Name: *ANNE TULLER*

Position: *COMPANY SECRETARY*