

Crown Pastoral Land Tenure Review

Lease name : MIDDLE HILL

Lease number : PM 022

Substantive Proposal

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

EXECUTION COPY

PROPOSAL FOR REVIEW OF CROWN

Under Part 2 of the Crown Pastoral Land Act 1998

Date: 2 JUNE 2016

Parties

Holder: Richard Jeremy King and Julia Jane King
 Middle Hill
 Clarence Bridge
 Waipapa Road
 RD 1
 KAIKOURA

Commissioner of Crown Lands:

Land Information New Zealand
 Crown Property
 112 Tuam Street
 Private Bag 4721
 Christchurch 8140
 (Attention: Andrea Thom)

The Land

Lease:	Middle Hill
Legal Description:	Run 223, Puhi Puhi Survey District
Area:	3217.6555 hectares more or less
Certificate of Title/Unique Identifier:	MB62/19

Crown Land:

Legal Description:	Crown land (old Clarence River Flood Channel)
Area:	13.5000 hectares approximately
Status:	Crown land subject to the Land Act 1948

Summary of Designations

Under this Proposal, the Land is designated as follows:

- (a) The Crown Land (shown edged in pink and parts shaded pink on the Plan) is to be restored to, or retained by, the Crown as set out in the Schedules One and Two; and
- (b) The Freehold Land (shown edged in green and parts shaded in yellow on the Plan) is to be disposed of by freehold disposal to the Holder as set out in the Schedule Three; and
- (c) The Crown Land (shown edged in blue on the Plan) is to be disposed of by freehold disposal to the Holder as set out in Schedule Three.

1 The Plans

2 Conditions

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

3 Settlement

- 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 to 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:
 - (i) has been agreed or determined; and
 - (ii) is not and will not be subject to any appeal, rehearing or other proceedings.

4 Holder's Payment

- 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 the duly appointed agent of the Commissioner on the Settlement Date clause 19 will apply.

5 Commissioner's Payment

- 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.

6 Vesting of Crown Land

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

7 Issue of Certificate of Title

- 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 the 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.

8 Registration of Documents

- 8.1 Subject to clause 7, the Commissioner will lodge all documents necessary to give effect to this Proposal (including, without limitation and 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.

9 Consents

- 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.
- 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

- 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

- 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 Fences U-U1, W-X & Y-Z" 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:
 - (a) erect the Fencing in a position different from that shown on the Plan;
 - (b) erect the Fencing over a shorter distance than that shown of the Plan; or
 - (c) 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 Work 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

- 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, and 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.

13 Risk

- 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.

14 Survey

- 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 for the Final Plan.

15 Holder's Acknowledgements

- 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 the 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) and claim for a misrepresentation or for loss or damage suffered whether in contract, tort (including negligence) or otherwise.

16 No Representations or Warranties by the Commissioner

- 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 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.

17 Acceptance

- 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.

18 Solicitor's Certificate

- 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 solicitor's certificate required is set out in 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.

19 Default

- 19.1 If from any cause whatsoever (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.

20 Goods and Services Tax

- 20.1 Unless the context otherwise requires, words and phrases used in this clause have the same meaning as in the GST Act.
- 20.2 If the supplies evidenced by the Holder's consideration and the Commissioner's Consideration are taxable supplies under the GST Act, then:

- (a) the Commissioner and the Holder warrant to each other that they are registered for GST purposes as at the Holder's acceptance of this Proposal and that they will be so registered on the Settlement Date;
 - (b) the Commissioner and the Holder confirm that as at the Settlement Date:
 - (i) each is acquiring the goods supplied with the intention of using the goods for making taxable supplies; and
 - (ii) the Commissioner and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Crown Land and the Holder and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Freehold Land as a principal place of residence; and
 - (c) the Commissioner and the Holder agree that the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration are to be zero-rated for GST purposes under section 11(1)(mb) of the GST Act.
- 20.3 If any of the circumstances set out in clause 20.2 change between the date of the Holder's acceptance of this Proposal and the Settlement Date, then the relevant party will notify the other of the changed circumstances as soon as practicable and in any event not later than 2 working days before the Settlement Date and such party shall warrant that the changed circumstances are correct as at the Settlement Date. If the GST treatment of the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration changes as a result of the changed circumstances and a party has already provided the other with a GST invoice, then that party will issue a debit note or credit note, as the case may be for GST purposes.
- 20.4 On the 10th 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.
- 20.5 The Holder will pay GST (if any) on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.
- 20.6 On the 10th 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.
- 20.7 The Commissioner will pay GST (if any) on the Commissioner's Consideration to the Holder on the Commissioner's GST Date, time being of the essence.
- 20.8 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) and Default GST.

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 2007 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 2007 is equal to the Commissioner's Consideration.

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 not 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.

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.

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, and recreation permit granted over the Land shall be determined.

25 Consents for Activities

- 25.1 If the Holder has been granted a consent by the Commissioner to do an activity on the land under sections 15 or 16 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 or anything thereon.

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 preformed 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

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 on 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 for fencing 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;

GST Act means the Goods and Services Tax Act 1985;

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 15th 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 persons' obligations, as Holder, will be both joint and several.

Schedule One: Provisions relating to the Schedule One Land

1 Details of Designation

- 1.1 Under this Proposal the land edged in pink and labelled "LA" on the Plan, being 10 hectares (approximately) is designated as land to be restored to or retained in Crown control as under the Land Act 1948.

2 Schedule One Improvements

Nil.

Schedule Two: Provisions relating to the Schedule Two Land

1 Details of Designation

- 1.1 Under this Proposal the land shown edged in pink and labelled "CA1" on the Plan, being 2,708 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of a tourism concession (shown edged in pink and labelled "CA1" on the Plan) substantially as set out in Appendix 4; and
 - (b) the granting of a grazing concession (shown shaded in pink and labelled "GC1" and "GC2" on the Plan) substantially as set out in Appendix 5; and
 - (c) the granting of an easement concession (shown as a blue dashed line and labelled "b-c" on the Plan) substantially as set out in Appendix 8.

2 Information Concerning Proposed Concession as set out in Appendix 4

2.1 Description of the proposed activity:

Tourism Concession Licence for the adjoining landholder for the purpose of the business of guided hunting, guided tramping and 4WD touring.

2.2 Description of area where proposed activity to be carried out and proposed status:

The area of the Concession Activity is over the area designated as Conservation Area of 2,708 hectares approximately on the plan attached to the proposal. The area covers the area north from northern boundary of the Batty conservation area down into the Wharekiri Stream valley, up onto the Middle Hill peak and ridge, down into the Miller Stream valley and up onto the Devils Lookout hills and plateau.

2.3 Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect:

The Tourism Concession is limited to guided hunting, guided tramping, 4WD touring. The potential effects include damage to the flora and fauna by people moving through the area, although this may also happen with general public use of the Conservation Area for similar purposes. The Concession Licence document ensures that the provisions of the Conservation Act apply and includes monitoring of the concession activity. Schedule Two ensures the rights of the public are not restricted. The concession provisions ensure that all potential effects will be minimised.

2.4 Details of the proposed type of concessions:

A Tourism Concession Licence under S.17Q (1) Conservation Act 1987.

2.5 Proposed duration of concession and reason for proposed duration:

- (a) Proposed duration - 10 years.
- (b) Reasons for proposed duration –

The Tourism Concession Licence has been sought to allow the holders to undertake tourism operations on the property, which will allow for the diversification of the holders farming activities in the future.

2.6 Relevant information about the proposed Concessionaire including information relevant to the Concessionaire's ability to carry out the proposed activity:

(a) Proposed Grantee – Richard J King and Julia J King

(b) Relevant information –

- (i) The holders of Middle Hill Pastoral Lease have entered into this review voluntarily. The proposed tourism concession is needed to allow diversification of activities for the future. Richard J King and Julia J King have previously run tourism activities for a number of years over the property, and have the knowledge of the property and proven ability to continue with successful tourism activities. The proposed tourism activities will have minimal impact on the area.

3 Information Concerning Proposed Concession as set out in Appendix 5

3.1 Description of the proposed activity:

Grazing concession over two areas:

Batty Block ("GC2") – Grazing for a maximum of 500 head of sheep only, for a period of time determined each year by the Concessionaire, at any time during each calendar year.

The Glen Block ("GC1") – Grazing for a maximum of 30 head of cattle and 600 head of sheep only, for a period of time determined by the Concessionaire, at any time during each calendar year.

3.2 Description of area where proposed activity to be carried out and proposed status:

Batty Block – The location of the Grazing Concession is from Batty Ridge along the south eastern property boundary continuing around one third of the way down the slope towards Wharekiri Stream to the 850m ASL contour. The area will be designated as land to be restored to or retained in Crown control as a Conservation Area subject to a grazing concession.

The Glen Block – The location of the Grazing Concession is on the southern slopes of Middle Hill adjoining the discrete area of proposed freehold land at Middle Hill Hut and airstrip. The area will be designated as land to be restored to or retained in Crown Control as a Conservation Area subject to grazing concession and a tourism concession.

3.3 Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect:

The Batty Block contains plant communities that are representative of the original vegetation of the area including tussock grassland and shrubland communities. The Glen Block contains a wetland which is an ecosystem type that is uncommon in the area. Potential threats to the areas from excessive grazing are gradual replacement or remaining indigenous plant species with exotic species and potential damage by stock to wetland area.

Grazing has traditionally been a component of these areas. The conservation area boundary with the proposed freehold area on The Glen Block is to remain unfenced to enable stock to graze the adjoining freehold land in conjunction with the conservation area continuing the current grazing practices and avoiding concentration of stock. It was considered that in order to mitigate any adverse effect on the land during the term of the Grazing Concession, the Grazing Concession should contain a number of conditions including, but not limited to the following:

- (a) Stock limits as detailed in Clause 1 above during the proposed term of the Grazing Concession.
- (b) Pest control if required by the Minister of Conservation, the costs to be borne by the Concessionaire.
- (c) The Minister of Conservation may set up a monitoring system to ascertain the effects of on-going grazing and this monitoring system will be reviewed every three years. The Minister of Conservation reserves the right to adjust the stock numbers in order to meet conservation objectives.
- (d) The term of the Grazing Concession is limited to 15 years with no right of renewal.

3.4 Details of the proposed type of concessions:

A Grazing Licence Concession under section 17Q of the Conservation Act 1987.

3.5 Proposed duration of concession and reason for proposed duration:

Proposed duration:

15 years from settlement date. No right of renewal.

Reason for proposed duration:

- (a) to allow security of tenure to the Concessionaire for farm management purposes; and
- (b) to allow for monitoring results and adjustments in stock numbers and conditions if required.

3.6 Relevant information about the proposed Concessionaire including information relevant to the Concessionaire's ability to carry out the proposed activity:

Proposed grantee:

The Concession will be issued to Richard J King and Julie J King who own and manage Middle Hill Pastoral Lease.

Relevant Information:

Members of the King family have owned the property for over 45 years. The significant inherent values have been surviving under the current grazing regime for 15 years. The Concessionaire has the ability to farm the areas for conservation objectives, subject to the conditions of the Grazing Concession.

Schedule Three: Provisions relating to the Schedule Three Land

1 Details of designation

- 1.1 Under this Proposal the land shown edged in green on the Plan, being 500 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; and
 - (b) Section 11 of the Crown Minerals Act 1991; and
 - (c) the easement (shown dashed in orange and labelled "a-b", "c-d" and "e-f" on the Plan) substantially as set out in Appendix 6; and
 - (d) the covenant (shown shaded in yellow and labelled "CC1" and "CC2" on the Plan) substantially as set out in Appendix 7.
- 1.2 Under this Proposal the land shown edged blue and labelled "UCL" being 13 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; and
 - (b) Section 11 of the Crown Minerals Act 1991.

Schedule Four: Conditions

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 had 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 6 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 7 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.

Appendix 1: Consents – Example of Mortgagee Consent

[] 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

[], 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 Solicitor's Certificate

Certifications

I [] hereby certify as follows:

1. [[insert name of Holder] ("the Holder") is 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 its 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

1. New fences and some upgrading/repairs:

For the purpose of this fencing and construction specification and attachments, the terms "Waypoint" and "GPS point" and abbreviations "WP" and "WPT" have the same meaning; and refer to New Zealand Transverse Mercator ("NZTM") northing and easting coordinates as identified by a global positioning system ("GPS") unit.

1.1 *Background:*

The agreement between the Commissioner of Crown Lands (Commissioner) and Richard J King and Julia J King (the Holder) requires the erection of conventional fences on the boundary of the conservation areas marked on the attached plans, and the upgrading and/or repairing of fences on the boundary of the conservation areas to the indicative requirements set out hereunder.

The Commissioner will, at his cost, erect conventional fences along the lines shown marked, "U-U1", "W-X" and "Y-Z" on the Plan.

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 section 3. It also provides an option to deer fence "W-X" and "Y-Z" on the Plan to the indicative requirements set out in section 4 of these specifications.

1.2 *Option for cost sharing arrangement for erection of deer fencing for new fence line:*

The Commissioner will pay the cost of erecting a conventional wooden post and seven wire fence only and the Holder will pay an agreed value (the additional costs) associated with the erection of deer fence for the new fence line marked "W-X" and "Y-Z" on the Plan.

To establish the additional costs the Commissioner will call for tenders for the erection of:

- (a) a conventional fence the specifications of which are set out in section 3 of these specifications; and
- (b) a deer fence the specifications of which are set out in section 4 of these specifications; and

On receipt of the dual tender prices the Commissioner will consult the Holder regarding the additional costs and on reaching an agreement satisfactory to both parties the Commissioner and the Holder will confirm the agreement to erect a deer fence on a cost sharing basis.

The parties to the Substantive Proposal reserve the right, failing agreement between the parties on the quantum of the additional costs, or after concluding consultation agree to erect a conventional post and wire fence, for the Commissioner to proceed to erect a conventional post and wire fence the indicative requirements of which are set out under in section 3 of these specifications.

Confirmation of the agreement in respect of the additional costs and erection of a deer fence is to be by way of an exchange of letters between the Holder and the Commissioner time being of the essence, and in the event of failure to reach an agreement as to "additional costs" or after concluding consultation agree to erect a conventional post and wire fence, this is also to be confirmed by an exchange of letters.

2. Length and location

- 2.1 New fences are to be erected along the lines marked as follows on the plan:
- (a) Conservation area "CA1" fence from Southern boundary down towards the Wharekiri Stream shown marked "U-U1" (approximately 210 metres).
 - (b) Conservation area "CA1" fence up from Wharekiri Stream to ridge top marked "W-X" (approximately 1160 metres).
 - (c) Conservation area "CA1" fence from track on ridge top down into the Miller Stream bed marked "Y-Z" (approximately 940 metres).
- 2.2 Removal of existing fences along the lines marked as follows on the plan:
- (a) Conservation area "CA1" fence between along the boundary shown marked "W-X" between WPT 84 to WPT 89 (approximately 540 metres).
 - (b) Conservation area "CA1" fence between along the boundary shown marked "Y-Z" between WPT 94 to WPT 102 (approximately 280 metres).

3. New Fence Lines

New fences will be required on the boundary of Conservation Area "CA1" shown marked as "U-U1", "W-X" and "Y-Z" on the Plan enclosed with these specifications.

The Commissioner will, at his cost, erect a post and seven wire conventional fence to the following indicative requirements:

- (a) Section B – Wharekiri Stream Block (Point X – Point W)
- 3.1 Five x 2.5mm galvanised high tensile wires, top wire to be 1.6 mm high tensile reverse twist galvanised barbed wire and the bottom wire being 4 mm galvanised mild steel. Total of 7 wires.
 - 3.2 2.1 metre x 200mm treated timber strainer posts with 2.7 metre x 150mm stay posts to be used for gateways and end of strains.
 - 3.3 1.8 metre x 125mm treated intermediate posts 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.
 - 3.4 Six steel Y stakes per 20 metres to be used. Y stakes will be mostly 1.5 metre (5') with 1.35 metres (4'6") on rocky ground and 1.7 metre (5'6") to be used on soft ground.

- 3.5 4.2 metre heavy duty gate to be located at WPT 87 (GTA2). Swung to allow gate to open fully and to knock up against opposite strainer post when closed and secured closed with full wrap-around type gate chains.
- 3.6 An existing fence (4 wire electric) between WPT 84 and WPT 89 will require removal before construction of the new boundary fence.
- 3.7 The fence lines will require hand and mechanical clearing to remove vegetation and debris to provide a suitable fence line, if applicable.

Clearance and /or earthworks will be required along the following sections:

- Between WPT 84 to WPT 89 - (clearing of scrub & some rock removal maybe required)
- Between WPT 89 to WPT 91 - (mechanical line clearance of scrub)
- Between WPT 91 to WPT 752 - (mechanical line clearance and earthworks)

(b) Section C – Miller Stream Block (Point Y – Point Z)

- 3.8 Five x 2.5mm galvanised high tensile wires, top wire to be 1.6 mm high tensile reverse twist galvanised barbed wire and the bottom wire being 4 mm galvanised mild steel. Total of 7 wires.
- 3.9 2.1 metre x 200mm treated timber strainer posts with 2.7 metre x 150mm stay posts to be used for gateways and end of strains.
- 3.10 1.8 metre x 125mm treated intermediate posts 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.
- 3.11 Six steel Y stakes per 20 metres to be used. Y stakes will be mostly 1.5 metre (5') with 1.35 metres (4'6") on rocky ground and 1.7 metre (5'6") to be used on soft ground.
- 3.12 An existing fence (4 wire electric) between WPT94 and WPT 105 will require removal before construction of the new boundary fence.
- 3.13 The fence lines will require hand and mechanical clearing to remove vegetation and debris to provide a suitable fence line, if applicable.

Clearance and /or earthworks will be required along the following sections:

- Between WPT 102 to WPT 105 - (clearing of scrub & loose rocks)
- Between WPT 105 to WPT 115 - (mechanical line clearance & earthworks)

(a) Section D – Batty Block (Point U – Point V)

- 3.14 Five x 2.5mm galvanised high tensile wires, top wire to be 1.6 mm high tensile reverse twist galvanised barbed wire and the bottom wire being 4 mm galvanised mild steel. Total of 7 wires.

- 3.15 2.1 metre x 200mm treated timber strainer posts with 2.7 metre x 150mm stay posts to be used for gateways and end of strains.
- 3.16 1.8 metre x 125mm treated intermediate posts 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.
- 3.17 Six steel Y stakes per 20 metres to be used. Y stakes will be mostly 1.5 metre (5') with 1.35 metres (4'6") on rocky ground and 1.7 metre (5'6") to be used on soft ground.
- 3.18 4.2 metre heavy duty gate to be located at WPT 120 (GTA1). Swung to allow the gate to open fully and to knock up against the opposite strainer post when closed and secured closed with full wrap-around type gate chains.
- 3.19 At WPT 120 a fence ending at the bluff edge is required and to be made stock proof with standard sheep netting and a top barb.
- 3.20 The fence lines will require hand and mechanical clearing to remove vegetation and debris to provide a suitable fence line, if applicable.

Clearance and /or earthworks will be required along the following sections:

- Between WPT 118 to WPT 120 - (mechanical line clearance)

4. Option to Deer Fence

Refer to section 1.2 above for dual tendering procedure to determine the additional costs to be paid by the Holder if the option to deer fence new fence "W-X" and "Y-Z" is accepted.

In a cost sharing arrangement with the Holder as set out in section 1.2, the Commissioner will erect a deer fence to the following requirements:

- 4.1 3.0 metre x 175 mm treated timber strainer posts with 2.7 metre x 125 mm stay posts to be used for gateways and end strains.
- 4.2 2.7 metre x 125 mm treated intermediate posts to be used at no greater than 5.0 metre gaps, 2.1 metres to remain out of the ground. 2.7 metre x 1.75 mm treated intermediate posts are to be used for corners, angles and the back post for box stays. 3.0 metre x 175 mm strainer posts to be used on angles.
- 4.3 Galvanised deer netting 1.9 metres high x 13 wires at 300 mm spacing.
- 4.4 Where the fence line abuts a track there must be no tie-backs out into the track, if an angle stay is not able to be erected due to the terrace edge, a box edge stay should be used.
- 4.5 Tie-backs on both sides of fence with a minimum of 2 anchor points permitted.
- 4.6 4.00mm soft wire for all tie backs and tie downs. Tie down wire must remain clear of ground.

- 4.7 Netting to be no more than 150mm and no less than 100 mm above ground.
- 4.8 4.2m steel gates swung to open fully and close against the opposite strainer posts and secured with wrap-around type heavy gate chain.
- 4.9 Earthworks and fence line clearance same as for sheep type fence specifications.
- 4.10 Steel posts and strainers with a maximum of 4 metres apart.

5. Preliminary and General Matters

5.1 New Materials

All material forming a permanent part of the fence shall be new, with the exception of re-used materials applying to clause 2, and shall conform to any relevant New Zealand or international standard.

5.2 Standards

New 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 a 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 galvanised 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/aluminium alloy coating on steel wire.
- 4680:1999 (AS/NZS) Hot dip galvanised (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 warrantee and guarantee.

5.3 Blasting

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

5.4 Drilling

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

5.5 Spiking

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

5.6 Lacing

The top wire is to be laced to the top of the steel Y stake with 3.15mm (9 gauge) wire.

6. Materials General

To be used except where these have been specifically modified by the provisions of Clause 7 which shall take precedence.

6.1 Wire

Fence wire will be 2.5mm galvanised high tensile steel wired and 4mm galvanised mild steel wire and 1.6 mm galvanised high tensile reverse twist barbed wire all of which are to be of good quality. Tie-downs and tie-backs will be 4mm galvanised mild steel or 3.5mm stainless steel, kept clear of any ground contact.

6.2 Infill Posts

Infill posts will be steel Y stakes or galvanised T irons for use on high spots. Y stakes to be minimum 1.95kg per lineal metre. T irons to be 1.65 metres in length with a width of 50mm on each T section and manufactured from 6mm steel.

6.3 Strainer, Intermediate and Angle Posts

All timber posts used will be round and ground treated.

6.4 Stay Block

12 x 2 x 24cm ground treated.

6.5 Staples

Staples will be 50mm x 4mm barbed galvanised steel.

6.6 Permanent Wire Strainers

Permanent wire strainers are to be of the yoke and reel type with a sprung loaded locking bar.

6.7 Crossing Netting

Netting on creek crossings will be 7 wire galvanised sheep netting.

6.8 Gates

The swung gates shall be manufactured of 32mm 2.6wt galvanised steel pipe frame, suitably braced to withstand normal pressure by beef cattle and fully covered with 50mm chain mesh manufactured from 3.15mm gauge wire and attached with 2.24mm galvanised lacing wire.

6.9 Gate Chains

Gate chains will be galvanised steel chain and staple type.

6.10 Gate Gudgeons

Gudgeons are to be of galvanised steel. The top gudgeon is to be a lock through type and the bottom gudgeon a bolt through type.

7. Best Practice

7.1 Best fencing practice must be adhered to on all occasions.

7.2 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, unless specifically varied where floodgates are required to be on a separate strain. To conform to best practice and, if applicable, the wire manufacturing recommendations. Wire tension to account for weather conditions at time of strain and have regard to effect of winter conditions. Wire tension to average 110kg force.

7.3 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 (4mm) galvanised 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.

7.4 Placement of footer at strainers and angles

Strainers and angles will be footed using a wooden H4 treated cut off post with a minimum length of 350mm rammed in beside the strainer or angle so that the foot is lying 200mm up from the bottom of the hole at a 90 degree angle to the strainer or angle, and will be attached with 4mm galvanised stainless steel wire and stapled to both the foot and the strainer or angle using three or more staples on both ends.

7.5 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 is to be 100-150mm 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.

7.6 Gates

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

7.7 Netting at creek crossing

Netting on creek and river crossings will be seven wire galvanized sheep netting and left to swing. Post and anchors to be located clear of eroding stream banks.

7.8 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 stainless soft wire (which is to remain above ground) or preferably 3.55mm stainless steel. If a post is a tie down, it is to be fixed to the Y stake by a 150mm x 6mm galvanised nail.

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

7.9 Tie backs

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

7.10 T Irons

T irons are to be used on all corners and on the end of strains with tie-backs on them except on the gateways where conventional block and stays are to be used.

8. Resource Management Consents

- 8.1 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 Tourism Concession to be created.

Concession number: _____

DATED _____

Between

THE MINISTER OF CONSERVATION
("the Grantor")

and

RICHARD JEREMY KING and JULIA JANE KING
("the Concessionaire")

CONCESSION DOCUMENT
UNDER THE CROWN PASTORAL LAND ACT 1998
(for Tourism Activities)



Department of Conservation
Te Papa Atawhai

THIS LICENCE is made on this day of

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")
2. **RICHARD JEREMY KING and JULIA JANE KING**, ("the Concessionaire")

BACKGROUND

- A. The Grantor manages the Land described in Schedule 1 as a Conservation Area.
- 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.
- 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.

"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.

"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.

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

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

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

"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 any one 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 of the Crown Pastoral Land Act 1998 the Grantor **GRANTS** to the Concessionaire a **LICENCE** under section 17Q(1) of the Conservation Act 1987 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 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 REVIEW

6.1 The Grantor will review the Concession 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.

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.

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 3A 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, Heritage New Zealand Pouhere Taonga Act 2014 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 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, burn, cultivation, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Land; or
- (g) 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 described in Item 1 of Schedule 1 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 (subject to a permit) on to the Land for use in connection with the Concession Activity.
- 10.5 The Concessionaire for purposes of the Concession Activity may take onto or use vehicles on the Land.

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 and an independently audited safety plan, prepared to the satisfaction of the Grantor.
- 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 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, such consent shall not be unreasonably withheld. 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
 - (ii) the Grantor has notified the Concessionaire in writing of the breach; and
 - (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 any one 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 New Zealand Law Society 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 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.
- 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 email 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 email, 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 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 ADVERTISING.

22.1 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.

22.2 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.

22.3 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.

22.4 In preparing such information the Concessionaire must obtain information from and have regard to the views of tangata whenua.

23.0 EMPLOYMENT OF STAFF.

23.1 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.

23.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.

23.3 The Concessionaire must comply with all statutes relating to employment of staff.

24.0 VARIATIONS

24.1 The provisions of section 17ZC of the Conservation Act 1987 apply to all variations sought by the Concessionaire.

24.2 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.

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

25.0 CO-SITING.

25.1 The Concessionaire must, if required by the Grantor, allow Co-Siting on the Land or the Land immediately adjoining the Site 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.

25.2 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 25.1.

25.3 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.

26.0 SPECIAL CONDITIONS

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

26.2 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 in the presence of :)

Witness _____

Occupation _____

Address _____

Signed by **Richard J King**)
as Concessionaire in the presence of :)

Witness _____

Occupation _____

Address _____

Signed by **Julia J King**)
as Concessionaire in the presence of :)

Witness _____

Occupation _____

Address _____

SCHEDULE 1

1. **Land:** Conservation Area of 2,708 hectares approximately on the Seaward Kaikoura Range being part of _____ situated in the Marlborough Land District and shown on the plan attached to the Proposal as CA1 (including GC1 and GC2) being shaded pink and herein referred to as the Land. *(see definition of Land in clause 1.1)*
2. **Concession Activity:**
Tourism Concession;
The use of the Land described in Item 1 of Schedule 1 for the purpose of the business of guided tramping, ground based guided hunting and 4WD trips. *(see definition of Land in clause 1.1)*
3. **Term:** 10 years commencing on the day of registration of an approved plan affecting Computer Interest Register MB62/19 (Marlborough Registry) (the commencement date) *(see clause 3)*
4. **Renewal:** No right of renewal
5. **Expiry Date:** the 10th anniversary of the commencement date.
6. **Concession Fee:**
(a) Tourism Concession fee: \$10.00 +GST per client per full day, \$5.00 +GST per client per half day. *(see clause 4)*
(b) Administration Fee: \$200.00 per annum + GST *(see clause 4)*
7. **Concession Fee Payment Date:** Annually in arrears upon commencement of the term set out in item 3 two months after the anniversary of the commencement date. The Concessionaire is required to provide the client activity form attached in Schedule 3 in accordance with special condition A.4.. *(see clause 4)*
8. **Penalty Interest Rate:** Double the Grantor's bank's current highest 90 day bank bill buy rate *(see clause 4.2)*
9. **Concession Fee Review Date:** Every three years from the commencement date. *(see clause 6)*
10. **Public Liability General Indemnity Cover:** for \$1,000,000 *(see clause 15.3)*
11. **Public Liability Forest & Rural Fire Extension:** for \$1,000,000 *(see clause 15.3)*
12. **Statutory Liability:** NIL *(see clause 15.3)*
13. **Other Types of Insurance:** NIL *(see clause 15.3)*
Amounts Insured for Other Types of Insurances: NIL *(see clause 15.3)*
14. **Environmental Monitoring Contribution:** To be negotiated between the Grantor and the Concessionaire if required as detailed in Clause 16 (Environmental Monitoring and Land Rehabilitation) of the concession document. *(see clause 16)*

15. **Address for Notices (including email):**

(see clause 19)

- (a) **Grantor** **Director, Conservation Partnerships, North & Western South Island Region**
Department of Conservation
186 Bridge Street
Private Bag 5
NELSON
Ph (03) 546 9335
Fax (03) 548 2805
Email nelson@doc.govt.nz
- (b) **Concessionaire** **Richard J King and Julia J King**
Middle Hill
Clarence Bridge
R.D. 1
KAIKOURA
PH: (03) 319-4338
Email r.j.king@xtra.co.nz

SCHEDULE 2

Special Conditions

A General Conditions

- 1 The public has unrestricted access rights to the Land. The Grantor may erect signposts and mark access routes through the Land for the benefit of the public.
- 2 The Grantor has no obligation to maintain any of the tracks within the Land. The Grantor shall have all rights and powers whether on the track or necessarily adjacent thereto to take all reasonable steps to repair and maintain the tracks to a standard suitable for Conservation management use and public pedestrian use.
- 3 The Concessionaire shall actively promote and, by all practicable means, cause all clients to adhere to the Environmental Care Code, the Water Care Code and the Four-Wheel Drive Care Code at all times as attached in Schedule 4.
- 4 The Concessionaire shall complete the Client Activity Return forms, attached as Schedule 3, annually from the commencement date of the concession, with the Client Activity Return due to be provided to the Grantor 1 month after the anniversary of the commencement date in each year. The Activity Return forms should clearly illustrate, where possible, where the activities have occurred. This should be done using the concession location name supplied by the Grantor and can also include grid references, GPS points or a physical description. This will help the Department with planning for the area.
- 5 Before commencing any of the Concession Activities, the Concessionaire must prepare a safety plan and have it audited, pursuant to clause 11.
- 6 The Concessionaire shall provide evidence (at the same time as providing their activity return) satisfactory to the Grantor that the Concessionaire's safety plan is current and operational. If the evidence provided by the Concessionaire is not satisfactory to the Grantor, the Concessionaire shall (at the Concessionaires expense) provide the Grantor with a recently completed audit (no more than 30 days old) of the safety plan.
- 7 The Grantor reserves the right to request further or different activity related information from the Concessionaire in order to best monitor and determine any effects of the Concession Activity on the Land.
- 8 The Concessionaire must report all incidents and accidents which occur during the undertaking of the Concession Activity on the Land of what so ever nature and whether or not the subject of an official search and rescue operation to the Grantor. At the request of the Grantor the Concessionaire must supply a report in writing of any inquiry into the cause of an incident, or accident, and if in the opinion of the Grantor the inquiry reveals that a reasonable standard of safety was not maintained and/or the Concessionaire, their servants, or employees or agents were negligent then the Grantor may determine this concession in accordance with clause 14. The Concessionaire must at the request of the Grantor make available any employee, servant or agent who in the opinion of the Grantor might assist in any such enquiry.
9. The Concessionaire and their servants, agents, invitees and staff shall be solely responsible for the safety and conduct of all persons participating in the concession activity and shall be held vicariously liable for any breach, non-observance or non-performance of any of the conditions herein contained or implied caused by any act or omission of the Concessionaires servants or invitees.
10. The Grantor shall be entitled to send any officer of the Department of Conservation on any of the Concession Activities to assess their impact on conservation values, and compliance with terms and conditions of this Licence. The costs of such assessment are recoverable from the Concessionaire.
11. In addition to clauses 12 and 14, the Grantor reserves the right to apply restrictions on the Concession Activity of the Concessionaire, or withdraw all or part of the Land or Concession Activity approved, if in the 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.

12. The Concessionaire must comply at all times with the provisions of the Biosecurity Act 1993 and the Biosecurity New Zealand guidelines, including compliance with guidelines for limiting the spread of *Didymosphenia geminata* published by Biosecurity New Zealand. Current prevention and cleaning protocols are set out in Schedule 5.

B Guided Tramping and 4WD Trip Conditions:

1. The activity is limited to the following maximum party size (including guide), frequencies and duration of activity:

DOC Facilities (eg huts) or informal campsites	Max. Party Size (incl. guides)	Frequency of Use (trips) per Year	Max. number of trips per week	Duration of visit (half or full days?)
Nil	15	260	5	Full day - 5 hours

2. The Concessionaire is requested to consult the relevant Papatipu Runanga if they wish to use Ngai Tahu cultural information. If the concessionaire wishes to use the Tōpuni or statutory acknowledgement information contained in schedules 14-108 of the Ngāi Tahu Claims Settlement Act 1998, or any Department produced interpretative material in respect to Ngāi Tahu cultural information, they are requested to notify the relevant Papatipu Rūnanga, as a matter of courtesy.

Note: The Department of Conservation will, in relation to this clause, provide the Concessionaire with the contact details of the relevant Papatipu Rūnanga, and the relevant Topuni information.

3. The Concessionaire and any persons employed by the Concessionaire are requested to recognise and provide for Ngāi Tahu values in the conduct of their activities.
4. The Concessionaire shall, as far as practicable, attend any workshops held by the Department of Conservation for the purpose of providing information to Concessionaires, which will include the Ngāi Tahu values associated with Tōpuni areas.
5. If sites of cultural or historical significance are located on the Land during the Term, the Grantor reserves the right to prohibit or restrict any Concession Activity relating to those sites.
6. The Concessionaire and their clients shall remain on formed tracks or well-used routes where these facilities protect the natural and historic features of the Land. All vehicles are to remain on the existing formed tracks only. All safety signs must be adhered to at all times.

C Ground Based Guided Hunting Conditions:

1. The Grantor reserves the right to authorise any hunter who holds a valid hunting permit issued by the Director-General of Conservation to hunt on the Land.
2. The Concessionaire shall limit party size, including guides, to 6 people per trip.
3. The Concessionaire shall not guide any hunting party on the Land without having first obtained hunting permits to cover all members of the hunting party including the guide. Dogs are only permitted on the Land if provided for as a condition of the hunting permit.

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- 4 The Concessionaire shall pay, as a charge additional to the concession fee, all standard hut fees for members of the Concessionaire's party for the use of any hut.
- 5 The Grantor will be responsible for limiting wild animal numbers on the Land in accordance with the Wild Animal Control Act 1977. Wild animals are to be controlled at a level that is in keeping with current Department of Conservation management plans and policies for wild animal control. The Grantor reserves the right to monitor the wild animal numbers on the Land from time to time and if numbers are not at an acceptable level the Grantor reserves the right to take management action(s) to bring wild animal numbers down to acceptable levels on the Land.

Summary

	Total number of Clients per ½ day	Fee/Client per ½ day	Total number of Clients per whole day	Fee/Client per whole day	Total Fees Payable
Guided Tramping/4WD Tours / Ground Based Hunting		\$5.00		\$10.00	
Plus GST					\$
SUB TOTAL					\$
Less Minimum Fees Paid					\$
TOTAL FEE PAYABLE					\$

I certify that the above figures are a true and accurate copy of records held by the Concessionaire.

Signed by:
Name and Position:

Date / /

SCHEDULE 4

Environmental Care Code

Protect Plants and Animals

Treat New Zealand's forest and birds with care and respect. They are unique and often rare.

Remove Rubbish

Litter is unattractive, harmful to wildlife and can increase vermin and disease. Plan your visits to reduce rubbish, and carry out what you carry in.

Bury Toilet Waste

In areas without toilet facilities, bury your toilet waste in a shallow hole well away from waterways, tracks, campsites and huts.

Keep Streams and Lakes Clean

When cleaning and washing, take the water and wash well away from the water source. Because soaps and detergents are harmful to water life, drain used water into the soil to allow it to be filtered. If you suspect the water may be contaminated, either boil it for at least three minutes, or filter it, or chemically treat it.

Take Care With Fires

Portable fuel stoves are less harmful to the environment and are more efficient than fires. If you do use a fire, keep it small, use only dead wood and make sure it is out by dousing it with water and checking the ashes before leaving.

Camp Carefully

When camping, leave no trace of your visit.

Keep to the Track

By keeping to the track, where one exists, you lessen the chance of damaging fragile plants.

Consider Others

People visit the back-country and rural areas for many reasons. Be considerate of other visitors who also have a right to enjoy the natural environment.

Respect Our Cultural Heritage

Many places in New Zealand have a spiritual and historical significance. Treat these places with consideration and respect.

Enjoy Your Visit

Enjoy your outdoor experience. Take a last look before leaving an area; will the next visitor know that you have been there?

Protect the environment for your own sake, for the sake of those who come after you, and for the environment itself.

Water Care Code

Find Out First

Find out and follow the regulations governing recreational use of waterways and access. They are designed to minimise conflict between users and protect everyone's health and safety.

Stay on Established Tracks and Use Existing Facilities

By using existing facilities, where these are provided, you run less chance of disturbing wildlife and damaging riverbanks and foreshores.

Take Care of Your Gear

Careless use of equipment can harm wildlife and other users.

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Remove Rubbish

Litter is unattractive, harmful to wildlife and pollutes water. Plan your visit to reduce rubbish, and carry out what you carry in.

Dispose of Toilet Waste Properly

Improper disposal of toilet waste can contaminate water, damage the environment and is culturally offensive. Use disposal facilities where provided or bury waste in a shallow hole at least 50 metres away from waterways.

Be Careful with Chemicals

Use chemicals sparingly, and refuel with care. Dispose of cooking or washing water well away from the source.

Respect Our Cultural Heritage

Many New Zealand waterways have special cultural, spiritual or historical values. Treat these places with consideration and respect.

Take Only the Food You Need

When taking food from the sea or freshwater, don't overdo it. Sustain life in our waterways by taking only what you need and no more than the legal limit.

Consider Plants and Animals

Remember we are only visitors to water environments. Other animal and plant species live there all the time.

Consider Other People

Respect other visitors ... everyone has the right to enjoy the environment in safety.

Four-Wheel Drive Care Code

- Abide by the laws and regulations covering all vehicles and drivers.
- Stay on the main four-wheel drive (4WD) tracks. Avoid widening tracks.
- Avoid sensitive areas such as alpine landscapes, swamps, waterways, sand dunes and river beds which are easily damaged.
- Keep the environment clean. Take all your rubbish with you.
- Protect plants, animals, historical and archaeological sites and geographic features. Respect wildlife, look but don't disturb. Keep your distance.
- Plan your trip. Ask the local DOC visitor centre about track conditions, fire restrictions, huts and campsites.
- Find out if a permit is required for access. Ask permission if your trip crosses private land.
- Leave gates as you find them.
- Take plenty of water, food, fuel, break-down tools, radio equipment and spares on trips. In remote areas travel with another vehicle.
- Always thoroughly clean your vehicle before trips to avoid spreading weeds and plant and animal diseases.
- Respect the right of others for quiet enjoyment of the outdoors. Avoid noisy driving. Give way to walkers, horse riders and mountain bikers.
- Be prepared for the unexpected. Drive at a speed which will allow you to stop if a hazard arises.

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- If winching is necessary, use another vehicle. If you must use a tree use webbing or padding to prevent damage to the tree.
- Cross waterways at designated crossings.
- Avoid tracks that are wet, they are easily damaged and expensive to repair.
- Keep your vehicle mechanically sound to reduce emissions.
- Carry a tent as huts can be full. Camp carefully and only light fires where permitted.
- Join a responsible 4WD club and learn more about how you can drive with minimal impact.

SCHEDULE 5

Didymo (and other freshwater pests) prevention guidelines

Stop the spread

Didymo is an invasive freshwater alga that can form massive blooms, smothering rocks, submerged plants and other material. Didymo is made up of cells that cannot be seen with the naked eye until large colonies form. It can take only one live didymo cell to be transported to a nearby waterway for didymo to become established.

Didymo is an unwanted organism under the Biosecurity Act, 1993. Under the Act, it is illegal to release, spread, sell or breed unwanted organisms. There is a \$100,000 fine or five years imprisonment for people caught doing so.

To ensure you do not spread didymo, wherever possible restrict equipment, vehicles, boats, clothing and other items for exclusive use in a single waterway.

The Concessionaire shall:

1. Before entering a waterway, ensure all equipment, clothing and vehicles that have been in contact with another waterway, have been decontaminated for didymo in accordance with the cleaning methods listed below.
2. When leaving a waterway, ensure all equipment, clothing and vehicles that have been in contact with the waterway, have been decontaminated for didymo in accordance with the cleaning methods listed below.
3. Not move fish, plants, rocks and other river/lake items between waterways.
4. Ensure felt-soled footwear is not worn in any waterway.

Cleaning methods—didymo

CHECK: Before you leave a river or lake, remove all obvious clumps of algae and look for hidden clumps—leave them at the affected site. If you find any later, treat and put in rubbish. Do not wash down drains.

CLEAN: There are several ways to kill didymo. Choose the most practical treatment for your situation which will not adversely affect your gear.

Non-absorbent items

Detergent: soak or spray all surfaces for at least one minute in 5% dishwashing detergent or nappy cleaner (two large cups or 500 mls with water added to make 10 litres); OR
Bleach: soak or spray all surfaces for at least one minute in 2% household bleach (one small cup or 200 mls with water added to make 10 litres); OR

Hot water: soak for at least one minute in very hot water *kept above* 60 °C (hotter than most tap water) or for at least 20 minutes in hot water *kept above* 45 °C (uncomfortable to touch).

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Absorbent items require longer soaking times to allow thorough saturation.

Hot water: soak for at least 40 minutes in hot water kept above 45 °C; OR

Hot water plus detergent: soak for 30 minutes in hot water kept above 45 °C containing 5% dishwashing detergent or nappy cleaner; OR

Freezing any item until solid will also kill didymo.

NOTE: The thicker and denser the material, the better it will be at holding moisture and live cells, the slower it will be to dry out and the more difficult it will be to soak completely with cleaning solutions.

DRY: Drying will kill didymo, but slightly moist didymo can survive for months. To ensure didymo cells are dead by drying, the item must be *completely dry* to the touch, inside and out, then left dry for at least another 48 hours before use.

If cleaning or drying is not practical, restrict equipment to a single waterway.

NB: When decontaminating equipment for didymo, it is recommended that you:

- Soak porous materials long enough to ensure cleaning solution has gone right through the item before soaking for the required decontamination time.
- Choose a decontamination solution that will not adversely affect your equipment.
- Follow manufacturer's safety instructions when using products.
- Dispose of cleaning waste well away from waterways.

The above didymo decontamination measures are sourced from the MAF Biosecurity New Zealand website (www.biosecurity.govt.nz/didymo). Please visit this site for further information or instructions on cleaning methods for specific activities.

To report a suspected find of didymo, please call 0800 80 99 66

Appendix 5: Form of Grazing Concession to be created.

Concession number: _____

DATED _____

Between

MINISTER OF CONSERVATION
("the Grantor")

and

RICHARD JEREMY KING and JULIA JANE KING
("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. **RICHARD JEREMY KING and JULIA JANE KING** ("the Concessionaire")

BACKGROUND

- A. The Grantor manages the Land described in Schedule 1.
- B. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant, under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances), a Concession for a Concession Activity to be carried out on the Land.
- 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 of Schedule 1.

"Renewal Period" means the period specified in Item 4 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 any one 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 3A 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) burn, chemical spray 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) if required by the Grantor:
 - (i) 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;
 - (ii) 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) the Concessionaire breaches any terms of this Document; and
 - (i) the Grantor has notified the Concessionaire in writing of the breach; and
 - (ii) the Concessionaire does not rectify the breach within 28 days of receiving notification; or
- (c) the Concessionaire ceases to conduct the Concession Activity; or

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- (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 any one 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 New Zealand Law Society 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 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.

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 email 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 email, 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.

20.2 The Concessionaire acknowledges that the Land is open to the public for access and that the Grantor may close public access during periods of high fire hazard.

21.0 COSTS

21.1 The Concessionaire must pay the Grantor's legal costs and expenses associated with preparing and signing any extension or variation to this Document.

21.2 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor's rights and powers under this Concession including the right to recover outstanding money owed to the Grantor.

22.0 OFFENCES

22.1 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.

23.0 SPECIAL CONDITIONS

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

23.2 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 : **Richard J King.**

as Concessionaire
in the presence of :

Witness _____

Occupation _____

Address _____

Signed by : **Julia J King.**

as Concessionaire
in the presence of :

Witness _____

Occupation _____

Address _____

SCHEDULE 1

1. **Land:**
GC1- The Glen Block
Conservation Area of 45 hectares approximately on Middle Hill being part of _____ situated in the Marlborough Land District and shown on the plan attached to the Proposal as GC1 being shaded pink and herein referred to as the Land.

GC2 - Batty Block
Conservation Area of 100 hectares approximately on Mt Batty being part of _____ situated in the Marlborough Land District and shown on the plan attached to the Proposal as GC2 being shaded pink and herein referred to as the Land. *(see definition of Land in clause 1.1)*

2. **Concession Activity:**
GC1 - The Glen Block
Grazing for a maximum of 30 head of cattle and 600 head of sheep only, for a period of time determined each year by the Concessionaire, at any time during each calendar year.

GC2 - Batty Block
Grazing for a maximum of 500 head of sheep only, for a period of time determined each year by the Concessionaire, at any time during each calendar year.

(see definition of Concession Activity in clause 1.1)

3. **Term:** 15 years commencing on the day of registration of an approved plan affecting Certificate of Title MB62/19 (Marlborough Registry) (the commencement date). *(see clause 3)*

4. **Renewal Date:** No right of Renewal. *(see clause 3.2)*

5. **Expiry Date:** The 15th anniversary of the commencement date. *(see clause 3.2)*

6. (a) **Concession Fee:** \$30 per head of cattle per annum + GST; \$5 per head of sheep per annum + GST, (\$30/head x 30cattle x ?/365, plus \$5/head x 600sheep x ?/365, plus \$5/head x 500sheep x ?/365)

(see clause 4)

(b) **Administration Fee:** \$ 200 per annum + GST. *(see clause 4)*

7. **Concession Fee Payment Date:** Annually in arrears, following receipt of the Grazing Activity Return Form attached in Schedule 3 in accordance with special condition 9. Should the Concessionaire not provide the Grazing Activity Return Form within two months of the anniversary of the commencement date, then the concession fee payable shall be charged on the basis of maximum stock numbers for the full annual period. .

(see clause 4)

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:** Every three years from the commencement date. *(see clause 6)*

10. **Public Liability General Indemnity Cover:** *(see clause 15.3)*
for \$1,000,000.

11. **Public Liability Forest & Rural Fire Extension:** *(see clause 15.3)*
for \$500,000.
12. **Statutory Liability Insurance:** NIL *(see clause 15.3)*
13. **Other Types of Insurance:** NIL *(see clause 15.3)*
14. **Environmental Monitoring Contribution:** To be negotiated between the Grantor and the Concessionaire if required under clause 16 (Environmental Monitoring) of the concession document. *(see clause 16)*
15. **Address for Notices (including email):** *(see clause 19)*

(a) Grantor Director, Conservation Partnerships, North & Western South Island Region
Department of Conservation
186 Bridge Street
Private Bag 5
NELSON
Ph (03) 546 9335
Fax (03) 548 2805
Email nelson@doc.govt.nz

(b) Concessionaire Richard J King and Julia J King
Middle Hill
Clarence Bridge
R.D. 1
KAIKOURA
PH: (03) 319-4338
Email r.j.king@xtra.co.nz

SCHEDULE 2

Special Conditions

Land Management

1. The public shall at all times have access on foot, horse and mountain bike to and across all parts of the Land. Where fences occur the Grantor may erect gates or stiles in suitable places.
2. The Director-General is responsible for issuing all hunting permits for the Land. All hunters will be responsible for obtaining access permission from the Concessionaire (including permission to utilize dogs on the Concession Land) such permission will not be unreasonably withheld from:
 - a) hunters who hold a valid hunting permit issued by the Director-General of Conservation to hunt on the Land or
 - b) hunters seeking access across the Land.

Fencing

3. The Concessionaire must, at no expense to the Grantor, ensure that stocks are adequately contained within the Land
4. The Grantor is not to be called upon at any time to contribute to the costs of any boundary fencing between the Land and any adjoining land if the purpose of the fencing is to assist the Concessionaire to comply with special condition 3.
5. The Concessionaire must keep and maintain all fences (including boundary fences) or gates on the Land in good repair.

Inspection

6. 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.

Monitoring

7. The Grantor may set up and design and undertake a monitoring program on the Land:
 - a) to ensure that the ecological integrity of the Land is maintained or improved; and
 - b) to enable the monitoring of grazing; on the vegetation cover and condition, faunal values and any other conservation values.
8. The monitoring programme should be reviewed at three yearly intervals to coincide with the Concession Fee Reviews and if in the opinion of the Grantor there is a deterioration in the condition and extent of the ecological condition of the Land the Grantor reserves the right to adjust stock numbers accordingly.

Activity Return

9. The Concessionaire shall complete a Grazing Activity Return Form (attached as Schedule 3) annually from the commencement date. The first Grazing Activity Return shall be due to be provided to the Grantor 1 month after the first anniversary of the commencement date, and returns shall be due thereafter annually 1 month after the anniversary of the commencement date.

Summary

	Total number of days the Block was stocked.	Average number of stock per day during days stocked each year	Fee per head of stock per annum	Calculation;	Total Fees Payable
Batty Block Sheep Grazing			\$5.00	(\$5/head x average number of stock per day x ?/365)	
The Glen Block Sheep Grazing			\$5.00	(\$5/head x average number of stock per day x ?/365)	
The Glen Block Cattle Grazing			\$30.00	(\$30/head x average number per day x ?/365)	
Plus GST					\$
SUB TOTAL					\$
Less Minimum Fees Paid					\$
TOTAL FEE PAYABLE					\$

I certify that the above figures are a true and accurate copy of records held by the Concessionaire.

Signed by:
Name and Position:

Date / /

Appendix 6: Form of Easement to be created.

In Gross Easement: Management Access – Version 6

DOCDM-1386847 – Middle Hill – April 2015

TRANSFER GRANT OF EASEMENT IN GROSS

1. Management Access

Land Transfer Act 1952

This page does not form part of the Transfer.

TRANSFER

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

Marlborough

Certificate of Title No. **All or Part?** **Area and legal description – *Insert only when part or Stratum, CT***

--	--	--

Grantor Surnames must be underlined

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

Grantee Surnames 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.*

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

Consideration

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 GRANTOR TRANSFERS to the GRANTEE all the grantor'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 Signature, or common seal of Grantor	Signed in my presence by the Grantor Signature of Witness _____ (continued on page 4 of Annexure Schedule) Witness to complete in BLOCK letters (<i>unless typewritten or legibly stamped</i>) Witness name Occupation Address
--	--

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
 Certified that no conveyance duty is payable by virtue of Section 24(1) of the Stamp and cheque Duties Act 1971.
 (DELETE INAPPLICABLE CERTIFICATE)

Solicitor for the Grantee

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 which is marked "[]" on Deposited Plan/S.O. Plan No [].
 - 1.2 "Management Purposes" means:
 - the protection of a significant inherent value of the land managed by the Grantee; and/or
 - the ecological sustainable management of the land managed by the Grantee.
 - 1.3 "Servient Land" means the land owned by the Grantor and described on page 1.
 - 1.4 "Grantee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes tenants, agents, invitees, contractors, licensees and employees of the Minister of Conservation and the Director-General of Conservation.
 - 1.5 "Grantor" means the owner of the Servient Land described on page 1 and includes the Grantor's tenants and invitees.

Standard Easement Terms

Access

2. The Grantee has the right in common with the Grantor:
 - 2.1 To pass and re-pass at any time over and along the Easement Area "a-b", "c-d" and "e-f" on foot, or on or accompanied by horses, or by non-motorised vehicle, or by motor vehicle, with or without machinery and implements of any kind, for Management Purposes.
3. The Grantor 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 Grantor.

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.

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

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated Page of Pages

Exclusion of Schedules

4. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Fifth Schedule of the Property Law Act 2007 are expressly negated.

Term

5. The easement created by this transfer is to be in perpetuity.

Temporary Suspension

6. The Grantee 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. For the avoidance of doubt, such closure does not affect the rights of the Grantor to use and access the Easement Area.

Dispute Resolution

- 7.1 If a dispute arises between the Grantor and Grantee concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 7.2 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.
- 7.3 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 of the New Zealand Law Society.
- 7.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 8.1 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 email to the receiving party.
- 8.2 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.
- 8.3 If clause 8.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched if that day is a working day or, if dispatched after 5.00pm or not on a working day, on the next working day after the date of dispatch.

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.

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

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated Page of Pages

Special Easement Terms

9. The standard easement terms contained above must be read subject to any special easement terms set out below.
10. The Grantee has the right:
 - 10.1 To erect and maintain signs informing the public of the location of the land managed by the Crown and available for public access and recreation
 - 10.2 From time to time to modify the surface of the Easement Area so that it becomes and remains fit for the purpose of clauses 2.1
 - 10.3 To use whatever reasonable means of access he/she thinks fit over the Easement Area to carry out the works in clause 10.1 to 10.2.
11. Clause 6 is deleted, as the public do not have access over the Easement Area.
12. Prior to using the part of the Easement Area shown as "e-f" the Grantee shall give at least 48 hours notice by telephone and/or email to the Grantor and shall have regard to reasonable requests by the Grantor relating to farm management issues. Should the Grantor not be able to be contacted by the Grantee within this time frame or a response not be received by the Grantee, it shall be deemed acceptable for the Grantee to use that part of the Easement Area without further notice to the Grantor. .
13. In an emergency, the Grantee is not obliged to give notice in accordance with special condition 12. However, the Grantee shall make reasonable efforts to advise the Grantor of the Grantee's use of that part of the Easement Area shown as "e-f" as soon as reasonably practicable.
14. The Grantor has the right to lock any gates on the Easement Area provided that they provide all gate keys to the Grantee and the locked gate does not prevent access on and along a legal road.

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.

Continuation of "Attestation"

Signed for and on behalf of)
Her Majesty the Queen by)

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.

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.

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

TRANSFER GRANT OF EASEMENT IN GROSS

1. Management Access

Land Transfer Act 1952

Law Firm Acting

Conservancy Solicitor
Department of Conservation
Dunedin

Auckland District Law Society
REF:4135

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

Appendix 7: Form of Covenant to be created.

DATED _____

Between

COMMISSIONER OF CROWN LANDS
Pursuant to Section 80 of the Crown Pastoral Land Act 1998

and

MINISTER OF CONSERVATION
("the Minister")

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



Department of Conservation
Te Papa Atawhai

“Values” means any or all of the Land’s natural environment, biodiversity including botanical and zoological, landscape amenity, wildlife, freshwater life, marine life habitat or historic values as specified in Schedule 1.

“Working Day” means the period between any one 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 or allow to be carried 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;

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 and 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 3.1.3, 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;
 - 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.

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 A Transferee of the land will at law be bound by the registered Covenant. Such transfer is deemed to provide the agreement to comply with the terms of this covenant required by Clause 7.1

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.

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 email addressed to the receiving party at the address or email address 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 email, on the day on which it is dispatched if that day is a Working day or, if dispatched after 5.00pm or not on a Working Day, on the next Working 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 New Zealand Law Society is to appoint the mediator.

11.3 Failure of Mediation

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 New Zealand Law Society;

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: _____

SCHEDULE 1

1. Description of the Land

CC1 – Limestone Outcrops

Three individual pieces of land containing 18 hectares approximately in total being part of _____ situated in Blocks V, IX, X & XI Puhi Puhi Survey District and shown on the plan attached to the Proposal as CC1 being shaded yellow and herein referred to as those parts of the Land shown as CC1.

CC2 – Middle Hill Hut

All that piece of land containing 23 hectares approximately being part of _____ situated in Blocks V, IX, X & XI Puhi Puhi Survey District and shown on the plan attached to the Proposal as CC2 being shaded yellow and herein referred to as that part of the Land shown as CC2.

2. Address for Service¹

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

Director, Conservation Partnerships, North & Western South Island Region
Department of Conservation
186 Bridge Street
Private Bag 5
NELSON
Ph (03) 546 9335
Fax (03) 548 2805
Email nelson@doc.govt.nz

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

Richard J King and Julia J King
Middle Hill
Clarence Bridge
R.D. 1
KAIKOURA
PH: (03) 319-4338
Fax: (03)
Email r.j.king@xtra.co.nz

3. Values of Land to be Protected

CC1 - Limestone Outcrops – Natural Environment, Landscape Amenity and Wildlife Habitat

- The three limestone outcrops are a prominent natural feature forming a distinct and special landform in a landform dominated by greywacke hills and alluvial terraces. Their visibility from State Highway One gives them a high scenic and aesthetic value.
- The limestone habitat is uncommon in the ecological district and supports a representative range of limestone dependant species including a large number of indigenous species.
- The outcrops support a diverse range of plant communities including plant species representative of the original flora.
- The limestone outcrops support four threatened plant species – *Pleurosorus rutifolius* (naturally uncommon), *Epilobium wilsonii* (naturally uncommon), *Poa acicularifolia* (naturally uncommon) and *Wahlenbergia matthewsii* (naturally uncommon).²
- The limestone outcrops are an important refuge and breeding habitat supporting two threatened animal species – darkling beetle *Mimopeus parallelus* (nationally endangered) and Kaikouras gecko (naturally uncommon).³

¹ State street address not Post Office Box number.

² Conservation status of New Zealand indigenous vascular plants, 2012. By Peter de Lange, Jeremy Rolfe, Paul Champion, Shannel Courtney, Peter Heenan, John Barkla, Ewen Cameron, David Norton and Rodney Hitchmough 2013. *New Zealand Threat Classification Series 3*. 70 p, pages 27, 31 and 33

³ Conservation status of New Zealand reptiles, 2012. By R. Hitchmough, P. Anderson, B. Barr, J. Monks, M. Lettink, J. Reardon, M. Tocher and T. Whitaker 2013. *New Zealand Threat Classification Series 2*. 16 p, at 15

CC2 – Middle Hill Hut – Natural Environment, Landscape Amenity and Wildlife Habitat

- The area forms an integral part of the surrounding Conservation Area contributing to the visual landscape values of the Kaikoura Range.
- The area provides potential for the regeneration of indigenous vegetation from seed sources including remnant beech forest from the surrounding Conservation Area.
- The area supports the threatened lizard species Kaikouras gecko (range restricted).⁴
- The wetland area within the covenant area provides considerable habitat diversity for invertebrate species due to the rarity of wetlands at mid altitude in the region.
- The management of the area needs to be complementary with the management of values on the surrounding Conservation Area.

⁴ Supra note 3.

SCHEDULE 2

Special Conditions

Special Conditions applying only to those parts of the Land shown as CC1 – Limestone Outcrops

1. The Owner may graze up to a maximum of 300 sheep and up to a maximum of 300 deer only on those parts of the Land, at any time of the year.
2. These parts of the Land are to be contained within existing fences.
3. The Minister may design and undertake a monitoring programme on these parts of the Land:
 - (a) to ensure that the ecological integrity of the limestone outcrops and associated vegetation and fauna is maintained.
 - (b) To enable the monitoring of any effects on the vegetation cover and conditions, faunal values and any other conservation values.

The monitoring programme will be reviewed at 3 yearly intervals and if, in the opinion of the Minister there is a deterioration in the condition and extent of the ecological condition of these parts of the Land, agreement of the Owner may be sought to alter the management regime in these parts of the Land. The Minister and Owner shall act in good faith in protection of the values in these parts of the Land but if agreement cannot be reached clause 11 (Disputes Resolution Process) shall take effect.

4. 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 and to these parts of the Land, with or without motor vehicles, machinery, and implements of any kind, for the purposes of scientific study and research of the limestone outcrops and their associated ecosystems.
5. The owner has the right to, from time to time, as is needed, maintain any existing vehicle tracks occurring in these parts of the Land.
6. The owner has the right to, from time to time as is needed but no more than once in any five year period, maintain any manmade drainage channels occurring in these parts of the Land.

Special Conditions applying only to that part of the Land shown as CC2 – Middle Hill Hut

7. The Owner may graze this part of the Land with sheep and cattle in conjunction with the grazing concession on the adjacent conservation area GC1. On expiry of the grazing concession the owner may graze this part of the Land with sheep and cattle only at a stocking rate to be determined by the Minister at that time.
8. The Owner may top dress, sow seed, or chemically spray for weeds on this part of the Land except for a 20m margin along the edge of any river, stream or wetland.
9. The Owner may maintain any existing tracks and fences on this part of the Land.
10. The Owner shall have the right to construct a lodge or alter the existing hut on this part of the Land subject to consultation with the relevant manager of the Department Of Conservation, South Marlborough.
11. The Owner may dam, divert or take natural water for stock water purposes and use associated with buildings on this part of the Land. This includes the right to maintain a tank for water supply purposes for the hut.

GRANT of

Correct for the purposes of the
Land Transfer Act 1952

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

Solicitor for the Minister

**COMMISSIONER OF CROWN
LANDS**

to

MINISTER OF CONSERVATION

**Solicitor
Department of Conservation
DUNEDIN/CHRISTCHURCH**

Appendix 8: Form of Easement Concession to be created.

Concession number: _____

DATED _____

Between

MINISTER OF CONSERVATION
("the Grantor")

and

RICHARD JEREMY KING and JULIA JANE KING
("the Concessionaire")

EASEMENT CONCESSION
UNDER CROWN PASTORAL LAND ACT 1998



Department of Conservation
Te Papa Atawhai

- 1 -

THIS DOCUMENT is made this day of 201

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")

2. **RICHARD JEREMY KING and JULIA JANE KING**, ("the Concessionaire")

BACKGROUND

- A. The land described in Item 1 of Schedule 1 as the Servient Land is a Conservation Area or a Reserve under the management of the Grantor.

- B. The land described in Item 2 of Schedule 1 as the Dominant Land is freehold land of the Concessionaire.

- C. 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).

- D. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Document.

- E. The Grantor has agreed to grant the Concessionaire an Easement appurtenant to the Dominant Land over that part of the Servient Land specified as the Easement Area.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

“**Background**” means the matters referred to under the heading ‘Background’ on page 2 of this Document.

“**Compensation**” means the amount specified in Item 6 of Schedule 1 and required by the Grantor under section 53 of the Crown Pastoral Land Act 1988 and section 17X of the Conservation Act 1987 for the adverse effects of the Concession Activity on the Crown’s or public’s interest in the Easement Area.

“**Concession**” means a concession as defined in section 2 of the Conservation Act 1987.

“**Concessionaire**” means the registered proprietor for the time being of the Dominant Land and includes the Concessionaire’s successors, assigns, executors, and administrators.

“**Concession Activity**” means the use of the Easement Area by the Concessionaire for purposes specified in Item 4 of Schedule 1.

“**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 document and any subsequent amendments and all schedules, annexures, and plans attached to it.

“**Dominant Land**” means the land specified in Item 2 of Schedule 1.

“**Easement**” means the Appurtenant Easement granted under this Document by the Grantor to the Concessionaire under section 17Q of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances):

“**Easement Area**” means that part of the Servient Land specified in Item 3 of Schedule 1.

“**Reserve**” has the same meaning as “reserve” in section 59A of the Reserves Act 1977.

“**Servient Land**” means a Conservation Area being the area more particularly described in Item 1 of Schedule 1.

“**Structure**” includes a bridge, a culvert, and a fence.

“**Term**” means the period of time specified in Item 5 of Schedule 1 during which this Document operates.

“**Working Day**” means the period between any one 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 APPURTENANT EASEMENT

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 an **EASEMENT APPURTENANT** to the Dominant Land 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 Easement Area subject to the terms and conditions contained in this Document.

3.0 TERM

3.1 The Easement is for the Term specified in Item 5 of Schedule 1.

4.0 COMPENSATION

4.1 The Concessionaire must pay to the Grantor in the manner specified by the Grantor the Compensation specified in Item 6 of Schedule 1.

5.0 OTHER CHARGES

5.1 In addition to Compensation, the Concessionaire must pay all rates, 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 Easement Area and which are attributable to the Concessionaire's use of or activity on the Easement Area.

6.0 CONCESSION ACTIVITY

6.1 The Concessionaire is not to use the Easement Area for any purpose other than the Concession Activity.

7.0 COMPLIANCE

7.1 The Concessionaire will comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan under Part 3A 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, the Reserves Act 1977, the Resource Management Act 1991 and the Health and Safety in Employment Act 1992 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement Area or affecting or relating to the Concession Activity.

8.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS

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

8.2 The Concessionaire must keep and maintain any Structures, and facilities on and alterations to the Easement Area in good repair.

8.3 On expiry or early termination of this Document either as to the whole or any part of the Easement Area, the Concessionaire will not be entitled to compensation for any improvements and any Structure or facilities remaining on the Easement Area are to become the property of the Grantor.

8.4 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 Easement Area in a clean and tidy condition to the satisfaction of the Grantor.

9.0 PROTECTION OF THE ENVIRONMENT

9.1 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 Easement Area; or
- (b) bring any plants, or animals (except those stipulated in Item 4 of Schedule 1) on to the Easement Area; or

- (c) deposit on the Easement Area debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Easement Area; or
- (d) pile or store materials in any place on the Easement Area where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Easement Area; or
- (f) top-dress, burn, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Easement Area; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Easement Area; or
- (h) light any fire on the Easement Area.

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

- (a) if required by the Grantor take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Easement Area or any Structure or facility on the Easement Area;
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

9.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 9

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

9.5 The Concessionaire may for purposes of the Concession Activity take onto or use vehicles on the Easement Area on existing formed access tracks only.

10. TEMPORARY SUSPENSION

10.1 The Grantor may, at any time in exercise of the Grantor's powers, close all or part of the Easement Area for such period as she/he considers necessary.

11.0 TERMINATION

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

- (a) the Concessionaire breaches any terms of this Document; and
- (b) the Grantor has notified the Concessionaire in writing of the breach; and
- (c) the Concessionaire does not rectify the breach within 28 days of receiving notification.

11.2 Immediately on termination the Concessionaire must execute a surrender of this Document if the Grantor so requires it.

12.0 INDEMNITIES AND INSURANCE

12.1 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, licensees or invitees or otherwise caused as a result of its use of the Easement Area or the Concessionaire's carrying out of the Concession Activity on the Easement Area.

- 12.2 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.
- 12.3 Without prejudice to or in any way limiting its liability under clause 12.1 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 any one single accident or event arising out of its conduct of the Concession Activity on the Easement Area and covering:
 - (i) general indemnity for a sum not less than the amount specified in Item 7 of Schedule 1; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 8 of Schedule 1; and
 - (b) statutory liability insurance for the amount specified in Item 9 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 10 of Schedule 1.
- 12.4 With respect to clause 12.3 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.

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 DISPUTE RESOLUTION AND ARBITRATION

- 14.1 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.
- 14.2 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 mediation with a mediator agreed between the parties.
- 14.3 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.
- 14.4 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.

14.5 Notwithstanding any provision to the contrary 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 New Zealand Law Society is to appoint the arbitrator. The arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

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

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

15.0 NOTICES

15.1 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 email addressed to the receiving party at the address or email address set out in Item 11 of Schedule 1.

15.2 A notice given in accordance with clause 15.1 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 email, 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.

16.0 RELATIONSHIP OF PARTIES

16.1 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 Easement Area;
- (b) preventing the Grantor from granting similar concessions to other persons;
- (c) derogating from the rights of the Grantor and the public to have access across the Easement Area.

17.0 SPECIAL CONDITIONS

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

17.2 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 :

Richard J King
as Concessionaire
in the presence of :

Witness :
Occupation :
Address :

Signed by :

Julia J King
as Concessionaire
in the presence of :

Witness :
Occupation :
Address :

SCHEDULE 1

1. **Servient Land:** The land described as being part of _____ being Conservation Land situated on the Seaward Kaikoura Range in the Marlborough Land District and shown on the plan attached to the Proposal as CA1 being shaded pink and herein referred to as the Land.
(see definition of Servient Land in clause 1.1)
2. **Dominant Land:** The land described as being _____ situated in Blocks V, IX, X and XI Puhī Puhī Survey District.
(see definition of Dominant Land in clause 1.1)
3. **Easement Area:** That part of the land labelled "b-c" shown as a blue line on the plan attached to the Proposal and having a width of 10 metres.
(see definition of Easement Area in clause 1.1)
4. **Concession Activity:** Right of way easement – The Concessionaire has the right to from time to time and at all times for the Concessionaires, their servants, employees, agents workmen, contractors, licensees and invitees (in common with the Grantor and any other person lawfully entitled so to do) to go pass and repass for farm management and tourism operation purposes only on foot and with motor vehicles and with or without horses, machinery and implements of any kind and with or without farm dogs, farm stock and guns, and with or without tourism clients over the Easement Area but subject to the limitations expressed in this Document, to the intent that the easement hereby created shall forever be appurtenant to the Dominant Land.
(see definition of Concession Activity in clause 1.1)
5. **Term:** The concession is granted in perpetuity commencing on the day an approved plan affecting Computer Interest Register MB 62/19 (Marlborough Registry) is registered pursuant to section 65 of the Crown Pastoral Land Act 1998 (the commencement date).
(see clause 3.1)
6. **Compensation:**
A one-off fee has (in effect) been accounted for on behalf of the Grantor as part of the substantive proposal put by the Commissioner of Crown Lands and accepted by the Concessionaire on [date] and for which an approved plan has been registered pursuant to section 65 of the Crown Pastoral Land Act 1998.
(payable on date of execution of this Document) *(see clause 4.1)*
7. **Public Liability General Indemnity Cover:** *(see clause 12.3)*
for \$1,000,000
8. **Public Liability Forest & Rural Fire Act Extension:** *(see clause 12.3)*
for \$1,000,000
9. **Statutory Liability Insurance** *(see clause 12.3)*
for \$Nil
10. **Other Types of Insurance:** *(see clauses 12.3)*
for \$ Nil

11. **Address for Notices (including email address):** *(see clause 15)*

(a) **Grantor** **Director, Conservation Partnerships, North & Western South Island Region**
 Department of Conservation
 186 Bridge Street
 Private Bag 5
 NELSON
 Ph (03) 546 9335
 Fax (03) 548 2805
 Email nelson@doc.govt.nz

(b) **Concessionaire** **Richard J King and Julia J King**
 Middle Hill
 Clarence Bridge
 R.D. 1
 KAIKOURA
 PH: (03) 319-4338
 Email r.j.king@xtra.co.nz

SCHEDULE 2

Special Conditions

1. The Concessionaire shall take all reasonable care to avoid damage to the soil and vegetation when using the Easement Area and in particular will avoid using the Easement Area when conditions render the Easement Area vulnerable to damage.

2. **THE** cost and responsibility of any maintenance of the Easement Area shall be borne by the Concessionaire and any other person or person(s) to whom the Grantor has granted similar rights in respect of the Easement Area, according to each person's use of the Easement Area PROVIDED THAT if any repair or maintenance is rendered necessary by the act, neglect, or default of any user or its servants, agents, contractors, workmen, licensees or invitees, then that user shall promptly carry such repair and maintenance and bear the cost of the work PROVIDED THAT the Grantor shall not be required to contribute to the cost of any maintenance in respect to the Easement Area PROVIDED further that any routine maintenance undertaken by the Concessionaire within the existing alignment does not require the prior consent in writing of the Grantor HOWEVER maintenance outside of the existing alignment undertaken by the Concessionaire requires the prior consent in writing of the Grantor.

Execution Section

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

SIGNED for and on behalf of the
Commissioner of Crown Lands
by **Brian John Usherwood**
pursuant to a delegation under the
Crown Pastoral Land Act 1998
in the presence of:



Brian John Usherwood



SHERYL DAWN ROBINSON
Witness

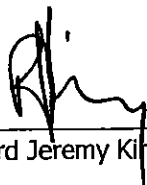
SOLICITOR

Occupation

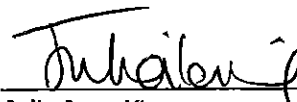
LIANZ, WELLINGTON

Address

SIGNED for and on behalf of the Holder by

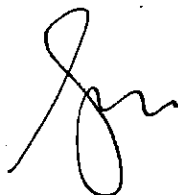


Richard Jeremy King



Julia Jane King

In the presence of:



Rosemary Blythe Cracroft Aitken
Solicitor
Christchurch