

**That Council:**

1. **Revoke the current Recycled Water Management Policy 5.63.12 (December 2020); and**
2. **Adopts the revised Draft Recycled Water Management Policy 5.63.12 as presented in the attachments to this report, as a policy of Council.**

**12.4. DRAFT CUSTOMER EXPERIENCE CHARTER FOR ADOPTION****REPORT PURPOSE**

The purpose of this report is to present a recommendation to Council, for adoption of the City of Port Lincoln Customer Experience Charter. Community and key stakeholder engagement and input into the proposed Charter has been completed with zero responses received. The reduced response times as requested by Elected Members at the March Council meeting, have been included in the Charter.

**RECOMMENDATION****That Council:**

1. **Note that the consultation period for the consideration of the draft Customer Experience Charter ran from Thursday 20 March 2025 to Monday 14 April 2025 and has now closed; and that there were no submissions received from the consultation process;**
2. **Having regard to the process undertaken, is satisfied the community consultation has met the requirements of Council's Public Consultation and Community Engagement Policy; and**
3. **Adopt the "Customer Experience Charter" as presented as an attachment to this report (Doc64706).**

**12.5. ASSIGNMENT OF LEASE – PORT LINCOLN CROQUET CLUB INC.****REPORT PURPOSE**

The purpose of this report is to seek Council's in-principle support to enter into a new lease agreement with the Port Lincoln Croquet Club Inc. over a portion of community land following the expiry of the current lease and obtain endorsement to commence a Public Consultation process.

**RECOMMENDATION****That Council:**

1. **Approves entering into an Improved Land Lease Agreement for portion of the land comprised in Certificate of Title 5787 Folio 373, being more commonly known as the Port Lincoln Croquet Club, between the City of Port Lincoln and Port Lincoln Croquet Club Inc. for an initial term of five (5) years with an option to renew for a further five (5) years, with the initial term commencing 16 September 2025;**
2. **That approval as stated in Item 1 above is subject to the successful completion of the public consultation process in accordance with Section 202 of the Local Government Act and Council's Public Consultation & Community Engagement Policy, with successful completion determined by the Chief Executive Officer, who will refer the matter to Council if reasonable community concern is evidenced;**

3. That the lease fee be set at \$1.00 per annum (plus GST) if demanded (peppercorn); and
4. Subject to the successful completion of Item 2 above, authorise the Chief Executive Officer to execute the lease agreement and associated documentation.

#### **12.6. LOCAL GOVERNMENT ACT 1999 SECTION 184 – SALE OF LAND FOR NON-PAYMENT OF RATES**

##### **REPORT PURPOSE**

The purpose of this report is for Council to confirm the issuing of “pre-Section 184 notice” letters to defaulting ratepayers with the intention to sell the properties by auction if the ratepayers do not settle their outstanding balances within the stipulated timeframe.

##### **RECOMMENDATION**

That Council instructs the CEO (or delegate) to undertake the following actions with regards to the properties listed in the report:

1. Issue the defaulting ratepayers with a letter requesting payment in full of all outstanding rates and related amounts due to the City of Port Lincoln within 30 days of the date of the letter; and
2. Advise the ratepayers that if the outstanding rates and related amounts advised in the letter are not paid in full within the 30-days timeframe, Council will act pursuant to Section 184, Chapter 10 of the Local Government Act 1999 to commence proceedings for the sale of the land/property for non-payment of rates.

#### **12.7. RDAEP FUNDING AGREEMENT**

##### **REPORT PURPOSE**

The purpose of this report is to present the request for Council to continue to fund Regional Development Australia Eyre Peninsula Incorporated (RDAEP) for the provision of various services for a period of 5 years, from 1 July 2025 to 30 June 2030.

##### **RECOMMENDATION**

That Council enter into a funding agreement with Regional Development Australia Eyre Peninsula Incorporated (RDAEP) for the provision of various services for a period of five (5) years, from 1 July 2025 to 30 June 2030 and authorise the Chief Executive Officer to negotiate and execute the agreement generally in line with the agreement attached to this report (Doc 68893).

**12.5 ASSIGNMENT OF LEASE - PORT LINCOLN CROQUET CLUB INC**

REPORT INFORMATION								
<b>Report Title</b>	Assignment of Lease - Port Lincoln Croquet Club Inc							
<b>Document ID</b>	68666							
<b>Organisational Unit</b>	Environment & Infrastructure							
<b>Responsible Officer</b>	Manager Places & Presentation - Brad Tolley							
<b>Report Attachment/s</b>	Yes 71204 – L0025001 – Improved Land Lease – Port Lincoln Croquet Club Inc - draft							
REPORT PURPOSE								
The purpose of this report is to seek Council’s in-principle support to enter into a new lease agreement with the Port Lincoln Croquet Club Inc. over a portion of community land following the expiry of the current lease and obtain endorsement to commence a Public Consultation process.								
REPORT DECISION MAKING CONSIDERATIONS								
<b>Council Role</b>	Owner / Custodian - Manage community assets including buildings, facilities, public space, reserves on behalf of current and future generations							
<b>Strategic Alignment</b>	SDP GOAL: Not Applicable SDP ACTION: Not Applicable							
<b>Annual Business Plan 2023/24</b>	ABP INITIATIVE: Not Applicable ABP PROJECT: Not Applicable							
<b>Annual Business Plan 2024/25</b>	ABP INITIATIVE: Not Applicable ABP PROJECT: Not Applicable							
<b>Legislation</b>	Local Government Act 1999							
<b>Policy</b>	Not Applicable							
<b>Budget Implications</b>	Not Applicable <table border="1" style="margin-left: 40px;"> <thead> <tr> <th>DESCRIPTION</th> <th>BUDGET AMOUNT \$</th> <th>YTD \$</th> </tr> </thead> <tbody> <tr> <td>\$Nil</td> <td>\$Nil</td> <td>\$Nil</td> </tr> </tbody> </table> Budget assessment comments: Nil budget implications		DESCRIPTION	BUDGET AMOUNT \$	YTD \$	\$Nil	\$Nil	\$Nil
DESCRIPTION	BUDGET AMOUNT \$	YTD \$						
\$Nil	\$Nil	\$Nil						
<b>Risk Implications</b>	Low Risk							
<b>Resource Implications</b>	This is a planned resource allocation							
<b>Public Consultation</b>	Yes - Mandatory							
<b>IAP2 Commitment</b>	CONSULT - We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public feedback input has influenced the decision.							

**OFFICER'S RECOMMENDATION****That Council:**

- 1. Approves entering into an Improved Land Lease Agreement for portion of the land comprised in Certificate of Title 5787 Folio 373, being more commonly known as the Port Lincoln Croquet Club, between the City of Port Lincoln and Port Lincoln Croquet Club Inc. for an initial term of five (5) years with an option to renew for a further five (5) years, with the initial term commencing 16 September 2025;**
- 2. That approval as stated in Item 1 above is subject to the successful completion of the public consultation process in accordance with Section 202 of the Local Government Act and Council's Public Consultation & Community Engagement Policy, with successful completion determined by the Chief Executive Officer, who will refer the matter to Council if reasonable community concern is evidenced;**
- 3. That the lease fee be set at \$1.00 per annum (plus GST) if demanded (peppercorn); and**
- 4. Subject to the successful completion of Item 2 above, authorise the Chief Executive Officer to execute the lease agreement and associated documentation.**

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**REPORT DETAIL**

The Port Lincoln Croquet Club (the Club) has held its current lease over a portion of community land at Unit 1/7 Bowling Avenue for ten (10) years since 16 September 2015, with no right of renewal and due to expire midnight 15 September 2025. The lease is an Improved Land lease, meaning that Council rather than the Club own the improvements thereon, consisting of a clubroom and croquet green.

The land is described in Council's Community Land Management Plan 1 – Recreation, Sports Grounds and Community Facilities as 'Womens Bowling & Croquet Greens and Club Houses'. Community Land Management Plan 1 also states, *"The Recreation, Sports Grounds and Community Facilities listed herein may be subject to a lease or licence over the whole or a portion of the land at present or at some time in the future"*.

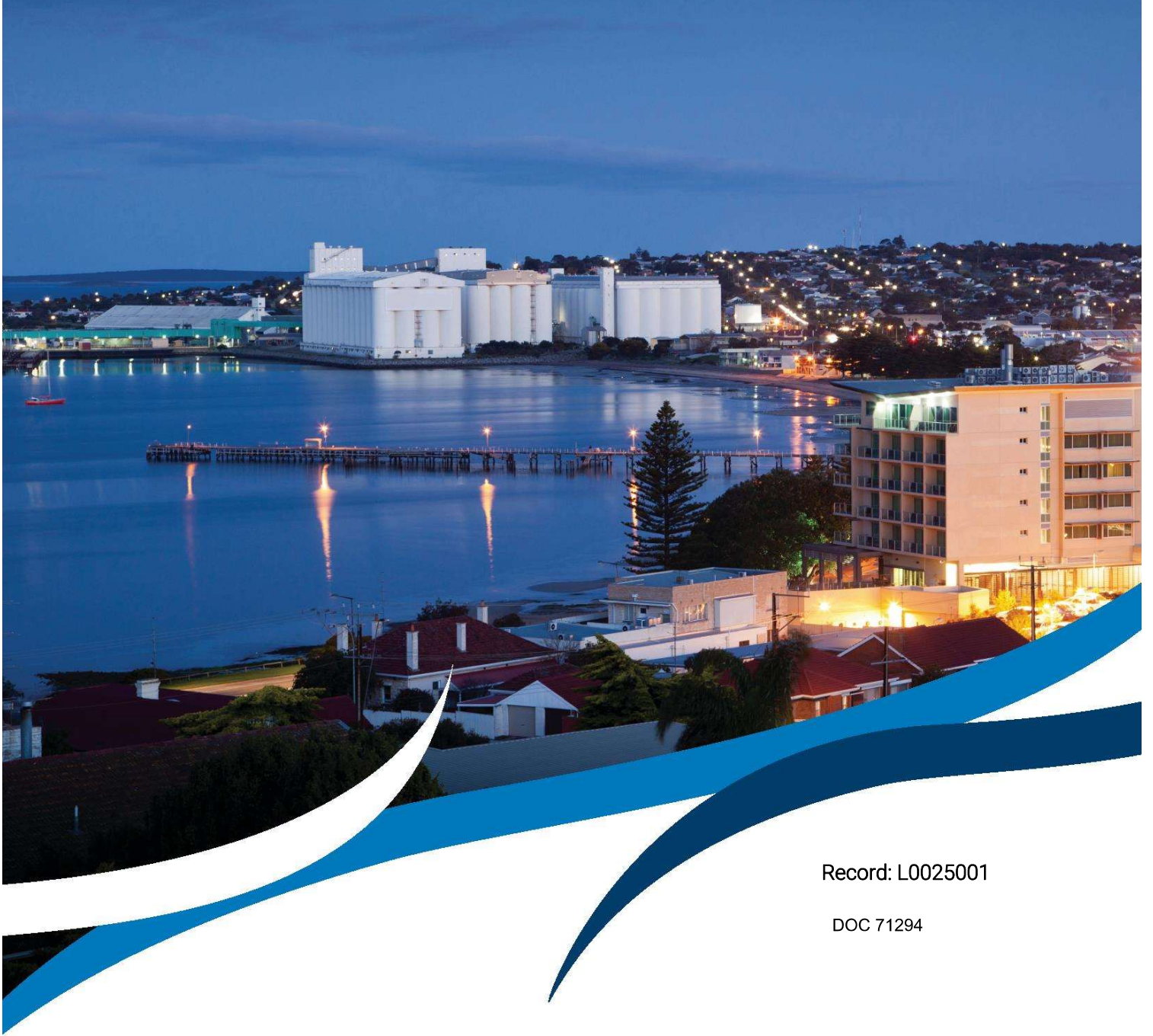
The Club has indicated that it wishes to enter into a new lease agreement, and it is recommended that a lease with similar terms as the existing be established. A draft Improved Land Lease Agreement has been prepared and is provided as an attachment to this report. The draft Agreement proposes an initial term of five (5) years commencing on 16 September 2025 with an optional renewal term for a further five (5) years which, if exercised, would expire 15 September 2035.

Under section 202 of the *Local Government Act 1999*, although the proposed lease is authorised in the approved management plan, the proposed term is greater than five (5) years and therefore Council must follow its Public Consultation policy.

It is recommended that if, at upon close of the consultation period, the CEO determines the consultation process successful, the CEO will execute the agreement under delegation. If the CEO determines that the consultation process highlighted a level of concern, the matter will be brought back to Council in a future report.

Plan of Premises





Record: L0025001

DOC 71294

## **COMMUNITY LAND LEASE AGREEMENT**

between

**City of Port Lincoln**  
("the Council")

and

**Port Lincoln Croquet Club Incorporated**  
("the Lessee")



## IMPROVED LAND LEASE

### ***UNIT 1/7 BOWLING AVENUE, PORT LINCOLN***

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**THIS LEASE AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ 2025

**Between**

**City of Port Lincoln** of Level One, Civic Centre, 60 Tasman Terrace, Port Lincoln SA 5606 (“the Council”)

and

**The party identified in Item 1 of the Schedule** (“the Lessee”)

#### **BACKGROUND**

- A. The Council is a council constituted under the *Local Government Act 1999*.
- B. The Council is the registered proprietor of or otherwise has care, control and management of the whole of the land identified in **Item 3** of the Schedule (“the Land”).
- C. The Lessee has requested and the Council has agreed to grant to the Lessee a lease of the Premises for the Permitted Use during the Term.
- D. The Council and the Lessee record the terms of their agreement in this Lease.

**THE PARTIES AGREE** as follows:

#### **1. INTERPRETATION**

##### **1.1 Introductory**

In the Lease, unless the contrary intention appears:

- 1.1.1 a reference to this Lease is a reference to this document;
- 1.1.2 words beginning with capital letters are defined in clause 1.2;
- 1.1.3 a reference to a clause is a reference to a clause in this Lease;
- 1.1.4 a reference to an Item is a reference to an item in the Schedule;
- 1.1.5 a reference to a Schedule is a reference to the schedule of this Lease; and



1.1.6 a reference to an Annexure is a reference to an annexure to this Lease.

## 1.2 Defined Terms

In this Lease:

**“Act”** means the *Retail and Commercial Leases Act 1995*;

**“Agreed Consideration”** means the Rent, Outgoings and all other consideration (whether in money or otherwise) to be paid or provided by the Lessee for any supply or use of the Premises and any goods, services or other things provided by the Council under this Lease (other than GST payable under clause 19);

**“Commencement Date”** means the date shown as the commencement date in **Item 4** of the Schedule;

**“CPI”** means the consumer price index published by the Australian Bureau of Statistics for All Groups (Adelaide);

**“CPI Review”** means the Review Method described in clause 4.2;

**“Current CPI”** means the CPI number for the quarter ending immediately before the relevant CPI Review Date;

**“Current Market Rent”** means the best rent that can be obtained for the Premises in an open market by a willing but not anxious lessor with or without vacant possession and on the following conditions:

- (a) on the terms and conditions of this Lease for the whole of the Term (and not just the remaining balance of the Term);
- (b) on the basis that the Lessee has complied with all of the obligations under this Lease;
- (c) not taking into account any damage or destruction to the Premises and not taking into account any resulting suspension or abatement of rent;
- (d) not taking into account any disturbance or nuisance to the Lessee’s use of the Premises caused by any act or neglect of the Council or any adjoining owner or occupier;
- (e) not taking into account any Improvements or fixtures (including all capital or structural works approved by the Council) erected or installed at the Lessee’s expense which the Lessee is permitted to remove at the end of this Lease (including the Lessee’s Equipment);
- (f) not taking into account any increase in value of the Premises arising from any Improvements; and
- (g) not taking into account any goodwill attributable to the Premises by reason of any trade, business or actions carried on by the Lessee;

**“Default Rate”** means a rate of two per centum (2%) per annum greater than the published annual rate of interest charged from time to time by the Local Government Finance Authority on overdraft facilities of more than \$100,000.00 and if there is more than one rate published the higher of those rates;

**“Fixed Review”** means a specified rate nominated as a Review Method;

**“GST”** has the same meaning as given to that term in the GST Legislation;

**“GST Legislation”** means the *A New Tax System (Goods and Services Tax) Act 1999* and any similar legislation;

**“GST Rate”** means 10% or such other percentage equal to the rate of GST imposed from time to time under GST Legislation;

**“Improvements”** means any alternations, additions or improvements to the Premises made by the Lessee during the Term, whether or not such improvements were approved by the Council as required under this Lease;

**“Initial Term”** means the term of this Lease commencing on the Commencement Date and described in **Item 4** of the Schedule,

**“Land”** means the land described in Item 3 of the Schedule and includes any part of the Land;

**“Legislation”** means any relevant Statute or Act of Parliament (whether State or Federal) and any regulation or by-law including by-laws issued by any Council or Local Government body or authority;

**“Lessee”** means the party described as "Lessee" in Item 1 of the Schedule and where the context permits includes the employees, contractors, customers, agents and other invitees of the Lessee;

**“Lessee's Equipment”** means any and all fixtures and fittings and other equipment installed in or brought on to or kept in or on the Premises by the Lessee;

**“Lessee's Share”** means the proportion of the area that the Premises bears to the Land;

**“Market Review”** means a review of Rent to Current Market Rent as set out in clause 4.3 of this Lease;

**“Outgoings”** means that term as defined in **Item 10** of the Schedule;

**“Payment Date”** means the Commencement Date and the first day of each month during the Term;

**“Permitted Use”** means the use described in Item 8 of the Schedule;

**“Premises”** means the part of the Land, described in **Item 2** of the Schedule;

**“Previous CPI”** means for a CPI Review Date, the CPI number for the quarter ending immediately before the last Review Date (or if there has not been one, the Commencement Date);

**“Rates and Taxes”** means all present and future rates, charges, levies, assessments, duty and charges of any Statutory Authority, other department or authority having the power to raise or levy any such amounts in respect of the use, ownership or occupation of the Land or Premises and includes water and sewer charges, council rates, emergency services levy and (subject to the Act) land tax on a single holding basis;

**“Renewal Term”** means a term (if any) of renewal or extension granted under this Lease, as identified in **Item 7** of the Schedule;

**“Review Date”** means each date in **Item 6** of the Schedule;

**“Review Method”** means the relevant method of Rent Review specified in **Item 6** of the Schedule for any Review Date;

**“Statutory Authorities”** means any authority created by or under any relevant Legislation;

**“Statutory Requirements”** means all relevant and applicable Legislation and all lawful conditions, requirements, notices and directives issued or applicable under any such Legislation;

**“Term”** means the Initial Term, the Renewal Term(s) and any period during which the Lessee holds over or remains in occupation of the Premises;

**“Valuer”** means a qualified valuer with a minimum of five (5) years of relevant experience and who is licensed to practice as a valuer of the kind of premises whose review is required, and who is appointed to make a determination or assessment under this Lease as agreed by the Council and the Lessee or (failing agreement) by the President of the South Australian Division of the Australian Property Institute; and

**“Yearly Amounts”** means the aggregate of the Rent, Outgoings and any other moneys payable by the Lessee during the Term.

### 1.3 Interpretation

Unless the contrary intention appears:

1.3.1 headings are for convenience only and do not affect interpretation;

1.3.2 the singular includes the plural and vice-versa;

1.3.3 a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government body or authority and vice versa;

1.3.4 a reference to any party in this Lease, or any other document or arrangement referred to in this Lease, includes that party's executors, administrators, substitutes, successors and assigns;

1.3.5 a reference to any document (including this Lease) is to that document as varied, novated, ratified or replaced from time to time;

- 1.3.6 a reference to any statute or to any statutory provision include any statutory modification or re-enactment of it or any statutory provision substituted for it, and all by-laws, regulations;
- 1.3.7 "including" and similar expressions are not and must not be treated as words of limitation;
- 1.3.8 any special conditions in the Schedule will apply to this Lease and in the event of any inconsistency with the terms and conditions in the body of this Lease, then those special conditions will prevail; and
- 1.3.9 the Background is accurate and forms part of this Lease.

## 2. GRANT OF LEASE

The Council grants and the Lessee accepts a lease of the Premises for the Term as set out in this Lease.

## 3. RENT

### 3.1 Payment of Rent

The Lessee must pay the Rent to the Council by equal monthly instalments in advance on the Payment Date, and in the manner directed by the Council.

### 3.2 Instalment

If a rent instalment period is less than a month, the instalment for that period is calculated at a daily rate based on the number of days in the month in which that period begins and the monthly instalment which would have been payable for a full month.

## 4. RENT REVIEWS

### 4.1 Fixed Review

Where the Review Method for any Review Date is a Fixed Review, the Rent on and from the Review Date is increased by the rate set out in Item 6 of the Schedule for that Review Date.

### 4.2 CPI Review

**Where the Review Method for a Review Date is a CPI Review, the Rent is to be increased from the Review Date by the amount (expressed as a percentage) by which the Current CPI exceeds the Previous CPI.**

### 4.3 Market Review

Where the Review Method for any Review Date is a Market Review then the Rent will be reviewed to the Current Market Rent as follows:

- 4.3.1 the Council may, within 6 months prior to the Review Date, give the Lessee written notice stating the Council's assessment of the Current Market Rent;

- 4.3.2 the Rent from and including the relevant Review Date is the amount stated in the Council’s notice under clause 4.3.1 unless the Lessee gives the Council notice in writing within fourteen (14) days after the Council’s notice disagreeing with that amount;
- 4.3.3 if the Council and Lessee do not agree the Current Market Rent under this clause 4.3 then the Current Market Rent must be determined by a Valuer. The cost of the Valuer will be borne equally by both parties; and
- 4.3.4 the Valuer’s decision must be made within sixty (60) days of appointment and will be provided in writing (with detailed reasons for the determination including specifying the matters required to be taken into account under this Lease in making that determination) and that decision will be final and binding on the Council and the Lessee.

#### **4.4 Rent Pending Determination**

If the Rent to apply on and from a Review Date is not agreed or determined by that Review Date, the Lessee must continue to pay instalments of Rent at the rate before the relevant Review Date until the Rent is determined.

#### **4.5 Adjustment Once Rent Determined**

Once the Rent to apply on and from a Review Date is determined, the Lessee will pay any shortfall, and the Council will allow any adjustment for overpayment at the next Payment Date.

#### **4.6 No Decrease in Rent**

Subject to the provisions of the Act, the Rent will not decrease on a Review Date.

### **5. OUTGOINGS**

#### **5.1 Liability for Outgoings**

The Lessee must pay to the Council when due all Outgoings (including, subject to the Act, Rates and Taxes) levied, assessed or charged in respect of the Premises or the Land, or upon the owner or occupier of the Premises or the Land.

#### **5.2 Lessee's Share**

If any Outgoings are not separately assessed or charged in respect of the Premises, the Lessee must pay the Lessee's Share of any such Outgoing.

#### **5.3 Sinking Fund**

5.3.1 The Council may establish a sinking fund to fund provision for major items of repair or capital works to the Premises.

5.3.2 The Council must advise the Lessee in writing of the establishment of any such sinking fund and of the contribution to be made by the Lessee.

5.3.3 The following provisions apply to any sinking fund established under this clause 5.3:

- (a) the Council will establish a separate fund for such moneys and all monies paid by the Lessee for this purpose will be paid into that fund;
- (b) that fund or so much of the balance standing to the credit of that fund as remains unexpended from time to time for a purpose for which the fund was established will be held by the Council in a separate interest bearing account; and
- (c) any amounts paid by the Lessee for the credit of that fund, and the net interest earned by the Council on that fund, will not be applied by the Council for any purpose other than that for which the fund was established.

**5.4 Power and Other Utilities**

5.4.1 The Lessee will be responsible for and pay when due the full amount of all accounts, invoices, assessments and charges with regard to the consumption, use or supply of telephone, light, electricity, gas, and any and all other services and utilities supplied to or used from the Premises.

5.4.2 If there is no separate meter for recording or measuring the services and utilities consumed on or from the Premises, then the Lessee must, if required by the Council, install the necessary meters at its own cost.

**6. USE OF PREMISES**

**6.1 Permitted Use**

The Lessee must use the Premises only for the Permitted Use. The Lessee must not use or allow the Premises to be used for any other use without the Council's prior written consent.

**6.2 Operation of Lessee's Business**

6.2.1 The Lessee must only use the Premises in accordance with generally accepted best practice for the Permitted Use.

6.2.2 The Lessee must conduct its operations and the Permitted Use in a good, lawful and orderly manner and to a high standard.

**6.3 Statutory Requirements**

The Lessee must obtain, keep current and comply with all consents, approvals, licences or other Statutory Requirements relating to:

6.3.1 the Lessee's use and occupation of the Premises;

6.3.2 the nature of the business or operations conducted on the Premises by the Lessee;  
or

6.3.3 any deliberate or negligent act or omission of the Lessee;

including (but not limited to) any requirements for building works or modifications to the Premises (whether structural or otherwise).

#### 6.4 **Signs**

The Lessee must not place any signs or advertisements on the outside of the Premises, or inside the Premises (if they can be seen from outside of the Premises), except a sign or signs advertising or promoting the name and nature of the business conducted on the Premises by the Lessee and which:

- (a) are approved (in writing) by the Council; and
- (b) comply with any relevant Statutory Requirements.

#### 6.5 **Dangerous Equipment and Installations**

The Lessee will not install or bring onto the Premises except insofar as may reasonably be required in connection with the Permitted Use and with the consent of the Council:

- 6.5.1 any electrical, gas powered or other machinery or equipment which may pose a danger, risk or hazard to the Premises or any people;
- 6.5.2 any chemicals or other dangerous substances which by their nature, or their volume, may pose a danger, risk or hazard to the Premises or any people; or
- 6.5.3 any heavy equipment or items which may damage the Premises.

#### 6.6 **Fire Precautions**

The Lessee must:

- 6.6.1 comply with all requirements and directives issued by the Council from time to time (if any) with regard to fire safety systems and procedures including fire evacuation drills and other procedures; and
- 6.6.2 comply with all Statutory Requirements relating to fire safety and procedures including any required structural works or modifications to any building or structure on the Premises which are required as a result of:
  - (a) the Lessee's use or occupation of the Premises;
  - (b) the nature of the business or operations conducted on the Premises by the Lessee; or
  - (c) any deliberate or negligent act or omission of the Lessee.

#### 6.7 **Notice of defect**

The Lessee must:

- 6.7.1 give the Council prompt notice of any circumstance or event of which the Lessee should reasonably be aware that might cause danger, risk or hazard to the Premises or to any person on the Premises; and
- 6.7.2 if required by the Council, promptly rectify any defect or want of repair to make the Premises safe from any danger, risk or hazard, at the Lessee's own cost.

#### 6.8 **Security**

The Lessee must use the Lessee's best endeavours to protect and keep safe the Premises and any property contained in or on it from theft or robbery, including (where applicable) keeping all doors windows and other openings closed and locked when the Premises are not in use.

#### 6.9 **No Warranty**

The Council makes no warranty or representation regarding the suitability of the Premises (structural or otherwise) for the Permitted Use or any other purpose, and the warranty of fitness for purpose provided under section 18 of the Act is expressly excluded by the Council in this Lease.

#### 6.10 **Refurbishment, re-fitting and redecoration**

6.10.1 The Lessee must repaint and refurbish the interior and exterior of the Premises ("Refurbishment") every seven (7) years during the Term and prior to expiration of the Term, in accordance with the following:

- (a) clean and repair all surfaces to be repainted or refurbished; and
- (b) paint (with at least 2 coats) or wallpaper, stain, varnish or polish each surface to be repainted or redecorated according to the previous treatment of that surface; and
- (c) external paint colours are to be approved by the Council in writing prior to any Refurbishment.

6.10.2 The Lessee must carry out the Refurbishment to a standard appropriate to the Premises and in accordance with the last refurbishment undertaken with the Council's approval, or if no such prior refurbishment has taken place, to the same standard as at the Commencement Date.

### 7. **INSURANCE**

#### 7.1 **Lessee must insure**

The Lessee must keep current during the Term, for the Premises (including any Improvements) and the Lessee's Equipment:

- 7.1.1 public liability insurance for at least the amount in **Item 9** of the Schedule (or any other amount the Council reasonably requires) for each claim;



- 7.1.2 all insurance in respect of the Lessee's Equipment and any Improvements for their full replacement value; and
- 7.1.3 other insurances required by law or which the Council reasonably requires for at least the amounts the Council reasonably requires.

**7.2 Buildings and Infrastructure Insurance**

The Lessee will, upon receipt of an invoice from Council, reimburse the cost of Council taking out and maintaining an insurance policy, in respect of the Facility named at Item 2 of Schedule 1, against damage by fire, storm, tempest, earthquake, flood, explosion, lightning, malicious damage and such other risks as the Council thinks fit.

**7.3 Requirements for policies**

7.3.1 Each policy the Lessee takes out under this clause must:

- (a) note the Council as an interested party;
- (b) have no limit on the number of claims that can be made under it;
- (c) cover events occurring during the policy's currency regardless of when claims are made; and
- (d) note that despite any similar policies of the Council, the Lessee's policies will be primary policies.

7.3.2 Any proceeds of a claim in respect to the insurance policy set out in clause **Error! Reference source not found.** that are received by the Council or the Lessee shall be applied towards reinstatement, rebuilding, repair or replacement of the Premises.

**7.4 Evidence of Insurance**

On or before the Commencement Date, the Lessee must give the Council certificates evidencing the currency of the policies the Lessee has taken out under this clause 7. During the Term the Lessee must:

- 7.4.1 pay each premium before it is due for payment;
- 7.4.2 give the Council certificates of currency each year when the policies are renewed and at other times upon the Council's request;
- 7.4.3 not allow any insurance policy to lapse or vary without the Council's consent; and
- 7.4.4 notify the Council immediately if a policy is cancelled or if an event occurs which could prejudice or give rise to a claim under a policy.

**7.5 Insurance affected**

7.5.1 The Lessee must not do anything which will or may:

- (a) prejudice any insurance required under this clause 7; or

(b) increase the premium for any insurance required under this clause 7.

7.5.2 If the Lessee does anything (without the Council's consent) that increases the premium of any insurance the Council has in connection with the Premium, the Lessee must pay the amount of that increase to the Council on demand.

## **8. REPAIR, MAINTENANCE AND ALTERATIONS**

### **8.1 Maintain, Replace and Repair**

8.1.1 Subject to the Act (if the Act applies to this Lease) and in accordance with the Lessee's obligations under clause 8.1.2, the Lessee must at all times during the Term, at the Lessee's own expense and without any notice or demand from the Council, keep, maintain, repair and replace (as applicable) to the reasonable satisfaction of the Council the Premises, the Lessee's Equipment and the Improvements such that they are in good repair, condition and working order (including, subject to the Act, such structural and capital maintenance, repair and replacement as is necessary from time to time).

8.1.2 The Lessee must maintain, repair or replace items in or attached to the Premises which are damaged or worn with items of the same or similar quality to those in use when they were last replaced with the Council's approval, or if they have not been so replaced, to those in use when the Lessee took occupation of the Premises.

### **8.2 Alterations by Lessee**

8.2.1 The Lessee must not carry out any or undertake any Improvements to the Premises without the Council's prior written consent.

8.2.2 The Lessee must provide full details to the Council (including plans and specifications where relevant) of any proposed Improvements to the Premises.

8.2.3 The Council may impose any conditions it considers necessary if it gives its approval, including requiring the Lessee to obtain the Council's consent to any agreements that the Lessee enters into in relation to the Improvements.

8.2.4 The Lessee must carry out any approved Improvements at its own cost and:

- (a) in a proper and workmanlike manner;
- (b) in accordance with the conditions imposed by the Council (if any);
- (c) in accordance with all Statutory Requirements; and
- (d) in a way so as to minimise disturbance to others.

8.2.5 The Lessee will pay all of the Council's costs (including consultant's costs and legal costs) as a result of considering the Lessee's proposed Improvements to the Premises (whether or not consent is ultimately granted by the Council).

8.2.6 Unless the Council notifies the Lessee in writing otherwise, any Improvements to the Premises will remain the property of the Lessee during the Term and the Lessee will be responsible for maintaining such Improvements in accordance with this Lease.

### 8.3 Cleaning

The Lessee must at all times during the Term:

8.3.1 keep the Premises clean and tidy;

8.3.2 keep the Premises free of vermin, insects and other pests; and

8.3.3 not cause the Premises to be left untidy or in an unclean state or condition.

## 9. ASSIGNMENT AND SUB-LETTING

### 9.1 Assignment

The Lessee must not assign the Lessee's interest in the Premises or any part of it under this Lease without the consent of the Council, which consent may be withheld in the Council's absolute discretion unless the Act applies to this Lease, in which case the Council's consent may be withheld by the Council only if:

9.1.1 the proposed assignee proposes to change the use to which the Premises is put;

9.1.2 the proposed assignee is unlikely to be able to meet the financial obligations of the Lessee under the Lease;

9.1.3 the Council reasonably considers that the proposed assignee's business skills are inferior to those of the Lessee; or

9.1.4 the Lessee has not complied with procedural requirements for obtaining the Council's consent as set out in section 45 of the Act.

### 9.2 Request for Assignment

If the Lessee requests that the Council consent to any assignment, transfer or parting with possession of the Premises (or any part of it), the Lessee must immediately on receipt of a request to do so from the Council:

9.2.1 pay all arrears of Rent any other moneys outstanding under this Lease and remedy all outstanding breaches and defaults and pay to the Council or its solicitors or agents such sum of money as is reasonably estimated by the Council as being required to remedy such breaches or defaults;

9.2.2 submit a true copy of all agreements to be entered into in respect of any proposed dealing with the Lease or the Premises including a true copy of any business sale agreement entered into by the Lessee as vendor, if applicable, and evidence satisfactory to the Council that the proposed transferee or assignee is respectable, responsible, solvent and suitable and any other information reasonably required by

the Council about the financial standing and business experience of the proposed transferee or assignee;

- 9.2.3 if the proposed assignee or transferee is a trustee of a trust to submit a copy of the instrument under which such trust was constituted and the full names addresses and occupations of the beneficiaries of such trust;
- 9.2.4 procure the proposed assignee or transferee to submit to the Council a business plan setting out the proposed assignee's plans, intentions and projections concerning the business conducted at the Premises (and containing such details and particulars as are reasonably required by the Council); and
- 9.2.5 pay to the Council or its solicitors the reasonable costs and expenses of and incidental to any inspection of the Premises and enquiries concerning the proposed dealing or the persons concerned in such dealing and of the perusal, preparation, negotiation and stamping of the documents deemed necessary by the Council;

and if such consent is given, the Lessee shall ensure that prior to the date of any assignment or transfer the person to whom it is proposed to assign or transfer enters into a direct covenant with the Council to observe the terms of this Lease and furnishes such guarantees of the performance of such person's obligations under this Lease as the Council may reasonably require.

### 9.3 **Sub-lease, Mortgage or Licence**

9.3.1 The Lessee may not:

- (a) grant any sub-lease, licence or concession for the whole or part of the Premises;
- (b) otherwise part with possession of the whole or a part of the Premises; or
- (c) mortgage or otherwise charge or encumber the Lessee's interest under this Lease;

without the prior written consent of the Council which the Council may withhold in its absolute discretion.

### 9.4 **No Release**

Subject to the Act, where the Council grants consent or is deemed to grant consent to an assignment, the Lessee as assignor will not be released or discharged from its current and future obligations and liabilities under this Lease for the balance of the Term.

## 10. **COUNCIL'S OBLIGATIONS AND RIGHTS**

### 10.1 **Quiet Enjoyment**

Subject to the Council's rights and to the Lessee complying with the Lessee's obligations under this Lease, the Lessee may occupy the Premises during the Term without interference from the Council.

#### 10.2 **Right to enter**

The Council may (except in the case of emergency when no notice will be required) enter the Premises after giving the Lessee reasonable notice:

10.2.1 to see the state of repair of the Premises, the Lessee's Equipment or any Improvements;

10.2.2 to do repairs or other works to the Premises as required or permitted to be undertaken by the Council under this Lease and, for this purpose, interrupt any services to the Premises as necessary to undertake the repairs or works; or

10.2.3 to do anything the Council must or may do under this Lease or must do under any law or to satisfy the requirements of any Statutory Authority.

#### 10.3 **Emergencies**

**In an emergency the Council may:**

10.3.1 close any building on the Premises; and/or

10.3.2 prevent the Lessee from entering onto the Premises or any building or structure on the Premises for so long as the emergency circumstances persist.

#### 10.4 **Right to rectify**

10.4.1 Subject to clause 10.3.2, the Council may at the Lessee's cost, do anything which the Lessee should have done under this Lease but which the Lessee has not done or which the Council reasonably considers the Lessee has not done properly.

10.4.2 Prior to undertaking any works as permitted by clause 10.3.1, the Council must first provide the Lessee with a notice of defects or works required to be undertaken by the Lessee, which notice must provide a reasonable period for the Lessee to rectify the defects or undertake the required works.

10.4.3 The Lessee will not make any claim or commence or maintain any suit or action against the Council for breach of the covenant contained in clause 10.1 or otherwise in consequence of such entry or in execution of any of the works contemplated by this clause 10.4.

#### 10.5 **Maintenance and repair**

Subject to the Act (if the Act applies to this Lease), the Lessee acknowledges and agrees that the Council has no obligation to maintain or repair the Premises, the Lessee's Equipment or any Improvements.

**11. DAMAGE OR DESTRUCTION**

11.1 If the Premises or any part of the Premises is damaged:

11.1.1 and as a result of that damage, the Premises cannot be used for the Permitted Use or is inaccessible, then for the period during which the Premises cannot be so used or is inaccessible, the Lessee will not be obliged to pay any Yearly Amounts in respect of that period; or

11.1.2 and the Premises can still be used for the Permitted Use but the level or extent of useability is diminished due to the damage, the Lessee's liability for Yearly Amounts attributable to a period during which such useability is diminished will be reduced in proportion to the reduction in useability caused by the damage. If the Council and the Lessee are unable to agree within fourteen (14) days as to the proportion by which the Yearly Amounts should be reduced, then an independent arbiter must be appointed to make a determination. The cost of the arbiter shall be borne by the parties equally.

11.2 If the Council notifies the Lessee in writing that the Council considers that damage to the Premises is such as to make its repair impractical or undesirable, the Council or the Lessee may terminate this Lease by giving not less than seven (7) days written notice to the other party.

11.3 If the Council does not terminate this Lease under clause 11.2 and the Council fails to repair the damage within a reasonable time after the Lessee has requested the Council in writing to do so, the Lessee may terminate this Lease by giving not less than seven (7) days written notice to the Council.

11.4 If this Lease is terminated by either party under this clause 11 then the rights and obligations of the Council and the Lessee will come to an end but if any breach by either party still exists at that time, then the rights of the other party with regard to that existing breach will continue.

11.5 If the damage to the Premises results from a deliberate or negligent act or omission of the Lessee, then the Lessee will not be relieved of its obligation to continue to pay the Yearly Amounts (and the provisions of clause 11.1 will not apply) unless:

11.5.1 the Council has an insurance policy covering loss of rent from the Premises as a consequence of that damage;

11.5.2 the Council is able to recover payment under that policy; and

11.5.3 the Lessee has contributed to the cost of that insurance as an Outgoing under this Lease and is not in breach or in arrears of any such contribution;

in which case the obligation of the Lessee to continue to pay the Yearly Amounts will be reduced by an amount equivalent to the payment (if any) received under that insurance policy.

**11.6 No limitation**

The provisions of this clause do not prejudice or alter the rights and entitlements of the Council to recover for loss and damage from the Lessee if and to the extent that the damage to the Improvements or the Premises is caused or contributed to by any deliberate or negligent act or omission on the part of the Lessee.

**12. RENEWAL**

**12.1 Rights of Renewal**

If the Lessee wishes to exercise any right of renewal described in **Item 7** of the Schedule, then the Lessee must serve a written notice on the Council not less than three (3) months and not more than six (6) months prior to the expiry of the Initial Term or the preceding Renewal Term (as the case may be) stating its desire to renew this Lease for the relevant Renewal Term specified in **Item 7**. If such notice is given then:

12.1.1 the Council will be obliged to renew this Lease for the relevant Renewal Term on the same terms and conditions as are contained in this Lease except (in the case of the final Renewal Term) for the exclusion of this clause 12.1; and

12.1.2 the Renewal Term commences immediately after the expiration of the Initial Term or the preceding Renewal Term (as the case may be).

**12.2 No renewal entitlement**

The Lessee will not be entitled to a right of renewal pursuant to clause 12.1 if:

12.2.1 the Lessee is in breach of a term of this Lease before or at the time of giving notice of the Lessee's desire to exercise the right of renewal ("**notice**"); or

12.2.2 the Lessee is in breach or commits any breach of a term of this Lease after giving that notice but before commencement of the relevant Renewal Term.

**13. RIGHTS AND OBLIGATIONS ON EXPIRY**

**13.1 Expiry**

This Lease will come to an end at midnight on the last day of the Term unless it is terminated earlier by the Council or the Lessee under any other provision of this Lease, in which case it will come to an end when such earlier termination is effected.

**13.2 Handover of Possession**

13.2.1 Before this Lease comes to an end, the Lessee will:

- (a) remove all of the Lessee's Equipment and repair any damage caused by such removal;

- (b) if required by the Council, remove any Improvements and reinstate, to the Council's satisfaction, the Premises to the condition it was immediately prior to the Lessee having commenced occupation; and
- (c) carry out and complete any repairs and maintenance which the Lessee is obliged to carry out under this Lease,

such that the Premises and Improvements (if applicable) are handed over to the Council in good order and repair and working condition.

13.2.2 If it is not practical for the Lessee to undertake and complete these requirements before the Lease comes to an end, then the Lessee must undertake such works immediately after the Lease comes to an end in accordance with any reasonable requirements of the Council relating to security, access and time for completion.

13.2.3 When this Lease comes to an end the Lessee will:

- (a) hand over vacant possession of the Premises in good repair and condition; and
- (b) hand over to the Council all keys and other security devices for the Premises which the Lessee has in its possession or control.

13.2.4 If at the time that possession of the Premises is given back to the Council, the Lessee has not complied with all or any of its obligations under this clause, the Lessee will not be relieved of its obligation to comply with those requirements, or to compensate the Council for failure to do so, by reason of the fact that the Council has accepted or taken possession of the Premises.

### 13.3 **Ownership of Improvements**

If, during the Term of this Lease the Lessee has undertaken any Improvements, then upon expiration of the Term or earlier determination of this Lease, the Council may:

13.3.1 direct that the Improvements are to remain on the Premises, in which case the Improvements will form part of the Land upon expiration of this Lease and will become the property of the Council and the Lessee will forfeit to the Council (without payment of any compensation or consideration by the Council) any interest the Lessee has in the Improvements; or

13.3.2 direct that the Improvements be removed and the Premises be reinstated in accordance with clause 13.2.1 of this Lease.

### 13.4 **Abandoned Goods or Improvements**

Subject to the requirements of the Act (if applicable) if, when this Lease comes to an end, or within a reasonable time following expiration of this Lease:

13.4.1 the Lessee leaves any goods or the Lessee's Equipment at the Premises, then the Council will be entitled to deal with and dispose of those items as the Council sees



fit, including (but not limited to) selling those items with any profits from such sale to be retained by the Council; or

13.4.2 the Lessee has failed to remove the Improvements as required by clause 13.2.1, then the Council may undertake such rectification works as required to be undertaken by the Lessee and recover the cost of those rectification works from the Lessee as a debt.

## 14. BREACH

### 14.1 Payment Obligations

14.1.1 The Lessee must make payments due under this Lease:

- (a) without demand (unless this Lease provides demand must be made);
- (b) without set-off, counter-claim, withholding or deduction;
- (c) to the Council or as the Council directs; and
- (d) by direct debit or such other means as directed by the Council.

14.1.2 If a payment is stated to be due on a particular Payment Date (such as the next Payment Date or the first Payment Date after an event) and there is no such Payment Date, the Lessee must make that payment on demand.

### 14.2 Default, Breach and Re-Entry

If:

14.2.1 any money (or part of any money) payable under this Lease are unpaid for the space of seven (7) days after any day on which the same ought to have been paid (although no formal or legal demand has been made);

14.2.2 the Lessee commits, permits or suffers to occur any breach, or default in the due and punctual observances and performance of any of the covenants, obligations and provisions of the Lease, and such breach or default has continued for at least fourteen (14) days following service of a notice of default on the Lessee by the Council;

14.2.3 any property in or on the Premises is seized or taken in execution under any judgment or proceedings; or

14.2.4 the Premises are left unoccupied for one (1) month or more without the Council's consent.

then despite any other clause of this Lease the Council at any time has the right to re- enter into and upon the Premises and to repossess and enjoy the Premises as its own estate, and/or to terminate this Lease.

### 14.3 Rights of Council Not Limited

If the Council exercises its rights under clause 14.2 of this Lease:

14.3.1 such action will not exclude, limit or prejudice any other action or remedy which the Council has or might have or otherwise could have for any breach of this Lease by the Lessee (including but not limited to any loss or damage suffered by the Council as a result of such breach); and

14.3.2 the Council will be freed and discharged from any action, suit, claim or demand by or obligation to the Lessee under or by virtue of the Lease.

#### **14.4 Repudiation and Damages**

14.4.1 The Lessee acknowledges that the following obligations under this Lease are essential terms:

- (a) the obligation to pay Rent;
- (b) the obligation to pay Rates and Taxes;
- (c) the obligation to pay Outgoings;
- (d) the obligation to contribute to any sinking fund established under clause 5.3;
- (e) the obligations and prohibitions in relation to use of the Premises; and
- (f) the restriction on assignment, sub-letting, mortgaging and licensing.

14.4.2 If the Council accepts payment of any money late or does not act or exercise any rights immediately or at all in respect of any breach of an essential term, that conduct on the part of the Council will not be deemed to amount to a waiver of the essential nature of that essential term.

14.4.3 If the Lessee breaches any essential term, that conduct on the part of the Lessee will be deemed to constitute a repudiation of this Lease and the Council may at any time thereafter rescind this Lease by accepting that repudiation.

14.4.4 The Lessee agrees that if this Lease is terminated by the Council because of a breach by the Lessee of an essential term, or if the Lessee repudiates this Lease and the Council accepts that repudiation thereby rescinding this Lease, the Lessee will be obliged to pay compensation to the Council including rent and other money which the Council would otherwise have received under this Lease had the Lessee not breached an essential term or repudiated this Lease.

14.4.5 The rights of the Council under this clause 14.4 and any action taken by the Council do not exclude or limit any other rights or entitlements which the Council has under this Lease or at law in respect of any breach or repudiatory conduct on the part of the Lessee.

#### **14.5 Interest on Overdue Amounts**

If the Lessee does not pay an amount when it is due, the Lessee must pay interest on that amount on demand from when the amount became due until it is paid in full. Interest is calculated daily on all outstanding balances at the Default Rate.

**14.6 Council's Rights on Breach**

If the Lessee is at any time in breach of any of its obligations under this Lease, and the Lessee fails to remedy that breach to the satisfaction of the Council after being requested by the Council to do so, the Council and anybody authorised by the Council for that purpose may at any time come onto the Premises without notice and do all things necessary to remedy that breach. The Lessee must pay or reimburse the Council for all costs and expenses incurred in that regard which the Council may recover from the Lessee as a debt due and payable on demand.

**14.7 Landlord and Tenant Act**

In the case of a breach or default of any term of this Lease where notice is required to be given pursuant to Section 10 of the *Landlord and Tenant Act 1936*, such notices will provide that the period of fourteen (14) days is the period within which the Lessee is to remedy any such breach or default if it is capable of remedy or to make reasonable compensation in money to the satisfaction of the Council.

**15. DISPUTE RESOLUTION**

15.1 If any dispute or disagreement arises between the parties in connection with this Lease, the parties undertake to use all reasonable endeavours, in good faith, to settle the dispute or disagreement by negotiation between representatives of both parties.

15.2 In the event that negotiations do not resolve the dispute within thirty (30) days then a mediator agreeable to both parties may be engaged to seek a resolution. If the parties cannot agree upon a mediator, the mediator will be appointed by the President or Acting President of the Law Society of South Australia. The cost of the mediator will be borne equally by both parties.

15.3 Nothing in this Lease is intended to limit either party's right to seek a legal remedy for any dispute that arises.

15.4 The parties agree that matters arising out of any conflict must be kept confidential.

**16. HOLDING OVER**

If, with or without the Council's consent, the Lessee continues to occupy the Premises after the end of this Lease, the Lessee does so as a monthly tenant which:

16.1 either party may terminate on one (1) month's notice given at any time; and

16.2 is on the same terms as this Lease.

**17. INDEMNITY AND RELEASE**

**17.1 Risk**

The Lessee occupies and uses the Premises at the Lessee's risk.

**17.2 Indemnity**

The Lessee is liable for and indemnifies the Council against all actions, liabilities, penalties, claims or demands for any loss, damage, injury or death incurred or suffered directly or indirectly in connection with:

17.2.1 any act or omission of the Lessee;

17.2.2 the overflow or leakage of water or any other harmful agent into or from the Premises;

17.2.3 any fire on or from the Premises;

17.2.4 loss or damage to property or injury or death to any person caused by the Lessee, the use of the Premises by the Lessee or otherwise relating to or occurring on the Premises;

17.2.5 a breach of this Lease by the Lessee; or

17.2.6 the Lessee's use or occupation of the Premises.

**17.3 Release**

The Lessee releases the Council from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the Premises except to the extent that they are caused by the Council's negligence.

**17.4 Indemnities are independent**

Each indemnity is independent from the Lessee's other obligations and continues during this Lease and after this Lease ends. The Council may enforce an indemnity before incurring expense.

**17.5 Council's liability**

Despite anything else in the Lease, the Council will not be liable (except to the extent of any negligence of the Council) for any loss or damage, and the Lessee has no right to terminate this Lease or reduce payments under this Lease, for any acts or omissions of other occupants of the Land including any members of the public.

**18. POWER OF ATTORNEY**

**18.1 Appointment**

**If the Council becomes entitled to re-enter and take possession of the Premises after complying with any relevant statutory provision, the Lessee irrevocably appoints the Council to be the attorney of the Lessee to execute any documents and perform any acts the Council requires to give full effect to the power of re-entry under the *Real Property Act 1886*.**

**18.2 Ratification**

The Council may do, execute and perform all things relating to the Premises as fully and effectually as the Lessee could do. The Lessee must ratify and confirm the appointment of and all actions by the Council under this clause.

**19. GOODS AND SERVICES TAX**

**19.1 Agreed Consideration**

If a GST applies to impose tax on the Agreed Consideration or any part of it or if the Council is liable to pay GST in connection with this Lease or any goods, services or other things supplied under this Lease then:

19.1.1 the Agreed Consideration for that supply is exclusive of GST;

19.1.2 the Council may increase the Agreed Consideration or the relevant part of the Agreed Consideration by a percentage amount which is equal to the GST rate; and

19.1.3 the Lessee shall pay the increased Agreed Consideration on the due date for payment by the Lessee of the Agreed Consideration.

**19.2 Tax Invoice**

Where the Agreed Consideration is to be increased to account for GST under this clause 19, the Council will, on or before the date on which the Agreed Consideration is payable, issue a tax invoice to the Lessee.

**19.3 Liability for Penalties**

If the Lessee does not comply with its obligations under the Lease or with its obligations under GST Legislation in connection with this Lease and as a result the Council becomes liable for penalties or interest for late payment of GST, then the Lessee must pay the Council on demand an amount equal to the amount of the penalties and interest.

**20. COUNCIL'S DISCRETION**

The Council enters into this Lease as a council acting under sections 7 and 36 of the *Local Government Act 1999* and not in any other capacity. This Lease does not preclude or pre-empt the exercise by the Council of any other regulatory function or power.

**21. RETAIL AND COMMERCIAL LEASES ACT**

If, at any time during the Term, the Act applies to this Lease, then:

21.1 this Lease will be read and interpreted subject to the provisions of the Act and, to the extent to which there is any inconsistency with the provisions of the Act, those provisions of the Act will override the terms of this Lease;

- 21.2 any right, power or remedy of the Council or obligation or liability of the Lessee which is affected by the Act (if applicable) will be unenforceable or void but only to the extent that it is expressly made unenforceable or void by the Act;
- 21.3 the Lessee acknowledges that, prior to the Council and the Lessee entering into negotiations concerning this Lease the Lessee received a copy of the proposed Lease; and
- 21.4 the Lessee acknowledges that, prior to the Lessee executing this Lease the Lessee received a duly completed written disclosure statement in the form required under and pursuant to the Act and the Regulations under the Act.

## 22. INCORPORATED ASSOCIATION

If the Lessee is an incorporated association:

- 22.1 the persons executing this Lease on behalf of the Lessee have warranted to the Council that the Lessee is incorporated under the *Associations Incorporation Act 1985*, and that its functions are compatible with the Permitted Use; and
- 22.2 the Lessee must provide the Council with:
  - 22.2.1 upon request by the Council, a copy of the Lessee's constitution, rules or by-laws;
  - 22.2.2 within 28 days of amendment of the Lessee's constitution, rules or by-laws, an updated copy of those documents; and
  - 22.2.3 upon execution of this Lease and upon any change in the appointment of officers of the Lessee, the full name and contact details of the current officers of the Lessee.

## 23. GENERAL

### 23.1 Costs

- 23.1.1 Each party will bear their own legal costs in connection with the negotiations for and the preparation of this Lease or any renewal or extension of it.
- 23.1.2 The Lessee will pay the Council's reasonable legal costs and other expenses incidental to any application by the Lessee for the consent of the Council to any transfer or assignment by the Lessee of this Lease or the Lessee's interest in it, or to any sub-letting by the Lessee, or to any mortgage, charge or encumbrance over the interest of the Lessee under this Lease or in the Lessee's Equipment or the Improvements (whether consent is granted or lawfully refused).

### 23.2 Consent

- 23.2.1 Unless otherwise provided in this Lease, in any case where the doing or execution of any act, matter or thing by the Lessee requires or is subject to the Council's consent or approval, that consent or approval may be given (conditionally or unconditionally) or withheld by the Council in its absolute discretion.

23.2.2 The Lessee must pay or reimburse the Council all costs, fees and expenses paid or incurred (including any fees of any agent or consultant) arising from or with respect to any application for consent or approval.

**23.3 No absolute caveat**

The Lessee must not lodge or cause or permit to be lodged any absolute caveat over the certificate of title for the Premises.

**23.4 Confidentiality**

23.4.1 Subject to applicable laws, this Lease is confidential and must not be published, disclosed or used for any purpose by either party without the prior written consent of the other party.

23.4.2 Subject to applicable laws, the Lessee must keep confidential any information about the Council that becomes known as a result of this Lease or the transactions it contemplates and, which information is not in the public domain.

23.4.3 This clause will remain enforceable by either party notwithstanding the expiry or termination of this Lease.

**23.5 Waiver**

If the Council accepts or waives any breach of this Lease by the Lessee, that acceptance or waiver cannot be taken as an acceptance or waiver of any future breach of the same obligation or of any other obligation under this Lease.

**23.6 Notice**

23.6.1 Without excluding any other form of service, any notice required to be given or served will be sufficiently given or served as follows:

23.6.2 in the case of the Lessee, if left at the Premises, or if the Lessee has vacated the Premises, then if posted by pre-paid post to the last known address of the Lessee;

23.6.3 in the case of the Council, if posted by prepaid post to the Council at its principal place of business in South Australia (which is taken to be the address stated in this Lease unless the Lessee is or ought reasonably be aware that that is not the Council's principal place of business at the relevant time).

23.6.4 Notice served by prepaid post will be deemed to have been given or served three (3) business days after posting.

**23.7 Ombudsman**

The Lessee acknowledges that the *Ombudsman Act 1972* empowers the Ombudsman to investigate matters in the public interest. The Lessee must ensure compliance with all obligations arising under that Act and all applicable Legislation.

**23.8 Severance**

If any part of this Lease is found to be invalid or void or unenforceable, then that part will be severed from this Lease and the remainder of this Lease will continue to apply.

**23.9 Entire Agreement**

The Council and the Lessee acknowledge and agree that this Lease contains and represents the entire agreement reached between them with regard to the Premises and that no promises, representations or undertakings, other than those contained in this Lease, were made or given or relied upon.



**Executed** as an agreement on the \_\_\_\_\_ day of \_\_\_\_\_ 2025

.....  
**ERIC BROWN**  
Chief Executive Officer

.....  
Witness Sign

.....  
Witness Name (Print)

**IMPORTANT NOTICE: The Lessee acknowledges and agrees that the Council gives no warranty that the Premises will, either at the Commencement Date or for the duration of this Lease, be structurally suitable for the Permitted Use.**

**The Common Seal of the Lessee** was affixed in accordance with the Rules of the Association in the presence of:

.....  
Signature of Authorised Office Bearer

.....  
Signature of Authorised Office Bearer

.....  
Name of Authorised Office Bearer

.....  
Name of Authorised Office Bearer

**Or**

*If the Lessee is an individual:*

**Executed by the Lessee:**

.....  
Signature of Lessee

.....  
Full Name of Lessee (print)

.....  
Signature of Lessee

.....  
Full Name of Lessee (print)

.....  
Witness Sign

.....  
Witness Name (Print)

**SCHEDULE**

<b>ITEM 1</b> <b>Lessee</b>	PORT LINCOLN CROQUET CLUB INCORPORATED ABN 57 279 693 092 of PO Box 113, Port Lincoln SA 5606
<b>ITEM 2</b> <b>Premises</b>	All buildings and infrastructure on portion of the land comprised in Certificate of Title Volume 5787 Folio 373 being the area marked on the plan attached as Annexure A  Conquest Asset Ref: 10980
<b>ITEM 3</b> <b>Land</b>	Portion of the land comprised in Certificate of Title Volume 5787 Folio 373 being the area marked on the plan in Annexure A  Assessment No. 00179
<b>ITEM 4</b> <b>Term</b>	FIVE (5) years commencing on 16 September 2025 (“the Commencement Date”) and expiring at midnight on 15 September 2030.
<b>ITEM 5</b> <b>Rent</b>	\$1.00 per annum (plus GST) payable if requested.
<b>ITEM 6</b> <b>Review Dates and Review Method</b>	Not applicable.
<b>ITEM 7</b> <b>Renewal Term</b>	FIVE (5) years commencing on 16 September 2030 and expiring at midnight 15 September 2035.
<b>ITEM 8</b> <b>Permitted Use</b>	For all lawful activities of the Port Lincoln Croquet Club Inc.
<b>ITEM 9</b> <b>Public Liability Insurance</b>	Coverage of at least twenty million dollars (\$20,000,000.00) per claim
<b>ITEM 10</b> <b>Outgoings</b>	“Outgoings” means the total of all amounts paid or payable by the Council in connection with the ownership, management, administration and operation of the Premises including (but not limited to):

	<ol style="list-style-type: none"> <li>1. if the Premises are not separately levied or assessed for any Rates and Taxes, then any such Rates and Taxes which are levied or assessed in respect of the Land;</li> <li>2. the cost of insuring the Premises;</li> <li>3. the cost of insuring the Council against public risk;</li> <li>4. the amount of any excess or deductible not paid or excluded under any insurance policy taken out by the Council;</li> <li>5. the cost of insuring the Council against loss of rent and other consequential loss for a period not exceeding twelve (12) months;</li> <li>6. all costs of the Council in connection with the maintenance, repair, replacement and renovation of the Premises from time to time;</li> <li>7. all costs of the Council in connection with providing security in, for and around the Premises (including equipment, systems and security and other personnel); and</li> <li>8. all costs of the Council in connection with preparing and providing any audited statement which is required to be prepared and/or provided under this Lease or by Legislation.</li> </ol>
<p><b>ITEM 11</b> <b>Special Conditions</b></p>	<ol style="list-style-type: none"> <li>1. <b>REDEVELOPMENT</b>  If for any reason the Council wishes to redevelop, renovate or demolish the Premises or any part of the Premises or the Land (“the Redevelopment”) then the Council may terminate this Lease subject to the following provisions:             <ol style="list-style-type: none"> <li>1.1 if the Redevelopment involves demolition of the Premises:</li> <li>1.2 the Council must provide the Lessee with details of the proposed Redevelopment sufficient to indicate a genuine proposal to carry out that Redevelopment within a reasonably practicable time after this Lease is to be terminated; and</li> <li>1.3 at any time after providing the Lessee with those details, the Council may give the Lessee written notice of termination of this Lease (“the Demolition Notice”) specifying the date on which this Lease is to come to an end, being a date not less than six months after the Demolition Notice is given;</li> <li>1.4 if the Redevelopment does not involve demolition of the Premises the Council may give the Lessee written notice of termination of this Lease (“the Termination Notice”)</li> </ol> </li> </ol>

	<p>specifying the date on which the Lease is to come to an end being a date not less than three months after the Termination Notice is given;</p> <p>1.5 at any time after receiving a Demolition Notice or a Termination Notice, the Lessee may terminate this Lease by giving not less than seven (7) days' written notice to the Council;</p> <p>1.6 Unless terminated earlier by the Lessee this Lease comes to an end at midnight on the day specified in the Demolition Notice or the Termination Notice (as the case may be); and</p> <p>1.7 when either party terminates this Lease under this Special Condition, the rights and obligations of the Council and the Lessee under this Lease come to an end, except with regards to an existing breach (for which the parties' rights will continue after termination of this Lease).</p> <p>2. <b>PAINTING</b></p> <p>2.1 On expiration or non-renewal of the final term, the lessee is required to repaint the internal and external walls of the clubrooms and public conveniences.</p>
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**Annexure A**

**Plan of Premises**



*\*Outline is indicative only*

# CONTACT

## **Council Administration**

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