

DOCUMENTS



5.3: GRAZING LICENCE FOR WHENUAKITE STATION

5.3 Grazing licence for Whenuakite Station

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DOCUMENTS

5.3: GRAZING LICENCE FOR WHENUAKITE STATION

Terms and Conditions

1 Definitions and interpretation

1.1 In this Licence:

Authority means any Government, territorial or other statutory authority having jurisdiction over or in respect of the Land and/or the Improvements;

Business Day means any day on which registered banks are open for general banking business in Wellington and Auckland, New Zealand, excluding weekends;

GST means the tax levied in accordance with the Goods and Services Tax Act 1985;

Improvements means any building, structure, dam or other improvements including any paving, sealing, mechanical services, plant, machinery, equipment and other fixtures and fittings installed on the Land at any time;

Land means all that land known as Whenuakite Station comprised in computer freehold register [];

Outgoings means all charges for electricity, water and other services consumed by the Licensee in respect of the Land and/or Improvements, including all connection, disconnection or other fees payable to the relevant Authority or supplier of the utility or service; and

Rates means any rates, charges, levies, assessments, duties, impositions and fees payable to any Authority from time to time in respect of the Land or Improvements.

1.2 The Information Schedule forms part of this Licence and all words and phrases specified in this Licence have the meanings ascribed to them in the Information Schedule.

1.3 Any provision of this Licence to be performed or observed by two or more persons binds those persons jointly and separately so that they may be sued together or alone if in breach of this Licence.

2 Term and early termination

2.1 This Licence is a short term licence and commences on the start date. The Licensee has no right to renew the term of this Licence.

2.2 This Licence will terminate on the earlier of:

(a) removal of all the Licensee's livestock from the Land and the Licensee advising the Licensor in writing of the same; or

(b) the end date.

2.3 The Licensor may terminate this Licence in accordance with clause 13.1.

2.4 Termination of this Licence will not limit the rights of either party in respect of any claim or breach relating to the period before the termination date. The Licensee will

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DOCUMENTS

5.3: GRAZING LICENCE FOR WHENUAKITE STATION

not be entitled to any form of compensation for any early termination by the Licensor pursuant to clause 2.2.

3 Licence fee

- 3.1 The Licensee must pay the licence fee specified in the Information Schedule to the Licensor at the times specified in the Information Schedule. All payments of the licence fee must be paid to the Licensor without any deduction or setoff by automatic bank authority to the Licensor's bank account specified in the Information Schedule.
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4 Outgoings and Rates

- 4.1 The Licensee must pay all Outgoings and Rates for the Land directly to the relevant supplier or Authority or where any Outgoings and Rates are not separately assessed then by way of reimbursement to the Licensor. Any Outgoings or Rates payable by the Licensee relating to a period not falling wholly within the term of this Licence will be apportioned between the Licensor and the Licensee on a daily basis.
-

5 Insurance

- 5.1 The Licensee will at all times during the term of this Licence keep and maintain the following policies of insurance:
- (a) replacement insurance for the Licensee's Improvements situated on the Land; and
 - (b) public risk insurance for the business carried on by the Licensee on the Land for an amount of not less than the amount set out in the Information Schedule.
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6 Use of the Land

- 6.1 The Licensee must not, without the prior written consent of the Licensor, use the Land and any Improvements for any purpose other than the purpose specified as the permitted use in the Information Schedule.
- 6.2 The Licensee must not construct, alter, relocate or demolish any Improvements or signage or undertake any earthworks on the Land without obtaining the prior written consent of the Licensor.
- 6.3 The Licensee will not cut, sell or remove any timber, trees, metal or soil from the Land.
- 6.4 On the expiry or termination of this Licence, the Licensee will immediately remove the Licensee's livestock and the Licensee's Improvements from the Land and make good all damage caused.
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7 Fencing

- 7.1 The Licensor is under no liability to contribute towards the cost of erection or repair of any fences between the Land and any other land owned or occupied by the Licensor.

88 A

DOCUMENTS

5.3: GRAZING LICENCE FOR WHENUAKITE STATION

- 7.2 The Licensee must keep any boundary fencing around the land and any fencing within the land in the same good order, repair and condition as they were at the start date or the date of installation (if installed after the start date).
- 7.3 The Licensee is responsible for the cost of constructing, repairing, maintaining and keeping any boundary fencing around the Land or any fencing within the Land in good order, condition and repair.

8 Care of the Land and livestock

- 8.1 The Licensee must keep the Land and Improvements in the same good order, repair and condition as they were at the start date or the date of installation (if installed after the start date) and at the expiry or earlier termination of this Licence must yield them up in the same good order, repair and condition.
- 8.2 The obligations of the Licensee set out in clause 8.1 do not include responsibility for fair wear and tear and any damage caused by flood, fire, storm, earthquake, volcanic ash, tsunami, tornado, other natural disaster or accident where such damage is not attributable to any act or omission on the part of the Licensee or persons under the control of the Licensee.
- 8.3 The Licensee must stock the pasture in accordance with the rules of good husbandry generally recognised in the area in which the Land is situated.
- 8.4 The Licensee will keep all drains, ditches, creeks and watercourses on the Land open and clear of debris.
- 8.5 The Licensee must maintain all hedges, fences, gates and shelter belts on the Land and will ensure as a minimum requirement that all fences and gates are suitable for containing the livestock referred to in the Information Schedule.
- 8.6 The Licensee must take all reasonable steps in accordance with good farming practices to clear and keep clear the Land from all noxious weeds, rabbits and vermin.
- 8.7 The Licensee must, at the proper time for doing so in the locality of the Land, apply fertiliser to such parts of the Land as are laid down in pasture of a type and quantity which is in accordance with the Annual Fertiliser Plan prepared by the Licensee and must provide to the Licensor statements of fertiliser application within one calendar month after application of the fertiliser to the Land and otherwise on request.
- 8.8 [On the expiry or termination of this Licence, the Licensee must leave the relevant average number (dependent on the month of expiry or termination) of kilograms of dry matter per hectare for future use of the Licensor, as set out below:]

Month	Ave kg/ha
[insert months]	[insert kg/ha]

- 8.9 The Licensee will not bring onto the Land or allow to remain on the Land any animal known or found to be dangerous or diseased.

DOCUMENTS

5.3: GRAZING LICENCE FOR WHENUAKITE STATION

- 8.10 The Licensee will, at its sole expense, take all reasonable steps to ensure that:
- (a) the livestock are at all times in a fit and healthy condition;
 - (b) the livestock are provided with adequate feed and water at all times; and
 - (c) the livestock are contained within fencing at all times, except when being moved around the Land by the Licensee as part of the permitted use.
- 8.11 The Licensee must immediately give notice to the Licensor of any damage or accident to or defects in the Land and any circumstances occurring within the Land likely to cause damage or injury.

9 Assignment

- 9.1 The Licensee may at any time assign this Licence to Landcorp Farming Limited without the Licensor's consent but the Licensee must give the Licensor written notice of the assignment.
- 9.2 Except as provided for in clause 9.1 the Licensee must not assign this Licence or sublicence the Land.

10 No warranty and acknowledgement of risk

- 10.1 The Licensor makes no warranty that the Land is or will remain suitable or adequate for any of the purposes of the Licensee and the Licensee accepts the Land as being satisfactory in all respects.
- 10.2 The Licensee agrees to occupy and use the Land and any Improvements at the Licensee's own risk.

11 Contamination

- 11.1 The Licensee must adopt practices with respect to avoiding contamination to the Land consistent with any statutory or regulatory requirements in existence from time to time.
- 11.2 The Licensee must remove any contamination to the Land, any nearby land and any water (whether over or under the ground) caused by the Licensee by carrying out all necessary work, but only after full consultation with the Licensor and the appropriate Authorities.

12 Compliance with laws

- 12.1 The Licensee will comply with all laws (including statutes, regulations and codes of practice) placing an obligation on the Licensee in respect of the Land.
- 12.2 The Licensee must not commit, permit or suffer on the Land any act which may be a nuisance or annoyance to any neighbouring properties.

13 Default

- 13.1 If the Licensee defaults in the performance of any of its obligations under this Licence, the Licensor may give notice to the Licensee setting out the default and

8d A

DOCUMENTS

5.3: GRAZING LICENCE FOR WHENUAKITE STATION

requiring that the Licensee remedy the default within a specified timeframe. If the Licensee does not remedy the default within the timeframe, the Licensors may immediately terminate this Licence by giving notice to the Licensee.

- 13.2 If the Licensee defaults in payment of the licence fee or other money payable under this Licence for 10 Business Days then the Licensee will pay interest at the default interest rate set out in the Information Schedule on the money unpaid from the due date for payment down to the date of payment upon demand.

14 Costs

- 14.1 Each party will pay their own costs relating to any assignment of this Licence. The Licensee must pay all of the Licensors' costs (including legal costs) relating to the enforcement or attempted enforcement of the Licensors' rights, remedies and powers under this Licence.

15 General

- 15.1 The Licensee acknowledges that this Licence is personal only privilege and does not take effect as a lease and does not create any legal estate or caveatable interest in the Land.
- 15.2 All notices under this Licence must be in writing and personally delivered, posted, faxed or emailed to the address or number set out in the Information Schedule (unless otherwise directed by the relevant party). Any notices personally delivered will be deemed given when delivered. Any notices posted will be deemed given 2 Business Days after posting. Any notices faxed or emailed will be deemed given on the first Business Day following the day of sending.

DOCUMENTS

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6 LEASES FOR LEASEBACK PROPERTIES

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DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

6.1 Lease for Coroglen school site (land only)

DOCUMENTS

Handwritten initials and a signature in blue ink.

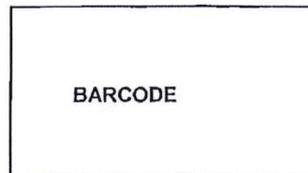
6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

MINISTRY OF EDUCATION
TREATY SETTLEMENT LEASE

Form F

LEASE INSTRUMENT

(Section 115 Land Transfer Act 1952)



Land registration district

[]

Affected instrument Identifier
and type (if applicable)

All/part

Area/Description of part or stratum

[]	[]	[]
-----	-----	-----

Lessor

[the trustees of the Hei o Wharekaho Settlement Trust] *[names to be inserted]*

Lessee

HER MAJESTY THE QUEEN for education purposes

Estate or Interest

Insert "fee simple"; "leasehold in lease number " etc.

Fee simple

Lease Memorandum Number (if applicable)

Not applicable

Term

See Annexure Schedule

Rental

See Annexure Schedule

Lease and Terms of Lease

If required, set out the terms of lease in Annexure Schedules

The Lessor leases to the Lessee and the Lessee accepts the lease of the above Estate or Interest in the land in the affected computer register(s) for the Term and at the Rental and on the Terms of Lease set out in the Annexure Schedule(s)

DOCUMENTS

8d A

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Signature of the Lessor	Signed in my presence by the Lessor
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>

DOCUMENTS

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6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

<p>_____</p> <p>[]</p>	<p>_____</p> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<p>_____</p> <p>[]</p>	<p>_____</p> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<p>_____</p> <p>[]</p>	<p>_____</p> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<p>Signature of the Lessee</p> <p>_____</p> <p>Signed for and on behalf of HER MAJESTY THE QUEEN as Lessee by [] (acting pursuant to a written delegation given to him/her by the Secretary for Education) in the presence of:</p>	<p>Signed in my presence by the Lessee</p> <p>_____</p> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Lessee

* The specified consent form must be used for the consent of any mortgagee of the estate or interest to be leased.

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DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 1 of 18 Pages

Insert instrument type

Lease Instrument

BACKGROUND

- A The purpose of this Lease is to give effect to the signed Deed of Settlement between **[insert name of claimant group]** and the Crown, under which the parties agreed to transfer the Land to **[insert name of post-settlement governance entity]** and lease it back to the Crown.
- B The Lessor owns the Land described in Item 1 of Schedule A.
- C The Lessor has agreed to lease the Land to the Lessee on the terms and conditions in this Lease.
- D The Lessor leases to the Lessee the Land from the Start Date, at the Annual Rent, for the Term, with the Rights of Renewal and for the Permitted Use all as described in Schedule A.
- E The Lessee accepts this Lease of the Land to be held by the Lessee as tenant and subject to the conditions, restrictions and covenants as set out in Schedules A and B.

SCHEDULE A

ITEM 1 THE LAND

[insert full legal description - note that improvements are excluded].

ITEM 2 START DATE

[insert start date].

ITEM 3 ANNUAL RENT

[\$insert agreed rent] plus GST per annum payable monthly in advance on the first day of each month but the first payment shall be made on the Start Date on a proportionate basis for any broken period until the first day of the next month.

ITEM 4 TERM OF LEASE

21 Years.

ITEM 5 LESSEE OUTGOINGS

- 5.1 Rates and levies payable to any local or territorial authority, excluding any taxes levied against the Lessor in respect of its interest in the Land.

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

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DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 2 of 18 Pages

Insert instrument type

Lease Instrument

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

ITEM 6 PERMITTED USE

The Permitted Use referred to in clause 9.

ITEM 7 RIGHT OF RENEWAL

Perpetual rights of renewal of 21 years each with the first renewal date being the 21st anniversary of the Start Date, and then each subsequent renewal date being each 21st anniversary after that date.

ITEM 8 RENT REVIEW DATES

The 7th anniversary of the Start Date and each subsequent 7th anniversary after that date.

ITEM 9 LESSEE'S IMPROVEMENTS

As defined in clause 1.9 and including the following existing improvements: *[List here all existing buildings and improvements on the Land together with all playing fields and sub soil works (including stormwater and sewerage drains) built or installed by the Lessee or any agent, contractor or sublessee or licensee of the Lessee on the Land].*

[]

The above information is taken from the Lessee's records as at [].
A site inspection was not undertaken to compile this information.

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

88

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DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 3 of 18 Pages

Insert instrument type

Lease Instrument

ITEM 10 CLAUSE 16.5 NOTICE

To: [Post-Settlement Governance Entity] ("the Lessor")

And to: The Secretary, Ministry of Education, National Office, PO Box 1666, WELLINGTON 6140 ("the Lessee")

From: [Name of Mortgagee/Chargeholder] ("the Lender")

The Lender acknowledges that in consideration of the Lessee accepting a lease from the Lessor of all the Land described in the Schedule to the Lease attached to this Notice which the Lender acknowledges will be for its benefit:

- (i) It has notice of the provisions of clause 16.5 of the Lease; and
- (ii) It agrees that any Lessee's Improvements (as defined in the Lease) placed on the Land by the Lessee at any time before or during the Lease shall remain the Lessee's property at all times; and
- (iii) It will not claim any interest in any Lessee's Improvements under the security of its loan during the relevant period no matter how any Lessee's Improvement may be fixed to the Land and regardless of any rule of law or equity to the contrary or any provisions of its security to the contrary; and
- (iv) It agrees that this acknowledgement is irrevocable.

SCHEDULE

[]

[Form of execution by Lender]

[Date]

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

DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 5 of 18 Pages

Insert instrument type

Lease Instrument

SCHEDULE B

1 Definitions

1.1 The term "Lessor" includes and binds:

- (a) the persons executing this Lease as Lessor; and
- (b) any Lessor for the time being under the Lease; and
- (c) all the respective executors, administrators, successors, assignees and successors in the title of each Lessor and if more than one jointly and severally.

1.2 The term "Lessee" includes and binds:

- (a) the person executing this Lease as Lessee; and
- (b) all the Lessees for the time being under the Lease; and
- (c) all the respective executors, administrators, successors, assignees and successors in the title of each Lessee and if more than one jointly and severally.

1.3 "Business Day" means a day that is not:

- (a) a Saturday or Sunday; or
- (b) Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day; or
- (c) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; or
- (d) the days observed as the anniversaries of the provinces of [Auckland] [and] Wellington; or
- (e) the days observed as Waitangi Day or Anzac Day under section 45A of the Holidays Act 2003.

1.4 "Crown" has the meaning given in section 2(1) of the Public Finance Act 1989.

1.5 "Crown Body" means:

- (a) a Crown entity (as defined by section 7(1) of the Crown Entities Act 2004); and
- (b) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); and
- (c) the New Zealand Railways Corporation; and

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

88. J

DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 6 of 18 Pages

Insert instrument type

Lease Instrument

- (d) a company or body that is wholly owned or controlled by one or more of the following:
- (i) the Crown;
 - (ii) a Crown entity;
 - (iii) a State enterprise; and
- (e) a subsidiary of, or related company to, a company or body referred to in clause 1.5(d).
- 1.6 "Department" has the meaning given in section 2 of the Public Finance Act 1989.
- 1.7 "Education Purposes" means any or all lawful activities necessary for, or reasonably related to, the provision of education.
- 1.8 "Legislation" means any applicable statute (including regulations, orders, rules or notices made under that statute and all amendments to or replacements of that statute), and all bylaws, codes, standards, requisitions or notices made or issued by any lawful authority.
- 1.9 "Lessee's Improvements" means all improvements on the Land of any kind including buildings, sealed yards, paths, lawns, gardens, fences, playing fields, subsoil works (including stormwater and sewerage drains) and other property of any kind built or placed on the Land by the Lessee or any agent or sub-lessee or licensee of the Lessee whether before or after the Start Date of this Lease and includes those listed in Item 9 of Schedule A.
- 1.10 "Lessee's property" includes property owned wholly or partly by a sublessee or licensee of the Lessee.
- 1.11 "Maintenance" includes repair.
- 1.12 "Public Work" has the meaning given in section 2 of the Public Works Act 1981.
- 1.13 "Sublet" and "Sublease" include the granting of a licence to occupy the Land or part of it.
- 2 Payment of Annual Rent**
- 2.1 The Lessee will pay the Annual Rent as set out in Item 3 of Schedule A.
- 2.2 The initial Annual Rent payable at the Start Date will be set at 6.5% of the Transfer Value of the Land.
- 2.3 The Transfer Value of the Land is equivalent to the market value of the Land exclusive of improvements less 20%.

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

Annexure Schedule

Page 7 of 18 Pages

88- 4

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 7 of 18 Pages

Insert instrument type

Lease Instrument

3 Rent Review

When a party initiates the rent review process as set out in clause 3.5:

- 3.1 The proposed Annual Rent will be calculated on the basis of an Annual Rent of 6.5% of the lesser of:
 - (a) the Current Market Value of the Land as a School Site, as defined in clause 3.2; or
 - (b) the Nominal Value being:
 - (i) during the initial Term: a value based on 4% growth per annum of the Transfer Value of the Land; or
 - (ii) for subsequent Terms: a value based on 4% growth per annum of the reset Nominal Value as calculated in clause 3.4.
- 3.2 The Current Market Value of the Land as a School Site referred to in clause 3.1(a) above is equivalent to the market value of the Land exclusive of improvements based on highest and best use less 20%.
- 3.3 In any rent review under this Lease the highest and best use on which the Annual Rent is based is to be calculated on the zoning for the Land in force at the beginning of that Term.
- 3.4 A new value for the Nominal Value will be reset to the midpoint between the two values set out in 3.1(a) and whichever of (b)(i) or (b)(ii) is applicable:
 - (a) at the start date of every new Term; and
 - (b) at any Rent Review Date where the Nominal Value has been consistently either higher than the market value for the three consecutive Rent Review Dates or Lease renewal dates, or lower than the market value for the three consecutive Rent Review Dates or Lease renewal dates.
- 3.5 The rent review process will be as follows:
 - (a) At any time during the period which starts three months before any Rent Review Date and ends one year after any Rent Review Date (time being of the essence) either party may give written notice to the other specifying a new Annual Rent, calculated in accordance with clause 3.1, which the notifying party considers should be charged from that Rent Review Date ("Rent Review Notice"). The Rent Review Notice must be supported by a registered valuer's certificate.

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

DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 8 of 18 Pages

Insert instrument type

Lease Instrument

- (b) If the notified party accepts the notifying party's assessment in writing the Annual Rent will be the rent specified in the Rent Review Notice which will be payable in accordance with step (l) below.
- (c) If the notified party does not agree with the notifying party's assessment it has 30 Business Days after it receives the Rent Review Notice to issue a notice disputing the proposed new rent ("the Dispute Notice"), in which case the steps set out in (d) to (k) below must be followed. The Dispute Notice must specify a new Annual Rent, calculated in accordance with clause 3.1, which the notified party considers should be charged from that Rent Review Date, and be supported by a registered valuer's certificate.
- (d) Until the new rent has been determined or agreed, the Lessee will continue to pay the Annual Rent at the existing amount which had been payable up to the Rent Review Date.
- (e) The parties must try to agree on a new Annual Rent.
- (f) If a new Annual Rent has not been agreed within 20 Business Days of the receipt of the Dispute Notice then the new Annual Rent may be determined either:
 - (i) by one party giving written notice to the other requiring the new Annual Rent to be determined by arbitration; or
 - (ii) if the parties agree, by registered valuers acting as experts and not as arbitrators as set out in steps (g) to (k) below.
- (g) Within 10 Business Days of receipt of the written notice each party will appoint a valuer and give written notice of the appointment to the other party. If the party receiving a notice fails to appoint a valuer within the 10 Business Day period then the valuer appointed by the other party will determine the new Annual Rent and that determination will be binding on both parties.
- (h) Within 10 Business Days of their appointments the two valuers must appoint an umpire who must be a registered valuer. If the valuers cannot agree on an umpire they must ask the president of the Property Institute of New Zealand Incorporated (or equivalent) to appoint an umpire.
- (i) Once the umpire has been appointed the valuers must try to determine the new Annual Rent by agreement. If they fail to agree within 40 Business Days (time being of the essence) the Annual Rent will be determined by the umpire.

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

8d A

DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 9 of 18 Pages

Insert instrument type

Lease Instrument

- (j) Each party will have the opportunity to make written or verbal representations to the umpire within the period, and on the conditions, set by the umpire.
- (k) When the rent has been determined or agreed, the umpire or valuers must give written notice of it to the parties. The parties will each pay their own valuer's costs and will share the umpire's costs equally between them.
- (l) Once the new rent has been agreed or determined it will be the Annual Rent from the Rent Review Date or the date of the notifying party's notice if that notice is given later than 60 Business Days after the Rent Review Date.
- (m) The new Annual Rent may at the option of either party be recorded in a variation of this Lease, at the cost of the party requesting that variation.

4 Payment of Lessee Outgoings

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

5 Valuation Roll

Where this Lease is registered under section 115 of the Land Transfer Act 1952 the Lessee will be entered in the rating information database and the district valuation roll as the ratepayer for the Land and will be responsible for payment of any rates.

6 Utility Charges

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

7 Goods and Services Tax

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

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

88

A

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 10 of 18 Pages

Insert instrument type

Lease Instrument

8 Interest

If the Lessee fails to pay within 10 Business Days any amount payable to the Lessor under this Lease (including rent) the Lessor may charge the Lessee interest at the maximum rate of interest from time to time payable by the Lessor to its principal banker for an overdraft facility plus a margin of 4% per annum accruing on a daily basis from the due date for payment until the Lessee has paid the overdue amount. The Lessor is entitled to recover this interest as if it were rent in arrears.

9 Permitted Use of Land

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

10 Designation

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

11 Compliance with Law

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

12 Hazards

12.1 The Lessee must take all reasonable steps to minimise or remedy any hazard arising from the Lessee's use of the Land and ensure that any hazardous goods are stored or used by the Lessee or its agents on the Land in accordance with all relevant Legislation.

12.2 Subject to clause 13, in the event the state of the Land is altered by any natural event including flood, earthquake, slip or erosion the Lessor agrees at its own cost to promptly address any hazards for the protection of occupants of the site and to remediate any hazards as soon as possible.

13 Damage or Destruction

13.1 Total Destruction

If the Land or the Lessee's Improvements or any portion thereof shall be destroyed or so damaged so as to render the Land or the Lessee's Improvements unsuitable for the Permitted Use to which it was put at the date of the destruction or damage (the "Current Permitted Use"), then either party may, within three months of the date of the damage, give the other 20 Business Days notice of termination, and the whole of the Annual Rent and Lessee Outgoings shall cease to be payable as from the date of the damage.

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

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 11 of 18 Pages

Insert instrument type

Lease Instrument

13.2 Partial Destruction

- (a) If the Land, or any portion of the Land, shall be damaged or destroyed but not so to render the Land or the Lessee's Improvements unfit for the Current Permitted Use then the Lessor shall, with all reasonable speed, repair such damage and reinstate the Land so as to allow the Lessee to repair and reinstate the Lessee's Improvements, as the case may be.
- (b) The whole (or a fair proportion, having regard to the nature and extent to which the Lessee can use the Land for the Current Permitted Use) of the Annual Rent and Lessee's Outgoings shall cease to be payable for the period starting on the date of the damage and ending on the date when:
- (i) the repair and reinstatement of the Land have been completed; and
 - (ii) the Lessee can lawfully occupy the Land.
- (c) If:
- (i) in the reasonable opinion of the Lessor it is not economically viable to repair and reinstate the Land; or
 - (ii) any necessary council consents shall not be obtainable,

then the term will terminate with effect from the date that either such fact is established.

13.3 Natural Disaster or Civil Defence Emergency

- (a) If there is a natural disaster or civil emergency and the Lessee is unable to gain access to all parts of the Land or to fully use the Land for its Current Permitted Use (for example, because the Land is situated within a prohibited or restricted access cordon or access to or occupation of the Land is not feasible as a result of the suspension or unavailability of services such as energy, water or sewerage) then the whole (or a fair proportion, having regard to the extent to which it can be put to its Current Permitted Use) of the Annual Rent and Lessee Outgoings shall cease to be payable for the period starting on the date when the Lessee became unable to gain access to the Land or to lawfully conduct the Current Permitted Use from the Land (as the case may be) and ending on the later date when:
- (i) such inability ceases; or
 - (ii) (if clause 13.2 applies) the date when the repair and reinstatement of the Land have been completed.

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

DOCUMENTS

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6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 12 of 18 Pages

Insert instrument type

Lease Instrument

- (b) Where either clause 13.2 or clause 13.3(a) applies, the Lessee may, at its sole option, terminate this Lease if:
 - (i) the relevant clause has applied for a period of 6 months or more; or
 - (ii) the Lessee can at any time establish with reasonable certainty that the relevant clause will apply for a period of 6 months or more.

13.4 Any termination pursuant to this clause 13 shall be without prejudice to the rights of either party against the other.

13.5 Notwithstanding anything to the contrary, no payment of Annual Rent or Lessee Outgoings by the Lessee at any time, nor any agreement by the Lessee as to an abatement of Annual Rent and/or Lessee Outgoings shall prejudice the Lessee's rights under this clause 13 to:

- (a) assert that this lease has terminated; or
- (b) claim an abatement or refund of Annual Rent and/or Lessee Outgoings.

14 Contamination

14.1 When this Lease ends the Lessee agrees to remedy any Contamination caused by the use of the Land by the Lessee or its agents during the Term of the Lease by restoring the Land to a standard reasonably fit for human habitation.

14.2 Under no circumstances will the Lessee be liable for any Contamination on or about the Land which is caused by the acts or omissions of any other party, including the owner or occupier of any adjoining land.

14.3 In this clause "Contamination" means any change to the physical, biological, or chemical condition of the Land by a Contaminant and "Contaminant" has the meaning set out in section 2 of the Resource Management Act 1991.

15 Easements

15.1 The Lessee may without the Lessor's consent conclude (on terms no more favourable than this Lease) all easements or other rights and interests over or for the benefit of the Land which are necessary for, or incidental to, either the Permitted Use or to any permitted alterations or additions to the Lessee's Improvements and the Lessor agrees that it will execute any documentation reasonably required to give legal effect to those rights.

15.2 The Lessee agrees to take all steps necessary to remove at the Lessor's request at the end of the Lease any easement or other burden on the title which may have been granted after the Start Date of the Lease.

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

DOCUMENTS

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6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 13 of 18 Pages

Insert instrument type

Lease Instrument

15.3 The Lessor must not cancel, surrender or modify any easements or other similar rights or interests (whether registered or not) which are for the benefit of or appurtenant to the Land without the prior written consent of the Lessee.

16 Lessee's Improvements

16.1 The parties acknowledge that despite any rule of law or equity to the contrary, the intention of the parties as recorded in the Deed of Settlement is that ownership of improvements whether or not fixed to the land will remain unaffected by the transfer of the Land, so that throughout the Term of this Lease all Lessee's Improvements will remain the Lessee's property.

16.2 The Lessee or its agent or sub-lessee or licensee may build or alter Lessee's Improvements without the Lessor's consent where necessary for, or incidental to, the Permitted Use. For the avoidance of doubt, this clause extends to Lessee's Improvements owned (wholly or partly) or occupied by third parties provided that all necessary consents are obtained.

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

16.4 If any Lessee's Improvements are destroyed or damaged, the Lessee may decide whether or not to reinstate without consulting the Lessor and any insurance proceeds will be the Lessee's property.

16.5 If the Land is subject to any mortgage or other charge at the Start Date, the Lessor will give the Lessee written acknowledgment of all existing mortgagees or chargeholders in the form prescribed in Schedule A Item 10 and executed by the mortgagees or chargeholders. The Lessor acknowledges that the Lessee is not required to execute this Lease until the provisions of this subclause have been fully satisfied.

16.6 If the Lessor proposes to grant any mortgage or charge after the Start Date it must first have required any proposed mortgagee or chargeholder to execute the written acknowledgment prescribed in Schedule A Item 11. The Lessor agrees not to grant any mortgage or charge until the provisions of this clause have been satisfied and to deliver executed originals of those acknowledgments to the Lessee within three Business Days from the date of their receipt by the Lessor.

16.7 The Lessee may demolish or remove any Lessee's Improvements at any time during the Lease Term without the consent of the Lessor provided that the Lessee reinstates the Land to a tidy and safe condition which is free from Contamination in accordance with clause 14.

16.8 When this Lease ends the Lessee may remove any Lessee's Improvements from the Land without the Lessor's consent.

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

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6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 14 of 18 Pages

Insert instrument type

Lease Instrument

16.9 The Lessee agrees that it has no claim of any kind against the Lessor in respect of any Lessee's Improvements or other Lessee's property left on the Land after this Lease ends and that any such Lessee's property shall at that point be deemed to have become the property of the Lessor.

17 **Rubbish Removal**

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

18 **Signs**

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

19 **Insurance**

19.1 The Lessee is responsible for insuring or self insuring any Lessee's Improvements on the Land.

19.2 The Lessee must ensure that any third party which is not the Crown or a Crown Body permitted to occupy part of the Land has adequate insurance at its own cost against all public liability.

20 **Fencing**

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

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

21 **Quiet Enjoyment**

21.1 If the Lessee pays the Annual Rent and complies with all its obligations under this Lease, it may quietly enjoy the Land during the Lease Term without any interruption by the Lessor or any person claiming by, through or under the Lessor.

21.2 The Lessor may not build on the Land or put any improvements on the Land without the prior written consent of the Lessee.

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

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6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 15 of 18 Pages

Insert instrument type

Lease Instrument

22 Assignment

- 22.1 Provided that the Land continues to be used for Education Purposes, the Lessee has the right to assign its interest under the Lease without the Lessor's consent to:
- (a) any Department or Crown Body; or
 - (b) any other party provided that the assignment complies with the Education Act 1989 and the Public Works Act 1981 (if applicable).
- 22.2 If the Lessee wishes to assign the Lease to any party for any Permitted Use which is not an Education Purpose it must first seek the Lessor's consent (which will not be unreasonably withheld).
- 22.3 Without limiting clause 22.1, the Lessor agrees that the Lessee has the right to nominate any Department to exercise for Education Purposes the rights and obligations in respect of the Lessee's interest under this Lease and that this will not be an assignment for the purposes of clause 22 or a subletting for the purposes of clause 23.
- 22.4 If following assignment the Land will no longer be used for Education Purposes the Lessor and new Lessee may renegotiate in good faith the provision setting the value of the land for rent review purposes, being clause 3.2 of this Lease.

23 Subletting

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

- (a) any Department or Crown Body; or
- (b) any other party provided that the sublease complies with the Education Act 1989 and the Public Works Act 1981 (if applicable).

24 Occupancy by School Board of Trustees

- 24.1 The Lessee has the absolute right to sublet to or otherwise permit a school board of trustees to occupy the Land on terms and conditions set by the Lessee from time to time in accordance with the Education Act 1989 and otherwise consistent with this Lease.
- 24.2 The Lessor agrees that the covenant for quiet enjoyment contained in clause 21 extends to any board of trustees occupying the Land.
- 24.3 A board of trustees occupying the Land has the right to sublet or license any part of the Land or the Lessee's Improvements to any third party in accordance with the Education Act 1989 and any licence or lease to any third party existing at the Start Date of this Lease will continue in effect until that licence or lease ends.

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

Insert instrument type

Lease Instrument

25 Lessee Break Option

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

26 Breach

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

27 Notice of Breach

27.1 Despite anything expressed or implied in this Lease, the Lessor will not exercise its rights under clause 26 unless the Lessor has first given the Lessee written notice of the breach on which the Lessor relies and given the Lessee an opportunity to remedy the breach as provided below:

- (a) by paying the Lessor all money necessary to remedy the breach within 20 Business Days of the notice; or
- (b) by undertaking in writing to the Lessor within 20 Business Days of the notice to remedy the breach and then remedying it within a reasonable time; or
- (c) by paying to the Lessor within 60 Business Days of the notice compensation to the reasonable satisfaction of the Lessor in respect of the breach having regard to the nature and extent of the breach.

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

28 Renewal

28.1 If the Lessee has performed its obligations under this Lease the Lessor agrees that the Lease will automatically be renewed on the 21st anniversary of the Start Date for a further 21 year period unless the Lessee gives written notice to the Lessor at least six months before the expiry of the Lease Term that it does not wish the Lease to be renewed.

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

DOCUMENTS

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 17 of 18 Pages

Insert instrument type

Lease Instrument

28.2 The renewed lease will be on the terms and conditions expressed or implied in this Lease, including this right of perpetual renewal, provided that either party may initiate the rent review process in accordance with clause 3.

29 Right of First Refusal for Lessor's Interest

29.1 If at any time during the Lease Term the Lessor wishes to sell or transfer its interest in the Land the Lessor must immediately give written notice ("Lessor's Notice") to the Lessee setting out the terms on which the Lessor wishes to sell the Land and offering to sell it to the Lessee on those terms.

29.2 The Lessee has 60 Business Days after and excluding the date of receipt of the Lessor's Notice (time being of the essence) in which to exercise the Lessee's right to purchase the Land, by serving written notice on the Lessor ("Lessee's Notice") accepting the offer contained in the Lessor's Notice.

29.3 If the Lessee does not serve the Lessee's Notice on the Lessor in accordance with clause 29.2 the Lessor may sell or transfer the Lessor's interest in the Land to any person on no more favourable terms than those previously offered to the Lessee.

29.4 If the Lessor wishes to offer more favourable terms for selling or transferring the Lessor's interest in the Land than the terms contained in the Lessor's Notice, the Lessor must first re-offer its interest in the Land to the Lessee on those terms by written notice to the Lessee and clauses 29.1–29.4 (inclusive) will apply and if the re-offer is made within six months of the Lessor's Notice the 60 Business Days period must be reduced to 30 Business Days.

29.5 The Lessor may dispose of the Lessor's interest in the Land to a fully owned subsidiary of the Lessor and in that case the consent of the Lessee is not required and the Lessee's right to purchase the land under clause 29 will not apply.

[29A Single point of contact

29A.1 If the Land is held by two or more separate entities as tenants-in-common, those entities must nominate:

- (a) one bank account for payment of rent under this lease (and provide details of that bank account to the Lessee); and
- (b) one representative (*Lessor's Nominee*) that the Lessee can deal with in relation to any matter arising under this Lease.]

30 Exclusion of Implied Provisions

30.1 For the avoidance of doubt, the following covenants, conditions and powers implied in leases of land pursuant to Schedule 3 of the Property Law Act 2007 are expressly excluded from application to this Lease:

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

DOCUMENTS

08 A

6.1: LEASE FOR COROGLLEN SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 18 of 18 Pages

Insert instrument type

Lease Instrument

(a) Clause 11 – Power to inspect premises.

31 Entire Agreement

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

32 Disputes

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

33 Service of Notices

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

The Secretary for Education
Ministry of Education
PO Box 1666
WELLINGTON 6140

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

[insert contact details]

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

34 Registration of Lease

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

35 Costs

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

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

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DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

6.2 Lease for Tairua school site (land only)

DOCUMENTS

80 A

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

MINISTRY OF EDUCATION
[SETTLING GROUP] TREATY SETTLEMENT LEASE

Form F

LEASE INSTRUMENT

(Section 115 Land Transfer Act 1952)

BARCODE

Land registration district

[]

Affected instrument Identifier
and type (if applicable)

All/part

Area/Description of part or stratum

[]	[]	[]
-----	-----	-----

Lessor

[the trustees of the Hei o Wharekaho Settlement Trust]
[the trustees of the Ngāti Maru Rūnanga Trust]
[names to be inserted as appropriate]

Lessee

HER MAJESTY THE QUEEN for education purposes

Estate or Interest

Insert "fee simple"; "leasehold in lease number " etc.

Fee simple

Lease Memorandum Number (if applicable)

Not applicable

Term

See Annexure Schedule

Rental

See Annexure Schedule

Lease and Terms of Lease

If required, set out the terms of lease in Annexure Schedules

The Lessor leases to the Lessee and the Lessee accepts the lease of the above Estate or Interest in the land in the affected computer register(s) for the Term and at the Rental and on the Terms of Lease set out in the Annexure Schedule(s)

88 A

DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Signature of the Lessor	Signed in my presence by the Lessor
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
<hr/> <p>[]</p>	<hr/> <p><i>Signature of witness</i></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>

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DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 1 of 19 Pages

Insert instrument type

Lease Instrument

BACKGROUND

- A The purpose of this Lease is to give effect to the signed Deed of Settlement between *[insert name of claimant group]* and the Crown, under which the parties agreed to transfer the Land to *[insert name of post-settlement governance entity]* and lease it back to the Crown.
- B The Lessor owns the Land described in Item 1 of Schedule A.
- C The Lessor has agreed to lease the Land to the Lessee on the terms and conditions in this Lease.
- D The Lessor leases to the Lessee the Land from the Start Date, at the Annual Rent, for the Term, with the Rights of Renewal and for the Permitted Use all as described in Schedule A.
- E The Lessee accepts this Lease of the Land to be held by the Lessee as tenant and subject to the conditions, restrictions and covenants as set out in Schedules A and B.

SCHEDULE A

ITEM 1 THE LAND

[insert full legal description - note that improvements are excluded].

ITEM 2 START DATE

[insert start date].

ITEM 3 ANNUAL RENT

\$(*insert agreed rent*) plus GST per annum payable monthly in advance on the first day of each month but the first payment shall be made on the Start Date on a proportionate basis for any broken period until the first day of the next month.

ITEM 4 TERM OF LEASE

21 Years.

ITEM 5 LESSEE OUTGOINGS

- 5.1 Rates and levies payable to any local or territorial authority, excluding any taxes levied against the Lessor in respect of its interest in the Land.

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

DOCUMENTS

8.8 4

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 3 of 19 Pages

Insert instrument type

Lease Instrument

ITEM 10 CLAUSE 16.5 NOTICE

To: *[Post-Settlement Governance Entity] ("the Lessor")*

And to: *The Secretary, Ministry of Education, National Office, PO Box 1666, WELLINGTON 6140 ("the Lessee")*

From: *[Name of Mortgagee/Chargeholder] ("the Lender")*

The Lender acknowledges that in consideration of the Lessee accepting a lease from the Lessor of all the Land described in the Schedule to the Lease attached to this Notice which the Lender acknowledges will be for its benefit:

- (i) It has notice of the provisions of clause 16.5 of the Lease; and*
- (ii) It agrees that any Lessee's Improvements (as defined in the Lease) placed on the Land by the Lessee at any time before or during the Lease shall remain the Lessee's property at all times; and*
- (iii) It will not claim any interest in any Lessee's Improvements under the security of its loan during the relevant period no matter how any Lessee's Improvement may be fixed to the Land and regardless of any rule of law or equity to the contrary or any provisions of its security to the contrary; and*
- (iv) It agrees that this acknowledgement is irrevocable.*

SCHEDULE

[]

[Form of execution by Lender]

[Date]

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

DOCUMENTS

Handwritten initials and a signature.

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 4 of 19 Pages

Insert instrument type

Lease Instrument

ITEM 11 CLAUSE 16.6 NOTICE

To: [Post-Settlement Governance Entity] ("the Lessor")

And to: The Secretary, Ministry of Education, National Office, PO Box 1666, WELLINGTON 6140 ("the Lessee")

From [Name of Mortgagee/Chargeholder] ("the Lender")

The Lender acknowledges that before it advanced monies to the Lessor under a security ("the Security") given by the Lessor over the Land described in the Schedule to the Lease attached to this Notice) it had notice of and agreed to be bound by the provisions of clause 16.6 of the Lease and that in particular it agrees that despite any provision of the Security to the contrary and regardless of how any Lessee's Improvement is fixed to the Land it:

- (i) will not claim any security interest in any Lessee's Improvement (as defined in the Lease) at any time; and
(ii) acknowledges that any Lessee's Improvements remain the Lessee's property at all times.

SCHEDULE

[]

[Form of execution by Lender]

[Date]

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

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DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 5 of 19 Pages

Insert instrument type

Lease Instrument

SCHEDULE B

1 Definitions

1.1 The term "Lessor" includes and binds:

- (a) the persons executing this Lease as Lessor; and
- (b) any Lessor for the time being under the Lease; and
- (c) all the respective executors, administrators, successors, assignees and successors in the title of each Lessor and if more than one jointly and severally.

1.2 The term "Lessee" includes and binds:

- (a) the person executing this Lease as Lessee; and
- (b) all the Lessees for the time being under the Lease; and
- (c) all the respective executors, administrators, successors, assignees and successors in the title of each Lessee and if more than one jointly and severally.

1.3 "Business Day" means a day that is not:

- (a) a Saturday or Sunday; or
- (b) Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day; or
- (c) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; or
- (d) the days observed as the anniversaries of the provinces of [Auckland] [and] Wellington; or
- (e) the days observed as Waitangi Day or Anzac Day under section 45A of the Holidays Act 2003.

1.4 "Crown" has the meaning given in section 2(1) of the Public Finance Act 1989.

1.5 "Crown Body" means:

- (a) a Crown entity (as defined by section 7(1) of the Crown Entities Act 2004); and
- (b) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); and
- (c) the New Zealand Railways Corporation; and

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

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 6 of 19 Pages

Insert instrument type

Lease Instrument

- (d) a company or body that is wholly owned or controlled by one or more of the following:
- (i) the Crown;
 - (ii) a Crown entity;
 - (iii) a State enterprise; and
- (e) a subsidiary of, or related company to, a company or body referred to in clause 1.5(d).
- 1.6 "Department" has the meaning given in section 2 of the Public Finance Act 1989.
- 1.7 "Education Purposes" means any or all lawful activities necessary for, or reasonably related to, the provision of education.
- 1.8 "Legislation" means any applicable statute (including regulations, orders, rules or notices made under that statute and all amendments to or replacements of that statute), and all bylaws, codes, standards, requisitions or notices made or issued by any lawful authority.
- 1.9 "Lessee's Improvements" means all improvements on the Land of any kind including buildings, sealed yards, paths, lawns, gardens, fences, playing fields, subsoil works (including stormwater and sewerage drains) and other property of any kind built or placed on the Land by the Lessee or any agent or sub-lessee or licensee of the Lessee whether before or after the Start Date of this Lease and includes those listed in Item 9 of Schedule A.
- 1.10 "Lessee's property" includes property owned wholly or partly by a sublessee or licensee of the Lessee.
- 1.11 "Maintenance" includes repair.
- 1.12 "Public Work" has the meaning given in section 2 of the Public Works Act 1981.
- 1.13 "Sublet" and "Sublease" include the granting of a licence to occupy the Land or part of it.
- 2 Payment of Annual Rent**
- 2.1 The Lessee will pay the Annual Rent as set out in Item 3 of Schedule A.
- 2.2 The initial Annual Rent payable at the Start Date will be set at 6% of the Transfer Value of the Land.
- 2.3 The Transfer Value of the Land is equivalent to the market value of the Land exclusive of improvements less 20%.

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

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 7 of 19 Pages

Insert instrument type

Lease Instrument

3 Rent Review

When a party initiates the rent review process as set out in clause 3.5:

- 3.1 The proposed Annual Rent will be calculated on the basis of an Annual Rent of 6% of the lesser of:
 - (a) the Current Market Value of the Land as a School Site, as defined in clause 3.2; or
 - (b) the Nominal Value being:
 - (i) during the initial Term: a value based on 4% growth per annum of the Transfer Value of the Land; or
 - (ii) for subsequent Terms: a value based on 4% growth per annum of the reset Nominal Value as calculated in clause 3.4.
- 3.2 The Current Market Value of the Land as a School Site referred to in clause 3.1(a) above is equivalent to the market value of the Land exclusive of improvements based on highest and best use less 20%.
- 3.3 In any rent review under this Lease the highest and best use on which the Annual Rent is based is to be calculated on the zoning for the Land in force at the beginning of that Term.
- 3.4 A new value for the Nominal Value will be reset to the midpoint between the two values set out in 3.1(a) and whichever of (b)(i) or (b)(ii) is applicable:
 - (a) at the start date of every new Term; and
 - (b) at any Rent Review Date where the Nominal Value has been consistently either higher than the market value for the three consecutive Rent Review Dates or Lease renewal dates, or lower than the market value for the three consecutive Rent Review Dates or Lease renewal dates.
- 3.5 The rent review process will be as follows:
 - (a) At any time during the period which starts three months before any Rent Review Date and ends one year after any Rent Review Date (time being of the essence) either party may give written notice to the other specifying a new Annual Rent, calculated in accordance with clause 3.1, which the notifying party considers should be charged from that Rent Review Date ("Rent Review Notice"). The Rent Review Notice must be supported by a registered valuer's certificate.

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

DOCUMENTS

8 d A

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 8 of 19 Pages

Insert instrument type

Lease Instrument

- (b) If the notified party accepts the notifying party's assessment in writing the Annual Rent will be the rent specified in the Rent Review Notice which will be payable in accordance with step (l) below.
- (c) If the notified party does not agree with the notifying party's assessment it has 30 Business Days after it receives the Rent Review Notice to issue a notice disputing the proposed new rent ("the Dispute Notice"), in which case the steps set out in (d) to (k) below must be followed. The Dispute Notice must specify a new Annual Rent, calculated in accordance with clause 3.1, which the notified party considers should be charged from that Rent Review Date, and be supported by a registered valuer's certificate.
- (d) Until the new rent has been determined or agreed, the Lessee will continue to pay the Annual Rent at the existing amount which had been payable up to the Rent Review Date.
- (e) The parties must try to agree on a new Annual Rent.
- (f) If a new Annual Rent has not been agreed within 20 Business Days of the receipt of the Dispute Notice then the new Annual Rent may be determined either:
 - (i) by one party giving written notice to the other requiring the new Annual Rent to be determined by arbitration; or
 - (ii) if the parties agree, by registered valuers acting as experts and not as arbitrators as set out in steps (g) to (k) below.
- (g) Within 10 Business Days of receipt of the written notice each party will appoint a valuer and give written notice of the appointment to the other party. If the party receiving a notice fails to appoint a valuer within the 10 Business Day period then the valuer appointed by the other party will determine the new Annual Rent and that determination will be binding on both parties.
- (h) Within 10 Business Days of their appointments the two valuers must appoint an umpire who must be a registered valuer. If the valuers cannot agree on an umpire they must ask the president of the Property Institute of New Zealand Incorporated (or equivalent) to appoint an umpire.
- (i) Once the umpire has been appointed the valuers must try to determine the new Annual Rent by agreement. If they fail to agree within 40 Business Days (time being of the essence) the Annual Rent will be determined by the umpire.

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

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 9 of 19 Pages

Insert instrument type

Lease Instrument

- (j) Each party will have the opportunity to make written or verbal representations to the umpire within the period, and on the conditions, set by the umpire.
- (k) When the rent has been determined or agreed, the umpire or valuers must give written notice of it to the parties. The parties will each pay their own valuer's costs and will share the umpire's costs equally between them.
- (l) Once the new rent has been agreed or determined it will be the Annual Rent from the Rent Review Date or the date of the notifying party's notice if that notice is given later than 60 Business Days after the Rent Review Date.
- (m) The new Annual Rent may at the option of either party be recorded in a variation of this Lease, at the cost of the party requesting that variation.

4 Payment of Lessee Outgoings

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

5 Valuation Roll

Where this Lease is registered under section 115 of the Land Transfer Act 1952 the Lessee will be entered in the rating information database and the district valuation roll as the ratepayer for the Land and will be responsible for payment of any rates.

6 Utility Charges

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

7 Goods and Services Tax

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

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

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 10 of 19 Pages

Insert instrument type

Lease Instrument

8 Interest

If the Lessee fails to pay within 10 Business Days any amount payable to the Lessor under this Lease (including rent) the Lessor may charge the Lessee interest at the maximum rate of interest from time to time payable by the Lessor to its principal banker for an overdraft facility plus a margin of 4% per annum accruing on a daily basis from the due date for payment until the Lessee has paid the overdue amount. The Lessor is entitled to recover this interest as if it were rent in arrears.

9 Permitted Use of Land

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

10 Designation

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

11 Compliance with Law

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

12 Hazards

12.1 The Lessee must take all reasonable steps to minimise or remedy any hazard arising from the Lessee's use of the Land and ensure that any hazardous goods are stored or used by the Lessee or its agents on the Land in accordance with all relevant Legislation.

12.2 Subject to clause 13, in the event the state of the Land is altered by any natural event including flood, earthquake, slip or erosion the Lessor agrees at its own cost to promptly address any hazards for the protection of occupants of the site and to remediate any hazards as soon as possible.

13 Damage or Destruction**13.1 Total Destruction**

If the Land or the Lessee's Improvements or any portion thereof shall be destroyed or so damaged so as to render the Land or the Lessee's Improvements unsuitable for the Permitted Use to which it was put at the date of the destruction or damage (the "Current Permitted Use"), then either party may, within three months of the date of the damage, give the other 20 Business Days' notice of termination, and the whole of the Annual Rent and Lessee Outgoings shall cease to be payable as from the date of the damage.

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

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6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 11 of 19 Pages

Insert instrument type

Lease Instrument

13.2 Partial Destruction

- (a) If the Land, or any portion of the Land, shall be damaged or destroyed but not so to render the Land or the Lessee's Improvements unfit for the Current Permitted Use then the Lessor shall, with all reasonable speed, repair such damage and reinstate the Land so as to allow the Lessee to repair and reinstate the Lessee's Improvements, as the case may be.
- (b) The whole (or a fair proportion, having regard to the nature and extent to which the Lessee can use the Land for the Current Permitted Use) of the Annual Rent and Lessee's Outgoings shall cease to be payable for the period starting on the date of the damage and ending on the date when:
- (i) the repair and reinstatement of the Land have been completed; and
 - (ii) the Lessee can lawfully occupy the Land.
- (c) If:
- (i) in the reasonable opinion of the Lessor it is not economically viable to repair and reinstate the Land; or
 - (ii) any necessary council consents shall not be obtainable,

then the term will terminate with effect from the date that either such fact is established.

13.3 Natural Disaster or Civil Defence Emergency

- (a) If there is a natural disaster or civil emergency and the Lessee is unable to gain access to all parts of the Land or to fully use the Land for its Current Permitted Use (for example, because the Land is situated within a prohibited or restricted access cordon or access to or occupation of the Land is not feasible as a result of the suspension or unavailability of services such as energy, water or sewerage) then the whole (or a fair proportion, having regard to the extent to which it can be put to its Current Permitted Use) of the Annual Rent and Lessee Outgoings shall cease to be payable for the period starting on the date when the Lessee became unable to gain access to the Land or to lawfully conduct the Current Permitted Use from the Land (as the case may be) and ending on the later date when:
- (i) such inability ceases; or
 - (ii) (if clause 13.2 applies) the date when the repair and reinstatement of the Land have been completed.

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

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 12 of 19 Pages

Insert instrument type

Lease Instrument

- (b) Where either clause 13.2 or clause 13.3(a) applies, the Lessee may, at its sole option, terminate this Lease if:
 - (i) the relevant clause has applied for a period of 6 months or more; or
 - (ii) the Lessee can at any time establish with reasonable certainty that the relevant clause will apply for a period of 6 months or more.

13.4 Any termination pursuant to this clause 13 shall be without prejudice to the rights of either party against the other.

13.5 Notwithstanding anything to the contrary, no payment of Annual Rent or Lessee Outgoings by the Lessee at any time, nor any agreement by the Lessee as to an abatement of Annual Rent and/or Lessee Outgoings shall prejudice the Lessee's rights under this clause 13 to:

- (a) assert that this lease has terminated; or
- (b) claim an abatement or refund of Annual Rent and/or Lessee Outgoings.

14 Contamination

14.1 When this Lease ends the Lessee agrees to remedy any Contamination caused by the use of the Land by the Lessee or its agents during the Term of the Lease by restoring the Land to a standard reasonably fit for human habitation.

14.2 Under no circumstances will the Lessee be liable for any Contamination on or about the Land which is caused by the acts or omissions of any other party, including the owner or occupier of any adjoining land.

14.3 In this clause "Contamination" means any change to the physical, biological, or chemical condition of the Land by a Contaminant and "Contaminant" has the meaning set out in section 2 of the Resource Management Act 1991.

15 Easements

15.1 The Lessee may without the Lessor's consent conclude (on terms no more favourable than this Lease) all easements or other rights and interests over or for the benefit of the Land which are necessary for, or incidental to, either the Permitted Use or to any permitted alterations or additions to the Lessee's Improvements and the Lessor agrees that it will execute any documentation reasonably required to give legal effect to those rights.

15.2 The Lessee agrees to take all steps necessary to remove at the Lessor's request at the end of the Lease any easement or other burden on the title which may have been granted after the Start Date of the Lease.

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

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 13 of 19 Pages

Insert instrument type

Lease Instrument

15.3 The Lessor must not cancel, surrender or modify any easements or other similar rights or interests (whether registered or not) which are for the benefit of or appurtenant to the Land without the prior written consent of the Lessee.

16 Lessee's Improvements

16.1 The parties acknowledge that despite any rule of law or equity to the contrary, the intention of the parties as recorded in the Deed of Settlement is that ownership of improvements whether or not fixed to the land will remain unaffected by the transfer of the Land, so that throughout the Term of this Lease all Lessee's Improvements will remain the Lessee's property.

16.2 The Lessee or its agent or sub-lessee or licensee may build or alter Lessee's Improvements without the Lessor's consent where necessary for, or incidental to, the Permitted Use. For the avoidance of doubt, this clause extends to Lessee's Improvements owned (wholly or partly) or occupied by third parties provided that all necessary consents are obtained.

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

16.4 If any Lessee's Improvements are destroyed or damaged, the Lessee may decide whether or not to reinstate without consulting the Lessor and any insurance proceeds will be the Lessee's property.

16.5 If the Land is subject to any mortgage or other charge at the Start Date, the Lessor will give the Lessee written acknowledgment of all existing mortgagees or chargeholders in the form prescribed in Schedule A Item 10 and executed by the mortgagees or chargeholders. The Lessor acknowledges that the Lessee is not required to execute this Lease until the provisions of this subclause have been fully satisfied.

16.6 If the Lessor proposes to grant any mortgage or charge after the Start Date it must first have required any proposed mortgagee or chargeholder to execute the written acknowledgment prescribed in Schedule A Item 11. The Lessor agrees not to grant any mortgage or charge until the provisions of this clause have been satisfied and to deliver executed originals of those acknowledgments to the Lessee within three Business Days from the date of their receipt by the Lessor.

16.7 The Lessee may demolish or remove any Lessee's Improvements at any time during the Lease Term without the consent of the Lessor provided that the Lessee reinstates the Land to a tidy and safe condition which is free from Contamination in accordance with clause 14.

16.8 When this Lease ends the Lessee may remove any Lessee's Improvements from the Land without the Lessor's consent.

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

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 14 of 19 Pages

Insert instrument type

Lease Instrument

16.9 The Lessee agrees that it has no claim of any kind against the Lessor in respect of any Lessee's Improvements or other Lessee's property left on the Land after this Lease ends and that any such Lessee's property shall at that point be deemed to have become the property of the Lessor.

17 Rubbish Removal

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

18 Signs

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

19 Insurance

19.1 The Lessee is responsible for insuring or self insuring any Lessee's Improvements on the Land.

19.2 The Lessee must ensure that any third party which is not the Crown or a Crown Body permitted to occupy part of the Land has adequate insurance at its own cost against all public liability.

20 Fencing

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

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

21 Quiet Enjoyment

21.1 If the Lessee pays the Annual Rent and complies with all its obligations under this Lease, it may quietly enjoy the Land during the Lease Term without any interruption by the Lessor or any person claiming by, through or under the Lessor.

21.2 The Lessor may not build on the Land or put any improvements on the Land without the prior written consent of the Lessee.

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

8.8. A

DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 15 of 19 Pages

Insert instrument type

Lease Instrument

22 Assignment

22.1 Provided that the Land continues to be used for Education Purposes, the Lessee has the right to assign its interest under the Lease without the Lessor's consent to:

- (a) any Department or Crown Body; or
- (b) any other party provided that the assignment complies with the Education Act 1989 and the Public Works Act 1981 (if applicable).

22.2 If the Lessee wishes to assign the Lease to any party for any Permitted Use which is not an Education Purpose it must first seek the Lessor's consent (which will not be unreasonably withheld).

22.3 Without limiting clause 22.1, the Lessor agrees that the Lessee has the right to nominate any Department to exercise for Education Purposes the rights and obligations in respect of the Lessee's interest under this Lease and that this will not be an assignment for the purposes of clause 22 or a subletting for the purposes of clause 23.

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

23 Subletting

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

- (a) any Department or Crown Body; or
- (b) any other party provided that the sublease complies with the Education Act 1989 and the Public Works Act 1981 (if applicable).

24 Occupancy by School Board of Trustees

24.1 The Lessee has the absolute right to sublet to or otherwise permit a school board of trustees to occupy the Land on terms and conditions set by the Lessee from time to time in accordance with the Education Act 1989 and otherwise consistent with this Lease.

24.2 The Lessor agrees that the covenant for quiet enjoyment contained in clause 21 extends to any board of trustees occupying the Land.

24.3 A board of trustees occupying the Land has the right to sublet or license any part of the Land or the Lessee's Improvements to any third party in accordance with the Education Act 1989 and any licence or lease to any third party existing at the Start Date of this Lease will continue in effect until that licence or lease ends.

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

88 A

DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 16 of 19 Pages

Insert instrument type

Lease Instrument

25 Lessee Break Option

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

26 Breach

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

27 Notice of Breach

27.1 Despite anything expressed or implied in this Lease, the Lessor will not exercise its rights under clause 26 unless the Lessor has first given the Lessee written notice of the breach on which the Lessor relies and given the Lessee an opportunity to remedy the breach as provided below:

- (a) by paying the Lessor all money necessary to remedy the breach within 20 Business Days of the notice; or
- (b) by undertaking in writing to the Lessor within 20 Business Days of the notice to remedy the breach and then remedying it within a reasonable time; or
- (c) by paying to the Lessor within 60 Business Days of the notice compensation to the reasonable satisfaction of the Lessor in respect of the breach having regard to the nature and extent of the breach.

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

28 Renewal

28.1 If the Lessee has performed its obligations under this Lease the Lessor agrees that the Lease will automatically be renewed on the 21st anniversary of the Start Date for a further 21 year period unless the Lessee gives written notice to the Lessor at least six months before the expiry of the Lease Term that it does not wish the Lease to be renewed.

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

88 A

DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 17 of 19 Pages

Insert instrument type

Lease Instrument

28.2 The renewed lease will be on the terms and conditions expressed or implied in this Lease, including this right of perpetual renewal, provided that either party may initiate the rent review process in accordance with clause 3.

29 Right of First Refusal for Lessor's Interest

29.1 If at any time during the Lease Term the Lessor wishes to sell or transfer its interest in the Land the Lessor must immediately give written notice ("Lessor's Notice") to the Lessee setting out the terms on which the Lessor wishes to sell the Land and offering to sell it to the Lessee on those terms.

29.2 The Lessee has 60 Business Days after and excluding the date of receipt of the Lessor's Notice (time being of the essence) in which to exercise the Lessee's right to purchase the Land, by serving written notice on the Lessor ("Lessee's Notice") accepting the offer contained in the Lessor's Notice.

29.3 If the Lessee does not serve the Lessee's Notice on the Lessor in accordance with clause 29.2 the Lessor may sell or transfer the Lessor's interest in the Land to any person on no more favourable terms than those previously offered to the Lessee.

29.4 If the Lessor wishes to offer more favourable terms for selling or transferring the Lessor's interest in the Land than the terms contained in the Lessor's Notice, the Lessor must first re-offer its interest in the Land to the Lessee on those terms by written notice to the Lessee and clauses 29.1–29.4 (inclusive) will apply and if the re-offer is made within six months of the Lessor's Notice the 60 Business Days period must be reduced to 30 Business Days.

29.5 The Lessor may dispose of the Lessor's interest in the Land to a fully owned subsidiary of the Lessor and in that case the consent of the Lessee is not required and the Lessee's right to purchase the land under clause 29 will not apply.

[29A Single point of contact

29A.1 If the Land is held by two or more separate entities as tenants-in-common, those entities must nominate:

- (a) one bank account for payment of rent under this Lease (and provide details of that bank account to the Lessee); and
- (b) one representative (*Lesssor's Nominæe*) that the Lessee can deal with in relation to any matter arising under this Lease.]

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

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DOCUMENTS

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 18 of 19 Pages

Insert instrument type

Lease Instrument

30 Exclusion of Implied Provisions

30.1 For the avoidance of doubt, the following covenants, conditions and powers implied in leases of land pursuant to Schedule 3 of the Property Law Act 2007 are expressly excluded from application to this Lease:

(a) Clause 11 – Power to inspect premises.

31 Entire Agreement

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

32 Disputes

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

33 Service of Notices

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

The Secretary for Education
Ministry of Education
PO Box 1666
WELLINGTON 6140

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

[insert contact details]

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

34 Registration of Lease

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

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

DOCUMENTS

8.8 A

6.2: LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY)

Annexure Schedule

Page 19 of 19 Pages

Insert instrument type

Lease Instrument

35 **Costs**

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

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

DOCUMENTS

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7 LETTER OF FACILITATION

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DOCUMENTS

7: LETTER OF FACILITATION

[Date]

[Contact details: Mayor of local authority]

Tēnā koe

Ngāti Hei – Letter of facilitation

On [date] the Crown signed a deed of settlement with Ngāti Hei to settle their historical Te Tiriti o Waitangi / the Treaty of Waitangi claims. On [date] the Ngāti Hei Claims Settlement Act was passed to implement the settlement.

The Deed of Settlement is comprised of both cultural and commercial redress to remedy historical grievances Ngāti Hei has suffered as a result of Crown breaches of the Treaty of Waitangi. Cultural redress includes access to cultural resources and relationship agreements.

In the course of negotiations with the Crown, Ngāti Hei expressed interest in strengthening their existing relationship with local authorities that [reason for relationship], including [local authority]. As tangata whenua of [council] area Ngāti Hei are particularly interested in enhancing their involvement with [relationship objective].

In the Deed of Settlement, the Crown agreed to write letters encouraging a co-operative ongoing relationship between Ngāti Hei and [local authority] in their area of interest (refer to the Area of Interest map attached). Accordingly, I am writing to introduce you to the trustees of the Hei o Wharekaho Settlement Trust as the post-settlement governance entity of Ngāti Hei and to suggest that your [local authority] makes contact with Ngāti Hei to foster a co-operative relationship and to discuss matters of common interest.

Ngāti Hei is a member of the Hauraki Collective. The Hauraki Collective deed was signed on [date]. This document, and the Ngāti Hei Deed of Settlement, can be viewed on the Office of Treaty Settlements website: www.govt.nz.

I invite [local authority] to contact the trustees of the Hei o Wharekaho Settlement Trust directly in relation to the matters raised in this letter. Their contact details are:

[contact details]; and

[contact details].

I hope that [local authority] and Ngāti Hei will continue to build an effective relationship based on mutual trust, respect and co-operation for the benefit of all people within the [local authority] area of responsibility.

If you have any further questions please contact [contact person] at the Office of Treaty Settlements at [email address] or [number].

Nāku noa, nā

[Hon Christopher Finlayson]
Minister for Treaty of Waitangi Negotiations

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8 LETTER TO MUSEUMS

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DOCUMENTS

8: LETTER TO MUSEUMS

[Contact details of director of museum]

Tēnā koe

Ngāti Hei – Letter of Introduction

On [**date**] the Crown signed a deed of settlement with Ngāti Hei to settle their historical Te Tiriti o Waitangi/the Treaty of Waitangi claims. On [**date**] the Ngāti Hei Claims Settlement Act was passed to implement the settlement.

The Deed of Settlement is comprised of both cultural and commercial redress to remedy historical grievances Ngāti Hei have suffered as a result of Crown breaches of Te Tiriti o Waitangi/the Treaty of Waitangi. Cultural redress includes access to cultural resources and relationship agreements.

In the course of negotiations with the Crown, Ngāti Hei sought the opportunity to have greater management and control over their tāonga. Ngāti Hei specifically expressed an interest in enhancing their relationships with [**museum name**] to engage with you regarding this tāonga. The essence of the request relates to [**relationship objective**].

[lwi background summary and with an area of interest map].

Ngāti Hei is a member of the Hauraki Collective. The Hauraki Collective deed was signed on [**date**]. This document, and the Ngāti Hei deed of settlement can all be viewed on the Office of Treaty Settlements website: www.govt.nz.

I invite [entity name] to contact the Hei o Wharekaho Settlement Trust Chairperson directly in relation to the matters raised in this letter. Their contact details are:

[**contact details**]; and
[**contact details**].

If you have any further questions please contact [**contact person**] at the Office of Treaty Settlements at [**email address**] or 04 [**number**].

Nāku noa, nā

[Hon Christopher Finlayson]
Minister for Treaty of Waitangi Negotiations

8.2. A

9 LETTER OF INTRODUCTION

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DOCUMENTS

9: LETTER OF INTRODUCTION

[Date]

[Contact details: Chief Executive of Crown agency]

Tēnā koe

Ngāti Hei – Letter of Introduction

On [date] the Crown signed a deed of settlement with Ngāti Hei to settle their historical Te Tiriti o Waitangi / the Treaty of Waitangi claims. On [date] the Ngāti Hei Claims Settlement Act was passed to implement the settlement.

The Deed of Settlement is comprised of both cultural and commercial redress to remedy historical grievances Ngāti Hei has suffered as a result of Crown breaches of the Treaty of Waitangi. Cultural redress includes access to cultural resources and relationship agreements.

In the course of negotiations with the Crown, Ngāti Hei expressed interest in enhancing their relationships with entities that [reason for relationship], including [Crown agency]. The essence of the request relates to [relationship objective].

In the Deed of Settlement, the Crown agreed to write letters encouraging a co-operative ongoing relationship between Ngāti Hei and [Crown agency] in their area of interest (refer to the Area of Interest map attached). Accordingly, I am writing to introduce you to the trustees of the Hei o Wharekaho Settlement Trust as the post-settlement governance entity of Ngāti Hei and to suggest that your [Crown agency] makes contact with Ngāti Hei to foster a co-operative relationship and to discuss matters of common interest.

Ngāti Hei is a member of the Hauraki Collective. The Hauraki Collective deed was signed on [date]. This document, and the Ngāti Hei Deed of Settlement, can be viewed on the Office of Treaty Settlements website: www.govt.nz.

I invite [Crown agency] to contact the trustees of the Hei o Wharekaho Settlement Trust directly in relation to the matters raised in this letter. Their contact details are:

[contact details]; and

[contact details].

If you have any further questions please contact [contact person] at the Office of Treaty Settlements at [email address] or [number].

Nāku noa, nā

[Director's name]

Director, Office of Treaty Settlements

8.10 A

10 LEASE FOR OHINAU ISLAND

DOCUMENTS

88 A

10: LEASE FOR OHINAU ISLAND

LEASE INSTRUMENT

Section 115, Land Transfer Act 1952



Land registration district

South Auckland

Unique Identifier(s) or C/T(s)	All/part	Area/description of part or stratum
[insert]	[insert]	Ohinau Island

Lessor *Surname must be underlined*
[THE TRUSTEES OF HEI O WHAREKAHO SETTLEMENT TRUST] *[full names of Trustees to be inserted]*

Lessee *Surname must be underlined*
MARITIME NEW ZEALAND

Estate or interest* *Insert "fee simple", "leasehold in lease number", etc.*
 Fee simple

Term
 99 years

Rent
 \$1500 plus GST per annum

Operative clause *Set out the terms of lease in Annexure Schedule(s)*
The Lessor leases to the Lessee and the Lessee accepts the lease of the above estate or interest in the land in the above certificate(s) of title or computer register(s) for the above term and at the above rent and on the terms of lease set out in the Annexure Schedule(s).

Dated this _____ day of _____

Attestation

Signed by the trustees of Hei o Wharekaho Settlement Trust by:	Signed in my presence by the Lessor
	_____ <i>Signature of witness</i> Witness to complete in BLOCK letters (unless legibly printed)
Signature [common seal] of Lessor	Witness name: Occupation: Address:

Signed by Maritime New Zealand by:	Signed in my presence by the Lessee
	_____ <i>Signature of witness</i> Witness to complete in BLOCK letters (unless legibly printed)
Signature [common seal] of Lessee	Witness name: Occupation: Address:

Certified correct for the purposes of the Land Transfer Act 1952

 [Solicitor for] the Lessee

* The specified consent form must be used for the consent of any mortgagee of the estate or interest to be leased.

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DOCUMENTS

10: LEASE FOR OHINAU ISLAND

1. **TERM**

In consideration of the rent payable under this Lease, and of the Lessee's covenants, terms and agreements, express and implied contained in this Lease, the Lessor leases to the Lessee the land described in Item 1 of Schedule 1 ("the Land") for the term set out in this Lease instrument.

2. **EARLY TERMINATION**

- 2.1 The Lessee may terminate this Lease by giving not less than 12 months' written notice to the Lessor setting out the date of termination of this Lease ("**Termination Notice**").
- 2.2 The Lessee will give the Termination Notice if the Lessee no longer requires the Land for the purposes of an aid to navigation site or any other maritime safety related purpose.
- 2.3 This Lease will expire upon the date set out in the Termination Notice but without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of this Lease.

3. **PAYMENT OF RENT**

- 3.1 The Lessee will pay the rent specified in this Lease instrument if demanded by the Lessor in advance each year during the term of this Lease from the Commencement Date specified in Item 3 of Schedule 1.
- 3.2 The Lessee will pay the Goods and Services Tax or any tax in the nature of Goods and Services Tax payable by the Lessor in respect of the rent and the tax will be paid on each occasion when any rent payment falls due for payment and will be payable to the Lessor or as the Lessor directs.

4. **OUTGOINGS AND OTHER COSTS**

The Lessee will pay all costs relating and incidental to the provisions of electricity, gas, water or other utilities and any other work directly associated with the construction, maintenance and operation of any aid to navigational aid structure and ancillary services.

5. **MAINTENANCE**

The Lessee will:

- (a) at all times, maintain and repair all improvements erected or situated on the Land;
- (b) at all times, maintain the grounds surrounding the Navigational Tower including trimming vegetation when the Lessee considers it is necessary; and
- (c) upon the expiration or sooner determination of this Lease, yield up the Land to the Lessor clean and free from rubbish and in good and substantial repair, order and condition.

6. ASSIGNMENT

The Lessee will not assign, sublease or otherwise part with the possession of the Land or any part of the Land without first obtaining the written consent of the Lessor to such assignment or other parting with possession. Any such consent will not be unreasonably or arbitrarily withheld or delayed in the case of a respectable responsible and solvent proposed assignee or sublessee of the whole of the Land. Such consent is not required to the assignment of this Lease to any successor organisation of the Lessee.

7. PERMITTED USE

The Lessee will not use or permit to be used the Land or any part of the Land for any purpose other than that use specified in Item 4 of Schedule 1 ("the Permitted Use") and such permitted use will be subject always to the provisions of clause 10.1.

8. EXTERIOR SIGNS

- (a) The Lessee will not affix, paint or exhibit or permit to be affixed, painted or exhibited any name sign, nameplate, signboard, or advertisement of any description on or to the Land without the Lessor's prior written consent. Such consent will not be unreasonably or arbitrarily withheld or delayed.
- (b) Despite clause 8.1, the Lessee will be entitled to erect on the Land a sign indicating the nature of the aid to navigation or describing the Lessee's use of the Land or any public information relevant to that use.
- (c) The Lessee will, at the end or sooner determination of the term of this Lease, remove any such name sign, nameplate, signboard or advertisement which has been authorised by the Lessor and make good any resulting damage.

9. NO NOXIOUS USE

The Lessee will not:

- (a) bring in or upon or store within the Land any machinery, goods or any other things of an offensive, noxious, illegal or dangerous nature;
- (b) use the Land or allow it to be used for any noisome or offensive act, trade or business; or
- (c) do anything or allow anything to be done which may cause annoyance, nuisance, damage or disturbance to the Lessor or the owners or occupiers of adjoining land,

provided that the Permitted Use will not by itself be a breach of this clause.

10. COMPLIANCE WITH STATUTES AND REGULATIONS

10.1 The Lessee will comply with the provisions of all:

DOCUMENTS

10: LEASE FOR OHINAU ISLAND

- (a) statutes, ordinances, regulations and by-laws in any way relating to or affecting the Land or the use of the Land; and
- (b) licences, requisitions and notices issued made or given by any competent authority in respect of the Land or the use of the Land and will promptly provide the Lessor with a copy of any such requisition or notice.

10.2 The Lessee will at all times and from time to time during the term of this Lease clear and keep the Land clear of all noxious weeds and vermin and, in particular, will comply in all respects with the provisions of the Biosecurity Act 1993 and all notices issued pursuant to that Act.

11. RISK

The Lessee agrees to occupy and use the Land and any improvement on the Land at the Lessee's risk except where the Lessor or any person under the Lessor's control is at fault or negligent through their own acts or omissions.

12. INDEMNITY

12.1 The Lessee will indemnify the Lessor from and against all damage or loss suffered or incurred in consequence of any negligent act or omission on the part of the Lessee or those under the control of the Lessee and, in particular, will fully recompense the Lessor for any charges or expenses incurred by the Lessor in making good any damage to the Land resulting from any such negligent act or omission.

12.2 The Lessor will indemnify the Lessee from and against all damage or loss suffered or incurred in consequence of any negligent act or omission on the part of the Lessor or those under the control of the Lessor and, in particular, will fully recompense the Lessee for any charges or expenses incurred by the Lessee in making good any damage to the Land resulting from any such negligent act or omission.

13. COSTS

13.1 The parties will pay their own solicitors' costs of preparing and finalising this Lease or any renewal or variation of this Lease.

13.2 The Lessee will pay all costs, charges and expenses for which the Lessor becomes liable for in connection with any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease.

14. REGISTRATION

14.1 The Lessor will register this Lease at the cost of the Lessee.

14.2 The Lessor will be responsible for any survey and other costs (other than registration fees) incurred to enable registration of this Lease.

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10: LEASE FOR OHINAU ISLAND

15. **QUIET ENJOYMENT**

As long as the Lessee complies with the terms of this Lease, the Lessee will peaceably hold and enjoy the Land during the term without interruption by the Lessor, or any person claiming under the Lessor.

16. **RATES AND UTILITY CHARGES**

The Lessor will pay promptly as they fall due all payments for local authority rates and land tax or any such tax imposed in relation to the Land as well as other outgoings payable in respect of the Land, including principal and interest due under any mortgage registered against the Land, and indemnifies the Lessee against any costs, claims, demands or liabilities which the Lessee may suffer or incur as a result of any breach of this covenant by the Lessor.

17. **DEFAULT BY LESSEE**

If at any time during the term of this Lease:

- (a) the Lessee breaches any of the terms of, or the covenants, obligations or agreements of the Lessee contained or implied in, this Lease (other than the covenant to pay rent) and fails to remedy the breach within the period specified in a notice served on the Lessee in accordance with section 246 of the PLA 2007; or
- (b) the Lessee is insolvent, bankrupt or liquidated (except for the purpose of a solvent reconstruction or voluntary liquidation previously approved by the Lessor),

then, in addition to the Lessor's right to apply to the Court for an order of possession, the Lessor may cancel this Lease by re-entering the Land. Any cancellation will be without prejudice to the rights of either party against the other.

18. **IMPROVEMENTS DURING LEASE**

18.1 Subject always to clause 20, throughout the term of this Lease, the Lessee will have the right to construct, alter, upgrade, relocate, renew, replace and demolish at the cost of the Lessee any improvements on the Land without the need to obtain the consent of the Lessor provided that any such improvements are consistent with the Permitted Use.

18.2 The improvements situated on the Land at the Commencement Date are detailed in Schedule 2 of this Lease.

18.3 All improvements situated on the Land at the Commencement Date and any improvements installed or erected on the Land during the term of this Lease will be deemed to be the property of the Lessee.

19. **REMOVAL OF FIXTURES FITTINGS AND IMPROVEMENTS**

19.1 Subject always to clauses 19.3 and 20, the Lessee will be entitled to remove at any time after the expiration or sooner determination of the term ("the Withdrawal Date") all fixtures,

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DOCUMENTS

10: LEASE FOR OHINAU ISLAND

fittings and improvements which belong to or which the Lessee has installed on the Land. The Lessee will make good, at the Lessee's cost and to the satisfaction of the Lessor, all resulting damage.

19.2 Within the period of 12 months from the Withdrawal Date, the Lessee will, if requested by the Lessor, remove or demolish all improvements on the Land that are derelict (unless such improvements are incapable of being removed because of any lawful requirement that they remain) and the Lessee will make good, at the Lessee's own cost and to the satisfaction of the Lessor, all resulting damage.

19.3 All fixtures, fittings and improvements remaining on the Land on the expiry of the period of 12 months from the Withdrawal Date, will become the property of the Lessor without any compensation or other payment whatsoever to the Lessee.

20. CONSULTATION

Prior to the Lessee exercising its rights under clauses 18 and 19, the parties acknowledge and agree that the parties shall first consult with each other and other relevant authorities (including the Department of Conservation and the Historic Places Trust) at all times in good faith in determining the continued placement of the Navigational Tower on the Land.

21. WAIVER

No waiver or failure to act by the Lessor in respect of any one or more breaches by the Lessee of any covenant or agreement contained in this Lease will operate as a waiver of another breach of the same or of any other covenant or agreement.

22. RENT REVIEWS

22.1 On each Rent Review Date, the Rent will be adjusted in accordance with the following formula:

$$R1 = R0 \times I$$

where:

R1 = the adjusted Rent;

R0 = the Rent immediately before the relevant Rent Review Date;

I = the increment to be applied, being the greater of:

(a) CPI1/CPI0 (calculated by reference to the definitions in clause 22.2); or

(b) 1.

22.2 For the purposes of clause 22.1:

"CPI1" means the CPI last published immediately before the relevant Rent Review Date.

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DOCUMENTS

10: LEASE FOR OHINAU ISLAND

"CPI0" means the CPI last published immediately before the later of the date of the last Rent Review Date or the Commencement Date (in the case of the first occurring Rent Review Date).

"CPI" means (in order of priority):

- (a) the Consumer Price Index (All Groups) published by Statistics New Zealand; or
- (b) if there is any suspension or discontinuance of the CPI during the periods for which the CPI is required under the lease, or its method of calculation is varied to such an extent that a comparison with it is no longer applicable, then the index to be used will be the index which most closely takes into account the factors taken into account by the CPI, and any such replacement index will be agreed between the landlord and tenant or failing agreement as is determined by the President for the time being of the New Zealand Law Society.

22.3 Notwithstanding any other provision in this Lease, the new Rent determined under clause 22.1 shall never be less than the Rent payable immediately prior to the relevant review date.

23. ARBITRATION

23.1 Any dispute or difference which may arise between the parties concerning the interpretation of this Lease or relating to any other matter arising under this Lease will be actively and in good faith negotiated by the parties with a view to a speedy resolution of such differences.

23.2 If the parties cannot resolve a dispute or difference within 15 Working Days of any dispute or difference arising then, unless otherwise expressly provided in this Lease, they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using informal dispute resolution techniques such as mediation. The rules governing any such technique, if adopted, will be agreed between the parties or as selected by the organisation known as "LEADR" (Lawyers Engaged in Alternative Dispute Resolution).

23.3 If the parties cannot agree on any dispute resolution technique within a further 15 Working Days of any dispute or difference being considered for referral by both parties to any informal dispute resolution technique under clause 22.2 then the dispute or difference will be settled by reference to arbitration. Except as otherwise expressly provided in this Lease the reference will be to a single arbitrator if one can be agreed upon, or to two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to their arbitration), such arbitration to be carried out in accordance with the Arbitration Act 1996 or any successor Act.

23.4 The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other for

10: LEASE FOR OHINAU ISLAND

settling terms of reference, interlocutory matters and generally all steps preliminary and incidental to the hearing and determination of the proceedings.

24. SUITABILITY

No warranty or representation expressed or implied has been or is made by the Lessor that the Land is now suitable or will remain suitable or adequate for use by the Lessee or that any use of the Land by the Lessee will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

25. NOTICES

25.1 Any notice to be given under this Lease will be given in writing and served:

- (a) in the case of a notice under sections 245 or 246 of the PLA 2007, in the manner prescribed by section 353 of the PLA 2007; and
- (b) in all other cases, unless otherwise required by sections 352 to 361 of the PLA 2007:
 - (i) in the manner authorised by sections 354 to 361 of the PLA 2007; or
 - (ii) by personal delivery, or by post or by facsimile or, if the parties agree in writing, other reasonably secure and responsible means of electronic communication that is generally accepted as appropriate at the relevant time for the provision of formal notices ("**Electronic Notice**"),

to the addressee at the address set out in this clause 24 or, if a notice of a change of address has been given by the addressee to the other party, then to that new address.

- (c) No notice will be effective until received. In respect of the means of service specified in clause 25.1 a notice or communication will, however, be deemed to be received by the addressee:
 - (i) in the case of personal delivery, when delivered;
 - (ii) in the case of delivery by post, on the third Working Day following the date of posting;
 - (iii) in the case of facsimile, on the Working Day on which it is sent in full without transmission error or, if sent after 5pm on a Working Day or on a non-Working Day, on the next Working Day after the date of sending in full without transmission error; and
 - (iv) In the case of Electronic Notice, if the parties agree notices may be sent by this method, when acknowledged by the addressee by return Electronic Notice (other than an automatic acknowledgement) or otherwise in writing.

DOCUMENTS

10: LEASE FOR OHINAU ISLAND

25.2 For as long as Maritime New Zealand is the Lessee under this Lease, the address for service of the Lessee for the purposes of clause 25.1(b)(ii), unless the Lessee notifies the Lessor otherwise, will be:

Maritime New Zealand
Level 11, 1 Grey Street
Wellington 6011

Postal address:
PO Box 25260
Wellington 6146

Facsimile: (04) 494-8901

25.3 For as long as the trustees of the Hei o Wharekaho Settlement Trust are the Lessor under this Lease, the address for service of the trustees of the Hei o Wharekaho Settlement Trust for the purposes of clause 25.1(b)(ii), unless the trustees of the Hei o Wharekaho Settlement Trust notify the Lessee otherwise, will be:

Trustees of Hei o Wharekaho Settlement Trust
[Street address]
[Town]

Postal address:
[Insert address]
[Town]
Email: [insert]

26. **DEFINITIONS AND INTERPRETATION**

26.1 **Definitions:** In this Lease, unless the context requires otherwise:

- (a) **"Electronic Notice"** has the meaning given to it in clause 25.1(b)(ii).
- (b) **"Land"** has the meaning given to it in Item 1 of Schedule 1.
- (c) **"Navigational Tower"** means that navigational facility and associated equipment known as Ohinau Island Lighthouse.
- (d) **"PLA 2007"** means the Property Law Act 2007.
- (e) **"Rent"** means (subject to review in accordance with clause 22) the rent specified in item 6 of Schedule 1.
- (f) **"Rent review date"** means means five-yearly from the Commencement Date in accordance with clause 22.1
- (g) **"Termination Notice"** has the meaning given to it in clause 2.
- (h) **"Working Day"** has the meaning given to it in the PLA 2007.

88

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10: LEASE FOR OHINAU ISLAND

26.2 **Interpretation:** In this Lease unless the context otherwise requires:

- (a) The expressions **the Lessor** and **the Lessee** will be deemed to include where appropriate the executors, administrators, successors and permitted assigns of the Lessor and the Lessee.
- (b) **month** means calendar month.
- (c) **writing** will include words visibly represented or reproduced.
- (d) Covenants by any two or more persons will be joint and several.
- (e) Headings have been inserted for guidance only and will not be deemed to form part of the context.
- (f) Words importing any gender will include all other genders.
- (g) Words importing the singular will include the plural and vice versa.
- (h) Payments will be made in the lawful currency of New Zealand.
- (i) References to schedules are references to schedules in this Lease and clauses are references to clauses in the Schedule of Terms and references to parties are references to the parties to this Lease and their respective successors and assigns (if permitted in the case of the Lessee under clause 6) unless expressly stated otherwise.
- (j) Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.

DOCUMENTS

10: LEASE FOR OHINAU ISLAND

SCHEDULE 1

1. **Land:** All that parcel of land being Section [] on SO [] comprising part of the Lessor's land containing approximately [] square metres ("the Land"). [See Schedule 3]
2. **Term:** 99 years.
3. **Commencement Date:** [to insert]
4. **Permitted Use:** This Lease gives the Lessee:
 - (a) free and exclusive use of the Land for the purpose of providing an aid to navigation; and
 - (b) the right to ensure the arc of the light is not obscured on lease land & adjoining land, ability to trim trees; and
 - (c) the right to maintain improvements; and
 - (d) the right to upgrade the equipment and structures on the Land to ensure the aid to navigation meets national and international standards. This includes the routine replacement of existing equipment and the ability to enhance and add additional services. These services are not limited to, but may include: Automatic Identification (AIS) transmitters; radio transmitting and receiving devices associated with e-navigation; and their associated infrastructure and power supplies.; and
 - (e) the right to land a helicopter & fly over the adjoining land for the purposes of safe landing.
5. **Lessee's Property Improvements:** [See Schedule 2.]
6. **Rent:** \$1500.00 plus GST per annum.

80 ✓

DOCUMENTS

10: LEASE FOR OHINAU ISLAND

SCHEDULE 2

[LESSEE'S IMPROVEMENTS]

Maritime New Zealand's improvements to the site include:

1. Small Aid to Navigation structure with solar power supply & beacon.
2. Clear area to land a helicopter.

Site and property overview 2015:



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DOCUMENTS

10: LEASE FOR OHINAU ISLAND

SCHEDULE 3

[LESSEE'S LAND AREA]

[This schedule will be replaced with the actual survey]

Area of Maritime New Zealand sole use and visibility arc of light.

