

## **Crown Pastoral Land Tenure Review**

**Lease name: CRAIGROY**

**Lease number: PO 233**

### **Preliminary Proposal**

A Preliminary Proposal is advertised for public submissions as per Section 43 of the Crown Pastoral Land Act 1998.

The report attached is released under the Official Information Act 1982.

**September 09**

**PROPOSAL FOR REVIEW OF CROWN LAND**  
**Under Part 2 of the Crown Pastoral Land Act 1998**

**Date:**

**Parties**

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**Holder:** Pioneer Generation Limited  
11 Ellis Street  
PO Box 275  
Alexandra

**Commissioner of Crown Lands:**

C/- Project Manager-Tenure Review  
Darroch Valuations  
Broadway Building  
62 Riccarton Road  
PO Box 13 443  
Christchurch

**The Land**

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**1. Lease:** Craigroy

**Legal Description:** Run 339B Nevis and Bannockburn Survey Districts

**Area:** 4,432.4586 hectares more or less

**Certificate of Title/Unique Identifier:** OT386/130 (Otago Registry)

**2. Unused Crown land:** Crown land adjacent to Part Run 339B situated in Block III Nevis Survey District

**Area:** Approximately 10 hectares

**Status:** Unused Crown land

**3. Local Purpose Reserve:** Section 4 Block I Nevis Survey District

**Area:** 1.7149 hectares

**Status:** Nevis Bridge Reserve subject to Reserves Act. N Z Gazette 1881 page 672

<b>4. Conservation Area:</b>	Part Section 1 Block I Nevis Survey District
<b>Area:</b>	1.6483 hectares
<b>Status:</b>	Nevis Bridge Site conservation area. Stewardship land subject to section 62 Conservation Act 1987.

#### **Summary of Designations**

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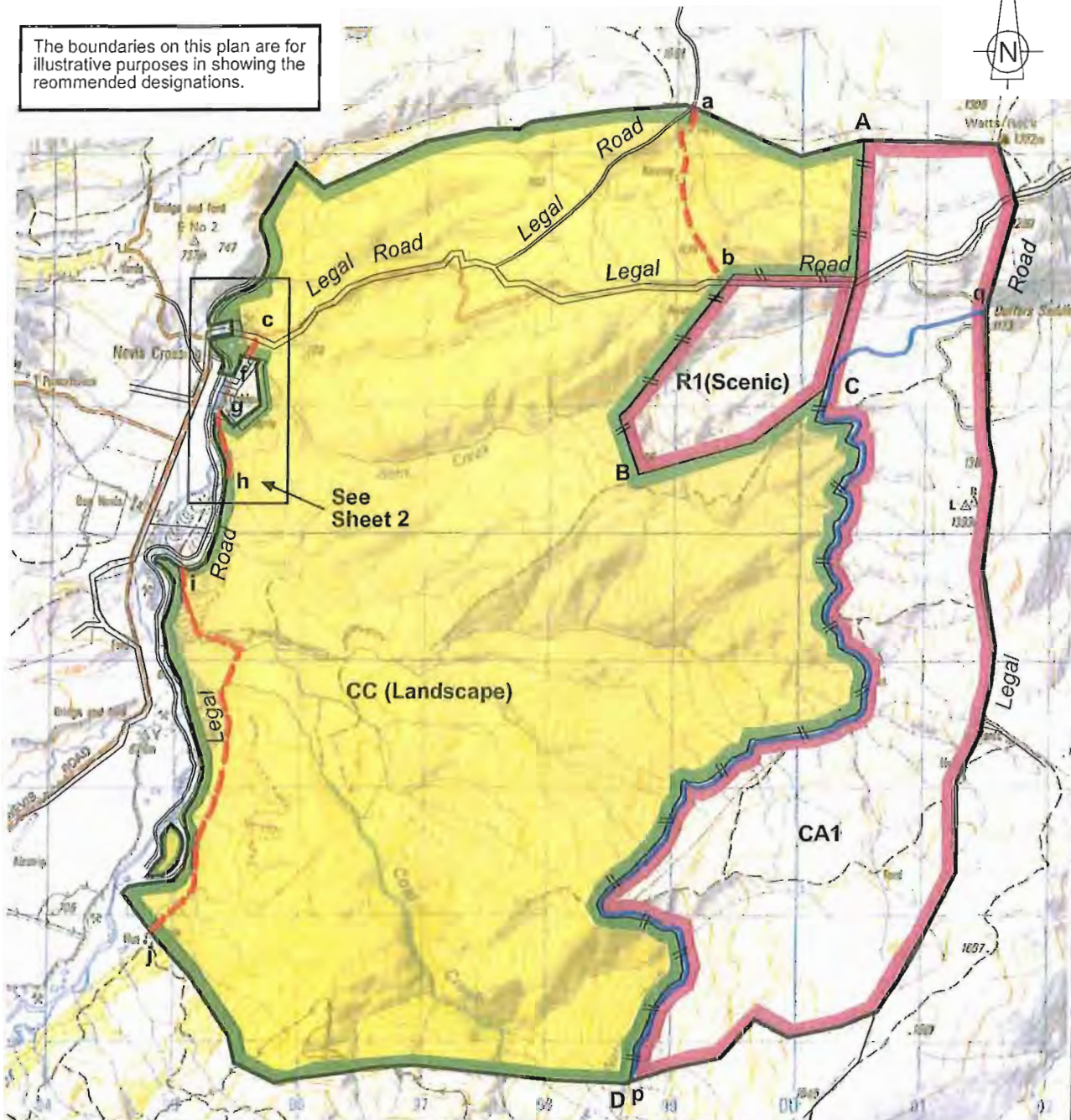
Under this Proposal, the Land is designated as follows:

- (a) The Crown Land (shown marked in pink on the Plan) is to be restored to, or retained by, the Crown as set out in Schedules One and Two; and
- (b) The Freehold Land (shown marked in green on the Plan) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.
- (c) The Local Purpose Reserve and Conservation Area (shown marked in green on the Plan) to be disposed of to the Holder by way of exchange with part of the Lease Land is as set out in Schedule Three.




**1      The Plan**

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The boundaries on this plan are for illustrative purposes in showing the recommended designations.




**P 233 CRAIGROY TENURE REVIEW PROPOSED DESIGNATIONS**

-  Pastoral lease land to be restored to or retained in Crown control as conservation land by way of exchange for existing Conservation land marked "Exch 1" subject to a grazing concession and recreation concession - CA1
-  Pastoral lease land to be restored to or retained in Crown control as Scenic Reserve by way of exchange for "Exch 2" subject to a grazing concession R1 (Scenic)
-  Pastoral lease land and unused Crown Land to be disposed of by freehold disposal to Pioneer Generation Limited, subject to a Landscape Protection Covenant CC(Landscape)

**Easement**

 Public access and Minister of Conservation management purposes easement in gross a-b, c-f, g-h and i-j

**Continuation in Force**

 Registered right to convey water contained in transfer 885704 in favour of Carrick Irrigation Company Limited (p - q)

 **New fences:** Marked in capital letters A-B and C-D

<b>Version</b>	1	2	3	4	5
<b>Otago Land District</b>	<b>Sheet 1 of 2</b>				
<b>NZMS 260 F.42</b>	<b>Date 04/06/2009</b>				

Certified a true copy of the original status check plan.

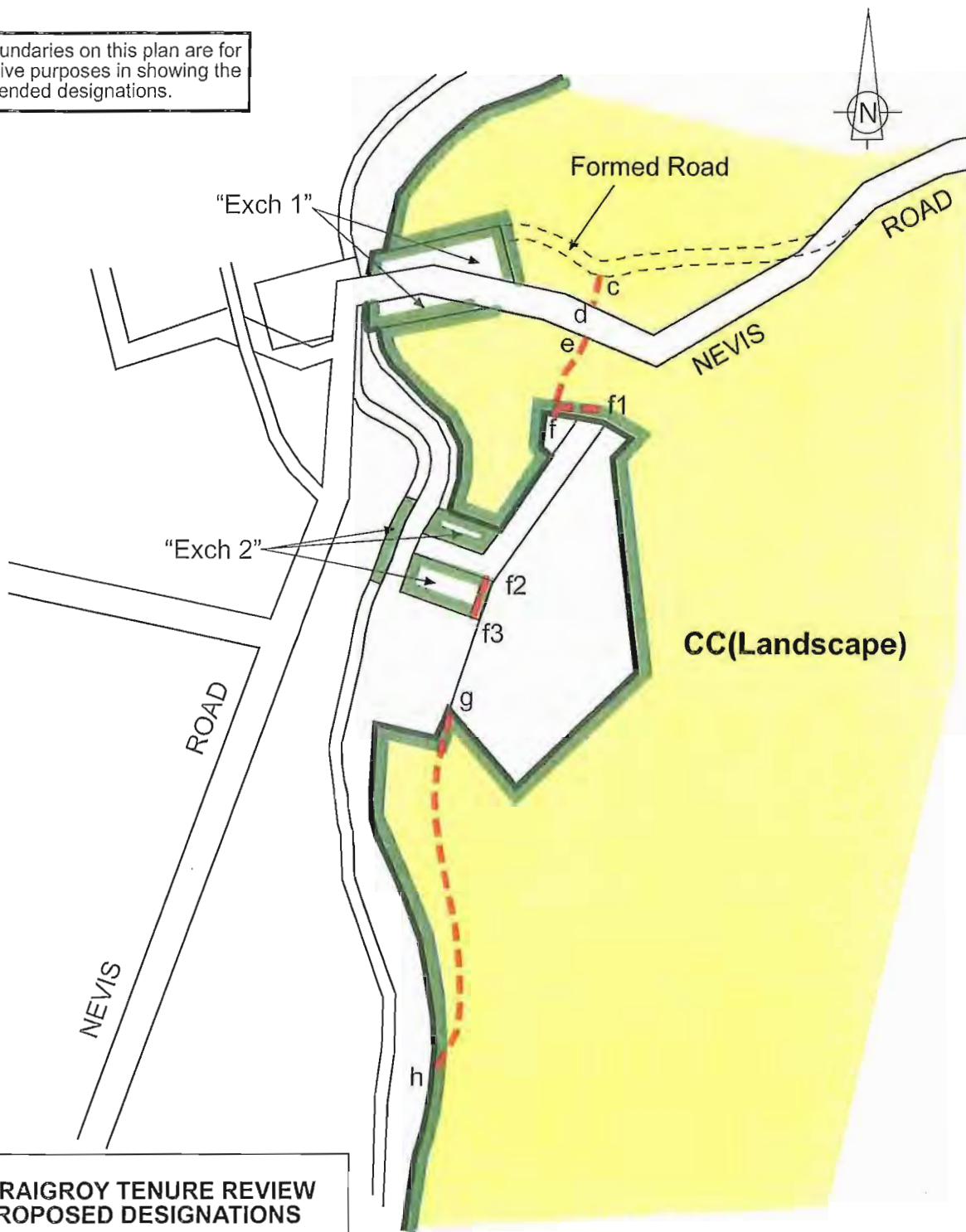
**Craigroy**







Scale 1 : 50000



The boundaries on this plan are for illustrative purposes in showing the recommended designations.



**P 233 CRAIGROY TENURE REVIEW  
PROPOSED DESIGNATIONS**

-  Pastoral lease land to be disposed of by freehold disposal to Pioneer Generation Limited, subject to a Landscape protection Covenant CC (Landscape)
-  Conservation land to be disposed of by way of exchange for the land marked "CA1" to Pioneer Generation Limited. ("Exch 1")
-  Reserve land to be disposed of by way of exchange for the land marked R1 (Scenic) to Pioneer Generation Limited. ("Exch 2")
-  Easement  
Public access and Minister of Conservation management purposes easement in Gross c-d, e-f, f-f1, f2-f3 and g-h.

Certified a true copy of the original status check plan.

**Craigroy**

Version	1	2	3	4	5
Otago Land District	Sheet 2 of 2				
NZMS 260 F.42	Date 05/06/2009				



Scale 1 : 8000

Graphics by :  
TL Survey Services Ltd  
DUNEDIN





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## **2 Conditions**

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- 2.1 This Proposal, and any agreement arising therefrom, is subject to the conditions contained in Schedule Four (if any).

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## **3 Settlement**

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- 3.1 Unless otherwise agreed by the parties, the Settlement Date for the disposal of the Freehold Land to the Holder by freehold disposal will be the day that is TEN (10) working days following the day on which Land Information New Zealand notifies the Commissioner that the Final Plan and a copy of this Proposal are registered in accordance with the Act.

- 3.2 The Freehold Land will be disposed of to the Holder under the Land Act 1948.

- 3.3 Notwithstanding anything to the contrary, if, as at the Settlement Date (as determined pursuant to clause 3.1), the rent payable under the Lease is subject to a Rent Review, then the Commissioner may elect to:

(a) settle on the Settlement Date on the basis that the Commissioner may retain from the Commissioner's Payment an amount which the Commissioner, acting reasonably, estimates will be payable by the Holder to the Commissioner following agreement or determination of the Rent Review ("the Retention"). The Retention shall be held by the Crown Law Office in an on-call, interest-bearing trust account in the joint names of the parties for their respective rights and interests. Upon agreement or determination of the Rent Review, the Commissioner shall calculate the rent shortfall payable by the Holder to the Commissioner in respect of the period from the effective date of the Rent Review to the Settlement Date, both dates inclusive ("the Shortfall").

If:

(i) the Shortfall is less than the Retention and the net interest earned thereon, the balance shall be paid by the Commissioner to the Holder within TEN (10) working days; or

(ii) the Shortfall is more than the Retention and the net interest earned thereon, the balance shall be paid by the Holder to the Commissioner within TEN (10) working days.

or

(b) defer the Settlement Date until TEN (10) working days after the rent payable as a consequence of the Rent Review:

(a) has been agreed or determined; and

(b) is not and will not be subject to any appeal, rehearing or other proceedings.

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## **4 Holder's Payment**

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- 4.1 By 3.00 p.m. on the Settlement Date, the Holder must pay the Holder's Payment and all other money payable to the Commissioner or the duly appointed agent of the Commissioner by bank cheque without set-off or deduction of any kind in accordance with the settlement requirements of the Commissioner.

- 4.2 If the Holder fails to pay the Holder's Payment or any part of it or any other money to the Commissioner or to the duly appointed agent of the Commissioner on the Settlement Date clause 19 will apply.

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## **5 Commissioner's Payment**

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- 5.1 The Commissioner shall pay the Commissioner's Payment to the Holder on the Settlement Date.

- 5.2 No interest shall be payable to the Holder by the Commissioner in respect of the Commissioner's Payment, including (without limitation) for the period from the Vesting Date to the Settlement Date.

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**6 Vesting of Crown Land**

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- 6.1 The Crown Land will vest in the Crown on the Vesting Date.

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**7 Issue of Certificate of Title**

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- 7.1 Notwithstanding any other provision in this Proposal, the Commissioner will not request that the Surveyor-General issue a certificate to the Registrar pursuant to section 116 of the Land Act 1948 (to enable a certificate of title to issue for the Freehold Land) unless and until:
- (a) the Commissioner has received the Holder's Payment from the Holder under clause 4, and all other money payable by the Holder under this Proposal and the Notice;
  - (b) the Holder has provided to the Commissioner duplicate copies of the certificate of title relating to the Lease (if any) and/or the Lease if requested by the Commissioner;
  - (c) the Holder has signed and returned to the Commissioner all documents required by the Commissioner to be signed by the Holder to give effect to this Proposal (including, without limitation, any permit, covenant, easement and/or any other document); and
  - (d) the Holder has procured a registrable discharge of any Mortgage and provided this to the Commissioner together with any new mortgage documents to be registered against the Freehold Land.

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**8 Registration of Documents**

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- 8.1 Subject to clause 7, the Commissioner will lodge all documents necessary to give effect to this Proposal (including, without limitation any easement, covenant, discharge of mortgage, and/or duplicate copy of the Lease) and any new mortgage documents to be registered against the certificate of title to be issued for the Freehold Land so that the certificate of title for the Freehold Land will issue subject to the encumbrances provided in this Proposal. Any new mortgage will be registered after any other encumbrances such as any easements and/or covenants are registered.

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**9 Consents**

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- 9.1 The Holder must obtain the written consent to the Holder's acceptance of this Proposal from all persons having an interest in the Land (other than the Holder), including, but not limited to:
- (a) any Mortgagee(s);
  - (b) any party entitled to the benefit of a land improvement agreement registered against the Lease and/or the Land; and
  - (c) any other person that the Commissioner reasonably believes has an interest in the Land or who the Holder reasonably believes has an interest in the Land, whether registered or not.
- 9.2 The consents required under clause 9.1 must be in a form acceptable to the Commissioner in all respects and be returned to the Commissioner with this Proposal on its acceptance by the Holder. Examples of the form of consents required under clause 9.1 are set out in Appendix 1.
- 9.3 The Holder must also obtain, and provide to the Commissioner if requested, all consents necessary for the Holder to accept this Proposal including (without limitation) any:
- (a) corporate and/or trustee consents; and
  - (b) consent required under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005.
- 9.4 The Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered as set out in clause 8.



- 9.5 If required by the Mortgagee, the Commissioner will provide an undertaking that, subject to the provisions of clause 7 being satisfied, the Commissioner will register the discharge of the Mortgage and register any new mortgage against the certificate of title for Freehold Land at the same time as the certificate of title for the Freehold Land issues.

## **10 Continuation of Lease**

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- 10.1 The Lease will remain in full force and effect until a certificate of title issues for the Freehold Land. Notwithstanding when Settlement Date occurs, until a certificate of title issues for the Freehold Land the Holder will duly and punctually comply with all obligations on its part under the Lease (other than as set out at clause 12.1 (b)) and the Lease will remain in full force and effect.
- 10.2 From the date that a certificate of title is issued for the Freehold Land the Lease is deemed to be surrendered and, subject to clause 10.3, the Commissioner releases and discharges the Holder from the performance and observance of all covenants, conditions and obligations under the Lease.
- 10.3 The release and discharge in clause 10.2:
- (a) Is without prejudice to the rights, remedies and powers of the Commissioner contained in the Lease (except as varied in accordance with clause 12.1(b)); and
  - (b) will not release or discharge the Holder from any liability under the Lease, arising prior to the date that the certificate of title for the Freehold Land is issued, under any statute or by any reason where such liability is due to the fault of the Holder.
- 10.4 As from the Vesting Date, the Holder will not have any estate, right or claim against any of the land, improvements, fencing, buildings, structures, fixtures, fittings or chattels on the Crown Land (subject to the provisions of any permit, easement, concession, other encumbrance or document provided under this Proposal). The Holder will not be entitled to any compensation for any of its improvements, fencing, buildings, structures, fixtures, fittings or chattels which are on the Crown Land as at the Vesting Date.

## **11 Fencing and Construction Works**

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- 11.1 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, subject to clauses 11.2 and 14.4, erect at the Commissioner's cost new fencing:
- (a) approximately along the line marked "New Fencing Line" on the Plan; and
  - (b) to the specifications in Appendix 3;
- ("the Fencing").
- 11.2 If the Fencing requires a resource consent or any other consent from any local or territorial authority ("the Fencing Consent"), the following provisions shall apply:
- (a) The Commissioner shall use reasonable endeavours to obtain the Fencing Consent within 6 months of this Proposal taking effect pursuant to the Act.
  - (b) If the Fencing Consent:
    - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
    - (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;the Commissioner may, acting reasonably, elect to do any one or more of the following:

- (iii) erect the Fencing in a position different from that shown on the Plan;
  - (iv) erect the Fencing over a shorter distance than that shown on the Plan; or
  - (v) erect the Fencing to specifications different from those in Appendix 3.
- 11.3 If the Commissioner has not completed the Fencing by the Settlement Date, the Holder agrees that the Commissioner may register a covenant, on terms entirely satisfactory to the Commissioner (in the Commissioner's sole discretion), over the Freehold Land to enable the Commissioner to complete the Fencing. The Holder will do all things necessary (including signing any document) to enable the Commissioner to register such a covenant.
- 11.4 The ongoing maintenance of the Fencing referred to in clauses 11.1 and 11.2 will be subject to the terms of the Fencing Act 1978.
- 11.5 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, [the Commissioner] [the Holder] [both parties] will, subject to clause 11.6, undertake the construction works set out in Appendix 3 on the terms and conditions set out in Appendix 3 ("the Construction Works").
- 11.6 If any Construction Works for which the Commissioner is liable, or jointly liable with the Holder, require a resource consent or any other consent from any local or territorial authority ("the Works Consent"), the following provisions shall apply:
- (a) The Commissioner shall use reasonable endeavours to obtain the Works Consent within 6 months of this Proposal taking effect pursuant to the Act.
  - (b) If the Works Consent:
    - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
    - (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;the Commissioner may, acting reasonably, elect to vary the extent of the Construction Works in question and/or the terms and conditions upon which they are carried out.

## **12 Apportionments**

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- 12.1 Rent payable under the Lease in respect of the Freehold Land shall be apportioned as follows:
- (a) Rent paid or payable will be apportioned on the Settlement Date as at the Settlement Date and either deducted from or added to (as the case may be) the amount required to settle.
  - (b) Notwithstanding that the Lease continues in effect until a certificate of title issues for the Freehold Land, the Holder shall not be required to pay any rent under the Lease for the Freehold Land from the Settlement Date.
- 12.2 Rent paid or payable under the Lease for the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.3 All rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Freehold Land will, unless otherwise agreed by the parties, be apportioned on the Settlement Date as at the Settlement Date.
- 12.4 All rates, levies and all other incomings and outgoings and other charges receivable from or charged upon the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.

- 12.5 Following the date that a certificate of title issues for the Freehold Land, the Commissioner will undertake a final apportionment and either the Commissioner will pay to the Holder, or the Holder will pay to the Commissioner, any additional amounts due because of any payments made or received by one party on behalf of the other for the period from the Settlement Date to the date on which a new certificate of title issues for the Freehold Land.

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**13 Risk**

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- 13.1 On and with effect from the Unconditional Date all risk of any nature in respect of the Freehold Land will pass from the Commissioner to the Holder. For the avoidance of doubt, the Holder's current risk in respect of matters arising under the Lease, including, without limitation, the Holder's risk in respect of all improvements, buildings, fencing, fixtures, fittings and chattels, will continue to remain with the Holder until the Lease is deemed to be surrendered under clause 10.2.
- 13.2 The Holder will be required to comply with its settlement obligations under this Proposal irrespective of any damage to, or destruction of, the Freehold Land prior to the Settlement Date.

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**14 Survey**

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- 14.1 All areas of the Land forming part of this Proposal and delineated on the Plan are approximate and subject to preparation of the Final Plan. The measurements of the areas may therefore alter on the Final Plan.
- 14.2 No error, misdescription or amendment of any part of the Land will annul, vary, or derogate from this Proposal, or the Holder's acceptance of this Proposal.
- 14.3 For the avoidance of doubt, the Holder will not be entitled to cancel or withdraw its acceptance of this Proposal, nor will the Holder, or any successor in title of the Holder or any party with an interest in the Land, be entitled to payment of any compensation, should any area of the Land on the Final Plan have a different measurement to the area specified in this Proposal.
- 14.4 The Commissioner does not warrant that any existing fence is erected on, or that any new fence to be erected will be on, any boundaries of the Land or any part of the Land as outlined on the Plan or the Final Plan.

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**15 Holder's Acknowledgements**

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- 15.1 If the Holder accepts this Proposal and that acceptance takes effect under the Act, the Holder acknowledges that:
- (a) it is obtaining the freehold interest in the Freehold Land:
    - (i) "as is", solely in reliance on its own investigations and judgement; and
    - (ii) not in reliance on any representation or warranty made by the Commissioner, its employees, agents or any other person or persons directly or indirectly associated with the Commissioner;
  - (b) the Holder has carried out all inspections of the Freehold Land which the Holder considers necessary to satisfy itself as to all matters relating to the Freehold Land;
  - (c) the Holder, at its cost, is entirely responsible for all work to ensure that the Freehold Land complies with all applicable laws including (without limitation):
    - (i) the Resource Management Act 1991; and
    - (ii) any rule in any plan, resource consent or other requirement issued under the Resource Management Act 1991, and
    - (iii) the Building Act 2004; and
- the Holder hereby indemnifies and will indemnify the Commissioner against all losses, damages and expenses incurred by the Commissioner and against all claims made against the Commissioner in respect of any work or costs for which the Holder is liable under this clause 15;

- (d) nothing in this Proposal is affected by, and the Commissioner has no liability of any nature in respect of, the existence or terms of any leases, licences or other occupation rights of any nature (if any) granted by the Holder in respect of the Land; and
- (e) the Holder has no claim (and will not have any claim) whatsoever against the Crown and/or Commissioner in relation to the Tenure Review and/or this Proposal, including (without limitation) any claim for any misrepresentation or for any loss or damage suffered whether in contract, tort (including negligence) or otherwise.

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**16 No Representations or Warranties by the Commissioner**

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- 16.1 The Commissioner gives no representations or warranties of any nature in respect of the Freehold Land. Without limitation, the Commissioner does not warrant:
- (a) the accuracy of any matter in the Notice or this Proposal or in any notice, or any correspondence or other information provided to the Holder by the Commissioner or by any agent, contractor or employee of the Commissioner; or
  - (b) that the Freehold Land is or will remain suitable for the Holder's use; or
  - (c) that the Freehold Land complies with all or any statutory, territorial authority or any other legal requirements affecting or relevant to the Freehold Land.

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**17 Acceptance**

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- 17.1 The Holder's acceptance of this Proposal is irrevocable and constitutes a binding agreement between the Commissioner and the Holder.
- 17.2 If the Commissioner does not receive an acceptance to this Proposal from the Holder within three (3) months of putting it (in its substantive form) to the Holder, the Holder is deemed to have rejected this Proposal.

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**18 Solicitors Certificate**

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- 18.1 The Holder must procure the Holder's solicitors to provide the Commissioner with a solicitor's certificate (in a form satisfactory to the Commissioner, in its reasonable opinion) relating to such matters as the Holder's execution of this Proposal and the Holder's execution of any documents required to give effect to this Proposal (including, without limitation any easement, protective mechanism and/or concession). An example of the form of solicitors certificate required is set out at Appendix 2.
- 18.2 The Holder must return the completed solicitor's certificate to the Commissioner with this Proposal on its acceptance by the Holder.

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**19 Default**

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- 19.1 If from any cause whatever (except the default of the Commissioner) all or any part of the Holder's Payment or any other money payable by the Holder to the Commissioner is not paid on the due date the Holder will pay to the Commissioner interest at the Default Rate on the part of the Holder's Payment or any other money payable by the Holder to the Commissioner so unpaid from the due date until the date of actual payment in full.
- 19.2 The Commissioner's rights under this clause 19 are without prejudice to any other rights or remedies available to the Commissioner at law or in equity.

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**20 Goods and Services Tax**

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- 20.1 The Commissioner and the Holder warrant to each other that they are registered for GST purposes.
- 20.2 On the 10<sup>th</sup> working day following the Unconditional Date, the Commissioner will provide to the Holder a GST invoice in respect of the supply evidenced by the Holder's Consideration. The invoice will specify the Commissioner's GST Date.

- 20.3 The Holder will pay GST on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.
- 20.4 On the 10<sup>th</sup> working day following the Unconditional Date, the Holder will provide to the Commissioner a GST invoice in respect of the supply evidenced by the Commissioner's Consideration.
- 20.5 The Commissioner will pay GST on the Commissioner's Consideration to the Holder on the Commissioner's GST Date, time being of the essence.
- 20.6 Where any GST is not paid to the Commissioner or to the Holder (as the case may be) in accordance with this clause 20, the Holder will pay to the Commissioner, or the Commissioner will pay to the Holder (as the case may be), upon demand and together with the unpaid GST:
- (a) interest, at the Default Rate, on the amount of the unpaid GST and which will accrue from the Commissioner's GST Date until the date of payment of the unpaid GST; and
  - (b) any Default GST.

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**21 Lowest price**

- 21.1 The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Freehold Land under section EW 32(3) of the Income Tax Act 2004 is equal to the Holder's Consideration.
- 21.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Crown Land under section EW 32(3) of the Income Tax Act 2004 is equal to the Commissioner's Consideration.

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**22 Costs**

- 22.1 The Commissioner will meet the costs of the survey (if any) of the Land, including all designation areas, the Final Plan and for a certificate of title to issue for the Freehold Land.
- 22.2 The Holder is responsible for all costs the Holder incurs in respect of and incidental to the Tenure Review. In particular, but without limitation, the Holder shall bear all its costs in relation to the review of all documentation forming part of the Tenure Review (including this Proposal), and all professional advice provided to or sought by the Holder.

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**23 No nomination or assignment**

- 23.1 The Holder is not entitled to, and is expressly prohibited from, nominating another person to perform the Holder's obligations under this Proposal or assigning to another person the Holder's interest (or any part) under this Proposal.

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**24 Recreation Permit**

- 24.1 Immediately on the registration of the Final Plan and a copy of the proposal to which it relates over the Land and pursuant to s64 of the Act, any recreation permit granted over the Land shall be determined.

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**25 Discretionary Actions**

- 25.1 If the Holder has been granted a consent by the Commissioner to do an activity on the land under s18 of the Act, and the area over which the consent is exercised is designated in the proposal as Crown Land then the Holder agrees to act in good faith whilst exercising the terms of consent and not damage or destroy the Crown Land.

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**26 General**

- 26.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and the Holder in relation to the Tenure Review; and

- (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and the Holder relating to the Tenure Review.
- 26.2 Each provision of this Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.
- 26.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 26.4 The Commissioner and the Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 26.5 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and the Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 26.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 26.7 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which the Holder is to send its acceptance of this Proposal (which the Commissioner will specifically notify the Holder of) the address, person or office holder (if any) for each party is shown on the front page of this Proposal;
  - (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:
    - (i) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 p.m. on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
    - (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
    - (iii) in the case of a letter, on the fifth working day after mailing (postage paid).

## 27 Interpretation

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### 27.1 Definitions

In this Proposal unless the context otherwise requires:

**Act** means the Crown Pastoral Land Act 1998;

**Commissioner** means the Commissioner of Crown Lands appointed under section 24AA of the Land Act 1948;

**Commissioner's Consideration** means the amount payable by the Commissioner to the Holder by equality of exchange for the surrender of the leasehold interest in the Lease in relation to the Crown Land, as specified in the Notice;

**Commissioner's GST Date** means the earlier of Settlement Date or the fifth working day before the day on which the Commissioner is due to pay to the Inland Revenue Department all GST payable by the Commissioner in respect of the supply made under this Proposal;

**Commissioner's Payment** means the balance of the Commissioner's Consideration payable by the Commissioner to the Holder by equality of exchange for the Crown Land, as specified in the Notice (if any);

**Crown Land** means the land (including any improvements) set out in Schedule One and the land (including any improvements) set out in Schedule Two (if any);

**Default GST** means any additional GST, penalty or other sum levied against either the Commissioner or the Holder under the Goods and Services Tax Act 1985 or the Tax Administration Act 1994 by reason of either the Commissioner or the Holder failing to pay GST as required by this Proposal. It does not include any sum levied against the Commissioner or the Holder by reason of a default by the Commissioner after payment of GST to the Commissioner by the Holder or by reason of a default by the Holder after payment of GST to the Holder by the Commissioner;

**Default Rate** means the rate of 11 per cent per annum;

**Fencing** means any stock proof farm fence.

**Fencing Consent** means any and all consents required under the Resource Management Act 1991.

**Final Plan** means the final plan for the Land prepared and submitted by the Commissioner to the Surveyor-General under sections 62(4)(c) and (d) of the Act;

**Freehold Land** means the land set out in Schedule Three;

**GST** means all goods and services tax payable by the Commissioner or the Holder under the Goods and Services Tax Act 1985 in respect of their respective supplies evidenced by this Proposal;

**Holder** means holder shown on the front page of this Proposal (being the lessee under the Lease);

**Holder's Consideration** means the amount payable by the Holder to the Commissioner by equality of exchange for the freehold of the Freehold Land, as specified in the Notice;

**Holder's Payment** means the balance of the Holder's Consideration payable by the Holder to the Commissioner by equality of exchange for the freehold of the Freehold Land, as specified in the Notice (if any);

**Land** means the land subject to the Tenure Review identified on the front page of this Proposal;

**Lease** means the lease described on the front page of this Proposal;

**Mortgage** means any mortgage (registered or unregistered) over the Land;

**Mortgagee** means the holder of any Mortgage;

**Notice** means the notice to the Holder setting out:

- (a) the Holder's Consideration;
- (b) the Commissioner's Consideration; and
- (c) the Holder's Payment or the Commissioner's Payment (as the case may be);

which includes amounts proposed to be paid by way of equality of exchange and accompanies this Proposal, but is not part of this Proposal;

**Plan** means the plan of the Land showing all designations on page 2 of this Proposal;

**Registrar** means the Registrar-General of Lands appointed pursuant to section 4 of the Land Transfer Act 1952;

**Rent Review** means the process for determination of the rent payable under the Lease as set out in sections 6 - 8 of the Act;

**Settlement Date** means the settlement date defined in clause 3.1;

**Surveyor-General** means the Surveyor-General appointed under section 5 of the Cadastral Survey Act 2002;



**Tenure Review** means the tenure review of the Land being undertaken by the Commissioner under the Act;

**Unconditional Date** means the date that the Commissioner receives from the Holder an executed copy of this Proposal signed by the Holder containing the signed consents of all persons having an interest in the Land to the Holder's acceptance of this Proposal which results in the acceptance taking effect under the Act;

**Vesting Date** means the date on which the Crown Land vests in the Crown pursuant to the Act;

**Working day** means a day that is not a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day, or a day during the period commencing on any Christmas Day and ending with the 15<sup>th</sup> day of the following January or a day which is a provincial holiday in the place where the obligation is to be performed.

**Works Consent** means any and all consents required under the Resource Management Act 1991; and/or the Building Act 2004.

## 27.2 Construction of certain references

In this Proposal, unless inconsistent with the context:

- (a) a reference to a certificate of title includes a reference to a computer register;
- (b) words importing a gender include all genders;
- (c) reference to a statute includes reference to all enactments that amend or are passed in substitution for the relevant statute and to all regulations relating to that statute;
- (d) words in the singular include the plural and vice versa;
- (e) reference to a month means a calendar month;
- (f) reference to a person means an individual, a body corporate, an association of persons (whether corporate or not), a trust or a state or agency of a state (in each case, whether or not having separate legal personality);
- (g) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Proposal and form part of this Proposal;
- (h) headings are included for ease of reference only and will not affect the construction or interpretation of this Proposal;
- (i) all monetary amounts are expressed in New Zealand currency;
- (j) references to obligations includes reference to covenants, undertakings, warranties and, generally, obligations or liabilities of any nature properly arising whether directly or indirectly, under or in respect of the relevant contract, agreement or arrangement;
- (k) all references to times are references to times in New Zealand;
- (l) if the Holder comprises more than one person, each of those person's obligations, as Holder, will be both joint and several.

**Schedule One: Provisions relating to the Schedule One Land**

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**1 Details of Designation**

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Nil

**2 Schedule One Improvements**

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Nil

## **Schedule Two: Provisions relating to the Schedule Two Land**

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### **1 Details of designation**

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- 1.1 Under this Proposal part of the land shown marked in pink and labelled "CA1" on the Plan, being 810 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of the grazing concession substantially as set out in Appendix 5;
  - (b) provided that the part of the Land shown marked in pink and labelled "CA1" on the Plan has vested in the Crown as conservation area pursuant to s.65 of the Act before 30 September 2010, the granting of the Recreation Concession to Robert William Brown and Sandra Louise Brown substantially as set out in Appendix 4;
  - (c) the continuation in force of a right to convey water together with incidental rights in favour of Carrick Irrigation Company over the area marked as a solid blue line and labelled "p-q" on the Plan, pursuant to section 36(3)(c) Crown Pastoral Land Act 1998.
  - (d) the continuation in force of an existing unregistered deemed permit granted by the Otago Regional Council to Carrick Irrigation Company, in consent 2002.448 pursuant to Section 36(3)(c) Crown Pastoral Land Act 1998
- 1.2 Under this Proposal part of the land shown marked in pink and labelled "R1(Scenic)" on the Plan, being 190 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of the grazing concession substantially as set out in Appendix 6;

### **2 Information Concerning Proposed Concessions**

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- 2.1 Information regarding grazing concessions provided for in 1.1 (a) and 1.2 (a) above:

#### **2.1.1 Description of proposed activity**

The concessions provide for phase out grazing of sheep to allow the existing sub-lessee to adjust their farming operation to adapt to the loss of 810 hectares in the proposed conservation area shown labelled "CA1 and 190 hectares in the adjacent proposed scenic reserve labelled "R1(Scenic)".

For the initial period, the combined concessions permit grazing of 1500 wethers or dry ewes for a period not exceeding 4 months in any one year or equivalent of 400 stock units per annum. This is reduced for the final 3 year period of the concessions to 1000 wethers or dry ewes for the same period each year or equivalent 266 stock units per annum

#### **2.1.2 Description of the places where proposed activities to be carried out and proposed status:**

- (a) The conservation area contains alpine fell field, alpine flushes, short tussock grassland and tall tussocklands
- (b) The reserve lands comprises similar vegetation as in (a) above in its upper reaches while the lower reaches of Barn Creek support diverse shrublands. In the lower gorge part of the catchment between 860 – 920 metres ASL, diverse

shrublands are prominent around rock tors and boulder surfaces. These are dominated by *Olearia bullata*, matagouri, *Coprosma cheesemani*, in association with snow totara, native broom, cassinia, *Aristotelia fruticosa*, *Myrsine nummularia* and *Brachyglottis cassinoides*.

Proposed status is conservation area and scenic reserve.

**2.1.3 Description of the potential effects of proposed activity and any actions proposed to avoid, remedy or mitigate any adverse effects:**

Ongoing grazing of the area is considered to be undesirable from a conservation perspective and for this reason the phase out grazing period is limited and the stocking rate is to be no more than 1500 dry sheep for 4 months per annum reduced after 2 years to 1000 dry sheep over the 1000 hectares.

**2.1.4 Details of the proposed type of concessions:**

- (a) For conservation area-grazing concession under section 17Q(1) Conservation Act 1987.
- (b) For scenic reserve- grazing concession under section 59A Reserves Act 1977

**2.1.5 Proposed duration of concessions and reasons for proposed duration:**

- (a) Proposed duration- 5 years commencing on the date the Substantive Proposal is signed or such residual that remains of this term when the concession is granted. No right of renewal.
- (b) Reasons for proposed duration- The proposed term is to allow phase out grazing for the sub-lessee as noted above.

**2.1.6 Relevant information about the proposed grantee, including information relevant to the grantee's ability to carry out each proposed activity:**

- (a) Proposed grantee- Pioneer Generation Limited who will transfer the concessions to the current sub-lessee of Craigroy, Robert W Brown and Sandra L Brown.
- (b) Relevant information- the proposed grantee currently farms the area under a sub-lease to Robert W and Sandra L Brown.

**2.2 Information regarding recreation concession provided for in 1.1 (b):**

**2.2.1 Description of proposed activity**

The concessions provide for guided snow mobile tours and snowcat borne skiing, between the period 1 June and 31 October each year over 810 hectares in the proposed conservation area shown labelled "CA1". The concession is designed to replace an existing Recreation Permit that will cease on the completion of the tenure review.

**2.2.2 Description of the places where proposed activities to be carried out and proposed status:**

- (a) The conservation area contains alpine fell field, alpine flushes, short tussock grassland and tall tussocklands

Proposed status is conservation area.

**2.2.3 Description of the potential effects of proposed activity and any actions proposed to avoid, remedy or mitigate any adverse effects:**

Likely effects of this operation are the damage to vegetation and landforms during times of insufficient snow. Environmental effects associated with the noise of the machines will also need to be managed. The concession sets out a number special condition that will manage these issues. Monitoring will ensure the conditions are being adhered to.

**2.2.4 Details of the proposed type of concessions:**

- (a) For conservation area-grazing concession under section 17Q(1) Conservation Act 1987.

**2.2.5 Proposed duration of concessions and reasons for proposed duration:**

- (a) Proposed duration- The concession will commence at the date that Land shown marked in pink and labelled "CA1" on the Plan has vested in the Crown as conservation area pursuant to s.65 of the Act and expires on 30 September 2010, with no right of renewal.
- (b) Reasons for proposed duration- The proposed term matches the current term of the existing Recreation Permit.

**2.2.6 Relevant information about the proposed grantee, including information relevant to the grantee's ability to carry out each proposed activity:**

- (a) Proposed grantee- Robert W Brown and Sandra L Brown.
- (b) Relevant information- the proposed grantee currently sub-leases the property from Pioneer Generation Limited.

**Schedule Three: Provisions relating to the Schedule Three Land**

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**1 Details of designation**

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- 1.1 Under this Proposal part of the land shown marked in green on the Plan, being 3,442 hectares (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
  - (b) Section 11 of the Crown Minerals Act 1991;
  - (c) the easement marked as a dashed orange line and labelled "a-b", "c-d", "e-f", "f-f1", "g-h" and "i-j" on the Plan and substantially as set out in Appendix 7; and
  - (d) the covenant (shown on the Plan in yellow wash and labelled "CC(Landscape)" substantially as set out in Appendix 8.
- 1.2 Under this Proposal 1.72 hectares of Local Purpose Reserve marked "Exch 2" to be designated as land to be disposed of by way of exchange to the Holder for an area shown edged pink and labelled R1(Scenic) on the Plan subject to:
- (a) Part IVA of the Conservation Act 1987;
  - (b) Section 11 of the Crown Minerals Act 1991;
  - (c) the easement marked as a dashed orange line and labelled "f2-f3" on the Plan and substantially as set out in Appendix 7.
- 1.3 Under this Proposal 1.65 hectares of Conservation area marked "Exch 1" to be designated as land to be disposed of by way of exchange for the area shown edged pink and labelled CA1 on the Plan, subject to:
- (a) Part IVA of the Conservation Act 1987;
  - (b) Section 11 of the Crown Minerals Act 1991;

**Schedule Four: Conditions**

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- 1 The Commissioner is under no obligation, and may decide, in its sole discretion, not to proceed further with the Tenure Review unless and until:
- (a) the Commissioner considers that sufficient funds will be obtained in order to complete the Tenure Review;
  - (b) the Director General of Conservation has completed all actions required under Part IVA of the Conservation Act 1987;
  - (c) the Commissioner has reviewed, and is satisfied, in its sole discretion that the easement referred to in Appendix 7 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.
  - (d) the Commissioner has reviewed, and is satisfied, in its sole discretion that the covenant referred to in Appendix 8 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.
  - (e) It has been identified that certain parts of the formed and maintained alignment of the Nevis Road deviate from the surveyed legal alignment. This proposal is subject to the Commissioner and the Holder agreeing to partially surrender the Lease so as to exclude such parts of the Nevis Road.



**Appendix 1: Consents – Example of Mortgagee Consent**

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[ ] as Mortgagee under Mortgage [ ] (“the Mortgage”), hereby:

- (a) consents to acceptance of the Proposal dated [ ] (“the Proposal”) by [the Holder] (“the Holder”) pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referenced in the Proposal prior to the registration of any new mortgage to be granted in its favour over the Freehold Land ; and
- (b) agrees to sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the Holder or the Commissioner to register a discharge of the Mortgage and any new mortgage over the Freehold Land.

Dated:

**SIGNED** by [ ] )  
in the presence of: [ ] ) \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Witness Name:  
Occupation:  
Address:

**Appendix 1: Consents (continued) - Example of "Other" Consent**

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[ ], being the party entitled to the benefit of [ ] registered against Lease [ ], hereby consents to the acceptance of the Proposal dated [ ] by [the Holder] pursuant to the Crown Pastoral Land Act 1998.

Dated:

**SIGNED** for and on behalf of ) \_\_\_\_\_  
[ ] )  
in the presence of: )

Witness Signature: \_\_\_\_\_

Witness Name:  
Occupation:  
Address:

## Appendix 2: Example of Solicitors Certificate

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### Certifications

I [ ] hereby certify as follows:

1. [[insert name of Holder] (“the Holder”) is a duly incorporated company under the Companies Act 1993. The Holder’s entry into and performance of its obligations under the Proposal dated [ ] (“the Proposal”) have been duly authorised by the directors and, if required, by the shareholders of the Holder. The Holder has executed the Proposal in accordance with its constitution.] **OR**

The entry into the Proposal dated [ ] (“the Proposal”) by [insert name of Holder] (“the Holder”) and performance of the Holder’s obligations under the Proposal have been duly authorised by the trustees of the [insert name of trust] in accordance with its trust deed **OR**

[[insert name of Holder] (“the Holder”) has delegated responsibility for signing the Proposal on its behalf to an attorney in accordance with its constitution. The attorney of the Holder has properly executed the Proposal in accordance with this power of attorney and in accordance with the Holder’s constitution and a certificate of non-revocation is enclosed.]

2. The consent of each person that has an interest (registered or unregistered) in the Land (as that term is defined in the Proposal), to the Holder’s acceptance of the Proposal has been obtained and included in the copy of the Proposal, signed by the Holder, that has been provided to the Commissioner.
3. [No consent, licence, approval or authorisation by any court, regulatory authority or governmental agency is required to enable the Holder to accept the Proposal, perform the Holder’s obligations under the Proposal and to acquire the freehold interest in the Land (as defined in the Proposal).] **OR**

[All necessary consents, licences, approvals and authorisations required to enable the Holder to accept the Proposal, perform its obligations under it and to acquire the freehold interest in the Land (as defined in the Proposal) have been obtained. Evidence of the consents, licences, approvals and authorisations are attached to this letter.]

Yours faithfully

[signed by principal of law firm]

### **Appendix 3: Indicative Fencing and Construction Requirements**

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#### **Fenceline**

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**Length and location:** New fence is to be erected along the lines marked as follows on the plan

- (a) Conservation fence shown marked A-B (CA1 and R1 (Scenic)) approximately 4,000 metres.
- (b) Conservation fence shown marked C-D (CA1). Approximately 7000 metres.

**Type:**

The fencing specification calls for the erection of a wooden post and seven wire fence with steel Y stakes between posts, to the indicative requirements set out in 1(a) and (b). We have not walked the fence lines to determine the precise requirements. The specifications are indicative only and will be updated once a detailed inspection of the boundary line has taken place.

**Specifications:**

**1.0 New Fence Lines**

*(a) Conservation Fence A-B*

- 1.1 Six x 2.5 mm galvanized high tensile wires and the bottom wire being 4 mm galvanized mild steel. Total of 7 wires.
- 1.2 2.1 metre x 200 mm treated timber strainer posts with 2.4 metre x 125 mm stay posts to be used for gateways and end of strains.
- 1.3 1.8 metre x 125 mm treated wooden intermediate posts or T irons to be used at 20 metre gaps or at lesser intervals on appropriate high and low points as required. 117 cm (46") to remain out of the ground. Steel Y stakes, back to back, may be used on high spots and on corners instead of wooden posts or T irons, with tie backs on tussock country.
- 1.4 Six steel Y stakes per 20 metres to be used. Y stakes will be 1.65 metres in length.
- 1.5 A cattle stop will be required where the fence crosses Nevis Road in A-B.

*Vegetation and Ground Clearance Requirements-*

- 1.6 The fence line may require hand clearing, if applicable.

*(b) Conservation and Reserve Fence C-D*

- 1.7 Six x 2.5 mm galvanized high tensile wires and the bottom wire being 4 mm galvanized mild steel. Total of 7 wires.
- 1.8 2.1 metre x 200 mm treated timber strainer posts with 2.4 metre x 125 mm stay posts to be used for gateways and end of strains.
- 1.9 1.8 metre x 125 mm treated wooden intermediate posts or T irons to be used at 20 metre gaps or at lesser intervals on appropriate high and low points as required. 117 cm (46") to remain out of the ground. Steel Y stakes, back to back, may be used on high spots and on corners instead of wooden posts or T irons, with tie backs on tussock country.
- 1.10 Six steel Y stakes per 20 metres to be used. Y stakes will be 1.65 metres in length.
- 1.11 A cattle stop will be required where the fence crosses Nevis Road in A-B.

*Vegetation and Ground Clearance Requirements-*

1.12 The fence line may require hand clearing, if applicable.

**2.0 Length and location:**

2.1 New fence is to be erected along the lines marked as follows on the plan.

(c) Conservation fence shown marked A-B (CA1 and R1 (Scenic)) approximately 4,000 metres.

(d) Conservation fence shown marked C-D (CA1). Approximately 7000 metres.

**3.0 Preliminary and General Matters**

**3.1 New Materials**

All materials forming a permanent part of the fence shall be new and shall conform to any relevant New Zealand or international standard.

**3.2 Standards**

Materials forming a permanent part of the specified fence shall conform to the applicable standard. Such materials shall either identify the applicable standard on the label or certificate from the supplier or manufacturer shall be supplied stating the materials have been manufactured in a process that has been tested and which conforms to that standard.

Current standards that apply to fencing materials include but may not be limited to:

- 3471:1974 (NZS) Specifications for galvanized steel fencing wire plain and barbed.
- 3607:1989 (NZS) Specifications for round and part round timber fence posts.
- 3640:1992 (NZMP) Specifications of the minimum requirements of the NZ Timber Preservation Council Inc.
- D360:1986 (NZS/ASTM) Creosote Treatment
- 4534:1998 (AS/NZS) Zinc and zinc/aluminum alloy coating on steel wire.
- 4680:1999 (AS/NZS) Hot dip galvanized (zinc) coating on fabricated ferrous articles.

Where no applicable standard exists then materials shall be of best quality as generally accepted in the New Zealand farming and fencing industries.

Documentation would be required of:

- Manufacturers (or suppliers) warranties and test certificates where applicable.
- Guarantee certificates that transfer to the owners of the completed fences.
- Remedies available under the guarantee.
- Installation instructions for hardware where applicable to the warranty and guarantee.

**3.3 Blasting**

Any blasting required to loosen or remove rock shall be undertaken using electric detonators to reduce the risk of fire.

**3.4 Drilling**

Any rock drilling will be undertaken with a rock drill no larger than 40mm diameter.

**3.5 Spiking**

Where placement of posts requires spiking, the spike shall be 90mm or more diameter.

- 3.6 Lacing  
The top wire is to be laced to the top of the steel Y stake with 3.15 mm (9 gauge) wire.
- 4.0 **Materials General** – to be used except where these have been specifically modified by the provisions of Clause 5 which shall take precedence.
- 4.1 Wire  
Fence wire will be 2.5mm galvanized high tensile steel wires and 4 mm galvanized mild steel wire all of which are to be of good quality. Tie-downs and tie-backs will be 4mm galvanized mild steel kept clear of any ground contact.
- 4.2 Infill Posts  
Infill posts will be steel Y stakes or galvanized T irons for use on high spots.
- 4.3 Strainer, Intermediate and Angle Posts  
All timber posts used will be round and ground treated.
- 4.4 Stay Block  
12 x 2 x 24 ground treated.
- 4.5 Staples  
Staples will be 50mm x 4mm barbed galvanized steel.
- 4.6 Permanent Wire Strainers  
Permanent wire strainers are to be of the yoke and reel type with a sprung loaded locking bar.
- 4.7 Crossing Netting  
Netting on creek and river crossings will be 7 wire galvanized sheep netting.
- 4.8 Swung Gate  
The swung gate shall be manufactured of 32 mm 2.6wt galvanized steel pipe frame, suitable braced to withstand normal pressure by beef cattle and fully covered with 50mm chain mesh manufactured from 3.15 mm gauge wire and attached with 2.24 mm galvanized lacing wire.
- 4.9 Gate Chains  
Gate chains will be galvanized steel chain and staple type.
- 4.10 Gate gudgeons  
Gudgeons are to be of galvanized steel. Top gudgeon is to be lock through type and the bottom gudgeon a bolt through type.
- 5.0 **Best Practice**
- 5.1 Best fencing practice must be adhered to on all occasions.
- 5.2 Strains  
Length of strains to be determined by the territory but to not exceed 300 metres for HT and 250 metres for No 8 wire. To conform to best practice and if applicable the wire manufacturing recommendations. Strain to account for weather conditions at time of strain.
- 5.3 Placement of timber strainers, posts and stays  
Under no circumstances are any strainers, stays or posts to be shortened either prior to or subsequent to their placement in the ground.
- All strainers are to be dug in or driven and rammed and footed. No.8 (4 mm) galvanised steel wire is to be used on foots. Strainer, angle and intermediate posts

are to have a minimum of 117 cm (46") out of the ground. Stays are to be 1/3 of the way up posts.

5.4 Placement of wires

Wires are to be located on the grazing side of the boundary, except where there is a high risk of snow damage where they shall be placed on leeward side away from the prevailing snow. The bottom wire to be 100 -150 mm above the ground.

Post staples are to be driven well in but allow the wire to run through.

All wires are to be securely and neatly tied off and strained evenly. Figure 8 knots are to be used in all joins.

5.5 Gate

Swung gate must close against a post and be able to fully open back against the fence.

5.6 Netting at creek crossing

Netting to be hung at creek and river crossings and left to swing.

5.7 Tie Downs

Tie downs are to consist of half or full steel Y stakes according to conditions and the tie down is to be with 4mm mild steel galvanised wire (which is to remain above ground). If a post is a tie down, it is to be fixed to the Y stake by a 150mm x 6mm galvanized nail.

Anywhere that there is a 100 mm or more upward pull on the wires is to have a tie down placed.

5.8 Tie backs

Tie backs can be used on angle posts or T irons and are permitted on both sides of the fence.

## 6.0 Resource Management Consents

The construction of fencing is subject to the Commissioner obtaining any and all consents required pursuant to the Resource Management Act 1991.



Appendix 4: Form of Recreation Concession to be Created over Conservation Area labelled "CA1" on the Plan

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Concession number:

DATED

—

Between

THE MINISTER OF CONSERVATION  
("the Grantor")

and

RW & SL BROWN  
("the Concessionaire")

CONCESSION DOCUMENT  
(LICENCE)



Department of Conservation  
*Te Papa Atawhai*

THIS LICENCE is made this                 day of                 200

**PARTIES:**

1. MINISTER OF CONSERVATION ("the Grantor")
2. ROBERT WILLIAM BROWN AND SANDRA LOUISE BROWN("the Concessionaire")
3.                                         ("the Guarantor")

**BACKGROUND**

- A. The Grantor manages the Conservation Area described in Schedule 1 as the Land;
- B. Section 17Q(1) of the Conservation Act 1987 authorises the Grantor to grant a Concession in respect of an Activity in a Conservation Area;
- C. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Document.
- D. The Grantor is satisfied that the requirements of Part III B of the Conservation Act 1987 have been met

**OPERATIVE PARTS**

**TERMS AND CONDITIONS**

**1.0 DEFINITIONS AND INTERPRETATION**

- 1.1 In this Document, unless the context otherwise requires:

"Activity" has the same meaning as "Activity" in section 2 of the Conservation Act 1987.

"Access" means the right, in common with others, to pass and repass over the Land and any roads of the Grantor for ingress to and egress from the Land as is reasonably necessary for the Concessionaire to exercise its rights under this Licence.

"Background" means the matters referred to under the heading 'Background' on p2 of this Document.

"Concession" means a concession as defined in section 2 of the Conservation Act 1987.

"Concession Activity" means the use of the Land for purposes of the Activity carried out by the Concessionaire and specified in Item 2 of Schedule 1.

"Concession Fee" means the amount specified in Item 4 of Schedule 1 and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Land. It includes any variation in that amount following a Concession Fee Review.

"Concession Fee Payment Date" means the date specified in Item 5 of Schedule 1 on which the Concession Fee falls due for payment.

"Conservation" has the same meaning as "Conservation" in section 2 of the Conservation Act 1987.

"Conservation Area" has the same meaning as "Conservation area" in section 2 of the Conservation Act 1987.

"Co-Site" means the use of the Land or the Concessionaire's facilities on the Land by a third party for an Activity and "Co-Sitee" and "Co-Siting" have corresponding meanings.

"Department" means the Department of Conservation established by section 5 of the Conservation Act 1987.

"Director-General" means the Director-General of Conservation.

"Document" means this Licence and any subsequent amendments and all schedules, annexures, and plans attached to it.

"Guarantor", where relevant, means the person guaranteeing this Document under clause 34.

"Land" means the Conservation Area, more particularly described in Item 1 of Schedule 1

"Licence" has the same meaning as "Licence" in section 2 of the Conservation Act 1987 and for purposes of this Document is the Licence granted under this Document by the Grantor to the Concessionaire under section 17Q of the Conservation Act 1987.

"Penalty Interest Rate" means the rate specified in Item 6 of Schedule 1.

"Term" means the period of time specified in Item 3 of Schedule 1 during which this Document operates.

"Working Days" means days on which the registered banks are open for general banking business in Dunedin.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document and includes that party's successors in title;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) a reference to a person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or an agency of State or of the Crown (in each case whether or not having separate legal personality);
- (f) words in a singular number include the plural and vice versa;
- (g) words importing a gender include all other genders;
- (h) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
- (i) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

## 2.0 GRANT OF LICENCE

2.1 In exercise of the Grantor's powers under section 17Q of the Conservation Act 1987 the Grantor GRANTS to the Concessionaire a LICENCE to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Document.

## 3.0 TERM

3.1 The Licence is for the Term specified in Item 3 of Schedule 1.

## 4.0 SURRENDER OF DOCUMENT

4.1 If the Concessionaire wishes to terminate this Document before the expiry of the Term the Concessionaire must give the Grantor 3 months' notice in writing.

4.2 The Grantor must accept the Concessionaire's notice of termination but in doing so may impose whatever terms and conditions the Grantor considers appropriate, including the matters referred to in clause 6.2.

## 5.0 CONCESSION FEE

5.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee plus GST on the Concession Fee Payment Date specified in Items 4 and 5 of Schedule 1.

5.2 **If** the Concessionaire defaults in payment of the Concession Fee for 14 days after a Concession Fee Payment Date the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 6 of Schedule 1.

## 6.0 OTHER CHARGES

6.1 In addition to the Concession Fee the Concessionaire must pay the following charges ("Other Charges") on demand and in the manner directed by the Grantor:

- (a) all levies, taxes, duties, assessments, charges and other outgoings which may be charged, levied or reasonably assessed or which may become payable in relation to the Concessionaire's use of the Land or the carrying on of the Concession Activity;
- (b) all costs in relation to the supply of water, sewage, drainage and rubbish disposal which are not otherwise included in any charges or assessments made by any authority or by the Grantor;
- (c) all costs incurred by the Grantor in providing an annual building warrant of fitness to any territorial authority, including any costs paid to an independent qualified person for any report establishing or re-establishing compliance with a compliance schedule. **If** any work is required to any structure or facility of the Grantor's on the Land in order to obtain a new building warrant of fitness, the Grantor is to pay the cost of that work subject to the Concessionaire's obligations under clause 10.

6.2 If the Concessionaire surrenders this Document with the consent of the Grantor, the Concessionaire will continue to be liable for and must pay to the Grantor on demand in respect of its use of the Land and its conduct of the Concession Activity all Other Charges which may be due for the current payment period even though that this period may not expire until after the date of surrender.

6.3 Where the Grantor or Director-General has provided a community service, benefit or facility for the benefit of the Concessionaire under section 17ZH of the Conservation Act 1987, the Concessionaire must pay the Grantor whatever contribution the Grantor determines as specified in Schedule 2.

6.4 The Concessionaire must pay all charges for electric power, water supply, geothermal energy, telephone rental and other utilities supplied to the Land. The Grantor **will** not be liable for any cost incurred in re-establishing the supply of any of these utilities in the event of any of them becoming unavailable for any reason.

6.5 If, during the Term, the Land becomes rateable land, following any amendment to the Rating Powers Act 1988 or the introduction of a new Act in substitution for it and the Land's rateability is attributable to the Concession Activity, or if separate rates are levied under section 7 of the Rating Powers Act 1988 in respect of the Land and are attributable to the Concession Activity, the Concessionaire is to pay any rates which may be struck or levied and which are attributable to the Concession Activity; but both parties expressly agree that such payment is not to constitute an acknowledgement of exclusive possession by the Concessionaire of the Land.

## 7.0 CONCESSION FEE REVIEW

7.1 The Grantor will review the Concession Fee on the Concession Fee Review Dates in the following manner:

- (a) the Grantor will commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving written notice to the Concessionaire.
- (b) subject to clause 7.1(e), the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.
- (c) if, within 28 days of receipt of the Grantor's notice, the Concessionaire gives written notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 7.2 (a) or (b).
- (d) if the Concessionaire does not give notice to the Grantor under clause 7.1 (c) the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.
- (e) notwithstanding clause 7.1(b), the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and will be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
- (f) until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.

7.2 Immediately the Concessionaire gives notice to the Grantor under clause 7.1(c) the parties will endeavour to agree on a new Concession Fee. **If** the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:

- (a) by one party giving written notice to the other requiring the new Concession Fee to be determined by arbitration; or, if the parties agree,
- (b) by registered valuers acting as experts and not as arbitrators as follows:
  - (i) each party will appoint a valuer and give written notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.



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- (ii) if the party receiving a notice does not appoint a valuer within the **14** day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination will be binding on both parties.
  - (iii) before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
  - (iv) the valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.
  - (v) in determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide Access to the Land.
  - (vi) each party is to be given the opportunity to make written or verbal representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
  - (vii) the valuers or the umpire must have regard to any such representations but will not be bound by them.
- (c) the valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to provide how the costs of the determination are to be borne and be binding on the parties.
- (d) (i) if a Concession Fee Review date is postponed because of a moratorium imposed by law the Concession Fee Review Date is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
- (ii) the Concession Fee Review will establish the market value for the Concession Activity as at that date instead of the date fixed under clause 7.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no cases the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and
- (iii) each subsequent Concession Fee Review date will take place in accordance with the date fixed in clause 7.1.

7.3 The Concessionaire shall pay to the Grantor all costs associated with any Concession Fee Review (i.e. the cost of staff time spent in reviewing the fee plus the cost of any independent valuation advice).

## 8 CONCESSION ACTIVITY

8.1 The Concessionaire is not to use the Land for any purpose other than the Concession Activity.

8.2 The Concessionaire must, as a condition of this Document:

- (a) take out and maintain and pay all fees for all licences, permits, authorisations, consents (including resource consents under the provisions of the Resource Management Act 1991), and renewals ("the Permissions") as may be necessary for the proper conduct of the Concession Activity;
- (b) not do or suffer to be done any act whereby these Permissions may be forfeited or suspended or refused.

## 9 SUPPLY OF INFORMATION

9.1 At the Grantor's request the Concessionaire must supply the Grantor with a complete statement of audited [mandat] accounts.

9.2 Any information supplied to the Grantor under clause 9.1 is subject to an obligation of confidence; but the parties acknowledge that such information may be subject to the provisions of the Official Information Act 1982 and the Privacy Act 1993.

## 10 COMPLIANCE

10.1 The Concessionaire will comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan as required by section 17W(7) of the Conservation Act 1987 pursuant to Part IIIA of the Conservation Act 1987 together with any amendment or review of any strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
- (b) with the Conservation Act 1987 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Land, or affecting or relating to the Concession Activity.

10.2 The Concessionaire must comply with all conditions imposed by the Grantor in granting this Document.

- 10.3
- (a) A breach or contravention by the Concessionaire of a relevant conservation management strategy or conservation management plan will be deemed to be a breach of this Document.
  - (b) A breach or contravention by the Concessionaire of the Legislation affecting or relating to the Land or affecting or relating to the Concession Activity will be deemed to be a breach of this Document.

10A **If** the Legislation requires the Grantor to spend money on the Grantor's own structures, facilities or alterations on the Land, the Grantor may charge, in addition to the Concession Fee, an annual sum equal to 15% of the amount spent by the Grantor.

10.5 **If** the Legislation requires the Grantor to spend money on structures, facilities or alterations on the Land which the Grantor considers unreasonable, the Grantor may determine this Document and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 27.

## 11 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS

11.1 The Concessionaire must not erect or bring on to the Land any structure, install any facility or alter the Land in any way without the prior written consent of the Grantor.

11.2 In giving approval under clause 11.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.

11.3 The Concessionaire must pay to the Grantor all costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.

11.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before:

- (a) erecting or altering any structure on the Land;
- (b) bringing any structure on to the Land;
- (c) installing any facilities on the Land; or
- (d) altering the Land in any way.

11.5 The Concessionaire must not commence any work on the Land until the Grantor has given written approval.

11.6 When undertaking any work under this clause the Concessionaire must comply with all statutory requirements including obtaining building consents and code compliance certificates under the Building Act 1991.

11.7 The Concessionaire is to keep and maintain its structures and facilities on, or alterations to, the Land in good repair.

## 12 CONCESSIONAIRE'S FURTHER OBLIGATIONS

12.1 The Concessionaire must at the Concessionaire's expense:

- (a) if required by the Grantor take all steps necessary to control or, at the Grantor's option, contribute to the cost of controlling any pest, insect or rodent infestation occurring in or emanating from the Land or any structure or facility on the Land, and if considered necessary by the Grantor, engage a pest exterminator approved by the Grantor;
- (b) comply strictly with the provisions of the Biosecurity Act 1993;
- (c) comply with all requirements of any competent authority regarding sanitation and with all relevant bylaws and fire safety requirements;
- (d) at all times display a copy of the relevant current building warrant of fitness under the Building Act 1991 showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Land to which users of the building have ready access;
- (e) keep and maintain all building systems and any structure on the Land in accordance with the requirements of any compliance schedule;
- (f) retain and make available to any territorial authority and any other person with a right to inspect any structures on the Land under the Building Act 1991 a copy of the compliance schedule together with the written reports relating to compliance with the compliance schedule over the previous two year period.

### 13 PROTECTION OF THE ENVIRONMENT

13.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, animals, plants, or historic resources on the Land; or
- (b) bring any plants, animals, or (in the case of guided walking operations only) firearms on to the Land; or
- (c) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Land; or
- (d) pile or store materials in any place on the Land where it may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Land;

13.2 The Concessionaire will keep the Land in a clean and tidy condition to the satisfaction of the Area Manager Department of Conservation Central Otago and free of weeds and all organisms specified as pests in a relevant pest management strategy.

13.3 The Concessionaire must make adequate provision for suitable sanitary facilities for the Land if required by the Grantor and for the disposal of all refuse material and is to comply with the reasonable directions of the Grantor in regard to these matters.

13.4 The Concessionaire will keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition to the satisfaction of the Area Manager Department of Conservation Central Otago. If reasonably required by the Grantor the Concessionaire will paint all structures and facilities in colours specified in writing by the Grantor and with paints of a type approved in writing by the Grantor.

- 13.5 If, during the Term, the Concessionaire removes a structure or facility from the Land the Concessionaire will, unless the Grantor indicates otherwise in writing, repair and make good at its own expense all damage which may have been done by the removal and will leave the Land in a clean and tidy condition.
- 13.6 Should the Concessionaire fail to repair and restore the damage within 6 months of the removal of a structure or facility or such further time as the Grantor may approve in writing, the Grantor may undertake whatever works and operations are necessary to effect the same and may recover from the Concessionaire any costs and expenses incurred in doing it as a debt due by the Concessionaire to the Grantor.
- 13.7 The Concessionaire must:
- (a) take all reasonable precautions to ensure no fire hazards arise from its carrying out of the Concession Activity or from any act or neglect of its employees, contractors, invitees or agents;
  - (b) not light or permit to be lit any fire on the Land without the written permission of the Grantor in which event the following provisions are to apply:
    - (i) the Concessionaire may light or use at a campsite a fire in the open air if the fire is an approved camp fire and is fuelled by dead wood only;
    - (ii) an approved camp fire is any fire lit for the purpose of camping, cooking, comfort, or warmth;
    - (iii) an approved camp fire may not be lit:
      - (aa) within 3 metres of a tree or place underneath overhanging vegetation;
      - (bb) within 3 metres of a log or dry vegetation;
      - (cc) unless the Concessionaire clears all combustible material away from around the base of the approved camp fire before lighting it;
      - (dd) where there are notices or other advertising limiting the lighting of fires to a particular receptacle or to a particular place;
      - (ee) during a prohibited fire season
    - (iv) for the purpose of this paragraph "open air" has the same meaning ascribed to it in the Forest and Rural Fires Act 1977
  - (c) not store or permit to be stored fuels or other combustible materials on the Land without the written permission of the Grantor. In that event storage of fuels and combustible materials must be in accordance with the provisions of the Dangerous Goods Act 1974;
  - (d) comply with the Grantor's requirements for fire warning and safety equipment and for fire fighting equipment to be kept on the Land at all times.
- 13.8 The Concessionaire must ensure that its employees, clients and invitees do not carry out any acts prohibited under clause 13.
- 13.9 The Concessionaire must immediately report to the Grantor any act in contravention of clause 13 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Grantor with details of the circumstances surrounding such incidents.

#### 14 ADVERTISING

- 14.1 The Concessionaire must not erect or display any signs or advertising on the Land without the prior written approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.
- 14.2 Where required by the Grantor, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.
- 14.3 If required by the Grantor in writing the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.
- 14.4 In preparing such information the Concessionaire must obtain information from and have regard to the views of tangata whenua.

#### 15 EMPLOYMENT OF STAFF

- 15.1 The Concessionaire must ensure that the Concession Activity is conducted at all times by a person or persons suitably trained and qualified to carry out the Concession Activity.
- 15.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.
- 15.3 The Concessionaire must comply with all statutes relating to employment of staff.

#### 16 HEALTH AND SAFETY

- 16.1 The Concessionaire is to carry out the Concession Activity on the Land in a safe and reliable manner and must comply with:
- (a) the Health and Safety in Employment Act 1992 and its regulations; and
  - (b) all other statutes, regulations and bylaws and all notices and requisitions of any competent authority relating to the conduct of the Concession Activity.
- 16.2 The Concessionaire must notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment.
- 16.3 The Concessionaire must:
- (a) take all reasonable steps to protect the safety of all persons present on the Land and must, where necessary, erect protective signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
  - (b) take all reasonable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware.

- 16.4 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor, prepare a safety plan and have it audited by a suitably qualified person approved by the Grantor.
- 16.5 The Concessionaire must not commence the Concession Activity until:
- (a) the person appointed to audit the safety plan has certified the safety plan is suitable for the Concession Activity; and
  - (b) the Concessionaire supplies the Grantor with a copy of the safety plan certified under clause 16.5(a).
- 16.6 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 16 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

## 17 TEMPORARY SUSPENSION

- 17.1 The Grantor may temporarily suspend this Document if, in the opinion of the Grantor, there is a temporary risk to public safety or the safety of the Department's staff or the safety of other Concessionaires whether arising from natural events such as earthquake, land slip, volcanic activity, or flood or whether arising in any other way including the activities of the Concessionaire, its employees, clients or invitees.
- 17.2 If in the opinion of the Grantor the activities of the Concessionaire, its employees, clients or invitees are having or may have an adverse effect on the environment and the Grantor is of the opinion that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor, the Grantor may suspend this Concession until the Concessionaire remedies, avoids or mitigates the adverse impact to the satisfaction of the Grantor.
- 17.3 The Grantor may suspend this Concession while the Grantor investigates any of the circumstances contemplated in clauses 17.1 and 17.2 and also while the Grantor investigates any potential breach or possible offence by the Concessionaire whether or not related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which the Grantor has become aware.
- 17.4 The word "investigates" in clause 17.3 includes the laying of charges and awaiting the decision of the Court.
- 17.5 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.
- 17.6 The Grantor is not to be liable to the Concessionaire for any loss sustained by the Concessionaire by reason of the suspension of the Concession under clause 17 including loss of profits.

## 18 ASSIGNMENT

- 18.1 The Concessionaire is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may in the Grantor's discretion decline any application for consent under this clause.
- 18.2 Sections 17P, 17S, 17T, 17U, 17W, 17X, 17ZB and 17ZC of the Conservation Act 1987 apply to applications for consent under this clause unless the Grantor, in the Grantor's discretion, decides otherwise.
- 18.3 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document.
- 18.4 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 18.5 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

## 19 TERMINATION

- 19.1 The Grantor may terminate this Concession by 14 days notice in writing to the Concessionaire if:
- (a) the Concession Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
  - (b)
    - (i) the Concessionaire breaches any terms of this Document; and
    - (ii) the Grantor has notified the Concessionaire in writing of the breach; and
    - (iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or
  - (c) the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the services provided by the Concessionaire are manifestly inadequate; or
  - (d) the Concessionaire is convicted of an offence, whether or not related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Health and Safety in Employment Act 1982; or the Building Act 1991; or the Resource Management Act 1991; or the Biosecurity Act 1993; or
  - (e) the Concessionaire or the Guarantor is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the



- Concessionaire is made subject to a Writ of Sale or charging order; or the Concessionaire ceases to function or operate; or
- Cf) there is, in the opinion of the Grantor, a permanent risk to public safety or the environment whether arising from the conduct of the Concession Activity or from natural causes such as earthquake, land slip, volcanic activity, flood, or arising in any other way, whether or not from any breach of the terms of this Document on the part of the Concessionaire.

19.2 **If** the Grantor terminates the Concession under this clause all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.

19.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

## 20 GRANTOR MAY REMEDY CONCESSIONAIRE'S DEFAULT

20.1 The Grantor may elect to remedy at any time without notice any default by the Concessionaire under this Concession.

20.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default.

## 21 GRANTOR'S DIRECTIONS

21.1 The Concessionaire must comply with all reasonable notices and directions of the Grantor concerning the Concession Activity on the Land or the conduct of any person on the Land under the authority of this Document.

## 22 POWERS, RIGHTS AND AUTHORITIES

22.1 All powers, rights and authorities of the Grantor under this Document and any notice required to be given by the Grantor may be exercised and given by the Director-General or any officer, employee, or agent of the Director-General.

## 23 INDEMNITIES AND INSURANCE

23.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, agents, contractors, or clients or otherwise caused as a result of its carrying out the Concession Activity on the Land.

- 23.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 23.3 Without prejudice to or in any way limiting its liability under clause 23.1 the Concessionaire must take out and keep in force during the Term:
- (a) a policy of public liability insurance against liability for loss, damage or injury from anyone single accident or event arising out of its conduct of the Concession Activity on the Land and covering:
    - (i) general indemnity for a sum not less than the amount specified in Item 8 of Schedule 1; and
    - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 9 of Schedule 1; and
  - (b) statutory liability for the amount specified in Item 10 of Schedule 1; and
  - (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 11 of Schedule 1.
- 23.4 With respect to clause 23.3 the Concessionaire must provide copy certificates of currency for the policies of insurance before commencing the Concession Activity and on each renewal of them.
- 23.5 (a) Without prejudice to any other provision of this Document the Concessionaire will indemnify the Grantor against all damage or loss resulting from any act or omission on the part of the Concessionaire or the Concessionaire's employees, agents, contractors, clients, or invitees;
- (b) The Concessionaire is to recompense the Grantor for all expenses incurred by the Grantor in making good any damage to the Land or the property of the Grantor resulting from such act or omission.
- 23.6 (a) The Grantor will not be liable and does not accept any responsibility for damage to or interference with the Concession Activity or to the structures or facilities on the Land or any other indirect or consequential damage due to any natural disaster, vandalism, sabotage, fire or exposure to the elements except where, subject to the clause 23.6(b), such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors;
- (b) Where the Grantor is found to be liable due to a wilful act or omission, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures and facilities.
- 23.7 Notwithstanding anything else in clause 23 the Grantor is not liable for any indirect or consequential loss howsoever caused.

## **24 ENVIRONMENTAL MONITORING AND LAND REHABILITATION**

- 24.1 The Concessionaire must, during the Term, if the Grantor so requests in writing, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity on the Land.

- 24.2 Subject to any conditions imposed by the Grantor and set out in Schedule 3, at the expiry, surrender or termination of this Document, the Concessionaire must reinstate the Land to its condition at the commencement of the Term and replant the Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.

## 25 EXPIRY OF LICENCE

- 25.1 If the parties have not entered into a new agreement by the Final Expiry Date the Concessionaire accepts that the Grantor has no liability whatsoever for any costs incurred by the Concessionaire as a result of the expiry of this Document.
- 25.2 Upon the expiry or earlier termination of the Term the Grantor will not be liable to pay compensation for any structure, facility or land alteration of the Concessionaire, all of which, subject to clause 25.4 are to remain the property of the Concessionaire and will be deemed not to have become fixtures on the Land.
- 25.3 Subject to any conditions set out in Schedule 3, at the expiry, surrender or termination of the Term the Concessionaire must remove all the Concessionaire's structures and facilities on the Land unless the Grantor approves otherwise in writing.
- 25.4 If the Concessionaire does not remove the structures and facilities as required by clause 25.3, or as otherwise approved by the Grantor, the structures and facilities remaining on the Land will be deemed to have become fixtures and ownership in them will vest absolutely in the Grantor.
- 25.5 In that case the Grantor will not be liable to pay any compensation to the Concessionaire for the structures and facilities and may, at the Grantor's option, remove or destroy or otherwise dispose of them and recover the costs and expenses of the removal or destruction from the Concessionaire as a debt due to the Grantor.

## 26 FORCE MAJEURE

- 26.1 Neither party will be liable to the other party for any delay in performance of, or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.
- 26.2 If the delay or failure continues for at least 28 days either party will be entitled to terminate this Document by notice in writing.

## 27 DISPUTE RESOLUTION AND ARBITRATION

- 27.1 If a dispute arises between the parties in connection with this Document including without limitation the interpretation, validity, breach or termination of any of its provisions, the parties will, without prejudice to any other rights or entitlements they may have under this Document or otherwise, attempt to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any

other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.

- 27.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to the Disputes Tribunal, where relevant, or to arbitration which arbitration is to be carried out in accordance with the provisions of the Arbitration Act 1996.
- 27.3 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.
- 27.4 If the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the New Zealand Law Society is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.
- 27.5 The arbitrator must include in the arbitration award reasons for the determination.

## 28 NOTICES

- 28.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 12 of Schedule 1.
- 28.2 A notice given in accordance with clause 28.1 will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
  - (b) in the case of a letter, on the third working day after posting;
  - (c) in the case of facsimile, on the date of dispatch.

## 29 COSTS

- 29.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and executing this Document or any extension or variation of this Document.
- 29.2 The Concessionaire must pay if full immediately on demand all costs and fees (including but not limited to solicitors' costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor:
- (a) to enforce or attempt to enforce the Grantor's rights and powers under this Document if the Concessionaire is in breach or default;
  - (b) to recover outstanding money owed to the Grantor.

### 30 RELATIONSHIP OF PARTIES

30.1 Nothing expressed or implied in this Document shall be construed as:

- (a) constituting the parties as partners or joint venturers;
- (b) conferring on the Concessionaire any right of exclusive occupation or use of the Land;
- (c) granting any estate or interest in the Land to the Concessionaire;
- (d) preventing the Grantor from granting other concessions, whether similar or not, to other persons;
- (e) derogating from the rights of the Grantor and the public to have access across the Land.

### 31 OFFENCES

31.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Document.

### 32 SEVERABILITY

32.1 Any illegality, or invalidity or unenforceability of any provision in this Document is not to affect the legality, validity or enforceability of any other provisions.

### 33 ENTIRE UNDERSTANDING

33.1 Except as provided by legislation, this Document and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Document and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Document.

### 34 VARIATIONS

34.1 The provisions of section 17ZC of the Conservation Act 1987 apply to all variations sought by the Concessionaire and to any applications for extension of the Term.

34.2 The Grantor may vary any conditions of this Document if the variation is necessary:

- (a) to deal with significant adverse effects of the Activity that were not reasonably foreseeable at the time this Licence was granted; or

- (b) because the information made available to the Grantor by the Concessionaire for the purposes of the Concessionaire's application contained inaccuracies which materially influenced the decision to grant the Licence and the effects of the Activity permitted by this Document require more appropriate conditions.

34.3 The Concessionaire is to be bound by every such variation.

### 35.0 GUARANTEE

35.1 If the Grantor notifies the Concessionaire in writing that the Grantor requires this Document to be guaranteed by a third party the following clauses are to apply.

35.2 Subject to clause 35.1 and in consideration of the Grantor entering into this Document at the Guarantor's request the Guarantor:

- (a) guarantees payment of the Concession Fee and the performance by the Concessionaire of the covenants in this Document; and
- (b) indemnifies the Grantor against any loss the Grantor might suffer should the Document be lawfully disclaimed or abandoned by any liquidator, receiver or other persons.

35.2 Subject to clause 35.1 the Guarantor covenants with the Grantor that:

- (a) no release, delay, or other indulgence given by the Grantor to the Concessionaire to the Concessionaire's successors or assigns or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety is to release, prejudice, or affect the liability of the Guarantor as a Guarantor or as indemnifier;
- (b) as between the Guarantor and Grantor the Guarantor may, for all purposes, be treated as the Concessionaire and the Grantor is under no obligation to take proceedings against the Concessionaire before taking proceedings against the Guarantor;
- (c) the guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the Concession Fee;
- (d) any assignment of this Document and any Concession Fee Review in accordance with this Document are not to release the Guarantor from liability;
- (e) should there be more than one Guarantor the liability of each Guarantor under this Guarantee is to be joint and several.

**36 CO-SITING**

- 36.1 The Concessionaire must, if required by the Grantor, allow Co-Siting on the Land except when a Concessionaire demonstrates to the reasonable satisfaction of the Grantor that the Co-Siting by a third party:
  - (a) would impact on the ability of the Concessionaire to conduct its Concession Activity; or
  - (b) would result in a substantial change to the Concession Activity carried out by the Concessionaire on the Land.
  
- 36.2 The Grantor will be entitled to require the Concessionaire to obtain at the Concessionaire's expense a report prepared by an independent consultant acceptable to the Grantor confirming the matter specified in clause 36.1.
  
- 36.3 For the avoidance of doubt, a Co-Sitee permitted on the Land must enter into a separate agreement with the Grantor in terms of which the Co-Sitee will be required to pay a fee to the Grantor to conduct an Activity on the Land. This separate agreement will not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Land.

Signed by:  
Area Manager Department of Conservation  
Central Otago Area Office for and on behalf of  
the Minister of Conservation  
pursuant to a written delegation  
in the presence of :

Witness (signature) \_\_\_\_\_

Witness (print name) \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

Signed by:

\_\_\_\_\_  
as Concessionaire  
in the presence of :

Witness (signature) \_\_\_\_\_

Witness (print name) \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

Signed by:

\_\_\_\_\_  
as Guarantor  
in the presence of :

Witness (signature) \_\_\_\_\_

Witness (print name) :

Occupation :

Address:



## SCHEDULE 1

1. Land: *"Part of the area marked CA1 on the Proposed Designations Plan<sup>JJ</sup> Area is also outlined in red in Schedule 5. (see definition of Land in clause 1.1)*
2. Concession Activity: *(see definition of Concession Activity in clause 1.1)*  
The Grantor will allow the Concessionaire to conduct the following commercial recreation activities; Guided snow mobile tours and snowcat borne skiing, between the period 1 June and 31 October in each year, except that the activity must cease by the 30<sup>th</sup> day of September 2010.
3. Term: commencing on \_\_\_\_\_ and expiring on 30 September 2010, with no right of renewal. *(see clause 3.1)*
4. Concession Fee: \$125 plus GST lump sum fee per year. *(see clause 5.1)*
5. Concession Fee Payment Date: Before 30 June *(see clause 5.1)*
6. Penalty Interest Rate: *(see clause 5.2)*  
Double the Grantor's bank's current highest 90 day bank bill buy rate
7. Concession Fee Review Date:  
At three yearly intervals from commencement date.
8. Public Liability General Indemnity Cover: *(see clause 23.3)*  
for \$1,000,000
9. Public Liability Forest & Rural Fire Extension: *(see clause 23.3)*  
for \$1,000,000
10. Statutory Liability: *(see clause 23.3)*  
Amount: Nil
- 11(a) Other Types of Insurance: not applicable *(see clause 23.3)*
- 11(b) Amounts Insured for Other Types of Insurances: not applicable *(see clause 23.3)*

12. Address for Notices:

*(see clause 28)*

- (a) Grantor: c/o Box 5244,  
DUNEDIN
  
- (b) Concessionaire: Craigroy PO Box 12  
CROMWELL  
Fax 0-3-445 0843

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## **SCHEDULE 2**

### *Community Service Contribution*

Nil

## SCHEDULE 3

### *Special Conditions*

1. The Concessionaire will ensure the company's employees and clients adhere to the New Zealand Environmental Care Code and Water Care Code attached to this Permit.
2. At the end of each year the Concessionaire shall forward to the Conservator, Department of Conservation Dunedin, an annual activity report showing the number of clients guided on full day and half day trips during the last year and shall at the same time forward the Concession Fee payable. The activity report shall specify the numbers guided, and areas visited on a daily basis.
3. The annual activity report will record, in the form shown in Schedule 4;
  - 3.1 the dates of all trips
  - 3.2 the number of persons guided and the numbers of snow mobiles and/or snowcats vehicles used
  - 3.3 the locations visited
4. The Concessionaire shall indemnify the Grantor, against all and any action claim injury damage or loss which may arise as a result of the granting of this licence.
5. The Grantor reserves the right to apply restrictions on the Concession Activity, or withdraw all or part of the Land or Concession Activity approved, if in the sole opinion of the Grantor the Concession Activity granted is having, or may have, an adverse effect on the physical or social environment and the effect cannot be avoided, remedied or mitigated to an extent satisfactory to the Grantor. The concessionaire shall not be entitled to any compensation in the event of such action being taken.
6. The Grantor shall be entitled to send any officer of the Department of Conservation free of charge on the Concession Activity during the term of this licence for the purpose of assessing the impact of the Concession Activity, and compliance with the terms and conditions of the licence.
7. The Grantor may require a monitoring programme to be implemented that records the social and environmental effects of the activity. The monitoring programme is to be approved by the Grantor. All costs associated with the monitoring programme are to be met by the concessionaire.
8. The Grantor acknowledges that the concessionaire holds recreation permits over Glenaray and Nokamai pastoral leases and also holds a concession license over conservation land (formerly part of the Carrick pastoral lease) adjoining the land described in clause 1 of schedule one of this concession. Having regard to the limits imposed on both the recreation permits and the concession license for the adjoining conservation land, the limits on the exercise of the concession activity under this concession are as follows;

- (a) The maximum number of snowmobiles operating at anyone time on the land described in clause 1 of schedule one for the purposes of snowmobile touring and sightseeing is 10. Within that limit, snowmobiles and snowmobile tours are permitted on the following basis;
    - (a.i) A maximum of four snowmobile tours per day is permitted
  - (b) The maximum number of snowcats operating at anyone time, in addition to the maximum number of snowmobiles, is 2.
9. Snowmobile and snowcat trails are to be marked.
10. The Concessionaire must not carry out the permitted activities on any area with a snow depth of less than 300mm of compacted snow.
11. The sound emitted by any snowmobile when cruising shall not exceed 80dBA when measured at a distance of 15 metres and the sound emitted by any snowcat shall not exceed 60dBA at a distance of 100 metres.
12. Before the concession activity can commence the Concessionaire must provide the Grantor with an independently audited safety plan which meets the requirements of clause 16.4, 16.5 and 16.6 of the general conditions. The Concessionaire shall keep this document in force during the term of this concession.
13. The Concessionaire shall ensure that all cooking and heating requirements are by gas or liquid fuel only.
14. In the event that the Concessionaire ceases business or upon expiry of the concession the Concessionaire is required to remove route markers from the Land.

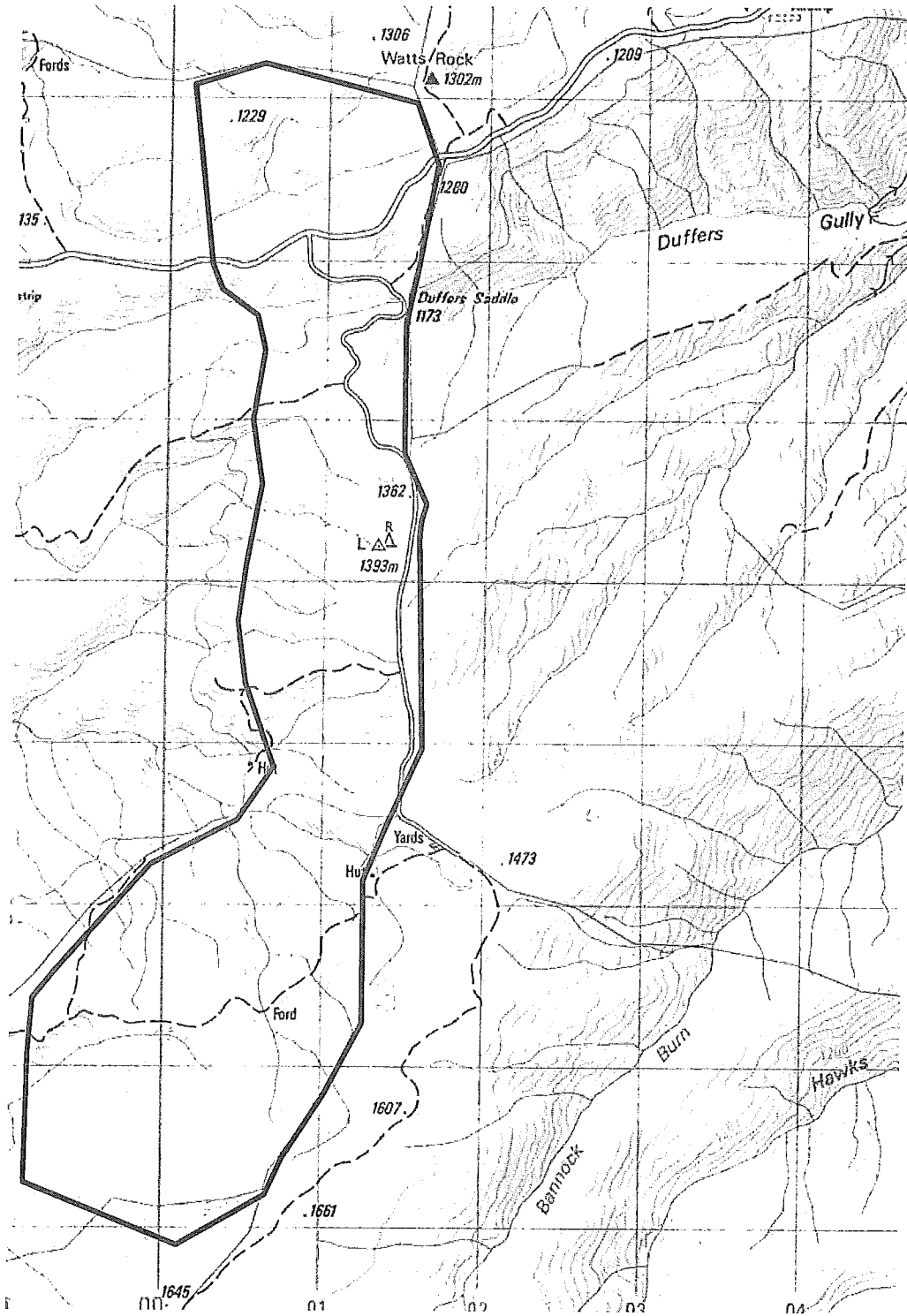
SCHEDULE 4

MONTHLY ACTIVITY RETURN FORM

**Operator:** RW & SL Brown  
**Concession No:** PAC  
**Guide Snow mobile tours, snow mobile and snowcat borne skiing and helicopter landings.**

DATE	TIME	NO. OF SNOWMOBILES / SNOWCATS	LOCATION	COMMENTS

### SCHEDULE 5 Concession Area



Appendix 5: Form of **Grazing** Concession to be Created over Conservation Area labelled "CA1" on the Plan

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Concession number: \_ \_ \_ \_

DATED \_

Between

MINISTER OF CONSERVATION  
("the Grantor")

and

PIONEER GENERATION LIMITED  
("the Concessionaire")

GRAZING CONCESSION  
UNDER CROWN PASTORAL LAND ACT 1998



Department of Conservation  
*Te Papa Atawhai*

THIS LICENCE is made this day of

PARTIES:

1. MINISTER OF CONSERVATION, ("the Grantor")
2. PIONEER GENERATION LIMITED ("the Concessionaire")

BACKGROUND

- A. The Grantor manages the Land described in Schedule 1 as a Conservation Area or Reserve.
- B. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant a Concession for a Concession Activity in a Conservation Area and a Reserve under section 17Q(I) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).
- C. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Document.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

"Access" means the right, in common with others, to pass and repass over the Land and any roads of the Grantor for ingress to and egress from the Land as is reasonably necessary for the Concessionaire to exercise its rights under this Licence.

"Administration Fee" means the amount specified in Item 6(b) of Schedule 1 and is the annual fee for administering the Concession imposed by the Grantor under section 60D of the Conservation Act 1987. It includes any variation in that amount following a Concession Fee Review.

"Background" means the matters referred to under the heading 'Background' on page 1 of this Document.

"Concession" means a concession as defined in section 2 of the Conservation Act 1987.

"Concessionaire" includes the Concessionaire's successors, assigns, executors, and administrators.

"Concession Activity" means the use of the Land for purposes of the activity carried out by the Concessionaire and specified in Item 2 of Schedule 1.

"Concession Fee" means the amount specified in Item 6(a) of Schedule 1 and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Land. It includes any variation in that amount following a Concession Fee Review. It also includes, where relevant, the amount which the parties agree to be the new Concession Fee on a renewal of the Document.

"Concession Fee Payment Date" means the date specified in Item 7 of Schedule 1 on which the Concession Fee falls due for payment.

"Concession Fee Review" means a review of the Concession Fee determined in accordance with clause 6 of this Document.

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"Concession Fee Review Date" means the date specified in Item 9 of Schedule 1 on which the Concession Fee Review occurs being at 3 year intervals calculated from the date of commencement of the term of this Document; and includes any additional dates inserted into Item 9 of Schedule 1 following a renewal of this Document.

"Conservation Area" has the same meaning as "Conservation area" in section 2 of the Conservation Act 1987.

"Director-General" means the Director-General of Conservation.

"Document" means this Licence and any subsequent amendments and all schedules, annexures, and plans attached to it.

"Final Expiry Date" means the date specified in Item 5 of Schedule 1.

"Land" means a Conservation Area or a Reserve (whichever is relevant in the circumstances) being the area more particularly described in Item 1 of Schedule 1.

"Licence" for purposes of this Document is the Licence granted under this Document by the Grantor to the Concessionaire under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

"Penalty Interest Rate" means the rate specified in Item 8 of Schedule 1.

"Renewal Date" means the date specified in Item 4(a) of Schedule 1.

"Renewal Period" means the period specified in Item 4(b) of the Schedule 1.

"Reserve" has the same meaning as "reserve" in section 2 of the Reserves Act 1977.

"Structure" includes a bridge, a culvert, and a fence.

"Term" means the period of time specified in Item 3 of Schedule 1 during which this Document operates. It includes, where relevant, any period of renewal of the Term.

"Working Day" means the period between anyone midnight and the next excluding Saturdays, Sundays and Statutory holidays in the place where the Concession Activity is being carried out.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) words in a singular number include the plural and vice versa;
- (f) words importing a gender include other genders;
- (g) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
- (h) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

**2.0 GRANT OF LICENCE**

2.1 In exercise of the Grantor's powers under either section 66 or section 68 of the Crown Pastoral Land Act 1998 (whichever is relevant in the circumstances) the Grantor **GRANTS** to the Concessionaire a **LICENCE** under either section 17Q(I) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances) to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Document.

**3.0 TERM**

3.1 The Licence is for the Term specified in Item 3 of Schedule 1.

3.2 Unless otherwise specified in Items 4 and 5 of Schedule 1, if the Concessionaire has not been in breach of this Document and has given to the Grantor written notice to renew the Document at least three months before the end of the Term, the Grantor will, at the cost of the Concessionaire, renew the Document from the Renewal Date for the next Renewal Period on the following terms:

- (a) the new Concession Fee is to be agreed upon before the end of the Term or, failing agreement, is to be determined as though it were a Concession Fee Review under clause 6;
- (b) the Concession Fee is to be subject to review during the Renewal Period on each Concession Fee Review Date;
- (c) the renewed Document is otherwise to be in accordance with and subject to the covenants and agreements expressed and implied in this Document except that the Term of the Document and all renewals, if any, end on the Final Expiry Date;
- (d) pending the determination of the new Concession Fee, the Concessionaire is to pay the new Concession Fee proposed by the Grantor. Upon determination an appropriate adjustment is to be made to the Concession Fee.

**4.0 CONCESSION FEE AND ADMINISTRATION FEE**

4.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor on or before the Concession Fee Payment Date specified in Item 7 of Schedule 1:

- (a) the Concession Fee plus GST specified in Item 6(a) of Schedule 1; and
- (b) the Administration Fee plus GST specified in Item 6(b) of Schedule 1.

4.2 If the Concessionaire defaults in payment of the Concession Fee and Administration Fee for 14 days after a Concession Fee Payment Date the Concessionaire is to pay interest on the unpaid Concession Fee and Administration Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

4.3 For purposes of clause 6.0, a reference to Concession Fee includes a reference to the Administration Fee.

**5.0 OTHER CHARGES**

5.1 In addition to the Concession Fee and Administration Fee the Concessionaire must pay all rates, levies, taxes, duties, assessments, charges, and other outgoings which may be charged, levied, or reasonably assessed, or which become payable in relation to the Land as a result of the grant of this Licence.

**6.0 CONCESSION FEE AND ADMINISTRATION FEE REVIEW**

- 6.1 The Grantor will review the Concession Fee and the Administration Fee on the Concession Fee Review Dates.
- 6.2 The Grantor will commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving written notice to the Concessionaire.
- 6.3 The notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987. The Notice must also specify the Administration Fee which the Grantor intends to impose until the next Concession Fee Review Date.
- 6.4 If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives written notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 18.
- 6.5 Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee payable immediately before the Concession Fee Review Date. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable notwithstanding anything in this clause, the new Administration Fee will be payable by the Grantor upon receipt of the Notice referred to in clause 6.3.
- 6.6 If the Concessionaire does not give notice to the Grantor under clause 6.4 the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.

**7.0 CONCESSION ACTIVITY**

- 7.1 The Concessionaire is not to use the Land for any purpose other than the Concession Activity.

**8.0 COMPLIANCE**

- 8.1 The Concessionaire will comply where relevant:
- (a) with the provisions of any conservation management strategy or conservation management plan under Part IIIA of the Conservation Act 1987 together with any amendment or review of the strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
  - (b) with the Conservation Act 1987, the Reserves Act 1977, the Health and Safety in Employment Act 1992, the Resource Management Act 1991, and any other statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land, or affecting or relating to the Concession Activity.

**9.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS**

- 9.1 The Concessionaire must not erect or bring on to the Land any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.
- 9.2 The Concessionaire must keep and maintain at the Concessionaire's cost any Structures, facilities and alterations to the Land in good repair.
- 9.3 On expiry or early termination of this Document either as to the whole or any part of the Land, the Concessionaire will not be entitled to compensation for any improvements (including pasture) and any Structures or facilities remaining on the Land are to become the property of the Grantor.

- 9.4 If requested by the Grantor, the Concessionaire must, within such time as the Grantor determines, remove all Structures, facilities or other improvements erected or installed by the Concessionaire and make good at the Concessionaire's own expense all damage done by the removal and must leave the Land in a clean and tidy condition to the satisfaction of the Grantor.

#### **10.0 PROTECTION OF THE ENVIRONMENT**

- 10.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, indigenous animals and plants, or historic resources on the Land; or
- (b) bring any plants, or animals (other than farm stock described in Item 2 of Schedule 1, farm dogs and horses for purposes of the Concession Activity) on to the Land; or
- (c) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Land; or
- (d) pile or store materials in any place on the Land where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Land; or
- (f) top-dress, bum, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Land; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Land; or
- (h) light any fire on the Land.

- 10.2 The Concessionaire, must at the Concessionaire's expense:

- (a)(i) if required by the Grantor take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Land or any Structure or facility on the Land;
- (a)(ii) if considered necessary by the Grantor, engage a pest exterminator approved by the Grantor; and
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

- 10.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 10.

- 10.4 The Concessionaire may bring firearms on to the Land for use in connection with the Concession Activity and pest control operations.

- 10.5 The Concessionaire for purposes of the Concession Activity may take onto or use farm vehicles on the Land on existing formed access tracks only.

#### **11.0 HEALTH AND SAFETY**

- 11.1 The Concessionaire is to carry out the Concession Activity on the Land in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations.

- 11.2 The Concessionaire must notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment.

## **12.0 TEMPORARY SUSPENSION**

12.1 The Grantor may suspend this Document:

- (a) if, in the opinion of the Grantor the activities of the Concessionaire, its employees, agents, contractors, licensees or invitees are having or may have an adverse effect on the environment and the Grantor considers that the effect can not be avoided, remedied or mitigated to an extent satisfactory to the Grantor;
- (b) while the Grantor investigates any of the circumstances contemplated by this clause and also while the Grantor investigates any potential breach or possible offence by the Concessionaire related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which the Grantor has become aware.

12.2 The Grantor is not liable to the Concessionaire for any loss sustained by the Concessionaire by reason of a suspension under clause 12.1 including loss of profits.

12.3 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

## **13.0 ASSIGNMENT**

13.1 The Concessionaire is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may, in the Grantor's discretion, decline to grant consent under this clause.

13.2 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document unless the Grantor otherwise provides in writing.

13.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.

13.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

## **14.0 TERMINATION**

14.1 The Grantor may terminate this Document by notice in writing to the Concessionaire if:

- (a) the Concession Fee or the Administration Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
  - (bXi) the Concessionaire breaches any terms of this Document; and
  - (bXii) the Grantor has notified the Concessionaire in writing of the breach; and
  - (b)(iii) the Concessionaire does not rectify the breach within 28 days of receiving notification; or
- (c) the Concessionaire ceases to conduct the Concession Activity; or
- (d) the Concessionaire is convicted of an offence, related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Resource



Management Act 1991; or the Biosecurity Act 1993; or the Health and Safety in Employment Act 1992; or

- (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a writ of sale or charging order; or the Concessionaire cease to function or operate.

14.2 If the Grantor terminates the Document under this clause 14 all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or Administration Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.

14.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

#### 15.0 INDEMNITIES AND INSURANCE

15.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, contractors, or invitees or otherwise caused as a result of its use of the Land or the Concessionaire's carrying out of the Concession Activity on the Land.

15.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.

15.3 Without prejudice to or in any way limiting its liability under clause 15.1 the Concessionaire must take out and keep in force during the TetID if required by the Grantor:

- (a) a policy of public liability insurance against liability for loss, damage or injury from anyone single accident or event arising out of its conduct of the Concession Activity on the Land and covering:
  - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
  - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
- (b) statutory liability insurance for the amount specified in Item 12 of Schedule 1; and
- (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 13 of Schedule 1.

15.4 With respect to clause 15.3 the Concessionaire must, before commencing the Concession Activity and on each renewal of insurance provide the Grantor with certificates of insurance issued by the Concessionaire's insurer confirming the nature, amount and duration of cover.

16.0 ENVIRONMENTAL MONITORING

16.1 The Concessionaire must, during the Term, if required in writing by the Grantor, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's conduct of the Concession Activity on the Land.

17.0 FORCE MAJEURE

17.1 Neither party will be liable to the other party for any delay in performance of, or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.

18.0 DISPUTE RESOLUTION AND ARBITRATION

18.1 If any dispute arises between the parties in connection with this Document, the parties must, without prejudice to any other rights they have under this Document, attempt to resolve the dispute by negotiation or other informal dispute resolution techniques agreed by the parties.

18.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.

18.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

18.4 In the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions of the Arbitration Act 1996 will apply.

18.5 Notwithstanding anything in the Arbitration Act 1996, if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the District Law Society in the region in which the Land is situated is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

18.6 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.

18.7 The parties agree that the results of any arbitration are to be binding on the parties.

19.0 NOTICES

19.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 15 of Schedule 1.

19.2 A notice given in accordance with clause 19.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) in the case of facsimile, on the Working Day on which it is dispatched or, if dispatched after 5.00pm on a Working Day, or if dispatched on a non-working day, on the next Working Day after the date of dispatch.

**20.0 RELATIONSHIP OF PARTIES**

20.1 Nothing expressed or implied in this Document shall be construed as:

- (a) conferring on the Concessionaire any right of exclusive occupation or use of the Land;
- (b) derogating from the rights of the Grantor and the public to have access across the Land;
- (c) preventing the Grantor from granting other concessions (except a grazing licence) to other persons.

**21.0 OFFENCES**

21.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Document.

**22.0 SPECIAL CONDITIONS**

22.1 Special conditions relating to this Document are set out in Schedule 2.

22.2 The standard conditions contained in this Document must be read subject to any special conditions.

Signed by :

\_\_\_\_\_

for and on behalf of  
the Minister of Conservation  
pursuant to a written delegation (or designation as the case may be)  
in the presence of :

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

Signed by :

\_\_\_\_\_

as Concessionaire  
in the presence of :

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

**SCHEDULE 1**

1. **Land:** *Area outlined pink and marked as CA1 the designations plan as "CA1"(see definition of Land in clause 1.1)*
  
2. **Concession Activity:**

For the final three years of the concession period no more than 1000 wethers or dry ewes will be grazed for a period not exceeding 4 months in anyone year. Wethers and dry ewes equate to 0.8 Stock units (SU) therefore the stock limit equates to 266 SU per annum).

For the initial period no more than 1500 wethers or dry ewes will be grazed for a period not exceeding 4 months in anyone year. Wethers and dry ewes equate to 0.8 Stock units (SU) therefore the stock limit equates to 400 SU per annum).

Stocking rates are on the basis that the concession area is grazed in conjunction with the *Area outlined pink and marked as R1 (Scenic) on the designations plan.*
  
3. **Term:** 5 years commencing on date of signing of the substantive proposal for the tenure review of Craigroy pastoral lease or such residual that remains of this term when the Concession is granted. *(see clause 3)*
  
4. (a) **Renewal Date:** NA *(see clause 3.2)*  
(b) **Renewal Period:** On expiry of this Concession, no renewal will be considered.
  
5. **Final Expiry Date:** 5 years from signing of substantive proposal. *(see clause 3.2)*
  
6. (a) **Concession Fee:** The concession fee is to be calculated on the basis of \$6/SU/annum, for the stock run on the Land for that year. In order that the grazing fee may be calculated, a return of stock will be made by 30 of June of each year showing the stock carried on the land over the preceding year. If a return is not made by this date, a fee will be charged assuming the maximum stock numbers had been run. *(see clause 4)*  
(b) **Administration Fee:** \$100 per annum + GST *(see clause 4)*
  
7. **Concession Fee Payment Date:** *(see clause 4)*  
On or before the date specified on the invoice generated by the Grantor
  
8. **Penalty Interest Rate:** *(see clause 4.2)*  
Double the Grantor's bank's current highest 90 day bank bill buy rate
  
9. **Concession Fee Review Date:** NA. *(see clause 6)*
  
10. **Public Liability General Indemnity Cover:** *(see clause 15.3)*  
for \$1,000,000.00
  
11. **Public Liability Forest & Rural Fire Extension:** *(see clause 15.3)*  
for \$500,000.00
  
12. **Statutory Liability Insurance:** *(see clause 15.3)*  
Amount \$250,000.00

- 13 **Other Types of Insurance:** *(see clause 15.3)*
- Amounts Insured for Other Types of Insurances:** *(see clause 15.3)*  
Amount NA
14. **Environmental Monitoring Contribution:** \$ NA. *(see clause 16)*
15. **Address for Notices (including facsimile number):** *(see clause 19)*
- (a) Grantor: C/- PO Box 5244, Dunedin. (03) 4778626
- (b) Concessionaire: Ellis Street  
PO Box 275  
Alexandra  
Fax (03) 448 9439

**SCHEDULE 2**

*Special Conditions*

**Land Management**

1. The Concessionaire will take care not to overstock the Land and will ensure that grazing is not having an adverse impact on the indigenous vegetation within the Land.

**Fencing**

- 2 The Grantor is not to be called upon at any time to contribute to the costs of work on a fence as that term is defined in the Fencing Act 1978 between the Land and any adjoining land of the Grantor.
- 3 The Concessionaire must keep and maintain at the Concessionaires cost any fences, stiles or gates in good repair.

**Hunting**

- 4 The Grantor reserves the right to authorize hunters who hold a valid hunting permit issued by the Department of Conservation to hunt on the Land.

**Inspection**

- 5 The Grantor reserves the right for the Grantor's employees or agents to enter on the Land at any time for the purpose of inspecting the Land.

**Transfer**

- 6 In relation to Clause 13.1 consent to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaires interest under this Document will not be unreasonably withheld by the Grantor.

**Appendix 6: Form of Grazing Concession to be Created over Scenic Reserve labelled "R1(Scenic)" on the Plan**

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Concession number: \_ \_ \_ \_

DATED \_\_\_\_\_

**Between**

**MINISTER OF CONSERVATION**  
**("the Grantor")**

**and**

**PIONEER GENERATION LIMITED**  
**("the Concessionaire")**

**GRAZING CONCESSION**  
**UNDER CROWN PASTORAL LAND ACT 1998**



**Department of Conservation**  
***Te Papa Atawhai***

THIS LICENCE is made this day of

PARTIES:

1. MINISTER OF CONSERVATION, ("the Grantor")
2. PIONEER GENERATION LIMITED ("the Concessionaire")

BACKGROUND

- A. The Grantor manages the Land described in Schedule 1 as a Conservation Area or Reserve.
- B. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant a Concession for a Concession Activity in a Conservation Area and a Reserve under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).
- C. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Document.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

"Access" means the right, in common with others, to pass and repass over the Land and any roads of the Grantor for ingress to and egress from the Land as is reasonably necessary for the Concessionaire to exercise its rights under this Licence.

"Administration Fee" means the amount specified in Item 6(b) of Schedule 1 and is the annual fee for administering the Concession imposed by the Grantor under section 60D of the Conservation Act 1987. It includes any variation in that amount following a Concession Fee Review.

"Background" means the matters referred to under the heading "Background" on page 1 of this Document.

"Concession" means a concession as defined in section 2 of the Conservation Act 1987.

"Concessionaire" includes the Concessionaire's successors, assigns, executors, and administrators.

"Concession Activity" means the use of the Land for purposes of the activity carried out by the Concessionaire and specified in Item 2 of Schedule 1.

"Concession Fee" means the amount specified in Item 6(a) of Schedule 1 and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Land. It includes any variation in that amount following a Concession Fee Review. It also includes, where relevant, the amount which the parties agree to be the new Concession Fee on a renewal of the Document.

"Concession Fee Payment Date" means the date specified in Item 7 of Schedule 1 on which the Concession Fee falls due for payment.

"Concession Fee Review" means a review of the Concession Fee determined in accordance with clause 6 of this Document.

"Concession Fee Review Date" means the date specified in Item 9 of Schedule 1 on which the Concession Fee Review occurs being at 3 year intervals calculated from the date of commencement of the term of this Document; and includes any additional dates inserted into Item 9 of Schedule 1 following a renewal of this Document.

"Conservation Area" has the same meaning as "Conservation area" in section 2 of the Conservation Act 1987.

"Director-General" means the Director-General of Conservation.

"Document" means this Licence and any subsequent amendments and all schedules, annexures, and plans attached to it.

"Final Expiry Date" means the date specified in Item 5 of Schedule 1.

"Land" means a Conservation Area or a Reserve (whichever is relevant in the circumstances) being the area more particularly described in Item 1 of Schedule 1.

"Licence" for purposes of this Document is the Licence granted under this Document by the Grantor to the Concessionaire under section 17Q(I) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

"Penalty Interest Rate" means the rate specified in Item 8 of Schedule 1.

"Renewal Date" means the date specified in Item 4(a) of Schedule 1.

"Renewal Period" means the period specified in Item 4(b) of the Schedule 1.

"Reserve" has the same meaning as "reserve" in section 2 of the Reserves Act 1977.

"Structure" includes a bridge, a culvert, and a fence.

"Term" means the period of time specified in Item 3 of Schedule 1 during which this Document operates. It includes, where relevant, any period of renewal of the Term.

"Working Day" means the period between anyone midnight and the next excluding Saturdays, Sundays and Statutory holidays in the place where the Concession Activity is being carried out.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) words in a singular number include the plural and vice versa;
- (f) words importing a gender include other genders;
- (g) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
- (h) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

## **2.0 GRANT OF LICENCE**

2.1 In exercise of the Grantor's powers under either section 66 or section 68 of the Crown Pastoral Land Act 1998 (whichever is relevant in the circumstances) the Grantor **GRANTS** to the Concessionaire a **LICENCE** under either section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances) to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Document.

## **3.0 TERM**

3.1 The Licence is for the Term specified in Item 3 of Schedule 1.

3.2 Unless otherwise specified in Items 4 and 5 of Schedule 1, if the Concessionaire has not been in breach of this Document and has given to the Grantor written notice to renew the Document at least three months before the end of the Term, the Grantor will, at the cost of the Concessionaire, renew the Document from the Renewal Date for the next Renewal Period on the following terms:

- (a) the new Concession Fee is to be agreed upon before the end of the Term or, failing agreement, is to be determined as though it were a Concession Fee Review under clause 6;
- (b) the Concession Fee is to be subject to review during the Renewal Period on each Concession Fee Review Date;
- (c) the renewed Document is otherwise to be in accordance with and subject to the covenants and agreements expressed and implied in this Document except that the Term of the Document and all renewals, if any, end on the Final Expiry Date;
- (d) pending the determination of the new Concession Fee, the Concessionaire is to pay the new Concession Fee proposed by the Grantor. Upon determination an appropriate adjustment is to be made to the Concession Fee.

## **4.0 CONCESSION FEE AND ADMINISTRATION FEE**

4.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor on or before the Concession Fee Payment Date specified in Item 7 of Schedule 1:

- (a) the Concession Fee plus GST specified in Item 6(a) of Schedule 1; and
- (b) the Administration Fee plus GST specified in Item 6(b) of Schedule 1.

4.2 If the Concessionaire defaults in payment of the Concession Fee and Administration Fee for 14 days after a Concession Fee Payment Date the Concessionaire is to pay interest on the unpaid Concession Fee and Administration Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

4.3 For purposes of clause 6.0, a reference to Concession Fee includes a reference to the Administration Fee.

## **5.0 OTHER CHARGES**

5.1 In addition to the Concession Fee and Administration Fee the Concessionaire must pay all rates, levies, taxes, duties, assessments, charges, and other outgoings which may be charged, levied, or reasonably assessed, or which become payable in relation to the Land as a result of the grant of this Licence.

6.0 CONCESSION FEE AND ADMINISTRATION FEE REVIEW

- 6.1 The Grantor will review the Concession Fee and the Administration Fee on the Concession Fee Review Dates.
- 6.2 The Grantor will commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving written notice to the Concessionaire.
- 6.3 The notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987. The Notice must also specify the Administration Fee which the Grantor intends to impose until the next Concession Fee Review Date.
- 6.4 If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives written notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 18.
- 6.5 Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee payable immediately before the Concession Fee Review Date. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable notwithstanding anything in this clause, the new Administration Fee will be payable by the Grantor upon receipt of the Notice referred to in clause 6.3.
- 6.6 If the Concessionaire does not give notice to the Grantor under clause 6.4 the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.

7.0 CONCESSION ACTIVITY

- 7.1 The Concessionaire is not to use the Land for any purpose other than the Concession Activity.

8.0 COMPLIANCE

- 8.1 The Concessionaire will comply where relevant:
- (a) with the provisions of any conservation management strategy or conservation management plan under Part IIIA of the Conservation Act 1987 together with any amendment or review of the strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
  - (b) with the Conservation Act 1987, the Reserves Act 1977, the Health and Safety in Employment Act 1992, the Resource Management Act 1991, and any other statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land, or affecting or relating to the Concession Activity.

9.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 9.1 The Concessionaire must not erect or bring on to the Land any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.
- 9.2 The Concessionaire must keep and maintain at the Concessionaire's cost any Structures, facilities and alterations to the Land in good repair.
- 9.3 On expiry or early termination of this Document either as to the whole or any part of the Land, the Concessionaire will not be entitled to compensation for any improvements (including pasture) and any Structures or facilities remaining on the Land are to become the property of the Grantor.

9.4 If requested by the Grantor, the Concessionaire must, within such time as the Grantor determines, remove all Structures, facilities or other improvements erected or installed by the Concessionaire and make good at the Concessionaire's own expense all damage done by the removal and must leave the Land in a clean and tidy condition to the satisfaction of the Grantor.

#### **10.0 PROTECTION OF THE ENVIRONMENT**

10.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, indigenous animals and plants, or historic resources on the Land; or
- (b) bring any plants, or animals (other than farm stock described in Item 2 of Schedule 1, farm dogs and horses for purposes of the Concession Activity) on to the Land; or
- (c) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Land; or
- (d) pile or store materials in any place on the Land where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Land; or
- (t) top-dress, burn, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Land; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Land; or
- (h) light any fire on the Land.

10.2 The Concessionaire, must at the Concessionaire's expense:

- (a)(i) if required by the Grantor take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Land or any Structure or facility on the Land;
- (a)(ii) if considered necessary by the Grantor, engage a pest exterminator approved by the Grantor; and
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

10.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 10.

10.4 The Concessionaire may bring firearms on to the Land for use in connection with the Concession Activity and pest control operations.

10.5 The Concessionaire for purposes of the Concession Activity may take onto or use farm vehicles on the Land on existing formed access tracks only.

#### **11.0 HEALTH AND SAFETY**

11.1 The Concessionaire is to carry out the Concession Activity on the Land in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations.

11.2 The Concessionaire must notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment.

**12.0 TEMPORARY SUSPENSION**

12.1 The Grantor may suspend this Document:

- (a) if, in the opinion of the Grantor the activities of the Concessionaire, its employees, agents, contractors, licensees or invitees are having or may have an adverse effect on the environment and the Grantor considers that the effect can not be avoided, remedied or mitigated to an extent satisfactory to the Grantor;
- (b) while the Grantor investigates any of the circumstances contemplated by this clause and also while the Grantor investigates any potential breach or possible offence by the Concessionaire related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which the Grantor has become aware.

12.2 The Grantor is not liable to the Concessionaire for any loss sustained by the Concessionaire by reason of a suspension under clause 12.1 including loss of profits.

12.3 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

**13.0 ASSIGNMENT**

13.1 The Concessionaire is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may, in the Grantor's discretion, decline to grant consent under this clause.

13.2 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document unless the Grantor otherwise provides in writing.

13.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.

13.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

**14.0 TERMINATION**

14.1 The Grantor may terminate this Document by notice in writing to the Concessionaire if:

- (a) the Concession Fee or the Administration Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
  - (b)(i) the Concessionaire breaches any terms of this Document; and
  - (b)(ii) the Grantor has notified the Concessionaire in writing of the breach; and
  - (b)(iii) the Concessionaire does not rectify the breach within 28 days of receiving notification; or
- (c) the Concessionaire ceases to conduct the Concession Activity; or
- (d) the Concessionaire is convicted of an offence, related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Resource Management Act 1991; or the Biosecurity Act 1993; or the Health and Safety in Employment Act 1992; or

- (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a writ of sale or charging order; or the Concessionaire cease to function or operate.
- 14.2 If the Grantor terminates the Document under this clause 14 all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or Administration Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.
- 14.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.
- 15.0 **INDEMNITIES AND INSURANCE**
- 15.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, contractors, or invitees or otherwise caused as a result of its use of the Land or the Concessionaire's carrying out of the Concession Activity on the Land.
- 15.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 15.3 Without prejudice to or in any way limiting its liability under clause 15.1 the Concessionaire must take out and keep in force during the Term if required by the Grantor:
- (a) a policy of public liability insurance against liability for loss, damage or injury from anyone single accident or event arising out of its conduct of the Concession Activity on the Land and covering:
    - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
    - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
  - (b) statutory liability insurance for the amount specified in Item 12 of Schedule 1; and
  - (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 13 of Schedule 1.
- 15.4 With respect to clause 15.3 the Concessionaire must, before commencing the Concession Activity and on each renewal of insurance provide the Grantor with certificates of insurance issued by the Concessionaire's insurer confirming the nature, amount and duration of cover.



16.0 ENVIRONMENTAL MONITORING

16.1 The Concessionaire must, during the Term, if required in writing by the Grantor, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's conduct of the Concession Activity on the Land.

17.0 FORCE MAJEURE

17.1 Neither party will be liable to the other party for any delay in performance of, or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.

18.0 DISPUTE RESOLUTION AND ARBITRATION

18.1 If any dispute arises between the parties in connection with this Document, the parties must, without prejudice to any other rights they have under this Document, attempt to resolve the dispute by negotiation or other informal dispute resolution techniques agreed by the parties.

18.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.

18.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

18.4 In the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions of the Arbitration Act 1996 will apply.

18.5 Notwithstanding anything in the Arbitration Act 1996, if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the District Law Society in the region in which the Land is situated is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

18.6 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.

18.7 The parties agree that the results of any arbitration are to be binding on the parties.

19.0 NOTICES

19.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 15 of Schedule 1.

19.2 A notice given in accordance with clause 19.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) in the case of facsimile, on the Working Day on which it is dispatched or, if dispatched after 5.00pm on a Working Day, or if dispatched on a non-working day, on the next Working Day after the date of dispatch.

- 11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;
- 11.3.2 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the District Law Society in the region in which the Land is situated;
- 11.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

**12. JOINT OBLIGATIONS**

- 12.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvements or take any action either jointly or individually to better preserve the Values.

**13. SPECIAL CONDITIONS**

- 13.1 Special conditions relating to this Covenant are set out in Schedule 2.
- 13.2 The standard conditions contained in this Document must be read subject to any special conditions.

Executed as a Deed

Signed by \_\_\_\_\_ acting under a )  
 delegation from the Commissioner of Crown Lands )  
 deemed pursuant to section 80(5) of the Crown Pastoral )  
 Land Act 1998 to be the Owner of the Land for the )  
 purposes of section 77 of the Reserves Act 1977 )  
 in the presence of : \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address : \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ exercising his/her )  
 powers under section 117 of the Reserves Act 1977 )  
 as designated Commissioner and acting for and on )  
 behalf of the Minister of Conservation )  
 in the presence of : \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address : \_\_\_\_\_

Occupation: \_\_\_\_\_

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

SCHEDULE 1

1. Land: *Area outlined pink and marked as RI (Scenic) on the designations plan (see definition of Land in clause 1.1)*
2. Concession Activity: *(see definition of Concession Activity in clause 1.1)*

For the final three years of the concession period no more than 1000 wethers or dry ewes will be grazed for a period not exceeding 4 months in anyone year. Wethers and dry ewes equate to 0.8 Stock units (SU) therefore the stock limit equates to 266 SU per annum).

For the initial period no more than 1500 wethers or dry ewes will be grazed for a period not exceeding 4 months in anyone year. Wethers and dry ewes equate to 0.8 Stock units (SU) therefore the stock limit equates to 400 SU per annum).

Stocking rates are on the basis that the concession area is grazed in conjunction with the *Area outlined pink and marked as CAI on the designations plan.*

3. Term: 5 years commencing on date of signing of the Substantive Proposal for the tenure review of Craigroy pastoral lease or such residual that remains of this term when the Concession is granted. *(see clause 3)*
4. (a) Renewal Date: NA *(see clause 3.2)*  
 (b) Renewal Period: On expiry of this Concession, no renewal will be considered.
5. Final Expiry Date: Five years from signing of Substantive Proposal. *(see clause 3.2)*
6. (a) Concession Fee: Nil- the concession fee is incorporated into a separate concession over the *Area outlined pink and marked as CAI on the designations plan* which this area is run in conjunction with. The two concession areas are not separated by a fence.. *(see clause 4)*  
 (b) Administration Fee: Nil- see comment under clause 6(a). *(see clause 4)*
7. Concession Fee Payment Date: *(see clause 4)*  
 On or before the date specified on the invoice generated by the Grantor
8. Penalty Interest Rate: *(see clause 4.2)*  
 Double the Grantor's bank's current highest 90 day bank bill buy rate
9. Concession Fee Review Date: NA. *(see clause 6)*
10. Public Liability General Indemnity Cover: *(see clause 15.3)*  
 for \$1,000,000.00
11. Public Liability Forest & Rural Fire Extension: *(see clause 15.3)*  
 for \$500,000.00
12. Statutory Liability Insurance: *(see clause 15.3)*  
 Amount \$250,000.00
13. Other Types of Insurance: *(see clause 15.3)*  
 Amounts Insured for Other Types of Insurances: *(see clause 15.3)*  
 Amount NA

14. Environmental Monitoring Contribution: \$\_NA \_ (see clause 16)
15. Address for Notices (including facsimile number): (see clause 19)
- (a) Grantor: ~~C/-~~ PO Box 5244, Dunedin. (03) 4778 626
  - (b) Concessionaire: Ellis Street  
PO Box 275  
Alexandra  
Fax (03) 448 9439

**SCHEDULE 2**

*Special Conditions*

**Land Management**

1. The Concessionaire will take care not to overstock the Land and will ensure that grazing is not having an adverse impact on the indigenous vegetation within the Land.

**Fencing**

- 2 The Grantor is not to be called upon at any time to contribute to the costs of work on a fence as that term is defined in the Fencing Act 1978 between the Land and any adjoining land of the Grantor.
- 3 The Concessionaire must keep and maintain at the Concessionaires cost any fences, stiles or gates in good repair.

**Hunting**

- 4 The Grantor reserves the right to authorize hunters who hold a valid hunting permit issued by the Department of Conservation to hunt on the Land.

**Inspection**

- 5 The Grantor reserves the right for the Grantor's employees or agents to enter on the Land at any time for the purpose of inspecting the Land.

**Transfer**

- 6 In relation to Clause 13.1 consent to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaires interest under this Document will not be unreasonably withheld by the Grantor.

Appendix 7: Form of Public Access and Minister of Conservation Management Purposes  
Easement in Gross to be Created over route labelled "a-b", "c-d", "e\_f", "f-f1", "f2-f3", "g-h"  
and "i-j" on the Plan

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# **TRANSFER GRANT OF EASEMENT IN GROSS**

1. Public Access
2. Access for Management Purposes

**Land Transfer Act 1952**

**This page does not form part of the Transfer.**

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

OTAGO

Certificate of Title No.	All or Part?	Area and legal description – <i>Insert only when part or Stratum, CT</i>
	ALL	

Transferor *Sumames must be underlined*

**COMMISSIONER OF CROWN LANDS**, acting pursuant to section 80 of the Crown Pastoral Land Act 1998

Transferee *Sumames must be underlined*

**HER MAJESTY THE QUEEN**, acting by and through the Minister of Conservation

Estate or Interest or Easement to be created: *Insert e.g. Fee simple; Leasehold in Lease No. ....; Right of way etc.*

Public Access and Management Purposes Easement in Gross under section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

The various considerations set out in a substantive proposal accepted under the Crown Pastoral Land Act 1998 on the \_\_\_\_\_ day of \_\_\_\_\_

Operative Clause

For the above consideration (receipt of which is acknowledged) the TRANSFEROR TRANSFERS to the TRANSFEE all the transferor's estate and interest in the land in the above Certificate(s) of Title and if an easement is described above such is granted or created.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

Attestation

Signed by acting under written delegation from the Commissioner of Crown Lands	Signed in my presence by the Transferor Signature of Witness	(continued on page 4 of Annexure Schedule)
	_____ <b>Witness to complete in BLOCK letters</b> <i>(unless typewritten or legibly stamped)</i> Witness name Occupation Address	
Signature, or common seal of Transferor		

**Certified correct for the purposes of the Land Transfer Act 1952 Certified that Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952 does not apply**

\_\_\_\_\_



Approved by Register-General of Land under No. 1995/5003  
**Annexure Schedule**

**Insert below**  
**“Mortgage”, “Transfer”, “Lease”, etc**

Dated  Page  of  Pages

**Definitions**

1. In this transfer unless the context otherwise requires:
  - 1.1 “Easement Area” means that part of the Servient Land being 10 metres wide (*marked a-b, c-d, e-f, g-h, i-j, f-f1 and f2-f3 on the designation plan*) which is marked “[ ]” on S.O. Plan No [ ].
  - 1.2 “Management Purposes” means:
    - the protection of a significant inherent value of the land managed by the Transferee (not being a member of the public), in the vicinity of the easement area.
    - The management of the land administered by the Transferee (not being a member of the public) in a way that is-ecologically sustainable.
  - 1.3 “Servient Land” means the land owned by the Transferor and described on page 1.
  - 1.4 “Transferee” means Her Majesty the Queen acting by and through the Minister of Conservation and, for purposes of clause 2.1, includes the Transferee’s tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation; and any member of the public; but for the purposes of clause 2.2 means the Transferee’s tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation only.
  - 1.5 “Transferor” means the owner of the Servient Land described on page 1 and includes the Transferor’s tenants and invitees.

**Standard Easement Terms**

Access

2. The Transferee has the right:
  - 2.1 In common with the Transferor to pass and re-pass at any time over and along the Easement Area on foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
  - 2.2 To pass and re-pass at any time over and along the Easement on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, or with or without guns and dogs, for Management Purposes.
3. The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area, where such event or outcome is caused by or under the control of the Transferor.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

4. The Transferee must take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and, in particular, avoid using the Easement Area when conditions such as softening during frost thaw render the Easement Area vulnerable to damage.

Exclusion of Schedules

5. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Ninth Schedule of the Property Law Act 1952 are expressly negated.
6. The easement created by this transfer is to be in perpetuity.

Temporary Suspension

7. The Transferee (not being a member of the Public) may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary.

Dispute Resolution

- 8.1 If a dispute arises between the Transferor and Transferee (not being a member of the Public) concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 8.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.
- 8.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.
- 8.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.
- 9.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
  - (a) be hand delivered to the receiving party; or
  - (b) be sent by ordinary post to the receiving party;
  - (c) be sent by facsimile to the receiving party.
- 9.2 If clause 8.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.
- 9.3 If clause 8.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

**Special Easement Terms**

OTACO-37213 Easement in Gross Templ.doc  
olddm-456260 - Craigroy (P233) Easement in Gross public access and management purposes September 262006  
Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

10 The standard easement terms contained above must be read subject to any special easement terms set out below.

11. Clause 2.1 is deleted and replaced with the following clauses:

2.1 In common with the Transferor to pass and re-pass at any time over and along the Easement Area marked *a-b, c-d, e-f, g-h, i-j, f-fl* and *f2-j3* on the *designations plan*, on foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons, with or without guns and dogs provided they have a hunting permit for adjoining land administered by the Minister. Dogs must be kept on a leash.

12. The transferee (not being a member of the public) has the right:

12.1 To mark the Easement Area as appropriate.

12.2 To construct and maintain a benched track along those sections of the Easement area where there is currently no formed track

12.3 To erect and maintain signs informing the public of:

- a) the location of land managed by the Crown and available for public access and recreation; and
- b) their rights and responsibilities in relation to the Easement Area.

12.4 To erect and maintain stiles.

12.5 To use whatever reasonable means of access the Minister thinks fit over the Easement Area to carry out the works in clause 12.1-12.4.

**Continuation of "Attestation"**

Signed for and on behalf of )  
Her Majesty the Queen by )  
Jeffrey Edward Connell )  
under a written delegation in the )  
presence of: )

\_\_\_\_\_  
Witness (Signature)

Name \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

*Footnote: In substitution of the SO Plan (which has yet to be prepared), the proposed easement described in clause 1 is marked on the Plan.*

Approved by Registrar-General  
of Land under No. 1995/1004

## TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
  2. Vehicles for Management Purposes
- Land Transfer Act 1952

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### Law Firm Acting

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Conservancy Solicitor  
Department of Conservation  
Dunedin

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Auckland District Law Society  
REF:4135

**This page is for Land Registry Office use only.**  
*(except for "Law Firm Acting")*

**Appendix 8: Form of Conservation Covenant to be Created over Area labelled  
"CC(Landscape)" on the Plan**

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DATED

—

**Between**

**COMMISSIONER OF CROWN LANDS  
("the Owner")**

**and**

**MINISTER OF CONSERVATION  
("the Minister")**

**COVENANT UNDER RESERVES ACT 1977  
FOR CROWN PASTORAL LAND ACT 1998 PURPOSES**



Department of Conservation  
*Te Papa Atawhai*



THIS DEED of COVENANT is made the                      day of

BETWEEN                                              COMMISSIONER OF CROWN LANDS acting pursuant to section 80  
of the Crown Pastoral Land Act 1998

AND                                                      MINISTER OF CONSERVATION

BACKGROUND

- A.        The Commissioner of Crown Lands is deemed for the purposes of section 77 of the Reserves Act 1977 to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B.        The Land contains certain Values.
- C.        The parties agree that the Land should be managed so as to preserve the particular Values specified in Schedule 1, and that such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.
- D.        An approved plan designating the Land as land over which a Covenant under section 77 of the Reserves Act 1977 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E.        The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land to preserve the particular Values specified in Schedule 1.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent Owners of the Land, the Commissioner of Crown Lands and Minister agree as follows:

1.        INTERPRETATION

1.1       In this Covenant unless the context otherwise requires:

- "Act"                                              means the Reserves Act 1977.
- "Covenant"                                        means this Deed of Covenant made under section 77 of the Act.
- "Director-General"                            means the Director-General of Conservation.
- "Fence"                                            includes a gate.
- "Fire Authority"                                means a Fire Authority as defined in the Forest and Rural Fires Act 1977.
- "Land"                                             means the land described in Schedule 1.
- "Minerals"                                        means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- "Minister"                                        means the Minister of Conservation.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

"Natural Water"	includes water contained in streams the banks of which have, from time to time, been realigned.
"Owner"	means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.
"Party" or "Parties"	means either the Minister or the Owner or both.
"Values"	means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat or historic values as specified in Schedule 1.
"Working Day"	means the period between anyone midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
- 1.2.2 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant;
- 1.2.3 words importing the singular number include the plural and vice versa;
- 1.2.4 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and in determining the issue, the parties must have regard to the matters contained in the Background;
- 1.2.5 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;
- 1.2.6 words importing one gender include the other gender;
- 1.2.7 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;
- 1.2.8 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2. OBJECTIVE OF THE COVENANT

- 2.1 The Land must be managed so as to preserve the Values.

3. THE OWNER'S OBLIGATIONS

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out on or in relation to the Land:
  - 3.1.1 grazing of the Land by livestock;
  - 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 the planting of any species of tree, shrub or other plant;
  - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
  - 3.1.6 any cultivation, earth works or other soil disturbances;
  - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
  - 3.1.8 the damming, diverting or taking of Natural Water;
  - 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
  - 3.1.10 any other activity which might have an adverse effect on the Values.
  - 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must:
- 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
  - 3.2.2 if it is safe to do so, assist the Fire Authority to extinguish any wildfire upon or threatening the Land;
  - 3.2.3 keep the Land free from exotic tree species;
  - 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
  - 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
  - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, rebuild or replace all such Fences when reasonably required except as provided in clause 4.2.

#### **4. THE MINISTER'S OBLIGATIONS**

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.
- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

#### **5. IMPLEMENTATION OF OBJECTIVES**

- 5.1 The Minister may;

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 5.1.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objectives specified in clause 2.1;
- 5.1.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

**6. DURATION OF COVENANT**

- 6.1 This Covenant binds the Minister and Owner in perpetuity to the rights and obligations contained in it.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

7. OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.
- 7.2 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

8. MISCELLANEOUS MATTERS

8.1 Rights

- 8.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

8.2 Trespass Act:

- 8.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;
- 8.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

8.3 Reserves Act

- 8.3.1 Subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

8.4 Titles

- 8.4.1 This Covenant must be signed by the Commissioner of Crown Lands and the Minister and registered against the Certificate of Title to the Land.

8.5 Acceptance of Covenant

- 8.5.1 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

8.6 Fire

- 8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;
- 8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:
- 8.6.2.1 requested to do so; or
- 8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

9. NOTICES

9.1 A notice to be given under this Covenant by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 1.

9.2 A notice given in accordance with clause 9.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third Working Day after posting;
- (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

9.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

10. DEFAULT

10.1 Where either the Minister or the Owner breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Minister or the Owner become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.2.1 advise the defaulting party of the default.

10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11. DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Minister and the Owner in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

11.2 Mediation

11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.2.2 if the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.

11.3 Failure of Mediation

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;
- 11.3.2 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the District Law Society in the region in which the Land is situated;
- 11.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

**12. JOINT OBLIGATIONS**

12.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvements or take any action either jointly or individually to better preserve the Values.

**13. SPECIAL CONDITIONS**

- 13.1 Special conditions relating to this Covenant are set out in Schedule 2.
- 13.2 The standard conditions contained in this Document must be read subject to any special conditions.

Executed as a Deed

Signed by \_\_\_\_\_ acting under a  
 delegation from the Commissioner of Crown Lands )  
 deemed pursuant to section 80(5) of the Crown Pastoral  
 Land Act 1998 to be the Owner of the Land for the )  
 purposes of section 77 of the Reserves Act 1977 )  
 in the presence of: )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ exercising his/her )  
 powers under section 117 of the Reserves Act 1977 )  
 as designated Commissioner and acting for and on )  
 behalf of the Minister of Conservation )  
 in the presence of: )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

SCHEDULE 1

1. Description of Land

*Area edged in green with a yellow wash and labelled "CC (Landscape)" on the designations plan.*

2. Address for Service

The address for service (including facsimile number) of the Minister is:

PO Box 5244  
DUNEDIN  
Fax (03) 477-8626

The address for service (including facsimile number) of the Owner is:

PO Box 275, ALEXANDRA  
Fax (03) 448-9439

3. Values of Land to be Protected

Significant landscape values and the natural environment.

The Nevis Valley landscape is outstanding. It is defined by the homogenous dominant gold tussock cover on the upper slopes and a mixed cover of short tussock species and induced grasslands at lower attitudes enclosed by the jagged peaks of the Hector Mountains to the west, and the rolling plateaux of the Old Woman and Carrick Ranges to the east.

Much of the Land's visual character is derived from pastoral farming and mining activity which has occurred in the valley since the 1860's. The farmscape comprises, oversown and topdressed hill country and extensively grazed tall and short tussocklands. The area's colourful mining history is reflected in a myriad of diggings, sluicings, sluice faces, dredge tailings, water races, exploration pits, discarded mining equipment, building ruins

Within this context, the qualities associated with the Land provide a visual context for the culturally valued attributes of the Nevis Valley landscape. Early mining workings - tailings, dredgings and dredge ponds are set in a landform that has been little modified since nineteenth century. This wide-open landscape and lack of forest and shrubland makes these sites highly visible.

This Land's high landscape values make an important contribution to the natural landscape character of the Remarkables Ecological District.

The Nevis River terraces, especially the flats north of Coal Creek, support an extensive community of the rare sedge *Carex muelleri*, which has a threat ranking of "sparse" (Hitchmough 2002). The Nevis Valley is the type locality for this species which reaches its greatest national abundance here.

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SCHEDULE 2

**Special Conditions**

1. Clause 3.1.1 is deleted and replaced with the following:
  - 3.1.1 grazing of Land by livestock other than sheep and cattle;
  
2. Notwithstanding Clause 3.1.3, trees which form part of an existing shelter belt may be replaced. The location of existing shelter belts is marked on Map 1, Schedule 4.
  
2. Clause 3.1.4 is deleted and replaced with the following:
  - 3.1.4 the erection of any fence except for the purpose of fencing conservation areas or reserves, building, structure or other improvement for any purpose, other than repairing any existing fence, building, structure or other improvements on the Land, or erecting any replacement fence, building, structure or other improvements on the Land to replace any existing facility. Locations of existing structural improvements are marked on Map 1, Schedule 4.
  
3. Clause 3.1.5 is deleted and replaced with the following:
  - 3.1.5 (a) any burning  
(b) any chemical spraying of native vegetation apart from any activity required to keep existing open grassed areas clear of woody vegetation (existing open areas are marked on Map 1 Schedule 4.; and  
(c) any topdressing or sowing of seed other than to the extent traditionally carried out (traditional fertilizer application comprises 350kg per hectare of potash sulphur super and 250kg per hectare of lime per annum on cultivated paddocks and 190 kg per hectare of sulphur super on oversown and topdressed country every 2-3 years.
  
4. Clause 3.1.6 is deleted and replaced with the following:
  - 3.1.6 any cultivation, earth works or other soil disturbances, apart from any such activity required to maintain existing vehicle tracks through the Land to a standard appropriate for four wheel drive vehicles and to maintain the current extent of land under cultivation. Existing tracks and cultivated areas are marked on Map 1, Schedule 4.
  
5. The Owner and the Minister will comply with the provisions of the Management Prescription Document contained in Schedule 3.
  
6. "The Minister acknowledges that it is intended that the Land be used for hydro electricity development, including the erection of transmission lines. Accordingly, it is agreed by the parties that a plan be prepared for submission to the Minister, which identifies the hydro electric development proposed, its location, extent, groundworks, associated services and facilities, for the Minister's consent (such consent not to be unreasonably withheld). In considering the Plan the Minister will read the provisions of the covenant, including in particular the provisions of clause 3.1, so as not to prohibit the hydro electric development but with the ability to impose such conditions as may be deemed reasonable to avoid, remedy or mitigate adverse effects upon the values identified in this covenant.

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## SCHEDULE 3

## CRAIGROY CONSERVATION COVENANT - MANAGEMENT PRESCRIPTION DOCUMENT

The management prescription document provides for:

1. The specific goals of management of the land consistent with the objective of the covenant document.
2. A description of how the goals are to be met.
3. A description of the vegetation monitoring programme of the activity effects is to be carried out.
4. A specification concerning grazing systems, including identification of vegetation trends and how that will affect the grazing systems.
5. A description of the existing balance of exotic pasture species and the indigenous plant communities.
6. The revision of the management prescription document ten years from the date of creation of the covenant and ten years thereafter.

1. The specified goals of the management of the land is to achieve the maintenance and enhancement of existing vegetative cover and to preserve landscape values, whilst meeting the objective of the covenant.

a) Vegetation

To manage the vegetation within the covenant area by maintaining the existing balance of exotic pasture species and the following six indigenous plant communities, while minimising the risk of invasion by exotic weeds and trees.

- *Chionochloa rigida* tussocklands
- Diverse shrubland
- Matagouri shrublands
- Seepages and wetlands
- Extensive short tussock grasslands.
- Nevis River terraces and flats, supporting the rare sedge *Carex muelleri*.

b) Landscape

To maintain and enhance the landscape values within the covenant area. The landscape values are:

- i) The altitudinal sequence of vegetation and landforms from between the existing and proposed fence (as marked on the designation plan) to the Nevis valley floor;
- ii) The association of the indigenous plant communities with the tors;
- iii) The historical shrubland communities;
- iv) The substantially unmodified character of the covenant area.

2. These goals are to be met through regular monitoring (including general inspections), liaison with the Owner and revision of grazing limits prior to the preparation of management prescription documents.

- a) Stocking levels and management will be adjusted should it become apparent on analysis of photo point monitoring and field observations by the Grantor or Owner that grazing is having an adverse effect on the Values.

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3. Description of a monitoring programme to be established for vegetation condition and landscape values.

Upwards of 10 photo points are to be established and located at selected sites which are considered representative of the values contained in the covenant area.

4. Number of stock and duration permitted to be run on the covenant area within the current term of the management prescription document.

The Land may be grazed with sheep and cattle only at a stocking rate where the existing pattern of vegetation is maintained. If upon expiry of this Management Prescription Document monitoring reveals a deterioration in the Values a stock limit may be intruded into subsequent Management Prescription Documents.

5. Description of the existing balance of exotic pasture species and the indigenous plant communities.

Below the proposed and existing fence line which defines the covenant's top boundary small patches of narrow leaved and fescue tussockland are present, with a rapid transition with altitude into adventive pasture grasses (sweet vernal, browntop and clovers), briar and matagouri.

Between 800-900m in the vicinity of the Nevis Road rock tors support a variety of shrubs and herbs, including the herbs and ferns *Anisotome caucicola*, *Brachglottis haastii*, *Epilobium pubens*, *Luzula rhadina* and the ferns *Asplenium richardii* and *Cyopteris tasmanica*. Shrubs found around the tors include matagouri, *coprosma* spps, *Olearia odorata*, *Carmichaelia petriei*, *Corokia cotoneaster* and porcupine shrub.

Towards Coal Creek there is a widespread matagouri shrubland with briar present. The Nevis River terraces, especially the flats north of Coal Creek, support an extensive community of the rare sedge *Carex muelleri* which has a threat ranking of "sparse" (Hitchmough 2002). The Nevis Valley is its type locality

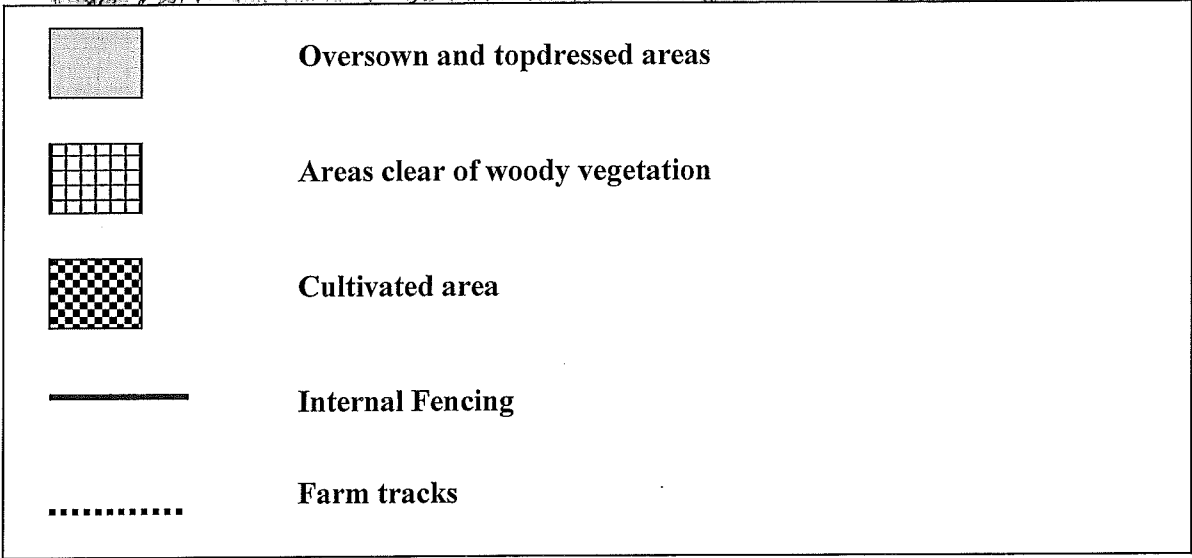
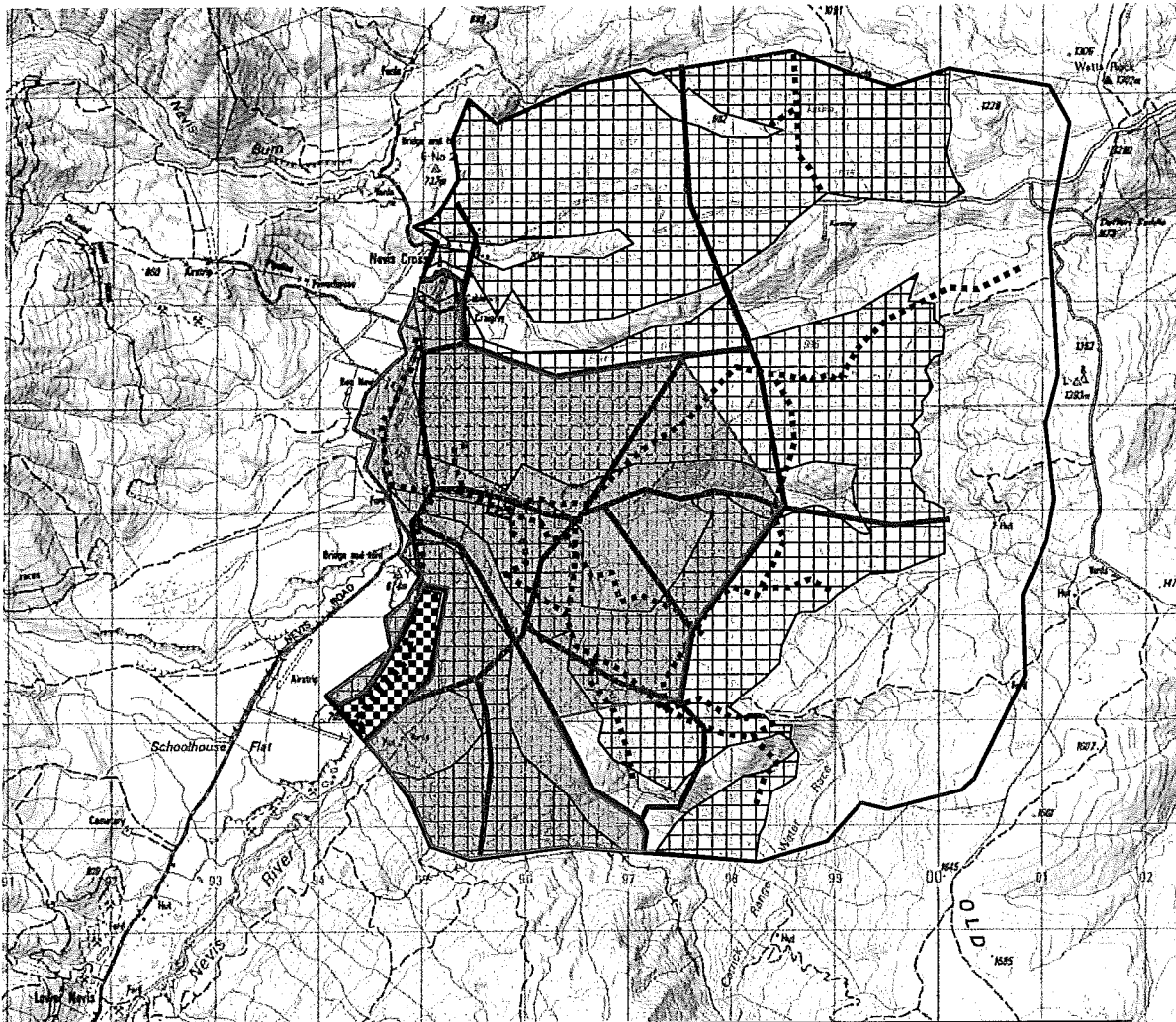
Flushes and wetlands support rushes including native cutty grass sedge (*Carex coriacea*), native buttercups (*Ranunculus cheesemannii* and *R. berggrenii*) and the exotic soft rush (*Juncus effuses*).

6. The revision of the management prescription document ten years from the date of creation of the covenant and ten years thereafter.

At the tenth anniversary of the registration this covenant the Grantor and/or the Owner may request that part or all of the management prescription document be amended, in order to better meet the objective of the covenant. Any such amendments must be mutually agreed to.

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### Map 1. Schedule 4. Existing Farm Development as of 2006



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GRANT of Correct for the purposes of the

Land Transfer Act 1952

Solicitor for the Minister

COVENANT UNDER  
SECTION 77 OF THE  
RESERVES ACT 1977 FOR  
CROWN PASTORAL LAND ACT 1998 PURPOSES

COMMISSIONER OF CROWN  
LANDS

to

MINISTER OF CONSERVATION

---

**Solicitor**  
**Department of Conservation**  
**DUNEDIN**

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**Execution Section**

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This Proposal (including the schedules and appendices) is signed by the Commissioner and the Holder as a binding agreement.

**SIGNED** by the **Commissioner of Crown Lands** pursuant to the Crown Pastoral Land Act 1998 in the presence of:

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Witness

---

occupation

---

Address

**SIGNED** by ( ) in the presence of:

---

---

Witness

---

Occupation

---

Address

**OR**

**SIGNED** for and on behalf of **Pioneer Generation** by two of its directors:

---

[name of director]

---

[name of director]

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