

Licence to in relation to land at 324 State Highway 1, Paekakariki

Her Majesty the Queen acting by and through the Minister for
Land Information (Licensor)

Nga Uruora – Kapiti Project Incorporated (Licensee)



LICENCE TO IN RELATION TO LAND AT 324 STATE HIGHWAY 1, PAEKAKARIKI

Date: 9 June 2015

PARTIES

Her Majesty the Queen acting by and through the Minister for Land Information
(**Licensor**)

Nga Uruora – Kapiti Project Incorporated a society registered under the
Incorporated Societies Act 1908 and as a charitable entity under the Charities Act 2005
(**Licensee**)

BACKGROUND

- A The Land is held by the Crown under the Public Works Act 1981 for use in connection with a road on behalf of the NZ Transport Agency (**Transport Agency**).
- B Pursuant to section 45 of the Public Works Act 1981, the Minister for Land Information, exercising the powers of the Minister of Lands, may grant a licence over the Land.
- C The Minister for Land Information has authorised the Transport Agency to administer and manage the Land and this Licence.
- D The Licensor and the Licensee have agreed that the Licensor will grant a licence of the Land to the Licensee, and the Licensee will take a licence of the Land.

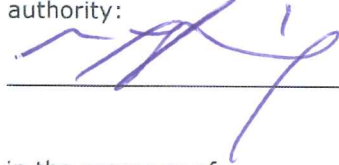
GRANT OF LICENCE

The Licensor grants to the Licensee, and the Licensee takes from the Licensor, a non-exclusive licence to access, use and occupy (in relation to relevant equipment used as part of the Permitted Use) the Land for the Permitted Use, in common with the Licensor and the Licensor's other licensees or invitees, on the terms and conditions set out in this Licence.




EXECUTION

Signed for and on behalf of **Her Majesty the Queen** acting by and through the Minister for Land Information as Licensor by his authorised signatory the **NZ Transport Agency** pursuant to a delegation under section 4B of the Public Works Act 1981 by **Mark Spring** acting pursuant to delegated authority:



in the presence of:


Name: **JASVINDER MADHAR**

Occupation: **SENIOR PROPERTY MANAGER**

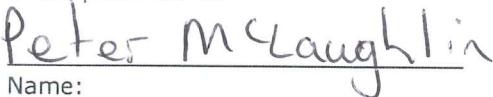
Address: **WELLINGTON**

Signed by **Nga Uruora – Kapiti Project Incorporated** as Licensee by affixing of its common seal in the presence of:

 **Malcolm Garnham**
Authorised signatory

 **Paul Dale Gallister (Chair)**
Authorised signatory

in the presence of:


Name:



Occupation: **CONSERVATION CONTRACTOR**

Address: **63 TOWER RD PAKAKARIKI**



FIRST SCHEDULE

LAND:	That part of the Licensor's land (being the land situated alongside State Highway 1 and Paekakariki Hill Road at Paekakariki on Lot 1 Deposited Plan 368307, Part section 10 Wainui District, Part Lot 1 Deposited Plan 5618, and the land comprised in WN296/143) as shown outlined in red on the plan attached at the Third Schedule.
TERM:	From the Commencement Date until the Expiry Date.
COMMENCEMENT DATE:	The date of execution of this agreement by all parties.
EXPIRY DATE	The date in which this Licence is terminated in accordance with clause 2.
LICENCE FEE:	\$1.00 plus GST per annum (if demanded).
PERMITTED USE:	The non-exclusive right of use of the Land from time to time to carry out weed spraying, possum, mustelid and pest trapping, the planting of indigenous plants on such parts of the Land and in accordance with a planting plan as the Licensor shall from time to time approve in writing, and related activities.

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SECOND SCHEDULE

1 TERM AND RENEWAL

- 1.1 This Licence shall apply from the Commencement Date until the Expiry Date (unless terminated prior in accordance with clause 11).

2 TERMINATION

- 2.1 The Licensor may terminate or cancel this Licence for any reason whatever (including without limitation default by the Licensee as contemplated in clause 11) by giving not less than one (1) month's written notice (**Licensor's Notice**) in writing to the Licensee.
- 2.2 The Licensee may terminate this Licence by giving not less than three (3) months' written notice (**Licensee's Notice**) in writing to the Licensor.
- 2.3 From the expiry of the period specified in the Licensor's or Licensee's Notices:
- (a) this Licence will determine and cease absolutely, but without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach; and
 - (b) the Licensee shall remove any equipment from the Land associated with the Permitted Use.
- 2.4 The Licensee will not be entitled to any form of compensation, damages or claim of whatever kind for any termination by the Licensor pursuant to clause 2.1, on account of any inconvenience or loss suffered by the Licensee, or for any other reason, as a consequence of such termination.
- 2.5 The parties acknowledge that this clause 2 reflects the fact that the Land is held by the Licensor for a public work, and is therefore an essential term which is paramount to, and will operate notwithstanding, any other provision in this Licence.



3 LICENCE FEE AND OTHER MONIES

During the Term, the Licensee will pay to the Licensor, without deduction or set-off:

- (a) the Licence Fee on demand (if demanded); and
- (b) upon demand, any other money which the Licensee is required to pay under this Licence after receipt of an invoice from the Licensor.

4 LICENCE FEE NOT SUBJECT TO REVIEW

The Licensor acknowledges that the Licence Fee is not subject to review.

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5 PERMITTED USE AND STATUTORY COMPLIANCE

- 5.1 The Licensee must not in any circumstances use the Land for any purpose other than the Permitted Use. The Licensee shall obtain the Licensor's prior written consent (which the Licensor may in its absolute and sole discretion withhold) to the Licensee's proposed method of possum, mustelid and pest trapping, and the chemicals that the Licensee proposes to use in weed spraying, on the Land.
- 5.2 Without limiting the generality of clause 5.1 above, the Licensee shall not:
- (a) store inflammable or dangerous substances upon the Land;
 - (b) do anything which in the opinion of the Licensor may become a nuisance, disturbance or obstruction, or cause damage, whether to the Licensor or to neighboring owners or occupants;
 - (c) cause or bring about any contamination of the Land;
 - (d) light any fires on the Land without the prior written consent of the Licensee (which the Licensor may in its absolute and sole discretion withhold) and where consent is given the Licensee will comply with all applicable bylaws, regulations and statutes;
 - (e) plough, crop, cultivate, dig or otherwise disturb the Land, cut shelter belts or otherwise create or bring about the cause of any waste of the Land PROVIDED ALWAYS THAT this clause shall not in any way prohibit the Licensee from undertaking the planting of indigenous plants on such parts of the Land and in accordance with a planting plan as the Licensor shall from time to time approve in writing;
 - (f) cut down or damage any trees or shrubs growing on the Land without NZTA's prior written consent PROVIDED ALWAYS THAT this clause shall not in any way prohibit the Licensee from removing from the Land any of the following weeds (and any other weeds that the Licensor shall approve in writing):
 - (i) Pampas (*Cortaderia selloana*)
 - (ii) Climbing asparagus (*Asparagus scandens*).
 - (iii) Cape ivy (*Senecio angulatus*)
 - (iv) Boneseed (*Chrysanthemoides monilifera* subspecies *monilifera*).
 - (v) Buddleia (*Buddleja davidii*)
 - (vi) Agapanthas (*Agapanthus praecox*)
 - (vii) Blue morning glory (*Ipomoea indica*)
 - (viii) Wilding pines (*Pinus radiata*)



- (ix) Boxthorn(*Lycium ferocissimum*)
- (x) Old mans beard (*Clematis vitalba*)
- (xi) Blackberry (*Rubus fruticosus* agg)
- (xii) German ivy (*Senecio mikanioides*)
- (xiii) Tradescantia (*Tradescantia fluminensis*)
- (xiv) Periwinkle (*Vinca major*)
- (xv) English ivy (*Hedera helix*)
- (xvi) Wattle (*Acacia mearnsii*)
- (xvii) Banana passionfruit (*Passiflora caerulea*)

(g) bring dogs (other than working dogs) or firearms onto the Land.

5.3 The Licensee must at all times comply with all relevant:

- (a) statutes, ordinances, bylaws, regulations and other lawful requirements which relate to the Land, or which relate to the Licensee's use of the Land; and
- (b) licences, permissions, notices, orders, consents, requisitions, conditions or requirements which may be given or required by any relevant authority.

5.4 The Licensee will:

- (a) not bring about the cause of any waste of the Land or any contamination of the Land;
- (b) not disturb the surface of the Land, apart from such disturbance as is reasonably necessary for the Permitted Use;
- (c) remove all of its equipment from the Land when it is not on the Land for the Permitted Use; and
- (d) remove all rubbish from the Land to the satisfaction of the Licensor following use in accordance with the Permitted Use.
- (e) install appropriate signage approved by the Licensee, such approval not to be unreasonably withheld, regarding the Licensee's use of poison based bait stations.

5.5 The Licensee will not require, under the Fencing Act 1978 or otherwise, the Licensor to fence any boundary between the Land and any adjoining land owned or occupied by the Licensee, or to contribute to the cost of any such fence or any work on it.

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6 NO OBJECTION TO THE LICENSOR'S FUTURE PLANS FOR THE LAND

The Licensee agrees that it will not lodge any submission or participate in any objection or appeal which opposes any designation, resource consent application or notice of requirement, or take any other action which may have the effect of preventing or interfering with the Licensor's future plans in relation to the Land, or any adjoining land, and in particular any proposed public work by the Licensor in the locality.

7 THE LICENSOR'S RIGHT TO ENTER AND USE THE LAND

This Licence in no way limits the Licensor's free use of the Land. The Licensor, and all other persons authorised by the Licensor, may enter onto any part of the Land at any time, and for any purpose. In exercising this right of entry, the Licensor will use reasonable endeavours to ensure that no disturbance or inconvenience is caused to the Licensee and the Licensee's property on the Land.

8 LICENSEE'S ACCESS TO LAND

- 8.1 The Licensee shall only have the right to access the Land from State Highway 1 and from Paekakariki Hill Road except with the express prior written consent of the Licensor. At no time shall the Licensee be entitled to utilise existing farm tracks on the Land.
- 8.2 The Lessee shall be permitted to have access to the trapping areas shown edged in blue on the plan from Paekakariki Hill Road at the points marked with orange arrows on the plan on the following terms:
- (a) the Licensee shall install signs at the access points stating that access to the public is prohibited (the wording of the signs to be approved by the Licensor);
 - (b) only trappers or weed control staff authorised by the Licensee are allowed access and must wear high viz jackets at all times;
 - (c) trappers must carry official "Nga Uruora" business cards to identify themselves; and
 - (d) the Licensee will maintain and produce to the Licensor on demand a log book with details of all persons attending the Land to carry out the Permitted Use on behalf of the Licensee.
- 8.3 The Licensee shall also be permitted the occasional use of the access road shown marked in orange on the plan in order to bring in traps to the Land (and for no other purpose) provided that the Licensee shall obtain the prior written approval of the Licensor's property manager on each occasion that the Licensee wishes to have such access.
- 8.4 The Licensee shall not enter upon the Land with vehicles at any time or for any purpose except with the express prior written consent of the Licensor.

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- 8.5 The Licensee acknowledges and agrees that the Licensor has no obligation whatsoever to upgrade or maintain any access, vehicular or otherwise, to the Land. The Licensee further acknowledges that the Licensor does not warrant the Land is or shall remain suitable for the Permitted Use. The Licensee shall use the Land at its sole risk.

9 INDEMNITY

The Licensee:

- (a) will indemnify and hold harmless the Licensor from and against all actions, claims, demands, losses, damages, fines or penalties, costs and expenses (including legal costs on a solicitor/client basis), arising directly or indirectly from the Licensee's use of the Land, to the extent that such loss, damage or injury is occasioned or contributed to by any act, omission, neglect, breach or default on the part of the Licensee or the Licensee's invitees. This indemnity will extend to any loss, damage or injury from any cause whatsoever to property or persons; and
- (b) releases to the full extent permitted by law the Licensor from all claims and demands of any kind and from all liability which, in the absence of any negligence on the Licensor's part, may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land.

10 COSTS

- 10.1 Each party will pay their own costs in connection with the negotiation and grant of this Licence.
- 10.2 The Licensee will pay the Licensor's actual legal (as between solicitor and client) and other costs of and incidental to the enforcement, or attempted enforcement, of the Licensor's rights, remedies and powers under this Licence.

11 DEFAULT

- 11.1 The Licensor may cancel this Licence if at any time:

- (a) the Licence Fee is in arrears and those arrears have not been remedied within 10 Working Days after service on the Licensee of a notice pursuant to section 245 of the Property Law Act 2007;
- (b) the Licensee is in breach of any covenant under this Licence (other than a breach under clause 11.1(a)) and that breach has not been remedied within the time period specified in a notice pursuant to section 246 of the Property Law Act 2007 served on the Licensee;
- (c) any assignment is made of the Licensee's property for the benefit of creditors or if the Licensee compounds with the Licensee's creditors;

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- (d) the interests of the Licensee in or under this Licence or in the Land are attached or taken in execution or under any legal process; or
- (e) a resolution is passed, or an order made by a Court, for the winding up of the Licensee (except for a reconstruction approved by the Licensor), or the Licensee is subject to any formal steps under the Incorporated Societies Act 1908 or the Charities Act 2005 to remove it from the registers kept under those Acts-

and upon such cancellation this Licence will cease and determine, but without releasing the Licensee from liability in respect of any antecedent breach of this Licence.

12 NO ASSIGNMENT

- 12.1 This Licence is personal to the Licensee. This Licence may not be assigned or otherwise disposed of, and its benefits must not be shared with, or in any way made available to, any other person.

13 DISPUTE RESOLUTION

- 13.1 The parties acknowledge that they wish to avoid or minimise any differences or disputes arising out of and from the terms of this Licence. The parties therefore agree that if any difference or dispute arises between them they will actively, openly and in good faith negotiate that difference or dispute with a view to achieving a quick resolution.
- 13.2 If the parties cannot resolve a dispute or difference within 10 Working Days of any dispute or difference arising then, unless otherwise expressly provided in this Licence, they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using informal dispute resolution techniques such as mediation. The rules governing any such technique if adopted will be agreed between the parties or as selected by the organisation known as "LEADR" (Lawyers Engaged in Alternative Dispute Resolution).
- 13.3 If the parties cannot agree on any dispute resolution technique within a further 15 Working Days of any dispute or difference being referred by both parties to any informal dispute resolution technique under clause 13.2, then the difference or dispute will be determined by arbitration by a sole arbitrator in accordance with the Arbitration Act 1996 and the substantive law of New Zealand.
- 13.4 The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other for settling terms of reference, interlocutory matters and generally all steps preliminary and incidental to the hearing and determination of the proceedings.

14 STATUTORY ROLE

- 14.1 Nothing in this Licence will override the Transport Agency's statutory and regulatory role under the Government Roadway Powers Act 1989, the Land Transport

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Management Act 2003 or any other Act, regulation or by-law, and the performance by the Transport Agency of that role and as a Crown entity (***the Transport Agency's Role***).

- 14.2 Nothing in this Licence is to be taken to imply any approval under the Transport Agency's Role, other than an approval expressly recorded in this Licence.
- 14.3 If there is a conflict between the provisions of this Licence and the Transport Agency's Role, then the Transport Agency's Role will prevail.
- 14.4 When any approvals or consents are required under this Licence, the Licensor:
- (a) may have regard to the Transport Agency's Role; and
 - (b) will not be acting unreasonably or arbitrarily if it declines its consent or approval, or imposes conditions on any such consent or approval, on the grounds (in its sole and absolute discretion) of the Transport Agency's Role.

15 WAIVER

No waiver or failure to act by the Licensor in respect of any breach by the Licensee will operate as a waiver of another breach.

16 NOTICES

- 16.1 All notices including requests, demands and other communications under this Licence, to be given by a party to any other party must be in writing.
- 16.2 Unless and until changed, the addresses for service of the parties are:

Licensor:

NZ Transport Agency
c/- Colliers International
Level 8, Craig Investment Partners House
36 Customhouse Quay
Wellington 6011
Facsimile: (04) 471 8891

Licensee:

Nga Uruora – Kapiti Project Incorporated
88 The Parade
Paekakariki 5034.
Facsimile: n/a
Telephone: (04)-905 8037

- 16.3 A party may, by notice to the other, change its address for service.

17 LICENCE NOT A LEASE

- 17.1 The rights granted in the Licence rest in contract only. This Licence is intended as a personal privilege and is not to take effect as a lease, right of first refusal or option to purchase the Land, nor does it create any legal estate or interest in the Land.

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- 17.2 The Licensee accepts and acknowledges that it has no right to, and will not, lodge a caveat against the Land to protect its rights and interests pursuant to this Licence.

18 IMPLIED RELATIONSHIPS

Nothing contained in this Licence will be deemed or construed or constitute any party or parties' agent or representative, or be deemed to create any trust, commercial partnership or joint venture.

19 SEVERABILITY

If any part of this Licence is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination will not impair the enforceability of the remaining parts of this Licence.

20 PARTIAL INVALIDITY

The invalidity of any part or provision of this Licence will not affect the enforceability of any other part or provision of this Licence.

21 NON-MERGER

The parties acknowledge and agree that certain covenants set out in this Licence will continue beyond the expiry or sooner determination of this Licence for the benefit of the parties notwithstanding expiry or sooner determination of the Licence.

22 GOVERNING LAW

This Licence will be construed and take effect in accordance with the laws of New Zealand.

23 AMENDMENT

No amendments, variations or modifications to this Licence will be effective unless made in writing and signed by or on behalf of each of the parties.

24 ENTIRE AGREEMENT

The parties agree and acknowledge that this Licence, and any valid amendments or variations to this Licence, constitute the entire agreement between the parties concerning the transaction(s) contemplated by this Licence. This Licence replaces all earlier negotiations, representations, warranties, understandings and agreements, whether oral or written, between the parties relating to the transaction(s) contemplated by this Licence.

25 INTERPRETATION

In this Licence:



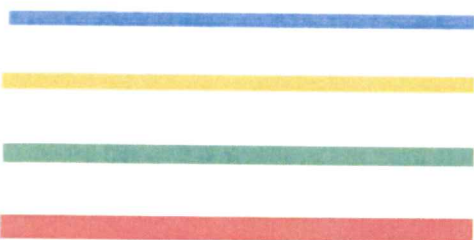
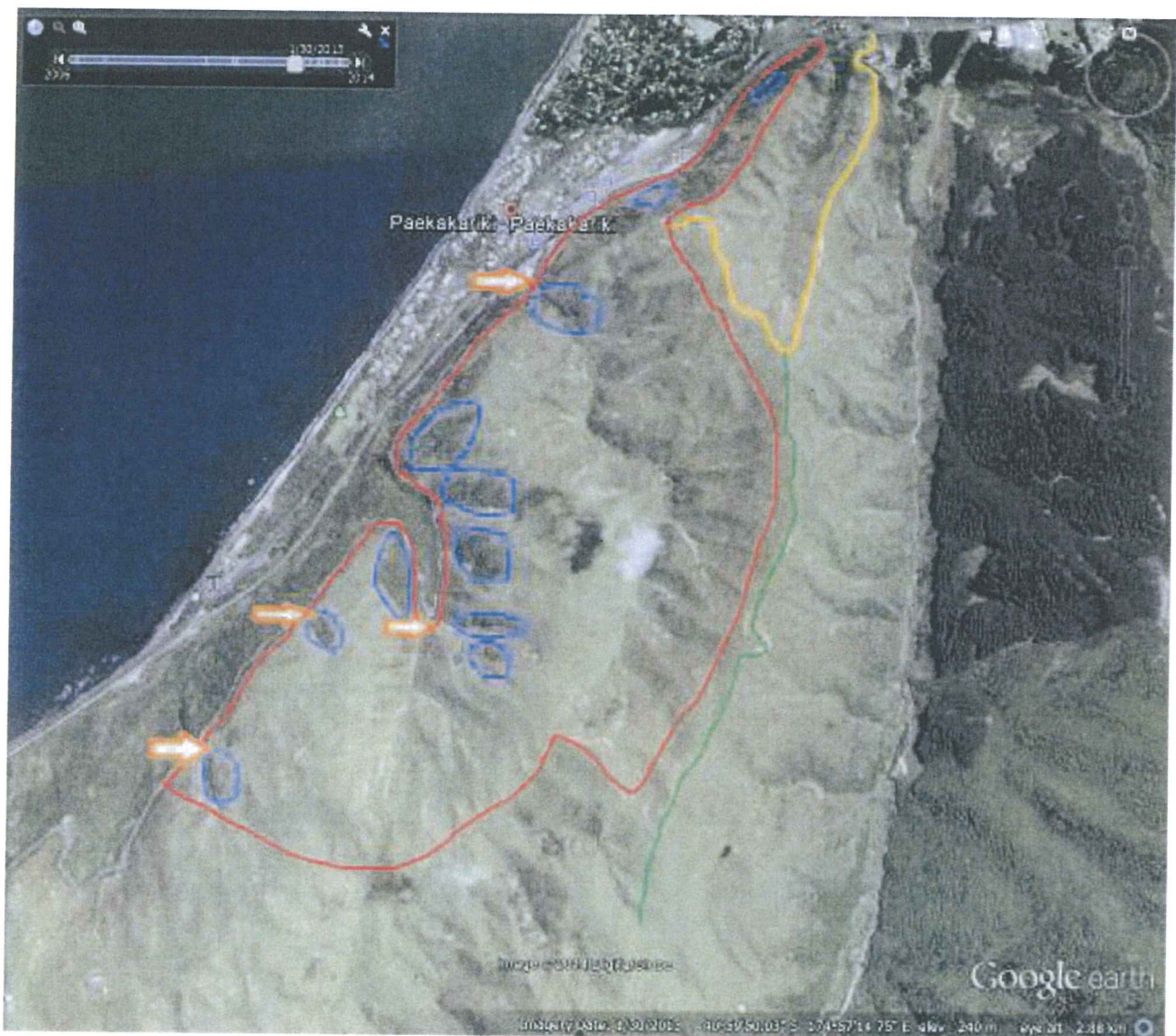
- (a) **Commencement Date** means the commencement date specified in the First Schedule;
- (b) **Expiry Date** means the expiry date specified in the First Schedule;
- (c) **Land** means the land specified in the First Schedule;
- (d) **Licence Fee** means the licence fee specified in the First Schedule;
- (e) **Licensor** means the party named as such on the front page of this Licence, and include the Transport Agency, the successors at law of each of them and (where not inconsistent with the context) their respective officers, employees, contractors, agents and invitees, and any person authorised to exercise the Licensor's rights and powers. Specifically, the Transport Agency may (directly or through any person so authorised) exercise any of the Licensor's powers and rights under this Licence, and for the purposes of the Contracts (Privity) Act 1982 this Licence is accordingly intended to confer a benefit on the Transport Agency;
- (f) **Licensee** mean the party named as such on the front page of this Licence, and include the successors and personal representatives of the Licensee, and where not repugnant to the context, includes the Licensee's officers, employees, agents, contractors, customers and invitees and all other persons claiming through the Licensee;
- (g) **Permitted Use** means the permitted use specified in the First Schedule.
- (h) **Term** means the term specified in the First Schedule.
- (i) **Working Day** means:
 - (i) in relation to any time period specified under the Property Law Act 2007, has the meaning given in that Act; or
 - (ii) in all other cases, means any day that is not a Saturday, Sunday, day between 24 December in one year to 10 January in the next year (both days inclusive) or statutory holiday in the area where the Land is located;
- (j) words importing the singular include the plural and vice versa; and
- (k) words or phrases which appear in this Licence mean and include those details supplied after those words or phrases in the First Schedule.



THIRD SCHEDULE

Plan of the Land

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- Main areas for Nga Uruora trapping
- Access road to communication towers
- Gas pipeline and access road
- Border of Nga Uruora's 'right to occupy'

Handwritten signature: A
W. P. D. C.

