NGAI TĀMANUHIRI

and

TRUSTEES OF THE TĀMANUHIRI TUTU POROPORO TRUST

and

THE CROWN

DEED OF SETTLEMENT SCHEDULE: DOCUMENTS

TABLE OF CONTENTS

1 STATEMENTS OF ASSOCIATION 1

2 PROTOCOLS 4

3 LEASE FOR THE MURIWAI SCHOOL DSP SITE 61

4 RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT 78

5 MUSEUMS 87

6 CONSTITUTION OF WHARERATA FOREST LIMITED 89

7 SHAREHOLDERS' AGREEMENT AND TRUST DEED 119

1 STATEMENTS OF ASSOCIATION

Statutory Acknowledgement (clause 5.7)

Ngai Tāmanuhiri's statements of association are set out below. These are statements of Ngai Tāmanuhiri's particular cultural, spiritual, historical, and traditional association with identified areas (to the extent that these areas are within the area of interest).

Waipaoa River **(including Karaua Stream)** (as shown on deed plan OTS-005-006)

1. Waipaoa River **(including the Karaua Stream)**

   a. The Waipaoa River is culturally and spiritually significant to Ngai Tāmanuhiri as it forms part of the history relating to the arrival of Paoa, the Captain of the Horouta Waka. Its creation is encapsulated in the Haka Taparahi, Haramai a Paoa, which was written and first performed by Ngai Tāmanuhiri in 1863 –

"... Ki Kai Kama Kama,	*"... at Kai Kama Kama*
Ka mia mai tona mimi,	*Paoa answered the call of nature*
Rere ana Motu,	*hence the Motu River*
Rere ana Waipaoa	*and the Waipaoa River*
Ko Kopututea, te putanga	*Kopututea is the outlet of Waipaoa*
Ki waho ki te moana	*to the Pacific ocean ..."*

   b. The Haka Taparahi identifies that in the time of Paoa, the Waipaoa River mouth was at Kopututea, which is the northern coastal boundary of Ngai Tāmanuhiri rohe. The River mouth has changed its position many times over the years; at one time the River outlet was near Te Kuri a Paoa. These changes in course have impacted on Ngai Tāmanuhiri in a number of ways. However, Ngai Tāmanuhiri maintain that the land block known as Kopututea has not moved. Therefore based on the time of the writing of the Haka Taparahi, the mouth of the Waipaoa outlet in the 1860's was at Kopututea, which still exists today.

   c. The Karaua stream is one of the many waterways that flow from the Waipaoa River. It is a northern inland boundary marker for Ngai Tāmanuhiri. Karaua served as a spiritual protector. It possessed innate qualities that would disempower or kill Tohunga who tried to cross it and enter Ngai Tāmanuhiri's rohe. It is said that Te Kooti knew of Karaua's protective qualities and never crossed it for fear of losing his spiritual capabilities.

Ngai Tāmanuhiri Coastal Marine Area (as shown on deed plan OTS-005-005)

2. **Ngai Tāmanuhiri Coastal Marine Area**

a. Ngai Tāmanuhiri is a coastal iwi that has a strong association to the Moana. Ngai Tāmanuhiri considers it has continued to exercise mana whenua, mana moana and Kaitiekitanga over the coastal marine area in its rohe. The iwi coastal boundaries begin at Kopututea and extend to Paritu. The Hauraki stream, adjacent to Paritu, cascades from the height of the cliff face into the moana. This stream is the southern boundary marker for Ngai Tāmanuhiri.

b. There are numerous Pa sites and urupa dotted along the coastline which is evidence of Ngai Tāmanuhiri's ongoing relationship with the moana. In some places like Rangihaua and Umukehe the middens, terraces or kumara pits are still visually apparent.

c. Offshore kaimoana –

i. Ngai Tāmanuhiri has 21 taunga ika which carry names of Ngai Tāmanuhiri ancestors or are named after events significant to Ngai Tāmanuhiri. Today, the people of Ngai Tāmanuhiri still maintain their customary fishing practices by using the historic coastal land markers to identify taunga ika.

ii. The taunga ika are places where particular kaimoana, like koura, kina or fish are found.

d. Inshore Kaimoana –

i. In past times, unique delicacies existed like the special paua with fluorescent pink qualities. Ngai Tāmanuhiri Tipuna used the shell of this paua to make kahawai lures, jewellery and to adorn carvings. Titi were also abundant as were flounder, a variety of bubu and pipi. Karengo remains available today and some still practice the traditional harvesting methods to ensure regeneration.

ii. Ngai Tāmanuhiri is carefully managing a restoration project that may assist in the return, or increase of, these delicacies. The iwi is an ongoing advocate for the preservation and protection of the coastal environmental.

e. Kaitieki –

Ngai Tāmanuhiri has various Kaitieki that protect the moana. These include the Moremore (Bob tail shark), Mango (white pointer), Mangopare (hammerhead shark), Whiore (tail-less shark), Wheke (octopus) and Whai (Stingray). There are different areas along the coast which have different Kaitieki specific to them.

f. Currents and tides –

Ngai Tāmanuhiri tangata hi ika are adept in the currents and tides that flow within their mana moana. Knowledge of these tides provides measures of safety and has assisted in rescue and recovery.

g. Ngai Tāmanuhiri has a cultural duty to protect its interest in the long term sustainability of the Tūranga coastal marine area for future generations. Ngai Tāmanuhiri seeks to increase its capacity to enable:

i. Land access to traditional fishing spots and kaimoana areas.
ii. Protection, rejuvenation and ownership of kaimoana.
iii. Retention of traditional methods of harvesting and preserving kaimoana.
iv. Retention of traditional knowledge of tangata hi ika.
v. Establishment of nohonga.
vi. Minimise environmental issues and participate in the conservation of the coastal marine area.

Non-Statutory Acknowledgement (clause 5.9)

1. **Tūranga Whānui**

a. Ngai Tāmanuhiri and their Tūranga whanaunga Rongowhakaata and Te Aitanga-ā-Mahaki, trace descent from a number of common ancestors, including Kiwa, after whom their takiwā, Tūranganui-a-Kiwa is named; Paoa, who explored the hinterland, and Ruapani, from whom many important lines of descent converge.

b. Notwithstanding the connections to their wider Tūranga whānau, it is through Tuapaoa, his father, Rakaiataane and grandfather, Tawiri-o-te-Rangi that cements Ngai Tāmanuhiri whakapapa to the north east of Tūranganui-a-Kiwa. Rakaiataane settled at Tatapouri where he established his iwi, Ngāti Rakai. His father was the brother of Tutekawa and a son of Rangiwaho and Rongomaiwaiata.

c. Rakaiataane claimed land from Tatapouri to Puhi-Kai-iti. He married Hinewhakaangi, a great-grand daughter of Mahaki, and they had a son called Tuapaoa who became chief of Ngāti Rakai. During his time, Tuapaoa was involved in fighting around Titirangi and Kai-iti, and through conquest he took control of much of the land on the Eastern side of Tūranga River and around the base of Kai-iti hill including Te Poho-o-Rawiri. It is through Tuapaoa's two children, Te Ika Ataahua and Te Hapua that Ngai Tāmanuhiri connections are forged to the north east, and as the wairua of our ancestors is embued in the whenua, it remains of spiritual value.

d. To the north west, Tāmanuhiri had mana to Taumatapoupou. His first wife had a son called Paeaterangi. He caught rats at Tawhiti-o-Paea and had a pa at Te Rae-o-Paea near Pehiri. He had another pa at Taumai-te-rangi, and another at Pauatahanui. Paeaterangi had a son called Puraho who lived at Tarewauru and Maraetaha. Puraho had a son by his wife, Te Aomate, called Tapunga-o-te-Rangi.

e. Tapunga was the paramount chief of Ngāti Paea, a branch of Ngai Tahu, and he enjoyed mana from Pakowhai to Taumatapoupou. He had many rahui lines to protect his pataka and one such rahui was Tawhiti-Karangi which runs from Pakowhai up the back of Tarewauru and out toward Te Reinga. In addition, Tapunga had three children – Rangitauwhiwhia, Haerengarangi and Tawehi. Te Rangitauwhiwhia inherited land around Pakowhai, Te Arai and back to Okahuatiu. Therefore, the importance of the area north west continues to hold cultural and historical value for Ngai Tāmanuhiri.

2 PROTOCOLS

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF CONSERVATION REGARDING DEPARTMENT OF CONSERVATION/ NGAI TĀMANUHIRI INTERACTION ON SPECIFIED ISSUES

1 INTRODUCTION

1.1 Under the Deed of Settlement dated [ ] between Ngai Tāmanuhiri, the governance entity and the Crown (the "Deed of Settlement"), the Crown agreed that the Minister of Conservation (the "Minister") would issue a Protocol ("the Protocol").

1.2 The Protocol sets out the manner in which the Department of Conservation ("the Department") will interact with the governance entity in relation to matters specified in the Protocol. These matters are:

1.1.1 Purpose of the Protocol – Part 2

1.1.2 DOC Protocol Area – Part 3

1.1.3 Terms of Issue – Part 4

1.1.4 Implementation and Communication – Part 5

1.1.5 Business Planning – Part 6

1.1.6 Cultural Materials – Part 7

1.1.7 Historic Resources - Wāhi Tapu – Part 8

1.1.8 Natural Heritage – Part 9

1.1.9 Marine Mammals – Part 10

1.1.10 Species Management – Part 11

1.1.11 Freshwater Fisheries – Part 12

1.1.12 Marine Reserves – Part 13

1.1.13 Pest Control – Part 14

1.1.14 Resource Management Act 1991 – Part 15

1.1.15 Visitor and Public Information – Part 16

1.1.16 Concession Applications – Part 17

1.1.17 Place Names – Part 18

1.1.18 Statutory Land Management – Part 19

1.1.19 Consultation – Part 20

1.1.20 Contracting for Services – Part 21

1.1.21 Protocol Review – Part 22

1.1.22 Definitions – Part 23

1.1.23 Provision of Information – Part 24

Ngai Tāmanuhiri Tikanga and Objectives

1.2 To Ngai Tāmanuhiri, tikanga underpins the ongoing relationship between Ngai Tāmanuhiri and the Department and guides Ngai Tāmanuhiri objectives for this Protocol which include:

1.2.1 ***Mana tangata*** – To achieve improved conservation outcomes for Ngai Tāmanuhiri through actions that include implementing effective planning, management and monitoring systems that protect cultural materials, and the survival of indigenous species and their genetic diversity and natural heritage resources.

1.2.2 ***Mana whenua*** – To achieve improved kaitiekitanga outcomes for Ngai Tāmanuhiri through actions that include the development and implementation of effective strategies and systems that protect wāhi tapu, ancestral lands and other places of cultural significance, natural and historic resources and other taonga.

1.2.3 ***Mana moana*** - To achieve improved freshwater, estuarine and moana outcomes through actions that include the development and implementation of a plan for the preservation, protection of all fish species and the disposal of marine mammals and the prevention, management and control of threats to natural, historic and cultural heritage values.

1.2.4 ***Mana Rangatira*** - To achieve improved conservation outcomes through actions that include collaborative effort between Ngai Tāmanuhiri, and the Department in developing and implementing effective policies, strategies and programmes.

1.2.5 ***Mana Tipuna*** - To achieve improved knowledge outcomes through collaborative research efforts that combine traditional ways of knowing and scientific methodologies on conservation matters.

1.2.6 ***Mana Atua*** - To uphold the principles of tikanga, and to attain the vision of Ngai Tāmanuhiri that includes the achievement of pristine waters and lush natural environments through the protection and sustainability of the domains of Papatuānuku, Tane Mahuta and Tangaroa.

1.3 The Minister and the Director-General acknowledge the importance of Ngai Tāmanuhiri tikanga to the governance entity.

1.4 The Crown and the governance entity agree that Ngai Tāmanuhiri objectives set out in clauses 1.2.1 – 1.2.6:

1.4.1 do not affect how the Minister, Director-General and the Department will exercise their statutory powers, functions and duties in relation to the matters specified in this Protocol; and

1.4.2 do not prevent the Minister, Director-General and the Department from interacting with other iwi or hapu with interests in the DOC Protocol Area.

1.5 The governance entity has a responsibility in relation to the preservation, protection and management of natural and historic resources in the protocol area as kaitieki according to Ngai Tāmanuhiri tikanga. The Department acknowledges this kaitiekitanga role and the burden of maintaining that role.

1.6 Ngai Tāmanuhiri consider that this Protocol provides a process or opportunity by which the Crown seeks to restore its reputation as a Treaty partner.

Section 4 Conservation Act and Department's Functions

1.7 Section 4 of the Conservation Act 1987 ("the Act") states that the Act shall be interpreted and administered as to give effect to the principles of the Treaty of Waitangi. Both the Department and governance entity are committed to establishing and maintaining a positive and collaborative relationship that gives effect to the principles of the Treaty of Waitangi. Those principles provide the basis for an ongoing relationship between the parties to the Protocol to achieve over time the conservation policies, actions and outcomes sought by both the governance entity and the Department.

1.8 The purpose of the Act is to enable the Department "to manage for conservation purposes, all land, and all other natural and historic resources" under that Act and to administer the statutes in the First Schedule to the Act (together, the "Conservation Legislation"). The Minister and Director-General, or their delegates, are required to exercise particular functions, powers and duties under that legislation.

1.9 A primary function of the Department is to manage for conservation purposes various lands, and natural and historic resources. As part of this, one of the Department's key aims is conserving the full range of New Zealand's ecosystems, maintaining or restoring the ecological integrity of managed sites, and ensuring the survival of threatened species, in particular those most at risk of extinction.

2 PURPOSE OF THE PROTOCOL

2.1 The purpose of this Protocol is to assist the Department and the governance entity to exercise their respective responsibilities with the utmost co-operation to achieve over time the conservation policies, actions and outcomes sought by both.

2.2 This Protocol sets out a framework that enables the Department and the governance entity to establish a constructive working relationship that gives effect to section 4 of the Conservation Act. It provides for the governance entity to have meaningful input into certain policy, planning and decision-making processes in the Department's management of Crown conservation lands and fulfilment of statutory responsibilities within the DOC Protocol Area.

3 DOC PROTOCOL AREA

3.1 The Protocol applies across the DOC Protocol Area which means the area identified in the map included in Attachment A of this Protocol.

4 TERMS OF ISSUE

4.1 This Protocol is issued pursuant to subpart 1 of part 2 of the [Ngai Tāmanuhiri Claims Settlement Act 2011] (the "Settlement Legislation") and clause 5.11 of the Deed of Settlement. The provisions of the Settlement Legislation and the Deed of Settlement specifying the terms on which this Protocol is issued are set out in Attachment B of the Protocol.

5 IMPLEMENTATION AND COMMUNICATION

5.1 The Department shall establish and maintain effective and efficient communications with the governance entity on a continuing basis by:

5.1.1 maintaining information on the governance entity's office holders, and their addresses and contact details;

5.1.2 appointing a primary departmental contact for the governance entity who will act as a liaison person with other departmental staff;

5.1.4 providing reasonable opportunities for the governance entity to meet with departmental managers and staff;

5.1.5 holding alternate meetings at the Area Office and a governance entity marae or other venue chosen by the governance entity to discuss issues that may have arisen every six months, unless otherwise agreed. The parties may also, led by the governance entity, arrange for an annual report back to the affiliate iwi and hapu of the governance entity in relation to any matter associated with the implementation of this Protocol; and

5.1.6 training relevant staff and briefing Conservation Board members on the content of the Protocol.

5.2 At the first meeting under clause 5.1.5 (which will occur within 12 months of the Settlement Date) the Department and governance entity will discuss implementation of the Protocol.

5.3 The Department and the governance entity shall, where relevant, inform conservation stakeholders about this Protocol and the Ngai Tāmanuhiri settlement, and provide ongoing information as required.

5.4 The Department shall advise the governance entity of any departmental policy directions and the receipt of any research reports relating to matters of interest to Ngai Tāmanuhiri, within the DOC Protocol Area, and provide copies of such documents to the governance entity to study those reports.

5.5 The Department shall invite the governance entity to participate in specific departmental projects, including education, volunteer and conservation events that may be of interest to Ngai Tāmanuhiri.

5.6 The Department shall advise the governance entity of any upcoming relevant training opportunities within the DOC Protocol Area related to conservation management that may be of interest to Ngai Tāmanuhiri.

5.7 The Department shall advise the governance entity of contestable funds that the Department services and administers relating to the protection of biodiversity, for example the Matauranga Kura Taiao Fund.

5.8 It is acknowledged that the relationship between the Department and the governance entity will also be through the Central Leadership Group established under clauses 5.29 to 5.35 of the Deed of Settlement.

Requests for Cultural/Spiritual Practices

5.9 When the Department requests cultural and/or spiritual practices to be undertaken by Ngai Tāmanuhiri, within the DOC Protocol Area the Department will make a payment, subject to prior mutual agreement, on a fair and reasonable basis, towards the costs of undertaking such practices.

6 BUSINESS PLANNING

6.1 The Department's annual business planning process determines the Department's conservation work priorities.

6.2 The Gisborne Whakatane Area Office Manager will meet with the governance entity on an annual basis to present a synopsis of the Department's proposed work programme as it relates to the DOC Protocol Area.

6.3 The Department shall provide opportunities for the governance entity to be involved in any relevant Conservation Management Strategy reviews or Management Plans, within the DOC Protocol Area.

6.4 The process for the governance entity to identify and/or develop specific projects for consideration by the Department is as follows:

6.4.1 the Department and the governance entity will on an annual basis identify priorities for undertaking specific projects requested by the governance entity. The identified priorities for the upcoming business year will be taken forward by the Department into its business planning process and considered along with other priorities;

6.4.2 the decision on whether any specific projects will be funded in any business year will be made by the relevant Department Manager and East Coast Bay of Plenty Conservator after following the co-operative processes set out above;

6.4.3 if the Department decides to proceed with a specific project requested by the governance entity the governance entity and the Department may meet again to finalise a work plan, timetable and funding before implementation of the specific project in that business year, in accordance with the resources which have been allocated in the business plan; and

6.4.4 if the Department decides not to proceed with a specific project it will communicate to the governance entity the factors that were taken into account in reaching that decision.

6.5 The Department will approach the governance entity with potential departmental projects in the DOC Protocol Area to seek the governance entity's views on those projects, and to

discuss if the governance entity would wish to be involved in or to contribute to those projects.

7 CULTURAL MATERIALS

7.1 For the purpose of this Protocol, cultural materials are plants, plant materials, and materials derived from animals, marine mammals or birds for which the Department is responsible within the DOC Protocol Area and which are important to the governance entity in maintaining and expressing its cultural values and practices.

7.2 Current legislation means that generally some form of concession or permit is required for any gathering and possession of cultural materials.

7.3 In relation to cultural materials, the Minister and/or Director-General shall:

7.3.1 consider and, where appropriate, approve, reasonable requests from the governance entity for access to and use of cultural materials within the DOC Protocol Area when required for cultural purposes, in accordance with the relevant legislation;

7.3.2 advise the governance entity when requests under clause 7.3.1 are not approved and the reasons for this;

7.3.3 consult the governance entity when a request is received from any person or entity for the use of cultural materials;

7.3.4 agree, where appropriate, for the governance entity to have access to cultural materials which become available as a result of departmental operations such as track maintenance or clearance, or culling of species, or where materials become available as a result of accidental death or otherwise through natural causes;

7.3.5 assist, as far as reasonably practicable, the governance entity to obtain plant stock for propagation to reduce the need for plant stock to be gathered from land administered by the Department and to provide advice to the governance entity in the establishment of its own cultivation areas; and

7.3.6 provide, as far as reasonably practicable, ongoing advice to the governance entity for the management and propagation of the plant stock.

7.4 The Department and the governance entity shall discuss the development of procedures for monitoring levels of use of cultural materials in accordance with the relevant legislation and appropriate tikanga.

8 HISTORIC RESOURCES – WĀHI TAPU

8.1 The governance entity consider that their wāhi tapu and other places of cultural heritage significance are taonga (priceless treasures), and the Department will respect the great significance of these taonga by fulfilling the obligations contained in this clause of the Protocol.

8.2 The Department has a statutory role to conserve historic resources in protected areas and shall endeavour to do this for sites of significance to the governance entity in association with the governance entity and according to tikanga.

8.3 The Department accepts that non-disclosure of locations of places known to the governance entity may be an option that the governance entity chooses to take to preserve the wāhi tapu nature of places. There may be situations where the governance entity will ask the Department to treat information it provides on wāhi tapu sites in a confidential way.

8.4 The Department and the governance entity shall work together to establish processes for dealing with information on wāhi tapu sites in a way that recognises both the management challenges that confidentiality can present and provides for the requirements of the governance entity.

8.5 The Department shall work with the governance entity at the Area Office level to respect Ngai Tāmanuhiri values attached to identified wāhi tapu and other places of significance on lands administered by the Department by:

8.5.1 discussing with the governance entity, by the end of the second year of this Protocol being issued and on a continuing basis, practical ways in which Ngai Tāmanuhiri can exercise kaitiekitanga over ancestral lands, natural and historic resources and other taonga managed by the Department within the DOC Protocol Area;

8.5.2 managing sites of historic significance to the governance entity according to standards of conservation practice which care for places of cultural heritage value, their structures, materials and cultural meaning, as outlined in the International Council on Monuments and Sites (ICOMOS) New Zealand Charter 1993, and in co-operation with the governance entity;

8.5.3 informing the governance entity if taonga or koiwi are found within the DOC Protocol Area; and

8.5.4 assisting in recording and protecting wāhi tapu and other places of cultural significance to the governance entity where appropriate, to seek to ensure that they are not desecrated or damaged. For example, this may involve ensuring a new track does not traverse an area of particular sensitivity.

9 NATURAL HERITAGE

9.1 In recognition of the cultural, historic and traditional association of the governance entity with natural heritage resources found within the DOC Protocol Area for which the Department has responsibility, the Department shall:

9.1.1 inform the governance entity of the national sites and species programmes on which the Department will be actively working, and provide opportunities for the governance entity to participate in these programmes; and

9.1.2 advise the governance entity of research projects and provide opportunities where reasonably practicable for the governance entity to participate in that research.

10 MARINE MAMMALS

10.1 Ngai Tāmanuhiri has a tikanga responsibility, which is acknowledged by the Department, in relation to the preservation, protection and disposal of marine mammals within the DOC Protocol Area to ensure cultural protocols are observed in the interaction with and handling of these mammals.

10.2 The Department administers the Marine Mammals Protection Act 1978 and the Marine Mammals Regulations 1992. These provide for the establishment of marine mammal sanctuaries, for permits in respect of marine mammals, the disposal of sick or dead specimens and the prevention of marine mammal harassment. All species of marine mammal occurring within New Zealand and New Zealand's fisheries waters are absolutely protected under the Marine Mammals Protection Act 1978. Under that Act the Department is responsible for the protection, conservation and management of all marine mammals, including their disposal and the health and safety of its staff and any volunteers under its control, and the public.

10.3 The Protocol also aims at assisting the conservation of cetacean species by contribution to the collection of specimens and scientific data of national and international importance.

10.4 The Department believes that there are opportunities to meet the cultural interests of Ngai Tāmanuhiri, and to facilitate the gathering of scientific information. This Protocol is intended to meet both needs by way of a co-operative approach to the management of whale strandings and to provide general guidelines for the management of whale strandings in the DOC Protocol Area, and for the recovery by Ngai Tāmanuhiri, of bone and other material for cultural purposes from dead marine mammals.

10.5 There may be circumstances during a stranding in which euthanasia is required, for example if the animal is obviously distressed or if it is clear that a refloating operation will be unsuccessful. The decision to euthanise, which will be made in the best interests of marine mammals and public safety, is the responsibility of an officer or person authorised by the Minister of Conservation. The Department will make every effort to inform the governance entity before any decision to euthanise.

10.6 Both the Department and Ngai Tāmanuhiri, acknowledge the scientific importance of information gathered at strandings. Decisions concerning the exact nature of the scientific samples required and the subsequent disposal of any dead mammals, including their availability to the governance entity, will depend on the species.

10.7 The following species ("category 1 species") are known to strand most frequently on New Zealand shores. In principle these species should be available to the governance entity for the recovery of bone once scientific data and samples have been collected. If there are reasons why this principle should not be followed, they must be discussed between the parties to this Protocol. Category 1 species are:

10.7.1 common dolphins (Delphinus delphis)

10.7.2 long-finned pilot whales (Globicephala melas)

10.7.3 sperm whales (Physeter macrocephalus).

10.8 The following species ("category 2 species") are either not commonly encountered in New Zealand waters, or may frequently strand here but are rare elsewhere in the world. For these reasons their scientific value has first priority. In most instances, bone from category 2 species will be made available to the governance entity after autopsy if requested.

- all baleen whales
- short-finned pilot whale (Globicephala macrorhynchus)

- beaked whales (all species, family Ziphiidae)
- pygmy sperm whale (Kogia breviceps)
- dwarf sperm whale (Kogia simus)
- bottlenose dolphin (Tursiops truncatus)
- Maui's dolphin (Cephalorhynchus hectori maui)
- dusky dolphin (Lagenorhynchus obscurus)
- Risso's dolphin (Grampus griseus)
- spotted dolphin (Stenella attenuata)
- striped dolphin (Stenella coeruleoalba)
- rough-toothed dolphin (Steno bredanensis)
- southern right whale dolphin (Lissodelphis peronii)
- spectacled porpoise (Australophocoena dioptrica)
- melon-headed whale (Peponocephala electra)
- pygmy killer whale (Feresa attenuata)
- false killer whale (Pseudorca crassidens)
- killer whale (Orcinus orca)
- any other species of cetacean previously unknown in New Zealand waters.

10.9 If the governance entity does not wish to recover the bone or otherwise participate the governance entity will notify the Department whereupon the Department will take responsibility for disposing of the carcass.

10.10 Because the in-situ recovery of bones involves issues relating to public safety, including the risk of infection from dead and decaying tissue, it needs to be attempted only by the informed and skilled. Governance entity bone recovery teams will also want to ensure that the appropriate cultural tikanga is understood and followed. However, both parties acknowledge that generally burial will be the most practical option.

10.11 Subject to the prior agreement of the Conservator, where disposal of a dead stranded marine mammal is carried out by the governance entity, the Department will meet the costs incurred up to the estimated costs which would otherwise have been incurred by the Department to carry out the disposal.

10.12 The Department will:

10.12.1 reach agreement with the governance entity on authorised key contact people who will be available at short notice to make decisions on the desire of the governance entity to be involved when there is a marine mammal stranding;

10.12.2 promptly notify the key contact people of all stranding events;

10.12.3 discuss, as part of the disposal process, burial sites and, where practical, agree sites in advance which are to be used for disposing of carcasses in order to meet all the health and safety requirements and to avoid the possible violation of Ngai Tāmanuhiri tikanga; and

10.12.4 consult with the governance entity in developing or contributing to research and monitoring of marine mammal populations within the DOC Protocol Area.

11 SPECIES MANAGEMENT

11.1 One of the Department's primary objectives is to ensure the survival of indigenous species and their genetic diversity. An important part of this work is to prioritise recovery actions in relation to the degree of threat to a species. The Department prioritises recovery actions at both a national and local level.

11.2 In recognition of the cultural, spiritual, historical and/or traditional association of the governance entity with species found within the DOC Protocol Area for which the Department has responsibility, the Department shall in relation to any species that the governance entity may identify as important to them through the processes provided under clauses 5 and 6 of this Protocol:

11.2.1 where a national recovery programme is being implemented within the DOC Protocol Area, where reasonably practicable, inform and provide opportunities for the governance entity to participate in that programme;

11.2.2 advise the governance entity in advance of any Conservation Management Strategy amendments or reviews or the preparation of any statutory or non-statutory plans, policies or documents that relate to the management of those species within the DOC Protocol Area;

11.2.3 where research and monitoring projects are being carried out by the Department within the DOC Protocol Area, where reasonably practicable provide the governance entity with opportunities to participate in those projects; and

11.2.4 advise the governance entity of the receipt of any completed research reports relating to any species within the DOC Protocol Area and provide copies of such reports to the governance entity.

12 FRESHWATER FISHERIES

12.1 Freshwater fisheries are managed under two sets of legislation: the Fisheries Act 1983 and 1996 (administered by the Ministry of Fisheries) and the Act (administered by the Department of Conservation). The Department's functions include the preservation of freshwater fisheries and habitats. The whitebait fishery is administered by the Department under the Whitebait Fishing Regulations 1994, made under the Act.

12.2 The Department shall consult with the governance entity, and provide for its participation where reasonably practicable in the conservation and management (including research) of customary freshwater fisheries and freshwater fish habitats.

12.3 The Department shall work at the Gisborne Whakatane Area Office level to provide for the active participation of the governance entity in the conservation, management and research of customary freshwater fisheries and freshwater fish habitats by:

12.3.1 seeking to identify areas for co-operation in advocacy, consistent with clause 15.3.1 of this Protocol, focusing on fish passage, minimum flows, protection and enhancement of riparian vegetation and habitats, water quality improvement and in the restoration, rehabilitation or enhancement of customary freshwater fisheries and their freshwater habitats;

12.3.2 consulting with the governance entity in developing or contributing to research and monitoring programmes that aim to improve the understanding of the biology of customary freshwater fisheries and their environmental and habitat requirements;

12.3.3 considering the governance entity as a possible science provider or collaborator for research projects funded or promoted by the Department in the same manner as other potential providers or collaborators; and

12.3.4 processing applications for the transfer and release of freshwater fish species, including eels, according to the criteria outlined in section 26ZM of the Act.

13 MARINE RESERVES

13.1 Marine Reserves are managed under the Marine Reserves Act 1971. The purpose of the Marine Reserves Act is to preserve for scientific study areas of New Zealand's territorial sea that contain underwater scenery, natural features or marine life of such distinctive quality, or which are so typical or beautiful or unique that their continued preservation is in the national interest.

13.2 Within the DOC Protocol Area, the Department will work at both the Conservancy and Area Office level to:

13.2.1 notify the governance entity prior to undertaking any investigative work towards an application by the Department, or upon receipt of any application by a third party, for the establishment of a marine reserve;

13.2.2 provide the governance entity with any assistance it may request from the Department in the preparation of an application for the establishment of a marine reserve;

13.2.3 provide the governance entity with all information, to the extent reasonably practicable, regarding any application by either the Department or a third party for the establishment of a marine reserve;

13.2.4 seek input from the governance entity on any application for a marine reserve within the DOC Protocol Area and use reasonable efforts to address any concerns expressed by the governance entity;

13.2.5 involve the governance entity in any marine protection planning forums affecting the DOC Protocol Area; and

13.2.6 involve the governance entity in the management of any marine reserve created.

14 PEST CONTROL

14.1 A key objective and function of the Department is to prevent, manage and control threats to natural, historic and cultural heritage values from terrestrial, aquatic and marine pests. This is to be done in a way that maximises the value from limited resources available to do this work.

14.2 The Department shall:

14.2.1 seek and facilitate early consultation with the governance entity on pest control activities within the DOC Protocol Area, particularly in relation to the use of poisons;

14.2.2 provide the governance entity with opportunities to review and assess programmes and outcomes; and

14.2.3 where appropriate, consider co-ordinating its pest control programmes with those of the governance entity when the governance entity is an adjoining landowner.

15 RESOURCE MANAGEMENT ACT 1991

15.1 The governance entity and the Department both have concerns with the effects of activities controlled and managed under the Resource Management Act 1991.

15.2 From time to time, the governance entity and the Department will seek to identify issues of likely mutual interest for discussion. It is recognised that the Department and the governance entity will continue to make separate submissions in any Resource Management Act processes.

15.3 In carrying out advocacy under the Resource Management Act 1991, the Department shall:

15.3.1 discuss with the governance entity the general approach that may be taken by Ngai Tāmanuhiri, and the Department in respect of advocacy under the Resource Management Act, and seek to identify their respective priorities and issues of mutual concern;

15.3.2 have regard to the priorities and issues of mutual concern identified when the Department makes decisions in respect of advocacy under the Resource Management Act; and

15.3.3 make resource information available to the governance entity (subject to clause 24) to assist in improving their effectiveness in resource management advocacy work.

16 VISITOR AND PUBLIC INFORMATION

16.1 The Department has a role to share knowledge about natural and historic heritage with visitors, to satisfy their requirements for information, increase their enjoyment and understanding of this heritage, and develop an awareness of the need for its conservation.

16.2 In providing public information, interpretation services and facilities for visitors on the land it manages, the Department acknowledges the importance to the governance entity of their cultural, traditional and historic values, and the association of Ngai Tāmanuhiri, with the land the Department administers within the DOC Protocol Area.

16.3 The Department shall work with the governance entity at the Area Office level to encourage respect for Ngai Tāmanuhiri cultural heritage values by:

16.3.1 seeking to raise public awareness of any positive conservation partnerships between the governance entity, the Department and other stakeholders, for example, by way of publications, presentations, and seminars; and

16.3.2 ensuring that information contained in the Department's publications is accurate and appropriate by:

(a) obtaining the consent of the governance entity for disclosure of information from it, and

(b) consulting with the governance entity prior to the use of information about Ngai Tāmanuhiri values for new interpretation panels, signs and visitor publications.

17 CONCESSION APPLICATIONS

17.1 By the end of the second year of this Protocol being issued and on a continuing basis, the Department will work with the governance entity to identify categories of concessions that will or may impact on the cultural, spiritual or historic values of Ngai Tāmanuhiri.

17.2 In relation to the concession applications within the categories identified by the Department and governance entity under clause 17.1, the Minister will:

17.2.1 encourage applicants to consult with the governance entity in the first instance;

17.2.2 consult with the governance entity with regard to any applications or renewals of applications within the DOC Protocol Area, and seek the input of the governance entity by:

(a) providing for the governance entity to indicate within 2 working days whether an application for a One Off Concession has any impacts on Ngai Tāmanuhiri cultural, spiritual and historic values. If no response is received within 2 working days the Department may continue to process the concession application;

(b) providing for the governance entity to indicate within 10 working days whether any other application has any impacts on Ngai Tāmanuhiri cultural, spiritual and historic values; and

(c) if the governance entity indicates that an application under clause 17.2.2(b) has any such impacts, allowing a reasonable specified timeframe (of at least a further 10 working days) for comment;

17.2.3 when a concession is publicly notified, the Department will at the same time provide separate written notification to the governance entity;

17.2.4 prior to issuing concessions to carry out activities on land managed by the Department within the DOC Protocol Area, and following consultation with the governance entity, the Minister will:

(a) advise the concessionaire of the governance entity tikanga and values and encourage communication between the concessionaire and the governance entity if appropriate; and

(b) encourage the concessionaire to consult with the governance entity before using cultural information of Ngai Tāmanuhiri; and

17.2.5 ensure when issuing and renewing concessions that give authority for other parties to manage land administered by the Department, that those parties be required to manage the land according to the standards of conservation practice mentioned in clause 8.5.2.

18 PLACE NAMES

18.1 When Crown conservation areas in the DOC Protocol Area are to be named, the Department shall seek a recommendation from the governance entity on an appropriate name including its traditional and historic significance, or any other comment.

19 STATUTORY LAND MANAGEMENT

19.1 From time to time, the Minister may vest a reserve in a local authority or other appropriate entity; or appoint a local authority to control and manage a reserve. When such an appointment or vesting is contemplated for sites in the DOC Protocol Area, the Department will consult the governance entity.

20 CONSULTATION

20.1 Where the Department is required to consult under this Protocol, the basic principles that will be followed by the Department in consulting with the governance entity in each case are:

20.1.1 ensuring that the governance entity is consulted as soon as reasonably practicable following the identification and determination by the Department of the proposal or issues to be the subject of the consultation;

20.1.2 providing the governance entity with sufficient information to undertake informed discussions and make submissions in relation to any of the matters that are the subject of the consultation;

20.1.3 ensuring that sufficient time is given for the effective participation of the governance entity, including the preparation of submissions by the governance entity, in relation to any of the matters that are the subject of the consultation; and

20.1.4 ensuring that the Department will approach the consultation with an open mind and genuinely consider any views and/or concerns that the governance entity may have in relation to any of the matters that are subject to the consultation.

20.2 Where the Department has consulted with the governance entity as specified in clause 20.1, the Department will report back to the governance entity on the decision made as a result of any such consultation.

21 CONTRACTING FOR SERVICES

21.1 Where appropriate, the Department will consider using the governance entity as a provider of professional services.

22 PROTOCOL REVIEW

22.1 The Department and Ngai Tāmanuhiri will meet to review the implementation of this Protocol at least once a year, if requested by either party.

23 DEFINITIONS

23.1 In this Protocol:

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

Conservation Management Strategy has the same meaning as in the Conservation Act 1987;

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;

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;

governance entity has the meaning given to it in the Deed of Settlement;

Kaitieki means environmental guardians;

Matauranga Kura Taiao Fund: refers to a contestable fund administered by the Department, which supports hapū/iwi initiatives to retain and promote traditional Ngai Tāmanuhiri knowledge and its use in biodiversity management;

One Off Concession means a concession granted under Part 3B of the Act for an activity that –

(a) does not require a lease or licence; and

(b) is assessed as having very low effects; and

(c) complies with all relevant legislation, the relevant Conservation Management Strategy and Conservation Management Plans; and

(d) where relevant, has clearly defined numbers of trips and/or landings; and

(e) does not involve permanent structures; and

(f) does not have a duration of more than three months; and

(g) does not take place more than twice in any given six month period;

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

Settlement Date means the date that is 20 business days after the date on which the Settlement Legislation comes into force;

Taonga refers to any artefact or object that is associated with Ngai Tāmanuhiri culture or identity;

Tikanga refers to Māori traditional customs;

Ngai Tāmanuhiri has the meaning set out in clause 8.5 of the Deed of Settlement; and

Ngai Tāmanuhiri Tikanga refers to Ngai Tāmanuhiri values, attitudes and practices mai i o mātau matua tīpuna that contribute to the preservation, protection and enhancement of ngā taonga tuku iho a Ngai Tāmanuhiri.

24 PROVISION OF INFORMATION

Where the Department is to provide information to the governance entity under this Protocol, this information will be provided subject to the provisions of the Official Information Act 1982 and the Privacy Act 1993.

ISSUED on

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

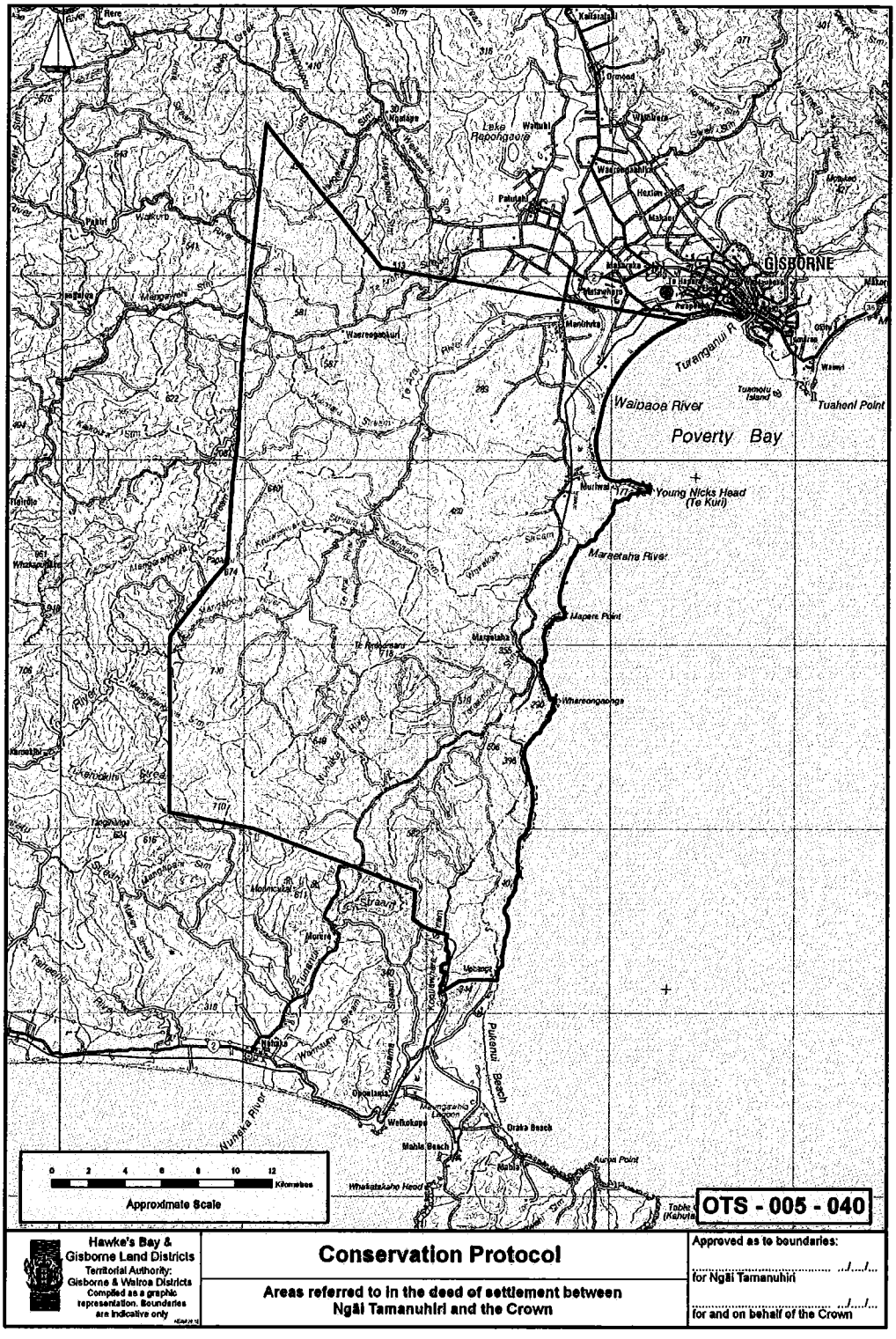
WITNESS

Name:

Occupation:

Address:

ATTACHMENT A – CONSERVATION PROTOCOL AREA



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.

1. **Amendment and cancellation**

1.1 The Minister may amend or cancel this Protocol, but only after consulting the governance entity and having particular regard to its views (section 18).

2. **Noting**

2.1 A summary of the terms of this Protocol must be noted in the Conservation Documents affecting the DOC 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 Act or the National Parks Act 1980 (section 21).

3. **Limits**

3.1 This Protocol does not:

3.3.1 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, hapū, marae, whānau or representatives of tangata whenua (section 19); or

3.1.2 restrict the responsibilities of the Minister or the Department or the legal rights of Ngai Tāmanuhiri (section 19); 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 21).

4. **Breach**

4.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section 20).

4.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause 5.14).

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF FISHERIES REGARDING INTERACTION WITH NGAI TĀMANUHIRI ON FISHERIES ISSUES

1 INTRODUCTION

1.1 The Crown, through the Minister and Chief Executive, recognises that Ngai Tāmanuhiri as tangata whenua are entitled to have input and participation in fisheries planning processes that affect fish stocks in the Ngai Tāmanuhiri Fisheries Protocol Area (the "**Fisheries Protocol Area**") and that are managed by the Ministry of Fisheries (the "**Ministry**") under the Fisheries Act 1996.

1.2 Ngai Tāmanuhiri has a special relationship with all species of fish, aquatic life and seaweed found within the Fisheries Protocol Area, and an interest in the sustainable utilisation of all species of fish, aquatic life and seaweed.

1.3 Under the Deed of Settlement dated [*insert date*] between Ngai Tāmanuhiri, the Governance Entity and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister of Fisheries (the "**Minister**") would issue a Fisheries Protocol (the "**Fisheries Protocol**") setting out how the Ministry will interact with the Governance Entity in relation to matters specified in the Protocol. These matters are:

1.3.1 recognition of the interests of Ngai Tāmanuhiri in all species of fish, aquatic life or seaweed that exist within the Fisheries Protocol Area that are subject to the Fisheries Act 1996;

1.3.2 input into and participation in the Ministry's national fisheries plans;

1.3.3 iwi fisheries plan;

1.3.4 participation in iwi fisheries forums;

1.3.5 customary non-commercial fisheries management;

1.3.6 contracting for services;

1.3.7 employment of Ministry staff with customary non-commercial fisheries responsibilities;

1.3.8 information exchange;

1.3.9 rāhui; and

1.3.10 changes to policy and legislation affecting this Protocol.

1.4 For the purposes of this Fisheries Protocol, the Governance Entity is the body representative of the iwi of Ngai Tāmanuhiri who have an interest in the sustainable utilisation of fish, aquatic life and seaweed that exist within the Fisheries Protocol Area. Ngai Tāmanuhiri has a

responsibility in relation to the preservation, protection, and management of its customary non-commercial fisheries in the Fisheries Protocol Area. This is inextricably linked to whakapapa and has important cultural and spiritual dimensions.

1.5 The obligations of the Ministry in respect of fisheries are to ensure sustainability, to meet Te Tiriti o Waitangi/Treaty of Waitangi and international obligations, to enable efficient resource use, and to ensure the integrity of fisheries management systems.

1.6 The Ministry and Ngai Tāmanuhiri are seeking a relationship consistent with Te Tiriti o Waitangi/Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi/Treaty of Waitangi provide the basis for the relationship between the parties to this Fisheries Protocol. The relationship created by this Fisheries Protocol is intended to assist the parties to exercise their respective responsibilities with the utmost cooperation to achieve over time the outcomes sought by both. Ngai Tāmanuhiri consider that this Fisheries Protocol provides a process or opportunity by which the Crown seeks to restore its reputation as a Treaty partner.

1.7 The Minister and the Chief Executive of the Ministry (the "**Chief Executive**") have certain functions, powers and duties in terms of the Fisheries Legislation. With the intention of creating a relationship that achieves, over time, the fisheries policies and outcomes sought by both Ngai Tāmanuhiri and the Ministry consistent with the Ministry's obligations as set out in clause 1.5, this Fisheries Protocol sets out how the Ministry, the Minister and the Chief Executive will exercise their functions, powers and duties in relation to matters set out in this Fisheries Protocol. In accordance with this Fisheries Protocol, the Governance Entity will have the opportunity for meaningful input into the policy and planning processes relating to the matters set out in this Fisheries Protocol.

1.8 The Ministry will advise the Governance Entity whenever it proposes to consult with a hapū of Ngai Tāmanuhiri or with another iwi or hapū with interests inside the Fisheries Protocol Area on matters that could affect the interests of Ngai Tāmanuhiri.

2 FISHERIES PROTOCOL AREA

2.1 This Fisheries Protocol applies across the Ngai Tāmanuhiri Fisheries Protocol Area which means the area identified in the map included as Attachment A of this Protocol.

3 TERMS OF ISSUE

3.1 This Protocol is issued pursuant to section 18 of the [*insert the name of the Settlement Legislation*] (the "**Settlement Legislation**") and clause 5.11 of the Deed of Settlement and is subject to the Settlement Legislation and the Deed of Settlement.

3.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

4 IMPLEMENTATION AND COMMUNICATION

4.1 The Ministry will meet with the Governance Entity to agree a strategy to implement this Fisheries Protocol within 12 months of this Fisheries Protocol being issued. The strategy may include:

4.1.1 any matters raised in this Fisheries Protocol;

4.1.2 reporting processes to be put in place, for example an annual report to be provided by the Ministry to the Governance Entity;

4.1.3 the development of an implementation plan that sets out the Ministry's obligations to the Governance Entity arising from this Fisheries Protocol. The implementation plan would identify the relevant Ministry business group responsible for delivering each obligation, and any agreed actions and timeframes; and

4.1.4 review processes for this Fisheries Protocol.

4.2 The implementation strategy described in clause 4.1 of this Protocol will have effect from the date specified in the strategy.

4.3 The Ministry will establish and maintain effective consultation processes and communication networks with the Governance Entity by:

4.3.1 maintaining, at national and regional levels, information provided by the Governance Entity on the office holders of the Governance Entity, addresses and contact details;

4.3.2 providing reasonable opportunities for the Governance Entity to meet with Ministry managers and staff (as might be agreed in the implementation plan); and

4.3.3 providing reasonable opportunities for the Governance Entity to participate, if they choose to, in regional forums that are established to interact with the Ministry on fisheries issues that affect the Fisheries Protocol Area.

4.4 The Ministry will:

4.4.1 consult and involve the Governance Entity in the training of relevant staff on this Fisheries Protocol and provide on-going training as required; and

4.4.2 as far as reasonably practicable, inform fisheries stakeholders about this Fisheries Protocol and the Deed of Settlement, and provide on-going information as required.

5. NGAI TĀMANUHIRI TIKANGA AND OBJECTIVES

5.1 The vision of Ngai Tāmanuhiri for the Fisheries Protocol Area and taonga species (listed in clause 5.4) is: *Abundant fish species and stocks in pristine waters to sustain our customary and commercial interests.*

5.2 The objectives to achieve the vision of Ngai Tāmanuhiri as set out in clause 5.1 is guided by Ngai Tāmanuhiri Tikanga and include:

5.2.1 Mana Tangata to achieve improved customary and commercial outcomes for Ngai Tāmanuhiri through actions that include implementing effective planning, management and monitoring systems;

5.2.2 Mana whenua to achieve improved and sustainable fish habitats through actions that include developing and implementing strategies to minimise the impact of land based strategies on Tūranga waterways;

5.2.3 Mana moana to achieve improved moana, estuarine and freshwater customary and commercial outcomes through actions that include the development and implementation of an effective Ngai Tāmanuhiri fisheries management plan as set out in clause 7;

5.2.4 Mana Rangatira to achieve improved input by Ngai Tāmanuhiri at the highest level through actions that include engaging in developing and implementing Ministry national policies, strategies and programmes; and

5.2.5 Mana Tipuna to uphold tikanga principles and to attain the vision of Ngai Tāmanuhiri that includes the achievement of pristine waters and abundant fish species and stocks through the protection and sustainability of the domains of Tangaroa me ona uri.

5.3 The fisheries management objectives of Ngai Tāmanuhiri in relation to the Fisheries Protocol Area include:

5.3.1 an increased abundance of all species of fish, aquatic life and seaweed to better enable manaakitanga, including the provision for pātaka kai;

5.3.2 improved access to key fisheries, both commercial and non-commercial fishers;

5.3.3 more effective measures to address localised depletion of fisheries resources particularly in easily accessible areas;

5.3.4 better management of spatial conflicts between commercial, recreational and customary fishers;

5.3.5 improved coordination across agencies on issues affecting fisheries (including those responsible for land-based effects) in order to provide a holistic approach consistent with Ngai Tāmanuhiri tikanga;

5.3.6 better integration in the implementation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998;

5.3.7 priority for management of freshwater fisheries and aquaculture; and

5.3.8 research planning that increases the knowledge base of Ngai Tāmanuhiri to inform future planning and management decisions.

5.4 Ngai Tāmanuhiri have a strong traditional association with:

Freshwater Species	Moana
eel (all species)	rock lobster
freshwater crayfish (koura)	flounder (all species)
galaxid species (whitebait)	hapuka
Kahawai	kahawai
Koaro	karengo
kokopu species	kina
Lamprey	kingfish
Mullet	mullet
yelloweye mullet	moki
yellowbelly flounder	mussels
	orange roughy
	paua
	pipi
	pupu (several species)
	shark
	snapper
	terakihi
	tuangi/kakahi
	whale
	wheke (octopus)
	whai (stingray)
	ngoiro (conger eel)
	whetiko (mud bubu)

5.5 The objectives of Ngai Tāmanuhiri will be developed within 12 months of the signing of the Deed of Settlement.

5.6 The Crown and Governance Entity agree that the Ngai Tāmanuhiri vision and objectives set out in clauses 5.1-5.3:

5.6.1 do not affect how the Minister, Chief Executive and the Ministry will exercise their powers, functions and duties in relation to the matters specified in this Fisheries Protocol; and

5.6.2 do not prevent the Minister, Chief Executive and the Ministry from interacting with other iwi or hapū with interests in the Fisheries Protocol Area.

5 INPUT INTO AND PARTICIPATION IN THE MINISTRY'S FISHERIES PLANS

6.1 Ngai Tāmanuhiri are entitled to input into and participation in the Ministry's national fisheries plans, where these are being developed that affect the Fisheries Protocol Area. The Ministry's national fisheries plans will reflect the high level goals and outcomes for a fishery. The plans will guide annual identification of the measures

(which may include catch limits, research and compliance services) that are required to meet these goals and outcomes.

6.2 Ngai Tāmanuhiri input and participation will be recognised and provided for through the iwi fisheries plan referred to in clause 7, which the Ministry must have particular regard to when developing fisheries plans that relate to the Fisheries Protocol Area.

6.3 Where it is intended that any sustainability measures will be set or varied that relate to the Fisheries Protocol Area and are not addressed in any Ministry national fisheries plan, the Ministry will ensure that the input and participation of Ngai Tāmanuhiri is provided for. This will include consulting the Governance Entity on those proposed sustainability measures.

7 IWI FISHERIES PLAN

7.1 The Governance Entity will develop an iwi fisheries plan that relates to the Fisheries Protocol Area.

7.2 The Ministry will assist the Governance Entity, within the resources available to the Ministry, to develop an iwi fisheries plan that relates to the Fisheries Protocol Area.

7.3 The Ministry and the Governance Entity agree that the iwi fisheries plan will address:

7.3.1 the objectives of Ngai Tāmanuhiri for the management of their customary, commercial, recreational, and environmental interests in fisheries resources within the Fisheries Protocol Area;

7.3.2 how Ngai Tāmanuhiri will exercise kaitiakitanga in the Fisheries Protocol Area;

7.3.3 how the Governance Entity will participate in fisheries planning processes in the Fisheries Protocol Area; and

7.3.4 how the customary, commercial and recreational fishing interests of the Governance Entity will be managed in an integrated way.

7.4 The Ministry and the Governance Entity agree to meet, within 12 months of this Fisheries Protocol being issued, to discuss:

7.4.1 the content of the fisheries management plan, including how the plan will legally express, protect and recognise the mana of Ngai Tāmanuhiri me ōna tikanga; and

7.4.2 ways in which the Ministry will work with the Governance Entity to develop and review the fisheries plan.

8 PARTICIPATION IN IWI FISHERIES FORUMS

8.1 The Ministry will provide opportunities for Ngai Tāmanuhiri to have input and participate in Fisheries Forums relating to the Fisheries Protocol Area, where the Ministry will

engage with parties including iwi on fisheries management activities. The Ministry will provide assistance, within the available resources, to develop forum fisheries plans.

9 MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES

9.1 The Ministry undertakes to provide the Governance Entity with such information and assistance (within its resource capabilities) as may be necessary for the proper administration of the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This information and assistance may include, but is not limited to:

9.1.1 discussions with the Ministry on the implementation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the Fisheries Protocol Area;

9.1.2 making available existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management within the Fisheries Protocol Area; and

9.1.3 training the appropriate representatives of Ngai Tāmanuhiri to enable them to administer and implement the Fisheries (Kaimoana Customary Fishing) Regulations 1998, including any specific Ministry training programmes.

10 CENTRAL LEADERSHIP GROUP

10.1 It is acknowledged that the relationship between the Ministry and the Governance Entity will also be through the Central Leadership Group as provided for in clauses 5.29 to 5.35 of the Deed of Settlement. The purpose of the Central Leadership Group is to:

10.1.1 provide Tūranganui a Kiwa with a forum to engage with central government departments into the future; and

10.1.2 ensure that the principles of the Treaty of Waitangi are implemented in a a co-ordinated manner within the Tūranga region to the extent consistent with relevant legislation.

11 CONTRACTING FOR SERVICES

11.1 The Ministry will consult with the Governance Entity in respect of any contract for the provision of services that may impact on the management of customary fisheries within the Fisheries Protocol Area, if the Ministry is proposing to enter into such a contract.

11.2 The level of consultation shall be relative to the degree to which the contract impacts upon the interests of other iwi as well as those of Ngai Tāmanuhiri , and may be achieved by one or more of the following:

11.2.1 the Ministry may notify the Governance Entity of a contract for fisheries services;

11.2.2 the Ministry may notify the Governance Entity of an invitation to tender for fisheries services; and

11.2.3 the Ministry may direct a successful contractor to engage with the Governance Entity as appropriate, in undertaking the relevant fisheries services.

11.3 If the Governance Entity is contracted for fisheries services then clause 11.2.3 will not apply in relation to those fisheries services.

12 EMPLOYMENT OF STAFF WITH CUSTOMARY FISHERIES RESPONSIBILITIES

12.1 The Ministry will consult with the Governance Entity on certain aspects of the employment of Ministry staff if a vacancy directly affects the fisheries interests of Ngai Tāmanuhiri in relation to the Fisheries Protocol Area.

12.2 The level of consultation shall be relative to the degree to which the vacancy impacts upon the interests of other iwi as well as those of Ngai Tāmanuhiri, and may be achieved by one or more of the following:

12.2.1 consultation on the job description and work programme;

12.2.2 direct notification of the vacancy;

12.2.3 consultation on the location of the position; and

12.2.4 input into the selection of the interview panel.

13 CONSULTATION

13.1 Where the Ministry is required to consult in relation to this Fisheries Protocol, the basic principles that will be followed by the Ministry in consulting with the Governance Entity will be consistent with Te Tiriti o Waitangi/the Treaty of Waitangi principles by respecting and upholding the mana of Ngai Tāmanuhiri which includes Ngai Tāmanuhiri tikanga, and in all cases will include:

13.1.1 ensuring that the Governance Entity is contacted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues to be the subject of the consultation;

13.1.2 providing the Governance Entity with sufficient information to make informed decisions in relation to any of the matters that are the subject of the consultation;

13.1.3 ensuring that sufficient time is given for the participation of the Governance Entity in decision making process including the preparation of submissions in relation to any of the matters that are the subject of the consultation; and

13.1.4 ensuring that the Ministry will approach the consultation with the Governance Entity with an open mind, and will genuinely consider their submissions in relation to any of the matters that are the subject of the consultation.

13.2 Where the Ministry has consulted with the Governance Entity, the Ministry will report back to the Governance Entity, either in person or in writing, on the decision made as a result of any such consultation.

14 RĀHUI

14.1 The Ministry recognises that Ngai Tāmanuhiri tikanga such as rāhui guides traditional use and management practice of Ngai Tāmanuhiri and supports their rights to practice their tikanga.

14.2 Ngai Tāmanuhiri believe that tikanga such as rāhui is an effective expression of best practice fish management, and wish to explore with the Ministry how such tikanga can be given legal effect through regulation.

14.3 Ngai Tāmanuhiri undertakes to inform the Ministry of the placing and the lifting of a rāhui by Ngai Tāmanuhiri over their customary fisheries, and also the reasons for the rāhui.

14.4 The Ministry undertakes to inform a representative of any fishery stakeholder groups that fish in the area to which the rāhui has been applied, to the extent that such groups exist, of the placing and the lifting of a rāhui by Ngai Tāmanuhiri, over their customary fisheries.

14.5 As far as reasonably practicable, the Ministry undertakes to consider the application of section 186A of the Fisheries Act 1996 to support a rāhui proposed by Ngai Tāmanuhiri over their customary fisheries for purposes consistent with the legislative requirements for the application of section 186A of the Fisheries Act 1996, noting these requirements preclude the use of section 186A to support rāhui placed in the event of a drowning.

15 INFORMATION EXCHANGE

15.1 Ngai Tāmanuhiri and the Ministry recognise the benefit of mutual information exchange. To this end, the Ministry and Ngai Tāmanuhiri will as far as possible exchange any information that is relevant to the management of the Fisheries Protocol Area.

15.2 The Ministry will make available to Ngai Tāmanuhiri all existing information held by, or reasonably accessible to, the Ministry where that information is requested by Ngai Tāmanuhiri for the purposes of assisting them to exercise their rights under this Fisheries Protocol.

15.3 The Ministry will provide to the Governance Entity any reasonably available information concerning the management of species or stocks that are of significance to Ngai Tāmanuhiri.

16 PAYMENT OF COSTS

16.1 Should Ngai Tāmanuhiri agree to undertake cultural and/or spiritual practices within the Fisheries Protocol Area upon a formal written request by the Ministry, the Ministry will make a payment to the Governance Entity for the costs of undertaking those practices on an actual and reasonable basis.

17 DISPUTE RESOLUTION

17.1 If either the Ministry or the Governance Entity considers there has been a problem with the implementation of this Fisheries Protocol, then that party may give written notice to the other party that they are in dispute. The following process will be undertaken once notice is received by the other party to this Fisheries Protocol:

17.1.1 within 15 working days of being given written notice, the relevant contact persons from the Ministry and the Governance Entity will meet to work in good faith to resolve the issue;

17.1.2 if the dispute has not been resolved within 30 working days of receipt of the notice referred to in clause 17.1, the Chief Executive of the Ministry and representative of the Governance Entity will meet to work in good faith to resolve the issue;

17.1.3 if the dispute has not been resolved within 45 working days despite the process outlined in clauses 17.1.1 and 17.1.2 having been followed, the Ministry and Governance Entity may seek to resolve the dispute by asking an agreed trusted third party to mediate the dispute with a view to reaching a mutually satisfactory outcome for both parties.

17.2 In the context of any dispute that has been initiated under clause 17.1, the Ministry and the Governance Entity will place utmost importance on the fact that the Ministry and Ngai Tāmanuhiri are, in accordance with clause 1.6 of this Fisheries Protocol, seeking a relationship consistent with Te Tiriti o Waitangi/Treaty of Waitangi and its principles, and such a relationship is intended to assist both parties to exercise their respective responsibilities with the utmost cooperation to achieve the outcomes sought by both over time.

18 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS FISHERIES PROTOCOL

18.1 If the Ministry consults with iwi on policy development or any proposed legislative amendment to the Fisheries Act 1996, which impacts upon this Fisheries Protocol, the Ministry shall:

18.1.1 notify the Governance Entity of the proposed policy development or proposed legislative amendment upon which iwi will be consulted;

18.1.2 make available to the Governance Entity the information provided to iwi as part of the consultation process referred to in this clause; and

18.1.3 report back to the Governance Entity on the outcome of any such consultation, either in writing or in person.

19 DEFINITIONS

19.1 In this Fisheries Protocol:

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;

Fisheries Legislation means the Fisheries Act 1983, the Fisheries Act 1996, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Maori Commercial Aquaculture Claims Settlement Act 2004, the Maori Fisheries Act 2004, and any regulations made under these Acts;

Governance Entity has the meaning given to it in the Deed of Settlement;

Ngai Tāmanuhiri has the meaning given to it in 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 Fisheries Protocol; and

Settlement Date means the date that is 20 [business] days after the date on which the Settlement Legislation comes into force.

ISSUED on [ ]

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

WITNESS

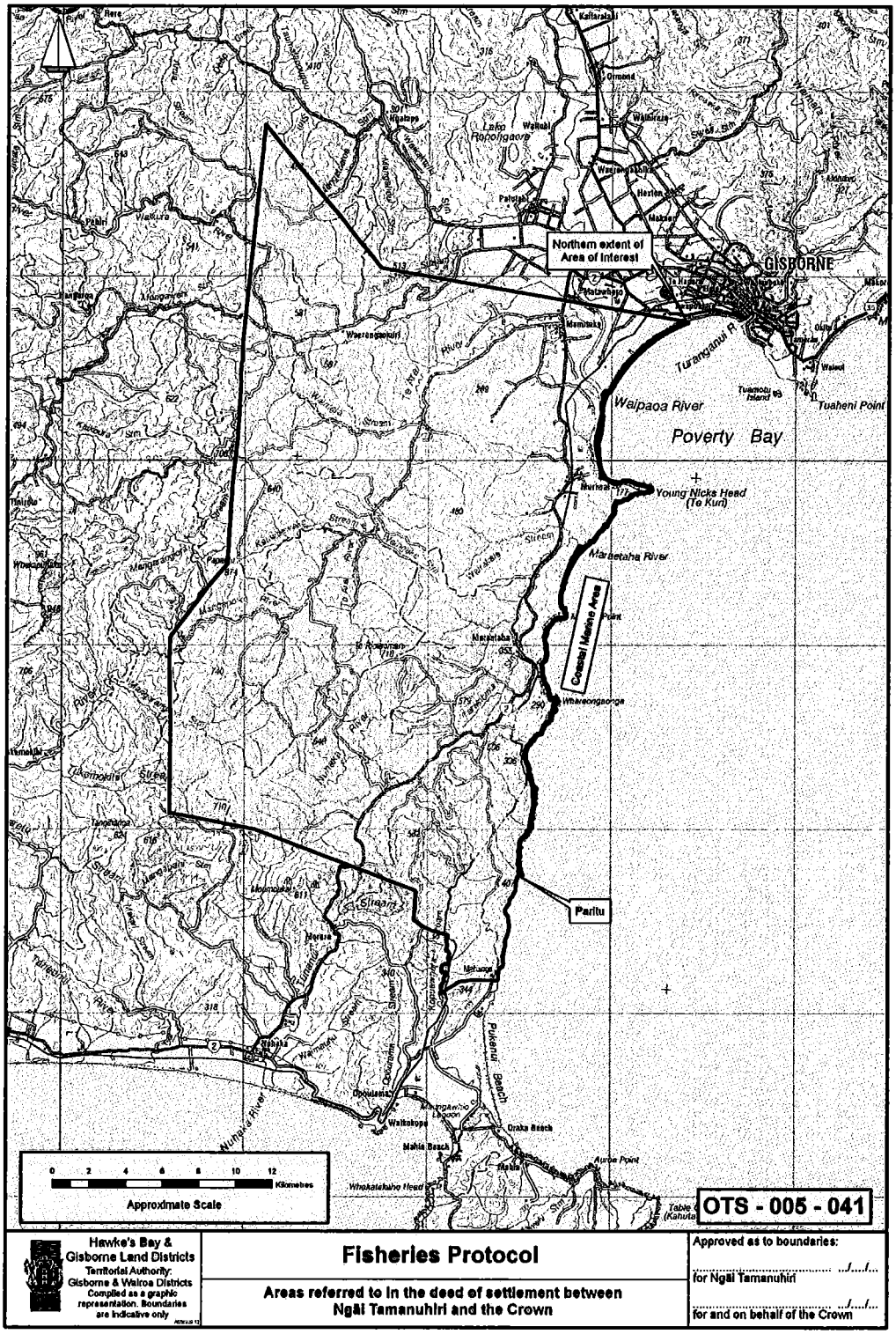
_____

Name:

Occupation:

Address:

ATTACHMENT A – FISHERIES PROTOCOL AREA



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.

1. Amendment and cancellation

1.1 The Minister may amend or cancel this Fisheries Protocol, but only after consulting with the Governance Entity and having particular regard to its views (section 18).

2. Noting

2.1 A summary of the terms of this Fisheries Protocol must be noted in the fisheries plans affecting the Fisheries Protocol Area, but the noting –

2.1.1 is for the purpose of public notice only; and

2.1.2 does not amend the fisheries plans for the purposes of the Fisheries Act 1996 (section 23).

3. Limits

3.1 This Fisheries 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, hapū, marae, whānau, or representative of tangata whenua (section 19); or

3.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of Ngai Tāmanuhiri (section 19); or

3.1.3 grant, create, or evidence an estate or interest in, or rights relating to, assets or property rights (including in relation to fish, aquatic life, or seaweed) under–

(a) the Fisheries Act 1996; or

(b) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or

(c) the Maori Commercial Aquaculture Claims Settlement Act 2004; or

(d) the Maori Fisheries Act 2004 (section 23).

4. Breach

4.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Fisheries Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section 20).

4.2 A breach of this Fisheries Protocol is not a breach of the deed of settlement (clause 5.14).

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

1 INTRODUCTION

1.1 Under the Deed of Settlement dated [ ] between Ngai Tāmanuhiri, the 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 Governance Entity on matters specified in the Crown Minerals Protocol.

1.2 Both the Ministry and Ngai Tāmanuhiri are seeking a healthy and constructive relationship based on the principles of Te Tiriti o Waitangi/the Treaty of Waitangi. Ngai Tāmanuhiri considers that this Crown Minerals Protocol provides a process or opportunity by which the Crown seeks to restore its reputation as a Treaty partner.

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.

1.6 Ngai Tāmanuhiri considers that Ngai Tāmanuhiri tikanga underpins their ongoing relationship with the Ministry and guides their objectives for this Crown Minerals Protocol. Ngai Tāmanuhiri's objectives, guided by Ngai Tāmanuhiri Tikanga, aim to:

1.6.1 Mana Tangata –achieve improved outcomes, through actions that include implementing effective planning, management and monitoring of systems;

1.6.2 Mana Whenua –achieve improved input by Ngai Tāmanuhiri into the Ministry's responsibilities as set out in this Crown Minerals Protocol; and

1.6.3 Mana Tipuna –achieve improved outcomes through decisions that preserve, protect and enhance the domains of Tane, Tangaroa, Ranginui, Tawhirimatea, and Ruaumoko.

1.7 The Crown and the Governance Entity agree that Ngai Tāmanuhiri objectives set out in clauses 1.6.1 – 1.6.3:

1.7.1 except as provided in this Crown Minerals Protocol, do not affect how the Minister and the Ministry will exercise their statutory powers, functions and duties in relation to the matters specified in this Crown Minerals Protocol; and

1.7.2 do not prevent the Minister, and the Ministry from interacting with other iwi or hapū with interests in the Crown Minerals Protocol Area.

2 PURPOSE OF THIS CROWN MINERALS PROTOCOL

2.1 With the intent of creating a constructive relationship between Ngai Tāmanuhiri 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 In addition to the Minister and Secretary's obligations set out in this Crown Minerals Protocol, the Ministry will provide the Governance Entity with 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 OWNERSHIP OF MINERALS

3.1 Ngai Tamanuhiri:

(a) asserts that Ngai Tamanuhiri traditionally owned and used the minerals resources and taonga in their rohe; and

(b) records that they consider the expropriation of their ownership of minerals resources by the Crown to be a serious Treaty breach.

3.2 The Minister acknowledges that Ngai Tamanuhiri assert that they maintain, in accordance with tikanga, an unbroken, inalienable and enduring relationship with, and mana in relation to, the mineral resources within the Crown Minerals Protocol Area.

3.3 The Crown asserts ownership of minerals under the Act and considers that the nationalisation of minerals is not a breach of the Treaty. Section 10 of the Act provides that all gold, silver, uranium and petroleum existing in its natural condition in land shall be the property of the Crown. Section 11 of the Act reserves all minerals to the Crown in any future alienation of Crown land and upholds all reservations of minerals made in earlier enactments. Decision-making regarding prospecting, exploration and mining of petroleum and minerals other than petroleum in the Crown Minerals Protocol Area is prescribed 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 waters.

4 TERMS OF ISSUE

4.1 This Crown Minerals Protocol is issued pursuant to section 18 of the [Ngai Tāmanuhiri Claims Settlement Act [2011]] (the "**Settlement Legislation**") that implements clause 5.11 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

5.1 The Crown has an obligation under the Act (as provided for in minerals programmes) to consult with relevant iwi and hapū on matters set out in the Act and the relevant minerals programmes. The Minister will ensure that the Governance Entity is consulted by the Ministry in accordance with the Act, the relevant minerals programmes, and the Crown Minerals Protocol, on the following matters:

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 during 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. This will include:

(a) outlining the proposals for holding the block offer, and consulting with the Governance Entity on these proposals over the consultation period set out in the relevant minerals programme; and

(b) holding face to face meetings, if the Governance Entity and the Crown consider it appropriate.

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

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;

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; and

Gold fossicking areas

5.1.9 when any request is received or proposal is made to designate lands as a gold fossicking area, which relates, whether 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.

6 EFFECTS ON NGAI TĀMANUHIRI'S INTERESTS IN RELATION TO CROWN OWNED MINERALS IN THE PROTCOL AREA

6.1 The Minister and Secretary will consult with the Governance Entity on any policy and legislative development or review in relation to the administration of Crown owned minerals which may affect Ngai Tāmanuhiri interests in relation to Crown owned minerals in the Crown Minerals Protocol Area, and the Crown Minerals Protocol.

6.2 The Minister and Secretary will consult with the Governance Entity on any of the Ministry's Crown minerals operational activities which may affect Ngai Tāmanuhiri interests in relation to Crown owned minerals in the Crown Minerals Protocol Area, and the Crown Minerals Protocol.

6.3 Notwithstanding clauses 6.1 and 6.2 above the Minister and Secretary and Governance Entity may meet to discuss Ngai Tāmanuhiri interests in relation to Crown owned minerals in the Crown Minerals Protocol Area as part of the meetings specified in clause 7.3.

7 IMPLEMENTATION AND COMMUNICATION

7.1 The basic principles that will be followed by the Ministry in consulting with the Governance Entity in each case are:

7.1.1 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;

7.1.2 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;

7.1.3 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

7.1.4 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.

7.2 Where the Ministry is required to consult the Governance Entity as specified in clause 5.1, the Ministry will report back in writing to the Governance Entity on the decision made as a result of such consultation.

7.3 Face to face meetings will be held if mutually agreed by the parties, such agreement not to be unreasonably withheld.

7.4 The parties will jointly confirm the meetings and agendas of the meetings specified in clause 7.3.

7.5 The location of the meetings specified in clause 7.3 will be mutually agreed by the parties.

7.6 The Ministry will seek to fulfil its obligations under this Crown Minerals Protocol by:

7.6.1 maintaining information on the Governance Entity's address and contact details as provided from time to time by the Governance Entity;

7.6.2 as far as reasonably practicable, ensuring relevant employees within the Ministry are aware of the purpose, content and implications of this Crown Minerals Protocol;

7.6.3 nominating relevant employees to act as contacts with the Governance Entity in relation to issues concerning this Crown Minerals Protocol;

7.6.4 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;

7.6.5 discussing with the Governance Entity concerns and issues notified by the Governance Entity about this Crown Minerals Protocol;

7.6.6 as far as reasonably practicable, providing opportunities for the Governance Entity to meet with relevant Ministry managers and staff;

7.6.7 where relevant and reasonably practicable, providing opportunities for the Governance Entity to meet with the Minister and Secretary;

7.6.8 as far as reasonably practicable and where relevant, informing other organisations with whom it works, central government agencies and stakeholders about this Crown Minerals Protocol and provide ongoing information; and

7.6.9 including the summary of the Terms of Issue and Crown Minerals Protocol Area of the Crown Minerals Protocol in the relevant minerals programmes when these are issued.

8 INFORMATION SHARING

8.1 The Minister and Secretary will make available to the Governance Entity all existing information held by, and reasonably accessible to, the Ministry where that information is requested by the Governance Entity for the purpose of assisting them to fully exercise their rights under this Crown Minerals Protocol.

8.2 The obligations in clause 8.1 of this Crown Minerals Protocol do not apply to information that the Minister or Secretary is legally prevented from providing (for example, information that is the subject of an obligation of confidentiality or non-disclosure) or to information that the Minister or Secretary may withhold under the Official Information Act 1982.

8.3 The Minister and Secretary will make available to the Governance Entity names and contact details of all relevant permit holders.

9 DISPUTE RESOLUTION

9.1 If one party considers that there has been a breach of this Protocol then that party may give written notice to the other party that they are in dispute. The following process shall be undertaken once notice is received by the other party to this Protocol:

(a) Within 15 working days of being given written notice, the relevant contact person from the Ministry and the Governance Entity will meet to work in good faith to resolve the issue.

(b) If the dispute has not been resolved within 20 working days of receipt of the notice referred to in clause 9.1(a), the Secretary and the nominated representative of the Governance Entity will meet to work in good faith to resolve the issue.

(c) If the dispute has still not been resolved within 30 working days of the receipt of the notice referred to in clause 9.1(a), and where the matter is of significance and the dispute remains outstanding despite the above process having been followed, provided it is not inconsistent with statutory obligations and both parties agree, the Minister and the chair of the Governance Entity will meet to work in good faith to resolve the issue.

10 DEFINITIONS

10.1 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, the Governance Entity and Ngai Tāmanuhiri;

Governance Entity has the meaning given to it in the Deed of Settlement;

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;

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

Ngai Tāmanuhiri has the meaning set out in clause 8.5 of the Deed of Settlement;

Permit has the meaning given to that term in section 2 of the Crown Minerals Act 1991;

Permit holder has the meaning given to that term in section 2 of the Crown Minerals Act 1991;

Petroleum means:

(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;

Relevant minerals programme has the meaning given to that term in section 2 of the Crown Minerals Act 1991; and

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

ISSUED ON [ ]

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

WITNESS

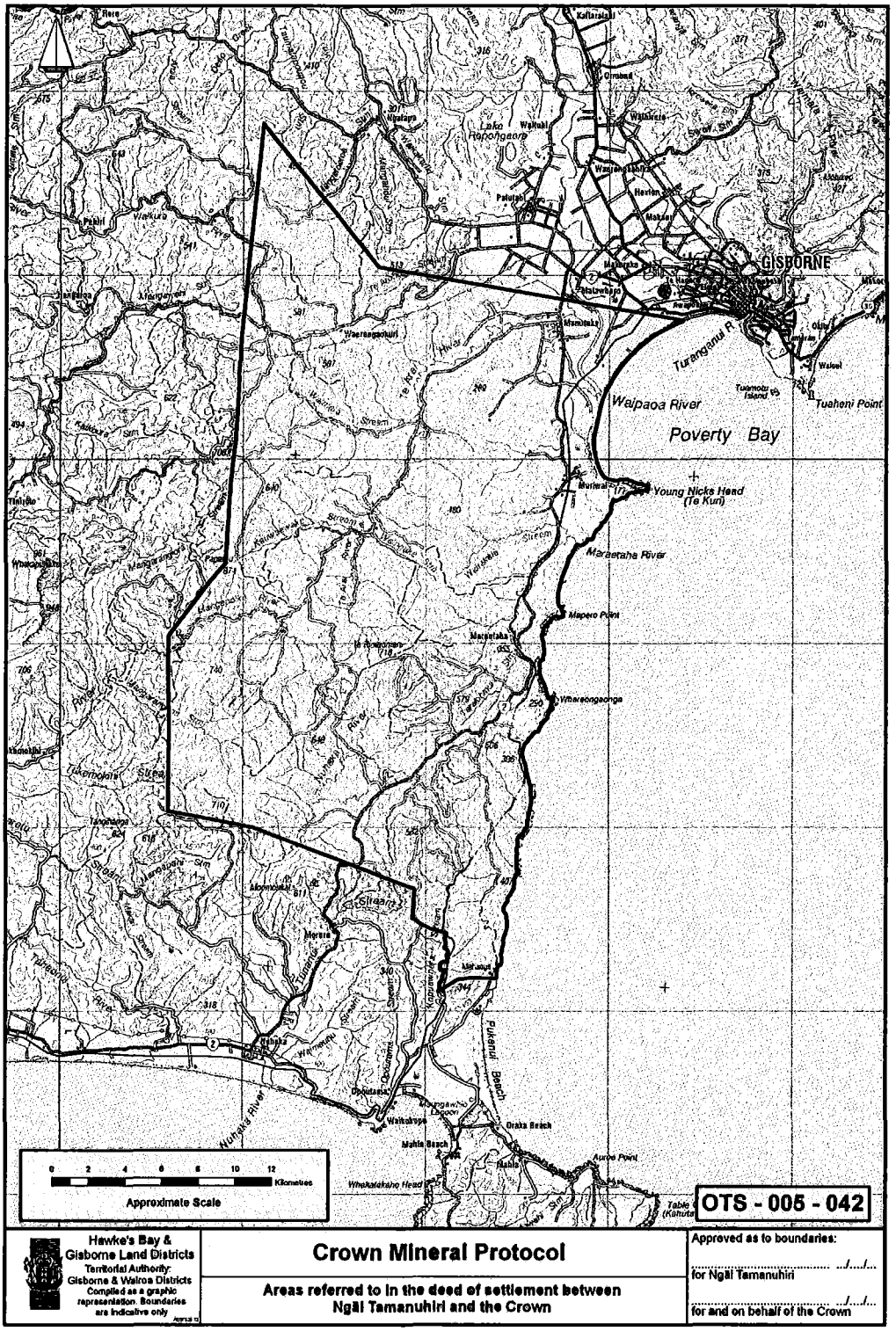
_____

Name_____

Occupation_____

Address_____

ATTACHMENT A: PROTOCOL AREA MAP



ATTACHMENT B: SUMMARY OF THE TERMS OF ISSUE

This Crown Minerals Protocol is subject to 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 Crown Minerals Protocol, but only after consulting with the Governance Entity and having particular regard to its views (section 18).

2 **Noting**

2.1 A summary of the terms of this Crown Minerals Protocol must be added:

2.1.1 in a register of protocols maintained by the chief executive; and

2.1.2 in the minerals programme affecting the Crown Minerals Protocol Area when those programmes are replaced;

but the addition:

2.1.3 is for the purpose of public notice only; and

2.1.4 does not amend the minerals programmes for the purposes of the Crown Minerals Act 1991 (section 22).

3 **Limits**

3.1 This Crown Minerals Protocol does not:

3.1.1 restrict the Crown from exercising its powers, and performing its functions and duties, in accordance with the law (including the Crown Minerals Act 1991) 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 representative of tangata whenua (section 19); or

3.1.2 restrict the responsibilities of the Minister or the Ministry under the Crown Minerals Act 1991 or the legal rights of Ngai Tāmanuhiri or a representative entity (section 19); or

3.1.3 grant, create, or provide evidence of an estate or interest in, or rights relating to Crown owned minerals (section 22).

3.2 In this Summary of the Terms of Issue, **"representative entity"** has the same meaning as it has in the Deed of Settlement.

4 Breach

4.1 Subject to the Crown Proceedings Act 1950, the Governance Entity may enforce this Crown Minerals Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section 20).

4.2 A breach of this Crown Minerals Protocol is not a breach of the Deed of Settlement (clause 5.14).

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING INTERACTION WITH NGAI TĀMANUHIRI ON SPECIFIED ISSUES

1 INTRODUCTION

1.1 Under the Deed of Settlement dated xx between Ngai Tāmanuhiri, the governance entity 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 Ngai Tāmanuhiri tikanga and objectives;

1.1.2 Protocol Area – Part 3

1.1.3 Terms of issue – Part 4

1.1.4 Implementation and communication – Part 5

1.1.5 The role of the Chief Executive under the Protected Objects Act 1975 – Part 6

1.1.6 The role of the Minister under the Protected Objects Act 1975 – Part 7

1.1.7 Ngai Tāmanuhiri Ngā Taonga Tūturu held by Te Papa Tongarewa – Part 8

1.1.8 Effects on Ngai Tāmanuhiri interests in the Protocol Area – Part 9

1.1.9 Registration as a collector of Ngā Taonga Tūturu – Part 10

1.1.10 Relationship with Creative New Zealand – Part 11

1.1.11 Relationship with Historic Places Trust – Part 12

1.1.12 Board Appointments – Part 13

1.1.13 National Monuments, War Graves and Historical Graves – Part 14

1.1.14 History publications relating to Ngai Tāmanuhiri – Part 15

1.1.15 Cultural and/or Spiritual Practices and Tendering – Part 16

1.1.16 Consultation – Part 17

1.1.17 Changes to legislation affecting this Protocol –Part 18

1.1.18 Definitions – Part 19

1.2 For the purposes of this Protocol the governance entity is the body representative of the iwi of Ngai Tāmanuhiri who have an interest in the matters covered under this Protocol. This derives from the status of the governance entity as representative of the 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 is 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. Ngai Tāmanuhiri considers that this Protocol provides a process or opportunity by which the Crown seeks to restore its reputation as a Treaty partner.

1.4 The purpose of the Protected Objects Act 1975 (the "Act") 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 NGAI TĀMANUHIRI TIKANGA AND OBJECTIVES

2.1 To Ngai Tāmanuhiri, tikanga underpins the ongoing relationship between Ngai Tāmanuhiri and the Ministry and guides their objectives for this Protocol which include:

2.1.1 Mana Tangata - to achieve improved culture and heritage outcomes for Ngai Tāmanuhiri, through actions that include implementing effective planning, management and monitoring systems;

2.1.2 Mana Whenua - to increase the return to, and minimise the loss of, taonga tūturu from Ngai Tāmanuhiri through actions that include the development and implementation of effective strategies and systems;

2.1.3 Mana Rangatira - to achieve improved input by Ngai Tāmanuhiri at the highest level through actions, that include engaging in developing and implementing Ministry national policies, strategies and programmes ; and

2.1.4 Mana Tipuna - to enable the beginning of closure of past grievances through actions that include planning and managing the return of, and memorial for, Tūranga tipuna from Wharekauri.

2.2 The Minister and Chief Executive acknowledge the importance of Ngai Tāmanuhiri tikanga to the governance entity. The Crown and the governance entity agree that the Ngai Tāmanuhiri tikanga and objectives set out in clause 2.1 do not:

2.2.1 affect how the Minister, Chief Executive and the Ministry will exercise their statutory powers, functions and duties in relation to the matters specified in this Protocol; and

2.2.2 prevent the Minister, Chief Executive and the Ministry from interacting with other iwi or hapu with interests in the Protocol Area;

3 PROTOCOL AREA

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

4 TERMS OF ISSUE

4.1 This Protocol is issued pursuant to section 18 of the ("the Settlement Legislation") that implements the Ngai Tāmanuhiri Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.

4.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

5 IMPLEMENTATION AND COMMUNICATION

5.1 The Chief Executive will maintain effective communication with the governance entity by:

5.1.1 maintaining information provided by the governance entity on the office holders of the governance entity and their addresses and contact details;

5.1.2 discussing with the governance entity concerns and issues notified by the governance entity about this Protocol;

5.1.3 as far as reasonably practicable, providing opportunities for the governance entity to meet with relevant Ministry Managers and staff;

5.1.4 meeting with the governance entity to review the implementation of this Protocol at least once a year, if requested by either party;

5.1.5 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;

5.1.6 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

5.1.7 including a copy of the Protocol with the governance entity on the Ministry's website.

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

General

6.1 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:

6.1.1 notify the governance entity in writing of any Taonga Tūturu found within the Protocol Area or identified as being of Ngai Tāmanuhiri origin found anywhere else in New Zealand;

6.1.2 provide for the care, recording and custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngai Tāmanuhiri origin found anywhere else in New Zealand;

6.1.3 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 Ngai Tāmanuhiri origin found anywhere else in New Zealand;

6.1.4 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 Ngai Tāmanuhiri, origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu; and

6.1.5 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 Ngai Tāmanuhiri origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu.

Applications for Ownership

6.2. 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 Ngai Tāmanuhiri 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.

6.3 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.

6.4 If the competing claims for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngai Tāmanuhiri 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

6.5 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 Ngai Tāmanuhiri, origin found elsewhere in New Zealand by the governance entity or any other person, the Chief Executive will:

6.5.1 consult the governance entity[where there is any request from any other person for the custody of the Taonga Tūturu;

6.5.2 consult the governance entity before a decision is made on who may have custody of the Taonga Tūturu; and

6.5.3 notify the governance entity in writing of the decision made by the Chief Executive on the custody of the Taonga Tūturu.

Export Applications

6.6 For the purpose of seeking an expert opinion from the governance entity on any export applications to remove any Taonga Tūturu of Ngai Tāmanuhiri origin from New Zealand, the Chief Executive will register the governance entity on the Ministry for Culture and Heritage's Register of Expert Examiners.

6.7 Where the Chief Executive receives an export application to remove any Taonga Tūturu of Ngai Tāmanuhiri 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.

7. THE ROLE OF THE MINISTER UNDER THE PROTECTED OBJECTS ACT 1975

7.1 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:

7.1.1 refuse permission to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand; or

7.1.2 impose conditions on the approval to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand;

7.2 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 Tūturu where the governance entity was consulted as an Expert Examiner.

8. NGAI TĀMANUHIRI NGĀ TAONGA TŪTURU HELD BY TE PAPA TONGAREWA

8.1 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 Ngai Tāmanuhiri; and

8.2 Associated costs and/or additional resources required to complete the obligations under clause 8.1 will be funded by Te Papa Tongarewa, as resources allow.

9 EFFECTS ON NGAI TĀMANUHIRI INTERESTS IN THE PROTOCOL AREA

9.1 The Chief Executive and governance entity shall discuss any policy and legislative development, which specifically affects Ngai Tāmanuhiri interests in the Protocol Area.

9.2 The Chief Executive and governance entity shall discuss any of the Ministry's operational activities, which specifically affect Ngai Tāmanuhiri interests in the Protocol Area.

9.3 Notwithstanding clauses 9.1 and 9.2 above the Chief Executive and governance entity shall meet to discuss Ngai Tāmanuhiri interests in the Protocol Area as part of the meeting specified in clause 5.1.4.

10. REGISTRATION AS A COLLECTOR OF NGĀ TAONGA TŪTURU

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

11. RELATIONSHIP WITH CREATIVE NEW ZEALAND

11.1 Ngai Tāmanuhiri has a strategic vision for its cultural identity that includes the preservation, development and transmission of its cultural heritage, traditions and arts. The governance entity wishes to explore the mutual benefits of a relationship with Arts Council of New Zealand Toi Aotearoa (Creative New Zealand). The Chief Executive will invite Creative New Zealand to initiate discussions with the governance entity.

12. RELATIONSHIP WITH HISTORIC PLACES TRUST

12.1 Ngai Tāmanuhiri has a strategic vision for its cultural identity that includes the preservation, development and transmission of its cultural heritage, traditions and arts. The governance entity wishes to explore the mutual benefits of a relationship with the New Zealand Historic Places Trust. The Chief Executive will invite the New Zealand Historic Places Trust to initiate discussions with the governance entity.

13. BOARD APPOINTMENTS

13.1 The Chief Executive shall as soon as reasonably practical:

13.1.1 notify the governance entity of any upcoming ministerial appointments on Boards which the Minister for Arts, Culture and Heritage appoints to;

13.1.2 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

13.1.3 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.

14. NATIONAL MONUMENTS, WAR GRAVES AND HISTORIC GRAVES

14.1 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 Ngai Tāmanuhiri interests.

14.2 The Chief Executive will provide for the marking and maintenance of any historic war grave identified by the governance entity, which the Chief Executive considers complies with the Ministry's Heritage Management Guidelines criteria; that is, a casualty, whether a combatant or non-combatant, whose death was a result of the armed conflicts within New Zealand in the period 1840 to 1872 (the New Zealand Wars).

14.3 Specifically, the Chief Executive will work with Ngai Tāmanuhiri to develop and implement a plan within 12 months of the issue of the Protocol to ensure:

14.3.1 that the graves of Ngai Tāmanuhiri casualties of the New Zealand Wars, buried on the Chatham Islands, are marked and a whakawatea process performed to bless the area; and

14.3.2 that those casualties are returned to Ngai Tāmanuhiri whether physically or spiritually; and

14.3.3 that a memorial is erected at Wharekauri.

15. HISTORY PUBLICATIONS RELATING TO NGAI TĀMANUHIRI,

15.1 The Chief Executive shall:

15.1.1 provide the governance entity with a list and copies of all history publications commissioned or undertaken by the Ministry that relates substantially to Ngai Tāmanuhiri and will supply these on request; and

15.1.2 where reasonably practicable, consult with the governance entity on any work the Ministry undertakes that deals substantially with Ngai Tāmanuhiri:

(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.

15.2 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.

16. PROVISION OF CULTURAL AND/OR SPIRITUAL PRACTICES AND PROFESSIONAL SERVICES

16.1 When the Chief Executive requests cultural and/or spiritual practices to be undertaken by Ngai Tāmanuhiri within the Protocol Area, the Chief Executive will make a payment, subject to prior mutual agreement, on a fair and reasonable basis to the costs of undertaking such practices.

16.2 Where appropriate, the Chief Executive will consider using the governance entity as a provider of professional services.

16.3 The procurement by the Chief Executive of any such services set out in clauses 16.1 and 16.2 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.

17. CONSULTATION

17.1 Where the Chief Executive is required to consult under this Protocol, the basic principles that will be followed in consulting with the governance entity in each case are:

17.1.1 ensuring that the governance entity is consulted as soon as reasonably practicable once the issue or proposal for consultation has been identified by the Chief Executive;

17.1.2 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;

17.1.3 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;

17.1.4 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

17.1.5 report back to the governance entity, either in writing or in person, in regard to any decisions made that relate to that consultation.

18 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

18.1 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:

18.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment upon which Māori generally will be consulted;

18.1.2 make available to the governance entity the information provided to Māori as part of the consultation process referred to in this clause; and

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

19. DEFINITIONS

19.1 In this Protocol:

Chief Executive means the Chief Executive of the Ministry for Culture and Heritage and includes any authorised employee of the Ministry for Culture and Heritage acting for and on behalf of the Chief Executive;

Crown means the Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

Expert Examiner has the same meaning as in section 2 of the Act and means a body corporate or an association of persons;

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

> in relation to any Taonga 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 has the meaning given to it in the Deed of Settlement;

Ngai Tāmanuhiri has the meaning set out in clause 8.5 of the Deed of Settlement

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

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 **P**rotocol; and

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.

ISSUED on

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

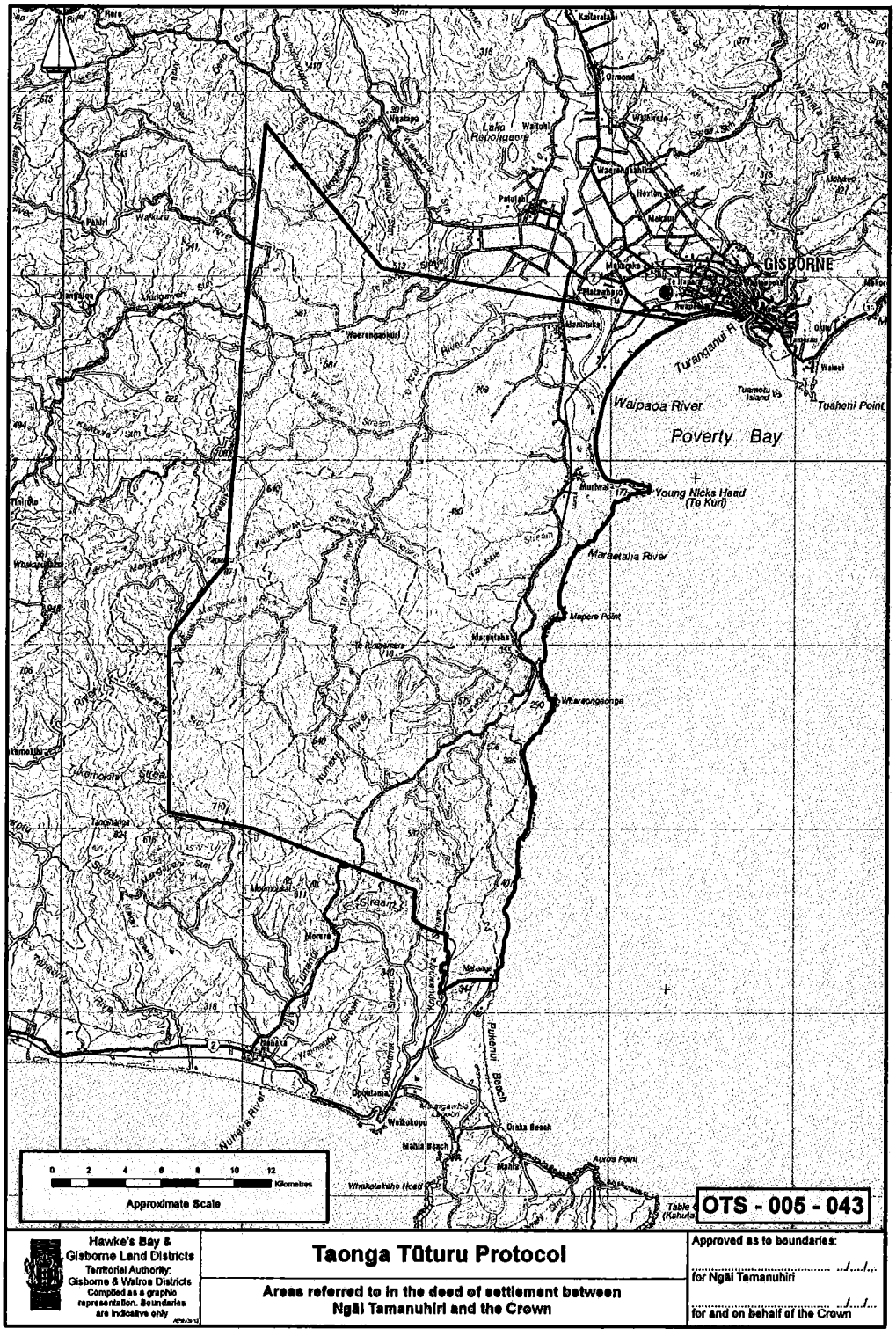
WITNESS

Name:

Occupation:

Address:

ATTACHMENT A – TAONGA TŪTURU PROTOCOL AREA



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.

1. Amendment and cancellation

1.1 The Minister may amend or cancel this Protocol, but only after consulting with the governance entity and having particular regard to its views (section 18).

2. Limits

2.1 This Protocol does not –

2.1.1 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, hapū, marae, whānau, or representative of tangata whenua (section 19); or

2.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of Ngai Tāmanuhiri (section 19); or

2.1.3 grant, create, or provide evidence of an estate or interest in, or rights relating to, taonga tūturu (section 24).

3. Breach

3.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section 20).

3.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause 5.14).

3 LEASE FOR THE MURIWAI SCHOOL DSP SITE

MINISTRY OF EDUCATION
TREATY SETTLEMENT LEASE

MEMORANDUM OF LEASE dated 2011

LESSOR ("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

[Insert full legal description. Note that improvements are excluded].

ITEM 2 START DATE

[Insert start date].

ITEM 3 ANNUAL RENT

$[ ] plus GST per annum payable monthly in advance on the first day of each month with a first payment due on the [Date] day of [Month & Year].

ITEM 4 TERM OF LEASE

21 Years.

ITEM 5 LESSEE OUTGOINGS

5.1 Rates 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.

5.6 Charges for water, gas, electricity, telephones and other utilities or services.

5.7 Rubbish collection charges.

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.**9** 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 ("Lease"):

(i) *It has notice of the provisions of clause 17 of the Lease; and*

(ii) *It agrees 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 during 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;*

(iv) *It agrees that this acknowledgement is irrevocable.*

SCHEDULE

[ ]

_____

[Form of execution by Lender]

_____

[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 ("Lease") 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 which the Lease continues.*

SCHEDULE

[ ]

_____

[Form of execution by Lender]

_____

[Date dd/mm/yy]

SCHEDULE B

1 Definitions

1.1 The expression "the Lessor" includes and binds:

(a) the persons executing this Lease as Lessor; and

(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 Lessee and if more than one jointly and severally.

1.3 "Crown" has the meaning given to it in section 2(1) of the **P**ublic Finance Act 1989 and includes:

(a) Her Majesty the Queen in right of New Zealand; and

(b) all Ministers of the Crown and all **D**epartments.

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 "Land", "Start Date", "Annual Rent", "Term", "Lessee's Outgoings" and "Permitted Use" have the meanings set out in Schedule A.

1.8 "Legislation" means any applicable statute (including regulations, orders, rules or notices made under that statute and all amendments to or replacements of that statute), and bylaws, codes, standards, requisitions or notices made or issued by any lawful authority.

1.9 "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.

1.10 "Lessee's Outgoings" means all outgoings the Lessee is obliged to pay under this Lease.

1.11 "Maintenance" includes repair.

1.12 "Public Work" has the meaning in section 2 of the Public Works Act 1981.

1.13 "Sublet" and "sublease" include the granting of a licence to occupy the Land or part of it.

2 Payment of Annual Rent

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

3 Rent Review

3.1 The Annual Rent will be reviewed as provided below on the basis of an annual rent of 6% 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 [%] 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:

(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 (l) 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.

(l) 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 responsible for ensuring that it is 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

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 Annual Rent 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, without prejudice to the Lessor's other rights and remedies, 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

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:

(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 Lease Term 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 Term 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

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.

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 Annual Rent and complies with all its obligations under this Lease, it may quietly enjoy the Land during the Lease Term 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.

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25 Assignment

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 assignment 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 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.

25.4 If following assignment the Land will no longer be used for Education Purposes the Lessor and new Lessee may renegotiate in good faith the provision setting the value of the land for rent review purposes, being clause 3.2 of this Lease.

25.5 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 person or body,

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 right or remedy available to the Lessor as a consequence of 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) in respect of a breach of the covenant to pay rental, by paying the Lessor all money necessary to remedy the breach within one month of the notice; or

(b) in respect of a breach of any covenant or agreement other that the covenant to pay rental:

(i) 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 specified in the notice having regard to the nature and extent of it; or

(ii) 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

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, provided 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

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:

[INSERT CONTACT DETAILS]

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 the 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.

3: LEASE FOR THE MURIWAI SCHOOL DSP SITE

LESSOR:

LESSEE:

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

4 RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

Relationship Agreement between the Ministry for the Environment (the Ministry) and Ngai Tāmanuhiri

1.1 PURPOSE

The purpose of this Relationship Agreement is to set out how the governance entity or Ngai Tāmanuhiri ("the governance entity") and the Secretary for the Environment ("the Secretary") will establish and maintain a positive, co-operative and enduring relationship.

1.2 SCOPE

This Relationship Agreement will apply to all functions, responsibilities and actions of the Secretary that affect the Ngai Tāmanuhiri Area of Interest (attached), but exclude the Secretary's role in appointing officials and statutory officers, and their roles and responsibilities.

The commitments of the Secretary under this Relationship Agreement are limited to the extent that they are within the capability, resources and mandated work programme of the Ministry and the priorities of the government of the day.

1.3 TE TIRITI O WAITANGI

The Secretary and Ngai Tāmanuhiri the governance entity are seeking a relationship consistent with Te Tiriti o Waitangi/Treaty of Waitangi and its principles. Ngai Tāmanuhiri consider that this agreement provides a process or opportunity by which the Crown seeks to restore its reputation as a Treaty partner.

1.4 NGAI TĀMANUHIRI TIKANGA AND OBJECTIVES

Ngai Tāmanuhiri tikanga underpins the ongoing relationship between the governance entity and the Ministry. The objectives and expectations of the governance entity in relation to this Relationship Agreement are guided by tikanga and include:

- Mana Tangata - to achieve improved environmental outcomes for the governance entity through actions that include monitoring of effective planning and management systems that protect the environment.
- Mana Whenua - to achieve improved kaitiekitanga outcomes for the governance entity through actions that include the development and monitoring of the implementation of effective strategies and systems that protect wāhi tapu, ancestral lands and other places of cultural significance, natural and historic resources and other taonga.
- Mana Moana - to achieve improved freshwater, estuarine and moana outcomes through active consultation between the governance entity and the Ministry in developing and implementing effective national policies, strategies and programmes.
- Mana Rangatira - to achieve improved environmental outcomes through active consultation between the governance entity and the Ministry in developing and implementing effective national policies, strategies and programmes.

- Mana Tipuna - to achieve improved knowledge outcomes through collaborative research efforts that combine traditional ways of knowing and scientific methodologies on environment matters.

- Mana Atua - to uphold tikanga principles, and to assist the governance entity to attain their vision that includes the achievement of pristine waters and lush natural environments through the protection and sustainability of the domains of Papatuānuku, Ranginui, Ruaumoko, Tane Mahuta, Tangaroa, Tawhirimatea me a ratau uri.

The Secretary acknowledges the importance of Ngai Tāmanuhiri tikanga to the governance entity.

The Secretary and the governance entity agree that the tikanga and objectives set out in the above clauses:

a. do not affect how the Secretary and the Ministry will exercise their statutory powers, functions and duties in relation to the matters specified in this Relationship Agreement; and

b. do not prevent the Secretary and the Ministry from interacting with other iwi or hapū with interests in the Ngai Tāmanuhiri Area of Interest.

1.5 FUNCTIONS OF THE MINISTRY FOR THE ENVIRONMENT

The Ministry was established by the Environment Act 1986 with these functions:

- to advise the Minister for the Environment ("the Minister") on all aspects of environmental administration, including:
  - management policies for natural and physical resources and ecosystems;
  - significant environmental impacts of public or private sector proposals; and
  - ensuring effective provision is made for public participation in environmental planning and policy formulation, particularly at the regional and local level;
- to obtain information, and to conduct and supervise research, so it may advise the Government on environmental policies.
- to provide the Government, its agencies, and other public authorities with advice on:
  - the application, operation, and effectiveness of legislation specified in the Environment Act 1986 (e.g. Conservation Act, Forests Act, Local Government Act, Marine Reserves Act, Resource Management Act, etc.);
  - procedures for the assessment and monitoring of environmental impacts;
  - pollution control and the co-ordination of the management of pollutants in the environment;
  - the identification and likelihood of natural hazards and the reduction of the effects of natural hazards; and
  - the control and management of hazardous substances.
- to facilitate and encourage the resolution of conflict in relation to policies and proposals which may affect the environment.

- to provide and disseminate information and services to promote environmental policies.
- generally to provide advice on matters relating to the environment.
- to carry out functions specified under any other legislation, including:
  - Resource Management Act 1991 ("RMA");
  - Hazardous Substances and New Organisms Act 1996;
  - Ozone Layer Protection Act 1996;
  - Climate Change Response Act 2002; and
  - Waste Minimisation Act 2008.

The Environmental Protection Authority (EPA) is a statutory office established by 2009 amendments to the RMA and housed within the Ministry under the Secretary. The Minister has announced that a new EPA will be established as a Crown agent responsible to the Minister. This EPA will combine aligned technical and regulatory functions and powers from the Ministry, Ministry of Economic Development and Environmental Risk Management Authority and is expected to be operational by 1 July 2011.

Much of the responsibility for day to day environmental management is devolved to local government, especially under the RMA. This makes regional and district councils a critical part of environmental management in New Zealand. The Ministry provides guidance for their activities through national policy statements and national environmental standards (which are binding on local authorities), and also through professional development and sharing knowledge about best practice.

Many of the Ministry's activities involve partnerships with particular councils, iwi, business organisations or community groups to work on matters that are of national importance.

1.6 RELATIONSHIP PRINCIPLES

The governance entity and the Secretary agree to abide by the following relationship principles when implementing this agreement and exercising their various roles and functions:

- working in a spirit of co-operation;
- operating a 'no surprises' approach;
- acknowledging that the relationship is evolving, not prescribed;
- respecting the independence of the parties and their individual mandates, roles and responsibilities; and
- recognising and acknowledging that parties benefit from working together by sharing their vision, knowledge and expertise.

1.7 COMMUNICATION BETWEEN THE PARTIES

The Ministry shall establish and maintain effective and efficient communications with the governance entity on a continuing basis through:

- relationship meetings (in accordance with the section below on Relationship Meetings);
- maintaining information on the governance entity's office holders, and their addresses and contact details;
- appointing a primary Ministry contact for the governance entity who will act as a liaison person with other Ministry staff;
- providing reasonable opportunities for the governance entity to meet with Ministry managers and staff to discuss and (if possible) resolve any issue that may arise;
- informing relevant staff of the contents of this relationship agreement and their responsibilities and roles under it;
- providing reasonable opportunities for the governance entity to participate, if they choose to, in regional forums administered by the Ministry, that are established to interact with the Ministry on environmental issues that affect the Ngai Tāmanuhiri Area of Interest.

1.8 STAFF AWARENESS

From the date of signing this agreement the Secretary will arrange for relevant staff to be educated on any information the governance entity are willing to provide on Ngai Tāmanuhiri values and practices that adds value to work programmes the Ministry is involved in within the Ngai Tāmanuhiri Area of Interest.

1.9 RELATIONSHIP MEETINGS

Representatives of the governance entity and of the Secretary will participate in a bi-ennial relationship meeting, as agreed in the Deed of Settlement dated [ ] between Ngai Tāmanuhiri and the Crown ("Deed of Settlement"), unless both parties agree in writing to vary or terminate the provisions of clause 5.36 of the Deed of Settlement.

The parties agree that, where possible, the bi-ennial relationship meeting will be held jointly with representatives of the governance entities for Rongowhakaata and Te Whakarau in Tūranganui a Kiwa on common issues in Tūranganui a Kiwa.

The parties agree that when there are specific issues for Ngai Tāmanuhiri representatives of the Secretary will meet separately with the governance entity, and where practicable and in the interests of efficiency and best use of time and resources, joint Tūranganui a Kiwa and specific Ngai Tāmanuhiri issues meetings will occur on the same day.

Before each meeting, representatives of the Secretary and the governance entity will agree administrative arrangements for the meeting(s). The parties agree that the bi-ennial meeting(s) will be held on the margins of meetings of the Central Leadership Group or other relationship forum developed in accordance with the Deed of Settlement.

The Ministry surveys all New Zealand councils (regional, territorial and unitary) every two years about their RMA processes. Before each bi-ennial meeting, the Ministry will provide the governance entity with the most recent published information from this survey, for discussion at the meeting, as it relates to the performance of local authorities in the Ngai Tāmanuhiri Area of Interest.

The agenda for each meeting will be agreed between the Secretary and governance entity no later than 10 working days before the meeting. Standing agenda items may include:

- monitoring of local authority performance in the Ngai Tāmanuhiri Area of Interest in implementing Te Tiriti o Waitangi/the Treaty of Waitangi provisions of the RMA;

- any other opportunities relating to the Minister's statutory functions in relation to the above matters; and

- any other matters of mutual interest.

Each party will meet the costs and expenses of its representatives attending relationship meetings.

The first relationship meeting will happen within 12 months after Settlement Date under the Deed of Settlement unless rescheduled by mutual agreement of the parties.

Outside of the relationship meetings, relevant representatives of the parties may meet on a mutually agreed basis to discuss matters of interest. The agenda for each meeting will be agreed between the parties no later than 10 working days before the meeting.

It is acknowledged that the relationship between the Ministry for the Environment and the governance entity will also be supported through the Central Leadership Group.

1.10 ACTIONS FOLLOWING RELATIONSHIP MEETINGS

The Ministry for the Environment

The Secretary is interested in whatever response the governance entity may have to the information the Ministry holds on the performance of councils within the Ngai Tāmanuhiri Area of Interest, and any insights the governance entity may be able to provide on resource management. The Ministry is committed to acting on any information provided by the governance entity as possible within the Ministry's scope and functions as set out above.

Matters to be considered as part of the possible actions must be of mutual interest to the parties and within the parties' respective capabilities, resources and mandated work programmes.

Possible actions may include:

- developing best practice advice for all councils based on positive interactions between the governance entity and councils that operate within the Ngai Tāmanuhiri Area of Interest;

- considering whether the questions asked of councils in the Ministry's bi-ennial survey of RMA processes are appropriate and whether they need to be amended;

- considering whether national guidance on the RMA or resource management policy under development needs to be amended or developed in light of information provided by the governance entity;

- considering whether any feedback provided by the governance entity highlights an issue of national significance that should be addressed through legislative change; and

- considering whether the Ministry could offer support and advice, but not extending to legal advice, to any councils operating within the Ngai Tāmanuhiri Area of Interest on their implementation of section 6* of the RMA, and, in extreme cases, whether the Minister should be informed of failures to implement section 6.

4: RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

Representatives of the Secretary will maintain good communication with the governance entity on any actions the Ministry takes in response to information provided by the governance entity.

*** RMA Section 6: Matters of national importance**

In achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- protecting the natural character of the coastal environment, wetlands, lakes and rivers, and protection of them from inappropriate subdivision, use and development;
- protecting natural features and landscapes from inappropriate subdivision, use and development;
- protecting significant indigenous vegetation and habitats of indigenous fauna;
- maintaining and enhancing public access to and along the coastal marine area, lakes and rivers;
- the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga;
- protecting historic heritage from inappropriate subdivision, use and development; and
- protecting recognised customary activities.

4: RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

SIGNED as an agreement on [xx]

SIGNED by
THE SECRETARY FOR THE ENVIRONMENT

_____
[Dr. Paul Reynolds]

in the presence of:
WITNESS

_____
Name:

SIGNED for and on behalf
of **[name of the governance entity to be inserted]**
by

_____
(name)

in the presence of:
WITNESS

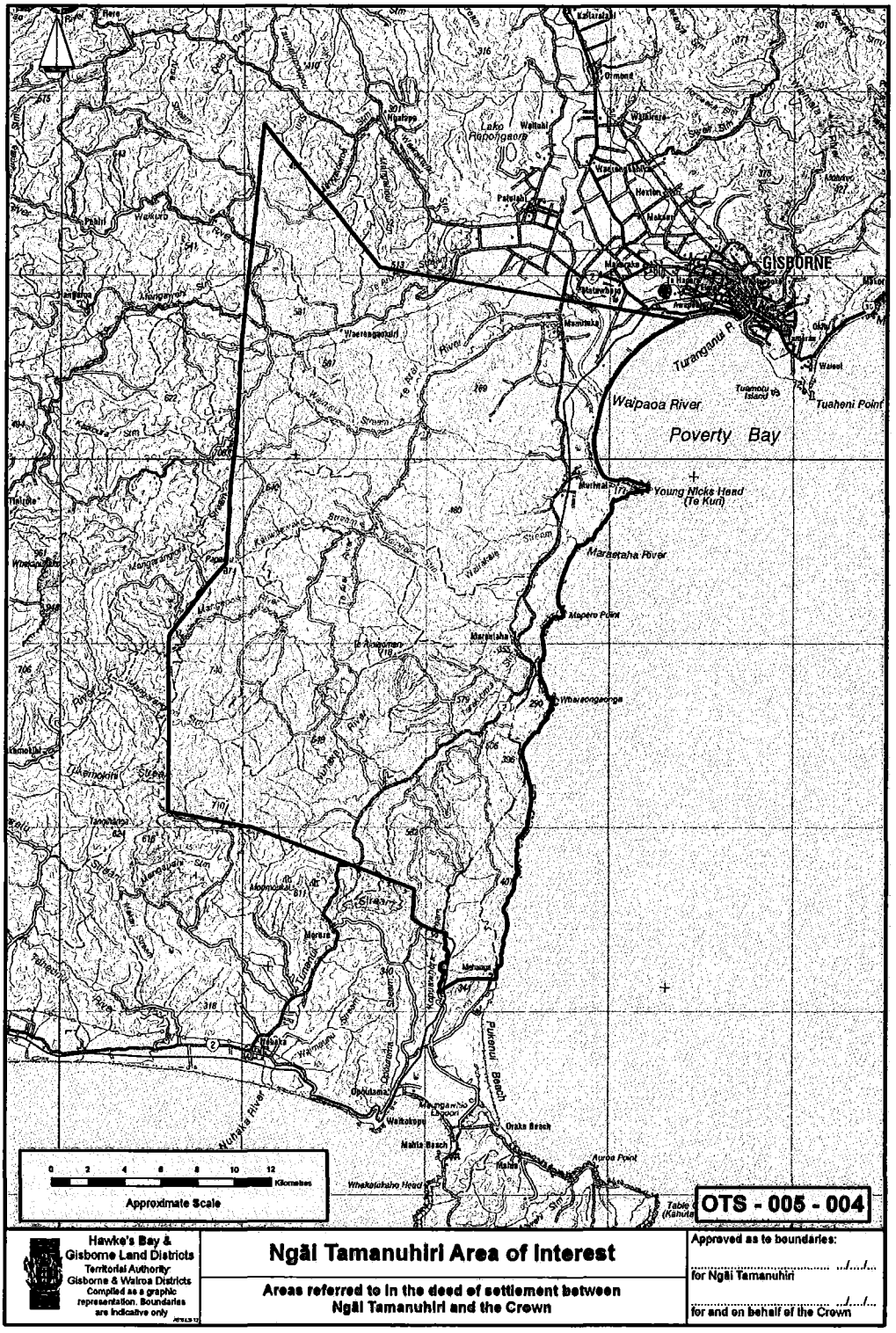
_____
Name:

WITNESS

_____
Name:

4: RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

ATTACHMENT: MAP SHOWING THE NGAI TĀMANUHIRI AREA OF INTEREST



5 MUSEUMS

New Zealand museums

- Archive of Maori and Pacific Music
- Archives New Zealand
- Auckland Museum
- Canterbury Museum
- Central Hawke's Bay Settlers Museum
- Hawke's Bay Museum and Art Gallery
- Hocken Collections Uare Taoka o Hakena
- The Museum of New Zealand Te Papa Tongarewa
- Pataka Museum of Arts & cultures
- Puke Ariki
- Rotorua Museum of Art and History
- Tairawhiti Museum
- Te Manawa
- Wairoa District Museum
- Otago Museum
- Whakatane District Museum

International museums

- The British Museum, London
- Pitt Rivers Museum, Oxford
- The Field Museum, Chicago
- Smithsonian Museum, Washington D.C.

5: MUSEUMS

- National Museum of Scotland, Edinburgh
- National Museum of Ireland, Dublin
- Leiden Museum Volkenkunde, Leiden
- Hanock Museum, Newcastle Upon Tyne

6 CONSTITUTION OF WHARERATA FOREST LIMITED

Constitution

Wharerata Forest Limited

6: CONSTITUTION OF WHARERATA FOREST LIMITED

Constitution of Wharerata Forest Limited

TABLE OF CONTENTS

CONSTITUTION OF WHARERATA FOREST LIMITED 1

1 INTERPRETATION 1

2 GENERAL 3

3 RIGHTS ATTACHING TO SHARES 3

4 ISSUE, CONSOLIDATION, SUBDIVISION AND REPURCHASE OF SHARES. 4

5 ALTERATION OF SHAREHOLDERS' RIGHTS 5

6 SHARE CERTIFICATES 5

7 TRANSFER OF SHARES 6

8 EXERCISE OF POWERS OF SHAREHOLDERS 7

9 MEETINGS OF SHAREHOLDERS 8

10 NOTICE OF MEETINGS OF SHAREHOLDERS 8

11 CHAIRPERSON OF MEETINGS OF SHAREHOLDERS 9

12 QUORUM FOR MEETINGS OF SHAREHOLDERS 10

13 VOTING AT MEETINGS OF SHAREHOLDERS 11

14 PROXIES AND CORPORATE REPRESENTATIVES 12

15 MINUTES OF SHAREHOLDER MEETINGS 13

16 SHAREHOLDER PROPOSALS 13

17 APPOINTMENT AND REMOVAL OF DIRECTORS 15

18 ALTERNATE DIRECTORS 15

19 POWERS OF DIRECTORS 17

20 PROCEEDINGS OF THE BOARD 17

21 DIRECTORS' INTERESTS 20

22 DIRECTORS' REMUNERATION AND OTHER BENEFITS 21

23 INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES 21

24 DIVIDENDS 22

25 NOTICES 23

26 INSPECTION OF RECORDS 23

6: CONSTITUTION OF WHARERATA FOREST LIMITED

Constitution of Whararata Forest Limited

27 LIQUIDATION 23

28 METHOD OF CONTRACTING 24

SCHEDULE 1 - CERTIFICATION OPTIONS 25

CONSTITUTION OF WHARERATA FOREST LIMITED

1 INTERPRETATION

1.1 Definitions

In this Constitution, unless the context otherwise requires:

Act means the Companies Act 1993;

Alternate Director means a person appointed to be the alternate of a Director pursuant to clause 18.1;

Board means Directors who number not less than the required quorum acting together as the board of directors of the Company;

Business Day means a day (other than a Saturday or Sunday) on which banks are open for business in Wellington and Auckland;

Class means a class of Shares having attached to them identical rights, privileges, limitations and conditions;

Company means Wharerata Forest Limited;

Constitution means this constitution, as altered from time to time;

Director means a person appointed as a director of the Company;

Interested has the meaning set out in section 139 of the Act (and *Interest* shall be interpreted accordingly);

Ordinary Resolution means a resolution passed by a simple majority of the votes of Shareholders entitled to vote and voting on the resolution;

Personal Representative means:

(a) in relation to a deceased individual Shareholder, the executor, administrator or trustee of the estate of that Shareholder;

(b) in relation to a bankrupt individual Shareholder, the assignee in bankruptcy of that Shareholder; and

(c) in relation to any other individual Shareholder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed thereunder, and a donee of an enduring power of attorney complying with that Act;

CTG 93

Representative means a person appointed as a proxy or representative under clause 14 or a Personal Representative;

Share means a share issued, or to be issued, by the Company;

Shareholder means a person whose name is entered in the Share register as the holder for the time being of one or more Shares;

Special Resolution means a resolution passed by a majority of 75% or more of the votes of those Shareholders entitled to vote and voting on the resolution; and

Unanimous Resolution means a resolution passed by the affirmative vote of all of the Shareholders.

1.2 Construction

In this Constitution, unless the context otherwise requires:

(a) the headings appear as a matter of convenience and shall not affect the construction of this Constitution;

(b) in the absence of an express indication to the contrary, references to clauses or paragraphs are to clauses and paragraphs of this Constitution;

(c) a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted;

(d) the singular includes the plural and vice versa and one gender includes the other genders;

(e) the words *written* and *writing* include facsimile communications and any other means of communication resulting in permanent visible reproduction;

(f) the word *person* includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality; and

(g) words or expressions defined in the Act have the same meaning in this Constitution.

2 GENERAL

2.1 Shareholders' Agreement and Trust Deed Prevails

This Constitution is subject to the provisions of the Shareholders' Agreement and Trust Deed entered into at or about the time of incorporation of the Company and, except to the extent that there would be a breach of the Act, the Shareholders' Agreement and Trust Deed overrides this Constitution in the event of any inconsistency between the two.

2.2 Companies Act 1993

The Company, the Board, each Director and each Shareholder have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified by the Constitution.

3 RIGHTS ATTACHING TO SHARES

The Shares held by a Shareholder confer on the holder the right to:

(a) vote on a poll at a meeting of the Shareholders on any resolution, including any resolution to:

(i) appoint or remove a Director or auditor;

(ii) adopt a constitution;

(iii) alter the Company's constitution;

(iv) approve a major transaction;

(v) approve an amalgamation of the Company under section 221 of the Act; or

(vi) put the Company into liquidation;

(b) a share in dividends authorised by the Board equal to the share of each other Shareholder in the dividends;

(c) a share in the distribution of the surplus assets of the Company equal to the share of each other Shareholder in the surplus assets; and

(d) receive notice of and attend every meeting of Shareholders.

4 ISSUE, CONSOLIDATION, SUBDIVISION AND REPURCHASE OF SHARES

4.1 Issue of New Shares

Subject to the approval of a Unanimous Resolution, the Board may issue further Shares in the Company (including different Classes of Shares) which:

(a) rank equally with, or in priority to, existing Shares;

(b) have deferred, preferred or other special rights or restrictions, whether as to voting rights or distributions or otherwise;

(c) confer preferential rights to distributions of capital or income;

(d) confer special, limited or conditional voting rights;

(e) do not confer voting rights; or

(f) are redeemable in accordance with section 68 of the Act.

4.2 Consolidation and subdivision of Shares

The Board may:

(a) consolidate and divide the Shares or Shares of any Class in proportion to those Shares or the Shares in that Class; or

(b) subdivide the Shares or Shares of any Class in proportion to those Shares or the Shares in that Class.

4.3 Bonus issues

The Board may resolve to apply any amount which is available for distribution to Shareholders either:

(a) in paying up in full Shares or other securities of the Company to be issued credited as fully paid to:

(i) the Shareholders who would be entitled to that amount if it were distributed by way of dividend, and in the same proportions; and

(ii) if applicable, the holders of any other securities of the Company who are entitled by the terms of issue of those securities to participate in bonus issues by the Company, whether at the time the bonus issue is made to the

Shareholders, or at some time later, in accordance with their respective entitlements; or

(b) in paying up any amount which is unpaid on any Shares held by the Shareholders referred to in paragraph (a)(i),

or partly in one way and partly in the other.

4.4 Shares in lieu of dividends

The Board may exercise the right conferred by section 54 of the Act to issue Shares to any Shareholders who have agreed to accept the issue of Shares, wholly or partly, in lieu of proposed dividends or proposed future dividends.

4.5 Share repurchases

The Company may purchase or otherwise acquire Shares issued by it from one or more Shareholders and hold its own Shares.

5 ALTERATION OF SHAREHOLDERS' RIGHTS

Any action affecting the rights, privileges, limitations or conditions attached to any Shares by this Constitution, the Act, or the terms on which the Shares were issued, must be approved by a Unanimous Resolution.

6 SHARE CERTIFICATES

6.1 Issue of share certificates

The Company may issue Share certificates in respect of all or any Shares and must, within 20 Business Days after receiving an application by a Shareholder, send to that Shareholder a Share certificate, in accordance with section 95 of the Act.

6.2 Replacement Share certificates

The Company:

(a) may issue a replacement certificate for any Share certificate that is worn out or defaced; and

(b) shall issue a replacement Share certificate for one that has been lost or destroyed,

subject to satisfactory proof of that fact, payment of the reasonable expenses of the Company and, if so required by the Board, an appropriate indemnity being given to the Company.

7 TRANSFER OF SHARES

7.1 Approval of Unanimous Resolution

A Shareholder can only transfer any or all of its Shares with the approval of a Unanimous Resolution.

7.2 Transferor to remain holder until registration

The transferor of a Share shall remain the holder of the Share until the name of the transferee is entered in the Share register.

7.3 Form of transfer

Every instrument of transfer of Shares shall comply with the following provisions:

(a) the form of the instrument of transfer shall be any usual or common form or any other form which the Board may approve;

(b) the instrument of transfer must be signed or executed by or on behalf of the transferor; and

(c) where the Shares being transferred are not fully paid up, the instrument of transfer must also be signed or executed by or on behalf of the transferee.

7.4 Power to refuse to registar

The Board may decline to register any transfer of Shares where:

(a) the Company has a lien on any of the Shares;

(b) the Shares are not fully paid up; or

(c) the transfer is not accompanied by the certificate (if any) for the Shares to which it relates or other evidence as the Board may reasonably require to show the right of the transferor to make the transfer,

provided that the Board resolves to exercise its powers under this clause within 30 Business Days after receipt of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee within five Business Days of the resolution being passed by the Board.

7.5 Registration of transfers

Every Instrument of transfer shall be delivered to the Company's Share register, together with the Share certificate (if any) for the Shares to be transferred. If there is no Share certificate for those Shares or if the Share certificate has been lost, damaged or destroyed, the transferee shall provide such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.

7.6 Power to divide Share register

The Share register may be divided into two or more registers kept in different places.

7.7 Transfer of securities other than Shares

This clause 7 shall also apply to transfers of securities of the Company other than Shares with any necessary modifications.

8 EXERCISE OF POWERS OF SHAREHOLDERS

8.1 Methods of holding meetings

A meeting of Shareholders may be held either:

(a) by a number of Shareholders, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(b) if determined by the Board, by means of audio, or audio and visual, communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

8.2 Exercise of power by meeting or written resolution

A power reserved to the Shareholders by the Act or by this Constitution may be exercised either:

(a) at a meeting of Shareholders; or

(b) by a resolution in writing signed in accordance with section 122 of the Act.

8.3 Powers of Shareholders

Unless otherwise specified in the Act or this Constitution any power reserved to Shareholders may be exercised and any approval of Shareholders may be given by Ordinary Resolution.

9 MEETINGS OF SHAREHOLDERS

9.1 Annual meetings

Subject to clause 9.3, the Company shall hold an annual meeting not later than:

(a) six months after the balance date of the Company or, if the Company is an *exempt company* (as that term is defined in the Financial Reporting Act 1993) and all the Shareholders agree, ten months after the balance date of the Company; and

(b) fifteen months after the previous annual meeting.

9.2 Time and place of annual meeting

Each annual meeting shall be held at such time and place as the Board appoints.

9.3 Resolution in lieu of annual meeting

It is not necessary for the Company to hold an annual meeting if everything required to be done at the meeting (by resolution or otherwise) is done by resolution in writing signed in accordance with section 122 of the Act.

9.4 Special meetings

All meetings other than annual meetings shall be called special meetings.

9.5 Calling of special meetings

A special meeting:

(a) may be called by the Board at any time; and

(b) shall be called by the Board on the written request of a Shareholder.

10 NOTICE OF MEETINGS OF SHAREHOLDERS

10.1 Written notice

Written notice of the time and place of a meeting of Shareholders must be sent to every Shareholder entitled to receive notice of the meeting and to every Director and the auditor of the Company (if any) not less than 10 Business Days before the meeting.

10.2 Contents of notice

The notice must state:

(a) the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it; and

(b) the text of any Special Resolution or Unanimous Resolution to be submitted to the meeting.

10.3 Irregularity in notice

An irregularity in a notice of a meeting is waived if all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Shareholders agree to the waiver. The accidental omission to give a notice of a meeting to, or the non-receipt of a notice of a meeting by, any person will not invalidate the proceedings at the meeting.

10.4 Adjourned meetings

If a meeting of Shareholders is adjourned for less than 30 days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned.

11 CHAIRPERSON OF MEETINGS OF SHAREHOLDERS

11.1 Chairperson of the Board to act

If the Directors have elected a chairperson of the Board, and the chairperson of the Board is present at a meeting of Shareholders, that Director must chair the meeting.

11.2 Other chairperson

If no chairperson of the Board has been elected or if at any meeting of Shareholders the chairperson of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting or the chairperson is unwilling or unable to act, the Directors present, if any, may elect one of their number to be chairperson of the meeting. If no Director is willing to act as chairperson or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting, the Shareholders present may choose one of their number to be chairperson.

11.3 Adjourned meetings

The chairperson may, and if directed by the meeting must, adjourn the meeting to a new time and place. No business can be transacted at any adjourned meeting other than unfinished business at the original meeting.

11.4 Regulation of procedure

Subject to the provisions of the Act, and except as otherwise provided in this Constitution, the chairperson may regulate the proceedings at meetings of Shareholders.

11.5 No casting vote

The chairperson does not have a casting vote.

12 QUORUM FOR MEETINGS OF SHAREHOLDERS

12.1 Quorum required

Subject to clause 12.3 no business may be transacted at a meeting of Shareholders if a quorum is not present.

12.2 Size of quorum

A quorum for a meeting of Shareholders is present if two or more Shareholders, or their Representatives, are present.

12.3 Lack of quorum

If a quorum is not present within 30 minutes after the time appointed for the meeting:

(a) in the case of a meeting called by the Board on the written request of Shareholders under section 121(b) of the Act, the meeting is dissolved; or

(b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the Directors may appoint and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the commencement of the meeting, the meeting will be adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the Directors may appoint until such time as there is a quorum.

13 VOTING AT MEETINGS OF SHAREHOLDERS

13.1 Meetings in one place

In the case of a meeting of Shareholders held under clause 8.1(a), unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson:

(a) voting by voice; or

(b) voting by show of hands.

13.2 Audio-visual meetings

In the case of a meeting of Shareholders held under clause 8.1(b), unless a poll is demanded, voting at the meeting shall be by the Shareholders signifying individually their assent or dissent by voice.

13.3 Postal votes

Unless the Board determines otherwise, Shareholders may not exercise the right to vote at a meeting by casting postal votes. If the Board determines that Shareholders may exercise the right to vote at a meeting by casting postal votes, the procedures in relation to postal voting shall be those set out in clause 7 of the First Schedule to the Act together with any other procedures determined by the Board.

13.4 Number of votes

(a) Where voting is by voice or a show of hands, every Shareholder present in person or by Representative has one vote.

(b) On a poll, every Shareholder present in person or by Representative has one vote.

13.5 Declaration of chairperson conclusive

A declaration by the chairperson that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 13.6.

13.6 Right to demand poll

At a meeting of Shareholders a poll may be demanded by:

(a) a Shareholder; or

(b) the chairperson.

For the purposes of this clause, the instrument appointing a proxy to vote at a meeting of the Company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a Shareholder has the same effect as a demand by the Shareholder.

13.7 Time of demand for poll

A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.

13.8 Timing of poll

The chairperson may determine the time and manner in which a poll is to be taken and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

13.9 Counting of votes on poll

If a poll is taken, votes must be counted according to each Shareholder present in person or by Representative and voting.

13.10 Votes of joint holders

Where two or more persons are registered as the holder of a Share, the vote of the person named first in the Share register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

13.11 Validity of votes

In the case of any dispute as to the admission or rejection of a vote the chairperson shall determine the same and such determination made in good faith shall be conclusive.

13.12 No vote if amounts unpaid

No Shareholder shall be entitled to vote at any meeting in respect of Shares on which any call or other money are due and unpaid.

14 PROXIES AND CORPORATE REPRESENTATIVES

14.1 Proxies permitted

A Shareholder may exercise the right to vote either by being present in person or by proxy. A proxy for a Shareholder is entitled to attend and be heard at a meeting of Shareholders as if the proxy were the Shareholder.

14.2 Form of proxy

A proxy must be appointed by notice in writing signed by the Shareholder and the notice must state whether the appointment is for a particular meeting or a specified term.

14.3 Lodging proxy

No proxy is effective in relation to a meeting unless the proxy form is produced before the start of the meeting.

14.4 Validity of proxy vote

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or mental disorder of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Share in respect of which the proxy is given, if no written notice of such death, mental disorder, revocation, or transfer has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

14.5 Corporate Representatives

A body corporate which is a Shareholder may appoint a Representative to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy. A corporate Representative shall have the same rights and powers as if the Representative were a proxy.

15 MINUTES OF SHAREHOLDER MEETINGS

The Board must ensure that minutes are kept of all proceedings at meetings of Shareholders. Minutes which have been signed correct by the chairperson are prima facie evidence of the proceedings.

16 SHAREHOLDER PROPOSALS

16.1 Notice to the Board

A Shareholder may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote.

16.2 Notice to Shareholders at Company's expense

If the notice is received by the Board not less than 20 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, at the expense of the Company, give notice of the Shareholder proposal and the

text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

16.3 Notice to Shareholders at proposing Shareholder's expense

If the notice is received by the Board not less than five Business Days and not more than 20 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

16.4 Late notice

If the notice is received by the Board less than five Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, if practicable, and at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

16.5 Proposing Shareholder's right to give written statement

If the Directors intend that Shareholders may vote on the proposal they must give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than 1,000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.

16.6 Defamatory, frivolous or vexatious statements

The Board is not required to include in or with the notice given by the Board:

(a) any part of a statement prepared by a Shareholder which the Directors consider to be defamatory (within the meaning of the Defamation Act 1992), frivolous, or vexatious; or

(b) any part of a proposal or resolution prepared by a Shareholder that the directors consider to be defamatory (within the meaning of the Defamation Act 1992).

16.7 Deposit of costs by proposing Shareholder

Where the costs of giving notice of the Shareholder proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder must, on giving notice to the

Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

17 APPOINTMENT AND REMOVAL OP DIRECTORS

17.1 Number

The number of Directors is equal to twice the number of Shareholders.

17.2 Initial Directors

On Incorporation of the Company the persons named in the Application for Registration of the Company as the first Directors of the Company shall be deemed to have been appointed pursuant to this Constitution.

17.3 Appointment and removal

Each Shareholder may by notice in writing to the Company:

(a) appoint two Directors; and

(b) remove and replace either or both of these Directors.

17.4 Vacation of office

A Director shall cease to hold office as a Director if the Director:

(a) becomes bankrupt or makes an arrangement or compromise with the Director's creditors generally;

(b) becomes disqualified from being a Director pursuant to section 151 of the Act;

(c) resigns from office by notice in writing to the Company; or

(d) is removed from office pursuant to this Constitution or the Act.

18 ALTERNATE DIRECTORS

18.1 Appointment

Each Director may from time to time appoint any person to be the Director's Alternate Director. No Director may appoint a deputy or agent otherwise than by way of appointment of an Alternate Director.

18.2 Form of appointment and removal

Any appointment or removal of an Alternate Director must be by notice in writing to the Company signed by the relevant Director and countersigned by or on behalf of the Shareholder who appointed the relevant Director.

18.3 Rights of Alternate Director

Each Alternate Director will be entitled to:

(a) receive notices of all meetings of the Board if the Alternate Director is in New Zealand and the Director for whom the Alternate Director is alternate is known to be either outside of New Zealand or otherwise unavailable to attend meetings;

(b) attend and vote at any such meeting at which the Director for whom the Alternate Director is alternate is not personally present; and

(c) in the absence of the Director who appointed the Alternate Director, perform all the functions, and exercise all the powers, of that Director.

18.4 Remuneration and expenses

Each Alternate Director's:

(a) remuneration (if any) must be paid by the Director who appointed the Alternate Director; and

(b) expenses incurred in attending meetings of the Directors and otherwise in relation to the discharge of duties will be paid by the Company.

18.5 Cessation of appointment

An Alternate Director will cease to be an Alternate Director:

(a) if the Director who appointed the Alternate Director ceases to be a director or revokes the appointment; or

(b) on the occurrence of any event relating to the Alternate Director which, if the Alternate Director were a Director, would disqualify the Alternate Director from being a Director.

19 POWERS OF DIRECTORS

19.1 Management of Company

The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.

19.2 Exercise of powers by Board

The Board may exercise all the powers of the Company which are not required, either by the Act or this Constitution, to be exercised by the Shareholders.

19.3 Delegation of powers

The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in the Second Schedule to the Act.

19.4 Appointment of attorney

The Company may exercise the power conferred by section 181 of the Act to appoint a person as its attorney, either generally or in relation to a specified matter. Any such power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

19.5 Ratification by Shareholders

Subject to the provisions of section 177 of the Act (relating to ratification of directors' actions) the Shareholders, or any other person in whom a power is vested by this Constitution or the Act, may ratify the purported exercise of that power by a Director or the Board in the same manner as the power may be exercised. The purported exercise of a power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that power.

20 PROCEEDINGS OF THE BOARD

20.1 Methods of holding meetings

A meeting of the Board may be held either:

(a) by a number of the Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or

(b) by means of audio, or audio and visual, communication by which all the Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

20.2 Notice of meeting

A Director or, if requested by a Director to do so, an employee of the Company approved by the Board for this purpose, may convene a meeting of the Board. Notice of a meeting of Directors must be given to:

(a) every Director who is in New Zealand; and

(b) any Alternate Director who is in New Zealand who is an alternate of a Director who is known to be either outside of New Zealand or otherwise unavailable to attend the meeting.

20.3 Waiver of irregularity

An irregularity in a notice of meeting is waived if all the Directors entitled to receive notice of the meeting attend or participate in the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.

20.4 Quorum

A quorum for a meeting of the Board requires at least one Director appointed by each Shareholder to be present.

20.5 Insufficient number of Directors

The Directors may act notwithstanding any vacancy in their body, but if and for so long as a Shareholder has no Director appointed by them, the continuing Directors may act for the purpose of summoning a meeting of Shareholders, but for no other purpose.

20.6 Chairperson

The Directors may elect one of their number as chairperson of the Board and determine the period for which the chairperson is to hold office. If the chairperson cannot attend any particular meeting, the chairperson may designate another person (who must be a Director or an Alternate Director) to act in the chairperson's place. If no chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for the commencement of the meeting and the chairperson has not designated another person to act in his or her place, the Directors present may choose one of their number to be chairperson of the meeting.

20.7 **Votes**

Every Director has one vote. In the case of an equality of votes, the chairperson will not have a casting vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless that Director expressly dissents or expressly abstains from voting on, or votes against, the resolution. A Director may exercise a vote for any absent Director appointed by the same Shareholder.

20.8 **Resolutions in writing**

A resolution in writing, signed or assented to by all Directors is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form, each signed or assented to by one or more Directors.

20.9 **Minutes**

The Board must ensure that minutes are kept of all proceedings at meetings of the Board.

20.10 **Rights of and representative for other Wharerata claimants**

(a) The provisions of this clause 20.10 apply while the Crown is a Shareholder, despite anything in the preceding subclauses of this clause 20.

(b) Except to the extent that the other Wharerata claimants are entitled as a Shareholder to appoint a Director:

(i) the other Wharerata claimants must be given the same notice of the meeting or the proposal to pass the resolution as is given to each Director; and

(ii) the other Wharerata claimants are to be given the opportunity, through a representative, to attend and speak at the meeting or comment on the resolution before it is passed (but not vote); and

(iii) unless the other Wharerata claimants have consented in writing, no irregularity in notice of the meeting can be waived.

(c) In this clause 20.10, *other Wharerata claimants* means Ngati Rakaipaaka, Ngai Te Rakato and any other claimants with established historical Treaty claims to the Wharerata Forest.

20.11 Other procedures

Except as set out in this clause 20, the Board may regulate its own procedure. The provisions of the Third Schedule of the Act shall not apply to proceedings of the Board except to the extent that those provisions are included in this Constitution.

21 DIRECTORS' INTERESTS

21.1 Disclosure of Interests

A Director shall comply with the provisions of section 140 of the Act (relating to disclosure of Interest of directors) but failure to comply with that section does not affect the operation of clause 21.2.

21.2 Personal involvement of Directors

Notwithstanding any rule of law or equity to the contrary, but subject to sections 107(3) and 141 of the Act (relating to avoidance of transactions in which a Director is Interested) and section 199(2) of the Act (prohibiting a director from acting as auditor of a company), a Director may:

(a) contract with the Company in any capacity;

(b) be a party to any transaction with the Company;

(c) have any direct or indirect personal involvement or Interest in any transaction or arrangement to which the Company is a party or in which it is otherwise directly or indirectly interested or involved;

(d) become a Director or other officer of, or otherwise Interested in, any company promoted by the Company or in which the Company may be directly or indirectly interested as a shareholder or otherwise; and

(e) retain any remuneration, profit or benefits in relation to any of the foregoing,

and no contract or arrangement of any kind referred to in this clause may be avoided by reason of a Director's Interest.

21.3 Interested Directors may vote

A Director who is Interested in a transaction entered into, or to be entered into, by the Company may:

(a) vote on any matter relating to the transaction;

(b) attend a meeting of the Board at which any matter relating to the transaction arises and be included among the Directors present at the meeting for the purposes of a quorum;

(c) sign a document relating to the transaction on behalf of the Company; and

(d) do any other thing in his or her capacity as a Director in relation to the transaction,

as if the Director were not Interested in the transaction.

22 DIRECTORS' REMUNERATION AND OTHER BENEFITS

22.1 Remuneration and benefits

The Board may exercise the power conferred by section 161 of the Act to authorise any payment or other benefit of the kind referred to in that section.

22.2 Expenses

Each Director is entitled to be paid for all reasonable travelling, accommodation and other expenses incurred by the Director in connection with the Director's attendance at meetings or otherwise in connection with the Company's business.

23 INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

23.1 Indemnity for Directors

Every Director shall be indemnified by the Company for any costs referred to in section 162(3) of the Act and any liability or costs referred to in section 162(4) of the Act.

23.2 Indemnities and insurance

In addition to the indemnity set out in clause 23.1, the Company may:

(a) indemnify a Director or employee of the Company or a related company for any costs referred to in section 162(3) of the Act;

(b) indemnify a Director or employee of the Company or a related company in respect of any liability or costs referred to in section 162(4) of the Act; and

(c) effect insurance for a Director or employee of the Company or a related company in respect of any liability or costs referred to in section 162(5) of the Act.

23.3 Interpretation

Words given extended meanings by section 162(9) of the Act have those extended meanings in this clause.

24 DIVIDENDS

24.1 Power to authorise

The Board may, subject to the Act and this Constitution, authorise the payment of dividends by the Company at times, and of amounts, and in such form as it thinks fit and may do everything which is necessary or expedient to give effect to the payment of such dividends. Prior to authorising the payment of a dividend, the Board must be satisfied on reasonable grounds that the Company will immediately after payment of the dividend satisfy the solvency test.

24.2 Method of payment

Any dividend or other money payable to a Shareholder may be paid by cheque sent through the post to the registered address of the Shareholder or in any other manner determined by the Board and directed by the person entitled to the payment. In the case of joint Shareholders, cheques may be sent to the registered address of the person first named on the register.

24.3 Deductions

The Board may deduct from dividends payable to any Shareholder in respect of any Shares any:

(a) unpaid calls, instalments or other amounts, and any interest payable on such amounts, relating to the specific Shares; and

(b) amounts the Company may be called upon to pay under any legislation in respect of the specific Shares.

24.4 Entitlement date

Dividends and other distributions or payments to Shareholders will be payable to the persons who are registered as Shareholders on an entitlement date fixed by the Board.

24.5 Unclaimed dividends

Dividends or other monetary distributions unclaimed for one year after having been authorised may be used for the benefit of the Company until claimed. All dividends or other monetary distributions unclaimed for five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Board may, nevertheless, agree to pay a claimant who produces evidence of entitlement.

25 NOTICES

25.1 Method of Service

All notices, reports, accounts or documents required to be sent to a Shareholder shall be sent in the manner set out in section 391 of the Act. Notices to any other person shall be sent in the same manner as if that person was a Shareholder.

25.2 Joint holders

A notice may be given by the Company to the joint holders of a Share in the Company by giving the notice to the joint holder named first in the Share register in respect of the Share.

26 INSPECTION OF RECORDS

Except as provided in the Act or unless the Board determines otherwise in any particular case, no Shareholder shall be entitled to:

(a) inspect any records, books, papers, correspondence or documents of the Company; or

(b) require or receive any information concerning the Company's business, trading or customers, or any trade secret or secret process of or used by the Company.

27 LIQUIDATION

27.1 Distribution of surplus

Subject to the rights of any Shareholders and to clauses 27.2 and 27.3, upon the liquidation of the Company the surplus assets of the Company (if any) must be distributed pro rata among the Shareholders. If any Shareholder's Shares are not fully paid up the liquidator of the Company may require those Shares to be fully paid up before the Shareholder receives any distribution of the surplus assets of the Company in respect of those Shares.

27.2 Distribution in kind

With the approval of the Shareholders by Ordinary Resolution, the liquidator of the Company may divide amongst the Shareholders in kind the whole or any part of the assets of the Company (whether or not they are of the same kind) and for that purpose the liquidator may:

(a) attribute values to assets as the liquidator considers appropriate; and

(b) determine how the division will be carried out as between the Shareholders or different Classes of Shareholders.

27.3 Trusts

With the approval of the Shareholders by Ordinary Resolution, the liquidator may vest the whole or any part of any surplus assets of the Company in trustees upon trust for the benefit of Shareholders. The liquidator may determine the terms of the trust.

28 METHOD OF CONTRACTING

28.1 Deeds

A deed which is to be entered into by the Company may be signed on behalf of the Company, by:

(a) two or more Directors; or

(b) two or more attorneys appointed by the Company.

28.2 Other written contracts

An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by a person acting under the express or implied authority of the Company.

28.3 Other obligations

Any other obligation or contract may be entered into on behalf of the Company in writing or orally by a person acting under the express or implied authority of the Company.

SCHEDULE 1 – CERTIFICATION OPTIONS

This document is the Constitution of Wharerata Forest Limited as adopted by the Company by Special Resolution passed on the [ ] day of [ ] 20[ ].

Certified as the Constitution of the Company.

_____

Authorised Person

7 SHAREHOLDERS' AGREEMENT AND TRUST DEED

Shareholders' Agreement and Trust Deed

Her Majesty the Queen in right of New Zealand

Wharerata Forest Limited

Tāmanuhiri Tutu Poroporo Trust

TABLE OF CONTENTS

PARTIES 1

BACKGROUND 1

OPERATIVE PART 1

1 INTERPRETATION 1

2 ESTABLISHMENT OF COMPANY TRUSTEE AND SHAREHOLDERS' AGREEMENT 7

3 THE TRUST 9

4 AUTHORISED INVESTMENTS 10

5 NATURE OF BENEFICIAL INTERESTS 11

6 CROWN BENEFICIAL INTEREST AND CROWN INITIAL PERIOD 11

7 NGAI TĀMANUHIRI BENEFICIAL INTEREST 12

8 DISTRIBUTIONS OF CAPITAL AND INCOME 12

9 TRANSFER OF BENEFICIAL INTERESTS 15

10 REGISTERED HOLDER ABSOLUTE OWNER 15

11 BENEFICIAL INTEREST REGISTER 15

12 MANAGEMENT 16

13 BORROWING 20

14 BANK ACCOUNTS 21

15 ASSET RECORDS 21

16 REIMBURSEMENT OF EXPENSES 21

17 COMPANY TRUSTEE'S DISCRETION AND AUTHORITY 22

18 BENEFICIARIES BOUND BY THIS DEED 22

19 LIMITATION OF LIABILITY OF BENEFICIARIES 22

20 ACCOUNTS AND REPORTS 22

21 AUDITOR 23

22 MEETINGS OF BENEFICIARIES AND DIRECTIONS TO COMPANY TRUSTEE24

23 NOTICES TO BENEFICIARIES 26

24 AMENDMENT TO DEED 27

25 PERIOD OF THE TRUST 28

26 PROCEDURE ON WINDING UP 28

27 RESETTLEMENT 29

28 PAYMENTS TO BENEFICIARIES 30

29 WITHHOLDING TAXES 30

30 LAW APPLICABLE 30

31 EXECUTION AND EFFECTIVE DATE 30

EXECUTION 32

SCHEDULE 1 - TERMS RELATING TO CROWN BENEFICIAL INTEREST AND CROWN INITIAL PERIOD 34

SCHEDULE 2 - TRANSFER OF BENEFICIAL INTERESTS 40

Date: 2011

PARTIES

Her Majesty the Queen in right of New Zealand acting by the Minister for Treaty of Waitangi Negotiations and the Minister of Maori Affairs (*Crown*)

Wharerata Forest Limited (*Company Trustee*)

The trustees of the Tāmanuhiri Tutu Poroporo Trust (*Ngai Tāmanuhiri*)

BACKGROUND

A. The Company Trustee has been established by the Crown and Ngai Tāmanuhiri to act as the corporate trustee of a trust holding the Wharerata Forest (and related property) for the benefit of the Beneficiaries on the terms and conditions set out in this Deed.

B. The Crown, the Company Trustee and Ngai Tāmanuhiri wish to record the terms and conditions under which the Trust is constituted and is to be administered.

C. The Crown and Ngai Tāmanuhiri also wish to record in this Deed certain agreed terms relating to the management of the Trust, the Trust's property and the Company Trustee.

OPERATIVE PART

1 INTERPRETATION

1.1 Defined terms - generally

In this Deed, unless the context otherwise requires:

Accumulated Rentals means accumulated rentals relating to the Wharerata Forest Land held, prior to settlement on this Trust, under the terms of the forestry rental trust referred to in section 34 of the Crown Forest Assets Act 1989.

Agreed Ngai Tāmanuhiri Subdivision Share means the part of the Wharerata Land Holding to which Ngai Tāmanuhiri is entitled, as the holder of a 50% Beneficial Interest, when and if –

(a) agreement has been reached between Ngai Tāmanuhiri and the other Wharerata claimants; and

(b) the Crown, acting reasonably, has confirmed in writing that it is satisfied with the binding nature and extent of that agreement.

Allocation Date means the date on which the Agreed Ngai Tāmanuhiri Subdivision Share is identified by agreement with the other Wharerata claimants and Crown confirmation.

Asset means each Settlement Asset and any other security, money, property (whether tangible or intangible), right or income of the Trust.

Auditor means the Person for the time being holding the office of auditor of the Trust.

Authorised Investment means any of the Settlement Assets and any other property of any nature whatsoever, whether in New Zealand or elsewhere.

Beneficial Interest means a share in the total beneficial entitlement of all Beneficiaries in the Trust, being:

(a) at Settlement, one of the Initial Beneficial Interests; and

(b) during the Crown Initial Period, subject to adjustment under paragraph 6 of Schedule 1 in the event of transfer, to the other Wharerata claimants of part or all of the Crown Beneficial Interest; and

(c) from the end of the Crown Initial Period, one of the Beneficial Interests recorded in the Beneficial Interest Register.

Beneficial Interest Register means the register of Beneficiaries in the Trust maintained pursuant to clause 11.

Beneficiary means each Person for the time being registered in the Beneficial Interest Register under the provisions of this Deed as the holder of a Beneficial Interest and:

(a) as at the date of this Deed, means Ngai Tāmanuhiri and the Crown to whom the Initial Beneficial Interests are issued under clause 6 and 7; and

(b) includes Persons jointly registered.

Borrow means borrow money, or to raise money by way of the drawing, acceptance, discount or sale of bills of exchange or promissory notes or other financial instruments or otherwise howsoever in any currency, and *Borrowing* and *Borrowed* have a corresponding meaning.

Business Day has the same meaning as in the Deed of Settlement.

Crown Beneficial Interest means the Initial Beneficial Interest issued to the Crown on the Settlement provided that:

(a) on transfer of part or all of the Crown Beneficial Interest in accordance with paragraph 6 of Schedule 1, that part or all (as the case may be) will cease to be Crown Beneficial Interest and will become an ordinary Beneficial Interest; and

(b) on redemption of any residue of the Crown Initial Beneficial Interest in accordance with paragraph 8 of Schedule 1, that residue Beneficial Interest will cease to exist.

Crown Forestry Licence has the meaning given to it in section 2 of the Crown Forest Assets Act 1989.

Crown Initial Period means the period of 8 years beginning on the Settlement Date.

Date of Termination means the date of termination of the Trust determined in accordance with clause 25.

Deed means this Shareholders' Agreement and Trust Deed.

Deed of Settlement means the deed dated 5 March 2011 between the Crown and Ngai Tāmanuhiri in relation to the settlement of certain historical claims.

Distribution means, in relation to a Beneficial Interest, the amount of capital or income to be distributed from the Trust Fund to a Beneficiary in respect of such Beneficial Interest.

Extraordinary Resolution has the meaning given to it in clause 22.2(b).

Financial Year means a period of 12 months ending on 31 March (or such other date as the Company Trustee determines) in each year (or the Date of Termination of the Trust, if earlier) and includes the period commencing on the date of this Deed and ending on the succeeding 31 March.

Future Treaty Settlement means a future settlement of historical claims relating to the Treaty of Waitangi between an iwi or group of iwi and the Crown.

Gross Asset Value means such sum as is ascertained and fixed by the Company Trustee being the aggregate of:

(a) the Market Value of the Assets of the Trust;

(b) any income accrued or payable in respect of the Assets of the Trust but not included in such Market Value.

Initial Beneficial Interests means the Beneficial Interests to be created in accordance with clause 6 and 7.

Liability means each liability of the Company Trustee in respect of the Trust (other than to Beneficiaries in their capacity as Beneficiaries under this Deed) which would be classified as such by NZ GAAP but does not

include a contingent liability except to the extent that the Company Trustee decides it is appropriate to make an allowance for such contingent liability.

Major Transaction means:

(a) the acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than half the Gross Asset Value of the Trust before the acquisition; or

(b) the disposition of, or an agreement to dispose of, whether contingent or not, assets the value of which is more than half the Gross Asset Value of the Trust before the disposition; or

(c) a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities, including contingent liabilities, the value of which is more than half the Gross Asset Value of the Trust before the transaction.

provided that nothing in paragraph (b) or paragraph (c) of the definition of Major Transaction applies to:

(a) the entry into this Trust Deed or the Settlement; or

(b) an in-specie distribution of the Agreed Ngai Tāmanuhiri Subdivision Share to Ngai Tāmanuhiri under clause 8.5(b); or

(c) by reason only of the Trust giving, or entering into an agreement to give, a charge secured over Assets of the Trust the value of which is more than half the value of the Assets of the Trust for the purpose of securing the repayment of money or the performance of an obligation.

(In assessing the value of any contingent liability for the purposes of paragraph (c) of this definition of Major Transaction:

(a) regard must be had to all circumstances that the Company Trustee knows, or ought to know, affect, or may affect, the value of the contingent liability;

(b) reliance may be placed on estimates of the contingent liability that are reasonable in the circumstances; and

(c) account may be taken of:

(i) the likelihood of the contingency occurring; and

(ii) any claim the Company Trustee is entitled to make and can reasonably expect to be met to reduce or extinguish the contingent liability.)

Market Value means the fair market value of any Asset as determined by the Company Trustee.

New Zealand unit has the same meaning as in the Deed of Settlement.

NZ GAAP means generally accepted accounting practice as defined in Section 3 of the Financial Reporting Act 1993.

other Wharerata claimants means Ngati Rakaipaaka, Ngai Te Rakato and any other claimants with established historical Treaty claims to the Wharerata Forest.

Person includes a natural person, a company, a corporation, a corporation sole, a firm, a unit trust, a government or a body of persons (whether corporate or unincorporate).

Settlement means the settlement on the Company Trustee on the terms of this Trust described in clause 3.2 and 3.3.

Settlement Asset means each item of property that is the subject of the Settlement.

Settlement Date has the same meaning as in the Deed of Settlement.

Settlement Legislation has the same meaning as in the Deed of Settlement.

Specified Transfer Period means the period, specified in the Settlement Legislation, under which certain regulatory constraints on land subdivision are waived, being one year longer than the Crown Initial Period.

Trust means the trusts created by this Deed, which will bear the name Wharerata Forest Trust or such other name as is chosen by Unanimous Resolution of the Beneficiaries.

Trust Fund means the property for the time being held by the Company Trustee under the Trust and includes, for the time being following the Settlement, the Settlement Assets.

Unanimous Resolution has the meaning given to it in clause 22.2(a).

Wharerata Forest Land means the land described as follows:

(a) *Gisborne Land District – Gisborne District*

- 1561.4600 hectares, more or less, being Lots 1 and 2 DP 8023. All Computer Freehold Registers GS2D/1325, GS2D/1335, GS2D/1343, GS2A/281, GS3A/630, and GS4A/205. Part Computer Freehold Register GS5A/263;

- 1096.0000 hectares, more or less, being Lot 1 DP 8025. All Computer Freehold Register GS6A/807;

- 3282.5100 hectares, more or less, being Lots 1, 2, 3, 4, 5 and 6 DP 8024. All Computer Freehold Register GS5A/128, GN 185108.1, GN 185108.2, GN 88188, GN 107894, GN 107896, GN 126783.1, GN 139156.1, and Transfer Document 75443. Balance Computer Freehold Register GS4D/852 and GN 139156.1 and Part Computer Freehold Register GS5A/263;

- 201.7000 hectares, more or less, being Lot 1 DP 6508. Part Computer Freehold Register GS5A/263; and

(b) *Hawke's Bay Land District - Hawke's Bay District*

- 21.8900 hectares, more or less, being Lot 1 DP 22121. Part Computer Freehold Register HB4/39;

- 1491.5417 hectares, more or less, being Lots 1, 2 and 3 DP 21823. All GN 540463.1, GN 540464.1, and GN 540462.1. Balance Computer Freehold Registers HBK1/473 and HBG2/1360;

- 146.6650 hectares, more or less, being Lot 1 DP 16752. All Computer Freehold Register HBH4/1019;

- 209.9349 hectares, more or less, being Lots 1, 2 and 3 DP 17644. All Computer Freehold Registers HBK2/904, HBK2/905, and HBK2/906.

Wharerata Forest Land Holding means the holding of the Company Trustee, for the time being, of those parts of the Wharerata Forest Land that remain subject to the Trust after application of paragraph 8 of Schedule 1.

1.2 **Defined terms relating to Crown Beneficial Interest and Crown Initial Period**

Certain defined terms relating to Crown Beneficial Interest and Crown Initial Period are defined in paragraph 1.1 of Schedule 1.

1.3 **Interpretation**

In this Deed, unless the context otherwise requires, references to:

(a) clauses, sub-clauses, paragraphs and schedules are to clauses, sub-clauses, paragraphs and schedules to this Deed;

(b) any legislation includes a modification and re-enactment of, legislation enacted in substitution for and a regulation, order-in-council and other instrument from time to time issued or made under, that legislation;

(c) the singular includes the plural and vice versa;

(d) a person that comprises the trustees of a trust or members of another single collective body means those trustees or members acting jointly and treated as if a single person; and

(e) parties to this Deed includes their successors and permitted assigns.

The Table of Contents to and headings in this Deed are used for convenience only and do not affect its interpretation in any way.

2 ESTABLISHMENT OF COMPANY TRUSTEE AND SHAREHOLDERS' AGREEMENT

2.1 Establishment of Company Trustee

The Crown and Ngai Tāmanuhiri have established the Company Trustee to hold the Wharerata Forest Land Holding as trustee of the Trust.

2.2 Role of Trustee Company

Unless the Beneficiaries decide otherwise by Unanimous Resolution, the Company Trustee cannot undertake any activities other than acting as trustee of the Trust in accordance with this Deed.

2.3 Restrictions during Crown Initial Period

During the Crown Initial Period, the consent of the Crown is required under paragraph 9 of Schedule 1 before the Company Trustee takes certain actions.

2.4 Agreement of shareholders of Company Trustee

As shareholders of the Company Trustee, the Beneficiaries agree that:

(a) each shareholder has one vote on any shareholder resolution; and

(b) each shareholder has the right to appoint two directors; and

(c) no shareholder can transfer their shares in the Company Trustee except –

(i) in the case of a transfer by the Crown to the other Wharerata claimants; and

(ii) where required by paragraph 1 of Schedule 2; or

(iii) with the unanimous consent of the other shareholders and subject to such conditions as the other shareholders may impose, including the execution by the transferee of a deed under which the transferee binds itself to compliance with the terms of this Deed; and

(d) except with the unanimous approval of the shareholders (and without prejudice to the Crown's rights under clause 2.3 and paragraph 9 of Schedule 1) –

(i) the Company Trustee cannot undertake any activities other than acting as trustee of the Trust; and

(ii) the Company Trustee cannot issue any shares or options over shares; and

(iii) the constitution of the Company Trustee cannot be amended; and

(e) during the Crown Initial Period, the other Wharerata claimants will, except to the extent entitled as a shareholder to appoint a director, have the right to have a representative to receive notice of and attend and speak, but not vote, at any meeting of directors of the Company Trustee; and

(f) on and from the Allocation Date in relation to any decision that relates exclusively to the Agreed Ngai Tāmanuhiri Subdivision Share:

(i) only Ngai Tāmanuhiri will be entitled to vote on any shareholder resolution; and

(ii) only the directors appointed by Ngai Tāmanuhiri will be entitled to vote on any director resolution of the Company Trustee; and

(iii) none of the other shareholders and directors appointed by the other shareholders will have any liability for any consequences of such a resolution and will be indemnified accordingly by Ngai Tāmanuhiri.

3 THE TRUST

3.1 Appointment of Company Trustee

The Company Trustee is appointed as the trustee of the Trust and agrees to act as trustee for the Beneficiaries to hold the Assets of the Trust in trust for the Beneficiaries upon and subject to the terms and conditions contained in this Deed.

3.2 Wharerata Forest Land and Accumulated Rentals

In accordance with the Deed of Settlement, the Crown will settle on the Company Trustee on the terms of the Trust:

(a) the Wharerata Forest Land; and

(b) the Accumulated Rentals.

3.3 New Zealand units

(a) The parties acknowledge that, to the extent the Wharerata Forest Land is eligible land in respect of a pre-1990 forest land allocation plan issued under subpart 2 of part 4 of the Climate Change Response Act 2002 and the Company Trustee is the eligible person in respect of that land, the Company Trustee as the eligible person in respect of that land will be the person entitled to apply for an allocation of New Zealand units under that subpart.

(b) Any application for an allocation of New Zealand units made by the Company Trustee in respect of the Wharerata Forest Land and any allocation of New Zealand units in respect of the allocation plan will be subject to the provisions of the Climate Change Response Act 2002, including (but not limited to) the allocation plan.

(c) The parties acknowledge that, to the extent that the eligible person in respect of the land is the person nominated by the Minister for Climate Change Issues, under section 73 of the Climate Change Response Act 2001, under section 73 that person will hold any New Zealand units allocated in respect of the land on trust for the Company Trustee and will transfer those units to the Company Trustee.

(d) In paragraphs (a), (b) and (c), "allocation plan", "eligible land" and "eligible person" each has the meaning given to it in the Climate Change Response Act 2002.

3.4 Conditional on Settlement Legislation

This Deed and the establishment of the Trust are conditional on the Settlement Legislation coming into force.

3.5 Performance of Deed of Settlement

The Company Trustee will comply with any obligations on the part of the Company Trustee that are referred to in the Deed of Settlement.

4 AUTHORISED INVESTMENTS

4.1 Investment in Authorised Investments

The Trust Fund must be invested only in Authorised Investments.

4.2 Settlement Assets

(a) The Company Trustee must retain the Wharerata Forest Land Holding and dispose of it only to make a distribution in accordance with clause 8.5.

(b) The Company Trustee must place the Accumulated Rentals, upon receipt, in a deposit account with a registered bank and withdraw the deposit only to make the distributions required by clause 8.2.

(c) To the extent that the Company Trustee is required under this Deed to retain the Settlement Assets generally and the Wharerata Forest Land Holding in particular, the investment obligations of the Company Trustee under this Deed constitute a contrary intention for the purpose of sections 2(5) and 2(5A) of the Trustee Act 1956.

4.3 Statement of investment policies and objectives

(a) Subject to clause 4.2, the Company Trustee must invest the Trust Fund in accordance with a statement of investment policy and objectives.

(b) The Company Trustee must develop, and review annually, such statement.

4.4 Investments for Beneficiaries' benefit

All investments made on behalf of the Trust shall be held by the Company Trustee as the exclusive property of the Trust, and held exclusively for the benefit of Beneficiaries of the Trust, in accordance with the terms of this Deed.

4.5 Company Trustee not holding special skill

Section 13C of the Trustee Act 1956 does not apply to the exercise by the Company Trustee of its powers of investment under this Deed.

5 NATURE OF BENEFICIAL INTERESTS

5.1 Beneficial Interests in the Trust

The beneficial entitlement of all Beneficiaries in the Trust is divided into, and except as otherwise provided in this Deed the Company Trustee will hold the Assets of the Trust for the Beneficiaries on the basis of, the percentage Beneficial Interests.

5.2 No interests in specific Assets

A Beneficial Interest does not confer any interest in any particular Asset of the Trust and no Beneficiary is entitled to require the transfer to such Beneficiary of any of the Assets of the Trust, subject to:

(a) the rights of the Beneficiaries to distribution of Accumulated Rentals under clause 8.2; and

(b) the rights of the Beneficiaries to distribution of New Zealand units under clause 8.4; and

(c) the rights of Beneficiaries on final distribution of the Wharerata Forest Land Holding, under clause 8.5.

5.3 No interference in Company Trustee exercise of powers

Subject to the rights of Beneficiaries created by this Deed and by law, no Beneficiary is entitled to interfere with or question the exercise or non-exercise by the Company Trustee of the powers, authorities or discretions conferred upon the Company Trustee by this Deed or in respect of the Trust.

6 CROWN BENEFICIAL INTEREST AND CROWN INITIAL PERIOD

6.1 Crown Beneficial Interest

The Crown will be issued an Initial Beneficial Interest of 50% on the Settlement.

6.2 Application of Schedule 1

The provisions of Schedule 1 will apply in respect of the Crown Beneficial Interest, the beneficial entitlement of the Crown to Assets of the Trust

and the Crown Initial Period notwithstanding any other provision in this Deed.

7 NGAI TĀMANUHIRI BENEFICIAL INTEREST

Ngai Tāmanuhiri will be issued with an Initial Beneficial Interest of 50% on the Settlement.

8 DISTRIBUTIONS OF CAPITAL AND INCOME

8.1 Allocation and distribution

(a) Subject to the following provisions of this clause 8 and other terms of this Deed, the Company Trustee will determine the amount of each Distribution (whether capital or income).

(b) Distributions may be made in cash or by the transfer of an Asset.

8.2 Distribution of Accumulated Rentals

(a) The Company Trustee will distribute the Ngai Tāmanuhiri 50% share of the Accumulated Rentals, upon receipt, to Ngai Tāmanuhiri.

(b) Under Schedule 1 during the Crown Initial Period, the Crown as holder of the Crown Beneficial Interest is entitled to the remaining 50% of the Accumulated Rentals, subject to investment and Distribution as specified in Schedule 1.

8.3 Distributions of subsequent net income

(a) Distributions to Beneficiaries of subsequent amounts of net income will be made in accordance with the percentage Beneficial Interests.

(b) Notwithstanding clause 8.3(a), under Schedule 1 during the Crown Initial Period, the Crown as holder of the Crown Beneficial Interest is entitled to (and only to) the percentage of the net income that reflects the then-level of the Crown's Beneficial Interest, subject to retention, adjustment down and Distribution as specified in Schedule 1.

8.4 Distribution of New Zealand units

(a) The Company Trustee will distribute to Ngai Tāmanuhiri, upon receipt by the Company Trustee, 25% of the New Zealand units acquired by the Company Trustee in respect of the Wharerata Forest Land or, if so requested by Ngai Tāmanuhiri, sell that 25%

of the New Zealand units and distribute to them the net proceeds of sale.

(b) Without preventing the distribution made under clause 8.4(a), the New Zealand units acquired by the Company Trustee in respect of the Wharerata Forest Land will be treated as an entitlement of the respective Beneficiaries pro rata to the amount of eligible land allocated to those Beneficiaries (as defined in the Climate Change Response Act 2002) when eligible land is allocated amongst the respective Beneficiaries.

(c) Except to the extent that clause 8.4(a) applies or the eligible land has been allocated to individual Beneficiaries, the New Zealand units will be retained by the Company Trustee.

(d) To the extent that eligible land has been allocated to individual Beneficiaries (including in particular as part of the Agreed Ngai Tāmanuhiri Subdivision Share), the Company Trustee will, if so requested by the relevant Beneficiary, either –

(i) distribute to the relevant Beneficiary the associated New Zealand units; or

(ii) sell the associated New Zealand units and distribute to the Beneficiary the net proceeds of sale, -

(after taking into account, in the case of Ngai Tāmanuhiri, the distribution made under clause 8.4(a)).

(e) The Beneficiaries may, by Unanimous Resolution, agree an allocation of the New Zealand units that differs from that described in clause 8.4(b) to (d) and, if such an agreement is reached, the Company Trustee will give effect to it.

8.5 Distribution of capital, including Wharerata Forest Land Holding

(a) No Distribution (including on a resettlement under clause 27) may be made involving any part or all of the Wharerata Forest Land Holding to Beneficiaries except in accordance with their respective Beneficial Interests.

(b) On and from the Allocation Date, Ngai Tāmanuhiri may request the Company Trustee to distribute all (but not some only) of the Agreed Ngai Tāmanuhiri Subdivision Share to Ngai Tāmanuhiri and –

(i) the Company Trustee must give effect to that request; and

(ii) the Company Trustee must at the same time distribute to Ngai Tāmanuhiri any New Zealand units or retained net income of the Trust to which Ngai Tāmanuhiri is entitled; and

(iii) Ngai Tāmanuhiri must consent at the same time to the repurchase, by the Trustee Company, for a nominal consideration of $1, of their shares in the Company Trustee and must procure the resignation of their directors of the Company Trustee; and

(iv) thereafter, Ngai Tāmanuhiri will be treated as having redeemed and no longer holding a Beneficial Interest in the Trust and the percentage Beneficial Interests of the remaining Beneficiaries will be adjusted upwards accordingly so that they continue to total 100%.

(c) If a Unanimous Resolution has determined ultimate ownership of part or all of the Wharerata Forest Land Holding and led to agreement that such part or all of the Wharerata Forest Land Holding should be distributed in specie to one or more Beneficiaries (including in particular during the Specified Transfer Period), the Company Trustee must give effect to that agreement on the agreed terms (including as to the timing of any vesting of legal or beneficial interest which may be dependent on a request from the Beneficiary) and in respect of the agreed parts of the Wharerata Forest Land Holding.

(d) Notwithstanding clause 8.5(a) and (c) but subject to clause 8.5(b), under Schedule 1 during the Crown Initial Period, the Crown as holder of the Crown Beneficial Interest is entitled to 50% of the Wharerata Forest Land, subject to retention, adjustment and Distribution as specified in Schedule 1.

8.6 Taxation status of Distributions

(a) The Company Trustee will determine:

(i) the extent to which any Distribution is or is not a taxable Maori authority distribution; and

(ii) the extent to which Maori authority tax credits are attached to any taxable Maori authority distributions.

(b) The Company Trustee, in exercising its powers under paragraph (a), must endeavour to achieve a fair allocation, between Beneficiaries, of taxable and non-taxable amounts and of credits,

reflecting the extent to which each Distribution is sourced from taxable income of the Trust.

8.7 Disclosure of information to tax authorities

The Company Trustee is authorised to make such disclosure as may be required by the Inland Revenue Department of the details of Beneficiaries, any Distributions of Beneficiaries or any other details or information arising out of the Trust.

9 TRANSFER OF BENEFICIAL INTERESTS

9.1 Transfer requires Unanimous Resolution approval

A Beneficial Interest in the Trust may only be transferred or charged with the approval of a Unanimous Resolution.

9.2 Schedule 2 procedure

The provisions of Schedule 2 apply to any transfer.

10 REGISTERED HOLDER ABSOLUTE OWNER

Except as otherwise provided in this Deed, the Company Trustee is entitled to treat the registered Beneficiary of a Beneficial Interest as its absolute owner and accordingly, except as ordered by a court of competent jurisdiction or as required by statute, is not bound to recognise (even upon notice) any equitable or other claim to or interest in the Beneficial Interest on the part of any other Person.

11 BENEFICIAL INTEREST REGISTER

11.1 The Register

(a) A Beneficial Interest Register of Beneficiaries must be kept by the Company Trustee in a form and manner approved by the Company Trustee.

(b) The Company Trustee may appoint a person to keep the Beneficial Interest Register on its behalf.

(c) Such Beneficial Interest Register may take the form of a computer printout or any other computer based information storage and retrieval system compiled in a manner approved by the Company Trustee and such approved printout or system is deemed to be the Beneficial Interest Register.

11.2 Details to be entered into Register

There must be entered in the Beneficial Interest Register:

(a) the names and addresses of the Beneficiaries;

(b) the amount of the Beneficial Interest held by each Beneficiary; and

(c) the date on which each amount of Beneficial Interest was acquired by the relevant Beneficiary.

11.3 Reliance upon the Register

The Company Trustee is entitled to rely upon entries in the Beneficial Interest Register as being correct.

11.4 Inspection

The Beneficial Interest Register must be open for inspection by any Beneficiary during the business hours of the Beneficial Interest Registrar.

11.5 No recognition of trusts

Except as required by law, the Company Trustee shall not be bound to recognise or see to the performance of any trust (express, implied or constructive) or any charge, pledge, or equity to which any of the Beneficial Interests or any interest therein are or may be subject, or to recognise any Person as having any interest in any Beneficial Interest except for the Person recorded in the relevant Beneficial Interest Register as the Beneficiary, and accordingly no notice of any trust (whether express, implied or constructive), charge, pledge or equity shall be entered upon the Beneficial Interest Register.

12 MANAGEMENT

12.1 Company Trustee's duties

Subject to the provisions of this Deed (including in particular clause 12.2 and Schedule 1), the Trust is to be managed and administered by the Company Trustee and without limiting the generality of the foregoing the Company Trustee must:

(a) manage the Trust Fund and make all decisions relating to the Assets of the Trust including the investment, reinvestment or realisation of any Asset of the Trust and the exercise of any voting rights associated with any Asset of the Trust;

(b) make all decisions relating to Borrowing, the terms of such Borrowing and any securities relating thereto;

(c) determine the terms of all contracts, rights and other matters relating to Assets or Liabilities of the Trust;

(d) appoint and engage solicitors and other consultants and advisers on such terms as the Company Trustee determines;

(e) use its best endeavours and skill to ensure that the affairs of the Trust are conducted in a proper and efficient manner;

(f) use due diligence and vigilance in the exercise and performance of its functions, powers, and duties as Company Trustee;

(g) account to the Beneficiaries for all money that the Company Trustee receives on behalf of the Trust;

(h) not pay out, invest, or apply any money belonging to the Trust for any purpose that is not directed by, or authorised in, this Deed; and

(i) comply with all tax rules applying to the Trust.

12.2 **Land management arrangements**

The Company Trustee will enter into a land management contract or other appropriate arrangement with an appropriate management entity, which will provide that:

(a) the management entity will prudently manage the Wharerata Forest Land Holding;

(b) the management entity will manage the relationships with licensees under Crown Forestry Licences (including the management of licence fee reviews);

(c) nothing can be done that will materially and adversely affect the Crown Beneficial Interest, without the Crown's prior written consent (which may be withheld by the Crown having reasonable regard to the nature of the Crown's beneficial interest in the Trust Fund).

12.3 **Delegation by Company Trustee**

Notwithstanding clause 12.1, all or any of the powers, authorities, functions and discretions exercisable by the Company Trustee under this Deed may be delegated by the Company Trustee to its officers and employees or to any other Person (including the management entity managing the Wharerata Forest Land Holding) nominated by the Company Trustee (other than the Company Trustee) but the Company Trustee remains liable for the acts and omissions of any such officer, employee or

Person whether or not the delegate is acting within the terms of its delegated authority.

12.4 Advisers

(a) The Company Trustee may, by resolution in writing, appoint any person as an advisory trustee of the Trust. The advisory trustee shall have the status and powers conferred on advisory trustees by the Trustee Act 1956. The advisory trustee may be removed by the Company Trustee, by resolution in writing, without needing to give a reason.

(b) In relation to the purchase, sale and other dealings with any Authorised Investments by the Company Trustee, the Company Trustee may determine the time and mode and the consultants, agents, brokers and professional advisers (if any) for the purchase, sale and other dealing.

(c) Any fee payable to an advisory trustee or other adviser will be determined by the Company Trustee.

12.5 Major Transactions

Notwithstanding any other provision in this Deed, the Company Trustee shall not enter into a Major Transaction on behalf of the Trust, unless the transaction is:

(a) approved by an Extraordinary Resolution of Beneficiaries; or

(b) contingent on approval by an Extraordinary Resolution of Beneficiaries.

12.6 Assets in Company Trustee's name

The Company Trustee shall cause the Assets of the Trust to be vested in the Company Trustee and to be registered in the name of the Company Trustee as soon as reasonably practicable after receipt of the necessary documents and must deliver all certificates or other documents of title for safe custody as directed by the Company Trustee.

12.7 Company Trustee's right to limit liability

The Company Trustee may, before entering into any transaction, security or liability of the Trust require that its liability is restricted or limited to its satisfaction to the Assets of the Trust for the time being.

12.8 Company Trustee's settlement powers

The Company Trustee shall have the power to settle and complete all transactions in respect of the Trust. Subject to the provisions in this Deed and the powers, rights and discretions given to the Company Trustee under this Deed, the Company Trustee shall have all powers, authorities, and discretions which it could exercise if it were the absolute and beneficial owner of the Trust and all the powers, authorities, and discretions necessary to enable it to carry out the purposes of the Trust or otherwise to perform and comply with the obligations and duties under this Deed.

12.9 Waivers

The Company Trustee may, whenever it thinks expedient in the interests of the Beneficiaries, waive at any time and on any terms or conditions any breach of the covenants or obligations binding on the Company Trustee under this Deed where such waiver will not, in the opinion of the Company Trustee, be materially prejudicial to the interests of the Beneficiaries.

12.10 Custodians

(a) The Company Trustee may, by resolution in writing, employ a custodian, (including a custodian trustee) or nominee to hold any Asset on such terms as the Company Trustee may determine provided that no such appointment will absolve the Company Trustee from any of its obligations relating to the Assets of the Trust under this Deed or at law.

(b) The Company Trustee shall cause any such custodian or nominee to comply with all the relevant covenants and obligations on the part of the Company Trustee expressed or implied in this Deed.

(c) Any fees payable to the custodian or nominee will be determined by the Company Trustee.

(d) The Company Trustee may remove any custodian or nominee by resolution in writing, without needing to give any reason.

(e) The provisions of the Trustee Act 1956 applying to custodian trustees will apply to the custodian or nominee as if the custodian or nominee were a custodian trustee, except as modified or extended as follows:

(i) all or any of the Trust Fund may be vested in the custodian or nominee as if the custodian or nominee were sole trustee; and

(ii) the portion of that Trust Fund that is from time to time vested in the custodian or nominee is the custodial trust fund, and the provisions of section 50 of the Trustee Act 1956 shall apply as if references in it to the trust property were references to the custodial trust fund.

12.11 **Extent of Company Trustee's powers**

The Company Trustee shall have all powers, authorities, and discretions necessary to enable it to carry out the purposes of the Trust or otherwise to perform and comply with the obligations and duties under this Deed.

12.12 **Voting rights on assets of the Trust**

Except as otherwise expressly provided in this Deed and subject to the provisions of the Trustee Act 1956, all rights of voting conferred by the Assets of the Trust or any of them are to be exercised in such manner as the Company Trustee may determine.

12.13 **Company Trustee's covenants**

Without limiting any duty or obligation of the Company Trustee elsewhere in this Deed, the Company Trustee covenants with the Crown and the Beneficiaries that:

(a) the Company Trustee will ensure that the Trust is carried on in a proper and efficient manner and in accordance with the provisions of this Deed and will exercise the degree of diligence in carrying out its functions and duties hereunder as may be required under relevant law; and

(b) the Company Trustee will prepare or cause to be prepared all distributions, cheques, payment instructions or authorities and notices which are to be paid, issued or given pursuant to this Deed; and

(c) the Company Trustee will make available its records to the Auditor.

13 **BORROWING**

(a) The Company Trustee may at any time, and from time to time, if the Company Trustee considers it necessary or desirable to do so, Borrow on behalf of the Trust and to secure such Borrowing upon all or any part or parts of the Trust in such manner as the Company Trustee thinks fit.

(b) The Company Trustee may at any time, and from time to time, if the Company Trustee considers it desirable, enter into guarantees

on behalf of the Trust and to secure such guarantees upon all or any part or parts of the Trust in such manner as the Company Trustee thinks fit.

(c) Notwithstanding the preceding provisions of this clause 13, no Borrowing may be entered into or guarantee given without the approval of a unanimous resolution of the directors of the Company Trustee.

14 BANK ACCOUNTS

A bank account or accounts in the name of the Company Trustee must be opened and maintained for the Trust. All moneys belonging to the Trust and coming into the hands of the Company Trustee must be paid to the credit of such bank account. The Company Trustee shall determine the Persons authorised to operate such bank accounts.

15 ASSET RECORDS

The Company Trustee must keep complete, accurate and separate records of all Assets of the Trust.

16 REIMBURSEMENT OF EXPENSES

The Company Trustee is entitled to be reimbursed out of the Trust Fund (whether from income or capital or both) for and in respect of the following items if properly incurred:

(a) all costs, charges and expenses (including legal and valuation fees) incurred in connection with the formation of the Trust, the preparation and registration of any offer document, the acquisition, registration, custody, disposal of or other dealing with Assets of the Trust, including bank charges, and the expenses of any agents or custodian of the Company Trustee;

(b) the fees and expenses of the Auditor relating to the audit of the Trust;

(c) all taxes, duties and imposts charged to or payable by the Company Trustee (whether by any taxing authority or any other Person) in connection with the Trust or the Assets of the Trust on any account whatsoever;

(d) interest and other expenses relating to Borrowing and discounts and acceptance and other fees in respect of bill facilities;

(e) the costs of convening and holding any meeting of Beneficiaries;

(f) the fees and expenses of any solicitor, barrister, valuer, accountant or other Person from time to time engaged by the Company Trustee in the discharge of its duties under this Deed; or

(g) any other expenses properly and reasonably incurred by the Company Trustee in connection with carrying out its respective duties under this Deed.

17 COMPANY TRUSTEE'S DISCRETION AND AUTHORITY

Except insofar as is otherwise expressly provided in this Deed, the Company Trustee has the absolute and uncontrolled discretion regarding the exercise (and the timing, mode, and manner of exercise) of the powers, authorities and discretions, as regards the Trust, vested in it by this Deed.

18 BENEFICIARIES BOUND BY THIS DEED

The terms and conditions of this Deed are for the benefit of and binding on the Crown, the Company Trustee and each Beneficiary and all Persons claiming through them respectively and as if each Beneficiary had been party to and had executed this Deed.

19 LIMITATION OF LIABILITY OF BENEFICIARIES

(a) Except as expressly provided by this Deed no Beneficiary is, by reason alone of being a Beneficiary or by reason alone of the relationship hereby created with the Company Trustee, under any personal obligation to indemnify the Company Trustee or any creditor of the Company Trustee in the event of there being any deficiency of Assets of the Trust as compared with the Liabilities to be met therefrom.

(b) The rights (if any) of the Company Trustee or of any creditor to seek indemnity are limited to having recourse to the Trust and do not extend to a Beneficiary personally in such Person's capacity as a Beneficiary.

(c) On a winding-up of the Trust, no Beneficiary has any liability to contribute to any shortfall in the Trust if the Liabilities of the Trust exceed the Gross Asset Value of the Trust.

20 ACCOUNTS AND REPORTS

20.1 Accounting records

The Company Trustee must:

(a) keep or cause to be kept proper records of or relating to the Trust including records of all sales, purchases and other transactions relating to the Assets of the Trust, and the Liabilities of the Trust and issue or transfer of Beneficial Interests;

(b) keep or cause to be kept true accounts of all sums of money received and expended by or on behalf of the Trust;

(c) prepare annual consolidated financial statements for the Trust and arrange for the annual financial statements to be audited by the Auditor and filed in accordance with relevant law; and

(d) send the annual audited consolidated financial statements for the Trust to Beneficiaries not later than five months after the close of the Financial Year together with all documents and reports required by the Financial Reporting Act 1993 to be annexed to or to accompany such accounts.

20.2 Company Trustee records

The Company Trustee must also keep or cause to be kept proper records of or relating to the Company Trustee, including financial statements for the Company Trustee and all records required to be maintained in respect of the Company Trustee under company or securities law.

20.3 Inspection by the Auditor

The accounting and other records of the Company Trustee in respect of the Trust are open to the inspection of the Auditor. The Auditor is entitled to require from the Company Trustee such information, accounts and explanations as may be necessary for the performance of the duties of the Auditor.

21 AUDITOR

21.1 Appointment and remuneration

A Person or firm of chartered accountants selected by the Company Trustee must be appointed Auditor of the Trust. The Company Trustee must determine the services to be performed by the Auditor and their scope. The remuneration of the Auditor shall be determined by the Company Trustee on an arm's length basis.

21.2 Removal/retirement

The Auditor may at any time and from time to time be removed by the Company Trustee. The Auditor may retire upon giving the Company Trustee 6 months' notice in writing.

21.3 New appointment

Any vacancy in the office of Auditor must be filled by the Company Trustee appointing a Person or firm of chartered accountants to be Auditor qualified under section 2C of the Securities Act 1978.

22 MEETINGS OF BENEFICIARIES AND DIRECTIONS TO COMPANY TRUSTEE

22.1 Meetings

(a) The Company Trustee or any Beneficiary can convene a meeting of the Beneficiaries by giving notice to all the Beneficiaries and the Company Trustee.

(b) During the Crown Initial Period, the other Wharerata claimants will, except to the extent entitled as a Beneficiary to attend, have the right to have a representative receive notice of and attend and speak, but not vote, at any meeting of Beneficiaries.

22.2 Unanimous and Extraordinary Resolutions

(a) The expression "Unanimous Resolution" means a resolution passed at a meeting duly convened and carried at such meeting, upon a show of hands or, if a poll is duly demanded upon a poll, by an affirmative vote of all of the Beneficiaries.

(b) The expression "Extraordinary Resolution" means a resolution passed at a meeting duly convened and carried by a majority of not less than 75% of the Beneficiaries voting at such meeting upon a show of hands or, if a poll is duly demanded, by a majority consisting of not less than 75% of the votes given on such poll.

22.3 Powers exercisable by Unanimous Resolution

(a) A meeting of Beneficiaries has the following powers exercisable by Unanimous Resolution:

(i) to sanction any alteration, release, modification, waiver, variation or compromise or any arrangement in respect of the rights of the Beneficiaries howsoever such rights arise;

(ii) to assent to any alteration, modification of, variation, or addition to the provisions contained in this Deed or any deed supplemental thereto or the conditions attaching to the Beneficial Interests and to authorise the Company Trustee to concur in and execute any supplemental Deed or other document embodying any such alteration or addition;

(iii) to give any sanction, assent, release or waiver of any breach or default by the Company Trustee under any of the provisions of this Deed;

(iv) to discharge, release or exonerate the Company Trustee from all liability in respect of any act of commission or omission for which the Company Trustee has or may become responsible under this Deed;

(v) to appoint a new Company Trustee if a vacancy arises in the office of Company Trustee;

(vi) to sanction any variation to the Authorised Investments of the Trust;

(vii) to give such directions to the Company Trustee as they think proper concerning the Trust being directions that are consistent with this Deed; and

(viii) to direct the removal of the Company Trustee of the Trust.

22.4 **Resolutions bind all Beneficiaries**

(a) An Extraordinary Resolution or Unanimous Resolution passed at a meeting of the Beneficiaries duly convened is binding upon all Beneficiaries present or not present at the meeting. Each of the Beneficiaries and the Company Trustee is bound to give effect to such Extraordinary or Unanimous Resolution accordingly.

(b) The passing of any such resolution shall as between the Company Trustee and the Beneficiaries be conclusive evidence that the circumstances justify the passing of the resolution, the intention being that it will rest with the meeting to determine without appeal whether or not the circumstances justify the passing of such resolution.

22.5 **Written resolutions**

(a) A resolution in writing signed by not less than 75% of Beneficiaries who together hold not less than 75% of the votes entitled to be cast on that resolution is as valid as if it had been passed at a meeting of Beneficiaries. However, for the avoidance of doubt, a resolution in writing cannot be a Unanimous Resolution unless signed by all the Beneficiaries.

(b) Any resolution in writing under this clause may consist of one or more documents in similar form (including letters, facsimiles, electronic mail, or other similar means of communication) each

signed or assented to by or on behalf of one or more of the Beneficiaries referred to in clause 22.5(a).

(c) Within five Business Days of a resolution in writing being passed under this clause 22.5, the Company Trustee must send a copy of the resolution to every Beneficiary who did not sign the resolution or on whose behalf the resolution was not signed.

23 NOTICES TO BENEFICIARIES

23.1 Notice of meetings

A minimum 14 days' notice of every meeting of Beneficiaries must be given to every Beneficiary (and the other Wharerata claimants' representative (if eligible under clause 22.1(b) to attend)) by sending it addressed to the Beneficiary (or representative) at their registered address by ordinary, prepaid post or airmail.

23.2 Other notices

In any other case a notice may be given under this Deed to any Beneficiary personally by leaving it at the Beneficiary's registered address or by sending it addressed to the Beneficiary at the Beneficiary's registered address by ordinary, prepaid post, airmail or facsimile, or by advertisement with the prior written approval of the Company Trustee. A Beneficiary must notify the Company Trustee of any change of the Beneficiary's registered address and the Beneficial Interest Register shall be altered accordingly.

23.3 Manner of notice

Any notice sent by post will be deemed to have been given at the expiration of 48 hours after posting, and in proving service it will be sufficient to prove that the envelope or wrapper containing the notice was properly addressed and posted.

23.4 Signature of notice

The signature to any notice to be given by the Company Trustee may be written or printed.

23.5 Calculation of notice periods

Where a given number of days' notice or notice extending over any other period is required to be given, neither the day of giving the notice nor the day upon which the notice will expire shall be reckoned in the number of days or other period.

23.6 Binding nature of notice

Every Person who by operation of law, by transfer or other means whatsoever becomes entitled to any Beneficial Interest is bound by every notice which, prior to such Person's name and address being entered in the Beneficial Interest Register in respect of the Beneficial Interest, has been given to the Person from whom such Person derives the title to the Beneficial Interest.

23.7 Receipt of notice

Any notice or document delivered or sent by post to or left at the registered address for service of any Beneficiary in pursuance of the provisions of this Deed will (notwithstanding that the Beneficiary is then dissolved and whether or not the Company Trustee has notice of such Beneficiary's dissolution) be deemed to have been duly given in respect of such Beneficiary's Beneficial Interest, whether held by such Beneficiary solely or jointly with another Person or Persons, until some other Person is registered in the place of the Beneficiary as the new Beneficiary or joint Beneficiary.

24 AMENDMENT TO DEED

24.1 Power to change the Deed

The Company Trustee may at any time make any alteration, modification, variation or addition to the provisions of this Deed (by means of a deed executed by the Company Trustee) in any of the following cases:

(a) if in the opinion of the Company Trustee the change is made to correct a manifest error or is of a formal or technical nature;

(b) if in the opinion of the Company Trustee the change:

(i) is necessary or desirable for the more convenient, economical or advantageous working, management or administration of the Trust or for safeguarding or enhancing the interests of the Trust or Beneficiaries; and

(ii) is not or not likely to become materially prejudicial to the general interests of all Beneficiaries of the Trust;

(c) the change is authorised by a Unanimous Resolution of all Beneficiaries, at a meeting of Beneficiaries duly convened; or

(d) if, after a change in any law affecting trusts, a change to this Deed is necessary to make any provision of this Deed consistent with such law.

24.2 Notice of amendment

If any amendment is made to this Deed under clause 24.1, the Company Trustee must send a summary of the amendment to the Beneficiaries at the same time as the accounts of the Trust are forwarded to those Beneficiaries.

25 PERIOD OF THE TRUST

(a) The Trust commences on the date of its creation and will continue until whichever of the following occurs first (the *Date of Termination*):

(i) the date on which the Beneficiaries determine to terminate the Trust by Unanimous Resolution; and

(ii) seventy-eight years from the date of this Deed less one day.

(b) The period of eighty years from the date of this Deed is the perpetuity period for the purpose of section 6 of the Perpetuities Act 1964.

26 PROCEDURE ON WINDING UP

26.1 Realisation of Assets

From and after the Date of Termination and subject to clause 8.5, the Company Trustee must realise the Assets of the Trust as soon as practicable, provided however that the Company Trustee may postpone realisation of all of the Assets of the Trust if it reasonably considers it is in the interests of Beneficiaries to do so. In this circumstance, until such realisation of the Assets of the Trust, the terms of the Trust will continue to apply with such changes as the context may require.

26.2 Retentions by Company Trustee

The Company Trustee is entitled to retain out of the Trust such amount that the Company Trustee considers necessary or appropriate to meet all claims and Liabilities (including for this purpose contingent Liabilities) in connection with the Trust or arising out of the liquidation of the Trust including the fees of any agents, solicitors, bankers, accountants, auditors or other Persons whom the Company Trustee may employ in connection with the winding up of the Trust. The Company Trustee is entitled to be indemnified in respect of the foregoing from the moneys or assets retained by the Company Trustee.

26.3 Application of realisation

Subject to the retention of any moneys as provided in clause 26.2, the net proceeds of realisation of the Assets of the Trust shall be applied by the Company Trustee as follows:

(a) first, in payment or retention of all costs, charges, expenses and liabilities incurred and payments made by or on behalf of the Company Trustee and payable from the Trust; and

(b) secondly, in payment to the Beneficiaries pro rata to the Beneficial Interests held by them in the Trust.

26.4 Interim distributions

If in the opinion of the Company Trustee it is expedient to do so the Company Trustee may make interim payments on account of the moneys to be distributed in accordance with clause 26.3.

26.5 Receipts

Each payment can be made only against delivery to the Company Trustee of such form of receipt and discharge as may be required by the Company Trustee.

26.6 In specie distributions

(a) Notwithstanding the preceding subclauses of this clause 26, the Company Trustee may, instead of realising an Asset, transfer the Asset, or shares in the Asset, in specie to one or more of the Beneficiaries (whether separately or as tenants in common in specified shares).

(b) In particular, the Company Trustee may distribute Assets in specie to the Beneficiaries in accordance with their Beneficial Interests (except to the extent there was a Unanimous Resolution of the Beneficiaries to some other basis of allocation) but on the basis that the Beneficiaries by deed will collectively settle the Assets on a replacement trust to this Trust.

(c) Each reference in this clause 26 to payment will be interpreted as including reference to such transfer.

27 RESETTLEMENT

Subject to clause 8.5, the Company Trustee has the power in its discretion to settle or resettle any or all of the Trust Fund upon trust for the advancement or benefit of one or more of the Beneficiaries as the

Company Trustee decides, but the settlement or resettlement must not breach the rule against perpetuities.

28 PAYMENTS TO BENEFICIARIES

(a) Any moneys payable by the Company Trustee to a Beneficiary under the provisions of this Deed may be paid by cheque that is crossed "non transferable" and made payable to the Beneficiary or their respective agents or other authorised Persons, or may be credited electronically to any bank account nominated by the Beneficiary.

(b) If paid by cheque, the moneys may be given or sent through the post to the Beneficiary or their respective agents or other authorised Persons.

(c) Payment of every cheque, if duly presented and paid, and in respect of direct credits, the giving by the Company Trustee of the encoded payment instructions to the paying bank, will be due satisfaction of the moneys payable and will be good discharge to the Company Trustee.

(d) If any amount has been deducted on behalf of taxes from a payment to a Beneficiary, details of such deduction shall be provided to the Beneficiary when the relevant payment is made.

29 WITHHOLDING TAXES

If the Company Trustee is obliged by law to make any deduction or withholding on account of taxes from any payment to be made to a Beneficiary, the Company Trustee shall make such deduction or withholding and pay such amount to the Commissioner of Inland Revenue or other taxing authority. On payment of the net amount to the relevant Beneficiary and the amount deducted or withheld to the tax authorities, the full amount payable to the relevant Beneficiary shall be deemed to have been duly paid and satisfied.

30 LAW APPLICABLE

This Deed is governed by the law of New Zealand.

31 EXECUTION AND EFFECTIVE DATE

31.1 Counterparts

This Deed may be executed in any number of counterparts each of which will be deemed an original, but all of which together will constitute one

and the same instrument. A party may enter into this Deed by signing any counterpart.

31.2 Effective date

This Deed will come into effect on the Settlement Date.

EXECUTION

SIGNED as a deed on 2011

Signed for and on behalf of **HER MAJESTY THE QUEEN** in right of New Zealand by the Minister for Treaty of Waitangi Negotiations in the presence of:

_____
Honourable Christopher Finlayson

WITNESS

_____

Name:

Occupation:

Address:

Signed for and on behalf of **HER MAJESTY THE QUEEN** in right of New Zealand by the Minister of Maori Affairs in the presence of:

_____
Honourable Dr Pita Sharples

WITNESS

_____

Name:

Occupation:

Address:

Signed for and on behalf of **Wharerata Forest Land Limited** by:

....

Director Director

Signed for and on behalf of the trustees of the **Tāmanuhiri Tutu Poroporo Trust** by their authorised signatories in the presence of:

.....

Authorised signatories

WITNESS

_____

Name:

Occupation:

Address:

SCHEDULE 1 – TERMS RELATING TO CROWN BENEFICIAL INTEREST AND CROWN INITIAL PERIOD

1 INTERPRETATION

1.1 In this Schedule 1, *Crown Deposit Account* means the interest-bearing account, or accounts, approved in writing by the Crown, into which the Crown's beneficial entitlement to Accumulated Rentals and to any Distribution of net income from the Wharerata Forest Land is deposited under clause 8.2(b) and 8.3(b).

1.2 References to clauses are to clauses in this Deed.

2 NATURE OF BENEFICIAL INTERESTS GENERALLY

Notwithstanding clause 5.2(a) and (b):

(a) the rights conferred on Beneficiaries by their Beneficial Interests are subject to the special rights of the Crown while a Beneficiary set out in this Schedule;

(b) the Crown Beneficial Interest confers an interest in particular Assets of the Trust and entitles the Crown to require the transfer to the Crown or its nominee specific Assets of the Trust to the extent set out in this Schedule.

3 NATURE OF CROWN BENEFICIAL INTEREST

The Crown Beneficial Interest will confer upon the Crown:

(a) the beneficial entitlement to 50% of the Wharerata Forest Land; and

(b) the beneficial entitlement to 50% of the Accumulated Rentals; and

(c) subject to clause 8.4, the beneficial entitlement to 50% of the New Zealand units derived from ownership of the Wharerata Forest Land; and

(d) the beneficial entitlement to 50% of the net income derived from the Wharerata Forest Land,

provided that:

(e) in the event of the transfer of part or all of the Crown Beneficial Interest in accordance with paragraph 6 of this Schedule or redemption of part or all of the Crown Beneficial Interest in accordance with paragraph 8 of this Schedule, the 50% figure will

be reduced by the same proportion as the transfer or redemption reduces the amount of the Crown Beneficial Interest; and

(f) in the event of the distribution of the Agreed Ngai Tāmanuhiri Subdivision Share under clause 8.5(b), the 50% figure (or such lesser percentage as then exists as a result of subparagraph (e)) will be increased as set out in clause 8.5(b)(iv).

4 INVESTMENT OF CROWN'S ENTITLEMENT

(a) The Company Trustee will ensure that, to the extent of the Crown's beneficial entitlement as holder of the Crown Beneficial Interest:

(i) the Accumulated Rentals and New Zealand units are at all times held separate and apart from any other assets of the Trust and exclusively for the benefit of the Crown; and

(ii) the Accumulated Rentals are invested in the Crown Deposit Account;

(iii) in the case of any Distribution of net income from the Trust, the net income is invested in the Crown Deposit Account; and

(iv) all interest earned on the Crown Deposit Account is reinvested in the Crown Deposit Account; and

(v) the Accumulated Rentals, the New Zealand units and the Crown Deposit Account are not disposed of, pledged or charged in any way, except under this Schedule.

(b) If requested by the Crown after it has been determined under clause 8.4 that the Crown is entitled to distribution of New Zealand units, such a sale would be financially advantageous and the Crown has consulted with the other Wharerata claimants, the Company Trustee may sell some or all of the Crown's beneficial entitlement to New Zealand units and invest the proceeds in the Crown Deposit Account.

(c) The Crown may, in its discretion, make payments to the Company Trustee to meet certain costs and expenses of administration of the Trust, during the Crown Initial Period.

5 NO TRANSFERS WHILE CROWN BENEFICIAL INTEREST EXISTS

Subject to paragraph 6, no Beneficial Interest may be transferred or transmitted, in whole or in part, while the Crown still holds the Crown Beneficial Interest except with the Crown's prior written consent.

6 TRANSFER OF CROWN BENEFICIAL INTEREST

(a) The Crown will only be entitled to transfer a part or all of the Crown Beneficial Interest in accordance with this paragraph 6.

(b) The Crown may at any time transfer, under the procedure set out in Schedule 2, any part or all of the Crown Beneficial Interest to:

(i) the other Wharerata claimants; or

(ii) any representative of the other Wharerata claimants; or

(iii) any part of the other Wharerata claimants,

as part of a Future Treaty Settlement.

(c) In the event of such a transfer, the Company Trustee will:

(i) withdraw from the Crown Deposit Account that proportion (the transfer proportion) of the balance in the account that the transferred amount of the Crown Initial Beneficial Interest represents of the whole of the Crown Initial Beneficial Interest prior to the transfer and pay it in cash or cleared funds to the transferee; and

(ii) transfer to the transferee the transfer proportion of the shares held by the Crown in the Company Trustee.

7 NO REDEMPTIONS WHILE CROWN BENEFICIAL INTEREST EXISTS

No Beneficial Interest may be redeemed, in whole or in part, while the Crown still holds a Crown Beneficial Interest except with the Crown's prior written consent.

8 FINAL REDEMPTION OF RESIDUAL CROWN BENEFICIAL INTEREST

(a) On the day before the last day of the Crown Initial Period, the Company Trustee must redeem all of the Crown Beneficial Interest then outstanding by transferring to the Crown:

(i) land to the extent of the Crown Beneficial Interest in the Wharerata Forest Land;

(ii) the balance in the Crown Deposit Account;

(iii) subject to clause 8.4, New Zealand units to the extent of the Crown's Beneficial Entitlement to New Zealand units; and

(iv) cash to the value of the Crown's beneficial entitlement to any net income from the Wharerata Forest Land still retained in the Trust.

(b) The Crown must:

(i) use any land returned for other Treaty of Waitangi settlement purposes; and

(ii) use any other property returned to settle a trust for the benefit of the other Wharerata claimants.

(c) The Crown will consent to the repurchase by the Company Trustee, for a nominal consideration of $1, of the Crown's shares in the Company Trustee.

9 CONSTRAINTS WHILE CROWN BENEFICIAL INTEREST EXISTS

Notwithstanding any other provision of this Deed, until the Crown Beneficial Interest ceases entirely to exist (by transfer or redemption, in accordance with this Deed), without the Crown's written consent (which consent may be indicated by a written request from the Crown for the constrained action to occur):

(a) a Beneficial Interest cannot be transferred or transmitted, except under paragraph 6;

(b) a share in the Company Trustee cannot be transferred or transmitted, except if such transfer would be allowed under paragraph 6 if it were the transfer of a Beneficial Interest;

(c) a part or all of the Wharerata Forest Land cannot be disposed of, leased, licensed (other than under a Crown Forestry Licence) or otherwise subjected to a right of exclusive possession, except under clause 8.5(b);

(d) a charge or other security interest cannot be created over:

(i) a part or all of the Wharerata Forest Land; or

(ii) a Beneficial Interest; or

(iii) a share in the Company Trustee;

(e) a Major Transaction cannot be entered into;

(f) a Beneficial Interest cannot be issued;

(g) a share in the Company Trustee cannot be issued;

(h) a Beneficial Interest cannot be redeemed, except under clause 8.5(b);

(i) a share in the Company Trustee cannot be redeemed, or cancelled, except under clause 8.5(b);

(j) a distribution of capital or income from the Trust cannot be made, except in compliance with clause 8 and (to the extent applicable) paragraph 10;

(k) the Company Trustee and the Trust cannot undertake any activities other than:

(i) holding the Settlement Assets; and

(ii) receiving revenue from those Settlement Assets; and

(iii) making distributions permitted under clause 8 and (to the extent applicable) paragraph 10; and

(iv) entering into the land management arrangements described in clause 12.2.

(l) this Deed cannot be amended under clause 24;

(m) an Extraordinary Resolution of Beneficiaries or a written resolution under clause 22.2 cannot validly be passed;

(n) a quorum (that does not include the Crown) cannot exist at a meeting of Beneficiaries;

(o) a custodian or custodian Company Trustee cannot hold any of the Trust Fund; and

(p) a resettlement cannot occur under clause 27.

10 DISTRIBUTIONS WHILE CROWN BENEFICIAL INTEREST EXISTS

Without the Crown's written consent, no Distribution of capital or income may be made while the Crown Beneficial Interest exists:

(a) if the Distribution involves any distribution in kind of any part or all of the Wharerata Forest Land, except under clause 8.5(b); or

(b) except to the Crown, if the Distribution involves any of the Crown's beneficial entitlement to the Trust Fund, referred to in paragraph 3 of this Schedule 1; or

(c) if the Distribution would leave the Company Trustee or the Trust with insufficient liquid or other Assets to enable the retention in full and effective management of the Wharerata Forest Land Holding.

11 CROWN CONSENT

Any reference in this Deed to the Crown's consent to any matter is to be interpreted as meaning that the Crown may grant or withhold its consent in its discretion having reasonable regard to the Crown's entitlements as a Beneficiary of the Trust and Trust Fund as holder of the Crown Beneficial Interest.

12 REPORTS TO CROWN

(a) In addition to providing to the Crown as a Beneficiary a copy of the annual audited consolidated accounts under clause 20, the Company Trustee will provide to the Crown such other reports relating to the affairs of the Trust as the Crown may reasonably request.

(b) If the Crown is required by law to obtain or provide any particular type of information relating to affairs of the Trust, the Company Trustee will, subject to reimbursement by the Crown of reasonable out-of-pocket expenses, take such steps as the Crown may reasonably request to enable the Crown to comply with that law (including appointing the Auditor-General as Auditor of the Trust).

SCHEDULE 2 – TRANSFER OF BENEFICIAL INTERESTS

1 TRANSFER ALSO OF COMPANY TRUSTEE SHARES

If a Beneficiary holds shares in the Company Trustee, the Beneficiary wishing to transfer part or all of their Beneficial Interest must transfer to the same transferee a combined parcel of Beneficial Interest and shares being in each case the same proportion of the Beneficial Interest and shares initially held by the transferor, failing which the transfer of the part or all (as the case may be) of the Beneficial Interest will be ineffective.

2 FORM OF INSTRUMENT OF TRANSFER

The instrument of transfer of part or all of a Beneficial Interest must:

(a) be in writing in any usual or common form which the Company Trustee approves from time to time;

(b) be signed in accordance with the First Schedule to the Securities Transfer Act 1991; and

(c) if the Company Trustee so requests, include a deed under which the transferee binds itself to compliance with the terms of this Deed.

3 REGISTRATION OF INSTRUMENT OF TRANSFER

(a) Every instrument of transfer of part or all of a Beneficial Interest must be delivered for registration to the Company Trustee at its registered office.

(b) The transferor is deemed to remain the Beneficiary in respect of the transferred amount until the transfer of such part or all of the Beneficial Interest is entered in the Beneficial Interest Register.

(c) Subject to paragraph 4 of this Schedule 2, the Company Trustee shall forthwith register each transfer delivered to it in accordance with this clause and enter the relevant details in the Beneficial Interest Register.

4 PAYMENT OF SUMS OWED AS A CONDITION TO TRANSFER

No transfer of any part or all of an Beneficial Interest can be registered unless the Beneficiary has paid all duties, taxes (including goods and services tax) and other commissions and charges (in cleared funds) in respect of the transfer.

5 RETENTION OF INSTRUMENT OF TRANSFER

Every instrument of transfer of part or all of an Beneficial Interest which is registered must be retained by the Company Trustee for such period as the Company Trustee may determine, after which (subject to the provisions of any law or this Deed to the contrary) the Company Trustee may destroy it.

6 TRANSMISSION BY OPERATION OF LAW

Any Person becoming entitled to an Beneficial Interest in consequence of insolvency, bankruptcy, liquidation, arrangement or composition with creditors or assignment for the benefit of creditors or scheme of arrangement of any Beneficiary may be registered as the Beneficiary in respect of the Beneficial Interest or may validly transfer the Beneficial Interest (subject to the provisions of this Deed as to transfers).