



13 May 2024

Tom Rijnaarts

[tomr@wrist.nz](mailto:tomr@wrist.nz)

Dear Tom Rijnaarts

**Request for Information – Local Government Official Information and Meetings Act (the Act) 1987**

We refer to your official information request dated 16 April 2024 for:

- 1. Could you let me know the cost (electricity) of heating the McKenzie Baths swimming pool on Udy Street.? I understand it is not open the entire year but*
- 2. Is it possible to have a look/copy of the lease agreement of the Petone Sports Ground with the current clubs that use the grounds?*

**Answer:**

This season the cost of heating the McKenzie Baths was approximately \$7000.

Please find attached documents relevant to question 2.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that this response to your information request may be published on Hutt City Council's website. Please refer to the following link: [www.huttcity.govt.nz/council/contactus/make-an-official-information-act-request/proactive-releases](http://www.huttcity.govt.nz/council/contactus/make-an-official-information-act-request/proactive-releases)

Yours sincerely



Philip Rossiter

Senior Advisor, Official Information and Privacy

SUMMARY

27/3/92

LEASEE: Petone Cricket Club  
ADDRESS: Kirks Avenue Petone.  
FACILITY LEASED: Petone Recreation Ground.  
DATE LEASE BEGUN: 1.4.86  
REVIEW DATES:  
TERM: 21 years  
EXPIRES: 1 - april - 2007  
RENT: 2.5% land value P.a.  
COMMENTS:

memo

cancel current Inv  
" recurring Inv  
m-cha Br period  
01sep00 - 31mar07.

Advise when a new  
reinv to be setup.

DATED

1986

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BETWEEN PETONE BOROUGH COUNCIL

Lessor

AND THE PETONE CRICKET CLUB  
(INCORPORATED)

Lessee

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MEMORANDUM OF LEASE

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PHILLIPS SHAYLE-GEORGE  
SOLICITORS  
LOWER HUTT AND WELLINGTON

WHEREAS THE PETONE BOROUGH COUNCIL a body incorporated under the Local Government Act 1974 being an administering body within the terms of the Reserves Act 1977 (hereinafter called "the Lessor") is registered as the proprietor of an estate in fee simple for the purposes of a recreation reserve subject however to such encumbrances, liens and interest as are notified by memorandum underwritten or endorsed herein in that piece of land situate in the Borough of Petone containing 6.8223 hectares more or less being Part Section 6 of the Hutt District and also being Lot 9 on DP 12629, Lot 72 on DP 8102, Lot 8 and part of Lot 3 and 4 on DP 1968 and parts of Lots 2 and 3 on DP 890 and being the whole of the land comprised and described in Certificate of Title Volume 547 Folio 295 (Wellington Registry)

AND WHEREAS pursuant to Section 54(i)(b) of the Reserves Act 1977 the Lessor is desirous of leasing the land upon which the Petone Cricket Club has erected club rooms in accordance with the sketch plans annexed hereto and marked "A" which land is more clearly shown on the sketch recorded on the photograph annexed hereto and marked "B" and bordered in green thereon (hereinafter called "the Land")

AND WHEREAS the Lessor advertised by Public Notice (the date for objections having closed on 10 February 1986) its intention to Lease the said Land to the PETONE CRICKET CLUB (INCORPORATED) a duly incorporated society having its registered office at 12 Connolly Street, Lower Hutt (hereinafter called "the Lessee")

AND WHEREAS it is the intention of the parties that the Lessee shall have exclusive occupation and use of the Land and any building erected thereon (the Land and any improvements erected thereon hereinafter called "the Demised Premises") during the term and upon the conditions as hereinafter specified

AND WHEREAS no objection or submissions as regards the proposed Lease were received by the Lessor

NOW THEREFORE IN CONSIDERATION of the rents hereinafter reserved and the covenants, conditions and agreements on the part of the

Lessee to be paid, performed, observed, and kept respectively the Lessor DOTH HEREBY LEASE to the Lessee the Demised Premises for a term of twenty one (21) years from the 1st day of April 1986 at a rental of the sum equivalent to Two Decimal Five Per Cent (2.5%) of the land value of the Land shown in the Government Valuation Roll as at the 1st day of April in each year payable yearly in advance, the first of such payments being due and payable on the 1st day of April 1986 SUBJECT TO the following covenants, conditions and restrictions:

(A) The Lessee DOTH HEREBY COVENANT with the Lessor as follows:

1. THE Lessee will pay any charges payable in respect of gas, electric light, electric current or extraordinary supply of water used in or about the Demised Premises or required by the Lessee during the said term and all charges for the removal of rubbish and refuse from the land.

2. THE Lessee will not erect or affix any structure or sign of any kind onto or about the Land without the consent in writing of the Lessor first had and obtained and then only in such form, style, character, manner and position as shall first be approved by the Lessor although the Lessor acknowledges and consents to the erection of a club house in accordance with sketch plans annexed hereto and marked "A".

3. IN addition to the rental and other charges hereinbefore provided, the Lessee shall upon demand to pay to the Lessor an amount equivalent to the rates which would otherwise be payable in the event the Demised Premises were not part of a Public Reserve. The amount of rates shall be calculated on the annual rating differential then applied by the Lessor to similar properties in the Petone Borough. At the end or sooner determination of the said term any improvements on the Land shall revert to the Lessor without compensation payable to the Lessee or otherwise and free and discharged from these presents SUBJECT TO any terms and conditions imposed by the Minister of Lands in accordance with the First Schedule of the Reserves Act 1977.

4. DURING the term created herein the Lessee will keep the interior of any improvements erected on the Land and all windows, doors, fittings and fixtures, sanitary and water apparatus, taps, pipes, drains and drain pipes therein and in each case in a clean and tidy state and in the same good and substantial repair, order and condition as the Lessor shall from time to time demand and the Lessee will not injure, cut or maim any of the walls or partitions of any improvements erected on the Land or subdivide or make any alterations in the interal arrangement or in the external appearance of any improvemnts erected upon the Land without the previous consent in writing of the Lessor. Any refusal of the Lessor to give its consent under this clause shall be final and shall not be referred to arbitration hereunder or otherwise called into question by the Lessee.

5. THE Lessor, its agents, servants and workmen, shall be at liberty at all reasonable times to enter upon the Demised Premises to view and inspect the state and condition thereof and the Lessee will upon written notice from the Lessor or its agents or servants of any defects or want of repair or lack of proper maintenance to the Demised Premises within a reasonable time to be specified in such notice effect or make good the same at the Lessee's sole cost.

6. THE Lessee will occupy the Demised Premises quietly and reasonably and will not carry on or permit to be carried on in or about the Demised Premises any noxious, noisy or offensive activity or create or do or permit to be done anything which may be a nuisance or annoyance to or in any way interfere with the quiet or comfort of any occupier of any adjoining property or which in the opinion of the Lessor (whose decision hereon shall be final) may be detrimental to the Demised Premises and will duly observe all bylaws and regulations in force relative to the carrying on of the Lessee PROVIDED ALWAYS that the use of the Demised Premises permitted under clause 7 hereof shall not ipso facto consti-

tute a breach of this clause although the manner in which the Lessee carried on the permitted use may.

7. THE Lessee will not without the consent of the Lessor use or permit or allow the demised premises or any part thereof or any improvements thereon to be used otherwise than for non-profit making sporting and social activities for its own members during the term of the Lease.

8. NOTWITHSTANDING clause 7 hereof the Lessor gives no warranty as to the use to which the Demised Premises may be put and the Lessee shall satisfy itself thereof and shall be deemed to have accepted this lease with full knowledge of and subject to any prohibitions or restrictions on the use thereof under or in pursuance of any act, ordinance, regulation, bylaw, whether statutory or local body or other statutory enactment or order of Court.

9. IN the event that a general ancillary liquor licence or other appropriate licence is obtained by the Lessee pursuant to the provisions of the Sale of Liquor Act 1962 the Lessee will comply in all respects with the provisions of the Sale of Liquor Act 1962 (or any statutory amendment, modification or re-enactment thereof or any future act substituted therefore) (hereinafter called "the said Act") and will at all times during the continuance of these presents carry on and manage and conduct its activities in the demised premises so that nothing may be done or permitted thereon which shall offend against any statute, bylaw or regulation for the time being related to the licenced premises or the sale of intoxicating liquors or whereby any licence or charter in respect of the Demised Premises may become liable to be cancelled or suspended or affected in any way whatsoever AND that the Lessee will at all times ensure that all licences charters or certificates as may be necessary for carrying on the activity for which the licenced premises may be licenced under the said Act are kept in full force and effect at all times



during the continuance of these presents and will pay all licence fees and do all acts, deeds, matters and things as may be necessary to keep the said licences and charters in full force and effect as aforesaid and if called upon to do so by the Lessor produce to the Lessor the receipt for payment of all licence fees.

10. THAT the Lessee expressly acknowledges that the Lessor shall not be liable nor be called upon to erect or repair or contribute towards the cost of erection or repair of any boundary fence.

11. THE Lessee will not transfer, assign, sublet, mortgage, pledge or part with the possession or occupation of the Demised Premises or any part thereof or of this Lease in any way whatsoever.

12. THE Lessee will comply with all statutes, ordinances, regulations, bylaws, requisitions and notices affecting or relating to the Demised Premises or the use thereof and with all requirements which may be made or notices or orders which may be given by the Lessor or any authority whatsoever having jurisdiction or authority over or in respect of the Demised Premises.

13. THE Lessee will not erect or affix any structure or sign of any kind on to or about the Land without the consent in writing of the Lessor first had and obtained and then only in such form, style, character, manner and position as shall first be approved by the Lessor (although the Lessor acknowledges and consents to the improvements erected on the property as at the date hereof) and the Lessee will at the end or sooner determination of the said term remove all structures and signs from the Land to the satisfaction of the Lessor in all respects and will make good any damage or disfigurement caused by such removal and will reinstate the Land as nearly as practicable to its original condition (including but not by any way of limitation removal of concrete and

foundations) AND for the consideration aforesaid, the Lessee hereby grants to the Lessor a full and free right and liberty to enter upon the land at the end or sooner determination of the said term with any necessary equipment and authorises the Lessor to remove any structures or signs if the Lessee has not complied with its undertakings herein within one (1) month of the end or sooner determination of the said term and the Lessee agrees and undertakes to indemnify the Lessor from and against all costs incurred by the Lessor in connection with such entry and removal.

14. THE Lessee expressly acknowledges and agrees that no compensation shall be payable to the Lessee by the Lessor in respect of any improvements or the removal thereof from the land at the end or sooner determination of the said term as hereinbefore provided.

15. THE Lessee will not reside or permit or suffer any person to reside or live on the Demised Premises or on any improvements erected thereon and will not sell or consume or permit or suffer to be sold or consumed in the premises any spirits or fermented liquors unless a General Ancillary Liquor Licence or other appropriate licence pursuant to the Sale of Liquor Act 1962 is obtained as hereinbefore provided and will not permit or suffer any betting or wagering to take place in the Demised Premises nor the keeping of any animals, birds or pets in or about the Demised Premises.

16. THE Lessee will not at any time call upon the Lessor to execute a registrable Memorandum of Lease in respect of the Land.

17. IF any merchandise, property or effects belonging to the Lessee shall be injured by any happening whatsoever no part of the loss or damage occasioned thereby shall be borne by or recoverable from the Lessor whether the same shall occur by reason of any act, carelessness or negligence of the Lessee, its servants or agents or of the Lessor, its servants or

agents and the Lessee shall indemnify the Lessor against any liability for damage or loss to any other person or property in or about the Demised Premises caused by any negligence on the part of the Lessee and the Lessee's servants and agents and the Lessor and the Lessor's servants and agents.

18. THE Lessee shall not allow rubbish or waste to accumulate in the Demised Premises.

19. THE Lessee will take due and proper care of all improvements erected on the Land and will keep them in good repair and in a tidy condition to the Lessor's satisfaction in all respects.

20. THE Lessee will indemnify and hold harmless the Lessor, its architects, officers, servants, agents or workmen from and against all damages, costs, charges, expenses, actions, claims and demands which may be sustained, suffered, recovered or made by any person for any injury such person may sustain in the Demised Premises (whether such injury to be the person or to property) where such injury arises or has arisen as a result of the negligence of the Lessee or by any clerk, servant, employee, agent or workman of the Lessee.

21. THE Lessee shall pay the Lessor's costs for the preparation and completion hereof or any renewal, variation or surrender of this lease and counterpart and any stamp duty thereon and the costs of any consent thereto.

22. THE Lessee will ensure that at all times any improvements erected on the Land are not being used that all doors, windows and other openings in the improvements are kept securely shut and locked and will ensure that at all times the public is provided access to surrounding reserve land and shall not cause a nuisance to the public in this respect.

23. THE Lessee will insure and keep insured any improvements erected on the Land to the full insurable value thereof

against destruction or damage by fire and will pay the premiums in respect thereof.

(B) The Lessor HEREBY COVENANTS AND AGREES with the Lessee as follows:

1. THE Lessee paying the rent hereby reserved and performing and observing the covenants, provisos, conditions and agreements herein contained on the part of the Lessee to be observed and performed shall peaceably hold and enjoy the Demised Premises without hindrance or interruption by the Lessor or any person or persons claiming under or in trust for the Lessor until the expiration or sooner determination of this lease.

(C) The Lessor and the Lessee MUTUALLY COVENANT AND AGREE as follows:

1. IN the event any improvements erected on the Land or any part thereof shall be damaged by any cause whatsoever so as to render the improvements unsightly or difficult or impracticable for the Lessee to occupy the same (the Lessor's sole opinion in these respects to be final and conclusive) THEN the Lessor may either:

(a) Advise the Lessee in writing that in the opinion of the Lessor it is not desirable that the improvements on the said Premises be reinstated whereupon this Lease and the term hereby created shall absolutely cease and determine as from the date of such destruction or damage but without releasing the Lessee from liability for rent up to that date or for any previous breach of the provisions of this lease or;

(b) Advise the Lessee in writing that the Lessee may proceed to reinstate the demised premises in a form which will give the Lessee substantially the same premises PROVIDED THAT the Lessee can satisfy the Lessor that such reinstatement can be effected within a reasonable time.

If at the Lessors option the term hereby created is to cease and determine as from the date of such destruction or damage or the Lessee cannot satisfy the Lessor that reinstatement can be effected in a reasonable time, the Lessee shall, if required by the Lessor, immediately remove all structures and signs from the Land to the satisfaction of the Lessor in all respects and will make good any damage or disfigurement caused by such removal and will reinstate the demised premises as nearly as practicable to its original condition (including but not by way of limitation removal of concrete and foundations). The Lessee hereby grants to the Lessor a full and free right and liberty to enter upon the Demised Premises at the end or sooner determination of the said term with any necessary equipment and authorises the Lessor to remove any structures or signs if the Lessee has not complied with its undertakings herein within One (1) month of the end or sooner determination of the said term and the Lessee undertakes and agrees to indemnify the Lessor from and against all costs incurred by the Lessor in connection with such entry and removal.

2. IN the event that the demised premises cease to be used for the objects and purposes for which it is hereby leased or should the Lessee cease to be registered under the Incorporated Societies Act 1908 or any Act having similar objects and provisions or should the Reserves Act 1977 be amended so as to make this lease void, or should the Minister of Lands so require then this lease and the term hereby created shall immediately determine and the demised premises shall revert to the Lessor freed and discharged from these presents. If the Lessee shall make default in the observance or performance of any covenant condition or agreement herein contained or implied and such default shall continue for thirty (30) days after service of such notice by the Lessor as is prescribed in Section 118 of the Property Law Act 1952 it shall be lawful for the Lessor to re-enter upon the Demised Premises without further notice to the Lessee and

upon any such re-entry the term hereby granted shall immediately cease and determine. In the event that the Lease is terminated in accordance with the provisions of this clause the terms and conditions of that termination shall be as approved by the Minister of Lands in accordance with the First Schedule of the Reserves Act, 1977.

3. IF the Lessor permits the Lessee to continue in occupation of the Demised Premises after the expiration or sooner determination of the term hereby demised such occupation shall be considered and shall continue as a monthly tenancy only at the same rental payable under this lease but otherwise upon the same terms and conditions (so far as applicable to a monthly tenancy) as are herein contained.

4. REFERENCE herein to the consent or approval of the Lessor for any purpose shall be construed to require that consent in writing for each separate occasion notwithstanding any prior written consent obtained for the like purpose on a prior occasion.

5. THE terms of this deed shall not be or be deemed to be varied in any manner howsoever unless such variation is produced in writing and signed by the parties hereto and if necessary consented to by the Ministry of Lands.

6. IF at any time hereafter any dispute or doubt or question shall arise between the parties hereto touching the construction being an effect of these presents or any clause or thing herein contained or implied or the rights or liabilities of the several parties hereto under these presents or otherwise in relation to the Demised Premises then every such dispute shall be referred to the arbitration in New Zealand of a single arbitrator in case the parties can agree upon one and failing agreement to the arbitration of two arbitrators one to be appointed by the Lessor and one to be appointed by the Lessee or in the case of disagreement to their umpire to be appointed by the arbitrators before their entering upon

the reference and in either case in accordance in all respects with the provisions in that behalf contained in the Arbitration Act 1908 or any statutory modification or re-enactment thereof for the time being in force.

7. THAT if the Lessee shall during the term hereby granted pay the rent hereby reserved and observe and perform the covenants and conditions on the part of the Lessee herein contained and implied up to the expiration of the said term and shall have given notice in writing to the Lessor at least six (6) calendar months before the expiration of the said term of its desire to take a further lease of the said land then the Lessor will at the cost of the Lessee in all things grant a new lease of the land for a further term of twenty one (21) years from the date of expiry of the original term at a rental to be agreed upon or failing agreement to be determined by arbitration in accordance with the provisions hereof but in any event not to be less than the rental reserved for the year preceding the expiration of the original term herein and otherwise the new lease shall be upon and subject to the same covenants and conditions as are herein contained or implied except for this present covenant for renewal and subject to any alterations that the Lessor shall in its sole discretion deem necessary to take into account the provisions of the Reserves Act 1977 (or any legislation in substitution or modification thereof), the condition of the said land or other matters whatsoever.

IN WITNESS WHEREOF these presnets have been executed the  
5<sup>th</sup> day of December One thousand nine hundred and  
eighty-six (1986).

THE COMMON SEAL of )  
THE PETONE CRICKET CLUB )  
(INCORPORATED) as Lessee )  
was hereunto affixed in )  
the presence of: )

*K. Frank* Secretary

*J. Wilson* Executive Committee Member

*A. Murray* Executive Committee Member

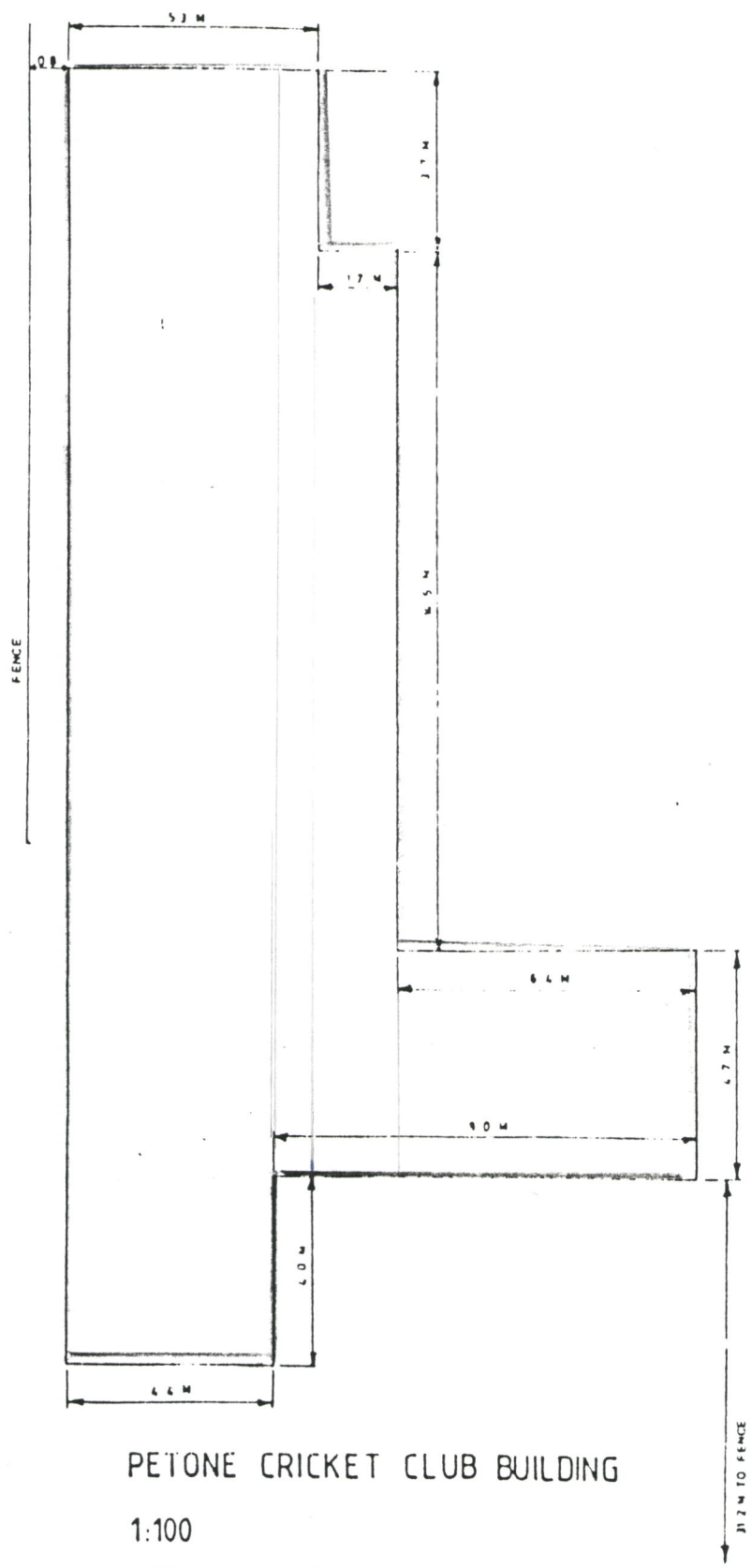
THE COMMON SEAL of )  
PETONE BOROUGH COUNCIL )  
as Lessor was hereunto )  
affixed in the presence )  
of: )



*Chris* ~~Town Clerk~~  
**BOROUGH MANAGER.**



'A'



PETONE CRICKET CLUB BUILDING

1:100

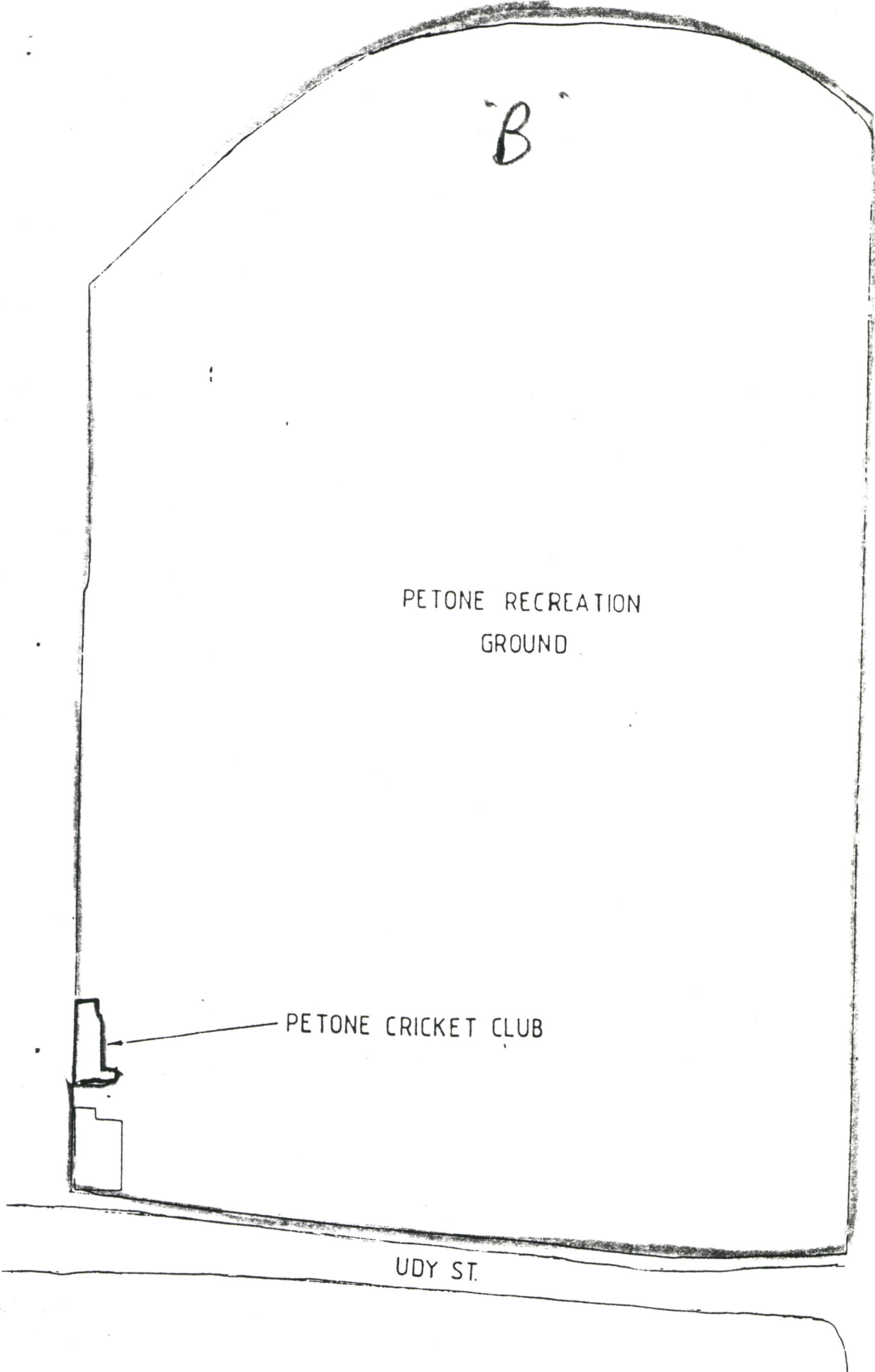
AREA = 200 m<sup>2</sup>

B

PETONE RECREATION  
GROUND

PETONE CRICKET CLUB

UDY ST.



## **Lease of Reserve Land**

**Speldhurst Park – Stokes Valley**

**Petone Recreation Ground – Lower Hutt**

**Rona Bay Beach – Eastbourne**

**Trafalgar Square – Waterloo**

**Wainuiomata Community Hall/Centre – Wainuiomata**

**Epuni Community Hall/Centre – Epuni**

**Naenae Community Hall/Centre – Naenae**

Hutt City Council  
Royal New Zealand Plunket Society Lower Hutt Branch  
Incorporated

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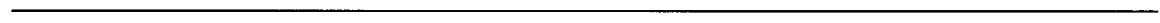
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## Parties

**Hutt City Council (Landlord)**

**Royal New Zealand Plunket Society Lower Hutt Branch Incorporated (Tenant)**

## Background

- A The Landlord has agreed to lease to the Tenant, and the Tenant has agreed to take on lease, the Premises which are part of the Land.
- B **(Relevant to Petone Recreation Ground only)** This lease arrangement follows a decision by the Landlord to dispose of another property at 8 Kensington Avenue in Petone on part of which the Tenant owns a house operating as a Plunket facility. The house has been deemed to be an earthquake risk building and as such needs to be strengthened or removed. As part of the decision to dispose of the property at 8 Kensington Avenue, the Landlord has agreed to relocate the Tenant to the Premises and spend approximately \$150,000 to modify the Premises to meet the Tenant's requirements.
- C **(Relevant to Petone Recreation Ground only)** The property at 8 Kensington Avenue was originally gifted to the former Petone Borough Council in 1929 on the basis that the gifting was *"in trust to stand possessed of the same for a site for a Rest Room and Plunket rooms or for such other charitable purpose or purposes as the Petone Borough Council shall decide from time to time."*
- D **(Relevant to Petone Recreation Ground only)** The Landlord having followed the requirements of the Local Government Act 2002 to formally consult with the public on the proposed sale of 8 Kensington Avenue, has resolved to use the proceeds of the sale of this property to re-house the Tenant in the modified Premises and to upgrade public toilets in Petone. This is considered to be in accordance with the purposes of the original gifting in 1929.
- E The Tenant acknowledges that the Land is either a reserve under the Reserves Act 1977, or is managed by the Landlord as a reserve, or both. Accordingly it is of paramount importance to the Landlord that the Tenant's use of the Land under this Lease is consistent with the Landlord's objectives of providing public recreation on the Land and protecting the natural environment.
- F This Lease is granted by the Landlord in accordance with the Local Government Act 2002 or the Reserves Act 1977 as set out in the Reference Schedule in Schedule 1.

## Grant

- 1 The Landlord grants to the Tenant, and the Tenant accepts the lease of the Premises for the Term and at the Rent, subject to the covenants, conditions, agreements and restrictions set out in this Lease.
- 2 The Landlord enters this Lease as landowner, or as administering body of the Land if this Lease is granted pursuant to the Reserves Act 1977, or both. This Lease does not bind Hutt City Council in any other regulatory or any other capacity of Hutt City Council. Hutt City Council, acting in a regulatory capacity (or any other capacity), is



not bound to grant any approval, consent or permission which the Landlord, the Tenant, or any one else needs to give effect to this Lease. The Tenant will not be entitled to any damages or other payment if Hutt City Council, acting in Hutt City Council's regulatory capacity (or any other capacity), either declines any approval, consent or permission, or issues them on terms that are unsatisfactory to the Tenant. For clarity, this provision will have effect as an operative provision of this Lease.

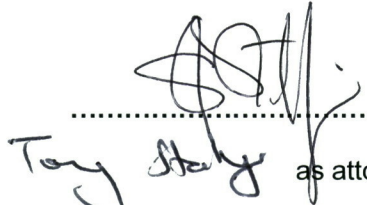
**Execution and date**

Executed as a deed this 24th day of April ~~2014~~ 2015

Executed by

**HUTT CITY COUNCIL**

as Lessor by its duly appointed attorney:

  
.....  
Tony Staley as attorney

In the presence of:

  
.....

witness

Brady Coo  
.....

witness name

Low Hutt  
.....

witness address

Solvent  
.....

witness occupation

Signed by  
**Royal New Zealand Plunket Society  
Lower Hutt Branch Incorporated** as  
Tenant in the presence of:

  
\_\_\_\_\_  
Authorised Signatory

Witness signature:

Witness name: Erin Downs

Occupation: Area president

Address: 31 Longmont Ter  
Chatter park.

  
\_\_\_\_\_  
Authorised signatory

Witness signature:

Witness name: Tina Sime

Occupation: Area manager

Address: 4 market grove Lower Hutt.

## **Schedule 1 – Speldhurst Park – Stokes Valley**

### **Reference Schedule**

<b>Land:</b>	being Part Lot 1 on Deposited Plan 12025 comprised and described in Certificate of Title WN537/134, known as Speldhurst Park, Stokes Valley.
<b>Premises:</b>	That part of the Land on which the Tenant's Improvements are situated, as outlined in red on the plan attached as 9, and comprising approximately 300m <sup>2</sup> of Land.
<b>Term:</b>	13 years
<b>Commencement Date:</b>	1 July 2014
<b>Expiry Date:</b>	30 June 2027
<b>Rights of Renewal:</b>	2 rights of renewal of 10 years each
<b>Renewal Dates:</b>	1 July 2027 & 1 July 2037
<b>Final Expiry Date:</b>	30 June 2047
<b>Rent (subject to review under clause 4):</b>	\$20.00 per annum, plus Goods and Services Tax
<b>Rent Payment Date:</b>	The Commencement Date and each anniversary of the Commencement Date during the Term of this Lease and any Renewed Term
<b>Rent Review Dates:</b>	3 yearly from the Commencement Date during the term of this Lease and any Renewed Term
<b>Penalty Interest Rate:</b>	12% per annum
<b>Permitted Use:</b>	For the sole operation of a Plunket Community Centre or any other activity approved in writing by the Parks Asset Manager
<b>Tenant's Improvements</b>	Tenants own Building
<b>Landlord's Improvements</b>	Not applicable
<b>Improvements Rent Percentage (clause 10.6)</b>	12%
<b>Minimum Public Risk Insurance:</b>	\$5,000,000

<b>Minimum Forest and Rural Fires Act 1977 Insurance:</b>	\$2,000,000
<b>Landlord's Contact Details:</b>	Hutt City Council Private Bag 31912, 531 High Street, Lower Hutt Phone 04 570 6666 Fax 04 570 6871  Attention: Divisional Manager, Parks & Gardens Division
<b>Tenant's Contact Details:</b>	Royal New Zealand Plunket Society 4 Market Grove, Lower Hutt Phone (04) 460-4660 Fax (04) 589-4775  Attention: Area Manager
<b>Lease granted pursuant to (refer Paragraph F):</b>	issued under section 7(1)(d) of the Public Bodies Leases Act 1969
<b>Common Areas</b>	Not applicable

## **Schedule 2 – Petone Recreation Ground – Lower Hutt**

### **Reference Schedule**

<b>Land:</b>	Part of Part Lot 4 on Deposited Plan 1968 comprised and described in Certificate of Title WN547/295 and Part of Part Lot 5 on Deposited Plan 1968 comprised and described in Certificate of Title WN547/294, known as Petone Recreation Ground.
<b>Premises:</b>	All of the Landlord's building situated on the Land, as outlined in red on the plan attached as Schedule 10, and comprising approximately 685m <sup>2</sup> of the Land.
<b>Term:</b>	13 years
<b>Commencement Date:</b>	1 July 2014
<b>Expiry Date:</b>	30 June 2027
<b>Rights of Renewal:</b>	2 rights of renewal of 10 years each
<b>Renewal Dates:</b>	1 July 2027 & 1 July 2037
<b>Final Expiry Date:</b>	30 June 2047
<b>Rent (subject to review under clause 4):</b>	\$20.00 per annum, plus Goods and Services Tax
<b>Rent Payment Date:</b>	The Commencement Date and each anniversary of the Commencement Date during the Term of this Lease and any Renewed Term
<b>Rent Review Dates:</b>	3 yearly from the Commencement Date during the term of this Lease and any Renewed Term
<b>Penalty Interest Rate:</b>	12% per annum
<b>Permitted Use:</b>	For the sole operation of a Plunket Community Centre or any other activity approved in writing by the Parks Asset Manager
<b>Tenant's Improvements</b>	None
<b>Landlord's Improvements</b>	House, decking, single carport, garden shed, footpaths, car park area, fencing, grass, gardens, trees.

<b>Improvements Rent Percentage (clause 10.6)</b>	12%
<b>Minimum Public Risk Insurance:</b>	\$5,000,000
<b>Minimum Forest and Rural Fires Act 1977 Insurance:</b>	\$2,000,000
<b>Landlord's Contact Details:</b>	Hutt City Council Private Bag 31912, 531 High Street, Lower Hutt Phone 04 570 6666 Fax 04 570 6871  Attention: Divisional Manager, Parks & Gardens Division
<b>Tenant's Contact Details:</b>	Royal New Zealand Plunket Society 4 Market Grove, Lower Hutt Phone (04) 460-4660 Fax (04) 589-4775  Attention: Area Manager
<b>Lease granted pursuant to (refer Paragraph F):</b>	Section 12 of the Local Government Act 2002 (not reserve under the Reserves Act 1977)
<b>Common Areas</b>	Not applicable

### **Schedule 3 – Rona Bay Beach - Eastbourne**

#### **Reference Schedule**

<b>Land:</b>	being all of the land in Lot 3 on Deposited Plan 30383, comprised and described in Certificate of Title WN8A/1376 otherwise known as Rona Bay Beach, Eastbourne.
<b>Premises:</b>	All of the Landlord's building situated on the Land, as outlined in red on the plan attached as Schedule 11, and comprising approximately 207m <sup>2</sup> of the Land.
<b>Term:</b>	13 years
<b>Commencement Date:</b>	1 July 2014
<b>Expiry Date:</b>	30 June 2027
<b>Rights of Renewal:</b>	2 rights of renewal of 10 years each
<b>Renewal Dates:</b>	1 July 2027 & 1 July 2037
<b>Final Expiry Date:</b>	30 June 2047
<b>Rent (subject to review under clause 4):</b>	\$20.00 per annum, plus Goods and Services Tax
<b>Rent Payment Date:</b>	The Commencement Date and each anniversary of the Commencement Date during the Term of this Lease and any Renewed Term
<b>Rent Review Dates:</b>	3 yearly from the Commencement Date during the term of this Lease and any Renewed Term
<b>Penalty Interest Rate:</b>	12% per annum
<b>Permitted Use:</b>	For the sole operation of a Plunket Community Centre or any other activity approved in writing by the Parks Asset Manager
<b>Tenant's Improvements</b>	Not applicable
<b>Landlord's Improvements</b>	Landlords Building
<b>Improvements Rent Percentage (clause 10.6)</b>	12%
<b>Minimum Public Risk Insurance:</b>	\$5,000,000

<b>Minimum Forest and Rural Fires Act 1977 Insurance:</b>	\$2,000,000
<b>Landlord's Contact Details:</b>	Hutt City Council Private Bag 31912, 531 High Street, Lower Hutt Phone 04 570 6666 Fax 04 570 6871  Attention: Divisional Manager, Parks & Gardens Division
<b>Tenant's Contact Details:</b>	Royal New Zealand Plunket Society 4 Market Grove, Lower Hutt Phone (04) 460-4660 Fax (04) 589-4775  Attention: Area Manager
<b>Lease granted pursuant to (refer Paragraph F):</b>	Section 61(2A)(a) of the Reserves Act 1977 (local purpose reserve for community building, play centre, kindergarten, Plunket room or other similar purposes)
<b>Common Areas</b>	Not applicable



## **Schedule 4 – Trafalgar Square - Waterloo**

### **Reference Schedule**

<b>Land:</b>	Being Part of Section 1 on Block XXXII on Deposited Plan 8943, comprised and described in Certificate of Title WN442/57 otherwise known as Waterloo Square.
<b>Premises:</b>	All of the Landlord's building situated on the Land, as outlined in red on the plan attached as Schedule 12, and comprising approximately 160m <sup>2</sup> of the Land.
<b>Term:</b>	13 years
<b>Commencement Date:</b>	1 July 2014
<b>Expiry Date:</b>	30 June 2027
<b>Rights of Renewal:</b>	2 rights of renewal of 10 years each
<b>Renewal Dates:</b>	1 July 2027 & 1 July 2037
<b>Final Expiry Date:</b>	30 June 2047
<b>Rent (subject to review under clause 4):</b>	\$20.00 per annum, plus Goods and Services Tax
<b>Rent Payment Date:</b>	The Commencement Date and each anniversary of the Commencement Date during the Term of this Lease and any Renewed Term
<b>Rent Review Dates:</b>	3 yearly from the Commencement Date during the term of this Lease and any Renewed Term
<b>Penalty Interest Rate:</b>	12% per annum
<b>Permitted Use:</b>	For the sole operation of a Plunket Community Centre or any other activity approved in writing by the Parks Asset Manager
<b>Tenant's Improvements</b>	Not applicable
<b>Landlord's Improvements</b>	Landlords Building
<b>Improvements Rent Percentage (clause 10.6)</b>	12%
<b>Minimum Public Risk Insurance:</b>	\$5,000,000

<b>Minimum Forest and Rural Fires Act 1977 Insurance:</b>	\$2,000,000
<b>Landlord's Contact Details:</b>	Hutt City Council Private Bag 31912, 531 High Street, Lower Hutt Phone 04 570 6666 Fax 04 570 6871  Attention: Divisional Manager, Parks & Gardens Division
<b>Tenant's Contact Details:</b>	Royal New Zealand Plunket Society 4 Market Grove, Lower Hutt Phone (04) 460-4660 Fax (04) 589-4775  Attention: Area Manager
<b>Lease granted pursuant to (refer Paragraph F):</b>	Section 61(2A)(a) of the Reserves Act 1977 (local purpose reserve for community building, play centre, kindergarten, Plunket room or other similar purposes)
<b>Common Areas</b>	Not applicable

## **Schedule 5 – Wainuiomata Community Hall/Centre – Wainuiomata**

### **Reference Schedule**

<b>Land:</b>	Being Part Lot 55 on Deposited Plan 16256, comprised and described in Certificate of Title WN23B/383 otherwise known as Wainuiomata Community Hall/Centre.
<b>Premises:</b>	That part or those parts of the Landlord's building situated on the Land, as outlined in red on the plan attached as Schedule 13, and comprising approximately 40m <sup>2</sup> .
<b>Term:</b>	13 years
<b>Commencement Date:</b>	1 July 2014
<b>Expiry Date:</b>	30 June 2027
<b>Rights of Renewal:</b>	2 rights of renewal of 10 years each
<b>Renewal Dates:</b>	1 July 2027 & 1 July 2037
<b>Final Expiry Date:</b>	30 June 2047
<b>Rent (subject to review under clause 4):</b>	\$1,170.00 per annum, plus Goods and Services Tax (\$292.50 plus GST quarterly)
<b>Rent Payment Date:</b>	<ol style="list-style-type: none"><li>1. The Commencement Date and then</li><li>2. 1 January, 1 April, 1 July and 1 October of each year during the Term of this Lease and any Renewed Term</li></ol>
<b>Rent Review Dates:</b>	3 yearly from the Commencement Date during the term of this Lease and any Renewed Term
<b>Share of outgoings payable</b>	Not Applicable
<b>Penalty Interest Rate:</b>	12% per annum
<b>Permitted Use:</b>	For the sole operation of a Plunket Community Centre or any other activity approved in writing by the Urban Plus Limited Facilities Manager
<b>Tenant's Improvements</b>	Not applicable
<b>Landlord's Improvements</b>	Landlords Building – Wainuiomata Community Hall/Centre

<b>Improvements Rent Percentage (clause 10.6)</b>	12%
<b>Minimum Public Risk Insurance:</b>	\$1,000,000
<b>Minimum Forest and Rural Fires Act 1977 Insurance:</b>	\$2,000,000
<b>Landlord's Contact Details:</b>	Urban Plus Limited Level 1 Corner of Queens Drive & Laings Road Private Bag 31912, Lower Hutt Phone 04 566 1000 Fax 04 566 1022  Attention: Facilities Manager
<b>Tenant's Contact Details:</b>	Royal New Zealand Plunket Society 4 Market Grove, Lower Hutt Phone (04) 460-4660 Fax (04) 589-4775  Attention: Wellington/Wairarapa Area Manager
<b>Lease granted pursuant to (refer Paragraph F):</b>	Section 61(2A)(a) of the Reserves Act 1977 (local purpose reserve for community building, play centre, kindergarten, Plunket room or other similar purposes)
<b>Common Areas</b>	Those parts of the building or Land as the case may be, comprising the following as at the commencement date: Toilets as outlined in yellow on the plan attached as schedule 13

## **Schedule 6 – Epuni Community Hall/Centre – Epuni**

### **Reference Schedule**

<b>Land:</b>	Being Part Lot 1 on Deposited Plan 34277, comprised and described in Certificate of Title WN 504054 otherwise known as Epuni Community Hall.
<b>Premises:</b>	That part or those parts of the Landlord's building situated on the Land, as outlined in red on the plan attached as Schedule 14, and comprising approximately 32m <sup>2</sup> .
<b>Term:</b>	13 years
<b>Commencement Date:</b>	1 July 2014
<b>Expiry Date:</b>	30 June 2027
<b>Rights of Renewal:</b>	2 rights of renewal of 10 years each
<b>Renewal Dates:</b>	1 July 2027 & 1 July 2037
<b>Final Expiry Date:</b>	30 June 2047
<b>Rent (subject to review under clause 4):</b>	\$1,170.00 per annum, plus Goods and Services Tax (\$292.50 plus GST quarterly)
<b>Rent Payment Date:</b>	<ol style="list-style-type: none"><li>1. The Commencement Date and then</li><li>2. 1 January, 1 April, 1 July and 1 October of each year during the Term of this Lease and any Renewed Term</li></ol>
<b>Rent Review Dates:</b>	3 yearly from the Commencement Date during the term of this Lease and any Renewed Term
<b>Share of Outgoings payable</b>	The Tenant and the Hutt City Musical Theatre are responsible for the arrangement of work, sharing and payment of costs for the cleaning, servicing (including maintenance and lighting) and consumables for the Common Area Toilets, Kitchen and Corridor.
<b>Penalty Interest Rate:</b>	12% per annum
<b>Permitted Use:</b>	For the sole operation of a Toy Library or any other activity approved in writing by the Urban Plus Limited Facilities Manager
<b>Tenant's Improvements</b>	Not applicable

<b>Landlord's Improvements</b>	Landlords Building
<b>Improvements Rent Percentage (clause 10.6)</b>	12%
<b>Minimum Public Risk Insurance:</b>	\$1,000,000
<b>Minimum Forest and Rural Fires Act 1977 Insurance:</b>	\$2,000,000
<b>Landlord's Contact Details:</b>	Urban Plus Limited Level 1 Corner of Queens Drive & Laings Road Private Bag 31912, Lower Hutt Phone 04 566 1000 Fax 04 566 1022  Attention: Facilities Manager
<b>Tenant's Contact Details:</b>	Royal New Zealand Plunket Society 4 Market Grove, Lower Hutt Phone (04) 460-4660 Fax (04) 589-4775  Attention: Wellington/Wairarapa Area Manager
<b>Lease granted pursuant to (refer Paragraph F):</b>	Section 61(2A)(a) of the Reserves Act 1977 (local purpose reserve for community building, play centre, kindergarten, Plunket room or other similar purposes)
<b>Common Areas</b>	Those parts of the building or Land as the case may be, comprising the following as at the commencement date: Corridor, Toilets, Kitchen and Part of the Toy Library Room (the area titled "waiting room") as outlined in yellow on the plan attached as schedule 14. The "waiting room" area will be shared with the Hutt City Musical Theatre only when there are shows on in the hall. Refer to Clause 6.26 for further information on the Tenants obligations in regard to the common areas.

## **Schedule 7 – Naenae Community Hall/Centre – Naenae**

### **Reference Schedule**

<b>Land:</b>	Being Part of Lot 2 on Deposited Plan 17448, comprised and described in Certificate of Title WN 939/62 and 19A/338 otherwise known as Naenae Community Hall.
<b>Premises:</b>	All of the Landlord's building situated on the Land, as outlined in red on the plan attached as Schedule 15, and comprising approximately 37m <sup>2</sup> of the Land.
<b>Term:</b>	13 years
<b>Commencement Date:</b>	1 July 2014
<b>Expiry Date:</b>	30 June 2027
<b>Rights of Renewal:</b>	2 rights of renewal of 10 years each
<b>Renewal Dates:</b>	1 July 2027 & 1 July 2037
<b>Final Expiry Date:</b>	30 June 2047
<b>Rent (subject to review under clause 4):</b>	\$1,170.00 per annum, plus Goods and Services Tax (\$292.50 plus GST quarterly)
<b>Rent Payment Date:</b>	<ol style="list-style-type: none"><li>1. The Commencement Date and then</li><li>2. 1 January, 1 April, 1 July and 1 October of each year during the Term of this Lease and any Renewed Term</li></ol>
<b>Rent Review Dates:</b>	3 yearly from the Commencement Date during the term of this Lease and any Renewed Term
<b>Penalty Interest Rate:</b>	12% per annum
<b>Permitted Use:</b>	For the sole operation of a Plunket Community Centre or any other activity approved in writing by the Urban Plus Limited Facilities Manager
<b>Tenant's Improvements</b>	Not applicable
<b>Landlord's Improvements</b>	Landlords Building – Naenae Community Hall
<b>Improvements Rent Percentage (clause 10.6)</b>	12%
<b>Minimum Public Risk Insurance:</b>	\$1,000,000

<b>Minimum Forest and Rural Fires Act 1977 Insurance:</b>	\$2,000,000
<b>Landlord's Contact Details:</b>	Urban Plus Limited Level 1 Corner of Queens Drive & Laings Road Private Bag 31912, Lower Hutt Phone 04 566 1000 Fax 04 566 1022  Attention: Facilities Manager
<b>Tenant's Contact Details:</b>	Royal New Zealand Plunket Society 4 Market Grove, Lower Hutt Phone (04) 460-4660 Fax (04) 589-4775  Attention: Wellington/Wairarapa Area Manager
<b>Lease granted pursuant to (refer Paragraph F):</b>	Section 61(2A)(a) of the Reserves Act 1977 (local purpose reserve for community building, play centre, kindergarten, Plunket room or other similar purposes)
<b>Common Areas</b>	Those parts of the building or Land as the case may be, comprising the following as at the commencement date: Toilets as outlined in yellow on the plan attached as schedule 15



## Schedule 8

### Operative provisions

#### 1 Definitions and interpretation

##### Definitions

1.1 In this Lease, unless inconsistent with the context:

**Access Plan** means the plan attached as Schedule 4 showing that part of the Land outlined in yellow which is designated as the initial route for access to the Premises.

**Building** means the building situated on the Land, where the Premises comprise all or any part of the building on the Land.

**Building Work** means work carried out from time to time by the Tenant under the provisions of clause 9, for or in connection with the construction, installation, replacement, renewal, alteration, addition, upgrade, demolition or removal of a building or any fixtures or improvements on the Premises (including but not limited to any water courses, ditches or drains), and includes earthworks preparatory to or associated with that construction, replacement, renewal, alteration, addition, demolition or removal and any work of a structural or retaining nature, and services and utilities associated with any work.

**Business Day** will be deemed to commence at 9am and end at 5pm, and means any day of the week other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Wellington Anniversary Day, and
- (b) a day in the period which starts on 24 December in any year and ends on 5 January in the following year.

**Commencement Date** means the commencement date set out in the Reference Schedule.

**Common Areas** means those areas of the Building or Land which are available for shared use by any tenants or other occupiers or users of the Building or Land, as the Landlord allocates from time to time, including those designated common areas as at the Commencement Date set out in the Reference Schedule (if any).

**District Plan** means any operative district plan and any proposed district plan for Hutt City Council's district, from time to time.

**Divisional Manager** means the Landlord's Divisional Manager, Parks & Gardens Division, or the equivalent officer of the Landlord from time to time.

**Expiry Date** means the expiry date set out in the Reference Schedule.

**Final Expiry Date** means the final expiry date set out in the Reference Schedule.

**GST** means Goods and Services Tax under the Goods and Services Tax Act 1985.

**Landlord** means the Landlord as owner of the Land, or as administering body of the Land if this Lease is granted pursuant to the Reserves Act 1977, or both, and the

Landlord's successors. The Landlord expressly excludes Hutt City Council in any other regulatory or other capacity of Hutt City Council.

**Landlord's Improvements** means those improvements of the Landlord situated on the Land as at the Commencement Date, set out on the Reference Schedule (if any), together with any further building or other improvements made by the Landlord during the Term and any Renewed Term of this Lease.

**Landlord's Invitees** means each and every servant, employee, agent, contractor or sub-contractor of the Landlord and includes, where the context requires, tenants, licensees, and other invitees of the Landlord, and includes the public.

**Lease** means this Lease and includes all schedules, appendices, plans and annexures to this Lease.

**Outgoings** includes:

- (a) all general and special rates, targeted rates, and uniform annual general charges, water rates, sewage, rubbish collection, and any other charges by any regional council or territorial authority for the Premises,
- (b) all charges for electricity, telephones, gas and any other service or utility supplied to or consumed on the Premises,
- (c) grounds maintenance charges levied by the Landlord in respect of the Premises and Land, as the Landlord thinks fit,
- (d) exterior maintenance charges (including painting) levied by the Landlord in respect of the Building or the Land (if any), where the Premises comprise all or any part of any building on the Land the exterior of which is being maintained by the Landlord,
- (e) New Zealand Fire Service charges for all fire detection and fire fighting equipment, and related maintenance for the Premises,
- (f) insurance premiums and related fees and excesses,
- (g) all costs associated with cleaning, maintenance, repair and redecoration of the Premises,
- (h) security costs, including charges for security monitoring services,
- (i) the costs of maintenance, repair and renewal of accessways on the Land (where these are not the responsibility of the Tenant),
- (j) any other outgoing reasonably incurred in respect of the Premises or the Land,
- (k) the Landlord's costs and expenses (including officers' time, transport and other related expenses) incurred by the Landlord in carrying out the administration and monitoring of compliance by the Tenant with the terms of this Lease,
- (l) costs and expenses related to providing an annual building warrant of fitness to the territorial authority for any buildings and improvements on the Premises (including the costs of obtaining any reports required for compliance with any relevant compliance schedule),

- (m) any costs relating to Common Areas, including the costs of keeping the Common Areas lit at night, and keeping the Common Areas safe, clean and tidy.

**Permitted Use** means the specific permitted use set out in the Reference Schedule, and no other use.

**Plan** means the plan of the Premises attached as Schedule 9-16.

**Policy** means the Policy on Private Use of Hutt City Council Land, and any other policy of Hutt City Council or guideline of the Landlord affecting the Land from time to time, and includes (but not by way of limitation) any reserves management plan (whether made under section 41 of the Reserves Act 1977, or otherwise).

**Premises** means the premises set out in the Reference Schedule.

**Renewed Term** means a renewed term of this Lease if a Right of Renewal set out in the Reference Schedule is exercised.

**Renewal Date** means the renewal date or dates set out in the Reference Schedule.

**Rent** means the rent set out in the Reference Schedule as varied from time to time pursuant to the provisions of clause 4.

**Rent Payment Date** means the Commencement Date and the Rent Payment Dates set out in the Reference Schedule, occurring during the Term and any Renewed Term (if any) of this Lease.

**Reserves Rental Formula** means the formula, from time to time, under the Policy on Private Use of Hutt City Council Land and any replacement Policy, for rent levels for reserves vested in, or administered and managed by, the Landlord.

**Review Date** means the rent review date or dates set out in the Reference Schedule.

**Telecommunications** means the conveyance, transmission, emission or reception of signs, signals, impulses, writing, images, sounds, instructions, information or intelligence of any nature, whether by electromagnetic waves or not, at any frequency, and whether for the information of any person or not, and includes an electronic power supply whether underground or overground incidental to Telecommunication.

**Tenant** means the party named as the Tenant at the beginning of this Lease, and the Tenant's permitted assigns.

**Tenant's Improvements** means any building or other improvements made by the Tenant on the Premises as at the Commencement Date set out in the Reference Schedule (if any), together with any further building or other improvements made by the Tenant during the Term and any Renewed Term of this Lease.

**Tenant's Invitees** means each and every servant, employee, agent, contractor or sub-contractor, or any other invitee of the Tenant.

**Term** means the term of this Lease set out in the Reference Schedule.

## **Interpretation**

- 1.2 In the interpretation of this Lease, the following provisions apply unless the context otherwise requires:

- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Lease.
- 1.2.2 If the day on which any act, matter or thing is to be done under this Lease is not a Business Day, the act, matter or thing must be done on the next Business Day.
- 1.2.3 A reference to any law, statute, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that statute, legislation or legislative provision.
- 1.2.4 A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced.
- 1.2.5 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Lease.
- 1.2.6 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- 1.2.7 A reference to a party is a reference to a party to this Lease, and includes that party's executors, administrators, and successors.
- 1.2.8 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.2.9 A word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders.
- 1.2.10 A reference to the word 'include' or 'including' is to be construed without limitation.
- 1.2.11 A reference to this Lease includes the agreement recorded in this Lease.
- 1.2.12 Any schedules and attachments form part of this Lease.
- 1.3 Where obligations bind more than one person under this Lease, those obligations will bind those persons jointly and severally.

## **2 Lease term**

- 2.1 This Lease will commence on the Commencement Date and will continue in force until the Expiry Date unless otherwise determined or renewed in accordance with the express provisions of this Lease.

### **Right of Renewal**

- 2.2 The Landlord will, at the cost of the Tenant, renew the Term for the next Renewed Term, as set out in the Reference Schedule, if:
  - 2.2.1 the Reference Schedule provides for Rights of Renewal,

2.2.2 the Tenant has given to the Landlord written notice to renew this Lease at least 6 months before the end of the Term (in which respect time will be of the essence), and

2.2.3 in the opinion of the Landlord:

- (a) the Tenant has not been in breach of any of the terms and conditions of this Lease,
- (b) there is sufficient continuing need for the Permitted Use on the Premises,
- (c) the Tenant has been using the Premises sufficiently for the Permitted Use,
- (d) the Premises (or part of the Premises) would not, in the public interest, be better used for another purpose,
- (e) the grant of the Renewed Term continues to accord with the Landlord's strategic direction for the Land.

2.2.4 the Landlord is satisfied that the Tenant has properly constructed, developed, managed and controlled any facilities for public recreation and enjoyment required by the Landlord to be built by the Tenant under clause 26.8 where this Lease is granted pursuant to section 54(1)(a) of the Reserves Act 1977.

2.3 During any Renewed Term the Tenant will pay the Rent (payable annually in advance) to the Landlord which will be determined by the Landlord in accordance with the Reserves Rental Formula and the Policy. The renewed Lease will otherwise be on and subject to the covenants, terms and conditions expressed or implied in this Lease, except that the Term of the Lease plus all Renewed Terms must expire no later than the Final Expiry Date.

2.4 If required by the Landlord, the Tenant will execute a deed of renewal in the form prepared by the Landlord, at the cost of the Tenant.

#### **Holding Over**

2.5 If the Landlord has not granted the Tenant a new lease of the Premises or renewed this Lease but agrees to the Tenant continuing to occupy the Premises after the Expiry Date or the Final Expiry Date (as the case may be), then the Tenant will occupy the Premises from that date under a tenancy which either party may terminate on 20 Business Days' notice, ending on any day.

2.6 The tenancy under clause 2.5 will be on the terms, and at the rent, the Landlord specifies, but if the Landlord does not specify the terms or the rent, the tenancy will be on the same terms as apply immediately before the Expiry Date or the Final Expiry Date (as the case may be) so far as those terms are applicable to a tenancy terminable on 20 Business Days' notice, with a monthly rent that is one twelfth of the Rent payable immediately before the Expiry Date or the Final Expiry Date (as the case may be).

#### **Variation of Term**

2.7 The Tenant acknowledges that any variation of or extension to the Term or any Renewed Term of this Lease will be at the Landlord's sole discretion. If a variation of

or extension to the Term or a Renewed Term is granted, that variation or extension may be subject to conditions. If as a result of the extension or variation this Lease would be a subdivision of land (as defined in section 218 of the Resource Management Act 1991) then those conditions may include a requirement that the Tenant, at the Tenant's cost, obtains and complies with any subdivision consent required under the Resource Management Act 1991.

### **3 Payment of Rent and other charges**

#### **Rent**

- 3.1 The Tenant must pay the Rent to the Landlord by direct payment or as the Landlord may otherwise direct, without set-off or deduction, on the Commencement Date and on each succeeding Rent Payment Date during the Term and any Renewed Terms of this Lease.
- 3.2 The Landlord will issue a GST invoice to the Tenant in respect of the first payment of the Rent which becomes payable in respect of the Premises under this Lease on the Commencement Date, which will be calculated on a pro-rata basis (to the nearest month) based on the time until the next Rent Payment Date. The Landlord will issue GST invoices to the Tenant for all successive Rent Payment Dates.

#### **Outgoings**

- 3.3 The Tenant will pay on demand to the Landlord or the authority or person from whom any Outgoings are demanded, in addition to the Rent referred to in clause 3.1, any Outgoings which may be charged, levied, or reasonably assessed, or which become payable in relation to the Premises or the Tenant's occupation, operation, use or carrying on of the Permitted Use or any related activity on the Premises, whether those Outgoings are addressed to the Landlord or the Tenant.
- 3.4 Where any Outgoing is not assessed solely for the Premises, then the Tenant must pay a fair proportion of that Outgoing, determined by the Landlord based on the area for which the Outgoing is assessed.
- 3.5 Where any of the Outgoings are not charged or assessed in respect of a period coincident with a period of the Term or any Renewed Term of this Lease, then the Tenant must pay a fair proportion of that Outgoing determined by the Landlord based on the period during which that Outgoing is assessed.
- 3.6 The Landlord may require that the Tenant pays the Outgoings payable to the Landlord under clause 3.3 annually on the Rent Payment Date, on the basis of the annual amount of those Outgoings determined by the Landlord based on the proportion the area of the Premises bears to the area of the Land.
- 3.7 Any rates, taxes, charges or other outgoings which have not been taken into account in assessing the annual amount of Outgoings payable under clause 3.6 will be payable by the Tenant to the Landlord, on demand.
- 3.8 Following the relevant Rent Payment Date, the Landlord will provide the Tenant with reasonable details of the actual Outgoings for the relevant year or period, and any overpayment will be applied to the next year's Outgoings payable by the Tenant, or any underpayment will be payable by the Tenant to the Landlord immediately on demand.

## **GST**

- 3.9 The Tenant must pay all GST on the Rent and any other amounts payable by the Tenant under this Lease, either to the Landlord or as the Landlord may direct, as well as any additional GST the Landlord may be required to pay as a result of the Tenant's failure to pay when required.

## **Penalty interest**

- 3.10 If the Rent or any other amount payable by the Tenant to the Landlord under this Lease (including costs pursuant to clause 35) is unpaid for 5 Business Days after the due date or the date of the Landlord's demand (if there is no due date), the Tenant must pay interest to the Landlord on the unpaid money at the Penalty Interest Rate, calculated from the due date or the date of the Landlord's demand (as the case may be) to the date of payment to the Landlord.

## **4 Review of Rent**

### **Notice of Rent Review**

- 4.1 At each Review Date, the Landlord may review the Rent by giving written notice to the Tenant specifying the Landlord's assessment of the Rent at the Review Date in accordance with the Reserves Rental Formula and the Policy (subject to clauses 4.2, 4.5 and 4.7).
- 4.2 The Tenant acknowledges that any application of the Reserves Rental Formula and the Policy will be at the sole discretion of the Landlord, and that different rent levels may be set under any Reserves Rental Formula and the Policy. The Landlord may take into account the type of reserve, the Permitted Use, and any other factors the Landlord considers relevant in connection with the application of the Reserves Rental Formula and the Policy in reviewing the Rent.
- 4.3 The Landlord may give the notice under clause 4.1 no earlier than 3 months before the relevant Review Date and at any time up to the next Review Date.
- 4.4 Despite any other provisions of this Lease, the Rent after the relevant Review Date will not be less than the Rent immediately before the Review Date.

### **If Rent Review other than Market Rent Review Applies under Reserves Rental Formula or Policy**

- 4.5 If the Rent is reviewed under clause 4.1 on a basis other than the current market rent for the Premises (under the terms of the Reserves Rental Formula or the Policy) the following will apply:
- 4.5.1 the Tenant may by written notice to the Landlord, within 15 Business Days of receipt of the Landlord's notice under clause 4.1, specify any concerns that the Tenant has regarding the reviewed Rent,
  - 4.5.2 the Landlord will, on receipt of the Tenant's notice under clause 4.5.1, have due regard to and consideration of any points raised in the Tenant's notice,
  - 4.5.3 the Landlord, after such consideration, may at the Landlord's sole discretion (but without being bound to) adjust the reviewed Rent, and the Landlord will advise the Tenant accordingly,

- 4.5.4 the decision of the Landlord as to the reviewed Rent will, following the process under this clause 4.5, be final and binding on the Tenant.
- 4.6 If the Tenant does not give notice under clause 4.5 (time being of the essence), the Tenant will be deemed to have accepted the reviewed Rent specified in the Landlord's notice under clause 4.1.

**If Market Rent Review Applies under Reserves Rental Formula or Policy**

- 4.7 If the Rent is reviewed under clause 4.1 to the current market rent for the Premises (under the terms of the Reserves Rental Formula or the Policy) the following will apply:
- 4.7.1 the Tenant may by written notice to the Landlord, within 15 Business Days of receipt of the Landlord's notice under clause 4.1, dispute that the reviewed Rent is the current market rent for the Premises, and specify the annual rent proposed by the Tenant as the current market rent,
- 4.7.2 the new Rent will then be determined in accordance with clause 4.9.
- 4.8 If the Tenant does not give notice under clause 4.7 (time being of the essence), the Tenant will be deemed to have accepted the reviewed Rent specified in the Landlord's notice under clause 4.1.
- 4.9 Immediately after the Landlord receives the Tenant's notice under clause 4.7, the parties will endeavour to agree on the current market rent for the Premises. If the parties do not reach agreement within 10 Business Days, then the current market rent may be decided by either:
- 4.9.1 one party giving written notice to the other requiring the current market rent to be decided by arbitration, or
- 4.9.2 if the parties agree, by registered valuers acting as experts (and not as arbitrators) as follows:
- (a) each party will appoint a valuer, and give written notice of the appointment to the other party within 10 Business Days of the parties agreeing to determine the rent under clause 4.9.2,
  - (b) if the party receiving a notice fails to appoint a valuer within the 10 Business Day period, then the valuer appointed by the other party will determine the current market rent, and that determination will be binding on both parties,
  - (c) as soon as the valuers are appointed, the valuers must appoint a third expert (who need not be a registered valuer),
  - (d) the valuers will then decide the current market rent of the Premises, but if the valuers fail to agree, then the current market rent will be decided by the third expert,
  - (e) each party will be given the opportunity to make written or verbal representations to the valuers or the third expert, subject to any reasonable time and other limits as the valuers or the third expert may require, and the valuers or the third expert will have regard to those representations, but not be bound by those representations.



- 4.10 When the reviewed Rent for the Premises has been decided under clause 4.9.1 or clause 4.9.2, the person or persons deciding the same will give written notice of the decision to the parties. The notice will provide how the costs of the decision will be borne, and that provision will be binding on the parties.

#### **Interim Rent**

- 4.11 The Rent, from and including the relevant Review Date, will be the amount specified in the Landlord's notice under clause 4.1.

#### **Adjustment of Rent**

- 4.12 On notification under clause 4.1 or determination under clause 4.5 or 4.9 of the new Rent (as the case may be), the parties will make any necessary adjustments so that the adjusted Rent has been paid from and including the relevant Review Date. For the sake of clarity, the reviewed Rent under this clause 4 will apply from and including the relevant Review Date, regardless of the date of the Landlord's notice under clause 4.1.
- 4.13 The Tenant will, if required by the Landlord, enter into a deed of variation of lease to record the reviewed Rent under this clause 4. The Tenant will pay the Landlord's costs of preparation, negotiation and execution of any variation under this clause 4.13.

### **5 Premises to be used only for Permitted Use**

- 5.1 The Tenant must not use the Premises for any purpose other than the Permitted Use, and in accordance with the terms of this Lease. A change of Permitted Use is absolutely prohibited.

### **6 Tenant's Obligations**

#### **Conduct on the Premises**

- 6.1 The Tenant must, at the Tenant's own cost:
- 6.1.1 repair any damage or vandalism to the Premises or the Tenant's Improvements as soon as practicable within 24 hours of the damage, and must advise the Landlord as soon as possible if any damage is blocking any access on the Premises or Land.
  - 6.1.2 ensure that no part of the Premises or the Tenant's Improvements becomes a danger to the safety of members of the public or to the Landlord's Invitees or other occupants or users in the vicinity of the Premises, including, where appropriate, erecting safety barriers as may be required.
  - 6.1.3 advise the Landlord immediately of any hazards the Tenant is aware of on the Premises, the Land, or any land adjacent to the Premises.
- 6.2 The Tenant must not, without the Landlord's prior written consent, erect or store anything on the Premises, and must at all times ensure that materials are not piled or stored on the Premises or in any place where the materials may obstruct the public or other users of the Land or create a nuisance.
- 6.3 The Tenant must not store or permit to be stored fuels or other combustible materials on the Premises or the Land.

- 6.4 The Tenant must take all precautions to ensure no fire hazards arise from the Tenant's occupation of or operations carried out on the Premises, or from any act or neglect of the Tenant or the Tenant's Invitees.
- 6.5 The Tenant will not permit the Premises or any part of the Premises to be used for any activity that is or may become dangerous, offensive, noxious, noisy, illegal or immoral, or which is or may become a nuisance or annoyance to the Landlord or other users of the Land, or to the owner or occupier of any neighbouring property.
- 6.6 The Tenant will not permit the Premises or any part of the Premises to be used in a way that causes interference with the Landlord's utilities or assets on the Premises or the Land, or adjacent to the Premises or the Land.
- 6.7 The Tenant must not use the Premises for gaming or gambling purposes, or allow any breach of the provisions of the Sale of Liquor Act 1989 or the Gaming and Lotteries Act 1977 or any other statute or bylaw.
- 6.8 The Tenant must not allow any person to sleep on the Premises, or provide any overnight accommodation.
- 6.9 The Tenant must not allow any animals to live in or remain on the Premises.
- 6.10 The Tenant will not leave rubbish or rubbish bins on or about the Premises or the Land, except at the times for collection of rubbish, and will regularly cause all rubbish to be removed from the Premises.

#### **Planting and Landscaping**

- 6.11 The Tenant must, at the Tenant's own cost, if required by the Landlord, at any time during the Term or any Renewed Term, landscape the Premises and plant and maintain trees and shrubs on the Premises (as required by the Landlord and from sources approved by the Divisional Manager) to provide visual screening of any buildings or improvements on the Premises.
- 6.12 The Tenant must not plant any trees or shrubs on the Premises or the Land without the prior written approval of the Divisional Manager.

#### **Tenant not to remove vegetation**

- 6.13 The Tenant must not remove or trim any trees or shrubs from the Land or the Premises without the prior approval of the Divisional Manager (which may be withheld in the Divisional Manager's sole discretion or, if given, may be subject to conditions).
- 6.14 If the Tenant removes vegetation from the Land or the Premises in breach of the provisions of clause 6.13, the Tenant must as soon as possible consult with the Divisional Manager and revegetate to the Divisional Manager's reasonable requirements (including regarding landscaping and the type and source of the trees and shrubs to be planted).
- 6.15 If the Tenant does not comply with the Tenant's obligations in relation to landscaping and planting under clause 6.11 or clause 6.12, or replanting under clause 6.14, to the satisfaction of the Divisional Manager or within a reasonable time, the Landlord may carry out the landscaping and planting and/or replanting and the Tenant must pay the Landlord's costs immediately on demand.

### **Preservation of natural environment**

- 6.16 The Tenant must ensure that the Tenant's use and occupation of the Premises and Land preserves as far as possible the natural environment and landscape amenity of the Premises and the Land, and in particular the survival and health of any native flora and fauna on the Land and on the Premises, and will, in particular, comply with the Tenant's obligations under clause 26.1.

### **Noise**

- 6.17 The Tenant must limit noise levels on the Premises to a moderate level, and in particular must keep the noise level to within the requirements of the District Plan.

### **Rules**

- 6.18 The Tenant may make rules for the management and control of the Premises, and for the conduct of persons using the Premises. Those rules must not be inconsistent with the terms of this Lease, the provisions of the Reserves Act 1977 or any Policy.
- 6.19 The Tenant must obtain the prior written approval of the Landlord before any rules made under clause 6.18 come into effect.
- 6.20 The Tenant must display any rules made under clause 6.18 in a conspicuous place in the Premises, for the information and guidance of persons entering and using the Premises.

### **Admission charges and public access to the Premises**

- 6.21 The Tenant may make charges for admission to and use of the Premises, provided that such charges (where applicable) comply with the Reserves Act 1977, and the Tenant has first obtained the written approval of the Landlord to those charges. The Landlord's approval may be withheld at the Landlord's sole discretion, and if given, may be subject to conditions.
- 6.22 If this Lease has been granted pursuant to section 54(1)(b) or section 54(1)(c) of the Reserves Act 1977 then the Tenant will not, without the prior written consent of the Landlord, charge a fee (other than a membership fee) for admission to the Premises on more than 40 days in any one year (but not more than 6 days consecutively).
- 6.23 If this Lease has been granted pursuant to section 54(1)(b) or section 54(1)(c) of the Reserves Act 1977 then the Tenant will comply with any requirements of the Landlord under clause 26.7 in relation to allowing use of and access to the Premises.

### **Liquor licences**

- 6.24 The Tenant must not apply for a liquor licence or renew or vary any existing liquor licence for the Premises without the prior written approval of the Landlord, which the Landlord may withhold in the Landlord's sole discretion, and if given may be subject to conditions.

### **Common Areas**

- 6.25 If there are any Common Areas on the Land/Premises that are used by the Tenant, the Tenant is jointly and severally responsible with other users of the Land/Premises, to keep those Common Areas clean and tidy and clear of any obstructions to ensure safe movement.

- 6.26 **(Relevant to Epuni Hall only)** The Tenant is to inform the Hutt City Musical Theatre of the current contact person that is to be advised of any future requirements to use part of the Toy Library room (the area titled "waiting room" on the Schedule 14 plan attached) for upcoming shows. The Hutt City Musical Theatre is required to give the Tenant at least three weeks notice.

#### **Utilities**

- 6.27 The Tenant will, at the Tenant's cost, provide sewerage, drainage and any other services the Tenant requires for any buildings or improvements on the Premises, and the Tenant's works under this clause 6.27 must otherwise be in accordance with the provisions of clause 9.
- 6.28 The Tenant will, if required by the Landlord, install an electricity or any other utility service check meter in the Premises, at the cost of the Tenant.

## **7 Maintenance of Buildings and Improvements**

### **If the Building is a Tenant's Improvement**

- 7.1 If the Premises comprise the Building which is a Tenant's Improvement then:
- 7.1.1 the Tenant must, at the Tenant's cost, put and keep, and maintain to the satisfaction of the Landlord the interior and exterior of the Building and any improvements on the Premises and all services and improvements (including any Tenant's Improvements) in good, clean and substantial order, repair and condition, including keeping the Tenant's Improvements weatherproof and watertight, and all utilities and services on the Premises in good order,
  - 7.1.2 the Tenant will be responsible, at the Tenant's cost, for all and any repairs, replacement or maintenance which are associated with and may be required on any building, services or improvements on the Premises from time to time,
  - 7.1.3 the Tenant must, at the Tenant's cost, whenever considered necessary by the Landlord, repaint the exterior of the Tenant's Improvements, to a standard and colour scheme approved in writing by the Landlord, and subject to clause 7.11,
  - 7.1.4 the Tenant will, at the Tenant's cost, keep the interior and exterior of the Building (including the interior and exterior of all windows) clean,
  - 7.1.5 the Tenant will, at the Tenant's cost, provide an annual building warrant of fitness to the territorial authority for the Building or any Tenant's Improvements, including paying the costs of obtaining any reports required for compliance with any relevant compliance schedule,
  - 7.1.6 the Landlord will have no obligations in relation to the repair and maintenance of the Building or any improvements or services on the Premises,
  - 7.1.7 the Tenant acknowledges the Landlord's rights under clause 11 to remedy any failure by the Tenant to comply with the Tenant's obligations, at the Tenant's cost.

### **If the Building is a Landlord's Improvement**

7.2 If the Premises comprise all or any part of the Building which is a Landlord's Improvement then:

7.2.1 The Landlord will keep and maintain the exterior of the Building and all building services in the same order and repair as at Commencement Date, but the Landlord will not be liable for any:

- (a) repair or maintenance which the Tenant is responsible to undertake,
- (b) want of repair or defect in respect of building services so long as the Landlord is maintaining a service maintenance contract covering the work to be done,
- (c) repair or maintenance which in the Landlord's opinion is not reasonably necessary for the Tenant's use and enjoyment of the Premises, or
- (d) loss suffered by the Tenant arising from any want of repair or defect, where it is the Landlord's responsibility to repair under this Lease, unless the Landlord has received written notice of that want of repair or defect from the Tenant and has not within a reasonable time after that notice taken appropriate steps to remedy the same.

7.2.2 The Tenant must, at the Tenant's cost, put and keep, and maintain, to the satisfaction of the Landlord, the interior of the Building and any improvements on the Premises in good, clean, substantial order, repair and condition (but excluding reasonable wear and tear from reasonable use). The Tenant's obligation to repair and maintain under this clause 7.2.2 includes repairing and replacing as reasonably necessary any windows, doors, light fittings, light bulbs, electrical wiring, stoves and other Landlord's chattels, carpets and other floor coverings, and plumbing.

7.2.3 The Tenant will, at the Tenant's cost, keep the interior of the Premises clean and keep the interior and exterior of the windows in the Premises clean.

7.2.4 At the end or earlier termination of the Term or any Renewed Term, the Tenant will:

- (a) yield up the Premises in good, clean substantial order and repair and condition in full compliance with the Tenant's obligations under clause 7.2, and
- (b) at the Tenant's cost, remove any fixtures and fittings, additions or alterations installed in or made to the Premises by the Tenant, and make good any resulting damage (subject to the provisions of clause 17).

### **General maintenance obligations**

7.3 For clarity, the provisions of clauses 7.4 to 7.11 regarding maintenance obligations will apply the same and irrespective of whether the Premises comprise the Tenant's Improvements or the Landlord's Improvements.

- 7.4 The Tenant must give the Landlord prompt notice of any accident to or defect in the Premises or on the Land, and in particular in relation to any pipes or fittings used in connection with the water, electrical, gas or drainage services. The Tenant's obligation under this clause is in addition, and without prejudice, to any obligation of the Tenant to repair any accidental damage or defect.
- 7.5 The Landlord will not be liable, in any circumstances, for any want of repair or defect caused by non-observance of the Tenant's obligations under this Lease, or by the improper, careless or abnormal use by the Tenant or the Tenant's Invitees. The Tenant must, at the Tenant's cost, promptly make good any such damage or defect caused by any act or omission of the Tenant or the Tenant's Invitees.
- 7.6 The Tenant will, at the Tenant's cost, repaint and redecorate the interior of the Premises to a standard required by the Landlord, where repainting and redecoration is reasonably required by the Landlord.
- 7.7 The Tenant will, at the Tenant's cost, ensure that the toilets, sinks and drains on the Premises are solely for their designated purposes, and that no substance is deposited in them that may cause damage or blockage.
- 7.8 The Tenant will, at the Tenant's cost, keep clean, and clear of any obstruction, all guttering, downpipes and gully traps on the exterior of the Building.
- 7.9 The Tenant must not affix to the exterior of the Building or any improvements on the Premises any lights, fitting or structures of any kind, without the prior written approval of the Landlord, which the Landlord may withhold in the Landlord's sole discretion, or, if given, may be subject to conditions.
- 7.10 The Tenant must, at the Tenant's cost, repair any damage to the Premises, the Common Areas or the Land caused by the Tenant or the Tenant's Invitees.
- 7.11 The Tenant must not paint the exterior of the Building or any improvements on the Premises in any colours, or colour scheme, unless the Tenant has received the Landlord's prior written approval (which the Landlord may withhold in the Landlord's sole discretion).

## **8 Maintenance of Grounds**

- 8.1 The Tenant must keep the grounds and sealed areas (where these are included in the Premises) in a clean, tidy and attractive condition to the satisfaction of the Landlord, including:
- 8.1.1 keeping the Premises free from rubbish, stones and broken glass,
  - 8.1.2 if required by the Landlord, mowing any lawns within the Premises regularly, and keeping any gardens and planted areas weeded and watered,
  - 8.1.3 taking effective measures to prevent any noxious weeds and recognised environmental plant pests growing on the Land, and complying with the provisions of the Biosecurity Act 1993,
  - 8.1.4 keeping the sealed areas in good order and repair, including re-sealing where required,
  - 8.1.5 ensuring no oil or other harmful substances are spilled on the Premises.

## **9 Building Work**

- 9.1 For clarity, the provisions of this clause 9 regarding Building Work will apply the same and irrespective of whether the Premises comprises the Tenant's Improvements or the Landlord's Improvements.
- 9.2 Subject to clauses 9.3 to 9.15, the Tenant must not, without the prior written approval of the Divisional Manager (for the Landlord as landowner and administering body of the Premises), and in addition to any consents required from Hutt City Council as regulatory authority, from time to time carry out Building Work on the Premises.
- 9.3 The approval of the Landlord under clause 9.2 may be withheld in the sole discretion of the Landlord or, if given, may be subject to conditions. By way of example, but not limitation, the Landlord will be entitled, in the Landlord's capacity as a local authority, to have regard to the views of the community (if any) where any Building Work is significant or controversial in any way.
- 9.4 On seeking the Landlord's approval under clause 9.2, the Tenant must, at the Tenant's cost, provide to the Landlord by written notice, with copies where relevant, of:
- 9.4.1 full scaled plans and details of the building, fixtures, improvements or services to be constructed, installed, replaced, renewed, altered, demolished or removed, and what effect that proposed work will have,
  - 9.4.2 details of size and location of the building, fixtures, improvements, services or other works,
  - 9.4.3 construction methods,
  - 9.4.4 details of types and quantities of any excavation,
  - 9.4.5 details of any vegetation removal requested by the Tenant, including area of the Premises from which vegetation is proposed to be removed,
  - 9.4.6 the Tenant's access requirements and proposed access routes, and the extent to which these may impact on use of the Land by the public (where applicable),
  - 9.4.7 the proposed dates and times of entry and length of time the Tenant expects the Building Work to require,
  - 9.4.8 the extent the Building Work will impact on any improvements or vegetation on the Land and/or the Premises and the visual amenity of the Premises, and how any adverse impact will be mitigated by screening, colour, or any other thing,
  - 9.4.9 details of any proposed safety barriers and safety signs to be in place on the Premises or the Land for the duration of the Building Work,
  - 9.4.10 any written communications the Tenant may have received from any community groups or representatives (if any) regarding the Building Work.
- 9.5 The Tenant must arrange for any Building Work to be carried out, at the Tenant's cost, in accordance with any conditions imposed by the Landlord under clause 9.3, and under the supervision of an architect, project manager, engineer or other suitably qualified person approved by the Landlord in a proper and workmanlike manner in accordance with the approved plans and specifications and all approvals, permits and

consents. The Tenant will meet all costs of the Landlord relating to supervision under this clause.

- 9.6 The Tenant must not, during any Building Work interfere with the use of the Land by the Landlord or the Landlord's Invitees. In particular, if the Tenant is carrying out any excavation or digging on the Land, the Tenant must ensure that the Tenant takes all adequate and appropriate precautions before commencing, and during that excavation or digging.
- 9.7 In addition to obtaining the Landlord's approval to any Building Work, the Tenant must:
- 9.7.1 obtain the Landlord's prior written approval for access to the Land to carry out the Building Work, and comply with any terms required by the Landlord for such access,
- 9.7.2 arrange for any Building Work to be carried out within a restricted area on the Premises or the Land, if required by the Divisional Manager.
- 9.8 The Tenant must, at the Tenant's cost, obtain and comply with all relevant consents required under the Building Act 2004 and the Resource Management Act 1991 and provide the Landlord with a copy of those consents. The Tenant must not commence any Building Work until the Tenant has first obtained any necessary building and resource consents. For clarity, any approval granted by the Landlord under this clause 9 for Building Work, is not a consent of Hutt City Council in its regulatory capacity for that Building Work.
- 9.9 In granting approval under clause 9.2, the Landlord will not be deemed to have warranted that the plans or specifications are suitable for the Tenant's purposes or that any person involved in the Building Work is suitable or adequately qualified.
- 9.10 During any Building Work, the Tenant must ensure that the Tenant maintains adequate builders' risk and public liability insurance, and will provide the Landlord with a copy of policies if requested. All Building Work on the Premises and the Land is at the sole risk of the Tenant.
- 9.11 If, during the course of any Building Work the Tenant is failing to adhere to the approved plans and specifications, or the Building Work is not being properly managed, the Landlord may by notice in writing to the Tenant require that any Building Work on the Premises stops immediately, or require the Tenant to take other action as necessary to ensure that the Tenant adheres to the approved plans and specifications, or the Building Work is properly managed, as the case may be, to the Landlord's reasonable satisfaction.
- 9.12 On completion of the Building Work, the Tenant must, at the Tenant's cost, obtain and provide the Landlord with a copy of, the code compliance certificate under the Building Act 2004, and a complete set of drawings accurately showing the as built building, fixtures, fittings and any improvements on the Premises as constructed or altered.
- 9.13 On completion of any Building Work, the Tenant must, at the Tenant's sole cost, within 20 Business Days make good any damage to the Premises or the Land caused during that Building Work, including restoring the Premises and the Land to as close as reasonably possible the same condition in which the Premises or the Land would have been had the damage not occurred. This will include revegetation (in



accordance with clause 6.11) or reurfing if required, and restoration of any access on the Premises or the Land or the surface of the Premises or the Land (including repairing any potholes or uneven surfaces), to the satisfaction of the Divisional Manager.

- 9.14 If the Tenant does not comply with the Tenant's obligations under clause 9.13 to the satisfaction of the Divisional Manager and within a reasonable time, the Landlord may carry out the necessary works and the Tenant must pay the Landlord's costs incurred in doing so, immediately on demand.
- 9.15 The Landlord may following any Building Work review the Rent in accordance with clause 4 (with necessary amendments). Such reviewed rent will have effect from the date of the completion of the Building Work.
- 9.16 The Landlord may require the Tenant to enter into a deed of variation of lease to record any necessary changes or reviewed Rent following any Building Work under this clause 9. The Tenant will pay the Landlord's costs of preparation, negotiation and execution of any variation under this clause 9.16.
- 9.17 The Tenant acknowledges that if this Lease has been granted pursuant to section 54(1)(a) of the Reserves Act 1977, then the Landlord reserves the right, pursuant to the provisions of section 54(1)(a) of the Reserves Act 1977, to require the Tenant to carry out certain Building Work, as set out in clause 26.8.

## **10 Compliance with Statutes**

### **Compliance with Statutes**

- 10.1 The Tenant must comply, at the Tenant's cost, with the provisions of all statutes, regulations, and bylaws, the District Plan, and any Policy or trusts affecting the Land and relating to the use of the Premises by the Tenant and the Tenant's Invitees.
- 10.2 Subject to clause 10.5, the Tenant must comply, at the Tenant's cost, with the requirements of any licences, requisitions and notices served by any competent authority in respect of the Premises.

### **Compliance with Building Act 2004**

- 10.3 The Tenant must, at the Tenant's cost, comply with the Building Act 2004, the compliance schedule and all licences, notices to rectify, requisitions or other notices issued, made or given by any competent authority in respect of the Premises or the use of the Premises by the Tenant and the Tenant's Invitees. The Tenant must immediately provide the Landlord with a copy of any notices or requisitions received by the Tenant.

### **If the Building is a Tenant's Improvement**

- 10.4 If the Premises comprise the whole or part of the Building that is a Tenant's Improvement the Tenant will, at the Tenant's cost, obtain any reports required for compliance with any relevant compliance schedule and provide to the territorial authority an annual building warrant of fitness for the Building.

### **If the Building is a Landlord's Improvement**

- 10.5 If the Building comprises a Landlord's Improvement:

- 10.5.1 the Tenant will not be required to make any structural repairs or alterations other than those required by reason of the particular nature of the use of the Premises by the Tenant or the Tenant's Invitees,
- 10.5.2 the Tenant will not be liable to discharge the Landlord's obligations as owner of the Building under the Building Act 2004, unless any particular obligation is the responsibility of the Tenant as occupier of the Premises.

### **Improvements Rent**

- 10.6 If the Landlord is obliged by any legislation or requirement to spend money on any improvement, addition or alteration to the Premises or the Land, then the Landlord will be entitled to charge, up to the next Review Date, in addition to the Rent, an annual sum equal to the Improvements Rent Percentage of the amount spent by the Landlord. The Tenant will pay a pro-rata portion of the increased Rent on demand to the Landlord on the completion of the improvement, addition or alteration, up to the next Rent Payment Date, and will pay the increased Rent on subsequent Rent Payment Dates.
- 10.7 If the Landlord is obliged to expend an unreasonable sum under clause 10.6, then the Landlord may cancel this Lease by giving written notice of cancellation to the Tenant, and the Tenant will have no claim for compensation or damages against the Landlord.
- 10.8 If there are a number of tenancies in the Building, then the sum payable by the Tenant under clause 10.6 will be based on a fair proportion of the amount spent as assessed by the Landlord.

## **11 Landlord's Rights of Inspection and to Remedy Tenant's Breach**

- 11.1 The Tenant will permit the Landlord and the Landlord's Invitees, at all reasonable times and on reasonable notice (or at any time, without notice, in the case of an emergency), to enter the Premises (including any Tenant's Improvements) to view the condition of the Premises (including any Tenant's Improvements).
- 11.2 If the Landlord gives the Tenant written notice of any failure of the Tenant to comply with any of the requirements of this Lease, the Tenant must carry out any required work as soon as possible and in a good and workmanlike manner.
- 11.3 The Landlord or the Landlord's Invitees may (without being under any obligation to do so) enter the Premises on giving the Tenant reasonable notice (or at any time without notice in case of an emergency), with all necessary equipment and materials, and carry out any necessary works or other obligations, if:
  - 11.3.1 the Tenant fails to comply with a notice given under clause 11.2, or any of the Tenant's obligations under this Lease within a reasonable period, or
  - 11.3.2 any repairs or maintenance for which the Tenant is responsible need to be undertaken as a matter of urgency.
- 11.4 The Tenant must pay to the Landlord on demand, the cost of any work carried out by the Landlord under clause 11.3.
- 11.5 If the Landlord exercises the Landlord's rights under clause 11.3, the Landlord will not be liable to the Tenant for any loss or cost, and the Tenant will not be entitled to any reduction or abatement of Rent or Outgoings.

## **12 Landlord's Rights of Access for Landlord's Repairs**

- 12.1 The Tenant will permit the Landlord and the Landlord's Invitees, at all reasonable times and on reasonable notice (or at any time, without notice, in the case of an emergency), to enter the Premises to carry out the Landlord's repairs to the Premises (including any reinstatement work under clause 14), the Land or adjacent land, and to install, inspect, repair, renew or replace any services, where the same are not the responsibility of the Tenant.
- 12.2 In exercising the Landlord's rights under clause 12.1, the Landlord will take reasonable steps to:
- 12.2.1 minimise the impact of the Landlord's works on the Tenant's use of the Premises,
  - 12.2.2 ensure that the Landlord's works do not materially diminish the Tenant's access to the Premises.
- 12.3 If the Landlord exercises the Landlord's rights under clause 12.1, the Landlord will not be liable to the Tenant for any loss or cost, and the Tenant will not be entitled to any reduction or abatement of Rent or Outgoings.

## **13 Insurance**

- 13.1 The Tenant will insure the Tenant's Improvements for full replacement, including all professional and consent fees, and costs of demolition, site clearance and for any works required by statute. The insurance policy must note the Landlord's interest, and if the Tenant's Improvements are attached to or adjacent to any building owned by the Landlord, including any Landlord's Improvements, then any policy under this clause must be with an insurance company nominated by the Landlord.
- 13.2 The Tenant will be responsible for arranging the Tenant's own contents insurance.

### **If the Building is a Tenant's Improvement**

- 13.3 The Tenant acknowledges and agrees if the Premises comprise the whole or part of the Building that is a Tenant's Improvement that:
- 13.3.1 the Landlord has not insured the Premises or the Land against destruction or damage arising from fire, flood, explosion, lightning, storm, earthquake, volcanic activity, or any other risks,
  - 13.3.2 the Tenant will meet the cost of making good destruction or damage to the Premises, or indemnify the Landlord against the cost of making good the destruction or damage to the Premises to the extent that:
    - (a) the destruction or damage arises from a risk referred to in clause 13.3.1,
    - (b) at the time of damage or destruction, the Landlord was not in fact entitled to be indemnified under a policy of insurance in whole or in part of the destruction or damage.
- 13.4 The Tenant will not be entitled to any compensation, or reduction or abatement of Rent or Outgoings due to the provisions of clause 13.3.

### **If the Building is a Landlord's Improvement**

- 13.5 If the Premises comprise the whole or part of the Building that is a Landlord's Improvement then the Landlord will insure the Landlord's Improvements on the Premises against damage arising from destruction or damage arising from fire, flood, explosion, lightning, storm, earthquake, volcanic activity, or any other risks that the Landlord considers necessary or desirable.

### **Tenant's other insurance**

- 13.6 The Tenant must keep in full force and effect policies for public liability, and Forest and Rural Fires Act 1977 insurance (if required under the Reference Schedule) with an insurance company approved by the Landlord, to cover the Landlord and the Tenant for any claims arising on or from the Tenant's use of the Land or the Premises.
- 13.7 The amount of cover under the policies under clause 13.6 must be (for any one claim) no less than the Minimum Public Risk Insurance amount set out in the Reference Schedule and the Minimum Forest and Rural Fires Act 1977 Insurance amount set out in the Reference Schedule (if required under the Reference Schedule), increased from time to time to maintain the real value of the insurance cover, to the reasonable satisfaction of the Landlord, and with a maximum deductible for each policy of \$100,000 for each claim.
- 13.8 For clarity, if the Reference Schedule records that Forest and Rural Fires Act insurance is not required, clauses 13.6 and 13.7 will not apply in respect of Forest and Rural Fires Act insurance.

### **Proof of Insurance**

- 13.9 The Tenant must, on request, provide the Landlord with a copy of the insurance policies and evidence that the Tenant has paid the premiums for the policies effected by the Tenant under clauses 13.1 and 13.6.

### **Tenant not to void insurances**

- 13.10 The Tenant must not do or allow any act or thing to be done which may make void or voidable any policy of insurance for the Premises (whether insurance of the Landlord or the Tenant), or which may result in any increased premium becoming payable, or the policy becoming void or voidable.

## **14 Damage or Destruction**

### **If the Building is a Tenant's Improvement**

- 14.1 If the Premises comprise the whole or part of the Building that is a Tenant's Improvement and the Lease is of the Landlord's land only with no Landlord's Improvements, and any Tenant's Improvements are destroyed or damaged, the Tenant will, subject to clauses 14.2 and 14.3, with all reasonable speed, apply all money received by the Tenant under any policies of insurance under clause 13.1 in or toward the repair, reinstatement or rebuilding of all Tenant's Improvements on the Land and reinstate the Premises to the state the Premises were in before the destruction or damage.
- 14.2 If the Tenant has fully complied with its insurance obligations under this Lease, the Tenant's liability to repair, reinstate under clause 14.1 will be limited to the extent of

the insurance money received, unless the Tenant's insurance was irrecoverable due to the act or default of the Tenant or the Tenant's Invitees. For clarity, the Tenant's liability will not be limited under this clause where the Tenant has not fully and properly complied with its insurance obligations under this Lease.

- 14.3 If the Tenant's Improvements are destroyed, the Tenant may elect to take the net insurance money received by the Tenant, and the Tenant will give the Landlord written notice of the Tenant's election under this clause not to reinstate, and this Lease will be at an end from the date the Tenant has complied with the Tenant's obligations under clause 14.4, but without prejudice to any rights for any prior breach the Landlord may have against the Tenant.
- 14.4 On termination under clause 14.3, the Tenant must comply with the Tenant's obligations set out in clause 17, including removal of the Tenant's Improvements.
- 14.5 The Tenant acknowledges the Landlord's rights under clause 11 to remedy any failure by the Tenant to comply with the Tenant's obligations, at the cost of the Tenant.

**If the Building is a Landlord's Improvement**

- 14.6 If the Premises comprise the whole or part of the Building that is a Landlord's Improvement then:
- 14.6.1 If the Premises are destroyed or damaged so as to make them untenable, or in the Landlord's opinion so as to require demolition or reconstruction, then the Landlord may cancel this Lease by giving notice to the Tenant, with effect from the date of the damage or destruction, but without prejudice to any rights for any prior breach the Landlord may have against the Tenant.
- 14.6.2 If the Premises are damaged, but that damage does not result in a termination by the Landlord under clause 14.6.1, the Landlord may at the Landlord's option, elect to:
- (a) reinstate the Premises using such materials and design as the Landlord elects, provided the reinstated Premises are, in the Landlord's opinion, reasonably adequate for the Permitted Use, or
  - (b) not reinstate the Premises and may (in the Landlord's sole discretion) cancel this Lease by giving notice to the Tenant, with effect from the date of the damage, but without prejudice to any rights for any prior breach the Landlord may have against the Tenant.
- 14.7 If this Lease is cancelled under clause 14.6.1 or clause 14.6.2(b):
- 14.7.1 The Tenant must comply with its obligations under clause 17.
- 14.7.2 No compensation or damages will be payable by the Landlord to the Tenant in relation to the cancellation.

## **15 Assignment and subletting**

- 15.1 The Tenant must not assign or sublet the whole or any part of Tenant's interest under this Lease without first obtaining the prior written approval of the Landlord. The Landlord may withhold the Landlord's approval if the following conditions are not met:
- 15.1.1 The Tenant proves to the satisfaction of the Landlord that the proposed assignee or subtenant is respectable, responsible and has the financial resources to meet the Tenant's commitments under this Lease, and the proposed assignee or subtenant will carry on the Permitted Use.
  - 15.1.2 All rent and other amounts payable by the Tenant have been paid, and there is no existing breach of the Tenant's obligations under this Lease.
  - 15.1.3 In the case of an assignment, the Tenant procures execution by the assignee of a deed with the Landlord (in a form acceptable to the Landlord) covenanting that the assignee will at all times pay the Rent and observe the terms and conditions contained or implied in this Lease (but without releasing the Tenant from the Tenant's obligations under this Lease).
  - 15.1.4 In the case of a sublease, the Tenant procures execution by the subtenant of a deed of sublease (in a form acceptable to the Landlord), and obtains the execution of that deed of sublease by the Landlord.
  - 15.1.5 The Landlord has approved (in the Landlord's sole discretion) the terms and conditions of any sale agreement between the Tenant and the assignee for the Tenant's Improvements on the Premises. The Tenant must provide a copy of the agreement for sale and purchase at least 10 Business Days before the proposed date of assignment.
  - 15.1.6 The Tenant proves to the satisfaction of the Landlord that the proposed assignee or subtenant will meet the requirements of any applicable Policy.
- 15.2 Despite anything else contained in this clause 15, if this Lease is granted pursuant to section 54(1)(b) or section 54(1)(c) of the Reserves Act 1977, then the Landlord will not approve an assignment or sublease of this Lease unless the assignee or transferee is a voluntary organisation whose aims and objects are similar to those of the Tenant.
- 15.3 Despite anything else contained in this clause 15, if this Lease is granted pursuant to the Reserves Act 1977, then the Landlord will at all times have the power, in the public interest, and in the Landlord's discretion, to:
- 15.3.1 refuse any application for approval to an assignment or sublease of this Lease, or
  - 15.3.2 grant the Landlord's approval, subject to such conditions as the Landlord thinks fit.
- 15.4 The Tenant must meet all the Landlord's costs in relation to any approval and any documentation relating to any approval under this clause 15, and including all costs of the Landlord in respect of inquiries made by the Landlord concerning any proposed assignee or subtenant. The costs under this clause will be payable whether or not the proposed assignment or sublease proceeds.
- 15.5 If the Landlord approves any subletting under this clause, the consent will only extend to that subletting, and despite anything else contained or implied in the sublease, the

Landlord's consent will not permit the subtenant to deal with the sublease in any way that the Tenant is restrained from dealing without approval under this Lease.

- 15.6 Except as provided under clause 15.1, the Tenant must not otherwise part with possession of all or part of the Premises or the Tenant's interest under this Lease, by mortgaging, charging, encumbering, hiring out or otherwise, without the prior written approval of the Landlord (which may be withheld at the sole discretion of the Landlord, and if given, may be subject to conditions).

## **16 Cancellation of this Lease**

### **Cancellation by the Landlord for breach**

- 16.1 The Landlord may cancel this Lease by re-entering the Premises or by obtaining an order for possession from a Court, and the Term will terminate on such cancellation, but without prejudice to the rights of either party against the other, if:
- 16.1.1 the Rent or any part is in arrears and unpaid for 1 month after any of the Payment Dates, and the Tenant has failed to remedy that breach within 20 Business Days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007,
  - 16.1.2 the Tenant neglects or fails to perform and observe any of the covenants, conditions or agreements contained in this Lease which are to be performed or observed by the Tenant, and after the Tenant has failed to remedy that breach within a period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.
- 16.2 It will be a breach of this Lease for the purposes of clause 16.1.2 (but not by way of limitation) if the Tenant:
- 16.2.1 makes or enters into or endeavours to make or enter into any composition, assignment or other arrangement with or for the benefit of the Tenant's creditors,
  - 16.2.2 becomes insolvent or bankrupt,
  - 16.2.3 is subject to an execution process against the Tenant's property, goods or effects under any judgment against the Tenant in any Court for a sum in excess of \$5,000.

### **Cancellation if insufficient use**

- 16.3 The Tenant acknowledges that the Landlord has granted this Lease pursuant to the Policy and that it is essential to the Landlord that the Tenant continues to carry on the Permitted Use on the Premises.
- 16.4 If, after making any enquiries as the Landlord considers fit, and by written notice to the Tenant giving the Tenant an opportunity of explaining the use of the Premises and 3 months from the date of the Landlord's notice under this clause in which to demonstrate that the Tenant is using or sufficiently using the Premises for the Permitted Use, the Landlord is of the opinion that the Premises are not being used or are not being sufficiently used for the Permitted Use, then the Landlord may cancel this Lease on giving the Tenant a further 3 months' written notice.

### **Cancellation on other grounds and Offer of Alternative Premises**

- 16.5 Without limiting the Landlord's rights to cancel this Lease under clause 16.1, the Landlord may cancel this Lease at any time by giving the Tenant 6 months' written notice (or shorter notice by mutual agreement), if any one or more of the following occurs:
- 16.5.1 the Landlord wishes to re-develop or sell the Premises,
  - 16.5.2 a change in any Policy or a decision by the Landlord as to the use and/or future suitability of the Premises for the Permitted Use which is inconsistent with this Lease,
  - 16.5.3 the Premises are required for a public work or another public work, or for any Treaty of Waitangi land settlement.
- 16.6 If this Lease is cancelled under clause 16.5, this Lease will terminate on the expiry of the Landlord's notice under clause 16.5, but without prejudice to the rights of either party against the other for any prior breach.
- 16.7 If this Lease is cancelled under clause 16.5.1 because the Landlord wishes to redevelop or sell the Premises, then the Landlord may, in the Landlord's sole discretion, offer the Tenant a lease of alternative premises (**Alternative Premises**) that, in the Landlord's reasonable opinion, are of a lettable area and in a location suitable for the Permitted Use, and will comply with any applicable Policy.
- 16.8 Any lease of Alternative Premises granted under clause 16.6 will be for a term commencing the day after the date of cancellation of this Lease under clause 16.5, and otherwise on the then prevailing terms and conditions of lease of land held by the Landlord for the purposes for which the Landlord holds the Alternative Premises.
- 16.9 If the Landlord makes an offer of a lease of Alternative Premises under clause 16.6, the Landlord will give the Tenant written notice of the offer at the time of the Landlord's notice under clause 16.5, and the Tenant must give the Landlord written notice within 10 Business Days of the Landlord's notice under this clause if the Tenant wishes to accept the offer, otherwise the offer will be deemed to be rejected.

### **Lease granted under section 73(3) of the Reserves Act 1977**

- 16.10 If this Lease is granted pursuant to section 73(3) of the Reserves Act 1977 then, in addition to the provisions of clause 16.4, if the Landlord considers that the Premises are required for the purpose of public recreation, then the Landlord may cancel this Lease on giving the Tenant 6 months' written notice.

### **Tenant's obligations on cancellation, and no compensation**

- 16.11 If this Lease is cancelled under this clause 16:
- 16.11.1 the Tenant must comply with its obligations set out in clause 17,
  - 16.11.2 no compensation or damages will be payable by the Landlord to the Tenant in relation to the cancellation.

### **17 Tenant's obligations on expiry or cancellation**

- 17.1 Subject to clause 17.2, on the expiry of the Term or any Renewed Term of this Lease, or on any cancellation, termination or surrender of this Lease as the case may



require, the Tenant must at the Tenant's sole cost within 20 Business Days remove the Tenant's Improvements and any other improvements or works installed by the Tenant on the Premises or the Land (including fences and utilities or services) from the Premises and the Land, and restore the Premises and the Land to as close as reasonably possible to the same condition in which the Land would have been had the Tenant's Improvements or any other works not been installed at the Premises (including, but not limited to, replanting, revegetation and returfing), to the satisfaction of the Divisional Manager.

- 17.2 Despite clause 17.1, the Landlord may, in the Landlord's sole discretion, give the Tenant written notice that the Landlord requires the Tenant to leave any of the Tenant's Improvements on the Premises, and the Tenant must not remove from the Premises or damage any of the Tenant's Improvements that have been specified in the Landlord's notice under this clause 17.2, and the Landlord may, in the Landlord's sole discretion:
- 17.2.1 require the Tenant's Improvements or specified Tenant's Improvements (as the case may be) to revert to the Landlord, and no compensation will be payable to the Tenant by the Landlord,
  - 17.2.2 pay the Tenant the value, as determined by the Landlord, of the Tenant's Improvements or specified Tenant's Improvements (as the case may be), if the Tenant's Improvements or specified Tenant's Improvements are of value to the Landlord, or
  - 17.2.3 require any incoming tenant of the Premises to pay the Tenant the value, as determined by the Landlord, of the Tenant's Improvements or specified Tenant's Improvements (as the case may be).
- 17.3 If the Tenant removes or damages any Tenant's Improvements specified in the Landlord's notice under clause 17.2, then the Tenant must pay to the Landlord, immediately on demand, all costs of reinstating or repairing (as the case may be) such Tenant's Improvements that have been removed or damaged in breach of clause 17.2.
- 17.4 For the sake of clarity, if the Landlord gives notice to the Tenant under clause 17.2 that the Landlord requires specified Tenant's Improvements to be left on the Premises, the Tenant must comply with its obligations under clause 17.1 to remove any of the Tenant's Improvements that have not been specified in the Landlord's notice.
- 17.5 On the expiry of the Term or Renewed Term, or on any cancellation, termination or surrender of this Lease as the case may require the Tenant must remove all the Tenant's chattels from the Premises and the Land. The Landlord may deal with any chattels in the apparent possession of the Tenant, which have not been removed by the Tenant, as the Landlord determines, in the Landlord's sole discretion, including disposing of the chattels or storing those chattels. The Landlord will not be liable for any loss to the Tenant resulting from the exercise of the Landlord's rights under this clause, and the Tenant must, in addition pay to the Landlord, on demand, any costs incurred by the Landlord in disposal or storage of the Tenant's chattels under this clause.
- 17.6 The Tenant must continue to pay to the Landlord the Rent calculated on a daily basis for the period starting on the date up to which the Rent has actually been paid and

ending on date on which the Tenant's obligations under this Lease have been fully complied with to the satisfaction of the Divisional Manager.

- 17.7 The Tenant acknowledges the Landlord's rights under clause 11 to remedy any failure of the Tenant to comply with the Tenant's obligations, at the Tenant's cost.

## **18 Indemnity**

- 18.1 The Tenant indemnifies the Landlord against all costs, damages, claims, demands or losses and expenses of any nature resulting from any act or omission of the Tenant or the Tenant's Invitees, on or about the Premises or the Land, or from the exercise of any of the Tenant's rights or complying with any of the Tenant's obligations under this Lease.
- 18.2 Without limiting clause 18.1, the Tenant indemnifies the Landlord against all fines, penalties, costs, actions, demands, losses, damages and expenses for which the Landlord becomes or may become liable for arising from the Tenant's or the Tenant's Invitees' failure to comply with any statutes or regulations, including, but not by way of limitation, the Health and Safety in Employment Act 1992 (to the extent permitted under that Act), the Building Act 2004, and the Resource Management Act 1991.
- 18.3 The Landlord will not be liable for, and the Tenant will indemnify the Landlord against, any claims in respect of any accident, injury, damage or interference suffered by any person or to any property (including the Tenant's Improvements), arising out of or by reason of the use of the Land or the Premises by the Tenant, the Tenant's Invitees or any other person (including members of the public).

## **19 Health and Safety**

- 19.1 The Tenant must comply, at the Tenant's cost, with all obligations imposed on the Tenant at law as the person in charge of a place of work and will be responsible for the health and safety of any person who enters on the Premises or the Land at the request or invitation of the Tenant.
- 19.2 The Tenant must comply, at the Tenant's cost, with any obligations imposed by the Landlord regarding the identification and mitigation of hazards, and health and safety of persons on the Premises and the Land.
- 19.3 Despite the provisions of clause 19.2 the Tenant remains liable in respect of the health and safety requirements under clause 19.1.

## **20 Signs**

- 20.1 The Tenant must not erect or place any signs (including advertising) on the Premises, other than signs required under any consent or for which the Tenant has obtained the prior written approval of the Landlord (which may be withheld at the sole discretion of the Landlord, and if given, may be subject to conditions, including requirements as to location and size) to any sign installed under this clause.

## **21 Access**

- 21.1 The Tenant will have the right, in common or with others including the public, to pass over those parts of the Land as shown outlined in yellow on the Access Plan for access to and from the Premises as is necessary for the Tenant and the Tenant's Invitees to exercise the rights granted to the Tenant in this Lease.
- 21.2 The Tenant may only take vehicles onto the Land that are necessary for the express purpose of exercising the Tenant's rights or complying with the Tenant's obligations under this Lease.
- 21.3 If the Tenant wishes to take vehicles onto the Land, the Tenant must liaise with and obtain the prior written approval of the Divisional Manager (which may be withheld at the sole discretion of the Landlord) provided that this requirement may be waived in the case of an emergency. The Landlord's approval, if given, may be given subject to conditions, including times of entry, notices to users of the Land, and appropriate signage on the Land.
- 21.4 The Tenant may access the Land without the Landlord's prior approval under this clause 21 only:
- 21.4.1 during daylight hours,
  - 21.4.2 on weekdays (no vehicular access is permitted on weekends or public holidays),
  - 21.4.3 in an emergency (provided that the Tenant must immediately notify the Divisional Manager of such emergency access).
- 21.5 The Tenant will not access the Land (by vehicle or otherwise) at any time other than as provided under clause 21.4 without the Landlord's prior written approval (which may be withheld at the sole discretion of the Landlord, and if given, may be subject to conditions).
- 21.6 The Tenant acknowledges that the access routes to the Premises will be those as shown in the Access Plan and as existing at the Commencement Date. For the sake of clarity the Landlord will not be required to upgrade any accessways on the Land or the Premises, despite the fact the Landlord may choose to do so.
- 21.7 If the Tenant wishes to upgrade any access over the Land and the Premises, the Tenant must first obtain the prior written approval of the Divisional Manager (which, if given, may be subject to any conditions the Landlord in the Landlord's sole discretion considers necessary), and the Tenant must otherwise comply with the provisions of this Lease, and in particular the provisions of clause 9, and the Tenant must meet all costs of any upgrade works under this clause.
- 21.8 The Tenant must immediately advise the Divisional Manager of any damage or obstruction to any access on the Premises or the Land of which the Tenant is aware or which is caused by the Tenant or the Tenant's Invitees.

## **22 Fences**

- 22.1 The Tenant may, on obtaining the prior written approval of the Divisional Manager under clause 9, or must if required by the Landlord, erect and maintain a fence on the

Premises at the Tenant's cost, and otherwise in compliance with approvals by the Divisional Manager under clause 9.

- 22.2 If the Tenant erects a fence under clause 22.1, the Tenant must keep and maintain the fence at the Tenant's cost, and if required by the Landlord remove the fence at the Expiry Date or other termination of the Term in accordance with the provisions of this Lease (including making good resulting damage and reinstating the Premises to the satisfaction of the Divisional Manager in accordance with the provisions of clause 17).
- 22.3 Any fence built by the Tenant under this clause 22 must:
- 22.3.1 be in accordance with plans as approved by the Divisional Manager,
  - 22.3.2 in a location approved by the Divisional Manager,
  - 22.3.3 not contain any barbed wire or similar materials,
  - 22.3.4 where required, be constructed in accordance with an appropriate building consent.
- 22.4 For the sake of clarity, the Tenant must not build any fence on the Premises otherwise than in accordance with this clause 22.

## **23 Security**

- 23.1 The Tenant must comply with any reasonable security requirements of the Landlord in relation to the Land and/or the Premises.
- 23.2 The Tenant must ensure that the Premises are kept properly secured at all times, and will ensure that all doors and windows are securely closed when the Premises are not occupied.
- 23.3 If access to the Land or the Premises is through locked gates, the Tenant must ensure that the gates are locked at all times, and do all things reasonable to ensure that third parties do not gain access through the locked gates. The Landlord will provide the Tenant with one key for the lock, at the Tenant's cost. The Tenant will pay the costs of any replacement of keys and/or locks and the costs of making good any damage to gates or fences, due to the Tenant's or the Tenant's Invitees' acts or omissions.

## **24 Telecommunications Equipment**

- 24.1 The Tenant acknowledges that:
- 24.1.1 this Lease is subject to any rights that the Landlord may have granted to a third party for the installation and operation of equipment for Telecommunications purposes on or over the Land or the Premises before the grant of this Lease,
  - 24.1.2 the Landlord may grant further rights over the Premises or Land to third parties for Telecommunications purposes during the term of this Lease.
- 24.2 The Landlord will not be liable for any injury, damage or loss that the Tenant may suffer (including but not limited to that arising from any interference) which arises from any Telecommunications equipment on the Land or the Premises.

## **25 Interference**

- 25.1 The Tenant must ensure that at all times the Tenant's use of the Premises does not interfere with the operation of any utilities or services, or any other equipment or transmitting or receiving systems on the Premises or the Land (including equipment for the purposes of Telecommunications). If in the Landlord's reasonable opinion interference is occurring, then the Tenant must remedy the interference promptly after the Tenant receives notice from the Landlord.

## **26 Reserve status**

### **Tenant's obligations in respect of reserve values**

- 26.1 The Tenant acknowledges that the Land is either a reserve under the Reserves Act 1977 or managed by the Landlord as a reserve. Accordingly, it is of paramount importance to the Landlord that the Tenant's use of the Premises and the Land, including the Permitted Use under this Lease, must be carried out in a way that is consistent with any Policy of the Landlord, and the Landlord's objectives for the Land which include the following:
- 26.1.1 providing areas for public recreation and the physical welfare and enjoyment of the public (including freedom of public access),
  - 26.1.2 protection and preservation of, preventing damage to or destruction of, and providing adequate safeguards for the natural environment (including scenic, historic, cultural, archaeological, biological, geological or other scientific features, or native flora or fauna),
  - 26.1.3 conserving the qualities of the Land which contribute to the pleasantness, harmony and cohesion of the natural environment, and to the better use and enjoyment of the Land.
- 26.2 The provisions of this Lease are at all times subject to any applicable Policy of the Landlord.

### **Declaration and classification as reserve**

- 26.3 If this Lease is not stated in the Reference Schedule to be granted under the Reserves Act 1977, the Tenant acknowledges that:
- 26.3.1 the Land is not at the Commencement Date held by the Landlord subject to the Reserves Act 1977, and
  - 26.3.2 the Landlord may during the Term or any Renewed Term declare the Land to be reserve, and classify the Land under the Reserves Act 1977.
- 26.4 The Tenant agrees that if the Landlord declares the Land to be reserve under clause 26.3.1 and classifies the Land under the Reserves Act 1977 under clause 26.3.2, the Tenant will enter into a deed to vary the terms of the Lease so that the Lease will:
- 26.4.1 be on the then prevailing terms and conditions of leases of land held by the Landlord as reserve for the purposes for which the Land has been classified under the Reserves Act 1977, and
  - 26.4.2 comply with any applicable Policy.

### **Ministerial consent**

- 26.5 The Tenant acknowledges that, if this Lease has been granted pursuant to the Reserves Act 1977, under the provisions of the Reserves Act 1977 the consent of the Minister of Conservation may be required in addition to the Landlord's consent to matters under this Lease.
- 26.6 Where the consent of the Minister of Conservation is required, the Landlord and the Tenant agree to use reasonable endeavours to obtain that consent, at the Tenant's cost.

### **Tenant to allow use of the Premises**

- 26.7 If this Lease is granted pursuant to section 54(1)(b) or section 54(1)(c) of the Reserves Act 1977, then the Landlord may:
- 26.7.1 require an allocation of the use of a portion of the Premises (to be specified from time to time by the Landlord), for the playing of specified sports, games, or other recreational activity, and that allocation may be for a whole year, part of a year, or for certain days in a year,
  - 26.7.2 require the Tenant to allow the use of playing facilities on the Premises by non-members, on the payment of reasonable charges (pursuant to clause 6.21), on any occasion when the playing facilities are open for play and the Tenant is not exercising any right of exclusive use of the Premises,
  - 26.7.3 require the Tenant to make the whole or part of any stands, pavilions, gymnasiums, or other buildings or structures on the Premises available from time to time at reasonable charges (pursuant to clause 6.21) to such other voluntary organisation using the Land or part of the Land for outdoor sports, games, or recreational activities, or (in special circumstances) for recreation not directly associated with outdoor recreation.

### **Facilities for public recreation and enjoyment to be constructed by the Tenant**

- 26.8 If this Lease is granted pursuant to section 54(1)(a) of the Reserves Act 1977, the Landlord in accordance with the provisions of section 54(1)(a) of the Reserves Act 1977 may require the Tenant, at the Tenant's cost and otherwise in compliance with the provisions of clause 9, to construct and develop facilities for public recreation and enjoyment.

## **27 Registered Interests**

- 27.1 The Tenant acknowledges that this Lease is subject to any easements, restrictions, covenants or conditions registered on any certificate of title for the Land as at the Commencement Date.
- 27.2 The Tenant and the Tenant's Invitees must fully comply with all the easements, restrictions, covenants and conditions referred to in clause 27.1, and Tenant must not do anything or allow anything to be done that may put the Landlord in breach of any of those easements, restrictions covenants and conditions.

## **28 Suitability**

- 28.1 The Landlord makes no warranty or representation that the Premises are or will remain suitable or adequate for the Permitted Use, or that the use of the Premises by the Tenant will comply with any statutes, regulations or bylaws.
- 28.2 The Landlord gives no warranty as to the suitability or availability of any services or utilities on the Premises.
- 28.3 The Tenant will use the Premises at the Tenant's own risk and the Landlord will not be responsible for any loss arising out of the Tenant's use of the Premises or the Land.
- 28.4 The Tenant will not have any right of action, claim for compensation or damages, or claim for suspension, reduction or abatement of Rent or Outgoings against the Landlord in any of the following circumstances:
- 28.4.1 any non-supply, failure of or interruption to the electricity supply or any other services or utilities to the Premises or the Land, due to any cause,
  - 28.4.2 the Landlord has entered onto the Premises to exercise any of the Landlord's rights or comply with any of the Landlord's obligations.

## **29 Lease of Premises only**

- 29.1 This Lease will relate only to the Premises, and the Landlord will at all times be entitled to use, occupy and deal with the remainder of the Land and any property owned or under the possession or control of the Landlord without reference to the Tenant, and the Tenant will have no rights in relation to the Premises and the Land other than the rights of use provided in this Lease.
- 29.2 The Landlord will not be liable to the Tenant for any act of default or neglect of any other tenant, occupier or user (including members of the public) of the Land.

## **30 Local Government Official Information and Meetings Act 1987**

- 30.1 The Tenant acknowledges that the Landlord is subject to the Local Government Official Information and Meetings Act 1987, and the Landlord may be required to release information in relation to this Lease.

## **31 Statutory provisions**

- 31.1 The rights granted under this Lease are subject to the Reserves Act 1977 (if applicable), and any other statutory or regulatory provisions, bylaws, the District Plan or Policy or trusts affecting the Land from time to time.
- 31.2 The covenants and provisions required to be included in this lease by the Reserves Act 1977 will apply to the extent that those covenants and provisions are not expressly included in this Lease.
- 31.3 The covenants and provisions implied into Leases under the Land Transfer Act 1952 will apply to this Lease except to the extent that those covenants and provisions are inconsistent with the terms of this Lease and the Reserves Act 1977.

- 31.4 The covenants and powers in clauses 4, 5, 9, 10 and 12 of Part 2, and clause 13 of Part 3 of Schedule 3 to the Property Law Act 2007 are not implied in this Lease and are expressly excluded. The provisions of the Property Law Act 2007 will apply to this Lease to the extent those provisions are consistent with the Reserves Act 1977.

## **32 No registration and no caveat**

- 32.1 The Landlord will not be required to do any act or any thing to enable this Lease to be registered, or be required to obtain the consent of any mortgagee of the Lease.
- 32.2 Despite clause 32.1, if the Landlord agrees to register this Lease (which agreement may or may not be given at the Landlord's sole discretion, and if given may be given subject to conditions), the Tenant must first pay to the Landlord the sum the Landlord reasonably requires to cover all expenses of any nature for which the Landlord may become liable, before the Landlord is required to execute a lease of the Premises in a registrable form.
- 32.3 The Tenant will pay all costs associated with the preparation and registration of this Lease under clause 32.2, including but not limited to, the costs of any survey plan, and the Landlord's solicitors costs of preparing and registering this Lease.
- 32.4 The Tenant must not lodge a caveat in respect of the Tenant's interest in this Lease.
- 32.5 The Tenant will have no right under this Lease to acquire the fee simple in the Land.

## **33 Disputes**

- 33.1 If a dispute arises between the parties about anything in relation to this Lease, then a party may notify the other in writing stating that there is a dispute and giving details of it. The parties must then attempt in good faith to settle the dispute. These attempts may include using alternative dispute resolution techniques.
- 33.2 If such attempts do not result in a resolution within 20 Business Days, then the dispute will be referred to the arbitration in New Zealand of a single arbitrator if the parties can agree on one or otherwise to 2 arbitrators (one to be appointed by each party) and an umpire (to be appointed by the arbitrators before entering on their reference) in accordance with the Arbitration Act 1996 or any replacement or amendment legislation.
- 33.3 If a difference or dispute is referred to alternative dispute resolution or arbitration, under this clause 33, each party will bear that party's own costs of the alternative dispute resolution or the arbitration, subject to any award or order which may result from that alternative dispute resolution or arbitration.

## **34 Notices**

### **Giving notices**

- 34.1 Any notice or communication given to a party under this Lease is only given if it is in writing and sent in one of the following ways:
- 34.1.1 if the notice is under section 245 or section 246 of the Property Law Act 2007 (Landlord's notice of intention to cancel this Lease for breach) or under section 261 of the Property Law Act 2007 (Landlord's notice of



refusal to renew), in the manner prescribed in section 353 of the Property Law Act 2007,

34.1.2 in all other cases, unless otherwise required by sections 252 to 361 of the Property Law Act 2007:

- (a) in the manner authorised by sections 352 to 361 of the Property Law Act 2007,
- (b) personal delivery,
- (c) delivered or posted to that party at that party's address and marked for the attention of the relevant department or officer (if any) set out in the Reference Schedule, or
- (d) faxed to that party at that party's fax number and marked for the attention of the relevant department or officer (if any) set out in the Reference Schedule.

34.2 Notices by email are not permitted.

#### **Change of address or fax number**

34.3 If a party gives the other party three Business Days' notice of a change of that party's address or fax number, any notice or communication is only given by that other party if it is delivered, posted or faxed to the latest address or fax number.

#### **Time notice is given**

34.4 Any notice or communication is to be treated as given at the following time:

- 34.4.1 if by personal delivery, when received by the addressee,
- 34.4.2 if it is delivered, when the notice or communication is left at the relevant address,
- 34.4.3 if it is sent by post, two Business Days after the notice or communication is posted,
- 34.4.4 if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

34.5 However, if any notice or communication is given on a day that is not a Business Day or after 5pm on a Business Day, in the place of the party to whom the notice is sent it is to be treated as having been given at the beginning of the next Business Day.

### **35 Costs and expenses**

35.1 The Tenant will pay the Landlord's costs in connection with the preparation, perusal, negotiation and execution of this Lease, and any document related to this Lease or variation to this Lease.

35.2 The Tenant will pay the Landlord's reasonable costs incurred in connection with considering any request by the Tenant for the Landlord's approval or consent to any matter under this Lease (whether or not the approval or consent is granted).

35.3 The Tenant will pay the Landlord's costs of and incidental to the enforcement or attempted enforcement of the Landlord's rights, remedies and powers under this Lease.

## **36 Miscellaneous**

### **Approvals and consents**

- 36.1 Unless this Lease expressly provides otherwise, the Landlord may give or withhold an approval or consent in the Landlord's absolute discretion, and subject to any conditions determined by the Landlord. The Landlord is not obliged to give the Landlord's reasons for giving or withholding a consent or approval, or for giving a consent or approval subject to conditions.
- 36.2 Where this Lease refers to a matter being to the 'satisfaction' of the Divisional Manager, this means to the satisfaction of the Divisional Manager in his or her absolute discretion.

### **Severability**

- 36.3 Each provision of this Lease is individually severable. If any provision is or becomes illegal, unenforceable or invalid it is to be treated as being severed from this Lease, but the rest of this Lease will not be affected.

### **Variation**

- 36.4 No variation of this Lease will be of any force or effect unless it is in writing and signed by each party to this Lease.

### **Waivers**

- 36.5 A waiver of any right, power or remedy under this Lease must be in writing, signed by the party granting that waiver. A waiver is only effective in relation to the particular obligation or breach in respect of which that waiver is given, and is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach, in relation to any other occasion.
- 36.6 The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Lease does not amount to a waiver.

**Schedule 9**

**Plan of Premises – Speldhurst Park – Stokes Valley**

Refer attached plan showing the Premises outlined in red.



**Schedule 10**

**Plan of Premises – Petone Recreation Ground – Lower Hutt**

Refer attached plan showing the Premises outlined in red.



**Schedule 11**

**Plan of Premises – Rona Bay Beach - Eastbourne**

Refer attached plan showing the Premises outlined in red.



**Schedule 12**

**Plan of Premises – Trafalgar Square - Waterloo**

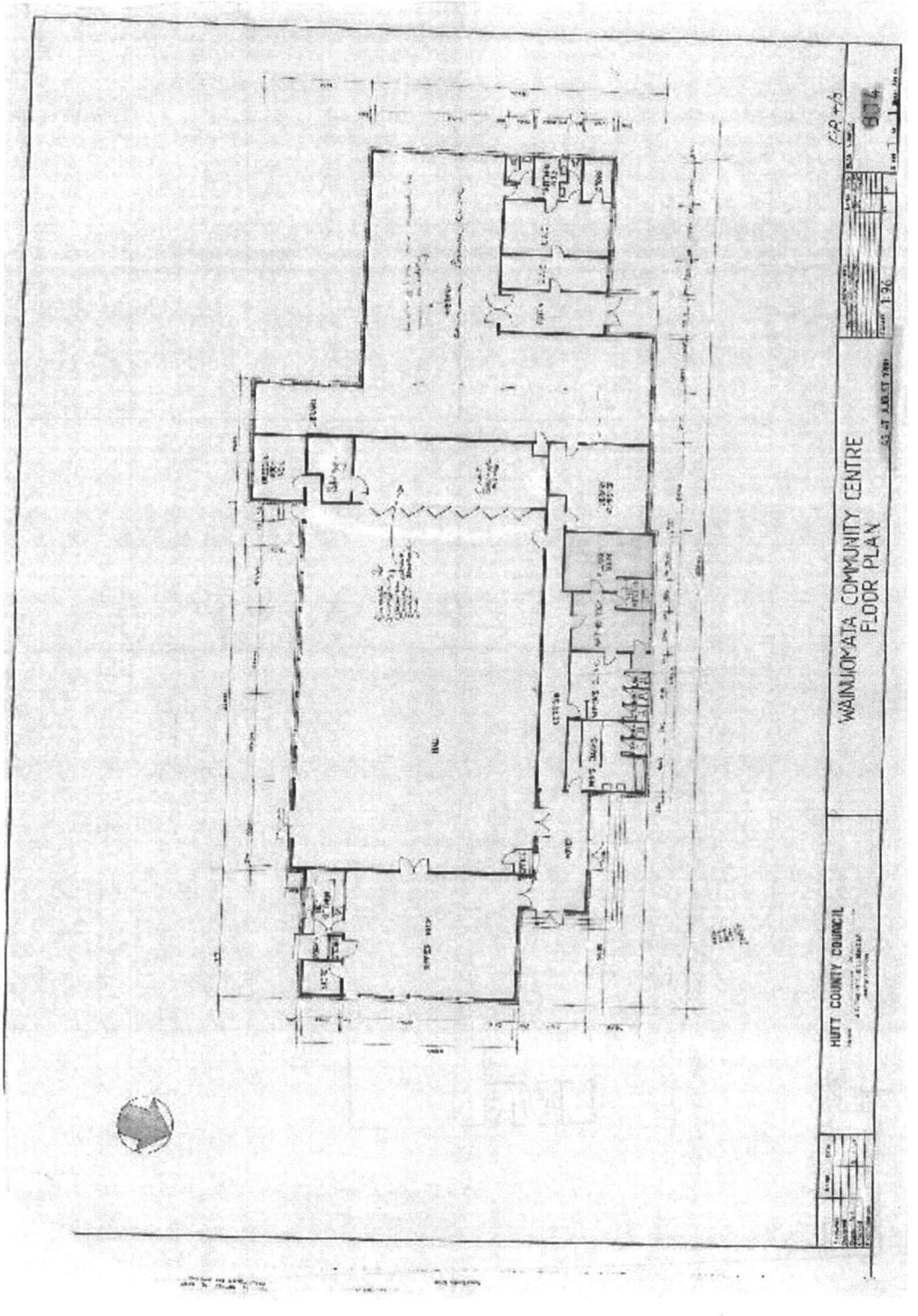
Refer attached plan showing the Premises outlined in red.



**Schedule 13**

**Plan of Premises – Wainuiomata Community Hall/Centre – Wainuiomata**

Refer attached plan showing the Premises highlighted in yellow with the entire building outlined in red.



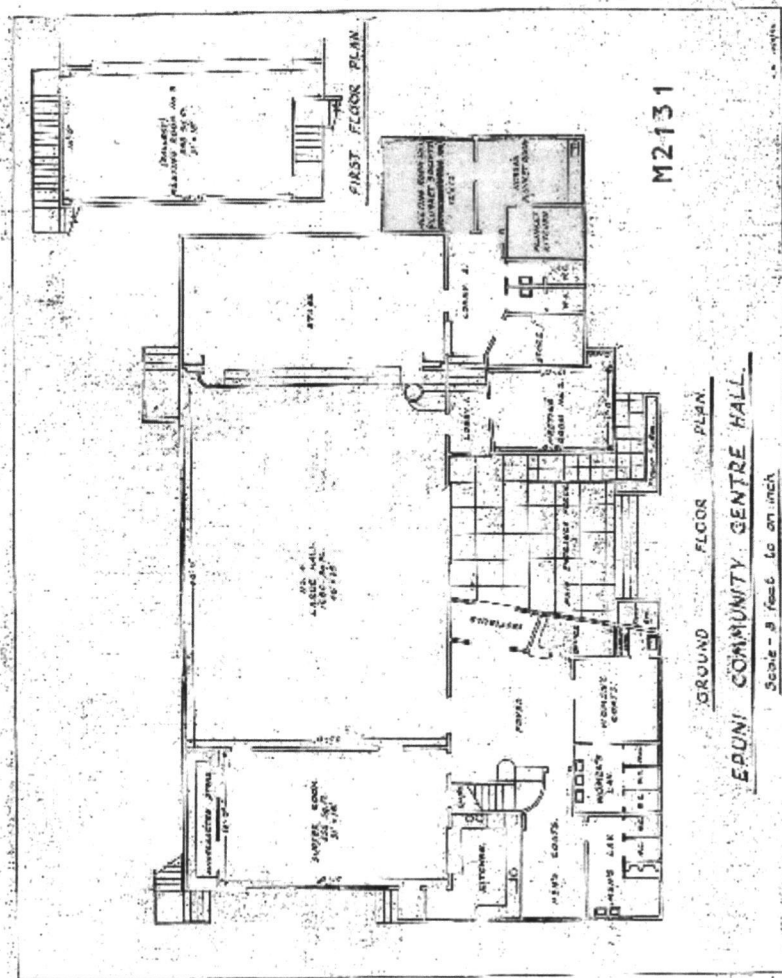




**Schedule 14**

**Plan of Premises – Epuni Community Hall/Centre – Epuni**

Refer attached plan showing the Premises highlighted in yellow with the entire building outlined in red.

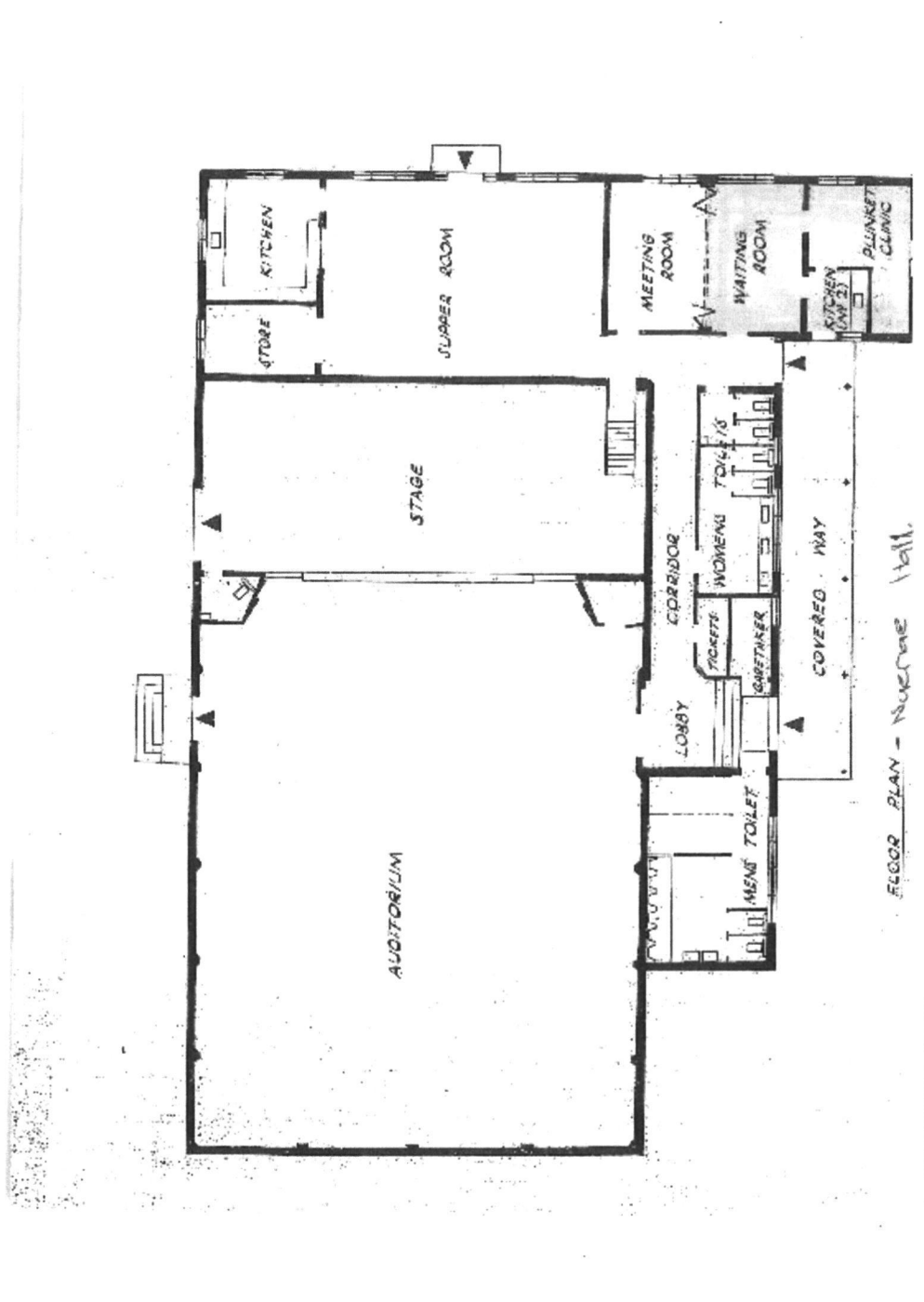




Schedule 15

### Plan of Premises – Naenae Community Hall/Centre – Naenae

Refer attached plan showing the Premises highlighted in yellow with the entire building outlined in red.





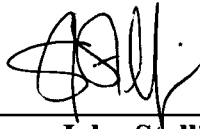
## **CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY**

I, **Antony John Stallinger** of Lower Hutt, New Zealand, Chief Executive Officer certify:

- 1 That by deed dated 11 December 2012, Hutt City Council appointed me its attorney on the terms and conditions set out in the deed.
- 2 That at the date of this certificate I have not received any notice or information of any event revoking such Power of Attorney.

Signed at Lower Hutt, New Zealand

Date: 24 April 2015



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**Antony John Stallinger**