

DEED GRANTING A RIGHT OF FIRST REFUSAL

THIS DEED is made

BETWEEN

Trevor Edward Birch, Erana Menge Clarkson, Isobel Florence Hutchins, Stephen Cassidy Naera, Alexander Nathan, William George Ngakuru, Thalea Tracey Pompey, Marama Rewa, Taoho Snow Tane, Oriana Venus Te Rore Taoho, Rangiora Timutimu, Winika Tuhiwai as Trustees of the Te Roroa Manawhenua Trust (the "Governance Entity")

AND

HER MAJESTY THE QUEEN in right of New Zealand (the "Crown").

BACKGROUND

- A. Te Roroa and the Crown are parties to a deed of settlement (the "Deed of Settlement") to settle the Historical Claims of Te Roroa dated 17 December 2005.
- B. Under clauses 11.22 and 11.23 of the Deed of Settlement, it was agreed that (if that Deed of Settlement became unconditional) the Crown and the Governance Entity would enter into this Deed.
- C. The Te Roroa Claims Settlement Act 2008 (the "Settlement Act") has come into force and the Deed of Settlement has become unconditional.

IT IS AGREED as follows:

1. NOTICE TO BE GIVEN BEFORE DISPOSING OF AN RFR PROPERTY

Crown must give RFR Notice

- 1.1 The Crown must, before Disposing of an RFR Property, give an RFR Notice to the Governance Entity in respect of the property. The RFR Notice must specify any encumbrances affecting the property.

Crown may withdraw RFR notice

- 1.2 The Crown may withdraw an RFR Notice at any time before the Governance Entity accepts under clause 2.1 the offer in that notice.
- 1.3 If the Crown withdraws an RFR Notice, this Deed still applies to the RFR Property and, in particular, the Crown must give another RFR Notice before it Disposes of the RFR Property.

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3.1.4 must, promptly after entering into an agreement to Dispose of the RFR Property to a purchaser or lessee:

- (a) give Notice to the Governance Entity of that fact; and
- (b) disclose the terms of that agreement; and

3.1.5 must not Dispose of the RFR Property after the end of the two year period after the Expiry Date without first giving an RFR Notice to the Governance Entity under clause 1.1.

4. RE-OFFER REQUIRED

4.1 If:

4.1.1 the Crown gives the Governance Entity an RFR Notice;

4.1.2 the Governance Entity does not accept the offer set out in the RFR Notice by Notice to the Crown by the Expiry Date; and

4.1.3 the Crown during the period of two years from the Expiry Date proposes to Dispose of the RFR Property but at a price, or on other terms and conditions, more favourable to the purchaser or lessee than the terms and conditions in the RFR Notice,

the Crown may do so only if it first offers the RFR Property for Disposal on those more favourable terms and conditions to the Governance Entity in another RFR Notice under clause 1.1.

5. TERMS OF THIS DEED NOT TO AFFECT CERTAIN RIGHTS AND RESTRICTIONS

5.1 Nothing in this Deed affects, or limits, and the rights and obligations created by this Deed are subject to:

5.1.1 the terms of any gift, endowment, or trust relating to any RFR Property existing before the Settlement Date;

5.1.2 the rights of any holders of mortgages over, or of security interests in, any RFR Property;

5.1.3 any requirement at common law or under legislation that:

- (a) must be complied with before any RFR Property is Disposed of to the Governance Entity; or
- (b) the Crown must Dispose of an RFR Property to a third party;

5.1.4 any feature of the title to any RFR Property that prevents or limits the Crown's right to Dispose of the RFR Property to the Governance Entity; and

5.1.5 any legal requirement that:

- (a) prevents or limits the Crown's ability to Dispose of an RFR Property to the

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Governance Entity; and

- (b) the Crown cannot satisfy after taking reasonable steps to do so (and, for the avoidance of doubt, reasonable steps do not include changing the law).

6. THIS DEED DOES NOT APPLY IN CERTAIN CASES

Disposal to certain persons are exempt

6.1 Clause 1.1 does not apply if the Crown is Disposing of an RFR Property to:

6.1.1 the Governance Entity or a Nominated Transferee;

6.1.2 a person to give effect to this Deed or to the Deed of Settlement;

6.1.3 a person by way of gift for charitable purposes;

6.1.4 the existing tenant of a house on the RFR Property that is held on the Settlement Date for education purposes by the Crown;

6.1.5 the lessee under a lease of the RFR Property if such Disposal is constituted by a grant of a new lease to the lessee under a right of, or option for, renewal, or under another right of the lessee to take a further lease under the provisions of the lease;

6.1.6 a person under a Disposal arising from a legal requirement on the Crown to consent to an assignment, subletting or other parting with possession of the RFR Property (or any part of it) at the request of the lessee of the RFR Property or otherwise;

6.1.7 a person who is being granted a lease of the RFR Property in accordance with a legal right created on or before the Settlement Date;

6.1.8 the lessee under a lease of an RFR Property granted, on or before the Settlement Date (or granted after that date but in renewal of a lease granted on or before that date), under:

- (a) section 66 of the Land Act 1948;
- (b) section 67 of the Land Act 1948;
- (c) section 93(4) of the Land Act 1948; or
- (d) the Crown Pastoral Lands Act 1998;

6.1.9 a person to whom the Crown:

- (a) must offer to sell the RFR Property under sections 40(2) or 41 of the Public Works Act 1981 (or those sections as applied by any other legislation); or

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6.1.14 a person who, immediately before the Disposal, holds a legal right created on or before the Settlement Date to:

- (a) purchase the RFR Property; or
- (b) be offered the first opportunity to purchase the RFR Property.

Disposals to Crown Bodies exempt

6.2 Clause 1.1 does not apply to the Disposal of an RFR Property to a Crown Body, if that Crown Body takes that RFR Property subject to the terms of this Deed and enters into a deed (at the Crown's expense) in favour of the Governance Entity in the form set out in schedule 2.

6.3 A Crown Body to whom an RFR Property is being Disposed of under clauses 3.1, 5 or 6.1 is not required to enter into a deed under clause 6.2.

Disposals for public works exempt

6.4 Clause 1.1 does not apply to the Disposal of an RFR Property to a local authority under section 50 of the Public Works Act 1981, if that local authority takes that RFR Property subject to the terms of this Deed and enters into a deed (at the Crown's expense) in favour of the Governance Entity in the form set out in schedule 2.

6.5 Clause 1.1 does not apply to the Disposal of an RFR Property which:

6.5.1 immediately before the Disposal is held by the Crown for a public work (as defined in the Public Works Act 1981); and

6.5.2 after the Disposal will be held or used for the purpose or activity which, immediately before the Disposal, constituted the public work,

if the person to whom the RFR Property is Disposed of takes the RFR Property subject to the terms of this Deed and enters into a deed (at the Crown's expense) in favour of the Governance Entity in the form set out in schedule 3.

6.6 A local authority, or a person, to whom an RFR Property is being Disposed of under clauses 3.1, 5 or 6.1 is not required to enter into a Deed under clauses 6.4 or 6.5.

Governance Entity to consent

6.7 The Governance Entity must sign a deed in the form set out in schedule 2 or schedule 3 if that deed is in accordance with clauses 6.2, 6.4 or 6.5 and is presented to it for signature.

Disposal under Public Works Act 1981

6.8 Clause 1.1 does not apply to the Disposal of an RFR Property under an order of the Maori Land Court under section 41(e) of the Public Works Act 1981 and section 134 of Te Ture Whenua Maori Act 1993.

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Disposal of or by Crown Bodies

6.9 Nothing in this Deed:

6.9.1 affects or limits the right of the Crown or a Crown Body to sell or dispose of a Crown Body;

6.9.2 requires any offer to the Governance Entity in respect of such sale or disposal before that Crown Body is sold or disposed of.

7. NOTICE OF CERTAIN DISPOSALS

7.1 The Crown will advise the Governance Entity:

7.1.1 in an agreed manner of a Disposal of an RFR Property under clauses 5 or 6; and

7.1.2 as soon as reasonably practicable after Disposal of that RFR Property (or in such other time frame as may be agreed between the Crown and the Governance Entity).

8. TIME LIMITS

8.1 Time is of the essence for the time limits imposed on the Crown and the Governance Entity under this Deed.

8.2 The Crown and the Governance Entity may agree in writing to an extension of a time limit.

9. TERM OF RIGHT OF FIRST REFUSAL

Term of RFR

9.1 The obligations of the Crown set out in this Deed begin on the Settlement Date and end 50 years after that Date.

RFR ends on Disposal which complies with this Deed

9.2 The obligations of the Crown under this Deed end in respect of each RFR Property on a transfer of the estate in fee simple of the RFR Property in accordance with this Deed.

10. DISPOSAL OF MORE THAN ONE PROPERTY

10.1 An offer made by the Crown under clause 1.1 may be in respect of more than one RFR Property, but this Deed applies to that offer as if all the RFR Properties included in the offer were a single RFR Property.

11. NOTICES

11.1 The provisions of this clause apply to Notices under this Deed:

Notices to be signed

11.1.1 the Party giving a Notice must sign it;

Notice to be in writing

11.1.2 a Notice to a Party must be in writing addressed to that Party at that Party's address or facsimile number;

Addresses for notice

11.1.3 until any other address or facsimile number of a Party is given by Notice to the other Party, they are as follows:

The Crown:

The Solicitor-General
Crown Law Office
Level 10
Unisys House
56 The Terrace
(PO Box 2858)
WELLINGTON

Facsimile No: 04 473-3482;

Governance Entity:

The Trustees of the Te Roroa
Manawhenua Trust
Te Roroa Waipoua Visitors'
Centre
River Road
Waipoua Forest
RD 6
Dargaville
Facsimile No: (09) 439 6443

Delivery

11.1.4 delivery of a Notice may be made:

- (a) by hand;
- (b) by post with pre-paid postage; or
- (c) by facsimile;

Timing of delivery

11.1.5 a Notice delivered:

- (a) by hand will be treated as having been received at the time of delivery;
- (b) by pre-paid post will be treated as having been received on the second day after posting; or
- (c) by facsimile will be treated as having been received on the day of transmission; and

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Deemed date of delivery

- 11.1.6 if a Notice is treated as having been received on a day that is not a Business Day, or after 5pm on a Business Day, that Notice will (despite clause 11.1.5) be treated as having been received the next Business Day.

AMENDMENT

- 12.1 This Deed may not be amended unless the amendment is in writing and signed by, or on behalf of, the Governance Entity and the Crown.

12. NO ASSIGNMENT

- 13.1 The Governance Entity may not assign its rights or obligations under this Deed.

13. DEFINITIONS AND INTERPRETATION

Definitions

- 14.1 In this Deed, unless the context requires otherwise:

Business Day means the period of 9am to 5pm on any day other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day;
- (b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and
- (c) the days observed as the anniversaries of the provinces of Wellington and Northland;

Control, for the purposes of subclause (d) of the definition of Crown Body, means:

- (a) in relation to a company, control of the composition of the board of directors of the company; and
- (b) in relation to any other body, control of the composition of the group that would be the board of directors if the body was a company;

Crown has the meaning given to it in section 2(1) of the Public Finance Act (which, at the date of this Deed, provides that the Crown:

- (a) means the Sovereign in right of New Zealand; and
- (b) includes all Ministers of the Crown and all Departments; but
- (c) does not include:
 - (i) an Office of Parliament; or

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- (ii) a Crown entity (as defined in section 7(1) of the Crown Entities Act 2004);
- (iii) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986));

Crown Body means:

- (a) the Crown;
- (b) a Crown entity (as defined in section 7(1) of the Crown Entities Act 2004) and includes the New Zealand Railways Corporation;
- (c) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); or
- (d) any company or body which is wholly-owned or Controlled by:
 - (i) the Crown, a Crown entity or a State enterprise; or
 - (ii) a combination of the Crown, a Crown entity, Crown entities, a State enterprise or State enterprises,

and includes a subsidiary of, or related company to, any such company or body;

Deed means this Deed giving a right of first refusal over RFR Properties;

Deed of Settlement means the Deed of Settlement referred to in clause A of the Background to this Deed;

Dispose means:

- (a) to transfer an estate in fee simple; or
- (b) to grant a lease the term of which, including rights of renewal or of extension contained in the lease, is or could be for 50 years or longer;

Expiry Date means, in respect of an RFR Notice, the date one calendar month after the RFR Notice is received by the Governance Entity;

Nominated Transferee has the meaning set out in clause 2.2.2;

Notice means a notice or other communication given under clause 11 and "Notify" has a corresponding meaning;

Party means the Governance Entity or the Crown;

RFR Notice means a written notice to the Governance Entity which offers to Dispose of the RFR Property to the Governance Entity at the price and on the terms and conditions set out in that notice;

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RFR Property means each property referred to in schedule 1;

RFR Property Contract has the meaning set out in clause 2.1; and

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

Interpretation

14.2 In the interpretation of this Deed, unless the context requires otherwise:

14.2.1 terms or expressions that are not defined in this Deed but are defined in the Deed of Settlement have the meaning in this Deed that they have in the Deed of Settlement;

14.2.2 headings appear as a matter of convenience and are not to affect the interpretation of this Deed;

14.2.3 defined terms appear in this Deed with capitalised initial letters and have the meanings given to them by this Deed;

14.2.4 where a word or expression is defined in this Deed, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

14.2.5 the singular includes the plural and vice versa;

14.2.6 words importing one gender include the other genders;

14.2.7 a reference to legislation is a reference to that legislation as amended, consolidated or substituted;

14.2.8 a reference to any document or agreement, including this Deed, includes a reference to that document or agreement as amended, novated or replaced;

14.2.9 a reference to a schedule is a schedule to this Deed;

14.2.10 a reference to a monetary amount is to New Zealand currency;

14.2.11 a reference to written or in writing includes all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form;

14.2.12 a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

14.2.13 a reference to a date on which something must be done includes any other date which may be agreed in writing between the Governance Entity and the Crown;

14.2.14 where something must be done by or on a date that is not a Business Day, that thing must be done by or on the next Business Day after that day; and

14.2.15 a reference to time is to New Zealand time.

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SIGNED as a deed on 30 September 2008

Signed by THE TRUSTEES OF THE ROROA MANAWHENUA TRUST

Trevor Edward Birch
Trevor Edward Birch

In the presence of

Witness [Signature]

Name Anthony Grant Ruakere
Occupation Solicitor
Auckland
Address _____

Erana Menge Clarkson
Erana Menge Clarkson

In the presence of

Witness [Signature]

Name Anthony Grant Ruakere
Occupation Solicitor
Auckland
Address _____

Isobel Florence Hutchins
Isobel Florence Hutchins

In the presence of

Witness [Signature]

Name Anthony Grant Ruakere
Occupation Solicitor
Auckland
Address _____

Stephen Cassidy Naera
Stephen Cassidy Naera

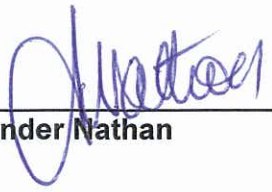
In the presence of

Witness [Signature]

Name Anthony Grant Ruakere
Occupation Solicitor
Auckland
Address _____


[Signatures]
ACR
WON
YB
CW
B

[Handwritten initials]



Alexander Nathan

In the presence of:



Witness

Name

Anthony Grant Ruakere

Occupation

Solicitor

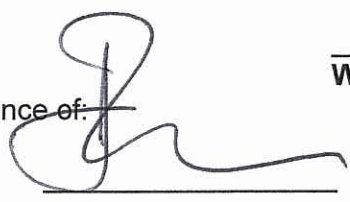
Auckland

Address



William George Ngakuru

In the presence of:



Witness

Name

Anthony Grant Ruakere

Occupation

Solicitor

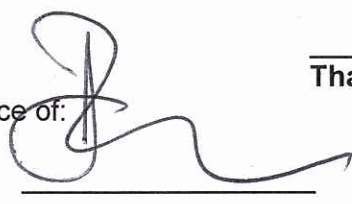
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Address



Thalea Tracey Pompey

In the presence of:



Witness

Name

Anthony Grant Ruakere

Occupation

Solicitor

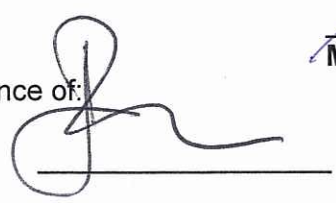
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Address



Marama Rewa

In the presence of:



Witness

Name

Anthony Grant Ruakere

Occupation

Solicitor

Auckland


Address


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Taoho Show Tane

In the presence of: 
Witness _____

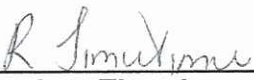
Name ~~Anthony Grant Ruakere~~
Occupation ~~Solicitor~~
~~Auckland~~
Address _____



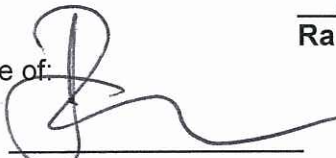
Oriana Venus Te Rore Taoho

In the presence of: 
Witness _____

Name ~~Anthony Grant Ruakere~~
Occupation ~~Solicitor~~
~~Auckland~~
Address _____




Rangiora Timutimu

In the presence of: 
Witness _____

Name ~~Anthony Grant Ruakere~~
Occupation ~~Solicitor~~
~~Auckland~~
Address _____



Winika Tuhiwai

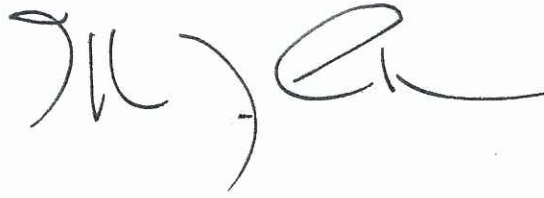
In the presence of: 
Witness _____

Name ~~Anthony Grant Ruakere~~
Occupation ~~Solicitor~~
~~Auckland~~
Address _____


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SIGNED for and on behalf of **HER MAJESTY THE QUEEN** in right of New Zealand by the Minister in Charge of Treaty of Waitangi Negotiations in the presence of:



WITNESS

Rachel Heard

Name: Rachel Heard

Occupation: Senior Private Secretary

Address: Parliament Buildings, Wellington

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SCHEDULE 1

(Clause 14.1 of this Deed)

RFR PROPERTIES

RFR Property	Legal Description North Auckland Land District	Area (hectares)
Opononi Area School (Teachers Residence site, and Pre-school Site, situated on SH 12, Waimamaku (former Waimamaku School))	Pt Section 76, Block IX, Waoku SD	1.2152
Aranga School, Dargaville	Pt Sec 24 Blk XI Waipoua SD	2.7109
Mamaranui Outdoor Education Centre, Mamaranui Rd, Mamaranui	Lots 1 and 2, and Pt Lot 3 DP 30892	0.6085
Kaihu Valley School, Dargaville	Pts Opanake 1C South 6	4.1945
Te Kopuru School, 7 Norton St, Te Kopuru	Pt Allot 54 and Pt Lots 2 and 3 of Allot 2A Parish of Kopuru	2.1739
Te Kopuru Pre-school, 3 Norton St	Allot 181 Parish of Kopuru	0.8035
Former Donnelly's Crossing School Katui Road, Donnelly's Crossing	Sections 29, 32 and 34, Block XI, Waipoua SD	2.8084
Teachers Residence, 12 Graham St, Te Kopuru	Lot 33 DP 3853	0.2023
Northland Polytechnic, 24 Parore St, Dargaville	Lot 1 DP 154711	0.3684

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SCHEDULE 2

(Clauses 6.2 and 6.4 of this Deed)

DEED OF COVENANT

THIS DEED is made

BETWEEN

[Insert the trustees of [name] Trust or other name of the Governance Entity (as appropriate)]
(the "**Governance Entity**")

AND

[Insert the Crown Body or the local authority (as the case may be) to whom the property is being disposed under clause 6.2 or clause 6.4] (the "**New Owner**")

AND

HER MAJESTY THE QUEEN in right of New Zealand [or the Crown Body if this Deed relates to a second or subsequent intra-Crown Disposal] (the "**Current Owner**")

BACKGROUND

- A. The Current Owner proposes to dispose of the property described in the schedule to this Deed (the "**Property**") to the New Owner.
- B. The Property is subject to a deed giving a right of first refusal dated [] between the Crown and the Governance Entity (the "**Principal Deed**").
- C. Under the Principal Deed, the Current Owner must, before Disposing of the Property to the New Owner, obtain a deed from the New Owner in favour of the Governance Entity ensuring that the New Owner takes the Property subject to the Principal Deed. This Deed is entered into to give effect to the Current Owner's obligation.

IT IS AGREED as follows:

1. TRANSFER BY CURRENT OWNER

- 1.1 The Current Owner transfers to the New Owner (with effect from the Transfer Date) all its rights and obligations under the Principal Deed in so far as they relate to the Property.

2. ACCEPTANCE BY NEW OWNER

- 2.1 The New Owner, for the benefit of the Current Owner and the Governance Entity, accepts the Transfer.

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3. **CONSENT AND RELEASE BY THE GOVERNANCE ENTITY**

3.1 The Governance Entity consents to the Transfer and releases the Current Owner (with effect from the Transfer Date) from all of its obligations under the Principal Deed insofar as they relate to the Property.

4. **DEFINITIONS AND INTERPRETATION**

Defined Terms

4.1 In this Deed, unless the context requires otherwise:

Property has the meaning set out in clause A of the Background to this Deed;

Principal Deed has the meaning set out in clause B of the Background to this Deed;

Transfer means the transfer described in clause 1; and

Transfer Date means the date on which the Current Owner Disposes of the Property to the New Owner.

4.2 Terms or expressions that are not defined in this Deed, but are defined in the Principal Deed, have the same meanings in this Deed.

Interpretation

4.3 The rules of interpretation set out in clause 14.2 of the Principal Deed also apply to the interpretation of this Deed.

SIGNED as a deed on []

[Insert signing provisions for the Governance Entity, the New Owner and the Current Owner]

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SCHEDULE

The Property

[Describe the Property]

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JAH
WJ
WCON
CB
OH
RS

SCHEDULE 3

(Clause 6.5 of this Deed)

DEED OF COVENANT

THIS DEED is made

BETWEEN

[Insert the trustees of [name] Trust or other name of the Governance Entity (as appropriate)]
(the "**Governance Entity**")

AND

*[Insert the person to whom the property is being disposed of under **clause 6.5**]* (the "**New Owner**")

AND

HER MAJESTY THE QUEEN in right of New Zealand *[or the Crown Body]* (the "**Current Owner**")

BACKGROUND

- A. The Current Owner proposes to Dispose of the Property described in the schedule to this Deed (the "**Property**") to the New Owner.
- B. The Property is subject to a deed giving a right of first refusal dated [] between the Crown and the Governance Entity (the "**Principal Deed**").
- C. Under the Principal Deed, the Current Owner must, before Disposing of the Property to the New Owner, obtain a deed from the New Owner in favour of the Governance Entity ensuring that the New Owner takes the Property subject to the Principal Deed. This Deed is entered into to give effect to the Current Owner's obligation.

IT IS AGREED as follows:

1. TRANSFER BY CURRENT OWNER

- 1.1 The Current Owner transfers to the New Owner (with effect from the Transfer Date) all its rights and obligations under the Principal Deed in so far as they relate to the Property.

2. ACCEPTANCE BY NEW OWNER

- 2.1 The New Owner, for the benefit of the Current Owner and the Governance Entity, accepts the Transfer.

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SCHEDULE

THE PROPERTY

[Describe the Property]

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