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### Details of Filing

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Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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## Defence to Further Amended Statement of Claim

(Amended pursuant to the orders of The Honourable Justice Murphy made on 23 March 2021)

No. VID1317/2017

Federal Court of Australia  
District Registry: Victoria  
Division: General

**ZANTRAN PTY LIMITED (ACN 078 669 155)**

Applicant

**CROWN RESORTS LIMITED (ACN 125 709 953)**

Respondent

By way of Defence to the Applicant's Further Amended Statement of Claim dated ~~40~~15 March ~~2020~~2021 (**Statement of Claim**), the Respondent (**Crown**) says as follows.

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*Note: save as set out in the Defence below, defined terms have the meaning specified in the Statement of Claim. Further terms defined in this Defence are listed in the Schedule to this Defence.*

## **A**

### **A.1.**

1. As to paragraph 1, it:
  - (a) does not admit that the Group Members acquired an interest in Crown Shares during the Relevant Period;
  - (b) denies that the Applicant or the Group Members suffered any loss or damage by reason of the conduct of Crown pleaded in the Statement of Claim; and
  - (c) otherwise does not admit the allegations in paragraph 1.
2. As to paragraph 2, it:
  - (a) admits the allegations in sub-paragraph 2(a); and
  - (b) does not know and therefore does not admit the allegations in sub-paragraph 2(b).
3. It does not know and therefore does not admit the allegations in paragraph 3.

**A.2.**

4. Subject to referring at trial to the full terms and effect of the statutory provisions referred to in paragraph 4 and the ASX Listing Rules, it admits the allegations in paragraph 4.
5. It admits the allegations contained in paragraph 5.
6. It admits the allegations contained in paragraph 6.
7. Subject to referring at trial to the full terms and effect of the ASX Listing Rules and *Corporations Act*, it admits the allegations in paragraph 7.
8. It admits the allegations contained in paragraph 8.
9. It admits the allegations contained in paragraph 9.

**B**

10. It admits the allegations contained in paragraph 10.
11. ~~As to paragraph 11, it: It admits the allegations contained in paragraph 11(a) in respect of the period 1 July 2013 to 16 October 2016 (**Pleaded Period**);~~
  - (a) ~~admits that in the Pleaded Period, Crown's assets and interests included an equity stake of between approximately 34.3 percent and 27.4 percent in Melco Crown, which owned and operated casinos in Macau, and from February 2015, the Philippines; and~~
  - (b) ~~otherwise does not admit the allegations in paragraph 11.~~
12. In response to paragraph 12, it:
  - (a) admits sub-paragraph 12(a) in respect of the period 2014 to 16 October 2016 (**Pleaded Period**);
  - (a)(b) admits that in the RelevantPleaded Period, the customers of Crown Melbourne and Crown Perth included customers who travelled to Australia from other countries including China and: were extended credit to gamble at Crown Melbourne and Crown Perth:
    - (i) ~~placed bets in private gaming rooms at Crown Melbourne and Crown Perth;~~
    - (ii) ~~were extended credit to gamble at Crown Melbourne and Crown Perth;~~  
and

- (iii) ~~were provided with assistance with organising visas and travel plans and benefits including accommodation, meals and refreshments while in Australia;~~
- (b) ~~says further Studio City Macau did not open for gambling until on or about 27 October 2015; and~~
- (c) otherwise does not admit the allegations contained in paragraph 12; admits subparagraph 12(c) in respect of the Pledaded Period; and
- (b)(d) otherwise says that the allegation “at all material times” is likely to cause prejudice, embarrassment or delay in the proceedings and objects to pleading to it and under cover of that objection says it otherwise does not know and therefore does not admit the allegations.
13. In response to paragraph 13, it:
- (a) refers to and repeats paragraph 12 above;
- (b) admits paragraph 13 in respect of the Pledaded Period; and
- (b)(c) otherwise says that Crown’s VIP customers included Chinese nationals who travelled the allegation “at all material times” is likely to Australia to gamble at Crown Melbourne and Crown Perth; cause prejudice, embarrassment or delay in the proceedings and objects to pleading to it and under cover of that objection says it otherwise does not know and therefore does not admit the allegations.
- ~~(c) otherwise does not admit the allegations contained in paragraph 13.~~
14. In response to paragraph 14, it:
- (a) admits that for the financial year:
- (i) ending 30 June 2014, it reported actual operating revenue from VIP program play with respect to Crown Melbourne, Crown Perth and the Crown Aspinall’s casino in London (**Crown Aspinall’s**) of \$937,228,000 and actual total revenue (including profit on disposal of non-current assets) of \$3,094,764,000;
- (ii) ending 30 June 2015, it reported actual operating revenue from VIP program play with respect to Crown Melbourne, Crown Perth and Crown Aspinall’s of \$1,121,676,000 and actual total revenue (including profit on disposal of non-current assets) of \$3,484,753,000;
- (iii) ending 30 June 2016, it reported actual operating revenue from VIP program play with respect to Crown Melbourne, Crown Perth and Crown

Aspinall's of \$1,004,583,000 and actual total revenue (including profit on disposal of non-current assets) of \$3,617,757,000; and

- (b) says further, Crown's reported revenue from VIP program play referred to in sub-paragraph 14(a) above included revenue from junket play customers as well as direct premium play customers; and
  - (c) otherwise denies the allegations in paragraph 14.
15. In response to paragraph 15, it:
- (a) refers to and repeats paragraphs 12 and 14 above;
  - (b) otherwise denies the allegations contained in paragraph 15; and
  - (c) says further, Crown's reported revenue from VIP program play referred to in paragraph 14(a) above included revenue from non-international gamblers who engaged in VIP program play.
16. In response to paragraph 16, it:
- (a) refers to and repeats paragraphs 12, 13, 14 and 15 above;
  - (b) admits that VIP program play customers from mainland China contributed between approximately 10 percent to 12 percent of Crown's total revenue in each of the three financial years ending 30 June 2014 to 30 June 2016; and
  - (c) otherwise denies the allegations contained in paragraph 16.

## C

17. In response to paragraph 17, it:
- (a) admits that in the ~~period between 2014 and October 2016~~ Pleaded Period employees of Crown Resort Pte Ltd (a Singaporean subsidiary of Crown Australia Pty Ltd, which is and was a subsidiary of Crown Melbourne Limited) variously performed functions and tasks for the benefit of Crown on mainland China including:
    - (i) performing sales, marketing, and administration tasks in teams organised by reference to regions of mainland China;
    - (ia) contacting potential and existing Chinese VIP customers individually via telephone or text message including at times contacting potential customers who were known to Crown as having gambled at other casinos outside of mainland China;

- (ii) meeting with Chinese nationals either individually or in small numbers for the purpose of promoting Crown Melbourne and Crown Perth;
- (ia) offering the following incentives to certain Chinese nationals to travel from mainland China to Australia either individually or in small numbers to attend Crown Melbourne and Crown Perth casinos:
  - (A) gifts;
  - (B) the use of private jets operated by Crown, or chartered planes, as transport to and from Crown Melbourne and Crown Perth;
  - (C) complimentary accommodation, meals and refreshments at Crown Melbourne and Crown Perth; and
  - (D) 'Lucky Money', being a voucher which could be redeemed by Chinese nationals for gambling chips or cash on visiting Crown Melbourne or Crown Perth;
- (iii) assisting Chinese nationals with arranging travel from mainland China to Australia either individually or in small numbers so as to attend Crown Melbourne and Crown Perth and providing assistance with visa applications for those persons;
- (iv) assisting Chinese nationals who travelled from mainland China to Australia either individually or in small numbers to attend Crown Melbourne and Crown Perth to be provided with organising accommodation, meals and refreshments while in Australia;
  - (A) gifts;
  - (B) the use of private jets operated by Crown, or chartered planes, as transport to and from Crown Melbourne and Crown Perth and/or airport pick-up service;
  - (C) complimentary accommodation, meals and refreshments at Crown Melbourne and Crown Perth and elsewhere; and
  - (D) 'Lucky Money', being a voucher which could be redeemed by Chinese nationals for gambling chips or cash on visiting Crown Melbourne or Crown Perth;
- (v) assisting Chinese nationals to apply to Crown for a credit facility for use for gambling at Crown Melbourne and Crown Perth;

- (vi) reporting the results of sales and marketing activities performed by employees of Crown Resort Pte Ltd in mainland China; ~~and~~
- (vii) seeking to recover and recovering gambling debts owed to Crown by Chinese nationals who had gambled at Crown Melbourne and Crown Perth casinos by:
- (A) contacting Chinese nationals who had engaged in gambling at Crown Melbourne and Crown Perth for the purpose of requesting those Chinese nationals to pay debts incurred while gambling;
- (B) sending letters of demand and offers of compromise to Chinese nationals in respect of gambling debts incurred at Crown Melbourne and Crown Perth casinos;
- (viii) promoting to actual or prospective Chinese VIP customers VIP events, including events coinciding with major Australian cultural or sporting events and major Chinese holidays, conducted from time to time at Crown Melbourne and Crown Perth casinos, such as the Australian Open tennis, the Spring Racing Carnival, "Jingle Balls", "Golden Balls", "Chinese New Year", and "October Golden Week" by:
- (A) distributing promotional material for those VIP events;
- (B) contacting actual or prospective Chinese VIP customers;
- (C) conducting promotional tours, known as "roadshows", which involved meetings attended by Crown executives with actual or prospective Chinese VIP customers either individually or in small numbers;

### **Particulars**

The frequency of each VIP event, depended on the event. Events were typically conducted once a year, although some events were only held once or twice at Crown Melbourne or Crown Perth in the period between 2014 and October 2016.

- (ix) meeting with junket operators to discuss and arrange for the junkets to bring Chinese nationals to gamble at Crown Melbourne and Crown Perth casinos.

(cumulatively, the **Mainland China Operations**); and

~~(b) — says that employees of Crown Resort Pte Ltd, Crown Melbourne Limited and Crown travelled to China from time to time and met with actual or prospective customers of Crown Melbourne and Crown Perth; and~~

~~(c)(b) otherwise denies the allegations in paragraph 17.~~

18. In response to paragraph 18, it refers to and repeats paragraph 17 above and further:

(a) it says in answer to sub-paragraph 18(a), it:

- (i) admits that between 2014 and 30 June 2016, Crown set annual turnover targets by region or market for certain employees of Crown Resort Pte Ltd engaged in the Mainland China Operations;
- (ii) otherwise denies the allegations in sub-paragraph 18(a);

(b) says in answer to sub-paragraph 18(b), it:

- (i) admits that between 2014 and October 2016 certain employees of Crown Resort Pte Ltd who performed functions and tasks in the Mainland China Operations were eligible to earn short-term and/or long-term bonuses;
- (ii) otherwise denies the allegations in sub-paragraph 18(b).

19. In response to paragraph 19, it refers to and repeats paragraph 17 above and further:

(a) it says in answer to ~~in~~ sub-paragraph 19(a), it:

- (i) admits that by October 2016, Jason O'Connor, who was based in Melbourne and employed by Crown Melbourne Limited, visited mainland China from time to time, but irregularly, to meet with staff and actual or prospective Chinese VIP customers;
- (ii) otherwise denies sub-paragraph 19(a);

(b) says in answer to sub-paragraph 19(b), it:

- (i) admits that by October 2016, Yaohui Gaomu, who was known as Alfreed Gomez and was based in Malaysia, visited mainland China on a regular basis to perform functions as part of the Mainland China Operations;
- (ii) otherwise denies sub-paragraph 19(b);
- (iii) says further Alfreed Gomez was employed by Crown Resort Pte Ltd;

(c) says in answer to sub-paragraphs 19(c) to 19(s), it:

- (i) admits that by October 2016, the persons referred to in sub-paragraphs 19(c) to 19(m) and sub-paragraphs 19(p) to (s) of the Statement of Claim

variously undertook some or all of the functions referred to at paragraph 17(a) above on mainland China as part of the Mainland China Operations;

- (ii) otherwise denies sub-paragraphs 19(c) to 19(s); and
- (iii) says further that:
  - (A) the persons referred to in sub-paragraphs 19(c) to 19(s) of the Statement of Claim were employed by Crown Resort Pte Ltd;
  - (B) Chi Yang, referred to in sub-paragraph 19(n) of the Statement of Claim, (also known as Edison Chi) ceased employment with Crown Resort Pte Ltd on or about 30 June 2016; and
  - (C) Cao Zhiqiang, referred to in sub-paragraph 19(o) of the Statement of Claim, (also known as Frank Cao) ceased employment with Crown Resort Pte Ltd on or about 21 August 2016.

20. In response to paragraph 20, it:

- (a) says in answer to sub-paragraph 20(a), it:
  - (i) admits that from 1 February 2011 and at all times during the Relevant Period, Jason O'Connor was employed by Crown Melbourne Limited as Group Executive General Manager – VIP International;
  - (ii) otherwise denies the allegations contained in paragraph 20(a);
- (b) says in answer to sub-paragraph 20(b), it:
  - (i) refers to and repeats sub-paragraphs 19(a) and 20(a) above;
  - (ii) admits that from 1 February 2011 and at all times during the Relevant Period, Jason O'Connor had the duties referred to in paragraph 20(b)(ii) of the Statement of Claim; and
  - (iii) otherwise denies the allegations contained in paragraph 20(b).

20A In response to paragraph 20A, it:

- (a) admits that between 2014 and October 2016, Chinese VIP customers gambled at Crown Melbourne and Crown Perth; and
- (b) otherwise denies the allegations contained in paragraph 20A.

21. In response to paragraph 21, it:

- (a) refers to and repeats paragraphs 14 to 17 above; and

- (b) otherwise denies the allegations contained in paragraph 21.

## D

22. In response to paragraph 22, it:

- (a) admits that during the Relevant Period, Article 303 of the Criminal Law could be translated from Chinese into English in the words referred to in sub-paragraph 22(a) of the Statement of Claim;
- (b) admits that during the Relevant Period, Article 25 of the Criminal Law could be translated from Chinese into English in the words referred to in sub-paragraph 22(b) of the Statement of Claim;
- (c) otherwise denies paragraph 22; and
- (d) says further, that the official and operative version of the Criminal Law was in the Chinese language.

23. In response to paragraph 23, it:

- (a) says that the English translation of the title of Interpretation No. 3 is as alleged in paragraph 23 of the Statement of Claim; and
- (b) otherwise admits paragraph 23.

24. In response to paragraph 24, it:

- (a) admits that Article 1 of the Supreme People's Court Interpretation could be translated into English in the words referred to in paragraph 24 of the Statement of Claim;
- (b) otherwise denies paragraph 24; and
- (c) says further, that the official and operative version of the Supreme People's Court Interpretation was in the Chinese language.

## E

25. In response to paragraph 25, it:

- (a) admits that that the persons referred to in sub-paragraphs 19(a) to 19(r) of the Statement of Claim were detained by Chinese authorities between on or about 13 and 14 October 2016 (**18 Detainees**);
- (b) refers to and repeats sub-paragraphs 19(a)(i), 19(b)(iii) and 19(c)(iii) above;
- (c) otherwise denies the allegations contained in paragraph 25; and

- (d) says further that Cai Xiaoyu (also known as Fiona Cai) referred to in sub-paragraph 19(s) of the Statement of Claim was questioned by Chinese authorities on or about 14 October 2016.

26. In response to paragraph 26, it:

- (a) admits that in about June 2017, the 18 Detainees and Cai Xiaoyu (Fiona Cai) were charged with offences relating to contraventions of Article 303 of the Criminal Law and their cases were referred to the People's Court of Baoshan District of the Shanghai Municipality;
- (b) refers to and repeats sub-paragraphs 19(a)(i), 19(b)(iii) and 19(c)(iii) above; and
- (c) otherwise denies the allegations contained in paragraph 26.

27. In response to paragraph 27, it:

- (a) refers to and repeats sub-paragraphs 19(a)(i), 19(b)(iii) and 19(c)(iii) above;
- (b) admits that on 26 June 2017, the 18 Detainees and Cai Xiaoyu (Fiona Cai) were found guilty by three judges of the People's Court of Baoshan District of the Shanghai Municipality of the commission of gambling offences contrary to Article 25 and 303 of the Criminal Law of the People's Republic of China; and
- (c) otherwise denies the allegations contained in paragraph 27.

## F

28. In response to paragraph 28, it:

- (a) admits that on about 15 October 2016 and 16 October 2016, media outlets reported that 18 'employees' of Crown had been detained by Chinese authorities, including three Australians;
- (b) subject to referring at trial to its full terms and effect, admits that on Monday, 17 October 2016 it released a media release to the ASX titled "Response to Media Reports" (**17 October Media Release**); and
- (c) otherwise denies the allegations in paragraph 28.

### Particulars

The relevant media articles referred to in sub-paragraph 28(a) above referring to the detention of 18 'employees' of Crown included:

An article from the Australian Financial Review dated Saturday, 15 October 2016 and titled “Crown Resorts staff, including three Australians, detained in Australia”; and

An article from the South China Morning Post published on Sunday, 16 October 2016 titled “Three Australians among 18 Crown staff held: reports”.

29. In response to paragraph 29, it:

- (a) admits that Crown’s share price declined from a closing price of \$12.95 on Friday 14 October 2016, to a closing price on Monday, 17 October 2016 of \$11.15, a drop of approximately 13.9 percent; and
- (b) otherwise denies the allegations in paragraph 29.

## G

### G.1.

30. In response to paragraph 30, it:

- (a) admits that:
  - (i) on or about 6 February 2015, the Ministry of Public Security held a press conference in relation to a planned crackdown on corruption in China **(Press Conference)**;
  - (ii) in the course of the Press Conference the Ministry of Public Security made statements to the effect that:
    - (A) “*...the harm of online gambling and organizing Chinese citizens to go abroad to gamble is more prominent*”; and
    - (A)(B) “*Many of our neighbouring countries have casinos: they have established in China some offices to attract and solicit Chinese citizens to go outside the borders to gamble: this is also a focal point of the crackdown*; and
  - (ii)(iii) it was widely reported that in the course of the Press Conference the Ministry made statements to the effect that one focus of the crackdown would be on casinos operating in neighbouring countries which had set

up offices in China to attract and recruit Chinese citizens to travel abroad for gambling (**February Announcement News**);

- (b) says further that reports of the February Announcement News were generally available and in particular it was widely reported by English-language publications; and

#### **Particulars**

The February Announcement News was widely reported including by the following English language publications:

Business Times in an article dated 6 February 2015 from Bloomberg titled “China Clamps down on Foreign Casinos Wooing Chinese Gamblers”;

Reuters in an article dated 6 February 2015 titled “China to crack down on foreign casinos seeking Chinese gamblers”; and

Asia Gaming Brief at agbrief.com in an article dated 9 February 2015 and titled “China cracking down on companies luring VIPs”.

- (c) otherwise ~~does not admit~~denies paragraph 30.

31. In response to paragraph 31, it:

- (a) admits that on or about 7 February 2015, Crown became aware (within the meaning of ASX Listing Rule 19.12) of media reports of the February Announcement News; and
- (b) otherwise denies the allegations in paragraph 31.

#### **G.2.**

32. In response to paragraph 32, it:

- (a) admits that on or about 17 June 2015, staff of South Korean casino operators were detained by Chinese authorities;
- (b) denies that the Korean staff had been charged with any offences on or about 17 June 2015; and

- (c) otherwise does not know and therefore does not admit the allegations in paragraph 32.

33. In response to paragraph 33, it:

- (a) admits that on and from about 20 June 2015, Crown became aware (within the meaning of ASX Listing Rule 19.12) that it had been reported that a number of Korean marketing staff of South Korean casino operators had been detained by Chinese authorities (**Korean Detentions News**);
- (b) otherwise denies the allegations in paragraph 33; and
- (c) says further that the Korean Detentions News was generally available and was widely reported by the English-language media.

#### **Particulars**

Crown refers to and repeats the English-language media reports referred to in paragraph A of the particulars to paragraph 33 of the Statement of Claim.

#### **G.2A**

33A It admits paragraph 33A.

33B In response to paragraph 33B, it:

- (a) admits that on and from about 10 July 2015, Crown became aware (within the meaning of ASX Listing Rule 19.12) of the matters referred to in paragraph 33A of the Statement of Claim; and
- (b) otherwise denies paragraph 33B.

#### **G.3.**

34. In response to paragraph 34, it:

- (a) says in answer to sub-paragraph 34(a) that:
  - (i) the allegations are so general, broad and vague as to be embarrassing and it objects to pleading to them; and
  - (ii) under cover of this objection, it:
    - (A) denies the allegations in sub-paragraph 34(a);

- (B) refers to and repeats the matters at paragraphs 17 to 3333B above;
- (b) says in answer to sub-paragraph 34(b) that:
- (i) the allegations are so general, broad and vague as to be embarrassing and it objects to pleading to them; and
- (ii) under cover of this objection, it:
- (A) denies the allegations in sub-paragraph 34(b);
- (B) refers to and repeats the matters at paragraphs 17 to 3333B above;
35. In response to paragraph 35, it:
- (a) says in answer to sub-paragraph 35(a), that:
- (i) the allegations are so general, broad and vague as to be embarrassing and it objects to pleading to them; and
- (ii) under cover of this objection, it:
- (A) denies the allegations in sub-paragraph 35(a); and
- (B) refers to and repeats the matters at paragraphs 17 to 34 above;
- (b) says in answer to sub-paragraph 35(b), that:
- (i) the allegations are so general, broad and vague as to be embarrassing and it objects to pleading to them; and
- (ii) under cover of this objection, it:
- (A) denies the allegations in sub-paragraph 35(b); and
- (B) refers to and repeats the matters at paragraphs 17 to 34 and sub-paragraph 35(a) above; and
- (c) says in answer to sub-paragraph 35(c), that:
- (i) the allegations are so general, broad and vague as to be embarrassing and it objects to pleading to them; and
- (ii) under cover of this objection, it:
- (A) denies the allegations in sub-paragraph 35(c); and
- (B) refers to and repeats the matters at paragraphs 14 to 34 and sub-paragraphs 35(a) and (b) above.

- (d) says in answer to sub-paragraph 35(d), that:
  - (i) the allegations are so general, broad and vague as to be embarrassing and it objects to pleading to them; and
  - (ii) under cover of this objection, it:
    - (A) denies the allegations in sub-paragraph 35(d); and
    - (B) refers to and repeats the matters at paragraphs 14 to 34 and sub-paragraphs 35(a), (b) and (c) above.

36. In response to paragraph 36, it:

- (a) denies the allegations in paragraph 36; and
- (b) refers to and repeats paragraphs 34 and 35 above.

## H

### H.1.

37. In response to paragraph 37, it:

- (a) refers to and repeats paragraphs 22 to 24 above;
- (b) says that the official Chinese version of the Criminal Law of the People's Republic of China (including of Article 303 and Article 25) was generally available and an English translation was generally available, including on the Supreme People's Court of the People's Republic of China website and through LexisNexis and PKU Law;
- (c) says that the Supreme People's Court Interpretation was generally available and an English translation was generally available, including through LexisNexis and PKU Law;
- (d) otherwise denies paragraph 37; and
- (e) refers to and repeats paragraphs 34 and 36 above.

38. It denies the allegations in paragraph 38.

39. In response to paragraph 39, it:

- (a) admits that it did not inform the ASX of the alleged China Operations Illegal Information at all during the Relevant Period;
- (b) otherwise denies the allegations in paragraph 39;

- (c) refers to and repeats paragraph 37 above;
- (d) says further that the alleged China Operations Illegal Information was not in existence during the Relevant Period;
- (e) says further that the 17 October Media Release did not disclose the China Operations Illegal Information; and
- (f) at trial it will rely upon the full terms of 17 October Media Release and other matters in the public domain.

40. It denies the allegations in paragraph 40.

## H.2.

41. In response to paragraph 41, it:

- (a) refers to and repeats paragraphs 30 and ~~33~~33B above;
- (b) says that the February Announcement News and the Korean Detentions News was generally available;
- (c) otherwise denies paragraph 41;
- (d) refers to and repeats paragraphs 34 and 36 above; and
- (e) says further that, insofar as the information existed, Crown was aware of it, and it was information that a reasonable person would expect to have a material effect on the price or value of Crown Shares within the meaning of ASX Listing Rule 3.1, which allegations are denied, Crown was not obliged to disclose the information by reason of ASX Listing Rule 3.1A.

### Particulars

The information comprised matters of supposition or was insufficiently definite to warrant disclosure, the information was confidential and ASX had not formed the view that it had ceased to be confidential, and a reasonable person would not have expected the information to be disclosed.

42. It denies the allegations in paragraph 42.

43. In response to paragraph 43, it:

- (a) admits that it did not inform the ASX of the alleged China Operations Crackdown Information at all during the Relevant Period;

- (b) otherwise denies the allegations in paragraph 43;
- (c) refers to and repeats paragraph 41 above;
- (d) says further that the alleged China Operations Crackdown Information was not in existence during the Relevant Period;
- (e) says further that the 17 October Media Release did not disclose the alleged China Operations Crackdown Information; and
- (f) at trial it will rely upon the full terms of 17 October Media Release and other matters in the public domain.

44. It denies the allegations in paragraph 44.

### H.3.

45. In response to paragraph 45, it:

- (a) denies paragraph 45; and
- (b) refers to and repeats paragraph 35 and 36 above; and
- (c) says that, insofar as the information existed, Crown was aware of it, and it was information that a reasonable person would expect to have a material effect on the price or value of Crown Shares within the meaning of ASX Listing Rule 3.1, which allegations are denied, Crown was not obliged to disclose the information by reason of ASX Listing Rule 3.1A.

#### Particulars

The information comprised matters of supposition or was insufficiently definite to warrant disclosure, the information was confidential and ASX had not formed the view that it had ceased to be confidential, and a reasonable person would not have expected the information to be disclosed.

46. It denies the allegations in paragraph 46.

47. In response to paragraph 47, it:

- (a) admits that it did not inform the ASX of the alleged Employee Detention Risk Information at all during the Relevant Period;
- (b) otherwise denies the allegations in paragraph 47;
- (c) refers to and repeats paragraph 45 above;

- (d) says further that the alleged Employee Detention Risk Information was not in existence during the Relevant Period;
- (e) says further that the 17 October Media Release did not disclose the alleged Employee Detention Risk Information; and
- (f) at trial it will rely upon the full terms of 17 October Media Release and other matters in the public domain.

48. It denies the allegations in paragraph 48.

#### H.4.

49. In response to paragraph 49, it:

- (a) denies paragraph 49; and
- (b) refers to and repeats paragraphs 35 and 36 above; and-
- (c) says that, insofar as the information existed, Crown was aware of it, and it was information that a reasonable person would expect to have a material effect on the price or value of Crown Shares within the meaning of ASX Listing Rule 3.1, which allegations are denied, Crown was not obliged to disclose the information by reason of ASX Listing Rule 3.1A.

#### Particulars

The information comprised matters of supposition or was insufficiently definite to warrant disclosure, the information was confidential and ASX had not formed the view that it had ceased to be confidential, and a reasonable person would not have expected the information to be disclosed.

50. It denies the allegations in paragraph 50.

51. In response to paragraph 51, it:

- (a) admits that it did not inform the ASX of the alleged China Operations Enforcement Risk Information at all during the Relevant Period;
- (b) otherwise denies the allegations in paragraph 51;
- (c) refers to and repeats paragraph 49 above;
- (d) says further that the alleged China Operations Enforcement Risk Information was not in existence during the Relevant Period;

- (e) says further that the 17 October Media Release did not disclose the alleged China Operations Enforcement Risk Information; and
- (f) at trial it will rely upon the full terms of 17 October Media Release and other matters in the public domain.

52. It denies the allegations in paragraph 52.

#### H.5.

53. In response to paragraph 53, it:

- (a) denies paragraph 53; ~~and~~
- ~~(b) refers to and repeats paragraphs 35 and 36 above; and-~~
- (c) says that, insofar as the information existed, Crown was aware of it, and it was information that a reasonable person would expect to have a material effect on the price or value of Crown Shares within the meaning of ASX Listing Rule 3.1, which allegations are denied, Crown was not obliged to disclose the information by reason of ASX Listing Rule 3.1A.

#### Particulars

The information comprised matters of supposition or was insufficiently definite to warrant disclosure, the information was confidential and ASX had not formed the view that it had ceased to be confidential, and a reasonable person would not have expected the information to be disclosed.

54. It denies the allegations in paragraph 54.

55. In response to paragraph 55, it:

- (a) admits that it did not inform the ASX of the alleged Chinese VIP Revenue Risk Information at all during the Relevant Period;
- (b) otherwise denies the allegations in paragraph 55;
- (c) refers to and repeats paragraph 53 above;
- (d) says further that the alleged Chinese VIP Revenue Risk Information was not in existence during the Relevant Period;
- (e) says further that the 17 October Media Release did not disclose the alleged Chinese VIP Revenue Risk Information; and

- (f) at trial it will rely upon the full terms of 17 October Media Release and other matters in the public domain.

56. It denies the allegations in paragraph 56.

#### H.6.

57. In response to paragraph 57, it:

- (a) denies paragraph 57; and

(b) refers to and repeats paragraphs 35 and 36 above; and

(c) says that, insofar as the information existed, Crown was aware of it, and it was information that a reasonable person would expect to have a material effect on the price or value of Crown Shares within the meaning of ASX Listing Rule 3.1, which allegations are denied, Crown was not obliged to disclose the information by reason of ASX Listing Rule 3.1A.

#### Particulars

The information comprised matters of supposition or was insufficiently definite to warrant disclosure, the information was confidential and ASX had not formed the view that it had ceased to be confidential, and a reasonable person would not have expected the information to be disclosed.

58. It denies the allegations in paragraph 58.

59. In response to paragraph 59, it:

- (a) admits that it did not inform the ASX of the alleged Revenue Risk Information at all during the Relevant Period;
- (b) otherwise denies the allegations in paragraph 59;
- (c) refers to and repeats paragraph 57 above;
- (d) says further that the alleged Revenue Risk Information was not in existence during the Relevant Period;
- (e) says further that the 17 October Media Release did not disclose the alleged Revenue Risk Information; and
- (f) at trial it will rely upon the full terms of 17 October Media Release and other matters in the public domain.

60. It denies the allegations in paragraph 60.

#### **H.7.**

61. It denies the allegations in paragraph 61.

61A. Further to paragraphs 37 to 61 above, it:

- (a) refers to and repeats paragraphs 30, 33, 33B, 37 and 41 above; and
- (b) says that the information that the Applicant alleges ought to have been disclosed in relation to each of the alleged Continuous Disclosure Contraventions (as defined in paragraph 61 of the Statement of Claim) did not exist, but if (which is denied) it did exist, then at all times during the Relevant Period:
  - (i) that information was not material and a reasonable person would not expect that it would have a material effect on the price of Crown's shares for the purposes of ASX Listing Rules 3.1; and
  - (ii) that information was of such a character that no disclosure obligation arose pursuant to s 674 of the *Corporations Act*.

#### **I**

##### **I.1.**

62. It admits the allegations in paragraph 62.

63. In response to paragraph 63, it:

- (a) admits the allegations in paragraph 63;
- (b) says further that the 2014 Annual Report stated that:
  - (i) Management are charged with monitoring the effectiveness of risk management systems and are required to report to the Board via the Risk Management Committee (pg 39); and
  - (ii) Investment Warning: All information provided in the Annual Report is provided as of the date stated or otherwise as at the date of the Report. The Annual Report has not taken into account any particular investor's investments objectives or other circumstances. Investors are encouraged to make an independent assessment of Crown or seek independent professional advice (pg 140); and

(c) says further it will rely upon the full terms of the 2014 Annual Report at trial.

64. In response to paragraph 64, it:

(a) says in answer to sub-paragraph 64(a), it:

(i) admits the allegations in paragraph 64(a); and

(ii) says further that the statement was made under the headings “Crown Melbourne” and “VIP Program Play”;

(b) says in answer to sub-paragraph 64(b), it:

(i) admits the allegations in sub-paragraph 64(b); and

(ii) says further that at trial it will rely upon the full terms of its disclosures to the market and other matters in the public domain with regards to the development of the Crown Sydney project;

(c) refers to and repeats sub-paragraph 63(b)(ii) above; and

(d) says further it will rely upon the full terms of the 2014 Annual Report at trial.

## I.2.

65. It admits the allegations in paragraph 65.

66. In response to paragraph 66, it:

(a) admits the allegations in paragraph 66; and

(b) says further that the 2015 Annual Report stated that:

(i) Management are charged with monitoring the effectiveness of risk management systems and are required to report to the Board via the Risk Management Committee (pg 44);

(ii) Investment Warning: All information provided in the Annual Report is provided as of the date stated or otherwise as at the date of the Report. The Annual Report has not taken into account any particular investor’s investments objectives or other circumstances. Investors are encouraged to make an independent assessment of Crown or seek independent professional advice (pg 148); and

(c) says further it will rely upon the full terms of the 2015 Annual Report at trial.

67. In response to paragraph 67, it:

(a) admits the allegations in paragraph 67;

- (b) says further the 2015 Annual Report stated that:
- (i) For the financial year ended 30 June 2015, Crown announced a net profit of \$446.3 million before significant items, which was down 36.5% from the previous year (pg 1);
  - (ii) This year our investment in Melco Crown was impacted by a downturn in gaming revenue in Macau that was sharper than anticipated (pg 1);
  - (iii) There was an uncertain global economic environment (pg 1);
  - (iv) Earnings were affected by weak market conditions in Macau, which impacted Melco Crown's result (pg 12);
  - (v) The decline in Melco Crown's result was attributable to weak market conditions in Macau (pg 12 and 14);
  - (vi) Macau is currently experiencing a difficult period, which has adversely affected all casino operators (pg 14 and 52);
  - (vii) There was a weakened global VIP sector during the year, which saw volume declines in many of the key gaming markets, including Macau and Singapore (pg 17);
  - (viii) Weak market conditions affecting all casino operators in Macau have adversely impacted Melco Crown's operating and financial results (pg 22);
  - (ix) The Macau gaming market has been through a challenging period (pg 22);
  - (x) Overall gross gaming revenue across the Macau market in the year to 30 June 2015 declined 26.8%. The rate of decline increased in the second half with gross gaming revenue declining 37.0% in the six months to 30 June 2015 (pg 14, 22 and 52);
  - (xi) The decline in net revenue in the Macau market was primarily attributable to lower rolling chip revenues and mass market table games revenues in Macau (pg 22); and
  - (xii) Crown Perth's reported EBITDA for the period was \$302.1 million, down 4.3% on the prior comparable period (pg 51);
- (c) refers to and repeats sub-paragraph 66(b)(ii) above;
- (d) says further, on 13 August 2015 it announced its full year results for the year ended to June 2015 (**2015 Results**) in which it stated:

- (i) Crown's reported NPAT was \$446.3 million, down 36.5% before significant items (pg 1);
  - (ii) Crown's reported EBITDA was \$778.1 million, which was down 11.4% (pg 1);
  - (iii) Crown's reported EBIT was \$515.2 million, which was down 18.6% (pg 1);
  - (iv) Weak market conditions in Macau adversely impacted Melco Crown's performance (pg 1);
  - (v) Crown's share of Melco Crown's normalised NPAT was \$161.3 million, down \$129.9 million or 44.6% (pg 1);
  - (vi) Crown's share of Melco Crown's reported NPAT was \$122.0 million, down \$165.6 million or 57.6% (pg 1);
  - (vii) The decline in Melco Crown's result was attributable to weak market conditions in Macau. Overall gross gaming revenue across the Macau market in the year to 30 June 2015 declined 26.8%, however the rate of decline increased in the second half with gross gaming revenue declining 37.0% in the six months to 30 June 2015 (pg 2); and
  - (viii) Macau is currently experiencing a difficult period which has adversely affected all casino operators. Overall gross gaming revenue across the Macau market in the year to 30 June 2015 declined 26.8%, however the rate of decline increased in the second half with gross gaming revenue declining 37.0% in the six months to 30 June 2015 compared to the prior comparable period (pg 3).
- (e) says further, on 13 August 2015 it released an announcement titled "2015 Full Year Results Presentation" (**2015 Results Presentation**) in which it stated:
- (i) Overall, the results for Crown's portfolio of businesses were mixed (pg 2);
  - (ii) Crown's reported NPAT was \$446.3 million, down 36.5% before significant items (pg 2);
  - (iii) Weak market conditions in Macau adversely impacted on Melco Crown (pg 2);
  - (iv) Crown's share of Melco Crown's normalised NPAT was \$161.3 million, down \$129.9 million or 44.6% (pg 2);

- (v) Crown's share of Melco Crown's reported NPAT was \$122.0 million, down \$165.6 million or 57.6% (pg 2);
- (vi) Macau is currently experiencing a difficult period which has adversely affected all casino operators. Overall gross gaming revenue across the Macau market in the year to 30 June 2015 declined 26.8%, however the rate of decline increased in the second half with gross gaming revenue declining 37.0% in the six months to 30 June 2015 compared to the prior comparable period (pg 12).
- (f) says further it will rely upon the full terms of the 2015 Annual Report, the 2015 Results and the 2015 Results Presentation at trial.

### **I.3.**

68. It admits the allegations in paragraph 68.

69. In response to paragraph 69, it:

- (a) admits the allegations in paragraph 69; and
- (b) says further that the 2016 Annual Report stated that:
  - (i) Management are charged with monitoring the effectiveness of risk management systems and are required to report to the Board via the Risk Management Committee (pg 34); and
  - (ii) Investment Warning: All information provided in the Annual Report is provided as of the date stated or otherwise as at the date of the Report. The Annual Report has not taken into account any particular investor's investments objectives or other circumstances. Investors are encouraged to make an independent assessment of Crown or seek independent professional advice (pg 136).
- (c) says further it will rely upon the full terms of the 2016 Annual Report at trial.

70. In response to paragraph 70, it:

- (a) admits the allegations in paragraph 70;
- (b) says further the 2016 Annual Report stated that:
  - (i) For the financial year ended 30 June 2016, Crown Resort achieved a net profit of \$393.6 million before significant items, which was down 11.8% from the previous year (pg 1);

- (ii) The markets in Western Australia and in Macau were subdued (pg 1);
- (iii) Crown reported a normalised net profit after tax (NPAT) of \$406.2 million for the full year ended 30 June 2016, down 22.7% (pg 2 and 10);
- (iv) Weak market conditions in Macau adversely impacted Melco Crown's performance (pg 2);
- (v) VIP program play turnover in Australia was \$65.1 billion, down 8.0% (pg 10 and 12);
- (vi) There was depressed VIP gaming activity across Asia (pg 10 and 12);
- (vii) Melco Crown's result declined due to challenging market conditions in Macau. Crown's share of Melco Crown's normalised NPAT of \$58.1 million was down \$103.2 million or 64.0%. Overall gross gaming revenue across the Macau market in the year to 30 June 2016 declined by more than 20% (pg 10);
- (viii) Crown Perth was affected by subdued conditions with normalised revenue down 5.5% to \$922.0 million (pg 10);
- (ix) Macau continues to face challenges arising from a second year of softer gaming demand, which has adversely affected all casino operators. Overall, gross gaming revenue across the Macau market in the full year to 30 June 2016 declined by 22.5% (pg 11, 16 and 42);
- (x) There is an increasingly competitive global tourism market (pg 12);
- (xi) *Crown Melbourne VIP Program Play*: The global marketplace for international VIP business continues to soften (pg 13);
- (xii) Normalised revenue for VIP program play for Crown Melbourne declined by 4.3% on the previous year (pg 13);
- (xiii) *Crown Perth VIP Program Play*: The softening global marketplace was felt more significantly at Crown Perth, with turnover volumes declining by 18.7% to \$15.0 billion (pg 15);
- (xiv) The challenging market conditions affecting all casino operators in Macau have adversely impacted Melco Crown's operating and financial results (pg 16);
- (xv) Macau is undergoing a transition towards a more mass market tourism-focused business model (pg 16);

- (xvi) Crown Melbourne's normalised VIP program play revenue was \$676.5 million, down 4.3% on the prior comparable period with turnover of \$50.1 billion (pg 41);
  - (xvii) The overall normalised operating margin for Crown Melbourne decreased from 29.6% to 29.1%. The decline in margin was largely due to the change in the mix of VIP program play in favour of junket play versus direct premium play and the additional costs associated with that change in mix (pg 41); and
  - (xviii) Crown Perth's normalised VIP program play revenue was \$202.8 million, down 18.7% on the prior comparable period with turnover of \$15.0 billion (pg 41).
- (c) refers to and repeats sub-paragraph 69(b)(ii) above;
- (d) says further, on 17 August 2016 it announced its full year results for the year ended to June 2016 (**2016 Results**) in which it stated:
- (i) Crown's normalised NPAT attributable to the parent was \$406.2 million, down 22.7% (pg 1);
  - (ii) Crown's reported NPAT attributable to the parent was \$393.6 million, down 11.8% before significant items (pg 1);
  - (iii) Australian resorts VIP program play turnover was \$65.1 billion, down 8.0% (pg 1);
  - (iv) Weak market conditions in Macau adversely impacted Melco Crown's performance (pg 1);
  - (v) Crown's share of Melco Crown's normalised NPAT was \$58.1 million, down \$103.2 million or 64.0% (pg 1);
  - (vi) Crown's share of Melco Crown's reported NPAT was \$42.7 million, down \$79.3 million or 65.0% (pg 1);
  - (vii) VIP program play turnover in Australia of \$65.1 billion (down 8.0%) was a reasonable outcome given the strong growth in the prior comparable period of 41.8% and the depressed nature of VIP gaming activity across Asia (pg 2);
  - (viii) Crown Melbourne's normalised VIP program play revenue was \$676.5 million, down 4.3% on the prior comparable period with turnover of \$50.1 billion (pg 2);

- (ix) Crown Perth's normalised VIP program play revenue was \$202.8 million, down 18.7% on the prior comparable period with turnover of \$15.0 billion (pg 2);
  - (x) Macau continues to face challenges arising from softer gaming demand, which has adversely affected all casino operators. Overall, gross gaming revenue across the Macau market in the full year to 30 June 2016 declined by 22.5% (pg 3);
- (e) says further, on 17 August 2016 it released an announcement titled "2016 Full Year Results Presentation" (**2016 Results Presentation**) in which it stated:
- (i) Crown's normalised NPAT attributable to the parent was \$406.2 million, down 22.7% (pg 2);
  - (ii) Crown's reported NPAT attributable to the parent was \$393.6 million, down 11.8% before significant items (pg 2);
  - (iii) Australian resorts VIP program play turnover was \$65.1 billion, down 8.0% (pg 2);
  - (iv) Weak market conditions in Macau adversely impacted Melco Crown's performance (pg 2);
  - (v) Crown's share of Melco Crown's normalised NPAT was \$58.1 million, down \$103.2 million or 64.0% (pg 2);
  - (vi) Crown's share of Melco Crown's reported NPAT was \$42.7 million, down \$79.3 million or 65.0% (pg 2);
  - (vii) Macau continues to face challenges arising from softer gaming demand, which has adversely affected all casino operators. Overall, gross gaming revenue across the Macau market in the full year to 30 June 2016 declined 22.5% (pg 12);
- (f) says further it will rely upon the full terms of the 2016 Annual Report, the 2016 Results and the 2016 Results Presentation at trial.

#### I.4.

71. In response to paragraph 71, it:

- (a) refers to and repeats paragraphs 63, 66 and 69 above; and
- (b) otherwise denies the allegations in paragraph 71.

72. In response to paragraph 72, it:

- (a) refers to and repeats paragraphs 64, 67 and 70 above; and
- (b) otherwise denies the allegations in paragraph 72.

73. In response to paragraph 73, it:

- (a) refers to and repeats paragraphs 64, 67 and 70 above; and
- (b) otherwise denies the allegations in paragraph 73.

74. In response to paragraph 74, it:

- (a) refers to and repeats paragraphs 71, 72 and 73 above; and
- (b) otherwise denies the allegations in paragraph 74.

## **J**

### **J.1.**

75. In response to paragraph 75, it:

- (a) admits that the statements made by Crown referred to in paragraphs 63, 66 and 69 of the Statement of Claim were made:
  - (i) in relation to financial products (being Crown Shares), within the meaning of ss 763A(1)(a) and 764A(1)(a) of the *Corporations Act*;
  - (ii) in trade or commerce, in relation to financial services within the meaning of ss 12AB(1)(a) and 12BA(5) of the ASIC Act; and
  - (iii) in trade or commerce, within the meaning of s 18 of the ACL; and
- (b) otherwise denies paragraph 75.

76. In response to paragraph 76, it:

- (a) denies the allegations in paragraph 76; and
- (b) refers to and repeats paragraphs 34, 35, 63, 66, 69, 71 and 75 above.

77. It denies the allegations in paragraph 77.

### **J.2.**

78. In response to paragraph 78, it:

- (a) admits that the statements made by Crown referred to in paragraphs 64, 67 and 70 of the Statement of Claim were made:

- (i) in relation to financial products (being Crown Shares), within the meaning of ss 763A(1)(a) and 764A(1)(a) of the *Corporations Act*;
  - (ii) in trade or commerce, in relation to financial services within the meaning of ss 12AB(1)(a) and 12BA(5) of the ASIC Act; and
  - (iii) in trade or commerce, within the meaning of s 18 of the ACL; and
- (b) otherwise denies paragraph 78.
79. In response to paragraph 79, it:
- (a) denies the allegations in paragraph 79; and
  - (b) refers to and repeats paragraphs 34, 35, 64, 67, 70 and 78 above.
80. In response to paragraph 80, it
- (a) denies the allegations in paragraph 80; and
  - (b) refers to and repeats paragraphs 34, 35, 64, 67, 70 and 79 above.
81. In response to paragraph 81, it:
- (a) denies the allegations in paragraph 81;
  - (b) refers to and repeats paragraph 79 above.
  - (c) says further or alternatively to the extent that the alleged Chinese Market Growth Representation was made (which is denied), at the time it was made:
    - (i) the representation constituted a statement of opinion held by Crown at the time it was made; and
    - (ii) further or alternatively, Crown had reasonable grounds for that representation.

### **Particulars**

Preparation of each of the relevant Annual Reports was coordinated by Crown's General Manager Investor & Government Relations and included input from people with relevant subject matter expertise including from relevant managers within Crown, Crown Melbourne and Crown Perth. The Annual Reports and the statements made by Crown referred to in paragraphs 64, 67 and 70 of the Statement of Claim were subject to internal review prior to finalisation and publication of the relevant Annual Reports.

82. It denies the allegations in paragraph 82.

**J.3.**

83. It denies the allegations in paragraph 83.

**K****K.1.**

84. In response to paragraph 84, it:

- (a) refers to and repeats paragraphs 5 to 7 above; and
- (b) otherwise, it does not know and therefore does not admit the allegations in paragraph 84.

85. In response to paragraph 85, it

- (a) denies paragraph 85;
- (b) refers to and repeats paragraphs 71 and 73 above; and
- (c) says that the alleged Risk Management Representation and the alleged Chinese Market Growth Representation if made (which is denied) were not “material information” which was in existence at the time which was capable of having the effect alleged in paragraph 85.

86. It denies the allegations in paragraph 86.

87. It denies the allegations in paragraph 87.

88. It denies the allegations in paragraph 88.

89. It denies the allegations in paragraph 89.

90. It denies the allegations in paragraph 90.

91. It denies the allegations in paragraph 91.

**K.2.**

92. It denies the allegations in paragraph 92.

**L**

93. It denies the allegations in paragraph 93.

94. It denies the allegations in paragraph 94.

**M SCHEDULE (CROWN'S DEFINED TERMS)**

<b>Definition</b>	<b>Paragraph</b>
17 October Media Release	28(b)
18 Detainees	25
2015 Results	67(d)
2015 Results Presentation	67(f)
2016 Results	70(d)
2016 Results Presentation	70(e)
Crown Aspinall's	14(a)(i)
February Announcement News	30(a)
Korean Detentions News	33(a)
Mainland China Operations	17(a)
Pleaded Period	44 <u>12</u>
Press Conference	30(a)

Date: 413 April ~~2020~~2021




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Signed by Catherine Macrae  
Lawyer for the respondent

This amended pleading was prepared by F L Shand and H C Whitwell of Counsel and settled by N D Hopkins QC and R G Craig QC.

### **Certificate of lawyer**

I Catherine Macrae certify to the Court that, in relation to the defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 13 April 2021



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Signed by Catherine Macrae  
Lawyer for the respondent