

TŪHOE

ME

TE URU TAUMATUA

RĀUA KO

TE KARAUNA / THE CROWN

WHĀRIKI: NĀ TAKE RAWA
DEED OF SETTLEMENT SCHEDULE:
PROPERTY REDRESS

JD

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1 DISCLOSURE INFORMATION AND WARRANTY

DISCLOSURE INFORMATION

1.1 The Crown:

- 1.1.1 provided information to Te Uru Taumatua about the Onini and Te Tii properties in January 2013; and
- 1.1.1 must under paragraph 4.2.1 provide information to Te Uru Taumatua about a deferred selection property if Te Uru Taumatua has, in accordance with part 4, given the Crown notice of interest in purchasing the property.

WARRANTY

1.2 In this deed, unless the context otherwise requires:

1.2.1 **acquired property** means:

- (a) each cultural redress property;
- (b) each purchased deferred selection property; and

1.2.2 **disclosure information**, in relation to an acquired property, means the information given by the Crown about the property referred to in paragraph 1.1.

1.3 The Crown warrants to Te Uru Taumatua that the Crown has given to Te Uru Taumatua in its disclosure information about an acquired property all material information that, to the best of the land holding agency's knowledge, is in the agency's records about the property (including its encumbrances), at the date of providing that information:

1.3.1 having inspected the agency's records; but

1.3.2 not having made enquiries beyond the agency's records; and

1.3.3 in particular, not having undertaken a physical inspection of the property.

WARRANTY LIMITS

1.4 Other than under paragraph 1.3, the Crown does not give any representation or warranty, whether express or implied, and does not accept any responsibility, with respect to:

1.4.1 an acquired property, including in relation to:

- (a) its state, condition, fitness for use, occupation, or management; or
- (b) its compliance with:
- (i) legislation, including bylaws; or
- (ii) any enforcement or other notice, requisition, or proceedings; or

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1: DISCLOSURE INFORMATION AND WARRANTY

- 1.4.2 the disclosure information about an acquired property, including in relation to its completeness or accuracy.
- 1.5 The Crown has no liability in relation to the state or condition of an acquired property, except for any liability arising as a result of a breach of paragraph 1.3.

INSPECTION

- 1.6 In paragraph 1.7, **relevant date** means, in relation to an acquired property that is:
- 1.6.1 a cultural redress property, the date of this deed; and
- 1.6.2 a purchased deferred selection property, the day on which Te Uru Taumatua gives an election notice electing to purchase the property.
- 1.7 Although the Crown is not giving any representation or warranty in relation to an acquired property, other than under paragraph 1.3, Te Uru Taumatua acknowledges that it could, before the relevant date:
- 1.7.1 inspect the property and determine its state and condition; and
- 1.7.2 consider the disclosure information in relation to it.

CNI FORESTS PROPERTIES

- 1.8 Te Uru Taumatua acknowledges that the CNI forests properties are owned by CNI Iwi Holdings Limited and the Crown provides no warranties in relation to these properties.

2 VESTING OF CULTURAL REDRESS PROPERTIES

SAME MANAGEMENT REGIME AND CONDITION

- 2.1 Until the settlement date, the Crown must:
- 2.1.1 continue to manage and administer each cultural redress property in accordance with its existing practices for the property; and
 - 2.1.2 maintain each cultural redress property in substantially the same condition that it is in at the date of this deed.
- 2.2 Paragraph 2.1 does not:
- 2.2.1 apply to a cultural redress property that is not managed and administered by the Crown including (without limitation) the CNI forests properties; or
 - 2.2.2 require the Crown to restore or repair a cultural redress property damaged by an event beyond the Crown's control.

ACCESS

- 2.3 The Crown is not required to enable access to a cultural redress property for Te Uru Taumatua or members of the settling group.

COMPLETION OF REQUIRED DOCUMENTATION

- 2.4 Any documentation, required by the settlement documentation to be signed by Te Uru Taumatua in relation to the vesting of a cultural redress property, must, on or before the settlement date, be:
- 2.4.1 provided by the Crown to Te Uru Taumatua; and
 - 2.4.2 duly signed and returned by Te Uru Taumatua.

SURVEY AND REGISTRATION

- 2.5 The Crown must arrange, and pay for:
- 2.5.1 the preparation, approval, and where applicable the deposit, of a cadastral survey dataset of a cultural redress property to the extent it is required to enable the issue, under the settlement legislation, of a computer freehold register for the property; and
 - 2.5.2 the registration of any document required in relation to the vesting under the settlement legislation of a cultural redress property in Te Uru Taumatua.

3 DEFERRED SELECTION PROPERTIES

SUBPART A

Name/ Address	Description (All South Auckland Land District)	Valuation Process	Land holding agency	Leaseback?
<i>Leaseback properties</i>				
Tāneatua School site 44 McKenzie Street, Tāneatua	2.9351 hectares, more or less, being Part Section 10 Block IX Whakatane Survey District and Lot 5 DPS 79661. All Computer Freehold Register SA63C/634.	Separately valued unless otherwise agreed	Ministry of Education	Yes
Tāwera Bilingual School site ** Ngāhina Road, RD1, Whakatāne	1.4572 hectares, approximately, being Part Ruatoki 1B1C16E. All <i>Gazette</i> 1930 page 1882. Subject to survey.	Separately valued unless otherwise agreed	Ministry of Education	Yes
Waimana School site 6 Raroa Road, RD 1, Waimana	1.2141 hectares, more or less, being Section 10 Waimana Settlement. Part <i>Gazette</i> 1909 page 1240.	Separately valued unless otherwise agreed	Ministry of Education	Yes
Te Wharekura o Ruātoki School site ** Mission Rd, Ruātoki	2.2435 hectares, more or less, being Section 8 Block II Waimana Survey District. Part <i>Gazette</i> 1940 p 1749. 1.8134 hectares, approximately, being part Ruatoki 4. Part Transfer 17553. Subject to survey.	Separately valued unless otherwise agreed	Ministry of Education	Yes

Handwritten initials/signature

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3: DEFERRED SELECTION PROPERTIES

Name/ Address	Description (All South Auckland Land District)	Valuation Process	Land holding agency	Leaseback?
Te Kura Mana Māori o Matahī School site ** 1176B Matahī Valley Road, Waimana	1.7494 hectares, approximately, being Part Opurau Block. Part <i>Gazette</i> Notice S466207. Subject to survey.	Separately valued unless otherwise agreed	Ministry of Education	Yes
Non-Leaseback properties				
Foster Road Property	1.4572 hectares, more or less, being Lot 2 DPS 69533. All computer freehold register 71057.	Separately valued	Ministry of Justice (Office of Treaty Settlements)	No
Tāneatua Property	6.48 hectares, approximately, being land adjacent to Lot 1 DPS 3524 and Parts Lot 1 Section 8 Block IX Whakatane Survey District. All Proclamations 6481 and 6802 and Part Proclamations 5865 and 6480. As shown "A", "B", and "C" on OTS- 036-14 in part 2.4 of the attachments. Subject to survey.	Separately valued	New Zealand Railways Corporation (Kiwi Rail)	No

** description subject to clauses 4.345 and 4.346.

Handwritten initials/signature

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3: DEFERRED SELECTION PROPERTIES

SUBPART B

DSP SCHOOL HOUSE SITES	
Name/Address	Description
Tāwera Bilingual School House site	0.16 hectares, approximately - subject to ground verification, being Part Ruatoki 1B1C16E, all <i>Gazette</i> 1930 page 1882, as shown bordered yellow on the Tāwera Bilingual DSP School House site diagram in part 2.5 of the attachments. Related school property: the property described as Tāwera Bilingual school in subpart A above.
Te Wharekura o Ruātoki School House site	0.21 hectares, approximately - subject to ground verification, being Part Ruatoki 4, Part Transfer 17553, as shown bordered yellow on Te Wharekura o Ruatoki DSP School House site diagram in part 2.5 of the attachments. Related school property: the property described as Te Wharekura o Ruātoki in subpart A above.
Te Kura Mana Māori o Matahī School House site	0.1 hectares, approximately - subject to ground verification, being Part Oपुराу Block, Part <i>Gazette</i> Notice S466207, as shown bordered yellow on Te Kura Mana Māori o Matahī DSP School House site diagram in part 2.5 of the attachments. Related school property: the property described as Te Kura Mana Māori o Matahī in subpart A above.

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4 DEFERRED PURCHASE

A - RIGHT OF PURCHASE

NOTICE OF INTEREST

- 4.1 Te Uru Taumatua may, at any time during the deferred selection period, give the Crown a written notice of interest in purchasing a deferred selection property.

EFFECT OF NOTICE OF INTEREST

- 4.2 If Te Uru Taumatua gives, in accordance with this part, a notice of interest in a deferred selection property:

4.2.1 the Crown must, not later than 10 business days after the notification date, give Te Uru Taumatua all material information that, to the best of its knowledge, is in its records about the property, including its encumbrances; and

4.2.2 the property's transfer value, and if it is a leaseback property that is not a school site its initial annual rent must be determined or agreed in accordance with:

- (a) subpart B if it is a joint valuation property; or
- (b) subpart C if it is a separate valuation property.

ELECTION TO PURCHASE

- 4.3 If Te Uru Taumatua gives a notice of interest in a deferred selection property in accordance with this part, it must give the Crown written notice of whether or not it elects to purchase the property, by not later than 15 business days after:

4.3.1 its transfer value being determined or agreed in accordance with this part, if:

- (a) it is not a leaseback property; or
- (b) it is a leaseback property that is a school site; or

4.3.2 both its transfer value and its initial annual rent being determined or agreed in accordance with this part, if it is a leaseback property that is not a school site.

EFFECT OF ELECTION TO PURCHASE

- 4.4 If Te Uru Taumatua gives an election notice electing to purchase a deferred selection property in accordance with this part, the parties are to be treated as having entered into an agreement for the sale and purchase of the property at the transfer value determined or agreed in accordance with this part, plus GST if any, on the terms in part 5 and under which:

4.4.1 on the DSP settlement date:

- (a) the Crown must transfer the property to Te Uru Taumatua; and

4: DEFERRED PURCHASE

- (b) Te Uru Taumatua must pay to the Crown an amount equal to the transfer value of the property determined or agreed in accordance with this part, plus GST if any, by:
 - (i) bank cheque drawn on a registered bank and payable to the Crown; or
 - (ii) another payment method agreed by the parties; and
- 4.4.2 if the property is a leaseback property, the parties must, by or on the DSP settlement date, sign the Crown leaseback (being a registrable lease of the property):
- (a) commencing on the actual TSP settlement date; and
 - (b) in the case of a Crown leaseback of a school site at an initial annual rent determined by multiplying the transfer value of the property by the percentage specified in clause 2.2 of the Crown leaseback to the Ministry of Education (plus GST, if any, on the amount so determined); and
 - (c) in the case of a Crown leaseback property that is not a school site at its initial annual rent determined or agreed under this part (plus GST, if any, on the amount so determined or agreed); and
 - (d) on the terms provided in part 9 of the documents schedule for the leaseback property.

4: DEFERRED PURCHASE

**B - DETERMINING THE TRANSFER VALUE AND INITIAL ANNUAL RENT
OF A JOINT VALUATION PROPERTY**

(Note: Ministry of Education properties are not joint valuation properties)

APPLICATION OF THIS SUBPART

4.5 This subpart provides how the following are to be determined after Te Uru Taumatua has given, in accordance with this part, a notice of interest in a deferred selection property that is a joint valuation property:

4.5.1 its transfer value:

4.5.2 if it is a leaseback property, its initial annual rent.

4.6 The market value, and if applicable the market rental, is to be determined as at the notification date.

APPOINTMENT OF VALUER

4.7 The parties must, not later than [10] business days after the notification date, agree upon and jointly appoint a valuer.

4.8 If the parties do not jointly appoint a valuer in accordance with paragraph 4.7, either party may request the President of the New Zealand Institute of Valuers to appoint a valuer as soon as practicable.

4.9 The parties must, not later than [5] business days after the valuer's appointment, jointly instruct the valuer using the form of instructions in appendix 1 and, if the parties do not jointly instruct the valuer in accordance with this paragraph, either party may on behalf of both parties.

VALUER'S QUALIFICATIONS

4.10 The valuer must be:

4.10.1 a registered valuer; and

4.10.2 independent; and

4.10.3 experienced in determining:

(a) the market value of similar properties; and

(b) if applicable, the market rental of similar properties.

VALUATION REPORT

4.11 The valuer must, not later than [50] business days after the notification date:

4.11.1 prepare a valuation report in accordance with the instructions; and

4.11.2 provide each party with a copy of the valuation report.

4: DEFERRED PURCHASE

TRANSFER VALUE AND INITIAL ANNUAL RENT

- 4.12 Unless the parties agree otherwise in writing the transfer value of the joint valuation property for the purposes of paragraph 4.4.1(b) and, if applicable, its initial annual rent for the purposes of paragraph 4.4.2(c) is as provided in the valuation report as, respectively, the market value and the market rental for the property.

4: DEFERRED PURCHASE

**C - DETERMINING THE TRANSFER VALUE AND INITIAL ANNUAL RENT
OF A SEPARATE VALUATION PROPERTY**

APPLICATION OF THIS SUBPART

4.13 This subpart provides how the following are to be determined after Te Uru Taumatua has given, in accordance with this part, a notice of interest in a deferred selection property that is a separate valuation property:

4.13.1 its transfer value:

4.13.2 if it is a leaseback property that is not a school site, its initial annual rent.

4.14 The market value, and if applicable the market rental, are to be determined as at the notification date.

APPOINTMENT OF VALUERS AND VALUATION ARBITRATOR FOR A PROPERTY THAT IS NOT A SCHOOL SITE

4.15 The parties must, in relation to a separate valuation property that is not a school site, not later than [10] business days after the notification date:

4.15.1 each:

(a) instruct a valuer using the form of instructions in appendix 2; and

(b) give written notice to the other of the valuer instructed; and

4.15.2 agree upon and jointly appoint one person to act as the valuation arbitrator.

4.16 If the parties do not jointly appoint a valuation arbitrator in accordance with paragraph 4.15.2, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable.

APPOINTMENT OF VALUERS AND VALUATION ARBITRATOR FOR A PROPERTY THAT IS A SCHOOL SITE

4.17 The parties, in relation to a separate valuation property that is a school site, not later than 10 business days after the notification date:

4.17.1 must each:

(a) instruct a valuer using the form of instructions in appendix 2; and

(b) give written notice to the other of the valuer instructed; and

4.17.2 may agree that the person to act as the valuation arbitrator in respect of the separate valuation property be jointly appointed.

4.18 If paragraph 4.17.2 applies but the parties do not jointly appoint a person to act as a valuation arbitrator within 15 business days after the notification date, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable.

4: DEFERRED PURCHASE

QUALIFICATION OF VALUERS AND VALUATION ARBITRATOR

- 4.19 Each valuer must be a registered valuer.
- 4.20 The valuation arbitrator:
- 4.20.1 must be suitably qualified and experienced in determining disputes about:
- (a) the market value of similar properties; and
 - (b) if applicable, the market rental of similar properties; and
- 4.20.2 is appointed when he or she confirms his or her willingness to act.

VALUATION REPORTS FOR A PROPERTY THAT IS NOT A SCHOOL SITE

- 4.21 Each valuer must, in relation to a separate valuation property that is not a school site:
- 4.21.1 not later than [30] business days after the notification date prepare a draft valuation report in accordance with the valuation instructions; and
- 4.21.2 not later than [50] business days after the notification date provide a copy of his or her final valuation report to:
- (a) each party; and
 - (b) the other valuer.

VALUATION REPORTS FOR A PROPERTY THAT IS A SCHOOL SITE

- 4.22 Each party must, in relation to a separate valuation property that is a school site, not later than:
- 4.22.1 [50] business days after the notification date, provide a copy of its final valuation report to the other party; and
- 4.22.2 [60] business days after the notification date, provide its valuer's written analysis report to the other party.

EFFECT OF DELIVERY OF A VALUATION REPORT FOR A PROPERTY THAT IS NOT A SCHOOL SITE

- 4.23 If only one valuation report for a separate valuation property that is not a school site is delivered by the required date, the transfer value of the property, and if applicable its initial annual rent, is the market value and the market rental, as assessed in the report.

EFFECT OF DELIVERY OF BOTH VALUATION REPORTS FOR A PROPERTY THAT IS NOT A SCHOOL SITE

- 4.24 If both valuation reports are delivered by the required date:
- 4.24.1 the parties must endeavour to agree in writing:
- (a) the transfer value of the separate valuation property; and
 - (b) if applicable, its initial annual rent; and
- 4.24.2 either party may, if the transfer value of the separate valuation property, and if applicable its initial annual rent, is not agreed in writing within [70] business

4: DEFERRED PURCHASE

days after the notification date, refer that matter to the determination of the valuation arbitrator.

EFFECT OF NON-DELIVERY OF A VALUATION REPORT FOR A PROPERTY THAT IS A SCHOOL SITE

- 4.25 If only one valuation report for a separate valuation property that is a school site is delivered by the required date the transfer value of the property is the market value as assessed in the report, less 20%.

EFFECT OF DELIVERY OF BOTH VALUATION REPORTS FOR A PROPERTY THAT IS A SCHOOL SITE

- 4.26 If both valuation reports for a separate valuation property that is a school site are delivered by the required date:

- 4.26.1 the parties must endeavour to agree in writing the transfer value of the separate valuation property; and
- 4.26.2 either party may, if the transfer value of the separate valuation property is not agreed in writing within [70] business days after the notification date and if a valuation arbitrator has been appointed under paragraph 4.17.2 or paragraph 4.18, refer that matter to the determination of the valuation arbitrator; or
- 4.26.3 if that agreement has not been reached within the [70] business day period but the valuation arbitrator has not been appointed under paragraph 4.17.2 or paragraph 4.18, the parties must attempt to agree and appoint a person to act as the valuation arbitrator within a further 5 business days; and
- 4.26.4 if paragraph 4.26.3 applies, but the parties do not jointly appoint a person to act as a valuation arbitrator within the further 5 business days, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable; and
- 4.26.5 the valuation arbitrator, must promptly on his or her appointment, specify to the parties the arbitration commencement date.

VALUATION ARBITRATION IN RELATION TO ALL PROPERTIES

- 4.27 The valuation arbitrator must, not later than [10] business days after the arbitration commencement date:
- 4.27.1 give notice to the parties of the arbitration meeting, which must be held:
- (a) at a date, time, and venue determined by the valuation arbitrator after consulting with the parties; but
 - (b) not later than [30] business days after the arbitration commencement date; and
- 4.27.2 establish the procedure for the arbitration meeting, including providing each party with the right to examine and re-examine, or cross-examine, as applicable:
- (a) each valuer; and
 - (b) any other person giving evidence.

4: DEFERRED PURCHASE

4.28 Each party must:

4.28.1 not later than 5pm on the day that is [5] business days before the arbitration meeting, give to the valuation arbitrator, the other party, and the other party's valuer:

- (a) its valuation report; and
- (b) its submission; and
- (c) any sales, rental, or expert evidence that it will present at the meeting; and

4.28.2 attend the arbitration meeting with its valuer.

4.29 The valuation arbitrator must:

4.29.1 have regard to the requirements of natural justice at the arbitration meeting; and

4.29.2 no later than [50] business days after the arbitration commencement date, give his or her determination:

- (a) of the market value of the separate valuation property; and
- (b) if applicable, of its market rental; and
- (c) being no higher than the higher, and no lower than the lower, assessment of market value and/or market rental, as the case may be, contained in the parties' valuation reports.

4.30 An arbitration under this subpart is an arbitration for the purposes of the Arbitration Act 1996.

TRANSFER VALUE AND INITIAL ANNUAL RENT FOR ALL PROPERTIES

4.31 The transfer value of the separate valuation property for the purposes of paragraph 4.4.1(b), and if applicable its initial annual rent for the purposes of paragraph 4.4.2(c), is:

4.31.1 determined under paragraph 4.23 or 4.25 (as the case may be); or

4.31.2 agreed under paragraph 4.24.1 or 4.26.1 (as the case may be); or

4.31.3 the market value and, if applicable, market rental determined by the valuation arbitrator under paragraph 4.29.2, if the determination is in respect of a property that is not a school site; or

4.31.4 the market value determined by the valuation arbitrator under paragraph 4.29.2 less 20%, if the determination is in respect of a school site.

4: DEFERRED PURCHASE

D - GENERAL PROVISIONS

TIME LIMITS

- 4.32 Time is of the essence for the time limits in paragraphs 4.1 and 4.3.
- 4.33 In relation to the time limits in this part, other than those referred to in paragraph 4.32, each party must use reasonable endeavours to ensure:
- 4.33.1 those time limits are met and delays are minimised; and
- 4.33.2 in particular, if a valuer or a valuation arbitrator appointed under this part is unable to act, a replacement is appointed as soon as is reasonably practicable.

DETERMINATION FINAL AND BINDING

- 4.34 The valuer's determination under subpart B and the valuation arbitrator's determination under subpart C are final and binding.

COSTS

- 4.35 In relation to the determination of:
- 4.35.1 the transfer value, and initial annual rent, of a joint valuation property, the Crown must pay the valuer's costs; and
- 4.35.2 the transfer value, and initial annual rent, of a separate valuation property, each party must pay:
- (a) its costs; and
- (b) half the costs of a valuation arbitration; or
- (c) such other proportion of the costs of a valuation arbitration awarded by the valuation arbitrator as the result of a party's unreasonable conduct.

ENDING OF OBLIGATIONS

- 4.36 The Crown's obligations under this deed in relation to a deferred selection property immediately cease if:
- 4.36.1 Te Uru Taumatua:
- (a) does not give notice of interest in relation to the property in accordance with paragraph 4.1; or
- (b) gives notice of interest in relation to the property in accordance with paragraph 4.1 but Te Uru Taumatua:
- (i) gives an election notice under which it elects not to purchase the property; or
- (ii) does not give an election notice in accordance with paragraph 4.3 electing to purchase the property; or

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- (c) gives the Crown written notice that it is not interested in purchasing the property at any time before an agreement for the sale and purchase of the property is constituted under paragraph 4.4; or
 - (d) does not comply with any obligation in relation to the property under subpart B or subpart C; or
- 4.36.2 an agreement for the sale and purchase of the property is constituted under paragraph 4.4 and the agreement is cancelled in accordance with the terms of transfer in part 5.

4: DEFERRED PURCHASE

APPENDIX 1

[Note: If these instructions apply to:

- **a non-leaseback property, references connected with a leaseback (including references to assessing the property's market rental) must be deleted;**

These instructions may be modified to apply to more than one joint valuation property.]

[Valuer's name]

[Address]

Valuation instructions

INTRODUCTION

[Name] (the governance entity) has the right under a deed of settlement to purchase properties from **[name]** (the land holding agency).

This right is given by:

- (a) clause 3.44 of the deed of settlement; and
- (b) part 4 of the property redress schedule to the deed of settlement (part 4).

PROPERTY TO BE VALUED

The governance entity has given the land holding agency a notice of interest in purchasing:

[describe the property including its legal description]

[PROPERTY TO BE LEASED BACK

If the governance entity purchases the property from the Crown, the governance entity will lease the property back to the Crown on the terms provided by the lease in part 9 of the documents schedule to the deed of settlement (the **agreed lease**).

As the agreed lease is a ground lease, the ownership of the improvements on the property (the **Lessee's improvements**) remains unaffected by the transfer.

DEED OF SETTLEMENT

A copy of the deed of settlement is enclosed.

Your attention is drawn to:

- (a) part 4[; and
- (b) the agreed lease of the property in part 9 of the documents schedule to the deed].

All references in this letter to subparts or paragraphs are to subparts or paragraphs of part 4.

A term defined in the deed of settlement has the same meaning when used in these instructions.

4: DEFERRED PURCHASE

The property is a joint valuation property for the purposes of part 4. Subpart B of part 4 applies to the valuation of joint valuation properties.

ASSESSMENT OF MARKET VALUE REQUIRED

You are required to undertake a valuation to assess the market value of the property as at [**date**] (the **valuation date**), being the date the land holding agency received the notice of interest in the property from the governance entity.

[As the Lessee's improvements will not transfer, the market value of the property is to be the market value of its land (i.e. not including any Lessee's improvements)].

The market value of the property assessed by you will be the basis of establishing the "transfer value" at which the governance entity may elect to purchase the property under part 4, plus GST if any.

[ASSESSMENT OF MARKET RENTAL REQUIRED

You are also required to assess the market rental (exclusive of GST) for the property, as at the valuation date, being the rent payable from the commencement of the agreed lease.

The market rental for the property is to be the market rental payable under the agreed lease, being a ground lease. So it will be the rent payable for its land (i.e. excluding any Lessee's improvements).]

REQUIREMENTS FOR YOUR VALUATION

Our requirements for your valuation are as follows.

You are to assume that:

- (a) the property is a current asset and was available for immediate sale as at the valuation date; and
- (b) all legislative processes that the Crown must meet before disposing of the property have been met.

Your valuation is:

- (a) to assess market value on the basis of market value as defined in the current edition of the Australia and New Zealand Valuation and Property Standards; and
- (b) to take into account:
 - (i) any encumbrances, interests, or other matters affecting or benefiting the property that were noted on its title on the valuation date; and
 - (ii) the terms of the agreed lease; and
 - (iii) the attached disclosure information about the property that has been given by the land holding agency to the governance entity, including the disclosed encumbrances; and

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- (iv) the terms of transfer in part 5 of the property redress schedule to the deed of settlement (that will apply to a purchase of the property by the governance entity); but
- (c) not to take into account a claim in relation to the property by, or on behalf of, the settling group[; and
- (d) in relation to the market rental for the property, to be on the basis of a willing lessor and a willing lessee, in an arm's length transaction, the parties having acted knowledgeably, prudently, and without compulsion].

REQUIREMENTS FOR YOUR VALUATION REPORT

We require a full valuation report in accordance with the current edition of the Australia and New Zealand Valuation and Property Standards, including:

- (a) an executive summary, containing a summary of:
 - (i) the valuation; and
 - (ii) [the market rental; and]
 - (iii) the key valuation parameters; and
 - (iv) the key variables affecting value; and
 - (i) a detailed description, and a clear statement of the land value; and
- (b) a clear statement as to any impact of:
 - (i) the disclosed encumbrances[; and
 - (ii) the agreed lease;] and
- (c) details of your assessment of the highest and best use of the property; and
- (d) comment on the rationale of likely purchasers[, and tenants,] of the property; and
- (e) a clear identification of the key variables which have a material impact on the valuation; and
- (f) full details of the valuation method or methods; and
- (g) appendices setting out:
 - (i) a statement of the valuation methodology and policies; and
 - (ii) relevant market and sales information.

Your report must comply with the minimum requirements set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation, and other relevant standards, insofar as they are consistent with subpart B.

You may, with our prior consent, obtain specialist advice, such as engineering or planning advice.

4: DEFERRED PURCHASE

ACCEPTANCE OF THESE INSTRUCTIONS

By accepting these instructions, you agree to comply with these instructions and, in particular, prepare and provide a valuation report to the governance entity and the land holding agency not later than [50] business days after the valuation date.

OPEN AND TRANSPARENT VALUATION

The parties intend this valuation to be undertaken in an open and transparent manner, and for all dealings and discussions to be undertaken in good faith.

In particular, you must copy any questions you have or receive with regard to the valuation, together with the responses, to the governance entity and the land holding agency.

Yours faithfully

[Name of signatory]
[Position]
[Governance entity]

[Name of signatory]
[Position]
[Land holding agency]

4: DEFERRED PURCHASE

APPENDIX 2

[Note: If these instructions apply to:

- **a non-leaseback property, references connected with a leaseback (including references to assessing the property's market rental) must be deleted; or**
- **a leaseback property:**
 - **that is to be leased back to the Ministry of Education, references to assessing the property's market rental must be deleted; or**
 - **that is not to be leased back to the Ministry of Education, references to a lease to the Ministry of Education must be deleted.**

These instructions may be modified to apply to more than one separate valuation property.]

[Valuer's name]
[Address]

Valuation instructions

INTRODUCTION

[Name] (the **governance entity**) has the right under a deed of settlement to purchase properties from **[name]** (the **land holding agency**).

This right is given by:

- (a) clause 4.343 of the deed of settlement; and
- (b) part 4 of the property redress schedule to the deed of settlement (**part 4**).

PROPERTY TO BE VALUED

The governance entity has given the land holding agency a notice of interest in purchasing:

[describe the property including its legal description]

[PROPERTY TO BE LEASED BACK

If the governance entity purchases the property from the Crown, the governance entity will lease the property back to the Crown on the terms provided by the lease in part 10 of the documents schedule to the deed of settlement (the **agreed lease**).

As the agreed lease is a ground lease, the ownership of the improvements on the property (the **Lessee's improvements**) remains unaffected by the transfer.]

DEED OF SETTLEMENT

A copy of the deed of settlement is enclosed.

Your attention is drawn to:

- (a) part 4[; and

4: DEFERRED PURCHASE

(b) the agreed lease of the property in part 9 of the documents schedule to the deed].

All references in this letter to subparts or paragraphs are to subparts or paragraphs of part 4.

A term defined in the deed of settlement has the same meaning when used in these instructions.

The property is a separate valuation property for the purposes of part 4. Subpart C of part 4 applies to the valuation of separate valuation properties.

ASSESSMENT OF MARKET VALUE REQUIRED

You are required to undertake a valuation to assess the market value of the property as at [date] (the valuation date), being the date the land holding agency received the notice of interest in the property from the governance entity.

[As the Lessee's improvements will not transfer, the market value of the property is to be the market value of its land (ie not including any Lessee's improvements).]

The [land holding agency][governance entity][delete one] will require another registered valuer to assess the market value of the property [,and its market rental,] as at the valuation date.

The two valuations are to enable the market value of the property, [and its market rental,] to be determined either:

- (a) by agreement between the parties; or
- (b) by arbitration.

The market value of the property so determined will be the basis of establishing the "transfer value" at which the governance entity may elect to purchase the property under part 4, plus GST if any.

[ASSESSMENT OF MARKET RENTAL REQUIRED

You are also required to assess the market rental (exclusive of GST) for the property, as at the valuation date, being the rental payable from the commencement of the agreed lease.

The market rental for the property is to be the market rental payable under the agreed lease, being a ground lease. So it will be the rent payable for its land (ie excluding any Lessee's improvements).]

VALUATION PROCESS FOR A PROPERTY THAT IS NOT A SCHOOL SITE

You must, in relation to a property that is not a school site:

- (a) before inspecting the property, agree with the other valuer:
 - (i) the valuation method or methods applicable to the property; and
 - (ii) the comparable sales [, and comparable market rentals,] to be used in determining the value of the property [and its market rental]; and
- (b) inspect the property together with the valuer appointed by the other party; and

4: DEFERRED PURCHASE

- (c) attempt to resolve by the following day any matters or issues arising from your inspections; and
- (d) by not later than [30] business days after the valuation date, prepare, and deliver to us, a draft valuation report; and
- (e) by not later than [50] business days after the valuation date:
 - (i) review your draft valuation report, after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to both parties and the valuer instructed by the other party; and
- (f) participate in any arbitration process required under subpart C to determine the market value [, and the market rental,] of the property.

VALUATION PROCESS FOR A PROPERTY THAT IS A SCHOOL SITE

You must, in relation to a property that is a school site:

- (a) before inspecting the property, agree with the other valuer:
 - (i) the valuation method or methods applicable to the property; and
 - (ii) the comparable sales to be used in determining the value of the property; and
- (b) inspect the property, where practical, together with the valuer appointed by the other party; and
- (c) attempt to resolve any matters or issues arising from your inspections; and
- (d) by not later than [30] business days after the valuation date, prepare, and deliver to us, a draft valuation report; and
- (e) by not later than [45] business days after the valuation date:
 - (i) review your draft valuation report, after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to us; and
- (f) by not later than [55] business days after the valuation date, prepare and deliver to us a written analysis of both valuation reports to assist in the determination of the market value of the property; and
- (g) by not later than [65] business days after the valuation date, meet with the other valuer and discuss your respective valuation reports and written analysis reports with a view to reaching consensus on the market value; and
- (h) if a consensus on market value is reached, record it in writing signed by you and the other valuer and deliver it to both parties; and
- (i) participate in any meetings as required by us and the other party to agree the market value of the property; and

4: DEFERRED PURCHASE

- (j) participate in any arbitration process required under subpart C to determine the market value of the property.

REQUIREMENTS FOR YOUR VALUATION

Our requirements for your valuation are as follows.

You are to assume that:

- (a) the property is a current asset and was available for immediate sale as at the valuation date; and
- (b) all legislative processes that the Crown must meet before disposing of the property have been met.

Your valuation is:

- (a) to assess market value on the basis of market value as defined in the current edition of the Australia and New Zealand Valuation and Property Standards; and
- (b) to take into account:
- (i) any encumbrances, interests, or other matters affecting or benefiting the property that were noted on its title on the valuation date[; and
 - (ii) the terms of the agreed lease]; and
 - (iii) the attached disclosure information about the property that has been given by the land holding agency to the governance entity, including the disclosed encumbrances; and
 - (iv) the terms of transfer in part 5 of the property redress schedule to the deed of settlement (that will apply to a purchase of the property by the governance entity); but
- (c) not to take into account a claim in relation to the property by or on behalf of the settling group]; and
- (d) in relation to the market rental for the property, to be on the basis of a willing lessor and a willing lessee, in an arm's length transaction, the parties having acted knowledgeably, prudently, and without compulsion].

REQUIREMENTS FOR YOUR VALUATION REPORT

We require a full valuation report in accordance with the current edition of the Australia and New Zealand Valuation and Property Standards, including:

- (a) an executive summary, containing a summary of:
- (i) the valuation; and
 - (ii) [the market rental; and]
 - (iii) the key valuation parameters; and

4: DEFERRED PURCHASE

- (iv) the key variables affecting value; and
- (b) a detailed description, and a clear statement, of the land value; and
- (c) a clear statement as to any impact of:
 - (i) the disclosed encumbrances[; and
 - (ii) the agreed lease]; and
- (d) details of your assessment of the highest and best use of the property; and
- (e) comment on the rationale of likely purchasers [,and tenants,] of the property; and
- (f) a clear identification of the key variables which have a material impact on the valuation; and
- (g) full details of the valuation method or methods; and
- (h) appendices setting out:
 - (i) a statement of the valuation methodology and policies; and
 - (ii) relevant market and sales information.

Your report must comply with the minimum requirements set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation, and other relevant standards, insofar as they are consistent with subpart C.

You may, with our prior consent, obtain specialist advice, such as engineering or planning advice.

ACCEPTANCE OF THESE INSTRUCTIONS FOR A PROPERTY THAT IS NOT A SCHOOL SITE

By accepting these instructions, you agree to comply with these instructions and, in particular, in relation to a property that is not a school site, not later than:

- (a) [30] business days after the valuation date, to prepare and deliver to us a draft valuation report; and
- (b) [50] business days after the valuation date, to:
 - (i) review your draft valuation report after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to both parties and the valuer instructed by the other party.

4: DEFERRED PURCHASE

ACCEPTANCE OF THESE INSTRUCTIONS FOR A PROPERTY THAT IS A SCHOOL SITE

By accepting these instructions, you agree to comply with these instructions and, in particular, in relation to a property that is a school site, not later than:

- (a) [30] business days after the valuation date, to prepare and deliver to us a draft valuation report; and
- (b) [45] business days after the valuation date, to:
 - (i) review your draft valuation report after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to us; and
- (c) [55] business days after the valuation date, to prepare and deliver to us a written analysis of both valuation reports; and
- (d) [65] business days after the valuation date, to meet with the other valuer to discuss your respective valuation reports and written analysis reports.

[ACCESS

You should not enter on to [insert name(s) of school site(s)] without first arranging access through the Ministry of Education [give contact details] and should not contact the school(s) directly.]

OPEN AND TRANSPARENT VALUATION

The parties intend this valuation to be undertaken in an open and transparent manner, and for all dealings and discussions to be undertaken in good faith.

In particular, you must copy any questions you have or receive with regard to the valuation, together with the responses, to the governance entity and the land holding agency.

Yours faithfully

[Name of signatory]

[Position]

[Governance entity/Land holding agency][delete one]

5 TERMS OF TRANSFER FOR PURCHASED DEFERRED SELECTION PROPERTIES

APPLICATION OF THIS PART

- 5.1 This part applies to the transfer by the Crown to Te Uru Taumatua of each purchased deferred selection property, under paragraph 4.4 (a **transfer property**).

TRANSFER

- 5.2 The Crown must transfer the fee simple estate in a transfer property to Te Uru Taumatua:

5.2.1 subject to, and where applicable with the benefit of:

- (a) the disclosed encumbrances affecting or benefiting the property (as they may be varied by a non-material variation, or a material variation entered into under paragraph 5.18.4(a)); and
- (b) any additional encumbrances affecting or benefiting the property entered into by the Crown under paragraph 5.18.4(b);

5.2.2 if the property is a leaseback property, subject to the Crown leaseback in relation to the property.

- 5.3 The Crown must pay any survey and registration costs required to transfer the fee simple estate in a transfer property to Te Uru Taumatua.

POSSESSION

- 5.4 Possession of a transfer property must, on the TSP settlement date for the property:

5.4.1 be given by the Crown; and

5.4.2 taken by Te Uru Taumatua; and

5.4.3 be vacant possession subject only to:

- (a) any encumbrances referred to in paragraph 5.2.1 that prevent vacant possession being given and taken; and
- (b) if the property is a leaseback property, the Crown leaseback.

5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES

SETTLEMENT

- 5.5 Subject to paragraphs 5.6 and 5.46.3, the Crown must provide Te Uru Taumatua with the following in relation to a transfer property on the TSP settlement date for that property:
- 5.5.1 evidence of:
- (a) a registrable transfer instrument; and
 - (b) any other registrable instrument required by this deed in relation to the property;
- 5.5.2 all contracts and other documents (but not public notices such as proclamations and *Gazette* notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the TSP settlement date.
- 5.6 If the fee simple estate in the transfer property may be transferred to Te Uru Taumatua electronically under the relevant legislation:
- 5.6.1 paragraph 5.5.1 does not apply; and
- 5.6.2 the Crown must ensure its solicitor:
- (a) a reasonable time before the TSP settlement date for the property:
 - (i) creates a Landonline workspace for the transfer to Te Uru Taumatua of the fee simple estate in the property; and
 - (ii) prepares, certifies, signs, and pre-validates in the Landonline workspace the transfer instrument, and all other instruments, necessary, to effect the transfer electronically (the **electronic transfer instruments**); and
 - (b) on the TSP settlement date, releases the electronic transfer instruments so that Te Uru Taumatua's solicitor may submit them for registration under the relevant legislation; and
- 5.6.3 Te Uru Taumatua must ensure its solicitor, a reasonable time before the TSP settlement date, certifies and signs the transfer instrument for the property prepared in the Landonline workspace under paragraph 5.6.2(a)(ii); and
- 5.6.4 paragraphs 5.6.2 and 5.6.3 are subject to paragraph 5.38.2.
- 5.7 The **relevant legislation** for the purposes of paragraph 5.6 is:
- 5.7.1 the Land Transfer Act 1952; and
- 5.7.2 the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.

**TŪHOE WHĀRIKI / DEED OF SETTLEMENT:
NĀ TAKE RAWA / PROPERTY REDRESS SCHEDULE**

**5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES**

- 5.8 The Crown must, on the actual TSP settlement date for a transfer property, provide Te Uru Taumatua with any key or electronic opener to a gate or door on, and any security code to an alarm for, the property that are held by the Crown unless:
- 5.8.1 the property is a leaseback property; and
 - 5.8.2 to provide it would be inconsistent with the Crown leaseback.
- 5.9 The transfer value of, or the amount payable by Te Uru Taumatua for, a transfer property is not affected by:
- 5.9.1 a non-material variation, or a material variation entered into under paragraph 5.18.4(a), of a disclosed encumbrance affecting or benefiting the property; or
 - 5.9.2 an additional encumbrance affecting or benefiting the property entered into by the Crown under paragraph 5.18.4(b).

APPORTIONMENT OF OUTGOINGS AND INCOMINGS

- 5.10 If, as at the actual TSP settlement date for a transfer property:
- 5.10.1 the outgoings for the property pre-paid by the Crown for any period after that date exceed the incomings received by the Crown for any period after that date, Te Uru Taumatua must pay the amount of the excess to the Crown; or
 - 5.10.2 the incomings for the property received by the Crown for any period after that date exceed the outgoings for the property pre-paid by the Crown for any period after that date, the Crown must pay the amount of the excess to Te Uru Taumatua.
- 5.11 The outgoings for a transfer property for the purposes of paragraph 5.10 do not include insurance premiums and Te Uru Taumatua is not required to take over from the Crown any contract of insurance in relation to the property.
- 5.12 An amount payable under paragraph 5.10 in relation to a transfer property must be paid on the actual TSP settlement date for the property.
- 5.13 The Crown must, before the actual TSP settlement date for a transfer property, provide Te Uru Taumatua with a written statement calculating the amount payable by Te Uru Taumatua or the Crown under paragraph 5.10.

FIXTURES, FITTINGS AND CHATTELS

- 5.14 The transfer of a transfer property includes all fixtures and fittings that were owned by the Crown, and located on the property, on the first date of the transfer period for that property.
- 5.15 Paragraph 5.14 does not apply to the Lessee's improvements located on a leaseback property.
- 5.16 Fixtures and fittings transferred under paragraph 5.14 must not be mortgaged or charged.
- 5.17 The transfer of a transfer property does not include chattels.

5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES

OBLIGATIONS AND RIGHTS DURING THE TRANSFER PERIOD

- 5.18 The Crown must, during the transfer period for a transfer property:
- 5.18.1 ensure the property is maintained in substantially the same condition, fair wear and tear excepted, as it was in at the first day of the period; and
 - 5.18.2 pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the property, except where those charges are payable by a tenant or occupier to the supplier; and
 - 5.18.3 ensure the Crown's obligations under the Building Act 2004 are complied with in respect of any works carried out on the property during the period:
 - (a) by the Crown; or
 - (b) with the Crown's written authority; and
 - 5.18.4 obtain the prior written consent of Te Uru Taumatua before:
 - (a) materially varying a disclosed encumbrance affecting or benefiting the property; or
 - (b) entering into an encumbrance affecting or benefiting the property; or
 - (c) procuring a consent, providing a waiver, or giving an approval, that materially affects the property, under the Resource Management Act 1991 or any other legislation; and
 - 5.18.5 use reasonable endeavours to obtain permission for Te Uru Taumatua to enter and inspect the property under paragraph 5.19.2 if Te Uru Taumatua is prevented from doing so by the terms of an encumbrance referred to in paragraph 5.2, but
- in the case of a leaseback property these obligations are modified to the extent necessary to ensure they do not add to, or vary, the obligations of the Crown under the Crown leaseback as if it applied during the transfer period.
- 5.19 Te Uru Taumatua, during the transfer period in relation to a transfer property:
- 5.19.1 must not unreasonably withhold or delay any consent sought under paragraph 5.18.4 in relation to the property; and
 - 5.19.2 may enter and inspect the property on one occasion:
 - (a) after giving reasonable notice; and
 - (b) subject to the terms of the encumbrances referred to in paragraph 5.2; and
 - 5.19.3 must comply with all reasonable conditions imposed by the Crown in relation to entering and inspecting the property.

**5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES**

OBLIGATIONS AFTER SETTLEMENT

- 5.20 The Crown must:
- 5.20.1 give the relevant territorial authority notice of the transfer of a transfer property immediately after the actual TSP settlement date for the property; and
 - 5.20.2 if it receives a written notice in relation to a transfer property from the Crown, a territorial authority, or a tenant after the actual TSP settlement date for the property:
 - (a) comply with it; or
 - (b) provide it promptly to Te Uru Taumatua or its solicitor; or
 - 5.20.3 pay any penalty incurred by Te Uru Taumatua to the person providing the written notice as a result of the Crown not complying with paragraph 5.20.2.

RISK AND INSURANCE

- 5.21 A transfer property is at the sole risk of:
- 5.21.1 the Crown, until the actual TSP settlement date for the property; and
 - 5.21.2 Te Uru Taumatua, from the actual TSP settlement date for the property.

DAMAGE AND DESTRUCTION

- 5.22 Paragraphs 5.23 to 5.31 apply if, before the actual TSP settlement date for a transfer property:
- 5.22.1 the property is destroyed or damaged; and
 - 5.22.2 the destruction or damage has not been made good.
- 5.23 Paragraph 5.24 applies if the transfer property is:
- 5.23.1 a deferred selection property; and
 - 5.23.2 as a result of the destruction or damage, the property is not tenantable.
- 5.24 Where this paragraph applies:
- 5.24.1 Te Uru Taumatua may cancel its transfer by written notice to the Crown; or
 - 5.24.2 the Crown may cancel its transfer by written notice to Te Uru Taumatua if the property is a leaseback property.
- 5.25 Notice under paragraph 5.24 must be given before the actual TSP settlement date.

**5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES**

- 5.26 Paragraph 5.27 applies if the property is:
- 5.26.1 a deferred selection property, that:
- (a) despite the destruction or damage, is tenatable; or
 - (b) as a result of the damage or destruction, is not tenatable, but its transfer is not cancelled under paragraph 5.24 before the actual TSP settlement date.
- 5.27 Where this paragraph applies:
- 5.27.1 Te Uru Taumatua must complete the transfer of the property in accordance with this deed; and
- 5.27.2 the Crown must pay Te Uru Taumatua:
- (a) the amount by which the value of the property has diminished, as at the actual TSP settlement date for the property, as a result of the destruction or damage;
 - (b) plus GST if any.
- 5.28 The value of the property for the purposes of paragraph 5.27.2 is to be in the case of a deferred selection property, its transfer value as determined or agreed in accordance with part 4.
- 5.29 An amount paid by the Crown under paragraph 5.27.2 is a partial refund of the purchase price if it relates to the destruction or damage of a deferred selection property.
- 5.30 Each party may give the other notice:
- 5.30.1 requiring a dispute as to the application of paragraphs 5.24 to 5.29 be determined by an arbitrator appointed by the Arbitrators' and Mediators' Institute of New Zealand; and
- 5.30.2 referring the dispute to the arbitrator so appointed for determination under the Arbitration Act 1996.
- 5.31 If a dispute as to the application of paragraphs 5.26 to 5.29 is not determined by the TSP settlement date, that date is to be the date the parties must comply with their obligations on the transfer of the property.

BOUNDARIES AND TITLE

- 5.32 The Crown is not required to point out the boundaries of a transfer property.
- 5.33 If a transfer property is subject only to the encumbrances referred to in paragraph 5.2 and, if the property is a leaseback property, the Crown leaseback, Te Uru Taumatua:
- 5.33.1 is to be treated as having accepted the Crown's title to the property as at the actual TSP settlement date; and

**5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES**

5.33.2 may not make any objections to, or requisitions on, it.

5.34 An error or omission in the description of a transfer property or its title does not annul its transfer.

FENCING

5.35 The Crown is not liable to pay for, or contribute towards, the erection or maintenance of a fence between a transfer property and any contiguous land of the Crown, unless the Crown requires the fence, in which case the provisions of the Fencing Act 1978 will prevail.

5.36 Paragraph 5.35 does not continue for the benefit of a purchaser from the Crown of land contiguous to a transfer property.

5.37 The Crown may require a fencing covenant to the effect of paragraphs 5.35 and 5.36 to be registered against the title to a transfer property.

DELAYED TRANSFER OF TITLE

5.38 The Crown covenants for the benefit of Te Uru Taumatua that it will:

5.38.1 arrange for the creation of a computer freehold register for the land of a transfer property for land that:

- (a) is not contained in a computer freehold register; or
- (b) is contained in a computer freehold register or registers but together with other land; and

5.38.2 transfer (in accordance with paragraph 5.5 or 5.6, whichever is applicable) the fee simple estate in a transfer property to which paragraph 5.38.1 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the settlement date.

5.39 If paragraph 5.38.2 applies to a transfer property, and paragraph 5.6 is applicable, Te Uru Taumatua must comply with its obligations under paragraph 5.6.3 by a date specified by written notice by the Crown.

5.40 The covenant given by the Crown under paragraph 5.38 has effect and is enforceable, despite:

5.40.1 being positive in effect; and

5.40.2 there being no dominant tenement.

5.41 If paragraph 5.38 applies then, for the period from the actual TSP settlement date until the date that the Crown transfers the fee simple estate in the transfer property to Te Uru Taumatua:

5.41.1 Te Uru Taumatua will be the beneficial owner of the property; and

**5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES**

5.41.2 all obligations and rights will be performed and arise as if the fee simple estate had been transferred to Te Uru Taumatua on the actual TSP settlement date; and

5.41.3 Te Uru Taumatua may not serve a settlement notice under paragraph 5.45.

INTEREST

5.42 If for any reason (other than the default of the Crown) all or any of the amount payable by Te Uru Taumatua to the Crown in relation to a purchased deferred selection property is not paid on the TSP settlement date:

5.42.1 the Crown is not required to give possession of the property to Te Uru Taumatua; and

5.42.2 Te Uru Taumatua must pay the Crown default interest at the rate of 12% per annum on the unpaid amount (plus GST if any) for the period from the TSP settlement date to the actual TSP settlement date.

5.43 Paragraph 5.42 is without prejudice to any of the Crown's other rights or remedies available to the Crown at law or in equity.

SETTLEMENT NOTICE

5.44 If, without the written agreement of the parties, settlement of a purchased deferred selection property is not effected on the TSP settlement date:

5.44.1 either party may at any time after the TSP settlement date serve notice on the other (a **settlement notice**) requiring the other to effect settlement; but

5.44.2 the settlement notice is effective only if the party serving it is:

(a) ready, able, and willing to effect settlement in accordance with the settlement notice; or

(b) not ready, able, and willing to effect settlement only by reason of the default or omission of the other party; and

5.44.3 upon service of a settlement notice, the party on which it is served must effect settlement within 10 business days after the date of service (excluding the date of service); and

5.44.4 time is of the essence under paragraph 5.44.3; and

5.44.5 if the party in default does not comply with the terms of a settlement notice, the other party may cancel the agreement constituted by paragraph 4.4.

5.45 Paragraph 5.44, and the exercise of rights under it, is without prejudice to any other rights or remedies, at law, in equity, or otherwise, that the party not in default may have.

5: TERMS OF TRANSFER FOR
PURCHASED DEFERRED SELECTION PROPERTIES

FURTHER ASSURANCES

- 5.46 Each party must, at the request of the other, sign and deliver any further documents or assurances, and do all acts and things, that the other may reasonably require to give full force and effect to this part.

NON-MERGER

- 5.47 On transfer of a transfer property to Te Uru Taumatua:
- 5.47.1 the provisions of this part will not merge; and
 - 5.47.2 to the extent any provision of this part has not been fulfilled, it will remain in force.

6 NOTICE IN RELATION TO CULTURAL REDRESS AND DEFERRED SELECTION PROPERTIES

6.1 If this schedule requires Te Uru Taumatua to give notice to the Crown in relation to or in connection with a cultural redress property, or a deferred selection property, Te Uru Taumatua must give the notice in accordance with part 4 of the general matters schedule, except the notice must be addressed to the land holding agency for the property at its address or facsimile number provided:

6.1.1 in paragraph 6.2; or

6.1.2 if the land holding agency has given notice to Te Uru Taumatua of a new address or facsimile number, in the most recent notice of a change of address or facsimile number.

6.2 Until any other address or facsimile number of a land holding agency is given by notice to Te Uru Taumatua, the address of each land holding agency is as follows for the purposes of giving notice to that agency in accordance with this part.

Land holding agency	Address and facsimile number
Department of Conservation	Conservation House - Whare Kaupapa Atawhai 18-32 Manners Street PO Box 10420 Wellington Fax: +64 4 381 3057
Ministry of Education	45-47 Pipitea Street PO Box 1666 Thorndon Wellington 6011 Fax: +64 4 463 8001
Ministry of Justice (Office of Treaty Settlements)	Level 3, The Vogel Centre 19 Aitken Street DX SX 10111 Wellington Fax: +64 4 494 9801
New Zealand Railways Corporation (KiwiRail)	Level 1, Wellington Railway Station Bunny Street PO Box 593 Wellington 6140 Fax: +64 4 473 1460

7 DEFINITIONS

7.1 In this schedule, unless the context otherwise requires, **party** means each of Te Uru Taumatua and the Crown.

7.2 In this deed, unless the context otherwise requires:

acquired property has the meaning given to it by paragraph 1.2.1; and

actual TSP settlement date, in relation to a transfer property, means the date on which settlement of the property takes place; and

arbitration commencement date, in relation to the determination of the market value and/or market rental of a separate valuation property:

- (a) that is not a school site, means the date the determination is referred to a valuation arbitrator under paragraph 4.24.2; and
- (b) that is a school site, means:
 - (i) in relation to a referral under paragraph 4.26.2 the date of that referral; and
 - (ii) in relation to an appointment under paragraph 4.27.3 or 4.27.4, a date specified by the valuation arbitrator;

arbitration meeting, in relation to the determination of the market value and/or market rental of a separate valuation property, means the meeting notified by the valuation arbitrator under paragraph 4.27.1; and

Crown leaseback means, in relation to Tūhoe Trust, a leaseback deferred selection property, the lease to be entered into by Te Uru Taumatua and the Crown under paragraph 4.4.2; and

deferred selection property means:

- (a) each property described in subpart A of part 3; and
- (b) if clause 4.346 applies, shall include each property described in subpart B of part 3.

disclosed encumbrance, in relation to a transfer property, means an encumbrance affecting or benefiting the property that is disclosed in the disclosure information about the property; and

disclosure information has the meaning given to it by paragraph 1.2.2; and

DSP settlement date, in relation to a purchased deferred selection property, means the date that is 20 business days after the Crown receives an election notice from Te Uru Taumatua electing to purchase the property; and

election notice means a written notice given by Te Uru Taumatua in accordance with paragraph 4.3 electing whether or not to purchase a deferred selection property; and

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initial annual rent in relation to a leaseback property, means the rent payable under the Crown leaseback from its commencement determined or agreed in accordance with part 4; and

joint valuation property means each deferred selection property that part 3 provides is to be jointly valued; and

leaseback property means each deferred selection property referred to in clause 4.344; and

Lessee's improvements, in relation to a leaseback property has the meaning given to it in the Crown leaseback for the property; and

market value, in relation to:

- (a) a joint valuation deferred selection property, has the meaning provided in the valuation instructions in appendix 1 to part 4; and
- (b) a separate valuation deferred selection property, has the meaning provided in the valuation instructions in appendix 2 to part 4; and

market rental, in relation to:

- (a) a joint valuation property, has the meaning provided in the valuation instructions in appendix 1 to part 4;
- (b) a separate valuation property, has the meaning provided in the valuation instructions in appendix 2 to part 4;

notice of interest, in relation to a deferred selection property, means a notice given by Te Uru Taumatua under paragraph 4.1 in relation to the property; and

notification date, in relation to a deferred selection property, means the date that the Crown receives a notice of interest in the property from Te Uru Taumatua; and

purchased deferred selection property means each deferred selection property in relation to which Te Uru Taumatua and the Crown are to be treated under paragraph 4.4 as having entered into an agreement for its sale and purchase; and

registered bank has the meaning given to it by section 2(1) of the Reserve Bank of New Zealand Act 1989; and

registered valuer means a person registered as a valuer with the Valuers Act 1948; and

school site, means a deferred selection property in respect of which the land holding agency is the Ministry of Education; and

separate valuation property means each deferred selection property that part 3 provides is to be separately valued; and

settlement notice has the meaning given to it by paragraph 5.44.1; and

terms of transfer means the terms of transfer set out in part 5; and

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transfer property has the meaning given to it by paragraph 5.1; and

transfer period means, in relation to a deferred selection property, the period from the notification date for that property to its actual TSP settlement date; and

transfer value, in relation to a deferred selection property, means the amount payable by Te Uru Taumatua for the transfer of the property determined or agreed in accordance with part 4; and

TSP settlement date means, in relation to a purchased deferred selection property, the DSP settlement date for the property; and

valuation arbitrator, in relation to a separate valuation property:

(a) that is not a school site, means the person appointed under paragraphs 4.15.2 or 4.16, in relation to the determination of its market value, and if applicable its market rental; and

(b) that is a school site, means the person appointed under paragraph 4.17.2 or 4.18 or 4.26.3 or 4.26.4 in relation to the determination of its market value; and

valuation date, in relation to a deferred selection property, means the notification date in relation to the property.