

# Lease of Portion of Reserve 23383, Lot 180, Falls Rd, Lesmurdie

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Shire of Kalamunda

Lesmurdie Tennis Club (Inc.)



McLEODS

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# Details

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## Parties

### Shire of Kalamunda

of 2 Railway Road, Kalamunda, Western Australia  
("The Lessor")

### Lesmurdie Tennis Club (Inc.)

of P.O.Box 91, Kalamunda, WA, 6926

("The Lessee")

## Background

- A The policy of the Shire is, wherever possible, to assist community groups which operate in the district to support that activity for the benefit of ratepayers in the district by allowing them to occupy premises controlled by the Lessor.
- B The Lessor has the care, control and management of the Land pursuant to a management order for the purpose set out at **Item 7** of the Schedule and with the power to lease for a term not exceeding 21 years.
- C Subject to the prior written approval of the Minister for Lands, the Lessor has agreed to lease and the Lessee have agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

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### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor's general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee's Agents** include:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Premises by the authority of a person specified in paragraph (a);

**Lessee's Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Major repairs or maintenance as a result of fair and reasonable wear and tear** means items not deemed to be minor repairs or maintenance;

**Management Order** means the Management Order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Lessor to be held for the purpose as set out at **Item 7** of the Schedule.

**Minor repairs or maintenance as a result of fair and reasonable wear and tear** means general operational maintenance and repairs including but not limited to fuses, lights and globes (internal and external), leaking taps, doors off hinges, sticking doors, replacement of bearings in roller doors, broken handles, broken light fittings or coverings, broken locks, replacement of keys, broken glass, minor painting to cover marks or stains, cleaning of previously painted surfaces, including where such repair or maintenance may require the employment of a qualified tradesperson.

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Permitted purpose** means the purpose defined in **Item 7** of the Schedule;

**Premises** means the premises described at **Item 1** of the Schedule;

**Programmed maintenance** means a regularly occurring act required to be carried out to comply with statutory obligations in accordance with Australian Building Standards or to address identified risk events;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Lessor's Representative** means an officer of the Lessor appointed by the CEO;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term;

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over;

**Vandalism** means any deliberate, wanton or malicious damage or destruction of any property on the Premises including any building, fixture or chattel; and

**Written Law** means any Commonwealth or State statute, regulation, local law or planning scheme.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and

- (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
  - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
  - (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
- (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions.

### 3. Minister for Lands Consent

This Lease is subject to and conditional on the prior approval of the Minister for Lands under the *Land Administration Act 1997*.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease and Special Condition 10, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, for so long as the Lessor is the management body of the Premises under a management order, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenant with the Lessor:

## 6.1 Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

## 6.2 Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government services and other charges but excluding local government rates;
  - (b) charges for consumption and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) any land tax obligation that may accrue, where an annual land tax exemption has not been obtained by the Lessee; and
  - (e) any other consumption charge or cost, or other obligation incurred or payable by reason of the Lessee use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6.2(1)** determined by the method set out at **Item 9** of the Schedule.

## 6.3 Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 30 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

## 6.4 Accrual of amounts payable

Amounts Payable accrue on a daily basis.

## 7. Insurance

### 7.1 Public Liability Insurance

The parties AGREE THAT the Lessee must effect and maintain with insurers approved by the Lessor in the joint names of the Lessor and the Lessee for their respective rights and interests in the Premises for the time being, adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require.

### 7.2 Building Insurance to be effected by Lessor

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle and malicious acts or omissions and other standard insurable risks.

### 7.3 Details and receipts

In respect of the insurances required by **clause 7.1** the Lessee must:

- (a) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (b) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (c) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

### 7.4 Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that they shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 7.1**.

### 7.5 Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (a) render any insurance effected under **clause 7.1** and **clause 7.2** on the Premises, or any adjoining premises, void or voidable; or
- (b) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

### 7.6 Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (a) any damage to the Premises of which they are or might be aware; and
- (b) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## 7.7 Settlement of claim

The Lessor and the Lessee may not without prior written consent of both the Lessor and the Lessee, settle or compromise any claims under any policy of insurance required by **clause 7.1**.

## 8. Indemnity

### 8.1 Lessee responsibilities

- (1) The Lessee are subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owners and occupiers of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### 8.2 Indemnity

- (1) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
- (ii) any work carried out by or on behalf of the Lessee on the Premises;
- (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
- (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
- (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
- (vi) an act or omission of the Lessee.

### 8.3 Obligations Continuing

The obligations of the Lessee under this clause:

- (a) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 8.2** will be reduced by the extent of such payment.
- (b) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

### 8.4 No indemnity for Lessor's negligence

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

### 8.5 Release

(1) The Lessee:

- (a) agree to occupy and use the Premises at the risk of the Lessee; and
- (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
  - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises;
  - (ii) loss of or damage to the Premises or personal property of the Lessee; and
  - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area

except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

(2) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## 9. Limit of Lessor's liability

The Lessor is only liable for breaches of the Lessor's covenants set out in this Lease which occur whilst the Lessor is the management body for the Land.

## 10. Maintenance, repair and cleaning

### 10.1 Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out major repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or their servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or their servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair, or programmed maintenance item identified by the Lessor from time to time which the Lessor will complete at its cost.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any air-conditioning fittings and fixtures;
  - (c) any gas fittings and fixtures,in or on the Premises use only licensed trades persons.
- (3) Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease and **Annexure 2**, the Lessee must promptly repair at their own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.
- (4) The Lessee covenants to reimburse the Lessor when works which are the responsibility of the Lessee are completed by the Lessor. The Lessor will where possible inform the Lessee in writing prior to arranging repairs so that the Lessee have the opportunity to arrange their own repairs. In an emergency the Lessor may complete works without prior notice to the Lessee.
- (5) The Lessee acknowledge that the Lessor has no responsibility to provide, maintain or repair cool rooms or any other appliance or item installed by the Lessee regardless of whether the Lessor consented to the installation.
- (6) Notwithstanding the list of programmed maintenance items which the Lessor has agreed to schedule and meet the cost of, the Lessee at their option may undertake responsibility for some or all of these items and costs as set out **Item 10** of the Schedule which the Lessor agrees to on the basis that:
  - (a) The Lessee supply to the Lessor on an annual basis as part of the Maintenance Register reporting (clause 10.8), details of the programmed maintenance completed; and

- (b) The Programmed Maintenance items are carried out as a minimum in terms of the Lessor's requirements which will be advised separately and as amended from time to time to meet statutory obligations or as deemed necessary for the Lessor's risk management procedures; and
- (c) In undertaking responsibility for the Programmed Maintenance the Lessee acknowledge that they will not seek reimbursement from the Lessor for these costs after the work has been done; but
- (d) The Lessee may cancel the responsibility for these items by providing written notice at least one month prior to the Lessor.

## **10.2 Cleaning**

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from dirt and rubbish.

## **10.3 Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times and is responsible for arranging a security system and all associated requirements, meeting all costs in connection with the installation and commissioning of a security system including security monitoring costs, call out costs and arranging completion of police reports.

## **10.4 Maintain surroundings**

- (1) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees within the leased area.
- (2) The Lessee agree that any pruning of trees over the height of **three (3)** metres within the leased area, must be undertaken by a qualified arborist.
- (3) If any flora, trees or lawn dies within the leased area, the Lessee must replace the flora, trees or lawn at their own expense.
- (4) The Lessee must plant and care for such trees on the Premises within the leased area, as the Lessor may from time to time reasonably require.

## **10.5 Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

## **10.6 Pest control**

The Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee, save and except that the Lessor will meet the cost of termite inspection treatment and eradication in accordance with the provisions of clause 10.1.

## **10.7 Drains**

- (1) The Lessee must keep and maintain the waste pipes drains, effluent tanks grease traps and aerobic treatment units and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and including obtaining and bearing

in the costs of all and any necessary licences and approvals required to pump out grease traps and septic tanks on the Premises.

- (2) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.
- (3) The Lessor is responsible for and will repair as soon as practicable any damage to any drains on the Premises which is caused by tree roots.
- (4) Drain blockages will be assessed by a Lessor plumber to establish the cause of the blockage. The Lessee shall be responsible for any blockages deemed to be the result of the actions of the Lessee.

## 10.8 Maintenance register

The Lessee shall maintain to the satisfaction of the Lessor a register listing each item of expenditure for repair and maintenance showing the date the work was carried out, the nature of the works, the identity of the contractor and the cost thereof. The Lessor will provide the Lessee with a register to be completed. The register is to be made available to the Lessor upon request. Copies of Compliances Certificates, licences and any other invoices relating to works carried out are to be provided at the Lessor's request to hold in its records.

## 11. Use

### 11.1 Restrictions on use

#### (1) Generally

The Lessee may only use the Premises for the Permitted Purpose and must not suffer or permit a person to use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, statutes or any law relating to health.

#### (2) No offensive or illegal acts

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### (3) No nuisance

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### (4) No dangerous substances

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;

- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

**(5) No harm or stress**

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

**(6) No signs**

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

The Lessee must not suffer or permit a person to use or allow the Premises to be used for the consumption of alcohol without -

- (a) first obtaining the written consent of the Lessor; and
- (b) paying all and any costs arising from obtaining lawful approval for the sale or consumption of alcohol.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**(12) No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

### (13) Lessee to Observe Copyright

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

### (14) Premises Subject to Restriction

The Lessee accept the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

### (15) Priority Use of Premises

The periods during which the Lessor may elect to use the Premises and the terms upon which the Lessor may use the Premises, are set out in **Item 11** of the Schedule.

## 12. Minimise nuisance to neighbours

- (1) The Lessee acknowledges that the Premises are located in close proximity to residential premises.
- (2) The Lessee must take all reasonable action to minimise and prevent disruption, nuisance and disturbance to surrounding residential premises, particularly during and following social events held at the Premises.
- (3) The Lessee must comply with all reasonable conditions and directions that may be imposed by the Lessor from time to time in relation to the minimisation and prevention of disruption, nuisance and disturbance to surrounding residential premises.

## 13. Alterations

### 13.1 Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the responsible authority under a local planning scheme;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 10**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### 13.2 Consent

- (1) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 13.1** the Lessor may:

- (a) consent subject to conditions; and
  - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
  - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
- (b) if the Lessor consents to any matter referred to in **clause 13.1**:
  - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
  - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### 13.3 Cost of Works

All works undertaken under this **clause 13** will be carried out at the Lessee's expense.

### 13.4 Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (a) carry out those other works at the Lessee's expense; or
  - (b) permit the Lessor to carry out those other works at the Lessee's expense,
- in accordance with the Lessor's requirements.

## 14. Lessor's right of entry

### 14.1 Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease including apportioning of seasonal costs;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;

- (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
- (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 14.1(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

## 14.2 Lessee to Provide Security Codes and Keys

To give effect to this clause, whether in an emergency or not, the Lessee shall ensure that at all times either the CEO or the Lessor's Representative is in possession of a security code that might be required to obtain entry to the Premises including keys to all areas of the Premises.

## 14.3 Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 14.1(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

# 15. Statutory obligations and notices

## 15.1 Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 11.1**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

## 15.2 Indemnity if Lessee Fails to Comply

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (a) failing to perform, discharge or execute any of the items referred to in **clause 15.1**; and
- (b) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 15.1**.

# 16. Report to Lessor

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## 17. Damage or destruction of Premises

### 17.1 Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the award appears to have been overpaid.

### 17.2 Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may by notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 18. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall grant to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 18** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 19. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 20. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 21. Yield up the premises

### 21.1 Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;
- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

### 21.2 Clause 21.1 to survive termination

The Lessee's obligation under **clause 21.1** will survive termination.

## 22. Removal of property from Premises

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

## 23. Casual Hire of Premises

### 23.1 Casual Hire

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose; and
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease.
- (2) For the purposes of this Lease, "casual hire" means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

## **23.2 Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, they remain responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## **24. Assignment, Subletting and Charging**

### **24.1 No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor, Minister for Lands and any other persons whose consent is required under the terms of this Lease or at law.

### **24.2 Lessor's Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed Assignee or Sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procure the execution by:
  - (i) the proposed Assignee of a deed of assignment; or
  - (ii) the proposed Sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the Assignee or Sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

### **24.3 Where Sublessee is a community group**

If the proposed Sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 24.2(c)**.

### **24.4 Consents of Assignee Supplementary**

The covenants and agreements on the part of any Assignee will be supplementary to the Lessee's Covenants and will not release the assigning Lessee from the Lessee's Covenants.

### **24.5 Property Law Act 1969**

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

## 24.6 Costs for assignment and sub-letting

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (a) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed Assignee or Sublessee;
- (b) any consents required under this Lease or at law; and
- (c) all other matters relating to the proposed assignment or sub-letting,

whether or not the assignment or sub-letting proceeds.

## 24.7 No mortgage or charge

The Lessee must not mortgage nor charge the Premises.

# 25. Disputes

## 25.1 Referral of Dispute: Phase 1

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

## 25.2 Referral of Dispute: Phase 2

In the event the dispute is not resolved in accordance with **clause 25.1** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

## 25.3 Payment of Amounts Payable to Date of Agreement

The Lessee must pay the Amounts Payable without deduction to the date of an agreement being reached through the dispute resolution process between the Parties and if any money paid by the Lessee is not required to be paid within the terms of the agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid.

# 26. Provision of information

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year by no later than 31 December of that year;
- (b) advice of any changes in their office holders during the Term;
- (c) any information reasonably required and requested in writing by the Lessor; and

- (d) advance notification of any proposal to alter the constitutions of the Lessee.

## 27. Goods and services tax

### 27.1 Definitions

The following definitions apply for the purpose of this clause:

- (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
- (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
- (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
- (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### 27.2 Lessee to pay GST

- (1) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (2) The Lessee must pay any increase referred to at **clause 27.2(1)** whether it is the Lessee or any other person who takes the benefit of any Supply.
- (3) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee are required to pay the Consideration under this Lease.

### 27.3 Consideration in Kind

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 27.2(2)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (1) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (2) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (3) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which

complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

(4) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## 28. No Fetter

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 29. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 11** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 30. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 31. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 32. Statutory powers

The powers conferred on the Lessor by or under any Written Law for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 33. Notice

### 33.1 Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### 33.2 Service of notice

A Notice to a Party is deemed to be given or made:

- (a) if by personal delivery, when delivered;
- (b) if by leaving the Notice at an address specified in **clause 33.1(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (c) if by post to an address specified in **clause 33.1(b)**, on the second business day following the date of posting of the Notice.

### 33.3 Signing of notice

A Notice to a Party may be signed:

- (a) if given by an individual, by the person giving the Notice;
- (b) if given by a corporation, by a director, secretary or manager of that corporation;
- (c) if given by a local government, by the CEO;
- (d) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (e) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 34. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 35. Variation

This Lease may be varied only by deed executed by the parties subject to the prior consent of the Lessor, Minister for Lands and such consents as are required by this Lease or at law.

## 36. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 37. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 38. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 39. Waiver

### 39.1 No general waiver

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

### 39.2 Partial exercise of right power or privilege

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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Item 1 Land and Premises

**Land**

Portion of Reserve 23383 Being Lot 180 on Deposited Plan 27571 being the whole of the land comprised in Crown Land Qualified Certificate of Title Volume LR3042 Folio 936

**Premises**

That part of the Land depicted on the plan annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

Item 2 Term

Ten years commencing on 01 July 2015 and expiring on 30<sup>th</sup> June 2025.

Item 3 Further Term

Ten years commencing on 1<sup>st</sup> July 2025 and expiring on 30<sup>th</sup> June 2035.

Item 4 Commencement Date

1<sup>st</sup> July 2015

Item 5 Rent

\$1 per annum, payable on demand.

Item 6 Rent Review

Item 7 Permitted purpose

Any use which may be lawfully carried out by the Lessee pursuant to its constitution and which complies with the purpose of "Recreation" as per the Management Order granted to the Lessor.

Item 8 Public liability insurance

Twenty million dollars (\$20,000,000).

## Item 9 Share of Outgoings as per Clause 6.2(2)

Item	Method of determination of allocation *
Water consumption	Sub-meter reading
Excess water charges	
Telephone	
Electricity	
Gas	
Grease trap pump outs	
Water Corporation Licence Fees for an Industrial Waste Application	

- For example, sub meter reading or percentage of amount charged or amount of kl/kw/other

## Item 10 Lessee's voluntary responsibility for Programmed Maintenance – state agreed responsibility

Item	Frequency as per statutory requirements or minimum as required by the Lessor.
Gutter cleaning	Shire of Kalamunda
Installation and maintenance of fire protection measures including fire extinguishers and exit signs	Shire of Kalamunda
Termite inspections	Shire of Kalamunda
Installation and maintenance of residual current devices	Shire of Kalamunda
Testing of lifts	Shire of Kalamunda
Servicing of air conditioners	Shire of Kalamunda

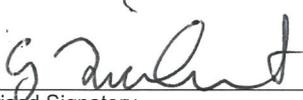
## Item 11 Additional terms and covenants

- 11.1 The Lessee acknowledges that the Lessor may have possession of the Premises for two periods not exceeding a total of 14 days in any twelve month calendar period subject to the Lessor's Representative providing to the Lessee no less than six months prior notice.
- 11.2 The Lessee and the Lessor covenant and agree that they may mutually agree to terminate this Lease at any time during the Term.

# Signing page

EXECUTED 21ST OCTOBER 2015

Signed for and on behalf of **THE SHIRE OF KALAMUNDA** pursuant to the requirements of section 9.49A of the *Local Government Act 1995*:

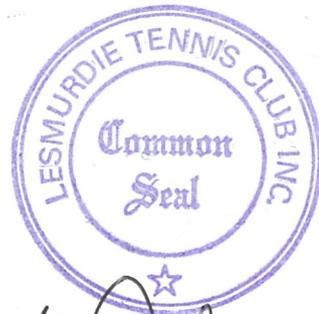


Authorised Signatory

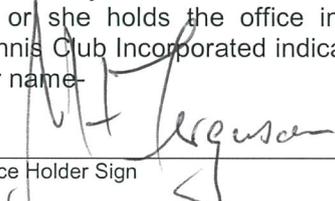
Gary Ticehurst  
Director Corporate Services

Print Full Name & Position

**THE COMMON SEAL** of Lesmurdie Tennis Club Incorporated was hereunto affixed pursuant to the constitution of the Lesmurdie Tennis Club Incorporated in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lesmurdie Tennis Club Incorporated indicated under his or her name-



Office Holder Sign



Name:

Joan Ferguson

Address:

6 YORNA RD, KALAMUNDA

Office Held:

PRESIDENT

Office Holder Sign



Name:

TOM DUFF

Address:

14 SILVERDALE RD  
LESAMURDIE

Office Held:

SECRETARY

APPROVED FOR THE PURPOSES OF SECTION 18  
OF THE LAND ADMINISTRATION ACT 1997



by Order of the Minister For Lands

This document is still subject to the registration requirements of the Transfer of Land Act 1893

2/11/2015



SD

Sketch correct (initials)  
Shire of Kalamunda  
Lesmurdie Tennis Club  
Lesmurdie Tennis Club

*[Handwritten signatures]*

23383.DWG

LESUMURDIE TENNIS COURTS  
LEASE  
RESERVE 23383 - FALLS ROAD  
LESUMURDIE  
Lease Area 6675m<sup>2</sup>



...Lesmurdie Tennis 2D.dgn Apr. 10. 2000 09:51:21

# Annexure 2 – Maintenance and Repair Responsibilities

It is not possible to complete an exhaustive list of the maintenance and repair responsibilities of the Lessee and the Lessor pursuant to the terms of the Lease.

However, the purpose of the insertion of the tables set out in the annexure is to guide and clarify each party's responsibility pursuant to clause 10 of the Lease.

## The Lessee's Responsibilities

The Lessee will be responsible for the following maintenance and repair items:

Item	Lessee Responsibilities/Comments
Cleaning of the Premises	The Lessee is responsible for external and internal cleaning of the Premises.
Consumables	The Lessee is responsible for the provision of utilities, toilet paper, and hand towels for the Premises.
Sewer Connection Costs	The Lessee will be responsible for sewer connection costs, if the Premises are connected to sewer.
Grease Trap Pump-Outs	The Lessee will be responsible for Grease Trap Pump Outs as directed by the Water Corporation under a licence to discharge waste, if the Premises are connected to sewer. If the Premises are not connected to sewer, the Lessee will be responsible for pump outs dependent on usage (generally quarterly) and at the discretion and direction of the Lessor.
Licence to discharge waste	Application to Water Corporation and payment of associated initial and outgoing fees is the responsibility of the Lessee. The Licence to discharge waste is generally required for commercial kitchens.
Security Costs	If the Lessee elect to install, the Lessee shall accept sole responsibility for any costs associated with the installation, any call outs, monitoring and maintenance and any costs of removal if so required by the Lessor.
Cool Rooms	The Lessee is responsible for the provision, maintenance and repair of cool rooms.
Air Conditioners (reverse cycle)	The Lessee is responsible for the cleaning of filters of all reverse cycle air conditioners installed at the Premises, at least annually to promote air quality.
Appliances	The Lessee is responsible for all appliances, including fridges, pie warmers, ice machines and any other electrical appliances and must arrange and undertake appropriate statutory testing of such appliances.

Rubbish/waste recycling and	The Lessee is responsible for ensuring that rubbish and waste is appropriately collected and put into the appropriate receptacles.
Graffiti	The Lessee will be responsible for internal graffiti and any external graffiti caused by the Lessee or the Lessee's agents.
Landscaping	The Lessee will be responsible to maintain any gardens which are located within the leased area of the Premises.
Minor items faulty from wear and tear	The Lessee is responsible for all minor items of repair caused by wear and tear, such as the replacement of tap fittings, shower heads, light bulbs, door closing mechanisms.
Utilities	Water, electricity, telephone, gas consumption charges are the Lessee's responsibility. The Lessor will, where possible, arrange for separate sub meters to be installed. Where sub meters are not possible, the Lessor and the Lessee will agree to the Lessee's proportionate share
Minor Maintenance	The Lessee is responsible for other maintenance, repair or replacement of the Premises and its fixtures and fitting, in accordance with clause 10.1

### The Lessor's Responsibilities

The Lessor will be responsible for the following maintenance and repair items:

Item	Lessor Responsibilities/Comments
Major Maintenance & Major Repairs	The Lessor, subject to budget constraints and the approval of Council, will be responsible for major repairs and major maintenance. Major repair or major maintenance includes without limitation repairs and maintenance to the structure or fabric of the building or premises.
Electrical Testing and Compliance of Lessor's fixtures	The Lessor will be responsible for electrical testing and compliance of all of the Lessor's fixtures.
Fire Extinguisher Testing & Service	The Lessor will be responsible for the testing and compliance of its fire extinguishers.
Graffiti	The Lessor will be responsible for graffiti on the external walls and other external areas PROVIDED that the graffiti is not caused by the Lessee or the Lessee's Agents.
Vandalism	The Lessor will be responsible for vandalism PROVIDED that the vandalism is not caused by the Lessee or the Lessee's Agents and the vandalism is reported by the Lessee to the police and a copy of the police report is provided to the Lessor.

