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# LICENCE TO OCCUPY

## Licence to occupy

### PARTIES

**DONALD WILLIAM TE RANGI COUCH, TUTEHOUNUKU KORAKO and TE WHE PHILLIPS** as Trustees of the Rapaki MR 875 Sec 19 and Rapaki MR 875 Sec 20 Maori Reservation ("Licensor")

**TE HAPU O NGATI WHEKE INCORPORATED** ("Licensee")

### BACKGROUND

- A** The licensor is the registered proprietor of the Rapaki No 19 block and the Rapaki No 20 block ("the land")
- B** The licensor has agreed to grant the licensee a licence to use part of the land and the parties have entered into this licence to record the terms and conditions on which the licensee will occupy part of the land.

### THIS LICENCE WITNESSES

#### **1 Grant of licence**

- 1.1 The licensor grants to the licensee and the licensee accepts a licence from the licensor to occupy and use the outside office ("the office") located on the land.
- 1.2 In addition to the licence granted above, the licensee may use the other areas, buildings and facilities on the land provided that such use shall not interfere with:
  - a) Prior bookings to use such areas, buildings and/ or facilities; and/ or
  - b) Other events that take priority over use of such areas, buildings and/ or facilities in accordance with tikaka such as tangi.

#### **2 Term of licence**

The term of this licence shall be fourteen years from the date of this licence.

#### **3 Licence fee**

- 3.1 The licensee does not have to pay a licence fee to the licensor. However, the licensee shall:
  - a) Carry out the day to day administration duties as set out in the Charter for the Rapaki Marae ("the Charter");
  - b) Pay all outgoings and costs in relation to the land as set out in this licence; and
  - c) Observe all other obligations under this licence.

#### **4 Licence not assignable**

The licensee shall not assign the benefit of this licence, grant any sublicense, or otherwise deal in any manner with this licence or the right to use the office or any other part of the land.

#### **5 Outgoings**

- 5.1 The licensee shall pay 100% of all outgoings associated with the land including but not limited to all rates, costs and expenses incurred in respect of the land and without limiting the generality of the foregoing shall include:

- (a) rates, charges, levies, assessments, duties, impositions and fees payable to any local or territorial authority in respect of the land.
- (b) charges for water, gas, electricity, lighting, telephones and other utilities or services;
- (c) rubbish collection charges;
- (d) New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment on the land;
- (e) insurance premiums and related valuation fees incurred in relation to the insurances effected by the licensee in relation to the land together with those relating to public risk insurance;
- (f) cleaning, maintenance, repair and decorative charges for the land and all buildings.
- (g) ground maintenance costs including lawns, gardens and planted areas including plant hire and replacement;
- (h) yard and car parking area maintenance and repair costs;
- (i) caretaker, commissionaire or security services costs;
- (j) the costs of maintenance, servicing and repair of lighting (including security lighting) of all buildings and surrounds; and
- (k) pest control treatment costs.

**5.2** The licensee shall use the booking fees it has received pursuant to the Charter to pay all outgoings and other costs associated with this licence provided that should there be insufficient funds from the booking fees to pay such outgoings and costs the licensee shall pay for such outgoings and costs from its own funds which are not recoverable from the licensor.

**5.3** Should the licensee make default in payment of such outgoings or costs the licensor may pay them and recover the amounts paid as if licence fees in arrears.

## **6 Insurance**

**6.1** The licensee shall insure, and keep insured, the land (including all buildings fixed to the land and any chattels located in such buildings or otherwise on the land) against destruction or damage by fire, earthquake, storm, water damage, accidental and malicious damage and such other risks as are required, to the full insurable value of such land, fixtures and chattels on an indemnity cover basis.

**6.2** The licensor shall be entitled to require the licensee to provide for its inspection, annually during the term, at the expense of the licensee, a certificate of insurance for the land.

**6.3** The licensee agrees to occupy the office and to use any other building or part of the land at the licensee's risk and releases to the full extent permitted by law the licensor and the licensor's employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property in or about the land or the office.

## **7 Indemnity by licensee**

The licensee shall keep the licensor indemnified against all claims, actions, losses, and expenses of any nature which the licensor may suffer or incur or for which the licensor may become liable in respect of or arising out of:

- (a) the neglect or careless use or misuse by the licensee and persons under the control of the licensee of the office and/ or the land or any of the utilities or other services or arising out of any faulty fixture or fitting; and

- (b) any accident or damage to property or any person arising from any occurrence in or near the office and/ or the land wholly or in part by reason of any act or omission by the licensee and persons under the control of the licensee.

**8 Public risk insurance**

The licensee, at the licensee's expense, shall effect and keep current in respect of the land, and the licensee's use of the land, a policy of public risk insurance for an amount not less than \$500,000.00 or such other amount from time to time reasonably required by the licensor, for any one event with a substantial reputable insurance office or company first approved in writing by the licensor (such approval not to be unreasonably or arbitrarily withheld).

**9 No warranty by licensor as to suitability of the office or the land**

The licensor does not warrant that the office or the land are, or will remain, suitable or adequate for any of the licensee's purposes. The licensee accepts the office and the land as being satisfactory in all respects and with full knowledge of, and subject to, any prohibitions or restrictions on their use.

**10 Restrictions on use of the office and the land by licensee**

The licensee shall not:

- (a) use or permit to be used other than for their designed purpose any of the fixtures or fittings in the office or otherwise located on the land;
- (b) store or use inflammable or dangerous substances upon the land;
- (c) do or permit to be done on the land anything which in the opinion of the licensor may become a nuisance, disturbance or obstruction or cause damage whether to the licensor or to any other person;
- (d) permit any television or radio antenna, sign, advertisement, name or notice to be placed on any part of the office or the land without the prior written consent of the licensor; or
- (e) use the office or the land in any noisy, noxious, illegal or offensive manner or for any illegal purpose.

**11 Rights reserved by licensor**

**11.1 Work by licensor to remedy licensee's default**

The licensor may elect to remedy, at any time without notice, any default by the licensee under this licence. Whenever the licensor so elects, all costs and expenses the licensor incurs in so doing (including legal costs and expenses) shall be paid by the licensee to the licensor immediately on demand.

**11.2 Licensor's right to inspect the premises**

Upon giving the licensee fourteen days notice that an inspection is to take place, the licensor shall have the right to enter onto and inspect the premises at a reasonable time to determine whether the terms of this licence are being complied with.

**11.3 Default by licensee**

If at any time:

- (a) outgoings or any other costs payable under this licence is in arrears and unpaid for twenty one days after any payment date (whether it has been demanded or not); or
- (b) repairs to be carried out by the licensee under this licence are not commenced within twenty one days of such notice having been given, or if commenced, are not diligently completed; or
- (c) the licensor gives written notice to the licensee specifying any breach (other than a breach of the type referred to in (a) or (b) above) of this

licence which breach remains unremedied twenty one days after giving the notice; or

- (d) the licensee (if an individual) is declared or adjudicated bankrupt or insolvent; or
- (e) the licensee (if a company) has a resolution passed, or an order made by a Court, for the liquidation of the licensee (except for the purposes of reconstruction approved by the licensor), or if the licensee is placed into receivership or under official or statutory management;

the licensor may immediately, or at any time subsequently and without notice or demand terminate this licence and expel and remove the licensee from the office and the land, with or without the effects of the licensee, without being guilty of any manner of trespass or conversion. This licence shall then cease and determine, but without releasing the licensee from liability in respect of any breach by the licensee of this licence.

## **12 Miscellaneous**

### **12.1 Damage or destruction of the centre**

If the land or any substantial part of the land or the office is destroyed or so materially damaged by fire, earthquake or other cause as to require reconstruction or as to be rendered untenable or unfit for use and occupation this licence shall immediately determine.

Provided that the licensee shall have the option to repair or rebuild at its own cost any part of the land or the office so destroyed or damaged such repairs or rebuilding to be approved by the licensor. In such circumstances the licence shall continue in full force and effect.

### **12.2 Dispute resolution**

12.2.1 If any dispute or difference shall arise between the parties as to:

- (a) the meaning or application of any part of this licence; or
- (b) any other matter in connection with, arising out of, or which may have an effect on, this licence;

then representatives of the licensee and the licensor shall meet within 14 days of the dispute or difference ("issue") arising to endeavour to reach an agreement on the resolution of the issue.

12.2.2 If the meeting referred to in 12.2.1 ("meeting") does not result in the resolution of the issue:

- (a) then the licensee and the licensor shall, within 14 days of the date of the meeting, appoint a mediator to mediate the issue.
- (b) if the parties are unable to agree upon the person to be appointed as mediator, then the president of the New Zealand Law Society shall be asked to appoint the mediator.
- (c) the mediation shall be held within one month of the date of the meeting.
- (d) the licensee and the licensor shall attend and participate in the mediation in good faith to negotiate towards achieving a settlement of the issue.

12.2.3 If at the mediation the issue is not resolved then the issue shall be determined by the Maori Land Court.

### **12.3 Licence not an interest in land**

The licensee has a right of occupation for the term of this licence and has no interest in the office or the land. The legal right to possession and control over the office and the land remains vested in the licensor throughout the term.

## **13 Interpretation**

In this licence:

- (a) where obligations bind more than one person those obligations shall bind those persons jointly and severally;
- (b) the benefits and burdens shall be binding upon the parties and their respective successors and personal representatives and references to the parties shall be construed accordingly;
- (c) words importing one gender include the other gender and words importing the singular number include the plural and vice versa;
- (d) a "person" includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state, agency of state, government department or territorial authority in each case whether or not having separate legal personality;
- (e) any schedules to this licence shall have the same effect as if set out in the body of this licence;
- (f) clause headings are inserted for reference only and shall not affect the interpretation of this licence;
- (g) references to any statute refer also to any regulation, by law, order and notice made under or pursuant to the statute and:
  - (i) references to statutes and regulations refer also to statutes and regulations amending, consolidating or re-enacting those referred to; and
  - (ii) expressions defined or explained in any statute shall bear those meanings in this licence; and
- (h) any covenant not to do anything also constitutes an obligation not to suffer, permit or cause that thing to be done;
  - (i) references to covenants include conditions and agreements;
  - (j) references to covenants include covenants expressed or implied;
- (k) to "perform" a covenant includes to keep, observe and fulfill that covenant;
- (l) a right granted or reserved may be exercised from time to time and at all times;
- (m) any reference to a "month" or "monthly" shall mean respectively calendar month and calendar monthly;

**EXECUTION**

This licence was executed on                      day of                      of

EXECUTED by **DONALD**                      )  
**WILLIAM TE RANGI COUCH,**                      )  
**TUTEHOUNUKU KORAKO** and                      )  
**TE WHE PHILLIPS** as Trustees                      )  
of the Rapaki MR 875 Sec 19                      )  
and Rapaki MR 875 Sec 20                      )  
Maori Reservation as licensor                      )  
in the presence of                      )

EXECUTED on behalf of **TE**                      )  
**HAPU O NGATI WHEKE**                      )  
**INCORPORATED** as licensee                      )  
in the presence of                      )