

TRUSTEES OF THE HERETAUNGA TAMATEA SETTLEMENT TRUST
and
THE CROWN

SECOND DEED TO AMEND
DEED OF SETTLEMENT OF HISTORICAL CLAIMS

13 June 2017

**SECOND DEED TO AMEND THE DEED OF SETTLEMENT OF
HISTORICAL CLAIMS**

THIS DEED is made on the 13th day of June 2017

BETWEEN

TRUSTEES OF THE HERETAUNGA TAMATEA SETTLEMENT TRUST

AND

THE CROWN

HDC VHK

BACKGROUND

General

- A. Heretaunga Tamatea, the trustees of the Heretaunga Tamatea Settlement Trust ("**trustees**") and the Crown are parties to:
- (a) a deed of settlement dated 26 September 2015; and
 - (b) a deed to amend the deed of settlement dated 16 February 2017,
- together, ("**Deed of Settlement**").
- B. The trustees and the Crown have agreed to enter into this deed to record amendments to the Deed of Settlement, to give effect to changes to the licensed land redress, in accordance with paragraph 5.1 of the general matters schedule to the Deed of Settlement.

IT IS AGREED as follows:

1 EFFECTIVE DATE OF THIS DEED

- 1.1 This deed takes effect when it is properly executed by the parties to it.

2 AMENDMENTS TO THE DEED OF SETTLEMENT

- 2.1 The Deed of Settlement:

- 2.1.1 is amended by making the amendments set out in schedule 1 to this deed; but
- 2.1.2 remains unchanged except to the extent provided by this deed.

3 DEFINITIONS AND INTERPRETATION

- 3.1 Unless the context otherwise requires:

- 3.1.1 terms or expressions defined in the Deed of Settlement have the same meaning in this deed; and
- 3.1.2 the rules of interpretation in the Deed of Settlement apply (with all appropriate changes) to this deed.

4 COUNTERPARTS

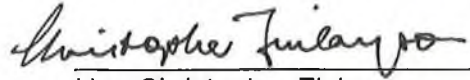
- 4.1 This deed may be signed in counterparts which together shall constitute one agreement binding on the parties, notwithstanding that both parties are not signatories to the original or same counterpart.

HDE Vicky

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

SIGNED as a deed on the 13th day of June 2017

SIGNED for and on behalf of THE CROWN by –
The Minister for Treaty of Waitangi
Negotiations in the presence of –



Hon Christopher Finlayson

WITNESS



Name: Alexander Lyons


Occupation: Private Secretary (Treaty Negotiations)

Address: 11/42 Abel Smith St, Wellington

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

SIGNED by the trustees of the
HERETAUNGA TAMATEA SETTLEMENT TRUST
in the presence of –

WITNESS



Elizabeth Helen Graham
Chairperson Pukehou Marae

Name: VALLANCE TE KAHURANGI

Occupation: CHADWICK
FINANCE OFFICER

Address: 707 ANSON ST
MAYFAIR
HASTINGS

WITNESS



Cordry Tawa Huata
Deputy Chairperson Mangaroa Marae

Name: VALLANCE TE KAHURANGI

Occupation: CHADWICK
FINANCE OFFICER

Address: 707 ANSON ST
MAYFAIR
HASTINGS

WITNESS

Erin Marie Sandilands
Treasurer Whatuiāpiti Marae

Name:

Occupation:

Address:

WITNESS



David Collins Tipene-Leach
Rongomaraeroa Marae


Name: VALLANCE TE KAHURANGI


Occupation: CHADWICK
FINANCE OFFICER

Address: 707 ANSON ST
MAYFAIR
HASTINGS

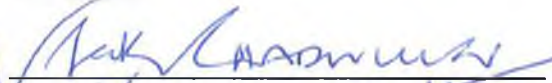
SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

WITNESS


Name: VALLANCE TE KAHURANGI
CHADWICK
Occupation:
FINANCE OFFICER
Address:
707 ANSON ST
MAYFAIR
HASTINGS



Tanira Hemana Te Rohu Te Au
Houngarea Marae

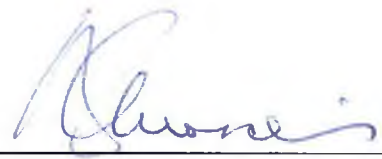
WITNESS


Name: VALLANCE TE KAHURANGI
CHADWICK
Occupation:
FINANCE OFFICER
Address:
707 ANSON ST
MAYFAIR
HASTINGS



John-Barry Heperi Smith
Te Rongo a Tahu Marae


WITNESS


Name: VALLANCE TE KAHURANGI
CHADWICK
Occupation:
FINANCE OFFICER
Address:
707 ANSON ST
MAYFAIR
HASTINGS


Brian Charles Morris
Rakautātahi Marae

WITNESS


Name: VALLANCE TE KAHURANGI
CHADWICK
Occupation:
FINANCE OFFICER
Address:
707 ANSON ST
MAYFAIR
HASTINGS


Peter Alexander Paku
Ruahāpia Marae

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

WITNESS



Name: VALLANCE TE KAURANGI

Occupation:

Address:

CHADWICK
FINANCE OFFICER
707 ANSON ST
MAYRAIR
HASTINGS


Margaret Akata McGuire
Kohupātiki Marae

WITNESS

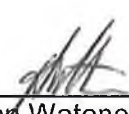


Name: VALLANCE TE KAURANGI

Occupation:

Address:

CHADWICK
FINANCE OFFICER
707 ANSON ST
MAYRAIR
HASTINGS


Alayna Ann Watene
Korongatā Marae

WITNESS




Name: VALLANCE TE KAURANGI

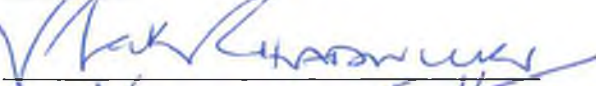
Occupation:

Address:

CHADWICK
FINANCE OFFICER
707 ANSON ST
MAYRAIR
HASTINGS


Henare Matua Kani
Pourērere Marae

WITNESS




Name: VALLANCE TE KAURANGI

Occupation:

Address:

CHADWICK
FINANCE OFFICER
707 ANSON ST
MAYRAIR
HASTINGS


Kellie Anne-Marie Jessup
Mihiroa Marae

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

WITNESS



Waireamana Kara
Tapairu Marae

Name: VALLANCE TE KAHURANGI
CHADWICK

Occupation:
FINANCE OFFICER

Address:
707 ANSON ST
MAYFAIR
HASTINGS

WITNESS




Wikitoria Lovey Osborne
Waimārama Marae

Name: VALLANCE TE KAHURANGI
CHADWICK

Occupation:
FINANCE OFFICER

Address:
707 ANSON ST
MAYFAIR
HASTINGS

WITNESS



Elizabeth Anne Clarke
Taraia Marae

Name: VALLANCE TE KAHURANGI
CHADWICK

Occupation:
FINANCE OFFICER

Address:
707 ANSON ST
MAYFAIR
HASTINGS

WITNESS



Penelope Hinehau WhitiWhiti
Omahu Marae

Name: VALLANCE TE KAHURANGI
CHADWICK

Occupation:
FINANCE OFFICER

Address:
707 ANSON ST
MAYFAIR
HASTINGS

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT



Leon Fredrick Hawea
Kahurānaki Marae

WITNESS



Name: VALLANCE TE KAHUURANGI
CHADWICK

Occupation: FINANCE OFFICER

Address: 707 ANSON ST,
MAYFAIR
HASTINGS



Charmaine Elizabeth Pene
Rūnanga Marae

WITNESS



Name: VALLANCE TE KAHUURANGI
CHADWICK

Occupation: FINANCE OFFICER

Address: 707 ANSON ST
MAYFAIR
HASTINGS

Ngahiwi Tomoana
Waipatu Marae

WITNESS

Name:

Occupation:

Address:



Kohine Gwen Rata
Mataweka Marae

WITNESS



Name: VALLANCE TE KAHUURANGI
CHADWICK

Occupation: FINANCE OFFICER

Address: 707 ANSON ST
MAYFAIR
HASTINGS

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT


WITNESS




Name: VALLANCE TE KAHURANGI

Occupation: CHADWICK
FINANCE OFFICER

Address: 707 ANSON ST
MAYFAIR
HASTINGS


Thomas Eruera Mulligan
Matahiwi Marae

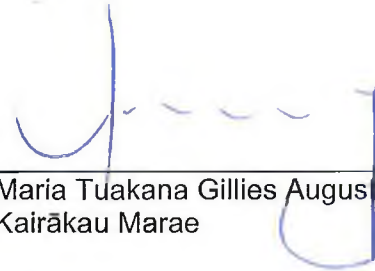
WITNESS



Name: VALLANCE TE KAHURANGI

Occupation: CHADWICK
FINANCE OFFICER

Address: 707 ANSON ST
MAYFAIR
HASTINGS


Maria Tuakana Gillies August
Kairākau Marae


WITNESS



Name: VALLANCE TE KAHURANGI

Occupation: CHADWICK
FINANCE OFFICER


Address: 707 ANSON ST
MAYFAIR
HASTINGS


Lisa Gay Tuhi
Te Āwhina Marae

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT


SIGNED by the mandated negotiators and He Toa Takitini in support of this deed, in the presence of –


Elizabeth Valentine Munroe
Chief Negotiator


Peter Alexander Paku
Negotiator

WITNESS





Brian Charles Morris
Negotiator

Name: Valance Te Kaitiaki Chadwick

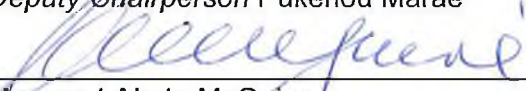

David Collins Tipene Leach
Chairperson Rongomaraeroa Marae

Occupation: Finance Officer

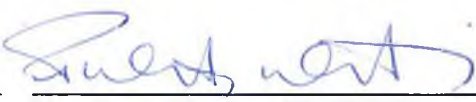
Address: 707 Anson St
Mairangi
Hastings



Elizabeth Helen Graham
Deputy Chairperson Pukehou Marae

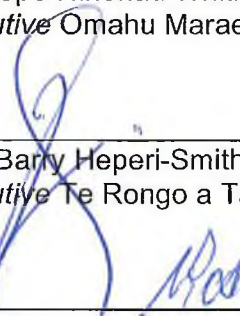
Tanira Hemana Te Rohu Te Au
Executive Houngarea Marae



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Lisa Gay Tuhi
Te Āwhina Marae



Penelope Hinehau WhitiWhiti
Executive Omaha Marae

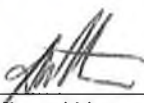

Brian Charles Morris
Rākautātahi Marae


John Barry Heperi-Smith
Executive Te Rongo a Tahu Marae


Cordry Tawa Huata
Mangaroa Marae


Peter Alexander Paku
Ruahāpia Marae


Henare Matua Kani
Pourērere Marae


Alayna Ann Watene
Korongatā Marae

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT



Tipene Heperi
Aorangi Māori Trust Board



Kellie Anne-Marie Jessup
Mihiroa Marae



Robert Lui Clarke
Taraia Marae



Elisabeth Rongomaiwahine Mohi
Waimārama Marae



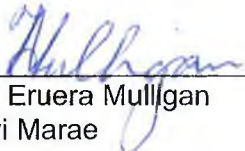
Leon Fredrick Hawea
Kahurānaki Marae

Erin Marie Sandilands
Te Whatuiāpiti Marae


Ngahiwi Tomoana
Waipatu Marae




Charmaine Elizabeth Pene
Rūnanga Marae



Thomas Eruera Mulligan
Matahiwi Marae



Kohine Gwen Rata
Mataweka Marae



Waireamana Kara
Tapairu Marae



Koreene Hariata Henry
Kairākau Lands Trust

SCHEDULE 1

AMENDMENTS TO THE DEED OF SETTLEMENT

Current reference	Amendment
Deed of Settlement	
Part 6	<p>Replace clauses 6.5 to 6.18 with:</p> <p>"LICENSED LAND</p> <p>6.5 In this deed, in relation to the transfer of the licensed land, references to the governance entity are treated as references to the licensed land entity other than, for the avoidance of doubt, in clause 6.9, and in part 3, and in the definition of "Crown redress" in part 6 of the general matters schedule.</p> <p>6.6 The licensed land is to be –</p> <p>6.6.1 transferred by the Crown to the governance entity on the settlement date –</p> <p>(a) as part of the redress to settle the historical claims, and without any other consideration to be paid or provided by the governance entity or any other person; and</p> <p>(b) on the terms of transfer in part 6 of the property redress schedule; and</p> <p>6.6.2 as described in part 3 of the property redress schedule, and is to have the transfer value provided in that part in respect of each area separately described in that part.</p> <p>6.7 The transfer of the licensed land will be –</p> <p>6.7.1 subject to, and where applicable with the benefit of, the encumbrances provided in the property redress schedule in relation to the licensed land; and</p> <p>6.7.2 subject to the licensed land entity providing to the Crown before the registration of the transfer of the licensed land right of way easements in gross on the terms and conditions set out as "type A" in part 4.1 of the documents schedule (subject to any variations in form necessary only</p>

10/11/11 

Current reference	Amendment
	<p>to ensure its registration) to give effect to those descriptions of easements in the third column of part 3 of the property redress schedule that refer to this clause 6.7.2; and</p> <p>6.7.3 subject to the Crown providing to the licensed land entity before the registration of the transfer of the licensed land, right of way easements on the terms and conditions set out as "type B" in part 4.2 of the documents schedule (subject to any variations in form necessary only to ensure its registration) to give effect to those descriptions of easements in the third column of part 3 of the property redress schedule that refer to this clause 6.7.3.</p> <p>6.8 The parties to the easements referred to in clause 6.7.2 and clause 6.7.3 are bound by the easement terms from the settlement date.</p> <p>LICENSED LAND ENTITY AND CROWN AGREED PORTION</p> <p>6.9 The parties agree that they will ensure that –</p> <p>6.9.1 before the settlement date, the licensed land entity –</p> <ul style="list-style-type: none"> (a) adopts the constitution; and (b) has 10,000 shares on issue, owned as follows: <ul style="list-style-type: none"> (i) 5666 shares owned by the governance entity; (ii) 3334 Class A shares owned by the Crown ("Crown agreed portion A"); and (iii) 1000 Class B shares owned by the Crown ("Crown agreed portion B"); and <p>6.9.2 before the settlement date, the shareholders' agreement and trust deed has been entered into; and</p> <p>6.9.3 the licensed land entity complies with any obligations imposed on the licensed land entity under this deed as if it were a party to this deed.</p> <p>6.10 The purpose of –</p> <p>6.10.1 Crown agreed portion A is to –</p>

2


Current reference	Amendment
	<p>(a) allow for the settlement of the historical claims of Ahuriri Hapū under the Ahuriri Hapū deed of settlement during the Crown initial period; and</p> <p>(b) following the Crown initial period, if the Ahuriri Hapū settlement legislation has not been enacted, to provide for the application of the powers of the Waitangi Tribunal in relation to the Crown agreed portion A, modified as set out in clauses 6.16 to 6.18; and</p> <p>6.10.2 Crown agreed portion B is to –</p> <p>(a) allow for the settlement of the historical claims of any other Kaweka Gwavas claimant to the licensed land that may be negotiated and entered into between the claimant and the Crown during the Crown initial period (“other Kaweka Gwavas claimant deed of settlement”); and</p> <p>(b) provide for the retention of the powers of the Waitangi Tribunal in relation to Crown agreed portion B during the Crown initial period, modified as set out in clauses 6.16 and 6.17.</p> <p>6.11 To avoid doubt, each of Crown agreed portion A and Crown agreed portion B remains in effect only during the Crown initial period or until the date that –</p> <p>6.11.1 in the case of Crown agreed portion A, it is transferred to the Ahuriri Hapū governance entity; and</p> <p>6.11.2 in the case of Crown agreed portion B, it is transferred to one or more other Kaweka Gwavas claimant PSGE, or equivalent licensed land is transferred on recommendation of the Waitangi Tribunal under clauses 6.16 and 6.17.</p> <p>6.12 Clause 6.13 applies if, during the Crown initial period, –</p> <p>6.12.1 the Ahuriri Hapū settlement legislation is enacted; or</p> <p>6.12.2 the other Kaweka Gwavas claimant settlement legislation is enacted.</p> <p>6.13 The effect of the constitution, and the shareholders’ agreement and trust deed, is that the licensed land entity must, to the extent</p>

Current reference	Amendment
	<p>required by the Ahuriri Hapū deed of settlement or other Kaweka Gwavas claimant deed of settlement, transfer the following in accordance with the Ahuriri Hapū deed of settlement or the other Kaweka Gwavas claimant deed of settlement (as applicable):</p> <p>6.13.1 in the case of Crown agreed portion A, all of it:</p> <p>6.13.2 in the case of Crown agreed Portion B, all or part of it as applicable:</p> <p>6.13.3 in the case of both Crown agreed portion A and Crown agreed portion B –</p> <p style="padding-left: 40px;">(a) the relative portion of Accumulated Rentals income and interest held in the Crown Deposit Account (as defined in the shareholders' agreement and trust deed); and</p> <p style="padding-left: 40px;">(b) the relative portion of New Zealand units (as defined in the shareholders' agreement and trust deed).</p> <p>6.14 A transfer under clause 6.13 must be –</p> <p>6.14.1 in accordance with the Ahuriri Hapū deed of settlement or the other Kaweka Gwavas claimant deed of settlement referred to in clause 6.13; and</p> <p>6.14.2 made during the Crown initial period; and</p> <p>6.14.3 in relation to a transfer in accordance with the other Kaweka Gwavas claimant deed of settlement, made only after the consultation requirement in clause 6.15 has been complied with.</p> <p>6.15 Before entering into a deed of settlement with any other Kaweka Gwavas claimant that provides for the transfer of any part of the Crown agreed portion B, the Crown must consult with the other shareholders in the licensed land entity.</p>

HDC 4 ✓

Current reference	Amendment
	<p style="text-align: center;">MODIFICATIONS TO WAITANGI TRIBUNAL JURISDICTION</p> <p>6.16 The settlement legislation will provide that –</p> <p>6.16.1 despite clause 6.19, the Waitangi Tribunal may exercise its jurisdiction to inquire into the historical claims of any Other Claimant to the licensed land, and to make recommendations, in accordance with sections 8HB to 8HD of the Treaty of Waitangi Act 1975; and</p> <p>6.16.2 for the purposes of clause 6.16.1, sections 8HA to 8HD of the Treaty of Waitangi Act 1975 apply subject to the modifications set out in clauses 6.17.</p> <p>6.17 The settlement legislation will provide that the modifications to sections 8HA and 8HD of the Treaty of Waitangi Act 1975 referred to in clause 6.16 are as follows:</p> <p>6.17.1 the jurisdiction of the Waitangi Tribunal is limited as follows:</p> <p style="margin-left: 40px;">(a) to the extent of Crown agreed portion B that the Crown holds at any given time during the Crown initial period (and not after), and the transfer under an other Kaweka Gwavas claimant deed of settlement , or the making of a recommendation under clause 6.16.1, will result in a corresponding change to the Tribunal jurisdiction in respect of that portion (see clause 6.17.3):</p> <p style="margin-left: 40px;">(b) to the extent of Crown agreed portion A after the expiry of the Crown initial period (and not before), if the Ahuriri Hapū settlement legislation has not been enacted during that period:</p> <p>6.17.2 the Crown must advise the Waitangi Tribunal of any change to Crown agreed portion B in order to inform the Tribunal of the extent of its jurisdiction for the purposes of clause 6.17.1(a):</p> <p>6.17.3 any recommendation made under the jurisdiction under clause 6.17.1(a) must be of an area that is not more than 10% of the area of the licensed land:</p> <p>6.17.4 despite section 8HD of that Act, any shareholder in the licensed land entity is entitled to appear and be heard by the Waitangi Tribunal on the question of the historical claim of the Other Claimant to the licensed land.</p>

HDC 5 ✓

Current reference	Amendment
	<p>6.18 NOT USED</p> <p>LICENSED LAND AND SETTLEMENT LEGISLATION</p> <p>6.19 The settlement legislation will, on the terms provided by sections [77 to 89] of the draft settlement bill, provide for the following in relation to the licensed land:</p> <p>6.19.1 its transfer by the Crown to the licensed land entity:</p> <p>6.19.2 it to cease to be Crown forest land upon registration of the transfer:</p> <p>6.19.3 the licensed land entity to be, from the settlement date, in relation to the licensed land, –</p> <p style="padding-left: 40px;">(a) a confirmed beneficiary under clause 11.1 of the Crown forestry rental trust deed; and</p> <p style="padding-left: 40px;">(b) entitled to the rental proceeds since the commencement of the Crown forestry licence:</p> <p>6.19.4 the Crown to give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 terminating the Crown forestry licence, in so far as it relates to the licensed land, at the expiry of the period determined under that section, as if –</p> <p style="padding-left: 40px;">(a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land to Māori ownership; and</p> <p style="padding-left: 40px;">(b) the Waitangi Tribunal's recommendation became final on settlement date:</p> <p>6.19.5 the licensed land entity to be the licensor under the Crown forestry licence, as if the licensed land had been returned to Māori ownership on the settlement date under section 36 of the Crown Forest Assets Act 1989, but without section 36(1)(b) applying:</p>

1402 9/1/2014

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

Current reference	Amendment
	<p>6.19.6 modify the jurisdiction of the Waitangi Tribunal to make recommendations in respect of the licensed land so that the jurisdiction only applies only to "Crown Beneficial Interest B", and if the Ahuriri Hapū settlement legislation has not been enacted during the Crown initial period, "Crown Beneficial Interest A":</p> <p>6.19.7 for rights of access to areas that are wāhi tapu.</p>
Part 7, clause 7.3.2	<p>Replace clause 7.3.2 with:</p> <p>"7.3.2 may be amended to give effect to clauses 6.16 to 6.19; and"</p>
General matters	
Part 6, paragraph 6.1	<p>Delete the definition of "Ahuriri Hapū settlement bill" and insert the following new definition:</p> <p>"Ahuriri Hapū settlement legislation means the settlement legislation giving effect to the Ahuriri Hapū deed of settlement; and"</p>
Part 6, paragraph 6.1	<p>Delete the definition of "Crown agreed portion" and insert the following new definitions:</p> <p>"Crown agreed portion A has the meaning given to it by clause 6.9.1(b)(ii); and"</p> <p>"Crown agreed portion B has the meaning given to it by clause 6.9.1(b)(iii); and"</p> <p>"Crown initial period means the period of 8 years beginning on the settlement date; and"</p>

HDC 7 ✓

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

Current reference	Amendment
Part 6, paragraph 6.1	<p>After the definition of “on-account payments”, insert the following new definition:</p> <p>“Other Claimant means –</p> <p>(a) during the Crown initial period, any Māori who has a historical claim under the Treaty of Waitangi Act 1975 to the licensed land, that is not settled by this deed or the Ahuriri Hapū deed of settlement; and</p> <p>(b) after the Crown initial period, if the Ahuriri Hapū settlement legislation has not been enacted, means any Māori who has a historical claim under the Treaty of Waitangi Act 1975 to the licensed land, that is not settled by this deed; and”</p>
Part 6, paragraph 6.1	<p>After the definition of “other Kaweka Gwavas claimant”, insert the following new definitions:</p> <p>“other Kaweka Gwavas claimant deed of settlement has the meaning given to it in clause 6.10.2; and”</p> <p>“other Kaweka Gwavas settlement legislation means the settlement legislation giving effect to the other Kaweka Gwavas claimant deed of settlement; and”</p>
Part 6, paragraph 6.1	<p>Replace the definition of “shareholders’ agreement and trust deed” with:</p> <p>“shareholders’ agreement and trust deed means the trust deed to be entered into by the Crown, the governance entity and the licensed land entity in accordance with clause 6.9, to be substantially in the form in part 6.2 of the documents schedule and with such amendments as the parties may agree; and”</p>
Documents schedule	
Part 6	Replace the constitution in part 6.1 with the constitution set out in Appendix A.

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

Current reference	Amendment
Part 6	Replace the shareholders' agreement and trust deed in part 6.2 with the shareholders' agreement and trust deed set out in Appendix B.
Attachments	
Part 5	Replace the draft settlement bill in part 5 with the draft settlement bill in Appendix C.

APPENDIX A

6.1 CONSTITUTION

Constitution

Kaweka Gwavas Forestry Company Limited

[Note: the changes to this document are shown redlined for ease of review, but will but will be accepted in the execution copy of this document and this note will be removed.]

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Handwritten signature and initials in blue ink.

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Date:

CONSTITUTION OF KAWEKA GWAVAS FORESTRY COMPANY LIMITED

1 INTERPRETATION

1.1 Definitions

In this Constitution, unless the context otherwise requires:

Act means the Companies Act 1993;

Ahuriri Hapū has the meaning given to it in clause 9.6 of the Ahuriri Hapū deed of settlement dated 2 November 2016;

Ahuriri Hapū deed of settlement means a deed between the Crown and Ahuriri Hapū, and any other person or persons, settling the historical claims of Ahuriri Hapū;

Ahuriri Hapū PSGE means the post settlement governance entity for Ahuriri Hapū under the Ahuriri Hapū deed of settlement;

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 Hawkes Bay;

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

Class A shares means Shares held by the Crown issued under clause 6.9.1(b)(i) of the Deed of Settlement;

Class B shares means Shares held by the Crown that are issued under clause 6.9.1(b)(ii) of the Deed of Settlement;

Company means Kaweka Gwavas Forestry Company Limited;

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

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

Deed of Settlement means the deed dated 26 September 2015 between the Crown and the Heretaunga Tamatea PSGE in relation to the settlement of certain historical claims.

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

Future Treaty Settlement means a future settlement of the historical claims relating to the Treaty of Waitangi;

SECOND DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

Heretaunga Tamatea PSGE means the post settlement governance entity for Heretaunga Tamatea that holds shares in the Company and has a Beneficial Interest (as that term is defined in the Shareholders' Agreement and Trust Deed);

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

Other Kaweka and Gwavas Claimant PSGE means the governance entity under a Future Treaty Settlement that holds the shares in the Company and has a Beneficial Interest (as that term is defined in the Shareholders' Agreement and Trust Deed);

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;

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;

Shareholders' Agreement and Trust Deed means the deed of that name entered into on or about the time of incorporation of the Company between the Shareholders at that time and the Company;

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 entitled to vote and voting on the resolution.

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 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 (except in the case of the shares held by the Crown as Shareholder of Class B Shares or while the Crown is a Shareholder of Class B Shares, an Other Kaweka and Gwavas Claimant PSGE) on a poll at a meeting of the Shareholders on any resolution, including any resolution to:
 - (i) appoint or remove an 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; and
- (e) in the case of a Shareholder that is not the Crown as Shareholder of Class B Shares or an Other Kaweka and Gwavas Claimant PSGE, appoint and remove Directors in accordance with clause 17.3.

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 register

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;
- (c) the transfer is in breach of the Shareholders' Agreement and Trust Deed; or
- (d) 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.

Size of quorum

A quorum for a meeting of Shareholders is present if the Crown (as shareholder of the Class A shares) or Ahuriri Hapū PSGE (if the Class A shares have been transferred to it) and the Heretaunga Tamatea PSGE, 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 per share.

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

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.

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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.

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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 OF DIRECTORS

17.1 Number

The number of Directors is three.

17.2 Initial Directors

- (a) 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.
- (b) On adoption of this Constitution those Directors will be deemed to have resigned unless then reappointed under clause 17.3.

17.3 Appointment and removal

Each Shareholder, other than the Crown as Shareholder of shares that are Class B Shares or an Other Kaweka and Gwavas Claimant PSGE, may by notice in writing to the Company:

- (a) appoint such number of Directors as is specified in the Shareholders' Agreement and Trust Deed; and
- (b) remove and replace any Director appointed by that Shareholder.

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 (other than the Crown as Shareholder of Class B Shares or an Other Kaweka and Gwavas Claimant PSGE) 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 Crown

- (a) Despite anything in the preceding subclauses of this clause 20:
- (i) while the Crown is a Shareholder of Class A Shares, except to the extent that the Ahuriri Hapū PSGE is entitled as a Shareholder to appoint a Director:
 - (A) Ahuriri Hapū must be given the same notice of the meeting or the proposal to pass the resolution as is given to each Director; and
 - (B) Ahuriri Hapū is 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
 - (ii) unless the Crown has consented in writing, no irregularity in notice of the meeting can be waived.
- (b) Despite anything in the preceding subclauses of this clause 20, while the Crown is a Shareholder of Class B Shares:
- (i) the Crown 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 Crown is 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 Crown has consented in writing, no irregularity in notice of the meeting can be waived.
- (c) To avoid doubt, if the Crown is not a Shareholder of the Class B Shares, and an Other Kaweka and Gwavas Claimant PSGE is a Shareholder, all references to the Crown in 20.10(b) should be treated as references to an Other Kaweka and Gwavas Claimant PSGE.
- (d) In this clause 20.10, *Ahuriri Hapū* has the meaning given to it in the Ahuriri Hapū deed of settlement dated 2 November 2016.

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.

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 Kaweka Gwavas Forestry Company Limited as adopted by the Company by Special Resolution passed on the [] day of [] 20[].

Certified as the Constitution of the Company.

Authorised Person

HLX 
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APPENDIX B

6.2 SHAREHOLDERS' AGREEMENT AND TRUST DEED

Shareholders' Agreement and Trust Deed

Her Majesty the Queen in right of New Zealand

Kaweka Gwavas Forestry Company Limited

The Trustees of the Heretaunga Tamatea Settlement Trust

[Note: the changes shown in this document are redlined for ease of review, but will be accepted in the execution copy and this note will be removed]

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Date:

PARTIES

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

Kaweka Gwavas Forestry Company Limited (*Company Trustee*)

The Trustees of the Heretaunga Tamatea Settlement Trust, established by trust deed dated 30 June 2015 (*Heretaunga Tamatea PSGE*)

BACKGROUND

- A The Company Trustee has been established by the Crown and the Heretaunga Tamatea PSGE to act as the corporate trustee of a trust holding the Kaweka Forest and Gwavas 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 the Heretaunga Tamatea PSGE wish to record the terms and conditions under which the Trust is constituted and is to be administered.
- C The Crown and the Heretaunga Tamatea PSGE 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

1.2 Defined terms - generally

In this Deed, unless the context otherwise requires:

Accumulated Rentals means accumulated rentals relating to the Kaweka Forest Land and Gwavas 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.

Ahuriri Hapū has the meaning given to it in clause 9.6 of the Ahuriri Hapū deed of settlement dated 2 November 2016.

Ahuriri Hapū deed of settlement means a deed between the Crown and Ahuriri Hapū, and any other person or persons, settling the historical claims of Ahuriri Hapū.

Ahuriri Hapū PSGE means the governance entity under the Ahuriri Hapū deed of settlement.

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 percentage 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 of –
 - (i) the Crown's Beneficial Interest A under paragraph 6 of Schedule 1 in the event of transfer to the Ahuriri Hapū PSGE, of all of the Crown's Beneficial Interest A; or
 - (ii) the Crown's Beneficial Interest B under paragraph 6 of Schedule 2 in the event of transfer to an Other Kaweka and Gwavas Claimant PSGE, of part or all of the Crown Beneficial Interest; and
- (c) from the earlier of the end of the Crown Initial Period and the date upon which the Crown ceases to be a Beneficiary in relation to Crown Beneficial Interest A or Crown Beneficial Interest B, 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 the Heretaunga Tamatea PSGE 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 A means the Initial Beneficial Interest A issued to the Crown on the Settlement provided that:

- (a) on transfer of part or all of the Crown Beneficial Interest A in accordance with paragraph 6 of Schedule 1, that part or all (as the case may be) will cease to be Crown Beneficial Interest A 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 Beneficial Interest B means the Initial Beneficial Interest B issued to the Crown on the Settlement subject to the operation of Schedule 2.

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 26 September 2015 between the Crown and the Heretaunga Tamatea PSGE 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 the historical claims relating to the Treaty of Waitangi.

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.

Gwavas Forest Land means the property described as Gwavas in Part 3 of the Property Redress Schedule of the Deed of Settlement.

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

Kaweka Forest Land means the property described as Kaweka in Part 3 of the Property Redress Schedule of the Deed of Settlement.

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) 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 meaning given in section 4(1) of the Climate Change Response Act 2002.

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

Other Kaweka and Gwavas Claimant PSGE means the governance entity under a Future Treaty Settlement under which that governance entity is entitled to receive all or part of the Crown Beneficial Interest.

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.

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.

Trust means the trusts created by this Deed, which will bear the name Kaweka and Gwavas 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).

1.2 Defined terms relating to Crown Beneficial Interest and Crown Initial Period

Certain defined terms relating to Crown Beneficial Interest A, Crown Beneficial Interest B and Crown Initial Period are defined in paragraph 1.1 of Schedule 1 and paragraph 1.1 of Schedule 2.

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 the Heretaunga Tamatea PSGE have established the Company Trustee to acquire and hold the Kaweka Forest Land and Gwavas Forest Land 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 or paragraph 9 of Schedule 2 (as applicable) 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 per share held by the shareholder on any shareholder resolution (except for the Crown or an Other Kaweka and Gwavas Claimant PSGE while the Crown is a shareholder of shares that form part of Crown Beneficial Interest B); and
- (b) the Heretaunga Tamatea PSGE has the right to appoint two directors and the Crown (as a shareholder of shares that form part of Crown Beneficial Interest A) has the right to appoint one director; 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 Ahuriri Hapū PSGE or the Other Kaweka and Gwavas Claimant PSGE; and
 - (ii) where required by paragraph 1 of Schedule 3; or
 - (iii) by resolution carried by shareholders representing not less than 75% of the shares and subject to such conditions as those 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 by unanimous resolution 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, Ahuriri Hapū will, except to the extent the Ahuriri Hapū PSGE is entitled as a shareholder to appoint a director, have a right to have a representative to receive a notice of

and attend and speak, but not vote, at any meeting of directors of the Company Trustee; and

- (f) while the Crown is a shareholder of shares that form part of Crown Beneficial Interest B, despite anything in this Deed:
 - (i) the Crown must be given the same notice of the meeting or the proposal to pass the resolution as is given to each director of the Company Trustee; and
 - (ii) the Crown is 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 Crown has consented in writing, no irregularity in notice of the meeting can be waived;
- (g) to avoid doubt, if the Crown is not a Shareholder of shares that form part of Crown Beneficial Interest B, and an Other Kaweka and Gwavas Claimant PSGE is a Shareholder, all references to the Crown in clause 2.4(f) should be treated as references to an Other Kaweka and Gwavas Claimant PSGE.

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 acquire and 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 Kaweka Forest Land, Gwavas 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 Kaweka Forest Land; and
- (b) the Gwavas Forest Land; and
- (c) the Accumulated Rentals relating to each of the Kaweka Forest Land and Gwavas Forest Land.

3.3 Conditional on Settlement Legislation

This Deed and the establishment of the Trust are conditional on the Settlement Legislation coming into force.

3.4 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

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.

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 the rights of the Beneficiaries to distribution of Accumulated Rentals under clause 8.2.

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 INTERESTS AND CROWN INITIAL PERIOD

6.1 Crown Beneficial Interest A

The Crown will be issued an Initial Beneficial Interest of 33.34% on the Settlement (*Initial Beneficial Interest A*).

6.2 Crown Beneficial Interest B

The Crown will be issued with an Initial Beneficial Interest B of 10% on the Settlement (*Initial Beneficial Interest B*).

6.3 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 HERETAUNGA TAMATEA BENEFICIAL INTEREST

The Heretaunga Tamatea PSGE will be issued with an Initial Beneficial Interest of 56.66% 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 Heretaunga Tamatea PSGE's 56.66% share of the Accumulated Rentals, upon receipt, to the Heretaunga Tamatea PSGE.
- (b) During the Crown Initial Period, the Crown is entitled to:
 - (i) under Schedule 1, 33.34% of the Accumulated Rentals as holder of the Crown Beneficial Interest A, , subject to investment and Distribution as specified in Schedule 1; and
 - (ii) under Schedule 2, 10% of the Accumulated Rentals as holder of the Crown Beneficial Interest B, subject to investment and Distribution as specified in Schedule 2.

8.3 Distributions of subsequent net income

- (a) Distributions to Beneficiaries of subsequent amounts of net income will be made in accordance with their respective percentage Beneficial Interests.
- (b) Notwithstanding clause 8.3(a), during the Crown Initial Period, the Crown is entitled to (and only to) the percentage of the net income that reflects the then-level of:
 - (i) under Schedule 1, Crown Beneficial Interest A, subject to retention in the Trust and Distribution as specified in Schedule 1, as a holder of Crown Beneficial Interest A:
 - (ii) under Schedule 2, Crown Beneficial Interest B, subject to retention in the Trust, adjustment down and Distribution as specified in Schedule 2, as a holder of the Crown Beneficial Interest B.

8.4 Distributions of New Zealand units

- (a) Distributions to Beneficiaries of New Zealand units will be made in accordance with their respective percentage Beneficial Interests.
- (b) The Company Trustee will determine the timing and amount of any Distribution of New Zealand units.
- (c) Notwithstanding clause 8.4(a) and (b):
 - (i) during the Crown Initial Period, the Crown is entitled to (and only to):
 - (A) under Schedule 1, the Crown as holder of Crown Beneficial Interest A, the percentage of the 33.34% of

the New Zealand units, subject to retention in the Trust and Distribution as specified in Schedule 1; and

(B) under Schedule 2, as holder of Crown Beneficial Interest B, the percentage of the 10% of the New Zealand units, subject to retention of the Trust, adjustment down and Distribution as specified in Schedule 2; and

(ii) no Distribution of New Zealand units will be made while the Crown is a Beneficiary.

8.5 Distribution of capital

(a) Distributions to Beneficiaries of amounts of capital will be made in accordance with their respective percentage Beneficial Interests.

(b) Notwithstanding clause 8.5(a), during the Crown Initial Period, the Crown is entitled to:

(i) under Schedule 1, as holder of Crown Beneficial Interest A, 33.34% of the Kaweka Forest Land and Gwavas Forest Land, subject to retention in the Trust, Distribution as specified in Schedule 1; and

(ii) under Schedule 2, as holder of Crown Beneficial Interest B, 10% of the Kaweka Forest Land and Gwavas Forest Land, subject to retention in the Trust, adjustment and Distribution as specified in Schedule 2.

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 3 procedure

The provisions of Schedule 3 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 could be a wholly-owned subsidiary of the Company Trustee), which will provide that:

- (a) the management entity will prudently manage the Kaweka Forest Land and Gwavas Forest Land; and
- (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 Kaweka Forest Land and Gwavas Forest Land) 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 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 461E of the Financial Markets Conduct Act 2013.

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 Crown as shareholder of shares that form part of Crown Beneficial Interest B 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 (except for an Other Kaweka and Gwavas Claimant PSGE during the Crown Initial Period).

- (b) The expression "Extraordinary Resolution" means a resolution passed at a meeting duly convened and carried by Beneficiaries representing at least 75% of the Beneficial Interest in the Trust voting at such meeting upon a show of hands or, if a poll is duly demanded, by not less than 75% of the votes given on such poll.

22.3 Powers exercisable by Unanimous Resolution

A meeting of Beneficiaries has the following powers exercisable by Unanimous Resolution:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) 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;
- (e) to appoint a new Company Trustee if a vacancy arises in the office of Company Trustee;
- (f) to sanction any variation to the Authorised Investments of the Trust;
- (g) to give such directions to the Company Trustee as they think proper concerning the Trust being directions that are consistent with this Deed; and
- (h) 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 Beneficiaries representing 75% of the Beneficial Interest in the Trust 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 Crown's representative as shareholder of shares that form part of Crown Beneficial Interest B (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.

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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 or transfer the assets to a company the shareholding in which is held by the Beneficiaries in proportion to their respective holdings of Beneficial Interests.
- (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 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.

31.3 Trustee execution

Any natural person entering into this Deed as a trustee of the Heretaunga Tamatea PSGE enters into this Deed only in their capacity as trustee of the trust and has no personal liability under this Deed, except to the extent of the assets of the trust or to the extent their right to indemnity from the assets of the trust has been lost or impaired due to their own wilful act or omission.

EXECUTION

Signed by 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 signature

.....
Full name (please print)

.....
Occupation (please print)

.....
Address (please print)

Signed by Her Majesty the Queen in right of New Zealand by the Minister for Maori Development in the presence of:

.....
Honourable Te Ururoa Flavell

.....
Witness signature

.....
Full name (please print)

.....
Occupation (please print)

.....
Address (please print)

DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

Signed for and on behalf of
**Kaweka Gwavas Forestry
Company Limited** by:

.....
Director

.....
Full name (please print)

.....
Director

.....
Full name (please print)

.....
Director

.....
Full name (please print)

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DEED TO AMEND HERETAUNGA TAMATEA DEED OF SETTLEMENT

**Signed by the Trustees of the
Heretaunga Tamatea Settlement Trust in
the presence of:**

.....
Trustees

WITNESS

Name:

Occupation:

Address:

SCHEDULE 1 – TERMS RELATING TO CROWN BENEFICIAL INTEREST A AND CROWN INITIAL PERIOD

1 INTERPRETATION

- 1.1 In this Schedule 1, *Crown Deposit Account A* 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 Kaweka Forest Land and Gwavas Forest Land relating to Crown Beneficial Interest A 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) 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) Crown Beneficial Interest A confers a beneficial interest in particular Assets held subject to the Trust and, to the extent set out in this Schedule, entitles the Crown to require the Distribution to the Crown or its nominee of specific Assets of the Trust.

3 NATURE OF CROWN BENEFICIAL INTEREST

Crown Beneficial Interest A will confer upon the Crown:

- (a) the beneficial entitlement to 33.34% of the Kaweka Forest Land and Gwavas Forest Land; and
- (b) the beneficial entitlement to 33.34% of the Accumulated Rentals; and
- (c) the beneficial entitlement to 33.34% of the New Zealand units derived from ownership of the Kaweka Forest Land and Gwavas Forest Land; and
- (d) the beneficial entitlement to 33.34% of the net income derived from the Kaweka Forest Land and Gwavas Forest Land,

until the transfer of Crown Beneficial Interest A in accordance with paragraph 6 of this Schedule or the final transfer of Crown Beneficial Interest A in accordance with paragraph 8 of this Schedule.

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 Crown Beneficial Interest A:
- (iii) 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
 - (iv) the Accumulated Rentals are invested in the Crown Deposit Account;
 - (v) in the case of any Distribution of net income from the Trust, the net income is invested in the Crown Deposit Account; and
 - (vi) all interest earned on the Crown Deposit Account is reinvested in the Crown Deposit Account; and
 - (vii) 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) 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 A or Crown Beneficial Interest B except with the Crown's prior written consent.

6 TRANSFER OF CROWN BENEFICIAL INTEREST

- (a) The Crown will only be entitled to transfer all of Crown Beneficial Interest A in accordance with this paragraph 6 or paragraph 8.
- (b) The Crown may at any time transfer, under the procedure set out in Schedule 3, all of the Crown Beneficial Interest A to the Ahuriri Hapū PSGE under an Ahuriri Hapū deed of settlement.
- (c) In the event of such a transfer, the Company Trustee will:
- (i) withdraw from the Crown Deposit Account A that proportion (the transfer proportion) of the balance in the account that the transferred amount of Crown Initial Beneficial Interest A represents of the whole of Crown Initial Beneficial Interest A prior to the transfer and pay it in cash or cleared funds to the transferee;

- (ii) transfer to the transferee the transfer proportion of the New Zealand units held by the Company Trustee on account of Crown Beneficial Interest A ; and
- (iii) transfer to the transferee the transfer proportion of the shares held by the Crown that form part of Crown Beneficial Interest A 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 Crown Beneficial Interest A or Crown Beneficial Interest B except with the Crown's prior written consent.

8 FINAL TRANSFER OF RESIDUAL CROWN BENEFICIAL INTEREST

On the day before the last day of the Crown Initial Period the Company Trustee must redeem all of Crown Beneficial Interest A then outstanding, by transferring to the Crown:

- (a) land to the extent of Crown Beneficial Interest A in the Kaweka Forest Land and the Gwavas Forest Land;
- (b) the balance in the Crown Deposit Account A;
- (c) New Zealand units held by the Company Trustee on account of Crown Beneficial Interest A; and
- (d) cash to the value of the Crown Beneficial Interest A to any net income from the Kaweka Forest Land and the Gwavas Forest Land still retained in the Trust.

9 CONSTRAINTS WHILE CROWN BENEFICIAL INTEREST EXISTS

Notwithstanding any other provision of this Deed, until Crown Beneficial Interest A 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 or under Schedule 2;
- (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 Crown Beneficial Interest A or under paragraph 6 of Schedule 2 if it were a transfer of Crown Beneficial Interest B;
- (c) a part or all of the Kaweka Forest Land and Gwavas Forest Land cannot be disposed of, leased, licensed (other than under a Crown

- Forestry Licence) or otherwise subjected to a right of exclusive possession;
- (d) a charge or other security interest cannot be created over:
 - (i) a part or all of the Kaweka Forest Land and Gwavas 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 (other than in respect of Crown Beneficial Interest B) cannot be issued;
 - (g) a share (other than Crown Beneficial Interest B) in the Company Trustee cannot be issued;
 - (h) a Beneficial Interest (other than in respect of Crown Beneficial Interest B) cannot be redeemed;
 - (i) a share in the Company Trustee (other than in respect of Crown Beneficial Interest B) cannot be redeemed, or cancelled;
 - (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 or under Schedule 2;
 - (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 Crown Beneficial Interest A exists:

- (a) if the Distribution involves any distribution in kind of any part or all of the Kaweka Forest Land and Gwavas Forest Land; 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 Kaweka Forest Land or Gwavas Forest Land.

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 Crown Beneficial Interest A.

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 – TERMS RELATING TO CROWN BENEFICIAL INTEREST B AND CROWN INITIAL PERIOD

1 INTERPRETATION

- 1.1 In this Schedule 2, *Crown Deposit Account B* 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 Kaweka Forest Land and Gwavas Forest Land relating to Crown Beneficial Interest B 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) 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 B confers a beneficial interest in particular Assets held subject to the Trust and, to the extent set out in this Schedule, entitles the Crown to require the Distribution to the Crown or its nominee of specific Assets of the Trust.

3 NATURE OF CROWN BENEFICIAL INTEREST

The Crown Beneficial Interest B will confer upon the Crown:

- (a) the beneficial entitlement to 10% of the Kaweka Forest Land and Gwavas Forest Land; and
- (b) the beneficial entitlement to 10% of the Accumulated Rentals; and
- (c) the beneficial entitlement to 10% of the New Zealand units derived from ownership of the Kaweka Forest Land and Gwavas Forest Land; and
- (d) the beneficial entitlement to 10% of the net income derived from the Kaweka Forest Land and Gwavas Forest Land,

provided that in the event of the transfer of part or all of the Crown Beneficial Interest B in accordance with paragraph 6 of this Schedule or in accordance with paragraph 8 of this Schedule, the 10% figure will be reduced by the same proportion as the transfer or redemption reduces the amount of the Crown Beneficial Interest B.

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 B:
 - (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) 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 Crown Beneficial Interest A or Crown Beneficial Interest B, except with the Crown's prior written consent.

6 TRANSFER OF CROWN BENEFICIAL INTEREST AND CHANGE OF STATUS ON TRIBUNAL RECOMMENDATION

- (a) The Crown will only be entitled to transfer a part or all of the Crown Beneficial Interest B in accordance with this paragraph 6 or paragraph 8.
- (b) The Crown may at any time transfer, under the procedure set out in Schedule 3, any part or all of the Crown Beneficial Interest B to an Other Kaweka and Gwavas Claimant PSGE 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 B that proportion (the transfer proportion) of the balance in the account that the transferred amount of the Crown Initial Beneficial Interest B represents of the whole of the Crown Initial Beneficial Interest B

prior to the transfer and pay it in cash or cleared funds to the transferee;

- (ii) transfer to the transferee the transfer proportion of the New Zealand units held by the Company Trustee on account of the Crown Beneficial Interest B; and
 - (iii) transfer to the transferee the transfer proportion of the shares held by the Crown that form part of Crown Beneficial Interest B in the Company Trustee.
- (d) Paragraph 6(c)(i) and(ii) apply, with all necessary modifications, to a transfer of licensed land to a claimant arising out of an exercise of the jurisdiction of the Waitangi Tribunal under clause 6.17.1(a).
- (e) Where paragraph 6(d) applies, despite any other provision in this deed, a portion of the class B shares equivalent to the proportion that the area of land transferred bears to the licensed land, will cease to be class B shares for all purposes of this deed, and will have no rights attached to them.

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 A or Crown Beneficial Interest B except with the Crown's prior written consent.

8 FINAL TRANSFER OF RESIDUAL CROWN BENEFICIAL INTEREST

- (a) On the day before the last day of the Crown Initial Period and subject to the prior receipt by the Crown of the residual interest amount from the Heretaunga Tamatea PSGE (whether by payment of the residual interest amount or by the operation of paragraph 8(c)), the Crown must transfer all of the Crown Beneficial Interest (if then still outstanding), under the procedure set out in Schedule 3, to the Heretaunga Tamatea PSGE.
- (b) In the event of such a transfer, the Company Trustee will:
- (i) withdraw from the Crown Deposit Account B the balance in the account and pay it in cash or cleared funds to the transferee;
 - (ii) transfer to the transferee the New Zealand units held by the Company Trustee on account of the Crown Beneficial Interest B; and
 - (iii) transfer to the transferee the shares held by the Crown that form part of Crown Beneficial Interest B in the Company Trustee.

- (c) Notwithstanding paragraph 8(b)(i), the transferee may, instead of receiving the payment in clause 8(b)(i), request that the Company Trustee apply all or part of the balance in the Crown Deposit Account to the residual interest amount owed to the Crown on the day before the last day of the Crown Initial Period and transfer the remaining balance (if any) to the transferee.
- (d) For the purposes of paragraph 8, residual interest amount means the amount, expressed in NZ dollars, which is calculated in accordance with the following formula:

$$\$1,410,000 \times \frac{A}{B}$$

where:

A is the Crown Beneficial Interest B prior to the transfer; and

B is the Crown Initial Beneficial Interest B.

9 CONSTRAINTS WHILE CROWN BENEFICIAL INTEREST EXISTS

Notwithstanding any other provision of this Deed, until the Crown Beneficial Interest B 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 Crown Beneficial Interest cannot be transferred or transmitted, except under paragraph 6 or under Schedule 1;
- (b) a share in the Company Trustee cannot be transferred or transmitted, except if such transfer would be allowed under paragraph 6 of Schedule 1 if it were the transfer of Crown Beneficial Interest A or under paragraph 6 if it were a transfer of Crown Beneficial Interest B;
- (c) a part or all of the Kaweka Forest Land and Gwavas Forest Land cannot be disposed of, leased, licensed (other than under a Crown Forestry Licence) or otherwise subjected to a right of exclusive possession;
- (d) a charge or other security interest cannot be created over:
 - (i) a part or all of the Kaweka Forest Land and Gwavas 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 (other than in respect of Crown Beneficial Interest B) cannot be issued;
- (g) a share (other than in respect of Crown Beneficial Interest B) in the Company Trustee cannot be issued;
- (h) a Beneficial Interest (other than in respect of Crown Beneficial Interest B) cannot be redeemed;
- (i) a share in the Company Trustee (other than in respect of Crown Beneficial Interest B) cannot be redeemed, or cancelled;
- (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 or under Schedule 1;
- (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 Kaweka Forest Land and Gwavas Forest Land; 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 2; 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 Kaweka Forest Land or Gwavas Forest Land.

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 3 – 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; and
- (b) 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, 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).

APPENDIX C

Draft settlement bill