

**HINEURU**  
**and**  
**THE TRUSTEES OF TE KŌPERE O TE IWĪ O HINEURU TRUST**  
**and**  
**THE CROWN**

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**DEED OF SETTLEMENT SCHEDULE:**  
**GENERAL MATTERS**

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## **1 IMPLEMENTATION OF SETTLEMENT**

- 1.1 The trustees must use their best endeavours to ensure that every historical claim proceedings is discontinued –
  - 1.1.1 by the settlement date; or
  - 1.1.2 if not by the settlement date, as soon as practicable afterwards.
- 1.2 The Crown may, after the settlement date, do all or any of the following:
  - 1.2.1 advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement:
  - 1.2.2 request the Waitangi Tribunal to amend its register of claims, and adapt its procedures, to reflect the settlement:
  - 1.2.3 from time to time propose for introduction to the House of Representatives a bill or bills for either or both of the following purposes:
    - (a) terminating a historical claim proceedings:
    - (b) giving further effect to this deed, including achieving –
      - (i) certainty in relation to a party's rights and/or obligations; and/or
      - (ii) a final and durable settlement.
- 1.3 The Crown may cease, in relation to Hineuru or a representative entity, any land bank arrangements, except to the extent necessary to comply with its obligations under this deed.
- 1.4 Hineuru and every representative entity must–
  - 1.4.1 support a bill referred to in paragraph 1.2.3; and
  - 1.4.2 not object to a bill removing resumptive memorials from any certificate of title or computer register.

**2 INTEREST**

- 2.1 The Crown must pay interest on the financial and commercial redress amount of \$25,000,000 to the trustees.
- 2.2 The interest is payable –
  - 2.2.1 on the amount of \$25,000,000 –
    - (a) for the period –
      - (i) beginning on the date of the agreement in principle; and
      - (ii) ending on the day before the on-account payment of \$5,000,000 is paid to the trustees under clause 6.1.1; and
    - (b) on the day the on-account payment is paid to the trustees under clause 6.1.1; and
  - 2.2.2 on the amount of \$20,000,000 –
    - (a) for the period -
      - (i) beginning on the date the on-account payment is paid to the trustees; and
      - (ii) ending on the day before the settlement date; and
    - (b) on the settlement date.
- 2.3 The interest is –
  - 2.3.1 payable at the rate from time to time set as the official cash rate by the Reserve Bank, calculated on a daily basis but not compounding.
  - 2.3.2 subject to any tax payable in relation to it; and
  - 2.3.3 payable after withholding any tax required by legislation to be withheld.

**3 TAX**

**INDEMNITY**

- 3.1 The provision of Crown redress, or an indemnity payment, to the trustees is not intended to be -
  - 3.1.1 a taxable supply for GST purposes; or
  - 3.1.2 assessable income for income tax purposes.
- 3.2 The Crown must, therefore, indemnify the trustees for -
  - 3.2.1 any GST payable by the trustees in respect of the provision of Crown redress or an indemnity payment; and
  - 3.2.2 any income tax payable by the trustees as a result of any Crown redress, or an indemnity payment, being treated as assessable income of the trustees; and
  - 3.2.3 any reasonable cost or liability incurred by the trustees in taking, at the Crown's direction, action -
    - (a) relating to an indemnity demand; or
    - (b) under paragraph 3.13 or paragraph 3.14.1(b).

**LIMITS**

- 3.3 The tax indemnity does not apply to the following (which are subject to normal tax treatment):
  - 3.3.1 interest paid under part 2:
  - 3.3.2 any of the following provided under the settlement documentation:
    - (a) amounts paid or distributed by the Crown Forestry Rental Trust in relation to the licensed land, including rental proceeds and interest on rental proceeds:
    - (b) the transfer of the deferred selection property or RFR land under the settlement documentation:
    - (c) the trustees' –
      - (i) use of Crown redress or an indemnity payment; or

## GENERAL MATTERS

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### 3: TAX

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

#### ACKNOWLEDGEMENTS

3.4 To avoid doubt, the parties acknowledge -

3.4.1 the Crown redress is provided -

- (a) to settle the historical claims; and
- (b) with no other consideration being provided; and

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

- (a) an agreement under this deed to –
  - (i) enter into an encumbrance, or other obligation, in relation to Crown redress; or
  - (ii) pay costs (such as rates, or other outgoings, or maintenance costs) in relation to Crown redress:
- (b) the performance of that agreement; and

3.4.3 nothing in this part is intended to imply that -

- (a) the provision of Crown redress, or an indemnity payment, is –
  - (i) a taxable supply for GST purposes; or
  - (ii) assessable income for income tax purposes; or
- (b) if the trustees are a charitable trust, or other charitable entity, they receive -
  - (i) redress, assets, or rights other than for charitable purposes; or
  - (ii) income other than as exempt income for income tax purposes; or
- (c) the transfer of the deferred selection property or RFR land under the settlement documentation is a taxable supply for GST purposes; and

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

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### 3: TAX

#### CONSISTENT ACTIONS

- 3.5 None of the trustees, a person associated with them, or the Crown will act in a manner that is inconsistent with this part 3.
- 3.6 In particular, the trustees agree that –
- 3.6.1 from the settlement date, they will be a registered person for GST purposes, unless it is not carrying on a taxable activity; and
- 3.6.2 neither they, nor any person associated with them, will claim with respect to the provision of Crown redress, or an indemnity payment, -
- (a) an input credit for GST purposes; or
- (b) a deduction for income tax purposes.

#### INDEMNITY DEMANDS

- 3.7 The trustees and the Crown must give notice to the other, as soon as reasonably possible after becoming aware that the trustees may be entitled to an indemnity payment.
- 3.8 An indemnity demand –
- 3.8.1 may be made at any time after the settlement date; but
- 3.8.2 must not be made more than 20 business days before the due date for payment of the tax, whether that date is –
- (a) specified in an assessment; or
- (b) a date for the payment of provisional tax; or
- (c) otherwise determined; and
- 3.8.3 must be accompanied by -
- (a) evidence of the tax, and of any other amount sought, which is reasonably satisfactory to the Crown; and
- (b) if the demand relates to GST and the Crown requires, a GST tax invoice.

#### INDEMNITY PAYMENTS

- 3.9 If the trustees are entitled to an indemnity payment, the Crown may make the payment to -

## **GENERAL MATTERS**

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### **3: TAX**

- 3.9.1 the trustees; or
  - 3.9.2 the Commissioner of Inland Revenue, on behalf of, and for the account of, the trustees.
- 3.10 The trustees must pay an indemnity payment received by them to the Commissioner of Inland Revenue, by the later of –
- 3.10.1 the due date for payment of the tax; or
  - 3.10.2 the next business day after receiving the indemnity payment.

#### **REPAYMENT**

- 3.11 If it is determined that some or all of the tax to which an indemnity payment relates is not payable, the trustees must promptly repay to the Crown any amount that-
- 3.11.1 the Commissioner of Inland Revenue refunds or credits to the trustees; or
  - 3.11.2 the trustees have received but have not paid, and are not required to pay, to the Commissioner of Inland Revenue.
- 3.12 The trustees have no right of set-off or counterclaim in relation to an amount payable by them under paragraph 3.11.

#### **RULINGS**

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

#### **CONTROL OF DISPUTES**

- 3.14 If the trustees are entitled to an indemnity payment, the Crown may -
- 3.14.1 by notice to the trustees, require them to -
    - (a) exercise a right to defer the payment of tax; and/or
    - (b) take any action specified by the Crown, and confirmed by expert legal tax advice as appropriate action in the circumstances, to respond to, and/or contest, -
      - (i) a tax assessment; and/or
      - (ii) a notice in relation to the tax, including a notice of proposed adjustment; or



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### 3: TAX

- 3.14.2 nominate and instruct counsel on behalf of the trustees whenever it exercises its rights under paragraph 3.14.1; and
- 3.14.3 recover from the Commissioner of Inland Revenue any tax paid that is refundable.

### DEFINITIONS

- 3.15 In this part, unless the context requires otherwise, -

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

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

**4 NOTICE**

**APPLICATION**

- 4.1 Unless otherwise provided in this deed, or a settlement document, this part applies to a notice under this deed or a settlement document.
- 4.2 In particular, this part is subject to the provisions of part 7 of the property redress schedule which provides for notice to the Crown in relation to, or in connection with, a redress property or the deferred selection property.

**REQUIREMENTS**

- 4.3 A notice must be -
  - 4.3.1 in writing; and
  - 4.3.2 signed by the person giving it (but, if the trustees are giving the notice, it is effective if not less than three trustees sign it); and
  - 4.3.3 addressed to the recipient at its address or facsimile number as provided -
    - (a) in paragraph 4.6; or
    - (b) if the recipient has given notice of a new address or facsimile number, in the most recent notice of a change of address or facsimile number; and
  - 4.3.4 given by -
    - (a) personal delivery (including by courier) to the recipient's street address; or
    - (b) sending it by pre-paid post addressed to the recipient's postal address; or
    - (c) by faxing it to the recipient's facsimile number if provided.

**TIMING**

- 4.4 A notice is to be treated as having been received:
  - 4.4.1 at the time of delivery, if personally delivered; or
  - 4.4.2 on the second day after posting, if posted; or
  - 4.4.3 on the day of transmission, if faxed.

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### 4: NOTICE

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

### ADDRESSES

- 4.6 The address of -

- 4.6.1 Hineuru and the trustees is –

2 Hillcrest Road  
PO 13083  
**HAMILTON** 3251

- 4.6.2 the Crown is –

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

Facsimile No. 04 473 3482

**5 MISCELLANEOUS**

**AMENDMENTS**

- 5.1 This deed may be amended only by written agreement signed by the trustees and the Crown.

**ENTIRE AGREEMENT**

- 5.2 This deed, and each of the settlement documents, in relation to the matters in it, –
- 5.2.1 constitutes the entire agreement; and
  - 5.2.2 supersedes all earlier representations, understandings, and agreements.

**NO ASSIGNMENT OR WAIVER**

- 5.3 Paragraph 5.4 applies to rights and obligations under this deed or a settlement document.
- 5.4 Except as provided in this deed or a settlement document, a party –
- 5.4.1 may not transfer or assign its rights or obligations; and
  - 5.4.2 does not waive a right by–
    - (a) failing to exercise it; or
    - (b) delaying in exercising it; and
  - 5.4.3 is not precluded by a single or partial exercise of a right from exercising –
    - (a) that right again; or
    - (b) another right.

**NAMES USED AND RECORDED NAMES OF SITES**

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

**GENERAL MATTERS**

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**5: MISCELLANEOUS**

<b>Name used in deed</b>	<b>Official geographic name/Local use name</b>
Te Purotu	Upper Mohaka Domain
Taraponui-a-Kawhea	Cashes Bush Scenic Reserve
Tarawera Property	Esk Property

## 6 DEFINED TERMS

6.1 In this deed-

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

**agreement in principle** means the agreement in principle referred to in clause 1.52.2; and

**area of interest** means the area identified as the area of interest in part 1 of the attachments; and

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

**attachments** means the attachments to this deed, being the area of interest, the deed plans, the letter of introduction to core departments and non-Crown entities, the RFR land, and the draft settlement bill; and

**business day** means a day that is not -

- (a) a Saturday or a Sunday; or
- (b) if Waitangi Day or ANZAC Day falls on a Saturday or Sunday, the following Monday; or
- (c) Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, or Labour Day; or
- (d) a day in the period commencing with 25 December in any year and ending with 15 January in the following year; or
- (e) a day that is observed as the anniversary of the province of -
  - (i) Wellington; or
  - (ii) Hawke's Bay; and

**CNI deed** has the meaning given to it by clause 1.58; and

**CNI forests land** has the meaning given to it by the CNI settlement legislation; and

**CNI Iwi Collective** has the meaning given to it by the CNI settlement legislation; and

**CNI settlement legislation** means the Central North Island Forests Land Collective Settlement Act 2008; and

**CNI trustee** has the meaning given to it by clause 1.59; and

**commercial redress property** means –

(a) Part Esk Forest, being the property described in subpart A of part 3 of the property redress schedule; and

(b) an optional commercial redress property, as described in subpart B of part 3 of the property redress schedule, if the trustees give notice to the Crown, in accordance with whichever of clauses 6.2.2 to 6.2.4 is applicable, that it is to be a commercial redress property; and

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

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

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

**conservation area** has the meaning given to it by section 2(1) of the Conservation Act 1987; and

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

**conservation document** means a conservation management plan, a conservation management strategy, and a national park management plan; and

**conservation management plan** has the meaning given to it by section 2(1) of the Conservation Act 1987; and

**conservation management strategy** has the meaning given to it by section 2(1) of the Conservation Act 1987; and

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

**Crown agreed proportion** has the meaning given to it by the CNI settlement legislation; and

**Crown forest land** has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989; and

**Crown forestry licence** -

(a) has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989; and

(b) in relation to the licensed land, means the Crown Forestry Licence described in relation to that land in subpart A of part 3 of the property redress schedule; and

**Crown Forestry Rental Trust** means the trust established by the Crown forestry rental trust deed; and

**Crown forestry rental trust deed** means the trust deed made on 30 April 1990 establishing the Crown Forestry Rental Trust under section 34(1) of the Crown Forest Assets Act 1989; and

**Crown minerals protocol** means the document in part 4 of the documents schedule; and

**Crown redress** -

- (a) means redress –
  - (i) provided by the Crown to the trustees; or
  - (ii) vested by the settlement legislation in the trustees that was, immediately prior to the vesting, owned by or vested in the Crown; and
- (b) includes the right of the trustees under the settlement documentation –
  - (i) to acquire the deferred selection property; and
  - (ii) of first refusal in relation to RFR land; and
- (c) includes any part of the Crown redress; and
- (d) does not include –
  - (i) an obligation of the Crown under the settlement documentation to transfer the deferred selection property or RFR land; or
  - (ii) the deferred selection property or RFR land; and

**cultural redress** means the redress provided by or under -

- (a) part 5 of the main body of this deed; or
- (b) the settlement legislation giving effect to any of that part; and

**cultural redress payment** means the amount to be paid by the Crown under clause 5.1; and

**cultural redress property** means each property described in schedule 3 of the draft settlement bill; and

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

**deed of recognition** means each deed of recognition in part 3 of the documents schedule; and

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

**deed plan** means a deed plan in part 2 of the attachments; and



**deferred selection period** means the time period commencing from the settlement date within which the trustees may exercise their right of deferred selection in relation to the deferred selection property; and

**deferred selection property** means the property described in part 4 of the property redress schedule; and

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

**documents schedule** means the documents schedule to this deed; and

**draft settlement bill** means the draft settlement bill in part 5 of the attachments; and

**effective date** means the date that is six months after the settlement date; and

**eligible member of Hineuru** means a member of Hineuru who on 15 December 2014 was –

- (a) aged 18 years or over; and
- (b) registered on the register of members of Hineuru kept by Ngati Hineuru Iwi Incorporated for the purpose of voting on –
  - (i) the ratification, and signing, of this deed; and
  - (ii) the approval of the trustees to receive the redress; and

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

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

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

- (a) part 6 of the main body of this deed; or
- (b) the settlement legislation giving effect to any of those clauses; and

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

**general matters schedule** means this schedule; and

**Governance Entity** means the trustees; and

**GST-**

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

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

**Heritage New Zealand Pouhere Taonga** means the body corporate established by section 9 of the Heritage New Zealand Pouhere Taonga Act 2014; and

**Hineuru** has the meaning given to it by clause 8.5; and

**Hineuru Values** means the statement of Hineuru Values; and

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

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

**historical CNI forests land claims** has the meaning given to it by the CNI settlement legislation; and

**income tax** means income tax imposed under the Income Tax Act 2007 and includes, for the purposes of part 3 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of income tax; and

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

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

**land holding agency**, in relation to, -

- (a) a cultural redress property that is Tarawera property, Te Purotu, Tarawera Hot Springs site A, Tarawera Hot Springs site B, Taraponui-a-Kawhea, Waipunga Falls property and Balance of Waipunga Falls Scenic Reserve, means the Department of Conservation; and
- (b) a cultural redress property that is Former Te Haroto School and Woodstock Station property, means the Ministry of Justice (Office of Treaty Settlements); and
- (c) a commercial redress property, or the deferred selection property, means the department specified opposite that property in part 3, or part 4, as the case may be, of the property redress schedule; and

**licensed land** -

- (a) means the land described in subpart A of part 3 of the property redress schedule as licensed land (Part Esk Forest); but
- (b) excludes -
- (i) all trees growing, standing, or lying on the land; and
- (ii) all improvements that have been acquired by a purchaser of trees on the land or made, after the acquisition of the trees by the purchaser, or by the licensee; and

**LINZ** means Land Information New Zealand; and

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

**member of Hineuru** means an individual referred to in clause 8.5.1; and

**Minister** means a Minister of the Crown; and

**month** means a calendar month; and

**national park management plan** means a management plan prepared and approved for a national park in accordance with section 45-48 of the National Parks Act 1980; and

**New Zealand Conservation Authority** means the authority established under section 6A of the Conservation Act 1987; and

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

**on-account payment** means the amount to be paid by the Crown on account of the settlement under clause 6.1.1; and

**optional commercial redress property** means each property described in subpart B of part 3 of the property redress schedule, being Woodstock Station farm block, Woodstock Station forestry block, and Waitara Road, Waimahanga; and

**party** means each of the following:

- (a) Hineuru:
- (b) the trustees:
- (c) the Crown; and

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

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

**protection principles** means the protection principles in part 1 of the documents schedule; and

**protocol** means a protocol issued under clause 5.14 and the settlement legislation; and

**Rangitaiki River Forum** has the meaning given to it by clause 5.31; and

**redress** means -

- (a) the acknowledgements and the apology made by the Crown under clauses 3.1 to 3.22; and

- (b) the cultural redress; and
- (c) the financial and commercial redress; and

**redress property** means -

- (a) each cultural redress property; and
- (a) each commercial redress property; and

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

**rental proceeds** has the meaning given to it by the Crown forestry rental trust deed; and

**representative entity** means -

- (a) the trustees; and
- (b) a person (including any trustee or trustees) acting for or on behalf of:
  - (i) the collective group referred to in clause 8.5.1; or
  - (ii) any one or more members of Hineuru; or
  - (iii) any one or more of the whānau or groups of individuals referred to in clause 8.5.2; and

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

**responsible Minister** has the meaning given to it by section 27 of the draft settlement bill; and

**resumptive memorial** means a memorial entered on a certificate of title or computer register under any of the following sections:

- (a) 27A of the State-Owned Enterprises Act 1986;
- (b) 211 of the Education Act 1989;
- (c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

**RFR land** means land listed in part 4 of the attachments as RFR land that, on the settlement date, is vested in the Crown; and

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

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

**settlement date** means the date that is 20 business days after the date on which the settlement legislation comes into force; and

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

**settlement documentation** means this deed and the settlement legislation; and

**settlement legislation** means, if the bill proposed by the Crown for introduction to the House of Representatives under clause 7.1 is passed, the resulting Act; and

**statement of association** means each statement of association in part 2 the documents schedule; and

**statement of Hineuru values** means, in relation to each overlay classification site, the statement -

- (a) made by Hineuru of their values relating to their cultural, spiritual, historical, and traditional association with the site; and
- (b) that is in the form set out in part 1 of the documents schedule at the settlement date; and

**statutory acknowledgment** has the meaning given to it by section 33 of the draft settlement bill; and

**taonga tūturu protocol** means the taonga tūturu protocol in part 5 of the documents schedule; and

**tax** includes income tax and GST; and

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

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

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

**Te Kawenata** means the agreement in part 6 of the documents schedule; and

**Te Kawenata area** means the Te Kawenata area as defined in Te Kawenata; and

**Te Kōpere o te iwi o Hineuru Trust** means the trust known by that name and established by a trust deed dated 17 March 2015 and signed by Tirohia Bridger, Karauna Brown, Renata Bush, Tuhiao Kahukiwa, Ivy Kahukiwa-Smith, Te Reo Spooner and Toi Tawhai; and

**Te Korowai o Te Hā** means the sites declared subject to Te Korowai o Te Hā, being the sites referred to in clause 5.7.1; and

**terms of negotiation** means the terms of negotiation referred to in clause 1.52.1; and

**transfer value, -**

(a) in relation to a commercial redress property, means the transfer value provided in part 3 of the property redress schedule in relation to that property; and

(b) in relation to the deferred selection property, means its transfer value as agreed or determined in accordance with part 5 of the property redress schedule; and

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

**trustees** and **trustees of Te Kōpere o te iwi o Hineuru Trust** means the trustees from time to time of Te Kōpere o te iwi o Hineuru Trust, in their capacity as trustees of that trust; and

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

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

**writing** means representation in a visible form and on a tangible medium (such as print on paper).

## 7 INTERPRETATION

- 7.1 This part applies to this deed's interpretation, unless the context requires a different interpretation.
- 7.2 Headings do not affect the interpretation.
- 7.3 A term defined by –
- 7.3.1 this deed has the meaning given to it by this deed; and
  - 7.3.2 the draft settlement bill, but not by this deed, has the meaning given to it by that bill, where used in this deed.
- 7.4 All parts of speech, and grammatical forms, of a defined term have corresponding meanings.
- 7.5 The singular includes the plural and vice versa.
- 7.6 One gender includes the other genders.
- 7.7 Any monetary amount is in New Zealand currency.
- 7.8 Time is New Zealand time.

- 7.9 Something, that must or may be done on a day that is not a business day, must or may be done on the next business day.
- 7.10 A period of time specified as –
- 7.10.1 beginning on, at, or with a specified day, act, or event includes that day or the day of the act or event; or
  - 7.10.2 beginning from or after a specified day, act, or event does not include that day or the day of the act or event; or
  - 7.10.3 ending by, on, at, with, or not later than, a specified day, act, or event includes that day or the day of the act or event; or
  - 7.10.4 ending before a specified day, act or event does not include that day or the day of the act or event; or
  - 7.10.5 continuing to or until a specified day, act, or event includes that day or the day of the act or event.
- 7.11 A reference to –
- 7.11.1 an agreement or document, including this deed or a document in the documents schedule, means that agreement or that document as amended, novated, or replaced; and
  - 7.11.2 legislation, including the settlement legislation, means that legislation as amended, consolidated, or substituted; and
  - 7.11.3 a party includes a permitted successor of that party; and
  - 7.11.4 a particular Minister includes any Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the relevant matter.
- 7.12 An agreement by two or more persons binds them jointly and severally.
- 7.13 If the Crown must endeavour to do something or achieve some result, the Crown-
- 7.13.1 must use reasonable endeavours to do that thing or achieve that result; but
  - 7.13.2 is not required to propose for introduction to the House of Representatives any legislation, unless expressly required by this deed.
- 7.14 Provisions in –
- 7.14.1 the main body of this deed are referred to as clauses; and
  - 7.14.2 the property redress, and general matters, schedules are referred to as paragraphs; and
  - 7.14.3 the documents in the documents schedule are referred to as clauses; and

- 7.14.4 the draft settlement bill are referred to as sections.
- 7.15 If there is a conflict between a provision that is –
  - 7.15.1 in the main body of this deed and a provision in a schedule or an attachment, the provision in the main body of the deed prevails; and
  - 7.15.2 in English and a corresponding provision in Māori, the provision in English prevails.
- 7.16 The deed plans in the attachments that are referred to in Te Korowai o Te Hā and the statutory acknowledgement indicate the general locations of the relevant sites and areas but not their precise boundaries.
- 7.17 The deed plans in the attachments that show the cultural redress properties indicate the general locations of the relevant properties but are for information purposes only and do not show their precise boundaries. The legal descriptions for the cultural redress properties are shown in schedule 3 of the draft settlement bill.



**HINEURU**  
**and**  
**THE TRUSTEES OF TE KŌPERE O TE IWI O HINEURU TRUST**  
**and**  
**THE CROWN**

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**DEED OF SETTLEMENT SCHEDULE:**  
**PROPERTY REDRESS**

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# PROPERTY REDRESS

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## 1 DISCLOSURE INFORMATION AND WARRANTY

### DISCLOSURE INFORMATION

#### 1.1 The Crown –

1.1.1 by the Office of Treaty Settlements, has provided information about the redress properties to Ngāti Hineuru Iwi Incorporated between July 2013 to August 2013; and

1.1.1 must under paragraph 5.2.1 provide information to the trustees about the deferred selection property if the trustees have, in accordance with part 5, given the Crown notice of interest in purchasing the property.

### WARRANTY

#### 1.2 In this deed, unless the context otherwise requires, -

1.2.1 **acquired property** means -

(a) each redress property; and

(b) the deferred selection property if it is purchased under part 5; and

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

#### 1.3 The Crown warrants to the trustees, and Hineuru, that the Crown has given to Ngāti Hineuru Iwi Incorporated, and Hineuru, in its disclosure information about an acquired property all material information that, to the best of the land holding agency's knowledge, is in the agency's records about the property (including its encumbrances), at the date of providing that information, –

1.3.1 having inspected the agency's records; but

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

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

### WARRANTY LIMITS

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

1.4.1 an acquired property, including in relation to –

## PROPERTY REDRESS

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### 1: DISCLOSURE INFORMATION AND WARRANTY

- (a) its state, condition, fitness for use, occupation, or management; or
  - (b) its compliance with –
    - (i) legislation, including bylaws; or
    - (ii) any enforcement or other notice, requisition, or proceedings; or
- 1.4.2 the disclosure information about an acquired property, including in relation to its completeness or accuracy.
- 1.5 The Crown has no liability in relation to the state or condition of an acquired property, except for any liability arising as a result of a breach of paragraph 1.3.

### INSPECTION

- 1.6 In paragraph 1.7, **relevant date** means, in relation to an acquired property that is –
- 1.6.1 a redress property, the date of this deed; and
  - 1.6.2 the deferred selection property if it is purchased under part 5, the day on which the trustees give an election notice electing to purchase the property.
- 1.7 Although the Crown is not giving any representation or warranty in relation to an acquired property, other than under paragraph 1.3, the trustees acknowledge that they could, before the relevant date, –
- 1.7.1 inspect the property and determine its state and condition; and
  - 1.7.2 consider the disclosure information in relation to it.

## 2 VESTING OF CULTURAL REDRESS PROPERTIES

### SAME MANAGEMENT REGIME AND CONDITION

- 2.1 Until the settlement date, the Crown must –
  - 2.1.1 continue to manage and administer each cultural redress property in accordance with its existing practices for the property; and
  - 2.1.2 maintain each cultural redress property in substantially the same condition that it is in at the date of this deed.
- 2.2 Paragraph 2.1 does not –
  - 2.2.1 apply to a cultural redress property that is not managed and administered by the Crown; or
  - 2.2.2 require the Crown to restore or repair a cultural redress property damaged by an event beyond the Crown's control.

### ACCESS

- 2.3 Subject to paragraph 1.7, the Crown is not required to enable access to a cultural redress property for the trustees or members of Hineuru.

### COMPLETION OF REQUIRED DOCUMENTATION

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

### SURVEY AND REGISTRATION

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

**PROPERTY REDRESS**

**3 COMMERCIAL REDRESS PROPERTIES**

Address	Description	Encumbrances	Transfer value	Land holding agency
<b>SUBPART A: PART ESK FOREST: LICENSED LAND</b>				
Part Esk Forest	<p>4255.15 hectares, approximately, being Lot 1 DP 21937, Lots 1, 2, 3 and 4 DP 21993, Lot 1 DP 21994 and Lots 1, 2, 3 and 4 DP 21995.</p> <p>Subject to survey.</p>	<p>Subject to a Crown Forestry Licence comprised in Part computer interest register HBP1/1402.</p> <p>Subject to Protective covenants created by Covenant 632349.2.</p> <p>Subject to a variation of Crown Forestry License registered as Variation Instrument 6626483.3.</p> <p>Subject to a right of way over Lot 4 DP 21995 created by Transfer 204361.</p> <p>Subject to a right of way over Part Lots 1, 2, 3 and 4 DP 21995 created by Transfer E5593541.1.</p> <p>Together with a right of way in favour of Lot 1 DP 21937 comprised in Easement Certificate 572628.2.(shown A, B, C and D on DP 22072)</p> <p>Together with a right of way in</p>	\$3,550,000	Land Information New Zealand

**PROPERTY REDRESS**

**3: COMMERCIAL REDRESS PROPERTIES**

Address	Description	Encumbrances	Transfer value	Land holding agency
		<p>favour of Lot 1 DP 21994 comprised in Easement Certificate 572628.2. (shown A on SO 9380)</p> <p>Together with a right of way in favour of Lot 1 DP 21994 comprised in Easement Certificate 572628.2 (shown A SO 9385)</p> <p>Together with a right to convey and store water in favour of Lots 2 and 3 DP 21995 comprised in Easement Certificate 432736.8.</p> <p>Subject to a Notice pursuant to section 195(2) Climate Change Response Act 2002 held in Instrument 9084747.1.</p> <p>Subject to an informal agreement to Outdoor Experience. (under investigation – LINZ case ref 76172)</p> <p>Subject to a right of way over Lot 1 DP 21937 (shown A on DP 21937) (to be created – LINZ case ref 76190)</p> <p>Together with an agreement (under</p>		

## PROPERTY REDRESS

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### 3: COMMERCIAL REDRESS PROPERTIES

Address	Description	Encumbrances	Transfer value	Land holding agency
		investigation – LINZ case ref 76193)  Together with a water easement (under investigation – LINZ case ref 76198)		



**PROPERTY REDRESS**

**3: COMMERCIAL REDRESS PROPERTIES**

Address	Description	Encumbrances	Transfer value	Land holding agency
<b>SUBPART B: OPTIONAL COMMERCIAL REDRESS PROPERTIES</b>				
Woodstock Station farm block	1551.0 hectares, approximately, being Part Section 1 and Section 2 SO 10198 and Section 1 and Part Sections 2 and 3 SO 10223. Part computer freehold register 27348.  Subject to survey.	<p>Subject to section 8 Atomic Energy Act 1945.</p> <p>Subject to section 3 Geothermal Act 1953.</p> <p>Together with rights of way including rights to drive farm stock in favour of Part Section 1 SO 10198 and Part Sections 2 and 3 SO 10223 created by Certificate 572628.2.</p> <p>Subject to a right of way over Part Section 1 SO 10198 (marked B on DP 22072 and A, C and E on SO 10198), Section 2 SO 10198 (marked A on DP 22072), Section 1 and Part Sections 2 and 3 SO 10223 (marked C on DP 22072) created by Certificate 572628.2.</p> <p>Subject to a right of way (in gross) over Part Section 1 SO 10198 (marked B on SO 9375) and a right of way for public foot access (in gross) over Part Section 1 SO 10198 (marked G, H, I and J on SO 10198) created by Certificate</p>	\$4,180,000	Ministry of Justice (Office of Treaty Settlements)

**PROPERTY REDRESS**

**3: COMMERCIAL REDRESS PROPERTIES**

Address	Description	Encumbrances	Transfer value	Land holding agency
		<p>572628.2.</p> <p>Subject to Conservation Covenant 572628.3 over Part Section 1 SO 10198 (marked H and K on SO 10198).</p> <p>Subject to a right of way over Section 1 SO 10198 (marked J on SO 10198) created by <i>Gazette</i> notice 597751.1.</p> <p>Subject to a right of way over Section 1 SO 10198 (marked A on SO 465248) created by Easement Instrument 9753110.2.</p> <p>Subject to a right of way, a right to convey electricity, a right to convey telecommunications and computer media easement to be created.</p> <p>Together with a right of way, a right to convey electricity, a right to convey telecommunications and computer media easement to be created.</p> <p>Subject to a conservation covenant to be created if clause</p>		

**PROPERTY REDRESS**

**3: COMMERCIAL REDRESS PROPERTIES**

Address	Description	Encumbrances	Transfer value	Land holding agency
		<p>6.5 is applicable.</p> <p>Subject to a Notice pursuant to section 195(2) Climate Change Response Act 2002 held in Instrument 9222083.1 (affects Part Section 1 SO 10198).</p>		
Woodstock Station forestry block	411.1959 hectares, more or less, being Section 1 SO 9378 and Section 53 SO 9380. All computer freehold register 27347.	<p>Subject to section 8 Atomic Energy Act 1945.</p> <p>Subject to section 3 Geothermal Act 1953.</p> <p>Subject to a right of way over Section 1 SO 9378 (marked A on SO 9378 and A on SO 9385) and Section 53 SO 9380 (marked A on SO 9380) created by Certificate 572628.2.</p> <p>Subject to an agreement and forest management plan with PF Olsen Limited.</p> <p>Subject to a Notice pursuant to section 195(2) Climate Change Response Act 2002 registered as Instrument 8700819.5 (affects Section 53 SO 9380).</p> <p>Subject to a Notice pursuant to section 195(2) Climate</p>	\$3,050,000	Ministry of Justice (Office of Treaty Settlements)

**PROPERTY REDRESS**

**3: COMMERCIAL REDRESS PROPERTIES**

Address	Description	Encumbrances	Transfer value	Land holding agency
		Change Response Act 2002 registered as Instrument 9222083.1.		
Waitara Road, Waimahanga	0.9825 hectares, more or less, being Section 30 Block VIII Pohue Survey District. Part <i>Gazette</i> 1979 p455, Part <i>Gazette</i> 1976 p2350 and No Registration.		\$3,000	Land Information New Zealand
			<b>Total transfer values if optional commercial redress properties are commercial redress properties</b>	
			\$10,783,000	

## PROPERTY REDRESS

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### 4 DEFERRED SELECTION PROPERTY

Address	Description	Encumbrances	Valuation process	Landholding agency
State Highway 5, Tarawera	2.2041 hectares, more or less, being Suburban Section 19 Tarawera. All <i>Gazette</i> notice 636866.1.	Encumbrances available upon selection of property	Joint valuation	Land Information New Zealand

## **5 DEFERRED PURCHASE**

### **A RIGHT OF PURCHASE**

#### **NOTICE OF INTEREST**

- 5.1 The trustees may, for one year after the settlement date, give the Crown a written notice of interest in purchasing the deferred selection property.

#### **EFFECT OF NOTICE OF INTEREST**

- 5.2 If the trustees give, in accordance with this part, a notice of interest in the deferred selection property –
- 5.2.1 the Crown must, not later than 10 business days after the notification date, give the trustees all material information that, to the best of its knowledge, is in its records about the property, including its encumbrances; and
- 5.2.2 the property's transfer value must be determined or agreed in accordance with subpart B.

#### **ELECTION TO PURCHASE**

- 5.3 If the trustees give a notice of interest in the deferred selection property in accordance with this part, they must give the Crown written notice of whether or not they elect to purchase the property, by not later than 15 business days after its transfer value being determined or agreed in accordance with this part.

#### **EFFECT OF ELECTION TO PURCHASE**

- 5.4 If the trustees give an election notice electing to purchase the deferred selection property in accordance with this part, the parties are to be treated as having entered into an agreement for the sale and purchase of the property at the transfer value determined or agreed in accordance with this part, plus GST if any, on the terms in part 6 and under which, on the DSP settlement date, -
- 5.4.1 the Crown must transfer the property to the trustees; and
- 5.4.2 the trustees must pay to the Crown an amount equal to the transfer value of the property determined or agreed in accordance with this part, plus GST if any, by -
- (a) bank cheque drawn on a registered bank and payable to the Crown; or
- (b) another payment method agreed by the parties.

## PROPERTY REDRESS

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### 5: DEFERRED PURCHASE

#### B DETERMINING THE TRANSFER VALUE

##### APPLICATION OF THIS SUBPART

- 5.5 This subpart provides how the transfer value of the deferred selection property is to be determined after the trustees have given, in accordance with this part, a notice of interest in that property.
- 5.6 The market value is to be determined as at the notification date.

##### APPOINTMENT OF VALUER

- 5.7 The parties must, not later than 10 business days after the notification date, agree upon and jointly appoint a valuer.
- 5.8 If the parties do not jointly appoint a valuer in accordance with paragraph 5.7, either party may request the President of the New Zealand Institute of Valuers to appoint a valuer as soon as practicable.
- 5.9 The parties must, not later than 5 business days after the valuer's appointment, jointly instruct the valuer using the form of instructions in the appendix to this part and, if the parties do not jointly instruct the valuer in accordance with this paragraph, either party may on behalf of both parties.

##### VALUER'S QUALIFICATIONS

- 5.10 The valuer must be -
- 5.10.1 a registered valuer; and
  - 5.10.2 independent; and
  - 5.10.3 experienced in determining the market value of similar properties.

##### VALUATION REPORT

- 5.11 The valuer must, not later than 50 business days after the notification date, -
- 5.11.1 prepare a valuation report in accordance with the instructions; and
  - 5.11.2 provide each party with a copy of the valuation report.

##### TRANSFER VALUE

- 5.12 Unless the parties agree otherwise in writing the transfer value of the deferred selection property for the purposes of paragraph 5.4.2 is as provided in the valuation report as the market value for the property.

## PROPERTY REDRESS

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### 5: DEFERRED PURCHASE

#### C GENERAL PROVISIONS

##### TIME LIMITS

- 5.13 Time is of the essence for the time limits in paragraphs 5.1 and 5.3.
- 5.14 In relation to the time limits in this part, other than those referred to in paragraph 5.13, each party must use reasonable endeavours to ensure -
- 5.14.1 those time limits are met and delays are minimised; and
- 5.14.2 in particular, if a valuer appointed under this part is unable to act, a replacement is appointed as soon as is reasonably practicable.

##### DETERMINATION FINAL AND BINDING

- 5.15 The valuer's determination under subpart B is final and binding.

##### COSTS

- 5.16 The Crown must pay the valuer's costs in relation to the determination of the transfer value of the deferred selection property.

##### ENDING OF OBLIGATIONS

- 5.17 The Crown's obligations under this deed in relation to the deferred selection property immediately cease if -
- 5.17.1 the trustees -
- (a) do not give notice of interest in relation to the property in accordance with paragraph 5.1; or
  - (b) give notice of interest in relation to the property in accordance with paragraph 5.1 but the trustees -
    - (i) give an election notice under which they elect not to purchase the property; or
    - (ii) do not give an election notice in accordance with paragraph 5.3 electing to purchase the property; or
  - (c) give the Crown written notice that they are not interested in purchasing the property at any time before an agreement for the sale and purchase of the property is constituted under paragraph 5.4; or
  - (d) do not comply with any obligation in relation to the property under subpart B; or



## PROPERTY REDRESS

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### 5: DEFERRED PURCHASE

- 5.17.2 an agreement for the sale and purchase of the property is constituted under paragraph 5.4 and the agreement is cancelled in accordance with the terms of transfer in part 6.

## PROPERTY REDRESS

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### 5: DEFERRED PURCHASE

#### APPENDIX

*Valuer's name*]

*[Address]*

#### Valuation instructions

#### INTRODUCTION

The trustees of Te Kōpere o te iwi Hineuru Trust (the **governance entity**) have the right under a deed of settlement to purchase the property referred to below from [*name*] (the **land holding agency**).

This right is given by:

- (a) clause 6.9 of the deed of settlement; and
- (b) part 5 of the property redress schedule to the deed of settlement (**part 5**).

#### PROPERTY TO BE VALUED

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

*[describe the property including its legal description]*

#### DEED OF SETTLEMENT

A copy of the deed of settlement is enclosed.

Your attention is drawn to part 5.

All references in this letter to subparts or paragraphs are to subparts or paragraphs of part 5.

## PROPERTY REDRESS

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### 5: DEFERRED PURCHASE

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

#### ASSESSMENT OF MARKET VALUE REQUIRED

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

The market value of the property assessed by you will be the basis of establishing the transfer value at which the governance entity may elect to purchase the property under part 5, plus GST (if any).

#### REQUIREMENTS FOR YOUR VALUATION

Our requirements for your valuation are as follows.

You are to assume that -

- (a) the property is a current asset and was available for immediate sale as at the valuation date; and
- (b) all legislative processes that the Crown must meet before disposing of the property have been met.  
Your valuation is -
  - (a) to assess market value on the basis of market value as defined in the current edition of the Australia and New Zealand Valuation and Property Standards [2009] and International Valuation Standards [2012]; and
  - (b) to take into account -
    - (i) any encumbrances, interests, or other matters affecting or benefiting the property that were noted on its title on the valuation date; and
    - (ii) the attached disclosure information about the property that has been given by the land holding agency to the governance entity, including the disclosed encumbrances; and
    - (iii) the terms of transfer in part 6 of the property redress schedule to the deed of settlement (that will apply to a purchase of the property by the governance entity); but
  - (c) not to take into account a claim in relation to the property by, or on behalf of, Hineuru (the settling group).

## PROPERTY REDRESS

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### 5: DEFERRED PURCHASE

#### REQUIREMENTS FOR YOUR VALUATION REPORT

We require a full valuation report in accordance with the current edition of the Australia and New Zealand Valuation and Property Standards [2009] and International Valuation Standards [2012], including -

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

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

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

#### ACCEPTANCE OF THESE INSTRUCTIONS

By accepting these instructions, you agree to comply with these instructions and, in particular, not later than:

- (a) 30 business days after the valuation date, to prepare and deliver to each of us a draft valuation report; and
- (b) 50 business days after the valuation date, to:
  - (i) review your draft valuation report after taking into account any comments made by us or a peer review of the report obtained by us; and

## PROPERTY REDRESS

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### 5: DEFERRED PURCHASE

- (ii) deliver a copy of your final valuation report to each of us.

#### OPEN AND TRANSPARENT VALUATION

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

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

Yours faithfully

**[Name of signatory]**

**[Position]**

**[Governance entity]**

**[Name of signatory]**

**[Position]**

**[Land holding agency]**

## **6 TERMS OF TRANSFER FOR COMMERCIAL REDRESS AND PURCHASED DEFERRED SELECTION PROPERTIES**

### **APPLICATION OF THIS PART**

- 6.1 This part applies to the transfer by the Crown to the trustees of each of the following properties (a **transfer property**):
- 6.1.1 each commercial redress property, under clause 6.3; and
  - 6.1.2 the deferred selection property, under paragraph 5.4.1, if it is purchased under part 5.

### **TRANSFER**

- 6.2 The Crown must transfer the fee simple estate in a transfer property to the trustees subject to, and where applicable with the benefit of, -
- 6.2.1 the disclosed encumbrances affecting or benefiting the property (as they may be varied by a non-material variation, or a material variation entered into under paragraph 6.18.4(a));and
  - 6.2.2 any additional encumbrances affecting or benefiting the property entered into by the Crown under paragraph 6.18.4(b); and
  - 6.2.3 if the transfer property is a commercial redress property, any encumbrances in relation to that property that the trustees are required to provide to the Crown on or by the settlement date under clause 6.4.2.
- 6.3 The Crown must pay any survey and registration costs required to transfer the fee simple estate in a transfer property to the trustees.

### **POSSESSION**

- 6.4 Possession of a transfer property must, on the TSP settlement date for the property, –
- 6.4.1 be given by the Crown; and
  - 6.4.2 taken by the trustees; and
  - 6.4.3 be vacant possession subject only to any encumbrances referred to in paragraph 6.2.1 that prevent vacant possession being given and taken.

### **SETTLEMENT**

- 6.5 Subject to paragraphs 6.6 and 6.44.3, the Crown must provide the trustees with the following in relation to a transfer property on the TSP settlement date for that property:

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- 6.5.1 evidence of –
- (a) a registrable transfer instrument; and
  - (b) any other registrable instrument required by this deed in relation to the property:
- 6.5.2 all contracts and other documents (but not public notices such as proclamations and *Gazette* notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the TSP settlement date.
- 6.6 If the fee simple estate in the transfer property may be transferred to the trustees electronically under the relevant legislation, –
- 6.6.1 paragraph 6.5.1 does not apply; and
- 6.6.2 the Crown must ensure its solicitor, –
- (a) a reasonable time before the TSP settlement date for the property, –
    - (i) creates a Landonline workspace for the transfer to the trustees of the fee simple estate in the property and for any other registrable instruments required by the deed in relation to the property (the **electronic transfer instruments**); and
    - (ii) prepares, certifies, signs, and pre-validates in the Landonline workspace the electronic transfer instruments; and
  - (b) on the TSP settlement date, releases the electronic transfer instruments so that the trustees' solicitor may submit them for registration under the relevant legislation; and
- 6.6.3 the trustees must ensure their solicitor, a reasonable time before the TSP settlement date, certifies and signs the electronic transfer instruments for the property prepared in the Landonline workspace under paragraph 6.6.2(a)(ii); and
- 6.6.4 paragraphs 6.6.2 and 6.6.3 are subject to paragraph 6.44.3.
- 6.7 The **relevant legislation** for the purposes of paragraph 6.6 is –
- 6.7.1 the Land Transfer Act 1952; and
  - 6.7.2 the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- 6.8 The Crown must, on the actual TSP settlement date for a transfer property, provide the trustees with any key or electronic opener to a gate or door on, and any security code to an alarm for, the property that are held by the Crown.
- 6.9 The transfer value of, or the amount payable by the trustees for, a transfer property is not affected by –
- 6.9.1 a non-material variation, or a material variation entered into under paragraph 6.18.4(a), of a disclosed encumbrance affecting or benefiting the property; or
  - 6.9.2 an additional encumbrance affecting or benefiting the property entered into by the Crown under paragraph 6.18.4(b).

### APPORTIONMENT OF OUTGOINGS AND INCOMINGS

- 6.10 If, as at the actual TSP settlement date for a transfer property, -
- 6.10.1 the outgoings for the property pre-paid by the Crown for any period after that date exceed the incomings received by the Crown for any period after that date, the trustees must pay the amount of the excess to the Crown; or
  - 6.10.2 the incomings for the property received by the Crown for any period after that date exceed the outgoings for the property pre-paid by the Crown for any period after that date, the Crown must pay the amount of the excess to the trustees.
- 6.11 The outgoings for a transfer property for the purposes of paragraph 6.10 do not include insurance premiums and the trustees are not required to take over from the Crown any contract of insurance in relation to the property.
- 6.12 The incomings for the licensed land for the purposes of paragraph 6.10 do not include licence fees under the Crown forestry licence.
- 6.13 An amount payable under paragraph 6.10 in relation to a transfer property must be paid on the actual TSP settlement date for the property.
- 6.14 The Crown must, before the actual TSP settlement date for a transfer property, provide the trustees with a written statement calculating the amount payable by the trustees or the Crown under paragraph 6.10.

### FIXTURES, FITTINGS, AND CHATTELS

- 6.15 The transfer of a transfer property includes all fixtures and fittings that were owned by the Crown, and located on the property, on the first date of the transfer period for that property.
- 6.16 Fixtures and fittings transferred under paragraph 6.15 must not be mortgaged or charged.
- 6.17 The transfer of a transfer property does not include chattels.



## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

#### OBLIGATIONS AND RIGHTS DURING THE TRANSFER PERIOD

- 6.18 The Crown must, during the transfer period for a transfer property, -
- 6.18.1 ensure the property is maintained in substantially the same condition, fair wear and tear excepted, as it was in at the first day of the period; and
  - 6.18.2 pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the property, except where those charges are payable by a tenant or occupier to the supplier; and
  - 6.18.3 ensure the Crown's obligations under the Building Act 2004 are complied with in respect of any works carried out on the property during the period –
    - (a) by the Crown; or
    - (b) with the Crown's written authority; and
  - 6.18.4 obtain the prior written consent of the trustees before –
    - (a) materially varying a disclosed encumbrance affecting or benefiting the property; or
    - (b) entering into an encumbrance affecting or benefiting the property; or
    - (c) procuring a consent, providing a waiver, or giving an approval, that materially affects the property, under the Resource Management Act 1991 or any other legislation; and
  - 6.18.5 use reasonable endeavours to obtain permission for the trustees to enter and inspect the property under paragraph 6.19.2 if the trustees are prevented from doing so by the terms of an encumbrance referred to in paragraph 6.2.
- 6.19 The trustees, during the transfer period in relation to a transfer property, -
- 6.19.1 must not unreasonably withhold or delay any consent sought under paragraph 6.18.4 in relation to the property; and
  - 6.19.2 may enter and inspect the property on one occasion –
    - (a) after giving reasonable notice; and
    - (b) subject to the terms of the encumbrances referred to in paragraph 6.2; and
  - 6.19.3 must comply with all reasonable conditions imposed by the Crown in relation to entering and inspecting the property.

#### PRE-TRANSFER OBLIGATIONS AND RIGHTS IN RELATION TO LICENSED LAND

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- 6.20 During the transfer period for the licensed land, the Crown-
- 6.20.1 must prudently manage the licensor's rights under the Crown forestry licence in relation to the licensed land; and
  - 6.20.2 in reviewing the licence fee under the Crown forestry licence, -
    - (a) must ensure that, so far as reasonably practicable, the trustees' interests as licensor after the settlement date are not prejudiced; and
    - (b) must not agree a licence fee for the licensed land that is less than any licence fee agreed to by the Crown for the balance of the land that is subject to the Crown forestry licence; and
  - 6.20.3 must provide the trustees with all material information, and must have regard to the trustees' written submissions, in relation to the performance of the Crown's obligations under paragraphs 6.20.1 and 6.20.2; and
  - 6.20.4 must, so far as is reasonably practicable, provide the information to the trustees under paragraph 6.20.3 in sufficient time to enable them to make effective submissions on the performance of the Crown's obligations under paragraphs 6.20.1 and 6.20.2; but
  - 6.20.5 is not required to provide information to the trustees under paragraph 6.20.3 if that would result in the Crown breaching a confidentiality obligation.

### SPLITTING OF CROWN FORESTRY LICENCE

- 6.21 If the Crown has not completed the processes (the **licence-splitting process**) referred to in section 117(1)(b) of the Maungaharuru-Tangitū Hapū Claims Settlement Act 2014 (being the processes described in clause 17.4 of the Crown forestry licence in relation to the licensed land referred to in that Act (Part Esk Forest)), the Crown must carry out, and use reasonable endeavours to complete, that licence-splitting process that will, in particular, enable -
- 6.21.1 the granting of separate licences to the licensee under the Crown forestry licence by -
    - (a) the trustees, in relation to the licensed land; and
    - (b) the Crown in relation, to the balance of the land that is subject to the Crown forestry licence; and
  - 6.21.2 the protection after the settlement date of the interests of the trustees, the Crown, and the licensee in respect of the licensed land and the balance of the land that is subject to the Crown forestry licence, including –
    - (a) the shared use of roading and other facilities; and
    - (b) rights of access; and

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

(c) the sharing of outgoings.

6.22 The trustees acknowledge and agree that -

6.22.1 the licence-splitting process in relation to the licensed land may not be completed until after the settlement date; and

6.22.2 the trustees must -

(a) provide any assistance reasonably required by the Crown to assist with the licence-splitting process; and

(b) sign all documents, and do all other things, required of it as owner of the licensed land to give effect to the matters agreed or determined under the licence-splitting process.

#### SPLITTING OF LICENCE FEE

6.23 Until completion of the licence splitting process in relation to the licensed land, unless otherwise agreed by the trustees as licensor, the trustees of the Maungaharuru-Tangitū Trust as licensor of the licensed land (Part Esk Forest) referred to in the Maungaharuru-Tangitū Hapū Claims Settlement Act 2014, and the licensee under the Crown forestry licence, and the Crown, the licence fee under the Crown forestry licence attributable to the licensed land is to be calculated in accordance with the following formula:

$$A \times (B \div C)$$

6.24 For the purposes of the formula in paragraph 6.23 –

**A** is the licence fees under the Crown forestry licence; and

**B** is the area of licensed land; and

**C** is the area of land covered by the Crown forestry licence.

#### OBLIGATIONS AFTER SETTLEMENT

6.25 The Crown must –

6.25.1 give the relevant territorial authority notice of the transfer of a transfer property immediately after the actual TSP settlement date for the property; and

6.25.2 if it receives a written notice in relation to a transfer property from the Crown, a territorial authority, or a tenant after the actual TSP settlement date for the property, -

(a) comply with it; or

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- (b) provide it promptly to the trustees or their solicitor; or
- 6.25.3 pay any penalty incurred by the trustees to the person providing the written notice as a result of the Crown not complying with paragraph 6.25.2.
- 6.26 The trustees must, from the settlement date, comply with the licensor's obligations under the Crown forestry licence in relation to the licensed land –
  - 6.26.1 including the obligation to -
    - (a) repay any overpayment of licence fees by the licensee; and
    - (b) pay interest arising on or after the settlement date on that overpayment; but
  - 6.26.2 not including the Crown's obligations under clause 17.4 of the Crown forestry licence.

### RISK AND INSURANCE

- 6.27 A transfer property is at the sole risk of -
  - 6.27.1 the Crown, until the actual TSP settlement date for the property; and
  - 6.27.2 the trustees, from the actual TSP settlement date for the property.

### DAMAGE AND DESTRUCTION

- 6.28 Paragraphs 6.29 to 6.37 apply if, before the actual TSP settlement date for a transfer property, -
  - 6.28.1 the property is destroyed or damaged; and
  - 6.28.2 the destruction or damage has not been made good.
- 6.29 Paragraph 6.30 applies if the transfer property is –
  - 6.29.1 a commercial redress property (other than licensed land); or
  - 6.29.2 the deferred selection property; and
  - 6.29.3 as a result of the destruction or damage, the property is not tenatable.
- 6.30 Where this paragraph applies, the trustees may cancel its transfer by written notice to the Crown.
- 6.31 Notice under paragraph 6.30 must be given before the actual TSP settlement date.

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- 6.32 Paragraph 6.33 applies if the property is –
- 6.32.1 licensed land; or
  - 6.32.2 a commercial redress property (other than licensed land), or the deferred selection property, that -
    - (a) despite the destruction or damage, is tenantable; or
    - (b) as a result of the damage or destruction, is not tenantable, but its transfer is not cancelled under paragraph 6.30 before the actual TSP settlement date.
- 6.33 Where this paragraph applies –
- 6.33.1 the trustees must complete the transfer of the property in accordance with this deed; and
  - 6.33.2 the Crown must pay the trustees -
    - (a) the amount by which the value of the property has diminished, as at the actual TSP settlement date for the property, as a result of the destruction or damage;
    - (b) plus GST if any.
- 6.34 The value of the property for the purposes of paragraph 6.33.2 is to be –
- 6.34.1 in the case of a commercial redress property, its transfer value as provided in part 3; or
  - 6.34.2 in the case of the deferred selection property, its transfer value as determined or agreed in accordance with part 5.
- 6.35 An amount paid by the Crown under paragraph 6.33.2 –
- 6.35.1 is redress, if it relates to the destruction or damage of a commercial redress property; and
  - 6.35.2 is a partial refund of the purchase price if it relates to the destruction or damage of the deferred selection property.
- 6.36 Each party may give the other notice -
- 6.36.1 requiring a dispute as to the application of paragraphs 6.30 to 6.35 be determined by an arbitrator appointed by the Arbitrators' and Mediators' Institute of New Zealand; and

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- 6.36.2 referring the dispute to the arbitrator so appointed for determination under the Arbitration Act 1996.
- 6.37 If a dispute as to the application of paragraphs 6.30 to 6.35 is not determined by the TSP settlement date, the date the parties must comply with their obligations on the transfer of the property is to be –
- 6.37.1 the fifth business day following the determination of the dispute; or
- 6.37.2 if an arbitrator appointed under paragraph 6.36 so determines, another date including the original TSP settlement date.

### BOUNDARIES AND TITLE

- 6.38 The Crown is not required to point out the boundaries of a transfer property.
- 6.39 If a transfer property is subject only to the encumbrances referred to in paragraph 6.2 and the trustees -
- 6.39.1 are to be treated as having accepted the Crown's title to the property as at the actual TSP settlement date; and
- 6.39.2 may not make any objections to, or requisitions on, it.
- 6.40 An error or omission in the description of a transfer property or its title does not annul its transfer.

### FENCING

- 6.41 The Crown is not liable to pay for, or contribute towards, the erection or maintenance of a fence between a transfer property and any contiguous land of the Crown, unless the Crown requires the fence, in which case the provisions of the Fencing Act 1978 will prevail.
- 6.42 Paragraph 6.41 does not continue for the benefit of a purchaser from the Crown of land contiguous to a transfer property.
- 6.43 The Crown may require a fencing covenant to the effect of paragraphs 6.41 and 6.42 to be registered against the title to a transfer property.

### DELAYED TRANSFER OF TITLE

- 6.44 The Crown covenants for the benefit of the trustees that it will –
- 6.44.1 arrange for the creation of one computer freehold register for licensed land that is subject to a particular Crown forestry licence if that land -
- (a) is not contained in one computer freehold register; or

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- (b) is contained in one computer freehold register but together with other land; and
- 6.44.2 arrange for the creation of a computer freehold register for the land of a transfer property for land that -
  - (a) is not licensed land; and
  - (b) is not contained in a computer freehold register; or
  - (c) is contained in a computer freehold register or registers but together with other land; and
- 6.44.3 transfer (in accordance with paragraph 6.5 or 6.6, whichever is applicable) the fee simple estate in a transfer property to which paragraph 6.44.1 or 6.44.2 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the settlement date.
- 6.45 If paragraph 6.44.3 applies to a transfer property, and paragraph 6.6 is applicable, the trustees must comply with their obligations under paragraph 6.6.3 by a date specified by written notice by the Crown.
- 6.46 The covenant given by the Crown under paragraph 6.44 has effect and is enforceable, despite:
  - 6.46.1 being positive in effect; and
  - 6.46.2 there being no dominant tenement.
- 6.47 If paragraph 6.44 applies then, for the period from the actual TSP settlement date until the date that the Crown transfers the fee simple estate in the transfer property to the trustees -
  - 6.47.1 the trustees will be the beneficial owner of the property; and
  - 6.47.2 all obligations and rights will be performed and arise as if the fee simple estate had been transferred to the trustees on the actual TSP settlement date; and
  - 6.47.3 the trustees may not serve a settlement notice under paragraph 6.50.

### INTEREST

- 6.48 If for any reason (other than the default of the Crown) all or any of the amount payable by the trustees to the Crown in relation to the purchased deferred selection property is not paid on the TSP settlement date -

## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- 6.48.1 the Crown is not required to give possession of the property to the trustees; and
- 6.48.2 the trustees must pay the Crown default interest at the rate of 12% per annum on the unpaid amount (plus GST if any) for the period from the TSP settlement date to the actual TSP settlement date.
- 6.49 Paragraph 6.48 is without prejudice to any of the Crown's other rights or remedies available to the Crown at law or in equity.

#### SETTLEMENT NOTICE

- 6.50 If, without the written agreement of the parties, settlement of the purchased deferred selection property is not effected on the TSP settlement date -
- 6.50.1 either party may at any time after the TSP settlement date serve notice on the other (a **settlement notice**) requiring the other to effect settlement; but
- 6.50.2 the settlement notice is effective only if the party serving it is -
- (a) ready, able, and willing to effect settlement in accordance with the settlement notice; or
  - (b) not ready, able, and willing to effect settlement only by reason of the default or omission of the other party; and
- 6.50.3 upon service of a settlement notice, the party on which it is served must effect settlement within 10 business days after the date of service (excluding the date of service); and
- 6.50.4 time is of the essence under paragraph 6.50.3; and
- 6.50.5 if the party in default does not comply with the terms of a settlement notice, the other party may cancel the agreement constituted by paragraph 5.4.
- 6.51 Paragraph 6.50, and the exercise of rights under it, is without prejudice to any other rights or remedies, at law, in equity, or otherwise, that the party not in default may have.

#### FURTHER ASSURANCES

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

#### NON-MERGER

- 6.53 On transfer of a transfer property to the trustees -



## PROPERTY REDRESS

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### 6: TERMS OF TRANSFER

- 6.53.1 the provisions of this part will not merge; and
- 6.53.2 to the extent any provision of this part has not been fulfilled, it will remain in force.

#### GST

- 6.54 When the trustees give a written notice of election to purchase under part 5, they must include in that notice the following information in relation to the factual situation that will exist at the DSP settlement date and warrant the correctness of that information –
  - 6.54.1 whether or not the trustees are a registered person for GST purposes; and
  - 6.54.2 the trustees' registration number (if any); and
  - 6.54.3 whether or not the trustees intend to use the property for the purposes of making taxable supplies; and
  - 6.54.4 whether or not the trustees intend to use the property as a principal place of residence of the trustees or a person associated with the trustees under section 2A(1)(c) of the Goods and Services Tax Act 1985.
- 6.55 If any of that information provided in the election to purchase notice alters before the DSP settlement date, the trustees must forthwith notify the Crown and warrant the correctness of that altered information.
- 6.56 If the information provided (subject to alteration, if any) indicates that, at the DSP settlement date, each of the following statements is correct and the supply of the property is a taxable supply by the Crown, the parties agree that GST will apply to the supply at the rate of zero percent:
  - 6.56.1 the trustees are a registered person for GST purposes; and
  - 6.56.2 the trustees intend to use the property for the purposes of making taxable supplies; and
  - 6.59.3 the trustees do not intend to use the property as a principal place of residence of the trustees or a person associated with the trustees under section 2A(1)(c) of the Goods and Services Tax Act 1985.

## PROPERTY REDRESS

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### 7 NOTICE IN RELATION TO REDRESS AND DEFERRED SELECTION PROPERTIES

- 7.1 If this schedule requires the trustees to give notice to the Crown in relation to or in connection with a redress property, or the deferred selection property, the trustees must give the notice in accordance with part 4 of the general matters schedule, except the notice must be addressed to the land holding agency for the property at its address or facsimile number provided –
- 7.1.1 in paragraph 7.2; or
- 7.1.2 if the land holding agency has given notice to the trustees of a new address or facsimile number, in the most recent notice of a change of address or facsimile number.
- 7.2 Until any other address or facsimile number of a land holding agency is given by notice to the trustees, the address of each land holding agency is as follows for the purposes of giving notice to that agency in accordance with this part.

<b>Land holding agency</b>	<b>Address and facsimile number</b>
Land Information New Zealand	Radio New Zealand House 155 The Terrace PO Box 5501 Wellington Fax +64 4 472 2244
Ministry of Justice (Office of Treaty Settlements)	Level 3, The Vogel Centre 19 Aitken Street SX 10111 Wellington Fax +64 4 494 9801

## 8 DEFINITIONS

8.1 In this schedule, unless the context otherwise requires, **party** means each of the trustees and the Crown.

8.2 In this deed, unless the context otherwise requires, -

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

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

**deferred selection property** means the property described in part 4; and

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

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

**DSP settlement date**, in relation to the deferred selection property if it is purchased under part 5, means the date that is 20 business days after the Crown receives an election notice from the trustees electing to purchase the property; and

**election notice** means a written notice given by the trustees in accordance with paragraph 5.3 electing whether or not to purchase the deferred selection property; and

**licence-splitting process** has the meaning given to it by paragraph 6.21; and

**market value**, in relation to the deferred selection property, has the meaning provided in the valuation instructions in the appendix to part 5; and

**notice of interest**, in relation to the deferred selection property, means a notice given by the trustees under paragraph 5.1 in relation to the property; and

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

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

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

**settlement notice** has the meaning given to it by paragraph 6.50.1; and

**terms of transfer** means the terms of transfer set out in part 6; and

## GENERAL MATTERS

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### 7: INTERPRETATION

**transfer property** has the meaning given to it by paragraph 6.1; and

**transfer period** means, in relation to –

- (a) a commercial redress property, the period from the date of this deed to its actual TSP settlement date; and
- (b) the deferred selection property, the period from the notification date for that property to its actual TSP settlement date; and

**transfer value**, in relation to the deferred selection property, means the amount payable by the trustees for the transfer of the property determined or agreed in accordance with part 5; and

**trustees of the Maungaharuru-Tangitū Trust** has the meaning given to it by the Maungaharuru-Tangitū Hapū Claims Settlement Act 2014; and

**TSP settlement date** means, in relation to –

- (a) a commercial redress property, the settlement date (as defined in paragraph 6.1 of the general matters schedule); and
- (b) the deferred selection property if it is purchased under part 5, the DSP settlement date for the property; and

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