

Dated *7th October*

2002

**DEED OF LEASE**

**UNITEC INSTITUTE OF TECHNOLOGY**

**AUCKLAND AIR CADET TRUST**

## CONTENTS

1. DEFINITIONS.....	6
2. INTERPRETATION.....	6
3. EXCLUSIONS .....	7
4. RENT AND OUTGOINGS.....	7
5. MAINTENANCE AND CARE OF PREMISES .....	7
6. COMPLIANCE WITH STATUTES .....	8
7. TRANSFER, ASSISNMGENT OR SUBLETTING .....	8
8. INSURANCE .....	9
9. REINSTATMENT .....	10
10. LESSEE OCCUPATION OF PREMISES .....	10
11. DETERMINATION OF LEASE FOR DEFAULT .....	10
12. LESSOR'S RIGHT OF INSPECTION .....	11
13. PERMITTED USE AND NEGATIVING OF WARRANTIES .....	11
14. NO NOXIOUS USE.....	11
15. LESSEE NOT TO VOID INSURANCES .....	12
16. ARBITRATION .....	12
APPENDIX A OPERATING EXPENSES OF THE PR EMISES.....	13

*7th October*

**PARTIES**

- (1) UNITEC INSTITUTE OF TECHNOLOGY ("Lessor")
- (2) AUCKLAND AIR CADET TRUST a charitable trust settled pursuant to the Charitable Trusts Act 1957 ("Lessee")

**BACKGROUND**

The Lessor is the registered proprietor of the Land and has agreed to lease the Land to the Lessee on the terms and subject to the conditions contained in this Lease.

**COVENANTS**

The Lessor hereby grants to the Lessee and the Lessee accepts a grant of this Lease of the Land to be held by the Lessee as tenant:

- (a) for the term set out in Item 1;
- (b) from the commencement date set out in Item 2;
- (c) at the rental set out in Item 3;
- (d) together with the rights and renewal set out in Item 4;
- (e) for the permitted use set out in Item 5

all being items in the Second Schedule and otherwise upon the terms and conditions set out in the Third Schedule.

**EXECUTION**

SIGNED for and on behalf of  
UNITEC INSTITUTE OF TECHNOLOGY  
by

*[Signature]*  
 \_\_\_\_\_  
 Authorised Signatory                      Authorised Signatory

SIGNED for and on behalf of  
AUCKLAND AIR CADET TRUST  
by

*As authorized on my behalf by [Signature]*

*[Signature]*                      *M.P. Ford*  
 \_\_\_\_\_  
 Authorised Signatory                      Authorised Signatory

**FIRST SCHEDULE**

All that parcel of land containing approximately 2156m<sup>2</sup> which is shown for identification purposes only edged in red on the attached plan.



**SECOND SCHEDULE**

**ITEM 1: TERM**

10 years from the Commencement Date.

**ITEM 2: COMMENCEMENT DATE**

1st October 2002

**ITEM 3: COMMENCING ANNUAL RENTAL**

\$1.00 plus GST (if any) payable annually in advance on each anniversary of the Commencement Date.

**ITEM 4: RIGHTS OF RENEWAL**

1 of 10 years less 1 day.

**ITEM 5: PERMITTED USE**

For education, training and sports administration.

**ITEM 6: DEFAULT INTEREST RATE**

12% per annum.



## THIRD SCHEDULE

### 1. DEFINITIONS

1.1 In this memorandum unless the context otherwise requires:

**"Buildings"** means all the buildings and improvements on the land at any given time.

**"GST"** means Goods and Services Tax or any tax in the nature of a tax imposed pursuant to the provisions of the Goods and Services Tax Act 1985 and known as Goods and Services Tax.

**"Land"** means the land specified in the First Schedule.

**"Lessee's Buildings"** means any buildings which at any time during the currency of this Lease or any renewal hereof are constructed on the Land at the Lessee's cost.

**"Lessee"** extends to and includes the successors and permitted assigns of the Lessee.

**"Lessor"** extends to and includes the successors and permitted assigns of the Lessor.

**"Mortgage"** includes charges and all other forms of security interest against the Lessee's interests under or in this Lease.

**"Mortgagee"** means any person who at any time has the benefit of a Mortgage granted by the Lessee.

**"Operating Expenses of the Premises"** means the items of expenditure referred to in Appendix A to this Schedule.

**"Original Lessee"** is Auckland Air Cadet Trust.

**"Permitted Use"** means any of the Permitted Uses described in Item 5 of the Second Schedule.

**"Premises"** means the Land together with all improvements made to it.

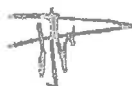
### 2. INTERPRETATION

2.1 Words importing the singular number shall include the plural; the masculine gender shall include the feminine; persons shall include companies; and vice versa.

2.2 Any provision in this lease to be performed by two or more persons shall bind those persons jointly and severally.

2.3 Any reference in this lease to any statute or regulation is deemed to include all amendments and revisions made from time to time to that statute or regulation and a statute or regulation passed in substitution for the statute or regulation referred to.

2.4 Any reference in this lease to a "month" or "monthly" shall mean respectively calendar month and calendar monthly.



*Handwritten signature or initials*

2.5 Where the Lessor's consent or approval is required pursuant to any provision of this lease, such consent or approval shall be required for each separate occasion notwithstanding any prior consent or approval obtained for a like purpose on a prior occasion.

### 3. EXCLUSIONS

3.1 The covenants and powers contained in Sections 106 and 107 of the Property Law Act 1952 shall not be implied in this Lease and are expressly negated.

3.2 To the extent permitted by law, the application to this Lease of any moratorium or other law, act or regulations having effect of extending the term of this Lease, reducing or postponing the payment of rent or other moneys payable under this Lease or otherwise affecting the operation of the terms of this Lease are expressly excluded and negated.

### 4. RENT AND OUTGOINGS

4.1 The Lessee shall pay to the Lessor during the term of this Lease rent at the rate and times specified in Item 3 of the Second Schedule.

4.2 The Lessee shall pay the Operating Expenses of the Premises, plus GST, to:

- (a) the Lessor where the Lessor so directs;
- (b) otherwise to any person to whom such an expense is owed.

4.3 If required by the Lessor, the Lessee shall place its name on the rating roll or, alternatively, the Lessor may at its option arrange for the name of the Lessee to be placed on the rating roll.

4.4 Without prejudice to the other rights, powers and remedies of the Lessor, if any rent or Operating Expenses or the Premises or other money owing by the Lessee to the Lessor on any account whatsoever pursuant to this Lease shall be in arrears and unpaid for 14 days after the due date for payment, then such moneys (whether legally demanded or not) shall bear interest compounded on quarterly rests and computed from such due date until the date of payment in full of such moneys. The interest rate payable to the Lessor shall be the default interest rate specified in Item 6 of the Second Schedule.

4.5 Where the Lessor pays any overdue Operating Expense of the Premises before receiving reimbursement from the Lessee the provisions of clause 4.4 shall apply with such modifications as may be necessary.

### 5. MAINTENANCE AND CARE OF PREMISES

5.1 The Lessee will throughout the term of this Lease maintain in good order, condition and repair, all buildings, structures, fixtures, fences and drains which may be erected, placed or made upon the Land and will so yield up the same at the end or other sooner determination of the term of this Lease.

5.2 The Lessor shall have no maintenance, repair or replacement obligations whatsoever in respect of any of the Buildings or improvements on the Premises whether structural or otherwise and to the fullest extent permitted by law any Lessor liability for maintenance, repair or replacement of any part of any Building or other improvement on the Premises is hereby expressly negatived.

## 6. COMPLIANCE WITH STATUTES

- 6.1 The Lessee shall comply with the provisions of all statutes, ordinances, regulations, codes and bylaws relating to the use and occupation of the Premises by the Lessee or any other occupant and will also comply with the provisions of all licences requisitions and notices issued by any competent authority in respect of the Premises or their use by the Lessee or any other occupant.
- 6.2 If the Lessor is obliged by any statute, ordinance, regulation, code or bylaw to expend money on any Building, improvement, alteration or addition on the Premises, then the Lessee shall reimburse to the Lessor the costs of such works within 14 days of demand being made for the same.
- 6.3 Where the Lessor is of the reasonable opinion that it is not practicable to comply with any requisition or notice issued in respect of a Lessor's Building the Lessor shall consult with the Lessee and the parties shall mutually agree upon a course of action which is acceptable to both.
- 6.4 Without limiting the generality of the foregoing the Lessee shall, in respect of the Buildings, meet:
- (a) The costs of obtaining and maintaining a compliance schedule and annual building warrant of fitness; and
  - (b) All charges payable to the Building Industry authority building certifiers and/or any other consultants or authorities in relation to paragraph (a) above; and
  - (c) All costs associated with any inspections required or work to be done on or in any building or other improvement on the Land in order to comply with or remain in compliance with the provisions of the Building Act 1991; and
  - (d) All costs associated with complying with the requirements of the Health and Safety in Employment Act 1992 and any regulations made thereunder; and
  - (e) All costs associated with complying with the requirements of the Fire Safety and Evacuation of Buildings Regulations 1992.
- 6.5 For the avoidance of doubt, the Lessee's compliance obligations under the provisions of this clause extend to and include structural work on the Buildings.

## 7. TRANSFER, ASSIGNMENT OR SUBLETTING

- 7.1 The Lessee shall not transfer, assign, sublet or otherwise part with the possession of the Premises or any part thereof without first obtaining the written consent of the Lessor which the Lessor shall give if the following conditions are fulfilled:
- (a) The Lessee proves to the reasonable satisfaction of the Lessor that the proposed transferee, assignee or subtenant is (or, in the case of a company, the shareholders of the proposed



assignee or subtenant are) respectable, responsible and has the financial resources to meet the Lessee's commitments under this Lease.

- (b) All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Lessee's covenants contained in this Lease.
  - (c) In the case of an assignment a deed of covenant in customary form approved or prepared by the Lessor is duly executed and delivered to the Lessor.
  - (d) The Lessee pays the Lessor's proper costs and disbursements in respect of the approval or preparation and stamping of any deed of covenant and (if appropriate) all fees and charges payable in respect of any reasonable enquiries made by or on behalf of the Lessor concerning any proposed assignee or sublessee.
- 7.2 Where the Lessor consents to a subletting, the consent shall extend only to that 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 Lessee hereunder is restrained from dealing without consent.
- 7.3 Any assignment or subletting of the type or in the manner referred to in Section 109(2) of the Property Law Act 1952 shall be a breach of the provisions of this Lease.
- 7.4 Where any Lessee is a company, the any change in the legal or beneficial ownership of any of its shares or issue of new capital whereby in either case there is a change in the effective management or control of the company is deemed to be an assignment of this lease.
- 7.5 Where any Mortgagee of the Lessee:
- (a) enters into possession of the Premises pursuant to any rights, powers or remedies exercisable in that behalf by the Mortgagee; or
  - (b) sells or otherwise deals with the Lessee's estate in this lease as Mortgagee
- then the Lessor shall be deemed to have consented to any such entering into possession, assignment or subletting consequent to the exercise of such rights, powers or remedies.
- 7.6 Where the Original Lessee changes its status in any way the Lessor may unilaterally vary this Lease in any way it reasonably requires to reflect the change in status of the Original Lessee, the nature of and background to the grant of this Lease and the requirements of the Lessor to obtain a commercial return for the Land.

## 8. INSURANCE

- 8.1 The Lessee shall at all times during the term of this Lease keep and maintain:
- (a) all Buildings and improvements on the Land insured in the names of the Lessor and the Lessee (for their respective rights and interests) under a full reinstatement and replacement cover against loss, damage or destruction by fire and such other risks as the Lessor may reasonably determine and will produce satisfactory evidence to the Lessor such buildings and improvements have been so insured when required to do so;

- (b) adequate public risk cover.

## **9. REINSTATEMENT**

- 9.1 If any of the Premises are damaged or destroyed from any cause whatever, then all insurance moneys received in respect of the Premises shall (subject to the rights of any registered mortgage or mortgages) be expended with all convenient speed in repairing and reinstating any Building or improvements damaged or partially destroyed or in erecting a new Building or Improvement in place of any such property being destroyed.

## **10. LESSEE OCCUPATION OF PREMISES**

- 10.1 The Lessee agrees to use and occupy the Premises and all the Buildings and improvements thereon and its servants and agents from all claims and demands of any kind and from any liability which may arise in respect of any accident, damage or injury occurring to any person or property in or about the Premises.
- 10.2 The Lessee will indemnify and hold harmless to the full extent permitted by law the Lessor from and against all actions, claims, demands, losses, damages, costs and expenses for which the Lessor shall or may become liable in respect of and arising from:
  - (a) negligent use, waste or abuse by the Lessee or persons under the control of the lessee of any water, gas, electricity, oil, lighting or other services and facilities in the Premises or any Building;
  - (b) overflow or leakage of water (including rain water) in or from the Premises or caused or contributed to by any act or omission on the part of the Lessee or persons under the control of the Lessee;
  - (c) Loss, damage or injury from any cause whatsoever to property or persons caused or contributed to by the use of the Premises by the Lessee or persons under the control of the Lessee or by the condition of the premises or any part thereof;
  - (d) Loss, damage or injury from any cause whatsoever to property or persons within or without the Premises occasioned or contributed to by any act, omission, neglect, breach or default on the part of the Lessee or persons under the control of the Lessee;
  - (e) Loss, damage or injury howsoever sustained by the Lessor arising from any breach or default under the provisions of this lease, its servants, agents or invitees.

## **11. DETERMINATION OF LEASE FOR DEFAULT**

- 11.1 If and whenever the Lessee commits any breach or makes any default in the observance or performance of any of the covenants, conditions and restrictions contained in this Lease and does not remedy that breach or default in all respects or implement reasonable steps to remedy that breach or default within two months of the date of receipt by the Lessee of written notice from the Lessor specifying such breach or default it shall be lawful for the Lessor to re-enter the Premises or

any part thereof and to determine this Lease and the estate and interest of the Lessee under it shall immediately cease and determine without releasing it from any liability for any previous breach, non-observance or non-performance of any of the covenants, conditions and restrictions contained or implied in this Lease. Any forfeiture or determination shall be void and of no effect unless a copy of the notice specifying the breach or default by the Lessee has been served on every Mortgagee of this Lease before or within 7 days after the date of service of notice on the Lessee.

## **12. LESSOR'S RIGHT OF INSPECTION**

12.1 The Lessor and the Lessor's employees, contractors and invitees may, at all reasonable times, enter upon the Premises to view their condition. If the Lessor shall give the Lessee written notice of any failure on the part of the Lessee to comply with any of the requirements of this Lease the Lessee shall with all reasonable speed so comply.

## **13. PERMITTED USE AND NEGATING OF WARRANTIES**

13.1 The Lessee shall have the right to use the whole or any part of the Premises for the Permitted Use.

13.2 The Lessee shall not use the whole or any part of the Premises for any use other than a Permitted Use without the prior written consent of the Lessor which consent shall not be unreasonably or arbitrarily withheld.

13.3 The Lessor does not in any way warrant that the Premises are or will remain suitable or adequate for any purposes of the Lessee and to the full extent permitted by law all warranties as to suitability and adequacy implied by law are expressly negated.

## **14. NO NOXIOUS USE**

14.1 The Lessee shall not:

- (a) bring upon or store within the Premises nor allow to be brought upon or stored within the Premises any machinery, goods or things of an offensive, noxious, illegal or dangerous nature or of such weight, size or shape as is likely to cause damage to any Building or any surfaced area;
- (b) use the Premises or all them to be used for any noisome, noxious, illegal or offensive trade or business; or
- (c) allow any act or thing to be done which may be or grow to be a nuisance, disturbance or annoyance to the Lessor or any other person and, generally, the Lessee shall conduct the Lessee's business upon the Premises in a clean, quiet and orderly manner free from damage, nuisance, disturbance or annoyance to any such person but the carrying on by the Lessee in a reasonable manner of any Permitted Use or any other use to which the Lessor has consented or is deemed to have consented to shall be deemed not to be a breach of this clause.

**15. LESSEE NOT TO VOID INSURANCES**

15.1 The Lessee shall not carry on or allow upon the Premises any trade or occupation or allow to be done any act or thin which:

- (a) shall make void or voidable any policy of insurance on the Premises; or
- (b) may render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Lessee shall have first obtained the consent of the Insurer of the premises and the Lessor and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Lessee in a reasonable manner of the business use or of any use to which the Lessor has consented shall be deemed not to be a breach of this clause.

In any case where in breach of this clause the Lessee has rendered any insurance less effective or void and the Lessor has suffered loss or damage thereby the Lessee shall forthwith compensate the Lessor in full for such loss or damage.

**16. ARBITRATION**

Unless otherwise provided in this lease, all disputes and differences between the parties shall be submitted to the arbitration of a single arbitrator if one can be agreed upon or to two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to their arbitration) such arbitration to be carried out in accordance with the provisions of the Arbitration Act 1996 or any then statutory provisions relating to arbitration.

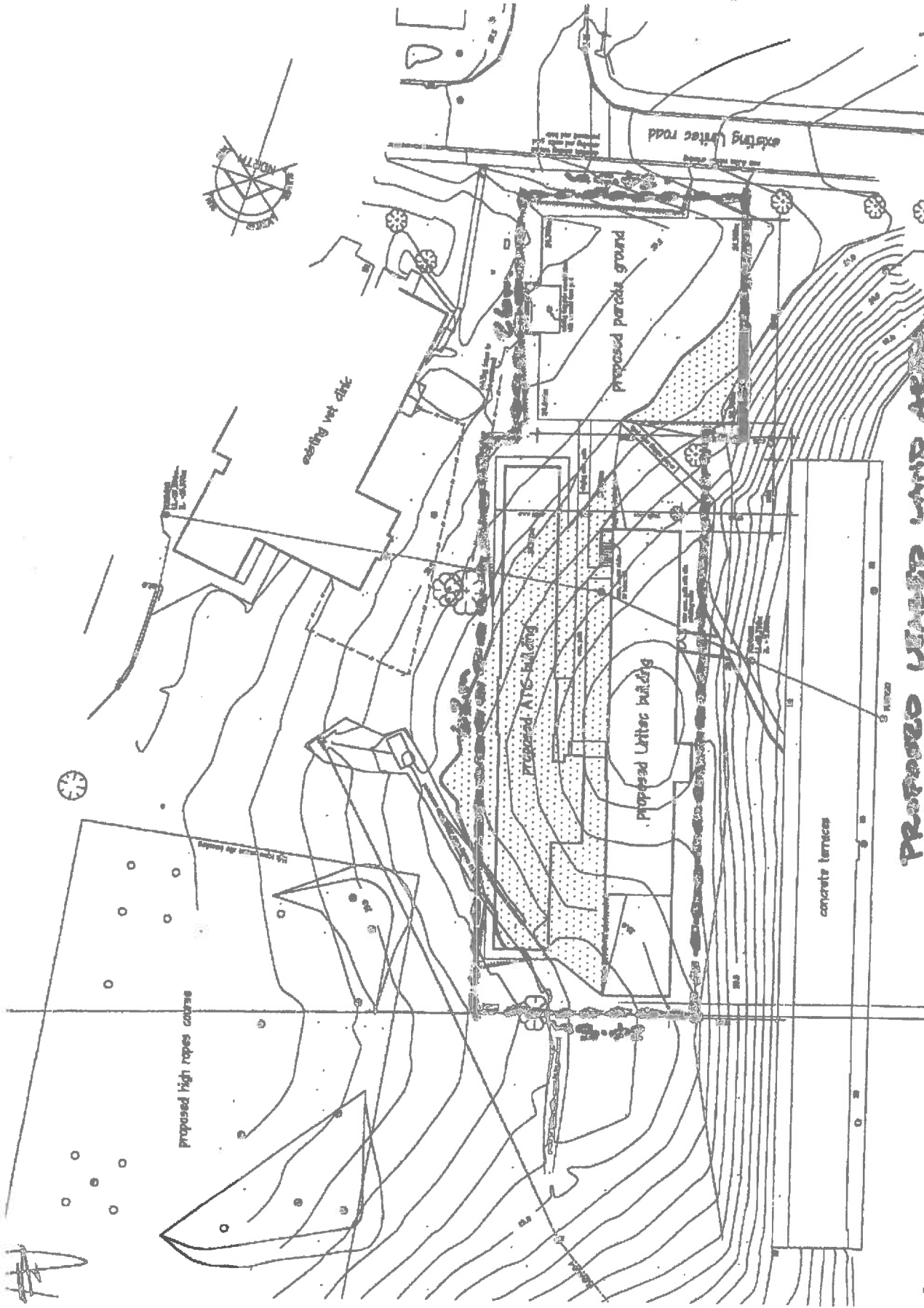
## APPENDIX A

### OPERATING EXPENSES OF THE PREMISES

The Operating Expenses of the Premises include:

- (a) all rates, charges, levies, assessments, duties, impositions and fees at any time payable to any authority in respect of the Land and all improvements thereon (whether the property of the Lessor or the Lessee);
- (b) all charges for and costs in relation to the supply of water, gas, electricity, telephones, utilities or services supplied to or used on the Premises;
- (c) the cost of cleaning and keeping clean the Premises.





**PRELIMINARY**

**PROPOSED LAND AND AREA 12156m<sup>2</sup>**

ROBERT PULLI & ASSOCIATES  
VICE PRESIDENT  
**UNITEC**

*Handwritten signature: M. P. 1990*

<p><b>Proposed Plans</b>          1. Proposed Litter Building          2. Proposed ATC Building          3. Proposed Parade Ground          4. Proposed Ropes Course          5. Proposed Litter Road          6. Proposed Concrete Terraces</p>	
<p>PROPOSED BY          AUCKLAND          AIR CADETS TRUST          PROPOSED VENTURA          FACILITY - UNITEC</p>	<p>SCALE          1:1000          DATE          1990</p>
<p>PROPOSED SITE PLAN</p>	
<p>DATE          1990          DRAWN BY          M. P.</p>	