THE AFFILIATE TE ARAWA IWI/HAPU

and

THE TRUSTEES OF THE TE PUMAUTANGA O TE ARAWA TRUST

and

THE SOVEREIGN

in right of New Zealand

DEED OF SETTLEMENT OF THE HISTORICAL CLAIMS OF THE AFFILIATE TE ARAWA IWI/HAPU

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11 June 2008

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DEED OF SETTLEMENT

THIS DEED is made

BETWEEN

THE AFFILIATE TE ARAWA IWI/HAPU

AND

THE TRUSTEES OF THE TE PUMAUTANGA O TE ARAWA TRUST

AND

THE SOVEREIGN in right of New Zealand acting by the Minister in Charge of Treaty of Waitangi Negotiations.

PREFACE

KARAKIA

Kororia ki te Runga Rawa, maungarongo ki te whenua, whakaaro pai ki nga tangata katoa.

HE MIHI

Tihee mauri ora!

He mihi kau ake tenei ki a koe Te Arawa mai i te Ihu o te Waka ki te Takere, e whakaatu nei i nga whakahaere mo nga whenua me nga taonga o runga i aua whenua, i riro atu ra i te Karauna na runga i te riro whenua i nga tau ki muri nei. Tenei ra kua tau te whakaaro kia whakawhitiwhiti korero tatau, ara, kia hangai tonu ki te kanohi o te Karauna, kia kaua ma te korero ki te Ropu Hapai i te Tiriti o Waitangi.

Na te whakaaro nui o koutou o nga iwi me nga hapu o Te Arawa ki te manaaki i ta te Kaihautu i whakatakoto ai ki mua i te aroaro o te Karauna, kua noho tera hei tikanga e hoki mai o tatau whenua.

Koia nei ko te hainangia tenei Pukapuka Whakataunga hei whakatuturu kau i nga whakaotinga korero i waenganui i a Te Arawa me te Karauna. E whakarite kau ana i tenei hainatanga i runga i te aroha me te whakapono o tetahi ki tetahi.

BACKGROUND TO THIS DEED

BACKGROUND TO NEGOTIATIONS

In the late 1990s the Crown began focusing on the progress of historical claims in the Central North Island. Discussions began to take place between Ministers of the Crown and various claimant representatives. In 2002 meetings were held between the Minister in Charge of Treaty Negotiations and claimant representatives, including representatives of the Affiliate Te Arawa Iwi/Hapu, to explore the possibility of progressing their historical claims through direct negotiations with the Crown.

From July to September 2003 numerous mandating hui were held at which the respective Affiliate Te Arawa Iwi/Hapu approved resolutions to enter into direct negotiations with the Crown and to appoint representatives to Nga Kaihautu o Te Arawa. A hui was held in September 2003 at which the structure of Nga Kaihautu o Te Arawa was adopted and Nga Kaihautu o Te Arawa Executive Council was officially established. At a further hui, held later that month, the election of representatives of the Affiliate Te Arawa Iwi/Hapu to Nga Kaihautu o Te Arawa Executive Council was confirmed.

During the period that the Affiliate Te Arawa Iwi/Hapu were considering whether to enter into direct negotiations with the Crown, the Waitangi Tribunal was holding initial judicial conferences to determine whether, and how, it should undertake a regional inquiry in the Central North Island region. The Affiliate Te Arawa Iwi/Hapu chose to forgo their right to have their claims heard by the Waitangi Tribunal and decided to enter into direct negotiations with the Crown. That decision was forward-looking and based on a willingness to settle the historical claims of the Affiliate Te Arawa Iwi/Hapu in the most effective and efficient manner possible.

THE SETTLEMENT NEGOTIATIONS WITH THE AFFILIATE TE ARAWA IWI/HAPU

As a result of the mandating process undertaken in 2003, Nga Kaihautu o Te Arawa Executive Council received a mandate from the Affiliate Te Arawa Iwi/Hapu to negotiate a deed of settlement with the Crown. The Crown recognised the mandate of Nga Kaihautu o Te Arawa Executive Council on 1 April 2004.

Recognition by the Crown of Nga Kaihautu o Te Arawa Executive Council's mandate was considered by the Waitangi Tribunal during 2004 and 2005. The Waitangi Tribunal released two reports into claims regarding the mandate of Nga Kaihautu o Te Arawa Executive Council: Te Arawa Mandate Report (2004) and Te Arawa Mandate Report Te Wahanga Tuarua (2005).

The Affiliate Te Arawa Iwi/Hapu and the Crown entered into:

- terms of negotiation dated 26 November 2004 (the "**Terms of Negotiation**"), which specified the scope, objectives and general procedures for the negotiations; and

- an agreement in principle dated 5 September 2005, varied on 20 December 2005, (the "**Agreement in Principle**") recording that the Affiliate Te Arawa Iwi/Hapu and the Crown were, in principle, willing to enter into a deed of settlement on the basis of the Crown's settlement proposal set out in the Agreement in Principle.

BACKGROUND TO THIS DEED

ORIGINAL DEED OF SETTLEMENT

The Affiliate Te Arawa Iwi/Hapu and the Crown entered into a deed of settlement dated 30 September 2006 (the "**Original Deed of Settlement**") in a spirit of co-operation and compromise, and in good faith, to provide for the settlement of the Historical Claims (as defined in clause 1.9 to 1.12 of the Original Deed of Settlement).

The Original Deed of Settlement was:

- negotiated with the Crown by Nga Kaihautu o Te Arawa Executive Council on behalf of the Affiliate Te Arawa Iwi/Hapu; and
- ratified by the Affiliate Te Arawa Iwi/Hapu.

The Mandated Signatories had a mandate from the Affiliate Te Arawa Iwi/Hapu to sign the Original Deed of Settlement on behalf of the Affiliate Te Arawa Iwi/Hapu.

ACTIONS AND AGREEMENTS REACHED SINCE ORIGINAL DEED OF SETTLEMENT SIGNED

In accordance with the Original Deed of Settlement, the trustees of the Te Pumautanga o Te Arawa Trust by deed of trust dated 1 December 2006 (the "**Te Pumautanga Trust Deed**"), established the Te Pumautanga o Te Arawa Trust (the "**Te Pumautanga Trust**") as the Governance Entity (as defined in the Original Deed of Settlement) under clause 3.4 of the Original Deed of Settlement. The Te Pumautanga Trustees, as required by clause 3.5 of the Original Deed of Settlement have, as the Governance Entity, entered into the Deed of Covenant (as defined in the Original Deed of Settlement) dated 1 December 2006.

But, with the agreement of the Affiliate Te Arawa Iwi/Hapu, the Crown did not propose the Settlement Legislation (as defined in the Original Deed of Settlement) and, instead, the Crown and the Affiliate Te Arawa Iwi/Hapu have agreed that:

- the Affiliate Te Arawa Iwi/Hapu enter into the CNI Settlement Deed with the Crown and other iwi and hapu with interests in the Central North Island Forests;
- the Original Deed of Settlement be replaced by this Deed which omits any redress relating to the Central North Island Forests and includes enhancements as recognition that the Affiliate Te Arawa Iwi/Hapu have agreed to amend the Original Deed of Settlement and have their interests in the Central North Island Forests addressed through the CNI Settlement Deed; and
- as the Affiliate Te Arawa Iwi/Hapu are effectively receiving their redress under, and all the historical claims of the Affiliate Te Arawa Iwi/Hapu be settled by, this Deed and the CNI Settlement Deed, this Deed will not become unconditional until the CNI Settlement Deed becomes unconditional.

BACKGROUND TO THIS DEED

CROWN ACKNOWLEDGEMENT

The Crown acknowledges the generosity of the Te Pumautanga Trustees and the Affiliate Te Arawa Iwi/Hapu in agreeing to renegotiate their settlement under the Original Deed of Settlement. The Crown further acknowledges the significant contribution made by the Te Pumautanga Trustees towards the resolution of the historical claims of other Central North Island iwi over the Central North Island Forests.

THIS DEED OF SETTLEMENT

This Deed of Settlement has been:

- negotiated with the Crown by the Te Pumautanga Trustees on behalf of the Affiliate Te Arawa Iwi/Hapu; and
- ratified by the Affiliate Te Arawa Iwi/Hapu.

Accordingly, the Affiliate Te Arawa Iwi/Hapu and the Crown wish, in a spirit of co-operation and compromise, to enter, in good faith, into this Deed providing for the settlement of the Historical Claims (as defined in clauses 1.9 to 1.12).

1 THE AFFILIATE TE ARAWA IWI/HAPU AND THE HISTORICAL CLAIMS

INTRODUCTION

1.1 This Deed records the agreement of the Affiliate Te Arawa Iwi/Hapu and the Crown to settle the Historical Claims.

1.2 This Part sets out definitions of the Crown, the Affiliate Te Arawa Iwi/Hapu, the Historical Claims and certain related terms. Those definitions apply in this Deed unless this Deed or the context requires otherwise.

1.3 Definitions of other terms used in this Deed are set out in:

1.3.1 clauses 2.9, 10.1, 10.4, 10.30, 10.32, 11.1, 11.13, 11.19, 11.20, 12.26, 12,27, 12,29, 12.32, 13.18, 15.4 and 15.5;

1.3.2 Part 16; and

1.3.3 the Schedules, including the Claimant Definition Schedule and Part 2 of Schedule 5 (Deferred Selection Properties).

THE CROWN

1.4 **The Crown** has the meaning given to it in section 2(1) of the Public Finance Act (which in summary, as at the Date of this Deed, provides that the Crown:

1.4.1 means the Sovereign in right of New Zealand; and

1.4.2 includes all Ministers of the Crown and all Departments; but

1.4.3 does not include:

(a) an Office of Parliament;

(b) a Crown entity; or

(c) a State enterprise).

1: THE AFFILIATE TE ARAWA IWI/HAPU AND THE HISTORICAL CLAIMS

THE AFFILIATE TE ARAWA IWI/HAPU AND RELATED TERMS

1.5 **Affiliate Te Arawa Iwi/Hapu**:

1.5.1 means the iwi and hapu of Te Arawa affiliated to the Te Pumautanga Trust, comprising the following 11 collective groups defined by that name in the Claimant Definition Schedule:

(a) Ngati Ngararanui (including Ngati Tamahika and Ngati Tuteaiti);

(b) Ngati Kearoa Ngati Tuara;

(c) Ngati Tura – Ngati Te Ngakau;

(d) Ngati Te Roro o Te Rangi;

(e) Ngati Tuteniu;

(f) Ngati Uenukukopako;

(g) Tuhourangi Ngati Wahiao;

(h) Ngati Tahu – Ngati Whaoa;

(i) Ngati Pikiao (excluding Ngati Makino);

(j) Ngati Rongomai; and

(k) Ngati Tarawhai; and

1.5.2 includes every individual of which a collective group is composed and who is included in the definition of the group in the Claimant Definition Schedule.

1.6 **Affiliate Te Arawa Iwi/Hapu Ancestor** means each of the following individuals defined by that term in the Claimant Definition Schedule:

1.6.1 Ngati Ngararanui Ancestor;

1.6.2 Ngati Kearoa Ngati Tuara Ancestor;

1.6.3 Ngati Tura – Ngati Te Ngakau Ancestor;

1.6.4 Ngati Te Roro o Te Rangi Ancestor;

1.6.5 Ngati Tuteniu Ancestor;

1.6.6 Ngati Uenukukopako Ancestor;

1.6.7 Tuhourangi Ngati Wahiao Ancestor;

1.6.8 Ngati Tahu – Ngati Whaoa Ancestor;

1.6.9 Ngati Pikiao Ancestor;

1.6.10 Ngati Rongomai Ancestor; and

1.6.11 Ngati Tarawhai Ancestor.

1.7 **Member of the Affiliate Te Arawa Iwi/Hapu** means each individual referred to in clause 1.5.2.

1.8 **Representative Entity** means:

1.8.1 the Te Pumautanga Trustees; and

1.8.2 a person (including trustees) acting for or on behalf of:

(a) any one or more collective groups referred to in clause 1.5.1;

(b) any one or more Members of the Affiliate Te Arawa Iwi/Hapu; and/or

(c) any one or more of the iwi, hapu, whanau, or groups of individuals referred to in the definitions of the collective groups in the Claimant Definition Schedule.

THE AFFILIATE TE ARAWA IWI/HAPU HISTORICAL CLAIMS

1.9 **Historical Claims** means:

1.9.1 (subject to clause 1.11) every claim (whether or not the claim has arisen or been considered, researched, registered, notified or made by or on the Settlement Date) that the Affiliate Te Arawa Iwi/Hapu (or any Representative Entity) had at, or at any time before, the Settlement Date, or may have at any time after the Settlement Date, and that:

(a) is, or is founded on, a right arising:

(i) from Te Tiriti o Waitangi/the Treaty of Waitangi or its principles;

(ii) under legislation;

(iii) at common law (including in relation to aboriginal title or customary law);

(iv) from a fiduciary duty; or

(v) otherwise; and

(b) arises from or relates to acts or omissions before 21 September 1992:

(i) by or on behalf of the Crown; or

(ii) by or under legislation;

1.9.2 subject to clause 1.11.10, every claim to the Waitangi Tribunal to which clause 1.9.1 applies and that relates exclusively to the Affiliate Te Arawa Iwi/Hapu (or a Representative Entity) including:

(a) Wai 57 (Ngati Tahu Lands claim);

(b) Wai 77 (Peka and Rotomahana Parekarangi 6S claim);

(c) Wai 115 (Sewage Rates claim);

(d) Wai 153 (Whakarewarewa claim);

(e) Wai 155 (Te Haira Whanau claim);

(f) Wai 164 (Paengaroa South Geothermal claim);

(g) Wai 165 (Rotoma Inc and Matawhaura (part of the Lake Rotoiti Scenic Reserve) Development Scheme claim);

(h) Wai 193 (Waitangi No 3 (Soda Springs) claim);

(i) Wai 194 (Taheke 8C Inc claim);

(j) Wai 195 (Manupirua Baths claim);

(k) Wai 196 (Pukaretu Reservation claim);

(l) Wai 198 (Mourea Paehinahina claim);

(m) Wai 199 (Ruahina Kuharua Inc claim);

(n) Wai 204 (Tuhourangi (Whakarewarewa) Geothermal claim);

(o) Wai 205 (Ngati Pikiao (Haumingi 1A1 Trust) Geothermal claim);

(p) Wai 217 (Waikato River (Atiamuri to Huka) claim);

(q) Wai 233 (Tarawera Lands claim);

(r) Wai 252 (Tarewa East 3B10 claim);

(s) Wai 282 (Whakarewarewa Village claim);

(t) Wai 288 (Kaingaroa Forest claim);

(u) Wai 361 (Whakapoungakau 1B3B claim);

(v) Wai 363 (Tuhourangi Taonga Tukuiho claim);

(w) Wai 391 (Ngati Tura and Ngati Te Ngakau Claims Committee (Rotorua Railway Lands) claim);

(x) Wai 453 (Whakarewarewa Rugby Community Sports Inc claim);

(y) Wai 531 (Horohoro State Forest claim);

(z) Wai 675 (Lake Okataina and Surrounding Lands claim);

(aa) Wai 749 (Rotoiti Native Township claim);

(bb) Wai 803 (Ohaaki Geothermal Lands and Taonga claim);

(cc) Wai 837 (Ngati Whaoa Rohe claim);

(dd) Wai 839 (Wairakei Block claim);

(ee) Wai 840 (Whirinaki Block claim);

(ff) Wai 911 (Ngati Tahu and Ngati Whaoa Lands and Resources claim);

(gg) Wai 918 (Lake Rotorua and Rotorua Airport claim);

(hh) Wai 980 (Ngati Tuteniu Thermal Springs claim);

(ii) Wai 1053 (Kaikokopu Block Crown Proclamation claim);

(jj) Wai 1075 (Ngati Uenukukopako Atiamuri and Ohakuri Lands and Lakes claim);

(kk) Wai 1103 (Ngati Hinemihi Te Ariki and Punaromia Land claim);

(ll) Wai 1194 (Taumanu Land claim);

(mm) Wai 1199 (Ngati Ngararanui Lands and Waterways claim);

(nn) Wai 1205 (Ngati Tura and Ngati Te Ngakau Lands and Resources claim);

(oo) Wai 1209 (Ngati Hinekura Lands and Resources claim);

(pp) Wai 1210 (Owhata 1XA and Associated Lands claim);

(qq) Wai 1213 (Ngati Rongomai o Ngati Pikiao Lands and Resources claim);

(rr) Wai 1214 (Taui Takarei and Te Ao Kahira Te Putu Trust claim);

(ss) Wai 1215 (Ngati Hinekura o Ngati Pikiao Lands and Resources claim);

(tt) Wai 1217 (Ngati Whaoa Rohe claim); and

(uu) Wai 1252 (Ngati Tuteniu Lands and Resources claim); and

1.9.3 subject to clause 1.11.10, every other claim to the Waitangi Tribunal to which clause 1.9.1 applies so far as it relates to the Affiliate Te Arawa Iwi/Hapu or a Representative Entity including:

(a) Wai 7 (Te Ariki Lands claim);

(b) Wai 154 (Uenukukopako (Rotokawa Baths) claim);

(c) Wai 197 (Rotoiti 15 Inc claim);

(d) Wai 262 (Indigenous Flora and Fauna claim);

(e) Wai 268 (Whakarewarewa Geothermal Valley claim);

(f) Wai 293 (Horohoro State Forest claim);

(g) Wai 296 (Maketu Estuary claim);

(h) Wai 317 (Whakarewarewa and Horohoro State Forests claim);

(i) Wai 319 (Kaingaroa Forest claim);

(j) Wai 335 (Pukeroa Oruawhata Geothermal Resource claim);

(k) Wai 384 (Ohinemutu Village claim);

(l) Wai 459 (Tuhourangi and Ngati Makino claim);

(m) Wai 471 (Te Tumu Kaituna Lands claim);

(n) Wai 550 (Rotoehu Forest (Ngati Pikiao) claim);

(o) Wai 628 (Tahorakuri No 2 Block claim);

(p) Wai 676 (Te Awa o Ngatoroirangi claim);

(q) Wai 681 (Deregulation of Broadcasting and Rika Whanau claim);

(r) Wai 787 (Atiamuri ki Kaingaroa (Simon) claim);

(s) Wai 791 (Volcanic Interior Plateau claim);

(t) Wai 929 (Ohau Taupiri Block claim);

(u) Wai 1032 (Tahunaroa, Waitahanui and Whakarewa Blocks claim);

(v) Wai 1101 (Maketu Peninsula Lands claim);

(w) Wai 1141 (Harry and Rangi Hodge Whanau Trust claim);

(x) Wai 1195 (Parakiri and Associated Land Blocks claim);

(y) Wai 1204 (Ngongotaha Maunga claim);

(z) Wai 1212 (Nga Uri o Nga Tokotoru o Manawakotokoto Lands and Resources claim);

(aa) Wai 1356 (Ngati Whakaue Compulsory Land Acquisition claim); and

(bb) Wai 1357 (Rukingi Te Wharetutaki Haupapa claim).

1.10 Clause 1.9.1 is not limited by clauses 1.9.2 or 1.9.3.

1.11 The term **Historical Claims** does not include the following claims:

1.11.1 a claim that a Member of the Affiliate Te Arawa Iwi/Hapu, or an iwi, hapu, whanau, or group referred to in paragraphs 1.1.3, 1.3.3, 1.5.3, 1.7.3, 1.9.3, 1.11.3, 1.13.3, 1.15.3, 1.17.3, 1.19.3 or 1.21.3 of the Claimant Definition Schedule, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not an Affiliate Te Arawa Iwi/Hapu Ancestor;

1.11.2 Wai 275 (which relates exclusively to Ngati Makino);

1.11.3 Wai 459, Wai 550 and Wai 1032 so far as those claims relate to Ngati Makino;

1.11.4 all claims settled by the Deed of Agreement between the Minister of Justice on behalf of the Crown and Pukeroa-Oruawhata Trustees and the Proprietors of Ngati Whakaue Tribal Lands Incorporation for and on behalf of the People of Ngati Whakaue in relation to Wai 94 (23 September 1993);

1.11.5 all claims settled by the Final Agreement between the Minister of Justice on behalf of the Crown and the Trustees of Ngati Rangiteaorere for and on behalf of the people of Ngati Rangiteaorere in relation to Wai 32 (21 October 1993);

1.11.6 all claims settled by the Deed of Agreement between Her Majesty the Queen acting by the Minister in Charge of Treaty of Waitangi Negotiations and the Proprietors of Rotoma No. 1 Block Incorporated (6 October 1996);

1.11.7 a claim that a Representative Entity may have to the extent that claim is, or is based on, a claim referred to in clause 1.11.1-1.11.3;

1.11.8 the Te Arawa Lakes Historical Claims as defined in clauses 1.12 to 1.14 of the Deed of Settlement of the Te Arawa Lakes Historical Claims and Remaining Annuity Issues (18 December 2004);

1.11.9 the Te Arawa Lakes Remaining Annuity Issues as defined in clause 1.15 of the Deed of Settlement of the Te Arawa Lakes Historical Claims and Remaining Annuity Issues (18 December 2004); and

1.11.10 claims settled by the CNI Settlement Deed.

1.12 To avoid doubt, **Historical Claims** also includes any and all parts of Wai 32 and Wai 94 not settled by the deeds or agreements referred to in clauses 1.11.4 and 1.11.5, so far as they relate to the Affiliate Te Arawa Iwi/Hapu (or a Representative Entity).

2 THE SETTLEMENT

THE SETTLEMENT TO ENHANCE THE ONGOING RELATIONSHIP BETWEEN THE AFFILIATE TE ARAWA IWI/HAPU AND THE CROWN

2.1 The Settlement of the Historical Claims under this Deed is intended to enhance the ongoing relationship between the Affiliate Te Arawa Iwi/Hapu and the Crown (both in terms of Te Tiriti o Waitangi/the Treaty of Waitangi, its principles and otherwise).

THE HISTORICAL CLAIMS ARE SETTLED

2.2 The Affiliate Te Arawa Iwi/Hapu and the Crown agree that this Deed settles the Historical Claims from the Settlement Date.

2.3 The Affiliate Te Arawa Iwi/Hapu release and discharge the Crown, from the Settlement Date, from all obligations and liabilities in respect of the Historical Claims.

THE CROWN IS TO PROVIDE REDRESS

2.4 The Crown must provide the Redress set out in:

2.4.1 Part 8: Acknowledgements and Apology by the Crown;

2.4.2 Part 9: Cultural Redress: Relationships;

2.4.3 Part 10: Cultural Redress: Cultural Redress Properties;

2.4.4 Part 11: Other Cultural Redress; and

2.4.5 Part 12: Financial and Commercial Redress.

REDRESS IS TO BE PROVIDED TO THE TE PUMAUTANGA TRUSTEES

2.5 The Crown must provide the Redress under Parts 9, 10, 11 and 12 to the Te Pumautanga Trustees on behalf of the Affiliate Te Arawa Iwi/Hapu (unless this Deed provides otherwise).

THE SETTLEMENT DOES NOT AFFECT CERTAIN RIGHTS OR DECISIONS

2.6 Nothing in this Deed:

2.6.1 extinguishes or limits any aboriginal title, or customary rights, that the Affiliate Te Arawa Iwi/Hapu may have;

2.6.2 is, or implies, an acknowledgement by the Crown that any aboriginal title, or any customary right, exists;

2.6.3 (except as expressly provided in or under this Deed) affects any right that the Affiliate Te Arawa Iwi/Hapu, or the Crown, may have including any right arising:

(a) from Te Tiriti o Waitangi/the Treaty of Waitangi or its principles;

(b) under legislation;

(c) at common law (including in relation to aboriginal title or customary law);

(d) from a fiduciary duty; or

(e) otherwise; or

2.6.4 is intended to affect actions or decisions under the following:

(a) the deed of settlement between Maori and the Crown dated 23 September 1992 in relation to Maori fishing claims; or

(b) the Fisheries Act 1983, the Fisheries Act, the Foreshore and Seabed Act, the Maori Commercial Aquaculture Claims Settlement Act, the Maori Fisheries Act, the Marine Reserves Act, the Resource Management Act and the Treaty of Waitangi (Fisheries Claims) Settlement Act.

2.7 Clause 2.6 does not limit clauses 2.2 or 2.3.

ACKNOWLEDGEMENTS CONCERNING THE SETTLEMENT AND ITS FINALITY

2.8 The Affiliate Te Arawa Iwi/Hapu acknowledge that:

2.8.1 it is intended that the Settlement, and the rights of the Affiliate Te Arawa Iwi/Hapu and the Te Pumautanga Trustees, under this Deed:

(a) will be for the benefit of the Affiliate Te Arawa Iwi/Hapu; and

(b) may be for the benefit of particular individuals or a particular whanau, hapu or group of individuals if the Te Pumautanga Trustees so determine in accordance with the Pumautanga Trust's procedures; and

2.8.2 the Settlement and the obligations of the Affiliate Te Arawa Iwi/Hapu and the Te Pumautanga Trustees under this Deed will be binding on the Affiliate Te Arawa Iwi/Hapu and any Representative Entity.

2.9 The Affiliate Te Arawa Iwi/Hapu acknowledge and agree (and the Settlement Legislation will provide) that, with effect from the Settlement Date:

2.9.1 the Settlement is final;

2.9.2 the Crown is released and discharged from all obligations and liabilities in respect of the Historical Claims;

2.9.3 the Courts, the Waitangi Tribunal and any other judicial body or tribunal do not have jurisdiction (including the jurisdiction to inquire into or to make a finding or recommendation) in respect of:

(a) this Deed;

(b) the Settlement Legislation;

(c) the Historical Claims; and

(d) the Redress,

(but that jurisdiction is not removed in respect of the interpretation and implementation of this Deed or the Settlement Legislation);

2.9.4 the following legislation (the "**Land Claims Statutory Protection Legislation**") does not apply to a Cultural Redress Property, to Matawhaura (part of the Lake Rotoiti Scenic Reserve), to Otari Pa, or to a Commercial Redress Property, namely:

(a) sections 8A to 8HJ of the Treaty of Waitangi Act;

(b) sections 27A to 27C of the State-Owned Enterprises Act;

(c) sections 211 to 213 of the Education Act;

(d) Part 3 of the Crown Forest Assets Act; and

(e) Part 3 of the New Zealand Railways Corporation Restructuring Act;

2.9.5 clause 2.9.4 in relation to a Deferred Selection Property:

(a) applies to the Deferred Selection Property only if the Te Pumautanga Trustees select the Deferred Selection Property under clause 12.20; and

(b) lapses if the agreement constituted for the Deferred Selection Property by clause 12.20 is cancelled;

2.9.6 clause 2.9.4 applies to Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa only from the Vesting Date in clause 10.32; and

2.9.7 neither the Affiliate Te Arawa Iwi/Hapu, nor any Representative Entity, have the benefit of the Land Claims Statutory Protection Legislation.

2.10 The Settlement Legislation will provide that:

2.10.1 the chief executive of LINZ must issue to the Registrar-General of Land one or more certificates that identify (by reference to the relevant legal description, certificate of title or computer register) each allotment that is:

(a) all, or part, of:

(i) a Cultural Redress Property;

(ii) Matawhaura (part of the Lake Rotoiti Scenic Reserve);

(iii) Otari Pa; or

(iv) a Commercial Redress Property; and

(b) contained in a certificate of title or computer register that has a memorial entered under any of the Land Claims Statutory Protection Legislation;

2.10.2 the chief executive of LINZ must issue a certificate under clause 2.10.1 as soon as reasonably practicable after:

(a) the Settlement Date, in the case of each Cultural Redress Property other than Roto-a-Tamaheke and Whakarewarewa Thermal Springs Reserve;

(b) the date appointed by Order in Council under clause 10.30.2, in respect of Roto-a-Tamaheke and Whakarewarewa Thermal Springs Reserve;

(c) the Vesting Date in clause 10.32, in the case of Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa; or

(d) the Actual Deferred Settlement Date, in the case of each Deferred Selection Property;

2.10.3 each certificate must state the section of the Settlement Legislation that it is issued under; and

2.10.4 the Registrar-General of Land must, as soon as is reasonably practicable after receiving a certificate referred to in clause 2.10.1:

(a) register the certificate against each certificate of title or computer register identified in the certificate; and

(b) cancel, in respect of each allotment identified in the certificate, the memorial that, under any of the Land Claims Statutory Protection

Legislation, is entered on a certificate of title or computer register in respect of that allotment.

2.11 The Affiliate Te Arawa Iwi/Hapu acknowledge and agree that neither the Affiliate Te Arawa Iwi/Hapu, nor a Representative Entity, will object to the removal by legislation of memorials entered under any of the Land Claims Statutory Protection Legislation.

ACKNOWLEDGEMENTS CONCERNING THE SETTLEMENT AND THE REDRESS

2.12 The Affiliate Te Arawa Iwi/Hapu and the Crown acknowledge that:

2.12.1 the Settlement represents the result of intensive negotiations conducted in good faith and in a spirit of co-operation and compromise;

2.12.2 the Parties have acted honourably and reasonably in relation to the Settlement;

2.12.3 the Crown has applied a set of general guidelines during these negotiations to ensure a fair approach to the negotiation of historical claims while also seeking to treat each claim on its merits;

2.12.4 the Crown seeks to achieve fairness between claims so that similar claims receive a similar level of financial and commercial redress;

2.12.5 the Crown has to set limits on what and how much redress is available to settle historical claims;

2.12.6 land in the public conservation estate is not generally available for use in Treaty settlements apart from individual sites of special cultural significance;

2.12.7 it is not possible to fully compensate the Affiliate Te Arawa Iwi/Hapu for all the loss and prejudice suffered;

2.12.8 this foregoing of full compensation is intended by the Affiliate Te Arawa Iwi/Hapu to contribute to the development of New Zealand;

2.12.9 the decision of the Affiliate Te Arawa Iwi/Hapu in relation to the settlement is a decision that the Affiliate Iwi/Hapu take for themselves alone and it does not purport to affect the position of other tribes; and

2.12.10 taking all matters into consideration (some of which are specified in this clause), the Settlement is fair in the circumstances.

ACKNOWLEDGEMENT IN RELATION TO MOUNT NGONGOTAHA

2.13 The Affiliate Te Arawa Iwi/Hapu and the Crown acknowledge that:

2.13.1 Mount Ngongotaha is of great traditional, cultural, historical, and spiritual importance to Ngati Whakaue in particular, and to Te Arawa in general; and

2.13.2 some Te Arawa iwi/hapu, including certain Ngati Whakaue hapu, are not part of the Affiliate Te Arawa Iwi/Hapu.

2.14 The Affiliate Te Arawa Iwi/Hapu and the Crown agree that at the time the Crown enters into negotiations with certain Ngati Whakaue hapu for the settlement of their remaining historical claims, the Crown and the Te Pumautanga Trustees will discuss with certain Ngati Whakaue hapu the vesting in fee simple (subject to the existing reserve classification) of 51 hectares, approximately, being Part Rotohokahoka D North 6 in an entity which is representative of all Ngati Whakaue.

3 RATIFICATION OF THE SETTLEMENT AND THE TE PUMAUTANGA TRUSTEES

THIS DEED HAS BEEN RATIFIED

3.1 The Affiliate Te Arawa Iwi/Hapu confirm that:

3.1.1 the Original Deed of Settlement was ratified in 2006 by the Affiliate Te Arawa Iwi/Hapu by virtue of a majority of 97% of the valid votes cast in a postal ballot of the Eligible Members of the Affiliate Te Arawa Iwi/Hapu; and

3.1.2 this Deed of Settlement, and the authority of the Te Pumautanga Trustees to sign it, were ratified by the Affiliate Te Arawa Iwi/Hapu by virtue of a majority of 98% of the valid votes cast in a postal ballot of the Eligible Members of the Affiliate Te Arawa Iwi/Hapu.

3.2 The Crown confirms that it is satisfied:

3.2.1 with the ratification of this Deed by the Affiliate Te Arawa Iwi/Hapu; and

3.2.2 with the mandate of the Te Pumautanga Trustees from the Affiliate Te Arawa Iwi/Hapu to sign this Deed on behalf of the Affiliate Te Arawa Iwi/Hapu; and

3.2.3 that it is appropriate that the Te Pumautanga Trustees receive the Redress.

REDRESS AGREED TO BY CABINET

3.3 The Crown confirms that the Redress to be provided under this Deed was agreed to by Cabinet on 12 May 2008.

AGREEMENT BY THE TE PUMAUTANGA TRUSTEES

3.4 The Te Pumautanga Trustees:

3.4.1 confirm the agreements and acknowledgements made by the Affiliate Te Arawa Iwi/Hapu under this Deed; and

3.4.2 agree to comply with their obligations in this Deed.

3.5 For the avoidance of doubt it is confirmed that the Te Pumautanga Trustees enter into this Deed as trustees for the Te Pumautanga Trust and not in any personal capacity and that the liability of the Te Pumautanga Trustees is limited to the assets for the time being of the Te Pumautanga Trust.

4 SETTLEMENT LEGISLATION

INTRODUCTION OF SETTLEMENT LEGISLATION

4.1 The Crown must (subject to clause 4.2) propose Settlement Legislation for introduction on, or as soon as possible after, 24 June 2008 and on a day before the day on which the CNI Legislation is proposed for introduction.

CONTENT AND COMING INTO FORCE OF THE SETTLEMENT LEGISLATION

4.2 The Settlement Legislation proposed by the Crown for introduction must:

4.2.1 include all matters required by this Deed to be included in the Settlement Legislation;

4.2.2 include a provision that it comes into force on a date to be appointed by the Governor-General by Order in Council; and

4.2.3 be in a form that:

(a) the Te Pumautanga Trustees have Notified the Crown is satisfactory to the Te Pumautanga Trustees; and

(b) is satisfactory to the Crown.

4.3 The Crown must procure that the Governor-General is advised to make the Order in Council under clause 4.2.2 so that:

4.3.1 the date appointed for the Settlement Legislation to come into force is later than the date that the CNI Legislation comes into force; and

4.3.2 the Settlement Date is later than the "Settlement Date" as defined in the CNI Legislation.

THE TE PUMAUTANGA TRUSTEES TO SUPPORT SETTLEMENT AND OTHER LEGISLATION

4.4 The Te Pumautanga Trustees must support the passage through Parliament of:

4.4.1 the Settlement Legislation;

4.4.2 any legislation introduced under clause 5.2.2 to terminate proceedings in relation to an Historical Claim;

4.4.3 the CNI Legislation; and

4.4.4 any other legislation required to:

(a) give effect to this Deed;

(b) achieve certainty in respect of the obligations undertaken by a Party; or

(c) achieve a final and durable Settlement.

5 OTHER ACTIONS TO COMPLETE SETTLEMENT

DISCONTINUANCE OF PROCEEDINGS

5.1 The Te Pumautanga Trustees must use their best endeavours to, by or on the Settlement Date, deliver to the Crown notices of discontinuance:

5.1.1 of every proceeding listed in clause 1.9.2 that has not already been discontinued; and

5.1.2 signed by the applicant or plaintiff to those proceedings (or duly completed by the solicitor for the applicant or plaintiff).

5.2 If the Te Pumautanga Trustees do not deliver to the Crown by or on the Settlement Date all notices of discontinuance required by clause 5.1:

5.2.1 the Te Pumautanga Trustees must continue to use their best endeavours to deliver those notices of discontinuance to the Crown; and

5.2.2 the Crown may introduce legislation to terminate the proceedings.

WAITANGI TRIBUNAL

5.3 The Crown may, on or after the Settlement Date:

5.3.1 advise the Waitangi Tribunal in writing of the Settlement and its terms; and

5.3.2 request that the Waitangi Tribunal amend its register, and adapt its procedures, to reflect the Settlement.

TERMINATION OF LANDBANK ARRANGEMENTS

5.4 The Crown may, after the Settlement Date, cease to operate any landbank arrangement in relation to the Affiliate Te Arawa Iwi/Hapu (or a Representative Entity) except to the extent necessary to give effect to this Deed.

6 SUMMARY OF THE REDRESS

6.1 This Part sets out a summary of the Redress to be provided by the Crown, if this Deed becomes unconditional, under:

6.1.1 Part 8: Acknowledgements and Apology by the Crown;

6.1.2 Part 9: Cultural Redress: Relationships;

6.1.3 Part 10: Cultural Redress: Cultural Redress Properties;

6.1.4 Part 11: Other Cultural Redress; and

6.1.5 Part 12: Financial and Commercial Redress.

6.2 This Part:

6.2.1 sets out only a summary of the Redress to be provided;

6.2.2 is not an operative part of this Deed; and

6.2.3 does not affect the interpretation of any other provision of this Deed.

6.3 The Redress includes:

ACKNOWLEDGEMENTS AND APOLOGY

6.3.1 acknowledgements and an apology by the Crown;

CULTURAL REDRESS: RELATIONSHIPS

6.3.2 Cultural Redress, including:

Protocols with Ministers

(a) the issue of Protocols to the Te Pumautanga Trustees by each of the following Ministers:

(i) the Minister of Conservation;

(ii) the Minister of Fisheries; and

(iii) the Minister for Arts, Culture and Heritage;

Relationship Agreement with the Ministry for the Environment

(b) annual meetings with the Ministry for the Environment to discuss the performance of local government in implementing Te Tiriti o Waitangi/the Treaty of Waitangi provisions of the Resource Management Act, and other resource management issues, within the Area of Interest;

Promotion of Relationships with Councils

(c) letters written by the Minister in Charge of Treaty of Waitangi Negotiations to the Rotorua District Council, Environment Waikato and Environment Bay of Plenty encouraging each council to enter into a memorandum of understanding (or a similar document) with the Te Pumautanga Trustees concerning interaction between each council and the Te Pumautanga Trustees;

CULTURAL REDRESS: CULTURAL REDRESS PROPERTIES

(d) vesting in the Te Pumautanga Trustees the 24 Cultural Redress Properties listed in clause 10.1.1;

(e) the future vesting of Matawhaura (part of Lake Rotoiti Scenic Reserve) and Otari Pa in an entity to be established that represents individuals who are descended from Pikiao;

(f) transfer of the Geothermal Assets for nil consideration;

OTHER CULTURAL REDRESS

Statutory Acknowledgement in relation to certain areas

(g) making a Statutory Acknowledgement by the Crown of the association of the Affiliate Te Arawa Iwi/Hapu with the following areas (copies of SO plans are included in Schedule 7 indicating the general location of those areas):

(i) the Matahana Ecological Area;

(ii) the following waterways within the Area of Interest:

(aa) part of the Kaituna River;

(bb) part of the Tarawera River;

(cc) part of the Waikato River (Atiamuri Dam to Huka Falls);

(dd) the Waiteti Stream; and

(ee) the Ngongotaha Stream;

(iii) Otari Pa;

(iv) parts of the Whakarewarewa Forest known as the Lake Rotokakahi/Lake Tikitapu Covenant Areas; and

(v) the geothermal water and geothermal energy located in the Rotorua Region Geothermal System;

Deed of Recognition in relation to certain areas

(h) granting a Deed of Recognition to the Te Pumautanga Trustees in relation to the Matahana Ecological Area;

Whenua Rahui

(i) declaring the following sites to be Whenua Rahui:

(i) Rainbow Mountain Scenic Reserve - Maunga Kakaramea;

(ii) part of the Lake Tarawera Scenic Reserve;

(iii) part of the Mount Ngongotaha Scenic Reserve; and

(iv) Matawhaura (part of the Lake Rotoiti Scenic Reserve);

(j) the Crown acknowledging the Affiliate Te Arawa Iwi/Hapu Values in relation to the Whenua Rahui;

(k) enabling agreement on Protection Principles directed at the Minister of Conservation avoiding harming or diminishing the Affiliate Te Arawa Iwi/Hapu Values;

Special Classification

(l) declaring the following sites vested in the Rotorua District Council to be Specially Classified Reserves;

(i) Recreation Reserve at Hannah's Bay (including Otauira Swamp) and the Esplanade Land and the Karamuramu Baths Land;

(ii) Recreation Reserve adjacent to Waiteti Stream (including Te Kahupapa and Te Hinahina); and

(iii) Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach);

(m) the Crown acknowledging the Affiliate Te Arawa Iwi/Hapu Values in relation to the Specially Classified Reserves;

(n) giving effect to Protection Principles in respect of the Specially Classified Reserves directed at the Rotorua District Council avoiding harming or diminishing the Affiliate Te Arawa Iwi/Hapu Values whilst having regard to wider local community values;

Karamuramu Baths

(o) the future vesting in the Te Pumautanga Trustees of the Karamuramu Baths Land on the expiry of the lease defined in clause 11.13.2; and

Place names

(p) renaming Whakapoungakau as Rangitoto Peak and assigning the place name Whakapoungakau Range;

FINANCIAL AND COMMERCIAL REDRESS

6.3.3 Financial and Commercial Redress comprising:

(a) the transfer of the Licensed Land with a Redress Value of $4,000,000;

(b) the right to purchase Deferred Selection Properties exercisable at any time within six months after the Settlement Date at a purchase price to be agreed or determined under Part 12; and

(c) the amount, if any, payable under clause 15.20.

7 HISTORICAL ACCOUNT

INTRODUCTION

7.1 The Affiliate Te Arawa Iwi/Hapu traditionally exercised customary interests within the approximately 1,150,000 acre area from the Bay of Plenty coast to the inland Rotorua lakes and into the interior to the Mamaku ranges and Kaingaroa forest. Other iwi and hapu also exercised customary interests within this area.

7.2 The Affiliate Te Arawa Iwi/Hapu traditionally operated as quite independent entities, with some coming together for mutual defence and cooperation when confronted by external threats from outside parties or when prompted by common interests. The Affiliate Te Arawa Iwi/Hapu held their land and resources in customary tenure where tribal and hapu collective ownership was paramount.

7.3 A small number of Pakeha traders and missionaries settled in the Maketu, Rotorua and Tarawera areas in the 1830s. The Affiliate Te Arawa Iwi/Hapu in Maketu and the inland lakes areas were intent on engaging with the new opportunities created by the opening up of trade and commerce between different tribal areas after 1840, and particularly by the growing Auckland market. They purchased coastal vessels to transport their trade goods, including flax, pigs, potatoes and other produce to Auckland. By the 1850s they were constructing mills and producing flour and wheat. A fledgling tourist trade also developed in the 1840s and 1850s. Local Maori acted as guides escorting travellers who passed through the area, attracted by the many hot springs and sights like the Pink and White Terraces at Tarawera.

7.4 The first official Crown presence in the area came with the appointment of a Police Magistrate and sub-protector of Aborigines at Maketu in 1842. There was increasing engagement between many Affiliate Te Arawa Iwi/Hapu and the Crown in the 1850s and early 1860s. The Crown stationed a Resident Magistrate at Maketu in 1852, whose main role was mediating disputes between Maori with the assistance of Maori assessors. The Crown also provided assistance to some Affiliate Te Arawa Iwi/Hapu in this period for the purchase of vessels and mills and in the building of roads.

7.5 In 1860 the Governor called a conference at Kohimarama, in part to sound out Maori opinion on issues including the Treaty of Waitangi, law and order, and land. Representatives of some Affiliate Te Arawa Iwi/Hapu attended the conference. They expressed their support for the Queen and indicated their interest in engaging with the Crown on issues that affected them. The conference, which lasted almost a month, also canvassed possible means of ascertaining ownership of Maori land. Crown officials suggested that Maori runanga operating under the supervision of a Pakeha official could be established to investigate land disputes. The Crown agreed to reconvene the conference the following year, but the new Governor adopted a different approach.

7.6 In 1861 the Governor initiated a scheme by which village and district runanga were set up under Pakeha officials. These could propose bylaws to the Governor, which would be enforced by resident Magistrates and Maori Assessors. It was intended that the District Runanga define tribal interests in land, but little came of this plan. Some Affiliate Te Arawa Iwi/Hapu had already established runanga in the late 1850s to assist in the management of their affairs and a number initially supported the

Governor's scheme. Village runanga were established at Maketu, Rotoiti and Okataina, Rotorua and Tarawera. The scheme was, however, ultimately unsuccessful at a national level and was discontinued in 1866.

7.7 From the mid-1860s many Te Arawa fought as allies of the Crown in the New Zealand wars. The conflict put a stop to tourism in the area for a time.

7.8 From 1866 several private parties began to negotiate with Affiliate Te Arawa Iwi/Hapu over land. The majority of these negotiations were for leases. By the late 1860s, however, few Pakeha had settled within the areas in which the Affiliate Te Arawa Iwi/Hapu had interests, and almost all Te Arawa land remained in customary tenure.

The Native Land Laws

7.9 By the early 1860s the Crown had legislated a new system of dealing with native land. Under the Native Land Acts of 1862 and 1865 the Crown established the Native Land Court to determine the owners of Maori land "according to Native Custom" and to convert customary title into title derived from the Crown. The Native Land Acts also set aside the Crown's pre-emptive right of land purchase, to give individual Maori named as owners by the Court the same rights as Pakeha to lease and sell their lands to private parties as well as the Crown.

7.10 The Crown aimed, with these measures, to provide a means by which disputes over the ownership of lands could be settled and facilitate the opening up of Maori customary lands to colonisation. It was expected that land title reform would eventually lead Maori to abandon the tribal and communal structures of traditional land holdings. Converting customary lands into land held under the British title system would also give Maori landowners the right to vote. However, it was the perceived failure of the pre-emption purchase system that provided the immediate impetus for Parliamentary action in 1862.

7.11 The Native Land Acts introduced a significant change to the native land tenure system. Customary tenure was able to accommodate the multiple and overlapping interests of different iwi and hapu to the same piece of land. The Court was not designed to accommodate the complex and fluid customary land usages of Maori within its processes, because it assigned permanent ownership. In addition, land rights under customary tenure were generally communal but the new land laws gave land rights to individuals. The Crown had generally canvassed views on land issues at the 1860 Kohimarama conference but did not consult with Affiliate Te Arawa Iwi/Hapu on the native land legislation prior to its enactment.

7.12 Maori had no alternative but to use the Court if they wished to secure legal title to their lands, including securing title against the competing claims of others. A freehold title from the Court was necessary if Maori wanted to sell or legally lease land, or to use it as security to enable development of the land. The Court's investigation of title for land could be initiated with an application in writing by any Maori. The Court did not act on all applications but in some instances surveys or investigations of title proceeded without the support of all of the hapu who claimed interests in the lands. In most cases the land was surveyed and then the Court (which consisted of a Pakeha judge and a Maori assessor or assessors) would hear the claims of the claimants and any counter-claimants. Those the Court determined were owners received a certificate of title.

Introduction of the Native Land Court in Affiliate Te Arawa Iwi/Hapu Area

7.13 The Native Land Court started hearing the first substantive claims of land ownership involving Affiliate Te Arawa Iwi/Hapu in October 1867. Court hearings were held at Oruanui, near Taupo, concerning lands claimed by Ngati Tahu-Ngati Whaoa and other Affiliate Te Arawa Iwi/Hapu. Hearings were also started at Maketu to hear the claims of Affiliate Te Arawa Iwi/Hapu and others to land in the heavily contested coastal Bay of Plenty area.

7.14 The introduction of the Court in these areas in the late 1860s and early 1870s drew a variety of responses from Affiliate Te Arawa Iwi/Hapu. Some engaged with the Court's hearings from the outset, for varying reasons. Ngati Tahu sought to gain secure titles to assist their leasing of land and, later, to secure their lands against potential claims from people from other areas. Others objected to the Court. The Maketu hearings drew protest from those who disputed the Court's rulings on ownership of some blocks and from those in the wider community who wanted to prevent the establishment of the Court in the area. The Court also sat at Ohinemutu, but none of the applications before it were ready to proceed.

7.15 The Government received complaints from Affiliate Te Arawa Iwi/Hapu about the operation of the Court on at least four occasions between 1871 and 1874. Complaints concerned the cost of Court hearings, expensive survey charges and applications that were initiated without the knowledge or consent of other owners of the lands in question. In January 1871 Te Pokiha Taranui of Ngati Pikiao told Native Minister Donald McLean that "instead of the Native Land Court being a boon to us, it is a source of trouble and expense". In a letter to the Minister on behalf of "all the Arawa" around the same time complaints were made that they had never seen translations of the Native Land Acts and stated "[t]hat is why we have no knowledge of the arrangements of the Native Land Court". Many Te Arawa Iwi/Hapu expressed support for the unsuccessful Native Councils Bill of 1872-3 which, among other things, proposed the establishment of Native Councils which would investigate the ownership of Maori land and make recommendations to the Court (which would be binding if all parties agreed).

7.16 In the case of the Kaingaroa 2 block, at that time calculated at 143,600 acres, the Court awarded title to people of Ngati Tahu-Ngati Whaoa under a provision of the Native Land Act 1865, which allowed only ten people to be appointed owners. Ngati Tahu-Ngati Whaoa later protested that it was wrong that a Crown grant to ten owners "should have effect over the land of all the people, men, women and children, we strongly object to that system". They appealed to have all the owners included on the title for the block, but were unsuccessful.

Crown Purchasing 1870s

7.17 In the early 1870s the Government borrowed heavily to fund an immigration and public works scheme that used a number of means, including the purchase of Maori land, to develop infrastructure and facilitate Pakeha settlement in the North Island. In June 1873 the Crown employed several of the agents working for private parties in the central North Island. They transformed their private negotiations into Crown negotiations.

7.18 In 1873 the Crown suspended the operation of the Native Land Acts over the Bay of Plenty district, including land in which Affiliate Te Arawa Iwi/Hapu had interests. This

was done to avert conflict between rival Te Arawa claimant groups. One Crown land purchase agent later testified that it was also done "to discourage the interference of private individuals with Government negotiations". The suspension of the Native Land Court restricted all purchasing because, aside from the areas where title had already been awarded, ownership of land could not be judicially determined and final land titles could not be issued. Most private purchasers abandoned their negotiations for land. By the time the Court was suspended Affiliate Te Arawa Iwi/Hapu had obtained title to only a few blocks.

7.19 Initially Crown land purchase agents were instructed to acquire as much land as possible without injury to Maori. The Native Minister did, however, express concern that the Government's acquisition of lands should not come at the expense of further civil unrest. The Crown purchase agents reported that from the outset of their negotiations with Te Arawa they sought to secure "every available block of land on behalf of the Government by making preliminary agreements with and paying deposits to sections of the recognised owners". Within a short time they visited a number of Maori settlements and had initiated negotiations for a large area of land.

7.20 In most cases the Crown opened negotiations for land before the lands ownership had been judicially determined. The Crown agents' strategy of dealing with and paying sections of the "recognised owners" before elucidating the full ownership of the land provoked much ill feeling among Maori who claimed interests in the blocks under negotiation, but were not parties to the preliminary agreements. There were a number of allegations from Te Arawa that Crown agents dealt with individuals apart from the main tribes with interests in the land. In November 1873 Tuhourangi complained that the Crown agents were entering into secret deals with individuals without the prior knowledge or consent of other owners of the lands. Matiu Rangiheuea informed the Crown that "The Maoris are now in an unsettled and disturbed state (noho kino) owing to this system". Even though instructions not to purchase from individuals were given to Crown purchase agents at an early stage, there does appear to have been some individual negotiations. In January 1874 the Government advised the Crown purchase agents against purchasing individual interests in land.

7.21 The Crown aimed to purchase land outright but there was widespread opposition amongst Maori to land sales. As a result the Crown purchase agents reported that they were cautious of raising the issue of sales with Te Arawa and mainly confined their proposals to leasing land. The Crown was also very concerned that private competition would prevent it from acquiring the estate it desired. The Crown's primary purpose in entering lease negotiations was to facilitate its purchase program by shutting out private parties. The Crown leases had inalienation clauses to prevent sale to private parties.

7.22 The Crown's attempts to lease or purchase land brought a variety of responses from Affiliate Te Arawa Iwi/Hapu. Some entered lease or sale negotiations with the Crown because they wanted to derive an income from their land. In the case of the Tauhara North block, Ngati Tahu later testified that they sold the land, reluctantly, to pay the survey costs which were "increasing year by year" because of interest charges.

7.23 Those Affiliate Te Arawa Iwi/Hapu who did enter negotiations to lease or sell their land found that the Crown generally tried to acquire land as cheaply as possible. Crown agents reported that they were paying less in their negotiations to lease land than private parties had been offering to lease land before June 1873. In some cases,

including the Kaikokopu block, the Crown paid a deposit on land which bound the recipients into negotiations before the total purchase price had been agreed.

7.24 Aside from initial deposits, the Crown generally did not pay rent on land it negotiated to lease until the title had been determined by the Court. With the Court suspended for much of the period between 1873 and 1877, land ownership could not be determined. Unless they had had informal leases Maori were deprived of the opportunity to receive rental income from their land during the period that it was under negotiation for lease by the Crown.

7.25 Many Affiliate Te Arawa Iwi/Hapu expressed unhappiness at the Crown's approach to negotiations and Crown purchase agents encountered opposition to their negotiations from some Affiliate Te Arawa Iwi/Hapu from the outset. In 1873 a Tuhourangi tribal komiti (committee), Putaiki, was established, which sought to prevent other tribes and Tuhourangi individuals or hapu from dealing with land independent of the komiti. In 1874 the chiefs of two Affiliate Te Arawa Iwi/Hapu presented evidence to the Native Affairs Committee of the House of Representatives in which they criticised the Crown's conduct of negotiations. They also objected to the restrictions on sale or lease of land to any party other than to the Crown, while proclaiming their general opposition to selling land. This evidence was presented in support of five petitions, signed by many Te Arawa. The Native Affairs Committee concluded that the petitions deserved considerable weight.

7.26 By August 1874 the Crown agents had opened, but not completed, lease negotiations for almost 650,000 acres of land and purchase negotiations for almost 400,000 acres of land within the area over which Affiliate Te Arawa Iwi/Hapu claim interests. Government officials instructed them not to open any new negotiations and the focus shifted to concluding existing negotiations. The following month the Crown effectively reinforced monopoly conditions over its lease negotiations by using a provision in the Immigration and Public Works Act 1870 to prevent private parties from acquiring the lands it was negotiating for.

7.27 Crown purchase agents were withdrawn from the central North Island at the end of June 1876 primarily due to Crown concerns that their activities were going to provoke civil unrest among Te Arawa. They had not completed any transactions.

Resuming Negotiations

7.28 The suspension of Crown purchase operations did not last long. The Crown still wanted these lands for settlement, and was determined to acquire land for the value of its previous advances. A number of blocks Affiliate Te Arawa Iwi/Hapu had interests in remained under negotiation for lease or purchase, including Kaikokopu, Tauhara North, Paengaroa, Whakarewa, Paeroa and the lands that later became the Rotomahana Parekarangi block.

7.29 Most of the transactions could not be completed because ownership of the land had not been determined by the Court. In February 1877, after securing the agreement of Maori with interests in Maketu for the Native Land Court to recommence hearings in that district, the Crown lifted the suspension of the Court. The same year, the Crown enacted the Native Land Amendment Act which enabled it to partition out the interests it had purchased from individual owners in any block without gaining agreement from the other owners of the land.

7.30 The Crown was determined to protect its negotiations from interference by private parties. It proclaimed much of the land it had previously paid advances or deposits on to be subject to a provision of the Government Native Land Purchases Act 1877, which made it illegal for private parties to acquire the land.

7.31 The Crown's initial focus was on the completion of existing negotiations, but few transactions had been completed before 1880. In most cases lease negotiations became purchase negotiations. The Court investigated ownership to the Kaikokopu block in 1878 and awarded title to many more Ngati Pikiao than the Crown had negotiated with, and paid advances to, to lease and purchase the land. Further negotiations had to be undertaken for both the lease and purchase areas. The Crown was reluctant to complete lease negotiations with the 161 people awarded title to the 25,000 acre lease area and by 1883 it had purchased 14,676 acres of that area instead.

7.32 In 1878 the Crown began to open new negotiations to acquire lands in which Affiliate Te Arawa Iwi/Hapu claimed an interest, including part of Paeroa South, Patetere Rotorua and Kaingaroa 2. Those blocks were also proclaimed under the 1877 legislation. In the case of the Kaingaroa 2 block, private purchasers had already been negotiating to purchase the block, for more money than the Crown was willing to pay. When the purchase price of £7,000 for the 91,529 acre block had been agreed in 1879 the Crown purchase agent advised that the interest from private purchasers had forced him to pay several thousand pounds more than he had originally anticipated.

7.33 A number of Affiliate Te Arawa Iwi/Hapu continued to resist land sales in this period. Some sought to maintain tribal control over land through tribal komiti. The Tuhourangi komiti, Putaiki, remained active and a new tribal komiti, the Komiti Nui, emerged at Rotorua in December 1878. The Komiti Nui was based at Rotorua and included Ngati Uenukukopako. Ngati Pikiao formed a komiti in 1879 and petitioned the Crown for the same powers as the Court to adjudicate over land. One of the objectives of these komiti was to undertake investigations into ownership of certain land blocks which they then aimed to send to the Court for confirmation. The Komiti Nui held hearings into a number of land disputes in 1879 and 1880 but its decisions carried no legal weight and could be overturned when the same blocks were later investigated by the Court. Official reactions to the Komiti Nui varied with some officials seeking to engage with the Komiti as representatives of Affiliate Te Arawa Iwi/Hapu. More broadly, however, the Crown's reaction to the Komiti Nui was generally unfavourable.

7.34 In the early 1880s Ngati Whaoa sought to release the Paeroa East block from lease negotiations with the Crown which had started in the 1870s. Their argument that the Crown should pay rent for the land under negotiation to lease was unsuccessful. Ngati Whaoa raised money to repay the lease deposit and other advances, but this left them in considerable debt and within three years of receiving title they sold almost 49,000 acres of the 70,000 acre block to a private purchaser.

7.35 By the end of the 1870s the impetus of the Crown purchasing programme had been lost, and priorities for land purchase were being reconsidered. In November 1879 a new Government instructed Crown purchase agents to stop paying money on land that had not passed through the Court. The Crown also decided to try to complete the purchase of the good quality land it had under negotiation and scale back negotiations for land that was of little commercial utility. The Crown did not abandon advance payments already made, but tried to recover them in land or money.

Thermal Springs District Act 1881

7.36 The tourism trade to the thermal and scenic attractions of the Rotomahana and Ohinemutu areas grew throughout the 1870s and 1880s, and the publication of journals and guidebooks by several early visitors increased the popularity of the region. Maori charged tolls over lands they owned, acted as guides, and provided accommodation and travel to visitors.

7.37 The Crown wanted to acquire the natural wonders of the "hot springs" country to ensure that they would not pass into private hands but rather would be held for the benefit of all. By 1880 the Crown had not managed to lease or purchase any land in this area.

7.38 In November 1880 the Crown signed the Fenton Agreement with 47 Te Arawa chiefs, including representatives of Ngati Uenukukopako, to facilitate the establishment of a township in Rotorua. Tuhourangi negotiated a separate agreement at the same time whereby they consented to the township proposal subject to the Native Land Court investigating their claims to the land in question. Affiliate Te Arawa Iwi/Hapu believed that they would derive significant benefits from the further development of Rotorua and the tourism industry.

7.39 Members of Tuhourangi subsequently obstructed the survey of the township block because it extended further than they had realised. Their objections were resolved and the survey was completed. Members of the Komiti Nui were extensively involved in the negotiations with Fenton and hoped that the Komiti Nui would be allowed a significant role in the process of determining title to Pukeroa Oruawhata, the block on which the township was to be located. The Fenton Agreement did not provide for the Komiti Nui to have a role in defining title, but at the start of the Pukeroa Oruawhata title investigation Maori did ask the Court to recognise the standing of the Komiti Nui. This request was declined because under the Native Land Acts the Court could not do so.

7.40 In September 1881 Parliament passed the Thermal Springs District Act 1881 to enable the implementation of the Fenton Agreement and for related purposes. The Act empowered the Crown to proclaim districts with geothermal resources as subject to the Act, and declared it unlawful for any person "to acquire any estate or interest in Native Land therein" except as permitted. Soon after the Act was passed, the 3,200 acre Pukeroa Oruawhata block was proclaimed a district under the Act.

7.41 A further proclamation in October 1881 declared an area of over 600,000 acres to be a district under the Act. This encompassed a far greater area than was covered by the Fenton Agreement and included land without geothermal features. The Crown does not appear to have consulted Maori regarding the extent of the proclamations. The reactions of Affiliate Te Arawa Iwi/Hapu to the initial proclamation of the district varied. Some sections of Affiliate Te Arawa Iwi/Hapu were opposed to the legislation, or its proclamation over their own lands, describing it in several 1882 petitions as being "in contradiction of the Treaty of Waitangi".

7.42 This proclamation and several others made under the Act further provided for the creation of a Crown purchasing monopoly over the majority of land in which Affiliate Te Arawa Iwi/Hapu claimed interests, regardless of whether it had previously been brought under negotiation.

7.43 Following the Fenton Agreement, many blocks in the area were taken before the Ohinemutu Court by Maori claimants, effectively introducing the Court into the inland lakes area.

The Native Land Court in the 1880s

7.44 In the 1880s the Native Land Court adjudicated over a large number of blocks in which the Affiliate Te Arawa Iwi/Hapu claimed interests, including Rotomahana Parekarangi, Whakapoungakau, Paeroa East, Tahorakuri, Kaingaroa 1 and 2 and Patetere South. The Affiliate Te Arawa Iwi/Hapu were not awarded land in all of the blocks they asserted customary interests in.

7.45 Attending Court hearings to claim and defend their interests in land was costly for many of the Affiliate Te Arawa Iwi/Hapu. Court fees were generally charged on a daily basis and with lengthy hearings became substantial. In a few cases Affiliate Te Arawa Iwi/Hapu had to travel a considerable distance to Court hearings of blocks they claimed. Ngati Kearoa Ngati Tuara had to travel approximately 100 miles to Cambridge for the title investigation of the Tikorangi block. The lengthy hearings for the Kaingaroa blocks were held at Matata, a considerable distance from the Kaingaroa lands and from the kainga of Ngati Tahu-Ngati Whaoa.

7.46 The complexity of having multiple claims to the same blocks resulted in long and contentious hearings for the Rotomahana Parekarangi, Whakapoungakau and Rotorua Patetere Paeroa blocks between 1881 and 1886. The Rotomahana Parekarangi block hearings were held at Rotorua between April and June 1882, at the same time that a simultaneous Court was also sitting there to finalise title to the Rotorua township block. As many as 1,500 Maori attended these hearings. Many stayed for the three months it took to hear their claims to the 211,000 acre Rotomahana Parekarangi block, in "wretched tents" providing little shelter from inclement weather. Both the claimants and the counter-claimants to the block appealed the original award and a rehearing was held over five months in 1887. The Court sitting was unusually lengthy because of a high number of counter-claimants. Tuhourangi were awarded a substantial portion of the block and other iwi, including Ngati Kearoa Ngati Tuara and Ngati Whaoa, were awarded smaller areas.

7.47 The survey charges incurred in title investigations and partitions varied considerably between blocks and continued to be of concern to some Affiliate Te Arawa Iwi/Hapu. Tuhourangi raised the issue of the high cost of surveys and the burden this imposed upon Maori at meetings with the Native Minister in 1885. In some cases Affiliate Te Arawa Iwi/Hapu also found surveys a heavy burden in the 1880s and 1890s. Surveys for the Kaingaroa 2 and Paeroa blocks, carried out in 1879, were drawn out and very expensive. In 1884 Ngati Kearoa Ngati Tuara used the proceeds of the sale of the 4,000 acre Patetere South 2 block to pay for various survey costs. In 1900, Ngati Uenukukopako and other owners of Whakapoungakau gave up 637 acres of the 10,876 acre block to the Crown in extinguishment of a survey lien on their land.

7.48 In the 1880s the Court investigated title to many of the blocks the Crown had brought under negotiation to lease or purchase in the 1870s. The Crown sought to complete the negotiations or recover the value of its previous advances either in money or land. The Crown paid a number of advances, for example, to people of Ngati Kearoa Ngati Tuara between 1874 and 1879 for the Rotohokahoka block. The Court did not award title of this block to Ngati Kearoa Ngati Tuara. The Crown wanted to recover its advances and in 1884 the Ngati Kearoa Ngati Tuara owners agreed to part with the

7,000 acre Patetere South 1A block to pay their debt to the Crown. This arrangement was subsequently the subject of significant protest from other groups who had interests in the land in question.

Eruption of Mt Tarawera

7.49 In June 1886 Mt Tarawera erupted, killing 147 Maori and 6 Pakeha. Most of the casualties were suffered when the Tuhourangi settlement of Te Wairoa was buried, and extensive tracts of land and forest were also affected by the ash-fall. The eruption destroyed the Pink and White Terraces, a tourist attraction that provided considerable income for Tuhourangi.

7.50 Relief donations flowed in from Maori and Pakeha communities throughout the country. In addition, the Crown set aside approximately £1,200 for aid to Maori and £2,000 for Pakeha, and assisted with the transportation of relief supplies for Maori. It later decided that any further "money or other assistance to [Maori] should be made by Govt. in the form of payment for their land or labour". No Government compensation was paid for property losses.

7.51 Several Maori groups offered land for the resettlement of Tuhourangi survivors in 1886. The Crown proposed to provide Crown lands and various other practical assistance for Tuhourangi. Officials advised that as the Rotomahana area was not immediately suitable for Maori occupation the Crown could "take advantage" of the opportunity to acquire those lands, which contained geothermal springs. This arrangement was never finalised. The Crown later purchased significant amounts of the Rotomahana Parekarangi block from Tuhourangi in the 1890s.

7.52 In 1889 Tuhourangi requested that the Crown award them land at Maketu and Rotorua as permanent homes. The Crown found approximately 1000 acres at Matata but nothing further happened until 1895, when Tuhourangi requested that 800 acres be allocated to them at Waihi, adjacent to land that had been gifted to them by Ngati Tamatera, and 200 acres be allocated by the sea to provide access to fisheries. Despite Crown efforts to find appropriate land, the requests went unresolved until 1919, when 800 acres was provided at Waihi. Despite frequent petitions and appeals through to the 1960s the Crown never found another 200 acres for Tuhourangi.

The Native Land Court and Crown Purchasing in the 1890s

7.53 Native Land Court hearings remained a feature of life in Affiliate Te Arawa Iwi/Hapu communities through the 1890s. Ngati Pikiao were the only Affiliate Te Arawa Iwi/Hapu who still held a considerable amount of land in customary title and in the 1890s the Court investigated the ownership of a number of blocks they claimed, including Paehinahina, Rotoiti, Rotoma-Waipohue and Tautara. In 1895 some Ngati Pikiao were involved in efforts to discourage iwi and hapu from submitting their land to the Courts as part of the national boycott organised by Te Kotahitanga (a Maori Parliament). Court activity ceased in Rotorua and Maketu, but only for a short time. Other Affiliate Te Arawa Iwi/Hapu were involved in hearings to subdivide or partition land and to arrange succession to individual interests.

7.54 There was a resurgence of Crown purchasing of Affiliate Te Arawa Iwi/Hapu lands in the 1890s. In 1894 the Crown cemented its monopoly by re-imposing Crown pre-emption over all Maori land. The following year the Crown began purchasing the interests of individual owners in the Rotomahana Parekarangi block. By December

1895 the Crown had purchased shares equivalent to 63,119 acres at an average price of 3 shillings per acre and petitioned the Court to have its interests partitioned out of the various subdivisions of the block. The areas the Crown sought to acquire in each of the subdivisions was sometimes challenged by owners as they sought to ensure that their homes and cultivations were not included in the Crown portion. One proposed partition was challenged because a tohunga was buried in the piece claimed by the Crown. The Court supported the Crown's proposed partition and told the challenger to remove the bones. The Crown resumed purchasing land in the Rotomahana Parekarangi block in 1896 and had purchased a further 24,607 acres from Affiliate Te Arawa Iwi/Hapu by 1899.

7.55 In 1893 the Crown started purchasing individual shares of the Whakarewarewa block. Whakarewarewa was a tourist attraction because of its geothermal resources, including Turikore (the spout bath) and hot springs. Whakarewarewa 2 and part of Whakarewarewa 3 were owned by Ngati Wahiao, who derived income by charging tourists a toll. By December 1895 the Crown had purchased most of Whakarewarewa 3 and met with Ngati Wahiao to discuss the partitioning out of their interests in the block. It was agreed that Ngati Wahiao would retain their village and that "the whole of the attractive part of Whakarewarewa", including the geysers and baths that attracted tourists, would go to the Crown.

7.56 The Crown suspended the initiation of new purchases in 1897-98 and in 1899 formally barred itself from making new purchases of Maori lands for some time. The Crown had provided few reserves in the lands it had purchased from Affiliate Te Arawa Iwi/Hapu in the 1870s-1890s, and some iwi and hapu had little land remaining by the end of the nineteenth century. Affiliate Te Arawa Iwi/Hapu consider that, during the periods when monopoly conditions applied it is likely to have decreased land prices.

Twentieth Century Land Administration

7.57 By the late nineteenth century the Crown was concerned that Maori land was often not being used profitably, due in part to multiple ownership and a lack of access to development finance. The Crown accepted that existing procedures for managing Maori land were inadequate, and the Crown was also aware and concerned that further permanent alienation of Maori land might leave a reviving Maori population with insufficient land for their needs and requiring state support.

7.58 In response to these issues the Maori Land Administration Act 1900 was passed, which introduced Maori Land Councils with elected Maori representation to act for Maori landowners in the administration of lands voluntarily placed under their authority and to supervise all land alienation. The Crown aimed to enable Maori to retain land while ensuring that 'idle' land was leased and the income generated used to develop it. The Councils were also given a role in determining the ownership of Maori land with the assistance of elected Maori committees, but by this time title to most Affiliate Te Arawa Iwi/Hapu land had already been determined by the Court.

7.59 Few areas of Affiliate Te Arawa Iwi/Hapu land were vested in the Councils or alienated in the first decade of the twentieth century. In 1906 the Councils became government-appointed boards, with a number of new powers, including the sole right to approve leases of Maori land within their districts. By 1910 Affiliate Te Arawa Iwi/Hapu land fell within the Waiariki land district.

7.60 The Government was generally concerned about the lack of Maori land available for settlement. The Crown set up the Stout-Ngata Commission in 1907 to appraise all unused and under-utilized land owned by Maori and determine a sufficiency of land to be set aside for occupation and farming by its Maori owners. The balance was to be made available for general settlement, either by Crown purchase or by lease through the land boards. Lands subject to the Thermal Springs District Act 1881 were excluded from the Commission's terms of reference. However, the Commission did consider most of the land owned by Affiliate Te Arawa Iwi/Hapu around Rotorua and generally concluded that, with the exception of Ngati Pikiao, Rotorua Maori had little or no surplus land available for purchase or lease.

7.61 The Thermal Springs District Act 1910 removed the Crown monopoly of purchase on land within the district. While the Crown resumed purchasing at this time, most purchases were made by private parties.

7.62 Some of the measures put in place to protect Maori land interests under the Maori Land Administration Act 1900 and the Native Land Act 1909 were significantly weakened by subsequent amendments, so that from 1913 land boards were no longer required to have Maori members. The role of the Waiariki Maori Land Board in monitoring the alienation of the lands of Affiliate Te Arawa Iwi/Hapu was largely one of ensuring the legislative steps were complied with. Boards could also approve land sales even if it was the last land owned by Maori, if the land would not in any event provide sufficient support to them or where another form of income could provide an alternative adequate income.

Consolidation and Land Development Schemes

7.63 By the late 1920s many Maori owned small and fragmented interests in a number of blocks spread throughout their rohe as a result of individualisation and partition of interests. The Crown attempted to resolve the issue of Maori being left with fragmented and often uneconomic land holdings by introducing consolidation schemes. The intention was to group close family interests into single, or contiguous areas to encourage the further development of these lands for farming purposes. Crown interests in these blocks were also subject to consolidation and exchange. The application of consolidation was often complex, time consuming and resource intensive.

7.64 Consolidation schemes involving Affiliate Te Arawa Iwi/Hapu land included the Rotomahana Parekarangi Scheme. The Rotomahana Parekarangi scheme was initiated in 1928 and involved the limited exchange of interests by the Crown and Maori. The scheme was developed in a number of instalments and completed in the 1950s.

7.65 Attempts were made between 1905 and 1928 to utilise funds of Land Boards and the Maori Trustee (who administered some Maori reserve lands and estates) to encourage the development of Maori owned lands. In 1929, the Government, led by Native Minister Apirana Ngata, introduced the notion of development of lands, both Maori and its own, by providing public funds to develop particular lands before they were settled by individual farmers. These development schemes were seen as a means by which a class of self-reliant Maori farmer would assist the emergence of new rural Maori communities centred on redeveloped marae. Schemes were also used as mechanisms for the provision of unemployment relief in the 1930s.

7.66 The owners of the land were not entitled to exercise any rights of ownership which would interfere with development except with the permission of the Minister. All development expenditure was a charge on the land for which a discounted rate of interest was charged. The Native Minister could declare land to be subject to development without the approval of all owners, and was empowered to bring the land into a state of production and make it fit for settlement. The Minister could, under the Maori Land Act 1931, have owners arrested for trespass.

7.67 Schemes in the Waiariki district relied upon the participation of groups of owners initially, and, from 1931, on contract labouring. When development reached a point where dairy production could start, the owners were required to nominate one of their own to occupy an individual farm. Problems of a lack of quality title and economies of scale did emerge and many of the 'settlement' type schemes saw a reduction in the number of participating owners and the number of individual farms.

7.68 The Waiariki district also saw 'station' type schemes. These were characterised by large scale development but with no attempt at settlement. These more expansive schemes, usually of poorer quality soils, were returned to owners for management by incorporation or trusts.

7.69 The administration of development schemes evolved over time. The original schemes were dependent for success on the cooperation of land owners whose efforts were often overseen by local leaders. The advent of the Board of Maori Affairs in 1935, and the introduction of a more bureaucratic model of administration by the Department of Maori Affairs, resulted in a distancing of the owners from meaningful say in the administration of their lands. While ad hoc advisory committees represented the owners, it was not until late 1949 that regularised annual meetings and the provision of accounts was instituted. Formal owner advisory committees emerged in the early 1970s. For the owners of some schemes it seemed that more than two generations passed while their lands remained under Departmental management.

7.70 Affiliate Te Arawa Iwi/Hapu placed land into more than 25 development schemes between 1929 and the mid-1980s. The first scheme was at Horohoro, south west of Rotorua. Ngati Kearoa Ngati Tuara and Tuhourangi entrusted some of their better lands to the Crown for development. The 3,019 acre Tikitere scheme on the southern shore of Lake Rotoiti commenced in 1931 on land which the Crown had mainly purchased from European owners. The introduction of non-Te Arawa Maori to work on the scheme led to Affiliate Te Arawa Iwi/Hapu taking unsuccessful action in the High Court to determine the beneficial ownership of the Crown lands in the scheme after the Crown considered settling some of the outsiders as long-term occupiers. This, along with the Crown's refusal to write-off the scheme's debt because it considered the debt was at a serviceable level, drew out the negotiations for the winding up of the Scheme.

7.71 Scheme lands had either been settled by long term lease or had begun to be returned to owner control in the early 1950s. By the early 1990s most scheme lands in the Rotorua area had been released from State control. Some schemes were successful while others struggled to fulfil expectations.

Public Works

7.72 The Crown acquired Affiliate Te Arawa Iwi/Hapu land through Crown acquisitions under public works legislation in the nineteenth and twentieth centuries. In the nineteenth century land was acquired for a number of public works purposes, including roading and railway. In the twentieth century, land was taken for internal communications, electricity generation, scenic reserves, forest plantation and an aerodrome. A number of these sites had geothermal features of significance to Affiliate Te Arawa Iwi/Hapu.

7.73 Early public works legislation established separate provisions for the taking of Maori land and general land. Compensation was generally paid for the taking of lands for public works, however, some of the lands of Affiliate Te Arawa Iwi/Hapu were used for roading purposes without compensation. Other lands were acquired for roading purposes under legislation which allowed Maori customary lands to be compulsorily acquired without compensation.

7.74 The Crown acquired lands of particular cultural and spiritual significance to Affiliate Te Arawa Iwi/Hapu for public works purposes. Between 1901 and 1907 the Crown compulsorily acquired approximately 42 acres of land at Okere Falls. This land, close to Lake Rotoiti on the upper Kaituna River, was included in the Okere power scheme that supplied Rotorua. There was a delay in finalising the compensation due to the Ngati Pikiao owners because of problems with the original proclamation under which some of the land was taken. They received £3,000 in compensation in 1910. The Okere Falls power station was closed in 1939 and the land was converted into a scenic reserve and added to the Rotoiti Scenic Reserve.

7.75 In 1902 the Crown established the Waimangu "Round Trip" to transport tourists across the isthmus between Lakes Rotomahana and Tarawera against local iwi opposition. The land was part of Te Ariki settlement that had been buried by the eruption of Mt Tarawera. In 1908 the Crown took 37 acres of Tuhourangi land on the isthmus under the Public Works Act for "internal communications purposes". The land was immediately brought under the control of the Minister of tourism. The Crown promised to return a 9 acre wahi tapu area after the 1908 taking but all of the land was designated a "Wildlife Reserve" in 1951, and then a "Scenic Reserve" in 1981. The wahi tapu area was not revested in Tuhourangi until 1982.

7.76 In 1961, unsuccessful negotiations between the Crown and Ngati Uenukukopako resulted in the taking of 193 acres of land at Rotokawa for the construction of Rotorua Airport, against the wishes of its Ngati Uenukukopako owners. The owners received compensation for this taking but the airport construction created significant disruption to Ngati Uenukukopako and required the relocation of the Ruamata wharenui and the lowering of the Ruamata urupa. These disturbances of their taonga caused Ngati Uenukukopako great sorrow.

Scenery Preservation

7.77 In the early 1900s the Crown introduced a scenery preservation policy aimed at protecting and preserving features and sites it considered were unique to New Zealand. The Crown aimed, with this policy, to assist the development and promotion of the country's tourism industry.

7.78 Some of the most scenic places in the Rotorua region were in Maori ownership. Legislation passed in 1903 allowing the taking of Maori land for scenery preservation purposes prompted protest from some Maori. Over one hundred Te Arawa Maori petitioned Parliament in 1904 to exclude the remaining Maori lands from scenery preservation legislation. The petition outlined their concern that the Maori lands that would be acquired under the legislation would be

> "the famous places, the lands containing thermal springs, the famous pas, the canoe landing places of former days, the sites of famous whares, the sacred whares, the bird snaring places of olden time, that is to say all such places as are understood by this Act as likely to be much frequented by the Tourists of the World who will visit here".

Following this, and other representations to the Minister, the power to compulsorily acquire Maori land was removed from scenery preservation legislation passed in 1906 but reinstated in the Scenery Preservation Act 1910.

7.79 Shortly after the passage of the 1910 Act 126 acres of Ngati Pikiao land, known as "Hongi's Track", was taken as a scenic reserve. In the 1920s Ngati Pikiao gifted land around Lake Rotoiti to the Crown which became the Rotoiti Scenic Reserve. Prior to the gifting the Crown had approached Ngati Pikiao for purchase, but terms could not be agreed. At the time of the gifting the Crown had been undertaking measures towards taking the sites under the provisions of the Scenery Preservation Act 1910. Ngati Pikiao made the gift in return for gaining a role in defining the boundaries of the proposed reserves, access to urupa, and retaining the management of the reserves by way of majority control on the Rotoiti Scenic Reserves Board.

7.80 Around the same time, Ngati Tarawhai gifted land around Lake Okataina to the Crown that became the Okataina Scenic Reserve, and Ngati Rongomai donated parts of the Waione block, on similar conditions as Ngati Pikiao had gifted the Rotoiti reserves. The Waione and Okataina Reserves were created by separate proclamation issued ten years later in May 1931. Altogether, Ngati Pikiao surrendered 2,338 acres of their land for scenic reserves between 1910 and 1931. Approximately half of this land was gifted to the Crown and half taken, with compensation paid.

Geothermal

7.81 The geothermal resource has always been highly valued and treasured by the Affiliate Te Arawa Iwi/Hapu, who consider it a taonga over which they have exercised rangatiratanga and kaitiakitanga.

7.82 Over time Affiliate Te Arawa Iwi/Hapu lost ownership of some geothermal lands through purchases and public works takings. For example, in 1960, land at Orakei-Korako, on the Waikato River, was taken from its Ngati Tahu owners and the area subsequently flooded for hydro-electric purposes. While Ngati Tahu received compensation for the loss of a house on the land the Maori Land Court determined that no compensation should be paid for the loss of the thermal resources, papakainga, urupa and other wahi tapu in the area because the majority of owners were no longer living on the land. Those who did live there relocated to other places. The main papakainga and urupa were returned to Ngati Tahu in the 1980s.

7.83 Despite the loss of lands containing geothermal surface features the geothermal resource was, and still is, central to the lifestyle and identity of Affiliate Te Arawa Iwi/Hapu. For example, hot pools and ngawha were, and are, used for cooking, bathing, heating and medicinal purposes.

7.84 With the passing of the Geothermal Energy Act 1953, the Crown established for itself, without the consent of the Affiliate Te Arawa Iwi/Hapu, the sole right to regulate use of the geothermal energy resource. The Affiliate Te Arawa Iwi/Hapu harbour a strong sense of grievance over this Crown action and consider that the Crown has failed to protect the interests of Affiliate Te Arawa Iwi/Hapu in relation to the geothermal resource.

8 ACKNOWLEDGEMENTS AND APOLOGY BY THE CROWN

ACKNOWLEDGEMENTS

8.1 The Crown acknowledges that it has failed to deal with the longstanding grievances of the Affiliate Te Arawa Iwi/Hapu in an appropriate way and that recognition of the grievances of the Affiliate Te Arawa Iwi/Hapu is long overdue.

8.2 The Crown acknowledges that:

8.2.1 it did not consult with Affiliate Te Arawa Iwi/Hapu on native land legislation prior to its enactment;

8.2.2 the operation and impact of the native land laws, in particular the awarding of land to individuals and the enabling of individuals to deal with that land without reference to the iwi and hapu, made the lands of Affiliate Te Arawa Iwi/Hapu more susceptible to partition, fragmentation and alienation. This contributed to the erosion of the traditional tribal structures of Affiliate Te Arawa Iwi/Hapu which were based on collective tribal and hapu custodianship of land; and

8.2.3 it failed to take steps to adequately protect the traditional tribal structures of Affiliate Te Arawa Iwi/Hapu and this had a prejudicial effect on Affiliate Te Arawa Iwi/Hapu and was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

8.3 The Crown acknowledges that the combined effect of actions such as:

8.3.1 the use of payments for land before title to the land was determined by the Native Land Court;

8.3.2 the aggressive purchase techniques employed on occasion by the Crown; and

8.3.3 the use and implementation of monopoly powers over dealings in the land of Affiliate Te Arawa Iwi/Hapu,

meant that the Crown failed to actively protect the interests of the Affiliate Te Arawa Iwi/Hapu in the land they wished to retain, and that this was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

8.4 The Crown acknowledges that:

8.4.1 a large amount of Affiliate Te Arawa Iwi/Hapu land has been alienated since 1840;

8.4.2 the combined effect of the Crown's actions and omissions has left some Affiliate Te Arawa Iwi/Hapu virtually landless; and

8.4.3 its failure to ensure that some Affiliate Te Arawa Iwi/Hapu were left with sufficient land for their present and future needs was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

8.5 The Crown acknowledges that lands of particular significance to Affiliate Te Arawa Iwi/Hapu, including land at Te Ariki, Okere Falls and lands with geothermal surface features at Orakei-Korako and Rotorua Airport, were taken under public works legislation. The Crown acknowledges that these takings have impeded the ability of Affiliate Te Arawa Iwi/Hapu to exercise control over their taonga and wahi tapu and maintain and foster spiritual connections with those ancestral lands. This has resulted in a sense of grievance among Affiliate Te Arawa Iwi/Hapu which still exists today.

8.6 The Crown acknowledges:

8.6.1 the generosity of the Affiliate Te Arawa Iwi/Hapu in gifting land containing scenic sites to the nation; and

8.6.2 that in the case of land gifted by Ngati Pikiao for the Rotoiti Scenic Reserve, at the time of gifting the Crown had been undertaking measures to compulsorily acquire a greater area of land under the Scenery Preservation Act.

8.7 The Crown acknowledges that the Affiliate Te Arawa Iwi/Hapu consider the geothermal resource a taonga. The Crown also acknowledges that:

8.7.1 the passing of the Geothermal Energy Act; and

8.7.2 the loss of lands containing geothermal features for public works purposes,

have caused a sense of grievance within Affiliate Te Arawa Iwi/Hapu that is still held today.

8.8 The Crown acknowledges that:

8.8.1 the Affiliate Te Arawa Iwi/Hapu expectations of an ongoing and mutually beneficial relationship with the Crown were not always realised; and

8.8.2 twentieth century land development did not always provide the economic opportunities and benefits that Affiliate Te Arawa Iwi/Hapu expected.

8.9 The Crown acknowledges that Affiliate Te Arawa Iwi/Hapu have been loyal to the Crown in honouring their obligations and responsibilities under the Treaty of Waitangi, especially, but not exclusively, in their war service overseas. The Crown pays tribute to the contribution made by Affiliate Te Arawa Iwi/Hapu to the defence of the nation.

APOLOGY

8.10 The Crown recognises the efforts and struggles of the ancestors of the Affiliate Te Arawa Iwi/Hapu in pursuit of their claims for redress, justice and compensation and

makes this apology to the Affiliate Te Arawa Iwi/Hapu, to their ancestors and to their descendants.

8.11 The Crown profoundly regrets and unreservedly apologises to the Affiliate Te Arawa Iwi/Hapu for the breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles acknowledged above.

8.12 The Crown profoundly regrets and unreservedly apologises for the cumulative effect of its actions over the generations which have undermined tribal structures and had a damaging impact on the landholdings and development of the Affiliate Te Arawa Iwi/Hapu.

8.13 ACCORDINGLY, the Crown seeks to atone for these wrongs, and assist the process of healing, with this Settlement and looks forward to building a relationship of mutual trust and co-operation with the Affiliate Te Arawa Iwi/Hapu.

9 CULTURAL REDRESS: RELATIONSHIPS

PROTOCOLS

DOC Protocol

9.1 The Minister of Conservation must issue to the Te Pumautanga Trustees, by or on the Settlement Date, a Protocol that:

9.1.1 sets out how the Department of Conservation will interact with the Te Pumautanga Trustees in relation to the matters specified in that Protocol; and

9.1.2 is as set out in Part 1 of Schedule 1.

9.2 The Settlement Legislation will provide that:

9.2.1 a summary of the terms of the DOC Protocol must be noted in the Conservation Documents that affect the DOC Protocol Area;

9.2.2 the noting of the DOC Protocol:

(a) is for the purpose of public notice only; and

(b) is not an amendment to a Conservation Document for the purposes of section 17I of the Conservation Act or section 46 of the National Parks Act; and

9.2.3 the DOC Protocol does not have the effect of granting, creating or providing evidence of an estate or interest in, or rights relating to, land held, managed or administered, or flora or fauna managed or administered, under the Conservation Legislation.

Fisheries Protocol

9.3 The Minister of Fisheries must issue to the Te Pumautanga Trustees, by or on the Settlement Date, a Protocol that:

9.3.1 sets out how the Ministry of Fisheries will interact with the Te Pumautanga Trustees in relation to the matters specified in that Protocol; and

9.3.2 is as set out in Part 1 of Schedule 1.

9.4 The Settlement Legislation will provide that:

9.4.1 a summary of the terms of the Fisheries Protocol must be noted in fisheries plans (as provided for in section 11A of the Fisheries Act) that affect the Fisheries Protocol Area;

9.4.2 the noting of the Fisheries Protocol:

(a) is for the purposes of public notice only; and

(b) is not an amendment to a fisheries plan for the purposes of section 11A of the Fisheries Act; and

9.4.3 the Fisheries Protocol does not have the effect of granting, creating or providing evidence of an estate or interest in, or rights relating to, assets or other property rights held, managed or administered under the Fisheries Act, the Treaty of Waitangi (Fisheries Claims) Settlement Act, the Maori Commercial Aquaculture Claims Settlement Act, the Maori Fisheries Act or the Te Arawa Lakes Settlement Act (including fish, aquatic life and seaweed).

Taonga Tuturu Protocol

9.5 The Minister for Arts, Culture and Heritage must issue to the Te Pumautanga Trustees, by or on the Settlement Date, a Protocol that:

9.5.1 sets out how the Minister and the Chief Executive of the Ministry for Culture and Heritage will interact with the Te Pumautanga Trustees in relation to the matters specified in that Protocol; and

9.5.2 is as set out in Part 1 of Schedule 1.

9.6 The Settlement Legislation will provide that the Taonga Tuturu Protocol does not have the effect of granting, creating or providing evidence of an estate or interest in, or rights relating to taonga tuturu.

PROVISIONS RELATING TO PROTOCOLS

The Settlement Legislation in relation to Protocols

9.7 The Settlement Legislation will provide that:

Authority to issue, amend or cancel Protocols

9.7.1 the responsible Minister may issue a Protocol as set out in Part 1 of Schedule 1 and may amend or cancel that Protocol;

9.7.2 a Protocol may be amended or cancelled at the initiative of:

(a) the Te Pumautanga Trustees; or

(b) the responsible Minister;

9.7.3 the responsible Minister may amend or cancel the Protocol only after consulting with, and having particular regard to the views of, the Te Pumautanga Trustees;

Protocols subject to rights and obligations

9.7.4 the Protocols do not restrict:

(a) the ability of the Crown, in accordance with the law and government policy, to perform its functions and duties and exercise its powers, including its power to introduce legislation and change government policy;

(b) the responsibilities of the responsible Minister or relevant Department; or

(c) the legal rights of the Affiliate Te Arawa Iwi/Hapu or a Representative Entity;

Enforcement of Protocols

9.7.5 the Crown must comply with a Protocol while it is in force;

9.7.6 if the Crown fails, without good cause, to comply with a Protocol, the Te Pumautanga Trustees may, subject to the Crown Proceedings Act, enforce the Protocol, but may not recover damages or any form of monetary compensation from the Crown (other than costs related to the bringing of the enforcement proceedings awarded by a Court); and

9.7.7 clauses 9.7.5 and 9.7.6 do not apply to any guidelines developed in relation to a Protocol.

Breach of Protocols is not breach of Deed

9.8 A failure by the Crown to comply with a Protocol is not a breach of this Deed.

Protocols do not affect ability of Crown to interact or consult

9.9 The Protocols do not restrict the ability of the Crown to interact or consult with (or issue a protocol to) any person including any iwi, hapu, marae, whanau, or representative of tangata whenua.

RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

9.10 The Parties agree that:

9.10.1 meetings will be held to discuss:

(a) the performance of local government in the Area of Interest in implementing Te Tiriti o Waitangi/the Treaty of Waitangi provisions of the Resource Management Act; and

(b) any other issues in relation to the application of the Resource Management Act in the Area of Interest that are the responsibility of the Ministry for the Environment;

9.10.2 participants at a meeting held pursuant to clause 9.10.1 are to be:

(a) officials nominated by the chief executive of the Ministry for the Environment; and

(b) representatives nominated by the Te Pumautanga Trustees;

9.10.3 each Party will meet the costs and expenses of its representatives attending a meeting; and

9.10.4 the first meeting must be held within 12 months after Settlement Date, and meetings must be held annually after that.

9.11 The Te Pumautanga Trustees and the chief executive of the Ministry for the Environment may agree in writing to vary or terminate the provisions of clause 9.10.

PROMOTION OF RELATIONSHIP WITH THE ROTORUA DISTRICT COUNCIL

9.12 The Affiliate Te Arawa Iwi/Hapu acknowledge that the Minister in Charge of Treaty of Waitangi Negotiations, the Minister for the Environment, and the Minister of Local Government have written to the Rotorua District Council:

9.12.1 encouraging the Rotorua District Council to enter into a memorandum of understanding (or a similar document) with the Te Pumautanga Trustees in relation to the interaction between the Rotorua District Council and the Te Pumautanga Trustees concerning performance of the Rotorua District Council's functions and obligations, and the exercise of its powers, within the Area of Interest such as in relation to the development of district plans;

9.12.2 in relation to the Recreation Reserve at Hannah's Bay (including Otauira Swamp) and the Esplanade Land and the Karamuramu Baths Land encouraging the Rotorua District Council to:

(a) recognise the traditional association of Ngati Uenukukopako with the reserve in its administration of the reserve, and explore options for involving Ngati Uenukukopako in the administration of the reserve;

(b) so far as is consistent with the Reserves Act, manage the swamp area within the reserve for the purposes of mahinga kai;

(c) support a change to the Rotorua District Plan that would provide for Ngati Uenukukopako to gather cultural materials for traditional purposes without the need for a resource consent;

(d) erect interpretation material agreed with the Te Pumautanga Trustees explaining the traditional association of Ngati Uenukukopako with the reserve; and

(e) facilitate seeking the agreement of Rotorua Regional Airport Limited to relocate plants used for cultural purposes from areas of the swamp owned by that company in the event that the plants are threatened; and

9.12.3 in relation to the recreation reserves administered by the Rotorua District Council south of the Waiteti Stream (including Te Kahupapa and Te Hinahina), Ngongotaha and in relation to the recreation reserve administered by the Rotorua District Council adjacent to Lake Okareka (known as Boyes Beach) encouraging the Rotorua District Council to:

(a) recognise the traditional association of Ngati Ngararanui, Ngati Tura-Ngati Te Ngakau and Tuhourangi Ngati Wahiao with the reserves in its administration of the reserves, and explore options for involving Ngati Ngararanui, Ngati Tura-Ngati Te Ngakau, and Tuhourangi Ngati Wahiao in the administration; and

(b) erect interpretation material agreed with the Te Pumautanga Trustees explaining the traditional association of Ngati Ngararanui, Ngati Tura-Ngati Te Ngakau, and Tuhourangi Ngati Wahiao with the reserves.

PROMOTION OF RELATIONSHIPS WITH THE REGIONAL COUNCILS

9.13 The Affiliate Te Arawa Iwi/Hapu acknowledge that the Minister in Charge of Treaty of Waitangi Negotiations, the Minister for the Environment, and the Minister of Local Government have written to Environment Waikato and Environment Bay of Plenty encouraging them to enter into a memorandum of understanding (or a similar document) with the Te Pumautanga Trustees in relation to the interaction between the regional council and the Te Pumautanga Trustees, particularly in relation to the geothermal resources located within the region of the relevant regional council but also in relation to the development of plans such as the Regional Policy Statement and regional plans.

10 CULTURAL REDRESS: CULTURAL REDRESS PROPERTIES

VESTING OF CULTURAL REDRESS PROPERTIES

10.1 The Settlement Legislation will provide:

Interpretation

10.1.1 that each of the following sites (being the Cultural Redress Properties) means the land described by that term in Part 1 of Schedule 2:

(a) Rangitoto Site;

(b) Site on Horohoro Bluff;

(c) Sites on Paeroa Range;

(d) Moerangi Site;

(e) Lake Rotokawa Site;

(f) Te Wairoa;

(g) Pateko Island;

(h) Te Koutu Pa;

(i) Okataina Lodge Site;

(j) Okataina Outdoor Education Centre Site;

(k) Beds of Lakes Rotongata (Mirror Lake) and Rotoatua;

(l) Te Ariki Site;

(m) Punaromia Site;

(n) Wai-o-Tapu Site;

(o) Site adjacent to Orakei-Korako;

(p) Site adjacent to Lake Rotomahana;

(q) Kakapiko;

(r) Roto-a-Tamaheke Reserve;

(s) Whakarewarewa Thermal Springs Reserve; and

(t) each School;

Rangitoto Site vests as a reserve

10.1.2 that the reservation of the Rangitoto Site as a scenic reserve subject to section 19 of the Reserves Act is revoked;

10.1.3 that the fee simple estate in the Rangitoto Site vests in the Te Pumautanga Trustees;

10.1.4 for the reservation of the Rangitoto Site as a scenic reserve subject to section 19(1)(a) of the Reserves Act;

10.1.5 that despite section 16(10) of the Reserves Act, the name of the reserve created under clause 10.1.4 is Rangitoto Scenic Reserve; and

10.1.6 that sections 78(1)(a), 79, 80, 81 and 88 of the Reserves Act will not apply to the Rangitoto Site;

Site on Horohoro Bluff vests in fee simple

10.1.7 that the Site on Horohoro Bluff ceases to be a conservation area under the Conservation Act;

10.1.8 that the fee simple estate in the Site on Horohoro Bluff vests in the Te Pumautanga Trustees;

10.1.9 that clauses 10.1.7 and 10.1.8 are subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to the Site on Horohoro Bluff:

(a) for the preservation of the reserve values of that land; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Horohoro Bluff Covenant**"); and

10.1.10 that the Horohoro Bluff Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act;

Sites on Paeroa Range vests as a reserve

10.1.11 that the reservation of the Sites on Paeroa Range as a scenic reserve subject to section 19 of the Reserves Act is revoked;

10.1.12 that the fee simple estate in the Sites on Paeroa Range vests in the Te Pumautanga Trustees;

10.1.13 for the reservation of the Sites on Paeroa Range as a scenic reserve subject to section 19(1)(a) of the Reserves Act;

10.1.14 that despite section 16(10) of the Reserves Act, the name of the reserve created under clause 10.1.13 is Ruatihi o Paeroa Scenic Reserve; and

10.1.15 that sections 78(1)(a), 79, 80, 81 and 88 of the Reserves Act will not apply to the Sites on Paeroa Range;

Moerangi Site vests in fee simple

10.1.16 that section 23 of the Crown Forest Assets Act applies in relation to the Moerangi Site, at all times (including before the Settlement Date):

(a) despite the site not being Crown Forest Land and not being returned to Maori ownership in accordance with section 36 of that Act; and

(b) as if reference to the "Licensor" were a reference to the owner of the fee simple estate in the site;

10.1.17 that the fee simple estate in the Moerangi Site vests in the Te Pumautanga Trustees;

10.1.18 that clause 10.1.17 is subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to the Moerangi Site:

(a) for the preservation of the conservation values and reserve values of that land and public access; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Moerangi Covenant**"); and

10.1.19 that the Moerangi Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act and section 27 of the Conservation Act;

Lake Rotokawa Site vests in fee simple

10.1.20 that the fee simple estate in the Lake Rotokawa Site vests in the Te Pumautanga Trustees;

10.1.21 that the vesting of the Lake Rotokawa Site in the Te Pumautanga Trustees under clause 10.1.20 does not give any rights to, or impose any obligations on, the Te Pumautanga Trustees in relation to:

(a) the waters of Lake Rotokawa; and

(b) the aquatic life of Lake Rotokawa (other than plants attached to the bed of Lake Rotokawa);

10.1.22 that to the extent that the Lake Rotokawa Site has a moveable boundary, that boundary will be governed by the common law rules of accretion, erosion or avulsion;

10.1.23 that clauses 10.1.20-10.1.22 are subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to the Lake Rotokawa Site:

(a) for the preservation of the conservation values and reserve values of that land and public access; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Lake Rotokawa Covenant**"); and

10.1.24 that the Lake Rotokawa Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act and section 27 of the Conservation Act;

Te Wairoa vests in fee simple

10.1.25 that the reservation of Te Wairoa under the Reserves Act is revoked;

10.1.26 that the fee simple estate in Te Wairoa vests in the Te Pumautanga Trustees; and

10.1.27 that clauses 10.1.25 and 10.1.26 are subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to Te Wairoa:

(a) for the preservation of the conservation values and reserve values of that land and public access; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Te Wairoa Covenant**"); and

10.1.28 that the Te Wairoa Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act and section 27 of the Conservation Act;

Pateko Island vests in fee simple

10.1.29 that the reservation of the Pateko Island under the Reserves Act is revoked; and

10.1.30 that the fee simple estate in Pateko Island vests in the Te Pumautanga Trustees;

Te Koutu Pa vests in fee simple

10.1.31 that the reservation of Te Koutu Pa under the Reserves Act is revoked; and

10.1.32 that the fee simple estate in Te Koutu Pa vests in the Te Pumautanga Trustees;

Okataina Lodge Site vests in fee simple

10.1.33 that the reservation of the Okataina Lodge Site under the Reserves Act is revoked;

10.1.34 that the fee simple estate in the Okataina Lodge Site vests in the Te Pumautanga Trustees;

10.1.35 that clauses 10.1.33 and 10.1.34 are subject to the Te Pumautanga Trustees granting to the Crown a registrable lease of the Okataina Lodge Site in the form set out in Part 9 of Schedule 2 (the "**Okataina Lodge Site Crown Lease**"); and

10.1.36 that all references in the Okataina Lodge Site Lease to "the Board", "the Commissioner" and "the Minister" are references instead to "the Lessor";

Okataina Outdoor Education Centre Site vests in fee simple

10.1.37 that the reservation of the Okataina Outdoor Education Centre Site under the Reserves Act is revoked; and

10.1.38 that the fee simple estate in the Okataina Outdoor Education Centre Site vests in the Te Pumautanga Trustees;

Beds of Lakes Rotongata (Mirror Lake) and Rotoatua vest in fee simple

10.1.39 that the reservation of the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua under the Reserves Act is revoked;

10.1.40 that the fee simple estate in the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua vest in the Te Pumautanga Trustees;

10.1.41 that the vesting of the Beds of Lake Rotongata (Mirror Lake) and Rotoatua in the Te Pumautanga Trustees under clause 10.1.40 does not give any rights to, or impose any obligations on, the Te Pumautanga Trustees in relation to:

(a) the waters of those lakes; or

(b) the aquatic life of those lakes (other than plants attached to the beds of the lakes);

10.1.42 that the boundaries of the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua will be governed by any applicable common law rule of accretion, erosion or avulsion;

10.1.43 that clauses 10.1.39-10.1.42 are subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua:

(a) for the preservation of the conservation values and reserve values of that land and public access; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Lakes Rotongata (Mirror Lake) and Rotoatua Covenant**"); and

10.1.44 that the Lakes Rotongata (Mirror Lake) and Rotoatua Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act and section 27 of the Conservation Act;

Te Ariki Site vests in fee simple as to an undivided one half share

10.1.45 that the reservation of the Te Ariki Site under the Reserves Act is revoked;

10.1.46 that an undivided half share of the fee simple estate in the Te Ariki Site vests in the Te Pumautanga Trustees and an undivided half share of the fee simple estate in the Te Ariki Site vests in the trustees of the Te Ariki Trust as tenants in common;

10.1.47 that clauses 10.1.45 and 10.1.46 are subject to:

(a) the Te Pumautanga Trustees and the trustees of the Te Ariki Trust entering into a management deed in the form set out in Part 3 of Schedule 2 (the "**Te Ariki Management Deed**"); and

(b) the Te Pumautanga Trustees and the trustees of the Te Ariki Trust providing to the Crown a registrable public walkway easement under section 8 of the New Zealand Walkways Act 1990 in relation to the Te Ariki Site in the form set out in Part 4 of Schedule 2 (the "**Te Ariki Walkway Easement**");

10.1.48 that the Te Ariki Trust is an organisation named or described in Schedule 4 of the Public Finance Act;

10.1.49 that to avoid doubt, the obligations of the Te Ariki Trust under the Public Finance Act are the responsibility of the trustees of the Te Ariki Trust;

10.1.50 that the Fourth Schedule of the Public Finance Act is amended by inserting, in its appropriate alphabetical order, the following item:

"Te Ariki Trust";

10.1.51 that the Te Ariki Trust is a public entity as defined in section 4 of the Public Audit Act and, in accordance with that Act, the Auditor-General is its auditor; and

10.1.52 that the deed establishing the Te Ariki Trust is valid and enforceable in accordance with its terms as a private trust, despite any enactment or other rule of law;

Punaromia Site vests in fee simple

10.1.53 that the reservation of the Punaromia Site under the Reserves Act is revoked;

10.1.54 that the Punaromia Site vests in the Te Pumautanga Trustees;

Wai-o-Tapu Site vests as a reserve

10.1.55 that the reservation of the Wai-o-Tapu Site as a scenic reserve subject to section 19 of the Reserves Act is revoked;

10.1.56 that the fee simple estate in the Wai-o-Tapu Site vests in the Te Pumautanga Trustees;

10.1.57 for the reservation of the Wai-o-Tapu Site as a scenic reserve subject to section 19(1)(a) of the Reserves Act;

10.1.58 that despite section 16(10) of the Reserves Act, the name of the reserve created under clause 10.1.57 is Wai-o-Tapu Scenic Reserve;

10.1.59 that sections 78(1)(a), 79, 80, 81 and 88 of the Reserves Act will not apply to the Wai-o-Tapu Site;

10.1.60 that clauses 10.1.55-10.1.59 are subject to the Te Pumautanga Trustees granting a registrable right of way easement in favour of Lot 1 DPS 45063 over the area shown marked A on SO 395143 in the form set out in Part 5 of Schedule 2 (the "**Wai-o-Tapu Site Easement**");

10.1.61 that the Wai-o-Tapu Site Easement granted in accordance with clause 10.1.61 is enforceable in accordance with its terms, despite the provisions of the Reserves Act; and

10.1.62 that all references in the Wai-o-Tapu Site Lease to "the District Manager of the Tourist Department", "the General Manager" and "the Minister of Tourist and Health Resorts" and "the Governor-General" are references to "the Lessor";

Site adjacent to Orakei-Korako vests in fee simple

10.1.63 that the fee simple estate in the Site adjacent to Orakei-Korako vests in the Te Pumautanga Trustees;

10.1.64 that clause 10.1.63 is subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to the Site adjacent to Orakei-Korako:

(a) for the preservation of the reserve values of that land; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Orakei-Korako Covenant**"); and

10.1.65 that the Orakei-Korako Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act;

Site adjacent to Lake Rotomahana vests in fee simple

10.1.66 that the fee simple estate in the Site adjacent to Lake Rotomahana vests in the Te Pumautanga Trustees;

10.1.67 that clause 10.1.66 is subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to the Site adjacent to Lake Rotomahana:

(a) for the preservation of the reserve values of that land; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Lake Rotomahana Covenant**"); and

10.1.68 that the Lake Rotomahana Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act;

Kakapiko vests in fee simple

10.1.69 that section 23 of the Crown Forest Assets Act applies in relation to Kakapiko, at all times (including before the Settlement Date):

(a) despite the site not being Crown Forest Land and not being returned to Maori ownership in accordance with section 36 of that Act; and

(b) as if reference to the "Licensor" were a reference to the owner of the fee simple estate in the site;

10.1.70 that the fee simple estate in Kakapiko vests in the Te Pumautanga Trustees;

10.1.71 that clause 10.1.70 is subject to the Te Pumautanga Trustees providing to the Crown a registrable covenant in relation to Kakapiko:

(a) for the preservation of the reserve values of that land; and

(b) in the form set out in Part 2 of Schedule 2 (the "**Kakapiko Covenant**"); and

10.1.72 that the Kakapiko Covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act;

Roto-a-Tamaheke Reserve vests as a reserve

10.1.73 that the Tourist and Health Resorts Control Act ceases to apply to Roto-a-Tamaheke Reserve;

10.1.74 that the reservation of the Roto-a-Tamaheke Reserve as a recreation reserve subject to section 17 of the Reserves Act is revoked;

10.1.75 that the fee simple estate in the Roto-a-Tamaheke Reserve vests in the Te Pumautanga Trustees;

10.1.76 for the reservation of the Roto-a-Tamaheke Reserve as a recreation reserve subject to section 17 of the Reserves Act;

10.1.77 that despite section 16(10) of the Reserves Act, the name of the reserve created under clause 10.1.76 is Roto-a-Tamaheke Recreation Reserve; and

10.1.78 that sections 78(1)(a), 79, 80, 81 and 88 of the Reserves Act will not apply to the Roto-a-Tamaheke Reserve;

Whakarewarewa Thermal Springs Reserve vests as a reserve

10.1.79 that the Tourist and Health Resorts Control Act ceases to apply to the Whakarewarewa Thermal Springs Reserve;

10.1.80 that Schedule 2 of the Tourist and Health Resorts Control Act is amended by omitting the item "Whakarewarewa Thermal Springs Reserve";

10.1.81 that the reservation of the Whakarewarewa Thermal Springs Reserve as a recreation reserve subject to section 17 of the Reserves Act is revoked;

10.1.82 that the fee simple estate in the Whakarewarewa Thermal Springs Reserve vests in the Te Pumautanga Trustees;

10.1.83 for the reservation of the Whakarewarewa Thermal Springs Reserve as a recreation reserve subject to section 17 of the Reserves Act;

10.1.84 that despite section 16(10) of the Reserves Act, the name of the reserve created under clause 10.1.83 is Whakarewarewa Thermal Springs Recreation Reserve;

10.1.85 that sections 78(1)(a), 79, 80, 81 and 88 of the Reserves Act will not apply to the Whakarewarewa Thermal Springs Reserve;

10.1.86 that clauses 10.1.79-10.1.85 are subject to the Te Pumautanga Trustees granting to the New Zealand Maori Arts and Crafts Institute ("**MACI**") a registrable lease of the Whakarewarewa Thermal Springs Reserve in the form set out in Part 7 of Schedule 2 (the "**Whakarewarewa Thermal Springs Lease**");

10.1.87 that the following documents are enforceable in accordance with their terms, despite the provisions of the Reserves Act and the Tourist and Health Resorts Control Act:

(a) the Whakarewarewa Thermal Springs Lease granted in accordance with clause 10.1.86;

(b) a registrable variation of the Existing Whakarewarewa Thermal Springs Lease, as partially surrendered by a registrable deed of surrender in respect of the Whakarewarewa Thermal Springs Reserve (the "**Surrender Document**"), entered into by the Crown and MACI in the form set out in Part 6 of Schedule 2 (the "**Existing Lease Variation**");and

(c) a registrable lease of the Arikikapakapa Section 101 Land, granted by the Crown to MACI in the form set out in Part 8 of Schedule 2 (the "**Arikikapakapa Section 101 Lease**");

10.1.88 that the lessor under the Whakarewarewa Thermal Springs Lease is entitled to receive and use the annual rent payable under the lease for any purpose, despite the provisions of the Reserves Act;

10.1.89 that the Minister of Tourism may execute any or all of the documents referred to in clause 10.1.87; and

10.1.90 that a document executed under clause 10.1.89 has effect as if it were properly executed by MACI as lessee in accordance with the New Zealand Maori Arts and Crafts Institute Act and any rules made under that Act;

Schools vest in fee simple

10.1.91 that the fee simple estate in each School vests in the Te Pumautanga Trustees; and

10.1.92 that clause 10.1.91 is subject to the Te Pumautanga Trustees granting to the Crown a lease in respect of each School in the form set out in Part 12 of Schedule 2 at the Commencement Rent for each School.

PROVISIONS RELATING TO VESTING OF CULTURAL REDRESS PROPERTIES

Te Pumautanga Trustees to sign documents

10.2 On or before the Settlement Date the Te Pumautanga Trustees must sign and return to the Crown in relation to:

10.2.1 the Site on Horohoro Bluff, the Horohoro Bluff Covenant;

10.2.2 the Moerangi Site, the Moerangi Covenant;

10.2.3 the Lake Rotokawa Site, the Lake Rotokawa Covenant;

10.2.4 Te Wairoa, the Te Wairoa Covenant;

10.2.5 the Okataina Lodge Site, the Okataina Lodge Site Crown Lease;

10.2.6 the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua, the Lakes Rotongata (Mirror Lake) and Rotoatua Covenant;

10.2.7 the Te Ariki Site, the Te Ariki Management Deed and the Te Ariki Walkway Easement;

10.2.8 the Wai-o-Tapu Site, the Wai-o-Tapu Site Easement;

10.2.9 the Site adjacent to Orakei-Korako, the Orakei-Korako Covenant;

10.2.10 the Site adjacent to Lake Rotomahana, the Lake Rotomahana Covenant;

10.2.11 Kakapiko, the Kakapiko Covenant; and

10.2.12 each School, a lease in the form set out in Part 12 of Schedule 2 at the Commencement Rent for the School.

Crown to provide documents

10.3 The obligation on the Te Pumautanga Trustees in clause 10.2 to sign and return the documents by the Settlement Date shall only apply if the Crown prepares and provides the documents listed in clause 10.2 to the Te Pumautanga Trustees no later than 10 Business Days prior to the Settlement Date. If the Crown provides the documents in clause 10.2 to the Te Pumautanga Trustees later than 10 Business Days before the Settlement Date, the obligation on the Te Pumautanga Trustees in clause 10.2 shall be deferred by the number of days after the day that is 10 Business Days before the Settlement Date that the Crown provides the documents in clause 10.2 to the Te Pumautanga Trustees.

Deed relating to telecommunication sites over Sites on Paeroa Range

10.4 The Te Pumautanga Trustees acknowledges that the Sites on Paeroa Range are subject to a National Deed for Existing Telecommunication Sites dated 22 November 1993 between the Crown and Broadcast Communications Limited (the "**Telecommunications Deed**") which also affects land retained by the Crown.

10.5 The Te Pumautanga Trustees will comply with the Telecommunications Deed to the extent that it relates to the Sites on Paeroa Range and will not do any thing or omit to do any thing which causes a breach by the Crown of its obligations under the Telecommunications Deed.

10.6 The Te Pumautanga Trustees acknowledges that it is not entitled to any rent or other charges payable to the Crown under the Telecommunications Deed.

10.7 The Crown will pay to the Te Pumautanga Trustees any amount it receives from the grantee under the Telecommunications Deed in respect of the grantee's obligation to indemnify the Crown to the extent that the payment received relates to injury, loss or damage on or to the Sites on the Paeroa Range. The payment will be made as soon as reasonably practicable after receipt by the Crown from the grantee under the Telecommunications Deed.

Forestry right over Moerangi Site and Kakapiko

10.8 The Te Pumautanga Trustees acknowledge that the Moerangi Site and Kakapiko will vest in the Te Pumautanga Trustees subject to a forestry right registrable under the Forestry Rights Registration Act in the form presented to the Affiliate Te Arawa Iwi/Hapu immediately before the date of the Original Deed of Settlement.

10.9 If the forestry right referred to in clause 10.8 has not been registered under the Forestry Rights Registration Act by the Settlement Date, the Te Pumautanga Trustees will, at the cost of the Crown, do all things necessary to effect that registration.

Okataina Lodge Site Crown Lease

10.10 Prior to Settlement Date, the Crown will enter into the Okataina Lodge Site Crown Lease.

Recognition of Ngati Rangitihi interest in Te Ariki Site

10.11 The Crown recognises that Ngati Rangitihi also has an interest in the Te Ariki Site and the Crown acknowledges and agrees that the trustees of the Te Ariki Trust will hold the Te Ariki Trust's undivided half share in the Te Ariki Site in trust for the Crown for future potential Treaty of Waitangi settlements.

Te Ariki Trust

10.12 The Crown will establish the Te Ariki Trust before the Settlement Date and the Crown will procure the trustees of the Te Ariki Trust to enter into the Te Ariki Management Deed and the Te Ariki Walkway Easement prior to the Settlement Date.

Existing Whakarewarewa Thermal Springs Lease

10.13 Prior to the Settlement Date, the Crown will enter into and will procure MACI's entry into:

10.13.1 the Surrender Document;

10.13.2 the Existing Lease Variation; and

10.13.3 the Arikikapakapa Section 101 Lease,

and the Crown will procure MACI's entry into the Whakarewarewa Thermal Springs Lease.

10.14 On or before the Settlement Date, the Te Pumautanga Trustees will sign the Whakarewarewa Thermal Springs Lease.

10.15 The Crown must prudently administer and comply with all of its obligations in respect of the Existing Whakarewarewa Thermal Springs Lease between the Date of this Deed and the date that the Whakarewarewa Thermal Springs Reserve is vested in the Te Pumautanga Trustees under clause 10.1.82.

Rent and Rent Reviews under the Whakarewarewa Thermal Springs Lease

10.16 From the Settlement Date, the annual rent payable by MACI to the lessor under the Existing Lease Variation and the Arikikapakapa Section 101 Lease and to the lessor under the Whakarewarewa Thermal Springs Lease shall always be in equal amounts.

10.17 The five yearly rent review in 2013 under the Existing Lease Variation, the Arikikapakapa Section 101 Lease and the Whakarewarewa Thermal Springs Lease, and all subsequent rent reviews, will be undertaken in accordance with the rent review provisions in those leases.

10.18 The Crown must ensure that, if the Arikikapakapa and Other Reserve Land and the Arikikapakapa Section 101 Land is, after the Settlement Date, transferred in any future Treaty of Waitangi Settlements, or the Crown otherwise disposes of the Arikikapakapa and Other Reserve Land and the Arikikapakapa Section 101 Land, that such transfer or disposition is made subject to and protecting the continuation of:

10.18.1 the equal sharing of rent payable under the Existing Lease Variation, the Arikikapakapa Section 101 Lease and the Whakarewarewa Thermal Springs Lease as set out in clause 10.16 and as set out in those leases;

10.18.2 joint rent reviews from 2013, under the Existing Lease Variation, the Arikikapakapa Section 101 Lease and the Whakarewarewa Thermal Springs Lease, in accordance with the provisions in those leases; and

10.18.3 all provisions in the Existing Lease Variation and in the Arikikapakapa Section 101 Lease that directly or indirectly regulate and protect the

connected relationship between the Existing Lease Variation, the Arikikapakapa Section 101 Lease and the Whakarewarewa Thermal Springs Lease including, without limitation, all provisions that directly or indirectly regulate and protect the calculation of, and the amount of, rent and any other income payable under the Existing Lease Variation, the Arikikapakapa Section 101 Lease and the Whakarewarewa Thermal Springs Lease,

for the term (including all renewal terms) of the Existing Lease Variation and the Arikikapakapa Section 101 Lease.

Subsequent vesting of Whakarewarewa Thermal Springs Reserve

10.19 The Te Pumautanga Trustees acknowledge that the Whakarewarewa Thermal Springs Reserve will subsequently vest in a joint trust established by Tuhourangi Ngati Wahiao and Ngati Whakaue arising out of the enactment of legislation vesting the Whakarewarewa Thermal Springs Reserve, the Roto-a-Tamaheke Reserve and certain other adjoining reserve land in that joint trust and the Te Pumautanga Trustees agree to support legislation that gives effect to that vesting.

Whakarewarewa Village Debt

10.20 The Crown forgives the Whakarewarewa Village Debt in its entirety and confirms to the Te Pumautanga Trustees that no money is outstanding or payable by the Te Pumautanga Trustees or by any other person in respect of the Whakarewarewa Village Debt.

Subsequent vesting of Roto-a-Tamaheke Reserve

10.21 The Te Pumautanga Trustees acknowledge that the Roto-a-Tamaheke Reserve will subsequently vest in a joint trust established by Tuhourangi Ngati Wahiao and Ngati Whakaue arising out of the enactment of the legislation referred to in clause 10.19 and the Te Pumautanga Trustees agree to support legislation that gives effect to that vesting.

Crown to maintain in current state and condition

10.22 The Crown must maintain and administer each Cultural Redress Property (except if it is not administered by the Crown) between the Date of this Deed and the date it is vested in the Te Pumautanga Trustees under clause 10.1:

10.22.1 in substantially the same condition as it is in at the Date of this Deed (subject to events beyond the control of the Crown); and

10.22.2 in accordance with the Crown's existing management and administration practices for that property.

10.23 The Affiliate Te Arawa Iwi/Hapu will not have any recourse or claim against the Crown in relation to the state and/or condition of a Cultural Redress Property except for a breach of clause 10.22.

Warranty in relation to Disclosure Information

10.24 The Crown warrants to the Te Pumautanga Trustees that, at the Date of this Deed, the Disclosure Information is all the material information relating to the Cultural Redress Properties that is in the Crown's records as owner.

No other warranties

10.25 Except as provided in clause 10.24, the Crown gives no representation or warranty (whether express or implied) with respect to:

10.25.1 a Cultural Redress Property including as to its ownership, management, occupation, physical condition, fitness for use or compliance with:

(a) any legislation including bylaws; or

(b) any enforcement or other notice, requisition or proceeding issued by an authority; or

10.25.2 the completeness or accuracy of the Disclosure Information relating to a Cultural Redress Property.

Ability of the Affiliate Te Arawa Iwi/Hapu to inspect

10.26 The Affiliate Te Arawa Iwi/Hapu acknowledge that (although the Crown is not giving any representation or warranty in relation to any Cultural Redress Property except as provided in clause 10.24) the Affiliate Te Arawa Iwi/Hapu had the opportunity prior to the Date of this Deed (in addition to being able to examine the Disclosure Information) to:

10.26.1 inspect each Cultural Redress Property; and

10.26.2 determine its state and condition.

Access

10.27 Other than as provided under this Deed, the Crown will not make arrangements for access by the Affiliate Te Arawa Iwi/Hapu to a Cultural Redress Property following its vesting in the Te Pumautanga Trustees.

Survey

10.28 If the boundaries of a Cultural Redress Property, or the route of the Te Ariki Walkway Easement or the route of the Wai-o-Tapu Site Easement have not been determined sufficiently for the purpose of raising title, the Crown will arrange for:

10.28.1 it to be surveyed; and

10.28.2 the survey plan to be prepared and approved (and, where applicable, deposited).

Costs

10.29 The Crown will pay any survey and registration costs, and any other costs agreed by the Crown and the Affiliate Te Arawa Iwi/Hapu, required to vest the Cultural Redress Properties in the Te Pumautanga Trustees.

Settlement Legislation in relation to Cultural Redress Properties

10.30 The Settlement Legislation will provide that:

Date of vesting of Cultural Redress Properties

10.30.1 the Cultural Redress Properties (other than Roto-a-Tamaheke and Whakarewarewa Thermal Springs Reserve) and the undivided half share in the Te Ariki Site vest on the Settlement Date;

10.30.2 Roto-a-Tamaheke and Whakarewarewa Thermal Springs Reserve vest on a date to be appointed by the Governor-General by Order in Council;

Encumbrances

10.30.3 the vesting of each Cultural Redress Property and the undivided half share in the Te Ariki Site is subject to any Relevant Encumbrances;

Title to Cultural Redress Properties

10.30.4 where the land that forms all or part of the Cultural Redress Property is all of the land contained in an existing computer freehold register, the Registrar-General of Land must, on written application by an Authorised Person:

(a) register the Te Pumautanga Trustees as the proprietor of the fee simple estate in that land; and

(b) make such entries in the register and generally do all things that may be necessary to give effect to this Deed;

10.30.5 where clause 10.30.4 does not apply, the Registrar-General of Land must, on written application by an Authorised Person, and after completion of any necessary survey:

(a) create, in accordance with that application, one or more computer freehold registers in the names of the Te Pumautanga Trustees, and enter on the register any Relevant Encumbrances that are registered, notified, or notifiable and that are described in the application; or

(b) in the case of the Te Ariki Site:

(i) create a computer freehold register for an undivided half share of the fee simple estate in the Te Ariki Site in the names of the Pumautanga Trustees;

(ii) create a computer freehold register for an undivided half share of the fee simple estate in the Te Ariki Site in the names of the trustees of the Te Ariki Trust; and

(iii) enter on each register any Relevant Encumbrances that are registered, notified or notifiable and that are described in the application relating to the register;

10.30.6 a computer freehold register or registers created on written application under clause 10.30.5 must be created:

(a) in respect of Roto-a-Tamaheke and Whakarewarewa Thermal Springs Reserve, as soon as reasonably practicable after the date of vesting under clause 10.30.2, but no later than:

(i) 24 months after that date; or

(ii) such later date as may be agreed in writing by the Te Pumautanga Trustees and the Crown; and

(b) in respect of the other Cultural Redress Properties, as soon as reasonably practicable after the Settlement Date, but no later than:

(i) 24 months after the Settlement Date; or

(ii) such later date as may be agreed in writing by the Te Pumautanga Trustees and the Crown;

Application of Part 4A of Conservation Act

10.30.7 the vesting under the Settlement Legislation of the fee simple estate in a Cultural Redress Property is a disposition for the purposes of Part 4A of the Conservation Act, but sections 24(2A), 24A and 24AA of that Act do not apply to the disposition;

10.30.8 despite clause 10.30.7:

(a) section 24 of the Conservation Act does not apply to the vesting of:

(i) Pateko Island under clause 10.1.30;

(ii) Te Koutu Pa under clause 10.1.32;

(iii) the Te Ariki Site under clause 10.1.46;

(iv) the areas shown marked A and B on SO 364707, which vest as part of the Lake Rotokawa Site under clause 10.1.20;

(v) a Reserve Site under clause 10.1.3, 10.1.12, 10.1.56, 10.1.75 or 10.1.82; or

(vi) a School, under clause 10.1.91;

(b) the marginal strip reserved by section 24 of the Conservation Act from the vesting of the Punaromia Site under clause 10.1.54 is reduced to a width of 10 metres; and

(c) Part 4A of the Conservation Act does not apply to the vesting of the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua under clause 10.1.40;

10.30.9 if the reservation under the Settlement Legislation of a Reserve Site is revoked in relation to all or part of the Reserve Site, then the Reserve Site's vesting referred to in clause 10.30.8(a)(v) is no longer exempt from section 24 of the Conservation Act in relation to all or that part of the Reserve Site, as the case may be;

10.30.10 if a lease referred to in clause 10.1.94, or a renewal of that lease, terminates, or expires without being renewed, in relation to all or part of a School, then the School's vesting referred to in clause 10.30.8(a)(vi) is no longer exempt from section 24 of the Conservation Act in relation to all or that part of the School, as the case may be;

Recording Application of Part 4A of Conservation Act and sections of the Settlement Legislation

10.30.11 the Registrar-General of Land must record on the computer freehold register for:

(a) each of the following Cultural Redress Properties, that the land is subject to Part 4A of the Conservation Act, but that section 24 of that Act does not apply:

(i) Pateko Island;

(ii) Te Koutu Pa; and

(iii) the Te Ariki Site;

(b) the Lake Rotokawa Site, that the land is subject to Part 4A of the Conservation Act, but that section 24 of that Act does not apply to the areas shown marked A and B on SO 364707;

(c) a Reserve Site, that the land is subject to Part 4A of the Conservation Act, but that section 24 of that Act does not apply and that the land is subject to clauses 10.30.9 and 10.30.19-10.30.25;

(d) a School, that the land is subject to Part 4A of the Conservation Act, but that section 24 of that Act does not apply and that the land is subject to clause 10.30.10;

(e) the Punaromia Site, that the land is subject to Part 4A of the Conservation Act, but that the marginal strip is reduced to a width of 10 metres;

(f) the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua, that Part 4A of the Conservation Act does not apply; and

(g) any other Cultural Redress Property, that the land is subject to Part 4A of the Conservation Act;

10.30.12 a notification made under clause 10.30.11 that land is subject to Part 4A of the Conservation Act is to be treated as having been made in compliance with section 24D(1) of that Act;

10.30.13 if the reservation under this Part of a reserve site is revoked in relation to:

(a) all of the site, then the Director-General must apply in writing to the Registrar-General to remove from the computer freehold register for the site the notifications that:

(i) section 24 of the Conservation Act does not apply to the site; and

(ii) the site is subject to clauses 10.30.9 and 10.30.19-10.30.25;

(b) part of the site, then the Registrar-General must ensure that the notifications referred to in clause 10.30.13(a) remain only on the computer freehold register for the part of the site that is left as a reserve;

10.30.14 if a lease of a School referred to in clause 10.1.92, or a renewal of that lease, terminates, or expires without being renewed, in relation to all or part of the School, then the Minister of Education must apply in writing to the Registrar-General of Land:

(a) where none of the School remains subject to such a lease, to remove from the computer freehold register for the School the notifications that:

(i) section 24 of the Conservation Act does not apply to the School; and

(ii) the School is subject to clause 10.30.9; or

(b) where part of the School remains subject to such a lease (the "**Leased Part**"), amend the notifications on the computer freehold register for the School to record that the notifications referred to in clause 10.32.14(a) relate only to the Leased Part;

10.30.15 the Registrar-General of Land must comply with an application received in accordance with clause 10.30.13 or clause 10.30.14;

Application of Reserves Act to Reserve Sites

10.30.16 the Te Pumautanga Trustees are the administering body of a Reserve Site for the purposes of the Reserves Act;

10.30.17 sections 48A, 114 and 115 of the Reserves Act apply to a Reserve Site, despite sections 48A(6), 114(5) and 115(6) of that Act;

10.30.18 if the reservation under the Settlement Legislation of a Reserve Site is revoked under section 24 of the Reserves Act in relation to all or part of the Reserve Site, section 25 of that Act, except subsection (2), does not apply to the revocation;

Subsequent transfer of Reserve Land

10.30.19 clauses 10.30.20-10.30.25 apply to any part of a Reserve Site that, at any time after vesting under the Settlement Legislation in the Te Pumautanga Trustees, remains a reserve under the Reserves Act (the "**Reserve Land**");

10.30.20 the fee simple estate in the Reserve Land may be transferred to any other person only in accordance with clauses 10.30.21-10.30.25, despite any other enactment or rule of law;

10.30.21 the Minister of Conservation must give written consent to the transfer of the fee simple estate in the Reserve Land to another person or persons (the "**New Owners**") if, upon written application, the registered proprietors of the Reserve Land satisfy the Minister of Conservation that the New Owners are able to:

(a) comply with the requirements of the Reserves Act; and

(b) perform the duties of an administering body under the Reserves Act;

10.30.22 the Registrar-General of Land must, upon receiving the documents specified in clause 10.30.23, register the New Owners as the proprietors of the fee simple estate in the Reserve Land;

10.30.23 the documents are:

(a) a transfer instrument to transfer the fee simple estate in the Reserve Land to the New Owners, including a notification that the New Owners are to hold the Reserve Land for the same reserve purposes as it was held by the administering body immediately before the transfer;

(b) the written consent of the Minister of Conservation to the transfer of the Reserve Land; and

(c) any other document required for the registration of the transfer instrument;

10.30.24 the New Owners, from the time of registration under clause 10.30.22:

(a) are the administering body of the Reserve Land for the purposes of the Reserves Act; and

(b) hold the Reserve Land for the same reserve purposes as it was held by the administering body immediately before the transfer;

10.30.25 despite clauses 10.30.19 and 10.30.20, clauses 10.30.21-10.30.24 do not apply to the transfer of the fee simple estate in the Reserve Land if:

(a) the transferors of the Reserve Land are or were trustees of a trust;

(b) the transferees are the trustees of the same trust, after any new trustee has been appointed to the trust or any transferor has ceased to be a trustee of the trust; and

(c) the instrument to transfer the Reserve Land is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that clauses 10.30.25(a) and (b) apply;

Application of other enactments

10.30.26 sections 24 and 25 of the Reserves Act do not apply to the revocation under the Settlement Legislation of the reserve status of a Cultural Redress Property;

10.30.27 section 11 and Part 10 of the Resource Management Act do not apply to:

(a) the vesting of the fee simple estate in a Cultural Redress Property under the Settlement Legislation; or

(b) any matter incidental to, or required for the purpose of, the vesting;

10.30.28 the vesting of the fee simple estate in a Cultural Redress Property under the Settlement Legislation does not:

(a) limit section 10 or 11 of the Crown Minerals Act;

(b) affect other rights to sub-surface minerals; or

(c) limit the Crown's or a Local Authority's rights and obligations in respect of geothermal energy (within the meaning of section 2(1) of the Resource Management Act) under any enactment or rule of law;

10.30.29 the permission of a council under section 348 of the Local Government Act is not required for laying out, forming, granting or reserving a private road, private way or right of way that may be required to fulfil the terms of this Deed in relation to a Cultural Redress Property;

10.30.30 such other provisions as are necessary or desirable to give effect to this Part;

Application of intra-Crown payments for certain Cultural Redress Properties

10.30.31 the Minister of Conservation may direct that any intra-Crown payment for the Rangitoto Site, the Sites on Paeroa Range, Te Wairoa, Pateko Island, Te Koutu Pa, the Okataina Lodge Site, the Okataina Outdoor Education Centre Site, the Beds of Lakes Rotongata (Mirror Lake) and Rotoatua, the Te Ariki Site, the Punaromia Site, the Wai-o-Tapu Site, Roto-a-Tamaheke Reserve, Whakarewarewa Thermal Springs Reserve and Matawhaura (part of the Lake Rotoiti Scenic Reserve) be paid and applied in purchasing or taking on lease, managing, administering, maintaining, protecting, improving and developing reserves of any classification or as consideration for a conservation covenant; and

10.30.32 a direction by the Minister of Conservation under clause 10.32.28 is to be treated as a direction under section 82(1)(a) of the Reserves Act.

Timing of vesting of Roto-a-Tamaheke and Whakarewarewa Thermal Springs Reserve

10.31 The Crown must procure that the Governor-General is advised to make the Order in Council under clause 10.30.2 so that the date for vesting of Roto-a-Tamaheke and Whakarewarewa Thermal Springs Reserve is the date before they vest under the legislation referred to in clause 10.19.

10: CULTURAL REDRESS: CULTURAL REDRESS PROPERTIES

MATAWHAURA (PART OF THE LAKE ROTOITI SCENIC RESERVE) AND OTARI PA

Definitions

10.32 In clauses 2.9.4, 2.9.6, 2.10.1, 2.10.2, 10.30, 10.32-10.37 and Part 11:

10.32.1 "**Matawhaura (part of the Lake Rotoiti Scenic Reserve)**" means the land described by that name in Part 4 of Schedule 3;

10.32.2 "**Members of Ngati Pikiao**" means individuals who are descended from Pikiao whose historical treaty claims are being settled through this Deed (which, for the avoidance of doubt, does not include Ngati Makino);

10.32.3 "**Ngati Makino Settlement Deed**" means a deed of settlement between the Crown and Ngati Makino, or a claimant group that includes Ngati Makino, to settle the historical claims of Ngati Makino;

10.32.4 "**Ngati Makino Settlement Legislation**" means the legislation enacted to implement a Ngati Makino Settlement Deed;

10.32.5 "**Otari Pa**" means the land described by that name in Part 1 of Schedule 3;

10.32.6 "**Pikiao Entity**" means:

(a) the body corporate or trust established consistently with clause 10.34.1 or clause 10.36; and

(b) where a trust is established, includes the trustees appointed from time to time under the trust deed in their capacity as trustees; and

10.32.7 "**Vesting Date**" means:

(a) the date specified in the Ngati Makino Settlement Legislation as the date on which Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa vest in the Pikiao Entity; or

(b) if, on the date that is 2 years from the date this Deed becomes unconditional, clause 10.32.7(a) does not apply, the later of:

(i) the date which is 2 years after the date this Deed becomes unconditional; and

(ii) the date on which the Minister in Charge of Treaty Negotiations receives notice from the trustees of the Te Pumautanga o te Arawa Trust and of the Ngati Makino Heritage Trust that they have reached agreement in relation to their Manawhenua interests in both sites; and

(iii) the day after the date the Pikiao Entity is established under clause 10.36; and

10.32.8 "**Manawhenua**" means the interpretation to be agreed between those parties specified in clause 10.32.7(b)(ii).

Settlement Legislation

10.33 The Settlement Legislation will provide:

10.33.1 that the reservation of Matawhaura (part of the Lake Rotoiti Scenic Reserve) as a scenic reserve subject to section 19 of the Reserves Act is revoked on the Vesting Date;

10.33.2 that the fee simple estate in Matawhaura (part of the Lake Rotoiti Scenic Reserve) vests in the Pikiao Entity;

10.33.3 for the reservation of Matawhaura (part of the Lake Rotoiti Scenic Reserve) as a scenic reserve subject to section 19(1)(a) of the Reserves Act for which the Pikiao Entity will be an administering body;

10.33.4 that the fee simple estate in Otari Pa vests in the Pikiao Entity;

10.33.5 that Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa will vest in the Pikiao Entity on the Vesting Date;

10.33.6 that the vesting of Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa is subject to any Encumbrances affecting those sites on the Vesting Date;

10.33.7 that clauses 10.30.3-10.30.32 apply to Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa as if:

(a) each site were a Cultural Redress Property;

(b) references to the Te Pumautanga Trustees were references to the Pikiao Entity;

(c) references in clause 10.30.6 to the Settlement Date were references to the Vesting Date;

(d) Authorised Person were defined to mean a person authorised by:

(i) the Director-General, in the case of Matawhaura (part of the Lake Rotoiti Scenic Reserve); or

(ii) the chief executive of LINZ, in the case of Otari Pa; and

(e) Matawhaura (part of the Lake Rotoiti Scenic Reserve) were a Reserve Site, and the vesting of that Reserve Site were referred to in clause 10.30.8(a)(v); and

10.33.8 that the Minister in Charge of Treaty of Waitangi Negotiations must, as soon as practicable after Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa are vested in the Pikiao Entity, notify the vesting and the date of vesting in the *Gazette*.

Establishment of Pikiao Entity if Ngati Makino Settlement Deed is entered into

10.34 The Crown must include, in Ngati Makino Settlement Legislation that is proposed for introduction on or before the date that is 18 months after the date on which this Deed becomes unconditional:

10.34.1 provision for Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa to vest in a body corporate or trust approved in writing and established jointly by (and consistently with the agreed outcome of the Manawhenua process referred to in clause 10.32.7(b)(ii)):

(a) the Te Pumautanga Trustees; and

(b) the governance entity to receive the settlement redress from the Crown for Ngati Makino; and

10.34.2 a provision that the Vesting Date for the purpose of clause 10.33 is the day after the date the Pikiao Entity is established consistently with clause 10.34.1; and

10.34.3 a provision that the provisions referred to in clause 10.34.1 and 10.34.2 will lapse if vesting has not occurred under the processes that occur under clause 10.34.2 by the date that is 2 years after the date on which this Deed becomes unconditional.

Establishment of Pikiao Entity 2 years after this Deed becomes unconditional

10.35 The Crown must give Notice to the Te Pumautanga Trustees on the date that is 2 years after the date on which this Deed becomes unconditional requiring the Te Pumautanga Trustees to establish a body corporate or trust under clause 10.36, unless by that date Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa have vested in the Pikiao Entity under clause 10.34.2.

10.36 The Te Pumautanga Trustees must establish, as soon as reasonably practicable after receipt of a Notice under clause 10.35, a body corporate or a trust, which the Crown is satisfied:

10.36.1 will:

(a) be appropriate to have Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa vested in it; and

(b) have a structure that provides for:

(i) representation of Members of Ngati Pikiao and Ngati Makino;

(ii) transparent decision-making, and dispute resolution, processes; and

(iii) accountability to Members of Ngati Pikiao and Ngati Makino; and

10.36.2 has been approved by the Crown, acting through the Minister in Charge of Treaty of Waitangi Negotiations, as being an entity that meets the criteria set out in clause 10.36.1.

Provisions of this section apply

10.37 Clauses 10.22–10.29 apply to Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa as if they were each a Cultural Redress Property.

Intention regarding Manawhenua

10.38 The parties record their intention that the use of the defined term "Pikiao Entity" for the entity to be established consistently with clause 10.34.1 or 10.36.1 does not preclude the outcome of the agreement referred to in clause 10.32.7(b)(ii) in relation to Manawhenua interests in Matawhaura (part of the Lake Rotoiti Scenic Reserve) and Otari Pa.

GEOTHERMAL ASSETS

Transfer of Geothermal Assets

10.39 On the Settlement Date the Crown must transfer the Geothermal Assets to the Te Pumautanga Trustees for nil consideration and on the terms and conditions set out in Part 11 of Schedule 2.

10.40 The Crown and the Affiliate Te Arawa Iwi/Hapu agree that the Geothermal Assets have a market value as at the Settlement Date of $5,000,000.

Acknowledgement regarding subsequent transfer

10.41 The Crown acknowledges and accepts that the Te Pumautanga Trustees wish to treat the Geothermal Assets as a cultural redress property to enable the Te Pumautanga Trustees to transfer the Geothermal Assets to another Representative Entity.

REDRESS FOR NGATI TE RANGIUNUORA AND NGATI TAMAKARI

10.42 The Crown agrees to engage in a process to consider further cultural redress being made available to Ngati Te Rangiunuora and Ngati Tamakari, being two hapu of Ngati Pikiao. The process will be on the understanding set out in a mediation agreement involving those two hapu, the Te Pumautanga Trustees and the Crown dated 7 May 2008.

10.43 The Te Pumautanga Trustees acknowledge that there is no certainty of outcome arising from the Crown agreeing to engage in the process referred to in clause 10.42.

11 OTHER CULTURAL REDRESS

STATUTORY ACKNOWLEDGEMENT AND GEOTHERMAL STATUTORY ACKNOWLEDGEMENT

Provision of Statutory Acknowledgement

11.1 The Settlement Legislation will provide:

Provision of Statutory Acknowledgement

11.1.1 a Statutory Acknowledgement which will comprise:

(a) the descriptions of the Statutory Areas set out in Part 1 of Schedule 3;

(b) a reference to the texts of the statements by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historical, and traditional association with the Statutory Areas, the texts of which are set out in Part 2 of Schedule 3;

(c) an acknowledgement by the Crown of those Statements of Association;

(d) the other matters required by this Deed; and

(e) any appropriate provisions to enable the Settlement Legislation to refer to those Statements of Association;

Provision of Geothermal Statutory Acknowledgement

11.1.2 a Geothermal Statutory Acknowledgement which will comprise:

(a) a description of the Geothermal Resource;

(b) a reference to the text of the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historical, and traditional association with and use of the Geothermal Resource, the text of which is set out in Part 2 of Schedule 3;

(c) an acknowledgement by the Crown of the Statement of Association;

(d) the other matters required by this Deed; and

(e) any appropriate provisions to enable the Settlement Legislation to refer to the Statement of Association;

Interpretation

11.1.3 that for the purposes of clauses 11.1.4-11.1.18:

(a) "**Consent Authority**" has the meaning set out in section 2(1) of the Resource Management Act; and

(b) "**Relevant Consent Authority**" means:

(i) for the purposes of the Geothermal Statutory Acknowledgement, a Consent Authority of a region or district which contains, or is adjacent to, the Rotorua Regional Geothermal System; or

(ii) for the purposes of the Statutory Acknowledgement, a Consent Authority of a region or district which contains, or is adjacent, to a Statutory Area;

11.1.4 that the only purposes of the Statutory Acknowledgement and the Geothermal Statutory Acknowledgement are as provided in clauses 11.1.6-11.1.18;

11.1.5 that where the Statutory Acknowledgement relates to a river, "**river**":

(a) means:

(i) a continuously or intermittently flowing body of fresh water, including a stream and modified watercourse; and

(ii) the bed of that river, but

(b) does not include:

(i) a part of the bed of the river that is not owned by the Crown;

(ii) land that the waters of the river do not cover at its fullest flow without overlapping its banks;

(iii) an artificial watercourse; or

(iv) a tributary flowing into the river;

Relevant Consent Authorities and Environment Court to have regard to the Statutory Acknowledgement and the Geothermal Statutory Acknowledgement

11.1.6 that from the Effective Date, and without limiting its obligations under the Resource Management Act:

(a) a Relevant Consent Authority must have regard to the Geothermal Statutory Acknowledgement in forming an opinion in accordance with sections 93 to 94C of the Resource Management Act as to whether the Te Pumautanga Trustees are persons who may be adversely affected by the granting of a Resource Consent under section 14(1) of the Resource Management Act in respect of the Geothermal Resource;

(b) a Relevant Consent Authority must have regard to the Statutory Acknowledgement relating to a Statutory Area in forming an opinion in accordance with sections 93 to 94C of the Resource Management Act as to whether the Te Pumautanga Trustees are persons who may be adversely affected by the granting of a Resource Consent for activities within, adjacent to, or impacting directly on the Statutory Area;

(c) the Environment Court must have regard to the Geothermal Statutory Acknowledgement in determining, under section 274 of the Resource Management Act, whether the Te Pumautanga Trustees are persons having an interest greater than the public generally in proceedings in respect of an application under section 14(1) of the Resource Management Act in respect of the Geothermal Resource; and

(d) the Environment Court must have regard to the Statutory Acknowledgement relating to a Statutory Area in determining, under section 274 of the Resource Management Act, whether the Te Pumautanga Trustees are persons having an interest greater than the public generally in proceedings in respect of an application for a Resource Consent for activities within, adjacent to, or impacting directly on a Statutory Area;

New Zealand Historic Places Trust and Environment Court to have regard to the Statutory Acknowledgement

11.1.7 that from the Effective Date, the New Zealand Historic Places Trust and the Environment Court must have regard to the Statutory Acknowledgement relating to a Statutory Area:

(a) in forming an opinion under section 14(6)(a) of the Historic Places Act; or

(b) for the purpose of section 20(1) of the Historic Places Act,

as to whether the Te Pumautanga Trustees are (or, for the purposes of section 14(6)(a), may be) persons directly affected in relation to an archaeological site (as defined in section 2 of that Act) within the Statutory Area;

Recording of Statutory Acknowledgement and Geothermal Statutory Acknowledgement on Statutory Plans

11.1.8 that from the Effective Date, Relevant Consent Authorities must attach to all Statutory Plans that wholly or partially cover a Statutory Area or the Rotorua Region Geothermal System, information recording the Statutory Acknowledgement in relation to that Statutory Area or the Geothermal Statutory Acknowledgement in relation to the System, as the case may be;

11.1.9 that the attachment of information to a Statutory Plan under clause 11.1.8:

(a) must include the relevant provisions of the Settlement Legislation in full, the description of the Statutory Area or of the Rotorua Region Geothermal System, and the Statement of Association; and

(b) is for the purposes of public notice only and the information is not:

(i) part of the Statutory Plan (unless adopted by the Relevant Consent Authority); or

(ii) subject to the provisions of the First Schedule to the Resource Management Act;

Distribution of resource consent applications to the Te Pumautanga Trustees

11.1.10 that a Relevant Consent Authority must, for a period of 20 years from the Effective Date, forward to the Te Pumautanga Trustees a summary of applications:

(a) under section 14(1) of the Resource Management Act in respect of the Geothermal Resource; and

(b) for Resource Consents for activities within, adjacent to, or impacting directly on a Statutory Area;

11.1.11 that the information provided under clause 11.1.10 must be:

(a) the same as would be given under section 93 of the Resource Management Act to persons who may be adversely affected, or as may be agreed between the Te Pumautanga Trustees and the Relevant Consent Authority from time to time; and

(b) forwarded as soon as reasonably practicable after the application is received and before a determination is made in accordance with sections 93 to 94C of the Resource Management Act;

11.1.12 that the Te Pumautanga Trustees may, by notice in writing to a Relevant Consent Authority:

(a) waive their rights under clause 11.1.10 and/or clause 11.1.11; and

(b) state the scope of the waiver and the period it applies for;

11.1.13 that clauses 11.1.10 to 11.1.12 do not affect:

(a) the obligation of a Relevant Consent Authority to notify an application in accordance with sections 93 to 94C of the Resource Management Act; or

(b) the obligation of a Relevant Consent Authority to form an opinion as to whether the Te Pumautanga Trustees are persons who may be adversely affected under those sections;

Use of Statutory Acknowledgement and Geothermal Statutory Acknowledgement with submissions

11.1.14 that the Te Pumautanga Trustees, or a Member of the Affiliate Te Arawa Iwi/Hapu, may cite:

(a) the Geothermal Statutory Acknowledgement as evidence of the association of the Affiliate Te Arawa Iwi/Hapu with, and use of, the Geothermal Resource, in submissions to, and proceedings before, a Relevant Consent Authority or the Environment Court concerning the taking, use, damming or diverting of any geothermal water or geothermal energy from any site located in the Rotorua Region Geothermal System; and

(b) the Statutory Acknowledgement as evidence of the association of the Affiliate Te Arawa Iwi/Hapu with a Statutory Area, in submissions to, and proceedings before, a Relevant Consent Authority, the Environment Court, or the New Zealand Historic Places Trust concerning activities within, adjacent to, or impacting directly on the Statutory Area;

Content of Statement of Association not binding

11.1.15 that the content of a Statement of Association is not, by virtue of the Statutory Acknowledgement or the Geothermal Statutory Acknowledgement as the case may be, binding as deemed fact on a Relevant Consent Authority, the Environment Court, the New Zealand Historic Places Trust, parties to proceedings before those bodies, or any other person able to participate in those proceedings, but the content of a Statement of Association may be taken into account by them;

Other association with a Statutory Area or the Geothermal Resource may be stated

11.1.16 that neither the Te Pumautanga Trustees, nor a Member of the Affiliate Te Arawa Iwi/Hapu, are precluded by this Part from stating that the Affiliate Te Arawa Iwi/Hapu has an association with:

(a) a Statutory Area that is not described in the Statutory Acknowledgement, and the content and existence of the Statutory Acknowledgement do not limit any such statement; or

(b) the Geothermal Resource that is not described in the Geothermal Statutory Acknowledgement, and the content and existence of the Geothermal Statutory Acknowledgement do not limit any such statement;

General provisions

11.1.17 that the Statutory Acknowledgement and the Geothermal Statutory Acknowledgement do not (except as expressly provided in clauses 11.1.1-11.1.16):

(a) affect, and may not be taken into account by, any person exercising a power or performing a function or duty under legislation or a bylaw;

(b) affect the lawful rights or interests of any person; or

(c) grant, create or provide evidence of an estate or interest in, or rights relating to, a Statutory Area or the Geothermal Resource, as the case may be;

11.1.18 that except as expressly provided in clause 11.1.1 to 11.1.16, a person, in considering a matter or making a decision or recommendation under legislation or a bylaw, must not give greater or lesser weight to a Statement of Association than the person would give if the Statement of Association was not referred to by the Settlement Legislation; and

Otari Pa

11.1.19 that clauses 11.1.3-11.1.18 cease to apply to the Statutory Area described as Otari Pa in Part 1 of Schedule 3 on the date that Statutory Area is vested in, or transferred to, the Pikiao Entity.

Amendment to the Resource Management Act

11.2 The Settlement Legislation will amend Schedule 11 of the Resource Management Act by inserting the short title to the Settlement Legislation in that schedule.

11: OTHER CULTURAL REDRESS

DEED OF RECOGNITION

Crown to provide Deed of Recognition

11.3 The Crown must, by or on the Settlement Date, provide the Te Pumautanga Trustees with two copies of the Deed of Recognition signed by the Minister of Conservation and on the terms and conditions set out in Part 3 of Schedule 3 in respect of those parts of the Statutory Area described in Part 1 of Schedule 3 as the Matahana Ecological Area that are owned and managed by the Crown.

Signing and return of the Deed of Recognition by the Te Pumautanga Trustees

11.4 The Te Pumautanga Trustees must:

11.4.1 sign both copies of the Deed of Recognition provided to them by the Crown under clause 11.3; and

11.4.2 return one signed copy of the Deed of Recognition to the Crown by no later than 10 Business Days after the Settlement Date.

Deed of Recognition requires consultation with Te Pumautanga Trustees

11.5 The Deed of Recognition must provide that the Minister of Conservation must, if undertaking the activities specified in that deed in relation to or within the Statutory Area to which the deed applies, consult and have regard to the views of the Te Pumautanga Trustees concerning the association of the Affiliate Te Arawa Iwi/Hapu with that Statutory Area as described in the relevant Statement of Association.

Termination of Deed of Recognition

11.6 The Deed of Recognition terminates in respect of the Statutory Area (or part of it) if:

11.6.1 the Te Pumautanga Trustees and the Minister of Conservation agree in writing that the Deed of Recognition is no longer appropriate for the area concerned;

11.6.2 the area concerned is disposed of by the Crown; or

11.6.3 the Minister of Conservation ceases to be responsible for the activities specified in the Deed of Recognition in relation to or within the area concerned and they are transferred to another person or official within the Crown.

11.7 If the Deed of Recognition terminates in relation to an area under clause 11.6.3, the Crown will take reasonable steps to ensure that the Te Pumautanga Trustees continue to have input into the relevant activities in relation to or within the area concerned as provided in clause 11.6, through negotiation with the new person or official within the Crown that is responsible for those activities.

Settlement Legislation

11.8 The Settlement Legislation will provide that:

11.8.1 the Minister of Conservation may:

(a) enter into the Deed of Recognition with the Te Pumautanga Trustees in respect of the land within the Statutory Area; and

(b) amend the Deed of Recognition by entering into a deed with the Te Pumautanga Trustees to amend the Deed of Recognition; and

11.8.2 the Deed of Recognition, does not (except as expressly provided in clauses 11.3-11.8):

(a) affect, and may not be taken into account by, any person exercising a power or performing a function or duty under legislation or a bylaw;

(b) affect the lawful rights or interests of any person who is not a party to this Deed; or

(c) grant, create or provide evidence of an estate or interest in, or rights relating to, the Statutory Area; and

11.8.3 except as expressly provided in clauses 11.3 – 11.8, a person, in considering a matter or making a decision or recommendation under legislation or a bylaw, must not give greater or lesser weight to the association of the Affiliate Te Arawa Iwi/Hapu with the Statutory Area (as described in clause 11.1.1(b)) than that person would give under the relevant legislation or bylaw if no Deed of Recognition existed in respect of the Statutory Area.

WHENUA RAHUI

11.9 The Settlement Legislation will provide:

Declaration and acknowledgement

11.9.1 that each site described in Part 4 of Schedule 3 is declared a Whenua Rahui; and

11.9.2 an acknowledgement by the Crown of the Affiliate Te Arawa Iwi/Hapu Values in relation to the Whenua Rahui, the text of which is set out in Part 5 of Schedule 3;

Purposes of Whenua Rahui

11.9.3 that the only purposes of the declaration of the site as a Whenua Rahui, and of acknowledging the Affiliate Te Arawa Iwi/Hapu Values in relation to the site, are to:

(a) require that the New Zealand Conservation Authority, and relevant Conservation Boards, have particular regard to the Affiliate Te Arawa Iwi/Hapu Values and the Protection Principles as provided in clauses 11.9.8 and 11.9.9; and

(b) require the New Zealand Conservation Authority to give the Te Pumautanga Trustees an opportunity to make submissions as provided in clause 11.9.10; and

(c) enable the taking of action under clauses 11.9.11-11.9.20; and

11.9.4 that clause 11.9.3 does not limit clauses 11.9.5-11.9.29;

Agreement on Protection Principles

11.9.5 that the Te Pumautanga Trustees and the Crown may agree on, and publicise, Protection Principles that are directed at the Minister of Conservation:

(a) avoiding harm to the Affiliate Te Arawa Iwi/Hapu Values in relation to the Whenua Rahui; or

(b) avoiding the diminishing of the Affiliate Te Arawa Iwi/Hapu Values in relation to the Whenua Rahui;

11.9.6 that the Protection Principles set out in Part 7 of Schedule 3 are to be:

(a) treated as having been agreed by the Te Pumautanga Trustees and the Crown under clause 11.9.5; and

(b) notified by the Minister of Conservation in the *Gazette* as soon as practicable after the Settlement Date;

11.9.7 that the Protection Principles may be changed:

(a) by the agreement in writing of the Te Pumautanga Trustees and the Crown; or

(b) by the Minister of Conservation, after consulting with the Te Pumautanga Trustees, to give effect to a deed of settlement with another claimant group with an interest in the Whenua Rahui, and

in either case, the Minister of Conservation must notify the change in the *Gazette* as soon as practicable after the change has been effected;

Obligations of New Zealand Conservation Authority and Conservation Boards

11.9.8 that when the New Zealand Conservation Authority, or a Conservation Board, considers a Conservation Document or a draft thereof or a proposal or recommendation for a change of status in relation to the Whenua Rahui it must have particular regard to:

(a) the Affiliate Te Arawa Iwi/Hapu Values; and

(b) the Protection Principles;

11.9.9 that before approving a Conservation Document or making a proposal or recommendation for a change of status in relation to the Whenua Rahui, the New Zealand Conservation Authority or a Conservation Board must consult with the Te Pumautanga Trustees and have particular regard to their views as to the effect of the Conservation Document on the Affiliate Te Arawa Iwi/Hapu Values and the Protection Principles; and

11.9.10 that if the Te Pumautanga Trustees advise the New Zealand Conservation Authority in writing that they have significant concerns about a draft conservation management strategy in relation to the Whenua Rahui, the New Zealand Conservation Authority must, before approving the conservation management strategy, give the Te Pumautanga Trustees an opportunity to make submissions to it in relation to those significant concerns;

Actions by Director-General

11.9.11 that the Director-General must take action in relation to the Protection Principles;

11.9.12 that the Director-General:

(a) has a complete discretion to determine the method and extent of the action to be taken;

(b) must notify the Te Pumautanga Trustees of the intended action; and

(c) if requested in writing by the Te Pumautanga Trustees, must not take the action in respect of the Protection Principles to which the request relates;

11.9.13 that it is acknowledged and confirmed by the Crown that the actions set out in paragraph 5 of the Whenua Rahui in Part 5 of Schedule 3 are actions which the Director-General has in his or her discretion determined to take and which will be notified by the Director-General in the *Gazette*;

Amendment of Conservation Documents

11.9.14 that the Director-General:

(a) may initiate an amendment of a Conservation Document to incorporate objectives relating to the Protection Principles (including a recommendation to promulgate regulations or make bylaws); and

(b) must consult with the relevant Conservation Board before initiating that amendment;

11.9.15 that an amendment of a Conservation Document initiated under clause 11.9.14 is an amendment for the purposes of section 17I(1) to (3) of the Conservation Act or section 46(1) to (4) of the National Parks Act;

11.9.16 that clauses 11.9.14 and 11.9.15 do not limit clause 11.9.12(a);

Regulations

11.9.17 that the Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, make regulations for the following purposes:

(a) providing for the implementation of objectives included in a Conservation Document under clause 11.9.14(a);

(b) regulating or prohibiting activities or conduct by members of the public in relation to the Whenua Rahui; and

(c) specifying offences for breaches of regulations made under clause 11.9.17(b) and providing for the imposition of fines:

(i) not exceeding $5,000 for those offences; and

(ii) for a continuing offence, a further amount not exceeding $50 for every day during which the offence continues;

Bylaws

11.9.18 that the Minister of Conservation may make bylaws for the following purposes:

(a) providing for the implementation of objectives included in a Conservation Document under clause 11.9.14(a);

(b) regulating or prohibiting activities or conduct by members of the public in relation to the Whenua Rahui; and

(c) specifying offences for breaches of bylaws made under clause 11.9.18(b) and providing for the imposition of fines:

(i) not exceeding $1,000 for those offences; and

(ii) for a continuing offence, a further amount not exceeding $50 for every day during which the offence continues;

Notification of actions in Gazette

11.9.19 that the Minister of Conservation must notify in the *Gazette*:

(a) the declaration of the site as a Whenua Rahui; and

(b) the Protection Principles and any agreed changes to them;

11.9.20 that the Director-General:

(a) may notify in the *Gazette* any action taken or intended to be taken under clauses 11.9.11-11.9.17 (including the actions set out in paragraph 5 of the Whenua Rahui in Part 5 of Schedule 3); and

(b) must notify in the *Gazette* any action taken or intended to be taken under clause 11.9.18;

Noting of Whenua Rahui in Conservation Documents

11.9.21 that the declaration of the site as a Whenua Rahui must be noted in Conservation Documents affecting the Whenua Rahui;

11.9.22 that the noting of the Whenua Rahui in Conservation Documents under clause 11.9.21:

(a) is for the purpose of public notice only; and

(b) is not an amendment to a Conservation Document for the purposes of section 17I of the Conservation Act or section 46 of the National Parks Act;

Existing classification of Whenua Rahui

11.9.23 that the purpose or classification of an area as a national park, conservation area or reserve is not affected by the fact that the area is, or is within, the Whenua Rahui;

Termination of Whenua Rahui

11.9.24 that the Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, declare that all or part of Whenua Rahui is no longer a Whenua Rahui;

11.9.25 that the Minister of Conservation must not make a recommendation under clause 11.9.24 unless:

(a) the Te Pumautanga Trustees and the Minister of Conservation have agreed in writing that the Whenua Rahui status is no longer appropriate for the area concerned;

(b) the area concerned is disposed of by the Crown; or

(c) the responsibility for managing the area concerned is transferred to a different Minister or Department;

11.9.26 that if clause 11.9.25(b) or (c) applies, or there is a change in the statutory management regime that applies to all or part of the Whenua Rahui, the Crown must take reasonable steps to ensure the Te Pumautanga Trustees continue to have input into the management of the Whenua Rahui, or the area concerned, through negotiation with the Te Pumautanga Trustees by:

(a) the Minister responsible for the new statutory management regime;

(b) the Commissioner of Crown Lands; or

(c) another responsible official;

11.9.27 that clause 11.9.26 does not apply to the vesting in, or transferring to, the Pikiao Entity of the Whenua Rahui described as Matawhaura (part of the Lake Rotoiti Scenic Reserve);

General provisions

11.9.28 that the declaration of the site as a Whenua Rahui and the Crown's acknowledgement of the Affiliate Te Arawa Iwi/Hapu Values do not (except as expressly provided in clauses 11.9.1-11.9.27):

(a) affect, and may not be taken into account by, any person exercising a power or performing a function or duty under legislation or a bylaw;

(b) affect the lawful rights or interests of any person; or

(c) grant, create or provide evidence of an estate or interest in, or rights relating to, the Whenua Rahui; and

11.9.29 that except as expressly provided in clauses 11.9.1-11.9.27, a person, in considering a matter or making a decision or recommendation under legislation or a bylaw, must not give greater or lesser weight to the Affiliate Te Arawa Iwi/Hapu Values than the person would give if they were not referred to by the Settlement Legislation.

Acknowledgement in relation to Whenua Rahui

11.10 It is acknowledged and confirmed by the Parties that a declaration under clause 11.9.24 that all or part of the Whenua Rahui is no longer a Whenua Rahui does not affect the significance to the Affiliate Te Arawa Iwi/Hapu of the affected area.

SPECIAL CLASSIFICATION OF COUNCIL-OWNED RESERVES

11.11 The Settlement Legislation will provide:

Declaration and acknowledgement

11.11.1 that each of the sites described in Part 6 of Schedule 3 is declared a Specially Classified Reserve; and

11.11.2 for an acknowledgement by the Crown of the Affiliate Te Arawa Iwi/Hapu Values in relation to the Specially Classified Reserve, the text of which is set out in Part 7 of Schedule 3;

Purposes of special classification

11.11.3 that the only purposes of the declaration of a site as a Specially Classified Reserve, and of acknowledging the Affiliate Te Arawa Iwi/Hapu Values in relation to the site are:

(a) to give effect to the requirement that the Rotorua District Council must have regard to the Protection Principles as provided in clause 11.11.5; and

(b) to enable the taking of action under clauses 11.11.8-11.11.10;

11.11.4 that clause 11.11.3 does not limit clauses 11.11.5-11.11.18;

Agreement on Protection Principles

11.11.5 that the Rotorua District Council, the Te Pumautanga Trustees, and the Crown may agree on Protection Principles that are directed at the Rotorua District Council:

(a) avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values in relation to the Specially Classified Reserve; whilst

(b) having regard to the wider local community values associated with the reserve status of the Specially Classified Reserve;

11.11.6 that the Protection Principles set out in Part 7 of Schedule 3 are to be treated as having been agreed under clause 11.11.5;

11.11.7 that the Protection Principles may be changed by the agreement in writing of the Rotorua District Council, the Te Pumautanga Trustees and the Crown, and the Minister of Conservation must notify the change in the *Gazette* as soon as practicable after the change has been effected;

Obligations of Rotorua District Council

11.11.8 that the Rotorua District Council must:

(a) when considering general policy, or a management plan under section 41 of the Reserves Act, have regard to the Protection Principles; and

(b) before approving general policy, or before approving, or completing the review of, or changing a management plan under section 41 of the Reserves Act, in relation to a Specially Classified Reserve, consult with the Te Pumautanga Trustees about its views as to whether the general policy or approval, review of, or change to, the management plan is consistent with the Protection Principles;

Actions by Rotorua District Council

11.11.9 that on notification by the Crown in the *Gazette* of the Protection Principles, the Minister of Conservation will be deemed to have required the Rotorua District Council under subsection 41(4) of the Reserves Act to review its management plan in respect of each Specially Classified Reserve to give effect to the Protection Principles for the reserve;

11.11.10 that the Rotorua District Council:

(a) has a complete discretion to determine the method and extent of its action in response to the requirement under clause 11.11.9; and

(b) before making a determination under clause 11.11.10(a), must consult with the Te Pumautanga Trustees and have particular regard to their views as to whether the method and extent of any proposed action gives effect to the Protection Principles;

Notifications of actions in the Gazette

11.11.11 that the Crown must notify in the *Gazette* within six months of the date on which the Settlement Legislation comes into force:

(a) the declaration of each site as a Specially Classified Reserve; and

(b) the Protection Principles;

Existing classification of Specially Classified Reserve

11.11.12 that the purpose or classification of an area under the Reserves Act is not affected by the fact that the area is, or is within, a Specially Classified Reserve;

Termination of Special Classification

11.11.13 that the Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, declare that all or part of a Specially Classified Reserve is no longer a Specially Classified Reserve;

11.11.14 that the Minister of Conservation must not make that recommendation unless:

(a) the Te Pumautanga Trustees, the Minister of Conservation and the Rotorua District Council, have agreed in writing that the Special Classification status is no longer appropriate for the area concerned; or

(b) the reservation of the site as a reserve is revoked;

11.11.15 that the Minister of Conservation must consult with the Te Pumautanga Trustees before revoking the reservation of a Specially Classified Reserve as a reserve;

General provisions in relation to Special Classification

11.11.16 that except as specifically provided by clause 11, the declaration of the site as a Specially Classified Reserve and the Crown's acknowledgement of the Affiliate Te Arawa Iwi/Hapu Values do not affect, and may not be taken into account by, any person exercising a power or performing a function or duty under legislation or a bylaw;

11.11.17 that the declaration of the site as a Specially Classified Reserve and the Crown's acknowledgement of the Affiliate Te Arawa Iwi/Hapu Values do not:

(a) affect the lawful rights or interests of any person; or

(b) grant, create or provide evidence of an estate or interest in, or rights relating to, the Specially Classified Reserve; and

11.11.18 that a person, in considering a matter or making a decision or recommendation under legislation or a bylaw, must not give greater or lesser weight to the Affiliate Te Arawa Iwi/Hapu Values than the person would give if they were not contained in legislation.

Acknowledgement in relation to Specially Classified Reserves

11.12 It is acknowledged and confirmed by the Parties that a declaration under clause 11.11.13 that all or part of a Specially Classified Reserve is no longer a Specially Classified Reserve does not affect the significance to the Affiliate Te Arawa Iwi/Hapu of the site to which that declaration relates.

KARAMURAMU BATHS

Definitions

11.13 In clauses 6, 9.12.2 and 11.14-11.19.19:

11.13.1 "**Airport Land**" means 95.3180 hectares, more or less, being Part Lot 1 Deposited Plan South Auckland 49938, being the land comprised and described in computer freehold register SA52C/128;

11.13.2 "**Airport Lease**" means registered lease 6499434.3 in computer interest register 231242 between the Rotorua District Council and Rotorua Regional Airport Limited;

11.13.3 "**Esplanade Land**" means that part of the Airport Land, being 2 hectares, approximately, as shown marked B on SO 364726, and being Part Lot 1 DPS 49938, and being part of the land comprised and described in computer freehold register SA52C/128, subject to survey;

11.13.4 "**Karamuramu Baths Agreement**" means the agreement dated 4 August 2006 relating to the Deed of Settlement of the Historical Claims of the Affiliate Te Arawa Iwi/Hapu and entered into between the Crown, the Rotorua District Council and the Affiliate Te Arawa Iwi/Hapu as represented by the Nga Kaihautu o Te Arawa Executive Council;

11.13.5 "**Karamuramu Baths Land**" means that part of the Airport Land, being the land shown marked C on SO 364726, being Part Lot 1 DPS 49938, and being part of the land comprised and described in computer freehold register SA52C/128, subject to survey; and

11.13.6 "**Vesting Date**" means the earlier of:

(a) five Business Days after the date that the chief executive of the Rotorua District Council gives written notice to the Director-General that the Karamuramu Baths Land will be vested in fee simple in the Te Pumautanga Trustees; and

(b) the day after the Airport Lease expires, or would have expired if it had not been surrendered or terminated earlier.

Background

11.14 The Karamuramu Baths Land and the Esplanade Land are owned by the Rotorua District Council.

11.15 The Rotorua District Council has agreed that:

11.15.1 the Karamuramu Baths Land and the Esplanade Land will be set aside as an esplanade reserve under the Resource Management Act, in that:

(a) the Karamuramu Baths Land and the Esplanade Land are set aside as a local purpose reserve for esplanade purposes under the Reserves Act; and

(b) the Rotorua District Council is the administering body of the reserve for the purpose of the Reserves Act;

11.15.2 the Karamuramu Baths Land will then subsequently be vested in the Te Pumautanga Trustees in fee simple; and

11.15.3 the special classification and acknowledgement that will apply to the Recreation Reserve at Hannah's Bay (including Otauira Swamp) as a Specially Classified Reserve under this Part will also apply to the Esplanade Land when it vests as an esplanade reserve and to the Karamuramu Baths Land for the period that this land is vested as an esplanade reserve.

11.16 The terms on which the Rotorua District Council has agreed to the vestings and to the special classification and acknowledgement for the Esplanade Land and the Karamuramu Baths Land are set out in the Karamuramu Baths Agreement.

11.17 It is necessary to give effect to certain aspects of the Karamuramu Baths Agreement through the Settlement Legislation.

Acknowledgement

11.18 The Crown and the Affiliate Te Arawa Iwi/Hapu acknowledge that:

11.18.1 the Karamuramu Baths Land and the Esplanade Land are owned by the Rotorua District Council;

11.18.2 the Rotorua District Council has in goodwill agreed that the Esplanade Land be set aside as an esplanade reserve and the Karamuramu Baths Land be set aside as an esplanade reserve, and then subsequently be vested in the Te Pumautanga Trustees in fee simple:

(a) to assist the Crown in achieving the Settlement; and

(b) in recognition of the cultural significance of the Karamuramu Baths Land to the Affiliate Te Arawa Iwi/Hapu; and

11.18.3 the Rotorua District Council has agreed that the special classification and acknowledgement that will apply to the Recreation Reserve at Hannah's Bay (including Otauira Swamp) as a Specially Classified Reserve under this Part will also apply to the Esplanade Land when it is set aside as an esplanade reserve under clause 11.19.2, and to the Karamuramu Baths Land when it is set aside as an esplanade reserve under clause 11.19.2 until it vests in the Te Pumautanga Trustees under clause 11.19.10.

Settlement Legislation

11.19 The Settlement Legislation will provide:

Karamuramu Baths Land and Esplanade Land set aside as esplanade reserve

11.19.1 that clauses 11.19.2-11.19.4 take effect on the earlier of:

(a) the day after the Airport Lease is surrendered or terminated in respect of the Karamuramu Baths Land and the Esplanade Land; and

(b) the day after the Airport Lease expires;

11.19.2 that the Esplanade Land and the Karamuramu Baths Land are set aside as an esplanade reserve under the Resource Management Act, in that:

(a) the Esplanade Land and the Karamuramu Baths Land are set aside as a local purpose reserve for esplanade purposes under the Reserves Act; or

(b) the Rotorua District Council is the administering body of the reserve for the purposes of the Reserves Act;

11.19.3 that the special classification and acknowledgement, applied to the Recreation Reserve at Hannah's Bay (including Otauira Swamp) as a Specially Classified Reserve under this Part, apply also to the Esplanade Land and to the Karamuramu Baths Land when they are set aside as esplanade reserves under clause 11.19.2, as if the Esplanade Land and the Karamuramu Baths Land were part of the Recreation Reserve at Hannah's Bay (including Otauira Swamp);

11.19.4 that the Minister of Conservation must, as soon as practicable after clauses 11.19.2-11.19.4 take effect, notify in the *Gazette:*

(a) the setting aside of the Karamuramu Baths Land as an esplanade reserve;

(b) the setting aside of the Esplanade Land as an esplanade reserve;

(c) the special classification of the Karamuramu Baths Land; and

(d) the special classification of the Esplanade Land;

11.19.5 that subclauses 11.19.4(a) and (c) do not apply if the Karamuramu Baths Land is set aside under clause 11.19.2 on the day specified in subclause 11.19.1(b);

Karamuramu Baths Land vests in Te Pumautanga Trustees in fee simple

11.19.6 that if the Karamuramu Baths Land is set aside under clause 11.19.2 on the day specified in clause 11.19.1(a), then the chief executive of the Rotorua District Council may, at any time, give written notice to the Director-General:

(a) that the Karamuramu Baths Land is to vest in fee simple in the Te Pumautanga Trustees; and

(b) specifying the date of the vesting in the Te Pumautanga Trustees, which must be 5 Business Days after the date that the notice is given;

11.19.7 that clauses 11.19.8-11.19.14 take effect on the Vesting Date;

11.19.8 that the reservation of the Karamuramu Baths Land as an esplanade reserve is revoked;

11.19.9 that the special classification and acknowledgement applied by clause 11.19.3 to the Karamuramu Baths Land cease to apply;

11.19.10 that the fee simple estate in the Karamuramu Baths Land vests in the Te Pumautanga Trustees;

11.19.11 that the Karamuramu Baths Land vests in the Te Pumautanga Trustees free of any Encumbrance;

11.19.12 that clauses 10.30.4-10.30.6 and 10.30.26–10.30.30 apply to the Karamuramu Baths Land as if:

(a) the land were a Cultural Redress Property;

(b) references in clause 10.30.6 to the Settlement Date were references to the Vesting Date; and

(c) Authorised Person meant, for the purposes of those clauses, a person authorised by the Director-General;

11.19.13 that the Minister of Conservation must, as soon as practicable after the Vesting Date, notify in the *Gazette*:

(a) the revocation of the esplanade reserve status of the Karamuramu Baths Land;

(b) the cessation of the special classification of the Karamuramu Baths Land; and

(c) the vesting of the Karamuramu Baths Land in the Te Pumautanga Trustees;

11.19.14 that subclauses 11.19.13(a) and (b) do not apply if the Karamuramu Baths Land is set aside under clause 11.19.2 on the day specified in subclause 11.19.1(b);

11.19.15 that to avoid doubt, Part 4A of the Conservation Act does not apply to the vesting of the Karamuramu Baths Land under clause 11.19.10;

Easement may be granted in favour of Karamuramu Baths Land

11.19.16 that the Rotorua District Council may, at any time, after the Vesting Date, grant a right of way easement in favour of the Karamuramu Baths Land (the "**Karamuramu Baths Easement**") over any or all of the following:

(a) the Recreation Reserve at Hannah's Bay (including Otauira Swamp);

(b) the Esplanade Land; and/or

(c) the Airport Land (other than the Karamuramu Baths Land and the Esplanade Land);

11.19.17 that the terms of the Karamuramu Baths Easement are to be agreed upon by the Rotorua District Council and the Te Pumautanga Trustees;

11.19.18 that the Karamuramu Baths Easement, granted under clause 11.19.16, is enforceable in accordance with its terms, despite any other enactment or rule of law; and

11.19.19 that the permission of a council under section 348 of the Local Government Act is not required for laying out, forming, granting, or reserving a private road, private way or right of way under clauses 11.19.16-11.19.18.

NEW PLACE NAMES

11.20 The Settlement Legislation will provide that:

11.20.1 the existing place name Whakapoungakau is altered to the place name Rangitoto Peak, and a new place name, Whakapoungakau Range, is assigned, as provided in Part 8 of Schedule 3 as at the Settlement Date (the "**New Place Names**") and the New Place Names include any alteration to a New Place Name made under clause 11.20.7;

11.20.2 except where this clause 11.20 expressly provides otherwise the New Place Names are to be treated as altered or assigned (as the case may be):

(a) with the approval of the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa (continued by section 7 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act); and

(b) in accordance with the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act;

11.20.3 as soon as is reasonably practicable after the Settlement Date, the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa must publish a notice in the *Gazette* (the "**New Place Names Notice**") of:

(a) the New Place Names, together with their locations; and

(b) the fact that the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa may, in accordance with clause 11.20.7, alter those names or locations;

11.20.4 the New Place Names will take effect on the publication date of the *Gazette* containing the New Place Names Notice;

11.20.5 as soon as is reasonably practicable after the publication date of the *Gazette* containing the New Place Names Notice, the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa must ensure that a copy of the New Place Names Notice is published in accordance with section 21(2)(b) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act;

11.20.6 a copy of the *Gazette* containing the New Place Names Notice is conclusive evidence that the alteration or assignment was made on the date on which that *Gazette* was published;

11.20.7 despite the provisions of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act, the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa may, with the consent of the Te Pumautanga Trustees, alter any New Place Name or location altered or assigned under this clause 11.20; and

11.20.8 clauses 11.20.3 – 11.20.6 apply with any necessary modifications to any future alterations made under clause 11.20.7.

WAIKATO RIVER

11.21 The Crown recognises the particular interests of specific members of the Affiliate Te Arawa Iwi/Hapu in the Waikato River and its environs from Huka Falls to Pohaturoa (Atiamuri). The Crown undertakes to provide co-management arrangements for the specific Affiliate Te Arawa Iwi/Hapu in recognition of those interests. These co-management arrangements will be no less than those provided to Waikato-Tainui through their negotiations and will be provided to the specific Affiliate Te Arawa Iwi/Hapu either through amendment to the Settlement Legislation or through other arrangements as agreed by the Crown and Affiliate Te Arawa Iwi/Hapu.

11: OTHER CULTURAL REDRESS

PURPOSE OF CERTAIN RELATIONSHIP REDRESS

11.22 The Parties acknowledge that some of the Cultural Redress under Parts 9 and 11:

11.22.1 is to assist the Te Pumautanga Trustees to be consulted about, or provide input into, certain decision-making processes of relevant Departments; but

11.22.2 does not override or diminish:

(a) the requirements of legislation;

(b) the functions, duties, and powers of Ministers, officials and others under legislation; or

(c) the rights of the Affiliate Te Arawa Iwi/Hapu, or a Representative Entity, under legislation.

CROWN'S ABILITY TO PROVIDE OTHER RELATIONSHIP REDRESS

11.23 The Parties acknowledge that the provision of Cultural Redress (including the Protocols, Whenua Rahui, the Statutory Acknowledgement, the Geothermal Statutory Acknowledgement, Specially Classified Reserves and the Deed of Recognition) does not prevent the Crown from doing anything that is consistent with that Cultural Redress including:

11.23.1 providing the same or similar redress to a person other than the Affiliate Te Arawa Iwi/Hapu or the Te Pumautanga Trustees; or

11.23.2 disposing of land.

11.24 Clause 11.23 is not an acknowledgement by the Affiliate Te Arawa Iwi/Hapu or the Crown that any other iwi or group has interests in relation to land or an area to which any Cultural Redress relates.

WHAKAREWAREWA FOREST

11.25 The parties record that provisions in the Original Deed of Settlement providing for public right of way easements in parts of the Whakarewarewa Forest will be included in the CNI Settlement Deed.

12 FINANCIAL AND COMMERCIAL REDRESS

LICENSED LAND

Transfer of Licensed Land

12.1 The Crown must transfer the Licensed Land to the Te Pumautanga Trustees on the Settlement Date, and on the terms and conditions set out in Part 2 of Schedule 4.

Settlement Legislation relating to Licensed Land

12.2 The Settlement Legislation will provide that:

12.2.1 in relation to the Licensed Land:

(a) with effect from the Settlement Date, the Te Pumautanga Trustees will be a "Confirmed Beneficiary" under clause 11.1 of the trust deed of the Crown Forestry Rental Trust dated 30 April 1990 (that is, the Te Pumautanga Trustees will become entitled to Rental Proceeds (as defined in that trust deed) payable since the commencement of each Crown Forestry Licence) and all the provisions of the Crown Forestry Rental Trust shall apply accordingly;

(b) with effect from the Settlement Date, the Crown must give a notice described in section 17(4)(b) of the Crown Forest Assets Act even though the Waitangi Tribunal has not made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act for the return of the Licensed Land, and the notice will have effect as if such a recommendation had been made and had become final;

(c) with effect from the Settlement Date, the Te Pumautanga Trustees will be the Licensor under the relevant Crown Forestry Licence as if the Licensed Land had been returned to Maori ownership on the Settlement Date pursuant to section 36 of the Crown Forest Assets Act, but section 36(1)(b) of that Act does not apply to that return;

(d) clauses 12.2.1(a)-(c) apply even if:

(i) the transfer of the fee simple estate in the Licensed Land has not been registered by the Settlement Date; and

(ii) the processes under clause 17.4 of the Crown Forestry Licence have not been completed by the Settlement Date;

(e) with effect from the Settlement Date, clause 17.4 of the Crown Forestry Licence shall continue to apply:

(i) on the basis that the Crown remains responsible for obligations in that clause to be undertaken by the Crown; and

(ii) as if references to "the prospective Proprietors" were references to the Te Pumautanga Trustees; and

(f) clauses 12.2.1(b)-(e) do not override clause 12.2.1(a);

12.2.2 on the registration of the transfer of the fee simple estate in the Licensed Land to the Te Pumautanga Trustees, the land ceases to be Crown Forest Land but, even though the Licensed Land does not cease to be Crown Forest Land until that registration, neither the Crown nor any Court or Tribunal may do any thing, or omit to do any thing, which would otherwise be permitted by the Crown Forest Assets Act if to do that thing or omit to do that thing is inconsistent with this Part; and

12.2.3 the Crown may grant the easements referred to in clause 12.12 and that any such easement over any conservation area:

(a) is registrable under section 17ZA(2) of the Conservation Act, as if it were a deed to which that provision applied; and

(b) is enforceable in accordance with its terms despite Part 3B of the Conservation Act.

Provisions Relating to the Management of Crown Forestry Licence

12.3 From the Date of this Deed until the Settlement Date, the Crown must, subject to clause 12.4:

12.3.1 continue to manage the licensor's interest in the Licensed Land prudently and having particular regard to the commercial interests of the Te Pumautanga Trustees as licensor from the Settlement Date;

12.3.2 give the Te Pumautanga Trustees all material information (unless to do so would breach any obligation to keep that information confidential) relating to the obligation in clause 12.3.1, where practicable in sufficient time to enable the Te Pumautanga Trustees to make submissions to the Crown on its management of the licensor's interest in the Licensed Land; and

12.3.3 in complying with clause 12.3, have particular regard to any submissions made to it by the Te Pumautanga Trustees about the management of the licensor's interest in the Licensed Land and the conduct of Licence Fee Reviews.

12.4 From the date of this Deed until the Settlement Date, the Crown must:

12.4.1 conduct any Licence Fee Reviews in respect of the Licensed Land in a manner that does not prejudice the Te Pumautanga Trustees' position as a prospective proprietor under each Crown Forestry Licence; and

12.4.2 not agree a Licence Fee over the Licensed Land on terms less favourable than those agreed to by the Crown over the balance of the land under each Crown Forestry Licence.

12.5 Following the Settlement Date:

12.5.1 the Te Pumautanga Trustees shall conduct the Licence Fee Reviews insofar as they relate to the Licensed Land; and

12.5.2 the Crown shall conduct them in relation to the balance of the land under the Crown Forestry Licence retained in Crown ownership,

independently and in a manner that does not prejudice the other's position as licensor under the reviews.

12.6 From the Settlement Date, the Te Pumautanga Trustees shall be responsible for all the licensor's obligations under each Crown Forestry Licence insofar as they relate to the Licensed Land (other than obligations of the Crown under clause 17.4 of the Crown Forestry Licence), including, without limitation, the obligation to pay any overpayment to the Licensee (and interest on it) on completion of a Licence Fee Review in respect of a period on or after the Settlement Date.

Apportionment of Licence Fees

12.7 For the purposes of:

12.7.1 clauses 12.3-12.6 of this Deed; and

12.7.2 clause 4.1 of a Crown Forestry Licence,

the licence fee attributable to the Licensed Land until completion of the process referred to in clause 12.14 is:

$A \times (B \div C)$

where:

A = The licence fee for the Crown Forestry Licence;

B = The area of the Licensed Land; and

C = The area of all the land covered by the Crown Forestry Licence.

12.8 The Settlement Legislation will make provision to give effect to clause 12.7.2.

Easements to be granted

12.9 On registration of the transfer of the Licensed Land, or on completion of any necessary survey if later, the Te Pumautanga Trustees shall grant to the Crown right of way easements on the terms and conditions set out as "Type A" in Part 3 of Schedule 4 (subject to any variations in form necessary only to ensure their registration) to give effect to those descriptions of easements in the third column of Part 1 of Schedule 4 in respect of which the fourth column refers to this clause 12.9.

12.10 At any time until the registration of an easement to be granted under clause 12.9, the Crown may give Notice to the Te Pumautanga Trustees that the easement is to be on the terms and conditions set out as "Type B" in Part 3 of Schedule 4 (subject to any variations in form necessary only to ensure its registration), in which case clause 12.9 will apply to the easement as if "Type A" were replaced by "Type B".

12.11 On registration of the transfer of the Licensed Land or, on completion of any necessary survey if later, the Crown shall grant to the Te Pumautanga Trustees right of way easements on the terms and conditions set out as Type "C" in Part 3 of Schedule 4 over land held under the Conservation Act to give effect to those descriptions of easements in the third column of Part 1 of Schedule 4 in respect of which the fourth column refers to this clause 12.11.

12.12 The Crown shall bear its own costs and the reasonable costs of the Te Pumautanga Trustees incurred in complying with clauses 12.9-12.11.

12.13 From the Settlement Date until grant of the easements under clauses 12.9-12.11, the Te Pumautanga Trustees and the Crown shall be bound as if the easements had been granted on the Settlement Date.

Rights arising out of subdivided licence

12.14 The Crown shall carry out and complete the processes set out in clause 17.4 of a Crown Forestry Licence affecting the Licensed Land as soon as practicable and shall take reasonable steps to ensure that the processes are completed as soon as possible after the Settlement Date. However, the Te Pumautanga Trustees acknowledge that the Crown is only able to carry out the processes before the Settlement Date to the extent that the Licensee voluntarily takes part in them.

12.15 The Crown and the Te Pumautanga Trustees agree that, as part of the processes described in clause 12.14, they will, at the cost of the Crown, procure the grant of permanent right of way easements along those roads that are on or adjacent to the boundary between the Licensed Land and the balance of the land covered by the Crown Forestry Licence, the easements applying from the time that the road ceases to be subject to a Crown Forestry Licence, unless the Licensee agrees to an earlier application. The agreement in this clause does not affect the operation of clause 17.4 of the Crown Forestry Licence in relation to other rights contemplated by that clause.

12.16 The Affiliate Te Arawa Iwi/Hapu acknowledge that:

12.16.1 the process referred to in clause 12.14 will not be completed by the Settlement Date and that the Licensed Land will be subject to, and have the benefit of, matters arising out of the process; and

12.16.2 the Te Pumautanga Trustees shall execute all documents and do all other things required of it as owner of the Licensed Land to give effect to the matters agreed or determined under that process.

DEFERRED PURCHASE

Notification of interest

12.17 The Te Pumautanga Trustees may at any time until two months after the Settlement Date give Notice to the relevant Land Holding Agency that it is interested in purchasing a Deferred Selection Property described in Part 1 of Schedule 5.

Valuation and election to purchase

12.18 If the Te Pumautanga Trustees give Notice in accordance with clause 12.17 that they are interested in purchasing a Deferred Selection Property:

12.18.1 the Transfer Value of the Deferred Selection Property must be determined or agreed in accordance with the Valuation Process; and

12.18.2 the Te Pumautanga Trustees must Notify the Land Holding Agency whether or not they elect to purchase the Deferred Selection Property within 15 Business Days of all the Transfer Values for the Deferred Selection Properties included in the relevant Notice given under clause 12.17 being determined or agreed in accordance with the Valuation Process.

12.19 The Te Pumautanga Trustees and the Crown must use reasonable endeavours:

12.19.1 to ensure the Valuation Process operates in the manner, and within the timeframes, specified in Parts 3-4 of Schedule 5; and

12.19.2 if the Valuation Process is delayed, to minimise the delay.

Agreement for sale and purchase

12.20 If the Te Pumautanga Trustees give Notice in accordance with clause 12.18.2 that they elect to purchase a Deferred Selection Property the Te Pumautanga Trustees and the Crown shall be deemed to have entered into an agreement for the sale and purchase of the Deferred Selection Property:

12.20.1 at the Transfer Value determined or agreed in accordance with the Valuation Process; and

12.20.2 on the terms and conditions set out in Part 5 of Schedule 5.

Termination of obligations

12.21 All obligations of the Crown to the Te Pumautanga Trustees under this Deed in relation to a Deferred Selection Property immediately cease if:

12.21.1 the Te Pumautanga Trustees do not give Notice in accordance with clause 12.17 that they are interested in purchasing that Deferred Selection Property;

12.21.2 after giving Notice in accordance with clause 12.17 that they are interested in purchasing the Deferred Selection Property, the Te Pumautanga Trustees:

(a) do not Notify the Land Holding Agency in accordance with clause 12.18.2 whether or not they elect to purchase the Deferred Selection Property; or

(b) Notify the Land Holding Agency under clause 12.18.2 that they do not elect to purchase the Deferred Selection Property; and

12.21.3 at any time before an agreement for sale and purchase of that Deferred Selection Property is constituted under clause 12.20, the Te Pumautanga Trustees Notify the Land Holding Agency that they are not interested in purchasing the Deferred Selection Property.

Time limits

12.22 Time is of the essence for the time limits imposed on the Crown and the Te Pumautanga Trustees under clauses 12.17-12.21 and Parts 3 and 4 of Schedule 5.

Acknowledgement

12.23 To avoid doubt, the Parties acknowledge a Notice under clause 12.17 may be given:

12.23.1 on one date for a Deferred Selection Property and at a later date (within the prescribed time limits) for other Deferred Selection Properties; or

12.23.2 on the same date in relation to all Deferred Selection Properties.

Leasing back the Leaseback Properties

12.24 The Te Pumautanga Trustees must lease to the Land Holding Agency the Leaseback Properties after their transfer to the Te Pumautanga Trustees.

12.25 The Te Pumautanga Trustees and the Land Holding Agency must, by or on the Actual Deferred Settlement Date, sign a memorandum of lease substantially in the form set out in Part 6 of Schedule 5 for each Leaseback Property at the Commencement Rent and providing that the commencement date for that lease is the Actual Deferred Settlement Date. Where the Land Holding Agency is the Ministry of Social

Development, Schedules A and B set out in the relevant part of Part 6 of Schedule 5 will be the schedules forming part of lease instrument 2002/3048.

MAF Forest Land

12.26 The Settlement Legislation will provide if the Te Pumautanga Trustees elect to purchase the MAF Forest Land:

12.26.1 in this clause **"Crown forestry assets"** has the same meaning as in section 2(1) of the Crown Forest Assets Act;

12.26.2 on the Actual Deferred Settlement Date the MAF Forest Land ceases to be Crown forest land and any assets associated with that land cease to be Crown forestry assets; and

12.26.3 clause 12.26.2 lapses if the agreement in respect of the MAF Forest Land constituted under clause 12.20 is cancelled under paragraph 11 of Part 5 of Schedule 5.

12.27 The Settlement Legislation will provide, if the Te Pumautanga Trustees purchase the MAF Forest Land:

12.27.1 in this clause "**MAF marginal strip**" means a marginal strip within the MAF Forest Land;

12.27.2 the lessee of the MAF Forest Land is to be treated as if it had been appointed, under section 24H(1) of the Conservation Act, to be the manager of each MAF marginal strip; and

12.27.3 the lessee may:

(a) exercise all of the powers of a manager under section 24H of the Conservation Act; and

(b) in addition to the powers referred to in clause 12.27.3(a), do all or any of the following:

(i) establish, develop, grow, manage and maintain a forest on a MAF marginal strip as if the MAF marginal strip were subject to the lease of the MAF Forest Land; and

(ii) exercise, in respect of the MAF marginal strip, all rights it has under the lease of the MAF Forest Land;

12.28 The MAF Forest Land will be transferred to the Te Pumautanga Trustees subject to a registered lease in the same form as the memorandum of lease between Her Majesty the Queen and NZ Forest Products Limited dated 28 March 1987 and registered as Lease No. H.773889 but in respect of the MAF Forest Land only and with references to "the Minister" being changed to references to the "Lessor".

Definitions

12.29 Unless the context otherwise requires, the definitions in Part 2 of Schedule 5 apply in:

12.29.1 clauses 12.17-12.28; and

12.29.2 Schedule 5.

SETTLEMENT LEGISLATION FOR COMMERCIAL REDRESS PROPERTIES

12.30 The Settlement Legislation must:

12.30.1 authorise the Crown to do the following:

(a) transfer the fee simple estate in a Commercial Redress Property to the Te Pumautanga Trustees; and

(b) sign a transfer instrument or other document, or do any other thing, to effect a Settlement Transfer;

12.30.2 provide that, in exercising the powers under clause 12.30.1, the Crown is not required to comply with any other enactment that would regulate or apply to a Settlement Transfer;

12.30.3 provide that:

(a) to the extent that a Commercial Redress Property is not all of the land contained in a computer freehold register, or there is no computer freehold register for all or part of the property, the Registrar-General of Land must, on written application by an Authorised Person, and after completion of any necessary survey, create one computer freehold register in the name of the Crown subject to, and together with, any Relevant Encumbrances that are registered, notified or notifiable and are described in that written application;

(b) a computer freehold register created in accordance with clause 12.30.3(a) must be created in the name of the Crown without any statement of purpose;

(c) the Authorised Person may grant a covenant to arrange for the later creation of a computer freehold register or registers for a Commercial Redress Property that is to be transferred to the Te Pumautanga Trustees; and

(d) despite the Land Transfer Act:

(i) the Authorised Person may request the Registrar-General of Land to register a covenant referred to in clause 12.30.3(c) under the Land Transfer Act by creating a computer interest register; and

(ii) the Registrar-General of Land must register the covenant in accordance with clause 12.30.3(d)(i);

12.30.4 provide that:

(a) section 11 or Part 10 of the Resource Management Act does not apply to:

(i) a Settlement Transfer; or

(ii) a matter incidental to, or required for the purpose of, a Settlement Transfer;

(b) a Settlement Transfer:

(i) does not:

(I) limit sections 10 or 11 of the Crown Minerals Act;

(II) affect other rights to sub-surface minerals; or

(III) limit the Crown's or a Local Authority's rights and obligations in respect of geothermal resources under the Resource Management Act or any other relevant law;

(ii) is a disposition for the purposes of Part 4A of the Conservation Act, but that sections 24(2A), 24A and 24AA of that Act do not apply to the disposition; and

(c) the permission of a council under section 348 of the Local Government Act is not required for laying out, forming, granting or reserving a private road, private way or right of way that may be required to fulfil the terms of this Deed in relation to a Settlement Transfer; and

12.30.5 include such other provisions as are necessary or desirable to give effect to this Part.

ACCESS TO WAHI TAPU SITES

Acknowledgements

12.31 The Crown and the Affiliate Te Arawa Iwi/Hapu acknowledge that Maori other than the Affiliate Te Arawa Iwi/Hapu may also have associations with the Licensed Land and MAF Forest Land, and clauses 12.32 and 12.33 are included to give effect to that acknowledgement.

Definitions

12.32 For the purposes of clause 12.33, "**Protected Site**" means any area of land situated in Licensed Land or the MAF Forest Land that:

12.32.1 becomes a registered place within the meaning of the Historic Places Act; and

12.32.2 is wahi tapu or a wahi tapu area within the meaning of the Historic Places Act.

Settlement Legislation

12.33 The Settlement Legislation will provide:

12.33.1 that the owner of land on which a Protected Site is situated and any person holding an interest in, or right of occupancy to, that land must allow access across the land to each Protected Site to Maori for whom the Protected Site is of special spiritual, cultural or historical significance;

12.33.2 that the access right may be exercised:

(a) by vehicles over any reasonably convenient routes in existence from time to time and specified by the owner; and

(b) by foot over reasonably convenient routes specified by the owner;

12.33.3 that the access right is subject to the following conditions:

(a) reasonable notice of intention to exercise the right must be given in writing to the owner;

(b) the right must be exercised at reasonable times and is only permitted during hours of daylight; and

(c) such conditions made by the owner relating to the time, location and manner of access as are reasonably required for the safety of people or for the protection of land, improvements, flora and fauna, plant and equipment and livestock or for operational reasons;

12.33.4 that the Registrar-General of Land must, on receipt of a written application from an Authorised Person, make a notation on the computer freehold registers for the Licensed Land or the MAF Forest Land that the land is subject to clause 12.37;

12.33.5 that the Authorised Person must submit the written application under clause 12.33.4 in respect of

(a) in the case of the Licensed Land, as soon as reasonably practicable after the Settlement Date; and

(b) in the case of the MAF Forest Land, as soon as reasonably practicable after the Actual Deferred Settlement Date; but

(c) in either case, where a computer freehold register has not been created by the Settlement Date or the Actual Deferred Settlement Date, as the case may be, as soon as practicable after the computer freehold register has been created;

12.33.6 that this clause 12.33 is subject to, and does not override, the terms of a Crown Forestry Licence or existing registered lease of the MAF Forest Land, except where the Licensee or lessee has agreed to an exercise of the access right;

12.33.7 that an amendment to a Crown Forestry Licence or to a registered lease of the MAF Forest Land will be void and of no effect to the extent that the amendment would have, but for this clause:

(a) delayed the date from which access under this clause 12.33 would otherwise have been available; or

(b) otherwise adversely affected the rights created under this clause 12.33;

12.33.8 that in relation to the MAF Forest Land:

(a) this clause 12.33 applies only if the Te Pumautanga Trustees select the MAF Forest Land under clause 12.18.2; and

(b) this clause 12.33 lapses if the agreement constituted under clause 12.20 is cancelled.

PUBLIC RIGHT OF WAY TO LICENSED LAND

12.34 The Parties agree that public rights of way over the Licensed Land are to be provided for in the same manner that they are provided for in respect of the Central North Island Forests under the CNI Settlement Deed and CNI Legislation.

12.35 Accordingly, the Parties agree that:

12.35.1 the Settlement Legislation will contain provisions to give effect to clause 12.34; and

12.35.2 they must enter into a deed to amend as soon as reasonably practicable after the date of the CNI Settlement Deed if that is necessary to give effect to clause 12.34.

13 TAX

STATEMENT OF AGREED TAX PRINCIPLES

13.1 The Parties agree that:

13.1.1 the Payment, credit or Transfer of Redress by the Crown to the Te Pumautanga Trustees is made as redress to settle the Historical Claims and is not intended to be, or to give rise to:

(a) a taxable supply for GST purposes; nor

(b) Assessable Income for income tax purposes; nor

(c) a dutiable gift for Gift Duty purposes;

13.1.2 neither the Te Pumautanga Trustees, nor any other person associated with the Te Pumautanga Trustees, will claim an input credit (for GST purposes) or a deduction (for income tax purposes) with reference to the Payment, credit or Transfer by the Crown of any Redress;

13.1.3 the Transfer of any Deferred Selection Property by the Crown in accordance with this Deed, is intended to be a taxable supply for GST purposes;

13.1.4 any interest paid by the Crown under any provision of this Deed is either Assessable Income or exempt income, for income tax purposes, depending on the recipient's status for income tax purposes; and, furthermore, the receipt or Payment of such interest is not subject to Indemnification for Tax by the Crown under this Deed;

13.1.5 any amounts payable to or received by the Te Pumautanga Trustees:

(a) under or in respect of a Crown Forestry Licence or from the Crown Forestry Rental Trust;

(b) under any lease that is provided for or recorded in this Deed; or

(c) under clause 10.7

are to be treated in accordance with ordinary taxation principles; and, furthermore, the receipt or Payment of any such amounts is not subject to Indemnification for Tax by the Crown under this Deed;

13.1.6 any Indemnity Payment by the Crown to the Te Pumautanga Trustees is not intended to be, or to give rise to:

(a) a taxable supply for GST purposes; nor

(b) Assessable Income for income tax purposes; and

13.1.7 the Pumautanga Trust (at all applicable times) is or will be a registered person for GST purposes (except if the Pumautanga Trust is not carrying on a taxable activity as that term is defined by the Goods and Services Tax Act).

ACKNOWLEDGEMENTS

13.2 For the avoidance of doubt, the Parties acknowledge:

13.2.1 that the Tax Indemnities given by the Crown in this Part, and the principles and acknowledgements in clauses 13.1 and 13.2 respectively:

(a) apply only to the receipt by the Te Pumautanga Trustees of Redress and Indemnity Payments; and

(b) do not apply to any subsequent dealings, distributions, Payments, uses or applications by the Te Pumautanga Trustees, or any other persons, with or of Redress or Indemnity Payments;

13.2.2 each obligation to be performed by the Crown in respect of Redress under this Deed is performed as redress and without charge to, or consideration to be provided by, the Te Pumautanga Trustees or any other person, provided that this clause 13.2.2 does not extend to the obligations to be performed by the Crown in respect of Deferred Selection Properties, and nor does it affect the obligation of the Te Pumautanga Trustees to pay the purchase price relating to a Deferred Selection Property under an agreement for the sale and purchase of the Deferred Selection Property;

13.2.3 without limiting clause 13.2.2, no covenant, easement, lease, licence or other right or obligation which this Deed records that does or shall apply to or in respect of any item of Redress, shall be treated as consideration (for GST or any other purpose), for the Transfer of such Redress by the Crown to the Te Pumautanga Trustees;

13.2.4 without limiting clause 13.2.2, the Payment of amounts, and the bearing of costs from time to time, by the Te Pumautanga Trustees in relation to any item of Redress (including, without limitation:

(a) rates, charges and fees;

(b) the apportionment of outgoings and incomings; and

(c) maintenance, repair or upgrade costs and rubbish, pest and weed control costs);-

is not intended to be consideration for the Transfer of that item of Redress for GST or any other purpose; and, furthermore (and without limiting clause 13.2.1), the Payment of such amounts and the bearing of such costs is not subject to Indemnification for Tax by the Crown under this Deed.

ACT CONSISTENT WITH PRINCIPLES

13.3 Neither the Te Pumautanga Trustees (nor any person associated with the Te Pumautanga Trustees) nor the Crown will act in a manner that is inconsistent with the principles or acknowledgements set out or reflected in clauses 13.1 and 13.2 respectively.

MATTERS NOT TO BE IMPLIED FROM PRINCIPLES

13.4 Nothing in clause 13.1 is intended to suggest or imply:

13.4.1 that the Payment, credit or Transfer of Redress, or an Indemnity Payment, by the Crown to the Te Pumautanga Trustees is or will be chargeable with GST;

13.4.2 if the Pumautanga Trust is a charitable trust or other charitable entity, that:

(a) Payments, properties, interests, rights or assets the Te Pumautanga Trustees receive or derive from the Crown under this Deed are received or derived other than exclusively for charitable purposes; or

(b) the Te Pumautanga Trustees derive or receive amounts, for income tax purposes, other than as exempt income; or

13.4.3 that Gift Duty should or can be imposed on any Payment to, or transaction with, the Te Pumautanga Trustees under this Deed.

INDEMNITY FOR GST IN RESPECT OF REDRESS AND INDEMNITY PAYMENTS

Redress provided exclusive of GST

13.5 If and to the extent that:

13.5.1 the Payment, credit or Transfer of Redress; or

13.5.2 an Indemnity Payment,

by the Crown to the Te Pumautanga Trustees is chargeable with GST, the Crown must, in addition to the Payment, credit or Transfer of Redress or the Indemnity Payment, pay the Te Pumautanga Trustees the amount of GST payable in respect of the Redress or the Indemnity Payment.

Indemnification

13.6 If and to the extent that:

13.6.1 the Payment, credit or Transfer of Redress; or

13.6.2 an Indemnity Payment,

by the Crown to the Te Pumautanga Trustees is chargeable with GST, and the Crown does not, for any reason, pay the Te Pumautanga Trustees an additional amount equal to that GST at the time the Redress is Paid, credited or Transferred and/or the Indemnity Payment is made, the Crown will, on demand in writing, Indemnify the Te Pumautanga Trustees for any GST that is or may be payable by the Te Pumautanga Trustees or for which the Te Pumautanga Trustees are liable in respect of:

13.6.3 the Payment, credit or Transfer of Redress; and/or

13.6.4 the Indemnity Payment.

INDEMNITY FOR INCOME TAX IN RESPECT OF REDRESS AND INDEMNITY PAYMENTS

13.7 The Crown agrees to Indemnify the Te Pumautanga Trustees, on demand in writing, against any Income Tax that the Te Pumautanga Trustees are liable to pay if and to the extent that receipt of:

13.7.1 the Payment, credit or Transfer of Redress; or

13.7.2 an Indemnity Payment,

from the Crown is treated as, or as giving rise to, Assessable Income of the Te Pumautanga Trustees for income tax purposes.

INDEMNITY FOR GIFT DUTY IN RESPECT OF CULTURAL REDRESS, LICENSED LAND AND DEFERRED SELECTION PROPERTY

13.8 The Crown agrees to pay, and to Indemnify the Te Pumautanga Trustees against any liability that the Te Pumautanga Trustees have in respect of, any Gift Duty assessed as payable by the Commissioner of Inland Revenue in respect of the Payment, credit or Transfer by the Crown to the Te Pumautanga Trustees of:

13.8.1 any Cultural Redress; or

13.8.2 any Licensed Land; or

13.8.3 the right to purchase any Deferred Selection Property.

DEMANDS FOR INDEMNIFICATION

Notification of Indemnification event

13.9 Each of:

13.9.1 the Te Pumautanga Trustees; and

13.9.2 the Crown,

agrees to Notify the other as soon as reasonably possible after becoming aware of an event or occurrence in respect of which the Te Pumautanga Trustees are or may be entitled to be Indemnified by the Crown for or in respect of Tax under this Part.

How demands are made

13.10 Demands for Indemnification for Tax by the Te Pumautanga Trustees in accordance with this Part must be made by the Te Pumautanga Trustees in accordance with the provisions of clause 15.12 and may be made at any time, and from time to time, after the Settlement Date.

When demands are to be made

13.11 Except:

13.11.1 with the written agreement of the Crown; or

13.11.2 if this Deed provides otherwise,

no demand for Payment by way of Indemnification for Tax under this Part may be made by the Te Pumautanga Trustees more than 20 Business Days before the due date for Payment by the Te Pumautanga Trustees of the applicable Tax (whether such date is specified in an assessment or is a date for the Payment of provisional tax or otherwise).

Evidence to accompany demand

13.12 Without limiting clause 13.9, each demand for Indemnification by the Te Pumautanga Trustees under this Part must be accompanied by:

13.12.1 appropriate evidence (which may be notice of proposed adjustment, assessment, or any other evidence which is reasonably satisfactory to the Crown) setting out with reasonable detail the amount of the loss, cost, expense, liability or Tax that the Te Pumautanga Trustees claim to have suffered or incurred or be liable to pay, and in respect of which Indemnification is sought from the Crown under this Deed; and

13.12.2 where the demand is for Indemnification for GST, if the Crown requires, an appropriate GST tax invoice.

Repayment of amount on account of Tax

13.13 If Payment is made by the Crown on account of Tax to the Te Pumautanga Trustees or the Commissioner of Inland Revenue (for the account of the Te Pumautanga Trustees) and it is subsequently determined or held that no such Tax (or an amount of Tax that is less than the Payment which the Crown made on account of Tax) is or was payable or properly assessed, to the extent that the Te Pumautanga Trustees:

13.13.1 have retained the Payment made by the Crown (which, for the avoidance of doubt, includes any situation where the Te Pumautanga Trustees have not transferred the Payment to the Inland Revenue Department but have instead paid, applied or transferred the whole or any part of the Payment to any other person or persons);

13.13.2 have been refunded the amount of that Payment by the Inland Revenue Department; or

13.13.3 have had the amount of that Payment credited or applied to their account with the Inland Revenue Department,

the Te Pumautanga Trustees must repay the applicable amount to the Crown free of any set-off or counterclaim.

Payment of amount on account of Tax

13.14 The Te Pumautanga Trustees must pay to the Inland Revenue Department any Payment made by the Crown to the Te Pumautanga Trustees on account of Tax, on the later of:

13.14.1 the "due date" for Payment of that amount to the Inland Revenue Department under the applicable Tax Legislation; and

13.14.2 the next Business Day following receipt by the Te Pumautanga Trustees of that Payment from the Crown.

Payment of costs

13.15 The Crown will Indemnify the Te Pumautanga Trustees against any reasonable costs incurred by the Te Pumautanga Trustees for actions undertaken by the Te Pumautanga Trustees, at the Crown's direction, in connection with:

13.15.1 any demand for Indemnification of the Te Pumautanga Trustees under or for the purposes of this Part; and

13.15.2 any steps or actions taken by the Te Pumautanga Trustees in accordance with the Crown's requirements under clause 13.17.

DIRECT PAYMENT OF TAX: CONTROL OF DISPUTES

13.16 Where any liability arises to the Crown under this Part, the following provisions shall also apply:

13.16.1 if the Crown so requires and Notifies the Te Pumautanga Trustees of that requirement, the Crown may, instead of Payment in requisite amount on account of Tax, pay that amount to the Commissioner of Inland Revenue (such payment to be effected on behalf, and for the account, of the Te Pumautanga Trustees);

13.16.2 subject to the Te Pumautanga Trustees being Indemnified to their reasonable satisfaction against any reasonable cost, loss, expense or liability or any Tax which they may suffer, incur or be liable to pay, the Crown shall have the right, by Notice to the Te Pumautanga Trustees, to require the Te Pumautanga Trustees to:

(a) take into account any right permitted by any relevant law to defer the payment of any Tax; and/or

(b) take all steps the Crown may specify to respond to and/or contest any notice, notice of proposed adjustment or assessment for Tax, where expert legal tax advice indicates that it is reasonable to do so; and

13.16.3 the Crown reserves the right:

(a) to nominate and instruct counsel on behalf of the Te Pumautanga Trustees whenever it exercises its rights under clause 13.16.2; and

(b) to recover from the Commissioner of Inland Revenue the amount of any Tax paid and subsequently held to be refundable.

RULINGS, APPLICATIONS

13.17 If the Crown requires, the Te Pumautanga Trustees will consult, and/or collaborate, with the Crown in the Crown's preparation (for the Crown, the Te Pumautanga Trustees and/or any other person) of an application for a non-binding or binding ruling from the Commissioner of Inland Revenue with respect to any part of the arrangements relating to the Payment, credit or Transfer of Redress.

DEFINITIONS AND INTERPRETATION

13.18 In this Part, unless the context requires otherwise:

Assessable Income has the meaning given to that term in section YA 1 of the Income Tax Act;

13: TAX

Gift Duty means gift duty imposed under the Estate and Gift Duties Act and includes any interest or penalty payable in respect of, or on account of, the late or non-Payment of, any Gift Duty;

Income Tax means income tax imposed under the Income Tax Act and includes any interest or penalty payable in respect of, or on account of, the late or non-Payment of, any Income Tax;

Indemnity Payment means any indemnity payment made by the Crown under or for the purposes of this Part, and **Indemnify, Indemnification** and **Indemnity** have a corresponding meaning;

Payment extends to the Transfer or making available of cash amounts as well as to the Transfer of non cash amounts (such as land);

references to the **Payment, credit, Transfer** or **receipt** of the Redress (or any equivalent wording) include a reference to the Payment, credit, Transfer or receipt of any part (or the applicable part) of the Redress; and

Transfer includes recognising, creating, vesting, granting, licensing, leasing, or any other means by which the relevant properties, interests, rights or assets are disposed of or made available, or recognised as being available, to the Te Pumautanga Trustees.

14 CONDITIONS AND TERMINATION

THIS DEED AND THE SETTLEMENT ARE CONDITIONAL

14.1 This Deed, and the Settlement, are conditional on the Settlement Legislation coming into force.

DEED WITHOUT PREJUDICE UNTIL UNCONDITIONAL

14.2 This Deed, until it becomes unconditional:

14.2.1 is entered into on a "without prejudice" basis; and

14.2.2 in particular, may not be used as evidence in any proceedings before, or presented to, any Court, the Waitangi Tribunal, or any other judicial body or tribunal (except for proceedings concerning the interpretation and/or enforcement of this Deed).

SOME PROVISIONS NOT CONDITIONAL

14.3 Clauses 4, 14 and 15.1-15.9 of this Deed are (despite clause 14.1) binding from the Date of this Deed.

TERMINATION OF THIS DEED

14.4 A Party may terminate this Deed, by Notice to the other Party, if clause 14.1 is not satisfied within 30 months after the Date of this Deed.

Effect of notice of termination

14.5 If this Deed is terminated:

14.5.1 this Deed, and the Settlement, will be at an end; and

14.5.2 neither Party will have any rights or obligations under this Deed,

except that the rights and obligations of the Parties under clause 14.2 shall continue.

15 MISCELLANEOUS

VALUE OF SETTLEMENT

15.1 In the interests of transparency, the following is a summary of the Crown's estimate of the value ascribed by the Crown of the commercial and cultural components of Redress:

15.1.1 $34,600,000, being the agreed current value of the Te Pumautanga Trustees' expected allocation under the CNI Settlement Deed;

15.1.2 $4,000,000, being the Redress Value for the Licensed Land;

15.1.3 $5,500,000 being the value of the cultural redress under the Original Deed of Settlement;

15.1.4 $5,000,000, being the agreed market value of the Geothermal Assets; and

15.1.5 $3,800,000, being the Crown's value for the Schools and forgiveness of the Whakarewarewa Village Debt.

INTEREST

15.2 The Crown will pay interest on:

15.2.1 the principal amount of $36,000,000 (being the agreed value of the settlement under the Original Deed of Settlement) from (and including) 30 September 2006 until (but excluding) the Date of this Deed; and

15.2.2 the principal amount of $38,600,000, being the aggregate of the agreed current value of the Te Pumautanga Trustees' expected allocation under the CNI Settlement Deed and the Redress Value for the Licensed Land, from (and including) the Date of this Deed until (but excluding) the Settlement Date.

15.3 Interest under clause 15.2 will:

15.3.1 be at the Official Cash Rate calculated on a daily basis;

15.3.2 not compound;

15.3.3 be paid to the Te Pumautanga Trustees on the Settlement Date; and

15.3.4 be subject to any Tax payable (and may be paid after any Tax required to be withheld) under any Tax Legislation.

15.4 In clause 15.3, "**Official Cash Rate**" means the Official Cash Rate set by the Reserve Bank of New Zealand from time to time, being an interest rate at which the Reserve Bank loans overnight cash to trading banks.

ADVANCE PAYMENTS AGAINST ACCRUED INTEREST BEFORE THE SETTLEMENT DATE

15.5 In this Part, unless the context requires otherwise:

"**Advance Payment**" means each amount paid or to be paid under clause 15.6;

"**Entitlement Date**", in relation to an Advance Payment, means the date specified in clause 15.5 after which that payment becomes payable; and

"**Introduction Date**" means the date on which the Settlement Legislation is introduced into the House of Representatives.

15.6 Amounts, up to the maximum amounts specified in this clause have been paid or are payable by the Crown as an advance against accrued interest under clause 15.2, namely:

15.6.1 $1,600,000 has been paid to either Nga Kaihautu o Te Arawa Executive Council or to the Te Pumautanga Trustees, in accordance with the provisions of the Original Deed of Settlement; and

15.6.2 the following amounts will be paid to the Te Pumautanga Trustees after the following dates:

(a) $200,000, upon this Deed being signed by the Parties;

(b) $300,000, 50 days after the Introduction Date;

(c) $200,000, 81 days after the Introduction Date;

(d) $300,000, 111 days after the Introduction Date;

(e) $200,000, 141 days after the Introduction Date;

(f) $300,000, 171 days after the Introduction Date; and

(g) $300,000, on the coming into force of the Settlement Legislation.

15.7 Payment of an Advance Payment under clause 15.6.2 is subject to:

15.7.1 the Te Pumautanga Trustees Notifying the Crown before the Entitlement Date:

(a) that it requests an Advance Payment; and

(b) of the amount of the Advance Payment requested (being not more than the relevant maximum amount specified by clause 15.6.2);

15.7.2 interest having accrued by the date for payment specified in a Notice under clause 15.7.1 of an amount that is at least equal to the total of:

(a) the Advance Payment requested by the Recipient; and

(b) any other Advance Payments that have been paid; and

15.7.3 the Crown being satisfied that the Te Pumautanga Trustees:

(a) have or will advise the Affiliate Te Arawa Iwi/Hapu that they have requested, or will request, payment of that Advance Payment and of their intended use; and

(b) have complied, and will comply, with its reporting obligations to the Affiliate Te Arawa Iwi/Hapu.

15.8 Subject to clause 15.7, the Crown will make payment of an Advance Payment to the Te Pumautanga Trustees where it receives Notification from the Te Pumautanga Trustees under clause 15.7.1:

15.8.1 before the relevant Entitlement Date, as soon as it reasonably can after that Entitlement Date; or

15.8.2 after the relevant Entitlement Date, as soon as it reasonably can after receiving that Notification.

15.9 If this Deed does not become unconditional under clause 14.1:

15.9.1 the Crown's obligation to make Advance Payments ceases;

15.9.2 the Crown may take any Advance Payments into account when considering whether to pay interest, or the amount of interest payable, in relation to any future settlement of the Historical Claims; and

15.9.3 the Crown may advise any Court, the Waitangi Tribunal, or any other judicial body or tribunal of the amount of the Advance Payments made.

TAX

15.10 Interest under clause 15.2, and Advance Payments under clause 15.6, are subject to Tax payable (and may be made after Tax required to be withheld) under Tax Legislation.

RULE AGAINST PERPETUITIES

15.11 The Settlement Legislation must provide that:

15.11.1 neither the rule against perpetuities, nor any provisions of the Perpetuities Act:

(a) prescribes or restricts the period during which:

(i) the Pumautanga Trust may exist in law; or

(ii) the Te Pumautanga Trustees, in their capacity as trustees, may hold or deal with property (including income from property); or

(b) applies to a document entered into to give effect to this Deed if the application of that rule, or the provisions of that Act, would otherwise make the document, or a right conferred by the document, invalid or ineffective;

15.11.2 if, however, the Pumautanga Trust is or becomes a charitable trust, the application (if any) of the rule against perpetuities or of any relevant provisions of the Perpetuities Act must be determined under the general law; and

15.11.3 if the Pikiao Entity is established as a trust, clause 15.11 applies (with all necessary modifications) to that trust and to the trustees of that trust.

NOTICES

15.12 The provisions of this clause apply to Notices under this Deed, except that Notices to be given to a Land Holding Agency in relation to a Deferred Selection Property are to be given to the address provided in paragraph 1.2 of Part 2 of Schedule 5:

Notices to be signed

15.12.1 the Party giving a Notice must sign it;

Notices to be in writing

15.12.2 a Notice to a Party must be in writing addressed to that Party at that Party's address or facsimile number;

Addresses for notice

15.12.3 until any other address or facsimile number of a Party is given by Notice to the other Parties, they are as follows:

CROWN: AFFILIATE TE ARAWA IWI/HAPU:

C/- The Solicitor-General
Crown Law Office
Level 10
Unisys House
56 The Terrace
(PO Box 2858)
WELLINGTON

Facsimile No: 04 473 3482

Trustees of
Te Pumautanga o Te Arawa Trust
1 Peace Street
(PO Box 6084)
ROTORUA

Facsimile No: 07 347 4654

TE PUMAUTANGA TRUSTEES

Trustees of
Te Pumautanga o Te Arawa Trust
1 Peace Street
(PO Box 6084)
ROTORUA

Delivery

15.12.4 delivery of a Notice may be made:

(a) by hand;

(b) by post with pre-paid postage; or

(c) by facsimile;

Timing of delivery

15.12.5 a Notice delivered:

(a) by hand will be treated as having been received at the time of delivery;

(b) by pre-paid post will be treated as having been received on the second day after posting; or

(c) by facsimile will be treated as having been received on the day of transmission; and

Deemed date of delivery

15.12.6 if a Notice is treated as having been received on a day that is not a Business Day, or after 5pm on a Business Day, that Notice will (despite clause 15.12.5) be treated as having been received the next Business Day.

15: MISCELLANEOUS

AMENDMENT

15.13 This Deed may not be amended unless the amendment is in writing and signed by, or on behalf of, the Affiliate Te Arawa Iwi/Hapu, the Te Pumautanga Trustees and the Crown.

ENTIRE AGREEMENT

15.14 This Deed:

15.14.1 constitutes the entire agreement between the Parties in relation to the matters referred to in it; and

15.14.2 supersedes all earlier negotiations, representations, warranties, understandings and agreements, whether oral or written, between the Affiliate Te Arawa Iwi/Hapu, any Representative Entity or any Member of the Affiliate Te Arawa Iwi/Hapu (separately, or in any combination) and the Crown relating to the Historical Claims (including the Terms of Negotiation, the Agreement in Principle and the Original Deed of Settlement but not Te Tiriti o Waitangi/the Treaty of Waitangi).

NO WAIVER

15.15 A failure, delay or indulgence by a Party in exercising a power or right under or arising from this Deed shall not operate as a waiver of that power or right.

15.16 A single, or partial, exercise of a power or right under or arising from this Deed shall not preclude further exercises of that power or right or the exercise of another power or right.

NO ASSIGNMENT

15.17 Except as expressly provided in this Deed or a document entered into under this Deed, no Party may transfer or assign any rights or obligations under or arising from this Deed.

ORIGINAL DEED OF SETTLEMENT

15.18 The Original Deed of Settlement is terminated and no Party has a claim against any other Party in respect of it.

CNI SETTLEMENT DEED PAYMENT

15.19 In clause 15.20, "**balancing amount**" means the amount expressed in dollars derived from the following calculation:

34,600,000 – *X*

where:

X = 15.6125% of the amount expensed by the Crown in respect of the transfer of 90% of the Central North Island Forests under the CNI Settlement Deed as shown in the Crown's financial statements for the relevant Crown financial year, as certified by the Audit Office.

15.20 If *X* (as defined in clause 15.19) is less than 34,600,000, the Crown must pay the balancing amount to the Te Pumautanga Trustees within 20 Business Days of the expiry of the Crown financial year in which the Crown treats the transfer of the Central North Island Forests as having occurred for the purposes of the Crown's financial statements under generally accepted accounting principles.

16 DEFINITIONS AND INTERPRETATION

DEFINITIONS

Terms defined by legislation

16.1 In this Deed, unless the context requires otherwise, the following terms have the meaning for that term given by the section of the legislation set opposite it below:

TERM	DEFINING SECTION
administering body	section 2(1) Reserves Act
Auditor-General	section 4 Public Audit Act
conservation area	section 2(1) Conservation Act
Conservation Board	section 2(1) Conservation Act
Crown	section 2(1) Public Finance Act
Crown entity	section 7(1) Crown Entities Act 2004
Director-General	section 2(1) Conservation Act
geothermal energy	section 2(1) Resource Management Act
geothermal water	section 2(1) Resource Management Act
Governor-General	section 29 Interpretation Act 1999
Local Authority	section 2(1) Resource Management Act
New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa	section 3 New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act
New Zealand Historic Places Trust	section 38 Historic Places Act
nga taonga tuturu	section 2 Protected Objects Act 1975
Office of Parliament	section 2(1) Public Finance Act
Regional Council	section 2(1) Resource Management Act
Registrar-General of Land	section 4 Land Transfer Act
Resource Consent	section 2 Resource Management Act
State enterprise	section 2 State-Owned Enterprises Act

Territorial Authority	section 5(1) Local Government Act 2002
Waitangi Tribunal	section 4 Treaty of Waitangi Act

Terms defined in this Deed

16.2 In this Deed, unless the context requires otherwise, the following terms have the meaning for that term given by the clause or part of this Deed set opposite that term below:

TERM	DEFINING CLAUSE OR PART
Affiliate Te Arawa Iwi/Hapu	1.5
Affiliate Te Arawa Iwi/Hapu Ancestor	1.6
Agreement in Principle	Background
Arikikapakapa Section 101 Lease	10.1.87
Crown	1.4
Esplanade Land	11.13.3
Existing Lease Variation	10.1.87
Historical Claims	1.9-1.12
Horohoro Bluff Covenant	10.1.9
Independently Valued Asset	Part 2 of Schedule 5
Jointly Valued Asset	Part 2 of Schedule 5
Kakapiko Covenant	10.1.71
Karamuramu Baths Easement	11.19.16
Karamuramu Baths Land	11.13.5
Lake Rotokawa Covenant	10.1.23
Lake Rotomahana Covenant	10.1.67
Lakes Rotongata (Mirror Lake) and Rotoatua Covenant	10.1.43
Land Claims Statutory Protection Legislation	2.9.4
MACI	10.1.86
MAF marginal strip	12.27
Matawhaura (part of the Lake Rotoiti Scenic Reserve)	10.32.1
Member of the Affiliate Te Arawa Iwi/Hapu	1.7
Moerangi Covenant	10.1.18
New Owners	10.30.21
New Place Names	11.20.1

New Place Names Notice	11.20.3
Okataina Lodge Site Crown Lease	10.1.35
Orakei-Korako Covenant	10.1.64
Original Deed of Settlement	Background
Otari Pa	10.32.5
Pikiao Entity	10.32.6
Representative Entity	1.8
Reserve Land	10.30.19
Surrender Document	10.1.87
Te Ariki Walkway Easement	10.1.47
Te Ariki Management Deed	10.1.47
Te Pumautanga Trust Deed	Background
Te Wairoa Covenant	10.1.27
Telecommunications Deed	10.4
Terms of Negotiation	Background
Wai-o-Tapu Site Easement	10.1.60
Whakarewarewa Thermal Springs Lease	10.1.86

Defined terms

16.3 In this Deed, unless the context requires otherwise:

Actual Deferred Settlement Date means in respect of a Deferred Selection Property, the date on which settlement of the Deferred Selection Property under paragraph 11 of Part 5 of Schedule 5 takes place;

Affiliate Te Arawa Iwi/Hapu Values means the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to:

(a) a Whenua Rahui, the text of which is set out in the Whenua Rahui in Part 5 of Schedule 3; or

(b) a Specially Classified Reserve, the text of which is set out in Part 7 of Schedule 3;

Area of Interest means the area identified in Schedule 6 as the area which the Affiliate Te Arawa Iwi/Hapu identify as their area of interest, excluding the Te Arawa Lakes;

Arikikapakapa and Other Reserve Land means:

(a) 0.5978 hectares, more or less, being Part Lot 1 DP 23567;

(b) 10.0012 hectares, more or less, being Part Lot 3 DP 23567; and

(c) 3.2931 hectares, more or less, being Section 8 Block XLIX Town of Rotorua;

Arikikapakapa Section 101 Land means 0.9143 hectares, more or less, being Section 101 Block I Tarawera Survey District. All GN H496075;

Authorised Person means:

(a) in respect of a Commercial Redress Property:

(i) a person authorised by the Director-General of the Ministry of Agriculture and Forestry, for the MAF Forest Land; and

(ii) a person authorised by the chief executive of the Land Holding Agency in all other cases; and

(b) in respect of a Cultural Redress Property, a person authorised by:

(i) the chief executive of LINZ, in the case of the:

(I) Site adjacent to Orakei-Korako;

(II) Site adjacent to Lake Rotomahana;

(III) Lake Rotokawa Site;

(IV) Moerangi; and

(V) Kakapiko;

(ii) the chief executive of the Ministry of Economic Development, in the case of:

(I) Roto-a-Tamaheke Reserve; and

(II) Whakarewarewa Thermal Springs Reserve; and

(iii) the chief executive of the Ministry of Education, in the case of each School; and

(iv) the Director-General, in all other cases;

16: DEFINITIONS AND INTERPRETATION

Business Day means the period of 9am to 5pm on any day other than:

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day;

(b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and

(c) the days observed as the anniversaries of the provinces of Wellington and Auckland;

Central North Island Forests mean areas of Crown Forest Land located in the central North Island, including the Deferred Licensed Land and Settlement Licensed Land defined in the Original Deed of Settlement, but excluding the Licensed Land;

Claimant Definition Schedule means the Schedule described as such and appearing immediately before Schedule 1;

CNI Legislation means the bill including all matters required by the CNI Settlement Deed and where the bill has become law, means if the context requires, the Act resulting from the passing of that bill;

CNI Settlement Deed means the deed of settlement to be entered into between the Crown, the Affiliate Te Arawa Iwi/Hapu, and other iwi and hapu with interests in the Central North Island Forests under which those forests will vest in a collective entity representing the Affiliate Te Arawa Iwi/Hapu and those other iwi and hapu;

Commencement Rent means:

(a) in relation to a Deferred Selection Property that is a Leaseback Property, the amount referred to as such, and agreed or determined by the Valuation Process; and

(b) in relation to a School means the annual amount specified in respect of the property in Table 4 in Part 1 of Schedule 2;

Commercial Redress Property means Licensed Land or a Deferred Selection Property;

Commissioner of Crown Lands means the Commissioner of Crown Lands appointed under section 24AA of the Land Act 1948;

Conservation Document means a national park management plan, conservation management strategy, or conservation management plan;

Conservation Legislation means the Conservation Act and the enactments listed under Schedule 1 to that Act;

16: DEFINITIONS AND INTERPRETATION

Court, in relation to any matter, means a court having jurisdiction in relation to that matter in New Zealand;

Crown Agency means:

(a) a Crown entity and includes the New Zealand Railways Corporation;

(b) a State enterprise; or

(c) any company or body, which is wholly-owned or controlled by:

(i) the Crown, a Crown entity or a State enterprise; or

(ii) a combination of the Crown, a Crown entity, Crown entities, a State enterprise or State enterprises,

and includes any subsidiary of, or related company to, any such company or body;

Crown Forest Land has the same meaning as in section 2(1) of the Crown Forest Assets Act;

Crown Forestry Licence has the meaning given to it in section 2 of the Crown Forest Assets Act and, in relation to the Licensed Land, means the Licence described in Part 1 of Schedule 4;

Crown Forestry Rental Trust means the forestry rental trust referred to in section 34 of the Crown Forest Assets Act;

Crown Owned Mineral means a mineral (as that term is defined in section 2(1) of the Crown Minerals Act) that is the property of the Crown under sections 10 or 11 of the Crown Minerals Act or over which the Crown has jurisdiction under the Continental Shelf Act;

Cultural Redress means the redress to be provided by the Crown in accordance with Parts 9, 10 and 11;

Cultural Redress Property means a property described in Part 1 of Schedule 2 and for the purposes of Part 10 includes the undivided half share in the Te Ariki Site to be vested in the trustees of the Te Ariki Trust;

Date of this Deed means the date this Deed is signed by the Parties;

Deed and **Deed of Settlement** means this Deed of Settlement, including the schedules to it;

Deed of Recognition means the deed of recognition entered into by the Crown under clause 11.3;

Deferred Selection Property means the fee simple estate in a property described in Part 1 of Schedule 5;

Deferred Settlement Date means, in respect of a Deferred Selection Property, the date that is 30 Business Days after the date on which the Te Pumautanga Trustees give Notice in accordance with clause 12.20.2 that it elects to purchase the Deferred Selection Property;

Department means a department or instrument of the Government, or a branch or division of the Government, but does not include a body corporate, or other legal entity, that has the power to contract, or an Office of Parliament;

Disclosed Encumbrances means:

(a) in respect of the Deferred Selection Property, the Encumbrances disclosed by the Land Holding Agency to the Te Pumautanga Trustees under the process in paragraph 2 of Part 5 of Schedule 5; and

(b) in respect of the Geothermal Assets, the Encumbrances disclosed by the provision of information made available in the manner described in a letter from The Treasury to Rawiri Te Whare dated 9 June 2008;

Disclosure Information means, in respect of:

(a) a Cultural Redress Property, the information provided by, or on behalf of, the Crown to Nga Kaihautu o Te Arawa Executive Council during negotiation meetings on 30 March 2006, 11 May 2006, 14 March 2008 and 16 April 2008;

(b) the Geothermal Assets, the information made available in the manner described in a letter from The Treasury to Rawiri Te Whare dated 9 June 2008;

(c) the Licensed Land, the information provided by, or on behalf of, the Crown to Nga Kaihautu o Te Arawa Executive Council as referred to in a letter from the Office of Treaty Settlements to Eru George dated 17 January 2006; and

(d) the Schools, the information provided by courier delivery by Office of Treaty Settlements to Bell Gully (Damian Stone) on 9 June 2008;

DOC Protocol means the Protocol issued under clause 9.1 (as that Protocol may be amended under clause 9.7.1);

DOC Protocol Area means the area shown on the map attached to the DOC Protocol but excludes the "DOC protocol area" as defined in section 11 of the Te Arawa Lakes Settlement Act;

Effective Date means the date that is six months after the Settlement Date;

Eligible Member of the Affiliate Te Arawa Iwi/Hapu means a member of the Affiliate Te Arawa Iwi/Hapu aged 18 years or over on 18 September 2006 and registered on

the register of members of the Affiliate Te Arawa Iwi/Hapu kept by the Te Pumautanga Trustees for the purpose of voting on this Deed;

Encumbrance means a lease, tenancy, licence, licence to occupy, easement, covenant or other right affecting a property;

Environment Court means the Court referred to in section 247 of the Resource Management Act;

Existing Whakarewarewa Thermal Springs Lease means the lease held in computer interest register SA 2021/47;

Financial and Commercial Redress means:

(a) the Licensed Land to be transferred under Part 12;

(b) the right to purchase Deferred Selection Properties under Part 12; and

(c) the amount, if any, payable under clause 15.20;

Fisheries Protocol means the Protocol issued under clause 9.3 (as that Protocol may be amended under clause 9.7.1);

Fisheries Protocol Area means the area shown on the map attached to the Fisheries Protocol together with the adjacent waters, but excludes the "fisheries protocol area" as defined in section 11 of the Te Arawa Lakes Settlement Act;

Geothermal Assets means the Crown's interest in the wells described in the table in Part 10 of Schedule 2 together with all wellheads, pipelines and pipework, casing, valves, equipment, fittings, structures and improvements associated with such wells, to the extent that they are owned by the Crown and any associated assets disclosed as part of the Disclosure Information;

Geothermal Resource means the geothermal energy and geothermal water located in the Rotorua region geothermal system, but does not include any geothermal water and geothermal energy above the ground on land that is not owned by the Crown;

Geothermal Statutory Acknowledgement means the acknowledgement made by the Crown in the Settlement Legislation in relation to the Geothermal Resource on the terms set out in clause 11.1;

GST means goods and services tax chargeable under the Goods and Services Tax Act and includes for the purposes of Part 13 any interest or penalty payable in respect of, or on account of, the late or non-Payment of, any GST;

Intellectual Property means, in relation to the Geothermal Assets, all of the intellectual property, information and records owned by the Crown and relating to the Geothermal Assets including wellhead data and records, plans and surveys and asset registers;

Land Holding Agency means:

(a) in relation to the Licensed Land, LINZ;

(b) in relation to a Deferred Selection Property, the Department that Part 1 of Schedule 5 specifies as the Land Holding Agency for that property; and

(c) in relation to the Geothermal Assets, means the Treasury even though there is no land holding associated with the Geothermal Assets;

Leaseback Property means a Deferred Selection Property identified as such in Part 1 of Schedule 5;

Licensed Land means the land described in Part 1 of Schedule 4, but excludes:

(a) all trees growing, standing or lying, on the land; and

(b) all improvements that have been acquired by any purchaser of the trees on the land or made, after the acquisition of the trees by the purchaser, by the purchaser or the Licensee;

Licence Fee Review means a review under clause 4 of the Crown Forestry Licence that has not been concluded at the Settlement Date;

Licensee means the registered holder for the time being of a Crown Forestry Licence;

Licensor means the licensor for the time being of the Crown Forestry Licence;

LINZ means Land Information New Zealand;

MAF Forest Land means the land described as Horohoro Forest in Part 1 of Schedule 5;

Mandated Signatories means the representatives of the Nga Kaihautu o Te Arawa Executive Council who were authorised by Nga Kaihautu o Te Arawa Executive Council to sign the Original Deed of Settlement;

Memorials means resumptive memorials imposed on land under the State-Owned Enterprises Act, the New Zealand Railways Corporation Restructuring Act or the Education Act;

Minister means a Minister of the Crown;

Notice means a notice in writing given under clause 15.12 and **Notify** has a corresponding meaning;

Okataina Lodge Site Lease means the lease of the Okataina Lodge Site dated 23 December 1975 and held in computer interest register SA23A/1000;

16: DEFINITIONS AND INTERPRETATION

Parties means the Affiliate Te Arawa Iwi/Hapu, the Te Pumautanga Trustees and the Crown;

Protection Principles means in respect of:

(a) a Whenua Rahui, the Protection Principles set out in the Whenua Rahui in Part 5 of Schedule 3 in the paragraph under the heading "Protection Principles", as they may be changed under clause 11.9.7; and

(b) a Specially Classified Reserve, the Protection Principles set out in Part 7 of Schedule 3 for the Specially Classified Reserve, as they may be changed under clause 11.11.7;

Protocol means a protocol issued under clauses 9.1-9.9 (as that Protocol may be amended under clause 9.7.1);

Redress means:

(a) the acknowledgements and the apology given by the Crown under Part 8;

(b) the Cultural Redress; and

(c) the Financial and Commercial Redress;

Redress Value for the Licensed Land means the amount of $4,000,000;

Relevant Encumbrances means in respect of:

(a) a Cultural Redress Property, all Encumbrances described in Part 1 of Schedule 2 as affecting that property;

(b) the Licensed Land, all Encumbrances described in Part 1 of Schedule 4 as affecting that property (as they may be varied or added to under paragraph 1.2 of Part 2 of Schedule 4);

(c) the Deferred Selection Properties and the Geothermal Assets, the Disclosed Encumbrances; and

(d) the Schools, all Encumbrances described in Table 4 of Part 1 of Schedule 2;

Reserve Site means each of the following Cultural Redress Properties:

(a) Rangitoto Site;

(b) Sites on Paeroa Range;

(c) Wai-o-Tapu Site;

(d) Roto-a-Tamaheke Reserve; and

(e) Whakarewarewa Thermal Springs Reserve;

Roading Network means the network of private roads over which rights are granted under the roading network easement and related management agreement in the form presented to the Affiliate Te Arawa Iwi/Hapu immediately before the date of this Deed. The roading network easement and related management agreement will be in place before Settlement Date;

Rotorua region geothermal system means the geothermal system within the boundary generally indicated on SO 364723 (a copy of which is included in Schedule 7), including the areas set out in Table 2 of Part 1 of Schedule 3 (but which is not intended to establish the precise boundary of the geothermal system);

School means the fee simple estate in a property described in Table 4 of Part 1 of Schedule 2;

Settlement means the settlement of the Historical Claims under this Deed and the Settlement Legislation;

Settlement Date means the date which is 20 Business Days after this Deed becomes unconditional;

Settlement Legislation means the bill referred to in Part 4 and, where the bill has become law, means, if the context requires, the Act resulting from the passing of that bill;

Settlement Transfer means the transfer of a Commercial Redress Property under Part 12;

Specially Classified Reserve means a reserve described in Part 6 of Schedule 3;

Statement of Association means a statement described in clause 11.1.1(b) or 11.1.2(b);

Statutory Acknowledgement means the acknowledgement made by the Crown in the Settlement Legislation in relation to a Statutory Area on the terms set out in clause 11.1;

Statutory Area means an area, described in Table 1 of Part 1 of Schedule 3. The SO Plans referred to in Part 1 of Schedule 3 (copies of which are included in Schedule 7) are for the purposes of indicating the general location of the Statutory Areas and are not intended to establish the precise boundaries of the Statutory Areas;

Statutory Plans means regional policy statements, regional coastal plans, district plans, regional plans and proposed plans as defined in section 2(1) of the Resource Management Act and includes proposed policy statements referred to in the First Schedule to the Resource Management Act;

taonga tuturu has the meaning given to it in section 2(1) of the Protected Objects Act, and includes nga taonga tuturu (which has the meaning given to it in section 2(1) of the Act);

Taonga Tuturu Protocol means the Protocol issued under clause 9.5 (as that Protocol may be amended under clause 9.7.1);

Taonga Tuturu Protocol Area means the area shown on the map attached to the Taonga Tuturu Protocol together with the adjacent waters, excluding the Te Arawa Lakes;

Tax includes Income Tax, GST and Gift Duty;

Tax Legislation means any legislation that imposes or provides for the administration of Tax;

Te Arawa Lakes has the meaning given to it in section 11 of the Te Arawa Lakes Settlement Act;

Te Ariki Trust means a trust to be established by the Crown under a deed of trust relating to beneficial ownership in the Crown's interest in the Te Ariki Site to vest in trustees under clause 10.1.46;

Te Pumautanga Trust has the meaning set out in the Background to this Deed, and includes, where the context requires, the Te Pumautanga Trustees;

Te Pumautanga Trustees means the trustees of the Te Pumautanga o Te Arawa Trust and includes the trustees appointed from time to time under the Te Pumautanga Trust Deed in their capacity as trustees;

Te Tiriti o Waitangi/the Treaty of Waitangi has the same meaning as the term "Treaty" in section 2 of the Treaty of Waitangi Act;

Transfer Value means in relation to a Deferred Selection Property, the amount referred to as such, and determined by the process set out in Schedule 5;

trustees of the Te Ariki Trust means the trustees from time to time of the Te Ariki Trust;

Valuation Process means:

(a) in respect of an Independently Valued Asset, the valuation process specified in Part 3 of Schedule 5; and

(b) in respect of a Jointly Valued Asset, the valuation process specified in Part 4 of Schedule 5;

Wai-o-Tapu Site Lease means the lease of the Wai-o-Tapu Site dated 22 October 1969, the terms of which are incorporated into the deed of renewal of lease of that

lease dated 25 September 2000 between the Crown and Waiotapu Thermal Tourist Park Limited;

Whakarewarewa Village Debt means the amount set out in statement of claim NP72/95 filed in the Rotorua District Court by the Attorney General for New Zealand on behalf of the Ministry of Commerce against the Whakarewarewa Village Trust dated 27 January 1995 being;

(a) $93,800, being half of a Regional Development Investigation Grant; plus

(b) $101,702, relating to the Tourism Facilities Development Grant Programme;

Whakarewarewa Village Trust means the trust created by deed of trust dated 1 July 1986; and

Whenua Rahui means the sites described in Part 4 of Schedule 3 or the declaration of that site as a Whenua Rahui by the Settlement Legislation, as the case may be.

References to Legislation

16.4 In this Deed certain legislation is referred to without including the year of that legislation. The year of the legislation referred to is set out below:

Arbitration Act 1996
Building Act 2004
Cadastral Survey Act 2002
Conservation Act 1987
Continental Shelf Act 1964
Crown Forest Assets Act 1989
Crown Minerals Act 1991
Crown Proceedings Act 1950
Education Act 1989
Estate and Gift Duties Act 1968
Fisheries Act 1996
Foreshore and Seabed Act 2004
Forestry Rights Registration Act 1983
Geothermal Energy Act 1953
Goods and Services Tax Act 1985
Historic Places Act 1993
Income Tax Act 2007
Land Transfer Act 1952
Local Government Act 1974
Maori Commercial Aquaculture Claims Settlement Act 2004
Maori Fisheries Act 2004
Marine Reserves Act 1971
National Parks Act 1980
New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008
New Zealand Maori Arts and Crafts Institute Act 1963
New Zealand Railways Corporation Restructuring Act 1990
Perpetuities Act 1964
Public Audit Act 2001

Public Finance Act 1989
Reserves Act 1977
Resource Management Act 1991
Scenery Preservation Act 1908
State-Owned Enterprises Act 1986
Te Arawa Lakes Settlement Act 2006
Tourist and Health Resorts Control Act 1908
Treaty of Waitangi Act 1975
Treaty of Waitangi (Fisheries Claims) Settlement Act 1992
Wildlife Act 1953

INTERPRETATION

16.5 In the interpretation of this Deed, unless the context otherwise requires:

16.5.1 headings appear as a matter of convenience and are not to affect the interpretation of this Deed;

16.5.2 defined terms appear in this Deed with capitalised initial letters and have the meanings given to them by this Deed;

16.5.3 the SO Plans referred to in Part 1 of Schedule 2 and Part 1 of Schedule 3 (copies of which are included in Schedule 7) are for the purpose of indicating the general locations of the Cultural Redress Properties and are not intended to establish their precise boundaries;

16.5.4 where a word or expression is defined in this Deed, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

16.5.5 the singular includes the plural and vice versa;

16.5.6 words importing one gender include the other genders;

16.5.7 a reference to a Part, clause, Schedule or attachment is to a Part, clause, Schedule or attachment of or to this Deed;

16.5.8 a reference in a Schedule to a paragraph means a paragraph in that Schedule;

16.5.9 a reference to legislation includes a reference to that legislation as amended, consolidated or substituted;

16.5.10 a reference to a Party in this Deed, or in any other document or agreement under this Deed, includes that Party's permitted successors;

16.5.11 an agreement on the part of two or more persons binds each of them jointly and severally;

16.5.12 a reference to any document or agreement, including this Deed, includes a reference to that document or agreement as amended, novated or replaced from time to time;

16.5.13 a reference to a monetary amount is to New Zealand currency;

16.5.14 a reference to written or in writing includes all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form;

16.5.15 a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

16.5.16 a reference to the Crown, or a Crown Agency, endeavouring to do something or to achieve some result means reasonable endeavours to do that thing or achieve that result but, in particular, does not oblige the Crown or the Government of New Zealand to propose for introduction any legislation, except where this Deed requires the Crown to introduce Settlement Legislation;

16.5.17 where a clause includes a preamble, that preamble is intended to set out the background to, and intention of, the clause, but is not to affect the interpretation of the clause;

16.5.18 in the event of a conflict between a provision in the main body of this Deed (namely, any part of this Deed except the schedules or attachments) and the schedules or attachments, then the provision in the main body of this Deed prevails;

16.5.19 a reference to any document as set out in, or on the terms and conditions contained in, a schedule or attachment includes that document with such amendments as may be agreed in writing between the Affiliate Te Arawa Iwi/Hapu and the Crown;

16.5.20 a reference to a date on or by which something must be done includes any other date that may be agreed in writing between the Affiliate Te Arawa Iwi/Hapu and the Crown;

16.5.21 where something is required to be done by or on a day which is not a Business Day, that thing must be done on the next Business Day after that day;

16.5.22 a reference to time is to New Zealand time;

16.5.23 a reference to the Settlement Legislation including a provision set out in this Deed includes that provision with any amendment:

(a) that is agreed in writing between the Affiliate Te Arawa Iwi/Hapu and the Crown; and

(b) that results in a provision that is similar to that provided in this Deed and does not have a material adverse effect on either of the Parties;

16.5.24 a reference to a particular Minister of the Crown includes any Minister of the Crown who, under authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the relevant Act or matter; and

16.5.25 where the name of a reserve or other place is amended under this Deed, either the existing name or new name is used to mean that same reserve or other place.

SIGNED as a deed on

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister in Charge of Treaty of Waitangi Negotiations in the presence of:

Honourable Dr Michael Cullen

WITNESS

Name:

Occupation:

Address:

SIGNED for and on behalf of the **AFFILIATE TE ARAWA IWI/HAPU** by the Trustees of the Te Pumautanga o Te Arawa Trust in the presence of:

Eru George
Ngati Kea Ngati Tuara

Eva Moke
Ngati Pikiao

Wikeepa Te Rangipuawhe Maika
Tuhourangi Ngati Wahiao

Anaru Rangiheuea
Tuhourangi Ngati Wahiao

Te Poroa Joseph Malcolm
Ngati Tarawhai

Ruka Hughes
Ngati Rongomai

Edwin McKinnon
Ngati Pikiao

John Waaka
Tuhourangi Ngati Wahiao

Jim Schuster
Ngati Pikiao

Mita Pirika
Ngati Tuteniu

Materoa Peni
Ngati Tura – Ngati Te Ngakau

Wallace Haumaha
Ngati Ngararanui

Fred Cookson
Ngati Uenukukopako

Roger Pikia
Ngati Tahu – Ngati Whaoa

Te Po Hawaiki Wiringi Jones
Ngati Te Roro o Te Rangi

WITNESS

Name: NERO PANAPA

Occupation: MANAGER

Address: ROTORUA

People of the Affiliate Te Arawa Iwi/Hapu signed below to indicate their support for the Settlement

Ronnie Te Whare
Lead Negotiator

Tuwharetoa Ehu
Rose Morrison (Waiteti)
Jessie Stevens McMahon Te Arawa
Clary Gear Te Arawa.
Tom Gear Waiteti
Zen Morrison Waiteti
Merenaka Wavelini
Maureen Waaka. MNZM JP.
Tina Te Awekotuku
Martha Siggeko
Ngaire Whata.
Te Onehou Phillis
Kerenapu Peggy Winiata
Katerina Waiari
Whata Karaka Whata
Hapemana Karawana
J J Woods
K. Pritchard
T Epapara
Te Wehikore Hela
Tanjo Cunte - Ngati Rongomai
Richard Rickard
Nepia Te Kuru K. Nakatane - Wilhelmina
Chris Singles Sharp -
Emma Hawana.
Trader Tonihi

Ngamoni (Shuatu) Gardiner Rotene Raponi
Putiputi Tapiri Tamihi
Laureen Hall
Basil Johnson.
Ngaarangi mihi Maika
FHT Maika
Nancy Peraka Gardiner Raponi Heretaunga
Miriata Raponi Bedford, Garvey
Michael Anthony Hulbert
Margaret Waaka
Ameruta Ngahuia GRAY.
Rihare. Nelson mihaka
Robin Joseph Curtis.
L R Wara
Manae Lena Rapana.
Whaakinangi Kuniwa Waretini.
Nanekapua Ngamipaeto
Agnes Sexamapoti
Linda Takahi (Phillips)
Lorna Phillips Mark.
M Takerangi
G G Hughes
Maaba J. Morgan
DUBBIE NGAROIMATA WALKER
Hnarere McGarvey
Aleisha Scott

Angus Raukawa-Gates
Rauha M Manahi - Ngati Kea Ngāti tuara.
Maioha Raukawa Phillps

Dejana-Rae.
J. M. Kaere. Olena, Smyth, Shakaila
Orini Rikihana Moke Kolere.
Mereraina Hemara
Tionne Morrison
Terence Gardiner
Troy wiki
Tukiri Tini
Liam Winiata
Robin Rikihana
Rerehau Raponi
Shawn Taputu
Laurel Francis Puanga-ite-rangi Porima
Marshall Aaron Clarke
[illegible]
[illegible] Whare Wallace Hane
[illegible]

MATENE THOMAS DE WYER TE AONUI

RICHARD NEWTON
Derek Toukahira Newton
PENE PANAPA

PART 2: FORMS OF CONSERVATION COVENANTS

(Clauses 10.1-10.2)

HOROHORO BLUFF COVENANT

(Clause 10.1.9)

PART 2: FORMS OF CONSERVATION COVENANTS – HOROHORO BLUFF COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Reserve Values.

D The parties agree that:

(i) the Land should be managed so as to preserve the Reserve Values; and

(ii) such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

"**Act**"	means the Reserves Act 1977.
"**Covenant**"	means this Deed of Covenant made under section 77 of the Act.
"**Director-General**"	means the Director-General of Conservation.
"**Fence**"	includes a gate.

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"**Fire Authority**"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"**Land**"	means the land described in Schedule 1.
"**Minerals**"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"**Minister**"	means the Minister of Conservation.
"**Natural Water**"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"**Owner**"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"**Reserve Values**"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
"**Working Days**"	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity; and

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

PART 2: FORMS OF CONSERVATION COVENANTS – HOROHORO BLUFF COVENANT

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed so as to preserve the Reserve Values existing at the date of this covenant.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Land:

3.1.1 grazing of the Land by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the land;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

3.1.9 liberate wild animals or animals that have the potential to become feral;

3.1.10 any other activity which might have an adverse effect on the Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; or

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Land.

3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Land to the extent required by any statute: and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Land;

3.2.3 taking all reasonable steps to keep the Land free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Land, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Land in good order and condition; and

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977; and

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

3.4.1 the repair or maintenance of Fences on the Land if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

4 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

4.1 The Minister must:

4.1.1 have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant; and

4.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

4.2 The Minister may:

4.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2.1 subject to any financial, statutory or other constraints which may apply to the Minister from time to time; and

4.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

5 JOINT OBLIGATIONS

5.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2.1 including preparing, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6 DURATION OF COVENANT

6.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

7 CONSENTS

7.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

8 MISCELLANEOUS MATTERS

Rights

8.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

8.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise.

8.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

PART 2: FORMS OF CONSERVATION COVENANTS – HOROHORO BLUFF COVENANT

Reserves Act

8.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

Title

8.5 This Covenant must be signed by both parties and registered against the Certificate of Title to the Land.

Acceptance of Covenant

8.6 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

8.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

8.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

8.8.1 requested to do so, or

8.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

8.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

9 DEFAULT

9.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant, the other party:

9.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

9.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

9.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of, or observance of, its obligations under this Covenant, then that party (notifying party) may, by written notice:

9.2.1 advise the defaulting party of the default;

9.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

9.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

10 DISPUTE RESOLUTION PROCESSES

10.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

10.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.

10.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

Failure of Mediation

10.4 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.

10.5 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated.

10.6 The parties further agree that the results of arbitration are to be binding upon the parties.

11 NOTICES

11.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

11.2 A notice given in accordance with clause 11.1 will be deemed to have been received:

11.2.1 in the case of personal delivery, on the date of delivery;

11.2.2 in the case of pre-paid post, on the third working day after posting;

11.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

PART 2: FORMS OF CONSERVATION COVENANTS – HOROHORO BLUFF COVENANT

11.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

12 SPECIAL CONDITIONS

12.1 Special conditions relating to this Covenant are set out in Schedule 3.

12.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[75.2470 hectares, more or less, being Section 1 SO 60473. Part Gazette 1941 page 2713.]

Reserve Values of Land to be Protected:

1. The natural environment values that are represented by the forest habitat and the indigenous flora and fauna on the land. The forest is a tiny remnant of the original forest. It consists of rimu, matai, hall's totara and miro with tawa, kamahi, hinau, rewarewa and tawari present in the canopy. There is continuous native forest cover, with infrequent emergent rimu above the dominant tawa canopy. Kamahi is found on the forest edges, with more mixed species located internally. The understorey includes coprosma and fern species and very dense thickets of supplejack. The forest is linked to the Matahana Ecological Area. Fauna present includes populations of North Island kaka, North Island rifleman and North Island robin as well as the more common native bird species such as whitehead, tui, bellbird, grey warbler and kereru.

2. The natural landscape amenity of the area - the site is part of a larger significant natural landscape feature of the area, which is represented by the contiguous and attractive forest cover. This can be seen from State Highway 30 and is a continuum of the spectacular Horohoro Bluffs landform.

SCHEDULE 2: ADDRESS FOR SERVICE[1]

The address for service of the Owner is:

[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[1] Note: Insert street addresses rather than P O Boxes. Include facsimile numbers.

SCHEDULE 3: SPECIAL CONDITIONS

1. The Owner may undertake minor clearance of vegetation for the purposes of access for pest plant or animal control.

PART 2: FORMS OF CONSERVATION COVENANTS – HOROHORO BLUFF COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 77 of the
Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services
Department of Conservation

MOERANGI COVENANT

(Clause 10.1.18)

PART 2: FORMS OF CONSERVATION COVENANTS – MOERANGI COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 27 of the Conservation Act 1987 provides that a covenant for conservation purposes may be granted or reserved over any land in favour of the Minister and section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Indigenous Vegetation Areas that contain Conservation Values and Reserve Values worthy of protection.

D The parties agree that the Indigenous Vegetation Areas should be managed:

(i) for Conservation Purposes in order to protect the Conservation Values; and

(ii) so as to preserve the Reserve Values which can be achieved through the execution of this Covenant without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land to protect the Indigenous Vegetation Areas on the Land:

(i) for Conservation Purposes; and

(ii) to preserve the Reserve Values.

F The Owner has agreed to grant the Minister a Covenant over the Land to permit the public to enter upon the Land as specified in clause 4.

OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

PART 2: FORMS OF CONSERVATION COVENANTS – MOERANGI COVENANT

"Conservation Purposes"	means the preservation and protection of natural and historic resources including conservation values on the Indigenous Vegetation Areas for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.
"Conservation Values"	means the conservation values of the Indigenous Vegetation Areas to be protected as specified in Schedule 1.
"Covenant"	means this Deed of Covenant made under section 77 of the Reserves Act and section 27 of the Conservation Act 1987.
"Director-General"	means the Director-General of Conservation.
"Fence"	includes a gate.
"Fire Authority"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"Forestry Right"	means a forestry right registered under the Forestry Rights Registration Act 1983.
"Indigenous Vegetation Areas"	the three areas of indigenous forest on the Land described in Schedule 1.
"Land"	means the land described in Schedule 1 (which includes the Indigenous Vegetation Areas).
"Minerals"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"Minister"	means the Minister of Conservation.
"Natural Water"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"Owner"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"Reserve Values"	means the reserves values of the Indigenous Vegetation Areas to be protected as specified in Schedule 1.

"Working Days" means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVE OF THE COVENANT

2.1 The Indigenous Vegetation Areas must be managed by the Owner:

2.1.1 for Conservation Purposes;

2.1.2 so as to preserve the Reserve Values existing at the date of this Covenant; and

2.2 The Land must be managed, subject to this Covenant, to provide freedom of access to the public for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Indigenous Vegetation Areas:

3.1.1 grazing by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the Indigenous Vegetation Areas;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Indigenous Vegetation Areas;

3.1.9 liberate wild animals or animals that have the potential to become feral;

3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Indigenous Vegetation Areas;

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Indigenous Vegetation Areas.

3.2 The Owner must take all reasonable steps to maintain the Indigenous Vegetation Areas in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Indigenous Vegetation Areas to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Indigenous Vegetation Areas;

3.2.3 taking all reasonable steps to keep the Indigenous Vegetation Areas free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Indigenous Vegetation Areas free from rubbish or other unsightly or offensive material arising from the Owner's use of the Indigenous Vegetation Areas;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions

imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Indigenous Vegetation Areas, or to carry out protection or maintenance on the Indigenous Vegetation Areas, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Indigenous Vegetation Areas in good order and condition;

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Indigenous Vegetation Areas.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977;

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

3.4.1 the repair or maintenance of fences on the Indigenous Vegetation Areas if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species on the Indigenous Vegetation Areas if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

4 PUBLIC ACCESS

4.1 The Owner must, subject to this Covenant (including the special conditions set out in Schedule 3), permit the public to enter upon the Land.

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

5.1.1 have regard to the objective specified in clause 2 when considering any requests for approval under this Covenant.

5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

5.2 The Minister may:

5.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2 subject to any financial, statutory or other constraints which may apply to the Minister from time to time;

5.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Indigenous Vegetation Areas to implement the objective specified in clause 2.1.

6 JOINT OBLIGATIONS

6.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2 including preparing, in consultation with the Owner, a joint plan for the management of the Indigenous Vegetation Areas to implement the objective specified in clause 2.1.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

8 CONSENTS

8.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

9 MISCELLANEOUS MATTERS

Rights

9.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

9.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

9.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

Reserves Act

9.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Indigenous Vegetation Areas as if the Indigenous Vegetation Areas were a reserve.

Title

9.5 This Covenant must be signed by both parties and registered against the Computer Freehold Register to the Land.

Acceptance of Covenant

9.6 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

9.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

9.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

9.8.1 requested to do so; or

9.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

9.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

10 DEFAULT

10.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.3 Advise the defaulting party of the default.

10.3.1 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.3.2 state a reasonable period within which the defaulting party must take action to remedy the default.

11 DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

11.2 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.3 if the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

Failure of Mediation

11.4 in the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

11.5 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated;

11.6 the parties further agree that the results of arbitration are to be binding upon the parties.

12 NOTICES

12.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

12.2 A notice given in accordance with clause 12.1 will be deemed to have been received:

12.2.1 in the case of personal delivery, on the date of delivery;

12.2.2 in the case of pre-paid post, on the third working day after posting;

12.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

12.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

13 SPECIAL CONDITIONS

13.1 Special conditions relating to this Covenant are set out in Schedule 3.

13.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[58 hectares, approximately, being Part Lot 6 DPS 54801. Part Gazette 1975 page 2327. Subject to the 'Forestry Right" to be granted. Subject to survey.]

[Subject to a Water Catchment Protection Right in favour of the Rotorua District Council held in the Computer Interest Register 268965]

Description of Indigenous Vegetation Areas:

The three areas currently shown on the attached diagram. Subject to survey. *Note: Diagram will not be included in the final document.*

Conservation Values of the Indigenous Vegetation Areas to be protected:

1. The intrinsic value of the natural resources, represented by indigenous vegetation which is situated on land largely dominated by exotic plantation forest managed for timber production.

2. Within the exotic forest area there are three small separate indigenous forest remnants. These are all dominated by cutover tawa-rewarewa forest with occasional mangaeo and hinau also present in the canopy. Secondary shrubland is present around the margins consisting of predominantly mamaku, kohuhu, koromiko, tutu, rangiora, pate, wheki and mahoe. Other species present in the tawa-dominated forest include supplejack, mahoe, pate, kanono, hen and chicken fern and filmy ferns.

Reserve Values of the Indigenous Vegetation Areas to be protected:

1. The natural landscape amenity of the area. This area is located on one of the higher points in the Rotorua District.

2. The natural environment and wildlife values, represented by the indigenous flora and fauna on the land. Fauna present includes North Island fantail, grey warbler, whitehead, North Island robin, tui, bellbird and shining cuckoo.

SCHEDULE 2: ADDRESS FOR SERVICE[2]

The address for service of the Owner is:
[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[2] Note: Insert street addresses rather than P O Boxes. Include facsimile numbers.

SCHEDULE 3: SPECIAL CONDITIONS

1. The Owner may allow harvesting, replanting and management over the Land (excluding Indigenous Vegetation Areas), in accordance with any Forestry Right over those areas.

PART 2: FORMS OF CONSERVATION COVENANTS – MOERANGI COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 27 of the Conservation Act 1987
and Section 77 of the Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services

LAKE ROTOKAWA COVENANT

(Clause 10.1.23)

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOKAWA COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 27 of the Conservation Act 1987 provides that a covenant for conservation purposes may be granted or reserved over any land in favour of the Minister and section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Conservation Values and Reserve Values worthy of protection.

D The parties agree that the Land should be managed:

(i) for Conservation Purposes in order to protect the Conservation Values; and

(ii) so as to preserve the Reserve Values which can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land:

(i) for Conservation Purposes; and

(ii) to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

"Conservation Purposes" means the preservation and protection of natural and historic resources including conservation values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational

	enjoyment by the public, and safeguarding the options of future generations.
"Conservation Values"	means the conservation values specified in Schedule 1.
"Covenant"	means this Deed of Covenant made under section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987.
"**Director-General**"	means the Director-General of Conservation.
"Fence"	includes a gate.
"Fire Authority"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"Land"	means the land described in Schedule 1.
"Minerals"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"Minister"	means the Minister of Conservation.
"Natural Water"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"Owner"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"Reserve Values"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
"Working Days"	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed:

2.1.1 for Conservation Purposes;

2.1.2 so as to preserve the Reserve Values existing at the date of this Covenant; and

2.1.3 to provide, subject to this Covenant (including the special conditions in Schedule 3), freedom of access to the public for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Land:

3.1.1 grazing of the Land by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the land;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

3.1.9 liberate wild animals or animals that have the potential to become feral;

3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Land.

3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Land;

3.2.3 taking all reasonable steps to keep the Land free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Land, or to carry out protection or maintenance on the Land, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Land in good order and condition;

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977;

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

3.4.1 the repair or maintenance of fences on the Land if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

4 PUBLIC ACCESS

4.1 The Owner must, subject to this Covenant (including the special conditions set out in Schedule 3), permit the public to enter upon the Land.

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

5.1.1 have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.

5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

5.2 The Minister may:

5.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2.1 subject to any financial, statutory or other constraints which may apply to the Minister from time to time;

5.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6 JOINT OBLIGATIONS

6.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2.1 including preparing, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

BAA

8 CONSENTS

8.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

9 MISCELLANEOUS MATTERS

Rights

9.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

9.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

9.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

Reserves Act

9.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

Title

9.5 This Covenant must be signed by both parties and registered against the Computer Freehold Register to the Land.

Acceptance of Covenant

9.6 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

9.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

9.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

9.8.1 requested to do so; or

9.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

BAA

9.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

10 DEFAULT

10.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.3 Advise the defaulting party of the default.

10.3.1 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.3.2 state a reasonable period within which the defaulting party must take action to remedy the default.

11 DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

11.2 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.3 if the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

Failure of Mediation

11.4 in the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

BNA

11.5 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated;

11.6 the parties further agree that the results of arbitration are to be binding upon the parties.

12 NOTICES

12.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

12.2 A notice given in accordance with clause 11.1 will be deemed to have been received:

12.2.1 in the case of personal delivery, on the date of delivery;

12.2.2 in the case of pre-paid post, on the third working day after posting;

12.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

12.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

13 SPECIAL CONDITIONS

13.1 Special conditions relating to this Covenant are set out in Schedule 3.

13.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOKAWA COVENANT

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[7.5 hectares, approximately, being Lake Rotokawa (Part Whakapoungakau 15A and Part Whakapoungakau 16 Sec 2A). Part Gazette 1902 page 1778. Subject to Survey.]

Conservation Values to be protected:

1 The intrinsic value of the natural resources on the land - the characteristic flora of Lake Rotokawa includes a mix of native and exotic species. Manuka scrub is present in a narrow fringe around the margins of the lake along with *Carex secta*, *Carex virgata*, toetoe and the herb *Centella uniflora*. The native rush *Juncus gregiflorus* is present on the margins along with a range of other exotic buttercups and grasses, amongst others. The majority of the bed of Lake Rotokawa is unvegetated bare mud.

2 The appreciation and recreational enjoyment that may be derived by the public from the opportunity to visit that area.

Reserve Values to be protected:

1. The natural landscape amenity of the area - surrounded by a landscape very modified, retaining little of its original character, Lake Rotokawa is a reminder of what much of the Rotorua district would have looked like. It is especially significant for the geothermal influence on its waters, and the vegetation that has adapted to hotter water.

2. The natural environment and wildlife values, represented by the flora and fauna on the land - indigenous fauna noted on the lake surface and margins include NZ dabchick, NZ scaup, grey duck, paradise shelduck, pied stilt, white faced heron, little shag, black shag, red-billed gull and pukeko, along with a range of exotic fauna including mallard and black swans.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOKAWA COVENANT

SCHEDULE 2: ADDRESS FOR SERVICE[3]

The address for service of the Owner is:
[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[3] Note: Insert street addresses rather than P O Boxes. Include facsimile numbers.

SCHEDULE 3: SPECIAL CONDITIONS

Nil

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOKAWA COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 27 of the Conservation Act 1987 and Section 77 of the Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services

BHA

TE WAIROA COVENANT

(Clause 10.1.27)

PART 2: FORMS OF CONSERVATION COVENANTS – TE WAIROA COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 27 of the Conservation Act 1987 provides that a covenant for conservation purposes may be granted or reserved over any land in favour of the Minister and section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Conservation Values and Reserve Values worthy of protection.

D The parties agree that the Land should be managed:

(i) for Conservation Purposes in order to protect the Conservation Values; and

(ii) so as to preserve the Reserve Values which can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land:

(i) for Conservation Purposes; and

(ii) to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

"Conservation Purposes" means the preservation and protection of natural and historic resources including conservation values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational

BAA

	enjoyment by the public, and safeguarding the options of future generations.
"Conservation Values"	means the conservation values specified in Schedule 1.
"Covenant"	means this Deed of Covenant made under section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987.
"Director-General"	means the Director-General of Conservation.
"Fence"	includes a gate.
"Fire Authority"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"Land"	means the land described in Schedule 1.
"Minerals"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"Minister"	means the Minister of Conservation.
"Natural Water"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"Owner"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"Reserve Values"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
"Working Days"	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

BAA

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed:

2.1.1 for Conservation Purposes;

2.1.2 so as to preserve the Reserve Values existing at the date of this Covenant; and

2.1.3 to provide, subject to this Covenant (including the special conditions in Schedule 3), freedom of access to the public for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Land:

3.1.1 grazing of the Land by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the land;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

3.1.9 liberate wild animals or animals that have the potential to become feral;

3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Land.

3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Land;

3.2.3 taking all reasonable steps to keep the Land free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Land, or to carry out protection or maintenance on the Land, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Land in good order and condition;

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977;

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

BAA

3.4.1 the repair or maintenance of fences on the Land if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

4 PUBLIC ACCESS

4.1 The Owner must, subject to this Covenant (including the special conditions set out in Schedule 3), permit the public to enter upon the Land.

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

5.1.1 have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.

5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

5.2 The Minister may:

5.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2.1 subject to any financial, statutory or other constraints which may apply to the Minister from time to time;

5.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6 JOINT OBLIGATIONS

6.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2.1 including preparing, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

8 CONSENTS

8.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

9 MISCELLANEOUS MATTERS

Rights

9.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

9.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

9.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

Reserves Act

9.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

Title

9.5 This Covenant must be signed by both parties and registered against the Computer Freehold Register to the Land.

Acceptance of Covenant

9.6 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

9.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

9.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

9.8.1 requested to do so; or

9.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

BA

9.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

10 DEFAULT

10.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.3 Advise the defaulting party of the default.

10.3.1 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.3.2 state a reasonable period within which the defaulting party must take action to remedy the default.

11 DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

11.2 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.3 if the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

BAA

Failure of Mediation

11.4 in the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

11.5 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated;

11.6 the parties further agree that the results of arbitration are to be binding upon the parties.

12 NOTICES

12.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

12.2 A notice given in accordance with clause 11.1 will be deemed to have been received:

12.2.1 in the case of personal delivery, on the date of delivery;

12.2.2 in the case of pre-paid post, on the third working day after posting;

12.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

12.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

13 SPECIAL CONDITIONS

13.1 Special conditions relating to this Covenant are set out in Schedule 3.

13.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

PART 2: FORMS OF CONSERVATION COVENANTS – TE WAIROA COVENANT

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

PART 2: FORMS OF CONSERVATION COVENANTS – TE WAIROA COVENANT

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[1 hectare, approximately, being Part Lot 2 DP 11082. Part Gazette 1911 page 2043. Subject to survey.]

Conservation Values to be protected:

1. The intrinsic value of the natural resources on the land - the typical native flora consists of tawa dominated forest on the bluffs with mangaeo, rewarewa, tawari and kamahi common in the canopy. Occasional emergent rimu are present. Also in the canopy and subcanopy are mamaku, Hall's totara, miro, rimu, and supplejack with occasional kohekohe and pukatea. Kanono, pigeonwood, hangehange and mapou are common in the understorey. The bluff also supports vines of several climbing rata species and abundant filmy ferns.

2. The appreciation and recreational enjoyment that may be derived by the public from the opportunity to visit that area.

Reserve Values to be protected:

1. The natural landscape amenity of the area - Te Wairoa is part of the quite spectacular bluff system that extends from Lake Rotoiti to Lake Rotoehu. It is a very visible landform, unmodified, and representative of the districts volcanic history.

2. The natural environment and wildlife values, represented by the indigenous flora and fauna on the land - fauna present include tui, bellbird, whitehead, grey warbler, North Island rifleman, silvereye, kereru, shining cuckoo and long-tailed cuckoo.

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SCHEDULE 2: ADDRESS FOR SERVICE[4]

The address for service of the Owner is:
[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[4] Note: Insert street addresses rather than P O Boxes. Include facsimile numbers.

SCHEDULE 3: SPECIAL CONDITIONS

Nil

PART 2: FORMS OF CONSERVATION COVENANTS – TE WAIROA COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 27 of the
Conservation Act 1987
and Section 77 of the
Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services

BAA

LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

(Clause 10.1.43)

BAA

PART 2: FORMS OF CONSERVATION COVENANTS – LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 27 of the Conservation Act 1987 provides that a covenant for conservation purposes may be granted or reserved over any land in favour of the Minister and section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Conservation Values and Reserve Values worthy of protection.

D The parties agree that the Land should be managed:

(i) for Conservation Purposes in order to protect the Conservation Values; and

(ii) so as to preserve the Reserve Values which can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land:

(i) for Conservation Purposes; and

(ii) to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

"Conservation Purposes" means the preservation and protection of natural and historic resources including conservation values on the Land for the purpose of maintaining their intrinsic values, providing for their application and recreational

BAA

	enjoyment by the public, and safeguarding the options of future generations.
"Conservation Values"	means the conservation values specified in Schedule 1.
"Covenant"	means this Deed of Covenant made under section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987.
"Director-General"	means the Director-General of Conservation.
"Fence"	includes a gate.
"Fire Authority"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"Land"	means the land described in Schedule 1.
"Minerals"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"Minister"	means the Minister of Conservation.
"Natural Water"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"Owner"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"Reserve Values"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
"Working Days"	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

BAA

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed:

2.1.1 for Conservation Purposes;

2.1.2 so as to preserve the Reserve Values existing at the date of this Covenant; and

2.1.3 to provide, subject to this Covenant (including the special conditions in Schedule 3), freedom of access to the public for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Land:

3.1.1 grazing of the Land by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the land;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

3.1.9 liberate wild animals or animals that have the potential to become feral;

BAA

3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Land.

3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Land;

3.2.3 taking all reasonable steps to keep the Land free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Land, or to carry out protection or maintenance on the Land, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Land in good order and condition;

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977;

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

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3.4.1 the repair or maintenance of fences on the Land if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

4 PUBLIC ACCESS

4.1 The Owner must, subject to this Covenant (including the special conditions set out in Schedule 3), permit the public to enter upon the Land.

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

5.1.1 have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.

5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

5.2 The Minister may:

5.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2.1 subject to any financial, statutory or other constraints which may apply to the Minister from time to time;

5.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6 JOINT OBLIGATIONS

6.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2.1 including preparing, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

8 CONSENTS

8.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

9 MISCELLANEOUS MATTERS

Rights

9.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

9.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

9.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

Reserves Act

9.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

Title

9.5 This Covenant must be signed by both parties and registered against the Computer Freehold Register to the Land.

Acceptance of Covenant

9.6 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

9.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

9.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

9.8.1 requested to do so; or

9.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

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9.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

10 DEFAULT

10.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.3 Advise the defaulting party of the default.

10.3.1 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.3.2 state a reasonable period within which the defaulting party must take action to remedy the default.

11 DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

11.2 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.3 if the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

Failure of Mediation

11.4 in the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

11.5 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated;

11.6 the parties further agree that the results of arbitration are to be binding upon the parties.

12 NOTICES

12.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

12.2 A notice given in accordance with clause 11.1 will be deemed to have been received:

12.2.1 in the case of personal delivery, on the date of delivery;

12.2.2 in the case of pre-paid post, on the third working day after posting;

12.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

12.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

13 SPECIAL CONDITIONS

13.1 Special conditions relating to this Covenant are set out in Schedule 3.

13.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

PART 2: FORMS OF CONSERVATION COVENANTS – LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

PART 2: FORMS OF CONSERVATION COVENANTS – LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[8.2 hectares, approximately, being Parts Waione C. Part Gazette 1931 page 1685. Subject to survey.]

Conservation Values to be protected:

1. The intrinsic value of the natural resources on the land - the typical native flora is dominated by reedlands and sedgelands with tall spike sedge (*Eleocharis sphacelata*) reedland in the deeper water with raupo, *Baumea rubiginosa* and *Baumea arthrophylla* in the shallower water. Sphagnum moss is abundant throughout. The regionally uncommon maru (*Sparganium subglobosum*) is present on the deeper margins. Further back is swamp coprosma shrubland and manuka shrubland towards the forest margin with occasional kahikatea trees and *Carex secta* and *Carex virgata*. Being a deep lake the majority of the bed is unvegetated. No exotic aquatic macrophytes are known from the bed of these lakes with the exception of swamp lily (*Ottelia ovalifolia*) in Lake Rotoatua.

2. The appreciation and recreational enjoyment that may be derived by the public from the opportunity to visit that area.

Reserve Values to be protected:

1. The natural landscape amenity of the area - as a natural landscape feature, these two lakes represent old explosion craters. They are both scenic features, in particular Lake Rotongata which can be easily viewed from lookout on the Ngahopua Track. They are of particular value in being surrounded by virgin forest and in a completely unmodified state, rare in the Rotorua District where many geothermal features have been destroyed or changed through development.

2. The natural environment and wildlife values, represented by the flora and fauna on the land - fauna present on the lakes includes NZ scaup, NZ dabchick, Australasian bittern, spotless crake, Australasian harrier, grey duck and mallard.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

SCHEDULE 2: ADDRESS FOR SERVICE[5]

The address for service of the Owner is:
[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[5] Note. Insert street addresses rather than P O Boxes. Include facsimile numbers.

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PART 2: FORMS OF CONSERVATION COVENANTS – LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

SCHEDULE 3: SPECIAL CONDITIONS

Nil

PART 2: FORMS OF CONSERVATION COVENANTS – LAKES ROTONGATA (MIRROR LAKE) AND ROTOATUA COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 27 of the
Conservation Act 1987
and Section 77 of the
Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services

ORAKEI – KORAKO COVENANT

(Clause 10.1.64)

PART 2: FORMS OF CONSERVATION COVENANTS – ORAKEI – KORAKO COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Reserve Values.

D The parties agree that:

(i) the Land should be managed so as to preserve the Reserve Values; and

(ii) such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

"Act"	means the Reserves Act 1977.
"Covenant"	means this Deed of Covenant made under section 77 of the Act.
"Director-General"	means the Director-General of Conservation.
"Fence"	includes a gate.

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PART 2: FORMS OF CONSERVATION COVENANTS – ORAKEI – KORAKO COVENANT

"**Fire Authority**"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"**Land**"	means the land described in Schedule 1.
"**Minerals**"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"**Minister**"	means the Minister of Conservation.
"**Natural Water**"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"**Owner**"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"**Reserve Values**"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
"**Working Days**"	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity; and

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

PART 2: FORMS OF CONSERVATION COVENANTS – ORAKEI – KORAKO COVENANT

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed so as to preserve the Reserve Values existing at the date of this covenant.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Land:

3.1.1 grazing of the Land by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the land;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

3.1.9 liberate wild animals or animals that have the potential to become feral;

3.1.10 any other activity which might have an adverse effect on the Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; or

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Land.

3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Land;

3.2.3 taking all reasonable steps to keep the Land free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Land, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Land in good order and condition; and

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977; and

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

3.4.1 the repair or maintenance of Fences on the Land if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

4 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

4.1 The Minister must:

4.1.1 have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant; and

4.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

4.2 The Minister may:

4.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2.1 subject to any financial, statutory or other constraints which may apply to the Minister from time to time; and

4.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

5 JOINT OBLIGATIONS

5.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2.1 including preparing, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6 DURATION OF COVENANT

6.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

7 CONSENTS

7.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

8 MISCELLANEOUS MATTERS

Rights

8.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

8.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise.

8.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

Reserves Act

8.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

Title

8.5 This Covenant must be signed by both parties and registered against the Certificate of Title to the Land.

Acceptance of Covenant

8.6 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

8.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

8.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

8.8.1 requested to do so; or

8.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

8.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

9 DEFAULT

9.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant, the other party:

9.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

9.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

9.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of, or observance of, its obligations under this Covenant, then that party (notifying party) may, by written notice:

9.2.1 advise the defaulting party of the default;

9.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

9.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

10 DISPUTE RESOLUTION PROCESSES

10.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

10.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.

10.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

Failure of Mediation

10.4 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.

10.5 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated.

10.6 The parties further agree that the results of arbitration are to be binding upon the parties.

11 NOTICES

11.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

11.2 A notice given in accordance with clause 11.1 will be deemed to have been received:

11.2.1 in the case of personal delivery, on the date of delivery;

11.2.2 in the case of pre-paid post, on the third working day after posting;

11.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

PART 2: FORMS OF CONSERVATION COVENANTS – ORAKEI – KORAKO COVENANT

11.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

12 SPECIAL CONDITIONS

12.1 Special conditions relating to this Covenant are set out in Schedule 3.

12.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[136 hectares, more or less, being Section 6 SP 61109. Part Gazette 1896 page 1075. Subject to Survey.]

[Subject to the operating easement held in computer interest register SA70B/659 in favour of Contact Energy Limited dated 21 February 2000.]

[Subject to the operating easement held in computer interest register [ ] in favour of Mighty River Power Limited dated [ ].]

Reserve Values of Land to be Protected:

1. The natural environment values that are represented by the geothermal habitat and the indigenous flora on the land. The flora on the land is characteristic of the thermal areas of the Central North Island. The vegetation is dominated by prostrate kanuka shrubland and manuka-mingimingi scrub, and there are at least three nationally threatened plant species. These are thermal ferns (Dicranopteris linearis and Christella "thermal"), and prostrate kanuka (Kunzea ericoides var, microflora). Other flora present includes wheki, water fern, and Carex secta and giant umbrella sedge.

2. The natural landscape amenity of the area - the geothermal landscape is of particular value in an area where much has been changed through development. The land complements the unique features of the neighbouring area Orakei Korako, by showing a gradation from cold ground to the east to warmer soils at Orakei Korako. The site also provides a scenic landscape feature seen from the Waikato River. This site is ranked of national significance and exceptional botanical value.

SCHEDULE 2: ADDRESS FOR SERVICE[6]

The address for service of the Owner is:

[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[6] Note: Insert street addresses rather than P O Boxes. Include facsimile numbers.

SCHEDULE 3: SPECIAL CONDITIONS

1. The Owner may undertake minor clearance of vegetation for the purposes of access for pest plant or animal control.

2. To avoid doubt, this Covenant is subject to the operating easement granted by the Owner in favour of Mighty River Power Limited, and this provision will apply whether or not the operating easement is registered at the date this Covenant is registered, or the operating easement is registered following registration of the Covenant.

PART 2: FORMS OF CONSERVATION COVENANTS – ORAKEI – KORAKO COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 77 of the
Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services
Department of Conservation

LAKE ROTOMAHANA COVENANT

(Clause 10.1.67)

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Reserve Values.

D The parties agree that:

(i) the Land should be managed so as to preserve the Reserve Values; and

(ii) such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree as follows:

1 **INTERPRETATION**

1.1 In this Covenant unless the context otherwise requires:

"**Act**"	means the Reserves Act 1977.
"**Covenant**"	means this Deed of Covenant made under section 77 of the Act.
"**Director-General**"	means the Director-General of Conservation.
"Fence"	includes a gate.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

"**Fire Authority**"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"**Land**"	means the land described in Schedule 1.
"**Minerals**"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"**Minister**"	means the Minister of Conservation.
"**Natural Water**"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"**Owner**"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"**Reserve Values**"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
"**Working Days**"	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity; and

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed so as to preserve the Reserve Values existing at the date of this covenant.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Land:

3.1.1 grazing of the Land by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the land;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

3.1.9 liberate wild animals or animals that have the potential to become feral;

3.1.10 any other activity which might have an adverse effect on the Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; or

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Land.

3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Land;

3.2.3 taking all reasonable steps to keep the Land free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Land, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Land in good order and condition; and

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977; and

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

3.4.1 the repair or maintenance of Fences on the Land if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

4 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

4.1 The Minister must:

4.1.1 have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant; and

4.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

4.2 The Minister may:

4.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2.1 subject to any financial, statutory or other constraints which may apply to the Minister from time to time; and

4.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

5 JOINT OBLIGATIONS

5.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2.1 including preparing, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6 DURATION OF COVENANT

6.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

7 CONSENTS

7.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

8 MISCELLANEOUS MATTERS

Rights

8.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

8.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise.

8.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

Reserves Act

8.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

Title

8.5 This Covenant must be signed by both parties and registered against the Certificate of Title to the Land.

Acceptance of Covenant

8.6 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

8.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

8.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

8.8.1 requested to do so; or

8.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

8.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

9 DEFAULT

9.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant, the other party:

9.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

9.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

9.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of, or observance of, its obligations under this Covenant, then that party (notifying party) may, by written notice:

9.2.1 advise the defaulting party of the default;

9.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

9.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

10 DISPUTE RESOLUTION PROCESSES

10.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

10.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.

10.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

Failure of Mediation

10.4 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.

10.5 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated.

10.6 The parties further agree that the results of arbitration are to be binding upon the parties.

11 NOTICES

11.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

11.2 A notice given in accordance with clause 11.1 will be deemed to have been received:

11.2.1 in the case of personal delivery, on the date of delivery;

11.2.2 in the case of pre-paid post, on the third working day after posting;

11.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

11.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

12 **SPECIAL CONDITIONS**

12.1 Special conditions relating to this Covenant are set out in Schedule 3.

12.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[1.5210 hectares, more or less, being Section 3 SO 354515. Part Gazette 1896 page 1075.]

Reserve Values of Land to be Protected:

1 The natural values represented by the indigenous flora and fauna on the land - the vegetation of the site has developed since the 1886 Tarawera eruption, and is of considerable scientific interest (in regards to vegetation types, species distribution and natural succession to a localised native forest). The vegetation includes coprosma sp. wineberry, fuchsia, hangehange, koromiko, manuka and kanuka, mahoe, pohutukawa, five finger, matipo and kamahi. The fauna includes fantail, bellbird, silvereye, and riroriro. Falcon use the land for hunting, and there have been anecdotal reports of fern bird. The site adjoins the Lake Rotomahana Wildlife Refuge.

2 The natural landscape amenity of the area - this consists of contiguous and attractive forest cover, which surrounds one of the only lakes in the Rotorua District that does not contain exotic water weeds.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

SCHEDULE 2: ADDRESS FOR SERVICE[7]

The address for service of the Owner is:

[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[7] Note: Insert street addresses rather than P O Boxes. Include facsimile numbers.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

SCHEDULE 3: SPECIAL CONDITIONS

1. The Owner may undertake minor clearance of vegetation for the purposes of access for pest plant or animal control.

PART 2: FORMS OF CONSERVATION COVENANTS – LAKE ROTOMAHANA COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 77 of the
Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services
Department of Conservation

KAKAPIKO COVENANT

(Clause 10.1.71)

PART 2: FORMS OF CONSERVATION COVENANTS – KAKAPIKO COVENANT

THIS DEED OF COVENANT is made this day of

BETWEEN (the Owner)

AND

THE MINISTER OF CONSERVATION (the Minister)

BACKGROUND

A Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values.

B The Owner is the registered proprietor of the Land.

C The Land contains Reserve Values.

D The parties agree that:

(i) the Land that should be managed so as to preserve the Reserve Values; and

(ii) such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.

E The Owner has agreed to grant the Minister a Covenant over the Land to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the Minister agree that this Covenant will be entered into and registered but will not take effect and become operative until the Effective Date. The parties further agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

"Act"	means the Reserves Act 1977.
"Covenant"	means this Deed of Covenant made under section 77 of the Act.
"Director-General"	means the Director-General of Conservation.
"Effective Date"	means the date of Expiry of the Existing Forestry Right.

PART 2: FORMS OF CONSERVATION COVENANTS – KAKAPIKO COVENANT

"Existing Forestry Right"	means the forestry right existing at the date of this Covenant and registered under the Forestry Rights Registration Act 1983.
"Fence"	includes a gate.
"Fire Authority"	means a fire authority as defined in the Forest and Rural Fires Act 1977.
"Land"	means the land described in Schedule 1.
"Minerals"	means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
"Minister"	means the Minister of Conservation.
"Natural Water"	includes water contained in streams the banks of which have, from time to time, been re-aligned.
"Owner"	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
"Reserve Values"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat or historical values as specified in Schedule 1.
"Working Days"	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;

1.2.2 references to clauses are references to clauses in this Covenant;

1.2.3 references to parties are references to the Owner and the Minister;

1.2.4 words importing the singular number include the plural and vice versa;

1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;

1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;

1.2.7 words importing one gender include the other gender;

1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity; and

1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed by the Owner so as to preserve the Reserve Values existing at the date of this covenant.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties, with such agreement not to be unreasonably withheld, the Owner must not carry out or permit on or in relation to the Land:

3.1.1 grazing by livestock;

3.1.2 to the extent possible, any vehicle (including motorcycles) entering the Land;

3.1.3 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

3.1.4 the planting of any species of exotic tree, shrub or other plant;

3.1.5 subject to clause 3.2.6, the erection of any Fence, building, structure or other improvement for any purpose;

3.1.6 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;

3.1.7 any cultivation, earth works or other soil disturbances;

3.1.8 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

3.1.9 liberate wild animals or animals that have the potential to become feral;

3.1.10 any other activity which might have an adverse effect on the Reserve Values;

3.1.11 subject to clause 3.2.7, any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; or

3.1.12 subject to clause 3.2.7, the erection of utility transmission lines across the Land.

3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:

3.2.1 taking all reasonable steps to eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;

3.2.2 entering into an agreement with the Fire Authority for the provision of Fire Fighters on Fire Suppression Operations when fire is upon or threatening the Land;

3.2.3 taking all reasonable steps to keep the Land free from exotic tree species;

3.2.4 taking all reasonable steps to keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

3.2.5 subject to agreement (which shall not be unreasonably withheld) between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access onto the Land, to examine and record the condition of the Land, or to ascertain whether the provisions of this Covenant are being observed;

3.2.6 taking all reasonable steps to keep all Fences on the boundary of the Land in good order and condition; and

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

3.3 The Owner acknowledges that:

3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977; and

3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

3.4 Notwithstanding clauses 3.2.1, 3.2.3, and 3.2.6, the Minister will pay the Owner a proportionate share of:

3.4.1 the repair or maintenance of Fences on the Land if the work has first been approved by the Minister (which approval must not be withheld unreasonably);

3.4.2 the eradication or control of all animal and plant pests, and the removal of exotic tree species on the Land if:

(a) they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant; and

(b) the Minister has first approved the work (which approval is not to be withheld unreasonably).

PART 2: FORMS OF CONSERVATION COVENANTS – KAKAPIKO COVENANT

4 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

4.1 The Minister must:

4.1.1 have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant; and

4.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary or otherwise take steps to rectify any other damage which may have resulted in the course of the Minister, the Director-General's employees or contractors or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

4.2 The Minister may:

4.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objective specified in clause 2.1 subject to any financial, statutory or other constraints which may apply to the Minister from time to time; and

4.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

5 JOINT OBLIGATIONS

5.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvement or take any action either jointly or individually better to achieve the objective set out in clause 2.1 including preparing, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6 COMMENCEMENT AND DURATION OF COVENANT

6.1 This Covenant will not take effect and become operative until the Effective Date.

6.2 Notwithstanding clause 6.1 above, this Covenant binds the parties in perpetuity to the rights and obligations contained in it.

7 CONSENTS

7.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

8 MISCELLANEOUS MATTERS

Rights

8.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

Trespass Act

8.2 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise.

8.3 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

Reserves Act

8.4 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

Title

8.5 This Covenant must be signed by both parties and registered against the Computer Freehold Register to the Land.

Acceptance of Covenant

8.6 Subject to clause 6.1 of this Covenant, the parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

Fire

8.7 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land.

8.8 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

8.8.1 requested to do so; or

8.8.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

8.9 This assistance will be at no cost to the Owner unless the Owner is responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

9 DEFAULT

9.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant, the other party:

9.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

9.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

9.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of, or observance of, its obligations under this Covenant, then that party (notifying party) may, by written notice:

9.2.1 advise the defaulting party of the default;

9.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

9.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

10 DISPUTE RESOLUTION PROCESSES

10.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

Mediation

10.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.

10.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

Failure of Mediation

10.4 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.

10.5 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the District Law Society in the region in which the Land is situated.

10.6 The parties further agree that the results of arbitration are to be binding upon the parties.

11 NOTICES

11.1 A notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

11.2 A notice given in accordance with clause 11.1 will be deemed to have been received:

11.2.1 in the case of personal delivery, on the date of delivery;

11.2.2 in the case of pre-paid post, on the third working day after posting;

11.2.3 in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

11.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

12 SPECIAL CONDITIONS

12.1 Special conditions relating to this Covenant are set out in Schedule 3.

12.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____as)
Owner in the presence of:)

Witness: _____

Address : _____

Occupation: _____

Signed by_____exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of :)

Witness: _____

Address : _____

Occupation: _____

PART 2: FORMS OF CONSERVATION COVENANTS – KAKAPIKO COVENANT

SCHEDULE 1: DESCRIPTION OF LAND

Description of Land:

South Auckland Land District – Rotorua District

[2.75 hectares, approximately, being Part Lot 6 DPS 54801. Part Gazette 1975 page 2327. Subject to the "Forestry Right to be granted". Subject to survey.]

Reserve Values to be protected:

1. The natural environment and wildlife values, represented by the indigenous flora and fauna on the land. The typical native flora characteristic of Kakapiko is dominated mostly by regenerating young secondary scrub and fernland. The majority of the site is bracken and kiokio fernland with regenerating shrubs of predominantly mahoe along with pate, rangiora, tutu, toetoe, fivefinger, hangehange, kohuhu, ponga, wheki and mamaku scattered throughout. Near the summit the vegetation is taller and dominated by mahoe shrubland with mamaku scattered throughout in places amongst bracken fernland. Common forest birds present include grey warbler and North Island fantail.

2. The natural landscape amenity of the area. Kakapiko Mountain can be seen from State Highway five, where it is a prominent landmark highly visible from the main highway. In a landscape almost completely dominated by exotic forest, a very small vestige of indigenous scrub remains around the edge of the summit.

PART 2: FORMS OF CONSERVATION COVENANTS – KAKAPIKO COVENANT

SCHEDULE 2: ADDRESS FOR SERVICE[8]

The address for service of the Owner is:

[Te Pumautanga Trustees]

The address for service of the Minister is:

The Area Manager
Department of Conservation
99 Sala Street
ROTORUA 3010

Phone 07 349 7400
Fax 07 349 7401

[8] Note: Insert street addresses rather than P O Boxes. Include facsimile numbers.

SCHEDULE 3: SPECIAL CONDITIONS

Nil

PART 2: FORMS OF CONSERVATION COVENANTS – KAKAPIKO COVENANT

GRANT of

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Minister of Conservation

CONSERVATION COVENANT

Under Section 77 of the
Reserves Act 1977

_____

to

MINISTER OF CONSERVATION

_____

Legal Services
Department of Conservation

PART 3: MANAGEMENT DEED

(Clauses 10.1.47(a) and 10.12)

PART 3: MANAGEMENT DEED

Date:

PARTIES

1 The trustees of the Te Ariki Trust (the *Trustees*);

2 The trustees of the Te Pumautanga o Te Arawa Trust (the *Te Pumautanga Trustees*).

BACKGROUND

A In accordance with the Deed of Settlement, an undivided one half share of the fee simple estate in the Land has vested in the Te Pumautanga Trustees as tenant in common with the Trustees.

B Also in accordance with the Deed of Settlement, an undivided one half share of the fee simple estate in the Land has vested in the Trustees as tenant in common with the Te Pumautanga Trustees.

C The Crown recognises that Ngati Rangitihi, being a Te Arawa group not represented by the Te Pumautanga Trustees, also has an interest in the Land and the Crown has acknowledged and agreed in the Deed of Settlement that the Trustees will hold their undivided one half share in the Land in trust for the Crown for future potential Treaty of Waitangi settlements.

D Under the terms of the Deed of Settlement, the Te Pumautanga Trustees and the Trustees agree to own and manage the Land in a way that recognises the parties' common ownership of the Land, on the terms and conditions set out in this Deed.

OPERATIVE PART

1. DEFINITIONS AND CONSTRUCTION

1.1 Defined terms

In this Deed, unless inconsistent with the context the following words have the following meanings:

Affiliate Te Arawa Iwi/Hapu has the meaning set out in the Deed of Settlement;

Authority means any authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land;

Business Day means the period 9am to 5pm on any day other than:

(a) Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, Labour Day and Waitangi Day;

(b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and

(c) the days observed as the anniversaries of the provinces of Wellington and Auckland;

Commencement Date means the date that an undivided one half share in the fee simple estate in the Land vests in the Te Pumautanga Trustees and an undivided one half share in the fee simple estate in the Land vests in the Trustees, as tenants in common in those shares, in accordance with the provisions of the Deed of Settlement;

Crown means, for the purposes of the Deed of Settlement, and for the purposes of this Deed, The Sovereign acting by the Minister in Charge of Treaty of Waitangi Negotiations;

Deed means this management deed;

Deed of Settlement means the Deed of Settlement of the Historical Claims of the Affiliate Te Arawa Iwi/Hapu dated [ ];

Deed of Trust means the deed of trust dated [ ] establishing the Te Ariki Trust;

Land means all of that land being Sections 1, 2 and 3 Block XII Tarawera Survey District and Sections 1 and 2 SO 354515;

Management Committee means the committee established under clause 5.1 to carry out the functions set out in clause 5.12;

Ngati Rangitihi [*to be finalised before Settlement Date on a similar basis to the Claimant Definition*];

Ngati Rangitihi Trust means the trust described in clause 5.1(b) of the Deed of Trust;

Regional and District Plans shall have ascribed the definitions set out in section 2 of the Resource Management Act 1991 as if such term referred to "Regional Plan" and "District Plan";

Te Ariki Trust means the trust established by the Crown under the Deed of Trust; and

Te Pumautanga Trust means the Te Pumautanga o Te Arawa Trust, established by the Te Pumautanga Trustees under the Te Pumautanga Trust Deed;

Te Pumautanga Trust Deed means the deed of trust dated 1 December 2006 establishing the Te Pumautanga Trust;

Te Pumautanga Trustees includes the trustees from time to time of the Te Pumautanga Trust, appointed in accordance with the Te Pumautanga Trust Deed,

and, subject to clause 8, the successors in title and assigns of the Te Pumautanga Trustees;

Third Party Rights means:

(a) the right to cross the Land granted to Waimangu Volcanic Valley Limited under the unregistered deed of lease dated 13 October 1999;

(b) walkway easement over the Land granted in accordance with the provisions of the Deed of Settlement; and

(c) all other rights, easements, licences, or interests granted to third parties over all or any part of the Land from time to time by the Te Pumautanga Trustees and the Trustees under the provisions of this Deed;

Trustees includes the trustees from time to time of the Te Ariki Trust, appointed by the Crown in accordance with the Deed of Trust, and, subject to clause 8, includes the successors in title and assigns of the Trustees.

1.2 **Construction**

In this Deed:

(a) the singular includes the plural and vice versa;

(b) a reference to any gender includes a reference to all other genders;

(c) a reference to any legislation or to any provision of any legislation includes a reference to any modification or re-enactment of or any provisions substituted for such legislation or provisions;

(d) headings are inserted for convenience only and do not affect the interpretation of this Deed;

(e) where any act is required by this Deed to be done on a given day and that day is not a Business Day then the act is required to be done on the next following Business Day; and

(f) references to schedules are references to schedules in this Deed and references to clauses are references to clauses in this Deed and references to parties are references to the parties to this Deed and their respective successors, successors in title and assigns unless expressly stated otherwise.

PART 3: MANAGEMENT DEED

2. COMMENCEMENT AND TERM

2.1 The provisions of this Deed shall take effect and be binding on the parties from the Commencement Date.

2.2 The parties agree that the terms of this Deed shall run with the Land and shall be binding on the parties in perpetuity, or until:

(a) one party owns both half shares in the Land;

(b) subject to clause 9, either the Te Pumautanga Trustees or the Trustees apply for and are granted an order for partition or sale of the Land under the Property Law Act 2007; or

(c) the Te Pumautanga Trustees and the Trustees agree to jointly sell both of their interests in the Land to a third party.

3. PURPOSE OF DEED

The parties agree that the purpose of this Deed is to set out guidelines, restrictions and obligations on both parties regarding the ownership and management of the Land that:

(a) achieve the objectives set out in clause 4; and

(b) recognise the special common ownership the parties have in the Land under the terms of the Deed of Settlement.

4. OBJECTIVES

4.1 The parties agree to maintain a working relationship which recognises and accepts the following objectives with regard to management issues concerning the Land:

(a) to establish the Management Committee comprising representatives of the parties, on terms set out in this Deed;

(b) to accept and recognise that the Land shall continue to be maintained to a high standard, in order to protect and not diminish the overall integrity and natural features of the Land that exist on the Commencement Date;

(c) to carry out a programme of ongoing maintenance of the Land which will achieve the expectation of the parties that the Land will be maintained to the standard set out in (b) above;

(d) to maintain a relationship with the walkway controlling authority;

(e) to review and consider any changes to the management arrangements from time to time;

(f) subject to clause 11, to consider, in good faith, and in accordance with the provisions of this Deed, each other's plans for any proposed construction on or development of the Land; and

(g) to each endeavour to observe and perform the duties and obligations established under the management arrangement set out in this Deed.

5. MANAGEMENT COMMITTEE

5.1 The Management Committee shall comprise 6 members, 3 to be appointed by each party, unless the parties agree otherwise. The parties agree that they will establish the Management Committee by no later than 30 Business Days after the Commencement Date. Either party shall be entitled to withdraw any of its members and replace that member at any time during the term of this Deed, upon giving 15 Business Days written notice to the other party.

5.2 At any meeting of the Management Committee where a vote is called for, each party shall have one vote, irrespective of the number of members who represent it.

5.3 Meetings of the Management Committee shall be held on at least a quarterly basis each year. In addition, either party may call for an extraordinary meeting, for any matter that the party considers on reasonable grounds must be addressed before the next scheduled quarterly meeting, to be held by giving to the other party 20 Business Days written notice. The parties will bear their own costs of attending all meetings of the Management Committee.

5.4 An agenda, with supporting papers if necessary, shall be circulated by the chairperson to all members of the Management Committee at least 10 Business Days prior to each meeting.

5.5 The quorum for any meeting of the Management Committee shall be 4 members, 2 representing each party. If there is not a member representing a party at any meeting, then the party represented shall have the right to request the meeting be reconvened at the expiration of not less than five Business Days written notice, such notice to state the time and place of the reconvened meeting. If the defaulting party fails to attend without reasonable cause, of which written notice shall be given to the non-defaulting party prior to the reconvened meeting, the non-defaulting party shall be entitled to continue the meeting as if one member from each party was present and shall be entitled to make decisions of the Management Committee as if a quorum were present.

5.6 All decisions made by the Management Committee shall be recorded in writing. The minutes of every Management Committee meeting shall be circulated to the parties and ratified within a month of each meeting.

5.7 In the event that a member of the Management Committee is unable to attend a Management Committee meeting, then the party entitled to appoint such member shall be entitled to appoint an alternate.

5.8 One member of the Management Committee shall act as chairperson. The first chairperson shall be chosen by lot. Thereafter, the position of chairperson shall alternate annually between the parties, with the members of the chairing party deciding which of their members will be the chairperson. The function of the chairperson shall be to arrange and control the Management Committee meetings.

5.9 If, on any vote of the Management Committee, the votes cast are equal, the chairperson shall not have a casting vote, and either party may refer the issue being decided by vote to dispute resolution in accordance with clause 15.

5.10 The Management Committee may appoint a Secretary to prepare agendas, to keep minutes of the meetings, maintain financial and other records of the Management Committee, and attend to the administrative requirements of the Management Committee.

5.11 Each party may nominate advisers, consultants or such other representatives as each party may decide to attend Management Committee meetings. Those persons may participate in discussions at the meetings, but may not vote.

5.12 The Management Committee's functions shall include, by way of example only but not limitation, the following:

(a) co-ordinating ongoing maintenance and/or development of the Land;

(b) co-ordinating and arranging insurance cover;

(c) co-ordinating apportionment and arranging payment of outgoings in respect of the Land;

(d) ensuring compliance with all laws and the lawful requirements of any Authority which has jurisdiction over or in respect of the Land;

(e) arranging collection of, review of (where relevant), apportionment of and payment to the parties, of any income generated on the Land from Third Party Rights or from any other source; and

(f) managing the day to day relationships with those persons granted with Third Party Rights.

5.13 Should members of the Management Committee be unable to resolve any dispute or difference between them, then the dispute or difference shall be referred to dispute resolution in accordance with clause 15.

6. COMPLIANCE WITH LAWS

Each party will:

(a) comply with all statutes, Regional and District Plans, by-laws and regulations, resource consents and building consents(including conditions) which relate to the Land or to that party's use of the Land; and

(b) comply with all conditions or requirements which may be given or required by any person having any lawful authority compliance with the provisions of all licences, requisitions and notices (including abatement notices under the Resource Management Act 1991) issued by any Authority,

and disclose to the other party their existence if that party is likely to also be affected.

7. THIRD PARTY RIGHTS

Both parties agree to jointly observe and abide by the terms of all Third Party Rights and each party agrees that it will not grant any Third Party Right or otherwise encumber (including, without limitation, granting any mortgage) the Land, or that party's interest in the Land, without the prior written consent of the other party, such consent to be given or withheld at the absolute discretion of that other party.

8. RIGHT OF FIRST REFUSAL

8.1 If at any time either party decides to sell or otherwise dispose of its interest in the Land, the party wishing to dispose of their interest (*the disposing party*) shall first give written notice (*the Notice*) to the other party of its desire to sell or dispose of its interest.

8.2 The Notice shall specify the offer price and settlement terms required.

8.3 The other party shall have five Business Days from the date of receiving the Notice to respond to the disposing party that it is interested in considering such offer.

8.4 The other party shall have a further 15 Business Days from expiry of the Notice to accept or decline the offer.

8.5 Should the offer be declined then the disposing party shall be free to deal with the disposal of its interest but the price and settlement terms that the disposing party may offer to any third party shall not be more favourable than those offered to the other party. Should the disposing party propose more favourable terms to any third party, it must first offer the same to the other party, in which event the other party shall have 15 Business Days within which to accept or decline.

8.6 Each party accepts and acknowledges that any offer price to any third party may be better than that which is offered to the other party, provided that the overall terms are not more favourable.

8.7 Despite all other provisions in this clause 8, the disposing party must include in any agreement with a third party to sell or dispose of its interest in the Land, a requirement that the third party enters into a deed of covenant with the other party to comply with the terms and conditions of this Deed (including this clause 8) as if that third party had been an original party to this Deed.

8.8 Any change in the Trustees in the Te Ariki Trust from time to time, whether by resignation of Trustees and/or appointment of new Trustees or otherwise, in accordance with the provisions of the Trust Deed, will not be a sale or disposal of the Trustees' interest in the Land for the purposes of this clause 8.

8.9 Should the Trustees vest or otherwise transfer its interest in the Land to either:

(a) Ngati Rangitihi under a Treaty of Waitangi settlement; or

(b) the trustees of the Ngati Rangitihi Trust,

this will be deemed not to be a sale or disposal of that interest in the Land for the purposes of clauses 8.1 to 8.6, but the Trustees shall be required to comply with clause 8.7.

8.10 Any change in the Te Pumautanga Trustees from time to time, whether by resignation of trustees and/or appointment of new trustees or otherwise, in accordance with the provisions of the Pumautanga Trust Deed governing the Te Pumautanga Trustees, will not be a sale or disposal of the Pumautanga Trustees' interest in the Land for the purposes of this clause 8.

8.11 Should the Te Pumautanga Trustees transfer their interest in the Land to an iwi or hapu of the Affiliate Te Arawa Iwi/Hapu, this will be deemed not to be a sale or disposal of that interest in the Land for the purposes of clauses 8.1 to 8.6, but the Te Pumautanga Trustees shall be required to comply with clause 8.7.

9. PARTIES NOT TO PARTITION

The Te Pumautanga Trustees and the Trustees agree that neither party will be entitled to apply to the court under the Property Law Act 2007 for partition of or sale of the Land until the earlier of:

(a) the Crown concluding an unconditional Treaty of Waitangi settlement with Ngati Rangitihi, the terms of which includes the vesting of the Trustees' interest in the Land in Ngati Rangitihi; and

(b) 15 years after the Commencement Date.

10. INCOME AND OUTGOINGS

10.1 The Te Pumautanga Trustees and the Trustees will each be entitled to a half share of any income derived from ownership or use of the Land, from Third Party Rights, or from any other source relating to the Land, unless the parties agree in writing to share any income other than in equal shares.

10.2 The Te Pumautanga Trustees and the Trustees will be liable to pay half of all outgoings, costs and expenses incurred under this Deed or which are in any way related to the Land, unless:

(a) the parties agree in writing that one party should pay more than half of any particular outgoing, cost or expense; or

(b) any other clause in this Deed provides for other than equal sharing of particular outgoings, costs or expenses.

10.3 Neither party may agree to incur or incur any cost, outgoing or expense in relation to the Land without the prior consent of the other party.

10.4 The parties acknowledge and agree that, except as otherwise provided in this Deed, the Management Committee will be responsible for managing collection of income and the payment of outgoings, costs and expenses in relation to the Land.

11. CONSTRUCTION AND DEVELOPMENT

11.1 Neither party may construct, or allow to be constructed on the Land, or alter, improve or add to, or allow to be altered, improved or added to, any building or any other structure on the Land, without the prior written consent of the other party, such consent to be given or withheld at that other party's absolute discretion.

11.2 Neither party may develop, alter the surface of, dig, excavate or otherwise disturb the Land, or allow the Land to be developed, altered, dug, excavated or disturbed, without the prior written consent of the other party, such consent to be given or withheld at that other party's absolute discretion.

11.3 If the party being requested to give consent under clause 11.1 or 11.2 gives consent, such consent may be given subject to conditions or agreement as to certain matters that the consenting party considers necessary, including without limitation:

(a) who will be responsible for complying with legislation, and for obtaining and complying with all consents of Authorities (including, without limitation and resource consents or building consents) in relation to any work to be undertaken under clause 11.1 and/or 11.2 (the *Work*);

(b) who will bear the costs in relation to the Work, and if by more than one of the parties, in what shares;

(c) if any income will be derived from the Land because of the Work, how that income will be apportioned between the parties;

(d) who will be responsible for undertaking, managing and overseeing the Work and what contractors (if any) will be used for the Work;

(e) if money will be borrowed in order to undertake the Work, who will be responsible for repaying the money borrowed, and in what shares;

(f) timeframes to complete the Work; and

(g) to the extent that the Work will increase the value of the Land, how that increase in value will be apportioned between the parties' interests in the Land.

12. MAINTENANCE

12.1 The Te Pumautanga Trustees and the Trustees acknowledge and agree that each party is committed to keeping the Land in good order and condition and that a programme for ongoing maintenance and upkeep of the Land will be agreed between the parties within six months of the Commencement Date.

12.2 The parties agree that the Management Committee will manage and review the programme for ongoing maintenance on a regular basis.

13. ACCESS RIGHTS

13.1 Subject to any Third Party Rights, each party will be entitled to have access to and the right to remain on the Land **PROVIDED HOWEVER**, in recognition of the interests both parties have in the Land, neither party shall be entitled to take any action or occupy the Land in a way that attempts to create a right of occupation or possession that excludes the other party without the prior written consent of that other party, such consent to be given or withheld at that other party's absolute discretion.

14. INDEMNITY

14.1 The Te Pumautanga Trustees indemnify and hold harmless the Trustees from any costs, liabilities or damage incurred or sustained by the Trustees arising out of or connected with the Land resulting from the Te Pumautanga Trustees breaching this Deed.

14.2 The Trustees indemnify and hold harmless the Te Pumautanga Trustees from any costs, liabilities or damage incurred or sustained by the Te Pumautanga Trustees arising out of or connected with the Land resulting from the Trustees breaching this Deed.

15. DISPUTE RESOLUTION

15.1 Consultation

In the event that the parties are in dispute regarding any matter arising out of and from this Deed then appointed representatives of each party will consult expeditiously with one another in good faith and use their best endeavours to resolve such dispute to the mutual satisfaction of the parties without the resort to alternative dispute resolution.

15.2 Mediation

(a) In the event that there is a dispute between the parties and they cannot resolve that dispute within 10 Business Days of referral then either party may

by notice in writing to the other party refer the dispute to compulsory mediation supervised by a member of LEADR (Leading Edge Alternative Dispute Resolvers); and

(b) Should the parties be unable to agree on a mediator within 10 Business Days of the date of such notice of disputation either party may request the President or his or her nominee for the time being of the New Zealand Law Society to nominate an appropriate person or persons (having regard to the matters the subject of the dispute) to mediate the dispute and the parties agree to accept as mediator the person nominated by the President or his or her nominee of the New Zealand Law Society.

15.3 **Arbitration**

In the absence of agreement under clause 15.2 then either party may refer any unresolved dispute to arbitration under the Arbitration Act 1996 by a sole arbitrator agreed on by the parties or, failing agreement, appointed by the New Zealand President of the Arbitrators' and Mediators' Institute.

15.4 **Injunctive Relief**

Either party may make application to the courts for injunctive relief where that party in its reasonable opinion believes such relief is necessary to preserve or protect that party's interest in the Land.

16. **PUBLIC ANNOUNCEMENTS**

Except as may be required by law, no press release or other announcements relating to this Deed or the parties' common ownership of the Land will be made without the prior written approval of both parties which approval will not be unreasonably withheld or delayed. The parties will co-operate as to the timing and contents of any such announcement.

17. **NOTICES**

17.1 **Contact Details**

Unless and until the party provides a different address or facsimile number by notice in writing to the other party to this Deed its address for notices will be:

(a) the Te Pumautanga Trustees:

[To be completed.]

(b) the Trustees:

[To be completed]

17.2 **Deemed Receipt**

Any notice given as provided by this clause will be deemed received by the party to whom it is addressed when:

(a) in the case of any notice delivered by hand, when so delivered;

(b) in the case of any notice sent by facsimile such notice, upon the issue to the sender of a transmission control or other like report from the despatching facsimile machine which shows the relevant number of pages comprised in the notice to have been sent and the result of the transmission is "OK".

18. MISCELLANEOUS

18.1 Unavoidable Events

No failure or omission to carry out or observe any term of this Deed will give rise to a claim by either party against the other or result in a breach of this Deed if such failure or omission arises by reason of delay or inability to perform caused by government or statutory restriction or from other similar causes which are unavoidable or beyond the reasonable control of the defaulting party. For the avoidance of doubt, the Trustees acknowledge and agree that the Trustees will not, whether under the Trust Deed or otherwise, actively seek Crown intervention or restriction in respect of this Deed in order to cause or create an unavoidable delay or inability to perform under this Deed.

18.2 Further Acts

Each of the parties will without consideration sign, execute and deliver any document and will perform any other act which may be necessary or desirable to give full effect to this Deed.

18.3 Entire Agreement

This Deed supersedes all prior representations, arrangements, understandings and agreements between the parties relating to the subject matter of this Deed and sets forth the entire and exclusive agreement and understanding between the parties relating to the subject matter of this Deed.

18.4 No Waiver or Variation

The parties agree that no provision of or right created under this Deed may be waived or varied if that waiver or variation were to materially alter the original purpose of this Deed.

18.5 Partial Exercise of Rights

No single or partial exercise by any party of any right, power or remedy under this Deed will preclude any other or further exercise of that or any other right, power or remedy.

18.6 Severance

If any provision of this Deed is judged invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such invalidity or unenforceability (unless deletion of such provision would materially adversely affect one of the parties) will not affect the operation or interpretation of any other provision of this Deed to the intent that the invalid or unenforceable provision will be treated as severed from this Deed.

18.7 **Counterparts**

This Deed may consist of a number of counterparts, each of which when executed will be an original and all the counterparts together will constitute one and the same instrument.

18.8 **Indemnity**

Each indemnity under this Deed is a continuing indemnity and will constitute a separate and independent obligation of the party giving the indemnity from its other obligations under this Deed and will survive the execution, delivery, completion and termination of this Deed.

18.9 **Governing Law**

This Deed will be construed in accordance with and will be governed by the laws for the time being in force in New Zealand. Each of the parties irrevocably submits to the non-exclusive jurisdiction of any of the courts of New Zealand.

18.10 **Full Authority**

Each party warrants to the other party that, prior to the entering into this Deed, that it has obtained all authorities necessary to become bound to the terms and conditions of the Deed, and there are no restrictions or other obligations known to it which would or might impede it in giving full effect to this Deed.

PART 3: MANAGEMENT DEED

EXECUTED by the parties as an agreement on the date set out above.

EXECUTION

Signed by **the Trustees of the Te Ariki Trust** by:

_____
Trustee

_____
Trustee

Signed by **the Trustees of the Te Pumautanga o Te Arawa Trust** by:

_____

_____

_____

PART 4: FORM OF TE ARIKI WALKWAY EASEMENT

(Clauses 10.1.47(b) and 10.12)

PART 4: FORM OF TE ARIKI WALKWAY EASEMENT

ANNEXURE SCHEDULE 1

Easement Instrument	Dated:	Page 4 of 6 pages

SCHEDULE B

RIGHTS AND POWERS

Rights of way

(1) The right of way includes the right for the Grantee in common with the Grantor and other persons to whom the Grantor may grant similar rights, at all times, to go over and along the Easement Area.

(2) The right of way includes the right for the public to go over and along the Easement Area on foot and where the Grantee wishes to carry out work to develop, improve or maintain the Easement Area its employees or contractors may proceed along the Easement Area by foot and with hand-held tools, or with the consent of the Grantor, which will not be unreasonably withheld, by vehicle or any other means of transport and with all necessary tools, vehicles and equipment to carry out the work.

(3) The right of way includes—

(a) the right to establish a walkway on the Easement area, to repair and maintain an existing walkway on the Easement Area, and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and

(b) the right to have the Easement Area kept clear at all times of obstructions (whether caused by parked vehicles, deposit of materials, or unreasonable impediment) to the use and enjoyment of the walkway; and

(c) the right for the Grantee to improve the Easement Area in any way it considers expedient, including track markers, stiles, but without at any time causing damage to the Land or interfering with the Grantor's management of the Land and

(d) the right for the Grantee to erect and display such notices on the Easement Area or on the property of the Grantor.

(4) The right of way does not confer on the public the right to camp on or adjacent to the walkway on the Easement Area without the consent of the Grantor which must be first obtained.

(5) No horse or any other animal (including any dogs or other pets of any description whether on a leash or not) may be taken on the walkway on the Easement Area without the consent of the Grantor.

(6) Any firearm carried on the walkway must be done so in accordance with the Arms Act 1983.

(7) The public may not use any vehicle, including motorcycles or bicycles or any means of locomotion, mechanical electrical or otherwise on the walkway on the Easement Area without the consent of the Grantor.

(8) The public may not light any fires or deposit any rubbish on the Easement Area.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

PART 4: FORM OF TE ARIKI WALKWAY EASEMENT

General rights

(1) The Grantor must not do and must not allow to be done on the servient land anything that may interfere with or restrict the rights under this easement or of any other party or interfere with the efficient operation of the Easement Area.

(2) Except as provided in this easement the Grantee must not do and must not allow to be done on the servient land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the Easement Area.

Repair, maintenance, and costs

(1) The Grantee is responsible for arranging the repair and maintenance of the walkway on the Easement Area and for the associated costs, so as to keep the area in good order and to prevent it from becoming a danger or nuisance.

(2) The Grantee must meet any associated requirements of the relevant local authority.

(3) The Grantee will repair all damage that may be caused by the negligent or improper exercise of any right or power conferred by this easement.

Rights of entry

(1) For the purpose of performing any duty or in the exercise of any rights conferred or implied in the easement, the Grantee may, with the consent of the Grantor, which must not be unreasonably withheld —

(a) enter upon the servient land by a reasonable route and with all necessary tools, vehicles, and equipment; and

(b) remain on the servient land for a reasonable time for the sole purpose of completing the necessary work; and

(c) leave any vehicles or equipment on the servient land for a reasonable time if work is proceeding.

(2) The Grantee must ensure that as little damage or disturbance as possible is caused to the servient land or to the Grantor.

(3) The Grantee must ensure that all work is performed in a proper and workmanlike manner.

(4) The Grantee must ensure that all work is completed promptly.

(5) The Grantee must immediately make good any damage done to the servient land by restoring the surface of the land as nearly as possible to its former condition.

(6) The Grantee must compensate the Grantor for all damages caused by the work to any crop (whether ready for harvest or not) or to any buildings, erections, or fences on the servient land.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

PART 4: FORM OF TE ARIKI WALKWAY EASEMENT

Default

If the Grantor or the Grantee does not meet the obligations implied or specified in any easement—

(a) the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation; and

(b) if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may—

(i) meet the obligation; and

(ii) for that purpose, enter the servient land;

(c) the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation; and

(d) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

Disputes

If a dispute in relation to an easement arises between parties who have a registered interest under the easement—

(a) the party initiating the dispute must provide full written particulars of the dispute to the other party; and

(b) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and

(c) if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties)—

(i) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and

(ii) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the District Law Society (being the District Law Society that has its headquarters closest to the land).

Controlling Authority

If the Minister of Conservation is considering appointing a controlling authority for the walkway under section 11 of the New Zealand Walkways Act 1990, the Grantee will invite the Minister to consult with the Grantor and suggest that as a condition of any such appointment, the Minister should consider imposing the requirement that the controlling authority should apply any surplus money received from any charges it imposes for the use of facilities and amenities on the walkway to improving the walkway or the facilities and amenities on the walkway.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

PART 5: FORM OF WAI-O-TAPU SITE EASEMENT

(Clause 10.1.60)

PART 5: FORM OF WAI-O-TAPU SITE EASEMENT

[Form to be redrafted as an easement instrument]

Date

PARTIES

3 **THE TRUSTEES OF THE TE PUMAUTANGA O TE ARAWA TRUST** (the "Grantor")

4 **[OWNER OF GRANTEE'S LAND]** (the "Grantee")

BACKGROUND

A. The Grantee wishes to enter upon and cross the Grantor's Land for the purpose of gaining access to and egress from the Grantee's Land (as herein defined).

B. The Grantor has agreed to allow the Grantee to enter upon and cross the Grantor's Land, for the purposes of enabling the Grantee to gain access to and egress from the Grantee's Land on the terms and conditions set out in this Deed.

BY THIS DEED IT IS AGREED AND DECLARED as follows:

1 **DEFINITIONS AND CONSTRUCTION**

1.1 **Definitions**:

In this Deed, unless the context otherwise requires:

"Commencement Date" means the date first written above;

"Deed" means this deed, the Background and the Schedule annexed hereto;

"Grantee" also includes the registered proprietors of the Grantee's Land and the licensees, lessees, employees, agents, contractors, successors and assigns of the Grantee;

"**Grantor**" also includes the other registered proprietors from time to time of the Grantor's Land;

"Grantee's Land" means the land described in paragraph 3 of the First Schedule;

"Grantor's Land" means the land described in paragraph 1 of the First Schedule and includes any part thereof;

[*The following definitions will be omitted if there is no Crown Forestry Licence at the time the easement is granted*]

["**Crown Forestry Licence**" means a Crown Forestry Licence granted under section 14 of the Crown Forest Assets Act 1989;

"**Crown Forestry Licensee**" means the Licensee under a Crown Forestry Licence over the Grantee's Land and includes the employees, agents, contractors and successors and assigns of the Crown Forestry Licensee;]

1.2 **Construction**

In the construction of this Deed unless the context otherwise requires:

1.2.1 the headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Deed;

1.2.2 references to Clauses and the Schedule are to the clauses and the schedule of this Deed;

1.2.3 references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw as from time to time amended and includes substituted provisions that substantially correspond to those referred to; and

1.2.4 the singular includes the plural and vice versa, and words importing any gender include the other genders.

2 **GRANT OF ACCESS RIGHTS**

2.1 Pursuant to section [***enter appropriate section and title of settlement legislation***] the Grantor hereby grants to the Grantee a right of way over that part of the Grantor's Land shown marked A on SO 395143 together with the rights and powers set out in Schedule Four of the Land Transfer Regulations 2002 except to the extent that they are modified, varied or negatived by the terms and conditions set out in this Deed to the intent that the easement shall be forever appurtenant to the Grantee's Land as set out in the First Schedule.

2.2 In consideration of the Grantor agreeing to enter into this Deed the Grantee shall duly observe the obligations imposed on it under this Deed.

3 **OBLIGATIONS OF THE GRANTEE**

The rights and powers conferred under Clause 2 of this Deed are granted subject to the following conditions and obligations:

3.1 The Grantee shall when passing or repassing over the Grantor's Land:

3.1.1 wherever possible, remain on the roads and tracks constructed on the Grantor's Land and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads;

3.1.2 not use or cause to be used either any tracked vehicle or any other class of vehicle which has been reasonably prohibited by the Grantor provided that

the Grantee shall be permitted, without limitation to use any class of vehicle which is ordinarily used in a production forest (including, but not limited to, haulers and heavy logging trucks);

3.1.3 take all due care when taking any welding equipment over the Grantor's Land and shall not use or operate or cause to be used or operated any welding equipment on the Grantor's Land without the prior written permission of the Grantor;

3.1.4 immediately after passing through any gates on the Grantor's Land, close such of them as were closed and lock such of them as were locked immediately before such passing through;

3.1.5 take all reasonable and proper precautions for guarding against any danger (including, but without limitation, fire, physical damage, disease or the spread of noxious weeds and pests) either on the Grantor's Land, on any surrounding or adjoining land, forest or water, or to any vegetation on the Grantor's Land, and in particular shall (but without limiting the general obligation to take reasonable and proper precautions pursuant to this Clause 3.1.5):

(a) comply strictly with all reasonable conditions that may be imposed from time to time by the Grantor or other lawful authority; and

(b) not use or operate any vehicle or machinery unless it is provided with safe and sufficient means of preventing the escape of sparks or flames;

3.2 Subject to Clauses 3.7 and 3.8, the Grantee shall, at its cost, repair to the satisfaction of the Grantor, any of the Grantor's roads, tracks, fences, gates, drains, buildings or other structures which are damaged by the Grantee;

3.3 The Grantee shall annually pay to the Grantor a proportion of the cost of maintenance of any of the roads or tracks on the Grantor's Land commensurate with the use made by the Grantee of such roads or tracks **PROVIDED THAT** the Grantee shall not be liable to contribute towards the cost of repairing any damage to a road or track which was the sole result of the Grantor's negligent use of that track or road;

3.4 The Grantee shall not exhibit any notice or sign on the Grantor's Land without the prior written consent of the Grantor as to the style, content, wording, size and location of the notice or sign (which consent shall not be unreasonably or arbitrarily withheld) provided that this clause 3.4 shall not prevent the Grantee from displaying temporary operational signs necessary for the health and safety of road users. Such temporary operational signs shall not purport to close the road or restrict public access to the Grantor's Land, are to be consistent with the standards set by the Land Transport Safety Authority and must be removed when the operation has been completed;

3.5 The Grantee will ensure, at all times, in the exercise of the rights set out in this Deed that its agents, employees or contractors will not obstruct or hamper the Grantor or its agents, employees and contractors, in its or their normal or reasonable use of the Grantor's Land;

3.6 Subject to Clauses 3.7 and 3.8, in the event that the Grantor's roads, tracks and structures are not of sufficient standard for the use to be made of them by the Grantee, then any necessary improvements and maintenance shall be at the sole cost of the Grantee;

3.7 When carrying out any repairs, maintenance or improvements to a road under clauses 3.2 and 3.6, the Grantee shall not:

3.7.1 widen the road; or

3.7.2 alter the location of the road; or

3.7.3 alter the way in which the run-off from the road is disposed of; or

3.7.4 change the nature of the road surface; or

3.7.5 park or store equipment or material on the Grantor's Land

without the Grantor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.8 The Grantee shall not erect any structures on the Grantor's Land or make any additions or alterations to existing structures or replace such structures unless the Grantee has obtained the Grantor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.9 The Grantee shall not at any time, except with the prior written approval of the Grantor, carry out any earthworks or cut down, pull out, dig up, use, burn, remove, or otherwise dispose of any vegetation on the Grantor's Land nor shall the Grantee authorise such cutting down, pulling out, digging up, use, burning, removal or other disposal of any vegetation without the prior written approval of the Grantor;

3.10 The Grantee shall not, without the prior written approval of the Grantor, carry or discharge any firearm, missile or other offensive weapon, or kill or trap any animals or birds, over or on the Grantor's Land, nor shall the Grantee authorise such carrying, discharging, killing, or trapping without the prior written approval of the Grantor;

3.11 The Grantee shall comply at all times with all statutes and regulations, in particular the [Reserves Act 1977], and obtain all approvals, consents and authorisations as are necessary for the Grantee to conduct the activities permitted by this Deed. This easement, granted in accordance with [***enter appropriate section and title of settlement legislation***], will be enforceable in accordance with its terms, despite the provisions of the Reserves Act 1977.

4 GRANTOR'S RIGHTS

The Grantor reserves the right at any time or times hereafter to erect, renew, and maintain gates together with all necessary fittings and fixtures across any road or track on the Grantor's Land, but so that such gates when opened shall leave a clear space of a width not less than five (5) metres for passage **PROVIDED THAT** the Grantor shall furnish at the expense of the Grantee, keys to any locks fitted to any of the said gates.

5 COSTS

The Grantee shall be liable to the Grantor for any reasonable costs or expenses, including reasonable legal costs, incurred by the Grantor arising from or incidental to the enforcement of any provision in this Deed.

6 LICENCE

[*This clause will be omitted if there is no Crown Forestry Licence at the time this easement is granted*]

The Grantor and the Grantee record that at the time that the easement is granted there is a Crown Forestry Licence in respect of the Grantee's Land, under which the Crown Forestry Licensee has rights in respect of the Grantor's Land, and this Deed is entered into subject to, and the rights under it must not be exercised in a manner inconsistent with those rights of the Crown Forestry Licensee.

7 REGISTRATION

The parties shall take and do all such acts and things necessary to ensure that this Deed (or easement instrument granting a right of way easement on substantially the same terms) is registered in the South Auckland Land Registry Office as soon as the Registrar-General of Land confirms that this Deed, or such easement instrument, can be registered against the Grantor's Land.

8 **DELEGATION**

All rights, benefits, and obligations of a party to this Deed arising under this Deed may be exercised by a person duly appointed by that party **PROVIDED THAT** the exercise of any such rights, benefits, or obligations by that duly appointed person shall not limit the liability of either party in the performance or observance of the provisions of this Deed.

9 **NOTICES**

9.1 Any notice to be given by one party under this Deed to the other shall be in writing and shall be forwarded by either delivering or posting it to the addressee at the appropriate address set out below or to such address notified by the addressee in writing to the other party:

9.1.1 the Grantor's address as set out in paragraph 2 of the First Schedule;

9.1.2 the Grantee's address as set out in paragraph 4 of the First Schedule.

9.2 Any notice posted shall be deemed to be served three (3) working days after the date of posting.

10 **SEVERABILITY**

If any part of this Deed is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Deed which shall remain in full force.

11 **DISPUTES RESOLUTION**

Should any dispute arise between the parties touching any matter relating to this Deed then:

11.1 any dispute will be defined by written notice by the party raising it to the other and will forthwith be discussed (on a "without prejudice" basis) by the parties in an attempt to resolve their differences amicably, including, with the agreement of both parties, the discussion extending to a mediation discussion in the presence of an experienced mediator (who will be agreed between the parties or, failing agreement, a mediator appointed by the President for the time being of the Auckland District Law Society);

11.2 if such discussion or mediation between the parties fails to produce any agreement, within 14 days of receipt by the other party of the written notice, the matter in dispute will be referred to arbitration in accordance with the Arbitration Act 1996;

11.3 the arbitration will be commenced by either party giving to the other notice in writing stating the subject matter and details of the difference and that party's desire to have the matter referred to arbitration;

11.4 the arbitration will be by one arbitrator to be agreed by the parties and, failing agreement, as appointed by the then President of the New Zealand Law Society or its successor. The award in the arbitration will be final and binding on the parties.

IN WITNESS WHEREOF this Deed has been duly executed on the date first written above.

Signed for and on behalf of **THE TRUSTEES OF THE TE PUMAUTANGA O TE ARAWA TRUST** as Grantor by

Signed for and on behalf of **[OWNER OF GRANTEE'S LAND]** as Grantee by:

_____

in the presence of:

_____

Name:

Occupation:

Address:

PART 5: FORM OF WAI-O-TAPU SITE EASEMENT

FIRST SCHEDULE

1 GRANTOR'S LAND:

[enter details]

2 GRANTOR'S ADDRESS:

[Te Pumautanga Trustees]
[Enter address]

3 GRANTEE'S LAND:

[enter details]

4 GRANTEE'S ADDRESS:

[Owner of Grantee's Land]
[Enter address]

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

(Clause 10.1.87(b))

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

1 **PARTIES**

1.1 **THE SOVEREIGN** in right of the Government of New Zealand acting by and through [ ], Chief Executive, Ministry of Economic Development ("the Lessor").

1.2 **THE NEW ZEALAND MAORI ARTS AND CRAFTS INSTITUTE** a body corporate duly constituted under the provisions of Section 4 of the New Zealand Maori Arts and Crafts Institute Act 1963 ("the Lessee").

2 **PRELIMINARY**

2.1 The Minister in Charge of Tourism acting on behalf of **THE SOVEREIGN** entered a lease with the Lessee who was then known as the **ROTORUA MAORI ARTS AND CRAFTS INSTITUTE** dated 9 November 1965 in respect of the Land and the Whakarewarewa Reserve Land, which lease was registered under Vol 2021 Folio 47 (South Auckland Registry). This lease, including renewal and variation of lease registered under number B457107.1, is held in computer interest register SA2021/47 (called "the Existing Lease").

2.2 The Minister of Tourism acting on behalf of **THE SOVEREIGN** has continued responsibility for the Lessor's administration of the Existing Lease subsequent to the dissolution of the New Zealand Tourist and Publicity Department.

2.3 In accordance with the provisions of the Deed of Settlement of the Historical Claims of The Affiliate Te Arawa Iwi/Hapu, the Lessor and the Lessee agreed to partially surrender the Existing Lease by deed of surrender dated [ ] in relation to the Whakarewarewa Reserve Land, in consideration for entering into this variation of the Existing Lease of the Land (hereafter called "this Lease") and a lease of the Arikikapakapa Section 101 Land of even date with this Lease (hereafter called "the Arikikapakapa Section 101 Lease") and in consideration for the Whakarewarewa Lease Lessor and the Lessee entering into a new lease of the Whakarewarewa Reserve Land of even date with this Lease (hereafter called "the Whakarewarewa Lease").

2.4 The Lessor and the Lessee have agreed to vary the Existing Lease upon the terms and conditions set out in clauses 1-28 which are attached and shall form part of this Lease with effect from [*Settlement Date under Deed of Settlement*] ("the Effective Date").

2.5 The Lessor and the Lessee are entering into this Lease and the Arikikapakapa Section 101 Lease, and the Whakarewarewa Lease Lessor and the Lessee are entering into the Whakarewarewa Lease with the intention that the Leases will be dealt with, to the extent provided for in the Leases, on the basis that they are and will remain connected with each other, as if the Land, the Arikikapakapa Section 101 Land and the Whakarewarewa Reserve Land were leased to the Lessee under one lease.

Schedule of Land

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

Area	Legal Description
0.5978 hectares more or less	Part Lot 1 DP 23567;
10.0012 hectares more or less	Part Lot 3 DP 23567; and
3.2931 hectares more or less	Section 8 Block XLIX Town of Rotorua.
Encumbrances, Liens & Interests	
[1. ***Need to be completed.***	
2.]	

DATED 20

EXECUTION

THE SOVEREIGN)
)
acting by and through [ ])
the Chief Executive of the Ministry of)
Economic Development acting under)
delegated authority from the Minister)
of Tourism in the presence of:)

NEW ZEALAND MAORI ARTS)
AND CRAFTS INSTITUTE a body)
corporate duly incorporated under the)
provisions of Section 4 of the)
New Zealand Maori Arts and Crafts)
Institute Act 1963 in the presence of:)

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

FIRST SCHEDULE

1. The Existing Lease is varied as follows:

   1.1 Delete Schedules B, C and D inclusive and replace them with clauses 1-28 in Schedule 2 following as from the Effective Date.

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

SECOND SCHEDULE

Insert the following clauses in the Existing Lease in substitution for Schedules B, C and D deleted by clause 1.1 of the First Schedule of this Lease.

1 INTERPRETATION AND DEFINITIONS

1.1 For the purpose of the interpretation or construction of this Lease, unless the context provides otherwise:

1.1.1 Words importing any gender shall include all other genders.

1.1.2 Words importing the singular shall include the plural and vice versa.

1.1.3 Payments shall be made in the lawful currency of New Zealand.

1.1.4 Headings shall be ignored.

1.1.5 References to schedules are references to schedules in this Lease and references to clauses are references to clauses in this Lease and references to parties are references to the parties to this Lease and their respective successors and assigns (if permitted in the case of the Lessee under clause 14) unless expressly stated otherwise.

1.1.6 A "person" shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust or a Crown entity as defined in Section 7(1) of the Crown Entities Act 2004, or State enterprise, in each case whether or not having separate legal personality.

1.1.7 "Writing" shall include words visibly represented or reproduced.

1.1.8 No consent or waiver, express or implied by the Lessor, to or of any breach of any covenant, condition or duty of the Lessee will be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty. No waiver of any breach of the Lessee will be implied from the Lessor's failure to exercise the Lessor's rights or any of them in respect of that breach.

1.1.9 Nothing contained in this Lease shall be deemed or construed or constitute any party, a partner, agent or representative of the other party or be deemed to create any trust, commercial partnership or joint venture.

1.1.10 The invalidity of any part or provision of this Lease shall not affect the enforceability of any other part or provision thereof.

1.1.11 The parties acknowledge and agree that certain covenants set out in this Lease (in particular, provisions relating to the treatment of Lessee's Improvements on termination or sooner determination of this Lease in clause

20) shall continue beyond the expiry or sooner determination of this Lease for the benefit of the parties notwithstanding the prior expiry or sooner determination of this Lease.

1.1.12 This Lease shall be construed and take effect in accordance with the laws of New Zealand.

1.1.13 Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.

1.1.14 "Annual Rent" is a reference to all annual rental payable under this Lease and the Arikikapakapa Section 101 Lease as calculated in clause 3.1, plus GST.

1.1.15 "Admission Income" means all income received from admission charges to the Land, the Arikikapakapa Section 101 Land and the Whakarewarewa Reserve Land levied by the Lessee excluding:

(a) GST; and

(b) any lawful commissions paid to tourist operators in relation to that admission income.

1.1.16 "Admission Income Percentage" is a percentage that is multiplied by the Admission Income to calculate the Annual Rent. From the Effective Date the Admission Income Percentage shall be 6.75 per cent. Any review of the Admission Income Percentage shall include a consideration of the capital sum invested by the Lessee for the purposes of enhancing the enjoyment by sightseers of natural features on the Land and the Whakarewarewa Reserve Land. For the avoidance of doubt, capital expenditure expended on Lessee's Improvements on the Land, including any future capital expenditure on alterations or additions to those improvements or on new Lessee's Improvements on the Land, shall be assumed not to exist when reviewing the Admission Income Percentage.

1.1.17 "Arikikapakapa Section 101 Land" means the land comprising 0.9143 hectares, more or less, being Section 101 Block I Tarawera Survey District.

1.1.18 "Authority" means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land and any Lessor's Improvements or Lessee's Improvements but shall exclude the Lessor acting in its capacity as Lessor under this Lease.

1.1.19 "The Act" means the New Zealand Maori Arts and Crafts Institute Act 1963.

1.1.20 "Crown" means The Sovereign in right of the Government of New Zealand acting by and through [ ], Chief Executive, Ministry of Economic Development, being the Lessor under this Lease and the Arikikapakapa Section 101 Lease.

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

1.1.21 "Land" and "the Land" is a reference to all the land described in the First Schedule.

1.1.22 "Leases" means this Lease, the Arikikapakapa Section 101 Lease and the Whakarewarewa Lease.

1.1.23 The expression "the Lessee" shall include and bind:

(a) the persons executing this Lease as Lessee;

(b) any Lessee for the time being under it; and

(c) all the respective executors, administrators, successors, assigns and successors in title of each Lessee and if more than one jointly and severally.

1.1.24 "Lessee's Improvements" shall mean all improvements on the Land of any kind whatsoever including buildings, tunnels, sealed or unsealed yards, paths, tracks, roads, bridges, lawns, gardens, fences and other property of any kind whatsoever constructed or placed on the Land by the Lessee or any person or body authorised by the Lessee but shall exclude "Lessor's Improvements".

1.1.25 The expression "the Lessor" shall include and bind:

(a) the person executing this Lease as Lessor and the person executing the Arikikapakapa Section 101 Lease as lessor;

(b) all the Lessors for the time being under this Lease and the Arikikapakapa Section 101 Lease; and

(c) all the respective executors, administrators, successors, assigns and successors in title of each Lessor and if more than one jointly and severally.

1.1.26 "Lessor's Improvements" means those improvements attached to the Land as at 31 January 1965, as listed in the Third Schedule, and all improvements on the Land of any kind whatsoever including buildings, tunnels, sealed or unsealed yards, paths, tracks, roads, bridges, lawns, gardens, fences and other property of any kind whatsoever constructed or placed on the Land by the Lessor after 1 February 1998 under the Existing Lease with the consent of the Lessee and which is or is subsequently listed in clause 6 (as that clause may be varied from time to time). All improvements on the Land as at 1 February 1998 under the Existing Lease, except those improvements listed in the Third Schedule, were Lessee's Improvements.

1.1.27 "Permitted Use" shall have the meaning given to those words in clause 11.

1.1.28 "Renewal Date" means 1 February 2028 and each subsequent first day of the term of any renewal of this Lease.

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

1.1.29 "Review Date" means 1 February 2013, and each succeeding fifth anniversary of that date during the continuance of this Lease or any renewal of this Lease including any Renewal Date.

1.1.30 "Regional and District Plans" shall have the meanings set out in section 2 of the Resource Management Act 1991 and shall extend to include any successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.

1.1.31 "Whakarewarewa Reserve Land" means the land comprising 43.4200 hectares, more or less, being Section 1 SO 390094. .

1.1.32 "Whakarewarewa Lease Lessor" means the lessor from time to time of the Whakarewarewa Lease.

1.1.33 "Working Day" means:

(a) any day of the week other than Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday and Waitangi Day; and

(b) a day in the period commencing with the 25th day of December in any year and ending with the seventh day of January in the following year.

2 **TERM**

2.1 The initial term of this Lease was for a period of thirty three years from 1 February 1965 to 31 January 1998 inclusive.

2.2 The first renewal of this Lease shall be for a period of thirty (30) years from 1 February 1998 to 31 January 2028 inclusive.

2.3 Second and subsequent renewals (if exercised) shall be for thirty (30) year terms commencing on 1 February in each year following the expiry of the previous term. These rights of renewal are exercisable in perpetuity.

3 **RENT**

3.1 The Annual Rent shall be calculated by:

3.1.1 multiplying the Admission Income by the Admission Income Percentage; and

3.1.2 dividing the amount in 3.1.1 by two.

3.2 The Annual Rent is calculated on the basis in clause 3.1 with the intention that, for the term (including all renewal terms) of this Lease, the Arikikapakapa Section 101 Lease and the Whakarewarewa Lease, the annual rent amount derived from the calculation in clause 3.1.1 will be shared equally between the Lessor and the Whakarewarewa Lease Lessor.

3.3 The Lessor will not enter into any arrangement, or agreement with the Lessee, whether under this Lease, or independently of this Lease, or allow the Lessee to take any action or make any decisions that would, or is likely to, reduce the amount of Admission Income derived from the Land, the Arikikapakapa Section 101 Land and from the Whakarewarewa Reserve Land, without the prior written consent of the Whakarewarewa Lease Lessor.

3.4 The Lessee shall pay the Annual Rent in twelve instalments two monthly in arrears on the first days of each month during the continuance of this Lease, commencing with a first payment on 1 April 1998which shall be for the month of February, (which payment dates are hereafter collectively called "the Rent Payment Dates").

3.5 Annual Rent shall be reviewed and otherwise varied in accordance with this Lease.

4 RECONCILIATION OF ANNUAL RENT

4.1 The Lessee shall on each Rent Payment Date provide to the Lessor written confirmation of Annual Rent for the monthly period to which that payment relates, including a calculation as to how the quantum of that payment was arrived at.

4.2 No later than two months after the end of the Lessee's financial year the Lessee shall supply to the Lessor:

4.2.1 an audited reconciliation of Admission Income received to Annual Rent paid to the Lessor for the Lessee's previous financial year; and

4.2.2 if requested, the Lessee's audited accounts for the previous financial year.

4.3 Should:

4.3.1 the information supplied pursuant to clause 4.2.1 above be found to be incorrect; or

4.3.2 it be ascertained that for any other reason Annual Rent for the previous financial year has been underpaid or overpaid,

then the Lessor shall notify the Lessee in writing of the amount of the overpayment or underpayment and any financial adjustment between the parties shall be dealt with as follows:

(a) where the Annual Rent has been overpaid, the Lessor shall credit the surplus amount to the Lessee's account; and

(b) where the Annual Rent has been underpaid, the Lessee shall pay the difference to the Lessor at the same time as the instalment of Annual Rent next following notification of the underpayment.

Should the amount of underpayment or overpayment not be credited or paid in accordance with paragraphs (a) and (b) above, overdue money shall bear interest at the default rate specified in clause 10 until they are paid.

4.4 Any disputes over the quantum of any payment due under clause 4.3 shall be resolved in the manner provided in clause 4.8 following.

4.5 The Lessee shall maintain such records and calculations as are necessary to enable it to clearly identify all revenues from which all Annual Rent is derived.

4.6 The Lessee shall, no later than ten (10) working days after request from the Lessor make such records and calculations available to the Lessor for audit purposes.

4.7 The Lessee shall assist the Lessor or the Lessor's nominee in the audit of the records and calculations referred to in clause 4.5 above to the fullest extent possible to the end and intent that the parties may agree upon Annual Rent for any period audited by the Lessor.

4.8 Should the parties be unable to agree upon any annual or monthly Annual Rent, this figure shall be initially determined by the Lessee's auditor but if the Lessor disagrees with this initial determination, then a Chartered Accountant (hereafter called "the Nominee") may be appointed by the President of the Institute of Chartered Accountants of New Zealand upon the application of either party. The determination by the Nominee of any annual or monthly Annual Rent shall be final and binding on the parties who shall contribute equally to the Nominee's costs. The parties shall co-operate with the Nominee to the fullest extent possible in the Nominee's determination of any Annual Rent in dispute.

5 **REVIEW OF ANNUAL RENT**

5.1 Annual Rent shall be reviewable on each Review Date and may be initiated by either party up to six (6) calendar months prior to any Review Date giving written notice to the other party (hereafter referred to as the "Clause 5.1 Notice") proposing a variation to the Annual Rent.

5.2 The party issued with the Clause 5.1 Notice may within sixty (60) working days of receipt of such notice serve a counter notice which sets out any counter proposals made to those contained in any Clause 5.1 Notice. Any counter notice served under this clause is hereafter referred to as a "Clause 5.2 Counter Notice".

5.3 Any notice served under clause 5.1 or 5.2 above may be accompanied by a report from a registered valuer as to the matters relevant to the rent review.

5.4 In the event that no Clause 5.2 Counter Notice is given within the sixty (60) working days prescribed in clause 5.2, the party served with the Clause 5.1 Notice shall be deemed to have accepted that notice.

5.5 Where a party has given a Clause 5.2 Counter Notice within the sixty (60) working day timeframe therein specified, the parties shall endeavour to agree upon the reviewed

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

Annual Rent or any part of that Annual Rent which is disputed but if agreement is not reached within thirty (30) days, then the matter may be determined either:

5.5.1 By one party giving written notice to the other requiring the matters in dispute be determined by arbitration under the provisions of clauses 24.3 and 24.4; or

5.5.2 If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:

(a) each party shall appoint a valuer and give written notice of the appointment to the other party within twenty eight (28) days of the parties agreeing to implement the provisions of this clause;

(b) if a party fails to appoint a valuer within the twenty eight (28) day period specified in clause 5.5.2(a), then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties;

(c) the valuers appointed before commencing their determination shall appoint an arbitrator under the provisions of the Arbitration Act 1996 who need not be a registered valuer;

(d) the valuers shall endeavour to determine the matters in dispute and if they fail to agree then the outstanding issue(s) shall thereafter be determined by the arbitrator; and

(e) each party, through their valuers, shall be given the opportunity to make written or verbal representations to the arbitrator subject to such reasonable time and other limits as the arbitrator may prescribe and the arbitrator shall have regard to any such representations but not be bound to accept or act upon them.

5.6 When the matters in dispute have been determined, the arbitrator or the valuers, as the case may be, shall give written notice thereof to the parties.

5.7 Any notice given by an arbitrator pursuant to clause 5.6 above may also direct how the costs of any determination shall be borne and such notice shall be binding on the parties.

5.8 Any monetary adjustment between the parties resulting from any agreement or determination under this clause shall be made within fourteen (14) days of any such determination. Overdue money shall bear interest at the rate prescribed in clause 10 until paid.

5.9 The Lessor and the Lessee acknowledge and agree that the rent review on the Review Date on 1 February 2013, and all subsequent rent reviews under this Lease, will be undertaken on the basis that the Lessor will undertake and participate in the entire rent review process jointly, and in co-operation with, the Whakarewarewa Lease Lessor, with the intention that the rent review under this Lease will be undertaken as a joint rent review with the rent review under the Whakarewarewa Lease.

5.10 Without limiting clause 5.9:

5.10.1 the Lessor must ensure that the valuer appointed by it for the purposes of this clause 5 is also appointed by the Whakarewarewa Lease Lessor for the purposes of the corresponding review under the Whakarewarewa Lease;

5.10.2 a notice given under clause 5.5.1 must require matters in dispute in the corresponding review under the Whakarewarewa Lease to be determined by the same arbitration, and any such notice will have effect accordingly;

5.10.3 each party must ensure that the arbitrator appointed under clause 5.5.2(c) is the same arbitrator appointed for the purposes of the corresponding review under the Whakarewarewa Lease and that the two reviews are determined at the same arbitration.

5.11 Despite the other provisions of clause 5, the reviewed Annual Rent agreed or determined at each rent review, will always be calculated so that the Annual Rent and the annual rent under the Whakarewarewa Lease are equal amounts.

5.12 To avoid doubt, the parties agree that all rent reviews of the Annual Rent undertaken under this Lease are also rent reviews of the Annual Rent under the Arikikapakapa Section 101 Lease.

6 LESSOR'S IMPROVEMENTS

6.1 There are no Lessor's Improvements on the Land as at the Effective Date, except those attached to the Land as at 31 January 1965 as listed in the Third Schedule. Should the Lessor with the consent of the Lessee subsequently construct Lessor's Improvements on the Land, then the parties agree that the provisions of this clause shall be varied to record particulars of such additional Lessor's Improvements.

7 PAYMENT OF RATES AND IMPOSITIONS

7.1 The Lessee will pay all rates, taxes (including without limitation land or improvements tax), charges, assessments, impositions and outgoings whatsoever which now are or which during the term of this Lease shall be taxed, rated, charged, assessed or imposed on the Land, any Lessor's Improvements and Lessee's Improvements thereon or on the Lessor or Lessee in respect thereof by any Authority, excepting only Lessor's income tax.

8 PAYMENT OF OTHER OUTGOINGS ON THE LAND

8.1 The Lessee shall pay all other outgoings on the Land which shall include any:

8.1.1 additional rates, taxes and outgoings imposed on or payable in respect of the Land which are levied as a consequence of the Lessee's use or occupancy of the Land;

8.1.2 charges for water, gas, electricity, telephone and other utilities or services consumed on the Land;

8.1.3 NZ Fire Service charges and maintenance charges in respect of all fire detection and fire fighting equipment used on the Land;

8.1.4 the cost of ground maintenance, yard and carparking area maintenance and repair charges on the Land;

8.1.5 costs incurred and payable in supplying to any Authority a building warrant of fitness and obtaining reports as required by Section 108 of the Building Act 2004 in respect of buildings on the Land;

8.1.6 premiums on insurance effected on any Lessor's Improvements and Lessee's Improvements on the Land;

8.1.7 security services provided in respect of the Land;

8.1.8 other costs or expenses incurred in the operation and management of the Permitted Uses on the Land whether related to the foregoing or not; and

8.1.9 maintenance obligations imposed on the Lessee by clause 19 of this Lease.

9 GOODS AND SERVICES TAX

9.1 The Lessee shall pay to the Lessor, upon demand, any taxes paid or payable by the Lessor or accountable by the Lessor pursuant to the provisions of the Goods and Services Tax Act 1985 or any similar tax levied in substitution therefore or in addition thereto or otherwise in respect of any payments made by the Lessee under this Lease or paid by the Lessor on behalf of the Lessee's obligation to make such payment under this Lease.

10 INTEREST ON OVERDUE ANNUAL RENT OR OTHER MONEY

10.1 Without prejudice to other rights, powers and remedies of the Lessor, if any goods and services tax or other payment or amount owing by the Lessee to the Lessor whatsoever pursuant to this Lease shall be in arrears and unpaid for 20 working days after the due day for payment thereof (whether any formal or legal demand therefore shall have been made or not) such unpaid money shall bear interest on a daily basis compounded on monthly rests computed from such due date until the date of payment in full of such money at a rate which is 2% per annum above the rate at the time the default occurred for prime 90 day commercial bills at the Bank of New Zealand and that such interest shall be recoverable in the same manner as rent in arrears.

11 USE OF THE LAND AND THE CONSTRUCTION OF LESSEE'S IMPROVEMENTS ON THE LAND

11.1 The Lessee shall use the Land and any Lessee's Improvements and Lessor's Improvements for the following uses only (the "Permitted Uses"):

11.1.1 those uses specifically allowed as permitted or controlled activities in any applicable District and/or Regional Plan; or

11.1.2 those uses specifically allowed by any resource consent granted under the Resource Management Act 1991 and/or any other statutory or regulatory provision.

11.2 The Lessee will, at all times during this Lease, otherwise use the Land in a manner consistent with the provisions of Section 15 of the Act.

11.3 Where the Lessee intends to erect or demolish buildings or otherwise disturb the surface of the Land then:

11.3.1 where the proposed activity does not require a resource consent, the Lessee may proceed with that activity provided that the Lessee gives prior written notice to the Lessor of its intention to undertake this activity; and

11.3.2 where the Lessee intends to erect or demolish buildings or otherwise disturb the surface of the Land and the activity requires a resource consent, the Lessee must obtain the prior written consent of the Lessor.

11.4 Where the prior written consent of the Lessor is sought under 11.3.2, this consent shall not be unreasonably or arbitrarily withheld, provided that such consent may be given subject to conditions prescribed by the Lessor.

11.5 Where plans and specifications of any proposed work requiring Lessor consent under clause 11.3 herein are available to the Lessee, these and any subsequent variations to them shall be supplied to the Lessor when approval is sought under clause 11.3 herein.

11.6 Should any of the Permitted Uses of the Land or the use of any Lessee's Improvement or Lessor's Improvement thereon or the construction of any Lessee's Improvement thereon be permissible only with the consent or licence of any lawful Authority under or in pursuance of statute or any Regional and District Plans or regulations or other enactments or any order of Court the Lessee shall obtain such consent, licence or order at the sole cost and expense of the Lessee and the Lessee shall at all times comply with any conditions of any such consent, licence or order.

11.7 The Lessor does not warrant that the Land is or will remain suitable or adequate for any of the Permitted Uses.

11.8 The Lessee accepts the Land as being satisfactory in all respects and with full knowledge of and subject to any prohibitions or restrictions on the use of the Land imposed by or arising out of any statute, regulation, bylaw, code, District Plan or which may otherwise either be indicated on title to the Land or arise in any other way.

11.9 Despite the other provisions in clause 11, the Lessor will not consent to any change in the Permitted Uses, or consent to the Lessee erecting or demolishing buildings or disturbing the surface of the Land under clause 11.3.2 if such a change in Permitted Uses or such work would, or is likely to, reduce the amount of Admission Income

derived from the Land, the Arikikapakapa Section 101 Land and the Whakarewarewa Reserve Land, without the prior written consent of the Whakarewarewa Lease Lessor.

12 NO FENCING

12.1 The Lessor shall be under no liability whatsoever whether under the Fencing Act 1978 or otherwise to contribute towards the cost of erection or repair of any boundary fences between the Land and any adjoining land owned or occupied by the Lessor or Lessee.

13 STATUTORY REQUIREMENTS

13.1 The Lessee will comply with all statutes, Regional and District Plans, bylaws, codes and regulations which relate to the Land and the Lessor's Improvements and Lessee's Improvements or which relate to the Lessee's occupation and use of the Land and Lessor's Improvements and Lessee's Improvements and with all conditions or requirements which may be issued by any lawful Authority and will in particular but without limitation:

13.1.1 where appropriate ensure that a warrant of fitness is obtained each year in respect of any Lessor's Improvements and Lessee's Improvements on the Land as required under the Building Act 2004;

13.1.2 comply with and observe at all times the terms and conditions of all resource and other consents and permits held in respect of the Land;

13.1.3 ensure that proper and adequate health and safety procedures and any codes of practice are adopted in accordance with the Health and Safety in Employment Act 1992; and

13.1.4 otherwise comply with all statutes, regulations and codes as they relate to the Land,

and will keep the Lessor indemnified in respect of any non-compliance by the Lessee with any such statutory regulatory requirements as provided in clause 16.

14 ASSIGNMENT, SUBLETTING, MORTGAGING AND CHARGING

14.1 Lessor's Written Consent Required

The Lessee will hold and use the Land bona fide for its own use and benefit and will not transfer, assign, sublet, mortgage, charge or part with possession of the Land or any part thereof without the written consent of the Lessor, provided that approval to the granting of any charge will not be necessary in the case of a mortgage to the Crown or a Department of State.

14.2 Assignment or Transfer

14.2.1 Where any assignment or transfer of this Lease is consented to by the Lessor, the Lessor must be satisfied that the obligations of the Lessee under this Lease have not been breached. Further, the Lessor may require the execution by the assignee or transferee of a deed of covenant with the Lessor in a form acceptable to the Lessor, that the assignee or transferee will be bound by and perform the covenants in this Lease to be observed and performed by the Lessee but the execution of such deed of covenant shall not release the Lessee or any assignor from the Lessee's or that assignor's obligations under this Lease.

14.2.2 Despite clauses 14.1 and 14.2.1, this Lease may not be transferred or assigned except in conjunction with a transfer or an assignment of the Arikikapakapa Section 101 Lease and the Whakarewarewa Lease to the same assignee or transferee, such assignee or transferor to be consented to jointly by the Lessor and the Whakarewarewa Lease Lessor, in accordance with the provisions of the Leases.

14.3 **Mortgage or Charge**

14.3.1 Any Lessor consent given to the Lessee to mortgage or otherwise charge this Lease under clause 14.1 herein shall not relieve the Lessee of the obligation to obtain a like consent from the Minister of Finance under the provisions of Section 23 of the Act.

14.3.2 The Lessee acknowledges that should the Lessor consent to the creation of any mortgage or other charge over the Lessee's interest in this Lease, then that mortgage or charge shall include covenants which, inter alia:

(a) require the mortgagee or chargeholder to give the Lessor not less than 30 clear working days written notice of its intention to variously enter the Land and formally take possession thereof or, alternatively, to sell the Lessee's interest in the Lease for non-payment of any money owing to the mortgagee or chargeholder;

(b) confer upon the Lessor or the Lessor's nominee a pre-emptive option to buy the mortgage or charge concerned for the value of the debt owed under it at any time within 20 working days prior to entering the Land or exercising any power of sale as a mortgagee;

(c) gives a mortgagee or chargeholder acknowledgement that for the purpose of the mortgage or charge:

(i) the Lessor is a "person" within the contemplation of Section 4 Contracts (Privity) Act 1982 to the mortgage or charge;

(ii) any entry into possession or purported exercise of the power of sale contrary to the provisions of clause 14.3.2(a) and (b) above shall be enforceable by the Lessor through injunctive or other action in a Court of appropriate jurisdiction; and

(iii) the valuable consideration for the within covenants was the Lessor's consent to the creation of the mortgage or charge concerned.

14.3.3 The exact wording of the covenants referred to in clause 14.3.2 shall be advised by the Lessor when it consents to the granting of the mortgage or charge to which it relates.

14.3.4 Despite clauses 14.1 and 14.3.1-14.3.3, the Lessee may not mortgage or charge its interest in this Lease without also mortgaging or charging the Lessee's interest in the Arikikapakapa Section 101 Lease and the Whakarewarewa Lease.

14.4 **Sublease**

14.4.1 Subject to the provisions of clause 14.4 herein, the Lessee shall not sublet or grant a licence to occupy over the Land 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 satisfaction of the Lessor that the proposed sublessee is (or in the case of a company the shareholders of the proposed subtenant are) respectable, responsible and have the financial resources to meet the commitments under any sublease; and

(b) all rent and other money payable hereunder have been paid and there is not any subsisting breach of any of the Lessee's covenants;

14.4.2 The Lessor shall have the absolute discretion to decline to consent to any sublease where the term of that sublease, including any renewals thereof, exceeds twenty (20) years.

14.4.3 Where the Lessor consents to a subletting, the consent shall extend only to the subletting and, notwithstanding anything contained or implied in the sublease, the consent shall not permit any sublessee to deal with the sublease in any way in which the Lessee is restrained from dealing without consent under this Lease.

14.4.4 Where the Lessee subleases any part of the Land to which this Lease relates, the proposed sublease form must previously be approved in writing by the Lessor.

14.4.5 The Lessor shall, subject always to any contrary provisions contained in this Lease, not withhold any consent to vary the sublease which improves the financial return thereunder to the Lessee as sublessor.

14.5 **Lessor's Costs and Disbursements**

The Lessee shall pay the Lessor's proper costs and disbursements in respect of expenses incurred in reasonable enquiries made by the Lessor in respect of any

assignment, subletting or licence to which this clause 14 relates and the preparation and stamping of any deed of covenant or guarantee or attendances on any other documentation to which this clause 14 relates.

14.6 In this clause 14, a reference to the Lessor will be deemed to be a reference to the Lessor and the Whakarewarewa Lease Lessor.

15 LESSEE'S ACKNOWLEDGEMENT OF RISK

15.1 The Lessee agrees to occupy and use the Land and any Lessee's Improvements or Lessor's Improvements on the Land at the Lessee's risk and release to the full extent permitted by law the Lessor and the Lessor's employees and agents from all claims and demands of any kind and from all liability which, in the absence of any negligence on the Lessor's part may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land and any Lessor's Improvements except where the Lessor or any person under the control of the Lessor is at fault or negligent through its or their own acts or omissions.

16 INDEMNITY BY LESSEE

16.1 The Lessee will indemnify and hold harmless the Lessor in its capacity as Lessor from and against all actions, claims, demands, losses, damages, costs and expenses sustained by the Lessor as a result of the Lessee's use of the Land.

16.2 Without limiting its generality, the indemnity in Clause 16.1 herein shall extend to and apply where any action, claim, demand, loss, damage, cost or expense is caused or contributed to by any act, omission, neglect, breach or default on the part of the Lessee or any person under the Lessee's control.

16.3 The liability of the Lessee under Clause 16.1 herein shall further extend to cover full recompense, without deduction or set off, to the Lessor for any fine, penalty or expense imposed on the Lessor as a result of any failure by the Lessee or persons under its control to observe or perform the requirements of any statute, law, regulation or Code of Practice applicable to the Lessee's use and occupation of the Land.

17 QUIET ENJOYMENT

17.1 Provided the Lessee performs and observes the covenants, provisos, conditions and agreements contained in this Lease, the Lessee shall peaceably hold and enjoy the Land and any Lessor's Improvements thereon without hindrance or interruption by the Lessor or by any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease.

18 AVOIDANCE OF DANGER AND PROHIBITION ON REMOVAL OF VARIOUS ELEMENTS FROM THE LAND

18.1 The Lessee shall:

18.1.1 take all reasonable precautions to minimise any danger or hazard arising from any Lessee's use of the Land and shall not permit any goods of a dangerous

nature to be stored or used on the Land unless stored and used in a manner which complies with all statutes, ordinances, regulations, bylaws and codes or standards in that regard; and

18.1.2 promptly remedy any danger or hazard that may arise on the Land.

18.2 The Lessee shall not damage, sell or remove or permit to be damaged, sold or removed from the Land any mineral waters, medicinal mud, sulphur, silica, petrified specimens or other naturally occurring material without the prior consent in writing of the Lessor.

19 MAINTENANCE

19.1 The Lessee shall at the Lessee's own expense in all things keep all Lessee's Improvements on the Land in good order, condition and repair during the continuance of this Lease.

19.2 The Lessee acknowledges that the Lessor shall have no repair or maintenance obligations for either the Land or any improvements thereon whether Lessee's Improvements or otherwise.

19.3 That should the Lessor's Improvements include a building or buildings then in addition to the Lessee's covenants in this clause or elsewhere in this Lease the Lessee shall during the continuance of this Lease:

19.3.1 keep such buildings watertight;

19.3.2 be responsible for all repairs reasonably required by the Lessor thereon including structural repairs;

19.3.3 repaint the exterior of any such building when reasonably required to do so by the Lessor;

19.3.4 be responsible for all matters and costs arising out of the need to comply with the Building Act 2004 and the National Building Code whether in relation to any inspection certification or work required howsoever;

19.3.5 wash down and revarnish or repaint varnished or painted surfaces on the interior of any such building when reasonably necessary; and

19.3.6 replace any worn or damaged fixtures or fittings within such a building when reasonably required by the Lessor to do so,

all such work to be carried out in accordance with the Lessor's requirements and otherwise to good trade standards.

20 IMPROVEMENTS ON TERMINATION OF LEASE

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

20.1 The Lessor may, at any time prior to or within two calendar months from the end of this Lease, whether by effluxion of time or otherwise, serve notice (hereafter called the "Lessor's First Notice") on the Lessee. This notice shall require the Lessee to specify, in writing, within two calendar months from receipt of such notice, which Lessee's Improvements it proposes to remove from the Land or to demolish upon or subsequent to the expiry of this Lease.

20.2 The Lessee may, within two calendar months from receipt of the Lessor's First Notice, serve a notice of reply (hereafter called the "Lessee's Notice") on the Lessor specifying which of the Lessee's Improvements it intends to remove and/or demolish.

20.3 Should the Lessee fail to serve the Lessee's Notice within two calendar months, it shall be deemed to have irrevocably advised the Lessor that it intends to demolish all Lessee's Improvements on the Land.

20.4 The Lessor may, within two calendar months from receipt of the Lessee's Notice, serve a further notice on the Lessee (hereafter called the "Lessor's Second Notice") which requires the Lessee to remove or demolish additional specified Lessee's Improvements to those listed in the Lessee's Notice and the Lessee shall be obliged to remove or demolish, as it chooses, both those Lessee's Improvements so specified and those Lessee's Improvements to which the Lessee's Notice relates or is deemed to have related to under the provisions of clause 20.3 herein.

20.5 Should the Lessee at its own expense in all things fail to:

20.5.1 remove or demolish all Lessee's Improvements it is obliged to remove or demolish; and

20.5.2 reinstate the surface of the Land affected by any removal or demolition as aforesaid to a safe and tidy condition and otherwise to the reasonable satisfaction of the Lessor,

within two years from the expiry of the Lease, whether by effluxion of time or otherwise, then the Lessor may thereafter order the demolition of all such Lessee's Improvements and the reinstatement of affected lands upon such terms and conditions as it thinks appropriate and the cost of such work shall be recoverable from the Lessee as a debt then due and owing.

20.6 Notwithstanding any rule of law or equity to the contrary, the provisions of this clause 20 shall not merge and extinguish upon the expiration of this Lease but shall enure for the benefit of the parties until performed in full.

20.7 For the avoidance of doubt, it is acknowledged by the Lessee that nothing herein shall:

20.7.1 oblige the Lessor to pay compensation to the Lessee for any Lessee's Improvement(s) left on the Land by the Lessee; or

20.7.2 oblige the Lessor to demolish or remove any Lessee's Improvement(s).

20.8 Time where prescribed in this clause 20 shall be deemed to be of the essence.

21 DEFAULT

21.1 The Lessor may re-enter the Land:

21.1.1 if the Annual Rent shall be in arrears for more than two months after any Rent Payment Date; or

21.1.2 in the case of breach by the Lessee of any covenant or agreement on the Lessee's part herein expressed or implied; or

21.1.3 if the Lessee shall:

(a) make or enter into or endeavour to make or enter into any composition, assignment or other arrangement with or for the benefit of the Lessee's creditors; or

(b) become insolvent or go into liquidation; or

(c) suffer distress or execution to issue against the Lessee's property under any judgment in any Court for a sum in excess of $10,000.

21.2 Upon re-entry, the term of the Lease shall terminate without prejudice to the rights of either party against the other.

21.3 Despite the other provisions in clause 21, any breach of any one of the Leases shall be a breach of all of the Leases and if re-entry is effected under the Whakarewarewa Lease, following consultation and agreement between the Lessor and the Whakarewarewa Lease Lessor, the Lessor shall also re-enter the Land and the Arikikapakapa Section 101 Land and the term of this Lease shall terminate in accordance with clause 21.2 and the term of the Arikikapakapa Section 101 Lease shall terminate in accordance with the provisions of the Arikikapakapa Section 101 Lease.

21.4 In addition to clause 21.3, if re-entry is effected under the Arikikapakapa Section 101 Lease, the Lessor shall re-enter the Land and the term of this Lease shall terminate in accordance with clause 21.2.

22 RENEWAL

22.1 If the Lessee shall during the term hereby granted pay the rent hereby reserved and observe and perform the covenants and conditions on the part of the Lessee herein contained and implied up to the expiration of the said term, then the Lessee shall have a right to obtain a renewal of the Lease of the Land for a further term of thirty (30) years, subject in all respects to the same conditions and provisions as this renewal, including the within right of renewal (which the Lessor acknowledges is perpetual). The Annual Rent shall be reviewed and agreed upon at renewal or failing agreement settled by arbitration as provided in clause 24.

22.2 Neither this Lease nor any renewal of it shall confer any right of acquiring the fee simple of the Land.

22.3 These presents are intended to take effect as a perpetually renewable lease despite Section 122 of the Reserves Act 1977 provided however the provisions of the Reserves Act 1977 and any regulations made thereunder applicable to such Lease shall otherwise be binding in all respects upon the parties hereto in the same manner as if such provisions had been fully set out herein.

22.4 Despite clauses 22.1 to 22.3, the Lessee will not be entitled to renew this Lease without also obtaining a renewal of the Whakarewarewa Lease under the provisions of the Whakarewarewa Lease and a renewal of the Arikikapakapa Section 101 Lease under the provisions of the Arikikapakapa Section 101 Lease.

23 STATUTORY PROVISIONS

23.1 All covenants implied in leases by Parts 2 and 3 of Schedule 3 of the Property Law Act 2007 or any other legislation excluding only:

23.1.1 the Act; and

23.1.2 the enactments referred to in clause 22.3,

are hereby negatived to the fullest extent permitted by law.

24 DISPUTE RESOLUTION

24.1 Except as otherwise provided in this Lease, any dispute which may arise between the parties concerning the interpretation of this Lease or relating to any other matter arising under this Lease will be actively and in good faith negotiated by the parties with a view to a speedy resolution of such differences.

24.2 If the parties cannot resolve a dispute within fifteen (15) working days of any dispute arising, then, unless otherwise expressly provided in this Lease, they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using informal dispute resolution techniques such as mediation. The rules governing any such technique, if adopted, will be agreed between the parties or as selected by the organisation known as "LEADR" (Leading Edge Alternative Dispute Resolvers) or any satisfactory substitute therefore then agreed between the parties.

24.3 If the parties cannot agree on any dispute resolution technique within a further fifteen (15) working days of any dispute being considered for referral by both parties to any informal dispute resolution technique under clause 24.2, then the dispute shall be finally resolved by arbitration under the Arbitration Act 1996 by a sole arbitrator who shall decide the dispute according to the substantive law of New Zealand.

24.4 The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other

for settling terms of reference, interlocutory matters and, generally, all steps preliminary and incidental to the hearing and determination of the proceedings.

24.5 Despite the other provisions of clause 24, the Lessor will keep the Whakarewarewa Lease Lessor fully advised of any dispute with the Lessee that would, or is likely to, affect the Annual Rent or otherwise negatively affect the connected nature of this Lease, the Arikikapakapa Section 101 Lease and the Whakarewarewa Lease and, if deemed necessary by the Whakarewarewa Lease Lessor and the Lessor, the Whakarewarewa Lease Lessor will join the Lessor in any dispute resolution process under this clause.

25 COSTS

25.1 The parties shall each pay their own solicitor's costs of preparing and finalising this Lease or any renewal or variation of this Lease.

25.2 The Lessee shall pay for all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease.

25.3 The Lessee shall pay for the costs of stamping and registering this Lease and any subsequent variation and renewal or variation or renewal of this Lease.

26 NOTICES

26.1 All notices and other communications to either party shall be in writing and either faxed, delivered personally or sent by registered mail. Notices delivered personally or faxed shall be deemed given at the time of such delivery or transmission.

26.2 Notices mailed as provided above shall be deemed given three days after the date of mailing.

26.3 Until notice of a change of address is communicated, all notices shall be delivered to or addressed to the appropriate addresses for service specified in clauses 26.3.1 and 26.3.2 following:

26.3.1 the Lessor's address for service is:

[

]

[Details to be provided at time of signing]

26.3.2 the Lessee's address for service is:

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

[The Chief Executive
New Zealand Maori Arts and Crafts Institute
P O Box 334
Rotorua

Facsimile (07) 348 9045]

26.2 Any failure to advise a change of address shall not invalidate any notice, request, demand or other communication if given to the last address advised.

27 RELATIONSHIP WITH WHAKAREWAREWA LEASE

27.1 The Lessor and the Lessee acknowledge and agree that, despite the fact that the Lessee and the Lessor have entered into this Lease in respect of the Land and into the Arikikapakapa Section 101 Lease in respect of the Arikikapakapa Section 101 Land, and the Lessee and the Whakarewarewa Lease Lessor have entered into the Whakarewarewa Lease in respect of the Whakarewarewa Reserve Land:

27.1.1 the Lessee operates one business on the Land, the Arikikapakapa Section 101 Land and the Whakarewarewa Reserve Land;

27.1.2 the amount of Admission Income derived from that business on the Land, the Arikikapakapa Section 101 Land and the Whakarewarewa Reserve Land is equally important to the Lessor and the Whakarewarewa Lease Lessor;

27.1.3 the Lessor and the Lessee will not, together or separately, take any action, make any arrangement or agreement or seek to vary this Lease in any way that would reduce the amount of Admission Income derived from the Land, the Arikikapakapa Section 101 Land and the Whakarewarewa Reserve Land or that would otherwise negatively affect the Whakarewarewa Lease Lessor's position under the Whakarewarewa Lease or under this Lease, without the prior written consent of the Whakarewarewa Lease Lessor; and

27.1.4 without limiting clauses 27.1.1 to 27.1.3, the Lessor will not accept, or agree to accept, and the Lessee will not pay, or agree to pay, any amount of money in respect of the Lessee's use of, or business on, the Land and the Arikikapakapa Section 101 Land, in addition to or separate from the Annual Rent, without the prior written consent of the Whakarewarewa Lease Lessor, which consent, if given will be strictly on the basis that any amounts paid by the Lessee under this clause will be shared equally between the Lessor and the Whakarewarewa Lease Lessor.

27.2 Despite that there may be no privity of contract existing between the parties to this Lease and the Whakarewarewa Lease Lessor, nevertheless the Whakarewarewa Lease Lessor shall have the right to enforce any provisions in this Lease which are of benefit to it with such right to enforce being acknowledged and intended in accordance with the requirements of Section 4 of the Contracts (Privity) Act 1982.

28 RELATIONSHIP WITH ARIKIKAPAKAPA SECTION 101 LEASE

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

28.1 Despite any other provision in this Lease, the Lessor covenants with the Lessee [and with the Whakarewarewa Lease Lessor] that the Lessor will not sell, transfer, mortgage, charge or otherwise dispose of the Land or its interest in the Land without also selling, transferring, mortgaging, charging or otherwise disposing of the Arikikapakapa Section 101 Land.

PART 6: FORM OF EXISTING LEASE VARIATION (ARIKIKAPAKAPA LEASE)

THIRD SCHEDULE

LIST OF LESSOR'S IMPROVEMENTS

(as at 31 January 1965)

Hatu Patu (small meeting house

Pataka (food storage hut)

Waharoa (gateway)

Waharoa (gateway to model village)

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

(Clause 10.1.86)

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

MEMORANDUM OF

LEASE

(SOUTH AUCKLAND REGISTRY)

1 **PARTIES**

1.1 **[ ] being the TRUSTEES OF THE TE PUMAUTAUNGA O TE ARAWA TRUST** ("the Lessor").

1.2 **THE NEW ZEALAND MAORI ARTS AND CRAFTS INSTITUTE** a body corporate duly constituted under the provisions of Section 4 of the New Zealand Maori Arts and Crafts Institute Act 1963 ("the Lessee").

2 **PRELIMINARY**

2.1 The Minister in Charge of Tourism acting on behalf of **THE SOVEREIGN** entered a lease with the Lessee who was then known as the **ROTORUA MAORI ARTS AND CRAFTS INSTITUTE** dated 9 November 1965 in respect of the Land and the Arikikapakapa and Other Reserve Land which lease was registered under Vol 2021 Folio 47 (South Auckland Registry). This lease, including renewal and variation of Lease registered under number B457107.1 is held in computer interest register SA2021/47 (hereafter called "the Existing Lease").

2.2 The Minister of Tourism acting on behalf of **THE SOVEREIGN** has continued responsibility for the administration of the Existing Lease subsequent to the dissolution of the New Zealand Tourist and Publicity Department.

2.3 In accordance with the provisions of the Deed of Settlement of the Historical Claims of The Affiliate Te Arawa Iwi/Hapu, the Arikikapakapa Lessor and the Lessee agreed to partially surrender the Existing Lease by deed of surrender dated [ ] in relation to the Land, in consideration for the Lessor and the Lessee entering into this new lease of the Land, (hereafter called "the Lease"), and in consideration for the Arikikapakapa Lessor and the Lessee entering into a lease of the Arikikapakapa Section 101 Land of even date with this Lease (hereafter called "the Arikikapakapa Section 101 Lease") and entering into a variation of the Existing Lease of the Arikikapakapa and Other Reserve Land of even date with this Lease (hereafter called "the Arikikapakapa Lease").

2.4 The Lessor and the Lessee are entering into this Lease, and the Arikikapakapa Lessor and the Lessee are entering into the Arikikapakapa Section 101 Lease and the Arikikapakapa Lease with the intention that the Leases will be dealt with, to the extent provided for in the Leases, on the basis that they are and will remain connected with each other, as if the Land, the Arikikapakapa and Other Reserve Land and the Arikikapakapa Section 101 Land were leased to the Lessee under one lease.

THE LESSOR DOES HEREBY LEASE TO THE LESSEE and **THE LESSEE DOES HEREBY TAKE ON LEASE** the Land described in the First Schedule for the term and at the annual rent set out in the Second Schedule and otherwise subject to the covenants,

conditions, agreements and restrictions set out in the First Schedule and the Second Schedule in this Lease.

DATED 20

EXECUTION

[NOTE: TO BE SIGNED BY ALL TRUSTEES OF THE TE PUMAUTAUNGA O TE ARAWA TRUST]

NEW ZEALAND MAORI ARTS AND CRAFTS INSTITUTE a body corporate duly incorporated under the provisions of Section 4 of the New Zealand Maori Arts and Crafts Institute Act 1963 in the presence of:)

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

FIRST SCHEDULE

Schedule of Land

Area	**Legal Description**
43.4200 hectares more or less	Section 1 SO390094
Encumbrances, Liens & Interests [1. ***Need to be completed.*** 2.]	

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

SECOND SCHEDULE

THE LESSOR AND THE LESSEE COVENANT AND AGREE AS FOLLOWS:

1 INTERPRETATION AND DEFINITIONS

1.1 For the purpose of the interpretation or construction of this Lease, unless the context provides otherwise:

1.1.1 Words importing any gender shall include all other genders.

1.1.2 Words importing the singular shall include the plural and vice versa.

1.1.3 Payments shall be made in the lawful currency of New Zealand.

1.1.4 Headings shall be ignored.

1.1.5 References to schedules are references to schedules in this Lease and references to clauses are references to clauses in this Lease and references to parties are references to the parties to this Lease and their respective successors and assigns (if permitted in the case of the Lessee under clause 14.1) unless expressly stated otherwise.

1.1.6 A "person" shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust or a Crown entity as defined in Section 7(1) of the Crown Entities Act 2004, or State enterprise, in each case whether or not having separate legal personality.

1.1.7 "Writing" shall include words visibly represented or reproduced.

1.1.8 No consent or waiver, express or implied by the Lessor, to or of any breach of any covenant, condition or duty of the Lessee will be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty. No waiver of any breach of the Lessee will be implied from the Lessor's failure to exercise the Lessor's rights or any of them in respect of that breach.

1.1.9 Nothing contained in this Lease shall be deemed or construed or constitute any party, a partner, agent or representative of the other party or be deemed to create any trust, commercial partnership or joint venture.

1.1.10 The invalidity of any part or provision of this Lease shall not affect the enforceability of any other part or provision thereof.

1.1.11 The parties acknowledge and agree that certain covenants set out in this Lease (in particular, provisions relating to the treatment of Lessee's Improvements on termination or sooner determination of this Lease in clause

20) shall continue beyond the expiry or sooner determination of this Lease for the benefit of the parties notwithstanding the prior expiry or sooner determination of this Lease.

1.1.12 This Lease shall be construed and take effect in accordance with the laws of New Zealand.

1.1.13 Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.

1.1.14 "Annual Rent" is a reference to all annual rental payable under this Lease as calculated in clause 3.1, plus GST.

1.1.15"Admission Income" means all income received from admission charges to the Land, the Arikikapakapa and Other Reserve Land and the Arikikapakapa Section 101 Land levied by the Lessee excluding:

(a) GST; and

(b) any lawful commissions paid to tourist operators in relation to that admission income.

1.1.16 "Admission Income Percentage" is a percentage that is multiplied by the Admission Income to calculate the Annual Rent. For the period from the Commencement Date the Admission Income Percentage shall be 6.75 per cent. Any review of the Admission Income Percentage shall include a consideration of the capital sum invested by the Lessee for the purposes of enhancing the enjoyment by sightseers of natural features on the Land, and the Arikikapakapa and Other Reserve Land. For the avoidance of doubt, capital expenditure expended on lessee's improvements on the Arikikapakapa and Other Reserve Land, including any future capital expenditure on alterations or additions to those improvements or on new lessee's improvements on the Arikikapakapa and Other Reserve Land, shall be assumed not to exist when reviewing the Admission Income Percentage.

1.1.17 "Arikikapakapa and Other Reserve Land" means that land comprising:

(a) 0.5978 hectares, more or less, being Part Lot 1 DP 23567;

(b) 10.0012 hectares, more or less, being Part Lot 3 DP 23567; and

(c) 3.2931 hectares more or less being Section 8 Block XLIX Town of Rotorua.

1.1.18 "Arikikapakapa Lessor" means the lessor from time to time of the Arikikapakapa Lease and the Arikikapakapa Section 101 Lease.

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

1.1.19 "Arikikapakapa Section 101 Land" means the land comprising 0.9143 hectares, more or less, being Section 101 Block I Tarawera Survey District.

1.1.20 "Authority" means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land and any Lessor's Improvements or Lessee's Improvements but shall exclude the Lessor acting in its capacity as Lessor under this Lease.

1.1.21 "The Act" means the New Zealand Maori Arts and Crafts Institute Act 1963.

1.1.22 "Commencement Date" means [*Settlement Date under Deed of Settlement*].

1.1.23 "Crown" means The Sovereign in right of the Government of New Zealand acting by and through [ ], Chief Executive, Ministry of Economic Development Arikikapakapa Lessor.

1.1.24 "Land" and "the Land" is a reference to all the land described in the First Schedule.

1.1.25 "Leases" means this Lease, the Arikikapakapa Lease and the Arikikapakapa Section 101 Lease.

1.1.26 The expression "the Lessee" shall include and bind:

(a) the persons executing this Lease as Lessee;

(b) any Lessee for the time being under it; and

(c) all the respective executors, administrators, successors, assigns and successors in title of each Lessee and if more than one jointly and severally.

1.1.27 "Lessee's Improvements" shall mean all improvements on the Land of any kind whatsoever including buildings, tunnels, sealed or unsealed yards, paths, tracks, roads, bridges, lawns, gardens, fences and other property of any kind whatsoever constructed or placed on the Land by the Lessee or any person or body authorised by the Lessee but shall exclude "Lessor's Improvements".

1.1.28 The expression "the Lessor" shall include and bind:

(a) the person executing this Lease as Lessor;

(b) all the Lessors for the time being under it; and

(c) all the respective executors, administrators, successors, assigns and successors in title of each Lessor and if more than one jointly and severally.

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

1.1.29 "Lessor's Improvements" means all improvements on the Land of any kind whatsoever including buildings, tunnels, sealed or unsealed yards, paths, tracks, roads, bridges, lawns, gardens, fences and other property of any kind whatsoever constructed or placed on the Land by the Lessor after 1 February 1998 under the Existing Lease with the consent of the Lessee and which is or is subsequently listed in clause 6 of this Lease (as that clause may be varied from time to time). All improvements on the Land as at 1 February 1998 under the Existing Lease were Lessee's Improvements.

1.1.30 "Permitted Use" shall have the meaning given to those words in clause 11.

1.1.31 "Renewal Date" means 1 February 2028 and each subsequent first day of the term of any renewal of this Lease.

1.1.32 "Review Date" means 1 February 2013, and each succeeding fifth anniversary of that date during the continuance of this Lease or any renewal of this Lease including any Renewal Date.

1.1.33 "Regional and District Plans" shall have the meanings set out in section 2 of the Resource Management Act 1991 and shall extend to include any successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.

1.1.34 "Working Day" means:

(a) any day of the week other than Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday and Waitangi Day; and

(b) a day in the period commencing with the 25th day of December in any year and ending with the seventh day of January in the following year.

2 **TERM**

2.1 The initial term of this Lease will be for a period of [ ] years [ ] months and [ ] days from the Commencement Date to 31 January 2028 inclusive.

2.2 The first renewal of this Lease shall be for a period of thirty (30) years from 1 February 2028 to 31 January 2058 inclusive.

2.3 Second and subsequent renewals (if exercised) shall be for thirty (30) year terms commencing on 1 February in each year following the expiry of the previous term. These rights of renewal are exercisable in perpetuity.

3 **RENT**

3.1 The Annual Rent shall be calculated by:

3.1.1 multiplying the Admission Income by the Admission Income Percentage; and

3.1.2 dividing the amount in 3.1.1 by two.

3.2 The Annual Rent is calculated on the basis in clause 3.1 with the intention that, for the term (including all renewal terms) of this Lease, the Arikikapakapa Lease and the Arikikapakapa Section 101 Lease, the annual rent amount derived from the calculation in clause 3.1.1 will be shared equally between the Lessor and the Arikikapakapa Lessor.

3.3 The Lessor will not enter into any arrangement, or agreement with the Lessee, whether under this Lease, or independently of this Lease, or allow the Lessee to take any action or make any decisions that would, or is likely to, reduce the amount of Admission Income derived from the Land, the Arikikapakapa Section 101 Land and from the Arikikapakapa and Other Reserve Land, without the prior written consent of the Arikikapakapa Lessor.

3.4 The Lessee shall pay the Annual Rent in twelve instalments two monthly in arrears on the first days of each month during the continuance of this Lease, commencing with a first payment on the date that is the next rent payment date under the Arikikapakapa Lease following the Commencement Date, which shall be for the month of [*To be completed*], (which payment dates are hereafter collectively called "the Rent Payment Dates").

3.5 Annual Rent shall be reviewed and otherwise varied in accordance with this Lease.

4 RECONCILIATION OF ANNUAL RENT

4.1 The Lessee shall on each Rent Payment Date provide to the Lessor written confirmation of Annual Rent for the monthly period to which that payment relates, including a calculation as to how the quantum of that payment was arrived at.

4.2 No later than two months after the end of the Lessee's financial year the Lessee shall supply to the Lessor:

4.2.1 an audited reconciliation of Admission Income received to Annual Rent paid to the Lessor for the Lessee's previous financial year; and

4.2.2 if requested, the Lessee's audited accounts for the previous financial year.

4.3 Should:

4.3.1 The information supplied pursuant to clause 4.2.1 above be found to be incorrect; or

4.3.2 It be ascertained that for any other reason Annual Rent for the previous financial year has been underpaid or overpaid,

then the Lessor shall notify the Lessee in writing of the amount of the overpayment or underpayment and any financial adjustment between the parties shall be dealt with as follows:

(a) where the Annual Rent has been overpaid, the Lessor shall credit the surplus amount to the Lessee's account; and

(b) where the Annual Rent has been underpaid, the Lessee shall pay the difference to the Lessor at the same time as the instalment of Annual Rent next following notification of the underpayment.

Should the amount of underpayment or overpayment not be credited or paid in accordance with paragraphs (a) and (b) above, overdue money shall bear interest at the default rate specified in clause 10 until they are paid.

4.4 Any disputes over the quantum of any payment due under clause 4.3 shall be resolved in the manner provided in clause 4.8 following.

4.5 The Lessee shall maintain such records and calculations as are necessary to enable it to clearly identify all revenues from which all Annual Rent is derived.

4.6 The Lessee shall, no later than ten (10) working days after request from the Lessor make such records and calculations available to the Lessor for audit purposes.

4.7 The Lessee shall assist the Lessor or the Lessor's nominee in the audit of the records and calculations referred to in clause 4.5 above to the fullest extent possible to the end and intent that the parties may agree upon Annual Rent for any period audited by the Lessor.

4.8 Should the parties be unable to agree upon any annual or monthly Annual Rent, this figure shall be initially determined by the Lessee's auditor but if the Lessor disagrees with this initial determination, then a Chartered Accountant (hereafter called the "Nominee") may be appointed by the President of the Institute of Chartered Accountants of New Zealand upon the application of either party. The determination by the Nominee of any annual or monthly Annual Rent shall be final and binding on the parties who shall contribute equally to the Nominee's costs. The parties shall co-operate with the Nominee to the fullest extent possible in the Nominee's determination of any Annual Rent in dispute.

5 REVIEW OF ANNUAL RENT

5.1 Annual Rent shall be reviewable on each Review Date and may be initiated by either party up to six (6) calendar months prior to any Review Date giving written notice to the other party (hereafter referred to as the "Clause 5.1 Notice") proposing a variation to the Annual Rent.

5.2 The party issued with the Clause 5.1 Notice may within sixty (60) working days of receipt of such notice serve a counter notice which sets out any counter proposals made to those contained in any Clause 5.1 Notice. Any counter notice served under this clause is hereafter referred to as a "Clause 5.2 Counter Notice".

5.3 Any notice served under clause 5.1 or 5.2 above may be accompanied by a report from a registered valuer as to the matters relevant to the rent review.

5.4 In the event that no Clause 5.2 Counter Notice is given within the sixty (60) working days prescribed in clause 5.2, the party served with the Clause 5.1 Notice shall be deemed to have accepted that notice.

5.5 Where a party has given a Clause 5.2 Counter Notice within the sixty (60) working day timeframe therein specified, the parties shall endeavour to agree upon the reviewed Annual Rent or any part of that Annual Rent which is disputed but if agreement is not reached within thirty (30) days, then the matter may be determined either:

5.5.1 by one party giving written notice to the other requiring the matters in dispute be determined by arbitration under the provisions of clauses 24.3 and 24.4; or

5.5.2 if the parties so agree by registered valuers acting as experts and not as arbitrators as follows:

(a) each party shall appoint a valuer and give written notice of the appointment to the other party within twenty eight (28) days of the parties agreeing to implement the provisions of this clause;

(b) if a party fails to appoint a valuer within the twenty eight (28) day period specified in clause 5.5.2(a), then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties;

(c) the valuers appointed before commencing their determination shall appoint an arbitrator under the provisions of the Arbitration Act 1996 who need not be a registered valuer;

(d) the valuers shall endeavour to determine the matters in dispute and if they fail to agree then the outstanding issue(s) shall thereafter be determined by the arbitrator; and

(e) each party, through their valuers, shall be given the opportunity to make written or verbal representations to the arbitrator subject to such reasonable time and other limits as the arbitrator may prescribe and the arbitrator shall have regard to any such representations but not be bound to accept or act upon them.

5.6 When the matters in dispute have been determined, the arbitrator or the valuers, as the case may be, shall give written notice thereof to the parties.

5.7 Any notice given by an arbitrator pursuant to clause 5.6 above may also direct how the costs of any determination shall be borne and such notice shall be binding on the parties.

5.8 Any monetary adjustment between the parties resulting from any agreement or determination under this clause shall be made within fourteen (14) days of any such determination. Overdue money shall bear interest at the rate prescribed in clause 10 until paid.

5.9 The Lessor and the Lessee acknowledge and agree that the rent review on the Review Date on 1 February 2013, and all subsequent rent reviews under this Lease, will be undertaken on the basis that the Lessor will undertake and participate in the entire rent review process jointly, and in co-operation with, the Arikikapakapa Lessor, with the intention that the rent review under this Lease will be undertaken as a joint rent review with the rent review under the Arikikapakapa Lease.

5.10 Without limiting clause 5.9:

5.10.1 the Lessor must ensure that the valuer appointed by it for the purposes of this clause 5 is also appointed by the Arikikapakapa Lessor for the purposes of the corresponding review under the Arikikapakapa Lease;

5.10.2 a notice given under clause 5.5.1 must require matters in dispute in the corresponding review under the Arikikapakapa Lease to be determined by the same arbitration, and any such notice will have effect accordingly;

5.10.3 each party must ensure that the arbitrator appointed under clause 5.5.2(c) is the same arbitrator appointed for the purposes of the corresponding review under the Arikikapakapa Lease and that the two reviews are determined at the same arbitration.

5.11 Despite the other provisions of clause 5, the reviewed Annual Rent agreed or determined at each rent review, will always be calculated so that the Annual Rent and the annual rent under the Arikikapakapa Lease and the Arikikapakapa Section 101 Lease are equal amounts.

6 LESSOR'S IMPROVEMENTS

6.1 There are no Lessor's Improvements on the Land as at [*Settlement Date under Deed of Settlement*]. Should the Lessor with the consent of the Lessee subsequently construct Lessor's Improvements on the Land, then the parties agree that the provisions of this clause shall be varied to record particulars of such Lessor's Improvements.

7 PAYMENT OF RATES AND IMPOSITIONS

7.1 The Lessee will pay all rates, taxes (including without limitation land or improvements tax), charges, assessments, impositions and outgoings whatsoever which now are or which during the term of this Lease shall be taxed, rated, charged, assessed or imposed on the Land, any Lessor's Improvements and Lessee's Improvements thereon or on the Lessor or Lessee in respect thereof by any Authority, excepting only Lessor's income tax.

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

8 PAYMENT OF OTHER OUTGOINGS ON THE LAND

8.1 The Lessee shall pay all other outgoings on the Land which shall include any:

8.1.1 additional rates, taxes and outgoings imposed on or payable in respect of the Land which are levied as a consequence of the Lessee's use or occupancy of the Land;

8.1.2 charges for water, gas, electricity, telephone and other utilities or services consumed on the Land;

8.1.3 NZ Fire Service charges and maintenance charges in respect of all fire detection and fire fighting equipment used on the Land;

8.1.4 the cost of ground maintenance, yard and carparking area maintenance and repair charges on the Land;

8.1.5 costs incurred and payable in supplying to any Authority a building warrant of fitness and obtaining reports as required by Section 108 of the Building Act 2004 in respect of buildings on the Land;

8.1.6 premiums on insurance effected on any Lessor's Improvements and Lessee's Improvements on the Land;

8.1.7 security services provided in respect of the Land;

8.1.8 other costs or expenses incurred in the operation and management of the Permitted Uses on the Land whether related to the foregoing or not; and

8.1.9 maintenance obligations imposed on the Lessee by clause 19 of this Lease.

9 GOODS AND SERVICES TAX

9.1 The Lessee shall pay to the Lessor, upon demand, any taxes paid or payable by the Lessor or accountable by the Lessor pursuant to the provisions of the Goods and Services Tax Act 1985 or any similar tax levied in substitution therefore or in addition thereto or otherwise in respect of any payments made by the Lessee under this Lease or paid by the Lessor on behalf of the Lessee's obligation to make such payment under this Lease.

10 INTEREST ON OVERDUE ANNUAL RENT OR OTHER MONEY

10.1 Without prejudice to other rights, powers and remedies of the Lessor, if any goods and services tax or other payment or amount owing by the Lessee to the Lessor whatsoever pursuant to this Lease shall be in arrears and unpaid for 20 working days after the due day for payment thereof (whether any formal or legal demand therefore shall have been made or not) such unpaid money shall bear interest on a daily basis compounded on monthly rests computed from such due date until the date of payment in full of such money at a rate which is 2% per annum above the rate at the time the

default occurred for prime 90 day commercial bills at the Bank of New Zealand and that such interest shall be recoverable in the same manner as rent in arrears.

11 USE OF THE LAND AND THE CONSTRUCTION OF LESSEE'S IMPROVEMENTS ON THE LAND

11.1 The Lessee shall use the Land and any Lessee's Improvements and Lessor's Improvements for the following uses only (the "Permitted Uses"):

11.1.1 those uses specifically allowed as permitted or controlled activities in any applicable District and/or Regional Plan; or

11.1.2 those uses specifically allowed by any resource consent granted under the Resource Management Act 1991 and/or any other statutory or regulatory provision; and

11.1.3 in addition to the limitations set out in paragraphs 11.1.1 and 11.1.2 above, the use of the Land shall be further limited to Permitted Uses which in the reasonable opinion of the Lessor:

(a) have prime regard to the distinctive scenic, cultural, historic, archaeological, geothermal, geological, biological and natural vegetative features on the Land and the need to protect and preserve these features;

(b) relate principally to the conduct of sightseers around the natural features of the Land; and

(c) do not require the construction of any buildings or improvements of either a temporary or permanent nature unless these relate to the physical movement or conveyance of tourists around the Land or the construction of associated paths and/or viewing platforms or to the replacement of Lessee's Improvements presently on the Land with like improvements.

11.2 The Land shall not be used for:

11.2.1 any revenue creating activity which was not conducted on the Land at or prior to 1 February 1998 under the Existing Lease; or

11.2.2 any other activity or development which may cause physical deterioration to or otherwise adversely affect all or any of the features of the Land which are referred to in clause 11.1.3 above.

11.3 The Lessee will, at all times during this Lease, otherwise use the Land in a manner consistent with the provisions of Section 15 of the Act.

11.4 Where the Lessee intends to erect or demolish buildings or otherwise disturb the surface of the Land then:

11.4.1 where the proposed activity does not require a resource consent, the Lessee may proceed with that activity provided that the Lessee gives prior written notice to the Lessor of its intention to undertake this activity; and

11.4.2 where the Lessee intends to erect or demolish buildings or otherwise disturb the surface of the Land and the activity requires a resource consent, the Lessee must obtain the prior written consent of the Lessor.

11.5 Where the prior written consent of the Lessor is sought under 11.4.2, this consent shall not be unreasonably or arbitrarily withheld, provided that:

11.5.1 such consent may be given subject to conditions prescribed by the Lessor; and

11.5.2 the Lessor shall have regard to the matters set out in clauses 11.1.3 and 11.2 herein.

11.6 Where plans and specifications of any proposed work requiring Lessor consent under clause 11.4 herein are available to the Lessee, these and any subsequent variations to them shall be supplied to the Lessor when approval is sought under clause 11.4 herein.

11.7 Should any of the Permitted Uses of the Land or the use of any Lessee's Improvement or Lessor's Improvement thereon or the construction of any Lessee's Improvement thereon be permissible only with the consent or licence of any lawful Authority under or in pursuance of statute or any Regional and District Plans or regulations or other enactments or any order of Court the Lessee shall obtain such consent, licence or order at the sole cost and expense of the Lessee and the Lessee shall at all times comply with any conditions of any such consent, licence or order.

11.8 The Lessor does not warrant that the Land is or will remain suitable or adequate for any of the Permitted Uses.

11.9 The Lessee accepts the Land as being satisfactory in all respects and with full knowledge of and subject to any prohibitions or restrictions on the use of the Land imposed by or arising out of any statute, regulation, bylaw, code, District Plan or which may otherwise either be indicated on title to the Land or arise in any other way.

11.10 Despite the other provisions in clause 11, the Lessor will not consent to any change in the Permitted Uses, or consent to the Lessee erecting or demolishing buildings or disturbing the surface of the Land under clause 11.4.2 if such a change in Permitted Uses or such work would, or is likely to, reduce the amount of Admission Income derived from the Land, the Arikikapakapa Section 101 Land and the Arikikapakapa and Other Reserve Land, without the prior written consent of the Arikikapakapa Lessor.

12 NO FENCING

12.1 The Lessor shall be under no liability whatsoever whether under the Fencing Act 1978 or otherwise to contribute towards the cost of erection or repair of any boundary

fences between the Land and any adjoining land owned or occupied by the Lessor or Lessee.

13 STATUTORY REQUIREMENTS

13.1 The Lessee will comply with all statutes, Regional and District Plans, bylaws, codes and regulations which relate to the Land and the Lessor's Improvements and Lessee's Improvements or which relate to the Lessee's occupation and use of the Land and Lessor's Improvements and Lessee's Improvements and with all conditions or requirements which may be issued by any lawful Authority and will in particular but without limitation:

13.1.1 where appropriate ensure that a warrant of fitness is obtained each year in respect of any Lessor's Improvements and Lessee's Improvements on the Land as required under the Building Act 2004;

13.1.2 comply with and observe at all times the terms and conditions of all resource and other consents and permits held in respect of the Land;

13.1.3 ensure that proper and adequate health and safety procedures and any codes of practice are adopted in accordance with the Health and Safety in Employment Act 1992; and

13.1.4 otherwise comply with all statutes, regulations and codes as they relate to the Land,

and will keep the Lessor indemnified in respect of any non-compliance by the Lessee with any such statutory regulatory requirements as provided in clause 16.

14 ASSIGNMENT, SUBLETTING, MORTGAGING AND CHARGING

14.1 Lessor's Written Consent Required

The Lessee will hold and use the Land bona fide for its own use and benefit and will not transfer, assign, mortgage, charge or part with possession of the Land or any part thereof without the written consent of the Lessor, provided that approval to the granting of any charge will not be necessary in the case of a mortgage to the Crown or a Department of State.

14.2 Assignment or Transfer

14.2.1 Where any assignment or transfer of this Lease is consented to by the Lessor, the Lessor must be satisfied that the obligations of the Lessee under this Lease have not been breached. Further, the Lessor may require the execution by the assignee or transferee of a deed of covenant with the Lessor in a form acceptable to the Lessor, that the assignee or transferee will be bound by and perform the covenants in this Lease to be observed and performed by the Lessee but the execution of such deed of covenant shall not release the Lessee or any assignor from the Lessee's or that assignor's obligations under this Lease.

14.2.2 Despite clauses 14.1 and 14.2.1, this Lease may not be transferred or assigned except in conjunction with a transfer or an assignment of the Arikikapakapa Lease and the Arikikapakapa Section 101 Lease to the same assignee or transferee, such assignee or transferee to be consented to jointly by the Lessor, and the Arikikapakapa Lessor, in accordance with the provisions of the Leases.

14.3 **Mortgage or Charge**

14.3.1 Any Lessor consent given to the Lessee to mortgage or otherwise charge this Lease under clause 14.1 herein shall not relieve the Lessee of the obligation to obtain a like consent from the Minister of Finance under the provisions of Section 23 of the Act.

14.3.2 The Lessee acknowledges that should the Lessor consent to the creation of any mortgage or other charge over the Lessee's interest in this Lease, then that mortgage or charge shall include covenants which, inter alia:

(a) require the mortgagee or chargeholder to give the Lessor not less than 30 clear working days written notice of its intention to variously enter the Land and formally take possession thereof or, alternatively, to sell the Lessee's interest in the Lease for non-payment of any money owing to the mortgagee or chargeholder;

(b) confer upon the Lessor or the Lessor's nominee a pre-emptive option to buy the mortgage or charge concerned for the value of the debt owed under it at any time within 20 working days prior to entering the Land or exercising any power of sale as a mortgagee;

(c) gives a mortgagee or chargeholder acknowledgement that for the purpose of the mortgage or charge:

(i) the Lessor is a "person" within the contemplation of Section 4 Contracts (Privity) Act 1982 to the mortgage or charge;

(ii) any entry into possession or purported exercise of the power of sale contrary to the provisions of clause 14.3.2(a) and (b) above shall be enforceable by the Lessor through injunctive or other action in a Court of appropriate jurisdiction; and

(iii) the valuable consideration for the within covenants was the Lessor's consent to the creation of the mortgage or charge concerned.

14.3.3 The exact wording of the covenants referred to in clause 14.3.2 shall be advised by the Lessor when it consents to the granting of the mortgage or charge to which it relates.

14.3.4 Despite clauses 14.1 and 14.3.1-14.3.3, the Lessee may not mortgage or charge its interest in this Lease without also mortgaging or charging the

Lessee's interest in the Arikikapakapa Section 101 Lease and the Arikikapakapa Lease.

14.4 **Sublease**

It is agreed that neither the whole or any part of the Land shall be sublet or licensed by the Lessee.

14.5 **Lessor's Costs and Disbursements**

The Lessee shall pay the Lessor's proper costs and disbursements in respect of expenses incurred in reasonable enquiries made by the Lessor in respect of any assignment to which this clause 14 relates and the preparation and stamping of any deed of covenant or guarantee or attendances on any other documentation to which this clause 14 relates.

14.6 In this clause 14, a reference to the Lessor will be deemed to be a reference to the Lessor and the Arikikapakapa Lessor.

15 **LESSEE'S ACKNOWLEDGEMENT OF RISK**

15.1 The Lessee agrees to occupy and use the Land and any Lessee's Improvements or Lessor's Improvements on the Land at the Lessee's risk and release to the full extent permitted by law the Lessor and the Lessor's employees and agents from all claims and demands of any kind and from all liability which, in the absence of any negligence on the Lessor's part may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land and any Lessor's Improvements except where the Lessor or any person under the control of the Lessor is at fault or negligent through its or their own acts or omissions.

16 **INDEMNITY BY LESSEE**

16.1 The Lessee will indemnify and hold harmless the Lessor in its capacity as Lessor from and against all actions, claims, demands, losses, damages, costs and expenses sustained by the Lessor as a result of the Lessee's use of the Land.

16.2 Without limiting its generality, the indemnity in Clause 16.1 herein shall extend to and apply where any action, claim, demand, loss, damage, cost or expense is caused or contributed to by any act, omission, neglect, breach or default on the part of the Lessee or any person under the Lessee's control.

16.3 The liability of the Lessee under Clause 16.1 herein shall further extend to cover full recompense, without deduction or set off, to the Lessor for any fine, penalty or expense imposed on the Lessor as a result of any failure by the Lessee or persons under its control to observe or perform the requirements of any statute, law, regulation or Code of Practice applicable to the Lessee's use and occupation of the Land.

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

17 QUIET ENJOYMENT

17.1 Provided the Lessee performs and observes the covenants, provisos, conditions and agreements contained in this Lease, the Lessee shall peaceably hold and enjoy the Land and any Lessor's Improvements thereon without hindrance or interruption by the Lessor or by any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease.

18 AVOIDANCE OF DANGER AND PROHIBITION ON REMOVAL OF VARIOUS ELEMENTS FROM THE LAND

18.1 The Lessee shall:

18.1.1 take all reasonable precautions to minimise any danger or hazard arising from any Lessee's use of the Land and shall not permit any goods of a dangerous nature to be stored or used on the Land unless stored and used in a manner which complies with all statutes, ordinances, regulations, bylaws and codes or standards in that regard; and

18.1.2 promptly remedy any danger or hazard that may arise on the Land.

18.2 The Lessee shall not damage, sell or remove or permit to be damaged, sold or removed from the Land any mineral waters, medicinal mud, sulphur, silica, petrified specimens or other naturally occurring material without the prior consent in writing of the Lessor.

19 MAINTENANCE

19.1 The Lessee shall at the Lessee's own expense in all things keep all Lessee's Improvements on the Land in good order, condition and repair during the continuance of this Lease.

19.2 The Lessee acknowledges that the Lessor shall have no repair or maintenance obligations for either the Land or any improvements thereon whether Lessee's Improvements or otherwise.

19.3 That should the Lessor's Improvements include a building or buildings then in addition to the Lessee's covenants in this clause or elsewhere in this Lease the Lessee shall during the continuance of this Lease:

19.3.1 keep such buildings watertight;

19.3.2 be responsible for all repairs reasonably required by the Lessor thereon including structural repairs;

19.3.3 repaint the exterior of any such building when reasonably required to do so by the Lessor;

19.3.4 be responsible for all matters and costs arising out of the need to comply with the Building Act 2004 and the National Building Code whether in relation to any inspection certification or work required howsoever;

19.3.5 wash down and revarnish or repaint varnished or painted surfaces on the interior of any such building when reasonably necessary; and

19.3.6 replace any worn or damaged fixtures or fittings within such a building when reasonably required by the Lessor to do so,

all such work to be carried out in accordance with the Lessor's requirements and otherwise to good trade standards.

20 IMPROVEMENTS ON TERMINATION OF LEASE

20.1 The Lessor may, at any time prior to or within two calendar months from the end of this Lease, whether by effluxion of time or otherwise, serve notice (hereafter called the "Lessor's First Notice") on the Lessee. This notice shall require the Lessee to specify, in writing, within two calendar months from receipt of such notice, which Lessee's Improvements it proposes to remove from the Land or to demolish upon or subsequent to the expiry of this Lease.

20.2 The Lessee may, within two calendar months from receipt of the Lessor's First Notice, serve a notice of reply (hereafter called the "Lessee's Notice") on the Lessor specifying which of the Lessee's Improvements it intends to remove and/or demolish.

20.3 Should the Lessee fail to serve the Lessee's Notice within two calendar months, it shall be deemed to have irrevocably advised the Lessor that it intends to demolish all Lessee's Improvements on the Land.

20.4 The Lessor may, within two calendar months from receipt of the Lessee's Notice, serve a further notice on the Lessee (hereafter called the "Lessor's Second Notice") which requires the Lessee to remove or demolish additional specified Lessee's Improvements to those listed in the Lessee's Notice and the Lessee shall be obliged to remove or demolish, as it chooses, both those Lessee's Improvements so specified and those Lessee's Improvements to which the Lessee's Notice relates or is deemed to have related to under the provisions of clause 20.3 herein.

20.5 Should the Lessee at its own expense in all things fail to:

20.5.1 remove or demolish all Lessee's Improvements it is obliged to remove or demolish; and

20.5.2 reinstate the surface of the Land affected by any removal or demolition as aforesaid to a safe and tidy condition and otherwise to the reasonable satisfaction of the Lessor,

within two years from the expiry of the Lease, whether by effluxion of time or otherwise, then the Lessor may thereafter order the demolition of all such Lessee's Improvements and the reinstatement of affected lands upon such terms and

conditions as it thinks appropriate and the cost of such work shall be recoverable from the Lessee as a debt then due and owing.

20.6 Notwithstanding any rule of law or equity to the contrary, the provisions of this clause 20 shall not merge and extinguish upon the expiration of this Lease but shall enure for the benefit of the parties until performed in full.

20.7 For the avoidance of doubt, it is acknowledged by the Lessee that nothing herein shall:

20.7.1 oblige the Lessor to pay compensation to the Lessee for any Lessee's Improvement(s) left on the Land by the Lessee; or

20.7.2 oblige the Lessor to demolish or remove any Lessee's Improvement(s).

20.8 Time where prescribed in this clause 20 shall be deemed to be of the essence.

21 **DEFAULT**

21.1 The Lessor may re-enter the Land:

21.1.1 if the Annual Rent shall be in arrears for more than two months after any Rent Payment Date; or

21.1.2 in the case of breach by the Lessee of any covenant or agreement on the Lessee's part herein expressed or implied; or

21.1.3 if the Lessee shall:

(a) make or enter into or endeavour to make or enter into any composition, assignment or other arrangement with or for the benefit of the Lessee's creditors; or

(b) become insolvent or go into liquidation; or

(c) suffer distress or execution to issue against the Lessee's property under any judgment in any Court for a sum in excess of $10,000.

21.2 Upon re-entry, the term of the Lease shall terminate without prejudice to the rights of either party against the other.

21.3 Despite the other provisions in clause 21, any breach of any one of the Leases shall be a breach of all of the Leases and if re-entry is effected under the Arikikapakapa Lease or the Arikikapakapa Section 101 Lease, following consultation and agreement between the Lessor and the Arikikapakapa Lessor, the Lessor shall also re-enter the Land and the term of this Lease shall terminate in accordance with clause 21.2.

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

22 RENEWAL

22.1 If the Lessee shall during the term hereby granted pay the rent hereby reserved and observe and perform the covenants and conditions on the part of the Lessee herein contained and implied up to the expiration of the said term, then the Lessee shall have a right to obtain a renewal of the Lease of the Land for a further term of thirty (30) years, subject in all respects to the same conditions and provisions as this Lease, including the within right of renewal (which the Lessor acknowledges is perpetual). The Annual Rent shall be reviewed and agreed upon at renewal or failing agreement settled by arbitration as provided in clause 24.

22.2 Neither this Lease nor any renewal of it shall confer any right of acquiring the fee simple of the Land.

22.3 These presents are intended to take effect as a perpetually renewable lease despite Section 122 of the Reserves Act 1977 provided however the provisions of the Reserves Act 1977 and any regulations made thereunder applicable to such Lease shall otherwise be binding in all respects upon the parties hereto in the same manner as if such provisions had been fully set out herein.

22.4 Despite clauses 22.1 to 22.3 the Lessee will not be entitled to renew this Lease without also obtaining a renewal of the Arikikapakapa Lease under the provisions of the Arikikapakapa Lease and the Arikikapakapa Section 101 Lease under the provisions of the Arikikapakapa Section 101 Lease.

23 STATUTORY PROVISIONS

23.1 All covenants implied in leases by Parts 2 and 3 of Schedule 3 of the Property Law Act 2007 or any other legislation excluding only:

23.1.1 the Act; and

23.1.2 the enactments referred to in clause 22.3,

are hereby negatived to the fullest extent permitted by law.

24 DISPUTE RESOLUTION

24.1 Except as otherwise provided in this Lease, any dispute which may arise between the parties concerning the interpretation of this Lease or relating to any other matter arising under this Lease will be actively and in good faith negotiated by the parties with a view to a speedy resolution of such differences.

24.2 If the parties cannot resolve a dispute within fifteen (15) working days of any dispute arising, then, unless otherwise expressly provided in this Lease, they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using informal dispute resolution techniques such as mediation. The rules governing any such technique, if adopted, will be agreed between the parties or as selected by the organisation known as "LEADR"

(Leading Edge Alternative Dispute Resolvers) or any satisfactory substitute therefore then agreed between the parties.

24.3 If the parties cannot agree on any dispute resolution technique within a further fifteen (15) working days of any dispute being considered for referral by both parties to any informal dispute resolution technique under clause 24.2, then the dispute shall be finally resolved by arbitration under the Arbitration Act 1996 by a sole arbitrator who shall decide the dispute according to the substantive law of New Zealand.

24.4 The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other for settling terms of reference, interlocutory matters and, generally, all steps preliminary and incidental to the hearing and determination of the proceedings.

24.5 Despite the other provisions of clause 24, the Lessor will keep the Arikikapakapa Lessor fully advised of any dispute with the Lessee that would, or is likely to, affect the Annual Rent or otherwise negatively affect the connected nature of this Lease, the Arikikapakapa Section 101 Lease and the Arikikapakapa Lease and, if deemed necessary by the Arikikapakapa Lessor and the Lessor, the Arikikapakapa Lessor will join the Lessor in any dispute resolution process under this clause.

25 COSTS

25.1 The parties shall each pay their own solicitor's costs of preparing and finalising this Lease or any renewal or variation of this Lease.

25.2 The Lessee shall pay for all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease.

25.3 The Lessee shall pay for the costs of stamping and registering this Lease and any subsequent variation and renewal or variation or renewal of this Lease.

26 NOTICES

26.1 All notices and other communications to either party shall be in writing and either faxed, delivered personally or sent by registered mail. Notices delivered personally or faxed shall be deemed given at the time of such delivery or transmission.

26.2 Notices mailed as provided above shall be deemed given three days after the date of mailing.

26.3 Until notice of a change of address is communicated, all notices shall be delivered to or addressed to the appropriate addresses for service specified in clauses 26.3.1 and 26.3.2 following:

26.3.1 the Lessor's address for service is:

PART 7: FORM OF WHAKAREWAREWA THERMAL SPRINGS LEASE

[

]

[Details to be provided at time of signing]

26.3.2 the Lessee's address for service is:

[The Chief Executive
New Zealand Maori Arts and Crafts Institute
P O Box 334
Rotorua

Facsimile (07) 348 9045]

26.2 Any failure to advise a change of address shall not invalidate any notice, request, demand or other communication if given to the last address advised.

27 **RELATIONSHIP WITH ARIKIKAPAKAPA LEASE AND ARIKIKAPAKAPA SECTION 101 LEASE**

27.1 The Lessor and the Lessee acknowledge and agree that, despite the fact that the Lessee and the Lessor have entered into this Lease in respect of the Land and the Arikikapakapa Lessor and the Lessee have entered into the Arikikapakapa Lease in respect of the Arikikapakapa and Other Reserve Land and the Arikikapakapa Section 101 Lease in respect of the Arikikapakapa Section 101 Land:

27.1.1 the Lessee operates one business on the Land, the Arikikapakapa and Other Reserve Land and the Arikikapakapa Section 101 Land;

27.1.2 the amount of Admission Income derived from that business on the Land, the Arikikapakapa Section 101 Land and the Arikikapakapa and Other Reserve Land is equally important to the Lessor and the Arikikapakapa Lessor;

27.1.3 the Lessor and the Lessee will not, together or separately, take any action, make any arrangement or agreement or seek to vary this Lease in any way that would reduce the amount of Admission Income derived from the Land, the Arikikapakapa and Other Reserve Land and the Arikikapakapa Section 101 Land or that would otherwise negatively affect the Arikikapakapa Lessor's position under the Arikikapakapa Lease, the Arikikapakapa Section 101 Lease or under this Lease, without the prior written consent of the Arikikapakapa Lessor; and

27.1.4 without limiting clauses 27.1.1 to 27.1.3, the Lessor will not accept, or agree to accept, and the Lessee will not pay, or agree to pay, any amount of money in respect of the Lessee's use of, or business on, the Land, in addition to or separate from the Annual Rent, without the prior written consent of the Arikikapakapa Lessor, which consent, if given will be strictly on the basis that

any amounts paid by the Lessee under this clause will be shared equally between the Lessor and the Arikikapakapa Lessor.

27.2 Despite that there may be no privity of contract existing between the parties to this Lease and the Arikikapakapa Lessor, nevertheless the Arikikapakapa Lessor shall have the right to enforce any provisions in this Lease which are of benefit to it with such right to enforce being acknowledged and intended in accordance with the requirements of Section 4 of the Contracts (Privity) Act 1982.

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

(Clause 10.1.87(c))

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

MEMORANDUM OF

LEASE

(SOUTH AUCKLAND REGISTRY)

1 **PARTIES**

1.1 **THE SOVEREIGN** in right of the Government of New Zealand acting by and through [ ], Chief Executive, Ministry of Economic Development ("the Lessor").

1.2 **THE NEW ZEALAND MAORI ARTS AND CRAFTS INSTITUTE** a body corporate duly constituted under the provisions of Section 4 of the New Zealand Maori Arts and Crafts Institute Act 1963 ("the Lessee").

2 **PRELIMINARY**

2.1 The Minister in Charge of Tourism acting on behalf of **THE SOVEREIGN** entered a lease with the Lessee who was then known as the **ROTORUA MAORI ARTS AND CRAFTS INSTITUTE** dated 9 November 1965 in respect of the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land, which lease was registered under Vol 2021 Folio 47 (South Auckland Registry). This lease, including renewal and variation of lease registered under number B457107.1, is held in computer interest register SA2021/47 (hereafter, called "the Existing Lease").

2.2 The Minister of Tourism acting on behalf of **THE SOVEREIGN** has continued responsibility for the Lessor's administration of the Existing Lease subsequent to the dissolution of the New Zealand Tourist and Publicity Department.

2.3 In accordance with the provisions of the Deed of Settlement of the Historical Claims of The Affiliate Te Arawa Iwi/Hapu, the Lessor and the Lessee agreed to partially surrender the Existing Lease by deed of surrender dated [ ] in relation to the Whakarewarewa Land, in consideration for entering into this new lease of the Land (hereafter called "this Lease") and a variation of the Existing Lease of even date with this Lease in respect of the Arikikapakapa and Other Reserve Land (hereafter called "the Arikikapakapa Lease"), and in consideration of the Whakarewarewa Lease Lessor and the Lessee entering into a new lease of the Whakarewarewa Reserve Land of even date with this Lease (hereafter called "the Whakarewarewa Lease").

2.4 The Lessor and the Lessee are entering into this Lease and the Arikikapakapa Lease, and the Whakarewarewa Lease Lessor and the Lessee are entering into the Whakarewarewa Lease with the intention that the Leases will be dealt with, to the extent provided for in the leases, on the basis that they are and will remain connected with each other, as if the Land, the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land were leased to the Lessee under one lease.

THE LESSOR DOES HEREBY LEASE TO THE LESSEE and **THE LESSEE DOES HEREBY TAKE ON LEASE** the Land described in the First Schedule for the term and at the annual rent set out in the Second Schedule and otherwise subject to the covenants, conditions, agreements and restrictions set out in the First Schedule and the Second Schedule in this Lease.

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

DATED 20

EXECUTION

THE SOVEREIGN)
acting by and through [ ])
the Chief Executive of the Ministry of)
Economic Development acting under)
delegated authority from the Minister)
of Tourism in the presence of:)

NEW ZEALAND MAORI ARTS)
AND CRAFTS INSTITUTE a body)
corporate duly incorporated under the)
provisions of Section 4 of the)
New Zealand Maori Arts and Crafts)
Institute Act 1963 in the presence of:)

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

FIRST SCHEDULE

Schedule of Land

Area	**Legal Description**
0.9143 hectares more or less	Section 101 Block I Tarawera Survey District.
Encumbrances, Liens & Interests [1. ***Need to be completed*** 2.]	

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

SECOND SCHEDULE

THE LESSOR AND THE LESSEE COVENANT AND AGREE as follows:

1 INTERPRETATION AND DEFINITIONS

1.1 For the purpose of the interpretation or construction of this Lease, unless the context provides otherwise:

1.1.1 Words importing any gender shall include all other genders.

1.1.2 Words importing the singular shall include the plural and vice versa.

1.1.3 Payments shall be made in the lawful currency of New Zealand.

1.1.4 Headings shall be ignored.

1.1.5 References to schedules are references to schedules in this Lease and references to clauses are references to clauses in this Lease and references to parties are references to the parties to this Lease and their respective successors and assigns (if permitted in the case of the Lessee under clause 14) unless expressly stated otherwise.

1.1.6 A "person" shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust or a Crown entity as defined in Section 7(1) of the Crown Entities Act 2004, or State enterprise, in each case whether or not having separate legal personality.

1.1.7 "Writing" shall include words visibly represented or reproduced.

1.1.8 No consent or waiver, express or implied by the Lessor, to or of any breach of any covenant, condition or duty of the Lessee will be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty. No waiver of any breach of the Lessee will be implied from the Lessor's failure to exercise the Lessor's rights or any of them in respect of that breach.

1.1.9 Nothing contained in this Lease shall be deemed or construed or constitute any party, a partner, agent or representative of the other party or be deemed to create any trust, commercial partnership or joint venture.

1.1.10 The invalidity of any part or provision of this Lease shall not affect the enforceability of any other part or provision thereof.

1.1.11 The parties acknowledge and agree that certain covenants set out in this Lease (in particular, provisions relating to the treatment of Lessee's Improvements on termination or sooner determination of this Lease in clause

20) shall continue beyond the expiry or sooner determination of this Lease for the benefit of the parties notwithstanding the prior expiry or sooner determination of this Lease.

1.1.12 This Lease shall be construed and take effect in accordance with the laws of New Zealand.

1.1.13 Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.

1.1.14 "Annual Rent" is a reference to all annual rental payable under this Lease and the Arikikapakapa Lease as calculated in clause 3.1, plus GST.

1.1.15"Admission Income" means all income received from admission charges to the Land, the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land levied by the Lessee excluding:

(a) GST; and

(b) any lawful commissions paid to tourist operators in relation to that admission income.

1.1.16"Admission Income Percentage" is a percentage that is multiplied by the Admission Income to calculate the Annual Rent. For the period from the Commencement Date the Admission Income Percentage shall be 6.75 per cent. Any review of the Admission Income Percentage shall include a consideration of the capital sum invested by the Lessee for the purposes of enhancing the enjoyment by sightseers of natural features on the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land. For the avoidance of doubt, capital expenditure expended on Lessee's Improvements on the [Arikikapakapa and Other Reserve Land], including any future capital expenditure on alterations or additions to those improvements or on new Lessee's Improvements on the Arikikapakapa and Other Reserve Land, shall be assumed not to exist when reviewing the Admission Income Percentage.

1.1.17 "Arikikapakapa and Other Reserve Land" means that land comprising:

(a) 0.5978 hectares, more or less, being Part Lot 1 DP 23567;

(b) 10.0012 hectares, more or less, being Part Lot 3 DP 23567; and

(c) 3.2931 hectares, more or less, being Section 8 Block XLIX Town of Rotorua.

1.1.18 "Authority" means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land and

any Lessor's Improvements or Lessee's Improvements but shall exclude the Lessor acting in its capacity as Lessor under this Lease.

1.1.19 "The Act" means the New Zealand Maori Arts and Crafts Institute Act 1963.

1.1.20 "Commencement Date" means [*Settlement Date under Deed of Settlement*].

1.1.21 "Crown" means The Sovereign in right of the Government of New Zealand acting by and through [ ], Chief Executive, Ministry of Economic Development, being the Lessor under this Lease and the Arikikapakapa Lease.

1.1.22 "Land" and "the Land" is a reference to all the land described in the First Schedule.

1.1.23 "Leases" means this Lease, the Arikikapakapa Lease and the Whakarewarewa Lease.

1.1.24 The expression "the Lessee" shall include and bind:

(a) the persons executing this Lease as Lessee;

(b) any Lessee for the time being under it; and

(c) all the respective executors, administrators, successors, assigns and successors in title of each Lessee and if more than one jointly and severally.

1.1.25 "Lessee's Improvements" shall mean all improvements on the Land of any kind whatsoever including buildings, tunnels, sealed or unsealed yards, paths, tracks, roads, bridges, lawns, gardens, fences and other property of any kind whatsoever constructed or placed on the Land by the Lessee or any person or body authorised by the Lessee but shall exclude "Lessor's Improvements".

1.1.26 The expression "the Lessor" shall include and bind:

(a) the person executing this Lease as Lessor and the person executing the Arikikapakapa Lease as lessor;

(b) all the Lessors for the time being under this Lease and the Arikikapakapa Lease; and

(c) all the respective executors, administrators, successors, assigns and successors in title of each Lessor and if more than one jointly and severally.

1.1.27 "Lessor's Improvements" means all improvements on the Land of any kind whatsoever including buildings, tunnels, sealed or unsealed yards, paths, tracks, roads, bridges, lawns, gardens, fences and other property of any kind whatsoever constructed or placed on the Land by the Lessor after the

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

Commencement Date with the consent of the Lessee and which is or is subsequently listed in clause 6 (as that clause may be varied from time to time). All improvements on the Land as at the Commencement Date were Lessee's Improvements.

1.1.28 "Permitted Use" shall have the meaning given to those words in clause 11.

1.1.29 "Renewal Date" means 1 February 2028 and each subsequent first day of the term of any renewal of this Lease.

1.1.30 "Review Date" means 1 February 2013, and each succeeding fifth anniversary of that date during the continuance of this Lease or any renewal of this Lease including any Renewal Date.

1.1.31 "Regional and District Plans" shall have the meanings set out in section 2 of the Resource Management Act 1991 and shall extend to include any successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.

1.1.32 "Whakarewarewa Reserve Land" means the land comprising 43.4200 hectares, more or less, being Section 1 SO 390094.

1.1.33 "Whakarewarewa Lease Lessor" means the lessor from time to time of the Whakarewarewa Lease.

1.1.34 "Working Day" means:

(a) any day of the week other than Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday and Waitangi Day; and

(b) a day in the period commencing with the 25th day of December in any year and ending with the seventh day of January in the following year.

2 **TERM**

2.1 The initial term of this Lease will be for a period of [ ] years [ ] months and [ ] days from the Commencement Date to 31 January 2028 inclusive.

2.2 The first renewal of this Lease shall be for a period of thirty (30) years from 1 February 2028 to 31 January 2058 inclusive.

2.3 Second and subsequent renewals (if exercised) shall be for thirty (30) year terms commencing on 1 February in each year following the expiry of the previous term. These rights of renewal are exercisable in perpetuity.

3 **RENT**

3.1 The Annual Rent shall be calculated by:

3.1.1 multiplying the Admission Income by the Admission Income Percentage; and

3.1.2 dividing the amount in 3.1.1 by two.

3.2 The Annual Rent is calculated on the basis in clause 3.1 with the intention that, for the term (including all renewal terms) of this Lease, the Arikikapakapa Lease and the Whakarewarewa Lease, the annual rent amount derived from the calculation in clause 3.1.1 will be shared equally between the Lessor and the Whakarewarewa Lease Lessor.

3.3 The Lessor will not enter into any arrangement, or agreement with the Lessee, whether under this Lease, or independently of this Lease, or allow the Lessee to take any action or make any decisions that would, or is likely to, reduce the amount of Admission Income derived from the Land, the Arikikapakapa and Other Reserve Land and from the Whakarewarewa Reserve Land, without the prior written consent of the Whakarewarewa Lease Lessor.

3.4 The Lessee shall pay the Annual Rent in twelve instalments two monthly in arrears on the first days of each month during the continuance of this Lease, commencing with a first payment on the date that is the next rent payment date under the Arikikapakapa Lease following the Commencement Date, which shall be for the month of [*To be completed*], (which payment dates are hereafter collectively called "the Rent Payment Dates").

4 RECONCILIATION OF ANNUAL RENT

4.1 The Lessee shall on each Rent Payment Date provide to the Lessor written confirmation of Annual Rent for the monthly period to which that payment relates, including a calculation as to how the quantum of that payment was arrived at.

4.2 No later than two months after the end of the Lessee's financial year the Lessee shall supply to the Lessor:

4.2.1 an audited reconciliation of Admission Income received to Annual Rent paid to the Lessor for the Lessee's previous financial year; and

4.2.2 if requested, the Lessee's audited accounts for the previous financial year.

4.3 Should:

4.3.1 the information supplied pursuant to clause 4.2.1 above be found to be incorrect; or

4.3.2 it be ascertained that for any other reason Annual Rent for the previous financial year has been underpaid or overpaid,

then the Lessor shall notify the Lessee in writing of the amount of the overpayment or underpayment and any financial adjustment between the parties shall be dealt with as follows:

(a) where the Annual Rent has been overpaid, the Lessor shall credit the surplus amount to the Lessee's account; and

(b) where the Annual Rent has been underpaid, the Lessee shall pay the difference to the Lessor at the same time as the instalment of Annual Rent next following notification of the underpayment.

Should the amount of underpayment or overpayment not be credited or paid in accordance with paragraphs (a) and (b) above, overdue money shall bear interest at the default rate specified in clause 10 until they are paid.

4.4 Any disputes over the quantum of any payment due under clause 4.3 shall be resolved in the manner provided in clause 4.8 following.

4.5 The Lessee shall maintain such records and calculations as are necessary to enable it to clearly identify all revenues from which all Annual Rent is derived.

4.6 The Lessee shall, no later than ten (10) working days after request from the Lessor make such records and calculations available to the Lessor for audit purposes.

4.7 The Lessee shall assist the Lessor or the Lessor's nominee in the audit of the records and calculations referred to in clause 4.5 above to the fullest extent possible to the end and intent that the parties may agree upon Annual Rent for any period audited by the Lessor.

4.8 Should the parties be unable to agree upon any annual or monthly Annual Rent, this figure shall be initially determined by the Lessee's auditor but if the Lessor disagrees with this initial determination, then a Chartered Accountant (hereafter called "the Nominee") may be appointed by the President of the Institute of Chartered Accountants of New Zealand upon the application of either party. The determination by the Nominee of any annual or monthly Annual Rent shall be final and binding on the parties who shall contribute equally to the Nominee's costs. The parties shall co-operate with the Nominee to the fullest extent possible in the Nominee's determination of any Annual Rent in dispute.

5 REVIEW OF ANNUAL RENT

5.1 The parties agree that all rent reviews of the Annual Rent shall be carried out in accordance with the provisions of the Arikikapakapa Lease to the intent that the Land shall be considered part of the Arikikapakapa and Other Reserve Land for the purposes of rent reviews.

5.2 The Lessee shall pay the Annual Rent following each rent review as agreed or determined in accordance with the provisions of the Arikikapakapa Lease.

6 LESSOR'S IMPROVEMENTS

6.1 There are no Lessor's Improvements on the Land as at the Commencement Date. Should the Lessor with the consent of the Lessee subsequently construct Lessor's

Improvements on the Land, then the parties agree that the provisions of this clause shall be varied to record particulars of such Lessor's Improvements.

7 PAYMENT OF RATES AND IMPOSITIONS

7.1 The Lessee will pay all rates, taxes (including without limitation land or improvements tax), charges, assessments, impositions and outgoings whatsoever which now are or which during the term of this Lease shall be taxed, rated, charged, assessed or imposed on the Land, any Lessor's Improvements and Lessee's Improvements thereon or on the Lessor or Lessee in respect thereof by any Authority, excepting only Lessor's income tax.

8 PAYMENT OF OTHER OUTGOINGS ON THE LAND

8.1 The Lessee shall pay all other outgoings on the Land which shall include any:

8.1.1 additional rates, taxes and outgoings imposed on or payable in respect of the Land which are levied as a consequence of the Lessee's use or occupancy of the Land;

8.1.2 charges for water, gas, electricity, telephone and other utilities or services consumed on the Land;

8.1.3 NZ Fire Service charges and maintenance charges in respect of all fire detection and fire fighting equipment used on the Land;

8.1.4 the cost of ground maintenance, yard and carparking area maintenance and repair charges on the Land;

8.1.5 costs incurred and payable in supplying to any Authority a building warrant of fitness and obtaining reports as required by Section 108 of the Building Act 2004 in respect of buildings on the Land;

8.1.6 premiums on insurance effected on any Lessor's Improvements and Lessee's Improvements on the Land;

8.1.7 security services provided in respect of the Land;

8.1.8 other costs or expenses incurred in the operation and management of the Permitted Uses on the Land whether related to the foregoing or not; and

8.1.9 maintenance obligations imposed on the Lessee by clause 19 of this Lease.

9 GOODS AND SERVICES TAX

9.1 The Lessee shall pay to the Lessor, upon demand, any taxes paid or payable by the Lessor or accountable by the Lessor pursuant to the provisions of the Goods and Services Tax Act 1985 or any similar tax levied in substitution therefore or in addition thereto or otherwise in respect of any payments made by the Lessee under this Lease

or paid by the Lessor on behalf of the Lessee's obligation to make such payment under this Lease.

10 INTEREST ON OVERDUE ANNUAL RENT OR OTHER MONEY

10.1 Without prejudice to other rights, powers and remedies of the Lessor, if any goods and services tax or other payment or amount owing by the Lessee to the Lessor whatsoever pursuant to this Lease shall be in arrears and unpaid for 20 working days after the due day for payment thereof (whether any formal or legal demand therefore shall have been made or not) such unpaid money shall bear interest on a daily basis compounded on monthly rests computed from such due date until the date of payment in full of such money at a rate which is 2% per annum above the rate at the time the default occurred for prime 90 day commercial bills at the Bank of New Zealand and that such interest shall be recoverable in the same manner as rent in arrears.

11 USE OF THE LAND AND THE CONSTRUCTION OF LESSEE'S IMPROVEMENTS ON THE LAND

11.1 The Lessee shall use the Land and any Lessee's Improvements and Lessor's Improvements for the following uses only (the "Permitted Uses"):

11.1.1 those uses specifically allowed as permitted or controlled activities in any applicable District and/or Regional Plan; or

11.1.2 those uses specifically allowed by any resource consent granted under the Resource Management Act 1991 and/or any other statutory or regulatory provision.

11.2 The Lessee will, at all times during this Lease, otherwise use the Land in a manner consistent with the provisions of Section 15 of the Act.

11.3 Where the Lessee intends to erect or demolish buildings or otherwise disturb the surface of the Land then:

11.3.1 where the proposed activity does not require a resource consent, the Lessee may proceed with that activity provided that the Lessee gives prior written notice to the Lessor of its intention to undertake this activity; and

11.3.2 where the Lessee intends to erect or demolish buildings or otherwise disturb the surface of the Land and the activity requires a resource consent, the Lessee must obtain the prior written consent of the Lessor.

11.4 Where the prior written consent of the Lessor is sought under 11.3.2, this consent shall not be unreasonably or arbitrarily withheld, provided that such consent may be given subject to conditions prescribed by the Lessor.

11.5 Where plans and specifications of any proposed work requiring Lessor consent under clause 11.3 herein are available to the Lessee, these and any subsequent variations to them shall be supplied to the Lessor when approval is sought under clause 11.3 herein.

11.6 Should any of the Permitted Uses of the Land or the use of any Lessee's Improvement or Lessor's Improvement thereon or the construction of any Lessee's Improvement thereon be permissible only with the consent or licence of any lawful Authority under or in pursuance of statute or any Regional and District Plans or regulations or other enactments or any order of Court the Lessee shall obtain such consent, licence or order at the sole cost and expense of the Lessee and the Lessee shall at all times comply with any conditions of any such consent, licence or order.

11.7 The Lessor does not warrant that the Land is or will remain suitable or adequate for any of the Permitted Uses.

11.8 The Lessee accepts the Land as being satisfactory in all respects and with full knowledge of and subject to any prohibitions or restrictions on the use of the Land imposed by or arising out of any statute, regulation, bylaw, code, District Plan or which may otherwise either be indicated on title to the Land or arise in any other way.

11.9 Despite the other provisions in clause 11, the Lessor will not consent to any change in the Permitted Uses, or consent to the Lessee erecting or demolishing buildings or disturbing the surface of the Land under clause 11.3.2 if such a change in Permitted Uses or such work would, or is likely to, reduce the amount of Admission Income derived from the Land, the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land, without the prior written consent of the Whakarewarewa Lease Lessor.

12 NO FENCING

12.1 The Lessor shall be under no liability whatsoever whether under the Fencing Act 1978 or otherwise to contribute towards the cost of erection or repair of any boundary fences between the Land and any adjoining land owned or occupied by the Lessor or Lessee.

13 STATUTORY REQUIREMENTS

13.1 The Lessee will comply with all statutes, Regional and District Plans, bylaws, codes and regulations which relate to the Land and the Lessor's Improvements and Lessee's Improvements or which relate to the Lessee's occupation and use of the Land and Lessor's Improvements and Lessee's Improvements and with all conditions or requirements which may be issued by any lawful Authority and will in particular but without limitation:

13.1.1 where appropriate ensure that a warrant of fitness is obtained each year in respect of any Lessor's Improvements and Lessee's Improvements on the Land as required under the Building Act 2004;

13.1.2 comply with and observe at all times the terms and conditions of all resource and other consents and permits held in respect of the Land;

13.1.3 ensure that proper and adequate health and safety procedures and any codes of practice are adopted in accordance with the Health and Safety in Employment Act 1992; and

13.1.4 otherwise comply with all statutes, regulations and codes as they relate to the Land,

and will keep the Lessor indemnified in respect of any non-compliance by the Lessee with any such statutory regulatory requirements as provided in clause 16.

14 ASSIGNMENT, SUBLETTING, MORTGAGING AND CHARGING

14.1 Lessor's Written Consent Required

The Lessee will hold and use the Land bona fide for its own use and benefit and will not transfer, assign, mortgage, charge or part with possession of the Land or any part thereof without the written consent of the Lessor, provided that approval to the granting of any charge will not be necessary in the case of a mortgage to the Crown or a Department of State.

14.2 Assignment or Transfer

14.2.1 Where any assignment or transfer of this Lease is consented to by the Lessor, the Lessor must be satisfied that the obligations of the Lessee under this Lease have not been breached. Further, the Lessor may require the execution by the assignee or transferee of a deed of covenant with the Lessor in a form acceptable to the Lessor, that the assignee or transferee will be bound by and perform the covenants in this Lease to be observed and performed by the Lessee but the execution of such deed of covenant shall not release the Lessee or any assignor from the Lessee's or that assignor's obligations under this Lease.

14.2.2 Despite clauses 14.1 and 14.2.1, this Lease may not be transferred or assigned except in conjunction with a transfer or an assignment of the Arikikapakapa Lease and the Whakarewarewa Lease to the same assignee or transferee, such assignee or transferee to be consented to jointly by the Lessor and the Whakarewarewa Lease Lessor, in accordance with the provisions of the Leases.

14.3 Mortgage or Charge

14.3.1 Any Lessor consent given to the Lessee to mortgage or otherwise charge this Lease under clause 14.1 herein shall not relieve the Lessee of the obligation to obtain a like consent from the Minister of Finance under the provisions of Section 23 of the Act.

14.3.2 The Lessee acknowledges that should the Lessor consent to the creation of any mortgage or other charge over the Lessee's interest in this Lease, then that mortgage or charge shall include covenants which, inter alia:

(a) require the mortgagee or chargeholder to give the Lessor not less than 30 clear working days written notice of its intention to variously enter the Land and formally take possession thereof or, alternatively, to sell the

Lessee's interest in the Lease for non-payment of any money owing to the mortgagee or chargeholder;

(b) confer upon the Lessor or the Lessor's nominee a pre-emptive option to buy the mortgage or charge concerned for the value of the debt owed under it at any time within 20 working days prior to entering the Land or exercising any power of sale as a mortgagee;

(c) gives a mortgagee or chargeholder acknowledgement that for the purpose of the mortgage or charge:

(i) the Lessor is a "person" within the contemplation of Section 4 Contracts (Privity) Act 1982 to the mortgage or charge;

(ii) any entry into possession or purported exercise of the power of sale contrary to the provisions of clause 14.3.2(a) and (b) above shall be enforceable by the Lessor through injunctive or other action in a Court of appropriate jurisdiction; and

(iii) the valuable consideration for the within covenants was the Lessor's consent to the creation of the mortgage or charge concerned.

14.3.3 The exact wording of the covenants referred to in clause 14.3.2 shall be advised by the Lessor when it consents to the granting of the mortgage or charge to which it relates.

14.3.4 Despite clauses 14.1 and 14.3.1-14.3.3, the Lessee may not mortgage or charge its interest in this Lease without also mortgaging or charging the Lessee's interest in the Arikikapakapa Lease and the Whakarewarewa Lease.

14.4 **Sublease**

It is agreed that neither the whole nor any part of the Land shall be sublet or licensed by the Lessee.

14.5 **Lessor's Costs and Disbursements**

The Lessee shall pay the Lessor's proper costs and disbursements in respect of expenses incurred in reasonable enquiries made by the Lessor in respect of any assignment to which this clause 14 relates and the preparation and stamping of any deed of covenant or guarantee or attendances on any other documentation to which this clause 14 relates.

14.6 In this clause 14, a reference to the Lessor will be deemed to be a reference to the Lessor and the Whakarewarewa Lease Lessor.

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

15 LESSEE'S ACKNOWLEDGEMENT OF RISK

15.1 The Lessee agrees to occupy and use the Land and any Lessee's Improvements or Lessor's Improvements on the Land at the Lessee's risk and release to the full extent permitted by law the Lessor and the Lessor's employees and agents from all claims and demands of any kind and from all liability which, in the absence of any negligence on the Lessor's part may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land and any Lessor's Improvements except where the Lessor or any person under the control of the Lessor is at fault or negligent through its or their own acts or omissions.

16 INDEMNITY BY LESSEE

16.1 The Lessee will indemnify and hold harmless the Lessor in its capacity as Lessor from and against all actions, claims, demands, losses, damages, costs and expenses sustained by the Lessor as a result of the Lessee's use of the Land.

16.2 Without limiting its generality, the indemnity in Clause 16.1 herein shall extend to and apply where any action, claim, demand, loss, damage, cost or expense is caused or contributed to by any act, omission, neglect, breach or default on the part of the Lessee or any person under the Lessee's control.

16.3 The liability of the Lessee under Clause 16.1 herein shall further extend to cover full recompense, without deduction or set off, to the Lessor for any fine, penalty or expense imposed on the Lessor as a result of any failure by the Lessee or persons under its control to observe or perform the requirements of any statute, law, regulation or Code of Practice applicable to the Lessee's use and occupation of the Land.

17 QUIET ENJOYMENT

17.1 Provided the Lessee performs and observes the covenants, provisos, conditions and agreements contained in this Lease, the Lessee shall peaceably hold and enjoy the Land and any Lessor's Improvements thereon without hindrance or interruption by the Lessor or by any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease.

18 AVOIDANCE OF DANGER AND PROHIBITION ON REMOVAL OF VARIOUS ELEMENTS FROM THE LAND

18.1 The Lessee shall:

18.1.1 take all reasonable precautions to minimise any danger or hazard arising from any Lessee's use of the Land and shall not permit any goods of a dangerous nature to be stored or used on the Land unless stored and used in a manner which complies with all statutes, ordinances, regulations, bylaws and codes or standards in that regard; and

18.1.2 promptly remedy any danger or hazard that may arise on the Land.

18.2 The Lessee shall not damage, sell or remove or permit to be damaged, sold or removed from the Land any mineral waters, medicinal mud, sulphur, silica, petrified specimens or other naturally occurring material without the prior consent in writing of the Lessor.

19 MAINTENANCE

19.1 The Lessee shall at the Lessee's own expense in all things keep all Lessee's Improvements on the Land in good order, condition and repair during the continuance of this Lease.

19.2 The Lessee acknowledges that the Lessor shall have no repair or maintenance obligations for either the Land or any improvements thereon whether Lessee's Improvements or otherwise.

19.3 That should the Lessor's Improvements include a building or buildings then in addition to the Lessee's covenants in this clause or elsewhere in this Lease the Lessee shall during the continuance of this Lease:

19.3.1 keep such buildings watertight;

19.3.2 be responsible for all repairs reasonably required by the Lessor thereon including structural repairs;

19.3.3 repaint the exterior of any such building when reasonably required to do so by the Lessor;

19.3.4 be responsible for all matters and costs arising out of the need to comply with the Building Act 2004 and the National Building Code whether in relation to any inspection certification or work required howsoever;

19.3.5 wash down and revarnish or repaint varnished or painted surfaces on the interior of any such building when reasonably necessary; and

19.3.6 replace any worn or damaged fixtures or fittings within such a building when reasonably required by the Lessor to do so,

all such work to be carried out in accordance with the Lessor's requirements and otherwise to good trade standards.

20 IMPROVEMENTS ON TERMINATION OF LEASE

20.1 The Lessor may, at any time prior to or within two calendar months from the end of this Lease, whether by effluxion of time or otherwise, serve notice (hereafter called the "Lessor's First Notice") on the Lessee. This notice shall require the Lessee to specify, in writing, within two calendar months from receipt of such notice, which Lessee's Improvements it proposes to remove from the Land or to demolish upon or subsequent to the expiry of this Lease.

20.2 The Lessee may, within two calendar months from receipt of the Lessor's First Notice, serve a notice of reply (hereafter called the "Lessee's Notice") on the Lessor specifying which of the Lessee's Improvements it intends to remove and/or demolish.

20.3 Should the Lessee fail to serve the Lessee's Notice within two calendar months, it shall be deemed to have irrevocably advised the Lessor that it intends to demolish all Lessee's Improvements on the Land.

20.4 The Lessor may, within two calendar months from receipt of the Lessee's Notice, serve a further notice on the Lessee (hereafter called the "Lessor's Second Notice") which requires the Lessee to remove or demolish additional specified Lessee's Improvements to those listed in the Lessee's Notice and the Lessee shall be obliged to remove or demolish, as it chooses, both those Lessee's Improvements so specified and those Lessee's Improvements to which the Lessee's Notice relates or is deemed to have related to under the provisions of clause 20.3 herein.

20.5 Should the Lessee at its own expense in all things fail to:

20.5.1 remove or demolish all Lessee's Improvements it is obliged to remove or demolish; and

20.5.2 reinstate the surface of the Land affected by any removal or demolition as aforesaid to a safe and tidy condition and otherwise to the reasonable satisfaction of the Lessor,

within two years from the expiry of the Lease, whether by effluxion of time or otherwise, then the Lessor may thereafter order the demolition of all such Lessee's Improvements and the reinstatement of affected lands upon such terms and conditions as it thinks appropriate and the cost of such work shall be recoverable from the Lessee as a debt then due and owing.

20.6 Notwithstanding any rule of law or equity to the contrary, the provisions of this clause 20 shall not merge and extinguish upon the expiration of this Lease but shall enure for the benefit of the parties until performed in full.

20.7 For the avoidance of doubt, it is acknowledged by the Lessee that nothing herein shall:

20.7.1 oblige the Lessor to pay compensation to the Lessee for any Lessee's Improvement(s) left on the Land by the Lessee; or

20.7.2 oblige the Lessor to demolish or remove any Lessee's Improvement(s).

20.8 Time where prescribed in this clause 20 shall be deemed to be of the essence.

21 DEFAULT

21.1 The Lessor may re-enter the Land:

21.1.1 if the Annual Rent shall be in arrears for more than two months after any Rent Payment Date; or

21.1.2 in the case of breach by the Lessee of any covenant or agreement on the Lessee's part herein expressed or implied; or

21.1.3 if the Lessee shall:

(a) make or enter into or endeavour to make or enter into any composition, assignment or other arrangement with or for the benefit of the Lessee's creditors; or

(b) become insolvent or go into liquidation; or

(c) suffer distress or execution to issue against the Lessee's property under any judgment in any Court for a sum in excess of $10,000.

21.2 Upon re-entry, the term of the Lease shall terminate without prejudice to the rights of either party against the other.

21.3 Despite the other provisions in clause 21, any breach of any one of the Leases shall be a breach of all of the Leases and if re-entry is effected under the Whakarewarewa Lease, following consultation and agreement between the Lessor and the Whakarewarewa Lease Lessor, the Lessor shall also re-enter the Land and the Arikikapakapa and Other Reserve Land and the term of this Lease shall terminate in accordance with clause 21.2 and the term of the Arikikapakapa Lease shall terminate in accordance with the provisions of the Arikikapakapa Lease.

21.4 In addition to clause 21.3, if re-entry is effected under the Arikikapakapa Lease, the Lessor shall re-enter the Land and the term of this Lease shall terminate in accordance with clause 21.2.

22 RENEWAL

22.1 If the Lessee shall during the term hereby granted pay the rent hereby reserved and observe and perform the covenants and conditions on the part of the Lessee herein contained and implied up to the expiration of the said term, then the Lessee shall have a right to obtain a renewal of the Lease of the Land for a further term of thirty (30) years, subject in all respects to the same conditions and provisions as this renewal, including the within right of renewal (which the Lessor acknowledges is perpetual). The Annual Rent shall be reviewed and agreed upon at renewal or failing agreement settled by arbitration as provided in clause 24.

22.2 Neither this Lease nor any renewal of it shall confer any right of acquiring the fee simple of the Land.

22.3 These presents are intended to take effect as a perpetually renewable lease despite Section 122 of the Reserves Act 1977 provided however the provisions of the Reserves Act 1977 and any regulations made thereunder applicable to such Lease

shall otherwise be binding in all respects upon the parties hereto in the same manner as if such provisions had been fully set out herein.

22.4 Despite clauses 22.1 to 22.3, the Lessee will not be entitled to renew this Lease without also obtaining a renewal of the Whakarewarewa Lease under the provisions of the Whakarewarewa Lease and a renewal of the Arikikapakapa Lease under the provisions of the Arikikapakapa Lease.

23 STATUTORY PROVISIONS

23.1 All covenants implied in leases by Parts 2 and 3 of Schedule 3 of the Property Law Act 2007 or any other legislation excluding only:

23.1.1 the Act; and

23.1.2 the enactments referred to in clause 22.3,

are hereby negatived to the fullest extent permitted by law.

24 DISPUTE RESOLUTION

24.1 Except as otherwise provided in this Lease, any dispute which may arise between the parties concerning the interpretation of this Lease or relating to any other matter arising under this Lease will be actively and in good faith negotiated by the parties with a view to a speedy resolution of such differences.

24.2 If the parties cannot resolve a dispute within fifteen (15) working days of any dispute arising, then, unless otherwise expressly provided in this Lease, they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using informal dispute resolution techniques such as mediation. The rules governing any such technique, if adopted, will be agreed between the parties or as selected by the organisation known as "LEADR" (Leading Edge Alternative Dispute Resolvers) or any satisfactory substitute therefore then agreed between the parties.

24.3 If the parties cannot agree on any dispute resolution technique within a further fifteen (15) working days of any dispute being considered for referral by both parties to any informal dispute resolution technique under clause 24.2, then the dispute shall be finally resolved by arbitration under the Arbitration Act 1996 by a sole arbitrator who shall decide the dispute according to the substantive law of New Zealand.

24.4 The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other for settling terms of reference, interlocutory matters and, generally, all steps preliminary and incidental to the hearing and determination of the proceedings.

24.5 Despite the other provisions of clause 24, the Lessor will keep the Whakarewarewa Lease Lessor fully advised of any dispute with the Lessee that would, or is likely to, affect the Annual Rent or otherwise negatively affect the connected nature of this Lease, the Arikikapakapa Lease and the Whakarewarewa Lease and, if deemed

necessary by the Whakarewarewa Lease Lessor and the Lessor, the Whakarewarewa Lease Lessor will join the Lessor in any dispute resolution process under this clause.

25 COSTS

25.1 The parties shall each pay their own solicitor's costs of preparing and finalising this Lease or any renewal or variation of this Lease.

25.2 The Lessee shall pay for all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease.

25.3 The Lessee shall pay for the costs of stamping and registering this Lease and any subsequent variation and renewal or variation or renewal of this Lease.

26 NOTICES

26.1 All notices and other communications to either party shall be in writing and either faxed, delivered personally or sent by registered mail. Notices delivered personally or faxed shall be deemed given at the time of such delivery or transmission.

26.2 Notices mailed as provided above shall be deemed given three days after the date of mailing.

26.3 Until notice of a change of address is communicated, all notices shall be delivered to or addressed to the appropriate addresses for service specified in clauses 26.3.1 and 26.3.2 following:

26.3.1 the Lessor's address for service is:

[

]

[Details to be provided at time of signing]

26.3.2 the Lessee's address for service is:

[The Chief Executive
New Zealand Maori Arts and Crafts Institute
P O Box 334
Rotorua

Facsimile (07) 348 9045]

26.2 Any failure to advise a change of address shall not invalidate any notice, request, demand or other communication if given to the last address advised.

PART 8: FORM OF ARIKIKAPAKAPA SECTION 101 LEASE

27 RELATIONSHIP WITH WHAKAREWAREWA LEASE

27.1 The Lessor and the Lessee acknowledge and agree that, despite the fact that the Lessee and the Lessor have entered into this Lease in respect of the Land and into the Arikikapakapa Lease in respect of the Arikikapakapa and Other Reserve Land, and the Lessee and the Whakarewarewa Lease Lessor have entered into the Whakarewarewa Lease in respect of the Whakarewarewa Reserve Land:

27.1.1 the Lessee operates one business on the Land, the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land;

27.1.2 the amount of Admission Income derived from that business on the Land, the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land is equally important to the Lessor and the Whakarewarewa Lease Lessor;

27.1.3 the Lessor and the Lessee will not, together or separately, take any action, make any arrangement or agreement or seek to vary this Lease in any way that would reduce the amount of Admission Income derived from the Land, the Arikikapakapa and Other Reserve Land and the Whakarewarewa Reserve Land or that would otherwise negatively affect the Whakarewarewa Lease Lessor's position under the Whakarewarewa Lease or under this Lease and the Arikikapakapa Lease, without the prior written consent of the Whakarewarewa Lease Lessor; and

27.1.4 without limiting clauses 27.1.1 to 27.1.3, the Lessor will not accept, or agree to accept, and the Lessee will not pay, or agree to pay, any amount of money in respect of the Lessee's use of, or business on, the Land and the Arikikapakapa and Other Reserve Land, in addition to or separate from the Annual Rent, without the prior written consent of the Whakarewarewa Lease Lessor, which consent, if given will be strictly on the basis that any amounts paid by the Lessee under this clause will be shared equally between the Lessor and the Whakarewarewa Lease Lessor.

27.2 Despite that there may be no privity of contract existing between the parties to this Lease and the Whakarewarewa Lease Lessor nevertheless the Whakarewarewa Lease Lessor shall have the right to enforce any provisions in this Lease which are of benefit to it with such right to enforce being acknowledged and intended in accordance with the requirements of Section 4 of the Contracts (Privity) Act 1982.

28 RELATIONSHIP WITH ARIKIKAPAKAPA LEASE

28.1 Despite any other provision in this Lease, the Lessor covenants with the Lessee [and with the Whakarewarewa Lease Lessor] that the Lessor will not sell, transfer, mortgage, charge or otherwise dispose of the Land or its interest in the Land without also selling, transferring, mortgaging, charging or otherwise disposing of the Arikikapakapa and Other Reserve Land.

PART 9: FORM OF OKATAINA LODGE SITE CROWN LEASE

(Clauses 10.1.35 and 10.10)

PART 9: FORM OF OKATAINA LODGE SITE CROWN LEASE

Approved by the Registrar-General of Land under number 2003/3058

BARCODE

LEASE INSTRUMENT

Section 115, Land Transfer Act 1952

Land registration district

South Auckland

Unique identifier(s) or C/T(s)	All/part	Area/description of part or stratum

Lessor *Surname must be underlined*

[Te Pumautanga Trustees]

Lessee *Surname must be underlined*

The Sovereign [acting by and through the Minister of Conservation]

Estate or interest* *Insert "fee simple", "leasehold in lease number", etc.*

Fee simple

Term

[ ] from and including [the Settlement Date]

Rent

$1.00 plus Goods and Services Tax (if demanded)

Operative clause *Set out the terms of lease in Annexure Schedule(s)*

The Lessor leases to the Lessee and the Lessee accepts the lease of the above estate or interest in the land in the above certificate(s) of title or computer register(s) for the above term and at the above rent and on the terms of lease set out in the Annexure Schedule(s).

Dated this day of 20

Attestation

[Signatures of Te Pumautanga Trustees]	**Signed in my presence by the Lessor**
	_____ *Signature of witness*
	Witness to complete in BLOCK letters (unless legibly printed)
	Witness name:
	Occupation:
Signature [common seal] of Lessor	Address:

[Insert attestation for Crown]	**Signed in my presence by the Lessee**
	_____ *Signature of witness*
	Witness to complete in BLOCK letters (unless legibly printed)
	Witness name:
	Occupation:
Signature [common seal] of Lessee	Address:

Certified correct for the purposes of the Land Transfer Act 1952

[Solicitor for] the Lessee

* The specified consent form must be used for the consent of any mortgagee of the estate or interest to be leased.

PART 9: FORM OF OKATAINA LODGE SITE CROWN LEASE

Continuation of "Operative clause"

1 INTERPRETATION AND DEFINITIONS

1.1 For the purpose of the interpretation or construction of this lease unless the context requires otherwise:

(a) Words importing any gender shall include all other genders;

(b) Words importing the singular shall include the plural and vice versa;

(c) Payments shall be made in the lawful currency of New Zealand;

(d) Headings shall be ignored;

(e) References to clauses are references to clauses in this lease and references to parties are references to the parties to this lease unless expressly stated otherwise;

(f) Any reference in this lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute;

(g) A "person" shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust, State or agency of a State in each case whether or not having separate legal personality;

(h) References to "writing" shall include words visibly represented or reproduced;

(i) Where approvals or consents are required in this lease they shall not be unreasonably or arbitrarily withheld or delayed and such approvals or consents may be given with conditions which are both reasonable and relevant to the circumstances giving rise to the request to seek approval or consent and shall be required for each separate occasion notwithstanding any prior consent or approval obtained for the like purpose on a prior occasion;

(j) Notwithstanding that there may be no privity of contract existing between the parties to this lease and certain named third parties in this lease nevertheless such third parties shall have the right to enforce any provisions in this lease which are of benefit to them with such right to enforce being acknowledged and intended in accordance with the requirements of section 4 of the Contracts (Privity) Act 1982;

(k) "Business Day" means the period 9am to 5pm on any day other than:

(i) Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, Labour Day and Waitangi Day;

(ii) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and

(iii) the days observed as the anniversaries of the provinces of Wellington and Auckland;

(l) "Land" means 1.5260 hectares, more or less, being Section 7 Block XVI Rotoiti Survey District SO47823 (formerly Section 5 Block XVI Rotoiti Survey District and Pt Okataina 4). Part Proclamation 8001 and Part Computer Freehold Register SA1D/857;

(m) References to the "Lessor" and the "Lessee" include their respective successors and assigns and where the context permits the Lessor's or the Lessee's respective tenants and other lawful occupiers of the Land and their respective contractors, agents and invitees (which persons shall be those deemed to be persons under the control of the Lessor or the Lessee, as the case may be); and

(n) "Prior Lease" means the lease of the Land dated 23 December 1975 and held in computer interest register SA23A/1000.

2 TERM AND RENT

2.1 In consideration of the rent reserved under this lease and of the covenants, conditions and agreements on the part of the Lessee expressed or implied in this lease, the Lessor leases to the Lessee and the Lessee agrees to lease all the Land for a term of [ ] from and including [the Settlement Date] so that, subject to clause 4, the lease will expire on the later of 31 January 2025, or the expiry of the current term of the Prior Lease.

2.2 The Lessee shall pay to the Lessor an annual rent of $1.00 plus goods and services tax, payable if demanded in writing by the Lessor.

2.3 For the avoidance of doubt, this lease shall not contain any rights of renewal or extension.

3 CONCURRENT LEASE

3.1 This lease is subject to and concurrent with the Prior Lease.

3.2 The Lessor assigns to the Lessee all the Lessor's interest under the Prior Lease as from the commencement date of this lease.

4 EXPIRY OF TERM OF PRIOR LEASE

If the term of the Prior Lease expires prior to 31 January 2025, the term of this lease will automatically expire on the same date as the expiry date of the Prior Lease.

5 RENT UNDER PRIOR LEASE

The Lessor and the Lessee acknowledge and agree that the Lessee shall be entitled to receive the rent under Prior Lease from the lessee under that lease, but the Lessee will have no liability to pay to the Lessor the rent payable by the lessee under the Prior Lease.

6 LESSEE'S COVENANT

The Lessee covenants with the Lessor that from the commencement date of this lease, and until this lease expires, the Lessee shall comply with the obligations imposed on the Lessor under the Prior Lease, as if the Lessee were named as the lessor in the Prior Lease.

7 LESSOR'S COVENANT

The Lessor covenants with the Lessee that should the term of the Prior Lease be renewed beyond the expiry of this lease, the Lessor will assume all obligations of the lessor under the Prior Lease, and the Lessee shall have no further obligation or liability as lessor under the Prior Lease.

8 REGISTRATION

8.1 The Lessee shall register this lease under the provisions of the Land Transfer Act 1952.

8.2 The Lessee will be responsible for survey costs (if any) and other costs incurred in obtaining registration of this lease.

9 NOTICES

9.1 Contact Details

Unless and until the party provides a different address or facsimile number by notice in writing to the other party to this Deed its address for notices will be:

(c) the Lessor:

[To be completed.]

(d) the Lessee:

[To be completed]

9.2 **Deemed Receipt**

Any notice given as provided by this clause will be deemed received by the party to whom it is addressed when:

(c) in the case of any notice delivered by hand, when so delivered;

(d) in the case of any notice sent by facsimile, upon the issue to the sender of a transmission control or other like report from the despatching facsimile machine which shows the relevant number of pages comprised in the notice to have been sent and the result of the transmission is "OK".

10 **DISPUTE RESOLUTION**

10.1 **Consultation**

In the event that the parties are in dispute regarding any matter arising out of and from this lease then appointed representatives of each party will consult expeditiously with one another in good faith and use their best endeavours to resolve such dispute to the mutual satisfaction of the parties without the resort to alternative dispute resolution.

10.2 **Mediation**

(a) In the event that there is a dispute between the parties and they cannot resolve that dispute within 10 Business Days of referral then either party may by notice in writing to the other party refer the dispute to compulsory mediation supervised by a member of LEADR; and

(b) Should the parties be unable to agree on a mediator within 10 Business Days of the date of such notice of disputation either party may request the President or his or her nominee for the time being of the New Zealand Law Society to nominate an appropriate person or persons (having regard to the matters the subject of the dispute) to mediate the dispute and the parties agree to accept as mediator the person nominated by the President or his or her nominee of the New Zealand Law Society.

10.3 **Arbitration**

In the absence of agreement under clause 10.2 then either party may refer any unresolved dispute to arbitration under the Arbitration Act 1996 by a sole arbitrator agreed on by the parties or, failing agreement, appointed by the New Zealand President of the Arbitrators' and Mediators' Institute.

11 **MISCELLANEOUS**

11.1 The validity of any part or provision of this lease shall not affect the enforceability of any other part or provision of this lease.

11.2 This lease shall be construed and take effect in accordance with the laws of New Zealand.

PART 10: DESCRIPTIONS OF GEOTHERMAL ASSETS

(Clause 16.3)

PART 10: DESCRIPTONS OF GEOTHERMAL ASSETS

Well Number	Field	Legal description of parcel on which well is located
NM1	Ngatamariki	Pt Tahorakuri A2
NM2	Ngatamariki	Pt Tahorakuri A2
NM3	Ngatamariki	Pt Tahorakuri A2
NM4	Ngatamariki	Pt Tahorakuri A2

PART 11: TERMS OF TRANSFER OF GEOTHERMAL ASSETS

(Clause 10.38)

PART 11: TERMS OF TRANSFER OF GEOTHERMAL ASSETS

1 TRANSFER OF GEOTHERMAL ASSETS

1.1 The Crown must transfer the Crown's interest in the Geothermal Assets to the Te Pumautanga Trustees on the terms set out in clauses 10.38–10.40 and in this Part 11 of Schedule 2, subject to and, where applicable, with the benefit of the Disclosed Encumbrances affecting or benefiting the Geothermal Assets (as those Disclosed Encumbrances may be varied under paragraph 1.2).

1.2 The Crown and the Te Pumautanga Trustees may agree in writing to vary or add to the Disclosed Encumbrances affecting any Geothermal Asset.

1.3 The Te Pumautanga Trustees must not unreasonably withhold or delay its consent to varying a Disclosed Encumbrance or granting a new Encumbrance affecting any Geothermal Asset.

1.4 The Crown will pay any costs required to transfer the Geothermal Assets to the Te Pumautanga Trustees.

2 OBLIGATIONS PRIOR TO DEFERRED SETTLEMENT DATE

2.1 The Crown must maintain the Geothermal Assets, or ensure their maintenance, until the Settlement Date in substantially the same condition as they were in at the Date of this Deed, fair wear and tear excepted.

2.2 Between the Date of this Deed and the Settlement Date the Crown must consult with, and obtain the prior written consent of, the Te Pumautanga Trustees (which will not be unreasonably withheld or delayed) before:

2.2.1 agreeing to any material variation in the terms of a Disclosed Encumbrance affecting or benefiting a Geothermal Asset; or

2.2.2 procuring any consent, or providing any waiver, under the Resource Management Act, or other legislation, that materially affects the Geothermal Assets.

2.3 The Crown must, if it carries out works, or gives specific authority in writing for works to be carried out, on the Geothermal Assets, between the Date of this Deed and the Settlement Date, for which the Crown must by law obtain a building consent or permit, comply with any obligations imposed on the Crown under the Building Act in respect of such works.

2.4 The Crown must pay all charges for electric power, gas, water, and other utilities that the Crown owes as owner of the Geothermal Assets until the Settlement Date.

2.5 Subject to the terms of any Disclosed Encumbrance affecting the Geothermal Assets, the Crown must use reasonable endeavours to obtain permission for the Te Pumautanga Trustees (or a person authorised by the Te Pumautanga Trustees), upon reasonable notice, to access the Geothermal Assets on one occasion before the Settlement Date to examine them.

3 POSSESSION AND SETTLEMENT

PART 11: TERMS OF TRANSFER OF GEOTHERMAL ASSETS

3.1 All outgoings and incomings (including rates, excluding insurance premiums) for the Geothermal Assets must be apportioned at the Settlement Date.

3.2 The Crown must supply a statement of apportionments to the Te Pumautanga Trustees before the Settlement Date. On the Settlement Date:

3.2.1 the Te Pumautanga Trustees must pay to the Crown the amount by which the outgoings (except for insurance premiums) for the Geothermal Assets pre-paid by the Crown in respect of a period after the Settlement Date exceed the incomings received by the Crown for that period; or

3.2.2 the Crown must pay to the Te Pumautanga Trustees the amount by which the incomings received by the Crown in respect of a period after the Settlement Date exceed the outgoings (except for insurance premiums) for the Geothermal Assets pre-paid by the Crown for that period.

4 RISK AND INSURANCE

4.1 The Geothermal Assets will remain at the sole risk of the Crown until the Settlement Date and, from the Settlement Date, they will remain at the sole risk of the Te Pumautanga Trustees.

4.2 The Te Pumautanga Trustees will not be required to take over from the Crown any insurance policies in relation to the Geothermal Assets.

5 BOUNDARIES, TITLE, ETC

5.1 The Crown will not be bound to point out the boundaries of the Geothermal Assets.

5.2 The Te Pumautanga Trustees:

5.2.1 will be treated as having accepted the Crown's title to the Geothermal Assets as at the Settlement Date; and

5.2.2 may not make any objections to, or requisitions on, it.

5.3 Except as otherwise expressly set out in this Part 11 no error, omission or misdescription of the Geothermal Assets or its title shall annul the transfer of the Geothermal Assets.

6 OBLIGATIONS AFTER SETTLEMENT

6.1 If the Crown receives any notice or demand in relation to the Geothermal Assets from the Crown or any territorial authority after the Settlement Date, the Crown will, if not paying or complying with such notice or demand, promptly deliver it to the Te Pumautanga Trustees or the Te Pumautanga Trustees' solicitor and, if the Crown fails to do so, the Crown will be liable for any penalty incurred.

7 WARRANTY

7.1 The Crown warrants to the Te Pumautanga Trustees that as at the Date of this Deed the Disclosure Information in relation to the Geothermal Assets is all the material information that relates to the Geothermal Assets of which the Land Holing Agency is aware and which is in the ownership or control of the Land Holding

Agency, the Land Holding Agency having inspected its records but not having undertaken a physical inspection of the Geothermal Assets or made enquiries beyond its records.

7.2 Except as provided in paragraph 7.1, the Crown gives no representation or warranty (whether express or implied) nor accepts any responsibility with respect to:

7.2.1 the Geothermal Assets including as to their ownership, management, occupation, physical condition, use or compliance with:

(a) any legislation including by-laws; or

(b) any enforcement or other notice, requisition or proceedings issued by any authority; or

7.2.2 the completeness or accuracy of the Disclosure Information in relation to the Geothermal Assets.

7.3 The Te Pumautanga Trustees acknowledges that (although the Crown is not giving any representation or warranty in relation to the Geothermal Assets) the Te Pumautanga Trustees had the opportunity prior to the Settlement Date (in addition to being able to examine the Disclosure Information) to:

7.3.1 inspect the Geothermal Assets; and

7.3.2 determine their state and condition.

8 SETTLEMENT PROVISIONS

8.1 On and from the Settlement Date:

8.1.1 the Crown, subject to paragraph 8.2, transfers its right, title and interest in the Geothermal Assets to the Te Pumautanga Trustees; and

8.1.2 the Te Pumautanga Trustees assume all liabilities and obligations relating to the Geothermal Assets other than any that were only capable of being known if disclosed by the Crown and that the Crown failed to disclose.

Intellectual Property

8.2 On the Settlement Date the Crown will make available to the Te Pumautanga Trustees the Intellectual Property which will be transferred and made available in hard copy and, where the Crown holds the Intellectual Property electronically, it will also be made available electronically.

Nature of Crown's title

8.3 Despite any other provision in this Deed, the Crown will not be obliged to transfer to the Te Pumautanga Trustees any better title to any of the Geothermal Assets that the Crown has as at the Date of this Deed. The Te Pumautanga Trustees acknowledge that the Crown has no, and does not purport to transfer any, estate or interest in the land on which the Geothermal Assets are situated, nor does the Crown have, or purports to grant any, access rights to such of the Geothermal Assets that are situated in, on or under, or form part of, land.

PART 11: TERMS OF TRANSFER OF GEOTHERMAL ASSETS

9 RESTRICTION ON DISPOSAL

9.1 The Te Pumautanga Trustees must not sell or gift the Geothermal Assets to any person during the period of 5 years commencing on the Settlement Date.

9.2 Despite paragraph 9.1, the Te Pumautanga Trustees may transfer the Geothermal Assets to another Representative Entity but only if the Representative Entity agrees to be bound by paragraph 9.1.

10 MISCELLANEOUS

Further Assurances

10.1 The Crown and the Te Pumautanga Trustees must, at the request of the other, sign and deliver any further documents or assurances and do all acts and things that the other may reasonably require to give full force and effect to clause 10.38 and this Part 11.

Non merger

10.2 On transfer of the Geothermal Assets to the Te Pumautanga Trustees, the provisions of this Part 11 will not merge and, to the extent any provision has not been fulfilled, will remain in force.

PART 12: FORM OF LEASE FOR SCHOOLS

(Clauses 10.1.92 and 10.2)

PART 12: FORM OF LEASE FOR SCHOOLS

MINISTRY OF EDUCATION
LONG TERM LEASE OF BARE GROUND
FOR STATE SCHOOL PURPOSES

MEMORANDUM OF LEASE dated [year]

LESSOR **[TE PUMAUTANGA TRUSTEES]** ("the Lessor")

LESSEE **THE SOVEREIGN** acting by and through the Secretary for Education ("the Lessee")

WHEREAS the Lessor owns the Land hereafter described in Item 1 of Schedule A ("the Land")

AND WHEREAS the Lessor has agreed to lease the Land to the Lessee on the terms and conditions hereinafter appearing

The Lessor HEREBY LEASES to the Lessee the Land from the Commencement Date, at the annual rental, for the term with the right(s) of renewal and for the Permitted Use all as described in Schedule A

The Lessor and the Lessee covenant as set out in Schedule B

The Lessee hereby accepts this Lease of the Land to be held by the Lessee as tenant and subject to the conditions, restrictions and covenants in Schedules A and B

SIGNED by)
)
as Lessor by two of its trustees:)

Trustee's Signature | Trustee's Full Name (please print)

Trustee's Signature | Trustee's Full Name (please print)

SIGNED for and on behalf)
of THE SOVEREIGN as Lessee by)
<NAME>)
(acting pursuant to a delegation)
given to him/her by the Secretary for)
Education in the presence of:)

PART 12: FORM OF LEASE FOR SCHOOLS

SCHEDULE A

ITEM 1 THE LAND

ITEM 2 THE COMMENCEMENT DATE

[Date].

ITEM 3 ANNUAL RENT

$[ ] plus GST per annum payable monthly in advance on the first day of each month with a first payment due on the [Date] day of [Month & Year].

ITEM 4 TERM OF LEASE

21 years.

ITEM 5 LESSEE OUTGOINGS

5.1 Rates or levies payable to any local or territorial authority, excluding only taxes levied against the Lessor in respect of its interest in the Land.

5.2 Charges for water, gas, electricity, telephones and other utilities or services.

5.3 Rubbish collection charges.

5.4 All charges relating to the repair and maintenance of any Lessee Improvements as hereafter described (whether of a structural nature of not).

5.5 The cost of ground maintenance, including the maintenance of playing fields, gardens and planted and paved areas.

5.6 Carparking area maintenance and repair.

5.7 All costs associated with the repair, maintenance or replacement of any fencing on the Land.

ITEM 6 PERMITTED USE

The Permitted Uses referred to in clause 2.3.

PART 12: FORM OF LEASE FOR SCHOOLS

ITEM 7 RIGHT OF RENEWAL

Perpetual rights of renewal of 21 years each from the [Date], and each 21st yearly anniversary after that date.

ITEM 8 RENT REVIEW DATES

[Date] and 7 yearly thereafter.

ITEM 9 LESSOR'S PROPERTY

Nil

ITEM 10 LESSEE'S IMPROVEMENTS

[List all existing buildings and improvements on the Land together with all playing fields and sub soil works constructed or installed by the Lessee or any agent of the Lessee on the Land].

ITEM 11 CLAUSE 3.4 b. NOTICE

To: [Te Pumautanga Trustees]

(hereafter called "the Lessor")

And to: The Secretary
Ministry of Education
National Property Office
Private Box 1666
WELLINGTON

(hereafter called "the Lessee")

From: [Mortgagee / Chargeholder]

(hereafter called "the Lender")

The Lender acknowledges that in consideration of the Lessee accepting a lease from the Lessor of all the Land described in the Schedule below ("the Land") which the Lender acknowledges will be for its benefit, the Lender acknowledges that:

(i) It has notice of the provisions of clause 3.4 b. and c. of the said Lease;

(ii) It agrees that any Lessee's Improvements placed on the Land by the Lessee at any time prior to or during the continuance of the lease, shall remain the property of the Lessee at all times during the continuance of the lease and for a reasonable period after the expiration or sooner

determination of the Lease (hereafter collectively called "the relevant period");

(iii) It will not claim any interest in any Lessee's Improvements under the security for its loan during the relevant period irrespective of how any Lessee's Improvement may be annexed to the Land and irrespective of any rule of law or equity to the contrary or any provisions of its security to the contrary;

(iv) It agrees that this acknowledgment is irrevocable.

SCHEDULE

[ ]

.....

(LENDER EXECUTION)
/ /[Year]

ITEM 12 CLAUSE 3.4 c. NOTICE

To: [Te Pumautanga Trustees]

(hereafter called "the Lessor")

And to: The Secretary
Ministry of Education
National Property Office
Private Box 1666
WELLINGTON

(hereafter called "the Lessee")

From: [Mortgagee/Chargeholder]

(hereafter called "the Lender")

The Lender acknowledges that prior to the date it advanced monies to the Lessor under a security ("the Security") given by the Lessor over the Land described in the Schedule below ("the Land") it had notice of and agreed to be bound by the provisions of clause 3.4 c. of the lease of the Land and that in particular it agrees that notwithstanding any provision of the Security to the contrary and irrespective of how any Lessee's Improvement is annexed to the Land it:

(i) Will not claim any security interest in any Lessee's Improvement placed on the Land prior to or after the Commencement Date of the Security;

PART 12: FORM OF LEASE FOR SCHOOLS

(ii) Will at all times acknowledge that any Lessee's Improvements shall remain the property of the Lessee at all times during the continuance of the Lease and for a reasonable period after the expiration or sooner determination of the Lease.

SCHEDULE

[ ]

.....

(LENDER EXECUTION)
/ /[Year]

PART 12: FORM OF LEASE FOR SCHOOLS

SCHEDULE B

PART I - PRELIMINARY

1. **Definitions**

1.1

a. The expression "the Lessor" shall include and bind:

i. the persons executing this Lease as Lessor; and

ii. any Lessor for the time being under it; and

iii. all the respective executors, administrators, successors, assigns and successors in title of each Lessor and if more than one jointly and severally.

b. The expression "the Lessee" shall include and bind:

i. the person executing this Lease as Lessee;

ii. all the Lessees for the time being under it; and

iii. all the respective executors, administrators, successors, assigns and successors in title of each Lessee and if more than one jointly and severally.

c. Words importing the singular or plural number shall include the plural or singular number respectively.

1.2 "Board" means a Board of Trustees constituted under Part 9 of the Education Act 1989.

1.3 "Crown Entity" has the meaning given to it in s7(1) of the Crown Entities Act 2004.

1.4 "Department" has the meaning given to it in s2 of the Public Finance Act 1989.

1.5 "Education Act 1989" means the Education Act 1989.

1.6 "Government Work" means a work or any intended work that is to be constructed, undertaken, established, managed, operated or maintained by or under the control of the Crown or any Minister of the Crown for any public purpose.

1.7 "The Land", "The Commencement Date", "Annual Rental", "Term of the Lease", "Lessee's Outgoings" and "Permitted Use" have the meanings ascribed to them in Schedule A.

1.8 "Lessee's Improvements" means all improvements on the Land of any kind whatsoever including buildings, sealed yards, paths, lawns, gardens, fences, playing fields, subsoil works and other like property of any kind whatsoever constructed or placed on the Land by the Lessee or any agent or sublessee or licensee of the Lessee prior to or after the commencement of this Lease including those listed in Item 10 of Schedule A but excludes "Lessor's Property".

1.9 "Lessee's Outgoings" means all outgoings the Lessee is obliged to pay under the provisions of this Lease.

1.10 "Lessor's Property" means all improvements on the Land of any kind whatsoever including buildings, sealed yards, paths, lawns, gardens, fences and other like property which are either on the Land at the commencement Date or placed on the Land by the Lessor after the Commencement Date.

1.11 A "property occupancy document" means a notice specifying the terms and conditions subject to which a Board occupies land and buildings, issued by the Secretary for Education pursuant to s 70 of the Education Act 1989 and includes a licence to occupy or other agreement granted under those provisions.

1.12 "State School" has the meaning given to it in the Education Act 1989.

1.13 References to a statute include references to regulations, orders, rules or notices made under that statute, and references to a statute or regulation include references to all amendments to or replacements of that statute or regulation, whether by subsequent statute or regulation, consolidation, reenactment, substitution or otherwise.

1.14 The term "to sublet" shall include the granting of a licence to occupy the Land or part thereof, and "subletting" and "sublease" shall be construed accordingly.

PART II - LESSEE'S COVENANTS

2. **Lessee's Covenants**

2.1 **Payment of Annual Rent**

The Lessee shall pay the annual rent in the manner and at the times provided in Item 3 of Schedule A.

2.2 **Payment of Lessee Outgoings**

a. The Lessee shall pay the Lessee Outgoings in respect of the Land which are specified in Item 5 of Schedule A direct to the creditors concerned and shall cause a separate rating assessment to issue in the name of the Lessee in respect of the Land.

b. The Lessee's liability to pay Lessee Outgoings during the term of this Lease shall subsist until the end or earlier termination of this Lease.

2.3 **Permitted Uses of Land**

a. **Primary Use**

The Land may be used for education purposes.

b. **Subsidiary Use**

If any part of the Land is not required for education purposes, then that part of the land may be used for any of the following purposes:

(i) any other Government Work;

(ii) any use undertaken, established, managed, operated or maintained by a Crown Entity for any public purpose;

(iii) any use of the whole or any part of the Land consented to by the Lessee as sublessor under clause 4.2 of this Lease.

2.4 **Compliance with Law**

The Lessee shall comply with the provisions of all statutes, ordinances, regulations, bylaws and codes in any way affecting the Land or the conduct of the Permitted Use on the Land and will also at the Lessee's own cost in comply with the provisions of all statutes, ordinances, regulations, bylaws, codes, requisitions or notices issued, made or given by any lawful authority in respect of the Land or the Lessee's conduct of the Permitted Use on the Land.

2.5 **Avoidance of Danger**

The Lessee shall:

a. take all reasonable precautions to minimise any danger or hazard arising from the Lessee's use of the Land and shall not permit any goods of a dangerous nature to be stored or used on the Land unless stored and used in a manner which complies with all statutes, ordinances, regulations, bylaws and codes or standards in that regard;

b. promptly remedy any danger or hazard that may arise on the Land.

2.6 **Maintenance of Lessee's Improvements**

The Lessee shall at the Lessee's expense keep any Lessee's Improvements on the Land in good order, condition and repair during the continuance of this Lease.

2.7 **No Lessor Maintenance**

The Lessee acknowledges that the Lessor shall have no repair or maintenance obligations for any of the Lessee's Improvements on the Land.

2.8 **Rubbish Removal**

The Lessee shall regularly cause all rubbish and garbage to be removed from the Land and will keep any rubbish bins or containers in a tidy condition. The Lessee will also at the Lessee's expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the territorial authority.

2.9 **Signage**

The Lessee shall have the right to affix names, signs, nameplates, signboards and advertisements relating to the purposes of the Permitted Use without the consent of the Lessor. The Lessee shall not otherwise affix, paint or exhibit or permit to be affixed, painted or exhibited any name, sign, name plate, sign board or advertisement of any description on or to the exterior of the Lessee's Improvements or the Land or any Lessors' Property thereon without the prior approval in writing of the Lessor. Any signage shall be secured in a substantial and proper manner so as not to cause any damage and the Lessee shall at the end or sooner determination of this Lease remove the signage and make good any damage.

2.10 **Insurance**

The Lessee shall (except where the Lessee is the Sovereign) insure at its own cost against all public liability in the sum of at least $2,000,000 in respect of any single event in the name of the Lessee at all times during the continuance of this Lease.

2.11 **Sundry Lessee Acknowledgments**

The Lessee acknowledges that:

a. the Lessor shall not be liable to erect or maintain or contribute towards the cost of the erection or replacement of any dividing or boundary fence or portion thereof between the Land and any adjoining land which is the property of the Lessor;

b. the Lessee shall at its own cost and expense in all things fence the boundaries of the Land insofar as the Lessee deems it reasonably necessary for the purposes of the Permitted Use;

c. it has entered into this Lease in reliance on its own judgment and not in reliance on any representation or warranty by the Lessor.

2.12 **Goods and Services Tax**

The Lessee shall pay to the Lessor or as the Lessor shall direct the goods and services tax (GST) payable by the Lessor in respect of the rental and other payments payable by the Lessee hereunder. The GST in respect of the rental shall be payable

on each occasion when any rental payment falls due for payment and in respect of any other payments shall be payable on demand.

PART III - LESSOR COVENANTS

3. Lessor's Covenants

3.1 Quiet Enjoyment

If the Lessee pays the rent and observes and performs all the covenants and agreements expressed or implied in this Lease, the Lessee shall quietly hold and enjoy the Land throughout the term of this Lease without any interruption by the Lessor or any person claiming by, through or under the Lessor.

3.2 Construction of or Alterations To Lessee's Improvements

a. The Lessee may construct Lessee's Improvements and make any alterations or additions to Lessee's Improvements without the prior approval of the Lessor where it is necessary for or incidental to the Permitted Use. In all other cases, the Lessee shall be obliged to seek the prior written consent of the Lessor to the construction of any Lessee's Improvements which are not necessary for or incidental to the Permitted Use, and consent shall not be withheld or delayed unreasonably or arbitrarily.

b. The Lessee may negotiate and conclude such easements and all other like rights and interests over or for the benefit of the Land as are necessary for or incidental to either:

i. the Permitted Use; or

ii. any permitted alterations or additions to the Lessee's Improvements;

without the prior approval of the Lessor and the Lessor agrees that it will execute such documentation as is reasonably required to give legal effect to the rights so created.

3.3 **Lessor's Property**

a. The Lessor acknowledges that the Lessor's Property on the Land at the Commencement Date of this Lease (if any) is as listed in Schedule A Item 10 and that the Lessor shall not during the continuance of this Lease place any further Lessor's Property on the Land unless this is expressly permitted in writing by the Lessee prior to its construction or placement.

b. The Lessor further acknowledges that the Lessee may at its absolute discretion decline consent to the construction or placement of any Lessor's Property on the Land and that all improvements on the Land at the Commencement Date which are not listed as Lessor's Property are Lessee's Improvements.

3.4 **Lessor's Acknowledgments as to Lessee's Improvements**

a. The Lessor acknowledges in relation to Lessee's Improvements that:

i. notwithstanding any rule of law or equity to the contrary, property in all Lessee's Improvements shall remain with the Lessee throughout the continuance of this Lease and irrespective of how those improvements are annexed to the Land;

ii. Lessee's Improvements are to be insured by the Lessee in its own name; and

iii. when any Lessee's Improvements are destroyed or damaged, the decision whether to reinstate or not is solely with the Lessee and property in any insurance proceeds is also solely with the Lessee;

b. Should the Land be subject to any mortgage or other charge at the Commencement Date, then the Lessor will when presenting this Lease to the Lessee for its acceptance also present to the Lessee the written acknowledgment of all existing mortgagees or chargeholders of the Land in the form prescribed in Schedule A Item 11 duly executed by the mortgagees or chargeholders. It is acknowledged by the Lessor that the Lessee shall not be required to execute this Lease until the provisions of this subclause have been fully satisfied;

c. Should the Lessor, subsequent to the Commencement Date, propose to grant any mortgage or charge then, prior to doing so, it shall have executed by any proposed mortgagee or chargeholder the written acknowledgment prescribed in Schedule A Item 12. It is acknowledged by the Lessor that it will not grant any mortgage or charge until the provisions of this clause have been satisfied and that it will deliver executed originals of those acknowledgments to the Lessee within 3 working days from the date of their receipt by the Lessor (time being of the essence);

d. The Lessee may demolish or remove any Lessee's Improvements from the Land at any time during this Lease without the consent of the Lessor upon the

condition that the Lessee reinstates the Land to a neat, tidy and safe condition after any such removal.

3.5 **Designation**

The Lessor covenants that it will consent to the Lessee seeking and obtaining a designation of the Land for the purposes of the Permitted Use under the provisions of the Resource Management Act 1991, and that the Lessor shall further consent to the Lessee maintaining that designation for the duration of this Lease.

3.6 **Lessee Break Option**

The Lessee may at any time during the continuance of this Lease, or any renewal of it determine this Lease by giving not less than 6 months notice in writing. The Lease shall expire upon expiration of the notice and the Lessee shall, at that time, pay a further one year's rent to the Lessor, who agrees to accept that sum in full and final satisfaction of all claims, loss and damage accruing to the Lessor from the determination, but without prejudice to any antecedent breach of this Lease by the Lessee prior to its termination.

3.7 **Lessee's Acknowledgement**

The Lessee agrees to occupy and use the Land at the Lessee's risk and releases to the fullest extent permitted by law the Lessor, its servants and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any personal property in or about the Land, except where that is caused by the wilful or reckless act of the Lessor or persons acting under the control of the Lessor.

3.8 **Benefits to Land Not to be Restricted or Cancelled**

The Lessor shall not cancel, surrender or modify any easements or other like rights or interests whether registered or not which are for the benefit of or appurtenant to the Land without the prior written consent of the Lessee.

PART IV - MUTUAL COVENANTS

4. **Mutual Covenants**

4.1 **Assignment**

a. The Lessee shall be permitted as of right to assign its interest under this Lease to any Crown Entity, but shall not otherwise be able to assign its interest under this Lease;

b. It is acknowledged between the parties that a transfer of the interest of one Department to another Department shall be permitted as of right by the Lessor and shall not be deemed to be an assignment for the purposes of this clause 4.1 or a subletting for the purposes of clause 4.2.

4.2 **Subletting**

The Lessee shall be permitted as of right to sublet to:

a. any Crown Entity; or

b. any person or body where

the Land is used for the purposes of a school and the Land or a part of the Land is not needed or used for the purposes of the school occupying it; and

i. the sublease is in the public interest; and

ii the sublease:

(1) is for a purpose associated with educational outcomes and will bring educational benefit to the school or its community, or to any other school; or

(2) is for a community purpose, and will bring no educational disadvantage to the school; or

iii. the sublease is essential or conducive to the carrying out of the then existing Permitted Use;

but otherwise no subletting shall be permitted.

4.3 **Occupancy by School Board of Trustees**

a. Where the Lessee the Sovereign acting by and through the Secretary for Education has issued either a licence to occupy or a property occupancy document to any Board then the occupancy so conferred shall not be an underletting or an assignment to which clause 4.1 or clause 4.2 relate and shall be permitted as of right. The Lessor agrees that the covenant for quiet enjoyment contained in clause 3.1 extends to and includes the occupancy of the Land by any such Board whether pursuant to a licence to occupy or a property occupancy document.

b. Notwithstanding the restriction on subletting contained in clause 4.2, the Board shall be permitted as of right, after obtaining the prior written consent of the Secretary for Education, to:

i. sublet to any person or body on the same basis that the Lessee is permitted to sublet under clause 4.2(b), in accordance with s70B of the Education Act 1989; and

ii enter into an agreement with any person or body, pursuant to s70C of the Education Act 1989.

4.4 **Further Provisions Relating to Subletting and Assignment**

Where the Lessor consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any sublessee to deal with the sublease in any way in which the Lessee is restrained from dealing without consent under this Lease.

4.5 **Lessor May Remedy Lessee Default**

a. If the Lessee defaults in the observance or performance of any of the Lessee's obligations and if the Lessor has first served not less than 21 clear days written notice of its intention to enter upon the Land and to do such things required to make good any Lessee default, then it shall be lawful for the Lessor (in addition to any of its remedies) to enter the Land and do all such things required to make good the default and to recover the costs of such action from the Lessee;

b. Any notice served under the provisions of clause 4.5 a. shall specify sufficient particulars to adequately advise the Lessee of the breach of Lease in respect of which notice is issued and the fact that such notice is issued under the provisions of this clause. Non compliance with these requirements shall render any notice void.

4.6 **Lessee's Improvements**

a. Upon the termination of this Lease, the Lessee shall have the right to remove any Lessee's Improvements from the Land without being obliged to pay the Lessor any compensation for their removal if they are removed within a reasonable period from the termination of the Lease, it being acknowledged by the Lessor that property in all Lessee's Improvements remains with the Lessee until that time and that no prior consent of the Lessor shall be required in respect of any removal. The Lessor further acknowledges that it will be deemed by the provisions of this clause to have granted to the Lessee licence to enter the Land and remove Lessee's Improvements and that this provision shall enure for the benefit of the Lessee notwithstanding the prior expiration of this Lease and shall also bind any successor in title to the Lessor subsequent to the expiry of the Lease;

b. The Lessee covenants that it will have no claim of any kind against the Lessor in respect of any Lessee's improvement or other Lessee's property which is left on the Land following the reasonable period after the termination of this Lease and that any such Lessee's property shall thereafter be deemed to have become the property of the Lessor;

c. In the event the Lessee removes its Lessee's Improvements from the Land, it shall restore the Land to a neat, tidy and safe condition subsequent to any removal;

d. The Lessor shall do nothing to obstruct or otherwise impede the removal of any Lessee's Improvements from the Land at any time prior to the termination of the Lease or within three months after that time;

e. In any review of rent under the provisions of this Lease any Lessee's Improvements shall be entirely excluded from the assessment of any new rental.

4.7 **Renewal**

a. If the Lessee has observed and performed its covenants under this Lease and given written notice to renew the Lease at least three calendar months prior to the end of the initial term of 21 years (time not being of the essence of such notice) then the Lessor will at the cost of the Lessee renew the Lease for the next further term from the renewal date as follows;

b. The annual rent shall be agreed upon or failing agreement shall be determined in accordance with clause 4.8; and

c. Otherwise the renewed lease shall be upon and subject to the covenants and agreements expressed or implied in this Lease, including this right of renewal.

4.8 **Rent Review**

a. The annual rent shall be reviewed by the Lessor at intervals of 7 years to an annual rent of 6% of:

i. the value of the Land as vacant land in an unsubdivided state assessed in accordance with its underlying zoning or as a school site, whichever is the greater; and

ii. the value of any Lessor's property on the Land;

(hereafter referred to as "the Reviewed Annual Rent")

in the following manner:

(1) The Lessor shall commence a review by not earlier than 3 months prior to any Rent Review Date or at any time up to one year after any Rent Review Date (time being of the essence) by giving written notice to the Lessee specifying the annual rent considered by the Lessor to be the Reviewed Annual Rent as at that Rent Review Date;

(2) If, by written notice to the Lessor within 28 days after receipt of the Lessor's notice, the Lessee disputes that the proposed new annual rent is the Reviewed Annual Rent, then the new rent shall be determined in accordance with the provisions of clause 4.8 b.;

(3) The annual rent so determined or accepted shall be the annual rent from the Rent Review Date or the date of the Lessor's notice if such notice is given later than 3 months after the Rent Review Date;

(4) Pending the determination of the new rent, the Lessee shall pay the rent specified in the Lessor's notice provided that the rent is substantiated by a registered valuer's report. Upon determination of the new rent, an appropriate adjustment shall be made;

(5) The rent review at the option of either party may be recorded in a variation of this lease, the cost of which shall be payable by the Lessee.

b. Immediately following receipt by the Lessor of the Lessee's notice, the parties shall endeavour to agree upon the reviewed annual rent but if agreement is not reached within 28 days then the new rent may be determined either:

i. by one party giving written notice to the other requiring the new rent to be determined by arbitration; or

ii. if the parties so agree by registered valuers acting as experts and not as arbitrators as follows:

(1) each party shall appoint a valuer and give written notice of the appointment to the other party within 28 days of the parties agreeing to so determine the new rent;

(2) the valuers appointed before commencing their determination shall appoint an umpire who shall be a registered valuer or solicitor of the High Court. In the event the valuers fail to agree upon an umpire, the appointment of an umpire shall be made by the president of the Arbitrator's Institute of New Zealand Incorporated on the joint application of the valuers;

(3) the valuers shall determine the Reviewed Annual Rent of the premises and if they fail to agree then the rent shall be determined by the umpire;

(4) each party shall be given the opportunity to make written or verbal representations to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the

umpire may prescribe and they shall have regard to any such representations but not be bound thereby.

When the rent has been determined, the umpire or the valuers shall give written notice thereof to the parties. Any umpire notice shall provide how the costs of the determination shall be borne and such provisions shall be binding on the parties. Where the rent is determined by the parties' valuers and not the umpire, the parties shall pay their own costs.

4.9 **Re-Entry**

a. The Lessor may re-enter the premises where:

i. rent is in arrears for a period exceeding 30 days after any rent payment date; or

ii. the Lessee is in breach of any covenant on the Lessee's part; or

iii. the Lessee makes or enters into or attempts to make or enter into any composition, assignment or other arrangement with or for the benefit of the Lessee's creditors; or

iv. the Lessee becomes insolvent, bankrupt or goes into liquidation;

and the term of this Lease shall terminate on such re-entry but without prejudice to the rights of either party against the other;

b. Whilst the Sovereign is the Lessee and should the Sovereign either default in the payment of any rent for a period exceeding thirty days or more or otherwise breach any covenant on the Lessee's part herein expressed or implied, then before exercising any rights of re-entry the Lessor shall:

i. serve a notice ("the Default Notice") on the Lessee specifying the breach complained of with sufficient particularity to enable the Lessee to clearly identify the default alleged;

ii. the Default Notice notwithstanding anything to the contrary contained in clause 4.9 a. above shall specify that:

(1) the Lessee must within 30 days of receipt of the notice remedy the default specified; and

(2) should the Lessee not remedy the default specified within that time, the Lessor shall thereafter be at liberty to re-enter the Land and to determine this Lease pursuant to this clause;

c. The Lessor acknowledges that it shall not re-enter the Land unless and until the provisions of clause 4.9 b. have been satisfied in full and that any re-entry contrary to the provisions of clause 4.9 b. shall be null and void ab initio.

4.10 **Insurance**

a. The Lessor shall be responsible for insuring any Lessor's Property on the Land;

b. The Lessee shall be responsible for insuring or self insuring any Lessee's Improvements on the Land;

c. Should any property referred to in subclauses a. and b. above be damaged or destroyed, then it shall be the sole responsibility of the party effecting insurance to decide (subject to the rights of any mortgagee of theirs) whether to effect reinstatement or not and the other party shall abide by that decision whatever it may be.

4.11 **Rating Assessments**

The parties agree that the Lessee may at any time make application for a separate rating assessment of the Land in its name and thereafter account direct to the territorial authority for all rates payable on the Land.

4.12 **Entire Agreement**

This Lease constitutes the entire and complete agreement between the parties in relation to the lease of the Land and no variation shall be effective or binding unless it is recorded in writing and executed in the same manner as this Lease.

4.13 **Differences and Disputes**

All differences or disputes that may arise between the parties concerning this Lease shall be the subject of negotiations in good faith with a view to achieving resolution and, if those negotiations are not successful, shall be referred to the arbitration of two arbitrators (one to be appointed by each party) and an umpire (to be appointed by the arbitrators before their entering upon the reference) in accordance with the Arbitration Act 1996.

4.14 **Service of Notices**

a. Notices given under this Lease must be in writing and must be served by one of the following means:

(i) in the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and

(ii) in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:

(1) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or

(2) by personal delivery, or by posting by registered post,

to the address set out in clause 4.14 b.

b. Notices given under this Lease should be addressed to:

Lessor:

[Address of Te Pumautanga Trustees to be inserted]

Lessee:

The Property Manager
National Office
Ministry of Education
Private Bag 1666
WELLINGTON.

c. Notices shall be deemed to be served at the time of delivery, or in the case of notices which are posted by registered mail, two days after the date of posting.

4.15 **Registration of Lease**

The parties acknowledge their agreement that this Lease be registered under the provisions of the Land Transfer Act 1952 at the expense of the Lessee. The Lessor agrees to make title available for that purpose and consents to the Lessee caveating title to protect its interest in the Lease prior to registration.

4.16 **Costs**

The parties shall pay their own costs of and incidental to the negotiation, preparation and execution of this Lease. The Lessee shall pay the Lessor's costs of and incidental to the negotiation, preparation and execution of any variation (where this is requested by the Lessee), renewal or surrender of this Lease or the obtaining of any consents or approvals associated with this Lease.

4.17 **Interest**

If the Lessee shall fail to pay any instalment of rent or other sum of the money payable to the Lessor under this Lease within 14 days of the day on which it fell due or, if the Lessee shall fail to pay to the Lessor upon demand any amount paid by the Lessor to remedy any default by the Lessee of the Lessee's obligations under this Lease within 14 days from the date such demand is received by the Lessee, then any amount not so paid shall bear interest at the maximum rate of interest from time to time payable by the Lessor to its principal banker for overdraft accommodation plus a margin of 4% accruing on a daily basis from the due date for payment or the due date

of payment by the Lessor (as the case may be) down to the date that such amount is paid by the Lessee. The Lessor shall be entitled to recover such interest in the same manner as if it were rent in arrears.

PART 12: FORM OF LEASE FOR SCHOOLS

LESSOR:

_____

Correct for the purposes of the
Land Transfer Act 1952

.....
SOLICITOR FOR THE LESSEE

LESSEE:

THE SOVEREIGN
acting by and through the Secretary
for Education

Particulars entered in the
Register as shown herein
on the date and at the time
endorsed below

MEMORANDUM OF LEASE

THE SECRETARY
MINISTRY OF EDUCATION
NATIONAL OFFICE
WELLINGTON

SCHEDULE 3

CULTURAL REDRESS – OTHER

PART 1: DESCRIPTIONS OF STATUTORY AREAS AND ROTORUA REGION GEOTHERMAL SYSTEM

(Clauses 11.1.1(a) and 11.1.2(a))

PART 1: DESCRIPTIONS OF STATUTORY AREAS AND ROTORUA REGION GEOTHERMAL SYSTEM

TABLE 1: STATUTORY AREAS IN RESPECT OF WHICH THE STATUTORY ACKNOWLEDGEMENT IS TO BE GIVEN

Statutory Area	Location	Legal Description
Matahana Ecological Area	As shown on SO 364721.	South Auckland Land District – South Waikato District. 1731.7200 hectares, more or less, being Section 1 SO 60472.
Part of the Kaituna River	As shown on SO 364730.	Not applicable.
Part of the Tarawera River	As shown on SO 364731.	Not applicable.
Part of Waikato River (Atiamuri Dam to Huka Falls)	As shown on SO 364734.	Not applicable.
Waiteti Stream	As shown on SO 364735.	Not applicable.
Ngongotaha Stream	As shown on SO 364736.	Not applicable.
Otari Pa	As shown on SO 364705.	South Auckland Land District – Western Bay of Plenty District. 1.0136 hectares approximately, being Part Sections 1 and 4 Block X Waihi North Survey District. Part *Gazette* 1937 page 1711 and 1938 page 1601. Subject to survey.
Parts of Whakarewarewa Forest known as the Lake Rotokakahi/Lake Tikitapu Covenant Areas	As shown on SO 364724.	South Auckland Land District – Rotorua District. 279.7177 hectares, more or less, being Parts Lot 6 DPS 54801 as shown Y, Z, AA, AB, AC, AD, AI and AJ on DPS 54801.

PART 1: DESCRIPTIONS OF STATUTORY AREAS AND ROTORUA REGION GEOTHERMAL SYSTEM

TABLE 2: DESCRIPTION OF GEOTHERMAL FIELDS WITHIN ROTORUA REGION GEOTHERMAL SYSTEM

Area	Location	Legal Description
Rotoma Geothermal Field	As shown on SO 364723.	Not applicable.
Taheke Tikitere Geothermal Field	As shown on SO 364723.	Not applicable.
Rotorua Geothermal Field	As shown on SO 364723.	Not applicable.
Horohoro Geothermal Field	As shown on SO 364723.	Not applicable.
Waikite-Waiotapu Waimangu Geothermal Field	As shown on SO 364723.	Not applicable.
Reporoa Geothermal Field	As shown on SO 364723.	Not applicable.
Atiamuri Geothermal Field	As shown on SO 364723.	Not applicable.
Te Kopia Geothermal Field	As shown on SO 364723.	Not applicable.
Orakei-Korako Geothermal Field	As shown on SO 364723.	Not applicable.
Ohaaki/Broadlands Geothermal Field	As shown on SO 364723.	Not applicable.
Ngatamariki Geothermal Field	As shown on SO 364723.	Not applicable.
Rotokawa Geothermal Field	As shown on SO 364723.	Not applicable.

PART 1: DESCRIPTIONS OF STATUTORY AREAS AND ROTORUA REGION GEOTHERMAL SYSTEM

TABLE 3: STATUTORY AREA IN RESPECT OF WHICH A DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION IS TO BE GIVEN

Statutory Area	Location	Legal Description
Matahana Ecological Area	As shown on SO 364721.	South Auckland Land District – South Waikato District. 1731.7200 hectares, more or less, being Section 1 SO 60472.

PART 2: STATEMENTS OF ASSOCIATION

(Clauses 11.1.1(b) and 11.1.2(b))

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Matahana Ecological Area	As shown on SO 364721

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

The traditions of Ngati Kearoa Ngati Tuara illustrate their cultural, historical and spiritual association with the Matahana Ecological Area. For Ngati Kearoa Ngati Tuara, traditions such as these represent the links between nga atua (the gods) and present generations. These histories reinforce tribal identity, connection and continuity between generations and confirm the importance of the Matahana Ecological Area to Ngati Kearoa Ngati Tuara.

Ngati Kearoa Ngati Tuara tradition tells of how Horohoro was named and its link to the Matahana Ecological Area. Kahumatamomoe, who came on the Arawa waka, is credited with naming Horohoro. On his travels around the island, Kahumatamomoe came to Horohoro Mountain and became affected by a tapu. In order to cleanse himself, he bathed in a small stream just in behind the north end of the mountain and located within the Matahana Ecological Area. The stream was given the name Waikarakia and the mountain became known as "Te Horohoroinga o Nga Ringa o Kahumatamomoe", or "The Washing of the Hands of Kahumatamomoe" (Horohoro for short).

The traditional association can also be traced back to Haukapuanui and Tangiharuru's visit to the area, where they were amazed at its fruitfulness. The streams were full of eels and water birds abounded. The bush likewise was full of birds and from that time on, the people lived well due to the plentiful resources.

The Matahana Ecological Area provided the people with valuable food resources, and continued to do so for hundreds of years. The young men of Ngati Kearoa Ngati Tuara would often hunt pigs, trap eels, snare ducks, pukeko, matuku (water fowl) and rats (brought from Hawaikii) in the Waikarakia Stream.

Other materials such as flax were highly sought after for their fine qualities. Leaves of the kawakawa, and berries from the miro and karaka trees provided both food and medicine.

There are many sites of cultural, historical and spiritual significance to Ngati Kearoa Ngati Tuara within the Matahana Ecological Area. The sources of the Waikarakia and Pokaitu Streams are in deep bush. They flow through steep-sided gorges and have many small caves. In some of these caves lie the bones of ancestors, and they are therefore considered tapu. The Waikarakia Stream, in particular, has a mystique to this day.

The Matahana Ecological Area is of great significance to Ngati Kearoa Ngati Tuara. The Matahana Ecological Area was a significant source from which the physical wellbeing of Ngati Kearoa Ngati Tuara was sustained, and the spiritual wellbeing nourished.

Ngati Kearoa Ngati Tuara have always maintained a considerable knowledge of the lands of the Matahana Ecological Area, its history, the traditional trails of the tupuna of the area, the

places for gathering kai and other taonga, and ways in which to use the resources of the Matahana Ecological Area. Proper and sustainable resource management has always been at the heart of the relationship of Ngati Kearoa Ngati Tuara with the Matahana Ecological Area.

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Part of the Kaituna River	As shown on SO 364730

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

The Kaituna River is famous for the fish pools in its upper reaches and the Okere Falls and its rapids. The path of the river makes its way to the Maketu Estuary on the East Coast of the Bay of Plenty.

The stern anchor of the Arawa waka (named Tuterangi Raruru) is said to have been placed at Te Awahou, roughly where the Kaituna River now flows out to sea. The bow anchor (called Tokaparore) of the Arawa waka was set approximately where the Kaituna River used to flow out to sea at Maketu.

The Ngati Pikiao people settled along the upper reaches of the Kaituna River as it followed its course to the sea at the Maketu Estuary. The Kaituna River has been a rich source of fish, shellfish, eels, koura (freshwater crayfish) and many other types of food for the Ngati Pikiao people for several generations.

Along the banks of the river grow many varieties of plants that have special value and importance to Ngati Pikiao. The plants are used for medicinal purposes, weaving and dyeing. The Ngati Pikiao people own a wide range of taonga made from the rare vegetation that grows along the river banks, including flax kits and cloaks. To this day, the banks of the Kaituna River still provide unique raw materials used for weaving.

As well as providing many food gathering places and plant life, historically, the Kaituna River also provided passage for Ngati Pikiao to other parts of the Arawa region.

In the past, parts of the Kaituna River were also used for ritual cleansing after battle. An example of such a place was Te Wai-i-Rangi - a stretch of water on the river that flows into a green tunnel of vegetation. It was here that ancestors returning from battle would go to shed tapu placed upon them from the bloodshed of warfare. There are also burial caves that line the river in the steep gorges through which it runs, all of which are sacred places to the Ngati Pikiao people. Ngati Pikiao acknowledge that Tuhourangi have a historical association with the Kaituna River as there are burial caves along the River that were used by the people of Tuhourangi.

The Kaituna River is the life force that sustains the people of Ngati Pikiao. It remains significant to Ngati Pikiao as a symbol of mahinga kai from which the physical wellbeing of Ngati Pikiao was sustained as well as nourishing the spiritual wellbeing. The Kaituna River has always been an integral part of the social, spiritual, and physical lifestyle of Ngati Pikiao.

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Part of the Tarawera River	As shown on SO 364731

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

Deep in the Tarawera Forest on the banks of the Tarawera River, stands a commemorative plaque dedicated to Tuhourangi, son of Rangitihi-Whakahirahira, father of "Nga Pumanawa e Waru o Te Arawa". The plaque commemorates the birth of Tuhourangi, and was erected by the local iwi. Standing in front of a rock, at the base of the Marangaranga Hill, the plaque was carved by local tohunga, Kaka Niao, who has since passed on.

The rock at which the plaque stands is of great significance in that the pito (placenta) of Tuhourangi is embedded inside of it. The rock is named Marangaranga from which the Hill's name was derived. The inscription on the plaque reads as follows:

He Whakamaharatanga ki te Whanautanga o Tuhourangi
(In Memory of the Birthplace of Tuhourangi)

For centuries, Marangaranga has been revered as the birthplace of Tuhourangi, paramount chief of Te Arawa. A son of Rangitihi, Tuhourangi was a 6th generation descendant of Tamatekapua, Captain and Navigator of Te Arawa Canoe, which had its landfall at Maketu.

The site is regarded as an uruuru whenua - a place where passers by deposit small offerings of grass, ferns or twigs in order they might enjoy a safe journey.

Marangaranga is situated approximately one kilometre from where the Otuhangu stream joins the Tarawera River. According to Mr Graham Terire (local historian, and caretaker of the plaque), Tuhourangi (as chief of his tribe) later returned and lived at Marangaranga after regaining the area by conquest.

The Tarawera River was an integral part of the overall life force that sustained the people of Tuhourangi. It remains significant to the people of Tuhourangi as on its banks, their eponymous ancestor Tuhourangi was born. The Tarawera River has always been an important part of the social, spiritual, and physical lifestyle of Tuhourangi.

In addition to providing a rich food source, the Tarawera River also provided passage for the people to access a number of wahi tapu sites along the river. The Tarawera River provided the main route between coastal areas and Tarawera/Taupo ever since the Arawa waka made a stop at Te Atua o Te Po River near Matata. This route was later used by Tuhourangi for access to the coast, and to transport kumara, flour and flax merchandise by ship for trade at Auckland.

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Part of the Waikato River (Atiamuri Dam to Huka Falls)	As shown on SO 364734

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

The Waikato River is a resource of great cultural, historical, traditional and spiritual significance to the people of Ngati Tahu Ngati Whaoa.

From Pohaturoa in the north, to the Huka Falls in the south, the banks of the Waikato River provide for a number of historic sites that are significant to Ngati Tahu Ngati Whaoa. Importantly, the principal papakainga (settlement) of Ngati Tahu Ngati Whaoa, Orakei-Korako, lay on the west bank of the River and remained so for many years.

The Waikato River was an integral part of life for Ngati Tahu Ngati Whaoa. Not only did it provide a rich food source, but also provided passage for the Ngati Tahu Ngati Whaoa people to access a number of wahi tapu sites along the river.

The close connection Ngati Tahu Ngati Whaoa have with the Waikato River is illustrated by the significant number of places held sacred to them along the River between Pohaturoa and Huka Falls. Some of these sites are described below:

Huka Falls

The Huka Falls provided a place of residence for Ngati Tahu Ngati Whaoa and many Ngati Tahu Ngati Whaoa ancestors were buried there. The area also provided many food crops, including potatoes.

Nihoroa

Nihoroa was a Ngati Tahu Ngati Whaoa settlement on the banks of the Waikato River. kokowai (cockabully) and kokopu (trout) were gathered from this part of the river, and the settlement was also a favoured place for gathering ducks. Nihoroa also had one of the largest kainga of the Ngati Tahu Ngati Whaoa people.

A rahui post was placed on the track leading from Nihoroa. Another rahui post stood above Otamarauhuru, between the Waikato River and Lake Rotokawa. Rahui were often set in place in areas where food needed to be conserved. In this instance, it is mentioned that the area was a favourite place for gathering birds. The rahui ensured that the birds continued to flourish in the area.

PART 2: STATEMENTS OF ASSOCIATION

Rua Hoata

Rua Hoata was a very large cave that was used primarily as a kainga, but also as a place of refuge from invading iwi. Situated on the banks of the Waikato River, Rua Hoata was flooded when the hydro electric dam was built at Aratiatia.

Matauraura

Matauraura was a kumara cultivation inland of the Parehawa hot spring, not far from Ohaaki. The remnants of a cave kumara pit are still visible today. A pa was built at Matauraura for protection during the time of Te Kooti, and remains of this Pa are located on the bend of the Waikato River, upstream from the Ohaaki Bridge.

Tahunatara

Located south of Reporoa in the Waikato River, the man-made island of Tahunatara was formed after a trench was dug across the headland of the River. Tahunatara was formerly a raupo reserve situated on the Waikato River, where it flows through Broadlands. Both kokopu (trout) and duck were caught at Tahunatara, kumara and other crops were also grown, and the first willow trees in the area were planted there.

Ngaawapurua Pa and Cultivation

Occupied by Ngati Whaoa, Ngaawapurua Pa was flooded when the Ohakuri Dam was built. The cultivations extended along the Waikato River, located at the southern part of the Ohakuri Dam.

Piripekapeka Pa

Piripekapeka Pa was located above Orakei-Korako and is the burial place of the chief, Matarae.

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Waiteti Stream	As shown on SO 364735

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

The cultural, spiritual, historical and traditional association of Ngati Ngararanui (including Ngati Tuteaiti and Ngati Tamahika) with the Waiteti Stream is first and foremost an association that recognises Ngati Ngararanui as being an autonomous entity within the greater Ngati Whakaue Tribe of Te Arawa thus:

Ko Waiteti te awa
Ko Waiteti te marae
Ko Ngati Ngararanui te iwi

The Waiteti Stream is, and has always been, the single most prominent landmark that gives to the descendants of Ngati Ngararanui their turangawaewae, their sense of belonging and their status as an iwi. From the time of Whakaue Kaipapa and his sons, Tawakeheimoa, Tuteaiti, Ngararanui and Tutanekai, the Waiteti Stream has been the homeland of Ngati Ngararanui.

Tau ika and tau koura, fishing and fresh-water crayfish grounds, off the mouth of the Waiteti Stream, marked the eastern boundary of Ngati Ngararanui. The ancestral Ngati Ngararanui land holdings stretched as far westward as the Kuranui-Whaiti Line at Te Poi. Access to these lands was primarily by way of the Waiteti Stream and its many tributaries. From the lake shore, the descendants of Ngati Ngararanui spread inland and westward, cultivating the fertile lands along the northern and southern banks of the stream, and bird-snaring and food-gathering in the forests.

The life-giving waters of the Waiteti Stream were Ngati Ngararanui's constant source of sustenance. Places where drinking water was taken were set apart from places where the people swam and washed. Further upstream at secluded pools, sacred ceremonial customs were performed. Of particular cultural and spiritual significance is the place known as Waiorotoki. Here rests the sacred whetstone or rubbing stone Hinetuahoanga brought on board the Te Arawa Waka from far-off Hawaikii. The stone was then very light but because of its tapu (sacredness), it has become heavy with the passing years. This was the very stone used to sharpen the adzes that felled and carved out the great tree which formed the hull of the Te Arawa Waka, one of the three sacred taonga (treasures) of Ihenga, and revered in the well-known karakia tawhito (ancient prayer) of Te Arawa thus:

E Nukutaimaroro
Pera hoki ra ko ahau
Ko Hinetuahoanga
E kimi ana
E hahau ana
I te whanau a Rata

PART 2: STATEMENTS OF ASSOCIATION

Also of great cultural and spiritual significance is Te Motu-Tapu-a-Ihenga (the Sacred Grove of Ihenga) on the Waiteti Stream in close proximity to Te Whakaeketahuna Pa.

The Waiteti Stream is, for Ngati Ngararanui, the beginning of the watery pathway down to the ngutu-awa or mouth, across Lake Te Rotoruanui a Kahumatamomoe to the Ohau Channel, on into Lake Te Rotoiti i Kite Ai a Ihenga i Ariki Ai a Kahumatamomoe to the waters of the Kaituna and on to Maketu, "mai Maketu ki Tongariro..." It is upon the currents of these linking waterways that the spirits of Ngati Ngararanui departed are carried on their final journey home to Hawaikii Nui, Hawaikii Roa, Hawaikii Pamamao. The mauri or life-force of the Waiteti River, has ever been the thermometer that gauges the physical and spiritual health and well-being of Ngati Ngararanui.

The association of Ngati Ngararanui with the Waiteti Stream is one of deep cultural and spiritual significance. The Waiteti Stream identifies Ngati Ngararanui as an autonomous iwi of Ngati Whakaue, an iwi charged with the responsibility of kaitiakitanga of the waters and especially of the taonga, Hinetuahoanga, resting at Waiorotoki. It is the single most prominent landmark that signposts the heartland of Ngati Ngararanui. The waters of the Waiteti Stream have ever been a source of physical and spiritual sustenance for the descendants of Ngati Ngararanui. The life force of the Waiteti Stream is their life force, their pathway back to a rich history, their status symbol as tangata whenua, and their way home.

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Ngongotaha Stream	As shown on SO 364736

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

Ko Ngongotaha te maunga	Ngongotaha is the mountain
Ko Ngongotaha te awa	Ngongotaha is the river
Ko Parawai te marae	Parawai is the marae
Ko Ngati Tura-Ngati Te Ngakau te iwi	Ngati Tura-Ngati Te Ngakau are the tribes

Ngongotaha Stream takes its name from Mount Ngongotaha, which feeds the waters of Ngongotaha Stream through the numerous springs found on the northern slope.

The name, Ngongotaha, derives from the tale of the encounter between the great explorer, Ihenga and the patupaiarehe (fairy people). The patupaiarehe, occupiers of the spirit world and guardians of Te Tuahu o Te Atua (The Scared Alter of the Gods) lived on Mount Ngongotaha, and on very rare occasions, would take on the physical form of a white fungus on cold, misty nights. As Ihenga tried to flee down the mountain side, he was pursued by a patupaiarehe, who enticed him to drink from a calabash. The sound of Ihenga drinking thirstily from the calabash gave rise to the name, Ngongotaha.

Ngongotaha Stream provides for many gathering grounds of kokopu (trout), koura (freshwater crayfish), kakahi (freshwater mussels) and inanga (whitebait). At the mouth of the stream lies Te Akau, a permanent settlement for Ngati Tura-Ngati Te Ngakau. Numerous other settlements could also be found along Ngongotaha Stream, as the stream provided the people with an abundance of resources. An illustration of this is how Ngati Tura-Ngati Te Ngakau used the sands of Ngongotaha Stream to assist in growing kumara, which was part of their staple diet.

The original kainga of Ihenga at Ngongotaha was later renamed Parawai by his uncle and Ariki, Kahumatamomoe, after his garden at Maketu. It was at Parawai that Ihenga placed the koura into the Ngongotaha stream.

Ngati Tura-Ngati Te Ngakau have a deep, spiritual association with the mauri of Ngongotaha Stream. The people believe that the current of Ngongotaha Stream conveys the spirits of their dearly departed on the watery pathway back to Hawaikii Nui. Furthermore, schools of inanga can be found travelling upstream at times when other food sources are scarce. Koura can also be found in the banks of the stream in plentiful supply when their population in the clay banks of Lake Rotorua is low.

Ngongotaha Stream has always been an integral part of the social, spiritual, and physical lifestyle of Ngati Tura-Ngati Te Ngakau. It is the life force that sustained the people of Ngati Tura-Ngati Te Ngakau. All elements of the natural environment possess a life force and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngati Tura-

PART 2: STATEMENTS OF ASSOCIATION

Ngati Te Ngakau to the Ngongotaha Stream.

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Otari Pa	As shown on SO 364705

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

The people of Ngati Pikiao have a close association with the Otari Pa site through ancestry, discovery and customary occupation. Ngati Pikiao are descended from the ancestors Tahuwera (also known as Waitaha Turauta or Tahupiki) and Uruika, who settled the Otamarakau Block of land, within which Otari Pa is located.

Tahuwera had intended to travel to Otawa, near Tauranga, in search of his father, Waitaha-a-Hei. However, on reaching Otamarakau he married Uruika's daughter, Pikirarunga and originally resided at Pukenohonoa, the pa of Uruika located on the west side of the Waitahanui River just inland of the river mouth.

On various occasions, Tahuwera travelled south from Pukenohonoa to the inland bush areas of Otari to gather food. One particular area of Otari became known as "Te Tutu-o-Tahu", so named after a bird-trapping expedition undertaken to satisfy the cravings of Pikirarunga during her pregnancy. Te Tutu-o-Tahu and the surrounding areas were so abundant in food and resources that Tahuwera claimed all the food in the area as follows: Ko Waitaha-Turauta nga puhou! Ko Waitaha-Turauta nga aruhe! Ko Waitaha-Turauta nga harakeke me nga mea katoa!"

Eventually, Tahuwera, his wife and pononga (slaves), settled at Otari Pa. Tahuwera's children were raised at Otari Pa and became the pakeke (senior people) of the Pa. Through its location on the banks of the Waitahanui River, in addition to the large amount of food provided by the bush, the people of Otari Pa also used the river as a rich food source.

Tahuwera and his sons were later called upon to defend the lands and resources he had laid claim to. After successfully defending the lands, they were subsequently divided between Tahuwera and Pikirarunga's sons, Haeana and Tahuniua - Haeana took the lands to the west and Tahuniua the lands to the east. When he passed away, Otari Pa became the final resting place of Tahuwera.

PART 2: STATEMENTS OF ASSOCIATION

Statutory Area	Location
Parts of Whakarewarewa Forest known as the Lake Rotokakahi/Lake Tikitapu Covenant Areas	As shown on SO 364724

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the above Statutory Area.

Lake Rotokakahi, highly sacred to Te Arawa, is the single outstanding feature of significance on the cultural landscape of the covenant areas. Its waters, imbued with the tapu of ancestors of great mana killed in battle on the lake - whose remains lie undisturbed on the lake bed - lap the surrounding shores. Its islands of sanctuary, Motutawa and Punaruku, are saturated with the blood of Tuhourangi.

Following the conquest and total banishment of Ngati Apumoana, Ngati Pikiao and Ngati Tuteata for the killing of Umukaria at Motutawa, the whole of the Tuhourangi tribe remained and settled on the land surrounding the lakes. Their principal pa were at Motutawa, Kariri and Ohorongo. There were numerous settlements, kainga and cultivations all around Rotokakahi. There were also a number of fishing grounds and grounds for the gathering of kakahi (freshwater mussels). The resultant population growth of Tuhourangi bore witness to the prosperity they enjoyed on this land and their surrounding vast Rotomahana Parekarangi estates. Yet, it was on Lake Rotokakahi and the island of Motutawa that Tuhourangi sought sanctuary in the many battles they were to fight subsequent to their initial conquest.

The values Tuhourangi place on Lake Rotokakahi and the surrounding lands are values consequential to their defining moment in history as a people. This was where Tuhourangi launched its terrible revenge on the slayers of their favourite son, Umukaria. This was the spot from which Tuhourangi spread its numerous hapu to settle their vast estates, to cultivate their rich soils, to fish their numerous lakes, to continue their own traditional customs, usages and practices, to multiply, and to further enhance the mana of Tuhourangi throughout the land. But above all, this was, and still is, their sanctuary - where they can honour their ancestors, bury their deceased, and remember their proud history.

PART 2: STATEMENTS OF ASSOCIATION

	Location
Rotorua Region Geothermal System	As shown on SO 364723

The following Statement of Association by the Affiliate Te Arawa Iwi/Hapu applies to the Rotorua Region Geothermal System.

Geothermal resources are regarded as taonga - resources that are inherited from the ancestors and highly-prized.

Among the first voyagers who came from Hawaikii to Aotearoa on the Arawa waka was the tohunga, Ngatoroirangi. On his travels around the district, Ngatoroirangi climbed Tongariro in order to survey the whole country from its summit. As he climbed the slopes of the mountain, the cold became unbearable, almost freezing him. He called on his sisters in Hawaikii to send him fire. On hearing his call, his sisters sent two taniwha underground, Pupu and Te Haeta, to bring him fire.

The passage the two taniwha took, and the places where they surfaced became the connecting route of the geothermal system – from Whakaari (White Island), via Kawerau, Rotorua and Taupo and on to Tongariro, distributing geothermal resources in the Rotorua districts including Rotoma, Taheke-Tikitere, Waikite-Waiotapu-Waimangu, Ohaaki and Orakei-Korako.

Places where surface geothermal activity was present were highly-favoured as places for settlement. All geothermal areas have traditional cultural and spiritual associations for the affiliate Te Arawa Iwi/Hapu. There was considerable mana associated with iwi whose lands included geothermal resources.

Geothermal resources were used in various ways. Hot pools (ngawha, puia, waiariki) provided hot water for cooking and bathing. Hot ground was used for cooking holes and ovens. Mud from some pools had medicinal properties, especially in the treatment of skin infections such as ngerengere. Paint and dyestuffs such as kokowai (red ochre) were obtained from hydro-thermally altered ground. Many hot pools had well-known therapeutic qualities in the treatment of muscular disorders, rheumatic and arthritic ailments, as well as skin conditions. Some had other qualities and were known as wahi tapu, for example, a place for ritual cleansing after battle, or other spiritual qualities linked to medicinal or therapeutic use, or incidents of the past. Some had a particular tohunga associated with them. Some were burial places. Many hot pools are still regarded as wahi tapu, or sacred places.

In the 19th Century there was a hive of tourism activity in and around Lake Tarawera and Lake Rotomahana. The people of Tuhourangi had seen the potential in geothermal activity in and around the lakes and at Te Wairoa as an economic bastion.

The beauty of the Pink and White Terraces caused hordes of tourists to flock to Rotomahana from all over the world to see what was considered to be the eighth natural wonder of the

world. Even after the eruption of the three peaks - Tarawera, Ruawahia and Wahanga on 10 June 1886 when the Pink & White Terraces were destroyed - Affiliate Te Arawa Iwi/Hapu continued to utilise the geothermal resources around the Rotorua Region.

PART 3: DEED OF RECOGNITION

(Clause 11.3)

PART 3: DEED OF RECOGNITION

DEED OF RECOGNITION

THIS DEED is made

BETWEEN

THE TRUSTEES OF THE TE PUMAUTANGA O TE ARAWA TRUST (the "**Te Pumautanga Trustees**")

AND

THE SOVEREIGN in right of New Zealand acting by the Minister of Conservation (the "**Crown**").

BACKGROUND

A. The Affiliate Te Arawa Iwi/Hapu and the Crown are parties to a deed of settlement (the "**Deed of Settlement**") to settle the Historical Claims of the Affiliate Te Arawa Iwi/Hapu dated [ ].

B. Under clauses 11.3 and 11.4 of the Deed of Settlement it was agreed that (if the Deed of Settlement became unconditional) the Crown and the Te Pumautanga Trustees would enter into this Deed.

C. The [*insert short title of the Settlement Legislation*] (the "**Settlement Act**") has come into force and the Deed of Settlement has become unconditional.

IT IS AGREED as follows:

1 CROWN'S ACKNOWLEDGEMENT OF STATEMENT OF ASSOCIATION WITH CERTAIN STATUTORY AREAS

1.1 The Crown acknowledges, under section [ ] of the Settlement Act, the statement by the Affiliate Te Arawa Iwi/Hapu set out in this clause (the "**Statement of Association**") of its cultural, spiritual, historical and traditional association with the Statutory Areas.

Statement of Association

1.2 This Deed applies to the Statutory Area (being the Matahana Ecological Area, the location of which is shown on SO 364721) to which the following Statement of Association relates.

The traditions of Ngati Kearoa Ngati Tuara illustrate their cultural, historical and spiritual association with the Matahana Ecological Area. For Ngati Kearoa Ngati Tuara, traditions such as these represent the links between nga atua (the gods) and present generations. These histories reinforce tribal identity, connection and continuity between generations and confirm the importance of the Matahana Ecological Area to Ngati Kearoa Ngati Tuara.

PART 3: DEED OF RECOGNITION

Ngati Kearoa Ngati Tuara tradition tells of how Horohoro was named and its link to the Matahana Ecological Area. Kahumatamomoe, who came on the Arawa waka, is credited with naming Horohoro. On his travels around the island, Kahumatamomoe came to Horohoro Mountain and became affected by a tapu. In order to cleanse himself, he bathed in a small stream just in behind the north end of the mountain and located within the Matahana Ecological Area. The stream was given the name Waikarakia and the mountain became known as "Te Horohoroinga o Nga Ringa o Kahumatamomoe", or "The Washing of the Hands of Kahumatamomoe" (Horohoro for short).

The traditional association can also be traced back to Haukapuanui and Tangiharuru's visit to the area, where they were amazed at its fruitfulness. The streams were full of eels and water birds abounded. The bush likewise was full of birds and from that time on, the people lived well due to the plentiful resources.

The Matahana Ecological Area provided the people with valuable food resources, and continued to do so for hundreds of years. The young men of Ngati Kearoa Ngati Tuara would often hunt pigs, trap eels, snare ducks, pukeko, matuku (water fowl) and rats (brought from Hawaikii) in the Waikarakia Stream.

Other materials such as flax were highly sought after for its fine qualities. Leaves of the kawakawa, and berries from the miro and karaka trees provided both food and medicine.

There are many sites of cultural, historical and spiritual significance to Ngati Kearoa Ngati Tuara within the Matahana Ecological Area. The sources of the Waikarakia and Pokaitu Streams are in deep bush. They flow through steep-sided gorges and have many small caves. In some of these caves lie the bones of ancestors, and they are therefore considered tapu. The Waikarakia Stream, in particular, has a mystique to this day.

The Matahana Ecological Area is of great significance to Ngati Kearoa Ngati Tuara. The Matahana Ecological Area was a significant source from which the physical wellbeing of Ngati Kearoa Ngati Tuara was sustained, and the spiritual wellbeing nourished.

Ngati Kearoa Ngati Tuara have always maintained a considerable knowledge of the lands of the Matahana Ecological Area, its history, the traditional trails of the tupuna of the area, the places for gathering kai and other taonga, and ways in which to use the resources of the Matahana Ecological Area. Proper and sustainable resource management has always been at the heart of the relationship of Ngati Kearoa Ngati Tuara with the Matahana Ecological Area.

2 CONSULTATION BY THE MINISTER OF CONSERVATION WITH THE TE PUMAUTANGA TRUSTEES IN RELATION TO CERTAIN STATUTORY AREAS

2.1 The Minister of Conservation must, if he or she is undertaking an activity referred to in clause 2.2 in relation to or within a Statutory Area referred to in clause 1.2, consult and have regard to the views of the Te Pumautanga Trustees concerning the association of the Affiliate Te Arawa Iwi/Hapu with that Statutory Area as described in a Statement of Association.

2.2 Clause 2.1 applies to the following activities:

2.2.1 preparing:

(a) a conservation management strategy, or a conservation management plan, under the Conservation Act 1987 or the Reserves Act 1977;

(b) a national park management plan under the National Parks Act 1980;

(c) in relation to a Statutory Area that is not a river, a non-statutory plan, strategy, programme or survey of one of the following kinds for the protection and management of that Statutory Area, namely:

(i) to identify and protect wildlife or indigenous plants;

(ii) to eradicate pests, weeds or introduced species;

(iii) to assess current and future visitor activities; or

(iv) to identify the number and type of Concessions that may be appropriate;

(d) in relation to a Statutory Area that is a river, a non-statutory plan, strategy or programme for the protection and management of that Statutory Area; or

2.2.2 locating or constructing structures, signs or tracks.

2.3 The Minister of Conservation must, in order to enable the Te Pumautanga Trustees to give informed views when the Minister is consulting the Te Pumautanga Trustees under clause 2.1, provide the Te Pumautanga Trustees with relevant information.

3 LIMITATIONS

3.1 This Deed relates only to those parts of the Statutory Area owned and managed by the Crown.

3.2 This Deed does not, in relation to a Statutory Area:

3.2.1 require the Crown to undertake, increase or resume any activity of the kind referred to in clause 2.2; or

3.2.2 preclude the Crown from not undertaking, or ceasing to undertake, any or all of the activities referred to in clause 2.2.

3.3 Except as provided in clause 2.1, this Deed:

3.3.1 does not affect, and will not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw;

3.3.2 affect the lawful rights or interests of any person; or

3.3.3 grant, create or provide evidence of an estate or interest in, or rights relating to, a Statutory Area.

3.4 This Deed does not prevent the Crown from entering into a deed of recognition with a person or persons other than the Affiliate Te Arawa Iwi/Hapu in relation to a Statutory Area.

4 TERMINATION

4.1 This Deed terminates in respect of a Statutory Area (or part of it) if:

4.1.1 the Te Pumautanga Trustees and the Minister of Conservation agree in writing that this Deed is no longer appropriate for the area concerned;

4.1.2 the area concerned is disposed of by the Crown; or

4.1.3 the Minister of Conservation ceases to be responsible for the activities referred to in clause 2.2 in relation to or within the area concerned and they are transferred to another person or official within the Crown.

4.2 If this Deed terminates under clause 4.1.3 in relation to an area, the Crown will take reasonable steps to ensure the Te Pumautanga Trustees continue to have input into the activities referred to in clause 2.2 in relation to or within the area concerned through negotiation with the new person or official within the Crown that is responsible for those activities.

5 NOTICES

5.1 The provisions of this clause apply to notices under this Deed:

Notices to be signed

5.1.1 the Party giving a notice must sign it;

Notice to be in writing

5.1.2 any notice to a Party must be in writing addressed to that Party at that Party's address or facsimile number;

Addresses for notice

5.1.3 until any other address or facsimile number of a Party is given by notice to the other Party, the addresses for notice are as follows:

PART 3: DEED OF RECOGNITION

The Crown:	*Te Pumautanga Trustees:*
The Area Manager Department of Conservation 99 Sala Street Rotorua 3010 Tel: 07 349 7400 Fax: 07 349 7401	[Insert the name and address of the Te Pumautanga Trustees]

Delivery

5.1.4 delivery of a notice may be made:

(a) by hand;

(b) by post with prepaid postage; or

(c) by facsimile;

Timing of delivery

5.1.5 a notice delivered:

(a) by hand will be treated as having been received at the time of delivery;

(b) by pre-paid post will be treated as having been received on the second day after posting; or

(c) by facsimile will be treated as having been received on the day of transmission; and

Deemed date of delivery

5.1.6 if a notice is treated as having been received on a day that is not a Business Day, or after 5pm on a Business Day, that notice will (despite clause 5.1.5) be treated as having been received the next Business Day.

6 NO ASSIGNMENT

6.1 The Te Pumautanga Trustees may not assign its rights or obligations under this Deed.

7 DEFINITIONS AND INTERPRETATION

7.1 In this Deed, unless the context requires otherwise:

Concession has the same meaning as in section 2 of the Conservation Act 1987;

PART 3: DEED OF RECOGNITION

Minister of Conservation and **Minister** means the person who is the Minister of Conservation;

Party means a party to this Deed; and

Statutory Area means a Statutory Area referred to in clause 1.2.

7.2 In the interpretation of this Deed, unless the context requires otherwise:

7.2.1 terms and expressions that are not defined in this Deed but are defined in the Deed of Settlement have the meaning in this Deed that they have in the Deed of Settlement;

7.2.2 headings appear as a matter of convenience and are not to affect the interpretation of this Deed;

7.2.3 where a word or expression is defined in this Deed, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

7.2.4 the singular includes the plural and vice versa;

7.2.5 words importing one gender include the other genders;

7.2.6 a reference to legislation is a reference to that legislation as amended, consolidated or substituted;

7.2.7 a reference to any document or agreement, including this Deed, includes a reference to that document or agreement as amended, novated or replaced;

7.2.8 a reference to written or in writing includes all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form;

7.2.9 a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

7.2.10 a reference to a date on which something must be done includes any other date that may be agreed in writing between the Te Pumautanga Trustees and the Crown;

7.2.11 where something is required to be done by or on a day that is not a Business Day, that thing must be done on or by the next Business Day after that day; and

7.2.12 a reference to time is to New Zealand time.

PART 3: DEED OF RECOGNITION

7.3 In this Deed, references to SO plans are included for the purpose of indicating the general location of a Statutory Area and do not establish the precise boundaries of a Statutory Area.

7.4 If there are any inconsistencies between this Deed and the Deed of Settlement, the provisions of the Deed of Settlement will prevail.

SIGNED as a deed on [ ]

[*Insert signing provisions for the Te Pumautanga Trustees*]

WITNESS

_____

Name:

Occupation:

Address:

SIGNED for and on behalf of
THE SOVEREIGN in right of New
Zealand by the Minister of Conservation
in the presence of:

_____

Name:

Occupation:

Address:

PART 4: DESCRIPTIONS OF WHENUA RAHUI

(Clause 11.9.1)

PART 4: DESCRIPTIONS OF WHENUA RAHUI

Whenua Rahui	Location	Legal Description (All South Auckland Land District – Rotorua District)
Rainbow Mountain Scenic Reserve – Maunga Kakaramea	As shown marked A and B on SO 364718	429.7187 hectares, more or less, being Sections 58, 59 & 62 Block III, Paeroa Survey District and Section 3 SO 61678.
Part of the Lake Tarawera Scenic Reserve	As shown marked A on SO 364719	1840 hectares, approximately, being Part Ruawahia 3.
Part of the Mount Ngongotaha Scenic Reserve	As shown marked A, B and C on SO 364720	522.8754 hectares, more or less, being Sections 44 and 57 Block XV Rotorua Survey District; Part Section 7 and Section 16 Block III Horohoro Survey District; Lot 1 DP 31278; Lot 1 DPS 34005; Rotohokahoka F1 No. 2 and Parts Rotohokahoka D North 2B, D North 6, D North 10, D South 9B, D South 10A, D South 10B.
Matawhaura (part of the Lake Rotoiti Scenic Reserve)	As shown marked A on SO 364717	32.5266 hectares, approximately, being Part Rotoiti 6 & 7A. Part *Gazette* 1921 page 887. Subject to survey.

PART 5: WHENUA RAHUI

(Clause 11.9.2)

WHENUA RAHUI CREATED OVER THE RAINBOW MOUNTAIN SCENIC RESERVE - MAUNGA KAKARAMEA

(Clause 11.9.2)

PART 5: WHENUA RAHUI

WHENUA RAHUI

1 Description of Area

1.1 The area over which the Whenua Rahui is created is 429.7187 hectares, more or less, as is more particularly described in Part 4 of this Schedule.

2 Preamble

2.1 Pursuant to section [ ] of the [Settlement Legislation] (clause 11.9.2 of the Deed of Settlement), the Crown acknowledges the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to the Rainbow Mountain Scenic Reserve – Maunga Kakaramea, as set out below.

3 Affiliate Te Arawa Iwi/Hapu Values

Maunga Kakaramea (also known as Rainbow Mountain) is an iconic peak for the Ngati Tahu Ngati Whaoa and its traditional history reinforces tribal identity, solidarity, and continuity between generations.

Maunga Kakaramea means "Mountain of Coloured Earth" (literal translation is maunga: mountain, kakaramea: red ochre), which is reflective of its bare brown, orange and red steaming slopes. Red ochre was and still is a precious article of trade. Its chief application was a mix with shark oil that was applied to the face and body of the highly ranked at major ceremonial occasions. The same mix would be applied to those of high rank before going into battle. Red ochre was also used as a dye for raranga (weaving), and painting kowhaiwhai patterns and whakairo (carvings)(). Today red ochre use is limited to colouring in the arts of weaving and whakairo. On Maunga Kakaramea, red ochre was gathered at certain times of the year. Being an article of trade, tribes in areas where red ochre was in abundance traded with other tribes for materials such as totara, kahikatea and harakeke.

Rehu was a Te Arawa ancestor who lived during the 1500s. Waiotapu, an area within close proximity of Maunga Kakaramea, was originally named Te-Tihi-o-Rehu, after Rehu.

Historically, Maunga Kakaramea was used as a place of refuge during battle for the Ngati Whaoa people. The Ngati Whaoa people came to occupy Maunga Kakaramea following an attack on them by a chief named Rahurahu. Rahurahu was ultimately defeated at Maunga Kakaramea by Ngati Whaoa and their neighbours, and from that point on, Ngati Whaoa continued to reside there.

Also referred to as Maunga Kara, the mountain was the main burial ground for the Ngati Tahu Ngati Whaoa people. A number of urupa (cemeteries) are located at the foot of the maunga, including Kotumutumu and Opaeitu, and are the final resting places for a number of Ngati Whaoa people. The mountain also hides caves that were used as urupa, such as Puna and Haui.

Numerous wahi tapu are also located on the mountain. The wahi tapu include places such as, Waitoatoa (where dye was made from Toatoa), Ngatoro (where taro were planted in the knowl by Te Arawa chief, Ngaturuturu) and

Komutumutukaioruahine (the name of a palm located at the peak of Maunga Kakaramea).

There are also many caves on Maunga Kakaramea that were used as kainga for the Ngati Tahu Ngati Whaoa people. These caves include Ngatoro-Hakarei (the first kainga of Whaoa), Waiaro, Orangimutuingeo, Te Tuakura and Whakataraiki.

Maunga Kakaramea also provided the people with valuable food resources. Some of the foods the maunga (and its waterways) provided are fern roots, eels, freshwater crayfish, ducks and birds.

The mauri of Maunga Kakaramea represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngati Tahu Ngati Whaoa with Maunga Kakaramea.

4 Protection Principles

4.1 The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values related to the Rainbow Mountain Scenic Reserve – Maunga Kakaramea:

4.1.1 protection of wahi tapu, indigenous flora and fauna and the wider environment within the Rainbow Mountain Scenic Reserve – Maunga Kakaramea;

4.1.2 recognition of the mana, kaitiakitanga and tikanga of the Affiliate Te Arawa Iwi/Hapu within the Rainbow Mountain Scenic Reserve – Maunga Kakaramea;

4.1.3 respect for the Affiliate Te Arawa Iwi/Hapu tikanga within the Rainbow Mountain Scenic Reserve – Maunga Kakaramea;

4.1.4 encouragement of the respect for the association of the Affiliate Te Arawa Iwi/Hapu with the Rainbow Mountain Scenic Reserve – Maunga Kakaramea;

4.1.5 accurate portrayal of the association of the Affiliate Te Arawa Iwi/Hapu with the Rainbow Mountain Scenic Reserve – Maunga Kakaramea; and

4.1.6 recognition of the relationship of the Affiliate Te Arawa Iwi/Hapu with the wahi tapu and wahi whakahirahira.

PART 5: WHENUA RAHUI

5 Actions by the Director-General of Conservation in relation to specific principles

5.1 Pursuant to clause 11.9.13 of the Deed of Settlement, the Director-General has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles.

5.1.1 Department of Conservation staff, contractors, conservation board members, concessionaires and the public will be provided with information about the Affiliate Te Arawa Iwi/Hapu Values and the existence of the Whenua Rahui and will be encouraged to respect the Affiliate Te Arawa Iwi/Hapu association with the Rainbow Mountain Scenic Reserve – Maunga Kakaramea;

5.1.2 the Department of Conservation will work with the Affiliate Te Arawa/Iwi Hapu on the design and location of new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;

5.1.3 the public will be informed that the removal of all rubbish and wastes from the Rainbow Mountain Scenic Reserve – Maunga Kakaramea is required;

5.1.4 the Affiliate Te Arawa Iwi/Hapu's association with the Rainbow Mountain Scenic Reserve – Maunga Kakaramea will be accurately portrayed in all new Department of Conservation information and educational material;

5.1.5 the Te Pumautanga Trustees will be consulted regarding the provision of all new Department of Conservation public information or educational material, and the Department of Conservation will only use the Affiliate Te Arawa Iwi/Hapu's cultural information with the consent of the Te Pumautanga Trustees;

5.1.6 significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;

5.1.7 where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, the Te Pumautanga Trustees will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites; and

5.1.8 any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and the Te Pumautanga Trustees informed as soon as possible to enable the Affiliate Te Arawa Iwi/Hapu to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law.

WHENUA RAHUI CREATED OVER PART OF THE LAKE TARAWERA SCENIC RESERVE

(Clause 11.9.2)

PART 5: WHENUA RAHUI

WHENUA RAHUI

1 Description of Area

1.1 The area over which the Whenua Rahui is created is 1840 hectares, approximately, as is more particularly described in Part 4 of this Schedule.

2 Preamble

2.1 Pursuant to section [ ] of the [Settlement Legislation] (clause 11.9.2 of the Deed of Settlement), the Crown acknowledges the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to Part of the Lake Tarawera Scenic Reserve, as set out below.

3 Affiliate Te Arawa Iwi/Hapu Values

Tuhourangi (eponymous ancestor of the Tuhourangi people) was the son of Rangitihi. He was the youngest of the eight children of Rangitihi who became known as "Nga Pumanawa e Waru o Te Arawa". The early development of the Tuhourangi tribe took place in the generations between the two tribal ancestors Tuhourangi and Wahiao. During this time the population of the tribe was steadily increasing and so too were instances of ill-feeling and disputes between closely related groups. Divisions were taking place, often resulting in a shift in residence. These divisions, although adopting an ancestral or family name, still recognised their overall allegiance to the Tuhourangi tribe, and on a larger scale, to the Te Arawa confederation of tribes.

Following his father's death, Wahiao enlisted the aid of Wharetokotoko of Ngati Tama. In a series of battles, they avenged the death of Umukaria (Wahiao's father) and in the process established a claim to the land around Lakes Tarawera and Rotokakahi.

The Tuhourangi people, under their chiefs Rangiheuea and Rangipuawhe, held influence over Tarawera, Ruawahia and Wahanga, the three mountain peaks that stood side-by-side at the eastern end of Lakes Tarawera and Rotomahana. The Pink and White Terraces were also under the control of Tuhourangi, along with the tourist traffic and accompanying wealth.

The mountain provided the Tuhourangi people with a food source. Here, they gathered wild honey, miro, karaka berries, aruhe (fern-roots) and kereru (pigeon).

Tuhourangi have ancient urupa on Mount Tarawera. These areas were kept secret from the prying eyes of outsiders and their tourist visitors. The taking of greenstone and other artifacts from urupa areas had been a past experience that cautioned them.

On 10th June 1886, the existence of the Tuhourangi tribe living around Lakes Tarawera and Rotomahana was shattered by the eruption of Mount Tarawera. All the inhabitants of Rotomahana and the nearby villages of Te Ariki and Moura were killed, as were many living at Te Wairoa. The eruption also destroyed the famous Pink and White Terraces.

PART 5: WHENUA RAHUI

The following Tuhourangi waiata "Tera te Auahi" is a song of mourning for those who died in the Tarawera eruption:

Tera te auahi ka patua i Tarawera kai raro iti iho
Yonder is the volcanic haze that destroyed (those) at Tarawera, and just below

Ko Ngati Taoi i moe ra i te whenua, haere ra e te iwi
Lie Ngati Taoi entombed by ash and scoria, farewell to you all

Ki te po-uriuri ki te po tangotango ki te iwi ki te po
(Farewell) to the realm of death, to the darkness, where reside your ancestors

Arohirohi ana taku nei titiro ki te puke i te Kumete
I feel giddy as I look toward the hill Te Kumete

Kai raro iti iho ko te tini a te kura, i a Tuhourangi
For just below are buried the myriad of precious ones of Tuhourangi

Whakapukepuke ai nga ngaru o Tarawera, ko te rite i aku kamo
The waves of Tarawera were tumultuous, likewise my eyes are a-flood with tears

Ka whati mai te ngaru, ka oho ra te marino, ko te rite i te iwi
The wave of volcanic debris broke, causing disharmony, likewise the people were in shock

E hora noa mai ra te rae ki Moura, haere ra e te iwi
(Ash and mud) are spread across the promontory at Moura, goodbye my people

Ki wiwi ki wawa, ki raro ki te reinga – ko wai au ka kite?
Who knows where you have gone, to the north to Te Reinga – will I ever see you again?

Kai kinikini ai te mamae i taku kiri, ki te iwi ka wehe
Pain pinches my body, for the people who were killed

Whakarehurehu ana taku nei titiro ki Whakapoukorero
The mountain Whakapoukorero fades from my sight

Kai raro iti iho ko Ngati Rangitihi, toku hoa moenga
Just below were Ngati Rangitihi, my companions and relations

Na Ngatoroirangi i taki mai te mana o te atua ka hau kai te whenua
T'was Ngatoroirangi who called upon the mana of his god (to imprison Tamahoi), whose fame spread throughout the land

Hurahia (e) nga tohunga, ka maranga kai runga, ka ru ko te whenua
(Later) priests uncovered and awoke the denizen who caused the quake

Te riri o te atua i whiua ki te tangata, i whiua ki te whenua
It was thus the anger of the god who destroyed the people, and the land

E hora noa mai ra i te pouriuri, i te po tangotango
(The people) lie scattered in the world of darkness, in the world of the dead

Waiho nei te aroha, waiho nei te mamae, ka kai kino i taku kiri
Leaving anguish and pain, to gnaw unceasingly within

PART 5: WHENUA RAHUI

I maringi a wai te roimata i aku kamo, ki te iwi ka wehe
And the tears drop copiously from my eyes, for those who have departed this life

4 Protection Principles

4.1 The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values related to Part of the Lake Tarawera Scenic Reserve:

4.1.1 protection of wahi tapu, indigenous flora and fauna and the wider environment within Part of the Lake Tarawera Scenic Reserve;

4.1.2 recognition of the mana, kaitiakitanga and tikanga of the Affiliate Te Arawa Iwi/Hapu within Part of the Lake Tarawera Scenic Reserve;

4.1.3 respect for the Affiliate Te Arawa Iwi/Hapu tikanga within Part of the Lake Tarawera Scenic Reserve;

4.1.4 encouragement of the respect for the association of the Affiliate Te Arawa Iwi/Hapu with Part of the Lake Tarawera Scenic Reserve;

4.1.5 accurate portrayal of the association of the Affiliate Te Arawa Iwi/Hapu with Part of the Lake Tarawera Scenic Reserve; and

4.1.6 recognition of the relationship of the Affiliate Te Arawa Iwi/Hapu with the wahi tapu and wahi whakahirahira.

5 Actions by the Director-General of Conservation in relation to specific principles

5.1 Pursuant to clause 11.9.13 of the Deed of Settlement, the Director-General has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles:

5.1.1 Department of Conservation staff, contractors, conservation board members, concessionaires and the public will be provided with information about the Affiliate Te Arawa Iwi/Hapu Values and the existence of the Whenua Rahui and will be encouraged to respect the Affiliate Te Arawa Iwi/Hapu association with Part of the Lake Tarawera Scenic Reserve;

5.1.2 the Department of Conservation will work with the Affiliate Te Arawa/Iwi Hapu on the design and location of new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;

5.1.3 the public will be informed that the removal of all rubbish and wastes from Part of the Lake Tarawera Scenic Reserve is required;

5.1.4 the Affiliate Te Arawa Iwi/Hapu's association with Part of the Lake Tarawera Scenic Reserve will be accurately portrayed in all new Department of Conservation information and educational material;

PART 5: WHENUA RAHUI

5.1.5 the Te Pumautanga Trustees will be consulted regarding the provision of all new Department of Conservation public information or educational material, and the Department of Conservation will only use the Affiliate Te Arawa Iwi/Hapu's cultural information with the consent of the Te Pumautanga Trustees;

5.1.6 significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;

5.1.7 where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, the Te Pumautanga Trustees will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites; and

5.1.8 any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and the Te Pumautanga Trustees informed as soon as possible to enable the Affiliate Te Arawa Iwi/Hapu to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law.

WHENUA RAHUI CREATED OVER PART OF THE MOUNT NGONGOTAHA SCENIC RESERVE

(Clause 11.9.2)

PART 5: WHENUA RAHUI

WHENUA RAHUI

1 Description of Area

1.1 The area over which the Whenua Rahui is created is 522.8754 hectares, more or less, as is more particularly described in Part 4 of this Schedule.

2 Preamble

2.1 Pursuant to section [ ] of the [Settlement Legislation] (clause 11.9.2 of the Deed of Settlement), the Crown acknowledges the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to Part of the Mount Ngongotaha Scenic Reserve, as set out below.

3 Affiliate Te Arawa Iwi/Hapu Values

Mount Ngongotaha is an iconic peak for the Affiliate Te Arawa Iwi/Hapu and its traditional history reinforces tribal identity and solidarity, and continuity between generations. The traditional history can be traced back to the great explorer, Ihenga.

When Ihenga travelled the land and named the Lake Te Rotoruanui a Kahumatamomoe (more commonly known as Lake Rotorua) after his uncle, who was a chief, he eventually arrived at the place that was subsequently named "Ngongotaha". As he climbed the mountain swathed in mist, he could hear the plaintive songs of the patupaiarehe (fairy people), the occupiers of the spirit world and guardians of Te Tuahu O Te Atua (The Sacred Alter of the Gods).

From out the corner of his eye he saw strange forms and movements that indicated his journey was being closely followed. A shift of wind cleared the mist from the peak and Ihenga beheld the palisades of the pa of the patupaiarehe, and nearby a tree that blazed like a torch. He approached the tree and grasped a branch from which flames blossomed. There was a patter of feet behind him and a shout, "He Nanakia".

Ihenga stepped back as the patupaiarehe rushed at him, and he swung the burning branch around him, scattering the patupaiarehe. He then plunged the burning branch into nearby bracken. As flames raced up the slopes towards the pa, the patupaiarehe ran to save their pa, while Ihenga fled down the mountain. In his dash downhill he was pursued by a patupaiarehe and enticed to drink of the enchanted waters from a calabash. With the aid of the sacred red ochre and shark oil, which Ihenga quickly smeared over his body, he was able to repel the patupaiarehe and escape.

The sound of Ihenga drinking thirstily from the calabash, gave the name Ngongotaha to the Mountain, the Stream, and to the settlement on its lower slopes.

The renowned Te Arawa warrior and Ngati Whakaue high-born Te Amohau, who in his lifetime was the voice of Te Arawa, is paid homage in the singular fashion of Maori through the following whakatauki (proverb). By doing so they liken his personal mana to the lofty and everlasting presence of his mountain:

PART 5: WHENUA RAHUI

Ko Ngongotaha te maunga	*Ngongotaha is the mountain*
Ko Waikuta te awa	*Waikuta is the river*
Ko Ngati Whakaue te iwi	*Ngati Whakaue is the tribe*
Ko Te Amohau te tangata	*Te Amohau is the pre-eminent person*

The mauri of Mount Ngongotaha represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of the Affiliate Te Arawa Iwi/Hapu with Mount Ngongotaha.

4 Protection Principles

4.1 The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values related to Part of the Mount Ngongotaha Scenic Reserve :

4.1.1 protection of wahi tapu, indigenous flora and fauna and the wider environment within Part of the Mount Ngongotaha Scenic Reserve;

4.1.2 recognition of the mana, kaitiakitanga and tikanga of the Affiliate Te Arawa Iwi/Hapu within Part of the Mount Ngongotaha Scenic Reserve;

4.1.3 respect for the Affiliate Te Arawa Iwi/Hapu tikanga within Part of the Mount Ngongotaha Scenic Reserve;

4.1.4 encouragement of the respect for the association of the Affiliate Te Arawa Iwi/Hapu with Part of the Mount Ngongotaha Scenic Reserve;

4.1.5 accurate portrayal of the association of the Affiliate Te Arawa Iwi/Hapu with Part of the Mount Ngongotaha Scenic Reserve; and

4.1.6 recognition of the relationship of the Affiliate Te Arawa Iwi/Hapu with the wahi tapu and wahi whakahirahira.

5 Actions by the Director-General of Conservation in relation to specific principles

5.1 Pursuant to clause 11.9.13 of the Deed of Settlement, the Director-General has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles:

PART 5: WHENUA RAHUI

5.1.1 Department of Conservation staff, contractors, conservation board members, concessionaires and the public will be provided with information about the Affiliate Te Arawa Iwi/Hapu Values and the existence of the Whenua Rahui and will be encouraged to respect the Affiliate Te Arawa Iwi/Hapu association with Part of the Mount Ngongotaha Scenic Reserve.

5.1.2 the Department of Conservation will work with the Affiliate Te Arawa/Iwi Hapu on the design and location of new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;

5.1.3 the public will be informed that the removal of all rubbish and wastes from Part of the Mount Ngongotaha Scenic Reserve is required;

5.1.4 the Affiliate Te Arawa Iwi/Hapu's association with Part of the Mount Ngongotaha Scenic Reserve will be accurately portrayed in all new Department of Conservation information and educational material;

5.1.5 the Te Pumautanga Trustees will be consulted regarding the provision of all new Department of Conservation public information or educational material, and the Department of Conservation will only use the Affiliate Te Arawa Iwi/Hapu's cultural information with the consent of the Te Pumautanga Trustees;

5.1.6 significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;

5.1.7 where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, the Te Pumautanga Trustees will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites; and

5.1.8 any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and the Te Pumautanga Trustees informed as soon as possible to enable the Affiliate Te Arawa Iwi/Hapu to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law.

WHENUA RAHUI CREATED OVER MATAWHAURA (PART OF THE LAKE ROTOITI SCENIC RESERVE)

(Clause 11.9.2)

PART 5: WHENUA RAHUI

1 Description of Area

1.1 The area over which the Whenua Rahui is created is 32.5266 hectares, approximately, as is more particularly described in Part 4 of this Schedule.

2 Preamble

2.1 Pursuant to section [ ] of the [Settlement Legislation] (clause 11.9.2 of the Deed of Settlement), the Crown acknowledges the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to Matawhaura (part of the Lake Rotoiti Scenic Reserve), as set out below.

3 Affiliate Te Arawa Iwi/Hapu Values

After the arrival of the Arawa waka at Maketu, the four ancestors, Uruika, Tahuwera, Waitaha and Matamoho, travelled inland until they reached Lake Rotoehu. At Lake Rotoehu, Tahuwera claimed the mountain Matawhaura for himself under a custom called taunaha whenua. The literal translation of Matawhaura is "Fierce As in Battle".

Matawhaura (the mountain and its surrounding boundary areas) is situated in the furthermost eastern corner of Lake Rotoiti at Tapuaeharuru. Matawhaura is referred to in a pepeha (proverb) unique to the people of Ngati Pikiao and their affiliate hapu. The words "Ko Matawhaura te maunga" will be heard when men of Ngati Pikiao introduce themselves at the beginning of their whaikorero on the marae, and is used to identify the speaker's rohe (area) in pepeha form.

Tahiwihiwi and Te Waiwherowhero were two pa at Matawhaura. Tahiwihiwi was a pa tuwatawata (fortified pa used for defence against attack) built by the people of Ngati Tamateatutahi, a hapu of Ngati Pikiao. At Tahiwihiwi Pa there were two houses named Te Rangaranga and Tamanuitera. These houses belonged to Ngaoho, one of the principal chiefs of Ngati Pikiao.

Matawhaura was also well known for its numerous kumara cultivations, including those in the vicinity of Kakahopakapaka Pa on the Wainikau Inlet of Lake Rotoehu.

4 Protection Principles

4.1 The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values related to Matawhaura (part of the Lake Rotoiti Scenic Reserve):

4.1.1 protection of wahi tapu, indigenous flora and fauna and the wider environment within Matawhaura (part of the Lake Rotoiti Scenic Reserve);

4.1.2 recognition of the mana, kaitiakitanga and tikanga of the Affiliate Te Arawa Iwi/Hapu within Matawhaura (part of the Lake Rotoiti Scenic Reserve);

4.1.3 respect for the Affiliate Te Arawa Iwi/Hapu tikanga within Matawhaura (part of the Lake Rotoiti Scenic Reserve);

4.1.4 encouragement of the respect for the association of the Affiliate Te Arawa Iwi/Hapu with Matawhaura (part of the Lake Rotoiti Scenic Reserve);

4.1.5 accurate portrayal of the association of the Affiliate Te Arawa Iwi/Hapu with Matawhaura (part of the Lake Rotoiti Scenic Reserve); and

4.1.6 recognition of the relationship of the Affiliate Te Arawa Iwi/Hapu with the wahi tapu and wahi whakahirahira.

5 Actions by the Director-General of Conservation in relation to specific principles

5.1 Pursuant to clause 11.9.13 of the Deed of Settlement, the Director-General has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles:

5.1.1 Department of Conservation staff, contractors, conservation board members, concessionaires and the public will be provided with information about the Affiliate Te Arawa Iwi/Hapu Values and the existence of the Whenua Rahui and will be encouraged to respect the Affiliate Te Arawa Iwi/Hapu association with Matawhaura (part of the Lake Rotoiti Scenic Reserve);

5.1.2 the Department of Conservation will work with the Affiliate Te Arawa/Iwi Hapu on the design and location of new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;

5.1.3 the public will be informed that the removal of all rubbish and wastes from Matawhaura (part of the Lake Rotoiti Scenic Reserve) is required;

5.1.4 the Affiliate Te Arawa Iwi/Hapu's association with Matawhaura (part of the Lake Rotoiti Scenic Reserve) will be accurately portrayed in all new Department of Conservation information and educational material;

5.1.5 the Te Pumautanga Trustees will be consulted regarding the provision of all new Department of Conservation public information or educational material, and the Department of Conservation will only use the Affiliate Te Arawa Iwi/Hapu's cultural information with the consent of the Te Pumautanga Trustees;

5.1.6 significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;

5.1.7 where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, the Te Pumautanga Trustees will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites; and

5.1.8 any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and the Te Pumautanga Trustees informed as soon as possible to enable the Affiliate Te Arawa

PART 5: WHENUA RAHUI

Iwi/Hapu to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law.

PART 6: DESCRIPTIONS OF SPECIALLY CLASSIFIED RESERVES

(Clauses 11.11.1)

PART 6: DESCRIPTIONS OF SPECIALLY CLASSIFIED RESERVES

Special Classification	Location	Legal Description (All South Auckland Land District – Rotorua District)
Recreation Reserve at Hannah's Bay (including Otauira Swamp)	As shown marked A on SO 364726	22.9970 hectares, more or less, being Section 1 SO 59465
Esplanade Land	As shown marked B on SO 364726	2.0 hectares, approximately, being Part Lot 1 DPS 49938. Subject to survey.
Karamuramu Baths Land	As shown marked C on SO 364726	Part 1 DPS 49938. Subject to survey.
Recreation Reserve adjacent to Waiteti Stream (including Te Kahupapa and Te Hinahina)	As shown on SO 364727	1.5089 hectares, more or less, being Lot 102 DP 23433 and Lot 51 DPS 246
Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach)	As shown on SO 364729	3.7590 hectares, more or less, being Lot 2 DPS 34146

PART 7: SPECIAL CLASSIFICATION

(Clauses 11.11.2)

SPECIAL CLASSIFICATION FOR THE RECREATION RESERVE AT HANNAH'S BAY (INCLUDING OTAUIRA SWAMP)

(Clause 11.11.2)

PART 7: SPECIAL CLASSIFICATION

1 Description of Area

1.1 The area over which the Specially Classified Reserve is created is 22.9970 hectares, more or less, as is more particularly described in Part 6 of this Schedule.

2 Preamble

2.1 Pursuant to section [ ] of the [Settlement Legislation] (clause 11.11.2 of the Deed of Settlement), the Crown acknowledges the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to the Recreation Reserve at Hannah's Bay (including Otauira Swamp), as set out below.

3 Affiliate Te Arawa Iwi/Hapu Values

The Ngati Uenukukopako people are the descendants of Uenukukopako, first born of Tuhourangi, who is one of eight children of Rangitihi, commonly referred to as "Nga Pumanawa e Waru o Te Arawa" or the "Eight Beating Hearts of Te Arawa".

The Hannah's Bay Recreational Reserve is situated upon the Whakapoungakau Pukepoto Block, which runs the length of the Whakapoungakau Range from Pukepoto to Tikitere, and from the range down to the shores of Lake Rotorua.

Uenukukopako inherited the Whakapoungakau Pukepoto Block from his father Tuhourangi and during intervening years descendents inherited a shareholding in these lands. Inheritance came by way of 'ancestral right', 'occupation' or 'muru'.

The Hannah's Bay Recreation Reserve is located on land, and in an area, that is of traditional and historical significance to the people of Ngati Uenukukopako. Prior to 1871 and during the years of tourist development, people were conveyed to and from the area by waka via landing places dotted around Lake Rotorua. Within the Ngati Uenukukopako tribal rohe, where today the Hannah's Bay Recreation Reserve stretches along Waikawau Beach, the traditional otauira tauranga-waka (landing place for canoe) was situated for people visiting Ngati Uenukukopako iwi.

The significance of the Hannah's Bay Recreation Reserve is evident from local history, which tells of Hinemoa and Tutanekai, who lived on Mokoia Island and owned a cultivation along Waikawau Beach. The couple often visited the area with their tutua (servants) Te Whanau-a-Ngahika and Kaokao Paraoa, and used the otauira taurangawaka regularly.

On one occasion after visiting their cultivation, Hinemoa and Tutanekai returned to Mokoia leaving Te Whanau-a-Ngahika and Kaokao Paraoa on the cultivation. Te Whatu, a close relative of Tutanekai, assassinated both. Learning of the incident, Tutanekai gathered a war-party and advanced onto the mainland. Because of the kinship between Tutanekai and Te Whatu, Tutanekai did not take the life of Te Whatu but instead took possession of the land and sub-divided it.

The area around Hannah's Bay Recreation Reserve provided access to the Lake Frontage and local fishing grounds where an abundance of koura provided a staple diet for Ngati Uenukukopako. At the southern end of Waikawau Beach is one of the tribe's favourite fishing grounds where inanga (freshwater whitebait) were caught in great quantities. Fed by natural springs and waterways running down from the Whakapoungakau Pukepoto Block, the Otauira Swamp provided flora and fauna for

tribal sustenance as well as for medicinal and cultural purposes. The Hannah's Bay Recreation Reserve provided harakeke (flax) for weaving, raupo (bullrush) for tukutuku and paru (hot mud) for traditional dying techniques. Mahinga kai (cultivations) were established around this area and the remnants of an old orchard producing peaches, plums and figs are still evident at the reserve today.

4 Protection Principles

4.1 The following Protection Principles are directed at the Rotorua District Council avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values related to, and having regard to the wider local community values associated with, the Recreation Reserve at Hannah's Bay (including Otauira Swamp):

Principle One: Use and Enjoyment

4.1.1 in managing the ongoing use, development and protection of the Recreation Reserve at Hannah's Bay (including Otauira Swamp), the primary objective will be to enhance recreational enjoyment for all communities by making provision for:

(a) unrestricted public access to the reserve subject to the necessary control of vehicles, dogs and horses, and to occasional events that may require an entry fee;

(b) accessibility for people of all levels of mobility;

(c) free boat launching;

(d) access to the lake edge for recreational use;

(e) structures and facilities that enhance family recreation activities and watersports events without detracting from the appearance of the reserve, or vistas of the lake from within the reserve;

(f) separation of incompatible activities to avoid conflict;

(g) opportunities for peace and tranquillity, quiet reflection and time out; and

(h) access to, and sustainable collection and use of natural resources for cultural purposes; and

Principle Two: Hapai Te Whenua (Protection)

4.1.2 the use, development and enjoyment of the Recreation Reserve at Hannah's Bay (including Otauira Swamp) will be managed to avoid significant conflicts with protection of natural and physical resources, features and heritage by recognising and providing for:

(a) the ecological and cultural importance of wetland species and ecosystems, and the ecological linkages that these provide between the land and the water;

(b) the protection and enhancement of traditionally valued mahinga kai and fishing grounds;

(c) the continuing role of Rotorua District Council as administering body of the reserve in terms of the Reserves Act 1977;

(d) the role of Ngati Uenukukopako as kaitiaki on behalf of Maori communities;

(e) the ongoing ability of kaitiaki to institute rahui as a means of respecting the tapu associated with an area, or alternatively as a means of achieving broader conservation objectives enabling the sustainable use of natural resources for cultural purposes;

(f) the opportunity for Ngati Uenukukopako to interpret the history, culture and traditions of the area; and

(g) land use activities and practices that demonstrate concern for the mauri of natural resources.

4.2 The Protection Principles described in 4.1.1 and 4.1.2 are to be given effect through policies incorporated in a management plan for the Recreation Reserve at Hannah's Bay (including Otauira Swamp).

SPECIAL CLASSIFICATION FOR THE RECREATION RESERVE ADJACENT TO WAITETI STREAM (INCLUDING TE KAHUPAPA AND TE HINAHINA)

(Clause 11.11.2)

PART 7: SPECIAL CLASSIFICATION

1 Description of Area

1.1 The area over which the Specially Classified Reserve is created is 1.5089 hectares, more or less, as is more particularly described in Part 6 of this Schedule.

2 Preamble

2.1 Pursuant to section [ ] of the [Settlement Legislation] (clause 11.11.2 of the Deed of Settlement), the Crown acknowledges the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to the Recreation Reserve adjacent to Waiteti Stream (including Te Kahupapa and Te Hinahina), as set out below.

3 Affiliate Te Arawa Iwi/Hapu Values

The traditional and historical association of Ngati Ngararanui and Ngati Tura/Ngati Te Ngakau to the Recreation Reserve adjacent to the Waiteti Stream is through tangata whenua status of the land and life-giving waters. These lands provided access to the traditional food resources within, and a place where the natural environs of the Waiteti Stream's mouth and Lake Rotorua's edge could be enjoyed.

Ngati Ngararanui and Ngati Tura/Ngati Te Ngakau are two autonomous and distinct iwi entities within the greater Ngati Whakaue iwi of Te Arawa. Both have a common internal boundary and have lived peacefully side-by-side. Both also have a common history, and are inextricably linked through whakapapa and intermarriage.

The eponymous ancestor, Ngararanui, was the third eldest son of Whakaue Kaipapa, the first-born being Tawakeheimoa, and the second-born Tuteaiti. Ngati Tura are descended from Tura about whom there are conflicting accounts of his arrival in Aotearoa and association with Ngati Whakaue. Ngati Te Ngakau are descended from Te Ngakau, the great grandson of Hinetai, a child of Te Whatumairangi and grand-daughter of Tutanekai.

Ngararanui has a strong association with part of the Recreation Reserve that includes Te Kahupapa, and Ngati Tura/Ngati Te Ngakau strongly associates with part of the Recreation Reserve that includes Te Hinahina. These areas provided the people with a source of water, a mode of transportation, food resources and a place to practice their traditional customs and usages. Te Kahupapa in particular has a strong spiritual significance for Ngati Ngararanui. A totara log once located on this plot of land was connected to traditional birth rites.

Water quality equated with quality of life. The protection of the natural environment equated with the physical and spiritual health and wellbeing of the people. From the banks of the Waiteti Stream, and from the shores of Lake Rotorua, food gathering expeditions were every day events, much like the present visit to the local dairy.

Ngati Ngararanui and Ngati Tura/Ngati Te Ngakau value the Recreation Reserve adjacent to the Waiteti Stream (including Te Kahupapa and Te Hinahina) as a powerful physical and spiritual connection with their past, a place of special recreational significance for their tamariki-mokopuna to be protected for the equal benefit of the iwi and the public.

PART 7: SPECIAL CLASSIFICATION

4 Protection Principles

4.1 The following Protection Principles are directed at the Rotorua District Council avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values related to, and having regard to the wider local community values associated with, the Recreation Reserve adjacent to the Waiteti Stream (including Te Kahupapa and Te Hinahina):

Principle One: Use and Enjoyment

4.1.1 in managing the ongoing use, development and protection of the Recreation Reserve adjacent to the Waiteti Stream (including Te Kahupapa and Te Hinahina), the primary objective will be to enhance recreational enjoyment for all communities by making provision for:

(a) unrestricted public access to the reserve subject to the necessary control of vehicles, dogs and horses, and to occasional events that may require an entry fee;

(b) accessibility for people of all levels of mobility;

(c) free boat launching;

(d) access to the lake edge for recreational use;

(e) structures and facilities that enhance family recreation activities and watersports events without detracting from the appearance of the reserve, or vistas of the lake from within the reserve;

(f) separation of incompatible activities to avoid conflict;

(g) opportunities for peace and tranquillity, quiet reflection and time out; and

(h) access to, and sustainable collection and use of natural resources for cultural purposes; and

Principle Two: Hapai Te Whenua (Protection)

4.1.2 the use, development and enjoyment of the Recreation Reserve adjacent to Waiteti Stream (including Te Kahupapa and Te Hinahina) will be managed to avoid significant conflicts with protection of natural and physical resources, features and heritage by recognising and providing for:

(a) the continuing role of Rotorua District Council as administering body of the reserve in terms of the Reserves Act 1977;

(b) the role of Ngati Ngararanui and Ngati Tura-Ngati Te Ngakau as kaitiaki on behalf of Maori communities;

(c) the ongoing ability of kaitiakitanga to institute rahui as a means of respecting the tapu associated with an area, or alternatively as a means of achieving broader conservation objectives enabling the sustainable use of natural resources for cultural purposes;

(d) the opportunity for Ngati Ngararanui and Ngati Tura-Ngati Te Ngakau to interpret the history, culture and traditions of the area;

(e) land use activities and practices that demonstrate concern for the mauri of natural resources; and

(f) protection and enhancement of the natural character and aesthetic beauty of the reserve.

4.2 The Protection Principles described in 4.1.1 and 4.1.2 are to be given effect through policies incorporated in a management plan for the Recreation Reserve adjacent to the Waiteti Stream (including Te Kahupapa and Te Hinahina).

SPECIAL CLASSIFICATION FOR THE RECREATION RESERVE ADJACENT TO LAKE OKAREKA (KNOWN AS BOYES BEACH)

(Clause 11.11.2)

PART 7: SPECIAL CLASSIFICATION

1 Description of Area

1.1 The area over which the Specially Classified Reserve is created is 3.7590 hectares, more or less, as is more particularly described in Part 6 of this Schedule.

2 Preamble

2.1 Pursuant to section [ ] of the [Settlement Legislation] (clause 11.11.2 of the Deed of Settlement), the Crown acknowledges the statement by the Affiliate Te Arawa Iwi/Hapu of their cultural, spiritual, historic and/or traditional values relating to the Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach), as set out below.

3 Affiliate Te Arawa Iwi/Hapu Values

Okareka was a much sought-after location, given the pristine beauty and serenity of the place, the water quality and wealth of resources. The plentiful supply of koura (freshwater crayfish) and kakahi (freshwater mussels) in particular were legendary, not to mention the resources, both food and materials alike, from the nearby native forest. In this tranquil place of plenty settled the hapu of Ngati Uruhina and others of their Tuhourangi relatives.

According to the prominent tribal historian and elder of his time, Mita Taupopoki, Okareka and the open ground surrounding the lake was a popular "fern ground" where the much sought-after aruhe was harvested in quantity. The area was then known as Te Akakahia. There were cultivations on the east end of the lake at Te Whakaki, a pa known as Te Kaharoa on the north shore, and another known as Taumaihi on the south shore, as well as the settlement of Lake Okareka itself.

The relationship of Tuhourangi to the Recreation Reserve adjacent to Lake Okareka (also known as Boyes Beach), and to Lake Okareka as a whole, is a relationship associated with kainga tuturu, with the history of the people, and with te waahi i tapahi ai te pito. It is that special relationship which only exists between tamaiti and whaea, mokopuna and kuia, and primarily with the physical and spiritual health and wellbeing of the iwi under whose mantle of protection the very existence all the many hapu depended upon, Tuhourangi.

Tuhourangi is comprised of many hapu, including Ngati Wahiao and has strong associations with the iconic lakes of Tarawera, Okareka, Tikitapu, Rotokakahi, and Rotomahana.

The famous ancestor, Tuhourangi, was the elevated youngest son of Rangitihi, father of Uenukukopako, grandfather of Whakaue Kaipapa, and great grandfather of Tutanekai and Hinemoa.

The hapu of Tuhourangi include:

Ngati Umukaria	Ngati Tutea	Ngati Tama
Ngati Wahiao	Ngati Te Apiti	Ngati Hinemihi
Ngati Puta	Ngati Te Amo	Ngati Uruhina
Ngati Te Ipu	Ngati Huarere	Ngati Tuwhanoa
Ngati Tawake	Ngati Umararoa	Ngati Te Anumatao

PART 7: SPECIAL CLASSIFICATION

Ngati Waihakari Ngati Tuameke Ngati Tukiterangi
Ngati Wharetokotoko

Many kainga were spread throughout the ancestral lands of Tuhourangi. Their history is the history of the Rotorua Lakes District.

The values arising from the traditional and historical association are values consistent with protection of the history, culture and tradition, water quality, natural resources and environment, and aesthetic beauty of Lake Okareka.

4 Protection Principles

4.1 The following Protection Principles are directed at the Rotorua District Council avoiding harm to, or the diminishing of, the Affiliate Te Arawa Iwi/Hapu Values related to, and having regard to the wider local community values associated with, the Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach):

Principle One: Use and Enjoyment

4.1.1 in managing the ongoing use, development and protection of the Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach), the primary objective will be to enhance recreational enjoyment for all communities by making provision for:

(a) unrestricted public access to the reserve subject to the necessary control of vehicles, dogs and horses, and to occasional events that may require an entry fee;

(b) accessibility for people of all levels of mobility;

(c) access to the lake edge for recreational use;

(d) structures and facilities that enhance family recreation activities and watersports events without detracting from the appearance of the reserve, or vistas of the lake from within the reserve;

(e) separation of incompatible activities to avoid conflict;

(f) opportunities for peace and tranquillity, quiet reflection and time out; and

(g) access to, and sustainable collection and use of natural resources for cultural purposes; and

Principle Two: Hapai Te Whenua (Protection)

4.1.2 the use, development and enjoyment of the Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach) will be managed to avoid significant conflicts with protection of natural and physical resources, features and heritage by recognising and providing for:

(a) the ecological and cultural importance of wetland species and ecosystems, and the ecological linkages that these provide between the land and the water;

(b) the continuing role of Rotorua District Council as administering body of the reserve in terms of the Reserves Act 1977;

(c) the role of Tuhourangi Ngati Wahiao as kaitiaki on behalf of Maori communities;

(d) the ongoing ability of kaitiakitanga to institute rahui as a means of respecting the tapu associated with an area, or alternatively as a means of achieving broader conservation objectives enabling the sustainable use of natural resources for cultural purposes;

(e) the opportunity for Tuhourangi Ngati Wahiao to interpret the history, culture and traditions of the area;

(f) land use activities and practices that demonstrate concern for the mauri of natural resources; and

(g) protection and enhancement of the natural character and aesthetic beauty of the reserve;

4.2 The Protection Principles described in 4.1.1 and 4.1.2 are to be given effect through policies incorporated in a management plan for the Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach).

PART 8: NEW PLACE NAMES

(Clause 11.20)

PART 8: NEW PLACE NAMES

Existing Name	New Name	Location - Map and Grid Reference	Feature Type
Whakapoungakau	Rangitoto Peak	Infomap 260-U16 Grid reference 079 398	Hill
	Whakapoungakau Range	From: Infomap 260-U16 Grid reference 057329 North-east to: Infomap 260 U15 Grid reference 092408	Range

SCHEDULE 4

COMMERCIAL REDRESS – LICENSED LAND

PART 1: DESCRIPTION OF LICENSED LAND

(Clause 12)

PART 1: DESCRIPTION OF LICENSED LAND

Name	Legal description	Encumbrance	Document
Rotoehu Forest / Part West Block	1689 hectares, approximately, being Lot 1 DPS 45081, Lot 1 DPS 53628, Pt Lot 1 DPS 57554, Lot 1 DPS 57547, Lots 1, 2 & Pt Lot 3 DPS 53632, Lot 2 DPS 68401. *Gazette* Notice S642166, *Gazettes* 1937 page 1711, GN1938 page 1601, 1944 page 359, 1938 page 1687, Subject to survey. (All South Auckland Land District)	Subject to Crown forestry licence	SA58A/550*
		Subject to public access easement over area 'A' on DPS 57547	SA58A/650
		Subject to protective covenant - archaeological	SA58A/600
		Subject to protective covenant (conservation) over area 'A' on DPS 45081	SA58A/600
		Subject to protective covenant - forest research	SA58A/600
		Subject to a right of way in favour of Conservation land being Part Closed Road SO 29262 over area 'A' on DPS 57547 (Pukehangi Road)	Clause 12.9
		Together with an appurtenant right of way in favour of Lot 1 DPS 57551, Lot 1 DPS 57547, Lot 1 DPS 57548 and Lot 1 DPS 57545 over area 'J' on DPS 57551 (Erima Road, if required)	Clause 12.11
		Together with an appurtenant right of way in favour of Lot 1 DPS 57551, Lot 1 DPS 57547, Lot 1 DPS 57548 and Lot 1 DPS 57545 over area 'K' on DPS 57551 (Erima Road, if required)	Clause 12.11
		Together with an appurtenant right of way in favour of Lot 1 DPS 57551, Lot 1 DPS 57547, Lot 1 DPS 57548 and Lot 1 DPS 57545 over area 'A' on DPS 68064 (Wairoa Road, if required)	Clause 12.11

PART 1: DESCRIPTION OF LICENSED LAND

Name	Legal description	Encumbrance	Document
		Together with an appurtenant right of way in favour of Lot 1 DPS 57551, Lot 1 DPS 57547, Lot 1 DPS 57548 and Lot 1 DPS 57545 over area 'A' on DPS 64819 (Hannons Road, if required)	Clause 12.11
		Together with an appurtenant right of way in favour of Lot 1 DPS 57551, Lot 1 DPS 57547, Lot 1 DPS 57548 and Lot 1 DPS 57545 over area 'A' on DPS 68055 (Pukehange and Kohekohe Roads, if required)	Clause 12.11
		Together with an appurtenant right of way in favour of Lot 1 DPS 57554 over area 'A' on DPS 66965 (if required)	
		Subject to a right of way in favour of Lot 1 DPS 57550, Part Lot 1 DPS 57551 and Part Lot 1 DPS 57645 as shown on SO 306594 over area 'A' on DPS 57547	

*NOTE: Document references include computer interest registers in the South Auckland Land District (eg SA58A/550)

PART 2: TERMS OF TRANSFER – LICENSED LAND

(Clause 12.1)

PART 2: TERMS OF TRANSFER – LICENSED LAND

1 TRANSFER SUBJECT TO RELEVANT ENCUMBRANCES

1.1 The Crown must transfer the fee simple estate in the Licensed Land to the Te Pumautanga Trustees on the terms set out in Part 12 of this Deed, and in this Part 2 of Schedule 4, subject to and, where applicable, with the benefit of the Relevant Encumbrances.

1.2 The Crown and the Te Pumautanga Trustees may agree in writing to vary or add to the Relevant Encumbrances affecting the Licensed Land.

1.3 The Te Pumautanga Trustees must not unreasonably withhold or delay its consent to varying a Relevant Encumbrance or granting a new Encumbrance affecting the Licensed Land.

1.4 The Licensed Land will be transferred:

1.4.1 as Redress; and

1.4.2 without charge to, or consideration to be provided or paid by, the Te Pumautanga Trustees or any other person.

1.5 The Crown will pay the survey and registration costs required to transfer the fee simple estate in the Licensed Land to the Te Pumautanga Trustees.

2 OBLIGATIONS PRIOR TO SETTLEMENT DATE

2.1 Between the Date of this Deed and the Settlement Date the Crown must consult with, and obtain the prior written consent of, the Te Pumautanga Trustees (which will not be unreasonably withheld or delayed) before:

2.1.1 agreeing to any material variation in the terms of any Relevant Encumbrance affecting the Licensed Land; or

2.1.2 procuring any consent, or providing any waiver, under the Resource Management Act, or other legislation, that materially affects the Licensed Land.

2.2 The Crown must, if it carries out works, or gives specific authority in writing for works to be carried out, on the Licensed Land, between the Date of this Deed and the Settlement Date, for which the Crown must by law obtain a building consent or permit, comply with any obligations imposed on the Crown under the Building Act in respect of such works.

2.3 The Crown must pay all charges for electric power, gas, water, and other utilities that the Crown owes as owner of the Licensed Land until the Settlement Date except where those charges are payable by any tenant or occupant directly to the relevant supplier.

2.4 Subject to the terms of any Relevant Encumbrance affecting the Licensed Land, the Crown must use reasonable endeavours to obtain permission for the Te

Pumautanga Trustees (or a person authorised by the Te Pumautanga Trustees), upon reasonable notice, to enter the Licensed Land on one occasion before the Settlement Date to examine it.

3 POSSESSION AND SETTLEMENT

3.1 On the Settlement Date possession must be given and taken of the Licensed Land subject to the Relevant Encumbrances.

3.2 Subject to paragraph 9, on the Settlement Date the Crown must hand to the Te Pumautanga Trustees:

3.2.1 a registrable memorandum of transfer for the Licensed Land;

3.2.2 all other instruments in registrable form which may be required by this Part 2, including those referred to in paragraph 3.3; and

3.2.3 all contracts and other documents which create unregistered rights, interests and obligations affecting the registered proprietor's interest (but not proclamations, *Gazette* notices and similar public notices) and which will continue following Settlement.

3.3 The Te Pumautanga Trustees must, within 5 Business Days of the Settlement Date or, if paragraph 9 applies, within the timeframe set out in paragraph 9, lodge the following documents for registration in the following order in relation to the Licensed Land:

3.3.1 written applications for computer freehold registers in the name of the Crown for the Licensed Land;

3.3.2 the transfer to the Te Pumautanga Trustees; and

3.3.3 the easements to be granted under clauses 12.9-12.11.

3.4 All outgoings and incomings (including rates, excluding insurance premiums) in relation to the Licensed Land must be apportioned at the Settlement Date.

3.5 The Crown must supply a statement of apportionments to the Te Pumautanga Trustees before the Settlement Date in respect of each Parcel of Licensed Land. On the Settlement Date:

3.5.1 the Te Pumautanga Trustees must pay to the Crown the amount by which the outgoings (except for insurance premiums) for the Licensed Land pre-paid by the Crown in respect of a period after the Settlement Date exceed the incomings received by the Crown for that period; or

3.5.2 the Crown must pay to the Te Pumautanga Trustees the amount by which the incomings received by the Crown in respect of a period after the Settlement Date exceed the outgoings (except for insurance premiums) for the Licensed Land pre-paid by the Crown for that period.

3.6 The Crown must make available to the Te Pumautanga Trustees on the Settlement Date any keys to gates to the Licensed Land that are in the possession of the Crown at the Settlement Date.

3.7 The Licensed Land must be transferred inclusive of all fixtures and fittings that are owned by the Crown and are situated on the Licensed Land at the Date of this Deed and those fixtures and fittings will be free from any charge.

3.8 No chattels situated on or about the Licensed Land will be included in its transfer.

4 RISK AND INSURANCE

4.1 The Licensed Land will remain at the sole risk of the Crown until the Settlement Date and, from the Settlement Date, it will remain at the sole risk of the Te Pumautanga Trustees.

4.2 In the event that, prior to the Settlement Date, the Licensed Land is destroyed or damaged and such destruction or damage has not been made good by the Settlement Date, then the following provisions apply:

4.2.1 the Te Pumautanga Trustees must complete the transfer of the Licensed Land at its Redress Value on the condition that the Crown pay to the Te Pumautanga Trustees (as alternative redress) an amount equal to the amount (if any) by which the Redress Value for the Licensed Land is more than the value of the Licensed Land as at the Settlement Date as a result of the destruction or damage; and

4.2.2 either Party may give the other Party notice in writing requiring that any dispute as to the application of this paragraph 4.2 be determined by an arbitrator to be appointed by the president or vice-president of the law society for the district where the Licensed Land is located, and the Party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act.

4.3 If a dispute relating to a claim by the Te Pumautanga Trustees for a diminution in value of the Licensed Land under paragraph 4.2.1 is not determined by the Settlement Date, then:

4.3.1 settlement shall take place on the Settlement Date in accordance with this Part 2 as if there had been no destruction or damage; and

4.3.2 upon the determination of the dispute the Crown shall pay to the Te Pumautanga Trustees within 7 Business Days from such determination a sum equal to the diminution in value of the Licensed Land (as alternative redress) and interest from Settlement Date to the date of that payment at the rate set out in clause 15.2 of this Deed.

4.4 The Te Pumautanga Trustees will not be required to take over from the Crown any insurance policies in relation to the Licensed Land.

5 REDRESS VALUE

5.1 For the purposes of establishing the amount of any damages arising out of a breach by the Crown of any of its obligations under this Part 2 in respect of the Licensed Land, the Redress Value for the Licensed Land will be treated as its value immediately before the relevant event or breach.

5.2 To avoid doubt the Parties acknowledge that the Redress Value of the Licensed Land will not be affected by:

5.2.1 any addition or variation to the Relevant Encumbrances agreed in writing by the Crown and the Te Pumautanga Trustees under paragraph 1.2; or

5.2.2 any variation to a Relevant Encumbrance agreed by the Crown and the Te Pumautanga Trustees under paragraph 2.1.1.

6 BOUNDARIES, TITLE, ETC

6.1 The Crown will not be bound to point out the boundaries of the Licensed Land.

6.2 If the Licensed Land is subject only to Relevant Encumbrances, the Te Pumautanga Trustees:

6.2.1 will be treated as having accepted the Crown's title to the Licensed Land as at the Date of this Deed; and

6.2.2 may not make any objections to, or requisitions on, it.

6.3 Except as otherwise expressly set out in this Part 2, no error, omission or misdescription of the Licensed Land or its title shall annul the transfer of the Licensed Land.

6.4 The Crown will not be liable to pay for, or contribute towards, the expense of erection or maintenance of any fence between the Licensed Land and any contiguous land of the Crown (unless it is the Crown that requires the fence in which case the Crown shall meet all the costs of erecting the fence); and

6.4.1 this clause will not continue for the benefit of any subsequent purchaser of the contiguous land; and

6.4.2 the Crown may require the inclusion of a fencing covenant to this effect in any transfer of the Licensed Land.

PART 2: TERMS OF TRANSFER – LICENSED LAND

7 OBLIGATIONS AFTER SETTLEMENT

7.1 If the Crown receives any notice or demand in relation to the Licensed Land from the Crown, any territorial authority or any tenant after the Settlement Date, the Crown will, if not paying or complying with such notice or demand, promptly deliver it to the Te Pumautanga Trustees or the Te Pumautanga Trustees' solicitor and, if the Crown fails to do so, the Crown will be liable for any penalty incurred.

7.2 Immediately after the Settlement Date, the Crown will give notice of the transfer of the Licensed Land to the territorial authority having jurisdiction in respect of that property.

8 DISCLOSURE INFORMATION

8.1 The Crown warrants to the Te Pumautanga Trustees that, at the Date of this Deed, the Disclosure Information in relation to the Licensed Land is all the material information that relates to the Licensed Land, of which the Land Holding Agency is aware, the Land Holding Agency having inspected its records but not having undertaken a physical inspection of the Licensed Land or made enquiries beyond the records of the Land Holding Agency.

8.2 Except as provided in paragraph 8.1, the Crown gives no representation or warranty (whether express or implied) nor accepts any responsibility with respect to:

8.2.1 the Licensed Land including as to its ownership, management, occupation, physical condition, use or compliance with:

(a) any legislation including by-laws; or

(b) any enforcement or other notice, requisition or proceedings issued by any authority; or

(c) the completeness or accuracy of the Disclosure Information in relation to the Licensed Land.

8.3 The Affiliate Te Arawa Iwi/Hapu acknowledge that (although the Crown is not giving any representation or warranty in relation to the Licensed Land except as provided in paragraph 8.1) the Affiliate Te Arawa Iwi/Hapu had the opportunity prior to the Date of this Deed (in addition to being able to examine the Disclosure Information) to:

8.3.1 inspect the Licensed Land; and

8.3.2 determine its state and condition.

PART 2: TERMS OF TRANSFER – LICENSED LAND

9 DELAYED TRANSFER OF LEGAL TITLE

9.1 If the Licensed Land is not all of the land contained in a computer freehold register or registers, the Crown covenants for the benefit of the Te Pumautanga Trustees that it will:

9.1.1 arrange for the creation of a computer freehold register for all the Licensed Land; and

9.1.2 transfer title to all the Licensed Land, as soon as is reasonably practicable, but no later than five years after the Settlement Date.

9.2 The covenant given by the Crown under paragraph 9.1 shall have effect and be enforceable, despite being positive in effect and there being no dominant tenement.

9.3 If paragraph 9.1 applies then, for the period from the Settlement Date until the date that the Crown transfers the title to the Licensed Land to the Te Pumautanga Trustees:

9.3.1 the Te Pumautanga Trustees will be the beneficial owner of that property; and

9.3.2 all the other obligations and rights to be performed or arising on the Settlement Date will still be performed and arise as if full legal title had passed to the Te Pumautanga Trustees on the Settlement Date.

10 MISCELLANEOUS

Further Assurances

10.1 The Crown and the Te Pumautanga Trustees must, at the request of the other, sign and deliver any further documents or assurances and do all acts and things that the other may reasonably require to give full force and effect to clauses 12.1 and 12.2 of this Deed and this Part 2.

Non merger

10.2 On transfer of the Licensed Land to the Te Pumautanga Trustees, the provisions of this Part 2 will not merge and, to the extent any provision has not been fulfilled, will remain in force.

PART 3: EASEMENTS

(Clauses 12.9-12.11)

PART 3: EASEMENT – TYPE A

(Clause 12.9)

PART 3: EASEMENT – TYPE A

1 DEFINITIONS AND CONSTRUCTION

1.1 **Definitions**:

In this Memorandum of Transfer, unless the context otherwise requires:

["**Crown Forestry Licence**" means a Crown forestry licence granted under section 14 of the Crown Forest Assets Act 1989;

"**Crown Forestry Licensee**" means the Licensee under a Crown Forestry Licence over the Transferor's Land and includes the successors and assigns of the Crown Forestry Licensee;]

[*These definitions will be omitted if there is no Crown Forestry Licence at the time the easement is granted*]

"**The Sovereign** in right of New Zealand acting by and through the Minister of Conservation" includes the servants, tenants, agents, workmen, licensees and invitees of the Minister but does not include members of the general public.

1.2 **Construction**

In the construction of this Transfer unless the context otherwise requires:

1.2.1 the headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Transfer;

1.2.2 references to Clauses and the Schedule are to the clauses and the schedule of this Transfer;

1.2.3 references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw as from time to time amended and includes substituted provisions that substantially correspond to those referred to; and

1.2.4 the singular includes the plural and vice versa, and words importing any gender include the other genders.

2 GRANT OF ACCESS RIGHTS

2.1 The Transferor hereby grants to the Transferee a right of way over that part of the Transferor's Land shown marked [insert details] together with the rights and powers set out in Schedule Four of the Land Transfer Regulations 2002 except to the extent that they are modified, varied or negated by the terms and conditions set out in this Transfer to the intent that the easement shall be forever appurtenant to the Transferee's Land as set out in the First Schedule.

2.2 In consideration of the Transferor agreeing to enter into this Transfer the Transferee shall duly observe the obligations imposed on it under this Transfer.

3 OBLIGATIONS OF THE TRANSFEREE

The rights and powers conferred under Clause 2 are granted subject to the following conditions and obligations:

3.1 The Transferee shall when passing or repassing over the Transferor's Land:

3.1.1 wherever possible, remain on the roads and tracks constructed on the Transferor's Land and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads;

3.1.2 not use or cause to be used either any tracked vehicle or any other class of vehicle which has been reasonably prohibited by the Transferor;

3.1.3 take all due care when taking any welding equipment over the Transferor's Land and shall not use or operate or cause to be used or operated any welding equipment on the Transferor's Land without the prior written permission of the Transferor;

3.1.4 immediately after passing through any gates on the Transferor's Land, close such of them as were closed and lock such of them as were locked immediately before such passing through;

3.1.5 take all reasonable and proper precautions for guarding against any danger (including, but without limitation, fire, physical damage, disease or the spread of noxious weeds and pests) either on the Transferor's Land, on any surrounding or adjoining land, forest or water, or to any forest produce on the Transferor's Land, and in particular shall (but without limiting the general obligation to take reasonable and proper precautions pursuant to this Clause 3.1.5):

a) comply strictly with all reasonable conditions that may be imposed from time to time by the Transferor or other lawful authority; and

b) not use or operate any vehicle or machinery unless it is provided with safe and sufficient means of preventing the escape of sparks or flames;

3.2 Subject to Clauses 3.7 and 3.8, the Transferee shall, at its cost, repair to the satisfaction of the Transferor, any of the Transferor's roads, tracks, fences, gates, drains, buildings or other structures which are damaged by the Transferee;

3.3 The Transferee shall annually pay to the Transferor a proportion of the cost of maintenance of any of the roads or tracks on the Transferor's Land commensurate with the use made by the Transferee of such roads or tracks **PROVIDED THAT** the Transferee shall not be liable to contribute towards the cost of repairing any damage to a road or track which was the sole result of the Transferor's negligent use of that track or road;

3.4 The Transferee shall not exhibit any notice or sign on the Transferor's Land without the prior written consent of the Transferor as to the style, content, wording, size and location of the notice or sign (which consent shall not be unreasonably or arbitrarily withheld) provided that this Clause 3.4 shall not prevent the Transferee from displaying temporary operational signs necessary for the health and safety of road users. Such temporary operational signs are to be consistent with the standards set by the Land Transport Safety Authority and must be removed when the operation has been completed;

3.5 The Transferee will ensure, at all times, in the exercise of the rights set out in this Transfer that its agents, employees or contractors will not obstruct or hamper the Transferor or its agents, employees and contractors, in its or their normal or reasonable use of the Transferor's Land;

3.6 Subject to Clauses 3.7 and 3.8, in the event that the Transferor's roads, tracks and structures are not of sufficient standard for the use to be made of them by the Transferee, then any necessary improvements and maintenance shall be at the sole cost of the Transferee;

3.7 When carrying out any repairs, maintenance or improvements to a road under clauses 3.2 and 3.6, the Transferee shall not:

3.7.1 widen the road; or

3.7.2 alter the location of the road; or

3.7.3 alter the way in which the run-off from the road is disposed of; or

3.7.4 change the nature of the road surface; or

3.7.5 park or store equipment or material on the Transferor's Land,

without the Transferor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.8 The Transferee shall not erect any structures on the Transferor's Land or make any additions or alterations to existing structures or replace such structures unless the

Transferee has obtained the Transferor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.9 The Transferee shall not at any time, except with the prior written approval of the Transferor, carry out any earthworks or cut down, pull out, dig up, use, burn, remove, or otherwise dispose of any forest produce on the Transferor's Land nor shall the Transferee authorise such cutting down, pulling out, digging up, use, burning, removal or other disposal of any forest produce without the prior written approval of the Transferor;

3.10 The Transferee shall not, without the prior written approval of the Transferor, carry or discharge any firearm, missile or other offensive weapon, or kill or trap any animals or birds, over or on the Transferor's Land, nor shall the Transferee authorise such carrying, discharging, killing, or trapping without the prior written approval of the Transferor;

3.11 The Transferee shall comply at all times with all statutes and regulations and obtain all approvals, consents and authorisations as are necessary for the Transferee to conduct the activities permitted by this Transfer.

4 TRANSFEROR'S RIGHTS

The Transferor reserves the right at any time or times hereafter to erect, renew, and maintain gates together with all necessary fittings and fixtures across any road or track on the Transferor's Land, but so that such gates when opened shall leave a clear space of a width not less than five (5) metres for passage **PROVIDED THAT** the Transferor shall furnish at the expense of the Transferee, keys to any locks fitted to any of the said gates.

5 COSTS

The Transferee shall be liable to the Transferor for any reasonable costs or expenses, including reasonable legal costs, incurred by the Transferor arising from or incidental to the preparation, registration and enforcement of any provision in this Transfer.

6 LICENCE [*this clause will be omitted if there is no crown forestry licence at the time this easement is granted*]

The Transferor and the Transferee record that at the time that the easement is granted there is a Crown Forestry Licence in respect of the Transferor's Land, and this Transfer is entered into subject to, and does not override the terms of, the Crown Forestry Licence as at the date of this Transfer.

PART 3: EASEMENT – TYPE A

7 DELEGATION

All rights, benefits, and obligations of a party to this Transfer arising under this Transfer may be exercised by a person duly appointed by that party **PROVIDED THAT** the exercise of any such rights, benefits, or obligations by that duly appointed person shall not limit the liability of either party in the performance or observance of the provisions of this Transfer.

8 NOTICES

8.1 Any notices to be given by one party under this Transfer to the other shall be in writing and shall be forwarded by either delivering or posting it to the addressee at the appropriate address set out below or to such address notified by the addressee in writing to the other party at:

8.1.1 The Transferor's address as set out in paragraph 1 of the First Schedule; and

8.1.2 The Transferee's address as set out in paragraph 2 of the First Schedule.

8.2 Any notice posted shall be deemed to be served three (3) working days after the date of posting.

9 SEVERABILITY

If any part of this Transfer is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Transfer which shall remain in full force.

PART 3: EASEMENT – TYPE A

Continuation of "Attestation"

Signed for and on behalf of [**TE PUMAUTANGA TRUSTEES**] as Transferor by:

_____

In the presence of:

_____

Name:
Occupation:
Address:

Signed for and on behalf of **THE SOVEREIGN** as Transferee by

_____

Conservator for the Bay of Plenty Conservancy acting for the Minister of Conservation under delegated authority pursuant to sections 57 and 58 of the Conservation Act 1987 and section 41 of the State Sector Act 1988

In the presence of:

_____

Name:
Occupation:
Address:

PART 3: EASEMENT – TYPE A

SCHEDULE

1 **TRANSFEROR'S ADDRESS:**

[Te Pumautanga Trustees]

[Enter Address]

2 **TRANSFEREE'S ADDRESS:**

Department of Conservation
Bay of Plenty Conservancy
PO Box 1446
ROTORUA

PART 3: EASEMENT – TYPE B

(Clause 12.10)

PART 3: EASEMENT – TYPE B

1 DEFINITIONS AND CONSTRUCTION

1.1 **Definitions**:

In this Memorandum of Transfer, unless the context otherwise requires:

["**Crown Forestry Licence**" means a Crown forestry licence granted under section 14 of the Crown Forest Assets Act 1989;

"**Crown Forestry Licensee**" means the Licensee under a Crown Forestry Licence over the Transferor's Land and includes the successors and assigns of the Crown Forestry Licensee;]

[*These definitions will be omitted if there is no Crown Forestry Licence at the time the easement is granted*]

"**The Sovereign** in right of New Zealand acting by and through the Minister of Conservation" includes the servants, tenants, agents, workmen, licensees and invitees of the Minister but does not include members of the general public.

1.2 **Construction**

In the construction of this Transfer unless the context otherwise requires:

1.2.1 the headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Transfer;

1.2.2 references to Clauses and the Schedule are to the clauses and the schedule of this Transfer;

1.2.3 references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw as from time to time amended and includes substituted provisions that substantially correspond to those referred to; and

1.2.4 the singular includes the plural and vice versa, and words importing any gender include the other genders.

2 GRANT OF ACCESS RIGHTS

2.1 The Transferor hereby grants to the Transferee a right of way in gross over that part of the Transferor's Land shown marked [insert details] together with the rights and powers set out in Schedule Four of the Land Transfer Regulations 2002 except to the extent that they are modified, varied or negated by the terms and conditions set out in this Transfer.

2.2 In consideration of the Transferor agreeing to enter into this Transfer the Transferee shall duly observe the obligations imposed on it under this Transfer.

3 OBLIGATIONS OF THE TRANSFEREE

The rights and powers conferred under Clause 2 are granted subject to the following conditions and obligations:

3.1 The Transferee shall when passing or repassing over the Transferor's Land:

3.1.1 wherever possible, remain on the roads and tracks constructed on the Transferor's Land and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads;

3.1.2 not use or cause to be used either any tracked vehicle or any other class of vehicle which has been reasonably prohibited by the Transferor;

3.1.3 take all due care when taking any welding equipment over the Transferor's Land and shall not use or operate or cause to be used or operated any welding equipment on the Transferor's Land without the prior written permission of the Transferor;

3.1.4 immediately after passing through any gates on the Transferor's Land, close such of them as were closed and lock such of them as were locked immediately before such passing through;

3.1.5 take all reasonable and proper precautions for guarding against any danger (including, but without limitation, fire, physical damage, disease or the spread of noxious weeds and pests) either on the Transferor's Land, on any surrounding or adjoining land, forest or water, or to any forest produce on the Transferor's Land, and in particular shall (but without limiting the general obligation to take reasonable and proper precautions pursuant to this Clause 3.1.5):

(a) comply strictly with all reasonable conditions that may be imposed from time to time by the Transferor or other lawful authority; and

(b) not use or operate any vehicle or machinery unless it is provided with safe and sufficient means of preventing the escape of sparks or flames;

3.2 Subject to Clauses 3.7 and 3.8, the Transferee shall, at its cost, repair to the satisfaction of the Transferor, any of the Transferor's roads, tracks, fences, gates, drains, buildings or other structures which are damaged by the Transferee;

PART 3: EASEMENT – TYPE B

3.3 The Transferee shall annually pay to the Transferor a proportion of the cost of maintenance of any of the roads or tracks on the Transferor's Land commensurate with the use made by the Transferee of such roads or tracks **PROVIDED THAT** the Transferee shall not be liable to contribute towards the cost of repairing any damage to a road or track which was the sole result of the Transferor's negligent use of that track or road;

3.4 The Transferee shall not exhibit any notice or sign on the Transferor's Land without the prior written consent of the Transferor as to the style, content, wording, size and location of the notice or sign (which consent shall not be unreasonably or arbitrarily withheld) provided that this Clause 3.4 shall not prevent the Transferee from displaying temporary operational signs necessary for the health and safety of road users. Such temporary operational signs are to be consistent with the standards set by the Land Transport Safety Authority and must be removed when the operation has been completed;

3.5 The Transferee will ensure, at all times, in the exercise of the rights set out in this Transfer that its agents, employees or contractors will not obstruct or hamper the Transferor or its agents, employees and contractors, in its or their normal or reasonable use of the Transferor's Land;

3.6 Subject to Clauses 3.7 and 3.8, in the event that the Transferor's roads, tracks and structures are not of sufficient standard for the use to be made of them by the Transferee, then any necessary improvements and maintenance shall be at the sole cost of the Transferee;

3.7 When carrying out any repairs, maintenance or improvements to a road under clauses 3.2 and 3.6, the Transferee shall not:

3.7.1 widen the road; or

3.7.2 alter the location of the road; or

3.7.3 alter the way in which the run-off from the road is disposed of; or

3.7.4 change the nature of the road surface; or

3.7.5 park or store equipment or material on the Transferor's Land,

without the Transferor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.8 The Transferee shall not erect any structures on the Transferor's Land or make any additions or alterations to existing structures or replace such structures unless the Transferee has obtained the Transferor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.9 The Transferee shall not at any time, except with the prior written approval of the Transferor, carry out any earthworks or cut down, pull out, dig up, use, burn, remove, or otherwise dispose of any forest produce on the Transferor's Land nor shall the Transferee authorise such cutting down, pulling out, digging up, use, burning, removal or other disposal of any forest produce without the prior written approval of the Transferor;

3.10 The Transferee shall not, without the prior written approval of the Transferor, carry or discharge any firearm, missile or other offensive weapon, or kill or trap any animals or birds, over or on the Transferor's Land, nor shall the Transferee authorise such carrying, discharging, killing, or trapping without the prior written approval of the Transferor;

3.11 The Transferee shall comply at all times with all statutes and regulations and obtain all approvals, consents and authorisations as are necessary for the Transferee to conduct the activities permitted by this Transfer.

4 TRANSFEROR'S RIGHTS

The Transferor reserves the right at any time or times hereafter to erect, renew, and maintain gates together with all necessary fittings and fixtures across any road or track on the Transferor's Land, but so that such gates when opened shall leave a clear space of a width not less than five (5) metres for passage **PROVIDED THAT** the Transferor shall furnish at the expense of the Transferee, keys to any locks fitted to any of the said gates.

5 COSTS

The Transferee shall be liable to the Transferor for any reasonable costs or expenses, including reasonable legal costs, incurred by the Transferor arising from or incidental to the preparation, registration and enforcement of any provision in this Transfer.

6 LICENCE [*this clause will be omitted if there is no crown forestry licence at the time this easement is granted*]

The Transferor and the Transferee record that at the time that the easement is granted there is a Crown Forestry Licence in respect of the Transferor's Land and this Transfer is entered into subject to, and does not override the terms of, the Crown Forestry Licence as at the date of this Transfer.

PART 3: EASEMENT – TYPE B

7 ASSIGNMENT

7.1 The Transferee may assign its rights and obligations under this Transfer to any one of the following who acquires land for an estate or interest in land from the Transferee and requires rights under this Transfer as the means of providing reasonable access to that land:

(a) Any Crown entity as defined in section 2(1) of the Public Finance Act 1989;

(b) Any State enterprise as defined in section 2 of the State-Owned Enterprises Act 1986;

(c) Any person who holds the land in trust for the Transferee; or

(d) Any other person with the prior consent of the Transferor, which shall not be unreasonably withheld.

7.2 As from the date of assignment the Transferee shall cease to have any liability whatsoever in respect of this Transfer and the Transferor agrees to release the Transferee from all obligations under this Transfer from that date, but only if the assignee enters into a deed of covenant with the Transferor agreeing to be bound by the terms of this Transfer from the date of release of the Transferee.

8 DELEGATION

All rights, benefits, and obligations of a party to this Transfer arising under this Transfer may be exercised by a person duly appointed by that party **PROVIDED THAT** the exercise of any such rights, benefits, or obligations by that duly appointed person shall not limit the liability of either party in the performance or observance of the provisions of this Transfer.

9 NOTICES

9.1 Any notices to be given by one party under this Transfer to the other shall be in writing and shall be forwarded by either delivering or posting it to the addressee at the appropriate address set out below or to such address notified by the addressee in writing to the other party at:

9.1.1 The Transferor's address as set out in paragraph 1 of the First Schedule; and

9.1.2 The Transferee's address as set out in paragraph 2 of the First Schedule.

9.2 Any notice posted shall be deemed to be served three (3) working days after the date of posting.

PART 3: EASEMENT – TYPE B

10 SEVERABILITY

If any part of this Transfer is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Transfer which shall remain in full force.

PART 3: EASEMENT – TYPE B

Continuation of "Attestation"

Signed for and on behalf of **[TE PUMAUTANGA TRUSTEES]** as Transferor by:

_____

In the presence of:

_____

Name:
Occupation:
Address:

Signed for and on behalf of **THE SOVEREIGN** as Transferee by

_____

Conservator for the Bay of Plenty Conservancy acting for the Minister of Conservation under delegated authority pursuant to sections 57 and 58 of the Conservation Act 1987 and section 41 of the State Sector Act 1988

In the presence of:

_____

Name:
Occupation:
Address:

PART 3: EASEMENT – TYPE B

SCHEDULE

1 TRANSFEROR'S ADDRESS:

[Te Pumautanga Trustees]

[Enter Address]

2 TRANSFEREE'S ADDRESS:

Department of Conservation
Bay of Plenty Conservancy
PO Box 1446
ROTORUA

PART 3: EASEMENT – TYPE C

(Clause 12.11)

PART 3: EASEMENT – TYPE C

Date

PARTIES

1 **THE SOVEREIGN** in right of New Zealand acting by and through the Minister of Conservation (the "Grantor")

2 **[TE PUMAUTANGA TRUSTEES]** (the "Grantee")

BACKGROUND

A. The Grantee wishes to enter upon and cross the Grantor's Land for the purpose of gaining access to and egress from the Grantee's Land (as herein defined).

B. The Grantor has agreed to allow the Grantee to enter upon and cross the Grantor's Land, for the purposes of enabling the Grantee to gain access to and egress from the Grantee's Land on the terms and conditions set out in this Deed.

BY THIS DEED IT IS AGREED AND DECLARED as follows:

1 **DEFINITIONS AND CONSTRUCTION**

1.1 **Definitions**:

In this Deed, unless the context otherwise requires:

"Commencement Date" means the date first written above;

"Deed" means this deed, the Background and the Schedule annexed hereto;

"Grantee" also includes the registered proprietors of the Grantee's Land and the licensees, lessees, employees, agents, contractors, successors and assigns of the Grantee;

"**Grantor**" also includes the other registered proprietors from time to time of the Grantor's Land;

"Grantee's Land" means the land described in paragraph 3 of the First Schedule;

"Grantor's Land" means the land described in paragraph 1 of the First Schedule and includes any part thereof;

[*The following definitions will be omitted if there is no Crown Forestry Licence at the time the easement is granted*]

[**"Crown Forestry Licence"** means a Crown Forestry Licence granted under section 14 of the Crown Forest Assets Act 1989;

"Crown Forestry Licensee" means the Licensee under a Crown Forestry Licence over the Grantee's Land and includes the employees, agents, contractors and successors and assigns of the Crown Forestry Licensee;]

1.2 **Construction**

In the construction of this Deed unless the context otherwise requires:

1.2.1 the headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Deed;

1.2.2 references to Clauses and the Schedule are to the clauses and the schedule of this Deed;

1.2.3 references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw as from time to time amended and includes substituted provisions that substantially correspond to those referred to; and

1.2.4 the singular includes the plural and vice versa, and words importing any gender include the other genders.

2 **GRANT OF ACCESS RIGHTS**

2.1 Pursuant to section [***enter appropriate section and title of settlement legislation***] the Grantor hereby grants to the Grantee a right of way over that part of the Grantor's Land shown marked [ ] on DPS [ ] together with the rights and powers set out in Schedule Four of the Land Transfer Regulations 2002 except to the extent that they are modified, varied or negatived by the terms and conditions set out in this Deed to the intent that the easement shall be forever appurtenant to the Grantee's Land as set out in the First Schedule.

2.2 In consideration of the Grantor agreeing to enter into this Deed the Grantee shall duly observe the obligations imposed on it under this Deed.

3 **OBLIGATIONS OF THE GRANTEE**

The rights and powers conferred under Clause 2 of this Agreement are granted subject to the following conditions and obligations:

3.1 The Grantee shall when passing or repassing over the Grantor's Land:

3.1.1 wherever possible, remain on the roads and tracks constructed on the Grantor's Land and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads;

3.1.2 not use or cause to be used either any tracked vehicle or any other class of vehicle which has been reasonably prohibited by the Grantor provided that

the Grantee shall be permitted, without limitation to use any class of vehicle which is ordinarily used in a production forest (including, but not limited to, haulers and heavy logging trucks);

3.1.3 take all due care when taking any welding equipment over the Grantor's Land and shall not use or operate or cause to be used or operated any welding equipment on the Grantor's Land without the prior written permission of the Grantor;

3.1.4 immediately after passing through any gates on the Grantor's Land, close such of them as were closed and lock such of them as were locked immediately before such passing through;

3.1.5 take all reasonable and proper precautions for guarding against any danger (including, but without limitation, fire, physical damage, disease or the spread of noxious weeds and pests) either on the Grantor's Land, on any surrounding or adjoining land, forest or water, or to any vegetation on the Grantor's Land, and in particular shall (but without limiting the general obligation to take reasonable and proper precautions pursuant to this Clause 3.1.5):

(a) comply strictly with all reasonable conditions that may be imposed from time to time by the Grantor or other lawful authority; and

(b) not use or operate any vehicle or machinery unless it is provided with safe and sufficient means of preventing the escape of sparks or flames;

3.2 Subject to Clauses 3.7 and 3.8, the Grantee shall, at its cost, repair to the satisfaction of the Grantor, any of the Grantor's roads, tracks, fences, gates, drains, buildings or other structures which are damaged by the Grantee;

3.3 The Grantee shall annually pay to the Grantor a proportion of the cost of maintenance of any of the roads or tracks on the Grantor's Land commensurate with the use made by the Grantee of such roads or tracks **PROVIDED THAT** the Grantee shall not be liable to contribute towards the cost of repairing any damage to a road or track which was the sole result of the Grantor's negligent use of that track or road;

3.4 The Grantee shall not exhibit any notice or sign on the Grantor's Land without the prior written consent of the Grantor as to the style, content, wording, size and location of the notice or sign (which consent shall not be unreasonably or arbitrarily withheld)

provided that this clause 3.4 shall not prevent the Grantee from displaying temporary operational signs necessary for the health and safety of road users. Such temporary operational signs shall not purport to close the road or restrict public access to the Grantor's Land, are to be consistent with the standards set by the Land Transport Safety Authority and must be removed when the operation has been completed;

3.5 The Grantee will ensure, at all times, in the exercise of the rights set out in this Deed that its agents, employees or contractors will not obstruct or hamper the Grantor or its agents, employees and contractors, in its or their normal or reasonable use of the Grantor's Land;

3.6 Subject to Clauses 3.7 and 3.8, in the event that the Grantor's roads, tracks and structures are not of sufficient standard for the use to be made of them by the Grantee, then any necessary improvements and maintenance shall be at the sole cost of the Grantee;

3.7 When carrying out any repairs, maintenance or improvements to a road under clauses 3.2 and 3.6, the Grantee shall not:

3.7.1 widen the road; or

3.7.2 alter the location of the road; or

3.7.3 alter the way in which the run-off from the road is disposed of; or

3.7.4 change the nature of the road surface; or

3.7.5 park or store equipment or material on the Grantor's Land

without the Grantor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.8 The Grantee shall not erect any structures on the Grantor's Land or make any additions or alterations to existing structures or replace such structures unless the Grantee has obtained the Grantor's prior written consent, such consent not to be unreasonably withheld or delayed;

3.9 The Grantee shall not at any time, except with the prior written approval of the Grantor, carry out any earthworks or cut down, pull out, dig up, use, burn, remove, or otherwise dispose of any vegetation on the Grantor's Land nor shall the Grantee authorise such cutting down, pulling out, digging up, use, burning, removal or other disposal of any vegetation without the prior written approval of the Grantor;

3.10 The Grantee shall not, without the prior written approval of the Grantor, carry or discharge any firearm, missile or other offensive weapon, or kill or trap any animals or birds, over or on the Grantor's Land, nor shall the Grantee authorise such carrying, discharging, killing, or trapping without the prior written approval of the Grantor;

3.11 The Grantee shall comply at all times with all statutes and regulations, in particular the Conservation Act 1987 and the Acts in its First Schedule where relevant, and obtain all approvals, consents and authorisations as are necessary for the Grantee to conduct the activities permitted by this Deed. Provided that pursuant to section [***enter appropriate section and title of settlement legislation***] , this easement will be enforceable in accordance with its terms, notwithstanding Part IIIB of the Conservation Act 1987.

4 GRANTOR'S RIGHTS

The Grantor reserves the right at any time or times hereafter to erect, renew, and maintain gates together with all necessary fittings and fixtures across any road or track on the Grantor's Land, but so that such gates when opened shall leave a clear space of a width not less than five (5) metres for passage **PROVIDED THAT** the Grantor shall furnish at the expense of the Grantee, keys to any locks fitted to any of the said gates.

5 COSTS

The Grantee shall be liable to the Grantor for any reasonable costs or expenses, including reasonable legal costs, incurred by the Grantor arising from or incidental to the enforcement of any provision in this Deed.

6 LICENCE

[*This clause will be omitted if there is no Crown Forestry Licence at the time this easement is granted*]

The Grantor and the Grantee record that at the time that the easement is granted there is a Crown Forestry Licence in respect of the Grantee's Land, under which the Crown Forestry Licensee has rights in respect of the Grantor's Land, and this Deed is entered into subject to, and the rights under it must not be exercised in a manner inconsistent with those rights of the Crown Forestry Licensee.

7 REGISTRATION

The parties shall take and do all such acts and things necessary to ensure that this Deed (or an Easement Instrument Grant of Right of Way on substantially the same terms) is registered in the South Auckland Land Registry Office as soon as the Registrar-General of Land confirms that this Deed, or such an easement instrument, can be registered against the Grantor's Land.

8 DELEGATION

All rights, benefits, and obligations of a party to this Deed arising under this Deed may be exercised by a person duly appointed by that party **PROVIDED THAT** the exercise

of any such rights, benefits, or obligations by that duly appointed person shall not limit the liability of either party in the performance or observance of the provisions of this Deed.

9 NOTICES

9.1 Any notice to be given by one party under this Deed to the other shall be in writing and shall be forwarded by either delivering or posting it to the addressee at the appropriate address set out below or to such address notified by the addressee in writing to the other party:

9.1.1 the Grantor's address as set out in paragraph 2 of the First Schedule;

9.1.2 the Grantee's address as set out in paragraph 4 of the First Schedule.

9.2 Any notice posted shall be deemed to be served three (3) working days after the date of posting.

10 SEVERABILITY

If any part of this Deed is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Deed which shall remain in full force.

11 DISPUTES RESOLUTION

Should any dispute arise between the parties touching any matter relating to this Deed then:

11.1 any dispute will be defined by written notice by the party raising it to the other and will forthwith be discussed (on a "without prejudice" basis) by the parties in an attempt to resolve their differences amicably, including, with the agreement of both parties, the discussion extending to a mediation discussion in the presence of an experienced mediator (who will be agreed between the parties or, failing agreement, a mediator appointed by the President for the time being of the Auckland District Law Society);

11.2 if such discussion or mediation between the parties fails to produce any agreement, within 14 days of receipt by the other party of the written notice, the matter in dispute will be referred to arbitration in accordance with the Arbitration Act 1996;

11.3 the arbitration will be commenced by either party giving to the other notice in writing stating the subject matter and details of the difference and that party's desire to have the matter referred to arbitration;

11.4 the arbitration will be by one arbitrator to be agreed by the parties and, failing agreement, as appointed by the then President of the New Zealand Law Society or its successor. The award in the arbitration will be final and binding on the parties.

IN WITNESS WHEREOF this Deed has been duly executed on the date first written above.

Signed for and on behalf of **THE SOVEREIGN** as Grantor by

_____

Conservator for the Bay of Plenty Conservancy acting for the Minister of Conservation under delegated authority pursuant to sections 57 and 58 of the Conservation Act 1987 and section 41 of the State Sector Act 1988

In the presence of:

_____

Name:

Occupation:

Address:

Signed for and on behalf of [**TE PUMAUTANGA TRUSTEES**] as Grantee by:

_____

in the presence of:

_____

Name:

Occupation:

Address:

PART 3: EASEMENT – TYPE C

FIRST SCHEDULE

1. **GRANTOR'S LAND:**

   [enter details]

2. **GRANTOR'S ADDRESS:**

   Department of Conservation
   Bay of Plenty Conservancy
   PO Box 1146
   ROTORUA

3. **GRANTEE'S LAND:**

   [enter details]

4. **GRANTEE'S ADDRESS:**

   [Te Pumautanga Trustees]
   [Enter address]

SCHEDULE 5

COMMERCIAL REDRESS – DEFERRED SELECTIONPROPERTIES

PART 1: DESCRIPTIONS OF PROPERTIES

(Clause 12.17-12.29)

PART 1: DESCRIPTIONS OF DEFERRED SELECTION PROPERTIES

Name of Site	Location	Legal Description South Auckland Land District – Rotorua District	Land Holding Agency	Leaseback Property	Joint or Independent Valuations
Ministry of Social Development Residential Dwelling	18 Alastair Avenue, Owhata	0.1454 hectares, more or less, being Lot 20 DPS 8048. All *Gazette* Notice S.449324.	Ministry of Social Development	Yes	Joint
Horohoro Forest	South Road, Mamaku	1458.2500 hectares, more or less, being Lots 1-4 DPS 65055, Lots 1 and 2 DPS 64931, and Lots 1-3 DPS 64930. All Computer Freehold Registers SA55B/834, SA55B/835 and SA55B/836.	Ministry of Agriculture and Forestry	No	Independent
Former Te Puni Kokiri property	Collier Road, Waireka	68.6701 hectares, more or less, being Waikaukau A5. All Computer Freehold Register SA7A/231.	Ministry of Justice (Office of Treaty Settlements)	No	Independent

PART 2: INTERPRETATION AND NOTICE

(Clauses 12.17-12.28)

INTERPRETATION AND NOTICE

DEFINITIONS

1.1 In **clauses** 12.17-12.28 and in this Schedule, unless the context otherwise requires:

Arbitration Commencement Date means the date the Crown makes the referral to arbitration referred to in paragraph 8.1 of Part 3;

Arbitrator means a person appointed under paragraphs 4.3 or 4.4 of Part 3;

Commencement Rent, in relation to a Deferred Selection Property, means the Commencement Rent for that property determined or agreed under the Valuation Process;

Crown's Valuation Report means the valuation report prepared by the Crown's Valuer in accordance with Part 3;

Crown's Valuer means a Registered Valuer appointed by the Crown to take part in the Valuation Process;

Deferred Selection Property has the meaning set out in clause 16.3;

Disclosed Encumbrance, in relation to a Deferred Selection Property, is an Encumbrance disclosed under paragraph 2.2 of Part 3 or Part 4;

Disclosure Information, in relation to a Deferred Selection Asset, means the information given by the Crown in relation to that property under paragraph 2.1 of Part 3 or Part 4;

Independent Valuer's Report means the valuation report prepared under Part 4;

Independently Valued Asset means a Deferred Selection Property in respect of which "Independent" is written in the last column in Part 1;

Jointly Valued Asset means a Deferred Selection Property in respect of which "Joint" is written in the last column of Part 1;

Lease means, in respect of a Leaseback Property, the lease to be entered into under clauses 12.24 and 12.25;

Market Rental is the amount, exclusive of GST and expressed as annual payment, at which a Leaseback Property would lease subject to specific lease terms and conditions, between a willing lessor and a willing lessee, in an arms length transaction, after proper marketing in an arms' length transaction, if the parties to the transaction had each acted knowledgeably, prudently, and without compulsion. In applying this definition to the Deferred Selection Property, the following matters (in addition to all other relevant factors) must be taken into account:

(a) the Terms of Transfer; and

(b) the Disclosed Encumbrances affecting or benefiting that property;

PART 2: INTERPRETATION AND NOTICE

Market Value is the amount, exclusive of GST, for which the Deferred Selection Property might be expected to exchange on the Valuation Date, between a willing buyer and a willing seller, in an arms' length transaction, after proper marketing, if the parties to the transaction had each acted knowledgeably, prudently and without compulsion. In applying this definition to the Deferred Selection Property, the following matters (in addition to all other relevant factors) must be taken into account:

(a) the Terms of Transfer; and

(b) the Disclosed Encumbrances affecting or benefiting that property;

Notification Date, in relation to a Deferred Selection Property, is the date the Te Pumautanga Trustees give the Crown Notice under clause 12.17 that they are interested in purchasing that property;

Party means the Crown and the Te Pumautanga Trustees;

Registered Valuer means a valuer registered with the Valuers' Registration Board of New Zealand and with experience in the valuation of properties similar to the Deferred Selection Property;

Te Pumautanga Trustees' Valuation Report means the valuation report prepared by the Te Pumautanga Trustees' Valuer in accordance with Part 3;

Te Pumautanga Trustees' Valuer means a Registered Valuer appointed by the Te Pumautanga Trustees to take part in the Valuation Process;

Terms of Transfer means the terms of transfer set out in Part 5;

Transfer Value, in relation to a Deferred Selection Property, means the Transfer Value for that property determined or agreed under the Valuation Process;

Valuation Date, in relation to:

(a) an Independently Valued Asset means the Valuation Date as provided under paragraph 3 of Part 3; and

(b) a Jointly Valued Asset, means the Valuation Date as provided under paragraph 3 of Part 4;

Valuation Exchange Date has the meaning set out in paragraph 5.3 of Part 3; and

Valuation Process, in relation to a Deferred Selection Property, means the process to determine or agree the Transfer Value of that property in accordance with clauses 12.17-12.28 and this Schedule.

NOTICE

1.2 Until any other address or facsimile number of a Land Holding Agency is given by Notice to the Governance Entity, the addresses of the Land Holding Agency are as follows:

Ministry of Agriculture and Forestry

Chief Executive and Director General
Ministry of Agriculture and Fisheries
P O Box 2526
Wellington

Facsimile: 04 819 0379

Ministry of Social Development

Chief Executive
Ministry of Social Development
P O Box 1556
Wellington

Facsimile: 04 918 0099

Office of Treaty Settlements

The Director
Office of Treaty Settlements
P O Box 919
Wellington

Facsimile: 04 494 9801

PART 3: VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS

(Clause 12.18)

VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS

1 APPLICATION OF THIS PART

1.1 This Part 3 applies to an Independently Valued Asset if the Transfer Value of that property is to be determined or agreed under this Part pursuant to clause 12.18.1.

2 DISCLOSURE

2.1 The Land Holding Agency will, within 10 Business Days of being given Notice by the Te Pumautanga Trustees under clause 12.17 that the Te Pumautanga Trustees are interested in purchasing an Independently Valued Asset, give the Te Pumautanga Trustees all material information that relates to the Independently Valued Asset that the Land Holding Agency is aware of. The date the Te Pumautanga Trustees give the Land Holding Agency Notice under clause 12.17 is the "**Notification Date**".

2.2 The information that the Land Holding Agency gives under paragraph 2.1 will include all Encumbrances of which the Land Holding Agency is aware that affect or benefit the Independently Valued Asset (the "**Disclosed Encumbrance**").

3 VALUATION DATE

3.1 The **Valuation Date**, in relation to an Independently Valued Asset, will be as at the Notification Date.

4 APPOINTMENT OF VALUERS AND ARBITRATOR

4.1 No later than 5 Business Days after the Notification Date, the Te Pumautanga Trustees and the Land Holding Agency must each:

4.1.1 appoint a Registered Valuer;

4.1.2 instruct the Registered Valuer to assess the Market Value of the Independently Valued Asset, in accordance with this Part 3; and

4.1.3 Notify each other of the identity of the Registered Valuer.

4.2 The Crown and the Te Pumautanga Trustees must ensure that the terms of appointment of their Registered Valuers require them to participate in the Valuation Process.

4.3 The Crown and the Te Pumautanga Trustees must endeavour to agree on and appoint a person who is suitably qualified and experienced in determining disputes about the value of assets similar to the Independently Valued Asset no later than 10 Business Days after the Notification Date.

4.4 If no appointment has been made under paragraph 4.3 by that date, the Crown must request that the President of the NZ Institute of Valuers make the appointment.

4.5 An appointment of an Arbitrator is made once the appointee has confirmed that he or she will conduct an arbitration, if requested by the Crown, in accordance with this Part.

5 VALUATION REPORTS

5.1 Either the Crown or the Te Pumautanga Trustees may carry out an inspection of the Independently Valued Asset. The Registered Valuer of the Crown or the Te Pumautanga Trustees intending to carry out an inspection must give at least 5 Business Days' notice of the date and time of the inspection to the other Registered Valuer appointed under this Part and give that valuer an opportunity to attend the inspection.

5.2 Both the Crown's Valuer and the Te Pumautanga Trustees' Valuer must prepare a Valuation Report that includes their respective assessments of the Market Value of the Independently Valued Asset, on the Valuation Date.

5.3 The Land Holding Agency and the Governance Entity must each deliver a copy of its Valuation Report to the other by no later than 50 Business Days after the Notification Date (the "**Valuation Exchange Date**").

5.4 Both Valuation Reports must:

5.4.1 meet the requirements of the New Zealand Institute of Valuers' Standards and other relevant standards insofar as those requirements are consistent with this Part 3;

5.4.2 include an executive summary containing:

(a) a summary of the valuation along with key valuation parameters;

(b) a summary of any key issues affecting the value; and

5.4.3 attach appendices setting out:

(a) a statement of valuation policies; and

(b) relevant market and sales and leasing information.

5.4.4 in the case of the MAF Forest Land and without limiting paragraphs 5.4.1-5.4.3, set out:

(a) the amount that the Valuer considers will be payable by way of stumpage rental and other rental under the terms of the existing lease of the MAF Forest Land for each year ending on 31 March from the Notification Date to and including the year in which the Deferred Settlement Date falls; and

(b) how the Valuer factored these amounts into the assessment of the Market Value of the MAF Forest Land.

6 SINGLE VALUATION REPORT MAY DETERMINE TRANSFER VALUE

6.1 If only one Valuation Report is delivered by a Party by the Valuation Exchange Date, then the assessment of Market Value in that report will be the Transfer Value.

7 NEGOTIATIONS TO AGREE MARKET VALUE

7.1 If each Party has provided a Valuation Report, the Crown and the Te Pumautanga Trustees must endeavour to agree on, and record in writing, the Market Value. The amount agreed as the Market Value is the Transfer Value.

7.2 Where Transfer Value is not determined or agreed within 20 Business Days after the Valuation Exchange Date, the determination of the Transfer Value must be referred to an Arbitrator in accordance with paragraph 8.

8 DETERMINATION OF MARKET VALUE

8.1 Within 5 Business Days of paragraph 7.2 applying, the Crown must refer the dispute to the Arbitrator (the "**Arbitration Commencement Date**").

8.2 The Arbitrator must promptly give notice of a meeting to be attended by the Crown and the Te Pumautanga Trustees and their Registered Valuers, at a venue and time to be decided by the Arbitrator after consultation with the Parties but not later than 30 Business Days after the Arbitration Commencement Date.

8.3 The Crown and the Te Pumautanga Trustees must by no later than 5.00pm on the day which is 5 Business Days prior to the date of the meeting give to the Arbitrator and to each other, their Valuation Reports, sales and rental evidence and any submission or expert evidence based on that information that the Crown or the Te Pumautanga Trustees intend to present at the meeting.

8.4 At the meeting, the Arbitrator must:

8.4.1 establish a procedure and give each Party the right to examine, cross examine and re-examine the Registered Valuers and other experts appointed by the other Parties in relation to the information provided to the Arbitrator; and

8.4.2 have regard to the requirements of natural justice in the conduct of the meeting.

8.5 The Arbitrator shall hold the meeting and give his or her determination of the Market Value no later than 50 Business Days after the Arbitration Commencement Date. In the case of the MAF Forest Land, the Arbitrator must include the Arbitrator's assumptions and methodology as set out in paragraph 5.4.4.

8.6 The Transfer Value will be the Arbitrator's determination of the Market Value. That determination must be no higher than the higher, and no lower than the lower, of the assessment of Market Value contained in the Crown's Valuation Report and in the Te Pumautanga Trustees' Valuation Report.

8.7 The determination of the Arbitrator is final and binding on the Crown and the Te Pumautanga Trustees.

9 GENERAL PROVISIONS

9.1 The Crown and the Te Pumautanga Trustees must each bear their own costs in connection with the Valuation Process.

9.2 The costs of the Arbitrator and the costs of the hire of a venue for the meeting referred to in paragraph 8.2 must be borne by the Crown and the Te Pumautanga Trustees equally.

9.3 Despite paragraphs 9.1 and 9.2, the Arbitrator may award costs against the Crown or the Te Pumautanga Trustees where the Arbitrator considers that it would be just to do so on account of unreasonable conduct.

PART 4: VALUATION PROCESS FOR JOINTLY VALUED ASSETS

(Clause 12.18)

VALUATION PROCESS FOR JOINTLY VALUED ASSETS

1 APPLICATION OF THIS PART

1.1 This Part 4 applies to a Jointly Valued Asset if the Transfer Value of that property is to be determined or agreed under this Part pursuant to clause 12.18.1.

2 DISCLOSURE

2.1 The Land Holding Agency will, within 10 Business Days of being given Notice by the Te Pumautanga Trustees under clause 12.17 that the Te Pumautanga Trustees are interested in purchasing a Jointly Valued Asset, give the Governance Entity all material information that relates to the Jointly Valued Asset that the Land Holding Agency is aware of. The date the Te Pumautanga Trustees give the Land Holding Agency Notice under clause 12.17 is the "**Notification Date**".

2.2 The information that the Land Holding Agency gives under paragraph 2.1 will include all Encumbrances of which the Land Holding Agency is aware that affect or benefit the Jointly Valued Asset (the "**Disclosed Encumbrance**").

3 VALUATION DATE

3.1 The **Valuation Date**, in relation to a Jointly Valued Asset, will be as at the Notification Date.

4 APPOINTMENT OF VALUER

4.1 The Crown and the Te Pumautanga Trustees must endeavour to agree on and appoint a Registered Valuer no later than 5 Business Days after the Notification Date to determine the Market Value of a Jointly Valued Asset, and its Market Rental if a Jointly Valued Asset is a Leaseback Property, in accordance with this Part 4.

4.2 If no appointment has been made under paragraph 4.1 by that date, the Crown must request that the President of the NZ Institute of Valuers make the appointment.

4.3 An appointment of a Registered Valuer is made once the appointee has confirmed that he or she will produce a valuation report in accordance with this Part on receipt of the joint instructions to be given under paragraph 4.4.

4.4 No later than 5 Business Days after the appointment under paragraphs 4.1-4.3, the Te Pumautanga Trustees and the Land Holding Agency must jointly instruct the Registered Valuer to assess the Market Value of the Jointly Valued Asset, and its Market Rental if a Jointly Valued Asset is a Leaseback Property on the terms of the agreed instructions to Valuer attached, in accordance with this Part 4.

PART 4: VALUATION PROCESS FOR JOINTLY VALUED ASSETS

5 VALUATION REPORT

5.1 The Registered Valuer must prepare a valuation report that includes his or her assessment of the Market Value of the Jointly Valued Asset, and its Market Rental if the Jointly Valued Asset is a Leaseback Property, on the Valuation Date.

5.2 The Registered Valuer must deliver a copy of the Independent Valuer's Report to the parties by no later than 50 Business Days after the Notification Date.

5.3 The Independent Valuer's Report must:

5.3.1 meet the requirements of the New Zealand Institute of Valuers' Standards and other relevant standards insofar as those requirements are consistent with this Part 4;

5.3.2 include an executive summary containing:

(a) a summary of the valuation along with key valuation parameters;

(b) a summary of any key issues affecting the value; and

5.3.3 attach appendices setting out:

(a) a statement of valuation policies; and

(b) relevant market and sales and leasing information.

6 VALUATION REPORT DETERMINES TRANSFER VALUE AND COMMENCEMENT RENT

6.1 The assessment of:

6.1.1 Market Value in the Independent Valuer's Report will be the Transfer Value; and

6.1.2 Market Rental in the Independent Valuer's Report will be the Commencement Rent.

6.2 The effect of paragraph 6 is final and binding on the Crown and the Te Pumautanga Trustees.

7 GENERAL PROVISIONS

7.1 The costs of the Registered Valuer must be borne by the Crown and the Te Pumautanga Trustees equally.

PART 5: TERMS OF TRANSFER

(Clause 12.20.2)

PART 5: TERMS OF TRANSFER

TERMS OF TRANSFER

1 APPLICATION OF THIS PART

This Part 5 applies if the Crown and the Te Pumautanga Trustees are deemed under clause 12.20 to have entered into an agreement for the sale and purchase of a Deferred Selection Property.

2 TRANSFER OF THE DEFERRED SELECTION ASSET

2.1 The Crown must transfer the fee simple estate in the Deferred Selection Property to the Te Pumautanga Trustees on the terms set out in clauses 12.17-12.28, and in this Part 5 of Schedule 5, subject to and, where applicable, with the benefit of the Relevant Encumbrances affecting or benefiting that property (as those Relevant Encumbrances may be varied under paragraph 2.2).

2.2 The Crown and the Te Pumautanga Trustees may agree in writing to vary or add to the Relevant Encumbrances affecting the Deferred Selection Property.

2.3 The Te Pumautanga Trustees must not unreasonably withhold or delay its consent to varying a Relevant Encumbrance or granting a new Encumbrance affecting the Deferred Selection Property.

2.4 The Crown will pay any survey and registration costs required to transfer the fee simple estate in the Deferred Selection Property to the Te Pumautanga Trustees.

3 OBLIGATIONS PRIOR TO ACTUAL DEFERRED SETTLEMENT DATE

3.1 The Crown must:

3.1.1 manage the MAF Forest Land, or ensure its management, in accordance with good commercial forestry practice; and

3.1.2 in respect of the other Deferred Selection Properties, maintain the Deferred Selection Property, or ensure its maintenance, until the Actual Deferred Settlement Date in substantially the same condition as it was in at the Notification Date, fair wear and tear excepted.

3.2 Between the Notification Date and the Actual Deferred Settlement Date the Crown must consult with, and obtain the prior written consent of, the Te Pumautanga Trustees (which will not be unreasonably withheld or delayed) before:

3.2.1 agreeing to any material variation in the terms of a Relevant Encumbrance affecting or benefiting a Deferred Selection Property; or

3.2.2 procuring any consent, or providing any waiver, under the Resource Management Act, or other legislation, that materially affects the Deferred Selection Property.

3.3 The Crown must, if it carries out works, or gives specific authority in writing for works to be carried out, on a Deferred Selection Property, between the Notification Date and the Actual Deferred Settlement Date, for which the Crown must by law obtain a

building consent or permit, comply with any obligations imposed on the Crown under the Building Act in respect of such works.

3.4 The Crown must pay all charges for electric power, gas, water, and other utilities that the Crown owes as owner of a Deferred Selection Property until the Actual Deferred Settlement Date except where those charges are payable by any tenant or occupant directly to the relevant supplier.

3.5 Subject to the terms of any Relevant Encumbrance affecting the Deferred Selection Property, the Crown must use reasonable endeavours to obtain permission for the Te Pumautanga Trustees (or a person authorised by the Te Pumautanga Trustees), upon reasonable notice, to enter a Deferred Selection Property on one occasion before the Deferred Settlement Date to examine it.

4 POSSESSION AND SETTLEMENT

4.1 On the Deferred Settlement Date:

4.1.1 possession must be given and taken of the Deferred Selection Property subject to the Relevant Encumbrances (as they may be varied under paragraph 2.2); and

4.1.2 vacant possession must be given and taken of the Deferred Selection Property if it is not:

(a) a Leaseback Property; or

(b) subject to any Relevant Encumbrance (as they may be varied under paragraph 2.2) that prevent vacant possession being given and taken.

4.2 Subject to paragraph 10, on the Deferred Settlement Date the Crown must hand to the Te Pumautanga Trustees:

4.2.1 a registrable memorandum of transfer of the Deferred Selection Property;

4.2.2 all other instruments in registrable form which may be required by this Part 5, including those referred to in paragraph 4.3; and

4.2.3 all contracts and other documents which create unregistered rights, interests and obligations affecting the registered proprietor's interest (but not proclamations, *Gazette* notices and similar public notices) and which will continue following the Actual Deferred Settlement Date.

4.3 The Te Pumautanga Trustees must, within 5 Business Days of the Actual Deferred Settlement Date or if paragraph 10 applies, within the timeframe set out in paragraph 10, lodge the following documents for registration in the following order in relation to the Deferred Selection Property:

4.3.1 where applicable, a written application for a computer freehold register in the name of the Crown;

4.3.2 the transfer to the Te Pumautanga Trustees;

4.3.3 any easements to be granted under Part 12; and

4.3.4 the Lease, in the case of the Leaseback Property.

4.4 All outgoings and incomings (including rates, excluding insurance premiums) must be apportioned at the Actual Deferred Settlement Date.

4.5 The Crown must supply a statement of apportionments to the Te Pumautanga Trustees before the Actual Deferred Settlement Date. On the Actual Deferred Settlement Date:

4.5.1 the Te Pumautanga Trustees must pay to the Crown the amount by which the outgoings (except for insurance premiums) for the Deferred Selection Properties pre-paid by the Crown in respect of a period after the Actual Deferred Settlement Date exceed the incomings received by the Crown for that period; or

4.5.2 the Crown must pay to the Te Pumautanga Trustees the amount by which the incomings received by the Crown in respect of a period after the Actual Deferred Settlement Date exceed the outgoings (except for insurance premiums) for the Deferred Selection Property pre-paid by the Crown for that period.

4.6 The Crown must make available to the Te Pumautanga Trustees on the Actual Deferred Settlement Date any keys to gates, exterior doors, and electronic door openers (if any) and/or security codes to alarms (if any) for the Deferred Selection Property that are in the possession of the Crown at the Actual Deferred Settlement Date.

4.7 The Deferred Selection Property must be transferred inclusive of all fixtures and fittings that are owned by the Crown and are situated on the Deferred Selection Property at the Notification Date and those fixtures and fittings must not be mortgaged or charged to any person.

4.8 No chattels situated on the Deferred Selection Property will be included in its transfer.

4.9 In respect of a Leaseback Property, paragraphs 4.3-4.8 apply only to the extent they are consistent with the Lease.

5 RISK AND INSURANCE

5.1 The Deferred Selection Property will remain at the sole risk of the Crown until the Actual Deferred Settlement Date and, from the Actual Deferred Settlement Date, it will remain at the sole risk of the Te Pumautanga Trustees.

5.2 In the event that, prior to the Actual Deferred Settlement Date, the Deferred Selection Property is destroyed or damaged and such destruction or damage has not been made good by the Actual Deferred Settlement Date, then the following provisions apply:

5.2.1 the Te Pumautanga Trustees must complete the transfer of the Deferred Selection Property at its Transfer Value on the condition that the Crown pay

to the Te Pumautanga Trustees an amount equal to the amount (if any) by which the Transfer Value for the Deferred Selection Property is more than the value of the Deferred Selection Property as at the Actual Deferred Settlement Date as a result of the destruction or damage; and

5.2.2 either Party may give the other Party notice in writing requiring that any dispute as to the application of this paragraph 5.2 be determined by an arbitrator to be appointed by the president or vice-president of the law society for the district where the Deferred Selection Property is located, and the Party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act.

5.3 If a dispute relating to a claim by the Te Pumautanga Trustees for a diminution in value of the Deferred Selection Property under paragraph 5.2.2 is not determined by the Actual Deferred Settlement Date, then:

5.3.1 settlement shall take place on the Actual Deferred Settlement Date in accordance with this Part 5 as if there had been no destruction or damage; and

5.3.2 upon the determination of the dispute the Crown shall pay to the Te Pumautanga Trustees Entity within 7 Business Days from such determination a sum equal to the diminution in value of the Deferred Selection Property and interest from the Deferred Settlement Date to the date of that payment at the rate set out in clause 15.2.

5.4 The Te Pumautanga Trustees will not be required to take over from the Crown any insurance policies in relation to the Deferred Selection Property.

6 TRANSFER VALUE

6.1 To avoid doubt, the Parties acknowledge that the Transfer Value of the Deferred Selection Property will not be affected by:

6.1.1 any addition or variation to the Relevant Encumbrances agreed in writing by the Crown and the Te Pumautanga Trustees under paragraph 2.2; or

6.1.2 any variation to a Relevant Encumbrance agreed by the Crown and the Te Pumautanga Trustees under paragraph 3.2.1.

7 BOUNDARIES, TITLE, ETC

7.1 The Crown will not be bound to point out the boundaries of the Deferred Selection Property.

7.2 If the Deferred Selection Property is subject only to Relevant Encumbrances (as they may be varied under paragraph 2.2), the Te Pumautanga Trustees:

7.2.1 will be treated as having accepted the Crown's title to the Deferred Selection Property as at the Actual Deferred Settlement Date; and

7.2.2 may not make any objections to, or requisitions on, it.

7.3 Except as otherwise expressly set out in this Part 5 no error, omission or misdescription of the Deferred Selection Property or its title shall annul the transfer of the Deferred Selection Property.

7.4 The Crown will not be liable to pay for, or contribute towards, the expense of erection or maintenance of any fence between the Deferred Selection Property and any contiguous land of the Crown (unless it is the Crown that requires the fence in which case the Crown shall meet all the costs of erecting the fence); and

7.4.1 this clause will not continue for the benefit of any subsequent purchaser of the contiguous land; and

7.4.2 the Crown may require the inclusion of a fencing covenant to this effect in any transfer of the Deferred Selection Property.

8 OBLIGATIONS AFTER SETTLEMENT

8.1 If the Crown receives any notice or demand in relation to the Deferred Selection Property from the Crown, any territorial authority or any tenant after the Actual Deferred Settlement Date, the Crown will, if not paying or complying with such notice or demand, promptly deliver it to the Te Pumautanga Trustees or the Te Pumautanga Trustees' solicitor and, if the Crown fails to do so, the Crown will be liable for any penalty incurred.

8.2 Immediately after the Actual Deferred Settlement Date, the Crown will give notice of the transfer of the Deferred Selection Property to the territorial authority having jurisdiction in respect of that property.

9 DISCLOSURE INFORMATION

9.1 The Crown warrants to the Te Pumautanga Trustees that, as at the Notification Date, the Disclosure Information in relation to the Deferred Selection Property is all the material information that relates to the Deferred Selection Property, of which the Land Holding Agency is aware, the Land Holding Agency having inspected its records but not having undertaken a physical inspection of the Deferred Selection Property or made enquiries beyond its records.

9.2 Except as provided in paragraph 9.1, the Crown gives no representation or warranty (whether express or implied) nor accepts any responsibility with respect to:

9.2.1 the Deferred Selection Property including as to its ownership, management, occupation, physical condition, use or compliance with:

(a) any legislation including by-laws; or

(b) any enforcement or other notice, requisition or proceedings issued by any authority; or

9.2.2 the completeness or accuracy of the Disclosure Information in relation to the Deferred Selection Property.

9.3 The Te Pumautanga Trustees acknowledge that (although the Crown is not giving any representation or warranty in relation to the Deferred Selection Property except

as provided in paragraph 9.1) the Te Pumautanga Trustees had the opportunity prior to the Deferred Settlement Date (in addition to being able to examine the Disclosure Information) to:

9.3.1 inspect the Deferred Selection Property; and

9.3.2 determine its state and condition.

10 DELAYED TRANSFER OF LEGAL TITLE

10.1 If all the land comprising the Deferred Selection Property is not all of the land contained in a computer freehold register or registers, the Crown covenants for the benefit of the Te Pumautanga Trustees that it will:

10.1.1 arrange for the creation of a computer freehold register for all that Deferred Selection Property; and

10.1.2 transfer title to the Deferred Selection Property, as soon as is reasonably practicable, but no later than five years after the Actual Deferred Settlement Date.

10.2 The covenant given by the Crown under paragraph 10.1 shall have effect and be enforceable, despite being positive in effect and there being no dominant tenement.

10.3 If paragraph 10.1 applies then, for the period from the Actual Deferred Settlement Date until the date that the Crown transfers the title to that Deferred Selection Property to the Te Pumautanga Trustees:

10.3.1 the Te Pumautanga Trustees will be the beneficial owner of that property; and

10.3.2 all obligations and rights will be performed and arise as if full legal title had passed to the Te Pumautanga Trustees on the Actual Deferred Settlement Date.

11 SETTLEMENT PROVISIONS

11.1 On the Deferred Settlement Date:

11.1.1 the Te Pumautanga Trustees shall pay to the Crown by way of bank cheque drawn on a New Zealand registered bank and made payable to the Land Holding Agency an amount equal to the Transfer Value (plus GST if any); and

11.1.2 subject to paragraph 10, the Crown shall concurrently deliver to the Te Pumautanga Trustees all documents and instruments necessary to effect transfer of the Deferred Selection Property to the Te Pumautanga Trustees.

11.2 If from any cause whatever (save the default of the Crown) all or any part of the Transfer Value or any other moneys payable by the Te Pumautanga Trustees to the Crown is not paid on the Deferred Settlement Date, the Crown shall not be obliged to give possession to the Te Pumautanga Trustees, and the Te Pumautanga Trustees shall pay to the Crown default interest at the rate of 12% per annum on all

or that part of the Transfer Value (plus GST if any) so unpaid for the period from the Deferred Settlement Date to the Actual Deferred Settlement Date, but without prejudice to any other rights or remedies available to the Crown at law or in equity.

11.3 If, without the written agreement of the parties, settlement is not effected on the Deferred Settlement Date then without prejudice to the rights of the party not in default the following provisions shall apply:

11.3.1 either the Crown or the Te Pumautanga Trustees may at any time after the Deferred Settlement Date serve on the other of them notice in writing ("**Settlement Notice**") to effect settlement but the notice shall be effective only if the party serving it is at the time of service either in all material respects ready able and willing to proceed to effect settlement in accordance with the Settlement Notice or is not so ready able and willing to effect settlement only by reason of the default or omission of the other party. For the sake of clarity the Te Pumautanga Trustees acknowledge that they may not serve a Settlement Notice where there is a delay or transfer of legal title as contemplated by paragraph 10;

11.3.2 upon service of a Settlement Notice, the party on which the Settlement Notice is served shall effect settlement within 10 Business Days after the date of service of the Settlement Notice (excluding the date of service) and in respect of that period time shall be of the essence but without prejudice to any intermediate right of cancellation (if any) by the other party;

11.3.3 if the party in default does not comply with the terms of a Settlement Notice then without prejudice to any other rights or remedies available to the party serving the Settlement Notice at law or in equity that party may cancel the agreement constituted by clause 12.22 by written notice.

12 MAF FOREST LAND

12.1 The Transfer Value for the MAF Forest Land will be adjusted to give effect to any difference between the actual amounts payable by way of stumpage since the Notification Date and the amounts assumed in establishing the Transfer Value under this Part 5.

12.2 In the event that, prior to the Actual Deferred Settlement Date, there is a dispute about the adjustment to be made to the Transfer Value under paragraph 12.1, then the following provisions apply:

12.2.1 the Te Pumautanga Trustees must complete the transfer of the MAF Forest Land at its Transfer Value on the condition that the appropriate Party must pay to the other Party an amount equal to the amount (if any) by which the Transfer Value following adjustment differs from the Transfer Value as determined under Part 3 of this Schedule; and

12.2.2 either Party may give the other Party notice in writing requiring that any dispute as to the application of this paragraph 12.2 be determined by an arbitrator to be appointed by the president or vice-president of the law society for the district where the MAF Forest Land is located, and the Party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act.

12.3 If a dispute relating to paragraph 12.2.2 is not determined by the Actual Deferred Settlement Date, then:

12.3.1 settlement shall take place on the Actual Deferred Settlement Date in accordance with this Part 5 as if no adjustment to the Transfer Value were necessary;

12.3.2 upon the determination of the dispute the appropriate Party shall pay a balancing payment to the other party and interest from Settlement Date to the date of that payment at the rate set out in clause 15.2.

12.4 For the purposes of paragraphs 12.2 and 12.3, "appropriate Party" means:

12.4.1 if the adjustment reduces the Transfer Value, the Crown; and

12.4.2 if the adjustment increases the Transfer Value, the Te Pumautanga Trustees.

13 MISCELLANEOUS

Further Assurances

13.1 The Crown and the Te Pumautanga Trustees must, at the request of the other, sign and deliver any further documents or assurances and do all acts and things that the other may reasonably require to give full force and effect to clause 12.20 and this Part 5.

Non merger

13.2 On transfer of the Deferred Selection Property to the Te Pumautanga Trustees, the provisions of this Part 5 will not merge and, to the extent any provision has not been fulfilled, will remain in force.

PART 6: LEASE

(Clauses 12.36 and 12.37 and Schedule 5, Part 1)

MINISTRY OF SOCIAL DEVELOPMENT LEASE

PART 6: LEASE – MINISTRY OF SOCIAL DEVELOPMENT LEASE

This form comprises Schedules A and B of lease instrument 2002/3048.

SCHEDULE A

LESSOR AND LESSOR'S ADDRESS	**Te Pumautanga Trustees**
LESSEE AND LESSEE'S ADDRESS	**The Sovereign acting by and through the Director-General of Ministry of Social Development** **PO Box 1556** **Wellington** **Tel: (04) 916 3300** **Fax: (04) 918 0099** **Contact person: [National Property Manager]**
ADDRESS OF LAND	**18 Alastair Avenue, Owhata, Rotorua**
TERM OF LEASE	**Ten (10) years from the Date of Commencement**
DATE OF COMMENCEMENT	**T.B.A.**
FURTHER TERMS	**Seventeen (17) rights of renewal each of Five (5) years**
RENEWAL DATES	**On the 10th anniversary of Commencement Date (if renewed)** **On the 15th anniversary of Commencement Date (if renewed)** **On the 20th anniversary of Commencement Date (if renewed)** **On the 25th anniversary of Commencement Date (if renewed)** **On the 30th anniversary of Commencement Date (if renewed)** **On the 35th anniversary of Commencement Date (if renewed)** **On the 40th anniversary of Commencement Date (if renewed)** **On the 45th anniversary of Commencement Date (if renewed)** **On the 50th anniversary of Commencement Date (if renewed)** **On the 55th anniversary of Commencement Date (if renewed)** **On the 60th anniversary of Commencement Date (if renewed)** **On the 65th anniversary of Commencement Date (if renewed)** **On the 70th anniversary of Commencement Date (if renewed)** **On the 75th anniversary of Commencement Date (if renewed)** **On the 80th anniversary of Commencement Date (if renewed)** **On the 85th anniversary of Commencement Date (if renewed)** **On the 90th anniversary of Commencement Date (if renewed)**
FINAL EXPIRY DATE	**1 day prior to the 95th anniversary of the Commencement Date**
ANNUAL RENT	**[ ]**
FREQUENTY OF PAYMENT	**Quarterly in Advance**
RENTAL REVIEW	**Five (5) years from the Date of Commencement and on each**

PART 6: LEASE – MINISTRY OF SOCIAL DEVELOPMENT LEASE

DATES	**Renewal Date**	
USE OF LAND	Actual Use:	**Any use associated with the activities of the Ministry of Social Development**
	Permitted Use: **on**	**Any use consistent with the Improvements**
		the Land from time to time being such other
	use	**determined in accordance with the requirements of clause 3**

PART 6: LEASE – MINISTRY OF SOCIAL DEVELOPMENT LEASE

SCHEDULE B

1 Definitions Interpretations and Exclusions

1.1 **Definitions:** In this Lease, unless a contrary intention appears:

"Authority" means each and every local body, territorial, government or other authority having jurisdiction or authority over or in respect of the Land and/or the Improvements or the use thereof.

"Improvements" means all Improvements excluding the Lessor's Improvements whether constructed or installed on the Land before or at any time hereafter including any building, structure or other improvements on or fixed to the Land and any concrete paving, tiles, carpark sealing, mechanical services, plant, machinery, equipment, fixtures and fittings, any subsoil works constructed or installed, sealed yards, paths, lawns, gardens and other like property of any kind, which Improvements shall at all times belong to the Lessee.

"the Land" means the land described on the first page of this Lease and where not repugnant to the context includes the Improvements.

"the Lessee" means the Lessee the executors administrators or successors and permitted assigns or subtenants or licensees of the Lessee and where not repugnant to the context the servants and agents of the Lessee.

"the Lessor" means the Lessor and its successors and assigns, and where not repugnant to the context the servants and agents of the Lessor (including for the purpose of giving notice any management agent appointed from time to time by the Lessor).

"Lessor's Improvements" means work done or material used on or for the benefit of the Land (whether during the term of this Lease or any further term pursuant to any renewal or variation of this Lease) including:

(a) the draining, excavation, filling, or reclamation of the Land, or the making of retaining walls or other works appurtenant to that draining, excavation, filling or reclamation; or

(b) the grading or levelling of the Land or the removal of rocks, stone, sand, or soil therefrom; or

(c) the removal or destruction of vegetation, or the effecting of any change in the nature or character of the vegetation; or

(d) the alteration of soil fertility or of the structure of the soil; or

(e) the arresting or elimination of erosion or flooding.

"Person" shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust or a Crown entity as defined in Section 7(1) of the Crown Entities Act 2004 or a State Owned Enterprise in each case whether or not having separate legal personality.

"Registered Valuer" means a person who is a full, registered member of the NZ Property Institute (or any successor organization) and who is competent to practise as a valuer of the kind of premises demised by the Lease and currently practicing in the market at the time of appointment.

"Working Day" means any day of the week other than:

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day. New Zealand's anniversary day or the Anniversary Day celebrated in Rotorua; and

(b) a day in the period starting on 24 December in any year and ending on 5 January in the following year, both days included.

1.2 **Interpretation**

(a) Words importing the singular number shall include the plural, the masculine gender shall include the feminine, persons shall include companies, and vice versa.

(b) Any provision of this Lease to be performed by 2 or more persons shall bind those persons jointly and severally.

(c) The Index to this Lease and any headings and marginal notations in this Lease have been inserted for convenience only and shall not in any way limit or govern the construction of the terms of this Lease.

(d) 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.

(e) Any reference in this Lease to a "month" or "monthly" shall mean, respectively, calendar month or calendar monthly.

1.3 **Exclusion of Statutory Provisions**

(a) The covenants conditions agreements and restrictions implied in leases by the Property Law Act 2007 are hereby negatived to the fullest extent permitted by law.

(b) To the extent permitted by law the application to this Lease of any moratorium or other law, act or regulation having the effect of extending the term, 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 is expressly

excluded and negatived.

1.4 **Lessor's Consent**

Where the Lessor's consent or approval is required pursuant to any provision of this Lease such consent or approval shall not be unreasonably or arbitrarily withheld unless otherwise herein provided. Such consent or approval shall be required for each separate occasion notwithstanding any prior consent or approval obtained for the like purpose on a prior occasion.

1.5 **Relationship of Parties**

Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of partnership or of principal and agent or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent nor any other provisions contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties hereto other than the relationship of lessor and lessee upon the terms provided in this Lease.

1.6 **Severability**

If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall be or become invalid or unenforceable the remaining terms conditions and covenants shall not be affected thereby.

1.7 **Non-Merger**

The covenants, conditions, agreements and obligations of the parties in this Lease and this Lease document shall not merge with or be extinguished by the grant of any further or other lease but shall remain in full force and effect and operative according to their tenor.

1.8 **Service of Notices**

(a) All notices relevant to this Lease must be served in writing.

(b) All notices must be served by one of the following means:

(i) in the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and

(ii) in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:

(A) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or

(B) on the party or on the party's solicitor by personal delivery or by posting by ordinary mail or by fax or by email, or in the case of the party's solicitor only, by sending by document exchange.

(c) In respect of the means of service specified in subclause (b), a notice is deemed to have been served:

(i) in the case of personal delivery, when received by the party or at the relevant party's solicitor's office;

(ii) in the case of posting by ordinary mail:

(A) if sent within New Zealand to another New Zealand address, the second Working Day;

(B) if sent from one address to an overseas address, the tenth day of posting to the address for service notified in writing by the party or to the postal address of the solicitor's office;

(iii) in the case of fax transmission, when sent to the fax number notified in writing by the party or to the fax number of the solicitor's office and a confirmation is printed indicating that transmission occurred;

(iv) in the case of email, when acknowledged by the party or the solicitor by return email or otherwise in writing;

(v) in the case of sending by document exchange, on the second Working Day following the date of sending to the document exchange number of the solicitor's office.

(d) Notice served by a party after 5 p.m. on a Working Day or on a day which is not a Working Day shall be deemed to have been served by that party at 9 a.m. on the next succeeding Working Day.

(e) When 2 or more notices are deemed to have been served at the same time they shall take effect in the order in which they would have been served but for this clause.

(f) Any period of notice required to be given under this Lease shall be computed by excluding the day of service.

(g) Unless and until a party gives notice of any change, the address for service specified in Schedule A shall apply for the purposes of this clause 1.8.

1.9 **Settlement of Disputes**

(a) Any dispute or difference which may arise between the parties concerning the interpretation of this Lease or relating to any other matter arising under this Lease will be actively and in good faith negotiated by the parties with a view to a speedy resolution of such differences.

(b) If the parties cannot resolve a dispute or difference within 15 business days of any dispute or difference arising then, unless otherwise expressly provided in this Lease they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using informal dispute resolution techniques such as mediation. The rules governing any such technique if adopted will be agreed between the parties or as selected by the organisation known as "LEADR" (Leading Edge Alternative Dispute Resolvers) or any other alternative dispute organisation agreed upon by the parties.

(c) If the parties cannot agree on any dispute resolution technique then the dispute or difference shall be settled by reference to arbitration. Except as otherwise expressly provided in this Lease the reference shall be to 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 Arbitration Act 1996 or any successor Act.

(d) The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other for settling terms of reference, interlocutory matters and generally all steps preliminary and incidental to the hearing and determination of the proceedings.

2 Rent and Outgoings

2.1 **Payment of Rental**

(a) The Lessee will pay the rent referred to in Schedule A and any adjusted or varied rent pursuant to this Lease to the Lessor (or as the Lessor may in writing otherwise direct) without demand from the Lessor and without any deduction howsoever.

(b) The rent shall be paid by equal instalments in advance in the frequency specified in Schedule A with a first instalment to be paid on the Commencement Date of this Lease.

(c) The rent due under this Lease from time to time shall be paid by automatic bank authority or in such other manner as the Lessor may from time to time direct.

(d) Rent shall be paid on the first day of each January, April, July and October in each year by equal quarterly payments in advance but the first payment shall

be on the Date of Commencement of this Lease on a proportionate basis for any broken period until the first day of the next quarter.

(e) The Lessee shall pay the Goods and Services Tax payable by the Lessor in respect of the rental. The tax shall be paid on each occasion when any rental payment falls due for payment and shall be payable to the Lessor or as the Lessor shall direct.

2.2 **Rental Review**

(a) The rent shall be reviewed on the *5th* Anniversary of the Commencement Date and thereafter on each Renewal Date, as specified in Schedule A (if the lease is renewed).

(b) On each Review Date the annual rent shall be reviewed to a sum equal to the current market rental of the Land assessed as a vacant undeveloped site.

(c) The Lessor shall no earlier than 4 calendar months and no later than 2 months prior to any Review Date (time being strictly of the essence) give written notice to the Lessee specifying the new annual rent proposed by the Lessor as the current market rent to apply from that Review Date.

Such notice shall be null and void if not accompanied by a certificate signed by a Registered Valuer which fixes the current market rent as at the relevant Review Date at the same figure as that fixed in the Lessor's written notice.

(d) Should the Lessor not have commenced the review 2 months prior to the Review Date, the Lessee may at any time thereafter commence the review by giving to the Lessor written notice specifying the annual rent considered by the Lessee to be the current market rent as at the Review Date provided that no such notice shall be given after that date 6 months subsequent to the Review Day.

Such notice shall be null and void if not accompanied by a certificate signed by a Registered Valuer which fixes the current market rent as at the relevant Review Date at the same figure as that fixed in the Lessee's written notice.

(e) If by further written notice from one party to the other ("the Disputing Party's Notice") given within 42 days from receipt of notice under clause 2.2(c) or (d) (time not being of the essence) the other party disputes that the proposed new current market rent is the current market rent and specifies the annual rent considered by such party to be the current market rent, and supports the Disputing Party's Notice with a certificate from a Registered Valuer, which fixes the current market rent at the same figure as that specified in the Disputing Party's Notice, then the new current market rent shall be determined in accordance with clauses 2.2(j) and 2.2(k).

(f) Should further written notice not be given by one party to the other under the provisions of clause 2.2(e), the party served under clause 2.2(c) or (d) shall be deemed to have accepted the rental so notified by the other party.

(g) The current market rent deemed to have been accepted in accordance with the provisions of clause 2.2(f) or determined in accordance with the provisions of clauses 2.2(j) and 2.2(k), shall be the annual rent payable by the Lessee from the relevant Review Date.

(h) Pending the determination of the new annual rent the Lessee shall pay the average of the rent specified in the Lessor's notice under clause 2.2(c) or the Lessee's notice under clause 2.2(d) (whichever issues first) and the rent specified in the Disputing Party's Notice (if any). Upon determination of the new current market rent an appropriate adjustment shall be made immediately. Any overpayment shall be immediately refunded to the Tenant and any shortfall shall be immediately payable by the Tenant.

(i) Any variation in the annual rent resulting from such determination shall take effect on and from the relevant Review Date notwithstanding that either party's rent assessment may have been given or the new annual rent may have been determined after that Review Date.

(j) In the event that the Disputing Party's Notice is given and the parties cannot determine the current market rental by negotiation within 2 months after date of service of the Disputing Party's Notice, then the current market rental shall be determined by the arbitration of 2 Registered Valuers, one appointed by the Lessor and one appointed by the Lessee. If the 2 Registered Valuers cannot agree an umpire shall be appointed by the 2 Registered Valuers to determine any points of difference between such Registered Valuers and the decision of such Registered Valuers or the umpire shall be binding on both the Lessor and the Lessee. The said arbitration shall be determined in accordance with the provisions of the Arbitration Act 1996 and its amendments and any enactments passed in substitution therefor.

(k) The annual rent of the Land shall be assessed on the basis of current market rental of the Land as determined as at the review date. In determining the annual rent of the Land the valuers and any umpire shall, in addition to other relevant factors:

(i) Disregard:

- any deleterious condition of the Land if such condition results from any breach of this Lease by the Lessee;
- the value of any goodwill attributable to the Lessee's business; and
- all Improvements made to the Land.

(ii) Have regard to:

- the Lessor's Improvements; and
- in considering the use to which the Land may be put, only the

actual permitted use under this Lease as at the Review Date.

(l) Each party shall bear its own costs, but the costs of the determination by the umpire of the current market rental shall be borne equally by the Lessor and the Lessee.

(m) If any moratorium or other law, act or regulation that applies to this Lease has the effect of postponing any periodic review of rent as at a date of review then if and whenever such moratorium is lifted or the law, act or regulation is repealed or amended so as to permit the rent to be reviewed then the review that has been postponed shall take place as at the date that such moratorium is lifted or such law, act or regulation is repealed or amended to the intent that the rent review shall establish the rent of the Land as at such date and not as at the postponed review date, but any subsequent rent review shall take place on the next following Review Date fixed in accordance with clause 2.2(a).

2.3 **Outgoings**

(a) The Lessee will pay all rates, taxes (including without limitation land or improvements tax but excluding any income tax or capital gains tax or such similar tax which is personal to the Lessor and which is imposed as a result of any sale or other disposal of the Land or because of income gained by the Lessor from the Land or any tax imposed on unrealised gains from the Land such as capital accretion tax), charges, assessments, impositions and outgoings whatsoever which now are or which during the term or any renewed lease shall be taxed, rated, charged, assessed or imposed on the Land, any Improvements or on the Lessor or Lessee in respect thereof by any Authority.

(b) The obligation of the Lessee to pay the outgoings and other payments hereunder shall be to pay the Goods and Services Tax inclusive cost thereof.

(c) The Lessee shall pay to the proper Authorities all charges for water, gas, electricity, telephone and all utility and other services connected to the Land and/or the Improvements.

(d) The Lessee shall pay for all costs of service, installation, maintenance and connection to the nearest approved Authority connection points for services used by the Lessee.

(e) Should the Lessee make default in payment of such outgoings, taxes or charges required under this clause 2.3 the Lessor may pay the same and forthwith recover the amount paid as if the same were rent in arrear payable by the Lessee.

2.4 **Goods and Services Tax**

The Lessee shall pay to the Lessor upon demand any taxes paid or payable by the Lessor or accountable by the Lessor pursuant to the provisions of the Goods and Services Tax Act 1985 or any similar tax levied in substitution therefor including all amendments and any enactments in substitution therefor or in addition thereto or

otherwise in respect of any payments made by the Lessee under this Lease (including the payment of ground rent) or paid by the Lessor on behalf of the Lessee's obligation to make such payment under this Lease.

3 Use of Land

3.1 Use of Land

The Lessee will not use or permit to be used the Land or any part thereof or any Improvements erected thereon otherwise than in accordance with the Actual Use specified in Schedule A or such other permitted use as may be approved in writing by the Lessor. The Lessor's consent shall not be unreasonably or arbitrarily withheld in respect of any proposed use:

(a) reasonably suitable for Land; and

(b) which complies with Regional or District Plans or the consent of any Authority having jurisdiction in respect of the Land, and where any agreed change of use requires compliance with sections 114 to 116 of the Building Act 2004 the Lessee shall as a condition of any consent granted by the Lessor comply with the requirements of sections 114 to 116 of the Building Act 2004 and pay all compliance costs where the Improvements are the Lessee's.

3.2 No Warranty as to Use

The Lessor does not in any way warrant that the Land is or will remain suitable or adequate for any of the approved purposes of the Lessee and to the full extent permitted by law all warranties as to suitability and to adequacy implied by law are expressly negatived. Should any of the purposes of the Lessee be permissible only with the consent of any Authority under or in pursuance of any statute, ordinance, regulation, by-law or other enactment or order of Court the Lessee shall obtain such consent at the sole cost and expense of the Lessee including but not limited to any costs of complying with any conditions of any such consent.

3.3 No Objection to Consent Process

Where the Lessee is lawfully obliged to obtain any licence, resource consent (including any land use consent or discharge permit) or (without limiting the generality of the foregoing) other consents from any Authority, the Lessor agrees that it and any officer, or employee or agent of the Lessor or any person claiming under the Lessor shall not raise any objection or requisition relating thereto as landowner of the Land where the Lessee is using the Land for any permitted use under this Lease and is not in any material breach or likely to be in any material breach at any time in the future of any terms and conditions of this Lease.

3.4 Compliance with Enactments

The Lessee will at all times observe and comply with all statutes ordinances regulations by-laws or other enactments affecting or relating to the use of the Land

and with all requirements which may be given by any Authority and will in particular but without limitation:

(a) ensure that a warrant of fitness is obtained each year in respect of any Improvements if required under the Building Act 2004;

(b) comply with and observe at all times the terms and conditions of all resource consents held in respect of the Lessee's use of the Land and the requirements imposed and otherwise arising under the Resource Management Act 1991; and

(c) ensure that, consistent with the obligations placed on the Lessee under the Health and Safety in Employment Act 1992, proper and adequate health and safety procedures are adopted in accordance with such Act.

3.5 **Right to Inspect**

The Lessee shall permit the Lessor and its agents, servants or contractors no more than two times each year during the term after having given reasonable prior written notice to enter upon the Land to view the condition thereof. At all times the Lessor shall be accompanied by the Lessee's agent.

3.6 **Compliance with Easements**

The Lessee will perform and observe the obligations of the Lessor in connection with any easement of any kind for the time being affecting the Land (whether as dominant or servient tenement) PROVIDED THAT any works of a capital nature, including the carrying out effecting or contributing to any repairs or maintenance to any easement of any kind either existing at the date of commencement of this Lease or brought down on the Land during the term of this Lease or any renewal thereof, shall be at the cost of the Lessor unless the requirement for such works is directly attributable to the actions of the Lessee and the use of the Improvements.

3.7 **No Fencing Liability on Lessor**

The Lessor shall not be liable nor be called upon to erect or repair or contribute towards the cost of erection or repair of any boundary fence between the Land and any adjoining land now or at any time owned by the Lessor but nothing herein contained shall be deemed to limit any liability imposed by statute upon any present or future lessee from the Lessor of any adjoining land.

3.8 **Improvements During Lease**

(a) Throughout the term of this Lease and on any renewal any Improvements installed or erected on the Land shall be deemed to remain in the ownership of the Lessee unless the Lessor and the Lessee otherwise agree in writing. The Lessor shall, prior to granting any charge or mortgage over or affecting the Land or any other interest, request a written acknowledgement from the mortgagee or chargeholder or other person that the Improvements are not subject to such mortgage, charge or interest.

(b) Throughout the term of this Lease and on any renewal the Lessee shall have the right to alter, construct, demolish and replace any Improvements on the Land without the need to obtain the Lessor's consent providing all obligations required of the Lessee under this Lease relevant to Improvements on the Land are satisfied.

4 Assignment/Subletting

4.1 Control of Subletting and Assignments

The Lessee will not without the previous consent in writing of the Lessor assign or transfer this Lease. Such consent shall not be unreasonably or arbitrarily withheld or delayed where the Lessor is satisfied that the proposed assignee or transferee is able to meet its obligation under the Lease. Notwithstanding this clause where the Crown (as that term is defined in section 2 of the Public Finance Act 1989) remains as the Lessee under this Lease and in occupation of the Land no consent from the Lessor shall be required to any assignment or transfer of this Lease except that on each occasion that a different Crown Entity (as defined in section 7(1) of the Crown Entities Act 2004) or other Crown body or State Owned Enterprise assumes the role and obligations of the Lessee under this Lease the Lessee shall notify the Lessor in writing of that change.

4.2 Application to Subleases

Subject to the provisions of this clause the Lessee shall not sublet the Land or any part thereof without first obtaining the written consent of the Lessor (on the same basis provided for in clause 4.1) provided however that if the term of any proposed sublease granted pursuant to this clause is for less than the term of this Lease or would not extend beyond the date of any authorised termination of this Lease by the Lessee:

(a) the Lessee shall be permitted to grant any sublease of the Land, or any part of the Land, to any party at its discretion, for a term (including renewals or options to extend or any such other right to extend) not exceeding three years; or

(b) the Lessee shall be permitted to grant any tenancy in terms of the Residential Tenancies Act 1986; or

(c) the Lessee shall be permitted to grant any sublease of the Land or any part of the Land to any party at its discretion where that party is to provide the Lessee with services or assistance of any kind with the Lessee's activities and functions,

without requiring the Lessor's consent which shall be deemed to have been given provided and every case the Lessee shall promptly notify the Lessor of the names and addresses of any subtenant or residential tenant in lawful occupation and supply reasonable details including rent and term of such subleases or tenancies. For the sake of clarity, it is hereby acknowledged by the Lessor that nothing in this Lease shall preclude the Land or the Improvements being used for any residential purpose associated with the activities of the Lessee.

4.3 **Change of Effective Control**

(a) For the purposes of clause 4.1 (but not clause 4.3(c)) any proposed change in the effective control of any Lessee that is a Crown Entity as that term is defined in section 7(1) of the Crown Entities Act 2004 or a State Owned Enterprise shall be a proposed assignment of this Lease. The Lessor in deciding whether or not to grant consent shall only be entitled to consider the effect of the alteration of the effective control on the ability of the Lessee to continue to meet its obligations under the Lease. For the purposes of this clause any change in the management structure of the Lessee shall not be construed as a change in the effective control of the Lessee.

(b) Clause 4 applies to any assignment or subletting of the interest of the Lessee by any assignee of a bankrupt Lessee or any liquidator or receiver of a Lessee that is a company.

(c) For the purposes of clause 4.1 any proposed change in the shareholding of the Lessee or any amalgamation under Section 219 of the Companies Act 1993 altering the effective control of the Lessee shall be a deemed assignment of this Lease and will require the consent of the Lessor unless such deemed assignment involves a change of effective control to any of the entities mentioned in clause 4.3(a).

5 Improvements on Termination of Lease

5.1 **Lessee's Obligations**

On termination of this Lease (whether by expiry of time or otherwise) except where the Lessee has exercised any rights of renewal the Lessee may remove any Improvements specified in a written notice ("the Lessee's Removal Notice") given to the Lessor no later than six months prior to the expiry of the term or one month after any sooner termination.

5.2 **Yielding up Clean**

Except where the Lessee has exercised any rights of renewal, the Lessee will forthwith upon the expiration of the term or sooner determination of this Lease peaceably surrender and yield up unto the Lessor the Land and Improvements together with all conveniences, amenities and appurtenances relating thereto clean and free from rubbish.

5.3 **Compensation for Improvements**

(a) Any Improvements remaining on the Land after termination of this Lease and not included in the Lessee's Removal Notice, shall become the property of the Lessor who shall purchase such remaining Improvements and pay to the Lessee the greater of:

(i) the market value of the Improvements; or

(ii) the book value of the Improvements as set out in the Lessee's financial records for the then current year,

such payment to be made either on the date of expiration of the term or where this Lease is sooner terminated on the date one month after the Lease is so terminated.

(b) For the purposes of clause 5.3(a) the market value of the Improvements shall be as agreed between the Lessor and the Lessee, or failing agreement shall be fixed as follows:

(i) each party shall obtain a current market valuation of the Improvements from a Registered Valuer of their choice;

(ii) the value of the Improvements will be the average of the above two valuations;

(iii) each party shall bear its own costs of the valuation so obtained.

6 Insurance, Destruction and Redevelopment

6.1 Lessee to Insure

The Lessee shall insure all Improvements on the Land for replacement or indemnity cover (noting the interest of the Lessor on any policy so effected as an interested party) against destruction or damage by fire, earthquake, fire as a consequence of earthquake, storm, water damage and malicious damage and all other risks normally covered by a prudent lessee having regard to the nature of the Lessee's business. This obligation shall not be applicable in the event that the Lessee self insures while the Lessee remains in the beneficial ownership and control of the Crown.

6.2 Compliance with Fire Requirements

The Lessee shall at all times and in all respects comply with the requirements of the Insurance Council of New Zealand and all Authorities and with the requirements of any relevant statute, regulation, by-law or other notice issued by any Authority relating to fires.

6.3 Destruction, Damage or Redevelopment

The Lessee shall be entitled to carry out repairs, reinstatement or redevelopment to any Improvements on the Land in the event of total or partial destruction or in the event of the Lessee wishing to redevelop or replace any Improvements on the Land provided the following conditions are or will be satisfied:

(a) any repair, reinstatement or redevelopment shall fully comply with Regional and District Plans and all statutory and regulatory requirements in force at the time; and

(b) the Lessee is able to obtain all resource and building consents necessary to carry out any works programme;

(c) the Lease is not frustrated or the repairs or reinstatement or rebuilding prevented for any other reason beyond the control of the Lessee,

and upon satisfaction of such conditions the Lessee shall repair, reinstate or rebuild (as the case may be) any Improvements or such part of Improvements requiring such work in accordance with the conditions set out above

6.4 **Inability to Reinstate or Repair**

In the event that the Lessee is prevented from repairing or reinstating having regard to the provisions of clause 6.3 or to the insurance moneys available, then this Lease may be terminated at the option of the Lessee by notice in writing to the Lessor. The Lessee shall be under no obligation to clear the Improvements or restore the Land, where termination is pursuant to this clause.

6.5 **No Compensation Following Destruction**

In the event of any destruction or damage to the Improvements or any other improvements on the Land or any other chattels or fixtures whatsoever in or on the Land the Lessee or any one claiming under the Lessee shall not be entitled to any compensation or payment whatsoever from the Lessor.

7 Indemnities

7.1 **Lessee to Occupy at Own Risk**

The Lessee agrees to occupy and use the Land at the Lessee's risk and hereby releases the Lessor from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to the Lessee or any other person or any property in or about the Land.

8 Default by Lessee

8.1 **Default by Lessee**

If at any time:

(a) the annual rent is in arrears for 20 Working Days and the Lessor thereafter gives notice to the Lessee specifying that breach and the same is not remedied within 20 Working Days after the date of the Lessor's notice; or

(b) any other material breach of this Lease which prejudices the Lessor remains unremedied for 30 Working Days after the Lessor gives written notice to the Lessee specifying that breach; or

(c) if the Lessee shall make or enter into or endeavour to make or enter into any

composition assignment or other arrangement with or for the benefit of the Lessee's creditors; PROVIDED THAT this subclause (c) shall not apply while the Sovereign is the Lessee; or

(d) in the event of the insolvency bankruptcy or liquidation of the Lessee;

the Lessor may re-enter and the term shall terminate on such re-entry but without prejudice to the rights of either party against the other PROVIDED THAT for so long as the Sovereign is the Lessee hereunder, the Lessor shall be required to give to the Lessee 20 Working Days prior notice of any intention on the part of the Lessor to re-enter the Land and terminate the lease.

8.2 **Interest on Unpaid Moneys**

Without prejudice to the other rights, powers and remedies of the Lessor under this Lease, if any rent or other moneys owing by the Lessee to the Lessor or by the Lessor to the Lessee on any account whatsoever pursuant to this Lease shall be in arrear and unpaid for 20 Working Days after the due day for payment thereof (whether any formal or legal demand therefor shall have been made or not) such moneys shall bear daily interest compounded on quarterly rests and computed in respect of each quarter from such due date until the date of payment in full of such moneys at the rate of 2% over the average weighted overdraft rate for the last completed quarter, as published by the Reserve Bank, and such interest shall be recoverable in like manner as rent in arrears. In the event that the Reserve Bank ceases to publish such rate then the rate of interest for the purposes of this clause shall be 2% above the bank overdraft rate charged by the Lessor's banker as at the said due date of payment.

8.3 **Lessor may Remedy Lessee's Default**

Without prejudice to the other rights powers and remedies of the Lessor the Lessor may elect to remedy at any time without notice any default by the Lessee under this Lease and whenever the Lessor so elects all costs and expenses incurred by the Lessor (including legal costs and expenses) in remedying such default shall be paid by the Lessee to the Lessor forthwith on demand.

9 **Option for Renewed Lease**

9.1 **Option for Renewed Lease**

If the Lessee shall during the term duly and punctually pay the rental payable hereunder and duly observe perform and keep all the covenants and conditions on the part of the Lessee herein contained or implied, and shall give notice in writing to the Lessor at least 3 months prior to the expiry of the term of the desire of the Lessee to take a renewed lease of the Land, then the Lessor at the cost and expense of the Lessee will grant to the Lessee a renewed lease of the Land and the Lessee will take on lease the Land for the term specified for the purposes of this clause in Schedule A, such term to run from the expiration of the prior term.

9.2 **Terms of Renewed Lease**

(a) The renewed Lease shall be at a rental as at the commencement of the term of the renewed lease determined pursuant to clause 2.2 as if the commencement date of the renewed Lease was a "review date" for the purposes of that clause,

(b) The renewed Lease shall otherwise be upon the same terms and conditions as this Lease including this present provision for the renewal thereof and all provisions ancillary or in relation thereto except that the term of this Lease plus all further terms specified in Schedule A shall expire on the Final Expiry Date specified in Schedule A.

10 Costs

10.1 The parties shall each pay their own solicitors' costs on preparing and finalising this Lease or any renewal or variation of this Lease.

10.2 Subject to clause 12 the Lessee shall be responsible for payment of all registration fees including agency charges imposed and all government tax duty or imposts at any time payable on this Lease or any renewal or variation to this Lease.

10.3 The Lessee shall pay for all reasonable costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease.

11 Quiet Enjoyment

11.1 The Lessee paying the rent hereby reserved and performing and observing the terms of this Lease on its part to be performed and observed shall peaceably hold and enjoy the Land without hindrance or interruption by the Lessor or any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease.

11.2 The Lessor shall pay all taxes and assessments charged upon the Land other than those which the Lessee is obliged to pay hereunder

12 Registration

12.1 The Lessor shall register this Lease under the provisions of the Land Transfer Act 1952.

12.2 The Lessor will be responsible for survey and other costs incurred in obtaining registration of this Lease.

SCHEDULE 6

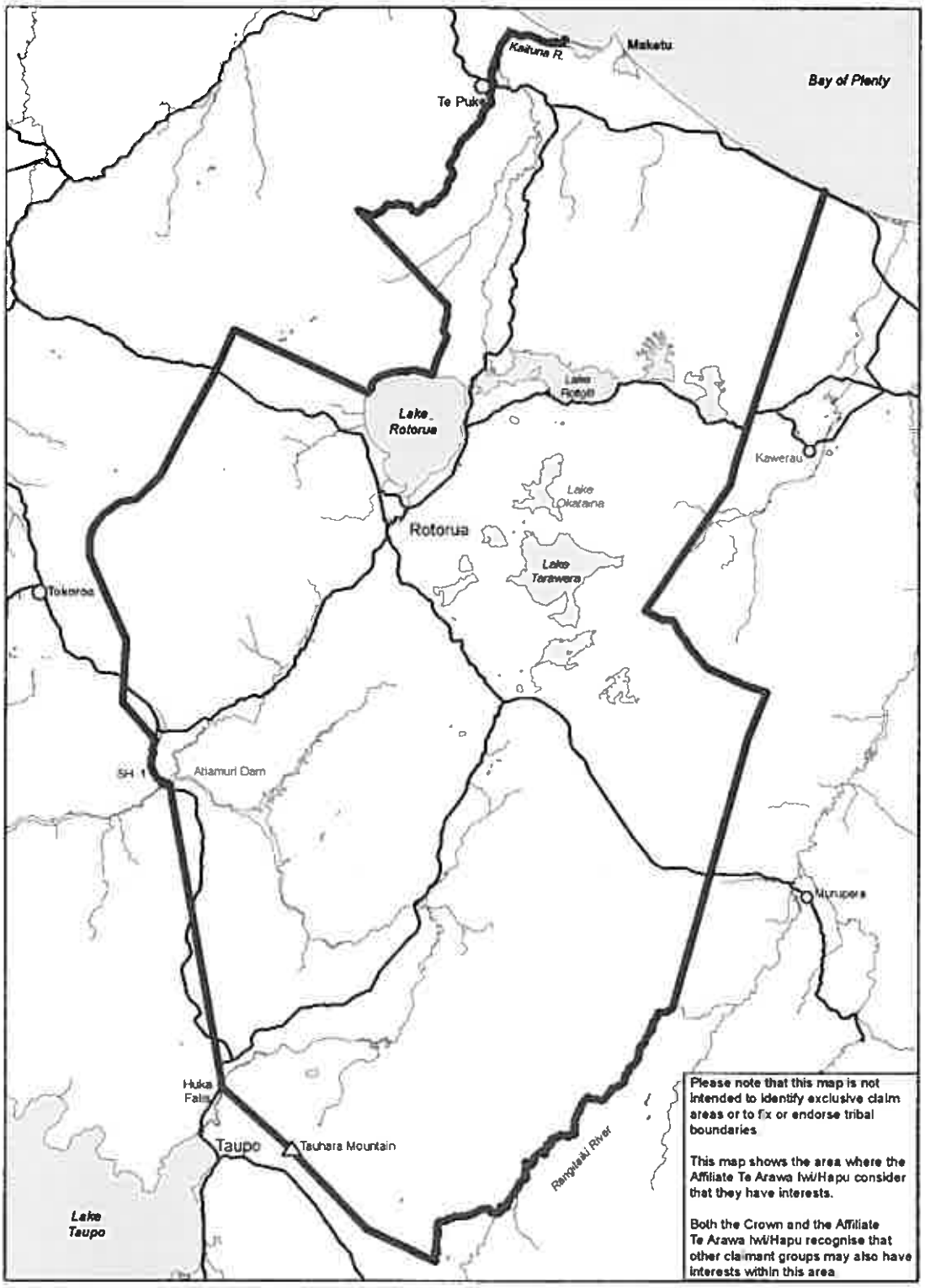
AREA OF INTEREST

(Clause 16.3)

AREA OF INTEREST

(The map follows this page).

AREA OF INTEREST OF THE AFFILIATE TE ARAWA IWI/HAPU



SCHEDULE 7

SO PLANS

(Clause 16.5.3)

THE AFFILIATE TE ARAWA IWI/HAPU

and

THE TRUSTEES OF THE TE PUMAUTANGA O TE ARAWA TRUST

and

THE SOVEREIGN

in right of New Zealand

SCHEDULES TO THE DEED OF SETTLEMENT OF THE HISTORICAL CLAIMS OF THE AFFILIATE TE ARAWA IWI/HAPU

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11 June 2008

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INTRODUCTION

The Claimant Definition Schedule, Cultural Redress Schedules (Schedules 1 to 3), the Commercial Redress Schedules (Schedules 4 and 5), the Area of Interest (Schedule 6) and the SO Plans (Schedule 7) form part of the Deed of Settlement of the Historical Claims of the Affiliate Te Arawa Iwi/Hapu entered into between the Affiliate Te Arawa Iwi/Hapu and the Crown on 11 June 2008.

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister in Charge of Treaty of Waitangi Negotiations in the presence of:

Honourable Dr Michael Cullen

WITNESS

Name: Rachel Heard
Occupation: Senior Private Secretary
Address: Parliament Buildings, Wellington

SIGNED for and on behalf of the **AFFILIATE TE ARAWA IWI/HAPU** by the Trustees of the Te Pumautanga o Te Arawa Trust in the presence of:

Eru George
Ngati Kea Ngati Tuara

Eva Moke
Ngati Pikiao

Wikeepa Te Rangipuawhe Maika
Tuhourangi Ngati Wahiao

Anaru Rangiheuea
Tuhourangi Ngati Wahiao

1.3

Te Poroa Joseph Malcolm
Ngati Tarawhai

Ruka Hughes
Ngati Rongomai

Edwin McKinnon
Ngati Pikiao

John Waaka
Tuhourangi Ngati Wahiao

Jim Schuster
Ngati Pikiao

Mita Pirika
Ngati Tuteniu

Materoa Peni
Ngati Tura – Ngati Te Ngakau

Wallace Haumaha
Ngati Ngararanui

WB

Fred Cookson
Ngati Uenukukopako

Roger Pikia
Ngati Tahu – Ngati Whaoa

Te Po Hawaiki Wiringi Jones
Ngati Te Roro o Te Rangi

WITNESS

Name: WILLIAM TE AHO

Occupation: MANAGER

Address: 14 AWATERE ST
HAMILTON

NB

People of the Affiliate Te Arawa Iwi/Hapu signed below to indicate their support for the Settlement

CLAIMANT DEFINITION SCHEDULE

DEFINITIONS OF EACH COLLECTIVE GROUP

1. For the purposes of clause 1.5-1.8:

Ngati Ngararanui

1.1 **Ngati Ngararanui (including Ngati Tamahika and Ngati Tuteaiti)**:

1.1.1 means the collective group composed of:

(a) individuals descended from one or more Ngati Ngararanui Ancestors; and

(b) individuals who are members of the subgroups referred to in paragraph 1.1.3(a); and

1.1.2 means every individual referred to in paragraph 1.1.1; and

1.1.3 includes the following subgroups:

(a) Ngati Tamahika and Ngati Tuteaiti; and

(b) any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.1.1;

1.2 **Ngati Ngararanui Ancestor** means an individual who:

1.2.1 exercised Customary Rights by virtue of being descended from: Ngararanui, Tuteaiti or Tamahika; and

1.2.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840;

Ngati Kearoa Ngati Tuara

1.3 **Ngati Kearoa Ngati Tuara**:

1.3.1 means the collective group composed of:

(a) individuals descended from one or more Ngati Kearoa Ngati Tuara Ancestors; and

(b) individuals who are members of the subgroups referred to in paragraph 1.3.3(a); and

1.3.2 means every individual referred to in paragraph 1.3.1; and

1.3.3 includes the following subgroups:

(a) Ngati Kearoa, Ngati Kokohu and Ngati Tuara; and

(b) any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.3.1;

1.4 **Ngati Kearoa Ngati Tuara Ancestor** means an individual who:

1.4.1 exercised Customary Rights by virtue of being descended from Kearoa or Tuara; and

1.4.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840;

Ngati Tura – Ngati Te Ngakau

1.5 **Ngati Tura – Ngati Te Ngakau**:

1.5.1 means the collective group composed of:

(a) individuals descended from one or more Ngati Tura-Ngati Te Ngakau Ancestors; and

(b) individuals who are members of the subgroups referred to in paragraph 1.5.3(a); and

1.5.2 means every individual referred to in paragraph 1.5.1; and

1.5.3 includes the following subgroups:

(a) Ngati Tura and Ngati Te Ngakau; and

(b) any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.5.1;

1.6 **Ngati Tura – Ngati Te Ngakau Ancestor** means an individual who:

1.6.1 exercised Customary Rights by virtue of being descended from Tura or Te Ngakau; and

1.6.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840;

Ngati Te Roro o Te Rangi

1.7 **Ngati Te Roro o Te Rangi**:

1.7.1 means the collective group composed of individuals descended from one or more Ngati Te Roro o Te Rangi Ancestors; and

1.7.2 means every individual referred to in paragraph 1.7.1; and

1.7.3 includes any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.7.1;

1.8 **Ngati Te Roro o Te Rangi Ancestor** means an individual who:

1.8.1 exercised Customary Rights by virtue of being descended from Te Roro o Te Rangi; and

1.8.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840;

Ngati Tuteniu

1.9 **Ngati Tuteniu:**

1.9.1 means the collective group composed of individuals descended from one or more Ngati Tuteniu Ancestors; and

1.9.2 means every individual referred to in paragraph 1.9.1; and

1.9.3 includes any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.9.1;

1.10 **Ngati Tuteniu Ancestor** means an individual who:

1.10.1 exercised Customary Rights by virtue of being descended from Tuteniu; and

1.10.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840;

Ngati Uenukukopako

1.11 **Ngati Uenukukopako**:

1.11.1 means the collective group composed of:

(a) individuals descended from one or more Ngati Uenukukopako Ancestors; and

(b) individuals who are members of the subgroups referred to in paragraph 1.11.3(a); and

1.11.2 means every individual referred to in paragraph 1.11.1; and

1.11.3 includes the following subgroups:

(a) Ngati Hauora and Ngati Te Kanawa; and

(b) any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.11.1;

1.12 **Ngati Uenukukopako Ancestor** means an individual who:

1.12.1 exercised Customary Rights by virtue of being descended from Uenukukopako; and

1.12.2 exercised the Customary Rights predominantly in relation to Whakapoungakau 8-16 at any time after 6 February 1840;

Tuhourangi Ngati Wahiao

1.13 **Tuhourangi Ngati Wahiao**:

1.13.1 means the collective group composed of:

(a) individuals descended from one or more Tuhourangi Ngati Wahiao Ancestors; and

(b) individuals who are members of the subgroups referred to in paragraph 1.13.3(a); and

1.13.2 means every individual referred to in paragraph 1.13.1; and

1.13.3 includes the following subgroups:

(a) Ngati Apumoana, Ngati Hinemihi, Ngati Hinganoa, Ngati Huarere, Ngati Kahu Upoko, Ngati Puta, Ngati Taoi, Ngati Te Apiti, Ngati Tionga, Ngati Tumatawera, Ngati Tuohonoa and Ngati Uruhina; and

(b) any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.13.1;

1.14 **Tuhourangi Ngati Wahiao Ancestor** means an individual who:

1.14.1 exercised Customary Rights by virtue of being descended from Tuhourangi; and

1.14.2 exercised the Customary Rights predominantly in relation to Rotomahana Parekarangi 6 or Whakarewarewa 2 at any time after 6 February 1840;

Ngati Tahu – Ngati Whaoa

1.15 **Ngati Tahu – Ngati Whaoa**:

1.15.1 means the collective group composed of:

(a) individuals descended from one or more Ngati Tahu – Ngati Whaoa Ancestors; and

(b) individuals who are members of the subgroups referred to in paragraph 1.15.3(a); and

1.15.2 means every individual referred to in paragraph 1.15.1; and

1.15.3 includes the following subgroups:

(a) Ngati Hinewai, Ngati Karaka, Ngati Maru, Ngati Mataarae, Ngati Ngarangi, Ngati Pareauru, Ngati Rahurahu, Ngati Ruha and Ngati Te Rama; and

(b) any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.15.1;

1.16 **Ngati Tahu – Ngati Whaoa Ancestor** means an individual who:

1.16.1 exercised Customary Rights by virtue of being descended from Tahu or Whaoa; and

1.16.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840;

Ngati Pikiao (excluding Ngati Makino)

1.17 **Ngati Pikiao (excluding Ngati Makino):**

1.17.1 means the collective group composed of:

(a) individuals descended from one or more Ngati Pikiao Ancestors; and

(b) individuals who are members of the subgroups referred to in paragraph 1.17.3(a); and

1.17.2 means every individual referred to in paragraph 1.17.1; and

1.17.3 includes the following subgroups:

(a) Ngati Tamateatutahi, Ngati Kawiti, Ngati Te Rangiunuora, Ngati Hinekura, Ngati Te Takinga, Ngati Tutaki-a-Hani, Ngati Tutaki-a-Koti, Ngati Paruaharanui, Ngati Hinerangi and Ngati Whakahemo; and

(b) any whanau, hapu or group of individuals composed of individuals referred to in paragraph 1.17.1;

1.18 **Ngati Pikiao Ancestor** means an individual who:

1.18.1 exercised Customary Rights by virtue of being descended from Pikiao; and

1.18.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840;

Ngati Rongomai

1.19 **Ngati Rongomai**:

1.19.1 means the collective group composed of individuals descended from one or more Ngati Rongomai Ancestors; and

1.19.2 means every individual referred to in paragraph 1.19.1; and

1.19.3 includes any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.19.1;

1.20 **Ngati Rongomai Ancestor** means an individual who:

1.20.1 exercised Customary Rights by virtue of being descended from Rakeiao;

1.20.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840; and

Ngati Tarawhai

1.21 **Ngati Tarawhai**:

1.21.1 means the collective group composed of:

(a) individuals descended from one or more Ngati Tarawhai Ancestors; and

(b) individuals who are members of the subgroup referred to in paragraph 1.21.3(a); and

1.21.2 means every individual referred to in paragraph 1.21.1; and

1.21.3 includes the following subgroups:

(a) Ngati Hinemihi and Ngati Hinehua; and

(b) any iwi, hapu, whanau, or group of individuals to the extent that that iwi, hapu, whanau, or group of individuals is composed of individuals referred to in paragraph 1.21.1; and

1.22 **Ngati Tarawhai Ancestor** means an individual who:

1.22.1 exercised Customary Rights by virtue of being descended from Tarawhai; and

1.22.2 exercised the Customary Rights predominantly in relation to the Area of Interest at any time after 6 February 1840.

DEFINITION OF CUSTOMARY RIGHTS

2. For the purposes of paragraph 1 above:

2.1 **Customary Rights** means rights according to the Affiliate Te Arawa Iwi/Hapu tikanga, including:

2.1.1 to occupy land in the Area of Interest; and

2.1.2 in relation to the use of:

(a) land; or

(b) other natural or physical resources; and

2.2 a person is descended from another person if the first person is descended from the other by:

2.2.1 birth;

2.2.2 legal adoption; or

2.2.3 Maori customary adoption in accordance with Te Arawa tikanga, being a blood child of a beneficiary of the Affiliate Te Arawa Iwi/Hapu.

SCHEDULE 1

CULTURAL REDRESS – RELATIONSHIPS

PART 1: PROTOCOLS

DOC PROTOCOL

(Clause 9.1)

PART 1: PROTOCOLS – DOC PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF CONSERVATION REGARDING DEPARTMENT OF CONSERVATION / TE PAPA ATAWHAI INTERACTION WITH THE AFFILIATE TE ARAWA IWI/HAPU ON SPECIFIED MATTERS

1 INTRODUCTION

1.1 Under the Deed of Settlement dated [ ] between The Affiliate Te Arawa Iwi/Hapu and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister of Conservation (the "**Minister**") would issue a Protocol (the "**DOC Protocol**") setting out how the Department of Conservation (the "**Department**") will interact with the trustees of the Te Pumautanga Trust (the "**Te Pumautanga Trustees**") on matters specified in the DOC Protocol. These matters are:

1.1.1 input into business planning at the Area Office level;

1.1.2 integrated management of lands;

1.1.3 species management;

1.1.4 pest control;

1.1.5 freshwater fisheries;

1.1.6 cultural materials;

1.1.7 historic resources (wahi tapu and wahi taonga);

1.1.8 advocacy under the Resource Management Act 1991 (the "**Resource Management Act**");

1.1.9 visitor and public information; and

1.1.10 consultation.

1.2 For the purposes of this DOC Protocol, the Te Pumautanga Trustees are the representatives of the whanau, hapu, and iwi of the Affiliate Te Arawa Iwi/Hapu who have an interest in conservation management in the DOC Protocol Area.

1.3 Both the Department and Te Pumautanga Trustees are seeking a relationship consistent with Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

1.4 The Affiliate Te Arawa Iwi/Hapu have a responsibility in relation to the preservation, protection and management of natural and historic resources in the DOC Protocol Area in accordance with its kaitiakitanga. This derives from the status of the Affiliate Te Arawa Iwi/Hapu as tangata whenua in the DOC Protocol Area, is inextricably linked to whakapapa, and has important cultural and spiritual dimensions.

1.5 The purpose of the Conservation Act 1987 (the "**Act**") is to manage natural and historic resources under that Act and the Acts in the First Schedule to the Act. The Minister, the Director-General of Conservation (the "**Director-General**") and the Department are required to exercise particular functions, powers and duties under that legislation.

2 PURPOSE OF THE PROTOCOL

2.1 The purpose of this Protocol is to assist the Department and the Te Pumautanga Trustees to exercise their respective responsibilities with the utmost co-operation to achieve over time the conservation policies, actions and outcomes sought by both.

2.2 This Protocol sets out a framework that enables the Department and the Te Pumautanga Trustees to establish a constructive and ongoing working relationship that is consistent with section 4 of the Act, and that respects the values of the Affiliate Te Arawa Iwi/Hapu, so long as giving effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi is not inconsistent with the Act. It provides for the Affiliate Te Arawa Iwi/Hapu to have input into certain policy, planning and decision-making processes, the management of public conservation land, and the fulfilment of statutory responsibilities (for both parties) within the DOC Protocol Area.

3 PROTOCOL AREA

3.1 The DOC Protocol applies across the DOC Protocol Area which means the area identified in the map included in Attachment A of this Protocol.

4 TERMS OF ISSUE

4.1 This Protocol is issued pursuant to section [ ] of [*insert the name of the Settlement Legislation*] (the "**Settlement Legislation**") that implements clause 9.1 of the Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.

4.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

5 IMPLEMENTATION AND COMMUNICATION

5.1 The Department will seek to establish and maintain communication with the Te Pumautanga Trustees on a continuing basis by:

5.1.1 providing reasonable opportunities for the Te Pumautanga Trustees to meet with Department managers and staff to discuss their respective conservation responsibilities and to review past operations;

5.1.2 meeting with the Te Pumautanga Trustees (or designate) every six months at the Rotorua Lakes Area Office level to review implementation of the DOC Protocol and holding an annual hui between the Te Pumautanga Trustees and senior DOC staff including the Conservator, Area Manager and Kaupapa Atawhai Manager;

5.1.3 training relevant staff on the content of the DOC Protocol and provide the Affiliate Te Arawa Iwi/Hapu, through the Te Pumautanga Trustees, with the opportunity to train relevant staff on the Affiliate Te Arawa Iwi/Hapu values and tikanga; and

5.1.4 briefing the Bay of Plenty Conservation Board members on the content of the DOC Protocol.

5.2 The Rotorua Lakes Area Manager will act as the primary contact person for the Te Pumautanga Trustees and he or she will act as a liaison person with other departmental staff.

6 INPUT INTO BUSINESS PLANNING AT THE AREA OFFICE LEVEL

6.1 This Protocol provides for the ongoing implementation of a range of matters as well as special projects identified by the Te Pumautanga Trustees, with implementation taking place over time. Some of the projects identified will need specific resourcing set aside through the Department's business planning process.

6.2 The process for the involvement of the Te Pumautanga Trustees in the Department's business planning process will be as follows:

6.2.1 the Department and the Te Pumautanga Trustees will, on an annual basis, identify projects that require specific resourcing;

6.2.2 the identified projects will be taken into consideration together with other priorities under the Department's business planning process at the conservancy and regional levels;

6.2.3 the decision on whether any specific projects will be funded in any business year will be made by the Conservator and the Regional General Manager; and

6.2.4 if the Department decides to proceed with a specific project that has been identified under clause 6.2.1, the Te Pumautanga Trustees (or designate) and the Department will meet again to finalise a work plan and timetable for implementation of the specified project in that business year, in accordance with the resources which have been allocated in the business plan.

7 INTEGRATED MANAGEMENT FOR THE LANDS OF THE AFFILIATE TE ARAWA IWI/HAPU AND THE DEPARTMENT OF CONSERVATION

7.1 The transfer to the Te Pumautanga Trustees of certain parcels of land as "cultural redress properties" shall, amongst other conditions, be subject to a conservation covenant to maintain conservation values currently applicable to the land title from which such parcels are severed.

7.2 The Te Pumautanga Trustees and the Department of Conservation acknowledge the cultural, natural and public values that attach to such lands, both to the severed parcel and the area remaining alike, and undertake to work together to integrate their management for the overall good of such lands and their associated values.

7.3 The Te Pumautanga Trustees and the Department of Conservation acknowledge that threats posed by fire, animal and plant pests are threats pertinent to both the cultural and the conservation values associated with such lands. It is also acknowledged that there is the potential for management issues to arise between the parties around recreational use and "interpretation". The Te Pumautanga Trustees and the Department of Conservation therefore agree:

7.3.1 that there are clear benefits to integrating management of such parcels of land and remaining areas, by working together and adding value to each other's efforts, one complementing the other, and

7.3.2 that a strong commitment to open, regular, free and frank communication will realise those benefits.

7.4 The Department of Conservation will endeavour to ensure that all relevant information in its possession in relation to such lands is shared with the Te Pumautanga Trustees in a proactive manner. Likewise the Te Pumautanga Trustees will endeavour to ensure they reciprocate with information in their possession or in the possession of Iwi/Hapu affiliated to the Te Pumautanga Trustees.

7.5 The Te Pumautanga Trustees and the Department of Conservation both agree that these principles of integrated management should provide for an operational relationship that will develop going forward, and that over time there will be further or other operational arrangements to be agreed to in respect of specific sites.

8 SPECIES MANAGEMENT

8.1 One of the Department's primary objectives is to ensure the survival of species and their genetic diversity. An important part of this work is to prioritise recovery actions in relation to the degree of threat to a species. The Department prioritises recovery actions at both a national and local level.

8.2 In recognition of the cultural, spiritual, historic and/or traditional association of the Affiliate Te Arawa Iwi/Hapu with indigenous flora and fauna found within the DOC Protocol Area for which the Department has responsibility, the Department will in relation to any indigenous species that the Te Pumautanga Trustees may identify as important to them through the processes provided under clauses 5 and 6 of this Protocol:

8.2.1 where a national recovery programme is being implemented within the DOC Protocol Area, inform the Te Pumautanga Trustees and, where it is reasonably practicable to do so, provide opportunities for the Te Pumautanga Trustees to participate in that programme;

8.2.2 advise the Te Pumautanga Trustees in advance of any Conservation Management Strategy reviews or the preparation of any statutory or non-statutory plans, policies or documents that relate to the management of those species within the DOC Protocol Area;

8.2.3 where research and monitoring projects are being carried out by the Department within the DOC Protocol Area, and where it is reasonably practicable to do so, provide the Te Pumautanga Trustees with opportunities to participate in those projects;

8.2.4 advise the Te Pumautanga Trustees of the receipt of any completed research reports relating to indigenous species within the DOC Protocol Area, and provide copies or the opportunity for the Te Pumautanga Trustees to study those reports; and

8.2.5 encourage and provide advice to the Te Pumautanga Trustees concerning the protection or management of those species on land owned or managed by the Affiliate Te Arawa Iwi/Hapu.

9 PEST CONTROL

9.1 A key objective and function of the Department is to prevent, manage and control threats to natural heritage values from animal and weed pests. This needs to be done in a way that maximises the value from limited resources available to do this work.

9.2 The Department will:

9.2.1 seek and facilitate early consultation with the Te Pumautanga Trustees on pest control activities within the DOC Protocol Area, particularly in relation to the use of poisons; and

9.2.2 provide the Te Pumautanga Trustees with the Department's reports for animal pest control operations completed within the DOC Protocol Area.

10 FRESHWATER FISHERIES

10.1 Freshwater fisheries are managed under two pieces of legislation: the Fisheries Act 1996 (administered by the Ministry of Fisheries) and the Act. The Act deals specifically with the conservation of non-commercial freshwater fisheries.

10.2 The Department will consult with the Te Pumautanga Trustees, and where reasonably practicable, provide for their participation in the conservation and management (including research) of customary freshwater fisheries and freshwater fish habitats.

10.3 The Department will work at the Rotorua Lakes Area Office level to:

10.3.1 seek to identify areas for co-operation in advocacy consistent with clause 13.3 of this Protocol, focusing on fish passage, minimum flows, protection and enhancement of riparian vegetation and habitats. water quality improvement and the restoration, rehabilitation or enhancement of customary freshwater fisheries and their freshwater habitats;

10.3.2 consult with the Te Pumautanga Trustees in developing or contributing to research and monitoring programmes that aim to improve the understanding of the biology of customary freshwater fisheries and their environmental and habitat requirements;

10.3.3 consider the Te Pumautanga Trustees as potential science providers or collaborators for research projects funded or promoted by the Department in the same manner as other potential providers or collaborators; and

10.3.4 process applications for the transfer and release of freshwater fish species, including eels, according to the criteria outlined in section 26ZM of the Act.

11 CULTURAL MATERIALS

11.1 For the purpose of this Protocol, cultural materials are defined as:

11.1.1 plants and plant materials; and

11.1.2 materials derived from animals or birds, for which the Department is responsible and which are important to the Affiliate Te Arawa Iwi/Hapu in maintaining and expressing its cultural values and practices.

11.2 Current legislation means that some form of concession or permit is generally required for any gathering and possession of cultural materials.

11.3 In relation to cultural materials, the Minister and/or Director-General will:

11.3.1 consider requests from the Te Pumautanga Trustees for access to and use of cultural materials within the DOC Protocol Area when required for cultural or spiritual purposes, in accordance with the relevant legislation;

11.3.2 consult with the Te Pumautanga Trustees in circumstances where there are competing requests between the Te Pumautanga Trustees and non-Affiliate Te Arawa Iwi/Hapu persons in relation to the use of cultural materials, for example, for scientific research purposes, to see if the requests can be reconciled before the Minister or Director-General makes a decision in respect of those requests;

11.3.3 consider requests that the Te Pumautanga Trustees have access to cultural materials that become available as a result of departmental operations such as track maintenance or clearance, or culling of species, or accidental death;

11.3.4 consider the issue of permits through the Department's permits system to the Te Pumautanga Trustees for collection of seed material on public conservation lands for plant propagation purposes. and provide advice on the Te Pumautanga Trustees' restoration programmes if requested; and

11.3.5 consult with the Te Pumautanga Trustees on the development of procedures for monitoring levels of cultural materials.

12 HISTORIC RESOURCES – WAHI TAPU AND WAHI TAONGA

12.1 Places that are sacred or significant to the Affiliate Te Arawa Iwi/Hapu include:

12.1.1 rua koiwi and burial sites of the Affiliate Te Arawa Iwi/Hapu tupuna;

12.1.2 tohi (baptismal) sites and sites where whenua (placenta) have been buried;

12.1.3 sites (such as tuahu, battle grounds) where the Affiliate Te Arawa Iwi/Hapu has been engaged in an activity or ritual of historical significance as recorded in oral tradition, or where there is a repository of artifacts;

12.1.4 old kainga, pa and other archaeological sites;

12.1.5 sites of water sources for death rites;

12.1.6 significant fishing, raw resource harvesting, or food gathering places;

12.1.7 significant geographical locations; and

12.1.8 designated dwelling places of taniwha in the Affiliate Te Arawa Iwi/Hapu rivers.

12.2 The Department has a statutory role to conserve historic resources in protected areas and will endeavour to do this for sites of significance to the Affiliate Te Arawa Iwi/Hapu in co-operation with the Te Pumautanga Trustees.

12.3 The Department accepts that non-disclosure of locations of places known to the Affiliate Te Arawa Iwi/Hapu is a practice used by the Affiliate Te Arawa Iwi/Hapu to preserve the sanctity of a place. In other cases the Affiliate Te Arawa Iwi/Hapu may ask the Department to treat information it provides on wahi tapu and wahi taonga in a confidential way. Where such confidential information has been provided by the Affiliate Te Arawa Iwi/Hapu, the Department will consult the Te Pumautanga Trustees on the establishment of processes for dealing with information on wahi tapu and wahi taonga in a way that both recognises the management challenges that confidentiality can present and respects the views of the Affiliate Te Arawa Iwi/Hapu.

12.4 The responsibility for identifying and assessing the Affiliate Te Arawa Iwi/Hapu wahi tapu and wahi taonga largely rests with the Affiliate Te Arawa Iwi/Hapu.

12.5 The Department, at the Rotorua Lakes Area Office level, will:

12.5.1 undertake protection and conservation of the Affiliate Te Arawa Iwi/Hapu wahi tapu and wahi taonga, in accordance with priorities and/or threats, on land administered by the Department in co-operation with the Te Pumautanga Trustees;

12.5.2 as far as reasonably practicable, respect the Affiliate Te Arawa Iwi/Hapu values attached to identified wahi tapu and wahi taonga that are

administered by the Department (e.g. by the Department giving consideration to impacts from visitor numbers, facilities and services);

12.5.3 manage the Affiliate Te Arawa Iwi/Hapu wahi tapu and wahi taonga according to the standards of conservation practice for the care of places of cultural heritage value, their structures, materials and cultural meaning, outlined in the ICOMOS (International Convention on Monuments and Sites) New Zealand Charter 1993;

12.5.4 as far as possible, when issuing concessions that give authority for other parties to carry out activities on land administered by the Department:

(a) where the Te Pumautanga Trustees have advised the Department that land administered by the Department within the DOC Protocol Area contains wahi tapu and/or wahi taonga of the Affiliate Te Arawa Iwi/Hapu, require concessionaires to conduct any activity on the land in a manner that recognises and is respectful of the Affiliate Te Arawa Iwi/Hapu values; and

(b) request concessionaires who intend to utilise information relating to the Affiliate Te Arawa Iwi/Hapu to consult the Te Pumautanga Trustees before utilising the information;

12.5.5 inform the Te Pumautanga Trustees if koiwi are found in the DOC Protocol Area; and

12.5.6 when requested by the Te Pumautanga Trustees, seek to assist in recording and protecting wahi tapu and wahi taonga on land administered by the Department and, wherever possible, ensure that they are not desecrated or damaged.

13 RESOURCE MANAGEMENT ACT

13.1 The Affiliate Te Arawa Iwi/Hapu and the Department both have concerns about the effects of activities controlled and managed under the Resource Management Act. Areas of common interest include:

13.1.1 protection and conservation of wetlands;

13.1.2 protection of historic resources;

13.1.3 protection of native species and their ecosystems;

13.1.4 riparian management;

13.1.5 effects on freshwater fish habitat;

13.1.6 water quality management; and

13.1.7 eradication of animal pests.

13.2 From time to time, the Te Pumautanga Trustees and the Department will seek to identify further issues of mutual interest for discussion. It is recognised that their concerns in any particular resource management issue may diverge and that each of the Department and the Te Pumautanga Trustees will continue to make separate submissions in any Resource Management Act processes.

13.3 Where issues of mutual interest are identified, the Department may consult the Te Pumautanga Trustees on the general approach to be taken by each of the Affiliate Te Arawa Iwi/Hapu and the Department in respect of advocacy under the Resource Management Act where the Department considers the Affiliate Te Arawa Iwi/Hapu may have an interest, and seek to identify their respective priorities and issues of mutual concern.

13.4 The Department may:

13.4.1 have regard to the priorities and issues of mutual concern identified in making decisions in respect of advocacy under the Resource Management Act; and

13.4.2 make non-confidential resource information available to the Te Pumautanga Trustees to assist in improving their effectiveness in Resource Management Act advocacy work.

14 VISITOR AND PUBLIC INFORMATION

14.1 The Department has a role in sharing knowledge about natural and historic heritage with visitors, satisfying their requirements for information, increasing their enjoyment and understanding of this heritage, and developing an awareness of the need for its conservation.

14.2 As set out in clause 14.3, in providing public information, interpretation services, and facilities for visitors on the land it manages, the Department acknowledges the association of the Affiliate Te Arawa Iwi/Hapu with the land the Department administers within the DOC Protocol Area.

14.3 The Department will work at the Rotorua Lakes Area Office level to encourage respect for the Affiliate Te Arawa Iwi/Hapu's association with land administered by the Department within the DOC Protocol Area by:

14.3.1 raising public awareness of any positive conservation partnerships developed between the Te Pumautanga Trustees, the Department and other stakeholders, for example, by way of publications, presentations and seminars;

14.3.2 consulting the Te Pumautanga Trustees on the inclusion in Department information on new interpretation panels, signs and visitor publications within the DOC Protocol Area of acknowledgements of the Affiliate Te Arawa Iwi/Hapu perspectives, references to the significance of the sites to the

Affiliate Te Arawa Iwi/Hapu, and traditional Affiliate Te Arawa Iwi/Hapu place names;

14.3.3 ensuring that accurate information is provided about the Affiliate Te Arawa Iwi/Hapu in the Department's publications by obtaining, so far as possible, the permission of the Te Pumautanga Trustees prior to the publication of any information substantially concerning the Affiliate Te Arawa Iwi/Hapu that has not been obtained from the Te Pumautanga Trustees; and

14.3.4 encouraging the participation of the Affiliate Te Arawa Iwi/Hapu in the Department's volunteer and conservation events and programmes by informing the Te Pumautanga Trustees of these programmes and events.

15 CONCESSION APPLICATIONS

15.1 The Department will work with the Te Pumautanga Trustees to identify categories of concessions that may impact on the cultural, spiritual or historical values of the Affiliate Te Arawa Iwi/Hapu.

15.2 In relation to the concession applications within the categories identified by the Department and the Te Pumautanga Trustees under clause 15.1, the Department will:

15.2.1 consult with the Te Pumautanga Trustees with regard to any applications or renewals of applications within the DOC Protocol Area;

15.2.2 when a concession is publicly notified, at the same time provide separate written notification to the Te Pumautanga Trustees; and

15.2.3 prior to issuing concessions to carry out activities on land managed by the Department within the DOC Protocol Area, and following consultation with the Te Pumautanga Trustees, ensure that the concessionaire is informed of the Affiliate Te Arawa Iwi/Hapu tikanga and values.

16 CONSULTATION

16.1 Where the Department is required to consult under clauses 9.2, 10.2, 10.3, 11.3, 12.3, 13.3 and 14.3 of this Protocol, the basic principles that will be followed by the Department in consulting with the Te Pumautanga Trustees in each case are:

16.1.1 ensuring that the Te Pumautanga Trustees are consulted as soon as reasonably practicable following the identification and determination by the Department of the proposal or issues to be the subject of the consultation;

16.1.2 providing the Te Pumautanga Trustees with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;

16.1.3 ensuring that sufficient time is given for the participation of the Te Pumautanga Trustees to respond, including the preparation of submissions by the Te Pumautanga Trustees, in relation to any of the matters that are the subject of the consultation; and

16.1.4 ensuring that the Department will approach the consultation with the Te Pumautanga Trustees with an open mind, and will genuinely consider the submissions of the Te Pumautanga Trustees in relation to any of the matters that are the subject of the consultation.

16.2 Where the Department has consulted with the Te Pumautanga Trustees as specified in clause 16.1, the Department will report back to the Te Pumautanga Trustees on the decision made as a result of any such consultation.

17 DEFINITIONS

17.1 In this Protocol:

Affiliate Te Arawa Iwi/Hapu has the meaning set out in clause 1.5 of the Deed of Settlement;

Conservation Management Strategy has the same meaning as in the Conservation Act 1987;

Conservation Legislation means the Conservation Act 1987 and the Acts in the First Schedule of the Act;

Crown means The Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

Protocol means a statement in writing, issued by the Crown through the Minister of Conservation to the Te Pumautanga Trustees under the Settlement Legislation and the Deed of Settlement and includes this Protocol;

Te Pumautanga Trust means the Te Pumautanga o Te Arawa Trust, established by the Te Pumautanga o Te Arawa trust deed dated 1 December 2006; and

Te Pumautanga Trustees means the trustees appointed from time to time to the Te Pumautanga Trust.

ISSUED on [ ]

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister of Conservation

WITNESS

_____

Name:

Occupation:

Address:

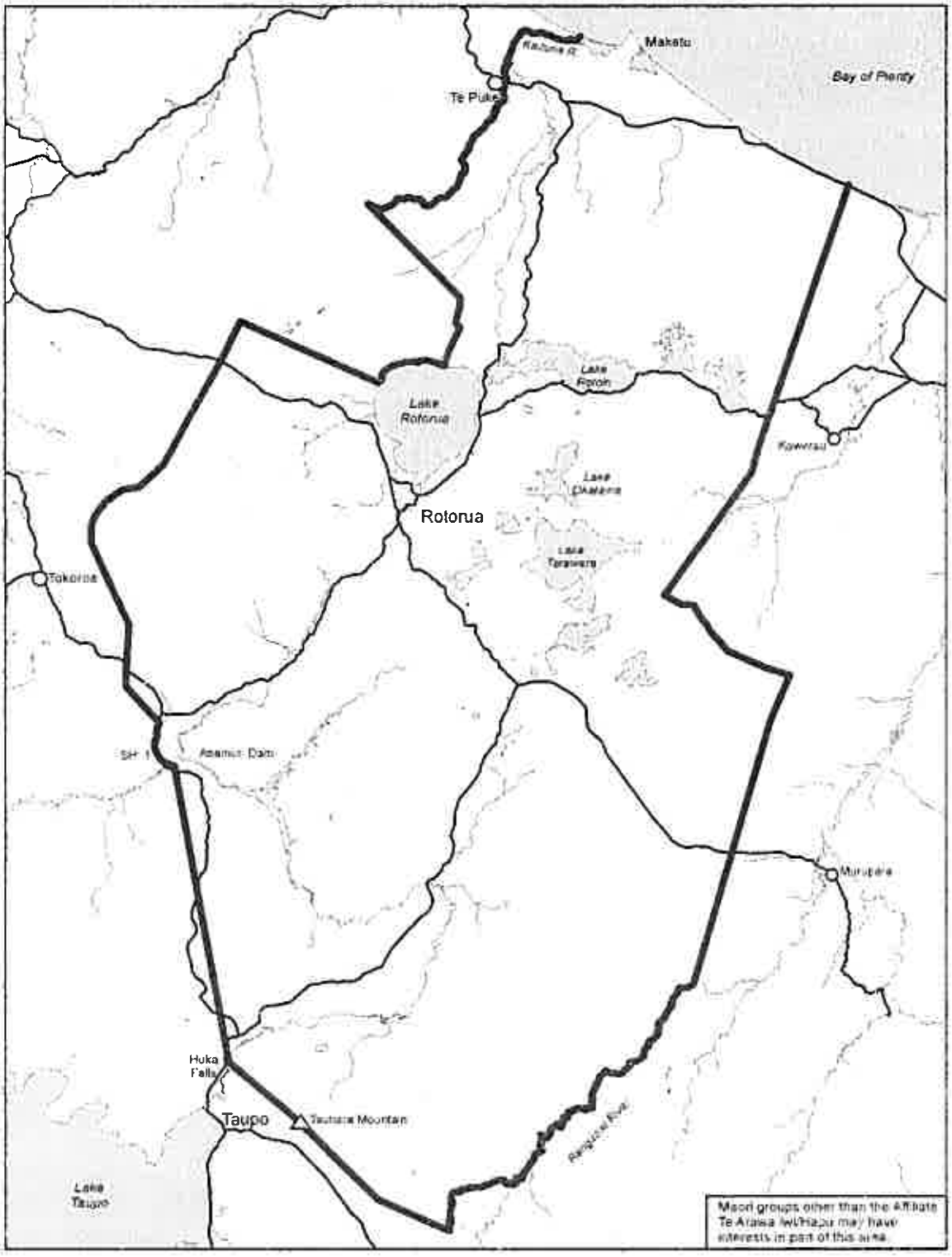
PART 1: PROTOCOLS – DOC PROTOCOL

ATTACHMENT A

DOC PROTOCOL AREA

(*The map follows this page.*)

PART 1: PROTOCOLS – DOC PROTOCOL



PART 1: PROTOCOLS – DOC PROTOCOL

ATTACHMENT B

TERMS OF ISSUE

This Protocol is issued subject to the provisions of the Deed of Settlement and the Settlement Legislation. These provisions are set out below.

1 Provisions of the Deed of Settlement relating to this protocol

1.1 The Deed of Settlement provides that:

1.1.1 a failure by the Crown to comply with a Protocol is not a breach of the Deed of Settlement (clause 9.8); and

1.1.2 this Protocol does not restrict the ability of the Crown to interact or consult with any person including any iwi, hapu, marae, whanau, or other representative of tangata whenua (clause 9.9);

1.1.3 this Protocol:

(a) is consistent with section 4 of the Conservation Act 1987;

(b) does not override or diminish:

(i) the requirements of the Conservation Legislation;

(ii) the functions and powers of the Minister of Conservation, or the Department of Conservation, under that legislation; or

(iii) the rights of the Affiliate Te Arawa Iwi/Hapu, or a Representative Entity, under that legislation (clause 9.7.4).

1.2 Representative Entity has the same meaning in clause 1.1.3(b)(iii) of these terms of issue as it has in clause 1.8 of the Deed of Settlement.

2 Authority to issue, amend or cancel Protocols

2.1 Section [ ] of the Settlement Legislation provides that:

[*Quote the section of the Settlement Legislation included in accordance with clauses 9.7.1-9.7.3 of the Deed of Settlement.*]

3 Protocols subject to rights and obligations

3.1 Section [ ] of the Settlement Legislation provides that:

[*Quote the section of the Settlement Legislation included in accordance with clause 9.7.4 of the Deed of Settlement.*]

4 Noting of Protocols

4.1 Section [ ] of the Settlement Legislation provides that:

[*Quote the section of the Settlement Legislation included in accordance with clauses 9.2.1 and 9.2.2 of the Deed of Settlement.*]

5 Enforceability of Protocols

5.1 Section [ ] of the Settlement Legislation provides that:

[*Quote the section of the Settlement Legislation included in accordance with clauses 9.7.5-9.7.7 of the Deed of Settlement.*]

6 Limitation of rights

6.1 Section [ ] of the Settlement Legislation provides that:

[*Quote the section of the Settlement Legislation included in accordance with clause 9.2.3 of the Deed of Settlement.*]

FISHERIES PROTOCOL

(Clause 9.3)

PART 1: PROTOCOLS – FISHERIES PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF FISHERIES REGARDING INTERACTION WITH THE AFFILIATE TE ARAWA IWI/HAPU ON FISHERIES ISSUES

1 INTRODUCTION

1.1 The Crown, through the Minister and Chief Executive, recognises that the Affiliate Te Arawa Iwi/Hapu are entitled to have input and participate in fisheries management processes that affect fish stocks in the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area and that are managed by the Ministry under the Fisheries Act 1996. The Affiliate Te Arawa Iwi/Hapu have a special relationship with all species of fish, aquatic life and seaweed found within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area, and an interest in the sustainable utilisation of all species of fish, aquatic life and seaweed.

1.2 Under the deed of settlement dated [ ] between the Affiliate Te Arawa Iwi/Hapu and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister of Fisheries (the "**Minister**") would issue a protocol (the "**Fisheries Protocol**") setting out how the Ministry of Fisheries (the "**Ministry**") will interact with the trustees of the Te Pumautanga Trust (the "**Te Pumautanga Trustees**") in relation to matters specified in the Fisheries Protocol. These matters are:

1.2.1 recognition of the interests of the Affiliate Te Arawa Iwi/Hapu, set out in clause 1.1, in all species of fish or aquatic life that exist within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area that are subject to the Fisheries Act 1996;

1.2.2 stock strategies, fisheries regulations and fisheries plans;

1.2.3 support for customary non-commercial fisheries management;

1.2.4 research planning;

1.2.5 the nature and extent of fisheries services;

1.2.6 contracting for services;

1.2.7 the employment of Ministry staff with customary non-commercial fisheries responsibilities;

1.2.8 rahui; and

1.2.9 changes to policy and legislation affecting this Protocol.

1.3 For the purposes of this Fisheries Protocol, the Te Pumautanga Trustees are the representatives of the whanau, hapu and iwi of the Affiliate Te Arawa Iwi/Hapu who have an interest in the sustainable utilisation of fish, aquatic life and seaweed that exist within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area. The Affiliate Te Arawa Iwi/Hapu have a responsibility in relation to the preservation, protection and management of its customary non-commercial fisheries in the Fisheries Protocol Area.

1.4 The obligations of the Ministry in respect of fisheries are to ensure ecological sustainability, to meet Treaty of Waitangi and international obligations, to enable efficient resource use, and to ensure the integrity of fisheries management systems.

1.5 The Ministry and the Te Pumautanga Trustees are seeking a relationship consistent with the Treaty of Waitangi and its principles. The principles of the Treaty provide the basis for the relationship between the parties to this Fisheries Protocol, as set out in this Fisheries Protocol. The relationship created by this Fisheries Protocol is intended to assist the parties to exercise their respective responsibilities with the utmost cooperation to achieve over time the outcomes sought by both.

1.6 The Minister and the Chief Executive of the Ministry (the "**Chief Executive**") have certain functions, powers and duties in terms of the Fisheries Legislation and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. With the intention of creating a relationship that achieves, over time, the fisheries policies and outcomes sought by both the Affiliate Te Arawa Iwi/Hapu and the Ministry consistent with the sustainable utilisation of fisheries, this Protocol sets out how the Ministry, the Minister and Chief Executive will exercise their functions, powers and duties in relation to matters set out in this Protocol. The Te Pumautanga Trustees will have the opportunity for meaningful input into the policy, planning and decision-making processes relating to the matters set out in this Protocol.

1.7 The Ministry will advise the Te Pumautanga Trustees whenever it proposes to consult with an iwi or hapu of the Affiliate Te Arawa Iwi/Hapu or with another iwi or hapu with interests in the sustainable utilisation of fisheries, aquatic life and seaweed in the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area, on matters that could affect the interests of the Affiliate Te Arawa Iwi/Hapu.

2 AFFILIATE TE ARAWA IWI/HAPU FISHERIES PROTOCOL AREA

2.1 This Fisheries Protocol applies across the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area which means the area identified in the map included as Attachment A of this Protocol together with the adjacent waters.

3 TERMS OF ISSUE

3.1 This Protocol is issued pursuant to section [ ] of the [*insert the name of the Settlement Legislation*] (the "**Settlement Legislation**") and clause 9.3 of the Deed of Settlement and is subject to the Settlement Legislation and the Deed of Settlement.

3.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

4 IMPLEMENTATION AND COMMUNICATION

4.1 The Ministry will maintain effective consultation processes and communication networks with the Te Pumautanga Trustees by:

4.1.1 maintaining, at national and regional levels, information provided by the Te Pumautanga Trustees on the Te Pumautanga Trustees' office holders, addresses and contact details;

4.1.2 providing reasonable opportunities for the Te Pumautanga Trustees to meet with Ministry managers and staff; and

4.1.3 providing reasonable opportunities for the Te Pumautanga Trustees to participate, if they choose to, in regional forums that are established to interact with the Ministry on fisheries issues that affect the Fisheries Protocol Area.

4.2 The Ministry will:

4.2.1 meet with the Te Pumautanga Trustees to review implementation of this Protocol at least once a year, unless otherwise agreed, at a location specified by the Te Pumautanga Trustees and agreed to in advance by the Ministry;

4.2.2 consult and involve the Te Pumautanga Trustees in the training of relevant staff on this Protocol and provide on-going training as required; and

4.2.3 as far as reasonably practicable, inform fisheries stakeholders about this Protocol and the Affiliate Te Arawa Iwi/Hapu settlement, and provide on-going information as required.

5 SPECIES OF FISH, AQUATIC LIFE AND SEAWEED

Tuna (Eel)

5.1 The Ministry recognises that tuna (eel) is a taonga species and that the Affiliate Te Arawa Iwi/Hapu have a special relationship with the tuna fishery within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area.

5.2 The Affiliate Te Arawa Iwi/Hapu have indicated that they may wish to enhance the tuna fishery through the transfer of elvers and the possibility of farming tuna.

5.3 In each of the three years after the Settlement Date, upon reasonable receipt of notice from the Te Pumautanga Trustees, Ministry staff shall meet with representatives of the Te Pumautanga Trustees at a mutually acceptable venue to discuss whether potential sites within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area may be viable for undersized tuna extraction and if so the quantum catch of tuna that might potentially be authorised within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area.

5.4 This Fisheries Protocol shall not operate to create any expectation that a special permit or any other authorisation to extract or farm tuna will be granted.

6 MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES

6.1 The Ministry undertakes to provide the Te Pumautanga Trustees with such information and assistance as may be necessary for the proper administration of the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This information and assistance may include:

6.1.1 discussions with the Ministry on the implementation of the regulations within the Fisheries Protocol Area; and

6.1.2 provision of existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management within the Fisheries Protocol Area.

7 DEVELOPMENT OF SUSTAINABILITY MEASURES, FISHERIES REGULATIONS AND FISHERIES PLANS, MARINE PROTECTION AREAS AND CONSULTATION ON SPECIES WITHIN THE FISHERIES PROTOCOL AREA

7.1 If the Ministry is exercising powers or functions, under the Fisheries Legislation or the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, relating to the setting of sustainability measures, or the making of fisheries regulations, or the development/implementation of a fisheries plan for the purposes of section 11A of the Fisheries Act 1996 (a "**Fisheries Plan**"), for any species of fish, aquatic life or seaweed within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area, or is establishing Marine Protected Areas as defined in the Marine Protected Areas Policy and Implementation Plan December 2005, the Ministry must:

7.1.1 provide the Te Pumautanga Trustees with all reasonably available background information in relation to the setting of sustainability measures, the making of fisheries regulations, and the development/implementation of Fisheries Plans;

7.1.2 inform the Te Pumautanga Trustees, in writing, of any proposed changes in relation to the Fisheries Protocol Area with regard to:

7.1.2.1 the setting of sustainability measures;

7.1.2.2 the making of fisheries regulations;

7.1.2.3 the development/implementation of Fisheries Plans; and

7.1.2.4 the development of marine protected areas,

as soon as reasonably practicable to enable the Affiliate Te Arawa Iwi/Hapu to respond in an informed way;

7.1.3 provide the Te Pumautanga Trustees at least 30 working days from receipt of the written information described in clause 7.1.2 in which to respond, verbally or in writing, to any such proposed changes;

7.1.4 as far as reasonably practicable, meet with the Te Pumautanga Trustees to discuss any proposed changes to sustainability measures, fisheries regulations, or Fisheries Plans, if requested by the Te Pumautanga Trustees to do so;

7.1.5 incorporate the views of the Te Pumautanga Trustees into any advice given to the Minister or other stakeholders on proposed changes to sustainability measures, fisheries regulations, or Fisheries Plans, that affect the Te

Pumautanga Trustees' interests and provide a copy of that advice to the Te Pumautanga Trustees as soon as reasonably practicable; and

7.1.6 report back to the Te Pumautanga Trustees within 20 working days of any final decision in relation to sustainability measures, fisheries regulations, or Fisheries Plans, either in writing or in person.

8 REGIONAL IWI FORUMS

8.1 The Ministry is working with iwi to establish regional iwi forums to enable iwi to have input into and participate in processes to address sustainability measures, fisheries regulations, fisheries plans and the establishment of marine protected areas. Where the Ministry is seeking to establish a regional iwi forum in an area that will include the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area, the Ministry will ensure that the Te Pumautanga Trustees will have an opportunity to participate in the development and operation of that forum. Where a regional iwi forum is established and the Affiliate Te Arawa Iwi/Hapu are members of that forum, both parties acknowledge that the forum will be the venue to address those matters set out in clauses 5 to 15 of this Protocol.

9 RESEARCH PLANNING PROCESS

9.1 The Ministry will provide the Te Pumautanga Trustees with all reasonably available background information to participate in the processes, timelines and objectives associated with the research planning process of the Ministry.

9.2 The Ministry will consult with the Te Pumautanga Trustees on all research proposals commissioned by the Ministry having an effect on the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area.

9.3 The Ministry will provide the Te Pumautanga Trustees, within 30 working days of the execution of the Fisheries Protocol, with information on the requirements for becoming an 'Approved Research Provider'. Should the requirements for becoming and remaining an 'Approved Research Provider' change over time, the Ministry will inform the Te Pumautanga Trustees about those changes.

10 NATURE AND EXTENT OF FISHERIES SERVICES

10.1 The Ministry will each year consult with the Te Pumautanga Trustees on the Ministry's annual business plan.

10.2 The Ministry will provide the Te Pumautanga Trustees with the opportunity to put forward proposals for the provision of services that the Te Pumautanga Trustees deem necessary for the management of fisheries within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area.

11 CONTRACTING FOR SERVICES

11.1 The Ministry will consult with the Te Pumautanga Trustees in respect of any contract for the provision of services that may impact on the management of customary

fisheries within the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area, if the Ministry is proposing to enter into such a contract.

12 EMPLOYMENT OF STAFF WITH CUSTOMARY FISHERIES RESPONSIBILITIES

12.1 The Ministry will consult with the Te Pumautanga Trustees on certain aspects of the employment of Ministry staff if a particular vacancy directly affects the fisheries interests of the Affiliate Te Arawa Iwi/Hapu in relation to the Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area.

12.2 The level of consultation shall be relative to the degree to which the vacancy impacts upon the interests of other iwi as well as those of the Affiliate Te Arawa Iwi/Hapu, and may be achieved by one or more of the following:

12.2.1 consultation on the job description and work programme;

12.2.2 direct notification of the vacancy;

12.2.3 consultation on the location of the position; and

12.2.4 input into the selection of the interview panel.

13 CONSULTATION

13.1 Where the Ministry is required to consult under clauses 4, 7, 8, 9, 10, 11, and 12 of this Protocol, the basic principles that will be followed by the Ministry in consulting with the Te Pumautanga Trustees in each case are:

13.1.1 ensuring that the Te Pumautanga Trustees are consulted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues to be the subject of the consultation;

13.1.2 providing the Te Pumautanga Trustees with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;

13.1.3 ensuring that sufficient time is given for the participation of the Te Pumautanga Trustees in the decision making process including the preparation of submissions by the Te Pumautanga Trustees in relation to any of the matters that are the subject of the consultation; and

13.1.4 ensuring that the Ministry will approach the consultation with the Te Pumautanga Trustees with an open mind, and will genuinely consider the submissions of the Te Pumautanga Trustees in relation to any of the matters that are the subject of the consultation.

13.2 Where the Ministry has consulted with the Te Pumautanga Trustees as specified in clause 13.1, the Ministry will report back to the Te Pumautanga Trustees, either in person or in writing, on the decision made as a result of any such consultation.

14 RAHUI

14.1 The Ministry recognises that rahui is a traditional use and management practice of the Affiliate Te Arawa Iwi/Hapu and supports the right of the Affiliate Te Arawa Iwi/Hapu to place traditional rahui over their customary fisheries.

14.2 The Ministry and the Affiliate Te Arawa Iwi/Hapu acknowledge that a traditional rahui placed by the Affiliate Te Arawa Iwi/Hapu over their customary fisheries has no force in law and cannot be enforced by the Ministry, and that adherence to any rahui is a matter of voluntary choice.

14.3 The Affiliate Te Arawa Iwi/Hapu undertake to inform the Ministry of the placing and the lifting of a rahui by the Affiliate Te Arawa Iwi/Hapu over their customary fisheries, and also the reasons for the rahui.

14.4 The Ministry undertakes to inform a representative of any fishery stakeholder groups that fish in the area to which the rahui has been applied, to the extent that such groups exist, of the placing and the lifting of a rahui by the Affiliate Te Arawa Iwi/Hapu over their customary fisheries, in a manner consistent with the understandings outlined in clause 14.2 above.

14.5 As far as reasonably practicable, the Ministry undertakes to consider the application of section 186A of the Fisheries Act 1996 to support a rahui proposed by the Affiliate Te Arawa Iwi/Hapu over their customary fisheries for purposes consistent with the legislative requirements for the application of section 186A of the Fisheries Act 1996, noting these requirements preclude the use of section 186A to support rahui placed in the event of a drowning.

15 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

15.1 If the Ministry consults with iwi on policy development or any proposed legislative amendment to the Fisheries Legislation which impacts upon this Protocol the Ministry shall:

15.1.1 notify the Te Pumautanga Trustees of the proposed policy development or proposed legislative amendment upon which iwi will be consulted; and

15.1.2 make available to the Te Pumautanga Trustees the information provided to iwi as part of the consultation process referred to in this clause; and

15.1.3 report back to the Te Pumautanga Trustees on the outcome of any such consultation, either in writing or in person.

ISSUED on [ ]

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by

the Minister of Fisheries

WITNESS

_____

Name:

Occupation:

Address:

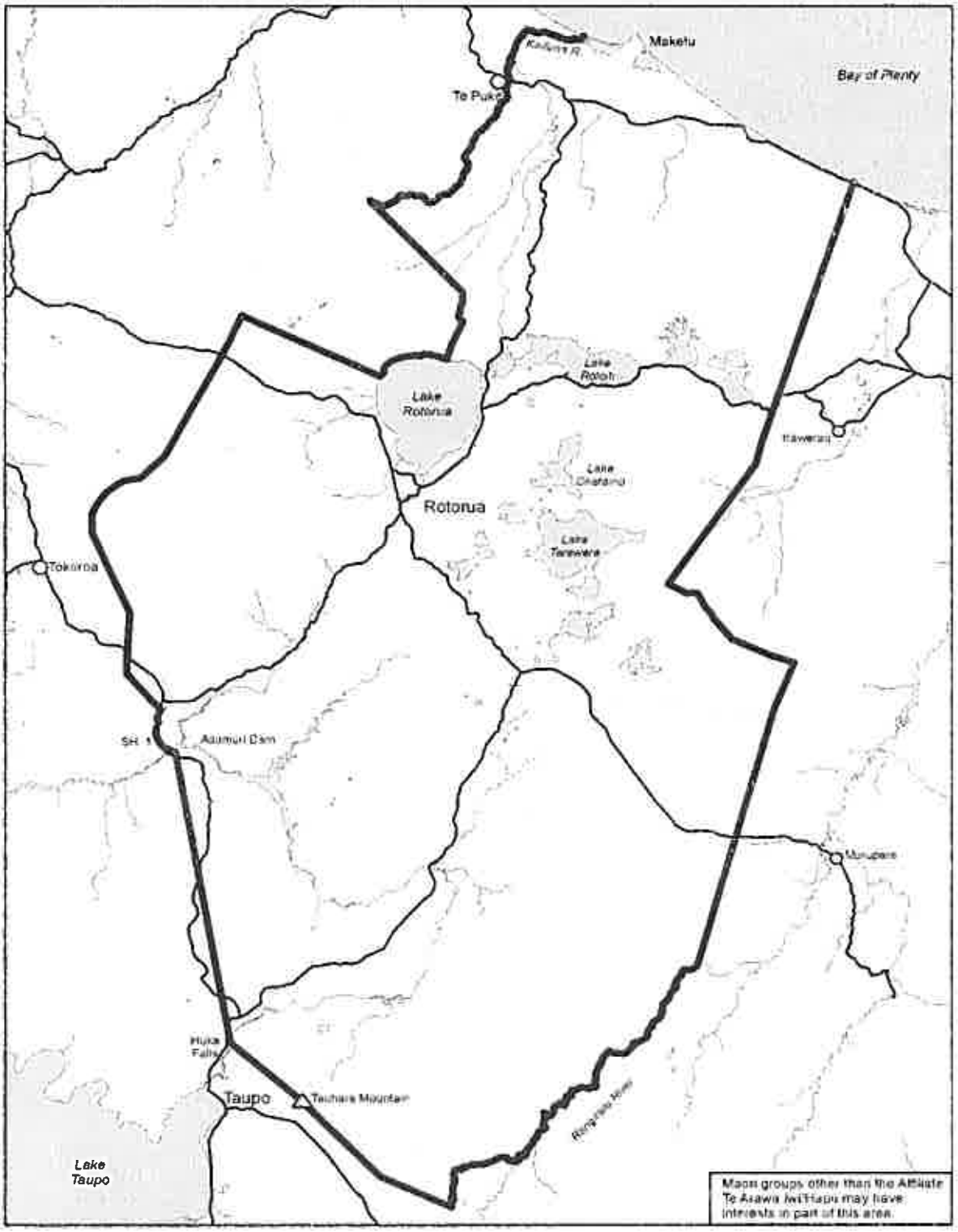
PART 1: PROTOCOLS – FISHERIES PROTOCOL

ATTACHMENT A

FISHERIES PROTOCOL AREA

(*The map follows this page.*)

PART 1: PROTOCOLS – FISHERIES PROTOCOL



PART 1: PROTOCOLS – FISHERIES PROTOCOL

ATTACHMENT B

TERMS OF ISSUE

1. Definitions

In this Fisheries Protocol:

Affiliate Te Arawa Iwi/Hapu has the meaning set out in clause 1.5 of the Deed of Settlement;

Crown has the meaning set out in clause 1.4 of the Deed of Settlement;

Fisheries Legislation means the Fisheries Act 1983 and the Fisheries Act 1996;

Affiliate Te Arawa Iwi/Hapu Fisheries Protocol Area has the meaning set out in clause 2.1 of this Fisheries Protocol;

Protocol means a statement in writing, issued by the Crown through the Minister to the Te Pumautanga Trustees under the Settlement Legislation and the Deed of Settlement and includes this Fisheries Protocol;

Te Pumautanga Trust means the Te Pumautanga o Te Arawa Trust, established by the Te Pumautanga o Te Arawa trust deed dated 1 December 2006; and

Te Pumautanga Trustees means the trustees appointed from time to time to the Te Pumautanga Trust.

This Protocol is issued subject to the provisions of the Deed of Settlement and the Settlement Legislation. These provisions are set out below.

2. Authority to issue, amend or cancel Protocols

2.1 Section [ ] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses 9.7.1-9.7.3 of the Deed of Settlement]

3. Protocols subject to rights and obligations

3.1 Section [ ] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clause 9.7.4 of the Deed of Settlement]

3.2 The Deed of Settlement provides that the Protocol does not restrict the ability of the Crown to interact or consult with any person or persons the Crown considers

appropriate including, without limitation, any other iwi, hapu, marae, whanau or other representatives of tangata whenua.

4. Noting of Protocols

4.1 Section [ ] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses 9.4.1 and 9.4.2 of the Deed of Settlement]

5. Enforceability of Protocols

5.1 Section [ ] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses 9.7.5-9.7.7 of the Deed of Settlement]

5.2 The provisions included in the Settlement Legislation under clauses 9.7.5 and 9.7.6 of the Deed of Settlement will not apply to any guidelines developed in relation to a Protocol.

6. Breach of Protocols not breach of Deed

6.1 The Deed of Settlement provides that a failure by the Crown to comply with its obligations under a Protocol is not a breach of the Deed of Settlement.

7. Limitation of rights

7.1 Section [ ] of the Settlement Legislation provides that: *[Quote the section of the Settlement Legislation included in accordance with clause 9.4.3 of the Deed of Settlement]*

TAONGA TUTURU PROTOCOL

(Clause 9.5)

PART 1: PROTOCOLS – TAONGA TUTURU PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING INTERACTION WITH THE AFFILIATE TE ARAWA IWI/HAPU ON TAONGA TUTURU ISSUES

1. INTRODUCTION

1.1 Under the Deed of Settlement dated [ ] between the Affiliate Te Arawa Iwi/Hapu and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister for Arts, Culture and Heritage (the "**Minister**") would issue a protocol (the "**Taonga Tuturu Protocol**") setting out how the Minister and the Chief Executive for the Ministry for Culture and Heritage (the "**Chief Executive**") will interact with the trustees of the Te Pumautanga Trust (the "**Te Pumautanga Trustees**") on matters specified in the Taonga Tuturu Protocol. These matters are:

1.1.1 newly found taonga tuturu;

1.1.2 the export of taonga tuturu from New Zealand; and

1.1.3 the Protected Objects Act 1975 and any amendment (the "**Act**").

1.2 The Minister and the Chief Executive or other such persons acting in those capacities, and the Affiliate Te Arawa Iwi/Hapu are seeking a relationship consistent with the Treaty of Waitangi and its principles. Those principles provide the basis for the relationship between the parties to this Taonga Tuturu Protocol, as set out in this Protocol.

1.3 The Chief Executive recognises that the Affiliate Te Arawa Iwi/Hapu have an interest in relation to the preservation, protection and management of taonga tuturu through its tino rangatiratanga and kaitiakitanga. This derives from the Affiliate Te Arawa Iwi/Hapu's status as tangata whenua in the Taonga Tuturu Protocol Area and is inextricably linked to whakapapa and has important cultural and spiritual dimensions.

1.4 The purpose of the Act is to provide for the better protection of certain objects by, among other things, regulating the export of taonga tuturu, and by establishing and recording the ownership of nga taonga tuturu found after the commencement of the Act, namely 1 April 1976.

1.5 The Minister and Chief Executive have certain functions, powers and duties in terms of the Act. In exercising such functions, powers and duties, the Minister and Chief Executive will provide the Te Pumautanga Trustees with the opportunity for input in the policy and decision-making processes as set out in this Protocol.

PART 1: PROTOCOLS – TAONGA TUTURU PROTOCOL

2. PROTOCOL AREA

2.1 This Protocol applies across the Taonga Tuturu Protocol Area which is identified in the map included in Attachment A of this Protocol together with adjacent waters (the "**Protocol Area**").

3. TERMS OF ISSUE

3.1 The Taonga Tuturu Protocol is issued pursuant to section [ ] of the [insert name of settlement legislation] (the "**Settlement Legislation**") that implements clause 9.5 of the Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.

3.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

4. THE ROLE OF THE CHIEF EXECUTIVE UNDER THIS PROTOCOL

General

4.1 The Chief Executive has certain functions, powers and duties in terms of the Act and will consult, notify and provide information to the Te Pumautanga Trustees within the limits of the Act. From the date this Protocol is issued the Chief Executive will:

4.1.1 notify the Te Pumautanga Trustees in writing of any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found anywhere else in New Zealand;

4.1.2 provide for the care, recording and custody of any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found anywhere else in New Zealand;

4.1.3 notify the Te Pumautanga Trustees in writing of their right to lodge a claim with the Chief Executive for ownership of any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found anywhere else in New Zealand;

4.1.4 notify the Te Pumautanga Trustees in writing of their right to apply directly to the Maori Land Court for determination of the actual or traditional ownership, rightful possession or custody of any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such taonga tuturu; and

4.1.5 notify the Te Pumautanga Trustees in writing of any application to the Maori Land Court from any other person for determination of the actual or traditional ownership, rightful possession or custody of any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such taonga tuturu.

Applications for Ownership

4.2. If the Te Pumautanga Trustees lodge a claim of ownership with the Chief Executive and there are no competing claims for any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found anywhere else in New Zealand, the Chief Executive will, if satisfied that the claim is valid, apply to the Registrar of the Maori Land Court for an order confirming ownership of the taonga tuturu.

4.3 If there is a competing claim or claims lodged in conjunction with the Te Pumautanga Trustees' claim of ownership, the Chief Executive will consult with the Te Pumautanga Trustees for the purpose of resolving the competing claims, and if satisfied that a resolution has been agreed to, and is valid, apply to the Registrar of the Maori Land Court for an order confirming ownership of the taonga tuturu.

4.4 If the competing claims for ownership of any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found anywhere else in New Zealand, cannot be resolved, the Chief Executive at the request of the Te Pumautanga Trustees may facilitate an application to the Maori Land Court for determination of ownership of the taonga tuturu.

Applications for Custody

4.5 If no ownership application is made to the Maori Land Court for any taonga tuturu found within the Protocol Area or identified as being of Affiliate Te Arawa Iwi/Hapu origin found elsewhere in New Zealand by the Te Pumautanga Trustees or any other person, the Chief Executive will:

4.5.1 consult the Te Pumautanga Trustees where there is any request from any other person for the custody of the taonga tuturu;

4.5.2 consult the Te Pumautanga Trustees before a decision is made on who may have custody of the taonga tuturu; and

4.5.3 notify the Te Pumautanga Trustees in writing of the decision made by the Chief Executive on the custody of the taonga tuturu.

Export Applications

4.6 For the purpose of seeking an expert opinion from the Te Pumautanga Trustees on any export applications to remove any taonga tuturu of Affiliate Te Arawa Iwi/Hapu origin from New Zealand, the Chief Executive will register the Te Pumautanga Trustees on the Ministry for Culture and Heritage's Register of Expert Examiners.

4.7 Where the Chief Executive receives an export application to remove any taonga tuturu of Affiliate Te Arawa Iwi/Hapu origin from New Zealand, the Chief Executive will consult the Te Pumautanga Trustees as an Expert Examiner on that application, and notify the Te Pumautanga Trustees in writing of his or her decision.

Other Matters

4.8 The Chief Executive will also:

4.8.1 discuss with the Te Pumautanga Trustees concerns and issues notified by the Te Pumautanga Trustees about the Act;

4.8.2 review the implementation of this Protocol from time to time, or at the request of the Te Pumautanga Trustees, unless otherwise agreed in writing by both the Te Pumautanga Trustees and the Chief Executive; and

4.8.3 as far as reasonably practicable train relevant employees within the Ministry on this Protocol to ensure that they are aware of the purpose, content and implications of this Protocol.

5. THE ROLE OF THE MINISTER UNDER THIS PROTOCOL

5.1 The Minister has functions, powers and duties under the Act and may consult, notify and provide information to the Te Pumautanga Trustees within the limits of the Act. In circumstances where the Chief Executive originally consulted the Te Pumautanga Trustees as an Expert Examiner, the Minister may consult with the Te Pumautanga Trustees where a person appeals the decision of the Chief Executive to:

5.1.1 refuse permission to export any taonga tuturu, or nga taonga tuturu, from New Zealand; or

5.1.2 impose conditions on the approval to export any taonga tuturu, or nga taonga tuturu, from New Zealand.

5.2 The Ministry will notify the Te Pumautanga Trustees in writing of the Minister's decision on an appeal in relation to an application to export any taonga tuturu where the Te Pumautanga Trustees were consulted as an Expert Examiner.

6. CONSULTATION

6.1 Where the Chief Executive is required to consult under this Protocol, the basic principles that will be followed in consulting with the Te Pumautanga Trustees in each case are:

6.1.1 ensuring that the Te Pumautanga Trustees are consulted as soon as reasonably practicable following the identification and determination by the Chief Executive of the proposal or issues to be the subject of the consultation;

6.1.2 providing the Te Pumautanga Trustees with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;

6.1.3 ensuring that sufficient time is given for the participation of the Te Pumautanga Trustees in the decision making process including the preparation of submissions by the Te Pumautanga Trustees in relation to any of the matters that are the subject of the consultation;

6.1.4 ensuring that the Chief Executive will approach the consultation with the Te Pumautanga Trustees with an open mind, and will genuinely consider the submissions of the Te Pumautanga Trustees in relation to any of the matters that are the subject of the consultation; and

6.1.5 report back to the Te Pumautanga Trustees, either in writing or in person, on any decisions made that relate to that consultation.

7 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

7.1 If the Chief Executive consults with Maori generally on policy development or any proposed legislative amendment to the Act that impacts upon this Protocol, the Chief Executive will:

7.1.1 notify the Te Pumautanga Trustees of the proposed policy development or proposed legislative amendment upon which Maori generally will be consulted;

7.1.2 make available to the Te Pumautanga Trustees the information provided to Maori as part of the consultation process referred to in this clause; and

7.1.3 report back to the Te Pumautanga Trustees on the outcome of any such consultation.

8 DEFINITIONS

8.1 In this Protocol:

Affiliate Te Arawa Iwi/Hapu has the meaning set out in clause 1.5 of the Deed of Settlement;

Chief Executive means the Chief Executive of the Ministry for Culture and Heritage and includes any authorised employee of the Ministry for Culture and Heritage acting for and on behalf of the Chief Executive;

Crown means The Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

Expert Examiner has the same meaning as in section 2 of the Act and means a body corporate or an association of persons;

Found has the same meaning as in section 2 of the Act and means:

> in relation to any taonga tuturu, means discovered or obtained in circumstances which do not indicate with reasonable certainty the lawful ownership of the taonga tuturu and which suggest that the taonga tuturu was last in the lawful possession of a person who at the time of finding is no longer alive; and 'finding' and 'finds' have corresponding meanings;

nga taonga tuturu has the same meaning as in section 2 of the Act and means 2 or more taonga tuturu;

Protocol means a statement in writing, issued by the Crown through the Minister to the Te Pumautanga Trustees under the Settlement Legislation and the Deed of Settlement and includes this Taonga Tuturu Protocol;

taonga tuturu has the same meaning as in section 2 of the Act and means:

an object that—
(a) relates to Maori culture, history, or society; and
(b) was, or appears to have been,—
  (i) manufactured or modified in New Zealand by Maori; or
  (ii) brought into New Zealand by Maori; or
  (iii) used by Maori; and
(c) is more than 50 years old;

Te Pumautanga Trust means the Te Pumautanga o Te Arawa Trust, established by the Te Pumautanga o Te Arawa trust deed dated 1 December 2006; and

Te Pumautanga Trustees means the trustees appointed from time to time to the Te Pumautanga Trust.

ISSUED on this day of [ ]

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister for Arts, Culture and Heritage

_____

in the presence of:

WITNESS

_____
Name:
Occupation:
Address:

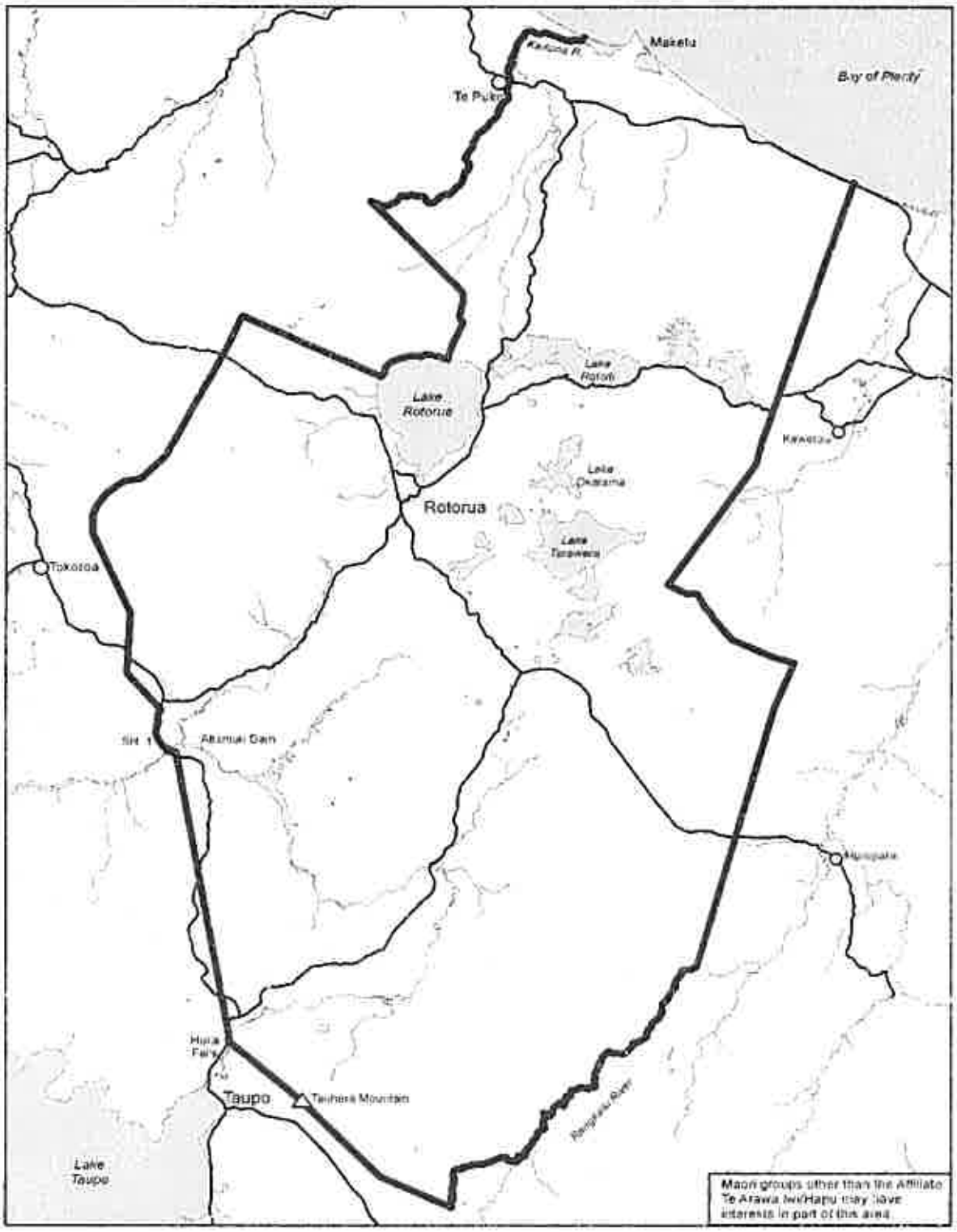
PART 1: PROTOCOLS – TAONGA TUTURU PROTOCOL

ATTACHMENT A

TAONGA TUTURU PROTOCOL AREA

(*The map follows this page.*)

PART 1: PROTOCOLS – TAONGA TUTURU PROTOCOL



PART 1: PROTOCOLS – TAONGA TUTURU PROTOCOL

ATTACHMENT B

TERMS OF ISSUE

This Protocol is issued subject to the provisions of the Deed of Settlement and the Settlement Legislation. These provisions are set out below.

1 Provisions of Deed of Settlement relating to Protocol

1.1 The Deed provides that:

1.1.1 a failure by the Crown to comply with a Protocol is not a breach of the Deed of Settlement (clause 9.8); and

1.1.2 this Protocol does not restrict the ability of the Crown to interact or consult with any person the Crown considers appropriate including any iwi, hapu, marae, whanau or other representative of tangata whenua (clause 9.9); and

1.1.3 this Protocol does not override or diminish:

(a) the requirements of the Act,

(b) the functions and powers of the Minister for Arts, Culture and Heritage or the Chief Executive for the Ministry for Culture and Heritage under the Act; or

(c) the rights of Affiliate Te Arawa Iwi/Hapu, or a Representative Entity, under that Act (clause 9.7.4).

1.2 **Representative Entity** has the same meaning in this Protocol as it has in clause 1.8 of the Deed.

2 Authority to issue, amend or cancel Protocols

Section [ ] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses 9.7.1-9.7.3 of the Deed of Settlement]

3 Protocols subject to rights and obligations

Section [ ] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clause 9.7.4 of the Deed of Settlement]

4 Enforcement of Protocol

Section [ ] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses 9.7.5 and 9.7.7 of the Deed of Settlement]

SCHEDULE 2

CULTURAL REDRESS – PROPERTIES

PART 1: DESCRIPTIONS OF SITES

(Clause 10.1.1)

PART 1: DESCRIPTIONS OF SITES

TABLE 1: CULTURAL REDRESS PROPERTIES TO BE VESTED IN FEE SIMPLE

Name of Site	Location	Legal Description (All South Auckland Land District – Rotorua District)	Encumbrances
Site on Horohoro Bluff	As shown on SO 364706	75.2470 hectares, more or less, being Section 1 SO 60473. Part *Gazette* 1941 page 2713.	Subject to the conservation covenant referred to in clause 10.1.9.
Moerangi Site	As shown on SO 364662	58 hectares approximately, being Part Lot 6 DPS 54801. Part *Gazette* 1975 page 2327. Subject to survey.	Subject to the conservation covenant referred to in clause 10.1.18 Subject to the forestry right referred to in clause 10.8 Subject to the protective covenant certificate held in computer interest register SA60D/751, if it affects the Moerangi Site on the Settlement Date. Subject to a registered Water Catchment Protection Right in favour of the Rotorua District Council over the area shown BB on DPS 54081. Created by Transfer 6720066.4.
Lake Rotokawa Site	As shown on SO 364707	7.5 hectares, approximately, being Lake Rotokawa (Part Whakapoungakau 15A and Part Whakapoungakau 16 Sec 2A). Part	Subject to the conservation covenant referred to in clause 10.1.23.

PART 1: DESCRIPTIONS OF SITES

		Gazette 1902 page 1778. Subject to survey.	
Te Wairoa	As shown on SO 364664	1.0 hectare, approximately, being Part Lot 2 DP 11082. Part *Gazette* 1911 page 2043. Subject to survey.	Subject to the conservation covenant referred to in clause 10.1.27.
Pateko Island	As shown on SO 364709	2023 square metres, more or less, being Pateko Island. SO 21321/3. Part *Gazette* 1921 page 887.	
Te Koutu Pa	As shown on SO 364666	3.0 hectares, approximately, being Part Okataina 3. Part *Gazette* 1931 page 1685. Subject to survey.	
Okataina Lodge Site	As shown on SO 364710	1.5260 hectares, more or less, being Section 7 Block XVI Rotoiti Survey District. SO 47823 (Formerly Section 5 Block XVI Rotoiti Survey District and Pt Okataina 4). Part Proclamation 8001 and Part Computer Freehold Register SA1D/857.	Subject to the Okataina Lodge Site Lease held in computer interest register SA23A/1000. Subject to the water pipeline easement in gross in favour of Her Majesty The Queen held in computer interest register SA23A/1001. Subject to the lease referred to in clause 10.1.35.
Okataina Outdoor Education Centre Site	As shown on SO 364667	10 hectares, approximately, being Part Waione C and Part Okataina 12. Part *Gazette* 1931 page 1685 and Part *Gazette* 1973 page 1425. Subject to	Subject to the Western Okataina Walkway held in *Gazette* 1980 page 311.

PART 1: DESCRIPTIONS OF SITES

		survey.	
Beds of Lakes Rotongata (Mirror Lake) and Rotoatua	As shown on SO 364669	8.2 hectares, approximately, being Parts Waione C. Part *Gazette* 1931 page 1685. Subject to survey.	Subject to the conservation covenant referred to in clause 10.1.43.
Te Ariki Site	As shown on SO 364711	44.9432 hectares, more or less, being Sections 1, 2 and 3 Block XII Tarawera Survey District, and Sections 1 and 2 SO 354515. Part *Gazette* 1908 pages 612 and 2086.	Subject to management deed referred to in clause 10.1.47. Subject to the walkway easement referred to in clause 10.1.47. Subject to the unregistered deed of lease dated 13 October 1999 granting Waimangu Volcanic Valley Limited the right to cross the land.
Punaromia Site	As shown on SO 389397	10 hectares, approximately, being Part Section 2 Block VII Tarawera Survey District. Part *Gazette* 1906 page 2996. Subject to survey.	

PART 1: DESCRIPTIONS OF SITES

Site adjacent to Orakei-Korako	As shown on SO 364713	136.0000 hectares, more or less, being Section 6 SO 61109. Part *Gazette* 1896 page 1075. Subject to survey.	Subject to the operating easement in favour of Mighty River Power Limited. Subject to the operating easement held in computer interest register SA70B/659 in favour of Contact Energy Limited dated 21 February 2000. Subject to the conservation covenant referred to in clause 10.1.64.
Site adjacent to Lake Rotomahana	As shown on SO 364714	1.5210 hectares, more or less, being Section 3 SO 354515. Part *Gazette* 1896 page 1075.	Subject to the conservation covenant referred to in clause 10.1.67.
Kakapiko	As shown on SO 364704	2.75 hectares, approximately, being Part Lot 6 DPS 54801. Part *Gazette* 1975 page 2327. Subject to survey.	Subject to the conservation covenant referred to in clause 10.1.71. Subject to the protective covenant certificate held in computer interest register SA60D/751, if it affects Kakapiko on the Settlement Date. Subject to the forestry right referred to in clause 10.8.

PART 1: DESCRIPTIONS OF SITES

TABLE 2: CULTURAL REDRESS PROPERTIES VESTED AS A SCENIC RESERVE

Name of Site	Location	Legal Description	Encumbrances
Rangitoto Site	As shown on SO 364659	46 hectares, approximately, being Part Okataina 12. Part *Gazette* 1973 page 1425. Subject to survey.	To be administered as a scenic reserve subject to section 19(1)(a) of the Reserves Act. Subject to the unregistered licence to Rotorua VHF Marine Radio Association (Incorporated) held in TEL 008 dated 24 August 1998. Subject to the Western Okataina Walkway held in *Gazette* 1980 page 311

PART 1: DESCRIPTIONS OF SITES

Sites on Paeroa Range	As shown on SO 364661	50 hectares, approximately, being Part Section 35 Block V Paeroa Survey District. Part Gazette 1989 page 3398. Subject to survey. 44 hectares, approximately, being Part Section 2 Block VIII Ngongotaha Survey District. Part Gazette 1911 page 1577. Subject to survey.	To be administered as a scenic reserve subject to section 19(1)(a) of the Reserves Act. Subject to the right of Kordia Limited (formerly known as Broadcast Communications Limited) to construct, maintain and use a track, as described in an unregistered Deed dated 22 November 1993 (the Telecommunications Deed referred to in clause 10.4). Subject to the right of Kordia Limited (formerly known as Broadcast Communications Limited) to construct, maintain and use overhead and underground power cables.
Wai-o-Tapu Site	As shown on SO 364712	123.8259 hectares approximately, being Part Sections 5, 6, 8 and 15 and Sections 7, 9, 12 and 18 Block VII, Paeroa Survey District. Parts *Gazette* 1908 page 893, 1934 page 4289 and 1951 page 829. Subject to survey.	To be administered as a scenic reserve subject to section 19(1)(a) of the Reserves Act Subject to the unregistered lease to Waiotapu Thermal Tourist Park Limited dated 22 October 1969 and renewed on 25 September 2000. Subject to the right of way easement referred to in clause 10.1.60.

PART 1: DESCRIPTIONS OF SITES

TABLE 3: CULTURAL REDRESS PROPERTIES VESTED AS A RECREATION RESERVE

Name of Site	Location	Legal Description	Encumbrances
Roto-a-Tamaheke Reserve	As shown on SO 364715	4.3040 hectares, approximately, being Parts Section 6B Block I Tarawera Survey District. Part *Gazette* 1904 page 2119. Subject to survey.	To be administered as a recreation reserve subject to section 17 of the Reserves Act.
Whakarewarewa Thermal Springs Reserve	As shown on SO 364716	45 hectares, approximately being Section 7 Block I Tarawera Survey District. Part *Gazette* 1904 page 2119. Subject to survey.	To be administered as a recreation reserve subject to section 17 of the Reserves Act Subject to the registered lease referred to in clause 10.1.86.

PART 1: DESCRIPTIONS OF SITES

TABLE 4: SCHOOLS

Name of Site	Location	Legal Description South Auckland Land District – Rotorua District	Encumbrances	Commencement Rent
Rotokawa School	Cnr Te Ngae and Rotokawa Roads	2.4281 hectares, more or less, being Section 4 Block XIV Rotoiti Survey District. Part Proclamation S.544775.	Nil	$18,120
Lynmore Primary School	Cnr Te Ngae and Iles Road	3.9940 hectares, more or less, being Lots 1-16, 56, and 76 DPS 8. All Proclamation S.31525 and Part *Gazette* Notice S.61376.	Nil	$90,000
Mokoia Intermediate School/Owhata School	Brent Road	6.0703 hectares, more or less, being Section 1 SO 41638. All Proclamation S.241230.	Nil	$81,000
Ngongotaha School	Cnr Hood and School Roads	2.8101 hectares, more or less, being Lots 46, 47, 48, 49, 50 and 51 DP18362, Section 1 SO 37126, Section 1 SO 37238, and Part Section 1 Block XVI Rotorua Survey District. All computer interest register 310488. All computer register SA279/276. All Proclamation S.94569 and All Proclamation S.89694.	Nil	$32,400
Horohoro School	Apirana Road, Horohoro	2.5238 hectares, more or less, being Section 1 SO 406235. Balance *Gazette* Notice S.279834.	Nil	$9,600