

DRAFT

GRAZING LICENCE

Between

WAITOMO DISTRICT COUNCIL

and

[enter Licensee name (individual or company)]



FIRST SCHEDULE

LOCATION OF LICENSED AREA	45A William St, Te Kuiti (Part of the Waitomo District Landfill)
LAND TITLE	Part Te Kuiti 2B 7A Block and Part Te Kuiti A42B2 Block and Lot 2 Deposited Plan South Auckland 15731. Certificate of Titles: SA683/39 and SA13D/597
AREA OF LICENSED AREA	Grazable Land approx. 7.4 ha.
TYPE OF LICENCE	Grazing Licence to Occupy (Sheep Only) Subject to Section 45 Public Works Act 1981
COMMENCEMENT DATE	1 July 2021
TERM	Three (3) years
LICENCE FEE	\$..... (including GST) per annum paid annually in advance
LICENCE FEE REVIEW	Every three (3) years (being 30 June 2024 and 30 June 2027), by way of market valuation
LICENCE FEE PAYMENTS	ONE annual payment in advance
RIGHT OF RENEWAL	Two (2) rights of renewal of three (3) years each
WATER CHARGES	Licensee to pay water charges. Payment to be made on an annual basis in January and at the end of the licence
OTHER OUTGOINGS	Local and regional rates and levies

THIS AGREEMENT dated the

day of

2021

BETWEEN **WAITOMO DISTRICT COUNCIL (Licensor)**

AND (Licensee)

BACKGROUND

- A.** The Licensor is the registered owner of the land (Property) described in the First Schedule.
- B.** The Licensor has agreed to grant the Licence Rights to the Licensee pursuant to section 45 of the Public Works Act 1981 and on the terms of this licence.
- C.** The parties have agreed to the occupation of the Licensed Area on the terms and conditions of this licence.

WITNESSES AS FOLLOWS

1. INTERPRETATION

In this licence unless the context indicates otherwise:

1.1 Definitions:

Authority means and includes every governmental, local, territorial and statutory authority having jurisdiction or authority over the Property or its use;

Commencement Date means **1 July 2021**;

Default Interest Rate means the rate of 15% per annum;

Final Expiry Date means **30 June 2030**;

Licence Fee means:

- (a) the annual Licence Fee for the Licensed Area specified in First Schedule; and
- (b) **Fee After Review(s):** in the case of the period following the Licence Fee Review Date, the amount fixed as the Licence Fee following review under section 5 plus GST (unless indicated otherwise);

Licence Fee Review Date means 30 June 2024 and 30 June 2027 (if renewed), by market valuation;

Licence Fee Review Notice means a written notice served by the Licensor on the Licensee under clause 5.1.1 setting out the Licensor's assessment of the new Licence Fee applicable to the Licence Rights on the Licence Fee Review Date, and having attached to it a registered valuer's report supporting the Licensor's assessment;

Licence Rights means:

- (a) **Licensed Use:** the non-exclusive right to carry on the Licensed Use on and from the Licensed Area; and
- (b) **Access:** the non-exclusive right to have access to the Licensed Area through those parts of the Property that are necessary to give access to the Licensed Area in order to carry out the Licensed Use;

Licensed Area means that part of the Property more particularly outlined on the plan attached to this licence;

Licensed Use means the grazing of sheep only;

Licensee includes the Licensee's executors, administrators, successors and permitted assigns;

Licensor includes the Licensor's executors, administrators, successors and assigns;

Property means: 45A William St, Te Kuiti (Part of the Waitomo District Landfill), Part Te Kuiti 2B 7A Block and Part Te Kuiti A42B2 Block and Lot 2 Deposited Plan South Auckland 15731. Certificate of Titles: SA683/39 and SA13D/597;

Review Objection Notice means a written notice served by the Licensee on the Licensor under clause 5.1.2:

- (a) **Disputing Fee:** disputing the new Licence Fee proposed in the Licence Fee Review Notice; and
- (b) **Licensee's Assessment:** setting out the Licensee's assessment of the new Licence Fee applicable to the Licence Rights on the Licence Fee Review Date, and having attached to it a registered valuer's report supporting the Licensee's assessment;

Term means the term of three (3) years, and two (2) rights of renewal of three (3) years each;

Termination Date means the first day after the expiry of the Term.

1.2 Negative Obligations: any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;

1.3 Parties: references to parties are references to parties to this licence and include each party's executors, administrators and successors.

2. GRANT OF LICENCE

The Licensor grants the Licence Rights to the Licensee for the Term beginning on the Commencement Date and ending on the Termination Date, at the Licence Fee and subject to the terms of this licence. The Licensee accepts those rights.

3. PAYMENT OF LICENCE FEE

3.1 The Licensee must pay:

- 3.1.1 **Licence Fee:** the Licence Fee to the Licensor in one (1) instalment in advance on the Commencement Date;
- 3.1.2 **Method:** all payments of the Licence Fee to the Licensor as the Licensor may direct.
- 3.1.3 **Water Charges** – Paid on invoice.

4. RENEWAL

4.1 If the Licensee has given the Licensor written notice to renew this licence at least three months before the end of the then current term and is not in breach of this licence, then the Licensor will renew this licence at the Licensee's cost for a further term from the relevant renewal date. The renewed licence will be on the same terms as this licence provided that the term of this licence must never expire later than the Final Expiry Date.

4.2 Continuation Beyond Expiry: If the Licensor permits the Licensee to continue to use the Licensed Area after the expiry or earlier termination of the Term:

- 4.1.1 **Monthly Licence:** the Licensee may do so on a monthly basis only;
- 4.1.2 **Licence Fee:** the fee payable by the Licensee for that continued use will be the fee agreed by the parties, or failing agreement will be an amount equal to one-twelfth of the Licence Fee payable immediately before the expiry or earlier termination of the Term;
- 4.1.3 **Payment of Fee:** the Licensee must pay the fee under clause 4.1.2 quarterly in advance, with the first payment being due on the first day of the Licensee's continued use of the Licensed Area after the expiry or earlier termination of the Term;
- 4.1.4 **Termination of Monthly Licence:** the Licensee's right to continue to use the Licensed Area under this clause 4.1 will be determinable at any time by either party giving the other one month's written notice of termination; and
- 4.1.5 **Terms of Holding Over:** pending termination under clause 4.1.4, the Licensee's continued use of the Licensed Area under this clause 4.1 will continue on the same terms (as far as they are applicable) as this licence.

5. LICENCE FEE REVIEW

5.1 Licensor's Right to Review Licence Fee: The Licensor may review the Licence Fee on the Licence Fee Review Date by way of market value. The following terms apply to a review of the Licence Fee:

- 5.1.1 **Licensor's Notice:** the Licensor may serve a Licence Fee Review Notice on the Licensee at any time no earlier than four months before the Licence Fee Review Date;
- 5.1.2 **Licensee's Notice:** the Licensee may serve a Review Objection Notice on the Licensor within 28 days after service of the Licence Fee Review Notice (time being of the essence); and
- 5.1.3 **Acceptance of Licence Fee:** if the Licensee does not serve a Review Objection Notice within this time period, the Licensee will be taken to have accepted the proposed new Licence Fee contained in the Licence Fee Review Notice.

5.2 Procedure if Review Disputed: If the Licensee serves a valid Review Objection Notice, then the Licensor and the Licensee must enter into negotiations to resolve the dispute. If the parties cannot reach agreement within 14 days after the date of service of the relevant Review Objection Notice (or any longer period agreed by the parties), then the following terms will apply:

- 5.2.1 **Parties Each to Appoint Valuers:** The parties must each appoint a valuer (who must be a member of the New Zealand Property Institute) within 21 days after the date of service of the relevant Review Objection Notice;
- 5.2.2 **Valuers to Determine Licence Fee:** the appointed valuers will jointly determine the new Licence Fee applicable to the Licence Rights on the relevant Licence Fee Review Date, within one month of the date of their appointment;
- 5.2.3 **Sole Valuer:** if either party fails to appoint a valuer under clause 5.2.1, the valuer appointed by the other party will determine the new Licence Fee alone;
- 5.2.4 **Umpire:** before proceeding with their determination, the valuers must jointly appoint an umpire, who must also be a member of the New Zealand Property Institute, and obtain the umpire's written acceptance of appointment;
- 5.2.5 **Umpire Not Appointed:** if the valuers fail to appoint an umpire or cannot agree on an umpire within 14 days of the date of their appointment, then either party may ask the President of the New Zealand Property Institute to appoint an umpire and obtain the umpire's written acceptance of appointment;
- 5.2.6 **Valuers Cannot Agree:** if the appointed valuers cannot agree on the new Licence Fee within one month of their appointment or within any extended time agreed by the parties, then the umpire appointed under clause 5.2.4 will determine the new Licence Fee as at the relevant Licence Fee Review Date; and
- 5.2.7 **Basis for Determination:** in determining the new Licence Fee applicable to the Licence Rights on the Licence Fee Review Date, the valuers (or the sole valuer, if clause 5.2.3 applies) or the umpire will:
 - (a) act as experts and not as arbitrators;
 - (b) take into account the benefits directly or indirectly accruing to the Licensee as a result of the rights granted by this licence; and
 - (c) have regard to the gross amounts paid annually by licensees or other persons who have been granted rights of a similar nature to the Licence Rights in locations and buildings comparable to the Property (including, where applicable, services, systems and other facilities and commercial opportunities provided as a result of the Licence Rights).

5.3 Licence Fee Ratchet: The Licence Fee payable by the Licensee following the Licence Fee Review Date must never be less than the Licence Fee payable immediately before the Licence Fee Review Date.

5.4 Licence Fee Pending Review: Pending the new Licence Fee being determined under this section, the Licensee must pay the Licence Fee proposed in the relevant Licence Fee Review Notice with effect from the relevant Licence Fee Review Date. The parties must

make any necessary adjustments between themselves immediately on the new Licence Fee being determined for the relevant period under this section.

5.5 Costs of Review: The parties will share equally the valuers' or the umpire's costs of determining the new Licence Fee under this section (or those of the sole valuer, if clause 5.2.3 applies) unless either:

5.5.1 **Costs to be Borne by Licensee:** the new Licence Fee so determined is equal to or greater than the Licence Fee proposed in the relevant Licence Fee Review Notice, in which case the Licensee will bear all costs of determining the Licence Fee on the relevant Licence Fee Review Date; or

5.5.2 **Costs to be Borne by Licensor:** the new Licence Fee so determined is equal to or less than the Licence Fee proposed in the relevant Review Objection Notice, in which case the Licensor will bear all costs of determining the Licence Fee on the relevant Licence Fee Review Date.

5.6 Licensor's Failure to Serve Review Notice: The Licensor will not forfeit or be taken to have waived the Licensor's right to have the Licence Fee reviewed on the relevant Licence Fee Review Date if the Licensor fails to serve a Licence Fee Review Notice before that date. If the Licensor serves a Licence Fee Review Notice later than the relevant Licence Fee Review Date, that Licence Fee Review Notice whenever given will have the same force and effect as if it were served before that date. In that case, the rate at which the Licence Fee is payable from the relevant Licence Fee Review Date will back date to and be payable from that date.

6. OUTGOINGS

6.1 The Licensee must pay:

6.1.1 **Fees for Occupation:** all licence, permit and inspection fees payable to any Authority as a result of the occupation or use of the Licensed Area; and

6.1.2 **Service Charges:** all charges and assessments made relating to the use or occupation of the Licensed Area, including local and regional authority rates and levies, charges and assessments for the supply of electricity, telephones, telecommunications, local authority water rates and other utilities or services relating to the occupation or use of the Licensed Area; and

6.1.3 the proportionate part of all such rates, charges, assessments, impositions and levies in respect of any proportion of any year or other period falling within the Term;

as soon as those charges become payable. If any charges, assessments or other payments are not separately assessed or charged to the Licensed Area, the Licensee must pay what the Licensor reasonably determines to be a fair proportion of those charges or assessments, to the Licensor on demand.

7. LIMITATION ON LICENCE RIGHTS

7.1 Assignment, etc: The Licence Rights are personal to the Licensee. The Licensee must not without the prior written consent of the Licensor:

7.1.1 **Assign:** assign or agree to assign this licence or any of the Licence Rights;

7.1.2 **Sub-licence:** sublicense or agree to sublicense any of the Licence Rights; or

7.1.3 **Security Interest:** grant or agree to grant any security interest (as defined in the Personal Property Securities Act 1999) in or over this licence or the Licence Rights.

8. USE OF LICENSED AREA

8.1 Limitation on Usage: The Licensee may use the Licensed Area only for the Licensed Use and for no other purpose.

8.2 Hours of Usage: The Licensee may use the Licensed Area and operate equipment which the Licensor authorises to be installed in the Licensed Area at all times, except in the case of emergency.

8.3 Restrictions on Usage: The Licensee must:

- 8.3.1 **Noxious Activities and Nuisances:** not carry on any noxious, noisy or offensive business or activity in or about the Licensed Area or do anything which is or may become a nuisance or annoyance to any person, or owner or other occupier of Property, or owner or occupier of the adjoining neighbouring land, houses or premises or which in any way interferes with any operation at the Waitomo District Landfill, but the carrying on of the Permitted Use by the Licensee in a reasonable manner will not of itself be a breach of this clause;
- 8.3.2 **Resource Management Act:** not do anything which is or may become a breach of any duty imposed on any person by the Resource Management Act 1991; and
- 8.3.3 **Security:** Comply with the Licensor's reasonable directions relating to the security of the Property, the safety and security of any person authorised to enter the Property, and the systems utilised for controlling entry to and exit from the Property.

8.4 If at any time after making such enquiries, as the Licensor thinks fit and after giving the Licensee a reasonable opportunity to explain its use of the Licensed Area, the Licensor is of the opinion that the Licensed Area is not being used, or is not being sufficiently used, for the Licensed Use specified in the First Schedule of this Licence, the Licensor may terminate this Licence on giving not less than two months' written notice to the Licensee and the Licensed Area and all improvements will revert to the Licensor without compensation being payable to the Licensee in accordance with clause 12.3.

9. SUITABILITY OF LICENSED AREA

- 9.1 No Warranty by Licensor:** The Licensor does not warrant that the Licensed Area is or will remain suitable or adequate for the Licensee's purposes. All warranties as to suitability and adequacy implied by law are expressly negated to the full extent permitted by law.
- 9.2 Safety Measures:** The Licensor is not responsible for providing any safety measures to protect any fixtures, fittings or equipment from water damage, fire, explosion, storm, hazard or potential hazard whether coming from inside the Property (including equipment installed in the Property) or from outside.
- 9.3 Benefits Conditional:** If the benefit of any of the Licence Rights is permissible only with an Authority's consent or with an order of a tribunal or court, the Licensee must obtain that consent or order at the Licensee's own cost.

10. NOTIFICATION OF DEFECTS

10.1 The Licensee must immediately bring to the Licensor's attention any damage, breakage or defect in or to any part of the Property, including the Licensed Area, or to the services and systems in the Property, and any circumstances likely to cause damage or injury to property or persons.

11. ALTERATIONS AND ADDITIONS

11.1 The Licensee must not carry out any alterations or additions (including erecting or placing of any buildings or structures) to the Licensed Area without the Licensor's prior written consent.

12. TERMINATION

12.1 Termination by Licensor: If:

- 12.1.1 **Payment:** the Licensee fails to pay the Licence Fee or any other money payable under this licence to the Licensor for seven days after either the due date for payment, or the date of the Licensor's demand (if there is no due date);
- 12.1.2 **Performance:** the Licensee fails to perform or observe any of the Licensee's other obligations under this licence for a period of 14 days;

then the Licensor may:

- 12.1.3 **Re-Entry:** re-enter the Licensed Area or any part of the Licensed Area in the name of the whole (with force, if necessary) and determine this licence; or
- 12.1.4 **Termination:** terminate this licence by written notice of termination served on the Licensee;

either immediately or at any later time.

12.2 Termination Due to Licensor Use or Disposal

- 12.2.1 The Licensee acknowledges that the Licensor may, at any time, dispose of or decide to use the Property, or any part of the Property for an alternative purpose, and the Licensee agrees to vacate the Licensed Area up on receiving at least three (3) month's written notice from the Licensor.
- 12.2.2 The Licensee agrees that the Licensor or their appointed advisors can enter the site to carry out investigations in preparation of disposal or the alternative purpose.

12.3 No Compensation

- 12.3.1 Upon termination of this licence all improvements made to the Licenced Area will become the property of the Licensor unless agreed otherwise in writing.
- 12.3.2 The Licensee will not be entitled to compensation for any agreed improvements made to the Licensed Area.

13. REMOVAL OF EQUIPMENT ON TERMINATION

13.1 Removal on Expiry of Term: The Licensee must remove all Licensee equipment and property in the Licensed Area (**Licensee's Property**), and repair any damage caused by that removal, on the expiry of the Term.

13.2 Removal on Termination: If the Licensor terminates this licence under clause 12, the Licensee must remove the Licensee's Property, and repair any damage caused by that removal, within seven days of the termination.

13.3 Failure to Comply: If the Licensee fails to comply with either clause 13.1 or 13.2, the Licensor may remove the Licensee's Property and repair any damage caused by that removal. In that case, the Licensee must pay to the Licensor on demand all costs incurred by the Licensor in doing so.

13.4 Sale of Licensee's Property: If the Licensee fails to comply with a demand under clause 13.3, then the Licensor may sell those items of the Licensee's Property removed by the Licensor in any manner the Licensor sees fit to defray the Licensor's costs of removal and apply the balance (if any) towards meeting the Licensor's claims against the Licensee.

13.5 Removal by Licensee: Alternatively, the Licensor may choose not to remove the Licensee's Property, and instead may require the Licensee by written notice to remove the Licensee's Property and repair any damage caused by that removal within seven days of the date of service of that notice.

13.6 Forfeiture to Licensor: If the Licensee fails to comply with a notice under clause 13.5, then the Licensee's Property will (at the Licensor's election) become the Licensor's property on the expiry of 14 days from the date of service of the notice on the Licensee. The Licensor will not have to pay compensation for the Licensee's Property to the Licensee.

14. INDEMNITY

14.1 Indemnity by Licensee: The Licensee indemnifies the Licensor against:

- 14.1.1 **Costs:** all costs (including legal costs) and expenses incurred by the Licensor in taking action to demand and/or recover any part of the Licence Fee or other money payable by the Licensee under this licence; and
- 14.1.2 **Actions, etc:** all actions, proceedings, calls, costs (including legal costs), expenses, claims, demands, damages, losses and liabilities of any kind suffered or incurred by the Licensor as a result of:

- (a) the act or neglect of the Licensee or of any person for whom the Licensee is responsible relating to the use of the Licensed Area or operation of any equipment installed in the Licensed Area; or
- (b) **Breach of Obligations:** the Licensee's breach of, or failure to comply with, the Licensee's obligations under this licence.

14.2 Payment by Licensee: The Licensee must pay on demand all amounts owing to the Licensor as a result of the indemnity contained in clause 14.1.

15. DESTRUCTION

15.1 If the Property is destroyed or so damaged that the Licensed Area cannot be used for the Licensed Use, then either party may terminate this licence by one month's written notice to the other party. Any termination of this licence under this clause will not affect the parties' respective rights, obligations and liabilities which subsist or have accrued on the date of termination under this clause.

16. NO LEASE

16.1 Licence Not Lease: The Licensee acknowledges that:

- 16.1.1 **In Personam Rights Only:** the Licensee's rights under this licence are in personam rights only; and
- 16.1.2 **No Lease Created:** the granting of this licence does not create a lease or an interest in land relating to the Licensed Area or otherwise confer on the Licensee any rights of exclusive possession of the Licensed Area.

17. COSTS

17.1 The Licensee must pay to the Licensor on demand all reasonable costs (including legal costs), charges and other expenses which the Licensor may incur or for which the Licensor may become liable relating to:

- 17.1.1 **Preparation of Licence:** the negotiation, preparation and execution of this licence and of any variation of this licence;
- 17.1.2 **Licence Fee Review:** any documents evidencing a review of the Licence Fee;
- 17.1.3 **Remedying Breach:** the Licensor remedying the Licensee's breach of any term of this licence;
- 17.1.4 **Exercise of Powers:** the Licensor's exercise or attempted exercise or enforcement of any power, right or remedy conferred on the Licensor by this licence; and
- 17.1.5 **Proposals:** the consideration and approval (if given) of any proposals made to the Licensor regarding any improvements to the Licensed Area and installation of any equipment (including costs incurred in employing consultants).

18. RESOLUTION OF DISPUTES

18.1 Disputes: If any dispute, difference or question arises between the parties about:

- 18.1.1 **Interpretation:** the interpretation of this licence;
- 18.1.2 **Licence:** anything contained in or arising out of this licence;
- 18.1.3 **Rights, Liabilities or Duties:** the rights, liabilities or duties of the Licensor or the Licensee; or
- 18.1.4 **Other Matters:** anything else relating to the relationship of the Licensor and the Licensee under this licence (including claims in tort as well as in contract);

the parties may refer that matter to informal mediation, if both parties agree, having regard to the nature of the dispute or difference between them and the potential delays and costs which might arise if that matter were referred to arbitration.

- 18.2 Appointment of Mediator:** The parties must try to agree on the mediator, who must be a senior solicitor or barrister practising in the district in which the Property is situated. If they cannot agree, the president or any vice-president for the time being of the district law society for the place where the Property is situated (or his or her nominee) will nominate the mediator on either party's application. The mediator's decision will be final and binding on both parties.
- 18.3 Arbitration:** If the parties do not agree to refer the dispute, difference or question to mediation under clause 18.1 within 7 days of that dispute, difference or question arising, then it will be referred to the arbitration of a single arbitrator under the Arbitration Act 1996.
- 18.4 Arbitrator:** The parties must try to agree on the arbitrator. If they cannot agree, the president or any vice-president for the time being of the District Law Society for the place where the Property is situated (or his or her nominee) will nominate the arbitrator on either party's application.
- 18.5 Action at Law:** The parties must go to arbitration under this section before they can begin any action at law (other than an application for injunctive relief or debt collection).
- 19. NOTICES**
- 19.1 Service of Notices:** Any notice or document required or authorised to be delivered or served under this licence may be delivered or served:
- 19.1.1 **Property Law Act:** in any manner mentioned in section 152 of the Property Law Act 1952; or
- 19.1.2 **Facsimile:** by facsimile.
- 19.2 Time of Service:** Any notice or other document will be treated as delivered or served and received by the other party:
- 19.2.1 **Delivery:** on personal delivery;
- 19.2.2 **Registered Post:** three (3) days after being posted by prepaid registered post; or
- 19.2.3 **Facsimile:** on completion of an error free transmission, when sent by facsimile.
- 19.3 Signature of Notices:** Any notice or document to be delivered or served under this licence must be in writing and may be signed by:
- 19.3.1 **Attorney, etc:** any attorney, officer, employee or solicitor for the party serving or giving the notice; or
- 19.3.2 **Authorised Person:** the party serving the notice or any other person authorised by that party if applicable.
- 20. MAINTENANCE AND LAND USE**
- 20.1 Maintenance of Licensor's Property:** The Licensee must maintain the Licensor's Property in good repair throughout the Term.
- 20.2 Limitations on Licensee's Maintenance Obligations:** The Licensee's obligations under clause 20.1 do not:
- 20.2.1 **Fair Wear and Tear:** extend to deterioration arising from fair wear and tear; or
- 20.2.2 **Act of God, etc:** apply to damage caused by fire, flood, earthquake, earth subsidence, storm, tempest, act of God or inevitable accident unless the Licensee's act or omission has caused insurance proceeds to be unavailable which, but for the act or omission, would have been available towards the cost of making good the damage.
- 20.3 Farming:** The Licensee must use the Licensed Area in a proper and husband-like manner at the Licensee's cost and must not impoverish or waste the soil of the Licensed Area, and in particular must:

- 20.3.1 **Cultivation:** cultivate, weed, fertilise, spray, water, trim, replace all plants growing on the Licensed Area in accordance with accepted farming practices;
- 20.3.2 **Crossings:** repair, maintain, keep in good order, repair and condition, and (if applicable) keep properly metalled so as to be in a firm condition in wet weather, all:
- (a) crossings, races, tracks, yards, gateways and trough surrounds; and
 - (b) plant, equipment, fittings and fixtures, including all milking plant (if any) and all pumps;
- 20.3.3 **Ditches:** clean out, open and keep unobstructed and free from weeds, rubbish and other wastes all ditches, drains, water courses and culverts on the Licensed Area;
- 20.3.4 **Fertility:** not allow the Licensed Area to become exhausted, impoverished or otherwise depleted;
- 20.3.5 **Rubbish:** regularly cause all rubbish and waste to be removed from the Licensed Area;
- 20.3.6 **Effluent:** comply with all statutes relating to effluent and its disposal and provide a proper method of disposal of all effluent;
- 20.3.7 **Carcasses:** remove and dispose of all stock carcasses from the Property and/or Licensed Area as soon as possible;
- 20.3.8 **Trees:** take such steps as are necessary to protect all trees and shrubs from damage by grazing sheep; and
- 20.3.9 **Fencing:** maintain all fences, gates and yards in good working repair and to a standard not less than they were at the Commencement Date.
- 20.4 Fencing and Easements:** The Licensee must perform the Licensor's obligations relating to any fencing matter or easement affecting the Licensed Area.
- 20.5 Fertiliser:** The Licensee must top dress if required by Licensor any part of the Licensed Area which is at any time laid down in pasture:
- 20.5.1 **Amount of Fertiliser:** in accordance with accepted farming practices with the fertilizer application confirmed by way of presenting the fertilizer docket if so requested;
 - 20.5.2 **Required Manner:** in a husband-like manner;
 - 20.5.3 **Proper Times:** at the proper times for doing that top dressing; and
 - 20.5.4 **Lime:** with the appropriate quantity of lime, whenever reasonably required by the Licensor to top dress with lime.
- 20.6 Stock:** The Licensee must stock the pasture on the Licensed Area in accordance with the rules of good husbandry generally recognised in the area in which the Licensed Area are situated. The Licensee must not:
- 20.6.1 **Overstock:** overstock the pasture on the Licensed Area or depasture more stock than the pasture will reasonably carry; nor
 - 20.6.2 **Rate of Depasture:** depasture on the land during the last year of the Term a greater number of stock than during the year immediately before that last year.
- 20.7 Noxious Plants and Vermin:** The Licensee must at the Licensee's own cost:
- 20.7.1 **Clear Land:** take all reasonable steps in accordance with good modern farming practices to clear and keep clear the Licensed Area and the roads contiguous to the Licensed Area from all agricultural pests, noxious plants and weeds (including blackberry, woolly nightshade, privet, sweet briar, couch grass, California thistle, nassella and gorse, except gorse planted on true fence lines), rabbits and vermin; and
 - 20.7.2 **Comply with Statutes:** comply with all statutes dealing with agricultural pests, noxious plants and weeds, rabbits and vermin.

- 20.8** The Licensee will not excavate the Property or Licensed Area or remove any soil, sand, clay or other similar substance from the Property or Licensed Area without prior written consent of the Licensor.
- 20.9** The Licensee will not plough, dig or crop any portion of the Property or Licensed Area without having first obtained the consent in writing of the Licensor.
- 20.10** The Licensee is not permitted to cut down, prune or remove trees from the Licensed Area without having first obtained the consent in writing of the Licensor.
- 20.11** The Licensee must at all times during the term of this Licence upon receiving notice in writing as least two (2) weeks prior, allow the Licensor to enter upon the Licensed Area to maintain existing trees and to plant any additional trees.

21. COMPLIANCE WITH STATUTES AND REGULATIONS

21.1 The Licensee will comply with the provisions of all statutes, regulations, by-laws and rules relating to the use of the Licensed Area by the Licensee and will also comply with the provisions of all licences, requisitions, notices or demands issued by any competent authority in respect of the Licensed Area.

21.2 Health and Safety at Work Act 2015

21.2.1 The Licensee must:

- (a) not do anything which is or may become a breach of any duty imposed on any person by the Health and Safety at Work Act 2015 or create any impediment to the safe operation of the Waitomo District Landfill;
- (b) indemnify the Licensor to the extent legally possible against all damage or loss resulting from any act or omission on the part of the Licensee or the Licensee's employees, contractors or invitees to carry out the above obligations; and
- (c) record and report to the Licensor all accidents involving serious harm within 24 hours of its occurrence and forward an investigation report within 3 days of the accident occurring.

22. Miscellaneous: Except as otherwise expressly provided, the obligations of the Licensor under this Licence are obligations of the Licensor in its capacity as a contracting party. The Licensor has certain regulatory and statutory functions, responsibilities and obligations in its capacity as a local authority outside of this Licence. The Licensor shall be deemed not to be acting in the capacity as Licensor under this Licence when exercising these functions, responsibilities and obligations in good faith.

EXECUTION

SIGNED for and on behalf of
WAITOMO DISTRICT COUNCIL
by:

General Manager – Infrastructure Services

Witness:

Signature of witness

Full name of witness

Address of witness

SIGNED by [...enter Licensee name] as
Licensee in the presence of:

Witness:

Signature of witness

Full name of witness

Address of witness

Appendix 1

