



DATE

# DEED OF GROUND LEASE

YOUTHTOWN INCORPORATED





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## SCHEDULE

Lessee:	Youthtown Incorporated, an Incorporated Society registered as a charity on the Charities Register
Premises:	1113m2 more or less being part Section 359 SO46619 and part Lot 1 DPS 33441 Block II Tauhara Survey District (Armed Constabulary Reserve) as shown outlined in blue on the plan appended
Term:	33 years
Commencement Date:	1 December 2017
Termination Date:	30 November 2050
Final Expiry Date:	30 November 2050
Rent:	\$813.91 plus GST being the current rate for ground leases for community buildings
Rent Payment Dates:	1 December 2022 and each year of the lease term thereafter
Rent Review Date(s):	1 December 2025 and every three years thereafter
Permitted Use:	The operation of services and programmes primarily for children and young people.
Minimum Public Risk Insurance:	\$2,000,000.00
Default Interest Rate:	10% above the New Zealand Official Cash Rate (OCR) from time to time





# GROUND LEASE RESERVES ACT 1977 – RESERVE

DATE 2022

## PARTIES

TAUPO DISTRICT COUNCIL a body corporate under the Local Government Act 2002 (**the Lessor**)

THE LESSEE NAMED IN THE SCHEDULE (**the Lessee**)

## BACKGROUND

- A. The Premises is vested in the Lessor as reserve pursuant to the Reserves Act 1977.
- B. The Lessor has agreed to lease the Premises to the Lessee under the Reserves Act 1977 and on the terms of this deed.
- C. The Lessee has agreed to take the Premises on lease.

## OPERATIVE PART

### 1. Definitions

1.1 In this lease unless the context indicates otherwise:

- (a) **Authority** means and includes every governmental, local, territorial and statutory authority having jurisdiction or authority over the Premises or its use;
- (b) **Building** means the Lessee's building currently located on the premises as at the date of this lease;
- (c) **Commencement Date** shall have the meaning set out in the schedule;
- (d) **Default Interest Rate** shall have the meaning set out in the schedule;
- (e) **Final Expiry Date** shall have the meaning set out in the schedule;
- (f) **GST** means tax levied under the Goods and Services Tax Act 1985 and includes any tax levied in substitution for that tax;
- (g) **Guarantor** includes the Guarantor's personal representatives;
- (h) **Insured Risks** means loss, damage or destruction resulting from fire, earthquake, storm, tempest and aircraft impact and any other risks which the Lessor reasonably requires to be insured against;
- (i) **Lessee** includes the Lessee's permitted assigns and the Lessee's agents, employees, contractors and invitees;



- (j) **Lessee's Improvements** means the Lessee's property situated in, or on, the Premises and includes the Building and all structures and improvements and all equipment and plant owned or placed on the Premises by the Lessee;
- (k) **Lessor** includes the Lessor's assigns and the Lessor's employees, contractors and agents;
- (l) **Lessor's Improvements** means and includes any fixed assets, equipment or plant owned or placed in or on the Premises by the Lessor from time to time;
- (m) **Minimum Public Risk Insurance** shall have the meaning set out in the schedule;
- (n) **Outgoings** means all rates, charges, levies, assessments, duties, impositions and fees from time to time payable to any Authority relating to the Premises;
- (o) **Permitted Use** shall have the meaning set out in the schedule;
- (p) **Premises** shall have the meaning set out in the schedule;
- (q) **Rent** shall have the meaning set out in the schedule;
- (r) **Rent Payment Date(s)** shall have the meaning set out in the schedule;
- (s) **Rent Review Date(s)** shall have the meaning set out in the schedule;
- (t) **Rent Review Notice** means a notice in writing setting out the Rent that the Lessor considers to be the appropriate rental for the Premises;
- (u) **Review Objection Notice** means a notice objecting to a Rent Review Notice pursuant to clause 7.2;
- (v) **RMA** means the Resource Management Act 1991;
- (w) **Term** shall have the meaning set out in the schedule;
- (x) **Termination Date** shall have the meaning set out in the schedule;
- (y) **Utilities** means all utility and other services connected and/or supplied to the Premises, including water, sewage, drainage, electricity, gas, telephone and rubbish collection;
- (z) **working day** has the same meaning as in section 4 of the Property Law Act 2007; and
- (aa) The terms **Building Work** and **Code Compliance Certificate** have the meanings given to those terms in the Building Act 2004.

1.2 The schedule and its contents have the same effect as if set out in the body of this lease.

## 2. Interpretation

In this lease unless the context indicates otherwise:

- (a) Expressions defined in the main body of this lease have the defined meaning in the whole of this lease including the background and the schedule;
- (b) Section, clause and other headings are for ease of reference only and do not form any part of the context or affect this lease's interpretation;



- (c) Where two or more persons are bound by a provision in this lease, that provision will bind those persons jointly and each of them severally;
- (d) Any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (e) References to parties are references to parties to this lease and include each party's executors, administrators and successors;
- (f) References to persons include references to individuals, companies, partnerships, associations, trusts, government departments and local authorities in each case whether or not having separate legal personality;
- (g) Singular words include the plural and vice versa;
- (h) References to sections and clauses are references to sections and clauses of this lease; and
- (i) References to a statute include references to regulations, orders, rules or notices made under that statute and references to a statute or regulation include references to all amendments to that statute or regulation whether by subsequent statute or otherwise.

### 3. **Lease**

3.1 The Lessor leases to the Lessee and the Lessee takes the Premises on lease for the Term beginning on the Commencement Date and ending on the Termination Date at the Rent.

3.2 The Lessee acknowledges that there is no right of renewal for a further term granted or offered by the Lessor under this lease.

### 4. **Annual Rent**

The Lessee must pay:

- (a) The Rent by one instalment annually in advance on the Rent Payment Dates;
- (b) All Rent and other money payable by the Lessee under this lease to the Lessor without any deduction or set-off; and
- (c) All Rent payments by direct bank payment or as the Lessor may direct.

### 5. **GST**

5.1 The Lessee must pay to the Lessor all GST payable on the Rent and other money payable by the Lessee under this lease. The Lessee must pay GST:

- (a) On the Rent on each occasion when any Rent falls due for payment; and
- (b) On any other money payable by the Lessee on demand.

5.2 The Lessee must pay any additional tax or penalty tax to the Lessor on demand if:

- (a) The Lessee fails to pay the Rent or other money payable under this lease (including GST); and
- (b) The Lessor becomes liable to pay additional GST or penalty tax.

## 6. **Default Interest**

The Lessee must on demand pay interest at the Default Interest Rate (calculated on a daily basis) on the money unpaid from the due date or the date of the Lessor's demand (as the case may be) down to the date of payment if the Lessee fails to pay any instalment of the Rent or any other money payable under this lease for ten (10) working days after the:

- (a) Due date for payment; or
- (b) Date of the Lessor's demand, if there is no due date.

## 7. **Rent Review**

7.1 The Lessor has the sole right to determine the policy from time to time as to the charges to be made for leases on its reserves, which may vary dependent on the type of the reserve and the Permitted Use. The Lessee may as part of any consultation undertaken by the Lessor, make submissions on changes to any existing policies.

7.2 The rent for the first rent period is calculated from the Ground Rental for Sporting and Community leases (Taupō, per m<sup>2</sup>) as defined in the 2021/22 Taupō District Council Fees and Charges Schedule based on an estimated 400m<sup>2</sup> of building area. Notwithstanding Clause 7.1 it is anticipated that future rent reviews will apply the ground lease rental rate for community leases as defined by Council policy to the actual building footprint.

7.3 The following terms apply to a review of the Rent:

- (a) The Lessor may serve a Rent Review Notice on the Lessee at any time no earlier than three (3) months before the relevant Rent Review Date (and at any time before the next Rent Review Date);
- (b) The Lessee may serve a Review Objection Notice on the Lessor within twenty (20) working days after service of a Rent Review Notice (time being of the essence); and
- (c) If the Lessee does not serve a Review Objection Notice within the period specified in clause 7.2(b), the Lessee will be taken to have accepted the proposed new Rent contained in the Rent Review Notice.

7.4 If the Lessee serves a valid Review Objection Notice, then the Lessor and the Lessee must enter into negotiations to resolve the dispute. If the parties cannot reach agreement within twenty (20) working days after the date of service of a Review Objection Notice (or any longer period agreed by the parties), then this lease shall end as at the relevant Rent Review Date (and, for the avoidance of doubt, the provisions of clause 19 shall then apply). For the avoidance of doubt, clause 35 shall not apply to the Rent review procedure set out above.

7.5 In any Rent review or determination pursuant to this clause 7, the current Rent shall not be less than the previous Rent payable during the preceding twelve (12) month period of the Term.

7.6 On determination of the reviewed Rent under this clause 7, the parties will enter into any form of deed or other document which the Lessor requires to record the revised Rent.

## 8. **Holding Over**

If, other than under the grant of a further lease, the Lessor permits the Lessee to continue to use the Premises after the expiry or earlier termination of the Term:

- (a) The Lessee may do so on a monthly basis only;



- (b) The monthly Rent payable by the Lessee for that continued use will be an amount equal to one-twelfth of the Rent payable immediately before the expiry or earlier termination of the Term;
- (c) The Lessee must pay the Rent under clause 8(b) monthly in advance, with the first payment being due on the first day of the Lessee's continued use of the Premises after the expiry or earlier termination of the Term;
- (d) The Lessee's right to continue to use the Premises under this clause 8 will be determinable at any time by either party giving the other one month's written notice of termination; and
- (e) Pending termination under clause 8(d), the Lessee's continued use of the Premises under this clause 8 will continue on the same terms (as far as they are applicable) as this lease.

## 9. **Maintenance**

9.1 The Lessee must throughout the Term:

- (a) Maintain the Lessee's Improvements in good repair;
- (b) Keep the Premises clean and tidy (including the removal of any graffiti as soon as reasonably possible);
- (c) Regularly remove all rubbish and waste from the Premises;
- (d) Replace all broken glass on the Premises; and
- (e) Prevent and exterminate any pest infestation on the Premises.
- (f) Maintain and keep trimmed all grass and vegetation within the lease area and within any fence erected outside the lease area.
- (g) Maintain and repair any fencing erected by the Lessee whether inside or outside of the lease area.
- (h) Repair all damage to the Lessor's fence that is caused by the Lessee's action or inaction.

## 10. **No Assignment or Subletting – Surrender**

10.1 The Lessee shall not assign sublet or otherwise part with the possession of the Premises or any part thereof.

10.2 The Lessee acknowledges that there are no rights granted to the Lessee under this lease to assign sublet or otherwise part with the possession of the Premises.

10.3 In the event the Lessee, during the Term, wishes to surrender this lease (and Rent and other moneys payable have been paid and there is not any subsisting breach of any of the Lessee's covenants), such surrender may be accepted by the Lessor upon six (6) month's notice in writing being given and upon such other conditions as the Lessor may consider appropriate.

## 11. **Permitted Use**

The Lessee may use the Premises only for the Permitted Use and for no other purpose.



## 12. Use of Premises

The Lessee must:

- (a) Not carry on any noxious, noisy, or offensive business or activity in or about the Premises or do anything which is or may become a nuisance or annoyance to the Lessor or any other person, but the carrying on of the Permitted Use by the Lessee in a reasonable manner will not of itself be a breach of this clause;
- (b) Not bring upon or store within the Premises any machinery goods or things of an offensive noxious illegal or dangerous nature, or of such weight size or shape as is likely to cause damage to the Premises;
- (c) Not do anything which is or may become a breach of any duty imposed on any person by the Health and Safety at Work Act 2015 or the RMA;
- (d) Comply in all respects with all acts, bylaws, regulations, rules and requisitions relating to the Premises and the Lessee's use of the Premises;
- (e) Use its best endeavours to limit noise levels within, and the emission of noise from the Premises and in particular must keep the noise level at the boundaries of the Premises within the requirements of the District Plan and any Resource Consent issue in respect of any activity on the Premises; and
- (f) Not exhibit or permit to be affixed, painted or exhibited any name sign, nameplate signboard or advertisement of any description on, or to the exterior of any building upon, the Premises without the prior written approval of the Lessor.

## 13. Health and Safety

13.1 The Lessee acknowledges that health and safety is a priority of the Lessor.

13.2 Acknowledging the Lessor's health and safety priority, the Lessee:

- (a) Shall provide its employees and visitors with a healthy and safe working environment; and
- (b) Shall ensure that its employees and visitors are familiar and comply with the Lessee's health and safety policies, and any modifications to those policies that may be introduced from time to time; and
- (c) Shall consult with each of its employees from time to time in relation to the hazards and risks represented by the Lessee's equipment and the work environment both within the Premises and the Lessor's land generally.

13.3 The Lessee shall, so far as is reasonably practicable, consult, co-operate and co-ordinate with the Lessor in respect of health and safety matters.

13.4 The parties agree that it is imperative that any breach of this clause must be immediately remediated. As such, the parties further agree that a reasonable notice period pursuant to section 246(1)(b) of the Property Law Act 2007 is 24 hours.

## 14. Limitation on Lessor's Liability

14.1 Except in the case of the Lessor's wilful misconduct or negligence, the Lessor is not responsible for or liable to the Lessee for:



- (a) Any loss or damage caused or sustained in any way to the Premises or the Lessee's Improvements or any equipment, fixtures, fittings and chattels installed or located in the Premises; and
  - (b) The theft or loss of any of the Lessee's equipment, fixtures, fittings or chattels.
- 14.2 The Lessee acknowledges that the Lessee and all persons authorised by the Lessee to have access and to enter the Premises do so at their own risk.
- 15. **Insurance**
- 15.1 The Lessee must at all times during the Term:
  - (a) Insure and keep the Lessee's Improvements insured to their full insurable value against the Insured Risks; and
  - (b) Pay the premium for the insurance taken out under clause 15.1(a) when due.
- 15.2 The Lessee must throughout the Term keep current a public risk insurance policy applicable to the Premises and the activities carried on, in, or from the Premises for:
  - (a) An amount not less than the Minimum Public Risk Cover (being the amount which may be paid out arising from any single accident or event); or
  - (b) Any increased amount that the Lessor reasonably requires from time to time.
- 16. **Outgoings**
- 16.1 The Lessee must on demand by the Lessor pay the Outgoings without deduction or set-off. If any Outgoing is not separately assessed on or charged to the Premises, the Lessee must pay a fair and reasonable proportion of that Outgoing.
- 16.2 Any Outgoing which is not assessed or charged for a period falling wholly within the Term will be apportioned between the Lessor and the Lessee.
- 16.3 If any Outgoing is payable by a date after which a penalty applies, the Lessee will comply with clause 16.1 if the Lessee pays that Outgoing at least five (5) working days before the penalty date.
- 17. **Utility Charges**
- 17.1 The Lessee must promptly pay to the relevant Authority or supplier all charges for Utilities which are separately metered or charged to the Premises.
- 17.2 The Lessee must pay to the Lessor on demand a fair and reasonable proportion of the charge for any Utility which is not separately metered or charged to the Premises.
- 17.3 If the Lessor or any Authority requires the Lessee to do so, the Lessee must at the Lessee's own expense install any meter or other measuring devices necessary for the proper measurement of the charges for any Utility or other services supplied to the Premises.
- 18. **Building Work**
- 18.1 Subject to the provisions of this clause, the Lessee must not carry out any Building Work on the Premises without:
  - (a) First giving plans and specifications of the proposed Building Work to the Lessor;

- (b) Obtaining the Lessor's prior written consent; and
- (c) Obtaining and giving the Lessor a copy of all Building Consents or other consents required to enable the relevant Building Work to be carried out lawfully.

18.2 The Lessee must:

- (a) Carry out all Building Work in conformity with the Building Consent or other consents produced to the Lessor under clause 18.1(c); and
- (b) Obtain a Code Compliance Certificate on completion of any Building Work.

18.3 In addition to the provisions of Clause 18.1 the Lessee must not erect or replace any fence on or outside the lease area without:

- (a) First providing plans and specifications of proposed fence construction to the Lessor;
- (b) Obtaining the Lessor's prior written consent; and
- (c) Locating any underground services that may be affected by excavation of post holes.

## 19. **Removal of Lessee's and Lessor's Improvements**

19.1 The Lessee at the expiry or earlier termination of the Term must:

- (a) remove the Lessee's Improvements from the Premises;
- (b) repair any damage caused to the Premises by that removal; and
- (c) leave the Premises in a clean and tidy condition to the Lessor's reasonable satisfaction.

19.2 Any Lessee's Improvements remaining on the Premises one month after the expiration of this lease whether by expiry of the Term or termination for breach of condition or otherwise will (at the Lessor's election) revert to the Lessor subject to any legal mortgagee or other prior security. The Lessor may then deal with the Lessee's Improvements as it determines but will not be answerable for any loss or be liable for any compensation or reimbursement. For the purposes of this clause "Lessee's Improvements" includes any unsecured chattels which may be in the power or possession of the Lessee remaining upon the Premises.

19.3 To enable the Lessee to undertake the Lessee's proposed development, the Lessee is authorised to remove the Lessor's garage, adjacent timber fence and two small trees from the lease area. The Lessee must:

- (a) Undertake the work in a safe manner using competent and appropriately qualified contractors, and comply with any consent requirements;
- (b) Remove demolition materials and tree debris from the reserve and leave the area in a safe and tidy condition.

## 20. **Lessor's Rights of Entry**

20.1 The Lessor may, with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time without notice in the case of an emergency), enter onto the Premises (including entry to any building) to:

- (a) Inspect the condition and state of repair of the Premises (or any building); or

- (b) Carry out any works to comply with any statutes, regulations, by-laws, ordinances, orders, proclamations, requirements of or notices by any Authority.

20.2 The Lessor will take reasonable steps to minimise any disturbance to the Lessee when exercising the entry rights granted under clause 20.1, however, the Lessor shall not be liable to pay any compensation for any temporary damage caused or inconvenience to the Lessee.

## 21. **Termination**

The Lessor may terminate this lease if:

- (a) The Rent is in arrears ten (10) working days after any Rent Payment Date and the Lessee has failed to remedy that breach within ten (10) working days after service on the Lessee of a notice in accordance with section 245 of the Property Law Act 2007;
- (b) The Lessee is in breach of any covenant or agreement on the Lessee's part herein expressed or implied (other than the covenant to pay Rent) and the Lessee has failed to remedy that breach within the period specified in a notice served on the Lessee in accordance with section 246 of the Property Law Act 2007;
- (c) The Lessee shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Lessee's creditors;
- (d) The Lessee becomes insolvent, bankrupt, or liquidated; or
- (e) The Lessee suffers distress or execution to issue against the Lessee's property goods or effects under any judgment against the Lessee in any Court for a sum in excess of five thousand dollars (\$5,000).

21.1 The termination of this lease may be effected by the Lessor:

- (a) peaceably re-entering the premises; or
- (b) serving a further notice on the Lessee; or
- (c) obtaining an order for possession of the premises from a Court.

## 22. **Essential Terms**

22.1 The Lessee's breach of the following terms is a breach of an essential term of this lease:

- (a) The covenant to pay Rent or other money payable by the Lessee under this lease;
- (b) The terms dealing with assignment and subleasing; or
- (c) The terms restricting the use of the Premises.

22.2 The Lessor's acceptance of any arrears of Rent or other money payable under this lease is not a waiver of the essential obligation to pay any other Rent or money payable under this lease.

22.3 The Lessee must compensate the Lessor for any breach of an essential term of this lease. The Lessor may recover damages from the Lessee for those breaches. The Lessor's entitlement to compensation under this clause is in addition to any other remedy or entitlement of the Lessor (including the right to terminate this lease).

## 23. Compensation

23.1 If any act or omission of the Lessee:

- (a) Is a repudiation of this lease or of the Lessee's obligations under this lease; or
- (b) Is a breach of any of the Lessee's obligations under this lease;

the Lessee must compensate the Lessor for the loss or damage suffered by reason of the repudiation or breach during the whole of the Term.

23.2 The Lessor's entitlement to recover damages will not be affected or limited by:

- (a) The Lessee abandoning or vacating the Premises;
- (b) The Lessor electing to re-enter or to terminate this lease;
- (c) The Lessor accepting the Lessee's repudiation; or
- (d) The parties' conduct constituting a surrender by operation of law.

23.3 The Lessor may bring legal proceedings against the Lessee claiming damages for the entire Term including the periods before and after:

- (a) the Lessee has vacated the Premises;
- (b) the abandonment, termination, repudiation, acceptance of repudiation or surrender by operation of law referred to in clause 23.2;

whether the proceedings are instituted before or after that conduct.

23.4 If the Lessee vacates the Premises, whether with or without the Lessor's consent, the Lessor must take reasonable steps to:

- (a) Mitigate the Lessor's damages; and
- (b) Endeavour to lease the Premises at a reasonable Rent and on reasonable terms.

The Lessor's entitlement to damages will be assessed on the basis that the Lessor should have observed the obligation to mitigate damages contained in this clause. The Lessor's conduct in pursuance of the duty to mitigate damages will not by itself constitute acceptance of the Lessee's breach or repudiation, or a surrender by operation of law.

## 24. Remedy by Lessor

24.1 The Lessor may, without being under any obligation to do so, remedy any default or breach by the Lessee under this lease at the Lessee's cost.

24.2 Without limiting clause 24, if the Lessor spends money in remedying the Lessee's default under this lease, the Lessee must pay to the Lessor on demand:

- (a) The amount spent by the Lessor in remedying any default; and
- (b) Interest at the Default Interest Rate on any amount spent calculated on a daily basis from the date of the Lessor's expenditure to the date that the Lessee reimburses the Lessor for that expenditure.

**25. Indemnity**

- 25.1 The Lessee indemnifies the Lessor against all actions, proceedings, calls, claims, demands, losses, damages, costs, expenses or liabilities of any kind suffered or incurred by the Lessor resulting from the Lessee's acts or omission.
- 25.2 The Lessee must pay to the Lessor on demand the amount of all costs and expenses incurred by the Lessor in making good any damage to the Premises resulting from the Lessee's acts or omission.
- 25.3 The Lessee is liable to indemnify the Lessor only to the extent that the Lessor is not fully indemnified under any insurance policy.
- 25.4 The Lessee must pay on demand all amounts owing to the Lessor as a result of the indemnity contained in clauses 25.1 and 25.2, together with interest on those amounts at the Default Interest Rate calculated on a daily basis from the date the Lessor incurs that liability until the Lessee pays the relevant amount.

**26. Quiet Enjoyment**

If the Lessee pays the Rent and performs the Lessee's obligations in this lease, the Lessee will be entitled to quiet enjoyment of the Premises without interruption by the Lessor or any person claiming under the Lessor.

**27. Termination: Reserves Act 1977**

If at any time after making any enquiries as the Lessor thinks fit, and giving the Lessee an opportunity of explaining the usage of the Premises, the Lessor is of the reasonable opinion that the Premises is not being used or sufficiently used for the Permitted Use, then the Lessor may, under the Reserves Act 1977, terminate this lease by not less than six (6) months written notice and without compensation to the Lessee.

**28. Lease Not Registrable**

- 28.1 The Lessor shall not be required do any act or thing to enable this lease to be registered.
- 28.2 The Lessee must not register a caveat over the title(s) to the Premises in respect of the Lessee's interest under this lease.

**29. Lessor's Consent**

- 29.1 The Lessor's consent under this lease is required for each occasion even if the Lessor has given a consent for the same or a similar purpose on an earlier occasion.
- 29.2 If this lease states that the Lessor's consent is required for anything done or proposed to be done, then unless otherwise stated the Lessor must not unreasonably withhold or delay giving that consent.

**30. Costs**

The Lessee and Lessor are responsible for their own costs in the preparation of this lease and any subsequent Variations or Deeds.

**31. Suitability**

- 31.1 The Lessor does not warrant that the Premises is or will remain suitable or adequate for the Lessee's purposes. All warranties as to suitability and adequacy implied by law are expressly negated to the full extent permitted by law.
- 31.2 The Lessor is not responsible for providing any safety measures to protect any Lessee's Improvements, fixtures, fittings or equipment from water damage, fire, explosion, storm, hazard or potential hazard whether coming from inside the Premises (including equipment installed in the Premises) or from outside.

**32. Waiver**

The Lessor's waiver or failure to act in response to the Lessee's breach of any of the Lessee's obligations in this lease will not operate as a waiver of:

- (a) The same breach on any later occasion; or
- (b) Any other obligations in this lease.

**33. Notices**

33.1 Any notice or document required or authorised to be delivered or served under this lease may be delivered or served:

- (a) In the case of a notice given under section 245 (cancellation of lease for breach of covenant to pay Rent) or section 246 (cancellation of lease for breach of other covenants) of the Property Law Act 2007, in the manner prescribed by section 353 of that Act; and
- (b) In all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007, in the manner authorised by sections 352 to 361 of the Act or otherwise by personal delivery, by posting by registered or ordinary mail, by facsimile, or by e-mail.

33.2 Any notice or other document will be treated as delivered or served and received by the other party:

- (a) In the case of personal delivery, when received by the addressee;
- (b) In the case of posting by mail, two (2) working days following the date of posting to the addressee's last known address in New Zealand;
- (c) In the case of facsimile transmission, when sent to the addressee's facsimile number; or
- (d) In the case of e-mail, when acknowledged by the addressee by return e-mail or otherwise in writing.

33.3 Any notice or document to be delivered or served under this lease must be in writing and may be signed by:

- (a) Any attorney, officer, employee or solicitor for the party serving or giving the notice; or
- (b) The party serving the notice or any other person authorised by that party.

**34. No Fettering of Powers**

34.1 The Lessee acknowledges that nothing in this lease does or will restrain, limit or otherwise fetter the exercise by the Lessor of the powers, duties and discretions which the Lessor has at law.

34.2 Except as otherwise expressly provided, the obligations of the Lessor under this lease are obligations of the Lessor in its capacity as a contracting party. The Lessor has certain regulatory and statutory functions, responsibilities and obligations in its capacity as a local authority outside of this lease. The Lessor shall be deemed not to be acting in the capacity of Lessor under this lease when exercising these functions, responsibilities and obligations in good faith.

**35. Dispute Resolution**

35.1 If the parties are unable to resolve a dispute by negotiation within ten (10) working days of the dispute arising (or such longer period as the parties may agree) the dispute shall be referred to mediation in which case:

- (a) If the parties cannot agree on a suitably qualified mediator within five (5) working days of the dispute being referred to mediation, either party may request the chairperson or equivalent officer of LEADR New Zealand Inc to appoint a suitably qualified mediator;
- (b) Unless otherwise agreed, the then current model mediation agreement issued by LEADR New Zealand Inc will be used; and
- (c) The parties shall share the mediator's costs equally.

35.2 If the parties are unable to resolve a dispute by mediation within fifteen (15) working days of the dispute being referred to mediation (or such longer period as the parties may agree), the dispute shall be referred to arbitration in which case:

- (a) If the parties cannot agree on an arbitrator within five (5) working days of the dispute being referred to arbitration, either party may request the President of the New Zealand Law Society to appoint a suitably qualified independent arbitrator; and
- (b) The arbitration shall be conducted in accordance with the Arbitration Act 1996.

35.3 Notwithstanding the existence of a dispute and the operation of this clause 35, each party must continue to perform its obligations under this lease pending resolution of the dispute.

35.4 Nothing in this lease affects the right of a party to institute court proceedings seeking urgent injunctive relief.

**36. Implied Terms**

The covenants, conditions and powers implied in leases by virtue of the Property Law Act 2007 (whether pursuant to Schedule 3 of that Act or otherwise) shall not apply to and are excluded from this lease, to the extent legally permissible.





## EXECUTION

Signed by the )  
**TAUPO DISTRICT COUNCIL** )  
as Lessor by affixing its common )  
seal in the presence of: )

\_\_\_\_\_  
The Mayor

\_\_\_\_\_  
Gareth Wayne Green, CEO (executed on the Taupo District Council's behalf as its attorney)

Signed by )  
**THE LESSEE** )  
in the presence of: ) \_\_\_\_\_

Witness to signature:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence



## CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Gareth Wayne Green of Taupo, CEO, certify—

1. That by deed dated 4 May 2021, the Taupo District Council of 30 Tongariro Street, Taupo appointed me its attorney in respect of the execution and delivery of deeds and on the terms and subject to the conditions set out in the said Deed.
2. That I have not received notice of any event revoking the power of attorney.

Signed at Taupo this  
Day of

)  
) \_\_\_\_\_  
Gareth Wayne Green, CEO

# PLAN OF PREMISES

