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1: STATEMENT OF NGĀTI MANUHIRI VALUES, PROTECTION PRINCIPLES AND AGREED ACTIONS OF THE DIRECTOR-GENERAL OF CONSERVATION

1 STATEMENT OF NGĀTI MANUHIRI VALUES, PROTECTION PRINCIPLES AND AGREED ACTIONS OF THE DIRECTOR-GENERAL OF CONSERVATION

WAKATŬWHENUA

WHENUA RAHUI created over Wakatūwhenua (part of Leigh Recreation Reserve, Goat Island Scientific Reserve and Cape Rodney-Okakari Marine Reserve)

1 Ngāti Manuhiri Statement of Values

Wakatūwhenua is of central importance to the identity of Ngāti Manuhiri. The area is an iconic reminder of the early origins of Ngāti Manuhiri and their links with the earlier iwi of the area, including Ngāi Tāhuhu. Wakatūwhenua, the small bay located at the southern end of Ngā One Haea (Pākiri Beach), was the landing place of the early voyaging canoe Moekākara captained by Tāhuhunui ō Rangi, the eponymous ancestor of Ngāi Tāhuhu from whom Ngāti Manuhiri and many of the iwi of Te Tai Tokerau directly descend. The Moekākara waka was also known by the more prosaic name Wakatūwhenua because of the health of the crew after their difficult voyage from the Pacific. It is of considerable spiritual and historical significance to Ngāti Manuhiri that Tāhuhunui ō rangi first landed in Aotearoa at Wakatūwhenua at the southern end of Ngā One Haea (Pākiri Beach), and that the 'sheltering place' of Tāhuhunui ō Rangi, Te Ārai ō Tāhuhu (Te Ārai Point) marks the northern end of the region's longest beach which is central to the identity of the iwi.

The adjoining land was maintained as a kāinga and cultivation by Ngāti Manuhiri for many generations until after early European settlement. The land, known as the Wakatūwhenua Block, part of which forms the Leigh Recreation Reserve, was specifically reserved from sale to the Crown at the request of the Ngāti Manuhiri rangatira Te Kiri Kaiparaoa in 1861.

Motu Hāwere (Goat Island) which shelters Wakatūwhenua has the longer traditional name of Te Hāwere ā Maki, 'the ear pendant belonging to Maki'. This sacred name is associated with Maki who led the conquest of the area in the late seventeenth century. Maki was the father of Manuhiri, the eponymous ancestor of Ngāti Manuhiri, thus the mana and mauri of this name and landmark, and the waters that surround it, is of immense significance to the iwi.

The alienation of Wakatūwhenua and Motu Hāwere is symbolic of the fragmentation and loss suffered by Ngāti Manuhiri in the post colonial period. Nevertheless Ngāti Manuhiri recognise the significant ecological, scientific, educational and recreational values of Wakatūwhenua, and are committed to jointly conserving these values and the area's spiritual, cultural and historical values, into the future.

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1: STATEMENT OF NGĀTI MANUHIRI VALUES, PROTECTION PRINCIPLES AND AGREED ACTIONS OF THE DIRECTOR-GENERAL OF CONSERVATION

2 **Protection Principles**

- 2.1 Recognition of Ngāti Manuhiri mana, tikanga and kaitiakitanga within Wakatūwhenua.
- 2.2 Respect for and inclusion of Ngāti Manuhiri tikanga within the management of Wakatūwhenua.
- 2.3 Recognition of the relationship of Ngāti Manuhiri with Wakatūwhenua.
- 2.4 Respect for the presence of Ngāti Manuhiri in the management and interpretation of Wakatūwhenua.
- 2.5 Encouragement of respect for the historical and cultural association of Ngāti Manuhiri with Wakatūwhenua.
- 2.6 Accurate portrayal of the association of Ngãti Manuhiri with Wakatūwhenua.
- 2.7 Recognition of Ngāti Manuhiri kaitiakitanga in relation to the mauri and natural values of Wakatūwhenua.
- 2.8 Protection of wāhi tapu, wāhi whakahirahira, indigenous flora and fauna of Wakatūwhenua and the immediate environs.

3 **Director-General actions**

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The Director-General has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles:

- 3.1 Department of Conservation staff, volunteers, researchers, contractors, conservation board members, concessionaires and the public will be provided with information about Ngāti Manuhiri's values and role as a Kaitiaki in relation to Wakatūwhenua and the immediate environs and will be encouraged to recognise and respect Ngāti Manuhiri's association with the area, and their role as Kaitiaki.
- 3.2 Ngāti Manuhiri's association with Wakatūwhenua will be accurately portrayed in all new Departmental information, signs and educational material about the Island.
- 3.3 The Ngāti Manuhiri Governance Entity will be consulted regarding the content of any proposed introduction or removal of indigenous species to and from Wakatūwhenua.
- 3.4 The importance of the ecosystems and life forms of Wakatūwhenua to Ngāti Manuhiri will be protected by the Department of Conservation through measures to monitor the health of and threats to Wakatūwhenua and, where necessary, take steps to protect the indigenous flora and fauna of the area, and by advocating sound and sustainable environmental planning principles and processes.
- 3.5 Significant earthworks and soil/vegetation disturbance (other than for ongoing track maintenance) will be avoided where possible. Where significant earthworks and disturbances of soil and vegetation cannot be avoided, the Ngāti Manuhiri

1: STATEMENT OF NGĀTI MANUHIRI VALUES, PROTECTION PRINCIPLES AND AGREED ACTIONS OF THE DIRECTOR-GENERAL OF CONSERVATION

Governance Entity will be consulted and particular regard will be had to their views, including those relating to Koiwi (human remains) and archaeological sites.

- 3.6 Any koiwi or other taonga found or uncovered will be left untouched and contact made immediately with the Ngāti Manuhiri Governance Entity to ensure representation is present on site and appropriate tikanga is followed, noting that the treatment of the koiwi or other taonga will also be subject to any procedures required by law.
- 3.7 The Department will advise the Ngāti Manuhiri Governance Entity of opportunities for input into management planning for Wakatūwhenua and the immediate environs through early engagement in the Conservation Management Strategy processes for the Auckland Conservancy.

TE HAUTURU-O-TOI / Little Barrier Island

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WHENUA RAHUI created over Te Hauturu-o-Toi / Little Barrier Island

1 Ngāti Manuhiri Statement of Values

Te Hauturu-o-Toi (also known as Little Barrier Island) is an iconic island and landform for Ngāti Manuhiri. The island is visible from almost all parts of the traditional rohe or tribal domain of Ngāti Manuhiri. The physical presence of Te Hauturu-o-Toi / Little Barrier Island, its mauri or spiritual essence, and its traditional history are central to the mana, identity, unity, and tribal affiliations of Ngāti Manuhiri, extending over many generations down to the present.

The island takes its name from its highest point – Te Hauturu-o-Toi / Little Barrier Island – "the wind blown summit of Toi". This name, which features in whakataukī, pepeha and waiata, is a reminder of the earliest period of human settlement in the region. It stems from the arrival of the ancestor Toi Te Huatahi within Te Moana Nui ō Toi (the Hauraki Gulf) and his brief occupation of the island. Through intermarriage with the early tribal groups of Ngāi Tāhuhu and Ngāti Te Wharau, Ngāti Manuhiri are direct decendants of Toi Te Huatahi.

The ancestor Manuhiri with his father Maki and his uncle Mataahu conquered Te Hauturu-o-Toi / Little Barrier Island sometime in the seventeenth century. After several generations of occupation Ngāti Manuhiri made strategic alliances and marriages with Ngāti Manaia, now known as Ngāti Wai. Following the marriage of Rangihokaia of Ngāti Wai and Tukituki, the granddaughter of Manuhiri, Te Hauturu-o-Toi / Little Barrier Island became symbolic of Ngāti Manuhiri links to Ngāti Wai whanui as a coastal and ocean-going iwi, as expressed in the whakataukī –

Ka tangi Tūkaiaia ki te moana, ko Ngāti Wai kei te moana e haere ana – "When the guardian bird Tūkaiaia calls at sea, Ngāti Wai are travelling on the ocean".

Te Hauturu-o-Toi / Little Barrier Island is not only seen as a place associated with, and occupied by, the ancestors of Ngāti Manuhiri. It is also seen as being a tipuna or ancestor in its own right. The island is also known as Te Whai Rahi – "the huge stingray" – which is the paramount kaitiaki of Ngāti Manuhiri.

DOCUMENTS SCHEDULE

1: STATEMENT OF NGĀTI MANUHIRI VALUES, PROTECTION PRINCIPLES AND AGREED ACTIONS OF THE DIRECTOR-GENERAL OF CONSERVATION

Te Hauturu-o-Toi / Litle Barrier Island was occupied by Ngāti Manuhiri as a permanent home for many generations until 1896. Cultivations were maintained on the Maraeroa flats between Waipawa and Te Waikōhare. The surrounding seas provided a rich source of fish and other kaimoana, and Ngā Puke Tarahanga ō Hauturu – "the many peaks of Hauturu" – were a rich source of birds, in particular manu oi, or varieties of mutton birds. Te Hauturuo-Toi / Little Barrier Island was at times used as a refuge and was an important burial place for rangatira of Ngāti Manuhiri. The circumstances surrounding the forced sale and subsequent eviction of Ngāti Manuhiri from the island symbolise the loss suffered by Ngāti Manuhiri over the last century and has been a central grievance for Ngāti Manuhiri. The transfer and giftback of the island to Ngāti Manuhiri is of fundamental importance in enabling Ngāti Manuhiri to move toward to a more positive future.

2 **Protection Principles**

- 2.1 Recognition of Ngāti Manuhiri mana, tikanga and kaitiakitanga within Te Hauturu-o-Toi / Little Barrier Island Nature Reserve.
- 2.2 Respect for and inclusion of Ngāti Manuhiri tikanga within Te Hauturu-o-Toi / Little Barrier Nature Reserve.
- 2.3 Recognition of the relationship of Ngāti Manuhiri with the many wāhi tapu and wāhi whakahirahira on Te Hauturu-o-Toi / Little Barrier Island and its immediate environs.
- 2.4 Respect for the presence of Ngāti Manuhiri on Te Hauturu-o-Toi / Little Barrier Island generally, and the occupation of the Te Waikōhare papakainga in particular.
- 2.5 Encouragement of the respect for the association of Ngāti Manihiri with Te Hauturuo-Toi / Little Barrier Nature Reserve.
- 2.6 Accurate portrayal of the association of Ngāti Manuhiri with Te Hauturu-o-Toi / Little Barrier Nature Reserve.
- 2.7 Recognition of Ngāti Manuhiri kaitiakitanga in relation to the mauri and natural values of Te Hauturu-o-Toi / Little Barrier Island Nature Reserve.
- 2.8 Protection of wāhi tapu, wāhi whakahirahira, indigenous flora and fauna and the wider environment on Te Hauturu-o-Toi / Little Barrier Island Nature Reserve.

3 Director-General actions

The Director-**G**eneral has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles:

3.1 Department of Conservation staff, volunteers, researchers, contractors, conservation board members, concessionaires and the public (permitted to visit Te Hauturu-o-Toi / Little Barrier Island) will be provided with information about Ngāti Manuhiri's values and role as a Kaitiaki in relation to Te Hauturu-o-Toi / Little Barrier Island and will be encouraged to recognise and respect Ngāti Manuhiri's association with the island, and their role as Kaitiaki.

DOCUMENTS SCHEDULE

1: STATEMENT OF NGĂTI MANUHIRI VALUES, PROTECTION PRINCIPLES AND AGREED ACTIONS OF THE DIRECTOR-GENERAL OF CONSERVATION

- 3.2 Ngāti Manuhiri's association with Te Hauturu-o-Toi / Little Barrier Island will be accurately portrayed in all new Departmental information, signs and educational material about the Island.
- 3.3 The Ngāti Manuhiri Governance Entity will be consulted regarding the content of any proposed introduction or removal of indigenous species to and from the island.
- 3.4 The importance of the ecosystems and life forms of Te Hauturu-o-Toi / Little Barrier Island to Ngāti Manuhiri will be protected by the Department of Conservation through measures to monitor the health of and threats to Te Hauturu-o-Toi / Little Barrier Island, and where necessary take steps to protect the indigenous flora and fauna of the area.
- 3.5 Significant earthworks and soil/vegetation disturbance (other than for ongoing track maintenance) will be avoided where possible. Where significant earthworks and disturbances of soil and vegetation cannot be avoided, the Ngāti Manuhiri Governance Entity will be consulted and particular regard will be had to their views, including those relating to Koiwi (human remains) and archaeological sites.
- 3.6 Any koiwi or other taonga found or uncovered will be left untouched and contact will be made immediately with the Governance Entity to ensure representation is present on site and appropriate tikanga is followed, noting that the treatment of the koiwi or other taonga will also be subject to any procedures required by law.
- 3.7 The Department will advise the Ngāti Manuhiri Governance Entity of opportunities for input into management planning for Te Hauturu-o-Toi / Little Barrier Island and the immediate environs through early engagement in the Conservation Management Strategy processes for the Auckland Conservancy.

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2 STATEMENTS OF ASSOCIATION

MOUNT TAMAHUNGA

Statutory Area

The area to which the Statutory Acknowledgement applies is Mount Tamahunga, as shown on deed plan OT**S**-125-11.

Ngāti Manuhiri Statement of Association

Maunga Tamahunga (also known in part as the Omaha Ecological Area) is a maunga tapu, or sacred peak of iconic importance to Ngāti Manuhiri. As the highest peak within the mainland area of the Ngāti Manuhiri rohe, the mountain is of particular spiritual, cultural and historical importance. Maunga Tamahunga is also boundary marker. It is central to the identity of Ngāti Manuhiri and is greeted in oratory on the marae:

- Kō Tamahunga te maunga
- Kō Te Hauturu-o-Toi te motu whakahirahira
- Kō Te Moana nui ō Toi te moana
- Kō Manuhiri te tupuna
- Kō Ōmaha te marae
- Kō Te Kiri te wharenui
- Kō Ngāti Manihiri te iwi

Maunga Tamahunga is literally the "ancestral head" of Ngāti Manuhiri. While the upper part of the mountain was imbued with tapu, its forested slopes traditionally provided a vast resource of food, building materials and rongoa for Ngāti Manuhiri. The mountain contains wāhi tapu of significance to Ngāti Manuhiri. Its forests provided a refuge for Ngāti Manuhiri in times of trouble, from early times to 1825 following the battle of Te Ika ā Ranganui. In 1864 Maunga Tamahunga became the temporary home of several hundred Māori prisoners of war who had been captured during the Crown's invasion of the Waikato and interned on Kawau Island, but who escaped from Kawau Island with Ngāti Manuhiri assistance. At this time a fortified pā was constructed on the summit of the mountain. Today Maunga Tamahunga is also valued as an important ecological area within the Ngāti Manuhiri rohe as it contains areas of unmodified forest and is the home of significant bird species like the kākā, kākāriki and miromiro, and the pēpeke or Hochstetter's frog.

MOTU HĀWERE (COMPRISING THE REMAINDER OF THE LEIGH RECREATION RESERVE FOLLOWING VESTING OF THE LEIGH RECREATION RESERVE SITE AND GOAT ISLAND SCIENTIFIC RESERVE)

Statutory Area

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The area to which this Statutory Acknowledgement relates is Motu Hāwere, as shown on deed plan OTS-125-12.

Motu Hāwere Statement of Association

Motu Hāwere (Goat Island) is of central importance to the identity of Ngāti Manuhiri. The area is an iconic reminder of the early origins of Ngāti Manuhiri and their links with the earlier iwi of the area, including Ngāi Tāhuhu.

Motu Hāwere which shelters Wakatūwhenua, has the longer traditional name of Te Hāwere ā Maki, 'the ear pendant belonging to Maki'. This sacred name is associated with Maki who led the conquest of the area in the late seventeenth century. Maki was the father of Manuhiri, the eponymous ancestor of Ngāti Manuhiri. The mana and mauri of this name and landmark, and the waters that surround it, is thus of immense significance to the iwi. The island was occupied as a fortified pā by the Ngāti Manuhiri warrior ancestor Maeaea, who was a grandson of Manuhiri. It was on the basis of descent from Maeaea that Ngāti Manuhiri received title to Motu Hāwere in 1901.

The adjoining land was maintained as a käinga and cultivation by Ngāti Manuhiri for many generations until after early European settlement. The land, known as the Wakatūwhenua Block, part of which forms the Leigh Recreation Reserve, was specifically reserved from sale to the **C**rown at the request of the Ngāti Manuhiri rangatira Te Kiri Kaiparaoa in 1861.

The alienation of Wakatūwhenua and Motu Hāwere are symbolic of the fragmentation and loss suffered by Ngāti Manuhiri in the colonial period. Ngāti Manuhiri nevertheless recognise the significant ecological, scientific, educational and recreational values of Motu Hāwere and Wakatūwhenua, and are committed to jointly conserving these values, as well as the area's spiritual, cultural and historical values, into the future.

NGĀROTO/LAKE SPECTACLE, SLIPPER LAKE AND LAKE TOMARATA

Statutory Area

The area to which this Statutory Ācknowledgement applies is the area known as Ngāroto, also known as Lake Spectacle, Slipper Lake and Lake Tomarata, as shown on deed plan OTS-125-19.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with Ngāroto (Lake Spectacle and Slipper Lake) and Roto Tomarata (Lake Tomarata)

These three fresh water lakes are the largest sand dune-impounded lakes of their type on the eastern coastline of the Auckland region. The two northern lakes lie inland and to the south of Te Ārai ō Tāhuhu (Te Ārai Point) and are known jointly as Ngāroto, literally 'the lakes'. The southern-most lake is Roto Tomarata named after a sacred rata tree, Te Toma rata tapu, that was an important burial place. All three lakes are located on the Wai keri ā Wera Block which was purchased from Ngāti Manuhiri by the Crown in 1859. These fresh water lakes and their wetland margins provided a valued source of fresh water, food and weaving materials, and were focal points for settlement. Roto Tomarata is particularly significant to Ngāti Manuhiri as it was one of the dwelling places of the ancestor Kahikatearoa, the son of Manuhiri, and its environs were the resting place of many illustrious ancestors.

TOHITOHI Ō REIPAE/THE DOME

Statutory Area

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The area to which this Statutory Acknowledgement applies is the area known as Tohitohi ō Reipae/The Dome, as shown on deed plan OTS-125-20.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with Tohitohi ō Reipae, also known as The Dome.

Tohitohi ō Reipae is a prominent land mark lying to the north west of Puhinui (Warkworth). This mountain was an important traditional boundary marker and is a significant historical reminder of the early ancestral origins of Ngāti Manuhiri. The mountain takes its name from the ancient and famous Tainui ancestress Reipae, who is said to have travelled north from the Waikato in the company of her sister, Reitu, who was seeking the hand of a leading northern chief Ueoneone. Unusually Reipae and Reitū travelled on the back of a large pouākai or eagle. On their journey they alighted at Taurere ō Reipae at Pākiri and then at Tohitohi ō Reipae, before finally arriving at Whānga ā Reipae (Whāngarei). Here Reipae married the leading Ngāi Tāhuhu rangatira Tāhuhupōtiki. Ngāti Manuhiri are descendants of this union. The mountain continues to be a significant landmark to Ngāti Manuhiri and is valued for its ecology including the Waiwhiu kauri grove.

PÕHUEHUE SCENIC RESERVE

Statutory Area

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The area to which this Statutory Acknowledgement applies is the area known as **P**ōhuehue Scenic Reserve, as shown on deed plan OTS-125-22.

Cultural, Spiritual, Historic and Traditional Association of Ngăti Manuhiri with Põhuehue Scenic Reserve

This prominent scenic reserve located beside State Highway 1 is particularly valued by Ngāti Manuhiri as a visible and accessible remnant of the lush native forest that once covered the district. It takes its name from a native climber, the põhuehue, that was valued for its tenacity. The name of the reserve is also valued as a reminder of the Ngāti Manuhiri ancestor Põhuehue who was the father of the twentieth century Ngāti Manuhiri leader Tenetahi Te Riringa.

KAWAU ISLAND HISTORIC RESERVE

Statutory Area

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The area to which this Statutory Acknowledgement applies is the area known Te Kawau Tūmārō ō Toi, also known as Kawau Island Historic Reserve, as shown on deed plan OTS-125-23.

Cultural, Spiritual, Historical and Traditional Association of Ngāti Manuhiri with Te Kawau Tūmārō ō Toi, also known as Kawau Island

Te Kawau Tūmārō ō Toi – the sentinel cormorant of Toi – is of major cultural, spiritual, and historical significance to Ngāti Manuhiri. The island is one of several iconic landmarks in the Ngāti Manuhiri rohe, including Te Hauturu-o-Toi / Little Barrier Island, that were named after the illustrious ancestor Toi Te Huatahi. Together, they form Ngā Poitō ō Te Kupenga ō Toi Te Huatahi – the floats of the fishing net of Toi – or the islands that stand in Te Moana Nui ō Toi – the great sea of Toi (the northern Hauraki Gulf).

Through ancient whakapapa, Ngāti Manuhiri are direct descendants of Toi Te Huatahi. The relationship of Ngāti Manuhiri with the island extends back through descent from Manaia, not only to Toi Te Huatahi but also to the ancestor and atua, Maui. Ngāti Manuhiri came to occupy the island in the late seventeenth century after they and their Te Kawerau relatives defeated the local people at the battle of Huruhuruwaea on the adjoining mainland. Ngāti Manuhiri occupied Kawau Island mainly for the purpose of fishing, as its soils were infertile and there was a shortage of fresh water in summer. Occupation by Ngāti Manuhiri continued until the disruption of Te Pakanga ā Te Pū - the musket wars of the 1820s and 1830s. After the alienation of the island without the participation of Ngāti Manuhiri in the 1840s, the iwi continued to maintain kāinga on the mainland immediately adjoining Kawau Island at Mangatāwhiri (Jones Bay), Tāwharanui, and Waikauri, which was occupied until 1912. Ngāti Manuhiri sailing vessels, operated by rangatira such as Tenetahi Te Riringa, provided a trading service for the copper mine on the island until the 1850s, and later for Sir George Grey who purchased Kawau Island in 1862. This shipping service was maintained by Tenetahi's sons Wi Taiawa Paraone and Kiri Paraone until the early twentieth century. The Ngāti Manuhiri rangatira Te Kiri Kaiparaoa visited Grey regularly on the island during the 1860s and, according to Ngāti Manuhiri tradition, was presented with a sword at Mansion House at around 1864. Since the 1980s Ngāti Manuhiri has assisted the Hauraki Gulf Marine Park Board, and its successor the Department of Conservation, in planning for the management of the historic reserve.

COASTAL STATUTORY ACKNOWLEDGEMENT AREA

Statutory Area

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The area to which this Statutory Acknowledgement applies is the Ngāti Manuhiri Coastal Acknowledgement Area, as shown on deed plan OTS-125-06. This statutory acknowledgment should be considered alongside the Ngāti Manuhiri statutory acknowledgments for the adjoining coastal environment, rivers and the offshore islands.

Statement of Association for the Ngāti Manuhiri Coastal Statutory Acknowledgement Area

The coastal marine area and the coastal environment adjoining are central to the origins, mana and identity of Ngāti Manuhiri as an iwi, and as part of the ocean-focused tribal grouping Ngāti Wai ki te Moana.

Ngāti Manuhiri have an important ancestral relationship with the coastal marine area extending from Mangawhai (the Mangawhai Harbour) to Matakanakana (the Matakana Estuary). Broader and shared ancestral interests are also maintained within a coastal area covering the seaway known as Te Moana Nui ō Toi – the great sea of Toi (the central and northern Hauraki Gulf). In the north, Ngāti Manuhiri share ancestral relationships and interests from Paepae ō Tū (Bream Tail) on the eastern coastline, out to the islands of Tūturu (Sail Rock) and Pokohinu (the Motuhinau Islands group).

The Ngāti Manuhiri coastal statutory acknowledgement area encompasses the islands of Hauturuo-Toi / Little Barrier Island, and Aotea (Great Barrier Island), where Ngāti Manuhiri have shared ancestral interests, including on Rangiahua (Flat Island), Motu Mahuki, Motu Taiko, and their marine environs. Ngāti Manuhiri accept that their relatives Ngāti Rehua act as primary kaitiaki of these interests at Aotea.

The southern boundary of the Ngāti Manuhiri coastal statutory acknowledgement area extends from the south western extremity of Aotea (Great Barrier Island) through the seas known traditionally as Taitūmata and Te Awanui ō Hei, to Takapou (Channel Island). It then runs westward through the seaway known as Moana Te Rapu, to the south of the Whāngaparāoa Peninsula, to reach the eastern coastline of the Auckland region at Ōkura. There are places of spiritual, historical, cultural and economic importance to Ngāti Manuhiri along the entire coastline between Ōkura and Paepae ō Tū (Bream Tail). Seaways of particular significance to Ngāti Manuhiri include Waimiha (Ōmaha Bay) which was associated with the annual whale migrations described below, Moanauriuri (Kawau Bay), and Waihi (the North Channel of Kawau Bay). This latter area is a place of particular mana associated with the landmarks and ritually important areas of Karangatuoro, Matatūahu, Tangaroa and Tokatū.

Te Moana Nui ō Toi Te Huatahi – The Great Sea of Toi Te Huatahi

Ngāti Manuhiri trace descent from the famous early Māori ancestor and voyager Toi Te Huatahi, after whom Te Moana Nui ō Toi (the central and northern Hauraki Gulf) is named. This ocean area, and its mauri or spiritual essence, kaitiaki or spiritual guardians, biodiversity, seaways, islands, and traditions, lie at the heart of the identity of Ngāti Manuhiri. Te Moana Nui ō Toi, and its islands and coastal margins are also associated with the earliest ancestral origins of Ngāti Manuhiri, through descent from the ancestors Maui Pae, Manaia, and Tahuhunuiorangi. This seaway was also associated with the arrival of the Tainui and Aotea waka in the region, and the renowned ancestors Rakataura and Turi from whom the eponymous ancestor Manuhiri descends.

DOCUMENTS SCHEDULE

2: STATEMENTS OF ASSOCIATION

The importance of the coastal area to Ngāti Manuhiri over many generations is reflected by ancient whakataukī and waiata, traditions associated with the ocean, the sailing and navigational skills of the tribe, and the adornment of Ōmaha Marae as the present day focal point of the iwi today. Tradition tells us that Te Moana Nui ō Toi was a place of arrival for famous ancestral voyaging canoes, a place intimately associated with the early ancestors of Ngāti Manuhiri, a place that is watched over by kaitiaki or spiritual guardians, and a vast economic resource that was jealously guarded and coveted over many generations.

Ngā Pōito ō Te Kupenga ō Toi Te Huatahi – The Floats of the Fishing Net of Toi Te Huatahi

The motu (islands), motu nohinohi (islets) and kōhatu (rocks) that lie within the coastal area of significance to Ngāti Manuhiri are known collectively as Ngā Põito ō Te Kupenga ō Toi Te Huatahi – "the floats of the fishing net of Toi Te Huatahi". Several of them are particularly significant as they carry the name of the ancestor Toi, with examples being Ngā Taratara ō Toi ("the Needles at the northern tip of Aotea"), Te Kawau Tūmārō ō Toi (Kawau Island), and Te Hauturu-o-Toi / Little Barrier Island. The following waiata oriori (lullaby) illustrates the collective spiritual unity of these islands, and their importance to Ngāti Manuhiri, who occupied Hauturu-o-Toi / Little Barrier Island until 1896.

Me piki taua ki te tihi ō Hauturu muia ao. Ka matakitaki taua ki ngā pōito ō te kupenga ō Toi Te Huatahi. E tama tangi kine, ē!

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Let us climb to the summit of Hauturu wreathed in cloud. Here we can view the floats of the fishing net of Toi Te Huatahi. Oh child crying distressfully, e!

The larger islands were occupied permanently, provided a wide range of food and were protected by fortified pā. Of particular importance were the manu oi (mutton bird species) that were harvested in early summer and preserved in their own fat. This delicacy was traditionally offered to distinguished guests and was central to the identity of Ngāti Manuhiri. The widespread introduction of pests such as the ship rat, and the alienation of the islands in the nineteenth century, made it difficult for Ngāti Manuhiri and others to obtain manu oi. Ngāti Manuhiri continued to accompany their relatives to harvest tītī from Pokohinu (the Mokohinau Island Group) until wartime restrictions were introduced around 1940.

Ngā Tohorā Kaitiaki ā Manaia - 'the Guardian Whales of Manaia'

Several of the islands located within Te Moana nui ō Toi hold significance to Ngāti Manuhiri as descendants of the renowned northern ancestor Manaia I. Ngāti Manuhiri tradition explains that the ancestor Manaia I communed with the vast numbers of whales that migrated though the seas off the eastern coast of the region. A retinue of whales always accompanied him on his voyages and became his mōkaikai (pets). Prior to his death, Manaia I turned several of these whales into stone and placed them throughout his ancestral domain as markers of the area over which he held mana, and as kaitiaki (guardians) for his descendants. The kaitiaki that are associated with Ngāti Manuhiri and their close relatives include: Te Tohorā ā Manaia (an islet of the south western end of Aotea), and Te Mau Tohorā ā Manaia (Motuora Island) located to the north of the Mahurangi Harbour entrance.

DOCUMENTS SCHEDULE

2: STATEMENTS OF ASSOCIATION

The annual whale migrations through Te Moana nui õ Toi were of major significance to Ngāti Manuhiri, and remain so. They symbolise ancestral associations, the changing of the seasons, and the rich marine biodiversity contained within this vast ocean area. The coastal seaways between Whāngaparāoa, 'the bay of the sperm whales', and Tokatū Point, provided a resting place for migrating whales and their calves. The seaway lying to the north of Tāwharanui, and extending towards Hauturu-o-Toi / Little Barrier Island, was known traditionally as Waimiha or Te Aumiha. This name has layers of meaning relating to the whale calves that rested in the coastal waters, the ambergris cast ashore by the whales, and the heavy seas that arise in this area. Whales often stranded on this part of the coast, in particular on the northern side of the Tokatū Peninsula, bringing a rich bounty for Ngāti Manuhiri. On occasions whales were also caught by the young men of the tribe, both as a symbol of manhood and as a resource. The name of the nineteenth century Ngāti Manuhiri leader Te Kiri Kaiparaoa symbolises this activity and the exercise of rangatiratanga:

He reirei ngā niho parāoa, he parāoa ngā kauae.

"If you wear a necklace of sperm whale teeth, you need the jaws of a sperm whale to carry them".

Te Ao ō Tangaroa - The Realm of Tangaroa

The seas of Te Moana Nui ō Toi provided a vast source of food for Ngāti Manuhiri over the generations, including sea mammals, a great variety of fish, shellfish, seaweed and sea birds. Knowledge relating to the location and resources of individually named tauranga ika (fishing grounds) was handed down over the generations until this practice was disrupted by the introduction of modern sonar devices. Of particular importance to Ngāti Manuhiri were tauranga ika associated with whāpuku (groper), tarakihi, tawatawa (mackerel), tāmure (snapper), kahawai, and haku (kingfish). The tauranga mango (shark fishing grounds) of Kawau Bay were used by Ngāti Manuhiri and others to catch the school shark species known locally as muri. This important winter food source was coveted by iwi and became the cause of significant conflict in the eighteenth century. Ngāti Manuhiri continued to harvest muri from this area regularly until the establishment of a shark oil processing factory at Sandspit in the late nineteenth century, and periodically until the 1920s.

Te Takutaimoana – the Coastline

The coastline extending between the Whāngaparāoa Peninsula and Paepae õ Tū (Bream Tail) includes a wide range of rocky, sandy and estuarine marine habitats, once rich in a variety of inshore fish species, koura and shellfish. Ngāti Manuhiri were traditionally reliant on this kaimoana resource, which was harvested seasonally according to strict customary practices until the alienation of most of the Ngāti Manuhiri tribal domain by the late nineteenth century. In spite of this, the Ngāti Manuhiri rangatira Te Kiri Kaiparaoa continued to assert rights over the resources of the coastline between Tokatū and Pākiri until his death in 1873. Prior to the introduction of animal pest species, deforestation and land clearance in the mid nineteenth century, the coastal environment also contained seal colonies, for example Te Pūrei Kekeno at Hāwera (Tī Point). There were also large seabird breeding colonies on most of the larger coastal headlands from which birds and eggs were harvested. Settlement was focused around sheltered bays, harbours and river mouths, with fortified pā protecting the resources of each of these communities.

Places of special significance to Ngāti Manuhiri on this coastline include: Tiritiri Mātangi Island, named after the Waikato birthplace of the eponymous ancestor Manuhiri, Whangaparāoa, "the bay of the sperm whales", Motu Mahurangi (Mahurangi Island), Awa Waiwerawera (the Waiwera River), Te Awa Pūhoi (the Pūhoi River), Te Muri ō Tarariki, Waihē (the Mahurangi River), Te

Korotangi (a fortified pā), Ōpahi, Motu Kororā (Saddle Island), Matakanakana (a fortified pā), Awa Matakanakana (Matakana Harbour and River), Purahurawai (Scandrett's Bay/Mullet Point), and the islands of Te Mau Tohorā ā Manaia (Motuora), Moturekareka, Motumanu, Motuketekete, Taungamārō, Takangaroa, Ruakoura, Tangaroa, and Te Kawau Tūmārō ō Toi (Kawau Island).

The coastline extending from Matakanakana northward around the Tokatū Peninsula to Whāngateau contains numerous areas of significance to Ngāti Manuhiri. These include traditional inshore fishing grounds, netting and kaimoana gathering areas, pā, kāinga, wāhi tapu, tūahu, and navigational and historical landmarks. Examples are provided by: Waimarumaru, Wai ihe, Pākaraka, Karangatuoro, Te Ngaere, Waikauri, Matatūahu, Ōponui (a fortified pā), Mangatāwhiri, Pāhī (a fortified pā), Tokatū, Waikōkōwai, Pukeruhiruhi (a fortified pā), Waimaru, Waitapu, Te Kiekie, Te Wairenga and Te Taumutu (Ōmaha Spit), Whāngateau, Waikōkopu, Uruhau, Pātito (a fortified pā), Koekoea (a fortified pā), Hāwera, Te Pūrei Kekeno, Piupiu (a fortified pā), Kohuroa (Matheson Bay), Whānga ō maha (Leigh Harbour), Panetiki, Motururu, Wakatūwhenua, Motu Hāwere, Ōkākari (a fortified pā), Pitokuku, Taumata (a fortified pā), Ngā One Haea (Pākiri Beach), Te Ārai ō Tāhuhu (a fortified pā), Mangawhai, and Paepae ō Tū (Bream Tail). Several of these coastal sites, including the main harbours and the region's longest east coast beach, are of particular significance to Ngāti Manuhiri as outlined below.

Mangawhai Harbour

Mangawhai – "the estuary of the whai" (stingray) – is of major historical, cultural and spiritual importance to Ngāti Manuhiri. Mangawhai was one of the homes of Kahikatearoa, the son of Manuhiri. The estuary provided shelter for those travelling by canoe from Mahurangi to Whāngarei. An overland pathway also linked the head of the harbour at Ōawatea with the Ōruāwharo area on the Kaipara Harbour. A variety of fish were netted from the harbour, although this did not include the whai which is a kaitiaki to Ngāti Manuhiri. Following the battle of Ika ā Ranganui fought against a combined northern force near Kaiwaka in 1825, heavy losses were sustained by Ngāti Manuhiri at Mangawhai and Te Ārai. As a result the area became tapu and was not permanently occupied at the time of early European settlement.

Ngā One Haea – Pākiri Beach

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The coastline adjoining Ngā One Haea (Pākiri Beach) has long been renowned for its high quality 'glistening white sand', which is the origin of its traditional name. The beach provided an important coastal pathway until the mid nineteenth century and remains emblematic to the identity of Ngāti Manuhiri. Settlements were located right along the beach, with a focus on the stream mouths and the dune-impounded freshwater lakes. These settlements were protected by fortified pā, including: Ökakari, Pākiri and Taurere o Rei in the south, Whetūmākurukuru, Öpuāwanga and Putukākā in the central area, and Te Ārai ō Tāhuhu in the north.

Kaimoana taken from the seas adjoining Ngā One Haea sustained Ngāti Manuhiri over the generations, and continues to enable the provision of hospitality at Ōmaha Marae. A particular feature were tuatua harvested from the beach, as well as paua and kūtai (mussels) taken from Pitokuku, Wakatūwhenua and Motururu. Pākiri was famed for the snapper run that took place in September, with thousands of fish being dried and smoked. Kanae (mullet) were netted in large numbers along the beach and in the Pākiri River, and kahawai were caught around the river and stream mouths. Makawhiti (herrings) and inanga (whitebait) were also prolific in the Pākiri River.

The coastline adjoining the southern end of Ngā One Haea is associated with the largest remaining Ngāti Manuhiri community at Pākiri, and is of symbolic importance as the last piece of coastal land on the east coast remaining in Māori ownership between Auckland and Whāngarei. The Ngāti

Manuhiri relationship with Pākiri-Mangawhai coastal sand resource was recognised by the Planning Tribunal in 1993.

Whānga ō Maha – Leigh Harbour

Whānga ō Maha is the traditional name for Leigh Harbour. This name refers to the importance of the harbour and the wide variety of natural resources that it offered. It gives its name to Ōmaha Marae and the Ōmaha Block located on the northern side of the harbour. This name of major significance to Ngāti Manuhiri became mis-located to the Whāngateau area in the late nineteenth century. The harbour offered a wide variety of kaimoana resources. It provided a sheltered anchorage and hauling out place for waka, and later for sailing vessels and fishing launches operated by Ngāti Manuhiri. The islet of Panetiki at the harbour entrance remains in the ownership of Ngāti Manuhiri, as does a coastal landing place providing access to Ōmaha Marae and Urupā.

Whāngateau Harbour

Whāngateau, 'the harbour of the strong tidal current', is a place of considerable historical and cultural significance. The traditional importance of this large harbour is illustrated by the fact that its resources were protected by six fortified pā. The sandbanks of the lower harbour and the Waikōkopu Inlet provided the most important source of pipi and tuangi (cockle) shellfish within the Ngāti Manuhiri rohe. A wide variety of fish could be caught around the harbour entrance and koura (crayfish) were taken from the rocky coastline surrounding Hāwera (Tī Point). A special delicacy traditionally associated with Whāngateau was the kūaka (godwit) that was harvested in summer. The coastal land surrounding Whāngateau was part of the controversial 'Dacre's Claim'. Ngāti Manuhiri occupied Whāngateau until the late nineteenth century, and continue to harvest resources there today.

Waihē – Mahurangi Harbour

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Ngāti Manuhiri have a shared ancestral interest in Waihē (the Mahurangi Harbour) as descendants of Maki and his wife Rotu who occupied Te Korotangi Pā at the southern harbour entrance. Places of particular significance to Ngāti Manuhiri include: the island pā of Maunganui (Casnell Island), Motu Kauri (Grant's Island), Puhinui (the waterfalls at Warkworth), and Pukapuka Cemetery which remains in use at the head of the harbour. The traditional name for the harbour originates from the fact that its resources were jealously guarded and fought over down the generations.

Kō te iti ō Waihē, he puta kino nui – "Even though Waihē (the disputed harbour) is not large, it has been the cause of great trouble".

Ongoing Association with the Coastal Area

Following the alienation of most of their coastal land in the nineteenth century, Ngāti Manuhiri continued to utilise the resources of the coastal marine area. The Ngāti Manuhiri rangatira Te Kiri Kaiparaoa operated the coastal trading vessel *Industry* from 1858. His son in law Tenetahi Te Riringa was a renowned sailing captain, operating such vessels as the *Rangatira*, and his sons Wi Taiawa and Kiri Paraone ran a trading service and commercial fishing operation out of Whānga ō Maha (Leigh Harbour) for many years. Ngāti Manuhiri were involved in commercial fishing operations in the area until recently, and continue to hold significant commercial fishing interests through the Ngāti Wai Trust Board. Ngāti Manuhiri were associated with the establishment and operation of the Hauraki Gulf Maritime Park in 1967, and have more recently played an active role on the Hauraki Gulf Forum established under the provisions of the Hauraki Gulf Marine Park Act 2000.

In their role as kaitiaki, Ngāti Manuhiri continue to play an active role in coastal planning, monitoring and management processes administered by the Auckland Council and the Department of Conservation. Ngāti Manuhiri has also played an active partnership role with the Auckland Council in the establishment and management of the Tāwharanui Open Sanctuary ecological restoration project, and its associated Marine Protection Area. As the iwi develops further capacity it looks forward to being fully engaged in exercising kaitaikitanga in partnership with other iwi, the Crown and the wider community, within its coastal acknowledgement area.

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HÕTEO RIVER

Statutory Area

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The area to which this Statutory Acknowledgement applies is the area known as Te Awa Hôteo or the Hôteo River, as shown on deed plan OTS-125-15.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with the Hōteo River.

Kō Hōteo te awa

Kō Mangatū te pā

Kō Manuhiri te tangata

Kō Ngāti Manuhiri te iwi

Te Awa Hōteo (the Hōteo River) was an important traditional resource of Ngāti Manuhiri, and it remains a water body of major cultural, spiritual and historic significance to the iwi. The river has particular importance as the home of the eponymous ancestor Manuhiri who occupied pā at Tūtā, Umukuri and Mangatū where he lived until his death. The lower reaches of the river were also an important boundary marker between Ngāti Manuhiri and other groups. Until the late 1860s the lower river was the focal point of settlement for Uri ō Katea, a hapū of Ngāti Manuhiri who descended from Tūwhakaeketia, the second son of Manuhiri. Of special importance are Taihāmau and Iriwata, the sons of Tūwhakaeketia, who stand as stones in the river. They are located just above the Tarakihi rapids which marked the navigable upper reaches of the river.

From the time Ngāti Manuhiri settled the area in the late seventeenth century, kāinga and cultivations were maintained beside many parts of the river including at Hōteo, Te Awapū, Mangakura, Mangatū, Awa Matangao and Kawakawa. The Hōteo River provided a wide range of fish, eels, kākahi and water fowl. Kāinga on the lower part of the river were renowned for their karaka groves from which ripe kernels were harvested in autumn. As the river extended many kilometres inland to Tomarata and Whāngaripo it provided a traditionally important east-west transport route.

PÜHOI RIVER

Statutory Area

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The area to which this Statutory Acknowledgement applies is that section of the Pūhoi River located above the river mouth boundary with the coastal marine area, as shown on deed plan OTS-125-14.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with Te Awa Pūhoi, also known as the Pūhoi River

Te Awa Pūhoi, also known as the Pūhoi River, and its tributaries Manga Hikauae and Manga Mihirau are of significance to Ngāti Manuhiri. Manuhiri, the eponymous ancestor of Ngāti Manuhiri, and his brothers Ngāwhetū and Maeaeariki lived beside the river in the late seventeenth century. The river provided an important inland route and food source. The river and its environs are also associated with several events of considerable importance in the traditions of Ngāti Manuhiri. At Mihirau on the upper reaches of Te Awa Pūhoi a major peacemaking meeting was convened by Ngāti Manuhiri and their Te Kawerau relatives with another iwi. The grand-daughter of Manuhiri, Te Kupe, was betrothed to a chief of this other iwi. The union was not successful and further conflict took place. When the land around the upper reaches of the river was sold to the Crown in 1862, the Ngāti Manuhiri rangatira Te Kiri Kaiparaoa sought the protection of a major wāhi tapu at Pūhoi because of its association with his ancestors.

PĀKIRI RIVER

Statutory Area

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The area to which this Statutory Acknowledgement applies is the area known as the Pākiri River, as shown on deed plan OTS-125-16.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with the Pākiri River

Te Awa Pākiri (the Pākiri River) has been an important resource and landmark for Ngāti Manuhiri from the earliest period of settlement until the present. The river takes its name from Pākiri, the headland pā which has guarded its mouth from the time of Kahikatearoa, son of Manuhiri. The river was navigable for several kilometres and provided a sheltered anchorage for both river and ocean going canoes. It also provided an important source of food which included tuna (eels), kanae (mullet), and waterfowl. Weaving and building materials were gathered from the lower reaches of the river at Raupōroa. The river also marked the southern boundary of the Pākiri Block which was the largest area of land retained by Ngāti Manuhiri after Crown purchases of the mid nineteenth century. The river remains central to the identity of Ngāti Manuhiri today.

POUTAWA STREAM

Statutory Area

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The area to which this Statutory Acknowledgement applies is the area known as the Poutawa Stream, as shown on deed plan OTS-125-17.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with the Poutawa Steam

Wai Poutawa, also known as the Poutawa Stream, and its associated wetland was a focal point for Ngāti Manuhiri settlement on the coastline between Pākiri and Te Ārai ŏ Tāhuhu (Te Ārai Point) until the mid nineteenth century. Wai Poutawa formed part of an old sub-tribal boundary, and marked the northern edge of the Pākiri Block which Ngāti Manuhiri retained after the first round of Crown land purchases were completed in the 1850s and 1860s. The outlet to the Poutawa Stream provided a permanent source of fresh water on an otherwise dry stretch of coastline. Its wetlands provided an important source of food such as eels, inanga (whitebait), kākahi (fresh water mussels), koura (fresh water crayfish) and water fowl, as well as weaving materials. Taro was cultivated on the stream and wetland margins.

The lower reaches of the stream have major historical significance as they were re-directed through a drain dug by the Ngāti Manuhiri ancestor Wera in the mid eighteenth century. This feature, known as Te Waikeri ā Wera, was the source of the name for the wider surrounding area. The area around the stream is also of particular significance as it was occupied by Kahikatearoa, the son of Manuhiri, and his descendants until the 1870s. The stream marked the eastern end of an overland pathway extending west to the head of the Hōteo River catchment. Because of its strategic importance, Wai Poutawa and its environs were protected by two fortified pā named Ōpuawhango and Ngā Whetū Mākurukuru.

MATAKANA RIVER

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as the Matakana River, and specifically that section of the river located above the river mouth boundary with the coastal marine area, as shown on deed plan OTS-125-18.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with Te Awa Matakanakana - the Matakana River

Te Awa Matakanakana (also known as the Matakana River) is of major significance to Ngāti Manuhiri as a sub-regional boundary marker. In 1853 the Crown identified the area north of the river as 'Parihoro's Claim', with Parihoro then being the oldest Ngāti Manuhiri rangatira in occupation of the district. The river provided an important inland route to kāinga and cultivations located on the fertile country located at the navigable head of the river. It also provided a wide range of food taken from both the fresh and salt water sections of the river. Beyond the river mouth was one of the most valued tauranga mango (shark fishing grounds) in the region. Here over many generations, down to the late nineteenth century, Ngāti Manuhiri and their relatives gathered large quantities of school sharks known locally as muri. The upper reaches of the Matakana River were protected by several pā, including Pukematekeo, while the lower reaches and the adjoining harbour were protected by the headland pā known as Matakanakana – 'the glowering eyes'. This pā, which is of considerable significance to Ngāti Manuhiri, gives its name to the river and the surrounding district.

WAIWERAWERA

Statutory Area

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The area to which this Statutory Acknowledgement applies is the area known as the Waiwerawera River, as shown on deed plan OTS-125-21.

Cultural, Spiritual, Historic and Traditional Association of Ngāti Manuhiri with Awa Waiwerawera

Awa Waiwerawera (the Waiwera River) is a water body of cultural, spiritual and historical significance to Ngāti Manuhiri. This ancestral relationship with the river and its environs, including Waiwerawera (the Waiwera Hot Springs), is shared with other iwi. Motu Mahurangi, the island at the mouth of the river is important in Ngāti Manuhiri tradition. The river mouth area is also important as it was here that Ngāti Manuhiri fought with Ngāti Manaia. In a subsequent peace making agreement, Tukituki of Ngāti Manuhiri was betrothed to the Ngāti Manaia rangatira Rangihokaia. A place of particular importance at the head of the river is the island wāhi tapu known as Motutere (Te Kōroto). The river and its margins are also of significance to Ngāti Manuhiri because of their high ecological values in a coastal environment that has been the subject of ongoing development pressure.

3 DEED OF RECOGNITION

THIS DEED is made by **THE CROWN** acting by the Minister of Conservation and the Director-General of Conservation

1 INTRODUCTION

- 1.1 The Crown has granted this deed as part of the redress under a deed of settlement with -
 - 1.1.1 Ngāti Manuhiri; and
 - 1.1.2 the trustees of the Ngāti Manuhiri Settlement Trust (the governance entity).
- 1.2 In the deed of settlement, Ngāti Manuhiri made statements of Ngāti Manuhiri's particular cultural, spiritual, historical, and traditional association with the remainder of Mount Tamahunga being within the Omaha Ecological Area (as shown on deed plan OTS-125-11) following the vesting of the Mount Tamahunga summit site (the statutory area).
- 1.3 Those statements of association are
 - 1.3.1 in the documents schedule to the deed of settlement; and
 - 1.3.2 copied, for ease of reference, in the schedule to this deed.
- 1.4 The Crown has acknowledged the statements of association in the [*name*] Act [*year*], being the settlement legislation that gives effect to the deed of settlement.

2 CONSULTATION

- 2.1 The Minister of Conservation and the Director-General of Conservation must, if undertaking an activity specified in clause 2.2 in relation to a statutory area, consult and have regard to the views of the governance entity concerning Ngāti Manuhiri's association with that statutory area as described in a statement of association.
- 2.2 Clause 2.1 applies to each of the following activities (the identified activities):
 - 2.2.1 preparing a conservation management strategy, or a conservation management plan, under the Conservation Act 1987 or the Reserves Act 1977:
 - 2.2.2 preparing a national park management plan under the National Parks Act 1980:
 - 2.2.3 preparing a non-statutory plan, strategy, programme, or survey in relation to a statutory area that is not a river for any of the following purposes:
 - (a) to identify and protect wildlife or indigenous plants:

- (b) to eradicate pests, weeds, or introduced species:
- (c) to assess current and future visitor activities:
- (d) to identify the appropriate number and type of concessions:
- 2.2.4 preparing a non-statutory plan, strategy, or programme to protect and manage a statutory area that is a river:
- 2.2.5 locating or constructing structures, signs, or tracks.
- 2.3 The Minister and the Director-General of Conservation must, when consulting the governance entity under clause 2.1, provide the governance entity with sufficient information to make informed decisions.

3 LIMITS

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- 3.1 This deed -
 - 3.1.1 relates only to the part or parts of a statutory area owned and managed by the Crown; and
 - 3.1.2 does not require the Crown to undertake, increase, or resume any identified activity; and
 - 3.1.3 does not prevent the Crown from not undertaking, or ceasing to undertake, any identified activity; and
 - 3.1.4 is subject to the settlement legislation.

4 TERMINATION

- 4.1 This deed terminates in respect of a statutory area, or part of it, if -
 - 4.1.1 the governance entity, the Minister of Conservation, and the Director-General of Conservation agree in writing; or
 - 4.1.2 the relevant area is disposed of by the Crown; or
 - 4.1.3 responsibility for the identified activities in relation to the relevant area is transferred from the Minister or the Director-General of Conservation to another Minister and/or Crown official.
- 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 governance entity continues to have input into any identified activities in relation to the area with the new Minister and/or Crown official responsible for that activity.

5 NOTICES

5.1 Notices to the governance entity and the Crown are to be given under this deed in accordance with part 4 of the general matters schedule to the deed of settlement, except that the Crown's address where notices are to be given is –

Area Manager Warkworth Great Barrier Island Area Office Department of Conservation, PO Box 474 Warkworth 0941.

6 AMENDMENT

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6.1 This deed may be amended only by written agreement signed by the governance entity and the Minister of Conservation and the Director-General of Conservation.

7 NO ASSIGNMENT

7.1 The governance entity may not assign its rights under this deed.

8 **DEFINITIONS**

8.1 In this deed -

Crown has the meaning given to it by section 2(1) of the Public Finance Act 1989; and

deed means this deed of recognition as it may be amended from time to time; and

deed of settlement means the deed of settlement dated [*date*] between Ngāti Manuhiri, the governance entity, and the Crown; and

Director-General of Conservation has the same meaning as Director-General in section 2(1) of the Conservation Act 1987; and

governance entity has the meaning given to it by the deed of settlement; and

identified activity means each of the activities specified in clause 2.2; and

Minister means the Minister of Conservation; and

person includes an individual, a corporation sole, a body corporate, and an unincorporated body; and

Ngāti Manuhiri have the meaning given to them by the deed of settlement; and

settlement legislation means the Act referred to in clause 1.4; and

statement of association means each statement of association in the documents schedule to the deed of settlement and which is copied, for ease of reference, in the schedule to this deed; and

statutory area means an area referred to in clause 1.2, the general location of which is indicated on the deed plan referred to in relation to that area, but which does not establish the precise boundaries of the statutory area; and

writing means representation in a visible form on a tangible medium (such as print on paper).

9 INTERPRETATION

- 9.1 The provisions of this clause apply to this deed's interpretation, unless the context requires a different interpretation.
- 9.2 Headings do not affect the interpretation.
- 9.3 A term defined by
 - 9.3.1 this deed has that meaning; and
 - 9.3.2 the deed of settlement, or the settlement legislation, but not by this deed, has that meaning where used in this deed.
- 9.4 All parts of speech and grammatical forms of a defined term have corresponding meanings.
- 9.5 The singular includes the plural and vice versa.
- 9.6 One gender includes the other genders.
 - 9.7 Something, that must or may be done on a day that is not a business day, must or may be done on the next business day.
 - 9.8 A reference to –

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- 9.8.1 this deed or any other document means this deed or that document as amended, novated, or replaced; and
- 9.8.2 legislation means that legislation as amended, consolidated, or substituted.
- 9.9 If there is an inconsistency between this deed and the deed of settlement, the deed of settlement prevails.

SIGNED as a deed on [date]

SIGNED for and on behalf of **THE CROWN** by – The Minister of Conservation in the presence of –

WITNESS

Name: Occupation: Address:

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The Director-General of Conservation in the presence of -

WITNESS

Name: Occupation: Address:

Schedule

Copies of Statements of Association

Mount Tamahunga (as shown on deed plan OTS-125-07)

Ngāti Manuhiri Statement of Association

Maunga Tamahunga (also known in part as the Mount Tamahunga Ecological Area) is a maunga tapu, or sacred peak of iconic importance to Ngāti Manuhiri. As the highest peak within the mainland area of the Ngāti Manuhiri rohe, the mountain is of particular spiritual, cultural, historical importance. Maunga Tamahunga is a boundary marker. It is central to the identity of Ngāti Manuhiri and is greeted in oratory on the marae.

Kō Tamahunga te maunga

Kō Te Hauturu-o-Toi te motu whakahirahira

Kō Te Moana nui ō Toi te moana

Kō Manuhiri te tupuna

Kō Ōmaha te marae

Kō Te Kiri te wharenui

Kō Ngāti Manuhiri te iwi

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Maunga Tamahunga is literally the "ancestral head" of Ngāti Manuhiri. While the upper part of the mountain was imbued with tapu, its forested slopes traditionally provided a vast resource of food, building materials and rongoa for Ngāti Manuhiri. The mountain contains wāhi tapu of significance to Ngāti Manuhiri. Its forests provided a refuge for Ngāti Manuhiri in times of trouble from early times down to 1825 following the battle of Te Ika ā Ranganui. In 1864 Maunga Tamahunga became the temporary home of several hundred Māori prisoners of war who had been captured during the Crown's invasion of the Waikato and interned on interned on Kawau Island but who escaped from Kawau Island with Ngāti Manuhiri assistance. At this time a fortified pa was constructed on the summit of the mountain. Maunga Tamahunga is also valued as an important ecological area within the Ngāti Manuhiri rohe, in particular as contains areas of unmodified forest, and as it is the home of significant bird species like the kākā, kākāriki and miromiro, and of the pēpeke or Hochstetter's frog.

DOCUMENTS SCHEDULE

4: PROTOCOLS

4 PROTOCOLS

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A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF CONSERVATION AND THE DIRECTOR-GENERAL OF CONSERVATION ON SPECIFIED ISSUES

1 PURPOSE OF PROTOCOL

- 1.1 This Protocol sets out how the Department of Conservation (the "Department") and the trustees of the Ngāti Manuhiri Settlement Trust ("the Governance Entity") will work together in fulfilling conservation objectives across the Ngāti Manuhiri area of interest. It is a framework to foster the development of a positive, collaborative and enduring relationship into the future between Ngāti Manuhiri and the Department of Conservation.
- 1.2 This Protocol forms part of the Ngāti Manuhiri Crown Agreement in Principle, agreed by Cabinet on 17 December 2009. The terms of the Ngāti Manuhiri Deed of Settlement apply to this Protocol and should be read as part of this Protocol.
- 1.3 This Protocol shall apply within the Ngāti Manuhiri rohe, referred to as the "Protocol Area" or "Ngāti Manuhiri Protocol Area".

2 ROLES AND RESPONSIBILITIES

Joint Objectives

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- 2.1 Ngāti Manuhiri, the Minister and the Director-General are committed to the restoration and protection of the health and wellbeing of the Ngāti Manuhiri Protocol Area, for present and future generations.
- 2.2 The Ngāti Manuhiri rohe is primarily contained within the Department of Conservation's Auckland Conservancy Area.

Ngāti Manuhiri Manuhiritanga

2.3 Ngāti Manuihiri, as represented by the Governance Entity, describe their cultural, traditional and historic association with the land and waters, and indigenous flora and fauna within their rohe, as manuhiritanga. Manuhiritanga is "the practice and recognition of Ngāti Manuhiri tribal whakapapa, tikanga, kawa, lore and tinorangatiratanga that over arch all whenua, moana and taonga of Ngāti Manuhiri".

Minister, Director-General and Department of Conservation

2.4 The Department administers 24 Acts and has functions under a number of other Acts. Its functions include managing "for conservation purposes, all land, and all other natural and historic resources" under the Conservation Legislation. This must be interpreted and administered so as to give effect to the principles of the Treaty of Waitangi, to the extent that those principles are consistent with the Conservation Legislation.

3 STRATEGIC COLLABORATION

- 3.1 As soon as is practicable after the signing of this Protocol the parties will meet to agree long-term strategic objectives for their relationship ("the strategic objectives for the partnership").
- 3.2 Thereafter, the Governance Entity will meet with senior staff of the Department (including the Auckland Conservator, the Warkworth Great Barrier Island Area Manager and Pou Kura Taiao) within the Protocol Area at least once a year. At these meetings, the parties will determine whether meetings involving other senior managers of the Department and the Governance Entity are required on particular issues.
- 3.3 The Governance Entity and the Department undertake separate business planning processes prior to the beginning of each new financial year. These business planning processes determine Ngāti Manuhiri and the Department's work priorities and commitments for the year. For the Department, business planning processes largely sit with Area Managers. The parties will meet at an early stage in their annual business planning processes to discuss timeframes for the development of annual work programmes, and to identify potential projects to be undertaken together or separately which are consistent with the strategic objectives for the relationship.
- 3.4 If a specific project is undertaken, the Department and the Governance Entity will determine the nature of their collaboration on that project which may include finalising a work plan for that project. If a specific project is not undertaken, the parties will advise one another of the reason(s) for this.
- 3.5 As part of annual discussions, and as part of ongoing dialogue, the parties will advise each other of:
 - a) any significant changes that have occurred or are proposed (including structural, legislative, policy or administrative changes) regarding how either party is working in the Protocol Area; and
 - b) potential opportunities for applying for funding for conservation purposes from external sources (either jointly or individually with the support of the other party).
- 3.6 Each year, the parties will provide a letter or similar form of written advice to the other that describes the work that party has carried out in that financial year to achieve the strategic objectives for the relationship.

Planning documents

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3.7 The Department and the Governance Entity will meet to identify and seek to address issues affecting Ngāti Manuhiri at an early stage (before public consultation, if any, and throughout the process) in the preparation, review or amendment of any Statutory Planning Document within the Protocol Area.

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4 FRESHWATER FISHERIES

- 4.1 Ngāti Manuhiri and the Department share aspirations for conservation of freshwater fisheries within the Protocol Area. Freshwater fisheries will be a key focus in the strategic objectives for the relationship.
- 4.2 The Department's statutory functions include the preservation, as far as practicable, of all indigenous freshwater fisheries, and the protection of recreational freshwater fisheries and their habitats. The Department is responsible for the regulation of whitebait fishing under the Whitebait Regulations. Its work also focuses on fisheries and habitats that are located on public conservation land, species under recovery plans, and biosecurity issues. In all other areas, advocacy for the conservation of freshwater fisheries is undertaken primarily through Resource Management Act processes.
- 4.3 The parties will co-operate in the conservation of freshwater fisheries and freshwater habitats. Establishing these aims in the strategic objectives for the relationship will ensure that actions towards these are integrated into the annual business planning process. These actions may include: areas for co-operation in the protection, restoration and enhancement of riparian vegetation and habitats (including marginal strips); and the development or implementation of research and monitoring programmes.

5 STATUTORY AUTHORISATIONS

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- 5.1 The strategic objectives for the relationship will guide the parties to determine appropriate engagement on Statutory Authorisations within the Protocol Area.
- 5.2 As part of these strategic objectives, the Governance Entity and the Department will identify categories of statutory authorisations that may impact on the cultural, traditional and/or historic values of Ngāti Manuhiri. These categories will be reviewed as agreed. The Department will advise and encourage all prospective applicants within the Protocol Area to consult with the Governance Entity before filing their application. The Department will also consult the Governance Entity at an early stage on such categories of authorisations or renewal of authorisations within the Protocol Area.
- 5.3 The Department will consult with the Governance Entity and have regard to its views for Statutory Authorisations for Te Hauturu-o-Toi / Little Barrier Island.
- 5.4 For the types of statutory authorisations that Ngāti Manuhiri and the Department agree have potential significance the Department and the Governance Entity see the benefit of seeking agreement, in a timely manner, on an appropriate response to the application, before the decision is made under the relevant legislation.
- 5.5 As the Department works within time limits to process concession applications, it will notify the Governance Entity (as part of the meetings referred to in paragraph 4.2) of the time frames for providing advice.
- 5.6 It is expected that the strategic objectives for the relationship will guide the parties to determine potential opportunities for Ngāti Manuhiri to obtain statutory authorisations on public conservation land within the Protocol Area, including concessions for cultural tours.

6 STATUTORY LAND MANAGEMENT

- 6.1 The strategic objectives for the relationship will guide the parties' engagement on statutory land management activities within the Protocol Area. Ngāti Manuhiri has an ongoing interest in the range of statutory land management activities that are occurring within the Protocol Area.
- 6.2 From time to time, the Department and the Governance Entity will identify the categories of statutory land management activities that have potential to affect Ngāti Manuhiri sites of significance, and where consultation is appropriate. This includes when: the Minister is considering vestings or management appointments for reserves held under the Reserves Act 1977; other management arrangements with third parties; changing reserve classifications; or disposing of reserves.
- 6.3 Before vesting or making an appointment to control and manage a reserve under the Reserves Act for a Ngāti Manuhiri site of significance, the Department will discuss with the Governance Entity whether Ngāti Manuhiri wishes to be given such a vesting or appointment subject to agreed conditions (if any).

7 CULTURAL MATTERS

- 7.1 The Department will facilitate, in accordance with legislative requirements, Ngāti Manuhiri access to cultural materials and will consider potential impacts on Ngāti Manuhiri where cultural materials are requested by other persons.
- 7.2 Ngāti Manuhiri will develop a Cultural Materials Plan regarding the access, restoration, enhancement and use of taonga cultural materials. Ngāti Manuhiri will work collaboratively with the Department on this, subject to the Department's available resources. Discussions on the plan may include:
 - a) identification of cultural materials, their current state, and desired conservation outcomes within the Protocol Area;
 - b) streamlined authorisations process for iwi members to gather cultural materials (within existing legislation). This may include multi-site and multi-take permits to the Governance Entity, which may in turn enable the Governance Entity to authorise its own members to take and use flora materials within the Protocol Area for cultural purposes in accordance with the permit issued to the Governance Entity;
 - c) processes for consultation when there are requests from other persons or entities to take cultural materials;
 - d) opportunities to plant and harvest cultural materials on public conservation land;
 - e) waiver or reduction of recovery of authorisation costs for cultural materials applications; and
 - f) opportunities for the Department and Ngāti Manuhiri to work collaboratively on cultural materials enhancement within the Protocol Area (including knowledge transfer, education, wänanga, and preservation techniques).
8 SITES OF SIGNIFICANCE

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- 8.1 Both parties recognise that there are wähi tapu and sites of significance to Ngāti Manuhiri on lands managed under Conservation Legislation.
- 8.2 Ngāti Manuhiri and the Department share aspirations for protecting wähi tapu, sites of significance and other historic places. The parties will work together and endeavour to conserve, in accordance with best practices, sites of significance in areas managed under Conservation Legislation within the Protocol Area. This will be done according to Ngāti Manuhiri tikanga and professional standards for conservation of historic places.
- 8.3 The parties will develop a process for advising one another of sites of significance and wähi tapu. Information relating to Ngāti Manuhiri sites of significance will be treated in confidence by the Department in order to preserve the wähi tapu nature of places, unless otherwise agreed by the Trust.
- 8.4 The parties will consult each other in relation to recommendations for public conservation lands containing sites of significance that are to be named in the Protocol Area.

9 SPECIES AND HABITAT PROTECTION (INCLUDING NATIONAL PROGRAMMES AND PEST CONTROL)

- 9.1 The parties share aspirations of protecting ecosystems and indigenous flora and fauna within the Ngāti Manuhiri Protocol Area. These aspirations will be reflected in the strategic objectives for the relationship.
- 9.2 The Department aims to conserve the full range of New Zealand's ecosystems, maintain or restore the ecological integrity of managed sites, and ensure the survival of threatened species, in particular those most at risk of extinction. This work involves a number of national programmes.
- 9.3 As part of annual discussions the Department will update the Governance Entity of any national sites and species programmes operating in the Protocol Area and will discuss with the Governance Entity how Ngāti Manuhiri wish to be involved in these programmes, particularly where they will progress the strategic objectives for the relationship. The Department and the Governance Entity will also discuss opportunities and processes for collaboration with one another on other field projects of mutual interest.
- 9.4 Preventing, managing and controlling threats to natural, historic and cultural values from animal and weed pests is an integral part of protecting the unique biodiversity of New Zealand. This is done in a way that maximises the value from limited resources available to do this work.
- 9.5 It is envisaged that the strategic objectives for the relationship will determine the strategic outcomes sought from pest control programmes within the Protocol Area, including: monitoring and assessment of programmes; the use of poisons; and co-ordination of pest control where Ngāti Manuhiri is the adjoining landowner. Through the annual business planning process, the parties will create actions to progress these strategic objectives.

10 VISITOR AND PUBLIC INFORMATION

- 10.1 Ngāti Manuhiri and the Department wish to share knowledge about natural and historic heritage within the Protocol Area with visitors and the general public. This is important to increase enjoyment and understanding of this heritage, and to develop awareness of the need for its conservation.
- 10.2 The parties will encourage respect for and awareness of conservation in, and the Ngāti Manuhiri relationship with, the Protocol Area, including by:
 - a) raising public awareness of positive conservation relationships developed between the parties;
 - b) engaging with each other in the development of visitor and public information published by either party that relates to Ngāti Manuhiri values in land and resources managed under Conservation Legislation, particularly where that information relates to Ngāti Manuhiri sites of significance and aspirations to the land; and
 - c) the Department obtaining the consent of the Governance Entity for the disclosure of information received from the Governance Entity relating to Ngāti Manuhiri values.

11 CONSERVATION ADVOCACY

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- 11.1 From time to time, Ngāti Manuhiri and the Department will each have concerns with the effects of activities controlled and managed under the Resource Management Act 1991 and other legislation. The Department's advocacy role includes matters of concern to it under the Resource Management Act.
- 11.2 The Governance Entity and the Department will seek to identify issues of mutual interest and/or concern ahead of each party making submissions in relevant processes.

12 CROSS-ORGANISATIONAL OPPORTUNITIES

- 12.1 As part of the annual business planning process, the parties will discuss:
 - a) opportunities and processes to share scientific and cultural resource and information, including data and research material (including to assist Ngāti Manuhiri to exercise their role under the Deed and as kaitiaki);
 - b) opportunities for developing mutual understanding and developing relationships, with respect to conservation, environmental and cultural matters within the Protocol Area. Options may include wänanga, education, training, development and secondments;
 - c) opportunities to be involved or to nominate individuals to take part in relevant training initiatives run by both parties, including cadetships and/or biosecurity accreditation for Te Hauturu-o-Toi / Little Barrier Island;
 - d) potential opportunities for full time positions, holiday employment or student research projects which may arise within the Protocol Area. Ngāti Manuhiri may propose candidates for these roles or opportunities; and
 - e) staff changes and key contacts in each organisation.

12.2 Where appropriate, the Department will consider using Ngāti Manuhiri individuals or entities as providers of professional services (such as oral history and interpretation projects). In doing so, the Department recognises the affect that this may have on mana whakahaere of Ngāti Manuhiri. Normal conflict of interests processes will be implemented to avoid a perceived or actual conflict of interest.

13 DISPUTE RESOLUTION

- 13.1 If a dispute arises in connection with this Protocol, every effort will be made in good faith to resolve matters at a local level. This may require the Department's Warkworth Great Barrier Island Area Manager to meet with a representative of the Governance Entity within a reasonable timeframe to endeavour to find a resolution to the matter.
- 13.2 If this process is not successful, the matter may be escalated to a meeting of the Department's Auckland Conservator and a nominated representative of the Governance Entity who will meet within a reasonable timeframe.
- 13.3 If a negotiated outcome cannot be reached from this process, the parties may agree for the issue to be escalated to a meeting between the Director-General (or nominee) and the Chief Executive of the Governance Entity.
- 13.4 If the Department and the Governance Entity agree that the matter is of such significance that it requires the attention of the chair of the Governance Entity and the Minister, then this matter will be escalated to a meeting of the chair of the Governance Entity and the Minister (or their nominees). The parties acknowledge this measure will be a means of last resort.

14 REVIEW AND AMENDMENT

- 14.1 The parties agree that this Protocol is a living document that should be updated and adapted to take account of future developments and additional co-management opportunities. If requested by either party, the first review of this Protocol will take place no later than three years after the date this Protocol is signed, and if requested by either party will be reviewed every three years thereafter.
- 14.2 The parties may only vary this Protocol by agreement in writing.

15 DEFINITIONS

15.1 In this document:

Conservation Legislation means the Conservation Act 1987 and the statutes in the First Schedule of the Act;

Crown has the meaning given to it in section 2(1) of the Public Finance Act 1989;

Cultural materials means plants, plant materials, and materials derived from animals, marine mammals or birds for which the Department is responsible within the Ngāti Manuhiri rohe and which are important to Ngāti Manuhiri in maintaining and expressing their cultural values and practices;

4: PROTOCOLS: CONSERVATION PROTOCOL

Department means the Minister of Conservation, the Director-General and the Departmental managers to whom the Minister of Conservation's and the Director-General's decision-making powers can be delegated;

Kaitiaki means guardian in accordance with tikanga Mäori;

Ngāti Manuhiri has the meaning set out in the Deed of Settlement;

Ngāti Manuhiri Protocol Area or **Protocol Area** means the area identified in the map included in the Attachment of this Protocol.

Statutory Authorisations means an authorisation granted under the Conservation Legislation including a Concession granted under Part 3B of the Conservation Act 1987;

Statutory Planning Document includes any relevant Conservation Management Strategy or Conservation Management Plan under the Conservation Act 1987;

Tikanga Māori refers to Mäori traditional customs.

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4: PROTOCOLS: CONSERVATION PROTOCOL

ISSUED on [

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SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister of Conservation:

WITNESS:

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Name:

Occupation:

Address:

SCHEDULE 1

SUMMARY OF TERMS OF ISSUE

This Conservation Protocol is issued subject to the provisions of the deed of settlement and the Settlement Legislation. A summary of the relevant provisions is set out below.

1. Amendment and cancellation

1.1 The Minister may amend or cancel this Protocol, but only after consulting with Ngāti Manuhiri and having particular regard for its views (section xx).

2. Noting

- 2.1 A summary of the terms of this Protocol must be noted in the Conservation Documents affecting the Protocol Area, but the noting:
 - 2.1.1 is for the purpose of public notice; and
 - 2.1.2 does not amend the Conservation Documents for the purposes of the Conservation Act 1987 or the National Parks Act 1980 (section xx).

3. Limits

- 3.1 This Protocol does not:
 - 3.1.1 restrict the Crown from exercising its powers and performing its functions and duties, in accordance with the law and government policy, including:
 - (a) introducing legislation; or
 - (b) changing government policy; or
 - (c) issuing a Protocol to, or interacting or consulting with, anyone the Crown considers appropriate including any iwi, hapu, marae, whanau or representatives of tangata whenua (section xx);
 - 3.1.2 restrict the responsibilities of the Minister or the Department or the legal rights of Ngāti Manuhiri (section xx); or
 - 3.1.3 grant, create or provide evidence of an estate or interest in, or rights relating to:
 - (a) land held, managed or administered under Conservation Legislation; or
 - (b) flora or fauna managed or administered under the Conservation Legislation (section xx).

4. Breach

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- 4.1 Subject to the Crown Proceedings Act 1950, Ngāti Manuhiri may enforce the Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section xx).
- 4.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause xx refers).

4: PROTOCOLS: CONSERVATION PROTOCOL



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4 PROTOCOLS: TAONGA TUTURU PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING INTERACTION WITH NGĂTI MANUHURI GOVERNANCE ENTITY ON SPECIFIED ISSUES

1 INTRODUCTION

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- 1.1 Under the Deed of Settlement dated xx between Ngāti Manuhiri, the trustees of the Ngāti Manuhiri Settlement Trust 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 "Protocol") setting out how the Minister and the Chief Executive for the Ministry for Culture and Heritage (the "Chief Executive") will interact with the governance entity on matters specified in the Protocol. These matters are:
 - 1.1.1 Protocol Area Part 2
 - 1.1.2 Terms of issue Part 3
 - 1.1.3 Implementation and communication Part 4
 - 1.1.4 The role of the Chief Executive under the Protected Objects Act 1975 Part 5
 - 1.1.5 The role of the Minister under the Protected Objects Act 1975 Part 6
 - 1.1.6 Ngāti Manuhiri Ngā Taonga Tūturu held by Te Papa Tongarewa Part 7
 - 1.1.7 Effects on Ngāti Manuhiri's interest in the Protocol Area Part 8
 - 1.1.8 Registration as a collector of Ngā Taonga Tūturu Part 9
 - 1.1.9 Board Appointments Part 10
 - 1.1.10 National Monuments, War Graves and Historical Graves Part 11
 - 1.1.11 History publications relating to Ngāti Manuhiri Part 12
 - 1.1.12 Cultural and/or Spiritual Practices and Professional Services Part 13
 - 1.1.13 Consultation Part 14
 - 1.1.14 Changes to policy and legislation affecting this Protocol –Part 15
 - 1.1.15 Definitions Part 16
- 1.2 For the purposes of this Protocol the governance entity is the body representative of the whanau, hapū, of Ngāti Manuhiri who have an interest in the matters covered under this Protocol. This derives from the status of the governance entity as tangata whenua in the Protocol Area and is inextricably linked to whakapapa and has important cultural and spiritual dimensions.
- 1.3 The Ministry and the governance entity are seeking a relationship consistent with Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi/the

Treaty of Waitangi provides the basis for the relationship between the parties to this Protocol, as set out in this Protocol.

- 1.4 The purpose of the Protected Objects Act 1975 is to provide for the better protection of certain objects by, among other things, regulating the export of Taonga Tūturu, and by establishing and recording the ownership of Ngā Taonga Tūturu found after the commencement of the Act, namely 1 April 1976.
- 1.5 The Minister and Chief Executive have certain roles in terms of the matters mentioned in Clause 1.1. In exercising such roles, the Minister and Chief Executive will provide the governance entity with the opportunity for input, into matters set out in Clause 1.1.

2 PROTOCOL AREA

2.1 This Protocol applies across the Protocol Area which is identified in the map included in Attachment A of this Protocol together with adjacent islands and waters (the "Protocol Area").

3 TERMS OF ISSUE

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- 3.1 This Protocol is issued pursuant to section xx of the xxx ("the Settlement Legislation") that implements the xxx **D**eed 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 Chief Executive will maintain effective communication with the governance entity by:
 - 4.1.1 maintaining information provided by the governance entity on the office holders of the governance entity and their addresses and contact details;
 - 4.1.2 discussing with the governance entity concerns and issues notified by the governance entity about this Protocol;
 - 4.1.3 as far as reasonably practicable, providing opportunities for the governance entity to meet with relevant Ministry Managers and staff;
 - 4.1.4 meeting with the governance entity to review the implementation of this Protocol at least once a year, if requested by either party;
 - 4.1.5 as far as reasonably practicable, training relevant employees within the Ministry on this Protocol to ensure that they are aware of the purpose, content and implications of this Protocol;
 - 4.1.6 as far as reasonably practicable, inform other organisations with whom it works, central government agencies and stakeholders about this Protocol and provide ongoing information; and
 - 4.1.7 including a copy of the Protocol with the governance entity on the Ministry's website.
- 4.2 If requested by either party this protocol will be reviewed every three years.

5 THE ROLE OF THE CHIEF EXECUTIVE UNDER THE PROTECTED OBJECTS ACT 1975

General

- 5.1 The Chief Executive has certain functions, powers and duties in terms of the Act and will consult, notify and provide information to the governance entity within the limits of the Act. From the date this Protocol is issued the Chief Executive will:
 - 5.1.1 notify the governance entity in writing of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found anywhere else in New Zealand;
 - 5.1.2 provide for the care, recording and custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found anywhere else in New Zealand;
 - 5.1.3 notify the governance entity in writing of its right to lodge a claim with the Chief Executive for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found anywhere else in New Zealand;
 - 5.1.4 notify the governance entity in writing of its right to apply directly to the Māori Land Court for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu; and
 - 5.1.5 notify the governance entity in writing of any application to the Māori Land Court from any other person for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu.

Applications of Ownership

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- 5.2 If the governance entity lodges a claim of ownership with the Chief Executive and there are no competing claims for any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found anywhere else in New Zealand, the Chief Executive will, if satisfied that the claim is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu.
- 5.3 If there is a competing claim or claims lodged in conjunction with the governance entity's claim of ownership, the Chief Executive will consult with the governance entity 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 Māori Land Court for an order confirming ownership of the Taonga Tūturu.
- 5.4 If the competing claims for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found anywhere else in New Zealand, cannot be resolved, the Chief Executive at the request of the governance entity may facilitate an application to the Māori Land Court for determination of ownership of the Taonga Tūturu.

Applications for Custody

- 5.5 If no ownership application is made to the Māori Land Court for any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manuhiri origin found elsewhere in New Zealand by the governance entity or any other person, the Chief Executive will:
 - 5.5.1 consult the governance entity where there is any request from any other person for the custody of the Taonga Tūturu;
 - 5.5.2 consult the governance entity before a decision is made on who may have custody of the Taonga Tŭturu; and
 - 5.5.3 notify the governance entity in writing of the decision made by the Chief Executive on the custody of the Taonga Tūturu.

Export Applications

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- 5.6 For the purpose of seeking an expert opinion from the governance entity on any export applications to remove any taonga tūturu of Ngāti Manuhiri origin from New Zealand by a party other than the Governance Entity, the Chief Executive will register the governance entity on the Ministry for Culture and Heritage's Register of Expert Examiners.
- 5.7 Where the Chief Executive receives an export application to remove any Taonga Tūturu of Ngāti Manuhiri origin from New Zealand, the Chief Executive will consult the governance entity as an Expert Examiner on that application, and notify the governance entity in writing of his or her decision.

6 THE ROLE OF THE MINISTER UNDER THE PROTECTED OBJECTS ACT 1975

- 6.1 The Minister has functions, powers and duties under the Act and may consult, notify and provide information to the governance entity within the limits of the Act. In circumstances where the Chief Executive originally consulted the governance entity as an Expert Examiner, the Minister may consult with the governance entity where a person appeals the decision of the Chief Executive to:
 - 6.1.1 refuse permission to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand; or
 - 6.1.2 impose conditions on the approval to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand.
- 6.2 The Ministry will notify the governance entity in writing of the Minister's decision on an appeal in relation to an application to export any Taonga Tuturu where the governance entity was consulted as an Expert Examiner.

7 NGĂTI MANUHIRI NGA TAONGA TŪTURU HELD BY TE PAPA TONGAREWA

- 7.1 The Chief Executive will invite Te Papa Tongarewa to enter into a relationship with the governance entity, for the purposes of Te Papa Tongarewa compiling a full inventory of Taonga Tūturu held by Te Papa Tongarewa, which are of cultural, spiritual and historical importance to Ngāti Manuhiri.
- 7.2 Associated costs and/or additional resources required to complete the obligations under paragraph 7.1 will be funded by Te Papa Tongarewa, as resources allow.

8 EFFECTS ON NGĀTI MANUHIRI INTERESTS IN THE PROTOCOL AREA

- 8.1 The Chief Executive and governance entity shall discuss any policy and legislative development, which specifically affects Ngāti Manuhiri interests in the Protocol Area.
- 8.2 The Chief Executive and governance entity shall discuss any of the Ministry's operational activities, which specifically affect Ngāti Manuhiri interests in the Protocol Area.
- 8.3 Notwithstanding paragraphs 8.1 and 8.2 above the Chief Executive and governance entity shall meet to discuss Ngāti Manuhiri interests in the Protocol Area as part of the meeting specified in clause 4.1.4.

9 REGISTRATION AS A COLLECTOR OF NGÃ TAONGA TUTURU

9.1 The Chief Executive will register the governance entity as a Registered Collector of Taonga Tūturu.

10 BOARD APPOINTMENTS

- 10.1 The Chief Executive shall:
 - 10.1.1 notify the governance entity of any upcoming ministerial appointments on Boards which the Minister for Arts, Culture and Heritage appoints to;
 - 10.1.2 add the governance entity's nominees onto the Ministry for Culture and Heritage's Nomination Register for Boards, which the Minister for Arts, Culture and Heritage appoints to; and
 - 10.1.3 notify the governance entity of any ministerial appointments to Boards which the Minister for Arts, Culture and Heritage appoints to, where these are publicly notified.

11 NATIONAL MONUMENTS, WAR GRAVES AND HISTORIC GRAVES

11.1 The Chief Executive shall seek and consider the views of the governance entity on any national monument, war grave, historical grave or urupā, managed or administered by the Ministry, which specifically relates to Ngāti Manuhiri interests.

12 HISTORY PUBLICATIONS RELATING TO NGĀTI MANUHIRI

- 12.1 The Chief Executive shall:
 - 12.1.1 provide the governance entity with a list and copies of all history publications commissioned or undertaken by the Ministry that relates substantially to Ngāti Manuhiri and will supply these on request; and
 - 12.1.2 where reasonably practicable, consult with the governance entity on any work the Ministry undertakes that relates substantially to Ngāti Manuhiri:
 - (a) from an early stage;
 - (b) throughout the process of undertaking the work; and
 - (c) before making the final decision on the material of a publication.

12.2 The governance entity accepts that the author, after genuinely considering the submissions and/or views of, and confirming and correcting any factual mistakes identified by, the governance entity, is entitled to make the final decision on the material of the historical publication.

13 PROVISION OF CULTURAL AND/OR SPIRITUAL PRACTICES AND PROFESSIONAL SERVICES

- 13.1 When the Chief Executive requests cultural and/or spiritual practices to be undertaken by Ngāti Manuhiri within the Protocol Area, the Chief Executive will make a contribution, subject to prior mutual agreement, to the costs of undertaking such practices.
- 13.2 Where appropriate, the Chief Executive will consider using the governance entity as a provider of professional services.
- 13.3 The procurement by the Chief Executive of any such services set out in Clauses 13.1 and 13.2 is subject to the Government's Mandatory Rules for Procurement by Departments, all government good practice policies and guidelines, and the Ministry's purchasing policy.

14 CONSULTATION

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- 14.1 Where the Chief Executive is required to consult under this **P**rotocol, the basic principles that will be followed in consulting with the governance entity in each case are:
 - 14.1.1 ensuring that the governance entity is 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;
 - 14.1.2 providing the governance entity with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;
 - 14.1.3 ensuring that sufficient time is given for the participation of the governance entity in the decision making process including the preparation of submissions by the governance entity in relation to any of the matters that are the subject of the consultation;
 - 14.1.4 ensuring that the Chief Executive will approach the consultation with the governance entity with an open mind, and will genuinely consider the submissions of the governance entity in relation to any of the matters that are the subject of the consultation; and
 - 14.1.5 report back to the governance entity, either in writing or in person, in regard to any decisions made that relate to that consultation.

15 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

- 15.1 If the Chief Executive consults with Māori generally on policy development or any proposed legislative amendment to the Act that impacts upon this Protocol, the Chief Executive shall:
 - 15.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment upon which Māori generally will be consulted;
 - 15.1.2 make available to the governance entity the information provided to Māori as part of the consultation process referred to in this clause; and

4 PROTOCOLS: TAONGA TŪTURU PROTOCOL

15.1.3 report back to the governance entity on the outcome of any such consultation.

16 DEFINITIONS

16.1 In this Protocol:

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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:

in relation to any Taonga Tūturu, means discovered or obtained in circumstances which do not indicate with reasonable certainty the lawful ownership of the Taonga Tūturu and which suggest that the Taonga Tūturu 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

governance entity means the trustees from time to time of the Ngāti Manuhiri Settlement Trust, in their capacity as trustees of that trust

Ngā Taonga Tūturu has the same meaning as in section 2 of the Act and means two or more Taonga Tūturu

Ngāti Manuhiri has the meaning set out in clause 8.5 of the Deed of Settlement

Protocol means a statement in writing, issued by the Crown through the Minister to the governance entity under the Settlement Legislation and the Deed of Settlement and includes this Protocol

Taonga Tūturu has the same meaning as in section 2 of the Act and means:

an object that—

- (a) relates to Māori culture, history, or society; and
- (b) was, or appears to have been,—
 - (i) manufactured or modified in New Zealand by Māori; or
 - (ii) brought into New Zealand by Māori; or
 - (iii) used by Māori; and
- (c) is more than 50 years old

4 PROTOCOLS: TAONGA TŪTURU PROTOCOL

ISSUED on

SIGNED for and on behalf of THE SOVEREIGN in right of New Zealand by the Minister for Arts, Culture and Heritage:

WITNESS

Name:

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Occupation:

Address:

4: PROTOCOLS: TAONGA TŪTURU PROTOCOL





4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

ATTACHMENT B

TERMS OF ISSUE

This protocol is subject to the deed of settlement and the settlement legislation. A summary of the relevant provisions is set out below.

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 [].

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 [] 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 clauses [] 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, hapū, marae, whānau 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 [] 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 [] of the Deed of Settlement]

5.2 The provisions included in the Settlement Legislation under clauses [] and [] of the Deed of Settlement will not apply to any guidelines developed in relation to a Protocol.

6. Limitation of rights

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6.1 Section [] of the Settlement Legislation provides that: [Quote the section of the Settlement Legislation included in accordance with clauses [] of the Deed of Settlement]

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4 PROTOCOLS: CROWN MINERALS PROTOCOL

PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF ENERGY AND RESOURCES REGARDING CONSULTATION WITH NGĀTI MANUHIRI ENTITY BY THE MINISTRY OF ECONOMIC DEVELOPMENT ON THE ADMINISTRATION OF CROWN OWNED MINERALS

1 INTRODUCTION

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- 1.1 Under the Deed of Settlement dated [*Insert*] between Ngāti Manuhiri, [*Governance entity*] and the Crown (the "Deed of Settlement"), the Crown agreed that the Minister of Energy and Resources (the "Minister") would issue a Protocol (the "Crown Minerals Protocol") setting out how the Ministry of Economic Development (the "Ministry") will consult with the Ngāti Manuhiri Governance Entity (the "Governance Entity") on matters specified in the Crown Minerals Protocol.
- 1.2 Both the Ministry and Ngāti Manuhiri are seeking a healthy and constructive relationship based on the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.
- 1.3 The purpose of the Crown Minerals Act 1991 (the "Act") is to restate and reform the law relating to the management of Crown owned minerals. Section 4 of the Act requires all persons exercising functions and powers under the Act to have regard to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.
- 1.4 The Minister is responsible under the Act for the preparation of mineral programmes, the grant of minerals permits, and monitoring the effect and implementation of minerals programmes and minerals permits. The Ministry administers the Act on behalf of the Minister.
- 1.5 This Crown Minerals Protocol will affect the Ministry's administration of Crown owned minerals under the Act in the Crown Minerals Protocol Area.

2 PURPOSE OF THIS PROTOCOL

- 2.1 With the intent of creating a constructive relationship between the Governance Entity and the Ministry in relation to mineral resources administered in accordance with the Act in the Crown Minerals Protocol Area, this Crown Minerals Protocol sets out how the Ministry will exercise its functions, powers, and duties in relation to the matters set out in this Crown Minerals Protocol.
- 2.2 The Governance Entity will have the opportunity for input into the policy, planning, and decision-making processes relating to the matters set out in this Crown Minerals Protocol in accordance with the Act and the relevant minerals programmes issued under the Act.

3 PROTOCOL AREA

3.1 This Crown Minerals Protocol applies across the Crown Minerals Protocol Area which means the area identified in the map included in Attachment A of this Crown Minerals Protocol together with the adjacent islands and waters.

4 TERMS OF ISSUE

- 4.1 This Crown Minerals Protocol is issued pursuant to section [] of [*insert the name of the Settlement Legislation*] (the "Settlement Legislation") that implements clause [] of the Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.
- 4.2 This Crown Minerals Protocol must be read subject to the terms of issue set out in Attachment B.

5 CONSULTATION

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5.1 The Minister will ensure that the Governance Entity is consulted by the Ministry:

New minerals programmes

5.1.1 on the preparation of new minerals programmes which relate, whether wholly or in part, to the Crown Minerals Protocol Area;

Petroleum exploration permit block offers

5.1.2 on the planning of a competitive tender allocation of a permit block for petroleum exploration (being a specific area with defined boundaries available for allocation as a permit in accordance with section 24 of the Act and the relevant minerals programme), which relates, whether wholly or in part, to the Crown Minerals Protocol Area;

Other petroleum exploration permit applications

5.1.3 when any application for a petroleum exploration permit is received, which relates, whether wholly or in part, to the Crown Minerals Protocol Area, except where the application relates to a block offer over which consultation has already taken place under clause 5.1.2;

Amendments to petroleum exploration permits

5.1.4 when any application to amend a petroleum exploration permit, by extending the land to which the permit relates, is received where the application relates, wholly or in part, to the Crown Minerals Protocol Area;

Permit block offers for Crown owned minerals other than petroleum

5.1.5 on the planning of a competitive tender allocation of a permit block for Crown owned minerals other than Petroleum (being a specific area with defined boundaries available for allocation as a permit in accordance with section 24 of the Act and any relevant minerals programme) which relates, whether wholly or in part, to the Crown Minerals Protocol Area;

Other permit applications for Crown owned minerals other than petroleum

5.1.6 when any application for a permit in respect of Crown owned minerals other than petroleum is received, which relates, whether wholly or in part, to the Crown Minerals Protocol Area, except where the application relates to a block offer over which consultation has already taken place under clause 5.1.5 or where the application relates to newly available acreage;

Newly available acreage

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5.1.7 when the Secretary proposes to recommend that the Minister grant an application for a permit for newly available acreage in respect of minerals other than petroleum, which relates, whether wholly or in part, to the Crown Minerals Protocol Area; and

Amendments to permits for Crown owned minerals other than petroleum

- 5.1.8 when any application to amend a permit in respect of Crown owned minerals other than petroleum, by extending the land or minerals covered by an existing permit is received, where the application relates, wholly or in part, to the Crown Minerals Protocol Area.
- 5.2 Each decision on a proposal referred to in clause 5.1 will be made having regard to any matters raised as a result of consultation with the Governance Entity, and having regard to the principles of Te Tiriti o Waitangi/ the Treaty of Waitangi.
- 5.3 Effective information sharing is a key factor in building and maintaining strong relationships between the Governance Entity and the Crown. Consultation under clause 5.1 of this Protocol will be the mechanism for Crown and the Governance Entity to share the information required for both parties to make fully informed decisions.
- 5.4 The following principles will be used to guide consultation with the Governance Entity:
 - 5.4.1 The Governance Entity are informed about activities within the scope of this Protocol. This includes supplying adequate and timely information to the Governance Entity on issues related to this Protocol.
 - 5.4.2 The Crown is informed by the Governance Entity about their cultural values, interests or concerns affected by activities within the scope of this Protocol.

6 IMPLEMENTATION AND COMMUNICATION

- 6.1 The Crown has an obligation under the Act (as provided for in minerals programmes) to consult with parties whose interests may be affected by matters described in clause 5.1 of this Crown Minerals Protocol. The Ministry will consult with the Governance Entity in accordance with this Crown Minerals Protocol and in accordance with the relevant minerals programme if matters described in clause 5.1 of this Crown Minerals Protocol Area may affect the interests of Ngāti Manuhiri.
- 6.2 The basic principles that will be followed by the Ministry in consulting with the Governance Entity in each case are:
 - 6.2.1 ensuring that the Governance Entity is consulted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues in relation to any matters under clause 5 of this Crown Minerals Protocol;
 - 6.2.2 providing the Governance Entity with sufficient information to make informed decisions and submissions in relation to any of the matters described in clause 5 of this Crown Minerals Protocol;
 - 6.2.3 ensuring that sufficient time is given for the participation of the Governance Entity in the decision making process and the consideration by the Governance Entity of its submissions in relation to any of the matters described in clause 5 of this Crown Minerals Protocol; and

- 6.2.4 ensuring that the Ministry will approach the consultation with the Governance Entity with an open mind, and will genuinely consider the submissions of the Governance Entity in relation to any of the matters described in clause 5 of this Crown Minerals Protocol.
- 6.3 Where the Ministry is required to consult the Governance Entity as specified in clause 6.1, the Ministry will report back in writing to the Governance Entity on the decision made as a result of such consultation.
- 6.4 The Ministry will seek to fulfil its obligations under this Crown Minerals Protocol by:
 - 6.4.1 maintaining information on the Governance Entity's address and contact details as provided from time to time by the Governance Entity;
 - 6.4.2 as far as reasonably practicable, ensuring relevant employees within the Ministry are aware of the purpose, content and implications of this Crown Minerals Protocol;
 - 6.4.3 nominating relevant employees to act as contacts with the Governance Entity in relation to issues concerning this Crown Minerals Protocol; and
 - 6.4.4 providing the Governance Entity with the names of the relevant employees who will act as contacts with the Governance Entity in relation to issues concerning this Crown Minerals Protocol.
- 6.5 This Protocol will be reviewed by the Parties every three years.

7 **DEFINITIONS**

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7.1 In this Crown Minerals Protocol -

Act means the Crown Minerals Act 1991 as amended, consolidated or substituted;

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;

Crown owned minerals means any mineral (as defined below) that is the property of the Crown in accordance with sections 10 and 11 of the Act or over which the Crown has jurisdiction in accordance with the Continental Shelf Act 1964;

Deed of Settlement means the Deed of Settlement dated [] between the Crown and [];

Governance Entity means the trustees of the Ngāti Manuhiri Settlement Trust;

Mineral means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water, and includes all metallic minerals, non-metallic minerals, fuel minerals (including coal and petroleum), precious stones, industrial rocks and building stones within the meaning of the Act and a prescribed substance within the meaning of the Atomic Energy Act 1945;

Minister means the Minister of Energy and Resources;

Ministry means the Ministry of Economic Development;

Ngāti Manuhiri has the meaning set out in clause 8.5 of the deed of settlement;

Newly available acreage has the meaning provided in clause 3.5 of the Minerals Programme for Minerals (Excluding Petroleum) 2008;

Petroleum means:

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- (a) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or
- (b) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or
- (c) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and one or more of the following, namely hydrogen sulphide, nitrogen, helium, or carbon dioxide;

and, except in sections 10 and 11 of the Act, includes any petroleum as so defined which has been mined or otherwise recovered from its natural condition, or which has been so mined or otherwise recovered, but which has been returned to a natural reservoir for storage purposes in the same or an adjacent area;

Protocol means a statement in writing, issued by the Crown through the Minister to the Governance Entity under the Settlement Legislation and the Deed of Settlement and includes this Crown Minerals Protocol; and

Secretary means the chief executive of the Ministry of Economic Development.

4 PROTOCOLS: CROWN MINERALS PROTOCOL

ISSUED on [Insert date]

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister of Energy and Resources.

WITNESS

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Name_____

Occupation	
occupation	

Address_____

4: PROTOCOLS: CROWN MINERALS PROTOCOL

ATTACHMENT A CROWN MINERALS PROTOCOL MAP



4: PROTOCOLS: CROWN MINERALS PROTOCOL

ATTACHMENT B

TERMS OF ISSUE

This Crown Minerals 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 5.22); and
 - 1.1.2 this Crown Minerals Protocol does not restrict the ability of the Crown to interact or consult with any person including any iwi, hapū, marae, whānau, or other representative of tangata whenua (paragraph 9.4.2(b) of the legislative matters schedule); and
- 1.2 this Crown Minerals Protocol:

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- 1.2.1 is consistent with section 4 of the Crown Minerals Act 1991;
- 1.2.2 does not override or diminish:
 - (a) the requirements of that Act;
 - (b) the functions and powers of the Minister of Energy, or the Ministry of Economic Development, under that Act; or
 - (c) the rights of Ngāti Manuhiti], or a Representative Entity, under that Act (paragraph 9.4.4 of the legislative matters schedule).
- 1.3 Representative Entity has the same meaning in clause 1.1.3 of these terms of issue as it has in part 6 of the general matters schedule of the Deed of Settlement.
- 1.4 The Minister may amend or cancel this protocol, but only after consulting with the governance entity and having particular regard to its views (*section [number]*).

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 clause 5.9.2 of the Deed of Settlement]

3. Protocols subject to rights and obligations

3.1 Section [] of the Settlement Legislation provides that:

4: PROTOCOLS: CROWN MINERALS PROTOCOL

[Quote the section of the Settlement Legislation included in accordance with clause 5.9.2 of the Deed of Settlement]

4. Noting of Protocol

4.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clause 5.9.2 of the Deed of Settlement]

5. Enforcement of Protocol

5.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clause 5.9.2 of the Deed of Settlement]

6. Limitation of rights

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6.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clause 5.9.2 of the Deed of Settlement]

5: COVENANTS

5 COVENANTS

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5: COVENANTS

TE MARAEROA CONSERVATION COVENANT

(Section 27 Conservation Act 1987 and Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this day of

BETWEEN

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(the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; 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.
- C The Land contains Conservation Values and Reserve Values which the parties to the Deed of Settlement agreed should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- **D** The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Conservation Values and 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 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.

	5: COVENANTS
"Conservation Values"	means the conservation values specified i Schedule 1.
"Covenant"	means this Deed of Covenant made under section 2 of the Conservation Act 1987 and section 77 of the Reserves Act 1977.
"Director-General"	means the Director-General of Conservation.
"Fence"	includes a gate.
"Fire Authority"	means a fire authority as defined in the Forest an Rural Fires Act 1977.
"Land"	means the land described in Schedule 1.
"Minerals"	means any mineral that is not a Crown-owned minera 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 whic have, from time to time, been re-aligned.
"Owner"	means the person or persons who, from time to time, or are registered as the proprietor(s) of the Land.
"Reserve Values"	means any or all of the Land's natural environmen landscape amenity, wildlife, freshwater life, marine lif habitat, or historic values as specified in Schedule 1.
"Working Days"	means the period between any one midnight and th next excluding Saturdays, Sundays and statutor holidays in the place where the Land is situated.

1.2 For avoidance of doubt:

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- 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 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

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- 2.1.1 for Conservation Purposes;
- 2.1.2 so as to preserve the Reserves Values;
- 2.1.3 to provide, subject to this Covenant, freedom of access to the public (if they have a valid permit for landing on the Nature Reserve) for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

- 3.1 Unless agreed in writing by the parties 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 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 the planting of any species of exotic tree, shrub or other plant;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 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;
 - 3.1.6 any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 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;
 - 3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;
 - 3.1.11 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 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 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 co-operate with the Fire Authority when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling Rural Fire Officer in attendance at the fire regarding fire suppression;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 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 consultation 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 on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
 - 3.2.7 comply with all requisite statues, 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.

4 **PUBLIC** ACCESS

4.1 The Owner must, subject to this Covenant, permit the public (if they have a valid permit for landing on the Nature Reserve) 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 objectives 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 which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public 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 the objectives 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 Land to implement the objectives specified in clause 2.

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 objectives set out in clause 2.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

8 OBLIGATIONS ON SALE OF LAND

- 8.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant.
- 8.2 Such agreement must include an agreement by the purchaser, lessee, or assignee to ensure that on a subsequent sale, lease, or assignment, a subsequent purchaser, lessee, or assignee will comply with the terms of this Covenant including this clause.
- 8.3 If, for any reason, this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

9 CONSENTS

9.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

10 MISCELLANEOUS MATTERS

10.1 Rights

10.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

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10.2 Trespass Act:

- 10.2.1 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;
- 10.2.2 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.

10.3 Reserves Act

10.3.1 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.

10.4 Registration

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10.4.1 This Covenant must be signed by both parties and registered against the computer freehold register for the Land.

10.5 Acceptance of Covenant

10.5.1 The parties agree to be bound by the provisions of the Covenant including during the period prior to the Covenant's registration.

10.6 Fire

- 10.6.1 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;
- 10.6.2 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:

10.6.2.1 requested to do so; or

- 10.6.2.2 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;
- 10.6.3 This assistance will be at no cost to the Owner unless the Owner is responsible for the wild fire through wilful action or negligence (which includes the case where the wild fire is caused by the escape of a permitted fire due to non adherence to the conditions of the permit).

11 DEFAULT

- 11.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:
 - 11.1.1 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

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- 11.1.2 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.
- 11.2 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:
 - 11.2.1 advise the defaulting party of the default;
 - 11.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and
 - 11.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

12 DISPUTE RESOLUTION PROCESSES

12.1 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.

12.2 Mediation

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- 12.2.1 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;
- 12.2.2 If the parties do not agree on a mediator, the **P**resident of the District Law **S**ociety in the region in which the Land is located is to appoint the mediator.

12.3 Failure of Mediation

- 12.3.1 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.
- 12.3.2 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 **P**resident for the time being of the District Law Society in the region in which the Land is situated.
- 12.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

13 NOTICES

- 13.1 Any 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.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) 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.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land and must supply the Minister with the name and address of the new owner or person in control.

14 SPECIAL CONDITIONS

- 14.1 Special conditions relating to this Covenant are set out in Schedule 3.
- 14.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

DOCUMENTS

5: COVENANTS

Executed as a Deed

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Signed by Owner in the presence of :	_as))
Witness:	
Address :	
Occupation:	
Signed by acting under a written delegation from the Minis of Conservation and exercising his/her powers section 117 of the Reserves Act 1977 as desig Commissioner in the presence of :	under)
Witness:	
Address :	
Occupation:	

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SCHEDULE 1

Description of Land:

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North Auckland Land District - North Auckland

1.2370 hectares, more or less, being Section 1 SO 440008.

Conservation Values to be protected:

The intrinsic value of the natural resources on the land, and the appreciation and enjoyment that may be derived by the public from the opportunity to visit that area: A relatively well used track passes through the area. Visitors to the area include researchers, Department of Conservation staff, volunteers and members of the public.

The land contains advanced native regeneration following clearing and farming many years ago, with high flora and fauna diversity including several threatened species. There are six historic fruit trees.

Reserve Values to be protected:

The natural landscape amenity values of the area: The site is part of one of the largest flat areas on the island, being a boulder bank plain that provides the easiest access point for landing. This is in contrast to the rest of the island which rises rapidly behind the site to a series of peaks, with most of the rest of the coastline beyond the site being rugged and precipitous.

A pohutukawa forest covers the elevated portion of the site which screens the site and surrounding area from the shoreline, mitigating the impact of the current infrastructure in the area. A stream runs along the western boundary and cuts across the north-eastern corner. Grass covers much of the lower two-thirds of the site with the remainder being well established regenerating forest.

The natural environment values represented by the indigenous flora and fauna on the land: A diverse range of indigenous species of flora and fauna, many of which are threatened, are abundant in the area. The area, and the entire island, is free from introduced reptiles and mammals, is relatively free of exotic plant pests, and is thought to be free of most exotic plant pest pathogens and exotic invertebrate pests.

The historic/archaeological values of the area

Te Hauturu-o-Toi / Little Barrier has a rich history that incorporates elements of early Maori settlement and conservation history. Te Hauturu-o-Toi / Little Barrier Island has been occupied by Maori from the times of early Polynesian settlement in the Auckland region through to 1894 when it became a nature reserve. Te Maraeroa flat, on which the site is located, is the only area of flat land on the island. The area has therefore been used extensively for cultivation both by Maori and Pakeha and contains excellent examples of the stone mound and alignment system used in Maori gardening.

Archaeological surveys of Te Hauturu-o-Toi / Little Barrier Island have been generally well documented. The land area in question contains structural and botanical remnants of early historic occupation on the Te Maraeroa flat, including the assumed site of Tenetahi's house and gardens on the east side of the stream, a stone garden system comprising of stone walls and mounds (New Zealand Archaeological association number S08/73), a stone mound (S08/72), clumps of taro

(S08/244), and possibly archaeological features pertaining to Te Waihokare stone garden system (S08/138) and a pa site (S08/74).

Ngāti Manuhiri cultural values of the area

Te Hauturu-o-Toi (also known as Little Barrier Island) is an iconic island and landform for Ngāti Manuhiri. The island is visible from almost all parts of the traditional rohe or tribal domain of Ngāti Manuhiri. The physical presence of Te Hauturu-o-Toi / Little Barrier Island, its mauri or spiritual essence, and its traditional history are central to the mana, identity, unity, and tribal affiliations of Ngāti Manuhiri, extending over many generations down to the present.

The island takes its name from its highest point –Te Hauturu-o-Toi / Little Barrier Island – "the wind blown summit of Toi". This name, which features in whakataukī, pepeha and waiata, is a reminder of the earliest period of human settlement in the region. It stems from the arrival of the ancestor Toi Te Huatahi within Te Moana nui ō Toi (the Hauraki Gulf) and his brief occupation of the island. Through intermarriage with the early tribal groups of Ngai Tāhuhu and Ngāti Te Wharau, Ngāti Manuhiri are direct decendants of Toi Te Huatahi.

The ancestor Manuhiri with his father Maki and his uncle Mataahu conquered Te Hauturu-o-Toi / Little Barrier Island sometime in the seventeenth century. After several generations of occupation Ngāti Manuhiri made strategic alliances and marriages with Ngāti Manaia, now known as Ngāti Wai. Following the marriage of Rangihokaia of Ngāti Wai and Tukituki the granddaughter of Manuhiri, Te Hauturu-o-Toi / Little Barrier Island became symbolic of Ngāti Manuhiri links to Ngāti Wai whanui as coastal and ocean-going iwi as expressed in the whakataukī –

Ka tangi Tūkaiaia ki te moana, ko Ngāti Wai kei te moana e haere ana – "When the guardian bird Tūkaiaia calls at sea, Ngāti Wai are travelling on the ocean".

Te Hauturu-o-Toi / Little Barrier Island is not only seen as a place associated with, and occupied by, the ancestors of Ngāti Manuhiri the island is also seen as being a tipuna or ancestor in its own right. The island is also known Te Whai rahi – "the huge stingray", which is the paramount kaitiaki of Ngāti Manuhiri.

Te Hauturu-o-Toi / Little Barrier Island was occupied by Ngāti Manuhiri as a permanent home for many generations until 1896. Cultivations were maintained on the Maraeroa flats between Waipawa and Te Waikōhare. The surrounding seas provided a rich source of fish and other kaimoana, and Ngā Puke Tarahanga ō Hauturu - " the many peaks of Hauturu" were a rich source of birds, in particular manu oi, or varieties of mutton birds. Te Hauturu-o-Toi / Little Barrier Island was at times used as a refuge and was an important burial place for rangatira of Ngāti Manuhiri. The circumstances surrounding the forced sale and subsequent eviction of Ngāti Manuhiri from the island symbolise the loss suffered by Ngāti Manuhiri over the last century and have been central to the Ngāti Manuhiri claim. The transfer and giftback of the island to Ngāti Manuhiri is of fundamental importance in enabling Ngāti Mānuhiri to move toward to a more positive future.

DOCUMENTS

5: COVENANTS

SCHEDULE 2

Address for Service

The address for service of the Owner is:

Ngāti Manuhiri Settlement Trust 307 Leigh Road Whangateau PO Box 57 Leigh 0947

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The address for service of the Minister is:

The Area Manager Department of Conservation 28 Baxter St Warkworth 0910

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SCHEDULE 3

Special conditions

- 1. The Owner may undertake minor clearance of vegetation for the purposes of access to the land and for pest plant or pest animal control, or for the activities specified in paragraph [5] of this Schedule.
- 2. The Owner may establish a rongoa garden and pa harakeke providing the plant material for these areas does not include ecological plant pests, is sourced from within the ecological district, no soil is transported on to the island and all vegetated material has been treated or checked to ensure that it is free of invertebrates and plant pathogens.
- 3. The Owner may harvest plant material for cultural purpose from the Land providing such harvest has no lasting adverse effect on the relevant plants or the Land.
- 4. The Owner may undertake activities otherwise prohibited by clause 3.1 of the Covenant as are reasonably necessary for the development of the facility and the activities specified in paragraph 5 of this Schedule.
- 5. The Owner may build a wananga facility on the land provided that it is consistent with the reserve values of the Land specified in Schedule 1. The wananga facility will incorporate the cultural and spiritual values of Ngāti Manuhiri and provide for the usual wananga activities and may also include:
 - a. short term accommodation for wananga attendees;
 - b. freshwater storage, sewage/wastewater disposal, and power generation facilities;
 - c. facilities to store and maintain fire-fighting equipment; and
 - d. general storage facilities.
- 6. Special conditions 1 to 5 in this schedule are subject to special conditions 7 to 10.
- 7. To minimise biosecurity risks and visitor impacts the owner must:
 - a. have and abide by a permit issued under the Reserves Act 1977 for the Nature Reserve,
 - have been through a biosecurity process in line with the Department's island biosecurity processes, under the supervision of a person approved by the Department of Conservation to ensure that pests are not introduced to the island and;
 - c. control refuse;

- d. not allow pets or any other live animals to be taken onto the island;
- e. participate in the maintenance of pest invasion detection and control measures, in conjunction with the Department of Conservation, as relevant to the site; and
- f. participate in contingency response action if a mammal invasion incident is suspected or detected anywhere on the island.
- 8. The Owner must take the following steps to minimise the fire risk:
 - a. not allow smoking except in a safe designated area;
 - b. not allow fires except in a safe designated area;
 - c. keep flammable vegetation (for example, rank or dead grass, manuka and kanuka) at least four metres back from buildings; and
 - d. control of machinery use, particularly in drought conditions.
- 9. The Owner must take the following steps to prevent the spread or introduction of weeds:
 - a. not plant exotic species;
 - b. check equipment etc before taking to the island for seeds etc; and

c. control weed species present.

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- 10. The Owner must take the following steps to minimise disturbance to wildlife:
 - a. discourage the feeding of birds; and
 - b. ensure that all those on the Land are aware that they may not catch or handle wildlife unless as specified in permit under the Wildlife Act 1953 or the Reserves Act 1977.
- 11. The Owner may not unreasonably refuse permission for the Department of Conservation to access the site immediately to carry out any urgent weed or pest control.

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

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to

MINISTER OF CONSERVATION

Legal Services Department of Conservation

DOCUMENTS

5: COVENANTS

PĀKIRI BLOCK CONSERVATION COVENANT

(Section 27 Conservation Act 1987 and Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this day of

BETWEEN [NAMES OF THE TRUSTEES OF THE NGĀTI MANUHIRI SETTLEMENT TRUST] (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; 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.
- C The Land contains Conservation Values and Reserve Values which the parties to the Deed of Settlement agreed should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- D The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Conservation Values and the Reserve Values.

OPERATIVE PARTS

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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 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 DOCUMENTS

5: COVENANTS

enjoyment by the public, and safeguarding the options of future generations.

- "Conservation Values" conservation specified means the values in Schedule 1. "Covenant" means this Deed of Covenant made under section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977. means the Director-General of Conservation. "Director-General" "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. means the Minister of Conservation. "Minister" "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
- 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.

holidays in the place where the Land is situated.

- 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 OBJECTIVES OF THE COVENANT

- 2.1 The Land must be managed:
 - 2.1.1 for Conservation Purposes;
 - 2.1.2 so as to preserve the Reserves Values;
 - 2.1.3 to provide, subject to this Covenant, freedom of access on foot 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 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 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 the planting of any species of exotic tree, shrub or other plant;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 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;
 - 3.1.6 any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 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;
 - 3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;

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- 3.1.11 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 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 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 co-operate with the Fire Authority when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling Rural Fire Officer in attendance at the fire regarding fire suppression;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 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 consultation 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 on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2;
 - 3.2.7 comply with all requisite statues, 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.

4 **PUBLIC ACCESS**

4.1 The Owner must, subject to this Covenant, permit the public to enter on foot upon the Land.

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 5.1 The Minister must:
 - 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant; and

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5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public 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 the objectives 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 Land to implement the objectives specified in clause 2.

6 JOINT OBLIGATIONS

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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 objectives set out in clause 2.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

8 OBLIGATIONS ON SALE OF LAND

- 8.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant.
- 8.2 Such agreement must include an agreement by the purchaser, lessee, or assignee to ensure that on a subsequent sale, lease, or assignment, a subsequent purchaser, lessee, or assignee will comply with the terms of this Covenant including this clause.
- 8.3 If, for any reason, this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

9 CONSENTS

9.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

10 MISCELLANEOUS MATTERS

- 10.1 Rights
 - 10.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

10.2 Trespass Act:

- 10.2.1 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;
- 10.2.2 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.

10.3 Reserves Act

10.3.1 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.

10.4 Registration

10.4.1 This Covenant must be signed by both parties and registered against the Computer Freehold register for the land.

10.5 Acceptance of Covenant

10.5.1 The parties agree to be bound by the provisions of the Covenant including during the period prior to the Covenant's registration.

10.6 Fire

- 10.6.1 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;
- 10.6.2 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:
 - 10.6.2.1 requested to do so; or
 - 10.6.2.2 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;
- 10.6.3 This assistance will be at no cost to the Owner unless the Owner is responsible for the wild fire through wilful action or negligence (which includes the case where the wild fire is caused by the escape of a permitted fire due to non adherence to the conditions of the permit).

11 DEFAULT

- 11.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:
 - 11.1.1 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

- 11.1.2 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.
- 11.2 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:
 - 11.2.1 advise the defaulting party of the default;
 - 11.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and
 - 11.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

12 DISPUTE RESOLUTION PROCESSES

12.1 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.

12.2 Mediation

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- 12.2.1 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;
- 12.2.2 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.

12.3 Failure of Mediation

- 12.3.1 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.
- 12.3.2 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 **P**resident for the time being of the New Zealand Law Society.
- 12.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

13 NOTICES

- 13.1 Any 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.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) 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.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land and must supply the Minister with the name and address of the new owner or person in control.

14 SPECIAL CONDITIONS

- 14.1 Special conditions relating to this Covenant are set out in Schedule 3.
- 14.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

DOCUMENTS

5: COVENANTS

Executed as a Deed

Signed by Owner in the p	asas))
Witness:		
Address:		
Occupation:		
of Conservation section 117 of	an written delegation from the M inister on and exercising his/her powers und the Reserves Act 1977 as designate in the presence of:) er)
Witness:		
Address:		
Occupation:		_

SCHEDULE 1

Description of Land:

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North Auckland Land District 47.3836 hectares, more or less, being Section 43 Block VI Pakiri Survey District.

Conservation Values to be protected:

The Land is a coastal block situated in the extensive foredune and dune complex of Pakiri Beach. Pakiri Beach is one of few east coast beaches that is still in a relatively natural state.

The Land is a relatively unmodified integral part of a long sweep of open sand beach backed by dunes and some wetland pockets.

The Land is used by the public for beach access and contains walking tracks.

Reserve Values to be protected:

Recorded flora includes rare native dune plants, such as Pingao (threatened) and Spinifex, which are spread across the Land.

Recorded fauna includes nesting shorebirds in mobile sand areas at the coastal boundary, such as oystercatchers and NZ dotterel. Bitterns, banded rail, and fernbird are present in adjacent areas.

Historical values include two recorded middens (R8/15, 16) and extensive areas of oven stones (R8/76-83). Sites largely eroded by wind.

SCHEDULE 2

Address for Service

The address for service of the Owner is:

Ngāti Manuhiri SettlementTrust 307 Leigh Road Whangateau PO Box 57 Leigh 0947

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The address for service of the Minister is:

The Area Manager Warkworth Great Barrier Island Area Office Department of Conservation 28 Baxter Street Warkworth 0910

SCHEDULE 3

Special Conditions

1. The Owner must not allow motor vehicles on the Land, without the prior permission of the Minister.

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

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to

MINISTER OF CONSERVATION

Legal Services Department of Conservation

DOCUMENTS

5: COVENANTS

PĀKIRI RIVERBED CONSERVATION COVENANT

(Section 27 Conservation Act 1987

and

Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this day of

BETWEEN [NAMES OF THE TRUSTEES OF THE NGĀTI MANUHIRI SETTLEMENT TRUST] (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; 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.
- C The Land contains Conservation Values and Reserve Values which the parties to the Deed of Settlement agreed should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- **D** The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Conservation Values and 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 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 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977.
"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 situated.
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.

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- 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 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

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- 2.1.1 for Conservation Purposes;
- 2.1.2 so as to preserve the Reserves Values;
- 2.1.3 to provide, subject to this Covenant, freedom of access to the public on foot for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

- 3.1 Unless agreed in writing by the parties 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 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 the planting of any species of exotic tree, shrub or other plant;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 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;
 - 3.1.6 any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 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;

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- 3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;
- 3.1.11 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 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 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 co-operate with the Fire Authority when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling Rural Fire Officer in attendance at the fire regarding fire suppression;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 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 consultation 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 on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2;
 - 3.2.7 comply with all requisite statues, 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.

4 **PUBLIC ACCESS**

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4.1 The Owner must, subject to this Covenant, permit the public to enter on foot upon the Land.

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

- 5.1.1 have regard to the objectives 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 which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public 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 the objectives 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 Land to implement the objectives specified in clause 2.

6 JOINT OBLIGATIONS

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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 objectives set out in clause 2.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

8 OBLIGATIONS ON SALE OF LAND

- 8.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant.
- 8.2 Such agreement must include an agreement by the purchaser, lessee, or assignee to ensure that on a subsequent sale, lease, or assignment, a subsequent purchaser, lessee, or assignee will comply with the terms of this Covenant including this clause.
- 8.3 If, for any reason, this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

9 CONSENTS

9.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

10 MISCELLANEOUS MATTERS

10.1 Rights

10.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

10.2 Trespass Act:

- 10.2.1 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;
- 10.2.2 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.

10.3 Reserves Act

10.3.1 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.

10.4 Registration

10.4.1 This Covenant must be signed by both parties and registered against the Computer Freehold register for the land.

10.5 Acceptance of Covenant

10.5.1 The parties agree to be bound by the provisions of the Covenant including during the period prior to the Covenant's registration.

10.6 Fire

- 10.6.1 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;
- 10.6.2 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:

10.6.2.1 requested to do so; or

- 10.6.2.3 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;
- 10.6.3 This assistance will be at no cost to the Owner unless the Owner is responsible for the wild fire through wilful action or negligence (which includes the case where the wild fire is caused by the escape of a permitted fire due to non adherence to the conditions of the permit).

11 DEFAULT

- 11.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:
 - 11.1.1 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
 - 11.1.2 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.

- 11.2 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:
 - 11.2.1 advise the defaulting party of the default;
 - 11.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and
 - 11.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

12 DISPUTE RESOLUTION PROCESSES

12.1 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.

12.2 Mediation

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- 12.2.1 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;
- 12.2.2 If the parties do not agree on a mediator, the **P**resident of the New Zealand Law Society is to appoint the mediator.

12.3 Failure of Mediation

- 12.3.1 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.
- 12.3.2 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 New Zealand Law Society.
- 12.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

13 NOTICES

- 13.1 Any 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.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received:
 - (a) in the case of personal delivery, on the date of delivery;

- (b) in the case of pre-paid post, on the third working day after posting;
- (c) 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.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land and must supply the Minister with the name and address of the new owner or person in control.

14 SPECIAL CONDITIONS

- 14.1 Special conditions relating to this Covenant are set out in Schedule 3.
- 14.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

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Executed as a Deed

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Signed by	as	
Owner in the presence of:		

Address:	

Occupation:

Signed by	and
acting under a written delegation from the Minist	er
of Conservation and exercising his/her powers u	Inder
section 117 of the Reserves Act 1977 as design	ated
Commissioner in the presence of :	

Witness:	
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Address:

Occupation:

SCHEDULE 1

Description of Land

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North Auckland Land District

4.8700 hectares, more or less, being Sections 1, 2 and 3 SO 442817.

Conservation Values to be protected

The Land is part of the bed or dry bed, depending on river movement, of the Pakiri River. The Land is predominantly comprised of sand flats and dunes with some dune vegetation and a wetland.

The Land provides public access to Pakiri Beach.

Reserve Values to be protected

Recorded flora includes Pingao and Spinifex, and an assortment of wetland and rush plants.

Recorded fauna includes various nesting shorebird and wetland species. Nesting shorebirds can include the critically endangered NZ Fairy Tern, North Island Fern Bird (Declining), NZ dotterel (Nationally Vulnerable), Variable oystercatchers, Pied stilts, and Caspian terns (Nationally Vulnerable). Recorded wetland species include bittern and banded rail.

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SCHEDULE 2

Address for Service

The address for service of the Owner is:

Ngāti Manuhiri Settlement Trust 307 Leigh Road Whangateau PO Box 57 Leigh 0947

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The address for service of the Minister is:

The Area Manager Warkworth Great Barrier Island Area Office Department of Conservation 29 Baxter Street Warkworth 0910

SCHEDULE 3

Special Conditions

1. The Owner must not allow dogs on the Land.

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- 2. The Owner must not allow motor vehicles on the Land.
- 3. The Owner will permit the Department to continue to undertake shorebird nest management and animal pest control as part of the Species Recovery Plan for fairy tern on the Land subject to notice being provided by the **D**epartment.

GRANT of

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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 Department of Conservation DOCUMENTS

6: EASEMENTS

6 EASEMENTS

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6: EASEMENTS

Form 3

Easement instrument to grant easement or *profit à prendre*, or create land covenant

Sections 90A and 90F, Land Transfer Act 1952

Land registration district

North Auckland

BARCODE

Grantor

Surname must be <u>underlined</u>

[Ngāti Manuhiri Governance Entity]

Grantee

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Surname must be <u>underlined</u>

HER MAJESTY THE QUEEN in right of New Zealand acting by and through the MINISTER OF CONSERVATION

Grant* of casement or profit à prendre or creation or covenant

day of

The Grantor, being the registered proprietor of the servicent tenement set out in Schedule A, grants to the Grantee (and, if so stated, in gross) the easement set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Dated	this

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Attestation

	Signed in my presence by the Grantor
	Signature of wilness
	Witness to complete in BLOCK letters (unlers legibly printed)
	Witness name
	Occupation
	Address
Signature [common scal] of Grantor	·
	Signed in my presence by the Grantee
---------------------------------------	--
	Signature of witness
	Witness to complete in BLOCK ktters (unless logibly printed)
	Witness mune
	Occupation
	Addicss
Signature [common seal] of Grantee	

Certified correct for the purposes of the Land Transfer Act 1952.

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[Solicitor for] the Grantee

Annexure Schedule 1

Easement instrument D	ated
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Page 1 of 5 pages

Schedule A

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Continue in additional Amexure Schedule if required

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Purpose (nature and extent) of cusement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Right to convey water, electricity, telecommunications, computer media, and drain sewage and wastewater	Marked "A " on SO 440008	Section I SO440008	Section 2 SO 440008

Easements rights and powers (including terms, covenants, and conditions)

Unless otherwise provided below, the rights and powers implied in specific classes of casement are those prescribed by the Land Transfer Regulations 2002.

The implied rights and powers are varied by the provisions set out in Annexure Schedule 2.

All signing parties and either their witnesses or solicitors must sign or initial in this box

Annexure Schedule 2

Easement instrument

Page 2 of 5 pages

Operative Clause

t. The Grantor transfers and grants to the Grantee in perpetuity the rights in this easement over the Servient Land on the terms, conditions, covenants and restrictions contained in this Easement.

Dated

Access

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2. Land Transfer Regulation 12 is negatived and replaced with the following: The Grantee shall have a right of access along such parts of the Servient Land with or without vehicles, plant and Equipment for the purpose of allowing the Grantee to exercise any of the rights granted under this Easement, together with the right to upgrade or replace the easement facility at any time provided that:

(a) except in the case of emergency no such rights of access will be exercised without the prior consent of the Grantor; and

(b) in exercising such rights of access the Grantee shall use reasonable endeavours to minimise and avoid any unnecessary damage to the Servient Land and shall immediately reinstate the Servient Land or any improvements thereon (including restoring the surface thereof and replanting vegetation) where any damage is caused in the process of exercising the right of access; and

(c) if the Grantee fails within six months after the date when written notice of such damage is provided by the Grantor to the Grantee to reinstate the Servient Land and any improvements thereon (including destroying the surface thereof and replanting vegetation), the Grantor may, after first having given the Grantee at least one month's written notice of its intention to do so, undertake the necessary work and recover costs for this work from the Grantee.

Erection of Notice etc

3. The Grantee may take such measures as it reasonably thinks necessary for the safety of persons or property on or about the Servient Land including without limitation the right to erect fences, barriers and signs and notices warning of any danger. The Grantee must obtain the Grantor's prior written consent before taking any such measures.

Annexure Schedule 2

Dated

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Page 3 of 5 pages

Grantor's Consent

4. In all cases where the prior consent or approval of the Grantor is required under this Easement such consent shall not be unreasonably withheld, delayed or granted upon unreasonable conditions.

Application for Resource Consents

5. The Grantee shall be entitled from time to time to apply for any resource consents and any other statutory consents required for the purposes of the exercise of any of the Grantee's rights under this Easement in the same manner as if it were a registered proprietor of the Servient Land provided that it shall at the time of making the relevant application forward a copy to the Granter and the Granter shall provide, upon written request from the Grantee, at the reasonable cost of the Grantee, a reasonable degree of cooperation. Where any relevant application would not result in the Grantee obtaining any additional rights or powers over and above those held by it pursuant to its existing resource consents or other statutory consents or the provisions of this Easement then the Grantor must not lodge any objection to such application.

Equipment Property of Grantee

6. The Equipment constructed or installed by the Grantee on the Servient Land shall remain the property of the Grantee and may at any time be removed by it PROVIDED THAT any damage caused by such removal shall immediately be remedied by the Grantee at its cost. If within six months after the date when written notice of such damage is provided to the Grantee it fails to remedy such damage, the Grantor may, after first having given the Grantee at least one month's written notice of its intention to do so, remedy all or any of the damage and recover costs for this from the Grantee.

Minimisation of Disruption

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7. Land Transfer Regulation 10 (3) is negatived and replaced with the following: The Grantee shall use all reasonable endeavours to cause as little disturbance and disruption to the carrying on of the enjoyment of the Servient Land by the Grantor although the Grantor accepts that this provision shall not prevent, restrict or hinder the Grantee from carrying out its public conservation (including recreation) business in a normal manner consistent with the rights granted to it in this Easement.

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Annexure Schedule 2

No Fencing Required

8. The Grantee shall not be required to fence any of the Easement Land unless it is required by law, a condition of a resource consent or as a condition required by the Grantor when granting any consent under this Easement where such a condition would be reasonable. If the Grantee is required to fence any of the Easement Land the Grantee shall first consult and agree with the Grantor as to the form, materials and location of such fencing and creet the fence at its cost.

Surrender of Easement

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9. The Grantee shall be entitled at any time to surrender at its own cost all of the interest granted to it pursuant to this Easement. The Grantor shall execute any casement instrument to surrender casement (or similar document) in a form acceptable to the Grantor upon request by the Grantee.

Dispute Resolution

10. Land Transfer Regulation 14 is negatived and replaced with the following: (a) In the event of any dispute arising between the parties in respect of or in connection with this Basement, the parties shall, without prejudice to any other right or entitlement they may have under this Easement or otherwise, explore whether the dispute can be resolved by use of the alternative dispute resolution technique of mediation. The rules governing such techniques shall be agreed between the parties or as recommended by the New Zealand Law Society or as selected by the Chairman of the New Zealand Chapter of LEADR (Lawyers Engaged in Alternative Dispute Resolution).

(b) In the event the dispute is not resolved within twenty-eight days of written notice by one party to the other of the dispute (or such further period agreed in writing between the parties), either party may refer the dispute to arbitration under the provisions of the Arbitration Act 1996 or any successor legislation. The arbitrator shall be agreed between the parties within 10 days of written notice of the referral by the referring party to the other or failing agreement appointed by the President of the New Zealand Law Society. In either case, the arbitrator shall not be a person who has participated in any informal dispute resolution procedure in respect of the dispute.

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Amexure Schedule 2

Dated

Page 5 of 5 pages

Notices

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Easement instrument

11. All notices and communications under this Easement shall be deemed to have been received when delivered personally, sent by prepaid post or by facsimile to such address as either party shall notify to the other from time to time.

Form 3

Easement instrument to grant easement or *profit à prendre*, or create land covenant

Sections 90A and 90F, Land Transfer Act 1952

Land registration district
North Auckland

Surname must be underlined

[Ngäti Manuhiri Governance Entity]

Grantor

Grantee

Surname must be underlined

BARCODE

HER MAJESTY THE QUEEN in right of New Zealand acting by and through the MINISTER OF CONSERVATION

Grant* of easement or profit à prendre or creation or covenant

The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, grants to the Grantee (and, if so stated, in gross) the easement set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

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6: EASEMENTS

	Signed in my presence by the Grantee
	Signature of witness
	Witness to complete in BLOCK letters (nuless legibly printed)
	Witness name
	Occupation
	Address
Signature [common scal] of Grantce	

Certified correct for the purposes of the Land Transfer Act 1952.

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[Solicitor for] the Grantee

Annexure Schedule 1

Easement instrument	Dated	Page 1	of	3	pages

Schedule A

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Continue in additional Annexure Schedule if required

Purpose (nature and extent) of easement, <i>profit</i> , or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)		
Right of Way	Marked "B, C, D, F & II " on SO 440008	Section 1 on SO 440008	Section 2 on SO 440008		

Easements rights and powers (including terms, covenants, and conditions)

Unless otherwise provided below, the rights and powers implied in specific classes of easement are those prescribed by the Land Transfer Regulations 2002.

The implied rights and powers are varied by the provisions set out in Annexure Schedule 2.

All signing parties and either their witnesses or solicitors must sign or initial in this box

Annexure Schedule 2

Easement instrument

Page 2 of 3 pages

Operative Clause

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1. The Grantor transfers and grants to the Grantee in perpetuity a right of way casement over the Servient Land on the terms, conditions, covenants and restrictions contained in this Easement.

Dated

Right of Way Easement Terms

- 2. Regulation 6 of the Land Transfer Regulations 2002 is negatived and replaced with the following: The Grantee together with the employees, tenants, agents, workmen, licensees and invitees of the Grantee shall have the full free right, liberty and licence from time to time and at all times by day and by night to pass and repass, with motorised, or non-motorised vehicle, or on foot over and along the Easement Facility.
- 3. Regulation 11 of the Land Transfer Regulations is negatived and replace with with the following: The cost of maintaining the Easement Facility shall be borne by the Grantee. However, if any repair or maintenance is rendered necessary as a result of any act, omission or neglect by either party causing damage to the servient land then the cost of such maintenance and repair shall be borne by the party that caused the damage.
- 4. The Grantor shall not be responsible to the Grantee or to any other person for any loss or damage sustained by the Grantee or by any such person using any part of the servient land at its own risk in all respects.

General Terms

- 5. No power is implied for the Grantor to determine the Easement for breach of any provision in this Easement (whether express or implied) or for any other cause, it being the intention of the parties that the Easement shall subsist for all time or until it is duly surrendered.
- 6. The rights set out in Schedule 5 to the Property Law Act 2007 are excluded from this Pasement.

Annexure Schedule 2

Dated

Easement instrument	
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Page 3 of 3 pages

Dispute Resolution

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- Regulation 14 of the Land Transfer Regulations is negatived and replaced with the following:
 - (a) If any dispute arises between the Grantor and Grantee concerning the rights created by this Easement the parties shall enter into negotiations in good faith to resolve their dispute.
 - (b) If the dispute cannot be resolved by the parties themselves then they shall explore whether the dispute can be resolved by use of an alternative dispute resolution technique.
 - (c) If the dispute is not resolved within one month of the date on which the parties begin their negotiations the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties, and if one cannot be agreed upon within 14 days, to an independent arbitrator appointed by the President of the New Zealand Law Society.

Form 3

Easement instrument to grant easement or *profit à prendre*, or create land covenant

Sections 90A and 90F, Land Transfer Act 1952

Land registration district

North Auckland

BARCODE

Grantor

Grantee

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Surname must be <u>underlined</u>

[Ngāti Manuhiri Governance Entity]

Surname must be <u>underlined</u>

HER MAJESTY THE QUEEN in right of New Zealand acting by and through the MINISTER OF CONSERVATION

Grant* of casement or profit à prendre or creation or covenant

The Grantor, being the registered proprietor of the servient tenement set out in Schedule A, grants to the Grantee (and, if so stated, in gross) the easement set out in Schedule A, with the rights and powers or provisions set out in the Annesure Schedule(s).

·····	 • · • ·		•	••	
Dated this		day of			20

Attestation

	Signed in my presence by the Grantor
	Siznahav of witness
	Witness to complete in BLOCK ktters (unless legibly printed)
	Witness name
	Occupation
	Address
Signature [common seal] of Grantor	—

	Signed in my presence by the Grantee
	Signature of witness
	Witness to complete in BLOCK latters (unless legibly printed)
	Witness name
	Occupation
	Address
Signature [common scal]	

Certified correct for the purposes of the Land Transfer Act 1952.

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[Solicitor for] the Grantee

Annexure Schedule 1

Dated

Page 1 of 4 pages

Schedule A

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Continue in additional Annexure Schedule if required

Purpose (nature and extent) of casement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Right to drain sewaye	Marked "E, F & G "	Section 1	Section 2
and waste water	on SO 440008	SO 440008	SO 440008

Easements rights and powers (including terms, covenants, and conditions)

Unless otherwise provided below, the rights and powers implied in specific classes of easement are those prescribed by the Land Transfer Regulations 2002.

The implied rights and powers are varied by the provisions set out in Annexure Schedule 2.

All signing parties and either their witnesses or solicitors must sign or initial in this box

Annexure Schedule 2

Dated

Easement	instrument

Page 2 of 4 pages

Operative Clause

 The Grantor transfers and grants to the Grantee in perpetuity a right to drain sewage and wastewater easement over the Servient Land on the terms, conditions, covenants and restrictions contained in this Easement, subject to the Grantee complying with the applicable provisions of the Resource Management Act.

Access

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2. Land Transfer Regulation 12 is negatived and replaced with the following: The Grantee shall have a right of access along such parts of the Servient Land with or without vehicles, plant and Equipment for the purpose of allowing the Grantee to exercise any of the rights granted under this Easement, together with the right to upgrade or replace the easement facility at any time provided that:

(a) except in the case of emergency no such rights of access will be excreised without the prior consent of the Grantor; and

(b) in exercising such rights of access the Grantee shall use reasonable endeavours to minimise and avoid any unnecessary damage to the Servient Land and shall immediately reinstate the Servient Land or any improvements thereon (including restoring the surface thereof and replanting vegetation) where any damage is caused in the process of exercising the right of access; and

(c) if the Grantee fails within six months after the date when written notice of such damage is provided by the Grantor to the Grantee to reinstate the Servient Land and any improvements thereon (including destroying the surface thereof and replanting vegetation), the Grantor may, after first having given the Grantee at least one month's written notice of its intention to do so, undertake the necessary work and recover costs for this work from the Grantee.

Erection of Notice etc

3. The Grantee may take such measures as it reasonably thinks necessary for the safety of persons or property on or about the Servient Land including without limitation the right to creet fences, barriers and signs and notices warning of any danger. The Grantee must obtain the Grantor's prior written consent before taking any such measures.

Grantor's Consent

 In all cases where the prior consent or approval of the Grantor is required under this Easement such consent shall not be unreasonably withheld, delayed or granted upon unreasonable conditions.

Annexure Schedule 2

Easement instrument	Dated	Page 3 of 4 pages
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Application for Resource Consents

5. The Grantee shall be entitled from time to time to apply for any resource consents and any other statutory consents required for the purposes of the exercise of any of the Grantee's rights under this Easement in the same manner as if it were a registered proprietor of the Servient Land provided that it shall at the time of making the relevant application forward a copy to the Grantor and the Grantor shall provide, upon written request from the Grantee, at the reasonable cost of the Grantee, a reasonable degree of cooperation. Where any relevant application would not result in the Grantee obtaining any additional rights or powers over and above those held by it pursuant to its existing resource consents or other statutory consents or the provisions of this Easement then the Grantor must not lodge any objection to such application.

Equipment Property of Grantee

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6. The Equipment constructed or installed by the Grantee on the Servient Land shall remain the property of the Grantee and may at any time be removed by it PROVIDED THAT any damage caused by such removal shall immediately be remedied by the Grantee at its cost. If within six months alter the date when written notice of such damage is provided to the Grantee it fails to remedy such damage, the Grantor may, after first having given the Grantee at least one month's written notice of its intention to do so, remedy all or any of the damage and recover costs for this from the Grantee.

Minimisation of Disruption

7. Land Transfer Regulation 10 (3) is negatived and replaced with the following: The Grantee shall use all reasonable endeavours to cause as little disturbance and disruption to the carrying on of the enjoyment of the Easement Facility by the Grantor although the Grantor accepts that this provision shall not prevent, restrict or hinder the Grantee from earrying out its public conservation (including recreation) business in a normal manner consistent with the rights granted to it in this Easement.

No Fencing Required

8. The Grantee shall not be required to fence any of the Easement Facility unless it is required by law, a condition of a resource consent or as a condition required by the Grantor when granting any consent under this Easement where such a condition would be reasonable. If the Grantee is required to fence any of the Servient Land the Grantee shall first consult and agree with the Grantor as to the form, materials and location of such fencing, and erect the fence at its cost.

Annexure Schedule 2

Dated

Page 4 of 4 pages

Surrender of Easement

9. The Grantee shall be entitled at any time to surrender at its own cost all of the interest granted to it pursuant to this Easement. The Grantor shall execute any easement instrument to surrender easement (or similar document) in a form acceptable to the Grantor upon request by the Grantee

Dispute Resolution

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10. Land Transfer Regulation 14 is negatived and replaced with the following: (a) In the event of any dispute arising between the parties in respect of or in connection with this Easement, the parties shall, without prejudice to any other right or entitlement they may have under this Easement or otherwise, explore whether the dispute can be resolved by use of the alternative dispute resolution technique of mediation. The rules governing such techniques shall be agreed hetween the parties or as recommended by the New Zealand Law Society or as selected by the Chairman of the New Zealand Chapter of LEADR (Lawyers Engaged in Alternative Dispute Resolution).

(b) In the event the dispute is not resolved within twenty-eight days of written notice by one party to the other of the dispute (or such further period agreed in writing between the parties), either party may refer the dispute to arbitration under the provisions of the Arbitration Act 1996 or any successor legislation. The arbitrator shall be agreed between the parties within 10 days of written notice of the referral by the referring party to the other or failing agreement appointed by the President of the New Zealand Law Society. In either case, the arbitrator shall not be a person who has participated in any informal dispute resolution procedure in respect of the dispute.

Notices

11. All notices and communications under this Easement shall be deemed to have been received when delivered personally, sent by prepaid post or by facsimile to such address as either party shall notify to the other from time to time.

7 LEASES FOR LEASEBACK PROPERTIES

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DOCUMENTS SCHEDULE

7: LEASES FOR LEASEBACK PROPERTIES

LEASE FOR WARKWORTH DISTRICT COURT (LAND ONLY)

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7: LEASES FOR LEASEBACK PROPERTIES

(MINISTRY OF JUSTICE)

]

LESSOR:

[

Correct for the purposes of the Land Transfer Act 1952

SOLICITOR FOR THE LESSEE

LESSEE:

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HER MAJESTY THE QUEEN

acting by and through the Chief Executive of the Ministry of Justice

> Particulars entered in the Register as shown herein on the date and at the time endorsed below

MEMORANDUM OF LEASE

THE CHIEF EXECUTIVE MINISTRY OF JUSTICE WELLINGTON

7: LEASES FOR LEASEBACK PROPERTIES

MINISTRY OF JUSTICE

LONG TERM LEASE OF BARE GROUND

FOR COURTHOUSE PURPOSES

[] (hereafter called "**the Lessor**") being registered as proprietor of an estate in fee simple subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten or endorsed on computer freehold register NA101C/523 and being 0.0868 hectares, more or less, being Lot 1 DP 167426.

does hereby lease to **HER MAJESTY THE QUEEN** acting through the Chief Executive of the Ministry of Justice (hereafter called "**the Lessee**") all the said land (hereafter called "**the Land**") to be held by the Lessee as tenant for a term of ten (10) years at the yearly rental of \$39,000.00 plus GST payable annually in advance on the 1st day of [] in each year during the continuance of this Lease subject to the covenants, conditions and restrictions set forth in Schedules A and B following.

The Lessee doth hereby accept the lease of the above described land to be held by the Lessee as tenant and subject to the conditions, restrictions and covenants set forth in Schedules A and B following.

Dated this	day of	201X
SIGNED by [GOVERNANCE ENTITY a]) s Lessor)	
SIGNED for and on behal MAJESTY THE QUEEN as by David Laurence Steve (acting by and through the Executive of the Ministry of	s Lessee) nson) Chief)	

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7: LEASES FOR LEASEBACK PROPERTIES

SCHEDULE A

ITEM 1 THE LAND

All that parcel of land being the Land previously specified.

ITEM 2 THE COMMENCEMENT DATE

The commencement date of this Lease shall be the 1st day of 20

ITEM 3 ANNUAL RENTAL

Thirty nine thousand dollars (\$39,000.00) per annum plus GST payable annually in advance on the first day of each lease year during the continuance of this lease with a first payment due on the day of 20 .

ITEM 4 TERM OF LEASE

4.1 Initial term

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10 years from the Commencement Date, to determination on theday of20.

4.2 Subsequent terms

Rights of renewal for terms of 10 years each forever from the day of 20 and each 10^{th} anniversary after that date, subject to clause 4.02(a)(v)

ITEM 5 LESSEE OUTGOINGS

- 5.1 Rates, levies, charges, assessments, duties or fees payable to any local, territorial, governmental and any other statutory authority (subject to Item 5.5).
- 5.2 Charges for water, gas, electricity, telephones and other utilities or services.
- 5.3 Rubbish collection charges.
- 5.4 All costs associated with the repair, maintenance or replacement of any fencing on the land.
- 5.5 The amount by which the land tax of the Lessor (if any) has been increased by virtue of its ownership of the Land, but excluding any other taxes levied against the Lessor in respect of its interest in the Land and excluding any income tax assessed in respect of the Lessor's income from the Land.

ITEM 6 PERMITTED USE

- (a) For the purposes of the administration of justice by the Crown, including use as a courthouse and related facilities which can include cells for overnight prisoner accommodation; and/or
- (b) any other commercial use permitted as of right by the operative District Plan from time to time of the territorial authority having jurisdiction in respect of the Land.

ITEM 7 RIGHTS OF RENEWAL

Renewable as provided in Item 4.2 above.

ITEM 8 RENT REVIEW DATES

5 yearly from the Commencement Date of this Lease.

ITEM 9 LESSOR'S PROPERTY

Nil.

ITEM 10 LESSEE'S IMPROVEMENTS

As defined in clause 1.07

ITEM 11 CLAUSE 4.01(e) CHARGEHOLDER'S NOTICE

То:	The Lessor (hereafter called " the Lessor ")
And to:	The Lessee (hereafter called " the Lessee ")
From:	Mortgagee / Chargeholder

om: Mortgagee / Chargeholder (hereafter called "**the Lender**")

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 4.01(e) and (f) of the said Lease; and
- (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 period of six months after the

expiration or sooner determination of the Lease (hereafter collectively called "**the relevant period**"); and

- (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 acknowledgement is irrevocable.

SCHEDULE ***

[That parcel of land containing []]

.....

(LENDER EXECUTION)

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ITEM 12 CLAUSE 4.01(f) CHARGEHOLDER'S NOTICE

To: The Lessor (hereafter called "**the Lessor**")

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- And to: The Lessee (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 **4**.01(f) 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;
- (ii) will at all times acknowledge that any Lessee's Improvement shall remain the property of the Lessee at all times during the continuance of the Lease and for a period of six months after the expiration or sooner determination of the Lease.

ITEM 13 ADDRESS FOR SERVICE

- Lessor: Ngāti Manuhiri Settlement Trust 307 Leigh Road Whangateau PO Box 57 Leigh 0947
- Lessee: Chief Executive Ministry of Justice Level 3, Vogel Centre 19 Aitken Street SX 10088 WELLINGTON

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Facsimile: (04) 918 8800

7: LEASES FOR LEASEBACK PROPERTIES

SCHEDULE B

PART I - PRELIMINARY

1.00 DEFINITIONS AND INTERPRETATION

1.01 In this Lease:

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- (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;

and the expression "**the Lessee**" shall include the Lessee's agents, employees, contractors and invitees and any person on the Land under the control or direction of the Lessee.

- (c) Words importing the singular or plural number shall include the plural or singular number respectively.
- **1.02** "District Plan" means a district plan within the meaning of the Resource Management Act 1991.
- **1.03** "Goods and Services Tax" or "GST" means tax levied in accordance with the Goods and Services Tax Act 1985 or any tax in the nature of a Goods and Services Tax.
- **1.04** "Government Agency" includes any department or instrument of the Executive Government of New Zealand; and, includes:

- (a) a body corporate or corporation sole (whether called a corporation sole, a corporation, commission, council, board, authority, or by any name that has been established or constituted by a public Act of Parliament and that is named in that Act;
- (b) a body corporate or organisation that is controlled wholly by the Crown or by any department, instrument, corporate, corporation sole, or organisation;
- (c) a Crown Entity within the meaning of the Crown Entities Act 2004 or as otherwise established or constituted by an Act of Parliament;
- (d) a State enterprise within the meaning of the State-Owned Enterprises Act 1985;
- **1.05** "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.
- **1.06** "Lease" means, unless the context otherwise requires, this lease and any further renewal term thereof.
- **1.07** "Lessee's Improvements" shall mean all improvements on the Land of any kind whatsoever including buildings, sealed yards, paths, lawns, gardens, fences and other like property of any kind whatsoever constructed or placed on the Land by the Lessee or any agent of the Lessee prior to or after the commencement of this Lease but shall exclude "Lessor's Property".
- **1.08** "Lessee's Outgoings" means all outgoings the Lessee is obliged to pay under the provisions of this Lease.
- **1.09** "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 placed on the Land by the Lessor after the commencement of this Lease.
- **1.10** "Working Day" means any day of the week other than:

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- Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, New Zealand Anniversary Day or the Anniversary Day celebrated in the locality of the Premises; 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.

A Working Day shall be deemed to start at 9:00 am and finish at 5:00 pm.

1.11 "The Land", "The Commencement Date", "Annual Rental", "Term of the Lease" and "Permitted Use" shall have the meanings ascribed to them in Schedule A.

- **1.12** 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.
- **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, consolidation, re-enactment, substitution or otherwise.
- **1.14** A covenant not to do anything shall be deemed to include an obligation not to suffer, permit or cause that thing to be done.
- **1.15** Clause headings are inserted for reference only and shall not affect the interpretation of this Lease.

PART II - LESSEE'S COVENANTS

2.00 LESSEE'S COVENANTS

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2.01 PAYMENT OF ANNUAL RENT

The Lessee shall pay the annual rent without deduction or set off in the manner and at the times provided in Item 3 of Schedule A. All payments of rent shall be paid by direct bank payment or as the Lessor may direct.

2.02 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 the Lessee's Outgoings during the term of this Lease shall subsist until the end or earlier termination of this Lease.
- (c) The Lessee shall pay all other outgoings it is required to pay under this Lease.

2.03 USE OF LAND

The Lessee shall not use the Land for any purpose other than the Permitted Use described in Item 6 of Schedule A. The Lessee acknowledges that it has entered into this Lease in reliance on its own judgement and not in reliance on any representation or warranty by the Lessor.

2.04 COMPLIANCE WITH LAW

- (a) The Lessee shall comply with the provisions of all statutes, ordinances, regulations, bylaws and codes in any way touching upon, relating to or affecting the Land or the conduct of the Permitted Use on the Land and will also at the Lessee's own cost in all things 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.
- (b) Without limiting the generality of the foregoing the Lessee will take all reasonable steps to maintain a current warrant of fitness in respect of any building on the Land where such warrant of fitness is required in terms of the Building Act 2004.

2.05 AVOIDANCE OF DANGER

The Lessee shall:

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- (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; and
- (c) at all material times keep in place written rules and procedures in order to comply with health and safety in employment requirements which the Lessee is obliged by law to comply with.

2.06 LESSEE'S MAINTENANCE AND REPAIR OBLIGATION IN RESPECT OF THE LAND

The Lessee shall punctually and at the Lessee's expense keep the Land clean and tidy, free and clear from all rubbish, noxious weeds and plants to the satisfaction of the Lessor and take any steps necessary to control any pest infestation occurring on or emanating from the Land.

2.07 SIGNAGE

The Lessee shall have the right to affix names, signs, nameplates, signboards and advertisements relating to 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, signboard or advertisement of any description on or to the exterior

7: LEASES FOR LEASEBACK PROPERTIES

of the Lessee's Improvements or the Land or any Lessors' Property thereon without the prior approval in writing of the Lessor, such approval not to be unreasonably or arbitrarily withheld. 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 occasioned thereby.

2.08 INSURANCE

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- (a) The Lessee shall 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. The amount of this insurance shall be adjusted at any rent review or renewal of this Lease by any increase in the consumer price index (all groups) in the preceding five years measured against that index at the Commencement Date of the original term of this Lease. If there is no consumer price index (all groups) then the adjustment will be made by reference to the next most appropriate index or any index published in place of the CPI (all groups).
- (b) The provisions of clause 2.08(a) shall be of no application whilst the Lessee is **HER MAJESTY THE QUEEN**.

2.09 SUNDRY LESSEE ACKNOWLEDGEMENTS

The Lessee acknowledges:

- (a) that 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) that the Lessee shall at its own cost and expense in all things fence the boundaries of the Land insofar as the Lessee deems this reasonably necessary for the purposes of the Permitted Use.

2.10 GST

The Lessee shall pay to the Lessor or as the Lessor shall direct the 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 payment shall be payable on demand.

2.11 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 inherent defect in the Land or any accident, damage or injury occurring to any person or property in or about the Land, except where this is caused by the wilful or reckless act of the Lessor or persons acting under the control of the Lessor.

PART III

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3.00 LESSOR'S COVENANTS

3.01 QUIET ENJOYMENT

Should the Lessee pay the rent and observe and perform 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.

3.02 LESSOR'S PROPERTY

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 9 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. The Lessor further acknowledges that the Lessee may at its absolute discretion in all things 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 of this Lease which are not listed as Lessor's Property are Lessee's Improvements.

3.03 LESSOR CONSENT TO GROUND WORKS

- (a) Notwithstanding anything to the contrary in this Lease, the Lessee shall not:
 - (i) make any excavation of the Land; or
 - (ii) conduct any works on the Land likely to cause any subsidence, sinkage or damage to the Land or the land or property of any other person; or
 - (iii) remove any boundary-fence or retaining works except where this is necessary or conducive to the conduct of the Permitted Use and the Lessor has first been given twenty (20) working days' notice in writing of the proposed removal; or
 - (iv) make any sub-soil installation, alteration or interfere with any underground reticulated services, except where this is necessary or conducive to the

conduct of the Permitted Use and the Lessor has first been given twenty (20) working days' notice in writing of the proposed installation, alteration or interference;

without, in each case, the Lessor's prior written approval, such approval not to be unreasonably or arbitrarily withheld and not to be withheld where the works are necessary or conducive to the conduct of the Permitted Use. Where the circumstances reasonably require, the Lessor's approval may be given subject to any reasonable conditions;

(b) Should the Lessor either fail to give an approval within 14 days of being requested to do so or give an approval which is subject to conditions the Lessee considers unreasonable, then the matter shall be referred to a registered civil engineer agreed upon by the parties for his or her expert determination. Should the parties be unable to agree upon the appointment of an engineer, then either party shall be at liberty to make written application to the President for the time being of the Institute of Professional Engineers of New Zealand to appoint an engineer and any appointment so made shall be final and binding on the parties. The engineer shall act as an expert in determining the issue(s) and not as an arbitrator and the engineer's decision shall be final and binding on the parties. The engineer's costs shall be met in full by the Lessee, unless the engineer otherwise so determines.

3.04 DESIGNATION

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The Lessor covenants that it consents to the Lessee maintaining a designation for courthouse purposes or any other Government Work over the Land for the duration of this Lease, should this be desired by the Lessee. Upon the expiration of this Lease or its sooner determination, the Lessee shall promptly uplift any designation.

3.05 PROVISION OF CERTAIN NOTICES TO THE LESSEE

Whenever the Lessor receives any notice from any local or governmental authority concerning the payment of local authority rates or the rating valuation of the Land or the Lessee's Improvements, the Lessor will promptly provide a copy of such notice to the Lessee and, in any event, within sufficient time to enable the Lessee to make any submission as seen fit by the Lessee to the local authority or the relevant governmental authority, as the case may be.

PART IV - MUTUAL COVENANTS

4.00 MUTUAL COVENANTS

4.01 LESSEE'S IMPROVEMENTS

Maintenance

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- (a) The Lessee shall at the Lessee's own expense in all things keep any Lessee's Improvements on the Land in good order, condition and repair during the continuance of this Lease, and in respect of buildings on the Land, will keep such buildings water tight throughout the term of the Lease.
- (b) The Lessee acknowledges that the Lessor shall have no repair or maintenance obligations for any of the Lessee's Improvements on the Land.

Construction or Alterations to Lessee's Improvements

(c) The Lessee shall be allowed to construct Lessee's Improvements and to make any alterations or additions to Lessee's Improvements without the prior written approval of the Lessor where this is necessary or incidental to the Permitted Use of the Land. 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 or incidental to the Permitted Use of the Land, and such consent shall not be unreasonably or arbitrarily withheld.

Lessor's Acknowledgements as to Lessee's Improvements

- (d) The Lessor acknowledges in relation to Lessee's Improvements that:
 - 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 such property is annexed to the Land;
 - (ii) the Lessee's Improvements are to be fully 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. Should the Lessee decide to reinstate the Lessee's Improvements following destruction or damage, the Lessee undertakes to notify the Lessor of its plans for such

7: LEASES FOR LEASEBACK PROPERTIES

reinstatement and will in good faith consider any reasonable representations, objections or concerns raised by the Lessor in relation to the planned reinstatement, provided such representations, objections or concerns, are provided in a timely fashion following notification by the Lessee, recognising however that the final decision on the form and detail of any reinstatement rests with the Lessee.

Acknowledgments from Mortgagees or Chargeholders

- (e) Should the Land be subject to any Mortgage or other charge at the Commencement Date of this Lease, then the Lessor will when presenting this Lease to the Lessee for its acceptance also present to the Lessee the written acknowledgement of any and all existing mortgagees or chargeholders of the Land in the form prescribed in Schedule A Item 11 duly executed by any such mortgagees or chargeholders, it being further acknowledged by the Lessor that the Lessee shall not be required to execute the within Lease until the provisions of this sub clause have been fully satisfied;
- (f) Should the Lessor, subsequent to the Commencement Date of this Lease, propose to grant any mortgage or charge then, prior to doing so, it shall have executed by any proposed Mortgagee or Chargeholder the written acknowledgement in the form prescribed in Schedule A Item 12, it being further acknowledged by the Lessor that it will not grant any mortgage or charge until the provisions of this clause have been satisfied and further that it will deliver executed originals of such acknowledgements to the Lessee within three (3) working days from the date of their receipt by the Lessor;

Removal of Lessee's Improvements

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(g) The Lessee may at its option remove all or any of the Lessee's Improvements from the Land at any time during the continuance of this Lease, and also during the period of 6 months from the expiration or sooner determination of this Lease. It is acknowledged and agreed by the parties that property in all Lessee's Improvements remains with the Lessee until the expiration of the 6 month period in the absence of any agreement between the parties to the contrary. No prior written consent or any other consent of the Lessor shall be required in respect of any such removal effected by the Lessee. The Lessor further acknowledges that it will be deemed by the provisions of this clause to have granted to the Lessee a Licence to enter the Land for a period of up to six (6) months subsequent to the expiration of this Lease to remove Lessee's Improvements, and the Lessee shall give no less than 12 months notice as to whether it requires the full 6 months licence period or a lesser period. This provision shall enure for the benefit of the Lessee notwithstanding the prior Ì

expiration of this Lease and shall also bind any successor in title to the Lessor subsequent to the expiry of the Lease;

- (h) In the event that the Lessee removes its Lessee's Improvements from the Land as aforesaid, it shall make good any damage to the Land and will leave the Land in a neat, tidy and safe condition subsequent to any such removal;
- (i) 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 date of expiration or sooner determination of the Lease or within six months after such date, notwithstanding any rule of law or equity to the contrary;
- (j) The Lessee shall pay a licence fee equal to the rental payable immediately before the determination of the Lease for the six month period, or such lesser period as the Lessee requires to remove Lessee's Improvements from the Land;
- (k) The provisions of this clause shall not merge upon the expiration or sooner determination of this Lease but shall enure for the benefit of the party entitled until completely performed;
- (I) Subject to subclause (m) the Lessee shall not be required by the Lessor to remove any Lessee's Improvements as at the expiration of the term of the Lease or at any time subsequent to such expiration, and all Lessee's Improvements remaining upon the Land at the option of the Lessee after the expiration of the six month period provided in subclause 4.01(g) shall vest in and become the property of the Lessor. No compensation or other consideration shall be payable by the Lessor to the Lessee in respect of any Lessee's Improvements vesting in the Lessor, and the Lessor shall have no claim upon the Lessee in respect of any such Lessee's Improvements.
- (m) If the Lessee is not a Government Agency as at the expiry of the term of this Lease, the Lessee will if required by the Lessor in writing demolish or remove all Lessee's Improvements (or such lesser portion as may be acceptable to the Lessor) from the Land at the expiry of the term without being obliged to pay to the Lessor any compensation for their demolition or removal. Following such demolition or removal the Lessee shall make good any damage to the Land and will leave the Land in a neat, tidy and safe condition.

4.02 ASSIGNMENT AND SUBLETTING

(a) Subject to clauses 4.02(c) and (d) and 4.03, the Lessee must not assign or otherwise part with the possession of the Land or any part of the Land without first obtaining

the written consent of the Lessor which the Lessor will give if the following conditions are fulfilled:

- (i) The Lessee proves to the satisfaction of the Lessor that the proposed assignee is (or in the case of a company the shareholders of the company of the proposed assignee are) respectable, responsible and has the financial resources to meet the commitments under this lease.
- (ii) All rent and other moneys payable under this Lease have been paid and there is no subsisting (in the case of a Government Agency a material, willful and deliberate) breach of any of the Lessee's covenants.
- (iii) The Lessee pays the proper costs and disbursements in respect of the approval or preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable enquiries made by or on behalf of the Lessor concerning any proposed assignee.
- (iv) The Lessee will, at the Lessee's own expense, procure the execution by an assignee of a deed of covenant with the Lessor that the assignee will, at all times pay the rent at the times and in the manner provided in this Lease and will observe and perform all the covenants and conditions contained in this Lease.
- (v) Where the assignee is a party which is not a Government Agency, the Lessee will at the Lessee's own expense procure the execution by the assignee of a variation of this Lease whereby the Lease will be varied as follows:
 - (aa) The Lease will cease to be perpetually renewable;
 - (bb) The number of further terms will be reduced to 5 (of 10 years each) so that the Lease will have a final expiry date (if all rights of renewal are exercised) at the date of expiration of a period of 50 years following the expiration of the term of the Lease during which the assignment is effected;
 - (cc) The Rent will be reviewed at the next prescribed rent review date in accordance with the provisions of Lease and every 5 years thereafter as set out in clause 4.06 of the Lease.
- (vi) Where the assignee is a company not listed on the main board of a public stock exchange, the Lessor may require the deed of covenant referred to in paragraph (iv) above to be executed by that company and also by such other
shareholders of that company as the case may be, as the Lessor reasonably requires, as joint and several guarantors, upon the terms set out in the then current edition of the Auckland District Law Society form of Standard Lease for Commercial Premises or if such lease is no longer published, then upon such terms as are commonly used in leases of commercial premises.

- (b) For the purposes of clause 4.02(a) any change in the shareholding of the Lessee (where the Lessee not being a Government Agency is a company which is not listed on the main board of a public stock exchange) 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 clauses 4.02(c) and 4.02(d).
- (c) If, by any statutory provision or regulation enacted during the Term of this Lease, the Lessee is obliged to transfer or assign management of the Land or any aspect of such management to a third party, the provisions of clause 4.01(a) will not apply to such a transfer or assignment and the Lessee will be entitled to transfer or assign its interest as Lessee under this Lease, or any aspect of management of the Land, to such a third party without further reference to the Lessor, who will be deemed to have approved such a transfer or assignment and will immediately sign any document necessary to give effect to such a transfer or assignment, if so requested by the Lessee.
- (d) Despite clause 4.02(a), the Lessee may at any time and from time to time:

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- transfer or assign its interest as Lessee under this Lease, or grant a sublease or licence of the whole or any part(s) of the Land, to any Government Agency; and/or
- (ii) grant a sublease or licence of the whole or any part(s) of the Land to any other person,

in either case without further reference to the Lessor, who will be deemed to have approved such a transfer, assignment or sublease and will immediately sign any document necessary to give effect to such a transfer, assignment or sublease, if so requested by the Lessee.

(e) Where the Lessee grants a sublease or licence of the whole or any part(s) of the Land to any other person, the Lessee will 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.

4.03 RIGHT OF FIRST REFUSAL FOR LESSOR IF LESSEE TO ASSIGN

- (a) The following subclauses of this clause 4.03 will only apply in the event that the Lessee proposes to assign the Lessee's interests in this Lease to a party which is not a Government Agency. The Lessor shall have no right of first refusal in the event of the Lessee wishing to transfer or assign its interest as Lessee under this Lease to a Government Agency.
- (b) If at any time before the expiration or earlier termination of the term or any renewed or extended term the Lessee wishes to assign the Lessee's interest in this Lease (including any assignment by way of sale of the Lessee's Improvements) the Lessee must immediately give written notice ('Lessee's Notice') to the Lessor setting out the terms on which the Lessee wishes to assign its interest in the Lease and sell the Lessee's Improvements (together 'the Lessee's Interest').
- (c) The Lessor will have 60 Working Days following the date of receipt of the Lessee's Notice (time being of the essence) in which to exercise the Lessor's right to purchase the Lessee's Interest, by serving written notice on the Lessee ('Lessor's Notice') accepting the offer contained in the Lessee's Notice.
- (d) If the Lessor does not serve the Lessor's Notice on the Lessee in accordance with subclause (c) then the Lessee may assign the Lessee's Interest to any other person on no more favourable terms than those previously offered to the Lessor. The provisions of clause 4.02 of this Lease will apply to any such assignment.
- (e) If the Lessee wishes to offer more favourable terms for assignment of the Lessee's Interest than the terms contained in the Lessee's Notice, the Lessee must first reoffer its interest therein to the Lessor on those terms by written notice to the Lessor and clauses 4.03(b), (c), and (d) (inclusive) shall apply. If the re-offer is made within 6 months of the initial Lessee's Notice, the 60 Working Day period for acceptance shall be reduced to 30 Working Days.

4.04 LESSOR MAY REMEDY LESSEE DEFAULT

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(a) Should the Lessee default in the observance or performance of any of the Lessee's obligations hereunder and should the Lessor have first served not less than twenty-one (21) clear days' written notice of its intention to enter upon the Land and to do, execute and perform or procure to be performed all such acts, deeds, matters and things required to make good any Lessee default except in the case of an emergency where no notice shall be required, then it shall be lawful for the Lessor in addition to any of its remedies to enter the Land and do all such acts, deeds, matters and things required to make good such default and to recover the costs of such action from the Lessee.

(b) Any notice served under the provisions of clause 4.04(a) shall specify sufficient particulars to adequately advise the Lessee of the breach (or breaches) 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 such notice void.

4.05 RENEWAL

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- (a) The Lessee not being at that time in breach of any material provision of this Lease shall on or prior to the end of the initial term or any subsequent term of this Lease, be entitled to a renewal of this Lease for the further term specified in Schedule A from the date of expiry of the initial term or any subsequent term as follows:
 - the Annual Rent will be agreed upon or failing agreement will be determined in accordance with clause 4.06 as though the commencement date of the renewed term were a Rent Review Date; and
 - (ii) the renewed lease will otherwise be on and subject to the covenants and agreements expressed or implied in this Lease including this covenant for renewal.
- (b) No earlier than 24 months prior to the expiration of the initial term or any subsequent term, the Lessor shall give written notice to the Lessee specifying that the term of the Lease is due to expire and that if the Lessee fails to exercise the right of renewal referred to in clause 4.05(a) within 6 months from the date of receipt of notice from the Lessor (time being of the essence), then the Lessee shall be deemed to have irrevocably waived its right to renew the Lease. The parties acknowledge and agree that the earliest date by which the Lessee can be required to give notice of renewal as a result of the operation of this clause 4.05(b) is the date which falls 18 months prior to the expiration of the relevant term.
- In the event that the Lessor does not give notice to the Lessee pursuant to clause 4.05(b), the Lessee shall be entitled to renew this Lease by notice in writing to that effect given to the Lessor at any time, up until the expiry date.

4.06 RENT REVIEW

- (a) The Annual Rental payable as from each review date shall be determined as follows:
 - (i) Either party may not earlier than 3 months prior to a review date and not later than one year after any review date (time being of the essence) give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant review date.

- (ii) If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within 20 Working Days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent shall be determined in accordance with clause 4.06(b).
- (iii) If the Recipient fails to give such notice (time being of the essence) the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 shall not apply.
- (iv) The Annual Rental agreed, determined or imposed pursuant to this clause shall be the annual rental payable as from the relevant rent review date, or the date of service of the Initiator's notice if such notice is served later than 6 months after the relevant rent review date but subject to clauses (c) and (d).
- (v) The rent review at the option of either party may be recorded in a Deed.

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- (b) Immediately following service of the Recipient's notice on the Initiator, the parties shall endeavour to agree upon the current market rent of the Land, but if agreement is not reached within 20 working days then the same may be determined either:
 - (i) By one party giving written notice to the other requiring the current market rent of the Land to be determined by arbitration; or
 - (ii) If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:
 - (aa) Each party shall appoint a valuer and give written notice of the appointment to the other party within 20 working days of the parties agreeing to so determine the new rent;
 - (ab) If the party receiving a notice fails to appoint a valuer within the 20 working day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties;
 - (ac) The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer;
 - (ad) The valuers appointed by the parties shall determine the current market rent of the Land but if they fail to agree then the rent shall be determined by the third expert;

(ae) Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any such representations but not be bound thereby.

In ascertaining the new annual rental to apply from a review date:

- (af) the value of any building or improvements then existing upon the Land shall not be taken into consideration; and
- (ag) for so long as the Lessee is a Government Agency, the parties and their valuers shall have regard only to the actual use the land is put to by the Lessee (which in the case of the Ministry of Justice or its successor is recorded in Item 6(a) of Schedule A), and shall disregard the use specified in Item 6(b) of Schedule A.

When the new rent has been determined, the person or persons determining the same shall give written notice thereof to the parties. The notice shall provide as to how the costs of the determination shall be borne and which provision shall be binding on the parties.

(c) The annual rent so determined or accepted:

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- (i) shall not, in the case of a rent review during the initial term of this Lease, be less than the Annual Rental payable as at the Commencement Date, or in the case of a rent review during any subsequent term, be less than the Annual Rental payable at the commencement of such subsequent term; and
- (ii) shall be the Annual Rental from the Rent Review Date, or the date of the initiated notice if such notice is given later than 6 months after the Rent Review Date.
- (d) For the avoidance of doubt, where a rent review date coincides with the commencement of a renewed or subsequent term, the annual rent shall be the current market rent of the Land agreed or determined as at that date in accordance with the foregoing provisions, and no minimum rent shall apply.
- (e) Pending determination of the current market rent of the Land, the Lessee if it is a Government Agency shall from the relevant review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant review date, until the determination of the current market rent of the Land, pay an interim rent equivalent to that prior to the review date, however if the Lessee is not a Government Agency it will pay an interim rent as follows:

- (i) If both parties supply a registered valuer's certificate substantiating the new rents proposed, the interim rent payable shall be half way between the new rents proposed by the parties, or
- (ii) If only one party supplies a registered valuer's certificate, the interim rent payable shall be the rent substantiated by the certificate; or
- (iii) If no registered valuer's certificates are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant review date.
- (f) Upon determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Lessee. Any shortfall in payment shall immediately be payable by the Lessee.

4.07 RE-ENTRY

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- (a) The Lessor may re-enter the Land where:
 - (i) rental is in arrears for a period exceeding 20 days after any rent payment date;
 - (ii) the Lessee is in breach of any covenant on the Lessee's part herein expressed or implied;
 - 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;
 - (iv) the Lessee becomes insolvent, bankrupt or goes into liquidation;

and the term of this Lease shall terminate on such re-entry and all Lessee's Improvements on the Land shall vest in and become the property of the Lessor, and no compensation or other consideration shall be payable by the Lessor to the Lessee in respect of any Lessee's Improvements vesting in the Lessor. Termination shall otherwise be without prejudice to the rights of either party against the other.

(b) Whilst HER MAJESTY THE QUEEN is the Lessee under this Lease and should HER MAJESTY THE QUEEN either default in the payment of any rental for a period exceeding twenty 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 serve a notice (hereafter called "the Default Notice") on the Lessee

specifying the breach complained of with sufficient particularity to enable the Lessee to clearly identify the default alleged.

- (c) The Default Notice notwithstanding anything to the contrary contained in clause 4.07(a) above shall specify that:
 - (i) the Lessee must within 30 days of receipt of such notice remedy the default specified; and
 - (ii) that should the Lessee not remedy the default specified within this time, the Lessor shall thereafter be at liberty to re-enter the Land and to determine this Lease pursuant to this clause 4.07.
- (d) The Lessor acknowledges that it shall not re-enter the Land unless and until the provisions of clause 4.07(b) have been satisfied in full and further that any re-entry contrary to the provisions of clause 4.07(b) shall be null and void ab initio.

4.08 LESSEE'S RIGHT OF EARLY TERMINATION

- (a) Notwithstanding anything to the contrary herein contained or implied it is agreed that the Lessee may at any time in its sole discretion and without being required to give any reason, terminate this Lease by providing to the Lessor not less than 12 months notice in writing to that effect PROVIDED THAT:
 - (i) no such notice may be given during the initial 20 year term of this Lease; and
 - (ii) no such notice may be given so as to effect termination of this lease within the first 10 years of any renewed term of this Lease.
- (b) The parties' respective rights and obligations under this Lease will cease from the effective date of termination, but without prejudice to any rights which have accrued up to the date of termination.

4.09 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 sub clauses (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 this decision whatever it may be.

(d) In the event of any building comprising a Lessee's Improvement being destroyed or so damaged as to render the Land untenantable for the purpose specified in Item 6(a) of Schedule A in the reasonable opinion of the Lessee, then the Lessee may at its discretion terminate this Lease by giving 3 months notice in writing to that effect to the Lessor. At the expiration of such period this lease will come to an end and neither party will have any claim upon the other except in respect of any antecedent breach by either party. The Lessee will demolish any remaining Lessee's Improvements and will clear the Land of all improvements, structures, rubbish and debris.

4.10 RATING ASSESSMENTS

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The parties agree that the Lessee may at any time make application to the Territorial Authority 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.

4.11 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.

4.12 DIFFERENCES AND DISPUTES

- (a) Unless any dispute or difference is resolved by mediation or other agreement, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with Arbitration Act 1996 and any amendment thereof or any other statutory provision then relating to arbitration.
- (b) If the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon the request of any party, by the president or vice president for the time being of the New Zealand Law Society. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject hereto and varied accordingly.
- (c) The procedures described in this clause shall not prevent the Lessor from taking proceedings for the recovery of any rental or other moneys payable hereunder which remain unpaid or from exercising the rights and remedies under this Lease.

(d) The provisions of this clause shall be of no application to any review of rental under the provisions of clause 4.06(b)(ii).

4.13 SERVICE OF NOTICES

Any notice or other document required to be given, delivered or served under this Lease may be given, delivered, posted by ordinary post, served or transmitted by facsimile transmission (in which case it shall be subsequently posted) to the respective addresses for service of the Lessor and the Lessee set out in Item 13 of Schedule A. Any alteration to or change in any detail of a party's address for service shall be promptly advised to the other party.

If either party does not have a current address for service, then service in terms of this clause may be effected on that party by registered post addressed to the registered office or principal place of business of the party intended to be served; and any notice or other document given or served shall be deemed to have been given or served and received by the other party two days after the date of posting.

4.14 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 in all things. The Lessor agrees to make title available for this purpose and consents to the Lessee caveating the title to protect its interest in the within Lease prior to the registration of this Lease. The parties shall take all practical steps to register the Lease as soon as possible and the Lessee shall withdraw any caveat it has lodged on the registration of the Lease.

4.15 COSTS

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- (a) 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 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.
- (b) The Lessee shall pay the Lessor's reasonable costs (including reasonable legal costs) of and incidental to the proper enforcement or proper attempted enforcement of the Lessor's powers, rights or remedies under or pursuant to this Lease.

4.16 INTEREST

If the Lessee shall fail to pay any instalment of rental or other sum of money payable to the Lessor under this Lease within 14 days of the day on which it fell due or, if the Lessee shall

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7: LEASES FOR LEASEBACK PROPERTIES

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% per annum 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.

4.17 ESSENTIAL TERMS

Any breach by the Lessee of the following provisions shall be deemed to be a breach of an essential term of this Lease:

(a) **Payment of Rental:**

The covenant to pay rental or other money payable by the Lessee under this Lease;

(b) Assignment and Subleasing:

The provisions dealing with assignment and subleasing; or

(c) Use of Land:

The provisions restricting the use of the Land.

4.18 WAIVER

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The acceptance by the Lessor of any arrears of rental or other money payable under this Lease shall not constitute a waiver of the essential obligation to pay any other rental or money payable under this Lease, nor shall it constitute a waiver of any other essential term of this Lease.

4.19 RENT MORATORIUM

If any moratorium or other law, act or regulation that (notwithstanding clause 4.06 hereof) applies to this Lease has the effect of postponing any periodic review of rental as at a review date, 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, the review that has been postponed shall take place as at the date that the moratorium is lifted or such law, act or regulation is regulation is repealed or amended to the intent that the rent review shall establish the rental as at such date and not as at the postponed review date. Any subsequent rent review shall take place on the next following review date as specified in Item 8 of Schedule A.

4.20 ARTEFACTS OR FOSSILS

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Artefacts, fossils, articles of value or antiquity and structures and other remains or things of geological, historical, archaeological or cultural interest relating to the indigenous people of New Zealand discovered on or under the surface of the Land shall, as between the Lessor and Lessee, be deemed to be the property of the Lessor. The Lessee shall use its best endeavours to prevent such articles or things being removed or damaged and shall, as soon as practicable, notify the Lessor of such discovery and carry out, at the expense of the Lessor, the Lessor's reasonable instructions as to delivery or disposal of such articles or things.

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LEASE FOR PĀKIRI SCHOOL (LAND ONLY)

MINISTRY OF EDUCATION TREATY SETTLEMENT LEASE

MEMORANDUM OF LEASE dated

2011

LESSOR

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("the Lessor")

- LESSEE HER MAJESTY THE QUEEN acting by and through the Secretary for Education ("the Lessee")
- A. The Lessor owns the Land described in Item 1 of Schedule A ('the Land").
- B. The Lessor has agreed to lease the Land to the Lessee on the terms and conditions in this Memorandum.
- C. The Lessor leases to the Lessee the Land from the Start Date, at the Annual Rent, for the Term, with the Rights of Renewal and for the Permitted Use all as described in Schedule A.
- D. The Lessor and the Lessee agree to the conditions in Schedule B.
- E. The Lessee 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 on behalf of the Lessor by]

[SIGNED on behalf of the Lessee by]

SCHEDULE A

ITEM 1 THE LAND

0.8094 hectares, more or less, being Part Allotment E46 Parish of Pakiri. All computer freehold register NA527/97 (Limited as to parcels). Note that improvements are excluded.

ITEM 2 START DATE

[Insert start date].

ITEM 3 ANNUAL RENT

\$13,104 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 and 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 All charges relating to the maintenance of any Lessee Improvements (whether of a structural nature or not).
- 5.3 The cost of ground maintenance, including the maintenance of playing fields, gardens and planted and paved areas.
- 5.4 Maintenance of car parking areas.
- 5.5 All costs associated with the maintenance or replacement of any fencing on the Land.

ITEM 6 PERMITTED USE

The Permitted Use referred to in clause 9.

ITEM 7 RIGHT OF RENEWAL

Perpetual rights of renewal of 21 years each from [Date], and each 21st yearly anniversary after that date.

ITEM 8 RENT REVIEW DATES

[Date] and 7 yearly after that Date.

ITEM 9 LESSEE'S IMPROVEMENTS

As defined in clause 1.8 and including the following existing improvements: [List all existing buildings and improvements on the Land together with all playing fields and sub soil works (including stormwater and sewerage drains) built or installed by the Lessee or any agent or sublessee or licensee of the Lessee on the Land].

ITEM 10 CLAUSE 17 (d) Notice

- To: [Name of Governance Entity] ("the Lessor")
- And to: The Secretary, Ministry of Education, National Office, Private Box 1666, WELLINGTON ("the Lessee")
- From: [Name of Mortgagee/ Chargeholder] ("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:

- (i) it has notice of the provisions of clause 17 of the Lease;
- (ii) it agrees that that any Lessee's Improvements placed on the Land by the Lessee at any time before or during the lease shall remain the property of the Lessee at all times which the lease continues;
- (iii) it will not claim any interest in any Lessee's Improvements under the security of its loan during the relevant period no matter how any Lessee's Improvement may be fixed to the Land and regardless of any rule of law or equity to the contrary or any provisions of its security to the contrary; and

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(iv) it agrees that this acknowledgement is irrevocable.

SCHEDULE

[Form of execution by Lender]

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[Date dd/mm/yy]

ITEM 11 CLAUSE 17 (e) NOTICE

To: [Name of Governance Entity] ("the Lessor")

- And to: The Secretary, Ministry of Education, National Office, Private Box 1666, WELLINGTON ("the Lessee")
- From [Name of Mortgagee/ Chargeholder] ("the Lender")

The Lender acknowledges that before 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 17(e) of the lease of the Land and that in particular it agrees that despite any provision of the Security to the contrary and regardless of how any Lessee's Improvement is fixed to the Land it:

- (I) will not claim any security interest in any Lessee's Improvement placed on the Land before or after the Start Date of the Security;
- (ii) acknowledges that any Lessee's Improvements remain the property of the Lessee at all times during the period of the Lease.

DOCUMENTS SCHEDULE

7: LEASES FOR LEASEBACK PROPERTIES

SCHEDULE

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[Form of execution by Lender]

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[Date dd/mm/yy]

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SCHEDULE B

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1 Definitions

- 1.1 The expression "the Lessor" includes and binds:
 - (a) the persons executing this Lease as Lessor;
 - (b) any Lessor for the time being under it; and
 - (c) all the respective executors, administrators, successors, assigns and successors in the title of each Lessor and if more than one jointly and severally.
- 1.2 The expression "the Lessee" includes and binds:
 - (a) the person executing this Lease as Lessee;
 - (b) all the Lessees for the time being under it; and
 - (c) all the respective executors, administrators, successors, assigns and successors in the title of each Lessor and if more than one jointly and severally.
 - 1.3 "Crown" has the meaning given to it in section 2(1) of the Public Finance Act 1989 and includes:
 - (a) Her Majesty the Queen in right of New Zealand; and
 - (b) all Ministers of the Crown and all Departments.
 - 1.4 "Crown Body" means:
 - (a) the Crown (whether acting through a Minister or otherwise);
 - (b) a Crown entity (as defined in section 7(1) of the Crown Entities Act 2004);
 - (c) a state enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); or
 - (d) any company or body which is wholly owned or controlled by any one or more of the following;
 - i the Crown;
 - ii. a Crown entity; or
 - iii. a state enterprise;

and includes

- iv. a subsidiary of, or related company to, a company or body referred to it in clause 1.4 (d): and
- v. the New Zealand Railways Corporation.
- 1.5 "Department" has the meaning given to it in section 2 of the Public Finance Act 1989.
- 1.6 "Education purposes" means any or all lawful activities necessary for, or reasonably related to, the provision of education.
- 1.7 "The Land", "The Start Date", "Annual Rent", "Term of Lease", "Lessee Outgoings" and "Permitted Use" have the meanings set out in Schedule A.
- 1.8 "Lessee's Improvements" means all improvements on the Land of any kind including buildings, sealed yards, paths, lawns, gardens, fences, playing fields, subsoil works (including stormwater and sewerage drains) and other property of any kind built or placed on the Land by the Lessee or any agent or sub-lessee or licensee of the Lessee whether before or after the Start Date of this Lease and includes those listed in Item 9 of Schedule A.
- 1.9 "Lessee Outgoings" means all outgoings the Lessee is obliged to pay under this Lease.
- 1.10 "Maintenance" includes repair.
- 1.11 "Public Work" has the meaning in section 2 of the Public Works Act 1981.
- 1.12 "Sublet" and "sublease" include the granting of a licence to occupy the Land or part of it.
- 1.13 References to a statute include regulations, orders, rules or notices made under that statute and include all amendments to or replacements of that statute.

2 Payment of Annual Rent

The Lessee will pay the Annual Rent as provided in Item 3 of Schedule A.

3 Rent Review

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- 3.1 The Annual Rent will be reviewed as provided below on the basis of an annual rent of 6.5% of the lesser of:
 - (a) the current market value of the Land exclusive of Improvements assessed on the current use as a school site; or
 - (b) the nominal value being an assessed value based on 3.5% growth per annum of the transfer price for the property.
- 3.2 The current market value of the land in 3.1(a) above is equivalent to the market value of the land on the basis of highest and best use less 20%.
- 3.3 The nominal value will be reset to the midpoint between the values set out in 3.1 (a) and (b) above at:

- (a) the commencement date of the new Term; and
- (b) at any rent review date where the nominal value has been consistently either higher or lower than the market value for the three consecutive rent review or lease renewal dates.

The new nominal value will be used to set the Annual Rent from the date it is reset.

- 3.4 In any rent review under this Lease all Lessee's Improvements whether existing at the Start Date or not must be excluded from the assessment of any new rental.
- 3.5 The rent review process will be as follows:

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- (a) At any time during the period which starts three months before any Rent Review Date and ends one year after any Rent Review Date (time being of the essence) either party may give written notice to the other specifying a new Annual Rent which the notifying party considers should be charged from that Rent Review Date.
- (b) If the notified party accepts the notifying party's assessment in writing the Annual Rent will be the rent specified in the notifying party's notice which will be payable in accordance with step (I) below.
- (c) If the notified party does not agree with the notifying party's assessment it has 30 working days after it receives the notice to issue a notice disputing the proposed new rent, in which case the steps set out in (d) to (k) below must be followed.
- (d) Until the new rent has been determined, the Lessee will continue to pay the Annual Rent at the existing amount which had been payable up to the Rent Review Date.
- (e) The parties must try to agree on a new Annual Rent.
- (f) If a new Annual Rent has not been agreed within 20 working 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 agree, by registered valuers acting as experts and not as arbitrators as set out in steps (g) to (k) below.
- (g) Within 20 working days each party will appoint a valuer and give written notice of the appointment to the other party.
- (h) The two valuers must appoint an umpire who must be a registered valuer. If the valuers cannot agree on an umpire, they must ask the president of the Property Institute of New Zealand Incorporated to appoint an umpire.
- (i) Once the umpire has been appointed the valuers must try to determine the new rent by agreement. If they fail to agree within 40 working days the rent will be determined by the umpire.

- (j) Each party will have the opportunity to make written or verbal representations to the valuers or umpire within the period, and on the conditions, set by the valuers or umpire. Each party must consider any representations but is not bound by them.
- (k) When the rent has been determined, the umpire or valuers must give written notice of it to the parties. Notice given by an umpire must provide how the costs of the determination are to be divided and the parties must pay their share accordingly. If the rent is determined by the parties' valuers and not the umpire, the parties will pay their own costs.
- (I) Once the new rent has been agreed or determined it will be the Annual Rent from the Rent Review Date or the date of the Lessor's notice if such notice is given later than three months after the Rent Review Date.
- (m) The rent review may at the option of either party be recorded in a variation of this Lease, at the cost of the party requesting that variation.

4 Payment of Lessee Outgoings

During the Term of this Lease the Lessee must pay the Lessee Outgoings specified in Item 5 of Schedule A directly to the creditors concerned.

5 Valuation Roll

Where this lease is registered under section 115 of the Land Transfer Act 1952 and is for a term of not less than 10 years (including renewals):

- 5.1 the Lessee will be entered in the rating information database and the district valuation roll as the ratepayer for the Land; and
- 5.2 the Lessee will be responsible for payment of any rates.

6 Utility Charges

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- 6.1 The Lessee must promptly pay to the relevant authority or supplier all utility charges including water, sewage, drainage, electricity, gas, telephone and rubbish collection which are separately metered or charged in respect of the Land.
- 6.2 If any utility or service is not separately charged in respect of the Land then the Lessee will pay a fair and reasonable proportion of the charges.
- 6.3 If required to do so by the Lessor or any territorial or local authority the Lessee must at its own expense install any meter necessary to assess the charges for any utility or other service supplied to the Land.

7 Goods and Services Tax

The Lessee will pay the Lessor on demand the goods and services tax (GST) payable by the Lessor in respect of the rental and other payments payable by the Lessee under this lease.

8 Interest

If the Lessee fails to pay within 10 working days any amount payable to the Lessor under this Lease (including rent) the Lessor may charge the Lessee 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% per annum accruing on a daily basis from the due date for payment until the Lessee has paid the overdue amount. The Lessor is entitled to recover this interest as if it were rent in arrears.

9 Permitted Use of Land

The Land may be used for education purposes, and/or any other Public Work, including any lawful secondary or incidental use.

10 Designation

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The Lessor consents to the Lessee seeking a designation or designations under the Resource Management Act 1991 for the purposes of the Permitted Use and maintaining that designation or those designations for the Term of this Lease.

11 Compliance with Law

The Lessee must at its own cost comply with the provisions of all relevant legislation.

12 Hazards

- 12.1 The Lessee must:
 - (a) take all reasonable steps to minimise any hazard arising from the Lessee's use of the Land and ensure that any hazardous goods are stored or used on the Land in accordance with all relevant Legislation; and
 - (b) promptly remedy any hazard that may arise on the Land.
- 12.2 The Lessor agrees to remedy promptly and at its own cost any hazard arising from any altered state of the Land caused by any natural event including flood, earthquake, slip and erosion.

13 Contamination

- 13.1 When this Lease ends the Lessee agrees to remedy any Contamination which has been caused by the Lessee's use of the Land during the Term of the Lease by restoring the Land to a standard reasonably fit for human habitation.
- 13.2 Under no circumstances will the Lessee be liable for any Contamination on or about the Land which is caused by the acts or omissions of any other party, including the owner or occupier of any adjoining land.
- 13.3 In this provision "Contamination" means any change to the physical, biological, or chemical condition of the Land by a Contaminant and "Contaminant" has the meaning set out in Section 2 of the Resource Management Act 1991.

14 Maintenance of Lessee's Improvements

The Lessee must at its expense keep any Lessee's Improvements in good condition during the Term of this Lease.

15 Construction of or Alterations to Lessee's Improvements

- 15.1 The Lessee or its agent or sub-lessee or licensee may build or alter Lessee's Improvements without the Lessor's consent where necessary for, or incidental to, the Permitted Use. For the avoidance of doubt, this clause extends to Lessee's Improvements owned (wholly or partly) or occupied by third parties provided that all necessary consents are obtained.
- 15.2 The Lessee may without the Lessor's consent conclude (on terms no more favourable than this Lease) all easements or other rights and interests over or for the benefit of the Land which are necessary for, or incidental to, either the Permitted Use or to any permitted alterations or additions to the Lessee's Improvements and the Lessor agrees that it will execute any documentation reasonably required to give legal effect to those rights.
- 15.3 The Lessee agrees to take all steps necessary to remove at the Lessor's request at the end of the Lease any easement or other burden on the title which may have been granted after the Start Date of the Lease.

16 No Lessor Maintenance

The Lessee acknowledges that the Lessor has no maintenance obligations for any of the Lessee's Improvements on the Land.

17 Lessor's Acknowledgments as to Lessee's Improvements

The Lessor acknowledges that:

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- (a) Despite any rule of law or equity to the contrary, the Lessee will own all Lessee's Improvements whether or not attached to the land throughout the period of this Lease and any improvements owned by third parties shall continue to be owned by those third parties.
- (b) The Lessee must insure the Lessee's Improvements in its own name or self insure.
- (c) If any Lessee's Improvements are destroyed or damaged, the Lessee may decide whether or not to reinstate without consulting the Lessor and the Lessee will own any insurance proceeds.
- (d) If the Land is subject to any mortgage or other charge at the Start Date, the Lessor will give the Lessee written acknowledgment of all existing mortgagees or chargeholders in the form prescribed in Schedule A Item 10 and executed by the mortgagees or chargeholders. The Lessor acknowledges that the Lessee is not required to execute this Lease until the provisions of this subclause have been fully satisfied.

- (e) If the Lessor proposes to grant any mortgage or charge after the Start Date it must first have required any proposed mortgagee or chargeholder to execute the written acknowledgment prescribed in Schedule A Item 11. The Lessor agrees not to grant any mortgage or charge until the provisions of this clause have been satisfied and to deliver executed originals of those acknowledgments to the Lessee within three working days from the date of their receipt by the Lessor.
- (f) The Lessee may demolish or remove any Lessee's Improvements at any time during the Lease Period without the consent of the Lessor provided that the Lessee reinstates the Land to a tidy and safe condition which is free from contamination in accordance with clause 13.

18 Removal of Lessee's Improvements

- 18.1 When this Lease ends the Lessee may remove any Lessee's Improvements from the Land without being obliged to pay the Lessor any compensation for their removal if they are removed by the expiry date. The Lessor's consent is not required to any removal.
- 18.2 The Lessee agrees that it has no claim of any kind against the Lessor in respect of any Lessee's Improvement or other Lessee's property left on the Land after this Lease ends and that any such Lessee's property shall at that point be deemed to have become the property of the Lessor.
- 18.3 The Lessor must not impede the removal of any Lessee's Improvements from the Land at any time during the Term of the Lease.

19 Rubbish Removal

The Lessee agrees to remove at its own cost all rubbish from the Land and to keep any rubbish bins tidy.

20 Signs

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The Lessee may display any signs which relate to the Permitted Use without the Lessor's consent. The Lessee must remove all signs at the end of the Lease.

21 Insurance

- 21.1 The Lessee is responsible for insuring or self insuring any Lessee's Improvements on the Land.
- 21.2 Each party has the right (subject to the rights of any of its mortgagees) to decide whether or not to reinstate any property insured by it, and the other party must abide by that decision.
- 21.3 The Lessee must ensure that any third party which is not a Crown Body permitted to occupy part of the Land has adequate insurance at its own cost against all public liability.

22 Fencing

22.1 The Lessee acknowledges that the Lessor is not obliged to build or maintain, or contribute towards the cost of, any boundary fence between the Land and any adjoining land owned by the Lessor.

22.2 If the Lessee considers it reasonably necessary for the purposes of the Permitted Use it may at its own cost fence the boundaries of the Land

23 Quiet Enjoyment

- 23.1 If the Lessee pays the rent and complies with all its obligations under this Lease, it may quietly enjoy the Land during the Lease Period without any interruption by the Lessor or any person claiming by, through or under the Lessor.
- 23.2 The Lessor may not build on the Land or put any improvements on the Land without the prior written consent of the Lessee.

24 Benefits to Land Not to be Restricted or Cancelled

The Lessor must not cancel, surrender or modify any easements or other similar 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.

25 Assignment

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- 25.1 Provided that the Land continues to be used for Education Purposes, the Lessee has the right to assign its interest under the lease without the Lessor's consent to:
 - (a) any Crown Body; or
 - (b) any other party provided that the sublease or licence complies with the Education Act 1989 and the Public Works Act 1981.
- 25.2 If the Lessee wishes to assign the lease to any party for any Permitted Use which is not an Education Purpose it must first seek the Lessor's consent (which will not be unreasonably withheld).
- 25.3 The Lessee may without the Lessor's consent assign its interest under this Lease to any Crown Body, but may not otherwise assign its interest under this Lease without the Lessor's consent (which will not be unreasonably withheld).
- 25.4 Without limiting clause 25.1, the Lessor agrees that the Lessee has the right to nominate any Department to exercise for Education Purposes the rights and obligations in respect of the Lessee's interest under this Lease and that this will not be an assignment for the purposes of clause 25 or a subletting for the purposes of clause 26.
- 25.3 The Lessee has the right to dispose of or transfer all or part of its interest in the Land under section 40, 41, 42, 50 or 52 of the Public Works Act 1981 and this will not be deemed to be an assignment for the purposes of clause 25 or a subletting for the purposes of clause 26.

26 Subletting

The Lessee may without the Lessor's consent sublet to:

(a) any Crown Body; or

(b) any other party provided that the sublease complies with the Education Act 1989 and the Public Works Act 1981.

27 Occupancy by School Board of Trustees

- 27.1 The Lessee has the absolute right to sublet to or otherwise permit a school board of trustees to occupy the Land on the terms and conditions set by the Lessee in accordance with the Education Act 1989 and otherwise consistent with this Lease.
- 27.2 The Lessor agrees that the covenant for quiet enjoyment contained in clause 23 extends to any board of trustees occupying the Land.
- 27.3 A board of trustees occupying the Land has the right to sublet or license any part of the Land or the Lessee's Improvements to any third party in accordance with the Education Act 1989 and any licence or lease to any third party existing at the Start Date of this Lease shall continue in effect until that licence or lease ends.

28 Lessee Break Option

The Lessee may at any time end this Lease by giving not less than six months' notice in writing to the Lessor. At the end of the notice period the Lease will end and the Lessee will pay a further 12 months' rent to the Lessor, who agrees to accept that sum in full and final satisfaction of all claims, loss and damage which the Lessor could otherwise claim because the Lease has ended early but without prejudice to any breach of this Lease by the Lessee which occurred before the Lease ended.

29 Breach

Despite anything else in this Lease, the Lessor agrees that, if the Lessee breaches any terms or conditions of this Lease, the Lessor must not in any circumstances cancel this Lease or re-enter into possession but may seek such other remedies which are lawfully available to it.

30 Notice of Breach

- 30.1 Despite anything expressed or implied in this Lease, the Lessor will not exercise its rights under clause 29 unless the Lessor has first given the Lessee written notice of the breach on which the Lessor relies and given the Lessee an opportunity to remedy the breach as provided below:
 - (a) by paying the Lessor all money necessary to remedy the breach within one month of the notice; or
 - (b) by undertaking in writing to the Lessor within one month of the notice to remedy the breach and then remedying it within a reasonable time having regard to the nature and extent of it; or
 - (c) by paying to the Lessor within three months of the notice compensation of an amount that is to the reasonable satisfaction of the Lessor in respect of the breach having regard to the nature and extent of it.

30.2 If the Lessee remedies the breach in one of the ways set out above the Lessor will not be entitled to rely on the breach set out in the notice to the Lessee and this Lease will continue as if no such breach had occurred.

31 Renewal

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- 31.1 If the Lessee has performed its obligations under this Lease the Lessor agrees that the Lease will automatically be renewed in perpetuity every 21 years beginning with on the 21st anniversary of the Start Date for a further 21 year period unless the Lessee gives written notice to the Lessor at least six months before the expiry of the current Term that it does not wish the Lease to be renewed.
- 31.2 The renewed lease will be on the terms and conditions expressed or implied in this Lease, including this right of renewal, provide that either party may initiate the rent review process in accordance with clause 3.

32 Right of First Refusal for Lessor's Interest

- 32.1 If at any time before the expiry or earlier termination of the Term, the Lessor:
 - (a) decides to sell or transfer the Lessor's interest in the Land; or
 - (b) receives an offer to purchase the Lessor's interest in the Land and wishes to accept that offer;

the Lessor must immediately give written notice (Lessor's Notice) to the Lessee setting out the terms on which the Lessor wishes to sell the Land, or the terms of the offer received (as the case may be). In the case of the Lessor's desire to sell, the offer must comprise the agreement for sale and purchase in the then most recent form approved by the Real Estate Institute of New Zealand and by the Auckland District Law Society.

- 32.2 The Lessee will have 60 working days after and excluding the date of receipt of the Lessor's Notice (time being of the essence) in which to exercise the Lessee's right to purchase the Land, by serving written notice on the Lessor (Lessee's Notice) accepting the offer contained in the Lessor's Notice.
- 32.3 If the Lessee does not serve the Lessee's Notice on the Lessor in accordance with clause 32.2, then the Lessor may sell or transfer the Lessor's interest in the Land to any other person on no more favourable terms than those previously offered to the Lessee.
- 32.4 If the Lessor wishes, or agrees, to offer more favourable terms for selling or transfer of the Lessor's interest in the Land than the terms contained in the Lessor's Notice, the Lessor must first re-offer its interest in the Land to the Lessee on those terms, by written notice to the Lessee and clauses 32.1 32.4 (inclusive) shall apply and if the re-offer is made within six months of the Lessor's Notice the 60 working day period shall be reduced to 30 working days.
- 32.5 The Lessor may dispose of the Lessor's interest in the Land to a fully owned subsidiary of the Lessor and the consent of the Lessee shall not be required and the lessee's right to purchase the land under clause 32 will not apply.

33 Entire Agreement

This Lease sets out the entire agreement between the parties in relation to the lease of the Land and any variation must be recorded in writing and executed in the same way as this Lease.

34 Disputes

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The parties will try to resolve all disputes by negotiations in good faith. If negotiations are not successful, the parties will refer the dispute to the arbitration of two arbitrators (one to be appointed by each party) and an umpire (to be appointed by the arbitrators before arbitration) in accordance with the Arbitration Act 1996.

35 Service of Notices

35.1 Notices given under this Lease by the Lessor must be served on the Lessee by hand delivery or by registered mail addressed to:

The Secretary for Education Ministry of Education Private Bag 1666 WELLINGTON.

35.2 Notices given under this Lease by the Lessee must be served on the Lessor by hand delivery or by registered mail addressed to:

Ngāti Manuhiri Settlement Trust PO Box 57 Leigh 09**47**

35.3 Hand delivered notices will be deemed to be served at the time of delivery. Notices sent by registered mail will be deemed to be served two days after posting.

36 Registration of Lease

The parties acknowledge their agreement that the Lessee may at its expense register this Lease under the Land Transfer Act 1952. The Lessor agrees to make title available for that purpose and consents to the Lessee caveating title to protect its interest in the Lease before registration.

37 Costs

The parties will pay their own costs relating to the negotiation, preparation and execution of this Lease and any renewal, variation or surrender of the lease.

LESSOR:

LESSEE:

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HER MAJESTY THE QUEEN acting by and through the Secretary for Education

MEMORANDUM OF LEASE

THE SECRETARY FOR EDUCATION MINISTRY OF EDUCATION NATIONAL OFFICE WELLINGTON

8: DEED OF COVENANT

8 DEED OF COVENANT

THIS DEED is made

BETWEEN

[Insert the names of the trustees of the Ngāti Manuhiri Settlement Trust] (the "governance entity")

AND

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THE CROWN

BACKGROUND

- A. Under a deed of settlement dated [] between Ngāti Manuhiri and the Crown (the "deed of settlement"), the Crown agreed, subject to the terms and conditions specified in the deed of settlement, to provide certain redress to an entity to be established under clause 7.6.1 of the deed of settlement.
- B. The governance entity was established on [date] as the entity to:
 - be established by Ngāti Manuhiri under clause 7.6.1 of the deed of settlement; and
 - receive the redress to be provided to the governance entity under the deed of settlement.
- C. As required by clause 7.6.2 of the deed of settlement, the governance entity enters into this deed with the Crown.
- IT IS AGREED as follows:

1 COVENANT

- 1.1 The governance entity covenants with the Crown that, from the date of this deed, the governance entity:
 - 1.1.1 is a party to the deed of settlement as if it had been named as a party to the deed of settlement and had signed it;
 - 1.1.2 must comply with all the obligations of the governance entity under the deed of settlement; and
 - 1.1.3 is bound by the terms of the deed of settlement.

2 RATIFICATION AND CONFIRMATION OF ACKNOWLEDGEMENTS AND ACTIONS

2.1 The governance entity ratifies and confirms:

8: DEED OF COVENANT

- 2.1.1 all acknowledgements and agreements made by Ngāti Manuhiri in the deed of settlement; and
- 2.1.2 all rights and powers exercised, all waivers given, all amendments agreed to, and any other actions taken in relation to the deed of settlement, by the mandated negotiators and agrees to be bound by them.

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3 INTERPRETATION

- 3.1 Unless the context requires otherwise:
 - 3.1.1 terms or expressions defined in the deed of settlement have the same meanings in this deed; and
 - 3.1.2 the rules of interpretation in the deed of settlement apply (with all appropriate changes) to this deed.

SIGNED as a deed on [

[Insert appropriate signing provisions for the governance entity]

]

WITNESS

Name:

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Occupation:

Address:

8: DEED OF COVENANT

SIGNED for and on behalf of **THE CROWN** in right of New Zealand by the Minister in Charge of Treaty of Waitangi Negotiations in the presence of:

Name:

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Occupation:

Address: