

**DEED OF LEASE (RESERVE)**  
**For construction of the Wellington International Airport Southern Seawall and Eastern Remediation Area and associated establishment of the Moa Point Yard over Local Purpose (Esplanade) Reserves Site Number 3.12 (Lyall Bay and Airport Reclamation) and Site Number 4.01 (Te Taka Peninsula / Moa Point)**

DEED OF LEASE dated the \_\_\_\_\_ day of \_\_\_\_\_ *year#*

**BETWEEN WELLINGTON CITY COUNCIL ("Council")**

**AND WELLINGTON INTERNATIONAL AIRPORT LIMITED ("Lessee")**

**BACKGROUND**

- A. The Council is the owner of the Reserves.
- B. The Lessee is the owner of the Southern Seawall and associated structures, which are located partially within the Reserves.
- C. On 30 April 2025, the Council provided its written agreement for the Lessee to carry out particular activities on the Reserves for the Project, as required by clause 7(3) of Schedule 6 of the Fast-Track Approvals Act 2024 (FTAA).
- D. On [date], an expert panel granted this Lease and associated licences to the Lessee for the Project over both Premises A and Premises B, being part of the Reserves, under section 81 (FTAA).
- E. The parties have therefore executed this Lease to give effect to the expert panel's decision, pursuant to clause 11 of Schedule 6 FTAA.
- F. Accordingly, under clause 17 of Schedule 6 FTAA, this Lease has the same force and effect as if it were granted under section 59A of the Reserves Act 1977 (the Act), except that sections 40A and 40B of the Act do not apply to it.

**GRANT OF LEASE**

The Council grants a lease to the Lessee for the Term beginning on the Commencement Dates (for each of Premises A and Premises B) and ending on the Expiry Dates for each of Premises A and Premises B, at the Annual Rent and subject to the terms of this Lease. The Lessee accepts the grant in accordance with the terms and conditions contained in this Lease.

Signed on behalf of  
**WELLINGTON CITY COUNCIL**  
under Power of Attorney dated  
2023:

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

\_\_\_\_\_  
Signature

**Witness:**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Full Name of Witness

\_\_\_\_\_  
Occupation of Witness

\_\_\_\_\_  
Address of Witness

DRAFT

SIGNED by  
**WELLINGTON INTERNATIONAL AIRPORT LIMITED**  
as Lessee by:

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

DRAFT

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## REFERENCE SCHEDULE

**PREMISES A (SOUTHERN SEAWALL):** That area of land located at Moa Point Road, comprising the Southern Seawall and Eastern Remediation Area and that part of the Moa Point Yard to be retained by the Lessee and licensed in the Seawall Licence (all outlined in blue), contained in Lot 3 DP 78304 and part Lot 4 DP 78304 and measuring approximately 14,061 m<sup>2</sup> as shown on the plan attached to this Lease as Schedule One.

**PREMISES B (RESERVE RESTORATION AREA):** That area of land located at Moa Point Road, comprising the Moa Point Yard but excluding that part of the Moa Point Yard to be retained by the Lessee and licensed in the Seawall Licence (outlined in green), contained in part Lot 4 DP 78304 and measuring approximately 1,848 m<sup>2</sup> as shown on the plan attached to this Lease as Schedule One.

**RESERVES:**

The Reserves known as Site Number 3.12 (Lyall Bay and Airport Reclamation) Local Purpose (Esplanade) Reserve, being legally described as Lot 3 DP 78304 in record of title WN45A/75 and Site Number 4.01 (Te Taka Peninsula / Moa Point) Local Purpose (Esplanade) Reserve, being legally described as Lot 4 DP 78304 in record of title WN45A/76.

**TERM FOR PREMISES A:** 15 years from the Commencement Date for Premises A.

**TERM FOR PREMISES B:** 7 years from the Commencement Date for Premises B.

**COMMENCEMENT DATE FOR PREMISES A:** Five working days following written notice from the Lessee confirming that the Lease for Premises A is to commence, subject to clause 1.2.

**COMMENCEMENT DATE FOR PREMISES B:** Five working days following written notice from the Lessee confirming that the Lease for Premises B is to commence, subject to clause 1.2.

**FINAL EXPIRY DATE FOR PREMISES A:** The date which is 15 years from the Commencement Date for Premises A.

**FINAL EXPIRY DATE FOR PREMISES B:** The date which is 7 years from the Commencement Date for Premises B.

**ANNUAL RENT FOR BOTH PREMISES:** \$1.00 per annum, plus GST (subject to review)

**REQUIRED USE:** Occupation of the Reserves by the Southern Seawall and associated structures, and exclusive use and occupation of both Premises to construct the Project in accordance with the Resource Consents granted for the Project, including establishing the Moa Point Yard, using the Moa Point Yard to carry out the renewal works on the Southern Seawall and to construct the Eastern Remediation Area and, following completion of those activities, creating the Reserve Restoration Area and Stage 2 Kororā Colony, and any other use approved by the Council acting in its sole discretion provided such use is related to those activities or local purposes and is permitted under the Act and any applicable Management Plan.

**MINIMUM PUBLIC RISK INSURANCE COVER:** \$5,000,000.00

**REPORTING REQUIREMENTS:** The Lessee will report to the Council annually on the following:

- (i) Confirmation of public liability insurance cover;
- (ii) Health and safety information;

**COUNCIL'S CONTACT DETAILS:** Open Space & Recreation Planning Manager  
Parks Sport & Recreation  
Wellington City Council  
PO Box 2199, 101 Wakefield Street  
Wellington 6140

**LESSEE'S CONTACT DETAILS:** Richard Dalby, General Manager Commercial  
Wellington International Airport Limited  
PO Box 14175  
Wellington  
E: [REDACTED]  
Ph: [REDACTED]

## **SPECIAL PROVISIONS**

If there is any conflict between the General Provisions and these Special Provisions, these Special Provisions will take precedence (subject to consistency with the Act).

### **Relationship with conditions of the Resource Consents for the Project**

1. The Lease must be exercised in accordance with the conditions of the Resource Consents granted for the Project.
2. In particular, and without limitation, the Lease must be exercised:
  - (a) in accordance with the Kororā (Little Penguin) Management Plan (KPMP) required by Condition GC.4 or any confirmed version of the KPMP amended in accordance with Conditions GC.9 or GC.10.
  - (b) in accordance with the Lizard Management Plan (LMP) required by Condition GC.4 or any confirmed version of the LMP amended in accordance with Conditions GC.9 or GC.10.
  - (c) in accordance with the Avifauna Management Plan (AMP) required by Condition GC.4 or any confirmed version of the AMP amended in accordance with Conditions GC.9 or GC.10.
  - (d) in respect of landscaping and planting of the Moa Point Yard, in general accordance with the Moa Point Yard Landscape Concept Plans (Concept Plans) referred to in Condition LV.9 or any confirmed version of the Concept Plans amended in accordance with Condition LV.10,
3. Where there is any conflict between any of the General Provisions or Special Provisions of this Lease and any conditions of the Resource Consents granted for the Project, the more restrictive or stringent condition shall prevail.

### **Responsibility for improvements**

4. Any improvements situated by the Lessee on both Premises (including prior to this Lease) is fully owned and operated by the Lessee. The Lessee is fully responsible for all maintenance and up-keep related to those improvements.
5. On the expiry or earlier termination of this Lease for Premises A, the Lessee shall have no obligation to remove the Seawall Infrastructure or any other improvements on Premises A, and shall otherwise leave Premises A in a clean and tidy condition.
6. On the expiry or earlier termination of this Lease for Premises B, the Lessee shall remove from Premises B, at the Lessee's cost in all respects, all the Lessee's improvements. The Lessee shall ensure that any make good of Premises B is carried out to the satisfaction of Council (acting reasonably) within one (1) month following the Expiry Date. To avoid doubt, the Lessee will not be required to remove any planting or other improvements installed on Premises B as part of the Reserve Restoration Area works provided for by the Resource Consents.

### **Defined terms**

7. In this Lease, unless the context requires otherwise:

"Eastern Remediation Area" means the area to the east of the Southern Seawall to be remediated and strengthened through the Project as provided for in the Resource Consents.

"Grant Date" means the date this Lease was granted by the panel pursuant to the Fast-track Approvals Act 2024, as set out in Background Section D.

"Moa Point Yard" means the Moa Point Construction Yard at the corner of Stewart Duff Drive and Moa Point Road as provided for in the Resource Consents.

"Project" means the Southern Seawall Renewal Project, for which the Lessee applied for the necessary approvals under the Fast-track Approvals Act 2024.

"Reserve Restoration Area" the area of the Reserves to be restored with landscaping and planting as provided for in the Resource Consents.

"Resource Consents" mean the resource consents granted for the Project by the expert panel under section 81 of the Fast-track Approvals Act 2024.

"Seawall Infrastructure" means the Southern Seawall, Eastern Remediation Area and any associated building, structure or equipment situated on the Reserves by the Lessee in accordance with the Resource Consents relating to the Southern Seawall or Eastern Remediation Area. To avoid doubt, "Seawall Infrastructure" includes that part of the Moa Point Yard to be retained by the Lessee and licensed in the Seawall Licence.

"Stage 2 Kororā Colony" means the Kororā colony behind the Eastern Bank Remediation Area to be developed once construction is complete as provided for in the Resource Consents.

"Southern Seawall" means the southern seawall at Wellington International Airport, including as improved as a result of the Project.

## GENERAL PROVISIONS

### 1 TERM

1.1 **Term:** The Term for Premises A and Premises B of this Lease will commence on the Commencement Date for Premises A and the Commencement Date for Premises B (as the case may be), and will continue in full force until 5.00pm on the Expiry Date for Premises A or the Expiry Date for Premises B (as the case may be) or earlier surrender or cancellation in accordance with the terms of this Lease.

1.2 **Commencement Date Sunset Date:** Subject to clause 1.4, the parties agree that:

- (a) the Commencement Date for Premises A shall occur no later than 5 years from the Grant Date; and
  - (b) the Commencement Date for Premises B shall occur no later than 8 years from the Commencement Date of Premises A,
- (each a **Sunset Date**).

1.3 If the Lease has not commenced by the applicable Sunset Date for Premises A or Premises B, then either party may serve a notice on the other at any time thereafter (but before the Commencement Date actually occurs), terminating this Lease. Following such termination, neither party shall have any rights or liability to the other.

1.4 The Sunset Date(s) shall be extended if there has been a force majeure event. For the purposes of this clause 1, a force majeure event means:

- (a) an exceptional event or circumstance, which is beyond a party's control;
- (b) that party could not reasonably have provided against before entering into this Lease;
- (c) having arisen, that party could not reasonably have avoided or overcome; and
- (d) is not substantially attributable to the other party.

Without limiting the foregoing, a force majeure event may include, but is not limited to, the exceptional events or circumstances of the kind listed below, so long as the conditions set out in subparagraphs a to d of this subclause are satisfied:

- (e) war, hostilities (whether war be declared or not), rebellion, or terrorism;
- (f) riot, commotion, disorder, strike or lockout by any persons other than the employees of Lessee, the Lessee's consultants, the Lessee's works contractor and its subcontractors;

- (g) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.
- 1.5 **Surrender on Completion:** The parties agree that following completion of the Project in respect of both Premises A and Premises B, the Lessee shall give written notice confirming such completion, and provide certificate evidence from its engineer of such completion (**Completion Notice**). The parties agree that the Lease for Premises A and Premises B shall be surrendered five working days following service of the relevant Completion Notice and such surrender date shall be the Licence Commencement Date for the licences set out in clause 1.8.
- 1.6 **Lessee's Right to Cancel:** The Lessee may cancel this Lease for either (or both) Premises A or Premises B on giving three (3) months' written notice to the Council, but this will not release the Lessee from any of its outstanding obligations under the Lease up to the time of the cancellation.
- 1.7 **Holding Over:** If the Lessee with the consent of the Council continues to occupy Premises A or Premises B beyond the applicable Term of the Lease, the Lessee will do so under a periodic Lease determinable by twenty (20) Working Days' notice in writing given at any time by either party to the other and otherwise on the terms contained in this Lease, including payment of the Annual Rent at the rate payable at the expiry of the applicable Term.
- 1.8 **Agreement to Grant Licences:** If the Lessee gives notice pursuant to clause 1.5, the parties agree that:
- (a) that the Lease shall surrender on expiry of the notice (**Licence Commencement Date**);
  - (b) the Lessor agrees to grant, and the Lessee agrees to take on a licence of the licensed area (as specified in the relevant licence) for the Seawall Infrastructure and the Moa Point Yard which is to remain licensed by the Lessee for ongoing maintenance of the Seawall Infrastructure in the form attached in Schedule 2, commencing on the Licence Commencement Date (**Seawall Licence**);
  - (c) the Lessor agrees to grant, and the Lessee agrees to take on a licence of the licensed area (as specified in the relevant licence) for the Kororā Colony in the form attached in Schedule 3, commencing on the Licence Commencement Date (**Kororā Licence**);
  - (d) the Lessor agrees to grant, and the Lessee agrees to take on a licence of the licensed area (as specified in the relevant licence) for the Reserve Restoration in the form attached in Schedule 4, commencing on the Licence Commencement Date (**Reserve Restoration Licence**);
  - (e) the parties will be bound by the Seawall Licence, the Kororā Licence, and the Reserve Restoration Licence from the Licence

Commencement Date, notwithstanding that the Seawall Licence, the Kororā Licence, or the Reserve Restoration Licence may not have been executed as at the Licence Commencement Date;

## 2 ANNUAL RENT AND OUTGOINGS

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### 2.1 Payment of Annual Rent:

- (a) The Lessee must pay to the Council the Annual Rent by equal annual instalments in advance, the first of these instalments being due on the Commencement Date.
- (b) The Lessee must not reduce any payment of Annual Rent by making any deduction from it or set off against it.

### 2.2 **Outgoings:** The Lessee is not responsible for the payment of any Outgoings in relation to Premises A or Premises B.

### 2.3 **GST:** The Lessee must pay all GST on the Annual Rent and other payments made by the Lessee under this Lease either to the Council or as the Council directs, as well as any additional GST the Council may be required to pay as a result of the Lessee's failure to pay when required.

## 3 LIMITATION ON LEASE RIGHTS

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### 3.1 **Payment and Performance:** The Lease Rights are subject to the Lessee:

- (a) Payment: paying all amounts due under this Lease on the due date; and
- (b) Performance: performing all of the Lessee's obligations under this Lease.

## 4 REQUIRED USE AND REPORTING REQUIREMENTS

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### 4.1 **Required Use:** Subject to clause 5 of this Lease, the Lessee may only use both Premises for the Required Use, and in accordance with the requirements of the Resource Consents granted for the Project.

### 4.2 **Lease does not constitute a resource consent:** The Council is approving this Lease as property owner. Nothing herein implies any regulatory consent or resource consent.

### 4.3 **Mitigating Effects:** The Lessee expressly acknowledges that under the conditions of the Resource Consents granted for the Project, the Lessee is responsible for the mitigation of effects caused by the Project.

### 4.4 **Reporting Requirements:** The Lessee agrees to share with the Council such information on its activities as may reasonably be requested by the Council from time to time. As a minimum requirement, the Lessee will

comply with the Reporting Requirements set out in the Reference Schedule.

## 5 CONDUCT ON THE PREMISES

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- 5.1 **Use:** Except as provided for in the Resource Consents, the Lessee must not use or permit either 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 owner or occupier of any neighbouring property.
- 5.2 **Noise:** The Lessee must keep the noise level of any activity on either Premises to within the requirements of the District Plan, the Resource Consents or any other resource consent granted to the Lessee.
- 5.3 **Lessee's Rules:** The Lessee may make rules for the management and control of either Premises and for the conduct of persons using such Premises. Those rules must not be inconsistent with the terms of this Lease or the provisions of the Act or any management plan or policy (if any). Before those rules come into effect they must be approved by the Council.
- 5.4 **Health and Safety:** The Lessee will take all practicable steps to provide its employees and visitors with a healthy and safe environment and ensure that its employees and visitors comply with all directions and instructions from the Lessee regarding health and safety. In particular:
- (a) the Lessee must comply at all times with the requirements and provisions of the Health and Safety at Work Act 2015 (HSWA) and any applicable codes of practice and best practice guidelines applicable to the terms of this Lease;
  - (b) the Lessee is responsible for developing and implementing an occupational health and safety plan for the use of either Premises for the Required Use and for ensuring that such Premises are compliant with the HSWA;
  - (c) the Lessee must maintain an accident register at all times and will record all accidents to the Lessee's employees and contractors, or other visitors to either Premises;
  - (d) the Council, or any person authorised by the Council, may require an independent audit of the Lessee's operations from time to time (at the Lessee's cost) to verify that the Lessee has adequate safety management systems in place, and for compliance with those systems and any safety requirements of this Lease. The Lessee will co-operate in providing the Council with any relevant information.

## 6 BUILDINGS AND PAINTING

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- 6.1 **Consent Not Required for Activities pursuant to the Resource Consents:** Notwithstanding anything contained in this Lease, this clause

6 shall not apply to the Seawall Infrastructure, any temporary structures (including without limitation any portacombs or containers) reasonably required by the Licensee to carry out the Required Use, or any improvements permitted by or reasonably contemplated by the Resource Consents (such construction to comply with the Resource Consents and any applicable statutory legislation), and this clause 6 shall only apply to future improvements (if any) erected on either Premises by the Lessee.

**6.2 Consent Required:** Subject to the provisions of this section, the Lessee must not:

- (a) erect any building or improvement, or
- (b) alter, reinstate or extend any existing building or improvement; or
- (c) advertise on any existing building or improvement; or
- (d) paint the exterior of any building or improvement

on the Reserves without first giving plans and specifications of the proposed work (if appropriate) to the Council and obtaining the Council's prior written consent, in addition to any separate approval required from the Council as a regulatory authority.

**6.3 Conditions:** Without limiting the grounds on which the Council may withhold consent under clause 6.2, the Council may also as a condition of any consent, require that the proposed work:

- (a) is consistent with the Management Plan and Policy; and
- (b) complies with any reasonable standards applicable to the Reserve (whether or not included in the Management Plan or Policy) which the Council may from time to time set as to the design, quality, materials and colour of any buildings and improvements; and
- (c) will not in the opinion of the Council create more than minor adverse environmental effects or overload or endanger the proper working of any services, utilities or amenities.

**6.4 Work Carried Out Under Supervision:** If the Council gives its approval and consent under clauses 6.2 and 6.3 then the Lessee must arrange for the Building Work to be carried out under the supervision of an architect, project manager, engineer or other suitably qualified person in a proper and workmanlike manner in accordance with the approved plans and specifications and all approvals, permits and consents.

**6.5 Lessee Obtain Consents:** The Lessee must obtain all consents required under the Building Act 2004 (including any building warrant of fitness) and provide the Council (as landowner and administering body of the Reserves) with a copy of those consents.

**6.6 No Warranty:** In granting consent or approval under this section 6 the Council will not be deemed to have warranted that the plans or specifications are suitable for the Lessee's purposes or that any person involved in the work is suitable or adequately qualified.

- 6.7 Builders' Risk Insurance:** During the construction of the Building Work the Lessee must maintain, in the joint names of the Council and the Lessee for their respective interests, builders' risk and public liability insurance for amounts approved by the Council and will provide the Council with a copy of the policies. All Building Work is at the sole risk of the Lessee.
- 6.8 Council's Power to Stop Works:** If during the course of the Building Work the Council reasonably considers the Lessee is failing to adhere to the approved plans or specifications, the project programme, the standards referred to in clause 6.3(a) and 6.3(b), or reasonably considers that the project is not being properly managed, the Council may by notice in writing to the Lessee require that all work on the applicable Premises stop immediately, or require it to take other action as necessary to mitigate the Council's concerns.
- 6.9 Code Compliance Certificate:** On completion of the Building Work the Lessee 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 on the applicable Premises as constructed or altered.
- 6.10 Signs:** The Lessee must not erect, paint, display or allow on either Premises any signs, notices or advertising material unless the Lessee first obtains the written consent of the Council in each case. It will be a condition of any consent that any approved signs must comply with the relevant Council bylaws, District Plan, Management Plan and Policy and have necessary regulatory approvals. At the expiry or earlier termination of this Lease, the Lessee must remove any such sign, notice or advertising material and make good any damage caused by its removal.

## **7 GROUNDS MAINTENANCE**

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- 7.1 Tidy Condition:** To the extent provided for in the Resource Consents, the Lessee must at all times, at its sole cost, maintain the grounds and surrounds of both Premises in a tidy and attractive condition to the satisfaction of the Council, including:
- (a) keeping both Premises free from rubbish, stones and broken glass and keep rubbish bins and containers in a tidy and sanitary condition;
  - (b) keeping any planted areas weeded and replacing plants and shrubs which die or are destroyed;
  - (c) taking effective measures to prevent any noxious weeds and recognised environmental plant pests growing on both Premises and complying with the provisions of the Biosecurity Act 1993; and
  - (d) removing any externally visible graffiti on both Premises within five (5) Working Days of any defacement occurring.

**7.2 Plants:** The Lessee may plant new plants on both Premises, subject to the following:

- (a) any such planting and landscaping shall be in accordance with the conditions of the Resource Consents, including the requirement to be in general accordance with the Moa Point Yard Landscape Concept Plans;
- (b) at least two years prior to the Final Expiry for Premises B, and prior to commencing any planting and landscaping on both Premises, the Lessee shall consult and obtain the Council's approval (to be obtained from the Council's Parks Manager (or delegatee)) to the landscape planting plan prepared by the Lessee under condition LV.12, including with respect to the following matters:
  - (i) the location and type of planting;
  - (ii) where plants will be sourced from;
  - (iii) appropriate planting technique; and
  - (iv) the location and type of the following hard landscaping elements: paths, seating and signage.
- (c) If the Council does not provide its approval under clause 7.2(b) (but subject always to clause 7.2(d)), it shall promptly provide the reasons why such approval was not forthcoming, and details of its preferred alternative(s) (if any). The parties shall then engage in good faith to resolve the Council's concerns, failing which, clause 12 shall apply.
- (d) The Council's approval under clause 7.2(b):
  - (i) may not be withheld in circumstances where the planting or landscaping preferred by the Council would:
    - (i) lead to inconsistency with the conditions of the Resource Consents, including any requirements of the ecological management plans required by those conditions; or
    - (ii) obstruct the Obstacle Limitation Surface or otherwise interfere with airport operations; and
  - (ii) shall not otherwise be unreasonably withheld.

**7.3 Fencing:** The Lessee is solely responsible for fencing both Premises to a reasonable standard having regard to the Required Use, and must maintain all fences to a reasonable standard at all times, at its sole cost. The Lessee must not damage or remove any fencing existing at the commencement of this Lease without the prior written consent of the Council.

7.4 **Fencing Act:** The Council shall have no liability to contribute to fencing for the purposes of the Fencing Act 1978.

## 8 **INSURANCE, RISK, INDEMNITY AND TAXATION**

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8.1 **Lessee's Public Liability Insurance:** The Lessee must keep in full force and effect a public liability insurance policy with a reputable insurance company to cover the Council and Lessee for any claims arising on or from the Lessee's use of both Premises. The amount of that cover must be no less than the minimum public risk insurance cover in the Reference Schedule increased from time to time so as to maintain the real value of the insurance cover to the reasonable satisfaction of the Council. The Lessee will, on request, provide the Council with a copy of the public liability insurance policy and evidence that the Lessee has paid the premium for that insurance policy.

8.2 **Lessee Indemnifies the Council:** To the extent permitted by law, the Lessee indemnifies the Council against all costs, claims and demands in respect of injury or damage resulting from act or omission of the Lessee or any agent of the Lessee.

8.3 **Limitation of Indemnity:** Notwithstanding clause 8.2 the Lessee is liable to indemnify the Council only to the extent that the Council is not fully indemnified under any insurance policy.

8.4 **Risk:** The Lessee uses both Premises at its risk and releases, to the full extent permitted by law, the Council, its employees and agents from all liabilities, claims and demands of any kind which may arise in respect of any accident, damage, injury or loss suffered by any person or property in or about either Premises, or in connection with the Lessee's use of either Premises.

8.5 **Section 271 Property Law Act 2007:** For the purposes of section 271 of the Property Law Act 2007, the Lessee acknowledges and agrees that:

- (a) Reserves not insured: the Council has not insured the Reserves against destruction or damage arising from flood, fire, explosion, lightning, storm, earthquake or volcanic activity; and
- (b) Lessee to make good: the Lessee, subject to the provisions of section 271(2)(a)-(c) of the Property Law Act 2007, will meet the cost of making good any destruction or damage to either Premises caused by the Lessee and indemnifies the Council against the cost of doing so should the Lessee default in that obligation. To avoid doubt, the Lessee is not responsible for making good any damage, nor does it provide an indemnity for any of the events specified in s 268(1) of the Property Law Act 2007, or for any damage caused by any person not being the Lessee or the Lessee's agent.

8.6 **Taxation:** Each party is solely responsible and liable for the taxation position it takes in respect of any amount it has paid or received or that it is required to pay or to receive pursuant to this Lease, and no party makes any representation or warranty or is otherwise liable to any other

party as to the appropriate taxation position in respect of any amount paid or received or payable or receivable pursuant to this Lease.

## 9 NO ASSIGNMENT

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9.1 **Assignment etc:** Without limiting the right for the Lessee to commission contractors to undertake the Required Use, the Lessee must not without first obtaining the written consent of the Council:

- (a) Assign: assign, or otherwise part with the possession of either Premises;
- (b) Sub-lease: sub-lease or agree to sub-lease any part of either Premises; or
- (c) Security Interest: grant or agree to grant any security interest (as defined in the Personal Property Securities Act 1999) in or over this Lease or either Premises.

9.2 **Local Government Reorganisation:** The Lessee acknowledges that, in the event of any local government reorganisation affecting the Council, the Council may assign or novate this Lease (in whole or in part) to any successor local authority or public entity without the Lessee's consent, and the Lessee must do all things reasonably required to give effect to that assignment or novation.

## 10 SUITABILITY OF PREMISES

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10.1 **No Warranty by Council:** The Council does not warrant that either Premises are or will remain suitable or adequate for the Lessee's purposes. All warranties as to suitability and adequacy implied by law are expressly negative to the full extent permitted by law.

10.2 **Safety Measures:** The Council is not responsible for providing any safety measures to protect any equipment from water damage, fire, explosion, storm, hazard or potential hazard.

## 11 DESTRUCTION

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11.1 If either Premises are destroyed or so damaged that such Premises cannot be used for the Required Use, then the Lessee may terminate this Lease by six (6) months' written notice to the Council. Any termination of this Lease under this clause will not affect the parties' respective rights, obligations and liabilities which subsist or have accrued on the date of termination under this clause. Following such Premises being so destroyed or damaged, then the parties shall meet in good faith to determine the extent of such damage or destruction, and any dispute, if necessary, shall be determined in accordance with the dispute resolution process set out in clause 12.

## 12 DISPUTE RESOLUTION

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- 12.1 Negotiation:** If any dispute arises between the Council and the Lessee concerning this Lease, the parties will try in good faith to settle the matter by negotiation for a period of sixty (60) working days after the dispute is first notified to the other party, and if that is unsuccessful then the matter will be escalated to the chief executives (or nominees) or both organisations.
- 12.2 Mediation:** If the dispute cannot be settled by negotiation as provided for in clause 12.1, the dispute will be referred to mediation.
- 12.3 Referral to Arbitrator:** 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.
- 12.4 Award Final:** The arbitration will be governed by the Arbitration Act 1996 and the arbitral award will be final and binding on the parties.

### **13 COUNCIL AS LAND OWNER, NOT REGULATORY AUTHORITY**

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- 13.1 Council as Land Owner:** The Council has signed this Lease in its non-regulatory capacity as land owner and administering body. This Lease does not bind the Council in its capacity as a regulatory authority in any way, and any consent or agreement the Council gives under this Lease is not an agreement or consent in its regulatory capacity and vice versa. When acting in its regulatory capacity, the Council is entitled to consider all applications to it without regard to this Lease. The Council will not be liable to the Lessee or any other party if, in its regulatory capacity, the Council declines or imposes conditions on any consent or permission that the Lessee or any other party seeks for any purpose associated with this Lease.

### **14 IMPLIED PROVISIONS**

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- 14.1 Reserves Act 1977:** The covenants and provisions required to be included in this Lease by the Act will apply to the extent that they are not expressly included in the terms of this Lease.
- 14.2 Not Registrable:** This Lease is not registrable. The Lessee may not register a caveat against the Computer Freehold Register (if any) to the Reserves.

### **15 COMPLIANCE**

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- 15.1 Lessee Must Comply:** The Lessee must comply with all Acts, Regulations, By-laws, District and Regional Plan Rules and the Management Plan and Policy (if any) as they affect either Premises.

### **16 NOTICES**

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- 16.1 Service of Notices:** Any notice or document required or authorised to be given or served under this Lease may be given or served:

- (a) Section 245 or 246 of the Property Law Act: in the case of a notice under sections 245 or 246 of the Property Law Act 2007, in the manner prescribed by section 353 of that Act 2007; and
- (b) Other Cases: in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007;
  - (i) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or
  - (ii) by personal delivery, or by posting by registered mail or ordinary mail, or by email.

**16.2 Time of Service:** In respect of the means of service specified in clause 16.1(b)(ii) any notice or other document will be treated as given or served and received by the other party:

- (a) Personal Delivery: when received by the addressee;
- (b) Post: three (3) Working Days after being posted to the addressee's last known address in New Zealand; or
- (c) Email: when acknowledged by the addressee by return email or otherwise in writing.

**16.3 Signature of Notices:** Any notice or document to be given or served under this Lease must be in writing and may be signed by:

- (a) Party: the party giving or serving the notice;
- (b) Attorney: any attorney for the party serving or giving the notice; or
- (c) Authorised Person: the solicitor or any director, officer, employee or other agent who has authority to give or serve the notice.

## **17 COSTS**

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**17.1 Lessee to pay Council's Costs:** Each party shall pay its own legal costs and expenses for the preparation and completion of this Lease, licences, or any variation of it. The Lessee shall be liable for all costs incurred by the Council of and incidental to the enforcement or attempted enforcement of the Council's rights, remedies and powers under this Lease resulting from a breach of this Lease by the Lessee.

**17.2 Costs:** The Lessee must pay all of the Council's reasonable costs incurred in considering any request by the Lessee for the Council's consent to any matter contemplated by the Lease.

## **18 COUNCIL'S CONSENT**

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**18.1 Consent required on each occasion:** The Council's consent under this Lease is required for each occasion even if the Council has given a consent for the same or a similar purpose on an earlier occasion.

- 18.2 Consent not to be unreasonably withheld:** If this Lease states that the Council's consent is required for anything done or proposed to be done, then unless otherwise stated in each case, the Council:
- (a) must not unreasonably withhold consent; and
  - (b) must within a reasonable time of the Council's consent being requested:
    - (i) grant that consent; or
    - (ii) notify the Lessee in writing that the consent is withheld.

## 19 GENERAL

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- 19.1 LGOIMA:** The Lessee acknowledges that the Council is subject to the Local Government Official Information and Meetings Act 1987 and may be required to disclose information relating to this Lease or the Lessee's activities on either Premises; the Lessee will promptly provide any information reasonably requested by the Council to assist with such obligations and will not itself release information relating to this Lease or the Council except through the Council or where legally compelled or required to do so for NZX reporting requirements (and, to the extent permitted by law, will notify the Council promptly of any such compulsion or requirement and the information to be released).
- 19.2 Partial Invalidity:** If any provision of this Lease is or becomes invalid or unenforceable, that provision will be deemed deleted from this Lease. The invalidity or unenforceability of that provision will not affect the other provisions of this Lease, all of which will remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.
- 19.3 Remedies:** The rights, powers and remedies provided in this Lease are cumulative and are in addition to any right, powers or remedies provided by law.
- 19.4 Entire Agreement:** Subject to the expert panel's decision to grant the Resource Consents and other approvals for the Project, including this Lease and licences, this Lease records the entire understanding and agreement of the parties relating to the matters dealt with in this Lease. This Lease supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters. The Lessee acknowledges that it has either taken, or has been given the opportunity to take, independent legal advice about the nature, effects and obligations of this Lease, before signing it.
- 19.5 Further Assurances:** Each party will do all things and execute all documents reasonably required to give effect to the provisions and intent of this Lease.
- 19.6 Waiver:** Any waiver by a party of any of its rights or remedies under this Lease will be effective only if it is recorded in writing and signed by that party. If the waiver relates to a breach of any provision of this Lease, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to

enforce any provision, of this Lease at any time by a party will in any way affect, limit or waive that party's right to subsequently require strict compliance with this Lease.

- 19.7 Counterparts:** This Lease may be signed in counterparts. All executed counterparts will together constitute one document.
- 19.8 Copies:** Any copy of this Lease that is received by facsimile or via email in PDF or other document reproduction format (including any copy of any document evidencing a party's signature to this Lease) may be relied on by any party as though it were an original copy of this Lease. This Lease may be entered into on the basis of an exchange of facsimile, PDF or other document reproduction format.
- 19.9 Amendment:** No amendment to this Lease will be effective unless it is in writing and signed by each party.

## 20 INTERPRETATION

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**20.1** In this Lease unless the context indicates otherwise:

**20.2** Definitions:

- (a) "Act" means the Reserves Act 1977;
- (b) "Building Work" means work for or in connection with the construction, alteration, demolition or removal of structures on either Premises 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, but shall exclude any works carried out by the Lessee relating to the Project;
- (c) "Council" means Wellington City Council in its capacity as landowner and administering body under the Act;
- (d) "GST" means the goods and services tax imposed by the Goods and Services Tax Act 1985 and includes any tax levied in substitution of such tax;
- (e) "Lease" means this Deed of Lease;
- (f) "Lease Rights" means the exclusive right to carry on the Required Use from both Premises; and;
- (g) "Lessee" means the original Lessee set out on page 1;
- (h) "Management Plan" means any Management Plan prepared under section 41 of the Act for the Reserves;
- (i) "Minister" means the Minister of Conservation;
- (j) "Outgoings" includes:

- (i) all general and special rates, water rates, sewerage, rubbish collection and other charges for either Premises;
  - (ii) all charges for electricity, gas, telephone, and any other service or utility charges for either Premises;
  - (iii) cleaning, maintenance and repair charges for either Premises;
  - (iv) any other costs, expenses or charges related to either Premises or Required Use that are not the specific responsibility of the Council under this Lease;
- (k) "Policy" means any Leases Policy for Community and Recreation Groups and includes any social or recreational strategy prepared by the Council and in place from time to time;
- (l) "Premises A" means the leased area defined in the Reference Schedule for Premises A;
- (m) "Premises B" means the leased area defined in the Reference Schedule for Premises B;
- (n) "Reserves" means the reserves named in the Reference Schedule; and
- (o) "Working Day" has the meaning given to it in the Property Law Act 2007.
- 20.3 **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- 20.4 **Parties:** references to parties are references to parties to this Lease;
- 20.5 **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, and words importing one gender will include the other genders;
- 20.6 **Plural and Singular:** words importing the singular number will include the plural and vice versa;
- 20.7 **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.

**SCHEDULE 1: PLAN OF PREMISES A AND PREMISES B**



**SCHEDULE 2: FORM OF SEAWALL INFRASTRUCTURE LICENCE**

**OCCUPATION LICENCE (RESERVE)  
- Wellington International Airport  
Southern Seawall and Eastern  
Remediation Area On Local Purpose  
(Esplanade) Reserves Site Number  
3.12 (Lyall Bay and Airport  
Reclamation) and Site Number 4.01  
(Te Taka Peninsula / Moa Point)**

**LICENCE AGREEMENT** dated the \_\_\_\_\_ day of **#year#**

**BETWEEN WELLINGTON CITY COUNCIL** ("Council")

**AND WELLINGTON INTERNATIONAL AIRPORT LIMITED**  
("Licensee")

**BACKGROUND**

- G. The Council is the owner of the Reserves.
- H. The Licensee is the owner of the Southern Seawall and associated structures, which are located partially within the Reserves.
- I. On 30 April 2025, the Council provided its written agreement for the Licensee to carry out particular activities on the Reserves for the Project, as required by clause 7(3) of Schedule 6 of the Fast-track Approvals Act 2024 (FTAA).
- J. On [date], an expert panel granted the Lease, this Licence and other licences to the Licensee for the Project over the Licensed Area (and adjoining areas), being part of the Reserves, under section 81 of the FTAA.
- K. The parties have therefore executed this Licence to give effect to the expert panel's decision, pursuant to clause 11 of Schedule 6 of the FTAA.
- L. Accordingly, under clause 17 of Schedule 6 of the FTAA, this Licence has the same force and effect as if it were granted under section 59A of the Reserves Act 1977 (the **Act**), except that sections 40A and 40B of the Act do not apply to it.
- M. The Licensee acknowledges that in granting a licence over the Licensed Area, the Council is not creating any lease, tenancy or interest in favour of the

Licensee in the Reserves or the Licensed Area or conferring on the Licensee any rights of exclusive possession.

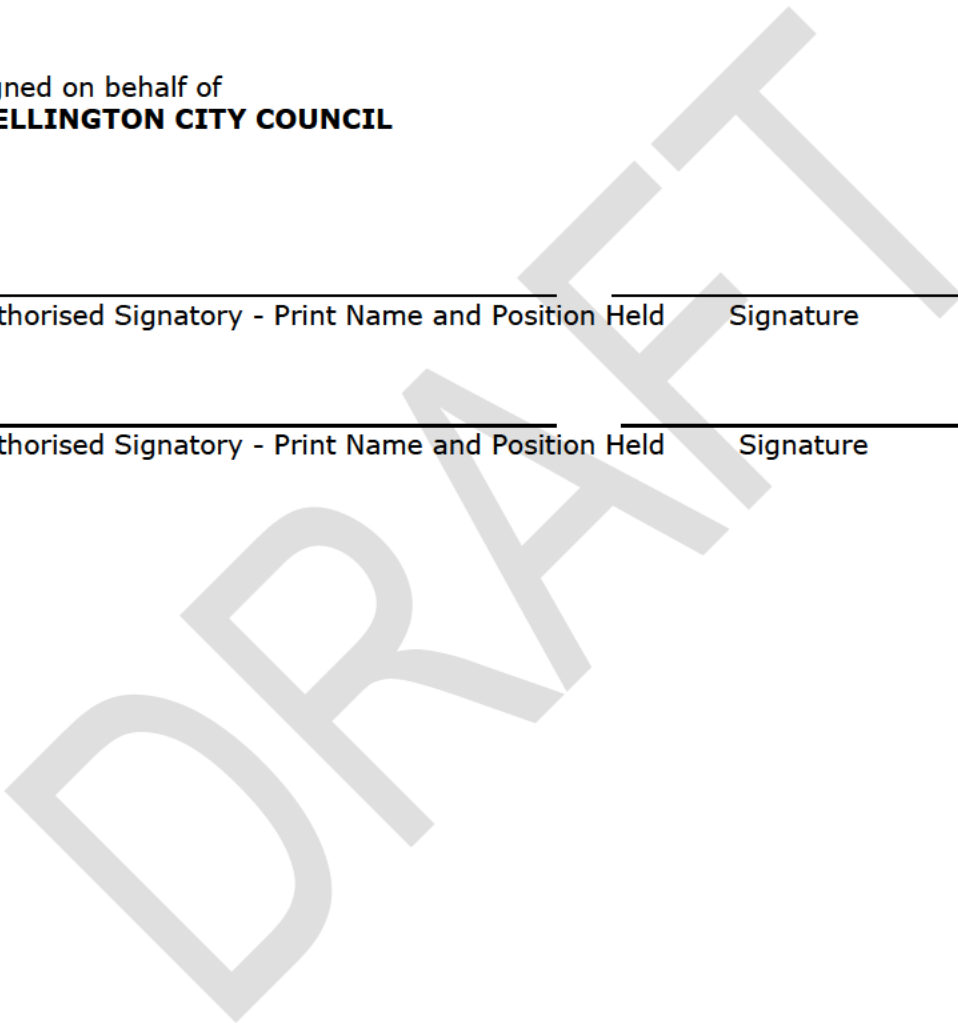
**GRANT OF LICENCE**

The Council grants the Licence Rights to the Licensee for the Term beginning on the Commencement Date and ending on the Termination Date, at the Licence Fee and subject to the terms of this Licence. The Licensee accepts the grant in accordance with the terms and conditions contained in this Licence.

Signed on behalf of  
**WELLINGTON CITY COUNCIL**

\_\_\_\_\_  
Authorised Signatory - Print Name and Position Held      Signature

\_\_\_\_\_  
Authorised Signatory - Print Name and Position Held      Signature



SIGNED by  
**WELLINGTON INTERNATIONAL AIRPORT LIMITED**  
as Licensee by:

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

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## REFERENCE SCHEDULE

<b>LICENSED AREA:</b>	That area of land located at Moa Point Road, comprising the area associated with the ongoing occupation of the Reserves by the Southern Seawall and associated structures and monitoring and maintenance of the Southern Seawall and Eastern Remediation Area (outlined in blue and marked Premises A), contained in Lot 3 DP 78304 and part Lot 4 DP 78304 and measuring approximately 14,061 m <sup>2</sup> , as shown on the plan attached to this Licence as Schedule One.
<b>RESERVES:</b>	The Reserves known as Site Number 3.12 (Lyaal Bay and Airport Reclamation) Local Purpose (Esplanade) Reserve, being legally described as Lot 3 DP 78304 in record of title WN45A/75 and Site Number 4.01 (Te Taka Peninsula / Moa Point) Local Purpose (Esplanade) Reserve, being legally described as Lot 4 DP 78304 in record of title WN45A/76.
<b>TERM:</b>	49 years
<b>COMMENCEMENT DATE:</b>	As provided for in clause 1.1 [ <b>DRAFTING NOTE: ON THE LICENCE COMMENCEMENT DATE AS DEFINED IN THE LEASE</b> ]
<b>EXPIRY DATE:</b>	49 years following the Commencement Date
<b>RENEWAL TERMS (IF ANY):</b>	In perpetuity for 49-year terms, with the first renewal date being the 49 <sup>th</sup> year anniversary of the Commencement Date, and then each subsequent renewal date being each 49 <sup>th</sup> year anniversary after that date
<b>LICENCE FEE:</b>	\$1.00 per annum, plus GST
<b>INTEREST ON OVERDUE LICENCE FEE:</b>	14 % per annum
<b>REQUIRED USE:</b>	Occupation of the Reserves by the Southern Seawall and associated structures, access over the Reserves for monitoring and maintenance of the Southern Seawall, Eastern Remediation Area and associated structures and using the Reserves for monitoring and maintenance of the Southern Seawall, Eastern Remediation Area and associated structures, and any other use approved by the Council acting in its sole discretion provided such use is related to monitoring and maintenance of the Southern Seawall, Eastern Remediation Area and

associated structures or local purposes and is permitted under the Act and any applicable Management Plan.

**MINIMUM PUBLIC RISK  
INSURANCE COVER:**

\$5,000,000.00

**REPORTING REQUIREMENTS:**

The Licensee will report to the Council annually on the following:

- (i) Confirmation of public liability insurance cover;
- (ii) Health and safety information;

**COUNCIL'S CONTACT DETAILS:**

Open Space & Recreation Planning Manager  
Parks Sport & Recreation  
Wellington City Council  
PO Box 2199, 101 Wakefield Street  
Wellington 6140

**LICENSEE'S CONTACT DETAILS:**

Richard Dalby, General Manager Commercial  
Wellington International Airport Limited  
PO Box 14175  
Wellington  
E: [REDACTED]  
Ph: [REDACTED]

**SPECIAL PROVISIONS**

If there is any conflict between the General Provisions and these Special Provisions, these Special Provisions will take precedence (subject to consistency with the Act).

**Relationship with conditions of the Resource Consents for the Project**

- 8. The Licence must be exercised in accordance with the conditions of the Resource Consents granted for the Project.
- 9. In particular, and without limitation, the Licence must be exercised:
  - (e) in accordance with the Kororā (Little Penguin) Management Plan (KPMP) required by Condition GC.4 or any confirmed version of the KPMP amended in accordance with Conditions GC.9 or GC.10.
  - (f) in accordance with the Lizard Management Plan (LMP) required by Condition GC.4 or any confirmed version of the LMP amended in accordance with Conditions GC.9 or GC.10.
  - (g) in accordance with the Avifauna Management Plan (AMP) required by Condition GC.4 or any confirmed version of the AMP amended in accordance with Conditions GC.9 or GC.10.
  - (h) in respect of landscaping and planting of the Moa Point Yard, in general accordance with the Moa Point Yard Landscape Concept Plans (Concept Plans) referred to in Condition LV.9 or any confirmed version of the Concept Plans amended in accordance with Condition LV.10,

10. Where there is any conflict between any of the General Provisions or Special Provisions of this Licence and any conditions of the Resource Consents granted for the Project, the more restrictive or stringent condition shall prevail.

### **Responsibility for equipment and structures**

11. Any equipment and/or structures situated by the Licensee on the Licensed Area (including prior to this Licence) is fully owned and operated by the Licensee. The Licensee is fully responsible for all maintenance and up-keep related to such equipment and/or structures.
12. On the expiry or earlier termination of this Licence, the Licensee shall have no obligation to remove the Seawall Infrastructure or any other improvements on the Licensed Area, and shall otherwise leave the Licensed Area in a clean and tidy condition.

### **Defined terms**

13. In this agreement, unless the context requires otherwise:

"Eastern Remediation Area" means the area to the east of the Southern Seawall to be remediated and strengthened through the Project as provided for in the Resource Consents.

"Lease" means the lease granted for the Project by the expert panel under section 81 of the Fast-track Approvals Act 2024, which is a Reserves Act approval under that Act.

"Moa Point Yard" means the Moa Point Construction Yard at the corner of Stewart Duff Drive and Moa Point Road as provided for in the Resource Consents.

"Project" means the Southern Seawall Renewal Project, for which the Licensee applied for the necessary approvals under the Fast-track Approvals Act 2024.

"Reserve Restoration Area" the area of the Reserves to be restored with landscaping and planting as provided for in the Resource Consents.

"Resource Consents" mean the resource consents granted for the Project by the expert panel under section 81 of the Fast-track Approvals Act 2024.

"Seawall Infrastructure" means the Southern Seawall, Eastern Remediation Area and any associated building, structure or equipment situated on the Reserves by the Licensee in accordance with the Resource Consents relating to the Southern Seawall or Eastern Remediation Area. To avoid doubt, "Seawall Infrastructure" includes that part of the Moa Point Yard to be retained by the Licensee and licensed in the Seawall Licence.

"Stage 2 Kororā Colony" means the Kororā colony behind the Eastern Bank Remediation Area to be developed once construction is complete as provided for in the Resource Consents.

"Southern Seawall" means the southern seawall at Wellington International Airport, including as improved as a result of the Project.

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## GENERAL PROVISIONS

### 2 TERM

**20.8 Initial Term:** The Term of this Licence will commence on the Commencement Date, which will be the date five working days following which the Licensee provides written notice to the Council that the Project has achieved practical completion, and will continue in full force until 5.00pm on the Expiry Date or earlier surrender or cancellation in accordance with the terms of this Licence.

**20.9 Renewal Term:** If:

- (a) the Reference Schedule provides for a Renewal Term; and
- (b) the Licensee is not in breach of any of its obligations under this Licence; and
- (c) the Licensee has given to the Council written notice that it wishes to renew the Licence not less than three (3) months before the end of the Term;

then the Council will grant the Licensee a licence of the Licensed Area for the Renewal Term as set out in the Reference Schedule. The new licence will be on the same terms as this Licence.

**20.10 Documentation:** If so requested by the Council the Licensee will execute a Deed of Renewal or new licence under clause 1.2 in the form prepared by the Council's solicitor.

**20.11 Licensee's Right to Cancel:** The Licensee may cancel this Licence on giving three (3) months' written notice to the Council, but this will not release the Licensee from any of its outstanding obligations under the Licence up to the time of the cancellation.

**20.12 Holding Over:** If the Licensee with the consent of the Council continues to occupy the Licensed Area beyond the Term of the Licence, the Licensee will do so under a periodic licence determinable by twenty (20) Working Days' notice in writing given at any time by either party to the other and otherwise on the terms contained in this Licence, including payment of the Licence Fee at the rate payable at the expiry of the applicable Term.

### 21 LICENCE FEE AND OUTGOINGS

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**21.1** Payment of Licence Fee:

- (a) The Licensee must pay to the Council the Licence Fee by equal annual instalments in advance, the first of these instalments being due on the Commencement Date.
- (b) The Licensee must not reduce any payment of Licence Fee by making any deduction from it or set off against it.

21.2 **Outgoings:** The Licensee is not responsible for the payment of any Outgoings in relation to the Licensed Area.

21.3 **GST:** The Licensee must pay all GST on the Licence Fee and other payments made by the Licensee under this Licence either to the Council or as the Council directs, as well as any additional GST the Council may be required to pay as a result of the Licensee's failure to pay when required.

## 22 LIMITATION ON LICENCE RIGHTS

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22.1 **Payment and Performance:** The Licence Rights are subject to the Licensee:

- (a) Payment: paying all amounts due under this Licence on the due date; and
- (b) Performance: performing all of the Licensee's obligations under this Licence.

## 23 REQUIRED USE AND REPORTING REQUIREMENTS

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23.1 **Required Use:** Subject to clause 5 of this Licence, the Licensee may only use the Licensed Area for the Required Use, and in accordance with the requirements of the Resource Consents granted for the Project.

23.2 **Licence does not constitute a resource consent:** The Council is approving this Licence as property owner. Nothing herein implies any regulatory consent or resource consent.

23.3 **Mitigating Effects:** The Licensee expressly acknowledges that under the conditions of the Resource Consents granted for the Project, the Licensee is responsible for the mitigation of effects caused by the Project.

23.4 **Reporting Requirements:** The Licensee agrees to share with the Council such information on its activities as may reasonably be requested by the Council from time to time. As a minimum requirement, the Licensee will comply with the Reporting Requirements set out in the Reference Schedule.

## 24 CONDUCT ON THE LICENSED AREA

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- 24.1 Use:** Except as provided for in the Resource Consents, the Licensee must not use or permit the Licensed Area or any part of the Licensed Area 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 owner or occupier of any neighbouring property.
- 24.2 Noise:** The Licensee must keep the noise level of any activity on the Licensed Area at the boundaries of the Licensed Area to within the requirements of the District Plan, the Resource Consents or any other resource consent granted to the Licensee.
- 24.3 Licensee's Rules:** The Licensee may make rules for the management and control of the Licensed Area and for the conduct of persons using the Licensed Area. Those rules must not be inconsistent with the terms of this Licence or the provisions of the Act or any management plan or policy (if any). Before those rules come into effect they must be approved by the Council.
- 24.4 Health and Safety:** The Licensee will take all practicable steps to provide its employees and visitors with a healthy and safe environment and ensure that its employees and visitors comply with all directions and instructions from the Licensee regarding health and safety. In particular:
- (a) the Licensee must comply at all times with the requirements and provisions of the Health and Safety at Work Act 2015 (HSWA) and any applicable codes of practice and best practice guidelines applicable to the terms of this Licence;
  - (b) the Licensee is responsible for developing and implementing an occupational health and safety plan for the use of the Licensed Area for the Required Use and for ensuring that the Licensed Area is compliant with the HSWA;
  - (c) the Licensee must maintain an accident register at all times and will record all accidents to the Licensee's employees and contractors, or other visitors to the Licensed Area;
  - (d) the Council, or any person authorised by the Council, may require an independent audit of the Licensee's operations from time to time (at the Licensee's cost) to verify that the Licensee has adequate safety management systems in place, and for compliance with those systems and any safety requirements of this Licence. The Licensee will co-operate in providing the Council with any relevant information.

## 25 BUILDINGS AND PAINTING

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- 25.1 Consent Not Required for Activities pursuant to the Resource Consents:** Notwithstanding anything contained

in this Licence, this clause 6 shall not apply to the Seawall Infrastructure, any temporary structures (including without limitation any portacoms or containers) reasonably required by the Licensee to carry out the Required Use, or any improvements permitted by or reasonably contemplated by the Resource Consents, and this clause 6 shall only apply to other improvements (if any) subsequently erected on the Licensed Area by the Licensee.

**25.2 Consent Required:** Subject to the provisions of this section, the Licensee must not:

- (a) erect any building or improvement, or
- (b) alter, reinstate or extend any existing building or improvement; or
- (c) advertise on any existing building or improvement; or
- (d) paint the exterior of any building or improvement

on the Licensed Area without first giving plans and specifications of the proposed work (if appropriate) to the Council and obtaining the Council's prior written consent, in addition to any separate approval required from the Council as a regulatory authority.

**25.3 Conditions:** Without limiting the grounds on which the Council may withhold consent under clause 6.2, the Council may also as a condition of any consent, require that the proposed work:

- (a) is consistent with the Management Plan and Policy; and
- (b) complies with any reasonable standards applicable to the Reserve (whether or not included in the Management Plan or Policy) which the Council may from time to time set as to the design, quality, materials and colour of any buildings and improvements; and
- (c) will not in the opinion of the Council create more than minor adverse environmental effects or overload or endanger the proper working of any services, utilities or amenities.

**25.4 Work Carried Out Under Supervision:** If the Council gives its approval and consent under clauses 6.2 and 6.3, then the Licensee must arrange for the Building Work to be carried out under the supervision of an architect, project manager, engineer or other suitably qualified person in a proper and workmanlike manner in accordance with the approved plans and specifications and all approvals, permits and consents.

**25.5 Licensee Obtain Consents:** The Licensee must obtain all consents required under the Building Act 2004 (including any building warrant of fitness) and the Resource Management Act 1991 and provide the Council (as

landowner and administering body of the Reserve) with a copy of those consents.

- 25.6 No Warranty:** In granting consent or approval under this section 6 the Council will not be deemed to have warranted that the plans or specifications are suitable for the Licensee's purposes or that any person involved in the work is suitable or adequately qualified.
- 25.7 Builders' Risk Insurance:** During the construction of the Building Work the Licensee must maintain, in the joint names of the Council and the Licensee for their respective interests, builders' risk and public liability insurance for amounts approved by the Council and will provide the Council with a copy of the policies. All Building Work is at the sole risk of the Licensee.
- 25.8 Council's Power to Stop Works:** If during the course of the Building Work the Council reasonably considers the Licensee is failing to adhere to the approved plans or specifications, the project programme, the standards referred to in clause 6.3(a) and 6.3(b), or reasonably considers that the project is not being properly managed, the Council may by notice in writing to the Licensee require that all work on the Licensed Area stop immediately, or require it to take other action as necessary to mitigate the Council's concerns.
- 25.9 Code Compliance Certificate:** On completion of the Building Work the Licensee 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 on the Licensed Area as constructed or altered.
- 25.10 Signs:** The Licensee must not erect, paint, display or allow on the Licensed Area any signs, notices or advertising material unless the Licensee first obtains the written consent of the Council in each case. It will be a condition of any consent that any approved signs must comply with the relevant Council bylaws, District Plan, Management Plan and Policy and have necessary regulatory approvals. At the expiry or earlier termination of this Licence, the Licensee must remove any such sign, notice or advertising material and make good any damage caused by its removal.

## 26 GROUNDS MAINTENANCE

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- 26.1 Tidy Condition:** To the extent provided for in the Resource Consents, the Licensee must at all times, at its sole cost, maintain the grounds and surrounds of the Licensed Area in a tidy and attractive condition to the satisfaction of the Council, including:

- (a) keeping the Licensed Area free from rubbish, stones and broken glass and keep rubbish bins and containers in a tidy and sanitary condition;
- (b) taking effective measures to prevent any noxious weeds and recognised environmental plant pests growing on the Licensed Area and complying with the provisions of the Biosecurity Act 1993; and
- (c) removing any externally visible graffiti on the Licensed Area within five (5) Working Days of any defacement occurring.

**26.2 Plants:** The Licensee may plant new plants on the Licensed Area in places approved by the Council. To avoid doubt, this clause does not limit the right of the Licensee to plant plants in accordance with the separate licence granted by the panel under the FTAA to the Licensee for the monitoring and maintenance of planting within the Reserve Restoration Area (part of which is in the Licensed Area) in accordance with the Resource Consents and the terms and conditions of such separate licence.

**26.3 Fencing:** The Licensee is solely responsible for fencing the Licensed Area to a reasonable standard having regard to the Required Use, and must maintain all fences to a reasonable standard at all times, at its sole cost. The Licensee must not damage or remove any fencing existing at the commencement of this Licence without the prior written consent of the Council.

**26.4 Fencing Act:** The Council shall have no liability to contribute to fencing for the purposes of the Fencing Act 1978.

## 27 INSURANCE, RISK, INDEMNITY AND TAXATION

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**27.1 Licensee's Public Liability Insurance:** The Licensee must keep in full force and effect a public liability insurance policy with a reputable insurance company to cover the Council and Licensee for any claims arising on or from the Licensee's use of the Licensed Area. The amount of that cover must be no less than the minimum public risk insurance cover in the Reference Schedule increased from time to time so as to maintain the real value of the insurance cover to the reasonable satisfaction of the Council. The Licensee will, on request, provide the Council with a copy of the public liability insurance policy and evidence that the Licensee has paid the premium for that insurance policy.

**27.2 Licensee Indemnifies the Council:** To the extent permitted by law, the Licensee indemnifies the Council against all costs, claims and demands in respect of injury or damage resulting from act or omission of the Licensee or any agent of the Licensee.

- 27.3 Limitation of Indemnity:** Notwithstanding clause 8.2 the Licensee is liable to indemnify the Council only to the extent that the Council is not fully indemnified under any insurance policy.
- 27.4 Risk:** The Licensee uses the Licensed Area at its risk and releases, to the full extent permitted by law, the Council, its employees and agents from all liabilities, claims and demands of any kind which may arise in respect of any accident, damage, injury or loss suffered by any person or property in or about the Licensed Area, or in connection with the Licensee's use of the Licensed Area.
- 27.5 Section 271 Property Law Act 2007:** For the purposes of section 271 of the Property Law Act 2007, the Licensee acknowledges and agrees that:
- (a) Reserves not insured: the Council has not insured the Reserves against destruction or damage arising from flood, fire, explosion, lightning, storm, earthquake or volcanic activity; and
  - (b) Licensee to make good: the Licensee, subject to the provisions of section 271(2)(a)-(c) of the Property Law Act 2007, will meet the cost of making good any destruction or damage to the Licensed Area caused by the Licensee and indemnifies the Council against the cost of doing so should the Licensee default in that obligation. To avoid doubt, the Licensee is not responsible for making good any damage, nor does it provide an indemnity for any of the events specified in s 268(1) of the Property Law Act 2007, or for any damage caused by any person not being the Licensee or the Licensee's agent.
- 27.6 Taxation:** Each party is solely responsible and liable for the taxation position it takes in respect of any amount it has paid or received or that it is required to pay or to receive pursuant to this Licence, and no party makes any representation or warranty or is otherwise liable to any other party as to the appropriate taxation position in respect of any amount paid or received or payable or receivable pursuant to this Licence.

## 28 NO ASSIGNMENT

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- 28.1 Assignment etc:** Without limiting the right for the Licensee to commission contractors to undertake the Required Use, the Licensee must not without first obtaining the written consent of the Council:
- (a) Assign: assign or agree to assign this Licence or any of the Licence Rights;
  - (b) Sub-license: sub-license or agree to sub-license any of the Licensed Area; or

- (c) **Security Interest:** grant or agree to grant any security interest (as defined in the Personal Property Securities Act 1999) in or over this Licence or the Licensed Area.

**9.2 Local Government Reorganisation:** The Licensee acknowledges that, in the event of any local government reorganisation affecting the Council, the Council may assign or novate this Licence (in whole or in part) to any successor local authority or public entity without the Licensee's consent, and the Licensee must do all things reasonably required to give effect to that assignment or novation.

## 29 SUITABILITY OF LICENSED AREA

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**29.1 No Warranty by Council:** The Council does not warrant that the Licensed Area is or will remain suitable or adequate for the Licensee's purposes. All warranties as to suitability and adequacy implied by law are expressly negative to the full extent permitted by law.

**29.2 Safety Measures:** The Council is not responsible for providing any safety measures to protect any equipment from water damage, fire, explosion, storm, hazard or potential hazard.

## 30 DESTRUCTION

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**30.1** If the Licensed Area is destroyed or so damaged that the Licensed Area cannot be used for the Required Use, then the Licensee may terminate this Licence by, six (6) months' written notice to Council. Any termination of this Licence under this clause will not affect the parties' respective rights, obligations and liabilities which subsist or have accrued on the date of termination under this clause. Following such Licensed Area being so destroyed or damaged, then the parties shall meet in good faith to determine the extent of such damage or destruction, and any dispute, if necessary, shall be determined in accordance with the dispute resolution process set out in clause 12.

## 31 DISPUTE RESOLUTION

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**31.1 Negotiation:** If any dispute arises between the Council and the Licensee concerning this Licence, the parties will try in good faith to settle the matter by negotiation for a period of sixty (60) working days after the dispute is first notified to the other party, and if that is unsuccessful then the matter will be escalated to the chief executives (or nominees) or both organisations.

**31.2 Mediation:** If the dispute cannot be settled by negotiation as provided for in clause 12.1, the dispute will be referred to mediation.

31.3 **Referral to Arbitrator:** 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.

31.4 **Award Final:** The arbitration will be governed by the Arbitration Act 1996 and the arbitral award will be final and binding on the parties.

## 32 COUNCIL AS LAND OWNER, NOT REGULATORY AUTHORITY

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32.1 **Council as Land Owner:** The Council has signed this Licence in its non-regulatory capacity as land owner and administering body. This Licence does not bind the Council in its capacity as a regulatory authority in any way, and any consent or agreement the Council gives under this Licence is not an agreement or consent in its regulatory capacity and vice versa. When acting in its regulatory capacity, the Council is entitled to consider all applications to it without regard to this Licence. The Council will not be liable to the Licensee or any other party if, in its regulatory capacity, the Council declines or imposes conditions on any consent or permission that the Licensee or any other party seeks for any purpose associated with this Licence.

## 33 NO LEASE

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33.1 **Licence not Lease:** This Licence does not create any lease, tenancy or interest in favour of the Licensee in the Reserves or the Licensed Area or confer on the Licensee any rights of exclusive possession.

## 34 IMPLIED PROVISIONS

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34.1 **Reserves Act 1977:** The covenants and provisions required to be included in this Licence by the Act will apply to the extent that they are not expressly included in the terms of this Licence.

34.2 **Not Registrable:** This Licence is not registrable. The Licensee may not register a caveat against the Computer Freehold Register (if any) to the Reserves.

## 35 COMPLIANCE

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35.1 **Licensee Must Comply:** The Licensee must comply with all Acts, Regulations, By-laws, District and Regional Plan Rules and the Management Plan and Policy (if any) as they affect the Licensed Area.

## 36 NOTICES

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**36.1 Service of Notices:** Any notice or document required or authorised to be given or served under this Licence may be given or served:

- (a) Section 245 or 246 of the Property Law Act: in the case of a notice under sections 245 or 246 of the Property Law Act 2007, in the manner prescribed by section 353 of that Act 2007; and
- (b) Other Cases: in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007;
  - (i) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or
  - (ii) by personal delivery, or by posting by registered mail or ordinary mail, or by email.

**36.2 Time of Service:** In respect of the means of service specified in clause 17.1(b)(ii) any notice or other document will be treated as given or served and received by the other party:

- (a) Personal Delivery: when received by the addressee;
- (b) Post: three (3) Working Days after being posted to the addressee's last known address in New Zealand; or
- (c) Email: when acknowledged by the addressee by return email or otherwise in writing.

**36.3 Signature of Notices:** Any notice or document to be given or served under this licence must be in writing and may be signed by:

- (a) Party: the party giving or serving the notice;
- (b) Attorney: any attorney for the party serving or giving the notice; or
- (c) Authorised Person: the solicitor or any director, officer, employee or other agent who has authority to give or serve the notice.

## 37 COSTS

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**37.1 Licensee to pay Council's Costs:** Each party shall pay its own legal costs, and expenses for the preparation and completion of this Licence or any renewal, or variation of it. The Licensee shall be liable for all costs incurred by the Council of and incidental to the enforcement or attempted enforcement of the Council's rights, remedies and powers under this Licence resulting from a breach of this Licence by the Licensee.

- 37.2 **Costs:** The Licensee must pay all of the Council's reasonable costs incurred in considering any request by the Licensee for the Council's consent to any matter contemplated by the Licence.

## 38 COUNCIL'S CONSENT

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- 38.1 **Consent required on each occasion:** The Council's consent under this Licence is required for each occasion even if the Council has given a consent for the same or a similar purpose on an earlier occasion.

- 38.2 **Consent not to be unreasonably withheld:** If this Licence states that the Council's consent is required for anything done or proposed to be done, then unless otherwise stated in each case, the Council:

- (a) must not unreasonably withhold consent; and
- (b) must within a reasonable time of the Council's consent being requested:
  - (i) grant that consent; or
  - (ii) notify the Licensee in writing that the consent is withheld.

## 39 GENERAL

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- 39.1 **LGOIMA:** The Licensee acknowledges that the Council is subject to the Local Government Official Information and Meetings Act 1987 and may be required to disclose information relating to this Licence or the Licensee's activities on the Licensed Area; the Licensee will promptly provide any information reasonably requested by the Council to assist with such obligations and will not itself release information relating to this Licence or the Council except through the Council or where legally compelled or required to do so for NZX reporting requirements (and, to the extent permitted by law, will notify the Council promptly of any such compulsion or requirement and the information to be released).

- 39.2 **Partial Invalidity:** If any provision of this Licence is or becomes invalid or unenforceable, that provision will be deemed deleted from this Licence. The invalidity or unenforceability of that provision will not affect the other provisions of this Licence, all of which will remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.

- 39.3 **Remedies:** The rights, powers and remedies provided in this Licence are cumulative and are in addition to any right, powers or remedies provided by law.
- 39.4 **Entire Agreement:** Subject to the expert panel's decision to grant the Resource Consents and other approvals for the Project, including this Licence and the Lease, this Licence records the entire understanding and agreement of the parties relating to the matters dealt with in this Licence. This Licence supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters. The Licensee acknowledges that it has either taken, or has been given the opportunity to take, independent legal advice about the nature, effects and obligations of this Licence, before signing it.
- 39.5 **Further Assurances:** Each party will do all things and execute all documents reasonably required to give effect to the provisions and intent of this Licence.
- 39.6 **Waiver:** Any waiver by a party of any of its rights or remedies under this Licence will be effective only if it is recorded in writing and signed by that party. If the waiver relates to a breach of any provision of this Licence, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to enforce any provision, of this Licence at any time by a party will in any way affect, limit or waive that party's right to subsequently require strict compliance with this Licence.
- 39.7 **Counterparts:** This Licence may be signed in counterparts. All executed counterparts will together constitute one document.
- 39.8 **Copies:** Any copy of this Licence that is received by facsimile or via email in PDF or other document reproduction format (including any copy of any document evidencing a party's signature to this agreement) may be relied on by any party as though it were an original copy of this Licence. This Licence may be entered into on the basis of an exchange of facsimile, PDF or other document reproduction format.
- 39.9 **Amendment:** No amendment to this Licence will be effective unless it is in writing and signed by each party.

## 40 INTERPRETATION

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40.1 In this agreement unless the context indicates otherwise:

40.2 Definitions:

- (a) "Act" means the Reserves Act 1977;

- (b) "Building Work" means work for or in connection with the construction, alteration, demolition or removal of structures on the Licensed Area 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, but shall exclude any works carried out by the Licensee relating to the Project;
- (c) "Council" means Wellington City Council in its capacity as landowner and administering body under the Act;
- (d) "GST" means the goods and services tax imposed by the Goods and Services Tax Act 1985 and includes any tax levied in substitution of such tax;
- (e) "Licensed Area" means the licensed area defined in the Reference Schedule;
- (f) "Licence" means this licence agreement;
- (g) "Licence Rights" means:
  - (i) the non-exclusive right to carry on the Required Use from the Licensed Area; and
  - (ii) the non-exclusive right to have access to the Licensed Area through those parts of the Reserves that are necessary to give access to the Licensed Area in order to carry out the Required Use;
- (h) "Licensee" means the original Licensee set out on page 1;
- (i) "Management Plan" means any Management Plan prepared under section 41 of the Act for the Reserves;
- (j) "Minister" means the Minister of Conservation;
- (k) "Outgoings" includes:
  - (i) all general and special rates, water rates, sewerage, rubbish collection and other charges for the Licensed Area;
  - (ii) all charges for electricity, gas, telephone, and any other service or utility charges for the Licensed Area;
  - (iii) cleaning, maintenance and repair charges for the Licensed Area;
  - (iv) any other costs, expenses or charges related to the Licensed Area or Required Use that are not the specific responsibility of the Council under this Licence;
- (l) "Policy" means any Leases Policy for Community and Recreation Groups and includes any social or recreational strategy prepared by the Council and in place from time to time;
- (m) "Reserves" means the reserves named in the Reference Schedule; and
- (n) "Working Day" has the meaning given to it in the Property Law Act 2007.

- 40.3 **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- 40.4 **Parties:** references to parties are references to parties to this Licence;
- 40.5 **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, and words importing one gender will include the other genders;
- 40.6 **Plural and Singular:** words importing the singular number will include the plural and vice versa;
- 40.7 **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.

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### PLAN OF LICENSED AREA



## SCHEDULE 3: FORM OF KORORĀ LICENCE

# OCCUPATION LICENCE (RESERVE) - Access over Local Purpose (Esplanade) Reserves Site Number 3.12 (Lyall Bay and Airport Reclamation) and Site Number 4.01 (Te Taka Peninsula / Moa Point) for Monitoring and Maintenance of Stage 2 Kororā Colony

LICENCE AGREEMENT dated the \_\_\_\_\_ day of **#year#**

**BETWEEN WELLINGTON CITY COUNCIL ("Council")**

**AND WELLINGTON INTERNATIONAL AIRPORT LIMITED ("Licensee")**

## BACKGROUND

- N. The Council is the owner of the Reserves.
- O. The Licensee is required to monitor and maintain the Stage 2 Kororā Colony as a condition of the Resource Consents granted for the Project and requires access over the Reserves for this activity.
- P. On 30 April 2025, the Council provided its written agreement for the Licensee to carry out particular activities on the Reserves for the Project, as required by clause 7(3) of Schedule 6 of the Fast-track Approvals Act 2024 (**FTAA**).
- Q. On **[date]**, an expert panel granted the Lease, this Licence and other licences to the Licensee for the Project over the Licensed Area (and adjoining areas), being part of the Reserves, under section 81 of the FTAA.
- R. The parties have therefore executed this Licence to give effect to the expert panel's decision, pursuant to clause 11 of Schedule 6 of the FTAA.
- S. Accordingly, under clause 17 of Schedule 6 of the FTAA, this Licence has the same force and effect as if it were granted under section 59A of the Reserves Act 1977 (the **Act**), except that sections 40A and 40B of the Act do not apply to it.
- T. The Licensee acknowledges that in granting a licence over the Licensed Area, the Council is not creating any lease, tenancy or interest in favour of the

Licensee in the Reserves or the Licensed Area or conferring on the Licensee any rights of exclusive possession.

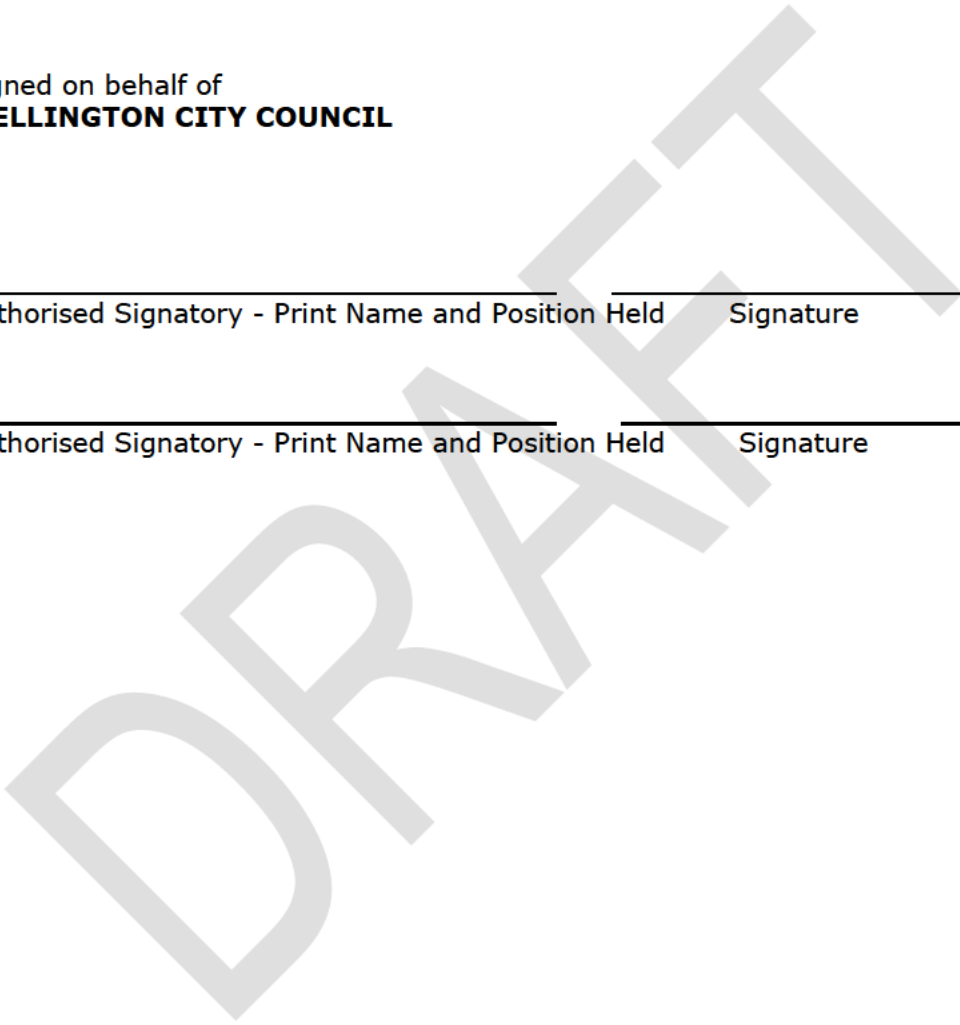
**GRANT OF LICENCE**

The Council grants the Licence Rights to the Licensee for the Term beginning on the Commencement Date and ending on the Termination Date, at the Licence Fee and subject to the terms of this Licence. The Licensee accepts the grant in accordance with the terms and conditions contained in this Licence.

Signed on behalf of  
**WELLINGTON CITY COUNCIL**

\_\_\_\_\_  
Authorised Signatory - Print Name and Position Held      Signature

\_\_\_\_\_  
Authorised Signatory - Print Name and Position Held      Signature



SIGNED by  
**WELLINGTON INTERNATIONAL AIRPORT LIMITED**  
as Licensee by:

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

DRAFT

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## REFERENCE SCHEDULE

<b>LICENSED AREA:</b>	That area of land located at Moa Point Road, comprising the area marked as Premises A (outlined in blue) and measuring approximately 14,061 m <sup>2</sup> and the area marked as Premises B (outlined in green) and measuring approximately 1,848 m <sup>2</sup> as shown on the plan attached to this Licence as Schedule One.
<b>RESERVES:</b>	The Reserves known as Site Number 3.12 (Lyal Bay and Airport Reclamation) Local Purpose (Esplanade) Reserve, being legally described as Lot 3 DP 78304 in record of title WN45A/75 and Site Number 4.01 (Te Taka Peninsula / Moa Point) Local Purpose (Esplanade) Reserve, being legally described as Lot 4 DP 78304 in record of title WN45A/76.
<b>TERM:</b>	20 years
<b>COMMENCEMENT DATE:</b>	As provided for in clause 1.1 [ <b>DRAFTING NOTE: ON THE LICENCE COMMENCEMENT DATE AS DEFINED IN THE LEASE</b> ]
<b>EXPIRY DATE:</b>	20 years following the Commencement Date
<b>RENEWAL TERMS (IF ANY):</b>	N/A
<b>FINAL EXPIRY DATE:</b>	20 years following the Commencement Date
<b>LICENCE FEE:</b>	\$1.00 per annum, plus GST
<b>INTEREST ON OVERDUE LICENCE FEE:</b>	14 % per annum
<b>REQUIRED USE:</b>	Access over the Reserves for monitoring and maintenance of the Stage 2 Kororā Colony as required by the Resource Consents for the Project, and any other use approved by the Council acting in its sole discretion provided such use is related to the monitoring and maintenance of the Stage 2 Kororā Colony or local purposes and is permitted under the Act and any applicable Management Plan.
<b>MINIMUM PUBLIC RISK INSURANCE COVER:</b>	\$5,000,000.00
<b>REPORTING REQUIREMENTS:</b>	The Licensee will report to the Council annually on the following:  (i) Confirmation of public liability insurance cover;

- (ii) Health and safety information;

**COUNCIL'S CONTACT DETAILS:**

Open Space & Recreation Planning Manager  
Parks Sport & Recreation  
Wellington City Council  
PO Box 2199, 101 Wakefield Street  
Wellington 6140

**LICENSEE'S CONTACT DETAILS:**

Wellington International Airport Limited

Richard Dalby, General Manager Commercial  
PO Box 14175  
Wellington  
E: [REDACTED]  
Ph: [REDACTED]

**SPECIAL PROVISIONS**

If there is any conflict between the General Provisions and these Special Provisions, these Special Provisions will take precedence (subject to consistency with the Act).

**Relationship with conditions of the Resource Consents for the Project**

14. The Licence must be exercised in accordance with the conditions of the Resource Consents granted for the Project.
15. In particular, and without limitation, the Licence must be exercised:
  - (i) in accordance with the Kororā (Little Penguin) Management Plan (KPMP) required by Condition GC.4 or any confirmed version of the KPMP amended in accordance with Conditions GC.9 or GC.10.
  - (j) in accordance with the Lizard Management Plan (LMP) required by Condition GC.4 or any confirmed version of the LMP amended in accordance with Conditions GC.9 or GC.10.
  - (k) in accordance with the Avifauna Management Plan (AMP) required by Condition GC.4 or any confirmed version of the AMP amended in accordance with Conditions GC.9 or GC.10.
  - (l) in respect of landscaping and planting of the Moa Point Yard, in general accordance with the Moa Point Yard Landscape Concept Plans (Concept Plans) referred to in Condition LV.9 or any confirmed version of the Concept Plans amended in accordance with Condition LV.10,
16. Where there is any conflict between any of the General Provisions or Special Provisions of this Licence and any conditions of the Resource Consents granted for the Project, the more restrictive or stringent condition shall prevail.

**Responsibility for equipment and structures**

17. Any equipment and/or structures situated by the Licensee on the Licensed Area (including prior to this Licence) is fully owned and operated by the Licensee. The Licensee is fully responsible for all maintenance and up-keep related to such equipment and/or structures.

18. On the expiry or earlier termination of this Licence, the Licensee shall have no obligation to remove any structures or improvements on the Licensed Area and shall otherwise leave the Licensed Area in a clean and tidy condition.

### **Pest management**

19. If the Licensee intends to carry out animal pest management within the Licensed Area in accordance with the requirements of the KPMP, the Licensee will first provide the Council with a pest management plan and obtain the Council's approval to that plan prior to carrying out such pest management. The Council shall not unreasonably withhold its approval to the pest management plan.

### **Defined terms**

20. In this agreement, unless the context requires otherwise:

"Eastern Remediation Area" means the area to the east of the Southern Seawall to be remediated and strengthened through the Project as provided for in the Resource Consents.

"KPMP" means the Kororā (Little Penguin) Management Plan required by the Resource Consents.

"Lease" means the lease granted for the Project by the expert panel under section 81 of the Fast-track Approvals Act 2024, which is a Reserves Act approval under that Act.

"Moa Point Yard" means the Moa Point Construction Yard at the corner of Stewart Duff Drive and Moa Point Road as provided for in the Resource Consents.

"Project" means the Southern Seawall Renewal Project, for which the Licensee applied for the necessary approvals under the Fast-track Approvals Act 2024.

"Reserve Restoration Area" the area of the Reserves to be restored with landscaping and planting as provided for in the Resource Consents.

"Resource Consents" mean the resource consents granted for the Project by the expert panel under section 81 of the Fast-track Approvals Act 2024.

"Stage 2 Kororā Colony" means the Kororā colony behind the Eastern Bank Remediation Area to be developed once construction is complete as provided for in the Resource Consents.

"Southern Seawall" means the southern seawall at Wellington International Airport, including as improved as a result of the Project.

## GENERAL PROVISIONS

### 3 TERM

- 40.8 **Initial Term:** The Term of this Licence will commence on the Commencement Date, which will be the date on which the Licensee provides written notice to the Council that the Project has achieved practical completion, and will continue in full force until 5.00pm on the Expiry Date or earlier surrender or cancellation in accordance with the terms of this Licence.
- 40.9 **Licensee's Right to Cancel:** The Licensee may cancel this Licence on giving three (3) months' written notice to the Council, but this will not release the Licensee from any of its outstanding obligations under the Licence up to the time of the cancellation.
- 40.10 **Holding Over:** If the Licensee with the consent of the Council continues to occupy the Licensed Area beyond the Term of the Licence, the Licensee will do so under a periodic licence determinable by twenty (20) Working Days' notice in writing given at any time by either party to the other and otherwise on the terms contained in this Licence, including payment of the Licence Fee at the rate payable at the expiry of the Term.

### 41 LICENCE FEE AND OUTGOINGS

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#### 41.1 Payment of Licence Fee:

- (a) The Licensee must pay to the Council the Licence Fee by equal annual instalments in advance, the first of these instalments being due on the Commencement Date.
- (b) The Licensee must not reduce any payment of Licence Fee by making any deduction from it or set off against it.

#### 41.2 Outgoings:

- (a) The Licensee is not responsible for the payment of any Outgoings in relation to the Licensed Area.

- 41.3 **GST:** The Licensee must pay all GST on the Licence Fee and other payments made by the Licensee under this Licence either to the Council or as the Council directs, as well as any additional GST the Council may be required to pay as a result of the Licensee's failure to pay when required.

### 42 LIMITATION ON LICENCE RIGHTS

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**42.1 Payment and Performance:** The Licence Rights are subject to the Licensee:

- (a) Payment: paying all amounts due under this Licence on the due date; and
- (b) Performance: performing all of the Licensee's obligations under this Licence.

#### 43 **REQUIRED USE AND REPORTING REQUIREMENTS**

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**43.1 Required Use:** Subject to clause 5 of this Licence, the Licensee may only use the Licensed Area for the Required Use, and in accordance with the requirements of the Resource Consents granted for the Project.

**43.2 Licence does not constitute a resource consent:** The Council is approving this Licence as property owner. Nothing herein implies any regulatory consent or resource consent.

**43.3 Mitigating Effects:** The Licensee expressly acknowledges that under the conditions of the Resource Consents granted for the Project, the Licensee is responsible for the mitigation of effects caused by the Project.

**43.4 Reporting Requirements:** The Licensee agrees to share with the Council such information on its activities as may reasonably be requested by the Council from time to time. As a minimum requirement, the Licensee will comply with the Reporting Requirements set out in the Reference Schedule.

#### 44 **CONDUCT ON THE LICENSED AREA**

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**44.1 Use:** Except as provided for in the Resource Consents, the Licensee must not use or permit the Licensed Area or any part of the Licensed Area 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 owner or occupier of any neighbouring property.

**44.2 Noise:** The Licensee must keep the noise level of any activity on the Licensed Area at the boundaries of the Licensed Area to within the requirements of the District Plan, the Resource Consents or any other resource consent granted to the Licensee.

**44.3 Licensee's Rules:** The Licensee may make rules for the management and control of the Licensed Area and for the conduct of persons using the Licensed Area. Those rules must not be inconsistent with the terms of this Licence or

the provisions of the Act or any management plan or policy (if any). Before those rules come into effect they must be approved by the Council.

**44.4 Health and Safety:** The Licensee will take all practicable steps to provide its employees and visitors with a healthy and safe environment and ensure that its employees and visitors comply with all directions and instructions from the Licensee regarding health and safety. In particular:

- (a) the Licensee must comply at all times with the requirements and provisions of the Health and Safety at Work Act 2015 (HSWA) and any applicable codes of practice and best practice guidelines applicable to the terms of this Licence;
- (b) the Licensee is responsible for developing and implementing an occupational health and safety plan for the use of the Licensed Area for the Required Use and for ensuring that the Licensed Area is compliant with the HSWA;
- (c) the Licensee must maintain an accident register at all times and will record all accidents to the Licensee's employees and contractors, or other visitors to the Licensed Area;
- (d) the Council, or any person authorised by the Council, may require an independent audit of the Licensee's operations from time to time (at the Licensee's cost) to verify that the Licensee has adequate safety management systems in place, and for compliance with those systems and any safety requirements of this Licence. The Licensee will co-operate in providing the Council with any relevant information.

## 45 BUILDINGS AND PAINTING

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**45.1 Consent Required:** Subject to the provisions of this section, the Licensee must not:

- (a) erect any building or improvement, or
- (b) alter, reinstate or extend any existing building or improvement; or
- (c) advertise on any existing building or improvement; or
- (d) paint the exterior of any building or improvement

on the Licensed Area except as provided for in the Resource Consents or as otherwise reasonably required by the Licensee to monitor and maintain the Stage 2 Kororā Colony.

**45.2 Conditions:** Without limiting the grounds on which the Council may withhold consent under clause 6.1, the Council may also as a condition of any consent, require that the proposed work:

- (a) is consistent with the Management Plan and Policy; and
- (b) complies with any reasonable standards applicable to the Reserve (whether or not included in the Management Plan or Policy) which the Council may from time to time set as to the design, quality, materials and colour of any buildings and improvements; and
- (c) will not in the opinion of the Council create more than minor adverse environmental effects or overload or endanger the proper working of any services, utilities or amenities.

**45.3 Work Carried Out Under Supervision:** If the Council gives its approval and consent under clauses 6.1 and 6.2 then the Licensee must arrange for the Building Work to be carried out under the supervision of an architect, project manager, engineer or other suitably qualified person in a proper and workmanlike manner in accordance with the approved plans and specifications and all approvals, permits and consents.

**45.4 Licensee Obtain Consents:** The Licensee must obtain all consents required under the Building Act 2004 (including any building warrant of fitness) and the Resource Management Act 1991 and provide the Council (as landowner and administering body of the Reserve) with a copy of those consents.

**45.5 No Warranty:** In granting consent or approval under this section 6 the Council will not be deemed to have warranted that the plans or specifications are suitable for the Licensee's purposes or that any person involved in the work is suitable or adequately qualified.

**45.6 Builders' Risk Insurance:** During the construction of the Building Work the Licensee must maintain, in the joint names of the Council and the Licensee for their respective interests, builders' risk and public liability insurance for amounts approved by the Council and will provide the Council with a copy of the policies. All Building Work is at the sole risk of the Licensee.

**45.7 Council's Power to Stop Works:** If during the course of the Building Work the Council reasonably considers the Licensee is failing to adhere to the approved plans or specifications, the project programme, the standards referred to in clause 6.2(a) and 6.2(b), or reasonably considers that the project is not being properly managed, the Council may by notice in writing to the Licensee require that all work on the Licensed Area stop immediately, or require it to take other action as necessary to mitigate the Council's concerns.

**45.8 Code Compliance Certificate:** On completion of the Building Work the Licensee 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 on the Licensed Area as constructed or altered.

- 45.9 Signs:** Except as provided for in the Resource Consents or as otherwise reasonably required by the Licensee to monitor and maintain the Stage 2 Kororā Colony, the Licensee must not erect, paint, display or allow on the Licensed Area any signs, notices or advertising material unless the Licensee first obtains the written consent of the Council in each case. It will be a condition of any consent that any approved signs must comply with the relevant Council bylaws, District Plan, Management Plan and Policy and have necessary regulatory approvals. At the expiry or earlier termination of this Licence, the Licensee must remove any such sign, notice or advertising material and make good any damage caused by its removal.

## 46 GROUNDS MAINTENANCE

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- 46.1 Tidy Condition:** To the extent provided for in the Resource Consents, the Licensee must at all times, at its sole cost, maintain the grounds and surrounds of the Licensed Area in a tidy and attractive condition to the satisfaction of the Council, including:

- (a) keeping the Licensed Area free from rubbish, stones and broken glass and keep rubbish bins and containers in a tidy and sanitary condition;
- (b) taking effective measures to prevent any noxious weeds and recognised environmental plant pests growing on the Licensed Area and complying with the provisions of the Biosecurity Act 1993; and
- (c) removing any externally visible graffiti on the Licensed Area within five (5) Working Days of any defacement occurring.

- 46.2 Plants:** The Licensee may plant new plants on the Licensed Area in the manner provided for in the Resource Consents or on other places approved by the Council. To avoid doubt, this clause does not limit the right of the Licensee to plant plants in accordance with the separate licence granted by the panel under the FTAA to the Licensee for the monitoring and maintenance of planting within the Reserve Restoration Area (part of which is in the Licensed Area) in accordance with the Resource Consents and the terms and conditions of such separate licence.

- 46.3 Fencing:** The Licensee is solely responsible for fencing the Licensed Area to a reasonable standard having regard to the Required Use, and must maintain all fences to a reasonable standard at all times, at its sole cost. The Licensee must not damage or remove any fencing existing

at the commencement of this Licence without the prior written consent of the Council.

- 46.4 **Fencing Act:** The Council shall have no liability to contribute to fencing for the purposes of the Fencing Act 1978.

## 47 **INSURANCE, RISK, INDEMNITY AND TAXATION**

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- 47.1 **Licensee's Public Liability Insurance:** The Licensee must keep in full force and effect a public liability insurance policy with a reputable insurance company to cover the Council and Licensee for any claims arising on or from the Licensee's use of the Licensed Area. The amount of that cover must be no less than the minimum public risk insurance cover in the Reference Schedule increased from time to time so as to maintain the real value of the insurance cover to the reasonable satisfaction of the Council. The Licensee will, on request, provide the Council with a copy of the public liability insurance policy and evidence that the Licensee has paid the premium for that insurance policy.

- 47.2 **Licensee Indemnifies the Council:** To the extent permitted by law, the Licensee indemnifies the Council against all costs, claims and demands in respect of injury or damage resulting from act or omission of the Licensee or any agent, of the Licensee.

- 47.3 **Limitation of Indemnity:** Notwithstanding clause 8.2 the Licensee is liable to indemnify the Council only to the extent that the Council is not fully indemnified under any insurance policy.

- 47.4 **Risk:** The Licensee uses the Licensed Area at its risk and releases, to the full extent permitted by law, the Council, its employees and agents from all liabilities, claims and demands of any kind which may arise in respect of any accident, damage, injury or loss suffered by any person or property in or about the Licensed Area, or in connection with the Licensee's use of the Licensed Area.

- 47.5 **Section 271 Property Law Act 2007:** For the purposes of section 271 of the Property Law Act 2007, the Licensee acknowledges and agrees that:

- (a) Reserves not insured: the Council has not insured the Reserves against destruction or damage arising from flood, fire, explosion, lightning, storm, earthquake or volcanic activity; and
- (b) Licensee to make good: the Licensee, subject to the provisions of section 271(2)(a)-(c) of the Property Law Act 2007, will meet the cost of making good any destruction or damage to the Licensed Area caused by the Licensee and indemnifies the Council against

the cost of doing so should the Licensee default in that obligation. To avoid doubt, the Licensee is not responsible for making good any damage, nor does it provide an indemnity for any of the events specified in s 268(1) of the Property Law Act 2007, or for any damage caused by any person not being the Licensee or the Licensee's agent.

**47.6 Taxation:** Each party is solely responsible and liable for the taxation position it takes in respect of any amount it has paid or received or that it is required to pay or to receive pursuant to this Licence, and no party makes any representation or warranty or is otherwise liable to any other party as to the appropriate taxation position in respect of any amount paid or received or payable or receivable pursuant to this Licence.

## 48 NO ASSIGNMENT

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**48.1 Assignment etc:** Without limiting the right for the Licensee to commission contractors to undertake the Required Use, the Licensee must not without first obtaining the written consent of the Council:

- (a) Assign: assign or agree to assign this Licence or any of the Licence Rights;
- (b) Sub-license: sub-license or agree to sub-license any of the Licensed Area; or
- (c) Security Interest: grant or agree to grant any security interest (as defined in the Personal Property Securities Act 1999) in or over this Licence or the Licensed Area.

**9.2 Local Government Reorganisation:** The Licensee acknowledges that, in the event of any local government reorganisation affecting the Council, the Council may assign or novate this Licence (in whole or in part) to any successor local authority or public entity without the Licensee's consent, and the Licensee must do all things reasonably required to give effect to that assignment or novation.

## 49 SUITABILITY OF LICENSED AREA

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**49.1 No Warranty by Council:** The Council does not warrant that the Licensed Area is or will remain suitable or adequate for the Licensee's purposes. All warranties as to suitability and adequacy implied by law are expressly negative to the full extent permitted by law.

**49.2 Safety Measures:** The Council is not responsible for providing any safety measures to protect any equipment from water damage, fire, explosion, storm, hazard or potential hazard.

## 50 DESTRUCTION

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- 50.1 If the Licensed Area is destroyed or so damaged that the Licensed Area cannot be used for the Required Use, then the Licensee may terminate this Licence by six (6) months' written notice to the Council. Any termination of this Licence under this clause will not affect the parties' respective rights, obligations and liabilities which subsist or have accrued on the date of termination under this clause. Following such Licensed Area being so destroyed or damaged, then the parties shall meet in good faith to determine the extent of such damage or destruction, and any dispute, if necessary, shall be determined in accordance with the dispute resolution process set out in clause 12.

## 51 DISPUTE RESOLUTION

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- 51.1 **Negotiation:** If any dispute arises between the Council and the Licensee concerning this Licence, the parties will try in good faith to settle the matter by negotiation for a period of sixty (60) working days after the dispute is first notified to the other party, and if that is unsuccessful then the matter will be escalated to the chief executives (or nominees) or both organisations.
- 51.2 **Mediation:** If the dispute cannot be settled by negotiation as provided for in clause 12.1, the dispute will be referred to mediation.
- 51.3 **Referral to Arbitrator:** 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.
- 51.4 **Award Final:** The arbitration will be governed by the Arbitration Act 1996 and the arbitral award will be final and binding on the parties.

## 52 COUNCIL AS LAND OWNER, NOT REGULATORY AUTHORITY

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- 52.1 **Council as Land Owner:** The Council has signed this Licence in its non-regulatory capacity as land owner and administering body. This Licence does not bind the Council in its capacity as a regulatory authority in any way, and any consent or agreement the Council gives under this Licence is not an agreement or consent in its regulatory capacity and vice versa. When acting in its regulatory capacity, the Council is entitled to consider all applications to it without regard to this Licence. The Council will not be liable to the Licensee or any other party if, in its regulatory capacity, the Council declines or imposes conditions on any consent or

permission that the Licensee or any other party seeks for any purpose associated with this Licence.

## 53 NO LEASE

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- 53.1 **Licence not Lease:** This Licence does not create any lease, tenancy or interest in favour of the Licensee in the Reserves or the Licensed Area or confer on the Licensee any rights of exclusive possession.

## 54 IMPLIED PROVISIONS

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- 54.1 **Reserves Act 1977:** The covenants and provisions required to be included in this Licence by the Act will apply to the extent that they are not expressly included in the terms of this Licence.
- 54.2 **Not Registrable:** This Licence is not registrable. The Licensee may not register a caveat against the Computer Freehold Register (if any) to the Reserves.

## 55 COMPLIANCE

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- 55.1 **Licensee Must Comply:** The Licensee must comply with all Acts, Regulations, By-laws, District and Regional Plan Rules and the Management Plan and Policy (if any) as they affect the Licensed Area.

## 56 NOTICES

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- 56.1 **Service of Notices:** Any notice or document required or authorised to be given or served under this Licence may be given or served:
- (a) Section 245 or 246 of the Property Law Act: in the case of a notice under sections 245 or 246 of the Property Law Act 2007, in the manner prescribed by section 353 of that Act 2007; and
  - (b) Other Cases: in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007;
    - (i) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or
    - (ii) by personal delivery, or by posting by registered mail or ordinary mail, or by email.
- 56.2 **Time of Service:** In respect of the means of service specified in clause 18.1(b)(ii) any notice or other document will be treated as given or served and received by the other party:
- (a) Personal Delivery: when received by the addressee;

- (b) Post: three (3) Working Days after being posted to the addressee's last known address in New Zealand; or
- (c) Email: when acknowledged by the addressee by return email or otherwise in writing.

**56.3 Signature of Notices:** Any notice or document to be given or served under this licence must be in writing and may be signed by:

- (a) Party: the party giving or serving the notice;
- (b) Attorney: any attorney for the party serving or giving the notice; or
- (c) Authorised Person: the solicitor or any director, officer, employee or other agent who has authority to give or serve the notice.

## 57 COSTS

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**57.1 Licensee to pay Council's Costs:** Each party shall pay its own legal costs, and expenses for the preparation and completion of this Licence or any variation of it. The Licensee shall be liable for all costs incurred by the Council of and incidental to the enforcement or attempted enforcement of the Council's rights, remedies and powers under this Licence resulting from a breach of this Licence by the Licensee.

**57.2 Costs:** The Licensee must pay all of the Council's reasonable costs incurred in considering any request by the Licensee for the Council's consent to any matter contemplated by the Licence.

## 58 COUNCIL'S CONSENT

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**58.1 Consent required on each occasion:** The Council's consent under this Licence is required for each occasion even if the Council has given a consent for the same or a similar purpose on an earlier occasion.

**58.2 Consent not to be unreasonably withheld:** If this Licence states that the Council's consent is required for anything done or proposed to be done, then unless otherwise stated in each case, the Council:

- (a) must not unreasonably withhold consent; and
- (b) must within a reasonable time of the Council's consent being requested:
  - (i) grant that consent; or
  - (ii) notify the Licensee in writing that the consent is withheld.

## 59 GENERAL

- 59.1 **LGOIMA:** The Licensee acknowledges that the Council is subject to the Local Government Official Information and Meetings Act 1987 and may be required to disclose information relating to this Licence or the Licensee's activities on the Licensed Area; the Licensee will promptly provide any information reasonably requested by the Council to assist with such obligations and will not itself release information relating to this Licence or the Council except through the Council or where legally compelled or required to do so for NZX reporting requirements (and, to the extent permitted by law, will notify the Council promptly of any such compulsion or requirement and the information to be released).
- 59.2 **Partial Invalidity:** If any provision of this Licence is or becomes invalid or unenforceable, that provision will be deemed deleted from this Licence. The invalidity or unenforceability of that provision will not affect the other provisions of this Licence, all of which will remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.
- 59.3 **Remedies:** The rights, powers and remedies provided in this Licence are cumulative and are in addition to any right, powers or remedies provided by law.
- 59.4 **Entire Agreement:** Subject to the expert panel's decision to grant the Resource Consents and other approvals for the Project, including this Licence and the Lease, this Licence records the entire understanding and agreement of the parties relating to the matters dealt with in this Licence. This Licence supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters. The Licensee acknowledges that it has either taken, or has been given the opportunity to take, independent legal advice about the nature, effects and obligations of this Licence, before signing it.
- 59.5 **Further Assurances:** Each party will do all things and execute all documents reasonably required to give effect to the provisions and intent of this Licence.
- 59.6 **Waiver:** Any waiver by a party of any of its rights or remedies under this Licence will be effective only if it is recorded in writing and signed by that party. If the waiver relates to a breach of any provision of this Licence, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to enforce any provision, of this Licence at any time by a party will in any way affect, limit or waive that party's

right to subsequently require strict compliance with this Licence.

**59.7 Counterparts:** This Licence may be signed in counterparts. All executed counterparts will together constitute one document.

**59.8 Copies:** Any copy of this Licence that is received by facsimile or via email in PDF or other document reproduction format (including any copy of any document evidencing a party's signature to this agreement) may be relied on by any party as though it were an original copy of this Licence. This Licence may be entered into on the basis of an exchange of facsimile, PDF or other document reproduction format.

**59.9 Amendment:** No amendment to this Licence will be effective unless it is in writing and signed by each party.

## 60 INTERPRETATION

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**60.1** In this agreement unless the context indicates otherwise:

**60.2** Definitions:

- (a) "Act" means the Reserves Act 1977;
- (b) "Building Work" means work for or in connection with the construction, alteration, demolition or removal of structures on the Licensed Area 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;
- (c) "Council" means Wellington City Council in its capacity as landowner and administering body under the Act;
- (d) "GST" means the goods and services tax imposed by the Goods and Services Tax Act 1985 and includes any tax levied in substitution of such tax;
- (e) "Licensed Area" means the licensed area defined in the Reference Schedule;
- (f) "Licence" means this licence agreement;
- (g) "Licence Rights" means:
  - (i) the non-exclusive right to carry on the Required Use from the Licensed Area; and
  - (ii) the non-exclusive right to have access to the Licensed Area through those parts of the Reserves that are necessary to give access to the Licensed Area in order to carry out the Required Use;

- (h) "Licensee" means the original Licensee set out on page 1;
- (i) "Management Plan" means any Management Plan prepared under section 41 of the Act for the Reserves;
- (j) "Minister" means the Minister of Conservation;
- (k) "Outgoings" includes:
  - (i) all general and special rates, water rates, sewerage, rubbish collection and other charges for the Licensed Area;
  - (ii) all charges for electricity, gas, telephone, and any other service or utility charges for the Licensed Area;
  - (iii) cleaning, maintenance and repair charges for the Licensed Area;
  - (iv) any other costs, expenses or charges related to the Licensed Area or Required Use that are not the specific responsibility of the Council under this Licence;
- (l) "Policy" means any Leases Policy for Community and Recreation Groups and includes any social or recreational strategy prepared by the Council and in place from time to time;
- (m) "Reserves" means the reserves named in the Reference Schedule; and
- (n) "Working Day" has the meaning given to it in the Property Law Act 2007.

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

**60.4 Parties:** references to parties are references to parties to this agreement;

**60.5 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, and words importing one gender will include the other genders;

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

**60.7 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.

### PLAN OF LICENSED AREA



DRAFT

**SCHEDULE 4: FORM OF RESERVE RESTORATION LICENCE**

**OCCUPATION LICENCE (RESERVE)  
- Reserve Restoration Area On Local  
Purpose (Esplanade) Reserves Site  
Number 3.12 (Lyall Bay and Airport  
Reclamation) and Site Number 4.01  
(Te Taka Peninsula / Moa Point)**

**LICENCE AGREEMENT** dated the \_\_\_\_\_ day of **#year#**

**BETWEEN WELLINGTON CITY COUNCIL ("Council")**

**AND WELLINGTON INTERNATIONAL AIRPORT LIMITED ("Licensee")**

**BACKGROUND**

- U. The Council is the owner of the Reserves.
- V. The Licensee is required to monitor and maintain planting on the Reserve Restoration Area, which is partly on the Reserves, as a condition of the Resource Consents granted for the Project.
- W. On 30 April 2025, the Council provided its written agreement for the Licensee to carry out particular activities on the Reserves for the Project as required by clause 7(3) of Schedule 6 of the Fast-track Approvals Act 2024 (**FTAA**).
- X. On [date], an expert panel granted the Lease, this Licence and other licences to the Licensee for the Project over the Licensed Area (and adjoining areas), being part of the Reserves, under section 81 of the FTAA.
- Y. The parties have therefore executed this Licence to give effect to the expert panel's decision, pursuant to clause 11, Schedule 6 of the FTAA.
- Z. Accordingly, under clause 17 of Schedule 6 of the FTAA, this Licence has the same force and effect as if it were granted under section 59A of the Reserves Act 1977 (the **Act**), except that sections 40A and 40B of the Act do not apply to it.
- AA. The Licensee acknowledges that in granting a licence over the Licensed Area, the Council is not creating any lease, tenancy or interest in favour of the Licensee in the Reserves or the Licensed Area or conferring on the Licensee any rights of exclusive possession.

**GRANT OF LICENCE**

The Council grants the Licence Rights to the Licensee for the Term beginning on the Commencement Date and ending on the Termination Date, at the Licence Fee and subject to the terms of this Licence. The Licensee accepts the grant in accordance with the terms and conditions contained in this Licence.

Signed on behalf of  
**WELLINGTON CITY COUNCIL**

\_\_\_\_\_  
Authorised Signatory - Print Name and Position Held      Signature

\_\_\_\_\_  
Authorised Signatory - Print Name and Position Held      Signature

DRAFT

SIGNED by  
**WELLINGTON INTERNATIONAL AIRPORT LIMITED**  
as Licensee by:

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Signature

DRAFT

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## REFERENCE SCHEDULE

<b>LICENSED AREA:</b>	That area of land located at Moa Point Road, comprising the area associated with the ongoing monitoring and maintenance of the Reserve Restoration Area (shown in green) and measuring approximately 2,576 m <sup>2</sup> , as shown on the plan attached to this Licence as Schedule One.
<b>RESERVES:</b>	The Reserves known as Site Number 3.12 (Lyll Bay and Airport Reclamation) Local Purpose (Esplanade) Reserve, being legally described as Lot 3 DP 78304 in record of title WN45A/75 and Site Number 4.01 (Te Taka Peninsula / Moa Point) Local Purpose (Esplanade) Reserve, being legally described as Lot 4 DP 78304 in record of title WN45A/76.
<b>TERM:</b>	5 years
<b>COMMENCEMENT DATE:</b>	As provided for in clause 1.1 [ <b>DRAFTING NOTE: ON THE LICENCE COMMENCEMENT DATE AS DEFINED IN THE LEASE</b> ]
<b>EXPIRY DATE:</b>	5 years following the Commencement Date
<b>RENEWAL TERMS (IF ANY):</b>	N/A
<b>FINAL EXPIRY DATE:</b>	5 years following the Commencement Date
<b>LICENCE FEE:</b>	\$1.00 per annum, plus GST
<b>INTEREST ON OVERDUE LICENCE FEE:</b>	14 % per annum
<b>REQUIRED USE:</b>	Access over the Reserves for monitoring and maintenance of the Reserve Restoration Area as required by the Resource Consents for the Project, and any other use approved by the Council acting in its sole discretion provided such use is related to the monitoring and maintenance of the Reserve Restoration Area or local purposes and is permitted under the Act and any applicable Management Plan.
<b>MINIMUM PUBLIC RISK INSURANCE COVER:</b>	\$5,000,000.00
<b>REPORTING REQUIREMENTS:</b>	The Licensee will report to the Council annually on the following: <ul style="list-style-type: none"><li>(i) Confirmation of public liability insurance cover;</li><li>(ii) Health and safety information;</li></ul>

**COUNCIL'S CONTACT DETAILS:** Open Space & Recreation Planning Manager  
Parks Sport & Recreation  
Wellington City Council  
PO Box 2199, 101 Wakefield Street  
Wellington 6140

**LICENSEE'S CONTACT DETAILS:** Richard Dalby, General Manager Commercial  
Wellington International Airport Limited  
PO Box 14175  
Wellington  
E: [REDACTED]  
Ph: [REDACTED]

### **SPECIAL PROVISIONS**

If there is any conflict between the General Provisions and these Special Provisions, these Special Provisions will take precedence (subject to consistency with the Act).

#### **Relationship with conditions of the Resource Consents for the Project**

21. The Licence must be exercised in accordance with the conditions of the Resource Consents granted for the Project.
22. In particular, and without limitation, the Licence must be exercised:
  - (m) in accordance with the Kororā (Little Penguin) Management Plan (KPMP) required by Condition GC.4 or any confirmed version of the KPMP amended in accordance with Conditions GC.9 or GC.10.
  - (n) in accordance with the Lizard Management Plan (LMP) required by Condition GC.4 or any confirmed version of the LMP amended in accordance with Conditions GC.9 or GC.10.
  - (o) in accordance with the Avifauna Management Plan (AMP) required by Condition GC.4 or any confirmed version of the AMP amended in accordance with Conditions GC.9 or GC.10.
  - (p) in respect of landscaping and planting of the Moa Point Yard, in general accordance with the Moa Point Yard Landscape Concept Plans (Concept Plans) referred to in Condition LV.9 or any confirmed version of the Concept Plans amended in accordance with Condition LV.10,
23. Where there is any conflict between any of the General Provisions or Special Provisions of this Licence and any conditions of the Resource Consents granted for the Project, the more restrictive or stringent condition shall prevail.

#### **Responsibility for equipment and structures**

24. Any equipment and/or structures situated by the Licensee on the Licensed Area (including prior to this Licence) is fully owned and operated by the Licensee. The Licensee is fully responsible for all maintenance and up-keep related to such equipment and/or structures.
25. On the expiry or earlier termination of this Licence, the Licensee shall have no obligation to remove any structures or improvements on the Licensed Area, and shall otherwise leave the Licensed Area in a clean and tidy condition.

## Defined terms

26. In this agreement, unless the context requires otherwise:

"Eastern Remediation Area" means the area to the east of the Southern Seawall to be remediated and strengthened through the Project as provided for in the Resource Consents.

"Lease" means the lease granted for the Project by the expert panel under section 81 of the Fast-track Approvals Act 2024, which is a Reserves Act approval under that Act.

"Moa Point Yard" means the Moa Point Construction Yard at the corner of Stewart Duff Drive and Moa Point Road as provided for in the Resource Consents.

"Project" means the Southern Seawall Renewal Project, for which the Licensee applied for the necessary approvals under the Fast-track Approvals Act 2024.

"Reserve Restoration Area" the area of the Reserves to be restored with landscaping and planting as provided for in the Resource Consents.

"Resource Consents" mean the resource consents granted for the Project by the expert panel under section 81 of the Fast-track Approvals Act 2024.

"Stage 2 Kororā Colony" means the Kororā colony behind the Eastern Bank Remediation Area to be developed once construction is complete as provided for in the Resource Consents.

"Southern Seawall" means the southern seawall at Wellington International Airport, including as improved as a result of the Project.

## GENERAL PROVISIONS

### 4 TERM

- 60.8 Initial Term:** The Term of this Licence will commence on the Commencement Date, which will be the date on which the Licensee provides written notice to the Council that the Project has achieved practical completion, and will continue in full force until 5.00pm on the Expiry Date or earlier surrender or cancellation in accordance with the terms of this Licence.
- 60.9 Licensee's Right to Cancel:** The Licensee may cancel this Licence on giving three (3) months' written notice to the Council, but this will not release the Licensee from any of its outstanding obligations under the Licence up to the time of the cancellation.
- 60.10 Holding Over:** If the Licensee with the consent of the Council continues to occupy the Licensed Area beyond the Term of the Licence, the Licensee will do so under a periodic licence determinable by twenty (20) Working Days' notice in writing given at any time by either party to the other and otherwise on the terms contained in this Licence, including payment of the Licence Fee at the rate payable at the expiry of the Term.

### 61 LICENCE FEE AND OUTGOINGS

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**61.1** Payment of Licence Fee:

- (a) The Licensee must pay to the Council the Licence Fee by equal annual instalments in advance, the first of these instalments being due on the Commencement Date.
- (b) The Licensee must not reduce any payment of Licence Fee by making any deduction from it or set off against it.

**61.2** Outgoings:

- (a) The Licensee is not responsible for the payment of any Outgoings in relation to the Licensed Area.

- 61.3 GST:** The Licensee must pay all GST on the Licence Fee and other payments made by the Licensee under this Licence either to the Council or as the Council directs, as well as any additional GST the Council may be required to pay as a result of the Licensee's failure to pay when required.

### 62 LIMITATION ON LICENCE RIGHTS

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**62.1 Payment and Performance:** The Licence Rights are subject to the Licensee:

- (a) Payment: paying all amounts due under this Licence on the due date; and
- (b) Performance: performing all of the Licensee's obligations under this Licence.

## 63 REQUIRED USE AND REPORTING REQUIREMENTS

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**63.1 Required Use:** Subject to clause 5 of this Licence, the Licensee may only use the Licensed Area for the Required Use, and in accordance with the requirements of the Resource Consents granted for the Project.

**63.2 Licence does not constitute a resource consent:** The Council is approving this Licence as property owner. Nothing herein implies any regulatory consent or resource consent.

**63.3 Mitigating Effects:** The Licensee expressly acknowledges that under the conditions of the Resource Consents granted for the Project, the Licensee is responsible for the mitigation of effects caused by the Project.

**63.4 Reporting Requirements:** The Licensee agrees to share with the Council such information on its activities as may reasonably be requested by the Council from time to time. As a minimum requirement, the Licensee will comply with the Reporting Requirements set out in the Reference Schedule.

## 64 CONDUCT ON THE LICENSED AREA

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**64.1 Use:** Except as provided for in the Resource Consents, the Licensee must not use or permit the Licensed Area or any part of the Licensed Area 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 owner or occupier of any neighbouring property.

**64.2 Noise:** The Licensee must keep the noise level of any activity on the Licensed Area at the boundaries of the Licensed Area to within the requirements of the District Plan, the Resource Consents or any other resource consent granted to the Licensee.

**64.3 Licensee's Rules:** The Licensee may make rules for the management and control of the Licensed Area and for the conduct of persons using the Licensed Area. Those rules must not be inconsistent with the terms of this Licence or

the provisions of the Act or any management plan or policy (if any). Before those rules come into effect they must be approved by the Council.

**64.4 Health and Safety:** The Licensee will take all practicable steps to provide its employees and visitors with a healthy and safe environment and ensure that its employees and visitors comply with all directions and instructions from the Licensee regarding health and safety. In particular:

- (a) the Licensee must comply at all times with the requirements and provisions of the Health and Safety at Work Act 2015 (HSWA) and any applicable codes of practice and best practice guidelines applicable to the terms of this Licence;
- (b) the Licensee is responsible for developing and implementing an occupational health and safety plan for the use of the Licensed Area for the Required Use and for ensuring that the Licensed Area is compliant with the HSWA;
- (c) the Licensee must maintain an accident register at all times and will record all accidents to the Licensee's employees and contractors, or other visitors to the Licensed Area;
- (d) the Council, or any person authorised by the Council, may require an independent audit of the Licensee's operations from time to time (at the Licensee's cost) to verify that the Licensee has adequate safety management systems in place, and for compliance with those systems and any safety requirements of this Licence. The Licensee will co-operate in providing the Council with any relevant information.

## 65 BUILDINGS AND PAINTING

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**65.1 Consent Required:** Subject to the provisions of this section, the Licensee must not:

- (a) erect any building or improvement, or
- (b) alter, reinstate or extend any existing building or improvement; or
- (c) advertise on any existing building or improvement; or
- (d) paint the exterior of any building or improvement

on the Licensed Area except as provided for in the Resource Consents or as otherwise reasonably required by the Licensee to monitor and maintain the Reserve Restoration Area.

**65.2 Conditions:** Without limiting the grounds on which the Council may withhold consent under clause 6.1, the Council may also as a condition of any consent, require that the proposed work:

- (a) is consistent with the Management Plan and Policy; and
- (b) complies with any reasonable standards applicable to the Reserve (whether or not included in the Management Plan or Policy) which the Council may from time to time set as to the design, quality, materials and colour of any buildings and improvements; and
- (c) will not in the opinion of the Council create more than minor adverse environmental effects or overload or endanger the proper working of any services, utilities or amenities.

**65.3 Work Carried Out Under Supervision:** If the Council gives its approval and consent under clauses 6.1 and 6.2 then the Licensee must arrange for the Building Work to be carried out under the supervision of an architect, project manager, engineer or other suitably qualified person in a proper and workmanlike manner in accordance with the approved plans and specifications and all approvals, permits and consents.

**65.4 Licensee Obtain Consents:** The Licensee must obtain all consents required under the Building Act 2004 (including any building warrant of fitness) and the Resource Management Act 1991 and provide the Council (as landowner and administering body of the Reserve) with a copy of those consents.

**65.5 No Warranty:** In granting consent or approval under this section 6 the Council will not be deemed to have warranted that the plans or specifications are suitable for the Licensee's purposes or that any person involved in the work is suitable or adequately qualified.

**65.6 Builders' Risk Insurance:** During the construction of the Building Work the Licensee must maintain, in the joint names of the Council and the Licensee for their respective interests, builders' risk and public liability insurance for amounts approved by the Council and will provide the Council with a copy of the policies. All Building Work is at the sole risk of the Licensee.

**65.7 Council's Power to Stop Works:** If during the course of the Building Work the Council reasonably considers the Licensee is failing to adhere to the approved plans or specifications, the project programme, the standards referred to in clause 6.2(a) and 6.2(b), or reasonably considers that the project is not being properly managed, the Council may by notice in writing to the Licensee require that all work on the Licensed Area stop immediately, or require it to take other action as necessary to mitigate the Council's concerns.

**65.8 Code Compliance Certificate:** On completion of the Building Work the Licensee 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 on the Licensed Area as constructed or altered.

- 65.9 Signs:** Except as provided for in the Resource Consents or as otherwise reasonably required by the Licensee to monitor and maintain the Reserve Restoration Area, the Licensee must not erect, paint, display or allow on the Licensed Area any signs, notices or advertising material unless the Licensee first obtains the written consent of the Council in each case. It will be a condition of any consent that any approved signs must comply with the relevant Council bylaws, District Plan, Management Plan and Policy and have necessary regulatory approvals. At the expiry or earlier termination of this Licence, the Licensee must remove any such sign, notice or advertising material and make good any damage caused by its removal.

## 66 GROUNDS MAINTENANCE

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- 66.1 Tidy Condition:** To the extent provided for in the Resource Consents, the Licensee must at all times, at its sole cost, maintain the grounds and surrounds of the Licensed Area in a tidy and attractive condition to the satisfaction of the Council, including:

- (a) keeping the Licensed Area free from rubbish, stones and broken glass and keep rubbish bins and containers in a tidy and sanitary condition;
- (b) keeping any planted areas weeded and replacing plants and shrubs which die or are destroyed;
- (c) taking effective measures to prevent any noxious weeds and recognised environmental plant pests growing on the Licensed Area and complying with the provisions of the Biosecurity Act 1993; and
- (d) removing any externally visible graffiti on the Licensed Area within five (5) Working Days of any defacement occurring.

- 66.2 Plants:** The Licensee may plant new plants on the Licensed Area in the manner provided for in the Resource Consents or on other places approved by the Council.

- 66.3 Fencing:** The Licensee is solely responsible for fencing the Licensed Area to a reasonable standard having regard to the Required Use, and must maintain all fences to a reasonable standard at all times, at its sole cost. The Licensee must not damage or remove any fencing existing at the commencement of this Licence without the prior written consent of the Council.

- 66.4 **Fencing Act:** The Council shall have no liability to contribute to fencing for the purposes of the Fencing Act 1978.

## 67 INSURANCE, RISK, INDEMNITY AND TAXATION

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- 67.1 **Licensee's Public Liability Insurance:** The Licensee must keep in full force and effect a public liability insurance policy with a reputable insurance company to cover the Council and Licensee for any claims arising on or from the Licensee's use of the Licensed Area. The amount of that cover must be no less than the minimum public risk insurance cover in the Reference Schedule increased from time to time so as to maintain the real value of the insurance cover to the reasonable satisfaction of the Council. The Licensee will, on request, provide the Council with a copy of the public liability insurance policy and evidence that the Licensee has paid the premium for that insurance policy.
- 67.2 **Licensee Indemnifies the Council:** To the extent permitted by law, the Licensee indemnifies the Council against all costs, claims and demands in respect of injury or damage resulting from act or omission of the Licensee or any agent of the Licensee.
- 67.3 **Limitation of Indemnity:** Notwithstanding clause 8.2 the Licensee is liable to indemnify the Council only to the extent that the Council is not fully indemnified under any insurance policy.
- 67.4 **Risk:** The Licensee uses the Licensed Area at its risk and releases, to the full extent permitted by law, the Council, its employees and agents from all liabilities, claims and demands of any kind which may arise in respect of any accident, damage, injury or loss suffered by any person or property in or about the Licensed Area, or in connection with the Licensee's use of the Licensed Area.
- 67.5 **Section 271 Property Law Act 2007:** For the purposes of section 271 of the Property Law Act 2007, the Licensee acknowledges and agrees that:
- (a) Reserves not insured: the Council has not insured the Reserves against destruction or damage arising from flood, fire, explosion, lightning, storm, earthquake or volcanic activity; and
  - (b) Licensee to make good: the Licensee, subject to the provisions of section 271(2)(a)-(c) of the Property Law Act 2007, will meet the cost of making good any destruction or damage to the Licensed Area caused by the Licensee and indemnifies the Council against the cost of doing so should the Licensee default in that obligation. To avoid doubt, the Licensee is not responsible for making good any damage nor does it provide an indemnity for any of the events

specified in s 268(1) of the Property Law Act 2007, or for any damage caused by any person not being the Licensee or the Licensee's agent.

**67.6 Taxation:** Each party is solely responsible and liable for the taxation position it takes in respect of any amount it has paid or received or that it is required to pay or to receive pursuant to this Licence, and no party makes any representation or warranty or is otherwise liable to any other party as to the appropriate taxation position in respect of any amount paid or received or payable or receivable pursuant to this Licence.

## 68 NO ASSIGNMENT

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**68.1 Assignment etc:** Without limiting the right for the Licensee to commission contractors to undertake the Required Use, the Licensee must not without first obtaining the written consent of the Council:

- (a) Assign: assign or agree to assign this Licence or any of the Licence Rights;
- (b) Sub-license: sub-license or agree to sub-license any of the Licensed Area; or
- (c) Security Interest: grant or agree to grant any security interest (as defined in the Personal Property Securities Act 1999) in or over this Licence or the Licensed Area.

**9.2 Local Government Reorganisation:** The Licensee acknowledges that, in the event of any local government reorganisation affecting the Council, the Council may assign or novate this Licence (in whole or in part) to any successor local authority or public entity without the Licensee's consent, and the Licensee must do all things reasonably required to give effect to that assignment or novation.

## 69 SUITABILITY OF LICENSED AREA

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**69.1 No Warranty by Council:** The Council does not warrant that the Licensed Area is or will remain suitable or adequate for the Licensee's purposes. All warranties as to suitability and adequacy implied by law are expressly negative to the full extent permitted by law.

**69.2 Safety Measures:** The Council is not responsible for providing any safety measures to protect any equipment from water damage, fire, explosion, storm, hazard or potential hazard.

## 70 DESTRUCTION

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- 70.1 If the Licensed Area is destroyed or so damaged that the Licensed Area cannot be used for the Required Use, then the Licensee may terminate this Licence by six (6) months' written notice to the Council. Any termination of this Licence under this clause will not affect the parties' respective rights, obligations and liabilities which subsist or have accrued on the date of termination under this clause. Following such Licensed Area being so destroyed or damaged, then the parties shall meet in good faith to determine the extent of such damage or destruction, and any dispute, if necessary, shall be determined in accordance with the dispute resolution process set out in clause 12.

## 71 DISPUTE RESOLUTION

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- 71.1 **Negotiation:** If any dispute arises between the Council and the Licensee concerning this Licence, the parties will try in good faith to settle the matter by negotiation for a period of sixty (60) working days after the dispute is first notified to the other party, and if that is unsuccessful then the matter will be escalated to the chief executives (or nominees) or both organisations.
- 71.2 **Mediation:** If the dispute cannot be settled by negotiation as provided for in clause 12.1, the dispute will be referred to mediation.
- 71.3 **Referral to Arbitrator:** 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.
- 71.4 **Award Final:** The arbitration will be governed by the Arbitration Act 1996 and the arbitral award will be final and binding on the parties.

## 72 COUNCIL AS LAND OWNER, NOT REGULATORY AUTHORITY

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- 72.1 **Council as Land Owner:** The Council has signed this Licence in its non-regulatory capacity as land owner and administering body. This Licence does not bind the Council in its capacity as a regulatory authority in any way, and any consent or agreement the Council gives under this Licence is not an agreement or consent in its regulatory capacity and vice versa. When acting in its regulatory capacity, the Council is entitled to consider all applications to it without regard to this Licence. The Council will not be liable to the Licensee or any other party if, in its regulatory capacity, the

Council declines or imposes conditions on any consent or permission that the Licensee or any other party seeks for any purpose associated with this Licence.

## 73 NO LEASE

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- 73.1 **Licence not Lease:** This Licence does not create any lease, tenancy or interest in favour of the Licensee in the Reserves or the Licensed Area or confer on the Licensee any rights of exclusive possession.

## 74 IMPLIED PROVISIONS

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- 74.1 **Reserves Act 1977:** The covenants and provisions required to be included in this Licence by the Act will apply to the extent that they are not expressly included in the terms of this Licence.
- 74.2 **Not Registrable:** This Licence is not registrable. The Licensee may not register a caveat against the Computer Freehold Register (if any) to the Reserves.

## 75 COMPLIANCE

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- 75.1 **Licensee Must Comply:** The Licensee must comply with all Acts, Regulations, By-laws, District and Regional Plan Rules and the Management Plan and Policy (if any) as they affect the Licensed Area.

## 76 NOTICES

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- 76.1 **Service of Notices:** Any notice or document required or authorised to be given or served under this Licence may be given or served:
- (a) Section 245 or 246 of the Property Law Act: in the case of a notice under sections 245 or 246 of the Property Law Act 2007, in the manner prescribed by section 353 of that Act 2007; and
  - (b) Other Cases: in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007;
    - (i) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or
    - (ii) by personal delivery, or by posting by registered mail or ordinary mail, or by email.
- 76.2 **Time of Service:** In respect of the means of service specified in clause 18.1(b)(ii) any notice or other document will be treated as given or served and received by the other party:
- (a) Personal Delivery: when received by the addressee;

- (b) Post: three (3) Working Days after being posted to the addressee's last known address in New Zealand; or
- (c) Email: when acknowledged by the addressee by return email or otherwise in writing.

**76.3 Signature of Notices:** Any notice or document to be given or served under this licence must be in writing and may be signed by:

- (a) Party: the party giving or serving the notice;
- (b) Attorney: any attorney for the party serving or giving the notice; or
- (c) Authorised Person: the solicitor or any director, officer, employee or other agent who has authority to give or serve the notice.

## 77 COSTS

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**77.1 Licensee to pay Council's Costs:** Each party shall pay its own legal costs, and expenses for the preparation and completion of this Licence or any variation of it. The Licensee shall be liable for all costs incurred by the Council of and incidental to the enforcement or attempted enforcement of the Council's rights, remedies and powers under this Licence resulting from a breach of this Licence by the Licensee.

**77.2 Costs:** The Licensee must pay all of the Council's reasonable costs incurred in considering any request by the Licensee for the Council's consent to any matter contemplated by the Licence.

## 78 COUNCIL'S CONSENT

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**78.1 Consent required on each occasion:** The Council's consent under this Licence is required for each occasion even if the Council has given a consent for the same or a similar purpose on an earlier occasion.

**78.2 Consent not to be unreasonably withheld:** If this Licence states that the Council's consent is required for anything done or proposed to be done, then unless otherwise stated in each case, the Council:

- (a) must not unreasonably withhold consent; and
- (b) must within a reasonable time of the Council's consent being requested:
  - (i) grant that consent; or
  - (ii) notify the Licensee in writing that the consent is withheld.

- 79.1 **LGOIMA:** The Licensee acknowledges that the Council is subject to the Local Government Official Information and Meetings Act 1987 and may be required to disclose information relating to this Licence or the Licensee's activities on the Licensed Area; the Licensee will promptly provide any information reasonably requested by the Council to assist with such obligations and will not itself release information relating to this Licence or the Council except through the Council or where legally compelled or required to do so for NZX reporting requirements (and, to the extent permitted by law, will notify the Council promptly of any such compulsion or requirement and the information to be released).
- 79.2 **Partial Invalidity:** If any provision of this Licence is or becomes invalid or unenforceable, that provision will be deemed deleted from this Licence. The invalidity or unenforceability of that provision will not affect the other provisions of this Licence, all of which will remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.
- 79.3 **Remedies:** The rights, powers and remedies provided in this Licence are cumulative and are in addition to any right, powers or remedies provided by law.
- 79.4 **Entire Agreement:** Subject to the expert panel's decision to grant the Resource Consents and other approvals for the Project, including this Licence and the Lease, this Licence records the entire understanding and agreement of the parties relating to the matters dealt with in this Licence. This Licence supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters. The Licensee acknowledges that it has either taken, or has been given the opportunity to take, independent legal advice about the nature, effects and obligations of this Licence, before signing it.
- 79.5 **Further Assurances:** Each party will do all things and execute all documents reasonably required to give effect to the provisions and intent of this Licence.
- 79.6 **Waiver:** Any waiver by a party of any of its rights or remedies under this Licence will be effective only if it is recorded in writing and signed by that party. If the waiver relates to a breach of any provision of this Licence, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to enforce any provision, of this Licence at any time by a party will in any way affect, limit or waive that party's

right to subsequently require strict compliance with this Licence.

**79.7 Counterparts:** This Licence may be signed in counterparts. All executed counterparts will together constitute one document.

**79.8 Copies:** Any copy of this Licence that is received by facsimile or via email in PDF or other document reproduction format (including any copy of any document evidencing a party's signature to this agreement) may be relied on by any party as though it were an original copy of this Licence. This Licence may be entered into on the basis of an exchange of facsimile, PDF or other document reproduction format.

**79.9 Amendment:** No amendment to this Licence will be effective unless it is in writing and signed by each party.

## 80 INTERPRETATION

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**80.1** In this agreement unless the context indicates otherwise:

**80.2** Definitions:

- (a) "Act" means the Reserves Act 1977;
- (b) "Building Work" means work for or in connection with the construction, alteration, demolition or removal of structures on the Licensed Area 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;
- (c) "Council" means Wellington City Council in its capacity as landowner and administering body under the Act;
- (d) "GST" means the goods and services tax imposed by the Goods and Services Tax Act 1985 and includes any tax levied in substitution of such tax;
- (e) "Licensed Area" means the licensed area defined in the Reference Schedule;
- (f) "Licence" means this licence agreement;
- (g) "Licence Rights" means:
  - (i) the non-exclusive right to carry on the Required Use from the Licensed Area; and
  - (ii) the non-exclusive right to have access to the Licensed Area through those parts of the Reserves that are necessary to give access to the Licensed Area in order to carry out the Required Use;

- (h) "Licensee" means the original Licensee set out on page 1;
- (i) "Management Plan" means any Management Plan prepared under section 41 of the Act for the Reserves;
- (j) "Minister" means the Minister of Conservation;
- (k) "Outgoings" includes:
  - (i) all general and special rates, water rates, sewerage, rubbish collection and other charges for the Licensed Area;
  - (ii) all charges for electricity, gas, telephone, and any other service or utility charges for the Licensed Area;
  - (iii) cleaning, maintenance and repair charges for the Licensed Area;
  - (iv) any other costs, expenses or charges related to the Licensed Area or Required Use that are not the specific responsibility of the Council under this Licence;
- (l) "Policy" means any Leases Policy for Community and Recreation Groups and includes any social or recreational strategy prepared by the Council and in place from time to time;
- (m) "Reserves" means the reserves named in the Reference Schedule; and
- (n) "Working Day" has the meaning given to it in the Property Law Act 2007.

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

80.4 **Parties:** references to parties are references to parties to this Licence;

80.5 **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, and words importing one gender will include the other genders;

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

80.7 **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.

### PLAN OF LICENSED AREA



DRAFT