

Schedule 4 – General Terms and Conditions

Invitation Name: Upper Widgee Road, Widgee – Community Facilities Management Agreement

Invitation Number: IFT012

COMMUNITY FACILITIES MANAGEMENT AGREEMENT OVER TRUST LAND

Between:
Gympie Regional Council
(as the Trustee)

and:

[Name of Organisation]
(as the Manager)



**COMMUNITY FACILITIES MANAGEMENT AGREEMENT
OVER TRUSTEE LAND**

THIS AGREEMENT dated the _____ day of _____ 2022

BETWEEN: **GYMPIE REGIONAL COUNCIL**, of 242 Mary Street, Gympie in the State of Queensland, (hereinafter referred to as “the Trustee”)

AND: **[NAME OF ORGANISATION]**, of **[Organisation’s address]** in the State of Queensland, (hereinafter referred to as “the Manager”)

RECITALS

- A. The Council is the trustee of property located at **[property address]** more particularly described as **Lot []** on **[]** and hereinafter referred to as “the Property”.
- B. The arrangement is for the use of the whole of the Licensed Area, by the Manager, as per the attached plan in Annexure C.
- C. The terms and conditions are set out in this Management Agreement and hereinafter referred to as the “Agreement”.

AGREEMENT

The Trustee and the Manager each covenant and agree to the terms and conditions set out in this Agreement and to abide by those terms and conditions in every respect for the entire period of operation of this Agreement. This document needs to be read in conjunction with the prescribed terms contained in Schedule 3 of the *Land Regulation 2020*.

DEFINITIONS AND INTERPRETATION

1.1 Defined Terms

In the Agreement:

“**Agreement**” means the Agreement that exists between the Trustee and the Manager in relation to the Licensed Area as evidenced by this document;

“**Agreement Fee**” means the amount set out in **Item 4** of the Reference Schedule payable for each year of the Term, and any year (or part thereof) of any holding over period agreed to under Clause 2.1(b) (with the amount determined on a pro rata basis);

“**Capital**” means any major improvements to ensure the facility is able to be maintained as a long term asset;

“**Cost**” includes loss, liability and expense.

“**Date of Commencement**” means the date stated in **Item 1** of the Reference Schedule;

“**Date of Expiration**” means the date stated in **Item 2** of the Reference Schedule;

“**Event of Force Majeure**” means any occurrence occurring beyond the reasonable control of the Party affected by it and, without limiting the generality of the above, includes:

- i. an act of a public enemy, a war (declared or undeclared), explosion, insurrection, public riot, civil commotion, military action, act of terrorism and an act of sabotage;
- ii. a strike, blockade, lockout, an industrial action, dispute or disturbance of any kind;
- iii. an act or restraint of any government or any governmental authority, including foreign governments and authorities;

iv. a storm, tempest, lightning, fire, flood, earthquake or other natural calamity.

“**General Maintenance**” means any minor improvements to ensure the facility is able to be operated and managed on a daily basis;

“**Government Agency**” means any government or any governmental, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity;

“**GST Act**” means *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), and includes other GST related legislation.

“**Land**” means the land on which the Property is situated and includes any improvements contained therein.

“**Licensed Area**” means the area described in **Item 3** of the Reference Schedule;

“**Manager**” means the party described on the front page of this Agreement and its permitted successors and assigns and where the context permits its employees, agents and contractors and is an incorporated association;

“**Party**” means each or either of:

- i. the Trustee; and
- ii. the Manager.

“**Prescribed Terms**” the prescribed terms for a trustee licence contained in Schedule 3 of the *Land Regulation 2020*

“**Reference Schedule**” means the schedule so described which is affixed to this document;

“**Statute**” means any statute, regulation, proclamation, ordinance or by-law of the Commonwealth of Australia or the State of Queensland and includes all statutes, regulations, proclamations, ordinances or by-laws varying consolidating or replacing them and all regulations, proclamations, ordinances and by-laws issued under that statute; and

“**Term**” means the term of the Agreement set out in **Item 5** of the Reference Schedule.

“**Trustee**” means the party named on the front page of this Agreement and its successors and assigns and where the context permits its employees, agents and contractors;

“**WHS ACT**” means *Work Health and Safety Act 2011*

“**Work Cover**” means Insurance under the *Workers Compensation Act*.

“**Workers Compensation Act**” means *Workers Compensation and Rehabilitation Act 2003*.

TERM OF AGREEMENT

2.1 Term of the Agreement

- a) The Term commences on the Date of Commencement and expires on the Date of Expiration, subject to the provisions of the Agreement.
- b) If the Manager continues to occupy the Property after the Date of Expiration with the Trustee’s written consent (which consent may grant (absolutely or conditionally) or may refuse, at its discretion), the terms of this Agreement are to apply as a monthly hold over agreement.
- c) If the Manager holds over in accordance with **Clause 2.1(b)**, either the Manager or The Trustee may terminate the monthly hold over agreement by giving at least 1 months’ notice to the other.

AGREEMENT FEES & CHARGES

3.1 Payment

The Manager will pay the Agreement Fee to the Trustee or to such other person as the Trustee nominates in writing to the Manager annually in advance on:

- a) for the first year of the Term, the Date of Commencement; and

b) thereafter, the first day of each subsequent year of the Term (including the first day of any holding over period agreed to by the Trustee under **Clause 2.1(b)**);

3.2 Fees & charges

- a) The Manager may set reasonable fees and charges for the use of the Licensed Area, subject to **Clause 3.2(c)**.
- b) All fees and charges collected under **Clause 3.2(a)** must be utilised for the purposes of managing and operating the Licensed Area.
- c) A schedule of all fees and charges under **Clause 3.2(a)** must be submitted to the Trustee for approval (acting reasonably) each year when submitting the Annual Update Form.
- d) The Manager must issue receipts for any fees and charges it collects under clause 3.2(a) and retain a copy of each receipt.
- e) The Manager will be responsible for the nomination and co-ordination of a central booking system to ensure that the Licensed Area is made available to the general public, within reasonable terms and conditions

USE OF LICENSED AREA

4.1 Permitted use

The Manager must manage and operate the Licensed Area for the purpose of **[insert permitted use]**.

4.2 Operation

The Manager will be responsible for the nomination and co-ordination of a central booking system to ensure that the Licensed Area is made available to the general public, within reasonable terms and conditions. The Manager is responsible for general operating costs associated with the licensed area. The Manager will undertake to promote the venue for hire for appropriate events and functions.

4.3 Nuisance

The Manager will not do or suffer to be done anything in, upon or about the Property which shall be or may be or may become a nuisance at law.

4.4 Overnight Camping

The Manager must not permit any person to sleep overnight upon the Property without the Trustee's written permission.

4.5 Advertising Signs

No advertising sign, bill, placard, notice or poster is to be affixed, painted or exhibited upon the Property without the Trustee's written consent (which consent the Trustee may grant (absolutely or conditionally) or may refuse, at its discretion), which is not directly in relationship to the operation of the permitted use described in **Clause 4.1**.

4.6 Alterations and/or additions by the Manager

The Manager may construct improvements, alterations and/or additions to the Property subject to the Trustee's prior written consent (which consent the Trustee may grant (absolutely or conditionally) or may refuse, at its discretion).

4.7 Vesting of fixed improvements

All fixed improvements, alterations and/or additions constructed upon the Property will vest in the Trustee from the time that they are constructed or installed.

4.8 Declared Emergency requirement by the Trustee

In the event that the Licensed Area is required by the Trustee due to an unforeseen declared emergency event, the Manager shall ensure the Licensed Area is made available as soon as

practicable. The Trustee shall be responsible for all costs incurred during this time, including electricity and cleaning.

4.9 Requirements of Government Agencies

The Manager must comply promptly with any statute in respect of the Manager's use of the licensed area and any requirements, notices or orders of any government agency having jurisdiction or authority in respect of the licensed area or the use of the licensed area, and including but not exclusive to, comply with all WHS Act, *Electrical Safety Act 2002* and *Environmental Protection Act 1994* requirements.

4.10 Security Access

The Manager is responsible and must ensure that the building is kept secured and monitored on a regular basis. A register of keys issued to the Manager must be maintained.

INSURANCE, INDEMNITIES AND RELEASES

5.1 Obligation to Insure

- a) The Manager must insure against any loss or damage which is commonly covered by a public risk or liability insurance to an amount of at least \$20,000,000.00 or any greater amount as may be reasonably required by the Trustee throughout the term of the Agreement.
- b) The Manager must insure against any loss or damage which is commonly covered by contents insurance throughout the term of the Agreement.
- c) The Manager must furnish to the Trustee evidence that all insurances required to be procured under this clause have been effected with a registered insurer and will supply a copy of the respective certificate of currency on an annual basis or when requested by the Trustee.
- d) The Manager must maintain Work Cover with an insurer licensed under the Workers Compensation Act for all persons it employs in the Licensed Area.
- e) The Manager must pay promptly all premiums, duty, GST, and other money due to any authority concerning Work Cover.

5.2 Release and Indemnity of the Trustee

The Manager hereby releases and holds harmless and indemnifies the Trustee from and against all damages, costs, charges, expenses, actions, claims and demands which may be incurred or made against the Trustee or the Manager or their employees or contractors or invitees or agents or any other person which arises from any damage to any property or injury to any person, including death, arising from the occupation of the subject premises and activities by the Manager, or a breach of this Agreement by the Manager, unless and to the extent the same arises directly from the negligence of the Trustee or its employees or contractors.

5.3 Property of the Manager

The Manager hereby releases and indemnifies the Trustee from and against all damages, costs, charges, expenses, actions, claims and demands for damage to or destruction of property of the Manager left at the premises, unless and to the extent the same arises directly from the negligence of the Trustee or its employees or contractors.

5.4 Negligence or default of the Trustee

The releases, responsibilities and indemnities in **Clauses 5.2 and 5.3** do not apply to any act, matter, thing or consequence if it arises directly out of the negligence or default of the Trustee.

5.5 Trustee's responsibility

- a) The Trustee shall bear all costs associated with ensuring that all buildings are insured under the Trustee's policy.
- b) The Trustee shall bear the cost of any excess on all claims related to damage by fire, storm,

flood and tempest.

5.6 Manager's responsibility

- a) Other than in the ordinary course of operating the Licensed Area under this Agreement, the Manager must not do or permit to occur upon the Licensed Area anything it knows, or ought reasonably to know:
 - i. will or might render void or voidable any insurance the Trustee holds concerning the Licensed Area; or**
 - ii. will or might increase a premium payable upon the insurance.**
- b) The Manager shall be responsible for any excess amount payable on a claim under the Trustee's insurance policy due to the negligence or other actions of the Manager.

5.7 Notice of claim

Each Party must give written notice to the other of any circumstances (including death, personal injury or property damage or loss) likely to give rise to a claim under any policy of insurance affected in accordance with this Agreement within 24 hours of the incident occurring.

5.8 Notice of damages/unauthorised entry

The Manager shall be responsible for ensuring that the appropriate regulating authority is notified within 24 hours of any unauthorised break-in and/or wilful damages including graffiti, to the property. Written notice, including photographs must be forwarded to the Trustee within 48 hours of the incident occurring.

DUTIES & OBLIGATIONS

6.1 The Manager

- a) The Manager is responsible for the general maintenance to all buildings within the Licensed Area.
- b) The Manager is responsible for all electricity, gas, telephone, internet and general operating costs associated with the Licensed Area.
- c) The Manager is responsible for the maintenance of the entire grounds and gardens within the Licenced Area to be kept in a well presented condition.
- d) The Manager must promptly repair any damage done to the Licensed Area as a result of it exercising its rights under this Agreement.
- e) The Manager is responsible to ensure that all buildings within the Licensed Area are kept in a clean and well-presented condition at all times.
- f) The Manager will, in accordance with the *Biosecurity Act 2014*, manage biosecurity risks associated with declared plants and animals (termed biosecurity matter) present on the Licensed Area. All reasonable and practical steps should be taken to prevent or minimise biosecurity risks associated with biosecurity matter on the licensed land under your control. All livestock new to the Licensed Area should be quarantined on entry, especially if coming from a property known to have plant biosecurity matter (eg: Giant Rats Tail Grass, Parthenium Weed or Tropical Soda Apple).
- g) The Manager will be responsible for testing and tagging of non-fixed electrical appliances within the Licensed Area.
- h) The Manager must make available to the Trustee on an annual basis, or upon demand:
 - i. Details with respect to the operation and maintenance of the Licensed Area, including financial details; and
 - ii. Details of office bearers and other members of the Management Committee.

- i) The Manager must make the Licensed Area available to representatives or contractors of the Trustee for the purposes of undertaking any necessary inspections and maintenance, upon reasonable notice being provided.
- j) The Manager will be, for the purposes of the WHS Act, the principal contractor and the person in control of the Licensed Area.
- k) The Manager is responsible for ensuring all relevant records associated with the operation and management of the facility are maintained and stored in the Community Facilities Compliance Folder at the nominated point for regular Inspection.

6.2 The Trustee

- a) The Trustee is responsible for ensuring that the annual termite maintenance and timber pest inspection is undertaken and ensuring that any action required as a result of this inspection is undertaken within a reasonable timeframe.
- b) The Trustee is responsible for ensuring that periodic building inspections are undertaken and shall work with the Manager to ensure that any action required as a result of this inspection is undertaken within a reasonable timeframe.
- c) The Trustee will be responsible for the maintenance of all safety equipment and appliances, including testing and tagging of fixed electrical appliances only.
- d) The Trustee will be responsible for all costs associated with the maintenance and installation of the air-conditioning system.
- e) The Trustee will, where reasonably possible, provide advice and support to the Manager relevant to the management and governance of the Licensed Area.
- f) The Trustee is responsible for payment of all applicable rates and charges relating to the Property.
- g) Any request or requirement for major capital works to be undertaken within the Licensed Area, will be in consultation with both Parties.

For the avoidance of doubt, both Parties agree that the maintenance obligations set out in the attached "Maintenance Schedule – Annexure D" and "Statutory Maintenance Schedule – Annexure E" form part of this Agreement.

6.3 Prescribed Terms

- i. The Manager acknowledges that:
 - (1) this Agreement is subject to the provisions of the Prescribed Terms.
 - (2) the Land is administered under the *Land Act 1994* and the Trustee holds the Land as trustee under that Act.
 - (3) the Trustee grants this Agreement to benefit the community.
 - (4) if any clause or condition of the Agreement is inconsistent with either the *Land Act 1994* or the Prescribed Terms, the provisions of the *Land Act 1994* and the Prescribed Terms prevail.
 - (5) in accepting this Agreement, it intends to contribute benefit to the community through use of the Land and Improvements in good faith, in accordance with this Agreement.

8. FORCE MAJUERE

- a) If any Party is unable to perform, or is prevented, hindered or delayed from performing, either wholly or in part, any of its obligations under this Agreement (except an obligation to make money payments) due

to an Event of Force Majeure, that Party is not liable for that non-performance, and its obligations shall be suspended for so long as the Event of Force Majeure renders the Party unable to so perform its obligations.

- b) A Party affected by an Event of Force Majeure under **Clause 8(a)** shall as soon as is reasonably practicable notify the other Party in writing of its occurrence and of any anticipated delay in arising from it.
- c) A Party affected by an Event of Force Majeure under **Clause 8(a)** shall take all reasonable steps to remove the event and resume performance of its obligations under this Agreement as soon as is reasonably practicable.
- d) The obligation to take reasonable steps in Clause 8(c) shall not oblige the Party to settle any strike, blockade, lock-out or industrial action, dispute or disturbance in manner contrary to the interests of the Party affected.

9. TERMINATION

9.1 Events of termination

If:

- a) the Licensed Area is damaged or destroyed or if there is interruption to access to the Licensed Area so as to render the Licensed Area or any part of the Licensed Area wholly or substantially unfit for the occupation or use of the Manager or inaccessible by any means of access; or
- b) the Manager commits a material breach of any of its obligations and, has not remedied that breach within a reasonable period after receiving written notice from the Manager directing it to do so; or
- c) the use by the Manager of the property interferes in any way with the Trustee's operations on the Property; or
- d) there is a serious breach of the WHS Act and/or the *Electrical Safety Act 2002* and/or the *Environmental Protection Act 1994* by the Manager; or
- e) the Manager identifies insufficient membership and/or financial capacity in accordance with its adopted rules or constitution resulting in the winding up of the Association in accordance with the Office of Fair Trading and the *Associations Incorporation Act 1981* and *Associations Incorporation Regulation 1999*;
- f) the Manager identifies insufficient membership and/or financial capacity in accordance with its adopted rules or constitution resulting in the winding up of the Association in accordance with the Office of Fair Trading and the *Associations Incorporation Act 1981* and *Associations Incorporation Regulation 1999*; or
- g) the Trustee requires the Land for its own use;

then the Agreement may be terminated immediately by written notice, by the Manager in the case of **subclauses (a) and (e)** and by the Trustee in the case of **subclauses (a), (b), (c), (d), (e), (f) and (g)**.

Notwithstanding anything contained herein, either Party may at any time by written notice terminate this Agreement upon giving thirty (30) days' notice. No compensation shall be payable by the Trustee upon termination prior to the completion of this Agreement.

9.2 Effects on rights or liabilities

Termination of the Agreement does not affect the rights or liabilities of the Parties in relation to any cause of action accruing prior to the date of termination (unless otherwise stated under the provisions of the Agreement.)

9.3 The Manager to yield up

- a) The Manager must at the expiration or sooner termination of the term yield up the Licensed Area in good repair and clean condition fair wear and tear excepted having regard to its condition at the Date of Commencement of this Agreement.
- b) Nothing in this clause or any other provision of this Agreement obliges the Manager to remove any road surface or other improvements constructed on the Licensed Area for the purposes of **Clause 9.1** nor to repair any damage done or want of repair to the Licensed Area not caused by the Manager.
- c) In the event that this Agreement is terminated, then the Manager must immediately deliver up possession of the licensed area to the Trustee or its delegate, deliver all keys, locking devices and codes associated with locking to the Trustee.

NOTICES

10.1 Method of service

Any notice to be given under this Agreement by one of the Parties to the other must be in writing and is given for all purposes by delivery in person, by pre-paid post, or by email addressed to the receiving Party at the address set out in **Item 6** of the Reference Schedule in the case of the Trustee and in **Item 7** of the Reference Schedule in the case of the Manager.

10.2 Time of service

Any notice given in accordance with this Agreement will be deemed to have been duly served in the case of posting at the expiration of four (4) business days after the date of posting and in the case of email, on the first business day after the date of transmission.

10.3 Change of contact details

Upon change of contact details of either Party, written notice must be given to the other Party within fourteen (14) days.

ASSIGNMENT AND LICENCING

11.1 The Manager not to assign, sub-licence or sub-let

- a) The Manager must not assign this Agreement, sub-licence or sub-let the whole or any part of the Licensed Area, without the prior written consent of the Trustee, which consent the Trustee may grant (absolutely or conditionally) or may refuse, at its discretion.
- b) The Manager must not mortgage or otherwise encumber its interest in this Agreement.

GOODS & SERVICES TAX

12.1 Interpretation of Terms

Each of the following expressions bears the meaning the GST Act ascribes to it:

- a) adjustment event;
- b) adjustment note;
- c) Commissioner;
- d) consideration;
- e) creditable acquisition;
- f) GST;
- g) GST group;
- h) input tax credit;
- i) recipient;

- j) recipient created tax invoice;
- k) registered;
- l) representative member;
- m) supplier;
- n) taxable supply;
- o) tax invoice.

12.2 GST Grouping

Also, references to a supplier, a recipient, a payer, or a payee who is a member of a GST group¹ include the representative member for that person's GST group.

12.3 Character of Payments

Each of the following expressions bears the meaning the GST Act ascribes to it:

- a) Non-monetary consideration for a taxable supply under this Agreement is GST-inclusive;
- b) However, unless the Agreement states otherwise, monetary consideration for a taxable supply under the Agreement is GST-exclusive

EXAMPLE ONLY

¹ Companies within a 90%-owned group, and in some cases other entities (such as non-profit bodies), can be approved by the Commissioner as a GST group. One member of the group then deals with all the GST liabilities and entitlements of the group (excepting GST on most taxable importations), and (in most cases) intra-group transactions are excluded from GST.

12.4 Responsibility for Payment

The recipient must:

- a) bear the GST upon a taxable supply under the Agreement;
- b) pay the tax to the supplier with the consideration for the supply.

12.5 Input Credit Adjustment (Reimbursements)

- a) If the Agreement requires a recipient to reimburse a supplier the cost of a creditable acquisition, the cost is to be net of the input tax credit to which the supplier is entitled for the cost.
- b) If the Agreement requires the reimbursement of a percentage of the cost of a creditable acquisition, the percentage is to be net of an equivalent percentage of the input tax credit to which the supplier is entitled for the cost.
- c) If the reimbursement of all or part of the cost of a creditable acquisition constitutes consideration for a taxable supply, the recipient must pay the supplier, in conjunction with the reimbursement payment, the GST referable to the supply.
- d) If the Agreement obliges a Party to indemnify the other Party against a Cost the other incurs or sustains, the Cost will be net of all input tax credits the payee is entitled to claim concerning that Cost.
- e) For clarity, if the net Cost to be indemnified constitutes the consideration for a taxable supply, the payer must bear the GST for the taxable supply.

12.6 Adjustments

- a) This Clause 12.6 applies if an adjustment event occurs concerning a taxable supply made under this Agreement.
- b) The consideration for the supply will be recalculated to reflect the adjustment event.
- c) As the case requires:
 - i. ***the recipient must pay the resultant GST shortfall to the supplier; or***
 - ii. ***the supplier must refund the resultant GST overpayment to the recipient.***

12.7 Registration Tax Invoices and Adjustment Notes

- a) The supplier need not give the recipient a tax invoice or adjustment note for a taxable supply under the Agreement if:
 - i. ***the Commissioner has issued a written determination or ruling permitting the recipient to issue a recipient created tax invoice for the supply; and***
 - ii. ***the recipient gives the supplier a recipient created tax invoice or an adjustment note (as the case requires) for that supply.***
- b) Otherwise, however, the supplier must give the recipient, when it makes the taxable supply or in exchange for the consideration, a tax invoice for the supply.
- c) The supplier also must give the recipient an adjustment note:
 - i. ***in exchange for payment of a GST shortfall; or***
 - ii. ***in conjunction with the payment of a GST refund.***

- d) If the consideration for a taxable supply is non-monetary, the tax invoice for the supply, and a relevant adjustment note, must state as the consideration the GST-inclusive market value of the supply.
- e) A Party that has been issuing recipient created tax invoices for taxable supplies under the Agreement must notify the other Party promptly if it loses its entitlement to issue such invoices

12.8 Registration

- a) Each Party declares that it is registered.
- b) A Party must notify the other promptly if it ceases to be registered.

MISCELLANEOUS

13.1 Governing law

This Agreement is governed by the laws of the State of Queensland and the Commonwealth of Australia and the Trustee and the Manager submit to the non-exclusive jurisdiction of the courts of the State of Queensland.

13.2 Entirety of Agreement

- a) This instrument details the entire arrangement between the Parties concerning this Agreement:
 - i. ***irrespective of negotiations or discussions preceding its execution and delivery; and***
 - ii. ***irrespective of the content of any brochure, report, correspondence, or other document produced by or on behalf of a Party.***
- b) Each Party acknowledges that no representation, verbal or written, made by or on behalf of the other Party but not detailed in this instrument has induced it to enter the Agreement.
- c) The waiver of an entitlement under the Agreement is not binding unless effected in writing.

13.3 Variation of Agreement

A purported variation of this Agreement is ineffective unless encapsulated in a deed.

13.4 Survival of Provisions

A provision of the Agreement capable of continued application after the Agreement has terminated will remain enforceable despite termination.

13.5 Agency/Authority

- a) This Agreement alone does not constitute the Manager as the Trustee's agent for any purpose
- b) The Manager possesses no authority to incur any obligation or liability on the Trustee's behalf, or in the Trustee's name.

REFERENCE SCHEDULE

- Item 1** **Date of Commencement**
[insert date of commencement]
- Item 2** **Date of Expiration**
[insert date of expiry]
- Item 3** **Licensed Area**
Part of the property located at **[property address]** more particularly described as Lot [] on [], shown in hatch on the plan attached in Annexure C 'Licence Area' hereto.
- Item 4** **Agreement Fee**
The amount prescribed in Council's Fees and Charges for a non-profit organisation, indexed annually (being \$124.00 (including GST) as at the Date of Commencement of this Agreement).
- Item 5** **Term**
The term commences on the Date of Commencement and expires on the Date of Expiration, subject to the provisions of the Agreement.
- Item 6** **Contact at the Trustee**
Name: Coordinator - Property Management
Property Management Section
Address: Corporate & Community Services Directorate
Gympie Regional Council
PO Box 155
GYMPIE QLD 4570
Email: property@gympie.qld.gov.au
Telephone No: 1300 307 800
- Item 7** **Contact at the Manager**
Name: []
Secretary
Address: []
Telephone No: []
Email Address: []

Invitation Name: 21 Kirchner Avenue - Community Facilities Management Agreement
Invitation Number: IFT010

EXECUTED AS A DEED

Executed by GYMPIE REGIONAL COUNCIL)
as the Trustee by its [Acting] Chief Executive Officer).....
in the presence of:) []

.....
Witness

.....
Full Name (print)

.....
Address and Occupation of Witness (print)

Executed by the
[insert name of organisation])
.....
as the Manager by its principal) Management Committee Member,
Management Committee)
representatives in the presence of:)
.....
) (Name)
)
.....
Management Committee Member,
.....
) (Name)

.....
Witness

.....
Full Name (print)

.....
Address and Occupation of Witness (print)

MAINTENANCE SCHEDULE – ANNEXURE D

Any maintenance or repair required as a result of the Lessee/Licensee/Manager not upholding their obligations listed below will become the financial responsibility of the Lessee.

Category	Requirements	Party Responsible	
		Lessee/Licensee/Manager	Council
External Building inc Sheds and Outbuildings			
Roof, gutters, downpipes	Clean, repair, maintain and unblock as required #	❖	
	Whole of life replacement (roof only)		❖
Windows	Secure, clean, maintain, arrange repair/replacement of broken glass (except where the window forms part of the external boundary where responsibility will be Council's) #	❖	
	Whole of life replacement		❖
Walls	Clean/pressure wash, spot paint as required, maintain and repair #	❖	
	Maintain structural stability, repaint and repair any structural damage		❖
Doors, door frames, door furniture	Clean, maintain, arrange repair/replacement of hinges, door handles or damage to door (except where the door forms part of the external boundary where responsibility will be Council's) #	❖	
Padlocks, locks	Maintain, lubricate, replace with like or keyed alike. Maintain key register	❖	
Restricted locks and keys	Maintenance, repair and replacement will be managed by Council		❖
External lighting	Maintain within the Premises. Replace all external globes, starters & ballasts with the exception of floodlight towers #	❖	
	Replace fittings. Maintain all aspects of floodlighting #		❖

Invitation Name:

21 Kirchner Avenue - Community Facilities Management Agreement

Invitation Number:

IFT010

Signage	Supply, erect and maintain temporary or permanent safety, behaviour and compliance signage as required to meet industry or health guidelines #	❖	
Stormwater	Keep free from blockages within the leased / licensed area	❖	
	Keep free from blockages outside the leased / licensed area. All major repairs and replacement		❖
External Building inc Sheds and Outbuildings (cont'd)			
Boundary Fencing	Clean, maintain, repair and paint #	❖	
	Whole of life replacement		❖
Entrance/Exit Gate	Keep clear, secure, clean maintain and repair.	❖	
	Whole of life replacement		❖
External Blinds i.e. Café Blinds	Clean, maintain, repair/replace bungees, hooks, clips, zippers, pulley rope etc #	❖	
	Whole of life replacement	❖	
Shade structures	Clean and repair structure, sail and anchor points #	❖	
	Structural defects and whole of life replacement		❖
Timber - i.e. Decking, Furniture, Screening, Posts, Ramps & Stairs	Clean and maintain. Secure loose boards, oil and protective coating annually or as recommended #	❖	
	Whole of life replacement for decking, fixed furniture, screening, posts, ramps & stairs		❖
Roller Doors, Industrial Doors, Motors, Chains	Clean, maintain and repair #	❖	
	Whole of life replacement		❖
Furniture and Fittings			
Office/reception/retail/ community space (non-fixed)	Clean, maintain, repair, replace	❖	
Tables/chairs/kitchen/ umpire's chairs/grounds	Clean, maintain, repair, replace	❖	

Invitation Name:

21 Kirchner Avenue - Community Facilities Management Agreement

Invitation Number:

IFT010

Lockers	Clean, maintain and repair	❖	
Change room seating/ hooks	Clean, maintain and repair	❖	
Internal Building			
Walls/doors/screens/partitions	Clean, maintain, repair and spot paint	❖	
	Maintain structural stability, repaint and repair any structural damage #		❖
Floor Coverings & Floors	Clean, maintain & replace. For timber and parquetry floors, please contact Council for further advice before commencing any works	❖	
	Whole of life replacement	Lease ❖	Management Agreement ❖
Ceilings	Clean, spot paint #	❖	
	Maintain, repaint and repair #	Lease ❖	Management Agreement ❖
Stairwells/staircases	Keep clear, clean, maintain and repair balustrades, treads and risers, tactile and safety strips.	❖	
	Whole of life replacement		❖
Built in joinery (reception/service desks etc)	Clean, maintain, repair ###	❖	
	Whole of life replacement	Lease ❖	Management Agreement ❖
Telephone & Data	Maintain, repair, routine services of existing system. Extension, expansion, modification or replacement of existing system.	❖	
Fixed kitchen appliances	Clean, maintain, repair as per manufacturers specifications	❖	
Grandstand (if applicable)			
Grandstand/tiered seating	Clean & maintain	❖	

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	Repair & whole of life replacement		❖
Pest Control			
Internal/External	Scheduled treatment of ants, cockroaches, spiders, silverfish, rodents etc.		❖
	Annual termite inspection	Lease	Management Agreement
	Preventative measures, maintenance & repairs as a result of infestation	Lease	Management Agreement ❖
Security			
Alarm System (if not Council owned)	Operate, liaise with security company, false alarm costs as a result of operator misuse and negligence		❖
	Maintain, repair, whole of life replacement		❖
PA System (if applicable) (if not Council owned or not part of fire indicator panel)	Maintain, repair, routine service of existing system. Extension, expansion, modification of existing system		❖
	Whole of life replacement of existing system		❖
Master lock / key system (to be arranged through Council at the cost of the Lessee/Licensee/Manager)	Maintain, repair, replace lost keys and maintain register of issued keys		❖
	Restricted locks & keys will require Council permission		❖
CCTV (if applicable) (if not Council owned)	Develop and implement procedures for use (unless operated by GRC)		❖
	Maintain, repair & whole of life replacement		❖
Graffiti, Vandalism, Theft, Misuse (Refer to your tenure document for further information regarding	Make good any graffiti within the internal boundary of the Leased / Licensed Area #		❖

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	Make good any graffiti external to the boundary of the Leased/ Licensed Area (ie external boundary fence/walls)		❖
Electrical			
Electrical (refer Statutory Maintenance Requirements for further information)	Repairs to, replacement of, or upgrade to switchboards and electronic controls failure – servicing records to be provided to Council ###	Lease ❖	Management Agreement ❖
	Cleaning, repairs and replacement of globes, starters, ballasts (internal only)	❖	
	Inspection, testing and maintenance records of Residual Current Devices (RCDs) as per Australian Standards – servicing records to be provided to Council	Lease ❖	Management Agreement ❖
	Operational failures-circuit breakers, damage to enclosures, labelling, circuit diagram - service records to be provided to Council	Lease ❖	Management Agreement ❖
	Electricity supply failure – contact power provider	❖	
	Electrical Grounding Systems – testing to be carried out immediately after repair, modification, and annually thereafter – servicing records to be provided to Council	Lease ❖	Management Agreement ❖
	Electrical Grounding Systems – tested to be carried out immediately after installation or replacement		❖
Power Poles, & on property Supply Line	6 month visual inspection (minimum) – report any concerns to Council	❖	

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	Repairs & whole of life replacement Minimum 5 yearly electrical contractor inspection (as per Energex recommendation)		❖
Fire Services & Emergency Procedures			
Emergency Procedures	Ensure the provision of all safety, emergency procedures, including evacuation procedures		❖
Exit & Emergency Lighting	Inspection and servicing of exit and emergency lighting Repair and replacement Test every six (6) months – servicing records to be provided to Council	Lease ❖	Management Agreement ❖
Fire Services (refer Statutory Maintenance Requirements for further information)	Inspections/servicing, repairs and replacement of all portable fire equipment to Australia Standards – servicing records to be provided to Council	Lease ❖	Management Agreement ❖
	Inspections/servicing, repairs and replacement of all fire system components to Australia Standards - including hydrants, fire indicator panels, fire hose reels, smoke detectors, etc – servicing records to be provided to Council	Lease ❖	Management Agreement ❖
	Arrange replacement and/or repairs to damaged and/or stolen and/or used fire extinguishers and/or exit lights		❖
	Cost of replacement and/or repairs to damaged and/or stolen and/or used fire extinguishers and/or exit lights		❖
	Maintenance of fire system drawings		❖
	Inspection and servicing of emergency lighting	Lease ❖	Management Agreement ❖

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	Cost for alarm responses due to Manager, or his representatives, operations	❖	
Sewerage, Water Supply & Drainage			
Sewerage	Sewerage – reticulation to point of licensed area boundary (outside of licensed area)		❖
	Cost of repairing blockages in any pipes originating in the licensed area #	❖	
On Site Waste Treatment	Treatment Plant servicing including pumping out of tank ##	❖	
	Maintenance of land application area in accordance with geotechnical design	❖	
	Whole of life replacement		❖
Water Supply – Reticulated Water	Water supply – reticulation to point of licensed area boundary (outside of licensed area)		❖
	Internal fixtures and reticulation, blockages inside the licensed area #	❖	
	Replacement of tap washers (by licensed contractor if required), toilet seats, sink plugs, taps, showerheads and any other minor items #	❖	
Rainwater Tanks & Pressure Pumps (Non Reticulated Water)	Responsible for ensuring water levels are maintained	❖	
	Clean, maintain and repair including strainer. System to treat water to a potable standard	❖	
	Whole of life replacement		❖
Gardens and Landscaping			
Gardens and surrounds	Mowing, hedging and edging	❖	
Footpaths	Clean, litter removal and maintain	❖	
	Structural repair		❖

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Gardens	Clean, litter removal, maintain and trim (report dangerous trees to Council)	❖	
	Major landscaping and arborist works (subject to Council approval)	❖	
	Garden bed irrigation maintenance and repair	❖	
Plant and Machinery			
Hot water services	Clean and operate according to manufacturer's specification, maintain and repair	❖	
	Whole of life replacement due to malfunction or fair wear & tear (over \$1,500.00 exclusive of GST)	Lease ❖	Management Agreement ❖
Air conditioners (refer Statutory Maintenance Requirements for further information)	Maintain, repair and whole of life replacement	Lease ❖	Management Agreement ❖
	Clean and operate according to manufacturer's specification	❖	
Sporting & Recreation Facilities			
Surfaces	Clean, maintain, line repainting &	❖	
	Resurfacing & whole of life replacement (specialised contractor to be engaged)	❖	
Nets and posts	Clean and operate according to manufacturer's specification	❖	
	Maintain, repair and whole of life replacement	❖	
Flood Lighting	Clean and operate according to manufacturer's specification	❖	
	Maintain, repair and whole of life replacement	❖	
Fencing (posts, gates and chain wire)	Regular check and ensure no corrosion	❖	

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	Clean, maintain, repair and whole of life replacement	❖	
Miscellaneous			
Gas cylinders & bottles & all associated fittings	Must be maintained to relevant standards	❖	
Electricity	Shall pay all electricity and general operating costs	❖	
Rates	Shall pay all applicable general rates and service charges	Lease ❖	Management Agreement
Bitumen & Gravel Road Ways	Maintain and undertake street Sweeping (within the leased / licenced area)	❖	
Playgrounds	Costs of construction & ensuring equipment is maintained in good condition		❖
	Softfall replacement	Lease ❖	Management Agreement ❖
	Periodic inspections as required (see attached checklist) – forward completed checklist to council@gympie.qld.gov.au	❖ Monthly	❖ Quarterly & Annually
Building security	Building to be kept secure and monitored on a regular basis	❖	
Incident reporting	Incidents that may likely give rise to a claim under any policy of insurance, must be notified to Council within 24hrs of incident occurring	❖	

Further information:

- ❖ For the purposes of this Maintenance Schedule - it is acknowledged that a “major repair” is classified as any individual repair costing \$1,500.00 (exclusive of GST) and above (with that amount to increase in accordance with any CPI indexation relevant during the lease term).
- ❖ Many of Council owned or controlled buildings contain asbestos materials. If you are unsure if your building contains asbestos, please contact Council to check the Asbestos Register. Should your technician/s or sub-contractors become suspicious of any other materials not included in the register they should cease works immediately and contact Council, as it may be necessary to carry out further sampling and testing.
- ❖ Lead-based paint is most likely to be found on window frames, doors, skirting boards, kitchen and bathroom cupboards, exterior walls, gutters, metal surfaces and fascia’s on homes or

structures built before 1970, or even interior walls. Please refer to

<https://www.worksafe.qld.gov.au/injury-prevention-safety/hazardous-exposures/lead/working-with-lead-based-paint> for further information prior to commencement of painting.

- ❖ This list is not exhaustive and subject to change at Gympie Regional Council’s discretion. Some sections of this document may not apply to your particular tenure arrangement. Please contact Council if you require further clarification regarding responsibilities.
- ❖ #All works should be carried out by a suitably qualified/licenced trade contractor (relevant to the scale and type of work) who provides a Safe Work Method Statement (SWMS) or a Job Specific Assessment (JSA) for all work, including working at height. Any works above 2 metres should not be carried out by staff or volunteers.
- ❖ ## Please contact Council’s Plumbing Section on 1300 307 800 regarding the type of onsite waste facility applicable to your location and servicing frequency, based on the type of facility at your site.
- ❖ ### Works to be approved by Council prior to commencement and overseen by the appropriate Council Officer.

STATUTORY MAINTENANCE SCHEDULE – ANNEXURE E

STATUTORY MAINTENANCE REQUIREMENTS / COMPLIANCE / SAFETY		
Maintenance Item	Manager/Lessee	Council
<p>Fire Protection Equipment where installed:</p> <ul style="list-style-type: none"> • Fire Extinguishers • Fire Blankets • Fire Indicator Panel (FIP) • Manual Call Points • Exit / Emergency Lighting • Sprinkler Systems • Fire Suppression Systems • Warden Intercom Point (WIP) • Fire Hydrants & Boosters • Public Address Systems • Smoke, Heat, Infrared & Carbon Monoxide Detectors • Hose Reels • Fire Doors 	<p>Incur repair / replacement costs through misuse.</p> <p>* Copies of Fire Asset Records following testing to be available for viewing if requested.</p> <p>Replace batteries in battery back-up Smoke, Heat, Infrared & Carbon Monoxide Detectors every twelve months (where located under 2 metres from floor level).</p> <p>Keep equipment clean and dust free.</p> <p>Display current Evacuation Sign & Diagram plans.</p> <p>Fire Services call-out fees if caused by equipment misuse or by not alerting</p>	<p>Six monthly and annual testing of equipment including periodic pressure testing of Fire Extinguishers, Fire Hydrants and Boosters including signage in accordance with current Australian Standards.</p> <p>Fire Indicator Panel (if present) tested each month in accordance with current Australian Standards.</p> <p>Replace batteries in battery back-up Smoke, Heat, Infrared & Carbon Monoxide Detectors every twelve months (where located above 2 metres from floor level).</p> <p>Replacement or repair due to age, fair wear & tear or test failure.</p>

	<p>Council to a possible issue/fault.</p>	<p>Fire Services call-out fees if related to faulty Fire Protection equipment.</p> <p>Provide current Evacuation Sign & Diagram plan.</p> <p>Repair / replacement costs.</p>
<p>Backflow Prevention Devices & Thermostatic Mixing Valves (TMV)</p>	<p>Incur repair / replacement costs through misuse.</p>	<p>Annual testing and repairs / replacement in accordance with <i>Standard Plumbing and Drainage Regulation 2003</i>.</p>
<p>Residual-Current Device (RCD)</p> <p>Electrical Earth Grounding Systems</p>	<p>* Copies of testing records to be provided to Council.</p> <p>For Pools - following any repairs and modifications test the continuity & resistance of electrical grounding systems – can only be undertaken by licenced contractor. Provide a copy of test certificates to Council.</p> <p>For Buildings – periodically check the earth connection point for damage and advise Council immediately if observed.</p>	<p>Six monthly push-button and annual/bi-annual testing / repairs.</p> <p>For Pools - following any installation, and annually thereafter test the continuity & resistance of the electrical grounding systems.</p> <p>For Buildings – at annual inspection check the earth connection point for damage.</p>
<p>Test & Tagging</p>	<p>Manager owned Specified Electrical Equipment to be tested periodically in accordance with Council's '<i>Electrical Safety – Test & Tagging Guidelines</i>'.</p>	<p>Council owned Specified Electrical Equipment to be tested periodically in accordance with Council's '<i>Electrical Safety – Test & Tagging Guidelines</i>'.</p>

	<p>Manager owned Specified Electrical Equipment repair / replacement costs if failed at Test & Tagging.</p>	<p>Council owned Specified Electrical Equipment repair / replacement costs.</p>
<p>Gas Bottles</p>	<p>Bottle hire & bottle refill costs.</p> <p>Where installed repair of lockable cages / bollards around gas bottle / s and regulator valves.</p> <p>❖ Leases Where installed replacement of lockable cages/bollards around gas bottle/s and regulator valves.</p> <p>Bottle security - incur repair/replacement costs through misuse.</p> <p>Annual LPG gas supply safety checks. * Copies of LPG gas supply safety checks to be provided to Council.</p>	<p>❖ Management Agreements Where installed replacement of lockable cages / bollards around gas bottle / s and regulator valves.</p>
<p>Lift</p>	<p>* Copies of Lift Service Records following servicing / maintenance to be provided to Council.</p> <p>Keep the Lift device clean at all times.</p>	<p>Periodic servicing and maintenance.</p> <p>Registration of Plant annually under the provisions of the <i>Work Health and Safety Act 2011</i>.</p> <p>Repair / replacement costs.</p>

<p>Generator (hardwired)</p> <p># Note: Repairs/replacement of manager owned portable generators are at the cost of the manager.</p>	<p>Re-fuelling.</p> <p>Keep area clean & tidy in and around the plant any enclosure.</p>	<p>Periodic testing and servicing.</p> <p>Repairs / replacement of any generator enclosure.</p> <p>Repair / replacement costs.</p>
<p>Heating, Ventilation, Air Conditioning (HVAC) & Refrigeration (HVAC-R)</p>	<p>Replacement of batteries in remote controls.</p> <p>Periodic servicing in accordance with current Australian Standards of Manager owned equipment.</p> <p>* Copies of service records to be provided to Council</p>	<p>Periodic servicing in accordance with current Australian Standards (excludes Manager owned).</p> <p>Repair / replacement costs.</p>
<p>Commercial Exhaust / Canopy Hoods</p>	<p>Annual (Minimum) Cleaning / changing of exhaust hood filters maintaining records showing when.</p> <p>* Copies of service records to be provided to Council.</p>	<p>Periodic servicing of exhaust system (Mechanical components) in accordance with current Australian Standards.</p> <p>Periodic clean of ductwork, fans & canopy based on usage.</p> <p>Repair / replacement costs.</p>
<p>Asbestos Containing Materials (ACM) & Products (ACP)</p>	<p>Extracts from Council's Asbestos Register made available to hall users and all contractors.</p> <p>Monitor condition and advise Council of any changes, damage or incidents relating to ACM or ACP.</p>	<p>Undertake re-condition inspections at no greater than five yearly intervals in accordance with the Queensland Government's <i>How to Manage and Control Asbestos in the Workplace Code of Practice 2011</i>.</p>

		<p>Undertake any works identified as requiring rectification / removal following re-condition inspections.</p> <p>Arrange testing of any identified suspect material and update the register as required.</p>
<p>Water Filtration (rain water tank supply if used for consumption)</p>	<p>Annual filter clean to maintain a method of disinfection to ensure tank water meets the Australian Government's <i>Australian Drinking Water Guidelines</i>.</p> <p>* Copies of Safety Inspections to be provided to Council.</p> <p>Incur repair / replacement costs through misuse.</p>	<p>Filter replacements.</p> <p>Repair / replacement costs.</p>
<p>Safety Systems where installed:</p> <ul style="list-style-type: none"> • Ladder Brackets • Anchor Points • Eyebolts • Walkways & Handrails • Edge Protection • Static Lines & Shuttles with Karabiners 	<p>Incur repair / replacement costs through misuse.</p> <p>* Copies of Safety Inspections to be provided to Council.</p>	<p>Annual inspections in accordance with Australian Standard <i>AS 1891.4.2009</i> or under the manufacturer's instructions and / or <i>Workplace Health and Safety Act 2011</i>.</p> <p>Carry out repairs noted at inspection and consider any recommendations.</p> <p>Replacement / upgrade costs.</p>
<p>Emergency Eyewash & Showers</p>	<p>Incur repair / replacement costs through misuse.</p>	<p>Maintain equipment through annual inspections and tagging.</p> <p>Repair / replacement costs.</p>
<p>Grease Traps</p>	<p>Incur repair / replacement costs through misuse.</p>	<p>Regular grease tap maintenance to prevent grease from leaking into the sewerage system.</p>

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	Periodic emptying of grease arrestor based on usage. * Copies of emptying paperwork to be provided to Council.	Repair / replacement costs.
Automatic Doors	Incur repair / replacement costs through misuse. * Copies of service records to be provided to Council.	Periodic service & maintenance. Repair / replacement costs.

* Manager/Lessee to provide an electronic copy of any applicable records/inspections etc to the Manager Property & Facilities within 7 days of the service provision.