

# Deed of Assignment & Variation of Access Licence

Far North Holdings Limited (*the Assignor*)

Ngāpuhi Investment Fund Limited (*the Assignee*)

Paihia Maritime Properties Limited  
(*the Licensee*)



## DEED OF ASSIGNMENT OF ACCESS LICENCE

Date: 15 August 2023

### PARTIES

**FAR NORTH HOLDINGS LIMITED** (*Assignor*)

**NGĀPUHI INVESTMENT FUND LIMITED** (*the Assignee*)

**PAIHIA MARITIME PROPERTIES LIMITED** (*the Licensee*)

### BACKGROUND

- A By an access licence agreement dated 1 October 1993 (*Access Licence*) Far North Maritime Limited (*FNML*) granted a licence to Aquatic World Bay of Islands Limited (*Aquatic World*) to occupy and use part of the seabed and surrounding land held by FNML pursuant to a seabed licence, dated 30 September 1991 (*Seabed Licence*) for a period commencing on 1 December 1993 and expiring on 29 September 1998 for an annual licence fee.
- B The Access Licence granted Aquatic World rights to:
- i. occupy and use part of the seabed being approximately 1.58 hectares surrounding Paihia wharf (*the Seabed*) for the purposes of a salt water aquarium business; and
  - ii. access and run utility services to the Seabed over the property at 69 Marden Road, Paihia (being all of the land contained in certificate of title NA51C/212) (*Property*).
- C By an agreement between the Assignor and Aquatic World, dated 22 April 1997 (*Variation Agreement*) the parties agreed to vary the terms of the Access Licence, including by agreeing:
- i. to extend the term of the Access Licence to 30 September 2005 (provided the Seabed Licence could also be so extended); and
  - ii. that if the Seabed Licence is extended beyond 30 September 2005, that that term of the Access Licence would be extended by a period equal to the then term of the new Seabed Licence or twenty years less one day (whichever is shorter).
- D On 31 December 1998 FNML was amalgamated with the Assignor.
- E The Licensee is the successor in title of Aquatic World.
- F On 5 September 2005 the Seabed Licence was replaced by a new coastal permit expiring on 21 November 2040 (*Coastal Permit*). By deed of renewal of licence



dated 22 May 2006 (*Renewal*) the Assignor and the Licensor agreed to extend the term of the Access Licence until 29 September 2040 for an annual licence fee of \$10,000 plus GST (reviewed annually to the Consumer Price Index).

- G On 14 December 2021 the Licensee obtained its own resource consent allowing it to undertake its business activities on the Seabed direct from the Northland Regional Council. As a result those parts of the Access Licence relating to the Seabed are no longer in effect, the Coastal Permit is no longer relevant, and the Licence solely relates to the right to access and run utility services to the Seabed over the Property.
- H The Licensor has entered into an agreement for sale and purchase dated 12 June 2023 for the sale of the Property to the Assignee (*the Agreement*). The settlement date under the Agreement is 20 July 2023 (*the Settlement Date*).
- I Pursuant to this Deed:
- i. the Assignor has agreed to assign the Assignor's interest in the Access Licence to the Assignee for the term and on the covenants, terms and conditions expressed and implied in this Deed and the Assignee accepts that assignment;
  - ii. the Licensee has provided written consent to the assignment of the Access Licence; and
  - iii. the parties have agreed to record certain variations to the Access Licence and the annual licence fee payable by the Licensee from 1 October 2022.

#### **NOW BY THIS DEED:**

**1 Assignor's Assignment**

In consideration of the sum of \$1 (plus GST) paid to the Assignor by the Assignee (the receipt of which the Assignor acknowledges) the Assignor:

- (a) assigns to the Assignee all the Assignor's rights, interest and obligations under the Access Licence on and from the Settlement Date (*the Assignment*); and
- (b) covenants in favour of the Assignee to perform all of its obligations under the Access Licence up to and including the Settlement Date.

**2 Assignee's acceptance**

The Assignee accepts the Assignment with the effect that from the Settlement Date, the Assignee will observe and perform those covenants, terms and conditions expressed or implied in the Access Licence which are to be observed and performed by the Assignor under the Access Licence.

**3 Licensee's Consent**

The Licensee consents to the Assignment of the Access Licence as contemplated by this Deed.



4 **Assignor's warranty**

The Assignor warrants that all covenants, terms and conditions expressed or implied in the Access Licence which are to be observed or performed by the Assignor have been and will be observed and performed up to and including the Settlement Date and will indemnify the Assignee for any loss suffered as a result of breach of this warranty.

5 **Licence Fee**

The Assignor, Assignee and Licensee acknowledge and agree that, with effect from 1 October 2022 the licence fee payable by the Licensee under the Access Licence is **\$14,966.08** per annum (plus GST). The annual licence fee shall continue to be subject to annual CPI reviews following the Assignment.

6 **Variation of Access Licence**

The Assignor, Assignee and Licensee acknowledge and agree that:

- (a) The Licensee obtained a resource consent on 1 December 2021, which granted the Licensee a direct right to use and enjoyment of the Seabed for the purpose of operating its saltwater aquarium business; and
- (b) as a result the parties agree that, with effect from 1 December 2021 the Access Licence is varied so that all provisions relating to the Licensee's use and enjoyment of the Seabed (*Seabed Provisions*) are no longer operative or in effect (and for the avoidance of doubt, rights, interest or obligations of the Assignor pursuant to the Seabed Provisions will not transfer to the Assignee in conjunction with the Assignment).

7 **Confirmation of other covenants**

Except to the extent to which they are varied by this Deed the covenants, terms and conditions expressed and implied in the Licence will continue in full force.

8 **Electronic Delivery Allowed**

Without limiting any other mode of delivery, the parties agree to allow delivery of this Deed by transmission, in electronic form by any means of electronic communication (including facsimile or email of a scanned copy) of an original of this Deed executed by a party, to the other party or its solicitors.

9 **Counterparts**

This Deed may be executed in any number of counterparts. Once the parties have executed the counterparts, and each party has received a copy of each signed counterpart which that party did not execute, each counterpart will be deemed to be as valid and binding on the party executing it as if it had been executed by all the parties.

10 **Further Assurances**

Each party is, at its own expense and at the request of any other party, to execute and deliver or cause its successors and permitted assigns to do all things as may be reasonably requested by that other party to obtain the full benefit of this document according to its true intent.



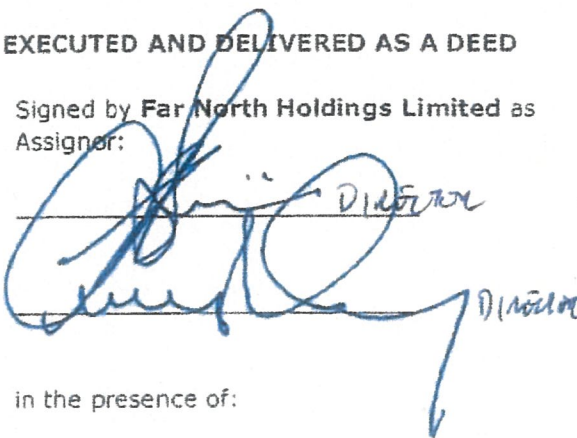
# 11 Interpretation

In this Deed:

- 11.1 references to *Access Licence* include the access licence agreement dated 1 October 1993 referred to in paragraph A of the Background, as varied by the Variation Agreement and Renewal;
- 11.2 references to *the Assignor*, *the Assignee* and *the Licensee* include their respective successors, and permitted assigns; and
- 11.3 where any party comprises more than one person, those persons shall be deemed to have entered into this Deed jointly and severally.

## EXECUTED AND DELIVERED AS A DEED

Signed by **Far North Holdings Limited** as  
Assignor:

 David Wilson

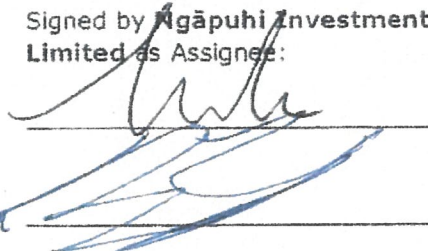
in the presence of:

Name:

Occupation:

Address:

Signed by **Ngāpuhi Investment Fund  
Limited** as Assignee:

 Simon Pask

in the presence of:

Name:

Occupation:

Address:

Simon Pask

Investment analyst

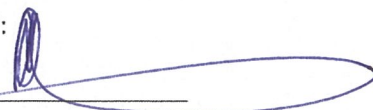
14 Aintree Grove



Signed by **Paihia Maritime Properties Limited** as Licensee:



in the presence of:



Name:

Richard G A Palmer

Occupation:

Solicitor

Address:

Kerikeri