Deed of Lease

BETWEEN

NELSON CITY COUNCIL

(Lessor)

A N D

TĀHUNANUI TENNIS CLUB INCORPORATED

(Lessee)

DRAFT

Deed made the

Between

(1) **NELSON CITY COUNCIL** a local authority having its offices at 110 Trafalgar Street, Nelson (**Lessor**); and

(2) **TĀHUNANUI TENNIS CLUB INCORPORATED** an incorporated society (number: 936925) having its registered office at 26 Douglas Road, Nelson (**Lessee**).

Whereas

A The Lessor is the owner of the land described in the First Schedule of this Lease as the Land.

B The Lessor leases to the Lessee and the Lessee takes on lease that part of the Land described in the First Schedule as the Property on the terms and conditions of this Lease.

C Leasing land or buildings held by the Lessor for community or recreational purposes is a privilege. The Lessor encourages the sharing of facilities by community groups wherever possible.

This deed witnesses

The Lessor and Lessee covenant as follows:

1. Interpretation

1.1 In this Lease the following terms will have the following meanings:

Commencement Date	means the date provided in the First Schedule as the Commencement Date;
Expiry Date	means the date provided in the First Schedule as the Expiry Date;
Goods and Services Tax	means all that tax from time to time payable under the Goods and Services Tax Act 1985;
Land	means the land described in the First Schedule as the Land;
Lease	means this deed of lease and includes any schedules annexed as part of this deed, and any variations and renewals of this Lease agreed by the parties, in writing;

DRAFT

Lessee	means the Tāhunanui Tennis Club Incorporated.
Lessee's Improvements	means the Lessee's improvements described in the First Schedule;
Lessor	means the Lessor and includes the Lessor's successors and assigns;
Permitted Use	means the permitted use described in the First Schedule;
Person	includes an individual, the Crown, a corporation sole, and any body of persons whether corporate or unincorporated;
Persons under the control of the Lessee	means all employees, contractors, agents, members and invitees of the Lessee;
Property	means the property described in the First Schedule; and
Working day	means any day of the week other than: (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day; and (b) If Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and (c) A day in the period commencing with 24 December in any year and ending with 5 January in the following year; and (d) Nelson Anniversary Day.

1.2 In this Lease:

(a) where words appear in this Lease and also in the First Schedule then the words shall mean and include the details provided after those words in the First Schedule;

(b) words importing the singular shall include the plural and vice versa, and words importing the masculine, feminine or neuter shall include all three;

(c) any schedules to this Lease shall have the same effect as if set out in the body of this Lease;

(d) clause headings are inserted for reference only and shall not affect the interpretation of this Lease;

DRAFT

(e) to **perform** a covenant includes to keep observe and fulfil that covenant;

(f) words and expressions defined are indicated by capital letters for convenience. The absence of a capital letter shall not alone imply that the word or expression is used with a different meaning from that given by its definition;

(g) references in this Lease to **month** or **monthly** shall mean calendar month and calendar monthly respectively;

(h) references to statutes, regulations, rules, and bylaws of central or local government, or provisions thereof, includes that legislation as amended from time to time and legislation in substitution therefor.

2. Lease of Property

2.1 The Lessor leases to the Lessee and the Lessee takes on lease the Property upon the terms and conditions of this Lease.

2.2 The Lessor and the Lessee agree that the Lessee's Improvements are owned by the Lessee. All other buildings and structures on the Property (including the concrete pad beneath the tennis court surface) as at the Commencement Date are owned by the Lessor.

2.3 This Lease is granted pursuant to section 54(1) (b) Reserves Act 1977.

3. Term

3.1 The term of this Lease shall commence on the Commencement Date described in the First Schedule and, subject to earlier termination in accordance with this Lease, shall be for the term described in the First Schedule.

3.2 If the Lessee, with the written consent of the Lessor, continues to occupy the Property beyond the expiry of this Lease, the lease may be terminated by 20 Working days' notice in writing given at any time by either party to the other. Otherwise, the lease shall be on the same terms and conditions as this Lease.

4. Rent and Outgoings

4.1 The Lessee shall pay annual rental to the Lessor at the rate and in the manner provided in the First Schedule (or as varied as a result of a rent review).

4.2 The Lessee shall also pay the outgoings described in the First Schedule. If any such outgoings are not separately assessed or levied in respect of the Property then the Lessee shall pay such fair proportion thereof as shall be agreed upon or failing agreement, determined by arbitration.

4.3 The Lessee shall pay the Lessee's Outgoings direct to the service provider concerned where the contract for such services is between the Lessee and the service provider. Where the contract for services is between the Lessor and the service provider, the Lessee shall pay the relevant Lessee's Outgoings to the

DRAFT

Lessor, as invoiced by the Lessor to the Lessee, by the 20th day of the month following the date of the invoice.

4.4 Rental and other monies payable by the Lessee under this Lease shall be paid without deduction or set off.

4.5 The Lessor may review the annual rent payable as from the Rental Review Dates described in the First Schedule.

4.6 Upon review, the rental payable by the Lessee under this Lease shall be calculated in accordance with the Lessor's policy, as at the date of review, on rental paid by sports clubs who lease land from the Lessor and shall be approved by the Minister of Conservation (or any person to whom the Minister has delegated their powers under the Reserves Act 1977) PROVIDED THAT in no event shall the new annual rental ever be less than the annual rental payable for the immediately preceding rental period.

4.7 Any review of rental pursuant to this clause shall take effect from the relevant Rental Review Date whether the Lessor gave the Lessee notice of the new rental before or after the Rental Review Date.

4.8 The Lessee and the Lessor shall (if required by the Lessor) complete a deed at the expense of the Lessee recording the new rental.

4.9 If at any of the Rental Review Dates there is in force any statute restricting the Lessor's right to increase the rental the Lessor may, at any time after such restriction is removed, relaxed or modified, on giving not less than one months notice in writing to the Lessee, review the rental of the Property at the date of such removal, relaxation or modification. Subsequent reviews of rental shall occur on the dates provided in the First Schedule notwithstanding any review pursuant to this clause. The Lessor may recover any resulting increase in the rental with effect from such date of removal, relaxation or modification.

5. Goods and Services Tax

5.1 The Lessee shall pay to the Lessor, or as the Lessor shall direct, the Goods and Services Tax payable by the Lessor in respect of the rental and other payments payable by the Lessee under this Lease. The tax in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable upon demand.

5.2 If the Lessee shall default in payment of rental or other monies payable hereunder and the Lessor becomes liable to pay additional Goods and Services Tax, penalty, or other sum as a result of the default, then the Lessee shall on demand pay to the Lessor the additional amount.

6. Permitted Use

6.1 The Lessee shall use the Property solely for the purposes of the Permitted Use described in the First Schedule.

6.2 The Lessee shall not change the use of the Property from the Permitted Use.

DRAFT

6.3 The Lease of the Property includes the right for the Lessee and Persons under the control of the Lessee to pass over and across the Land on foot and in a vehicle for the purpose of accessing the Property.

6.4 If at any time the Lessor is of the opinion that the Property is not being used or is not being sufficiently used for the Permitted Use, the Lessor, after making such enquiries as the Lessor thinks fit and giving the Lessee an opportunity of explaining the usage of the Property, may terminate this Lease on such terms as are approved by the Minister of Conservation (or any person to whom the Minister has delegated their powers under the Reserves Act 1977), without prejudice to the other rights and remedies of the Lessor for any prior breach by the Lessee of the provisions of this Lease.

7. Assignment/Subletting

7.1 The Lessee shall not assign all or part of its rights or obligations under this Lease to any Person.

7.2 The Lessee shall not sublet, or grant a licence of, all or part of the Property to any Person, or part with possession of all or part of the Property or the Lessee's estate or interest therein.

7.3 For the purposes of clause 7.1, if the Lessee is a company, 'assign' includes any change in the legal or beneficial ownership of its shares or issue of new capital whereby in either case there is a change in the effective management or control of the Lessee.

7.4 For the purposes of clause 7.1, if the Lessee is an incorporated society, 'assign' includes any change of the membership of the society or of the rules of the society having the effect of altering the effective management or control of the Lessee PROVIDED THAT nothing in this clause shall apply to a change of officers of the Lessee where such change is the result of an election held in accordance with the rules of the Lessee.

8. Lessee's Obligations

8.1 The Lessee shall at the Lessee's expense keep and maintain the Property in good order, repair and condition. For the avoidance of doubt, the Property includes the interior and exterior of all buildings and other structures on the Property, including the Lessee's Improvements. The Lessee is responsible for structural repairs to all buildings and other structures on the Property.

8.2 Without limiting clause 8.1, the Lessee shall punctually at the Lessee's expense:

(a) Regularly clean and keep unobstructed the spouting, gutters and stormwater systems;

(b) Clean and wash the buildings on the Property;

(c) Ensure that all waste is placed daily in suitable receptacles and any rubbish is removed from the Property as required;

DRAFT

(d) Make good any damage to any part of the Property (including buildings and other structures on the Property) caused by the Lessee or Persons under the control of the Lessee;

(e) Replace all broken windows;

(f) Take any steps necessary to control any pest infestation occurring in or emanating from within the Property;

(g) Replace all damaged or non-operative light bulbs, tubes and fittings within the Property;

(h) Repair, or where the Lessor considers it appropriate replace, all heating, lighting, electrical, or plumbing fixtures and fittings installed on, under or above the Property, that serve the Property;

(i) Keep in good order, repair and condition all stormwater and sewer drains serving all buildings and other structures for the time being erected upon the Property and any connections from such drains to public drains;

(j) If called upon by the Lessor, paint in a proper and workmanlike manner the whole or part of the interior and exterior of the buildings and other structures on the Property within a reasonable time of being asked to do so by the Lessor;

(k) Comply with any notices or orders which may be given by any competent authority in respect of the Property and any buildings or other structures on the Property, or their use by the Lessee, and shall keep the Lessor indemnified in respect of all such matters;

(l) Keep the Property tidy at the Lessee's expense;

(m) Faithfully observe all fire restrictions imposed by competent authorities in the area surrounding the Property and will not burn on the Property without the Lessor's consent in writing being first obtained;

(n) Keep any grass on the Property regularly mowed and the grounds in a tidy condition;

(o) Prevent the growth or spread of gorse, broom, sweetbriar and other noxious weeds and plants upon the Property;

(p) Keep the Property free from vermin;

(q) Cut and trim all live fences and hedges upon the Property and keep open all creeks, drains, ditches, and watercourses upon the Property; and

(r) Ensure that all landscape improvements made to the Property, whether of a hard or soft nature, are maintained in good order, repair and condition.

(s) Maintain, at the Lessee's cost, the four tennis courts and surrounds to a high standard in line with the best industry practice for the type of surface installed

DRAFT

and to ensure that all markings are maintained in a clean, clear condition that meets the requirements of Tennis New Zealand or the equivalent governing body, including appropriate re-surfacing of the courts and re-marking the lines as necessary;

(t) Maintain the fences around the tennis courts to a high standard;

(u) Maintain the net posts and nets to a high standard; and

(v) Maintain the sports lights to a high standard with any repair or replacement required to be at the Lessee's cost.

8.3 The Lessee shall not:

(a) Plant any tree or shrub on the Property without the prior consent in writing of the Lessor;

(b) Cut down, damage, remove or in any way interfere with any trees or shrubs on the Property, or in the vicinity of the Property, without the prior written consent of the Lessor; or

(c) Bring upon, or permit to be brought upon, the Property any vehicle, plant, machinery or other equipment which is not reasonably necessary or proper for the Permitted Use.

8.4 The Lessee shall not erect or allow to be erected any building or other structure on the Property, or make or allow to be made any alterations or additions to any building or other structure on the Property (including the Lessee's Improvements) without the prior written consent of the Lessor (which consent shall not be unreasonably withheld) and the consent of any other person that the Lessor, at its discretion, considers is required by law.

8.5 In seeking approval under sub-clause 8.4 the Lessee shall submit plans and specifications of the proposed work. The Lessor may require as a condition of approval that:

(a) The work be supervised by a person nominated by the Lessor;

(b) The work be carried out by contractors or tradesmen and constructed out of such materials as are approved in writing by the Lessor;

(c) The Lessee pays all costs incurred by the Lessor in considering the proposed works and in their supervision including the fees of architects or other building consultants employed by the Lessor where, in the opinion of the Lessor, inadequate or sub-standard documentation has been provided by the Lessee;

(d) The Lessee obtains all consents, approvals and permits necessary to enable the proposed work to be lawfully effected and on request produces to the Lessor copies of them; and

(e) Upon completion of the work the Lessee produces to the Lessor any certificates of compliance issued by the relevant authorities.

DRAFT

8.6 Nothing in this Lease shall be deemed to amount to a consent, approval or permission by the Lessor in its capacity as a consent authority or other similar capacity under the Resource Management Act 1991, Building Act 2004, Sale and Supply of Alcohol Act 2012 or any other Act, regulation or bylaw which relates to the Property, or the use of the Property, or a representation or warranty that any consent, approval or permission shall issue. It is the sole responsibility of the Lessee to satisfy itself as to the requirements of the local authority's Resource Management Plan and to obtain all necessary consents, approvals, and permits in respect of the Lessee's use of the Property.

8.7 The Lessee shall not during the currency of this Lease call upon the Lessor to erect or repair, or contribute towards the cost of erection or repair of, any dividing fence or boundary wall between the Property and any adjoining land for the time being vested in the Lessor.

8.8 If the Lessor is required by law to pay for any improvement, alteration or addition to the Property the Lessor may charge in addition to the rental an annual sum equal to the Improvements Rental Percentage provided in the First Schedule of the amount paid by the Lessor. The said sum is payable whenever the rental is payable and shall commence from the next rental payment date after the date such expenditure or parts of such expenditure is made. If the Lessor is obliged to expend an amount which in the reasonable opinion of the Lessor is unreasonable the Lessor may, upon the giving of one months notice in writing to the Lessee, determine this Lease.

9. Public Use and Charges

9.1 The Lessee shall make all tennis courts on the Property available for public use at all times except for those times where the Lessee requires the use of all courts for special one off events, tennis coaching, organised social tennis, and competitions as advertised on the club room notice board, and by the entrance to the tennis courts. The Lessee shall maintain appropriate signage to ensure that public are kept informed as to when the courts are available for public use and the charges for such public use.

9.2 All charges for public use of the tennis courts on the Property must be approved by the Lessor. The Lessor agrees that the initial fee for public use of the tennis courts on the Property is no more than XXXXXX per person per hour.

9.3 The Lessee shall maintain and make available to the Lessor in a format acceptable to both the Lessor and the Lessee written records of public use of the tennis courts on the Property upon request by the Lessor.

9.4 The public may participate in Saturday social tennis at the cost of $4.00 per Saturday afternoon.

10. Insurance and indemnity

10.1 The Lessor shall not be bound to repair any damage to the Property caused by fire, flood, explosion, lightning, storm, earthquake or volcanic activity.

DRAFT

10.2 The Lessee acknowledges that the Lessor has not insured the Property against damage or destruction by fire, flood, explosion, lightning, storm, earthquake or volcanic activity.

10.3 The Lessee shall insure and keep insured the Property against destruction or damage by fire, explosion, flood, lightning, volcanic activity, earthquake, storm, water damage and malicious damage, and such other risks as the Lessor may from time to time require, under a policy of full replacement and reinstatement (including loss damage or destruction of windows or other glass). The Lessee shall, if requested, provide evidence to the Lessor that premiums have been paid and that such insurance has been effected. For the avoidance of doubt the Property includes the Lessee's Improvements (specifically including the surface of the tennis courts), the buildings and the sports lights and other structures on the Property owned by the Lessee.

10.4 The Lessee agrees to occupy and use the Property at the Lessee's risk and releases to the full extent permitted by law the Lessor, its employees, and agents from all claims and demands of any kind and from all liability which may arise in respect of any damage or injury occurring to any person or property at the Property.

10.5 To the extent permitted by law, the Lessee shall indemnify and keep the Lessor indemnified against all liability, claims, actions, losses, damages, fines, penalties, costs and expenses of any nature which the Lessor may suffer or incur or for which the Lessor may become liable directly or indirectly as a result of:

(a) Any act or omission of the Lessee or Persons under the control of the Lessee;

(b) Damage to property or injury to any person at or in the vicinity of the Property wholly or partly caused by any act or omission by the Lessee or Persons under the control of the Lessee;

(c) Damage to property or injury to any person caused by the use of the Property by the Lessee or Persons under the control of the Lessee;

(d) Damage to property or injury to any person caused by the condition of the Property such as may be attributable to the Lessee; or

(e) Any injury to any person as a result of the failure by the Lessee to comply with its obligations under clause 20.2 of this Lease.

10.6 The Lessee at the Lessee's expense shall effect and keep current in respect of the Property and the Lessee's use of the Property a policy of public liability insurance for an amount not less than that provided in the First Schedule, or such other amount from time to time reasonably required by the Lessor, for any one event, or series of events, with a substantial reputable insurance office or company first approved in writing by the Lessor (such approval not to be unreasonably or arbitrarily withheld). The Lessee shall, if requested by the Lessor, provide evidence to the Lessor that premiums have been paid and that such insurance has been effected.

DRAFT

11. Use of Property

11.1 The Lessee shall not:

(a) Store or use any flammable, dangerous or hazardous substances upon the Property except such substances (if any) that are reasonably required to carry out the Permitted Use; or

(b) Do or permit to be done on the Property anything which in the opinion of the Lessor may become a nuisance, disturbance or obstruction or cause damage, whether to the Lessor or to other tenants or users of the Property or the Land, or to neighbouring owners or occupiers, nor do or suffer, permit or allow to be done any act matter or thing which shall annoy or disturb or in any way interfere with the quiet enjoyment of the Lessor or the occupiers of any lands adjoining the Property; or

(c) Place or permit to be placed any television or radio antenna, or dish aerial, on any part of the Property without the prior written consent of the Lessor; or

(d) Carry on or permit or suffer or allow to be carried on in or upon the Property any noisy, noxious or offensive activity, trade or business; or

(e) Affix, paint or exhibit or permit to be affixed, painted or exhibited any name, sign, name-plate, signboard or advertisement of any description on the Property except on the following conditions:

(i) That such signs be previously approved by writing by the Lessor;

(ii) That such signs be secured in a substantial and proper manner; and

(iii) That upon expiry or termination of this Lease, the Lessee will at the Lessee's expense remove all names, signs, name-plates, signboards and advertisements, and make good any damage caused by reason of the affixing, painting, exhibiting or removal thereof.

12. Entry by Lessor

12.1 The Lessor and its employees, contractors, agents and invitees may enter upon the Property with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time and without notice in the case of an emergency):

(a) To view the state of the Property and the condition thereof;

(b) To carry out repairs or other works on the Property;

(c) For the purposes of complying with any laws; and

(d) To check the Lessee's compliance with the terms and conditions of this Lease.

12.2 The Lessor may elect at any time on reasonable notice to remedy any default by the Lessee under this Lease and whenever the Lessor so elects all costs and

DRAFT

expenses incurred by the Lessor (including legal costs and expenses) in remedying such default shall be paid by the Lessee to the Lessor immediately on demand.

13. Default by Lessee

13.1 If at any time:

(a) The rental or any part of the rental payable by the Lessee pursuant to this Lease shall be in arrears and unpaid for the space of 10 Working days after any of the days appointed for payment of the rental and the breach has not been remedied within the period specified in a notice given by the Lessor in accordance with section 245 Property Law Act 2007; or

(b) There is a breach of one or more of the covenants in this Lease and the breach has not been remedied within the period specified in a notice given by the Lessor in accordance with section 246 Property Law Act 2007; or

(c) The Lessee (if an individual) shall be declared bankrupt or insolvent according to law; or

(d) Any assignment shall be made of the Lessee's property for the benefit of the Lessee's creditors or if the Lessee shall compound with the Lessee's creditors; or

(e) The interests of the Lessee in or under this Lease or in the Property shall be attached or taken in execution or under any legal process; or

(f) The Lessee shall have a resolution passed or an order made by the Court for the liquidation of the Lessee (except for the purposes of a reconstruction of the Lessee approved by the Lessor), or if the Lessee is placed in receivership or under official or statutory management,

the Lessor may terminate this Lease. Upon such event this Lease shall cease and determine but without releasing the Lessee from liability in respect of any breach of any express or implied covenant.

13.2 Any breach of any of the following covenants or clauses by the Lessee shall be a breach of an essential term of this Lease:

(a) The covenant to pay rental and other moneys due to the Lessor throughout the term;

(b) Clauses 6.1 and 6.2;

(c) Clauses 7.1 and 7.2;

(d) Clauses 8.1 to 8.8;

(e) Clause 11.1; and

(f) Clauses 20.1 to 20.4.

DRAFT

13.3 The Lessee shall compensate the Lessor for any breach of an essential term of this Lease and the Lessor is entitled to recover damages from the Lessee in respect of such breaches. The Lessor's entitlement under this clause is in addition to any other remedy or entitlement to which the Lessor is entitled (including the right to terminate this Lease).

13.4 In respect of the obligation referred to in clause 13.2 (a) acceptance by the Lessor of arrears or of any late payment of rental shall not be a waiver of the essentiality of the Lessee's obligation to pay rental in respect of those arrears or late payment, or the Lessee's continuing obligation to pay rental throughout the term of this Lease.

13.5 In the event the Lessee's conduct (whether acts or omissions) constitutes a repudiation of this Lease (or of the Lessee's obligations under this Lease), or constitutes a breach of this Lease, the Lessee shall compensate the Lessor for the loss or damage suffered by reason of the repudiation or breach.

13.6 The Lessor shall be entitled to recover damages against the Lessee in respect of repudiation or breach for the damage suffered by the Lessor during the term of this Lease.

13.7 The Lessor's entitlement to recover damages shall not be affected or limited by any of the following:

(a) The Lessee abandons or vacates the Property;

(b) The Lessor elects to re-enter or to terminate the Lease;

(c) The Lessor accepts the Lessee's repudiation;

(d) The parties' conduct constitutes a surrender by operation of law.

13.8 The Lessor shall be entitled to recover damages against the Lessee in respect of the entire term including the periods before and after the Lessee has vacated the Property.

13.9 **Default Interest:** Upon default by the Lessee in payment of rent, or other monies payable hereunder, the Lessor may charge default interest, as described in the First Schedule, on such money due and owing from the due date for payment to the date of full repayment.

13.10 Upon the expiration or earlier determination of this Lease, the Lessor may remove from the Property any chattels in the possession of the Lessee or any Person under the control of the Lessee and place them outside the Property without being responsible or liable for any resultant loss or damage.

14. Quiet Enjoyment

14.1 The Lessee paying the Annual Rent hereby reserved and observing and performing the Lessee's obligations under this Lease shall peaceably possess and enjoy the Property without any undue interruption or disturbance from the Lessor.

DRAFT

15. Lessee to pay Lessor's Costs

15.1 In addition to the rental and other monies reserved by this Lease the Lessee shall pay:

(a) The Lessor's legal costs in connection with the preparation, negotiation, execution and stamping of this Lease in excess of $500.00 plus GST (the Lessor paying the first $500.00 plus GST);

(b) The Lessor's legal costs in connection with any variation *and renewal* of this Lease (including any stamp duty), and the Lessor considering any request by the Lessee for the consent of the Lessor under this Lease;

(c) The Lessor's costs in obtaining any consents or approvals associated with this Lease; and

(d) All costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any breach or default by the Lessee of this Lease.

16. Notices

16.1 Any notice or other document required to be given or served under this Lease may (in addition to any other method permitted by law):

(a) In the case of the Lessee be given or served by registered post or by delivery to the Lessee at the address of the Lessee stated in the First Schedule; and

(b) In the case of the Lessor be given or served by registered post or by delivery to the Lessor's principal place of business at 110 Trafalgar Street, Nelson or such address as may be notified in writing to the Lessee from time to time.

16.2 Any notice or other document shall be deemed to have been served on the other party two Working days after the date of posting.

16.3 In the case of any notice or document required to be served or given by the Lessor the same may be signed on behalf of the Lessor by the Chief Executive of the Lessor, any authorised officer of the Lessor, or by the Lessor's solicitors.

17. No warranty

17.1 No representation or warranty express or implied has been given by the Lessor that the Property is or will remain suitable or adequate for any of the purposes of the Lessee. To the extent permitted by law all implied warranties as to suitability are expressly excluded.

18. Arbitration

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

(a) The meaning or application of any part of this Lease; or

DRAFT

(b) The performance or exercise by either party of any obligations or rights under this Lease;

and the dispute or difference (**Issue**) is not resolved by the parties within ten (10) Working days from the date one party receives notice from the other party giving details of the Issue and requesting negotiation then the Issue shall be determined at the request of either party by a single arbitrator to be agreed upon between the Lessor and the Lessee.

18.2 The party wishing to have an issue arbitrated (**Notifying Party**) shall notify the other party (**Receiving Party**) of the name of the arbitrator nominated by the Notifying Party. If the Receiving Party fails to nominate its arbitrator within 21 days of receiving notice from the Notifying Party then the Notifying Party may by notice in writing to the Receiving Party have the Issue determined solely by the Notifying Party's arbitrator.

18.3 Subject to clause 18.2, if the parties are unable to agree on the arbitrator then the arbitrator shall be appointed, at the request of any one party by the President for the time being of the Nelson branch of the New Zealand Law Society.

18.4 If any arbitrator appointed pursuant to clauses 18.1, 18.2 or 18.3 refuses or fails to act in pursuance of the arbitration within a reasonable time of their appointment then either the Lessor or the Lessee may (provided the defaulting arbitrator has first been given in writing a reasonable time in which to act) request the President of the Nelson branch of the New Zealand Law Society to appoint a replacement arbitrator.

18.5 Time shall be of the essence under this section 18.

18.6 Either party may appeal to the High Court on any question of law arising out of the award.

18.7 This section 18 shall survive the expiration or earlier determination of this Lease.

18.8 Any referral to arbitration under this section 18 shall be a submission to arbitration in New Zealand under the Arbitration Act 1996 which Act shall, to the extent not inconsistent with anything in this section, apply to any such submission.

19. Lessee's Improvements

19.1 At the expiry or earlier termination of this Lease the Lessee may remove from the Property the Lessee's building described in the First Schedule to this Lease and shall, at the Lessee's cost, make good any resulting damage to the Property including restoring the Property to a neat, tidy and safe condition. If the Lessee's Building is not removed from the Property within 1 month of the expiry or termination of this Lease, then ownership of the Lessee's building shall pass to the Lessor at the expiration of the said 1 month period without compensation payable to the Lessee.

19.2 If ownership of the Lessee's building passes to the Lessor under clause 19.1 the Lessor may, within 6 months of the date ownership passes, demolish the Lessee's building or remove the Lessee's building from the Property. The Lessee shall pay the Lessor the costs incurred by the Lessor in demolishing or removing the

DRAFT

Lessee's building by the 20th day of the month following the receipt of an invoice from the Lessor.

19.3 On expiry or termination of this Lease the tennis courts, nets, net posts, fences and sports lights shall vest in the Lessor without compensation payable to the Lessee.

19.4 Clauses 18.1 and 18.2 shall survive the expiry or termination of this Lease.

19.5 Notwithstanding anything to the contrary in clauses 19.1, 19.2 and 19.3, where improvements are of value to the Lessor, the Lessor may, at its sole discretion, pay to the Lessee the value of some or all of the Lessee's improvements, such value to be determined by the Minister of Conservation (or any person to whom the Minister has delegated their power under the Reserves Act 1977) or may provide that an incoming Lessee shall pay to the Lessee the value as determined by the Minister (or their delegate) of some or all of the Lessee's Improvements.

20. Compliance with Laws

20.1 The Lessee shall comply with all statutes, ordinances, regulations, rules, codes of practice, by-laws, and the provisions thereof (as amended, substituted or re-enacted), requisitions and notices affecting or relating to the Property or to the use thereof, and with all requirements or notices or orders which may be given by any competent authority in respect of the Property or to the use thereof, and to the extent permitted by law the Lessee shall indemnify and keep indemnified the Lessor from and against all liability, actions, suits, claims, demands, fines, penalties and payments suffered or incurred by the Lessor arising directly or indirectly out of or relating to non-compliance by the Lessee or Persons under the control of the Lessee. For the avoidance of doubt, in this clause "Property" shall include the Lessee's Improvements.

20.2 The Lessee shall at all times during the term of this Lease comply with its duties and obligations under:

(a) The Health and Safety at Work Act 2015, any amendments thereof, and any Act in substitution therefor (**the Act**); and

(b) All regulations, rules, guidelines and codes of practice made under the Act from time to time and any amendments thereof.

20.3 Without limiting anything in clause 20.2, the Lessee shall:

(a) Provide and maintain a work environment at the Property that is without risks to health and safety;

(b) Ensure that persons on the Property, and on land in the vicinity of the Property, are not exposed to risks to their health and safety that are under the control of the Lessee;

(c) Develop procedures for dealing with emergencies that may arise on the Property, and ensure that Persons under the control of the Lessee, and employees of such persons, understand and comply with those procedures;

DRAFT

(d) Ensure that there are in place effective methods for regularly identifying existing and new risks to the health and safety of persons at and in the vicinity of the Property, and inform the Lessor in writing of all such risks identified by the Lessee;

(e) Co-operate with and assist the Lessor to comply with the Lessor's duties and obligations in relation to the Land and the Property (if any) under the Act and all regulations, rules, guidelines and codes of practice made thereunder, any amendments thereof, and anything in substitution therefor;

(f) Provide training, information, instruction and supervision necessary to protect Persons under the control of the Lessee, and employees of such persons, from risks to their health and safety arising from activities carried out at the Property;

(g) Acquire, and keep up to date, knowledge of work health and safety matters;

(h) Ensure that it has appropriate processes for receiving and considering information regarding incidents, hazards, and risks, and for responding in a timely way to that information.

20.4 In clause 20.3 'health' shall have the meaning given to that word by the Act.

20.5 The Lessee shall immediately give notice to the Lessor of:

(a) Any damage to property as a result of the Lessee's activities on the Property;

(b) Any circumstances occurring within the Property likely to cause damage to property;

(c) Any accident that harms any person at the Property; and

(d) Any notifiable event (as defined in the Act) occurring at the Property.

20.6 If the Lessee shall default in carrying out any of its obligations under clauses 20.1 to 20.5 and if the Lessor shall choose to carry out any necessary work to remedy the default then the Lessee shall forthwith upon demand reimburse to the Lessor all money so expended or incurred by the Lessor, without prejudice to any other rights and remedies of the Lessor.

21. No Caveat

21.1 The Lessee shall not register a caveat against the Land.

21.2 The Lessor shall not be required to register this Lease under the Land Transfer Act 1952.

21.3 The Lessee shall have no right of acquiring the fee simple of the Property or the Land.

DRAFT

22. Building Safety

22.1 Without limiting anything in clause 20.1 the Lessee and its contractors shall at all times during the term of this Lease, at the Lessee's own cost, comply with the Building Act 2004, the Fire Service Act 1975, and any regulations made thereunder including, but not by way of limitation, the Fire Safety and Evacuation of Buildings Regulations 2006.

23. No Mortgage or Charge

23.1 The Lessee shall not mortgage, charge, create a lien over, or otherwise grant as security, any of the fixtures, fittings and chattels situated on the Property or the Land without the prior written approval of the Lessor.

24. Entire Understanding

24.1 This Lease embodies the entire understanding and agreement between the parties hereto and any previous representations and arrangements whether express or implied in respect of the subject matter of this Lease are merged herein.

24.2 The Lessor and the Lessee shall not be bound by this Lease until this Lease has been signed by the Lessor and the Lessee.

25. Damage or Destruction

25.1 If the Property (which includes the Lessee's Improvements) is damaged or destroyed by fire, flood, explosion, lightning, storm, earthquake or volcanic activity or any risk for which the Lessee is insured, and:

(a) The Lessee's policy or policies of insurance are not invalidated or payment of the policy monies refused in consequence of some act or default of the Lessor; and

(b) The insurance monies actually received by the Lessee are adequate to repair the said damage; and

(c) All of the necessary permits and consents to repair the damage are obtainable by the Lessee;

then the Lessee shall with all reasonable speed make good the damage, or reinstate the Property, at the Lessee's cost.

25.2 If the Property (which includes the Lessee's Improvements) is damaged or destroyed and the Lessee is not required to make good the damage or reinstate the Property pursuant to clause 24.1 then either party may terminate this Lease by one month's notice in writing to the other without prejudice to the rights and remedies of either party against the other for any prior breach of this Lease.

25.3 If there is an emergency and the Lessee is unable to gain access to the Property to carry on the Permitted Use from the Property because of a prohibited or restricted access cordon applying to the Property, or a prohibition or restriction on using the Property imposed by any competent authority, then a fair proportion of rent and

DRAFT

outgoings shall cease to be payable commencing on the date the Lessee becomes unable to access the Property to carry on the Permitted Use until the date the Lessee is able to access the Property to carry on the Permitted Use. If this clause 25.3 applies and the Lessee is unable to gain access to the Property to carry on the Permitted Use for a period of 9 months then either party may terminate this Lease by notice in writing to the other without prejudice to the rights and remedies of either party against the other for any prior breach of this Lease.

26. Alcohol

26.1 The Lessee shall not supply, manufacture or sell, or permit to be supplied, manufactured or sold, alcohol on the Property. In this clause the word 'alcohol' has the meaning given to that word by the Sale and Supply of Alcohol Act 2012.

27. Renewal

27.1 If the Lessee has not been in breach of this Lease, and has given to the Lessor written notice to renew the lease 3 calendar months before the end of the term, then the Lessor will, at the cost of the Lessee, grant to the Lessee a renewal of this Lease for the further term commencing on the relevant renewal date.

27.2 A renewed Lease granted pursuant to clause 26.1 shall otherwise be on the same terms and conditions as are herein expressed or implied except that the term of the Lease plus the further term shall expire on or before the Final Expiry Date.

28. Objects

28.1 The Lessee shall not alter the purposes or objects of the Lessee described in the Lessee's rules without the prior written approval of the Lessor.

29. Further obligations of Lessee

29.1 Whenever the Lessee fits a lock to a door within a building on the Property the Lessee shall forthwith, at the Lessee's expense, provide the Lessor with a key for that lock.

This Deed was signed on the

Signed as a Deed by the **NELSON CITY COUNCIL**

Mayor/Councillor

Councillor

DRAFT

Signed by the Lessee
TĀHUNANUI TENNIS CLUB
as Tenant by two members of the
Management Committee
in the presence of:

Member:

Witness Signature

Witness Name

Member:

Witness Occupation

Witness Address

DRAFT

FIRST SCHEDULE

Name and Address of Lessor:	Nelson City Council 110 Trafalgar Street/PO Box 645 Nelson
Name and Address of Lessee:	Tāhunanui Tennis Club (Incorporated) 26 Douglas Road Nelson
Commencement Date:	1 September 2026
Term of Lease:	Five (5) years
Right of Renewal:	Three (3) of five (5) years each
Renewal Dates:	1 September 2031, 1 September 2036, 1 September 2041
Final Expiry Date:	31 August 2046
Property:	Approximately 1960.60m^2 being that part of the Land outlined in blue and red on the plan attached to this Lease. The area occupied by the Lessee's building is approximately 60.60m^2. The area occupied by the Lessee's tennis courts is approximately 1900m^2.
Land	DP 1186, Lots 2-3 and Lot 5 DP3125 and Part Section II District of Suburban South, being the land comprised and described in Record of Title NL88/194, situated at Tosswill Reserve, 131 Tāhunanui Drive, Tahunanui, Nelson.
Annual Rent (subject to review):	$503 plus GST per annum.
Frequency of Rental Payment:	Annually in advance by direct debit with the first payment on _____ and on the 1st day of _____ yearly thereafter.
Rental Review Dates:	01 September 2031, 01 September 2036, 01 September 2041
Outgoings:	(a) All land tax and other taxes levied or incurred in respect of the Property and any improvements thereon and; (b) All power, telephone, sewerage, water, stormwater, refuse disposal and collection charges and all other utility and service charges levied or incurred in respect of the Property from time to time; (c) New Zealand Fire Service charges and maintenance charges in respect of all fire detection and fire fighting equipment;

DRAFT

(d) All costs associated with complying with all statutory, regulatory, code or by-law requirement concerning the use and occupation of the Site and/or Lessee's Improvements, including compliance with the Building Act 2004; and

(e) All costs associated with testing of electrical equipment as required by AS/NZ3760:2010 In-service safety inspection and testing of electrical equipment.

Permitted Use:	Clubrooms and tennis courts for the Lessee
Lessee's Improvements:	The building outlined in red on the plan attached to this lease (the Lessee's building), and the tennis court surface, nets, net posts, fences and sports lights.
Improvements Rental Percentage:	12%
Public Liability Insurance Amount:	$2,000,000.00.
Default Interest Rate:	A rate per annum equal to 5% per annum above the 90 day bank bill rate published by the Reserve Bank of New Zealand fixed on a monthly basis on the first day of each month and where such rate is not published, on the next day when such rate is published, or an equivalent rate should the 90 day bank bill rate not exist.

DRAFT