

Christchurch City Council

Her Majesty the Queen in Right of New Zealand acting
by and through the Minister of Finance and the Minister
for Greater Christchurch Regeneration

Global Settlement Agreement
[●] July 2019

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SCHEDULES

SCHEDULE 1:	Bus Interchange
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Parties

This global settlement agreement (the **Agreement**) is between:

- a. Christchurch City Council (the **Council**); and
- b. Her Majesty the Queen in Right of New Zealand, acting by and through the Minister of Finance and the Minister for Greater Christchurch Regeneration (the **Crown**).

Background

1. Context and Purpose

- a. The parties are entering into this Agreement to record the parties' agreement in respect of certain issues arising out of the parties' respective roles in the recovery and regeneration of Christchurch following the 2010 and 2011 earthquakes (the **Global Settlement**).
- b. The Global Settlement is a collaboration between the Crown and the Council. It provides the opportunity to set the Council up for success and complete the transition to local leadership with the Council leading and coordinating Christchurch's regeneration into the future. This in turn is expected to support the social, environmental and cultural needs of the people of Christchurch and promote economic sustainability.
- c. The Global Settlement will provide clarity on all of the outstanding matters from the Cost Sharing Agreement and other subsequent matters between the parties regarding Christchurch's regeneration.
- d. The parties expect the Global Settlement will mark and usher in a new normal relationship between them. In working together to finalise and implement the Global Settlement, the parties' overall intent is to support the following four outcomes (**Proposed Outcomes**):
 - i. **People:** support positive outcomes for the people of Christchurch, and provide certainty and confidence about the on-going regeneration;
 - ii. **Momentum:** increase the pace of regeneration by contribution to the timely regeneration of Christchurch, with the best possible outcomes;
 - iii. **Value:** enable the parties to operate in a fiscally responsible manner, while realising social, cultural, economic and environmental benefits for Christchurch; and
 - iv. **Future:** advance the transition to local leadership and a 'new normal' relationship between the Crown and the Council.

- e. With this in mind, the parties have agreed on a process for transition and developing new institutional arrangements that will enable the Council to lead regeneration in the post-Regenerate Christchurch environment.
- f. The parties are entering this Agreement as a consequence of the steps taken following the 2010/2011 Canterbury earthquake sequence, which was an extraordinary natural disaster in New Zealand's history.
- g. The scale and magnitude of that sequence resulted in an unprecedented level of damage to greater Christchurch. An extraordinary level of involvement from the parties was required to rebuild and start the regeneration of the city, and support its people, given the circumstances. The Crown established Ōtākaro in April 2016 to take over some of the functions of the Canterbury Earthquake Recovery Authority, as Christchurch moved into a new phase, from recovery to regeneration.
- h. Over the last eight years, local and central government, together with other local leaders and the community, have worked collaboratively to explore and pioneer an approach for regenerating greater Christchurch. The parties recognise that for Christchurch to be successful, it needs a solid foundation for locally-led regeneration. The parties also agree that the successful regeneration of Christchurch will benefit New Zealand. As such, the Crown supports the Council's long-term vision for Christchurch as a city of opportunity for all.
- i. To support Christchurch and to allow its people to thrive, a clear pathway for the Council to lead is required, that at the same time appropriately manages the cost pressures that are unique to Christchurch following the earthquakes, and is equitable for other communities in New Zealand affected by natural disasters.
- j. While the Cost Sharing Agreement specified how aspects of greater Christchurch's recovery would be managed and funded, some issues remain open. The Global Settlement, drawing off the Agreement in Principle, is the opportunity to resolve those remaining issues and lay the foundation for the Council to lead and co-ordinate the regeneration efforts.
- k. The Crown has spent \$14 billion (with an additional \$3 billion expected to be incurred). The Council has incurred around \$3.65 billion of earthquake related expenses, and also expects to incur a further \$4 billion of earthquake-related capital investment over the next 30 years.
- l. The Council acknowledges that the Crown will provide no further direct funding towards the Council's land drainage costs, but that the Crown will support the Council by providing the Crown-owned Residential Red Zone Land in the Ōtākaro Avon River Corridor, as described in Schedule 3. The Council may use such land to help meet its land drainage requirements for the surrounding green zone areas.
- m. Through the Christchurch Regeneration Acceleration Facility, the Government has committed \$300 million for regeneration projects as part of the global settlement.
- n. The parties have also agreed on a phased approach to increasing community involvement in the governance and decision-making in respect of transitional and future uses of Residential Red Zone Land.

- o. Both the Crown and the Council recognise Te Rūnanga o Ngāi Tahu's unique role as Treaty partner, along with its important role as strategic partner under the GCRA and as a local leader in greater Christchurch's continued regeneration. The parties also recognise Te Ngāi Tūāhuriri and Te Hapū o Ngāti Wheke as mana whenua within their respective takiwā, in that:
 - i. Te Hapū o Ngāti Wheke is the entity with responsibility pertaining to all resources and protection of Ngāi Tahu interests within the residential red zones centred on Rāpaki and including the catchment of Whakaraupō.
 - ii. Te Ngāi Tūāhuriri is the entity with responsibility pertaining to all the resources and protection of Ngāi Tahu interests within all other remaining residential red zone areas (as established through the Te Rūnanga o Ngāi Tahu Declaration of Membership Order 2001).
- p. The parties wish to transfer various assets to Council as part of its lead role in the regeneration process while acknowledging the roles still to be played by the Crown, LINZ and Ōtākaro.
- q. In recognition of all of the above, the parties now record their agreement.

Operative provisions

1. Definitions and Interpretation

- a. **Definitions:** In this Agreement (unless the context otherwise requires):

Agreement in Principle means the agreement in principle between the Council and the Crown in respect of a settlement of issues relating to the recovery and regeneration of Christchurch, dated 10 May 2019;

Bus Interchange means the Property as defined in the sale and purchase agreement in Schedule 1;

Business Day means a day, which is not a Saturday or a Sunday, on which banks are open for general business in Christchurch;

CCRP means the Christchurch Central Recovery Plan;

Central City Land means the land described in Schedule 4;

Cost Sharing Agreement means the cost sharing agreement between the Crown and the Council dated 26 June 2013, and as amended and clarified by two joint clarifications on 26 June 2013;

Council has the meaning given in the Parties section;

Crown has the meaning given in the Parties section;

GCRA means the Greater Christchurch Regeneration Act 2016;

GST means goods and services tax levied under the Goods and Services Tax Act 1985 (**GST Act**), at the rate prevailing from time to time, including any tax levied in substitution for such tax, but excluding any penalties or interest payable in respect of such tax;

LINZ means Land Information New Zealand;

Memorandum of Understanding means the memorandum of understanding relating to the Process to Transfer Public Realm Assets and Land dated 11 April 2017 (between Ōtākaro and the Council) and the Agreement relating to Transfer and Vesting of Public Realm Assets and Land dated 6 March 2018 (between Ōtākaro and the Council);

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of section 130 of the GCR Act;

Ōtākaro means Ōtākaro Limited;

PAP Encumbrance means the encumbrance to be registered over the Performing Arts Precinct in the form set out in Schedule 5;

Performing Arts Precinct means the Property as defined in the sale and purchase agreement in Schedule 2 being the land in the Performing Arts Precinct excluding the land owned by the vendor at 152-156 Armagh Street contained in record of title 687811 and the privately-owned land at 128-138 Armagh Street contained in record of title CB40C/246;

Proposed Outcomes has the meaning given to it in paragraph d of the Background section;

Regenerate Christchurch means the statutory entity established by section 121 of the GCRA and jointly operated by the Council and the Crown;

Residential Red Zone Land means the Property as defined in the sale and purchase agreement in Schedule 3; and

Schedule means any or all of schedules 1 to 5 of this Agreement.

b. **Interpretation:** In this Agreement:

i. a reference to:

- (1) this Agreement includes all schedules, exhibits, attachments, annexures and appendices to it;
- (2) a document or agreement (including this Agreement) is to that document or agreement as varied, novated, ratified or replaced from time to time;
- (3) a clause, schedule, exhibit, attachment, annexure or appendix is a reference to a clause, schedule exhibit, attachment, annexure or appendix of this Agreement unless specifically stated otherwise;
- (4) a *statute* is to a New Zealand statute and includes all regulations, orders, bylaws, codes and notices made under or pursuant to such a statute and includes references to all amendments to that statute whether by subsequent statute or statute passed in substitution for the statute; and

- (5) an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency, agencies, body or bodies which performs most closely some or all of the functions of the obsolete body, or to whom any functions of the obsolete body are transferred;
- ii. headings are for ease of reference only and will not be deemed to form any part of the context or affect the interpretation of this Agreement;
- iii. expressions defined in the main body of this Agreement bear the defined meanings in the whole of this Agreement including the Background and the Schedules;
- iv. another grammatical form of a defined word or expression has a corresponding meaning;
- v. the singular includes the plural and vice versa;
- vi. a *party* includes a reference to that party's lawful executors, administrators, successors and permitted assigns, and *parties* means all parties to this Agreement;
- vii. *dollars* or *\$* is a reference to New Zealand currency;
- viii. any reference to time and date is to a time and date in Christchurch, New Zealand unless a contrary intention is expressed;
- ix. if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next succeeding Business Day;
- x. the meaning of general words is not limited by specific examples introduced by the words *including, for example* or similar expressions; and
- xi. the terms of this Agreement must not be construed adversely against a party if the reason for doing so is that the party prepared this Agreement or caused it to be prepared.

2. Bus Interchange

- a. The parties agree that the arrangements previously agreed between them in relation to the Bus Interchange are addressed in the form of agreement attached in Schedule 1.

3. Performing Arts Precinct

- a. The parties agree that the arrangements previously agreed between them in relation to the Performing Arts Precinct are addressed in the contents of this clause 3 and the form of agreement attached in Schedule 2.

- b. redacted under s9(2)(j) OIA and s7(2)(i) LGOIMA

c.

- d. The parties agree that the Council will be responsible at its sole cost for delivery of all facilities (including the car park) on Performing Arts Precinct land being transferred.
- e. By 30 November 2019, the Crown and the Council will identify whether the current designation should be lifted, or should transfer to the Council, and any relevant exceptions to that transfer.
- f. In recognition of the investment that has been made by the Crown in acquiring land within the Performing Arts Precinct, the parties have agreed that if the Council leases or transfers any of the Performing Arts Precinct to a third party that is not for a purpose associated with the Performing Arts Precinct the Council will split the net proceeds of transfer or lease (as the case may be) 50/50 with the Crown. To ensure that the Crown's position in relation to the above is sufficiently protected, the parties agree that the PAP Encumbrance will be registered on settlement of the acquisition of the Performing Arts Precinct by the Council.

4. Residential Red Zone Land

- a. The parties agree that the arrangements previously agreed between them in relation to the Residential Red Zone are addressed in the form of agreement attached in Schedule 3.

5. Central City Land

- a. The parties agree that the arrangements previously agreed between them in relation to the Central City Land are addressed in the Letter of Agreement regarding Central City Land attached in Schedule 4.

6. Margaret Mahy Playground

- a. The Council acknowledges that the land constituting the Margaret Mahy Playground being records of title 786163 and 734774 together with all improvements has previously been transferred to it by the Crown with deeds of novation entered between Ōtākaro, the Council and the various suppliers of improvements.
- b. On 30 September 2019, the Council will pay to the Crown the sum of \$6,600,000.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act in consideration of the transfer referred to in clause 2a.

7. Avon River Precinct

- a. The parties acknowledge and agree as follows:
 - i. the land constituting parts of the Avon River Precinct being records of title 823649, 823651 and 791587 together with all improvements thereon, have previously been transferred to the Council by Ōtākaro; and
 - ii. Ōtākaro will continue to be responsible for carrying out all obligations and transferring to the Council all remaining assets relating to the Avon River Precinct, pursuant to the process set out in the Memorandum of Understanding.
- b. On 30 September 2019, the Council will pay to the Crown the sum of \$6,400,000.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act as its contribution to the Avon River Precinct project funding.

8. Cathedral Square

- a. To facilitate the regeneration of Cathedral Square, on 30 September 2019 the Crown will pay to the Council the sum of \$4,600,000.00 plus GST (if any) upon receipt of a valid tax invoice.
- b. The Council agrees to apply the sum paid to it by the Crown under clause 8.a towards the regeneration of Cathedral Square. Additionally, the Council will also contribute the matching sum of \$4,600,000.00 plus GST (if any) towards such regeneration.

9. Port Hills

- a. On 30 September 2019, the Council will pay to LINZ the sum of \$ 40,530,380.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act being the amount owing by it under the Cost Sharing Agreement for its share of costs associated with the purchase of certain properties in the Port Hills as at the date of this Agreement.

- b. For the avoidance of doubt, following payment of the amount set out in clause 9.a the Council shall have no further funding obligations to the Crown under the Cost Sharing Agreement in relation to sharing costs associated with the purchase of certain properties in the Port Hills.

10. Metro Sports Facility

- a. The purposes of this clause is to ensure the parties can collaboratively deliver the Metro Sports Facility as identified in the CCRP in a way that maintains momentum, and ensure a positive outcome for the people of Christchurch.
- b. The parties acknowledge and confirm that the Metro Sports Facility shall be delivered generally in accordance with Schedule 6 of the Cost Sharing Agreement with Ōtākaro continuing to deliver the Metro Sports Facility and retaining delivery risk.
- c. The Metro Sports Facility (and associated land, including land used for carparking) will transfer to the Council or another party agreed as part of further negotiations at practical completion, as defined in the design and construction contract entered into by Ōtākaro (as principal) for the delivery of the Metro Sports Facility.
- d. Both parties appreciate that the project has experienced cost pressures and want to see the project completed in the most pragmatic, successful and cost-effective way. Should any unforeseen cost pressure arise in the future, the parties will engage in good faith to consider pragmatic and cost-effective solutions.

11. Canterbury Multi-Use Arena

- a. The parties agree that the Canterbury Multi Use Arena as identified in the CCRP (as the Stadium) is subject to a separate process that involves an investment case assessment that is not fully addressed in this Agreement.
- b. Subject to modifications that flow from the process set out in clause 11.a, the Crown and the Council agree that the Canterbury Multi-Use Arena shall be delivered generally in accordance with Schedule 5 of the Cost Sharing Agreement.

12. Te Pae

- a. The parties acknowledge that Te Pae as identified in the CCRP (as the Convention Centre) shall be delivered and is currently owned by Ōtākaro.
- b. The parties may continue to engage on future ownership of Te Pae as appropriate.

13. Decontamination

- a. Subject to the approval of the Canterbury Multi-Use Arena investment case (and provided this requires that the Council is to be responsible for the costs of decontamination works in the Canterbury Multi-Use Arena) and following receipt of a valid tax invoice, the Crown will pay \$10,000,000 plus GST (if any) to the Council as a contribution towards decontamination works with the Crown to have no further obligation or responsibility in respect of any contamination works for the Canterbury Multi-Use Arena. The parties agree that the Council may apply such amount within the Performing Arts Precinct and / or the Canterbury Multi-Use Arena for decontamination works as the Council sees fit.
- b. The parties acknowledge that the Council is also receiving \$3,000,000 from Ōtākaro under the agreement contained in Schedule 2 with such amount having been appropriated to Ōtākaro for the purposes of decontamination and public realm works. The parties agree that the Council may apply such amount within the Performing Arts Precinct and / or the Canterbury Multi-Use Arena for decontamination and public realm works as the Council sees fit.

14. Further Obligations

- a. The parties agree they will:
 - i. work cooperatively and act in good faith in connection with this Agreement, taking into account the Proposed Outcomes;
 - ii. be open, frank, honest, prompt, fair and consistent in all dealings with each other;
 - iii. be non-adversarial and seek constructive steps to avoid difference and identify solutions; and
 - iv. be ready to discuss issues and negotiate with each other in a principled manner.
- b. The Crown will notify the Council before any decision is made on the winding up of Ōtākaro, seek the Council's view in relation to the same [and make any reasonable provision for any outstanding obligations owed by Ōtākaro to the Council].

15. Warranties

- a. The parties each warrant to the other as follows:
 - i. it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement;
 - ii. its obligations under this Agreement are enforceable in accordance with their respective terms; and

- iii. the execution, delivery and performance by it of this Agreement will not:
 - (6) breach any statutory, contractual or fiduciary obligation to which it is subject;
or
 - (7) breach any law, rule, directive or administrative order to which it is subject,where, in each case, the breach or conflict would be material in the context of its ability to perform its obligations under this Agreement.

16. Implementation Governance

- a. The parties agree that it is likely to be beneficial for them to have ongoing dialogue in relation to matters arising from and impacting on this Agreement. Accordingly, it is agreed that the parties will establish and operate a governance group (the **Group**) for this purpose.
- b. The Group will comprise the following:
 - i. A nominee for the time being of the Crown; and
 - ii. A nominee for the time being of the Council.
- c. The Group will meet quarterly or more frequently as agreed. The Group will invite representatives of Ōtākaro, LINZ and Development Christchurch Limited to attend such meetings as appropriate.
- d. For the avoidance of doubt, the Group has no mandate to bind the parties.

17. Dispute resolution

- a. If any dispute arises between the parties that cannot be resolved through direct dialogue or through the Group referred to in clause 16 in relation to this Agreement (a **Dispute**), they will negotiate in good faith to resolve such Dispute, such negotiation to commence upon either party giving the other written notice of the Dispute (**Dispute Notice**).
- b. If the parties fail to reach agreement in relation to the Dispute within 10 Business Days of the Dispute Notice, the Dispute will be referred to:
 - i. the Chief Executive of the Council (or his or her nominee); and
 - ii. on behalf of the Crown, the Chief Executive (or equivalent) (or his or her nominee) of the Department of the Prime Minister and Cabinet,

who will each use his or her reasonable endeavours to resolve the Dispute within 10 Business Days from the date the Dispute is referred to him or her.

- c. If the parties fail to reach agreement in relation to the Dispute within 20 Business Days of the referral of the Dispute to the senior executives described in clause 17.b, the following provisions will apply:
- i. either party may refer the Dispute to an appropriately qualified and reputable expert in the field to which the Dispute relates (by way of example, a lawyer, accountant or engineer), as is most appropriate, taking into account the Proposed Outcomes (**Expert**). The identity of the Expert will be:
 - (1) as agreed by the parties; or
 - (2) failing agreement within 5 Business Days of the date of either of the Crown or the Council (as applicable) serving on the other details of its suggested Expert, as appointed by the President (or equivalent) for the time being of the relevant institutional body governing the relevant discipline to which the subject matter of the Dispute relates, for example the New Zealand Institute of Chartered Accountants (in the case of a financial Dispute), the New Zealand Law Society (in the case of a legal Dispute) or Engineering New Zealand (in the case of a Dispute relating to construction matters);
 - ii. the referral to the Expert will require that the Expert acts in a timely and pragmatic manner and in particular that the Expert make a decision in respect of the Dispute within 20 Business Days from the date of the referral;
 - iii. each party shall provide all reasonable assistance to the Expert that may be required for the purposes of them making their determination;
 - iv. the parties will share equally the cost of the Expert;
 - v. the decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties, and
 - vi. in the event of a multi-disciplinary dispute, more than one Expert may be appointed
- d. This clause does not apply to the exercise of a statutory power or decision-making process by the parties.

18. Transition Planning in respect of Regenerate Christchurch

- a. The parties have agreed on arrangements for the transition back to local leadership for regeneration in Christchurch, including reducing the functions of Regenerate Christchurch. The parties further agree that the intention is for the majority of the functions of Regenerate Christchurch to have been transferred or delegated by 30 June 2020, with the transition of any remaining functions being completed by the time the GCRA is repealed.
- b. The parties acknowledge the valuable contribution Regenerate Christchurch has made to the regeneration of Christchurch and the strong working relationships that have been established as a result of the collaborative approach required by the GCRA. The parties

acknowledge and agree it is vital that this approach continues as the Council assumes leadership of regeneration in the city.

- c. It is intended that Regenerate Christchurch will prepare a Transition Plan, in partnership with the Council, as soon as possible after the signing of this Agreement.
- d. Under the Transition Plan (among other things):
 - i. Regenerate Christchurch's regeneration leadership responsibilities and strategic functions will be either concluded or progressively transitioned with the majority of its work to be either concluded or transitioned by 30 June 2020.
 - ii. Regenerate Christchurch retains and continues to undertake its mandatory legislative and administrative functions up to the repeal of the GCRA at which time Regenerate Christchurch will be formally disestablished and none of its functions will continue.
 - iii. The Minister and the Council will continue to provide guidance to the Regenerate Christchurch board from time to time on the strategic direction and specific priorities sought by them through letters of expectation to the board.
- e. The Council will work closely with Regenerate Christchurch to support the smooth transition of roles and responsibilities relating to regeneration in Christchurch.

19. Transition Planning for Governance Arrangements for RRZ

- a. The parties agree that a phased approach will be taken to increasing community involvement in land use governance that reflects the current and proposed future residential red zone land ownership as follows:
 - i. Phase 1: The Council and LINZ will establish a consultative group comprising stakeholders and community representatives to advise the Council and LINZ on transitional land use while land ownership remains with the Crown. The consultative group will have a strategic role in receiving and considering applications for transitional use of residential red zone land and make recommendations to LINZ as land owner and provide feedback, advice and suggestions. LINZ will retain ultimate responsibility for assessing and approving transitional use applications, for Crown-owned land, consistent with the obligations LINZ has as land owner under the GCRA and Health and Safety at Work Act, and considering the recommendations of the consultative group.
 - ii. Phase 2: A community governance group/entity, with delegated decision-making powers, could be established once the Council owns all or a sufficiently substantive amount of residential red zone land.
- b. Subject to the above provisions, the parties agree that transitional land use may (amongst other things):
 - i. Support any Regeneration Plans or planning or more permanent uses of residential red zone land;

- ii. Strengthen the connection between the residential red zone land and adjacent communities;
 - iii. Provide a range of recreational and other opportunities for Christchurch residents;
 - iv. Improve the environmental health of residential red zone land; and
 - v. Enable the testing of new and innovative ideas.
- c. The parties agree that the immediate next step is for Council and LINZ officials to work together to develop the role, functions and membership of a consultative group, including the parameters for a possible dedicated grants fund. Council and LINZ officials will also develop draft Terms of Reference and operating procedures for the consultative group and identify the grants fund quantum and criteria for funding applications. The parties expect this work to be completed by 31 December 2019.
 - d. Council and LINZ officials will seek approval from the Council, the Crown and LINZ to establish the consultative group, including the funding and resourcing required.
 - e. In Phase 2, the Council will assume decision-making powers in stages, as parcels of land are transferred from LINZ. The Council proposes establishing a community co-governance entity with the appropriate decision-making power to make decisions on the Council's behalf.
 - f. The role of Te Rūnanga o Ngāi Tahu as Treaty partner is recognised, with the Council committing to include Ngāi Tahu representation alongside other community representatives within the consultative group and in longer-term governance arrangements.
 - g. At the point that governance principles and/or processes are established, the Council agrees that it will take into account the principles of Te Tiriti o Waitangi/the Treaty of Waitangi. For example, principles of partnership, rangatiratanga, active participation in decision-making, and active protection may apply in the circumstances at the time.
 - h. The parties agree the following in relation to funding:
 - i. The Council agrees to provide sufficient resources to support the consultative group.
 - ii. The Crown agrees to meet all its own costs incurred in receiving and considering transitional use of Crown owned land and will not seek recovery of these costs from the consultative group.
 - iii. The Council will be responsible for all costs associated with the establishment and operation of the community governance entity (Phase 2).

20. General

- a. The parties acknowledge that they have statutory obligations, responsibilities, powers, functions and decision-making processes. Notwithstanding any other provision in this

Agreement, the parties acknowledge that they are each required to carry out their statutory functions in accordance with the provisions of the relevant acts.

- b. Unless otherwise stated in this Agreement, the parties will bear their own costs and expenses in connection with the negotiation, preparation and implementation of this Agreement.
- c. If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision is to be severed and the remainder of the Agreement will remain in full force and effect.
- d. If there is any inconsistency between the documents which are part of, or incorporated into, this Agreement, the order of precedence will be as follows:
 - i. first, the Schedules; and
 - ii. second, the terms set out in the main body of this Agreement.
- e. This Agreement records the entire understanding of the parties relating to the matters dealt with in this Agreement. Unless expressly stated otherwise, this Agreement supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters. In particular, it is agreed that this Agreement is the entire agreement between the parties relating to Bus Interchange, Performing Arts Precinct, Residential Red Zone Land, Central City Land, Margaret Mahy Playground, Avon River Precinct, Cathedral Square, Port Hills cost sharing arrangement, Te Pae and Transitional Planning in respect of Regenerate Christchurch and for Governance Arrangements for Residential Red Zone Land. Further, this Agreement records the position in relation to the Metro Sports Facility and the Canterbury Multi-Use Arena. It is agreed that the Cost Sharing Agreement (except, for the avoidance of doubt, Schedules 5 and 6) and the Agreement in Principle are now void and of no effect. For the avoidance of doubt, the parties record that the Memorandum of Understanding is not affected by this Agreement and remains in full force and effect.
- f. Any waiver by a party of any of its rights or remedies under this Agreement will be effective only if it is recorded in writing and signed by that party. If the waiver relates to a breach of any provision of this Agreement, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to enforce any provision, of this Agreement at any time by a party will in any way affect, limit or waive that party's right to subsequently require strict compliance with this Agreement.
- g. This Agreement may be signed in counterparts. All executed counterparts will together constitute one document.
- h. No amendment to this Agreement will be effective unless it is in writing and signed by both parties.
- i. This Agreement binds, and takes effect for the benefit of, the parties and their respective successors and permitted assigns.
- j. Save as expressly provided in this Agreement, neither party may assign, novate or otherwise transfer its interest in this Agreement without the prior written consent of the other parties.

- k. Covenants or other undertakings which are stated in this Agreement to be for the benefit of any person other than a party to this Agreement will be enforceable in accordance with Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.
- l. This Agreement is governed by the laws of New Zealand. The parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.

WORKING DRAFT

Schedule 1
Bus Interchange

WORKING DRAFT

Schedule 1

BUS INTERCHANGE AGREEMENT

The Parties	Ōtākaro Limited (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Ōtākaro Limited, by:

Authorised signatory

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	Part of the block defined by Lichfield Street, Colombo Street, Tuam Street and Sol Square, Christchurch being an estate in fee simple as is more particularly described as: Lot 1 DP 495013 (record of title 850549 to issue) having an approximate area of 1.1582 hectares.
Purchase Price	\$22,933,000 plus GST (if any)
Settlement Date	30 September 2019
Amendments to General Terms of the ADLS Agreement	Clause 6.2 is deleted except for the following provision in clause 6.2(1): <i>"The purchaser is deemed to have accepted the vendor's title".</i> Clause 7.2(1) is amended to include the following words at the beginning of the subclause: <i>"except as disclosed by the vendor to the purchaser as part of the due diligence process,"</i>

Further Terms

19. SUBDIVISION

19.1 Prior to settlement and as soon as reasonably practicable after the date of this agreement the vendor will complete a subdivision of the Property from the balance of the vendor's land comprised in records of title CB5D/404 and 651880 (the "Subdivision") as set out in LT 495013 ("the LT Plan"). The vendor will, at the vendor's own cost, proceed with all speed to deposit the LT Plan with Land Information New Zealand to enable a new record of title for the Property to be issued with the title issuing subject to the easements in gross in favour of Orion New Zealand Limited as set out in the LT Plan.

20. TRANSFER OF ASSETS

20.1 In addition to transferring the Property, on the settlement date the vendor will transfer the assets owned by it and used for the purposes of the Bus Interchange ("the BI ") ("the Assets"), including (but not limited to) the following:

- (a) the BI plant, fixtures, fittings, furniture, equipment, and any other improvements, installations and additions;
- (b) subject to the agreement of Airtech NZ Limited, the contract for supply of mechanical HVAC maintenance services commencing 1 March 2019 and expiring 28 February 2020 between Ōtākaro and Airtech NZ Limited;
- (c) [the benefit of all warranties (or replacement warranties), where such warranties are capable of assignment, in relation to the construction of the BI which have not expired at the settlement date and that are in the possession of the vendor and noting that the vendor will use reasonable endeavours to provide the warranties to enable an assignment; and]

OR

[benefit of:

- (i) all warranties in relation to the construction of the BI which are in the possession of the vendor, have not expired at the settlement date and are capable of assignment; and
- (ii) all replacement warranties in relation to the construction of the BI which the purchaser has requested the vendor perfect prior to settlement, noting that the vendor will use its best endeavours to procure assignable, correctly executed replacement warranties (on the same terms as

were required by the BI construction contract) from the original warrantors.]

(d) all other assets of the BI not specifically excluded below.

20.2 As soon as reasonably practicable after the date of this agreement and up until the settlement date, the vendor agrees to provide all reasonable assistance (at no cost) to the purchaser to develop a facilities and asset management plan for the BI. Assistance will primarily be provided by Guy Baker, provided that the provision of such assistance does not unreasonably interfere with his day to day employment.

20.3 For the avoidance of doubt, the Assets transferred under this agreement do not include the following:

- (a) all amounts owing by Ōtākaro to its creditors in respect of the BI for the period up until the settlement date;
- (b) any assets or liabilities of Ōtākaro not relating to the BI;
- (c) all other liabilities of the Crown or any of its related parties (including Ōtākaro) relating to the BI and the Assets, not expressly assumed in writing; and
- (d) all disputes and litigation relating to the BI and the Assets at the settlement date not expressly assumed in writing.

21. PURCHASER CONFIRMATIONS

21.1 The purchaser confirms that it has obtained all necessary consents and approvals from its Councillors and / or delegates to enter into and give effect to this agreement.

22. REMEDIAL WORKS

22.1 Prior to settlement the vendor will use reasonable endeavours to procure completion of (at no cost to the purchaser) the remedial work to the roof coating on the BI, the HVAC system and [door opening technology] (**Remedial Works**) to the reasonable satisfaction of the purchaser.

22.2 The vendor will use all reasonable endeavours to obtain the provision of new warranties relating to the Remedial Works on terms acceptable to the purchaser (acting reasonably).

22.3 The vendor will provide the purchaser reasonable rights of access to the Property to inspect the Remedial Works upon prior written notice of an intention to inspect.

23. RETENTION

23.1 In the event that the Remedial Works have not been completed by the settlement date, the vendor and the purchaser agree that a retention of the amount of \$2,293,300.00 being 10% of the Purchase Price (the "**Retention Amount**") will be held from the Purchase price on the following basis with the vendor to procure that an undertaking from the vendor's solicitor is given to the purchaser in relation to the same:

- (a) The Retention Amount is to be held in the vendor's solicitor's trust account on interest bearing deposit in the name of both the vendor and the purchaser pending completion of the Remedial Works by the vendor (at no cost to the purchaser) to the purchaser's reasonable satisfaction including within a reasonable period of time having regard to the particular circumstances.
- (b) Once the Remedial Works have been completed to the purchaser's reasonable satisfaction the Retention Amount (including all interest earned) will be released to the vendor's Solicitors for the vendor's account.

24. DISPUTE RESOLUTION

24.1 In the event of any disagreement between the parties in relation to whether or not the Remedial Works have been appropriately completed (including whether the Remedial Works have been completed within a reasonable period of time) then such disagreement shall be resolved as follows:

- (a) The disagreement will be referred to the Chief Executive of the purchaser (or his or her nominee) and the Chief Executive of the vendor (or his or her nominee) who will use their reasonable endeavours to resolve the disagreement within 10 working days of such referral;
- (b) In the event the Chief Executives (or their nominees) do not resolve the disagreement, then either party may refer the disagreement to an experienced engineer (the Expert) agreed upon by the purchaser and the vendor and if not so agreed, then nominated by the then President of Engineering New Zealand:
- (c) The referral to the Expert will require that the Expert acts in a timely and pragmatic manner and that in particular, the Expert make a determination in respect of the disagreement within 20

working days from the date of the referral;

- (d) The decision of the Expert could include requiring the release of part or all of the Retention to the purchaser to enable it to complete some or all of the Remedial Works;
- (e) Each party shall provide all reasonable assistance to the Expert that may be required for the purposes of him or her making their determination;
- (f) The purchaser and the vendor will share equally the cost of the Expert, and
- (g) The decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties.

25. DOCUMENTATION

25.1 The vendor will provide the following documents to the purchaser on the settlement date:

- (a) Confirmation from the vendor to the purchaser that it is not aware of any defects in relation to the BI (other than those previously disclosed to the purchaser).
- (b) All documentation required to be made available under the Construction Contract on Practical Completion and issue of the Final Completion Certificate that is in the possession of the vendor, including all warranties (as set out in clause 20.1(c)), relevant certificates, producer statements, final as-built drawings and operation and maintenance manuals.
- (c) The novation or assignment of the contract and warranties referred to in clauses 20.1(b) and 20.1(c).

26. GENERAL

26.1 **Lowest price:** For the purposes of the financial arrangements rules in the Income Tax Act 2007, the purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.

26.2 **Further assurance:** Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.

	<p>26.3 Default interest: the parties agree that the default interest payable under this agreement shall be 15% per annum.</p> <p>27. COSTS</p> <p>27.1 Each party will meet its own costs relating to this agreement.</p>
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WORKING DRAFT

Schedule 2
Performing Arts Precinct

WORKING DRAFT

Schedule 2

PERFORMING ARTS PRECINCT AGREEMENT

The Parties	Ōtākaro Limited (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Ōtākaro Limited, by:

Authorised Signatory

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	Part of the block defined by Colombo Street, Armagh Street, New Regent Street and Gloucester Street, Christchurch being an estate in fee simple as is more particularly described as the following records of title: CB27B/942, CB396/65, CB349/171, CB9A/221, CB366/35, CB21A/496, CB9B/720, CB11K/1202, CB23F/586, CB23F/587, CB347/227, CB23F/474, 687812 and CB20B/1490
Purchase Price	\$1.00 plus GST (if any)
Settlement Date	30 September 2019
Amendments to General Terms of the ADLS Agreement	Clause 6.2 is deleted except for the following provision in clause 6.2(1): <i>"The purchaser is deemed to have accepted the vendor's title".</i>

Further Terms

19. LICENCE TO OCCUPY

19.1 By a licence dated 29 October 2018 a copy of which is attached at Schedule A (**Licence**) the vendor agreed to grant a temporary licence of that part of the property shown edged red in Schedule A to MC Christchurch Holdings Limited T/A Crowne Plaza (**Crowne Plaza**).

19.2 The purchaser acknowledges and agrees that the property is sold subject to the Licence and the purchaser covenants with the vendor to enter into the deed of novation attached at Schedule B in relation to the Licence (**Deed of Novation**) taking on the obligations of the vendor pursuant to the terms of the Licence. The vendor warrants to the purchaser that to the best of its knowledge the provisions of the Licence have been performed up to the settlement date.

19.3 If on or before the settlement date Crowne Plaza has not executed the Deed of Novation, the parties agree that the vendor will give notice to Crowne Plaza pursuant to clause 12 of the Licence terminating the Licence on the date being three (3) months after the date of the notice and the purchaser will allow Crowne Plaza to continue to occupy the Land until expiry of the termination notice. The vendor will account to the purchaser for any Rental received during any period between the settlement date and expiry of the termination notice.

19.4 For the avoidance of doubt, any definitions used in the above clause 19 that are not defined in this agreement shall have the meanings given to them in the Licence.

20. ADDITIONAL LAND

20.1 The vendor also owns the land at 154 to 156 Armagh Street, Christchurch (as is more particularly described as Lot 1 Deposited Plan 480674, record of title 687811). The parties agree to communicate in relation to the possible transfer of this land (subject to the terms of existing lease) from the vendor to the purchaser or to the existing tenant of this land (The Piano: Centre for Music and the Arts) and will endeavour to reach an agreed position by 1 December 2019.

20.2 The purchaser is also interested in possibly acquiring the land at 128 to 138 Armagh Street, Christchurch (as is more particularly described as Lot 1 Deposited Plan 69579, record of title CB40C/246). In the event the vendor acquires ownership of this

land it will immediately transfer the same to the purchaser without cost.

21. PUBLIC REALM LAND / DECONTAMINATION

21.1 The vendor agrees to pay \$3,000,000 plus GST (if any) following receipt of a valid tax invoice to the purchaser on the Settlement date as a contribution in respect of public realm and decontamination works to be undertaken by the purchaser at its sole cost.

21.2 For the avoidance of doubt, neither the vendor nor the Crown shall have any further responsibility in relation to any public realm or decontamination works in the Performing Arts Precinct.

22. NO RELIANCE BY PURCHASER

22.1 The purchaser acknowledges and agrees that it has entered into this agreement in reliance solely upon its own judgment and in making such judgment as it considers appropriate (including after taking such independent advice as they consider appropriate in the circumstances) and not in reliance upon any representations, warranties, undertakings or statements made by or on behalf of the vendor or any of its officers, employees, agents or advisors. The purchaser acknowledges that the vendor gives not representations, warranties or undertakings in respect of the condition of the Property.

23. GENERAL

23.1 **Lowest price:** For the purposes of the financial arrangements rules in the Income Tax Act 2007, the purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.

23.2 **Further assurance:** Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.

23.3 **Default interest:** The parties agree that the default interest payable under this agreement shall be 15% per annum.

23.4 **Costs:** Each party will meet its own costs relating to this agreement.

Schedule A – Licence

WORKING DRAFT

Schedule B – Deed of Novation

WORKING DRAFT

Deed of Novation

Car Park Licence – 738-750 Colombo
Street

Ōtākaro Limited (Ōtākaro)

MC Christchurch Holdings Limited T/A Crowne Plaza (Crowne
Plaza)

Christchurch City Council (Council)

WORKING DRAFT

Details

Date

Parties

Name **Ōtākaro Limited**
Short name **Ōtākaro**

Name MC Christchurch Holdings Limited T/A Crowne Plaza
Short name Crowne Plaza

Name Christchurch City Council
Short name Council

Background

- A. Pursuant to a licence dated 29 October 2018 (Licence) Ōtākaro has granted Crowne Plaza a licence to occupy the area shown edged red on the plan attached at Schedule 1 (Land).
- B. Ōtākaro and Council have entered into an agreement for sale and purchase of property including the Land (Agreement) with the result that:
 - (i) Ōtākaro wishes to be discharged and released as licensor from the Licence;
 - (ii) Council wishes to be bound as licensor by the terms of the Licence; and
 - (iii) Crowne Plaza has agreed to discharge and release Ōtākaro with effect from and including the settlement date under the Agreement (Settlement Date) upon the undertakings of Council contained in this Deed to perform the obligations of Ōtākaro under the Licence.
- C. The parties agree to the novation of the Licence on the terms of this Deed.

Agreed terms

1. Novation, Acceptance, Consent and Release

1.1 Subject to the terms and conditions of this Deed, with effect on and from the Settlement Date Ōtākaro, Crowne Plaza and Council agree and acknowledge that:

- a. Ōtākaro novates to Council all obligations, liabilities, rights, title and interest of Ōtākaro in the Licence and Council accepts such novation;
- b. Crowne Plaza consents to the novation of all obligations, liabilities, rights, title and interest of Ōtākaro in the Licence;
- c. All the property, rights, powers and privileges of Ōtākaro together with all obligations and liabilities arising under or in respect of the Licence are vested absolutely in Council;
- d. Ōtākaro ceases to be entitled to any of the rights, powers or privileges in respect of the Licence and is released and discharged from all obligations and liabilities under the Licence save in relation to any breaches of such obligations and liabilities which have been notified to it prior to the Settlement Date; and
- e. Crowne Plaza and Ōtākaro are parties to a new agreement on the same terms as the Licence.

1.2 Notwithstanding anything in clause 1.1, Council shall have no obligations or liabilities for any matter in relation to the Licence arising prior to the Settlement Date.

2. General

2.1 Costs

Each party will meet its own costs relating to this Deed.

2.2 Further assurance

Each party is to promptly execute all documents and do all things that any other party from time to time reasonably requires of it to effect, perfect or complete the provisions of this Deed and any transaction contemplated by it.

2.3 Counterparts

This Deed may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.

2.4 Effect of execution

This Deed is binding on a party to it even if it is not executed by any other person named as a party.

Signing Page

EXECUTED as a deed

EXECUTED by
Ōtākaro Limited

Signature of witness

Name of witness

Occupation of witness

City/town of residence

EXECUTED by
Christchurch City Council

Signature of witness

Name of witness

Occupation of witness

City/town of residence

EXECUTED by
MC Christchurch Holdings Limited T/A Crowne PPlaza

Signature of witness

Name of witness

Occupation of witness

City/town of residence

Signature of director/authorised person

Name of director/authorised person

Signature of director/authorised person

Name of director/authorised person

Signature of councillor

Name of councillor

Signature of councillor

Name of councillor

Signature of director/authorised person

Name of director/authorised person

Signature of director/authorised person

Name of director/authorised person

Schedule 3
Residential Red Zone Land

WORKING DRAFT

Schedule 3

RESIDENTIAL RED ZONE AGREEMENT

The Parties	Her Majesty the Queen acting by and through the Chief Executive of Land Information New Zealand (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Her Majesty the Queen acting by and through the Chief Executive of Land Information New Zealand, by:

Lisa Barrett
Chief Executive

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	As described in the letter dated 26 July 2019 from the vendor to the purchaser.
Purchase Price	\$1.00 plus GST (if any) if demanded
Settlement Date	As set out in further term 25
Amendments to General Terms of the ADLS Agreement	Clauses 5.2 and 5.3 are deleted. Clauses 6.1 and 6.3 are deleted. Clause 6.2 is deleted except for the following provision in clause 6.2(1):

	<p><i>"The purchaser is deemed to have accepted the vendor's title".</i></p> <p>Clauses 7.1 is amended in the first line to read <i>"The vendor warrants and undertakes that at the date of the agreement the vendor, to the best of its knowledge, has not."</i></p> <p>Clause 7.1(2) is deleted.</p>
<p>Further Terms</p>	<p>19. INTERPRETATION</p> <p>19.1 "Balance Land" means those parcels of land outside the OARC that form part of the Property as set out in the letter dated 26 July 2019 from the vendor to the purchaser. and described as Southshore, Port Hills and Brooklands;</p> <p>19.2 "Balance Land (Port Hills)" means those parcels of land within the Balance Land that are described as Port Hills in the letter dated 26 July 2019 from the vendor to the purchaser;</p> <p>19.3 "Council OARC Land" means the stopped roads and other land owned by the purchaser required to give effect to the Ōtākaro Avon River Corridor reconfiguration and as agreed as per clause 22.2(a);</p> <p>19.4 "GCR Act" means the Greater Christchurch Regeneration Act 2016;</p> <p>19.5 "Minister" means the Minister for Greater Christchurch Regeneration; and</p> <p>19.6 "OARC" means those parcels of land forming part of the Property located within the Ōtākaro Avon River Corridor as set out in the letter dated 26 July 2019 from the vendor to the purchaser..</p> <p>19.7 "Reduced Survey Standard" means a survey prescription varying some of the requirements of the Rules for Cadastral Survey 2010, pursuant to section 47(5) of the Cadastral Survey Act 2002, to allow a reduced standard of accuracy, as considered appropriate by the Surveyor-General, for the definition of existing parcel boundaries where those boundaries are used as boundaries of the new lots being created to reconfigure the OARC.</p> <p>20. STATUTORY CLEARANCE</p> <p>20.1 The records of title set out in Schedule A are believed to be the subject of a right of first refusal under the Ngāi Tahu Claims Settlement Act 1998 and / or subject to a right of offer back</p>

under the Public Works Act 1981 (**PWA**). The vendor will undertake all required actions to meet its statutory requirements in respect of these Acts. In the event Te Rūnanga o Ngāi Tahu or any PWA offeree accepts any offer made to them and purchases the record of title in question, then such record of title will be excluded from this Agreement. Except for the exclusion of any records of title pursuant to this clause, this Agreement shall continue with full force and effect.

21. REDUCED SURVEY STANDARD

21.1 As soon as reasonably practicable after the date of this agreement, the vendor will apply to the Surveyor-General to obtain the Reduced Survey Standard.

22. ŌTĀKARO AVON RIVER CORRIDOR RECONFIGURATION

22.1 Prior to settlement and subject to clauses 23.1 to 23.4, the vendor will (as set out in clauses 22.1 to 22.10 reconfigure the OARC and the Council OARC Land with such reconfiguration to be based on, with the exception of the creation any new roads, the high-level concept plans provided by the purchaser to the vendor on 3 May 2019 (**Concept Plans**) with individual records of title to issue. For the avoidance of doubt, no new roads will be created as part of the reconfiguration.

22.2 As soon as reasonably practicable after the date of this agreement, representatives of the vendor and the purchaser will establish a working group (**Working Group**) to provide further detail to the Concept Plans and, in particular, to determine:

- (a) Those parts (if any) of the Council-owned land (including any roads to be stopped) as shown in the Concept Plans that will be taken or set apart under section 92(4) of the GCR Act and included in the reconfiguration contemplated by clause 22.1;
- (b) The easements in gross in favour of the purchaser recorded on the existing records of title to the OARC, any consent notices, covenants and other interests, notices or memorials in favour of the purchaser to be cancelled or retained;
- (c) The mutual easements, covenants or other instruments between records of title in the OARC to be cancelled or retained together with cancellation of any cross lease titles included in those areas;

- (d) Any easements to be created in favour of utility providers for existing infrastructure within the roads to stop;
- (e) The approximate areas and dimensions of land to be included in each new individual record of title;
- (f) The priority of work to be undertaken; and
- (g) Any other matters considered relevant by the Working Group.

22.3 The parties will use all reasonable endeavours to ensure the Working Group completes the work set out in clause 22.2 by 31 December 2019.

22.4 In the event the Working Group fails to reach agreement on any matter under its consideration on a timely basis then either party may refer such matter for determination in accordance with clause 31.

22.5 The vendor will provide the purchaser with scheme plan/s based on the Concept Plans and the determinations of the Working Group process. For the avoidance of doubt, scheme plans may be provided to the purchaser at different times.

22.6 Except as provided for as part of the Working Group process, the scheme plan/s will be prepared on the basis that any existing easements recorded on the existing records of title to the OARC for the benefit of the third parties or over or for the benefit of land owned by third parties will be retained.

22.7 The purchaser will advise the vendor in writing within twenty (20) working days of the date of receipt of any scheme plan (time being of the essence) whether it approves the scheme plan in the form provided to it (such approval not to be unreasonably withheld) or whether it requests for changes to be made to the scheme plan. If the purchaser does not respond to the vendor within twenty (20) working days such timeframe it shall be deemed to have approved the scheme plan. Any purchaser's notice requesting changes must specify how the scheme plan does not materially reflect the outcome of the Working Group process and the Working Group shall then proceed to determine whether or not the scheme plan should be amended. If the Working Group has not resolved whether or not the scheme plan should be amended within twenty (20) working days of the purchaser's notice, then the dispute will be referred for determination in accordance with clause 31.

22.8 As soon as reasonably practicable following the approval or determination of any scheme plan and provided the Surveyor-General has agreed to apply a Reduced Survey Standard in a timely manner, the vendor will procure the necessary survey work and the preparation of a subdivision plan (to become a Survey Office Plan or a Deposited Plan as the vendor may see fit) in accordance with such scheme plan (noting that such subdivision plan will capture the matters addressed in the Working Group process including the granting of any easements to utility providers). The vendor will use all reasonable endeavours to:

- (a) stop the roads as shown in the subdivision plan. The purchaser acknowledges that any road stopping will only take effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New Zealand following consultation with the purchaser in its regulatory capacity.
- (b) utilise the amalgamation powers pursuant to sections 94 to 100 of the GCR Act to enable the amalgamation of the OARC (including any Council OARC Land) into individual surveyed records of title as shown in the subdivision plan together with the cancellation of all mutual interests (as set out in clause 22.2(c)). The purchaser acknowledges that the exercise of the above powers will only take effect in the event the appropriate statutory decisions are made by the Minister.

22.9 As soon as reasonably practicable following the approval or determination of any scheme plan in circumstances where the Surveyor-General has not agreed to apply a Reduced Survey Standard in a timely manner, the vendor without procuring any survey work and the preparation of any subdivision plan (other than in relation to any road stopping with a road stopping plan to be prepared and noting that any easements agreed to be granted to utility providers over stopped road as part of the Working Group process will be granted over the relevant whole section/s surveyed in the road stopping plan) will use reasonable endeavours to:

- (a) stop the roads as shown in the road stopping plan. The purchaser acknowledges that any road stopping will only take effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New

Zealand following consultation with the purchaser in its regulatory capacity.

- (b) utilise the amalgamation powers pursuant to sections 94 to 100 of the GCR Act to enable the amalgamation of the OARC (including any Council OARC Land) into individual records of title as shown in the scheme plan but utilising existing legal descriptions of the relevant parcels together with the cancellation of all mutual interests (as set out in clause 22.2(c)). The purchaser acknowledges that the exercise of the above powers will only take effect in the event the appropriate statutory decisions are made by the Minister.

22.10 [If so required by the vendor and subject to the making of any required statutory decision, the purchaser will provide, at no cost to the vendor, all approvals under section 243 Resource Management Act 1991 necessary to surrender any easements and will also provide, at no cost to the vendor, all releases of any consent notices, covenants and other interests, notices or memorials in favour of the purchaser where the same are to be cancelled.]

22.11 It is acknowledged that the Council OARC Land will remain beneficially owned by the purchaser at all times and that during any period of legal ownership by the vendor it is holding the Council OARC Land on trust for the purchaser.

23. ALTERNATIVE ŌTĀKARO AVON RIVER CORRIDOR RECONFIGURATION

23.1 In the event that the necessary statutory decisions required to undertake the reconfiguration contemplated in clauses 22.1 to 22.10 are not made, or for any other reason the reconfiguration contemplated in clauses 22.1 to 22.10 is not completed (in whole or in part), by 30 April 2021, then the provisions of clause 23.2 shall apply.

23.2 If the necessary statutory powers in the GCR Act (the **Powers**) are extended by Parliament for a period of time, then the vendor's obligations under clauses 22.1 to 22.10 shall continue to apply for that period of time. If the Powers are not extended by Parliament or, if at the end of any period of extension described in 23.1 above, the reconfiguration contemplated in clauses 22.1 to 22.10 is not completed (in whole or in part), then the vendor may either:

- (a) use all reasonable endeavours to reconfigure the land generally in accordance with clauses 22.1 to 22.10 (noting that the Powers will be replaced with the closest legislative alternative) in so far as is reasonably practicable; or
- (b) transfer the OARC to the purchaser in its then current configuration and the provisions of clause 23.3 shall apply.

23.3 If the OARC is transferred to the purchaser in the circumstances contemplated by clause 23.2(b) then prior to 30 June 2025, the purchaser may carry out the outstanding reconfiguration as contemplated by the Concept Plans and Working Group process, and/or the scheme plans, to the extent such scheme plans have been produced / agreed, and on an open book basis with no charge for the purchaser's staff time, but with all third party costs incurred by the purchaser associated with the reconfiguration to be reimbursed to it by the vendor. The purchaser will submit its tax invoices for such costs on a quarterly basis supported by copies of the third parties' invoices and payment will then be made by the vendor. Should this clause 23.3 apply the vendor will have no further responsibility for any reconfiguration in the OARC other than, for the avoidance of doubt, the obligation to reimburse the purchaser as set out in this clause 23.3.

23.4 [For the avoidance of doubt the provisions of clause 22.10 shall apply to any reconfiguration undertaken by the purchaser under clause 23.3 such that no cost shall be recovered by the purchaser from the vendor in relation to the provision of any required approvals under section 243 Resource Management Act 1991; nor any releases of any consent notices, covenants or other interests, notices or memorials by the purchaser in its regulatory capacity.]

24. BALANCE OF LAND RECONFIGURATION

24.1 The parties agree that the Working Group will determine the extent of the road stopping in Brooklands and Southshore (such road stopping to be based on the Concept Plans) and the priority to be adopted in relation to such road stopping. Prior to settlement and following the Working Group process as set out in clause 22.2 in relation to any roads to stop in Brooklands and Southshore, the vendor will stop any such roads. The purchaser acknowledges that the road stopping will only take

effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New Zealand following consultation with the purchaser in its regulatory capacity.

24.2 In the event the Working Group fails to reach agreement on which roads in Brooklands and Southshore will be stopped and / or the priority to be adopted in relation to the same then either party may refer such matter for determination in accordance with clause 31.

24.3 The parties have agreed that the vendor shall pay \$1,000,000 plus GST if any to the purchaser for the purposes of the purchaser carrying out reconfiguration work on the Balance Land (the **Reconfiguration Amount**). Accordingly, on the earlier of the settlement date in clause 25.1(c) and the settlement date in clause 25.1(d) the vendor will pay the Reconfiguration Amount to the purchaser provided the purchaser has provided the vendor (or the vendor's solicitor) with a valid tax invoice in relation to the same.

25. SETTLEMENT DATE

25.1 The parties acknowledge and agree that settlement under this agreement shall be completed as follows:

- (a) OARC – Settlement date shall be 1 July 2020 or twenty (20) working days after the vendor has notified the purchaser that the vendor's obligations in relation to the required reconfiguration work have been met, whichever is later (in the event the parties fail to reach agreement on whether the vendor's obligations have been met then either party may refer such matter for determination in accordance with clause 31). The land that has been reconfigured as contemplated by clauses 22 and / or 23.2(a) may be transferred to the purchaser in tranches as agreed;
- (b) Balance Land (Port Hills) – Settlement date shall be 31 May 2021;
- (c) Balance Land (Southshore) – Settlement date shall be 1 July 2020 or twenty (20) working days after the road stopping is completed or the decision is made by the Chief Executive of Land Information New Zealand not to stop the roads, whichever is later; and

(d) Balance Land (Brooklands) - Settlement date shall be 1 July 2020 or twenty (20) working days after the road stopping is completed or the decision is made by the Chief Executive of Land Information New Zealand not to stop the roads, whichever is later,

or on such other date/s as the parties may agree.

25.2 The parties agree that if the logistics of the settlement transfers are such that they cannot be reasonably completed in the single day contemplated in clause 25.1 then such transfers will be given effect to as soon as practicable with transfers taking place over successive working days.

25.3 The parties acknowledge that rates will continue to be payable by the vendor until transfer of the relevant parcel of land.

26. redacted under s9(2)(k) OIA and s7(2)(j) LGOIMA

26.1

26.2

26.3

26.4

27.

28. TERMS OF TRANSFER

28.1 The purchaser acknowledges that the vendor is transferring the Property to it subject to the following terms and accepts the transfer of the Property on this basis:

- (a) From settlement the purchaser will be responsible for all costs associated with the Property, including on-going management costs.
- (b) From settlement the purchaser will be responsible for, at its sole cost and determination, removal of any unnecessary horizontal infrastructure (including roads) or any reinstating of horizontal infrastructure (including roads).
- (c) [In recognition of the investment that has been made by the vendor (and the Crown) in acquiring the property, the purchaser and vendor agree that if the purchaser leases or transfers any of the property the purchaser will split the net proceeds of transfer or lease (as the case may be) 50/50 with the vendor / Crown. The parties will discuss the appropriate mechanism (if any) to ensure that the vendor's / Crown's position in relation to the above is sufficiently protected.]

29. MAINTENANCE COSTS

- 29.1 In respect of any part of the Property (but excluding the Balance Land (Port Hills), The purchaser agrees that from 1 July 2020 it will be responsible for maintenance and operations associated with the land (including all associated cost).
- 29.2 In respect of the Balance Land (Port Hills), the purchaser agrees that it will be responsible for maintenance and operations associated with the land (including all associated costs) from 31 May 2021.

30. RISK AND INSURANCE

- 30.1 The purchaser acknowledges and accepts that the vendor does not hold insurance for the Property.
- 30.2 For the avoidance of doubt, the vendor will not be assigning to the purchaser the benefit of any Earthquake Commission or private insurance claims it may hold in respect of the Property.

31. DISPUTE RESOLUTION

- 31.1 In the event of any disagreement between the vendor and the purchaser as contemplated by clauses 22.4, 22.7, 24.2, 25.1(a) and 27 then such disagreement shall be resolved as follows:

- (a) The disagreement will be referred to the Chief Executive of the purchaser (or his or her nominee) and the Chief Executive of the vendor (or his or her nominee) who will use their reasonable endeavours to resolve the disagreement within 10 working days of such referral;
- (b) In the event the Chief Executives (or their nominees) do not resolve the disagreement, then either party may refer the disagreement to an experienced property lawyer (the **Expert**) agreed upon by the vendor and the purchaser and if not so agreed, then nominated by the then President of the New Zealand Law Society:
- (c) The referral to the Expert will require that the Expert acts in a timely and pragmatic manner and that in particular, the Expert make a determination in respect of the disagreement within 20 working days from the date of the referral;
- (d) Each party shall provide all reasonable assistance to the Expert that may be required for the purposes of him or her making their determination;
- (e) The vendor and the purchaser will share equally the cost of the Expert, and
- (f) The decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties.

32. EXERCISE OF STATUTORY RIGHTS, POWERS AND DUTIES

- 32.1 The vendor and purchaser acknowledge and agree that they respectively have statutory rights, powers and duties.
- 32.2 Nothing in this agreement prevents, restricts or derogates the vendor (or any other arm of the Crown) or the purchaser exercising any statutory rights, powers or duties.
- 32.3 If anything in this agreement is inconsistent with any of the parties' statutory rights, powers or duties then those statutory rights, powers or duties shall prevail and this agreement shall be construed accordingly.

33. NO RELIANCE BY PURCHASER

- 33.1 The purchaser acknowledges and agrees that it has entered into this agreement in reliance solely upon its own judgment and in making such judgment as it considers appropriate (including

after taking such independent advice as they consider appropriate in the circumstances) and not in reliance upon any representations, warranties, undertakings or statements made by or on behalf of the vendor or any of its officers, employees, agents or advisors. The purchaser acknowledges that the vendor gives not representations, warranties or undertakings in respect of the condition of the Property.

34. MINERALS

34.1 For the avoidance of doubt, on settlement the Property will be subject to Part IVA of the Conservation Act 1987 and section 11 of the Crown Minerals Act 1991 with the effect that every mineral existing in its natural condition in the Property is reserved to the Crown.

34.2 Prior to, or as part of the e-dealing giving effect to the transfer of the Property, the Crown shall register notations against the records of title for the Property reserving such interests.

35. GENERAL

35.1 **Lowest price:** For the purposes of the financial arrangements rules in the Income Tax Act 2007, the Purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.

35.2 **Further assurance:** Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.

35.3 **Default interest:** The parties agree that the default interest payable under this agreement shall be 15% per annum.

35.4 **Costs:** except as otherwise stated in this agreement, each party shall be responsible for their own costs of and incidental to entering and transacting this agreement.

35.5 **Notices:** Any notice permitted or required to be given under this agreement must be in writing.

35.6 **Non-Merger:** Notwithstanding any rule of law to the contrary, the agreements, obligations and warranties of the parties in this

	<p>agreement it will not merge with the transfer of title to the Property or with the delivery of the title to the Property. Further, all other operational agreements between the parties (including but not limited to the agreements relating to Lucas Lane, Deans Head and the Mass Land Movement Remediation Project) will continue to have full force and effect until terminated in accordance with their respective provisions.</p>
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redacted under s9(2)(a) OIA and s7(2)(a) LGOIMA

Schedule 4
Central City Land

WORKING DRAFT

SCHEDULE 4

[TO BE REPRODUCED ON ŌTĀKARO LIMITED LETTERHEAD]

[] July 2019

Mary Richardson
Acting Chief Executive
Christchurch City Council
Christchurch

By Email

Dear Mary

Central City Land

1. This letter records the agreement between Ōtākaro Limited (Ōtākaro) and Christchurch City Council (the Council) in relation to certain land owned by Ōtākaro in the Christchurch Central City.
2. If the Council within 20 Business Days of the date of the Global Settlement Agreement entered into between the Crown and the Council, notifies Ōtākaro that it is interested in purchasing any of the Central City Land as set out in the Schedule attached, then without creating any obligation on Ōtākaro or the Council to necessarily reach agreement, the Council and Ōtākaro will engage in discussions to ascertain if an Agreement for Sale and Purchase can be entered on such terms as may be agreed.
3. From time to time, Ōtākaro will advise the Council of any other land that it owns and which Ōtākaro (acting reasonably) considers can be made available for sale to the Council. If the Council within 20 Business Days of the date of such advice notifies Ōtākaro that it is interested in purchasing such land, then without creating any obligation on Ōtākaro or the Council to necessarily reach agreement, the Council and Ōtākaro will engage in discussions to ascertain if an Agreement for Sale and Purchase can be entered on such terms as may be agreed.
4. For the avoidance of doubt, if the Council does not issue a notice under either Paragraph 2 or Paragraph 3 above, or if the Council issues such a notice and an Agreement for Sale and Purchase is not agreed between the Council and Ōtākaro in respect of the land in question within 20 Business Days after the issue of that notice, then Ōtākaro may thereafter deal with the land in question as it sees fit. Further, please note that no land can be considered as being available for sale to the Council if it is the subject of a pre-existing disposal process.

5. Can you please countersign and return this letter to confirm the Council's agreement to its contents.

Yours faithfully

John Bridgman
Chief Executive

Mary Richardson - Chief Executive

WORKING DRAFT

Schedule of Central City Land

Description of Assets (Assets)	
	<ul style="list-style-type: none">• RT CB449/106 (911m²) and RT 731614 (118m²) being 142-144 Tuam St)• RT 703793 (278m² being 210 Tuam St)• RTs CB638/66, CB638/65 & CB638/70 (764m² being 117-125 Manchester St)• Part RT CB11K/109 (300m² being 614 Colombo St)• RT 703794 (562m² being 214 Tuam St)

WORKING DRAFT

Schedule 5
PAP Encumbrance

WORKING DRAFT

SCHEDULE 5

Form 18

Encumbrance instrument

(Section 100 Land Transfer Act 2017)

Land registration district

CANTERBURY

BARCODE

Record of Title (unique identifier)

All/part

Area/description of part

[TBC]

ALL

Encumbrancer

Surname(s) must be underlined.

CHRISTCHURCH CITY COUNCIL (the "Council")

Encumbrancee

Surname(s) must be underlined.

HER MAJESTY THE QUEEN (the "Crown")

Estate or interest to be encumbered

Insert, eg, fee simple, leasehold in lease number, etc.

Fee Simple

Encumbrance memorandum number

N/A

Nature of security

State whether sum of money, annuity, or rentcharge, and amount.

Annual Rent Charge of \$1.00 (inclusive of goods and services tax, if any)

Operative clause

Delete words in [], as appropriate.

The **Encumbrancer encumbers for the benefit of the Encumbrancee** the land in the above record of title(s) **with** the above sum of money, annuity, or rent charge to be raised and paid in accordance with the terms set out in the ~~[above encumbrance memorandum]~~ ~~[Annexure Schedule(s)]~~ **and** so as to incorporate in this encumbrance the terms and other provisions set out in the ~~[above encumbrance memorandum]~~ ~~[and]~~ ~~[Annexure Schedule(s)]~~ for the better securing to the Encumbrancee the payment(s) secured by this encumbrance, and compliance by the Encumbrancer with the terms of this encumbrance.

SCHEDULE 5

Terms

- 1 Length of term **999 years commencing on the date of this encumbrance**
- 2 Payment date(s) **1st day of January in each year, if demanded**
- 3 Rate(s) of interest: **0%**
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable: **If demanded by the Encumbrancee by the Payment Dates**
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable: **In accordance with Annexure Schedule 1**

Covenants and conditions

Continue in Annexure Schedule(s), if required

In accordance with Annexure Schedule 1

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

Sections 23, 289, 301 and 302 of the Property Law Act 2007 and all other provisions of that Act and the Land Transfer Act 2017 relating to encumbrances shall apply to this encumbrance, except that the Council shall have no power of sale.

The Council hereby consents pursuant to the Land Transfer Act 2017 to the registration of the following instruments in respect of the land subject to this encumbrance:

- (a) the creation, variation or surrender of an easement;
 - (b) the registration of mortgage, variation of a mortgage instrument or priority of mortgages,
- and this consent shall be deemed to be the consent of the Crown to the registration of a particular instrument specified.

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

ANNEXURE SCHEDULE 1

CIRCUMSTANCES

The land subject to this encumbrance (the "**Property**") is part of the land being regenerated as the Performing Arts Precinct under the Christchurch Central Recovery Plan.

The Property has been transferred to the Council subject to the requirement that the Council comply with the covenants set out in this encumbrance.

COVENANTS

1. **Transfer or Lease of the Property:** In circumstances where the Council transfers or grants a Lease of the Property (or any part thereof) for a purpose not associated with the Performing Arts Precinct, the Council covenants with the Crown:
 - (a) to seek to maximise net financial return received from such transfer or Lease transaction (where possible and appropriate);
 - (b) to advise the Crown of any such transfer or Lease; and
 - (c) to pay to the Crown (within 20 working days of demand being made by the Crown) 50% of the Net Proceeds of Divestment actually received by the Council on such transfer or Lease.
2. For the avoidance of doubt:
 - (a) the transfer or Lease of the Property (or any part of it) by the Council for the purposes of the Performing Arts Precinct (including a transfer or Lease related to the use or development of the Property or any part of it for car-parking) shall not be subject to the obligations in clause 1.
 - (b) The use or development of the Property (or any part of it) for car-parking shall be deemed to be a use for the purposes of the Performing Arts Precinct and shall not be subject to the obligations in clause 1.
3. **Partial discharge of this encumbrance:** Provided the Council has complied with its covenants in clause 1, on the transfer of part of the Property (the "**Relevant Part**") the Crown shall execute and provide a partial discharge of this encumbrance instrument to the Council in respect of the Relevant Part.
4. **Discharge of this encumbrance:** Upon application in writing by the Council, the Crown will execute

*Insert instrument type***Encumbrance***Continue in additional Annexure Schedule, if required*

and provide to the Council a discharge of this encumbrance where the Crown is satisfied (in its sole and absolute discretion) that the covenants of this encumbrance have become obsolete. For the avoidance of doubt, under no circumstances shall payment of the rent charge be sufficient to obtain a discharge of this encumbrance.

5. **Injunctive relief:** The Council acknowledges that the Crown shall be entitled to an injunction or other equitable relief for any threatened or actual breach of clause 1 as (without prejudice to any rights or remedies of the Crown) damages alone would not be an adequate remedy.
6. **Non-waiver:** No failure or delay by the Crown to enforce this encumbrance shall constitute a waiver or restrict any further enforcement. Nothing in this encumbrance shall compel the Crown to enforce or maintain this encumbrance.
7. **Costs:** The Council shall pay all the Crown's legal costs (on a solicitor/client basis) directly attributable to the enforcement of this encumbrance.
8. **Exercise of powers:** Nothing in this encumbrance shall be construed so as to remove or limit any rights, powers or remedies vested in the Crown by law, or to compel the Crown to exercise all or any rights, powers or remedies granted by this encumbrance.
9. **Disputes:** The Parties agree than any disputes about the meaning or application of this Encumbrance will be resolved through cooperation, but any dispute that cannot be resolved by staff from the Crown and the Council shall be:
 - (a) First escalated to the Chief Executive of the Council and the Deputy Chief Executive of the department responsible at that time for managing the obligations set out in this Encumbrance, whose joint decision shall be complied with; but
 - (b) If they cannot agree, the dispute will be escalated to the Mayor of the Council and the Minister responsible at that time for managing the obligations set out in this Encumbrance, who shall jointly direct how this Encumbrance is to be interpreted and applied.
10. **Definitions:** For the purposes of this encumbrance:
 - (a) "**Lease**" means a lease of land that is for a period of five (5) years or more (including any rights of renewal) and for which more than a nominal rental is received by the Council (as landlord); and
 - (b) "**Net Proceeds of Divestment** " means the amount received from the transfer or Lease together with any holding income that may have been accrued to the Council less the following costs (if appropriate) incurred by the Council in respect of the land being transferred

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

or leased, namely:

- professional fees and disbursements in respect of the transfer or Lease;
- real estate commission and associated disbursements;
- GST (if any) or any other applicable tax liability;
- management costs;
- maintenance costs;
- holding costs (which for the avoidance of doubt shall include annual rates payable to any local authority); and
- land remediation costs (excluding any amounts contributed by the Crown and/or Ōtākaro Limited to the Council for the same).

Executed on behalf of Christchurch City Council:

Her Worship Lianne Dalziel, Mayor of Christchurch City

Executed on behalf of the Her Majesty the Queen in Right of New Zealand acting by and through the Minister of Finance and the Minister for Greater Christchurch Regeneration:

Hon Grant Robertson, Minister of Finance

Hon Dr Megan Woods, Minister for Greater Christchurch
Regeneration

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