RECREATION RESERVE LEASE

between

GISBORNE DISTRICT COUNCIL

and

MARK ROBERT MULLER – TRADING AS TOKOMARU BAY HOLIDAY PARK

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TABLE OF CONTENTS

1. INTERPRETATION 4
2. TERM 5
3. RENT 6
4. RENT REVIEW 6
5. OUTGOINGS 8
6. REQUIRED USE 8
7. CONDUCT ON THE PREMISES 9
8. LIQUOR LICENCES 9
9. TENANT'S ANNUAL REPORT 9
10. OPEN MEMBERSHIP 10
11. PUBLIC ACCESS 10
12. INSURANCE 10
13. DAMAGE TO OR DESTRUCTION OF THE PREMISES 10
14. BUILDING WORK 12
15. GROUNDS MAINTENANCE 13
16. MAINTENANCE OF BUILDINGS/IMPROVEMENTS 13
17. REMOVAL OF BUILDINGS/IMPROVEMENTS 14
18. ACTS, REGULATIONS, BY-LAWS, RULES AND MANAGEMENT PLAN 15
19. INSPECTIONS 16
20. ASSIGNMENT AND SUBLETTING 16
21. DEFAULT 16
22. INDEMNITY 17
23. HEALTH & SAFETY 17
24. DISPUTE RESOLUTION 18
25. NATURE OF THE COUNCIL 18
26. IMPLIED PROVISIONS 19
27. COSTS 19
28. ADDITIONAL CLAUSES 20

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DEED OF LEASE dated the day of 2011

BETWEEN **GISBORNE DISTRICT COUNCIL** ("Council")

A N D **MARK ROBERT MULLER – Trading as TOKOMARU BAY HOLIDAY PARK** ("Tenant")

BACKGROUND:

A. The Council has agreed to lease to the Tenant that part of the Recreation reserve under section 54(1)(a) of the Reserves Act 1977.

B. The Tenant owns the Buildings and other Improvements.

GRANT:

The Council leases to the Tenant and the Tenant accepts the lease of the Premises for the Term, at the Rent and subject to the covenants, conditions, agreements, and restrictions in this Lease.

This Agreement may be executed in any number of counterparts (including scanned and emailed copies). So long as each party has received a counterpart signed by each of the other parties, the counterparts together shall constitute a binding and enforceable agreement.

In witness of which the parties execute this Lease:

EXECUTED BY THE GISBORNE DISTRICT COUNCIL by its duly authorised attorney Nedine Paulette Thatcher Swann in the presence of:

_____
Chief Executive

Witness sign:_____

Witness name:_____

Occupation:_____

Address:_____

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SIGNED by the Tenant
Mark Robert Muller
in the presence of:

Mark Robert Muller

Witness sign:_____

Witness name:_____

Occupation:_____

Address:_____

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REFERENCE SCHEDULE

PREMISES:	The reserve land shown more or less outlined in blue on the attached plan. The Tenant owns the Building and Improvements situated on that land with the exception of the dump station.
RESERVE / LEGAL DESCRIPTION:	Section Blk IV Tuatini Maori Township (part Record of Title GS5C/342)
TERM:	Five (5) years
COMMENCEMENT DATE:	
EXPIRY DATE:	
RENEWAL TERMS (IF ANY):	None
FINAL EXPIRY DATE:	
RENT:	$ per annum plus Goods and Services Tax
RENT PAYMENT DATES:	Monthly in advance
RENT REVIEW DATES (IF ANY):	Every three (3) years during the term and any renewal in accordance with Council's Rental Policy or in the event of a change in policy (or by virtue of clause 9.3 of the Lease) then in accordance with clause 4 of the Lease
REQUIRED USE:	Campground
MINIMUM PUBLIC RISK INSURANCE COVER:	$2 million

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GENERAL PROVISIONS

1. INTERPRETATION

In this deed unless the context indicates otherwise:

1.1 Definitions:

"**Act**" means the Reserves Act 1977;

"**Building**" means any buildings on the land comprised in the Premises, whether owned by the Council or the Tenant;

"**Building Work**" means work for or in connection with the construction, alteration, demolition or removal of a building or any fixtures or improvements and includes earthworks preparatory to or associated with that construction, alteration, demolition or removal and any work of a structural or retaining nature, and services associated with that work;

"**Council**" means Gisborne District Council;

"**Excepted Event**" means:

(a) fire, flood, explosion, lightning, storm, earthquake or volcanic activity;

(b) the occurrence of any other peril against the risk of which the Council is insured or has covenanted to insure under this Lease;

"**Improvement**" means any improvement on the land comprised in the Premises, and includes all pipes, drains, conduits and other connections for utilities that primarily serve the Premises, regardless of whether they are located within the Premises;

"**Management Plan**" means any Management Plan prepared under section 41 of the Act for the Reserve;

"**Minister**" means the Minister of Conservation;

"**Premises**" means the premises defined in the Reference Schedule;

"**Reserve**" means the reserve designated as Recreation Reserve under the Reserves Act 1977 named in the Reference Schedule;

"**Tenant**" includes where appropriate the executors, administrators, successors and permitted assigns of the Tenant;

"**Tenant's Agent**" means a person for whose acts or omissions the Tenant is responsible;

1.2 Defined Expressions: expressions defined in the main body of this deed have the defined meaning in the whole of this deed including the background;

1.3 Gender: words importing one gender will include the other genders;

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1.4 **Headings:** section, clause and other headings are for ease of reference only and will not affect this deed's interpretation;

1.5 **Negative Obligations:** any obligation not to do anything will include an obligation not to suffer, permit or cause that thing to be done;

1.6 **Parties:** references to parties are references to parties to this deed;

1.7 **Persons:** references to persons will include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;

1.8 **Plural and Singular:** words importing the singular number will include the plural and vice versa;

1.9 **Schedules:** the schedules to this deed and the provisions and conditions contained in these schedules will have the same effect as if set out in the body of this deed;

1.10 **Sections, Clauses and Schedules:** references to sections, clauses and schedules are references to this deed's sections, clauses and schedules;

1.11 **Statutes and Regulations:** references to any statutory provision will include any statutory provision which amends or replaces it, and any subordinate legislation made under it.

2. TERM

2.1 The Term of this Lease will commence on the Commencement Date and will end at 5pm on the Expiry Date.

2.2 The Council will at the Tenant's cost grant the Tenant a lease of the Premises for the Renewal Term as set out in the Reference Schedule, if:

2.2.1 the Reference Schedule provides for a Renewal Term;

2.2.2 the Tenant is not in breach of any of its obligations under this Lease, both at the time it gives its notice under the next sub-clause, and at the end of the Term, and has not breached its obligations during the Term;

2.2.3 the Tenant has given to the Council written notice that it wishes to renew the Lease not less than 3 months before the end of the Term; and

2.2.4 in the opinion of the Council there is sufficient need for the Required Use, and that the Premises or any part of them are not required for any other purpose in the public interest.

2.3 The new lease under clause 2.2 will be on the same terms as this Lease, except:

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2.3.1 its term plus any further rights of renewal will not extend beyond the Final Expiry Date stated in the Reference Schedule;

2.3.2 the rent payable under the new lease will be the amount determined under clauses 4.1 and 4.2.

2.4 The Tenant will execute a Deed of Renewal in the form prepared by the Council's solicitor, if required to do so by the Council.

2.5 The Tenant may cancel this Lease on giving 3 months written notice to the Council, but this will not release the Tenant from any of its outstanding obligations under this Lease up to the time of the cancellation.

3. RENT

3.1 The Tenant must pay the Rent to the Council by equal annual instalments in advance. The first of these instalments is due on the Commencement Date. However, the Tenant may elect to pay the rent by equal monthly instalments in advance on the first day of each month, if the Council has reviewed the rent to the current market rent for the Premises.

3.2 The Tenant must not reduce any payment of rent by making any deduction from it or set off against it.

4. RENT REVIEW

4.1 The Council is entitled at its sole discretion to decide in accordance with the relevant Council policy from time to time as to the rent levels that will apply to space of the type of land that comprises the Premises. For example, those levels may vary according to the type of space, and the purpose for which the space is used.

4.2 If the Council decides that the rent for all or any part of the Premises is to be set or reviewed to the current market rent for that space, or to a proportion of the current market rent, the current market rent for the Premises will be decided in the following way:

4.2.1 Not earlier than 3 months from a review date, the Council can give written notice to the Tenant specifying the annual rent the Council considers to be the current market rent for the Premises as at that review date.

4.2.2 The current market rent will be decided in accordance with clause 4.3, if the Tenant disputes that the proposed new annual rent is the current market rent by written notice to the Council within 28 days after receiving the Council's notice. However, the new rent will not be less than the annual rent payable during the period of 12 months immediately before the relevant review date.

4.2.3 The Tenant will be deemed to have accepted the annual rent specified in the Council's notice, if the Tenant fails to give the notice under clause 4.2.2 within the time stated in that sub-clause (time being of the essence).

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4.2.4 The current market rent so decided or accepted will be the annual rent from the:

(a) review date, if before the Tenant exercises its right to a new lease from that review date under clause 2.2, the Council has advised the Tenant at any time in writing of any change of policy under clause 4.1 from the policy that applied on the Commencement Date; or

(b) next following review date, if clause 4.2.4 (a) does not apply.

4.2.5 Until the current market rent has been decided or accepted, the Tenant will pay the rent specified in the Council's notice, as long as a certificate from a registered valuer substantiates the rent. The Council will give the Tenant a copy of that certificate when it gives its notice under clause 4.2.1. Once the current market rent has been decided an appropriate adjustment will be made.

4.2.6 Either party may request the rent review to be recorded in a deed. The Tenant will pay the cost of the deed.

4.3 The parties will try to agree on the current market rent immediately after the Council receives the Tenant's notice. The parties may determine the current market rent in either of the following ways, if the parties do not agree within 14 days:

4.3.1 By one party giving written notice to the other requiring the current market rent to be decided by arbitration; or

4.3.2 If the parties so agree, by registered valuers acting as experts and not as arbitrators as follows:

(a) Each party will appoint a valuer. They will give written notice of the appointment to the other party within 14 days of the parties agreeing to decide the current market rent in this way;

(b) If the party receiving a notice does not appoint a valuer within the 14-day period, then the valuer appointed by the other party will decide the current market rent. The valuer's decision will be binding on both parties;

(c) As soon as the valuers are appointed, they must appoint an umpire. The umpire need not be a registered valuer;

(d) The valuers will then decide the current market rent of the premises. The rent will be decided by the umpire, if the valuers do not agree on it within one month of the date of appointment of the last of them to be appointed;

(e) Each party will be given the opportunity to make written or verbal representations to the valuers or the umpire, subject to any reasonable time and other limits the valuers or the umpire prescribe. The valuers or the

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umpire will have regard to those representations, but will not be bound by them.

(f) The umpire or the valuers will give written notice to the parties of their decision as soon as practicable after they make it. The notice will state how the costs of the determination will be borne. The notice will be binding on the parties. However, either party will be entitled to appeal to the High Court any error of law arising out of the decision.

5. OUTGOINGS

5.1 The Tenant must punctually pay all rates as defined in the Local Government (Rating) Act 2002 and any other charges levied by a local authority against the Premises if so required. The Tenant will also pay all outgoings including (but not limited to) charges for electricity, gas and any other service or utility charges addressed to either the Council or the Tenant for the Premises.

5.2 Where any of the above outgoings above are not levied wholly in respect of the Premises or the Term then the Tenant is only obliged to pay a fair proportion of such outgoings depending on the period during which and the area over which the outgoing has been charged.

5.3 The Council may from time to time have a policy, which entitles the Tenant to Rates relief or financial assistance. In that case the Tenant may make an application to the Council and a remission or funding may be granted according to that policy.

5.4 The Tenant must pay all Goods and Services Tax on the Rent and other payments made by the Tenant under this Lease either to the Council or as the Council directs. The Tenant will also pay any additional Goods and Services Tax the Council must pay, because the Tenant fails to pay when required.

6. REQUIRED USE

6.1 The Tenant must not use the Premises for any purposes except the Required Use.

6.2 The Council is entitled to make such enquiries as the Council thinks fit, including giving the Tenant an opportunity of explaining the usage of the Premises if at any time the Council is concerned that the Premises is not being used or sufficiently used for the Required Use. The Tenant will be in default of its obligations under this lease if following such enquiries and having considered the Tenant's explanation the Council reasonably forms the opinion that the Premises is not being so used or sufficiently used.

6.3 The Tenant must not erect, paint, display or allow on the Premises any signs, notices or advertising material unless the Tenant first obtains the written approval of the Council in each case.

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7. CONDUCT ON THE PREMISES

7.1 The Tenant must not use or permit the Premises or any part of the Premises to be used for any activity which is or may become dangerous, offensive, noxious, noisy, illegal or immoral, or which is or may become a nuisance or annoyance to the Council or to the owners and occupiers of neighbouring properties.

7.2 The Tenant must limit noise levels to a moderate level, and in particular must keep the noise level at the boundaries of the Premises to within the requirements of the District Plan.

7.3 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 or the provisions of the Management Plan (if any). The Council must approve those rules before they can come into effect.

7.4 The Tenant must at all times comply with the Council's policy from time to time in effect relating to events, booking, hiring, charges and other conditions of sports grounds.

8. ALCOHOL LICENCES

The Tenant must not apply for a alcohol licence or renew or vary any alcohol licence for the Premises or any part of them without first obtaining the written consent of the Council as owner of the Premises.

9. TENANT'S ANNUAL REPORT

9.1 The Tenant within 3 months after the end of each of its financial years will, if required by the Council, provide the following information to the Council:

9.1.1 A set of its financial accounts for that financial year, if the Tenant's constitution/rules of incorporation require that the accounts be audited, then audited accounts are required;

9.1.2 A copy of any changes to its constitution that have not been previously approved under clause 20.2;

9.1.3 An up to date list of the Tenant's chairperson or president, secretary and other committee members, together with their addresses and other contact details.

9.2 The Council will be entitled at any time on reasonable notice for its auditors, being a Chartered Accountant in private practise, to inspect and audit all of the books of the account statements, documents, records, returns, papers and files of the Tenant relating to the Required Use and the Tenant at the request of the Council shall make the same available for inspection or audit at the Premises or at such other place as the Council may reasonably require.

9.3 The Council will be entitled to review the rent at any time to the current market rent for the Premises, if it is of the reasonable opinion that the Tenant is either operating for a profit, or is using the Premises to generate a profit. Clauses 4.2 and 4.3 will apply to any review to the current market rent. The

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rent will be reviewed again on the Rent Review Dates stated in the Reference Schedule.

10. OPEN MEMBERSHIP

10.1 The Tenant must comply with the Human Rights Act 1993 so far as it applies to the Tenant.

11. PUBLIC ACCESS

11.1 The Tenant shall allow the public access across the Reserve Land surrounding the premises.

12. INSURANCE

12.1 The Tenant acknowledges for the purposes of section 271(1) of the Property Law Act 2007 that the Council has not insured, or has not fully insured, the Premises against destruction or damage to the Premises by an Excepted Event. Any insurance that the Council does elect to effect will only be to the extent, with the excess, under the type of policy and on the terms and conditions that the Council from time to time considers appropriate at its absolute discretion.

12.2 The Tenant will insure all Buildings and Improvements against any damage or loss for any cause.

12.3 The insurance will be for the full cost of removal of any Buildings on the land if damaged and reinstatement of the land, including all professional and consent fees, and costs of demolition, site clearance and for any works required by statute.

12.4 The Tenant shall take out an insurance policy for public risk cover as detailed in the reference schedule.

13. DAMAGE TO OR DESTRUCTION OF THE PREMISES

13.1 The Tenant acknowledges for the purposes of section 271(2) of the Property Law Act 2007, that where required under this Lease, the Tenant will meet the cost of making good damage or destruction to the Premises or the Building arising from an Excepted Event in any of the following circumstances:

13.1.1 to the extent, but only to the extent, that:

(a) the damage or destruction arises from an Excepted Event; and

(b) at the time when the damage or destruction occurs, the Council is not, in fact, entitled to be indemnified under a

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policy of insurance for the whole or any part of the destruction or damage; or

13.1.2 where the destruction or damage was intentionally done or caused by the Tenant or the Tenant's Agent; or

13.1.3 where the destruction or damage was the result of an act or omission by the Tenant or the Tenant's Agent that:

(a) occurred on or about the Premises and Building or on or about the whole or any part of the Reserve; and

(b) constitutes an imprisonable offence ; or

13.1.4 where any insurance moneys that would otherwise have been payable to the Council for the destruction or damage are irrecoverable because of the act or omission of the Tenant or the Tenant's Agent.

13.2 If any Building or Improvement is destroyed or so damaged so as to render the Premises untenantable, the Tenant will advise the Council within 3 months of the date of the destruction or damage whether the Tenant wishes to restore its Buildings and Improvements. The Tenant will provide the Council with reasonable evidence that it has the funds and is able to obtain all the necessary permits and consents to carry out the work. This lease will continue and the Tenant will promptly restore its Buildings and Improvements within a reasonable period, if the Council advises the Tenant (in writing) that the Council is reasonably satisfied that the Tenant is able to do so. The Tenant will comply with clause 14.1 in relation to the restoration work.

13.3 This lease will end at the end of the 3-month period under the previous clause 13.2, if any of the following occur:

13.3.1 the Tenant does not give a notice under that clause;

13.3.2 the Tenant gives a notice that it does not wish to restore its Buildings and Improvements; or

13.3.3 the Council is not reasonably satisfied the Tenant is able to promptly restore its Buildings and Improvements within a reasonable period, and advises the Tenant in writing accordingly.

Any termination under this clause will be without prejudice to the rights of either party against the other.

13.4 The Tenant will with all reasonable speed repair damage, or reinstate the area affected, if any Building or Improvement is damaged, but the Premises are still tenantable. However, either party will be entitled to end this Lease by notice in writing to the other, if the Tenant cannot obtain all the necessary permits and consents for the work within a reasonable period.

13.5 Notwithstanding clause 13.2, 13.3 and 13.4 should the Tenant decide not to repair or reinstate the Buildings and Improvements, then the Tenant shall at their cost remove all Buildings and Improvements from the Premises.

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14. BUILDING WORK

14.1 The Tenant may not:

14.1.1 erect any Building or Improvement, or

14.1.2 alter, reinstate, extend, paint or redecorate any Building or Improvement without:

14.1.2.1 first supplying the Council with detailed plans and specifications and a project programme; and

14.1.2.2 obtaining the prior written approval of the Council as landowner.

14.2 The Council will not withhold its consent arbitrarily or unreasonably, under clause 14.1.2.2 if the proposed Building Work:

14.2.1 is in accordance with the Management Plan (if any);

14.2.2 complies with any reasonable standards applicable to the Reserve (whether or not included in the Management Plan) which the Council may from time to time set as to the design, quality, materials and colour of any Buildings and Improvements;

14.2.3 will not in the opinion of the Council overload or endanger the proper working of any services, utilities or amenities; and

14.2.4 will be carried out under the supervision of an architect, project manager, engineer or other suitably qualified person.

14.3 If the Council as landowner gives its approval under clause 14.1.2.2 then the Tenant must promptly complete the Building Work in a proper and workmanlike manner in accordance with the approved plans and specifications and all approvals, permits and consents.

14.4 The Tenant must obtain all consents required under the Building Act 2004 and the Resource Management Act 1991 and provide the Council (as landowner) with a copy of those consents. Approval of the Council under clause 14.1.2.2 will not be deemed to affect the Council's duties as a regulator as to those statutory consents.

14.5 In granting consent or approval under this clause 14 the Council 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 work is suitable or adequately qualified.

14.6 During the construction of the Building Work the Tenant must maintain, in the joint names of the Council and the Tenant for their respective interests, builders' risk and public liability insurance for amounts approved by the Council and will provide the Council with a copy. All Building Work is at the sole risk of the Tenant.

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14.7 If during the course of the Building Work the Council reasonably considers the Tenant is failing to adhere to the approved plans or specifications, the project programme, the standards referred to in clause 14.2.2, or reasonably considers that the project is not being properly managed, the Council may by notice in writing to the Tenant require that all work stop immediately, or require it to take other action as necessary to mitigate the Council's concerns.

14.8 On completion of the Building Work, the Tenant must provide the Council with a copy of the code compliance certificate under the Building Act 2004 and a complete set of drawings accurately showing Buildings and Improvements as constructed or altered.

15. GROUNDS MAINTENANCE

15.1 The Tenant must maintain the grounds and surrounds of the Premises in a tidy and attractive condition at all times to the satisfaction of the Council.

15.2 The Tenant must mow any lawns within the Premises regularly, keep any gardens and planted areas watered and replace plants and shrubs, which die or are destroyed.

15.3 The Tenant must take effective measures to prevent any noxious weeds and recognised environmental plant pests growing on the Premises and comply with the provisions of the Biosecurity Act 1993. The Tenant must also ensure that the Premises are kept free from stones, broken glass, litter, and other detritus.

15.4 The Tenant may with the prior written consent of the Council plant new trees on the Premises in places approved by the Council. The Tenant must maintain any trees on the Premises in a neat and tidy condition. The Tenant must not remove or prune any tree without the Council's prior written consent.

16. MAINTENANCE OF BUILDINGS/IMPROVEMENTS

16.1 The Tenant must keep and maintain all Buildings and Improvements (being the exterior, the interior and the structure) in good, clean, and substantial order, repair and condition. The Tenant will do this to the satisfaction of the Council.

16.2 For the avoidance of doubt, where the Tenant owns the Buildings, the Tenant shall keep and maintain the Buildings and Improvements in good order, repair and condition and will be responsible for all repairs and replacement of the structure and roof of Buildings and Improvements, when necessary and/or when required by Council. The Tenant will do this to the satisfaction of the Council.

16.3 The Tenant must remove any externally visible graffiti from any Buildings or Improvements within 5 days of any defacement occurring.

16.4 The Tenant must in any case repair or replace as reasonably necessary any windows, doors, glazing, light fittings, light bulbs, carpets, and floor coverings.

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16.5 The Tenant shall permit the Council or any person authorised by the Council to enter the Premises at any time to carry out repairs to the Premises.

16.6 The Tenant shall ensure that the Premises are left in clean order repair and condition at the end or earlier determination of the term and will quietly yield up the Premises in clean order repair and condition. The Tenant shall not be liable for fair wear and tear arising from reasonable use.

17. REMOVAL OF BUILDINGS/IMPROVEMENTS

17.1 The Tenant may not pull down or remove any Buildings or Improvements without first obtaining the written consent of the Council.

17.2 At the end of this Lease whether by expiry of the term, breach of condition or otherwise, the Premises together with all the Buildings and Improvements will revert to the Council without any compensation whatsoever being payable to the Tenant by the Council.

17.3 Despite clause 17.2, at the end of this Lease, having regard to the condition and safety of the Premises and the Buildings and Improvements, and the requirements of any management plan for the Reserve, the Council will have the following rights with respect to the Buildings and Improvements the Tenant has constructed or made:

17.3.1 the Council may make the Premises available to another tenant approved by the Council, in which case the Council may require any incoming tenant of the premises to pay to the Tenant the value of the Tenant's Buildings and Improvements. This value, or amount to be paid, is to be agreed by the parties or if they cannot agree, it is to be determined in accordance with clause 17.3.4.

17.3.2 the Council may require the Tenant on written notice from the Council to remove all or some of the Tenant's Buildings and Improvements, in which case the Tenant will, within a reasonable time as stipulated in the notice, and in the manner stipulated in that notice, remove the Buildings and Improvements, and if this is not done within the stipulated time or in the stipulated manner then the Council may remove the same at the cost in all respects of the Tenant.

17.3.3 Where the Buildings and Improvements erected by the Tenant are of value to the Council, the Council may pay the Tenant the value of the Buildings and Improvements, as agreed by the Council and the Tenant. This value is to be agreed by the parties or if they cannot agree it is to be determined in accordance with clause 17.3.4. Whether the Buildings and Improvements are considered to be of value to the Council for the purpose of this sub-clause is entirely a matter for the Council's discretion and not a matter for dispute between the parties.

17.3.4 Where under clause 17.3.1 or 17.3.3 the parties cannot agree on the value of the Buildings and Improvements within 14 days, each party will within a further 14 days appoint a registered valuer to act as an expert for the purpose of determining the value of the Buildings and Improvements. The valuers will appoint an umpire

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who need not be a registered valuer before determining the value of the Buildings and Improvements. Where the valuers cannot agree on the value, the umpire will make the final determination.

17.4 At the end of this Lease, the Council may remove from the Premises any chattels in the apparent possession of the Tenant and place them outside the Premises and the Council shall not be answerable for any loss resulting from the exercise of the power of re-entry.

18. ACTS, REGULATIONS, BY-LAWS, RULES AND MANAGEMENT PLAN

18.1 The Tenant must comply with all Acts, Regulations, By-laws, District and Regional Plan Rules and the Management Plan (if any) as they affect the Premises.

18.2 Where any Building requires a compliance schedule under the Building Act 2004 ("the Act") the owner of the Building shall at its own cost fully comply with all obligations imposed under the Act including but not limited to:

18.2.1 complying with any requirements specified in any compliance schedule issued by the Council in its regulatory capacity;

18.2.2 ensuring the Building has at all times a current building warrant of fitness and obtaining any written reports relating to compliance with the compliance schedule;

18.2.3 complying with any notices issued by the Council in its regulatory capacity under the Act.

18.3 The owner of the Building shall at all times display at a place in the Building to which users of the Building have ready access, a copy of the current building warrant of fitness showing the location of the compliance schedule.

18.4 The Tenant shall make available to the Council in its capacity as Landlord:

18.4.1 prior to each anniversary of the issue of the compliance schedule a copy of the compliance schedule together with any written reports relating to compliance with the compliance schedule; and

18.4.2 on every subsequent anniversary a copy of the current building warrant of fitness for the Building together with any written reports relating to compliance with the compliance schedule.

18.5 The Tenant shall:

18.5.1 comply with all of its obligations under the Incorporated Societies Act 2022 and the Charities Act 2005 including but not limited to the keeping of an up-to-date register of members containing the names addresses and occupations of members; and

18.5.2 deliver annually to the Registrar of Companies in prescribed form an annual financial statement containing the particulars required by the Incorporated Societies Act 2022.

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19. INSPECTIONS

19.1 The Tenant must allow the Council or any person authorised by the Council at all reasonable times on to the Premises and inside Buildings to inspect them.

19.2 If the Council gives the Tenant notice of failure to do repairs required by this Lease, the Tenant must carry out work with all speed and complete the work in a diligent and workmanlike manner.

19.3 If the Tenant fails to comply with clause 19.2 then the Council is entitled to enter the Premises and carry out the work and the Tenant must pay the cost of that work on demand.

20. ASSIGNMENT AND SUBLETTING

20.1 The Tenant must not assign, mortgage, charge, sublet or part with possession of the Premises or any part of the Premises.

20.2 If the Tenant is an incorporated society or an association or trust (whether incorporated or not), any amalgamation, or any change in the Tenant's constitution or rules which affects the objects or purposes of the Tenant, will be deemed to be an assignment of this Lease.

21. DEFAULT

21.1 In accordance with the procedures stated in sections 244 to 252 of the Property Law Act 2007, the Council may cancel this Lease and either re-enter the Premises or apply to court for an order for possession of the Premises, if the Tenant:

21.1.1 fails for 14 days after the due date to pay any instalment of the Rent or any other money payable under this Lease; or

21.1.2 fails to observe or perform any other obligation under this Lease for 28 days after receiving notice of such failure; or

21.1.3 being a company or incorporated body:

(a) is or is deemed to be unable to pay its debts under section 287 of the Companies Act 1993; or

(b) goes into liquidation (other than voluntary liquidation for the purpose of reconstruction or amalgamation approved in writing by the Council); or

(c) is wound up or dissolved; or

(d) enters into any assignment or other compromise or scheme of arrangement with its creditors or any class of its creditors; or

(e) has a receiver, manager or receiver and manager appointed in respect of any of its assets.

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21.1.4 being an unincorporated association or trust, is wound up, dissolved or becomes defunct.

21.2 The Council may without being under any obligation to do so remedy at the Tenant's cost any default by the Tenant under this Lease.

22. INDEMNITY

22.1 The Tenant shall indemnify the Council against all loss suffered or liability incurred by the Tenant, Council or third party including but not limited to loss or liability:

(i) caused by reason of the escape from the property to adjoining or neighboring properties of any fire (howsoever caused), water, sewage, gas or other substance; or

(ii) resulting from any act or omission on the part of the Tenant or the Tenant's agent; or

(iii) for costs, claims and demands in respect of injury or damage resulting from anything done on the Premises or on the Buildings.

22.2 However, this indemnity will only apply to damage to or destruction of the Premises or the Buildings arising from an Excepted Event, if and to the extent that:

22.2.1 the destruction or damage was intentionally done or caused by the Tenant or the Tenant's Agent; or

22.2.2 the destruction or damage was the result of an act or omission by the Tenant or the Tenant's Agent that:

(a) occurred on or about the Premises or on or about the whole or any part of the Facility or the Land; and

(b) constitutes an imprisonable offence; or

22.2.3 any insurance moneys that would otherwise have been payable to the Council for the destruction or damage are irrecoverable because of the act or omission of the Tenant or Tenant's Agent.

23 HEALTH AND SAFETY

23.1 The Tenant shall at all times comply with its obligations under health and safety legislation, including (without limitation) the Health and Safety at Work Act 2015 (the Act), (and any of its amendments and replacements) and any applicable regulations or codes of practice.

23.2 In particular, the Tenant shall:

a. establish procedures to ensure compliance with its obligations under the Act and provide the Council with details of those procedures and how they are being implemented, if requested;

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b. prior to the commencement date, share with the Council its health and safety plan (or plans) and, if requested, provide the Council with details of the plan(s);

c. so far as is reasonably practicable, work with the Council and all other relevant parties to consult, cooperate and coordinate activities so that health and safety obligations are met;

d. immediately give notice to the Council of:
   i. any damage, accident, incident, or defect relating to or arising on the Premises;

   ii. any event required to be notified to the health and safety regulator caused by, arising out of, or otherwise occurring in relation to the Premises; and

   iii. any circumstances likely to cause any damage, illness, or injury caused by, arising out of, or otherwise occurring in relation to the Premises; and

e. allow the Council to conduct health and safety audits during the term of this Lease, on reasonable prior notice. The Council may provide the Tenant with any findings or results from such audits, and the Tenant will give due consideration to implementing any such finding or review.

24. DISPUTE RESOLUTION

24.1 Except for those provisions where the Council has a discretion contained in clauses 2.2, 4.1 and **Error! Reference source not found.**, if any dispute arises between the Council and the Tenant concerning this Lease, the parties will try in good faith to settle the matter by negotiation, and if that is unsuccessful by mediation.

24.2 If the dispute cannot be settled by negotiation or mediation, it will be referred to arbitration (under clause 24.3).

24.3 The dispute will be referred to a sole arbitrator if the parties agree upon one, and if not then the dispute will be referred to an arbitrator appointed by the then President or Vice President of the New Zealand Law Society.

24.4 The Arbitration Act 1996 will govern the arbitration and the arbitral award will be final and binding on the parties. However, either party is entitled to appeal to the High Court on any error of law arising out of the award.

25. NATURE OF THE COUNCIL

25.1 The Council has signed this Lease as the owner of the Premises. The Council is also the territorial authority for the area in which the Premises are situated. Nothing in this Lease limits or affects the duties and obligations of the Council as a regulatory authority under the Resource Management Act 1991, the Building Act 2004 or any other relevant statute. The Council will not be liable for any expense, costs, loss, or damages the Tenant or any person claiming through the Tenant suffers or incurs because of the Council lawfully carrying out its statutory duties.

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25.2 Where this Lease requires the Tenant to obtain any consent or approval of the Council, the Council will grant that consent or approval in its capacity as the owner of the Premises only. The Tenant must separately obtain through the relevant department of the Council any consent or approval it requires from the Council acting as regulatory authority. Similarly, any consent or approval the Tenant obtains from the Council acting as territorial authority, does not constitute the consent of the Council in its capacity as the owner of the Premises.

25.3 Where the Tenant wants to give a notice to or otherwise communicate with the Council, the Tenant must address the notice to, or otherwise deal with the department of the Council from time to time charged with administering this Lease. A notice the Tenant sends that has not been addressed to that department will have no effect and will not have been given, until it has been actually received by that department. Any consent, approval or other permission obtained from any other department will not be binding on the Council.

25.4 The Liveable Communities Department as at the Commencement Date is the department of the Council charged with administering this Lease. The Council will advise the Tenant of any change as soon as practicable after the change comes into effect.

26. IMPLIED PROVISIONS

26.1 The covenants and provisions implied in Leases by the Property Law Act 2007 and the Land Transfer Act 2017 will apply to this Lease except to the extent they are inconsistent with the terms of this Lease.

26.2 The Tenant will not call for this Lease to be registered or lodge a caveat against the title to the Land.

27. COSTS

27.1 The Tenant will pay:

27.1.1 The Council's solicitor's costs of and incidental to the preparation of this Lease and any deed recording a rent review;

27.1.2 The Council's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Council's rights remedies and powers under this Lease;

27.1.3 The costs associated with obtaining the Minister of Conservation's consent (if applicable) to this Lease;

27.1.4 Any advertising costs associated with statutory requirements to give public notice of this Lease; and

27.1.5 The Council's reasonable costs incurred in considering any request by the Tenant for the Council's consent to any matter contemplated by this Lease.

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SPECIFIC PROVISIONS

ADDITIONAL CLAUSES

28.1 Dump Station Obligations

28.1.1 The Tenant will monitor the effluent holding tank at the Dump Station and advise the Council when the tank is 80% full whereupon the Council will within a reasonable time arrange for the tank to be emptied at its own cost.

28.1.2 The Tenant shall be liable to immediately clean up any overflow of the tank on the Dump Station at the Tenants cost unless such overflow is caused by flooding or the Councils failure to empty the tank within a reasonable time of notification under 28.1.1.

28.1.3 The Tenant shall ensure the uninterrupted supply of water to the Dump Station and be responsible for regular above ground cleaning of the facilities located on the Dump Station.

28.1.4 The Council shall be entitled to access to the Dump Station on the Property along the gravel track shown in grey on the attached plan and shall maintain the said gravel track it its cost.

28.2 Ground Maintenance

28.2.1 The Tenant will maintain the open stormwater drain located on the Premises and adjoining land up to and including the Flood Flap as indicated on the attached plan. Such maintenance shall be to a satisfactory standard and shall include the regular cleaning and application of herbicide to the drain.

28.2.2 The Tenant shall regularly maintain at its own cost the septic field located on the Premises and shown hatched in green on the attached plan.

28.3 Cabins located on the Premises

28.3.1 Notwithstanding clause 17 unless otherwise agreed the cabins located on the Premises shall be removed by the Tenant within 3 months of the expiry or earlier termination of this lease and the land fully reinstated. Failure to remove shall vest the cabins with the Council (with no compensation being payable to the Tenant) who may remove them and reinstate the land and change the cost of doing so to the Tenant.

28.4 Other

28.4.1 In the event of an Excepted Event the Council will have no liability to the Tenant whatsoever including (without limitation) the following:

(a) repair and /or re-alignment of the infrastructure;

(b) land repairs, land protection or reinstatement of land damaged within the Premises or land adjoining the Premises;

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SITE PLAN



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