

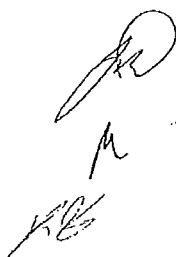
THIS AGREEMENT made this 29th day of October 1998

PARTIES

1. MARGLYN HOLDINGS LIMITED a duly incorporated company having its registered office at Hanmer ("*the Company*")
2. THE HURUNUI DISTRICT COUNCIL ("*the Council*")
3. TRANSIT NEW ZEALAND its successors and assignees ("*Transit*")

RECITALS

1. The Company carries on business in Hanmer in the tourism industry and in 1991 made application to the Council for planning permission to conduct a bungy jumping business from land it owns adjacent to the Waiiau Gorge Ferry Bridge.
2. On 15 August 1991 after a full hearing, planning permission was granted to the Company by the Council.
3. The Waiiau Gorge Ferry Bridge forms part of the Christchurch/Hanmer Springs Road which as from 1 July 1992 became a State Highway under the control of Transit and in the event that Transit ceases to exist, the body created as the successor to Transit should take over the rights and responsibilities of Transit as if it was a party to this Agreement at the time of signing.

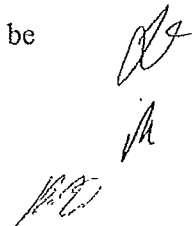


4. The parties hereto recognise that it is appropriate for there to be some financial contribution paid by the Company in return for its being able to use an area of the Bridge as part of the Company's bungy jumping operation.
5. The Company entered into an Agreement dated 11 April 1992 (*"the earlier Agreement"*) with the Council setting out terms and conditions for the payment of a royalty to the Council in respect of the bungy jumping operation as from the date of the earlier Agreement. Since the vesting of the Bridge in Transit New Zealand referred to in Clause 3 above it has become necessary to enter into a new Agreement between the parties hereto.
6. The Waiau Gorge Ferry Bridge is an historic structure closely identified with Hammer Springs. The parties wish to record their agreement that the remuneration received from the Company be applied to maintain the structure of the Bridge and also to benefit Hammer Springs as a tourist attraction.
7. The parties have agreed that a royalty will be paid by the Company and that such royalty shall be held on trust in a fund to be administered by the Council and applied for the purposes aforesaid.
8. It is the intention of the parties that the Company be given exclusive rights to carry on a bungy jumping business from Waiau Gorge Ferry Bridge.



NOW THEREFORE THIS AGREEMENT WITNESSETH

1. The Company shall pay a royalty calculated at 4.7% of the GST inclusive price per bungy jump from time to time made from the Waiau Gorge Ferry Bridge as from the commencement date of the earlier Agreement namely 11 April 1992.
2. The amount of the royalty shall be calculated based on the log of jumps maintained by the Company. Excluded from the jumps upon which the royalty is calculated shall be any jump where no charge is made by the Company as part of a promotional activity, or any jump made on a day where the proceeds of the ticket sales are given to charity for promotional purposes.
3. At the commencement of the earlier Agreement, the jump price was fixed at \$85.00 GST inclusive per head with the royalty payable calculated at 4.7% of that amount being the sum of \$4.00 per jump. It is confirmed that this rate is still applicable. If for any reason the jump ticket price shall increase or decrease whether as part of a general price revision by the Company, or as part of a temporary promotion, or when part of the proceeds of the jump ticket sales are applied to charity, then the amount of the royalty shall be adjusted in proportion to the increase, or decrease, or the proportion of the amount donated to charity as the case may be.
4. In order to calculate the amount of the royalty to be



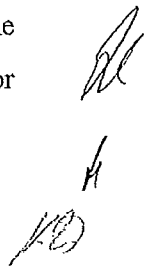
paid each year the Company will supply copies of the log of jumps at the end of each calendar month to the Council. The Council is to have the right to inspect the Company's records and accounts from time to time to verify these figures.

5. The royalty shall be paid to the Council on the 11th day of April in each year and shall be calculated in respect of the jumps made during the 12 month period immediately proceeding the day on which the payment is due.
6. This Agreement is for a term of 99 years from 11 April 1992 being the commencement date of the earlier Agreement.
7. The royalty payments are to be paid into a separate fund to be administered by the Council on behalf of itself and Transit and to be applied by the Council in the following manner namely:
 - (a) Sixty percent of the payment net of GST to be applied to a fund administered by the Council and called *The Waiau Gorge Ferry Bridge Preservation Fund*. The purpose of this Fund is to preserve the fabric of the Bridge and its character as an historic structure. The Fund is not to be applied towards matters of routine maintenance of the Bridge, which are the responsibility of Transit by virtue of the Bridge being a State Highway under its control.



(b) The remaining forty percent of the royalty net of GST is to be applied to a fund administered by the Council and called *The Hanmer Springs Tourism Promotion Fund*. That Fund is to be managed by the Council and applied in its discretion for the promotion of tourist facilities within Hanmer. It is envisaged that the Funds be applied in a manner for the benefit of Hanmer as a whole and the Council in exercising its discretion will consider submissions of the Hanmer Springs Community Board, or any ratepayer of Hanmer Springs.

8. In the event of ownership of the Bridge reverting to the Council it shall enter into a new Agreement with the Company on the same terms and conditions as this Agreement. In the event of a new Agreement being entered into between the Council and the Company all rights and obligations in relation to Transit shall be at an end. This Agreement is made on the understanding that the existing Bridge will be retained as an historic structure, irrespective of whether State Highway 7A is re-routed, and can be used for bungee jumping so long as it can be maintained in a safe condition for that purpose. In the event of the Bridge not being able to be so maintained then this Agreement shall be at an end but without prejudice to the rights of either party to take action in respect of any antecedent breach of the covenants and conditions herein contained or



implied.

9. This Agreement confers upon the Company the exclusive right to carry out bungy jumping operations from the Waiau Gorge Ferry Bridge. That right shall not be assignable by the Company, except with the written consent of the Council and Transit, whilst the Bridge forms part of a State Highway, but consent shall not be withheld to a fit and solvent assignee.
10. The Company and the Council will indemnify and keep indemnified Transit against any loss, claim, damage, expense, liability or proceeding suffered or incurred at any time by Transit as a direct or indirect result of:
 - (a) the business carried on by the Company, including the use of the Waiau Gorge Ferry Bridge;
 - (b) a breach of any of the Company's and/or the Council's obligations, undertakings or warranties contained or implied in this Agreement;
 - (c) a breach of any law operating in New Zealand, in particular the Health and Safety in Employment Act 1992 or equivalent legislation.
11. If during the term of this Agreement the Bridge is destroyed by fire, earthquake, storm, tempest, flood,



land slip, aircraft accident or other inevitable accident, then this Agreement shall be at an end PROVIDED HOWEVER that if Transit build a replacement Bridge in the immediate Gorge area it will give consideration to the business being allowed to continue from the replacement structure providing the operation can be accommodated in a manner acceptable to and at no cost to Transit. Transit's decision shall be final. In such an event the parties shall re-enter into a new Agreement relating to the continued operation on the new Bridge, such Agreement to be on similar terms and conditions as are contained in this Agreement. There is no agreement that Transit will transfer the right to any other new State Highway structure.

12. Each party shall bear its own costs in connection with this Agreement.
13. If for any reason any provision of this Agreement is held unenforceable due to illegality, the doctrine of ultra vires or otherwise, then that provision shall be severed from this Agreement and the rest of the Agreement shall continue in full force and effect.
14. This Agreement is made on the basis that there is no provision for Transit, as the road controlling authority for the Bridge and the State Highway, to charge the Company a fee in the nature of a rental for the bungy jumping business.

In the event, however, that in the future there is no

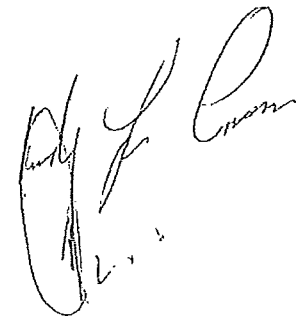
statutory impediment to Transit or its successors and assignees charging such a fee then the Company may be charged such a fee provided:

- (a) that such fee may not in any case exceed the amount which would have been payable by the Company by way of royalty in terms of Clause 1 of this Agreement and applied to *The Waiau Gorge Ferry Bridge Preservation Fund* in terms of Clause 7(a) of this Agreement, and
- (b) that in the event of such a fee being charged the royalty payable in terms of Clause 1 of this Agreement shall be reduced from time to time by an amount equivalent to the fee being charged

to the effect that the total amount payable by the Company by way of royalty and rental shall not at any time exceed the amount which would have been payable as a royalty in terms of the formula set out in Clause 1 of this Agreement.

EXECUTION

SIGNED for and on behalf of
MARGLYN HOLDINGS LIMITED

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THE COMMON SEAL of
THE HURUNUI DISTRICT COUNCIL
was hereunto affixed in the presence
of:

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[Handwritten signature], General Manager



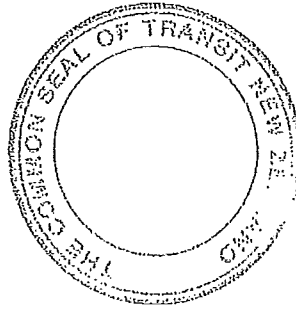
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THE COMMON SEAL of
TRANSIT NEW ZEALAND
was hereunto affixed in the presence of:

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