NGAI TAI

and

[***Governance entity***]

and

THE CROWN

DEED OF SETTLEMENT SCHEDULE:

GENERAL MATTERS

Initialling version for presentation to Ngai Tai

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1 IMPLEMENTATION OF SETTLEMENT

1.1. The governance entity must use best endeavours to ensure that every historical claim proceeding is discontinued –

1.1.1. by the settlement date; or

1.1.2. as soon as practicable after the settlement date.

1.2. After the settlement date, the Crown may do all or any of the following:

1.2.1. advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement;

1.2.2. request the Waitangi Tribunal to amend its register of claims, and adapt its procedures, to reflect the settlement;

1.2.3. from time to time propose for introduction to the House of Representatives a bill or bills for either or both of the following purposes:

(a) terminating any historical claim proceeding;

(b) giving further effect to this deed, including achieving –

(i) certainty in relation to a party's rights and/or obligations; and/or

(ii) a final and durable settlement.

1.3. The Crown may cease, in relation to Ngai Tai or a representative entity, any land bank arrangements, except to the extent necessary to comply with its obligations under this deed.

1.4. Ngai Tai and every representative entity must –

1.4.1. support a bill referred to in paragraph 1.2.3; and

1.4.2. not object to a bill removing resumptive memorials from any record of title.

2 INTEREST

2.1. The Crown must pay interest on the financial and commercial redress amount to the governance entity on the settlement date.

2.2. The interest is payable –

2.2.1. for the period –

(a) beginning on the date of the agreement in principle; and

(b) ending on the day before the settlement date; and

2.2.2. at the rate from time to time set as the official cash rate by the Reserve Bank, calculated on a daily basis but not compounding.

2.3. The interest is –

2.3.1. subject to any tax payable in relation to it; and

2.3.2. payable after withholding any tax required by legislation to be withheld.

3 TAX

INDEMNITY

3.1. The provision of Crown redress, or an indemnity payment, to the governance entity is not intended to be –

3.1.1. a taxable supply for GST purposes; or

3.1.2. assessable income for income tax purposes.

3.2. The Crown must, therefore, indemnify the governance entity for –

3.2.1. any GST payable by the governance entity in respect of the provision of Crown redress or an indemnity payment; and

3.2.2. any income tax payable by the governance entity as a result of any Crown redress, or an indemnity payment, being treated as assessable income of the governance entity; and

3.2.3. any reasonable cost or liability incurred by the governance entity in taking, at the Crown's direction, action –

(a) relating to an indemnity demand; or

(b) under paragraph 3.13 or paragraph 3.14.1(b).

LIMITS

3.3. The tax indemnity does not apply to the following (which are subject to normal tax treatment):

3.3.1. interest paid under part 2;

3.3.2. the transfer of the deferred selection property or RFR land under the settlement documentation;

3.3.3. the governance entity's –

(a) use of Crown redress or an indemnity payment; or

(b) payment of costs, or any other amounts, in relation to Crown redress.

ACKNOWLEDGEMENTS

3.4. To avoid doubt, the parties acknowledge –

3.4.1. the Crown redress is provided –

(a) to settle the historical claims; and

(b) with no other consideration being provided; and

3.4.2. in particular, the following are not consideration for the Crown redress:

(a) an agreement under this deed to –

(i) enter into an encumbrance, or other obligation, in relation to Crown redress; or

(ii) pay costs (such as rates, or other outgoings, or maintenance costs) in relation to Crown redress:

(b) the performance of that agreement; and

3.4.3. nothing in this part is intended to imply that –

(a) the provision of Crown redress, or an indemnity payment, is –

(i) a taxable supply for GST purposes; or

(ii) assessable income for income tax purposes; or

(b) if the governance entity is a charitable trust, or other charitable entity, it receives –

(i) redress, assets, or rights other than for charitable purposes; or

(ii) income other than as exempt income for income tax purposes; and

3.4.4. the transfer of the deferred selection property or RFR land under the settlement documentation is a taxable supply for GST purposes; and

3.4.5. the governance entity is the only entity that this deed contemplates performing a function described in section HF 2(2)(d)(i) or section HF 2(3)(e)(i) of the Income Tax Act 2007.

CONSISTENT ACTIONS

3.5. None of the governance entity, a person associated with it, or the Crown will act in a manner that is inconsistent with this part 3.

3.6. In particular, the governance entity agrees that –

3.6.1. from the settlement date, it will be a registered person for GST purposes, unless it is not carrying on a taxable activity; and

3.6.2. neither it, nor any person associated with it, will claim with respect to the provision of Crown redress, or an indemnity payment, –

(a) an input credit for GST purposes; or

(b) a deduction for income tax purposes.

INDEMNITY DEMANDS

3.7. The governance entity and the Crown must give notice to the other as soon as reasonably possible after becoming aware that the governance entity may be entitled to an indemnity payment.

3.8. An indemnity demand –

3.8.1. may be made at any time after the settlement date; but

3.8.2. must not be made more than 20 working days before the due date for payment of the tax, whether that date is –

(a) specified in an assessment; or

(b) a date for the payment of provisional tax; or

(c) otherwise determined; and

3.8.3. must be accompanied by –

(a) evidence of the tax, and of any other amount sought, which is reasonably satisfactory to the Crown; and

(b) if the demand relates to GST and the Crown requires it, taxable supply information.

INDEMNITY PAYMENTS

3.9. If the governance entity is entitled to an indemnity payment, the Crown may make the payment to –

3.9.1. the governance entity; or

3.9.2. the Commissioner of Inland Revenue, on behalf of, and for the account of, the governance entity.

3.10. The governance entity must pay an indemnity payment received by it to the Commissioner of Inland Revenue, by the later of –

3.10.1. the due date for payment of the tax; or

3.10.2. the next working day after receiving the indemnity payment.

REPAYMENT

3.11. If it is determined that some or all of the tax to which an indemnity payment relates is not payable, the governance entity must promptly repay to the Crown any amount that –

3.11.1. the Commissioner of Inland Revenue refunds or credits to the governance entity; or

3.11.2. the governance entity has received but has not paid, and is not required to pay, to the Commissioner of Inland Revenue.

3.12. The governance entity has no right of set-off or counterclaim in relation to an amount payable by it under paragraph 3.11.

RULINGS

3.13. The governance entity must assist the Crown with an application to the Commissioner of Inland Revenue for a ruling, whether binding or not, in relation to the provision of Crown redress.

CONTROL OF DISPUTES

3.14. If the governance entity is entitled to an indemnity payment, the Crown may –

3.14.1. by notice to the governance entity, require it to –

(a) exercise a right to defer the payment of tax; and/or

(b) take any action specified by the Crown, and confirmed by expert legal tax advice as appropriate action in the circumstances, to respond to, and/or contest, -

(i) a tax assessment; and/or

(ii) a notice in relation to the tax, including a notice of proposed adjustment; or

3.14.2. nominate and instruct counsel on behalf of the governance entity whenever it exercises its rights under paragraph 3.14.1; and

3.14.3. recover from the Commissioner of Inland Revenue any tax paid that is refundable.

DEFINITIONS

3.15. In this part, unless the context requires otherwise, –

provision, in relation to redress, includes its payment, credit, transfer, vesting, making available, creation, or grant; and

taxable supply information has the definition given to it in the Goods and Services Tax Act 1985; and

use, in relation to redress or an indemnity payment, includes dealing with, payment, transfer, distribution, or application.

4 NOTICE

APPLICATION

4.1. Unless otherwise provided in this deed, or a settlement document, this part applies to a notice under this deed or a settlement document.

4.2. In particular, this part is subject to the provisions of part 6 of the property redress schedule which provides for notice to the Crown in relation to, or in connection with, a cultural redress property or the deferred selection property.

REQUIREMENTS

4.3. A notice must be –

4.3.1. in writing; and

4.3.2. signed by the person giving it [(but, if the governance entity is giving the notice, it is effective if not less than [three] trustees sign it)]; and

4.3.3. addressed to the recipient at its address, facsimile number, or email address as provided –

(a) in paragraph 4.6; or

(b) if the recipient has given notice of a new address, facsimile number or email address, in the most recent notice of a change of address, facsimile number or email address; and

4.3.4. given by –

(a) personal delivery (including by courier) to the recipient's street address; or

(b) sending it by pre-paid post addressed to the recipient's postal address; or

(c) by faxing it to the recipient's facsimile number; or

(d) sending it by electronic mail to the recipient's email address.

TIMING

4.4. A notice is to be treated as having been received:

4.4.1. at the time of delivery, if personally delivered; or

4.4.2. on the sixth day after posting, if posted; or

4.4.3. on the day of transmission, if faxed or sent by electronic mail.

4.5. However, if a notice is treated under paragraph 4.4 as having been received after 5pm on a working day, or on a non-working day, it is to be treated as having been received on the next working day.

ADDRESSES

4.6. The address of –

4.6.1. Ngai Tai and the governance entity is –

[*address*]

4.6.2. the Crown is –

C/- The Solicitor-General
Crown Law Office
Level 3
Justice Centre
19 Aitken Street
PO Box 2858
WELLINGTON

Facsimile No. 04 473 3482

Email address library@crownlaw.govt.nz

5 MISCELLANEOUS

AMENDMENTS

5.1. This deed may be amended only by written agreement signed by the governance entity and the Crown.

ENTIRE AGREEMENT

5.2. This deed, and each of the settlement documents, in relation to the matters in it, –

5.2.1. constitutes the entire agreement between the parties; and

5.2.2. supersedes all earlier representations, understandings, and agreements.

NO ASSIGNMENT OR WAIVER

5.3. Paragraph 5.4 applies to rights and obligations under this deed or a settlement document.

5.4. Except as provided in this deed or a settlement document, a party –

5.4.1. may not transfer or assign its rights or obligations; and

5.4.2. does not waive a right by –

(a) failing to exercise it; or

(b) delaying in exercising it; and

5.4.3. is not precluded by a single or partial exercise of a right from exercising –

(a) that right again; or

(b) another right.

NAMES USED IN PLACE OF OFFICIAL OR RECORDED GEOGRAPHIC NAMES

5.5. The following is a list of each name used in this deed that is not the official or recorded geographic name for the place or feature.

Name used in deed	**Official or recorded name**
Wainui te Awa	Tōrere River
Wai Tii te Awa	Waiiti Stream
Hāpaua	Hapaoa
Rakaukatihi	Rakaukahi

Kāwhia	Kawhia
Tūranga, Tūranganui	Gisborne
Hukanui Hill	Hukanui

6 DEFINED TERMS

6.1. In this deed, –

administering body has the meaning given to it by section 2(1) of the Reserves Act 1977; and

agreement in principle means the agreement in principle referred to in clause 1.26.2; and

assessable income has the meaning given to it by section YA 1 of the Income Tax Act 2007; and

attachments means the attachments to this deed, being the settlement redress area, the deed plans, the Ngai Tai aquaculture space, the RFR land, and the draft settlement bill; and

Commissioner of Crown Lands has the same meaning as Commissioner in section 2 of the Land Act 1948; and

Commissioner of Inland Revenue includes, where applicable, the Inland Revenue Department; and

consent authority has the meaning given to it by section 2(1) of the Resource Management Act 1991; and

conservation board means a board established under section 6L of the Conservation Act 1987; and

conservation document means the conservation management strategy, conservation management plan or national park management plan; and

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

Crown minerals protocol means the Crown minerals protocol in the documents schedule; and

Crown redress –

(a) means redress –

(i) provided by the Crown to the governance entity; or

(ii) vested by the settlement legislation in the governance entity that was, immediately prior to the vesting, owned by or vested in the Crown; and

(b) includes the right of the governance entity under the settlement documentation –

(i) to acquire the deferred selection property; and

(ii) of first refusal in relation to RFR land; and

(c) includes any part of the Crown redress; and

(d) does not include –

(i) an obligation of the Crown under the settlement documentation to transfer the deferred selection property or RFR land; or

(ii) the deferred selection property or RFR land; or

(iii) any on-account payment made to entities other than the governance entity; and

cultural redress means the redress provided by or under –

(a) clauses 5.1 to 5.36; or

(b) the settlement legislation giving effect to any of those clauses; and

cultural redress property means each property described in schedule 2 of the draft settlement bill; and

Culture and Heritage Party means each of the following agencies:

(a) Department of Internal Affairs Te Tari Taiwhenua (the agency responsible for the National Library of New Zealand Te Puna Mātauranga o Aotearoa and Archives New Zealand Te Rua Mahara o Te Kāwanatanga);

(b) Heritage New Zealand Pouhere Taonga;

(c) Manatū Taonga - Ministry for Culture and Heritage; and

(d) Museum of New Zealand Te Papa Tongarewa; and

date of this deed means the date this deed is signed by the parties; and

deed of settlement and **deed** means the main body of this deed, the schedules, and the attachments; and

deed plan means a deed plan in the attachments; and

deferred selection period means, in relation to the deferred selection property, the period starting on settlement date and lasting for 5 years from that date; and

deferred selection property means the property described in part 3 of the property redress schedule; and

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

documents schedule means the documents schedule to this deed; and

draft settlement bill means the draft settlement bill in the attachments; and

eligible members of Ngai Tai means a member of Ngai Tai who on [*date*] was –

(a) [aged 18 years or over]; and

(b) [registered on the register of members of Ngai Tai kept by the Ngaitai Iwi Authority for the purpose of voting on –

(i) the ratification, and signing, of this deed; and

(ii) the approval of the governance entity to receive the redress]; and

encumbrance, in relation to a property, means a lease, tenancy, licence, licence to occupy, easement, covenant, or other right or obligation, affecting that property; and

Environment Court means the court referred to in section 247 of the Resource Management Act 1991; and

financial and commercial redress means the redress provided by or under –

(a) clauses 6.1 to 6.12;

(b) the settlement legislation giving effect to any of those clauses; and

financial and commercial redress amount means the amount referred to in clause 6.1 as the financial and commercial redress amount; and

general matters schedule means this schedule; and

governance entity means the trustees of the [*name*] Trust, in their capacity as trustees of the [*name*] Trust; and

[***name***] **Trust** means the trust known by that name and established by a trust deed dated [*date*] and signed by [*name, place of residence, and occupation of signatories*]; and

GST –

(a) means goods and services tax chargeable under the Goods and Services Tax Act 1985; and

(b) includes, for the purposes of part 3 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of GST; and

Heritage New Zealand Pouhere Taonga means the Crown entity established by section 9 of the Heritage New Zealand Pouhere Taonga Act 2014; and

historical claim proceeding means an historical claim made in any court, tribunal, or other judicial body; and

historical claims has the meaning given to it by clauses 8.2 to 8.4; and

income tax means:

(a) income tax imposed under the Income Tax Act 2007; and

(b) includes, for the purposes of part 3 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of income tax; and

indemnity demand means a demand made by the governance entity to the Crown under part 3 of this schedule for an indemnity payment; and

indemnity payment means a payment made by the Crown under part 3 of this schedule; and

land holding agency, in relation to, -

(a) Te Kura o Tōrere, means the Ministry of Education; and

(b) all other cultural redress properties, means the Department of Conservation; and

(c) the deferred selection property, means the department specified in part 3 of the property redress schedule; and

LINZ means Land Information New Zealand; and

main body of this deed means all of this deed, other than the schedules and attachments; and

mandated negotiators means the individuals identified as the mandated negotiators by clause 8.8.1; and

mandated signatories means the individuals identified as the mandated signatories by clause 8.8.2; and

member of Ngai Tai means an individual referred to in clause 8.6.1; and

Minister means a Minister of the Crown; and

month means a calendar month; and

Ngā Hapū o Te Whānau a Apanui governance entity means the governance entity that receives the redress under the settlement legislation that settles the historical Treaty claims of Ngā Hapū o Te Whānau a Apanui; and

Ngā Hapū o Te Whānau a Apanui settlement legislation means the legislation that settles the historical Treaty claims of Ngā Hapū o Te Whānau a Apanui; and

Ngai Tai has the meaning given to it by clause 8.6; and

notice means a notice given under part 4 of this schedule, or any other applicable provisions of this deed, and notify has a corresponding meaning; and

Oroi Scenic Reserve means the reserve named Te Whenua o Te Whakatōhea – Oroi Scenic Reserve, as provided for under section 66(4) of the Whakatōhea Claims Settlement Act 2024; and

party means each of the following:

(a) Ngai Tai;

(b) the governance entity;

(c) the Crown; and

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

primary industries protocol means the primary industries protocol in the documents schedule; and

property redress schedule means the property redress schedule to this deed; and

protection principles means the protection principles in the documents schedule; and

protocol means a **protocol** issued under clause 5.4 and the settlement legislation; and

purchased deferred selection property means the deferred selection property, if the governance entity and the Crown are to be treated under paragraph 4.4 of the property redress schedule as having entered into an agreement for its sale and purchase; and

redress means –

(a) the acknowledgement and the apology made by the Crown under clauses 3.1 to 3.28; and

(b) the cultural redress; and

(c) the financial and commercial redress; and

relevant consent authority for a statutory area, means a consent authority of a region or district that contains, or is adjacent to, the statutory area; and

representative entity means –

(a) the governance entity; and

(b) a person (including any trustee or trustees) acting for or on behalf of:

(i) the collective group referred to in clause 8.6.1; or

(ii) any one or more members of Ngai Tai; or

(iii) any one or more of the whānau, hāpu, or groups of individuals referred to in clause 8.6.2; and

resource consent has the meaning given to it by section 2(1) of the Resource Management Act 1991; and

responsible Minister has the meaning given to it by section 22 of the draft settlement bill; and

resumptive memorial means a memorial entered on a record of title under any of the following sections:

(a) 27A of the State-Owned Enterprises Act 1986;

(b) 568 of the Education and Training Act 2020; and

(c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

RFR land means:

land listed in part 6 of the attachments that, on the settlement date, -

(a) is vested in the Crown; or

(b) the fee simple for which is held by the Crown; and

schedules means the schedules to this deed, being the general matters schedule, the property redress schedule, and the documents schedule; and

settlement means the settlement of the historical claims under this deed and the settlement legislation; and

settlement date means the date that is 40 working days after the date on which the settlement legislation comes into force; and

settlement document means a document entered into to give effect to this deed; and

settlement documentation means this deed and the settlement legislation; and

settlement legislation means, if the bill proposed by the Crown for introduction to the House of Representatives is passed, the resulting Act; and

settlement redress area means the area identified as the settlement redress area in the attachments; and

statement of association means each statement of association in the documents schedule; and

statutory area means an area listed in clause 5.1.1; and

statutory acknowledgement has the meaning given to it by section 29 of the draft settlement bill; and

tax includes income tax and GST; and

taxable activity has the meaning given to it by section 6 of the Goods and Services Tax Act 1985; and

taxable supply has the meaning given to it by section 2 of the Goods and Services Tax Act 1985; and

tax indemnity means an indemnity given by the Crown under part 3 of this schedule; and

terms of negotiation means the terms of negotiation referred to in clause 1.132.1; and

Te Rūnanga o Te Whānau Trust means the board incorporated under the Charitable Trust Act 1957 on 13 November 1988; and

transfer value, in relation to the deferred selection property, has the meaning given to it in part 7 of the property redress schedule; and

Treaty of Waitangi means the Treaty of Waitangi as set out in schedule 1 to the Treaty of Waitangi Act 1975; and

trustees of the [*name*] Trust means the trustees from time to time of the [*name*] Trust; and

vesting, in relation to a cultural redress property, means its vesting under the settlement legislation; and

Waitangi Tribunal means the tribunal established by section 4 of the Treaty of Waitangi Act 1975; and

Whakaaetanga Tiaki Taonga means the Whakaaetanga Tiaki Taonga in part 4 of the documents schedule; and

whāngai means customary adoption in accordance with the tikanga of the group concerned; and

working day means a day that is not –

(a) a Saturday or a Sunday; or

(b) Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Te Rā Aro ki a Matariki/Matariki Observance Day or Labour Day; or

(c) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday; or

(d) a day in the period commencing with 25 December in any year and ending with 15 January in the following year; or

(e) a day that is observed as the anniversary of the province of –

(i) Wellington; or

(ii) Auckland; and

writing means representation in a visible form and on a tangible medium (such as print on paper) and includes communication by electronic means.

7 INTERPRETATION

7.1. This part applies to this deed's interpretation, unless the context requires a different interpretation.

7.2. Headings do not affect the interpretation.

7.3. A term defined by –

7.3.1. this deed has the meaning given to it by this deed; and

7.3.2. the draft settlement bill, but not by this deed, has the meaning given to it by that bill.

7.4. All parts of speech and grammatical forms of a defined term have corresponding meanings.

7.5. The singular includes the plural and vice versa.

7.6. One gender includes the other genders.

7.7. Any monetary amount is in New Zealand currency.

7.8. Time is New Zealand time.

7.9. Something that must or may be done on a day that is not a working day must or may be done on the next working day.

7.10. A period of time specified as –

7.10.1. beginning on, at, or with a specified day, act, or event includes that day or the day of the act or event; or

7.10.2. beginning from or after a specified day, act, or event does not include that day or the day of the act or event; or

7.10.3. ending by, on, at, with, or not later than, a specified day, act, or event includes that day or the day of the act or event; or

7.10.4. ending before a specified day, act or event does not include that day or the day of the act or event; or

7.10.5. continuing to or until a specified day, act, or event includes that day or the day of the act or event.

7.11. A reference to –

7.11.1. an agreement or document, including this deed or a document in the documents schedule, means that agreement or that document as amended, novated, or replaced; and

7.11.2. legislation, including the settlement legislation, means that legislation as amended, consolidated, or substituted; and

7.11.3. a party includes a permitted successor of that party; and

7.11.4. a particular Minister includes any Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the relevant matter.

7.12. An agreement by two or more persons binds them jointly and severally.

7.13. If the Crown must endeavour to do something or achieve some result, the Crown-

7.13.1. must use reasonable endeavours to do that thing or achieve that result; but

7.13.2. is not required to propose for introduction to the House of Representatives any legislation, unless expressly required by this deed.

7.14. Provisions in –

7.14.1. the main body of this deed are referred to as clauses; and

7.14.2. the property redress and general matters schedules are referred to as paragraphs; and

7.14.3. the documents in the documents schedule are referred to as clauses; and

7.14.4. the draft settlement bill are referred to as sections.

7.15. If there is a conflict between a provision that is –

7.15.1. in the main body of this deed and a provision in a schedule or an attachment, the provision in the main body of the deed prevails; and

7.15.2. in English and a corresponding provision in Māori, the provision in English prevails.

7.16. The deed plans in the attachments that are referred to in the statutory acknowledgements indicate the general locations of the relevant areas but not their precise boundaries.

7.17. The deed plans in the attachments that show the cultural redress properties indicate the general locations of the relevant properties but are for information purposes only and do not show their precise boundaries. The legal descriptions for the cultural redress properties are shown in schedule 2 of the draft settlement bill.