

AGREEMENT TO USE A COUNCIL RESERVE dated 01 of May 2024

BETWEEN **FAR NORTH DISTRICT COUNCIL**, a body corporate pursuant to the Local Government Act 2002 (“**Council**”)

AND **FOCUS PAIHIA COMMUNITY CHARITABLE TRUST** a registered charitable trust incorporated 29 July 2010 (“**Licensee**”)

BACKGROUND

- A. The Council owns the Paihia Village Green, a Recreation Reserve under the Reserves Act 1977 located at the corner of Marsden Road and School Road Paihia in the Far North District and comprised of Lots 1 to 5 DP 57340 and Lot 1 and Part Lot 27 DO 11040 (“**Reserve**”).
- B. The Licensee wishes to occupy and use part of the Reserve for the purpose of operating an Arts and Craft Stall Market (“**Stall Market**”) on days when commercial cruise ships dock in Waitangi or Paihia.

IT IS AGREED AS FOLLOWS:

That the Council permits the Licensee to occupy and use a portion of the Reserve, as highlighted on the **attached** plans (**Schedule 1**) for a Stall Market on days when commercial cruise ships (with a capacity of more than 1750) dock in Waitangi and/ or Paihia (“**Stall Market Days**”) and that the Licensee accepts the occupation and use of the Reserve on the following terms:

- 1 The term of this agreement will be one year, from 1 May 2024 to 30 April 2025, and may be terminated by either party by giving two months’ notice in writing.
- 2 If the Council should at any time during the term of this agreement require possession of any part or the whole of the Reserve for any purpose, the Council may vary or terminate this agreement by giving one month’s written notice to the Licensee.
- 3 The Council may terminate this agreement immediately by providing written notice to the Licensee if the Licensee commits a material breach of the terms of this agreement.
- 4 The Licensee shall not be entitled to any compensation or damages from the Council arising directly or indirectly in connection with the variation or termination of this agreement.
- 5 The Licensee shall be entitled to occupy and use the portion of the Reserve as highlighted on the **attached** plans (**Schedule 1**) for a Stall Market:
 - 5.1 on Stall Market Days between the hours of 6.30 am and 1.00 pm, or if the ship departs after 1.00pm, no later than 4.15 pm, or
 - 5.2 on such other days and/or at such other times as the Council may agree to in writing.
- 6 The Licensee shall ensure at all times that the Licensee holds public liability insurance of \$1,000,000 (minimum) and indemnity insurance of \$500,000 (minimum). The Licensee shall produce evidence of its current insurance policy to the Council if requested by the Council.
- 7 The Licensee shall meet all regulatory and legal compliance requirements including but not limited to licensing requirements, consents or approvals in relation to any Act, regulation or Bylaw that may be applicable.
- 8 The Licensee shall indemnify the Council against all losses, claims, damages, expenses, costs or disputes arising directly or indirectly out of:

- 8.1 any act, omission or negligence of the Licensee or any person at the Reserve expressly or impliedly with Licensee's authority;
 - 8.2 any breach by the Licensee of any term of this agreement;
 - 8.3 any act, omission or negligence of the Licensee which leads to action by any regulatory authority which negatively impacts the Reserve or Council's reputation, public image or public relations.
- 9 The Licensee shall ensure that the public can continue to access the Reserve at all times even while the Stall Market is running.
- 10 The Licensee must manage and report to the Council any damage to the Reserve and must remove any rubbish or waste from the Reserve resulting from of Stall Market activities.
- 11 The Licensee shall be responsible for all Health and Safety obligations in respect of its use of the Reserve and/or the operation of the Stall Market.
- 11.1 The Licensee must provide the Council with a copy of their Health and Safety Plan including a Hazard Risk Register and management plan for the Village Green on signing the agreement.
 - 11.2 The Licensee shall comply with all laws on health and safety, including the Health and Safety at Work Act 2015 and any regulations, rules or guidance made under that Act, whether or not related directly to the Reserve and operations of the Licensee.
 - 11.3 The Licensee will notify the Council, in writing, of any health and safety incidents, near misses or risks that relate to the Reserve and operation of the Stall Market in a timely fashion.
- 12 The Licensee shall comply with and ensure their stall holders comply with all requirements of the Reserves Act 1977 in respect of the Reserve.
- 13 The Licensee shall ensure compliance with COVID related requirements and mandates, if any.
- 14 The Licensee shall pay a rental fee to Council for the use of the Reserve on days when it operates the Stall Market (the "**Rental Fee**").
- 14.1 The Rental Fee shall be set at 20% of the Stall Market's gross income.
 - 14.2 At the end of each quarter, the Licensee shall calculate the Rental Fee that is payable to the Council and provide Council with a report confirming the number of stallholders that took part in the Stall Market over the quarter, the fees and charges imposed by the Licensee on stallholders for the quarter, the total revenue generated for the Stall Market for the quarter, 20% of the Stall Market's gross income for the quarter (the "Rental Report").
 - 14.3 Whenever the Rental Report is provided to Council, the Licensee shall also provide a report to Council on any maintenance undertaken on the Reserve by the Licensee.
 - 14.4 Upon receipt of the Rental Report, the Council shall invoice the Licensee for the Rental Fee which must be paid by the Licensee within 14 days of receiving the invoice.
 - 14.5 The Council may, in its absolute discretion, allow the Licensee to keep part or all of the Rental Fee in lieu of any maintenance undertaken by the Licensee on the Reserve, which maintenance does not include mowing.
- 15 The Licensee must comply with and ensure their stallholders comply with any Guidelines ("**Guidelines**") for the Stall Market as approved by the Bay of Islands Community Board ("**Board**") and **attached** to this agreement ("**Schedule 2**").
- 16 The Licensee must comply and ensure their stallholders comply with any changes or updates that may be made to the Guidelines by the Board or any new guidelines that may be approved by the Board in the future. The Licensee will be consulted by the Board before any updates or changes are made to the Guidelines.

17 On request, the Licensee shall generally assist with and provide support to the Council in collecting statistical information from either the Stall Market days or third parties taking part in Stall Market days.

SIGNED for and on behalf of the

Far North District Council

By its authorised representative:



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Name Tania Steen

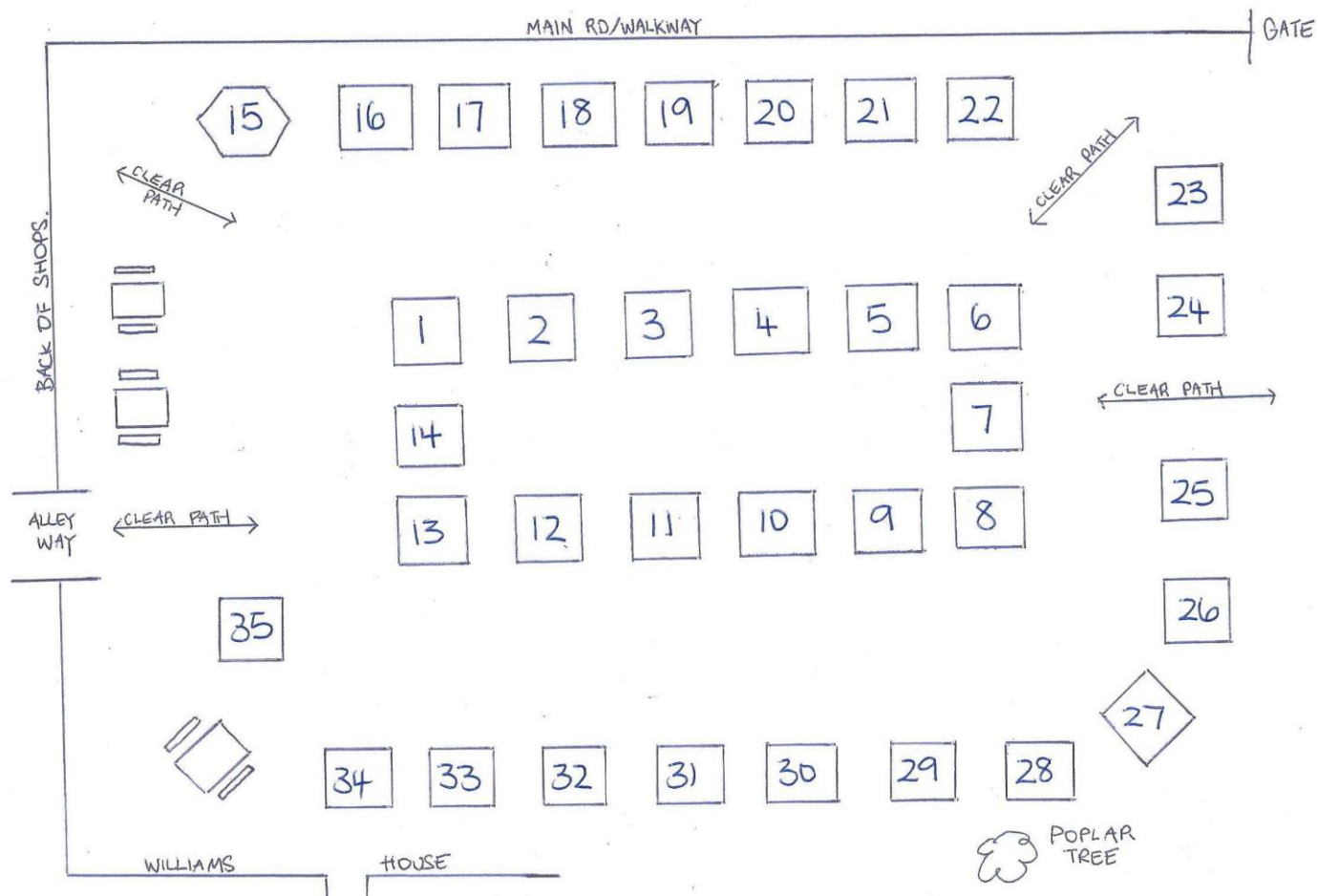
SIGNED for and on behalf of the Licensee

FOCUS PAIHIA COMMUNITY CHARITABLE TRUST

By its authorised representative(s):

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Name

Schedule 1
Plan A – Stall Market Location on Paihia Village Green Reserve for 35 Stall Holders



Schedule 2
Guidelines for the Paihia Village Green Arts & Craft Market approved by the Bay of Islands
Community Board