

## Appendix 3B Annexure

The Annexure below contains a summary of the significant events that could lead to the underwriting agreement between Viva Leisure and the Lead Manager being terminated (as required by item 7E.2d of Appendix 3B) and is to be read in conjunction with the recently lodged Appendix 3B.

### Annexure

#### Summary of Underwriting Termination Events

Viva Leisure has entered into an Underwriting Agreement with Ord Minnett Limited ("Lead Manager") ("Underwriting Agreement"), pursuant to which the Lead Manager has agreed to fully underwrite the Offer on the terms and conditions of the Underwriting Agreement.

The Lead Manager's obligations under the Underwriting Agreement, including to manage and underwrite the Offer, are conditional on certain matters, including the timely delivery of a due diligence process documents and other documents.

The events which may trigger termination of the Underwriting Agreement include (but are not limited to) the following:

- (a) Viva Leisure ceases to be admitted to the official list of ASX or the ordinary shares in Viva Leisure are suspended from trading on, or cease to be quoted on, ASX;
- (b) Viva Leisure indicating that it does not intend to proceed with all or any part of the Offer;
- (c) there is an event or occurrence, including any statute, order, rule, regulation, directive or request of any governmental agency, which makes it illegal for the Lead Manager to satisfy a material obligation under the Underwriting Agreement, or to market, promote or settle the Offer;
- (d) Viva Leisure is prevented from allotting and issuing the securities the subject of the Offer by virtue of the ASX Listing Rules, applicable laws, an order of a court of competent jurisdiction or a government agency;
- (e) any director or officer of Viva Leisure is investigated for, or charged with, a criminal offence relating to any financial or corporate matter (including the Placement), or any director of Viva Leisure is disqualified from managing a corporation under the Corporations Act or investigated for any act which could give rise to a disqualification;
- (f) an executive director or the chief executive officer or chief financial officer of Viva Leisure resigns;
- (g) the S&P/ASX Small Ordinaries Index falls to a level which is 10% or more below the level of that index on the close of trading on the business day before the date of the Underwriting Agreement and closes at or below that level on:
  - (i) at least 2 consecutive business days during any time after the date of the Underwriting Agreement and prior to the settlement of Placement; or
  - (ii) at the close of trading on the business day before the settlement of the Placement;

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- (h) ASX indicates that unconditional approval to the official quotation on ASX of all securities be issued under the Placement will not be granted, on or before 9.00am on the settlement date, or if granted, the approval is subsequently withdrawn, qualified or withheld;
- (i) ASIC or the Takeovers Panel:
  - (i) holds, or gives notice of intention to hold, a hearing or investigation in relation to the Placement or Viva Leisure;
  - (ii) prosecutes or gives notice of an intention to prosecute, or commences proceedings against, or gives notice of an intention to commence proceedings against, Viva Leisure or any of its directors, officers, employees or agents in relation to the Placement and such hearing, notice, investigation, prosecution or proceeding is not discontinued before the settlement date;
- (j) certain delays in the timetable occur without the prior written consent of the Lead Manager;
- (k) Viva Leisure is or becomes in default of any of the terms and conditions of the Underwriting Agreement or a representation or warranty made or given by Viva Leisure under the Underwriting Agreement proves to be, or has been, or becomes, untrue or incorrect or misleading or deceptive;
- (l) legal proceedings against Viva Leisure or any of its directors in that capacity is commenced or any regulatory body commences any enquiry or public action against Viva Leisure;
- (m) Viva Leisure or any of its directors or officers (as that term is defined in the Corporations Act) engage in any fraudulent conduct or activity whether or not in connection with the Placement;
- (n) there is an adverse change, or an event occurs that is likely to give rise to an adverse change, in the business, assets, liabilities, financial position or performance, operations, management, outlook or prospects of Viva Leisure from that existing at the date of the Underwriting Agreement;
- (o) a statement contained in the materials of the Offer is false, misleading or deceptive or a matter required to be included in the materials of the Offer to comply with all applicable laws is omitted from the materials of the Offer;
- (p) any expression of belief, expectation or intention, or statement relating to future matters in the materials of the Offer is or becomes incapable of being met or, in the reasonable opinion of the Lead Manager, unlikely to be met in the projected timeframe;
- (q) any of the following occurs:
  - (i) a general moratorium on commercial banking activities in Australia, New Zealand, the United States, Japan, the United Kingdom or the Peoples Republic of China (including Hong Kong) is declared by the relevant central banking authority in any of those countries, or there is a material disruption in commercial banking or security settlement or clearance services in any of those countries;
  - (ii) trading in all securities quoted or listed on the ASX, the London Stock Exchange, the New York Stock Exchange, the Shanghai Stock Exchange, the Hong Kong Stock Exchange or the Tokyo Stock Exchange is suspended or limited in a material respect; or
  - (iii) the occurrence of any other adverse change or disruption to financial, political or economic conditions of Australia, New Zealand, the United States, Japan, the

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United Kingdom or the Peoples Republic of China (including Hong Kong) or any change;

- (r) in respect of any one or more of Australia, New Zealand, the United States, Japan, the United Kingdom or the Peoples Republic of China (including Hong Kong):
  - (i) hostilities not presently existing commence (whether war has been declared or not);
  - (ii) a major escalation in existing hostilities occurs (whether war has been declared or not); or
- (s) a new circumstance arises which is a matter adverse to investors in the securities offered under the Placement and which would have been required by the Corporations Act to be included in the materials of the Offer had the new circumstance arisen before the Offer materials were given to ASX;
- (t) Viva Leisure commits a breach of the Corporations Act, ASX Listing Rules, its Constitution, or other applicable laws, or has failed to comply with its continuous disclosure obligations or its Constitution;
- (u) proceedings are commenced or there is a public announcement of an intention to commence proceedings before a court or tribunal of competent jurisdiction in Australia seeking an injunction or other order in relation to the Placement;
- (v) Viva Leisure or one of its subsidiaries which represents 5% or more of the consolidated assets or earnings of the group (each a "Material Subsidiary") becomes insolvent or there is an act or omission which may result in Viva Leisure or a Material Subsidiary becoming insolvent;
- (w) any material licence, lease, permit, concession, tenement, authorisation or concession of the group ("Authorisation") is, or is likely to be, invalid, revoked or unenforceable, including as a result of the introduction of new legislation in the relevant jurisdiction;
- (x) any Authorisation is breached or not complied with in a material respect; and
- (y) the cleansing statement issued in connection with the Placement is or becomes defective or any amendment, update or correcting notice to a cleansing statement is required under the Corporations Act to be issued.

The ability of the Lead Manager to terminate the Underwriting Agreement in respect of some events will depend on whether the Lead Manager has reasonable grounds to believe that the event:

- (z) had, or is likely to have, a material adverse effect on the outcome or success of the Offer (or a part of it), the likely price at which the shares to be issued under the Offer will trade on ASX, the willingness of investors to subscribe for shares under the Offer or on the ability of the Lead Manager to settle the Offer or any part of it; or
- (aa) has given or could reasonably be expected to give rise to a contravention by, or a liability of, the Lead Manager under any applicable law or regulation.