

2015

HER MAJESTY THE QUEEN
acting by and through the Secretary for Education

("Landlord")

and

VILLA EDUCATION TRUST

("Tenant")

DEED OF LEASE (SHORT TERM)
Premises at 22 – 24 Waipareira Avenue, Henderson

DEED OF LEASE dated

24/July 2015

PARTIES

1. HER MAJESTY THE QUEEN acting by and through the Secretary for Education (the "Landlord")
 2. VILLA EDUCATION TRUST incorporated under the Charitable Trust Act 1957 (number 1221259) (the "Tenant")
- A. The Landlord holds the premises under the Public Works Act 1981 for education purposes (support centre). The premises were previously used for a school support centre which is now closed and the Landlord is currently investigating the use of the premises for another education public work.
 - B. The Tenant and the Landlord have entered into the Agreement relating to partnership schools/kura houra to operate a partnership school near the premises. The Tenant has urgent accommodation needs as a result of overflow for its partnership school operations from that other location approved formally for use by the Minister under the Agreement.
 - C. The parties have agreed that the Tenant may lease the premises on a short term commercial basis pending the Landlord making a decision on potential education public work uses for the premises.
 - D. Accordingly the Landlord leases to the Tenant and the Tenant takes on lease the premises described in the First Schedule together with the right to use the Landlord's fixtures and fittings contained in the premises for the term from the commencement date and at the annual rent as set out in the First Schedule and otherwise on the terms set out in the Second Schedule.

SIGNED for and on behalf of
HER MAJESTY THE QUEEN
by
acting pursuant to a delegation from
the Secretary for Education in the
presence of:

s 9(2)(a) OIA

[Redacted] s 9(2)(a) OIA

Full Name (please print)

JEROME SHEPPARD

30/7/15

ACTING HEAD, EDUCATION
INFRASTRUCTURE SERVICE

Witness:

Address:

Occupation: CIVIL SERVANT

The Common seal of the
VILLA EDUCATION TRUST
was affixed in the presence of two trustees:)



s 9(2)(a) OIA

Trustee's Signature

Trustee's Full Name (please print)

Karen Gye Poole

Trustee's Signature

Trustee's Full Name (please print)

SECOND SCHEDULE

1. RENT

- 1.1 The Tenant shall pay the annual rent by equal monthly payments in advance on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date to the first rent payment date) shall be payable on the first rent payment date. All rent shall be paid by direct payment to the Landlord or as the Landlord may reasonably direct.

2. RENT REVIEWS - NOT USED

3. RENT DETERMINATIONS - NOT USED

4. INTERIM RENT - NOT USED

5. TENANT OUTGOINGS

- 5.1 The Tenant shall promptly pay to the Landlord, or direct to the supplier where specified below, all outgoing in respect of the Land including:
- a. charges for the supply of water, electricity, telecommunications, gas and other utilities for services consumed within the premises by the Tenant direct to the supplier;
 - b. rates or levies payable to any local or territorial authority;
 - c. rubbish collection and recycling charges direct to the supplier;
 - d. New Zealand Fire Service charges and maintenance charges in respect of all fire detection and fire fighting equipment to the extent that these charges form part of the costs of the Landlord's programme of regular and/or annual servicing (provided that the Tenant will be responsible in any event for all New Zealand Fire Service call-out charges);
 - e. the costs of operating, maintaining, inspecting, servicing, testing, repairing, renovating and replacing building services, and service contract charges for building services and security services to the extent that these charges form part of the costs of the Landlord's programme of regular and/or annual servicing;
 - f. cleaning maintenance and repair charges including charges for repainting, decorative repairs direct to the supplier; and
 - g. the costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by sections 108 and 110 of the Building Act 2004 to the extent that these charges form part of the costs of the Landlord's programme of regular and/or annual servicing.
- 5.2 If the Land is not separately assessed for any of the Tenant's utilities, consumables or outgoing detailed above then the Tenant shall pay a fair proportion of those charges. The Landlord will, where necessary, vary this proportion to ensure that the Tenant at all times pays a fair proportion of the consumables.
- 5.3 The Tenant will not be liable to pay the charges for consumables, utilities or outgoing incurred as a result of an inherent defect with the building or premises,

damage caused by flooding, subsidence or seismic activity or the wilful or negligent act or omission of the Landlord, its employees, contractors or agents or for any breach of the Landlord's obligations under the Lease.

- 5.4 The Tenant shall at its cost provision any toilets which form part of the premises and arrange interior cleaning of the premises (including interior of windows).
- 5.5 The Landlord will invoice the Tenant for, all outgoings listed in clause 5.1 except for those under clause 5.1a, c, and f. The Landlord shall be under no obligation to minimise any liability by paying any outgoing prior to receiving payment from the Tenant.

6. GOODS AND SERVICES TAX

- 6.1 The Tenant shall pay to the Landlord or as the Landlord shall direct the GST payable by the Landlord in respect of the rent and other payments payable by the Tenant hereunder. The tax in respect of the rent shall be payable on each occasion when any rent payment falls due for payment and in respect of any other payment shall be payable upon demand, to the extent that such payment does not already include GST.
- 6.2 If the Tenant makes default in payment of the rent, outgoings or other moneys payable and the Landlord becomes liable to pay Default GST then the Tenant shall on demand pay to the Landlord the Default GST, payable as a result of the Tenant's default.

7. INTEREST ON UNPAID MONEY

- 7.1 If the Tenant defaults in payment of the rent, outgoings or other moneys payable hereunder for 20 working days then the Tenant shall pay on demand interest at the default interest rate on the money unpaid from the due date for payment to the date of payment.

8. COSTS

- 8.1 Each party will pay its own costs of and incidental to the negotiation and preparation of this lease and the preparation or review of any deed of variation or surrender.
- 8.2 The Tenant shall pay:
 - a. the Landlord's costs incurred in considering any request by the Tenant for the Landlord's consent to any matter contemplated by this lease; and
 - b. the Landlord's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Landlord's rights remedies and powers under this lease.

9. LANDLORD TO PAY OUTGOINGS

- 9.1 The Landlord shall pay all outgoings in respect of the premises, property, the building and the building services which are not the Tenant's obligation under clause 5.

10. TENANT'S MAINTENANCE OBLIGATIONS

- 10.1 The Tenant shall, at its own cost:

- a. keep the premises and the Landlord's fixtures and fittings appropriately clean, tidy and presentable at all times;
 - b. make good and/or repair any damage to the premises or Landlord's fixtures and fittings (including the building services) as may be caused by the Tenant's use,
 - c. keep the premises secure at all times and, at the request of the Landlord, provide copies of keys to all locks to the building(s) and any gates or locks providing access to the premises;
 - d. take all practicable steps to prevent any vandalism to the premises, building(s) or the Landlord's fixtures and fittings and immediately repair or remediate such vandalism and remove any graffiti from the premises;
 - e. keep and maintain the interior of the premises including the Landlord's fixtures and fittings in the same clean order, repair and condition as they were in at the commencement date of this lease and will at the end or earlier termination of the term quietly yield up the same in the like clean order, repair and condition but having regard to the age of the premises at the end or earlier determination of the term. Provided that the Tenant shall not be liable for fair wear and tear arising from reasonable use or any damage caused by fire, flood, explosion, lightning, storm, earthquake or volcanic activity;
 - f. pay for the repair of all glass breakages with glass of the same or better weight and quality and breakage or damage to all doors, windows, light fittings and power points of the premises caused by improper, careless or abnormal use by the Tenant or those for whom the Tenant is responsible;
 - g. replace light bulbs and tubes that wear out with items of the same or better quality and specification;
 - h. keep all floor coverings in the premises clean and replace all floor coverings supplied by the Landlord with floor coverings of a similar quality when the same are damaged as a result of the negligent acts or omissions of the Tenant and other than by fair wear and tear;
 - i. keep and maintain the grounds, yards, fences, car parks and surfaced areas in a good and tidy condition and maintain any garden or lawn area in a tidy and cared for condition; and
 - j. make good any damage to the premises including Landlord's fixtures and fittings (and including the building services) or loss caused by improper careless or abnormal use by the Tenant or those for whom the Tenant is responsible.
- 10.2 Subject to clause 10.1b, the Tenant shall not be liable for the maintenance or repair of any building service.
- 10.3 Notwithstanding any other provision of this lease, the Tenant shall not be liable to repair any inherent defect faulty design or construction workmanship in the premises or the Landlord's fixtures and fittings nor to pay any outgoings incurred by the Landlord in remedying any inherent defect faulty design or construction workmanship.

- 10.4 If the Landlord shall give the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of clause 10.1 the Tenant shall with all reasonable speed so comply.

11. TOILETS

- 11.1 The toilets sinks and drains shall be used for their designed purposes only and no substance or matter shall be deposited in them which could damage or block them.

12. RUBBISH REMOVAL

- 12.1 The Tenant shall regularly cause all of the Tenant's rubbish and garbage to be removed from the premises and will keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant will also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

13. LANDLORD'S MAINTENANCE

General Obligation

- 13.1 The Landlord shall, at its own cost, keep and maintain the building structure and building services to the extent reasonably required for the safe occupation and use of the premises by the Tenant for the business use.
- 13.2 Where the landlord is required to complete any repairs under this Lease and the Tenant has given the Landlord written notice of the want of such repairs, the Landlord shall, within a reasonable time following the receipt of such notice from the Tenant, and with all reasonable speed, complete such repairs.
- 13.3 The Landlord shall not be liable for any:
- a. repair or maintenance which the Tenant is responsible to undertake; or
 - b. loss suffered by the Tenant arising from any want of repair or defect unless the Landlord shall have received notice in writing thereof from the Tenant and has not within a reasonable time thereafter taken appropriate steps to remedy the same.

Service Contracts

- 13.4 The Landlord may, at the Landlord's election keep and maintain service maintenance contracts for any lifts, air-conditioning and other building services supplied by the Landlord.

14. NOTIFICATION OF DEFECTS

Tenant to Give Notice

- 14.1 The Tenant shall give to the Landlord prompt notice of any accident to or defect in the premises or any building services (or any want of repair) of which the Tenant is aware for which the Landlord is liable to repair and in particular in relation to any pipes or fittings used in connection with the water electrical gas or drainage services.

15. LANDLORD'S RIGHT OF INSPECTION

- 15.1 The Landlord and the Landlord's employees contractors and invitees may at all reasonable times enter upon the premises to view their condition.

16. LANDLORD MAY REPAIR

- 16.1 If the Tenant defaults in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or If any maintenance or repairs for which the Tenant is responsible require to be undertaken as a matter of urgency then without prejudice to the Landlord's other rights and remedies expressed or implied the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times enter upon the premises to execute such works. Any money reasonably expended by the Landlord in executing such works shall be payable by the Tenant to the Landlord, together with interest thereon at the default interest rate from the date of expenditure to the date of payment, within 20 working days of receipt by the Tenant of a valid tax invoice.

17. ACCESS FOR MAINTENANCE AND REPAIRS

- 17.1 The Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times to enter the premises to carry out any maintenance or repairs to the premises under clause 16 of this lease or adjacent premises. All such repairs inspections and work must be carried out by the Landlord with the least possible inconvenience to the Tenant.

18. BUSINESS USE

- 18.1 The Tenant shall not use or permit the whole or any part of the premises to be used for any use other than the business use.

- 18.2 The Tenant shall not:

- a. use the premises, or allow them to be used, for any noxious, illegal or offensive trade or business; and
- b. allow any act or thing to be done which may be, or become, a nuisance, disturbance or annoyance to the Landlord.

The carrying on by the Tenant of the business use shall be deemed not to be a breach of this clause.

19. LEASE OF PREMISES

- 19.1 The tenancy shall relate only to the premises including the carparks and will include the Tenant's unimpeded ingress and egress rights to the premises.

20. SIGNAGE

- 20.1 The Tenant shall not affix paint or exhibit or permit to be affixed painted or exhibited any name, sign, name-plate, signboard or advertisement of any description on or to the exterior of the building(s) without the prior approval in writing of the Landlord (including as to the materials of the signage and the method of affixation) but such approval shall not be unreasonably or arbitrarily withheld or delayed in respect of signage describing the Tenant's business.

- 20.2 No charge will be made nor rent charged in respect of the signage nor will the Tenant's rights under this clause 20 be treated as an enhancement for rent review purposes.
- 20.3 If approved, the Tenant's signage shall be secured in a substantial and proper manner so as not to cause any damage to the building(s) or any person. The Tenant shall, prior to the expiration of the term or within a reasonable period following the earlier determination of the term, remove the signage and make good any damage occasioned thereby.

21. ADDITIONS AND ALTERATIONS, FIXTURES AND FITTINGS

No Additions or Alterations

- 21.1 Given the short duration of this lease the Tenant shall neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building(s).

End of Term

- 21.2 At the expiration or earlier termination of the term, the Tenant will (if required by the Landlord), remove any fixtures, fittings and chattels brought onto (or installed on) the premises by the Tenant and make good any damage to the premises or the Landlord's fixtures and fittings caused by such removal, at the Tenant's cost. If the Tenant has failed to remove and/or make good under this clause by the expiration or earlier determination of the term, then the Landlord may remove the Tenant's fixtures, fittings and chattels and forward them to a refuse centre (or otherwise dispose of them) without any compensation payable to the Tenant, and make good any damage caused to the premises or the Landlord's fixtures and fittings as a result of such removal. In that event, the costs incurred by the Landlord in such removal and make good will be payable by the Tenant, on demand, with interest thereon at the default interest rate in the First Schedule from the 20th of the month following receipt of the Landlord's invoice to the date of payment.

22. COMPLIANCE WITH STATUTES AND REGULATIONS

Compliance by Tenant

- 22.1 The Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant and will also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the use of the premises by the Tenant but:
- a. the Tenant shall not be required to make any structural repairs alterations or additions to the premises nor to replace or install any plant or equipment except where required by reason of the number or sex of persons occupying the premises as a result of the Tenant's use of the premises for the business use; and
 - b. the Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the sole responsibility of the Tenant as an occupier of the premises.

Health and Safety

- 22.2 The Tenant shall at all times comply with the Health and Safety in Employment Act 1992 and the Agreement and must keep in place and comply with, at all times, a

health and safety management plan for the premises having regard to the Tenant's intended use and occupation of the premises. The Tenant must, if demanded, provide a copy of such plan to the Landlord and the Landlord may from time to time require certain modifications to such plan. The Tenant must make (and comply with) all such modifications.

- 22.3 The Tenant must identify, eliminate, isolate and/or minimise hazards that arise on the premises.

Fire and emergency management

- 22.4 The Tenant must develop:

- a. an emergency management plan for fire and other emergencies; and
- b. an evacuation scheme for fire and other emergencies, which plan must be approved by the New Zealand Fire Service where more than 100 students and staff regularly occupy or use the premises.

Contamination

- 22.5 The Tenant must, throughout the term, adopt practices to avoid and mitigate contamination of the premises consistent with any mandatory code of practice and any statutory or regulatory requirements in existence from time to time.

Indemnity

- 22.6 The Tenant indemnifies the Landlord for and against any loss, expenses, liability (including fines or penalties imposed), costs, claims or proceedings whatsoever suffered or incurred by the Landlord in respect of any non-compliance by the Tenant with any statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant, or in respect of any breach by the Tenant of the provisions of this clause 22.

23. INSURANCE

- 23.1 The Tenant acknowledges pursuant to section 271 of the Property Law Act 2008 that the Landlord has not insured the buildings and improvements on the premises against destruction or damage arising from fire, flood, explosion, lightning, storm, earthquake or volcanic activity.
- 23.2 The Tenant shall at all times during the term keep and maintain the insurance policies required of the Tenant under the Agreement, including, where such policies are site-specific, ensuring such insurance policies extend to, or include, the premises.

24. TOTAL DESTRUCTION OF PREMISES

- 24.1 If the premises or any portion of the building of which the premises may form part shall be destroyed or so damaged so as to render the premises untenable then the term shall at once terminate from the date of destruction or damage.

25. PARTIAL DESTRUCTION

- 25.1 If the premises shall be damaged but not so as to render the premises untenable then the Landlord may, at its sole election:

- a. terminate this lease by giving the Tenant 10 working days notice, and a fair proportion of the rent shall cease to be payable from and including the date of damage to and including the date of termination; or
 - b. with all reasonable speed repair such damage or reinstate the premises and/or the building in accordance with clause 25.2 .
- 25.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as the premises are reinstated so as to be reasonably adequate for the Tenant's use and enjoyment and are of no lesser quality and standard than prior to the date of damage.
- 25.3 The whole (or a fair proportion, having regard to the nature and extent of the damage and the extent to which the Tenant can lawfully conduct its business from the premises) of the rent shall cease to be payable for the period starting on the date of the damage and ending on the date when the repairs and reinstatement have been completed and the Tenant can lawfully occupy all the Premises.
- 25.4 If:
- a. any necessary permit or consent is not obtainable; or
 - b. the Landlord has not, or the Tenant can at any time establish with reasonable certainty that the Landlord will not have, repaired or reinstated the premises in accordance with this clause 25 within 6 months or more of the date of damage,

then the Tenant may terminate this lease by written notice but without prejudice to the rights of either party against the other. The term will terminate upon service of such notice on the Landlord.

26. EMERGENCY

- 26.1 If as a result of an Emergency the Tenant is unable to gain access to all parts of the premises or to fully and lawfully conduct its business from the premises (for example) because:
- a. access to the premises, or their use, is not feasible or suitable for health and safety reasons or because of physical impediments to access;
 - b. the premises are situated within a prohibited or restricted access cordon;
 - c. the premises are unable to be used pending the assessment or completion of structural engineering or other reports and appropriate certifications that the premises are fit for use;
 - d. access to or occupation of the premises is prohibited or restricted by civil defence, national, territorial, defence, police or other emergency authorities; or
 - e. access to or occupation of the premises is not feasible as a result of the suspension, dislocation or unavailability of services such as energy, water, sewerage or air conditioning,

then the Tenant's obligations under this lease will be suspended and the whole (or a fair portion, having regard to the extent to which the Tenant can lawfully conduct its

business from the premises) of the annual rent will cease to be payable for the period starting on the date when the Tenant became unable to gain access to all parts of the premises or to fully and lawfully conduct its business from the premises (as the case may be) and ending on the later of the date when:

- f. such inability ceases; or
- g. where clause 25 applies, the repair and reinstatement have been completed and the Tenant can lawfully occupy all the premises.

This clause shall apply regardless of whether or not the premises or the building are damaged.

Termination

26.2 Any termination pursuant to clauses 24.1 or 25.4 will be without prejudice to the rights of either party against the other in relation to any breach of this lease prior to the date of damage or destruction.

26.3 If this lease is terminated pursuant to clauses 24.1 or 25.4:

- a. the annual rent shall cease to be payable as from the date of such damage or destruction; and
- b. any annual rent which the Tenant has paid for any period after the date of such damage, destruction or Emergency shall be promptly refunded by the Landlord to the Tenant.

26.4 Notwithstanding any termination of this lease pursuant to clauses 24.1 or 25.4:

- a. the Tenant will be entitled to remove all or any of its fixtures, fittings and chattels from the premises and its signage and equipment within a reasonable period following such termination;
- b. if required by the Tenant, the Landlord will provide the Tenant with all reasonable assistance to do so including gaining access to the premises; and
- c. the Tenant will be relieved of any obligations pursuant to clauses 21.2 and 20.3 to make good any damage caused by the removal of its fixtures, fittings and chattels from the premises and the removal of its signage and equipment.

26.5 Notwithstanding anything to the contrary any:

- a. payment of the annual rent by the Tenant at any time; or
- b. agreement by the Tenant as to an abatement of the annual rent;

will not prejudice the Tenant's rights, pursuant to clauses 24 and 25, to:

- c. assert that this lease has terminated;
- d. exercise a right of termination or cancellation;
- e. claim an abatement of the annual rent; or

- f. claim a refund of any annual rent paid for any period beyond a termination or in respect of which an abatement applies or should, by the terms of this lease, have applied.

27. CANCELLATION

27.1 The Landlord may cancel this lease by notice to the Tenant:

- a. if the Landlord requires the premises for other education purposes or the Landlord wishes to dispose of the Land (in which case the Landlord must give 6 months prior notice); or
- b. if, in the Landlord's opinion, it is necessary or desirable to cancel this lease due to any event outside the reasonable control of the Landlord (including any injunctive proceedings),

and the term shall terminate on cancellation but without prejudice to the rights of either party against the other.

27.2 If this lease is terminated pursuant to clause 27.1:

- a. the annual rent shall cease to be payable as from the date of cancellation; and
- b. any annual rent which the Tenant has paid for any period after the date of cancellation shall be promptly refunded by the Landlord to the Tenant.

27.3 The Landlord may (in addition to the Landlord's right to apply to the Court for an order for possession) cancel this lease by re-entering the premises at the time or at any time thereafter:

- a. if the rent is in arrears 10 working days after any of the rent payment dates and the Tenant has failed to remedy that breach within 10 working days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007;
- b. in case of breach by the Tenant of any covenant or agreement on the Tenant's part herein expressed or implied (other than the covenant to pay rent) after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007;
- c. if the Tenant makes or enters into or endeavours to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors;
- d. in the event of the insolvency bankruptcy or liquidation of the Tenant;
- e. if the Tenant suffers execution to issue against the Tenant's property goods or effects under any judgment against the Tenant in any Court for a sum in excess of \$100,000; or
- f. if the Agreement is terminated for whatever reason;

and the term shall terminate on such cancellation but without prejudice to the rights of either party against the other.

28. ESSENTIALITY OF PAYMENTS

- 28.1 Failure to pay rent or other moneys payable hereunder on the due date shall be a breach going to the essence of the Tenant's obligations under this lease. The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages from the Tenant for such breach. Such entitlement shall subsist notwithstanding any termination of this lease and shall be in addition to any other right or remedy which the Landlord may have.
- 28.2 The acceptance by the Landlord of arrears of rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

29. QUIET ENJOYMENT

Quiet Enjoyment

- 29.1 The Tenant shall be entitled to quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord (subject to the rights of the Landlord under this lease). For the avoidance of doubt, this clause is overridden by any power or duty which the Landlord or Secretary (as that term is defined in the Education Act 1989) has under the Public Works Act 1981 or the Education Act 1989.

30. RENEWAL OF LEASE – NOT USED

31. ASSIGNMENT OR SUBLETTING

- 31.1 The Tenant shall not assign or transfer its interests in the lease to any third party.
- 31.2 The Tenant may not sublet or licence all or any part of the premises to a third party (*Proposed Transaction*), except with the Landlord's prior written consent. Before giving its consent, the Landlord may require the satisfaction of any or all of the following conditions:
- a. the proposed sublessee or licensee (*Proposed Occupier*) is suitable, respectable, responsible and of sound financial standing;
 - b. the Tenant must not charge the Proposed Occupier an annual rent or licence fee which is proportionally greater than the rent payable by the Tenant under this lease;
 - c. the Tenant must not be in default in the due and punctual observance or performance of the Tenant's covenants and agreements under this lease;
 - d. the Tenant must pay to the Landlord all reasonable costs (including administrative, legal and other costs and expenses) incurred by the Landlord in relation to the Proposed Transaction, whether or not the Landlord consents to the Proposed Transaction or the Proposed Transaction proceeds to completion;
 - e. the Proposed Transaction will not, in the Landlord's opinion:
 - i. be inconsistent with any statutes, ordinances, bylaws, regulations and other lawful requirements, or any licences, permissions, notices,

orders, consents, requisitions, conditions or requirements which may be given or required by any Authority;

- ii. be inconsistent with the business use or the provisions of clause 17 of this lease;
 - iii. materially increase or obstruct traffic flow around the premises or otherwise adversely impact on traffic safety;
 - iv. trigger any requirement of the Landlord to dispose of the premises (or any part of it) pursuant to the Public Works Act 1981;
- f. the Proposed Occupier must:
 - i. covenant with the Landlord, in a form acceptable to the Landlord, not to lodge any submission or participate in any objection or appeal which opposes any designation, resource consent or notice of requirement, or take any other action which may have the effect of preventing or interfering with the Landlord's future plans in relation to the premises or the property;
 - ii. provide evidence that the Proposed Occupier has adequate insurance cover in terms of clause 23.2, and
- g. the Proposed Transaction must provide that the Proposed Occupier will not be required to pay rent to the Tenant until at least from the date of the Landlord's consent to the Proposed Transaction.

31.3 Where the Landlord consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.

31.4 Where any Tenant is a company which is not listed on the main board of a public stock exchange in New Zealand or Australia then any change in the legal or beneficial ownership of its shares or the issue of new capital whereby in either case there is a change in the effective management or control of the company, will require the Landlord's consent.

32. HOLDING OVER

32.1 If the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, such occupation shall be a periodic tenancy only, terminable by 20 working days written notice by either party and at the rent payable immediately prior to the expiration or sooner determination of the term and otherwise on the same covenants and agreements (so far as applicable to a periodic tenancy) as herein expressed or implied.

33. ACCESS FOR RE-LETTING OR SALE

33.1 The Tenant will permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:

- a. any such inspection is at a time which is reasonably convenient to the Tenant; and
- b. is conducted in a manner which does not cause disruption to the Tenant.

34. WAIVER

- 34.1 No waiver or failure to act by either party in respect of any breach by the other shall operate as a waiver of another breach.

35. NOTICES

- 35.1 All notices must be in writing and must be served by one of the following means:
- a. in the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and
 - b. in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:
 - i. in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or
 - ii. by personal delivery, or by posting by registered or ordinary mail, or by facsimile, or by email.
- 35.2 In respect of the means of service specified in subclause 35.1b.ii, a notice is deemed to have been served:
- a. in the case of personal delivery, when received by the addressee;
 - b. in the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand;
 - c. in the case of facsimile transmission, when sent to the addressee's facsimile number; or
 - d. in the case of email, when acknowledged by the addressee by return email or otherwise in writing except that return emails generated automatically will not constitute an acknowledgment.
- 35.3 In the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand or the Tenant's facsimile number, any notice placed conspicuously on any part of the premises shall be deemed to have been served on the Tenant on the day on which it is affixed.
- 35.4 A notice shall be valid if given by any director, general manager, solicitor or other authorised representative of the party giving the notice.

36. DISPUTES

- 36.1 Any dispute or difference is to be referred for resolution in accordance with the Agreement.

37. INTERPRETATION

- 37.1 In this lease:
- a. "Agreement" means the Agreement relating to Partnership Schools/Kura Hourua entered into between the Landlord and the Tenant, dated 11 September 2014;

- b. "building services" means any plant, machinery, wires, cables, pipes, conduits, improvements, fittings, fixtures, chattels, appurtenances, conveniences or other equipment or material of any kind owned or controlled by the Landlord or supplied to the building and used or intended to be used for or ancillary to the provision or use of any building service utility or amenity now or in the future supplied to the premises and (without limiting the generality of the foregoing) includes automatic doors, lifts, air-conditioning, escalators, office lighting systems including bulbs and ballasts, electrical systems and equipment, heating and cooling plant and equipment, fresh air ventilation and reticulation, fire protection detection and prevention systems, fire hose reels, fire extinguishers, building hydraulic systems, emergency evacuation and alarm systems, guttering drainage and plumbing systems, wastewater and sewerage systems, water reticulation systems, telephony data and communication systems, security access control systems, emergency uninterrupted power systems and generation, and includes any part of any of the building services from time to time;
- c. "building structure" means and includes the foundations, supporting floors, concrete block infill panels, columns, beams, air conditioning units, ceilings, light fittings, toilets and other service and amenity areas, floor coverings, lifts, trusses and supporting components and walls (including exterior walls and cladding) and all other load bearing elements of the building impacting on the strength and stability of the building and includes all roof cladding, exterior windows and doors (and associated components if any) and all sprinkler and fire systems (and associated components if any);
- d. "Default GST":
 - i. means any additional GST, penalty, interest, or other sum imposed on the Landlord under the Goods and Services Tax Act 1985 or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this lease;
 - ii. does not include any sum levied against the Landlord by reason of a default or delay by the Landlord after payment by the Tenant to the Landlord of the GST.
- e. "Emergency" means a situation that:
 - i. is a result of any event, whether natural or otherwise, including an explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, fire, leakage or spillage of any dangerous gas or substance, infestation, plague, epidemic (including any pandemic), failure of or disruption to an emergency service, war, invasion, rebellion, act of terrorism, national emergency; and/or
 - ii. any extraordinary occurrence which may cause loss of life or serious injury, illness or seriously endanger the safety of people or property;

and the situation is not caused by any act or omission of the Tenant.
- f. "GST" means goods and services tax payable under the Goods and Service Tax Act 1985;
- g. "inherent defect" includes faulty design or construction workmanship;

- h. "Landlord" and "Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and the Tenant;
 - i. "property" and "building" mean the land and building(s) of the Landlord which comprise or contain the premises. Where the premises are part of a unit title development the words "property" mean the land and building(s) comprised in the development;
 - j. "structural repair, alteration or addition" means a repair, alteration or addition to the structure or fabric of the building but excluding building services;
 - k. "those for whom the Tenant is responsible" includes the Tenant's agents employees contractors or invitees; and
 - l. "working day" has the meaning given to it in the Property Law Act 2007. Notices served after 5pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day.
- 37.2 Whenever words appear in this lease and also appear in the First Schedule then those words shall mean and include the details supplied after them in the First Schedule.
- 37.3 Where the context requires or admits, words importing the singular shall import the plural and vice versa.
- 37.4 Where the Landlord's consent to any matter is required under this lease then, unless expressly stated to the contrary in this lease, in each case the Landlord:
- a. must not unreasonably withhold consent; and
 - b. must, within a reasonable time of the Landlord's consent being requested:
 - i. grant that consent; or
 - ii. notify the Tenant in writing that the consent is withheld, and provide full written reasons why it is withheld.
- 37.5 A reference in this lease to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- 38. NO IMPLIED TERMS**
- 38.1 The covenants, conditions and powers implied in leases by virtue of the Property Law Act 2007 (whether pursuant to Schedule 3 of that Act or otherwise) will not apply to and are excluded from this lease, to the extent legally permissible.
- 38.2 Sections 224 and 266(1)(b) of the Property Law Act 2007 will not apply to and are excluded from this lease. This clause does not affect the operation of sections 225 to 229 of the Property Law Act 2007.

39. ADDITIONAL COVENANTS RELATING TO IEP REPORT

- 39.1 If at any time during the term the Landlord obtains an initial evaluation procedure report which causes the Landlord to not be satisfied with the earthquake/seismic risks of the building(s), then the Landlord may, upon giving 20 working days notice to the Tenant, terminate this lease. Termination pursuant to this clause will be without prejudice to the rights of either party against the other in relation to any antecedent breach.

40. INDEMNITY AND RELEASE

40.1 The Tenant:

- a. indemnifies and holds the Landlord harmless for and against any actions, claims, demands, losses, damages, fines or penalties, costs or expenses (including legal costs on a solicitor/client basis) suffered or incurred by the Landlord as a direct or indirect result of any act, omission, neglect, breach or default by the Tenant. This indemnity will extend to any loss, damage or injury from any cause whatsoever to property or persons; and
- b. releases to the full extent permitted by law, the Landlord from all claims and demands of any kind and from all liability which, in the absence of any negligence on the Landlord's part, may arise in respect of any accident, damage or injury occurring to any person or property on or about the premises.

41. ACKNOWLEDGEMENT REGARDING OCCUPATION BY NGĀ KĀKANO AND RELOCATABLE BUILDING

41.1 The Tenant acknowledges:

- a. that, as at the date of this lease, Ngā Kākano o Te Kaihanga (Ngā Kākano) occupies part of the premises (the Ngā Kākano Area) being part of the Landlord's building as well as the relocatable building shown outlined in blue on the plan attached in the Fifth Schedule (the Relocatable Building);
- b. and agrees that:
 - i. Ngā Kākano may continue to occupy the Ngā Kākano Area for a period of twenty (20) working days from the date of this lease;
 - ii. the Tenant shall not in any event be entitled to:
 - (1) any abatement of rent; or
 - (2) demand or charge any payment of rent or any other licence or occupation fee from Ngā Kākano,

on account of Ngā Kākano's occupation of the Ngā Kākano Area during or prior to the 20 working day period referred to in paragraph i above;
- c. that the Relocatable Building is not owned by the Landlord and has been placed on the Land by Ngā Kākano;
- d. that the Relocatable Building itself does not form part of this lease and accordingly the Landlord makes no representation as to its suitability,

structural soundness, safety or the right for the Tenant to use the Relocatable Building;

- e. that the Tenant will make any necessary arrangements regarding the Tenant's use or occupation of the Relocatable Building directly with Ngā Kākano if the Relocatable Building is not being used by Ngā Kākano or Te Kura Kaupapa Māori o Te Rangi Āniwaniwa or another entity approved by Ngā Kākano, as part of a Landlord approved subletting arrangement pursuant to clause 31;
- f. and agrees that the Landlord or Ngā Kākano may access the premises to remove the Relocatable Building at any reasonable time and on reasonable notice being given to the Tenant.

THIRD SCHEDULE
LANDLORD'S FIXTURES AND FITTINGS

Item **Condition at Commencement**

Ceiling-mounted light fittings	Good
Ceiling-mounted heating units	Good
Vertical venetian blinds	Good
Whiteboards	Good
Lundia shelving (room at left-side of central corridor behind reception)	Good
2 x SS benches and cupboards beneath (last area at left-side of central hall)	Good
4 plate Simpson Polarls stove (last area at left-side of central hall)	Good
Hot water service (various electric heaters)	Good
Carpeted floors	Good
Vinyl flooring (staffroom and all toilets)	Good
Male, female and staff toilets (all partitions and sanitary fittings)	Good
West-side gabled building extension	Good
Rear room on left <ul style="list-style-type: none"> • wall cupboards (2 walls) • perimeter desk beneath shelves (3 walls) 	Good
Rear room on right <ul style="list-style-type: none"> • SS bench • cupboards beneath 	Good

FOURTH SCHEDULE – NOT USED

FIFTH SCHEDULE
PREMISES PLAN



